

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**


**APPLICANTS:** Kathleen & Jack Richardson

**ASSESSMENT DISTRICT:** 2nd

**CASE NUMBER:** 2024-0188-V

**COUNCILMANIC DISTRICT:** 6th

**HEARING DATE:** February 4, 2025

**PREPARED BY:** Donnie Dyott Jr.   
Planner

**REQUEST**

The applicants are requesting a variance to allow dwelling additions (decks and covered porch) with less buffer than required on property located at 1231 Cherry Tree Lane in Annapolis.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 21,936 square feet of land and is identified as Lot 15 of Parcel 121 in Block 20 on Tax Map 57 in the Fishing Creek Farm subdivision which is a cluster subdivision. The subject property is zoned R1 - Residential District and is a waterfront property on Cherry Tree Cove located within the Chesapeake Bay Critical Area with a split designation of RCA - Resource Conservation Area and LDA - Limited Development Area. The site is not mapped within the BMA - Buffer Modification Area and is currently improved with a single family detached dwelling and associated facilities.

**APPLICANT'S PROPOSAL**

The applicants propose to remove the existing improvements on the waterside of the dwelling including a deck, covered porch and balcony deck and to construct new amenities. These new improvements would consist of an expanded dual level deck, a new expanded balcony deck and replacing the covered screen porch which is currently an octagon shape with a square one.

**REQUESTED VARIANCES**

§ 18-13-104(a) of the Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. § 18-13-104 (b) provides for an expanded buffer where there are contiguous steep slopes of 15% or more and is to be expanded by the greater of four feet for every 1% of slope or to the top of the slope and shall include all land within 50 feet from the top of the slopes. § 17-8-301 of the Subdivision Code states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). § 27.01.01 (B) (8) (ii) of COMAR states a buffer exists "to protect a stream tidal wetland tidal waters or terrestrial environment from human disturbance." § 27.01.09 E. (1) (a) (ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. The proposed improvements are located almost entirely within the 100 foot buffer, necessitating a variance to this provision. Exact disturbance calculations will be determined at the time of permit.

## **FINDINGS**

The applicants wish to replace the existing deck which is in disrepair with a new deck and amenities that have been slightly expanded. The new covered porch will be squared off, the deck will be expanded towards the water and the upper level balcony deck will also be expanded towards the water. The lot coverage after development will be 5,007 square feet with exact lot coverage calculations to be determined at the time of permit.

The **Health Department** commented that it has no objection to the variance request as the proposal does not adversely affect the well water supply system.

The **Development Division (Critical Area Team)** commented that they have no objection to the reconstruction of the existing improvements within the existing footprint. The current configuration provides significant outdoor recreation space which already exists within the 100 foot buffer. There is not justification for any expansion, regardless of how small. Enclosure of the existing octagon gazebo can be permitted however the expansion of the shape to provide a square enclosure should not because it involves further expansion into the buffer.

The **Critical Area Commission** commented it appears that the applicant has reasonable and significant use of the entire parcel with the existing improvements, including a number of outdoor amenities. It does not appear that this request meets each and every one of the critical area variance standards including unwarranted hardship or that this variance would not adversely affect water quality and wildlife or plant habitat. The project would result in an increase in coverage within the buffer. If this request were to be denied, they would still have reasonable and significant use of their lot. Our Office would support an in-kind replacement.

For the granting of a critical area variance, a determination must be made on the following:

Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program would result in an unwarranted hardship or practical difficulty. In this case a large portion of the existing dwelling, including the outdoor amenity area is located within the 100 foot buffer, making improvements or replacement impossible without variance relief. As such, some relief is warranted to allow the applicant to replace a deteriorating amenity and avoid unwarranted hardship and practical difficulties.

While this Office would support a variance for an in-kind replacement of the structures, the proposed variance request which includes expansion can not be supported. In reviewing the variance standards in relation to the current request, this Office does not find that a literal interpretation of the County's critical area program will deprive the applicant of rights that are commonly enjoyed by other properties in similar areas. The granting of the variance will not confer on the applicants a special privilege that would be denied by COMAR, Title 27. This request is not a result of actions by the applicants and does not arise from any condition relating to land or building use on any neighboring property.

As stated in the comments from the Critical Area Commission, the proposal may adversely affect water quality, impact fish, wildlife or plant habitat and the proposal is not in harmony with the general spirit and intent of the County's critical area program.

2024-0188-V

With regard to the requirements for all variances:

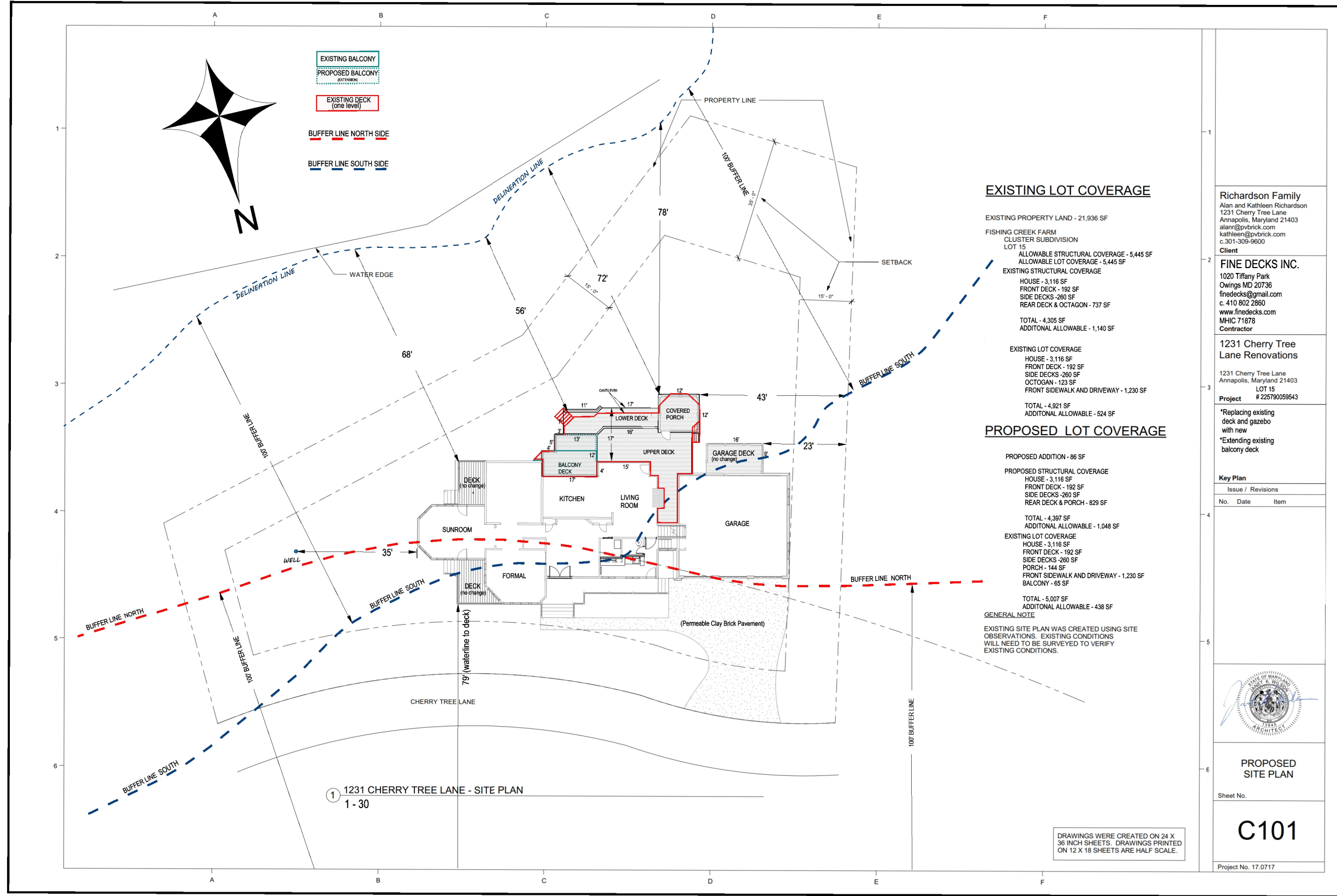
There is no evidence that the proposal will alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property or be detrimental to the public welfare.

However, the proposal is not considered to be the minimum necessary to afford relief by this Office. The location of the deck and covered porch within the buffer make any replacement impossible without relief from the Code. The applicants describe that the deck is in disrepair and is no longer safe. It is the opinion of this office that the current size and configuration provides a reasonable outdoor amenity area and that in-kind replacement would represent the minimum necessary. Any proposed expansion is unwarranted and cannot be supported.

### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends ***denial*** of the proposed variances for the construction of the dwelling additions as shown on the site plan. This Office would recommend ***approval*** of a variance for the in-kind replacement of the existing structures.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



**Richardson Family**  
 Alan and Kathleen Richardson  
 1231 Cherry Tree Lane  
 Annapolis, Maryland 21403  
 alanr@pvbrick.com  
 kathleen@pvbrick.com  
 c.301-309-9600  
**Client**

**FINE DECKS INC.**  
 1020 Tiffany Park  
 Owings MD 20736  
 finedecks@gmail.com  
 c. 410 802 2860  
 www.finedecks.com  
 MHIC 71678  
**Contractor**

**1231 Cherry Tree Lane Renovations**  
 1231 Cherry Tree Lane  
 Annapolis, Maryland 21403  
 LOT 15  
 Project # 225790059543

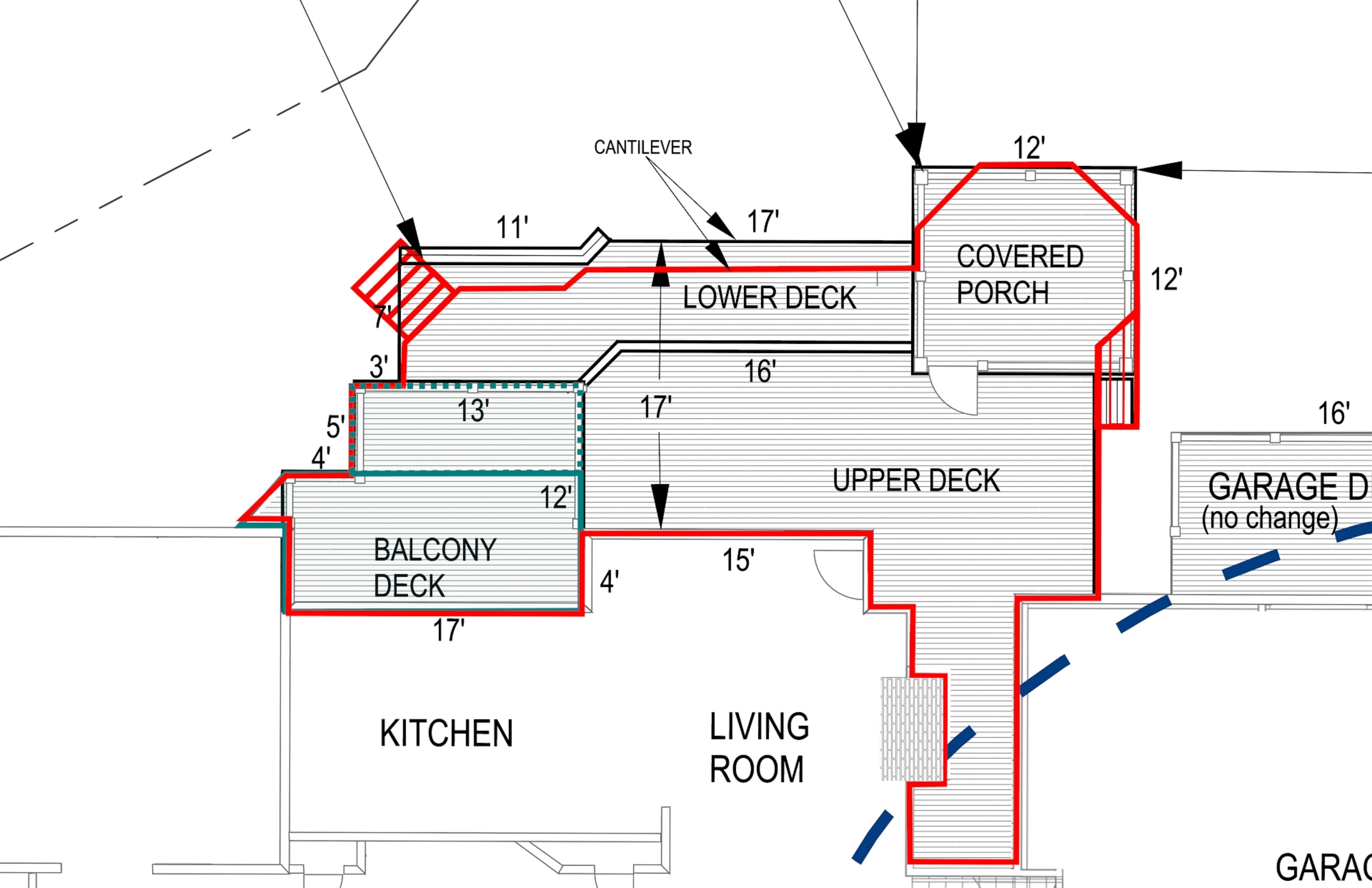
\*Replacing existing deck and gazebo with new  
 \*Extending existing balcony deck



**PROPOSED SITE PLAN**

Sheet No. **C101**

Project No. 17.0717





1020 Tiffany Park, Owings MD 20736

Office: 410 802 2860 MHIC # 71878

E-mail: [finedecks@gmail.com](mailto:finedecks@gmail.com)

Website: [www.finedecks.com](http://www.finedecks.com)

Date: November 1, 2024

To: Zoning Division  
Letter of Explanation

Permit # B02428533

Owner: Jack & Kathleen Richardson

1231 Cherry Tree Lane

Annapolis MD 21403

Phone: 301 526 6469

Email: [kathleen@pvbrick.com](mailto:kathleen@pvbrick.com)

We are requesting a variance for the replacement of the existing deck and porch. The construction of the new deck and porch falls within the 100 ft non-modified buffer. The shortest distance from the waterline to the deck is 56 ft. Proposed deck is within the existing deck which is over 30 years old.

#### Deck Repair and Replacement Narrative

- Property is a single-family residential lot.
- Property has Crepe Myrtle, Swamp Magnolia and Gum trees. Also Rose bushes, Hydrangea, Hibiscus, Holly bushes and other various native flowering perennials.
- No impact on water quality or habitat.
- Less than 10 square feet of impact to impervious surface. Permeable driveway and walkway more than compensate for any additional impervious surface impact.
- No impact on habitat protection areas. No change in current gentle slope of yard to waters edge.



1020 Tiffany Park, Owings MD 20736

Office: 410 802 2860 MHIC # 71878

E-mail: [finedecks@gmail.com](mailto:finedecks@gmail.com)

Website: [www.finedecks.com](http://www.finedecks.com)

Date: 07/12/2024

Homeowner: Jack & Kathleen Richardson  
1231 Cherry Tree Lane  
Annapolis MD 21403  
Phone: 301 526 6469  
Email: [kathleen@pvbrick.com](mailto:kathleen@pvbrick.com)

RE: B02428533

Additional information regarding screened porch

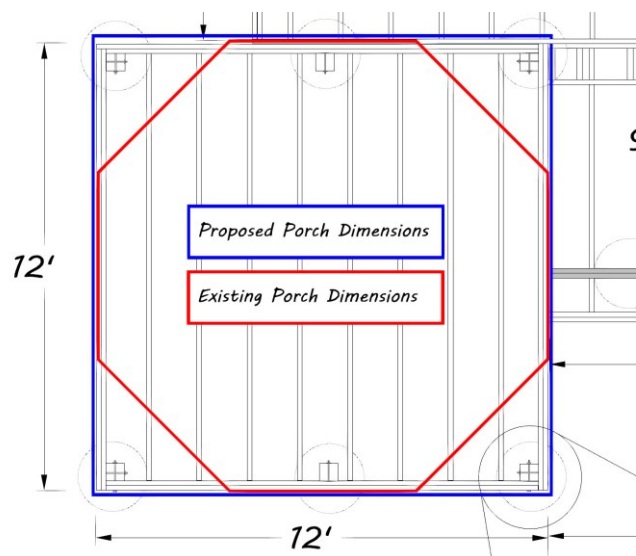
Existing screened porch to be replaced with new.

Existing dimensions 12'x12' (octagon)

Existing square footage 123

Proposed dimensions 12'x12' (square)

Proposed square footage 144



Certified True Copy

  
Signature

RETURN TO:  
Mortgage Connect, LP  
260 Airside Drive  
Moon Township, PA 15108

Prepared By: Melody Yang  
2801 4TH AVE S  
2ND FLOOR  
MINNEAPOLIS, MN 55408-2436

#904312

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## Deed of Trust

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THIS IS A REFINANCE OF A DEED OF TRUST/MORTGAGE/OTHER SECURITY INSTRUMENT RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY/CITY, MARYLAND IN LIBER NO. \_\_\_\_\_ FOLIO \_\_\_\_\_, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$1,350,000.00, AND WITH THE UNPAID OUTSTANDING PRINCIPAL BALANCE OF \$1,270,007.52. THE INTEREST RATE PROVIDED FOR IN THE EVIDENCE OF INDEBTEDNESS SECURED BY THIS REFINANCE MORTGAGE IS LOWER THAN THE APPLICABLE INTEREST RATE PROVIDED FOR IN THE EVIDENCE OF INDEBTEDNESS SECURED BY THE DEED OF TRUST/MORTGAGE/OTHER SECURITY INSTRUMENT BEING REFINANCED.

**Definitions.** Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "*Security Instrument*" means this document, which is dated September 14, 2017, together with all Riders to this document.

(B) "*Borrower*" is Jack Alan Richardson, Jr., Trustee for the J. Alan Richardson, Jr. Revocable Living Trust dated August 3, 2006 and Kathleen P. Richardson as Trustee for the J. Alan Richardson, Jr. Revocable Living Trust dated August 3, 2006 as to 50% undivided interest and Jack Alan Richardson, Jr., as Trustee for the Kathleen P. Richardson Revocable Living Trust dated August 3, 2006 and Kathleen P. Richardson, as Trustee for the Kathleen P. Richardson Revocable Living Trust dated August 3, 2006 as to 50% undivided interest, as tenants in common. Borrower is the trustor under this Security Instrument.

(C) "*Lender*" is Wells Fargo Bank, N.A.. Lender is a corporation organized and existing under the laws of United States of America. Lender's address is 101 North Phillips Avenue, Sioux Falls, SD 57104. Lender is the beneficiary under this Security Instrument.

HCFG-00359

MARYLAND-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

VMP®

Walters Kluwer Financial Services

2017091315.3.2.3509-J20170417Y

1351630717217

Form 3021 1/01

04/16

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(D) "Trustee" is John Burson, Esq..

(E) "Note" means the promissory note signed by Borrower and dated September 14, 2017. The Note states that Borrower owes Lender one million eighty seven thousand five hundred and 00/100 Dollars (U.S. \$1,087,500.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than October 1, 2047.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider                         | <input type="checkbox"/> Second Home Rider   |
| <input type="checkbox"/> Balloon Rider                    | <input checked="" type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> 1-4 Family Rider  |
| <input type="checkbox"/> VA Rider                         | <input type="checkbox"/> Biweekly Payment Rider                    | <input checked="" type="checkbox"/> Other(s) [specify]<br>Trust Rider, Lender and<br>Originator Disclosure Rider |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.



(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, RESPA refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**Transfer of Rights in the Property.** This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County [Type of Recording Jurisdiction] of Anne Arundel [Name of Recording Jurisdiction] SEE ATTACHED LEGAL DESCRIPTION

Parcel ID Number: 0225790059543 which currently has the address of 1231 Cherry Tree LN [Street] Annapolis [City], Maryland 21403-5023 [Zip Code] ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**Uniform Covenants.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one



or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10.



These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.



Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under



this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless



Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to



do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest; upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).





As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

**(A) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.**

**(B) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.**

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the



Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"):  
(a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the



sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.



**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that



Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.



Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**Non-Uniform Covenants.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale, assent to decree, and/or any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall mail or cause Trustee to mail a notice of sale to Borrower in the manner prescribed by Applicable Law. Trustee shall give notice of sale by public advertisement and by such other means as required by Applicable Law. Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by



public announcement at the time and place of any previously scheduled sale and by notice to any other persons as required by Applicable Law. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, Trustee's fees of 5.00 % of the gross sale price and reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

Borrower, in accordance with Title 14, Chapter 200 of the Maryland Rules of Procedure, does hereby declare and assent to the passage of a decree to sell the Property in one or more parcels by the equity court having jurisdiction for the sale of the Property, and consents to the granting to any trustee appointed by the assent to decree of all the rights, powers and remedies granted to the Trustee in this Security Instrument together with any and all rights, powers and remedies granted by the decree. Neither the assent to decree nor the power of sale granted in this Section 22 shall be exhausted in the event the proceeding is dismissed before the payment in full of all sums secured by this Security Instrument.

**23. Release.** Upon payment of all sums secured by this Security Instrument, Lender or Trustee, shall release this Security Instrument and mark the Note "paid" and return the Note to Borrower. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.


**24. Substitute Trustee.** Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the city or county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

**25. Possession of the Property.** Borrower shall have possession of the Property until Lender has given Borrower notice of default pursuant to Section 22 of this Security Instrument.




BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Trustee

  
\_\_\_\_\_  
Jack Alan Richardson, Jr, Trustee of  
the Kathleen P. Richardson Revocable  
Living Trust U/T/A dated August 3,  
2006.


9/14/17  
Date

Seal

  
\_\_\_\_\_  
Kathleen P Richardson, Trustee of the  
Kathleen P. Richardson Revocable  
Living Trust U/T/A dated August 3,  
2006.

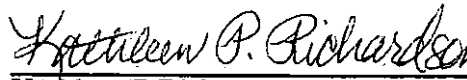
9-14-17  
Date

Seal

  
\_\_\_\_\_  
Jack Alan Richardson, Jr, Trustee of  
the J. Alan Richardson, Jr. Revocable  
Living Trust U/T/A dated August 3,  
2006.

9/14/17  
Date

Seal

  
\_\_\_\_\_  
Kathleen P Richardson, Trustee of  
the J. Alan Richardson, Jr. Revocable  
Living Trust U/T/A dated August 3,  
2006.

9-14-17  
Date

Seal


BY SIGNING BELOW, Settlor, of the Kathleen P. Richardson Revocable Living Trust under trust instrument dated 08/03/2006, agrees that the term Borrower when used in this Security Instrument






shall include Settlor, and the Settlor acknowledges and agrees to be bound by all of the terms and covenants contained in this Security Instrument and any Riders to this Security Instrument.

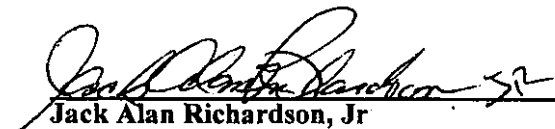
Settlor

  
Jack Alan Richardson, Jr. 9/14/17  
Date  
Seal

  
Kathleen P Richardson 9-14-17  
Date  
Seal

BY SIGNING BELOW, Settlor, of the J. Alan Richardson, Jr. Revocable Living Trust under trust instrument dated 08/03/2006, agrees that the term Borrower when used in this Security Instrument shall include Settlor, and the Settlor acknowledges and agrees to be bound by all of the terms and covenants contained in this Security Instrument and any Riders to this Security Instrument.

Settlor

  
Jack Alan Richardson, Jr. 9/14/17  
Date  
Seal

  
Kathleen P Richardson 9-14-17  
Date  
Seal



**Acknowledgment**

State of Maryland

County/City of ~~Annapolis~~ Montgomery

On Sept 14, 2017, before me Celestine Shird, the undersigned officer, personally appeared

Jack Alan Richardson Jr.  
Kathleen P. Richardson

known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she (they) executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Celestine Shird

Notary Public

My commission expires: Jan 10, 2019



Celestine Shird  
9112 Brassie Way  
Cockeysbury MD 20886  
RPZ #99907508

**Loan Origination Organization:** Wells Fargo Bank N.A.

**NMLSR ID:** 399801

**Loan Originator:** Alessandro A Barresi

**NMLSR ID:** 483886



STATE OF \_\_\_\_\_, \_\_\_\_\_ County ss:

I Hereby Certify, That on this \_\_\_\_\_ day of \_\_\_\_\_, before me, the subscriber, a Notary Public of the State of \_\_\_\_\_ and for the \_\_\_\_\_, personally appeared \_\_\_\_\_, the agent of the party secured by the foregoing Deed of Trust, and made oath in due form of law that the consideration recited in said Deed of Trust is true and bona fide as therein set forth that the actual sum of money advanced at the closing transaction by the secured party was paid over and disbursed by the party or parties secured by the Deed of Trust to the Borrower or to the person responsible for disbursement of funds in the closing transaction or their respective agent at a time not later than the execution and delivery by the Borrower of this Deed of Trust; and also made oath that he is the agent of the party or parties secured and is duly authorized to make this affidavit.

AS WITNESS: my hand and notarial seal.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public \_\_\_\_\_

This is to certify that the within instrument was prepared by Wells Fargo Bank, N.A..

\_\_\_\_\_  
Melody Yang  
Home Closing Specialist



CRITICAL AREA COMMISSION  
 CHESAPEAKE AND ATLANTIC COASTAL BAYS  
 1804 WEST STREET, SUITE 100  
 ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: Anne Arundel County

Date: \_\_\_\_\_

Tax Map #	Parcel #	Block #	Lot #	Section
57	121	---	15	---

**FOR RESUBMITTAL ONLY**

- Corrections
- Redesign
- No Change
- Non-Critical Area

\*Complete Only Page 1  
 General Project Information

Tax ID: 225790059543

Project Name (site name, subdivision name, or other) Fishing Creek Farm

Project location/Address 1231 Cherry Tree Lane

City Annapolis Zip 21403

Local case number \_\_\_\_\_

Applicant: Last name Jellema First name Clemens

Company Fine Decks Inc.

**Application Type (check all that apply):**

- |  |  |
|--|--|
| Building Permit <input type="checkbox"/>           | Variance <input checked="" type="checkbox"/> |
| Buffer Management Plan <input type="checkbox"/>    | Rezoning <input type="checkbox"/>            |
| Conditional Use <input type="checkbox"/>           | Site Plan <input type="checkbox"/>           |
| Consistency Report <input type="checkbox"/>        | Special Exception <input type="checkbox"/>   |
| Disturbance > 5,000 sq ft <input type="checkbox"/> | Subdivision <input type="checkbox"/>         |
| Grading Permit <input type="checkbox"/>            | Other <input type="checkbox"/>               |

**Local Jurisdiction Contact Information:**

Last name AACo Zoning Administration Section First name \_\_\_\_\_

Phone # 410-222-7437 Response from Commission Required By TBD

Fax # \_\_\_\_\_ Hearing date TBD

**SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:

We are requesting a variance for the replacement of the existing deck and porch

Yes Intra-Family Transfer <input type="checkbox"/> Grandfathered Lot <input type="checkbox"/>	Yes Growth Allocation <input type="checkbox"/> Buffer Exemption Area <input checked="" type="checkbox"/>
---	--

**Project Type (check all that apply)**

Commercial <input type="checkbox"/> Consistency Report <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Mixed Use <input type="checkbox"/> Other <input type="checkbox"/>	Recreational <input type="checkbox"/> Redevelopment <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Shore Erosion Control <input type="checkbox"/> Water-Dependent Facility <input type="checkbox"/>
---	---

**SITE INVENTORY (Enter acres or square feet)**

	Acres	Sq Ft		Acres	Sq Ft
IDA Area			Total Disturbed Area		864
LDA Area					
RCA Area			# of Lots Created		
Total Area					

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees			Existing Lot Coverage		4921
Created Forest/Woodland/Trees			New Lot Coverage		
Removed Forest/Woodland/Trees			Removed Lot Coverage		
			Total Lot Coverage		4921

**VARIANCE INFORMATION (Check all that apply)**

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance		864	Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

<p><u>Variance Type</u></p> Buffer <input type="checkbox"/> Forest Clearing <input type="checkbox"/> HPA Impact <input type="checkbox"/> Lot Coverage <input type="checkbox"/> Expanded Buffer <input type="checkbox"/> Nontidal Wetlands <input type="checkbox"/> Setback <input type="checkbox"/> Steep Slopes <input type="checkbox"/> Other <input type="checkbox"/>	<p><u>Structure</u></p> Acc. Structure Addition <input type="checkbox"/> Barn <input type="checkbox"/> Deck <input checked="" type="checkbox"/> Dwelling <input type="checkbox"/> Dwelling Addition <input type="checkbox"/> Garage <input type="checkbox"/> Gazebo <input type="checkbox"/> Patio <input type="checkbox"/> Pool <input type="checkbox"/> Shed <input type="checkbox"/> Other <input checked="" type="checkbox"/> <u>Porch</u>
--	--



1020 Tiffany Park, Owings MD 20736

Office: 410 802 2860 MHIC # 71878

E-mail: [finedecks@gmail.com](mailto:finedecks@gmail.com)

Website: [www.finedecks.com](http://www.finedecks.com)

Date: November 1, 2024

To: Zoning Division  
Letter of Explanation

Permit # B02428533

Owner: Jack & Kathleen Richardson

1231 Cherry Tree Lane

Annapolis MD 21403

Phone: 301 526 6469

Email: [kathleen@pvbrick.com](mailto:kathleen@pvbrick.com)

We are requesting a variance for the replacement of the existing deck and porch. The construction of the new deck and porch falls within the 100 ft non-modified buffer. The shortest distance from the waterline to the deck is 56 ft. Proposed deck is within the existing deck which is over 30 years old.

#### Deck Repair and Replacement Narrative

- Property is a single-family residential lot.
- Property has Crepe Myrtle, Swamp Magnolia and Gum trees. Also Rose bushes, Hydrangea, Hibiscus, Holly bushes and other various native flowering perennials.
- No impact on water quality or habitat.
- Less than 10 square feet of impact to impervious surface. Permeable driveway and walkway more than compensate for any additional impervious surface impact.
- No impact on habitat protection areas. No change in current gentle slope of yard to waters edge.

# Topographic Map - Lot outline is ref only not exact



## Legend

### Foundation

Addressing



Parcels



### Elevation

Topo 2023

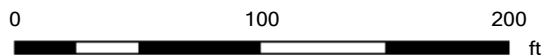
Index

Intermediate

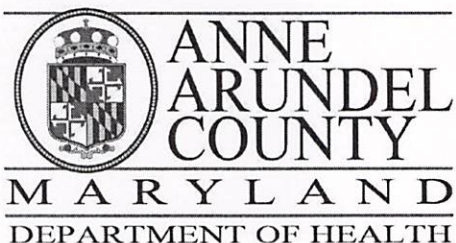
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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County of Anne Arundel, VGIN, ©  
OpenStreetMap, Microsoft, Esri,  
TomTom, Garmin, SafeGraph,  
GeoTechnologies, Inc, METI/NASA,

Notes 1" = 100' - Lot outline is ref only not exact



THIS MAP IS NOT TO BE  
USED FOR NAVIGATION



J. Howard Beard Health Services Building  
3 Harry S. Truman Parkway  
Annapolis, Maryland 21401  
Phone: 410-222-7095 Fax: 410-222-7294  
Maryland Relay (TTY): 711  
www.aahealth.org

**Tonii Gedin, RN, DNP**  
Health Officer

**MEMORANDUM**

TO: Sadé Medina, Zoning Applications  
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager  
Bureau of Environmental Health *BC*

DATE: December 2, 2024

RE: Jack A. Richardson Jr. ETAL Trustee  
1231 Cherry Tree Lane  
Annapolis, MD 21403

NUMBER: 2024-0188-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling addition (decks and covered porch) with less buffer than required.

The Health Department has reviewed the well water supply system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the well water supply system. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay



# 2024-0188-V - buffer

Menu Cancel Help

Task Details OPZ Critical Area Team

**Assigned Date**

11/19/2024

**Assigned to**

Kelly Krinetz

**Current Status**

Complete w/ Comments

**Action By**

Kelly Krinetz

**Comments**

This Office has no objection to the reconstruction of the existing improvements within the existing footprint. The current configuration provides significant outdoor recreation space which already exists within the 100' buffer. There is not justification for any expansion, regardless of how small. Enclosure of the existing octagon gazebo can be permitted however the expansion of the shape to provide a square enclosure should not because it involves further expansion into the buffer.

**End Time**

**Billable**

No

**Time Tracking Start Date**

**In Possession Time (hrs)**

**Estimated Hours**

0.0

**Comment Display in ACA**

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

**Due Date**

12/10/2024

**Assigned to Department**

OPZ Critical Area

**Status Date**

12/10/2024

**Overtime**

No

**Start Time**

**Hours Spent**

0.0

**Action by Department**

OPZ Critical Area

**Est. Completion Date**

Display E-mail Address in ACA

Display Comment in ACA

Task Specific Information

**Expiration Date**

**Reviewer Phone Number**

**Review Notes**

**Reviewer Email**

**Reviewer Name**



Jamileh Soueidan -DNR- &lt;jamileh.soueidan@maryland.gov&gt;

**CAC Comments: 2024-0210-V; Murphy (AA 0308-24), 2024-0188-V; Richardson (AA 0309-24)**

1 message

**Jamileh Soueidan -DNR-** <jamileh.soueidan@maryland.gov>  
To: Sadé Medina <pzmedi22@aacounty.org>

Tue, Nov 26, 2024 at 2:14 PM

Good afternoon,

The Critical Area Commission has reviewed the following variances and we provide the following comments:

- 2024-0210-V; Murphy Corporation (AA 0308-24): Appropriate mitigation required
- 2024-0188-V; Richardson (AA 0309-24): It appears that the applicant has reasonable and significant use of the entire parcel with the existing improvements, including a number of outdoor amenities. It does not appear that this request meets each and every one of the Critical Area variance standards including unwarranted hardship or that this variance would not adversely affect water quality and wildlife or plant habitat. The existing dwelling on this grandfathered within the Critical Area Buffer. The project would result in an increase in coverage within the Buffer. If this request were to be denied, they would still have reasonable and significant use of their lot. Our office would support an in-kind replacement.

The above comments have been uploaded to the County's online portal.

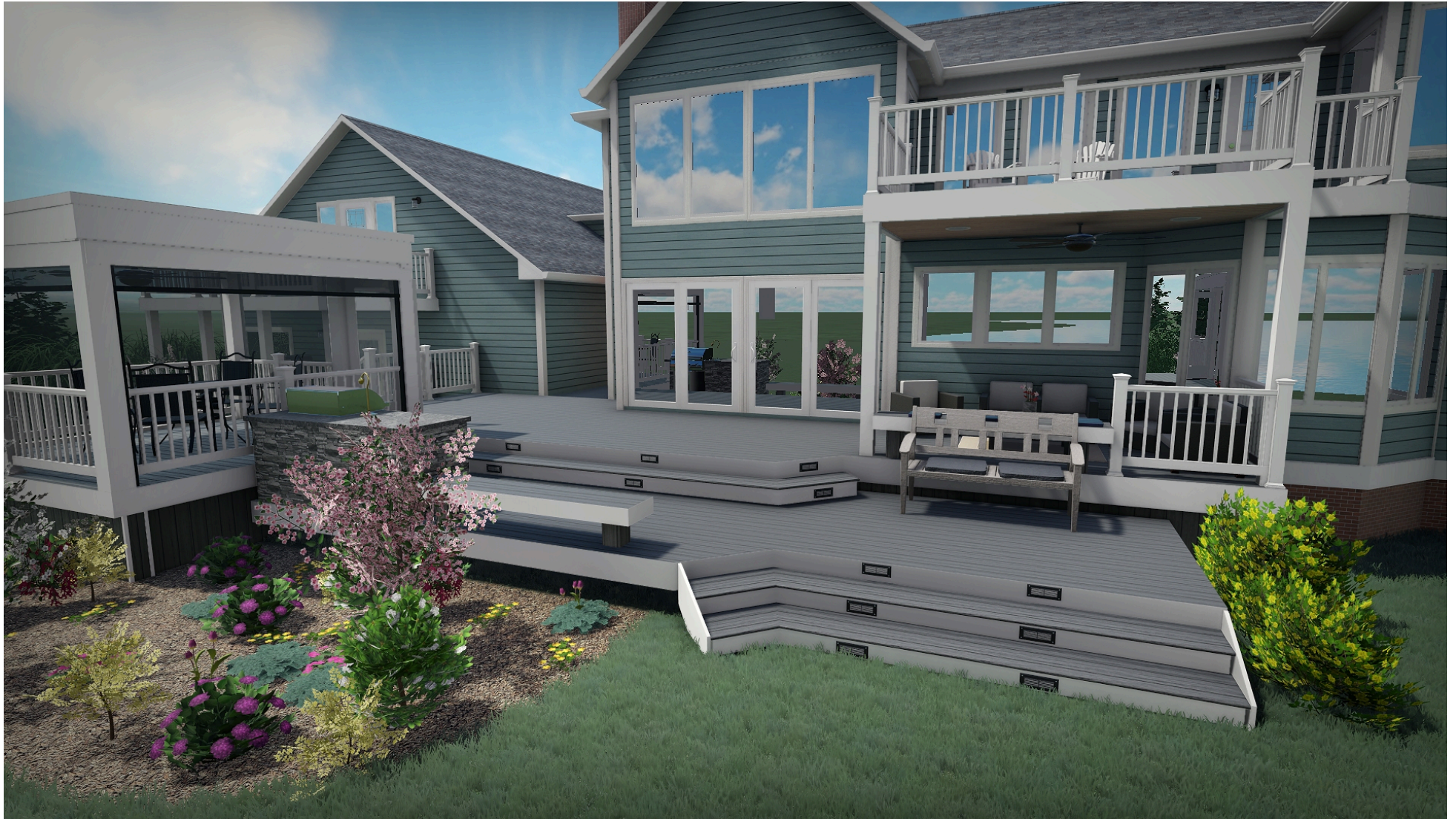
Best,  
Jamileh

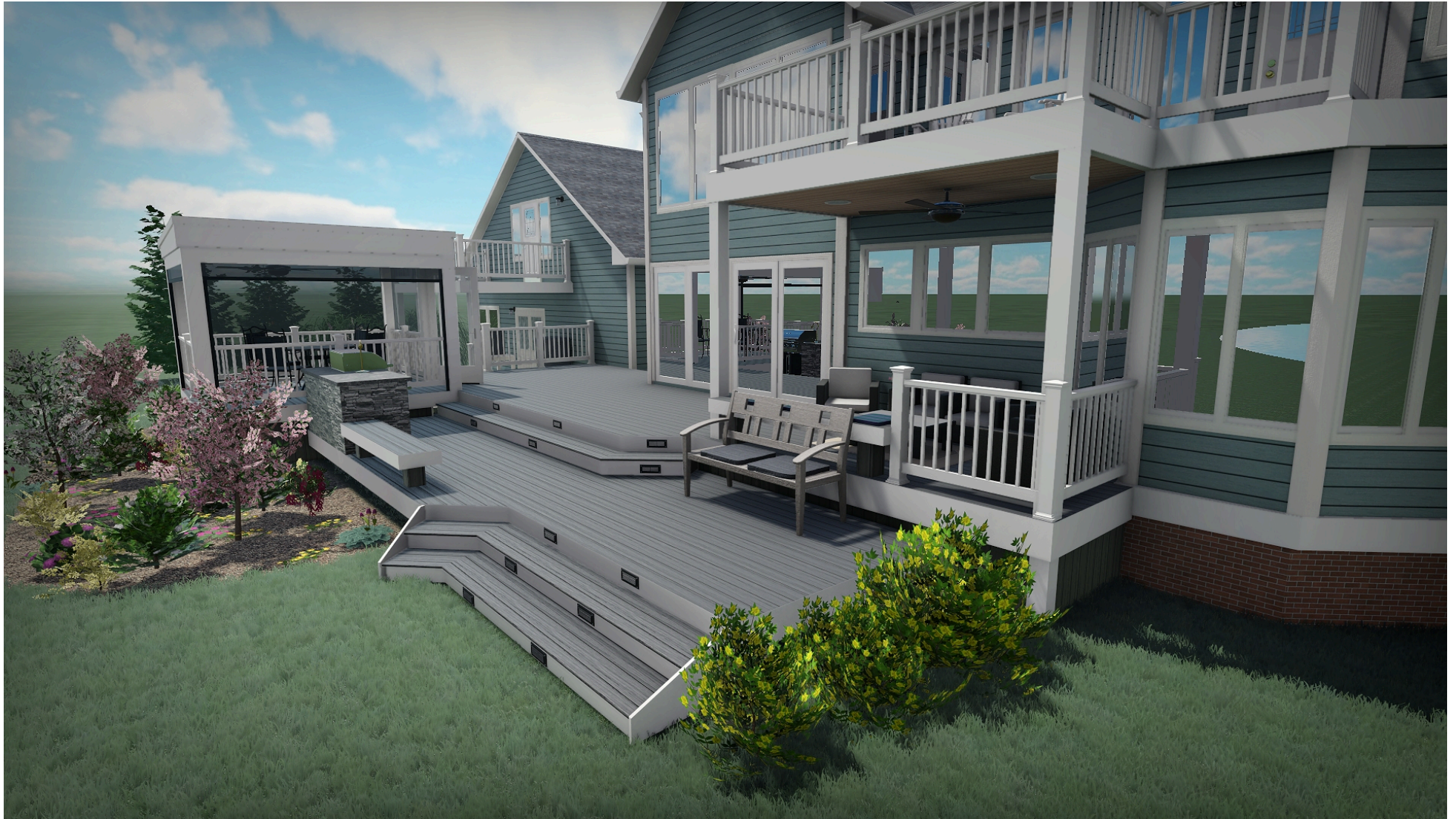
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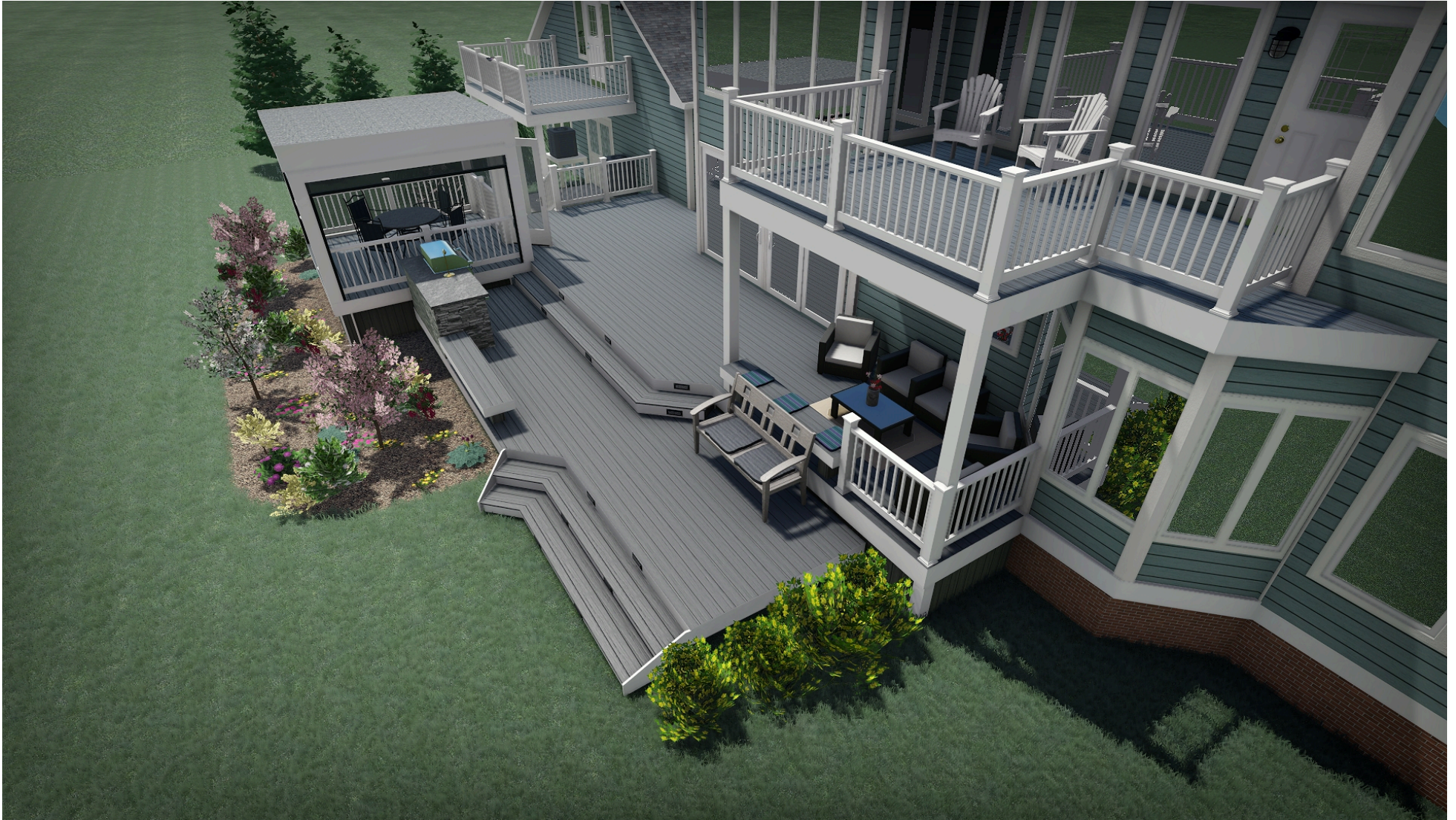


Critical Area Commission for the  
Chesapeake & Atlantic Coastal Bays  
[dnr.maryland.gov/criticalarea](http://dnr.maryland.gov/criticalarea)

Jamileh Soueidan (she/her)  
Natural Resources Planner  
1804 West Street, Suite 100  
Annapolis, MD 21401  
Office: [410-260-3462](tel:410-260-3462)  
Cell: [667-500-4994](tel:667-500-4994) (preferred)  
[jamileh.soueidan@maryland.gov](mailto:jamileh.soueidan@maryland.gov)







# Map Title



## Legend

### Foundation

#### Addressing



#### Parcels



#### Parcels - Annapolis City



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none

## Notes



0 50 100  
ft



THIS MAP IS NOT TO BE  
USED FOR NAVIGATION