

AA 262-06 Parkin, James
Rezoning 0121

YMSA-S-1829-5427

LH
Comment
5/25/06



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/

April 10, 2007

Ms. Suzanne Schappert
Planning Administrator
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, P.O. Box 6675
Annapolis, Maryland 21401

Re: Parkin Mapping Mistake

Dear Ms. Schappert:

The purpose of this letter is to notify Anne Arundel County of the Chairman's action on April 4, 2007 regarding the above referenced mapping mistake request.

During its afternoon session, the Commission unanimously voted to concur with the Chairman's determination of refinement for the County's request and to recommend that the Chairman send back the County's request for the Parkin mapping mistake pending correction of the deficiencies identified within the County's mapping for the Critical Area Program. Specifically, the Commission relied on its December 2006 determination that there is a clear conflict, mistake, or omission in Anne Arundel County's Critical Area maps. It was the Commission's view that for the Chairman to decide to approve or deny the Parkin mapping mistake would have been inconsistent with the previous direction provided to the County to submit program amendments or refinements to correct the identified deficiencies. Further, the Commission had previously requested that the County not submit any additional requests for map amendments on the basis of mistake until such time that the identified mapping deficiencies have been corrected.

We are aware that County staff has been working on a comprehensive evaluation of the County's maps to determine the nature and extent of the deficiencies identified by the Commission. Commission staff will continue to work with and support County staff in this effort. In the meantime, please contact me at (410) 260-3482 if you have questions.

Sincerely,

David Blazer
Acting Chairman

Cc: Chris Soldano, AA County

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

* Reference refinement file for decision

Critical Area Commission

STAFF REPORT

April 4, 2007

APPLICANT: Anne Arundel County

PROPOSAL: Refinement-Parkin Mapping Mistake

COMMISSION ACTION: Concurrence with the Chairman's determination

STAFF RECOMMENDATION: Pending Subcommittee Discussion

STAFF: Kerrie Gallo

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article 8-1809(h) – Proposed Program
amendments and refinements

Code of Maryland Regulations 27.01.02.04 – Limited
Development Areas

DISCUSSION:

Anne Arundel County has reviewed and approved a map amendment to correct a mapping mistake involving a portion of one parcel of land located on Central Avenue in the Edgewater area. The property is identified as Parcel 239 on Tax Map 60. The entire property is within the Critical Area and consists of 4.18 acres, currently designated as a Resource Conservation Area (RCA). The area affected by the map amendment is 1.8 acres located on the southern portion of the property. This portion is proposed to be changed from RCA to Limited Development Area (LDA) on the basis that a mistake was made at the time of original mapping. The map change was approved by the Administrative Hearing Officer.

The request for the LDA designation would allow the applicant to subdivide the reclassified portion of the property into 2 new residential lots. The remaining 2.38 acres of RCA land would remain as currently developed with a primary dwelling and wood shed.

Standards for Review

The local government must determine, by compelling evidence that a mistake was made at the time of the original mapping. The local government is guided by the standards applied by the Court of Special Appeals in *Bellanca v. County Commissioners*. The Commission then reviews the local government's proposed change to the local Critical Area Program under the standards of Natural Resources Article 8-1801 et seq., and pursuant to Section 8-1809. The Commission must determine that the proposed amendment/refinement is consistent with the purposes, policies, goals, and provisions of the Critical Area law and all criteria of the Commission

The Commission must also review the mapping standards for LDA as provided below and must examine whether 1.8 acres of the 4.18 acre parcel were mistakenly mapped as RCA. At that time, the

property would have had to have at least one of the following features to be mapped as LDA:

Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acre;
Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
Areas meeting the conditions of Regulations .03A, but not .03B, of this regulation;
Areas have public sewer or public water, or both.¹

If approved, the conversion of 1.8 acres of RCA to LDA will affect the County's growth allocation acreage, since this acreage is derived by calculating five percent of the County's RCA acreage. The map change would result in the County debiting its growth allocation reserves by 0.38 acres (5% of 1.8 acres = 0.38 acres).

Current Zoning and Site Features

The site is zoned R2-Residential District. The parcel is not waterfront, and there is a small pocket (acreage undefined) of nontidal wetlands on the site. These wetlands would be unaffected by the proposed mapping change. At the time of original mapping, the site was developed with one single-family dwelling as well as with several outbuildings. Today, one primary dwelling and a wood shed remain. No threatened or endangered species are present.

Evidence Provided by the County to Justify the Mapping Mistake

Under Anne Arundel County Code, Article 28, Section 11-102.3(c), a reclassification shall be granted or denied in accordance with compatibility with the zoning, but a reclassification may not be granted except on the basis of an affirmative finding that:

- (1) There was a mistake in the approved Chesapeake Bay Critical Area map based on land uses in existence on December 1, 1985;
- (2) the proposed Critical Area classification conforms to the State and County Chesapeake Bay Critical Area mapping criteria;
- (3) the proposed Critical Area classification conforms to the environmental goals and standards of the General Development Plan;
- (4) there is compatibility between the uses of the property as reclassified and surrounding land uses, so as to promote the health, safety, and welfare of present and future residents of the County and to promote effective land use management;
- (5) the applicant has notified the Chesapeake Bay Critical Area Commission of the proposed Critical

¹The reference to Regulation .03A is to the IDA mapping standards which include the following: (1) Housing density equal to or greater than four dwelling units per acre; (2) Industrial, institutional, or commercial uses are concentrated in the area; or (3) Public sewer and water collection and distribution systems are currently serving the area and housing density is greater than three dwelling units per acre. The reference to Regulation .03B is the IDA standard that IDAs shall be at least 20 adjacent acres.

Area reclassification in writing and with a copy of the application at least 30 days prior to any hearing.

In Anne Arundel County, the determination of mapping mistakes is the responsibility of the Administrative Hearing Officer. In the Hearing Officer's decision, primary emphasis was placed on whether the RCA designation was in error based on land uses in existence on December 1, 1985. The County Hearing Officer concluded that as of December 1, 1985, the Parkin property was neither in a nature-dominated environment nor resource-utilization activity, and that the existing density exceeded 1 dwelling unit per 5 acres. On this basis, he concluded that a mistake was made. Having established a mistake, the Hearing Officer then considered whether the LDA criteria for the parcel were met. Based on the conclusion that the density requirements for a LDA were met, that sewer service was available (as of April 16, 1984), and that compatibility exists between the uses of the property as reclassified and the surrounding land uses, the Hearing Officer concluded that the applicants had met their burden to prove a mistake was made, subsequently approving the request.

It is not clear from the Hearing Officer's decision, whether the error being considered would have applied to the entire parcel or simply to the 1.8 acres of reclassification requested. While it seems the applicants suggest that the County meant to classify only a portion of the parcel as LDA, it is not clear why the proposed LDA was the undeveloped portion of the property at the time of original mapping. Division of the property such that the undeveloped portion of the property is classified as LDA and the developed portion as RCA would appear to be inconsistent with the typical mapping methodology used by the County.

Subcommittee Considerations

In 1988, both the Anne Arundel County Council and the Critical Area Commission approved the County's maps and its mapping standards. The presumption in both instances was that the County's Program and maps were consistent with the State law and Criteria. That presumption now appears questionable because of the piecemeal submittal of mapping mistakes. The Commission would benefit from a clear understanding of whether the County's 1988 maps were fundamentally flawed and did not accurately represent the County's intentions. Accepting this position significantly alters the Critical Area in Anne Arundel County. The increase in LDA lands will allow subdivision of the parcels in question, thereby increasing density and impervious surfaces, and decreasing forest and habitat. The changes from RCA to LDA also will affect the base acreage from which the County's growth allocation is calculated. Anne Arundel County has approximately 30 acres of growth allocation remaining that can be used in the RCA. However, 23.108 acres is proposed to accommodate the Crystal Spring Farms project. Until the mapping deficiency is corrected, the County's growth allocation in the amount of 23.108 acres necessary to accommodate the Crystal Spring Farms project will be considered unavailable for use for other projects.

Based largely on concerns summarized above, the Commission, at its December 6, 2006 meeting, compared the County's Program language, the County's written interpretations of its Program, and recent County subdivision practices with the requirements of the State Critical Area law and COMAR 27.01 et seq. The Commission performed this comparison pursuant to its responsibility under Section 8-1809 of the Natural Resources Article, Maryland Annotated Code. The Commission voted on the following motions:

To invoke Annotated Code, Natural Resources Section 8-1809 (1)(1); and

To determine that the Anne Arundel County Critical Area Program contains clear mistakes, omissions and conflicts with the Commission's criteria; and

To direct the County to submit proposed program amendment(s) or refinement(s) to correct the deficiencies.

The portion of the Anne Arundel County program affected by the Commission's action and relevant in this refinement request is the mapping rules and procedures set out in pages 12-16 of Anne Arundel County's Critical Area Program document.

In regard to the above referenced section of the County Program, the Commission approved the following motion:

The Program Subcommittee finds that there is a clear conflict, mistake, or omission in Anne Arundel County's Critical Area maps, and the amendment of those maps on the basis of mistake in accordance with the mapping standards in the County's Critical Area Program document.

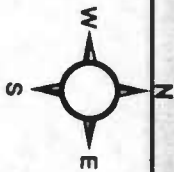
In accordance with Section 8-1809 (1) of the Natural Resources Article, the Commission will notify the County of this deficiency, and within 90 days, the County shall submit program amendments or refinements to correct this deficiency. Any future local approvals of map amendments on the basis of mistake shall be null and void until this deficiency is corrected.

Until this deficiency is corrected, the Commission respectfully requests that the County not submit any further map amendments on the basis of mistake.

The Commission's actions were described in a formal notification letter to the County dated January 2, 2007. Commission staff has since consulted with the County staff on two occasions regarding these actions and will continue to provide guidance as necessary in the future. At this time, no formal program amendments or refinements have been provided to Commission staff which resolve the stated deficiencies. The County, by letter dated March 26, 2007, has requested an additional 60 days, "to address the Commission's concerns and correct any deficiencies in our local program." The Chairman must determine whether the requested refinement for the Parkin mapping mistake would be consistent with the previous motions and actions taken by the Commission in regard to the County's mapping standards and the appreciation of those standards.

Staff Recommendation

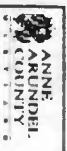
Pending subcommittee discussion



Legend

Critical Area Classification

- Intensely Developed Area
- Limited Development Area
- Resource Conservation Area

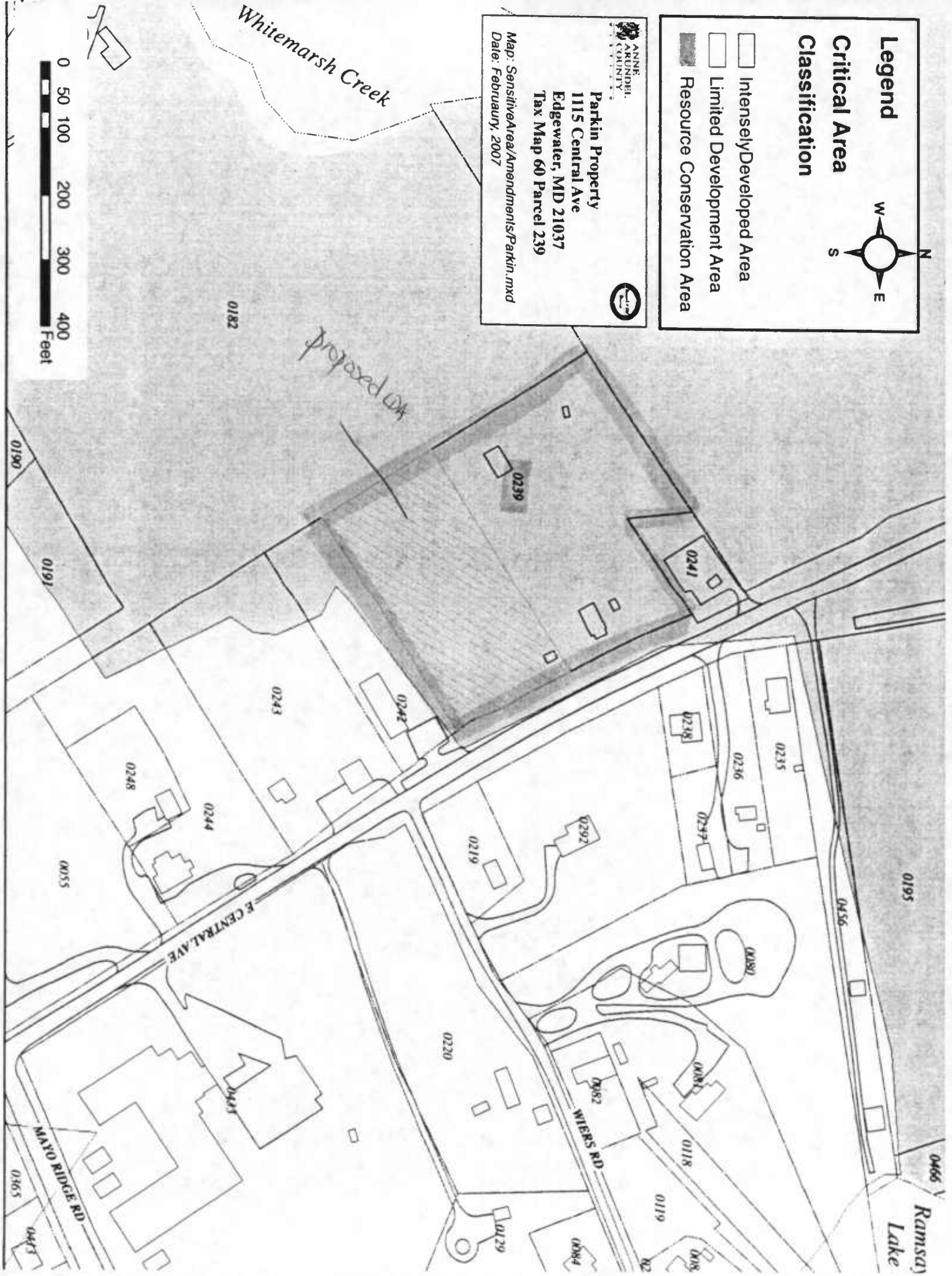


Parkin Property
1115 Central Ave
Edgewater, MD 21037
Tax Map 60 Parcel 239
Map: SensitiveAreaAmendments/Parkin.mxd
Date: February, 2007



Whitemarsh Creek

Proposed lot



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

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May 25, 2006

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Critical Area Reclassification Request - 2006-0121-C
James and Victoria Parkin

Dear Mr. Konowal:

Thank you for forwarding the above-referenced reclassification request to this office for review and comment. The property is 4.18 acres and is currently mapped as a Resource Conservation Area (RCA). The applicant proposes to reclassify approximately 1.82 acres of the parcel to a Limited Development Area (LDA). I have outlined Commission staff comments and recommendations to the Zoning Office and Administrative Hearing Officer below.

Standard of Review for Mapping Mistakes in the Critical Area

In evaluating proposed map amendments on the basis of mistake made during the original Critical Area mapping, local governments are guided by the Court of Special Appeals decision in *August Bellanca v. County Commissioners of Kent County*. See Enclosure (1). The Commission's role in reviewing these amendments is to ensure that when a local government finds that a mistake was made at the time of the original mapping, that the subject properties met the required mapping standards at that time.

In the case of reclassification requests, the County needs to determine that a mistake occurred and that the property *should have been* designated LDA based on what the Court referred to as "compelling" and "strong evidence". This is different that a finding that the property *could have been* designated LDA at the time of original mapping based on the County's mapping standards. The Bellanca decision sets out in specific detail the level of evidence required to justify a reclassification of Critical Area lands on the basis of a mistake in the original mapping.

Mr. Konowal
May 25, 2006
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...in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show [1] the facts that existed at the time of the comprehensive zoning but also [2] which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning...; by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account...; or by producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it, itself, recognized as existing at the time of the comprehensive zoning... See Enclosure, pages 13-14

In other words, there needs to be a showing that the county failed to take existing facts into account at the time of the original mapping. The mere fact that, at the time of original mapping, the property could have met either the RCA or the LDA standard is not sufficient.

The materials submitted to this office provide reasons as to how the property could have met the mapping standards for LDA outlined in the County's August 22, 1988 Program Document, which lists the methods employed by the County in designating properties in the Critical Area. The application also provides reasons as to how the property conforms to the State Critical Area Criteria mapping rules found in COMAR 27.01.02.04 and 27.01.02.05, which provide the LDA and RCA mapping standards. However, the materials do not provide either compelling or strong evidence of any facts that the County failed to consider or the significance of those facts pertaining to this parcel. Similarly, there is no showing that the County Council failed to take the mapping standards into account when considering this parcel, or surrounding parcels that are similarly designated as RCA.

As suggested in previous comment letters from Commission staff concerning Critical Area reclassification requests, the evidence provided to the County should clearly demonstrate a mistake, based on facts or factors at the time of original mapping. Examples include the occurrence of a drafting error, or that the parcel was mistakenly mapped by comparing adjoining properties. The only comparisons made for this application are of adjacent LDA properties; however, this parcel also adjoins RCA parcels and no comparisons were made to these parcels.

In any case, we believe that the applicant may need to perform additional research and provide the County with additional documentation in order to support a determination of mistake. The evidence that the County provided to us does not appear to meet the standards articulated by the Court of Special Appeals in Bellanca.

If the Hearing Officer nonetheless makes a determination of mistake based on the evidence submitted to date, then the application will be forwarded to the Critical Area Commission for approval. The Commission's role is to determine that at the time of original mapping, the area

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Page Three

met the mapping standards for LDA. At that time, the property would have had to have at least one of the following features:

- (1) Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acre;
- (2) Areas not dominated by agriculture, wetlands, forest, barren land, surface water, or open space;
- (3) Areas meeting the conditions of Regulation .03A, but not .03B, of this regulation;
- (4) Areas having public sewer or public water, or both.

COMAR 27.01.02.04

Configuration of Reclassification Request

This request is unique from any other request this office has seen in Anne Arundel County. The applicant is requesting to reclassify only a portion of the entire 4.81 acre parcel. The site plan provided divides the site almost in half. No justification was provided for why the new dividing line between what is RCA on the parcel and what is proposed for LDA, was placed in this location. It seems the applicants suggest the County meant to classify only a portion of the parcel LDA. Oddly enough, the proposed LDA land is the undeveloped portion of the property at the time of original mapping.

Regardless of the merits of any Critical Area reclassification request, it seems to Commission staff that the request would include an entire parcel, particularly the portion that was clearly developed and that established the density of the parcel at the time of original mapping.

Thank you for the opportunity to comment. Please include this letter in your files and submit it as part of the record for reclassification. As you know, the Critical Area Commission staff provides preliminary comments on these types of proposals, and should the County approve this request, it must be submitted to the Commission and the Commission may have additional comments or request additional information during its review.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Elinor Gawel, A.A. County - Office of Environmental and Cultural Resources
Ms. Marianne Mason, Assistant Attorney General

0262-06

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2006-0121-C

IN RE: JAMES AND VICTORIA PARKIN

FIRST ASSESSMENT DISTRICT

DATE HEARD: JUNE 1, 2006

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

PLANNER: **ROBERT KONOWAL**

DATE FILED: JUNE 19, 2006

RECEIVED

JUN 22 2006

CRITICAL AREA COMMISSION

PLEADINGS

James and Victoria Parkin, the applicants, seek a Critical Area reclassification (2006-0121-C) from Resource Conservation Area (RCA) to Limited Development Area (LDA) on property located along the west side of Central Avenue, north of Wier Road, Edgewater.

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. Parkin testified that the property was posted on May 1, 2006. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

This case concerns property with a street address of 1115 Mayo Road, Edgewater. The property comprises 4.18 acres and is split zoned R2-residential and OS-open space districts with a Chesapeake Bay Critical Area designation as RCA. There is a dwelling in the northeast quadrant of the property. The request is to reclassify the southern portion of the property comprising 1.8 acres. The request is preliminary to subdividing the property to create two new lots.

Anne Arundel County Code, Article 18, Section 18-16-302(b) provides that a Critical Area reclassification shall be granted or denied in accordance with compatibility with the underlying zoning district, but may only be granted based on the affirmative findings that:

- (1) There was a mistake in the approved Critical Area map based on land uses or natural features in existence on December 1, 1985;
- (2) The proposed Critical Area classification conforms to the State and County Critical Area mapping criteria;
- (3) The proposed Critical Area classification conforms to the environmental goals and standards of the General Development Plan (GDP);
- (4) There is compatibility between the uses of the property as reclassified and surrounding land uses, so as to promote the health, safety, and welfare of present and future residents of the County and effective environmental land use management; and
- (5) The applicant provided to the Critical Area Commission a copy of the Administrative Hearing Officer's notice and a copy of the application at least 30 days before the date of the hearing.

The applicants have the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. Section 18-16-301(c).

Robert Konowal, a planner with the Office of Planning and Zoning, summarized the mapping criteria. In brief, the RCA designation relates to nature-dominated environments and resource-utilization activities in areas where (1) the density is less than one dwelling unit per five acres; or (2) the dominant land use is agriculture, wetland, forest, barren land, surface water, or open space. In contrast, the LDA designation relates to low or moderate intensity uses in areas where (1) housing density ranges from 1 dwelling unit per 5 acres up to 4 dwelling units per acre; (2) the dominant land use is not agriculture, wetland, forest, barren land, surface water or open space; or (3) public sewer and/or water exists¹.

In this case, aerial photography from 1984 shows the existing dwelling and cleared land used in part for agricultural purposes. There are no natural features in the area of proposed reclassification. The property is shown as Planned Service Area "S-4" (3 - 5 years) on the official sewer map adopted by the County Council on April 16, 1984. These factors evidence that the RCA classification is an error.

Mr. Konowal also indicated that the proposed LDA designation is compatible with the underlying zoning, conforms to the mapping criteria and the proposed residential use is compatible with the surrounding land uses.

He summarized the agency comments. The County's Office of Environmental and Cultural Resources supported the request. The Chesapeake Bay Critical Area Commission disputed the sufficiency of the evidence submitted

¹ Undeveloped land within 2,000 feet of an existing water or sewer line was also classified LDA; as was land where sewer service was scheduled within 6 - 10 years or water service was scheduled within 11 - 20 years.

by the applicants in support of the request.² By way of ultimate conclusion, Mr. Konowal supported the application.

The proffered testimony by Mr. Parkin indicated that the applicants purchased the property in April, 2004. The prior owner operated an air conditioning business from the dwelling. The prior owner also operated a produce stand until 1988, although the property was never assessed for agriculture.

Doug Bourquin, a land surveyor retained by the applicants, testified that the property is predominantly a mowed lawn with approximately 1500 square feet of forested and mowed wetlands in the northwest corner. The average area for the proposed lots exceeds one acre. By contrast, the minimum area for an R2 lot with public sewer is 15,000 square feet and the allowed density in the LDA is up to 4 units per acre. The applicants are proposing less than 10% impervious coverage. Finally, stormwater management would be required at the time of development.

Dave Blaha, a land-planning consultant to the applicants, submitted the official zoning maps from 1972, 1988 and 2002. In brief, the property and surrounding area was zoned R2 in 1972 except for a strip of C1B zoning to the south; the OS zoning extended to the corner of the site in 1988; and the zoning of the property to the south was changed to the C1-commercial district in 2002. The surrounding land uses in 1985 and at present are undeveloped forest, floodplains

² More particularly, the application is limited to a comparison of adjacent LDA properties but fails to consider the RCA properties.

and wetlands to the north and west, strip development to the south along Central Avenue and an institutional use (Mayo Elementary School) to the east.

On the matter of mistake, the property was located in the 3 - 5 year Planned Service category with the existing dwelling connected to the sewer system in 1991 when service was made available. In this regard, Mr. Blaha suggested that the mapping line followed the C1 district, and then crossed Central Avenue to encompass wooded areas without regard to the presence of sewer.

Concerning the balance of the reclassification criteria, there is compatibility with the underlying zoning and the uses of the property as reclassified and surrounding land uses. In this regard, the applicants' development proposal is less dense than what is permitted by the LDA designation and the surrounding lands are zoned R2 or C1 with critical area designations as LDA. The project also satisfies the goals of the GDP.

In response to the written comments of the Chesapeake Bay Critical Area Commission, Mr. Blaha indicated that neither of the RCA mapping criteria was present in 1985; whereas, the property met the LDA criteria for density, land use and public sewer - even though any one of the criteria would have sufficed.

Upon review of the facts and circumstances, I find and conclude that the applicants have met their burden of proof such that the reclassification shall be approved. The central issue in this case is whether the RCA designation was in error based on land uses or natural features in existence on December 1, 1985. This was neither a nature-dominated environment nor resource-utilization activity.

In any event, the density exceeds 1 dwelling unit per 5 acres and the dominant land use is not agriculture, wetland, forest, barren land, surface water or open space.

Having established a mistake, the next inquiry is whether the LDA criteria are satisfied. The property is developed in a low intensity use. More particularly, it satisfies the density and is not dominated by RCA features and sewer service is available. The importance of sewer service is clear from a review of the Critical Area program document:

Most of the changes to the land use classification maps in September [1987] included shifts from Resource Conservation to Limited due to the availability of water or sewer service. The Criteria state that areas having public water or sewer qualify as Limited Development Areas. Existing County law, Article 26, Sections 3-305 and 3-312, requires that public water or sewer service must be extended to property in the "6 - 10 year sewer service area" and in the "11 - 20 year water service area" which is within 2,000 feet of an existing line. This is imposed upon an applicant for development as a condition of subdivision approval. Therefore, properties within these distances and timings are considered to have water or sewer service within the context of the definition of Limited Development Areas in the Criteria. Property beyond these distances and timings is not required to extend and construct utility lines and therefore is deemed not to have water or sewer and remains in the Resource Conservation designation....In November [1987], property that was changed to Limited Development in September that did not abut a water or sewer line, was reclassified to Resource Conservation.

I further find that the proposed classification conforms to the environmental goals and standards of the General Development Plan. The proposal for subdivision meets the impervious coverage limitation and includes stormwater


management. Finally, there is compatibility between the uses of the property as reclassified and surrounding land uses.³

ORDER

PURSUANT to the application of James and Victoria Parkin, petitioning for a Critical Area Reclassification from Resource Conservation Area (RCA) to Limited Development Area (LDA); and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 19th day of June, 2006,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a reclassification from RCA to LDA in accordance with the site plan.


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.

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

³ The applicants provided the requisite notice to the Critical Area Commission.

1 of 2

After Recording Return To:
Homeowners Title & Escrow Corp.
1923 West Street
Annapolis, MD 21401
Re: File No. 19702-04

THIS DEED, made on this 29th day of April 2004, by and between JOHN OWEN DOVE, SR., GRANTOR, and JAMES M. PARKIN and VICTORIA L. PARKIN, husband and wife, GRANTEES.

BOOK 14841 PAGE 001

WITNESSETH: That for and in consideration of the sum of THREE HUNDRED SIXTY SEVEN THOUSAND FIVE HUNDRED AND 00/00 DOLLARS (\$367,500.00), and other good and valuable considerations, the receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey unto GRANTEES, JAMES M. PARKIN and VICTORIA L. PARKIN, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, all that property, situate, lying and being in the Anne Arundel County, State of Maryland, and more particularly described as follows:

SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART ~~HEREOF~~

BEING the same property which, by Deed dated June 27, 1996 and recorded among the Land Records of Anne Arundel County in Liber 7521, folio 771, was granted and conveyed by John Owen Dove, Sr. and Nancy M. Dove unto John Owen Dove, Sr., GRANTOR herein.

TOGETHER with the buildings and improvements thereupon erected, made or being, and all and every of the rights, ways, waters, privileges and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the property above described and mentioned and hereby intended to be conveyed, unto and to the proper use and benefit of GRANTEES,

Handwritten notes:
40
2/27/04
1996
1996
1996

Vertical stamp:
- 04 APR 20 10:12 AM

Signature: [Handwritten signature]
**RECEIVED FOR TRANSFER
STATE DEPARTMENT OF
ASSESSMENTS & TAXATION
FOR ANNE ARUNDEL COUNTY
WILLIAM F. SMOUSE**

ACCT. 1000-0219-1000
ALL LIENS ARE PAID AS
OF 5/20/04 A.A. COUNTY
BY: *[Signature]*


5-20-04


JAMES M. PARKIN and VICTORIA L. PARKIN, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

AND GRANTOR does hereby covenant that he has not done or suffered to do any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the title to the property hereby granted; and that he will execute such other and further assurances of the same as may be requisite.

WITNESS the hand and seal of GRANTOR.

WITNESS:

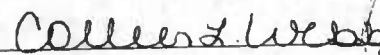


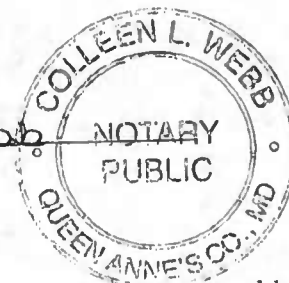

_____ (SEAL)
John Owen Dove, Sr.

STATE OF MARYLAND, ANNE ARUNDEL COUNTY, to wit:

I HEREBY CERTIFY, that on this 29th day of April 2004, before me, the Subscriber, a Notary Public in and for the State of Maryland, Queen Anne's County, personally appeared John Owen Dove, Sr., known to me or satisfactorily proven to be the within Grantor, and he acknowledged the foregoing Deed to be his act and deed, for the purposes and in the capacities set forth therein.

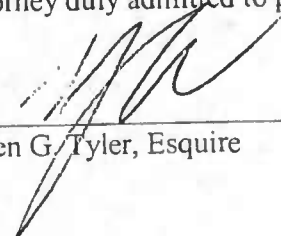
WITNESS my hand and Notarial Seal.


Colleen Webb



My Commission Expires: January 1, 2005

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.


_____ Steven G. Tyler, Esquire

JAMES M. AND VICTORIA L. PARKIN – 1115 MAYO ROAD, EDGEWATER, MD 21037
LIST OF ADJACENT PROPERTY OWNERS WITHIN 175' – CRITICAL AREA RECLASSIFICATION

John P. Segnatelli
Barbara C. Sengatelli
3807 Pine Drive
Edgewater, Maryland 21037-4246

Johnny F. Gregory
Louise L. Gregory
1102 Mayo Road
Edgewater, Maryland 21037-4203

Erma E. Stansbury
Shirley A. Tripodi, et al
1108 Central Avenue, E.
Edgewater, Maryland 21037

John A. Stansbury
Erma E. Stansbury
1108 Central Avenue, E.
Edgewater, Maryland 21037

Richard D. Ward
Janet L. Ward
1018 Wiers Road
Edgewater, Maryland 21037-4244

Thomas Van Orden Lee
Linda F. Lee
3728 Ramsey Drive
Edgewater, Maryland 21037-4118

James M. Parkin
1127 Central Avenue
Edgewater, Maryland 21037-3450

Robert W. Pellicot
Bonnie K. Pellicot
845 Selby Blvd.
Edgewater, Maryland 21037-3910

Robert W. Pellicot
Bonnie K. Pellicot
845 Selby Blvd.
Edgewater, Maryland 21037-3910

Robert W. Pellicot
Bonnie K. Pellicot
845 Selby Blvd.
Edgewater, Maryland 21037-3910

Shelly R. Muffley
1430 Wild Cranberry Court
Crownsville, Maryland 21032-2039

DOUGLAS F. GANSLER
Attorney General

KATHERINE WINFREE
Chief Deputy Attorney General

JOHN B. HOWARD, JR.
Deputy Attorney General



MARIANNE E. DISE
Assistant Attorney General
Principal Counsel

SAUNDRA K. CANEDO
Assistant Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CRITICAL AREA COMMISSION FOR THE
CHESAPEAKE AND ATLANTIC COASTAL BAYS

FAX NO. (410) 974-5338

WRITER'S DIRECT DIAL NO. (410) 260-3466
MDise@dnr.state.md.us

February 6, 2007

Anthony F. Christhilf, Esquire
150 South Street
P.O. Box 1524
Annapolis, Maryland 21404

RE: Mike's Crab House/Piera Family Ltd. Partnership

Dear Tony:

This letter responds to your letter of January 24, 2007 regarding the above-captioned matters. As you know, the Critical Area Commission voted on December 6, 2006 to take action pursuant to Code, Natural Resources Article 8-1809 to declare certain provisions of the Anne Arundel County Critical Area Program to be in conflict with the State law and criteria. The Commission voted to find that

there is a clear conflict, mistake, or omission in Anne Arundel County's Critical Area Program relative to the County's Critical Area maps, and the amendment of those maps on the basis of mistake in accordance with the mapping standards in the County's Critical Area Program document.

In my view, the language of the motion, approved by a vote of 21-0, covers any Anne Arundel County Critical Area map amendments based on mistake. Until the deficiency is corrected, in a manner chosen by the County, the Commission requested the County not to submit "any further map amendments on the basis of mistake."

As you noted in your letter, the map amendment request for your clients' property was forwarded by the County to the Commission last year, but at that time, the County had already reached its limit of four submittals allowed per year under Code, Nat. Res. 8-1809(h). Although

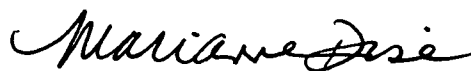
1804 West Street, Suite 100,
Annapolis, Maryland 21401

Letter to Anthony F. Christhilf
February 6, 2007
Page 2

your clients' map amendment was approved by the County prior to the Commission's December 6, 2006 action, I believe that the Commission would consider it to be encompassed in the scope of the Commission's request that the County not submit further map amendments on the basis of mistake, until the County corrects the deficiencies in the County's Critical Area program.

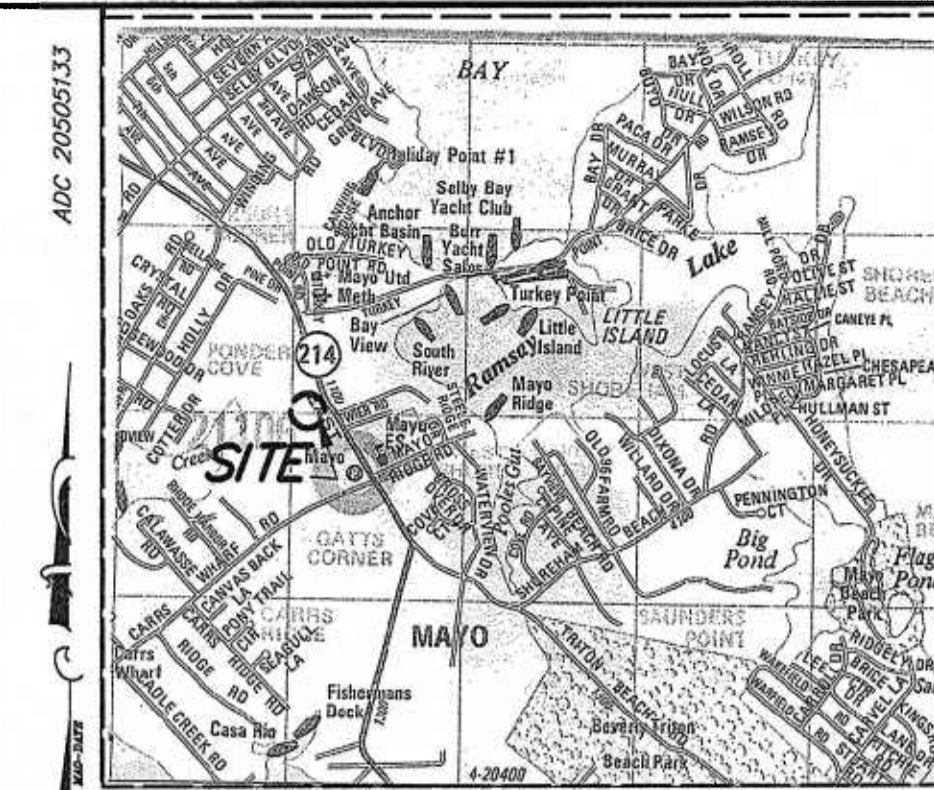
I trust that this letter responds to your inquiry. Please call me if you have any questions about this matter.

Very truly yours,



Marianne E. Dise
Assistant Attorney General

cc: Ren Serey
Mary Owens
Lisa Hoerger



VICINITY MAP
SCALE: 1" = 2,000'

GENERAL NOTES

1. SITE IDENTIFICATION: TAX MAP 60, BLOCK 17, PARCEL 239
2. TAX I.D. #1000-0219-1000
3. OWNER: JAMES M. & VICTORIA L. PARKIN
4. DEED REFERENCE: 14841/1
5. ZONING: R-2 / OS
6. CRITICAL AREA DESIGNATION: RCA
7. SITE AREA: 4.18 AC
8. NET AREA (AFTER REMOVAL OF O.S. & W.L.): 4.1 AC. NET DENSITY = 1 LOT / 1.36 AC.

CRITICAL AREA NOTES

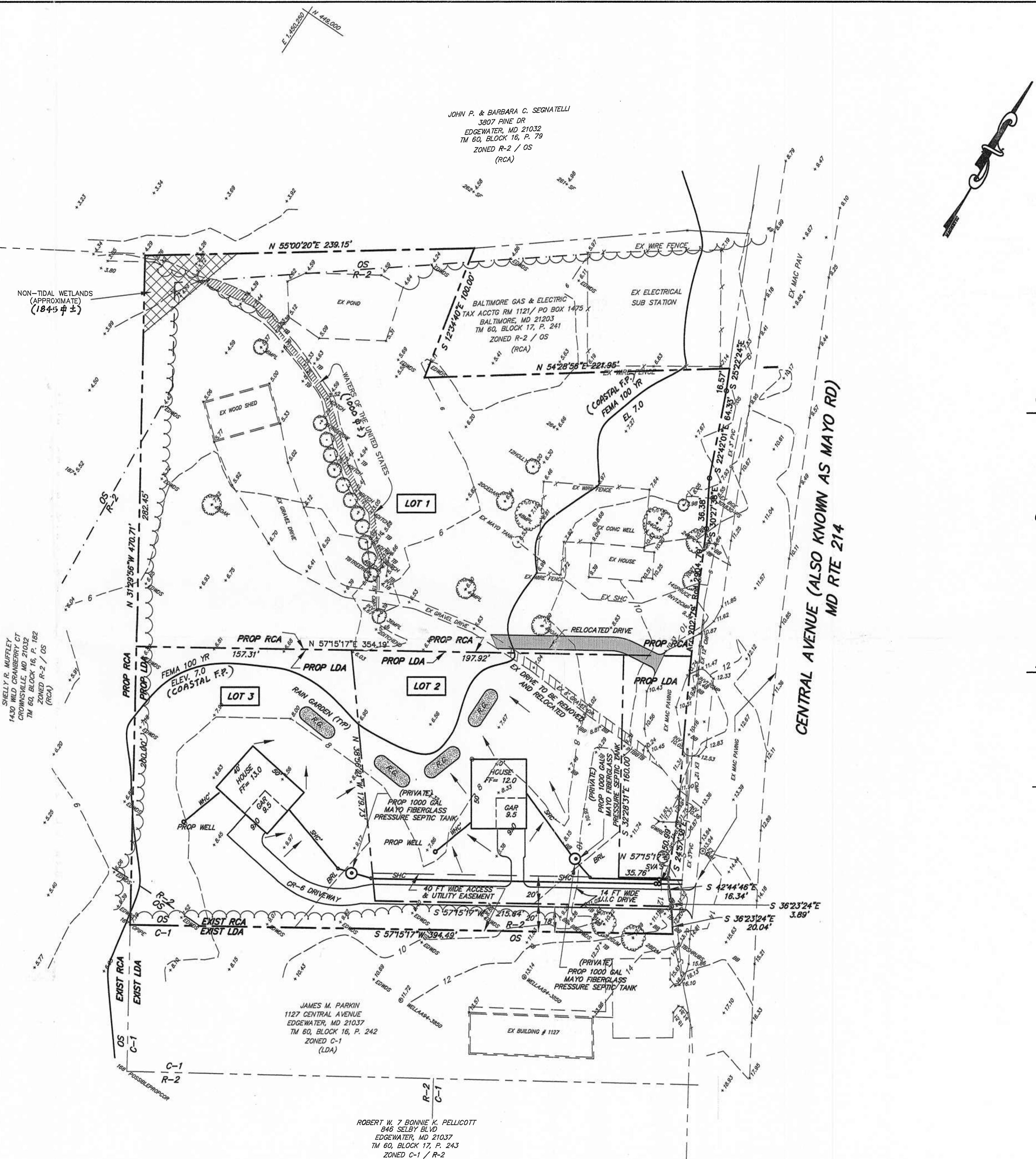
- LOT 1: 109,546 SQ. FT. / 2.52 AC
 LOT 2: 34,456 SQ. FT. / 0.79 AC
 LOT 3: 37,915 SQ. FT. / 0.87 AC
 TOTAL SITE AREA: 181,917 SQ. FT. / 4.18 AC (LOTS 1, 2 & 3)
- EXISTING IMPERVIOUS AREA: LOT 1: 7,873 SQ. FT. (260 SQ. FT. TO BE REMOVED)
 LOT 2: 582 SQ. FT. (TO BE REMOVED)
 LOT 3: -0- SQ. FT.
- PROPOSED IMPERVIOUS AREA: LOT 1: 1216 SQ. FT. (NEW)
 LOT 2: 5152 SQ. FT.
 LOT 3: 4070 SQ. FT.

IMPERVIOUS AREA TOTALS:

- LOT 1: 7,873 - 260 + 1216 = 8829 SQ. FT. (8.1%)
 LOT 2: 5152 SQ. FT. (15.0%)
 LOT 3: 4070 SQ. FT. (10.7%)
 TOTAL: 18,051 SQ. FT. (9.8%)
- TOTAL ALLOWED: 181,917 x .15 = 27,288 SQ. FT. (15%)
- EXISTING WOODLAND: 12,865 SQ. FT. / 0.11 AC
 WOODLAND TO BE REMOVED: -0- SQ. FT.

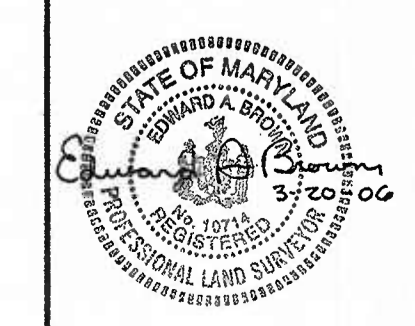
CRITICAL AREA ZONING:

- LOT 1: 102,641 SQ. FT. (EXISTING RCA)
 6,905 SQ. FT. (PROPOSED LDA)
- LOT 2: 34,456 SQ. FT. (PROPOSED LDA)
- LOT 3: 37,915 SQ. FT. (PROPOSED LDA)
- EXISTING RCA ZONING: 181,917 SQ. FT. (TOTAL)
 PROPOSED RCA ZONING: 102,641 SQ. FT.
 PROPOSED LDA ZONING: 79,276 SQ. FT.



PLAN
SCALE: 1" = 40'

- LEGEND**
- EXISTING GRADE: -110-
 - PROPOSED GRADE: -110.8
 - EXISTING ELEVATION: 110.8
 - PROPOSED ELEVATION: 110.8
 - REINFORCED SILT FENCE: RSF
 - LIMIT OF DISTURBANCE: LOD
 - STABILIZED CONSTRUCTION ENTRANCE: S.C.E.
 - STOCK PILE: SP
 - PROPERTY LINE & FUTURE C.A. LINE (WHERE LABELED): ---
 - ZONING LINE: ---
 - WATERS OF THE UNITED STATES: [Hatched Pattern]
 - NON-TIDAL WETLANDS (APPROXIMATE): [Cross-hatched Pattern]



ED BROWN & ASSOCIATES, INC.
 LAND SURVEYORS - LAND PLANNERS
 DEVELOPMENT CONSULTANTS

19 LORETTA AVENUE
 ANNAPOLIS, MARYLAND 21401
 ANNAPOLIS 410-268-6199 BALTIMORE 410-841-0119

SCALE: AS NOTED
DATE: MARCH, 2006
DRAWN BY: JAN
CHECKED BY: DDB
JOB NO: 04-200
SHEET NO: 1 OF 1

ADMINISTRATIVE SITE PLAN
CRITICAL AREA CLASSIFICATION FROM RCA TO LDA

ON PART OF THE
JIM PARKIN PROPERTY
 1115 CENTRAL AVE

TAX MAP 60, BLOCK 17, PARCEL 239, ZONING R-2 / OS, ZIP CODE 21037
 FIRST DISTRICT ANNE ARUNDEL COUNTY, MARYLAND

