

PRO. EXHIBIT# 1
CASE: 2025-0063-V
DATE: 6/17/25

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
FOR ANNE ARUNDEL COUNTY

In the Matter of **JOHN & LESLIE STEELE** Property Owners

Applicants:

John & Leslie Steele

3260 Kitty Duvall Drive

Annapolis MD 21403

* Case No. 2025-0063-V

* CA Slope Variances

* June 17, 2027 10:00 am

* * * * *

PROTESTANT ARGUMENTS

Patrick Stewart agrees with the Staff Report – the Variances should be denied.

Here is a time line of the development of these properties:

- 1986 Weisigers purchase Parcel 109 3260 Kitty Duvall Drive
- 1988 Record Plat of Lots A & B Kitty Duvall Drive
- 1990 Stewart purchases Lot B 3266 Kitty Duvall Drive
- 1991 Jarvis Steel purchases Lot A 3264 Kitty Duvall Lane
- 1997 Weisigers sell to Jarvis 10 Foot Strip from Parcel 109 -- widens Driveway to 20 Feet
- 1999 Jarvis deeds Lot A to Stewart
- 2000 Jarvis & Stewart grant Sewer Easement over 10' Strip to AA County
- Drum Snell prepares Plat of Sewer Easement
- 2000 Stewart sells 3266 Kitty Duvall Drive
- 2011 Confirmatory Deed Jarvis adds the 10' Strip to Stewart's Deed forgotten in 1999 deed
- 2022 Weisiger sells Parcel 109 to Steele

There is no justification for the Garage and Work Shop that is almost as large as Stewart's house.

The existing house should be used for the Garage and Work Shop

There are too many anomalies in the proposed Site Plan.

In execution of the field run topographic and location survey, the mean high water line appears to follow parallel to the property line however, tidal marsh is prevalent, located along the shoreline and includes encroachment of the parcel. The 100-foot Critical Area Buffer is measured from the edge of the tidal marsh as required.

relatively in-line configuration. The proposed home is set in approximate line with both structures and is consistent with the homes along the eastern shoreline of Duvall Creek.

The existing principal structure on site is 129-feet back off the tidal marsh, the principal structure at 3264 Kitty Duvall is 178-feet back. The average relatively in-line setback is

The existing principal structure is 129 feet from the edge of tidal marsh according to the Application. According to the site plan the existing house is in the same relative position as the proposed house. Therefore the 100 foot buffer appears to include the steep slopes according to the site plan

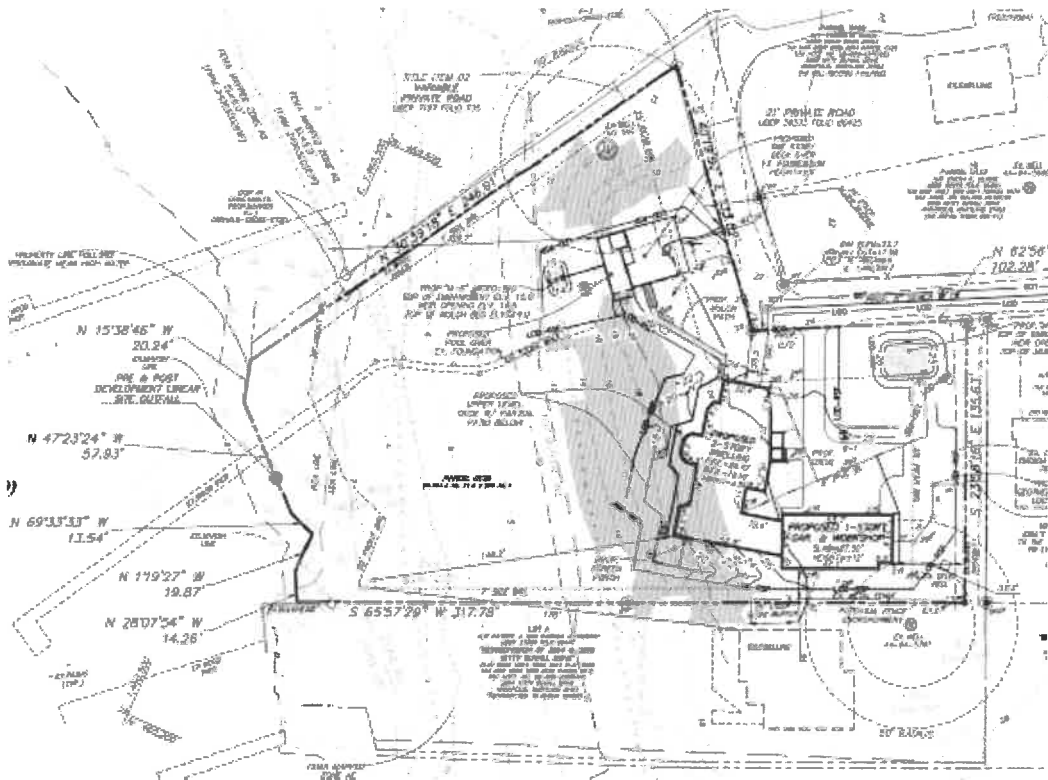
According to County Code that would require the 50 Foot Buffer to Steep Slopes beyond the top of the steep slope which will require a Variance on the Cleared Flat Area.

The Front Lot Line should be Kitty Duvall Lane at the proposed driveway entrance

The Side Lot Line should be the west side of Stewart's 10' Strip. This entire area is clear of trees.

The House should be moved east towards Stewart's driveway in the cleared flat area.

The House should be set back 20' to 30' from Stewart's house



There is no justification for the Proposed House 60 feet long facing the water and 105 feet long facing Stewart's House to be located in the wooded Steep Slopes.

There is no justification for the Proposed House to be located closer to the water than Stewart's House.

The GIS Aerial Photo shows that all the adjacent houses in Fishing Creek Farms on Hidden River View Road numbers 3308, 3306, 3304 and 3302 are set farther back from the water than Stewart's house.

The 60 foot long house can easily be moved eastwards to the cleared flat land

Date: June 16, 2025

/S/ *Daniel J. Mellin*

Daniel J. Mellin (djm@hbdlaw.com)
Hillman, Brown & Darrow, P.A.
221 Duke of Gloucester Street
Annapolis, Maryland 21401-2500
410-263-3131 fax 410-269-7912

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was mailed or emailed to:

Jennifer Lechner at Planning & Zoning	pzdyot22@aacounty.org	410-222-7437
2664 Riva Road 4th Floor Annapolis MD 21401		fax 410-222-4483

Robert Baxter Project Manager	rbaxter@drumloyka.com	410-280-3122
1410 Forest Drive Suite 35 Annapolis, MD 21403		fax 410-280-1952

Date: June 16, 2025

/S/ *Daniel J. Mellin*

Daniel J. Mellin (djm@hbdlaw.com)

PRO. EXHIBIT# 2
CASE: 2025-0063-V
DATE: 6/17/25

OWNER'S DEDICATION

We, Adventures in Homebuilding, Ltd., the owners of the property shown hereon, do hereby adopt this plan of re subdivision. We also declare this to be a re subdivision of the property described among the Land Records of Anne Arundel County, Maryland in Liber 4083, Page 805. We also certify that, to the best of our information, knowledge and belief, there are no suits, actions of law, leases, liens, mortgages, trusts, easements, or rights of way affecting this plan of re subdivision except as noted or shown hereon. All parties of interest have signed this plan.

Witness Date 4-28-88
Adventures in Homebuilding, Ltd.
Richard E. Poiré,
President

We join in and consent to this plan of re subdivision for Signet Bank/Maryland.

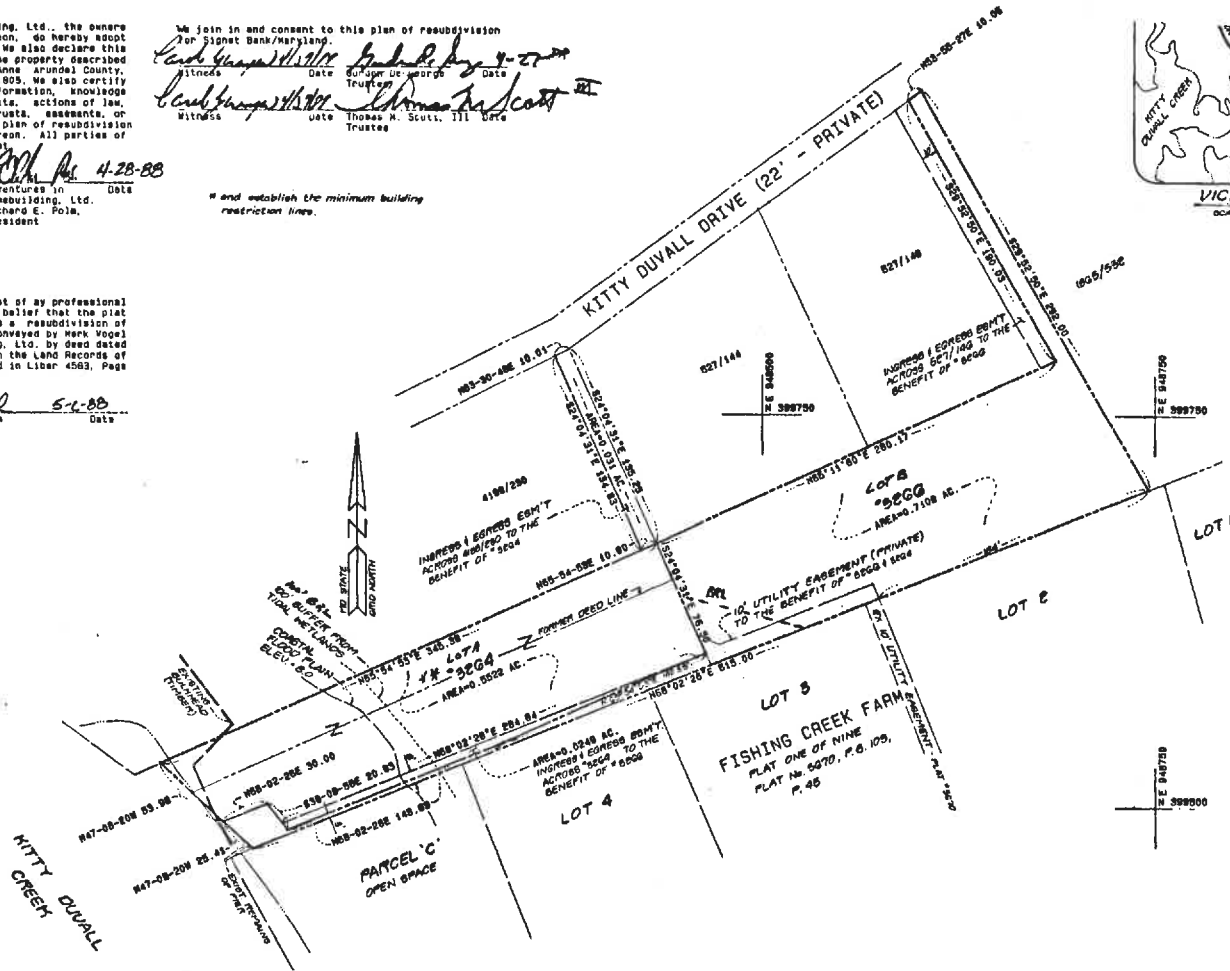
Witness Date 4-28-88
Thomas M. Scott, III
Trustee

and establish the minimum building restriction lines.

SURVEYOR'S CERTIFICATE

I hereby certify to the best of my professional information, knowledge and belief that the plat hereon is correct; that it is a re subdivision of all of Parcel 115 and 116 conveyed by Mark Voge to Adventures in Homebuilding, Ltd. by deed dated April 8, 1988 and recorded in the Land Records of Anne Arundel County, Maryland in Liber 4083, Page 805.

Witness Date 5-1-88
Douglas F. Duvall, L.S. #50764



PROPERTY ZONED: R-2
SETBACKS:
Front - 30'
Side - 2' min., 20' combined
Rear - 25'

APPROVAL OF THIS PLAT DOES NOT GUARANTEE SEWER/WATER ALLOCATION. SEWER/WATER ALLOCATION WILL BE SUBJECT TO THE BUILDING PERMIT APPROVAL PROCESS.
NEW STRUCTURES ARE SUBJECT TO UTILITY SYSTEMS.

1. THE PURPOSE OF THIS RE SUBDIVISION PLAT IS TO ADJUST THE COMMON PROPERTY LINE BETWEEN THE TWO PARCELS.
2. COORDINATES AS SHOWN HEREON ARE BASED ON ANNE ARUNDEL COUNTY GRID SYSTEM.

Approved:
Office of Planning and Zoning of
Anne Arundel County, Maryland
Planning and Zoning Officer

Approved:
Health Department of
Anne Arundel County, Maryland
County Health Officer

6/17/88
Date

5/5/88
Date

Re subdivision of

3264 & 3266 KITTY DUVALL DRIVE

2nd Assessment District
Anne Arundel County, Maryland
Tax Map 57, Blk. 57, Par. 115 & 116

MS 88-371

DAT SCI DE DR CT

Re subdivision of
3264 & 3266 KITTY DUVALL DRIVE
2nd Assessment District
Anne Arundel County, Maryland
Tax Map 57, Blk. 57, Par. 115 & 116

BENGTSON, D-BELL, ELKIN & TITUS, P.C.

CONSULTING ENGINEERS • SURVEYORS • PLANNERS • LANDSCAPE ARCHITECTS

2800 CABOVER DRIVE, SUITE A • HANOVER, MARYLAND 21076 (301) 261-1188 (301) 261-2612

OFFICE LOCATIONS

• FARRAS COUNTY, VIRGINIA
• PRINCE WILLIAM COUNTY, VIRGINIA
• VIRGINIA BEACH, VIRGINIA

• ANNE ARUNDEL COUNTY, MARYLAND
• MONTGOMERY COUNTY, MARYLAND

30251

JOB NO: A407898000

WO. NO: A407898000

SHEET 1 OF 1

FILE NO:

PRO. EXHIBIT# 3
CASE: 2025-0063-V
DATE: 6/17/25

VOL. 823

DEED

MADE this 5th day of Dec., 1997, by and between ELISABETH PATRICIA WEISIGER and KATHLEEN WENDELL WEISIGER, parties of the first part, and JARVIS STEEL & LUMBER COMPANY, INC., party of the second part.

WITNESSETH, that in consideration of the sum of \$9,000.00, and other good and valuable considerations, which includes the amount of any outstanding mortgage or deed of trust, if any, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey unto the parties of the second part, its successors and assigns in fee simple, all that property situate in Baltimore County, State of Maryland, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

BEING part of the lot of ground which by Confirmatory Deed dated October 29, 1986 and recorded among the Land Records Anne Arundel Count in Liber No. 4488, folio 230, was granted and conveyed by EVERETT T. HAMMOND, SR., to JAMES RICHARD WEISIGER and ELISABETH PATRICIA WEISIGER, his wife, and KATHLEEN WENDELL WEISIGER

The said JAMES RICHARD WEISIGER departed this life on or about January 10th, 1992 thereby vesting title in the said ELISABETH PATRICIA WEISIGER and KATHLEEN WENDELL WEISIGER, the within Grantors.

TOGETHER WITH the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises, to the said party of the second part, its successors and assigns in fee simple.

AND the said parties of the first part covenants that they has/have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of said land as may be requisite.

IN TESTIMONY WHEREOF, the said parties of the first part have set their hands and seals the day and year first above written.

WITNESS:

Jay Z Benton
Patricia A. Hery

Elisabeth Patricia Weisiger
ELISABETH PATRICIA WEISIGER
Kathleen Wendell Weisiger
KATHLEEN WENDELL WEISIGER (SEAL)

5.00
28.00
63.00
90.00
45.00
223.00
Rest A11 Rpt # 7404
RPD KB B1k # 314
Jan. 08, 1998 10:22

STATE OF MARYLAND

City/County of Baltimore, TO WIT:

I Hereby Certify, That on this 5th day of December, 1997, before me the subscriber, personally appeared ELISABETH PATRICIA WEISIGER and known to me, or satisfactorily proven to be the person whose name is subscribed to the within instrument, and did further acknowledge the foregoing deed to be her act, and in my presence signed and sealed the same.

WITNESS MY HAND AND NOTARIAL SEAL.

Beverly Herney
NOTARY PUBLIC

My commission expires:

March 2001

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
For Anne Arundel County
WILLIAM F. MOUSE #119

DO 2nd 1-7-98

ACCT. 2000-0503-7200
ALL LIENS ARE PAID AS
OF 1-7-98 A.A. COUNTY.
BY: B. Johnson

STATE OF MARYLAND

City/County of Baltimore, TO WIT;

I Hereby Certify, That on this 2nd day of Dec., 1997, before me the subscriber, personally appeared KATHLEEN WENDELL WEISIGER, known to me, or satisfactorily proven to be the person whose name is subscribed to the within instrument, and did further acknowledge the foregoing deed to be her act, and in my presence signed and sealed the same.

WITNESS MY HAND AND NOTARIAL SEAL.


NOTARY PUBLIC

My commission expires:

Oct. '99

IN accordance with Real Property Article Section 3-104(f), this is to certify that the foregoing instrument was prepared under the supervision of the undersigned, an attorney admitted to practice before the Court of Appeals of Maryland.



CASE #

RETURN TO:

The Security Title Guarantee Corporation
of Baltimore
Six South Calvert Street
Baltimore, Maryland 21202-1388

Exhibit "A"

VOL. 8230 PAGE 030

Description of Ingress & Egress Dedication
Tax Map 57, Grid 14, Parcel 109
3260 Kitty Duvall Drive
2nd District, Anne Arundel County, Maryland
Tax Account No. 2-000-0503-~~2700~~
7200

Beginning for the same at a point on the southern most right-of-way line of Kitty Duvall Drive, a 22 foot wide private right-of-way. Said point being South 63 degrees 30 minutes 48 seconds West, 10.01' from the intersection of said right of way line and the division line of Parcel 109 (Tax Map 57, Grid 14) and Parcel 134 (Tax Map 57, Grid 14). Said point of beginning being also the northwestern most corner of a 0.031 acre ingress & egress easement shown on a plat titled "Resubdivision of 3264 & 3266 Kitty Duvall Drive" and recorded among the land records of Anne Arundel County, Maryland, in plat book 112, page 14.

Thence leaving said point of beginning so fixed and running with the southwestern most side of the aforementioned ingress & egress easement South 24 degrees 04 minutes 31 seconds East, 134.83 feet to a point and the division line between Parcel 109 and Lot A as shown on the aforementioned "Resubdivision of 3264 & 3266 Kitty Duvall Drive".

Thence with said division line of Parcel 109 and Lot A South 65 degrees 54 minutes 53 seconds East, 10.00 feet to a point.

Thence through Parcel 109 North 24 degrees 04 minutes 31 seconds West, 134.41 feet to a point and the aforementioned right-of-way line of Kitty Duvall Drive.

Thence with said right-of-way line North 63 degrees 30 minutes 48 seconds East, 10.01 feet to a point and the place of beginning. Containing in all 1,346 square feet of land, more or less.

Being a part of the land conveyed to James Richard Weisiger and Elizabeth Patricia Weisiger, his wife, and Kathleen Wendell Weisiger, by confirmatory deed dated October 29, 1986, and recorded among the land records of Anne Arundel County, Maryland in Liber 4188 Folio 230.

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Anne Arundel

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

(☐ Check Box if Addendum Intake Form is Attached.)

1	Type(s) of Instruments	<input checked="" type="checkbox"/> Deed <input type="checkbox"/> Deed of Trust <input type="checkbox"/> Improved Sale <input type="checkbox"/> Arms-Length [1] <input type="checkbox"/> Mortgage <input type="checkbox"/> Lease <input type="checkbox"/> Unimproved Sale <input type="checkbox"/> Arms-Length [2] <input type="checkbox"/> Other <input type="checkbox"/> Multiple Accounts <input type="checkbox"/> Arms-Length [3] <input type="checkbox"/> Not an Arms-Length Sale [9]			
2	Conveyance Type Check Box	<input type="checkbox"/> Recordation <input type="checkbox"/> State Transfer <input type="checkbox"/> County Transfer			
3	Tax Exemptions (if Applicable)	<input type="checkbox"/> Cite or Explain Authority			
4	Consideration and Tax Calculations	Consideration Amount Purchase Price/Consideration \$ <u>9,000.00</u> Any New Mortgage \$ Balance of Existing Mortgage \$ Other: \$ Other: \$ Full Cash Value \$		Finance Office Use Only Transfer and Recordation Tax Consideration Transfer Tax Consideration \$ X () % = \$ Less Exemption Amount \$ Total Transfer Tax \$ Recordation Tax Consideration \$ X () per \$500 = \$ TOTAL DUE \$	
5	Fees	Amount of Fees Recording Charge \$ <u>2000</u> Surcharge \$ <u>500</u> State Recordation Tax \$ <u>63.00</u> State Transfer Tax \$ <u>45.00</u> County Transfer Tax \$ <u>90.00</u> Other \$ Other \$		Doc. 1 Doc. 2 Agent: Tax Bill: C.B. Credit: Ag. Tax/Other:	
6	Description of Property	District <u>2</u> Property Tax ID No. (1) <u>00005037200</u> Grantor Lien/Folio <u>57</u> Map <u>109</u> Parcel No. <u>109</u> Var. LOG <input type="checkbox"/> (5) Subdivision Name Lot (3a) Block (3b) Sect/AR(3c) Plat Ref. SqFt/Acreage (4) Location/Address of Property Being Conveyed (2) <u>Part of 3260 Kitty Duvall Drive Annapolis 21403</u> Other Property Identifiers (if applicable) <u>Water Meter Account No.</u> Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/> Fee Simple <input checked="" type="checkbox"/> or Ground Rent <input type="checkbox"/> Amount: Partial Conveyance? <input type="checkbox"/> Yes <input type="checkbox"/> No Description/Amt. of SqFt/Acreage Transferred: If Partial Conveyance, List Improvements Conveyed:			
7	Transferred From	Doc. 1 - Grantor(s) Name(s) <u>Elisabeth Patricia Weisiger</u> <u>Kathleen Wendell Weisiger</u> Doc. 1 - Owner(s) of Record, if Different from Grantor(s) Doc. 2 - Owner(s) of Record, if Different from Grantor(s)			
8	Transferred To	Doc. 1 - Grantee(s) Name(s) <u>Jarvis Steel & Lumber Company, Inc.</u> Doc. 2 - Grantee(s) Name(s) New Owner's (Grantee) Mailing Address <u>1030 E Patapsco Avenue Baltimore MD 21225</u> Doc. 1 - Additional Names to be Indexed (Optional) Doc. 2 - Additional Names to be Indexed (Optional)			
9	Other Names to Be Indexed				
10	Contact/Mail Information	Instrument Submitted By or Contact Person Name: <u>Debbie Hogan</u> Firm: <u>Security Title</u> Address: <u>C. S. Calvert St</u> <u>Balt. MD 21202</u> Phone: <u>(410) 727-4456</u> <input type="checkbox"/> Return to Contact Person <input type="checkbox"/> Hold for Pickup <input checked="" type="checkbox"/> Return Address Provided			
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER	Assessment Information Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Will the property being conveyed be the grantee's principal residence? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Does transfer include personal property? If yes, identify: Yes <input type="checkbox"/> No <input type="checkbox"/> Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).			
Assessment Use Only - Do Not Write Below This Line <input type="checkbox"/> Terminal Verification <input checked="" type="checkbox"/> Agricultural Verification <input type="checkbox"/> Whole <input type="checkbox"/> Part <input type="checkbox"/> Tran. Process Verification Transfer Number <u>119</u> Date Received <u>7-18</u> Deed Reference: Year <u>18</u> Geo. <u>10</u> Map <u>109</u> Sub <u>109</u> Block <u>109</u> Land <u>10</u> Zoning <u>10</u> Grid <u>109</u> Plat <u>109</u> Lot <u>109</u> Buildings <u>10</u> Use <u>10</u> Parcel <u>109</u> Section <u>109</u> Occ. Cd. <u>109</u> Total <u>10</u> Town Cd. <u>10</u> Ex. 91. Ex. Cd. <u>109</u> REMARKS: <u>Partial</u> <u>119</u>					

Source: Reserved for County Verification

Distribution: White - Clerk's Office
 Canary - SDAT
 Pink - Office of Finance
 Goldenrod - Preparer
 AOC-CC-800 (6/95)

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) RPD 8230, p. 0031, MSA_CE59_8574. Date available 06/18/2005. Printed 06/16/2005.

Source: Reserved for County Verification

8230 PAGE 031

BOOK 97

PRO. EXHIBIT# 4
CASE: 2025-0063-V
DATE: 6/17/25

UA 99045-G

THIS DEED OF EASEMENT AND AGREEMENT made this 29th day of FEB., 2000, between PATRICK J. STEWART AND PATRICIA A. STEWART (hereinafter called "Contract Purchasers") Jarvis Steel and Lumber Company, a Maryland Corporation (hereafter called "Property Owner"); and ANNE ARUNDEL COUNTY, MARYLAND, a political subdivision of the State of Maryland, (hereinafter called "County").

WHEREAS, the County desires to construct and maintain sewers, drains, water pipes, grinder pumps, and other public utilities, services and appurtenances, in and across the Utility Easement hereinafter described, and the Contract Purchaser/Property Owner is willing to grant such right.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00), the receipt whereof is hereby acknowledged, the Contract Purchaser/Property Owner hereby grant(s) and convey(s) unto County, its successors, legal representatives, and assigns, the right to lay, construct and maintain sewers, drains, water pipes, grinder pumps, and other public utilities, services and appurtenances, in and through the Utility Easement within the land of the Contract Purchaser/Property Owner situate in the Second Assessment District of Anne Arundel County, State of Maryland, said sewers, drains, water pipes, grinder pumps, and other public utilities, services and appurtenances to be laid in the Utility Easement which is described on Exhibit "A" and shown on Exhibit "B" attached hereto and recorded herewith or shown on Subdivision Plat for Kitty Duvall Drive, Lot "A" recorded in Book 112, Page 14.

And the Contract Purchaser/Property Owner does hereby covenant and agree that the County, its successors, legal representatives, and assigns, shall have the right and privilege of

RECEIVED FOR TRANSFER
STATE DEPARTMENT OF
ASSESSMENTS & TAXATION
FOR ANNE ARUNDEL COUNTY
WILLIAM F. SMOUSE

NO TRANSFER NECESSARY

clp 2nd
5-22-2000

NO TAXES NECESSARY
5/18/00
CONTROLLER
A.A. CO., MD.

RECORDED
ANNE ARUNDEL COUNTY
CIRCUIT COURT

00 MAY 23 PM 3:06

entering upon the aforesaid utility easement, whenever it may be necessary, to make openings and excavations, and to lay, construct and maintain said public utilities, grinder pumps, and appurtenances, provided however, that the ground shall be restored and left in good condition; and it is further agreed that no buildings or similar structures of any kind shall be erected in, on or over the said utility easement by any of the parties hereto, their heirs, personal representatives, legal representatives, successors or assigns, as applicable.

ALSO, the County shall have the right of ingress and egress in and from said property owned by the Contract Purchasers/Property Owners for the purpose of maintaining and operating such electrical system incidental to the operation of the grinder pump, the electrical system runs generally from the grinder pump to the Contract Purchaser's/Property Owner's electric meter and the Grantors, their heirs, successors and assigns shall be responsible for the electrical costs for the operation of the grinder pump.

The Contract Purchasers/Property Owners acknowledge notice that the granting of this Utility easement for a sewage grinder pump does not exempt the parcel or parcels thereby served from the future imposition of service charges thereunto related as may by law be imposed.

AS WITNESS the due execution hereof by the aforementioned parties.

WITNESS:

Maryann Dunn

Patrick J. Stewart (SEAL)
Patrick J. Stewart

WITNESS:

Maryann Dunn

Patricia A. Stewart (SEAL)
Patricia A. Stewart

WITNESS:

Keith L. Straley

Jarvis Steel and Lumber Co., Inc., a
Maryland Corporation

Keith L. Straley (SEAL)
Keith L. Straley, Vice President

STATE OF _____, COUNTY OF District of Columbia, to wit:

I HEREBY CERTIFY, that on the 9th day of December, 1999,

before me, the subscriber, a notary public in and for the ~~State and County~~ District aforesaid, personally appeared Patrick J. Stewart and acknowledged the foregoing Deed of Easement and Agreement to be the act of said Contract Purchaser.

WITNESS my hand and notarial seal.



Donna C Pfeiffer
Notary Public

My commission expires: May 31, 2004

STATE OF MD, COUNTY OF Anne Arundel, to wit:

I HEREBY CERTIFY, that on the 9th day of December, 1999,
before me, the subscriber, a notary public in and for the State and County aforesaid, personally
appeared Patricia A. Stewart and acknowledged the foregoing Deed of Easement and Agreement
to be the act of said Contract Purchaser.

WITNESS my hand and notarial seal.



Shirley Lawson
Notary Public

My commission expires: Feb 01st, 2003

STATE OF Maryland)
City of Baltimore)
COUNTY

TO WIT:

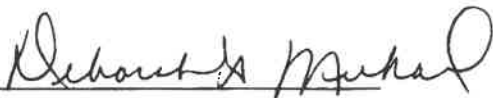
I HEREBY CERTIFY, that on the 6th day of December, 1999,
before me, the subscriber, a notary public in and for the State and County aforesaid, personally
appeared Keith L. Straley, who is Vice President for Jarvis Steel and Lumber Co., Inc, a party to
the within deed and acknowledged the same to be the act of said body corporate. It is further
acknowledged that the within conveyance is not the sale, lease transfer or exchange of all or
substantially all of the property and assets of the said corporation.

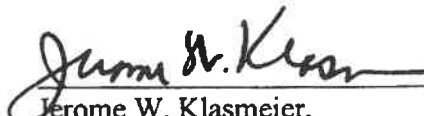
C. J. Bartwick
Notary Public

My Commission Expires: 10-01-03

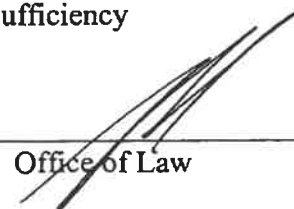
ATTEST:

ANNE ARUNDEL COUNTY,
MARYLAND



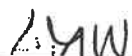
 (SEAL)
Jerome W. Klasmeier,
Chief Administrative Officer for
Janet S. Owens, County Executive

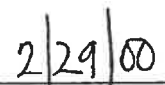
Approved for form and
legal sufficiency


Office of Law


Date

I HEREBY CERTIFY that this deed was prepared by Anne Arundel County, Maryland,
one of the parties to this instrument.

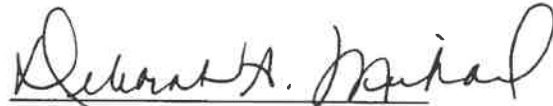

Preparer, Angela M. Wade
Civil Engineering Technician II
Site Review
Permit Application Center


Date

STATE OF MARYLAND)
(TO WIT
ANNE ARUNDEL COUNTY)

I HEREBY CERTIFY, that on this 13th day of March, 2000, before the
subscriber, a Notary Public of the State of Maryland, in and for Anne Arundel County, personally
appeared Jerome W. Klasmeier, Chief Administrative Officer for Janet S. Owens, County
Executive of ANNE ARUNDEL COUNTY, MARYLAND, a political subdivision of the State of
Maryland, and acknowledged the foregoing Agreement to be the act of said body corporate.

AS WITNESS my hand and Seal Notarial.


Notary Public

My Commission Expires:

DEBORAH A. MICHAEL
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires December 23, 2003

AFTER RECORDATION RETURN TO INSPECTION DIVISION MS 6202

P:\DATA\SHARED\PAC\ANGELA\W\99045.DEA

Exhibit "A"

Description of 10' Utility Easement
Tax Map 57, Grid 14, Parcel 115
3264 Kitty Duvall Drive
2nd District, Anne Arundel County, Maryland
Tax Account No. 2-000-0308-1400

Beginning for the same at a point on the southernmost right-of-way line of Kitty Duvall Drive, a 22 foot wide private right-of-way. Said point being at the intersection of said right-of-way line and the division line of Parcel 109 and Parcel 134. Said point of beginning being also the northeasternmost corner of a 0.31 acre ingress & egress easement across Parcel 109 shown on a plat titled "Resubdivision of 3264 & 3266 Kitty Duvall Drive" and recorded among the land records of Anne Arundel County, Maryland in plat book 112, page 14.

Thence leaving said point of beginning so fixed and running with the easternmost side of the aforementioned ingress & egress easement across Parcel 109 South 24 degrees 04 minutes 31 seconds East, 135.25 feet to a point and the division line between Parcel 109 and Lot A as shown on the aforementioned "Resubdivision of 3264 & 3266 Kitty Duvall Drive."

Thence leaving said division line and running with the division line between Lot A and Lot B the following two courses and distances: South 24 degrees 04 minutes 31 seconds East, 76.50 feet to a point; South 65 degrees 54 minutes 53 seconds West, 20.00 feet to a point.

Thence leaving said division line and running through the aforementioned Lot A the following three courses and distances:

1. North 24 degrees 04 minutes 31 seconds West, 10.00 feet to a point,
2. North 65 degrees 54 minutes 53 seconds East, 10.00 feet to a point, and
3. North 24 degrees 04 minutes 31 seconds West, 66.50 feet to a point and the aforementioned division line between Parcel 109 and Lot A.

Thence running through said Parcel 109, with the aforementioned ingress & egress easement across Parcel 109 North 24 degrees 04 minutes 31 seconds West, 134.83 feet to the division line between Parcel 109 and the aforementioned southernmost right-of-way line of Kitty Duvall Drive.

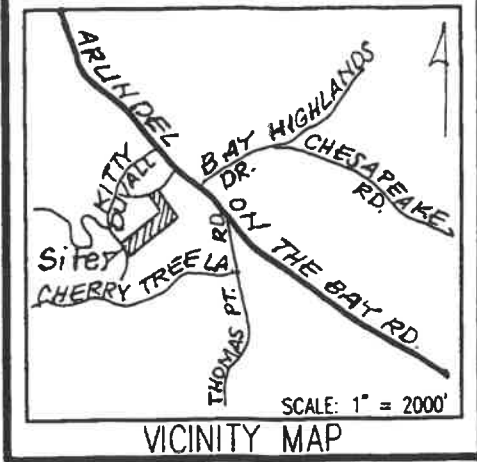
Thence running with said right-of-way line North 63 degrees 30 minutes 48 seconds East, 10.01 feet to a point and the place of beginning. Containing in all 2,214 square feet of land more or less.

Being a part of the land conveyed to Jarvis Steel & Lumber Company, Inc. by Adventures In Home Building Ltd. By deed dated July 10, 1991, and recorded among the land records of Anne Arundel County, Maryland in Liber 5361 Folio 852 and by Elisabeth Patricia Weisiger and Kathleen Wendell Weisiger by deed dated December 5, 1997, and recorded among the land records of Anne Arundel County, Maryland in Liber 8230 Folio 028.

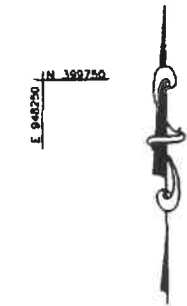


EXHIBIT B

EASEMENT DATA		
NO.	BEARING	DISTANCE
①	S65°54'53"W	20.00'
②	N24°04'31"W	10.00'
③	N65°54'53"E	10.00'



KITTY DUVALL DRIVE
(22' PRIVATE R/W)



PARCEL 109
JAMES R. & CLAUDE P. WICKER
LIBER 488 FOLIO 230

PARCEL 134
PAUL D. & JEAN G. HAZARD
LIBER 495 FOLIO 587

LOT 8
PATRICK STEWART
#3266
20,965 SF 0.78 AC

EXISTING 10' EASEMENT
TO THE BENEFIT OF 3266
& 3264

LOT 4
JOHN & MELBA CONWAY
LIBER 6622 FOLIO 656

INGRESS & EGRESS ESM'T
ACROSS 4188/230 TO THE
BENEFIT OF #3264

PROPOSED 10'
UTILITY EASEMENT
2,214 SF

LOTA
#3264
24,054 SF 0.552 AC

INGRESS & EGRESS ESM'T
ACROSS 3264 TO THE
BENEFIT OF #3266

Drum, Snell & Associates, LC
Civil Engineers - Land Surveyors
209 West Street, Suite 203
Annapolis, Maryland 21401
(410) 280-3122

Exhibit "B"

DRAWN BY:
MWE

COUNTY OF ANNE ARUNDEL- DEPARTMENT OF
PLANNING AND CODE ENFORCEMENT

SCALE 1" = 40'
DATE SEPT 99

REVISIONS

DATE BY

PROJECT NO.

CHECKED BY:
MWE

10' UTILITY EASEMENT
LOT A ~ KITTY DUVALL DRIVE

APPROVED:

George F. Charles 11-29-99
CHIEF TECHNICAL SERVICES

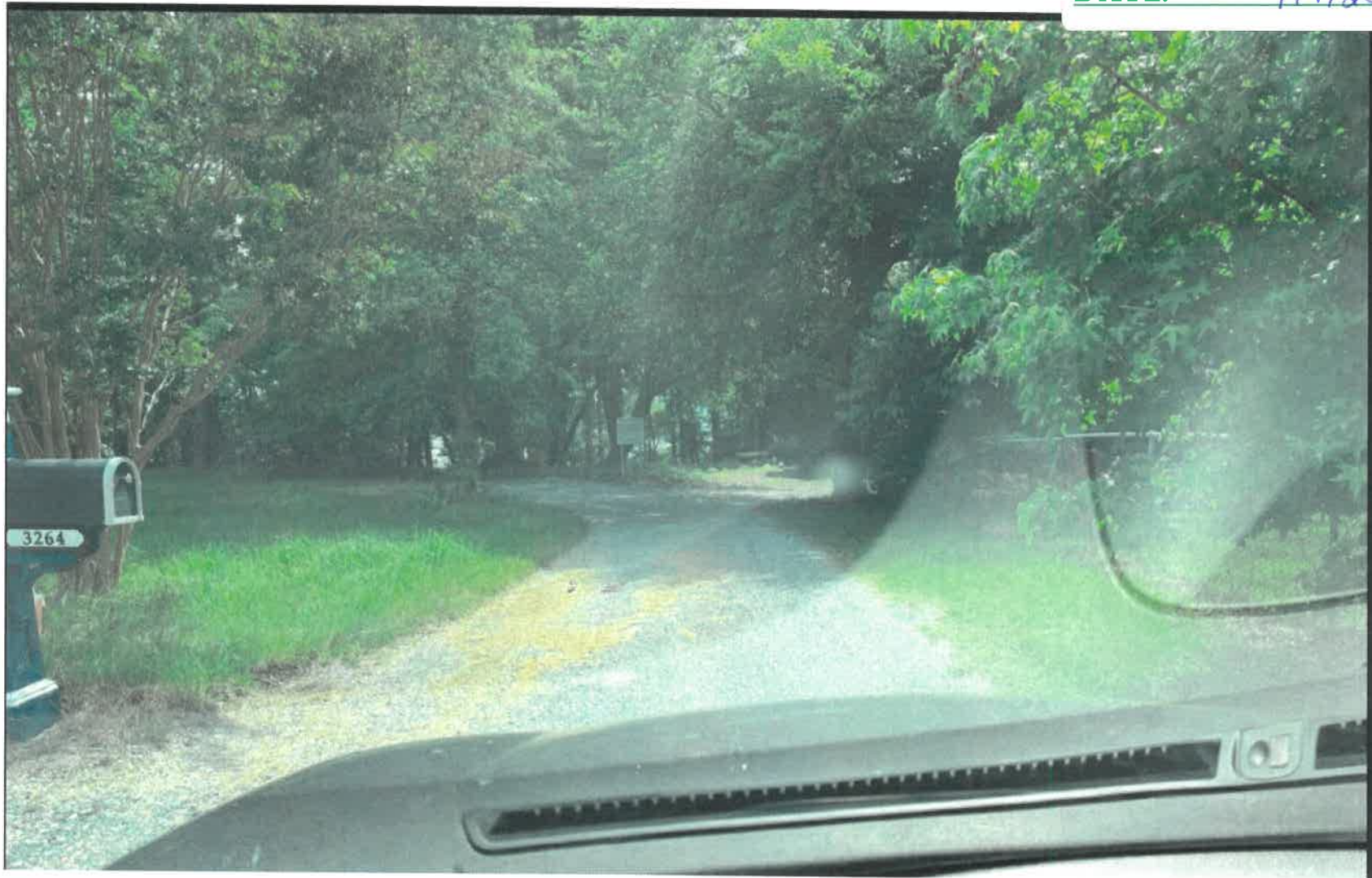
PARCEL 115 3RD DIST. ANNE ARUNDEL CO., MD

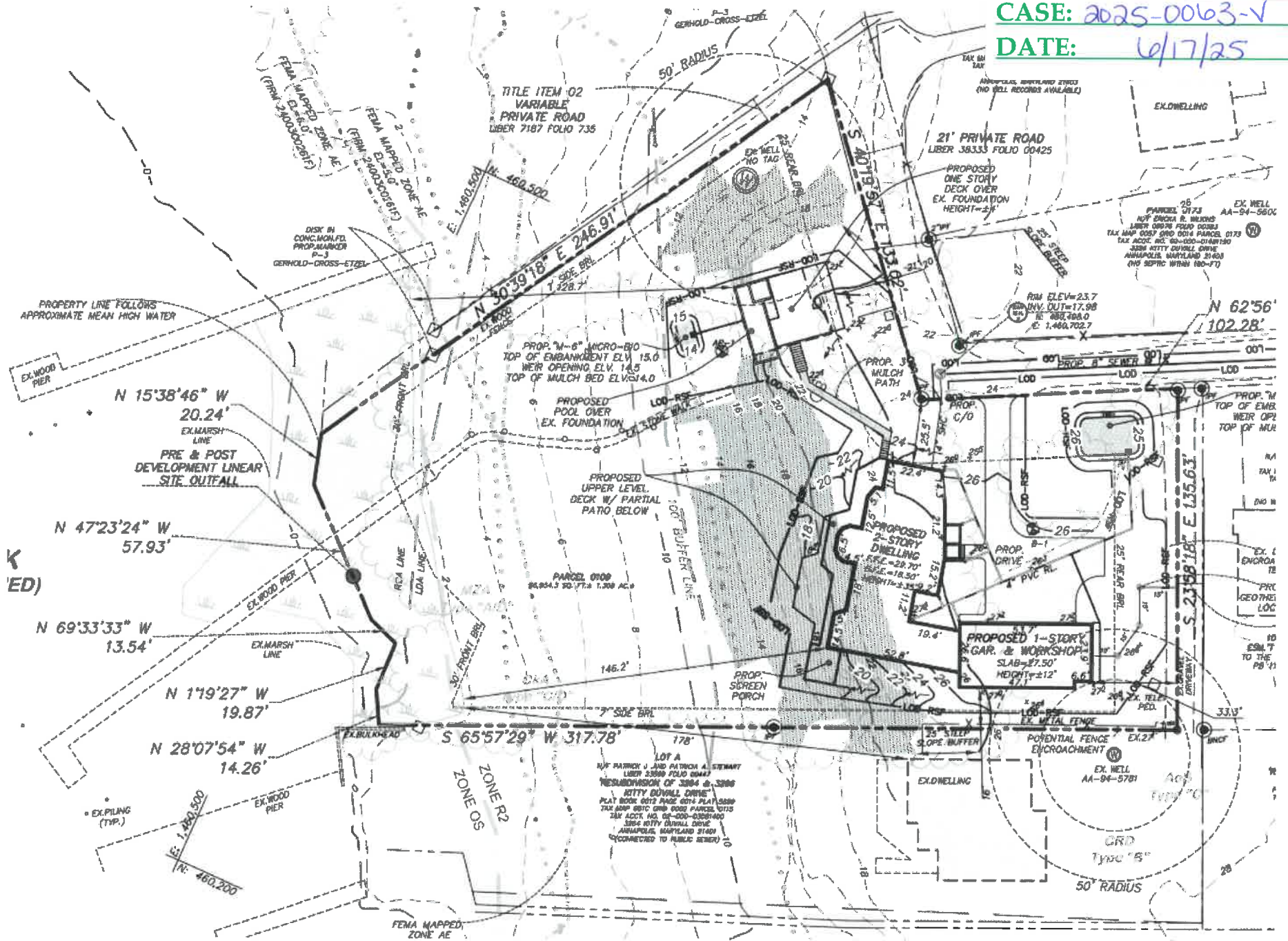
Arundel County Engineering Record Drawing and Monuments

PRO. EXHIBIT# 5
CASE: 2025-0063-V
DATE: 6/17/25



PRO. EXHIBIT# 6
CASE: 2025-00603-V
DATE: 6/17/25





PRO. EXHIBIT# 8
CASE: 2025-0003-V
DATE: 6/17/25







+ AI Overview



Environmentally redeeming qualities refer to actions, practices, or characteristics that contribute positively to the environment and promote sustainability. ↗

Here's a breakdown of common environmentally redeeming qualities:

1. Resource Conservation:

- **Energy Efficiency:** Reducing the amount of energy used through measures like better insulation, using energy-efficient appliances and lighting, or adopting smart thermostats.
- **Water Conservation:** Minimizing water usage through measures like fixing leaks, installing low-flow fixtures, or using water-wise landscaping.
- **Reduced Consumption:** Making conscious choices to buy fewer products and choosing items with minimal packaging or opting for secondhand items. ↗

Q environmentally redeeming qualities

PRO. EXHIBIT# 10
CASE: 2025-0063-V
DATE: 6/17/25

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2016-0239-V

US FINANCIAL CAPITAL, INC.

THIRD ASSESSMENT DISTRICT

DATE HEARD: NOVEMBER 22, 2016

ORDERED BY:

DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER

PLANNER: STERLING PERRY SEAY

DATE FILED: DECEMBER 16, 2016

PLEADINGS

US Financial Capital, Inc., the applicant, seeks a variance (2016-0239-V) to perfect a dwelling with less setbacks and buffer than required, and with disturbance to slopes 15% or greater, on property located along the south side of Poplar Tree Drive, east of Lake Claire Drive, Annapolis.¹

PUBLIC NOTIFICATION

The hearing notice was posted on the County's website 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. The applicant presented the affidavit of John C. George indicating that the sign was posted on November 3, 2016 (Applicant's Exhibit 1). I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on November 22, 2016, in which witnesses were sworn and the following evidence was presented with regard to the proposed variances requested by the applicant.

¹ It has been determined that no variance to setbacks or to disturb slopes greater than 15% is required.

The Property

The applicant owns the subject property, which has a street address of 1085 Poplar Tree Drive, Annapolis, Maryland 21409. The site is shown as Lot 12 of Parcel 27 in Block 5 on Tax Map 40 in the subdivision of Cape St. Claire. The property is zoned R5-Residential District and is designated in the Chesapeake Bay Critical Area as limited development area (LDA).

The Proposed Work

The applicant is requesting variances to perfect a dwelling with less setbacks and buffer than required as shown on the site plan admitted into evidence at the hearing as County Exhibit 2. The applicant erected the existing dwelling with a partial basement instead of entirely on piers, and disturbed 2,960 more square feet of a stream buffer than was allowed in Case No. 2010-0138-V, which had granted variances to construct a dwelling on piers that would disturb 5,805 square feet of the buffer.

The Anne Arundel County Code

§ 18-13-104 requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams, and tidal wetlands. The buffer is expanded beyond 100 feet to include contiguous sensitive areas, such as slopes of 15% or greater, and hydric soils and highly erodible soils whose development may impact streams, wetlands, or other aquatic environments. If there are contiguous slopes of 15% or greater, the buffer is

expanded by the greater of 4 feet for every 1% of slope or to the top of the slope, and shall include all land within 50 feet of the top of the slopes.

§ 17-8-301 provides that development on properties containing buffers, including stream buffers, shall meet the requirements of COMAR, Title 27, which prohibits disturbance of the buffer.

The Variance Requested

The work proposed will require a critical area variance to the buffer requirements of § 18-13-104 to perfect the disturbance of 2,960 square feet of the stream buffer as shown on County Exhibit 2.

The Evidence Submitted At The Hearing

Sterling Perry Seay, a Planner with the Office of Planning and Zoning (OPZ), testified that the subject property has an area of 9,000 square feet. The subject property is located almost entirely within a nontidal wetland and is impacted by a tributary stream and buffers. A tributary stream and nontidal wetlands are located on the subject site and the dwelling as constructed disturbed 8,765 square feet of the 100-foot stream buffer.

The subject property has been the subject of three prior variances. In Case No. 2010-0138-V, a variance was granted to allow a dwelling and associated facilities in a habitat protection area (nontidal wetland) with less buffer than required. Two time extensions were granted in Case Nos. 2012-0028-V and 2013-0261-V. The dwelling has been built and this variance seeks to perfect the

construction that resulted in greater buffer disturbance and greater nontidal wetlands disturbance than approved.

Ms. Seay testified that at the hearing in 2010, it was determined that the lot is burdened by nontidal wetlands and a tributary stream and their buffers and that the property was entitled to variances to build a house. It was also determined that the location for the proposed dwelling was the best for minimizing its impact on the environment. Based on the site plan and evidence, the construction of the proposed dwelling was allowed to disturb 5,805 square feet of expanded buffer and 567 square feet of nontidal wetlands. However, the applicant has disturbed 8,765 square feet of the buffer, or 2,960 square feet of additional disturbance within the expanded buffer.

The additional disturbance occurred because the construction deviated from the approved variance site plan. The variance site plan, as approved, had the house built on piers/pilings to facilitate and maintain existing drainage patterns. As built the house has a partial crawlspace/foundation. The applicant indicates that, based on the existing conditions of the site, it was determined that the partial crawlspace/foundation could be constructed under a portion of the front of the house where the existing grade was higher than the flow line without impeding the flow of the run-off drainage. In addition, the applicant provides that the site has full vegetation and plantings in accordance with the plan with additional plantings as requested by the County and that the flow of run-off drainage is and will continue to flow unimpeded under the house as was intended by the prior variance.

The Development Division does not support this variance request because the development did not adhere to the approved variance and there was unauthorized wetland disturbance that was not approved by Maryland Department of the Environment. Specifically, the deviation from the approved variance caused an additional 2,960 square feet of disturbance within the buffer as well as additional clearing within wetlands without authorization.

The Critical Area Commission took no position on this variance request but did note that they did not oppose the original request based in large part on the proposed construction of the dwelling on risers to avoid and minimize impacts to the natural features, nontidal wetlands and the tributary stream. The Commission pointed out that 2,960 square feet of additional disturbance was entirely within the expanded buffer and it was unclear whether the unauthorized clearing was within the nontidal expanded buffer which would require new MDE authorization and/or modification of the permit to impact nontidal wetlands and their buffers. Finally, if approved, increased mitigation at 4:1 is required for the violation as well as 3:1 for the variance. Because the nontidal wetlands onsite were forested wetlands as was the nontidal wetland buffer and tributary stream buffer, the mitigation should be onsite with native trees to the maximum extent possible.

The Department of Health commented that it has evaluated the well water supply system and determined that the proposed request does not adversely affect these systems and therefore has no objection.

The Soil Conservation District reviewed the variance request and offered no objection at this time.

Ms. Seay testified that the 2010 decision determined that the property was unique based on nontidal wetlands, a tributary stream, and their buffers. The variance to allow 5,805 square feet of expanded buffer and 567 square feet of nontidal wetlands disturbance was the minimum necessary to afford relief. However, the applicant deviated from the approved variance and is seeking after-the-fact approval to perfect greater disturbance. Approval of the variance could impair the use of adjacent properties as the improvements not being placed on piers may affect the natural drainage flow on this block. It is noted that a new single-family dwelling immediately to the west of the subject property (Case No. 2008-0062-V) is constructed on pilings over nontidal wetlands to facilitate and maintain existing drainage patterns. In addition, the granting of the variance will reduce forest cover in the limited development area of the critical area since the lot was cleared beyond the LOD and is in violation for the excess clearing; will be contrary to acceptable clearing and replanting practices required for development in the critical area; and could be detrimental to the public welfare.

A literal interpretation of the County's critical area program would not deprive the applicant of rights that are commonly enjoyed by other properties in similar areas. There is no right to deviate from an approved variance. The granting of the variance will confer on the applicant a special privilege since the adjacent property to the west that is similarly encumbered, was granted a variance

and complied with the variance. The variance request is based on conditions or circumstances that are the result of actions by the applicant, specifically not placing the dwelling on piers and causing greater disturbance to the nontidal wetlands, a tributary stream and their buffers than was allowed. The variance request does not arise from any condition relating to land or building use on any neighboring property. The granting of the variance will adversely affect water quality or impact fish, wildlife or plant habitat and will not be in harmony with the general spirit and intent of the County's critical area program. The applicant has not evaluated and implemented site planning alternatives and has not overcome the presumption that without additional critical area variances the applicant would be denied a reasonable and significant use of the property.

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, Ms. Seay testified that OPZ recommends denial.

The applicant was represented at the hearing by Ron Baguol, who was assisted by Daniel J. Mellin, Esquire, of Hillman, Brown, & Darrow, P.A. Evidence was presented through Douglas Bourquin, the applicant's engineer, and Deborah M. Schwab, a landscape architect, that the dwelling could be erected over a partial foundation without impeding the flow of run-off drainage. Building plans were submitted with this revision and approved for construction. During final landscaping work, the applicant went outside of the approved limits of disturbance to perform cleanup of dead and fallen tree debris and install the required

landscaping materials. The expanded clearing was to allow for the planting of new materials.

Jennifer Vaccaro testified that she lives at 1078 Poplar Tree Drive, which is at the corner of Poplar Tree Drive and Lake Claire Drive. Ms. Vaccaro testified that she is a member of the board of directors of the Cape St. Claire Improvement Association, Inc. and that the property functioned as a stream until work began on the site. She said that 20 yards of stone and 10 yards of fill were brought in to be placed by a bobcat to fill the swale across which the subject dwelling was built.

Dianne Chick testified that she lives at 1086 Crestview Drive, which backs up to the subject property. She works out of a small building at the rear of her property and has been able to see the work that was done on both the subject property and the adjoining property to the north. Drainage is a problem in the area. She also testified about the loss of trees from the development of the subject property. She has watched truckloads of workers arrive to work on the dwelling after 4:30 p.m., even after there was a Stop Work Order.

Steven Park testified that he lives at 1050 Lake Claire Drive nearby and was concerned about the effect the construction of the two dwellings on the subject property and immediately to the north was having on the stream bed that runs into Deep Creek. He said that older residents had said the area where the subject dwelling as built was a stream. He objected to the crawl space and its impact on the environmental features of the site.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer visited the property. No one was present at the time.

DECISION

The prior owner of the property was granted variances in 2010 to construct a single-family dwelling on piers. At the time, the prior owner acknowledged that building the house on piers would allow the hydrology of the property to continue to function, and would be the same method used to construct the dwelling on the adjacent property to the north. The 2010 decision attempted to balance the right of an owner of a grandfathered parcel of land within the critical area to develop it with a residence but still provide some protection to the sensitive environmental features on the property. A dwelling on piers would allow the surface and ground flow of water to continue through the property and into Deep Creek.²

The applicant decided otherwise. The evidence shows that the applicant brought in truckloads of stone and earth to partially fill the swale that runs through the property. This was done, to a certain degree, to “level up” the property and provide more space under the house for utilities and other needed amenities, such as storage space. Instead of going “up” to make the modest dwelling more saleable, the applicant went “down” [in more ways than one].

The decision to ignore the requirement that the dwelling be built on piers benefitted the applicant. It did not benefit the environment. The course of surface

² A 2010 aerial photograph of the property and the surrounding lots is attached to this decision shows the topography of the site before development. A 2016 aerial photograph, also attached, shows the dwelling in the middle of the slopes on the site which are probably not located accurately given the disturbance that has taken place.

and ground water flow has been altered, both by the fill that was dumped into the site as well as by the construction of a partial foundation. The applicant has accomplished exactly what the 2010 decision attempted to avoid—a structure in the middle of a stream buffer.

An applicant must meet all the requirements of § 18-16-305(b) to obtain a critical area variance, which it needs here to allow the partial basement and buffer disturbance to remain. One of the requirements § 18-16-305(b) reads as follows: “The variance request is not based on conditions or circumstances that are the result of actions by the applicant . . .” Subsection (b)(4). The need for the variance in this case is clearly a result “of actions by the applicant.”

Becker v. Anne Arundel County, 174 Md. App. 114, 124; 920 A.2d 1118, 1124 (2007) provides that if an applicant fails to meet even one of the criteria in § 18-16-305(b), a variance must be denied.

The critical area law is the voice of all the people who live on the Chesapeake Bay. The decision made by the applicant is the voice of an entity owned by people who live elsewhere and do not care what happens to a small piece of the Bay watershed located along Poplar Tree Drive. It is from such “death by a thousand cuts”³ that the Bay continues to suffer. This Office will not approve such conduct or else such misconduct will become the conduct of every developer eager to turn a profit. The variance request will be denied.

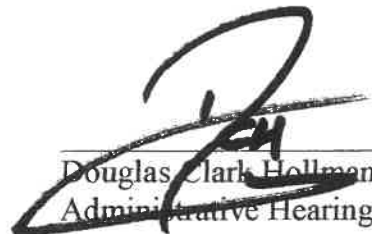
³ Lingchi (凌迟; 凌遲; língchí; ling-ch'ih, alternately transliterated ling chi or leng t'che), translated as “death by a thousand cuts” (杀千刀/千刀万剐; 殺千刀/千刀萬剐; shā qiān dāo/qiāndāo wànguǎ), is the form of torture and execution used in China from roughly AD 900 to the early 1900s in which a person was slowly sliced, causing a lingering death.

ORDER

PURSUANT to the application of US Financial Capital, Inc., petitioning for a variance to perfect a dwelling with less setbacks and buffer than required, and with disturbance to slopes 15% or greater; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **16th day of December, 2016**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the application is hereby **denied**.

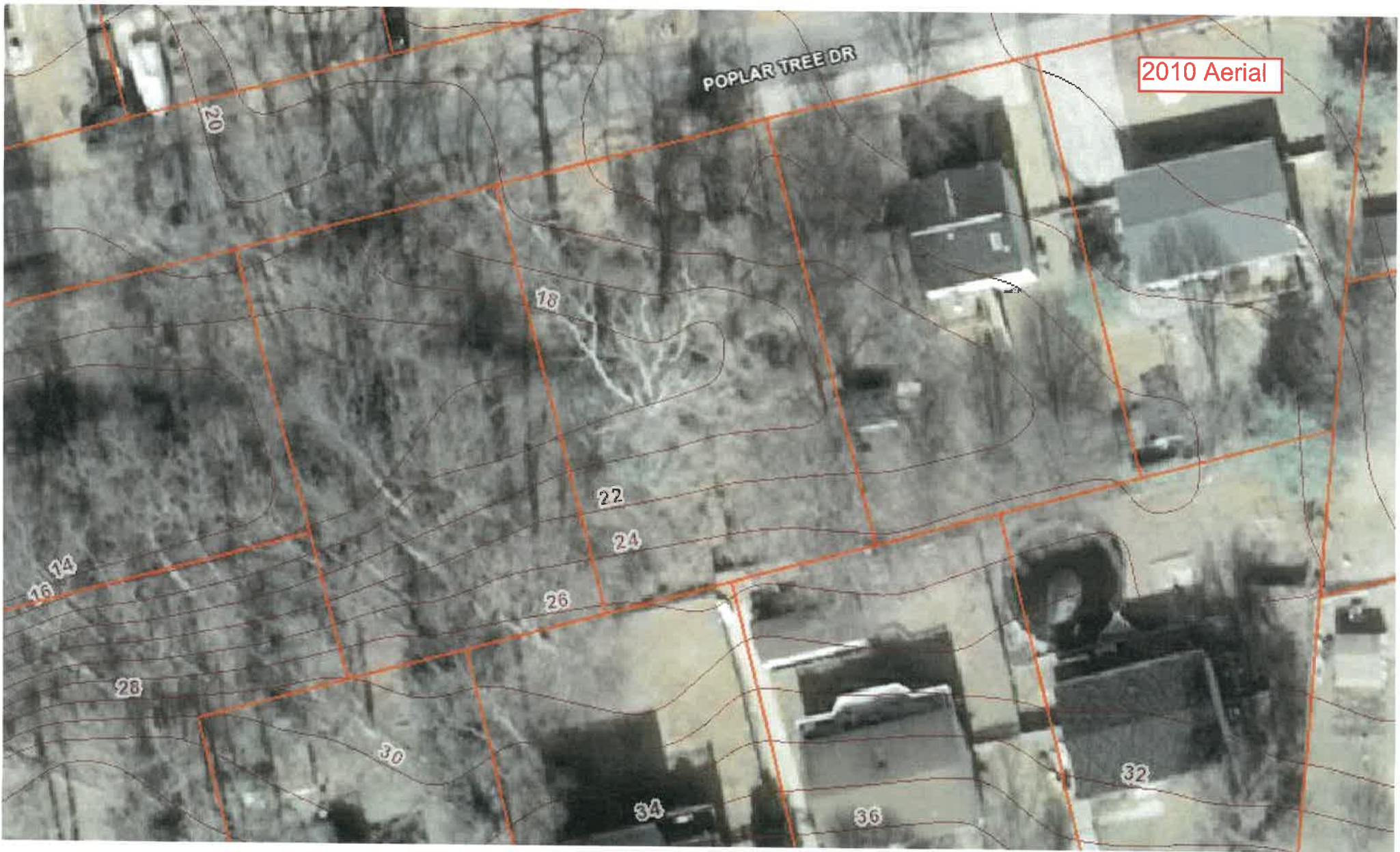


Douglas Clark Hollmann
Administrative Hearing Officer

NOTICE TO APPLICANTS

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.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise they will be discarded.



2010 Aerial



2016 Aerial

CO. EXHIBIT#: 1
CASE: 2016-0239-V
DATE: 11/22/16

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: US Financial Capital Inc.

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2016-0239-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: November 22, 2016

PREPARED BY: Sterling Perry Seay
Planner

REQUEST

The applicant is requesting variances to perfect a dwelling with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 1085 Poplar Tree Drive, Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject property has 9,000 square feet of land. It is located with approximately 75 feet of road frontage along the south side of Poplar Tree Drive, 240 feet east of Lake Claire Drive. The subject property is identified as Lot 12 of Parcel 27 in Block 5 on Tax Map 40 and is located in the Cape St. Claire subdivision.

The subject property has been zoned R5-Residential District with a small area of OS-Open Space District since the adoption of comprehensive rezoning of Councilmanic District 5 zoning maps effective January 29, 2012. The site is located within the Chesapeake Bay Critical Area and is designated as a limited development area, LDA. The subject property is located almost entirely within a non-tidal wetland and is impacted by a tributary stream and buffers.

The subject site is currently developed with a dwelling that is the subject of this variance.

APPLICANT'S PROPOSAL

The applicant constructed a single family detached dwelling with an attached garage, a front porch, a rear attached deck, driveway and water well.

REQUESTED VARIANCES

Section 18-13-104 (a) of the Anne Arundel County Zoning Ordinance requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. Section 18-13-104 (b) provides for an expanded buffer beyond 100 feet to include, among other things, non-tidal wetland. Section 17-8-301 of the Subdivision Code states that development on properties containing buffers shall meet the requirements of

2016-0239-V

Title 27 of the State Code of Maryland (COMAR). Section 27.01.01 (B) (8) (ii) of COMAR stipulates a buffer exists “to protect a stream, tidal wetland, tidal waters or terrestrial environment from human disturbance.” Section 27.01.09 E. (1) (a) (ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. A tributary stream and non-tidal wetlands are located on the subject site and the dwelling as constructed disturbed 8,765 square feet of the 100 foot stream buffer.

It has been determined that no variance to setbacks or to disturb slopes greater than 15% is required.

FINDINGS

The subject property has been the subject of three prior variances. In case number 2010-0138-V a variance was granted to allow a dwelling and associated facilities in a habitat protection area (non-tidal wetland) with less buffer than required. Two time extensions were granted in cases 2012-0028-V and 2013-0261-V. The dwelling has been built and this variance seeks to perfect the construction that resulted in greater buffer disturbance and greater non-tidal wetlands disturbance than approved.

At the original hearing it was determined that the lot is burdened by non-tidal wetlands and a tributary stream and their buffers and that the property was entitled to variances to build a house. It was also determined that the location for the proposed dwelling was the best for minimizing its impact on the environment. Based on the site plan and testimony the construction was allowed to disturb 5,805 square feet of expanded buffer and 567 square feet of non-tidal wetlands. As built there has been 8,765 square feet of buffer disturbance or 2,960 square feet of additional disturbance within the expanded buffer.

The additional disturbance occurred because the construction deviated from the approved variance site plan. The variance site plan, as approved, had the house built on piers/pilings to facilitate and maintain existing drainage patterns. As built the house has a partial crawlspace/foundation. The applicant indicates that based on the existing conditions of the site it was determined that the partial crawlspace/foundation could be constructed under a portion of the front of the house, where the existing grade was higher than the flow line without impeding the flow of the run-off drainage. In addition, the applicant provides that the site has full vegetation and plantings in accordance with the plan with additional plantings as requested by the County and that the flow of run-off drainage is and will continue to flow unimpeded under the house as was intended by the prior variance.

The **Development Division** does not support this variance request because the development did not adhere to the approved variance and there was unauthorized wetland disturbance that was not approved by Maryland Department of the Environment. Specifically, the deviation from the approved variance caused an additional 2,960 square feet of disturbance within the buffer as well

2016-0239-V

as additional clearing within wetlands without authorization

The **Critical Area Commission** took no position on this variance request but did note that they did not oppose the original request based in large part on the proposed construction of the dwelling on risers to avoid and minimize impacts to the natural features, non-tidal wetlands and the tributary stream. The Commission pointed out that 2,960 square feet of additional disturbance was entirely within the expanded buffer and was unclear if any of the unauthorized clearing was within the non-tidal expanded buffer which would require new MDE authorization and/or modification of the permit to impact non-tidal wetlands and their buffers. Finally, if approved, increased mitigation at 4:1 is required for the violation as well as 3:1 for the variance. Because the non-tidal wetlands onsite were forested wetlands as was the non-tidal wetland buffer and tributary stream buffer, the mitigation should be on-site with native trees to the maximum extent possible.

The **Health Department** commented that it has evaluated the well water supply system and determined that the proposed request does not adversely affect these systems and therefore has no objection.

The **Soil Conservation District** reviewed the variance request and offered no objection at this time.

The property is the subject of an open compliance case; E-2016-171 was filed October 17, 2016 for an illegal filling complaint for the filling of a stream bed.

For the granting of a zoning variance, a determination must be made as to whether because of certain unique physical conditions peculiar to and inherent in the particular lot, strict implementation of the code would result in an unwarranted hardship. The original variance for the dwelling determined that the property was unique based on non-tidal wetlands, a tributary stream and their buffers and was granted variances. The variance to allow 5,805 square feet of expanded buffer and 567 square feet of non-tidal wetlands disturbance was the minimum necessary to afford relief. However, the applicant deviated from the approved variance and is after-the-fact seeking to perfect greater disturbance. Approval of the variance could impair the use of adjacent properties as the improvements not being placed on piers may affect the natural drainage flow on this block. It is noted that a new single family dwelling immediately to the west of the subject property (Case 2008-0062-V) is constructed on pilings over non-tidal wetlands to facilitate and maintain existing drainage patterns. In addition, the granting of the variance will reduce forest cover in the limited development area of the critical area since the lot was cleared beyond the LOD and is in violation for the excess clearing; will be contrary to acceptable clearing and replanting practices required for development in the critical area; and could be detrimental to the public welfare.

A literal interpretation of the County's critical area program would not deprive the applicant of rights that are commonly enjoyed by other properties in similar areas. There is no right to deviate

2016-0239-V

from an approved variance. The granting of the variance will confer on the applicant a special privilege since the adjacent property to the west that is similarly encumbered, was granted a variance and complied with the variance. The variance request is based on conditions or circumstances that are the result of actions by the applicant, specifically not placing the dwelling on piers and causing greater disturbance to the non-tidal wetlands, a tributary stream and their buffers than was allowed. The variance request does not arise from any condition relating to land or building use on any neighboring property. The granting of the variance will adversely affect water quality or impact fish, wildlife or plant habitat and will not be in harmony with the general spirit and intent of the County's critical area program. The applicant has not evaluated and implemented site planning alternatives and has not overcome the presumption that without additional critical area variances the applicant would be denied a reasonable and significant use of the property.

RECOMMENDATION

Based upon the standards set forth in Article 18-16-305 under which a variance may be granted, this Office recommends **denial** of a critical variance to Section 17-8-301 to perfect 8,765 square feet of disturbance in the 100 foot stream buffer.

If the variance is granted, the granted needs to be conditioned on the applicant completing the following within 90 days of the date of decision, as applicable:

- (i) Obtaining an approved mitigation or restoration plan;
- (ii) Completing the abatement measures in accordance with the County critical area program; and
- (iii) Paying any civil fines assessed and finally adjudicated.

This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.

LGR, SPS

LGR/SPS

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman

Katherine Charbonneau
Acting Executive Director

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

CO. EXHIBIT#: 8

CASE: 2016-0239-V

DATE: 11/22/16

RECEIVED

October 27, 2016

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

NOV 01 2016

ZONING DIVISION

NOV 01 2016

NOV 01 2016

RECEIVED

Re: Variance Case #16-0239-V; US Financial Capital, Inc.
1085 Poplar Tree Drive, Annapolis

Dear Ms. Rhodes:

Thank you for submitting information regarding the variance case referenced above. The applicant has requested an after-the-fact variance to perfect a dwelling with less setbacks and Buffer than required and with disturbance to slopes of 15% or greater. The property is a 9,000 square foot lot within the Limited Development Area (LDA). The majority of the property is encumbered by a tributary stream and its 100-foot Buffer, and nontidal wetlands and their 25-foot buffer.

The applicant was previously granted a variance to disturb 5,805 square feet of expanded Buffer and 567 square feet of nontidal wetlands. The contract purchaser's representative testified at the variance hearing that the house would be built on risers so that the groundwater would continue to be able to traverse the property as it does now. The property owner testified at the same hearing that locating the house on risers would allow the hydrology of the property to continue to function. The Critical Area Commission did not oppose the original variance request in large part based on the proposed design to construct the dwelling on risers. This would have avoided and minimized impacts to the sensitive natural resources onsite, namely the nontidal wetlands and the tributary stream.

Rather than construct the house on risers as shown on the plans submitted with the variance application, as indicated at the variance hearing by multiple witnesses, and as shown on the plans submitted with the modification request for an extension of time on the original variance decision; the developer and current property owner has constructed the dwelling with a partial crawlspace and with impacts greater than those granted by the variance. The dwelling as constructed has disturbed 8,765 square feet of Buffer, rather than the 5,805 square feet granted by the variance. The 2,960 square feet of additional disturbance was entirely within the expanded Buffer. It is unclear if any of this unauthorized clearing was within the nontidal wetlands buffer. If it was, this will require a new authorization from MDE and/or a modification to the previously acquired permit to impact nontidal wetlands and their buffers.

Ms. Rhodes
October 27, 2016
Page Two

~~CO. EXHIBIT#:~~ 9
~~CASE: 2016-0239-V~~
~~DATE: 11/22/16~~

Provided the Hearing Officer determines that the request meets all of the required standards, we would like to note that increased mitigation is required due to the after-the-fact nature of the request. As such, the applicant must provide mitigation at 4:1 for the violation, as well as 3:1 for the variance. This mitigation must be provided onsite to the maximum extent possible and as directed by the County. The nontidal wetlands onsite were forested wetlands, as was the nontidal wetland buffer and tributary stream Buffer. Therefore, we recommend mitigation be met with native trees onsite to the maximum extent possible.

Please include this letter in your file and submit it as part of the record. Please notify the Commission of the decision made in this case. If you have any questions, please contact me at (410) 260-3480.

Sincerely,



Charlotte Shearin
Acting Regional Chief

CS/jjd

File: AA 694-16

Prior variances 2013-0261-V, 2012-00280 & 010-0138-V

open compliance case
E-2016-171

CASE # 2016-0239-V
FEE PAID 215
DATE 9/19/16



ZONE R-5 +05
CRITICAL AREA: IDA ☐ LDA ☒ RCA ☒
BMA: Yes ☐ No ☒
NO. OF SIGNS 1

VARIANCE APPLICATION

Applicant(s): US FINANCIAL CAPITAL INC
(All persons having 10% or more interest in property)

Property Address: 1085 POPLAR TREE DR

Property Location: 75 feet of frontage on the (n, s, e, w) side of POPLAR TREE DR (St, Rd, Ln, etc.);
3501 feet (n, s, e, w) of (Nearest intersecting street) HAMPTON (St, Rd, Ln, etc.).
240' Lake Claire Dr

Tax Account Number 3165 06099803 Tax District 3 Council District 5

Waterfront Lot NO Corner Lot NO Deed Title Reference 23082/271

Zoning of Property R-5ms Lot # 12 Tax Map 40 Block/Grid 5 Parcel 27

Area (sq. ft) or acres 9,000 Subdivision Name CAPE ST. CLAIRE PL 4 BK CC

Description of Proposed Variance Requested (Brief, detail fully in letter of explanation)

NEED VARIANCE FOR BUFFER & SLOPE DISTURBANCE

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature X S. Bruce Jaffe Owner's Signature X S. Bruce Jaffe

Print Name S. BRUCE JAFFE, PRES. Print Name S. BRUCE JAFFE, PRES.

Mailing Address US FINANCIAL CAPITAL INC
8600 SNOWDEN RIVER PKWY Mailing Address [SAME]

City, State, Zip COLUMBIA, MD 21045 City, State, Zip [SAME]

Phone 410-953-0222 (Work) (Home) Phone (Work) (Home)

Cell Phone Cell Phone

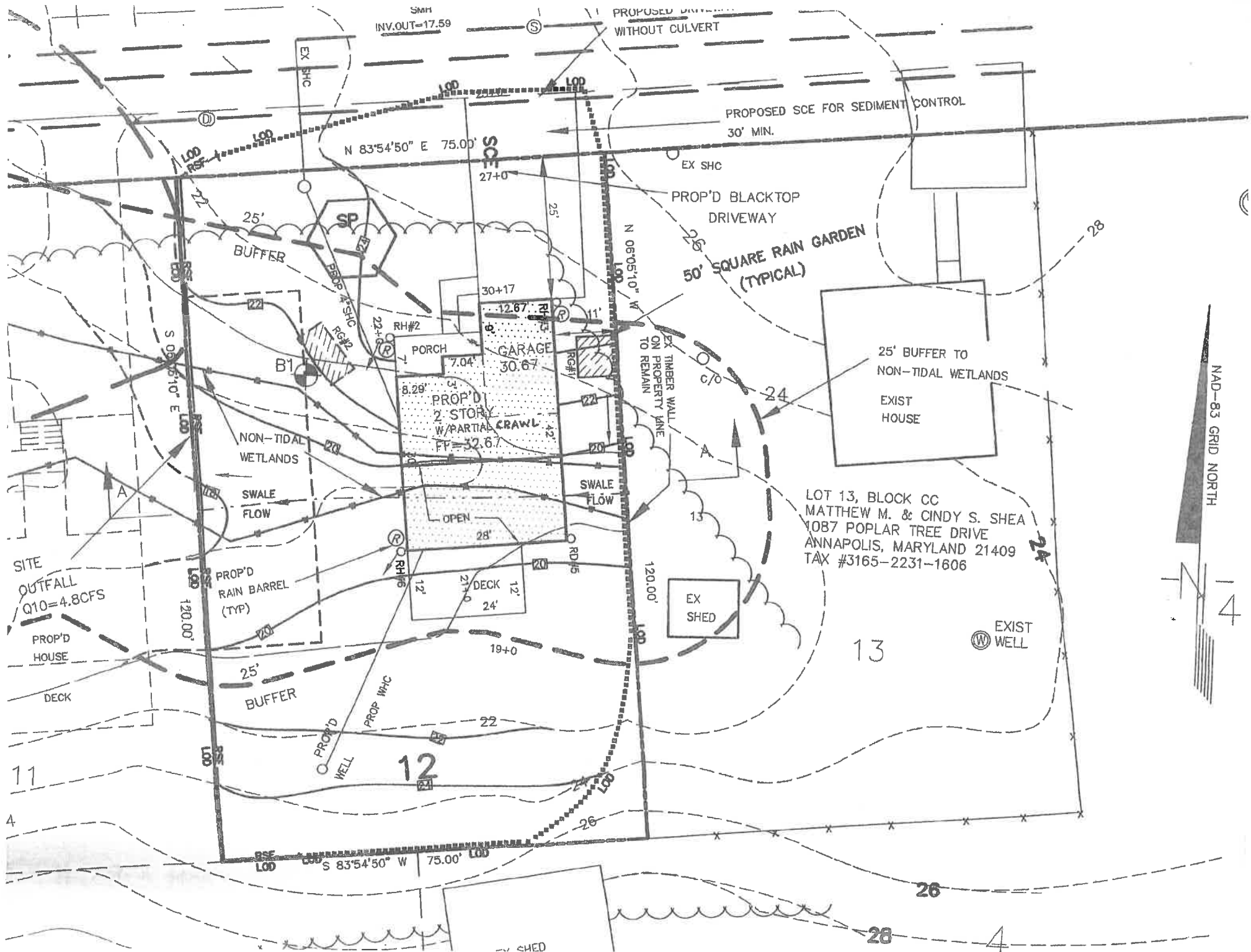
Email Address Email Address

For Office Use Only

Application accepted by Anne Arundel County, Office of Planning and Zoning:

Signature [Signature] Date 9/19/16

(rev. 10/21/13) variance to perfect a dwelling with less setbacks and buffer than required and with disturbance to slopes of 15% or greater



NAD-83 GRID NORTH

