

MSA-S-1829-5290

Comments 4/2/02 (1/1/02)

Comments 5/22/02 (1/1/02)

Comments 7/12/02 (1/1/02)

Comments 9/13/02 (1/1/02)

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/

September 13, 2005

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: White Swan Subdivision-Revised

Dear Ms. Verdery:

This letter is in regard to our continuing review of the above referenced subdivision proposal. The applicant is proposing to create two new lots within the Critical Area. The property is designated as a Resource Conservation Area (RCA) and is currently developed.

Based on the revised plat provided, we have the following comments.

- 1) As there remain outstanding discrepancies between the environmental features shown on the plat and those shown within MERLIN, this office has requested a site visit in order to conduct a field verification of the features delineated by the applicant's engineering representative. Pending the outcome of this site visit, further discussion of the existing environmental features may be necessary.
- 2) In regard to the three Bald Eagle nests on the property, the Talbot County Zoning Ordinance requires that a Habitat Protection Plan shall be prepared, and that this plan shall be reviewed, with specific comments, by the Maryland Department of Natural Resources (DNR). In addition, the ordinance specifically states that any activity within the protection zone for Bald Eagles should be consistent with the recommendations made by DNR. While a copy of the recommendations provided by Glenn Therres of DNR has been obtained, the applicant has not provided a HPP or clearly addressed Mr. Therre's recommendations. In contrast, the applicant has included only the County's standard Bald Eagle protection guidelines on the plat, as opposed to addressing the site specific, and less restrictive, recommendations provided by DNR. Should the note on the plat remain as stated, and no HPP be submitted, this office will assume that the applicant has elected to abide by the more restrictive

Mary Kay Verdery
White Swan Subdivision
September 13, 2005
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conditions listed on the plat, whereby the current location of the dwelling would appear to be problematic.

- 3) The plat includes a description of the dwelling on the proposed Lot 1 as under construction. Given that the proposed Lot 1 has not yet been approved or recorded, it is unclear how permits were obtained to construct a dwelling on the site. Does this also indicate that the proposed well and sewage disposal areas have been constructed prior to subdivision recordation? Please clarify.

Thank you for the opportunity to provide comments for this revised subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
TC 37-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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July 12, 2005

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: White Swan Subdivision-Revised

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is requesting to subdivide a 66.373-acre parcel to create 2 new Critical Area lots. The property lies within a designated Resource Conservation Area. Lot 1 is currently undeveloped and Lot 2 is currently developed with a tennis court, multiple sheds, three barn structures, and a farm manager's office building.

Based on the information provided, we have the following comments regarding the subdivision proposal.

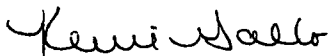
- 1) It does not appear that the applicant has addressed our previous concerns regarding the discrepancy in wetland areas shown on the plat and those shown in MERLIN. Specifically, MERLIN shows multiple pockets of palustrine wetlands. These wetlands are not currently shown on the plat. In addition, MERLIN shows several tidal areas whose boundaries do not match those shown on the plat. Please ensure that the existing wetland areas on the property are field delineated both for the presence and extent of tidal and non-tidal wetland boundaries. We note that property acreage totals and impervious surface calculation are subject to change based on field verification of these features.
- 2) The Talbot County Soil Survey shows the presence of an unclassified intermittent stream which runs approximately along the proposed division lines for Lots 1 and 2, as well as a second unclassified intermittent stream lying directly to the south. Please have the applicant provide a field verified determination of their existence and limits, along with an assessment of their form and function as they exist today.

Mary Kay Verdery
White Swan Subdivision
July 12, 2005
Page 2

- 3) The revised plat shows a structure labeled as a farm manager's office on the proposed Lot 2. Please clarify whether this structure is the same structure proposed to be relocated on the former Lot 1. In addition, please verify that this structure appropriately qualifies as an accessory structure, and is not a dwelling unit.
- 4) The Department of Natural Resource's (DNR) Wildlife and Heritage Division has outlined three specific conditions to be followed in order to assure protection of the nesting Bald Eagles and their habitat. These conditions are in reference to the proposed construction activities within the secondary and tertiary eagle protection zones. Please clarify how the County will ensure that these conditions are followed and adhered to. We recommend that a note be placed on the plat specifically referencing the conditions from DNR, including the time of year restrictions on construction and the prohibition on clearing.
- 5) The proposed subdivision supports two dwelling units, yet there are three wells proposed. Please clarify this discrepancy.

Thank you for the opportunity to provide comments for this revised subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
TC 37-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

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May 23, 2005

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Appeal #1374 White Swan

Dear Ms. Verdery:

Thank you for providing information on the above referenced allegation of error. The applicant has filed an application of error, alleging that the County erred in refusing to accept and process a proposed subdivision. The subject property lies within a designated Resource Conservation Area (RCA).

It appears that there are three distinct components to the applicant's allegation of error appeal. Based on our review of the information provided, we have the following comments.

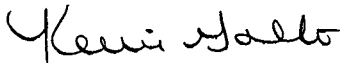
1. *The appellant contends that the Critical Area density of its 66.372-acre Parcel 1 was established as of 1989.* For clarification, we note that the **maximum permitted** density within the RCA (Talbot County RC Zone) was established with the passage of the Critical Area Law and Criteria, and effective in Talbot County at a ratio of one dwelling unit per twenty acres in 1989. Under the County's Critical Area Program, the **actual allowable** density is established at the time of development, based on the current acreage.
2. *The appellant contends that the reduction in acreage by natural causes (ie: erosion) should not result in the forfeiture of a Critical Area development right.* Land lost to erosion since 1989 is subtracted from the total acreage on which the new subdivision can be approved.
3. *The appellant contends that the reduction in acreage by the recording of a Reservation of Development Rights Agreement by a prior owner and pertaining to a 2.947 acre portion of the Appellant's property should not result in the forfeiture of a Critical Area development right.* As outlined within the Talbot County Zoning Ordinance, the Reservation of Developments Rights Agreements, as a component of the 2003 subdivision, and involving

Mary Kay Verdery
White Swan Allegation of Error
May 23, 2005
Page 2

2.947 acres, **transferred** a development right from Parcel 1 to Parcel 3. Therefore, there are two remaining development rights on Parcel 1.

Thank you for the opportunity to provide comments on this allegation of error. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Kerrie Gallo".

Kerrie L. Gallo
Natural Resource Planner
TC37-05

**TALBOT COUNTY OFFICE OF PLANNING & ZONING**

COURT HOUSE

11 N. WASHINGTON STREET

EASTON, MARYLAND 21601

PHONE: 410-770-8030

FAX: 410-770-8043

TTY: 410-822-8735

January 28, 2005

White Swan, LLC
c/o Zvi Barzilay
1900 Deer Run
Meadowbrook, PA 19046

Re: Multiple lot subdivision plat (Map 46, Grid 1, Parcel 2)

Dear Mr. Barzilay;

The Planning Office has reviewed the plat submittal for a proposed three lot subdivision to be located on Deep Neck Road and found that your application must be returned as the proposed project does not comply with the design standards as set forth in the Talbot County Code.

A preliminary review of this proposal and related information has found that this Parcel was the subject of a revision plat recorded in the Talbot County land records at Liber 81, Folio 349 (attached). The purpose and intent of this revision plat was to place 2.947 acres of land under a reservation of development rights on Tax Map Parcel 2 (Deed Parcel 1). In doing so one development right from this parcel was also transferred to Tax Map Parcel 166 (Deed Parcel 3) to allow for further development of this parcel which was comprised of a total of 37.053 acres.

Prior to revision Tax Map Parcel 2 (Deed Parcel 1) consisted of 66.372 acres and maintained 3 development rights at a rate of one development right per twenty acres. Tax Map Parcel 166 (Deed Parcel 3) contained 37.053 acres and was entitled to only one development right. The revision plat clearly states that upon recordation Deed Parcel 1 shall have two development rights and Deed Parcel 3 shall have two development rights, therefore allowing no net increase in allowable development rights.

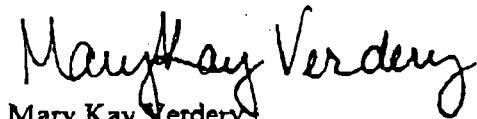
The current Ordinance does not have a provision for, nor does it support the creation of a lot/parcel without the presence of a development right with the exception of parcels created for the transfer of wetlands, floodplains and woodlands for perpetual conservation purposes exclusively.

EXHIBIT B

Please notify this office if you choose to proceed with a single lot subdivision of this parcel or if you would like to withdrawal your application at this time, so that we may amend and/or refund your application and application fee. Your project will be removed from the February Technical Advisory Committee meeting agenda. Your revised project will be placed on a future TAC agenda based on the date of resubmission.

This notice is subject to appeal within thirty (30) days. Appeals may be filed at the Talbot County Board of Zoning Appeals, 108 Maryland Avenue, Easton, MD 21601.

Sincerely,
Talbot County Planning & Zoning


Mary Kay Verdery
Assistant Planning Officer

C: Lane Engineering, Inc.
George G. Kinney, Planning Officer
Michael L. Pullen, County Attorney

BRUCE C. ARMISTEAD LLC

ATTORNEY AT LAW
111 N. WEST STREET
SUITE E, SECOND FLOOR
EASTON, MARYLAND 21601
PHONE: (410) 819-8989 □ FAX: (410) 819-8966

COPY

February 3, 2005

HAND-DELIVERED

Michael L. Pullen, Esq.
Talbot County Attorney
142 N. Harrison Street
Easton, Maryland 21601

Re: Asbury Subdivision Plat - Calculation of Development Rights

Dear Mike:

I am writing in connection with an existing three (3) lot subdivision generally known as "Asbury" and located in Talbot County, Maryland, on Deep Neck Road. I represent White Swan LLC, the recent purchaser of a 66.372± acre portion of the Asbury tract shown and designated as "DEED PARCEL 1" on the most recent Asbury Subdivision plat recorded among the Plat Records of Talbot County, Maryland in Plat Book 81, folio 349. White Swan LLC has proposed a further subdivision of the 66.372± acre Deed Parcel 1 into three (3) lots based upon an unencumbered Critical Areas acreage in excess of sixty (60) acres. A plat depicting that proposed subdivision of Deed Parcel 1 has been prepared by Lane Engineering, Inc. and filed with the Talbot County Office of Planning & Zoning. In response to that filing, Mary Kay Verdery has issued a letter to White Swan LLC dated January 28, 2005, and Tom Lane has provided me with a copy of that letter. While I suspect that you may already know the content of Mary Kay's letter, I have enclosed a copy of that letter for your convenience.

Mary Kay's letter notifies the property owner of the rejection of the proposed subdivision plat prepared by Lane Engineering, Inc. for the purpose of subdividing the 66.372 acre Deed Parcel 1 into three (3) parcels. Based upon my knowledge of the history of this property and the facts that I have been able to assemble, I believe that Mary Kay's decision to reject the proposed subdivision plat is erroneous. There is a significant Development Rights issue riding on her decision and my client is anxious to reach the correct resolution. While we know that Mary Kay's January 28, 2005 letter constitutes a decision that may be appealed to the Talbot County Board of Appeals, I would like to resolve this issue without a formal appeal to the Board of Appeals. Towards that end, I want to make sure that you have all of the relevant information before you and I would like to ask you

EXHIBIT C

Michael L. Pullen, Esq.
February 3, 2005
Page 2

to review Mary Kay's decision in light of that information. If you are then persuaded that our information is correct, I trust that you may ask Mary Kay to reconsider her prior ruling.

The relevant plats that I would ask you to review and consider are the following:

1. "PLAT SHOWING ASBURY A SUBDIVISION SECOND ELECTION DISTRICT TALBOT COUNTY, MARYLAND," prepared by J. R. McCrone, Jr., Inc., dated February 1982, and recorded among the Plat Records of Talbot County, Maryland in Plat Book 57, folio 45 ("1982 Asbury Subdivision Plat").
2. "A REVISED PLAT OF ASBURY IN THREE PARCELS IN THE SECOND ELECTION DISTRICT TALBOT COUNTY, MARYLAND TAX MAP 46 GRID 1 PARCEL 1 & 2," prepared by Lane Engineering, Inc., dated May 30, 2003, and recorded among the Plat Records of Talbot County, Maryland in Plat Book 81, folio 349 ("2003 Asbury Subdivision Plat").

I have enclosed full-scale copies of both of those plats with this letter.

The 1982 Asbury Subdivision Plat subdivided the Asbury tract into three (3) parcels as follows:

Parcel 1	73.79 acres
Parcel 2	16.27 acres
Parcel 3	43.94 acres

The 2003 Asbury Subdivision Plat did not change the number of lots or the configuration of the parcels. However, as a result of substantial erosion over a period of more than two decades, the acreage within the parcels has changed and the 2003 Asbury Subdivision Plat designates and reflects the three (3) Asbury parcels as follows:

Deed Parcel 1	66.372 acres
Deed Parcel 2	15.662 acres
Deed Parcel 3	37.053 acres

You will also note that the 2003 Asbury Subdivision Plat reflects three (3) areas designated as "PREVIOUSLY APPROVED SEWAGE DISPOSAL AREAS AS SHOWN ON PLAT ENTITLED 'ASBURY' RECORDED AT 57/45." The existence of the three (3) approved sewage disposal areas suggests to me that the 1982 Asbury Subdivision Plat anticipated the further subdivision of Deed Parcel 1 into three (3) lots.

Michael L. Pullen, Esq.
February 3, 2005
Page 3

I am also enclosing two (2) Deeds for your review and consideration. Those Deeds convey interests in the 73.79 acre parcel described in the 1982 Asbury Subdivision Plat as "Parcel 1" and are more particularly identified as follows:

<u>Date of Deed</u>	<u>Grantor</u>	<u>Grantee</u>	<u>Liber/Folio</u>
August 19, 1992	Sumner Pingree	Sally Engelhard Pingree	732/162
September 14, 1992	Sally Engelhard Pingree	Trustees of the Sally Engelhard Pingree Trust	733/754

Both Deeds contain a metes and bounds description of the 73.79 acre Parcel 1 as an Exhibit A. On each copy of the Exhibit A, I have highlighted the last paragraph of the description which states in part as follows: "*The afore-mentioned 50-foot-wide right-of-way described above shall be used for ingress and egress to not more than three (3) parcels created by subdivision of the subject property.*" (emphasis added). The existence of the three (3) approved sewage disposal areas shown on the 1982 Asbury Subdivision Plat and the reference to three (3) parcels in the metes and bounds description clearly show that the owner of the property always intended to preserve the possibility of three (3) lots within the 73.79 acre Parcel 1.

The entirety of the Asbury tract lies within the Critical Area. When the parcel designated as Parcel 3 on the 1982 Asbury Subdivision Plat was first created, it consisted of more than 40 acres, and it would have been entitled to two (2) Development Rights under the applicable one per 20 Critical Areas density requirements that were enacted subsequent to the recording of the 1982 Asbury Subdivision Plat. Between 1982 and 2003, the acreage of the original Parcel 3 shrunk below 40 acres to 37.053 acres, or 2.947 acres less than the amount necessary to support two (2) Development Rights. According to Tom Lane, the sole purpose of the preparation, approval and recording of the 2003 Asbury Subdivision Plat was to carve out a 2.947 acre Reservation of Development Rights Area from the "excess" acreage within the original Parcel 1 to account for the difference between the current 37.053 acre size of Deed Parcel 3 and the 40 acre minimum acreage required to support two (2) Development Rights on Deed Parcel 3.

erosion -

KDR -

Since the purpose of the 2003 Asbury Subdivision Plat was to address the density issue on Deed Parcel 3, it is unclear why that plat did not allocate two (2) Development Rights to Deed Parcel 3 and three (3) Development Rights to Deed Parcel 1 based upon the combined unencumbered Critical Areas acreage in those two parcels in excess of 100 acres. At this point we, can only assume that the prior owner did not understand the significance of the recording of the 2003 Asbury Subdivision Plat or the notes set forth thereon. Since the then owner of the property held title to more than 100 unencumbered Critical Areas acres, it is not reasonable (in my opinion)

66.372	37.053
- 2.947	+ 2.947
63.425	40.00
13	12

Michael L. Pullen, Esq.
February 3, 2005
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to assume that she would have given up a valuable Development Right on Deed Parcel 1 for the purpose of allocating some of the "excess" acreage on Deed Parcel 1 to Deed Parcel 3. Had the owner elected to subdivide Deed Parcel 1 at the same time, she could have further subdivided the property or reconfigured the lot lines in a manner that would have preserved all five (5) Development Rights available to the 100 unencumbered acres in the Critical Area.

You will note from both of the enclosed plats that Parcel 2 (now referred to as "Deed Parcel 2") consists of less than the 20 acre minimum for Critical Area purposes and has consisted of less than 20 acres since it was first created in 1982. However, the 1982 Asbury Subdivision Plat confirms that the original Parcel 2 became an approved lot of record as of April 1982, even though it may have subsequently become a nonconforming lot as a result of the adoption of the Talbot County Critical Areas Ordinance and the assignment of the RC classification requiring an effective density of 1 per 20. Because Deed Parcel 2 was an existing lot of record as of the date of recording of the 2003 Asbury Subdivision Plat, the acreage of Deed Parcel 2 did not enter into the density calculations for Deed Parcel 1 and Deed Parcel 3 at the time of recording of the 2003 Asbury Subdivision Plat.

In similar past situations where the status of a parcel or the density of a parcel has come up, I believe that Mary Kay has cited Section 190-57(A)(4)(a) of the Talbot County Zoning Ordinance for the purpose of establishing either a lot of record or a starting point for a density calculation. The relevant part of that Section reads as follows: "*Residential density calculations for a parcel, lot or tract shall be based on the size of the original parcel, lot or tract as of June 22, 1991.*" It appears to me that the Design Development standards in Section 190-57 apply only to the RAC zone, and I have found no comparable provision that applies to the RC zone. However, since the recording of the 1982 Asbury Subdivision Plat established the current Deed Parcel 2 as an approved and platted lot of record prior to the adoption of the Talbot County Critical Areas Ordinance, the density of that parcel and the allocation of a single Development Right to that parcel was fixed as of that time, even if there is no provision comparable to Section 190-57 that applies to the RC zone. As evidenced by the 2003 Asbury Subdivision Plat, the County did not require an additional Reservation of Development Rights Area for Deed Parcel 2. In other words, had Deed Parcel 2 not been recognized as a lot of record as of 2003, an additional Reservation of Development Rights Area of approximately 4.338 acres would have been required to make up the difference between the 15.662 acre size of Deed Parcel 2 and twenty (20) acres.

Based upon the sequence of events set forth above and as of the date of recording of the 2003 Asbury Subdivision Plat, Deed Parcel 1 consisted of 66.372 acres, of which only 2.947 acres was encumbered by a Reservation of Development Rights. As a result, Deed Parcel 1 consisted of more than 60 acres unencumbered acres located within the Critical Area and should have received an allocation of three (3) Development Rights based upon the unencumbered acreage.

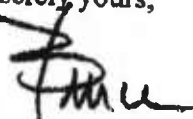
Michael L. Pullen, Esq.
February 3, 2005
Page 5

I recognize that the 2003 Asbury Subdivision Plat contains notes allocating two (2) Development Rights to each of Deed Parcel 1 and Deed Parcel 3. However, I believe that the allocation of only two Development Rights to each of those parcels was the result of either a mistake or an oversight. Given the County's longstanding policy of recognizing nonconforming existing lots of record as separate parcels (including those parcels that consist of less than 20 acres), it appears to be both inconsistent and arbitrary to ignore the existing lot of record status of Deed Parcel 2 in 2003 and to simultaneously ignore the total of more than 100 unencumbered acres within Deed Parcel 1 and Deed Parcel 3. In fact, not only does the failure to recognize the fifth Development Right appear to be an arbitrary decision, it also appears to constitute a taking of a property right without just compensation.

For all of the foregoing reasons, I am asking you to review this matter again and to discuss it further with Mary Kay. Should you wish me to participate in any of those discussions, I will be happy to do so if you will notify me of the time and place. If Mary Kay's January 28, 2003 decision can be reversed, we would like to retain our spot on the upcoming TAC agenda for purposes of review of the proposed three (3) lot subdivision of Deed Parcel 1. If Mary Kay's decision will not change, I would appreciate hearing from you as soon as possible since we will need to file our appeal with the Board of Appeals on or before February 27, 2005.

Thank you for your consideration of these issues. I will look forward to hearing from you.

Sincerely yours,



Bruce C. Armistead

Enclosures

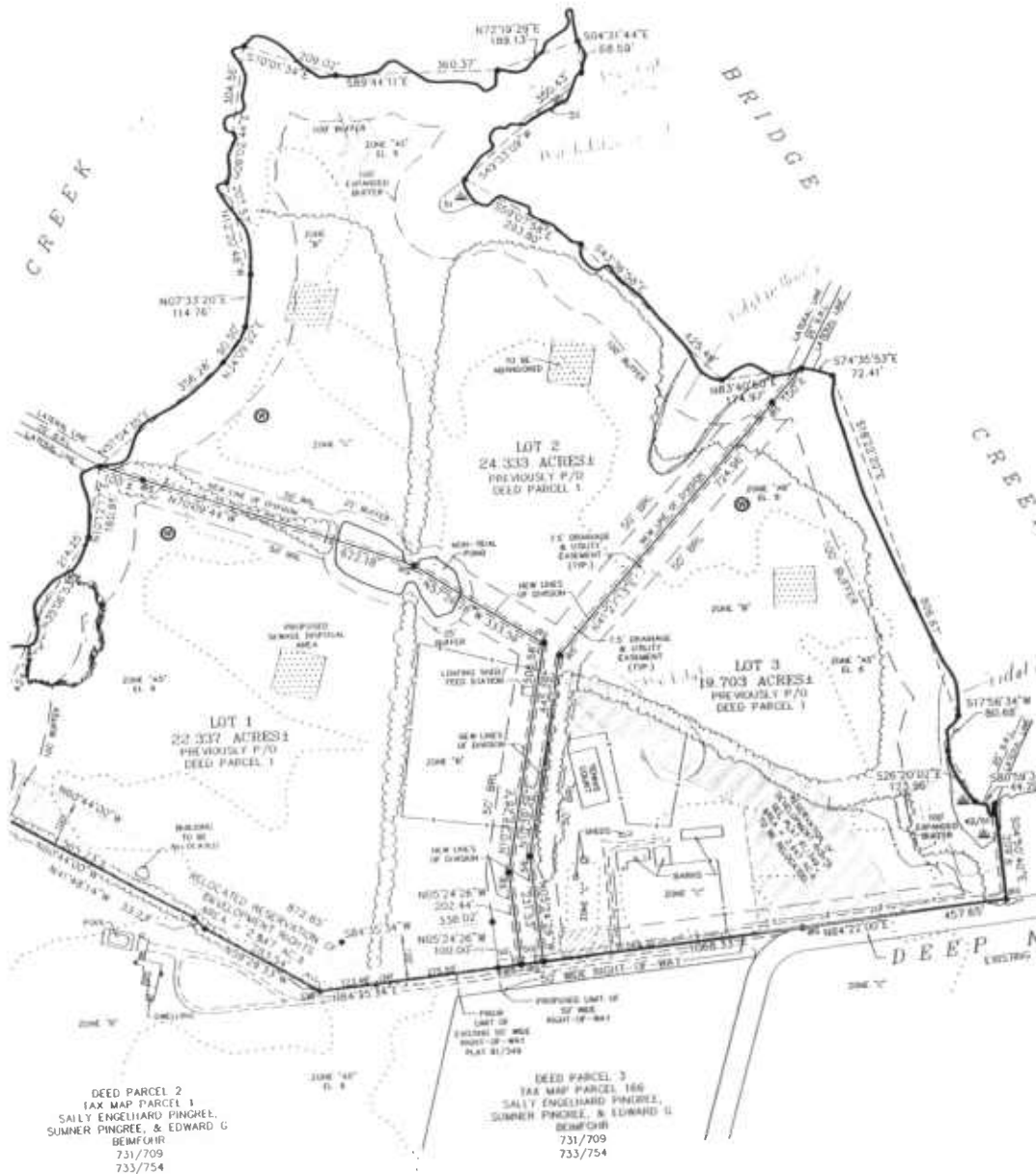
cc: White Swan LLC (w/o encls.)
Mary Kay Verdery (w/o encls.)
Thomas D. Lane (w/o encls.)

WETLAND CLASSIFICATION TABLE		
CLASSIFICATION	OWNERSHIP	AREA
42	PRIVATE	0.102 AC.±
51	STATE	0.215 AC.±

THE TIDAL WETLANDS SHOWN HEREON ARE TAKEN FROM DNR WETLANDS BOUNDARY MAP NO. 133 OF TALBOT COUNTY AND HAVE NOT BEEN FIELD LOCATED.

THERE ARE NO MAPPED STREAMS OR WETLAND FEATURES SHOWN ON THE FOLLOWING RESOURCES:

- 1) USGS QUAD MAP ENTITLED "OXFORD"
- 2) NWI MAP ENTITLED "OXFORD"



IMPERVIOUS AREA CALCULATIONS

LOT 1 - 22.337 ACRES(973,000 SF)
15% IMPERVIOUS ALLOTMENT = 145,950 SF
EXISTING IMPERVIOUS AREA = 0 SF - Building
REMAINING ALLOWABLE IMPERVIOUS AREA = 145,950 SF -

IMPERVIOUS AREA CALCULATIONS

LOT 2 - 24.333 ACRES(1,059,945 SF)
15% IMPERVIOUS ALLOTMENT = 158,992 SF
EXISTING IMPERVIOUS AREA = 0 SF
REMAINING ALLOWABLE IMPERVIOUS AREA = 158,992 SF

IMPERVIOUS AREA CALCULATIONS

LOT 3 - 19.703 ACRES(858,263 SF)
15% IMPERVIOUS ALLOTMENT = 128,739 SF
EXISTING IMPERVIOUS AREA = 16,897 SF
REMAINING ALLOWABLE IMPERVIOUS AREA = 111,842 SF

FOREST AREA CALCULATIONS

ENTIRE SITE - 66.373 ACRES(2,891,208 SF)
15% FOREST COVER REQUIRED = 433,681 SF
EXISTING FOREST COVER = 706,253 SF

↳ 16.2 acres *T-Max*
Δ!

OWNER: WHITE SWAN, LLC
 C/O ZVI BARZILAY
 1900 DEER RUN
 MEADOWBROOK, PA 19046
 (215)938-8230

ZONING CLASSIFICATION: RC - RESIDENTIAL COMMERCIAL
 MINIMUM LOT SIZE: 2 ACRES
 BUILDING RESTRICTIONS: 50 FOOT FRONT
 50 FOOT SIDE
 50 FOOT REAR
 100' TIDAL WETLANDS
 100' MEAN HIGH WATER

THE LAND SHOWN HEREON LIES ENTIRELY WITHIN THE CHESAPEAKE BAY CRITICAL AREA. THE LAND SHOWN HEREON IS IN FLOOD ZONE "A5"(EL. 6), B, AND "C" AND IS LOCATED WITHIN THE COASTAL FLOOD PLAIN AS SHOWN ON THE FEDERAL INSURANCE RATE MAPS FOR TALBOT COUNTY, MARYLAND. THEREFORE, MANDATORY FLOOD INSURANCE IS REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, WASHINGTON, D.C. SEE FEMA MAP NO.240086 0036 A, DATED MAY 15, 1985.

THE FLOOD ZONE "A" PORTION OF THE PROPERTY SHOWN HEREON WOULD HAVE A ONE-PERCENT CHANCE OF OCCURRENCE OF BEING INUNDATED BY A FLOOD IN ANY GIVEN YEAR. THEREFORE, ANY NEW CONSTRUCTION OR SUBSTANTIAL IMPROVEMENT ON THE PROPERTY IS SUBJECT TO FEDERAL, STATE AND LOCAL REGULATIONS.

PROPERTY AREA STATISTICS
 TOTAL PROPERTY AREA = 66.373 ACRES
 AREA IN LOTS = 66.373 ACRES

DEVELOPMENT RIGHTS CALCULATIONS
 TOTAL PROPERTY AREA = 66.373 ACRES
 AREA TAKEN OUT FOR STATE OWNED WETLANDS = .215 AC.
 AREA USED TO CALCULATE DENSITY = 66.158 ACRES
 DEVELOPMENT RIGHTS PERMITTED = 2 (PER PLAT RECORDED AT PC 81, P. 349)
 DEVELOPMENT RIGHTS UTILIZED = 2 (LOTS 1 & 2)
 DEVELOPMENT RIGHTS REMAINING = 0

SURVEYOR'S CERTIFICATE

THE PRESENT OWNERS OF THE LAND OF WHICH THIS SUBDIVISION IS COMPRISED IS WHITE SWAN, LLC. THIS PLAT WAS PREPARED FOR AND WILL BE RECORDED AT THEIR REQUEST.

THOMAS D. LANE, SURVEYOR NO. 340
 117 BAY STREET
 EASTON, MARYLAND 21601
 (410)822-8003

PROPERTY OWNER DECLARATION

WE, WHITE SWAN, LLC, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION.

ZVI BARZILAY, MEMBER, WHITE SWAN, LLC

TALBOT COUNTY OFFICE OF PLANNING AND ZONING
 THIS PLAT REPRESENTS A SUBDIVISION OF THE LANDS OF WHITE SWAN, LLC, SHOWN AS DEED PARCEL 1 OF A PLAT ENTITLED "A REVISED PLAT OF ASBURY" DATED NOVEMBER 6, 2003 AND PREVIOUSLY RECORDED AMONG THE PLAT RECORDS OF TALBOT COUNTY, MARYLAND AT PLAT CABINET 81 PAGE 349.

TALBOT COUNTY DEPARTMENT OF PUBLIC WORKS

A UTILITY AND DRAINAGE RIGHT-OF-WAY AND EASEMENT SHALL BE PROVIDED IN AND OVER STRIPS OF LAND FIFTEEN (15) FEET IN WIDTH ALONG THOSE BOUNDARY LINES CONTIGUOUS TO ANY ROAD, AND 15' IN WIDTH (7.5' EITHER SIDE) CENTERED ON ALL NEW LINES OF DIVISION AND 10' IN WIDTH ALONG EXISTING BOUNDARY LINES (ENTIRELY ON SUBJECT LANDS) NOT CONTIGUOUS TO ANY ROAD.

THE 50' PRIVATE ROAD EASEMENT, DESIGNATED AS WHITE SWAN LANE, SHALL BE PRIVATELY OWNED AND AS SUCH THE COUNTY HAS NO RESPONSIBILITY FOR ITS MAINTENANCE OR SAFETY. THE PRIVATE ROAD EASEMENT SHALL BE OWNED BY THE OWNER OF LOT 2 AND EQUALLY MAINTAINED BY THE OWNERS OF LOTS 1 AND 2. SHOULD THE ROAD BE UPGRADED TO COUNTY SPECIFICATIONS FOR PUBLIC ROADS, IN ACCORDANCE WITH THE PROVISIONS OF THE TALBOT COUNTY CODE, THE COUNTY WILL ASSUME OWNERSHIP OF THE ROAD AND RESPONSIBILITY FOR ITS MAINTENANCE, SAFETY AND INSPECTION.

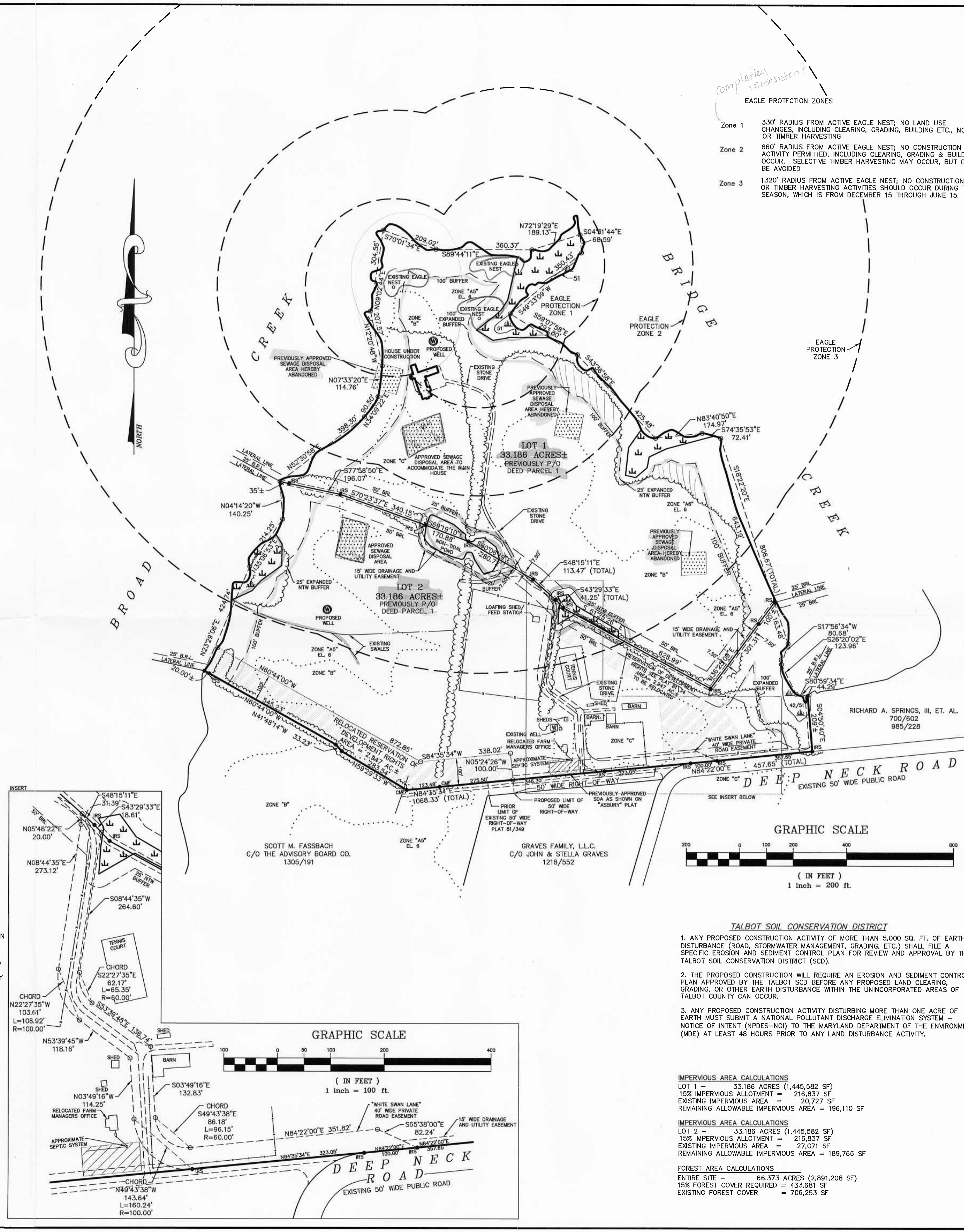
TALBOT COUNTY ENGINEER

TALBOT COUNTY HEALTH DEPARTMENT

LOTS 1 AND 2 AS SHOWN HEREON ARE APPROVED FOR INDIVIDUAL WATER AND SEWERAGE SYSTEMS AND THEIR USE IS IN ACCORDANCE WITH THE TALBOT COUNTY COMPREHENSIVE WATER AND SEWER PLAN AND MARYLAND DEPARTMENT OF ENVIRONMENT REGULATION 26.04.03 THE HEALTH DEPARTMENT APPROVAL ON THE PLAT CERTIFIES THAT THE LOT SHOWN HEREON ARE IN COMPLIANCE WITH THE PERTINENT HEALTH DEPARTMENT LAWS AND REGULATIONS AS OF THE APPROVAL DATE. THIS APPROVAL DOES NOT SERVE AS A SEWAGE DISPOSAL INSTALLATION PERMIT AND THE PROPERTY OWNER IS NOTIFIED THAT THE MUST STILL APPLY FOR AND OBTAIN A SEWAGE DISPOSAL PERMIT BEFORE DEVELOPING THE PROPERTY. AT THE TIME OF THE PERMIT APPLICATION, THE PROPERTY WILL BE EVALUATED PURSUANT TO COMAR 26.04.02 AND ALL OTHER APPLICABLE LAWS AND REGULATIONS. FURTHERMORE, THE TALBOT COUNTY HEALTH DEPARTMENT MAY REQUIRE MORE DETERMINATIVE INFORMATION ABOUT THE PROPERTY INCLUDING ADDITIONAL TESTING AND EVALUATION.

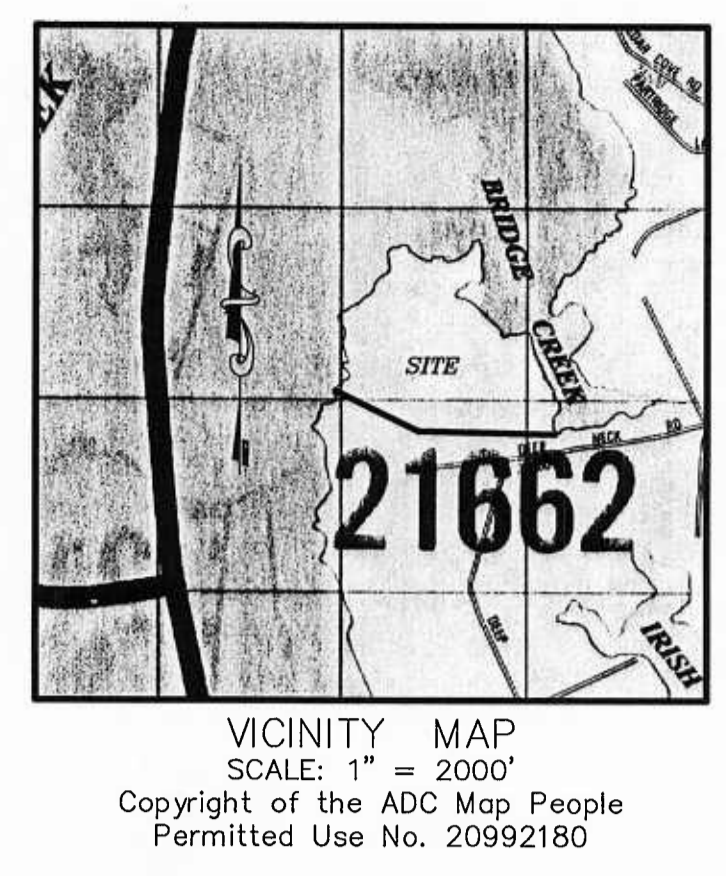
HEALTH OFFICER

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completely inconsistent
 EAGLE PROTECTION ZONES

- Zone 1 330' RADIUS FROM ACTIVE EAGLE NEST; NO LAND USE CHANGES, INCLUDING CLEARING, GRADING, BUILDING ETC., NO DEVELOPMENT OR TIMBER HARVESTING
- Zone 2 660' RADIUS FROM ACTIVE EAGLE NEST; NO CONSTRUCTION ACTIVITY PERMITTED, INCLUDING CLEARING, GRADING & BUILDING, ETC. SHOULD OCCUR. SELECTIVE TIMBER HARVESTING MAY OCCUR, BUT CLEARCUTTING SHOULD BE AVOIDED
- Zone 3 1320' RADIUS FROM ACTIVE EAGLE NEST; NO CONSTRUCTION OR TIMBER HARVESTING ACTIVITIES SHOULD OCCUR DURING THE NESTING SEASON, WHICH IS FROM DECEMBER 15 THROUGH JUNE 15.



LEGEND

- CMF - CONCRETE MONUMENT FOUND
- IRF - IRON ROD FOUND
- IRS - IRON ROD SET
- RP - REFERENCE POINT
- EW - EXISTING WOODS LINE
- EF - EXISTING FENCE
- PW - PROPOSED WELL
- NTW - NON-TIDAL WETLANDS
- NTW - NON-TIDAL WETLANDS (NTW) FIELD LOCATED 8.1.05
- PS - PREVIOUSLY APPROVED SEWAGE DISPOSAL AREAS AS SHOWN ON PLAT ENTITLED "ASBURY" RECORDED AT 57/45 HEREBY ABANDONED
- AR - AREA OF RESERVATION OF DEVELOPMENT RIGHTS (2.947 AC.)
- ES - EXISTING SEWAGE DISPOSAL AREA FOR FARM MANAGERS OFFICE ONLY

TIDAL WETLAND CLASSIFICATION	OWNERSHIP	AREA
12	PRIVATE	0.102 AC ±
51	STATE	0.215 AC ±

THERE ARE NO MAPPED STREAMS OR WETLAND FEATURES SHOWN ON THE FOLLOWING RESOURCES:
 1) USGS QUAD MAP ENTITLED "OXFORD"
 2) NWI MAP ENTITLED "OXFORD"

ENVIRONMENTAL NOTES
 ANY LAND CLEARING, GRADING OR OTHER EARTH DISTURBANCE WITHIN THE UNINCORPORATED AREAS OF TALBOT COUNTY SHALL REQUIRE AN EROSION AND SEDIMENT CONTROL PLAN, APPROVED BY THE TALBOT COUNTY SOIL CONSERVATION DISTRICT IN ACCORDANCE WITH THE TALBOT COUNTY SOIL EROSION AND SEDIMENT CONTROL ORDINANCE AND THE STATE OF MARYLAND EROSION AND SEDIMENT CONTROL LAW, COMAR 4-103 & 26.09.01.05.

CUTTING AND CLEARING OF TREES WITHIN TALBOT COUNTY IS SUBJECT TO REVIEW BY TALBOT COUNTY PLANNING AND ZONING OFFICE. PLEASE CONTACT THE TALBOT COUNTY OFFICE OF PLANNING AND ZONING AT (410-770-8030) FOR FURTHER INFORMATION.

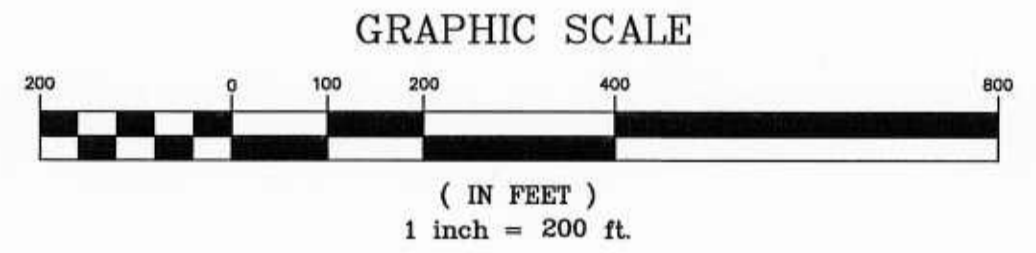
BY ACCEPTANCE OF THE DEED TO THIS PROPERTY, EACH LOT OWNER OR THEIR SUCCESSORS OR ASSIGNS, HEREBY ACKNOWLEDGE THAT THEY ARE AWARE THAT THE PROPERTY BORDERS ON PROPERTY UNDER AGRICULTURAL USE AND THAT THE NORMAL FARMING OPERATIONS ON SUCH AGRICULTURAL LAND MAY CAUSE SOME INTERFERENCE WITH THE USE AND ENJOYMENT OF THE PROPERTY, SUCH AS ODOR, DUST, NOISE, AND DRIFT OF PESTICIDES OR CHEMICALS. THE LOT OWNER ACCEPTS THE LIMITATIONS ON USE AND ENJOYMENT AFFECTING THE PROPERTY.

REASONABLE EFFORT WILL BE MADE TO LIMIT CONSTRUCTION IN FOREST HABITAT TO THE NON-BREEDING SEASON FOR FOREST INTERIOR DWELLING BIRDS (SEPTEMBER - APRIL). CONSTRUCTION WILL BE DESIGNED TO MINIMIZE FOREST CLEARING AND MAINTAIN A CLOSED CANOPY OVER DRIVEWAYS IF POSSIBLE.

THIS AREA IS KNOWN AS A WATERFOWL STAGING AREA AND AS SUCH, PROPOSED CONSTRUCTION OF PIERS ARE SUBJECT TO REVIEW BY THE TALBOT COUNTY OFFICE OF PLANNING AND ZONING, THE ARMY CORPS OF ENGINEER, MARYLAND DEPARTMENT OF THE ENVIRONMENT AND THE CHESAPEAKE BAY CRITICAL AREA COMMISSION. PLEASE CONTACT THE TALBOT COUNTY OFFICE OF PLANNING AND ZONING (410) 770-8030 FOR FURTHER INFORMATION.

THIS DEVELOPMENT MAY CONTAIN, THREATENED OR ENDANGERED SPECIES PROTECTED UNDER THE ENDANGERED SPECIES ACT AS AMENDED, THE U.S. DEPARTMENT OF THE INTERIOR, FISH & WILDLIFE SERVICE ADMINISTRATIVE REGULATIONS DESIGNED TO PROTECT THESE THREATENED AND ENDANGERED SPECIES AND THEIR HABITATS. AS THE APPLICANT FOR THIS DEVELOPMENT ACTIVITY, I UNDERSTAND THAT THE FINAL AUTHORITY FOR ALL DETERMINATIONS CONCERNING THE EFFECT OF THE DEVELOPMENT ON THESE SPECIES AND THEIR HABITAT RESTS WITH THE U.S. DEPARTMENT OF THE INTERIOR, FISH & WILDLIFE SERVICE. I ALSO UNDERSTAND THAT COUNTY APPROVAL OF THIS PROJECT DOES NOT EXEMPT THIS PROJECT FROM OBTAINING ALL PERMITS AND APPROVALS, WHICH MAY BE REQUIRED BY THE U.S. DEPARTMENT OF THE INTERIOR, FISH & WILDLIFE SERVICE.

THE 100 FOOT SHORELINE DEVELOPMENT BUFFER ON LOTS 1 AND 2, AS SHOWN HEREON, SHALL BE ESTABLISHED IN THREE TIER NATURAL VEGETATION UPON CHANGE OF LAND USE. A FOREST PRESERVATION PLAN SHALL BE SUBMITTED TO THE COUNTY OFFICE OF PLANNING AND ZONING FOR REVIEW AND APPROVAL.

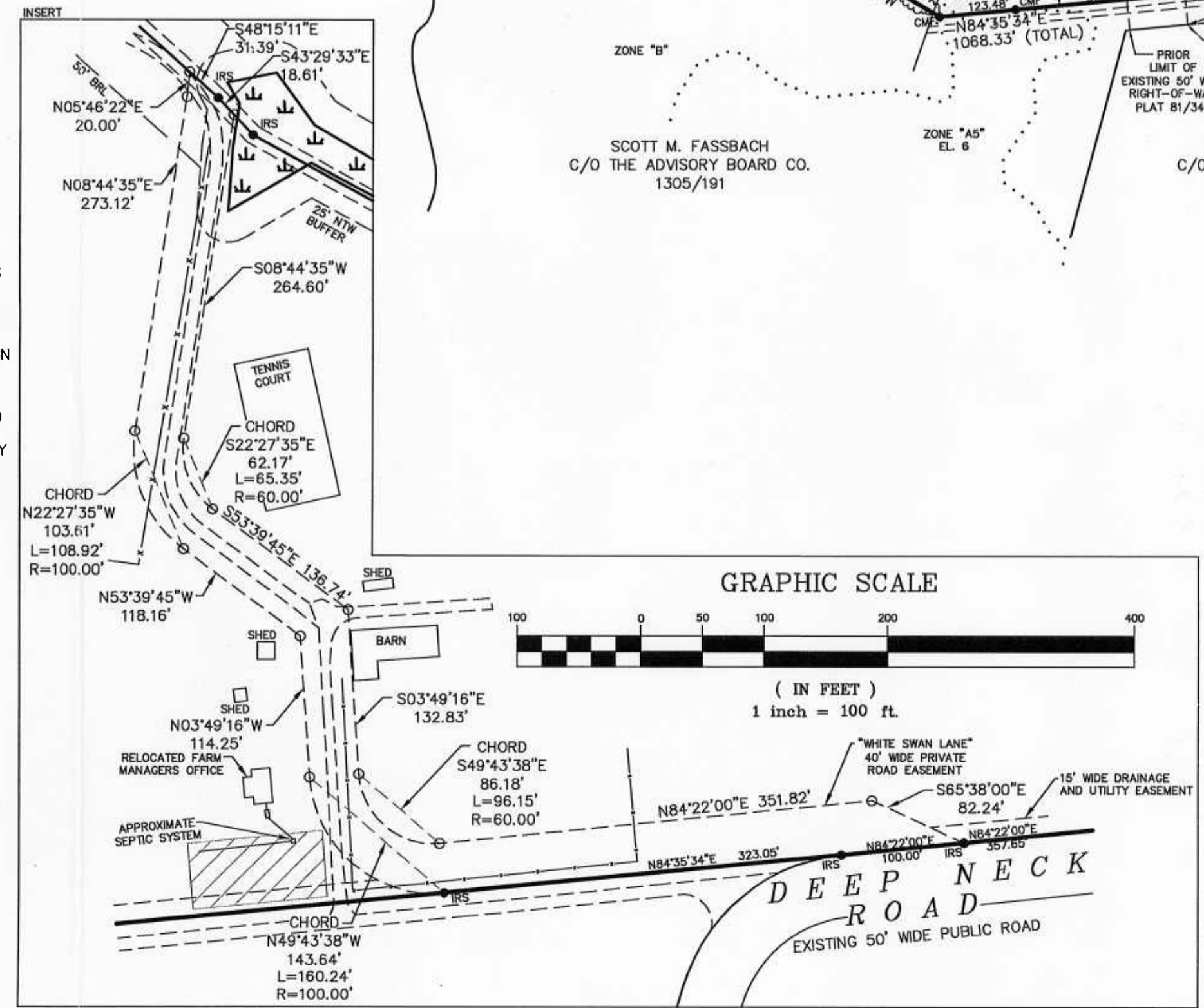


- TALBOT SOIL CONSERVATION DISTRICT**
- ANY PROPOSED CONSTRUCTION ACTIVITY OF MORE THAN 5,000 SQ. FT. OF EARTH DISTURBANCE (ROAD, STORMWATER MANAGEMENT, GRADING, ETC.) SHALL FILE A SPECIFIC EROSION AND SEDIMENT CONTROL PLAN FOR REVIEW AND APPROVAL BY THE TALBOT SOIL CONSERVATION DISTRICT (SCD).
 - THE PROPOSED CONSTRUCTION WILL REQUIRE AN EROSION AND SEDIMENT CONTROL PLAN APPROVED BY THE TALBOT SCD BEFORE ANY PROPOSED LAND CLEARING, GRADING, OR OTHER EARTH DISTURBANCE WITHIN THE UNINCORPORATED AREAS OF TALBOT COUNTY CAN OCCUR.
 - ANY PROPOSED CONSTRUCTION ACTIVITY DISTURBING MORE THAN ONE ACRE OF EARTH MUST SUBMIT A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM - NOTICE OF INTENT (NPDES-NOI) TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) AT LEAST 48 HOURS PRIOR TO ANY LAND DISTURBANCE ACTIVITY.

IMPERVIOUS AREA CALCULATIONS
 LOT 1 - 33.186 ACRES (1,445,582 SF)
 15% IMPERVIOUS ALLOTMENT = 216,837 SF
 EXISTING IMPERVIOUS AREA = 20,727 SF
 REMAINING ALLOWABLE IMPERVIOUS AREA = 196,110 SF

IMPERVIOUS AREA CALCULATIONS
 LOT 2 - 33.186 ACRES (1,445,582 SF)
 15% IMPERVIOUS ALLOTMENT = 216,837 SF
 EXISTING IMPERVIOUS AREA = 27,071 SF
 REMAINING ALLOWABLE IMPERVIOUS AREA = 189,766 SF

FOREST AREA CALCULATIONS
 ENTIRE SITE - 66.373 ACRES (2,891,208 SF)
 15% FOREST COVER REQUIRED = 433,681 SF
 EXISTING FOREST COVER = 706,253 SF



Lane Engineering, Inc.
 Civil Engineers - Land Planning - Land Surveyors

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SUBDIVISION PLAT
 ON THE LANDS OF
WHITE SWAN, LLC
 IN THE SECOND ELECTION DISTRICT
 TALBOT COUNTY, MARYLAND
 GRID 1 PARCEL 2
 TAX MAP 46

DATE	SCALE	AS SHOWN	JOB NO.	DRAWN BY	DWG. NAME	APPROVED	TDL
8.2.05	AS SHOWN	AS SHOWN	040832	BCW/JAA	040825P23		

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SHEET No. 1 OF 1
 FILE No. 4115