

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 2, 2008

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

Re: Heron Cove Subdivision
Stormwater Management Plan

Dear Ms. Vennell:

This office has received a copy of the preliminary stormwater management plan and report for the above referenced subdivision. This office previously provided comments on the Concept Plat on December 7, 2007. As you are aware, the property is designated as Intensely Developed Area (IDA) and must comply with the 10% pollutant reduction rule. I would like to offer the following comments in regard to the preliminary stormwater management plan:

1. The Stormwater Management Report states that channel protection volume (CP_v) is not required as all proposed outfalls are classified as having tidal discharge. However, stormwater discharge into nontidal streams or nontidal wetlands does require CP_v to be addressed. The facility #1 outfall is located in Stony Run Creek above North East Isles Drive. It is my understanding based on previous information this area of Stony Run Creek is nontidal. Further the outfalls for the remaining facilities (#3 and #5) are located in nontidal wetlands or the nontidal wetland buffer. Therefore, it appears that CP_v is required for all stormwater facilities.
2. Part 1 of the 10% Calculations (Onsite Impervious Surface) is correct, however there are some errors in the removal calculations for offsite drainage areas. The load removed for the offsite drainage area is the removal efficiency of 40% multiplied by the load (1.158). This is 0.463 lbs/year, not the 0.503 lbs/year shown. Thus the total load removed is 12.729 lbs/year. This is below the 12.760 lbs/year required. However, based on the comment above, I believe once the appropriate CP_v adjustments are made the applicant should be able to meet the 10% pollutant reduction requirement.



Thank you for the opportunity to comment. If you have any questions please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned above the typed name.

Kate Schmidt
Natural Resource Planner

Cc: Mary Ann Skilling, MDP
Amy DiPietro, Morris & Ritchie Associates

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Governor

Anthony G. Brown
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January 3, 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 File #07-3074
Shreeve

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a storage shed within the 100-foot Buffer. The property is 1.61 acres in size and located within the Limited Development Area (LDA). The property is currently developed with a single family home that was built in 1994, garage/workshop, and driveway. This request is for after-the-fact construction.

This office is opposed to granting the variance request as proposed because the applicant has not met all the variance standards, including the standard of unwarranted hardship. Further, the applicant may locate the shed outside of the 100-foot Buffer. The following is an analysis of the requested variance for this project in the context of St. Mary's County's variance standards.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicants' request for a variance to allow a shed in the 100-foot Buffer is in conflict with the St. Mary's County Comprehensive Zoning Ordinance (CZO) Section 70.8.3.b

which prohibits development activities in the 100-foot Buffer. Only structures that are water dependent facilities may be located in the Buffer and a shed is not a water dependent facility. A water dependent facility is defined by Section 41.8 of the CZO as development activities that are dependent on the water by reason of the intrinsic nature of their operations and that cannot exist outside the Critical Area Buffer. This definition would include facilities such as a marina or a public dock. Section 41.8.2(a)(1) specifically states that storage structures are non-water dependent facilities and may not be located in the Buffer. 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 Buffer variance since the applicant has already achieved reasonable use of the property for residential purposes with a house and combination garage/workshop. Additionally, there is some space available outside the 100-foot Buffer to locate a shed if the garage does not currently provide sufficient storage room. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the shed in the Buffer as the applicant is able to use the property for residential purposes.

24.4.1.b – That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County

A literal interpretation of St. Mary's County's regulation of impervious surfaces and the Buffer will not deprive the applicant of a right commonly enjoyed by other properties in similar areas. This office does not support variances for development in which the applicant has the opportunity to comply with the regulations. The construction of amenities in the 100-foot Buffer which are not water-dependent and for which there is sufficient room outside of the Buffer is not a right commonly enjoyed by any property in the Critical Area.

24.4.1.c – The granting of a variance will not confer upon the applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area.

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. This office would not support a similar variance request to allow a non-water dependent structure in

the 100-foot 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

This variance request is based upon actions of the applicant. The applicant made an effort to establish whether a permit was required for the shed however did not contact the County to ensure a permit was not required. Had the applicant contacted the County they would have been advised that sheds do not qualify as a water dependent structure under the County zoning ordinance.

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. While the shed may be elevated it still constitutes a development activity in the Buffer which prevents establishment of a vegetated Buffer in that area. A naturally vegetated Buffer provides numerous 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.

24.4.1.f – The variance is the minimum necessary to achieve a reasonable use of land or structures

The applicant already has full use of his property for residential purposes with a single family home, garage and workshop, and driveway. The current proposal is to provide additional amenities related to the recreational activities of the applicant's grandchildren. Increasing development in the Buffer to accommodate these needs is unnecessary to maintain the residential use of the property. Therefore, the requested variance is not the minimum adjustment necessary to afford relief from the regulations because the regulations do not prevent the applicant from achieving reasonable use of their property.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the variance standards are met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Because the applicant has failed to meet all of the County and State variance standards, this office recommends that the Board deny

Ms. Yvonne Chaillet
07-3074 Shreeve
January 3, 2008
Page 4 of 4

the applicant's request for this variance and require the applicant to remove the additional impervious surfaces, including those in the 100-foot Buffer.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM739-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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January 4, 2008

Mr. Stephen E. Crowell
VIKA Incorporated
8180 Greensboro Drive, Suite 200
McLean, VA 22102

Re: Mid-Atlantic PPV
Lowell Cove – Residential Redevelopment Plan
BIKE #6850B

Dear Mr. Crowell:

Thank you for providing copies of the proposed redevelopment plan for the Lowell Cove residential units located on the Patuxent Naval Air Station in St. Mary's County. The proposed project will construct 169 new residential units. A small portion of the site is located within the Critical Area and considered "intensely developed". I have reviewed the materials and determined that this project on Federal lands is consistent with the Maryland Critical Area Law and Criteria in the Code of Maryland Regulations based on the following reasons:

- For the portion of the project within the Critical Area, impervious surface will increase from 24.9% to 34.1%, however based on the revised stormwater management plan dated December 18, 2007 the project meets the 10% pollutant reduction rule for intensely developed projects. Final approval from MDE for the revised stormwater management plan is pending.
- No activities are proposed within the 100-foot Buffer.
- There will be no impacts to other Habitat Protection Areas.

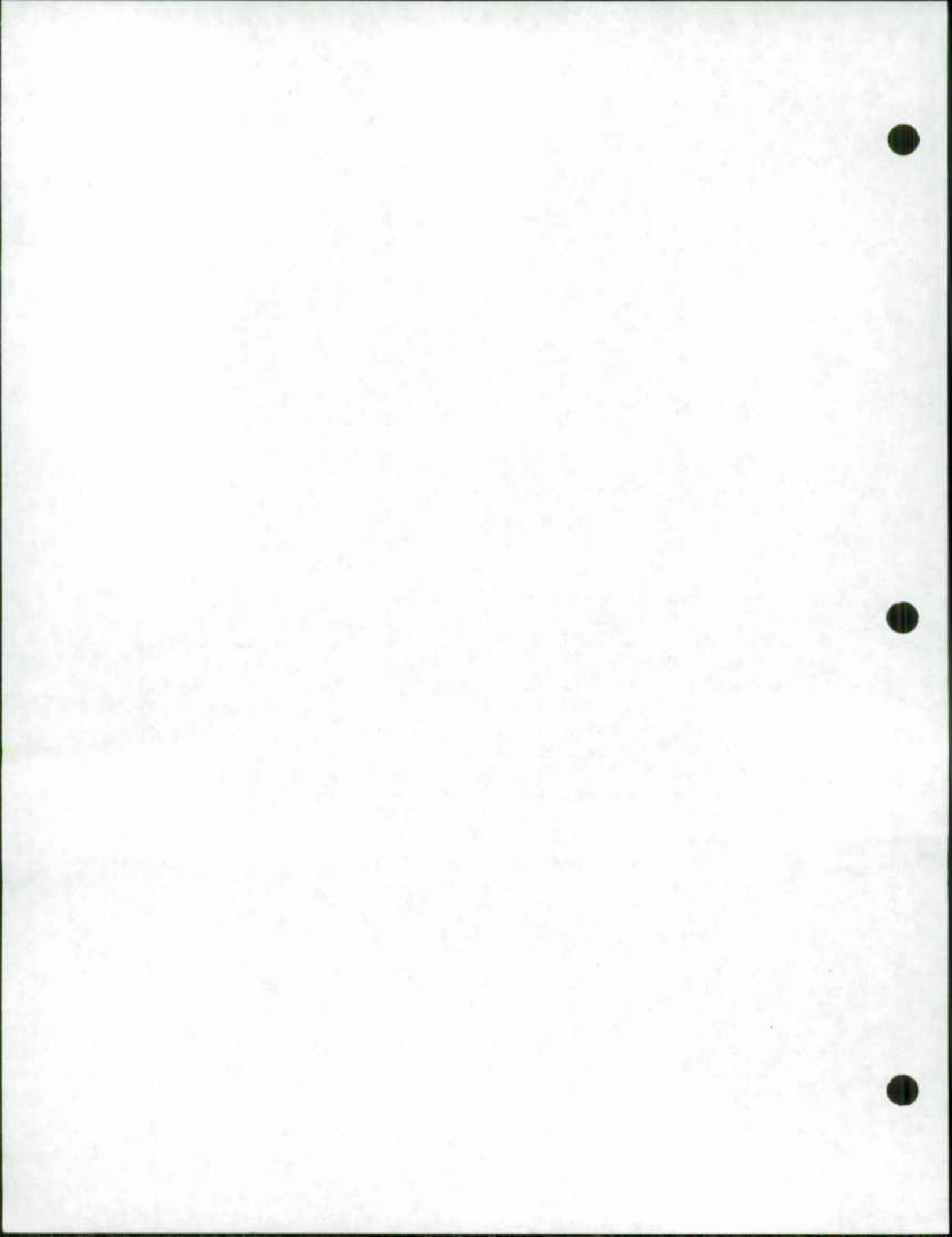
Thank you for coordinating with us on this project. If you have any questions, please telephone me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

Cc: Mr. Elder Ghigiarelli, MDE



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January 8, 2008

Mr. Jim Stasz
M-NCPPC Development Review Division
Prince George's County Planning
14741 Governor Owen Bowie Drive
Upper Marlboro, Maryland 20772

Re: Swan Creek Club Development Lot 16 - Addition
CP-07012

Dear Mr. Stasz:

Thank you for submitting the above referenced site plan for review and comment. The applicant is seeking to construct an addition to a single family dwelling on a 0.62 acre lot in the Limited Development Overlay (LDO). The proposed impervious surface on the site will be 4,000 square feet. The 15% impervious surface requirement of this lot is 4,052 square feet.

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

1. Please add a note stating the impervious surface limit per the requirements of the LDO is 4,052 square feet.

Thank you for the opportunity to comment. Prior to final recordation of the Conservation Plan please forward a copy to this office for staff to ensure that the above comment has been addressed. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PG 007-08

Martin O'Malley
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January 14, 2008

Ms. Angela Willis
Project Planning Division
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: Bridge No. 2079 on MD 258
Rockhold Creek, Anne Arundel County
10% Pollutant Removal Planting Plan

Thank you for forwarding the requested information on the above referenced project. This office previously determined the project met the requirements for General Approval as documented in our August 8, 2007 correspondence. In fulfillment of the General Approval, we requested a planting plan demonstrating compliance with the 10% pollutant removal requirement. This office has reviewed the planting plan and found it acceptable. If possible however, we recommend increasing the percentage of trees in the planting mix.

Thank you for submitting this project to our office for review. If you have any questions, please contact Lisa Hoerger at (410) 260-3478.

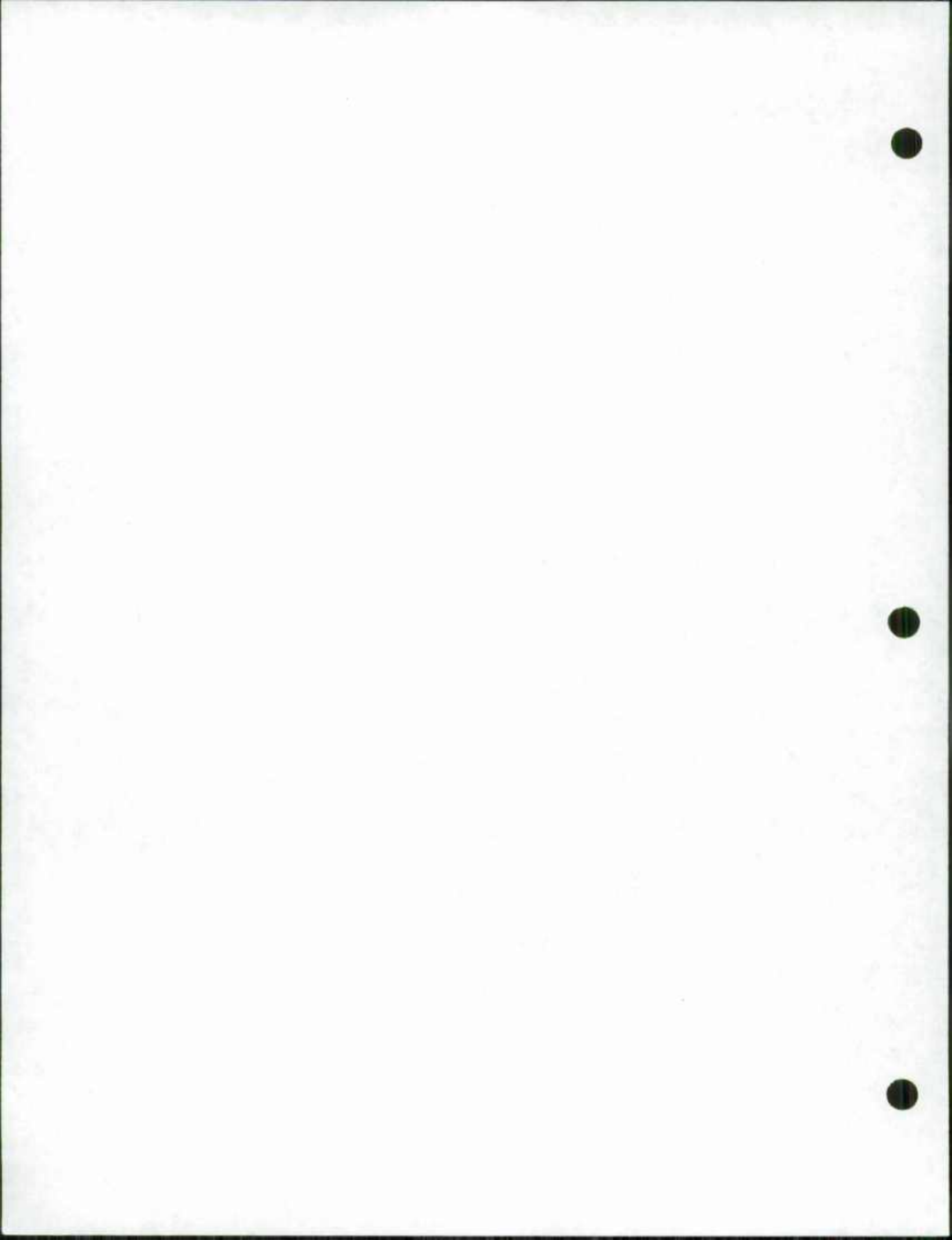
Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

DOT/SHA 42-07





Martin O'Malley
Governor

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Lt. Governor



Margaret G. McHale
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Executive Director

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January 14, 2008

Ms. Suzanne Schappert
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case #2007-0433-V
US Financial Capital, Inc.

Dear Ms. Schappert:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to construct a new single family dwelling on a 10,000 square foot lot with 4,407 square feet of disturbance to nontidal wetlands. The property is classified as an Intensely Developed Area (IDA).

This office does not oppose the granting of this variance request, provided the applicant completes the required wetland creation mitigation as determined by Maryland Department of the Environment (MDE). Further, the applicant must provide 2,156 square feet of plantings onsite to meet the 10% pollutant removal requirements. Plantings should consist of a mix of native shrubs and trees appropriate to the nontidal wetland environment.

Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA10-08

Martin O'Malley
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Lt. Governor



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January 14, 2008

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

Re: Friendly Farm/Mathews Farm
Local Case #07-110-141

Dear Ms. Carter:

Thank you for submitting the above referenced subdivision for review and comment. The applicant is seeking a minor subdivision approval for two lots. Both lots currently exist as separate parcels created under an intra-family transfer subdivision in 1990. The proposed subdivision will convert the parcels into Lot 2 and Lot 3 and adjust boundary lines to coincide with Mean High Water (MHW). Based on the information provided, I have the following comments:

1. The intra-family transfer provisions must be included on the plat and list the names of the current property owners to whom the lots were transferred.
2. Given the subdivision history of this parcel, no further subdivision may be allowed under intra-family transfer. Please include a note on the plat stating no intra-family transfer development rights remain.

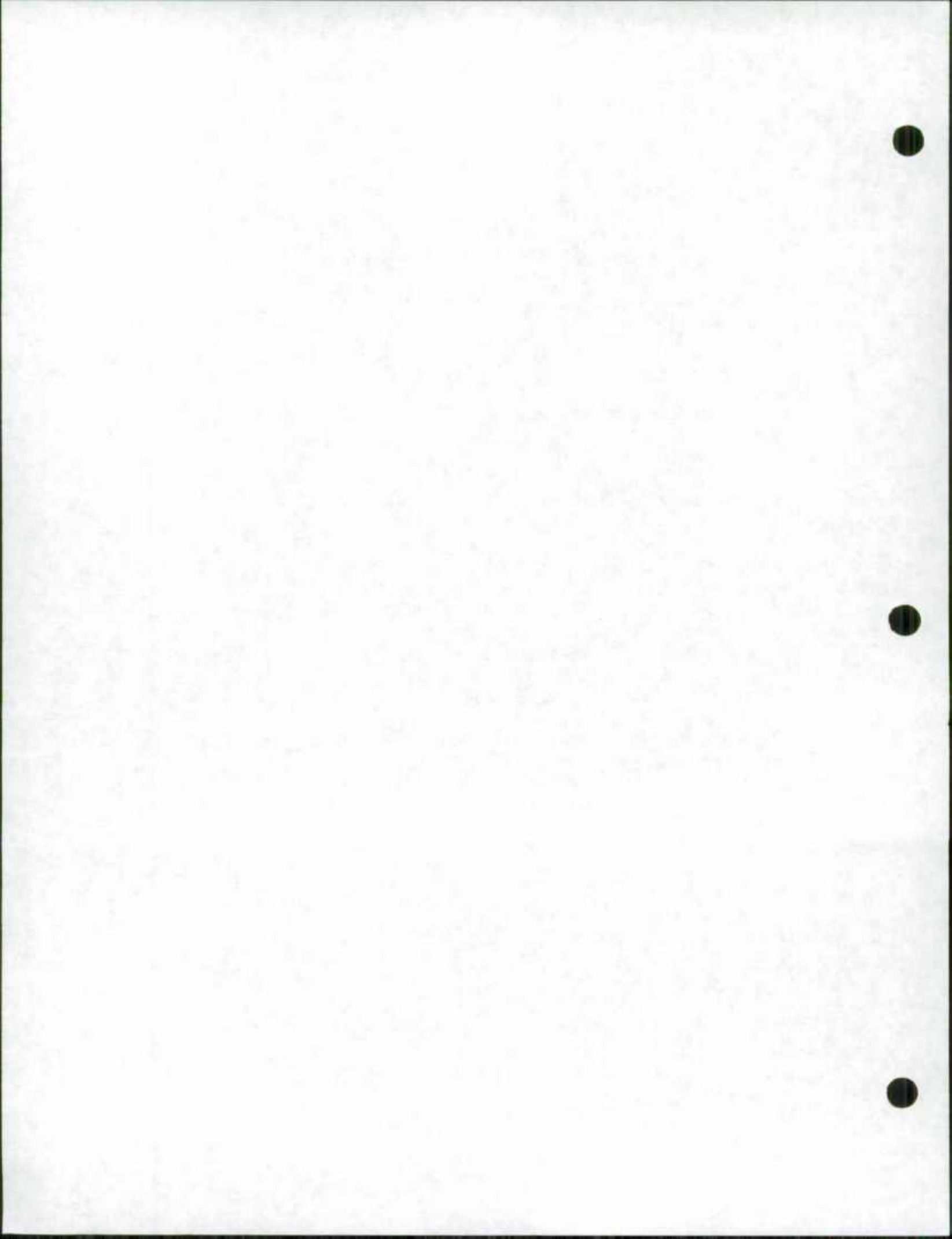
Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 695-07



Martin O'Malley
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January 14, 2008

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, MD 21623

Re: Town of Perryville – Boat Launching Facility Expansion

Dear Ms. Skilling:

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 unanimously approved the construction of the new comfort station and the expansion of the existing parking area using a turf parking system proposed by the Town of Perryville at its boat launch facility located on the Susquehanna River at Roundhouse Drive in accordance with the submitted staff report. In fulfillment of consideration of this project by the Commission, the Town will provide 9,964 square feet of mitigation for impacts to the 100-foot Buffer. The plantings will be provided on-site to the maximum extent possible and fully vegetate the 25-foot setback. The remainder of mitigation may be provided at the Town Park. This approval included the following condition:

Prior to the commencement of construction, the Town of Perryville shall submit a planting plan to Commission staff for review and approval.

Enclosed is a Planting Agreement Form that should be returned with the Planting Plan. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

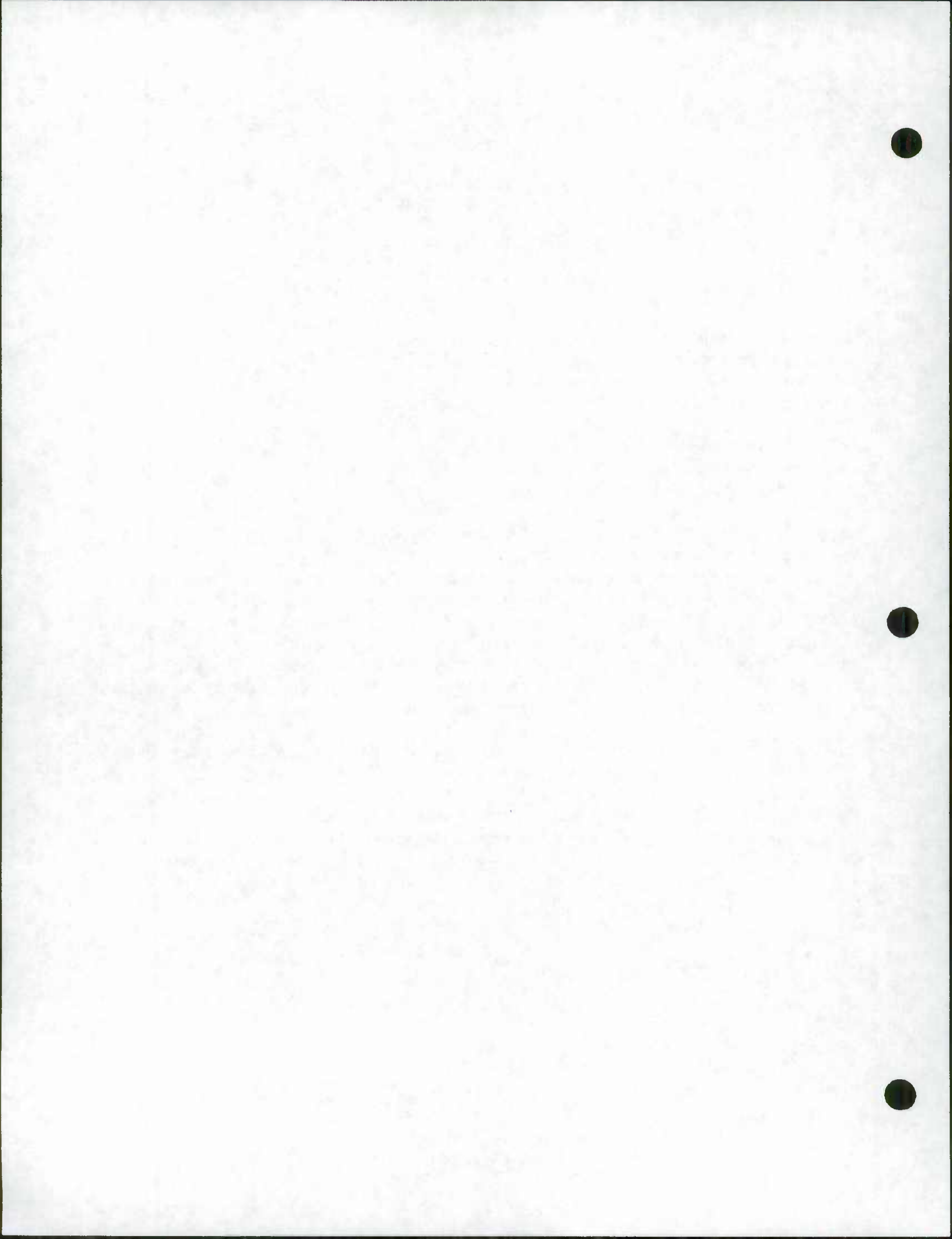
A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PE506-06

Enclosure

cc: Denise Breder, Town Administrator

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



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Anthony G. Brown
Lt. Governor



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January 14, 2008

Joe Kincaid
Maryland Department of the Environment
Eastern Shore Regional Office
407 Race Street
Cambridge, MD 21613

Re: Worcester County Department of Public Works
08-WP-0635; Maintenance Dredging

Dear Mr. Kincaid:

I am writing to comment on the above referenced project. The applicant proposes to maintenance dredge an existing basin and to deposit 600 cubic yards of dredged material directly adjacent to the marina within the 100-foot Buffer. Based on the information provided I have the following comments:

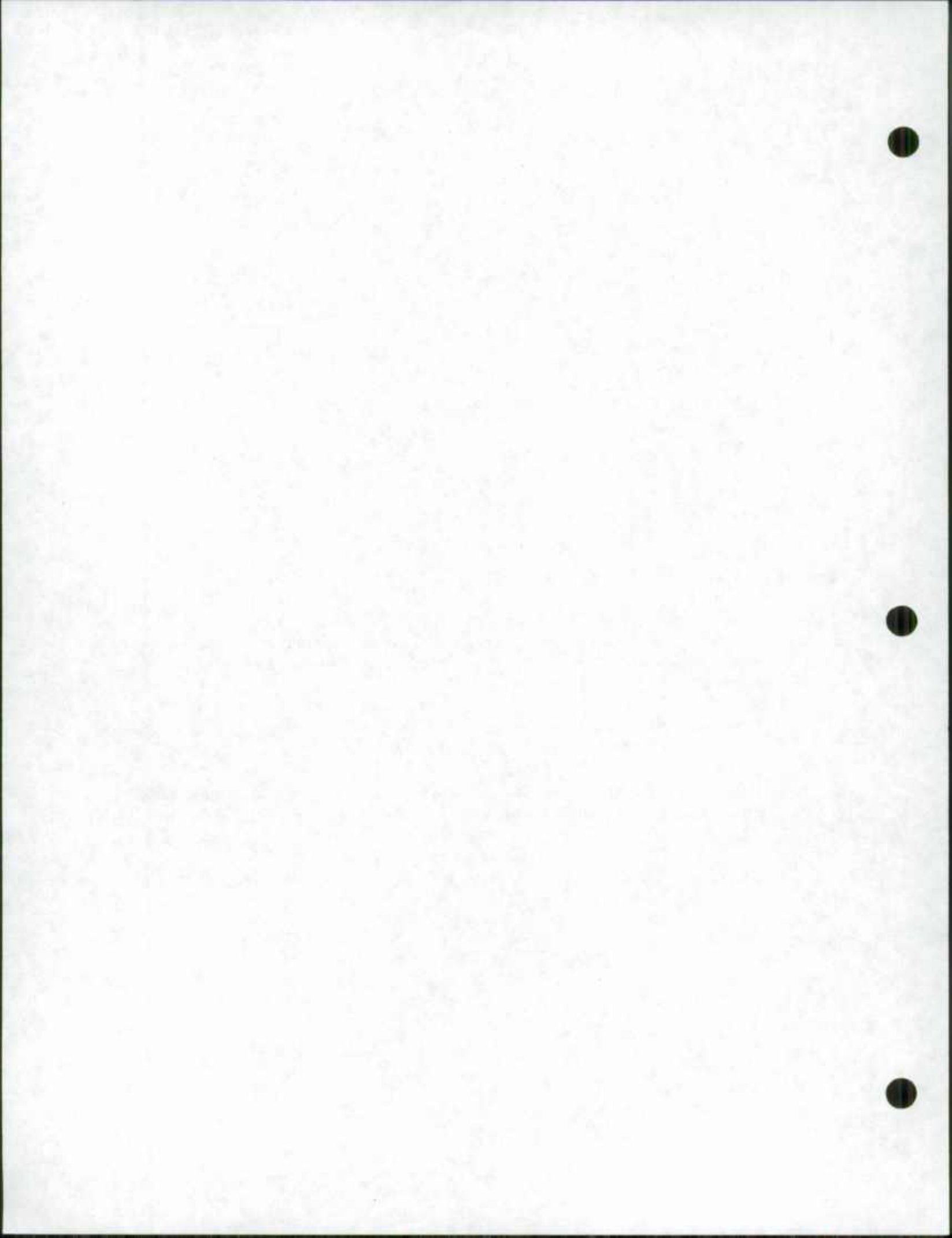
1. Placement of the dredge spoil as proposed in the 100-foot Buffer is prohibited under COMAR 27.01.03.04 unless the location has been previously approved by MDE.
2. If Worcester County has no other option to place the dredge spoil they may contact the Critical Area Commission and apply for a Conditional Approval per COMAR 27.02.06.

Thank you for the opportunity to comment. If you have any questions you may contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner



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January 14, 2008

Neal Welch
Land Acquisition and Planning, E-4
Department of Natural Resources
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Fort Lincoln Day Use Area Comfort Station
Point Lookout State Park

Dear Mr. Welch:

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 unanimously approved the Department of Natural Resources proposal and site plan to construct a comfort station and associated amenities at the Fort Lincoln Day Use Area.

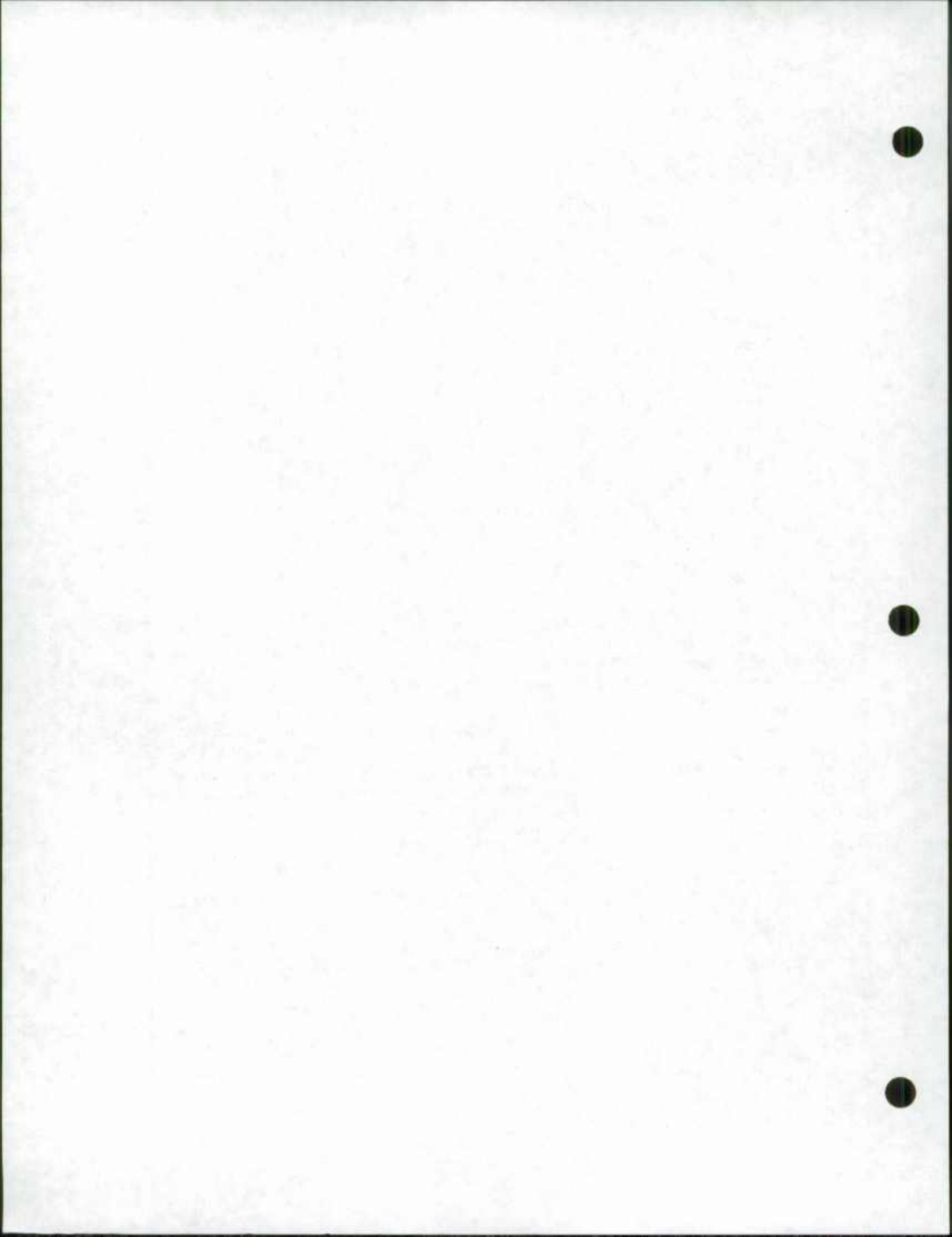
In fulfillment of the proposed mitigation planting plan please sign and return the attached planting agreement. Also, please notify the Commission once the mitigation plantings have been implemented. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
41-07

cc: Andy Hanas, DNR
Avi Sareen, ECS Mid-Atlantic



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January 15, 2008

Ms. Suzanne Schappert
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0006-V
MV Clifford Enterprises

Dear Ms. Schappert:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to construct a new single family dwelling on a 13,806 square foot lot with 4,578 square feet of disturbance to steep slopes. The property is classified as an Intensely Developed Area (IDA).

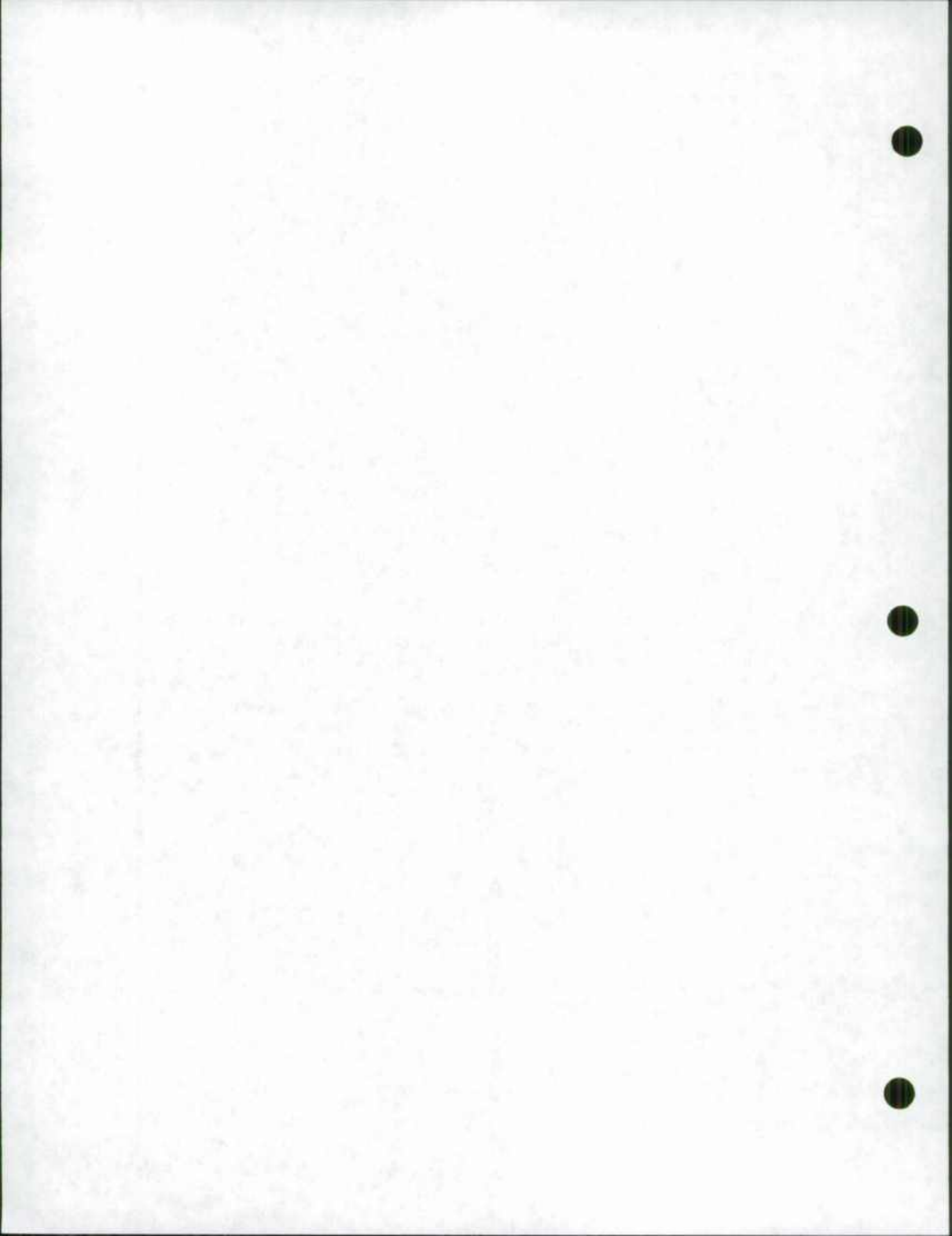
Provided this lot is properly grandfathered, this office does not oppose a variance to establish a dwelling on it. Mitigation of 3:1 is necessary for the disturbance to steep slopes. I recommend a portion of the required mitigation be provided on site prior to the use of off-site planting or fee-in-lieu.

Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA26-08



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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: Local Case #06-021
Gelletly Minor 3 Lot Subdivision

Dear Ms. Walk:

Thank you for providing the above referenced subdivision plat for review and comment. The applicant is seeking to create two additional lots from a 20.99 acre parcel. A portion of the property is located in the Resource Conservation Area (RCA). Based on the information provided I offer the following comments:

1. The Critical Area notes section of the plat should be revised to state a portion of the property lies within the RCA and indicate the total acreage of RCA.
2. The residential density limitation in the RCA is one dwelling unit per twenty acres. When an existing parcel contains less than twenty acres of RCA this office does not support allowing new lot lines, and therefore additional subdivision of the land, within the limits of the RCA even if no development activity is proposed. Allowing such a practice decreases the acreage of RCA on the remaining lands that contain the dwelling unit and increases the nonconforming status of those lands. In this instance, we recommend that the County remove the lot lines of Lot 3 through the RCA.
3. The plat should contain a note stating no additional dwelling units or subdivision may occur within the RCA.
4. The Critical Area line on the plat is labeled as '1000 ft Critical Area Buffer'. This is a confusion of terms and it should be revised to state '1000 foot Critical Area Boundary'.

Thank you for the opportunity to comment. Please provide this office with a revised plat which addresses the comments above. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

CR761-07

Martin O'Malley
Governor

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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: Local Case #06-092
Francis Knussman Sewage Reserve Area Plat

Dear Ms. Walk:

Thank you for providing the above referenced site plan for review and comment. The applicant wishes to locate a replacement sewage reserve area (SRA) on their property. The parcel is 9.496 acres in size of which the southeast corner is within the Limited Development Area (LDA). I have reviewed the proposal and have the following comments:

1. The plat indicates the property is not within the Critical Area. I recommend revising the plat to indicate the boundary of the LDA and the total acreage of LDA on the property.
2. The proposed SRA is located outside the Critical Area portion of the property. Based on this location I have no further comments. Should the proposed location change please provide a copy of the revised plat for further review and comment.

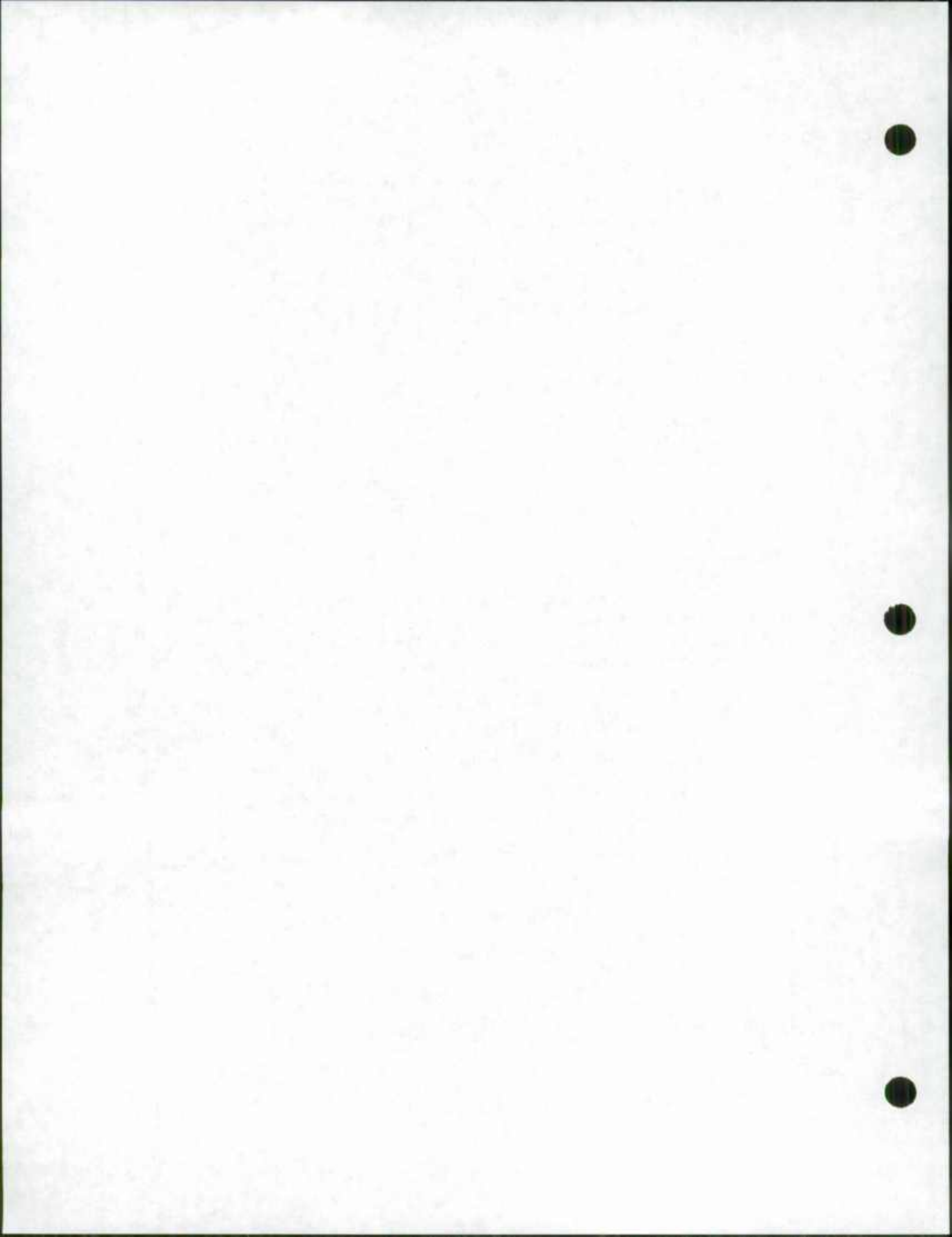
Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

CR762-07



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/

January 18, 2008

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

Re: Local Case #07-005
Stinson and Dulin Lot Line Revisions

Dear Ms. Walk:

Thank you for providing the above referenced subdivision plat for review and comment. The applicant's are seeking to adjust lot lines of three parcels located in the Limited Development Area (LDA). Parcel 354 would decrease from 1.572 acres to 1.275 acres. Parcel 194 would increase from 1.080 acres to 2.091 acres and Parcel 193 would be eliminated. Based on the information provided I have the following comments:

1. Please have the applicant revise the plat to indicate the 15% impervious surface limit that will apply to each parcel under the Critical Area section of notes. In addition, the amount of existing impervious surface area on each parcel should be added to the plat. This will ensure each parcel will remain in compliance with the impervious surface limits.

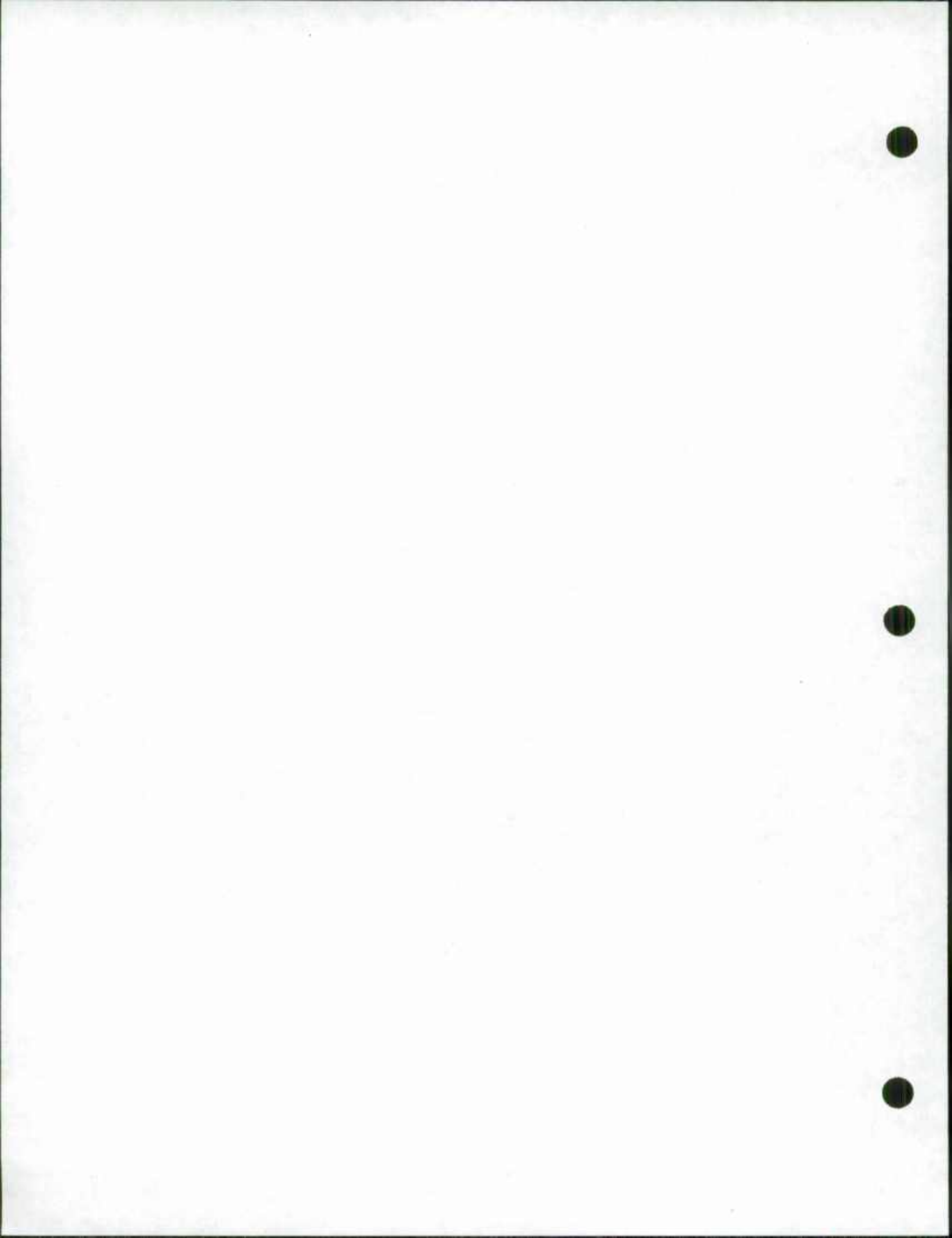
Thank you for the opportunity to comment. Please provide this office with a revised plat which addresses the comment above. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

CR005-08



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: Donald Trice Inc./Hidden Woods
Erosion & Sediment Control Plan

Dear Ms. Walk:

Thank you for providing the above referenced project for review and comment. The applicant is seeking approval on a sediment and erosion control plan to install a driveway on a 21.44 acre lot of which 12.21 acres are located in the Resource Conservation Area (RCA). Based on the information provided I have the following comments:

1. I recommend against allowing the driveway to be cleared at this time. The parcel contains extensive forested area that is likely to contain Forest Interior Dwelling Species (FIDS) habitat. Prior to any approvals, the County should require the applicant to obtain a review of the property by DNR Wildlife and Heritage to determine whether FIDS habitat may be present.
2. If FIDS habitat is present, the applicant or any future property owner that may propose development will need to comply with the Critical Area Commission FIDS Guidance Manual. A central component of the Guidance Manual is limiting impacts to the edge of FIDS habitat versus the interior of FIDS habitat. Based on the proposed driveway, this design does not minimize impacts to the interior of FIDS habitat in accordance with the FIDS Manual.
3. Development activities that do not minimize impacts to FIDS interior habitat require a significant amount mitigation. Prior to County approval for any type of driveway, the applicant should provide the mitigation calculation worksheet from the FIDS Manual and a FIDS mitigation plan demonstrating compliance with mitigation requirements.



4. I recommend against showing the potential future building envelope on this plan as it may cause confusion at a later time. It appears likely that area shown is within an expanded 100-foot Buffer area, and thus would be off limits to development. Further, the applicant is assuming an ability to cross the nontidal wetland shown which he currently does not have. This crossing would require a permit from MDE, which may not be granted given the applicant has the ability to develop the lot without impacting the nontidal wetlands. And lastly, as stated above, the location selected would not comply with the FIDS Guidance Manual and would greatly increase the mitigation requirement.
5. I also recommend against clearing for the driveway through the Critical Area. If the County approves the clearing as shown, it could mislead a future property owner as to their ability to develop the site. Further, such clearing may need to be replanted in the future.
6. Therefore, approval for clearing for the driveway in the Critical Area should wait until a complete site development plan can be completed that would address all of the requirements of the Critical Area.

Thank you for the opportunity to comment. Please provide this office a revised sediment and erosion control plan that addresses the comments above. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

CR021-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 22, 2008

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Villas at Tome Towers

Thank you for submitting the revised site plan for the above referenced project. My last set of comments was provided on December 3, 2007. Based on the response of the applicant it appears they have addressed all of my previous comments. I have no further comment to make at this time.

Thank you for the opportunity to continue to provide comments. If you have any questions, please contact me at 410-260-3475.

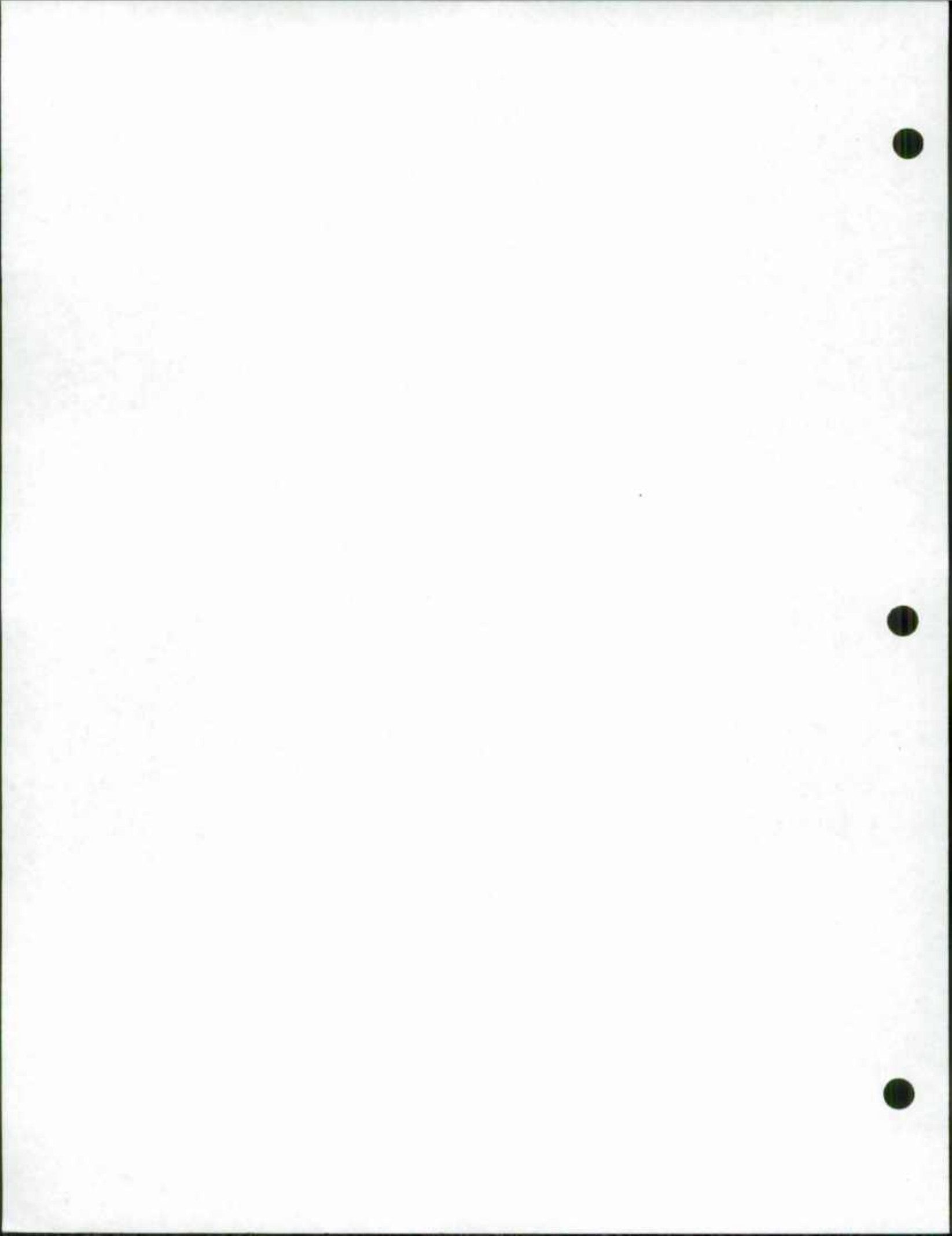
Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

PD143-07

cc: Ms. Sharon Weygand, Town Administrator
Mr. Bradford Harbold, Bailey Harbold Enterprises LLC



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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January 22, 2008

Ms. Angela Willis
Project Planning Division
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: MD 5 Business within Leonardtown Limits
Streetscape Project
St. Mary's County

Dear Ms. Willis:

Thank you for providing revised plans and computations to the above referenced project that was Conditionally Approved by the Critical Area Commission on October 4, 2006. The proposed changes are minor and result in a small increase in impervious surface for the project area. However, SHA intends to continue to provide the same 3:1 mitigation of 31 trees for impacts to the 100-foot Buffer and compliance with the 10% pollutant removal requirement. Based on this information, it appears the project remains in conformance with the Commission approval.

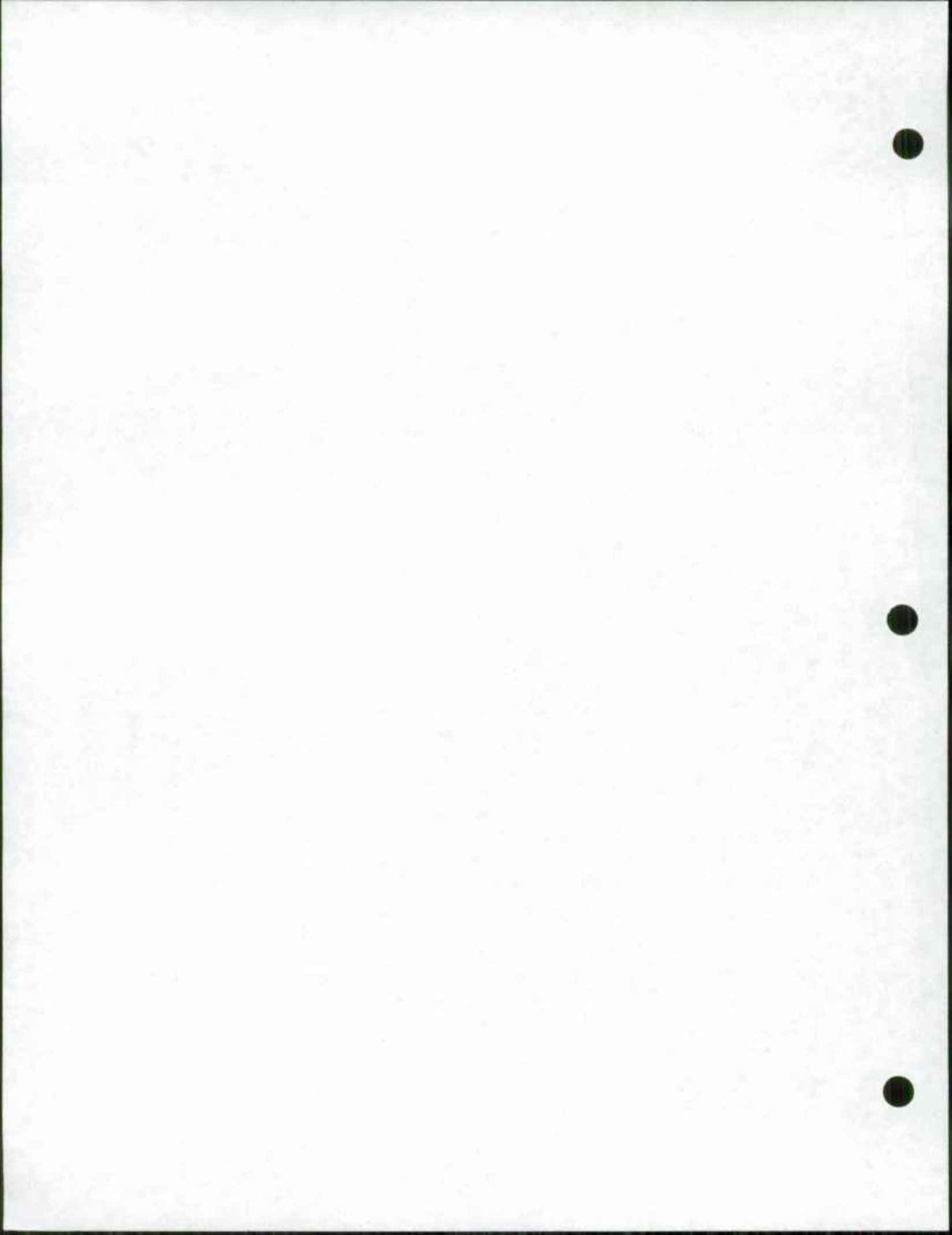
Please notify this office when the two conditions placed on the Commission's approval are fulfilled. The conditions included a planting plan for the 31 trees to be planted within the 100-foot Buffer and a copy of the Memorandum of Understanding between SHA and the Town of Leonardtown for compliance with the 10% Rule. Thank you for your continued communication regarding this project. If you have any questions you may contact Lisa Hoerger at (410) 260-3478.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner

32-06DOT



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. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0007-V
Reedy

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to construct a new 44 square foot deck 9,882 square foot lot in the 100-foot Buffer. The property is classified as a Limited Development Area (LDA). Based on the information provided I have the following comments:

1. The existing impervious surface coverage for this lot is 3,385 square feet or 34%. This is over the 31.25% impervious surface coverage limit for a lot of this size. It is unclear from the aerial imagery when the brick patio and walkway were constructed.
2. The applicant should provide information as to when these items were constructed to ensure the lot is in full compliance prior to the issuance of a variance. In general, this office would not be opposed to the proposed deck on this property, provided the lot is properly grandfathered. However this office cannot support any variances on a lot where outstanding violations exist.
3. Prior to a scheduled variance hearing, the applicant should provide information which addresses the 34% impervious surface area coverage. Once this information is received, this office may be able to reevaluate the variance request and provide additional comments.

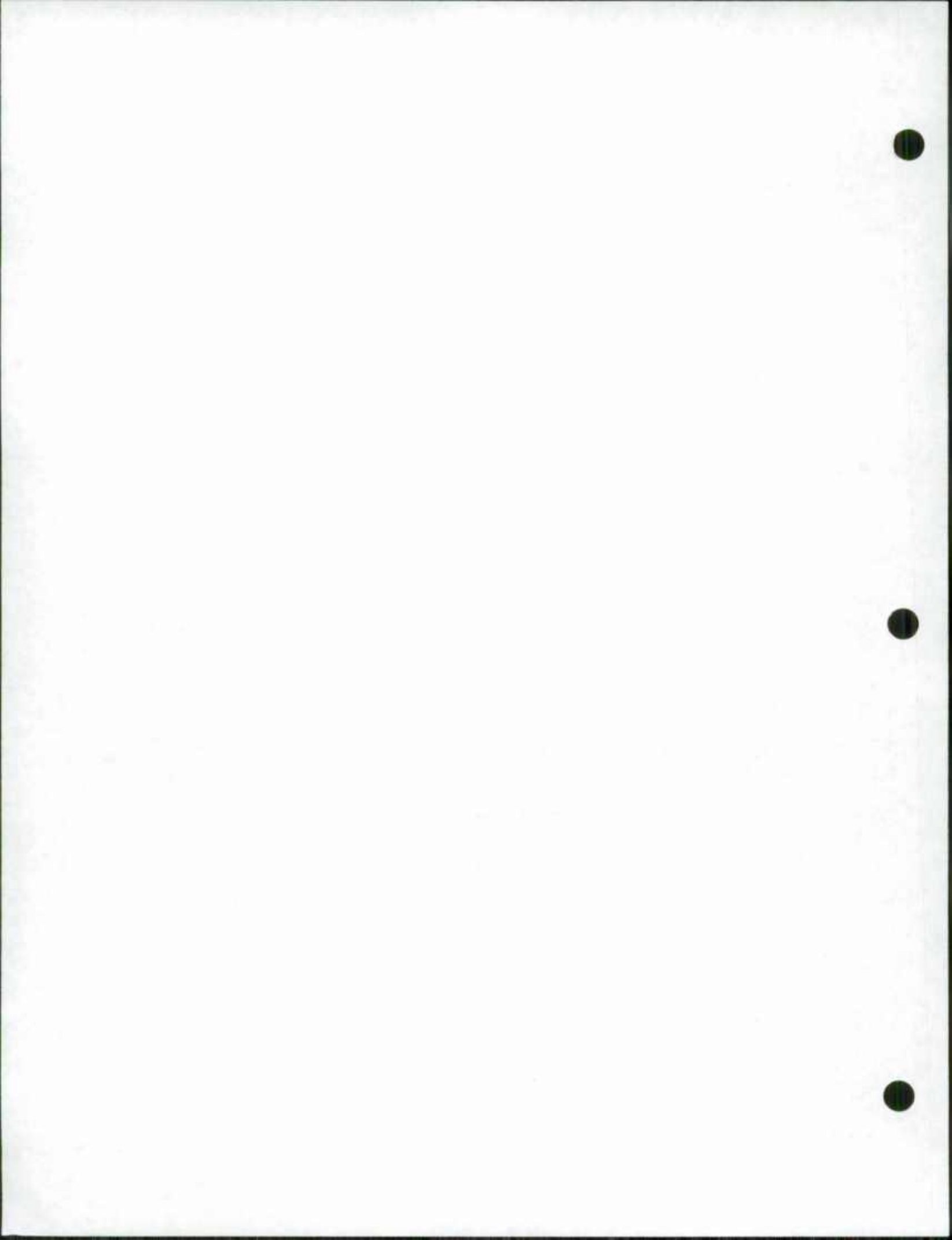
Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA35-08

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



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Lt. Governor



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Executive Director

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January 23, 2008

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

Re: Local Case #07-046
Griep Property Subdivision

Dear Ms. Walk:

Thank you for providing the above referenced subdivision plat for review and comment. The applicant is seeking to create a third lot of 1.251 acres located within the Resource Conservation Area (RCA). Lot 2 was created in 2000 and appears to contain a small area of RCA that may overlap with the platted sewage reserve area for that lot. The remaining residue will be 47.16 acres in size and is partially located within the RCA. Based on the information provided I have the following comments:

1. Plat Note #6 should be corrected to state a portion of the area shown lies within the Resource Conservation Area of the Critical Area.
2. The plat should indicate the location of any tidal wetlands and whether the wetlands are State-owned or private. State-owned tidal wetlands cannot legally be included within the boundaries of a privately owned lot or parcel. Please note that the boundary between State-owned and privately-owned wetlands must be delineated in the field.
3. The applicant will need to establish the total acreage of RCA on the original parent parcel in order to determine the number of allowable dwelling units and their associated facilities that may be located in the RCA.
4. The applicant will also need to establish the boundary of the RCA on the plat and determine whether any part of the sewage reserve area on Lot 2 is located in the RCA. If a portion of the sewage reserve area is located in the RCA, this would count as a development right utilized on the parcel.

5. The application states Lot#3 is for intra-family transfer purposes. Pending receipt of the above information, it is unclear whether the applicant may utilize intra-family transfer at this time. Intra-family transfer subdivision may only occur on properly grandfathered parcels. Additionally, notes regarding the intra-family transfer must be included on the plat and identify who the parcel will be transferred to. Finally, will the existing house be removed prior to recordation?
6. The applicant must obtain a letter of review from the Department of Natural Resources Division of Wildlife and Heritage.

Thank you for the opportunity to comment. Please provide this office with a revised plat and/or any necessary documentation which addresses the comments above. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

CR763-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 24, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2007-0429-V
John Switala

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to the Buffer to construct a deck on the rear of an existing dwelling on a 21,500 square foot lot. The property is classified as a Limited Development Area (LDA). The applicant replaced the dwelling over the existing foundation in 2007, which included a deck on the front of the dwelling. The current request would reduce the setback from Mean High Water (MHW) from 30-feet to 20-feet. The setbacks of the neighboring properties are approximately 25-feet and 30-feet.

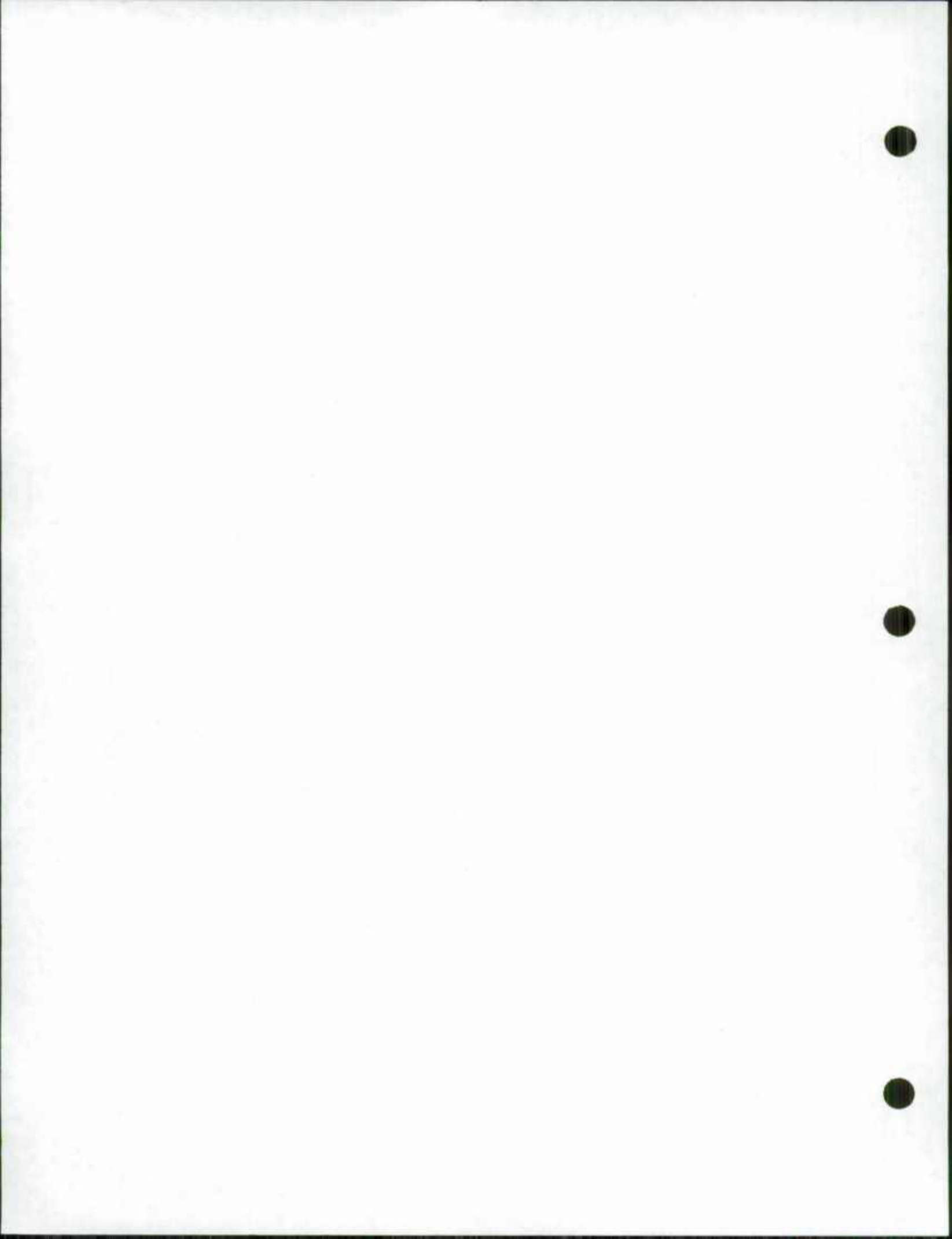
Typically, this office would not oppose a variance request for the addition of a reasonable sized deck. However, given the dwelling was recently replaced it would appear the applicant could have accommodated the decks at that time and maintained the 30-foot setback. Further, the applicant has a deck on the front of the property providing them reasonable opportunity to enjoy outdoor living space. 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." Based on the information provided, I do not believe this standard is met.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA09-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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January 24, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0010-V
Douglas Dawson

Dear Pam Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow a dwelling addition with less setbacks than required. The property is classified as a Limited Development Area (LDA) and currently developed with a single family dwelling and driveway.

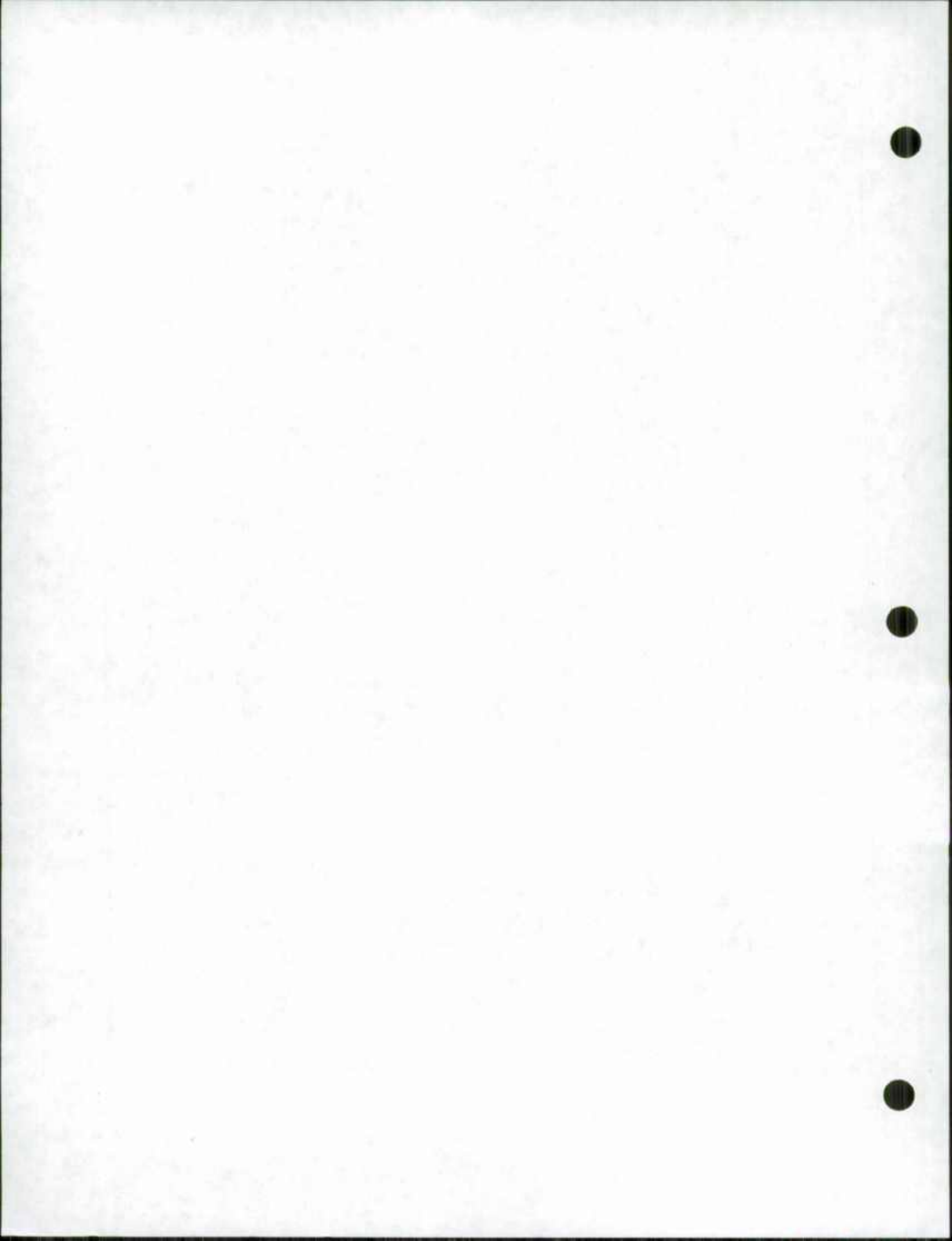
Based on the information provided, we have no comments regarding the setback variance.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA41-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Ren Serey
Executive Director

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January 24, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0014-V
Edward Weibe

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow a pier with less setbacks than required. The property is classified as a Limited Development Area (LDA) and currently developed with a single family dwelling, pool, and driveway.

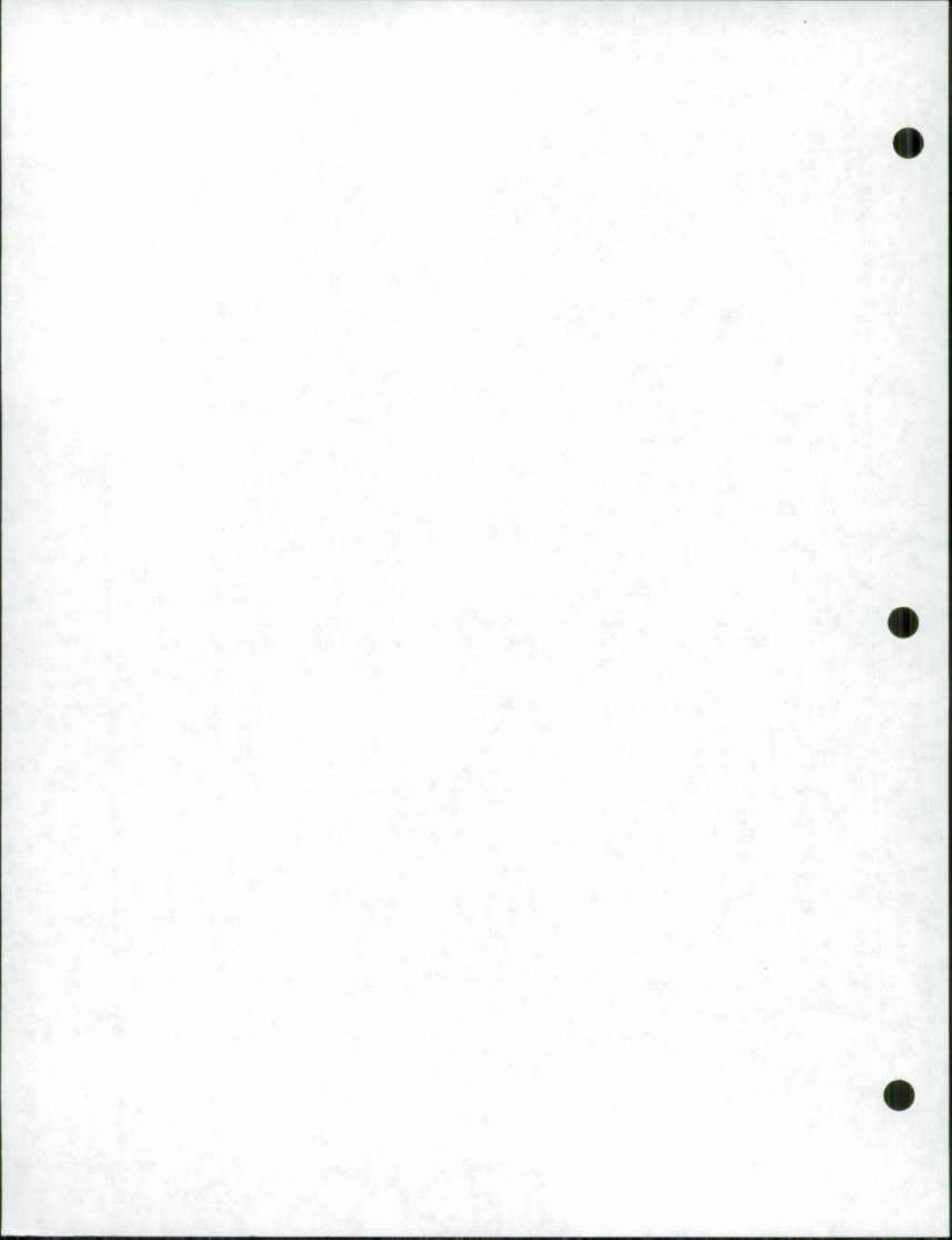
Based on the information provided, we have no comments regarding the setback variance. Given the wooded nature of the site, I recommend the applicant work with the County to obtain a Buffer Management Plan to guide appropriate access to the pier.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA43-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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January 25, 2008

Gary Letteron
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

Re: Key Highway Beautification Project
Chesapeake Bay Critical Area Consistency Report

Dear Mr. Letteron:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing your consistency determination and the accompanying site plan, this office agrees that the project is consistent with the Baltimore City Critical Area Program for the reasons outlined below. The project will result in the following:


- The project involves the replacement of a portion of existing road surface with a median that will contain significant areas of planting for an overall reduction in impervious surface from 97% to 87%.
- Compliance with the 10% Rule Requirement is met by the reduction in impervious surface.
- The County will plant approximately 8,000 square feet of area with 29 trees, 290 shrubs, and 720 containers of grass.
- This activity is not located within the 100-foot Buffer.
- No other habitat protection areas (colonial nesting waterbird sites, endangered/threatened species areas, anadromous fish propagation waters, waterfowl staging areas, or forest interior dwelling bird habitats) will be impacted.
- No tidal or non-tidal wetlands will be impacted.

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

Gary Letteron
January 25, 2008
Page 2 of 2

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

cc: BA51-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Chair

Ren Serey
Executive Director

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January 25, 2008

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

Re: Chesapeake Cove Concept Plan Lots 1-5, and 11
Forest Interior Dwelling Species Habitat Assessment

Dear Mr. DiGiacomo:

Thank you for forwarding the above referenced habitat assessment for review and comment. The applicant is seeking to subdivide a parcel with 121 acres in the Resource Conservation Area (RCA). Six lots will be located in the Critical Area. The forest coverage was noted as potential Forest Interior Dwelling Species (FIDS) habitat by DNR Wildlife and Heritage. In response, the applicant submitted a FIDS habitat plan and report.

In June 2000, the Critical Area Commission published "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" that replaced the first guidance paper published in 1986. This publication is available on our website. My understanding is that the County is proceeding with the required updates to its local Critical Area program, including use of the Critical Area Commission's June 2000 FIDS Guidance. Therefore, the Chesapeake Cove plan must be evaluated according to the Guidance in order to demonstrate compliance with FIDS conservation. Changes that are outlined in the 2000 Guidance paper include a description of the legal basis for protection of FIDS habitat, a clarification of methods used to identify FIDS habitat, and the addition of six species to the FIDS species list for a total of twenty five birds. The paper also includes specific Site Design Guidelines to help applicants design subdivisions in a manner that conserves FIDS habitat. Finally, the Guidance Document includes a FIDS Conservation Worksheet that calculates the amount of required FIDS mitigation for a proposed subdivision. Subdivisions that do not follow Site Design Guidelines must provide mitigation for the amount of direct habitat cut plus two times the amount of interior habitat lost.

The presence and abundance of FIDS is closely related to features such as forest area, age, shape, and proportion of edge habitat present. Thus, determination of the potential for FIDS habitat is based on two condition types that are outlined on page 11 of the FIDS Document. The first type

includes forests of significant size with approximately 10 or more acres of "forest interior" habitat and a forest tract dominated by pole size (5" DBH) trees or larger. The second type is riparian forest areas of at least 50 acres with an average total width of at least 300 feet. These types of FIDS habitat are not strictly based on minimum amount of forest conservation interior. Rather, their location along waterways provides a highly valued form of habitat. The forest habitat on this parcel meets both these criteria. The applicant has the option to conduct a breeding bird survey in the spring per the methods outlined in the 2000 Guidance Document. If the applicant does not pursue a survey, then it is assumed that the forest area within the Critical Area contains FIDS.

Once a FIDS habitat determination is made, the subdivision plan must be evaluated to determine whether it meets the Site Design Guidelines contained in the FIDS Guidance. The guidelines first look to restricting development to nonforested areas. If development must occur in forested areas, then it should be restricted to "edge" habitat areas, or the first 300 feet of existing forest edge. It should be noted, that the first 300 feet forest from a waterway or tidal water does not constitute edge habitat as this is the significant riparian habitat described above. Further, riparian forests require conservation in the Critical Area. Therefore, fragmentation of these areas through development is treated as interior habitat loss.

I have evaluated the submitted proposal based on the 2000 FIDS Guidance Document and have the following comments:

1. Appendix D of the Guidance Document should be filled out by the applicant and submitted to your office for review. Appendix D evaluates the proposal per the Site Design Guidelines and provides a worksheet to calculate the amount of required mitigation. Based on the limits of clearing shown for each house site, the entire interior riparian area for Lots 1-5 will be lost based on this fragmentation. Further, Lot 11 does not satisfy the Guidance Document as well. Therefore, my preliminary evaluation of the subdivision indicates that it does not follow the Site Design Guidelines.
2. The proposed development location for Lots 1-5 is within the 300-foot riparian area. The riparian area is to be conserved in the Critical Area and must meet conservation requirements.
3. The proposed development location for Lot 11 is within "interior habitat".
4. There are options on this site reconfigure the lots to conserve FIDS habitat. It may be possible to meet the FIDS Site Design Guidelines in the current lot configuration, however further review with your office will be necessary.
5. Assuming that the current lot configuration is acceptable, I have included a copy of the site plan for Lots 1-4 showing the estimated 300-foot riparian interior habitat (green line), and the estimated 300-foot boundary from the area cleared (red line). In order to complete the mitigation worksheet, the applicant must calculate the amount of "interior habitat" lost. The entire 300-foot area around the new clearing must be evaluated for

Mr. Tony DiGiacomo
January 24, 2008
Page 3 of 3

amount of interior habitat that is converted to edge habitat. For example, on Lot 1 the hatched area shown is the amount of "interior habitat" that is lost due to development.

6. The current FIDS impact assessment contained in the applicant's report should be updated with Appendix D and a mitigation calculation provided.
7. Lastly, in addition to listing the recommendations for further minimizing impacts to interior habitat as provided, the applicant will need to establish how the mitigation requirement will be met for the site prior to final plat approval. A mitigation plan submitted by the applicant and for which the applicant is responsible, must be approved by the County prior to final subdivision approval.

Thank you for the opportunity to provide comments. Please provide this office with a revised FIDS assessment and Habitat Protection Plan which addresses the comments above. If you have any questions, you may contact me at (410) 260-3475.

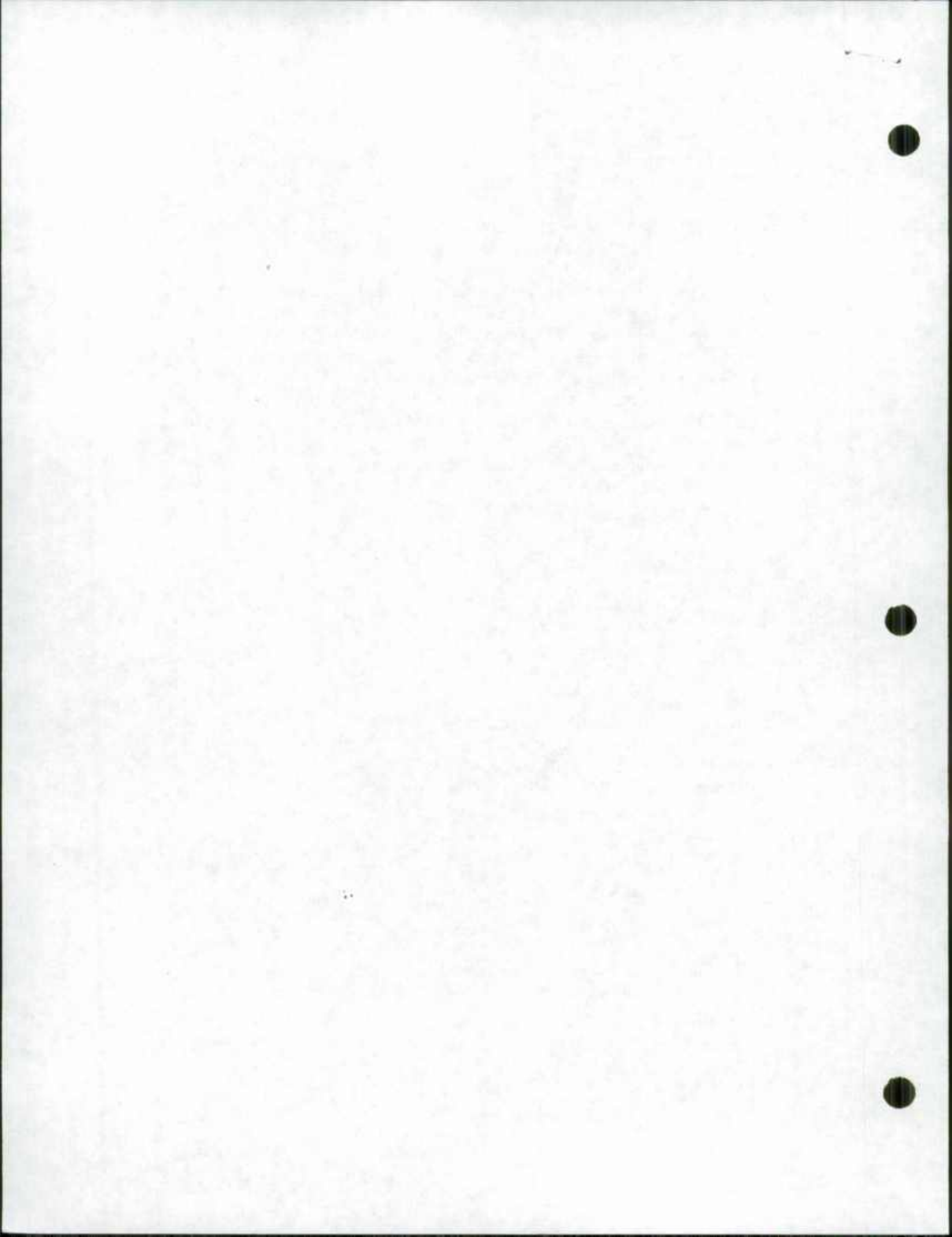
Sincerely,



Kate Schmidt
Natural Resources Planner
CE397-07

Enclosure

cc: James Keefer, Morris & Ritchie Associates
John Canoles, Eco-Science Professionals
Lori Byrne, DNR Wildlife & Heritage
Jim McCann, DNR Wildlife & Heritage



Martin O'Malley
Governor

Anne M. Arundell
Governor



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Executive Director

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January 25, 2008

Mr. Joseph Johnson
Cecil County Office of Planning and Zoning
129 E. Main Street, Room 300
Elkton, Maryland 21921

Re: Map Amendment – Anchor Marina

Dear Mr. Johnson:

Thank you for providing a copy of a request to designate a property, Anchor Marina, located on the Northeast River as a Buffer Exemption Area (BEA). The property is Tax Map 31, Parcel 1104, 2.3 acres in size and is currently designated as Limited Development Area (LDA). The proposal will be heard by the County Planning Commission on February 20, 2008 in order to make a recommendation to the Board of County Commissioners.

COMAR 27.01.09.01.C(8) provides guidance to jurisdictions on how to request certain portions of the Critical Area be designated as a BEA. As you are aware, the designation of a site as BEA is dependent upon a number of factors including that the parcel was of record as of December 1, 1985 and that the Buffer was significantly impacted by development at the time of adoption of the Cecil County Critical Area Program. In order to determine a site as BEA, Cecil County must provide a written evaluation and supporting reasons which demonstrate the degree to which the proposed BEA does not perform each of the following Buffer functions due to the pattern of development that existed along the shoreline

1. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
2. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
3. Maintain an area of transitional habitat between aquatic and upland communities;
4. Maintain the natural environment of streams; and

5. Protect riparian wildlife habitat.

Based on the information contained in the application submitted to your office I have the following general comments:

1. In addition to making findings for the above, the County should include an aerial photo or other similar evidence that predates the date of program adoption to support the existence of impervious surface coverage on the site at that time.
2. A cursory review of the adjacent shoreline areas, including the Town of North East's BEA map, shows the adjoining properties are mapped BEA which suggests there was likely an existing pattern of development along this shoreline that prevents the Buffer from fulfilling its functions.

Should the Board of County Commissioners approve this proposal it must be submitted to the Critical Area Commission and approved as established in Section 8-1809 of the Critical Area Law. Once the application is accepted as complete, it will be processed and the Chair will make an amendment or refinement determination within thirty days. At that time, Commission staff will notify the County as to the procedures for review by the Critical Area Commission.

Thank you for the opportunity to provide comments at this time. If you have any questions regarding this process please contact me at (410) 260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner

Cc: Eric Sennstrom, Director of Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401

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January 28, 2008

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

Re: Piney Point Lighthouse Museum Site Plan
St. Mary's County Board of Commissioners

Dear Ms. McCauley:

Thank you for submitting the above-referenced site plan for review and comment to the February Technical Evaluation Committee. The St. Mary's County Board of Commissioners is seeking to redevelop the Piney Point Museum property located on Lighthouse Road in Piney Point. The site is designated as Intensely Developed Area (IDA).

It appears this project is required to obtain Conditional Approval from the Critical Area Commission for the proposed impacts to the 100-foot Buffer. Section 41.4.3.b of the St. Mary's County Comprehensive Zoning Ordinance states a variance is required to place new development, including expansion of existing development in the Buffer, unless the site is a designated Buffer Management Overlay (BMO). As further described below, the Critical Area Buffer is incorrectly shown on this site plan. Therefore, it is likely this project does not fully meet Section 41.4.3 of the CZO and would require approval by the Critical Area Commission.

Based on the information provided, I have the following comments at this time:

1. The location of the 100-foot Buffer must be delineated in the field from Mean High Water (MHW) or the edge of tidal wetlands or tidal waters, not the property boundary as shown. Additionally, it appears property boundaries are extended out over tidal waters. State tidal waters or wetlands cannot legally be included within the boundaries of a privately owned lot or parcel and the boundary should be adjusted accordingly.
2. The impervious surface calculations shown on the Critical Area Plan will need to be adjusted per the location of the 100-foot Buffer.

TTY for the Deaf

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

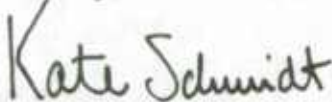


3. Per Section 41.5.3.i(3)(b), impervious surface may be traded in the 100-foot Buffer provided it meets the standards described, including mitigation of 2:1 for the area of new disturbance in the 100-foot Buffer, all areas where surfaces are removed are planted in natural vegetation, and replacement surfaces are located no further waterward than existing surfaces. The submittal to the Commission should address this standard.
4. The site is designated as Intensely Developed Area (IDA) and the project must meet the 10% pollutant reduction rule. A copy of the calculations should be forwarded to this office for review.
5. The project must be reviewed by Maryland Historical Trust and by the Department of Natural Resources' Division of Wildlife and Heritage. A copy of the review letter should be submitted with the application to the Commission.
6. The Critical Area Commission now requires a final planting plan for all mitigation over 5,000 square feet to be provided prior to their review.
7. Lastly, the project must have obtained or be close to receiving approval for Sediment and Erosion Control and/or Stormwater Management.

It is my understanding that the applicant has an outstanding planting requirement from Conditional Approval received in 2004 for the expansion of the boat collection facility. The planting requirement included 12 trees and 18 shrubs to be planted in the Buffer adjacent to the tidal creek to the north of the site. It is also my understanding the applicant is accounting for this mitigation in their overall site development plan.

In order to make a final determination as to whether a Conditional Approval is required, the applicant should address the items listed above and submit the changes to this office for review. Thank you for the opportunity to comment at this time. If you have any questions, you may contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
SM226-04

Cc: Sue Veith, Environmental Planner
John Rohde, Human & Rohde, Inc.

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

MEMORANDUM

To: Roland Limpert, Environmental Review Unit

From: Kate Schmidt, Critical Area Commission *KS*

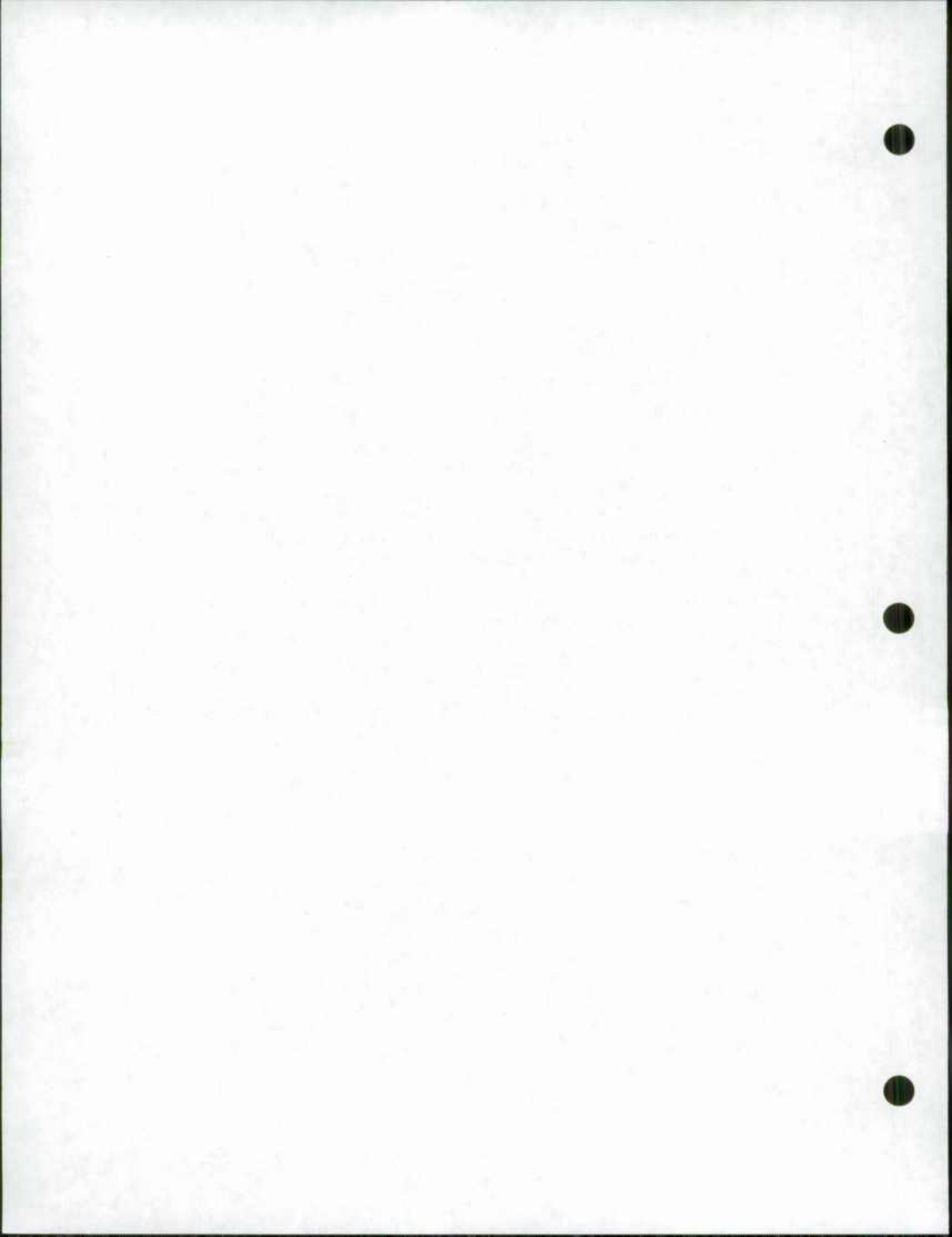
Date: January 28, 2008

Re: U.S. Army Corps of Engineers, Draft Environmental Assessment, Proposed C&D Canal Trail; C&D Canal, Elk River Area; Cecil County, Maryland

Thank you for providing the above referenced document for review and comment. The project proposed is to construct a multi-use trail on the north side of the canal from Delaware City, DE to Chesapeake City, MD. The Maryland portion of the proposal also includes the construction of two trailheads located at Chesapeake City. As noted in Section 6.0 of the Environmental Assessment, further coordination is required to obtain full compliance with the Coastal Zone Management Act, including consistency with the Critical Area Law and Criteria.

In order to make a consistency determination a set of site plans of the Maryland portion of the trail and for the two proposed trailheads in Chesapeake City should be forwarded to this office for review. Once these plans have been received, I will have additional comments that I may forward at that time.

Thank you for the opportunity to provide comments. Should you have any questions you may contact me at (410) 260-3475.



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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January 31, 2008

Mr. Chip Price
Program Open Space
Maryland Department of Natural Resources
580 Taylor Avenue
Annapolis, Maryland 21401

Re: DNR Clearinghouse Review of Local POS Project
Town of Leonardtown, St. Mary's County

Dear Mr. Price:

Thank you for submitting information related to the above referenced project. The Town of Leonardtown and St. Mary's County are requesting authorization to convert a parcel of 1.89 acres of land purchased for public open space to another use. A separate 1.87 acre parcel will be converted to parkland. These two parcels, in conjunction with a third, make up the Port of Annapolis project site. Totaling 4.29 acres the Port of Annapolis site will house a winery and grape growing demonstration area, picnic areas, an enhanced canoe/kayak launch, scenic overlooks, natural meadow areas, parking, and other recreational activities. I have the following comments:

1. On May 4, 2005 the Critical Area Commission granted the Town of Leonardtown Conditional Approval of the Leonardtown Waterfront Park with two conditions. The second condition required the Town to complete a mitigation package prior to the issuance of any permits for development activities on the park or commercial use. Subsequently, on June 23, 2006, Commission staff approved the mitigation plans for the Waterfront Park, which included providing 1.11 acres of plantings at the Port of Leonardtown Site. The plantings were to be completed by the Spring of 2008.
2. The sketch submitted for this transaction request indicates numerous activities planned at the Port of Leonardtown. The sketch is not sufficiently clear to determine whether the required 1.11 acres of mitigation may still be accommodated.

3. This office has requested further information from the Town of Leonardtown regarding the completion of the Leonardtown Waterfront Park mitigation package. Once that information is submitted, I may provide further comments to your office.

Thank you for the opportunity to provide comments. If you have any questions or concerns, please contact me at (410) 260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

Cc: Laschelle Miller, Town of Leonardtown

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 31, 2008

Ms. Laschelle Miller
Town Administrator
Town of Leonardtown
PO Box 1
Leonardtown, Maryland 20650

Re: Leonardtown Waterfront Park
Mitigation Planting at Port of Leonardtown

Dear Ms. Miller:

The purpose of this letter is to follow up on the implementation of the required mitigation plantings for the Leonardtown Waterfront Park. In particular I am concerned about the 1.11 acres of mitigation required at the Port of Leonardtown site. As you are aware, in a letter from Mary Owens, dated June 23, 2006, the final Landscape Plan for the Leonardtown Waterfront Park site was approved with the expectation that the remaining mitigation strategies would be implemented within the next two years. The two year deadline for accomplishing the remaining mitigation strategies, including the planting at Port of Leonardtown is this spring, June 2008.

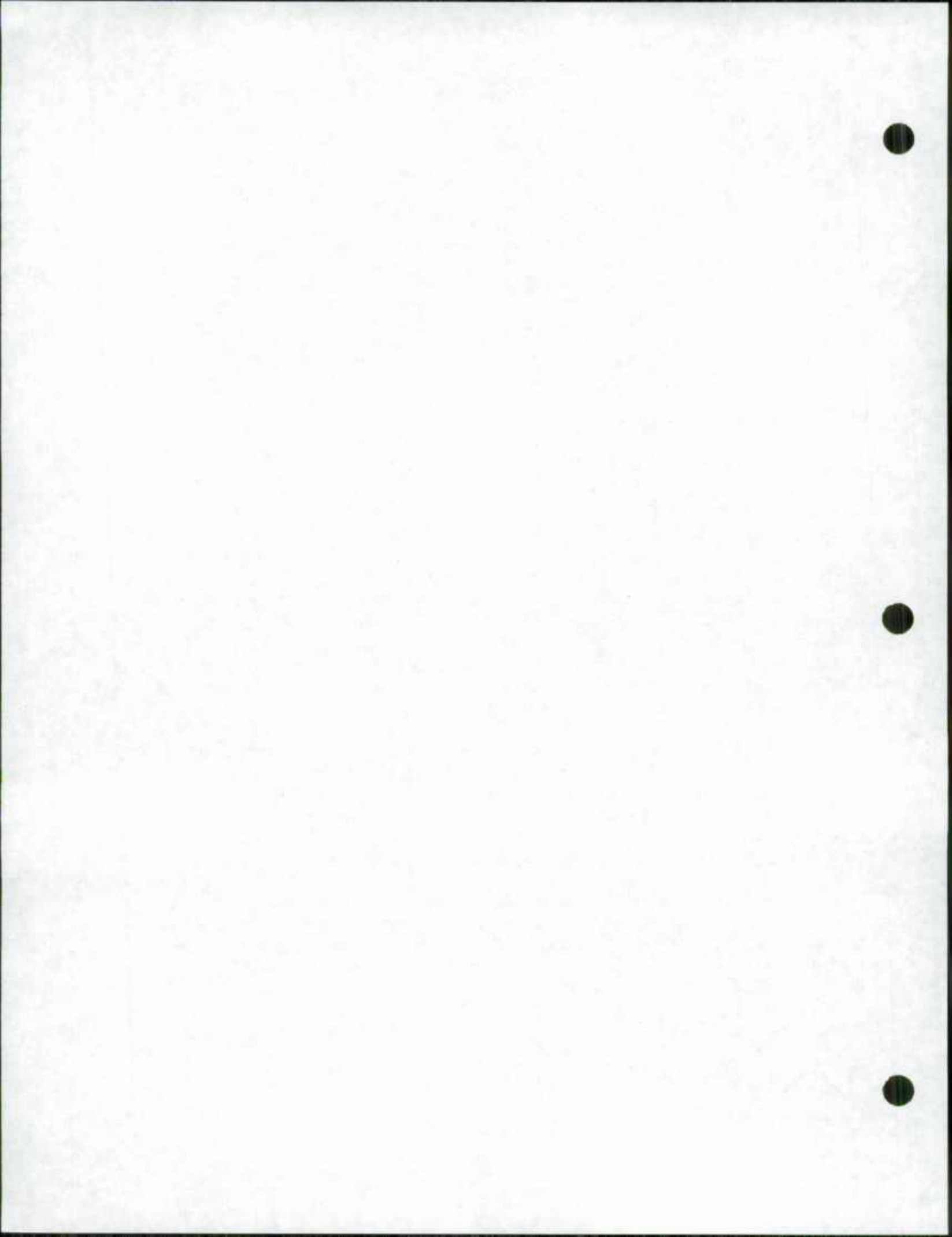
Recently, our office has received a notice from Program Open Space regarding the transfer of properties at Port of Leonardtown. A site design dated June 26, 2007 was included with the notice indicating significant public use of the site for demonstration gardens, overflow parking, kayak storage and launch, and other buildings. This site plan is significantly more detailed than one previously submitted to this office in 2006. It is unclear from the more recent plan whether the 1.11 acres of mitigation may continue to be accommodated on this site, particularly within the 100-foot Buffer.

In order to verify the Town is accounting for the required mitigation and will provide for that mitigation in a timely manner, please provide us with an update regarding the overall mitigation package for Leonardtown Waterfront Park as well as any changes to the plan previously approved by the Commission. If necessary, I am available to meet in the field and visit all sites. You may contact me at (410) 260-2475 if you have any questions or concerns.

Thank you,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 31, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case #2007-0437-V
Snyder Development Corporation – Elks Landing Subdivision

Dear Ms. Cotter:

Thank you for submitting the above-referenced variance for review and comment. The applicant is proposing a 31 lot subdivision on a 25.69 acre property of which 22.12 acres are located within the Limited Development Area (LDA). Based on the information provided I have the following comments:

1. I am unable to reconcile the amount of proposed temporary and permanent disturbance to nontidal wetlands and the 25-foot nontidal wetland buffer. The impacts cited in the cover letter from Boyd & Dowgiallo, the October 2006 Critical Area report from McCarthy & Associates, and the Maryland Department of the Environment (MDE) Letter of Authorization (LOA) are significantly different.
2. Additionally, I am unable to determine whether the MDE LOA includes the filling of nontidal wetlands to create Lots 28-31. A copy of the approved plan that accompanies the LOA should be included in the application.
3. Provided the request for impacts to nontidal wetlands and the buffer is the same as that authorized by MDE this office does not oppose this variance request.
4. Lastly, it appears the 100-foot Buffer to tidal waters has not been properly expanded to include hydric soils for Lots 1-10 on the western side of Owings Beach Road. The expanded 100-foot Buffer should be verified.



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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner
AA11-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 4, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Elk Point Marina, Concept Plat
March 2008 Technical Advisory Committee

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above-referenced subdivision. The applicant is proposing a 52-lot subdivision on a 75.62 acre parcel. Currently, 27.96 acres are designated as Intense Development Area (IDA) on which 41 of the lots are proposed. The remaining 47.65 acres are currently designated as Resource Conservation Area (RCA). The applicant is proposing the use of growth allocation to change the designation of 15.53 acres from RCA to Limited Development Area (LDA) in order to accommodate the remaining 11 lots. I have reviewed the plat and draft TAC comments and offer the following comments:

Conceptual Site Plan

1. Proposed Development Envelope – The Critical Area Commission Policy for the Counting of Growth Allocation (Adopted February 1993, Amended October 1995) requires jurisdictions to deduct the acreage of an entire parcel proposed for growth allocation, unless the development envelope concept is used. The development envelope, such as the one proposed, must include individually owned lots, required buffers, impervious surfaces, roads, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria. If the development envelope concept is used, only one development enveloped shall be established per parcel of land and a minimum of 20 acres must remain as RCA lands.
2. Community Sewer System - The proposal calls for a share community sewer system to be located in the remaining RCA portion of the property that will support development in

the IDA and proposed LDA. Community facilities that support development outside the RCA, such as the shared community sewer system, cannot be proposed in the boundary of the RCA as they are facilities necessary to support a dwelling unit and would impact the density calculations. Further, the Critical Area Commission's policy for the deduction of growth allocation as described above requires that on-site sewage disposal methods be included in the growth allocation area. Therefore, in order to proceed as proposed, the entire area of the shared community sewer system will need to be included in the growth allocation request.

3. 300-foot Setback – One of the locational guidelines that jurisdictions are required to apply when submitting a growth allocation request, is the provision of a 300-foot setback from the landward edge of tidal wetlands or tidal waters when converting RCA to LDA or IDA. Given the extensive sensitive features of this site, the applicant should address why this 300-foot setback is not included in the proposed concept plan.
4. 110-foot Tributary Stream Buffer – The draft TAC comments should be revised to indicate a 110-foot Buffer is required for all tributary streams, which includes both perennial and intermittent streams.
5. Expanded 110-foot Buffer – Per Section 196 of the Cecil County Zoning Ordinance, the 110-foot Buffer to tidal waters, tidal wetlands, and tributary streams, must be expanded to include contiguous sensitive areas, such as steep slopes, hydric soils, or highly erodible soils.
 - a. Steep Slopes – The Buffer is not expanded correctly for steep slopes around the entire property. The Buffer is to be expanded four (4) feet for every one (1) percent of slope, or to the top of the slope, **whichever is greater in extent**. For example, in the vicinity of lots 46-48, the average slope is approximately 25%. Therefore the Buffer expansion is $25 \times 4 = 100$ feet beyond the 110-foot Buffer, for a total of 210-feet.
 - b. Soils - The concept plat should indicate soil type in order to demonstrate whether further expansion of the Buffer is required for hydric soils or for highly erodible soils. Expansion of the Buffer for these resources shall be to the upland limit per Section 196.2.c of the Zoning Ordinance.
6. Natural Heritage Areas – Plum Creek is both a designated Natural Heritage Area and a Wetland of Special State Concern. In order to address both the County Growth Allocation Scoring System, the Critical Area Commission Criteria and Law regarding growth allocation, and COMAR 27.01.09.03 & .04 regarding threatened and endangered species and plant and wildlife habitat, the applicant must protect these resources. Therefore, the applicant must contact the DNR Division of Wildlife and Heritage and solicit a detailed review of their Concept Plat. Any recommendations made by Wildlife and Heritage, which may include site surveys, incorporation of BMPs, and site design considerations, must be addressed and incorporated. In addition, the applicant must contact the Maryland Department of the Environment since the site supports a Wetland of Special State Concern. These contacts should be made as soon as possible.

7. Shoreline Erosion Control – The application indicates shoreline erosion control measures will be installed at this site. The applicant should contact MDE Tidal Wetlands Division to determine the type of replacement structure that may be allowed.
8. Community Marina – The concept plan states approximately 70 private slips will be provided as part of the subdivision. Information included in our files state the old commercial marina provided 50 boat slips. If the applicant is proposing a community facility for the residents of the subdivision, the number of slips is determined by Section 198 of the Cecil County Zoning Ordinance. Section 198 permits the lesser of one slip for each 50 feet of shoreline in the IDA and LDA or 30 slips for the 52 platted lots in the Critical Area. If the applicant is proposing a commercial marina, the number of allowable slips is determined by Maryland Department of the Environment.
9. Maryland Historic Trust – Application to the Critical Area Commission must also include a copy of a review letter by the Maryland Historic Trust.
10. Community Access – The concept growth allocation exhibit indicates community shoreline access will be provided. The applicant should review the Critical Area Commission's 'Public Walkways' Guidance Paper which is available on our website for site design guidelines.

Growth Allocation Process and Submittal

The Critical Area Law was amended in 2006 and requires that local jurisdictions use specific locational guidelines when locating new IDAs or LDAs and that the Commission ensure that these guidelines have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and Criteria. Documentation of the County's application of these guidelines must be provided as a part of the growth allocation request. These guidelines are provided below:

When locating new Intensely Developed or Limited Development Areas the County shall use these guidelines:

- (1) Locate a new Intensely Developed Area in a Limited Development Area or adjacent to an existing Intensely Developed Area;
- (2) Locate a new Limited Development Area adjacent to an existing Limited Development Area or an Intensely Developed Area;
- (3) Locate a new Limited Development Area or an Intensely Developed Area in a manner that minimizes impacts to Habitat Protection Area as defined in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

Mr. Tony DiGiacomo

February 4, 2008

Page 4 of 4

- (4) Locate a new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;
- (5) New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of the County for such areas, shall be so designated on the County Zoning Map and shall constitute an amendment to this program subject to review and approval by the County Planning Commission, the County Commissioners and the Critical Area Commission
- (6) New Intensely Developed Areas should be located where they minimize their impacts to the defined land uses of the Resource Conservation Area;

Application made to the Critical Area Commission for approval of growth allocation should include a conceptual development plan and an environmental features map and report to determine whether the development standards of the proposed designation (LDA or IDA) can be achieved, including 10% pollutant reductions requirements and all habitat protection area standards. Finally, the submittal should include a revised Critical Area Map showing the area proposed to be changed that matches the requested number of acres proposed to be changed.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
CE10-04

cc: Jason Traband, CNA
Lori Byrne, DNR
Reggie Graves, MDE

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 4, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-^{0016-V}~~0017-V~~
William Emrich & Robert Fraser *Dreamcraft Homes*

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance after-the-fact to disturb steep slopes in order to replace an existing dwelling. The property is classified as a Limited Development Area and is currently undeveloped. The application does not specify the amount of disturbance to steep slopes.

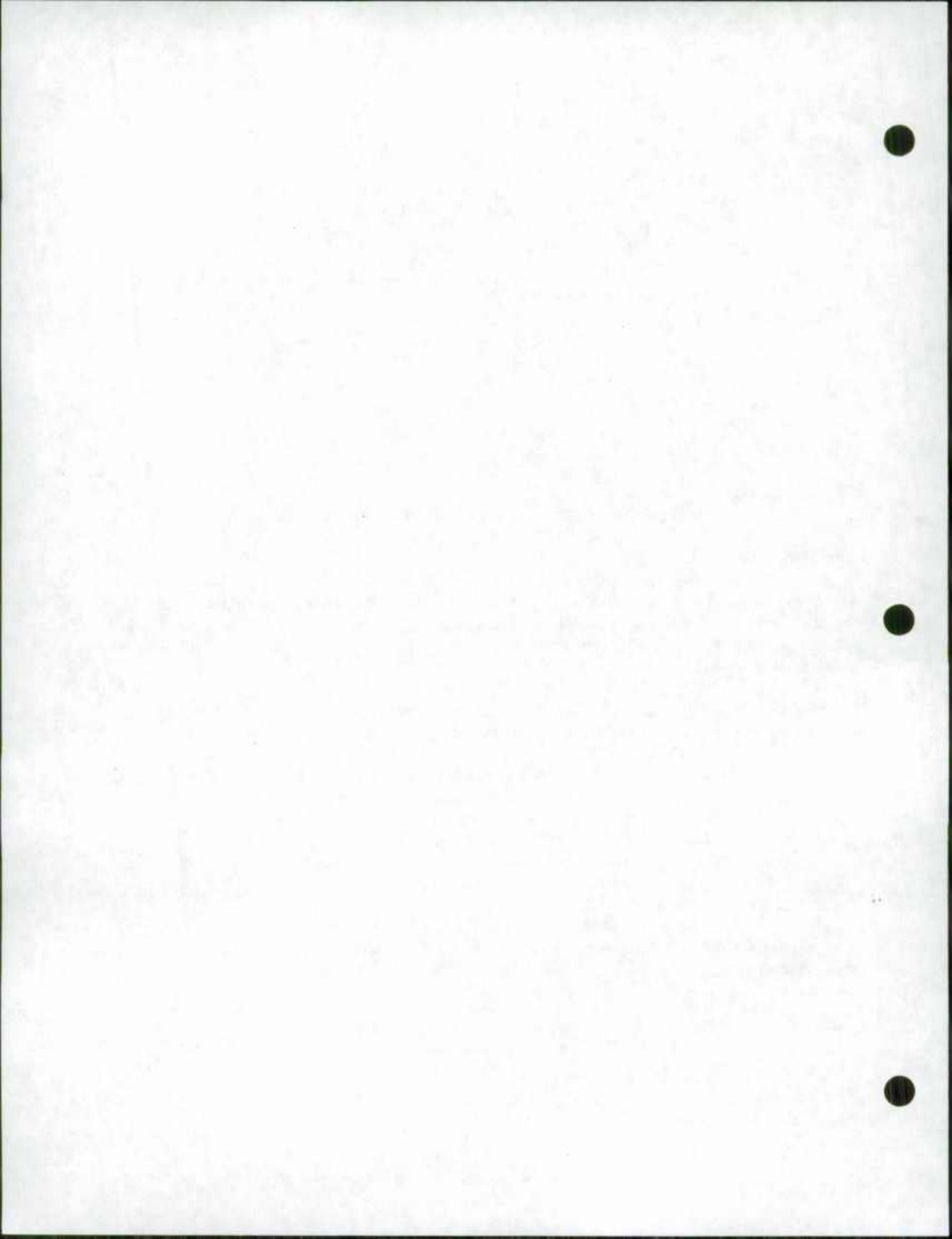
Provided this lot is properly grandfathered, this office does not oppose this request. Based on the information provided, I have the following comments:

1. The site plan indicates two different amounts of existing vegetation and proposed clearing of vegetation. However, aerial imagery suggests the lot vegetation on the lot meets the definition of a developed woodland, or wooded area greater than one acre in size. The applicant must account for clearing of all vegetation on site in order to verify whether they can meet the 6,534 square foot clearing limit. Otherwise, a separate variance for woodland clearing may be required.

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

Sincerely,

Kate Schmidt
Natural Resources Planner
AA58-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 4, 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 File #07-3195
Charles Bright

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a garage and addition to an existing dwelling within the Expanded 100-foot Buffer for hydric soils. The property is 19,578 square feet and designated as Limited Development Area (LDA). The proposed addition will total 815 square feet, increasing impervious surface on site to 4,170 square feet or 21.3 %, within the 31.25% impervious surface limit.

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided I have the following comments:

1. The applicant should provide mitigation at a ratio of 3:1 per the requirements of Section 24.4.2 of the St. Mary's Comprehensive Zoning Ordinance. Plantings should consist of native vegetation and be accommodated on site, primarily within the 100-foot Buffer.
2. In addition to the above, this office recommends the County require the applicant to minimize impacts to the hydric soils by providing appropriate best management practices to treat stormwater on the site. At a minimum, treatment of rooftop runoff from the proposed addition should be required. Preferably, stormwater management practices which address rooftop runoff from the existing dwelling as well as the new addition should be required.



Ms. Yvonne Chaillet
February 4, 2008
Page 2 of 2

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.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
SM040-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 4, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Case Number 2008-0013-S
Cheston Special Exception

Dear Ms. Cotter:

Thank you for submitting the above referenced application for review and comment. The applicant is seeking a special exception to expand an existing guest house for which they received Non-Conforming Use approval by the County. The subject parcel is 3.91 acres in size and designated as Resource Conservation Area (RCA).

It is my understanding that the Anne Arundel County Zoning Ordinance does not allow guest houses within the RCA. Natural Resources Article Section 8-1808.1(e)(2) does allow one guesthouse in the RCA in addition to a primary dwelling, but only under certain restrictive circumstances. A jurisdiction may consider one additional dwelling unit on a lot or parcel, such as this guest house, in the RCA if it is located either within the primary dwelling unit or within 100 feet of the primary dwelling unit, does not exceed 900 square feet in size, and is served by the same sewage disposal system.

In the case of this proposal, the existing guest house is not located within 100 feet of the primary dwelling. And while the guest house is currently less than 900 square feet in size, the proposed expansion would increase the size to 1,058 square feet. Therefore, the expansion of the guest house as proposed would further increase non-conforming status of the structure. Based on this information, this office believes the applicant must apply for a variance from the guest house provisions of the Critical Area law in addition to the special exception.

Please forward a copy of the variance application once it has been filed for review and comment. If the County determines that a variance is not appropriate, please provide information regarding this decision. If you have any questions you may contact me at (410) 260-3475.

Sincerely

Kate Schmidt

Kate Schmidt
Natural Resource Planner

Cc: Kelly Krinetz, Anne Arundel Planning and Zoning
Chris Soldano, Anne Arundel Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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February 4, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0021-V
Sandra Sarget

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow a new single family dwelling with less Buffer than required. The property is classified as a Limited Development Area (LDA) and located entirely within the 100-foot Buffer. An existing garage lies partially within the lot, which will be removed prior to construction.

Provided the lot is properly grandfathered, we do not oppose this variance request. Based on the information provided, I have the following comments:

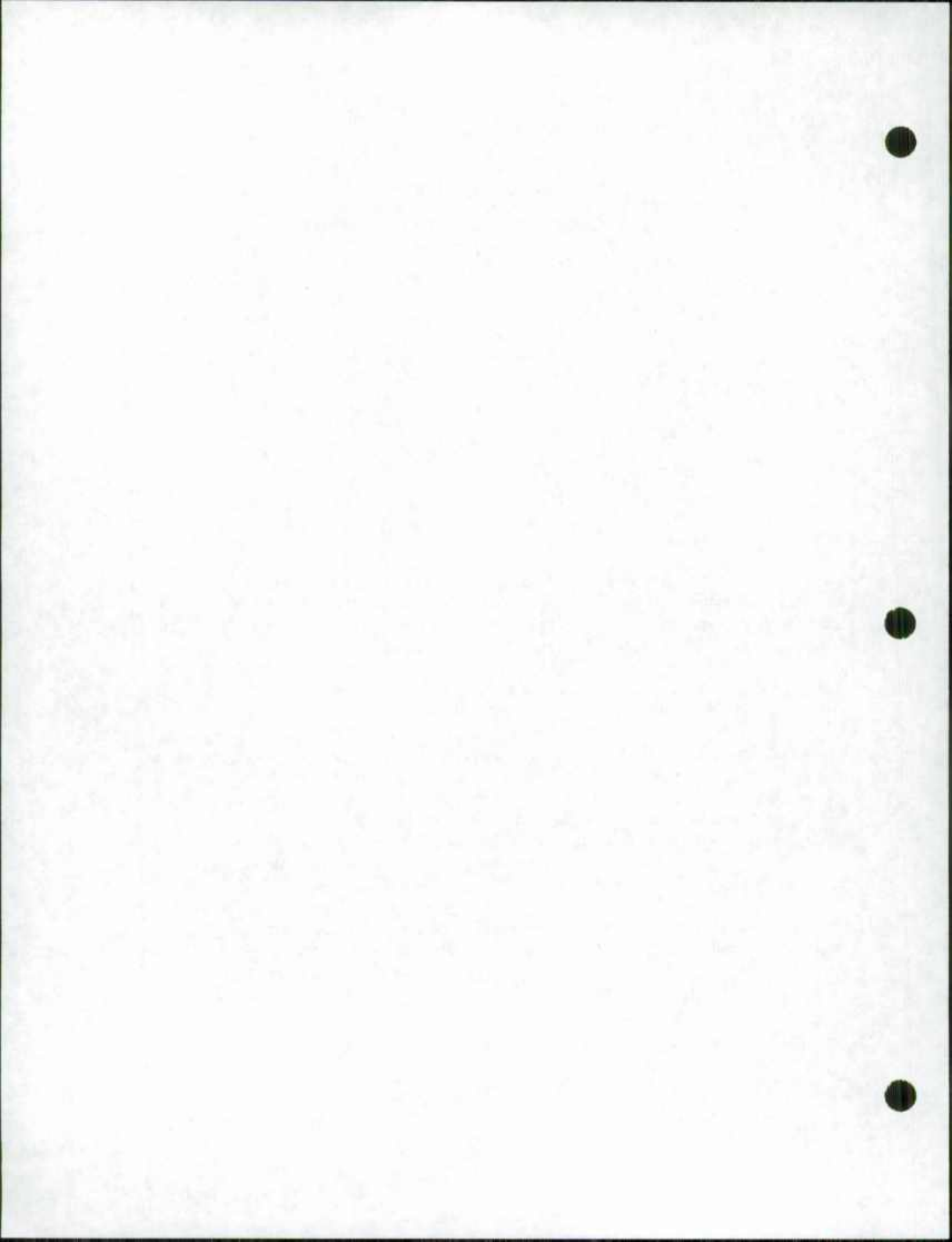
1. Mitigation of 3:1 for the new impervious surface within the 100-foot Buffer should be required. Rather than fee-in-lieu the entire mitigation should be accommodated on both Lot 6 and Lot 7, as both are owned by the applicant, within the 100-foot Buffer. Plantings should consist of a mix of native trees and shrubs and blend with the existing forested area on the Lots.
2. In addition to the mitigation described above, the applicant should provide appropriate best management practices for stormwater management to treat the new impervious surface, including all rooftop areas.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA61-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
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February 5, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0017-V
William Emrich & Robert Fraser

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance after-the-fact to disturb steep slopes in order to replace an existing dwelling. The property is classified as a Limited Development Area. It is currently developed with a single family home, garage, and driveway which will be replaced. The application does not specify the amount of disturbance to steep slopes.

Provided this lot is properly grandfathered, and provided the applicant addresses the violation in addition to any required mitigation for the variance, this office does not oppose this request. Based on the information provided I have the following comments:

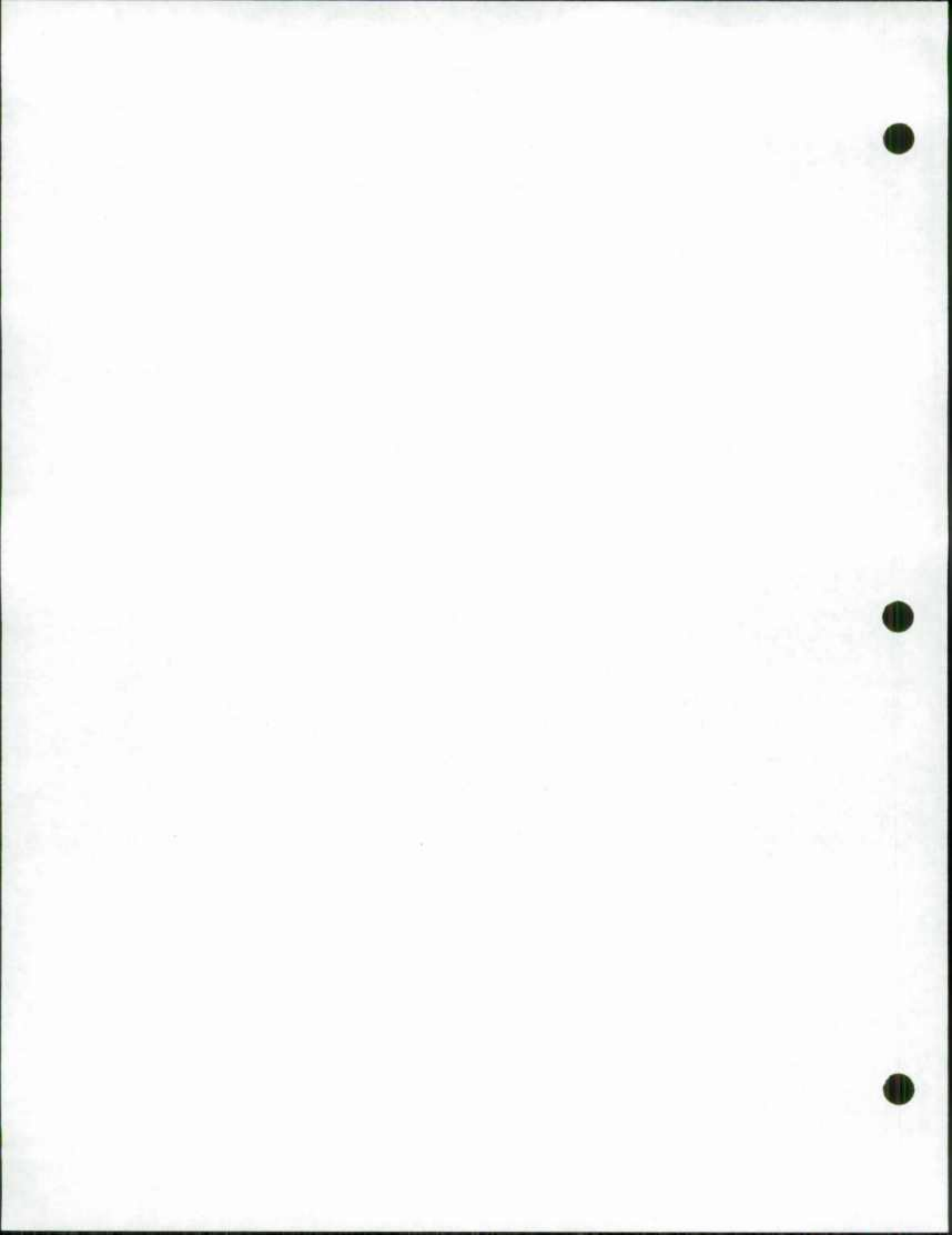
1. The proposed replacement dwelling should be the same size and in the same location as the existing dwelling. As indicated on the site plan, most of the lot contains steep slopes. We recognize that a variance is necessary to permit redevelopment of the property; however impacts should be minimized to the extent possible.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA59-08



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

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February 5, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0018-V
Daniel Weimer

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance after-the-fact to allow a deck and porch addition to an existing home with less Buffer than required. The property is classified as a Limited Development Area (LDA) and designated as a Buffer Exemption Area (BEA). The constructed porch and deck are waterward of the existing dwelling by an additional seven feet.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets **each one** of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicant constructed a wrap-around porch/deck on three sides of the home for a total of 864 square feet. Only a portion of this deck is further waterward than the existing dwelling and requires the variance to the BEA setback. This office would not be opposed to a modified site plan in which the addition was not further waterward than the dwelling. Since

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opportunity exists to avoid further encroachment into the Buffer and towards the water, this office cannot support the addition as proposed.

I have the following additional comments:

1. Given this proposal is currently a violation the applicant should satisfy any mitigation requirements for the violation separately from any mitigation that may be required by the variance granted.
2. It would appear based on aerial imagery that all mitigation can be accommodated on site, and a significant portion can be provided within the 100-foot Buffer.
3. The applicant should be advised that he is nearly at his 15% impervious surface limit for a lot of this size.

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

Sincerely,



Kate Schmidt
Natural Resources Planner
AA60-08

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 5, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0022-V
Denny Howell, III

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to disturb a nontidal wetland and the 25-foot nontidal wetland buffer in order to establish a single-family dwelling. The property is classified as a Limited Development Area and is currently undeveloped.

Provided this lot is properly grandfathered, this office does not oppose this request. Based on the information provided I have the following comments:

1. It appears that the applicant must also obtain a variance to the 100-foot Buffer expanded for hydric soils. It appears the nontidal wetland is connected to a tidal wetland, in which case the 100-foot Buffer must be expanded to include the extent of hydric soils.
2. Mitigation for impacts to the expanded 100-foot Buffer should be provided at a ratio of 3:1 for the area of disturbance.
3. Mitigation for impacts to the expanded 100-foot Buffer should be accommodated on site prior to payment of fee-in-lieu. Mitigation should consist of a mix of native shrubs and trees appropriate to the hydric soil conditions.
4. A nontidal wetlands letter of authorization from Maryland Department of the Environment must be obtained by the applicant and a copy provided to the County.



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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resources Planner
AA62-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 5, 2008

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

Re: Variance File #07-3172
Gladu

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct an addition and deck in the 100-foot Buffer, approximately five feet from Mean High Water (MHW) and to exceed the impervious surface limit. The property is 0.38 acres in size and located within the Limited Development Area (LDA). The property is currently developed with a single family home.

This office is opposed to granting the variance request as proposed because the applicant has not met all the variance standards, including the standard of unwarranted hardship. In this situation the dwelling is currently set back approximately 55-feet from MHW, which the current proposal would reduce to 5-feet. The lot has an impervious surface limit of 31.25% or 5,173 square feet. It is currently developed at 3,494 square feet or 21.1% and the proposed addition would increase development to 32.5%. Typically, this office does not oppose modest additions to dwellings on properly grandfathered lots provided the variance granted is the minimum necessary. However, the proposed addition, including the deck, more than doubles the size of the house and impacts to the Buffer would total 1,899 square feet. This variance request does not appear to be the minimum necessary.

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 applicants' request for a variance to allow construction that exceeds the impervious surface limit is in conflict with the St. Mary's County Comprehensive Zoning Ordinance (CZO) Section 41.5.3.i(1) which states the impervious surface limit for a lot of this size is 31.25%. In addition, the applicant currently has a parcel developed with a single-family dwelling with 1,537 square feet of living space. Thus, the applicant has reasonable use of the entire parcel or lot. The variance to the 100-foot Buffer and to the impervious surface limit cannot be granted unless the applicant proves, and the Board of Appeals finds, that without the variance, the applicant would suffer an unwarranted hardship, that is "denial of reasonable and significant use of the entire parcel or lot." We do not believe that this standard is met, and accordingly both variances should be denied. I have discussed each one of the County's variance standards below as it pertains to this site:

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 Buffer variance since the applicant has already achieved reasonable use of the property for residential purposes with a house and garage. Additionally, the applicant has not attempted to minimize impacts to the 100-foot Buffer by reducing the size of the addition or locating the majority of the addition to the eastern side of the property. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the addition in the Buffer as the applicant is able to use the property for residential purposes.

24.4.1.b – That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County

A literal interpretation of St. Mary's County's regulation of impervious surfaces and the Buffer will not deprive the applicant of a right commonly enjoyed by other properties in similar areas. This office does not support variances for development in which the applicant has the opportunity to minimize impacts.

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 allow a dwelling expansion in the 100-foot Buffer and beyond the impervious surface limit of a reasonable sized lot 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

This variance request is not based on conditions or circumstances that are the result of actions by the applicant. However, the applicant has not minimized the request to the maximum extent possible.

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. At a minimum, the submittal should meet the impervious surface allowance for a lot of this size which is 31.25%. Further, Section 42.5.3.i(1) limits the increase of impervious surface from 25% to 31.25% only when impervious surface has been minimized to the extent possible, water quality impacts are minimized or best management practices are implemented, and on-site mitigation or fee-in-lieu is used to offset adverse water quality impacts. The application does not meet these standards. Lastly, 1,899 square feet of new impervious surface is proposed in the Buffer which will prevent establishment of a vegetated Buffer in that area. A naturally vegetated Buffer provides numerous 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.

24.4.1.f – The variance is the minimum necessary to achieve a reasonable use of land or structures

The applicant already has full use of his property for residential purposes with a single family home, garage and workshop, and driveway. The current proposal is to increase the size of that living space to more than double the size of the existing house. Increasing development in the

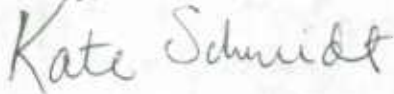
Ms. Yvonne Chaillet
07-3172 Gladu
February 5, 2008
Page 4 of 4

Buffer to this extent in order to accommodate these needs is unnecessary to maintain the residential use of the property. Therefore, the requested variance is not the minimum adjustment necessary to afford relief from the regulations because the regulations do not prevent the applicant from achieving reasonable use of their property.

The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Because the applicant has failed to meet all of the County and State variance standards, this office recommends that the Board deny the applicant's request for this variance.

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.

Sincerely,



Kate Schmidt
Natural Resource Planner

SM055-08

cc: Marianne Dise, Critical Area Commission Counsel

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 12, 2008

Carla Fleming
Maryland Department of Natural Resources
Boating Services, Waterway Improvement Program
Tawes State Office Building, E-4
Annapolis, MD 21401

Re: DNR Clearinghouse Review
Elk River Park Boating Access Facility – Elkton, Maryland

Dear Ms. Fleming:

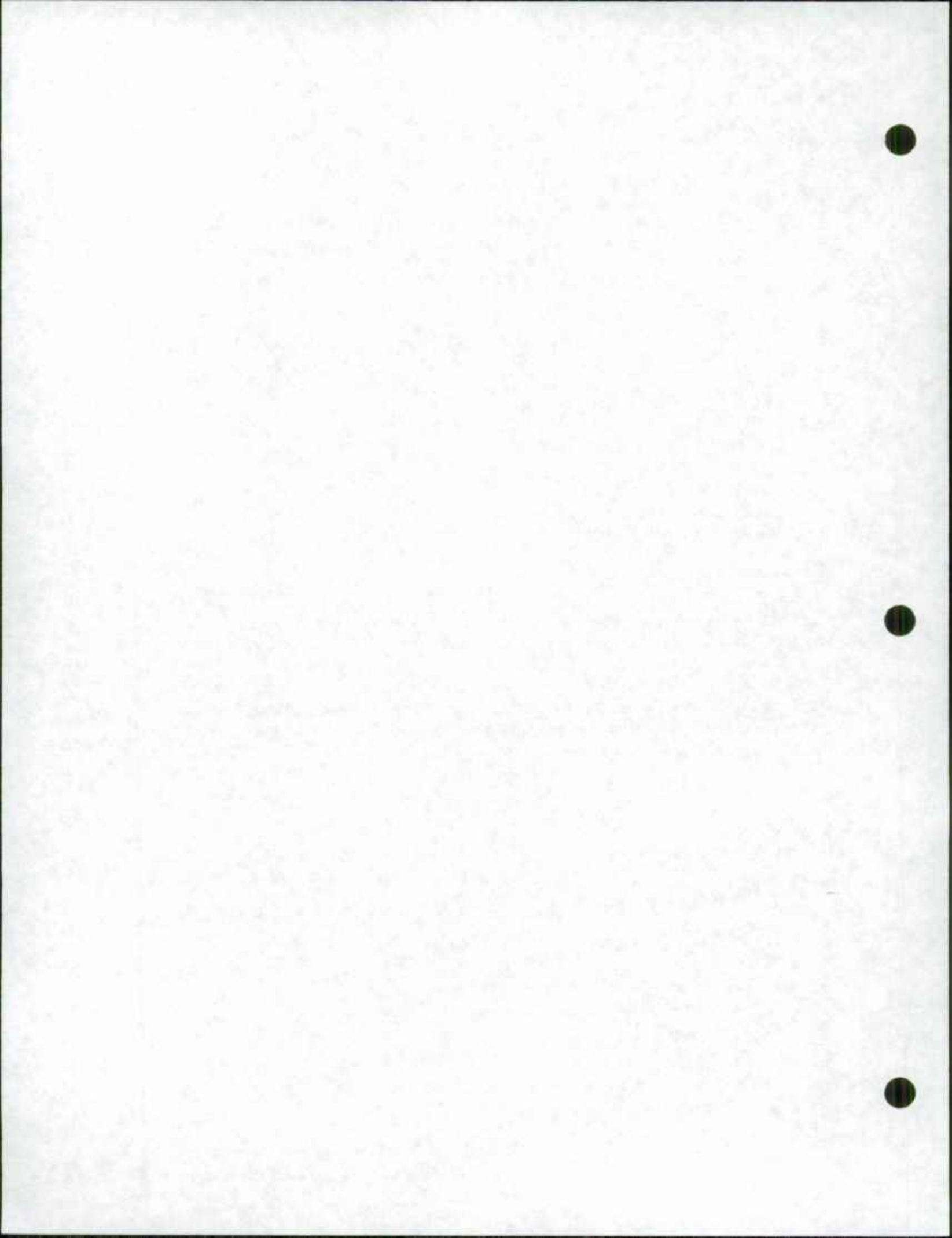
Thank you for providing a copy of the Environmental Assessment of the above referenced project for review and comment. For your records, the Critical Area Commission approved this proposal at its December 5, 2007 Commission meeting. As a component of this approval, Cecil County will mitigate impacts to the 110-foot Buffer by planting 36,218 square feet of vegetation within the Buffer, 49,321 square feet outside the Buffer and will allow 0.65 acres of natural regeneration on site. If you have any questions concerning this approval, please contact me at (410) 260-3475. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

cc: 270-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 12, 2008

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

RE: Hardwire LLC Site Plan, Pocomoke City

Dear Mr. Blake:

A copy of a revised site plan for the Hardwire LLC project in Pocomoke City has been provided to this office. Changes to the plans include rip rap shore erosion control partially above mean high water and a boardwalk directly above the mean high water line. In addition, the Buffer plantings provided under the former plan are no longer shown on the plan. As stated previously, 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. 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. The issues discussed in my previous letter of July 30, 2007 still apply to the proposed development, including comments regarding the stormwater management for the proposed project meeting the Critical Area 10% pollution reduction requirement. If the stormwater management plans have changed such that this requirement is no longer met, please submit a copy of those plans to this office for review. This letter addresses the revised site plan.

Development activities in the 100 foot Buffer are limited to those that are water-dependent (COMAR 27.01.03). The proposed boardwalk is not considered a water dependant structure. Some jurisdictions have developed modified 100 foot Buffer standards for water side property that is constrained from meeting 100 foot Buffer standards by development that occurred prior to inception of the Critical Area law. However, a minimum 25 foot setback from mean high water is required to remain unencumbered by non-water dependant structures and must be vegetated with native trees and shrubs. It is our understanding that this site has the characteristics that would allow such a modified Buffer standard. Therefore, the proposed boardwalk or pathway should be outside of a 25 foot setback, and the setback area must be planted with native trees and shrubs. Wherever the 100 foot Buffer is not encumbered by structures or impervious surface, it should also be vegetated with native trees and shrubs.

Mitigation must be provided at a ratio of 1:1 for the area of rip rap above mean high water because it is within the Critical Area Buffer. The mitigation must be provided in the form of native tree and shrub plantings and should be provided on site within the 100 foot Buffer. The mitigation may be included as part of the 100 foot Buffer plantings described above.

The 25 foot setback and plantable areas of 100 foot Buffer should be planted at a density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet. Once the area for the mitigation planting has been provided, if functional constraints prevent the developer from being able to provide this density for the remainder of the 100 foot Buffer, a lesser density of trees and shrubs combined with native grasses and herbaceous plantings would be the next most appropriate option. Because typical lawn areas require a great deal of maintenance involving physical disturbance and chemical pollutants that have a negative impact on water quality, lawn should not be placed in the 100 foot Buffer. Mowing in the 100 foot Buffer is not allowed, except where a Buffer management plan indicates that a meadow vegetation community will be maintained by mowing no more than twice per year.

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: Robert Cosgriff, Hardwire LLC
PO 440-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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February 12, 2008

Mr. Ed Slicer, Manager
Cecil County Department of Parks and Recreation
17 Wilson Road
Rising Sun, Maryland 21911

Re: Elk River Park Redevelopment Project – Planting Plan
Project Subcommittee Approval

Dear Mr. Slicer:

As you are aware, the Critical Area Commission (CAC) approved the County's proposal to redevelop Elk River Park on December 5, 2007 with the condition that the County submit a revised planting plan to the CAC Project Subcommittee for approval. The revised planting plan was required to achieve a minimum 1:1 ratio of plantings within the Buffer for the buffer disturbance. The revised planting plan and agreement from Cecil County to allow the grassed "pocket area" of 0.62 acres to naturally reforest was reviewed by the Project Subcommittee on February 6, 2008 and was unanimously approved.

Enclosed please find a Planting Agreement form. Please complete the form with an expected planting timeframe and return a signed copy to me. Also, in fulfillment of the mitigation requirements, please notify the Commission once the mitigation plantings have been implemented. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

cc: Deborah Herr, Herr Landscape Architecture
Kelly Wright, Andrews Miller & Associates

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 13, 2008

Ms. Suzanne Schappert
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0006-V
MV Clifford Enterprises

Dear Ms. Schappert:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to construct a new single family dwelling on a 13,806 square foot lot with 4,578 square feet of disturbance to steep slopes. The property is classified as Limited Development Area (LDA). Please replace my letter of January 15, 2008 with this letter.

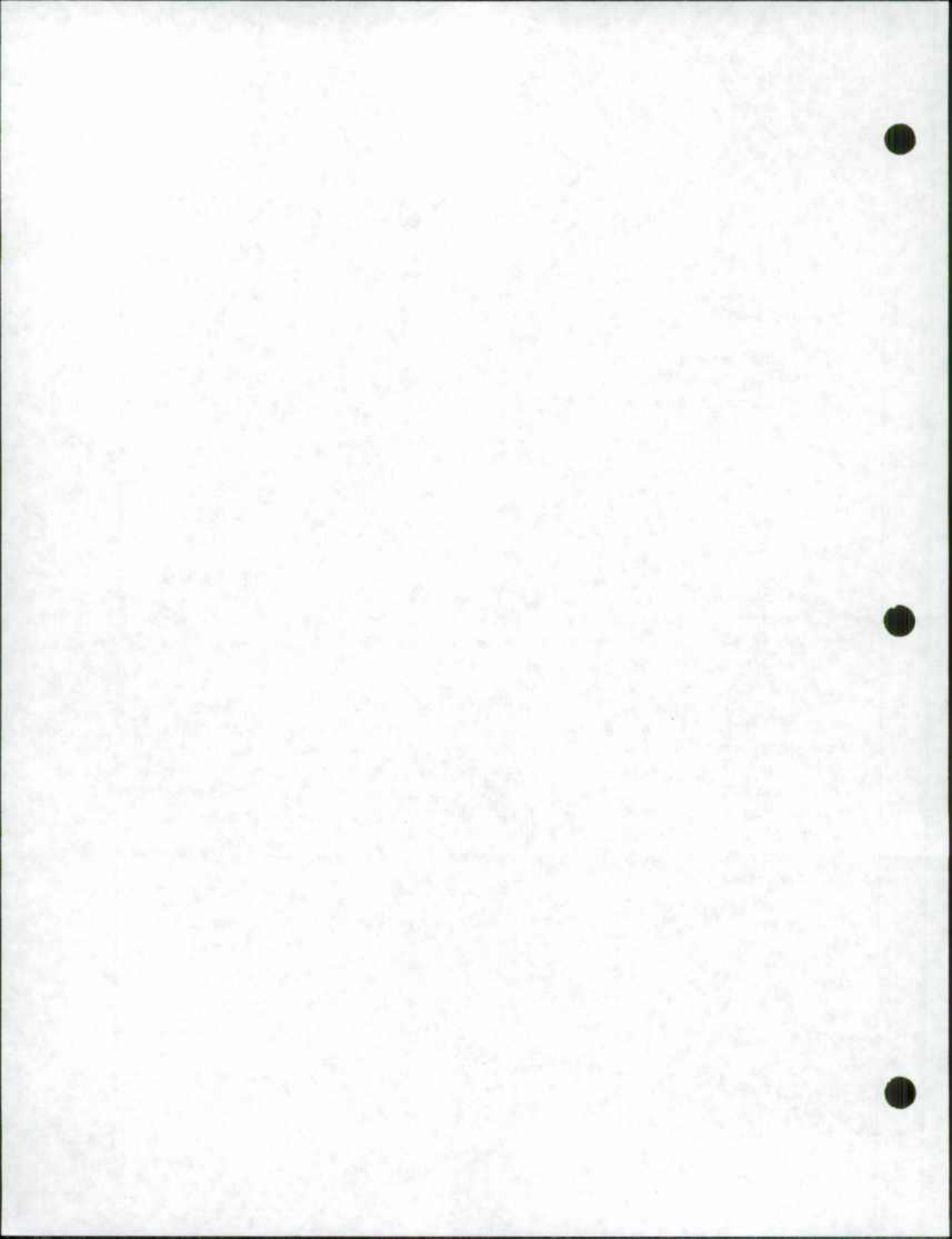
Provided this lot is properly grandfathered, this office does not oppose a variance to establish a dwelling on it. However, any variance provided should be for the minimum necessary. The applicant is limited to a 750 square foot dwelling but is also proposing an 864 square foot garage. Additionally, decks and patios totaling 441 square feet are proposed on the rear of the dwelling bringing the total footprint of the dwelling to 2,055 square feet. It appears impacts could be reduced by moving the dwelling closer to the road and reducing the size of the proposed garage and deck. Mitigation of 3:1 is necessary for the disturbance to steep slopes. If approved, I recommend a portion of the required mitigation be provided on site prior to the use of off-site planting or fee-in-lieu.

Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA26-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 13, 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 File #07-2988
Van & Dorothy Sage

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct an addition and deck to an existing dwelling within the expanded 100-foot Buffer for hydric soils. The property is 23,610 square feet and designated as Intense Development Area (IDA). The proposed addition will total 729 square feet, increasing impervious surface on site to 3,321 square feet, within the 5,445 square foot impervious surface limit of this lot.

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided I have the following comments:

1. Any variance granted should be the minimum necessary to achieve reasonable use of the property.
2. The applicant should provide mitigation at a ratio of 3:1 for disturbance to the Buffer. Plantings should consist of native vegetation and be accommodated on site, primarily within the 100-foot Buffer.
3. In addition to the above, the applicant should provide water quality benefits to meet the 10% pollutant reduction requirement in the IDA per Section 41.4.3.f of the CZO. At a minimum, treatment of rooftop runoff from the proposed addition should be required. Preferably, stormwater management practices which address rooftop runoff from the existing dwelling as well as the new addition should be required if they are not in place already.



Ms. Yvonne Chaillet
February 13, 2008
Page 2 of 2

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.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned above the typed name.

Kate Schmidt
Natural Resource Planner
SM045-8

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 14, 2008

Mr. Tony DiGiacomo
Cecil County Office of Planning & Zoning
129 East Main Street, Room 300
Elkton, Maryland 21921

Re: Preliminary-Final Subdivision
The Estates at Woodcrest Shores

Dear Mr. DiGiacomo:

I have received revised plans and information for the above-referenced subdivision request. The applicant addressed some of the comments of my last letter dated December 4, 2007. I have outlined my remaining comments below.

1. It is my understanding the applicant received a letter from DNR Wildlife and Heritage and there are no habitat protection area issues. Please have the applicant forward a copy of this letter to our office for our files.
2. The 20% clearing limit for the Critical Area portion of this site is 18,643 square feet. A note should be added to the plat stating this limit.
3. The plat indicates 16,552 square feet or 17.76% of woodland will be cleared. It does not appear that this amount includes any clearing for the two septic reserve areas which are 10,000 square feet each. These areas must be included in the clearing limit calculations. While I understand the Health Department may not require the entire 10,000 square foot area to be cleared at the time of initial development, the recordation of the area on the plat will allow a lot owner to clear without any further approval in the future from the Planning and Zoning Department. Therefore, this potential clearing areas should be included in the clearing calculations.
4. The amount of proposed clearing for the dwelling on Lot 3 is significant. In order to meet the 20% clearing limit, I recommend the applicant reduce the clearing needed for the dwelling.

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Mr. Tony DiGiacomo

February 14, 2008

Page 2 of 2

5. The sewage reserve area should not be included in the Forest Retention Area calculations. This overlap is not allowed under the Forest Conservation requirements.

Thank you for the opportunity to comment. Please contact me at (410) 260-3475 if you have any further questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt

Natural Resources Planner

cc: CE 175-06

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 20, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-^{0026-V}~~0022-V~~
Denny Howell, HI *David Mullaly*

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow a dwelling with disturbance to steep slopes. The property is 0.99 acre in size, classified as a Limited Development Area and is currently undeveloped. This property was previously granted a variance in March 2006; however a building permit was not obtained in the required timeframe.

Provided this lot is properly grandfathered, this office does not oppose this request to establish a dwelling; however impacts must be minimized and the variance the minimum necessary. Based on the information provided I have the following comments:

1. As indicated on the site plan, most of the lot contains steep slopes. We recognize that a variance is necessary to permit development of the property.
2. It appears the current request proposes less impact than the previously requested variance.
3. The critical area notes regarding existing woodland and clearing amounts on the site plan do not match the site calculations contained in the Critical Area report. Based on the Critical Area report, more than 20% clearing will occur on site. Therefore, mitigation of 1.5 to 1 is required. To the extent possible, we recommend mitigation be accommodated on site prior to use of fee-in-lieu.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner
AA73-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 20, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0031-V
William Romano

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to a side yard setback, to the minimum lot size, and to impervious surface in order to allow a lot line adjustment between two properties. The applicant's lot is 11,413 square feet in size and located in the Limited Development Area (LDA). It is currently developed with a single-family dwelling. The neighboring property is also developed with a single-family dwelling. No modifications or further development are proposed to either lot.

This office does not oppose any of the requested variances given no further development will occur as a result of the proposal. However, future redevelopment of either lot should comply with impervious surface limits.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA75-08

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 20, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0030-V
Jack G. Bannister; 1034 Walnut Ave.

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow a dwelling, deck, driveway and well with less setbacks and Buffer than required. The property is 7,500square feet in size, classified as a Limited Development Area and is currently undeveloped. This property was previously granted a variance in January 2006; however a building permit was not obtained in the required timeframe.

Provided this lot is properly grandfathered, this office does not oppose this request to establish a dwelling; however impacts must be minimized and the variance the minimum necessary. Based on the information provided I have the following comments:

1. Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs should be accommodated on the site to the extent possible.
2. Stormwater from the dwelling should be directed a stable vegetated outfalls to provide water quality benefits on the site.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA825-05

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Martin O'Malley
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February 20, 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 File #07-3064
CRG Capital; 29867 Grant Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to clear more than 30% developed woodland on an existing lot located in the Golden Beach subdivision. The property is 15,000 square feet and designated as Limited Development Area (LDA). The proposed clearing is 2,645 square feet or 34.3% in order to accommodate a larger single family dwelling, new driveway, and mound septic system.

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided I have the following comments:

1. Approximately 33% of the site will remain in developed woodland, meeting the 15% afforestation threshold.
2. I recommend a note be added to the plat limiting further clearing of developed woodland on this site.
3. If allowed by the Department of Health, I recommend only the initial mound system be cleared at this time.
4. The applicant should provide mitigation at a ratio of 3:1 for exceeding the 30% clearing limit. Plantings should consist of native vegetation and be accommodated on site to the maximum extent possible prior to the use of fee-in-lieu.

Ms. Yvonne Chaillet
February 19, 2008
07-3064
Page 2 of 2

5. The applicant states that the request was the result of the adoption of the Critical Area ordinance. To clarify, this request is not after-the-fact and is thus not the result of actions by the applicant. Passage of the law and County ordinance does not necessarily mean that the applicant meets all applicable critical area variance standards. In addressing the standards, the Board must find that the applicant has overcome the presumption that the proposed development activity does not conform to the general purpose and intent of the Critical Area law and the requirements of the local program.

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.

Sincerely,



Kate Schmidt
Natural Resource Planner
SM047-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 20, 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 File #07-3063
CRG Capital; 29865 Grant Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to clear more than 30% developed woodland on an existing lot located in the Golden Beach subdivision. The property is 15,000 square feet and designated as Limited Development Area (LDA). The proposed clearing is 8,736 square feet or 69.9% in order to accommodate a new single family dwelling, new driveway, and mound septic system.

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided I have the following comments:

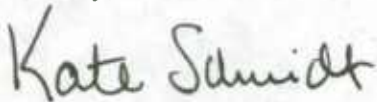
1. Approximately 25% of the site will remain in developed woodland, meeting the 15% afforestation threshold.
2. I recommend a note be added to the plat limiting further clearing of developed woodland on this site.
3. If allowed by the Department of Health, I recommend only the initial mound system be cleared at this time.
4. The applicant should provide mitigation at a ratio of 3:1 for exceeding the 30% clearing limit. Plantings should consist of native vegetation and be accommodated on site to the maximum extent possible prior to the use of fee-in-lieu.

Ms. Yvonne Chaillet
February 19, 2008
07-3063
Page 2 of 2

5. The applicant states that the request was the result of the adoption of the Critical Area ordinance. To clarify, this request is not after-the-fact and is thus not the result of actions by the applicant. Passage of the law and County ordinance does not necessarily mean that the applicant meets all applicable critical area variance standards. In addressing the standards, the Board must find that the applicant has overcome the presumption that the proposed development activity does not conform to the general purpose and intent of the Critical Area law and the requirements of the local program.

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.

Sincerely,



Kate Schmidt
Natural Resource Planner
SM046-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 20, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0041-V
Richard & Elizabeth Edwards; 8165 Orchard Point Road

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow a replacement dwelling with less setbacks and Buffer than required. The property is 11,500 square feet in size, classified as a Limited Development Area (LDA) and Buffer Exemption Area (BEA) and is currently developed with a single family home.

Provided this lot is properly grandfathered, this office does not oppose this request to establish a dwelling; however impacts must be minimized and the variance the minimum necessary. Based on the information provided I have the following comments:

1. It would appear the applicant could relocate the house towards the road and reduce the impervious surface within the Buffer.
2. Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs should be accommodated on the site to the extent possible.
3. At a minimum, the site must meet the 15% afforestation threshold of 1,725 square feet of developed woodland. Therefore, I recommend the applicant be required to plant the necessary mitigation within the 100-foot Buffer. Plantings should consist of a mix of native trees and shrubs.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner

AA86-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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February 21, 2008

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

Re: Simms Family Subdivision
Case Number 08-110-003

Dear Ms. Glenn:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing a two lot subdivision. The parcel is partially located in the Critical Area and contains approximately 1.07 acres of Resource Conservation Area (RCA). However, no portion of the RCA will be affected by the subdivision as it will be part of a 3.53 acre Outparcel.

Based on the information provided I have the following comments:

1. The Critical Area notes indicate there is no existing forest vegetation within the Critical Area; however the plat depicts a vegetation line. The applicant should clarify whether forest vegetation is present on the site.
2. The site must be reviewed by the Department of Natural Resources Heritage Division verifying that there are no impacts to any rare, threatened, or endangered species, before final approvals are granted.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

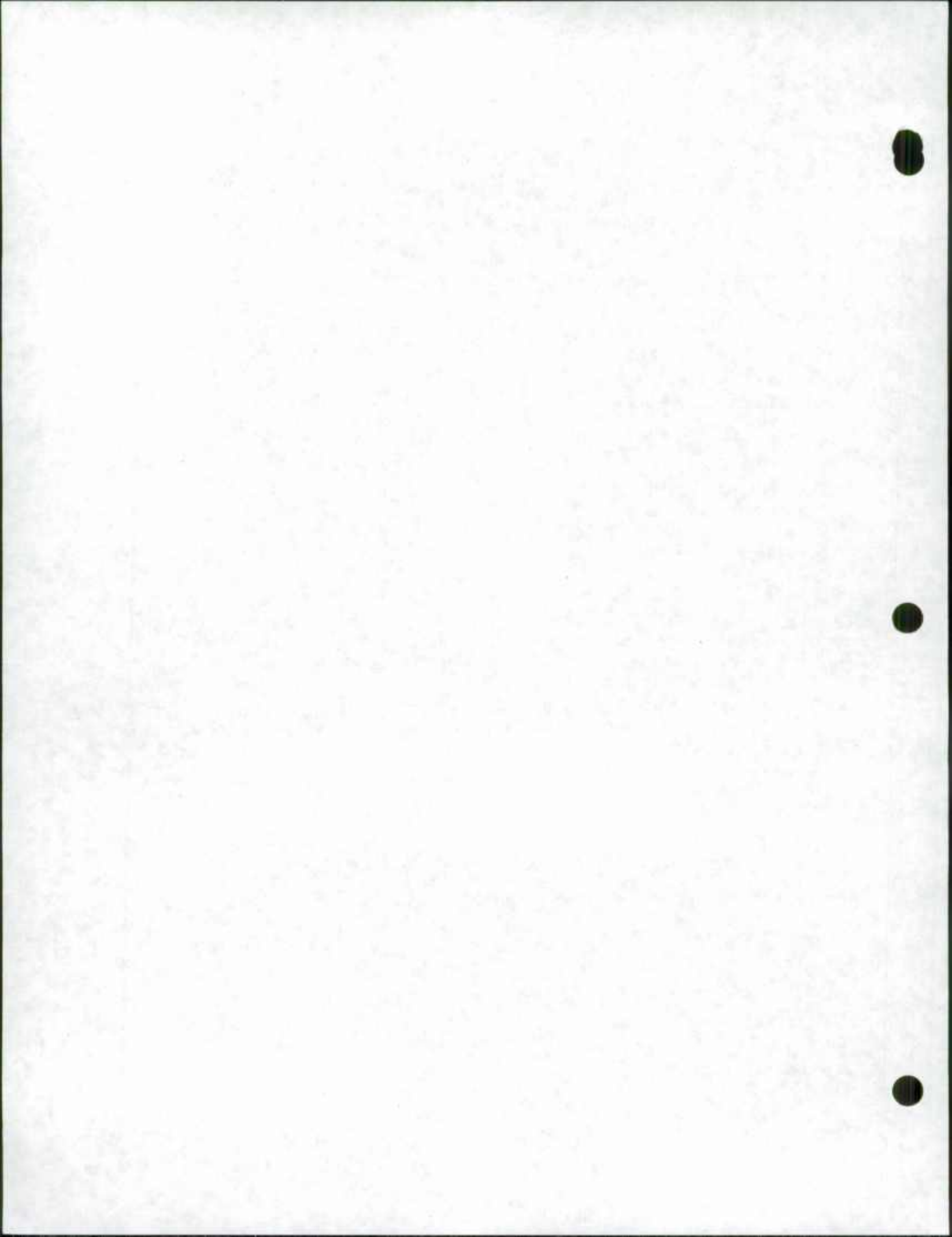
Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 109-08

Cc: Ms. Sue Veith, Environmental Planner

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Governor

Anthony G. Brown
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Margaret G. McHale
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Executive Director

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February 21, 2008

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

Re: Anna Dell Minor Subdivision
Case Number 08-110-006

Dear Ms. Glenn:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing a three lot minor subdivision. The parcel is partially located in the Critical Area and contains approximately 9.69 acres of Resource Conservation Area (RCA). Lot 6 will total 2.0 acres and is located entirely within the RCA. Lot 7 will total 12.75 acres of which 7.69 acres are in the RCA. The remaining lot is located outside the Critical Area. The applicant proposes to use the intra-family transfer provisions of the St. Mary's Comprehensive Zoning Ordinance (CZO) to allow the subdivision of the RCA. Based on the information provided I have the following comments:

1. Provided the parcel area within the Critical Area is of record as of March 1, 1986, the applicant may utilize intrafamily transfer provisions to create two lots.
2. The name of the recipients of the Lot 6 and 7 must be included on the plat and it must reference the provisions of Section 41.6.4a and Natural Resources Article, 8-1808.2.
3. The plat indicates the presence of two intermittent streams on the property with a 50-foot Buffer. The Buffer for tributary streams in the Critical Area is 100-feet and expanded as required by Section 71.8.3 of the CZO.
4. It would appear the 100-foot Buffer to the tributary stream shown on Lot 6 will need to be expanded for steep slopes. It is not clear whether sufficient buildable area for Lot 6 will remain. The applicant may have to reconfigure the lots shown.

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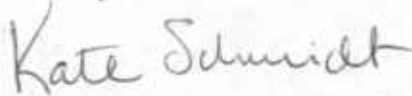


Ms. Brandy Glenn
08-110-006
February 21, 2008
Page 2 of 2

5. The site must be reviewed by the Department of Natural Resources Heritage Division verifying that there are no impacts to any rare, threatened, or endangered species, before final approvals are granted.
6. The Critical Area notes should break out the existing forest area on Lot 7 within the Critical Area to ensure the 15% afforestation threshold is being met.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
SM 108-08

Cc: Ms. Sue Veith, Environmental Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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February 21, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Case Number 2008-0013-S
Cheston Special Exception

Dear Ms. Cotter:

Thank you for meeting with Kerrie Gallo and me to discuss the above referenced application on February 14, 2008. Based on that conversation and subsequent discussions in our office I would like to offer the following comments.

The applicant is seeking a special exception to expand an existing guest house for which they received Non-Conforming Use approval by the County. The subject parcel is 3.91 acres in size, designated as Resource Conservation Area (RCA) and also contains a primary dwelling unit. In granting a special exception, the Hearing Office must find per Section 18-16-304(8) that the application will conform to the critical area criteria for sites located in the Critical Area. Anne Arundel County Zoning Code Section 18-13-206 limits residential density in the RCA to one dwelling unit per twenty acres and does not allow guest houses. Section 18-13-201 allows uses on land in existence prior to December 1, 1985 to continue but expansion or intensification must be in accordance with the Zoning Code.

The proposed expansion of the guest house on this site is not consistent with the Critical Area provisions of the County Zoning Code. Since a favorable finding under Section 18-16-304(8) cannot be achieved, I recommend the Special Exception to expand the guest house be denied.

Thank you for allowing me the opportunity to review and comment on this proposal. If you have any questions you may contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

Cc: Kelly Krinetz, Anne Arundel Planning and Zoning
Chris Soldano, Anne Arundel Planning and Zoning

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Martin O'Malley
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Anthony G. Brown
Lt. Governor



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February 21, 2008

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

Re: Cape St. Mary's Marina – Boathouse and Pier Replacement
Local Case #08-131-004

Dear Ms. Carter:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing to replace an existing pier and boathouse at a marina facility. The impacts total 8,160 square feet of impervious surface over open water. Based on the information provided I have the following comments:

1. The proposal will require permitting by Maryland Department of the Environment.
2. The site must be reviewed by Department of Natural Resources Heritage Division prior to issuance of final permits.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 157-03



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. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0051-V
John Cullen, Jr.

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow new dwelling with less setbacks and Buffer than required. The property is classified as a Limited Development Area (LDA), is 19,075 square feet in size and currently undeveloped. Based on the information provided, I have the following comments:

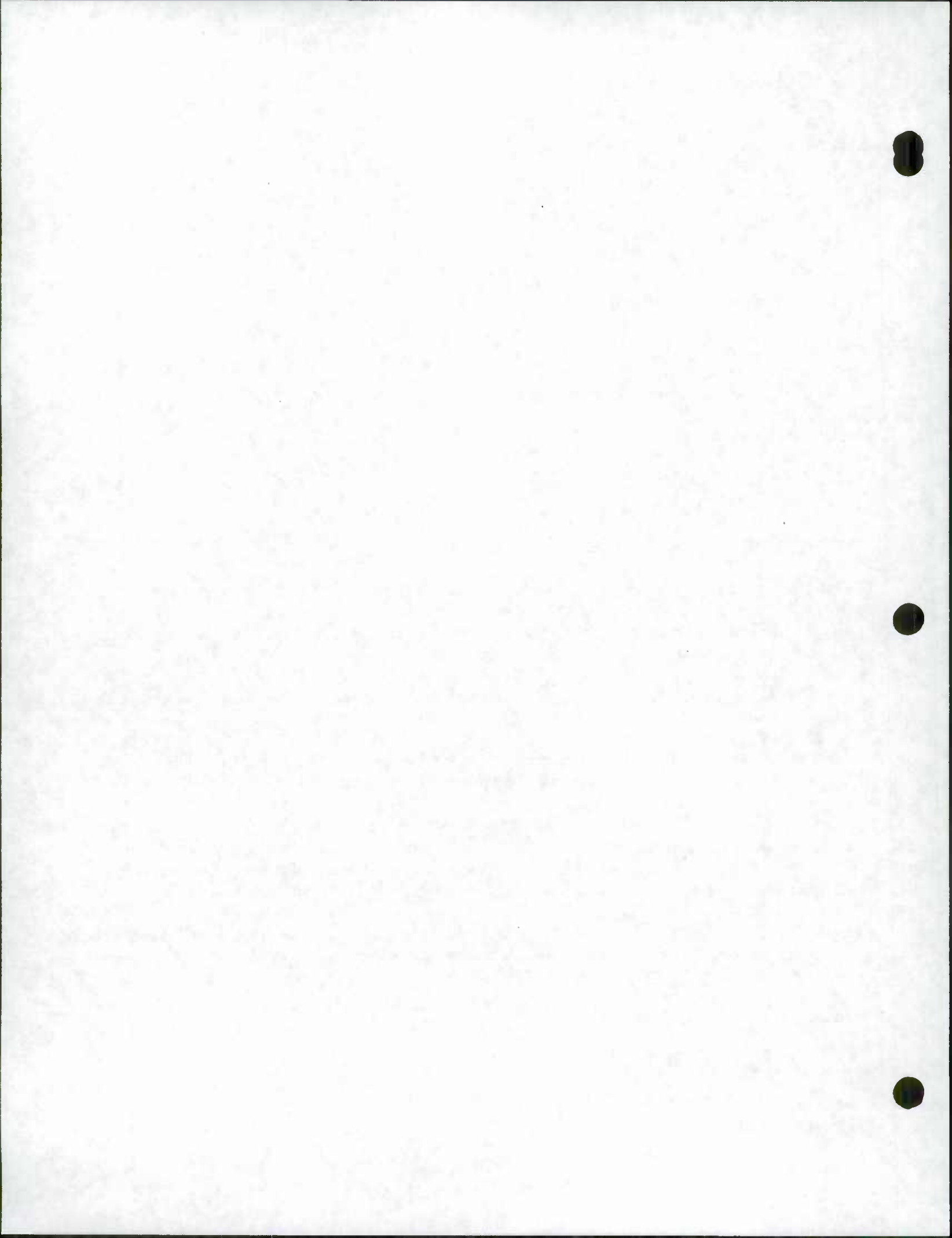
1. Impacts to the 100-foot Buffer could be reduced by locating the dwelling closer to Holly Road and reducing the length of the driveway.
2. Mitigation of 3:1 for the new impervious surface within the 100-foot Buffer should be required. The site plan currently only shows 2,200 square feet of planting.
3. It would appear no forest area currently exists on the property. Therefore, all of the mitigation may be accommodated on site. Since stormwater from this site will be discharging to the tidal wetlands the proposed plantings should be concentrated in this area. Plantings should consist of a mix of trees and shrubs and be suited to the hydric conditions on site.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA48-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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February 27, 2008

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

Re: Chesapeake Cove Concept Plan Lots 1-5, and 11
Forest Interior Dwelling Species Habitat Assessment

Dear Mr. DiGiacomo:

On January 25, 2008 I provided comments regarding the proposed Chesapeake Cove subdivision and its' Forest Interior Dwelling Species Habitat Assessment. In response, the applicant submitted a revised plan and assessment received by this office on February 8, 2008. The applicant is proposing 2.2 acres of mitigation for the proposed amount of forest clearing. Based upon my review of the subdivision design and the guidance contained in the June 2000 FIDS Guidance Document published by the Critical Area Commission, the subdivision design does not meet the FIDS guidance and should not be approved as currently proposed.

Based upon the goals of the Critical Area law, the Critical Area Criteria set forth minimum requirements to protect water quality, conserve plant and wildlife habitat, and direct growth and development. Specifically, the Criteria instruct local jurisdictions through their Critical Area Programs to protect and conserve those forest areas required to support wildlife species in riparian forests and large forest tracts by developing management programs to conserve the wildlife that inhabit these areas. The programs should assure that development activities, or the clearing or cutting of trees which occur in these areas is conducted so as to conserve riparian habitat, forest interior wildlife species and their habitat. The primary objective of FIDS habitat conservation is to preserve or retain the maximum amount of contiguous, undisturbed forest habitat, particularly the portion of forest that is interior habitat. We have determined that the proposed subdivision design does not conserve the riparian habitat or forest interior wildlife species and their habitat that currently exists on site. Therefore, we recommend the Planning Commission not approve the subdivision as proposed.

Based upon my evaluation of the proposal using the June 2000 Guidance Document, I offer the following comments:

1. The applicant states the placement of houses in Lots 1-4 are located in lower quality habitat and designed in such a manner that the guidelines are met. However, the FIDS Guidance document does not differentiate habitat quality in its assessment of whether FIDS habitat is present and

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thus would be impacted by development. If the applicant believes the quality of the habitat is low, they may want to pursue a breeding bird survey to determine presence of the species.

2. The applicant further states that the placement of the houses in Lots 1-5 and 11 within the 300-foot riparian area is consistent with the June 2000 Guidance Document. While in the case of Lots 1-4, the riparian area averages around 400-500 feet wide, there is sufficient opportunity to locate the houses outside the 300-foot riparian area. Further, as stated in my previous letter, the location of riparian areas along waterways provides a highly valued form of habitat. Placement of homes within the 300-foot riparian area is not in fact consistent with the FIDS Guidance Document, the County Critical Area Program, or the Critical Area law and Criteria.
3. Lastly, the applicant contends that the proposed clearing for the homes will have minimal effect on the FIDS habitat. However, the placement of the houses shown will provide numerous permanent breaks in the forest canopy as the homes are scattered throughout the site. As stated above, the objective of FIDS conservation is to protect the maximum amount of contiguous undisturbed forest habitat, with an emphasis on interior habitat. In contrast to this objective, the proposed placement of the houses will significantly fragment the interior and riparian habitat.

In order to evaluate whether a proposed subdivision complies with the Site Design Guidelines, applicants must evaluate the entire proposal as a whole and complete the checklist in Appendix D of the Guidance Document. Below is my evaluation of the proposal using Appendix D.

Site Design Guidelines

- a. *Has development been restricted to nonforested areas?* – **No**. In fact, at a minimum four of the proposed houses could be located in the open nonforested areas of the site (see enclosed) and meet all applicable zoning requirements.
- b. *If development has not been restricted to nonforested areas, has development been restricted to:*
 - *perimeter of the forest within 300 feet of the forest edge?* – **No**. Only the houses shown on Lots 2 and 3 are within 300-feet of the forest edge.
 - *Thin strips of upland forest less than 300 feet wide?* – **No**. In fact, the houses for all 6 lots are within the 300-foot riparian area.
 - *Isolated forests less than 50 acres in size?* – **No**. The forest within the Critical Area totals 103.7 acres.
 - *Portions of forest with low quality FIDS habitat?* – **Yes**. Lots 1-4 are within younger forest stands.
- c. *Have new lots been restricted to existing nonforested areas and/or forests as described in #2 above?* – **No**. In addition to locating homes within forested areas on the lots, other than advising property owners of the sensitive nature of the lot, the applicant has not offered other mechanisms such as protective covenants or easements to protect the remaining FIDS habitat from clearing.
- d. *Will forest removal be limited to the footprint of the house and that which will be necessary for the placement of roads and driveways.* – **Yes**. The applicant states only the area needed for the house will be cleared and clearing for driveways will be limited to single tracks.

Mr. Tony DiGiacomo

February 27, 2008

Page 3 of 3

- e. *Have the number and length of roads been minimized.* – **Yes.** The applicant will use an existing road to access Lots 1-5. This road is currently not forested.
- f. *Have the width of roads and driveways been reduced to 25 feet and 15 feet respectively?* - **Yes.** The applicant is showing the driveways within the Critical Area will be located over existing trails or that no clearing will occur.
- g. *Will forest canopy be maintained over roads and driveways?* – **Yes.**
- h. *Will the forest canopy be maintained up to the edge of roads and driveways?* – **Yes.**
- i. *Will at least 80% of the forest interior be maintained after development?* – **No.** Based upon the delineation of the interior habitat shown on the FIDS conservation plan, approximately 58.6 acres of interior habitat exist within the Critical Area. The proposed location of the homes will impact 22.4 acres of the interior habitat and convert it to edge. This constitutes 38.2%, therefore only 61.8% of interior habitat will remain.
- j. *Are there special conditions on the site that limit where houses and other development activities may be located such as wetlands, steep slopes, etc.?* – **No.** While wetlands and streams exist throughout the site, these occur within the existing forested area. There are no such restrictions within the existing cleared areas or outside the 300-foot riparian area.

Based on this analysis, staff concludes the proposed project does not meet the Site Design Guidelines. The applicant has the opportunity to locate at least four of the homes within existing non-forested areas and the other two outside of the 300-foot riparian area. Further, the proposed design will reduce interior habitat to 61.8%, a design which does not meet the objective to conserve and protect riparian and interior FIDS habitat. Lastly, these impacts do not meet the objectives the Cecil County Critical Area Program. The regional area containing this subdivision and the land surrounding it contain some of the highest quality FIDS habitat in the County and within the state. Given the site design will permanently fragment this habitat, I recommend denial of the subdivision as proposed.

Thank you for the opportunity to provide comments. We are available for consultation regarding redesign of the project. If you have any questions, you may contact me at (410) 260-3475.

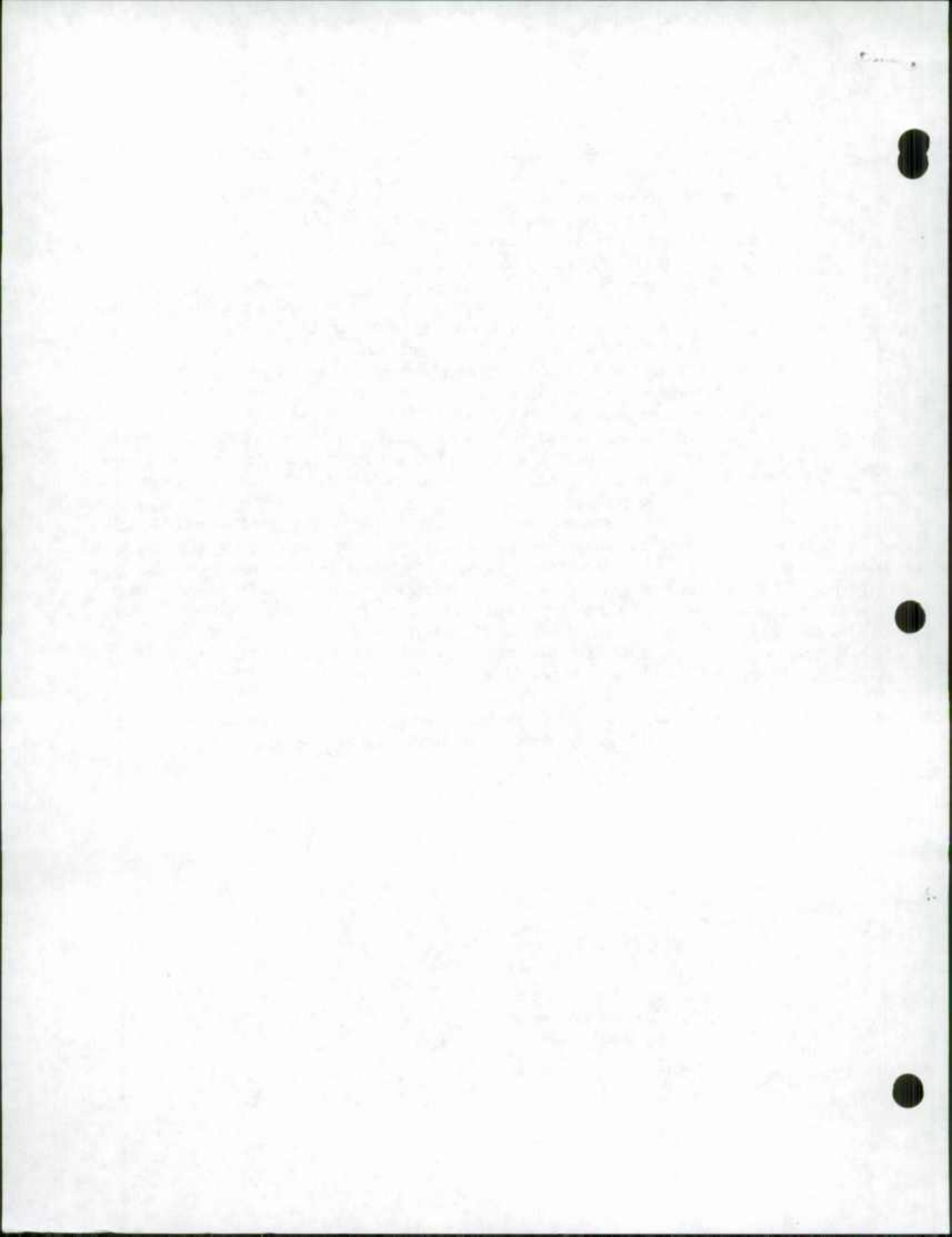
Sincerely,



Kate Schmidt
Natural Resources Planner
CE397-07

Enclosure

cc: James Keefer, Morris & Ritchie Associates
John Canoles, Eco-Science Professionals
Glenn Therres, DNR Wildlife & Heritage



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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1804 West Street, Suite 100, Annapolis, Maryland 21401

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March 3, 2008

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

Re: 1825 Poplar Ridge Road
S08-012, P08-0028

Dear Ms. Krinetz:

Thank you for submitting the above referenced application for review and comment. The applicant is seeking to subdivide an existing 1.58 acre parcel into two lots; Lot 1 at 0.831 acres and Lot 2 at 0.698 acres. The parcel is entirely within the Limited Development Area (LDA). Lot 1 is currently developed with a single family dwelling which will be improved. Lot 2 will be developed with a new single family dwelling. Based on the information provided, I have the following comments:

1. The proposed impervious surface for Lot 1 is 5,430 square feet or 15% and 4,497 square feet or 15% for Lot 2. Combined, the total proposed impervious surface is 9,927 square feet or 14.4% of the entire parcel. The plat notes regarding impervious surface reference lots created prior to December 1, 1985 which is confusing. I recommend this plat note be removed. Additionally, the notes indicate the proposed impervious surface is less than existing impervious surface, which is not the case. I also recommend this note be removed or clarified.
2. Per Section 17-8-601(b) of the Anne Arundel County Code, clearing on lots in the LDA and RCA is limited to 20% unless the County approves clearing up to 30%. The applicant is proposing to clear beyond this limit. The proposed clearing for Lot 1 is 35% and for Lot 2 is 56%. The plan incorrectly states the forest clearing limit is 6,445 square feet, which only applies to grandfathered lots less than one-half acre.
3. A variance will be required if the applicant seeks to remove more than 30% of the existing forest cover on site. Given the proposed lots would be newly created this office

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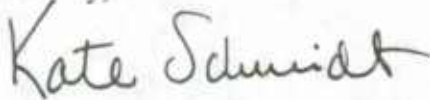


would not support this variance request. The applicant should reduce the amount of proposed clearing to meet the 30% limit.

4. Depending on the proposed amount of clearing, the applicant should provide appropriate mitigation. Mitigation should be provided on site to the maximum extent possible prior to payment of fee-in-lieu. Plantings should consist of a mix of native trees and shrubs.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3745.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
cc: AA101-08

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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March 3, 2008

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

Re: Peter Paglia & Ludia Sarmast
S07-052, P08-0019

Dear Ms. Krinetz:

Thank you for submitting the above referenced application for review and comment. The applicant is seeking to subdivide an existing 2.11 acre parcel into two lots; Lot 1 at 1.06 acres and Lot 2 at 1.05 acres. Contrary to the application, it appears the parcel lies both within the Limited Development Area (LDA) and Resource Conservation Area (RCA). The RCA portion of the site coincides with much of the proposed Lot 1. The parcel is currently undeveloped, however a single family dwelling is proposed for Lot 2 and a commercial manufacturing building is proposed for Lot 1.

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

1. The applicant should clarify the location of the RCA on the parcel. The entire RCA portion of the site should be contained within the proposed Lot 1 in order to subdivide the parcel.
2. The proposed manufacturing building on Lot 1 is not consistent with an RCA use, and is therefore not permitted.
3. The Critical Area report did not identify the age of the wetlands study previously conducted on site. The applicant should provide this information and a new wetlands study may be warranted. Mapping resources indicate wetlands areas on the north end of the site in addition to those shown on the south end.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3745.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner
cc: AA72-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 4, 2008

Ms. Katina Shoulars
M-NCPPC – Planning Department
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: CP-08001
Highland, Lots 8&9

Dear Ms. Shoulars:

Thank you for submitting the above referenced Conservation Plan for review and comment. The applicant is proposing to construct a single family dwelling in the Intensely Developed Overlay (IDO). The site is 5,000 square feet and the proposed disturbance is 4,299 square feet. Typically, only building permits that disturb more than 15,000 square feet in the IDO require review and comment by the Critical Area Commission. However, based on the information you provided, I have the following comments:

1. The proposed impervious surface is 1,495 square feet or 30% of the site. There is no impervious surface limit within the IDO, notwithstanding the lot coverage limits per the underlying zoning.
2. The applicant is proposing to meet the 10% pollutant reduction rule in the IDO by planting equivalent to 1,450 square feet of trees and shrubs, or 29% of the site.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
PG06-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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March 4, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
200 Chesapeake Blvd., Suite 2300
Elkton, MD 21921

Re: Preliminary Major Subdivision & Forest Conservation Plan
Herschell B. Claggett

Dear Mr. DiGiacomo:

Thank you for submitting the above referenced subdivision for review and comment. The applicant received concept plat approval on August 20, 2007. The proposal is for a 3-lot subdivision of a 209.3 acre parcel, of which 78.2 acres are within the Resource Conservation Area (RCA). I last reviewed the proposal on August 21, 2007. My remaining comments are below:

1. As I stressed in my previous communications, Sheet #1 of the plat should contain a note referencing Section 193.3 of the Cecil County Zoning limiting the density of the RCA to one dwelling unit per twenty acres. Therefore, based on the proposed plan for three lots and three dwelling units, no additional subdivision or dwelling units may occur.
2. The 110-foot Buffer applies to tidal waters, edge of tidal wetlands and tributary streams. Tributary streams include both intermittent and perennial streams per Section 196 and the definitions within the Cecil County Zoning Ordinance. It is not clear whether a 110-foot Buffer for tributary streams was properly applied within the plat based on the note included on Sheet #4. Sheet #4 should be revised to state a 110-foot Buffer is shown from the edge of tidal waters, tidal wetlands and tributary streams and the plat adjusted as necessary.
3. Tributary streams may be identified on USGS topographical maps, but should be shown on the plat regardless if they are present in the field.
4. In the case of contiguous steep slopes of 15% or greater, the 110-foot Buffer should be expanded four feet for every one percent of slope, or to the top of the slope, whichever is

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greater. Given the scale of the plat it is difficult to establish whether the Buffer was properly expanded in all places. I recommend the applicant submit a close-up of the Buffer expansion to ensure the calculations were made correctly.

5. The review by the Department of Natural Resources Wildlife and Heritage Division determined Forest Interior Dwelling Species (FIDS) habitat may be present on site. Notes #8 on Sheet 6 should be revised to correctly state the requirements of development within FIDS habitat. A note should be added to the plat stating that any proposed development activity must comply with the Habitat Protection Provisions of the Cecil County Code and the FIDS mitigation requirements outlined in the CAC guidance document A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area.
6. Aerial imagery of Lot 6 indicates there is some open area on the lot near the barn, however the tree line does not exactly match what is indicated on the plat. The applicant should be aware, that any clearing of trees in this area must be mitigated under the FIDS Guidance and are considered part of the forest canopy.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

CE163-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 4, 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 Application 07-2259; Hayenga
24209 North Patuxent Beach Road, California

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance request. The applicant is seeking a variance after-the-fact to the 100-foot Buffer. The property is 19,200 square feet in size and located within the Limited Development Area (LDA) and a designated Buffer Management Overlay (BMO). The site is currently developed with a single-family dwelling. The applicant has expanded 11 feet waterward of the existing dwelling with a covered concrete patio running the length of the house. Previously, a brick patio extended approximately 10 feet waterward of the dwelling along a portion of the rear of the dwelling. The addition is beyond the BMO setback for dwellings in this area.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets **each one** of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Planning Director must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

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Ms. Yvonne Chaillet
07-2259 Hayenga
March 4, 2008
Page 2 of 2

In this instance, the applicant wishes to expand their dwelling with a covered patio along the length of their house increasing impervious surface within the Buffer by 480 square feet. The applicant previously had a brick patio on the waterside of their dwelling that was 260 square feet in size. In 2003 the applicant was granted a variance for largely the same request which this office did not oppose; however they never obtained their building permit. In addition to constructing without a permit, the applicant did not provide the mitigation that would have been required by the variance granted. It would appear based on aerial imagery that the Buffer contains minimal vegetation at this time.

Should the Planning Director find that the applicant can meet all of the standards contained in Section 24.4 of the Comprehensive Zoning Ordinance; this office recommends mitigation beyond 3:1 given the after-the-fact circumstances involved. The mitigation should be accommodated on site waterward of the existing dwelling and consist of a mix of native trees and shrubs.

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

Sincerely,



Kate Schmidt
Natural Resources Planner
SM81-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 5, 2008

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

Re: Chesapeake Cove Preliminary Subdivision; Lots 1-11
Intermittent Stream Determination

Dear Mr. DiGiacomo:

I have received a copy of the Intermittent Stream Determination and Critical Area Buffer plan for the above referenced subdivision dated February 20, 2008. The determination of the limits of intermittent and perennial streams shown on this plan was based on our field meeting of February 8, 2008 during which Ace Adkins, of Maryland Department of the Environment provided guidance. Further, the remainder of the property not visited with Mr. Adkins was reviewed by GTA staff on February 12, 2008 using criteria that established the presence of a channel, hydric soils, base flow, and channel geomorphology. The limits of these determinations are also reflected on the submitted site plan. I have reviewed this plan against the information documented in the field on February 8th and confirmed this review with Mr. Adkins. Based on the site plan submitted, I concur with the shown limits of intermittent and perennial streams and the 110-foot Buffer.

In conclusion, I wish to emphasize that this letter provides comments from Commission staff pertaining only to your Intermittent Stream Determination and Critical Area Buffer Plan dated February 20, 2008. This letter does not respond to the legal argument contained in the last paragraph on page 2 of the letter submitted by Geo-Technology Associates. If you have any questions or comments regarding the legal jurisdiction of the Critical Area Commission, kindly ask your attorney to contact Commission counsel.

I hope this information is of assistance to you. Please contact this office if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

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Mr. Tony DiGiacomo
Chesapeake Cove
March 5, 2008
Page 2 of 2

Cc: Mr. James Keefer, Morris Ritchie & Associates
Mr. Andy Stansfield, Geo-Technology Associates
Mr. Ace Adkins, MDE Salisbury Field Office
Mr. Tim Henderson, Rich & Henderson, P.C.
Mr. Thomas O'Laughlin, Oldfield Point Investments, LLC
Ms. Marianne Dise, Commission Counsel

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March 6, 2008

Ms. Lori Allen
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Cedar Hill Planned Unit Development Sketch Plan
S2007-003; P2007-0006

Dear Ms. Allen:

Thank you for submitting the above referenced subdivision for review and comment. The applicant is proposing a Planned Unit Development (PUD) over a 163 acre site. Approximately 18.725 acres is located in the Resource Conservation Area (RCA). Currently, the sketch plan shows only two potential access ways through the RCA portion of the plan. This office last provided comments on November 27, 2007. Based on the information provided, the following comments remain:

1. Previously, this office did not oppose a secondary access through the RCA based on the understanding that the necessary traffic study would require the outlet. The applicant's response dated January 31st states that the traffic study for the PUD does not require this second connection to Baltimore City. If a feasible alternative does exist, this office would oppose the plating of either extension shown. The applicant should clarify the results of the traffic study for this office.
2. The sketch plan appears to state that the applicant will pursue the extension of Cedar Hill Boulevard through Parcel 247 in the future. If a future extension is determined to be necessary this office supports the alignment that would have the least impact to Habitat Protection Areas (HPAs) and Forest Interior Dwelling Species (FIDS). It is difficult to ascertain which extension this may be with the information provided, though it does appear at this time to be the extension through Parcel 247. If an extension is to be pursued, this office recommends clarifying the impacts to FIDS and the HPAs.

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Ms. Lori Allen
S2007-003, P2007-0006
March 6, 2008
Page 2 of 2

3. The delineation of wetlands and streams within the Critical Area portion of the sketch plan is confusing. A 100-foot Buffer is required around all intermittent and perennial streams identified in the Critical Area. The applicant should clarify whether the 'Waters of the US' that are shown may be classified as intermittent or perennial. If they meet this definition, than the stream buffer should be adjusted from the 50 feet shown to 100 feet.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,



Kate Schmidt
Natural Resource Planner
AA57-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 18, 2008

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

Re: Patterson Property
S92-107; P08-0035

Dear Ms. Krinetz:

Thank you for submitting the above referenced application for review and comment. The applicant is seeking to relocate an existing right-of-way on their property to match the location of an existing road. The property is 4.04 acres in size and located within the Critical Area. It has a designation of Limited Development Area (LDA). No new lots or disturbance is proposed as part of this application. The property conforms to the 15% impervious surface limit and is 43% forested. Based on the information provided, I have no comments at this time.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3745.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

cc: AA111-08

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March 19, 2008

Ms. Betsy Vennell
Zoning Assistant
Town of North East
P.O. Box 528
North East, Maryland 21901

RE: Variance Case #A-2008-10-V, 11-V, 12-V, & 13-V
North East Isles Lots 97, 98, 99, & 100

Dear Ms. Vennell:

Thank you for submitting the above referenced variance applications for review and comment. The applicant, Larson Investments, is seeking variances to develop three existing grandfathered lots with individual single family homes and to improve the existing access road within the 110-foot Buffer. The properties are designated as Limited Development Area (LDA) and lie entirely within the expanded 110-foot Buffer for steep slopes.

Provided the lots are properly grandfathered, this office does not oppose these variances to establish a dwelling on each lot. Based on the information provided, I have the following comments:

1. The development table states that 0.65 acres will be impacted on Lots 98, 99, and 100. Additionally, 0.24 acres will be impacted to improve the access road and construct the shoreline erosion control measure on Lots 97 and 98. It is unclear what types of improvements for the access road are planned. Will the road be widened? Or do the improvements consist only of replacement of existing impervious surface area? It is important to clarify the types of impacts in order to determine the amount of mitigation to require as a component of the variance as described below.
2. The construction of the homes and driveways on Lots 98-100 should be mitigated at a ratio of 3:1 for disturbance to the Buffer.
3. The area of impact to the Buffer for the construction of the shoreline erosion control measure should be mitigated at a ratio of 1:1.
4. The area of impact to the Buffer for the roadway access improvements should be mitigated at a ratio of 3:1.

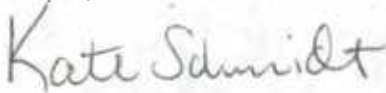
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5. To the maximum extent possible, mitigation should be provided on site in the form of plantings within existing cleared areas on the property and be permanently protected. Protection may occur in the form of plat notes to indicate no clearing may occur within the reforested area. Previously submitted tree replacement plans included an appropriate mix of native overstory and understory trees to be planted on Lot 100.

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

Sincerely,



Kate Schmidt
Natural Resource Planner
NE424-06

Cc: Ms. Mary Ann Skilling, Maryland Department of Planning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 19, 2008

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

Re: Gibson Way Subdivision – ECP & Forest Stand Delineation
S08-014, P08-0030

Dear Ms. Krinetz:

Thank you for submitting the above referenced plan for review and comment. The applicant is seeking to subdivide a 16.72 acre property of which 5.65 acres are located inside the Critical Area. The Critical Area portion of the property is designated as Limited Development Area (LDA). The submittal forwarded to this office only included a Critical Area Report and the ECP & Forest Stand Delineation. A conceptual subdivision plan was not included. Based on the information provided, I have the following comments:

1. The Critical Area Report indicates a 12-lot subdivision is proposed and it appears some lots will occur in the LDA based on proposed clearing. I can not offer comments at this time on the proposed subdivision in the LDA without a sketch plan. Please forward a copy of the appropriate plan to this office for review when it is available.
2. The Critical Area Report indicates 24.9% of woodland would be cleared in the LDA with the entire mitigation requirement to be provided off-site or through fee-in-lieu. It is difficult to determine whether this mitigation is appropriate without a site plan; however existing woodland should be conserved to the maximum extent possible. Further, mitigation should be provided on-site if opportunities are available.
3. The limit of steep slopes shown in the southern corner of the property is not clearly marked and does not match the legend.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3745.

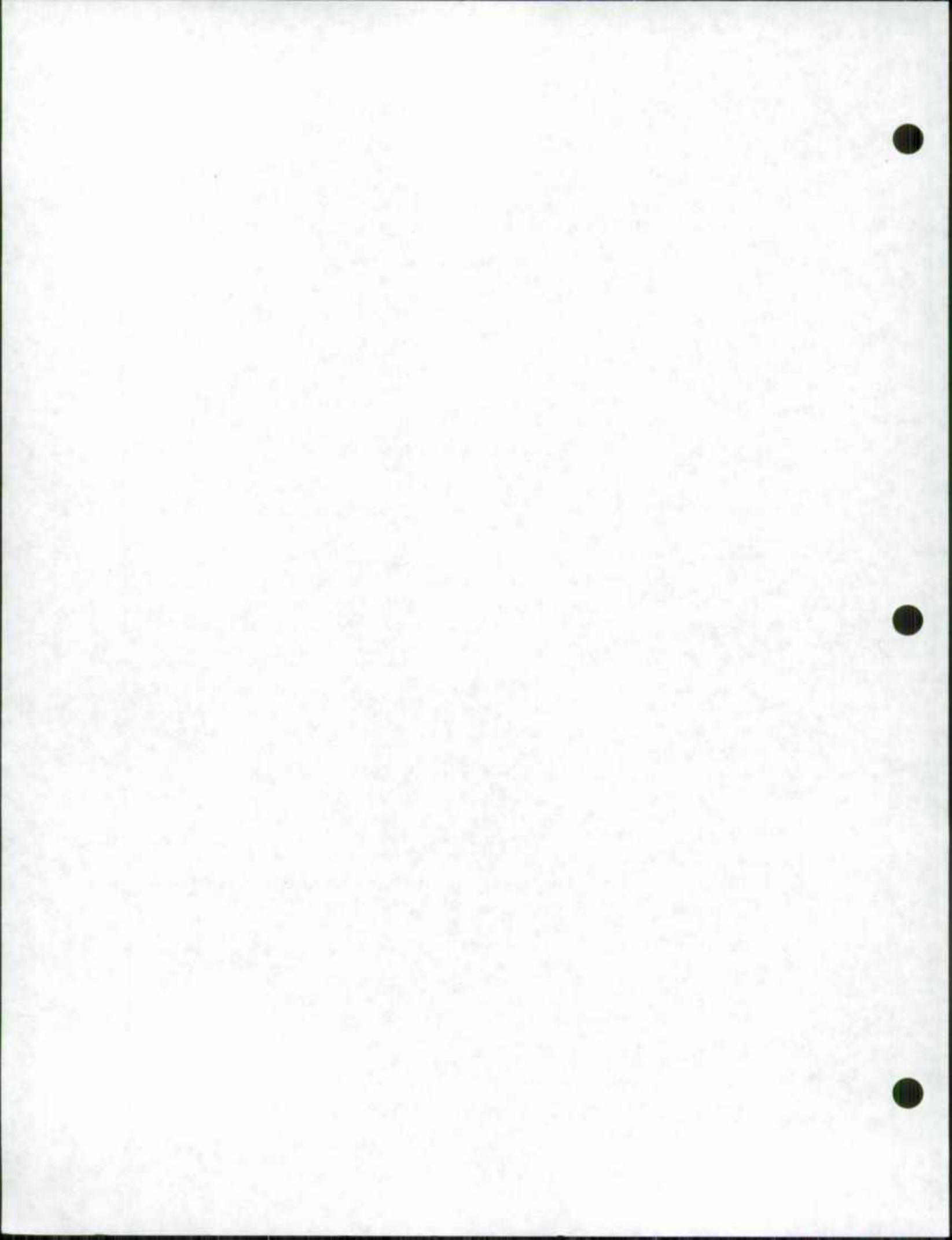
Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
cc: AA102-08

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March 19, 2008

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

Re: Dennis Point Lot 3 Parcel A
S86-218; P07-0195

Dear Ms. Krinetz:

Thank you for submitting the above referenced application for review and comment. The applicant is seeking to revise an existing plat for Lot 3 to adjust the boundary of the 25-foot buffer to nontidal wetlands. Lot 3 is 12,981 square feet in size and located in the Limited Development Area (LDA). The lot was recorded as part of the Dennis Point subdivision in 1993. It appears the lot lines followed the boundary of the nontidal wetland and the 25-foot buffer was located from that boundary. According to the application material, a portion of nontidal wetlands adjacent to the lot was filled in by Hurricane Isabel and the plat seeks to rectify that filling with the new nontidal wetland boundary. Based on the information provided, I have the following comments:

1. Prior to recordation of the plat, the boundary of the nontidal wetland should be verified by Maryland Department of the Environment or the Army Corps of Engineers.
2. A copy of the Critical Area report should be forwarded to this office when it becomes available.
3. The plat indicates the impervious surface limit for this lot is 2,596 square feet and that existing impervious surface is 2,913 square feet. I am not clear as to why the impervious surface limit for this Lot is 20%, however, if this is the case, it will be necessary for the applicant and/or the County to address this apparent violation prior to recordation of the plat.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3745.

Sincerely,

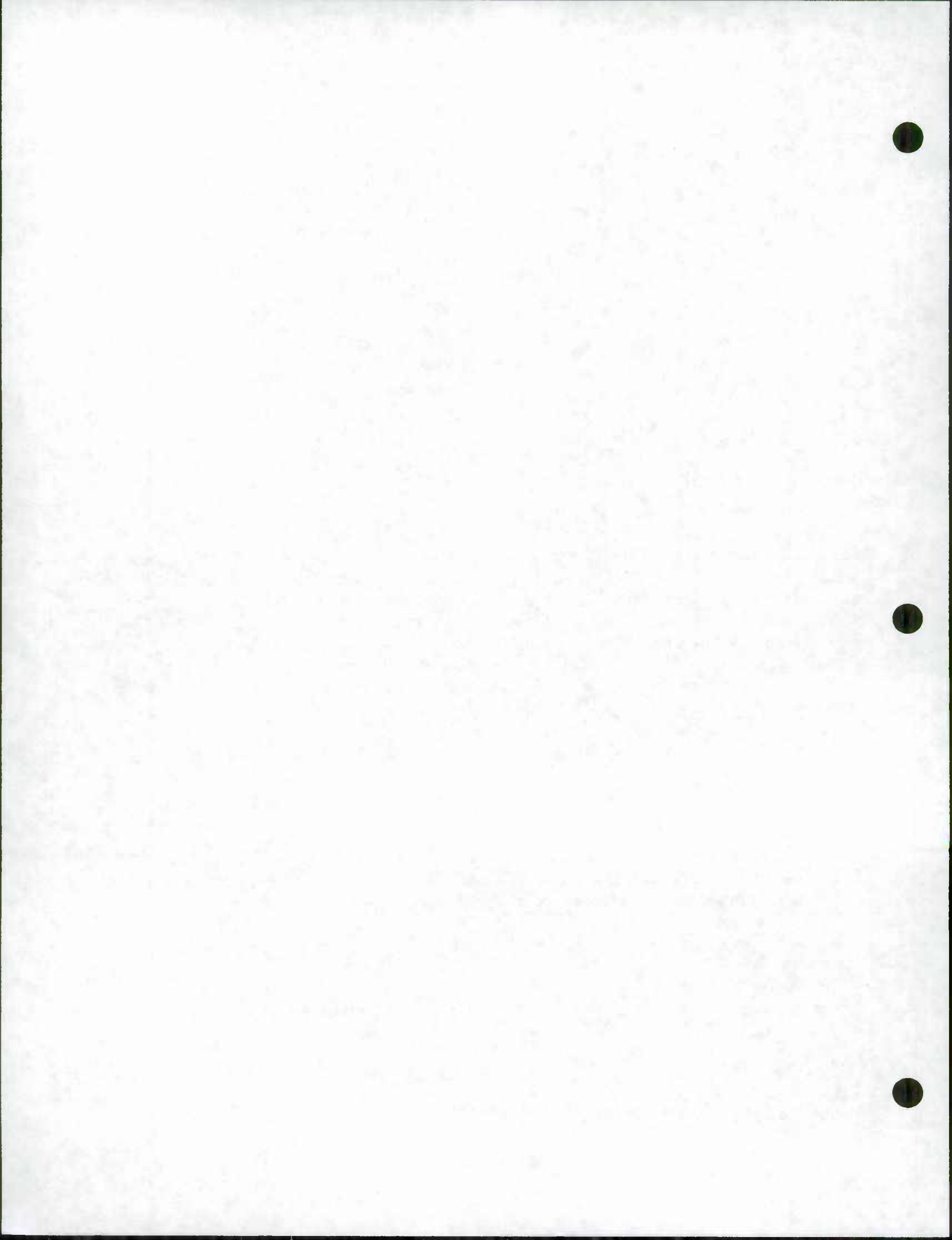
A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

cc: AA129-08

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March 19, 2008

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

Re: David Dalo Property
MS06-033

Dear Ms. Krinetz:

Thank you for submitting the above referenced application for review and comment. The applicant is proposing a two-lot minor subdivision. The parcel is 8.36 acres in size of which 0.55 acres are located in the Limited Development Area (LDA). No development is proposed in the LDA which will remain part of the Conservation Area. This office previously provided comments on August 31, 2006. I have outlined my remaining comments below.

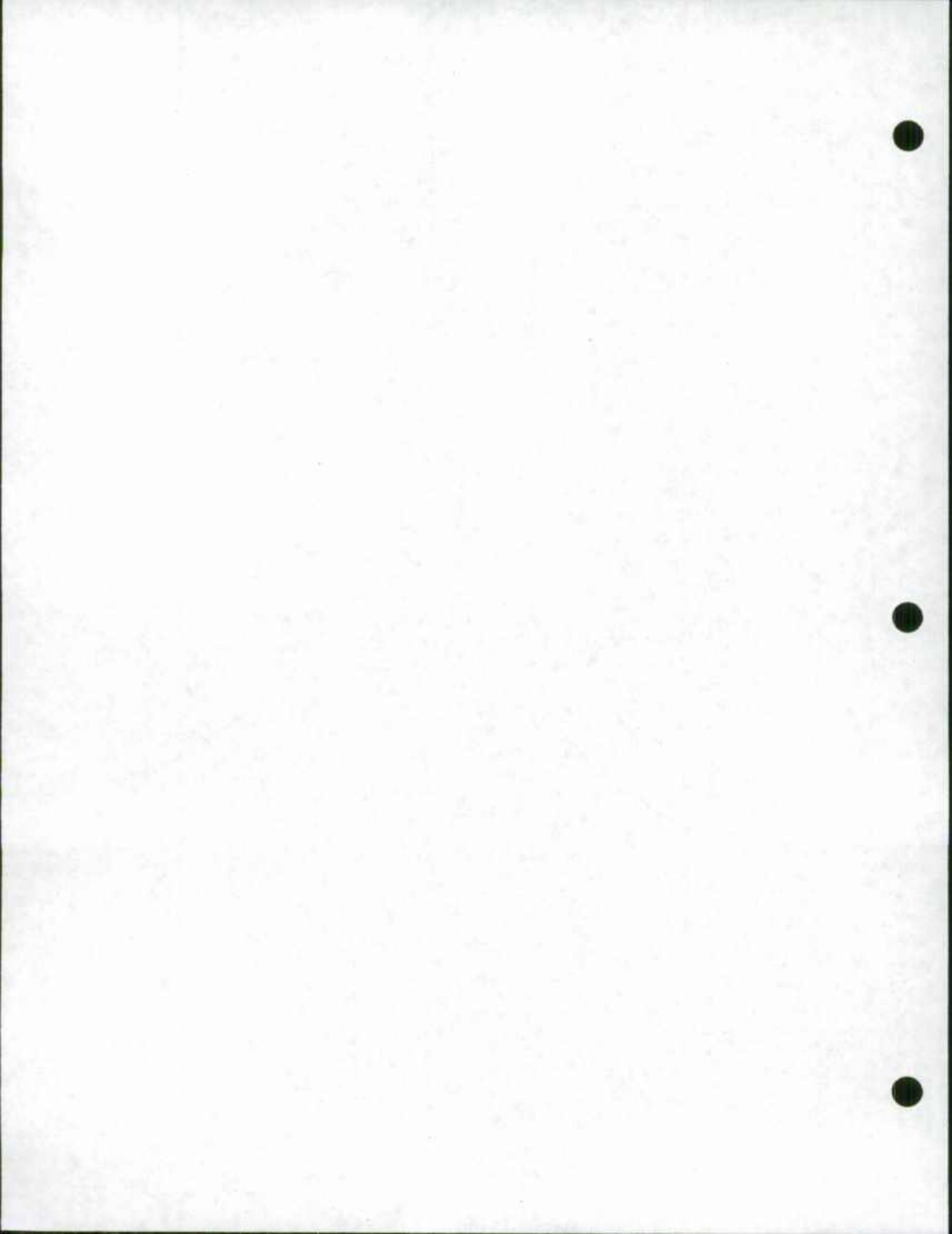
1. It is our understanding that the Corps is now issuing Jurisdictional Determinations. The wetland report continues to be confusing. I recommend the County verify with the Corps whether the JD from January 5, 2005 was approved or whether a new one is required based on the November 2007 delineation from McCarthy & Associates.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3745.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
cc: AA524-06



Martin O'Malley
Governor

Anthony G. Brown
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March 21, 2008

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

Re: Sypher Subdivision Concept Plan
Project #07-12000008

Dear Ms. McCauley:

I have received a revised concept site plan from NG&O Engineering for the above referenced subdivision. The applicant has made revisions to the Concept Plan based on comments made at the June TEC meeting. The revised subdivision design only includes the Limited Development Area (LDA) portions of Parcel 10, an 11.723 acre portion and a 1.157 acre waterfront site. Based on the information provided I have the following comments:

1. The applicant has removed the RCA portion of Parcel 10 from consideration of this subdivision given the public road has divided these areas into separate parcels.
2. The applicant has correctly revised the impervious surface limit as shown under General Note #13. As a note of caution, while the applicant may construct up to the 15% impervious surface limit, doing so would eliminate any opportunity for property owners to make improvements such as installing sheds or constructing a pool on their property. The County should evaluate carefully whether 1,750 square feet of impervious surface on each lot is sufficient to provide a dwelling, driveway, and room for other amenities over time. The Commission has found that subdivisions constructed at the impervious surface limit have an increased need for enforcement. In addition, please note that this office would not support future requests for variances on newly created, non-grandfathered lots.
3. The remaining development standards have been correctly revised. In order to clear above 20%, the applicant must provide mitigation at a ratio of 1.5:1. In this case, the applicant will be required to provide 2.955 acres of forest mitigation.

4. As noted by the applicant, any proposed activity in the Buffer as shown on the plat will require a variance per Section 71.8 of the St. Mary's County Zoning Ordinance. It is not clear to Commission staff at this time whether the proposed bathhouse will be able to meet the variance standards given that it is not a water-dependent facility or a primary use such as a dwelling unit.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

SM 288-07

Cc: Ms. Sue Veith, Environmental 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 21, 2008

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, MD 21623

Re: Town of Perryville – Boat Launching Facility Expansion
Proposed Mitigation Planting Plan

Dear Ms. Skilling:

Thank you for submitting the proposed planting plan for the Town of Perryville's boat launch facility. The planting plan is a requirement of the approval received by the Town from the Critical Area Commission for the upgrades to the facility at its January 9, 2008 meeting. The Commission required the Town to provide 9,964 square feet of mitigation for impacts to the 100-foot Buffer. The mitigation was to be accommodated on site in the Buffer to the maximum extent possible, within the 25-foot setback. Any mitigation that could not be accommodated on site could be provided at the Town Park. Based on the planting plan submitted I have the following comments:

1. The Commission guidance on mitigation allows 400 square feet of credit to be given to a planting group that consists of one overstory tree (minimum 2" caliper) with either two understory trees, or three shrubs. In order to receive the full credit, the trees and shrubs must be planted together in a mixed setting. The proposed planting plan does not fully meet these standards.
2. The 25 trees listed include both overstory (Oak) and understory (American Holly, Eastern Redbud) species. In order to gain full credit, a minimum of 25 overstory trees must be provided. The planting plan should increase the number of Oak trees or similar species and enumerate the specific number of understory trees that will be provided.
3. The proposed grasses and wildflowers do not receive the same credit in the planting mix as shrubs. While the Town may incorporate such items into the mix, the credit will be 2 square feet per plug.

4. Additional plantings should be accommodated on site within the Buffer closer to the shoreline on the southern end of the property. Based on my estimate, it would appear approximately 16 additional trees planted 10-foot on center could be accommodated in this space. It is my understanding based on previous site visits that this area is currently grass and open.
5. The submittal should include a planting plan for any additional mitigation that will be provided at the Town Park.

Please address the above comments and submit a revised planting plan. As noted in the Commission approval, the Town may not commence construction until a planting plan has been approved. Should you have any questions, please feel free to contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resources Planner
PE506-06

Cc: Denise Breder, Town Administrator

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 21, 2008

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

Re: Lands of Steve and Renee Kessler
Case Number 08-110-016

Dear Ms. Glenn:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing to create Farmstead Lot 1 and Lot 2 from a 100.12 acre parcel. A 74.87 acre outlot will remain of which 23.01 acres lies within the Critical Area. The Critical Area designation is Resource Conservation Area (RCA). No development or additional subdivision within the RCA is proposed. Based on the information provided, I have no comments at this time.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

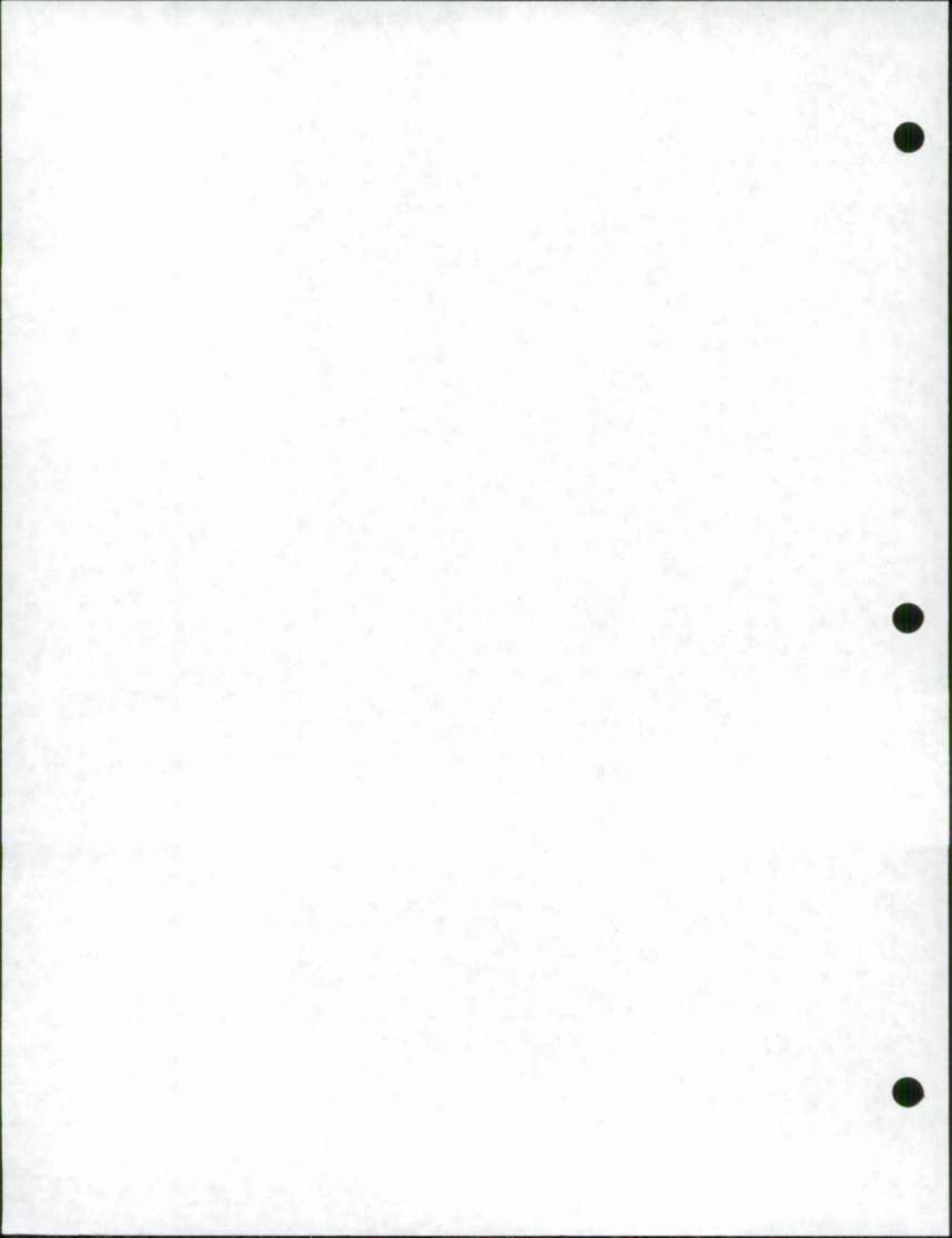
Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 166-08

Cc: Ms. Sue Veith, Environmental Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 25, 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 File #08-0124; Roberts
49855 Gray Goose Lane, Ridge

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a storage shed within the 100-foot Buffer. The property is 1.0 acres in size and located within a Limited Development Area (LDA) Critical Area designation. The property is developed with a dwelling and driveway, which are located outside the 100-foot Buffer. The lot is grandfathered, but the dwelling was not constructed until 2004. This request for the storage shed is for after-the-fact construction.

This office is opposed to granting the variance request as proposed because the applicant has not met all the variance standards, including the standard of unwarranted hardship. Further, the applicant may locate the shed outside of the 100-foot Buffer. The following is an analysis of the requested variance for this project in the context of St. Mary's County's variance standards.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.



In this instance, the applicants' request for a variance to allow a shed in the 100-foot Buffer is in conflict with the St. Mary's County Comprehensive Zoning Ordinance (CZO) Section 70.8.3.b which prohibits development activities in the 100-foot Buffer. Only structures that are water dependent facilities may be located in the Buffer and a shed is not a water dependent facility. A water dependent facility is defined by Section 41.8 of the CZO as development activities that are dependent on the water by reason of the intrinsic nature of their operations and that cannot exist outside the Critical Area Buffer. This definition would include facilities such as a marina or a public dock. Section 41.8.2(a)(1) specifically states that storage structures are non-water dependent facilities and may not be located in the Buffer. 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

A significant area of this property is within the 100-foot Buffer. However, the applicants constructed a dwelling on this lot in 2004 entirely outside the 100-foot Buffer. While remaining space outside the Buffer may be limited, there is room identified by County staff to accommodate the shed outside the Buffer. Therefore, there are no conditions that are peculiar to this property that would require the applicant seek a Buffer variance. Additionally, the applicant has already achieved reasonable use of the property for residential purposes with a house and garage. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the shed in the Buffer as the applicant is able to use the property for residential purposes.

24.4.1.b – That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County

A literal interpretation of St. Mary's County's regulation of 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 construction of amenities in the 100-foot Buffer which are not water-dependent and for which there is sufficient room outside of the Buffer is not a right commonly enjoyed by any property in the Critical Area.

24.4.1.c – The granting of a variance will not confer upon the applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area.

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

office would not support a similar variance request to allow a non-water dependent structure in the 100-foot 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

This variance request is based upon actions of the applicant. The applicant made an effort to establish whether a permit was required for the shed however did not contact the County to ensure a permit was not required. Had the applicant contacted the County they would have been advised that sheds do not qualify as a water dependent structure under the County zoning ordinance.

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. While the shed may be located under the canopy of a pine tree it still constitutes a development activity in the Buffer which prevents further establishment of understory vegetation. A naturally vegetated Buffer that contains a mix of trees and shrubs provides numerous 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.

24.4.1.f – The variance is the minimum necessary to achieve a reasonable use of land or structures

The applicant already has full use of his property for residential purposes with a single family home, garage and driveway. The current proposal is to provide storage for tools and equipment and does not meet the definition of a water-dependent facility. Further, increasing development in the Buffer to accommodate these needs is unnecessary to maintain the residential use of the property. Therefore, the requested variance is not the minimum adjustment necessary to afford relief from the regulations because the regulations do not prevent the applicant from achieving reasonable use of their property.


This letter has addressed five of the relevant variance standards. Based on the information provided, none of the variance standards are met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Because the applicant has failed to meet all of the County and State variance standards, this office recommends that the Board deny

Ms. Yvonne Chaillet
08-0124 Roberts
March 25, 2008
Page 4 of 4

the applicant's request for this variance and require the applicant to remove the shed from the 100-foot Buffer.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM150-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 25, 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 File #08-0027; Self
39838 Cathy Circle, Mechanicsville

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to extend an existing driveway within the 100-foot Buffer expanded for highly erodible soils. The property is 20,156 square feet in size and designated as Limited Development Area (LDA). The lot is developed with a single family home, shed, and driveway. The proposed driveway expansion is well within the impervious surface limits on the home; however the applicant proposes to offset the additional impervious surface by removing an above ground pool. The applicant's contractor did not inform him permits were needed, therefore the request is after-the-fact.

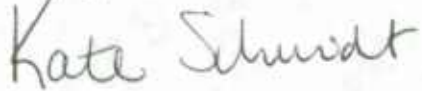
Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided, I have the following comments:

1. The applicant should provide mitigation at a ratio of 3:1 per the requirements of Section 24.4.2 of the St. Mary's Comprehensive Zoning Ordinance. Plantings should consist of native vegetation and be accommodated on site.
2. Given the potentially erosive nature of the soils on site, this office recommends the applicant provide a best management practice to treat stormwater runoff from either the dwelling or the driveway.

Ms. Yvonne Chaillet
Local Case #08-0027
March 25, 2008
Page 2 of 2

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.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
SM040-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 25, 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 File #07-1966; Liberty Home Builders
26165 Skyview Drive, Hollywood

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is seeking to construct a new dwelling and exceed forest clearing limits of 30%. The lot is 15,319 square feet in size and located within the Limited Development Area (LDA). It is currently undeveloped and the applicant proposes to clear 1,938 or 54% of the existing woodland on site.

Provided this lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided, I have the following comments:

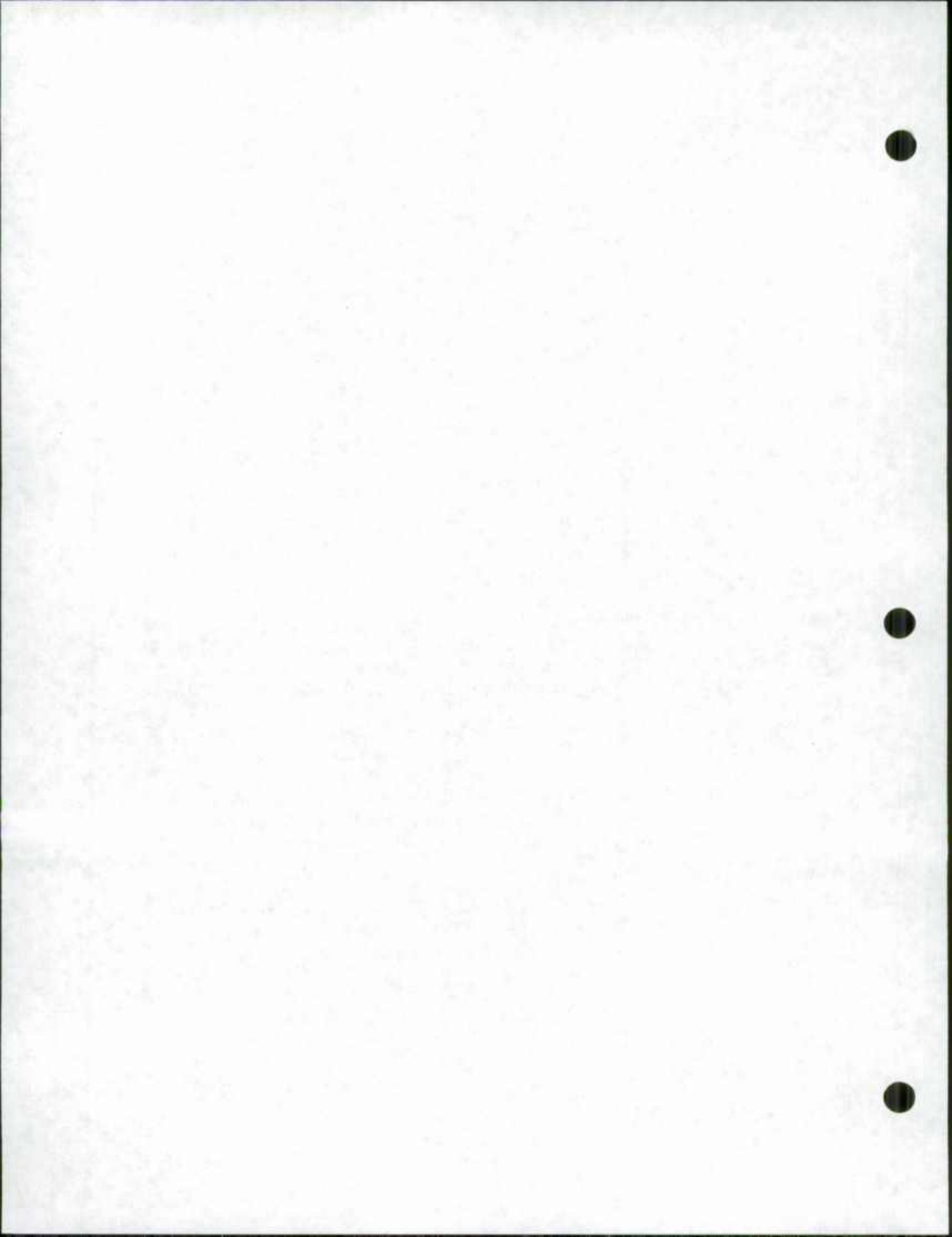
1. Forest mitigation should be provided at a ratio of 3:1 per St. Mary's Comprehensive Zoning Ordinance Section 72.3.3. The maximum amount possible should be accommodated on site prior to the use of the fee-in-lieu provision.

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.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM149-08



Martin O'Malley
Governor
Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair
Ren Serey
Executive Director

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April 3, 2008

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, Maryland 21623

**RE: Bainbridge Wastewater Treatment Plant & Route 222 Sewer Interceptor
Port Deposit**

Dear Ms. Skilling:

Thank you for submitting updated information regarding the above referenced project. At our meeting of March 25, 2008 we discussed this project with the applicant, Port Deposit Water & Sewer Authority and requirements for approval by the Critical Area Commission. Based on that meeting and subsequent review of material, I would like to offer the following comments:

1. This project requires approval by the Commission under COMAR 27.02.04 'State or Local Agency Actions Resulting in Major Development on Private Lands or Lands Owned by Local Jurisdictions', which defines wastewater treatment plants as major development. Per the requirements of COMAR 27.02.04, the agency or private sponsor must submit the following information to the Commission:
 - (a) Findings, supported by adequate documentation, showing the extent to which the project or development is consistent with the provisions and requirements of the Critical Area Program of the local jurisdiction within which it is located; and
 - (b) An evaluation of the effects of the project on the Critical Area Program of the local jurisdiction, or jurisdictions, within which it is located, including any effects on the jurisdiction's growth allocation as described in COMAR 27.01.02.06.
2. Given a portion of this project will impact the 110-foot Buffer, the project will also require Conditional Approval by the Critical Area Commission. I have received from the applicant findings in response to COMAR 27.02.06.01.B and 27.02.06.01.C to address this requirement.
3. Lastly, per COMAR 27.02.04 the Commission is required to seek comments on the proposed development from the affected local jurisdictions and from the general public. This office will publish an ad in the Cecil Whig seeking comments from the general

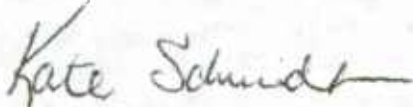
Ms. Mary Ann Skilling
Port Deposit Waste Water Treatment Plant
April 3, 2008
Page 2 of 2

public until May 2, 2008. Please provide any comments regarding this project from the Town of Port Deposit and Cecil County.

4. The area of disturbance to the 110-foot Buffer is 12,320 square feet. This area must be mitigated at a ratio of 3:1. Mitigation should be provided within the 110-foot Buffer and consist of a mix of native shrubs and trees. If the entire mitigation requirement can not be accommodated in the Buffer, a minimum of 1:1 or 12,320 square feet of mitigation must occur in the Buffer.
5. The Department of Natural Resources Wildlife and Heritage Division determined that the forest area adjacent to the proposed project area is Forest Interior Dwelling Species (FIDS) habitat. We established that only edge FIDS habitat will be disturbed. As a result 1:1 mitigation for the impact to the FIDS or 13,580 square feet must be provided. Mitigation for impacts to FIDS must occur adjacent to existing FIDS habitat per the guidelines contained in the Commission's 2000 FIDS Guidance document.
6. The Project Subcommittee recently established new guidelines for approval of projects that require mitigation plantings. All projects that require more than 5,000 square feet of mitigation must have a planting plan reviewed by staff prior to scheduling before the Commission. A planting plan that demonstrates the required FIDS mitigation and the required Buffer mitigation should be submitted to this office.
7. The applicant should submit a copy of the MPDES permit for our records.

The next Commission meeting is scheduled for May 7, 2008. In order to schedule this item for the May agenda, please provide the information described above by April 16, 2008. Should you have any questions regarding the above comments please do not hesitate to contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resources Planner
PD819-06

Cc: Mr. Jim Dieter, GMB
Mr. Roger Greve, GMB
Ms. Sharon Weygand, Port Deposit Town Administrator

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 4, 2008

Mr. Eric Sennstrom, Director
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Map Amendment – Anchor Marina

Dear Mr. Sennstrom:

This office has received a copy of the March 18, 2008 designation of Parcel 1105 on Tax Map 31, the Anchor Marina property, as a Buffer Exemption Area (BEA) by the Cecil County Board of County Commissioners. Thank you for forwarding the findings to accompany the maps and documentation of County discussions. It is our understanding that the Board of County Commissioner's intend to map the Anchor Marina property as a Buffer Exemption Area (BEA). The Critical Area Commission is accepting the revised map for processing. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

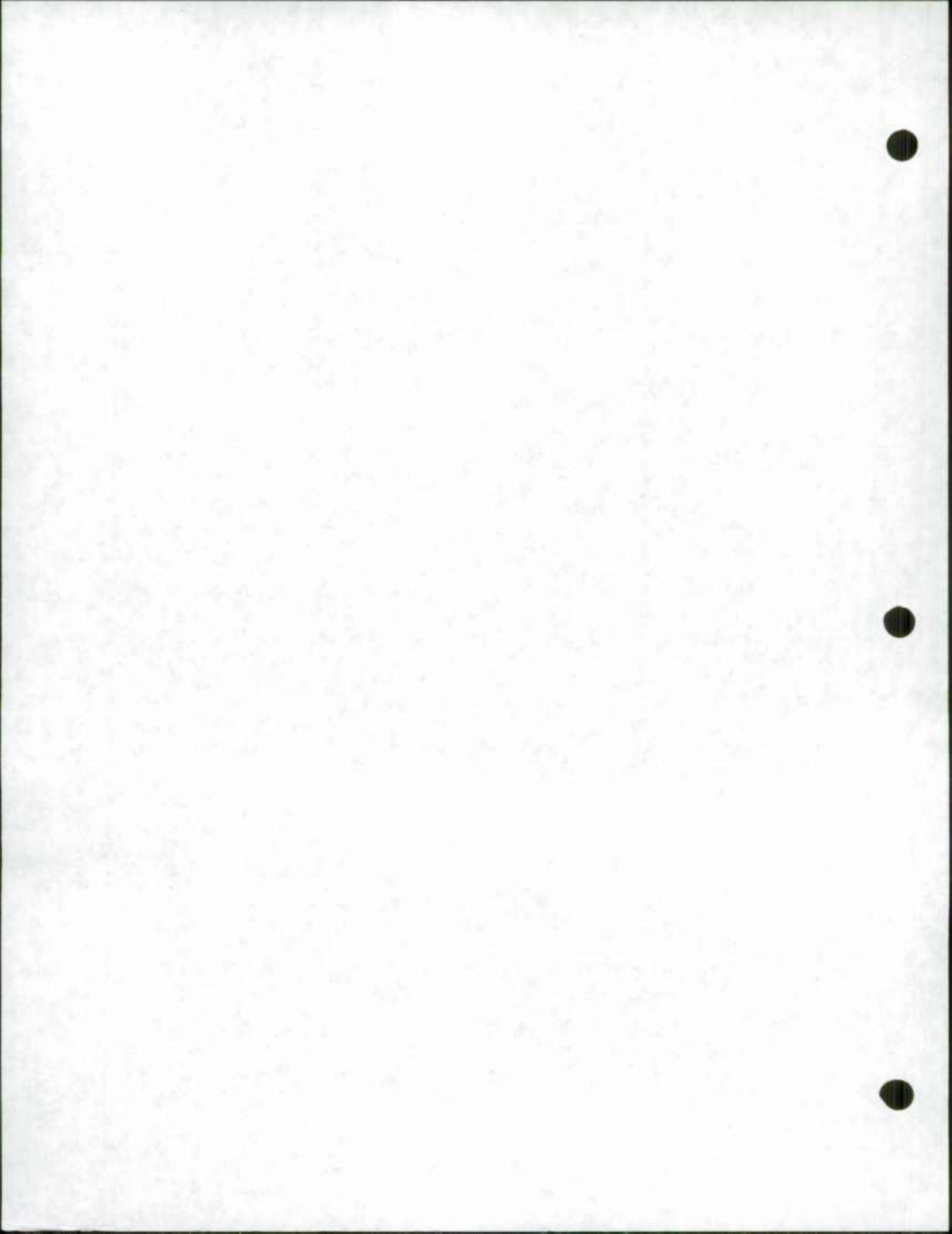
Thank you for your cooperation. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

Cc: Mr. John Fellows, McCrone Inc.



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 4, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0016-V
Dreamcraft Homes; Round Bay Lot 383

Dear Ms. Cotter:

This letter is to replace my previous letter of February 4, 2008 based on a revised site plan submitted by the applicant on April 4, 2008. The applicant is requesting a variance to disturb steep slopes in order to construct a new dwelling on a property that is 18,290 square feet in size. The property is classified as a Limited Development Area and is currently undeveloped. The application does not specify the amount of disturbance to steep slopes.

Provided this lot is properly grandfathered, this office does not oppose this request. Based on the information provided, I have the following comments:

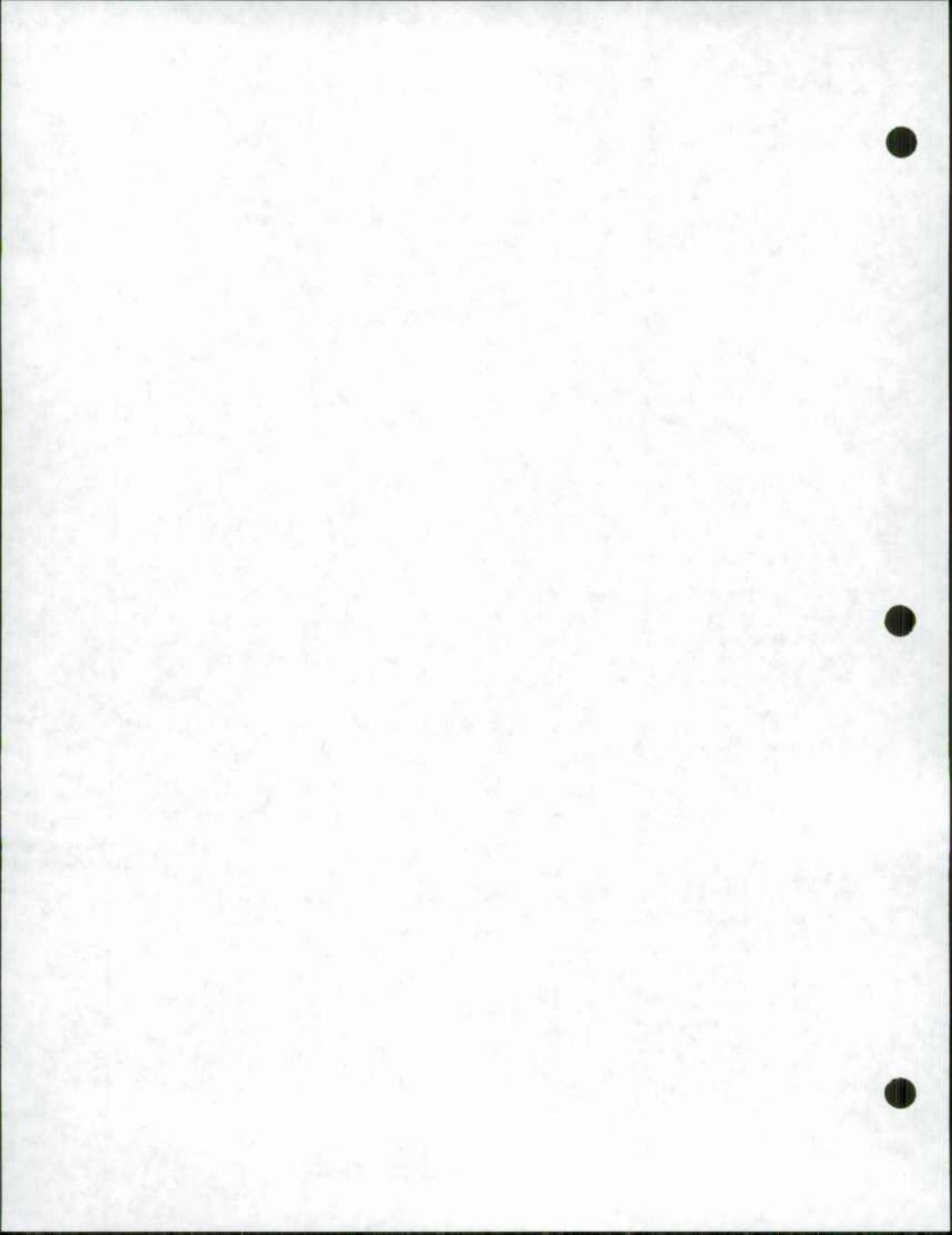
1. Forest clearing is 2,339 square feet which is within the 6,534 square foot limit for grandfathered lots less than one-half acre. Mitigation of 1:1 is required and it appears could be accommodated on site. Plantings should consist of a mix of native shrubs and trees.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA58-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 4, 2008

Mr. Neal Welch
Department of Natural Resources
Tawes E-4
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Mallows Bay Park Boat Launch and Site Development
Charles County Department of Public Facilities

Dear Mr. Welch:

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 unanimously approved the Department of Natural Resources and the Charles County Department of Public Facilities proposal and site plan to improve boat launch facilities and install associated improvements including a parking area and comfort station at the Mallows Bay property located in Charles County. This approval included the following conditions:

1. Prior to commencement of construction, Charles County shall obtain the necessary Erosion and Sediment Control Permit from the Charles County Soil Conservation District.
2. Charles County shall inspect erosion and sediment control measures on a daily basis and correct any problems immediately.
3. Charles County shall submit the proposed project to the Maryland Historical Trust for review and approval, and submit the outcome of that review to Commission staff.

The approval was based on a mitigation package that consisted of 32,548 square feet of mitigation within the 100-foot Buffer and 22,651 square feet of mitigation outside the Buffer. These plantings will be provided on site as shown on Sheet 8 'Buffer Management Plan' of the Site Development Plan. To confirm this mitigation, I am enclosing a copy of the required Planting Agreement which should be signed by the appropriate representative from Charles County Department of Public Facilities, Parks and Grounds Division and returned to this office.

TTY for the Deaf

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



Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner

DNR 16-03

cc: Mr. Tom Roland, Charles County, Park and Grounds Division
Mr. James Erdman, Ben Dyer & Associates

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 7, 2008

Mr. Glenn Therres
Department of Natural Resources
Division of Wildlife & Heritage
Tawes State Office Building E-1
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Chesapeake Cove FIDS Assessment
Consistency with the Critical Area Commission June 2000 FIDS Guidance Document

Dear Mr. Therres:

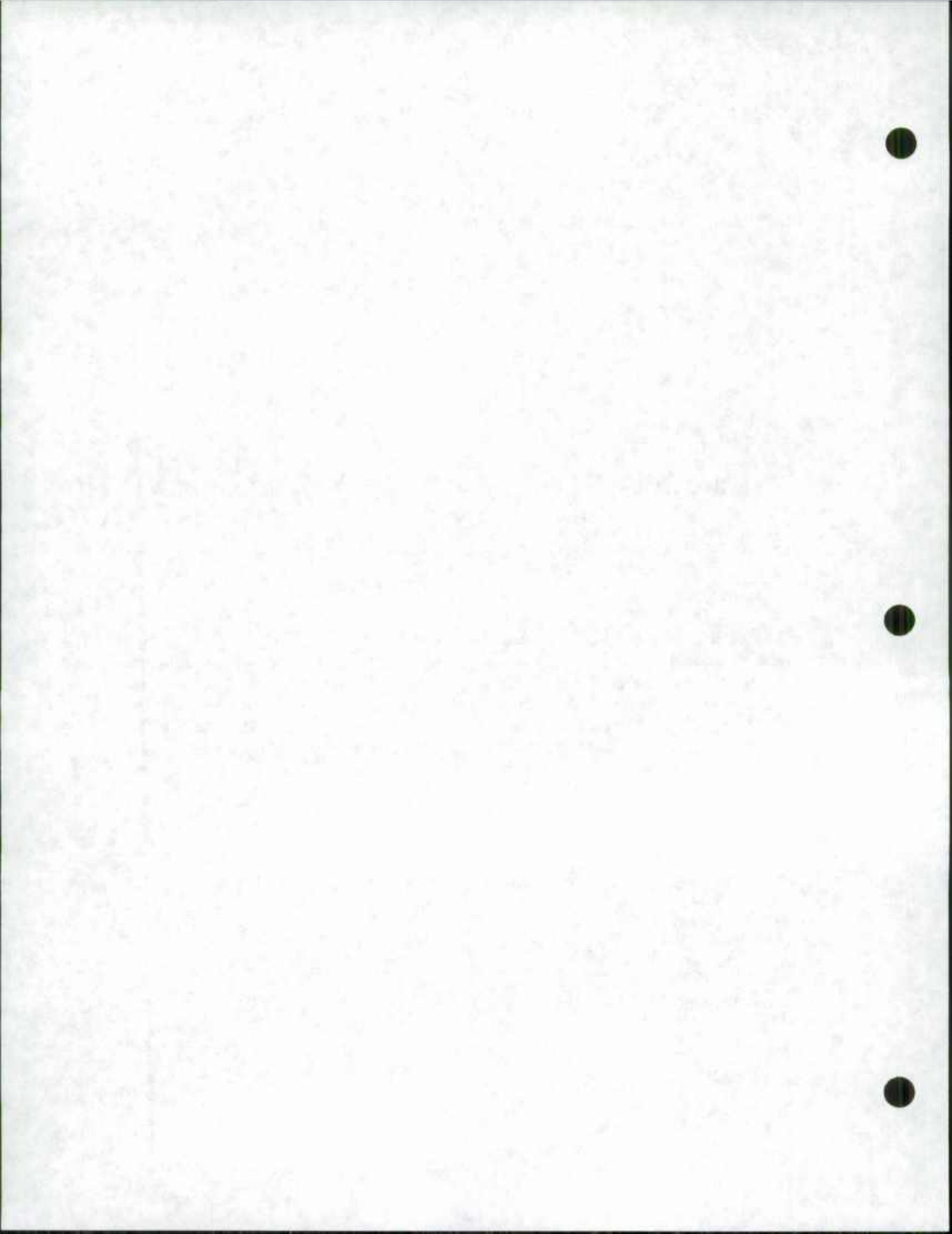
Enclosed please find a copy of the Chesapeake Cove subdivision FIDS analysis. Commission staff reviewed this proposal for consistency with "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" published in June of 2000. Based on staff review of this document and the submitted plan by the applicant, we have recommended that the subdivision plan does not meet the Site Design Guidelines for new subdivisions. On March 21, 2008 this office received a response from the applicant which is enclosed. This office is seeking your guidance on this response. Please review the enclosed material and contact me at your earliest convenience. We appreciate your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
CE397-07

Cc: David Brinker, Central Regional Ecologist



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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April 7, 2008

Mr. Joe Johnson
Cecil County Office of Planning and Zoning
129 E. Main Street, Room 300
Elkton, MD 21921

Re: Skipjack Cove Yachting Resort – Variance 3396
150 Skipjack Road

Dear Mr. Johnson:

Thank you for providing information on the above referenced variance. The applicant is seeking a variance to the 110-foot Buffer to a tributary stream in order to construct a dry boat storage building over existing paving and building cover. The parcel is an existing marina totaling 18.235 acres and located within the Intense Development Area (IDA). The waterfront has been designated as Buffer Exemption Area (BEA). The proposed redevelopment activity is partially located within a 110-foot Buffer to a tributary stream on the south side of the parcel which is not designated as BEA.

Provided the lot is properly grandfathered, and the variance is the minimum necessary, this office does not oppose this variance request. Based on the information provided, I have the following comments:

1. The existing maintenance structures and paving were approved in March of 1989; however the 110-foot Buffer was not noted at time. Therefore, mitigation at a ratio of 3:1 for the impervious surface of the maintenance building within the 110-foot Buffer should be provided.
2. It would appear that some of the proposed impervious surface within the Buffer will consist of gravel areas. These areas within the Buffer should be minimized to the maximum extent possible.
3. According to the most recent site plan received by this office on March 29, 2007, impervious surface within the 110-foot Buffer will be reduced by approximately 600 square feet. This office recommends that the area of removed pavement be restored with a mix of native shrubs and trees appropriate to the site.
4. The applicant must meet the 10% pollutant reduction rule for the proposed impervious surface. Previously, this office commented that the proposed grass channels may not be used both as

credit towards meeting the MDE stormwater requirements and as a credit in the 10% pollutant reduction calculations.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
CE 526-04

Cc: Mr. John Fellows, McCrone, Inc.

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

Re: Variance File #07-2557; Erksine
27063 Cape Saint Mary's Drive, Mechanicsville

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to replace an existing mobile home with a single family dwelling in the 100-foot Buffer. The lot is 2.26 acres in size and lies completely within the Buffer. The Critical Area designation is Resource Conservation Area (RCA).

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided, I have the following comments:

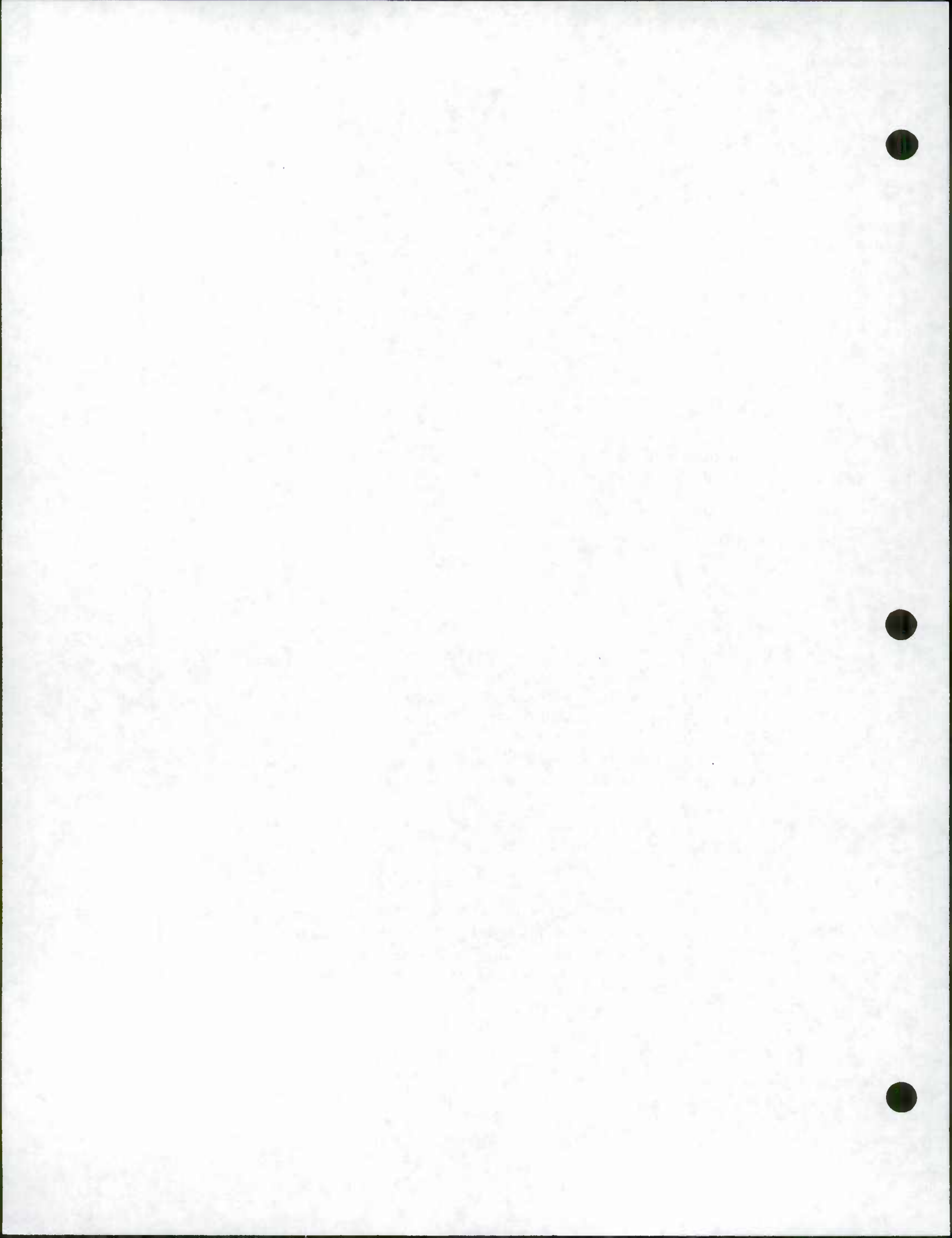
1. Impervious surface on site will increase from 1,291 square feet to 1,520 square feet. Mitigation at a rate of 3:1 for the 1,520 square feet should be provided. Mitigation should consist of a mix of native shrubs and trees and be provided on site.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM158-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 14, 2008

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

Re: Thompson's Seafood Tavern Site Plan
Local Case #08-131-009

Dear Ms. Glenn:

Thank you for providing the above referenced site plan for review and comment. The applicant is seeking to develop a tavern and commercial seafood operation on a 1.94 acre parcel located in the Limited Development Area (LDA). The site is not designated as a Buffer Management Overlay (BMO). Based on the information provided, I have the following comments:

1. The proposed site plan should be drawn to scale and clearly indicate the 100-foot Buffer as measured in the field from the edge of mean high tide, or the landward extent of tidal wetlands. Based on existing GIS information, tidal wetlands extend fairly close to the existing building designated as a proposed tavern.
2. The site plan should include a series of Critical Area notes indicating the overlay designation, existing impervious surface area, proposed impervious surface area, and all other applicable Critical Area regulations per the Comprehensive Zoning Ordinance (CZO) in order to demonstrate compliance. The impervious surface limit for this parcel is 15%.
3. The area of the "foundation" shown adjacent to the proposed tavern appears to be fairly grown in with vegetation. If the County deems this area to be abandoned, then the applicant does not have a vested right to construct in this area without a variance.
4. This office would not support a variance to the Buffer for the above described action.

TTY for the Deaf

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



Ms. Brandy Glenn
Local Case #08-131-009
April 14, 2008
Page 2 of 2

5. The proposed parking area will require a variance. While some existing disturbance may be located in this area, the 2006 plat shows gravel extending only over a portion of the area shown as parking. It does not appear that the expansion of the proposed parking area will meet the County policy for impervious surface trading under Section 41.5.3.i(3) of the CZO.
6. This office would not support a variance to extend the parking area as shown. There appears to be sufficient opportunity to construct additional parking outside the 100-foot Buffer.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3475 if you have any questions.

Sincerely,



Kate Schmidt
Natural Resources Planner
SM165-08

Cc: Sue Veith, Environmental Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 16, 2008

Ms. Donna Calcote, Associate General Counsel
Office of the General Counsel
The Maryland-National Capital Park and Planning Commission
6600 Kenilworth Avenue, Suite 300
Riverdale, Maryland 20737

Re: Heritage Cove Waterfront Park

Dear Ms. Calcote:

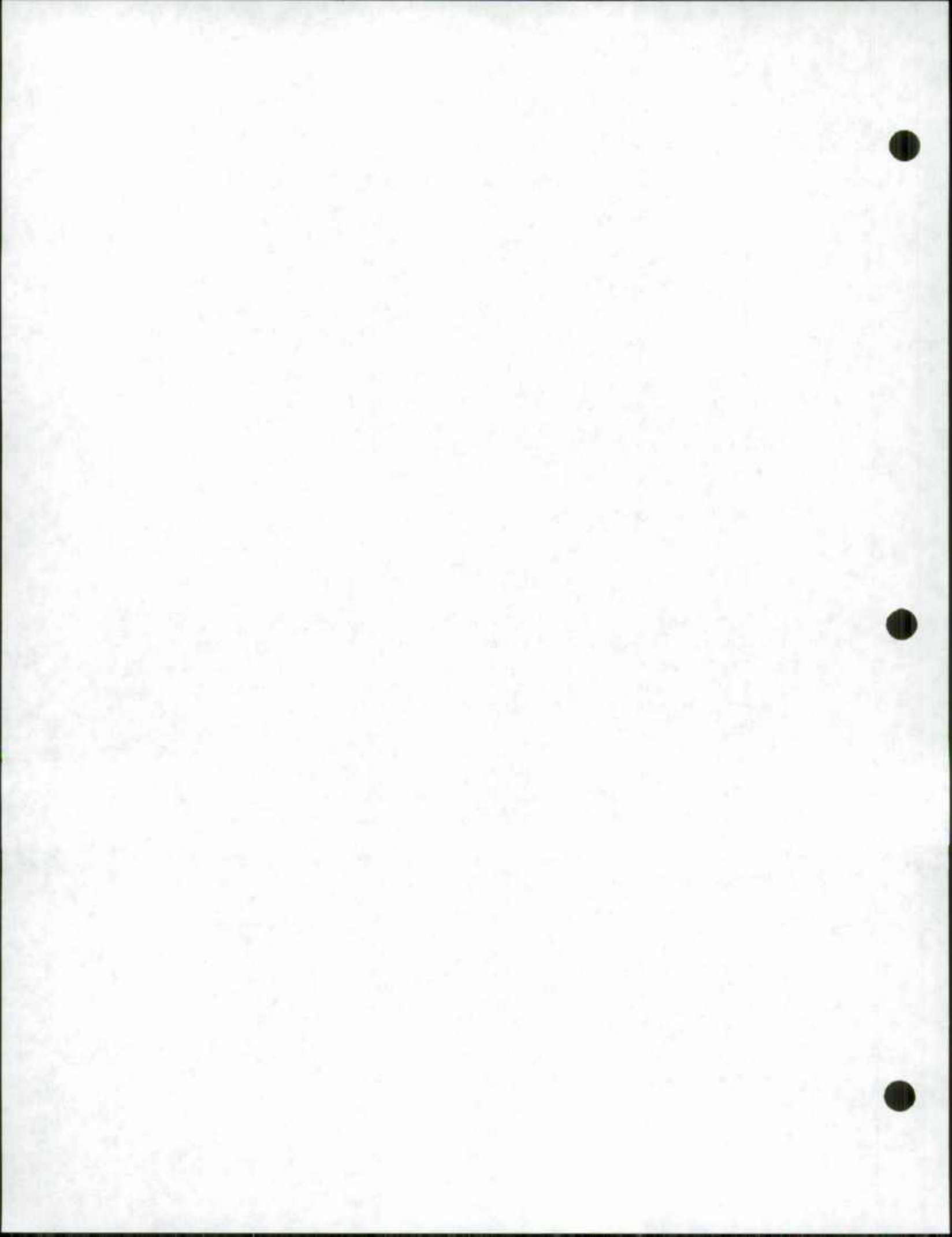
Thank you for meeting with Critical Area Commission staff earlier this week to discuss the above referenced project. You requested a copy of the CAC approval of the temporary fill on the National Harbor property for the Woodrow Wilson Bridge staging area, which is enclosed and dated June 7, 2001. Additionally, I have enclosed a copy of the private wetland permit issued to the Maryland State Highway Administration and the Federal Highway Administration for the Woodrow Wilson Bridge project. This permit has a revision date of 12-28-04. Please note that the staging area is covered under Item J and is described as temporary. Finally, I have enclosed a copy of a letter dated February 12, 2007 from the Woodrow Wilson Bridge project to the permitting authorities requesting that this portion of the permit be modified to permanent. I am currently unaware whether that permit modification has been granted.

I hope this information will be of assistance. Please contact me at any time should you have further questions or concerns at (410) 260-3475. I look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 17, 2008

Mr. Jim Stasz
M-NCPPC – Planning Department
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: CP89039; Tantallon on the Potomac, Lot 13
702 Moyer Court, Fort Washington

Dear Mr. Stasz:

Thank you for forwarding the stormwater management and sediment and erosion control plans of the above referenced project for review and comment. The applicant is seeking to develop a lot with a new single family dwelling. The lot is located within the Limited Development Area (LDA) and is not grandfathered. Based on the information provided, I have the following comments:

1. Please provide this office with a copy of CP-89039 and CP-89039/01.
2. Is the applicant required to file a separate plan labeled as CP-89039/07 that reflects all the requirements of a Conservation Plan, or is simply providing the CP number of the stormwater management and sediment and erosion control plans sufficient?
3. If providing the CP number is all that is required, than the submitted plans must be modified to include a series of Critical Area notes which indicate the Critical Area overlay and all applicable development standards, including impervious surface limits and the forest clearing limits for this lot.
4. The gross site area is indicated as 61,493 square feet. However, the lot boundaries appear to extend over wetlands and open water. Annotated Code of Maryland Section 16-101 defines state wetlands as any land under navigable waters of the State below the mean high tide. Therefore, the acreage of open water (State tidal wetlands) cannot be used in impervious surface and forest clearing calculations.

TTY for the Deaf

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Mr. Jim Stasz
CP89039/07
April 17, 2008
Page 2 of 2

5. It is unclear whether the 100-foot Buffer has been expanded properly. It would appear that the Buffer has been expanded to include the adjacent 100-year floodplain and then an area of slopes 15% or greater. However, in order to ensure that the Secondary Buffer was drawn properly, the area of steep slopes should be shaded.
6. The rear Building Restriction Line (BRL) is extended into the expanded Buffer. This is misleading as it appears to indicate disturbance may occur within the Buffer. The BRL should be revised to coincide with the Buffer and a note should be added to the plans stating that disturbance to the Buffer is prohibited.
7. The plans do not indicate the amount of existing forest vegetation or the amount of proposed clearing. What is the original amount of forest clearing allowed on this lot from CP-89039? How much forest has been cleared to date from those lots that have been developed? Since the subdivider has sold the lots separately, how will mitigation be provided for clearing of common elements such as for Moyer Court? Where has the mitigation for the previous lots been provided?

Thank you for the opportunity to comment. Please provide this office with a revised CP-89039/07 that addresses the comments above. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
PG211-08

Cc: CJ Lammers, M-NCPPC Countywide Planning Division

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 18, 2008

Mr. Tony DiGiacomo
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Preliminary Major Subdivision
Lands of Herchell B. Claggett

Dear Mr. DiGiacomo:

Thank you for resubmitting the above referenced subdivision for review and comment. The applicant received concept plat approval on August 20, 2007. The proposal is for a 3-lot subdivision of a 209.3 acre parcel, of which 78.2 acres are within the Resource Conservation Area (RCA). I last reviewed the proposal on March 4, 2008. Based on the information submitted it would appear my previous comments have been addressed. I have no additional comments at this time.

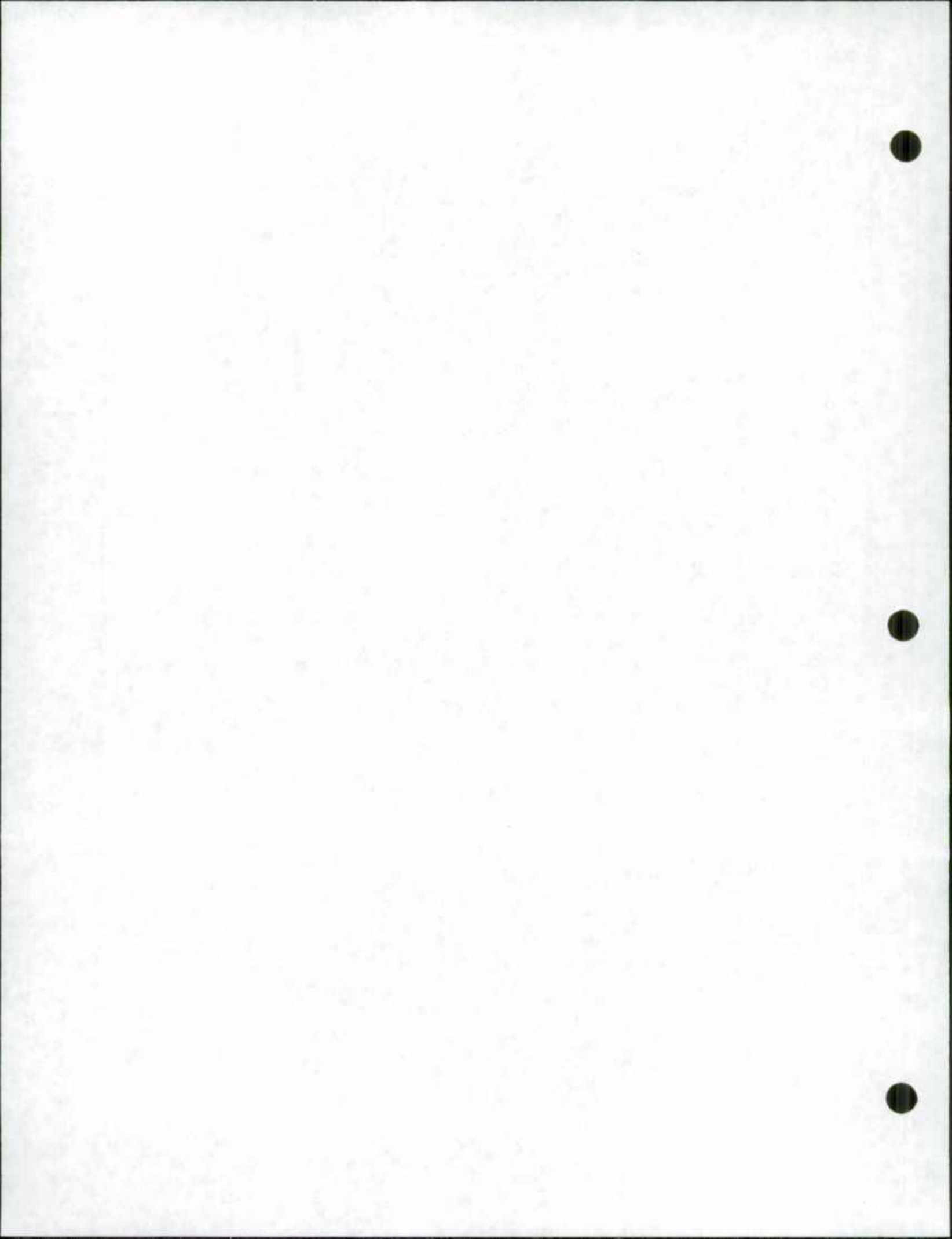
Thank you for the opportunity to provide comments. Please provide this office with a copy of the final approved plat. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

CE163-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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April 18, 2008

Mr. Eric Sennstrom
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Map Amendment – Anchor Marina Buffer Exemption Area Designation

Dear Mr. Sennstrom:

The purpose of this letter is to provide an update of the Commission's processing of the proposed designation and mapping of a new Buffer Exemption Area (BEA), identified as Anchor Marina. On April 15, 2008, Chair McHale determined that the Anchor Marina BEA could be processed as a refinement to the Cecil County Critical Area Program.

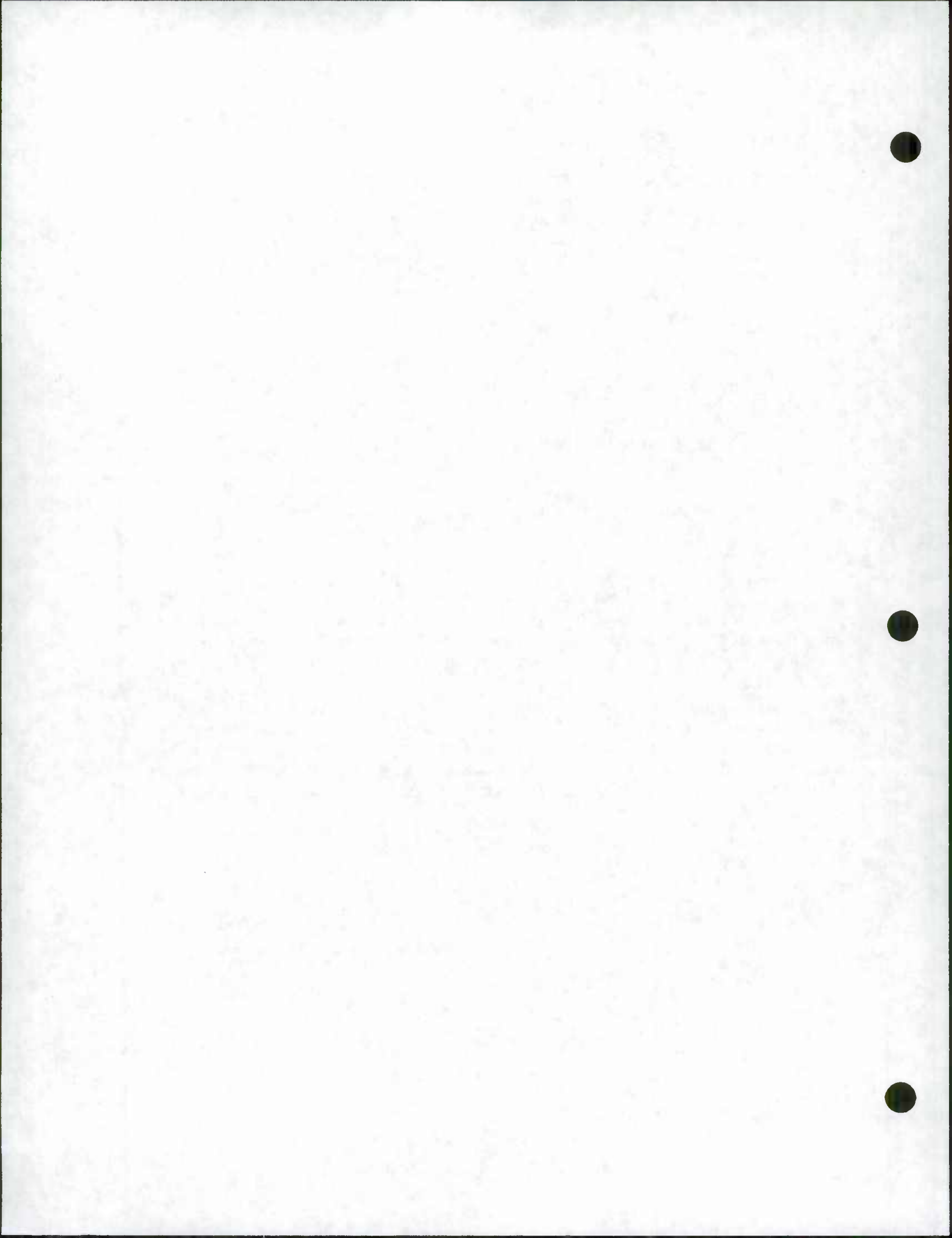
The proposed Anchor Marina designation has been scheduled for review at the May 7, 2008 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. In addition, I will contact you shortly to determine whether a representative from the County will be present at the meeting. If you have any questions, feel free to contact me at (410) 260-3475. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE706-07

Cc: Mr. Thomas Kemp, Kemp and Kemp
Mr. John Fellows, McCrone Inc



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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April 18, 2008

Arnold Norden, Maryland Park Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Elk Neck State Park, North Bay Giant Swing
2008-DNR-052

Dear Mr. Norden:

Thank you for forwarding the above referenced project for review and comment. North Bay Environmental Education Camp is proposing to construct a giant swing that will have a 250 square foot deck within the expanded 100-foot Buffer. The applicant is proposing to remove an existing 250 square foot area of development within the expanded 100-foot Buffer. Staff recognizes that no net increase of impervious surface will occur in the expanded Buffer. However, because there will be activity within the Buffer, the project will require review by the Critical Area Commission under COMAR 27.02.06 'Conditional Approval of State or Local Agency Programs in the Critical Area'.

In order for the Critical Area Commission to review the project, MPS must provide responses for the following six elements regarding the wetland proposal:

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

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

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

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

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

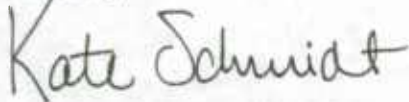
C.(1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State of local agency program or project;

C.(2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

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

The Commission meets the first Wednesday of every month. Please contact me to coordinate scheduling of this project with the Commission. If possible, requests should be made one month in advance. I look forward to working with you on this project.

Sincerely,



Kate Schmidt
Natural Resource Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 23, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0105-V
Diane Cary-Thomson

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to the impervious surface limit and steep slopes in order to construct an addition on an existing dwelling. The property is 5,304 square feet in size and located in the Limited Development Area (LDA).

Provided this lot is properly grandfathered, this office does not oppose this request. Based on the information provided I have the following comments:

1. As indicated on the site plan, most of the lot contains steep slopes. We recognize that a variance is necessary to permit development of the property. Given that the steepness of the slope increases towards the rear of the property, an attempt should be made to limit the proposed addition to no further than the existing retaining walls.
2. The impervious surface limit for a lot of this size per Section 17-8-402 of the Anne Arundel County Code is 1,826 square feet, not 2,186 square feet as indicated with the application. The notes on the site plan should be adjusted to reflect this limit.
3. The property is currently developed at 2,186 square feet of impervious surface. The proposed addition will be located over an area of existing patio and additional patio will be removed reducing the proposed impervious surface to 2,153 square feet. This still exceeds the impervious surface limit by 327 square feet. I recommend additional areas of development be removed if possible, such as walkways or one of the two available decks.

Ms. Pam Cotter
Local Case 2008-0105-V
April 23, 2008
Page 2 of 2

4. Additionally, the applicant should address the adverse effects of impervious surface by providing stormwater management beyond that required by the Anne Arundel County Code. For instance, rooftop runoff should be treated for the entire dwelling, not just the proposed addition.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner
AA195-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 25, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0107-V
John Edwards; 3000 Friends Road

Dear Ms. Cotter:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to allow an after-the-fact deck and patio in the 100-foot Buffer. Further, it appears that the improvements constitute impervious surfaces as constructed, therefore the applicant may also require a variance to the impervious surface limit. The property is 8,852 square feet in size, classified as a Limited Development Area (LDA) and Buffer Modification Area (BMA). It was developed with a new single family home in 2005.

This office is opposed to granting this after-the-fact variance request because the applicant has not met all the variance standards, including the standard of unwarranted hardship. In this situation, the applicant constructed three areas of deck at-grade totaling 244 square feet. Decking may only be considered pervious if it is constructed with spaces between the board and a minimum of 6" of gravel underneath to allow for drainage. These decks are not constructed to this specification. Further, an area at least as large was improved with a series of stone pavers. While the County direction may have been that this area is pervious, it should be included in the variance request as it represents development in the 100-foot Buffer and would prevent the Buffer from otherwise providing all of its intended functions, including the provision of wildlife habitat and the growth of trees and shrubs. In total, nearly half of the available space in the Buffer has been developed by this proposal. The application indicates that the home as constructed in 2005 was built to the 31.25% impervious surface limit. The following



is an analysis of the requested variance for this project in the context of Anne Arundel County's variance standards.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, 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 hearing officer 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 County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

The Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development. This variance would be in direct contrast to the goals of the General Assembly and the goals for the Buffer, particularly as the applicant has not minimized impacts and has instead constructed multiple areas of decking which are labeled as walkways. The number and layout of the "walkways" reveal their actual use as deck area. Further, while walkways are allowed within the Buffer in order to provide access to shoreline amenities such as the pier, this right to access was fulfilled by the steps which were authorized by the County at the time of original construction. It is the position of this office that the applicant cannot meet each one of Anne Arundel County's variance standards, and in particular, the applicant does not meet the standards included and discussed below.

Relevant Variance Standards

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.*

Nearly the entire property is located within the 100-foot Buffer. However, the dwelling was constructed in 2005 under a plan approved by the County which did not include a deck or other rear yard improvement as necessary to achieve reasonable residential use of the lot. As stated above, the General Assembly defined "unwarranted hardship" to mean that without the requested variance, the applicant would be denied reasonable and significant use of **the entire parcel or lot**. The applicant already enjoys reasonable and significant use of the property by virtue of the large house, driveway, and pier. Based on this information, we do not believe that the County has evidence on which to base a favorable finding of this factor.

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

This office would not support a similar variance in which the applicant has constructed multiple structures and improvements covering nearly 50% of the available Buffer. There is no inherent right to build an accessory structure in the Buffer. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. Commission staff would not support similar requests to construct decks and patio pavers in the Buffer over such an extensive area and that exceeded the impervious surface limit. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

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

While the applicant made an attempt to discuss their proposal with the County, it should not have been authorized without a variance. Therefore, the applicant has not met this standard.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The combination of multiple decks and stone paver area further reduces the functions of the Buffer on this site, and would contribute to the individual and cumulative impacts of development on the Bay. While stone pavers with 6"-8" of spacing may provide limited infiltration, they do not allow vegetation which is essential to the function of the Buffer. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the variance standards are met. The County and State law

Ms. Pam Cotter
Local Case 2008-0107-V
April 25, 2008
Page 4 of 4

provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Because the applicant has failed to meet all of the County and State variance standards, this office recommends that the Board deny the applicant's request for this variance and require the applicant to remove the additional impervious surfaces, including those in the 100-foot Buffer.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

AA199-08

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

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April 28, 2008

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case 2008-0006-V
MV Clifford Enterprises

Dear Ms. Cotter:

This office has received revised plans for the above referenced variance application. Previously this office reviewed plans for a variance to disturb 4,758 square feet of steep slopes in order to construct a new single family dwelling. While this office did not oppose this variance request, we did provide comments requesting minimization if possible. The current submittal dated March 10, 2008 reduces disturbance to steep slopes to 3,099 square feet. This office does not oppose this request and has no further comment. Mitigation of 3:1 should be provided for the disturbance to steep slopes. If approved, I recommend a portion of the required mitigation be provided on site prior to the use of off-site planting or fee-in-lieu.

Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in black ink that reads "KS" with a stylized flourish.

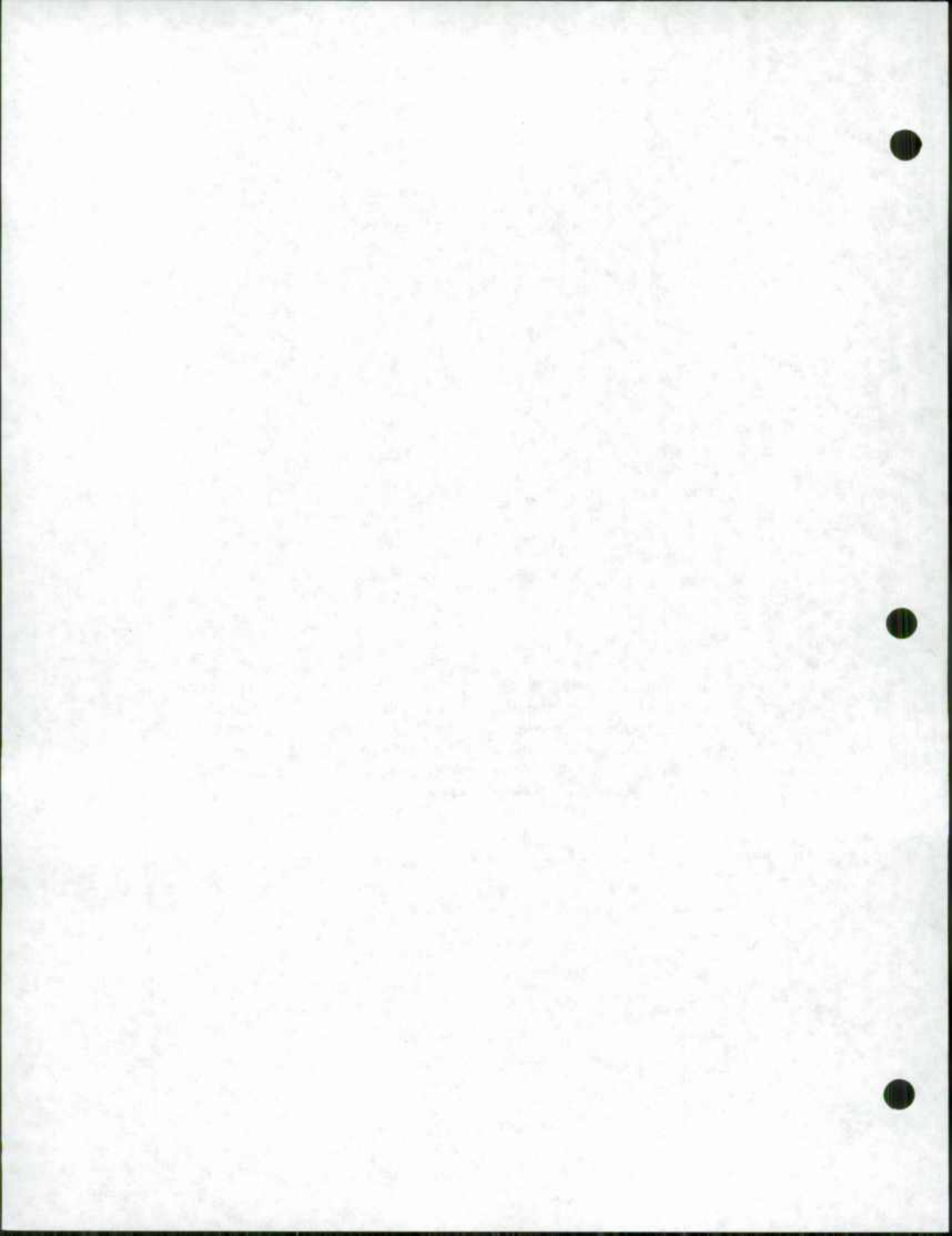
Kate Schmidt
Natural Resources Planner
AA26-08

Cc: Mike Gillespie, Bay Engineering

TTY for the Deaf

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





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 1, 2008

Ms. Heather Erickson
Town of Perryville
515 Broad Street, P.O. Box 773
Perryville, Maryland 21903

Re: Perryville Yacht Club – Phase II Site Development

Dear Ms. Erickson:

This office has received the above referenced site plan for review and comment regarding Critical Area requirements for development of this site. Mary Ann Skilling provided comments to you on March 17, 2008. These comments will supplement previous ones supplied to your office.

The Perryville Yacht Club property is designated as an Intensely Developed Area (IDA) and a Special Buffer Area. The proposed development of this property was split into Phase I and Phase II. This office provided comments through Mary Ann Skilling of Maryland Department of Planning regarding Phase I in 2004. Phase I consisted of constructing two condominium buildings and parking area outside the 100-foot Buffer. Phase II, the subject of this preliminary plan currently under review is proposing the construction of two additional condominium buildings, parking areas, boat storage areas, a boat ramp, and a marina office. Based on the information submitted, I have the following comments:

10% Pollutant Reduction Requirements

1. The most current plan submitted to this office regarding Phase I is dated June 16, 2004. At that time, the 10% pollutant reduction requirement was to be met by constructing a sand filter and sediment forebay in the same area as the proposed relocation site for the marina office. It does not appear that this facility has been constructed, although the parking lots for Phase I have been constructed. I am concerned that the 10% pollutant reduction requirement has not been met for the construction to date. The applicant must submit calculations to the Town to ensure this requirement will be met.
2. If the applicant is no longer proposing to meet the 10% pollutant reduction rule by the previous sediment forebay and sand filter design, than a revised plan documenting how

10% pollutant reduction will be met for both Phase I and for Phase II is required. This plan should be submitted at the Preliminary Plan stage.

25-foot Setback

3. Section 138.6 of the Comprehensive Zoning Ordinance outlines the requirements of development within Special Buffer Areas. As a mixed commercial and multi-family residential use, new development and redevelopment activities must be set back 25-feet from the edge of mean high water. The 25-foot setback should be shown on the site plan.
 - a. Building 1 on Phase II may not be located as shown within the 25-foot setback.
 - b. The 5-foot wide walkway alongside the entire length of the shoreline is not appropriate within the 25-foot setback. Walkways are allowed to access water-dependent facilities such as piers. However, the remainder of the 25-foot setback must be reserved for planting as per the requirements of Section 138.6.a(9).
 - c. Under Section 129, Water Dependent Facilities, new or expanded development activities may be permitted in the Buffer provided they meet the Criteria of 129.4. While it may be required to provide pavement within the Buffer to access the existing boat ramp, the paving should be the minimum necessary. It would appear that some pervious area, approximately 5-10 feet wide, alongside the shoreline could be provided and planted.

Special Buffer Area Planting and Mitigation Requirements

4. The 25-foot setback must be planted per the requirements of Section 138.6.a(9). I estimated approximately 675 feet of shoreline on this site. This would translate to approximately 34 overstory trees, 68 understory trees, 20 small shrubs and 270 herbaceous plants to be planted in the 25-foot setback area.
5. In addition to the above, the applicant must provide mitigation at a ratio of 2:1 for the extent of the footprint of development activity within the Buffer. Development activity includes all areas of new development and all areas of redevelopment. These planting should be accommodated on the site, within the 110-foot Buffer to the maximum extent possible.
6. A planting plan detailing all this information should be submitted with the Preliminary Plan prior to approval.
7. Based on information contained in our records, it appears plantings were required under Phase I approval of this project. These plantings should also be shown on the planting plan and an indication of whether they have been provided to date.

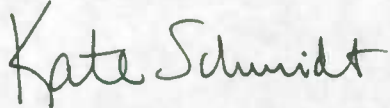
Other Comments

8. In 2002 DNR Wildlife and Heritage commented that the Susquehanna River in this location is a historic waterfowl concentration area. They requested further review of any proposal related to water-dependent facilities on this site. The applicant should submit a copy of the preliminary site plan to DNR Wildlife and Heritage for their comment prior to preliminary site plan approval.

Ms. Heather Erickson
Perryville Yacht Club – Phase II
May 1, 2008
Page 3 of 3

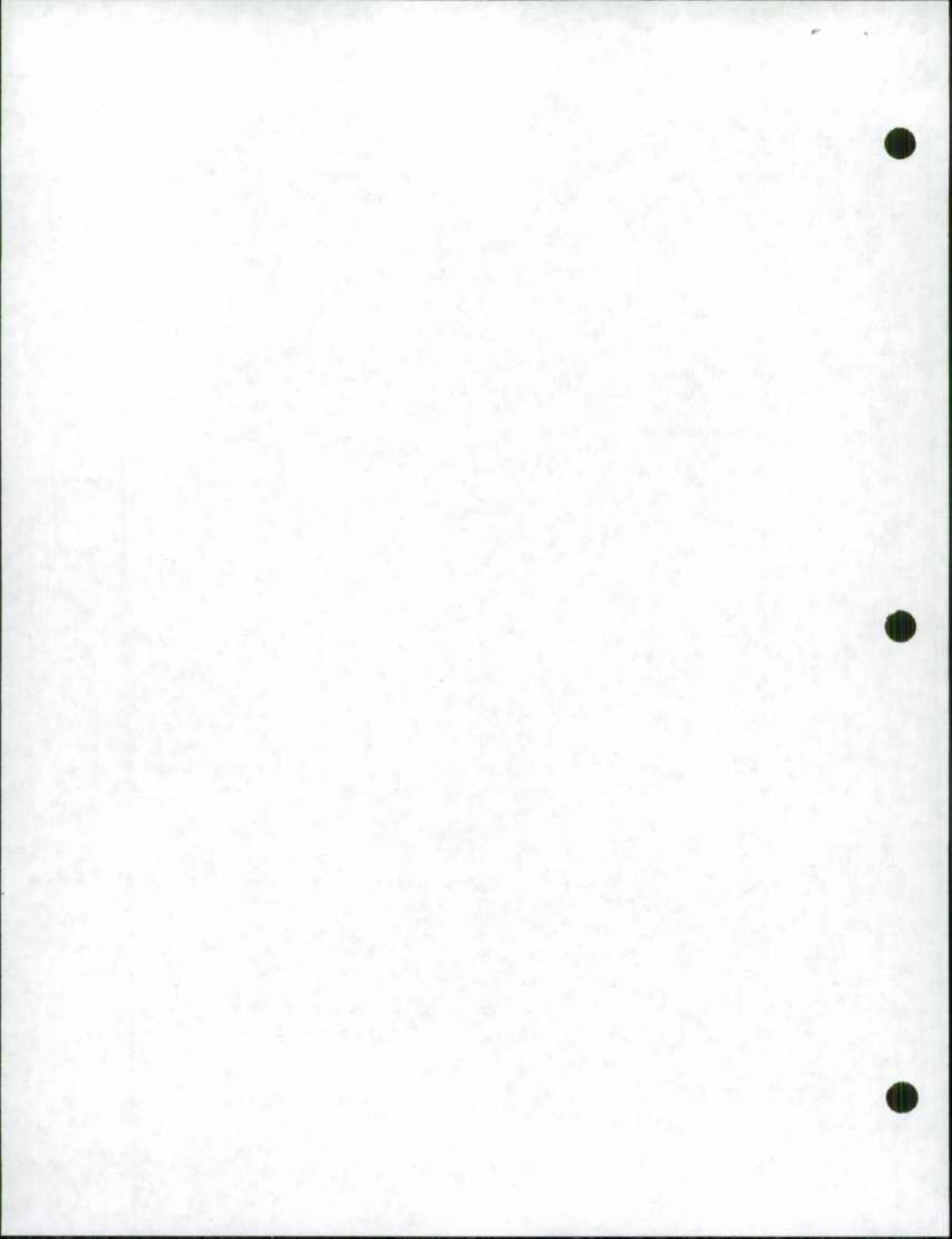
Thank you for the opportunity to provide comments. Please provide this office with a revised preliminary plan which addresses the comments above. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
PE740-02

cc: Mary Ann Skilling, MDP



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 6, 2008

Mary P. Andrews
Environmental Engineer
NOAA Restoration Center
410 Severn Avenue, Suite 107A
Annapolis, Maryland 21403

Re: Draft RP/EA for Galaxy Spectron Site
Cecil County

Dear Ms. Andrews:

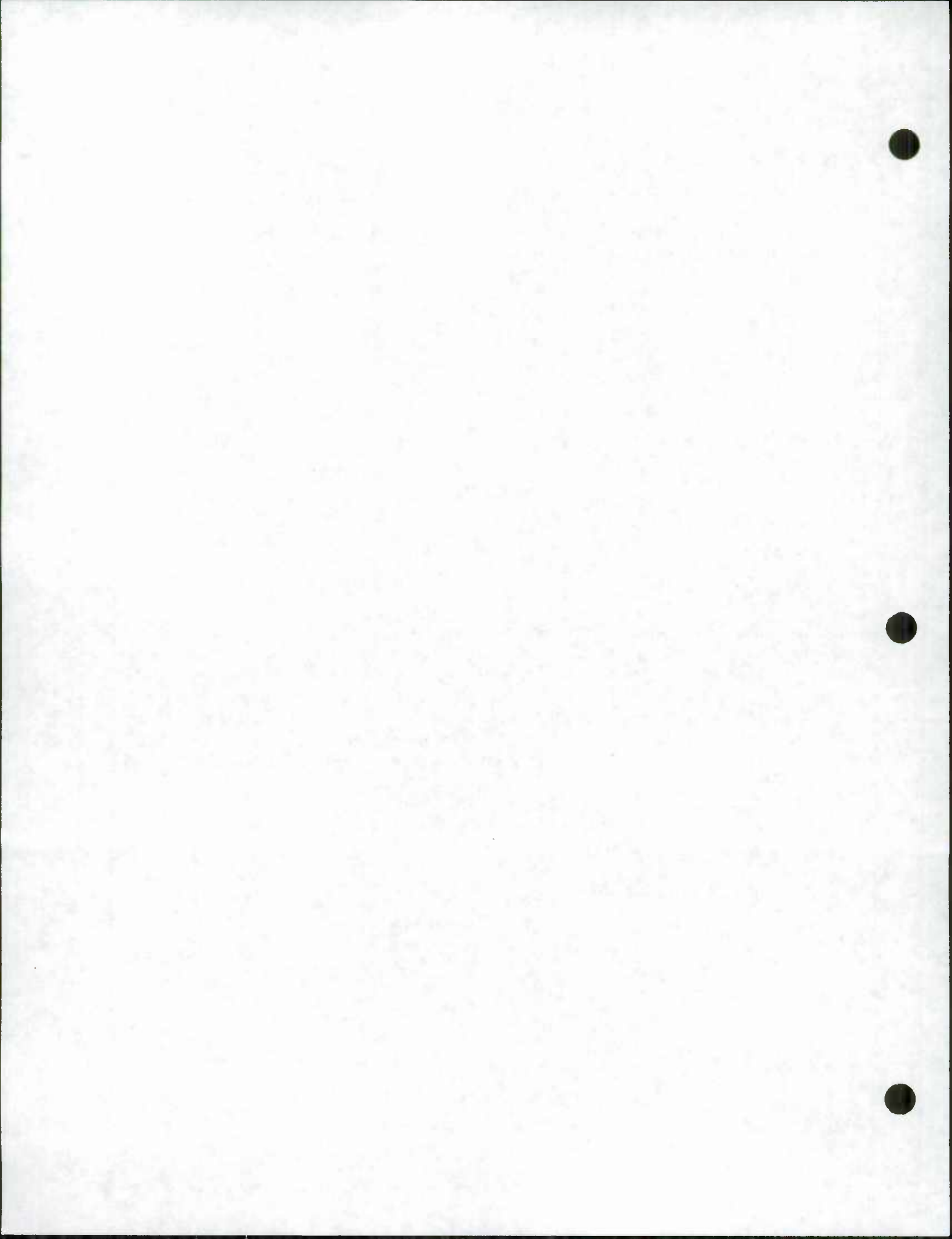
Thank you for forwarding the above referenced material to this office for review and comment. We have no comment to offer on the Draft Environmental Assessment. However, please be advised that a portion of the proposed restoration project on Scotchman Creek falls within the 1,000 foot Critical Area boundary. It is unclear who the lead agency sponsoring the project will be, however, all projects in the Critical Area undertaken by State or Local governments must be reviewed by the Critical Area Commission and may require approval. Prior to commencement of restoration activities a copy of the restoration plan should be forwarded to this office for review and comment.

Thank you very much for the opportunity to comment at this stage. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 9, 2008

Mr. Tony DiGiacomo
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Bracebridge Estates Subdivision & Golf Course
Proposed Growth Allocation

Dear Mr. DiGiacomo:

This letter concerns our joint meeting on April 29th, 2008 with Chaffin/Light Associates and Morris & Ritchie Associates regarding the proposed growth allocation at the Bracebridge Estates subdivision. I would like to offer comments on the proposed conceptual master plan reviewed at that meeting. In essence, the applicant is exploring the possibility of locating a golf course within the Resource Conservation Area (RCA) in combination with 13 existing lots. The applicant is also seeking advice on whether growth allocation would be required. Based on the conceptual site plan and our meeting, I would like to offer the following comments:

1. As proposed, the entire area of RCA, or 276.589 acres, would require the use of growth allocation. As you are aware, the existing 13 lots use 260 acres of the RCA in order to meet the one dwelling per 20 acre density limit and therefore exhaust the potential development that can be based on this acreage. No further use may be provided on the RCA acreage. The golf course would be an additional use within the RCA that is therefore prohibited without the use of growth allocation.
2. Notwithstanding the density issue created by the existing 13 lots, the applicant may locate a golf course within the RCA, provided it meets the Critical Area Commission's guidance for Golf Courses in the RCA published on August 3, 2005. Specifically, the portion of RCA occupied by the golf course may not be used for residential development or to generate density that will be transferable elsewhere within the RCA, even if the proposed dwelling units do not exceed the allowable one dwelling unit per 20 acres.

3. As you previously identified, the applicant would be required to use growth allocation for the proposed manor house and other structural elements of the golf course including roads, maintenance facilities, and parking lots. Given the applicant would be proposing growth allocation for only a small portion of the original parcel, the area of growth allocation must meet the Critical Area Commission's development envelope policy for counting growth allocation. Please note that the County will need to calculate deduction of growth allocation based on the parcel as it existed on December 1, 1985.
4. The applicant expressed a desire to maintain 12 of the lots that were created by subdivision in 2007. In order to accommodate these lots, they would need to be incorporated into the proposed development envelope. The development envelope shall include individually owned lots, required buffers, impervious surfaces, roads, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria. The required buffers, in this instance, refer to the minimum 110' Buffer and the 25' nontidal wetlands buffer. Only one development envelope shall be established per parcel of land as it existed as of December 1, 1985.

In addition to the above comments regarding the conceptual site plan, I would like to offer comments regarding the procedure for approval of growth allocation by the Critical Area Commission and briefly discuss the legislative changes that will become effective as of July 1, 2008.

The Critical Area Law was amended in 2006 and 2008 to require that local jurisdictions use specific locational standards when locating new IDAs or LDAs and to ensure that Commission applies these standards in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and Criteria. Documentation of the County's application of these standards must be provided as a part of the growth allocation request. These standards are provided below.

When locating new Intensely Developed or Limited Development Areas, local jurisdictions shall apply the following standards:

- (1) Locate a new Intensely Developed Area in a Limited Development Area or adjacent to an existing Intensely Developed Area;
- (2) Locate a new Limited Development Area adjacent to an existing Limited Development Area or an Intensely Developed Area;
- (3) Locate a new Limited Development Area or Intensely Developed Area in a manner that minimizes impacts to a Habitat Protection Area as defined in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

- (4) Locate a new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters, unless the local jurisdiction proposes and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources;
- (5) Locate new Intensely Developed Areas and Limited Development Areas in a manner that minimizes their impacts to the defined land uses of the Resource Conservation Area;
- (6) New Intensely Developed or Limited Development Areas involving the use of growth allocation shall conform to all criteria of the Commission and shall be designated on the comprehensive Zoning Map submitted by the local jurisdiction as part of its application to the Commission for program approval.

Local jurisdictions may use a standard that varies from standards 1 and 2 above if; (1) the alternative standard is consistent with the jurisdiction's adopted comprehensive plan; and (2) the Critical Area Commission has approved the alternative standard as part of the local program.

The 2008 legislative changes to the Critical Area law also included a number of factors the Commission shall consider in reviewing map amendments or refinements involving the use of growth allocation. These factors include:

- (1) Consistency with the jurisdictions' adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan; including:
 - (A) For a map amendment or refinement involving a new IDA, whether the development is:
 - (1) To be served by a public wastewater system;
 - (2) To have an allowed average density of at least 3.5 units per acre, as calculated under Section 5-7B-03(H) of the State Finance and Procurement Article;
 - (3) For a new IDA that is greater than 20 acres, to be located in a priority funding area, as described under Sections 5-7B-02(1) and 5-7B-03 of the State Finance and Procurement Article; and
 - (4) To have a demonstrable economic benefit to the area
 - (B) For a map amendment or refinement involving a new LDA, whether the development is:
 - (1) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
 - (2) A completion of an existing subdivision;
 - (3) An expansion of an existing business; or

Mr. Tony DiGiacomo
Bracebridge Estates Growth Allocation
May 9, 2008
Page 4 of 4

(4) To be clustered

- (4) The use of existing public infrastructure where practical;
- (5) Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;
- (6) Impacts on a priority preservation area, as defined under Section 2-518 of the agriculture article;
- (7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater management discharges to tidal waters, tidal wetlands, and tributary streams, and
- (8) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

I hope this information is useful to you. I look forward to continuing to work with you and the applicants regarding the proposed project. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

Cc: James Chaffin, Chaffin/Light Associates
Paul Muddiman, Morris & Ritchie Associates

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 12, 2008

Ms. Betsy Vennell
Zoning Assistant
Town of North East
P.O. Box 528
North East, Maryland 21901

RE: Variance Case #A-2008-10-V, 11-V, 12-V, & 13-V
North East Isles Lots 97, 98, 99, & 100

Dear Ms. Vennell:

This office received a revised Critical Area site plan for the above referenced project. The applicant was granted variances by the Board of Appeals on April 1, 2008 to disturb the expanded 110-foot Buffer. As a condition of that approval, the Board of Appeals required mitigation in compliance with the recommendations provided in my letter of March 19, 2008. I have reviewed the revised site plan and believe that the combination of the on-site mitigation and the proposed fee-in-lieu meets the required mitigation obligation.

If you have any questions, please contact me at (410) 260-3475.

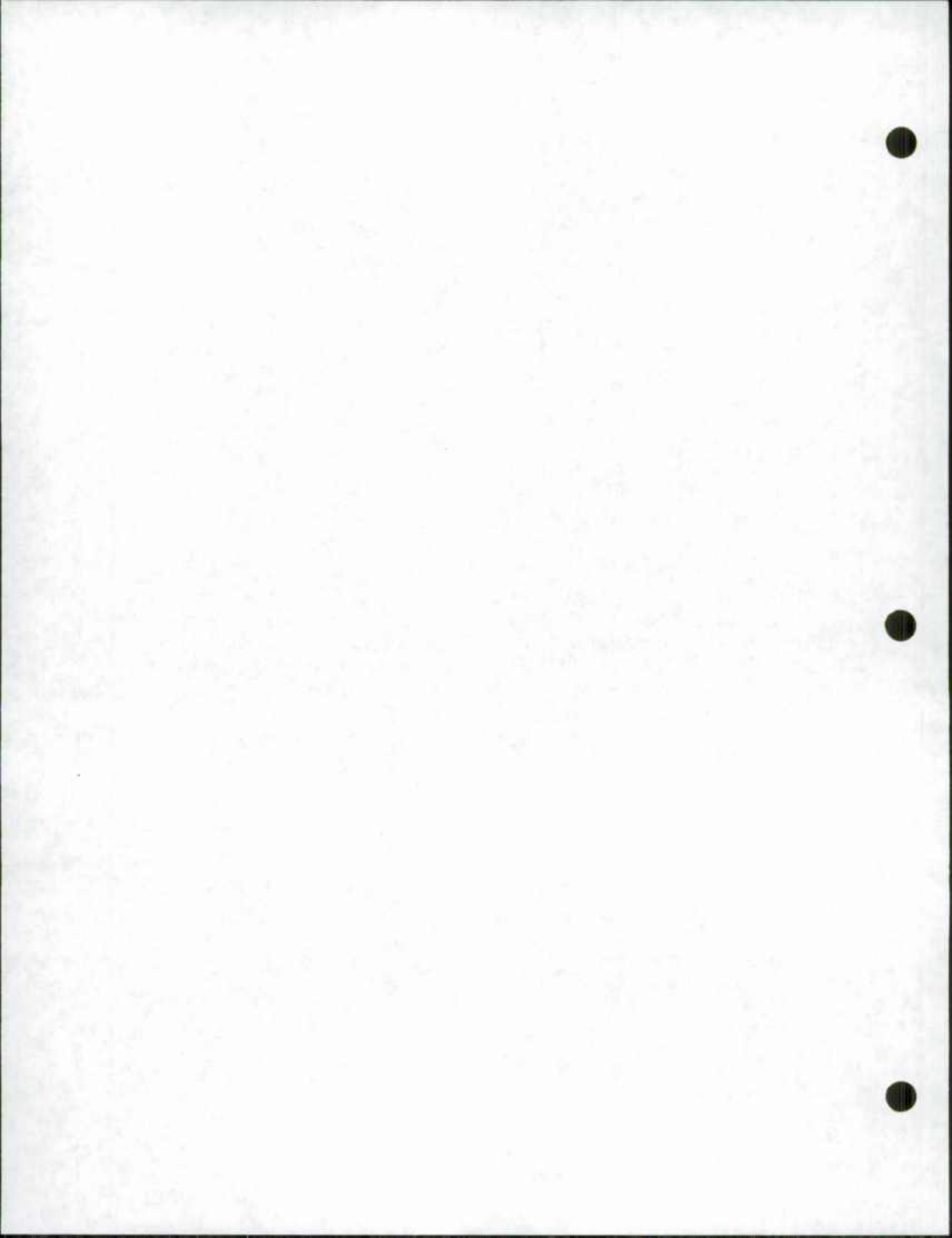
Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
NE424-06

Cc: Mr. Chuck Schneider, Frederick Ward Associates
Ms. Mary Ann Skilling, Maryland Department of Planning





Martin O'Malley
Governor

Anthony G. Brown
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May 13, 2008

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

Re: Heron Cove Subdivision
Revised Stormwater Management Plans – April 2008

Dear Ms. Vennell:

This office has received revisions to the Stormwater Management Plans and Report for the above-referenced subdivision. As you are aware, the property is designated as Intensely Developed Area (IDA) and must comply with the 10% pollutant reduction rule. We previously provided comments on January 2, 2008. I have the following comments on the revised plan:

1. The site area used for the 10% pollutant reduction calculations should be the entire area of IDA, not just the area of development. Therefore, the applicant should increase the site area from 24.90 acres to 41.09 acres.
2. The Town of North East limited impervious surface to 17.76% when it approved the growth allocation change from LDA to IDA. The area of proposed impervious surface totals 10.11 acres, including the entire area of roads, driveways, sidewalks, and rooftops. This equates to 17.03% across the entire 59.36 acre site.
3. The applicant is proposing a number of techniques to reduce the post-development impervious surface in order to meet the 10% pollutant reduction requirement. I have the following comments regarding these deductions:
 - a. Provided the area of impervious surface directed to Swales No. 1-4 meets the approval of the Cecil County Department of Public Works, these areas may be deducted from the calculations.
 - b. Lots 1-9 are proposing to use the Stormwater Manual 'sheet flow to buffer' credit. In order to use this credit, there must be at least 75-feet of space available for stormwater to flow prior to entering the 110-foot Buffer. Sheet flow may not be

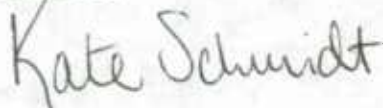


Ms. Betsy Vennell
Heron Cove Subdivision
May 13, 2008
Page 2 of 2

- directed into the Buffer and receive credit without this distance. The applicant will have to redirect rooftop runoff from these lots into another practice.
- c. The Critical Area Commission does not recommend 100% pervious credit to pavers. The effectiveness of pervious pavers is very site specific. Staff can work with the Town to help evaluate the system proposed at this site, the on-site soil characteristics and the proposed use and provide the Town with an appropriate percentage of credit. The applicant should provide soil boring information from the areas where the pavers are proposed to be used to this office for further evaluation.
 - d. The Commission also does not recommend providing credit to the 10% calculations for pavers in roadway areas. These areas are more heavily used and become compacted over time. The applicant should remove the area of roadway pavers from the 10% calculations altogether.
4. Based on my calculations without including any credits, the pollutant removal requirement for the proposed project is 8.67 lbs of phosphorous per year.
 5. In order to evaluate whether the 10% pollutant reduction requirement is being met, the entire 41.09 acre area must also be accounted for during the BMP efficiency calculations. The applicant may want to refer to Section 7-5 of the 10% Rule Guidance Manual which describes how applicant may use drainage divides to evaluate a site with these characteristics. Separate worksheets must be submitted for each drainage unit.

Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

Cc: Mary Ann Skilling, MDP
Jeremy Sandmeier, Morris & Ritchie Associates

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 14, 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 File #07-0245; Whittaker
45080 Lois Marie Lane

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer to construct a new single family dwelling. The lot is 4,182 square feet in size and located within the Intense Development Area (IDA). The property is nearly entirely encumbered within the 100-foot Buffer to tidal wetlands.

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided, I have the following comments:

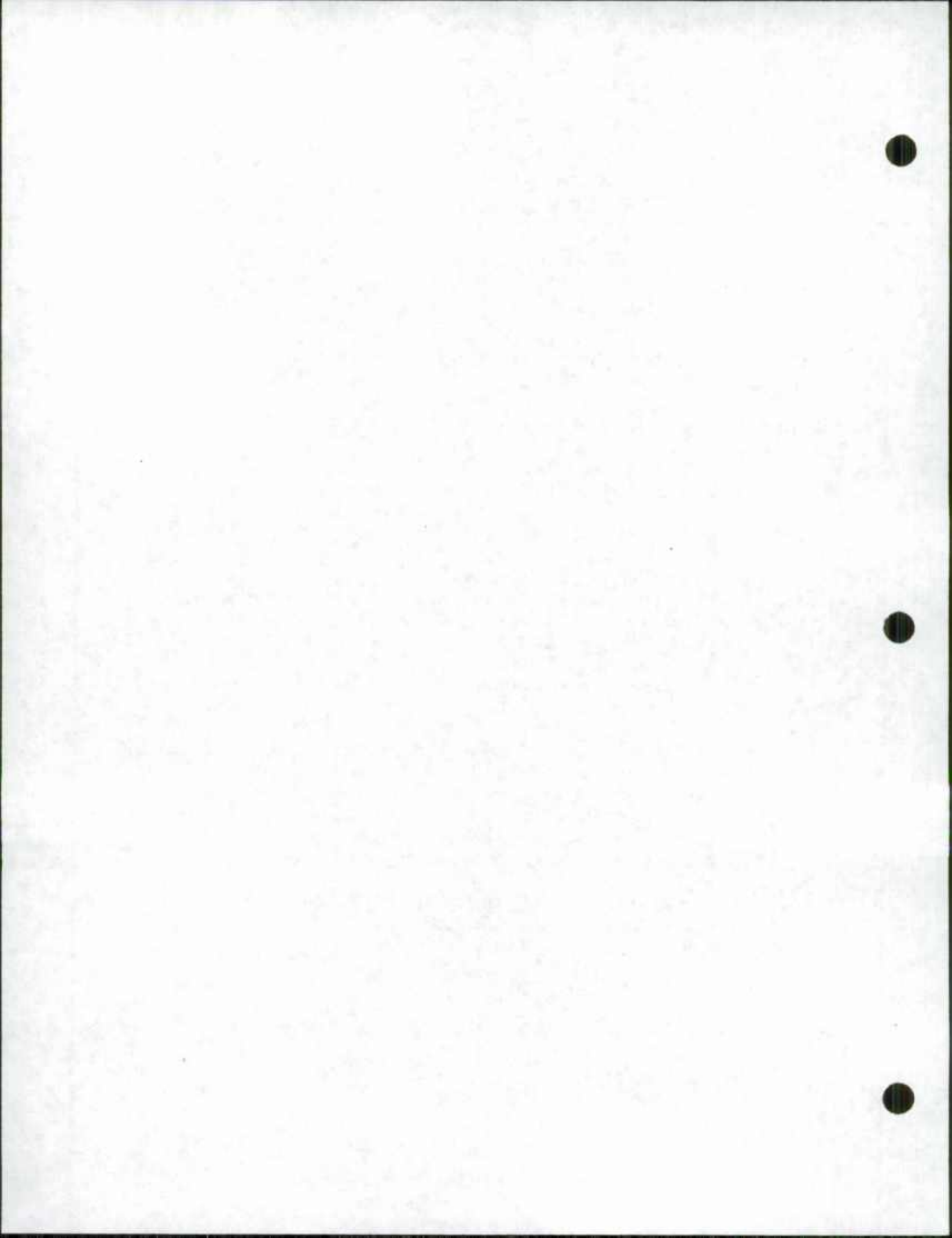
1. The site plan shows 9 trees and 15 shrubs are being planted for the new 1,498 square feet of impervious surface. Since the site is IDA, the 10% Rule Guidance Manual recommends a minimum of three trees or nine shrubs for every 100 square feet of the proposed development activity in the Buffer. This would satisfy both the 10% Rule and the mitigation requirements for development within the Buffer. It appears the applicant must increase the number of plantings provided to meet these requirements.

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.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM157-08



Martin O'Malley
Governor

Anthony G. Brown
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May 14, 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 File #04-1159; Aud
14005 Cornfield Harbor Drive; Scotland

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to construct two new stoops on an existing dwelling within the 100-foot Buffer. The lot is 11,250 square feet in size and located within the Limited Development Area (LDA). The property is completely within the 100-foot Buffer due to tidal water located on the north and south sides of the property. The new construction was provided in order to access a dwelling that was reconstructed after Hurricane Isabel.

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided, I have the following comments:

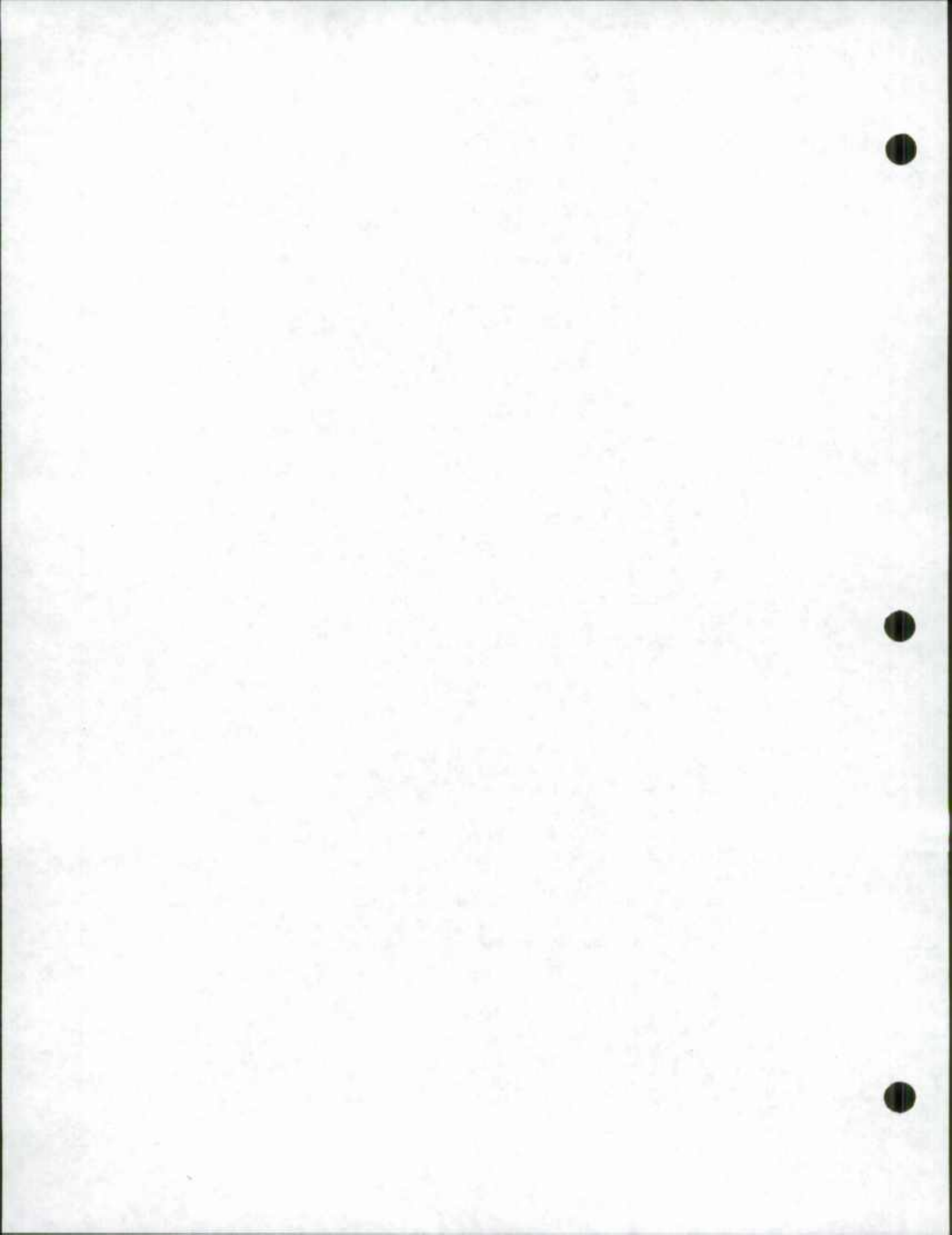
1. The new impervious surface totals 106 square feet. This disturbance should be mitigated at a ratio of 3:1 or 318 square feet. Mitigation should be provided onsite and consist of a mix of native trees and shrubs.

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.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM156-08



Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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Executive Director

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May 15, 2008

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

Re: Project File #07-2416; McLaughlin
Building Permit Application

Dear Ms. Lauman:

Thank you for forwarding the above referenced application for review and comment. The applicant is seeking a building permit to construct a new single family dwelling on a 4.59 acre lot located in the Resource Conservation Area (RCA). The proposed development will disturb approximately 1.0 acre, requiring review by the Critical Area Commission. Based on the information provided, I have the following comments:

1. The proposed site plan was modified to locate the proposed dwelling outside the 330-foot no disturbance zone for an existing bald eagle's nest. There will be some disturbances in order to extend the existing driveway to the house site. It is my understanding this has been reviewed and approved by DNR Wildlife and Heritage.
2. The application did not include comments from DNR Wildlife and Heritage; however, it appears the property may also be classified as potential Forest Interior Dwelling Species (FIDS) habitat. Please clarify whether DNR Wildlife and Heritage would classify this property as potential FIDS habitat.
3. The proposed project will meet all other Critical Area requirements, including the 15% impervious surface limit and less than the 20% forest clearing limit. There are no impacts proposed to the 100-foot Buffer.

Ms. Joni Lauman
File #07-2416
May 13, 2008
Page 2 of 2

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
SM173-08

Cc: Kelly Seebold, Zoning Administration

Martin O'Malley
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May 15, 2008

Mr. Jim Dieter
Daft, McCune, Walker, Inc.
200 East Pennsylvania Ave
Towson, MD 21286

The Honorable Kerry Anne Abrams, Mayor
Town of Port Deposit
64 North Main Street
Port Deposit, MD 21904

Re: Port Deposit Waste Water Treatment Plant
Critical Area Commission Conditional Approval

Dear Mr. Dieter and Mayor Abrams:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On May 7, 2008, the Critical Area Commission unanimously approved the Port Deposit Water and Sewer Authority's proposal and site plan to construct a new waste water treatment plan in the Town of Port Deposit, Maryland. This approval included the following conditions:

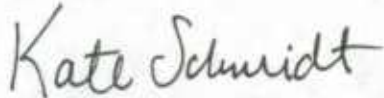
1. The Port Deposit Water & Sewer Authority (PDWSA) and the Town of Port Deposit will submit a revised planting plan to meet the Buffer mitigation requirements of 43,710 square feet and corresponding implementation schedule to the Project Subcommittee for review and approval at the August 6, 2008 Critical Area Commission meeting. If the plan or schedule is deemed unacceptable due to timing or content, the Commission may require the Town and the PDWSA to submit an acceptable alternative plan within 60 days.
2. The PDWSA and the Town of Port Deposit will submit a mitigation plan for the 13,580 square feet of FIDS mitigation by the July 2, 2008 Commission meeting for review and approval by the Project Subcommittee.

3. In order for the Town of Port Deposit to accept payment of fee-in-lieu by the PDWSA for all required mitigation, the Town must establish a separate account and provide an update regarding payment from that account to Commission staff in the required quarterly report.
4. Any proposed changes to the WWTP site plan must be submitted to Commission staff and may require approval by the Critical Area Commission.
5. After demolition of the existing WWTP, the 0.3 acre site shall remain undeveloped. No structures or impervious areas are permitted in this area since the removal of impervious surface satisfies the Critical Area pollutant removal requirement.

As described within the conditions above, the approval was based on a mitigation package totaling 57,290 square feet. Once an acceptable mitigation package has been officially approved by the Critical Area Commission, staff will require a Planting Agreement form to be signed by the Town of Port Deposit.

Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resources Planner

PD819-06

Cc: Mary Ann Skilling, Maryland Department of Planning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

May 16, 2008

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

Re: Project File #08-110-020; Garner Subdivision, Lot 3
Minor Subdivision

Dear Ms. Carter:

Thank you for forwarding the above referenced application for review and comment. The applicant is seeking to subdivide a 13.146 acre parcel partially located in the Resource Conservation Area (RCA). Lot 3 will be 1.415 acres in size and located completely outside the RCA. The remaining Farmstead Lot A will be 11.729 acres and located completely within the RCA.

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

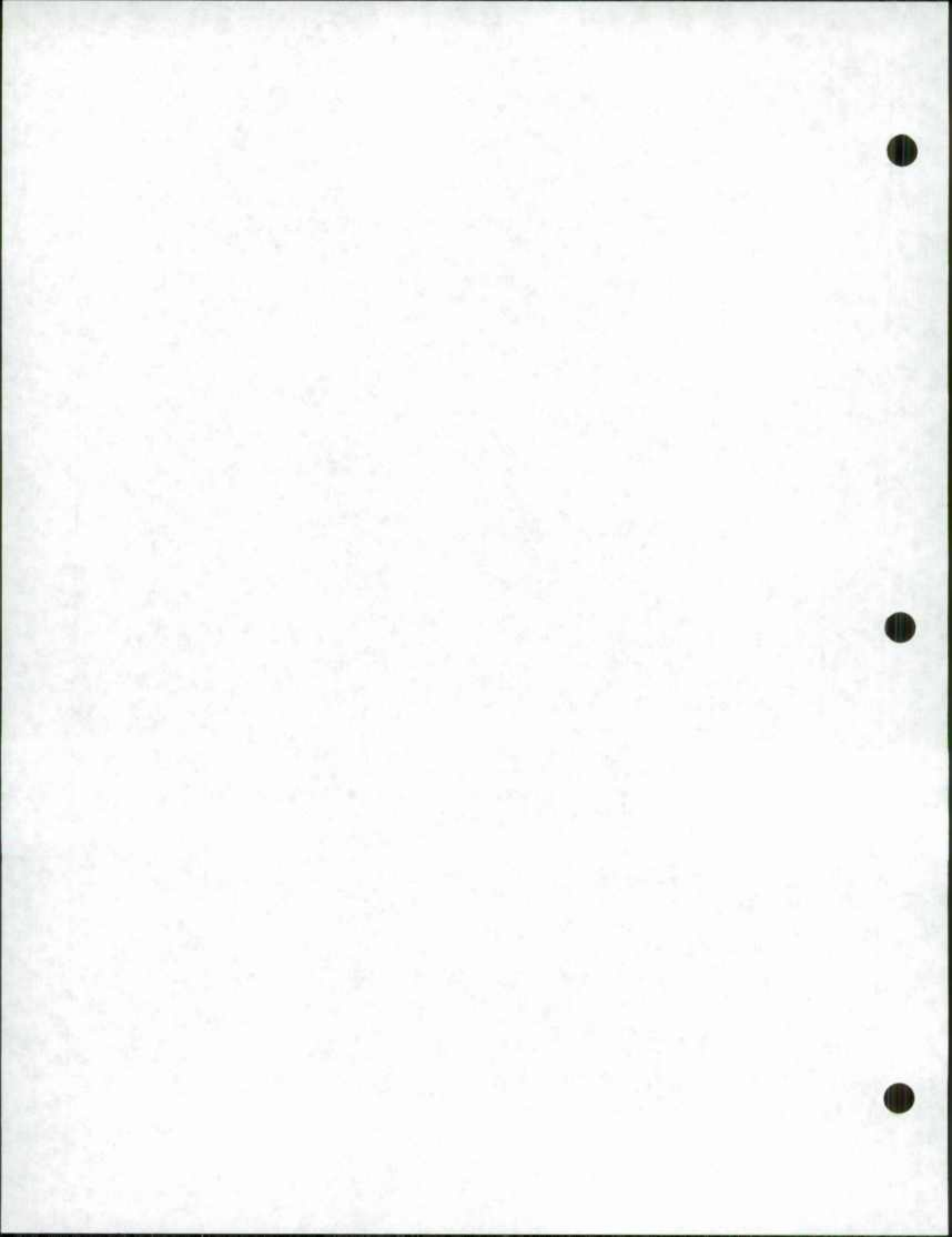
1. It is my understanding that Farmstead Lot A is currently developed with a single family dwelling and a barn. No further subdivision of the Farmstead Lot may occur unless it is by intra-family transfer or through growth allocation.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM319-05



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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May 16, 2008

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

Re: Project File #08-132-005; Haskills Marina
Concept Plan

Dear Ms. Glenn:

Thank you for forwarding the above referenced application for review and comment. The applicant is seeking site plan approval to develop six condominium units in addition a marina facility. The property is 1.887 acres in size and located in the Intensely Developed Area (IDA). It is currently developed with a marina building located in the 100-foot Buffer, a house, and piers. The house will be removed and three condominium buildings will be constructed outside the 100-foot Buffer. A parking area adjacent to the marina building is proposed within the 100-foot Buffer. The site plan does not indicate that this property is a designated Buffer Management Overlay (BMO). Based on the information provided, I have the following comments:

1. The existing marina building within the 100-foot Buffer will be used as a marina store and as living space for an on-site marina caretaker. This office is not opposed to using the existing structure; however any future expansion will require a variance. It does not appear that the applicant could meet the standards for a variance.
2. Section 41.8.2.a(1) of the Comprehensive Zoning Ordinance states new parking areas are prohibited from location in the 100-foot Buffer.
3. The applicant may be able to trade impervious surface within the 100-foot Buffer in order to provide parking, however it is not clear from the information provided on the site whether the proposal meets the requirements of Section 41.5.3.i(3)(a).



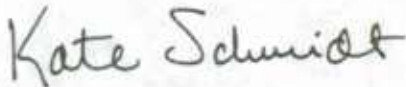
Ms. Brandy Glenn
File #07-2416
May 13, 2008
Page 2 of 2

It appears that the applicant is proposing more than 1,000 square feet of new impervious surface areas within the Buffer. The concept plan should include a table that breaks out the existing and proposed areas of impervious surface within the 100-foot Buffer by building area, driveways, and parking areas.

4. The impervious surface trading policy also prohibits new impervious surface any closer to tidal waters than the surfaces they replace. The areas of impervious surface that are being removed in the Buffer are further from tidal waters than the area of impervious surface (namely the parking lot) which is proposed.
5. Compliance with the 10% pollutant reduction rule is required per Section 41.3.f of the CZO prior to site plan approval. Please have the applicant complete Worksheet A in the 10% Rule Guidance Manual and submit a copy to this office with the revised site plan.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,



Kate Schmidt
Natural Resource Planner
SM207-08

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

Ms. Theresa Thomas
Elkton Planning Department
Elkton Municipal Building
P.O. Box 157
Elkton, Maryland 21922-0157

Re: Elkton Professional Arts Pavilion Site Plan
144 West Main Street

Dear Ms. Thomas:

Thank you for submitting information on the above referenced site plan for review and comment. The applicant is seeking site plan approval to redevelop a 0.404 acre site located in the Intensely Developed Area (IDA). Impervious surface on site will increase from 13,262 square feet to 16,698 square feet. Based on the information provided I have the following comments:

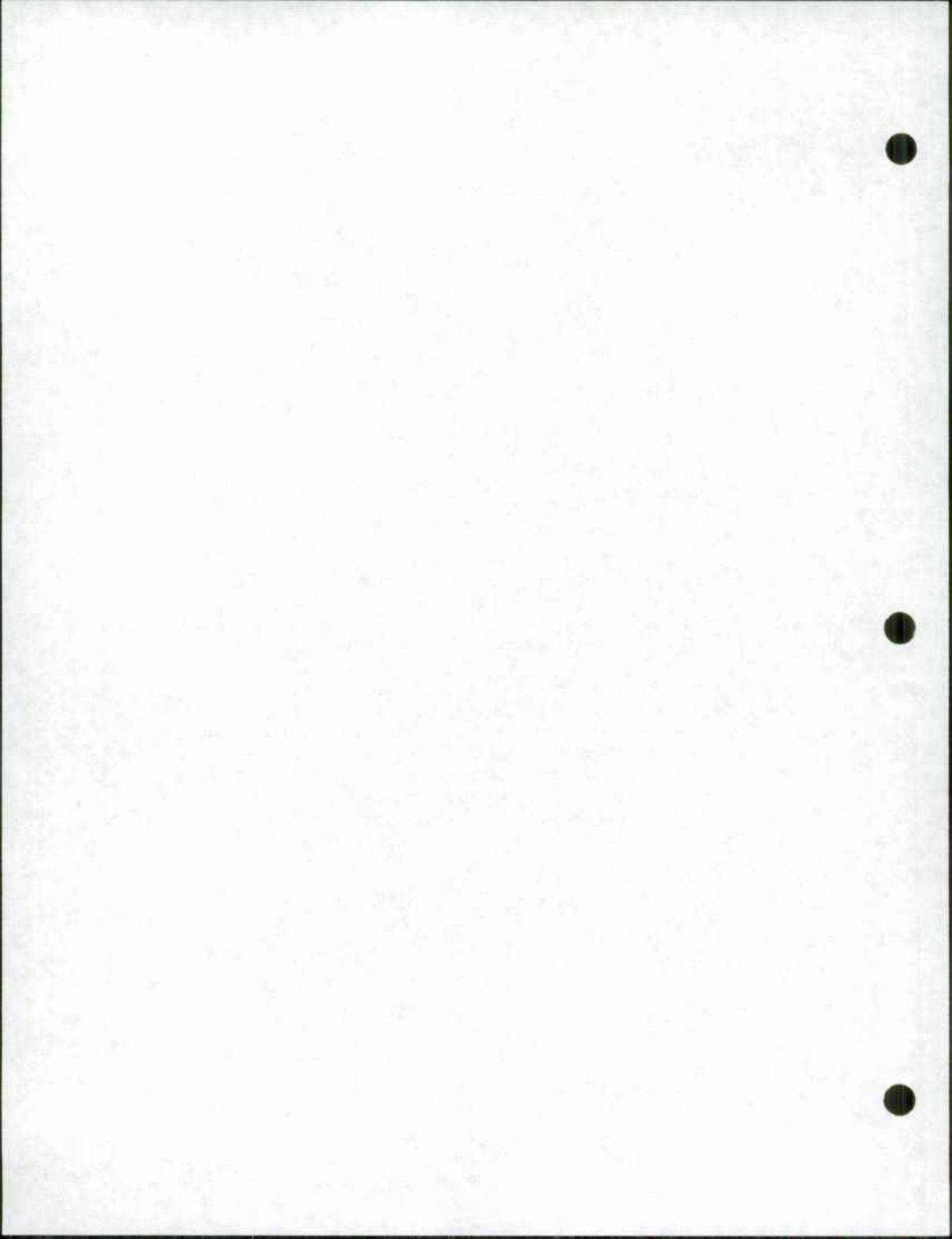
1. The applicant is proposing to meet the 10% pollutant reduction requirement by utilizing the rooftop runoff disconnect credit. Through this credit the applicant is reducing the post-development impervious surface by 9,418 square feet. The pollutant removal requirement is negative therefore the applicant meets the 10% rule.
2. However, in order to utilize the rooftop disconnect, the design must meet all of the required standards contained in the MDE Stormwater Design Manual. It is unclear from the site plan submitted whether a disconnection length of 75-feet or greater over pervious area is provided. Rooftop runoff directed into a stormwater drainage system does not qualify for this credit.

Thank you for the opportunity to provide comments. If you have any questions or concerns please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
EL133-07



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 20, 2008

Ms. Theresa Thomas
Elkton Planning Department
Elkton Municipal Building
P.O. Box 157
Elkton, Maryland 21922-0157

Re: Elkton Professional Arts Pavilion Site Plan
144 West Main Street

Dear Ms. Thomas:

Thank you for submitting information on the above referenced site plan for review and comment. The applicant is seeking site plan approval to redevelop a 0.404 acre site located in the Intensely Developed Area (IDA). Impervious surface on site will increase from 13,262 square feet to 16,698 square feet. Based on the information provided I have the following comments:

1. The applicant is proposing to meet the 10% pollutant reduction requirement by utilizing the rooftop runoff disconnect credit. Through this credit the applicant is reducing the post-development impervious surface by 9,418 square feet. The pollutant removal requirement is negative therefore the applicant meets the 10% rule.
2. However, in order to utilize the rooftop disconnect, the design must meet all of the required standards contained in the MDE Stormwater Design Manual. It is unclear from the site plan submitted whether a disconnection length of 75-feet or greater over pervious area is provided. Rooftop runoff directed into a stormwater drainage system does not qualify for this credit.

Thank you for the opportunity to provide comments. If you have any questions or concerns please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
EL133-07



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 21, 2008

Ms. Denise Breder
Town of Perryville
515 Broad Street, P.O. Box 773
Perryville, MD 21903

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, Maryland 21623

Re: Town of Perryville Boat Launch Facility
Commission Approval

Dear Ms. Breder and Ms. Skilling:

I have received a revised planting plan as required per the Critical Area Commission approval of the Town's expansion of its boat launch facility. That approval, which was received on January 14, 2008 included the condition that the Town of Perryville may not commence construction until a planting plan has been approved by Commission staff. This approval was based on the information provided by the Town that as a measure to mitigate the adverse effects of this project, the Town would accommodate to the "maximum extent possible" the required 9,964 square feet of mitigation on site. This mitigation was to consist of a mix of 25 2-inch caliper trees and 75 shrubs.

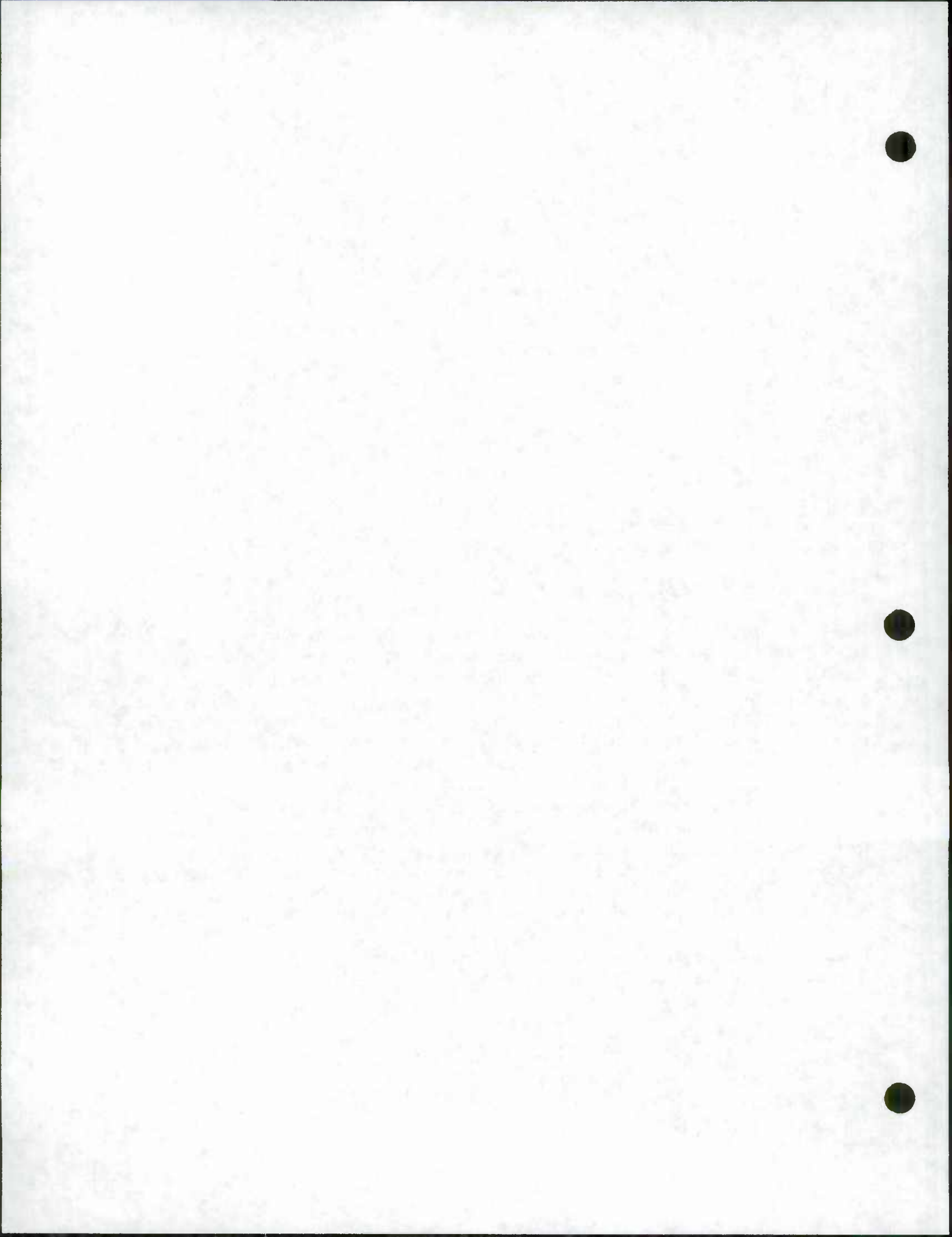
The site plan submitted to this office on May 2, 2008 shows that all of the required mitigation will be provided at the Town Park. This plan is not acceptable to Commission staff. As stated in my previous letter of March 21, 2008, more planting should be accommodated at the boat launch facility, first within the 25-foot setback and then in the remaining area of Buffer. Only once this area has been utilized may any additional mitigation be accommodated off-site. Please submit a revised planting plan to this office that reflects this design.

If you have any questions please contact me at (410) 260-3475. I am available to meet and discuss this issue further if necessary.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PE506-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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May 21, 2008

Ms. Denise Breder
Town of Perryville
515 Broad Street, P.O. Box 773
Perryville, MD 21903

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, Maryland 21623

Re: Perryville Community Park – Roadway Stabilization Project

Dear Ms. Breder and Ms. Skilling:

I am writing in response to the Consistency Report submitted on behalf of the Town of Perryville regarding the above referenced project. It is my understanding that the Town completed a bank stabilization project at the Town Park. The work involved stabilizing an area of shoreline above Mean High Water (MHW) that was damaged from severe storm events. This area of the 100-foot Buffer is adjacent to an existing roadway that was being threatened. The Town secured funding from Maryland Emergency Management Agency (MEMA) to complete the work.

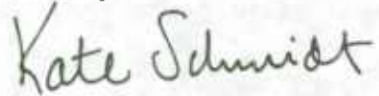
In order to proceed with this Consistency Report, the following conditions are required:

1. The project total 4,500 square feet of impact to the 100-foot Buffer. The Commission requires 1:1 mitigation for all impacts above Mean High Water related to shoreline erosion control activities. Therefore, the Town must provide a planting plan to meet this requirement. Plantings should consist of native species and credited at a rate of 100 square feet for every 2" caliper tree and 50 square feet for every shrub. This credit may be increased to 400 square feet for every grouping of one overstory tree and two understory trees or for one overstory trees and three shrubs.
2. In addition to the planting plan, the Town must provide a signed Agreement that summarizes the progress the Town has made towards meeting its mitigation obligations from previously approved projects. This includes any outstanding mitigation from the

Water Treatment Plant, the installation of the public walkway at the Town Park, and the boat launching facility. The agreement should be accompanied by an overall master plan showing a landscaping plan for all areas that have been or will be planted.

In order to proceed with development of the Planting Agreement and Master Planting Plan, the Town should schedule a meeting and site visit to the Town Park with Commission staff. Please contact me at your earliest convenience. If you have any questions, you may reach me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

PE259-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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May 28, 2008

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

Re: File #05-08-02-0007-C
TDSM, LLC Subdivision

Dear Ms. Jackson:

Thank you for submitting the above referenced project for review and comment. The applicant is seeking approval of a minor subdivision plat and site plan for two lots in order to develop a duplex. The lots are located within the Critical Area and are partially designated Resource Conservation Area (RCA) and Limited Development Area (LDA). Based on the information provided, I have the following comments.

1. The 15% impervious surface limit of 2,587 square feet for Lot 1 and 2,588 square feet for Lot 2 should be added to the plat.
2. The Critical Area Buffer should be shown on the plat and expanded as necessary for hydric soils or other sensitive resources per Section 14:1-51 and 14:1-52 of the County Code. As noted in this Section, new development may not be permitted within the 100-foot Buffer. Development within the Buffer may only occur on properly grandfathered lots that have obtained a Buffer. It would be inappropriate to subdivide a grandfathered lot that was constrained by the Buffer, thus prohibiting the increased development the new lot would provide.
3. A note should be added to the plat and the site plan stating new development and disturbance is prohibited within the Buffer.

TTY for the Deaf

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Please notify and provide this office of a copy of the final approved plat when it is available. Thank you for the opportunity to provide comments. Please contact me at (410)260-3475 if you have any questions.

Sincerely,

Kate Schmidt

Kate Schmidt
QC 134-08

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/

May 29, 2008

Martha Herman
Queen Anne's County
Dept. of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

Re: File #04-08-05-0005-C
Blunt Marsh Farm Subdivision; James & Lois Davidson

Dear Ms. Herman:

Thank you for submitting the above referenced project for review and comment. The applicant is seeking Preliminary Plat and Plan approval of a major subdivision to create five (5) lots. The property currently totals 280.753 acres in size and is located in the Resource Conservation Area (RCA). The property was originally subdivided into Lots 1, 2, 3, and 4. The subdivision was approved in 1993. The current proposal further subdivides Lot 1 into Lots 1, 5, 6, 7, 8 and 9. Based on the information provided, I have the following comments:

1. Given the site is designated as RCA, the total number of allowable lots is based on the size of the original grandfathered parcel less all State tidal wetlands. The plat notes indicate the total number of allowable lots is 13 dwelling units. The original grandfathered parcel was 379 acres. However, at the time of the initial subdivision the plat did not indicate the acreage of State tidal wetlands. The applicant should verify State tidal wetlands on Lots 2 and 3 and recalculate the allowable number of dwelling units. The plat notes should be updated accordingly.
2. Afforestation is required throughout the 100-foot Buffer in addition to the 1:1 mitigation for the necessary forest clearing. COMAR 27.01.09.01.C(6) requires that when agricultural use of lands within the Buffer ceases and the lands are converted to another use, the Buffer shall be established. There are small areas of Buffer on Lots 1, 7, and 8 which are not forested. At a minimum, this office recommends that trees are planted at the limit of the 100-foot Buffer line in order to mark the afforestation area. The trees should be 2" DBH or larger in order to increase the likelihood of survival.

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3. The impervious surface plat notes should identify the amount of existing impervious surface by each individual lot.
4. The plat should include a note indicating the deed reference for the Conservation Easement, as was shown on the subdivision plat for Lots 1-4.
5. The Conservation Easement is located on all of the waterfront lots which total 8. The easement limits the number of piers allowed to only 5 piers. It would appear that at least one pier, on Lot 1, currently exists. The plat should include a note indicating only a total of 5 piers are allowed for the 8 waterfront lots. I recommend the County require the applicant show potential areas for shared piers.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned above the typed name.

Kate Schmidt
Natural Resource Planner
QC293-08

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 30, 2008

Mr. Stephen L. Wolf
Park Ranger, Elk Neck State Park
4395 Turkey Point Road
North East, Maryland 21901

Re: Trailhead Improvement Project
Chesapeake Bay Gateways Grant

Dear Mr. Wolf:

Thank you for submitting a copy of the above referenced project. Elk Neck State Park is seeking a Chesapeake Bay Gateways grant to install improved signage at various trailheads throughout the park. In seeking approval for the grant, you are requesting that the Critical Area Commission (CAC) provide information related to any necessary review and approval by the CAC.

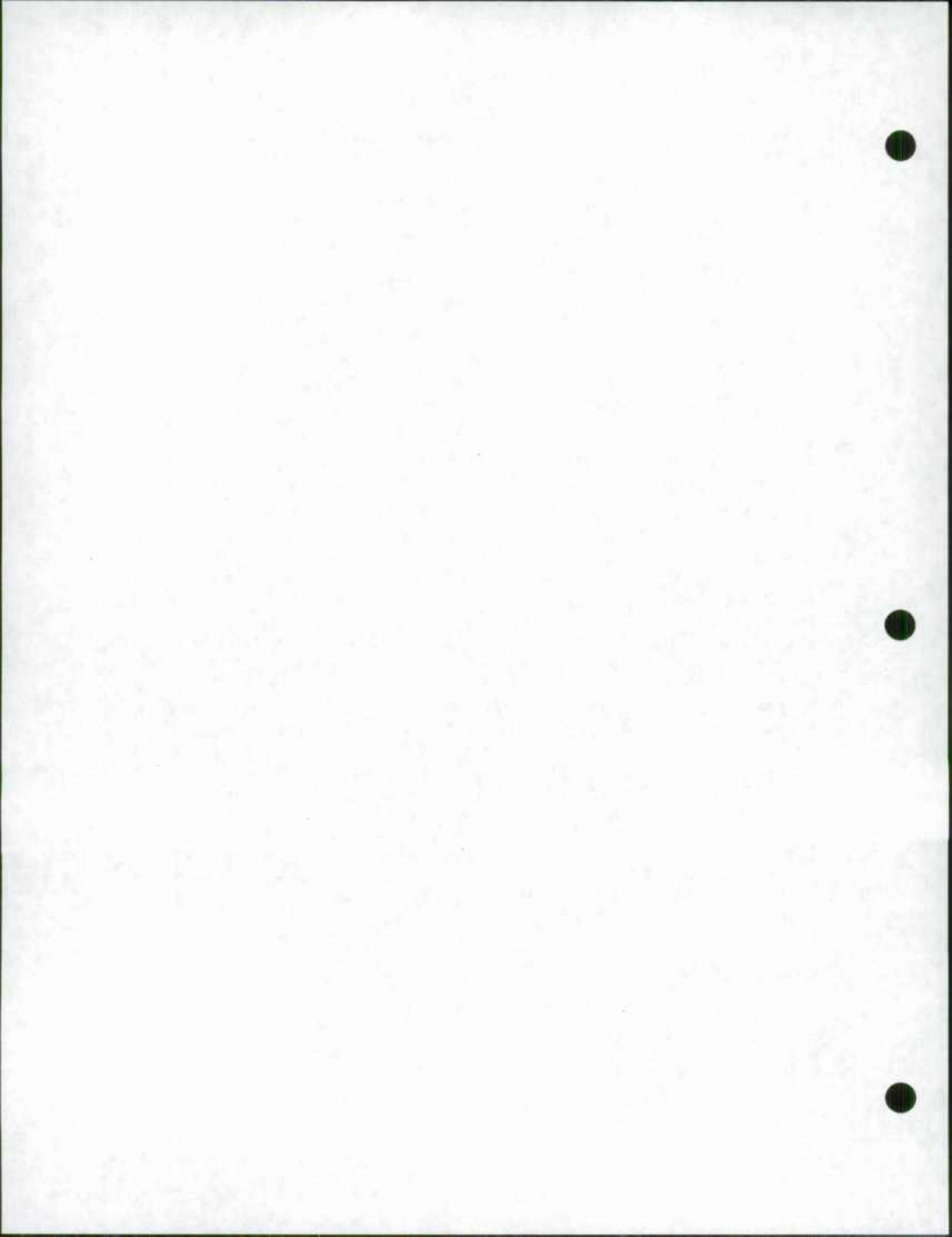
Based on the information provided, it does not appear that the project as proposed would threaten to violate any provision of the Critical Area law or Criteria. However, since the project is on State land, it will require more detailed review by Commission staff and may require approval by the CAC prior to construction. Attached please find a copy of the State Project Application Checklist. This checklist should be completed to the extent possible with a site plan provided for each trailhead location and a description of the proposed activity.

Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
DNR 28-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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May 30, 2008

Mr. Arnold Norden
Maryland Department of Natural Resources
580 Taylor Avenue, Tawes E-3
Annapolis, Maryland 21401

Re: Elk Neck State Park Wastewater Treatment Plant (WWTP)
Anemometer Installation – Alternative Energy Study

Dear Mr. Norden:

Thank you for forwarding the above-referenced project to this office for review. The Department proposes to temporarily install an anemometer at the site of the Elk Neck State Park WWTP in order to establish the feasibility of constructing a wind turbine. The anemometer will be in place for one year. I recently visited the site with staff from Maryland Environmental Service (MES). The proposed anemometer location will not add any impervious surface to the site. Further, it is not within the Buffer nor will it disturb any vegetation. Therefore, this action by the Department does not constitute a development activity and does not require approval by the Commission.

Please be advised that the installation of a wind turbine at this facility as well as any planned upgrades to the WWTP will require review and approval by the full Critical Area Commission under COMAR 27.02.05. I am enclosing a copy of the State Project Application Checklist for future reference.

We appreciate your continuing efforts to provide Commission staff notice of this project. Thank you again for forwarding this request to this office. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

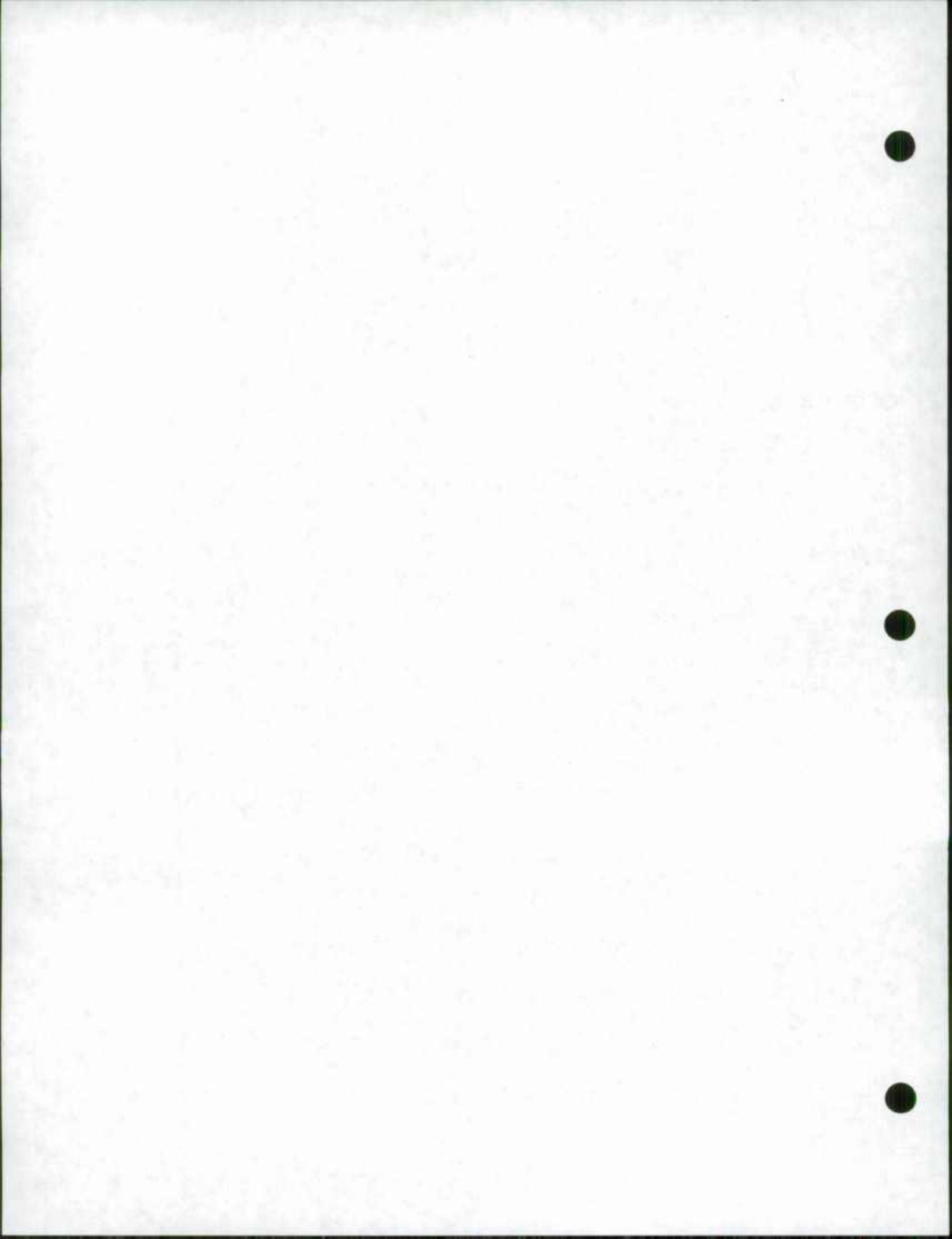
A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

TTY for the Deaf

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





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

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

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June 3, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Mr. Jason Traband
CNA, Inc
215 Bynum Road
Forest Hill, Maryland 21050

Re: Elk Point Marina Buffer Expansion

Dear Mr. DiGiacomo and Mr. Traband:

This office has reviewed the 'Critical Areas Buffer Establishment' site plan for the Elk Point Marina property. The site plan shows the 110-foot Buffer expanded for steep slopes and the area of highly erodible soils with slope of 5% or greater. The site plan was accompanied by a memo from CNA that described the procedure they used for Buffer expansion and asked for additional guidance. Based on this memo and subsequent discussions with Mr. DiGiacomo, I have the following comments:

1. CNA correctly applied the Buffer expansion formula of four feet for every one percent of slope. However, in the vicinity of transects 22, 23, 24, 27, and 30 the Buffer should be expanded to the limit of the steep slopes, even though they may be perpendicular to the shoreline. In the vicinity of transects 10-12 the Buffer should also be expanded around the limit of the steep slopes. While the slope between transects 10 and 12 is away from water, based on the language within the Zoning Ordinance, it is difficult to establish how to not expand around these areas. Further, the Critical Area law and Criteria protect all steep slopes, regardless of whether they were man-made.
2. Section 196.2.a of the Cecil County Zoning Ordinance states that the Buffer shall be expanded to include contiguous sensitive areas such as highly erodible soils 'whose development or disturbance may impact streams, wetlands, or other aquatic

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

Mr. Tony DiGiacomo and Mr. Jason Traband

June 3, 2008

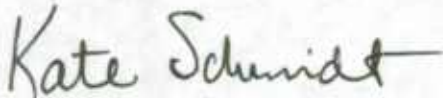
Page 2 of 2

environments'. Provided the applicant can demonstrate that the development or disturbance of the highly erodible soils will not impact streams, wetlands or other aquatic environments, Cecil County may waive the requirement for expanding the Buffer to include this sensitive area. It is my understanding the County may be proposing revisions to Section 196 to provide additional guidance regarding this requirement. It is the County's discretion as to whether modifications to the expanded Buffer for highly erodible soils may be presented by the applicant at this time.

3. If the County determines that the applicant can modify the Buffer expansion at this time, I recommend that the applicant provide a detailed analysis of the proposed development on the highly erodible soils with slopes from 5% and up to 15%. The analysis should demonstrate that development or disturbance will not impact streams, wetlands or aquatic environments. Further, I recommend a number of Best Management Practices be provided, including:
 - a. Infiltration of run-off on-site; or
 - b. Flow attenuation by use of open vegetated swales and natural depressions; or
 - c. Stormwater retention structures; or
 - d. Stormwater detention structures; or
 - e. Stormwater drainage infrastructure necessary to collect and convey runoff from the point of concentration to an existing stable channel downslope of the erodible soils.

Thank you for the opportunity to provide comments. I am available to discuss this issue further if necessary. Please contact me if you have any questions at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
CE10-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Sercy
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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June 6, 2008

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

Re: Heron Cove Subdivision
Revised Stormwater Management Plans – May 2008

Dear Ms. Vennell:

I have received revisions to the 10% Rule Calculations for the above referenced subdivision based on my comments of May 13, 2008. Based upon my review of the information it would appear the applicant has addressed the required changes and is meeting the 10% pollutant reduction requirement. My specific comments are below:

1. The area of IDA located on the site is 40.15 acres which was included appropriately in the calculations.
2. The applicant is only discounting the post-development area of impervious surface draining to the dry swales. The removal requirement is 7.00 lbs of phosphorous per year which the applicant is meeting with the proposed pocket ponds and shallow wetlands.
3. The pervious pavers provided on site will provide additional stormwater benefits. This office recommends the Town establish a formal maintenance plan and agreement with the Homeowner's Association to ensure the long-term viability of the paver system.

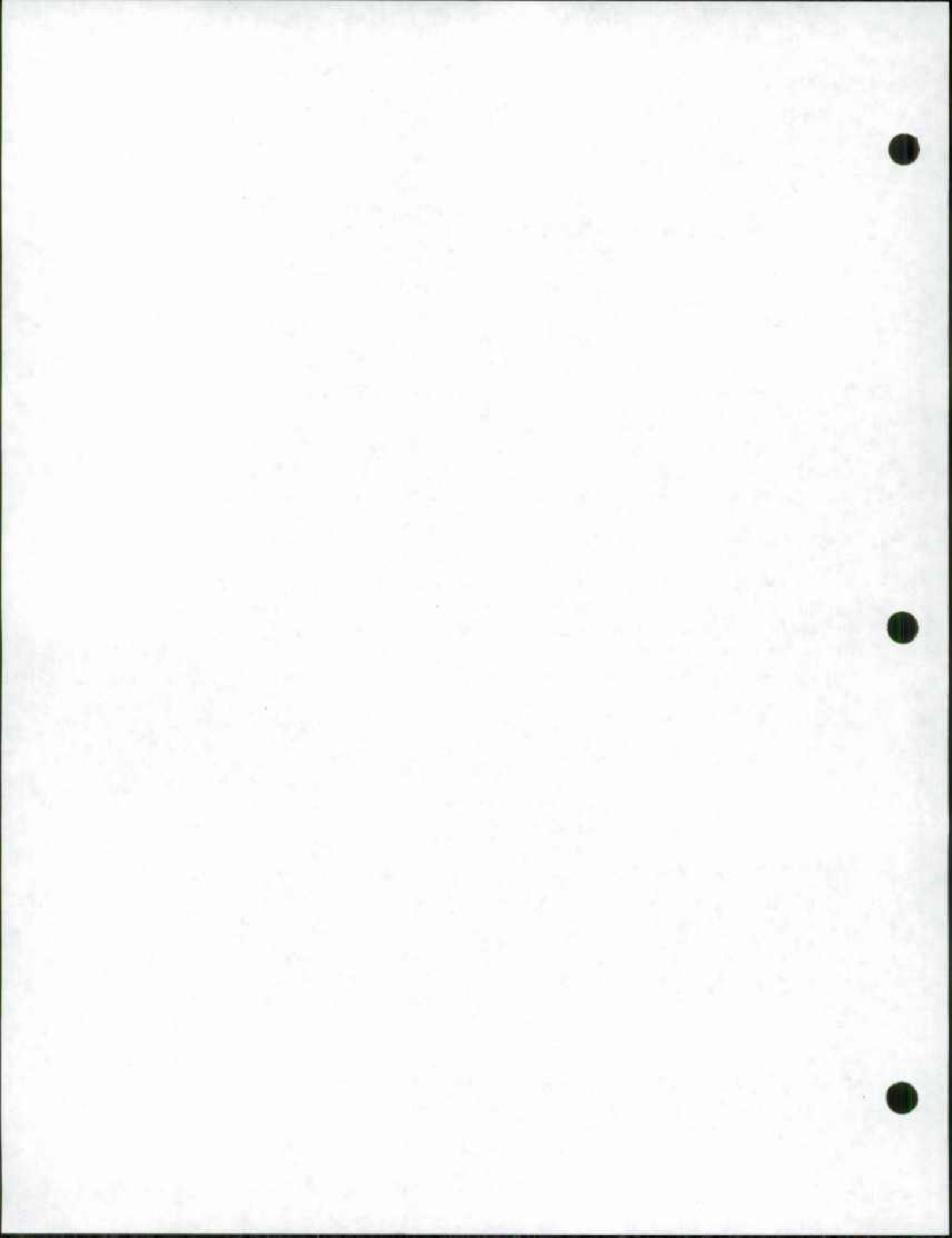
Thank you for the opportunity to comment. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

Cc: Mary Ann Skilling, MDP
Jeremy Sandmeier, Morris & Ritchie Associates



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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June 9, 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 File #08-0879; Lynch
44826 Three Coves Road, Hollywood

Dear Ms. Chaillet:

Thank you for providing information on the above-referenced variance. The applicant is requesting a variance to the 100-foot Buffer to replace and expand an existing pool and construct a new porch. The parcel is 2.09 acres in size and located within the Limited Development Area (LDA) and entirely constrained by the Buffer. The property is currently developed with a single-family dwelling.

Provided this lot is properly grandfathered, this office is not generally opposed to replacing the existing pool or to construct a rear porch. However, impacts must be minimized and the variance granted the minimum necessary. Based on the information provided, I have the following comments:

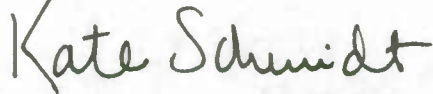
1. I recommend the site of the proposed decking around the pool be reduced given the proposed footprint of the pool and decking is 2,620 square feet in size, which is greater than the footprint of the dwelling. The proposed porch itself will provide 687 square feet of space for providing outdoor living space.
2. The site is constrained by highly erodible soils. Should the County grant this variance, the applicant should take steps to ensure the proposed development will not impact the adjacent creek, including installing a super silt fence and providing significant planting around the amenities after construction.
3. The proposed mitigation of 22,662 square feet should be provided on site within the 100-foot Buffer. Plantings should consist of a mix of native shrubs and trees.



Ms. Yvonne Chaillet
08-0879; Lynch
June 9, 2008
Page 2 of 2

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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June 9, 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 File #02-0969; Hart
45216 Clarke's Landing Road, Hollywood

Dear Ms. Chaillet:

Thank you for providing information on the above-referenced variance. The applicant is requesting a variance after-the-fact to allow a single-family dwelling built without permits to remain in the 100-foot Buffer. The parcel is 2.383 acres in size and located within the Limited Development Area (LDA). The property is also currently developed with a four-car garage with an apartment above.

This office is opposed to granting the variance as proposed because the applicant has not met all the standards, including the standard of unwarranted hardship. Further, the applicant has room available to locate the dwelling outside the 100-foot Buffer. It is not appropriate for the Board of Appeals to grant the variance simply because the dwelling already exists within the Buffer. The dwelling could be relocated and the site could be restored which would allow the Buffer to fully provide its intended functions. The following is an analysis of the requested variance for this project in the context the St. Mary's County variance standards.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the County's variance standards. Furthermore, the State law establishes a presumption that a 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 to allow a dwelling that was constructed without approval in the 100-foot Buffer is in conflict with Section 71.8.3.b of the St. Mary's County Comprehensive Zoning Ordinance (CZO). The applicant has a property that is 2.383 acres in size of which a majority is located outside the 100-foot Buffer. While the area outside the Buffer may be forested, the Zoning Ordinance allows clearing of up to 20% of the site provided there is 1:1 mitigation, which could be planted within 100-foot Buffer. The intent of the 100-foot Buffer as described in the CZO and in the Critical Area law and Criteria is to improve water quality of runoff entering the Bay and its tributaries and to provide for wildlife habitat. A dwelling in the 100-foot Buffer prevents these functions. 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 to seek a variance to allow a dwelling in the 100-foot Buffer given that there is room outside the Buffer to locate the dwelling. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for a dwelling in the Buffer as the applicant may locate the dwelling outside the 100-foot Buffer.

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 the Buffer will not deprive the applicant of a right commonly enjoyed by other properties in similar areas. The applicant has not shown that construction of a dwelling in the Buffer is a right commonly enjoyed by any property in the Critical Area when there is opportunity to construct the dwelling outside the Buffer. This office does not support variances for development in which the applicant has the opportunity to comply with the regulations.

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 construct a dwelling in the Buffer where

evidence has not been provided to show a house could not be accommodated otherwise. 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 County Critical Area Program, or Critical Area law and Criteria. 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 constructed the dwelling without an approved permit from St. Mary's County in the 100-foot Buffer. Consequently the applicant has created the need for the variance. Further, the applicant has not shown any reason that the house could not be located outside of the 100-foot Buffer.

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 St. Mary's County Critical Area Program, or the Critical Area law and Criteria. Maintaining the house in its current location will permanently prevent the 100-foot Buffer from fulfilling its intended functions. These functions include, among other things, improving water quality by removing harmful pollutants, minimizing the adverse effect of human activities on the shoreline, and protecting riparian wildlife 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.

24.4.1.f – The variance is the minimum necessary to achieve a reasonable use of land or structures

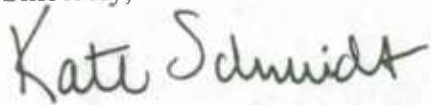
The applicant has a four-car garage and apartment in which the applicant and his family currently reside. The single-family dwelling can be accommodated outside the 100-foot Buffer on this site which would provide the applicant with reasonable use of this property. Therefore, the requested variance is not the minimum adjustment necessary to afford relief from the regulations because the regulations do not prevent the applicant from achieving reasonable use of the property.

This letter has addressed six of the relevant variance standards. Based on the information provided, none of the variance standards are met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Because the applicant has failed to meet all of the County and State variance standards, this office recommends that the Board deny the applicant's request for this variance and require the applicant to remove the dwelling from the 100-foot Buffer.

Ms. Yvonne Chaillet
02-0969 Hart
Page 4 of 4
June 6, 2008

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner

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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June 9, 2008

Mr. Joseph Johnson
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: VFW-Post 8185; Verizon Cell Tower
Special Exception

Dear Mr. Johnson:

Thank you for submitting the above-referenced special exception application for review and comment. The applicant desires a special exception for a cell tower in the Northern Agricultural Residential Zone and two yard setback variances. The site is 1.445 acres in size and located in the Limited Development Area (LDA).

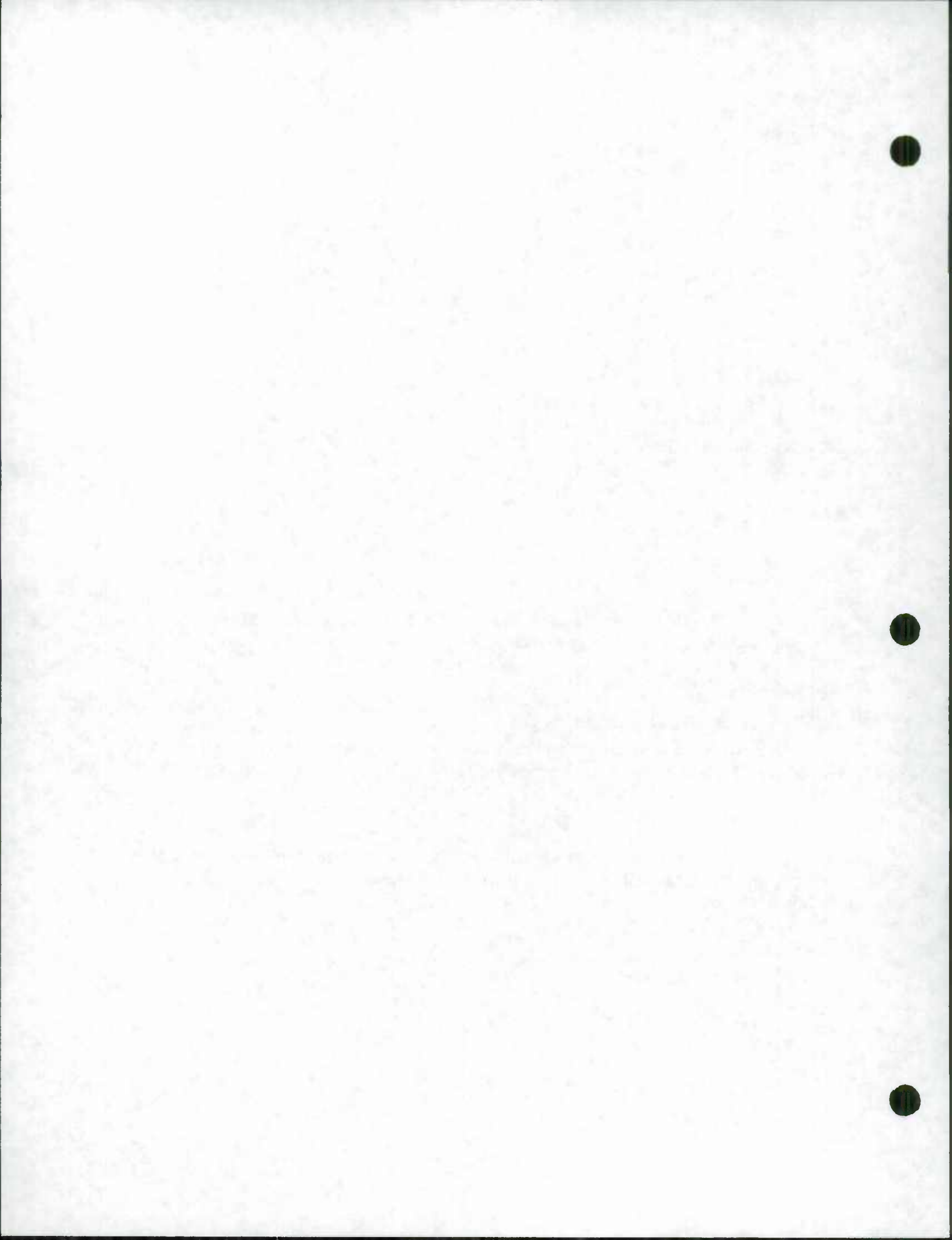
This office has no comment regarding the proposed special exception of setback variances. However, based on aerial imagery, it appears the proposed activity is close to the shoreline of the Susquehanna River and may be located within the 110-foot Buffer. The site plan should be revised to show the field delineated Mean High Water (MHW) and the 110-foot Buffer, expanded as necessary in order to establish whether a variance to the Buffer is necessary.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CE305-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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Executive Director

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June 9, 2008

Mr. Joseph Johnson
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Local Variance Case #3409; Mita
Susquehannock Boulevard, North East

Dear Mr. Johnson:

Thank you for submitting the above referenced variance request for review and comment. As you are aware, the action taken by the Critical Area Commission on October 11, 2007 applies to the Buffer Exemption Area provisions of the Cecil County Zoning Ordinance. Specifically, the Board of Appeals may not approve any variance request for this project because the decision will be null and void per Natural Resources Article Section 8-1809(1)(3). Accordingly, I would recommend that the Board postpone any hearing of this matter until the County has successfully resolved the sanction.

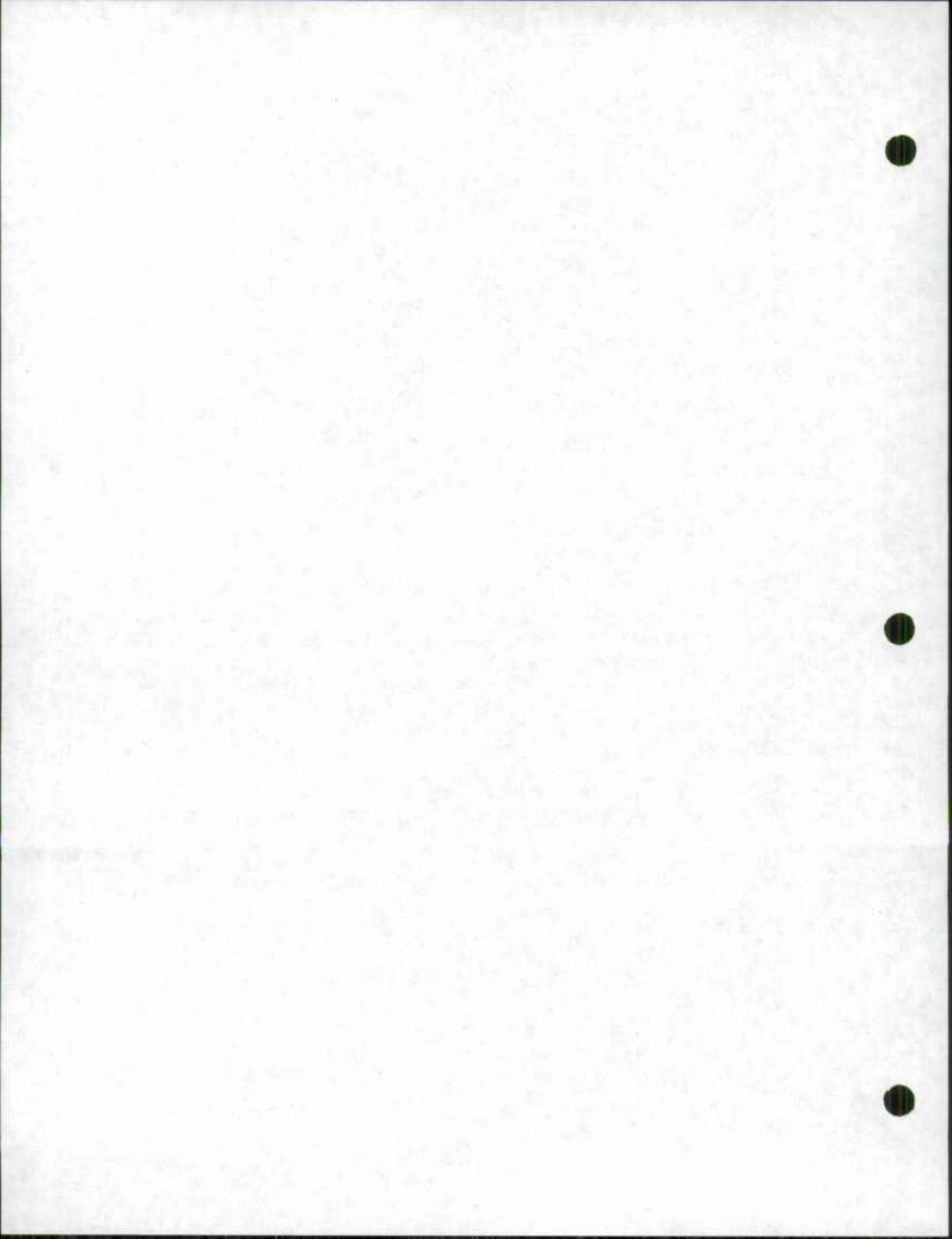
Therefore, I will not be providing comments at this time. Please notify this office when the County intends to reschedule this variance request. Thank you for your attention. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
CE303-08





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 10, 2008

Ms. Yvonne Chaillet
St. Mary's County
Land Use and Growth Management

Re: File #07-2594; Leonard
43799 Little Cliffs Road, Hollywood

Dear Ms. Chaillet:

Thank you for submitting the above referenced variance request for review and comment. The applicants are seeking a variance to the 100-foot Buffer to construct a deck on an existing dwelling. The property is 54.17 acres in size and located in the Resource Conservation Area (RCA). It is currently developed with a dwelling, shed, and garage all located within the expanded 100-foot Buffer for steep slopes and highly erodible soils.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets **each one** of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicants have reasonable use of the entire property in that the property is developed with a dwelling that contains a sun room and screened porch and the applicants also enjoy the use of an outdoor concrete patio area. The proposed deck would be over highly erodible soils and adjacent to steep slopes, whose development would impact the adjacent

TTY for the Deaf

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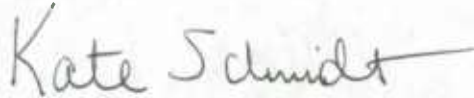


waterway. Further, it is unclear how the applicants would obtain access to the rear of the dwelling in order to construct the deck without impacting the steep slopes and soils.

If the Board approves this variance, it should be the minimum necessary to provide relief and as a condition of approval we recommend the applicant be required to provide mitigation at a ratio of 3:1 for the 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.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and includes a long horizontal flourish extending to the right.

Kate Schmidt
Natural Resources Planner

SM266-08

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 11, 2008

Ms. Denise Breder
Town of Perryville
515 Broad Street, P.O. Box 773
Perryville, MD 21903

Re: Perryville Elevated Pier and Walkway
Consistency Determination

Dear Ms. Breder:

Ms. Mary Ann Skilling has submitted a Consistency Report on behalf of the Town of Perryville for the above referenced project. Given the project is to be undertaken in the Critical Area by the Town of Perryville, the proposed activity requires review by the Critical Area Commission as detailed under COMAR, Title 27.02.02.

Based on the information provided by Ms. Skilling, I agree with her determination that the proposed development project is generally consistent with the Town of Perryville Critical Area Program and Ordinance for projects located within Intensely Developed Areas (IDAs) and Special Buffer Areas (SBAs) for the reasons outlined below.

1. The activity is to provide public access to the shoreline and the waterfront of Perryville. Disturbance to the Buffer is minimized by reducing the width of the walkway to 10-feet.
2. The Town has received a Tidal Wetlands License and a permit from Maryland Department of the Environment for nontidal wetland impacts.
3. The majority of the impact to the 110-foot Buffer occurs within the nontidal wetland which will be mitigated under the MDE nontidal wetland permit.
4. All remaining impacts to the 110-foot Buffer will be mitigated at a ratio of 2:1, including any clearing of trees at the shoreline.
5. All trees removed outside the 110-foot Buffer will be mitigated at a ratio of 1:1.

TTY for the Deaf

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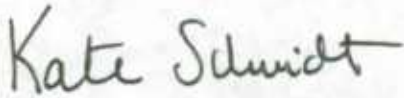


Ms. Denise Breder
Perryville Town Pier & Dock
June 11, 2008
Page 2 of 2

6. The 10% Pollutant Reduction requirement for the 375 square foot sitting area will be met by planting a combination of either four trees or one tree and three shrubs.

Enclosed please find a Planting Agreement form to document all the mitigation requirements listed above. This form should be completed once all clearing impacts are finalized and a signed copy returned to this office. Thank you for your efforts in coordinating the review of this project. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resources Planner

PE 319-08

Cc: Ms. Mary Ann Skilling, Maryland Department of Planning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 12, 2008

Mr. Tony DiGiacomo
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, Maryland 21921

Re: Final Major Subdivision
Lands of Herschell B. Claggett

Dear Mr. DiGiacomo:

Thank you for submitting the above referenced final subdivision plat for review and comment. As you are aware, the action taken by the Critical Area Commission on October 11, 2007 applies to the Habitat Protection Area provisions of the Cecil County Zoning Ordinance. Specifically, the Planning Commission may not approve any final subdivision plat in a Habitat Protection Area because the decision will be null and void per Natural Resources Article Section 8-1809(1)(3). Accordingly, I would recommend that the Planning Commission postpone this matter until the County has successfully resolved the sanction.

Thank you for your attention. If you have any questions, please contact me at (410) 260-3475.

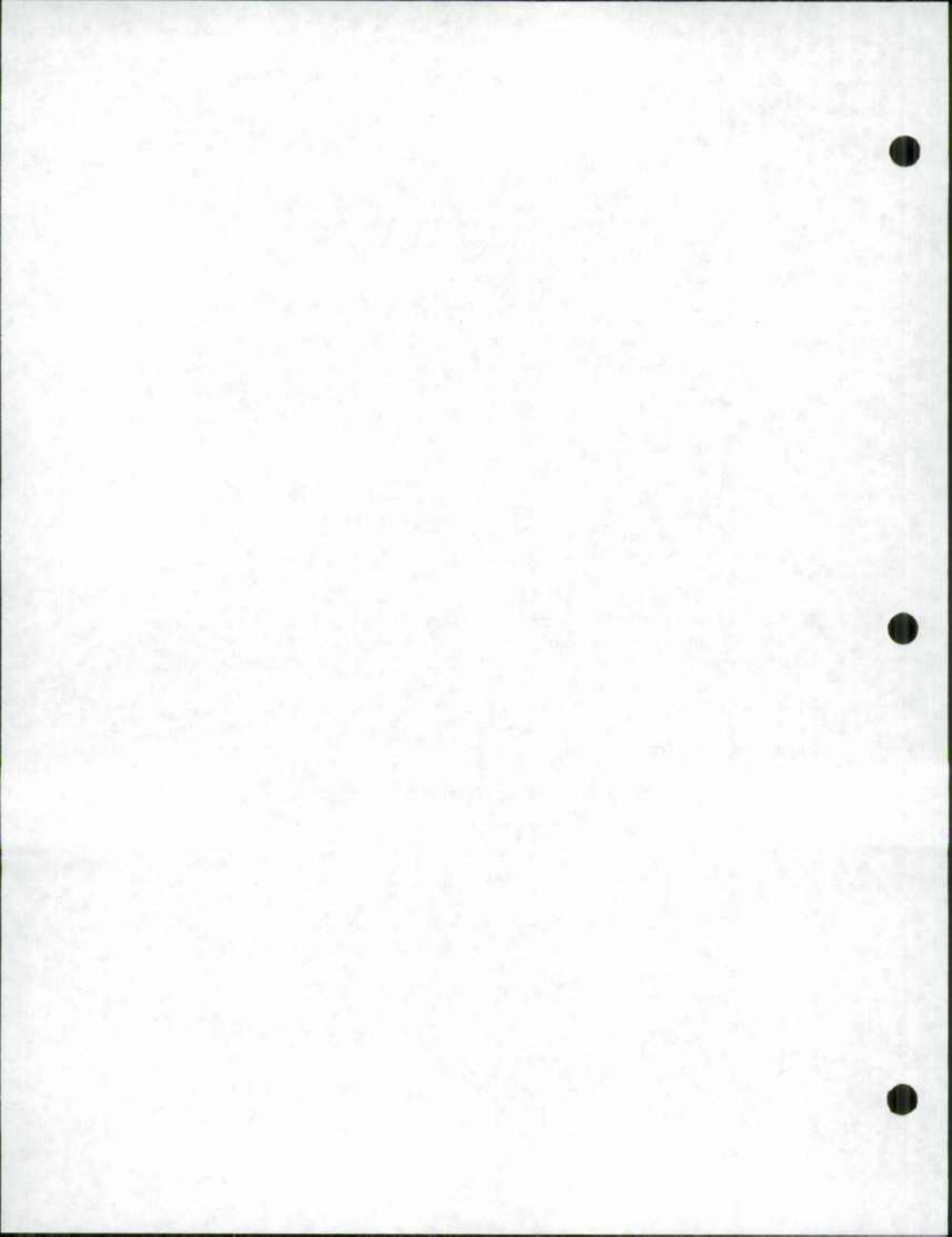
Sincerely,

Kate Schmidt

Kate Schmidt
Regional Program Chief

CE479-04





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 17, 2008

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

Re: File #08-131-018; Blackistone Marina Replacement Boathouse Site Plan
24800 Marina Way, Hollywood

Dear Ms. Glenn:

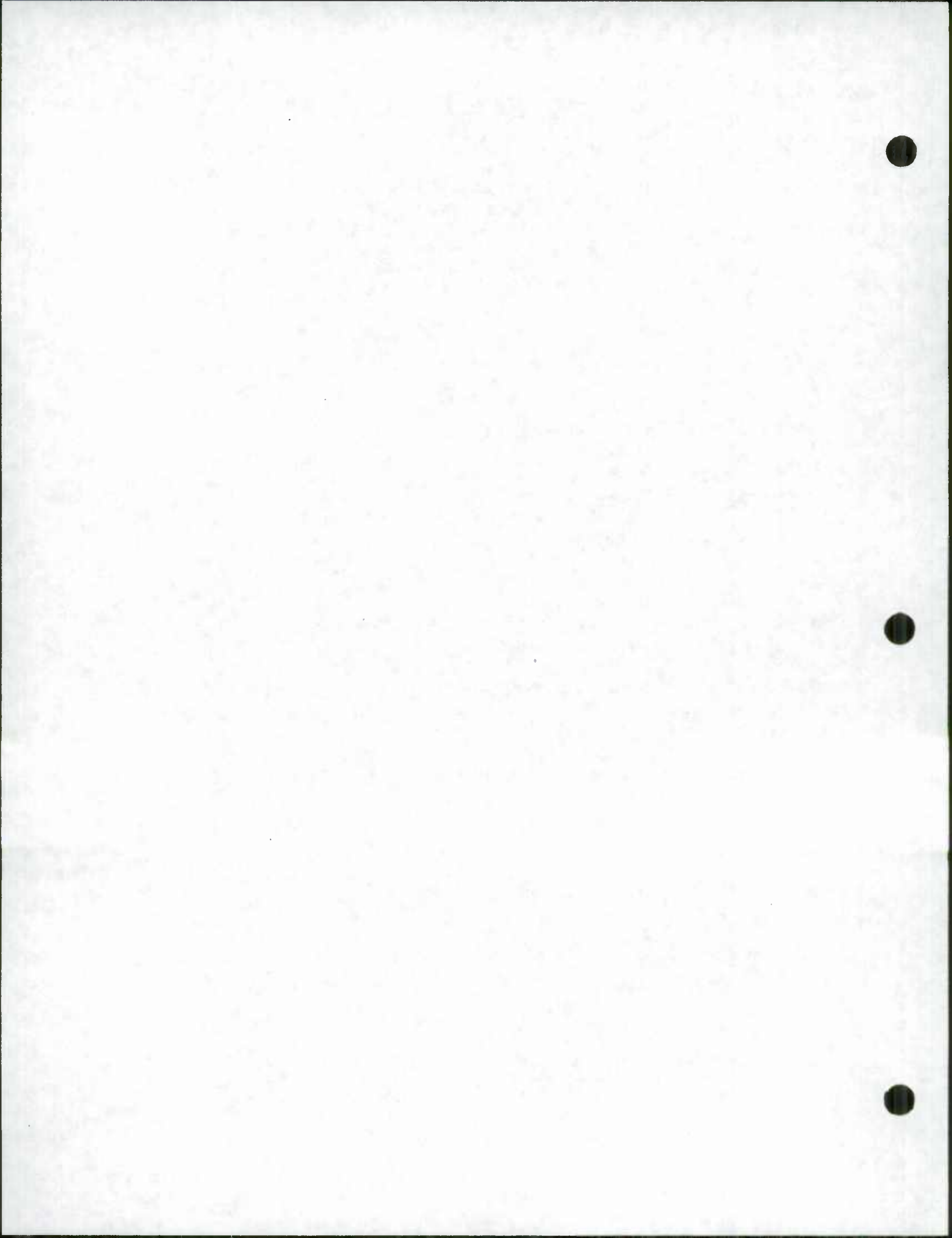
Thank you for providing the above referenced site plan for review and comment. The applicant is seeking to replace an existing boathouse and four slips. The property is located in the Limited Development Area (LDA) overlay of the Critical Area. All construction will be done by barge from the water, therefore no land will be disturbed. Provided the applicant has obtained all necessary permits from the Maryland Department of the Environment (MDE), this office has no further comment on this proposal.

Thank you for the opportunity to provide comment. Please contact me at (410) 260-3475 if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Regional Program Chief



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 17, 2008

Dr. Ta-Shon Yu, P.E.
Water Quality Infrastructure Program
Water Management Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Preliminary Decision to grant Categorical Exclusion (CE#311)
Western Branch WWTP Filter Upgrade

Dear Mr. Yu:

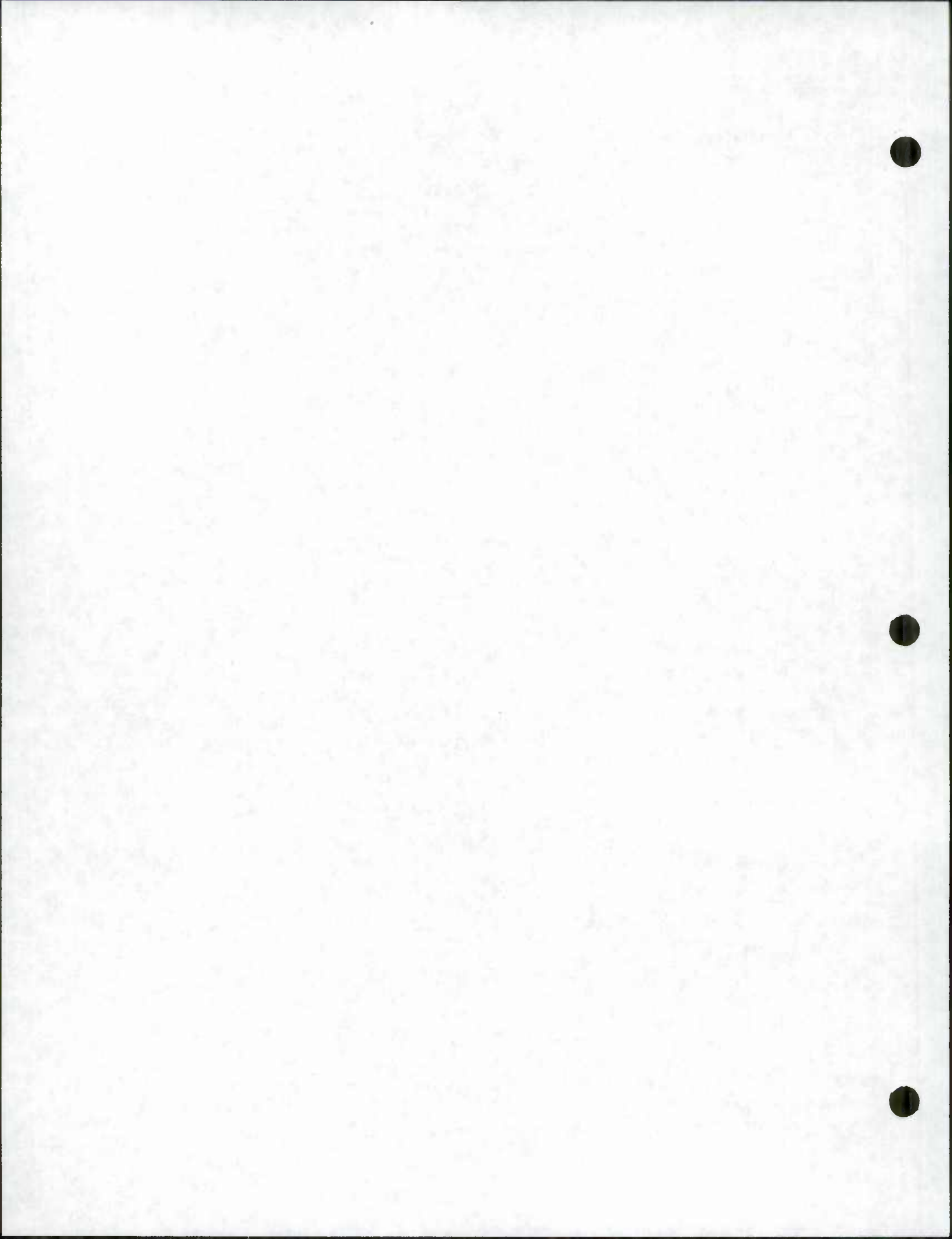
This letter is in response to the notice received regarding the above referenced decision. This office has no objection to the decision to not prepare an Environmental Information Document. However, please be advised this facility is located within the Critical Area. Depending on the extent of disturbance, the proposed activity may require review by the Critical Area Commission prior to start of construction. The applicant should contact this office at their earliest convenience to discuss the proposed project in more detail.

Thank you for soliciting Commission staff comments. If you have any questions, please do not hesitate to contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Regional Program Chief



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 18, 2008

Mr. John Tabak, PE, RLS
EBA Engineering, Inc.
Seton Business Park
4813 Seton Drive
Baltimore, Maryland 21215-3209

Re: Piney Point Lighthouse Museum Site Plan
St. Mary's County Board of County Commissioners

Dear Mr. Tabak:

Thank you for submitting revised site plans and information regarding the above referenced project. Your submittal addressed comments I provided to St. Mary's County on January 28, 2008. As you are aware, the St. Mary's County Board of County Commissioners is seeking to redevelop the Piney Point Lighthouse Museum. I have reviewed the project for consistency with the St. Mary's County Critical Area Program and have determined that this project will require Conditional Approval by the Critical Area Commission under COMAR 27.02.06. At this time, the following outstanding issues should be addressed prior to submittal to the Commission:

1. This office understands that the County may not be at liberty to adjust the property boundary according to State tidal wetlands. However, only the area of land above Mean High Water (MHW) may be used to meet all Critical Area development standards, for example as the site area on the 10% calculations. Please verify that the site area given for both the North and South site only includes land above MHW.

10% Pollutant Reduction Requirement

2. The submittal should include 10% calculations for both the North site and the South site. It is entirely possible that the 10% pollutant reduction requirement may be met by reducing impervious surface on site; however the worksheet should be submitted for documentation.
3. I am having difficulty in determining which surfaces are being included in the 10% calculations, especially when compared to the table provided on the site plan. Please

include a breakout table that specifies the area of coverage for all surfaces, including all boardwalk and pervious pavers in the narrative section that can be connected to surface type.

4. Boardwalks or wooden decks are considered impervious unless the walk is constructed with gaps between the boards in which water flows freely and a 6" gravel bed is placed under the deck to allow stormwater to infiltrate into the soil. Newer composite material decks are not always designed with spaces for water to pass. In order to exclude the boardwalks from the 10% calculations, specific information regarding the design and construction must be provided.
5. Pervious pavers or porous pavement may be considered partially pervious, but these are reviewed on a case by case basis. The next submittal should include manufacturer specifications of the proposed material and soil borings of the area where the paver is proposed to be installed. This information will assist staff in determining the percent of perviousness that may be assigned.

Buffer Mitigation

6. South Site - The proposed activities on the South site of the property includes removal of an existing structure from the 100-foot Buffer and construction of a new boardwalk within the 100-foot Buffer around the lighthouse. The removed structure is setback 85-feet from the edge of tidal waters. The proposed boardwalk will be located 55-feet from the edge of tidal waters. In order to meet the provisions of Section 41.5.3i(3)(b) the replacement impervious surfaces must be located no closer than the surface that was removed. Therefore, the County must provide mitigation at a ratio of 3:1 for the 980 sq. ft. of new boardwalk or 2,940 square feet. This mitigation should be located within the Buffer on site and consist of native trees and shrubs. The Commission generally recognizes 100 square feet of credit for every 2-inch caliper overstory tree and 50 square feet of credit for every seedling or shrub. A credit of 400 square feet may be given for clusters of one overstory tree with three shrubs or one overstory tree and two understory trees.
7. North Site - The proposed activities on the North Site include extensive removal of concrete and pavement surfaces and new construction of parking, sidewalk, and boardwalk areas within the 100-foot Buffer. The total area of new development will be 3,921 square feet, which exceeds the 1,000 square foot limit provided in Section 41.5.3i(3)(b). Therefore, the County must provide mitigation of 3:1 for the new development or 11,763 square feet of planting. Again, this mitigation should be located on site within the Buffer and consist of native shrubs and trees. Some of this mitigation may be provided on the South site given the site constraints at this location.

I understand that once the above comments are addressed and all requirements are satisfied, the Division of Land Use and Growth Management will make the Conditional Approval submittal.

Mr. John Tabak
Piney Point Lighthouse Museum
June 18, 2008
Page 3 of 3

As previously stated, a complete submittal to the Critical Area Commission must include a review letter by Maryland Department of Natural Resources Wildlife and Heritage Division, review by Maryland Historic Trust, and any other necessary permits. The Sediment and Erosion Control Plan should be finalized and approved by the St. Mary's Soil Conservation District or within the final stages. Lastly, the Commission also requires a finalized planting plan for mitigation requirements over 5,000 square feet prior to scheduling.

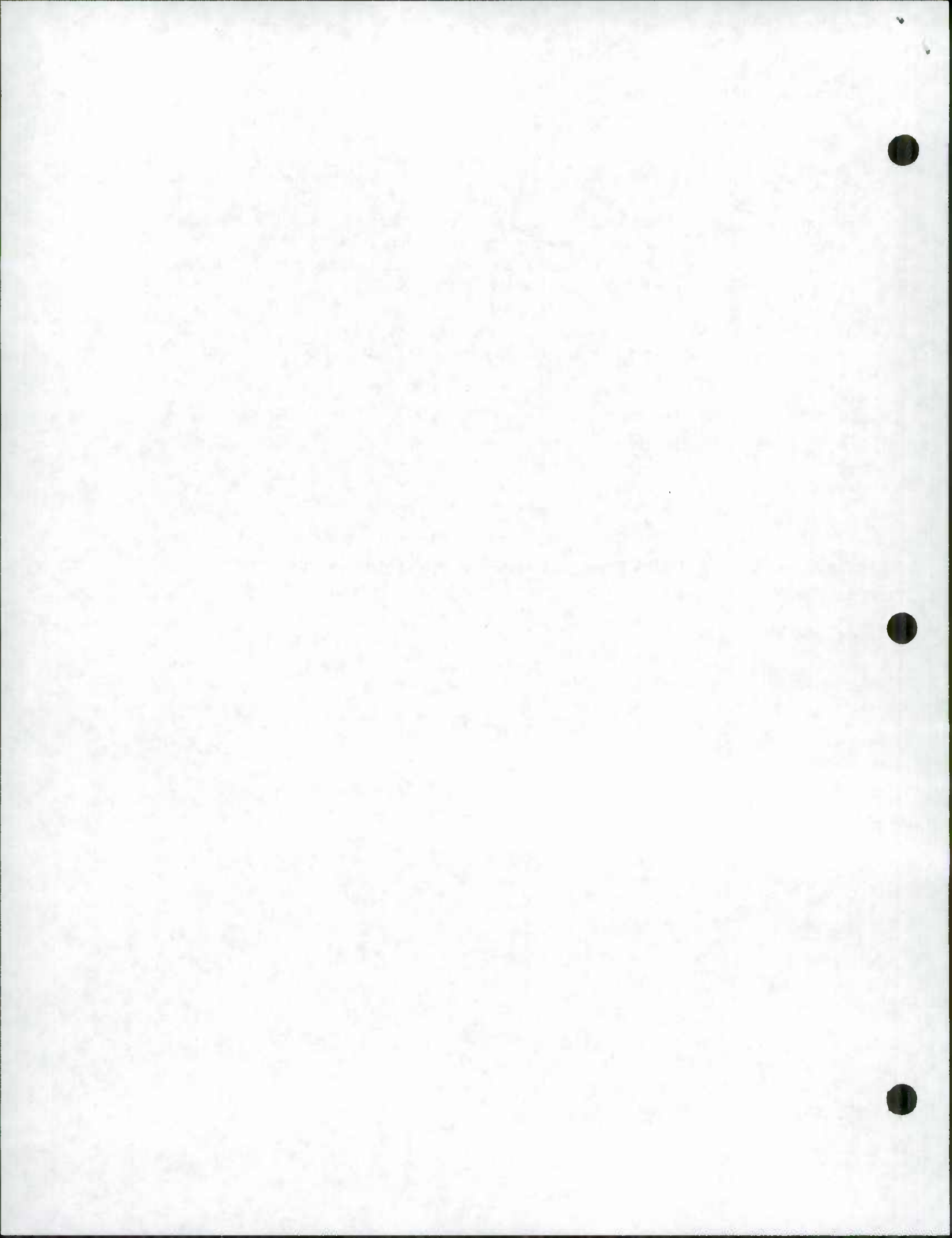
Thank you for your continued assistance regarding this project. If you have any questions regarding my comments please feel free to contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Regional Program Chief
SM226-04

Cc: Sue Veith, St. Mary's County Land Use and Growth Management



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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June 18, 2008

Mr. John Tabak, PE, RLS
EBA Engineering, Inc.
Seton Business Park
4813 Seton Drive
Baltimore, Maryland 21215-3209

Re: Piney Point Lighthouse Museum Site Plan
St. Mary's County Board of County Commissioners

Dear Mr. Tabak:

Thank you for submitting revised site plans and information regarding the above referenced project. Your submittal addressed comments I provided to St. Mary's County on January 28, 2008. As you are aware, the St. Mary's County Board of County Commissioners is seeking to redevelop the Piney Point Lighthouse Museum. I have reviewed the project for consistency with the St. Mary's County Critical Area Program and have determined that this project will require Conditional Approval by the Critical Area Commission under COMAR 27.02.06. At this time, the following outstanding issues should be addressed prior to submittal to the Commission:

1. This office understands that the County may not be at liberty to adjust the property boundary according to State tidal wetlands. However, only the area of land above Mean High Water (MHW) may be used to meet all Critical Area development standards, for example as the site area on the 10% calculations. Please verify that the site area given for both the North and South site only includes land above MHW.

10% Pollutant Reduction Requirement

2. The submittal should include 10% calculations for both the North site and the South site. It is entirely possible that the 10% pollutant reduction requirement may be met by reducing impervious surface on site; however the worksheet should be submitted for documentation.
3. I am having difficulty in determining which surfaces are being included in the 10% calculations, especially when compared to the table provided on the site plan. Please

include a breakout table that specifies the area of coverage for all surfaces, including all boardwalk and pervious pavers in the narrative section that can be connected to surface type.

4. Boardwalks or wooden decks are considered impervious unless the walk is constructed with gaps between the boards in which water flows freely and a 6" gravel bed is placed under the deck to allow stormwater to infiltrate into the soil. Newer composite material decks are not always designed with spaces for water to pass. In order to exclude the boardwalks from the 10% calculations, specific information regarding the design and construction must be provided.
5. Pervious pavers or porous pavement may be considered partially pervious, but these are reviewed on a case by case basis. The next submittal should include manufacturer specifications of the proposed material and soil borings of the area where the paver is proposed to be installed. This information will assist staff in determining the percent of perviousness that may be assigned.

Buffer Mitigation

6. South Site - The proposed activities on the South site of the property includes removal of an existing structure from the 100-foot Buffer and construction of a new boardwalk within the 100-foot Buffer around the lighthouse. The removed structure is setback 85-feet from the edge of tidal waters. The proposed boardwalk will be located 55-feet from the edge of tidal waters. In order to meet the provisions of Section 41.5.3i(3)(b) the replacement impervious surfaces must be located no closer than the surface that was removed. Therefore, the County must provide mitigation at a ratio of 3:1 for the 980 sq. ft. of new boardwalk or 2,940 square feet. This mitigation should be located within the Buffer on site and consist of native trees and shrubs. The Commission generally recognizes 100 square feet of credit for every 2-inch caliper overstory tree and 50 square feet of credit for every seedling or shrub. A credit of 400 square feet may be given for clusters of one overstory tree with three shrubs or one overstory tree and two understory trees.
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I understand that once the above comments are addressed and all requirements are satisfied, the Division of Land Use and Growth Management will make the Conditional Approval submittal.

Mr. John Tabak
Piney Point Lighthouse Museum
June 18, 2008
Page 3 of 3

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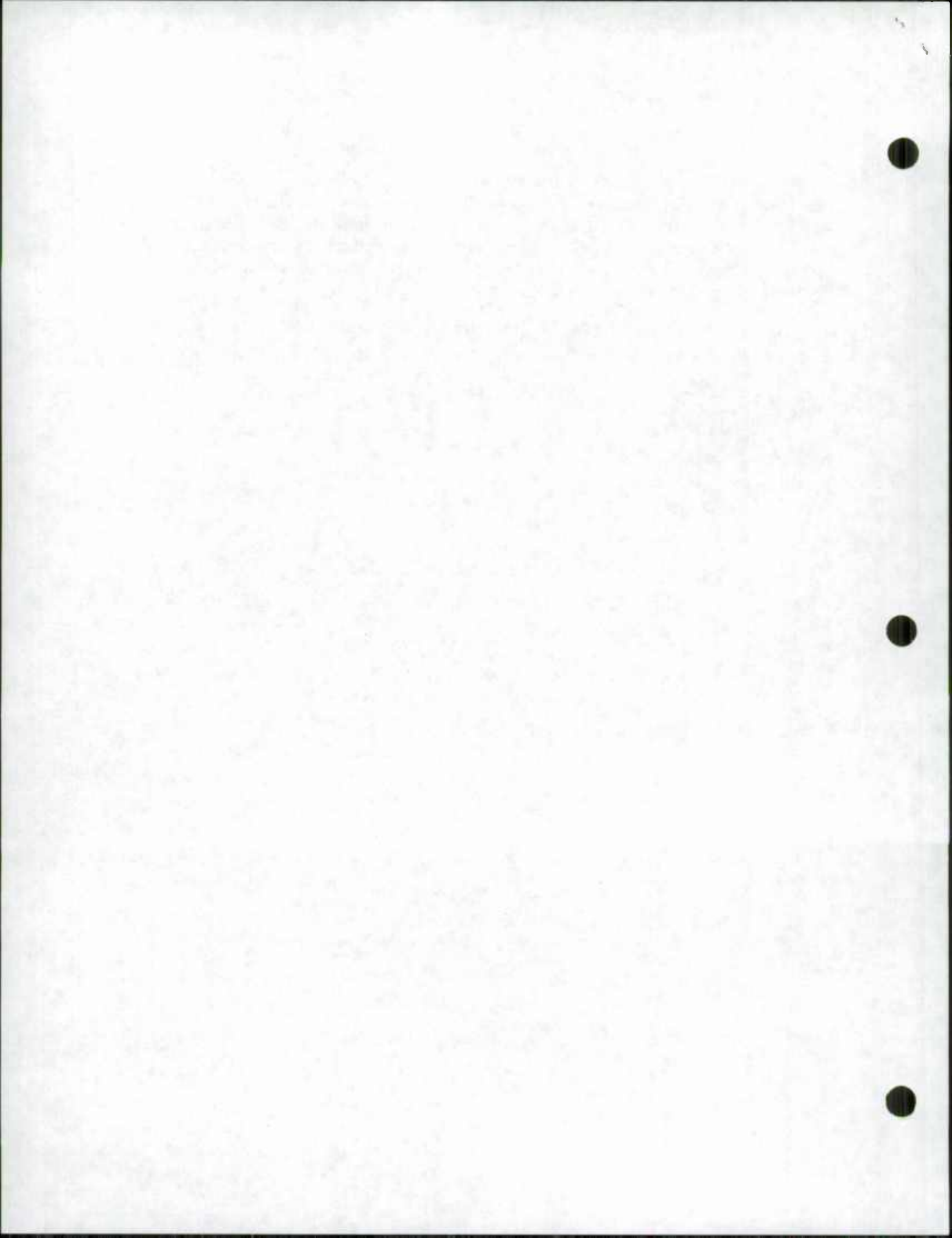
Thank you for your continued assistance regarding this project. If you have any questions regarding my comments please feel free to contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Regional Program Chief
SM226-04

Cc: Sue Veith, St. Mary's County Land Use and Growth Management



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 19, 2008

Ms. April Stehr
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application – Leonard Copsey, St. Mary's County
200860292/08-WL-0951

Dear Ms. Stehr:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project consists of two revetments, 200-foot and 210-foot in length respectively, and a shoreline access road. The revetments will be placed at the base of an existing 30-foot high bank. It is unclear whether any grading of this bank is proposed for the revetment itself. The applicant will have to grade the bank in order to install an access road to reach the base of the bank. Based on the information provided I have the following comments:

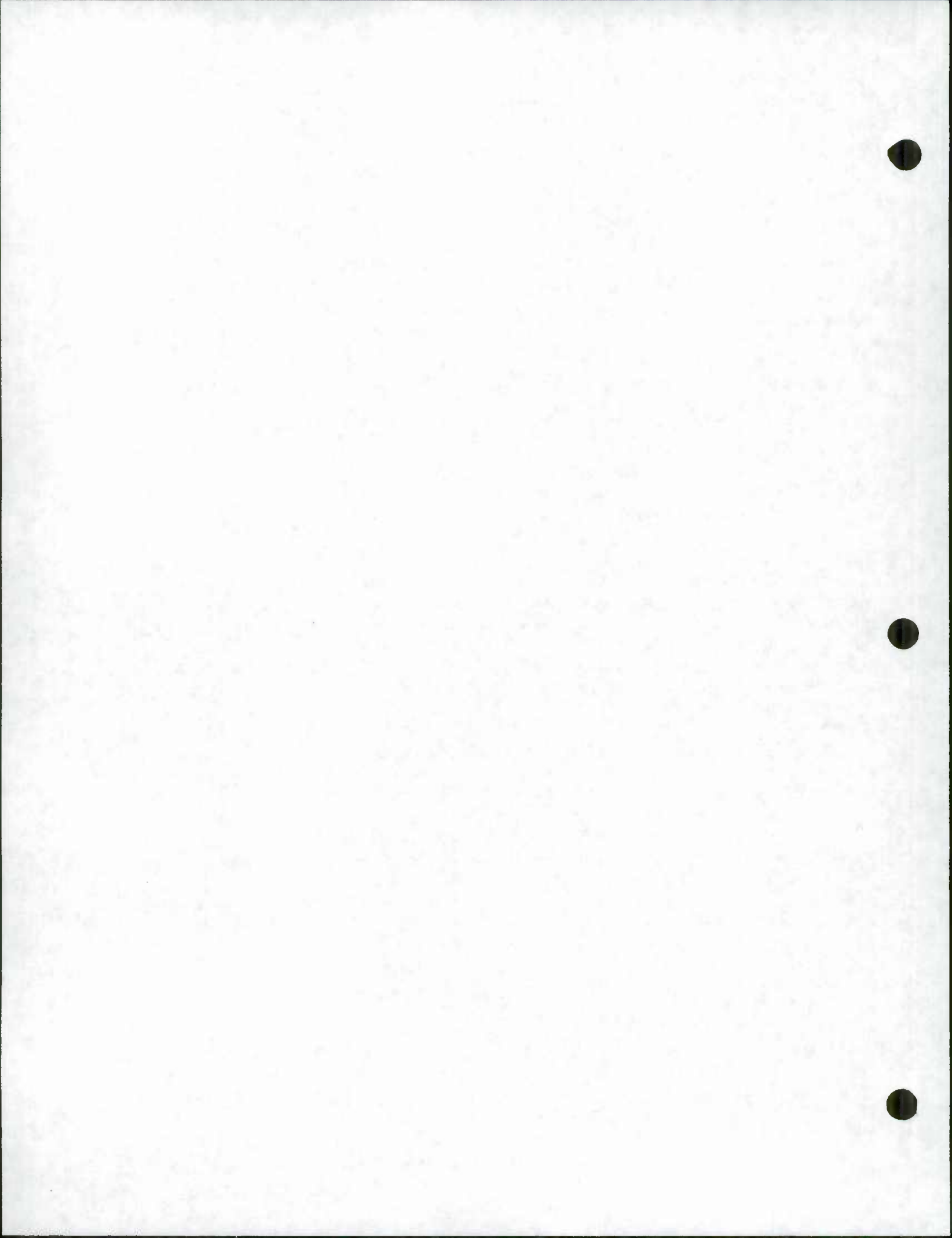
1. If possible, this office would prefer the revetment be constructed from the water versus from the shoreline area. The applicant should provide your office information regarding the viability of this option.
2. If landward construction is required, the applicant must obtain approval and permits from the St. Mary's County Department of Land Use and Growth Management for disturbance to the 100-foot Buffer. Mitigation of 1:1 for the area of disturbance for the roadway will be required.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Regional Program Chief



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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June 20, 2008

Ms. Betsy Vennell
Zoning Assistant
Town of North East
P.O. Box 528
North East, Maryland 21901

Re: North East Isles
Critical Area Violation

Dear Ms. Vennell:

It has come to my attention that the Town of North East is currently investigating a Critical Area violation at the North East Isles subdivision. Specifically, a portion of the property owned and maintained by the North East Isles Homeowner's Association and located in the 110-foot Buffer was cleared without appropriate approval and in violation of the Town's Ordinance which prohibits disturbance to the 110-foot Buffer. Based on the information I have available I would like to offer the following comments for your consideration:

1. It is my understanding that a contractor hired by the Homeowner's Association committed the violation. Section 5-12,7-d of the North East Zoning Ordinance allows the Town to charge both the Homeowner's Association and the contractor with the violation.
2. It is further my understanding that there have been numerous violations by the Homeowner's Association over the years within the commonly owned 110-foot Buffer. Based on Section 5-12,7-g it would appear the Town could choose to assess the fine amounts described for repeat violations.
3. In addition to utilizing the fine amounts described in Section 5-12,7-g for offenses, the Town may also use Section 5-12,7-c to determine the amount of fine to levy. This Section of the Ordinance allows the Town to consider the gravity of the violation, the willfulness of the violation, and the environmental impact of the violation. My understanding is that the Town has been attempting to work with the Homeowner's Association to develop a Buffer Management Plan that would clearly describe the activity allowed within the Buffer but that no plan has been approved. Given this knowledge, it is my opinion the Town could increase the fine amount.

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As you are aware, the Critical Area Commission takes enforcement issues very seriously and is very supportive of the efforts by the Town to ensure compliance with its Critical Area Program. If you have any questions or concerns, please contact me at anytime at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and includes a long horizontal flourish extending to the right.

Kate Schmidt
Regional Program Chief

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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June 24, 2008

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

**RE: Aley garage variance request
27190 Cat Creek Rd**

Dear Ms. Chaillet:

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 and is within an expanded Critical Area Buffer. There is an existing house on the site. The applicant is requesting a variance to build a garage and deck within the Buffer expanded for steep slopes.

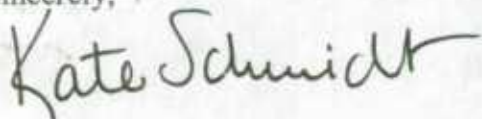
In addition to finding that the applicant meets all of the required Critical Area standards, the Board must find that the variance granted is the minimum necessary to provide relief. While we do not oppose the proposed construction of a garage onsite, we cannot support the location proposed by the applicant. The County has suggested locating the garage over the existing driveway closer to the roadway. This location appears to reduce impacts to the steep slopes and highly erodible soils behind the house.

Mitigation should be required at a ratio of 3:1 for the disturbance area that is within the Buffer. Recommended mitigation plantings consist of 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.

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 410-260-3475.

Ms. Yvonne Chaillet
08-0219 Aley
June 24, 2008
Page 2 of 2

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resources Planner

cc: SM306-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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June 24, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Bayhead Shore Estates Preliminary Plat

Dear Mr. DiGiacomo:

Thank you for forwarding comments from Morris & Ritchie Associates regarding the above referenced subdivision. The applicant is seeking preliminary plat approval for a 74 lot subdivision of which 50 lots are located partially or completely within the Critical Area. This office previously provided comments on March 12, 2008. The comments below are in response to communication provided to your office by MRA.

1. COMAR 27.01.02.04.C(6) which directs jurisdictions to prohibit development on steep slopes does not differentiate the origin of the steep slopes, all steep slopes, including man-made steep slopes, are protected under this provision. It is also not the intention of COMAR 27.01.02.04.C(6) to allow steep slopes to be eliminated as a way to protect or improve the stability of the slope. Our recommendation remains that the applicant eliminate Lot 61 since disturbance of steep slopes is prohibited. Again, this office would not support a variance to create a new lot in the Critical Area that does not meet all the requirements.
2. It has generally been the experience of the Commission that a subdivision which is constructed to the maximum impervious surface limit presents numerous enforcement issues in the future. This is reasonable given that many homeowners desire additional amenities on their property including sheds, pools, and patios. Our recommendation regarding this issue also remains.

It will be incumbent upon the County Planning and Zoning Office to ensure compliance of this subdivision throughout its lifetime. This office has worked with similar projects in other Counties. These jurisdictions have been overwhelmed with violation issues

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which cause a significant drain on staff resources. In addition, approving a new subdivision at the 15% limit, with the knowledge that future improvements are expected, would not be consistent with the spirit of the Critical Area law when other alternatives, such as the use of growth allocation, or a reduction in the number of lots, are available.

3. The impervious surface calculations table provided by MRA should be provided on the final plat prior to final approval. This office respectfully disagrees that the purpose of the plat is only to indicate subdivision of land and easements. COMAR 27.01.10(H) directs local jurisdictions to demonstrate that the local regulations and programs proposed to meet the criteria in COMAR are enforceable. Unless the County indicates these limits on the plat, they will not be able to demonstrate that the proposed subdivision meets Critical Area regulations, both in the County code or in COMAR.
4. The impervious surface table should be revised to include Lot 75 and should summarize the total amount of impervious surface proposed, including roads to indicate whether the 15% impervious surface limit across the subdivision may be met. Since Lot 75 would be nonconforming in regard to the 15% limit, it can not be excluded from the subdivision plat.
5. Similarly the amount of proposed clearing inside the Critical Area should also be shown on the final plat. It is not clear from the Environmental Assessment whether the applicant is limiting clearing to 30%. This information should be clarified on the plat to demonstrate the applicant is limiting clearing and providing the appropriate ratio of mitigation.
6. This office does not agree with applicant's reading of Section 200.8 of the impervious surface limits for lots greater than one acre in size created as part of a new subdivision. As stated by staff since 2005, Lot 75 is limited to 15% impervious surface given it is greater than 1 acre in size. This office recommended in 2005 that the applicant would need to bring Lot 75 into conformance with the 15% impervious surface limit. If the applicant can not incorporate part of the open space into Lot 75 and remain in conformance with the open space requirements, than the impervious surface coverage must be reduced.
7. How will the reforestation be maintained on the stormwater management easement? The maintenance of the easement may require clearing which is not consistent with maintaining mitigation that was required as part of the subdivision approval. Reforestation areas should be permanently protected by some form of easement which prohibits clearing in the future.
8. The general notes on the final plat should indicate the Critical Area overlay and a statement that all development of these lots must meet the Critical Area regulations contained in the Zoning Ordinance.

Lastly, I would like to emphasize that the Cecil County Subdivision Regulations Section 3.2 and Section 4.1.21 require the Cecil County Planning Commission to ensure that each subdivision

conforms to the Zoning Ordinance and to the letter and intent of the Cecil County Critical Area Program and related implementation requirements. Unless the subdivision plat can demonstrate that all requirements may be met, the Planning Commission may not approve the final plat.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Regional Program Chief
CE816-04

Cc: Mr. James Keefer, Morris & Ritchie Associates

