

AA 89-06  
VAR

Brown & Morsell  
0017

7MSA-S-1829-5396

2/10/06  
P

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/)

February 16, 2006

Ms. Liz West  
Anne Arundel County  
Office of Planning and Zoning  
2664 Riva Road, MS 6301  
Annapolis, MD 21401

RE: Variance 2006-0017-V Morsell T. and H. Brown

Dear Ms, West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the reconstruction of the existing single-family dwelling with a new single-family dwelling, porch, and driveway with less setbacks than required and with disturbance to the expanded Buffer. The property is currently developed with a single-family dwelling (mobile home) and shed and is currently designated as Limited Development Area (LDA) and is mostly forested.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the reconstruction of the existing dwelling; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

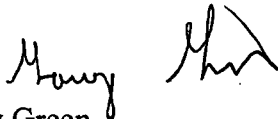
- 1) As stated on the site plan, the expanded Buffer encumbers the northwest portion of the lot.
- 2) Because of the expanded Buffer, the proposed dwelling is placed in relatively the same location as the existing dwelling; however, the proposed dwelling has been moved back on the lot to meet side, combined side, and rear yard setbacks. The proposed dwelling has been located where there would be minimal impact to the existing forest and less impact to the Buffer than the existing dwelling.

Ms. Liz West  
Variance 2006-0017-V Morsell T. and H. Brown  
February 16, 2006  
Page 2

- 3) The property is 20,579 square feet and the applicant proposes a total impervious surface of 3,208 square feet, which includes 1,123 square feet of existing impervious surface. The amount of existing forest on the property is 16,919 square feet and the amount to be removed is 3,200 square feet. The amount of disturbance within the expanded Buffer is 5,842 square feet.
- 4) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible. Clearing outside the Buffer should be mitigated at 1:1.
- 5) Stormwater from dwelling and driveway should be directed to stable vegetated outfalls to provide water quality benefits on the site.

Thank you for the opportunity to provide comments. 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,



Gary Green  
Environmental Analyst  
cc: AA89-06

0089-04

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2006-0017-V

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IN RE: **HOWARD BROWN AND TIMOTHY MORSELL**

THIRD ASSESSMENT DISTRICT

DATE HEARD: MARCH 9, 2006

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ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

PLANNER: **LIZ WEST**

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DATE FILED: MARCH 13, 2006

**RECEIVED**

MAR 22 2006

CRITICAL AREA COMMISSION

## **PLEADINGS**

Howard Brown and Timothy Morsell, the applicants, seek a variance (2006-0017-V) to allow a dwelling with less buffer than required on property located along the south side of South Drive, east of Lower Magothy Beach Road, Severna Park.

## **PUBLIC NOTIFICATION**

The hearing notice was posted on the County's web site in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175 feet of the property was notified by mail, sent to the address furnished with the application. Mr. Brown testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

## **FINDINGS AND CONCLUSIONS**

The applicants own a single-family dwelling with a street address of 303 South Drive, in the Magothy Beach subdivision, Severna Park. The property comprises 20,579 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The property is located in a Buffer Modification Area. The request is to raze the dwelling (14 by 41 feet) and shed, followed by the construction of a new dwelling (32 by 45 feet

with 24 by 24 attached garage and 8 by 32 covered porch) to be located in the Chesapeake Bay Critical Area buffer as expanded for steep slopes.

Anne Arundel County Code, Article 18, Section 18-13-104 establishes a 100-foot buffer from tidal water. The buffer expands to include all lands within 50 feet of contiguous steep slopes. The proposal disturbs 5,842 square feet of the expanded buffer; therefore, the applicants request a variance.

Liz West, a planner with the Office of Planning and Zoning, testified that the new dwelling would have less impact to the buffer than the existing dwelling. The applicants are proposing a conservation easement in the front yard that inhibits locating the new dwelling closer to the road. The new dwelling is considered comparable in size to the surrounding homes. There were no adverse agency comments. By way of conclusion, Ms. West supported the application.

Bob Baxter, the applicants' engineering consultant, testified that the property is below the minimum width for the district at the road, as well as irregularly configured. The developable area is in the expanded buffer. The new dwelling minimizes the intrusion to the buffer while still retaining the existing woodlands. Finally, the project includes stormwater management.

Mr. Brown confirmed the substance of the application and submitted a series of letters indicating support for the application from several surrounding residents. There was no other testimony in the matter.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. For this Critical Area property, due

to the extent of the expanded buffer, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program would forestall the redevelopment of the property with a single-family dwelling, a right commonly enjoyed by other properties in similar areas in the Critical Area. Conversely, the granting of the variance will not confer any special privilege that the program typically denies. There is no indication that the request is the result of the actions of the applicants or land use on neighboring property. Finally, with mitigation, the variance will not adversely impact Critical Area resources and will harmonize with the general spirit and intent of the program.

I further find that the variance represents the minimum relief. As noted, the disturbance includes the removal of the existing dwelling with the new dwelling having a lesser intrusion into the buffer. The project also establishes conservation property. There was nothing to indicate that the granting of the variance would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property or cause a detriment to the public welfare. The approval is subject to the condition in the Order.

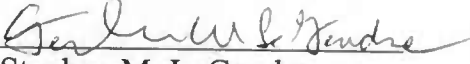
### **ORDER**

PURSUANT to the application of Howard Brown and Timothy Morsell, petitioning for a variance to allow a dwelling with less buffer than required; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 13<sup>th</sup> day of March, 2006,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a variance to the expanded buffer to allow a dwelling in accordance with the site plan.

*The foregoing variance is subject to the condition that the applicants shall provided mitigation and control of stormwater as determined by the Permit Application Center.*

  
Stephen M. LeGendre  
Administrative Hearing Officer

#### **NOTICE TO APPLICANT**

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further Section 18-16-405(a) provides that a variance expires by operation of law unless the applicant obtains a building permit within eighteen months. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise that will be discarded.



0017

# DIVERSIFIED PERMITS, INC.

P.O. Box 242 Millersville, MD. 21108  
Office: (410) 859-5583 Fax: (410) 859-5584  
Email: robertbaxter27@aol.com

January 11, 2006

Ms. Susan Schappert  
Office of Planning and Zoning  
Heritage Office Complex

Re: Magothy Beach p/o Lot 1A & 1B  
Variance Application process  
303 South Drive

Dear Ms. Schappert,

This is a formal request for a variance to disturb within the expanded buffer in the critical area. The applicant is proposing to demolish an existing trailer, shed and construct a new single family home with a driveway.

The site is a legal building lot in the Magothy Beach subdivision located at 303 South Drive in Severna Park. The boundary, part of lots 1A & 1B, has been described in a recorded deed, Book 9834 Page 073 prior to September, 2004. The lot is 20,579 square feet, is zoned R-5 and has a public Simplex Grinder Pump connection for sewer and connection to public water in South Drive will be completed during construction. The site access is from an abutting Access and Utility Easement to the west that runs from South Drive. The site is located in the Limited Development Area of the critical area. The lot has existing improvements including a house trailer, driveway and shed. Along the side and rear of the property are 15%+ and 25%+ steep slopes.

The hardship present on this site is the available building envelope location is partially covered by the expanded buffer. The placement of the new home is in relatively the same location as the existing structure. However, the new home has been moved back on the lot to meet side, combined side and rear yard setbacks. The proposed house has been located where there would be a minimal impact to existing woodlands. The existing boundary of the lot tapers smaller toward South Drive where building a home would be difficult. This area of the lot will be placed in a permanent Conservation Easement.

**RECEIVED**

FEB 9 2006

CRITICAL AREA COMMISSION

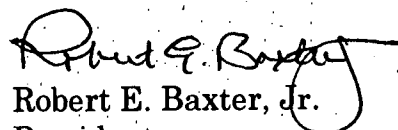
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It is necessary to acquire relief from the code in order to further develop the site. The proposed house and driveway will result in a total impervious coverage "onsite" of 2,608 square feet where 6,431 square feet or 31.25% of impervious area is permitted. Total disturbance to the expanded buffer is 5,842 square feet, which includes utilizing the existing access point and connection to the existing grinder pump.

Development of this property, based on the proposed plan, will not be detrimental to the integrity of the neighborhood.

Attached are all applicable documents necessary to process this package. If there is any additional information that would assist in your review and approval, please contact this office directly.

Sincerely,  
Diversified Permits, Inc.

  
Robert E. Baxter, Jr.  
President

**MAGOTHY BEACH**  
**303 SOUTH DRIVE, SEVERNA PARK**  
**CRITICAL AREA REPORT**

**PREPARED FOR:**  
**DIVERSIFIED PERMITS, INC.**  
**POST OFFICE BOX 242**  
**MILLERSVILLE, MD 21108**

**PREPARED BY:**  
**CATTAIL CONSULTING, INC.**  
**POST OFFICE BOX 1599**  
**SEVERNA PARK, MD 21146**

**410-544-0133**

**JANUARY 2005**

CHESAPEAKE BAY CRITICAL AREA REPORT  
CHECK LIST  
Anne Arundel County, Maryland



TO: Property Owners in the Chesapeake Bay Critical Area DATE: 1-11-06  
FROM: Department of Planning and Code Enforcement  
SUBJECT: Information Required for Submission of Critical Area Report - Zoning Applications

Zoning Case Number \_\_\_\_\_ Applicant's Name \_\_\_\_\_  
Critical Area Classification: LDA/RCA/IDA; Tax Map 2A Block 20 Parcel 347

Your property is located within the Chesapeake Bay Critical Area. In reviewing your application, Planning and Code Enforcement must determine the impact your proposal will have on stormwater management and plant and animal habitat in conformance to Critical Area criteria. Your plan must meet the criteria for your classification and satisfy COMAR 14.15.11 regarding variances. You are responsible for supplying five copies of the VICINITY MAP, NARRATIVE STATEMENT AND PLAN to the Zoning Administration Division of the Department of Planning and Code Enforcement with your zoning application. Applications within the Critical Area will not be accepted without a complete Critical Area Report.

1. A brief explanation of why you need a variance or special exception. If you have applied for a building or grading permit, please list the permit number(s). \_\_\_\_\_
2. A VICINITY MAP showing clear directions to your property and the address.
3. A short, 1 or 2 sentence per item, NARRATIVE STATEMENT which provides the following information (if checked):
  - Type of predominant trees and shrubs (maple, oak, evergreen, etc.) on the entire parcel. (At least 15% of the lot must have trees and shrubs or additional plantings will be required. Trees and shrubs must cover the area 25' from the water on waterfront lots except for access area.)
  - Method of control of rainwater from existing and proposed structures, driveways and parking. (Where does it go now? Where will additional runoff go? Any special techniques?)
  - Methods to minimize impacts on water quality and habitat from proposed construction (e.g. stormwater management, sediment control, replanting, avoiding slopes).
  - Square footage of site that is currently wooded or has trees and shrubs; square footage to be disturbed by proposed work; acreage of lot; total impervious coverage before and after work (Any lot in LDA or RCA that is 21,780 square feet or less cannot have more than 25% impervious surface covered unless further restricted by plat. Lots over 1/2 acre cannot exceed 15% coverage.)
  - Habitat protection areas: Buffers, expanded buffers, wet lands, rare and endangered species, anadromous fish propagation waters, colonial water bird nesting sites, historic waterfowl staging and concentration areas, riparian forests 300' or more in width, forested blocks 100 acres or more, natural heritage areas, plant and wildlife habitats of local significance.
4. A PLAN of your property, drawn to scale (a plot plan, grading plan or building location survey can be used) showing (if checked):
  - Steep slopes (15% or greater - show any slope if you aren't sure of percentage of slope)
  - Existing tree line, individual trees and all proposed clearing, grading or any disturbance
  - NA Wetlands (tidal and nontidal)  NA Floodplain (tidal and nontidal)
  - GP Any proposed planting or landscaping on property
  - Other (water depths, buffers as shown on record plat, habitat protection areas as identified in 3e, and plat notes)
5. ONE copy of a Notification of Project Application supplied with this check list.

Residential lots in IDA will be required to meet the criteria for LDA. Special circumstances where LDA criteria cannot be met will be reviewed in conjunction with the Critical Area Commission. Commercial, institutional or industrial uses in IDA must meet the 10% Pollutant Reduction Rule. If you have any questions or need assistance, please contact Lori Allen at (410) 222-7459.

VICINITY MAP  
1" = 2000'



Copyright ADC The Map People  
Permitted Use Number 20701190

# **MAGOTHY BEACH**

## **307 SOUTH DRIVE, SEVERNA PARK**

### **CRITICAL AREA REPORT**

#### **INTRODUCTION**

The lot located at 307 South Drive in Severna Park is      square feet in size and is located within the Limited Development Area of the Critical Area. There is an existing house and driveway on the lot at this time, both of which will be removed and replaced. Because part of the lot is located within the expanded buffer to Cattail Creek, a variance will be needed prior to the commencement of any work on the lot.

#### **VICINITY MAP**

Included in this report and shown on the attached plan is a vicinity map designating the location of the subject site. Also included in the report are portions of the nontidal wetland map of the area and the Critical Area Map with the site located.

#### **NARRATIVE**

##### **EXISTING CONDITIONS**

Presently the lot is improved with an existing house, driveway and shed. The majority of the lot is wooded with a forest stand dominated by Virginia pine, chestnut oaks and southern red oaks. Holly and blackgum trees dominate the understory layer and the shrub layer is mainly lowbush blueberry and greenbriar. Parts of the woodland have a groundcover layer of Lycopodium. No rare, threatened or endangered species were seen, nor expected.

The site is a flat lot with no environmental constraints to development. There are no wetlands, streams or other water features on the lot. No historic or archaeological features were noted during the fieldwork. In general, the only "problem" with this lot are the slopes on the other side of the driveway from the lot.

##### **STORMWATER MANAGEMENT**

Stormwater management will be addressed via both onsite plantings and conservation area credit, both per County guidelines.

## **IMPACT MINIMIZATION**

The new house is proposed to be constructed in the approximate location of the old house thereby lessening the amount of woodland that needs to be removed. The construction will occur on the opposite side of the driveway, away from the water, lessening the chance of impacts to the water or to the slopes adjacent to the water.

## **HABITAT PROTECTION AREAS**

The Habitat Protection Area found onsite is the buffer to the 15% slopes, expanded to 50' due to the slopes being within the 100' buffer to Cattail Creek.

## **PROPOSED CONDITIONS AND SITE CALCULATIONS**

The proposed conditions of the site include the removal of the existing house, shed and driveway and the construction of a new house and driveway. The site calculations are as follows:

Total site area	20,579 square feet
Existing impervious coverage	2,068 square feet
Allowed impervious coverage	6,431 square feet 31.25%
Proposed impervious coverage	3,208 square feet 15.58%
Existing woodland	16,919 square feet
Woodland to be removed	3,200 square feet 18.91%

## **CONCLUSIONS**

The existing house that is proposed to be removed is actually a mobile home and the house proposed to be constructed is more in keeping with what exists in the neighborhood at this time and will not confer any special privilege on the owners. The majority of the woodland onsite will be maintained and what is removed will have to be replaced or a fee in lieu of replacement paid, so there will be no net loss of woodland coverage in the Critical Area. There will be no adverse impacts to plant or wildlife habitat or to the water quality of the nearby creek.

## **PLANS**

A plan showing the site and its proposed improvements is attached to this report.

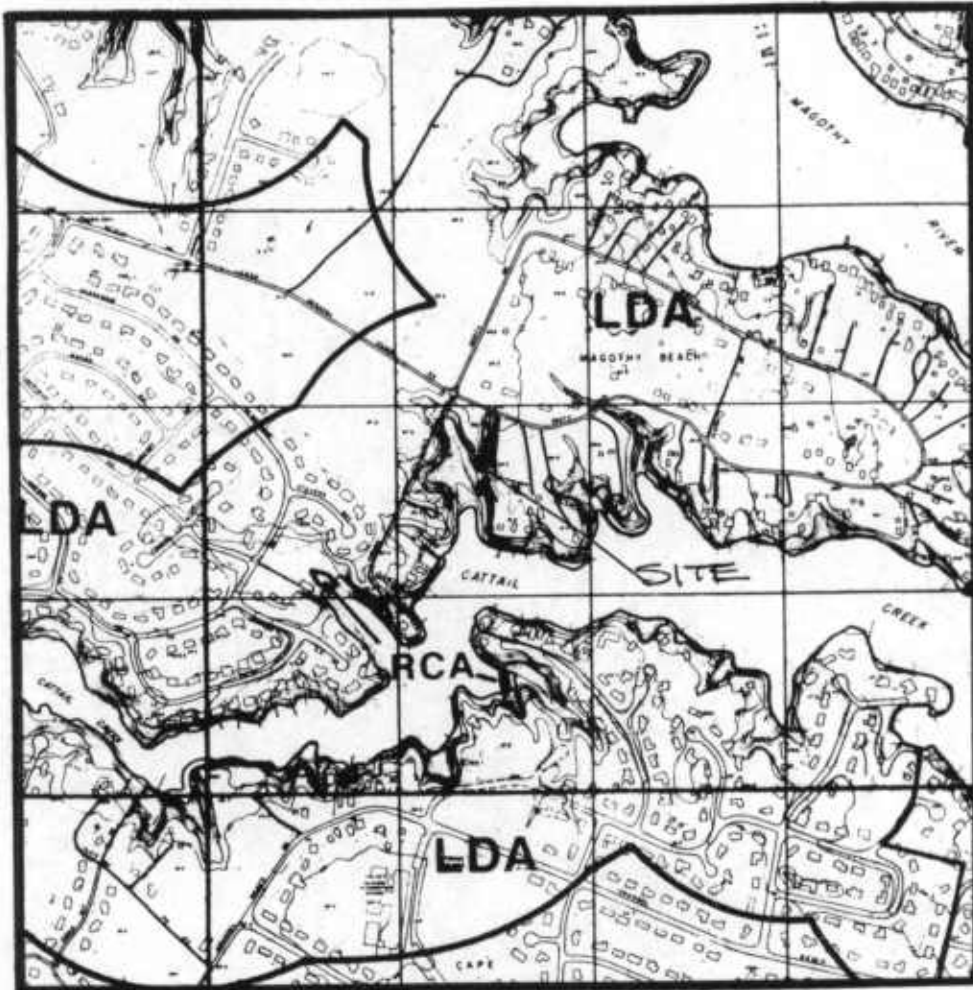
**ADDITIONAL INFORMATION**

A Notification of Project Application for the Critical Area Commission is included in this package.

The fieldwork was conducted on 1/4/06.



**CRITICAL AREA MAP**  
**1" = 1000'**



**RECEIVED**

FEB 9 2006

CRITICAL AREA COMMISSION

**CRITICAL AREA COMMISSION**

1804 West Street Suite 100  
Annapolis, Md. 21401

**NOTIFICATION OF PROJECT APPLICATION**

Jurisdiction: ANNE ARUNDEL CO. Date: 1-11-06  
 Name of Project (site name, subdivision name, or other): MADGETHY BEACH  
 Local Case Number: \_\_\_\_\_  
 Project location/Address: 303 SOUTH DRIVE SEVERNA PARK

Tax Map 2A Block 20 Lot 1A Parcel 347

Type of Application (Select all applicable)	Type of Project: (Select all applicable)	Current Use: (Select all applicable)
<input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan <input checked="" type="checkbox"/> Variance Buffer <input checked="" type="checkbox"/> Slope _____ Imp Surf. _____ Other _____ <input type="checkbox"/> Special Exception <input type="checkbox"/> Conditional Use <input type="checkbox"/> Rezoning <input type="checkbox"/> Grading Permit <input type="checkbox"/> Bldg Permit <input type="checkbox"/> Intrafamily <input type="checkbox"/> Growth Allocation <input type="checkbox"/> Others _____	<input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Water Dependent Facility/Pier/Marina <input type="checkbox"/> Industrial <input type="checkbox"/> Mixed Use <input type="checkbox"/> Redevelopment <input type="checkbox"/> Shore Erosion Protect. <input type="checkbox"/> Agricultural <input type="checkbox"/> Other _____ (e.g. PUD)	<input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Forrest/Buffer/Woodland <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Open Space/Rec <input type="checkbox"/> Surface Mining <input type="checkbox"/> Vacant <input type="checkbox"/> Water Dependant Facility/Pier/Marina <input type="checkbox"/> Others _____

Describe Proposed use of project site: RAZE & REPLACE AN EXISTING HOUSE  
ON A LEGAL LOT WITH IMPACTS TO THE EXPANDED BUFFER

**SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA**

TOTAL ACRES IN CRITICAL AREA: <u>20579<sup>+</sup></u>	
IDA ACRES: _____	AREA DISTURBED: <u>5842<sup>+</sup></u>
LDA ACRES: <u>20579<sup>+</sup></u>	# LOTS CREATED: <u>6K.</u>
RCA ACRES: _____	#DWELLING UNITS: <u>1</u>
AGRICULTURAL LAND: _____	
EXISTING FOREST/WOODLAND/TREES: <u>16919<sup>+</sup></u>	FOREST/WOODLAND/TREES REMOVED <u>3200<sup>+</sup></u>
FOREST/WOODLAND/TREES CREATED: <u>TO BE DETERMINED FOR SWH</u>	
EXISTING IMPERVIOUS SURFACE: <u>2608<sup>+</sup></u>	PROPOSED IMPERVIOUS SURFACE <u>1723<sup>+</sup></u>
TOTAL IMPERVIOUS SURFACE: <u>3208<sup>+</sup></u>	REMOVED IMPERVIOUS SURFACE <u>1123<sup>+</sup></u>
GROWTH ALLOCATION DEDUCTED: _____	
RCA TO LDA: _____	RCA TO IDA: _____ LDA TO IDA _____

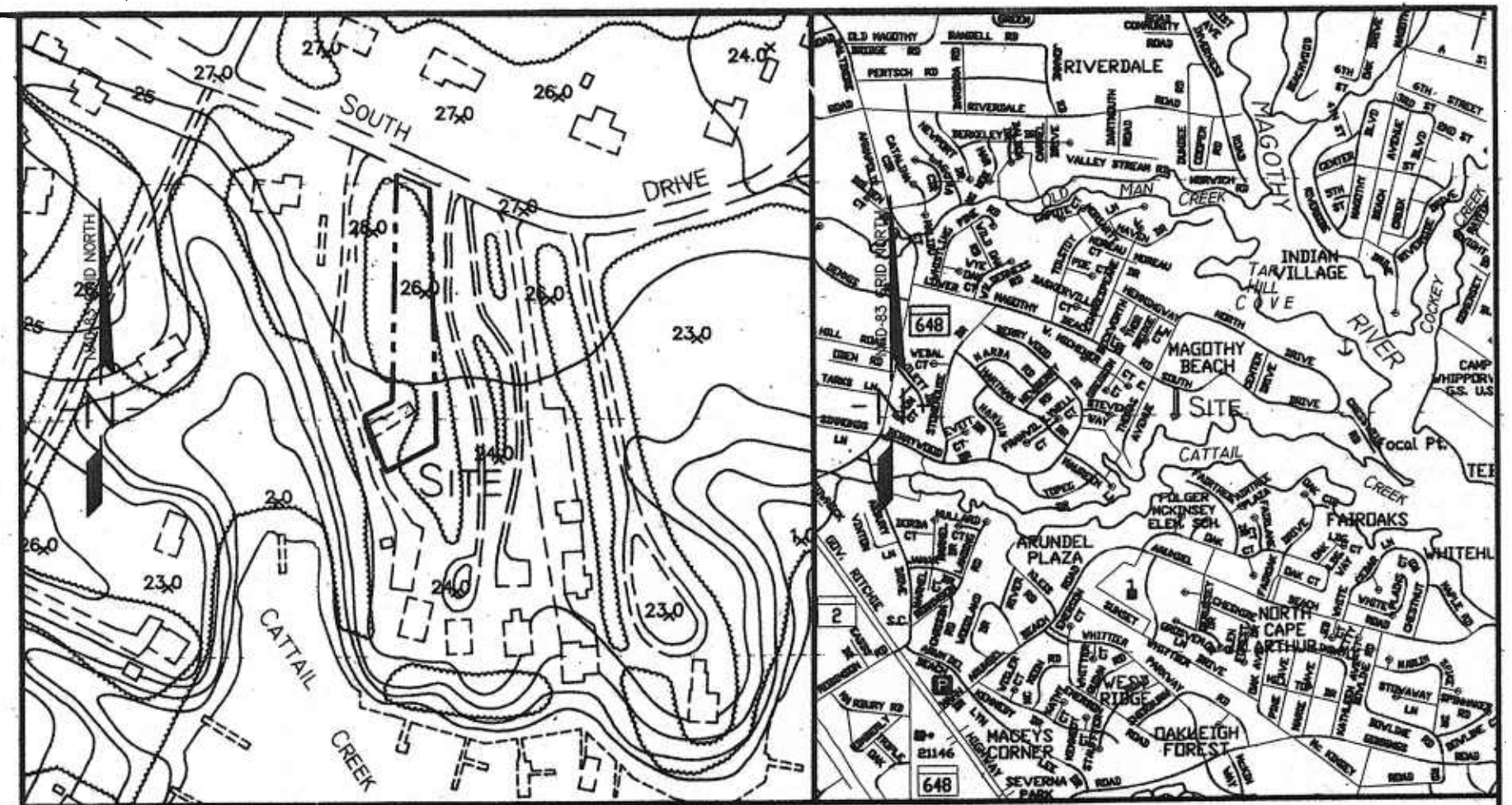
Local Jurisdiction Contact Person: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Response from Commission required by: \_\_\_\_\_ Hearing Date: \_\_\_\_\_

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FEB 9 2006

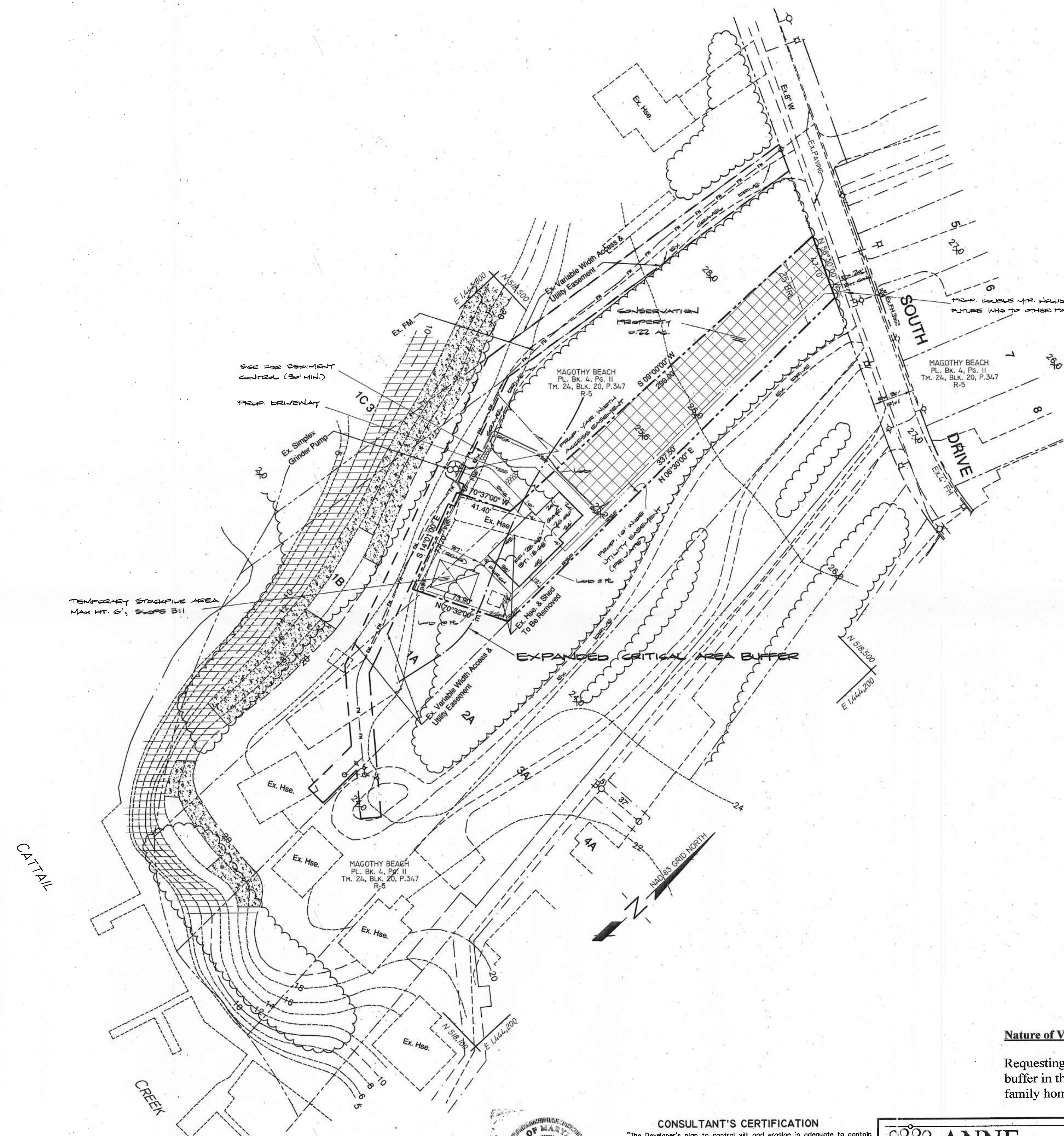
CRITICAL AREA COMMISSION





DRAINAGE AREA MAP  
SCALE: 1" = 200'  
A. A. Co. TOPO MAP: R12

VICINITY MAP  
SCALE: 1" = 2,000'



CRITICAL AREA CALCULATIONS  
(Limited Development Area)

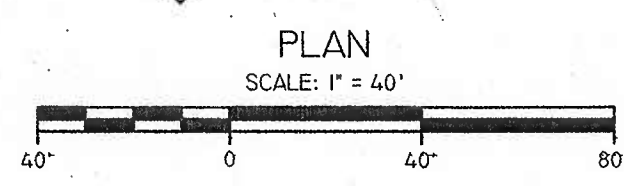
- Total area of site: 20,579 sq. ft.
- Impervious area allowed on site: 6,431 sq. ft. (1/2 acre lot or less) or 31.25% of site.
- Proposed impervious area (on site): 2,608 sq. ft.
- Existing impervious area on site: 1,123 sq. ft.
- Impervious area to be removed: 1,123 sq. ft.
- Impervious coverage after development including off site improvements: 3,208 sq. ft.
- Existing woodlands on site: 16,919 sq. ft.
- Woodlands allowed to be cleared: 6,534 sq. ft. (1/2 acre lot or less)
- Proposed woodland clearing for development: 3,200 sq. ft.
- Disturbance within the expanded buffer: 5,842 sq. ft.

Nature of Variance:

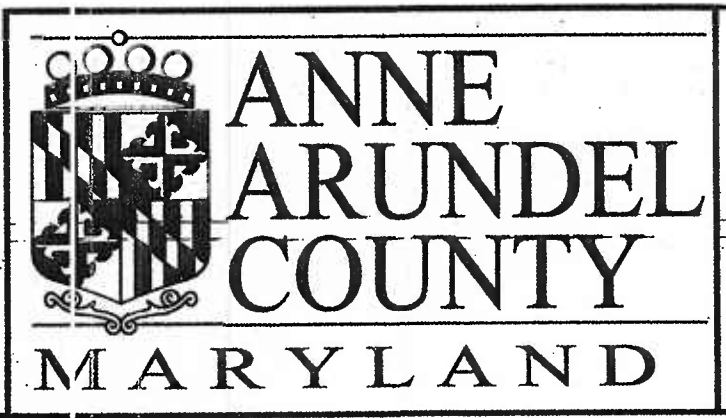
Requesting a variance to disturb within the expanded buffer in the critical area for development of a single family home and driveway.

LEGEND

	EXISTING GRADE
	PROPOSED GRADE
	SPOT ELEVATION (EX. PROP.)
	EX. WOODS LINE
	FLOW ARROW
	LIMIT OF DISTURBANCE
	REINFORCED SILT FENCE
	SUPER SILT FENCE
	STABILIZED CONSTRUCTION ENTRANCE
	STEEP SLOPES (15% - 24%)
	STEEP SLOPES (25% & OVER)
	TEMPORARY STOCKPILE AREA
	CONSERVATION PROPERTY



CONSULTANT'S CERTIFICATION  
"The Developer's plan to control silt and erosion is adequate to contain the silt and erosion on the property covered by the plan. I certify that this plan of erosion and sediment control represents a practical and workable plan based on my personal knowledge of this site, and was prepared in accordance with the requirements of the Anne Arundel Soil Conservation District Plan Submittal Guidelines and the current Maryland Standards and Specifications for Sediment and Erosion Control. I have reviewed this erosion and sediment control plan with the owner/developer."  
Signature: Jackie A. Syme, MD P.E. License # 12267, Date: 1/10/06  
Name: Jackie A. Syme, MD Land Surveyor License #  
Firm Name/Address: Diversified Permits, Inc., P.O. Box 242, Millersville, MD 21108, Phone: (410) 859-5583



DIVERSIFIED PERMITS, INC.  
CIVIL DESIGN AND PERMIT SERVICES  
P.O. Box 242, Millersville, MD 21108  
Phone: 410-859-5583  
Fax: 410-859-5584

GRADING, EROSION AND SEDIMENT CONTROL PLAN	
LOT IA MAGOTHY BEACH	
303 South Dr, Severn Park, ANNE ARUNDEL COUNTY, MARYLAND 21146	
TAX MAP: 24	GRID: 20
TAX DISTRICT: 3rd	TAX ACCT. NO.: 3520-1269-0625
DRAWN BY: JAM	G.P. #
CHECKED BY: REB	SCALE: As Noted
DATE: DEC. 2005	SHEET 2 OF 2

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