

DC 830-05
SUB

Kirtland, William
982

MSA-S-1829-4986

10/11-140-Response mailed

11/2/10
File originally
cleaned DS

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

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

October 1, 2001

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: Kirtland Subdivision, SUB 982
DC 224-01**

Dear Mr. Dodd:

Thank you for providing information on the referenced project. The applicant is proposing an intrafamily transfer based on our discussion when we met on June 8, 2001. I have reviewed the subdivision plat and your letter to Mr. Callahan dated August 31, 2001, and I have the following comments:

1. Based on our meeting, Commission staff are considering this subdivision as an intrafamily transfer of a parcel greater than 12 acres and less than 60 acres which allows the property to be subdivided into three lots, all of which will be buildable if they meet all other local requirements. Lot 1 is considered to be the parent parcel because the parent parcel may be conveyed to a nonfamily member without meeting the standards and procedures for subsequent conveyance of lots specified in §8-1808.2(g) of the Natural Resources Article of the Annotated Code of Maryland. It is acknowledged that this conveyance has already occurred and this subdivision will legalize Lot 1 as a buildable lot. Lot 2 and Lot 3 are considered to be the additional lots permitted by the intrafamily transfer provisions, and therefore must be conveyed to family members.
2. The plat should include a detailed note describing that the lots were created in accordance with the intrafamily transfer provisions in the County Subdivision Regulations. The note should include the standards and procedures for subsequent conveyance to a nonfamily member so that it is clear that the lots are not created for ultimate commercial sale.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

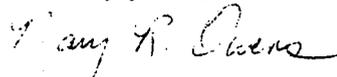
TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Mr. Dodd
October 1, 2001
Page 2

3. The subdivision plat should show the Critical Area boundary, Critical Area designation, and the Critical Area acreage and total acreage of each lot.
4. The applicant must provide information from the Heritage Division regarding the presence of rare, threatened, and endangered species. Please provide a copy of the correspondence from the Heritage Division.
5. The 100-foot Buffer must be shown on the subdivision plat. Plat notes should indicate that new development activities and land disturbance are prohibited in the Buffer. Plat notes should also indicate that clearing of existing natural vegetation is not allowed.
6. The plat does not indicate that the 100-foot Buffer will be fully established in natural vegetation. In accordance with §27.01.09.01.C(6) of COMAR, when agricultural use of the property ceases and the land is converted to other uses (i.e. residential development), the 100-foot Buffer must be established. The applicant must indicate how this requirement will be addressed.
7. Forest cover must be shown on each lot. If total forest cover for the subdivision is less than 15%, afforestation will be required.
8. The plat should include a note stating that impervious surface area is limited to 15% of each lot.
9. The plat does not include topography or any information about slopes greater than 15%.
10. The plat does not include information about perennial and intermittent streams.

Please provide the additional information requested. If you have any questions about these comments, please feel free to call me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

Judge John C. North, II
Chairman



Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

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

April 13, 2001

Mr. Sean Callahan
Lane Engineering, Inc.
15 Washington Street
Cambridge, Maryland 21613

RE: Mr. Kirtland and Dorchester County Property

Dear Mr. Callahan:

I am writing to follow up on your letter dated March 14, 2001 to Mr. Bill Kirtland. I believe that some of the information that you provided to Mr. Kirtland requires clarification. I did not receive a copy of the e-mail from Mr. Kirtland to you dated March 12, 2001, so my comments are directed towards your letter.

1. I am not clear about Mr. Kirtland's question regarding the time frame for an easement; however, it is important to note that development on both of the illegally subdivided lots should be restricted until this matter is resolved. It is also important to note that because this proposal involves a subdivision within the RCA, the County is required to submit it to the Critical Area Commission for review and comment. I agree with your response that generally easements are permanent. Should the property receive growth allocation, which you state is unlikely (because the County does not allow growth allocation to be used for residential development in agricultural areas), it is possible that an easement may no longer be required.
2. I agree with you that an easement could possibly be shifted or transferred; however, when easements are platted for density purposes, this is often extremely difficult to accomplish. Usually it is difficult to find even one contiguous property that is designated RCA, is greater than 20 acres in size, and is owned by someone who would be willing to sell an easement to allow development on an adjacent property. A qualifying property would need to satisfy all of these elements.
3. I agree with you that the easement for the "1.6 acre density parcel" would have to be fixed, and it would need to be described by bearing and distance and recorded.

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(410) 822-9047 Fax: (410) 820-5093

Mr. Callahan
April 13, 2001
Page 2

4. I agree that it might be possible to move a 1.6-acre easement within a larger property after the easement were recorded; however, the new location would need to be approved and recorded in a manner similar to the original easement and would need to satisfy the elements outlined in #2, above. It is important to be aware that as surrounding land uses change, this might not be possible.
5. I agree that the easement needs to be recorded in the Land Records and referenced to the deeds of both the grantor and the grantee.
6. I agree that compensation for an easement is at the discretion of the owners involved.
7. I have no comment regarding the value of the easement relative to land values or the needs of a party seeking an easement.
8. In the final paragraph of your letter, you recommend that Mr. Kirtland pursue an easement on a property that is currently zoned RR/LDA. Although this zoning designation in and of itself does not preclude the granting of an easement, the use of this property would not resolve the RCA density issue on Mr. Kirtland's property. When an area of land is restricted from future development by an easement in order to meet the RCA density requirements, it must be designated as RCA.
9. In your letter to Mr. Kirtland dated February 26, 2001, you stated that it would not be necessary for the "1.6-acre density parcel" to be physically adjacent to the 18.4 acre lot. I have researched this matter further with the Commission's Executive Director, Ren Serey. Within the Critical Area, parcels recorded to meet density requirements must be contiguous to the lot that is less than 20 acres. In addition, if the property that is selling the easement is developed (with a single family dwelling) or proposed for development, it would have to include a minimum of 21.6 acres in the RCA in order to maintain the one-per-20 acre density. I apologize for any confusion on this issue.
10. I have discussed some of the specific problems surrounding Mr. Kirtland's subdivision with Ren Serey and Regina Esslinger, the chief of Project Evaluation, and we believe that it may be possible to do some form of an intrafamily transfer subdivision that would allow the subsequent transfer of the parent parcel. Depending on which parcel was determined to be the parent parcel, this might allow the sale of a lot to Mr. Buczek. Commission staff would need to meet with County staff and the Mr. Kirtland to determine the feasibility of this option.

Mr. Callahan
April 13, 2001
Page 3

Thank you for allowing me to provide clarification of the concepts described in your letters to Mr. Kirtland. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely yours,

A handwritten signature in cursive script that reads "Mary R. Owens". The signature is fluid and includes a long horizontal flourish at the end.

Mary R. Owens, Chief
Program Implementation Division

Cc: Mr. Steve Dodd, Dorchester County
Mr. Bill Kirtland

Memorandum

To: File DC 224-01
Date: March 19, 2004
Re: Meeting Regarding Replacement Structure in Buffer
From: Wanda Diane Cole

Attendance: Bill and Ann Kirtland, property owners; Mary Owens and Wanda Cole, CAC; Karen Houtman, Dorchester County P&Z.

Mr. & Mrs. Kirtland wish to replace the structure located in the Buffer on Lot 3 with a larger house and, possibly, an attached garage in the same vicinity. They asked for a meeting to discuss what approvals they would need to do so. They plan to remove, or already have removed, a corn crib and old shed that are also located in the Buffer. It is possible that the existing driveway loop and parking area, which are also in the Buffer, could be relocated to accommodate the location of the replacement dwelling. In discussing options, the Kirtlands were advised that Lot 3 was no longer grandfathered due to the recent intrafamily subdivision, that replacing an existing structure in the Buffer would require a variance, and that all variance standards must be met in order for the variance to be approved by the BOA. The Kirtlands were also advised that the size of the lot would make it difficult to meet the standards regarding unusual circumstances and reasonable use of the lot, and that they should look at moving all or most of the redevelopment out of the Buffer.

Lot 3 measures 19.21 acres and wraps around Lot 2. Approximately 4-5 acres of the lot are situated along the point and contain the existing development. The point lies on the north side of Lot 2 and the balance of Lot 3 lies on the south side of Lot 2. The access lane to Lot 3, which borders the east side of Lot 2, connects the two sections of Lot 3.

The Kirtlands have chosen 2-3 footprints that require a 3600 square foot area for the dwelling. It appeared possible to site the house completely or mostly outside the Buffer, however, the triangular area outside the Buffer is constrained by the size of the SRA. A determination would be needed from the Health Department as to whether the proposed BIP on Lot 2 could be shared by Lot 3, whether the SRA for Lot 3 could be shifted south if the boundary line were adjusted accordingly, or whether the SRA on Lot 3 could be reconfigured to accommodate the shape of the dwelling and the location for the attached garage.

It appears it is possible to place most of the redevelopment outside the Buffer. The variance for the remaining Buffer disturbances could most likely be supported by showing that the redevelopment is farther from the shoreline, that the existing SRA would be removed from the Buffer, and that most of the impervious areas would be removed from the Buffer. The site plan has been revised to show the 15% afforestation area along the access road and the adjoining property line between Lots 2 and 3.

DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 107
CAMBRIDGE, MARYLAND 21613
PHONE: 410-228-3234



RECEIVED

SEP 4 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

August 31, 2001

Mr. Sean Callahan
Lane Engineering
15 Washington Street
Cambridge, MD 21613

Re: Subdivision application – William Kirtland et al

Dear Sean,

I am in receipt of your subdivision application and narrative for the above-referenced project. To clarify again my reasons for rejecting Mr. Kirtland's original application, my concern was that conveyance of Lot 1 to a non-family member nullified Mr. Kirtland's rights to resubdivide the remainder of the property since the RCA density of one dwelling per twenty acres could not be met. Since the Critical Area Commission appears to be satisfied that the subdivision meets the spirit of the critical area law, I will process it as an "intrafamily transfer." I will also send a copy of the subdivision plat under separate cover to Mary Owens for her review and comments. I will ask her to confirm that, should the owner of lot 1 wish to convert his property to a building lot in the future that the subdivision's approval will not preclude that.

My other comments are as follows:

1. Your P & Z # is 982.
2. Show the critical area line if any portion of lots 2 & 3 are not in the critical area (see your note #3). Indicate the zoning inside and outside of the critical area.
3. I'm concerned that by showing lot 1 on the plat that it could be misconstrued as a buildable lot. I would like you to add wording on lot 1 to the effect that "Lot 1 is not approved as a building lot for development purposes unless or until a plat is approved by the Dorchester County Planning Commission and other applicable agencies."
4. One development right per lot.
5. Show any forest lands on lot 2 & 3. Afforestation may be required, depending on what is there already.

RECEIVED

SEP 4 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

6. Add a note that "This subdivision is created pursuant to Section 140-54 of the
Dorchester County Subdivision Regulations."
7. Impervious surfaces are limited to 15% of the area of each lot.
8. Set a benchmark referenced to NGVD.
9. Indicate that the island of land containing the existing house is part of Lot 3.
10. Indicate that the critical area designation is RCA.
11. An additional fee of \$100 is due as the subdivision is in the critical area.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve M. Dodd".

Steve M. Dodd

Cc: Mary Owens

SMD/lk

DC224-01

Lane Engineering, Inc.

Established 1986

Civil Engineers • Land Planning • Land Surveyors

Thomas D. Lane, *President*
Terry L. Richardson, *General Manager*

15 Washington Street
Cambridge, Maryland
21613

Telephone: 410-221-0818
Fax: 410-476-9942
E-mail: mail@leinc.com

March 14, 2001

Mr. Bill Kirtland
13624 Spinning Wheel Drive
Germantown, Maryland 20874

RE: Dorchester County Property

Dear Mr. Kirtland:

Based on your email to me of March 12, 2001 you had the following questions:

1. What is the time frame for an easement? I would suggest that the time frame for platting the easement for review by the County (and State, should the County feel compelled to have the State review the matter) would be one month from the time when we know what property has agreed to the easement. The easement would be permanent or could change if the zoning of the properties no longer required the easement. The zoning change is very unlikely.
2. Can an owner withdraw an easement in the future? I would suggest that the easement could be shifted or transferred to another site with the same characteristics but not abandoned.
3. Can the designated 1.6 acres be floating or does it have to be fixed? The easement would be required to be described by bearing and distance and shown on an official document to be recorded in the Land Records of Dorchester County.
4. Can the 1.6 acres be moved in the future within the larger property area? I would suggest that the easement could be shifted or transferred to another portion of a site with the same characteristics.
5. Is the easement recorded on the deeds of both the grantor and grantee? The easement would have to be referred to in the Land Records so that a title search would identify the easement. I do not believe this requires the deeds to be rewritten.
6. What is reasonable compensation for granting and easement for our purposes? This is at the discretion of the owners involved.
7. Is the value of the easement related to land values or to the needs of the party seeking the easement? I would suggest that it is as the value of the easement makes the lot buildable and therefore does elevate to land value. It may be easier to buy land from a neighbor as opposed to placing an easement as people understand and can quantify that value.

RECEIVED

MAR 15 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION



Mr. Bill Kirtland
Page 2
March 14, 2001

By copy of this letter I am requesting that Steve Dodd or Mary Owens contact me if they have any concerns about the concepts described in this letter or my letter to you of February 26, 2001. I would suggest that the best option for the Kirtland site would be to contact Hood (formerly Bezdeck) directly north and west of Kirtland and propose a 1.6 acre easement. The fact that This land is zoned RR/LDA should not preclude the easement.

Please feel free to contact me with any questions.

Sincerely,

LANE ENGINEERING, INC.

Sean Callahan 

Sean Callahan
Project Manager

Cc: 000093 File
Steve Dodd
Mary Owens

Lane Engineering, Inc.

Established 1986

Civil Engineers • Land Planning • Land Surveyors

Thomas D. Lane, *President*
Terry L. Richardson, *General Manager*

15 Washington Street
Cambridge, Maryland
21613

Telephone: 410-221-0818
Fax: 410-476-9942
E-mail: mail@leinc.com

February 26, 2001

Mr. Bill Kirtland
13624 Spinning Wheel Drive
Germantown, Maryland 20874

RE: Dorchester County Property

Dear Mr. Kirtland:

After a discussion with Mr. Steve Dodd of Dorchester County Planning & Zoning, he agreed to go forward with your project if you can allocate 1.63 acres of "Reservation of Development Right Easement Area" from an adjoining property owner. We have enclosed a tax map and the names and addresses of the adjoining property owners within the 1000' Critical Areas boundary. You should contact these owners to see if they would be willing to allocate 1.63 acres of their property for the easement.

Mr. Dodd stated that he would like to see the property granting the easement to be adjoining your land. However, he would consider approving an easement if the easement property was not physically adjoining your property. You may recall a discussion with Steve and Mary Owens from the Critical Areas Commission about the fact that the easement did not have to be contiguous to your property but that was the preferred method.

We have enclosed the names and addresses of property owners in the vicinity but not adjoining. Please also find a tax map attached to this document that shows where these properties are in relations to your land.

If any other these folks are interested in helping you out I would be happy to meet with them or them and the County given the distance you live from the project.

Please call me with any questions.

Sincerely,

LANE ENGINEERING, INC.


Sean Callahan
Project Manager

Cc: 000093 File

Formerly William W. Ludlow, Jr. & Associates, Inc.



Lane Engineering, Inc.

Established 1988

Civil Engineers • Land Planning • Land Surveyors

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15 Washington Street
Cambridge, Maryland
21613

Telephone: 410-221-0818
Fax: 410-476-9942
E-mail: mail@leinc.com

February 26, 2001

Mr. Bill Kirtland
13624 Spinning Wheel Drive
Germantown, Maryland 20874

RE: Dorchester County Property

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We have enclosed the names and addresses of property owners in the vicinity but not adjoining. Please also find a tax map attached to this document that shows where these properties are in relations to your land.

If any other these folks are interested in helping you out I would be happy to meet with them or them and the County given the distance you live from the project.

Please call me with any questions.

Sincerely,

LANE ENGINEERING, INC.

Sean Callahan 

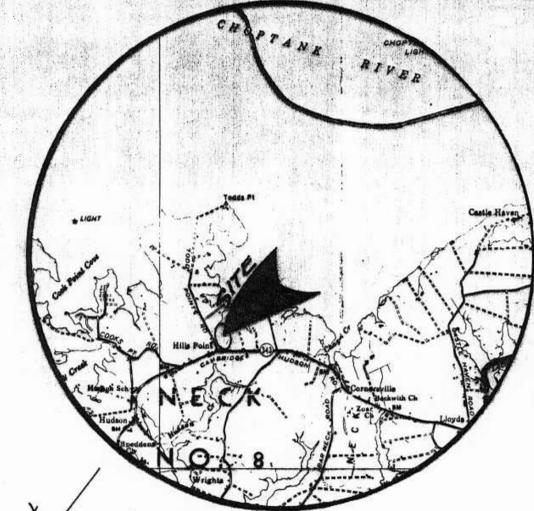
Sean Callahan
Project Manager

Cc: 000093 File

Formerly William W. Ludlow, Jr. & Associates, Inc.



CHOPTANK RIVER



VICINITY MAP
SCALE: 1" = 1 MILE

Received Oct 3 1997
Recorded in Liber 314
No. 44 Title 343 and
of the Plat Revision
Books of Dorchester County
Town Dorchester Clerk

PREVIOUS APPROVALS OF 1/20/95

"This Subdivision is exempt from the Dorchester County Subdivision Regulations under the provisions of 140-4A(1), Lots 1 & 2, being transferred, neither intended nor approved for development purposes until or unless a plat drawn to scale showing the proposed development is approved by the Dorchester County Planning Commission, Dorchester County Health Department, Dorchester County Highway Department and/or any other agency that would normally approve the lot had it originally been established for development purposes."
This plat and the previous plat (44/16B) are exempt from the Critical Area density regulations per sect. 140-5A(2) of the Dorchester County Subdivision Regulations.

OWNER'S CERTIFICATE

We, Arleen Dale Kirtland, Trustee, and Mary R. Kirtland, owners of the property shown hereon hereby adopt this plan of subdivision establishing the minimum building restriction lines; and all parties in interest thereto have affixed their signatures indicating as/her assets to this plan of subdivision.

4-16-95
Date
Arleen Dale Kirtland, Trustee

Mary R. Kirtland
Date
1-16-95
William R. Kirtland, her Attorney-in-Fact
under Power of Attorney dated 6/6/92 and recorded in Liber 314, Folio 155

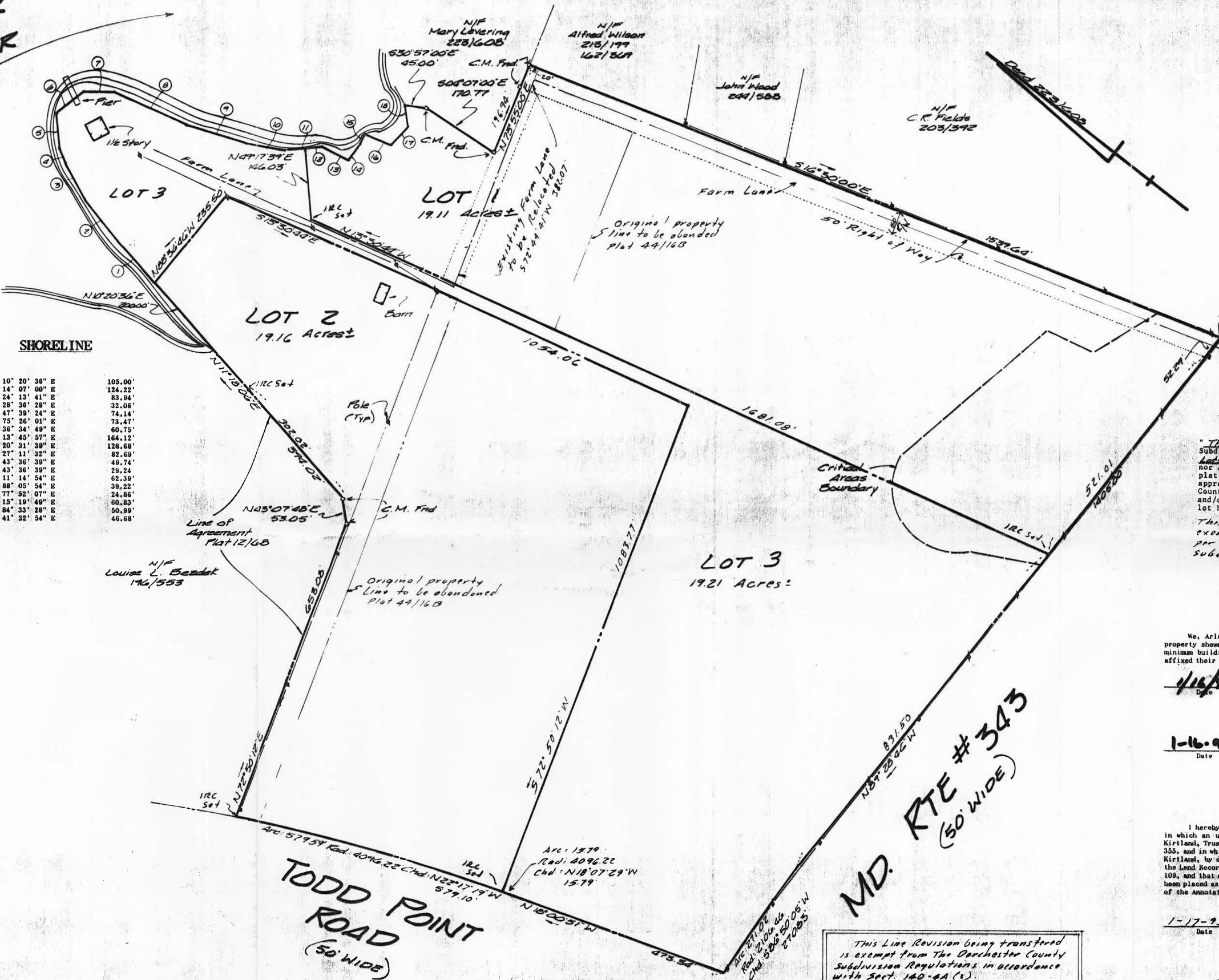
SURVEYOR'S CERTIFICATE

I hereby certify that this plan is correct, that it is a plan of the land in which an undivided one-half (1/2) interest was conveyed unto Arleen Dale Kirtland, Trustee, by deed dated March 17, 1993 and recorded in Liber 285, Folio 355, and in which an undivided one-half (1/2) interest was conveyed unto Mary R. Kirtland, by deed dated the 4th day of December, 1991, and now of record among the Land Records of Dorchester County, Maryland, in Liber P.L.C. No. 271, folio 109, and that monuments marked thus: (O) and iron rods with cap marked thus: (O) have been placed as indicated to the approved finish grade, and that the requirements of the Annotated Code of Maryland have been complied with.

1-17-95
Date
William W. Ludlow, Jr.
Professional Land Surveyor
Md. No. 3691

Line Rev Recorded Plat file 1
Plat Recorded Plat file 44/16B Jan. 20, 1997

- SHORELINE
- 1) N 10° 20' 36" E 105.00'
 - 2) N 14° 07' 00" E 124.22'
 - 3) N 24° 13' 41" E 83.94'
 - 4) N 28° 36' 28" E 32.06'
 - 5) N 47° 39' 24" E 74.14'
 - 6) S 75° 26' 01" E 73.47'
 - 7) S 36° 34' 49" E 60.75'
 - 8) S 13° 45' 57" E 126.68'
 - 9) S 20° 31' 39" E 82.69'
 - 10) S 27° 11' 32" E 49.74'
 - 11) S 43° 36' 39" E 29.24'
 - 12) S 43° 36' 39" E 62.39'
 - 13) S 11° 14' 54" E 39.22'
 - 14) N 88° 05' 54" E 24.86'
 - 15) N 77° 52' 07" E 60.83'
 - 16) S 15° 19' 49" E 50.99'
 - 17) S 84° 33' 28" E 46.88'
 - 18) N 41° 32' 54" E 46.88'



TODD POINT ROAD
(50' WIDE)

MD. RTE # 343
(50' WIDE)

REVISIONS			
Nr	Date	Item	By
1	9/4/97	Line revision	



LINE REVISION
LOTS 1-3
MARY RYAN KIRTLAND
8th Election District
DORCHESTER COUNTY, MD.

William W. Ludlow, Jr. & Assoc. Inc.
SURVEYING AND ENGINEERING
15 WASHINGTON STREET
CAMBRIDGE, MARYLAND 21613
301-221-0618
Date: 11-5-92
Scale: 1" = 100'
Drawn By: S.S.
File No: 1283
Sheet 1 of 1