

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/](http://www.dnr.state.md.us/criticalarea/)

MEMORANDUM

Date: January 23, 2009

To: Roland Limpert, Environmental Review Unit

Cc: Mike Bonsteel, Dorchester County

From: Julie Roberts, Natural Resources Planner *JRR*

Re: Charles Powell, Dorchester County (200864976)

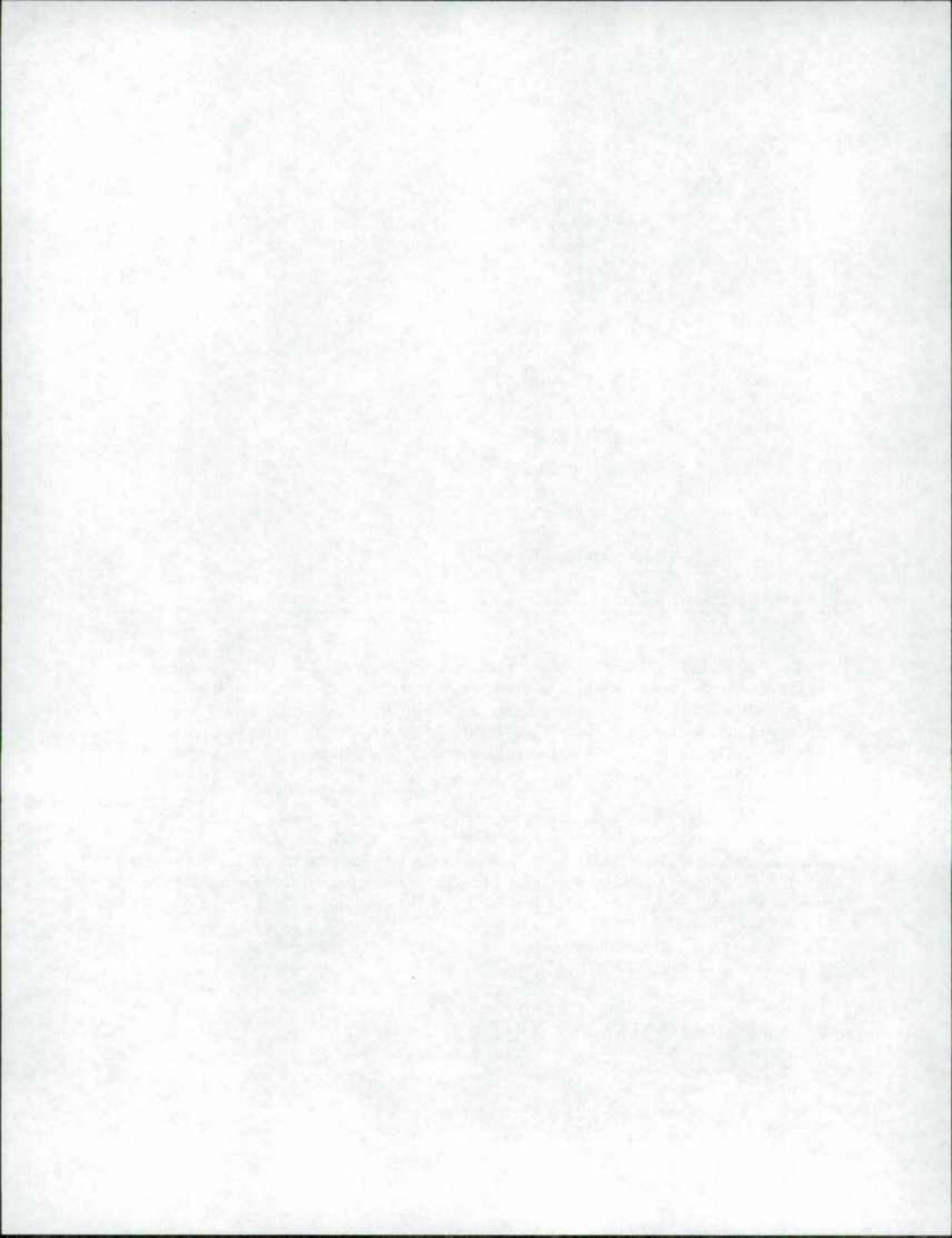
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Thank you for forwarding the above-referenced project. The applicant has applied for a joint federal/state application for the alteration of a floodplain, waterway, tidal or nontidal wetland. This application is specifically for a road crossing, including filling, excavating and grading of a nontidal wetland and its 25-foot Buffer. The subdivision associated with the proposed road is currently under review by this office. Our last letter was sent to the applicants on August 8, 2008 (enclosed). To date, we have not received revised plans.

Currently, there are two main issues which potentially jeopardize the ability to create the lots as proposed, and thus the necessity for a road crossing to access those lots: whether these proposed lots can be considered "buildable" and whether the Buffer for tidal wetlands has been expanded properly on this largely hydric parcel. Until these issues are resolved, we recommend that no permit be approved for this road crossing.

We appreciate your continued efforts to provide Commission staff notice of these projects. Please call me at (410) 260-3476 if you have any questions.





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August 7, 2008

Mr. Steve Dodd  
Dorchester County Planning and Zoning  
County Office Building  
P.O. Box 307  
Cambridge, Maryland 21613

Re: Local case number 1195 – Fishing Point

Dear Mr. Dodd:

Thank you for forwarding the above-referenced project. Your notification indicates that Parcels 234 (Lot 3) and 235 (Lot 2) were created as "agricultural lots" immediately prior to the adoption of the Critical Area Program. The applicant proposes to convert these agricultural lots to buildable lots and serve Lot 2 and 3, as well as Lots 1 and 4, with a shared Bermed Infiltration Pond (BIP). The property is located within the Resource Conservation Area (RCA). I have the following comments regarding the applicant's subdivision proposal:

1. Please provide deed and/or plat book and folio references for each of the existing parcels of record. This information was left blank on the plat. In addition, since parcels 234 and 235 were created as agricultural parcels and not as buildable lots or with the intent to be built upon, the applicant and County must demonstrate that the parcels had sufficient upland areas which could be legally built upon at the time of recordation in order to qualify as a nonconforming lot of record in the RCA currently and qualify for an upgrade to a buildable lot. Notwithstanding this information, parcels 234 and 235 appear unbuildable without a variance, would be substandard per the RCA density restrictions, and would not be upgradable to building lots in the RCA.
2. It is not clear whether Parcels 214 and 215 are also currently designated as agricultural parcels. If so, please provide information for these parcels identical to that requested in comment # 1 above.
3. It does not appear that the applicant has expanded the 100-foot Buffer to include the contiguous areas of nontidal wetlands on Lots 2 and 3. Please have the applicant revise. In addition:

Mr. Steve Dodd  
8/7/2008  
Page 2 of 2

- a. No topography or soils information has been provided on the plat. The Buffer may need to be expanded for contiguous hydric or highly erodible soils, as well. Please have the applicant include this information in the next submittal.
  - b. As the General Notes section indicates, any impacts to the nontidal wetlands or their buffer will require a permit from the Maryland Department of the Environment (MDE).
  - c. It appears that the proposed driveways for Lots 2 and 3 propose impacts to the expanded 100-foot Buffer, when properly delineated on the plat. As such, a variance would be required. If the County and/or applicant is not able to demonstrate that the existing parcels can qualify as nonconforming parcels of record in regard to density and buildable areas, thereby entitled to a development right within the RCA as requested in comment #1 above, this office will not support variances to develop lots 2 and 3 as proposed.
4. Plat note #18 indicates that the wetlands were delineated in the field, but the plat contains a statement saying that the tidal wetland line was scaled from the State Wetlands Inventory Map. The tidal wetland limits, as well as the limits of State versus privately-owned wetlands, and the limits of the 100-foot and expanded 100-foot Buffer must be delineated in the field and cannot be taken from maps. Please revise and provide information once available.
  5. A letter must be provided by the from the Department of Natural Resources Wildlife and Heritage program indicating whether there may be the presence of rare, threatened, or endangered species on or in the vicinity of the site. Our records indicate that may be a sensitive species in the vicinity of these lots. If species are present, the applicant must address any protections for the species made by DNR through submission of a Habitat Protection Plan (HPP). If applicable, the HPP must be submitted prior to preliminary plat approval.
  6. Future submittals should contain information regarding proposed clearing, and proposed lot coverage onsite. Please note that if the applicant is able to provide documentation supporting the upgrade of these parcels to buildable lots, the property is limited to 15% lot coverage.
  7. It does not appear that Lots 1 and 4 are currently forested. Per COMAR 27.01.02.04, the applicant is responsible for establishing 15% forest cover on this site at the time of building permit, or preferably, at the time of subdivision approval. Additionally, this forest must be placed in a protective easement or restrictive covenant. Please have the applicant include a plantings plan with the next submittal.

Thank you for forwarding this information for comment. Please forward revised materials as they become available. I can be reached at 410-260-3476 with any questions.

Sincerely,



Julie Roberts  
Natural Resources Planner

Cc: DC 429-08

**Roberts, Julie**

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**From:** Michael Bonsteel [mbonsteel@docogonet.com]  
**Sent:** Tuesday, September 23, 2008 1:29 PM  
**To:** Roberts, Julie  
**Subject:** Fishing Point subdivision, P&Z #1195

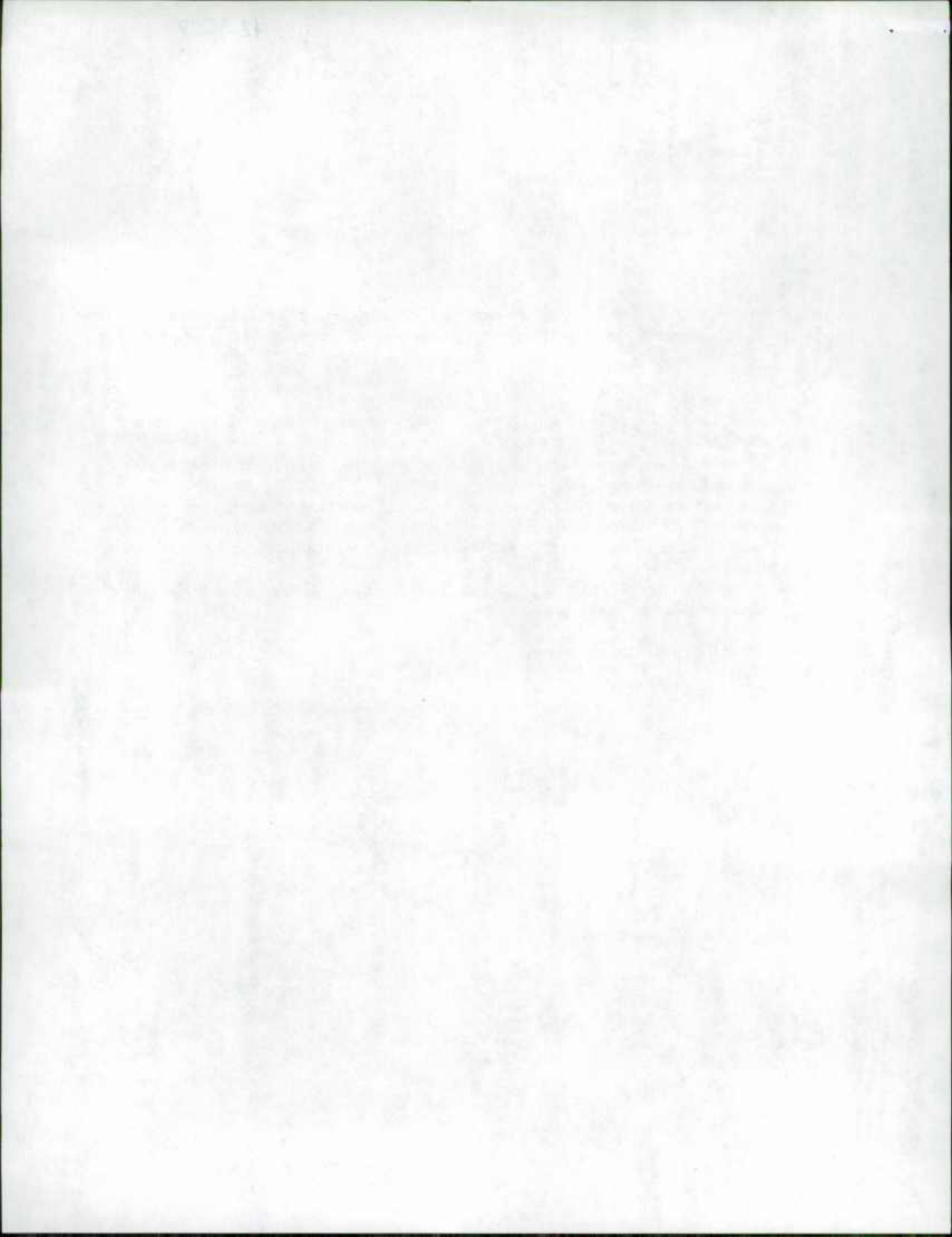
Julie,

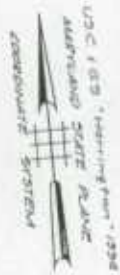
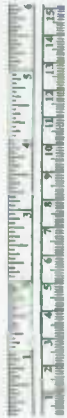
I met with Tom Moore today about the Fishing Point subdivision (Charlie Powell; P&Z #1195). He had a couple of questions about your comment letter. I have listed them below with some information regarding the history of the site, in response to your letter:

1. Grandfathering:
  - Lots 1 and 4 were subdivided in 1973 as the lands of Ralph Asplen (Book PLC 14, pg. 85, see attached plat)
  - Lots 2 and 3 were created as agricultural lots in 1985 as the land of Charles Powell (Book PLC 36, pg. 62, see attached plat)
2. Lots 1 and 4 on the subdivision plat are also known as lots 215 and 214, respectively.
4. Tom wanted to know if the project could be handled alike Mr. Markey's intrafamily transfer (P&Z #1116) where the tidal wetlands are counted towards total acreage but not included in lot coverage calculations. ← 8 acres of upland, P/ST?
5. This project may require mitigation for FIDS habitat. Does the County need approval from your office for developing a mitigation fund or program? →

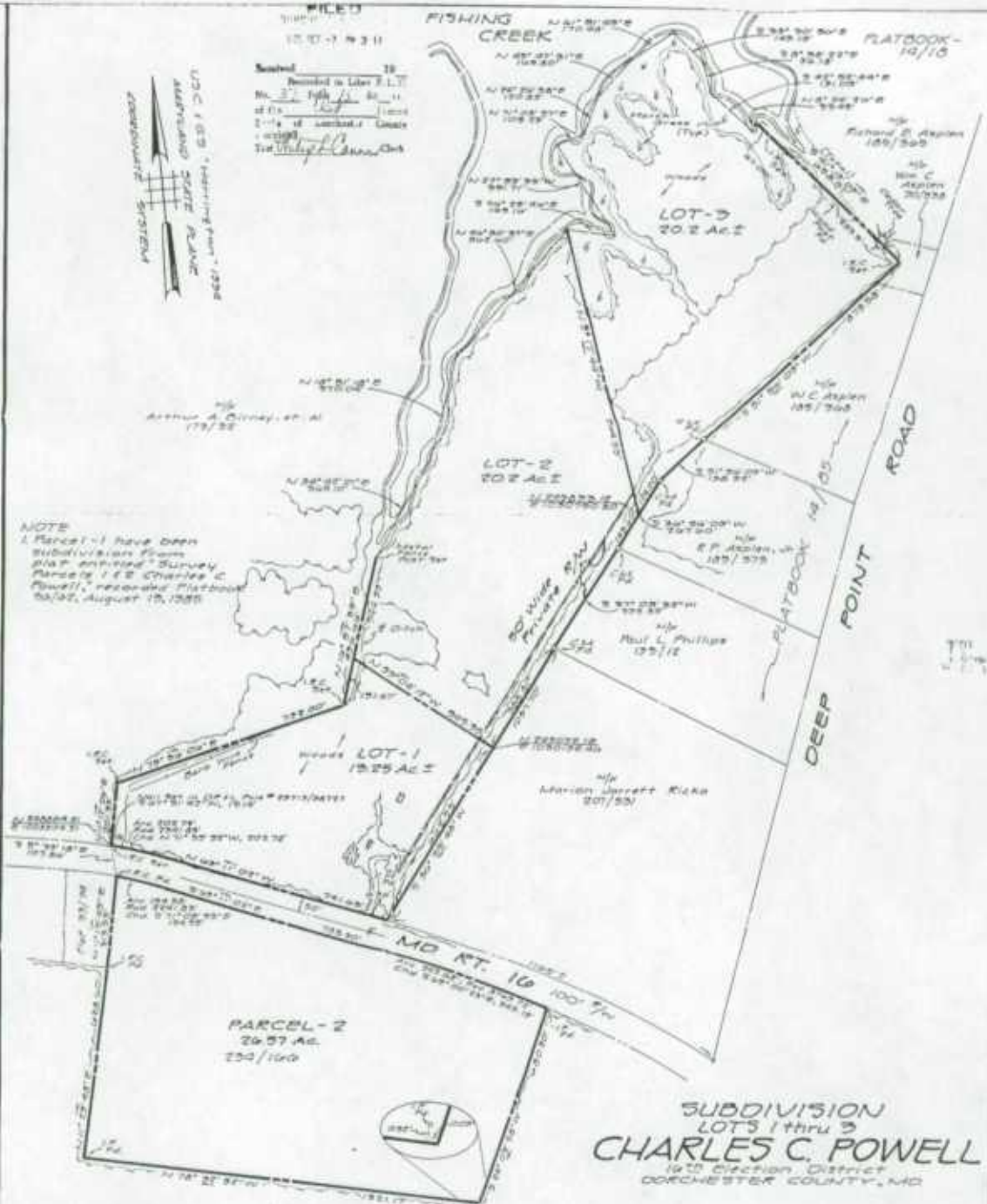
Please let me know if you need more information.

~Mike





**WILEY**  
 10 10 - 1 N 2 11  
 Section 18  
 Recorded in Liber P.L.T.  
 No. 27 Page 14  
 of 16  
 2-14 of Ambrose's Grant  
 (1839)  
 The Original Chain Clerk



**NOTE**  
 1. Parcel-1 have been  
 subdivided from  
 plat entitled "Survey  
 Parcel 1 of Charles C.  
 Powell," recorded Platbook  
 54/10, August 15, 1955

**SUBDIVISION**  
**LOTS 1 thru 3**  
**CHARLES C. POWELL**  
 19 1/2 Election District  
 DOVERESTER COUNTY, MD

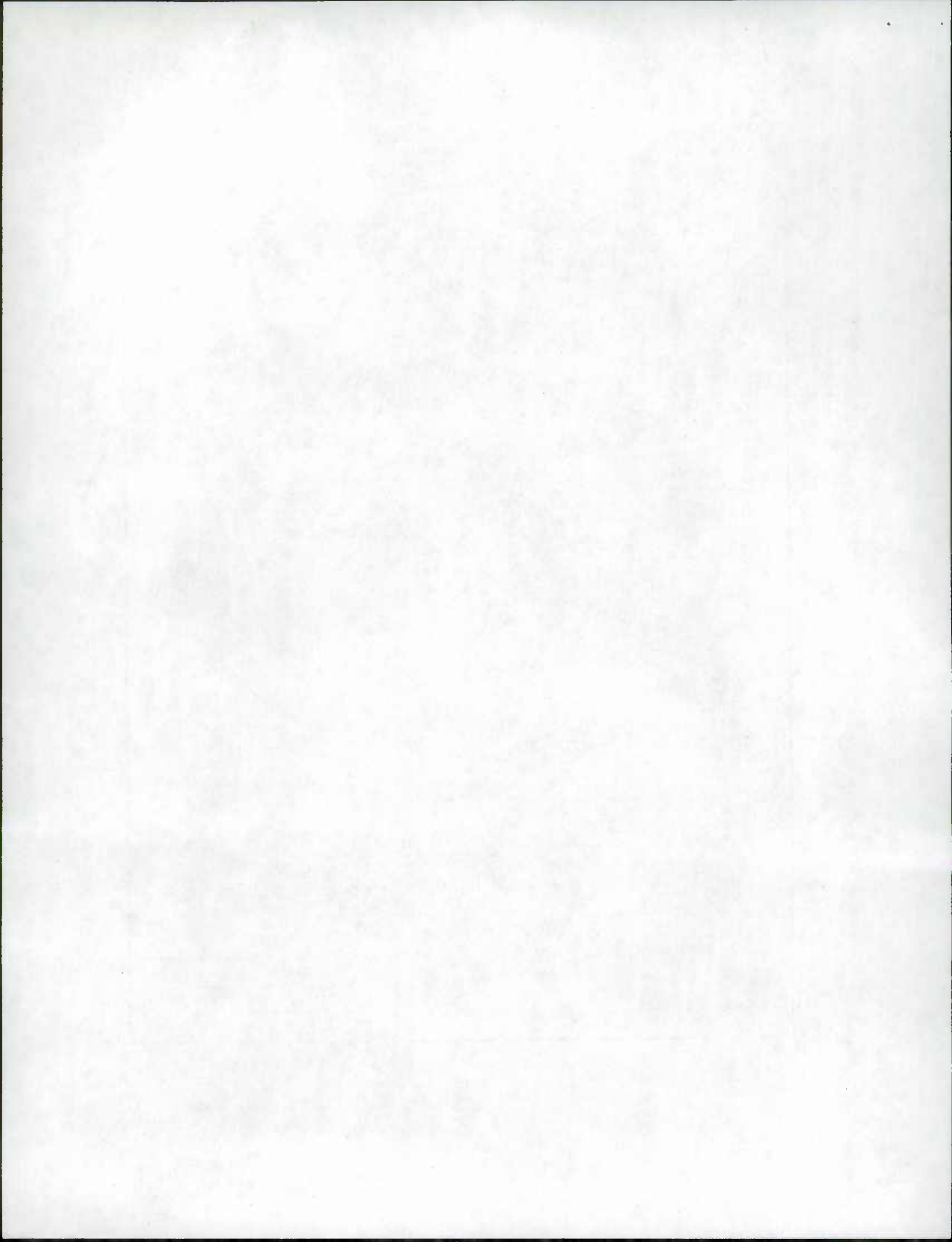
Date Christian Union Inc.  
 05/54



Registered Platbook 571 - Oct. 7, 1955

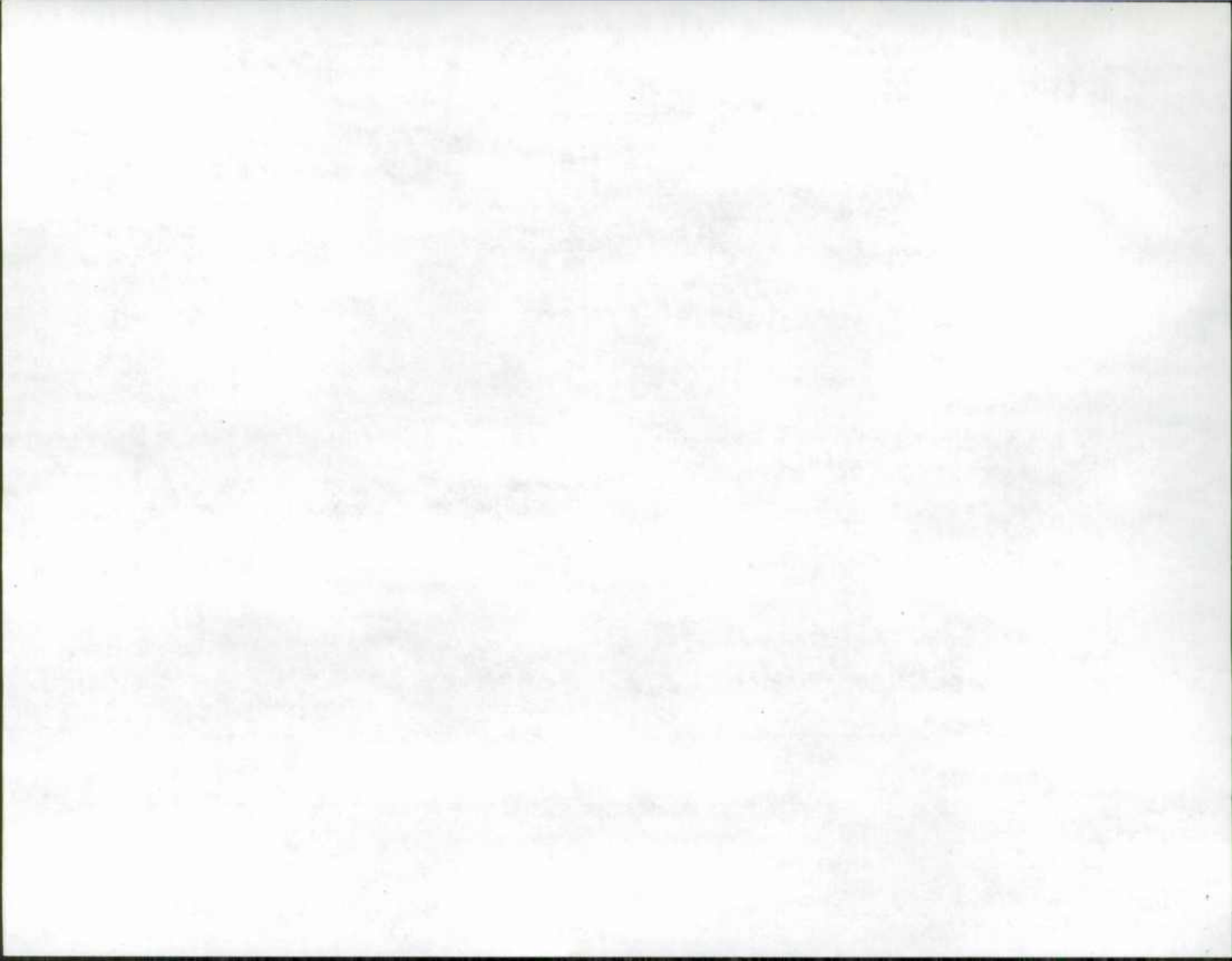
**Andrews, Miller & Assoc., Inc.**  
 222 HARTLAND AVENUE • CAMBRIDGE, MD. 21613 • PHONE 301-228-7117

DESIGNED BY	ANDREW MILLER	DATE	10/7/55
DRAWN BY	ANDREW MILLER	DATE	10/7/55
CHECKED BY	ANDREW MILLER	DATE	10/7/55

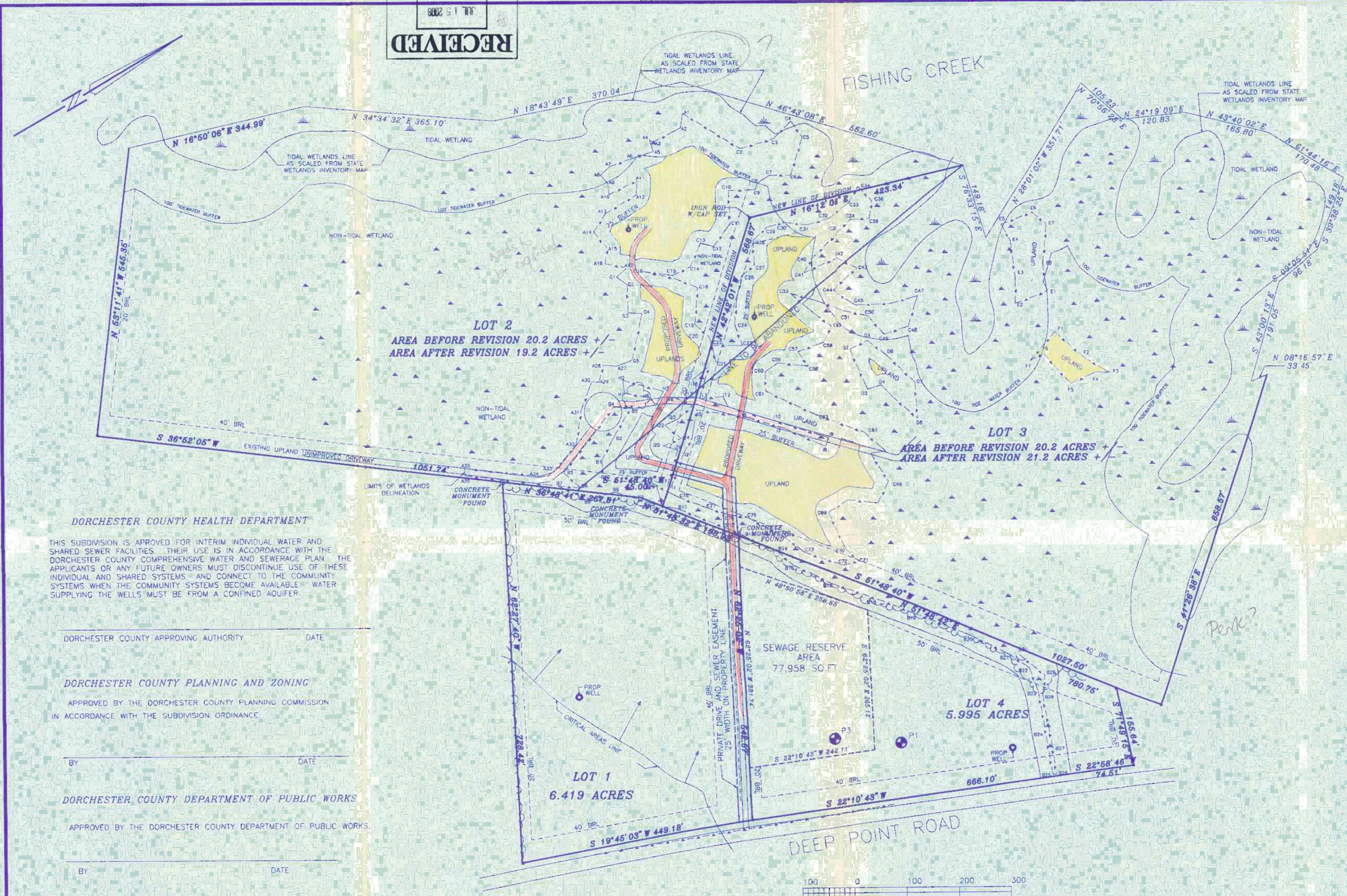
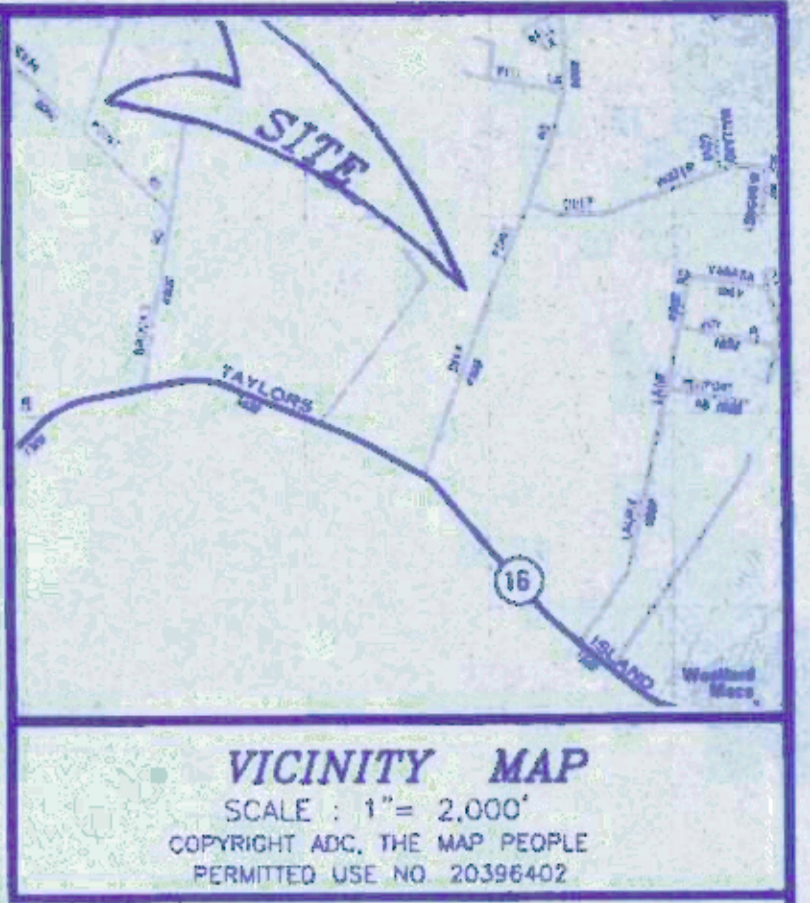








RECEIVED  
JUL 15 2008  
CRITICAL AREA COMMISSION  
Chesapeake & Atlantic Coastal Bays



- GENERAL NOTES:
- REFERENCES: DEED PLAT LIBER / FOLIO
  - ZONING: RC - RESOURCE CONSERVATION, AC - AGRICULTURAL CONSERVATION
  - PARCEL IS IN ZONE A4 PER FIRM PANEL 240026 D175 B, DATED JUNE 16, 1992
  - BUILDING RESTRICTION LINES:
 

FRONT	RC	40'	AC	40'
SIDE		20'		20'
REAR		50'		50'
  - WATER AND SEWER DESIGNATION: "NO PLANNED SERVICE"
  - THIS SUBDIVISION IS IN AN AGRICULTURAL AREA AND EACH LOT OWNER, ITS SUCCESSORS OR ASSIGNS, SHALL HAVE NO BASIS FOR RECOURSE AGAINST THE EFFECTS OF NORMAL FARMING OPERATIONS CONDUCTED IN ACCORDANCE WITH GOOD HUSBANDRY PRACTICES WHICH MAY CAUSE SOME INTERFERENCE WITH THE USE AND ENJOYMENT OF THE PROPERTY. THESE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO, NOISE, ODOR, VIBRATION, FUMES, DUST OR GLARE. THE LOT OWNER SHALL ACCEPT THE LIMITATION ON USE AND ENJOYMENT OF THE PROPERTY.
  - TAX MAP 50, PARCELS 235, 234, 214, 215
  - TAX ACCOUNT #
  - OWNERS:
  - NO STORMWATER MANAGEMENT PLAN HAS BEEN APPROVED FOR THESE LOTS. ANY LAND DISTURBANCE IN EXCESS OF 5,000 SQUARE FEET OF LAND AREA INVOLVED WITH THIS SUBDIVISION WILL REQUIRE A STORM WATER PERMIT APPLICATION. NO ASSURANCE IS PROVIDED BY THIS SUBDIVISION APPROVAL BY DORCHESTER COUNTY THAT A PERMIT CAN BE SECURED.
  - DEVELOPMENT RIGHTS:
 

	RC	AC
DEVELOPMENT RIGHTS EXISTING	4	0
DEVELOPMENT RIGHTS UTILIZED	4	0
DEVELOPMENT RIGHTS REMAINING	0	0
  - ROAD CLASSIFICATION: DEEP POINT ROAD - LOCAL
  - THERE ARE NO INTERMITTENT STREAMS, STEEP SLOPES OR BURIAL SITES TO THE BEST OF OUR KNOWLEDGE.
  - EACH LOT'S IMPERVIOUS AREA DEVELOPMENT IS LIMITED TO 15% OF EACH RESPECTIVE LOT'S CRITICAL AREA ACREAGE.
  - ANY FOREST CLEARING IN THE CRITICAL AREAS REQUIRES MITIGATION AND A PLANTING PLAN.
  - CRITICAL AREAS LINE WAS TAKEN FROM DORCHESTER COUNTY WETLANDS INVENTORY MAP #292.
  - ANY DEVELOPMENT OR IMPROVEMENT ON ANY LOTS ON THIS PLAT MAY REQUIRE FEDERAL NON-TIDAL WETLAND PERMITS FROM THE CORPS OF ENGINEERS. ANY WETLAND DELINEATION ON THIS PLAT MAY NOT COMPLY WITH FEDERAL REGULATIONS.
  - WETLANDS SHOWN HEREON WERE DELINEATED AND LOCATED BY RONALD D. CATTON, ENVIRONMENTAL CONSULTANTS, INC. AND DO NOT REPRESENT FIELD WORK OF ANY KIND BY WILLIAM C. CRAIG & CO., LLC.

**DORCHESTER COUNTY HEALTH DEPARTMENT**  
THIS SUBDIVISION IS APPROVED FOR INTERIM INDIVIDUAL WATER AND SHARED SEWER FACILITIES. THEIR USE IS IN ACCORDANCE WITH THE DORCHESTER COUNTY COMPREHENSIVE WATER AND SEWERAGE PLAN. THE APPLICANTS OR ANY FUTURE OWNERS MUST DISCONTINUE USE OF THESE INDIVIDUAL AND SHARED SYSTEMS AND CONNECT TO THE COMMUNITY SYSTEMS WHEN THE COMMUNITY SYSTEMS BECOME AVAILABLE. WATER SUPPLYING THE WELLS MUST BE FROM A CONFINED AQUIFER.

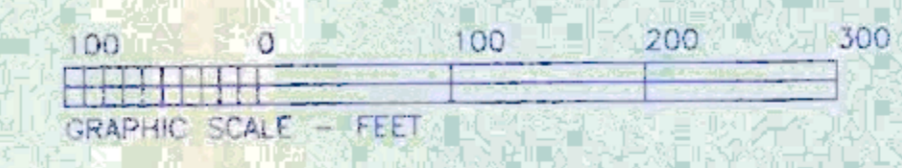
DORCHESTER COUNTY APPROVING AUTHORITY \_\_\_\_\_ DATE \_\_\_\_\_

**DORCHESTER COUNTY PLANNING AND ZONING**  
APPROVED BY THE DORCHESTER COUNTY PLANNING COMMISSION IN ACCORDANCE WITH THE SUBDIVISION ORDINANCE

BY \_\_\_\_\_ DATE \_\_\_\_\_

**DORCHESTER COUNTY DEPARTMENT OF PUBLIC WORKS**  
APPROVED BY THE DORCHESTER COUNTY DEPARTMENT OF PUBLIC WORKS.

BY \_\_\_\_\_ DATE \_\_\_\_\_



SHEET 1 OF 2

LAYERS 91,92,94,95  
REVISED 5/6/2008  
REVISED 6/28/2008

SURVEYOR'S CERTIFICATE:  
I CERTIFY TO CHARLES C. POWELL THAT THIS PLAT REPRESENTS NOTES OF A PRECISE FIELD SURVEY, WITHOUT REVIEW OF AN ABSTRACT OF TITLE, IS SUBJECT TO ALL NOTES HEREON AND COMPLIES WITH SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

WILLIAM C. CRAIG  
DATE: 6/26/08

ISSUED  
JUN 26 2008  
WILLIAM C. CRAIG & CO. LLC



EXCHANGE OF LAND  
SHARED FACILITIES PLAT  
**FISHING POINT SUBDIVISION**  
LOTS 1 THRU 4  
MAP 50 PARCELS 214, 215, 234, 235  
SIXTEENTH ELECTION DISTRICT DORCHESTER COUNTY, MARYLAND

**WILLIAM C. CRAIG & COMPANY LLC**  
LAND SURVEYORS  
300 Academy Street, Suite 202  
Cambridge, Maryland  
410-228-2295 FAX 410-228-3238

DATE:	8/15/2006
SCALE:	1" = 100'
JOB NO.:	50/214,215,234,235
COMPUTER FILE:	COORD: CHARPOW SCREEN: CHARPOW
DRAWN BY:	TEM