

Ms. Maria Broadbent, Director
City of Annapolis Department of Neighborhood
And Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

July 31, 2014

Dear Ms. Broadbent,

Please accept the attached comments on the Revised Forest Conservation Plan (RFCP) for the Crystal Spring development submitted to Annapolis Dept. of Neighborhood and Environmental Programs (DNEP) on June 25, 2014. We have reviewed the submitted documents, and based upon our review, we are requesting that the City reject this plan on the basis of unacceptable environmental impacts in the City's public interest; significant potential underestimation of direct impacts to wetlands; and multiple ambiguities that result in a functionally incomplete, misleading and deficient RFCP. In addition, based on our findings, we are requesting that a new, independent wetland delineation be performed on the property. Until such a delineation occurs, any approval of the project should be suspended. In addition, we have identified several other deficiencies with the proposed development plan as well as with the RFCP itself.

Our independent analysis included geo-spatial review of the new plans submitted, and our findings concurred that this development will clear more than 44 acres of forest, almost all of which is contiguous, priority forest. In addition, we examined the non-tidal wetlands using current aerial imagery and data from the Maryland Department of Natural Resources (DNR) to assess the extent of wetlands on the property as well as the direct impacts this development would have on those wetlands. We found that the developers' Forest Stand Delineation from 2013, the most current wetlands map on the DNEP website, significantly underestimated the amount of extant wetlands on the Katherine Property, *by more than 50%*! As a result, the direct impacts assessed by the developer and by MDE are also grossly underestimated.

We have identified 5.31 acres of non-tidal wetlands on the property, according to DNR data. This is more than twice as much as the developer identified in their FSD using field visits from 2010/2011, after which new culverts along Crystal Spring Rd. caused a draining of portions of extant wetlands. In addition, we identified entire wetland areas not even included in the FSD/RFCP that will suffer direct impacts. Current aerial imagery from June, 2014 corroborates the DNR data and the existence of these wetlands, showing a clear wetland signature in the soils and vegetation (see Exhibit 1, attached). When these DNR wetland data are intersected with the project footprint, results indicate that total wetland impacts would be between 1.3 and 1.7 acres. If these results can be corroborated by an independent, delineation, this level of impacts disqualifies the project as a minor project under the MDE general permit and suggests that further review by the U.S. Army Corps of Engineers Regulatory Branch in Baltimore is warranted. Even if considered isolated wetlands, which most likely these are not, this level of impacts exceeds the 1-acre threshold for an MDE letter of authorization for isolated non-tidal

wetlands. In contrast, the developers have estimated wetland impacts to be as low as 0.16 acres, a variation of as much as a factor of 10! Such a discrepancy warrants further investigation at a minimum, and full regulatory review by the Corps of Engineers and MDE would be optimal in this case.

Our findings indicate that there is a strong case to be made for the hydrologic connection of the wetlands to jurisdictional Waters of the United States, based on adjacency to tributaries to Crab Creek. Hence a significant nexus exists that makes these non-tidal wetland jurisdictional under Section 404 of the Clean Water Act.

Wetlands are vital ecological resources that are critical to the health of our watersheds and to the Chesapeake Bay. They filter and absorb pollution and nutrients, thereby improving water quality; they provide important wildlife habitat for reptiles, birds, and amphibians, many of which are obligate wetland species; they store carbon in the soil organic matter and in the vegetation; and they are important havens of plant biodiversity. These important ecological functions are not easily replaced. The failure of the applicant to provide an accurate estimation of wetland impacts means that they have not proposed an appropriate level of compensatory mitigation (40 CFR 230.10(d)) to offset these impacts, nor have they adequately demonstrated how they will avoid and minimize these impacts [40 CFR 230.10(a)].

The impacts to contiguous forest will also be unacceptable under the Forest Conservation Act (17.09.025B) as well as to the public interest of Annapolis. The 82 acres of contiguous forest on the Katherine Property together are an outstanding natural resource of the City of Annapolis. It is irreplaceable. This stand of forest is a major local carbon sink and provides wildlife habitat for hundreds of species, including 222 species of birds. It also acts as a water quality insurance policy for the South River through the nutrient filtration and absorption functions that it provides. Studies have shown that once watersheds reach 10% impervious surface, significant degradation to adjacent water bodies results. The non-point source and storm water runoff that this development would create, even with best management practices, would more than offset the benefits currently provided by the forest stand currently on the property.

This latest version of the project will still clear 44 acres of forest, an incrementally marginal improvement over the previous version. In addition, the development would be concentrated in the heart of the contiguous forest block on the northeast part of the property, leaving little forest remaining in the northeastern end of the project. This forest includes the most mature and diverse sections of the forest on the property.

The RFCP is very ambiguous in many areas. This is perhaps no more apparent than the impacts to Specimen Trees (ST's). The RFCP diagrams are misleading and inaccurate as to which ST's will be partially or completely impacted by the plan. Diagram "06-25-2014-forest-clearing-justification-(352817)" indicates in the legend that impacted specimen trees are represented in yellow- yet trees that appear to be direct hits under building footprints are not depicted any differently than other ST's. This legend appears to be erroneously marked. Total impacts to specimen trees are cryptically hidden in the documents, if provided at all. The document labeled "Exhibit A - Project Statistics simply shows a mock-up diagram of the three different versions of the project submitted to DNEP. No statistics are given, nor are any facts or figures. The

document labeled “06-25-2014-exhibit-a---comparison-(352818)” provides no “comparison” of anything. In fact, this document pertains to the LOD Tree Management Plan and is labeled Exhibit G when the document is opened. With errors like this, it is difficult for the public to have any confidence that the law is being adhered to with respect to the Forest Conservation Act, City Comprehensive Plan, City Code, Clean Water Act, Critical Area, Coastal Zone Management Act and any other pertinent statutes.

As a result of these deficiencies in the RFCP and the level of known impacts to forests and likely impacts to wetlands as well as the inaccuracies, misrepresentations, and insufficient documentation in the RFCP files, we request the City reject the RFCP and request the applicant resubmit materials to address these significant concerns. As part of this process, an independent wetland delineation should be conducted by a reputable, independent state or national expert on wetland delineations.

We thank you for taking these issues seriously. We would be happy to have a follow-up meeting with city officials to discuss these issues further and to provide additional data and information that support our analysis.

Thank you,

The Friends of Crystal Spring Farm and Forest



Exhibit 1 – Aerial image from June, 2014 showing significant wetland omitted from 2013 Forest Stand Delineation submitted by Crystal Spring developers. This wetland is also documented in the Maryland Department of Natural Resources geo-spatial wetland dataset.