

SM 99-07 Queen Tree Landing  
VAR A 089

51829-6759



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS  
1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338  
[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

February 26, 2007

Ms. Yvonne Chaillet  
St. Mary's County Government  
Department of Land Use and Growth management  
PO Box 653  
Leonardtown, MD 20650

Re: Queen Tree Landing  
Var A 089

Dear Ms. Chaillet:

I have received the above-referenced variance request to construct a garage and driveway/parking area and relocate the septic system within the expanded buffer area for highly erodible soils. The site is in the Resource Conservation Area of the Critical Area. The property is 101,304 square feet in size and it is proposed to increase the total impervious area to 6,980 square feet (7%).

Provided this lot is properly grandfathered, we do not oppose this variance for a reasonable expansion. However, the proposed garage and driveway appear to be substantial in relation to the existing structure, and the site is severely constrained by natural features. Therefore, we recommend a smaller footprint to minimize impacts to the expanded Buffer. If a variance is granted, we further recommend the applicant work with County staff to address stormwater for the new addition of impervious areas.

Mitigation in the form of plantings should be provided at a ratio of 3:1 for the total area of impacts from grading, forest clearing, and building footprint. Plantings should be native species and accommodated on site to the extent possible.

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,

Megan J. Sines  
Natural Resources Planner

cc: SM 99-07

**ST. MARY'S COUNTY GOVERNMENT  
DEPARTMENT OF LAND USE  
AND GROWTH MANAGEMENT**

*Denis D. Canavan, Director*

*Phillip J. Shire, Deputy Director*



Francis Jack Russell, President  
Kenneth R. Dement, Commissioner  
Lawrence D. Jarboe, Commissioner  
Thomas A. Mattingly, Sr., Commissioner  
Daniel H. Raley, Commissioner

**MEMORANDUM**

DATE: March 29 2007  
TO: Denis Canavan, Director  
FROM: Yvonne Chaillet, Zoning Administrator  
SUBJECT: AD VAAP #06-2902 Fields  
Administrative Hearing of March 29, 2007  
Supplemental Report

**I. DEVELOPMENT DATA**

REQUEST: Variance from Section 71.8.3 of the Comprehensive Zoning Ordinance to construct an attached garage in the expanded Critical Area Buffer  
OWNER: Joseph Fields  
LOCATION: 41821 Queens Landing Road, Mechanicsville, MD 20659  
TAX MAP: 14                      ELECTION DISTRICT: 6<sup>th</sup>  
BLOCK: 05                      ACREAGE: 3.276 acres less .95 acres of tidal wetlands totaling 2.33 acres of fast-land  
PARCEL: 210                      USE: 11, Detached Dwelling Unit  
ZONING: Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay District.

**II. NOTIFICATION:** The property was advertised in St. Mary's Today on March 11, 2007 and March 18, 2007 and in the Enterprise on March 14, 2007 and March 21, 2007.

**III. APPLICABLE REGULATIONS**

**St. Mary's County Zoning Ordinance (Ordinance)**

1. Section 22.5.4 Administrative Variances in the Critical Area
2. Section 24.4 Specific Standards for Granting Variances in the Critical Area
3. Section 71.8.3 Development Regulations in the Critical Area Buffer

**IV. STAFF COMMENTS:**

1. The subject property (Property) is a grandfathered lot because it was recorded in 1981, prior to the adoption of the Maryland Critical Area regulations on December 1, 1985. The Property is constrained by the expanded Critical Area Buffer due to highly erodible soils (Evesboro-Westphalia Complex and Westphalia fine sandy loam). It is also constrained by steep slopes and tidal and non-

tidal wetlands. The Property is improved with a single-family dwelling, covered porch, deck, concrete walkway and driveway.

2. The Applicant proposes to construct a two-story garage which will be attached to the existing dwelling by an enclosed breezeway. The second story of the garage will be used as living space. The garage, breezeway, and proposed driveway and parking area will result in 1,946 square feet of new impervious surface for a total of 7, 644 square feet. The allowable amount of impervious surface on the Property is 15,196 square feet or 15 percent of the Property.
3. The amount of existing vegetation is 77,500 square feet or 77 percent of the Property. No clearing is proposed. However, a site visit of the Property indicated that a minimum of two crepe myrtle trees and two large shrubs will need to be removed in order to build the garage. This represents 1,200 square feet, or 1.5 percent, of the existing vegetation.
4. The Property is located in flood hazard zone X according to FIRM (Flood Insurance Rate Map) panel #24037C0092E. A flood elevation certificate is not required.
5. The Health Department has reviewed and approved the site plan. The Maryland Critical Area Commission does not oppose the variance request to add new impervious surface in the expanded Buffer.
6. Attachment #1 is the Applicant's Letter of Intent addressing the standards for granting a variance in the Critical Area. Staff's analysis of the Applicant's compliance with the Critical Area standards, are provided below:
  - a. *That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship.*

Staff Analysis: The Property is a grandfathered lot and is constrained by the expanded Critical Area Buffer due to highly erodible soils. Section 71.8.3 of the Ordinance prohibits new development in the Buffer unless the applicant obtains a variance.

For these reasons, staff finds that special conditions exist on the Property and that a strict enforcement of the Critical Area provisions of the Ordinance would result in unwarranted hardship by depriving the Applicants of the ability to develop the Property.

- b. *That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County.*

Staff Analysis: Other grandfathered properties in the RCA can be developed in accordance with the Ordinance, which may, at times, require a variance. A strict interpretation of the Ordinance would prohibit the proposed development in the Buffer, thereby, depriving the Applicant of rights commonly enjoyed by other property owners.

- c. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County.*

Staff Analysis: Staff finds that the granting of the variance will not confer any special privileges upon the Applicant. Any property owner with a recorded grandfathered lot that is constrained by topographical conditions and which does not meet current environmental regulations and the Critical Area provisions of the Ordinance has the opportunity to file for a variance and seek relief from the regulations.

- d. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant.*

Staff Analysis: Staff finds that the variance request is not based upon conditions or circumstances that are the result of actions by the landowner. The adoption of the County's Critical Area program after recordation of the lot, which prohibits development in the Buffer, created the need for the variance.

- e. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program.*

Staff Analysis: The Applicant must provide mitigation for new impervious surface in the Buffer. A Critical Area Planting Agreement and Planting Plan are necessary to mitigate any adverse impacts to water quality.

Staff believes that the required plantings will improve and maintain the functions of the Buffer. The Planting Agreement requires mitigation at a ratio of three to one (3:1) per square foot of the variance granted in accordance with Section 24.4.2.b of the Ordinance.

The required plantings will improve plant diversity and habitat value for the site and will improve the runoff characteristics for the Property, which should contribute to improved infiltration and reduction of non-point source pollution leaving the site.

Staff finds that the granting of a variance to increase the impervious surface in the expanded Buffer will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area Buffer, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program.

- f. *The variance is the minimum necessary to achieve a reasonable use of the land or structures.*

Staff Analysis: The existing dwelling is modest in size with a footprint of less than 1,600 square feet. The addition of the garage, breezeway and parking area are reasonable improvements to a 25-year old house.

For these reasons, staff finds that the variance is the minimum necessary to achieve a reasonable use of the land or structures.

- V. STAFF RECOMMENDATION:** Having found that the standards for granting a variance in the Critical Area have been met and that the Maryland Critical Area Commission does not oppose this variance, staff recommends approval of the request to increase the amount of impervious surface in the expanded Critical Area Buffer to construct an attached garage, parking area and breezeway subject to the following condition:

The Applicant shall comply with the Critical Area Planting Agreement which requires mitigation at a ratio of three-to-one (3:1) per square foot of the variance granted in accordance with Section 24.4.2.b of the Ordinance.

VI. **CONCLUSION:** The public hearing was held as advertised and was attended by Joseph Fields, the property owner, and Stephen Zonarich of Construction Resolutions. Mr. Fields submitted the certified mail receipts and Mr. Zonarich presented the variance request. Staff commented that the Critical Area Commission recommended that we require the property owner to install a means for managing storm water runoff, which is a concern due to the amount of proposed impervious surface and the fact that the soils are highly erodible. Staff will confer with the Department of Public Works & Transportation to determine whether or not drywells will sufficiently manage runoff, or whether DPW&T recommends another means for controlling this.

Mr. Fields said that he will need to remove two Rose of Sharon bushes and two azalea bushes. Staff explained that the formula for calculating the square footage of vegetation can be found in the Zoning Ordinance. A mature tree with a full canopy equals 400 square feet of vegetation and a mature shrub equals 200 square feet.

Approval w/ conditions  
Decision

4/13/07  
Date

Denis W. Canavan  
Denis Canavan, Director

VI. **ATTACHMENTS:**

- Attachment #1- Letter of Intent
- Attachment #2- Critical Area Comments
- Attachment #3- Critical Area Planting Agreement
- Attachment #4- Site Plan

Variance Application Date: January 29, 2007

**General Notes**

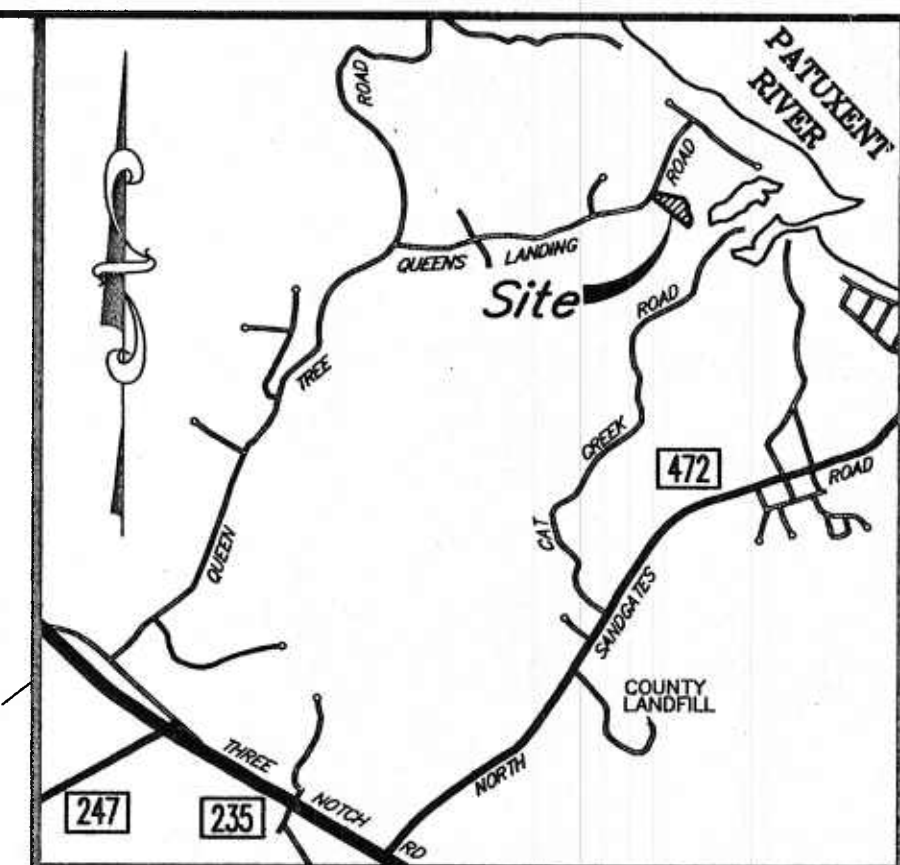
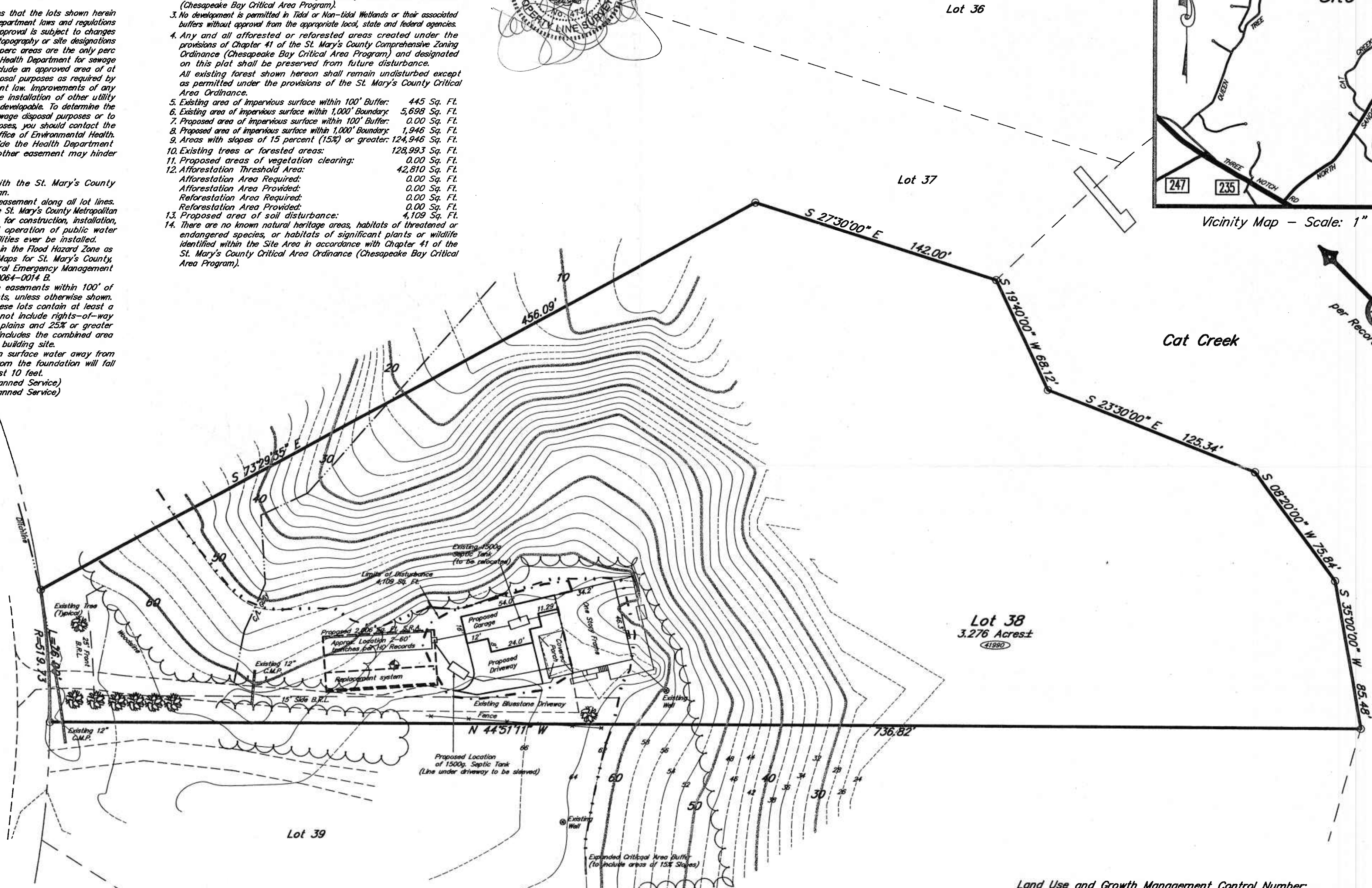
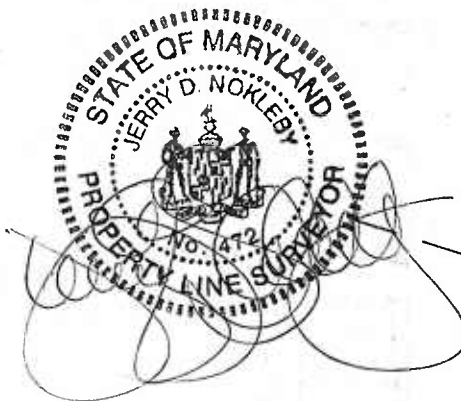
1. This site is located on Tax Map 14 at Grid 5 as P/O Parcel 210.
2. This site contains 3.276 Acres of land, more or less.
3. Present zoning: RPD/RCA Overlay
4. Building Restriction Lines (BRL's) and Minimum Yard Requirements are established as per the St. Mary's County Zoning Ordinance as follows: 25' Front, 15' Side and 20' Rear.
5. Water supply shall be from a deep drilled well to an approved confined aquifer.
6. Sewage flow shall be to an individual septic system.

This Health Department approval certifies that the lots shown herein 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 areas are the only perc areas approved by the St. Mary's County Health Department for sewage disposal purposes. The approved lots include an approved area of at least 2,006 square feet for sewage disposal purposes as required by current Maryland State Health Department law. Improvements of any nature including, but not limited to, the installation of other utility lines in this area may render the lots undevelopable. To determine the exact areas of the lots approved for sewage disposal purposes or to establish a different area for such purposes, you should contact the St. Mary's County Health Department, Office of Environmental Health. All utility lines shall be located outside the Health Department approved sewage easement and no other easement may hinder access to it.

7. This subdivision is in compliance with the St. Mary's County Comprehensive Water and Sewer Plan.
8. There shall be a ten (10) foot utility easement along all lot lines. These easements are to include use by the St. Mary's County Metropolitan Commission, its successors and assigns, for construction, installation, maintenance, repair, inspection, and operation of public water and sewer facilities, should such facilities ever be installed.
9. Subject Property does not appear to be in the Flood Hazard Zone as delineated on Flood Hazard Boundary Maps for St. Mary's County, Maryland, and distributed by the Federal Emergency Management Area per F.I.R.M. Community Panel #240064-0014 B.
10. There are no existing wells or sewage easements within 100' of the proposed wells or sewage easements, unless otherwise shown.
11. "Minimum Ownership Statement" - These lots contain at least a 20,000 square foot area which does not include rights-of-way (existing or proposed), 50 year flood plains and 25% or greater grades. The 20,000 square foot area includes the combined area of the sewage reserve area plus the building site.
12. This lot will be graded so as to drain surface water away from foundation walls. The grade away from the foundation will fall a minimum of 6 inches within the first 10 feet.
13. Present Sewer Category: NPS (No Planned Service)  
Present Water Category: NPS (No Planned Service)

**Critical Area Notes**

1. Approximately 3.276 Acres of the Site Area lie within Maryland's Chesapeake Bay Critical Area. Any and all development activities proposed within this area are subject to Critical Area Regulations and will not be permitted until all appropriate local, state and federal agencies have conducted a thorough environmental review and have approved the development plan.
2. The one-hundred foot (100') Critical Area Buffer must remain in natural vegetation and may not be disturbed except as provided under Chapter 41 of the St. Mary's County Critical Area Ordinance (Chesapeake Bay Critical Area Program).
3. No development is permitted in Tidal or Non-Tidal Wetlands or their associated buffers without approval from the appropriate local, state and federal agencies.
4. Any and all afforested or reforested areas created under the provisions of Chapter 41 of the St. Mary's County Comprehensive Zoning Ordinance (Chesapeake Bay Critical Area Program) and designated on this plat shall be preserved from future disturbance. All existing forest shown hereon shall remain undisturbed except as permitted under the provisions of the St. Mary's County Critical Area Ordinance.
5. Existing area of impervious surface within 100' Buffer: 445 Sq. Ft.
6. Existing area of impervious surface within 1,000' Boundary: 5,698 Sq. Ft.
7. Proposed area of impervious surface within 100' Buffer: 0.00 Sq. Ft.
8. Proposed area of impervious surface within 1,000' Boundary: 1,946 Sq. Ft.
9. Areas with slopes of 15 percent (15%) or greater: 124,946 Sq. Ft.
10. Existing trees or forested areas: 128,993 Sq. Ft.
11. Proposed areas of vegetation clearing: 0.00 Sq. Ft.
12. Afforestation Threshold Area: 42,810 Sq. Ft.  
Afforestation Area Required: 0.00 Sq. Ft.  
Afforestation Area Provided: 0.00 Sq. Ft.  
Reforestation Area Required: 0.00 Sq. Ft.  
Reforestation Area Provided: 0.00 Sq. Ft.
13. Proposed area of soil disturbance: 4,109 Sq. Ft.
14. There are no known natural heritage areas, habitats of threatened or endangered species, or habitats of significant plants or wildlife identified within the Site Area in accordance with Chapter 41 of the St. Mary's County Critical Area Ordinance (Chesapeake Bay Critical Area Program).



Health Department	Department of Land Use and Growth Management	
Date	Date	
Director	Director	
Sanitarian	P.C. Chairman	

**NOKLEBY SURVEYING INCORPORATED**

46925-B Shangri-La Drive, S.  
Lexington Park, Maryland 20653  
Phone: (301) 862-3135 \* FAX: (301) 862-4360

**Critical Area Site Plan**

Lot 38  
Queentree Landing  
per plat 12/97  
Sixth Election District  
St. Mary's County, Maryland

Contract #	14-5-210	Drawing:	14210sp38	Chkd by:	JDN	Dwn. by:	DSF
Date:	01/08/07	Scale:	1" = 40'	Page	1	of	1

No.	Date	Description	By