

AA 754-07
VAR

Ghiglino, Patricia
0426

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Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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/

January 8, 2008

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

Re: Ambar, LLC V-2007-0426

Dear Ms. Cotter:

Thank you for forwarding the above-mentioned variance application. The applicant proposes to remove an existing commercial building and construct a new commercial building and two parking lots on an existing 1.23 acre lot with 4,752 square feet of disturbance to non-tidal wetlands and their buffers. The property is classified as an Intensely Developed Area (IDA).

This office does not oppose the granting of this variance request, provided the applicant completes the required wetland creation mitigation as determined by Maryland Department of the Environment (MDE). We note that the applicant states in the Critical Area report that the proposed stormwater management, which will be done with grass swales, will meet the Critical Area's IDA pollutant removal requirement and the stricter County stormwater management standards. However, in a previous letter to the applicant in response to the applicant's site plan application, this office requested that the applicant demonstrate how the 10% pollutant removal requirement will be met for development of this property by completing and submitting the 10% pollutant reduction calculations for this office's review. It does not appear that these calculations are included with the materials the applicant submitted for the variance application. Accordingly, we recommend that if the applicant's variance is granted, it be conditioned on the applicant's submission of the 10% calculations for the proposed project, and on this office's confirmation that the 10% pollutant requirement will be satisfactorily addressed for this site.

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".

Amber Widmayer
Natural Resources Planner

cc: AA 754-07

AMBAR, LLC/GHIGLINO
648 Deale Road, Deale, MD

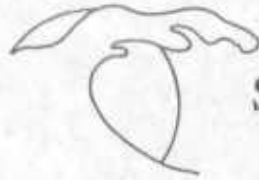
Explanatory Statement

The applicant, Ambar, LLC, seeks a variance to Section 17-8-502 to allow development which will impact nontidal wetlands (a "Habitat Protection Area") on its property. The parcel in question is comprised of 1.23 acres at the intersection of Deale Road (Maryland Route 256) and Vacation Lane in Deale. It is zoned C3-General Commercial District and is designated as Intense Development (IDA) in the County's Critical Area Program. Existing improvements include an outdated, commercial structure, erected in 1960, and a gravel parking lot, which together occupy the southern one-third of the site. The remainder of the property is unimproved, consisting of mowed lawn with a fringe of young woodlands along the eastern boundary.

Designated for commercial use by the proposed Land Use Map of the Deale-Shady Side SAP, this parcel is essentially the last undeveloped property in the commercially zoned node which comprises a portion of the "Deale Village Center". Surrounding uses include the Deale Post Office complex and various commercial uses in an easterly direction to Deale-Churchton Road. Land uses to the north and northwest consist of marina facilities, including extensive boat storage located on impervious parking areas. In connection with its proposed development, the applicant plans to remove a portion of the existing structure and renovate the remainder; construct a two-story office/commercial building with a footprint of approximately 7,800 square feet; and provide the requisite parking for the proposed uses. That development will entail disturbing and filling two small areas (2,194 square feet and 2,557 square feet) of irregular, marginal wetlands (and their buffers) on the northern portion of the site.

As reported by See Environmental Services, Inc., the wetlands in question are of low value and essentially noncontributing to the health of the Bay due to their isolation and the fact that they have been mowed for many years. If prevented from disturbing them, however, the applicant will be deprived of the use of almost one-half of the property for the commercial and intense development categories designated for it. This would result in an unwarranted hardship to the applicant. Given the extent of surrounding development, denial of the requested variance would clearly deprive the property owner of a right commonly enjoyed by other similarly situated properties. In connection with the proposed development, the applicant's engineer has submitted a storm water management plan which establishes that the management of storm water resulting from the proposed improvements will meet the IDA pollutant removal criteria and stricter County storm water management standards. Accordingly, there will be no adverse effect on water quality or aquatic habitat within the Critical Area. Taking into consideration the C3 zoning and IDA classification, the proposed 15,000 square foot building with attendant parking is minimal and will not have an adverse impact on the character of the neighborhood or use of adjacent properties.

In conclusion it is noted that the Maryland Department of the Environment has preliminarily authorized the disturbance of the wetlands subject to mitigation and approval of final plans. Mitigation can be accomplished within the close vicinity of the property due to the location of an established site for that purpose.



**SEE ENVIRONMENTAL
SERVICES, INC.**

CHESAPEAKE BAY CRITICAL AREA REPORT & HABITAT ASSESSMENT

AMBAR, LLC PROPERTY, DEALE ROAD AND VACATION LANE, DEALE

**Deale, Anne Arundel County
Tax Map 78, Grid 1, Parcel 15**

Developer/Applicant:

Patricia Ghiglino, Ambar, LLC
6561 West Shady Side Road, Shady side, MD 20764

Critical Area Designation: IDA
Zoning: C-3

September, 2007

I. Introduction

This Critical Area Report has been prepared as part of the requirements of County Zoning and Development Codes for both a planned commercial complex and for a variance to impact nontidal wetlands (a "habitat protection area"), for this 1.3-acre property, which is located completely within the Chesapeake Bay Critical Area. The site is located beside the Deale Post Office at the intersection of Deale Road (MD Route 256) and Vacation Lane in Deale, southern Anne Arundel County. This commercial site was given an Intense Development (IDA) land use designation by Anne Arundel County during the Critical Area mapping process. (See enclosed copy of Critical Area Map #32, and a copy of an aerial photograph downloaded from the County DPW GIS website.)

The County commercial site review is required because the project proposes an increase in the pre-existing commercial use of the site.

The need for the variance comes from the fact that the owner/developer proposes to fill the 4,751 square feet of disturbed nontidal wetlands on this Critical Area site. A nontidal wetlands application (07-NT-0064/200769749) is pending with the Maryland Department of Environment to fill these nontidal wetlands. A copy of the May 14, 2007, review letter from the MDE reviewer is included in this report, indicating that MDE will approve the wetlands impact, pending receipt of mitigation and final plans.

This report is based on surveys and the subdivision plans prepared by C. D. Meekins & Associates, Inc., a copy of the pending commercial site plan is enclosed at the end of this report. Site visits to conduct a wetlands investigation and this Critical area study were conducted on December 11, 2006 and January 11, 2007, by Eric E. See of See Environmental Services, Inc.

The Woodbridge Center
2444 Solomons Island Road, Suite 217
Annapolis, Maryland 21401
Tel: (410) 266-3828 Fax: (410) 266-3866

CRITICAL AREA NARRATIVE

The site is located on the north side of Deale Road, next to the Deale Post Office. Rockhold Creek is located approximately 500 feet to the west. The site is currently improved with an old, cinder block commercial building near Deale Road, which is surrounded by a gravel/broken asphalt parking area. The northern two-thirds of the parcel have been maintained in mowed lawn for many years. The site is surrounded by commercial and marina land uses, with the exception of small, wooded parcel to the northeast. This parcel was identified as mostly nontidal wetlands.

The site is nearly flat, but slopes slightly towards the west, towards Rockhold Creek, draining through a culvert under Vacation Lane into a long ditch down to the creek. The soil type mapped on the site in the new, 2003 Soil Survey for Anne Arundel County, Maryland is the Deale-Shadyoak-Urban land complex (DeA). The site investigation found variants of both the slightly non-hydric Deale silt loam and the slightly hydric Shadyoak silt loam throughout, with varying amounts of heterogeneous fill.

The small area of nontidal wetlands on the site is a series of low depressions and the un-maintained drainage ditch through the site, and are described in detail in the enclosed copy of this firm's wetlands report. The low value of these wetlands and their scattering within the middle of the commercial site are the basis for proposing to fill them and replace them elsewhere (in a State-approved, wetlands mitigation site nearby). Drainage from the small wooded parcel to the northeast will be maintained via a swale around the rear of the property, that will continue to drain through the culvert under Vacation Lane towards Rockhold Creek to the west.

The site contains no forest or tree cover, with some slight extension of tree canopies on the parcel to the northeast showing on aeriels. Given the developed character of the site, the likelihood of presence of any rare, threatened, and endangered plant or animal species is virtually nil, and none were observed during the site investigations.

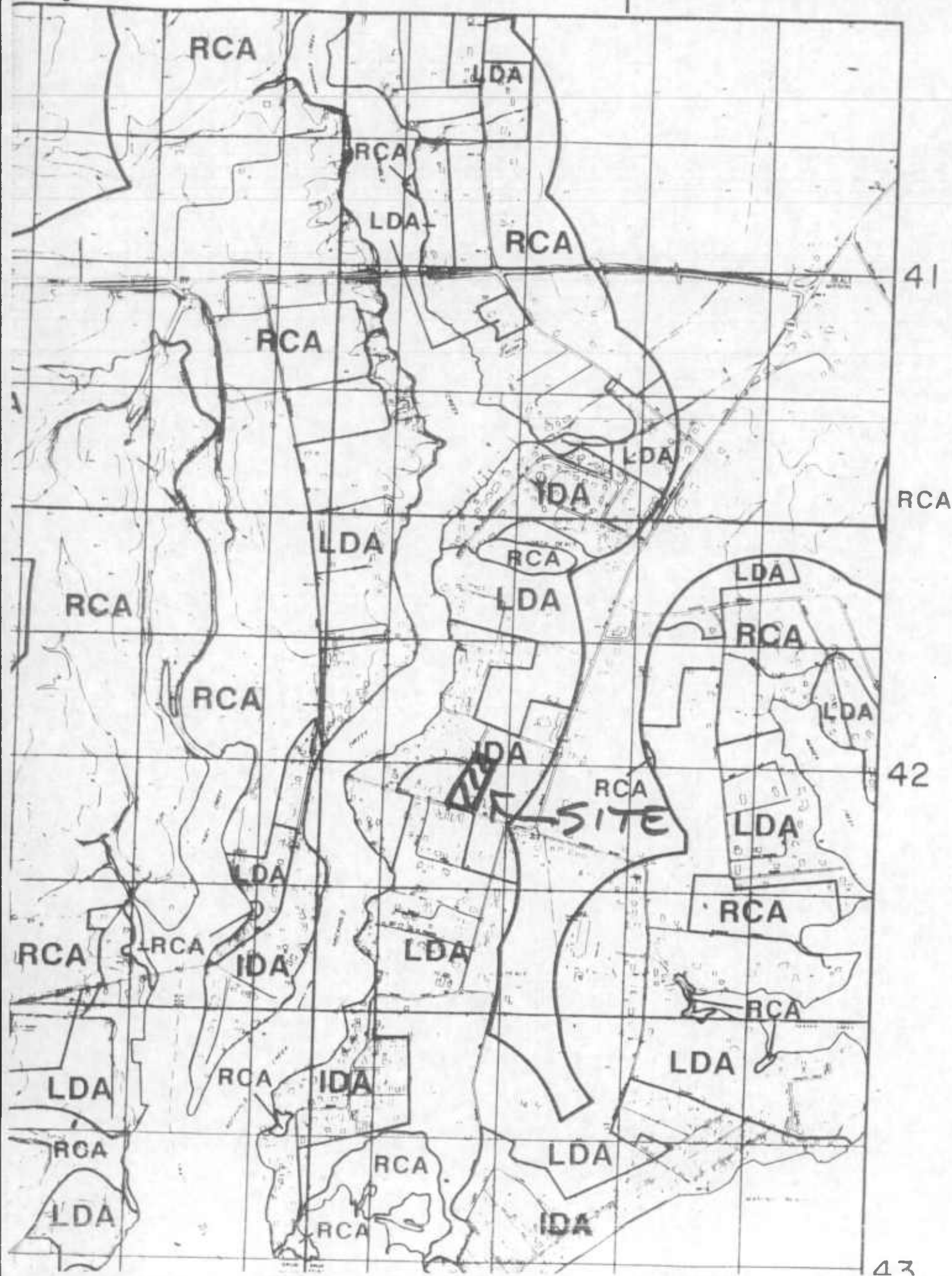
The existing impervious surface on the site is 0.29 acre. Proposed is 0.79 acre. Stormwater management will meet the IDA pollutant removal criteria and the stricter County stormwater management standards, using grassed swales.

REFERENCES

- Anne Arundel County, Office of Planning & Zoning, 1988. Critical Area Maps #32.
- Anne Arundel County, DPW. Aerial Photo from GIS website.
- C. D. Meekins & Associates, Inc. 2006-7 surveys and site plans
- Maryland Department of the Environment. May 14, 2007, review letter from Jud Broesma-Cole.
- Natural Resources Conservation Service. 2003. Soil Survey of Anne Arundel County, Maryland.

S

COUNTY MAP 32 1"=1,000'



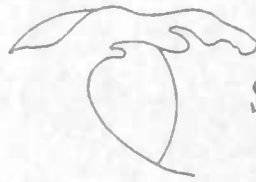


Anne Arundel County Department of Public Works



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Scale = 1" = 200'



SEE ENVIRONMENTAL
SERVICES, INC.

Ms. Patricia Ghiglino
Ambar, LLC
5801 Deale-Churchton Road
Deale, MD 20751

January 31, 2007

RE: **Ambar, LLC Property, 648 Deale Road, Deale – Wetlands Investigation
Tax Map 78, Grid 1, Parcel 15**

Dear Ms Ghiglino:

At your request, a nontidal wetlands investigation was conducted on December 11, 2006 and January 11, 2007, on the above-referenced, 1.3-acre property, located on Vacation Lane and Deale-Churchton Road, beside the Deale Post Office, in Deale, Anne County. The investigation was conducted to determine how much nontidal wetlands are present on the site. The site is located completely within the Chesapeake Bay Critical Area with an IDA land use designation.

The site is a long rectangle extending north from Deale-Churchton Road, and parallel to Vacation Lane. One or more marinas border the property to the north. The site drains via a culvert under Vacation Lane into a ditch that drains due west into Rockhold Creek. The front (southern) half of the site has an existing building and a gravel parking lot. The northern half is mowed lawn, with a drainage ditch along the northern property line full of Phragmites reeds, and there is an ill-defined drainage way across the site, draining towards the culvert under Vacation Lane, along with an irregular patchwork of depressions. Deep ditches are located in the right-of-way of the two bordering roads. Behind the post office building is an undeveloped parcel covered in young woodlands, a fringe of which extends onto the subject property. The soil type mapped on the site in the County Soil Survey is the Deale-Shadyoaks complex (DeA).

The site conditions create an atypical situation with respect to the 1987 Corps of Engineers Wetlands Determination Manual; however, a review of aerial photographs available at the Anne Arundel County Office of Planning and Zoning shows that site conditions on the subject property are unchanged since 1970. The clearest photo available is from April, 1984, and a clean copy of it at a scale of 1" = 200' is enclosed as the first attachment. (The only change that is obvious is that the diked dredged disposal area on the marina immediately to the north has been removed and the area converted to a parking/boat storage area.)

Based on best professional judgment, those areas that clearly hold standing water during the site review were identified as meeting the definition of wetlands. The much larger portion of the lawn areas did not have evidence of standing water and appear to have a predominance of plant species rated Facultative-upland, including both planted lawn grasses and typical weeds (dandelions, clover, etc.).

Therefore, due to the irregularity of the areas identified as wetlands and the likelihood of mowing before all permitting is completed, a delineation was done based on the aerial photograph and ground observations. The second attachment is the same aerial photograph, enlarged to 1" = 50', with the wetlands areas shown with a heavy border and hatching. The third attachment is the same preliminary site plan by C. D. Meekins & Associates, Inc.

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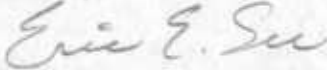
Vacation Lane Wetlands Report
Ms. Patricia Ghiglinio
February 7, 2007

Based on this finding, exclusive of the drainage ditch along the northern property line, the site contains 4,751 square feet of mowed emergent wetlands and approximately 12,500 square feet of 25-foot buffer that has been maintained as mowed lawn for decades. However, the site is obviously highly modified and lacking many functions associated with jurisdictional wetlands.

Because these "wetlands" are of unusual character, their jurisdictional status is not clear, especially in that the Baltimore District of the U. S. Army Corps of Engineers is not processing requests for Jurisdictional Determinations for nontidal areas. Therefore, the assumption made is that filling these low-lying areas will probably require State Nontidal Wetlands authorization, and an application is being submitted to MDE for that purpose, i.e., to fill less than 5,000 square feet of nontidal wetlands with no significant plant and wildlife habitat.

If you have any questions regarding these findings, please feel free to contact me at any time.

Sincerely,



Eric E. See, President
See Environmental Services, Inc.

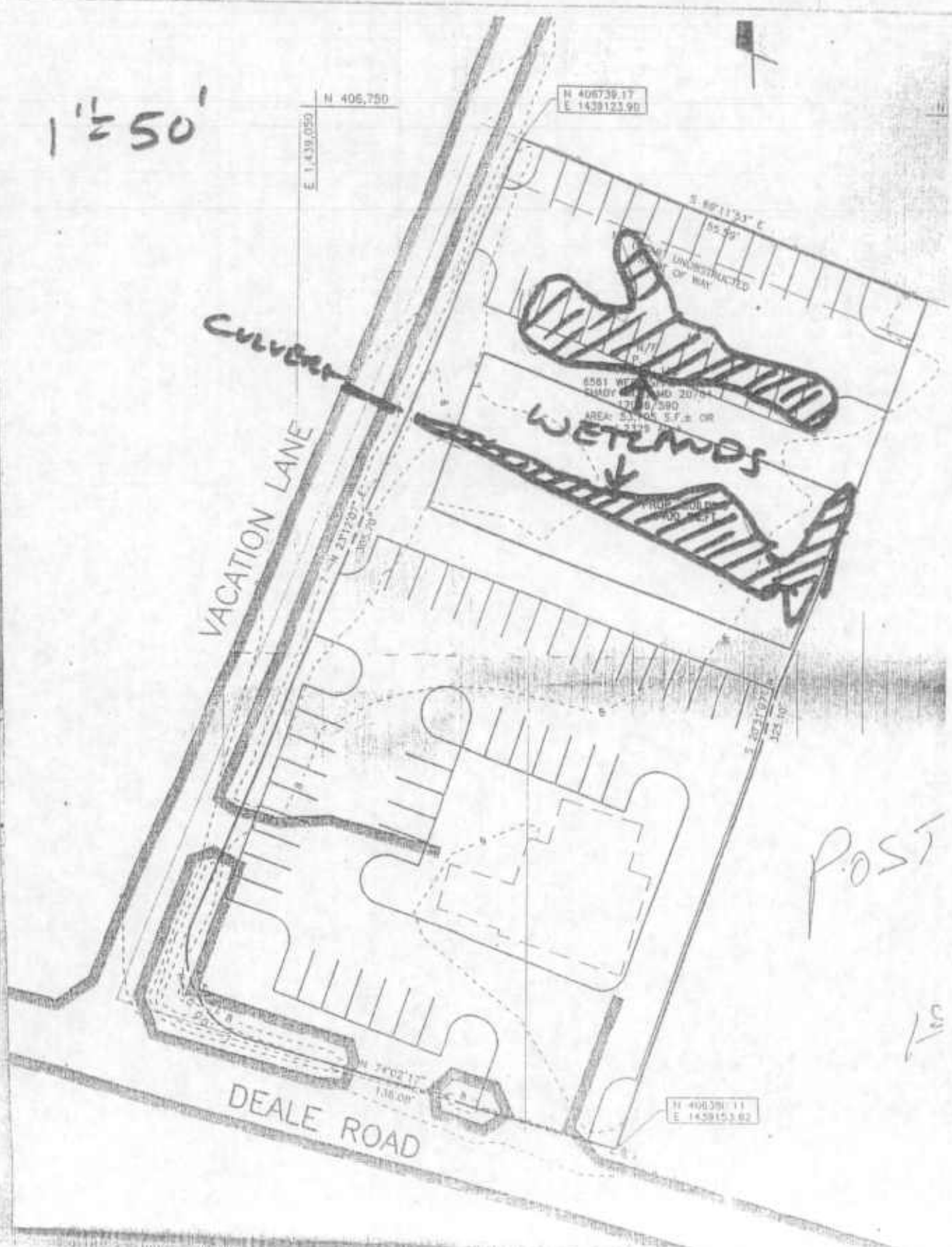
enc: Copy of 1984 County aerial photograph
Enlarged copy of photograph with approximated wetlands
Reduced scale copy of architect's site plan with approximated wetlands

SEE ENVIRONMENTAL SERVICES, INC.

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GHIGLINO PROPERTY

1" = 50'



CULVERT

VACATION LANE

WETLANDS

DEALE ROAD

POST

1/10

N 406,750'
E 1,439,050'

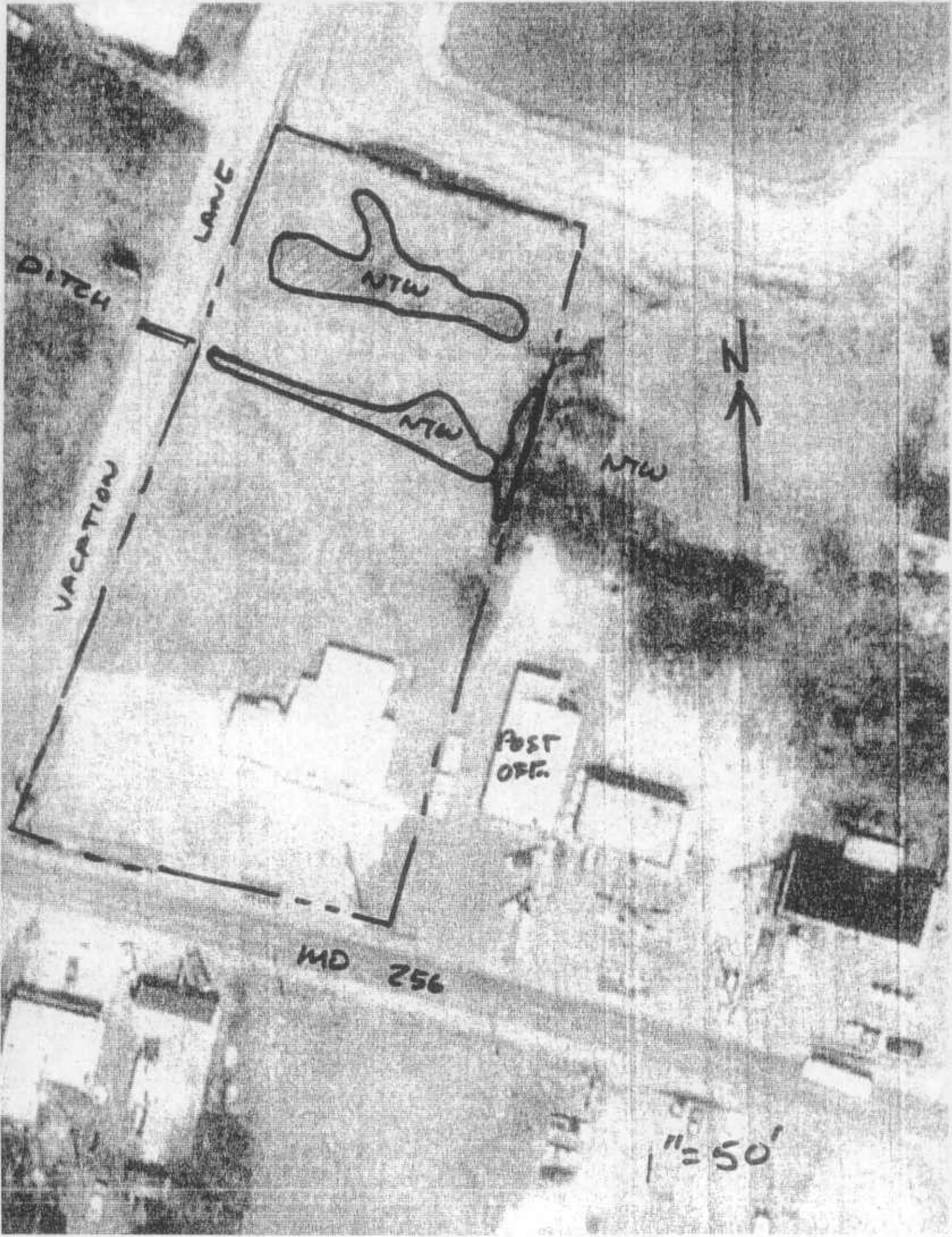
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6561 WETLANDS
CANDY WETLANDS 20751
1719,5390
AREA: 2,104,515 ± OR
2349

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E 1439153.82



DITCH

LANE

NTW

NTW

NTW

VACATION

POST OFF.

MD 256



1" = 50'



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

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Martin O'Malley
Governor

Anthony G. Brown
Lieutenant Governor

WATER MANAGEMENT ADMINISTRATION
NONTIDAL WETLANDS AND WATERWAYS DIVISION
Suite 430

Phone # 410-537-3765
Fax # 410-537 3751

Shari T. Wilson
Secretary

Robert M. Summers, Ph.D.
Deputy Secretary

May 14, 2007

Mr. Eric See
SES, Inc.
2444 Solomons Island Road, Suite 217
Annapolis, MD 21401

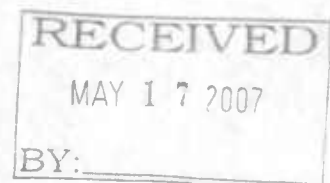
Project: 07-NT-0064/200760749
Ambar, LLC, AA County

Dear Mr. See:

The Nontidal Wetlands and Waterways Division has continued its review of your application. Based on the information contained in your latest submittal, received on April 2, 2007, the Division is pleased to inform you that the project is eligible for a Letter of Authorization and a Category I MDSPGP3 as proposed.

Prior to issuance of the authorizations the Division must receive the following:

1. Mitigation for 4,751 square feet of emergent nontidal wetlands located within the Chesapeake Bay Critical Area. Please contact Mr. George Beston, the Mitigation Section chief prior to purchase of credits in any of the local mitigation banks.
2. Two copies of the full sized final grading plans for the complete and entire project that clearly show:
 - a. A vicinity map.
 - b. The boundaries of all regulated areas including nontidal wetlands and their regulated buffers;
 - c. The LOD;
 - d. Sediment controls that adequately protect aquatic resources;
 - e. SWM facilities that adequately treat runoff from all impervious surfaces prior to safe discharge into State waters and wetlands;
 - f. Utilities;
 - g. Roads, driveways, parking lots;
 - h. Building pads; and
 - i. All other proposed work.



Page 2
May 14, 2007

3. Plan views and a vicinity map of the project on 8 ½ by 11-inch paper for the MDSPGP3.

As soon as mitigation has been completed and the final plans have been received and reviewed, the Division will promptly issue the authorizations. Please contact me in the Baltimore office at 410-537-3769 or by email at jcole@mde.state.md.us if you have any questions.

Sincerely,

Judy Broersma-Cole

Judy Broersma-Cole
Wetlands Specialist

cc: MDE Mitigation – George Beston