

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/

February 20, 2008

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance File #07-3063
CRG Capital; 29865 Grant Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to clear more than 30% developed woodland on an existing lot located in the Golden Beach subdivision. The property is 15,000 square feet and designated as Limited Development Area (LDA). The proposed clearing is 8,736 square feet or 69.9% in order to accommodate a new single family dwelling, new driveway, and mound septic system.

Provided the lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided I have the following comments:

1. Approximately 25% of the site will remain in developed woodland, meeting the 15% afforestation threshold.
2. I recommend a note be added to the plat limiting further clearing of developed woodland on this site.
3. If allowed by the Department of Health, I recommend only the initial mound system be cleared at this time.
4. The applicant should provide mitigation at a ratio of 3:1 for exceeding the 30% clearing limit. Plantings should consist of native vegetation and be accommodated on site to the maximum extent possible prior to the use of fee-in-lieu.

Ms. Yvonne Chaillet

February 19, 2008

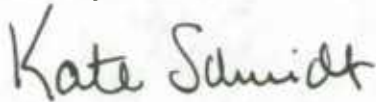
07-3063

Page 2 of 2

5. The applicant states that the request was the result of the adoption of the Critical Area ordinance. To clarify, this request is not after-the-fact and is thus not the result of actions by the applicant. Passage of the law and County ordinance does not necessarily mean that the applicant meets all applicable critical area variance standards. In addressing the standards, the Board must find that the applicant has overcome the presumption that the proposed development activity does not conform to the general purpose and intent of the Critical Area law and the requirements of the local program.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case.

Sincerely,

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

Kate Schmidt

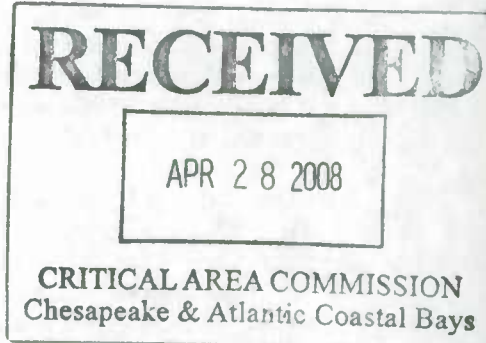
Natural Resource Planner

SM046-08

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of the application of CRG Capital LLC for a variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to clear more than 30% of the existing vegetation to construct a single-family dwelling and appurtenances.

Case No. VAAP #07-3063
CRG Capital LLC



ORDER

WHEREAS, Application VAAP #07-3063 – CRG Capital LLC was duly filed with the St. Mary's County Board of Appeals (the "Board") by CRG Capital LLC (the "Applicant"), on or about December 19, 2007; and

WHEREAS, the Applicant seeks a Variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01), as amended, (the "Ordinance"), to clear more than 30% of the existing vegetation to construct a single-family dwelling and appurtenances. The property contains .345 acres; is zoned Residential Neighborhood Conservation (RNC), Limited Development Area (LDA) Overlay; and is located at 29847 Grant Road, Mechanicsville, Maryland; Tax Map 5A, Block 02, Parcel 56 (the "Property"); and

WHEREAS, after due notice, a public hearing was conducted by the Board on Thursday, February 28, 2008 in Room 14 of the Governmental Center in Leonardtown, Maryland, at 6:30 p.m., and on March 27, 2008 in Room 14 of the Governmental Center in Leonardtown, Maryland, at 6:30 p.m., and all persons desiring to be heard were heard, documentary evidence received, and the proceedings electronically recorded.

NOW, THEREFORE, having reviewed the testimony and evidence presented at the hearing, the following facts, findings, and decision of the Board are noted:

FACTS

The subject property (Property) is a wooded lot of .345 acres and is in the Critical Area Limited Development Area (LDA) Overlay. The Property is a grandfathered lot because it was recorded in 1956, prior to the adoption of the Maryland Critical Area regulations in December 1985. The Property will be served by a well and septic mound system. The Property is located in the Golden Beach Subdivision and is not constrained by the 100-Foot Critical Area Buffer (Buffer), tidal or non-tidal wetlands, Hydric or Highly Erodible Soils, steep slopes or by the 100-year floodplain according to FIRM (Flood Insurance Rate Map) Panel #81E.

The Property contains no impervious surface.

The existing vegetative cover on the Property is 12,500 square feet or 83.4 percent of the Property.

The existing soil types on the Property are Matapeake fine sandy loam (MmA), which is not hydric or highly erodible, according to the 1978 United States Department of Agriculture's Soil Survey of St. Mary's County.

The site plan was approved by the Health Department on November 28, 2007 and approved by the Soil Conservation District on November 21, 2007.

The Board received comments from the Maryland Critical Area Commission on February 20, 2008. The Maryland Critical Area Commission does not oppose the granting of the variance. The Commission recommends that mitigation plantings should be required at a rate of 3 to 1 and plantings should be maximized on site prior to the use of fee-in-lieu.

The Board supports the need for a variance from Section 72.3.1 of the Ordinance to clear more than 30% of the existing woodland but believes, subject to Health Department Approval, that the Applicants must reposition the house, SRA and LOD to achieve the minimum amount of clearing necessary and minimum habitat disruption. The

Board is aware that a ten-foot setback must be maintained between the house and the SRA, a fifty-foot setback must be maintained between the well and the SRA, as well as the thirty-foot setback that must be maintained between the house and proposed well site. These modifications to the Applicant's proposed site plan will reduce the clearing necessary from 8,736 square feet or 69.9 percent of the existing vegetation to 7,586 square feet or 60.7 percent of the existing vegetation. Additionally, the cleared area as shown on the site plan resulted from unpermitted clearing of the woodland prior to the purchase of the lot by the current owners in June 2007. Mitigation for the variance shall be calculated at a ratio of 3 to 1 and the cleared area of the site plan shall be counted toward the total mitigation if the variance is granted.

If the variance is granted, the Applicants must comply with Section 24.8 of the Ordinance pertaining to lapse of variance. Variances shall lapse one year from the date of the grant of the variance by the Board of Appeals.

The Applicants have provided the Board with a letter of intent that addresses the standards for granting a variance in the Critical Area.

FINDINGS

The Board addresses the Special Standards for Granting Variances, which are set forth in Section 24.3 of the Ordinance, finding as follows:

- 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:*

The Board finds as the Property is a 15,000 square foot and 12, 5000 square feet are wooded, clearing in excess of 30 percent of the existing woodland would be clearing 3,750 square feet or more. To construct a single family house and driveway as well as a mound system including placement of a new well and septic tanks exceeds this square footage limit. For this reason, the Board finds that a strict enforcement of the Critical Area provisions of this Ordinance will result in unwarranted hardships because the Applicant would be prohibited from constructing a single family dwelling and appurtenances.

- 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:*

The Board finds 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. Other property owners in the LDA in the Golden Beach Subdivision who are on small lots have been granted variances in the past to clear in excess of 30 percent of existing woodland to construct new single family dwellings and appurtenances.

- 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:*

Other property owners in the LDA in the Golden Beach Subdivision have been granted variances and have been issued permits to clear more than 30% of their woodland on heavily wooded lots as long as maximum conformance to Critical Area regulations is attempted. The Board finds that this would not confer any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures.

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

The Property is a grandfathered lot because it was recorded among the Land Records of St. Mary's County in 1959 before the County adopted Critical Area regulations. As the lot is only

15,000 square feet a large percentage of it must be cleared and/disturbed. The Board finds that the variance request is not based upon conditions or circumstances that are the result of actions by the Applicant, but by the adoption of environmental regulations.

e. The granting of the 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:

With the three to one mitigation of all vegetation removed from the Property in Native vegetation per a staff approved Critical Area Planting Agreement, impacts to water quality, plant and wildlife habitat in the Property will be minimized to the greatest extent possible.

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

The Board finds that the Applicant meets the minimum necessary standard to achieve a reasonable use of the land or structures, if they realign the proposed house, SRA and LOD on the Property as recommended.

DECISION

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for Variance in the Critical Area and the objectives of Section 72.3.1 of the St. Mary’s County Comprehensive Zoning Ordinance have been met, the variance request to clear more than 30% of woodland on the property is **approved**, subject to the following conditions:

1. The Applicant shall reduce the limits of disturbance on the south side of the Property to further reduce the amount of clearing by 450 square feet and indicate this on the revised site plan; and
2. The Applicant shall provide a Planting Plan for review and approval by the Environmental Planner prior to building permit approval; and
3. The Applicant shall adhere to the Critical Area Planting Agreement, which requires mitigation at a ratio of three to one (3:1) per square foot of the variance granted pursuant to Section 24.4.2.b of the Ordinance.

This Date: April 24, 2008




 Wayne Miedzinski
 Vice-Chairman

Those voting in favor of the request:

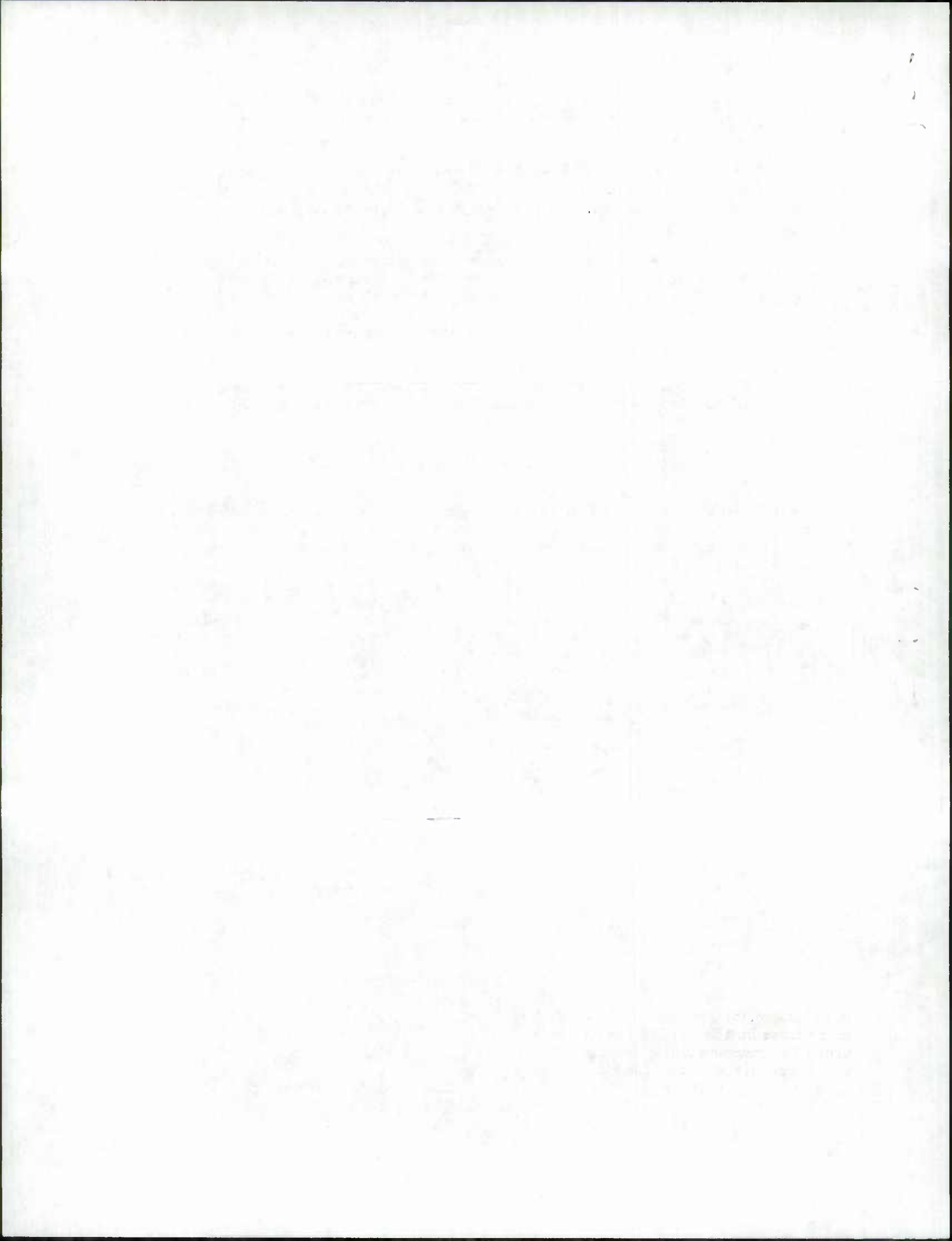
Mr. Edmonds, Mr. Hayden, Mr. Miedzinski, Mr. Payne and Ms. Scriber

Those voting against the requested variance:

Approved as to form and legal sufficiency:



 George R. Sparling
 Attorney



Board of Appeals
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
P. O. Box 653
Leonardtown, Md. 20650

December 20, 2007

RE: CRG Capital
Situated on Grant Road
Tax Map 5A Lot 646
Permit #07-3063

Dear Board of Appeals Members:

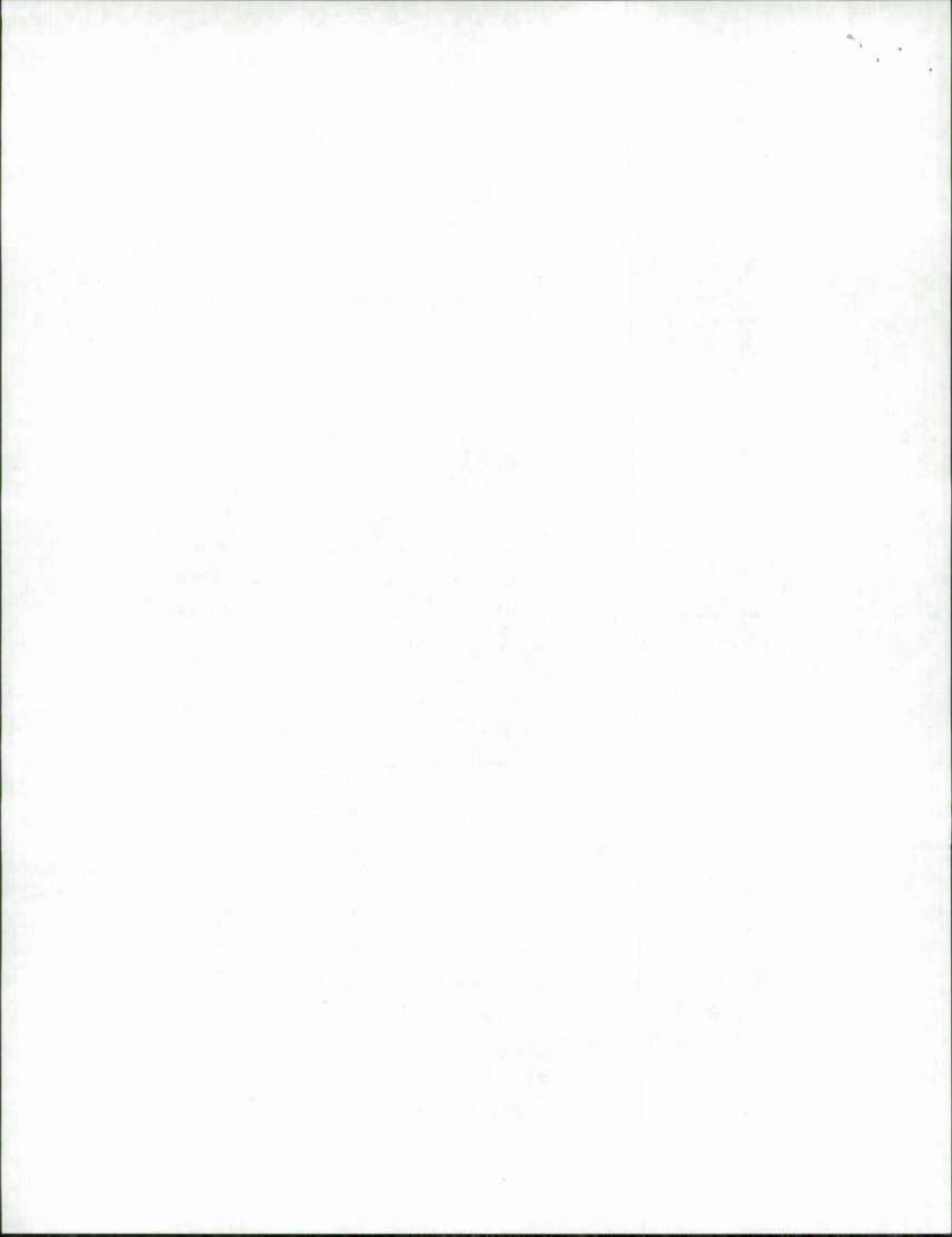
We request your consideration of our application for a variance on the referenced site. We are requesting a variance from section 72.3.1.c.2 to clear more than 30% of an existing lot within the Maryland Critical Area. A single family dwelling is proposed along with clearing for a driveway and sewage disposal area.

In asking for the above listed variances, we would appreciate your consideration of the following as they apply to granting a variance in the Critical Area.

- A. This lot, recorded in 1955, is part of a recorded subdivision which existed prior to the adoption of the critical areas ordinance which established that clearing is limited to 30 percent of the existing forest. If the critical areas ordinance had not been established the proposed improvements would have met all the requirements of the zoning ordinance, and would have been permitted. Strict enforcement of the Critical Area Provision of the Ordinance will result in unwarranted hardship to the owner.
- B. When looking at the neighboring properties, there are numerous houses with similar floor plan and similar clearing limits, many of which were actually clear cut during development. Our request for a modest single family dwelling with 3

* not the standard

= applicant's have right to a dwelling.



bedrooms with septic and drive to support. In meeting the zoning ordinance setbacks and the St. Mary's County Health Department requirements it would be impossible to build on this lot without clearing more than 30 percent of the forest. Literal interpretation of the critical area program would deprive the owner of the right to construct a home on the property, thus depriving them of rights commonly enjoyed by the adjoining property owners.

C. The granting of this variance will not confer any special privilege, but simply allow the owner to construct a single-family residence similar to existing homes in the neighborhood.

D. This variance request is a direct result of the adoption of the critical area ordinance after the establishment of this lot, and was not a result of action by the applicant.

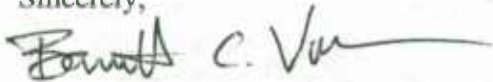
} No

E. The total area of clearing on this lot is 8,736 square feet, a minimal amount that has been reduced as much as possible as required for construction. The granting of these variances will have no adverse impact on the fish, wildlife, or plant habitat within the critical area, and that the granting of this ordinance will be in harmony with the general spirit and intent of the Critical Area Program.

F. The proposed improvements are minimal. Granting this waiver would allow the owner to achieve a reasonable use of his land, constructing a single family dwelling similar to others in the neighborhood.

Do they require clearing for septic reserve area?

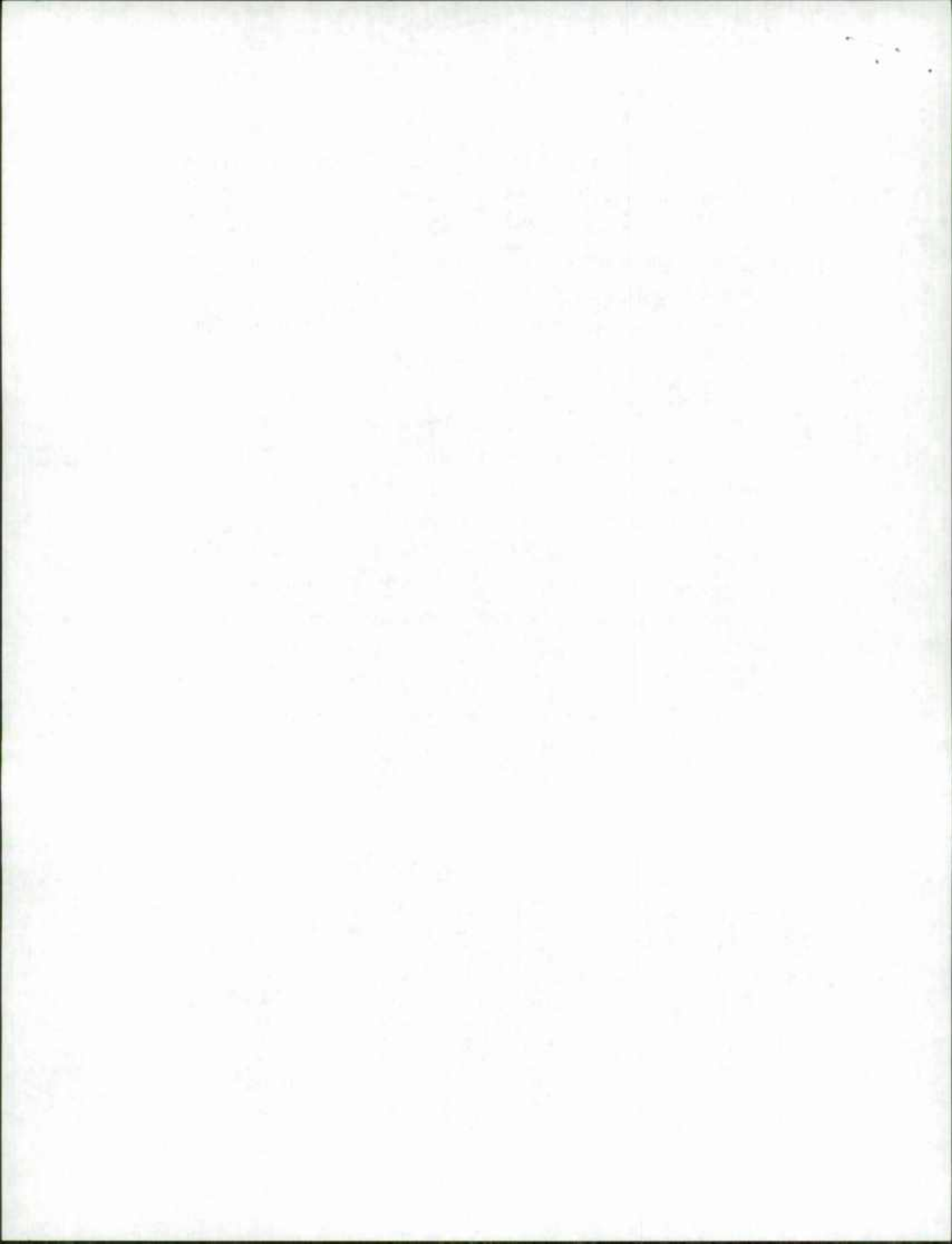
Sincerely,



Barrett Vukmer, Maryland Professional Land Surveyor #21138

Chesapeake Trails Surveying, LLC

Managing Member



Schmidt, Katherine

From: Yvonne Chaillet [Yvonne.Chaillet@co.saint-marys.md.us]
Sent: Thursday, February 21, 2008 2:19 PM
To: ctsllc@verizon.net
Cc: Harry Knight; Jackie Alvey; Jenn Ballard; Phil Shire
Subject: Permit #07-3064, CRG Capital, LLC

Barry:

The subject permit, Lot 644 in Golden Beach, had a Stop Work Order posted today for clearing without a permit and without authorization in violation of Section 72.3.3.a(3) of the Zoning Ordinance. Jackie Alvey, Zoning Inspector, noticed the clearing yesterday when he was in that area. According to Mr. Alvey, the owners have completed nearly all of the clearing that they had proposed on their site plan.

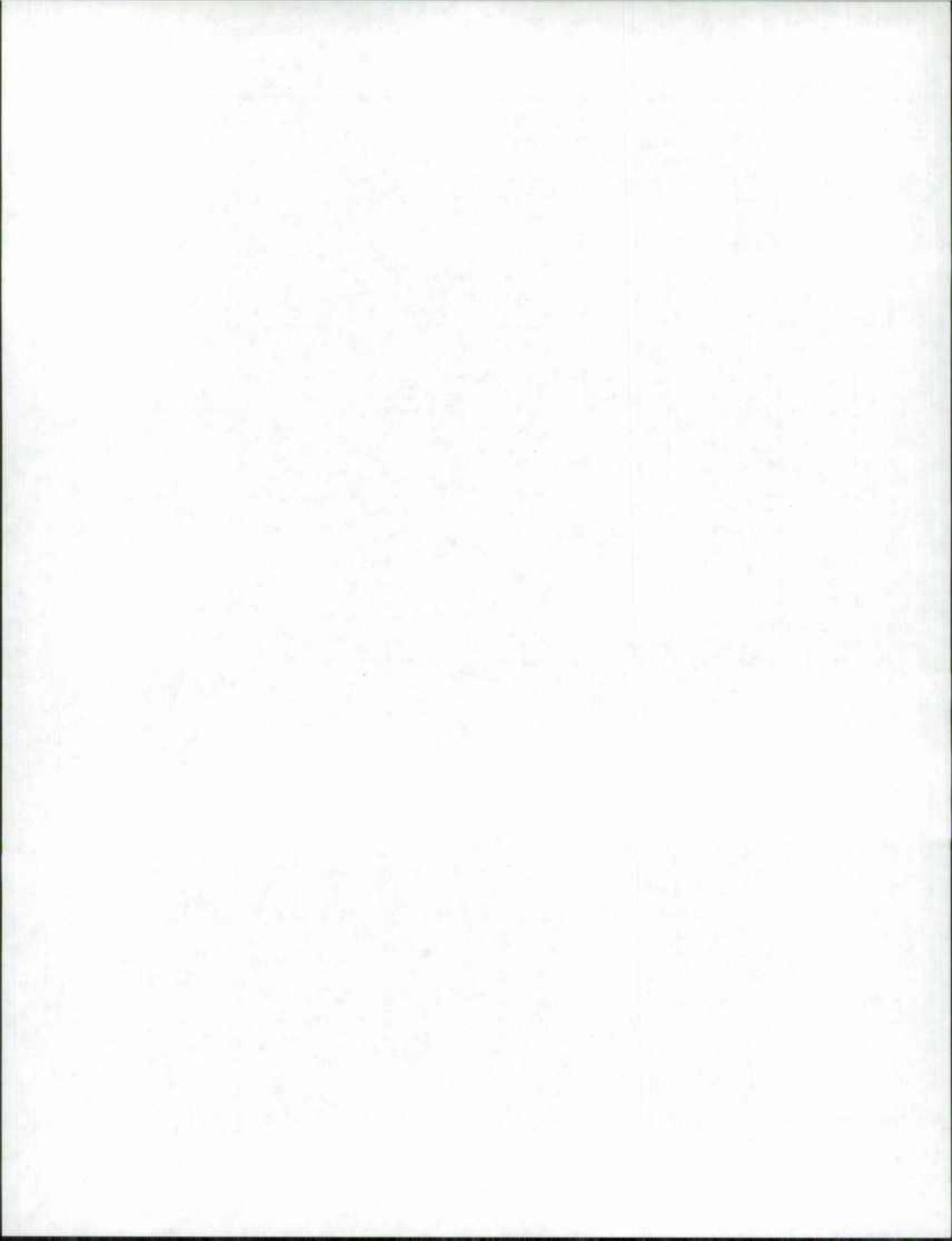
As a result of the unauthorized clearing, the owners must submit an As-Built site plan showing the limits of the disturbed area for clearing and the amount of clearing in square footage. Additionally, the variance request for this lot will need to be rescheduled to a later hearing date. The variance request is now after-the-fact, which may change the comments and recommendation from the Critical Area Commission and from staff. The property owners are also subject to fines.

Please provide me with the names of the principals of CRG Capital, LLC. The applications for permits and variance requests, the deeds, and Assessments and Taxation records only list the corporation's name.

Thank you for your assistance.

Yvonne

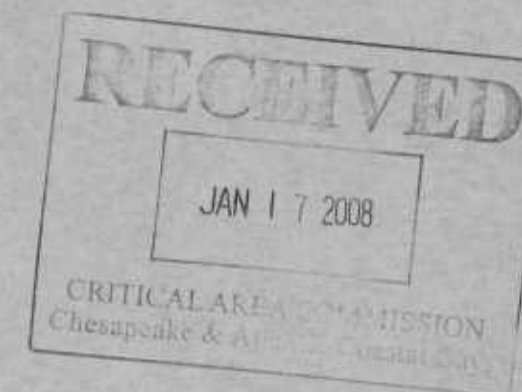
Yvonne Chaillet
Planner IV / Zoning Administrator
St. Mary's County Dept. of Land Use & Growth Management.
P.O. Box 653
Leonardtown, MD 20650
301-475-4200, ext. 1523
Fax: 301-475-4635



* * * * CAUTION * * * *

The owner and site contractors should pay special attention to "Construction Procedures" note 5.4.1 and 5.4.4 on sheet 2 of 2 for instructions concerning preparation of the sewage disposal area and tree removal and General Notes 5 and 10 for construction timing and potential damage to septic reserve area.

Grading Note:
The site shall be graded so that there is a 6 inch drop within the first 10 feet away from the foundation all sides of the house to insure that the surface water drains away from the house.



LOT AREA = 15000 SQ. FT.
IMPERVIOUS SURFACE ALLOWED AT 31.25%
= 5000 SQ. FT.
PROPOSED IMPERVIOUS SURFACES **7488**

HOUSE & GARAGE	=	1610	S.F.
DRIVE	=	945	S.F.
STOOP/WALK	=	115	S.F.

TOTAL PROPOSED IMPERVIOUS SURFACE = 2670 S.F. OR 17.8%

PROPOSED CLEARING = 8736 S.F. OF 12500 OR 69.9%

ST. MARY'S COUNTY
OFFICE OF
ENVIRONMENTAL HEALTH

SANITARIAN _____ DATE _____

DIRECTOR _____ DATE _____

DLUGM CONTROL# **07-3063**
HD FILE # **83-03**

TM 5A BLK PAR LOT 646
WATER & SEWER CATEGORIES:
W~NPS S~NPS

No CA Buffer on site

GENERAL NOTES

- This lot is to be served by an individual mound sewage disposal system. Sewage disposal system is to be constructed per approved sand mound design. The design of this system is based on a 3 bedroom dwelling or 450 gpd, 0.5 gpd/ft2 loading rate. This site plan approved on _____ corresponds to the sand mound package prepared by Chesapeake Trails Surveying, L.L.C. and approved on _____.
- This site is to be served by a individual deep well. The well shall be drilled to an approved confined aquifer.
- This plan is in compliance with the St. Mary's County Comprehensive Water and Sewerage Plan.
- All work to be performed in accordance with applicable regulations of the St. Mary's County Health Department and "Design and Construction Manual for Sand Mound Systems", dated November, 1987. The contractor that is responsible for the work shown on this plan shall be certified by Maryland Department of Environment to install sand mound systems.
- Construction of the sand mound may not be permitted after the soil moisture has reached a point where the soil within the upper 10 inches forms a ribbon when rolled in the hand. This date usually occurs in early November with the arrival of wet weather. If wet conditions persist, construction may not occur from November to April. However, given the variability of weather patterns, determinations for installations during this period may be evaluated on a case by case basis.
- Contact "Miss Utility" at 1.800.257.7777 at least forty-eight hours prior to any work on the project. Utilities not covered by "Miss Utility" are to be contacted separately.
- The contractor shall take all necessary measurements to assure proper fabrications and installation of the work shown.
- Information shown on the contract drawings relating to boundary and existing conditions and/or locations of existing structures, utilities, or other site improvements has been compiled from available information, record maps and field location surveys and is not guaranteed correct. The locations and elevations shall be verified by the contractor prior to the start of construction, if any conflicts exist between actual field conditions and the plan the contractor shall notify the Engineer immediately for resolution.
- Any damages to service roads, pavement areas, trees, landscape items, utilities or other facilities shall be repaired by the contractor. All disturbed areas shall be restored in kind and to a condition equal or better than that which existed prior to construction at no additional cost to the owner.
- This Health Department approval certifies that this lot is in consonance with pertinent Health Department laws and regulations as of the approval date; however, this is subject to change in such laws and regulations. Changes in topography or site designations may void this approval. The designated perc area is the only perc area approved by the St. Mary's County Health Department for sewage disposal purposes. The approved lot includes an area of at least 4165 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 lot undevelopable. To determine the exact area of the lot approved for sewage disposal purposes or to establish a different area for such purposes, the Owner should contact St. Mary's County Health Department, Office of Environmental Health.
- Disturbance (i.e. grading, tree stumps removed, extensive traffic, etc.) of any portion of the sewage reserve area is not permitted and may compromise the construction of the sand mound. The building permission slip issued by the Health Department can be voided for a disturbance of this type.
- Unless otherwise shown, there are no known wells or septic systems within 100' of the proposed well and septic system.
- This lot contains an area of at least 20,000 square feet which does not include rights-of-way (existing or proposed), 50 year flood plain, or grades of 25% or greater.
- This plot and sand mound construction plan was prepared without the benefit of a Title Report, which may show additional conveyances, easements, rights-of-way or building restriction lines not shown hereon.

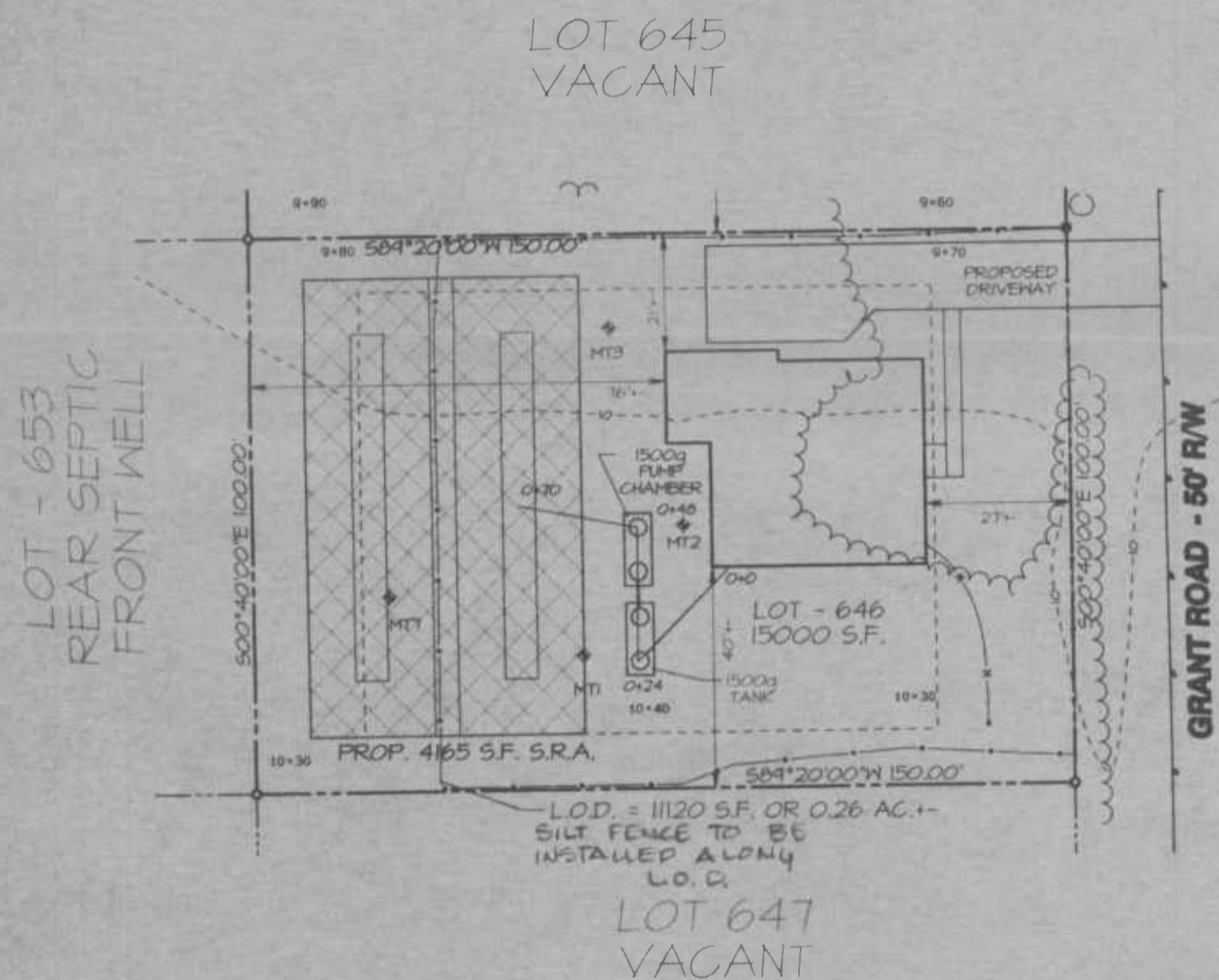
MATERIAL SPECIFICATIONS

SEPTIC TANK and PUMP CHAMBER

- A two-compartment tank or two tanks in series is required. At a minimum the first compartment should be sized for 2/3 of the required volume. The total minimum capacity of the septic tank must be 1,500 gallons.
- The pump chamber shall be a minimum of 1,500 gallons to allow for storage of one day design flow between the high water alarm and the inlet of the pump chamber.
- Both tanks must be watertight and meet all horizontal separation distances specified in State and County regulations.
- The septic tank and pump chamber shall be constructed with seams and joints above the high water table, seal-coated by the manufacturer, and protected against buoyant forces.
- A 24-hour leakage test shall be required to be conducted to demonstrate water tightness prior to final construction approval.

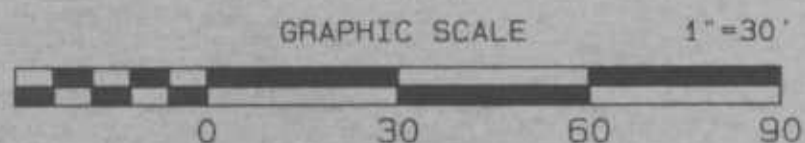
PUMPING SYSTEM AND CONTROLS

- The pump shall be set on a 6 inch block and the pump-off float set so that the pump remains submerged at all times. Vertical dimensions shown are based on 1,500 gallon top seam pump tank as specified by Superior Tank, Inc., Bryantown, Maryland.
- The pump system shall be capable of delivering 59 gallons per minute at the design head of 7.7 feet (Total Dynamic Head). Design head includes two feet at the distal end of the laterals.
- The effluent pump shall be a GOULOS 3885-W0312M, 1/3 horse power, 230 volts, single phase electric motor, and drawing 4.7 amps at 1,750 RPM or an approved equal.
- A three float system is required which shall control pump-on, pump-off, and high water alarm. The float system shall be set to deliver a dose of 75 gallons.
- The control box or panel shall be located outside the pump chamber either in the waterproof enclosure or in the house.
- All electrical connections should be located outside of the pump chamber.
- All electrical work shall be in accordance with all local and state codes.
- The high water alarm must be wired on a separate electrical circuit.
- A test of the pumping system and distribution network shall be required prior to backfilling or covering the system. The force main can be partially covered as long as all joints, elbows, tees, etc. are visible. The test will require sufficient water on site to activate the pump through several pumping cycles. Provisions to protect the pumping system and distribution network from erosion and sedimentation should be made by the contractor.



***** MOUND MUST BE CONSTRUCTED *****
PRIOR TO DRILLED WELL INSTALLATION

Barrett C. Vukmer
11-19-07



CHESAPEAKE TRAILS SURVEYING, LLC

COURT SQUARE BUILDING
22660 WASHINGTON STREET
P. O. BOX 957
LEONARDTOWN, MD 20650
301-475-5900 FAX 301-475-9535

DLUGM CONTROL #07-3063

CRITICAL AREAS BUILDING PERMIT PLAT
& SAND MOUND DESIGN
FOR LOT 646, GOLDEN BEACH SECT. 2
FIFTH ELECTION DISTRICT
SAINT MARY'S COUNTY, MARYLAND
CRG CAPITAL, LLC

9/28/07	DATE
06-069	JOB #
M5B	FOLDER
1" = 30'	SCALE
VUKMER	DRAWN
VUKMER	CHECKED
VUKMER	REVISED