

AA 673-07 8919, LLC - Saunders Point
Variance

57829-6368



ANNE
ARUNDEL
COUNTY

M A R Y L A N D
County Executive John R. Leopold

2664 RIVA ROAD, P.O. BOX 6675
ANNAPOLIS, MARYLAND 21401
OFFICE OF PLANNING AND ZONING

June 29, 2011

Mr. Edward Brown, L.S.
Ed Brown and Associates, Inc.
1511 Ritchie Highway, Ste. #301
Arnold, MD 21012

Re: Saunders Point, Revised, Lot 1, Block 1
Subdivision #1995-165; Project #2008-175-00 NM
Impervious Coverage Issue

Dear Mr. Brown:

This letter is in response to recent inquiries regarding the allowable coverage limit for the above mentioned lot. Typically, the lot would be limited to 15% as it is not a grandfathered lot. However, comments made during the Variance process which preceded this application indicate that the proposed improvements were within the allowable coverage limits even though they exceeded this amount. Specifically, the Critical Area Commission comment letter dated November 13, 2007 stated that the proposed impervious surface for the house and driveway was within the limit for a lot of this size. This finding was again repeated at the hearing by the Zoning Analyst responsible for the case when he testified that the development proposal would not exceed the allowed impervious coverage. The Administrative Hearing Officer further considered the issue by granting the variance with the following condition: "The dwelling shall not be expanded over what is represented on the site plan submitted in the application and accessory structures are not allowed."

Based on the facts presented, this application will be permitted to proceed with the impervious coverage shown on the approved variance plan. A note will be added to the plat which limits the coverage to the 23.9% and prohibits any expansion of the dwelling and the addition of any accessory structure.

Any questions regarding this decision should be directed to Kelly Krinetz at pzkrin00@aacounty.org.

Sincerely,

Larry R. Tom
Planning and Zoning Officer

cc: P. Turner
A. Widmayer, CAC
D. Gerczak
Subdivision File

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401

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August 30, 2011

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

Re: Saunders Point, Lot 1, Block 1
S95-165; P08-0175-00NM

Dear Mr. Gerczak:

Thank you for submitting the referenced resubmittal for review and comment. The applicant is seeking to create a new buildable lot from an existing 9,239 square foot "original developer's lot". The property is located in the Limited Development Area (LDA). I last provided comment on May 24, 2011. The County has addressed my previous comment. I have no additional comments at this time.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Charbonneau".

Kate Charbonneau
Regional Program Chief
AA673-07

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May 24, 2011

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

Re: Saunders Point, Lot 1, Block 1
S95-165; P08-0175-00NM

Dear Mr. Gerczak:

Thank you for submitting the referenced resubmittal for review and comment. The applicant is seeking to create a new buildable lot from an existing 9,239 square foot "original developer's lot". The property is located in the Limited Development Area (LDA). Based on the information provided I have the following remaining comment:

1. Please confirm with me directly that the lot coverage limit for this lot is 15%. The 15% lot coverage limit applies because it is a newly created lot. The variance granted to the applicant on December 20, 2007 was to create a lot less than the minimum lot size and a greater density than permitted by zoning. The variance decision did not grant a variance to the 15% lot coverage limit.

Thank you for the opportunity to comment. I am happy to meet with the County and the applicant to discuss this issue in greater detail if necessary. Please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Charbonneau".

Kate Charbonneau
Regional Program Chief

cc: Kelly Krinetz, Planning & Zoning
AA673-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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October 15, 2010

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Saunders Point Revised, Lot 1, Block 1
S 95-165, P 08-0175-00NM

Dear Ms. Krinetz:

Thank you for forwarding a resubmittal for the above-referenced subdivision application. The applicant proposes to convert an existing undeveloped 9,329 square foot "original developer's lot" into a buildable lot, with construction of a new dwelling and driveway. The entire property is within the Critical Area and is designated as a Limited Development Area (LDA). The applicant has not addressed this office's comments from my previous letters, and I have reiterated my remaining comments on the project below:

- 1) Because the proposed lot requires subdivision approval, this office suggests that if the subdivision application is approved, the resulting lot will be a newly created lot subject to the existing LDA 15% lot coverage limit. Accordingly, the proposed lot coverage must be reduced to 1,400 square feet in the absence of the applicant obtaining a lot coverage variance. This office does not generally support variances required for development of newly approved non-grandfathered lots.
- 2) On December 13, 2007, the Anne Arundel County Hearing Officer granted a variance, 2007-0371-V, to allow a lot with less area than required and greater density than allowed. This variance included the following condition: "The dwelling shall not be expanded over what is represented on the site plan submitted in the application and accessory structures are not allowed." The Hearing Officer based his decision upon receipt of the following documents:
 - a large format site plan with no quantification of the proposed lot coverage
 - a small format site plan (8.5X11 sheet of paper) calculating a total of 2,081 square feet of proposed lot coverage, consisting of a 1,761 square foot house, and a 320 square foot driveway
 - an undated letter from Ed Brown & Associates signed by James Robinson which proposed 2,081 square feet of lot coverage
 - the County variance application form, which proposed 2,081 square feet of lot coverage

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While this office understands that proposed development calculations often change as development plans are finalized, in this case, the Hearing Officer clearly prohibited the applicant from increasing the lot coverage figure. The applicant represented to the Hearing Officer in several documents, including a site plan, that the maximum proposed footprint of lot coverage would be 2,081 square feet. Because the Hearing Officer based his decision on the variance application materials provided by the applicant, the applicant is not at liberty to revise the figures within those materials subsequent to the issuance of that variance decision and condition.

In response to this office's previous comments, the applicant states the following:

"...The enclosed plan has been confirmed by Mrs. Lori Rhodes...She stated to our office several times that the attached plan is in fact the impervious coverage as we have been stating in the latest responses toward your comment. There are no increases in impervious coverage. Therefore, the 2,232 square foot is the variance approved impervious coverage. Should you require confirmation please contact Mrs. Rhodes..."

I spoke with Lori Rhodes on 10/14/10. Ms. Rhodes denied that she had made any such statements and in fact she had no involvement with the variance case because it was assigned to John Fury, an Anne Arundel County Planner. I also spoke with John Fury on 10/14/10. He relayed that there was no site plan in the County variance file that referenced 2,232 square feet. Instead, all of the information in the variance file stated that the proposed construction would be limited to 2,081 square feet in lot coverage. Therefore, the applicant is limited to 2,081 square feet of lot coverage, and the proposed plans must be amended accordingly.

In order to facilitate the applicant's resolution of the remaining comments which remain unaddressed after several submissions, we recommend that the applicant set up a meeting with County and Commission staff to discuss these comments.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 673-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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March 18, 2010

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Saunders Point Revised, Lot 1, Block 1
S 95-165, P 08-0175-00NM

Dear Ms. Krinetz:

Thank you for forwarding revised plans for the above-referenced subdivision application. The applicant proposes to convert an existing undeveloped 9,329 square foot "original developer's lot" into a buildable lot, with construction of a new dwelling and driveway. The entire property is within the Critical Area and is designated as a Limited Development Area (LDA). The applicant has not addressed this office's comments from my January 19, 2010 letter and I have outlined my remaining comments on the project below:

- 1) Because the proposed lot requires subdivision approval, this office suggests that if the subdivision application is approved, the resulting lot will be a newly created lot subject to the existing LDA 15% lot coverage limit. Accordingly, the proposed lot coverage must be reduced in the absence of the applicant obtaining a lot coverage variance. This office does not generally support variances required for development of newly approved non-grandfathered lots.
- 2) On December 13, 2007, the Anne Arundel County Hearing Officer granted a variance, 2007-0371-V, to allow a lot with less area than required and greater density than allowed. This variance included the following condition: "The dwelling shall not be expanded over what is represented on the site plan submitted in the application and accessory structures are not allowed." The variance application received by the Hearing Officer included the following documents:
 - a large format site plan with no quantification of the proposed lot coverage
 - a small format site plan (8.5X11 sheet of paper) calculating a total of 2,081 square feet of proposed lot coverage, consisting of a 1,761 square foot house, and a 320 square foot driveway
 - an undated letter from Ed Brown & Associates signed by James Robinson which proposed 2,081 square feet of lot coverage
 - the County variance application form, which proposed 2,081 square feet of lot coverage

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Ms. Krinetz
March 18, 2010
Page 2 of 2

While this office understands that proposed development calculations often change as development plans are finalized, in this case, the Hearing Officer clearly prohibited the applicant from increasing the lot coverage figure. The applicant represented to the Hearing Officer in several documents, including a site plan, that the maximum proposed footprint of lot coverage would be 2,081 square feet. Because the Hearing Officer based his decision on the variance application materials provided by the applicant, the applicant is not at liberty to revise the figures within those materials subsequent to the issuance of that variance decision and condition.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 673-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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January 19, 2010

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Saunders Point Revised, Lot 1, Block 1
S 95-165, P 08-0175-00NM

Dear Ms. Krinetz:

Thank you for forwarding revised plans for the above-referenced subdivision application. The applicant proposes to convert an existing undeveloped 9,329 square foot "original developer's lot" into a buildable lot, with construction of a new dwelling and driveway. The entire property is within the Critical Area and is designated as a Limited Development Area (LDA). The applicant has not addressed this office's comments from my September 22, 2009 letter and I have outlined my remaining comments on the project below:

- 1) As noted in our previous letter, we request the County's determination of whether the lot that results from this subdivision process will be a grandfathered lot of record. If it is not, the current 15% lot coverage limit is applicable. If this is the case, the proposed lot coverage must be reduced in the absence of the applicant obtaining a lot coverage variance. This office does not generally support variances required for development of newly approved non-grandfathered lots.
- 2) In response to the following comment from my April 15, 2009 letter, the applicant indicates that 2,232 square feet of lot coverage was approved by the County Hearing Officer under the granted density variance. However, no lot coverage numbers are referenced in the Hearing Officer's decision, and based on the variance application materials received by this office in 2007, the variance application indicated on that plan as well as within the accompanying County forms and Critical Area report that a maximum of 2,081 square feet of lot coverage would be developed. I have included a copy of that variance application packet for reference. Therefore, I have included my previous comment as follows: As a condition of the variance that was granted to allow for development of this property, the Hearing Officer restricted the proposed development such that, "the dwelling shall not be expanded over what is represented on the site plan submitted in the [variance] application and accessory structures are not allowed." The applicant asserts in its March 13, 2009 responses to the County's comments on

Ms. Krinetz
January 19, 2010
Page 2 of 2

sheet 1 of 3, in comment #1 of the Environmental section, that the current plan, "shows the same exact house format as the variance (site plan)." However, the current plan proposes 2,232 square feet of lot coverage, while the applicant's variance plans and forms proposed 1,761 square feet of lot coverage for the house and a maximum of 2,081 square feet of lot coverage on the property. Because the 1,761 square foot house footprint and total proposed 2,081 square feet of lot coverage were the figures that were submitted with the variance application, these are the limits that are applicable with the variance condition. Therefore, regardless of the applicable lot coverage limit on the property, the variance condition which restricts expansion of the dwelling over what was represented on the plans submitted with the variance application, requires that the lot coverage be limited to 1,761 square feet for the house, and 2,081 square feet for the property as a whole. Accordingly, the proposed lot coverage must be reduced such that it is less than 2,081 square feet.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

Enclosure

cc: AA 673-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 22, 2009

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Saunders Point Revised, Lot 1, Block 1
S 95-165, P 08-0175-00NM

Dear Ms. Krinetz:

Thank you for forwarding revised plans for the above-referenced subdivision application. The applicant proposes to convert an existing undeveloped 9,329 square foot "original developer's lot" into a buildable lot, with construction of a new dwelling and driveway. The entire property is within the Critical Area and is designated as a Limited Development Area (LDA). The applicant has responded to some of this office's comments from my April 15, 2009 letter and I have outlined my remaining comments on the project below:

- 1) As noted in our previous letter, we defer to the County's determination of whether the lot that results from this subdivision process will be a grandfathered lot of record. If it is not, it seems that the current 15% lot coverage limit is applicable. If this is the case, the proposed development of 23% of the property in lot coverage must be reduced in the absence of the applicant obtaining a lot coverage variance. We note that this office does not support variances required for development of newly approved non-grandfathered lots.
- 2) In response to the following comment from my April 15, 2009 letter, the applicant indicates that 2,232 square feet of lot coverage was approved by the County Hearing Officer under the granted density variance. However, no lot coverage numbers are referenced in the Hearing Officer's decision, and based on the materials received by this office, the only plan that was submitted with the variance application indicated on that plan as well as within the accompanying County forms and Critical Area report that a maximum of 2,081 square feet of lot coverage would be developed. Therefore, I have included my previous comment as follows: As a condition of the variance that was granted to allow for development of this property, the Hearing Officer restricted the proposed development such that, "the dwelling shall not be expanded over what is represented on the site plan submitted in the [variance] application and accessory structures are not allowed." The applicant asserts in its March 13, 2009 responses to the County's comments on sheet 1 of 3, in comment #1 of the Environmental section, that the

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Ms. Krinetz
September 22, 2009
Page 2 of 2

current plan, "shows the same exact house format as the variance (site plan)." However, the current plan proposes 2,232 square feet of lot coverage, while the applicant's variance plans and forms proposed 1,761 square feet of lot coverage for the house and a maximum of 2,081 square feet of lot coverage on the property. Because the 1,761 square foot house footprint and total proposed 2,081 square feet of lot coverage were the figures that were submitted with the variance application, these are the limits that are applicable with the variance condition. Therefore, regardless of the applicable lot coverage limit on the property, the variance condition which restricts expansion of the dwelling over what was represented on the plans submitted with the variance application, requires that the lot coverage be limited to 1,761 square feet for the house, and 2,081 square feet for the property as a whole. Accordingly, the proposed lot coverage must be reduced such that it is less than 2,081 square feet.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 673-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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April 15, 2009

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Saunders Point Revised, Lot 1, Block 1
S 95-165, P 08-0175-00NM

Dear Ms. Krinetz:

Thank you for forwarding revised plans for the above-referenced subdivision application. The applicant proposes to convert an existing undeveloped 9,329 square foot "original developer's lot" into a buildable lot, with construction of a new dwelling and driveway. The entire property is within the Critical Area and is designated as a Limited Development Area (LDA). The applicant has responded to some of this office's comments from my January 20, 2009 letter and I have outlined my remaining comments on the project below:

- 1) As noted in our previous letter, we question whether the 31.25% lot coverage that is permitted on grandfathered lots of this size that were created prior to December 1, 1985 is the appropriate lot coverage limit on this property. We defer to the County's determination regarding whether the lot that results from this subdivision process will be a grandfathered lot of record. If it is not, it seems that the current 15% lot coverage limit is applicable.
- 2) As a condition of the variance that was granted to allow for development of this property, the Hearing Officer restricted the proposed development such that, "the dwelling shall not be expanded over what is represented on the site plan submitted in the [variance] application and accessory structures are not allowed." The applicant asserts in its March 13, 2009 responses to the County's comments on sheet 1 of 3, in comment #1 of the Environmental section, that the current plan, "shows the same exact house format as the variance (site plan)." However, the current plan proposes 2,332 square feet of lot coverage, while the applicant's variance plans and forms proposed 1,761 square feet of lot coverage for the house and a maximum of 2,081 square feet of lot coverage on the property. Because the 1,761 square foot house footprint and total proposed 2,081 square feet of lot coverage were the figures that were submitted with the variance application, these are the limits that are applicable with the variance condition. Therefore, regardless of the applicable lot coverage limit on the property, the variance condition which restricts expansion of the dwelling over what was represented on the plans

submitted with the variance application, requires that the lot coverage be limited to 1,761 square feet for the house, and 2,081 square feet for the property as a whole. Accordingly, please have the applicant remove the note on the plat which states that 31.25% is the maximum allowable lot coverage on the property, as well as other lot coverage calculations showing that the property will be developed in excess of these amounts.

- 3) Please have the applicant include a note on the plat and plans stating that the proposed plantings must be permanently maintained on the property to meet Critical Area requirements, that they must not be cut or cleared and that they must be replaced in the event that they do not survive.
- 4) There are several apparent inconsistencies and errors on the applicant's plat and plans as listed and described below. Please have the applicant make corrections to this information as necessary.
 - The plans indicate that within the 9,329 square foot lot, seven azaleas will be planted in a rain garden, and additionally 16 trees and 195 shrubs will be planted. It does not appear that there is enough room to accommodate this many trees and shrubs on the site along with the proposed development. Please have the applicant provide a planting plan showing the location of the proposed trees and shrubs, and make corrections to the proposed numbers of plantings as necessary.
 - There is a note on the plans which states that no Critical Area review has been undertaken in conjunction with approval of this amended record plat. The purpose of this note is unclear. Please have the applicant remove or further explain this note.
 - We note that the applicant's proposed plantings include impervious mitigation plantings which are generally only required for development within the Intensely Developed Area (IDA) of the Critical Area under the County's Code. While this office notes that additional plantings are beneficial to provide stormwater treatment for excess lot coverage above the 15% LDA limit, the applicant must first show that there is room for the required plantings as mentioned above.
 - The cover sheet of the final development plans indicates that a fee-in-lieu payment will be provided to address the required mitigation for the proposed clearing of the existing 800 square foot tree on the property. However, sheet three of four indicates that plantings will be provided to address this mitigation on the site. Please have the applicant resolve this inconsistency.
 - It appears that the applicant has calculated 400 square feet of planting credit for every one tree and three shrubs proposed. We note that this office only recognizes the 400 square foot cluster planting credit when one 2-inch caliper tree and 3 shrubs, or one 2-inch caliper tree and 2 small trees are planted together in a cluster according to the spacing guidelines in table 3 of this office's forest mitigation guidance document which is available on the Commission's website. In the absence of clustered plantings, this office recognizes 100 square feet of planting credit per 2-inch caliper tree and 50 square feet of planting credit per seedling or shrub.

Ms. Krinetz
April 15, 2009
Page 3 of 3

- There is a note on the grading and sediment control plan which states that stormwater plantings will be provided in the 100-foot Critical Area Buffer. While this office does not object to such plantings (which would have to be provided offsite, since there is no 100-foot Buffer located on the property), it does not appear that such a requirement is triggered by the proposed development.
- The cover sheet of the grading and sediment control plans indicates that the total disturbed area is 9,329 square feet, while on sheet 3 of 3 under the Stormwater Management Computation section, this figure is shown as 4,944 square feet. Please have the applicant resolve this inconsistency.
- On sheet 3 of 3 of the grading and sediment control plans under the Stormwater Management Computation section, note # 7 shows that the tree to be removed is 450 square feet, while elsewhere it is described as 800 square feet. Also, there is a formula provided in note #7 which does not seem to correspond to any formula known by this office, where the 450 square foot tree is divided by 200 square feet and a 2.25 planting unit requirement is calculated. Please have the applicant replace the 450 square feet with 800 square feet, and delete or further explain the unknown formula.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 673-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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January 20, 2009

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Saunders Point Revised, Lot 1, Block 1
S 95-165, P 08-0175-00NM

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision application. The applicant proposes to convert an existing undeveloped 9,329 square foot "original developer's lot" into a buildable lot, with construction of a new dwelling and driveway. The entire property is within the Critical Area and is designated as a Limited Development Area (LDA). I have outlined my comments on the project below:

- 1) It is this office's understanding that once the subdivision process is finalized, the resulting lot will not be a grandfathered lot of record. As such, we question whether the 31.25% lot coverage that is permitted on grandfathered lots of this size that were created prior to December 1, 1985 is the appropriate lot coverage limit on this property. If the lot is not grandfathered, it seems that the current 15% lot coverage limit is applicable.
- 2) The applicant has noted that the 15% minimum afforestation requirement will be addressed on site. 15% of the 9,329 square feet lot is 1,399 square feet. The applicant proposes to plant three clusters of one 1"-1.5" caliper tree and three shrubs plus two additional shrubs to address this planting requirement. However, to address the 1,399 square foot planting requirement, it is necessary to plant three clusters of one 2" caliper tree with three shrubs which will equal 1,200 square feet of planting credit, plus four additional shrubs at 50 square feet of planting credit each, or two additional trees at 100 square feet of planting credit each. These plantings should be native species which can be found in the U.S. Fish and Wildlife Service's Native Plants for Wildlife Habitat and Conservation Landscaping: Chesapeake Bay Watershed document, available at <http://www.nps.gov/plants/pubs/chesapeake/>.

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Ms. Krinetz
January 20, 2009
Page Two

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Widmayer', with a long horizontal flourish extending to the right.

Amber Widmayer
Natural Resources Planner

cc: AA 673-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 13, 2007

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

Re: 2007-0371-V Saunder's Point

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to allow a lot with less area and width than required and greater density than allowed. The lot is designated as Intensely Development Area (IDA) and is currently unimproved. This lot is 9,329 square feet and the proposed impervious surface for the house and driveway is 2,081 square feet (22.3%) which is within the limit for a lot of this size. - LDA

It is our position that it is improper to grant a variance to density requirements. The proper mechanism to change the potential density on a parcel or lot is through the rezoning process, and within the Critical Area, through the use of growth allocation. Therefore, we are not able to offer support for the variance as requested.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 673-07

AA 673-07

RECEIVED

DEC 21 2007

CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0371-V

8919, LLC

FIRST ASSESSMENT DISTRICT

DATE HEARD: DECEMBER 13, 2007

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

PLANNER: **JOHN FURY**

DATE FILED DECEMBER 20th, 2007

PLEADINGS

8919 LLC, the applicant, seeks a variance (2007-0371-V) to allow a lot with less area than required and greater density than allowed on property located along the northeast side of Lane Drive, southeast of Carvel Lane, 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. James Robinson, the applicant's managing member, testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that there has been compliance with the notice requirements.

FINDINGS AND CONCLUSIONS

This case concerns unimproved property identified as revised Lot 1 in the Saunders Point subdivision, Part 2, Block I. The property comprises 9,329 square feet and is zoned R2 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The request is to create a legal building lot.

Anne Arundel County Code, Article 18, Section 18-4-601 requires a minimum lot size of 15,000 square feet with a density of 2.5 dwelling units per

acre for a lot served by public sewer. However, Section 18-13-205 provides that the maximum density allowed in the LDA is the more restrictive of four dwelling units per acre or the density allowed in the zoning district. Accordingly, the applicant requests a variance to lot size in the amount of 5,671 square feet and a density variance.¹

John R. Fury, a planner with the Office of Planning and Zoning, testified that the property is below the minimum area for the district. The lot is an original developer lot, which means "a lot on a plat recorded before January 15, 1970 that, before January 15, 1971, was not (1) the subject of an executed public works agreement and (2) transferred to a third-party bona fide purchaser for value." See, Article 17, Section 17-2-105(a). As an original developer lot, the lot is not buildable unless and until the owner completes subdivision under Article 17. See, Section 17-2-105(b). Mr. Fury indicated that other Saunders Point lots have been developed in the same fashion. The witness summarized the agency comments. The Department of Health requested plan approval. The Chesapeake Bay Critical Area Commission opposed the request on the grounds that the proper means to achieve the result of a change in the density is either a rezoning or growth allocation. By way of conclusion, Mr. Fury supported the request.

Mr. Robinson testified that he obtained a waiver for another original developer lot (Lot 7) in the same block but current County procedures require a

¹ The LDA density is one dwelling unit per 10,917 square feet. In this case, the density for the area would increase to one dwelling unit per 10,030 square feet.

variance as a condition for legalizing the lot by record plat. The applicant does not own adjacent lots so there is no possibility of combining undeveloped lands to meet the minimum area. The development proposal will not exceed the allowed impervious coverage and is subject to a grading permit.² Finally, in response to the written objection of the Saunders Point Citizens Association submitted to this office, the witness acknowledged the need to comply with the covenants of the Saunders Point community.

John Bickford, who resides on the property to the rear, offered no objection to the request, provided the applicant satisfies the zoning setbacks.

There was no other testimony in the matter.

Based on the facts and circumstances, including the prior decision by this office, I find and conclude that the applicant is entitled to conditional relief from the code. For this Critical Area property, due to the reduced lot area, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program would deny the applicant the right to develop 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 is not a special privilege that the program typically denies. There is no indication that the request results from the actions of the applicant or from land use on neighboring property. Finally, with mitigation and other conditions, the

² The record was left open to give the applicant the opportunity to identify other cases raising the same issue. Mr. Robinson corrected the record with respect to Lot 7, which was developed pursuant to a variance rather than a waiver. See, Case No. 2003-0186-V, In Re: Michael and Teresa Grant, Trustees and James Robinson, contract purchaser (August 26, 2003).

granting of the variance will not adversely impact Critical Area assets and harmonizes with the general spirit and intent of the program.

With respect to the zoning variance, this property satisfies the test of unique physical conditions, consisting of its reduced area, such that there is no reasonable possibility of development in strict conformance with the code. In the alternative, the original developer lot status constitutes an exceptional circumstance, such that the variance is needed in the avoidance of an unnecessary hardship, and to enable the applicant to develop the lot.

I further find that the variances represent the minimum relief. There is no opportunity to combine lots to meet the minimum lot area or to reduce the density. There was nothing to suggest that the granting of the variances 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 conditions in the Order.

ORDER

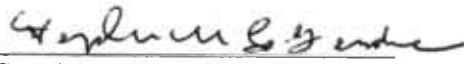
PURSUANT to the application of 8919, LLC, petitioning for a variance to allow a lot with less area than required and greater density than allowed, and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 20th day of December, 2007,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** an area variance of 5,671 square feet and a variance to density to allow a dwelling in accordance with the site plan.

The foregoing variances are subject to the following conditions:

1. A subdivision plat acceptable to the Office of Planning and Zoning shall be signed and recorded prior to the issuance of any permits.
2. The dwelling shall not be expanded over what is represented on the site plan submitted in the application and accessory structures are not allowed.
3. No other variances are allowed in the development of the property.
4. The applicant shall provide mitigation as determined by the Permit Application Center.
5. The applicant shall provide satisfactory evidence of compliance with the Saunders Point covenants at the time of building permit.
6. In order to insure that the next owner of the property is fully aware of the conditions contained in the Order, the applicant shall, as a condition of any conveyance, provided actual notice to the grantee by providing a copy of this Opinion and Order, inclusive of all conditions, to the grantee and any real estate agent involved.


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 they will be discarded.

CURVE TABLE						
NO.	RADIUS	LENGTH	TANGENT	DEGREE	CHD. BEARING	CHD. DISTANCE
A	10.00'	15.71'	10.00'	572°57'28"	N 07°00'07" W	14.14'

CRITICAL AREA NOTE:

1. THIS PROPERTY IS LOCATED ENTIRELY WITHIN THE LDA DESIGNATION OF THE CHESAPEAKE BAY CRITICAL AREA AND WILL BE SUBJECT TO THE REVIEW CONDUCTED BY THE ANNE ARUNDEL COUNTY OFFICE OF PLANNING AND ZONING AND THE CRITICAL AREA COMMISSION FOR FINAL DEVELOPMENT PLAN APPROVAL.
2. THE PROPOSED PLANTING MUST BE PERMANENTLY MAINTAINED ON THE PROPERTY TO MEET CRITICAL AREA REQUIREMENTS, THEY CANNOT BE CUT OR CLEARED AND MUST BE REPLACED IF THEY DO NOT SURVIVE.



UTILITY EASEMENT LOCATION
SCALE: 1"=40'

NOTE :

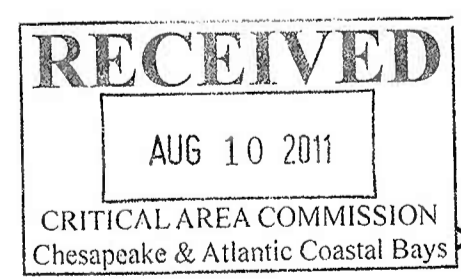
SEE PLAT ONE OF TWO FOR ANY ADDITIONAL INFORMATION.



EDWARD A. BROWN
MD. REG. PROFESSIONAL LAND SURVEYOR # 10714

I (We) consent to this plan of subdivision.

BY: 8919 LLC
JAMES C. ROBINSON, MEMBER



SUBDIVISION NO.: 1995-165
PROJECT NO.: 2008-0175-00-NM
MINOR SUBDIVISION
PLAT TWO OF TWO
* REVISED LOT 1 BLOCK 1
SAUNDERS POINT
1564 LANE DRIVE
EDGEWATER, MD.
TAX MAP 61, BLOCK 19, PARCEL 08
SITE ZIP CODE 21037 MARYLAND NAD-83
SCALE : 1"=40'

SCALE: 0' 20' 40' 60' 80' 100'
DATE: AUGUST, 2010
FIRST DISTRICT, ANNE ARUNDEL COUNTY, MARYLAND

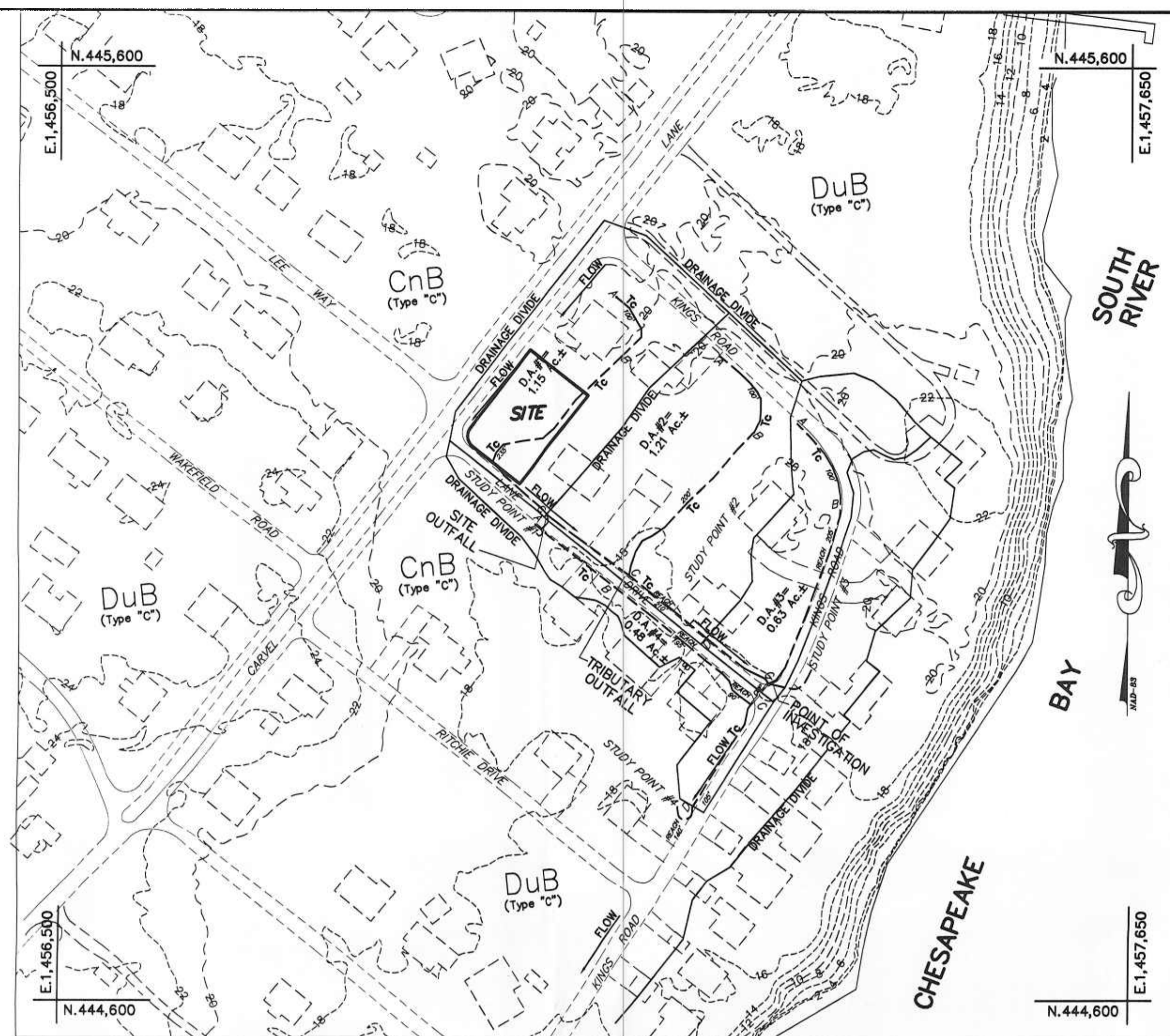
APPROVED BY: _____ DATE _____

DIRECTOR, ENVIRONMENTAL HEALTH ANNE ARUNDEL COUNTY DEPARTMENT OF HEALTH

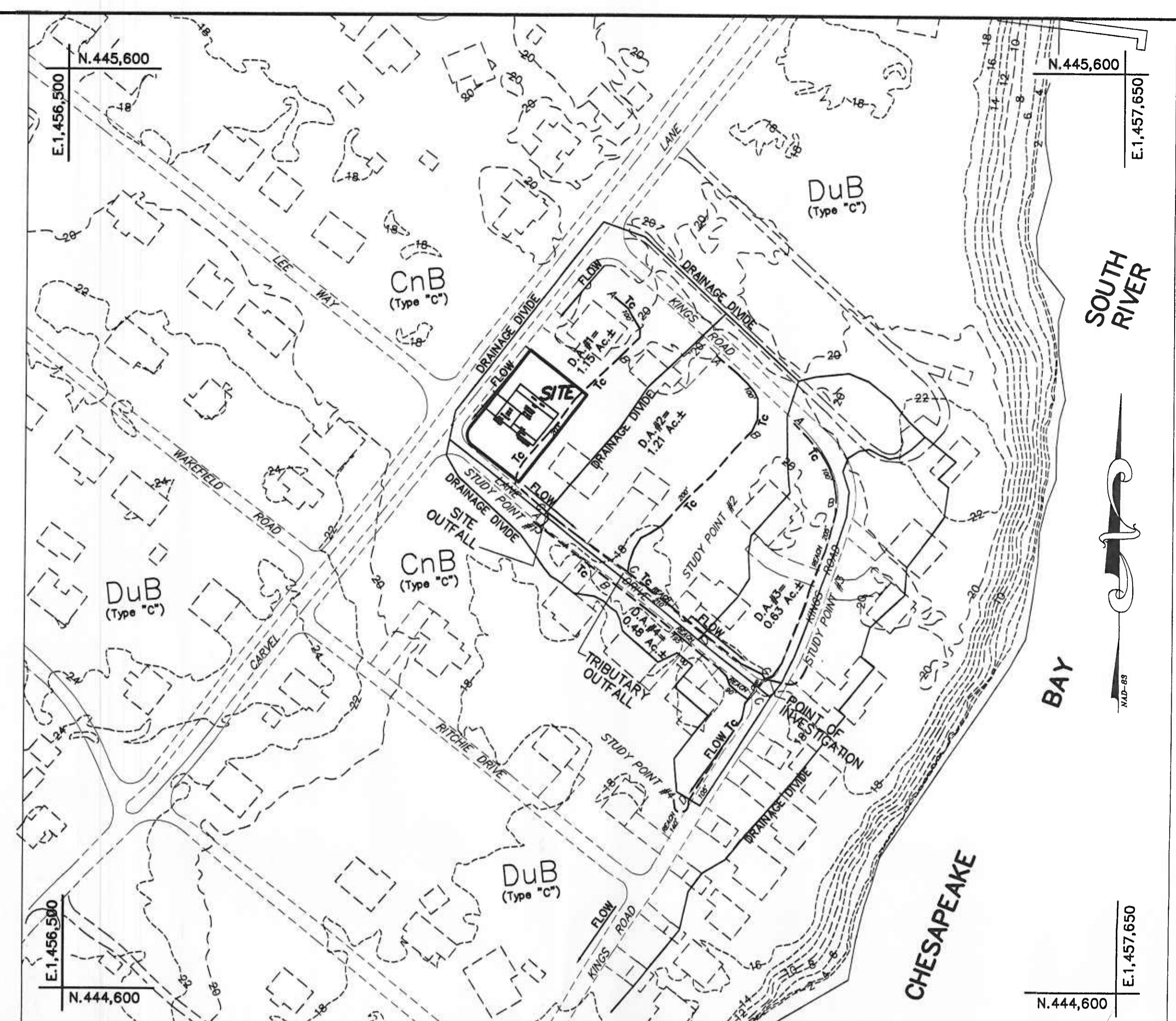
LARRY R. TOM, PLANNING AND ZONING OFFICER OFFICE OF PLANNING AND ZONING ANNE ARUNDEL COUNTY, MARYLAND

RECORDED IN BOOK _____, PAGE _____, PLAT NO. _____

ED BROWN & ASSOCIATES, INC.
LAND SURVEYORS - LAND PLANNERS
DEVELOPMENT CONSULTANTS
1511 RITCHIE HWY., SUITE 301
ARNOLD, MARYLAND 21012
PHONE: 410-757-2002 FAX: 410-757-2011
E-MAIL: EDBROWNASSOC@COMCAST.NET



EXISTING DRAINAGE AREA MAP
SCALE: 1" = 100'



PROPOSED DRAINAGE AREA MAP
SCALE: 1" = 100'

DRAINAGE AREA #1
AREA = 1.15 ACRES±
IMPERVIOUS AREA = 0.37 ACRES±
LAWN AREA = 0.78 ACRES±
SOIL TYPE "C"

TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.30% (n=0.025)
BC 235 FT. SWALE FLOW AT 0.50% (n=0.025)
RUNOFF DATA:
Q 10-YR. = 4.67 C.F.S.
DEPTH = 0.88 FT.
VELOCITY = 2.00 F.P.S.

DRAINAGE AREA #3
AREA = 0.63 ACRES±
IMPERVIOUS AREA = 0.22 ACRES±
LAWN AREA = 0.40 ACRES±
SOIL TYPE "C"

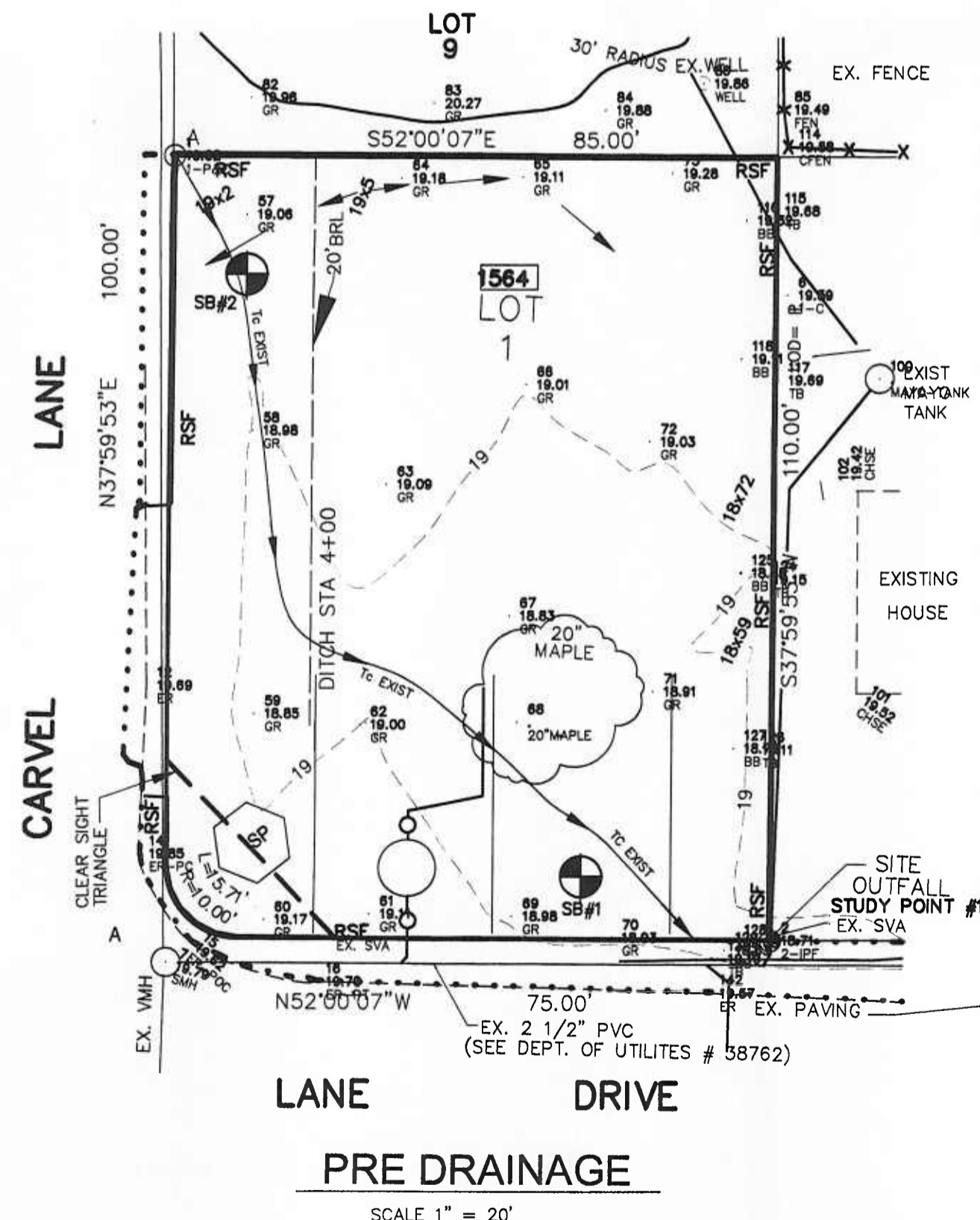
TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.00% (n=0.025)
BC 205 FT. SWALE FLOW AT 1.00% (n=0.025)
CD 105 FT. SWALE FLOW AT 0.50% (n=0.025)
ACCUMULATED RUNOFF DATA WITH DA#1 & #2:
Q 10-YR. = 11.79 C.F.S.
DEPTH = 1.67 FT.
VELOCITY = 1.39 F.P.S.
CULVERT PIPE FLOWING FLOW AND OVERFLOW ONTO ROADWAY AT DEPTH = 0.15 FT.

DRAINAGE AREA #2
AREA = 1.21 ACRES±
IMPERVIOUS AREA = 0.30 ACRES±
LAWN AREA = 0.91 ACRES±
SOIL TYPE "C"

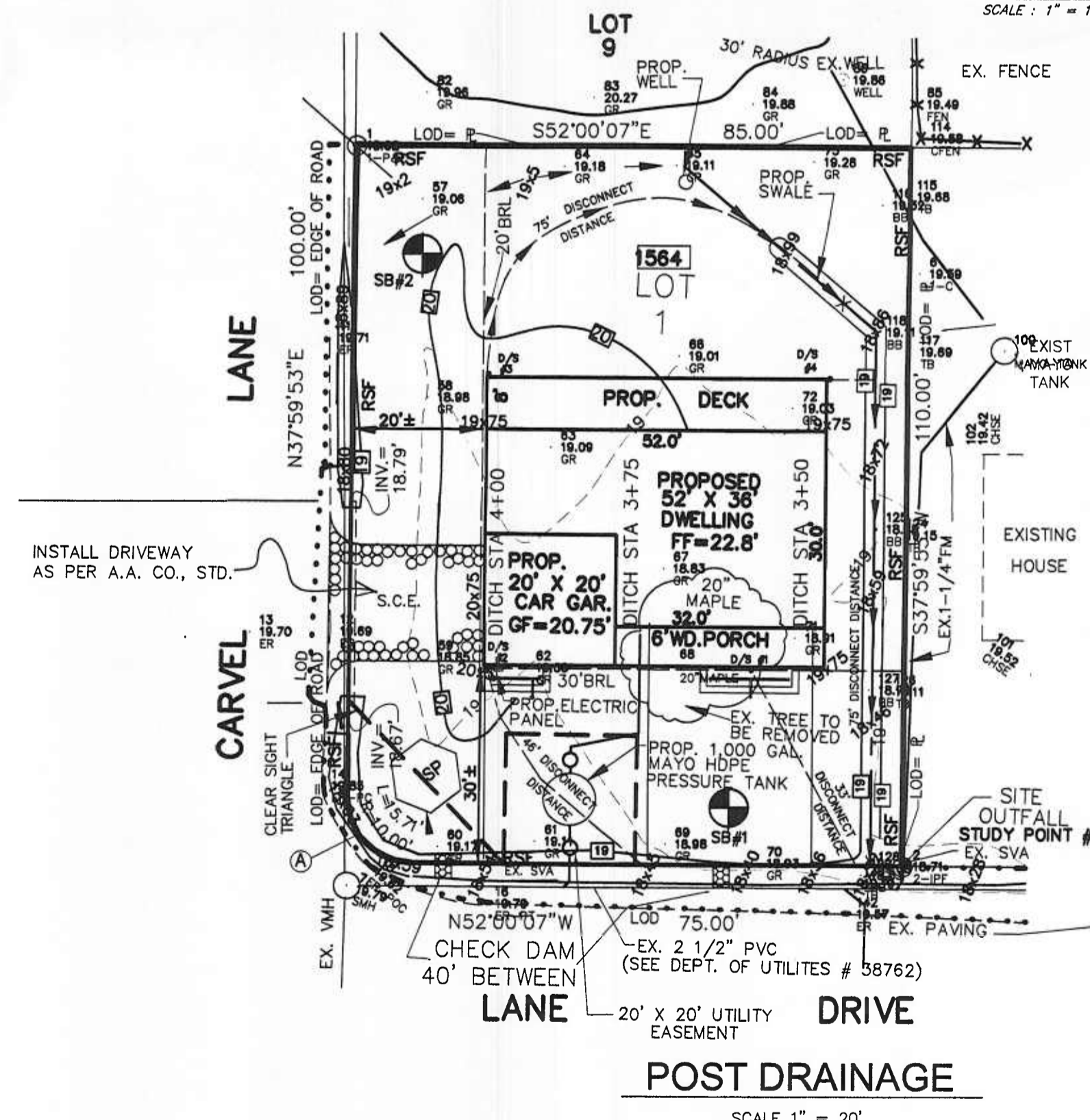
TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.00% (n=0.025)
BC 200 FT. SWALE FLOW AT 1.00% (n=0.025)
CD 195 FT. SWALE FLOW AT 0.40% (n=0.025)
ACCUMULATED RUNOFF DATA WITH DA#1:
Q 10-YR. = 9.59 C.F.S.
DEPTH = 1.16 FT.
VELOCITY = 2.39 F.P.S.

DRAINAGE AREA #4
AREA = 0.48 ACRES±
IMPERVIOUS AREA = 0.16 ACRES±
LAWN AREA = 0.32 ACRES±
SOIL TYPE "C"

TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.00% (n=0.025)
BC 195 FT. SWALE FLOW AT 1.00% (n=0.025)
CD 105 FT. SWALE FLOW AT 0.50% (n=0.025)
ACCUMULATED RUNOFF DATA WITH DA#1, #2 & #3:
Q 10-YR. = 13.37 C.F.S.
DEPTH = 1.15 FT.
VELOCITY = 2.70 F.P.S.



PRE DRAINAGE
SCALE 1" = 20'



POST DRAINAGE
SCALE 1" = 20'

DRAINAGE AREA #1
AREA = 1.15 ACRES±
IMPERVIOUS AREA = 0.37 ACRES±
LAWN AREA = 0.78 ACRES±
SOIL TYPE "C"

TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.30% (n=0.025)
BC 235 FT. SWALE FLOW AT 0.50% (n=0.025)
RUNOFF DATA:
Q 10-YR. = 4.67 C.F.S.
DEPTH = 0.88 FT.
VELOCITY = 2.00 F.P.S.

DRAINAGE AREA #3
AREA = 0.63 ACRES±
IMPERVIOUS AREA = 0.22 ACRES±
LAWN AREA = 0.40 ACRES±
SOIL TYPE "C"

TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.00% (n=0.025)
BC 205 FT. SWALE FLOW AT 1.00% (n=0.025)
CD 105 FT. SWALE FLOW AT 0.50% (n=0.025)
ACCUMULATED RUNOFF DATA WITH DA#1 & #2:
Q 10-YR. = 11.79 C.F.S.
DEPTH = 1.67 FT.
VELOCITY = 1.39 F.P.S.
CULVERT PIPE FLOWING FLOW AND OVERFLOW ONTO ROADWAY AT DEPTH = 0.15 FT.

DRAINAGE AREA #2
AREA = 1.21 ACRES±
IMPERVIOUS AREA = 0.30 ACRES±
LAWN AREA = 0.91 ACRES±
SOIL TYPE "C"

TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.00% (n=0.025)
BC 200 FT. SWALE FLOW AT 1.00% (n=0.025)
CD 195 FT. SWALE FLOW AT 0.40% (n=0.025)
ACCUMULATED RUNOFF DATA WITH DA#1:
Q 10-YR. = 9.59 C.F.S.
DEPTH = 1.16 FT.
VELOCITY = 2.39 F.P.S.

DRAINAGE AREA #4
AREA = 0.48 ACRES±
IMPERVIOUS AREA = 0.16 ACRES±
LAWN AREA = 0.32 ACRES±
SOIL TYPE "C"

TIME OF CONCENTRATION:
AB 100 FT. OVERLAND FLOW AT 1.00% (n=0.025)
BC 195 FT. SWALE FLOW AT 1.00% (n=0.025)
CD 105 FT. SWALE FLOW AT 0.50% (n=0.025)
ACCUMULATED RUNOFF DATA WITH DA#1, #2 & #3:
Q 10-YR. = 13.37 C.F.S.
DEPTH = 1.15 FT.
VELOCITY = 2.70 F.P.S.

NOTE
FOR CHECKMAM DETAILS REFER TO SHEET 5 OF 5

REVISIONS

NO.	DESCRIPTION	BY	DATE
	RECEIVED		
	AUG 10 2011		
	CRITICAL AREA COMMISSION		
	Chesapeake & Atlantic Coastal Bays		

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.

Md. P.E. License # _____
Md. Land Surveyor License # 10714
Md. Landscape Architect # _____
Name: (Print) EDWARD A. BROWN Firm Name: ED BROWN & ASSOCIATES, INC.
Street Address: PLAZA ONE BUILDING, SUITE 301, 1511 RITCHE HWY., ARNOLD, MARYLAND 21012

"PROFESSIONAL CERTIFICATION": I, EDWARD A. BROWN CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME AND THAT I AM A DULY LICENSED PROFESSIONAL SURVEYOR UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NO. 10714, EXPIRATION DATE JAN. 4, 2012.



ED BROWN & ASSOCIATES, INC.
LAND SURVEYORS - LAND PLANNERS
DEVELOPMENT CONSULTANTS
PLAZA ONE BUILDING
1511 RITCHE HWY., SUITE 301
ARNOLD, MARYLAND 21012
PHONE 410-757-2002, FAX 410-757-2011
Email: edbrown@edbrownassoc.com

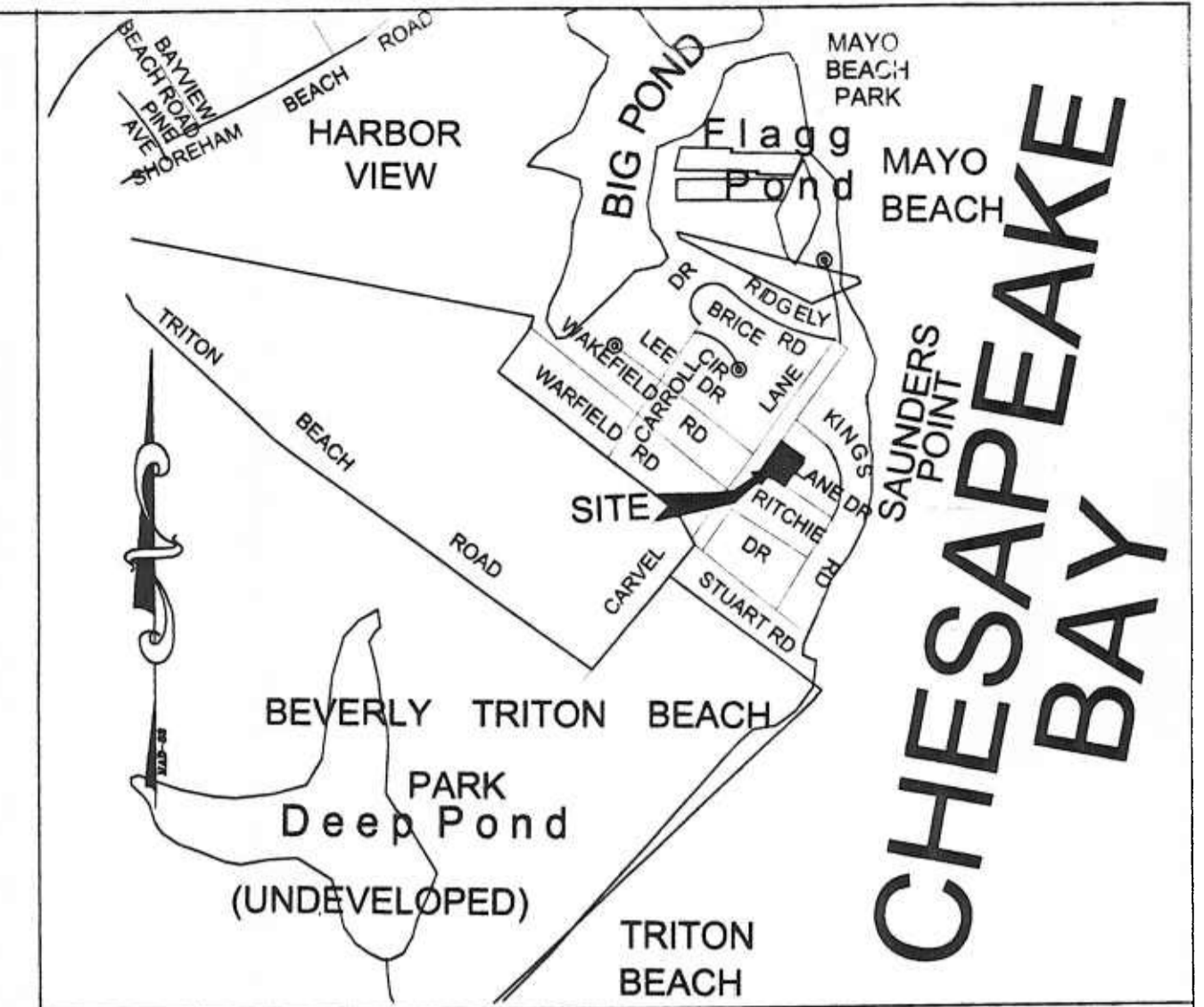
SCALE: AS NOTED
DATE: AUGUST, 2010
DRAWN BY: DEN
CHECKED BY: D.E.J.
JOB NO: 06-17323
SHEET NO: 2 OF 5

SUBDIVISION # 1995-165
PROJECT # 2008-0175-00-NM

TITLE SHEET/FINAL DEVELOPMENT PLAN
REVISED LOT 1 BLOCK 1 SAUNDERS POINT
1564 LANE DRIVE
EDGEWATER, MD.
TAX MAP: 61, BLK.: 19, PARCEL: 08, ZONING: R-2, ZIP CODE: 21037
FIRST DISTRICT ANNE ARUNDEL COUNTY, MARYLAND NAD83

LEGEND

- EX. GROUND
- EX. BUILDING
- PROP. BUILDING
- PROP. DRIVEWAY
- SOIL TYPES CnB / DuB



GENERAL NOTES

1. TAX MAP 61, BLOCK 19, PARCEL 08
2. GRID TICKS SHOWN ARE TAKEN FROM ANNE ARUNDEL COUNTY NAD 83 GRID SYSTEM.
3. PURPOSE NOTE: THE PURPOSE OF THIS PLAT IS TO REQUEST A VARIANCE TO THE REQUIRED 15,000 SQ.FT. MINIMUM LOT SIZE REQUIREMENT FOR R-2 ZONING AND TO THE REQUIRED 3.99 LOT/AC.(10,917 SQ.FT.) DENSITY REQUIREMENT FOR THE LDA CRITICAL AREA.
4. DEVELOPMENT PLAN STATEMENT: DEVELOPMENT OF THIS SUBDIVISION SHALL BE UNDERTAKEN ONLY IN ACCORDANCE WITH THE APPROVED FINAL DEVELOPMENT PLAN ON FILE IN THE OFFICE OF PLANNING AND ZONING.
5. THIS SITE WAS PREVIOUSLY RECORDED IN SAUNDERS POINT PART 2 BLOCK I IN PLAT BOOK: 21 PAGE: 42 AND IS SUBJECT TO ALL PREVIOUS PLAT NOTES.
6. THIS SITE IS LOCATED ENTIRELY WITHIN THE LDA DESIGNATION OF THE CRITICAL AREA AND WILL BE SUBJECT TO ALL CRITICAL AREA REQUIREMENTS IN EFFECT AT THE TIME OF GRADING AND/OR BUILDING PERMIT.

ZONING/SETBACKS

ZONING = R-2
 BUILDING SETBACKS
 FRONT : 30'
 REAR : 25'
 SIDE : 7'


AREA TABULATION

LOT 1 = 9,329 SQ.FT. = 0.214 AC.±

ED BROWN & ASSOCIATES, INC.
 LAND SURVEYORS - LAND PLANNERS
 DEVELOPMENT CONSULTANTS
 1511 RITCHIE HWY., SUITE 301
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 PHONE: 410-757-2002 FAX: 410-757-2011
 E-MAIL: edbrownassoc@comcast.net

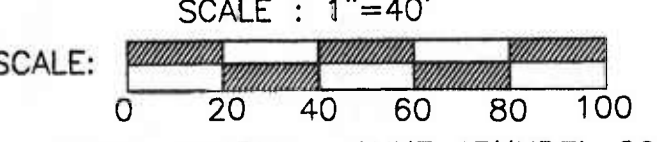
OWNER/DEVELOPER
 8919 LLO (JAMES ROBINSON)
 2137 DEFENSE HWY.
 CROFTON, MD., 21114-2420
 PHONE: 410-721-9230

9-18-07
 DATE
 EDWARD A. BROWN
 1511 RITCHIE HWY., STE. 301
 ARNOLD, MARYLAND 21012

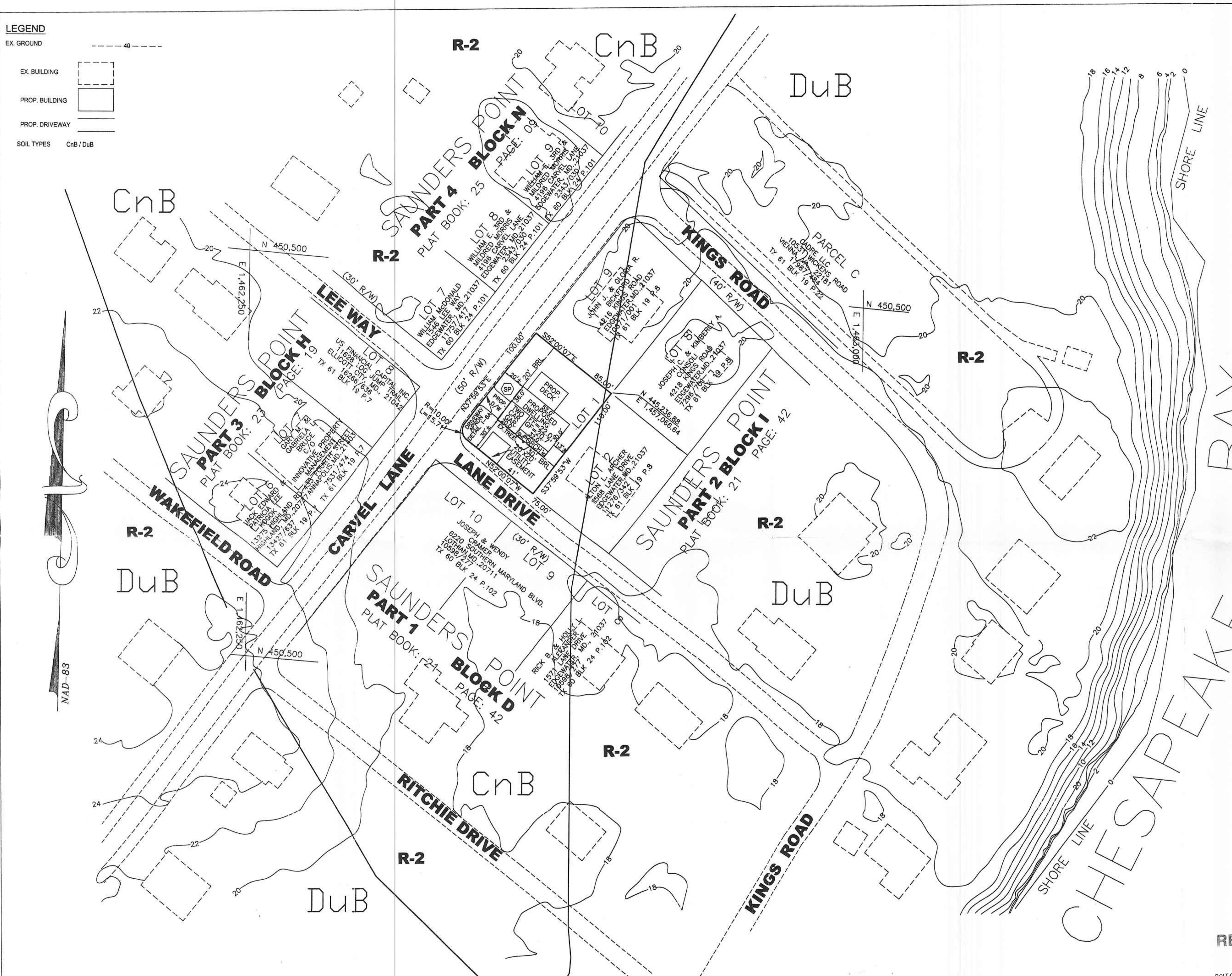


RECEIVED
 OCT 07 2010
 CRITICAL AREA COMMISSION

VARIANCE PLAT
 REVISED LOT 1 BLOCK I
SAUNDERS POINT
 1564 LANE DRIVE
 EDGEWATER, MD., 21037
 TAX MAP 61, BLOCK 19, PARCEL 08
 SITE ZIP CODE 21122 MARYLAND NAD-83
 SCALE: 1"=40'
 DATE: SEPTEMBER, 2007

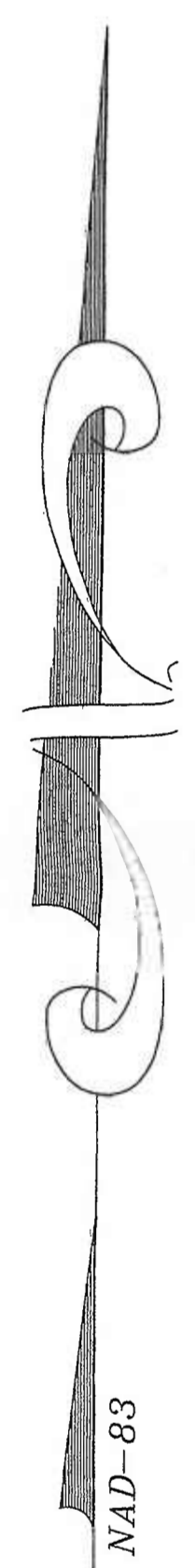
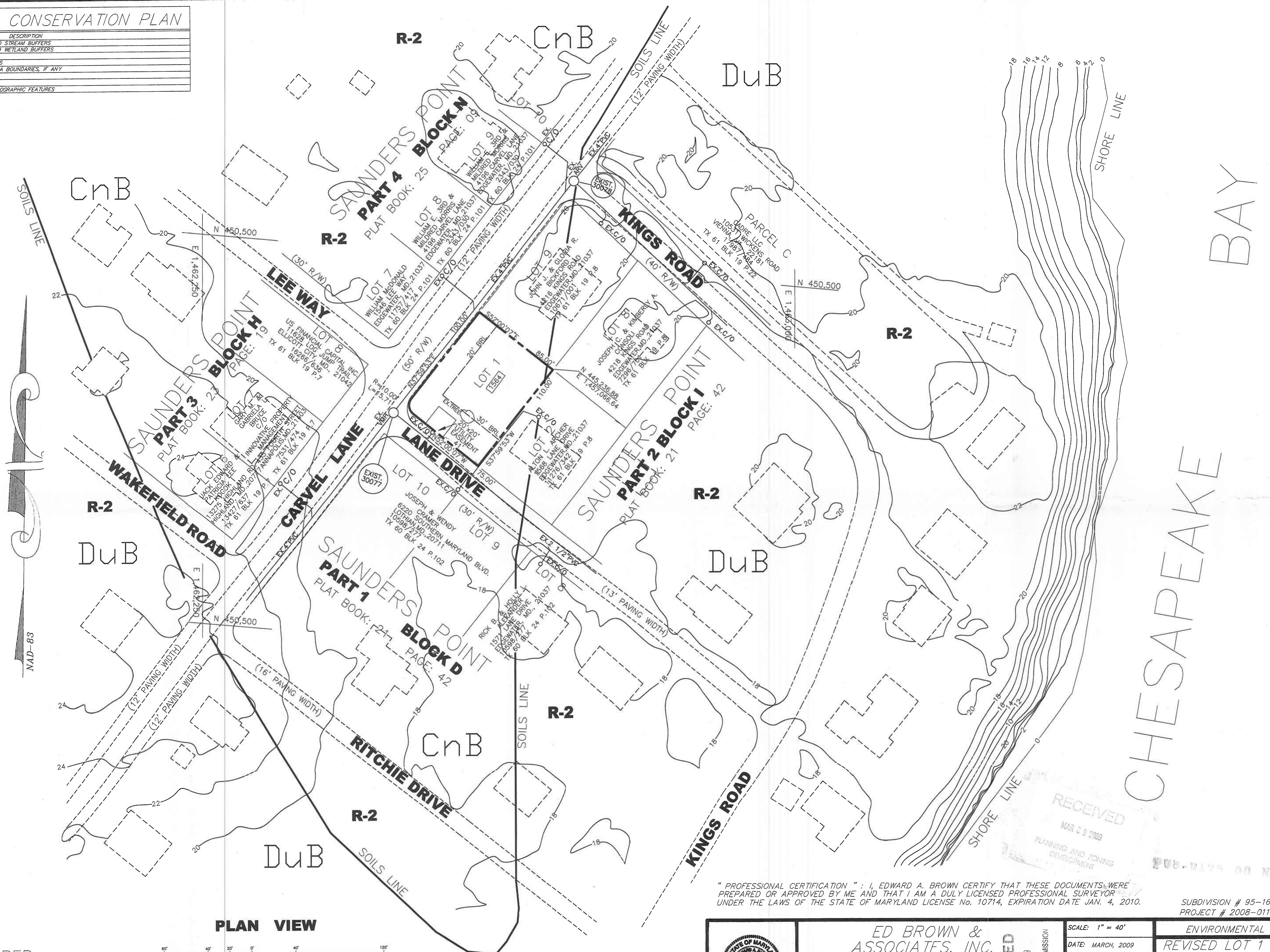


FIRST DISTRICT, ANNE ARUNDEL COUNTY, MARYLAND

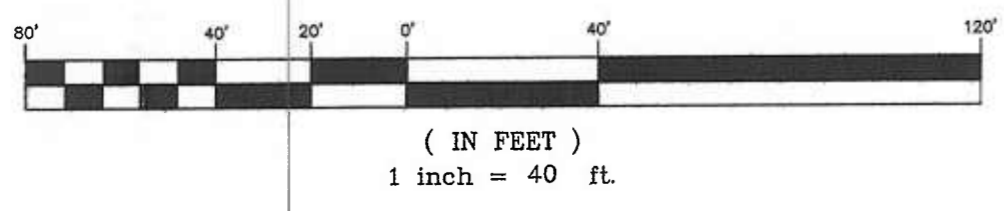


ENVIRONMENTAL CONSERVATION PLAN

STATUS	DESCRIPTION
N/A	A. STREAMS AND STREAM BUFFERS
N/A	B. WETLAND AND WETLAND BUFFERS
N/A	C. FLOODPLAINS
N/A	D. STEEP SLOPES
YES	E. CRITICAL AREA BOUNDARIES, IF ANY
YES	F. SOIL TYPES
N/A	G. FOREST
YES	H. EXISTING TOPOGRAPHIC FEATURES



PLAN VIEW



OWNER/DEVELOPER
 8919 LLC (JAMES ROBINSON)
 2137 DEFENSE HWY.
 CROFTON, MD., 21114-2420
 PHONE: 410-721-9230

" PROFESSIONAL CERTIFICATION " : I, EDWARD A. BROWN CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME AND THAT I AM A DULY LICENSED PROFESSIONAL SURVEYOR UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE No. 10714, EXPIRATION DATE JAN. 4, 2010.

SUBDIVISION # 95-165
 PROJECT # 2008-0112



ED BROWN & ASSOCIATES, INC.
 LAND SURVEYORS - LAND PLANNERS
 DEVELOPMENT CONSULTANTS
 PLAZA ONE BUILDING
 1511 RITCHE HWY., SUITE 301
 ARNOLD, MARYLAND 21012
 PHONE : (410) 757-2002 FAX : (410) 757-2011
 E-MAIL : ED@BROWNASSOC.COM

RECEIVED
 MAR 11 2009
 CRITICAL AREA COMMISSION

SCALE: 1" = 40'
DATE: MARCH, 2009
DRAWN BY: DEN
CHECKED BY: DEJ
JOB NO: 06-17323
SHEET NO.: 1 OF 1

ENVIRONMENTAL PLAN
 REVISED LOT 1 BLOCK 1
SAUNDERS POINT
 1564 LANE DRIVE
 EDGEWATER, MARYLAND
 TAX MAP: 61, BLK.: 19, PARCEL: 08, ZONING: R-2, ZIP CODE: 21037
 FIRST DISTRICT ANNE ARUNDEL COUNTY, MARYLAND NAD83



CHESAPEAKE BAY