Martin O'Malley
Governor

hony 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/

January 3, 2008

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

RE: Harford Hospice property Subdivision

Dear Ms. Bynum:

Thank you for providing revised plans and information on the above referenced proposal. This site includes 56.24 acres within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant proposes to create two residential lots. Please see the comments below.

1. This office recommends that the County require a conservation easement or other similar mechanism to ensure that the RCA density requirements are met for this site, and to ensure the Wetland of Special State Concern (WSSC) and Forest Interior Dwelling Bird (FID) habitat is adequately protected. Ideally, the portions of the site outside of proposed lot boundaries would be placed into a separate tract and in a conservation easement under separate ownership to ensure that the resources are protected.

2. The proposed FIDs mitigation does not meet the guidelines of the FIDs manual. The chosen off site FIDs mitigation area appears to have adequate opportunities to provide the mitigation in an optimal manner. The planting area should be contiguous and should fill an existing forest gap or expand an existing riparian corridor. The proposed areas at the entrance of the park are not acceptable because they are too small and are segregated. They do not provide adequate habitat value. The other proposed planting site has potential to be clustered and offers forest gaps that could be filled to optimize the habitat value.

3. Clearing for the proposed sewer line associated with Lot 2 does not meet FIDs guidelines. The applicant should justify why doing so is the only possible method

or revise the plan to place the line in the roadway. As proposed, the entire proposal fails to meet FIDs guidelines because of the sewer line clearing, and therefore mitigation requirements would have to be provided at the ratio required for proposals that do not meet guidelines. Please have the applicant address this issue and correct the FIDs calculations where necessary. All clearing in FIDS habitat areas, including for a sewer line on Lot 2, would require mitigation.

4. The plans submitted show that there will be no clearing for development on Lot 1 in the wetland Buffer. However the submitted Environmental Assessment that is labeled "revised December 2007" states that there will be 7,637 square feet of wetland Buffer disturbance on Lot 1. Please clarify this statement. Buffer disturbance is restricted State in the wetland law and County Code.

5. In order to further minimize disturbance to the wetland Buffer and FIDs habitat, we recommend the applicant consider locating each lot adjacent to each other in the area closest to adjoining parcel 139.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: HC 323-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

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Executive Director

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January 8, 2008

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

RE: CU-120006, 313 Saddler Road
Terzi Properties Eastern Shore, LLC

Dear Ms. Maxwell:

Thank you for providing information on the variance request for the above referenced proposal. The site is a 1.26 acre parcel located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. There is existing development on the site which will remain. The applicant proposes to redevelop a portion of the site with a new commercial building. As described in the letter dated August 22, 2007 from this office, the proposed development plan does not meet additional requirements for development in the Critical Area of Queen Anne's County, including the 10% pollutant reduction requirement, IDA standards for vegetating non-impervious surfaces and stormwater discharge waiver requirements. In addition, the applicant does not meet the State or County variance standards. This letter specifically addresses the variance request for this project.

The applicant is requesting a variance to the 100-foot Buffer in order to construct a new building, stormwater swale, and fence The property is currently developed with a commercial building, gravel yard or parking area used for storage of construction materials, and a fence. The applicant is proposing to construct a new 5,000 square foot commercial building and a stormwater swale, both partially within the Critical Area 100-foot Buffer. This office opposes the variance to build a new building and stormwater swale in the Buffer, because the applicant does not meet the State-mandated standards for a Critical Area variance. Moreover, the applicant can construct the proposed building and stormwater swale outside of the 100-foot Buffer. For the Board's information, we provide the following analysis of the requested variance in the context of Queen Anne's County's variance standards.

Disturbance to 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 a variance to allow new construction of a building and stormwater swale with disturbance to the 100-foot Buffer on a large lot with adequate undeveloped area to place them outside of the Buffer, is in direct conflict with Queen Anne's County's Zoning Code provisions regarding new structures in the Buffer. County Code § 14:1-51 (Buffer standards and requirements) provides that only structures that are water dependent facilities may be located in the Buffer.

It is clear that, under the County Code, the applicant's proposed Buffer disturbance cannot be allowed because the building and stormwater swale are not water dependent facilities according to the definition in County Code § 14:1-11 (Definitions). They are not structures that enhance the Buffer or provide erosion control. Moreover, the proposed disturbance within the Buffer should not be permitted with a variance because it is in conflict with the County's Buffer management goals and will create unnecessary adverse impacts to water quality and habitat. Further, the applicant cannot meet each one of Queen Anne's County's variance standards as discussed below.

Relevant Variance Standards

§ 14:1-66.A - *A literal enforcement of this Chapter 14:1 would result in unnecessary hardship as the result of specified conditions, which hardship is not shared by owners of other property in the same development area*
Denial of this variance request would not create an unwarranted hardship since the applicant will not be denied reasonable use of the entire lot. A literal interpretation of Queen Anne's 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 variances for development on lots where the proposed development can be constructed in conformance with the law. The applicant has not shown that construction of a building and stormwater swale on this site with Buffer disturbance is a right

commonly enjoyed by any property in the Critical Area, or a right enjoyed by other properties in similar areas within the Queen Anne's County Critical Area.

§ 14:1-66.B - *Those conditions are peculiar to the property involved*
There are no conditions that are peculiar to this property that would require the applicant to seek a Buffer variance since there is more than adequate area on this site to locate the proposed building and stormwater swale outside of the Buffer. The applicant suffers no hardship from not being able to locate a new building and stormwater swale in the Buffer because the applicant is not prevented from building the proposed building and stormwater swale outside of the Buffer. The applicant already enjoys reasonable use of the parcel for commercial purposes.

§ 14:1-66.C - *Those conditions are not the result of any action taken by the applicant*
The variance request is based upon the actions of the applicant. It appears that the applicant has voluntarily chosen to locate the proposed building and stormwater swale such that it will create disturbance to the Buffer, and consequently the applicant has created the need for the variance. The applicant has not shown any reason that the proposed building and stormwater swale could not be constructed outside of the Buffer, and without a variance.

§ 14:1-66.E - *The variance will not confer upon an applicant any special privilege denied to other owners of like property and/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 disturb the Buffer. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the requested variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

§ 14:1-66.G - *The variance is the minimum deviation from the provisions of this Chapter 14:1 that will make possible the reasonable use of land or structures; and*
No variance is required to afford relief from the regulations. The applicant has proposed to build a new building and stormwater swale on a lot where there is adequate room to build the same building and stormwater swale outside of the Buffer. If the applicant were to do so, no variance would be necessary. Therefore, the requested variance is not the minimum adjustment necessary to afford relief from the regulations because the regulations do no prevent the applicant from building the proposed building and stormwater swale in this case.

§ 14:1-66.D - *The variance will not be contrary to the public interest or the policies, goals and objectives of this Chapter 14:1 and the Queen Anne's County Critical Area Program;* § 14:1-66.F - *The variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitats within the critical area;* § 14:1-66.H - *The granting of the variance will be in harmony with the general purpose and intent of this Chapter 14:1 and the Queen Anne's County Critical Area Program and the variance shall not*

result in a use not permitted in the applicable development area or an increase in the applicable density limitations.

In contrast with the above standards, granting the requested variances is not in harmony with the general spirit and intent of the Critical Area law and regulations. The proposed building and stormwater swale footprint within the Buffer would prevent establishment of a vegetated Buffer in that area, and such vegetation would provide benefits to fish, wildlife, and plant habitat. The County Critical Area Program recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay. The County's 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.

This letter has addressed all 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 any 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 building and stormwater swale outside 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 additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 483-07

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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January 10, 2008

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

Re: 05-06-01-0002-C, Naecker

Dear Ms. Jackson:

Thank you for providing revised information on the above referenced project. The applicant proposes to expand parking on this site which is developed with a building. The site is located in the Intensely Developed Area (IDA) and is approximately 0.18 acres. The proposed disturbance appears outside of the Critical Area Buffer on the plans. Staff met on site to confirm the location of the Buffer with the applicant.

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

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 3-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 14, 2008

Reggie Graves
Maryland Department of the Environment
Water Management Administration
1800 Washington Blvd
Baltimore, MD 21230

Re: 08-WL-0424
Paul & Marie McNurlan
Queen Anne's County

Dear Mr. Graves:

I am writing to comment on the above referenced application. The applicant is proposing to install shoreline erosion control measures consisting of a low profile stone sill and marsh vegetation planting. The property is located on the Wye Rive on a small peninsula. It is extensively forested on the southern tip and contains tidal wetlands. Based on the information provided I have the following comments:

1. The shoreline on the western side of the property faces a north-westerly direction and is extensively wooded. The shoreline on the southern tip of the property contains an island of upland surrounded by wetlands. The application did not contain information regarding the rate of erosion at the site. A review of the Maryland Shorelines Online website and the shoreline assessment in this area of the Wye River indicated low erosion rates. It appears that the proposed action is significantly in excess of what is necessary for erosion control at this site, and is therefore not justified as proposed.

2. Based on the project design, it would appear the applicant would also propose to remove an extensive area of wooded vegetation in order to prevent shading of the wetlands plants. In order to comply with Critical Area requirements of the Code of Maryland Regulations (COMAR), all development related activity should be outside of the 100-foot Buffer, except for the minimum necessary for placement of approved shore erosion control measures at significantly eroding areas. Additionally, disturbance in the Buffer, including cutting trees, may be permitted only where necessary to provide access to install or construct an approved shore erosion protection device or measure. It would

appear that the proposed action does not meet these regulations, and that another design may be suitable for this location which would minimize the proposed disturbance to the Buffer and forest vegetation.

3. Buffer disturbance and tree cutting will not be allowed if the applicant can not demonstrate that the proposed Buffer impacts are necessary and directly associated with the approved shoreline erosion control measures. [COMAR 27.01.09.01.C(5)(c)]

4. In this forested setting where canopy and shrubs are present, any temporary or permanent disturbance must be designated by the applicant as the limit of disturbance / disturbance area. This area must include any proposed vegetation removal or soil disturbance as well as all machine access, maneuverability, stockpiling and staging areas.

5. Mitigation for impacts to the Buffer for installing a shoreline erosion control project is 1:1. The mitigation planting requirement is one two-inch caliper tree and three two-gallon shrubs per 400 square feet of mitigation required. Plantings must be native species and appropriate for the location. The mitigation must be placed in the Critical Area Buffer on the site. Plantings should be distributed in groups of one tree and three shrubs per 20 by 20 foot space, to the extent possible.

6. As required in COMAR 27.01.09.01, any disturbance area beyond the minimum necessary must be mitigated at a ratio of 3:1 (three times the square feet of the disturbance area).

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 15, 2008

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

RE: 07-057 Frazier Neck Road
Jay Pratt Subdivision, Tax Map 52, Parcel 64

Dear Ms. Walk:

Thank you for providing revised plans on the above referenced subdivision proposal to create two new lots. The site is located within the Limited Development Area (LDA) of the Chesapeake Bays Critical Area, appears to be agricultural land and is currently undeveloped. The revised plans note that the tidal wetlands were professionally delineated, and indicate that the accurate location of the 100-foot Buffer is shown. Per COMAR 27.01.09.01.C(6) the 100-foot Buffer is shown as area to be afforested. It is recommended that the County require submission of a Buffer management or planting plan and assurances prior to final plat approval. Otherwise, this office has no further comments.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: CR 321-07

Martin O'Malley
Governor

thony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 15, 2008

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

RE: Route 213 Stormwater Retrofit for Gravel Run South

Dear Mr. Clark:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On January 9, 2008, the Critical Area Commission conditionally approved the stormwater retrofit project proposed by the Town of Centreville to improve water quality in Gravel Run, a tributary of Yellow Bank Stream, which flows into the Corsica River. As required by Code of Maryland Regulations, this motion is based on the following considerations:

- Except for the disturbance of the Critical Area 100-foot Buffer, there are no other impacts to Habitat Protection Areas. As a result, the proposed project is in compliance with the relevant chapters of this subtitle.

- Disturbances to the Critical Area Buffer will be mitigated at appropriate ratios specified by the Commission.

- The proposed project will provide public benefits to the Critical Area Program by removing existing impervious surfaces, equipment, trailers and road salt storage from within the 100-foot buffer and establishing a forested nontidal wetland system that will enhance water quality and wildlife habitat.

The proposed planting plan information that was submitted to this office satisfies the 1:1 mitigation required for this project. A signed planting agreement detailing the number and type of plants, date by which they will be installed and that plantings are to be located in the

Buffer on site, should be submitted at this time (please use attached form). Should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. If you have any questions, please feel free to contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 18, 2008

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

Re: 8845 New Bridge Road – Lyford Landing Subdivision
Elizabeth Fink, Tax Map 36, Parcel 6, Block 27

Dear Ms. Walk:

Thank you for providing information on the above referenced proposal. The applicant proposes to divide an existing lot into two lots. This site is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. Information has been submitted indicating that Parcel 63 is in a conservation easement as of 2002. The following comments relate to the proposed subdivision.

1. One dwelling is allowed per 20 acres in the RCA. There appear to be approximately 80 acres of RCA associated with the original site, which would allow four dwelling units. Total site area should be confirmed by professional wetland delineation to ensure that there is adequate area to meet the density standard on this site.

2. Based on the materials submitted, it is difficult to determine whether density standards of the RCA are met by the proposed land division. The status is unclear of the building labeled "1 story dwelling" on proposed Lot 1. The 1997 plat of this site labeled this structure as "not to be used as a dwelling unit." Current and continued use of this structure as a dwelling unit would appear to result in the applicant exceeding the permitted density in the RCA. Please provide this office with documentation of the status of this building. This information is needed prior to our support of the current subdivision proposal.

3. The "Lot History Statement" note on the plat stating that there have not been subdivisions of the original parcel is incorrect and should be removed or corrected prior to plat approval.

Thank you for the opportunity to comment. Please address the comments above and provide a revised subdivision plat. Please contact me at (410) 260-3479 if you have any questions.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: CR 735-07

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

MEMORANDUM

To: Shawn Clotworthy, Eastern Region Planner, DNR

From: Marshall Johnson

Date: January 18, 2008

Subject: Tuckahoe Creek State Park Floating Pier (2007-DNR-221)

I have received plans for the Tuckahoe Creek State Park floating pier/canoe launch project for review and comment. The Critical Area only extends upstream to the extent of the lake. You indicated that the canoe launch is north of the lake. As long as that is the case, it would not be in the Critical Area and would not require review by this office. However, the proposed floating pier is in the Critical Area. The floating pier falls under COMAR 27.02.05.04 as a water dependant structure. The Critical Area Criteria require that disturbance to wetland habitat must be minimized, in regard to the proposed project. We recommend that the department construct the proposed floating pier so as to extend the new structure from the existing wooden platform instead of expanding along the shoreline. This location would appear to avoid clearing additional vegetation.

While we encourage the department to conduct the proposed activities in keeping with the spirit and intent of the Critical Area Law and criteria, this particular project does not require review and approval by the Critical Area Commission.

Thank you for your continued coordination of activities on Department lands. Please continue to forward any proposed activities on Department lands to Commission staff for review. Feel free to contact me at (410) 260-3479 if you have any questions, or require additional information.

CC: Dave Decker, DNR

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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January 23, 2008

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

Re: Ocean City Airport Hanger "J"

Dear Ms. Davis:

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

The Maryland Natural Resources Article Title 8-1808.8 requires that proposed development in the coastal bays IDA must provide a forest or developed woodland cover of at least 15% after development. It also includes a fee in lieu option. The applicant has chosen to define the site as the "design area" shown on Sheet 2 of 7of the submitted plan set. To meet this requirement, at least 15% of the defined site should be planted with trees and shrubs at the density matching that of the Worcester County standards for landscaping plants/acreage. It is unclear if the proposal meets this requirement. Please submit documentation of how Title 8-1808.8 is met by the proposed project.

1. The submitted materials indicate that the area defined as the site for purposes of the 10% stormwater pollutant reduction requirement calculations is the 0.73 acre design area mentioned above. Based on the submitted plans, it appears that a significant amount of impervious surface from the adjacent asphalt taxiway outside of the defined site is also draining to the stormwater collection facilities associated with the proposed building. It is not clear if the stormwater from this area is otherwise treated. It is recommended that the applicant define the site as the drainage area that the project lies within. Otherwise, to address the 10%

pollutant requirement, plans should be submitted showing that stormwater from the adjacent areas are directed elsewhere. This is particularly significant if the applicant chooses to attempt to use the disconnect credits, because of the criteria discussed below.

2. The proposed stormwater disconnect does not appear to meet the criteria listed in Section 5.2 of the 2000 Maryland Stormwater Design Manual. For example, the contributing area of rooftop to each disconnect discharge can not exceed 500 square feet. The roof appears to be many times larger than 500 square feet. Because it is not clear on the plans where discharges are located and what areas of the roof drain to each one, this criterion does not appear to be met. The applicant should address all of the criteria in Section 5.2 in order to use the rooftop disconnect credit. If the criteria are not met, the applicant's 10% Worksheet A calculations are not complete.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 38-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 23, 2008

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

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

Dear Ms. Walk:

Thank you for submitting the additional materials for the above referenced proposed subdivision. The site is partially within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. An updated site plan addressing the concerns of the previous letter (November 28, 2007) from this office has not been received. The following comments apply to materials submitted to this office after November 28, 2007.

1. The submitted FIDs worksheet shows that the guidelines for development in a FIDs habitat area are not met for the site. The report states that site constraints limit the location of the development envelope, and that between 20% and 40% of the interior FIDs habitat will be lost. That extent of clearing of FIDs interior habitat is not justified for development of the proposed lot. It appears that the site can meet FIDs guidelines if the following were proposed: limit clearing to preserve at least 80% of interior habitat; design the site to minimize loss of canopy; and cluster the development by placing the house near adjacent development. We recommend a linear SRA instead of a square one, so that a greater canopy may be retained over the SRA. The house and associated clearing and SRA location on the adjacent lot to the north resulted in fringe habitat on the subject site. As a result, to meet the guidelines, development on the subject lot must occur within that fringe habitat. Prior to subdivision approval, plans and assurance for FIDs mitigation should be provided in a manner that meets the FIDs mitigation guidelines. Please have the applicant revise the proposal to show that the FIDs guidelines are met to the extent possible. The mitigation obligation (which is dramatically less when guidelines are followed) was not addressed in

the submitted materials. Please have the applicant complete the mitigation section of the guidelines in respect to the proposed development.

2. The letter from DNR Wildlife and Heritage Service dated November 3, 2006 states that there is a bald eagle nest in the vicinity of this site. It is a habitat protection area, for which there are additional requirements under the Critical Area Law. The guidelines for proposals in the vicinity of bald eagle habitat must be followed for this proposal. Please have the applicant address the necessary guidelines in a Habitat Management Plan and show on the subdivision plans that they will be met by future development activity on this site.

Thank you for the opportunity to review this project. Please address the comments above and provide a revised subdivision plat. If you have any comments or questions please contact me directly at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Plan

cc: CR 465-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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January 24, 2008

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

RE: CU-120011, 700 Long Point Road - David Nash

Dear Ms. Maxwell:

Thank you for providing information on the variance request for the above referenced proposal. The site is a 0.5 acre parcel located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area and within a Buffer Exempt Area. There is an existing house and garage and accessory structures on the site which will remain. The applicant proposes to redevelop with a larger garage and is requesting side yard setback. The following comment applies to the proposal.

1. Buffer mitigation for the proposed garage addition must be provided as required by Queen Anne's County Code § 14:1-53.E. This section includes the requirement that any development in the Buffer exemption area approved under the provisions of this subsection shall be mitigated as follows: The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and Natural vegetation of an area twice the extent of the impervious surface must be created on the property or other similar location approved by the Planning Director. Please confirm that if the variance is granted, the applicant has met the mitigation requirement of § 14:1-53.E.

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 additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 29-08

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/

January 24, 2008

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

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

Dear Ms. Jackson:

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

1. The current County Critical Area Program does not include provisions for administrative subdivisions for lots or parcels in Buffer Exempted Areas. The proposed administrative subdivisions will result in three new lots for which the Buffer Exempted Area provisions will not apply. Any new development on either of the proposed lots will be required to meet all applicable requirements of the Critical Area LDA, including the 100-foot Buffer. The applicant has confirmed that this is understood in the revised narrative dated December 31, 2007.

2. The site appears to be partially Whitemarsh (Wh) hydric soils. County Code Section 14:1-52 requires expanding the Buffer for sensitive areas, including areas with hydric soils, where development may adversely affect aquatic environments. It is not clear which plan addresses 14:1-52 (as referred to on page 3 of the applicant's December 31,

2007 letter). Please have the applicant address Section 14:1-52 and where necessary, show the expanded Buffer on the subdivision plans.

3. The applicant must meet the afforestation requirement of Queen Anne's County Code § 14:1-38.D(6) and § 14:1-54 for each of the lots proposed by Applications 04-07-05-0007-C, 04-07-05-0008-C and 04-07-05-0009-C. This office recommends that plans and assurances be provided for the afforestation on the proposed lots by the applicant prior to final plat approval.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

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

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 24, 2008

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

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

Dear Ms. Tompkins:

Thank you for providing a copy of the updated information on the above referenced proposal. The lot is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with a new commercial building. This office has no further comments.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 708-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 30, 2008

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

RE: Weber Lot Line Revision
300 N. Washington Street

Dear Ms. Houtman,

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

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: SN 760-07

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 4, 2008

Elder Ghigiarelli, Jr.
MDE Wetlands and waterways program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

Re: Department of the Army, burial of electrical power lines at Sesputie Island - Aberdeen Proving Ground

Dear Mr. Ghigiarelli:

This office has received information regarding the above referenced project. This proposed federal action will be reviewed by the Critical Area Commission staff for consistency of federal action with the State Coastal Zone Management Program. The development activity for burial of existing above ground power lines on Sesputie Island at the Aberdeen Proving Ground will occur within the Chesapeake Bay Critical Area. Based on the information submitted and a site visit conducted on January 31, 2008, the Critical Area Commission staff has the following comments.

1. The disturbance for burial of the power lines will occur directly adjacent to the existing roadway on the island. No trees or significant vegetation will be impacted for the project. The trenching for burial of the lines will result in temporary disturbance and will occur only on areas of non-significant vegetation such as impervious surface or turf grass adjacent to the road. Directional boring will be used to avoid any impact to streams and wetlands. No mitigation is necessary for this portion of the project. However, mitigation at a 1:1 ratio should be provided for areas of permanent disturbance associated with the directional boring.

2. Areas associated with sensitive species habitat protection areas will be protected by avoiding disturbance to those areas with directional boring.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Steve Wampler, Dept of the Army

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 or Mary Tolodziecki, Program Open Space

From: Marshall Johnson

Date: February 5, 2008

RE: POS # 5325-5-152 Ganey's Wharf Expansion / Acquisition, Caroline 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 acquire 1.22 acres of land adjacent to the existing boat ramp. The property that will be acquired is within the Chesapeake Bay Critical Area LDA (Limited Development Area). While it is difficult to determine the extent of impacts proposed within the Critical Area based solely on the information provided, any new development activities on that property will be required to comply with the local requirements for development within the LDA and COMAR Title 27.02 (Development in the Critical Area Resulting from State and Local Agency Programs). We recommend that the County coordinate with Commission staff early in the planning process for all future development activities at this site. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3479.

cc: Caroline County Planning and Zoning

CLEARINGHOUSE REVIEW

January 17, 2008

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

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

SUBJ : POS # 5325-5-152
Ganey's Wharf Expansion, Caroline County

This project proposes the acquisition of 1.22 acres adjacent to the existing Ganey's Wharf boat ramp on the Choptank River in Caroline County. This acquisition will permit the county to expand the boat ramp while making site improvements that will be beneficial to the Chesapeake Bay.

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

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

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

RECEIVED
JAN 22 2008
CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 7, 2008

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

RE: 25133 Adams Landing Road Shore Erosion Control Project
Tax Map 28, Parcel 79, Caroline County

Dear Mr. Kincaid,

Based on the information provided and the site visit on January 30, 2008, the applicant is proposing to install a riprap sill 10 feet channelward of mean high water, place sand fill and plant marsh vegetation, in order to provide shore erosion control for the subject property. However, it is not clear whether the applicant intends to remove trees or other vegetation for access or otherwise disturb the Critical Area Buffer for construction of the proposed project. Based on discussion with the property owner, these impacts may be part of the proposed project. The following comments apply to the proposal.

1. In order to comply with Critical Area requirements of the Code of Maryland Regulations (COMAR), all development related activity should be outside of the 100-foot Buffer, except for the minimum necessary for placement of approved shore erosion control measures at significantly eroding areas.

2. COMAR defines significantly eroding areas as shoreline areas where there is documented erosion of at least two feet or more per year [COMAR 27.01.01.01(63)]. Although the applicant has not documented that significant erosion is occurring on the site, an assessment of the erosion was made on 1/30/08 at the site by Maryland Department of the Environment that significant erosion is occurring on portions of the applicant's shoreline. If MDE approves riprap sill and marsh creation for this portion, then the applicant must submit plans to this office that show any proposed Critical Area Buffer disturbance area. The Buffer disturbance area must meet COMAR requirements for minimizing impact and include mitigation plantings as explained in the comments below.

3. Disturbance in the Buffer, including cutting trees, may be permitted only where necessary to provide access to install or construct an approved shore erosion protection device or measure.

4. The project must have received all necessary local, State and federal permits, including the MDE permit for the shore erosion control measure.

5. Buffer disturbance and tree cutting will not be allowed if the applicant can not demonstrate that the proposed Buffer impacts are necessary and directly associated with the approved shoreline erosion control measures. [COMAR 27.01.09.01.C(5)(c)]

6. Once an acceptable shoreline erosion control plan is submitted and approved, the mitigation for installation of shore erosion control works must be based on the number of trees removed, and must be provided at a ratio of 1:1 (which is one tree planted for each tree removed). Large shrubs that are removed must be replaced as well using at least a three-gallon potted shrub.

7. The mitigation requirement must be met with plantings that are native species and are appropriate for the location. The mitigation trees must be two-inch caliper. The mitigation must be placed in the Critical Area Buffer on the site.

8. As required in COMAR 27.01.09.01, any disturbance area beyond the minimum necessary must be mitigated at a ratio of 3:1 (three times the square feet of the disturbance area).

9. Please have the applicant address how the project will affect the location of mean high water at this site. If the project will impact the location of mean high water, this information must be shown on the plans as existing and proposed location of mean high water.

10. Please have the applicant submit more detailed plans and information for review prior to any approval of this project, so that it may be determined whether the proposed project meets the above mentioned requirements.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Jackie Naylor, Caroline County
Caroline County General File

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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February 8, 2008

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

RE: Gilpins Point Public Landing Shoreline Erosion Control
Holly Park Drive, Caroline County

Dear Mr. Kincaid,

The site is located on County property at Gilpins Point Park, Caroline County. The applicant proposes a marsh creation project for shore erosion control using a stone sill and sand fill which would be planted with wetland species. The plans appear to propose impacts within the Critical Area Buffer which would involve removal of tree and understory vegetation. The project will require certification of consistency with the County Critical Area Program and Code of Maryland Regulations (COMAR) as required by COMAR 27.02. The following comments apply to the proposal.

1. In order to comply with Critical Area requirements of COMAR, all development related activity must be outside of the 100-foot Buffer, except for the minimum necessary for placement of approved shore erosion control measures at significantly eroding areas. Please note that the Buffer must be expanded beyond 100 feet to include wetlands contiguous to the 100-foot Buffer.

2. The applicant must provide a proposal indicating how many trees and large shrubs will be damaged or removed in the Critical Area Buffer. The proposed disturbance to the Buffer must meet COMAR requirements for minimizing impact and include mitigation plantings as explained in the following comments.

3. Disturbance in the Buffer, including grading and cutting trees, may be permitted only where necessary to provide access to install or construct an approved shore erosion protection device or measure. The project must have received all necessary local, State and federal permits, including the MDE permit for the shore erosion control measure. Buffer disturbance and tree cutting will not be allowed

if the applicant can not demonstrate that the proposed Buffer impacts are necessary for the purpose of shoreline erosion control.

4. Mitigation for installation of shore erosion control works must be based on the number of trees removed, and must be provided at a ratio of 1:1 (which is one tree planted for each tree removed). Large shrubs that are removed must be replaced as well using at least a three-gallon potted shrub. The mitigation requirement must be met with plantings that are native species and are appropriate for the location. The mitigation trees must be two-inch caliper. The mitigation must be placed in the Critical Area Buffer on the site.

5. Please have the applicant address how the project will affect the location of mean high water at this site. If the project will impact the location of mean high water, this information must be shown on the plans as existing and proposed locations of mean high water.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Jackie Naylor, Caroline County
Caroline County General File

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 8, 2008

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

Re: Old Town Center, LLC lot reconfiguration
Tax Map 63, Lot 58

Dear Ms. Walk:

Thank you for providing information on the above referenced proposal. The applicant proposes to combine two lots by removing an existing lot line. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on the new lot, this office has no comment on the proposed reconfiguration.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: CR 64-08

Martin O'Malley
Governor

hony 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/

February 12, 2008

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

RE: Summerfield Farms LLC, Snow Hill

Dear Ms. Houtman,

Thank you for submitting information on the above referenced subdivision. A portion of the site is within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. Based on the plans submitted, no new lots or development activity appear to be proposed within the RCA for this subdivision. Any future development activity in the Critical Area portion of this site, including pathways or recreational trails must meet all applicable requirements of the Snow Hill Critical Area Program and be submitted to this office for review and comment.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: SN 63-08
Chris McCabe, Worcester County Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 12, 2008

Bruce M. Grey, Deputy Director
Office of Planning and Preliminary Engineering
Maryland Department of Transportation
Maryland State Highway Administration
707 N. Calvert Street
Baltimore MD 21202

Re: Mitigation remediation for MD 70 bridge over Weems Creek in Annapolis

Dear Mr. Grey:

The purpose of this letter is to officially notify you of the action by the Critical Area Commission on the above referenced project. On February 6, 2008 the Critical Area Commission unanimously approved the proposal and site plan to reconstruct the failed Weems Creek wetland creation mitigation site, with the following conditions:

(1) Within 30 days from the date of Commission approval, the Maryland State Highway Administration shall submit a planting agreement for the 3,622 square feet of mitigation proposed at Franklin Point Park for review and approval by Commission staff.

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

As part of the Conditional Approval process, SHA addressed COMAR 27.02.06.01.C(3) by stating the following:

"Total Buffer disturbance to be mitigated at a 1:1 ratio on site includes 2,654 square feet of Buffer disturbance, plus removal of four individual trees. Therefore, the applicant will provide 2,654 square feet of mitigation plantings using a ratio of one tree and three shrubs per 400 square feet of mitigation required, as well as four additional individual trees. The applicant will plant six Willow Oaks, twenty-one High-tide Bush and twenty-one Red Chokeberry in the Buffer on site. The trees will be 2-inch caliper and shrubs will be 3-foot height. For the unapproved Buffer clearing that occurred previously, an additional 3,622 square feet of mitigation will be provided off site, due to limited space on site."

Please submit a copy of the sediment and erosion control and wetland license approvals from Maryland Department of the Environment and a signed copy of the planting agreement (attached),

including a site location map and planting plan for the off site mitigation to meet the condition above. Please also notify the Commission once the on and offsite mitigation plantings have been implemented. Should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. If you have any questions, please feel free to contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Donald Sparklin, SHA
Aimee Schutz, SHA
Gary Green, SHA

Martin O'Malley
Governor

hony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 12, 2008

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

Re: 04-08-01-0006-C, Virginia Jones Subdivision
Matapeake Estates

Dear Ms. Jackson:

Thank you for providing information on the above referenced subdivision/lot reconfiguration. The applicant proposes to divide an existing lot and add portions of it to other lots. The recipient lots are within in the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. No new development activities are proposed in the Critical Area under this proposal. The Critical Area Commission staff has no objection. Please telephone me if you have any questions at (410) 260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 68-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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February 14, 2008

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

Re: Town of Federalsburg, Wetland Enhancement Project, Marina Park

Dear Mr. Mayer:

Thank you for forwarding the above-referenced project per the requirements of COMAR 27.02.02 (State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions). Based on the information provided, it appears that the proposed project would enhance an existing nontidal wetland and create a new nontidal wetland on a portion of the Town's Marina Park. The Town proposes to concurrently add fill to a nontidal wetland area which has limited natural resource values due to its lack of natural vegetation and ongoing use by the Town as a recreational facility. The site is within the Critical Area Resource Conservation Area (RCA). The Town has designated nontidal wetlands as habitat protection areas in the Town Critical Area Program.

This office has reviewed the project in respect to the Federalsburg Critical Area program. As required by the Town ordinance, approval of the State Department of the Environment to impact non-tidal wetlands has been received for this project. Standards set out in the Town ordinance require coordination with DNR to address species and habitat protection measures. Therefore, in order to confirm that the project is consistent with the Federalsburg Critical Area Program, please submit a copy of a letter from the DNR Wildlife and Heritage Service for the project at this site.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: FE 67-07
Roby Hurley

Martin O'Malley
Governor

thony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 14, 2008

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

Re: Bowman Real Estate & Development, LLC
File # 05-06-01-0015-C

Dear Ms. Jackson:

Thank you for forwarding information on the above referenced Critical Area Afforestation Plan. Based on the information provided it appears that all native species will be used. I understand the County currently requires 70 stems per acres; however, I would encourage the applicant to increase the size and quantities in order to more fully mimic a natural forest when the plantings are mature.

In regard to the site plan, it appears the proposed dwelling and stockpile area are both in the 100-year floodplain, and will require the clearing that is necessitating the planting requirement. It appears there is sufficient area outside the floodplain and wooded portion of this site to accommodate the dwelling and stockpile area; therefore, I recommend that these locations be adjusted.

Note 16 states the septic system is not to be constructed in the wooded area. I understand that the Health Department may permit only that portion of the 10,000 square foot septic reserve area be cleared for the initial system; however, in the future the secondary system may be required which could necessitate clearing notwithstanding this note. In that case, additional planting

would be required to offset any future clearing of the septic reserve area; therefore, I recommend the wooded portion of the septic reserve area be accounted for in the mitigation planting.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 69-08

Martin O'Malley
Governor

hony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 15, 2008

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

RE: MISP# 04-08-01-0007-C, Maryland General Land, LLC
Shamrock Rd, Chester

Dear Ms. Tompkins:

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

1. The site plan has been revised to relocate features of the site which affect the stormwater management within the Critical Area portion of the site. Please have the applicant provide revised 10% stormwater pollution reduction calculations to confirm that the 10% requirement is met by the new proposal.

2. The growth allocation case for this project included a condition that required at least 400 native trees and shrubs present on the site. The growth allocation was for the portion of Parcel 155, Lot 7 within the Critical Area. Please have the applicant confirm that this condition is still met by the revised proposal.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 98-08

Martin O'Malley
Governor

thony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 15, 2008

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

RE: SSP 02-08-01-0002-C, The Highlands Phase II

Dear Ms. Tompkins,

Thank you for submitting information on the above referenced subdivision. A portion of the site is within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. Based on the plans submitted, no new lots or development activity appear to be proposed within the RCA for this subdivision. Any future development activity in the Critical Area portion of this site must be submitted to this office for review and comment.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: QC 54-08

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/

February 19, 2008

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

Re: 03-03-08-0003-C, Corsica River, LLC/Pioneer Point General Ptsp. Subdivision

Dear Ms. Jackson:

Thank you for providing resubmitted information on the above referenced subdivision. The applicant proposes an amended open space plan which would further divide an existing open space lot to create an additional buildable lot. The site is partially in the Resource Conservation Area (RCA). The proposed division and creation of Lot 1 does not appear to affect the Critical Area Portion of the site.

The previous letter from this office dated July 14, 2005 provided guidance for the Buffer Management Plan to be implemented on this site. Please forward a copy of the current Buffer Management Plan to this office to confirm how the past clearing violation was addressed for this site.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 58-03

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 22, 2008

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

Re: 02-08-02-0002, Conte lot reconfiguration
Tax Map 10, Parcel 46, Lots 914 and 915

Dear Ms. Jackson:

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

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 92-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 25, 2008

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

RE: Tax Map 26, Parcel 316 – Kramer Variance
Ocean Gateway

Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The applicant proposes a new house and associated sewage reserve area (SRA). The applicant is requesting a variance to allow the SRA within the 100-foot Critical Area Buffer. The following comments apply to the variance request. Provided that this lot is properly grandfathered, Critical Area Commission staff does not oppose the variance. However, to the extent possible, the impacts of development on the habitat value and water quality of the coastal bays should be reduced by minimizing damage to this stream Buffer, and mitigating for any unavoidable impact. The following comments apply to the variance request.

1. In light of the Buffer regulations, and the potential adverse environmental impacts of placing a septic drain field within the Buffer, we recommend relocation of the SRA further from the stream. If it is possible to realign the SRA in a manner that allows it to move further from the stream without infringing on the minimum required setback to the house, the applicant should do so. If the proponent of this project also owns the adjacent property, Parcel 47, the possibility of locating the SRA further from the resource by utilizing that area should be addressed.

2. Alternative septic systems that reduce the area required for SRA and/or increase the pollutant and nutrient treatment efficiency should be required as a condition of the variance.

3. Mitigation, at a ratio of 3:1 for the area of the SRA system 1 and 2 within the Buffer, should be required. To the extent possible, mitigation plantings should be accommodated on the property and installed in a manner that will reduce the impacts to habitat and water quality. The mitigation plantings should be placed between the SRA and the stream to the maximum extent possible. 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 on this variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 83-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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February 25, 2008

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

RE: 08: 04-02 Variance, Tax Map 40, Parcel 42, Lot 293
Love Point Holdings, LLC

Dear Ms. Swinson:

Thank you for providing information on the above referenced variance request. The site is a 0.435 acre property located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. This site is currently undeveloped and vegetated with lawn and trees. The applicant proposes to construct a single family dwelling, two attached decks, an attached two car garage, a stone driveway, a septic reserve area (SRA) and to remove additional trees between the house and the shoreline. All of this development activity except for a portion of the SRA would be within the 100-foot Buffer of the Critical Area. The applicant has submitted a Buffer Management Plan proposing mitigation for tree removal. The applicant is requesting a variance for development within the Critical Area Buffer.

Provided that the subject lot is properly grandfathered, Critical Area Commission staff does not oppose the variance. However, to the extent possible, impacts to habitat and water quality should be reduced by minimizing development activity in the Buffer, and mitigating for any unavoidable damage. This office recommends reducing the size of the proposed house, garage, decks and the disturbance area and reducing the removal of trees and natural vegetation. The proposed disturbance area is the area where any development activity will occur for this project, which in this case includes the area within the silt fence shown on the plans, and should include the entire SRA. Because Queen Anne's County Code § 14:1-51 prohibits new development activity in the Critical Area 100-foot Buffer, a variance must be sought for this project. The Critical Area Commission staff has the following comments regarding the development proposal.

1. Existing live trees and natural vegetation that is not associated with the building construction (i.e. between the silt fence and the shoreline) should not be cut or removed unless confirmed as dead by a certified arborist, in which case they must be mitigated at a 1:1 ratio in the Buffer. As stated in County Code § 14:1-51, cutting of individual trees for certain purposes is only allowed when approved as part of a Buffer Management Plan.

2. Mitigation should be required at a ratio of 3:1 for the disturbance area that is within the 100-foot Buffer. Mitigation plantings should be a mix of native species of trees, shrubs and ground cover on the site within the Buffer and should consist of one tree (two-inch-caliper) and three shrubs (two-gallon-pots) per 400 square foot mitigation area required.

3. The Critical Area Buffer must be established in natural vegetation. The applicant has provided a Buffer Management Plan that does not meet recommended planting standards and Critical Area requirements. Please have the applicant submit a revised Buffer Management Plan for approval prior to site plan approval that provides any of the following missing from the submitted plan:
   - Show proposed limits of disturbance for development activity (see comment above)
   - Document that any trees to be removed outside of the disturbance area are dead as determined by a certified arborist
   - Calculate the number of plants required based on the Buffer area, using one tree (two-inch-caliper) and three shrubs (two-gallon-pots) per 400 square feet of Buffer on the site
   - State the plant numbers by species, spacing and stock size/type
   - Only native plants should be used
   - Show the proposed planting locations. Ideally, the Buffer plantings are in clusters of one tree and three shrubs per 400 square foot area, using an irregular pattern to provide structural variety amenable to wildlife habitat. The Buffer plantings must be located across the lot to promote a vegetated buffer between the house and the shoreline. That said, it is acceptable to organize the plantings to provide a single view corridor from the house to the shoreline in one specified location where trees are clustered on either side of a corridor, as long as the shrubs meet in the center to provide continuity.

   The Buffer establishment can be counted as part of the mitigation plantings described in the comments above. The 15% afforestation requirement can also be met by the Buffer establishment plantings. Prior to final approval, the County should require that the applicant provide assurance for installing the Buffer plantings and appropriate monitoring and maintenance to ensure successful establishment.

4. The proposal should minimize impacts by including stormwater management design elements which increase benefits to water quality from the stormwater leaving the site to the extent practicable. These may include pervious paving, pervious deck construction, and other low impact development methods which are acceptable to the County.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 104-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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February 25, 2008

Amy Moore
Town of Queenstown
7013 Main Street
P. O. Box 4
Queenstown, MD 21658

RE: Urquhart Buffer Management Plan, Old Wharf Lane

Dear Ms. Moore,

Critical Area Commission staff has met with Mr. Urquhart and his representatives to discuss a Buffer Management Plan (BMP) for Mr. Urquhart's property on Old Wharf Lane. I am providing this letter to inform you that we are working diligently with them to develop a plan that is acceptable to this office and will resolve Critical Area issues related to the Buffer on the site. We have discussed the current BMP submittal and hope to have an approved version completed within the next few weeks. Please contact me if you have any questions at (410) 260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Benjamin S. Wechsler, Linowes and Blocher, LLP
Anthony G. Gorski, Gorski & Associates LLC

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 25, 2008

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

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

Dear Ms. Tompkins:

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

1. The proposed forest clearing appears to exceed the 20% allowed in the IDA. Please have the applicant revise the plans to comply with the clearing allowance of the County Code for IDA.

2. It is not clear whether the tree clearing referred to in the November 15, 2007 letter from McCrone, Inc that already occurred on this site, took place within the expanded Critical Area Buffer. County Code requirements of § 14:1-51 (Buffer standards and requirements) states that development activities, including clearing of existing natural vegetation, construction of new roads, parking areas or other impervious surfaces are not permitted in the Critical Area Buffer. Please have the applicant show the location of the clearing referenced, and explain whether it occurred in the expanded Critical Area Buffer. If necessary, the applicant should address the requirements of § 14:1-51 and propose appropriate mitigation for any disturbance to the Expanded Buffer.

3. Letter of Authorization 200661791/06-NT-2020 explains that its authorization does not include infringement of State or local laws or regulations, nor does it obviate the need to obtain required authorizations or approvals from State or local agencies. Based on County Code § 14:1-51, it appears that new development activity, including any of the work related to the Authorization No. 200661791/06-NT-2020, is not permitted in the

Critical Area Buffer unless a variance for Buffer impacts has been approved and mitigation has been provided. No further development should occur on this site prior to approval of a variance for the impacts of the road on the Buffer. Please note that in the previous letter dated March 5, 2007, this office recommended the County deny approval of the road and any associated grading permit until appropriate site plan review could occur.

4. It appears that the County has approved a proposal by the applicant in the form of a letter dated April 5, 2007 by Michael R. Foster and signed by County Attorney and Zoning Administrator allowing the applicant to mitigate for clearing on the site by payment in lieu of $3920. County Code § 14:1-37.E (3)(d) requires the fee in lieu equal the total cost of replacing the cleared forest land, and the applicant must demonstrate to the satisfaction of the Planning and Zoning Office that mitigation requirements, on-site or off-site, cannot be reasonably accomplished. Please clarify how it was demonstrated that the fee in lieu could be used, how the fee was determined, and what clearing the agreed upon "112 trees x $35" would be replacing.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 301-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 26, 2008

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

RE: 08-04-01 Variance, Tax Map 64, Parcel 67
John and Nora Duty

Dear Ms. Swinson:

Thank you for providing information on the above referenced variance request. The site is located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area, partially within the Critical Area 100-foot Buffer. This site is currently vegetated with lawn and marsh and is undeveloped. The applicant proposes to construct a single family dwelling with porch, garage, driveway and a septic tank. The submitted plan shows an existing trailer, however there is currently no trailer on the site. The majority of this development activity is proposed within the 100-foot Buffer of the Critical Area. The applicant is requesting a variance for development within the Critical Area Buffer.

Provided that the subject lot is properly grandfathered, Critical Area Commission staff does not oppose the variance. However, to the extent possible, impacts to habitat and water quality should be reduced by minimizing development activity in the Buffer, establishing the Buffer in native vegetation and mitigating for any unavoidable damage. This office recommends locating the structures further outside of the Critical Area Buffer by locating them towards the road and reducing the size of the proposed structures to the extent possible. The relevant proposed disturbance area is where any development activity will occur for this project within the Critical Area Buffer, which in this case includes the structures shown on the property, plus any stockpiling, staging, machine maneuvering or ground disturbance associated with construction on the site. Installation of a silt fence also constitutes development disturbance; therefore, the disturbance area will likely be the area within and including the silt fence that should be installed for sediment and erosion control. Because Queen Anne's County

Code § 14:1-51 prohibits new development activity in the Critical Area 100-foot Buffer, a variance must be sought for this project. The Critical Area Commission staff has the following comments regarding the development proposal.

1. Mitigation should be required at a ratio of 3:1 for the disturbance area that is within the 100-foot Buffer. Mitigation plantings should be a mix of native species of trees, shrubs and ground cover on the site within the Buffer and should consist of one tree (two-inch-caliper) and three shrubs (two-gallon-pots) per 400 square foot mitigation area required.

2. The 100-foot Buffer line must be shown accurately on the site plan. There appear to be tidal wetlands on this site. Please have the applicant submit plans showing the shoreline and tidal wetland location based on a professional delineation, and document who conducted the delineation. The 100-foot Critical Area Buffer line must be drawn 100 feet landward from the mean high water or the extent of tidal wetlands, whichever is farther landward.

3. The Critical Area Buffer should be established in natural vegetation and mitigation plantings must be provided for development activity in the Buffer. Please have the applicant submit a Buffer Management Plan for approval prior to site plan approval that provides the following:
   - Show the correct location of the 100-foot Buffer (see comment above)
   - Show proposed limits of disturbance for development activity (see above) and calculate the area of proposed Buffer disturbance
   - Calculate the number of plants required based on the Buffer area, using one tree (two-inch-caliper) and three shrubs (two-gallon-pots) per 400 square feet of Buffer on the site
   - State the plant numbers by species, spacing and stock size/type
   - Only native plants should be used
   - Show the proposed planting locations. Ideally, the Buffer plantings are in clusters of one tree and three shrubs per 400 square foot area, using an irregular pattern to provide structural variety amenable to wildlife habitat. The Buffer plantings must be located across the lot to promote a vegetated buffer between the house and the shoreline. That said, it is acceptable to organize the plantings to provide a single riparian accessway in the form of a pervious pathway up to six feet in width, running from the dwelling to the water, as perpendicular to the shoreline as possible. In combination with the riparian accessway, a view corridor from the house to the shoreline may be created where trees are clustered on either side of the accessway corridor, with the shrubs toward the center along the pathway.

   The Buffer establishment can be counted as part of the mitigation plantings described in the comment #1 above. The 15% afforestation requirement can also be met by the Buffer establishment plantings. Prior to final approval, the County should require that the applicant provide assurance for installing the Buffer plantings and appropriate monitoring and maintenance to ensure successful establishment.

4. The proposal should minimize impacts by including stormwater management design elements which increase benefits to water quality from the stormwater leaving the site to the extent practicable. These may include pervious paving, pervious deck construction, and other low impact development methods which are acceptable to the County.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc:.QC 122-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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February 27, 2008

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

RE: Rezoning Case No. 391; Tax Map 21, Parcel 15
Park Zone Change Proposal

Dear Ms. Davis,

The Critical Area Commission staff has received notification of the proposed rezoning. As you know, the property currently has a Critical Area overlay classification of IDA. Since the applicant would still be required to comply with the 10% pollution reduction requirement and other IDA development standards when any improvements are proposed for the site, staff has no further comments on this proposal.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: WC 91-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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February 27, 2008

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

RE: Rezoning Case No. 391; Tax Map 21, Parcel 15
Park Zone Change Proposal

Dear Ms. Davis,

The Critical Area Commission staff has received notification of the proposed rezoning. As you know, the property currently has a Critical Area overlay classification of IDA. Since the applicant would still be required to comply with the 10% pollution reduction requirement and other IDA development standards when any improvements are proposed for the site, staff has no further comments on this proposal.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: WC 91-08

Martin O'Malley
Governor

nthony 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/

February 27, 2008

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

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

Dear Ms. Tompkins:

I have reviewed a plan for additional stormwater management at the Chesapeake Bay Environmental Center that would be funded through the County with a fee in lieu collected to meet 10% requirements from the above referenced project. The fee in lieu of $2,640 agreed upon was for a 0.06 acre increase in impervious surface at the Beach Club site that results in a requirement of 0.132 lbs pollutant removal. This fee in lieu will be used to provide raingarden plantings into which the stormwater will be directed from an approximately 4,500 square foot new building at Chesapeake Bay Environmental Center. Because the raingardens are non-structural BMPs as described in the 10% Rule Guidance Manual, all or a portion of the impervious surface area draining to them is subtracted from the total proposed site impervious area. Based on the pre and post development impervious area of the project site of the new building, disconnecting the stormwater from the roof of the new building by directing it into raingardens reduces the pollutant load from that site by at least 0.132 lbs. Critical Area Staff has determined that the 10% rule guidelines have been appropriately followed.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Vijay Kulkarni
Lee Mayer
QC 755-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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February 28, 2008

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

RE: V-002-0005 Variance; MD Rte 18, 800 Main St, Stevensville
Ramshead Restaurant

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance. The site is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. The property is currently developed with a commercial building and parking areas. The applicant proposes to construct a new deck on the existing building, add parking and pave the existing stone parking area. The following comments apply to the proposal.

1. The 100 foot Critical Area Buffer line is 100 feet landward of the edge of the tidal wetlands. On the submitted plans, the 100-foot Critical Area Buffer is shown at the rear of the site. Notes on the plan indicate that MDE determined the location of tidal versus nontidal wetlands. The notes also state that the nontidal wetland is approximately 340 feet south of MD Route 18, and that the wetlands were not field verified for the plans. There appears to be a tidal wetland extending around the entire east/northeast side of the site. Because the applicant is proposing paving of the parking lot and other development activities that may be within the Buffer, the wetland must be professionally delineated and the Buffer field verified. Please have the applicant document who delineated the wetlands and what methods were used to delineate tidal versus non tidal. If the proposed work is within the Buffer and does not meet the standards of County Code § 14:1-51, a variance is necessary and the applicant must address the criteria of the County Code §14:1-68.

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

3. Our records indicate that this site is within a sensitive species project review area. Please contact Lori Byrne with DNR, at (410)260-8573 to determine how to proceed with development proposed in a sensitive species project review area.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 112-08
Lori Byrne, DNR

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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March 4, 2008

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

RE: V-020004, 1016 Chester River Drive, Grasonville
Maurice C. Bowles, III

Dear Ms. Maxwell:

Thank you for providing information on the variance request for the above referenced proposal. Please accept this letter and submit as part of the record for the hearing on this variance. The site is a 10,654 acre lot located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The site is partially within the Critical Area 100 foot Buffer. This area is also designated as a Buffer Exempted Area (BEA). There are an existing house, shed, driveway, deck, seawall and pier on the site. The applicant proposes to build an additional wood deck and pool between the house and the shoreline. The proposal does not meet requirements for development in the Critical Area of Queen Anne's County, including the specific provisions for Buffer exempted areas of County Code § 14:1-53. In addition, the applicant does not meet the State or County variance standards. It is important to note that the Queen Anne's County Circuit Court has recently reaffirmed that all variance standards must be met in order to grant a variance. (McHale v. Queen Anne's County Board of Appeals, Civil Action #12458). This letter specifically addresses the variance request for this project.

The applicant is requesting a variance to construct a 12x24 foot swimming pool and a 24x8 foot deck within the Critical Area 100-foot Buffer. The BEA section of the County Critical Area program states that new development shall minimize the shoreward extent of intrusion into the Buffer exemption area and shall not exceed the shoreward extent of existing structures located on the property. On this property, there are not such structures located shoreward or at equal distance to the shoreline of the proposed pool and deck. The proposal does not minimize the shoreward extent of intrusion into the Buffer exemption area. This office opposes the variance to build a new pool and deck in the Buffer, because the applicant does not meet the State-mandated standards for a Critical Area variance. Moreover, the applicant can meet the BEA standards by constructing the

proposed pool on the landward side of the house and there is already a deck on the waterward side of the house. For the Board's information, we provide the following analysis of the requested variance in the context of Queen Anne's County's variance standards.

Disturbance to 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 a variance to allow new construction of a deck and pool with disturbance to the 100-foot Buffer on a lot with adequate undeveloped area to place them outside of the Buffer, is in direct conflict with Queen Anne's County's Zoning Code provisions regarding new structures in the Buffer. County Code § 14:1-53 specific provisions for Buffer exempted areas states that new development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer exemption area and shall not exceed the shoreward extent of existing structures located on the property.

It is clear that, under the County Code, the applicant's proposed Buffer disturbance cannot be allowed because the deck and pool would exceed the shoreward extent of existing structures located on the property, and they do not minimize the shoreward extent of intrusion into the Buffer exemption area. Moreover, the proposed disturbance within the Buffer should not be permitted with a variance because it is in conflict with the County's Buffer management goals and will create unnecessary adverse impacts to water quality and habitat. Further, the applicant cannot meet each one of Queen Anne's County's variance standards as discussed below.

<u>Relevant Variance Standards</u>

§ 14:1-66.A - *A literal enforcement of this Chapter 14:1 would result in unnecessary hardship as the result of specified conditions, which hardship is not shared by owners of other property in the same development area*
Denial of this variance request would not create an unwarranted hardship since the applicant will not be denied reasonable use of the entire lot. A literal interpretation of

Queen Anne's 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 variances for development on lots where the proposed development can be constructed in conformance with the law. The applicant has not shown that construction of a pool and additional deck on this site is a right commonly enjoyed by any property in the Critical Area, or a right enjoyed by other properties in similar areas within the Queen Anne's County Critical Area.

§ 14:1-66.B - *Those conditions are peculiar to the property involved*
There are no conditions that are peculiar to this property that would require the applicant to seek a Buffer variance since there is more than adequate area on this site to locate the proposed pool and deck in a manner that would minimize the shoreward extent of intrusion into the Buffer exemption area and would not exceed the shoreward extent of existing structures located on the property. The applicant suffers no hardship from not being able to locate a new pool and additional deck shoreward of existing structures on the property because the applicant is not prevented from building them in conformance with this regulation. The applicant already enjoys reasonable use of the lot for residential purposes.

§ 14:1-66.C - *Those conditions are not the result of any action taken by the applicant*
The variance request is based upon the proposed actions of the applicant. It appears that the applicant has voluntarily chosen to locate the proposed pool and additional deck such that they do not meet BEA standards, and consequently the applicant has created the need for the variance. The applicant has not shown any reason that the proposed pool and additional deck could not be constructed landward of the existing house, and without a variance.

§ 14:1-66.E - *The variance will not confer upon an applicant any special privilege denied to other owners of like property and/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 on other properties. 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.

§ 14:1-66.G - *The variance is the minimum deviation from the provisions of this Chapter 14:1 that will make possible the reasonable use of land or structures; and*
No variance is required to afford relief from the regulations. The applicant has proposed to build a new pool and additional deck on a lot where there is already a water side deck and there is room to build the pool in conformance with the BEA standards on the landward side of the house. If the applicant were to do so, no variance would be necessary. 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 building the proposed pool and additional deck in this case.

§ 14:1-66.D - *The variance will not be contrary to the public interest or the policies, goals and objectives of this Chapter 14:1 and the Queen Anne's County Critical Area Program;* § 14:1-66.F - *The variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitats within the critical area;* § 14:1-66.H - *The granting of the variance will be in harmony with the general purpose and intent of this Chapter 14:1 and the Queen Anne's County Critical Area Program and the variance shall not result in a use not permitted in the applicable development area or an increase in the applicable density limitations.*
In contrast with the above standards, granting the requested variances is not in harmony with the general spirit and intent of the Critical Area law and regulations. The Buffer Exempted Area provisions are intended to accommodate limited use of shoreline areas that have been mapped as Buffer exemption areas (BEAs) under the provisions of County Code Chapter 14:1, while protecting water quality and wildlife habitat to the extent possible. The proposed pool and additional deck do not protect water quality and wildlife habitat to the extent possible, because they would prevent stormwater infiltration and vegetation in that area, elements which provide benefits to fish, wildlife, and plant habitat. The County Critical Area Program recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay. The County's 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.

This letter has addressed all 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 any 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 new pool and additional deck in a manner that meets the BEA standards.

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 additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 99-08

Martin O'Malley
Governor

nthony 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/

Memorandum

Date: March 7, 2008

To: Roland Limpert, DNR Environmental Review Unit

Re: MD20080220-0119/Draft EIS: Atlantic Fleet Active Sonar Training Worcester County

Dear Mr. Limpert:

Thank you for sending notice of the above referenced project. The project involves submarine training and testing areas offshore with active sonar or explosive source sonobuoys. The information provided does not appear to indicate that there would be any development activity within the Maryland Chesapeake and Atlantic Coastal Bay Critical Area. Since the activities will occur in the Atlantic Ocean this office does not have any comments regarding the proposed activity.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 7, 2008

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

Re: Town of Federalsburg, Wetland Enhancement Project, Marina Park

Dear Mr. Mayer:

I have received confirmation that the project referenced above will be conducted in conformance with DNR Wildlife and Heritage Service recommendations. Those recommendations include the placement of a silt fence around the project to address concerns for sediment and erosion control. Therefore, I concur that the proposed project is consistent with the Federalsburg Critical Area program 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). This office has no further comment.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Koby Hurley

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 10, 2008

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

RE: Harford Hospice property Subdivision

Dear Ms. Bynum:

Thank you for providing updated information regarding the above referenced proposal. Based on your letter dated February 7, 2008 it appears all of our comments have been addressed; therefore, this office has no further comments. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: HC 323-06

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 10, 2008

Chris Pajak
MDE - Water Management Administration
Nontidal Wetlands & Waterways Division
201 Bapist Street
Salisbury, MD 21801

RE: 200860660 Tracey Scheminant - Single family dwelling development proposal
Wallman Way, Queen Anne's County

Dear Mr. Pajak:

Thank you for providing information on the above referenced application. The applicant has requested permission for improvements at this site which would impact a nontidal wetland. Our records indicate that this nontidal wetland may be contiguous to the 100 foot Critical Area Buffer at this site. If this is the case, the Critical Area Buffer is expanded to include the nontidal wetland (County Code § 14:1-52. Expanding the Buffer). Please have the applicant confirm the location of the Critical Area Buffer, and show the require expansion of the Buffer for a contiguous nontidal wetland. If the proposed development would impact the expanded Critical Area Buffer all applicable criteria of COMAR and the County Critical Area Program § 14:1-51 (Buffer standards and requirements) should be addressed prior to approval of the project by the County. New development activities, including road improvements, are not allowed in the Critical Area Buffer without approval of a variance under the County Critical Area Program.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

CC: Holly Tompkins, Queen Anne's County

Martin O'Malley
Governor

thony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 11, 2008

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

RE: Tax Map 4, Parcel 38, Lot 69 – 12301 Point View Road
George Upperman

Dear Ms. Davis:

Thank you for providing the information regarding the above referenced variance request. The site is a 37,768 square foot lot located within the Limited Development Area (LDA) of the Atlantic Coastal Bays Critical Area. The property is currently developed with a 3,257 square foot house, three car attached garage, deck, screened porch and two balconies with accessories including a pier/dock, sewage reserve area, rip-rap revetment, fence pillars, driveway and circular turnaround within the Critical Area 100-foot Buffer. The site is within the Worcester County Buffer Management Area B, which allows structures to be placed no closer than 50 feet to the mean high water line at this site.

According to information from the County, a permit for the house was acquired prior to the effective date of the County's Atlantic Coastal Bays Critical Area Program. A deck was approved under that permit; however, the applicant constructed a larger deck consuming an unapproved portion of the Critical Area Buffer setback. The applicant is now requesting an after the fact variance to keep a portion of the deck that was constructed beyond the permitted deck within the 50 foot setback. The proposal does not conform to the County's Critical Area Program because the Worcester County Code Group B Buffer Management Area section prohibits structures within the 50 foot setback.

There should be no structures permitted within the 50 setback on this site that were not properly permitted prior to enactment of the County Critical Area Program. We recommend that all structures not properly permitted prior to enactment of the County Critical Area Program, including portions of the deck and porch, are removed from the site and that the applicant mitigate at a 3:1 ratio for the un-permitted development activity in the Buffer and Buffer Management Area setback with plantings in the setback.

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

1. Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship;
Currently, the lot is developed with a single family home, driveway, circular turnaround, parking spaces, pier, riprap revetment, screened porch and deck. 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**. Without the portion of deck and screened porch in question, the applicant would have use of the house, garage, approved deck, approved screened porch, two balconies, pier, driveway and circular turnaround, which are within the 100-foot Buffer as allowed by the County Buffer Management Area provisions. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for an additional structure within less than 50 feet of the water.

2. A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area;
Without the portion of deck and screened porch in question, the applicant has a reasonable use of this property for residential purposes including a deck, screened porch, lawn yard area, house, balconies and pier that are all within the 50 foot setback and Buffer, and therefore, would not be denied a right commonly enjoyed by neighboring properties. A review of the application shows that there is opportunity to enjoy the property, including use of the deck and porch the applicant requested and received approval for on his original permit, in a manner that meets the Buffer Management Area (BMA) regulations and remains consistent with the Worcester County Critical Area Regulations. Other property owners in the BMA Group B do not have a right to construct a new deck or porch within the 50 foot setback. Therefore, denial of a variance to maintain the un-permitted portions of deck and porch would not deny the applicant a right commonly enjoyed.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area;*
If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the BMA setback beyond what has been established as law by the County would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

4. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property;
In contrast, the need for an after the fact variance to keep the deck not conforming to an approved permit is directly the result of the applicant actions in building the deck.

5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Area Program;
In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area Program. Although Worcester County Code §NR 3-104 states that new development activities, including new structures and impervious surfaces are not allowed in the Buffer, §NR 3-104 provides that the County Commissioners may designate Buffer Management Areas (BMA). This site is within a BMA for which there is a minimum 50 foot setback from mean high water. Given that the applicant can adequately enjoy outdoor activities without the portion of deck and porch that exceed the approved permit, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

6. In reviewing an application for a variance the Board of Zoning Appeals shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
Considering the reasonable use of the entire property requires recognition of the fact that under the approved permit, the site has adequate yard, porch and deck area already within the Buffer and 50 foot setback. Because the applicant already enjoys reasonable use of the entire parcel or lot, a variance should not be granted.

7. The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein
In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the application for this after the fact

variance to the Buffer Management Area 50 foot setback. We recommend that all structures not properly permitted, including portions of the deck and porch, should be removed from the site and that the applicant mitigate at a 3:1 ratio for the un-permitted development activity in the Buffer and Buffer Management Area setback with plantings in the setback.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 116-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 11, 2008

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

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

Dear Ms. Jackson:

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

1. The current County Critical Area Program does not include provisions for administrative subdivisions for lots or parcels in Buffer Exempted Areas. The proposed administrative subdivisions will result in two new lots for which the Buffer Exempted Area provisions will not apply. Any new development on either of the proposed lots will be required to meet all applicable requirements of the Critical Area LDA, including impervious surface limits and the 100-foot Buffer. The applicant confirmed that this is understood in the revised narrative dated December 31, 2007.

2. The site appears to be partially Whitemarsh (Wh) hydric soils. County Code Section 14:1-52 requires expanding the Buffer for sensitive areas, including areas with hydric soils, where development may adversely affect aquatic environments. The County will determine whether expansion for hydric soils is necessary per 14:1-52.

3. The applicant must meet the afforestation requirement of Queen Anne's County Code § 14:1-38.D(6) and § 14:1-54 for each of the lots. This office recommends that plans and assurances be provided for the afforestation on the proposed lots by the applicant prior to final plat approval.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

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

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 12, 2008

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

RE: MISP# 05-08-02-0007-C, TDSM, LLC Apartments - MD Rte 18, Grasonville

Dear Ms. Jackson:

Thank you for providing plans for the above referenced project site plan. The lot is located within the Resource Conservation Area (RCA) and Limited Development Area (LDA) of the Chesapeake Bay Critical Area and is currently developed with a house and associated facilities. The applicant proposes to redevelop the site with a new apartment building. This office has the following comments on the resubmitted material.

1. The RCA can not be used to support development outside of the RCA. Therefore, the RCA portion of the site can not be used when calculating the allowable impervious surface on the site. Please calculate the area of the site only within the LDA, use this area to determine the 15% impervious surface limit and revise Site Statistics section of the plans as necessary. Proposed impervious surface on the site can not exceed 15% of the area of the site that is within the LDA designation.

2. The environmental report submitted indicates that there are hydric soils on the site, which may warrant Buffer expansion. A determination to expand the Buffer to include the hydric soils would be made by the Queen Anne's County Planning Commission. If the Commission determines that the Buffer will be extended, this office may have additional comments on the proposal.

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

Sincerely,

Marshall Johnson
Natural Resources Planner
cc: QC 134-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 13, 2008

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

Re: Mapleton Farms Subdivision

Dear Ms. Davis:

Thank you for submitting the plans for the above referenced project. The applicant proposes to create four lots, in the Critical Area Resource Conservation Area (RCA). The proposal does not include impact to forest within the Critical Area; therefore, FIDS habitat conservation has been addressed as recommended by DNR Wildlife and Heritage Service. No Critical Area Buffer impacts are proposed for the lots in the Critical Area. The density requirements for RCA have been addressed and satisfied. The applicant has stated that impervious area will be limited to 15% for the development on the lots in the Critical Area. I have reviewed the resubmitted information and have the following comments.

1. Lot 71 should not include portions of the Buffer. The SRA should not be partially within the Buffer. Please have the applicant remove the SRA and any portion of that lot from the Buffer.

2. Afforestation to meet the required 15% forest cover in the RCA must prioritize the Critical Area Buffer. Any non forested Buffer areas should be used for afforestation before non Buffer areas. Planting adjacent to the Buffer would be the next highest priority.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 140-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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March 13, 2008

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

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

Dear Ms. Walk:

Thank you for submitting the revised materials for the above referenced proposed subdivision. The site is partially within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The following comments apply to the proposed subdivision. The submitted FIDS worksheet shows that the guidelines for development in FIDS habitat area will met. The mitigation obligation described in the report is 0.55 acres. Mitigation that results in the conservation and protection of FIDS habitat can be achieved in a number of ways. FIDS mitigation can, in many cases, be achieved on-site concurrently with general forest replacement requirements (reforestation) if the reforestation area expands or creates new FIDS habitat. Off-site mitigation should only be considered when no effective, long-term on-site habitat protection is possible. This determination should be made by the local jurisdiction with the input of DNR and the Critical Area Commission staff. Please review the FIDS guideline manual for mitigation starting on page 21, and have the applicant show how the 0.55 acre mitigation requirement will be met prior to final plat approval. Please note that any FIDS habitat created will be required to be permanently protected via a conservation easement.

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

Sincerely,

Marshall Johnson
Natural Resources Plan

cc: CR 465-06

Martin O'Malley
Governor

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/

March 14, 2008

Roland Limpert
Maryland Department of Natural Resources
Environmental Review Unit
Tawes State Office Building, B-3
Annapolis, MD 21401

Re: Department of the Army, Shoreline Erosion Control
Aberdeen Proving Ground

Dear Mr. Limpert:

This office has received information regarding the above referenced project. This proposed federal action will be reviewed by the Critical Area Commission staff for consistency of federal action with the State Coastal Zone Management Program. According to the Environmental Assessment submitted to this office, a shoreline stabilization prioritization report was developed in 2001 for Aberdeen Proving Grounds (APG). APG is now requesting a 10 year permit to allow construction of shoreline erosion control measures based on the prioritization plan and as funding and need dictate. The site specific design for stabilization methods would occur at the time of implementation for each specific shoreline area. Based on the information submitted, the Critical Arca Commission staff has the following comments.

1. Disturbance to the Critical Area 100 foot Buffer for shoreline stabilization should only occur where there is significant erosion occurring and should incorporate non-structural erosion control methods where appropriate. Impacts to the Critical Area Buffer should be minimized by the project design. The construction access and installation of shoreline stabilization projects that impact areas of natural vegetation should be mitigated at a 1:1 ratio. Mitigation should be provided in the form of native tree and shrub plantings, and should be locatcd on site in the Buffer where possible.

2. Our records indicate that a portion Aberdeen Proving Grounds is in a sensitive

species project review area. Measures for protection of sensitive species should be addressed by the site specific shore erosion control plans.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Steve Wampler, Dept of the Army
Elder Ghigiarelli, MDE

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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Memorandum

Date: March 17, 2008

To: Roland Limpert, DNR Environmental Review Unit

Re: MD20080226-0144 - Redevelopment of Crouse Memorial Park

Dear Mr. Limpert:

This office has received information on the redevelopment project for Crouse Park south. Critical Area Commission staff has been working with the Town on the issues surrounding this project, as described below. Due to the location of this project within the Critical Area Buffer, it will require Commission review and approval as required by COMAR 27.02.06. The project is located on Town property within the IDA (Intensely Developed Area) of the Chesapeake Bay Critical Area. A portion of the site is also designated as a Buffer Exemption Area. The Town is proposing a restaurant, parking lot, shore erosion control/wetland creation and public access pathway within the Critical Area Buffer. The project also involves a bulkhead replacement, boardwalk, timber jetty and dredging the existing marina basin.

1. The 10% stormwater pollution reduction requirement must be met for the entire project. It appears that for these calculations, the site has been defined as the area south of the bridge, including the site for the restaurant, parking lot, pathway and marsh creation, totaling 1.79 acres. The applicant has submitted a study by Sustainable Science LLC that shows the area of a 1964 parking lot and building as currently existing impervious surface as well as additional areas where concrete rubble debris was previously dumped in the eastern and southern portions of the site. Prior to its recent removal, there was significant natural woody vegetation including large trees growing on the site east and south of the basin. Only the area of the 1964 parking lot north of the boat basin can be counted as the existing impervious area.

2. The mitigation for the Buffer impacts should be met with on site Buffer planting that at a

minimum equals the area of Buffer impacted on site by this project. The remaining portion of the mitigation may be provided off site at a location approved by the Critical Area Commission.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

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/

March 18, 2008

Jessica Silwick, Environmental Manager, PPD
State Highway Administration
Office of Planning and Preliminary Engineering
707 North Calvert Street
Baltimore, MD 21202

RE: MD 24 slope stabilization and stormwater system replacement
Edgewood, Harford County

Dear Ms. Silwick,

Thank you for submitting materials for the above referenced project by SHA. Based on the information provided, the project may be consistent with the MOU, Exhibit B2, sections A and B (for Minor Projects) of the April 30, 2004 amendment, provided the following items are addressed.

1. Please submit documentation that approval for impacts to nontidal wetlands has been received from Maryland Department of the Environment.

2. Mitigation should be provided at a 1:1 ratio for the limits of disturbance in the form of establishment of forest vegetation at an equal aerial extent to the limits of disturbance. Only native plants should be used. Ideally, plantings should be on site in the Critical Area, and planted in clusters of the one tree and three shrubs in a 400 square foot area, using an irregular pattern to provide structural variety amenable to wildlife habitat

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 20, 2008

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

RE: V-020008 Variance; 1011 Long Point Road, Grasonville
Steven Douglas

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance. The site is a 0.4 acre lot located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area and is within a Buffer exempted area (BEA). The property is currently developed with a single family dwelling, detached garage, shed, deck, bulkhead, and pier. The applicant proposes to remove the garage and construct a new garage/dwelling space attached to the house.

The County has enacted Buffer exempted area provisions to recognize that the pattern of existing development prevents the Buffer from fulfilling its functions. Queen Anne's County Zoning Code §14:1-53 provides specific criteria for limiting intrusion of new development activities, impervious surface and vegetation removal within the Buffer that balance the pattern of existing development with maintaining the integrity of the Buffer. This office does not oppose the variance request because the applicant will be reducing the impervious area in the Buffer, and the location of the addition will be setback further from mean high water; however, the following comments apply to the proposal.

1. Because the proposal does not meet the County BEA provisions, the applicant must provide mitigation for the proposed development area within the BEA setback at a ratio of 3:1. The portion of the new development outside the setback is required to be mitigated at a 2:1 ratio by County Code §14:1-53.E. In addition, §14:1-53.E(1)(a) requires that the extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation. Please confirm that if the variance is granted, the applicant has met the mitigation and natural vegetation establishment requirements of §14:1-53.E. A Buffer Management Plan describing planting and management of the site should be required prior to approval of the proposed project. Plantings should consist of a mix of native species of trees and shrubs.

2. This office recommends that the new development include stormwater management design elements which increase benefits to water quality from the stormwater leaving the site.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

QC 137-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 20, 2008

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

Re: Bowman Real Estate & Development, LLC
File # 05-06-01-0015-C

Dear Ms. Jackson:

Thank you for forwarding revised information on the above referenced Critical Area Afforestation Plan. Based on the information provided it appears that there has been an increase in afforestation planting quantities, the proposed stockpile area is no longer within the 100-year floodplain, and mitigation will be provided for the entire 10,000 square foot septic reserve area; therefore, this office has no further comment.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 62-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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Memorandum

Date: March 24, 2008

To: Roland Limpert, DNR Environmental Review Unit

Re: Town of Denton Comprehensive Plan Amendment (Stories of the Chesapeake Heritage Area)

Dear Mr. Limpert:

Based on the information provided, the above referenced Comprehensive Plan amendment does not appear to present any conflicts with the Critical Area regulations. Where the proposed Heritage Area coincides with land within the Critical Area, development activities must meet the requirements of the Town Critical Area Program.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 25, 2008

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

RE: 08: 04-02 Variance, Tax Map 40, Parcel 42, Lot 293 - Love Point Holdings, LLC

Dear Ms. Swinson:

Thank you for providing revised information on the above referenced variance request. The site is a 0.435 acre property located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. This site is currently undeveloped and vegetated with lawn and trees. The applicant proposes to construct a single family dwelling, two attached decks, an attached two car garage, a stone driveway, a septic reserve area (SRA) and to remove additional trees between the house and the shoreline. All of this development activity except for a portion of the SRA would be within the 100-foot Buffer of the Critical Area. The applicant is requesting a variance for development within the Critical Area Buffer. The applicant has submitted a revised Buffer Management Plan in response to the February 25, 2008 letter from this office. The Critical Area Commission staff has the following comments.

1. Queen Anne's County Code § 14:1-51 prohibits new development activity in the Critical Area 100-foot Buffer. If the applicant receives a variance to this standard, mitigation is required at a ratio of 3:1 for the disturbance area that is within the 100-foot Buffer. A Buffer Management Plan that shows how the mitigation requirement will be met is required.

2. Mitigation plantings should be provided to the extent possible on site in the Buffer. The remainder may be met through a fee in lieu, as determined by the County. Because the area necessary for planting the amount of mitigation required exceeds the available open space on the site, the Buffer on this site should be completely established in natural vegetation. Areas where there are existing trees with no understory must be vegetated with shrubs or understory trees. The BMP should not show any areas of regularly mowed turf grass or lawn in the Buffer on this site. Please have the applicant submit a revised Buffer Management Plan. Details for design of the BMP are in the previous letter dated February 25, 2008 from this office regarding this proposal.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 104-08

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 25, 2008

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

RE: 08: 04-02 Variance, Tax Map 40, Parcel 42, Lot 293 - Love Point Holdings, LLC

Dear Ms. Swinson:

Thank you for providing revised information on the above referenced variance request. The site is a 0.435 acre property located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. This site is currently undeveloped and vegetated with lawn and trees. The applicant proposes to construct a single family dwelling, two attached decks, an attached two car garage, a stone driveway, a septic reserve area (SRA) and to remove additional trees between the house and the shoreline. All of this development activity except for a portion of the SRA would be within the 100-foot Buffer of the Critical Area. The applicant is requesting a variance for development within the Critical Area Buffer. The applicant has submitted a revised Buffer Management Plan in response to the February 25, 2008 letter from this office. The Critical Area Commission staff has the following comments.

1. Queen Anne's County Code § 14:1-51 prohibits new development activity in the Critical Area 100-foot Buffer. If the applicant receives a variance to this standard, mitigation is required at a ratio of 3:1 for the disturbance area that is within the 100-foot Buffer. A Buffer Management Plan that shows how the mitigation requirement will be met is required.

2. Mitigation plantings should be provided to the extent possible on site in the Buffer. The remainder may be met through a fee in lieu, as determined by the County. Because the area necessary for planting the amount of mitigation required exceeds the available open space on the site, the Buffer on this site should be completely established in natural vegetation. Areas where there are existing trees with no understory must be vegetated with shrubs or understory trees. The BMP should not show any areas of regularly mowed turf grass or lawn in the Buffer on this site. Please have the applicant submit a revised Buffer Management Plan. Details for design of the BMP are in the previous letter dated February 25, 2008 from this office regarding this proposal.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 104-08

Martin O'Malley
Governor

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Ren Serey
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March 28, 2008

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

Re: Harford County – Mitchell Lane at US Rte 40, Perryman
Church Creek Sewer Pumping Station Redevelopment and Force Main

Dear Mr. Hilton:

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. A Consistency Report from was submitted by the County, however, some additional information is needed in before consistency with the County program can be confirmed. The proposed redevelopment of the pumping station is in the IDA (Intensely Developed Area). The force main installation will occur partially in the IDA, RCA (Resource Conservation Area) and LDA (Limited Development Area) of the Critical Area. After reviewing the submitted materials, this office has the following comments.

1. Documentation that the 10% pollution reduction standard will be met is required for the portion within the IDA. Please submit Worksheet A from the 10% Rule manual, with calculations showing how the 10% stormwater pollutant reduction requirement is met. Because the requirement is for a reduction by 10% of the predevelopment phosphorous, a reduction in impervious surface does not automatically establish that the requirement has been met. Worksheet A must include the area that is within IDA of the project parcels or an otherwise designated "project area" that includes all construction activity at a minimum. The pre and post development impervious surface for the IDA alone must be provided for these calculations.

2. Where forest or other natural vegetation is removed in the Critical Area Buffer, mitigation must be provided at a 3:1 ratio. Where forest or other natural vegetation is removed outside the Buffer but in the LDA or RCA, mitigation must be provided at a 1:1 ratio. A recommended standard for mitigation planting is one two-inch-caliper tree and three two-gallon-potted shrubs per 400 square feet of required mitigation. Plantings

should occur at approximately this spacing (i.e. in clusters of one tree and three shrubs per 20 x 20 foot area). The mitigation should be planted on site in unvegetated areas of the Buffer to the extent possible. Only if there is no feasible alternative for planting on site in the Buffer may off site mitigation or fee in lieu be considered. Please submit a planting plan for the mitigation. A planting agreement has been attached to this letter. Please complete the agreement and attach a copy to the mitigation planting plan.

3. A portion of the force main line is on State Highway Administration (SHA) property. SHA has a Memorandum of Understanding (MOU) with the Critical Area Commission that allows projects on State lands to qualify for general approval under the MOU only if the project involves in-kind repair, replacement or removal of existing structures or surfaces within the Buffer. Projects which place new structures or impervious structures within the Buffer do not qualify for general approval. The plans submitted appear to include proposed new riprap or other structure on SHA property at the Gray's Run crossing. Please confirm whether this is the case, and if so, coordinate with SHA to submit for Commission review for this portion of the project. The SHA coordinator for this project should contact me as soon as possible to commence the Commission review process.

Thank you for the opportunity to comment. Once I receive the additional documentation as requested above, I will be able to provide further comments or notice of approval. Please contact me at (410) 260-3479 if you have any questions.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Tom Hilton, Harford County Division of Water and Sewer
Steven Schulz, Harford County Division of Water and Sewer
Gary Green, SHA
HG 118-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

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

March 28, 2008

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

RE: Shipyard Alley Growth Allocation

Dear Ms. Houtman,

As you know the Critical Area Commission concurred with the Chair's decision to approve the above referenced request for growth allocation with the following condition of approval:

> "The applicant shall submit a revised Buffer Management Plan to the Critical Area Commission staff for review and approval prior to final approval of the subdivision. The Buffer Management Plan shall include a maintenance agreement."

The applicant's consultant has submitted a revised Buffer Management Plan (BMP) with attached maintenance agreement, and we have met to discuss the submittal. The following are changes that that should be made to the Buffer Management Plan and maintenance agreement.

1. The meadow mix areas of the plan and can be mowed up to two times per year. However, the applicant should reduce the amount of meadow mix area to no more than 20% of the Buffer area. The meadow mix areas should be reduced beneath large tree canopies where most shading will occur. In addition, the meadow mix must be moved away from the shoreline. Reduction of the meadow mix areas should coincide with expanding of shrub/tree planting areas as described below.

2. In the most shaded areas underneath large existing tree canopies, meadow mix should be replaced with appropriate shrub plantings. I previously sent a list of suggested shrubs species to the applicant, and one of the consultants hired by the applicant, Mr. Wilson, has concurred that some of those shrub species in the list would be appropriate. For the areas beneath the trees where root damage is a risk, bare root or seedlings are acceptable, in order to minimize risk of damage to the tree roots during installation.

3. Replace the meadow mix areas within approximately 20 feet of the shoreline with trees and/or shrubs.

4. Some form of permanent marker (e.g. stones or signs) should be used where the private yards coincide with the Buffer so that future property owners are aware that those areas are subject to the Maintenance Agreement attached to the BMP.

5. The Maintenance Agreement attached to the BMP should clearly state that mowing of the planted meadow vegetation areas in common or private ownership, can only occur twice per year. It should be stated clearly that the Buffer must be maintained in natural vegetation. Maintenance of the Buffer is only permitted as described in the BMP.

Prior to final approval by the Town of the subdivision, the applicant should submit revisions to the BMP for review and approval by this office. If you have any questions or need further information, please contact me at (410) 260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Pearse O'Doherty, O'Doherty Group Landscape Architecture
Sandy Hillyer

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
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Ren Serey
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March 31, 2008

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

RE: Corsica River Sailing Center – Revision

Dear Ms. Rhodes:

Thank you for submitting revised plans for the Corsica River Yacht Club proposed pier and access project. The site is owned by the County and leased by the Club. As stated in the previous letter from this office, we understand that the applicants are requesting a public service exemption under Chapter 18. However, Critical Area requirements will still apply even if an exemption is granted. We are still awaiting a submission from the County, either requesting confirmation of consistency with the County Critical Area Program, or stating that the County will seek a conditional approval from the Critical Area Commission per COMAR 27.02.06. With the understanding that necessary MDE permits are pending, Commission staff has reviewed the most recent information and we have the following comments:

1. In order to qualify as a public water-oriented recreation area, the County should document how the proposed facility meets the legal definition of "public" given the lease and operation of the site by the Corsica River Yacht Club. Resubmitted information from McCrone, Inc references a letter that will be sent from the County. I have not received this letter at this time.

2. Impacts to the Buffer include any disturbance related to the development activity for this project. These impacts must be minimized and any permitted impacts mitigated on a minimum 2:1 ratio for the footprint of disturbance. A Buffer mitigation plan must be provided, including details of the restoration plan for the area of *Phragmites* control.

3. A Buffer violation occurred on this property in 2005 and mitigation at a 3:1 ratio was required. During our site visit, it was apparent that many of the trees planted were dead or dying. Before permitting additional development, the dead or dying trees should be replaced. The applicant should determine how many of the trees are currently surviving and replace the remaining amount of mitigation that has not survived from the former planting requirement.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: MDE
QC 721-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 31, 2008

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

RE: REVISED COMMENT LETTER for
Tax Map 4, Parcel 38, Lot 69 – 12301 Point View Road - George Upperman

Dear Ms. Davis:

Thank you for providing the information regarding the above referenced variance request. The site is a 37,768 square foot lot located within the Limited Development Area (LDA) of the Atlantic Coastal Bays Critical Area. The property is currently developed with a 3,257 square foot house, three car attached garage, deck, screened porch and two balconies with accessories including a pier/dock, sewage reserve area, rip-rap revetment, fence pillars, driveway and circular turnaround within the Critical Area 100-foot Buffer. The site is within the Worcester County Buffer Management Area B, which allows structures to be placed no closer than 50 feet to the mean high water line at this site.

According to information from the County, a permit for the house was acquired prior to the effective date of the County's Atlantic Coastal Bays Critical Area Program. A deck was approved under that permit; however, the applicant constructed a larger deck consuming an unapproved portion of the Critical Area Buffer setback. The applicant is now requesting an after the fact variance to keep a portion of the deck that was constructed beyond the permitted deck within the 50 foot setback. The proposal does not conform to the County's Critical Area Program because the Worcester County Code Group B Buffer Management Area section prohibits structures within the 50 foot setback.

There should be no structures permitted within the 50 setback on this site that were not properly permitted prior to enactment of the County Critical Area Program. We recommend that all structures not properly permitted prior to enactment of the County Critical Area Program, including portions of the deck and porch, are removed from the site and that the applicant mitigate at a 3:1 ratio for the un-permitted development activity in the Buffer and Buffer Management Area setback with plantings in the setback.

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

1. Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship;
Currently, the lot is developed with a single family home, driveway, circular turnaround, parking spaces, pier, riprap revetment, screened porch and deck. 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**. Without the portion of deck and screened porch in question, the applicant would have use of the house, garage, approved deck, approved screened porch, two balconies, pier, driveway and circular turnaround, which are within the 100-foot Buffer as allowed by the County Buffer Management Area provisions. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for an additional structure within less than 50 feet of the water.

2. A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area;
Without the portion of deck and screened porch in question, the applicant has a reasonable use of this property for residential purposes including a deck, screened porch, lawn yard area, house, balconies and pier that are all within the 50 foot setback and Buffer, and therefore, would not be denied a right commonly enjoyed by neighboring properties. A review of the application shows that there is opportunity to enjoy the property, including use of the deck and porch the applicant requested and received approval for on his original permit, in a manner that meets the Buffer Management Area (BMA) regulations and remains consistent with the Worcester County Critical Area Regulations. Other property owners in the BMA Group B do not have a right to construct a new deck or porch within the 50 foot setback. Therefore, denial of a variance to maintain the un-permitted portions of deck and porch would not deny the applicant a right commonly enjoyed.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area;*
If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the BMA setback beyond what has been established as law by the County would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

4. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property;
In contrast, the need for an after the fact variance to keep the deck not conforming to an approved permit is directly the result of the applicant actions in building the deck.

5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Area Program;
In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area Program. Although Worcester County Code §NR 3-104 states that new development activities, including new structures and impervious surfaces are not allowed in the Buffer, §NR 3-104 provides that the County Commissioners may designate Buffer Management Areas (BMA). This site is within a BMA for which there is a minimum 50 foot setback from mean high water. Given that the applicant can adequately enjoy outdoor activities without the portion of deck and porch that exceed the approved permit, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

7. The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein
In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the application for this after the fact variance to the Buffer Management Area 50 foot setback. We recommend that all structures not properly permitted, including portions of the deck and porch, should be removed from the site and that the applicant mitigate at a 3:1 ratio for the un-permitted development activity in the Buffer and Buffer Management Area setback with plantings in the setback.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 116-08

Martin O'Malley
Governor

nthony 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/

March 31, 2008

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

Re: 07-08-03-0006-C, McGinnes lot reconfiguration
Tax Map 5A, Parcel 114, Lot 41

Dear Ms. Jackson:

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

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 172-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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March 31, 2008

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

RE: 05-08-03-0001-C, Hunters Oak LLC – Concept Plan

Dear Ms. Tompkins,

Thank you for submitting information on the above referenced subdivision. A portion of the site is within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. Based on the plans submitted, no development activity appears to be proposed within the RCA for this project. Any future development activity in the Critical Area portion of this site must be submitted to this office for review and comment.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: QC 521-00

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 7, 2008

Butch Norden, Director
Public Lands, Policy and Planning
Department of Natural Resources
580 Taylor Ave, E-3
Annapolis, MD 21401

RE: Harford County - Interceptor Sewer (Lower Bynum Run)

Dear Mr. Norden:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On April 2, 2008, the Critical Area Commission approved the parallel sewer line system project proposed by Harford County Department of Public Works through the Bush Declaration Natural Resource Management Area, lands owned by the State Department of Natural Resources (DNR).

The proposed mitigation planting information that was submitted to this office satisfies the mitigation required for this project. A signed planting agreement (please use attached form) should be submitted at this time to be attached to the approved planting plan. The agreement will specify the proposed 16,737 square feet of afforestation on site and 5,833 square feet of afforestation at the approved off site location.

Should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. If you have any questions, please feel free to contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Thomas C. Hilton, Harford County
Michele Bynum, Harford County

Planting Agreement for State/Local Projects

State/Local Agency: Department of Natural Resources

Project Number: HC 458-04

Agency Contact: Butch Norden

Phone Number: 410-260-8159

Commision Approval Date: 4/2/2008

CAC Planner: Marshall Johnson

Project Name: Harford County - Interceptor Sewer (Lower Bynum Run)

Project Location: Bush Declaration Natural Resource Management Area

Square Feet Cleared Outside 100ft Buffer: 3,610

Mitigation Ratio for Clearing Outside Buffer: 1:1

Mitigation Calculation Outside Buffer: 3,610

Square Feet Disturbed/Cleared Within Buffer*: 6,320

Mitigation Ratio for Disturbance/Clearing Within Buffer*: 3:1

15% Afforestation Requirement Met?: yes

Mitigation Calculation Within Buffer: 18,960

Total Mitigation Requirement: 22,570

Planting and Natural Regeneration Plan (attach additional sheets if necessary)

See attached plan Reforesation Area 1 = 2,385 sf and Reforestation Area 4 = 14,352

See attached off site mitigaiton location map where 5,833 sf afforestation will occur

Planting Date

Year

First Site Visit Date

Completed by

Second Site Visit Date

Completed By

Date Mitigation Complete

Responsible Contact for Mitigation (Print)

Signature

Date

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 7, 2008

Roland Limpert
Environmental Review Unit
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

RE: State Clearinghouse MD 20080317-0214
Construction of New Municipal Facility for Town of Denton, Caroline County

Dear Mr. Limpert:

The site is within the Critical Area IDA (Intensely Developed Area) designation. The project must conform to all applicable requirements of Town of Denton Critical Area regulations, including Code § 128-38 (Development standards in Intensely Developed Areas) and the Critical Area 10% stormwater pollution reduction regulation in that section. In addition, the project appears to qualify under COMAR 27.02.03 as a local agency action on lands owned by a local jurisdiction. As such, the project will require additional review and comment by the Commission. We recommend that the Town coordinate with Commission staff early in the planning process. If you have any questions about this information, please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Myra Barnes, Town of Denton

Martin O'Malley
Governor

thony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 7, 2008

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

RE: Tax Map 26, Parcel 132, 338, 256 & 133
Map Amendment Proposal

Dear Ms. Davis:

Thank you for providing information on the above referenced map amendment proposal. The applicant has provided a map showing the location for a requested map amendment to change the Critical Area designation on four parcels from RCA to IDA. From a review by Commission staff, it appears that based on the use on the parcels and the mapping methodology applied at the inception of the Atlantic Coastal Bays Critical Area program, there may have been a drafting and mapping location error at this site.

Thank you for the opportunity to provide comments on this map amendment request. Please notify this office in writing of the decision made by the Worcester County Commission in this case. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 9, 2008

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

RE: CU-030004; Talisman Farm East

Dear Ms. Maxwell:

Thank you for providing information on the above referenced application. The site is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant proposes to construct a pier with eight slips. It appears that the only activity proposed on this property above mean high water is that necessary for pier construction under an approved MDE tidal wetland license. Any additional development or disturbance proposed on this property above mean high water in the Critical Area must comply with the County Critical Area Program. The following comments apply to this proposal.

1. Code of Maryland Regulations (COMAR) 27.01.03.07 regarding community piers may apply to this proposal, however we have not received information documenting whether this would be a pier serving a recorded riparian subdivision. Please confirm whether this is the case, and if so, how many lots are in the subdivision.

2. A recorded riparian subdivision may have a community pier, but must meet regulations of COMAR 27.01.03.07 for slip limits. The number of slips permitted at the facility must be the lesser of: one slip for each 300 feet of shoreline in the subdivision or a density of one slip per platted lot or dwelling in the Critical Area up to 15 (see COMAR 27.01.03.07 for slip limits over 15 lots). Please have the applicant document how the proposal meets COMAR 27.01.03.07.

3. Please also confirm that the proposal meets Queen Anne's County Code §14:1-43 (Community marinas), including limits on the number of slips allowed.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 142-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 10, 2008

Dan Uebersax, Landscape Architecture Division, Chief
State Highway Administration
Office of Planning and Preliminary Engineering
707 North Calvert Street
Baltimore, MD 21202

RE: Bush River/Captain John Smith SHA Picnic Area
Shoreline Buffer Enhancement

Dear Mr. Uebersax,

Notification of a proposed shoreline Buffer enhancement project by SHA has been received. The information submitted indicates that there will be no increase in impervious surface associated with the project. As long as only non-native invasive vegetation is removed from the Buffer and the removal and replanting work is accomplished with hand held equipment, this project is consistent with general approval standards under the MOU between MDOT and the Critical Area Commission, Exhibit B1, Section D.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Jodie Shivery, SHA
Michele Bynum, Harford County

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 10, 2008

Terry S. Fearins, Town Administrator
13 North Third Street
Denton, MD 21629

Re: Crouse Park Redevelopment, Town of Denton

Dear Mr. Fearins,

The purpose of this letter is to provide a summary of the discussion at the April 2, 2008 Program Subcommittee regarding the Town of Denton and the Denton Development Corporation proposal to redevelop Crouse Park. Although the visitor center and associated amenities for the northern portion of the park were approved by the Commission in April 2006, the Commission has not been previously presented with plans for the southern portion of the park. The improvements to the southern portion of the park include a marina, restaurant, wetland creation, shore erosion control and nature trail. The subject of the discussion on April 2, 2008 at the Subcommittee addressed these improvements focusing particularly on the portion of the project to the south and east of the existing boat basin. This area was forested with mature trees and a mix of native and invasive understory vegetation until late summer of 2007 when the forest was removed to commence shore erosion work at this site. The following summarizes some of the issues raised by the Subcommittee members which will require further consideration prior to a formal review of the Commission for this project.

Critical Area Buffer Impacts

After discussion of the project the Subcommittee asked questions of the Town's consultant regarding the design of the project and the associated Buffer impacts. The project includes a restaurant and parking lot north of the boat basin, which will most likely be consistent with the Buffer Exempt Area provisions of the Town's Program and will not require formal review and approval by the Commission. The portions of the project east and south of the boat basin will include several elements within the Buffer, and will require formal review by the Commission. These elements include the following:

- Construction of a gravel public pathway around the east and south sides of the basin
- Construction of a jetty and an observation deck
- Grading of the shoreline, excavating and planting marsh vegetation

The wetland creation elements are for shore erosion control and mitigation for onsite wetland impacts as well as mitigation for State Highway Administration wetland impacts at another site.

The marsh creation requires conversion of Critical Area Buffer upland to create tidal wetland. The Subcommittee discussed whether the impacts to the Buffer were warranted for the project. No specific conclusion was made regarding this question.

Mitigation Requirements

The Subcommittee also discussed the mitigation requirements for the impacts described above. This discussion was also inconclusive due to complications of measuring the various areas cleared and the purposes designated to the clearing of those areas which require varying mitigation ratios. The subcommittee requested additional analysis and coordination between the Town and the Commission staff to determine the correct mitigation amounts prior to returning to Commission for further review. The Subcommittee members will want to see the submission of a Buffer Management Plan that is consistent with the goals for Buffer establishment and management set forth in COMAR 27.01.09.01 prior to or at the same time as their formal consideration of the project plans. The Town should be prepared to address how the proposed impacts to Critical Area Buffer meet the Town Program and COMAR 27.01.09.01. This should include assessment of whether the forest removal for construction of the trail, tidal wetland creation and shoreline erosion control has adequately minimized impacts on water quality and wildlife habitat.

In summary, the presentation of the project to the Program Subcommittee was helpful in providing an opportunity for the members to ask questions and identify possible issues of concerns prior to presentation of the project for formal Commission review and approval. Once more information is available, Commission staff would be happy to provide further preliminary written comment as to any outstanding issues of concern. In the meantime, please let me know if you have any questions.

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: Albert McCullough, Sustainable Science
Roby Hurley, MDP

Martin O'Malley
Governor

thony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 14, 2008

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

RE: Summerfield Pump Station and Force Main Line

Dear Ms. Houtman,

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The proposed pumping station and sewer line would be in the Critical Area IDA (Intensely Developed Area). The materials submitted do not include a Consistency Report form. If the Town feels that the project is consistent with the Town Critical Area Program, please submit a Consistency Report from for this project. Based on a review of the materials submitted, it appears that additional information, including materials described below, will be needed before consistency with the County program can be confirmed. If upon receipt of additional information, it is determined by this office that the project is not consistent with the Town Program, review and approval of the project by the Critical Area Commission will be required.

1. Documentation that the 10% pollution reduction standard will be met is required for the portion within the IDA. Please submit Worksheet A from the 10% Rule manual, with calculations showing how the 10% stormwater pollutant reduction requirement is met. Worksheet A must include the area that is within IDA of the project parcels or an otherwise designated "project area" that includes all construction activity at a minimum. The pre and post development impervious surface for the project site within the IDA must be provided for these calculations.

2. Please confirm whether the limits of disturbance for the project will include any areas within Critical Area 100 foot or expanded Buffer. It appears that there is a tributary stream and tidal wetland near the project area which may require field delineation or other analysis to determine the extent of the Critical Area Buffer. The limits of disturbance for the project do not need to include areas where only directional boring

is occurring with no land surface disturbance. Where forest or other natural vegetation is removed in the Critical Area Buffer, mitigation must be provided at a 3:1 ratio.

3. Please submit documentation that all necessary Maryland Department of the Environment approvals have been received. All required permits must be in hand before this office can concur that a project is consistent with the local program.

4. Our records indicate that this site is partially within a State Sensitive Species Project Review Area. Please contact the Wildlife and Heritage Service of DNR at (410)260-8573 to determine whether this project requires additional conservation measures. The State Sensitive Species Project Review Areas are Habitat Protection Areas and may require additional constraints on the project. Please submit a copy of a letter from Wildlife and Heritage Service of DNR regarding the status of this site as a State sensitive species Project Review Area.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: SN 186-08

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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April 14, 2008

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

RE: 08: 04-02 Variance, Tax Map 40, Parcel 42, Lot 293 - Love Point Holdings, LLC

Dear Ms. Swinson:

The applicant is requesting a variance for development of a new house and associated amenities on a grandfathered lot within the Critical Area Buffer. I have received information for a revised Buffer Management Plan from the applicant that includes the area of disturbance in the Buffer, planting plan for the mitigation requirement and notes that invasive species will be removed from the Critical Area Buffer.

As shown on the applicant's plan, 6,000 square feet of Buffer impacts will occur, which requires 18,000 square feet of mitigation. If the County grants the variance the applicant must plant the proposed 15 trees and 45 shrubs between the existing tree line and proposed house as shown on the Buffer Management Plan (see attached). The remaining 12,000 square feet of required mitigation which can not be reasonable accommodated on site must be provided via other means such as a fee in lieu to the County. The County should determine the appropriate amount of fee in lieu for the remaining mitigation and arrange the payment prior to final approval of the proposed development.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 104-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 16, 2008

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

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

Dear Ms. Jackson:

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

1. The subdivision proposal has been significantly altered since the last stormwater plan was submitted. Stormwater requirements for the IDA must be addressed prior to subdivision approval. County Code § 14:1-32 requires stormwater management facilities must be shown on the site plan. The lot developer can not be responsible for the calculation of the stormwater requirement and be solely responsible for the final determination of whether rain gardens will be necessary. The IDA 10% requirement information (Worksheet A) needs to be supplied for review and approval prior to final subdivision approval. The maximum impervious surface allowed for each lot should be shown on the plat and deed, based on correct 10% calculations.

2. If raingardens and rain barrels are proposed for this project, please refer to my previous comments in letter dated May 21, 2007 regarding requirements for these practices. Specifically, see comments related to requirement for a mechanism,

coordinated with the County, which would ensure the long term maintenance and effectiveness of the rain gardens and barrels. Until those issues are resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 758-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 18, 2008

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

RE: MISP# V 040008, Well's Cove Landing parking lot and related facilities

Dear Ms. Maxwell:

Thank you for providing plans for the above referenced project. The site is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The plans indicate that the applicant proposes to redevelop the parking and associated stormwater facilities. A variance is requested to exceed the allowable fill volume in the floodplain. This office does not oppose the variance request provided there are no Critical Area Buffer impacts associated with it. The following comments apply to the development activity at this site.

1. Please have the applicant provide 10% stormwater pollution reduction calculations to confirm that the stormwater treatment requirement for development in the IDA is met by the project. Typically treatment ponds or other best management practices are not allowed in the Critical Area 100-foot Buffer.

2. This project must meet all applicable requirements under County Code § 14:1-53 (Specific provisions for Buffer exempted areas). It is not clear from the plans whether there are new structures proposed in the Buffer. If the stormwater pond, system or any other structures are new, a variance may be required per § 14:1-53.

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

Sincerely,

Marshall Johnson
Natural Resources Planner
cc: QC 206-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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April 18, 2008

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

Re: 04-08-04-0006-C, Reliable Development Company/ Breeding lot reconfiguration
Tax Map 56, Parcel 20 and 269

Dear Ms. Jackson:

Thank you for submitting plans for the above referenced property line adjustment. The site is within the RCA (Resource Conservation Area) of the Chesapeake Bay Critical Area. No new development is proposed, but the property line adjustment results in a decrease in area of Parcel 269. The plans indicate that the impervious surface limits on this parcel are still met. As long as the proposal does not result in any nonconformity with the Critical Area requirements, this office has no comments or concerns.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 160-00

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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April 21, 2008

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

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

Dear Ms. Jackson,

Thank you for providing revised information on the above referenced project. The applicant proposes to reconfigure two existing parcels located in the Resource Conservation Area (RCA). Only one parcel currently has frontage on the Chester River. Reconfiguring grandfathered lots to create additional developable waterfront lots conflicts with § County Code 14:1-22.D because the proposal does not enable development on the site to more closely comply with the County Critical Area Program. Additional comments have been provided below.

1. The 100 foot Buffer is incorrectly shown on the subdivision plan. Please have the 100 foot Buffer location corrected to be 100 feet landward from the field located extent of mean high water currently.

2. Regarding forest cover on the proposed lots, COMAR 27.01.09.01C(6) requires Buffer establishment when the use changes from agriculture to another use. Also, Queen Anne's County Code § 14:1-38.D (Site Performance Standards) requires that development and redevelopment proposals requiring project approvals on a site with less than 15% forest cover must be established so that at least 15% of the site area is in forest cover.

3. Our records indicate that this site may be within a sensitive species project review area. Any additional requirements of DNR Wildlife and Heritage Service for habitat protection areas must be addressed prior to approval of development activity on this site.

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

Marshall Johnson
Natural Resources Planner

cc: QC 742-07

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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April 22, 2008

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

RE: MISP# 04-08-01-0007-C, Maryland General Land, LLC
Shamrock Rd, Chester

Dear Ms. Tompkins:

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

1. Please have the applicant provide 10% stormwater pollution reduction calculations to confirm that the 10% requirement is met by the proposal.

2. The growth allocation case for this project included a condition that required at least 400 native trees will be planted on the site in addition to the required landscaping for other requirements. Please have the applicant confirm that the condition of the growth allocation will be met by submitting a landscaping plan showing the 400 native trees that are in addition to the otherwise required landscaping.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 98-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 23, 2008

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

RE: Town of Queenstown – Growth Allocation Relocation (Ordinance 08-02) and Revised Map (Ordinance 08-03)

Dear Mr. Peregoy:

Thank you for providing information on the above referenced growth allocation relocation and map amendment proposals. The growth allocation relocation request reflects the methodology established by text amendments approved by the Commission and the description of the Queenstown Harbor and Inn project which has been presented to the Project Subcommittee for input on two previous occasions. The map amendments reflect an annexation, location of zoning districts and removal of symbols for pre-mapping growth allocation relocation areas. The Critical Area Commission is accepting the materials forwarded by the Town for processing. The Critical Area Commission Chair will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

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

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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

April 24, 2008

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

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

Dear Ms. Tompkins:

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

1. The proposal must comply with the 20% clearing limit of the County Code for IDA as confirmed by the County's response.

2. The applicant has submitted plans showing that forest clearing occurred on the site within the Critical Area Buffer during Spring 2007. The applicant requested a permit from the County which was reviewed by Planning and Zoning, as indicated by the response letter from County Planning and Zoning dated June 22, 2006 stating that the clearing was not approved. That letter (attached) informed the applicant that project approval or a development plan review was required for the proposed tree clearing. Please see COMAR 27.01.09.01.C(7) which requires that local jurisdictions shall expand the Buffer beyond 100 feet to include contiguous, sensitive areas, such as steep slopes, hydric soils, or highly erodible soils, whose development or disturbance may impact streams, wetlands, or other aquatic environments. Under County Code § 14:1-51 and COMAR 27.01.09.01.C(2) new development activities, including clearing of existing natural vegetation, construction of new roads, parking areas or other impervious surfaces are not permitted in the Buffer. A variance to this standard is required for impacts to the Buffer.

For further clarification on this subject, please review the March 5, 2007 letter comments 4 through 7 from this office (attached).

3. It is unclear how County Code § 14:1-37.E (3)(d) requirements were met for the clearing violation that occurred on this site. Please clarify how it was demonstrated to Planning and Zoning that the mitigation requirement could not be met onsite and the fee in lieu could be used and how the violation was rectified based on County Code.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 301-07

Enclosed: June 22, 2006 Letter
March 5, 2007 Letter

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 28, 2008

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

RE: Gum Point Road Growth Allocation Proposal
Steen Associates

Dear Ms. Davis,

Thank you for forwarding additional information from the applicant regarding the above referenced growth allocation. Some issues have been addressed with this new information; however, Critical Area Commission staff still has some outstanding concerns about the proposal. Please note that growth allocation accounting questions from previous letters on this case may be addressed during the next Program comprehensive review, as it has been confirmed that the County should have adequate growth allocation to accommodate this request.

In the event that the growth allocation request will be reviewed by the Critical Area Commission after July 1, 2008, please be aware that the former guidelines have been changed to standards that must be addressed by the Critical Area Commission. Therefore, the standards for growth allocation must be addressed by the County in order for the Commission to process the growth allocation. Issues that must be addressed in order to show that the request meets the new standards include those discussed in the comments below. Please note that under the new legislation, the CAC must act on a proposed local program amendment within 130 days of acceptance of the proposed amendment. The Commission staff has the following comments regarding the current submittal for growth allocation:

1. New LDA in the RCA must be located 300 feet from tidal waters and tidal wetlands unless the local jurisdiction proposes, and the Commission approves, alternate measures for enhancement of water quality and habitat that provide greater benefit to the resources.

2. Jurisdictions must address how the growth allocation has been located in a manner that minimizes impacts to the defined uses of the RCA.

3. The former limits on impervious surface now generally apply to lot coverage. For the subdivision, there is a limit of 15% of a lot or parcel, while a local jurisdiction may allow individual lots less than one acre in a new subdivision to exceed 15% lot coverage, if the overall subdivision does not exceed 15%.

4. The County must provide an analysis of the growth allocation request based on whether the proposal:
   - Is consistent with local Comprehensive Plan
   - Is served by a public wastewater system or a septic system that uses the Best Available Nitrogen Removal Technology
   - Completes an existing subdivision
   - Is an expansion of an existing business
   - Is clustered
   - Uses public infrastructure where practicable
   - Is consistent with State and regional environmental protection policies concerning threatened and endangered species and species in need of conservation that may be located on-site or off-site
   - Has impacts on a Priority Preservation Area as defined under Agriculture Article 2-518
   - Has environmental impacts from wastewater management and discharges, and stormwater management and discharges to tidal waters, tidal wetlands, and tributary streams
   - Has environmental impacts from location in a coastal hazard area or increased risk of severe flooding attributable to the proposed development

5. Due to the small size of the proposed lots, it is necessary to confirm that areas available to develop the lots are adequate to accommodate a house and reasonable amenities such as impervious decks, porches, patios, driveways, garages, sheds, etc while meeting impervious surface or lot coverage restrictions. It should be confirmed either with a breakdown of areas for the elements listed above or with a standard conceptual lot development plan showing how lots of the sizes proposed will meet a 25% lot coverage restriction.

6. The Heritage Division of the Department of Natural Resources has confirmed that Forest Interior Dwelling Bird habitat exists on this site. Lot 60 appears to unnecessarily impact FIDS habitat due to the available clear area directly adjacent. In order to avoid FIDS habitat impacts and the necessary FIDS habitat mitigation, Lot 60 should be reconfigured to avoid forest clearing.

7. A conceptual Buffer Management Plan has been submitted. A more detailed plan should be submitted for this project when materials are submitted for Critical Area Commission growth allocation review process.

8. The Critical Area Report submitted states that there is a 0.21 acre tidal wetland on the site. Please clarify whether this tidal wetland is private or State and how that determination was made (what methodology for delineation). This is necessary because State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area, such as the impervious or lot coverage of the subdivision. Documentation regarding how the private/State determination was made must be submitted, so that the Maryland Department of the Environment and the Board of Public Works can verify the methodology used. It is possible that they may want to verify the delineation and supporting information in the field, so appropriate detail should be provided. The acreage of State and private tidal wetlands affects all of the calculations based on the acreage of the property, including those relating to growth allocation, stormwater management, and the area of the 100-foot Buffer; therefore, this information is necessary to properly review the project.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: WC 136-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 29, 2008

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

RE: V-040005 (114 Parks Road)
Thomas Fox

Dear Ms. Maxwell:

Thank you for providing information on the variance request for the above referenced proposal. Please accept this letter and submit as part of the record for the hearing on this variance. The site is an approximately 1.5 acre lot located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The site is partially within a tidal wetland and partly within the Critical Area 100 foot Buffer that extends from the wetland. There are an existing house, shed, driveway and deck on the site. The applicant proposes to build an accessory structure which would house both a garage and second story apartment and porch within the Buffer. The proposal does not meet requirements for development in the Critical Area of Queen Anne's County, specifically, § 14:1-51 Buffer standards and requirements. In addition, the applicant does not meet the State or County variance standards. It is important to note that the Queen Anne's County Circuit Court has recently reaffirmed that all variance standards must be met in order to grant a variance. (McHale v. Queen Anne's County Board of Appeals, Civil Action #12458). This letter specifically addresses the variance request for this project.

The applicant is requesting a variance to construct an accessory structure (detached 30 x 30 foot garage with a second story apartment and porch) within the Critical Area 100-foot Buffer. This office opposes the variance to build a new accessory structure (detached 30 x 30 foot garage with a second story apartment and porch) in the Buffer, because the applicant does not meet the State-mandated standards for a Critical Area variance. For the Board's information, we provide the following analysis of the requested variance in the context of Queen Anne's County's variance standards.

Disturbance to 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 a variance to allow new construction of a accessory structure with disturbance to the 100-foot Buffer on a lot with adequate undeveloped area to place it outside of the Buffer, is in direct conflict with Queen Anne's County's Zoning Code provisions regarding new structures in the Buffer.

It is clear that, under the County Code, the applicant's proposed Buffer disturbance cannot be allowed because new structures such as proposed, are not allowed in the Buffer. Moreover, the proposed disturbance within the Buffer should not be permitted with a variance because it is in conflict with the County's Buffer management goals and will create unnecessary adverse impacts to water quality and habitat. Further, the applicant cannot meet each one of Queen Anne's County's variance standards as discussed below.

Relevant Variance Standards

§ 14:1-66.A - *A literal enforcement of this Chapter 14:1 would result in unnecessary hardship as the result of specified conditions, which hardship is not shared by owners of other property in the same development area*
Denial of this variance request would not create an unwarranted hardship since the applicant will not be denied reasonable use of the entire lot. The applicant already has full use of a house, detached accessory structure (shed), deck, large circular driveway and yard. In light of those existing facilities available to the applicant for use of the property, not being able to build an additional accessory structure with a 900 square foot garage, second story living space and porch does not present an unwarranted hardship. A literal interpretation of Queen Anne's 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 variances for development on lots where the proposed development can be constructed in conformance with the law. The applicant has not shown that construction of an accessory structure on this site in the Buffer is a right

commonly enjoyed by any property in the Critical Area, or a right enjoyed by other properties in similar areas within the Queen Anne's County Critical Area.

§ 14:1-66.B - *Those conditions are peculiar to the property involved*
There are no conditions that are peculiar to this property that would require the applicant to seek a Buffer variance since there is adequate area on this site out of the Buffer to locate a reasonable expansion in a manner that would minimize the shoreward extent of intrusion into the Buffer. The applicant suffers no hardship from not being able to locate a new accessory structure on the property because the applicant already has use of a house, shed, driveway, yard porch and deck on the property. The applicant already enjoys reasonable use of the lot for residential purposes.

§ 14:1-66.C - *Those conditions are not the result of any action taken by the applicant*
The variance request is based upon the proposed actions of the applicant. It appears that the applicant has voluntarily chosen to locate the proposed structure such that it does not meet Buffer standards, and consequently the applicant has created the need for the variance.

§ 14:1-66.E - *The variance will not confer upon an applicant any special privilege denied to other owners of like property and/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 on other properties. 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.

§ 14:1-66.G - *The variance is the minimum deviation from the provisions of this Chapter 14:1 that will make possible the reasonable use of land or structures; and*
The property has a house, shed, deck, driveway and yard in the Buffer. No variance is necessary for continued use of the existing house and associated amenities already in the Buffer on the site. 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 using the property.

§ 14:1-66.D - *The variance will not be contrary to the public interest or the policies, goals and objectives of this Chapter 14:1 and the Queen Anne's County Critical Area Program;* § 14:1-66.F - *The variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitats within the critical area;* § 14:1-66.H - *The granting of the variance will be in harmony with the general purpose and intent of this Chapter 14:1 and the Queen Anne's County Critical Area Program and the variance shall not result in a use not permitted in the applicable development area or an increase in the applicable density limitations.*
In contrast with the above standards, granting the requested variances is not in harmony with the general spirit and intent of the Critical Area law and regulations. The Buffer

standards are intended to protect water quality and wildlife habitat to the extent possible. The proposed accessory structure does not protect water quality and wildlife habitat to the extent possible, because it would prevent stormwater infiltration and vegetation in that area, elements which provide benefits to fish, wildlife, and plant habitat. The County Critical Area Program recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay. The County's Critical Area Program is 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 detrimental impacts of development on the Bay.

This letter has addressed all 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 any 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 deny the applicant's request to build the proposed structure.

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 additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 202-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 1, 2008

Mr. Frank Hall
Queen Anne's County
Department of Land Use, Growth Management
and Environment
160 Coursevall Drive
Centreville, Maryland 21617

RE: File #05-05-05-0012-C Project Name: High Meadows Farm, LLC

Dear Mr. Hall:

Thank you for providing the documentation regarding the intent of the above applicant to create subdivision at this site. The applicant intends to create four new lots. Staff has the following comments:

1. Prior to final subdivision approval, the Critical Area Commission will require a review of the recorded copy of the MET Easement as amended, once it is available.

2. A note should be added to the plat stating that no house or any development activity shall occur on the Critical Area portion of Lot 1.

3. Recommendations from the US Fish and Wildlife Service should be sought regarding the protection of the Delmarva Fox Squirrel known to occur on the site. Recommendations should include construction guidelines, habitat protection, appropriate signage, and long-term guidelines for future residents. Please obtain the recommendations and incorporate them into the plat with notes or other method of ensuring that information is provided to developers of the site and future lot owners and residents.

Thank you for providing the information regarding this minor subdivision. If you have any questions related to this project please feel free to call me directly at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 399-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 1, 2008

Dr. Tashon Yu
MDE
Water Quality Infrastructure Program
Water Management Administration
1800 Washington Blvd, ste 405
Baltimore, MD 21230

Re: Federalsburg Waste Water Treatment Plant Upgrade

Dear Mr. Yu:

The Critical Area Commission has reviewed and approved the Federalsburg Waste Water Treatment Plant upgrade project. This office has no further concerns or comments regarding the BNR/ENR Upgrade project.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 1, 2008

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

RE: Shipyard Alley Growth Allocation

Dear Ms. Houtman,

As you know the Critical Area Commission concurred with the Chair's decision to approve the Shipyard Alley request for growth allocation with the following condition of approval:

> "The applicant shall submit a revised Buffer Management Plan to the Critical Area Commission staff for review and approval prior to final approval of the subdivision. The Buffer Management Plan shall include a maintenance agreement."

The applicant's consultant has submitted a Buffer Management Plan and maintenance agreement dated April 15, 2008 that satisfies the condition above. The Critical Area Commission office has no further concerns or comments regarding this project. If you have any questions or need further information, please contact me at (410) 260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Pearse O'Doherty, O'Doherty Group Landscape Architecture
Sandy Hillyer

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
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May 1, 2008

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

RE: Hardwire LLC Site Plan, Pocomoke City

Dear Mr. Blake:

It is our understanding that this site would likely be considered an Intensely Developed Area, based on the conditions that existed as of 1985. The primary Critical Area concerns are the 100 foot Buffer and stormwater treatment. Because the site fronts on the Pocomoke River, the 100 foot Critical Area Buffer extends onto the property 100 feet landward of the field delineated mean high water line. Stormwater management 10% pollution reduction requirement for the project has been addressed by the submitted information.

The current plans for the Hardwire LLC site plan include rip rap shore erosion control partially above mean high water and a community boardwalk directly above the mean high water line. Mitigation must be provided at a ratio of 1:1 for any area of rip rap above mean high water (that is not covered by the boardwalk) because it is within the Critical Area Buffer. Mitigation for the area of the portion of the building, electrical equipment, boardwalk and any other structures in the 100 foot Buffer should be provided at a 3:1 area ratio. Mitigation plantings should be provided as one tree (2-inch caliper) and three shrubs (three gallon pot) per 400 square feet of required mitigation area.

Please submit a Landscaping Plan showing mitigation planting in the amount as described above. Wherever the 100 foot Buffer is not encumbered by structures or impervious surface, it should be vegetated with the mitigation plantings. If there is not adequate area within the 100 foot Buffer

to accommodate all of the required mitigation plantings, area on site adjacent to the 100 foot Buffer should be used.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Bruce Morrison, City of Pocomoke
Robert Cosgriff, Hardwire LLC
PO 440-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 1, 2008

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

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

Dear Ms. Bynum:

Thank you for providing revised information on the above referenced proposal. The applicant proposes to develop the site with apartment buildings and associated facilities within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. Updated 10% stormwater pollutant removal requirement calculations have been received for this proposal. The 10% requirement is met according to the revised calculations.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: HC 324-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 1, 2008

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

RE: Hardwire LLC Site Plan, Pocomoke City

Dear Mr. Blake:

It is our understanding that this site would likely be considered an Intensely Developed Area, based on the conditions that existed as of 1985. The primary Critical Area concerns are the 100 foot Buffer and stormwater treatment. Because the site fronts on the Pocomoke River, the 100 foot Critical Area Buffer extends onto the property 100 feet landward of the field delineated mean high water line. Stormwater management 10% pollution reduction requirement for the project has been addressed by the submitted information.

The current plans for the Hardwire LLC site plan include rip rap shore erosion control partially above mean high water and a community boardwalk directly above the mean high water line. Mitigation must be provided at a ratio of 1:1 for any area of rip rap above mean high water (that is not covered by the boardwalk) because it is within the Critical Area Buffer. Mitigation for the area of the portion of the building, electrical equipment, boardwalk and any other structures in the 100 foot Buffer should be provided at a 3:1 area ratio. Mitigation plantings should be provided as one tree (2-inch caliper) and three shrubs (three gallon pot) per 400 square feet of required mitigation area.

Please submit a Landscaping Plan showing mitigation planting in the amount as described above. Wherever the 100 foot Buffer is not encumbered by structures or impervious surface, it should be vegetated with the mitigation plantings. If there is not adequate area within the 100 foot Buffer

to accommodate all of the required mitigation plantings, area on site adjacent to the 100 foot Buffer should be used.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Bruce Morrison, City of Pocomoke
Robert Cosgriff, Hardwire LLC
PO 440-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
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Memorandum

Date: May 1, 2008

To: Roland Limpert, DNR Environmental Review Unit

Re: Town of Hillsboro Comprehensive Plan

Dear Mr. Limpert:

Based on the information provided, the above referenced Comprehensive Plan does not appear to present any conflicts with the Critical Area regulations. As implied within the proposed Comprehensive Plan, development activities on land within the Critical Area must meet the requirements of the Town Critical Area Program.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

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May 1, 2008

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

RE: Delmarva Discovery Center Site Plan, Pocomoke City

Dear Mr. Blake:

We have received copies of the site plan for the Delmarva Discovery Center project for our review and comments. As you are aware, this site is within the portion of the City that was granted an exclusion from the Critical Area requirements. However, as established by Resolution 174 signed in 1988, development within 1,000 feet of the Pocomoke River or its wetlands must comply with the Critical Area Criteria insofar as possible whenever redevelopment occurs. We have reviewed the information provided. It is our understanding that the site would likely be considered an Intensely Developed Area, based on the conditions that existed as of 1985. The primary Critical Area concerns are the 100-foot Buffer and stormwater treatment (i.e., the 10% pollutant reduction requirement). The site fronts on the Pocomoke River, and the 100-foot Critical Area Buffer extends onto the property 100 feet landward of the field delineated mean high water line.

Stormwater management for the project has been addressed by the submitted information including the 10% pollution reduction requirement calculation showing that the pollutant removal requirement is met. Mitigation for the new structures in the 100-foot Buffer should be provided at a 3:1 area ratio, with plantings installed in the Buffer. At our site visit meeting, we discussed the possibility of planting the mitigation in a nearby park, which would meet the planting requirement. Please submit a plan showing the area of the new structures within the 100-foot Buffer for the restaurant, and also submit a planting plan showing 3:1 mitigation for that area at the park. The plantings should be provided as one tree and three shrubs per 400 square feet of required mitigation.

With the submission of the information described above, the Critical Area Commission staff concurs that the project complies with the Critical Area requirements in so far as possible. Thank you for the opportunity to comment. If you have any questions or concerns, please contact me directly at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Bruce Morrison, Pocomoke City
George Young, GEY
PO 12-07

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
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May 13, 2008

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

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

Dear Ms. Jackson:

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

1. Adjustment of the lot area should not result in any new non-conformities with the County Program, including impervious surface limits. According to the revised impervious surface limits on the plan, the parcels both now meet the impervious surface limits. As long as the limits are accurately portrayed, the proposal does not result in a new non-conforming situation and this office has no further concern.

2. County Code § 14:1-38. D.(6)(a) requires that "when forest on the site totals less than 15% of the site area, additional forested areas shall be established so that at least 15% of the site area is in forest cover." If the County requires compliance with this section of County Code for this proposal, the 15% forest requirement should be met by the applicants.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 554-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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

May 13, 2008

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

RE: Tax Map 72, Parcel 98, Lot 13
Paul Diven Site Plan

Dear Ms. Swinson:

Thank you for providing information on the above referenced proposal.

The site is located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area and is within a Buffer exempt area (BEA). The proposed addition does not appear to be channelward of an existing structure on the site. As long as the BEA standards are met and appropriate mitigation is provided, this office does not object to the proposed project.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 261-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 13, 2008

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

RE: 200861438/08-WL-1216 Maryland Broadband Cooperative Multi-jurisdictional

Dear Mr. Kincaid,

Thank you for submitting materials for the above referenced project to install fiber optic lines using trenching and directional boring within State Highway Administration (SHA) right of way passing through multiple jurisdictions. The information provided indicates that there are locations where the project enters the Critical Area. This office is currently coordinating with SHA, MDE and the applicant to review the project. If it is determined that the project is not within the scope of the Memorandum of Understanding (MOU) between MDOT and the Critical Area Commission, it will require formal Critical Area Commission review and conditional approval. The applicant should continue to work with SHA and this office to submit the project application materials as explained in Exhibit A of the MOU.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 13, 2008

Mr. David Walbeck
MDE - Water Management Division
Montgomery Park Business Center
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: 200763449/07-NT-0273, Dept of Army Aberdeen Proving Ground H-FLD project

Dear Mr. Walbeck,

This site is within the Critical Area. The Critical Area Commission office has been coordinating with the Army to provide comments on the proposal through Mr. Elder Ghigiarelli as part of the Coastal Zone Consistency review process. Please find the comment letter from this office attached.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 13, 2008

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

RE: 40 Alton Point, Ocean Pines Variance Request
Kirk Hammonds

Dear Ms. Davis:

Thank you for providing information on the above referenced variance. The site is a 14,000 square foot lot located within the Intensely Developed Area (IDA) of the Atlantic Coastal Bays Critical Area and within a designated Buffer modified area with a 15 foot setback from mean high water. The property is currently developed with a dwelling and a bulkhead. The applicant has constructed a new replacement bulkhead channelward of the old bulkhead. It appears that the construction called for fill between the old and new bulkheads and a cap over the new bulkhead and fill space as shown on the engineered plans submitted. However the applicant is requesting a variance to place a four foot wide boardwalk along the 80 foot shoreline, capping the new bulkhead, fill space and old bulkhead and extending shoreward. Due to the policy of the County staff in implementing the County Critical Area program explained in the September 10, 2007 memo from the County, a variance is necessary. It is also the position of this office that the proposal does not conform to the Critical Area law or the County's Critical Area Program, because the County Code and COMAR prohibit new, non-water dependent development in the Buffer, and riparian access should only be a single minimized perpendicular pathway, thus private boardwalks parallel to the shoreline are prohibited.

We recommend the proposal be revised to be consistent with the County's policy and the applicant's Maryland Department of the Environment application. Specifically a bulkhead cap of minimal width should be constructed over the new bulkhead with a perpendicular walkway to the pier.

Thank you for the opportunity to provide comments on this variance request. Please include this letter in your file and submit it as part of the record for this variance. Also,

please notify the Commission in writing of the decision made in this case. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 219-08

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 15, 2008

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

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

Dear Ms. Tompkins:

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

1. As you know the County Code § 14:1-37.E(3) states that "the clearing or cutting of forest or developed woodland for development or redevelopment shall provide insofar as possible that no more than 20% of the forest or woodland is removed." The plans indicate that 8.685 acres on this site are woodlands in the IDA, which would allow the applicant to clear 1.337 acres for development. Neither the applicant nor the County has submitted documentation to this office that it is not possible to develop the site within the allowed clearing limit. This office can not concur that the proposal meets the requirements of the County Critical Area Program until adequate documentation has been provided that County Code § 14:1-37.E (3) has been met.

2. It is unclear how County Code § 14:1-37.E (3) (d) requirements were met for the clearing violation that occurred on this site. Please clarify how it was demonstrated to Planning and Zoning that the mitigation requirement could not be met onsite and the fee in lieu could be used and how the violation was rectified based on County Code. This office can not concur that the proposal meets the requirements of the County Critical Area Program

until adequate documentation has been provided that County Code § 14:1-37.E (3) has been met.

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

Sincerely,

Marshall Johnson
Natural Resources Planner
cc: QC 301-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 15, 2008

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

RE: Tax Map 33, Parcel 358 – Glinka Variance
Lewis Road

Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The applicant proposes a new house and associated sewage reserve area (SRA). The applicant is requesting a variance to allow the SRA within the 100-foot Critical Area Buffer of a stream as required by Worcester County Code §NR 3-104 and COMAR 27.01.09.01C.1. The following comments apply to the variance request.

Provided that this lot is properly grandfathered, Critical Area Commission staff does not oppose the variance. However, to the extent possible, the impacts of development on the habitat value and water quality of the coastal bays should be reduced by minimizing damage to this stream Buffer, and mitigating for any unavoidable impact. The following comments apply to the variance request.

1. In light of the Buffer regulations, and the potential adverse environmental impacts of placing a septic drain field within the Buffer, we recommend relocation of the SRA as far from the stream as possible. If it is possible to realign the SRA in a manner that allows it to move further from the stream without infringing on the minimum required setback to the house, the applicant should do so.

2. Alternative septic systems that reduce the area required for SRA and/or increase the pollutant and nutrient treatment efficiency should be required as a condition of the variance.

3. Mitigation, at a ratio of 3:1 for the area of the SRA system 1 and 2 within the Buffer is required and has been proposed by the applicant. To the extent possible, mitigation plantings should be accommodated on the property and installed in a manner that will reduce the impacts to habitat and water quality. The mitigation plantings should be placed between the SRA and the stream

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 249-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 15, 2008

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

Re: Town of Federalsburg, Marina Park
Playground Phase III

Dear Mr. Mayer:

I have received the materials showing the proposed Phase III of the Marina Park playground facility to be placed outside of the Critical Area Buffer. The site is in the RCA. The project proposes to construct a children's playground area with a total footprint of 676 square feet. We note that the town has proposed to place rubber mulch within the footprint of the project. Based on the information provided, I concur that that the project appears to be consistent with the provisions of COMAR 27.02.02 and the criteria outlined within COMAR 27.01.02.03. The Critical Area Commission Staff has no further comment. Please contact me at (410) 260-3479 if you have any questions.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: FE 589-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 15, 2008

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

RE: File # 00-08-05-0002-C, Lot line reconfiguration
Kent Narrows Point Properties LLC

Dear Ms. Maxwell:

Thank you for providing plans for the above referenced administrative subdivision. The site is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The plans indicate that a portion of County parcel 26 will be divided between two privately owned properties by reconfiguring lot lines. This office has no objection to the proposal as long as no new non-conformities are created by the reconfiguration. In light of the proposed redevelopment project on the County owned property that requires notification to the Critical Area Commission office, please be aware that this reconfiguration may alter the site in a manner that should be reflected in materials submitted for either consistency concurrence or full Commission review.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 260-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 15, 2008

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

Re: MD 404 Dualization Phase 1A
Tuckahoe Creek, Caroline County

Dear Ms. Greene,

Materials for Phase 1A of the proposed MD 404 dualization project by SHA have been received. The proposed Phase 1A, including the creation of the stormwater and/or sediment and erosion control facilities at Tuckahoe Creek is not within the scope of the Memorandum of Understanding (MOU) between MDOT and the Critical Area Commission. The project will require formal Critical Area Commission (CAC) review and conditional approval under COMAR 27.02.06 (Conditional Approval of State or Local Agency Programs in the Critical Area). I will attempt to proceed with the project to CAC for review and approval as soon as possible; however, the following issues must be addressed before the project can be placed on the CAC agenda.

1. It is not clear whether the plans submitted incorporate the latest field determination of the location of tidal areas within the LOD at Tuckahoe Creek. Please submit a large plan set that clearly shows the Critical Area portion of the project. An accurate location of the Critical Area 100-foot Buffer must be clearly labeled on the plans and must be based on a field delineation of the landward edge of tidal wetlands. The 100-foot Buffer must be expanded to include contiguous slopes 15% or greater in grade. The extent of expansion must equate to either 4 feet for every percent of slope, or to the top of the slope, whichever is greater.

2. Mitigation for minimized disturbance associated with the outfall structure can be provided at a reduced ratio of 2:1 based on the total square area of disturbance to

the Buffer. However, mitigation for all other Critical Area Buffer impacts not associated with the outfall must be provided at a 3:1 ratio based on the area of the LOD within the Buffer. Please submit calculations summarizing the disturbed areas along with a mitigation planting plan. Mitigation should be provided at a standard rate of one tree and three shrubs per 400 square feet of required mitigation. The plantings should be placed within the Buffer on site to the extent possible. While a portion of this mitigation appears to be provided as FIDS mitigation off site, the remainder should be provided in the Buffer on site to the extent possible. An approved mitigation plan is required before the project can be presented to the CAC.

3. Based on the information submitted, it appears that the MDE tidal and nontidal, as well as sediment/erosion control and stormwater permits have not received final approval. The MDE wetland permits must be approved prior to presentation of the project to CAC. If any of the mitigation requirements associated with the impacts to tidal or nontidal wetlands detailed within the MDE permits will result in impacts to the Critical Area, particularly to the 100-foot Buffer, the MDE mitigation plan must be presented to the CAC office for consideration at this time as well.

4. Please submit a single large plan showing existing conditions with field delineated tidal and nontidal wetlands, the 100-foot Buffer, existing vegetation within the proposed LOD, steep slopes (15% or greater), existing structures, and Delmarva fox squirrel and FIDS habitat. Most of this information is provided, however, a single updated large existing features plan accompanied by a plan with the proposed SWM and S/E details and proposed grades, new facilities and vegetation removal in the LOD would greatly facilitate review and presentation to the CAC.

5. The proposal to use a site at Adkins Arboretum for the FIDS mitigation will require a planting plan with specific numbers, stock sizes and species that will be provided to mitigate Phase 1A impacts. Documentation must also be submitted of a permanent FIDS protection conservation easement with the property owner which must be established at the FIDS mitigation site.

6. Please confirm whether the 10% stormwater pollutant reduction calculations submitted address the site as it will be at the end of Phase 1A. Because there will be a significant time period between 1A and future phases, the 10% should address conditions as they will be at the completion of Phase 1A. Please also clarify whether the BMP will be treating water from outside of the Critical Area and if that is included in the site area and Worksheet A calculations.

7. Please clarify what portion of the design of Phase 1A is for temporary sediment control and what is for permanent stormwater management.

8. Documentation from the US Fish and Wildlife Service and Maryland DNR Wildlife and Heritage Service must be submitted confirming that the proposed project complies with all requirements of those agencies for conservation of specified species including Delmarva fox squirrel.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: DOT 67-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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May 19, 2008

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

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

Dear Ms. Davis:

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

The Critical Area staff has conducted a thorough analysis of the site conditions using aerial photography and GIS mapping to confirm the applicant's survey of the house, drive, trees and other drainage features. The location of significant features that would not be visible by photography or site visit, such as the sewage reserve area and drainfield are shown on the survey and are presumed to be accurate. The applicant has submitted that there is a stream on the site which conforms to the definition of a stream that requires a 100-foot Critical Area Buffer under County Code §NR 3-104. There has been no suggestion from the applicant to dispute the presence of such a stream and Buffer. All features that pertain to applicable criteria (please see below) are clearly evident on aerial photography and site plans. Please note that in such cases, no site visit is deemed necessary to evaluate the proposal based on the standards for a variance. However, if the applicant feels that a meeting at the site is desired regardless, please contact me to schedule the meeting. The

granting of a variance must be decided based explicitly on the standards laid out in the County Code and COMAR. In this case the proposal clearly does not meet the standards. The applicant has not provided any material to indicate that a site visit would offer additional information pertaining to the standards, which are further discussed below.

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

1. Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship;

Currently, the lot is developed with a single family home, driveway, parking space, and deck that are partially within the 100-foot Buffer. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. The applicant has use of the deck, house, drive and parking already partially within the Buffer. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for an additional large detached structure completely within the Buffer.

2. A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area;

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

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area;*

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

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

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

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

In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area Program. The drainageway on the applicant's property has been recognized as a tributary stream by the County and is subject to the one-hundred-foot Buffer. This Buffer is required to be established from the edge of the bank of tributary streams by Worcester County Code §NR 3-104(a). New development and impervious surfaces in the Buffer, along with the associated disturbance to the land, results in lost habitat value and less biofiltration of stormwater by vegetation. New development activities, including new structures and impervious surfaces are not allowed in the Buffer, as stated in the Worcester County Code §NR 3-104(c). This standard is not met because the applicant has the opportunity to place the accessory structure outside of the 100 foot Buffer.

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

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

7. The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein
It is our position that the Board must deny the application for variance to the Buffer, 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.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 221-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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May 20, 2008

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

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

Dear Mr. Clark:

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

1. A portion of the original boardwalk proposed has been removed from the plan. It is our understanding that the existing bulkhead at the south end of the park will be replaced as approved by MDE and a fishing/handicapped accessible water access boardwalk facility is proposed, and that a living shoreline project is proposed along the rest of the site waterfront. The concept plan also shows a pathway and boardwalk on the northern portion of the site. Please address the boardwalks relative to the BEA standards. The applicant would need to establish that there is no feasible alternative, and that the standards are met by the proposal.

2. Stormwater management plans should be submitted, including existing and proposed impervious surface area and the calculations for the 10% pollutant reduction requirement (Worksheet A from the Critical Area 10% Rule Guidance Manual). Please note that improving the existing riprap swale through stormwater best management practices

(BMP) is highly recommended. The benefits of an improved stormwater management system on the site could offset impacts of the project. Typically stormwater treatment ponds or other BMPs are not allowed in the setback of the BEA. Please address the BEA standards in respect to the stormwater wetland proposed on the plans.

3. If the applicant is proposing a soft or living shoreline planting project at the site, please provide specific technical plans for this part of the proposal.

4. Please submit any additional landscaping plans, plant lists and planting schedules for meeting the 25 foot bufferyard planting requirement. Plantings of native trees, shrubs, and groundcover are strongly recommended for the portions of this site that are shown as lawn. This type of improvement would further offset impacts of the project.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Sandi Pepe, DNR
CV 137-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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

May 20, 2008

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

RE: File #04-08-04-0009-C
Cloisters on Kent Island

Dear Ms. Tompkins:

Thank you for providing plans for the above referenced development project. The applicant's narrative states that all proposed development lies entirely in the non-Critical Area Portion of the site. This office has no comments on the project.

Thank you for providing the information regarding this minor subdivision. If you have any questions related to this project please feel free to call me directly at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 738-02

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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May 21, 2008

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

Re: 04-08-05-0004-C,
James Davidson - Gary Weldon Sub

Dear Ms. Tompkins:

Thank you for providing revised information on the above referenced administrative subdivision. The applicant proposes to reconfigure existing parcels located in the Resource Conservation Area (RCA). Comments have been provided below.

1. Please explain whether transfer of development rights method was used for subdivision of this site and address how the County standards for use of that method were applied regarding the current proposal.

2. Parcel 202 currently has frontage on the water, parcel 163 does not. County Code §14:1-22.D encourages reconfiguring lots only to enable development on the site to more closely comply with the County Critical Area Program. The applicant should address how this proposal meets §14:1-22.D. Reconfiguring lots to create new waterfront access does not meet the intent of the Critical Area program §14:1-22.D.

3. An MET easement on part of Parcel 202 limits piers for adjacent lots to five. If an additional subdivision is currently being submitted to create five lots on Parcel 202, the applicants should be aware that the total piers allowed across the MET easement are five.

4. The 100 foot Buffer should be delineated and shown on the subdivision plan. Please have the 100 foot Buffer location corrected to be 100 feet landward from the field located extent of mean high water or tidal wetlands.

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

Marshall Johnson
Natural Resources Planner

cc: QC 265-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

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Chair

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May 21, 2008

Dave Decker, Central Region Engineer
Department of Natural Resources
Engineering and Construction, Public Lands
580 Taylor Ave
Annapolis, MD 21401

RE: Martinak State Park Handicapped Renovations (Caroline County)
Department of Natural Resources

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 May 6, 2008, the Critical Area Commission approved the Martinak State Park Handicapped Renovations project proposed by the State Department of Natural Resources (DNR) at Martinak State Park, with the following condition.

1. Within 60 days of Commission project approval (May 6, 2008), a planting agreement plan shall be submitted to the Critical Area Commission office showing that the mitigation will be planted within the park in the Critical Area.

2. Prior to commencement of construction, the Maryland Department of Natural Resources shall obtain all necessary Sediment and erosion control and stormwater permits from the Maryland Department of the Environment. Copies of those permits shall be provided to Commission staff.

Should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. If you have any questions, please feel free to contact me at 410-260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

Attached: planting agreement form
cc: DNR 20-08

Planting Agreement for State/Local Projects

State/Local Agency
DNR

Project Number
DNR 20-08

Agency Contact
Dave Decker

Phone Number

Commision Approval Date
6-May-08

CAC Planner
Marshall Johnson

Project Name
Martinak State Park Handicapped Renovations (Caroline County)

Project Location
Martinak State Park, Caroline County

Square Feet Cleared Outside 100ft Buffer

Mitigation Ratio for Clearing Outside Buffer

Mitigation Calculation Outside Buffer

Square Feet Disturbed/Cleared Within Buffer*

Mitigation Ratio for Disturbance/Clearing Within Buffer*

15% Afforestation Requirement Met?

Mitigation Calculation Within Buffer

Total Mitigation Requirement

Planting and Natural Regeneration Plan (attach additional sheets if necessary)

Planting Date

Year

First Site Visit Date

Completed by

Second Site Visit Date

Completed By

Date Mitigation Complete

Responsible Contact for Mitigation (Print)

Signature

Date

*See reverse for details

Guidelines for Mitigation Plantings in the Critical Area

1. Amount of Disturbance and Clearing

There are two ways to calculate the amount of disturbance in the Critical Area. Disturbance is based on either the area disturbed or the number of individual trees that will be cut. It is recommended that when an area to be disturbed more closely resembles in a natural forest (i.e., canopy cover with a multi-layer understory) or when structures or other impervious surfaces are placed within the Buffer or a BEA, even if no trees are cleared, you should quantify the disturbance amount in the *area cleared.* On the other hand, if your site more closely resembles a park setting (i.e., scattered trees with little or no understory), it is recommended that you count the *number of trees removed.*

2. Plant Spacings and Mitigation Credits for Various Size Trees and Shrubs*

Credit Square Feet	Plant Size	Plant Spacing
100 sq. ft.	1 tree (2-inch caliper)	10-foot center
400 sq. ft.	1 tree (minimum: 2-inch caliper and either balled and burlapped or container grown) and understory vegetation (minimum 2 small trees or 3 shrubs)	tree: 20-ft. center understory: 10-ft. center
50 sq. ft.	1 tree (seedlings)	7-ft. center
50 sq. ft.	1 shrub	3 - 7 ft. center

* The Critical Area Commission recognizes natural regeneration as a method for mitigation on appropriate sites. This will be determined on a case-by-case basis. All plantings will require an easement to ensure that these areas remain forested in perpetuity.

3. Mitigation Ratios

Choose from the following for the mitigation ratios:

Mitigation Ratio for Clearing Outside of Buffer

Clearing of Forest/Woodlands up to 20% 1:1
Clearing of Forest/Woodlands up to 30% 1.5:1
Clearing of Forest/Woodlands over 30% 3:1
Clearing Violation 3:1
Other
N/A

Mitigation Ratio for Disturbance/Clearing Within Buffer

New Development/Redevelopment (non-BEA) 3:1
New Development/Redevelopment (BEA) 2:1
Shore Erosion Control 1:1
Public Shoreline Access 2:1
Clearing Violation 3:1
Other
N/A

4. Planting Date

The Planting Date should be either the Spring or Fall season following the approval of the project by the Critical Area Commission.

5. Site Visits

Two site visits will be conducted over a period of two years by Critical Area Commission staff. The objective of the site visits is to verify that the plantings have been carried out in accordance with the approved planting plan (i.e., species, number of trees/shrubs, location) and that the plantings are surviving.

Martin O'Malley
Governor

Anthony G. Brown
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May 27, 2008

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

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

Dear Ms. Davis:

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

The Critical Area staff has conducted a thorough analysis of the site conditions using aerial photography and GIS mapping to confirm the applicant's survey of the house, drive, trees and other drainage features. The location of significant features that would not be visible by photography or site visit, such as the sewage reserve area and drainfield are shown on the survey and are presumed to be accurate. The applicant has submitted that there is a stream on the site which conforms to the definition of a stream that requires a 100-foot Critical Area Buffer under County Code §NR 3-104. There has been no suggestion from the applicant to dispute the presence of such a stream and Buffer. All features that pertain to applicable criteria (please see below) are clearly evident on aerial photography and site plans. Please note that in such cases, no site visit is deemed necessary to evaluate the proposal based on the standards for a variance. However, if the applicant feels that a meeting at the site is desired regardless, please contact me to schedule the meeting. The

granting of a variance must be decided based explicitly on the standards laid out in the County Code and COMAR. In this case the proposal clearly does not meet the standards. The applicant has not provided any material to indicate that a site visit would offer additional information pertaining to the standards, which are further discussed below.

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.

County Code §NR 3-111 (a) states that a variance may be granted if a literal enforcement of the provisions of the Program would result in an unwarranted hardship. The unwarranted hardship standard was formerly listed as on of the standards listed in §NR 3-111 (b). In reviewing this application there is reasonable use of the entire property since the site has adequate space outside of the Buffer to construct a garage and driveway of the same or similar size and accessibility, such as over the existing paved driveway/parking area or over the lawn in the northeast corner of the property. Also, there is reasonable use of the entire lot as it is currently developed with a deck, attached garage, deck, lawn area and dwelling. The variance to the 100-foot 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." This standard has not been met, and accordingly the variance should be denied.

I have discussed each one of the County's variance standards found in §NR 3-111 (b) below as it pertains to this site:

1. Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship;

Currently, the lot is developed with a single family home, driveway, parking space, and deck that are partially within the 100-foot Buffer. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. The applicant has use of the deck, house, drive and parking already partially within the Buffer. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for an additional large detached structure completely within the Buffer.

2. A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area;

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

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area;*

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

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

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

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

In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area Program. The drainageway on the applicant's property has been recognized as a tributary stream by the County and is subject to the one-hundred-foot Buffer. This Buffer is required to be established from the edge of the bank of tributary streams by Worcester County Code §NR 3-104(a). New development and impervious surfaces in the Buffer, along with the associated disturbance to the land, results in lost habitat value and less biofiltration of stormwater by vegetation. New development activities, including new structures and impervious surfaces are not allowed in the

Buffer, as stated in the Worcester County Code §NR 3-104(c). This standard is not met because the applicant has the opportunity to place the accessory structure outside of the 100 foot Buffer.

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

It is our position that the Board must deny the application for variance to the Buffer, 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.

Thank you for the opportunity to provide comments on this variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any additional questions please contact me at 410-260-3460.

Sincerely,

Lisa Hoerger for

Marshall Johnson
Natural Resources Planner

cc: WC 221-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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June 10, 2008

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Request #07-3249; Merritt
50465 Fresh Pond Neck Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The subject site is a 71,002 square foot parcel located within the Limited Development Area (LDA) designation of the Chesapeake Bay Critical Area. The site is a grandfathered lot currently developed with a single family dwelling with large parking area, gazebo, pier, shed, decks and patio, most of which area located in the 100-foot Buffer. The applicant has proposed to construct two sun rooms over two existing decks within the Buffer. The site is currently non conforming with Critical Area regulations because development on the lot exceeds the 15% impervious surface limit for the LDA. It appears that during the review of the proposal for sun room construction, it was discovered that the applicant has constructed additional structures within the 100 foot Critical Area Buffer, including two brick patios, without permits or approved variances for structures in the Buffer and exceeding impervious limits. Thus, the applicant must be required to request an after-the-fact variance for construction of the brick parking pad and patio, as well as any additional development that was placed within the Critical Area Buffer or that increased the impervious surface area on the site without an approved Critical Area variance. Although information was not provided on the date of their construction, this appears to include the deck and gazebo adjacent to the shoreline of St Jerome's Creek. The proposed sun rooms would result in the site becoming further out of conformance with the impervious surface limits of the LDA.

The Critical Area Commission office is opposed to granting both the after the fact request to maintain unapproved structures in the Buffer and added impervious surface area, and the request to build sun rooms, which may further increase the impervious surface on the site, as proposed because the applicant has not met all the variance standards, including the standard of unwarranted hardship.

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.

The applicants' request 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 greater than ½ acre in size. The allowed impervious surface area on the site is exceeded by the proposed sun rooms and the request to maintain the bricked areas, gazebo and decks. Additionally, the request to allow new (or to maintain after the fact) impervious surface within the 100-foot Buffer is in conflict with Section 71.8.3.b of the CZO which prohibits new impervious surfaces in the Buffer. 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 a variance for impervious surface or additional structures in the Buffer since the applicant has already achieved reasonable use of the property for residential purposes with existing decks, accessory structures and lawn areas surrounding the house. The applicant suffers no hardship from not being able to have expanded amenities on their property beyond the impervious surface limit because the applicant is not prevented from using the property for residential purposes. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, reasonable and significant use of **the entire parcel or lot** would be denied. 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 to maintain the illegal bricked areas and other structures in the Buffer as the applicant is able to reasonably use the property for residential purposes without them.

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 or placing bricked areas in the Buffer is a right commonly enjoyed by any property in the Critical Area since the inception of the County Program, 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 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 the property, bringing the site further out of conformance with the impervious surface limit. The brick patio and parking area were constructed without required approval from the County. The encroachment of the development activities into the Critical Area Buffer is not permitted, and a proposal to do so would have been opposed by this office. By constructing the brick patio and parking area and any other structures not meeting regulations, the applicant has created the need for the variances. The applicant has not shown any reason that impervious surface could not be reduced to meet the 15% limit.

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. No after the fact variance should be approved for any structures or impervious surfaces placed in the Buffer on this site. The brick patio and parking area and any other structure placed without required permission should be removed from the Buffer. 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. The County should reject the request for after the fact variance to the Buffer regulations and impervious surface limit and should require removal of the above referenced bricked areas and other structures.

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 dwelling, large parking area, lawn yard, pier, shed and decks. Increasing impervious surface 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. Once the above referenced bricked areas and other structures have been removed, any additional proposed impervious surface (such as the sun rooms) should be balanced by removal of equal amounts of impervious surface to ensure that the additions do not result in the site going further out of compliance.

This letter has addressed the relevant variance standards. Based on the information provided, none of these 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 each and every County standard. 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 a variance to place sun rooms in the Buffer and to exceed impervious surface limits, as well as the after the fact variance and should require the applicant to remove all structures placed in the Buffer without appropriate permission, including the bricked areas.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: SM 722-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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June 11, 2008

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Request #07-2857; Errington
45112 Lighthouse Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance request. The subject site is a 0.611 acre lot located within the Intensely Developed Area (IDA) designation of the Chesapeake Bay Critical Area. The site is a grandfathered lot currently developed with a single family dwelling and associated accessory structures. The applicant has proposed to remove the existing structures on the site and construct a new house, detached garage, shed, pool, driveway and parking areas on the site. Except for a portion of the house, paving and a pool, all of the new development is proposed within the Critical Area expanded Buffer.

The applicant has requested a variance because the proposal is in conflict with the County Zoning Ordinance which prohibits development activity and new impervious surfaces in the Buffer. Under the County Zoning Ordinance, only structures that are water dependent facilities may be located in the Buffer. Providing the lot is properly grandfathered, this office does not oppose a variance to redevelop the site; however, in order to meet the standards and receive a variance the impacts must be further minimized as explained below.

The new development proposed within the Buffer includes two large accessory structures and a portion of the house. Whereas reasonable expansion of existing structures on a developed grandfathered lot might have site constraints which affect the placement of new development, with removal these structures and complete redevelopment of the site, those constraints no longer exist. In this case, the lot will be cleared of the existing development, so that new development must be addressed as if the lot were an undeveloped grandfathered lot in the Critical Area Buffer. The existing structures that will be removed do not represent a pre-approved or grandfathered right to place new development in the non-conforming location of former structures. For this reason, we recommend that in order to meet the variance standards the proposal should be modified. Unless the new development plan minimizes impacts, the variance standards are not met.

The structures placed on the site must be moved as far as practicable from the wetlands and waterway in order to minimize impacts of development on the resource. In light of the Buffer regulations, and the adverse environmental impacts of placing structures within the Critical Area Buffer, the large detached garage and shed, extensive driveway and paving are excessive and should be removed from the Buffer. It appears that there is an approximately 2,700 square foot area on the site outside of the Buffer. The applicant has proposed structures and impervious surface in the Buffer with a pool in the non-Buffer area. A plan meeting the variance standards would propose the house, garage, storage and majority of paving located in the non-Buffer area on the site, and the pool and excess parking/drive eliminated from the plan. In addition, mitigation in the form of Buffer plantings must be provided at a ratio of 3:1 for the area of disturbance in the Buffer.

The General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, reasonable and significant use of **the entire parcel or lot** would be denied. Based on the information submitted, we do not believe that the County has evidence on which to base a favorable finding on this factor for the proposed plan, as the applicant is able to reasonably use the property for residential purposes without the garage, shed, excess paving and driveway in the Buffer. For a complete redevelopment of a site, this office would not support a similar variance request to develop in 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.

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. The County should require a revised development plan as described in this letter if the variance is to be approved.

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

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: SM 292-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
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June 13, 2008

Chris Pajak
Water Management Salisbury Field Office
Salisbury District Court/Multi-Service Building
201 Baptist Street
Salisbury, MD 21801

RE: Lippincott Sailing Yachts, LLC wetland fill/reclamation
Grasonville, Queen Anne's County

Dear Mr. Pajak:

Thank you for providing information on the above referenced application. The property is located within the Intensely Developed Area (IDA) and Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant proposes to expand the boatyard area by filling a pond/wetland on the site. Although the information provided does not indicate the Critical Area line or designation, it appears that the proposed fill project is within the RCA and the Critical Area Buffer, Buffer Exempted Area. The applicant must request a variance to the County Critical Area program in order to place fill in the Buffer. In addition, the RCA may not permit the use that is contemplated for this site; therefore, we recommend this be clarified with the County before any permits are issued.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Holly Tompkins, Queen Anne's County

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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

June 13, 2008

Chris Pajak
MDE - Water Management Administration
Nontidal Wetlands & Waterways Division
201 Bapist Street
Salisbury, MD 21801

RE: Kent Island Bay Bridge Airport Road Relocation

Dear Mr. Pajak:

Thank you for providing information on the above referenced application. The applicant has proposed a road realignment for the airport, which would impact a nontidal wetland that appears to be outside of the Critical Area. However, the site is partially within the Intensely Developed Area (IDA) and the roadway proposed involves new road creation and paving in the Critical Area. A permit is required through the County for this work, as Critical Area program requirements must be addressed, including the Critical Area 10% stormwater pollutant reduction requirement. The applicant should submit information confirming the correct location of the Critical Area and the Critical Area Buffer, which may require expansion of the Buffer for a contiguous non-tidal wetland. The proposal may be required to address additional criteria of COMAR and the County Critical Area Program. New development activities, including road improvements, are not allowed in the Critical Area Buffer.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

CC: Holly Tompkins, Queen County

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 13, 2008

Brandy Glenn
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

RE: 08-110-023, M and J Subdivision
17335 Piney Point Rd

Dear Ms. Glenn:

Thank you for providing information on the above referenced subdivision proposal. The site is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. There is an existing house on the site. The applicant is proposing to relocate an existing property line. The plan states that the line adjustment will not result in additional building sites or increase in density or intensity beyond the current land use. This office has no comment regarding the proposal.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 282-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 13, 2008

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

Re: Ocean Exchange Subdivision Sketch Plan

Dear Ms. Davis:

Thank you for submitting the sketch/site plan for the above referenced subdivision proposal. The applicant proposes to create 14 lots, 10 of which are in the Critical Area Resource Conservation Area (RCA). The plan indicates that the RCA density requirements are met because the site contains 204.08 acres of RCA, based on a map mistake proposal which is in the process of review by the Critical Area Commission. I have reviewed the resubmitted information and have the following comments:

1. A field delineation of the wetlands on the site should be performed to determine the exact boundaries of tidal wetlands and that State and private tidal wetlands have been identified. Additional information about the area of State and private tidal wetlands should be submitted. State tidal wetlands cannot be used for density calculations or to meet the performance standards for development within the Critical Area. If portions of the project site have been determined to be private tidal wetlands, documentation regarding how this determination was made must be submitted, so that the Maryland Department of the Environment and the Board of Public Works can verify the methodology used. It is possible that they may want to verify the delineation and supporting information in the field, so appropriate detail should be provided. The acreage of State and private tidal wetlands affects all of the calculations based on the acreage of the property, including those relating to stormwater management, and the area of the Buffer.

2. The plan states that Buffer expansion will be addressed. In doing so, please note that Worcester County Code § NR 3-104 (c)(2) states that the Buffer shall be expanded to

include contiguous sensitive areas including hydric soils or highly erodible soils whose development or disturbance may impact streams, wetlands or other aquatic environments. Please note that for subdivisions in the RCA after July 1, 2008, the Buffer will be 200 feet, unless the subdivision is legally recorded by July 1, 2010.

3. Worcester County Code § NR 3-104(c)(3) states that the Buffer shall also be required along both sides of all drainage ditches if adjacent agricultural lands do not have in place best management practices cited and approved under the agricultural protection section of this Subtitle. It appears that there may be drainage ditches on the site. Please have the applicant address § NR 3-104(c)(3).

4. No development activity is allowed in the Critical Area Buffer as stated in County Code § NR 3-104 and Code of Maryland Regulations 27.01.09. In order to avoid conflict with these regulations, this office recommends that the proposed lots should not include portions of Critical Area Buffer and that the Buffer area should be placed within the open space tract.

5. The impervious coverage will be limited to 15% for the development on the lots greater than one acre in the Critical Area. The plat should include a note that indicates the allowable impervious surface per lot. Lots less than one acre are permitted 25% impervious coverage provided the entire subdivision does not exceed 15% overall.

6. Please note that Worcester Code NR 3-125(b) limits private piers or docks to no more than 100 feet in length over State or private wetlands.

7. The applicant must provide written correspondence from the Heritage Division of the Department of Natural Resources for this project regarding any species related concerns that should be addressed.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 328-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 16, 2008

Frank Hall
Queen Anne's County
Department Land Use, Growth Management
and Environment
160 Coursevall Drive
Centerville, MD 21617

Re: 07-08-06-0001-C, Giggenbach Subdivision

Dear Mr. Hall:

Thank you for providing information on the above referenced subdivision/lot reconfiguration. The applicant proposes to combine three existing lots into one. The site is currently developed with a house and associated accessory structures. The lots are within in the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. No new development activities are proposed in the Critical Area under this proposal. As long as no new non-conformities are created by the lot reconfiguration the Critical Area Commission office has no objection. Please note that future development will be required to meet LDA standards including the 15% impervious surface limit.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 298-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 19, 2008

Chris McCabe
Natural Resource Administrator
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Worcester County Resolution Number 08-07, Map Correction for Peterson Et. Al. – Route 50 (Tax Map 26, Parcels 132, 133, 256, and 383); Emergency Bill 08-3 Text Amendment; and Resolution Number 08-06, Map Correction for Rios Property (Tax Map 10, Parcels 28, 29, 48, 249, and 302)

Dear Mr. McCabe:

Thank you for providing information on the referenced text and map amendment proposals. Emergency Bill 08-03 amends the County ordinance to include information that the 1989 Maryland Department of Natural Resources wetland maps were used with State Wetland Maps for the original mapping of Critical Area in the Worcester County Atlantic Coastal Bays Critical Area Program. Resolution 08-06 amends the Critical Area map to change the location of the Critical Area line on the above referenced parcels based on information documenting of an error in mapping a nontidal water body as a tidal water body. The Critical Area Commission is accepting the materials for Bill 08-03 and Resolution 08-06 forwarded by the County as complete applications for processing. For Bill 08-03 and Resolution 08-06, the Critical Area Commission Chair will make an amendment or refinement determination within 30 days of the date of this letter Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

Resolution 08-07 includes correction of an Atlantic Coastal Bays Critical Area line drafting error and a mapping designation mistake on the above referenced parcels. The Critical Area Commission has reviewed the materials submitted for this resolution and determined that additional supporting evidence is required before the materials for Resolution 08-07 can be

accepted as a complete application for processing. Additional information is needed regarding how parcels included in the proposal meet the IDA standards, and the drafting error correction map exhibit should be revised to accurately show the drafting error. Commission staff will contact you with further details of the additional materials that are required to complete the application.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: CAC case file

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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June 23, 2008

Mr. Frank Hall
Queen Anne's County
Department of Land Use, Growth Management
and Environment
160 Coursevall Drive
Centerville, MD 21617

Re: 04-08-06-0005-C, Mazarek Subdivision
Tax Map 41, Parcels 5 and 31

Dear Mr. Hall:

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

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: QC 348-08

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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June 23, 2008

Pat Pudelkewicz
Harford Co. Dept. of Planning and Zoning
220 South Main Street
Bel Air, MD 21014

RE: Bush River Village Revised Plans

Dear Ms. Pudelkewicz:

Michele Bynum from your office submitted revised plans for this project for review by my office. The applicant proposes to develop the site with a shopping center within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. The following comments apply to the revised submittal.

1. Although the former plans were reviewed and confirmed to be in conformance with Critical Area regulations by Dawn McCleary on March 26, 2006, the revised plan indicates that the proposed impervious surface is increasing. The 10% stormwater pollution reduction calculations in my file indicate that the removal requirement was exactly met by the proposed stormwater management plan. Therefore, the stormwater management is no longer meeting the 10% according to the calculations on file in this office and a revised 10% Worksheet A must be submitted.

2. If the landscaping plans are revised, please have the applicant confirm whether BEA mitigation provisions are still met by the revised plan.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: HC 63-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 23, 2008

Brandy Glenn
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

RE: 08-110-026, Cherry Farm Subdivision

Dear Ms. Glenn:

Thank you for providing information on the above referenced subdivision proposal. The site is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The plan shows two dwellings and other structure existing on the site. The applicant appears to be proposing to relocate an existing property line. As long as the County can confirm that the property is properly grandfathered for RCA density requirements and that no new nonconformities are created, this office does not object to the proposal. Please note that this office recommends that the new SRA locations should be located as far from the 100 foot Buffer as possible to minimize impacts to water quality.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: SM 283-08

Martin O'Malley
Governor

nthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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June 23, 2008

Bob Tabisz
MDE - Water Management Administration
1800 Washington Boulevard, suite 430
Baltimore, MD 21230

RE: 200566361/08-WL-1444; The Centreville Wharf
Centreville, Queen Anne's County

Dear Mr. Tabisz:

Thank you for providing information on the above referenced proposal. The proposed project is in the IDA (Intensely Developed Area) and a designated Buffer Exempt Area (BEA) of the Town. The plans indicate that a boardwalk, path and other development are proposed within the Critical Area Buffer. For this project, the Town must submit the plans to the Critical Area Commission office for consistency confirmation or full commission review per COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. In order to be consistent with the Town Critical Area Program, development activity proposed in the Critical Area must meet all requirements of the Town's Ordinance and COMAR, including the policies and criteria for habitat protection areas in COMAR 27.01.09.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me directly at 410-260-3483.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Bob McGrory, Centreville Town Manager

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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June 24, 2008

Amy Moore
Town of Queenstown
7013 Main Street
P. O. Box 4
Queenstown, MD 21658

RE: First Street Bulkhead Replacement and Redevelopment

Dear Ms. Moore,

I have received plans from Davis Bowen and Friedel, Inc for redevelopment of a bulkhead, pier and parking area at the Town property at First Street. The proposed project is in the LDA (Limited Developed Area) of the Town. The plans indicate that new paving, pavers, fill, timber fence, and other development are proposed within the Critical Area Buffer. For this project, the Town must submit a set of plans to the Critical Area Commission office for consistency confirmation or full commission review per COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. Please include a plan showing existing impervious surface, vegetation and structures and a plan showing proposed activity in the Critical Area portion of the site. In order to be consistent with the Town Critical Area Program, development activity proposed in the Critical Area must meet all requirements of the Town's Ordinance and COMAR, including the policies and criteria for habitat protection areas in COMAR 27.01.09.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Andrew Welch, P.E. (Davis Bowen and Friedel, Inc, Po Box 93, Salisbury, MD 21803-0093)

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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

June 25, 2008

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

Re: 08-0002, Belmont Acres Lot 24 and 25 Combination

Dear Ms. Walk:

Thank you for providing information on the above referenced proposal. The applicant proposes to abandon a lot line between two existing lots, combining them into a single lot. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on the site, this office does not oppose the lot line abandonment.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: CR 356-08

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/

June 27, 2008

Chris McCabe
Natural Resource Administrator
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Worcester County Resolution Number 08-07, Map Correction for Peterson Et. Al. – Route 50 (Tax Map 26, Parcels 132, 133, 256, and 383)

Dear Mr. McCabe:

Thank you for providing information on the referenced map amendment proposal. Resolution 08-07 includes correction of an Atlantic Coastal Bays Critical Area line drafting error and a mapping designation mistake on the above referenced parcels. The Critical Area Commission office has reviewed the materials submitted for this resolution and has determined that the application is complete and is therefore accepted for processing. The Critical Area Commission Chair will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: CAC case file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 27, 2008

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

RE: Lot 6 Equestrian Shores – Shean Variance
8247 Sea Biscuit Rd, Snow Hill

Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The site is 1.15 acre lot with and existing house, driveway, deck, sidewalk, SRA and a fence enclosing the rear of the lot. The property is located within the Atlantic Coastal Bays Critical Area and partially encroaches on the 100 foot Buffer. The applicant requests an after the fact variance to maintain an existing fence that extends partially into the Critical Area Buffer to the rear of the house on the subject site. The fence appears to be low and openings are large enough to allow most wildlife to pass through, which is beneficial in regard to wildlife habitat. The Critical Area Commission office does not oppose the variance; however, the following comments apply to the proposal.

In light of the Buffer regulations, and the potential adverse environmental impacts of ongoing activity within the Buffer that the applicant describes in the application narrative, it would be preferable to relocate the fence and associated use of the yard to the side of the house to ensure that the Buffer on site will be maintained in natural vegetation as defined in the County Code § NR 3-104. However, if the County approves the retention of the existing fence, we recommend mitigation for the disturbance area of the fence at a ratio of 3:1. Mitigation plantings should consist of native trees and shrubs placed between the house and the existing Buffer vegetation on the site.

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

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: WC 257-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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June 30, 2008

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: 08-0858, Smith Variance

Dear Ms. Chaillet:

Thank you for providing information on the above-referenced variance application. The lot is 43,511 square feet in size and is designated as a Limited Developed Area (LDA). The applicant is requesting a variance to allow a detached garage within the expanded Critical Area Buffer. The applicant is also requesting a variance to exceed the impervious surface limits of the LDA. Total impervious surface onsite is currently 6134 square feet. The applicant has proposed to remove 267 sq ft of impervious surface. If the variance is granted, impervious surface will increase to 6650 square feet.

This office does not support the variance for impervious surface. The 15% limit for this lot is 6,526 sq ft and may be easily met. The applicant should reduce the existing impervious on site in an equal or greater amount to the proposed new impervious surface so that there is no net increase. Providing the lot is properly grandfathered, this office does not oppose a variance for construction of a new garage in the expanded Buffer on this site; however, in order to meet the variance standards and receive a variance the impacts must be further minimized as explained below. Based on the site plan, it appears that there are opportunities to further minimize disturbance by reducing the size of the garage (one car maximum), providing stormwater management best management practices for the garage and preferably the existing dwelling as well and providing mitigation in the form of native plantings in the Buffer on site between the house and the shoreline. This office may be able to support a variance that further minimizes the Buffer 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. If you have any questions, please contact me at (410) 260-3479.

Sincerely,

Marshall Johnson
Natural Resource Planner

cc: SM 341-08