

**Walker-Bey, James T.**

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**From:** AK <allison.kole@gmail.com>  
**Sent:** Friday, February 16, 2024 4:16 PM  
**To:** Brown, Donna J.; Clerk of the Council  
**Subject:** Opposition to DSP-21001 February 26 Hearing  
**Attachments:** Akole district council POR testimony 02.16.24.pdf

**CAUTION:** This email originated from an external email domain which carries the additional risk that it may be a phishing email and/or contain malware.

Dear Ms. Brown,  
Please find the attached submission in opposition to the Suffrage Point South development. I am a person of record in this matter, and appreciate the Council's consideration of my testimony.  
Sincerely,  
Allison Kole

Ms. Donna Brown  
Clerk of the County and District Council  
County Administration Building  
Upper Marlboro, Maryland 20772

Re: DSP 21001

February 16, 2024

*Via electronic delivery*

Dear Ms. Brown,

Please accept my written testimony below for submission into the record.

Dear Council Members:

My name is Allison Kole, and I am a person of record in this matter. I am a resident of the City of Hyattsville, and I serve on the Board of Save Our Sustainable Hyattsville. I am submitting these comments separately, however, as a citizen of Hyattsville in opposition to this project. As a parent and community member, it is unnerving to think of the planned townhouse project at its proposed density and its impact on the park below. All of those in opposition to the project may not be able to show up at Council meetings, but opposition hasn't waned since 2018. When I tell local parents about the plan to squeeze 41 townhouses on the lower lot, they are shocked, sad, and worried about future flooded soccer team games, play dates, and how the townhouses perched high on fill will otherwise affect the community space below.

There is a national movement to change FEMA's sanction of the fill and build development process,<sup>1</sup> which Werrlein insists will protect the occupants of the townhouse. Werrlein proposes an unsustainable building density at the expense of everyone downstream. We know however, that the floodplain map is inaccurate and that the current density calculation is wrong, so I ask that this Council reject this project or remand again to the Planning Board so that it can, under its actual authority, do its duty.

For years Werrlein has asked the county to take its word for the limits of the law, but it has been wrong on density and put forth erroneous legal interpretations in at least one other setting in advance of this project.<sup>2</sup> Documents MNCPPC provided (reluctantly) from November 2020

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<sup>1</sup> Daniel Cusick and Thomas Frank, E&E News [Dangerous 'Fill and Build' Floodplain Policy Should Be Scrapped, Experts Say](#), (Nov. 1, 2023) (discussing increased flood risk for nearby homes).

<sup>2</sup> Mr. Rivera of Werrlein put forth an erroneous interpretation of *County Council of Prince George's County v. Zimmer Development* to the Planning Board and repeated this when questioned a member. The court's decision, however, only limited the District Council's authority and ability to "call up" issues after the planning board's decision on remand but did not limit the planning board. *Cnty. Council of Prince George's Cnty. v. Zimmer Dev. Co.*, 444 Md. 490, 580 120 A.3d 677, 731 (Md. App. 2015). The case instead supports the original jurisdiction of the Board in DSP decisions. The dicta Mr. Rivera incorrectly cited as legally binding was a review of the history of the case (which actually showed the Planning Board adding small conditions not mentioned by the District Council on remand) *Cnty. Council of Prince George's Cnty. v. Zimmer Dev. Co.*, 120 A.3d 677, 711 n. 54 (Md. App. 2015).

show that Werrlein, instead of providing a density calculation for townhouses as directed by planning staff Mr. Henry Zhang, Werrlein representative, Mr. Rivera worked to over-ride him as the lead reviewer of DSP 18005. Those messages are attached herein.

Werrlein has still failed provide adequate justification as directed by the District Council in May 2023 for building 41 townhouses, a number that has been put forth by Werrlein for years no matter what the realities and conditions. Calculations based on infill estimates that do not include future planned conveyances or easements are insufficient to the meeting the Council's order on remand and should not have been approved by the Planning Board. The density calculation before the Council now is not materially different than the one sent back by this Council in May and does not only does not take into account instructions stating:

“...[T]he Applicant may not utilize acreage in the 100-year floodplain and the two parcels to be conveyed out of the tract to the City of Hyattsville to calculate density. Furthermore, the record lacks substantial evidence to demonstrate a density calculation excluding alleys, streets, or other public roadways.”

The community has seen what kind of damage Werrlein can do and the lack of responsibility it claims in response. *See e.g* Email from Bruce Bereano to MDE (Aug. 10, 2022) (“It is not the water of my client nor anything my client has done to create this problem.”). Werrlein would have the Council consider past harm and future climate impacts irrelevant to the matter at hand, but whether Werrlein can legally and responsibly squeeze 41 townhouses on the lower parcel is important to issue of whether this project can be approved and whether county can approve it while still fulfilling its legal responsibilities to protect the area as addressed in other comments.

I ask that the Council to use its authority to uphold the law and to minimize the burden that will be passed on to the current and future generations of Hyattsville and the surrounding communities.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Allison Kole".

Allison Kole

## Warner, David

---


**From:** Kosack, Jill  
**Sent:** Tuesday, November 17, 2020 5:12 PM  
**To:** Norman Rivera (normanrivera2012@gmail.com)  
**Cc:** Hunt, James;Zhang, Henry;Checkley, Andree  
**Subject:** RE: Magruder DSP-18005 Density  
**Attachments:** 20201027\_ FINAL. Revised Density Chart - DSP-18005.jsk.docx

Norman – Very sorry for the delay and uncertainty in this issue. Please provide a density chart on the coversheet of the DSP as attached. E-mail us a revised pdf of the coversheet with the new density chart and we will proceed with certification of the DSP.

Thanks,

**Jill S. Kosack, RLA, ASLA**

*Planning Supervisor | Urban Design Section | Development Review Division*

 **THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**Prince George's County Planning Department**  
14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772  
Office 301-952-4689 | Mobile 240-253-6314  
[jill.kosack@ppd.mncppc.org](mailto:jill.kosack@ppd.mncppc.org)



**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Thursday, November 12, 2020 4:51 PM  
**To:** Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)>  
**Subject:** Re: Magruder DSP-18005 Density

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Thanks James. I knew it and that is why we were reluctant to give that info. He is simply in error. There is no condition by the District Council that there is a 9 unit per acre cap on single-family attached or townhouses and they make the final decision. I attached highlighted excerpts from the Council Order to definitely indicate that the Planning Board in the PPS and DSP approved 31 units (15 SFA/16 SFDU) and the entire Order. There is no condition to that effect. Furthermore, Footnote 4 of the CSP approval in the Council Order of the CSP also says 31 units in the subject property (Page 8). Conditions of the CSP do NOT include any per acre density caps. Condition 1.b. did require the applicant to revise the CSP to include the number of lots in CSP application which was 72 total with 31 in the upper parcel (this DSP) and 41 in the lower parcel (PPS/DSP to be filed).

Can you set up or I set up a zoom with you and Andree' and my client ASAP?

Sincerely,

Norman

Norman D. Rivera, Esq.  
Law Offices of Norman D. Rivera, LLC  
17251 Melford Boulevard Suite 200  
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301-352-4973 Direct  
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On Thu, Nov 12, 2020 at 9:39 AM Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)> wrote:

Hi Norman,

I forwarded it to Henry, and he was saying that since the density cap is at 9 dus per acre, at 13.76, the THs are above the cap and you all will need to remove 5 units.

## James R. Hunt, MPA

*Planning Division Chief | Development Review Division*

 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
Prince George's County Planning Department

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772

301-256-2926 (mobile)

301-952-3951

[james.hunt@ppd.mncppc.org](mailto:james.hunt@ppd.mncppc.org)



**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Wednesday, November 11, 2020 12:49 PM  
**To:** Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)>  
**Subject:** Magruder DSP-18005 Density

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Hi James, here is a chart which I think he wants. Just note the unit per acre calculations in the red box and in the table are info only as the CSP Order does NOT have a per acre cap.

Thanks!

Sincerely,

Norman

Norman D. Rivera, Esq.

Law Offices of Norman D. Rivera, LLC

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<b><u>DENSITY CALCULATION</u></b>	
ZONE	R-55
USES	SINGLE FAMILY ATTACHED & DETACHED
GROSS/NET ACREAGE	8.26 / 5.24
DENSITY PERMITTED	72 UNITS*
DENSITY PROPOSED (Upper Lot)	31
REMAINING DENSITY (Lower Lot - Outparcel 1)	41

\*DENSITY DETERMINED PER THE COUNCIL'S APPROVAL OF CSP-18002. PLEASE REFER TO SHEET 8 OF THE FINAL DECISION – APPROVAL OF CONCEPTUAL SITE PLAN, FOOTNOTE 4, WHICH READS: "TO FACILITATE ORDERLY R-55 DEVELOPMENT OF THE 8.26-ACRE PROPERTY, AND EXPANSION OF PARKLAND WITH THE CITY OF HYATTSVILLE, APPLICANT PROPOSES AN OVERALL DENSITY OF 72 UNITS. 31 UNITS ARE PROPOSED FOR THE UPPER LOT AND 41 UNITS ARE PROPOSED FOR THE LOWER LOT."



## Warner, David

---

**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Tuesday, November 17, 2020 3:38 PM  
**To:** Checkley, Andree  
**Subject:** Fwd: Magruder Pointe DSP-18005  
**Attachments:** 11-12-20. Density Excerpts DSP-18005 Council Order. 001.pdf

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Hello there and hope all is well with you.

We are having a difficult time to get the Magruder DSP certified. Staff, as in Henry, wants me to lose units now. We got the CSP approved and certified and the same with the prelim plan. Now he is saying we have a per acre cap and we do not. At Oral Argument with the Council, Raj and Stan agreed; the Council voted unanimously; and there is not a typical per unit calculation as it is a DDOZ.

I asked James to help and he enlisted Jill but she is going to write up a response today I hear but I would prefer a call first. Henry 4 different times (below emails) said the density table was not right. But he will not tell me in what way. His last one to me was "figure it out with your engineering team" ! I have asked him and Jill to just redline my table to give me direction to no avail. Karl is freaking out as we need plats in Dec after cert.

If you call me I can explain but I sent highlighted excerpts and Henry was in the hearing himself and heard it. Maybe I am missing something but some feedback is usually provided. Karl and I can do a call or me. Thank you.

Sincerely,

Norman

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----- Forwarded message -----

From: **Norman Rivera** <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>

Date: Tue, Nov 10, 2020 at 12:35 PM

Subject: Fwd: Magruder Pointe DSP-18005

To: Hunt, James <[James.Hunt@ppd.mncppc.org](mailto:James.Hunt@ppd.mncppc.org)>

Morning James. I'm gonna have to call you about this issue with certification with our DSP. Henry said my density chart is insufficient. So I revised it twice. It is similar to the one for the CSP, the prelim, and when we filed and the Board approved the DSP. I keep asking Henry to just tell me what he wants to see on a density table and he keeps telling me to just figure it out. I've never had that happen to me. Usually staff redlines something or says some detail I can follow as I can't read your mind. **All I request is a hand redlined pdf and I can move on.** Thanks James I hate to bug you but we need plats in December and DSP cert is needed for that.

Timeline:

Planning Board approval- June 11

Council Approval- Oct. 5

Order sent- Nov. 2

First attempt on density table- Oct. 28

Told no- Nov. 2 and I asked for direction

Chief of Staff for Councilwoman Taveras told cert was to be approx Nov. 11

I asked again for direction- Nov. 5

Asked for redline and told no- Nov. 11

----- Forwarded message -----

From: **Zhang, Henry** <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>

Date: Tue, Nov 10, 2020, 7:51 AM

Subject: RE: Magruder Pointe DSP-18005

To: Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>, Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>

Norman,

You will need to work with your engineer team to find out a way to meet the condition.

Thanks

**Henry H. Zhang**, AICP LEED AP CPTED Specialist

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772  
301-952-4151 | [henry.zhang@ppd.mncppc.org](mailto:henry.zhang@ppd.mncppc.org)

**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Monday, November 9, 2020 4:33 PM  
**To:** Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>  
**Cc:** Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>  
**Subject:** Re: Magruder Pointe DSP-18005

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Hello Henry can you redline a table we sent you so I can figure out how to do this? Thanks

On Thu, Nov 5, 2020, 11:32 AM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

Thanks but absent some direction I don't know what he wants. The DSP has the same layout and density as the PPS and CSP. I am happy to review a mark up from staff for direction. Thanks

On Thu, Nov 5, 2020, 11:19 AM Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)> wrote:

Norman – The last communication from Henry I saw about the density issue was the attached e-mail. I was of the understanding that it was up to you to resolve still. I believe it is the last item for certification.

Thanks,

**Jill S. Kosack, RLA, ASLA**

*Planning Supervisor | Urban Design Section | Development Review Division*

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772  
Office 301-952-4689 | Mobile 240-253-6314

[jill.kosack@ppd.mncppc.org](mailto:jill.kosack@ppd.mncppc.org)

**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Thursday, November 5, 2020 10:59 AM  
**To:** Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>  
**Cc:** Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>  
**Subject:** Re: Magruder Pointe DSP-18005

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Good morning. I heard Henry is out until Monday. Jill can you let me know if you all resolved the density table issue? It was the only issue I was made aware needed to completed COA. We are running out of time for plats this year. Thank you.

Sincerely,

Norman

Norman D. Rivera, Esq.

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On Mon, Nov 2, 2020 at 1:46 PM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

I must point out that there are bulk standards as approved in the DSP such as for lot sizes for the 2 lots under 5000 so. But there are no caps for units per acre as conditions. Note 4 of the CSP explains the density is related to the parkland to be facilitated which provides a nexus between the acreage, and parkland. Hence there is no unit care calculation.

On Mon, Nov 2, 2020, 1:26 PM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

We are confused. The DSP shows 31 lots which was shown on the CSP and PPS. Please elaborate

On Mon, Nov 2, 2020, 1:19 PM Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)> wrote:

Norman,

We did review your submitted density table, which is not enough to demonstrate if the proposed development in this DSP is consistent with the approved CSP.

Understand that you try to use the same way as you employed in the PPS approval. However, the CSP mandates that the DSP stays within the Density caps and approves bulk standards for the development.

In summary, the density table should demonstrate the consistency.

Thanks

**Henry H. Zhang**, AICP LEED AP CPTED Specialist

*Master Planner | Urban Design*

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772  
301-952-4151 | [henry.zhang@ppd.mncppc.org](mailto:henry.zhang@ppd.mncppc.org)

**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>  
**Sent:** Monday, November 2, 2020 11:30 AM  
**To:** Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>; Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>  
**Cc:** Davis, Lisa <[Lisa.Davis@ppd.mncppc.org](mailto:Lisa.Davis@ppd.mncppc.org)>  
**Subject:** Re: Magruder Pointe DSP-18005

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Good morning. Has anyone been able to review and respond? We need DSP Cert for plants. Thanks

On Wed, Oct 28, 2020, 10:58 AM Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)> wrote:

Good morning Henry. Please see the attached density chart as revised. It reflects the requirements of Condition 1.d. (attached) which states as follows below. Again, the CSP approved 72 units total with 31 on the upper parcel which the PPS and this DSP also reflects. The chart also refers to Footnote 4 of the CSP which as was stated at oral argument and agreed upon by Stan Brown and Raj Kumar. Thank you and please let me know if you have any questions.

"B. Conditions of DSP-18005 are as follows:

1. Prior to certification, the detailed site plan (DSP) shall be revised, or additional information shall be provided, as follows:

a. Obtain signature approval of Preliminary Plan of Subdivision 4-18001, and revise the DSP, as necessary.

b. Revise site plan to be consistent with Development District Overlay Zone standard information included in the revised Statement of Justification.

c. Provide specific impervious area for Lot 21 on the site plan.

d. Provide a correct Density Calculation Table, in accordance with the approved Conceptual Site Plan, CSP-18002.

Sincerely,

Norman

Norman D. Rivera, Esq.

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From: "Zhang, Henry" <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>

To: Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>, "Kosack, Jill" <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>

Cc:

Bcc:

Date: Mon, 2 Nov 2020 18:19:36 +0000

Subject: RE: Magruder Pointe DSP-18005

Norman,

We did review your submitted density table, which is not enough to demonstrate if the proposed development in this DSP is consistent with the approved CSP.

Understand that you try to use the same way as you employed in the PPS approval. However, the CSP mandates that the DSP stays within the Density caps and approves bulk standards for the development.

In summary, the density table should demonstrate the consistency.

Thanks

**Henry H. Zhang**, AICP LEED AP CPTED Specialist

*Master Planner | Urban Design*

14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772

301-952-4151 | [henry.zhang@ppd.mncppc.org](mailto:henry.zhang@ppd.mncppc.org)

**From:** Norman Rivera <[normanrivera2012@gmail.com](mailto:normanrivera2012@gmail.com)>

**Sent:** Monday, November 2, 2020 11:30 AM

**To:** Zhang, Henry <[Henry.Zhang@ppd.mncppc.org](mailto:Henry.Zhang@ppd.mncppc.org)>; Kosack, Jill <[Jill.Kosack@ppd.mncppc.org](mailto:Jill.Kosack@ppd.mncppc.org)>

**Cc:** Davis, Lisa <[Lisa.Davis@ppd.mncppc.org](mailto:Lisa.Davis@ppd.mncppc.org)>

**Subject:** Re: Magruder Pointe DSP-18005



## Werrlein Properties

**BB** Bruce Bereano <bruce@lobbyannapolis.net>

Wed, 10 Aug 2022 4:11:34 PM -0400 •

To "William Seiger -MDE-" <william.seiger@maryland.gov>

Cc "Horacio Tablada -MDE-" <horacio.tablada@maryland.gov>, "Karl Granzow" <karl@werrleinproperties.com>

---

Good Afternoon Mr. Seiger,

I have had the opportunity to review the various emails between my client, MDE and Prince George's County DPIE below. It is very apparent that what my client has been expressing for many months is also the position that Prince George County DPIE official, Mr. Rey De Guzman, has taken. That is, the upgrading of the storm water piping in the wetland buffer area has absolutely no bearing on the outcome of the density issue yet resolved. As the Chief Engineer of Prince George's County DPIE site/roads plan division, I can think of no other person as well qualified to make this determination.

Further, I would like to express my viewpoint with respect to the information requested by MDE to my client in Mr. Metzger's email dated 8/8/2020.

1. Hydrology and hydraulic calculations showing how the current drainage system flooding and constriction, will be alleviated by extending the storm drain. Include the minimum impact necessary to abate the issue. Show all drainage areas picked up by the new 36 inch storm drain.

Hydrology and hydraulic calculations have already been completed, submitted, reviewed and approved by all the AHJs to include the affiliated MDE Soils Conservation District (SCD) in Prince George's County. MDE has had this for more than a year.

2. An engineer should provide an evaluation of any temporary alternatives considered that would also alleviate the flooding and surcharging, and their feasibility to resolve the issue. For example, include a temporary pumping alternative during infrequent but heavy downpours.

There are no temporary fixes.

3. Provide written documentation from Prince George's County DPIE that they support that the stormwater flooding is a public health and safety issue that warrants an emergency solution to alleviate the flooding on the roadway. This should also include support for the proposed temporary or permanent solution proposed by you as the only viable alternative.

Mr. De Guzman's email should suffice.

4. The level of turbidity in the water ponding on Gallatin Street is a concern, especially with a conveyance to move it to the stream more quickly. Show in your proposal a plan to better stabilize bare soils more quickly, either temporarily or permanently, to reduce sediment laden discharges from the site during storm events.

Keep in mind, these flood waters that pond at the bottom of Gallatin street are the entire community's water run-off. The turbidity comes from all over. It is only when the water backs up, then overflows onto my client's property that it causes further impacts. My client's site is properly stabilized to manage the appropriate storm water. It cannot manage the entire drainage area's back-up.

Again, I want to be very clear that my client is able, willing and ready to correct this problem immediately. The storm water system upgrade will be installed as per the approved plans. The only roadblock to this fix is MDE and that has become very disappointing. This situation is not of my client's doing.

It is not the water of my client nor anything my client has done to create this problem.

Respectfully, the staff of MDE is acting very bureaucratic and not practicable and sensible in dealing with this emergency situation.

It is not, I say again, my client's problem, but he is willing to fix it promptly for the good of the community, but not with all of the bureaucratic and totally unnecessary cost and expenses and time the recent MDE emails are calling for. Ridiculous!

Bruce

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191 Duke of Gloucester Street  
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(410) 267-0177 Fax