

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

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

July 7, 2008

Mr. Jonathan Hodgson
County Attorney
Anne Arundel County Office of Law
2664 Riva Road, 4th Floor
Annapolis, Maryland 21401

Re: Anne Arundel County Critical Area Enforcement Bill

Dear Mr. Hodgson:

Thank you for providing a copy of Anne Arundel County's proposed enforcement bill, intended to implement the Critical Area Program's administrative enforcement requirements as outlined within House Bill 1253. As you are aware, the County's enforcement bill will require formal review and approval by the Critical Area Commission as a Program text amendment. In the interim, staff has reviewed the proposed ordinance language and offers the following preliminary comments and questions. Please note that as the formal review process progresses, additional comments may be provided as appropriate and necessary in order to ensure that the County's proposed bill sufficiently addresses the requirements of HB1253.

1. The County's proposed bill language pertains to Article 17, Title 8, Subtitle 10, Unlawful Buildings and Structures. All references to violations throughout this section of the ordinance appear confined to structures and buildings, and do not appear to include violations constituting unpermitted clearing or grading. While we recognize that Anne Arundel County regulates clearing and grading activities in a separate ordinance section, administrative enforcement procedures as required within Natural Resources Article §8-1808(c)(15) must be inclusive so as to address unpermitted clearing and grading activities. It is our understanding that the current Anne Arundel County Code does not permit the County to require mitigation, restoration, or monetary penalties for unpermitted clearing or grading within the Critical Area, outside of the Buffer. Prior to formal Commission review of the bill, the County will need to indicate how the administrative enforcement procedures outlined in the draft bill will sufficiently address clearing and grading violations.

2. §17-8-1002(a): It is not clear whether a citizen meeting the requirements of this section by agreeing to remove a building or structure is or could also be subject to an administrative penalty or fee. Please clarify.
3. The draft bill generally refers to the definitions for buildings and structures within Article 18. The Commission may wish to revisit whether the County's current definition of these terms is sufficient to include all types of development activities.
4. Prior to the Commission's formal review and approval of the County's draft bill language, more information will be necessary regarding the form for the administrative consent order as determined by the County Attorney.
5. §17-8-1003(a)(3): The intent of the language "if applicable", is unclear in this section. The requirements within Natural Resources Article §8-1808(c)(4)(ii) require a restoration or mitigation plan be submitted to abate impacts to water quality or natural resources as a result of the violation. It is unclear where the County envisions this requirement would not be applicable. Please clarify.
6. §17-8-1003(b)(1): This section proposes to send an administrative consent order by first class mail to a property owner. How will the County defend the foreseeable argument that a homeowner did not receive the order via mail? We recommend that certified mail be utilized as an alternative.
7. §17-8-1003(e): The premise for issuing a waiver to the requirement for an administrative consent order as proposed by the County in this section is the determination of a minor violation. Further information will be necessary describing those activities which qualify as minor violations within the Critical Area.
8. §17-8-1003(e)(2): The concern and comment in this section is identical to that outlined in #5 above.
9. §17-8-1003(e): As proposed within §17-8-1003(c)(1)(ii) of the draft County bill, it is likely that the Commission would request a similar provision when qualifying for a waiver.
10. §17-8-1004(b)(2): It is likely that the Commission would anticipate a higher penalty for the situation described in this section.

Thank you for the opportunity to provide comments on the County's proposed enforcement provisions. As stated previously, the County's proposed changes to Article 17 of the County Code will require formal review and approval by the Critical Area Commission. These comments are intended to provide preliminary and informal feedback from Commission staff. As the County proceeds through the public hearing and County Council approval process,

Jonathan Hodgson

July 7, 2008

Page 3 of 3

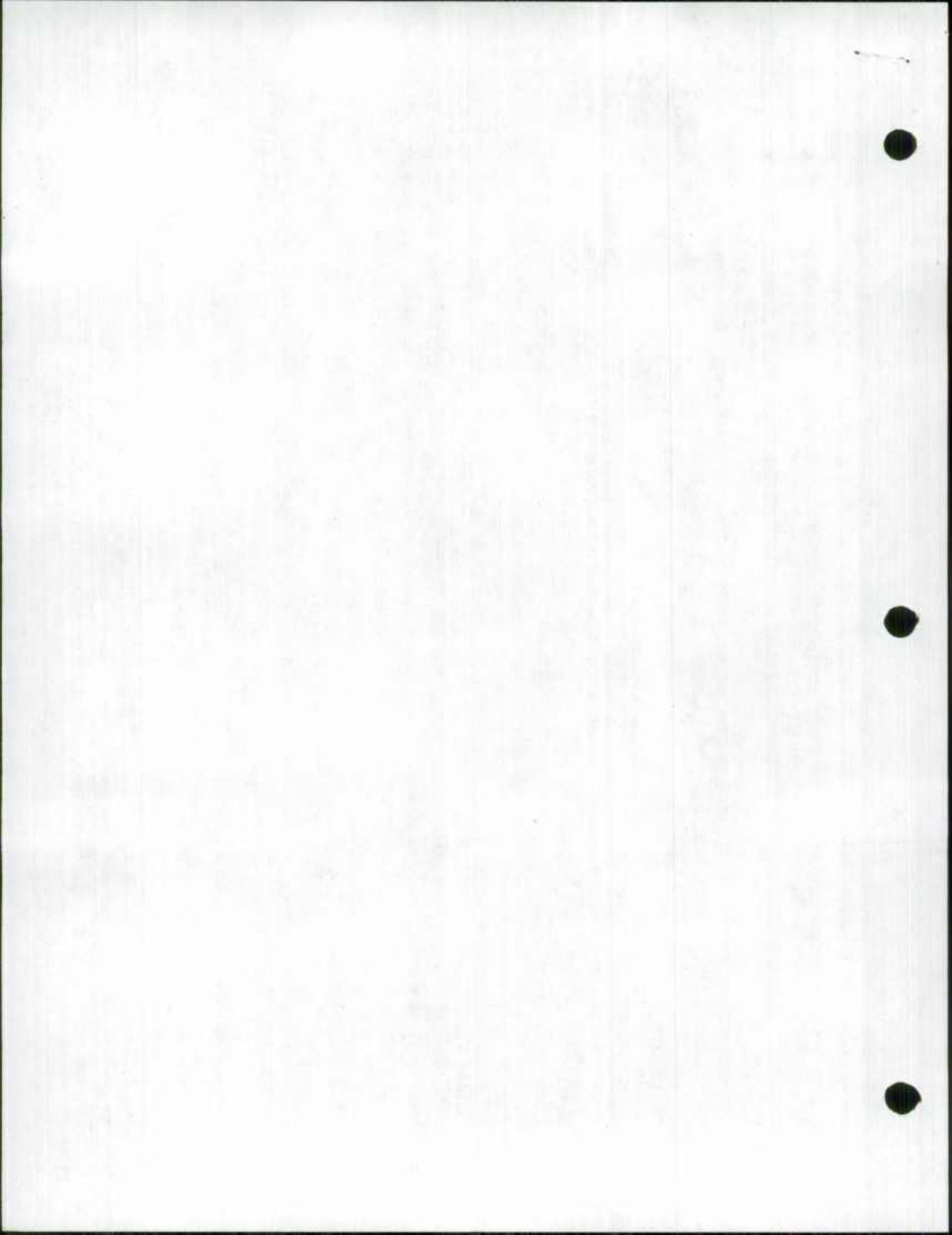
Commission staff would be happy to provide additional feedback and/or attend a meeting to discuss our comments and concerns. Please call me if you have any questions at (410)260-3482.

Sincerely,



Kerrie Gallo
Regional Program Chief

cc: Marianne Dise, OAG
Ren Serey, CAC
Cathleen Vitale, Anne Arundel County Council
Elizabeth L. Dixon, Department of Inspections and Permits
Larry Tom, Office of Planning and Zoning
Chris Soldano, Office of Planning and Zoning



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July 21, 2008

Sally Nash
City of Annapolis
Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, Maryland 21401

Re: Lars & Gay Henriksen Variance

Dear Ms. Nash:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to permit the construction of a replacement dwelling on a property designated as Intensely Developed Area (IDA). The property is also located within a mapped Buffer Exemption Area (BEA) and is currently developed with a primary dwelling, garage, brick patio, and slate patio.

Based on the information provided, it appears that the applicant is proposing 2,919 square feet of disturbance to the 100-foot Buffer in an effort to site a dwelling of a particular design on the property without having to remove an existing oak tree. While we strongly encourage the efforts of the applicant to preserve the existing oak tree on the property, we question whether the applicant can meet the strict variance standards in regard to impacts to the 100-foot Buffer. Specifically, we note that the property is currently developed with a dwelling which is located outside of the 100-foot Buffer and in a manner which preserves the existing oak tree. As such, it seems apparent that redevelopment of the property is possible without the need for a variance. Given this information, we do not believe that the applicants have demonstrated that an unwarranted hardship would exist without the variance. Further, it appears that the need to impact the Buffer is driven by the large footprint of the proposed dwelling as well as the chosen pattern of design. Based on these factors, we question whether the applicants have created their own hardship. Finally, we note that opportunities for further minimization appear plentiful on the site and include reduction of the size of the dwelling, and an alternative dwelling design scheme which reduces the waterward intrusion of the dwelling into the Buffer. The City Code clearly requires that intrusion into the Buffer be the least necessary.

As you are aware, in 2002 and 2004, the General Assembly strengthened the Critical Area Law and Criteria, 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

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Sally Nash
Henriksen Variance
July 21, 2008
Page 2

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 City's variance standards. Based on the current proposal, the applicant has not overcome the burden to demonstrate the each and every one of the strict variance standards has been met. Therefore, this office is unable to support the variance as requested. This office may be able to support a revised variance which further minimizes disturbance to the Buffer.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to call 410-260-3482.

Sincerely,



Kerrie L. Gallo
Regional Program Chief

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 21, 2008

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

Re: Site Plan #C08-005300NC
Grading Permit #G02013516
Madison Warehouse Trailer Storage

Dear Ms. Krinetz:

Thank you for providing information on the above referenced site plan and grading permit plan. The applicant is requesting approval to expand an existing warehouse by constructing a 195 stall trailer storage lot and by improving an existing stormwater outfall. Approximately 29.29 acres of the site's 38.75 acres are located within the Critical Area. The property is partially designated as a Limited Development Area (LDA) and partially as a Resource Conservation Area (RCA). Within the Critical Area, 0.40 acres of disturbance are proposed.

Based on the site plan provided, we have the following comments:

1. There is stream shown on the site plan within the Critical Area. As shown, the stream has an associated 50-foot Buffer. However, tributary streams within the Critical Area are afforded a 100-foot Buffer and the Buffer expanded to include the extent of contiguous nontidal wetlands, hydric soils, or highly erodible soils. Please amend the site plan to show a 100-foot Buffer on either side of the stream, expanded to include the sensitive areas referenced above if present.
2. Note #5 on the site plan is inaccurate. While clearing up to 20% on the property may be permitted, mitigation is required at a 1:1 ratio in order to achieve no net forest loss. Please amend this note and indicate the amount of mitigation required.
3. Based on the Department of Natural Resources' Wildlife and Heritage Service identification of the property as containing Forest Interior Dwelling Bird (FIDs) habitat, any clearing of forested areas



Kelly Krinetz
Madison Warehouse Expansion
July 21, 2008
Page 2

within the Critical Area will require the applicant to submit a FIDs mitigation worksheet and to provide mitigation in accordance with the Commission's guidance policy, A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area, June 2000. This document can be found on the Commission's website at: http://www.dnr.state.md.us/criticalarea/tweetyjune_2000.pdf. Please ensure that any required mitigation is addressed as a component of future site plane submittals.

Thank you for the opportunity to provide comments on this site plan and grading permit submittal. Please provide a revised site plan which addresses the comments above. If you have any questions, please contact me at 410-260-3482.

Sincerely,



Kerrie L. Gallo
Regional Program Chief
AA 375-08

Martin O'Malley
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July 22, 2008

Sally Nash
City of Annapolis
Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, Maryland 21401

Re: Lars & Gay Henriksen /Buffer Management Plan

Dear Ms. Nash:

Thank you for providing information on the above referenced Buffer Management Plan. The applicant is requesting approval of a Buffer Management Plan submitted in conjunction with a proposal to replace an existing dwelling with a new dwelling. The subject property designated as Intensely Developed Area (IDA) and is located within a mapped Buffer Exemption Area (BEA).

Based on the information provided, it appears that the applicant is proposing to disturb 2,919 square feet of land within the Critical Area 100-foot Buffer. While the disturbance is occurring consistent with the City's policy for development within a BEA, the applicant is required to provide mitigation for the area of disturbance at a 2:1 ratio. In addition, the applicant has provided mitigation to offset the total area of new impervious surface area on the property, consistent with the City's policy for compliance with the 10% pollutant reduction requirement for residential properties within the BEA. In total, 9,200 square feet of plantings are provided, in addition to a stormwater management device.

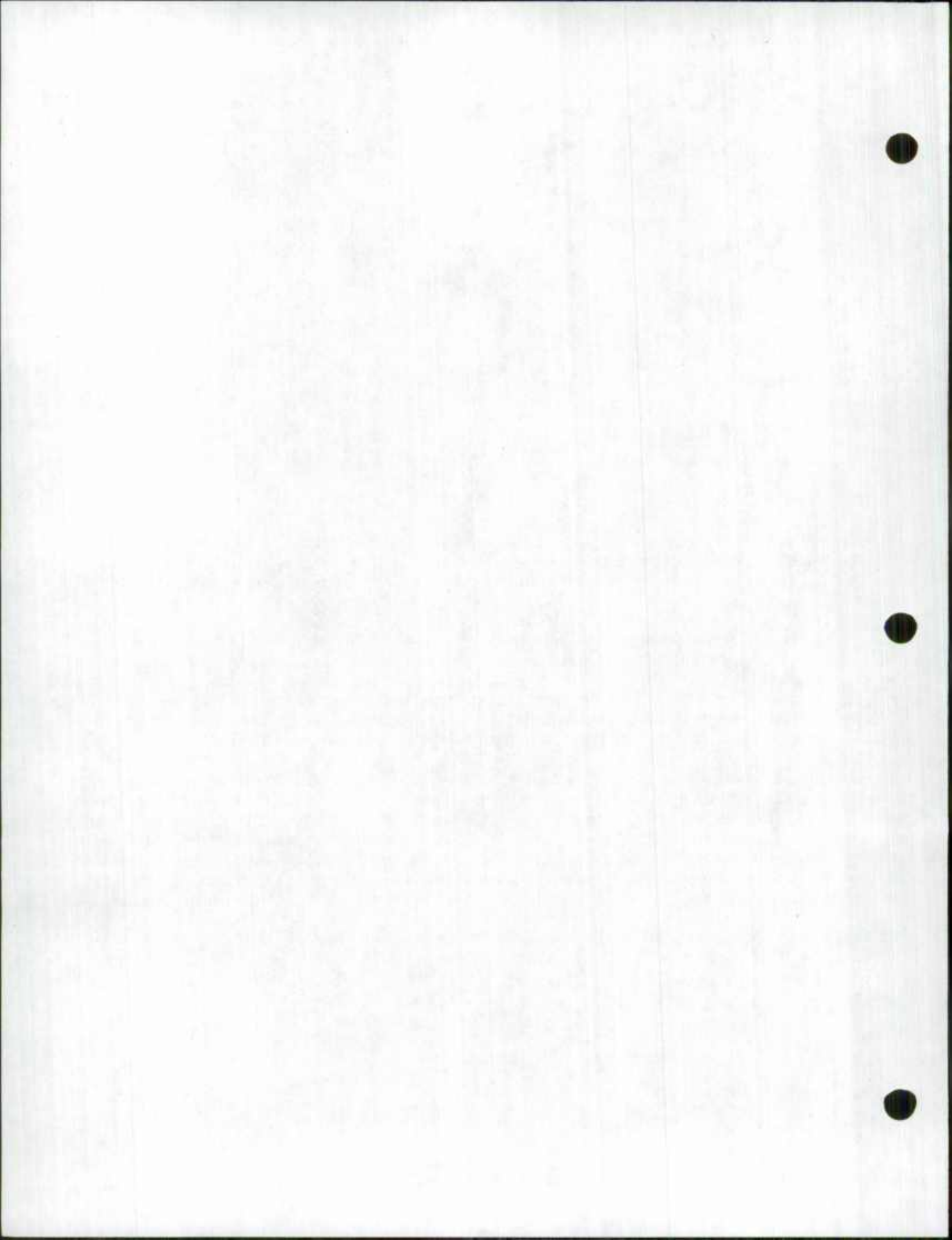
In general, the amount of plantings provided is consistent with the City's policy for redevelopment within the BEA. However, the intent of the BEA provisions in regard to Buffer disturbance and associated mitigation requirement is to provide a water quality and habitat enhancement on the site to offset the adverse effects of additional development and lot coverage. In this regard, it would be preferable to locate the plantings within the Buffer to a greater extent and to cluster the plantings. As proposed, the plantings appear to serve mostly as landscaping. We recommend that the City consider whether opportunities exist onsite to locate more of the plantings within the Buffer. Since Commission staff was not able to visit the site and assess the feasibility of this recommendation, we defer to the City's staff's determination on this issue.

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 Buffer Management Plan. If you have any questions, please feel free to call 410-260-3482.

Sincerely,

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

Kerrie L. Gallo
Regional Program Chief



Martin O'Malley
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August 26, 2008

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

Re: Variance 08-3546 Wilder/McDaniel

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance from the 100-foot Buffer requirements in order to permit the construction of two decks. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling, deck, shed, and guest cottage.

Based on the information provided, it appears that applicant proposes to construct a 192 square foot deck, a 100 square foot deck, and a 120 square foot covered porch. While the application materials did not include a site plan drawn to scale or show the limit of the 100-foot Buffer on the plans, it appears that the entirety of the 192 square foot deck and a portion of the 100 square foot deck are located in the Buffer while the covered porch may be located outside of the Buffer. In general, this office would not oppose a request to construct a modest deck on a property where one otherwise does not exist. However, it appears that in this case, the existing structure had both a deck and a covered porch prior to the expansion. It also appears that a modest expansion of the existing deck could have been conducted in a manner which eliminates encroachment in the Buffer waterward of the existing deck and modest construction of a new deck could have been conducted which minimizes overall disturbance to the Buffer by locating the deck entirely outside of the Buffer. Based on these considerations, the applicant has failed to meet each and every one of the County's variance standards; including the standard of unwarranted hardship and that the request to perfect the structures is the minimum necessary to provide relief. Therefore, we oppose the applicant's request to retain the decks in the current footprint. Finally, in evaluating the applicant's request, we recommend that the Board consider and assign value to the fact that the applicant undertook actions to construct structures within the Buffer without the proper permits. In this sense, the variance request is driven by the actions of the applicant and any hardship is self imposed.

Roxana Whitt
Variance 08-3546
August 26, 2008
Page 2 of 2

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

Sincerely,



Kerrie L. Gallo
Regional Program Chief
CA483-08

Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 4, 2008

John Fury
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Variance 2008-0243-V/Yoshii

Dear Mr. Fury:

This letter is written in response to the revised site plan received on September 4, 2008 related to the above referenced variance case. It appears from the site plan that the applicant has revised the previous request to construct stairs (6 x 7 square feet) within the expanded Buffer such that an increase in the size of the stairs (10 x 12 square feet) is proposed in addition to a change in the configuration. The property lies within a Limited Development Area (LDA) and is currently developed with a primary dwelling.

Previously, this office was not opposed to the granting of a variance to construct a 6 x 7 square foot staircase in the Buffer. However, the revised site plan proposes a substantial increase in the size of the stairs and in the impact to the Buffer as well as places the stairs in a configuration closer to the water. While the proposal remains generally modest in overall impact, we question the necessity for the revised proposal where it has been clearly demonstrated that an alternative design exists which would pose less impact to the Buffer. Where the applicant has failed to demonstrate that the variance is the minimum necessary, we question how each and every one of the County's variance standards can be met. In conclusion, we recommend that the applicant be required to address why the original, less intrusive design was not adequate to provide reasonable egress from the existing deck. Should the Hearing Office grant the requested variance, or a modification to it, we recommend that mitigation be required as a condition of approval. This mitigation should be required at a 3:1 ratio for the area of Buffer being disturbed and developed, and should be implemented using native plantings located within the Buffer.

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John Fury
Yoshii Variance
September 4, 2008
Page 2

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

Sincerely,



Kerrie L. Gallo
Regional Program Chief
AA436-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 8, 2008

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

Re: Summer City Lot Consolidation, Lots 7-13
Roy Mitchell Hall & Carla F. Hall

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised replatting request. The applicant is proposing to abandon the lot lines between seven existing lots of record in order to create one 14,000 square foot lot. The property within the Limited Development Area (LDA) and is currently developed.

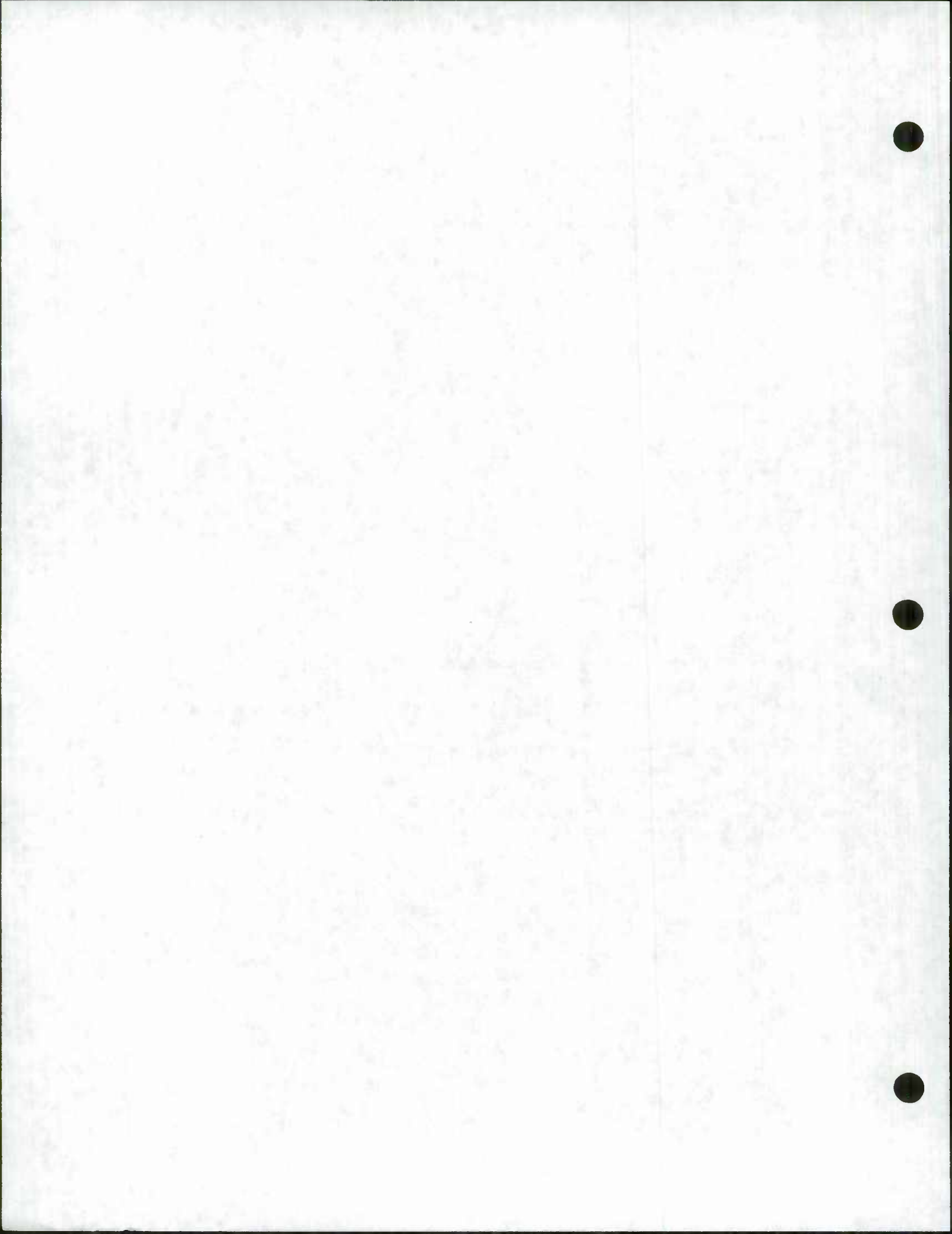
Based on the revised plat received, it appears that our previous concerns have been addressed. We have no additional comments regarding the requested replat.

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

Sincerely,

A handwritten signature in blue ink that reads "Kerrie L. Gallo".

Kerrie L. Gallo
Regional Program Chief
CA361-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 8, 2008

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

Re: 2008-0266-V/Alexopulos

Dear Ms. Cotter:

Thank you for providing information regarding the above referenced variance. The applicant is seeking a variance to the expanded 100-foot Buffer in order to construct multiple additions to the existing primary dwelling and the existing garage. The property for which the variance is being sought lies within the Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the subject property is a legally grandfathered parcel of record and that the lot is largely constrained by the presence of steep slopes and the expanded Buffer. The applicant proposes to convert a portion of an existing deck into a screened porch as well construct an addition to the garage which will be located over an area of existing lot coverage. Given that the proposed improvements are located over areas which currently exist as lot coverage, this office is not opposed to the variance as requested. However, given the location of the site improvements within the expanded Buffer, we recommend that the Hearing Office require conditions of approval which address the following concerns:

1. By placing a screened porch over a large portion of the existing deck, the applicant is losing a significant portion of outdoor deck area. This office will not be able to support future encroachments into the Buffer to create additional deck area.
2. The site plan does not currently propose stormwater management in association with the proposed improvements. In recognition of the location within the Buffer, the variance should contain a mitigation element which retrofits the existing developed areas with stormwater management facilities as well as provides treatment for the areas subject to the current variance request.



Pam Cotter
Alexopoulos Variance
September 8, 2008

3. In an effort to improve the water quality and habitat value of the site, the applicant should provide mitigation for three times the area of development within the Buffer as associated with the variance request. This mitigation should be implemented by the planting of native species within the Buffer.

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

Sincerely,



Kerrie Gallo
Regional Program Chief

AA492-08

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Executive Director

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September 18, 2008

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

**Re: Hatton's Garden Subdivision
TM 32 P 7**

Dear Ms. Renshaw:

Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a sixteen lot subdivision with three open space parcels. The parcel is 84.467 acres in size, with 81.313 located within the Critical Area; 39.41 acres are proposed for development and are designated Limited Development Area (LDA), while the remaining 41.91 acres are designated Resource Conservation Area (RCA) and will not be developed. This parcel received growth allocation from the Critical Area Commission in August 2008 for the 39.41 acres to be developed (RCA to LDA). Total existing forest coverage onsite is 24.496 acres (29%). Total existing lot coverage is 1,965 square feet (0.05%).

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

1. We note that the applicant must meet the following conditions, which were imposed when this parcel was granted growth allocation in August 2008, prior to the issuance of any permits or final approvals by the Town:
 - In lieu of a 300-foot setback, the variable width Buffer, as generally shown on "Concept Plan for Growth Allocation, sheet V-2.0," will provide at least 100 feet of forested vegetation between the most landward extent of State tidal wetlands and/or private tidal wetlands, and the building envelope for each lot. In no event shall the Buffer be less than shown on "Concept Plan for Growth Allocation, sheet V-2.0."



- The extent of State and private tidal wetlands onsite shall be field verified by the Maryland Department of the Environment (MDE).
- Prior to the issuance of any permits or final approvals by the Town, a detailed Buffer Management Plan at an appropriate scale shall be prepared and submitted to the full Commission for review and approval. The Buffer Management Plan shall include, but is not limited to: the variable width Buffer; the extent of State tidal wetlands, private tidal wetlands, and nontidal wetlands; the Mean High Water Line and the limits of State and Private tidal wetlands and nontidal wetlands at the time of the application for a Tidal Wetlands License in 2005; access to piers; appropriate protections for waterfowl staging and concentration areas as determined and approved by the Maryland Department of Natural Resources (DNR); all existing or proposed trails or portions of trails located within the Buffer; removal of exotic or invasive species; and a landscaping plan showing all removal of existing vegetation and proposed supplemental planting as required to establish the Buffer. In addition, the Buffer Management Plan shall include provisions for maintenance, survival, monitoring, and replanting for five years, and provisions for the collection of a bond by the Town in an adequate amount to ensure effective implementation for the full five-year period.

It is our understanding that MDE has been onsite with the applicant to field-verify the extent of state versus privately owned wetlands as well as the limit of all tidal wetlands. In addition, a Buffer Management Plan has been submitted to this office for review and comment. Review of the Buffer Management Plan is currently ongoing.

2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize The Town of St. Michaels' approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with The Town of St. Michaels' procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by the Town of St. Michaels and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the Town's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

It appears that the applicant has submitted a proposed lot impervious area calculation table on the site plan. However, the table requires a column stating the amount of proposed impervious for each lot.

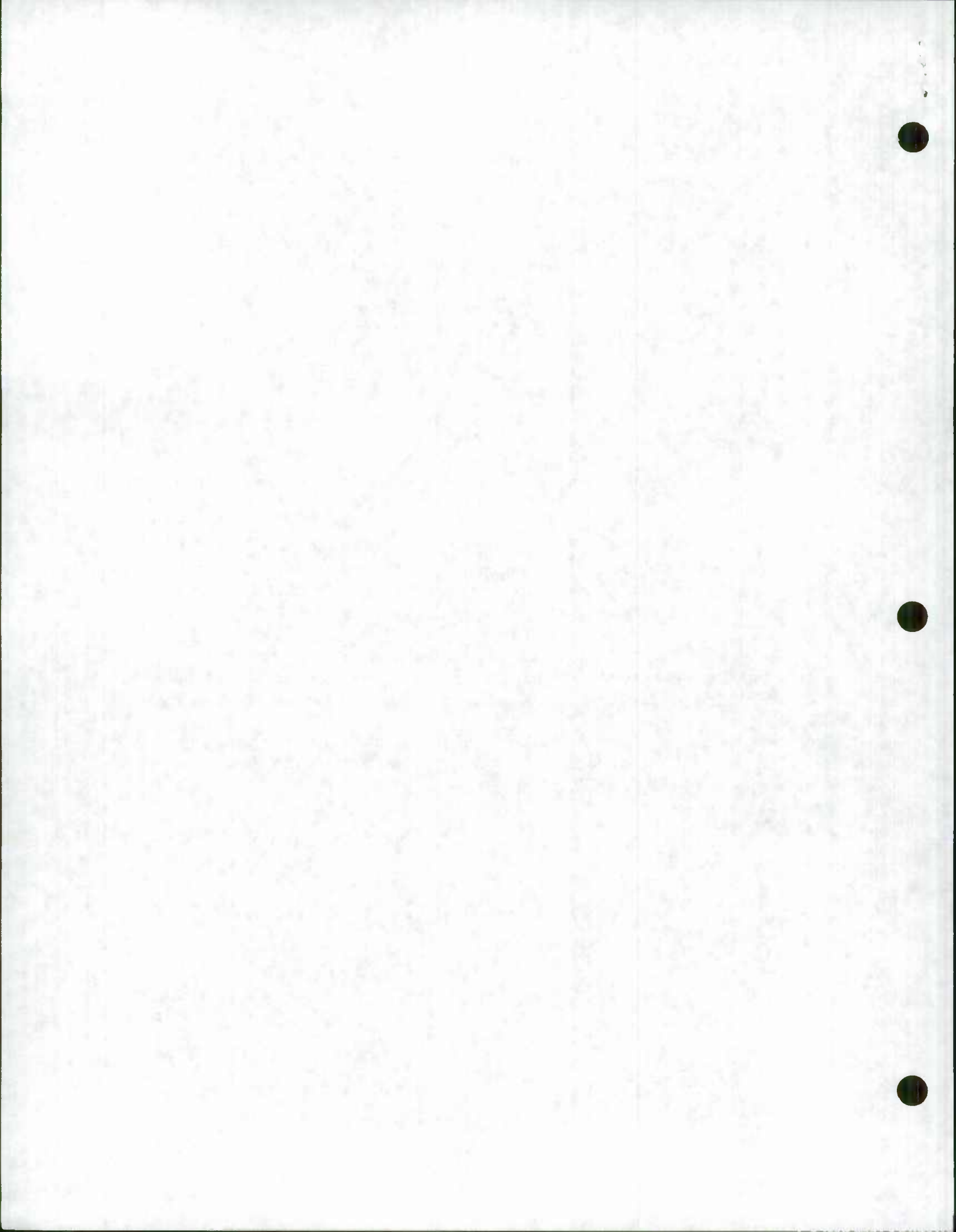
3. Any future clearing in the Critical Area for lot development will require forest mitigation in accordance with the standards set forth in COMAR 27.01.02.04.
4. The variable-width Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §340-27.5.C(4) of the Town of St. Michaels Code. Please add a note referencing this requirement to the plat. The details of this establishment must be provided within the required Buffer Management Plan referenced within comment #1.
5. Upon approval of the proposed piers, please have the applicant submit a copy of the associated MDE permit to this office.
6. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
7. The expanded Buffer is labeled as "100' Shore Line Buffer Expanded for Nontidal Wetlands and Hydric Soils" on some locations of the site plan, while it is labeled as "Variable Width Buffer" in other locations. Please have the applicant use one consistent notation for the Expanded Buffer.
8. Please add to Sheet 1, Note 4, a reference that the Maryland Department of the Environment has field-verified the extent of state versus privately owned wetlands as well as the limit of all tidal wetlands, including the date that this was determined.

Thank you for the opportunity to provide comments on this subdivision and line revision request. Please have the applicant provide the information requested above. Please feel free to call me with any questions at (410) 260-3483.

Sincerely,


for

Nick Kelly
Natural Resource Planner
cc: file



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 23, 2008

Mr. Larry Tom
Planning and Zoning Officer
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, P.O. Box 6675
Annapolis, Maryland 21401

Re: County Bill 67-08

Dear Mr. Tom:

The purpose of this letter is to provide an update regarding the Commission's processing of the above-referenced text amendments to the Anne Arundel County Critical Area Program. On October 23, 2008, Chair McHale determined that the proposed text amendments will be processed as a refinement to the Anne Arundel County Critical Area Program.

The proposed text amendments have been scheduled for review at the November 5, 2008 Critical Area Commission meeting in Crownsville. I will forward a copy of the meeting agenda as well as a copy of my staff report as soon as they are available.

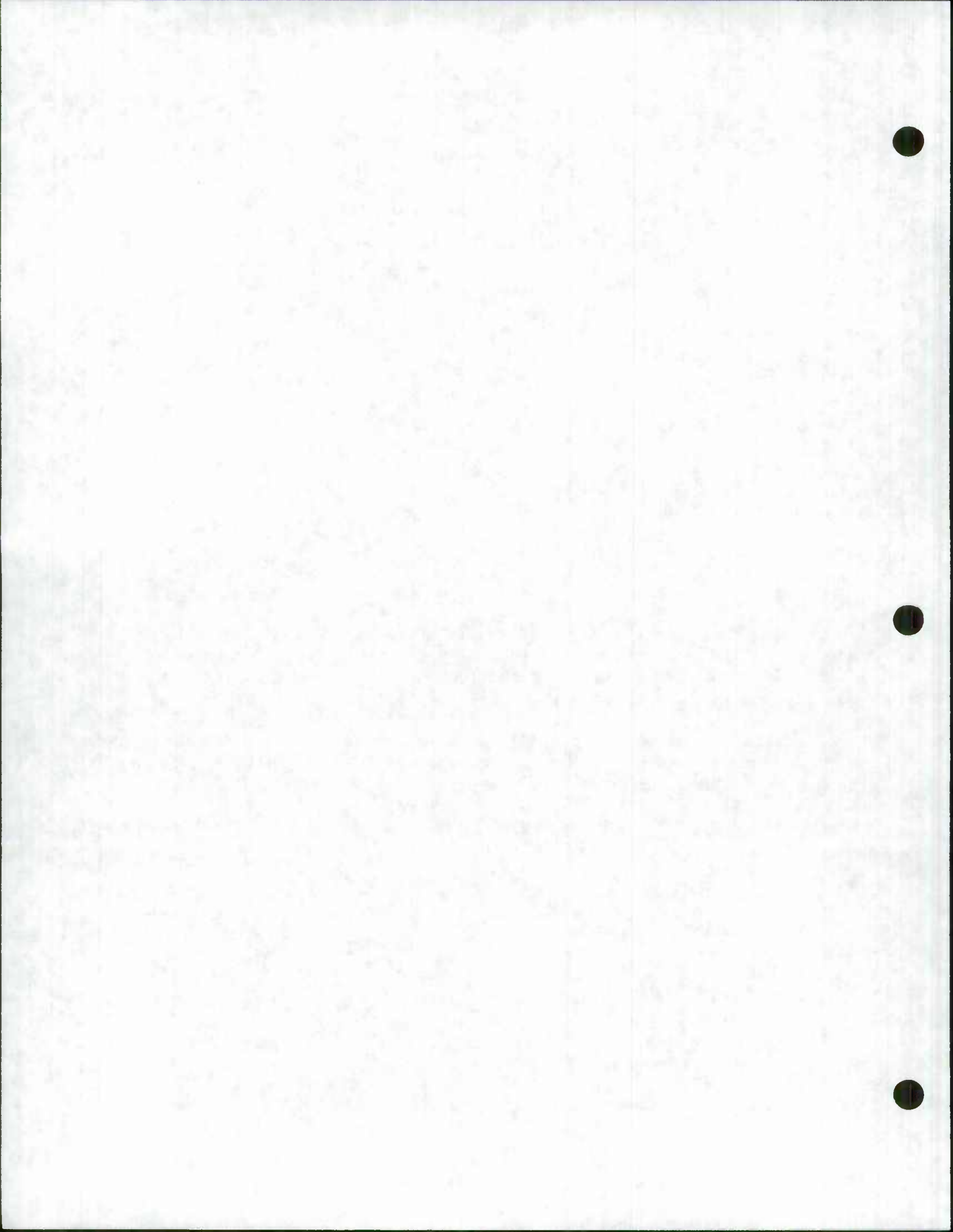
Thank you for your continued coordination in bringing these text amendments before the Commission. If you have any questions, please contact me at 410-260-3482.

Sincerely,

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

Kerrie L. Gallo
Regional Program Chief

Cc: Chris Soldano, AA County
Kelly Krinetz, AA County
Ren Serey, CAC



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

September 25, 2008

Mr. Larry Tom
Planning and Zoning Officer
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, P.O. Box 6675
Annapolis, Maryland 21401

Re: County Bill 67-08

Dear Mr. Tom:

We have received your request to process the above referenced text amendments to the Anne Arundel County Critical Area Program. The amendments propose language to address the Commission's sanction of portions of the County's Critical Area Program in December 2006. At this time, we wish to notify you that the County's request has been accepted for processing.

Within 30 days of the date of this letter, Chair McHale will make an amendment or refinement determination regarding the proposed change to the County program. Commission staff will notify you of her determination and the procedures for review by the Commission.

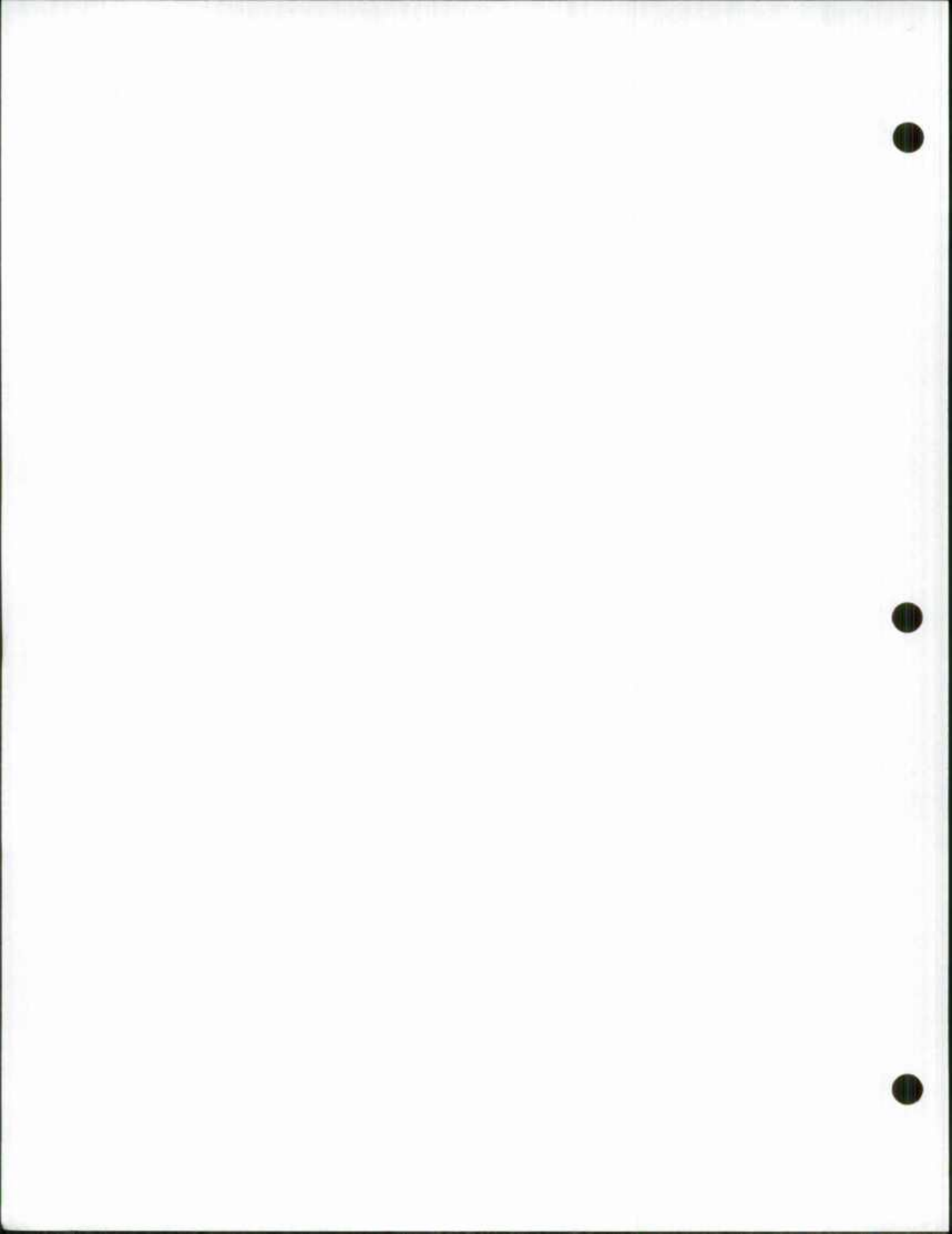
Thank you for your coordination in bringing these text amendments before the Commission. If you have any questions, please contact me at 410-260-3482.

Sincerely,

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

Kerrie L. Gallo
Regional Program Chief

Cc: Chris Soldano, AA County
Kelly Krinetz, AA County
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November 19, 2008

Rob Konowal
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: 2008-0280-V

Dear Mr. Konowal:

Thank you for providing information regarding the above referenced variance. The applicant is seeking a variance to construct a deck addition in area of slopes greater than 15% in grade. The property is located within the Limited Development Area (LDA) and is currently developed with a single family dwelling.

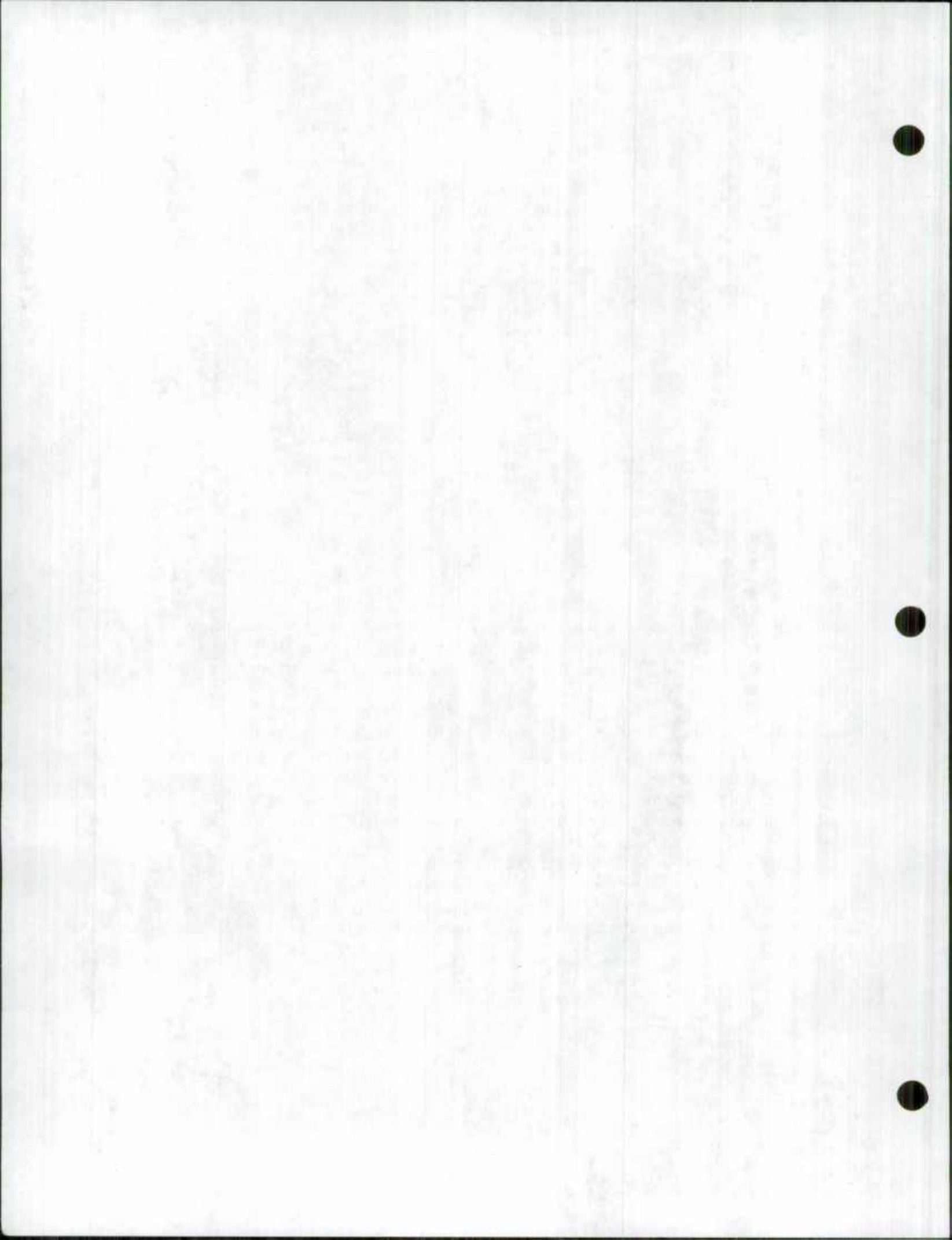
Based on the information provided by County staff that the violation existing on the property has been properly abated via payment of a fine and submission of a mitigation planting plan to offset the environmental cost of illegal construction, we have no further concerns regarding the granting of a variance to retain the structure. However, please note that mitigation in addition to that which has already been provided to abate the violation is required. Within the LDA and outside of the Buffer, this mitigation should be provided at a 1:1 ratio for any clearing of developed woodland or forested cover. We recommend that this mitigation be included as a condition of variance approval.

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

Sincerely,

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

Kerrie Gallo
Regional Program Chief
AA527-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 19, 2008

Mr. Larry Tom
Planning and Zoning Officer
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, P.O. Box 6675
Annapolis, Maryland 21401

Re: Herrington Harbour North Reclassification Request

Dear Mr. Tom:

We have received your request to process the above referenced map amendments to the Anne Arundel County Critical Area Program. The amendments propose to reclassify 20.78 acres of Resource Conservation (RCA) to Intensely Developed Area (IDA), 29.55 acres of Limited Development Area (LDA) to IDA, and 0.144 acres of LDA to RCA for several parcels of land located within the Herrington Harbour North Marina. At this time, we wish to notify you that the County's request has been accepted for processing.

Within 30 days of the date of this letter, Chair McHale will make an amendment or refinement determination regarding the proposed change to the County program. Commission staff will notify you of her determination and the procedures for review by the Commission.

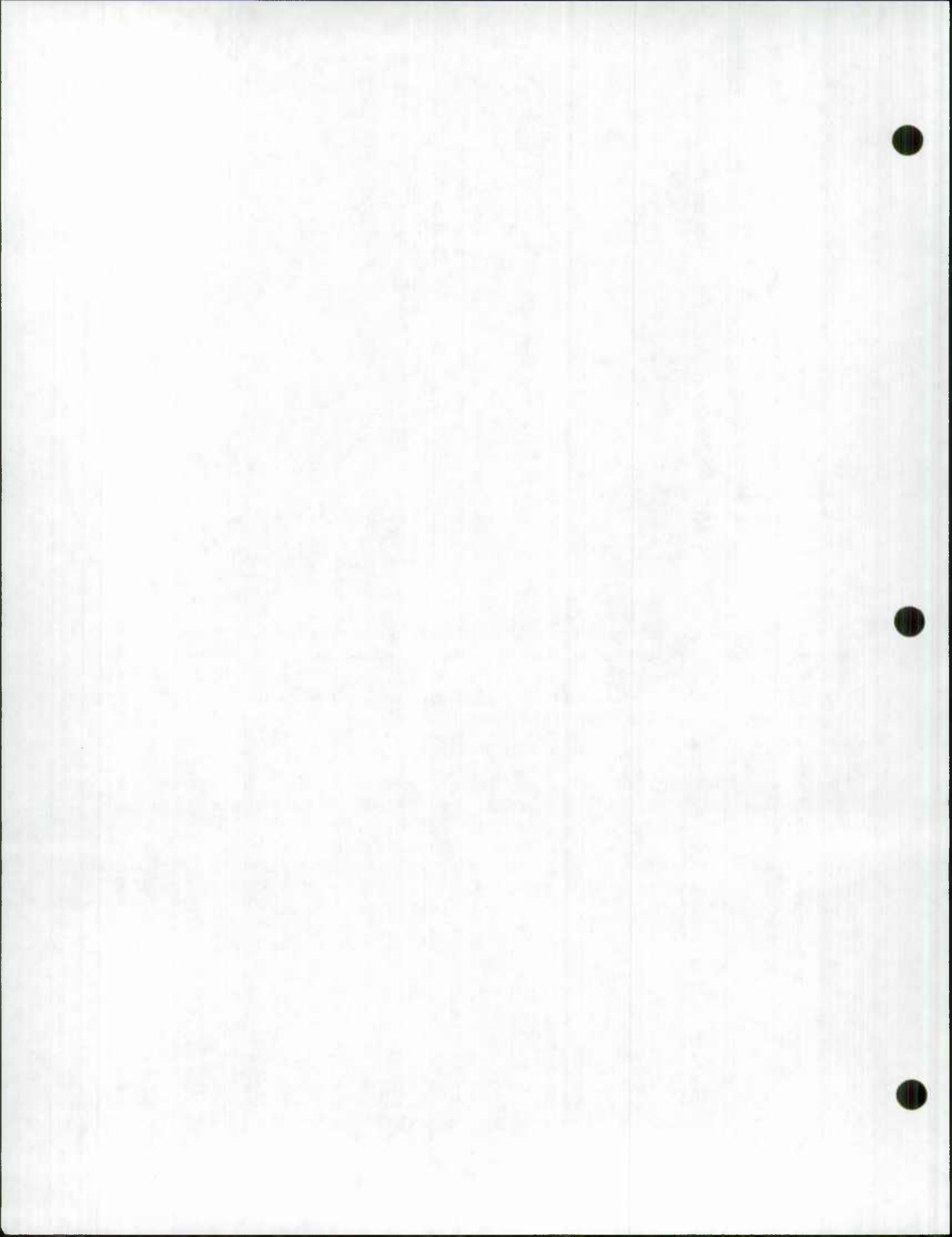
Thank you for your coordination in bringing these text amendments before the Commission. If you have any questions, please contact me at 410-260-3482.

Sincerely,

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

Kerrie L. Gallo
Regional Program Chief





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 19, 2008

Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: 2008-0282-V

Dear Ms. Rhodes:

Thank you for providing information regarding the above referenced variance. The applicant is seeking a variance to permit three existing structures within the Critical Area to remain without the accompanying principle structures. The property for which the variance is being sought lies within the Resource Conservation Area (RCA).

Based on the information provided, it is my understanding that the applicant intends to abandon the use of the existing structures within the Critical Area as dwelling units and to convert the structures into accessory boat houses/storage units. Along with this conversion, the applicant has stated that the existing wells will be abandoned for residential purposes and remain for irrigation purposes only, the existing septic systems will be filled and abandoned, and the existing plumbing features will be removed from the structures. Provided that these restrictions are adhered to, that the conversion of the structures to accessory uses does not result in any modification to the existing footprints, and provided that these restrictions are required as conditions of approval, this office is generally not opposed to the granting of a variance as requested.

However, please note that the applicant has stated that subsequent to final subdivision approval, new single family dwelling units will be constructed on Lots 2, 3, and 4 either outside of the Critical Area, or within the Critical Area, in accordance with any necessary variances. This statement is problematic and should be clarified prior to any variances being granted. Specifically, the applicant's subdivision plats to date have not included a proposal to construct new residences within the Critical Area portions of the new lots. The property contains extensive Forest Interior Dwelling bird (FID) habitat, as well as extensive habitats for several rare, threatened, and endangered species. Variances to develop newly created lots will not be supported by this office and a subdivision plat which requires variances to develop newly created lots is not consistent with the Commission and County's reviews to date. If the

TTY for the Deaf

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



Lori Rhodes
Sahlin Farms Variance
November 19, 2008

applicant intends to develop the property in a manner different from that which has been shown on every plat submitted to date, this intent should be clear to all parties at this time and a revised subdivision plat required.

In summary, we recommend that a variance be granted only where there are certainties regarding the total and cumulative impacts to Critical Area resources. If plans for the existing structures, allowable number of development rights, and impacts to Habitat Protection Areas have not been finalized as seemingly indicated by the applicant's statement, this office would not be able to support the variance as requested.

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

Sincerely,



Kerrie Gallo
Regional Program Chief
AA434-08