

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/

August 3, 2009

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

Re: Cedarhurst on the Bay, Lots 11 & 12, TM 69, P237
Modification # 10518, P# B02254044

Dear Ms. Krinetz:

Thank you for forwarding the above referenced modification request. The applicant is requesting a modification in order to disturb nontidal wetlands. The 10,000 square foot property is entirely within the Critical Area, and is designated as an Intensely Developed Area (IDA). The applicant proposes to construct a single family dwelling on the property, and has obtained a variance in order to disturb the wetlands.

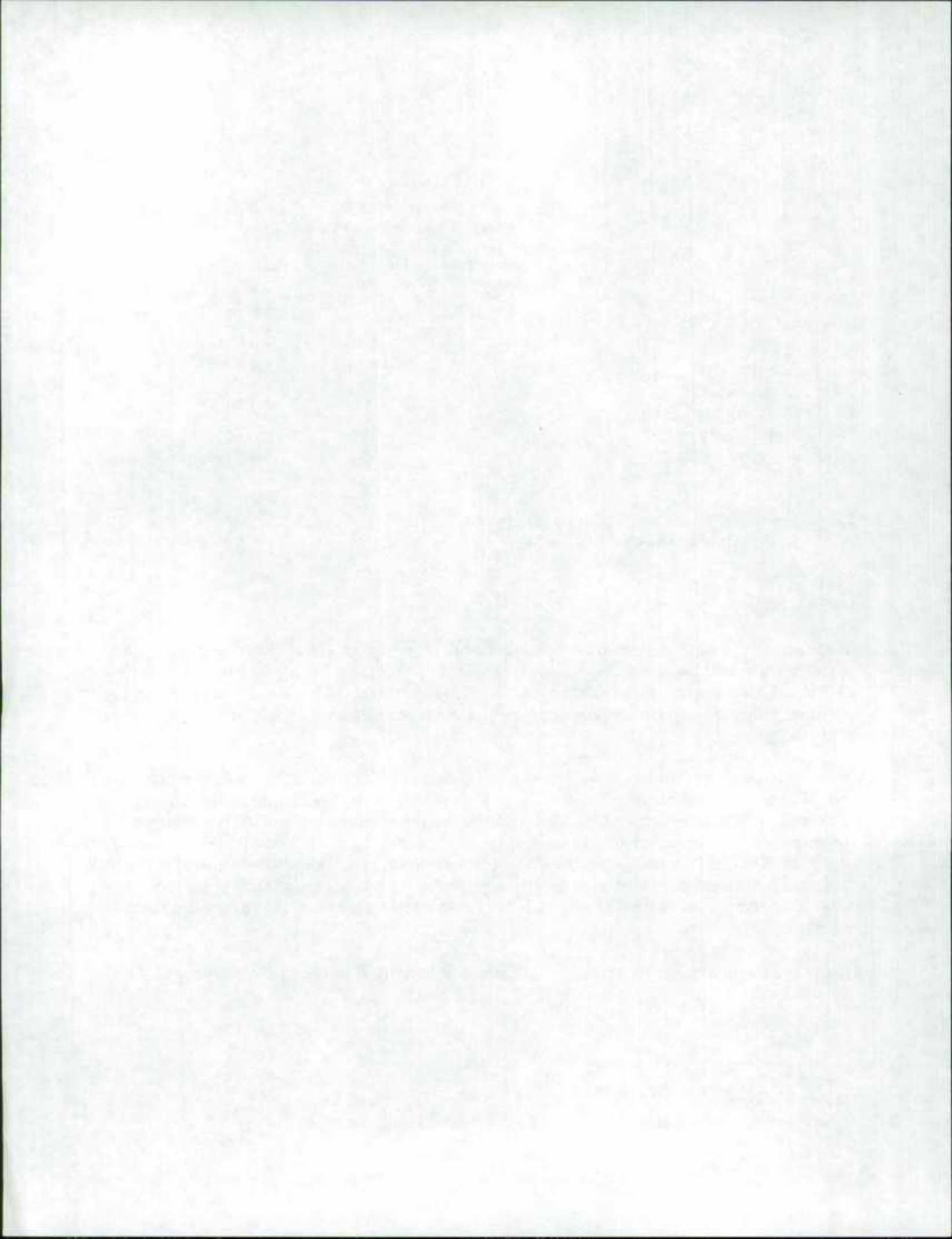
Provided the applicant constructs the dwelling in accordance with the conditions of variance approval, this office has no comment regarding the request for a modification. Please note that the Hearing Officer's March 4, 2008 approval included conditions requiring mitigation to offset the disturbance to the property as well as stormwater management for the new development. As the property is located within the IDA, the State and County Law require the applicant to provide a 10% reduction in pollutant loadings on the site. Information as to how the applicant will meet the requirements of the conditions of variance approval as well as the 10% pollutant reduction requirement should be provided in future submittals.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner
cc: AA 10-08



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January 14, 2008

Ms. Suzanne Schappert
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Local Case #2007-0433-V
US Financial Capital, Inc.

Dear Ms. Schappert:

Thank you for submitting the above referenced variance. The applicant is requesting a variance to construct a new single family dwelling on a 10,000 square foot lot with 4,407 square feet of disturbance to nontidal wetlands. The property is classified as an Intensely Developed Area (IDA).

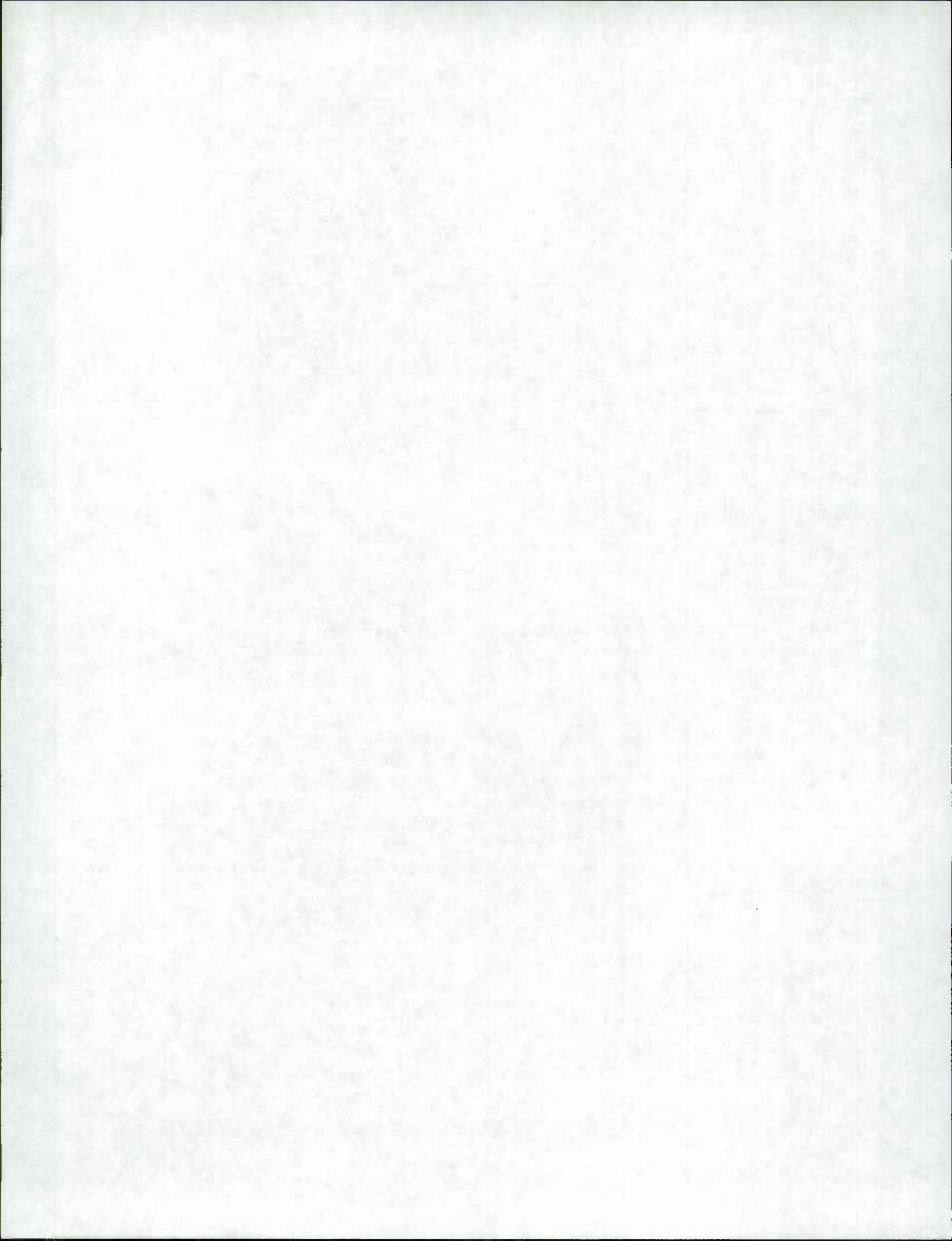
This office does not oppose the granting of this variance request, provided the applicant completes the required wetland creation mitigation as determined by Maryland Department of the Environment (MDE). Further, the applicant must provide 2,156 square feet of plantings onsite to meet the 10% pollutant removal requirements. Plantings should consist of a mix of native shrubs and trees appropriate to the nontidal wetland environment.

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

Sincerely,

A handwritten signature in blue ink that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
AA10-08



10-08

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0433-V

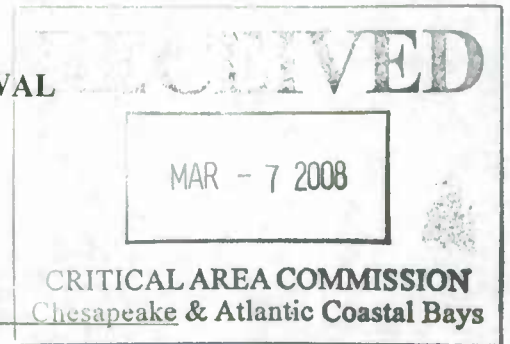
U. S. FINANCIAL CAPITAL, INC.

SEVENTH ASSESSMENT DISTRICT

DATE HEARD: FEBRUARY 26, 2008

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

PLANNER: **ROBERT KONOWAL**



DATE FILED: MARCH 4, 2008



LOCAL AREA COMMISSION
Economic & Cultural Council

PLEADINGS

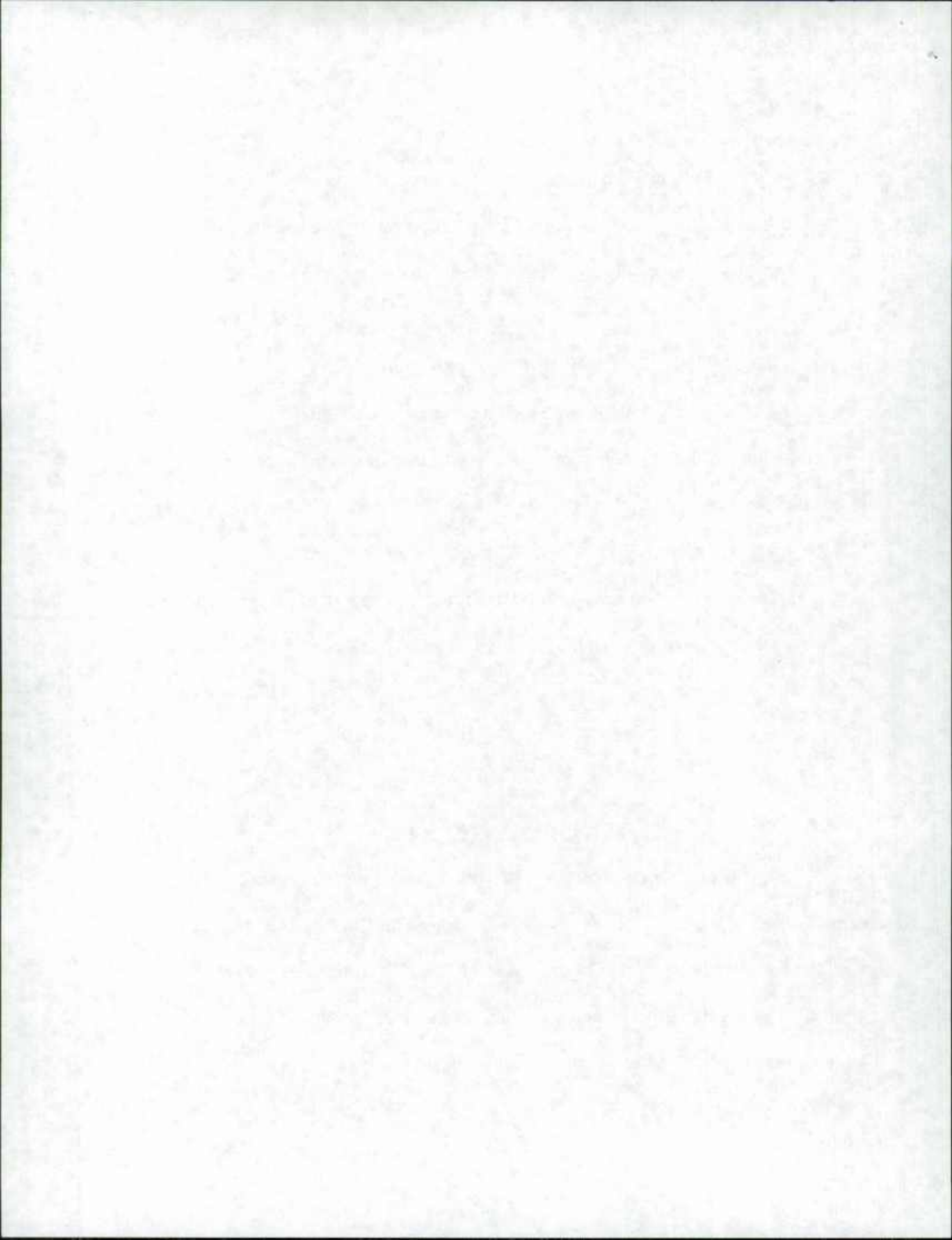
U.S. Financial Capital, Inc., the applicant, seeks a variance (2007-0433-V) to allow a dwelling with less setbacks and buffer than required on property located along the north side of Holly Avenue, east of Lake Avenue, Shady Side.

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. Gary Evans, the applicant's representative, 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 with a street address of 1184 Holly Avenue, in the subdivision of Cedarhurst on the Bay, Shady Side. The property comprises 10,000 square feet and is zoned R5 residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). The request is to construct a single-family dwelling, driveway and well with



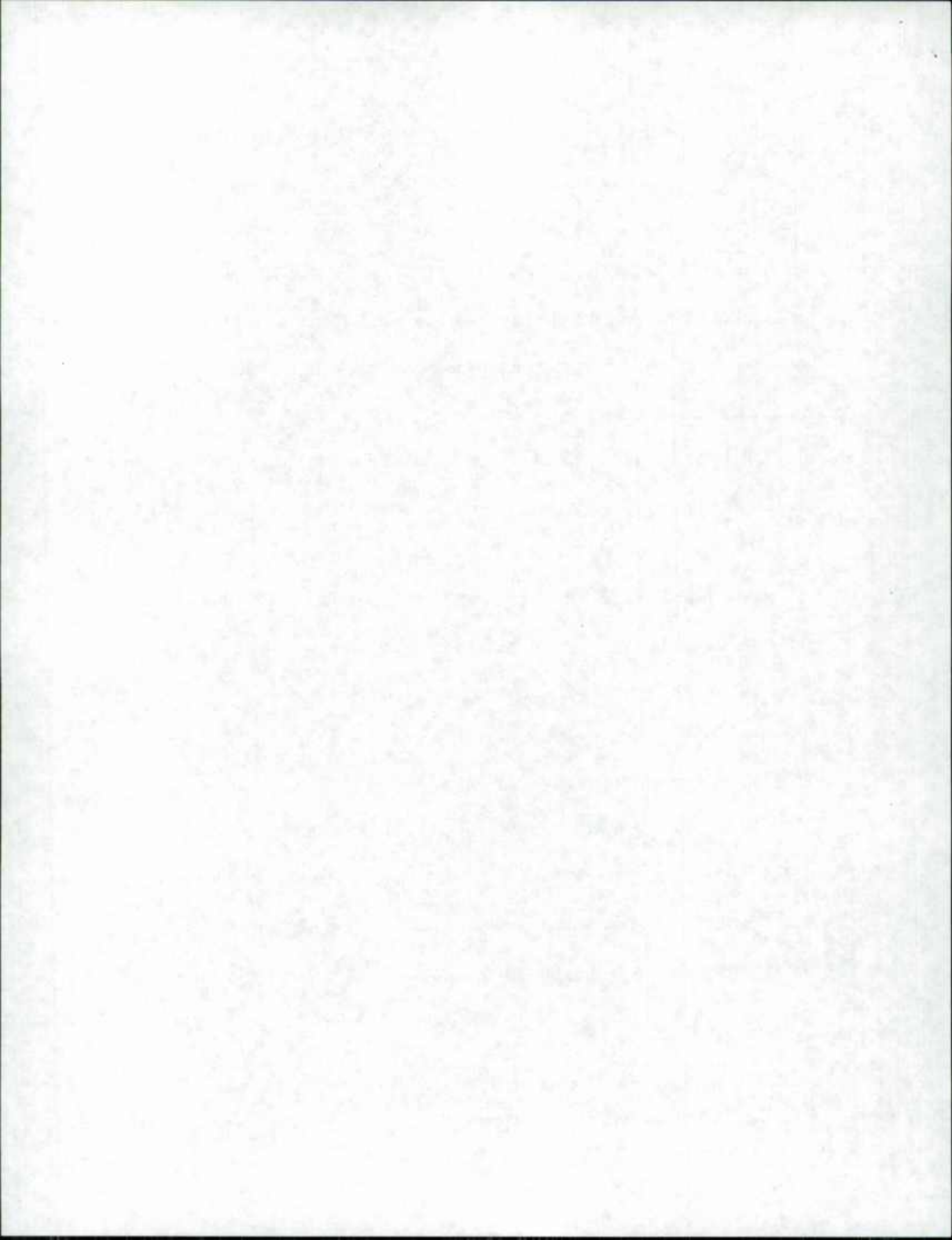
disturbance to nontidal wetlands. The dwelling is located 22 feet from the front lot line.

Anne Arundel County Code, Article 17, Section 17-8-502, proscribes the disturbance of habitat protection areas. Article 18, Section 18-4-701 requires principal structures in the R5 district to maintain 25 feet from the front lot line. Accordingly, the proposal requires a variance to disturb nontidal wetlands and a variance of three feet to the front setback.

Robert Konowal, a planner with the Office of Planning and Zoning, testified that the property is entirely nontidal wetlands. The applicant has reduced the variance by locating the dwelling closer to the road. Nevertheless, Mr. Konowal questioned the extent of the relief, because the dwelling is fairly sizeable (50 by 29 feet). On the other hands, the request is considered consistent with the character of the neighborhood. There were no adverse agency comments.¹ By way of conclusion, Mr. Konowal opposed the application as filed, but recommended support for a smaller dwelling.

Mr. Evans submitted a series of topographical and photographic exhibits. Cedarhurst on the Bay was platted in 1925 and includes some 50-foot wide lots with comparably sized dwellings. For this property, two lots are being consolidated. The dwelling includes an integral garage and is considered consistent with the character of the neighborhood. The witness opined that the

¹ The Department of Health requested plan approval; the Chesapeake Bay Critical Area Commission requires wetlands mitigation as determined by the Maryland Department of the Environment (MDE) and plantings to satisfy the 10 percent pollutant reduction requirements.

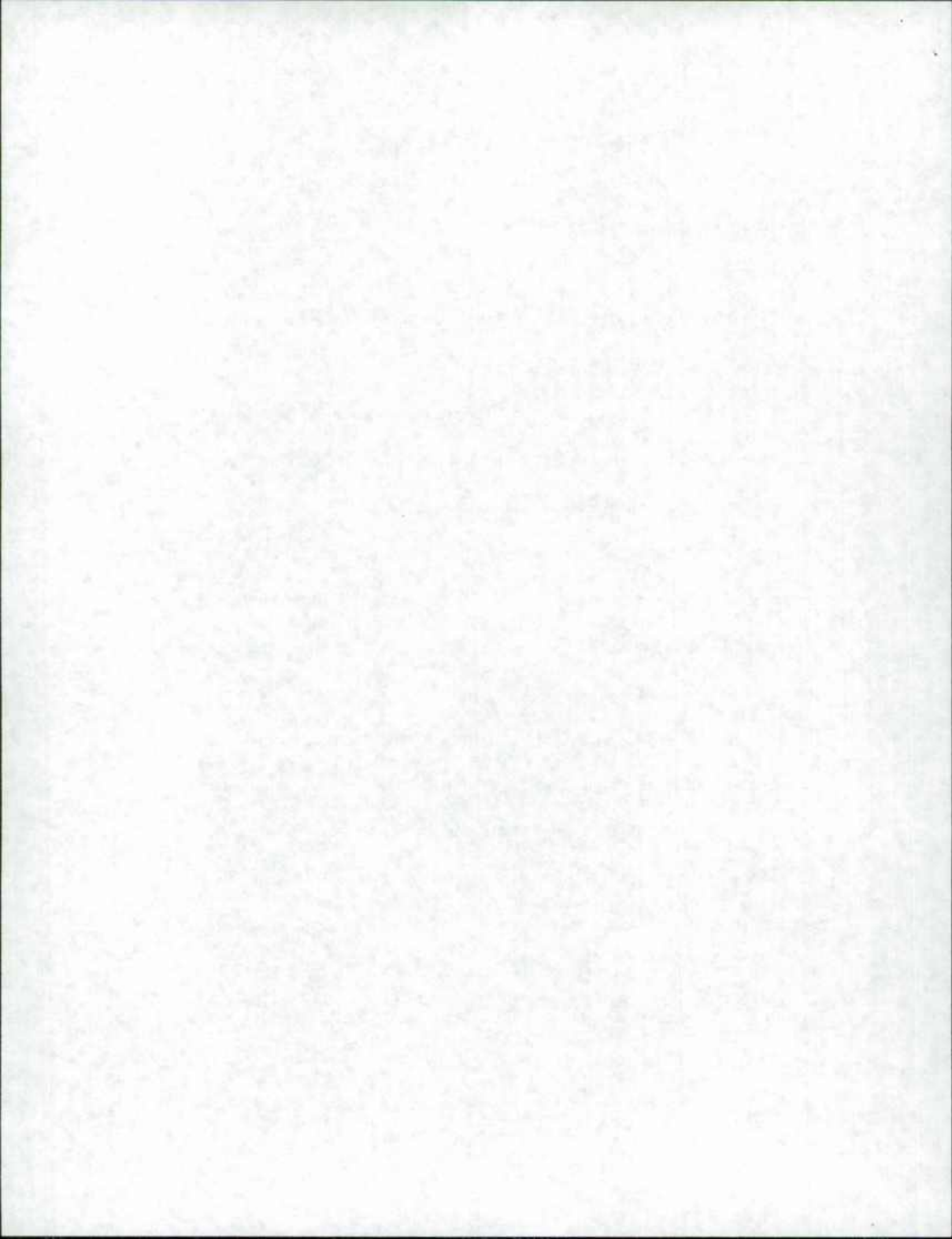


variance standards are satisfied. Finally, the authorization from MDE to disturb nontidal wetlands is pending. Benjamin Carr, an environmental consultant to the applicant, testified that other wetlands lots in Cedarhurst by the Bay have been developed.

Mark Laidlaw, who resides on property to the south, expressed concern for the potential for increased flooding from the project.

By way of further explanation, Mr. Evans indicated that runoff would continue to be conveyed through the site and the applicant would be required to follow the County's stormwater management regulations.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to conditional relief from the code. For this Critical Area property, due to the extent of the nontidal wetlands, 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 area of the Critical Area. Conversely, the granting of the variance is not a special privilege that the program typically denies to other Critical Area lands. 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 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 minimally satisfies the test of unique physical conditions, consisting of the extent of the wetlands, such that there is no reasonable possibility of development in strict conformance with the code.

I further find that the variances represent the minimum relief. Based on the testimony and the photographs, the dwelling is not excessive in size. There is nothing to suggest that the granting of the variances will 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

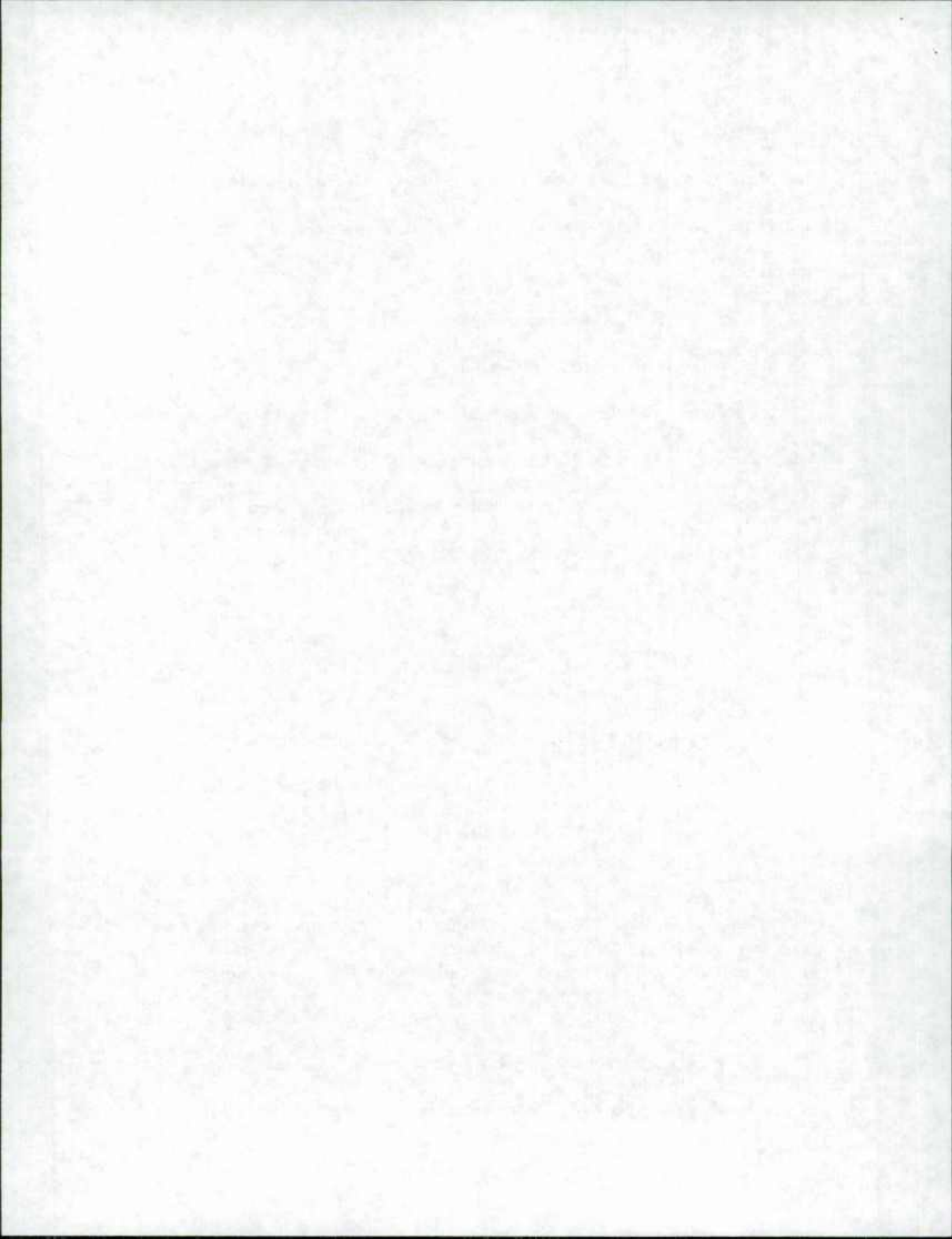
PURSUANT to the application of U.S. Financial Capital, Inc., petitioning for a variance to allow a dwelling with less setbacks and buffer than required, and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 4th day of March, 2008,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a variance to disturb nontidal wetlands and a variance of three feet to the front setback to allow a dwelling (29 by 50 feet) in accordance with the site plan.

The foregoing approval is subject to the following conditions:

1. The building permit is subject to the approval of the Department of Health.



2. The applicant shall obtain authorization to disturb nontidal wetlands from MDE.
3. The applicant shall obtain a grading permit and shall provide mitigation and stormwater management as determined by the Permit Application Center.
4. No further expansion of the dwelling is allowed and accessory structures are not allowed.
5. The conditions of the approval run with the land and shall be included in any contract of sale.

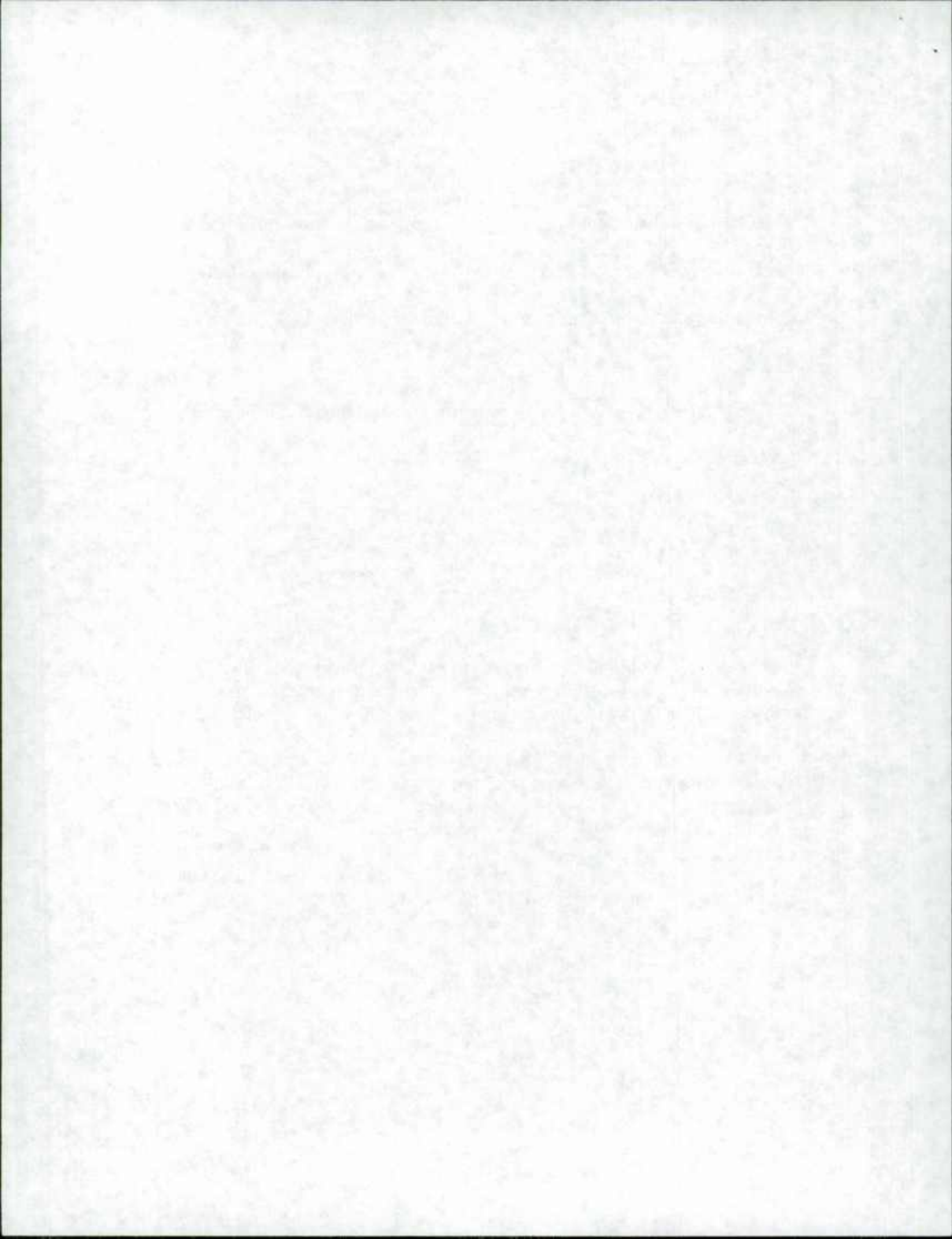

Stephen M. LeGenre
Administrative Hearing Officer

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.



DETAILS AND SPECIFICATIONS FOR VEGETATIVE ESTABLISHMENT

ANNE ARUNDEL SOIL CONSERVATION DISTRICT
DETAILS AND SPECIFICATIONS FOR VEGETATIVE ESTABLISHMENT

Following initial soil disturbances or redistribution, permanent or temporary stabilization shall be completed within seven calendar days of the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes greater than 3:1 horizontal to 1 vertical (3:1) and fourteen days for all other disturbed or graded areas on the project site.

1. Permanent Seeding:
 - A. Soil Tests: Lime and fertilizer will be applied per soil tests results for sites greater than 5 acres. Soil tests will be done at completion of initial rough grading or as recommended by the sediment control inspector. Rates and analyses will be provided to the grading inspector as well as the contractor.
 - B. Occurrence of acid sulfate soils (grayish black color) will require covering with a minimum of 12 inches of clean soil with 6 inches minimum capping of top soil. No stockpiling of material is allowed. If needed, soil tests should be done before and after a 6-week incubation period to allow oxidation of sulfides.

The Minimum soil conditions required for permanent vegetative establishment are:
 a. Soil pH shall be between 6.0 and 7.0
 b. Soluble salts shall be less than 500 parts per million (ppm)
 c. The soil shall contain less than 40% clay but enough fine-grained material (> 30% silt plus clay) to provide the capacity to hold a moderate amount of moisture. An exception is if the organic or organic leopenda is to be planted, then a sandy soil (< 30% silt plus clay) would be acceptable.
 d. Soil shall contain 1.5% minimum organic matter by weight.
 e. Soil must contain sufficient pore space to permit adequate root penetration.
 f. If these conditions cannot be met by soils on site, adding topsoil is required in accordance with Section 21 Standard and Specification for Topsoil or amendments made as recommended by a certified agronomist.

B. Seedbed Preparation: Area to be seeded shall be loose and friable to a depth of at least 3 inches. The top layer shall be loosened by raking, disking or other acceptable means before seeding occurs. For sites less than 5 acres, apply 100 pounds dolomitic limestone and 21 pounds of 10-10-10 fertilizers per 1,000 square feet. Harrow or disk lime and fertilizer into the soil to a depth of at least 3 inches on slopes flatter than 3:1.

C. Seeding: Apply 5-6 pounds per 1,000 square feet of tall fescue between February 1 and April 30 or between August 15 and October 31. Apply seed uniformly on a firm seedbed with a cyclone seeder, cultipacker seeder or hydroseeder (dry mix) unless seeds and fertilizer, recommended on steep slopes only). Maximum seed depth shall be 1/4 inch in clayey soils and 1/2 inch sandy soils when using other than the hydroseeder method. Irrigate where necessary to support adequate growth until vegetation is firmly established. If other mixes are to be used, select from Table 2, entitled "Permanent Seeding For Low Maintenance Areas" from the current Standards and Specifications for Soil Erosion and Sediment Control. Mixes suitable for this use are 1, 3 and 5-7. Mixes 5-7 are suitable in non-mowable situations.

D. Mulching: Mulch shall be applied to all seeded areas immediately after seeding. During the time periods when seeding is not permitted, mulch shall be applied immediately after grading.

Mulch shall be unrotted, unchopped, small grain straw applied at a rate of 2 tons per acre or 90 pounds per 1,000 square feet (2 bales). If a mulch-machine tool is used, apply 2.5 tons per acre. Mulch materials shall be relatively free of all kinds of weeds and shall be completely free of prohibited noxious weeds. Spread mulch uniformly, mechanically or by hand, to a depth of 1-2 inches.

E. Securing Straw Mulch: Straw mulch shall be secured immediately following mulch application to minimize movement by wind or water. The following methods are permitted:

- (i) Use a mulch-anchoring tool, which is designed to punch and anchor mulch into the soil surface to a minimum depth of 2 inches. This is the most effective method for securing mulch, however, it is limited to relatively flat areas where equipment can operate safely.
- (ii) Wood cellulose fiber may be used for anchoring straw. Apply the fiber binder at a net dry weight of 750 pounds per acre. If mixed with water, use 53 pounds of wood cellulose fiber per 100 gallons of water.
- (iii) Liquid binders may be used. Apply at higher rates at the edges where wind catches mulch, such as in valleys and in crests of slopes. The remainder of the area should appear uniform after binder application. Binders listed in the 1994 Standards and Specifications for Soil Erosion and Sediment Control or approved equal shall be applied at rates recommended by the manufacturer.
- (iv) Lightweight plastic netting may be used to secure mulch. The netting will be stapled to the ground according to manufacturer's recommendations.

2. Temporary Seeding:
 - Lime: 100 Pounds of dolomitic limestone per 1,000 square feet.
 - Fertilizer: 15 pounds of 10-10-10 per 1,000 square feet.
 - Seed: Perennial rye-0.92 pounds per 1,000 square feet (February 1 through April 30 or August 15 through November 1)
 - Millet-0.92 pounds per 1,000 square feet (May 1 through August 15)
 - Mulch: Same as 1 D and E. above.

3. No fills may be placed on frozen ground. All fill to be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches. All fill in roadways and parking areas is to be classified Type 2 as per Anne Arundel County Code -Article 21, Section 2-308, and compacted to 90% density; compaction to be determined by ASTM D-1557-60T (Modified Proctor). Any fill within the building area is to be compacted to a minimum of 95% density as determined by methods previously mentioned. Fills for pond embankments shall be compacted as per MD-378 Construction Specifications. All other fills shall be compacted sufficiently so as to be stable and prevent erosion and slippage.

4. Permanent Sod:
 Installation of sod should follow permanent seeding dates. Seedbed preparation for sod shall be as noted in section (B) above. Permanent sod is to be tall fescue, state approved sod, lime and fertilizer per permanent seeding specifications and lightly irrigate soil prior to laying sod. Sod is to be laid on the contour with all ends tightly abutting. Joints are to be staggered between rows. Water and roll or tamp sod to insure positive root contact with soil. All slopes steeper than 3:1, as shown, are to be permanently sodded or protected with approved erosion control netting. Additional watering for establishment may be required. Sod is not to be installed on frozen ground. Sod shall not be transplanted when moisture content (dry or wet) and/or extreme temperature may adversely affect its survival. In the absence of adequate rainfall, irrigation should be performed to ensure establishment of sod.

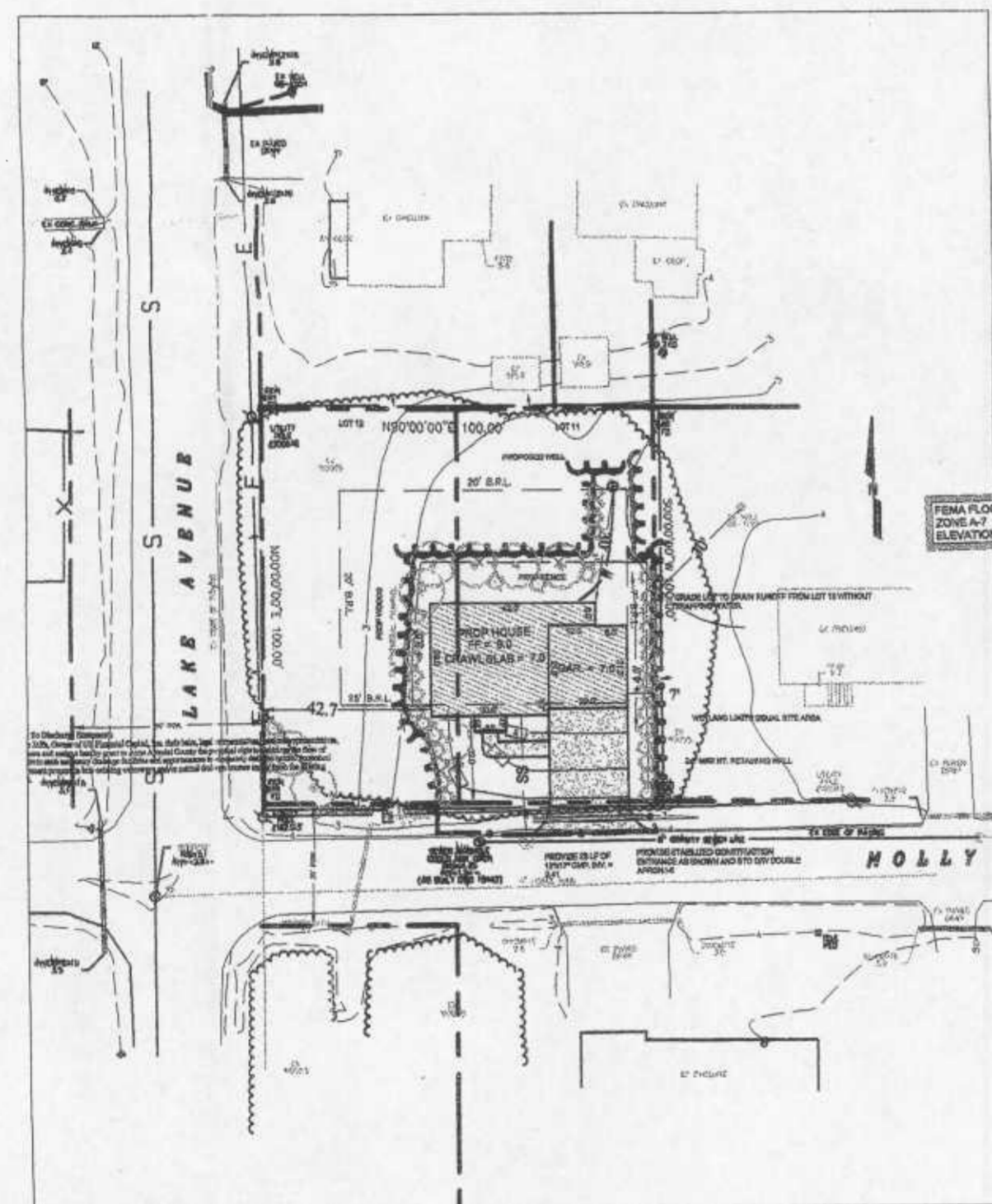
5. Mining Operations:
 Sediment control plans for mining operations must include the following seeding dates and mixtures.

For seeding dates of:
 February 1 through April 30 and August 15 through October 31, use seed mixture of tall fescue at the rate of 2 pounds per 1,000 square feet and sericea leopenda at the minimum rate of 0.5 pounds per 1,000 square feet.

6. Topsoil shall be applied as per the Standard and Specifications for Topsoil from the current Maryland Standards and Specifications for Soil Erosion and Sediment Control.
 NOTE: Use of this information does not preclude meeting all of the requirements of the current Maryland Standards and Specifications for Soil Erosion and Sediment Control.

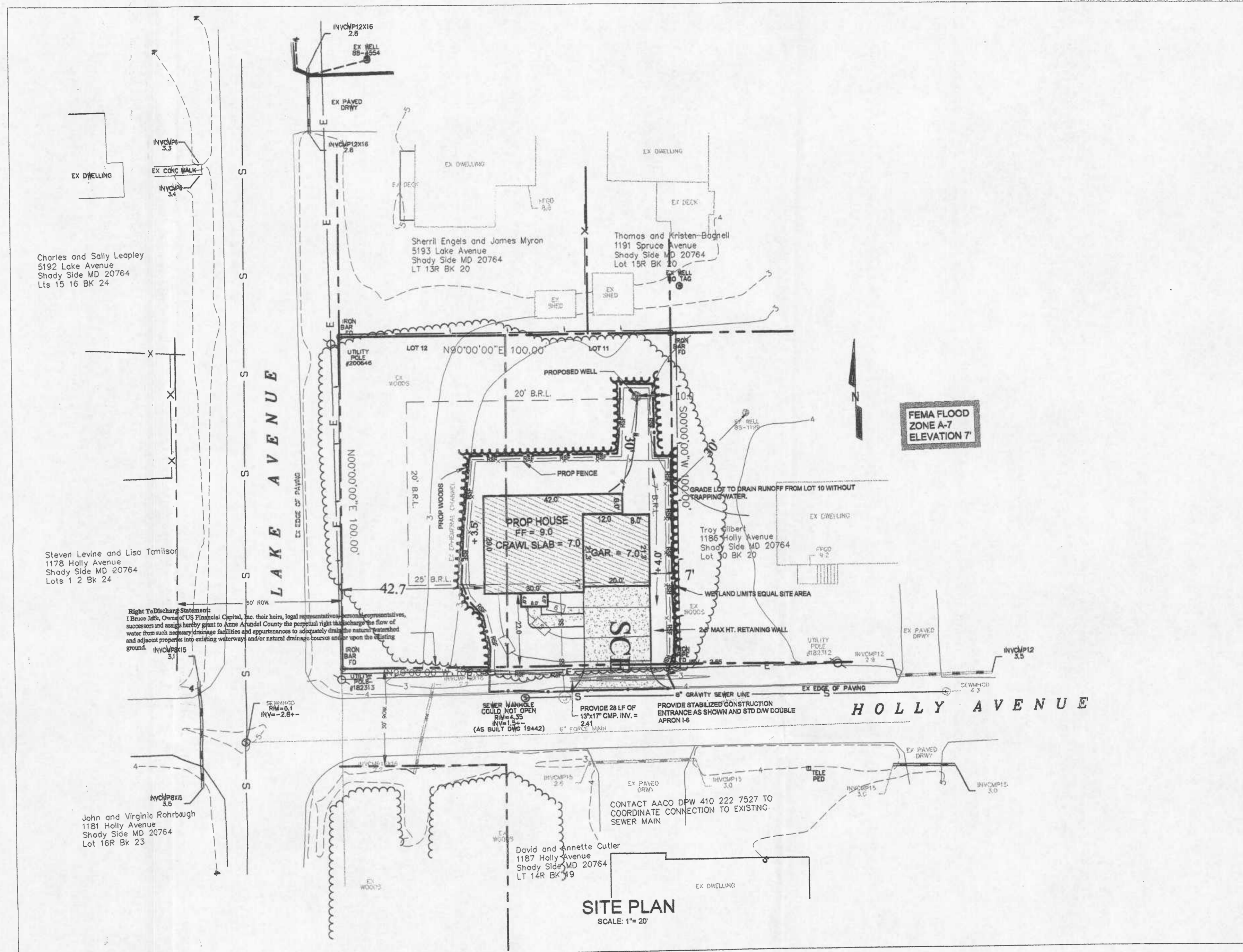
GENERAL NOTES

1. All graded and disturbed areas including slopes shall be protected during clearing and construction in accordance with the approved erosion and sediment control plan until they are adequately stabilized.
2. All erosion and sediment control practices and measures shall be constructed, applied and maintained in accordance with the approved sediment control plan and all applicable Local, State and Federal Standards and Specifications for Soil Erosion and Sediment Control.
3. Topsoil required for the establishment of vegetation shall be stockpiled in the amount necessary to complete finished grading of all exposed areas.
4. Areas to be filled shall be cleared, grubbed and stripped of topsoil, remove trees, vegetation, roots or other objectionable materials.
5. Areas which are to be topsoiled shall be scarified to a minimum depth of three (3) inches prior to placement of topsoil.
6. All structural fills shall be compacted to 95% maximum density ASTM D-1557 (AASHTO T-99) Method-C at optimum moisture as required to reduce erosion, slippage, settlement, subsidence or other related problems. Fill intended to support buildings, structures and conduits, etc. shall be compacted in accordance with above stated or local requirements and codes, whichever are more stringent.
7. All fill shall be placed and compacted in layers not to exceed eight inches (8") in thickness.
8. Except for approved landfills or nonstructural fills, fill material shall be free of brush, rubbish, rocks, logs stumps, building debris and other objectionable materials that would interfere with, or prevent, construction of satisfactory fills.
9. Frozen materials or soft, sticky or highly compressible materials shall not be incorporated into fill slopes or structural fills. Fill shall not be placed on a frozen foundation.
10. Groundwater, seeps or springs encountered during construction shall be handled in accordance with the local Building Code, Standards and Specifications for Subsurface Drain or other approved methods. If conditions are saturated employ a design professional for foundation design and construction inspections. Require a final certification after foundation cure period and prior to first floor decking is placed.
11. Stockpiles, borrow areas, and spoil areas shall be shown on the plans and shall be subject to the provisions of all applicable local, state, and federal Standard and Specifications.
12. Grade all disturbed areas with positive drainage at 2% (percent) slope minimum.
13. Footers for building or house construction to be in virgin soil or on compacted soils designed and specified by a Registered Engineer.
14. Trees shall not be removed from building pad locations unless approval for building pad grading has been acquired or until such time as Grading plans for each lot are completed, submitted, and approved with each building permit application.



MDE WETLAND EXHIBIT

SCALE: 1" = 40'
 FOR DISTURBANCE TO NON TIDAL WETLAND BUFFER, NON TIDAL WETLANDS, AND NON TIDAL WETLANDS BUFFER. SITE AREA = 10,000 sq. ft. WETLANDS ON SITE = 10,000 sq. ft.



VARIANCE REQUEST

THE PROJECT RECEIVED VARIAN CE APPROVAL ON MARCH 4, 2008. THE CASE NUMBER IS 2007-0433-V. APPROVAL WAS GRANTED FOR DISTURBANCE TO NON TIDAL WETLANDS AND A 3' VARIANCE TO THE 25' FRONT YARD SETBACK. A DWELLING WITH DIMENSIONS OF 29' x 30' WAS APPROVED. THE PROPOSED HOUSE HAS DIMENSIONS THAT FIT WITHIN THE 29' x 30' APPROVAL.

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 19615, EXPIRATION DATE: 04/21/2010.



Glenn P. Nilsen, PE
 5/19/09

Date	08 05 07
Scale	As Shown
Drawn By	GPN
Designed By	GPN
Approved By	GPN

SITE GRADING AND SEDIMENT CONTROL

1184 HOLLY AVENUE
 SHADY SIDE, MARYLAND 20764
 Tax Id # 07-155-05116300
LOTS 11 AND 12 "CEDARHURST ON THE BAY"
AN R-5/ IDA/ SINGLE FAMILY GRADING PERMIT
 TAX MAP 69, GRID 18, PARCEL 237
 DEED: 166630 / 505 & 17112 / 758
 SEVENTH DISTRICT ANNE ARUNDEL COUNTY

2-OF-3

Sheet No.

Revisions		Description
By	Date	
RECEIVED	JUL 22 2009	
Critical Area Commission		

Glenn P. Nilsen and Associates LLC

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 410.647.9180
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 email: GLENNNILSEN@CABLESPEED.com

