

CA 336-05 Brown, David & Sylvia
VAR 05-3185

MSA-S-1829-4856

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Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

VIA FAX

June 30, 2005

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

Re: Variance 05-336-05 Brown, David & Sylvia

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance to the steep slope requirements in order to construct a single-family dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

While the applicant has included the expanded Buffer on the site plan and provided enhanced stormwater management structures, it does not appear that any attempt at minimization of impact has been made. Specifically, our previous review of this site plan indicated that the 15,727 square feet of forest cover to be removed could be significantly reduced by an alternative site design. In addition, the applicant has included clearing for the 2nd and 3rd septic recovery areas. In general, clearing of these areas is not required as a component of health department approval. While there are multiple options for minimizing impacts, we provide the following as suggestions:

- Move the dwelling location so that the septic fields and the dwelling are located on the same side of the property, thereby eliminating the clearing and grading required by nearly one half.
- Flip the design of the 1st through 3rd septic recovery areas so that the primary drain field lies closest to the dwelling. This would allow for a tighter and more compact building envelope with significantly less clearing and grading.

As currently proposed, it does not appear that the applicant has overcome the burden to prove that the granting of this variance will not adversely affect water quality, or fish, wildlife, and plant habitat. In contrast, it is our concern that the amount of grading and clearing proposed on steep slopes will create an adverse impact to the environment. Therefore, this office is unable to offer support for this variance request. As previously requested, we recommend that the Board require the applicant to provide a site plan which demonstrates an attempt at minimization of impact to the steep slopes and Buffer.

Roxana Whitt
Variance 05-336-05 Brown
June 30, 2005
Page 2

In addition, it is unclear whether the planting plan submitted is intended to serve in fulfillment of the mitigation requirement for the clearing violation on the property. Given that there is no information regarding the quantity and size of the planting stock listed, the planting plan is insufficient. The County's Conservation Manual provides specific standards and planting criteria for planting within the Critical Area. We recommend that the applicant work closely with County staff to develop a mitigation planting plan which adequately addresses the Buffer clearing violation.

Thank you for the opportunity to provide comments regarding this revised variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3482.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
CA336-05

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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May 26, 2005

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

Re: Variance 05-336-05 Brown, David & Sylvia

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the steep slope requirements in order to construct a single-family dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on a recent site visit to the property, we note that the property is currently the subject of a Critical Area violation, where approximately 15,747 square feet of forest cover has been removed. In addition, MERLIN indicates the existence of a tributary stream running along the bottom of the ravine. The site plan provided does not show this stream. If present, the stream necessitates application of a Buffer on the site. Given the presence of contiguous steep slopes, the Buffer would appear to encompass the entire property. In this case, the applicant will also be required to apply for and obtain a Buffer variance. As it is my understanding that the Critical Area clearing violation is currently being addressed by the County's Zoning Enforcement Division, the following comments address the applicant's variance request as indicated on the site plan.

1. The applicant is proposing to clear 15,727 square feet of forest cover. Based on the site plan provided, it appears that significant minimization of clearing and grading could be achieved. We recommend that the applicant be required to provide a site plan that demonstrates minimization of impact.
2. We recommend that the applicant be required to submit a revised site plan which shows any necessary Buffer or expanded Buffer on the property, as well as clearly labels the location of the tributary stream. This site plan should be submitted prior to any Buffer variance approvals in order to ensure that any future variance requests and/or the current development proposal can be reviewed with accurate knowledge of the existing environmental features.
3. It does not appear that any stormwater management features are proposed which address rooftop runoff. We recommend that the Board require the inclusion of a suitable best management practice

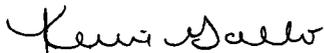
Roxana Whitt
Variance 05-336-05 Brown
May 26, 2005
Page 2

in order to ensure that stormwater runoff from the proposed impervious surfaces does not threaten the ecological integrity of the steep slopes.

Based on the above comments, this office does not support the granting of this variance request at this time. We recommend that the Board required a revised site plan which demonstrates minimization of impact to steep slopes and which includes the location of the Buffer.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3482.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
CA336-05

CA 0336 05

RECEIVED

AUG 4 2005

Case No. 05-3185

CRITICAL AREA COMMISSION

Public Hearing
June 2, 2005
July 7, 2005

David & Sylvia Brown have applied for a variance in the steep slope requirements and a variance in the extended buffer requirements¹ for construction of a single-family dwelling on slopes of 15% or greater. The property is located at 8502 Perch Court, Lusby (Lot 690, Plat 16, White Sands) and is zoned R-1 Residential.

The matter was presented June 2, 2005 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. Walter Boynton, Vice Chairman and Mr. Daniel Baker. Mr. David Brown was present at the hearing and was represented by Mr. Matt Tippet from RDA, Inc. and Mr. Harold Matteson, Jr., grading contractor. The plats submitted with the application were marked Applicants' Exhibit No. 1, Exhibit No. 2, and Exhibit No. 3, dated and entered into the record at the hearing. A Staff Report along with photographs taken on site was also entered into the record. The Board deferred action at the June hearing pending receipt of a revised plat and a revised application requesting a variance in the extended buffer requirements.

The matter was again presented July 7, 2005 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. Daniel Baker, and Mr. Michael Redshaw, Alternate for Mr. Walter Boynton, Vice Chairman. Mr. David Brown was present at the hearing and was represented by Mr. Matt Tippet from RDA, Inc. and Mr. Harold Matteson, Jr., grading contractor. Ms. Kerrie Gallo from the Chesapeake Bay Critical Area Commission was present at the hearing. The revised plats submitted by the Applicants were marked Applicants' Exhibit No. 1, Exhibit No. 2, and Exhibit No. 3, dated and entered into the record at the hearing. A Staff Report was also entered into the record.

¹ The Board advised at the June 2005 hearing that the Applicants needed to request a variance in the extended buffer requirements as well as a steep slope variance.

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property contains 2.97 acres and is zoned R-1 Residential.
2. The property is currently undeveloped. A portion of the property has been cleared of all vegetation. The Applicants have received a Violation Notice.
3. The front portion of the property is moderately steep (~17%). The terrain falls more steeply beyond this area. A tributary stream to St. Leonard Creek is located at the base of the slope.
4. The Applicants have applied for a variance in the steep slope requirements and a variance in the extended buffer requirements for construction of a 24' x 42' single-family dwelling on slopes of 15% or greater.
5. The Staff Report submitted at the June hearing indicated: (1) the presence of the stream at the base of the slope necessitates a buffer; (2) the plans submitted with the application must be revised to show the extended buffer as it affects the property; (3) the application needs to be revised to include an extended buffer variance request; (4) the Applicants needs to present to the Board a plan to address the unauthorized clearing that has occurred on site; (4) prior to the Board granting approval of any variances on the property the Board should require the Applicants to address the clearing violation as stipulated in correspondence on this matter; (5) the Board should require payment of fines based on 3 times the area cleared in violation, in accordance with the Zoning Ordinance; (6) the cleared area should be surveyed by a licensed professional engineer to ensure accuracy; (7) the Board when making a motion on this case should include as a condition of approval that a bond be posted for replanting all disturbed areas where planting is feasible, based on whatever plan is approved by the Board; (8) it is Planning and Zoning's opinion that the proposed limit of disturbance exceeds that which is necessary to construct the house, driveway and septic system; and (9) the excess disturbed area should be required to be replanted, with appropriate bonds being posted.
6. The Applicant and the Applicants' Representatives testified at the June hearing that: (1) the licensed grading contractor cleared the property as he thought it was okay to proceed since the White Sands Civic Association had approved the request; (2) the grading contractor also thought a permit was coming; however, it was delayed as the Health Department was

making changes to the septic systems; (3) the Limit of Disturbance shown on the plats submitted and what was cleared are the same; (4) the County is dealing with the clearing issue; (5) a violation letter has been received; and (6) the cleared area on site has not been stabilized.

7. Staff indicated at the June hearing that a Stop Work Order has been issued.
8. The Board deferred action at the June hearing pending receipt of a revised plat and a revised application requesting a variance in the extended buffer requirements. The Board also requested the cleared area on site be stabilized prior to the next hearing.
9. The Applicant and the Applicants' Representatives testified at the July hearing that: (1) the revised plats show the expanded Critical Area buffer extends almost to the Perch Court area; (2) two drywells are shown on the revised plats to address stormwater management; (3) sizing of the drywells would be reviewed by Public Works; (4) the replanting plan will be worked out with Planning and Zoning; (5) the property owners are talking with Planning and Zoning Staff (Mr. Nutter) to determine the best way to work out the existing violation; (6) the violation will involve mitigation and fees in effect; (7) the proposed septic design for the site is standard; and (8) the property has been seeded and placed with straw and mulch to stabilize the area.
10. The Staff Report submitted at the July hearing indicated: (1) the Board previously deferred action on this case to allow the property owners time to revise the application to include a buffer variance request and also to allow time for the applicants to stabilize the cleared area; (2) both items have been addressed. Seed and straw have been placed on the cleared area; (3) the Applicants also have submitted a revised plat verifying the limit of unauthorized clearing, and also demonstrating that nearly the entire property lies within the extended waterfront buffer; (4) the Applicants' grading contractor testified at the June hearing that he cleared 15,727 s.f. of woodland on the property without permits because the permit process was taking longer than he had anticipated and because he had received approval from the White Sands Civic Association; (5) Planning and Zoning is attempting to work with the Applicants to address the clearing issue as the property owners appear to have been unaware of the permit process; (5) Planning and Zoning's opinion is that the limit of disturbance shown on the plat exceeds what is necessary to construct the house, driveway, well and septic system on this property and the entire construction could have been accomplished by clearing no more than 8,000 s.f, which is approximately half of the 15,727 s.f. which was cleared; (6) the Department of Planning and Zoning has shown some leniency in regard to the unauthorized clearing by deciding to charge as a violation only the cleared area that the Board deems is in excess of that necessary to

accomplish reasonable development of the site; (7) if the Board decides that development could have been accomplished with 8,000 s.f. of clearing, the Department of Planning and Zoning will address the additional 7,727 s.f. of clearing as a violation; (8) the property owners would be required to post bond for replanting the excess disturbed area; (9) the planting plan submitted with the revised application is insufficient to meet replanting requirements; and (10) the Applicants must meet with Critical Area reforestation Staff to develop an adequate replanting plan based on the Board's decision in this case.

11. The Board advised that even though the cleared area has been stabilized there is an issue with what will happen with the excess cleared area and a planting plan is needed. The Board also indicated that the Chesapeake Bay Critical Area Commission recommended as options: (1) moving the dwelling location so the septic fields and dwelling are located on the same side of the property, which would decrease the clearing and grading required by approximately one-half; and (2) flipping the design of the 1st and the 3rd septic recovery area so the primary drain field lies closest to the dwelling, which would allow for a tighter and more compact building envelope with significantly less clearing.
12. The Applicants' Representative addressed the Board issues and indicated less clearing could have taken place on the lot; however, the site is already cleared. The positioning of the septic systems as shown is a standard practice. The planting plan cannot be completed until the clearing portion that is in violation has been determined.
13. Staff indicted it was not anticipated that a planting plan would be ready for this July hearing. Staff asked that the Board make a condition of any approval that the Applicants work with Planning and Zoning Critical Area Staff to develop an approved planting plan. Staff also recommended that the area designated for the 3rd septic become the primary system and the area designated for the 1st and 2nd system be replanted.
14. Ms. Kerrie Gallo, from the Chesapeake Bay Critical Area Commission (CBCAC) was present at the July hearing and testified: (1) CBCAC's biggest concern is the amount of clearing and grading proposed; (2) putting the house and the septic area on the same side of the site would allow for half of the property to be restabilized and replanted; and (3) the locations for the 1st and 3rd septic system could be flipped.
15. Mr. Tippet from RDA advised that there is an elevation difference between the 1st and 3rd system locations. The vertical elevation on site is not being leveled. The slope is being reduced along the ridge that extends through the Limit of Disturbance to level out the property. The area has been cleared but it has not been graded.

16. The Board indicated it is reasonable to conclude the proposed development could have been accomplished with less square feet of clearing. The Board also indicated issues of the violation need to be satisfied to address the excess clearing.
17. Neighboring property owners have been notified of the proposed request and have not objected to the construction either orally or in writing.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions (in accordance with Section 11-1.01.B of the Calvert County Zoning Ordinance):

1. The Applicant and the Applicants' Representatives have demonstrated through testimony and exhibits that strict application of the steep slope requirements and the extended buffer requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners as 15,727 s.f. of the property has already been cleared without the proper permits and approvals. The Board approved clearing for this property is 8,489 s.f.
2. Granting the variances would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan, as neighboring property owners have been notified of the proposed construction and have not objected either orally or in writing.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances would deprive the Applicants of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County. The Applicants only seek the right to construct a single-family dwelling.
5. The granting of the variance will not confer upon the Applicants special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area. The Applicants only seek the right to construct a single-family dwelling.

6. The variance request is based upon conditions or circumstances which are the result of actions by the Applicants, and the request does not arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
7. The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law. Concerns of the Critical Area Commission and Planning and Zoning will be addressed as conditions of approval of this request.
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Area Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the steep slope requirements and the variance in the extended buffer requirements to construct a 24' x 42' single-family dwelling on slopes of 15% or greater as requested by David & Sylvia Brown be **GRANTED** based on the above findings of fact and conclusions subject to the following conditions:

1. The dwelling location must be moved so that the dwelling and the septic fields are located on the same side of the property, thereby eliminating clearing and grading by approximately one half.
2. The proposed locations for proposed septic systems 1 and 3 shall be flipped. The locations for systems 2 and 3 must be revegetated.
3. The property shall be developed in phases with each phase being stabilized prior to proceeding to the next phase.
4. A phasing plan shall be submitted with the building permit application.

5. Prior to work being done on site the location of the house and the limitation of grading shall be staked and marked.
6. The Applicants' construction representative shall meet with the representatives from the Department of Planning and Zoning and the Department of Public Works to determine the construction grading and limit of grading prior to construction.
7. There shall be no stockpiling of excavated material on site.
8. A foundation location plat by a registered surveyor must be submitted to and approved by the Department of Planning and Zoning prior to framing.
9. A 6" washed gravel shall be placed under any decks or deck areas to provide stabilization.
10. All downspouts shall discharge into drywells or other appropriate and approved stormwater management devices as recommended by the Department of Public Works.
11. A final as-built certification by a registered surveyor must be submitted for approval by the Department of Planning and Zoning showing that the grading was performed and structures were built according to the approved plan, prior to final approval of the project.
12. There shall be no grading outside of the approved 8,498 s.f. of clearing.
13. The clearing in excess of 8,498 s.f. shall be reforested completely.
14. A reforestation plan must be submitted to and approved by the County.
15. A bond for the reforestation plan must be posted.

In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

In accordance with Section 11-1.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

^{AUG}
Entered: July 3 2005 *ph*
Pamela P. Helie, Clerk

Michael J. Reber

Michael J. Reber, Chairman



**CALVERT COUNTY
BOARD OF APPEALS**

150 Main Street
Prince Frederick, Maryland 20678
Phone: 410-535-2348 • 301-855-1243

June 7, 2005

Mr. and Mrs. David Brown
3825 Walters Lane
Forestville, Maryland 20747

Board of Commissioners
Gerald W. Clark
David F. Hale
Linda L. Kelley
Wilson H. Parran
Susan Shaw

Subject: Board of Appeals Case No. 05-3185 – 8502 Perch Court, Lusby

Dear Mr. and Mrs. Brown:

This is to confirm the action taken by the Board of Appeals at its regular hearing on Thursday, June 2, 2005, regarding your request for a variance in the steep slope requirements for construction of a single-family dwelling and septic system on slopes of 15% or greater. The Board deferred action on your application and asked you to submit a revised request* for a variance in the extended buffer requirement also (as noted on your plat submitted as Exhibit No. 3 at the June hearing). The Board also requested you immediately cover the cleared areas on the subject property at 8502 Perch Court, Lusby with seed and straw to provide stabilization.

In accordance with Rule 5-101.A of the Board's Rules of Procedure, any request by the Board for additional information shall stay the 45-day time normally required for the Board to make its decision.

Cases that have been deferred, continued or postponed for a period of 6 months or longer, with no action during that time period, are considered closed. Such cases may be scheduled to be heard by the Board only upon receipt of a new application and application fee as described in Rule 2.

If you have any questions, I can be reached at (410)535-1600, extension 2559.

Sincerely,

Pamela P. Helie,
Clerk to the Board of Appeals

Cc: Michael Reber, Chairman BOA
Matt Tippet, RDA
Harold Matteson, Jr.
Roxana Whitt, Staff to BOA
Kerrie Gallo, CBCAC

RECEIVED

JUN 8 2005

CRITICAL AREA COMMISSION

*** NOTE: The revised application and fee has been received and your case will be continued at the next Board of Appeals hearing scheduled for Thursday, July 7, 2005. Additional information will follow.**

Mailing Address: 175 Main Street, Prince Frederick, Maryland 20678

Maryland Relay for Impaired Hearing or Speech 1-800-735-2258



**CALVERT COUNTY
DEPARTMENT OF PLANNING & ZONING**

150 Main Street
Prince Frederick, Maryland 20678
Phone: (410) 535-2348 • (301) 855-1243

Director
Gregory A. Bowen

May 19, 2005

David & Sylvia Brown
3825 Walters Lane
District Heights, MD 20747-3943

Re: Tax Map 35A, Premise 8502 Perch Court Lusby, Maryland 20657, Lot 690 Tax Account-ID 01-144758 White Sands, CS 05-2142

Dear Mr. & Mrs. Brown:

Our site visit to your property, which is referenced above, concluded that approximately 15,727 square feet (SF) of vegetation had been removed from the Critical Area without proper permits. Our investigation revealed that you have applied to the Board of Appeals for a variance for clearing on steep slopes in the Critical Area. Therefore, it is assumed you were aware that proper permits were needed before clearing. The unauthorized clearing is a violation of the Calvert County Zoning Ordinance (Article 8-1.03).

Mitigation must be performed in order to remedy the violation. Total mitigation, as required by the Zoning Ordinance, is 4 times the area disturbed (Article 8-1.03.G.1.c.iv). Mitigation must be performed by replanting the area (15,727 SF) that was cleared without permits. A planting plan and refundable bond in the amount of \$7,863.00 (15,727 SF x \$.40/SF x 1.25) will be required (Article 8-1.03.G.1.d.i) and held for 1 year to assure satisfactory replacement. Fees in the amount of \$18,872.00 (15,727 SF x 3 x \$.40/SF) must be paid for the balance of the mitigation (Article 8-1.03.G.1.c.iv). A list of acceptable native trees and the square foot coverage credited to each has been included with this letter

A planting plan for the mitigation, the bond, and all applicable fees are due by **May 30, 2005**. Failure to respond may result in additional fees and referring this case to District Court. If you elect to stand trial, you must give notice of intention to stand trial at least five days before the due date of payment as set forth in the attached citation.

Mailing Address: 175 Main Street, Prince Frederick, Maryland 20678

Maryland Relay for Impaired Hearing or Speech 1-800-735-2258

RECEIVED

MAY 26 2005

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

Board of Commissioners
Gerald W. Clark
David F. Hale
Linda L. Kelley
Wilson H. Parran
Susan Shaw

If you have any questions, please feel free to contact this office at 410-535-2348.

Sincerely,

A handwritten signature in cursive script that reads "Richard Stotler". The signature is written in dark ink and is positioned above the printed name.

Richard Stotler
Planner I

Cc: Greg Bowen
Chris Campany
Pat Nutter
Dave Brownlee
file

**BOARD OF APPEALS
CRITICAL AREA FORM**

**THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED FOR ALL
CRITICAL AREA VARIANCE CASES:**

PROPERTY LOCATION AND INFORMATION:

Tax Map # 35A Parcel ----- Lot 690 Block ----- Section -----
Property Address 8502 Perch Court; Lusby, MD 20657
Zoning R-1 Critical Area Designation LDA
Total Acreage of Property 2.97 acres Tax ID 01-145975

PROJECT INFORMATION:

Type of construction proposed new construction
Total square footage of the proposed construction 1,008 sq. ft
Total square footage of existing impervious surface -0-
Total square footage of proposed impervious surface 3,082 sq. ft.
Total square footage of existing tree cover 129,373 sq. ft.
Total square footage of disturbed area and/or tree cover to be removed 15,727 sq. ft.
Is the proposed construction site within the waterfront buffer? no - yes
Is the proposed construction site on slopes greater than 15%? yes

ALL PLANS MUST CONTAIN THE FOLLOWING INFORMATION:

- Location and dimensions of the proposed construction.
 - Location and dimensions of all existing improvements on the property.
 - Location and dimensions of driveways, parking areas and accessory structures.
 - Distances from proposed construction to all property lines and waterways/wetlands.
 - Location of the approved well and the septic system drainfields.
 - Location of the tree canopy line and limit of clearing.
 - Waterfront and/or wetland buffers.
- **For all new and replacement dwellings and for substantial additions, fully engineered plans are required, showing 2-foot contours, grading, and proposed sediment and erosion control measures.**

**NOTE: APPLICATIONS AND PLANS THAT ARE INCOMPLETE MAY BE
RETURNED TO THE APPLICANT FOR COMPLETION BEFORE SCHEDULING
FOR PUBLIC HEARING.**

BOARD OF APPEALS
STAFF REPORT FOR THE DEPARTMENT OF PLANNING AND ZONING

DATE: June 2, 2005

CASE NO. 05-3185R

APPLICANT: David and Sylvia Brown

VARIANCE TYPE: Steep Slope

PROPERTY LOCATION: 8502 Perch Ct., White Sands

PROPERTY SIZE: 2.97 acres

WATERFRONT: Un-named Tributary Stream at base of hill

DISTURBED AREA: 15,727 s.f.

DEVELOPMENT SITE SLOPE: ~17%

GENERAL SITE CONDITIONS:

A portion of the property has been cleared of all vegetation. Violation notice has been sent (copy attached).

The front portion of the lot is moderately steep (~17%). The terrain falls more steeply beyond this area. A tributary stream to St. Leonard Creek is located at the base of the slope.

COMMENTS:

The Board previously deferred action on this case to allow the property owners time to revise the application to include a buffer variance, and also for the applicant to stabilize the cleared area. Both items have been addressed. Seed and straw has been placed on the cleared area. The applicants submitted a revised plat verifying the limit of unauthorized clearing, and also demonstrating that nearly the entire property lies within the extended waterfront buffer.

In the previous hearing, the applicant's grading contractor testified that he cleared 15,727 s.f. of woodland on the property without permits because the permit process was taking longer than he had anticipated and because he had architectural approval from White Sands Civic Association for the house design. While the Department of Planning and Zoning does not accept these reasons as legitimate causes for clearing without permits, we are attempting to work with the property owners who appear to have been unaware of the permit process.

It is the opinion of the Department of Planning and Zoning that the limit of disturbance shown on the plat exceeds that which is necessary to construct the house, driveway, well and septic system on this property. We believe that the entire construction could have been accomplished by clearing no more than 8000 s.f., which is approximately half of what was cleared.

The Department of Planning and Zoning has shown some leniency in regard to the unauthorized clearing by deciding to charge as violation only the cleared area that the Board deems is in excess of that necessary to accomplish reasonable development of the site. If the Board decides that development could have been accomplished with 8000 s.f. of clearing, then the Department of Planning and Zoning will address the 7727 s.f. of additional clearing as a violation.

The property owners will also be required to post bond for replanting the excess disturbed area. The planting plan submitted with the revised application is insufficient to meet replanting requirements. The applicants must meet with Critical Area reforestation staff to develop an adequate replanting plan based on the Board's decision in this case.

Memo

To: Roxanna Whitt

From: Stephanie Taylor, Site Engineering Technician *ST*

Date: July 1, 2005

Re: BOA Case No. 05-3185

We offer the following comments regarding the revised Board of Appeals case referenced above:

1. A washed gravel bed, minimum 6" deep should be placed under all proposed decks and raised porches to provide stabilization.
2. All disturbed slopes of 15% or greater should be stabilized with sod or with erosion control matting combined with natural vegetative plantings.
3. Rooftop runoff should be directed into drywells or onto riprap pads.
4. Stormwater Management shall be addressed in accordance with the current ordinance at time of Building Permit Application.
5. Per Road Agreements in place between the Property Owners Association of White Sands and the BOCC, White Sands approval is required prior to issuance of Permit.



GENERAL NOTES

Job No. CA - 426 - A - 375

1. A title search was not furnished to or performed by this company.
2. Decks and other structures not shown do not have Zoning approval for construction.
3. The issuance of County permits is a local process and does not imply the applicant has met State and Federal requirements for wetlands filling and/or wetland buffer disturbance.
4. All fill under buildings to be Class 1; all fill under driveways and walks to be Class 2; all remaining fill to be Class 3.
5. Septic design will allow for basement level plumbing as shown, please see Health Department approved plot plan.
6. Impervious area: House = 1,008 s.f. D/W = 2,074 s.f.
7. Disturbed area: 15,727 s.f. Disturbed area in 15% slopes: 8,498 s.f.
8. Downspouts to discharge onto rip-rap pads as shown.
9. Disturbed area to be stabilized as construction progresses to reduce run-off.

Tax I.D. # = 01 - 145975
 Building Permit # = 51376
 Grading Permit # = 51377

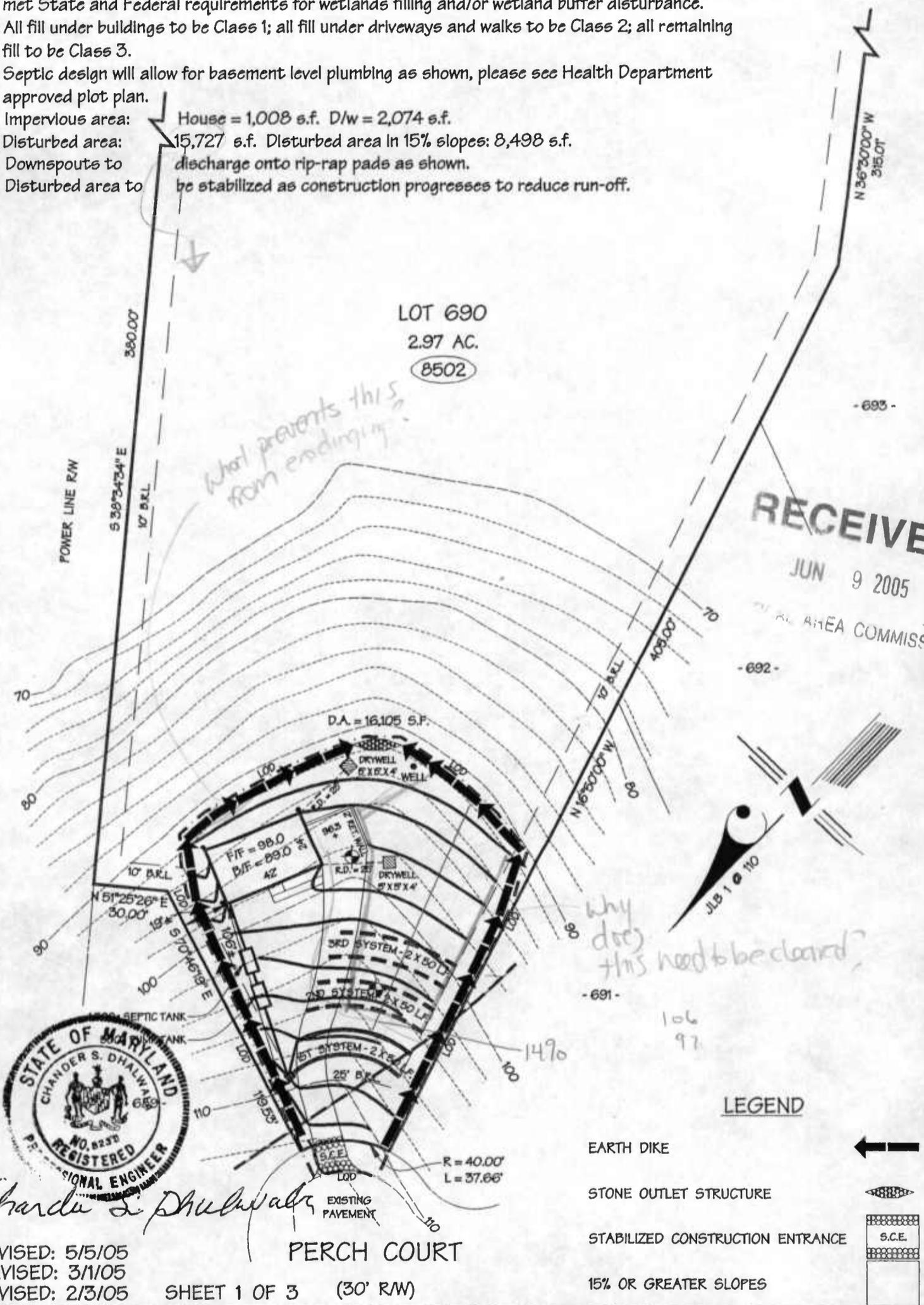
LOT 690
 2.97 AC.
 (8502)

What prevents this from ending up?

RECEIVED

JUN 9 2005

CALVERT COUNTY AREA COMMISSION



Chander S. Dhalwal

REVISED: 5/5/05
 REVISED: 3/1/05
 REVISED: 2/3/05

PERCH COURT
 SHEET 1 OF 3 (30' RW)

LEGEND

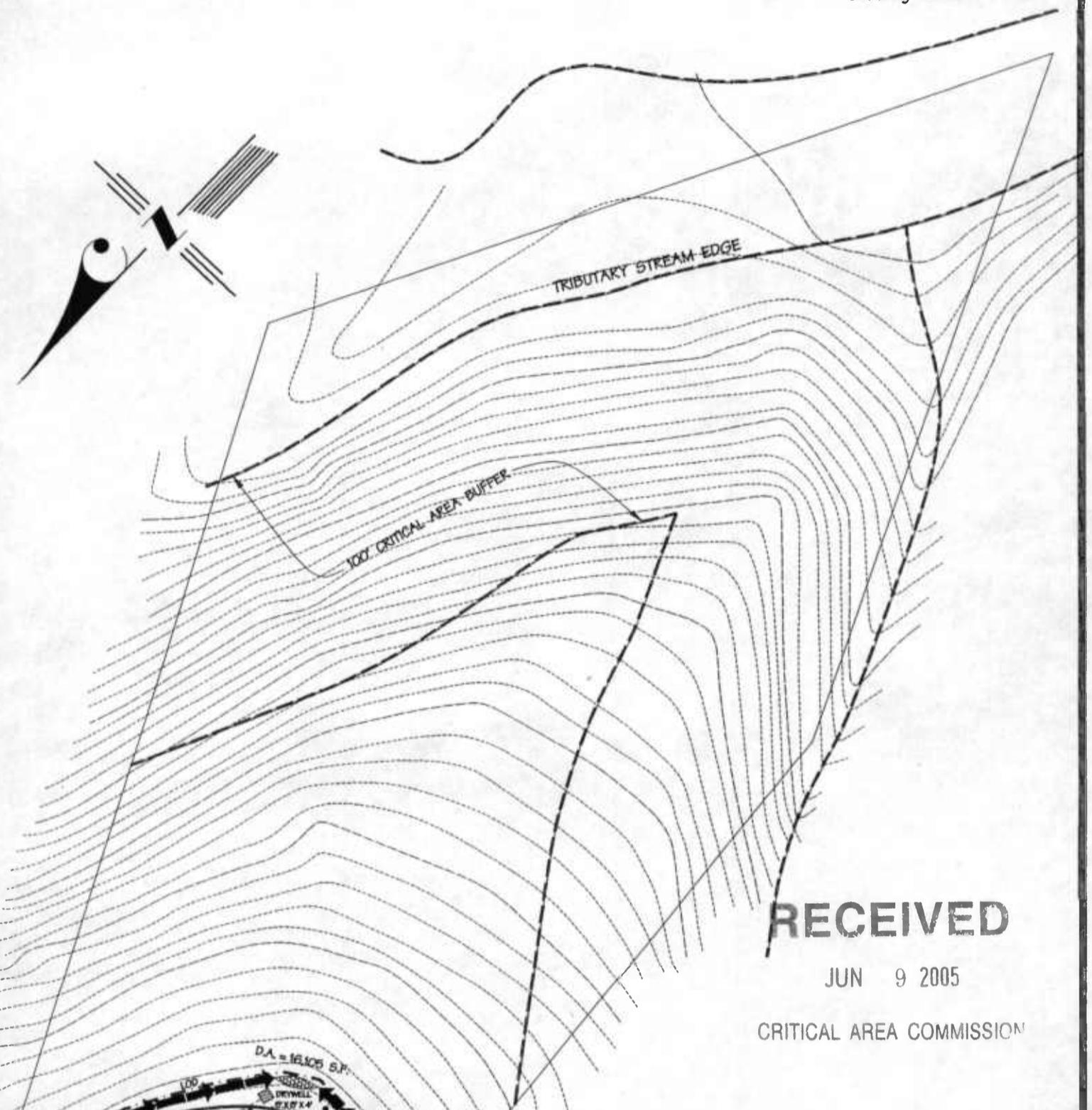
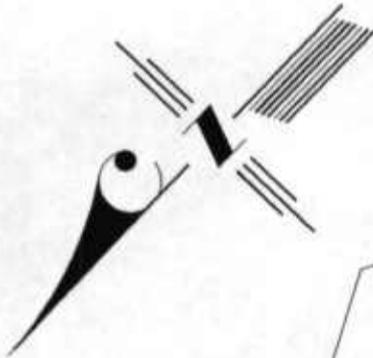
- EARTH DIKE
- STONE OUTLET STRUCTURE
- STABILIZED CONSTRUCTION ENTRANCE
- 15% OR GREATER SLOPES

RDA
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 ENGINEERS • LAND PLANNERS • LAND SURVEYORS
 65 DUKE STREET, SUITE 204
 PRINCE FREDERICK, MARYLAND 20678
 PHONE (301) 855-9500 (410) 535-8600
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CRITICAL AREA PLOT PLAN	
LOT 690 PLAT 16	
WHITE SANDS	
FIRST DISTRICT - CALVERT COUNTY - MARYLAND	
FOR: HAROLD MATTESON	JANUARY, 2005
Recorded In: JLB 1 @ 110	Scale: 1" = 50'

Revised for July 05

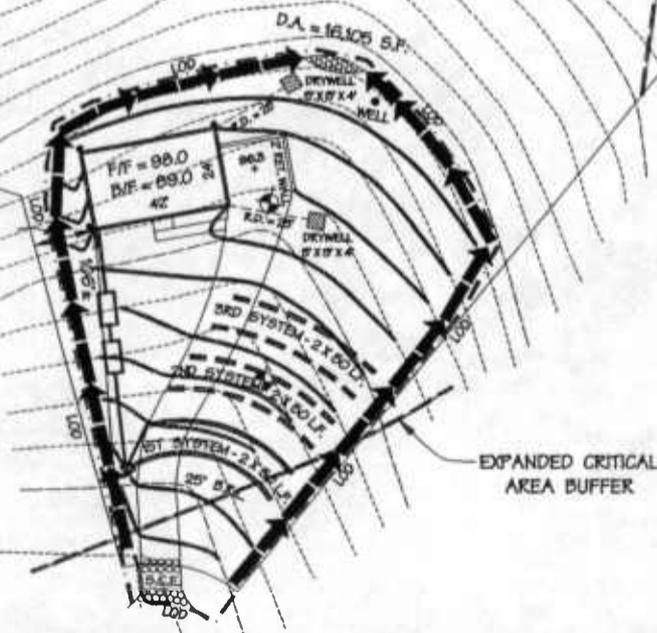
05-3145



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JUN 9 2005

CRITICAL AREA COMMISSION



Chandar S. Dhalwala

SHEET 2 OF 3

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BOARD OF APPEALS EXHIBIT

LOT 690 PLAT 16

WHITE SANDS

FIRST DISTRICT - CALVERT COUNTY - MARYLAND

FOR: HAROLD MATTESON

MAY, 2005

Recorded In: JLB 1 @ 110

Scale: 1" = 60'