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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/

November 20, 2008

Mr. Stephen O'Connor
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**Re: McLeer Subdivision
TM 42, P 5**

Dear Mr. O'Connor:

Thank you for providing information regarding the above referenced subdivision. The applicant is proposing to create a two lot subdivision. The parcel is 338.79 acres in size, with 203.65 acres located in the Critical Area designated as Resource Conservation Area (RCA). A total of 4.45 acres will be subdivided; the remaining area will be placed in a Maryland Agricultural Land Preservation Easement. Total existing lot coverage onsite is 24,770 square feet (12.77% of the proposed subdivision area, 0.2% of the RCA); upon completion of this project, total lot coverage will increase to 34,770 square feet (17.9% of the subdivision area, 0.3% of the RCA).

Based on the information provided, we have the following comments on this subdivision request:

1. The site plan shows that most of the site planned for development is located within the Critical Area. However, GIS layers from the County and from our offices appear to show the existing house and pool is located well outside the Critical Area line. We recommend that the applicant verify with the County the correct amount of site that is located within the Critical Area. Our remaining comments are provided, based on the assumption that the plan, as provided, is accurate.
2. It is unclear where the lot line separating Lot 1 and Lot 2 is located. Please have the applicant revise the site plan to more clearly show this division.
3. Please add a note indicating the number of allowable dwelling units permitted in the RCA that meets the 1 dwelling unit per 20 acre density limit. The note should also indicate the number of development rights used and the number of development rights remaining.

4. Please have the applicant provide a lot coverage table for each lot that provides the amount of coverage associated to each structure. Both lots must meet the 15% lot coverage restriction, as stated in §200.8 and §201 of the Cecil County Zoning Ordinance. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely. The lot coverage table should be added to both the Environmental Assessment (EA) and the final plat.
5. The site plan states that the project is exempt from Forest Conservation Regulations. However, the project is still subject to Critical Area forest mitigation requirements, as found in §200.6.b of the Cecil County Zoning Ordinance and COMAR 27.01.02.04.C. No more than 20% percent of forest or developed woodland within the site proposed for development may be removed, unless the applicant receives permission by the County to clear up to 30%. The remaining 80% shall be maintained as forest cover through the use of appropriate instruments, such as surety in the form of a performance bond. Mitigation for clearing up to 20% of the existing forested area in the Critical Area must be provided at a 1:1 ratio, and if the applicant receives permission to clear up to 30%, the total cleared area must be mitigated at a 1.5:1 ratio. The amount of forest coverage retained, as well as the amount of mitigation provided for clearing, should be noted on the EA and on the final plat.
6. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. Impacts will need to be addressed based on the recommendation from the Maryland Department of Natural Resources and incorporated into the EA.
7. GIS maps reveal that potential FIDS Habitat is located onsite. As stated in the Cecil County Zoning Ordinance §197.12.b(3), the applicant is required to utilize the guidance found in the Commission's *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake*, which is attached to this letter, if the Department of Natural Resources Wildlife and Heritage Service notes the potential of FIDS in their review. Besides providing measures to protect FIDS habitat, this guidance also includes mitigation measures for any disturbance to FIDS habitat that is unavoidable.

In reviewing aerials of the site, it appears that the entire Critical Area portion of the parcel is likely to be noted as FIDS habitat. Most of this area is considered to be FIDS interior, which is forest area found greater than 300 feet from the forest edge. Mitigation is required at a 1:1 ratio for direct impacts to all FIDS habitat, as well as an additional 2:1 mitigation for the area of FIDS interior that is lost. In reviewing the plan provided, it appears that the applicant may be required to provide a significant amount of FIDS mitigation, in excess of 13 acres. A FIDS Mitigation Analysis sheet for this development activity must be submitted to this office for review and comment as part of the EA.

8. Based on our previous comment, we recommend that the applicant reconsider the location of the proposed subdivision to minimize impacts to FIDS interior habitat.
9. A note regarding the presence of FIDS habitat, the amount of FIDS habitat impacted, the amount of FIDS mitigation required, and measures to protect this area should be noted on the EA and on the final plat.
10. We note that Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains a provision that states, "notwithstanding any provision in a local law or ordinance, or the lack of a provision in a local law or ordinance, all of the requirements of this subtitle shall apply to, and be applied by, a local jurisdiction as minimum standards for a program sufficient to meet the goals of the Critical Area Program." COMAR 27.01.02.04.C(3) states that all forests that are allowed to be cleared shall be replaced in the Critical Area on not less than an equal area basis, while COMAR 27.01.02.04.C(4) provides specific mitigation ratios for permitted clearing. Therefore, the County may not waive forest mitigation requirements, as the plan must meet the standard of COMAR 27.01.02.04.C(3) and C(4).
11. A note on the site plan states that the remaining area of Parcel 5 is to be placed in a Maryland Agricultural Land Preservation easement. However, a note on the site plan also states that a building permit for remaining lands shall not be issued until the remaining lands are activated as a building lot through the normal subdivision process. Since this land is to be placed into easement, the building permit note should be removed, and a note should be added stating that no future development shall be permitted on Parcel 5. If development is clearly restricted, the development rights note should be modified appropriately.
12. Please have the applicant submit a copy of the recorded Maryland Agricultural Land Preservation easement to this office to be placed in the records for this subdivision application.
13. Staff recommends that a wetland delineation be performed onsite to verify the location of any nontidal wetlands and streams onsite, as well as any tidal wetlands to verify the accuracy of upland acreage.
14. Please have the applicant submit a copy of the EA and Report to this office for review and comment.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 638-08

Attachment

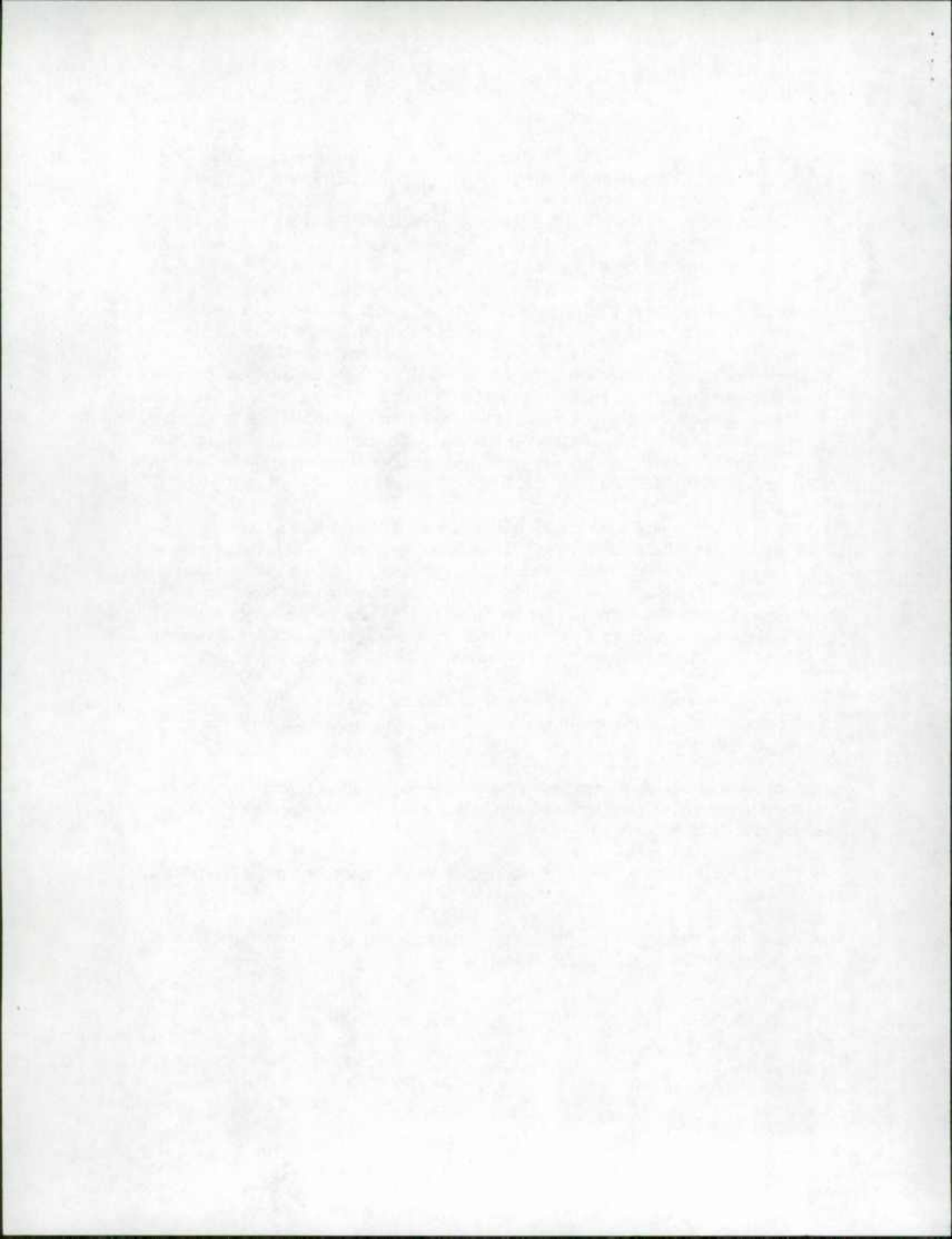
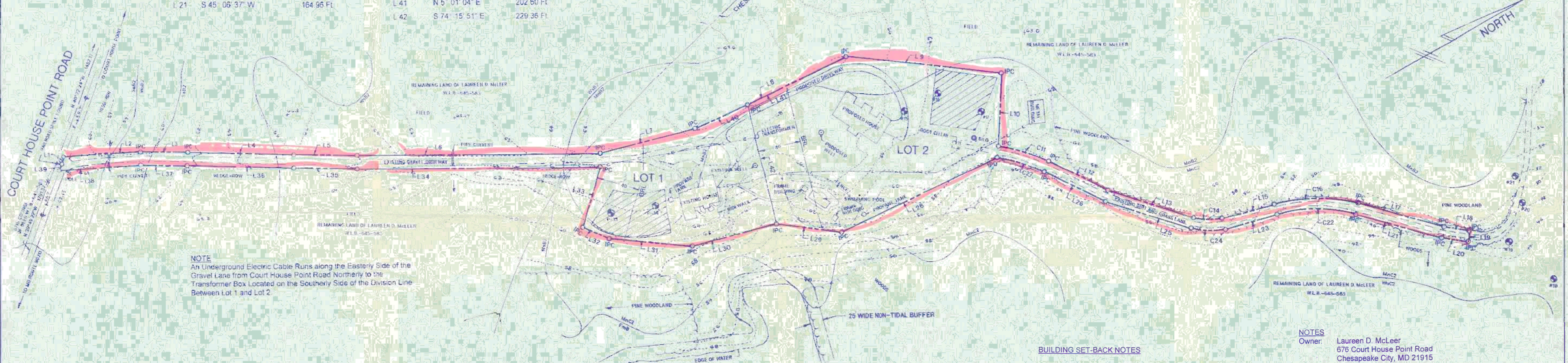
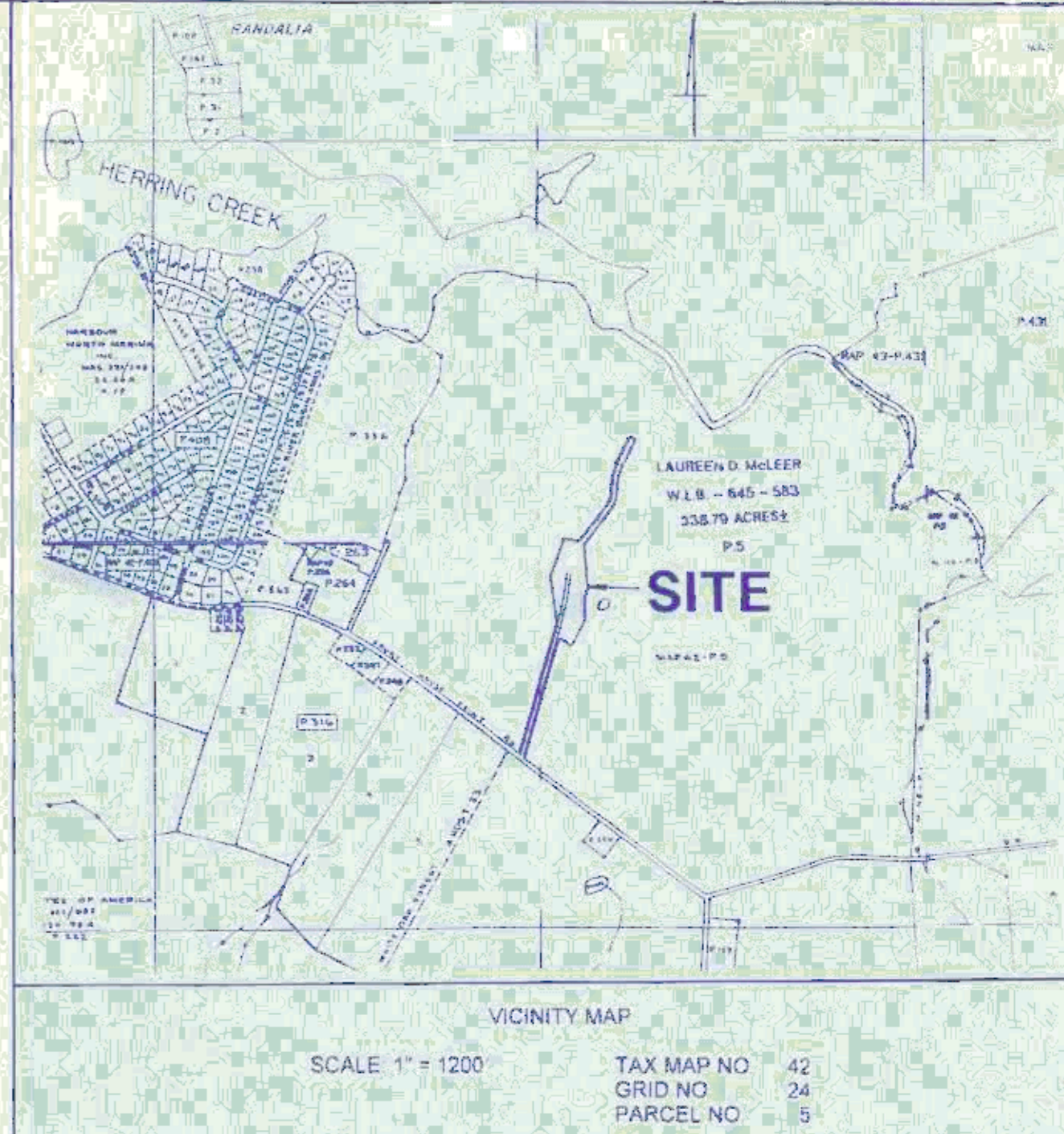


TABLE OF COURSES		
NO	BEARING	DISTANCE
L 1	N 40 22 24" W	13.61 Ft
L 2	N 26 17 37" E	138.64 Ft
L 3	N 29 29 40" E	87.63 Ft
L 4	N 31 27 47" E	188.39 Ft
L 5	N 30 05 45" E	116.75 Ft
L 6	N 29 10 05" E	453.76 Ft
L 7	N 15 10 27" E	181.75 Ft
L 8	N 5 01 04" E	307.60 Ft
L 9	N 35 38 05" E	290.93 Ft
L 10	S 57 40 00" E	133.00 Ft
C 11	Radial Curve to the Right	
	R = 325.38'	
	L = 99.43'	
	Δ = 17 30 31"	
	C = N 47 12 32" E	99.04 Ft
L 12	N 55 57 45" E	125.17 Ft
L 13	N 47 09 35" E	166.87 Ft
C 14	Radial Curve to the Left	
	R = 89.94'	
	L = 51.72'	
	Δ = 32 59 18"	
	C = N 30 39 55" E	51.01 Ft
L 15	N 14 10 17" E	100.11 Ft
C 16	Radial Curve to the Right	
	R = 291.84'	
	L = 157.59'	
	Δ = 30 55 20"	
	C = N 28 36 27" E	155.68 Ft
L 17	N 45 06 37" E	183.85 Ft
L 18	N 38 45 44" E	45.93 Ft
L 19	S 51 14 16" E	20.00 Ft
L 20	S 38 45 44" W	47.04 Ft
L 21	S 45 06 37" W	164.96 Ft

TABLE OF COURSES		
NO	BEARING	DISTANCE
C 22	Radial Curve to the Left	
	R = 271.84'	
	L = 146.79'	
	Δ = 30 56 20"	
	C = S 29 38 27" W	145.01 Ft
L 23	S 14 10 17" W	100.11 Ft
C 24	Radial Curve to the Right	
	R = 109.84'	
	L = 63.24'	
	Δ = 32 58 18"	
	C = S 30 39 55" W	62.37 Ft
L 25	S 47 09 35" W	168.41 Ft
L 26	S 55 57 48" W	126.71 Ft
C 27	Radial Curve to the Left	
	R = 305.38'	
	L = 93.32'	
	Δ = 17 30 31"	
	C = S 47 12 32" W	92.96 Ft
L 28	S 3 45 56" W	322.38 Ft
L 29	S 37 35 32" W	120.20 Ft
L 30	S 14 42 25" W	160.84 Ft
L 31	S 34 47 36" W	155.54 Ft
L 32	S 52 33 22" W	53.00 Ft
L 33	N 44 19 51" W	120.00 Ft
L 34	S 29 10 09" W	454.31 Ft
L 35	S 30 05 46" W	117.25 Ft
L 36	S 31 27 47" W	198.26 Ft
L 37	S 29 29 40" W	86.51 Ft
L 38	S 26 17 37" W	148.87 Ft
L 39	N 39 49 22" W	13.67 Ft
L 40	N 5 01 04" E	105.00 Ft
L 41	N 5 01 04" E	202.60 Ft
L 42	S 74 15 51" E	229.36 Ft

TEST HOLE RESULTS		
HOLE NO	DEPTH	PERCOLATION RATE
P 13	8 FT	2 MINS
P 14	7 FT	8 MINS
15	10 FT	3 MINS
16	12 FT	OBS (GOOD)
17	10 FT	2 MINS
18	12 FT	NO PERC
19	11 FT	LIMITING HOLE STAY UP SLOPE
20	12 FT	OBS (GOOD)
21	10 FT	3 MINS



NOTE
An Underground Electric Cable Runs along the Eastern Side of the Gravel Lane from Court House Point Road Northerly to the Transformer Box Located on the Southernly Side of the Division Line Between Lot 1 and Lot 2.

CRITICAL AREA NOTES (Within 5 Acre Sub-Division Area)
Area of Sub-Division within The Critical Area 194,000 Sq. Ft. ± (4.45 Acres)
Area of Woods = 0 Acres

Total Impervious Surface
Outside of Critical Area = 10,472 Sq. Ft. ± (0.24 Acre ±)

Total Existing Impervious Surface within The Critical Area = 24,770 Sq. Ft. (0.569 Acre ±)

Percent of Coverage of Future New Construction within The Critical Area for this Subdivision = $\frac{10,000 \text{ Sq. Ft.}}{194,000 \text{ Sq. Ft.}} = 5.16\%$

Percent of Coverage of Existing Impervious Area within The Critical Area = $\frac{24,770 \text{ Sq. Ft.}}{194,000 \text{ Sq. Ft.}} = 12.77\%$

Total Estimated Area of P. 5 (Lauren D. McLeer) within The Maryland Critical Area of The Chesapeake Bay, Designated as "RCA", = 203.65 Acres ±

BUILDING SET-BACK NOTES

Minimum Building set-back along all front property lines is 40 feet.
Minimum Building set-back along all side property lines is 10 feet.
Minimum Building set-back along all rear property lines is 40 feet.

INTRAFAMILY

This project is exempt under the provisions of Section 3.25 of the Cecil County Forest Conservation Regulations. This Intrafamily Transfer Declaration of Intent will be in effect for 5 years after the approval of the Office of Planning and Zoning. Transfer of ownership outside the immediate family may nullify this exemption. Clearing of forest is restricted to 40,000 sq. ft. without an approved Forest Conservation Plan.

Remaining Lands Note

A building permit for remaining lands shall not be issued until the remaining lands is activated as a building lot through the normal subdivision process.

AREA TABULATION

Total Area of P.5	338.790 Acres ±
Lot 1	2.0387
Lot 2	2.9613
Remaining Area of P.5	333.79 Acres ±

is to be placed in Maryland Agricultural Land Preservation Easement 07-98-01.

NOTES

Owner: Lauren D. McLeer
676 Court House Point Road
Chesapeake City, MD 21915

Present Deed is recorded in the Land Records of Cecil County in Liber W.L.B. No. 645, Folio 583. Area of Farm = 338.79 Acres ±.

Zoning: SAR

Number of New Lots = 2.

Existing Contours Were Taken from a Field Run Worksheet and Are Referred to an Assumed Elevation Datum.

Test Holes Were Field Located.

A 5 Feet Wide Drainage and Utility Easement is Reserved along All Side and Rear Property Lines.

No Title Search of Property Provided.

The North Point for this Survey is Referenced to a Line Drawn from the Railroad Spike Found in the Center of Court House Point Road at the Intersection with the Gravel Lane Shown Hereon, to the Concrete Monument Found on the North Side of Court House Point Road and near the South West Corner of the Entire Farm Property. The Computed Reference Bearing Being N. 39° 51' 46" - W-1650.17' from Deed Measurements.

*A Stormwater Management Plan approved by the Cecil County Department of Public Works will be required prior to the issuance of a grading and building permit for all lots shown on this final plat. The recordation of this plat does not preclude the lot owner(s) from having to meet the standards, requirements and guidelines set forth in the latest edition of the Cecil County Stormwater Management Ordinance.

The Road Frontage Requirement is Exempt Under Section 17.11.01 of The Cecil County Zoning Ordinance.

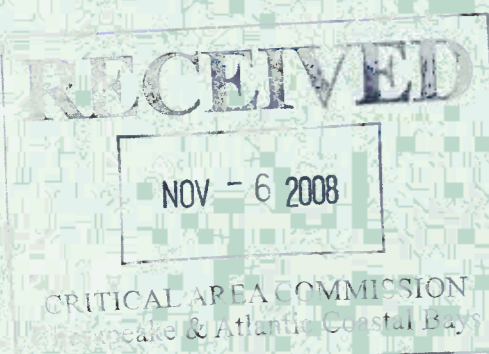
SURVEYOR'S CERTIFICATE
Certification is hereby made that the preparation of this subdivision is in compliance with Section 3-108, Real Property Article of the Annotated Code of Maryland, and subsequent amendments.

C. ROBERT WEBB
REGISTERED LAND SURVEYOR #4542

OWNER/DEVELOPERS CERTIFICATION
Certification is hereby made that to the best of MY/OUR knowledge the requirements of section 3-108, real property article of the annotated code of Maryland and subsequent amendments, concerning the preparation of this plat and the setting of markers, have been complied with.
I hereby certify that I am the owner of the property shown hereon and that this plan was made at my direction.

Lauren D. McLeer, Owner

- LEGEND**
- Soil Classification: Existing Ground Contour.
 - Test Hole.
 - Pole.
 - Iron Pipe and Aluminum Cap Set.
 - Underground Electric Cable.
 - Building Restriction Line.
 - Slopes Greater Than 15%.
 - 10,000 SQ.FT. Area Reserved For Septic Drainfield.



APPROVED: CECIL COUNTY OFFICE OF PLANNING & ZONING

APPROVED: CECIL COUNTY DEPARTMENT OF PUBLIC WORKS

APPROVED: CECIL COUNTY HEALTH DEPARTMENT

MINOR SUBDIVISION
LOT 1 AND LOT 2
LAND OF LAUREN D. McLEER

2 ND ELECTION DISTRICT
SCALE: 1" = 100'

CECIL COUNTY, MD.
FEBRUARY 2, 2007

C. ROBERT WEBB
PROFESSIONAL LAND SURVEYOR
194 WALNUT LANE
ELKTON, MARYLAND

JOB NO. 2488

PHONE: 410-398-0678