

TC 167-05 Higgins, Robert  
SUB 994

MSA-S-1829-5303

Comments 4/13/05  
KJ

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/)

April 13, 2005

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

Re: S994 Higgins

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is requesting to subdivide a 10.075-acre lot to create two new lots within the Critical Area. The property is currently designated as a Limited Development Area (LDA) and is developed with a series of existing storage buildings.

Based on the information provided, we provide the following comments. The existing remaining lands parcel is non-conforming with regard to its impervious surface area limits. In March of 2003, the Talbot County Board of Appeals issued the applicant a special exception on this property for the purposes of erecting multiple storage buildings. The Board's decision makes reference to sworn testimony by Thomas Lane, stating that the impervious surface limits of the property would not exceed 14.9%. Based on the site plan, it appears that these calculations were based on the entire acreage of the parcel and not the Critical Area acreage of the site, which permits 64,346 square feet of impervious surface within the LDA portion of the site, not 65,829 square feet. Currently, the site is 15.3% impervious within the Critical Area portion, making this parcel non-conforming with current County and State Critical Area requirements.

In addition, the applicant is proposing to subdivide the property to create a 7.990-acre Lot 1 and a 2.085-acre Lot 2. Newly created, non-grandfathered lots within the Critical Area must comply with current regulations as detailed within the Talbot County Critical Area Program and Zoning Ordinance. The proposed subdivision creates one lot (Lot 1), which cannot meet these regulations, and results in an increase in the non-conformity on the lot. The applicant's proposal to "swap" impervious surface allotments from Lot 2 to Lot 1 in order to comply with the

Mary Kay Verdery  
S994 Higgins  
April 13, 2005  
Page 2

regulations is not permitted under the Critical Area Law, as outlined in Section 8-1808.3. Based on this information, this office does not support this subdivision as proposed.

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

Sincerely,



Kerrie L. Gallo  
Natural Resource Planner  
TC 167-05

OWNER/DEVELOPER: ROBERT D. HIGGINS & TERESA A. HIGGINS  
5993 HOPKINS NECK ROAD  
EASTON, MARYLAND 21601  
(410) 822-0710  
DEED REFERENCE: 896/640

ZONING CLASSIFICATION: VC  
MINIMUM LOT SIZE: 1 ACRE WITHOUT SEWER  
10000 SQ. FT WITH SEWER

BUILDING RESTRICTIONS: LOTS SMALLER THAN 1 ACRE  
25 FOOT FRONT 50 FOOT FRONT  
10 FOOT SIDE 15 FOOT SIDE  
25 FOOT REAR 25 FOOT REAR

A PORTION OF THE LAND SHOWN HEREON LIES WITHIN THE CHESAPEAKE BAY CRITICAL AREA.

THE LAND SHOWN HEREON IS FLOOD ZONES "AS", "B", AND "C" 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. 240066 0031 A.

**FLOOD PLAIN LEGEND**  
A - 100 YR. FLOOD ZONE  
B - 500 YR. FLOOD ZONE  
C - AREA OF MINIMAL FLOODING

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

THE PRESENT OWNERS OF THE LAND OF WHICH THIS SUBDIVISION IS COMPRISED ARE ROBERT D. HIGGINS AND TERESA A. HIGGINS. THIS PLAT WAS PREPARED FOR AND WILL BE RECORDED AT THEIR REQUEST.

**SURVEYORS CERTIFICATE**

I, THOMAS D. LANE HEREBY CERTIFY THAT THE SUBDIVISION SHOWN HEREON IS CORRECT. THAT IT IS A SUBDIVISION OF THE LANDS CONVEYED FROM DONALD A. ALBRIGHT, SR. AND MARY E. ALBRIGHT TO ROBERT D. HIGGINS AND TERESA A. HIGGINS BY DEED DATED JULY 28, 1998 AND RECORDED AMONG THE LAND RECORDS OF TALBOT COUNTY, MARYLAND IN LIBER 896, FOLIO 640, AND THAT ALL MONUMENTS ARE IN PLACE.

THOMAS D. LANE DATE  
PROFESSIONAL SURVEYOR NO. 340  
117 BAY STREET  
EASTON, MARYLAND 21601

**PROPERTY OWNER DECLARATION**

THIS DEVELOPMENT MAY CONTAIN JURISDICTIONAL NONTIDAL WETLANDS WHICH HAVE NOT BEEN OFFICIALLY DELINEATED BY THE U.S. ARMY CORPS OF ENGINEERS. THE IDENTIFICATION AND/OR DELINEATION OF JURISDICTIONAL NONTIDAL WETLANDS SHOWN ON THIS APPLICATION IS BASED UPON THE FEDERAL MANUAL FOR IDENTIFYING AND DELINEATING JURISDICTIONAL WETLANDS. AS THE APPLICANT OF THIS DEVELOPMENT PROJECT, I UNDERSTAND THAT THE FINAL AUTHORITY FOR ALL NONTIDAL WETLANDS DELINEATIONS AND REGULATIONS FOR LANDS IN THE CRITICAL AREA RESTS WITH THE U.S. ARMY CORPS OF ENGINEERS. I ALSO UNDERSTAND THAT COUNTY APPROVAL OF THIS DEVELOPMENT PROJECT DOES NOT EXEMPT THIS PROJECT FROM OBTAINING PERMITS AND APPROVALS WHICH MAY BE REQUIRED BY THE U.S. ARMY CORPS OF ENGINEERS.

WE, ROBERT D. HIGGINS AND TERESA A. HIGGINS, OWNERS OF THE LANDS SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS SUBDIVISION PLAN.

ROBERT D. HIGGINS DATE  
TERESA A. HIGGINS DATE

THE OWNER HAS SWORN TO AND SUBSCRIBED BEFORE ME THIS DAY OF \_\_\_\_\_, 2005.

NOTARY

TERESA A. HIGGINS DATE

THE OWNER HAS SWORN TO AND SUBSCRIBED BEFORE ME THIS DAY OF \_\_\_\_\_, 2005.

NOTARY

**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, EXCEPT AS SHOWN HEREON.

THIS LOT SHALL BE DEVELOPED IN ACCORDANCE WITH THE "2000 MARYLAND STORMWATER DESIGN MANUAL", AND THE TALBOT COUNTY STORMWATER MANAGEMENT CODE.

COUNTY ENGINEER DATE

**TALBOT COUNTY OFFICE OF PLANNING AND ZONING**

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE THE LANDS OF ROBERT J. HIGGINS AND TERESA A. HIGGINS AS DESCRIBED IN A DEED DATED JULY 28, 1998 AND RECORDED AMONG THE LAND RECORDS OF TALBOT COUNTY IN LIBER 896, FOLIO 640.

COUNTY PLANNING OFFICER DATE

**TALBOT COUNTY HEALTH DEPARTMENT**

LOT 2 AS SHOWN HEREON IS 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 THE ENVIRONMENT REGULATION 26.04.03. THE HEALTH DEPARTMENT APPROVAL ON THE PLAT CERTIFIES THAT THE LOTS 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 HE 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 - TALBOT COUNTY DATE

**IMPERVIOUS AREA CALCULATIONS**

LOT 1 (PREVIOUSLY REMAINING LANDS - BEFORE SUBDIVISION)  
TOTAL AREA = 10.075 ACRES±  
AREA IN CRITICAL AREA = 9.848 ACRES±  
15% IMPERVIOUS ALLOTMENT = 65,829 SQ. FT. over impervious limits  
EXISTING IMPERVIOUS AREA = 65,744 SQ. FT.  
ALLOWABLE IMPERVIOUS AREA = 85 SQ. FT.

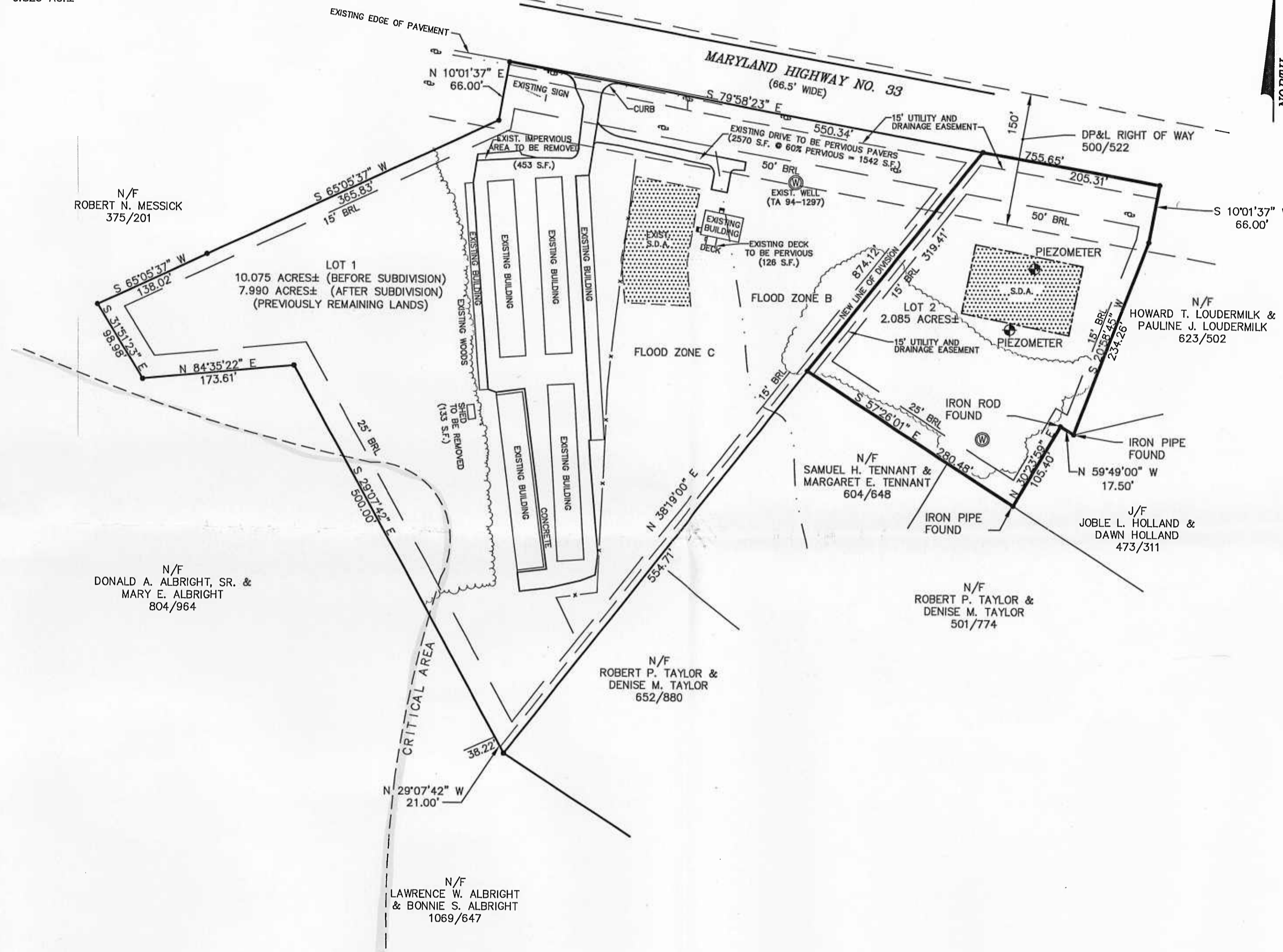
LOT 1 (PREVIOUSLY REMAINING LANDS - AFTER SUBDIVISION)  
TOTAL AREA = 7.990 ACRES±  
AREA IN CRITICAL AREA = 7.990 ACRES±  
15% IMPERVIOUS ALLOTMENT = 52,236 SQ. FT.  
IMPERVIOUS AREA ASSIGNED FROM LOT 2 = 12,123 SQ. FT.  
TOTAL IMPERVIOUS AREA ALLOTMENT = 64,329 SQ. FT.  
EXISTING IMPERVIOUS AREA = 65,744 SQ. FT.  
IMPERVIOUS AREA TO BE REMOVED = 1,740 SQ. FT.  
REMAINING ALLOWABLE IMPERVIOUS AREA = 0 SQ. FT.

LOT 2  
TOTAL AREA = 2.085 ACRES±  
AREA IN CRITICAL AREA = 2.085 ACRES±  
15% IMPERVIOUS ALLOTMENT = 13,623 SQ. FT.  
EXISTING IMPERVIOUS AREA = 0 SQ. FT.  
IMPERVIOUS AREA TO BE ASSIGNED TO LOT 1 = 12,123 SQ. FT.  
REMAINING ALLOWABLE IMPERVIOUS AREA = 1,500 SQ. FT.

**FOREST CALCULATIONS**

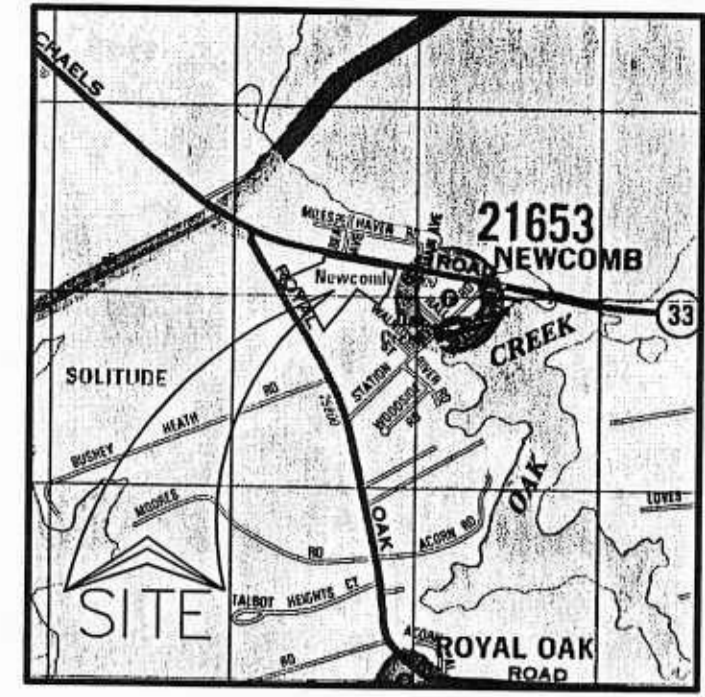
LOT 1 (PREVIOUSLY REMAINING LANDS)  
EXISTING FOREST = 2.619 AC.±

LOT 2  
EXISTING FOREST = 0.823 AC.±



CRITICAL AREA COMMISSION  
MAR 10 2005  
RECEIVED

- LEGEND**
- DENOTES EXISTING UTILITY POLE
  - DENOTES PIEZOMETER
  - FENCE LINE
  - FLOOD ZONES
  - CRITICAL AREA
  - EASEMENT LINES
  - ⊕ - PROPOSED WELL



DATE	APPROVED	BY	DATE

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

408 N. Washington St.  
Easton, MD 21601  
E-mail: mail@lane.com  
(410) 822-2024  
15 Washington St.  
Cambridge, MD 21613  
(410) 221-0818  
(410) 478-9942

DATE	3-3-05
SCALE	1" = 100'
JOB NO.	050043
DRAWN BY	S.M.C.
DWG. NAME	050043SEPT
APPROVED	T.O.L.

SUBDIVISION PLAT  
ON THE LANDS OF  
**ROBERT AND TERESA HIGGINS**  
IN THE SECOND ELECTION DISTRICT  
GRID 2  
TAX MAP 40A  
PARCEL 688  
TALBOT COUNTY, MARYLAND

SHEET No.  
**1 OF 1**  
FILE No. A485

**GENERAL NOTES**

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 ADMINISTERS 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.

REASONABLE EFFORT WILL BE MADE TO LIMIT CONSTRUCTION IN FOREST HABITAT AREAS 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.

CUTTING AND CLEARING OF TREES WITHIN TALBOT COUNTY IS SUBJECT TO REVIEW BY THE TALBOT COUNTY PLANNING OFFICE. PLEASE CONTACT THE TALBOT COUNTY OFFICE OF PLANNING AND ZONING (410-770-9030) FOR MORE INFORMATION.

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 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

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 HERBICIDES OR CHEMICALS. THE LOT OWNER ACCEPTS THE LIMITATIONS ON USE AND ENJOYMENT AFFECTING THE PROPERTY.

\* THE EXISTING DECK SHOWN HEREON HAS BEEN MODIFIED TO BE IN ACCORDANCE WITH CHESAPEAKE BAY CRITICAL AREA GUIDANCE PUBLICATION, IMPERVIOUS SURFACES SECTION, TABLE 2 (SPACES BETWEEN BOARDS, 6" GRAVEL UNDER DECK, PLANTINGS).

RECEIVED  
MAR 10 2005  
CRITICAL AREA COMMISSION

RECEIVED  
MAR 4 2005