

MSA-S-1829-5614

Comments 2/10/66
Ked

Revised 9/15/66
Ked

Revised 11/9/66
Ked

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/

November 9, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 04-33-34 Maguire-Revised
(Tax Map 34, Parcel 236)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the above referenced minor subdivision and intra-family transfer request.

As indicated in two previous comment letters, it is still not clear that the proposed subdivision meets the letter and intent of the County and State intra-family transfer provisions. While the applicant has provided an explanation as to the ownership history of Parcel 236, this office requested written clarification from the County regarding how and whether this proposed intrafamily subdivision meets the legal requirements identified within the County ordinance. Specifically, tax maps appear to indicate that Tract 2 was originally part of Parcel 237, not Parcel 236 as indicated by the applicant. In addition, it is not clear that Tract 2 is the original parent parcel on record at the time of adoption of the County's Critical Area Program, or whether subsequent subdivision of the parent parcel has taken place. Written findings, clarifying and defining how the County has determined that the proposal meets the intent of the intra-family provisions was requested prior to preliminary plat approval and was not received. Until this clarification is received, Commission staff cannot support final approval and recordation of the subdivision plat.

Thank you for the opportunity to provide comments for this minor subdivision request. Please consider this a request for additional information under COMAR 27.03.01.02.C. At your earliest convenience, please provide a copy of the requested supplemental information. If you have any questions, feel free to contact me at (410) 260-3482.

Sincerely,

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

Kerrie L. Gallo
Natural Resource Planner
CA50-06

Cc: David Humphries, Calvert County
Emanuel Demides, County Attorney
Saundra Canedo, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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September 15, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 04-33-34 Maguire-Revised
(Tax Map 34, Parcel 236)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot, intra-family transfer subdivision. The property lies within a designated Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1. As indicated in our previous comment letter, it is not clear that the proposed subdivision meets the letter and intent of the County and State intra-family transfer provisions. While the applicant has provided an explanation as to the ownership history of Parcel 236, this office requested written clarification from the County regarding how this proposed intrafamily subdivision meets the legal requirements identified within the County ordinance (see attached email). Specifically, tax maps appear to indicate that Tract 2 was originally part of Parcel 237, not Parcel 236. This information was requested prior to preliminary plat approval and was not received.
2. Revised plat note #2 creates additional confusion if the original parent parcel on record at the time the County's Critical Area Program was adopted was 24.64 acres. Based on that acreage, 3 intrafamily transfer lots could be created. If the legal parent parcel size is 8 acres, only two intrafamily lots are permitted. Please address and clarify the size of the original parent parcel, on record at the time of Critical Area Program adoption. In addition, please have the applicant correct the plat note accordingly.
3. Please note that this office has not yet received notice of an evaluation of the property by the Department of Natural Resources (DNR) for the presence of any rare, threatened, or endangered species. Along with the revised information requested, please indicate whether this evaluation has

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Olivia Vidotto
MSD 04-33-34 Maguire
September 15, 2006
Page 2

been obtained. As you are aware, the applicant must obtain this evaluation and will be required to address any recommendations made by DNR for the protection of any species identified.

Thank you for the opportunity to provide comments for this minor subdivision request. Please consider this a request for additional information under COMAR 27.03.01.02.C. Once available, please provide a copy of a revised plat, along with the requested supplemental information. If you have any questions, feel free to contact me at (410) 260-3482.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
CA50-06

Enclosure

CC: John Swartz, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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February 10, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 04-33-34 Maguire
(Tax Map 34, Parcel 236)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised major subdivision. The applicant is proposing to create a two-lot, intra-family transfer subdivision. The property lies within a designated Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1. Note # 4 refers to two, three-acre entitlements being utilized on the property. Please provide some documentation which supports this claim.
2. The applicant wishes to proceed with the proposed subdivision as an intra-family transfer. In order to qualify for an intra-family transfer request, State and County Critical Area Laws require that the parent parcel be on record as of March 1, 1986. Records from the State Archives indicate that the parent parcel was created in 1993 as "Tract Two" via some form of subdivision from the larger Parcel 236, located across Broomes Island Road. The area currently being shown for subdivision appears as a part of Parcel 237 on County tax maps. Based on this information, it is not clear that the applicant's property qualifies for intra-family transfer. Further information is needed prior to preliminary plat approval. Please see the accompanying 1993 plat information.
3. The 1993 plat which created the applicant's property shows an existing dwelling, yet no existing dwelling is shown on the current subdivision plat. Please clarify whether a dwelling currently exists on the property.

Olivia Vidotto
MSD 04-33-34 Maguire
February 10, 2006
Page 2

4. Please note that this office has not yet received notice of an evaluation of the property by the Department of Natural Resources (DNR) for the presence of any rare, threatened, or endangered species. As always, the applicant must obtain this evaluation and will be required to address any recommendations made by DNR for the protection of any species identified.

Thank you for the opportunity to provide comments for this major subdivision request. Please provide a copy of a revised plat, along with the requested supplemental information. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
CA50-06

NOTES:

1. A perpetual easement is provided for the widening, future widening and/or construction and maintenance of the area adjacent to the right-of-way lines of the public roadways shown hereon in accordance with the RD-4, typical road sections per the Calvert County Road Ordinance and Design Standards as currently amended and in effect at the time of approval for recordation of this plat. This easement shall include all storm drainage structures and appurtenances, excavation and construction of driveway entrances and approach roads, street intersections, gutters, swale ditches, berm ditches, flumes and any other construction applicable to said widening, all as shown on the plat of subdivision.
2. This plat of Subdivision proposes 1 conventional lot, and 1 lot via Family Conveyance on Tract 2 (BJS 1109/429). This subdivision uses two 3-Ac. (lot size) entitlements from the Parent Tract as of June 29, 1967, Tract 2 has one new base density lot. Lot 1 has been designated as the one new base density lot therefore; no Transfer Development Rights (TDR's) are required for Lot 1. Lot 2 is being created under the Family Conveyance provisions set forth in Article 5-1.02.B.4 of the 2003 Calvert County Zoning Ordinance. Lot 2 is the second lot to be created as of November 2, 1999 therefore; under the Family conveyance provisions, no TDR's are required for the creation of Lot 2.
3. Tract 2 (8.00 Ac.) existed prior to the adoption of the Critical Area Regulations which allows this Tract to Create up to two lots within the Resource Conservation Area (RCA), One Non Intra-Family lot and One Intra Family Transfer Lot. Lot 1 has been designated as the one Non Intra-Family Transfer Lot, and Lot 2 has been designated as the Intra-Family Transfer lot therefore; Lot 2 must adhere to all of the conditions set forth in Article 8-1.01.H of the 2003 Calvert County Zoning Ordinance.
4. Any deed for the Family Conveyance Lots shown hereon shall contain a covenant stating that the lot is created subject to the provisions of Article 5-1.02.B.4.
5. Any lot created by a bona fide family conveyance subdivision may not be conveyed subsequently to any person other than a family member of lineal descent or ascent, unless five Transferable Development Rights (TDR's) per lot are applied and recorded by deed. This provision shall be in effect for seven years after the lot is recorded.
6. Lots 1 & 2 established hereon are two of three Lots exempt from the Adequate Public Facilities Ordinance (APFO).
7. The building restriction lines and minimum lot widths shown hereon are in accordance with Article 5-2.01.A.2.b.
8. A 100' Planted Front Roadway Buffer shall be provided along MD Rte. 264. The Buffer shall be planted in accordance with the Rural Design Manual. Subsequent to planting, the buffer shall be deemed a no-cut/no-clear area, except for driveway construction. A Planting Plan and Bond Estimate has been submitted with the final plat. The bond for the front roadway buffer shall be posted at Planning and Zoning prior to recordation of Lots 1 & 2.
9. Within Farm Communities, farming practices that may conflict with residential use activities will be occurring on adjacent lands and are permitted by right.
10. This plat of subdivision is located completely within the Critical Area, RCA zone and site development of the lots are subject to meeting the Critical Area Regulations.
11. The developer/contractor shall notify the Historic District Commission if during construction, any archaeological artifacts are discovered on site.
12. Non-Tidal wetlands are present on-site. A minimum of 50' undisturbed natural vegetation shall be maintained from the boundaries of the wetland landward. The non-tidal wetland and associated buffer are to be left undisturbed in perpetuity and to serve for water quality benefits. A minimum 10' setback must be provided adjacent to all non-tidal wetland areas.
13. The conservation areas shown hereon include, but are not limited to, improperly drained soils, adverse soil formations, steep slopes (15% or greater) and erodible soils. A minimum 10' setback must be provided adjacent to the conservation areas. These land areas may not be developed unless the developer receives approval of the Planning Commission with the recommendations from the appropriate County agencies.
14. 100-year Flood Plain Areas exist within this plat of subdivision as per F.E.M.A. Panel 240011 0025B. No residential construction shall be permitted within the 100 year Flood Plain areas.
15. This site shall conform with the 15% impervious surface requirement, the total impervious surface allowed: Lot 1 = 19,602 Sq. Ft. (15%)
Lot 2 = 32,670 Sq. Ft. (15%)
16. As per Article 8-3.02.B: this site is exempt from Calvert County Forest Conservation Requirements. This site meets the 15% Forest Cover Requirements of the Critical Area Regulations.
17. This plat prepared without benefit of a title report.
18. All houses shall be located so that the front of one house does not face the rear of another house.
19. Existing Improvements on-site are exempt from the Stormwater Management requirements. Any proposed improvements shall be subject to Stormwater Management at the time of Building Permit Application.
20. Total Platted Area = 8.000 Acres

where are the family conveyance signatures

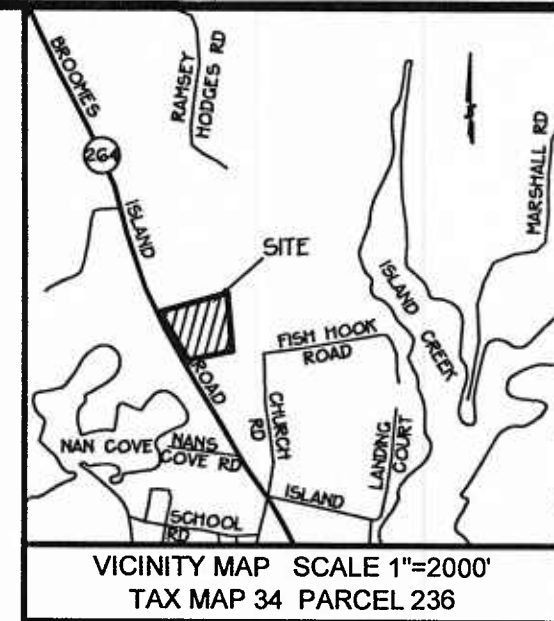
COORDINATES

No.	NORTH	EAST
1	9110.0960	9202.6087
2	9189.3697	9933.7220
3	8584.1346	9884.2373
4	8540.9203	9424.8072

SIGHT DISTANCE CERTIFICATION

I hereby certify that the driveway entrance location exists along the lot frontages that meets or exceeds the stopping sight distance requirements of the Calvert County Road Ordinance.

10-20-06 *Randy A. Barrett*
Date Randy A. Barrett



LEGEND

- Denotes 15% and greater slopes
- Denotes non-tidal wetlands
- Denotes Waters Of The U.S.
- Denotes wetlands buffer
- Denotes 100' Stream buffer
- Denotes assigned house number
- Denotes shared driveway access & maintenance easement

OWNERS CERTIFICATE

We, the undersigned owners and all parties having proprietary interest in this property hereby adopt this plan of subdivision, establish the minimum building restriction lines and dedicate the streets, alleys, walks, and other areas as specified. The streets, roads, open spaces and public sites shown hereon and the mention thereof in deeds are for the purpose of description only and recording of the Final Plat shall not be deemed to constitute or effect an acceptance by the County Commissioners. Acceptance by the County may be accomplished by a subsequent appropriate act. A utility easement is established 10 feet in width binding on all rights-of-way for the installation and maintenance of public utilities.

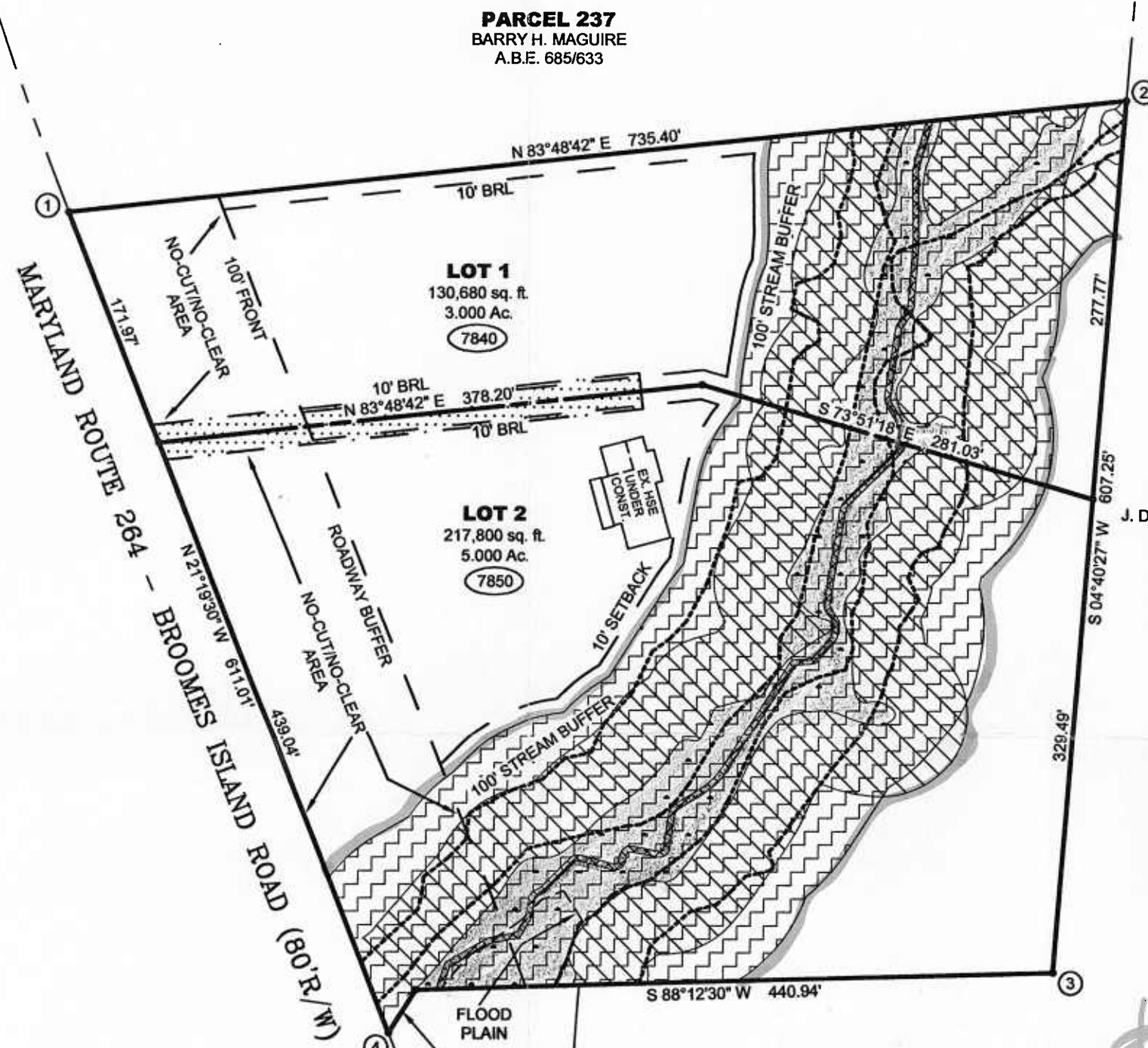
Date _____ Witness _____ John A. Maguire, Trustee
Date _____ Witness _____ Adele A. Maguire, Trustee

SURVEYOR'S CERTIFICATE

I hereby certify that the plan shown herein is correct: that it is a subdivision of part of the land conveyed by John A. Maguire & Adele A. Maguire to John A. Maguire & Adele A. Maguire, Trustees by deed dated October 19, 1998 and recorded among the land records of Calvert County, Maryland in Liber B.J.S. 1109 at Folio 429. Permanent monuments and metal rods have been set as required by Article VII, Calvert County Subdivision Regulations and Article 21, 3-108, Annotated Code of Maryland. This survey is classified as a Suburban Survey in accordance with the State of Maryland Minimum Standards of Practice, Table 09.13.06.03A, Classifications of Surveys.

10-20-06 *Randy A. Barrett*
Date Randy A. Barrett

PLANNING AND ZONING CASE NO.: MSD 04-33-34



T.M.: 38A PARCEL: 86
OUTLOT A.
LAWRENCE BOWLBY PROPERTY
A.B.E. 919/199 & 920/593

T.M.: 38A PARCEL: 2
LINDA L. BEAM
A.B.E. 752/742

Francie C.A. #2 due 1/8

Approved For Recording By The Planning Commission
Date _____ David K. Humphreys, Secretary, Planning Commission

HEALTH DEPARTMENT

Date _____

Health Officer _____

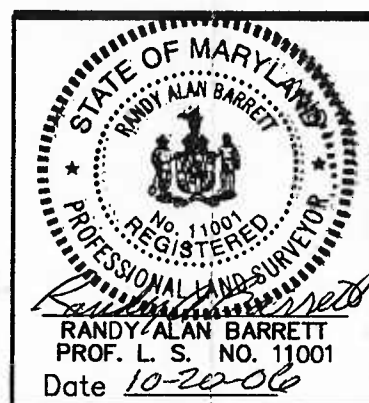
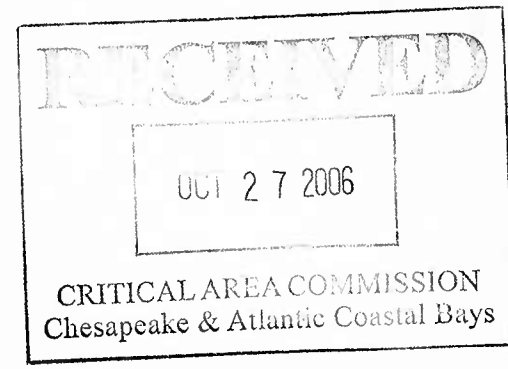
Dir. Env. Health _____

Sonitorion _____

HEALTH OFFICER'S CERTIFICATION

This subdivision satisfies the requirements of the Maryland Department Of The Environment regulation 26.04.03 allowing for individual water systems and individual sewerage systems in the subdivision of land serving single family dwellings only, and it is in conformance with the current county water and sewerage plan for water planning category W7 and sewerage planning category S7.

This Health Department approval certifies that the Lots shown hereon are in consonance with pertinent Health Department Laws and Regulations as of the approval date, however, this approval is subject to changes in such laws and regulations. Changes in topography or site designations may void this approval. The designated perc area is the only perc area approved by the Calvert County Health Department for sewage disposal purposes. The approved lot includes an approved area of at least 10,000 s.f. for sewage disposal purposes as required by current Maryland Department of the Environment Law. Improvements of any nature, including but not limited to the installation of other utility lines in this area, may render the lot undevelopable. To determine exact area of the lot approved for such purposes, you should contact the Calvert County Health Department, Office of Environmental Health.



R. A. BARRETT & ASSOCIATES, INC.
ENGINEERS & SURVEYORS
100 JIBSAIL DR., SUITE 103
PRINCE FREDERICK, MD 20678
410-257-2255 301-855-5554 FAX: 410-257-3782

FINAL PLAT
LOT 1 & INTRA-FAMILY TRANSFER LOT 2
JOHN A. MAGUIRE JR. et.ux.
PROPERTY

LOCATED IN BROOMES ISLAND
FIRST ELECTION DISTRICT, CALVERT COUNTY, MARYLAND

DATE	10/19/06
SCALE	1"=100'
DRAWN BY	C.J.M.
DRAWING #	CC2414 P
FILE #	CC2414
JOB #	07329