

SM 331-05

Pressley

VAR

05-1035

MSA-S-1829-5198

6/19 MO-Response

11/30/18  
File originally  
cleaned DS

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/](http://www.dnr.state.md.us/criticalarea/)

June 27, 2005

Ms. April Bahner  
St. Mary's County Government  
Department of Land Use and Growth Management  
P.O. Box 653  
Leonardtown, Maryland 20650

**RE: SM 331-05 Pressley Property Variance  
St. Mary's County Project # 05-1035**

Dear Ms. Bahner:

Thank you for providing additional information on the referenced project, which I received on June 18, 2005. I have reviewed the revised plan, and I understand that the applicant is requesting a variance to allow construction within the expanded 100-foot Buffer.

Specifically, the applicant is proposing to construct a new single-family dwelling and driveway on the property and all of this development is within the 100-foot Buffer. The property is an existing grandfathered lot that is served by public sewer and a private drilled well.

Although almost the entire lot is constrained by the 100-foot Buffer, it appears that the applicant could minimize any potential impacts to the tidal wetlands on this 0.964 acre property by moving the house and driveway to the southeast (so that it is at least 100 feet from the tidal wetlands) and by reducing the width of the driveway from 20 feet to 10 feet. (Please see attached sketch plan.) In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

Because it appears that in this case, the applicant would have reasonable and significant use of the property while maximizing the distance of the development activity from tidal wetlands, this

office believes that the standard of unwarranted hardship, as well as the other variance standards as outlined below, have not been met.

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area that would result in an unwarranted hardship to the applicant.*

The property is a relatively deep 0.964-acre lot, with an opportunity to locate the proposed dwelling at least 100 feet from tidal wetlands. There are no special conditions or circumstances that are peculiar to the property, and it seems that with a more sensitive site design, impacts to the Buffer and tidal wetlands could be reduced.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.*

The applicant has reasonable use of this property for residential purposes with approval a variance that would allow impacts to the Buffer, but would maximize the distance between the development activity and the tidal wetlands. It appears that the dwelling could be located at least 100 feet from the tidal wetlands. If the applicant made an adjustment to the requested variance to minimize impacts to the wetlands, he would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. In general, property owners must locate their houses, driveways and accessory structures to avoid or minimize impacts to tidal wetlands and the Buffer.

3. *The granting of a variance will not confer upon the applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area must locate structures and design the project site to conform to all setback requirements and development standards that apply to their lands.

4. *The variance request is not based upon conditions or circumstances, which are the result of actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*

The applicant meets this standard.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the*

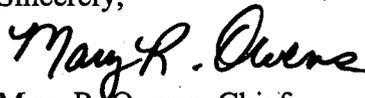
Ms. Bahner  
June 27, 2005  
Page 3

*variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that they meet this standard, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance and impervious surface area in close proximity to tidal wetlands on this site. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that, unless the Board finds that the applicant is able to provide substantial evidence to meet the burden of proof for each one of the variance standards, the Board must deny this application as submitted. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3480.

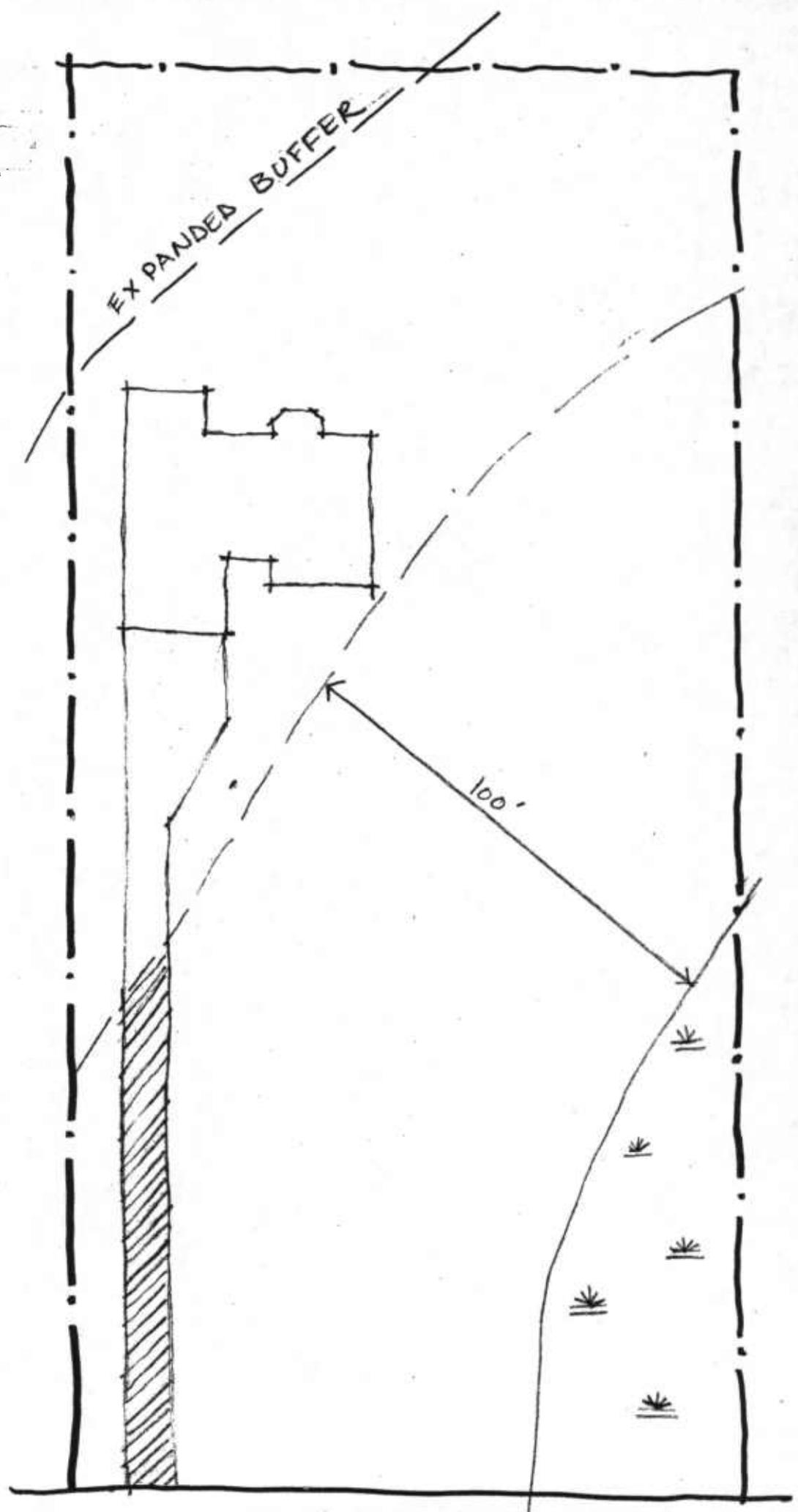
Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

PRESSLEY  
VARIANCE

SCALE: 1"=30'



Robert L. Ehrlich, Jr.  
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June 14, 2005

Ms. April Bahner  
St. Mary's County Government  
Department of Land Use and Growth Management  
P.O. Box 653  
Leonardtown, Maryland 20650

**RE: SM 331-05 Pressley Property Variance  
St. Mary's County Project # 05-1035**

Dear Ms. Bahner:

Thank you for providing revised information on the referenced project. I have reviewed the information submitted. Although the 100-foot Buffer is not shown on the site plan, it is my understanding that the non-tidal wetlands shown are actually tidal wetlands, and the applicant is requesting a variance to allow construction within the 100-foot Buffer.

Specifically, the applicant is proposing to construct a new single family dwelling and driveway on the property and most of this development is within the 100-foot Buffer. The property is an existing grandfathered lot that is served by public sewer and a private drilled well.

It appears that the applicant could significantly reduce the proposed disturbance within the Buffer on this 0.964 acre property by moving the house and driveway to the southeast and by reducing the width of the driveway from 20 feet to 10 feet. (Please see attached sketch plan.) In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

Because it appears that in this case, the applicant would have reasonable and significant use of the property with only minor impacts to the Buffer associated with a driveway and possible a

portion of the dwelling, this office believes that the standard of unwarranted hardship, as well as the other variance standards as outlined below, have not been met.

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area that would result in an unwarranted hardship to the applicant.*

The property is a 0.964-acre lot, with extensive area outside of the Buffer. There are no special conditions or circumstances that are peculiar to the property, and it seems that with a more sensitive site design, impacts to the Buffer could be reduced to approximately 1,200 square feet versus approximately 4,400 square feet as proposed.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.*

The applicant has reasonable use of this property for residential purposes with approval a variance that would allow impacts to the Buffer of approximately 1,200 square feet to construct a driveway to provide access to the site. It appears that the dwelling could be located entirely outside the Buffer. If the applicant made an adjustment to the requested variance to minimize impacts to the Buffer, he would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. In general, property owners must locate their houses, driveways and accessory structures to avoid or minimize impacts to the Buffer. It appears that there is ample opportunity to develop the site and accommodate reasonable residential use of the property with only minimal impacts to the Buffer.

3. *The granting of a variance will not confer upon the applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area must locate structures and design the project site to conform to all setback requirements and development standards that apply to their lands.

4. *The variance request is not based upon conditions or circumstances, which are the result of actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*

The applicant meets this standard.

Ms. Bahner  
June 14, 2005  
Page 3

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that they meet this standard, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance and impervious surface area in the Buffer on this site. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that, unless the Board finds that the applicant is able to provide substantial evidence to meet the burden of proof for each one of the variance standards, the Board must deny this application as submitted. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3480.

Sincerely,

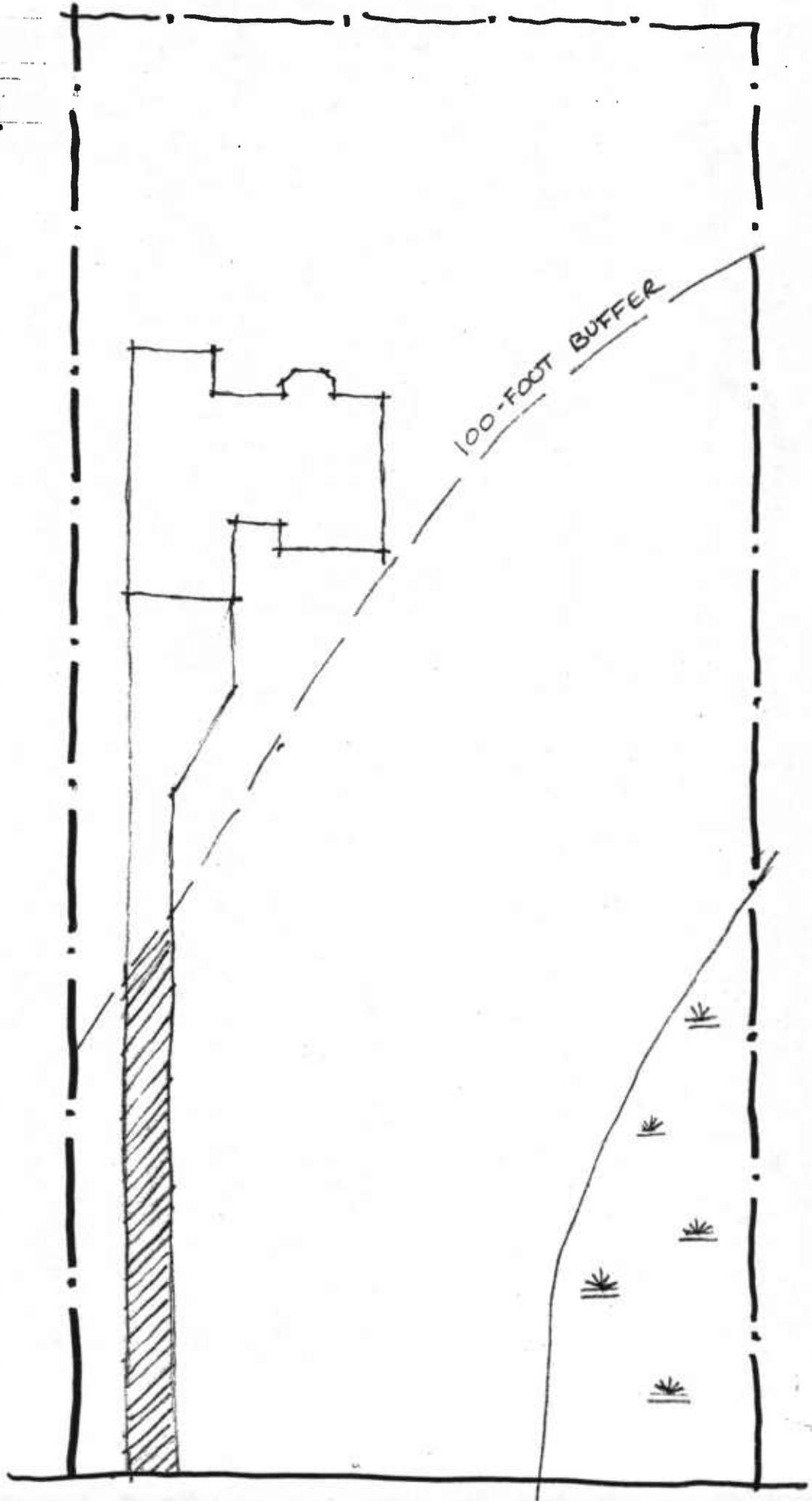


Mary R. Owens, Chief  
Program Implementation Division

PRESSLEY

VARIANCE

SCALE: 1"=30'



**SCD INFORMATION**

**Developer :** Bob Beldon  
P.O. Box 475  
Great Mills, MD 20634  
(301) 862-0480

**Engineering Firm :** Nokleby Surveying, Inc.  
46925-B Shangri-La Drive, S.  
Lexington Park, MD 20653  
(301) 862-3135

**Topography :** Field located on datum from County Monument #30

**Total Disturbed Area = 0.365 Ac.**  
**Total Area to be Vegetatively Stabilized = 0.275 Ac.**  
**Earth Cut = 85 cy**  
**Earth Fill = 300 cy**

Estimates of earthwork quantities are provided solely for the purpose of determining permitting requirements. Since final earthwork quantities are based on many variable conditions which the Engineer has no control, including variability of soils, allowable survey and construction tolerances, and compaction ratios, the Engineer cannot guarantee the accuracy of the estimates for final construction. The Owner/Developer should require the Contractor to provide their own estimates of the quantities in their respective bids.

**SEDIMENT AND EROSION CONTROL NOTES**

- Prior to any excavation or placement of embankment, all control devices shall be in place.
- All construction shall be in accordance with the "1994 Maryland Standards and Specifications for Soil Erosion and Sediment Control", as prepared by Maryland Dept. of the Environment in association with Soil Conservation Service.
- Silt fence shall be installed per S.C.S. Std. Detail #22.
- Stabilized construction entrance shall be constructed per S.C.S. Std. Detail #24.
- Upon completion of all excavation the area shall be sloped and graded as shown. All disturbed areas not otherwise paved, gravelled or seeded shall be topsoiled, limed, fertilized, seeded and mulched in accordance with S.C.S. Standard Section III. This includes both temporary and permanent stabilization seeding.
  - A. Lime: Two ton Dolomitic Limestone per acre
  - B. Fertilizer: 600lbs 0-20-20 per acre  
400lbs 33-0-0 per acre  
500lbs 10-20-20 per acre
  - C. Seed: 100lbs Kentucky 31 Fescue per acre.  
5lbs Red Top Clover per acre.  
80lbs 10-20-20 per acre.
  - D. Mulch: One and one-half (1 1/2) to two (2) tons of straw per acre.
- No slope shall be greater than 2:1 unless otherwise approved.
- Following initial soil disturbance or re-disturbance, permanent or temporary stabilization shall be completed within:
  - A. Seven days as to the surface of all perimeter controls, swales, ditches, perimeter slopes and all slopes greater than 3:1
  - B. Fourteen days as to all other disturbed or graded areas on the project site.
- All excess dirt to be removed to an approved dump site with an approved sediment and erosion control plan.

**INSPECTION PROCEDURES**

The developer shall request that the inspection agency for sediment and erosion control approve work completed at the stages of construction specified below in accordance with the approved sediment and erosion control plan, and the grading or building permit.

(1) On all sites, approval of the inspection agency shall be requested upon completion of the installation of perimeter sediment and erosion controls, but before proceeding with any other earth disturbance or grading. Other building or grading inspection approvals may not be authorized until this initial approval by the inspection agency is made; and,

(2) Approval shall be requested upon final stabilization of all sites before removal of sediment and erosion controls.

(3) Controls shall be notified M.D.E., Enforcement Division, at least 48 hours prior to commencing clearing or grading of (410) 537-3510 or M.D.E., Sediment and Stormwater Administration, 1800 Washington Boulevard, Baltimore, MD 21230-1708

**SEQUENCE OF CONSTRUCTION**

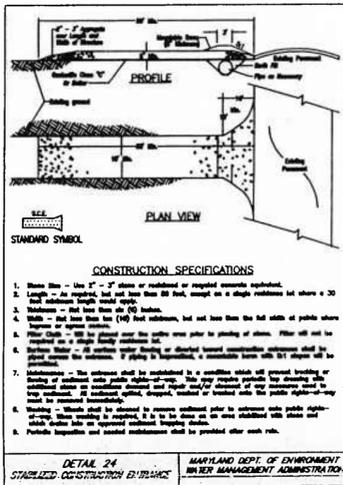
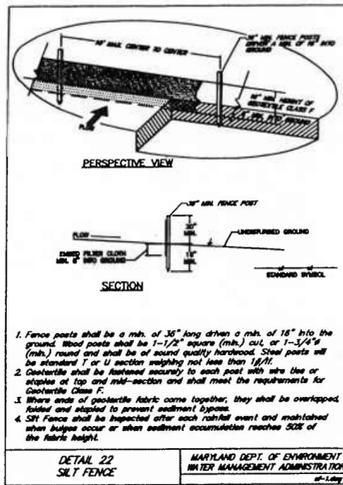
- PHASE I. Clear and grub areas necessary for the installation of perimeter controls and install perimeter controls.
- PHASE II. Remaining clearing and grubbing, rough grading of site for building construction and septic installation.
- PHASE III. Construct Buildings
- PHASE IV. Final grading and permanent stabilization of all disturbed areas.
- PHASE V. Remove all sediment controls upon approval by inspecting authority and stabilize the sediment control areas.

**CONSTRUCTION TIMING**

- PHASE I. One (1) to Two (2) weeks
- PHASE II. One (1) to Two (2) weeks
- PHASE III. Two (2) to Three (3) months
- PHASE IV. One (1) to Two (2) weeks
- PHASE V. Two (2) to Four (4) days

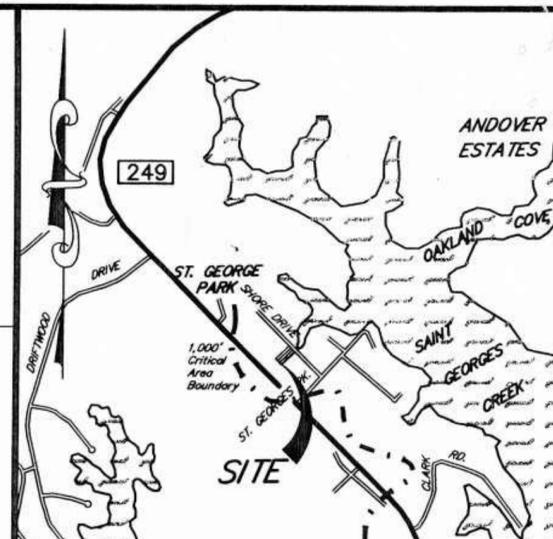
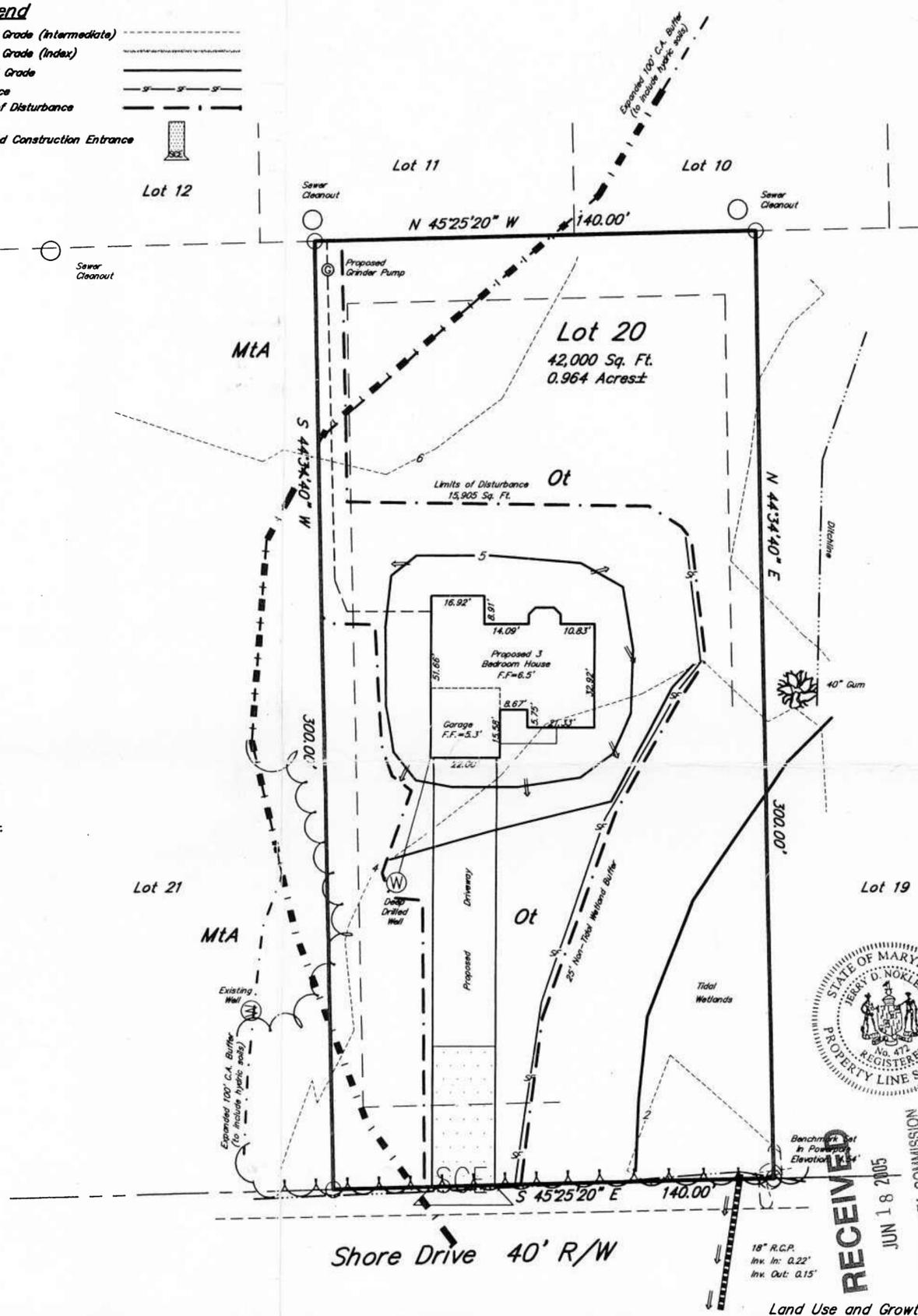
**General Notes**

- This site is located on Tax Map 65 at Grid 4 as P/O Parcel 263.
- This site contains 42,000 Sq. Ft. of land, more or less.
- Present zoning: RHC24 Overlay
- Building Restriction Lines (BRL) and Minimum Yard Requirements are established as per the St. Mary's County Zoning Ordinance as follows: 25' Front, 10' Side and 20' Rear.
- Water supply shall be from a deep drilled well to an approved confined aquifer.
- Seepage flow shall be to a central sewer system.
- This subdivision is in compliance with the St. Mary's County Comprehensive Water and Sewer Plan.
- There shall be a ten (10) foot utility easement along all lot lines. These easements are to include use by the St. Mary's County Metropolitan Commission, its successors and assigns, for construction, installation, maintenance, repair, inspection, and operation of public water and sewer facilities, should such facilities ever be installed.
- Subject Property does not appear to be in the Flood Hazard Zone as delineated on Flood Hazard Boundary Maps for St. Mary's County, Maryland, and distributed by the Federal Emergency Management Area per F.I.R.M. Community Panel #24006-0001 B.
- There are no existing wells or sewage easements within 100' of the proposed wells or sewage easements, unless otherwise shown.
- "Minimum Ownership Statement" - These lots contain at least a 20,000 square foot area which does not include rights-of-way (existing or proposed), 50 year flood plains and 25% or greater grades. The 20,000 square foot area includes the combined area of the sewer reserve area plus the building site.
- This lot will be graded so as to drain surface water away from foundation walls. The grade away from the foundation will fall a minimum of 6 inches within the first 10 feet.



**Legend**

- Existing Grade (Intermediate) [Symbol]
- Existing Grade (Index) [Symbol]
- Finished Grade [Symbol]
- Silt Fence [Symbol]
- Limits of Disturbance [Symbol]
- Stabilized Construction Entrance [Symbol]



**Reforestation Plan**

Reforestation Plan to be determined (TBD) by Critical Area Reviewer.

**Critical Area Notes**

- Approximately 42,000 Sq. Ft. of the Site Area lies within Maryland's Chesapeake Bay Critical Area. Any and all development activities proposed within this area are subject to Critical Area Regulations and will not be permitted until all appropriate local, state and federal agencies have conducted a thorough environmental review and have approved the development plan.
- The one-hundred foot (100') Critical Area Buffer must remain in natural vegetation and may not be disturbed except as provided under Chapter 41 of the St. Mary's County Comprehensive Zoning Ordinance (Chesapeake Bay Critical Area Program) and designated on this plat shall be preserved from future disturbance.
- All existing forest shown hereon shall remain undisturbed except as permitted under the provisions of the St. Mary's County Critical Area Ordinance.
- Existing area of impervious surface within 100' Buffer: 0.00 Sq. Ft.
- Existing area of impervious surface within 1,000' Boundary: 0.00 Sq. Ft.
- Proposed area of impervious surface within 100' Buffer: 0.00 Sq. Ft.
- Proposed area of impervious surface within 1,000' Boundary: 4,949 Sq. Ft.
- Areas with slopes of 15 percent (15%) or greater: 0.00 Sq. Ft.
- Existing trees or forested areas: 42,000 Sq. Ft.
- Proposed areas of vegetation clearing: 12,291 Sq. Ft.
- Afforestation Threshold Area: 6,300 Sq. Ft.
- Afforestation Area Required: 0.00 Sq. Ft.
- Afforestation Area Provided: 0.00 Sq. Ft.
- Reforestation Area Required: TBD Sq. Ft.
- Reforestation Area Provided: TBD Sq. Ft.
- Proposed area of soil disturbance: 20,812 Sq. Ft.
- There are no known natural heritage areas, habitats of threatened or endangered species, or habitats of significant plants or wildlife identified within the Site Area in accordance with Chapter 41 of the St. Mary's County Critical Area Ordinance (Chesapeake Bay Critical Area Program).

**DEVELOPER'S CERTIFICATE**

I hereby certify that any clearing, grading, construction and/or development will be done pursuant to this plan and that any responsible personnel involved in the construction will have a certificate of attendance at a Maryland Department of the Environment Approved Training Program for the Control of Sediment and Erosion before beginning the project.

Bob Beldon \_\_\_\_\_ Date \_\_\_\_\_

**Surveyor's Certificate**

I hereby certify that this plan has been prepared in accordance with the "1994 Maryland Standards and Specifications for Soil Erosion and Sediment Control", and the "Grading and Sediment Control Ordinance of St. Mary's County", to the best of my knowledge, information and belief.

Jerry D. Nokleby - MD Certificate #472 \_\_\_\_\_ Date 5-2-05



RECEIVED  
JUN 18 2005  
CRITICAL AREA COMMISSION

Land Use and Growth Management Control Number: 05-1035

Health Department	Department of Land Use and Growth Management
Date	Date
Director	Director
Sanitarian	P.C. Chairman

No.	Date	Description	By
1	4/15/05	ADDRESS COMMENTS PER SCS	DSF
REVISION			

**NOKLEBY SURVEYING INCORPORATED**

46925-B Shangri-La Drive, S.  
Lexington Park, Maryland 20653  
Phone: (301) 862-3135 \* FAX: (301) 862-4360

**Critical Area Site Plan**

Lot 20  
Sheehan Subdivision  
per Plat 6/28  
Second Election District  
St. Mary's County, Maryland

Contract #: 65-4-263 Drawing: 65263sp20 Chkd by: JDN Dim. by: DSF  
Date: 03/18/05 Scale: 1" = 30' Page 1 of 1