

IN RE: PETITION FOR VARIANCE
N/S Katherine Avenue, 1,250' NE of
Cape May Road
(412 Katherine Avenue)
15th Election District
5th Councilmanic District

Carl E. Canatella, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 00-174-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Carl E. and Doris Canatella. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the subject property as an undersized lot, with an area of 9,425 sq.ft. in lieu of the minimum required 10,000 sq.ft., and a lot width of 50 feet in lieu of the required 70 feet, pursuant to Section 304 of the B.C.Z.R., and any other variances deemed necessary by the Zoning Commissioner, for a proposed dwelling reconstruction. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing held in support of the request was Carl E. Canatella, property owner. Appearing as interested citizens were Philip Hock, who resides on the adjacent property known as 410 Katherine Avenue, and Mr. & Mrs. Glenn Ogle, who reside on the other side of this lot at 416 Katherine Avenue. There were no Protestants or other interested persons present.

Testimony and evidence presented revealed that the subject property is a waterfront lot located adjacent to Norman Creek in the subdivision known as Cape May in Essex. The property is a rectangular shaped lot containing a gross area of 0.24 acres, more or less, zoned D.R.3.5. As is the case with many older communities, this lot and the subdivision plat for same were laid out

ORDER RECEIVED FOR FILING
Date 1/2/00
By [Signature]

many years ago before the adoption of zoning regulations in Baltimore County. The site plan shows that the lot is between 187 feet and 194 feet in depth, and is approximately 51 feet wide. At the present time, the property is improved with a single family dwelling known as 412 Katherine Avenue. In addition to the house, there is a small shed located near the water. Mr. Canatella indicated that although he and his family formerly occupied the dwelling, they moved out several months ago and the house is now vacant. He proposes razing the existing dwelling, which is quite old, and in its place, constructing a new house, utilizing the footprint of the existing dwelling. Testimony indicated that razing the existing house and constructing a new dwelling was more practical than attempting to rehabilitate the existing dwelling. In addition to the new house, an attached garage will be located in that portion of the yard between the dwelling and Katherine Avenue. The plan also shows that an 88-foot setback will be maintained between the house and the bulkhead.

Testimony was offered from the neighbors regarding the character of the neighborhood and concerns over the proposed improvements. These concerns resulted in a site visit to the property being conducted by this Zoning Commissioner. I visited Katherine Avenue and the surrounding community and observed the subject lot.

Based upon the testimony and evidence offered, as well as the observations I made during my site visit, I am persuaded to grant the variance. This is clearly a neighborhood with divergent housing styles and I believe that the proposed construction will be an improvement to the area. Although the house will be taller than the present structure, it will not interfere with the water views of the neighbors or be disruptive to the scheme of the community.

Furthermore, I am persuaded that the Petitioner has met the requirements of Section 307 of the B.C.Z.R. Specifically, I find that the property is unique, by virtue of its original layout, dimension and configuration. Moreover, if strict adherence to the regulations were required, the property could not be used to support a single family dwelling. As noted above, I do not believe that there will be any detrimental impact upon the neighborhood. It is also significant that the house will replace an existing dwelling and the new structure will be located on the identical

ORDER RECEIVED FOR FILING
Date 1/2/00
By [Signature]

footprint as the old building. This is not new development, per se, rather the redevelopment of an existing lot. For all of these reasons, I am persuaded to grant the variance.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of January, 2000 that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the subject property as an undersized lot, with an area of 9,425 sq.ft. in lieu of the minimum required 10,000 sq.ft., and a lot width of 50 feet in lieu of the required 70 feet, pursuant to Section 304 of the B.C.Z.R., for a proposed dwelling reconstruction in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the Zoning Plans Advisory Committee (ZAC) comments submitted by the Department of Environmental Protection and Resource Management (DEPRM), dated November 12, 1999, a copy of which is attached hereto and made a part hereof.
- 3) Construction of the proposed dwelling shall be in accordance with the building elevation drawings submitted to and approved by the Office of Planning.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 1/7/00
By [Signature]



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

January 7, 2000

Mr. & Mrs. Carl E. Canatella
4001 Baker Lane
Baltimore, Maryland 21236

RE: PETITION FOR VARIANCE
N/S Katherine Avenue, 1,250' NE of Cape May Road
(412 Katherine Avenue)
15th Election District – 5th Councilmanic District
Carl E. Canatella, et ux - Petitioners
Case No. 00-174-A

Dear Mr. & Mrs. Canatella:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Chesapeake Bay Critical Areas Commission
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401
Mr. Philip Hock
410 Katherine Avenue, Baltimore, Md. 21221
Mr. & Mrs. Glenn Ogle
416 Katherine Avenue, Baltimore, Md. 21221
DEPRM; OP; People's Counsel; Case File

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper



Petition for Variance

CBCA

to the Zoning Commissioner of Baltimore County

for the property located at 412 KATHERINE AVENUE

which is presently zoned D.R. 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 To allow a buildable lot (undersize) with an area of 9425 sq. ft. & a width of 50 ft. in lieu of the minimum required 10,000 sq. ft. & 70 ft. respectively per Sect. 304 with any other variances deemed necessary by the Zoning Commissioner.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

- 1) Water front lot steeply sloped from front of house to water.
 - 2) Garage is positioned close to road with no paving in order to minimize impervious area.
- (See Attachment)

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____

Signature _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____

Signature _____

Company _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Legal Owner(s):

CARLE E. CANATELLA
Name - Type or Print _____
Carle E. Canatella
Signature _____

DORIS CANATELLA
Name - Type or Print _____
Doris Canatella
Signature _____

4001 BAKER LANE 410 256-5461
Address _____ Telephone No. _____
BALTIMORE MD 21236
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1.00

UNAVAILABLE FOR HEARING _____

Reviewed By [Signature] Date 10-26-99

ORDER RECEIVED FOR FILING

Date 10/27/99
BY [Signature] 9/15/98

Case No. 00-174-A

3) The foundation and brick are crumbling in the basement making it necessary to tear down the existing house and to build a new house on the same foot print.

4) I don't own the adjacent lots, therefore I am restricted to the 50-foot width of my lot.

5) The existing house foundation is 88 feet from the water and the new houses foundation will be on the same foot print, therefore not changing the impact on the water front.

6) The undersized lot prevents the placing of the garage in any other location.

7) The new house will enhance the area and raise the property values as well as the property taxes. This is in keeping with County's plan to revitalize the Middle River Area.

ORDER RECEIVED FOR FILING

Date

By

174

ZONING DESCRIPTION FOR 412 Katherine Avenue
(address)

Beginning at a point on the north side
(north, south, east or west)

of Katherine Avenue which is
(name of street on which property fronts)

25 feet wide at the
(number of feet of right-of-way width)

distance of 1250 feet north and east of the centerline of the
(number of feet) (north, south, east or west)

nearest improved intersecting street Cape May Road which is
(name of street)

50 feet wide. Being Lot # 11,
(number of feet of right-of-way width)

Block --, Section # -- in the subdivision of Cape May
(name of subdivision)

as recorded in Baltimore County Plat Book # W.P.C.6, Folio # 177, containing
9425 square feet. Also known as 412 Katherine Avenue and located
(square feet of acres) (property address)

in the 15th Election District, 5th Councilmanic District.

174

CERTIFICATE OF PUBLICATION

TOWSON, MD, 11/12, 1999

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/11, 1999.

S. W. Walker
THE JEFFERSONIAN,

LEGAL ADVERTISING

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case # 00-174-A
412 Katherine Avenue
N/S Katherine Avenue, 1250 +/- NE of Cape May Road
16th Election District -- 7th Councilmanic District
Legal Owner(s): Doris Canalella and Carl E. Canalella
Variance: to allow a buildable (undersized) lot with an area of 9,425 square feet and a width of 60 feet in lieu of the minimum required 10,000 square feet and 70 feet respectively with any other variances deemed necessary by the zoning commissioner.
Hearing: Tuesday, December 7, 1999 at 10:00 a.m. in Room 407 County Courts Building, 407 Eglesey Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations, please contact the Zoning Commissioner's Office at (410) 867-4386.
(2) For information concerning the file and/or hearing, contact the Zoning Review Office at (410) 867-3391.
11/12 Nov. 11 0352581

CERTIFICATE OF POSTING

RE: CASE # 00-174-A
PETITIONER/DEVELOPER
[Carl E. Canatella]
DATE OF Hearing
(Dec. 7, 1999)

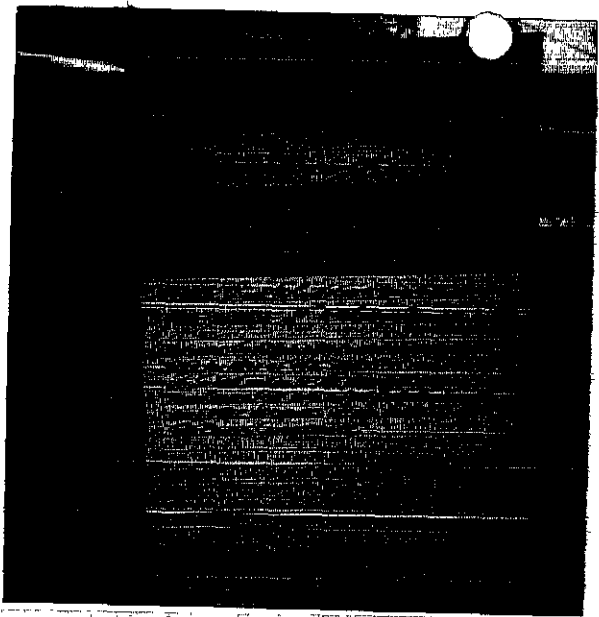
Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Ave.
Towson, Maryland 21204

ATTENTION : MS. GWENDOLYN STEPHENS

LADIES AND GENTLEMEN:

This letter is to certify under the penalties of perjury that the necessary
sign[s] required by law were posted conspicuously on the property located at
412 Katherine Ave. Baltimore, Maryland 21221__

The sign[s] were posted on _____ 11-22-99 _____
[Month, Day, Year]



Sincerely,

Thomas P. Ogle, Sr.
[Signature of Sign Poster & Date]

_____ Thomas P. Ogle, Sr. _____

_____ 325 Nicholson Road _____

_____ Baltimore, Maryland 21221 _____

_____ (410)-687-8405 _____
(Telephone Number)

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

00-174-A
Case No. 073238

DATE 10-26-99 ACCOUNT R-201-6150
AMOUNT \$ 50.00

RECEIVED FROM: Mr. Canatella
FOR: Residential Variance Filing Fee
412 Katherine Ave.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

10/26/1999 10/26/1999 09734533
REC 1002 CASHIER BOOK ONE - MARCH
DEPT 5 120 ZONING PERM ISSUANCE
Receipt # 113671
CR NO. 073238
Receipt for \$50.00
Baltimore County, Maryland

CASHIER'S VALIDATION

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 00-174-A
Petitioner: CARL E. CANATELLA
Address or Location: 412 KATHERINE AVE., BALTO., MD 21221

PLEASE FORWARD ADVERTISING BILL TO:

Name: CARL E. CANATELLA
Address: 4001 BAKER LANE
BALTIMORE, MD 21236
Telephone Number: (410) 256-5461

Revised 2/20/98 - SCJ

RE: PETITION FOR VARIANCE
412 Katherine Avenue, N/S Katherine Ave,
1250' +/- NE of Cape May Rd
15th Election District, 7th Councilmatic

Legal Owner: Carl E. & Doris Canatella
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 00-174-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of November, 1999 a copy of the foregoing Entry of Appearance was mailed to Carl E. & Doris Canatella, 4001 Baker Lane, Baltimore, MD 21236, Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

TO: PATUXENT PUBLISHING COMPANY
November 11, 1999 Issue - Jeffersonian

Please forward billing to:

Mr. Carl E. Canatella
4001 Baker Lane
Baltimore MD 21236
410-256-5461

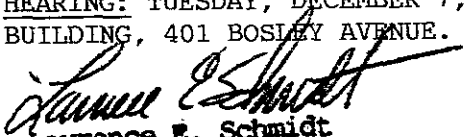
NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 00-174-A
412 Katherine Avenue
N/S Katherine Avenue, 1250'+/- NE of Cape May Road
15th Election District - 7th Councilmanic District
Legal Owner(s): Doris Canatella and Carl E. Canatella

VARIANCE: to allow a buildable (undersized) lot with an area of 9,425 square feet and a width of 50 feet in lieu of the minimum required 10,000 square feet and 70 feet respectively with any other variances deemed necessary by the zoning commissioner.

HEARING: TUESDAY, DECEMBER 7, 1999 at 10:00 a.m. IN ROOM 407 COUNTY COURTS BUILDING, 401 BOSLEY AVENUE.


Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

November 5, 1999

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 00-174-A

412 Katherine Avenue

N/S Katherine Avenue, 1250'+/- NE of Cape May Road

15th Election District - 7th Councilmanic District

Legal Owner(s): Doris Canatella and Carl E. Canatella

VARIANCE: to allow a buildable (undersized) lot with an area of 9,425 square feet and a width of 50 feet in lieu of the minimum required 10,000 square feet and 70 feet respectively with any other variances deemed necessary by the zoning commissioner.

HEARING: TUESDAY, DECEMBER 7, 1999 at 10:00 a.m. IN ROOM 407 COUNTY COURTS BUILDING, 401 BOSLEY AVENUE.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Carl and Doris Canatella

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY NOVEMBER 22, 1999.
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

December 3, 1999

Mr. Carl Canatella
4001 Baker Lane
Baltimore, MD 21236

Dear Mr. Canatella:

RE: 00-174-A , 412 Katherine Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on 10/26/99.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:rsj

Enclosures

B A L T I M O R E C O U N T Y, M A R Y L A N D

I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director
 Department of Permits & Development
 Management

Date: November 16, 1999

FROM: Robert W. Bowling, Supervisor
 Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
 for November 15, 1999
 Item No. 174

The Bureau of Development Plans Review has reviewed the subject zoning item.

Katherine Avenue is an existing road which shall ultimately be improved as a 30 foot street cross section on a 50 foot right-of-way.

RWB:HJO:cab

cc: File

ZAC11159.174

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon
FROM: R. Bruce Seeley *RBS*
DATE: November 12, 1999
SUBJECT: Zoning Item #174
412 Katherine Avenue

Zoning Advisory Committee Meeting of November 8, 1999

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

_____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

15

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: November 12, 1999

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions Item No. 174

The Office of Planning recommends approval of the subject undersized lot request (see attached) and any accompanying zoning relief pertaining to the subject property.

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

Jeffrey W. Long

AFK/JL

INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM

Variance

TO: Director, Office of Planning & Community Conservation
Attention: Jeffrey Long
County Courts Building, Room 406
401 Bosley Avenue
Towson, MD 21204

Permit or Case No. 00-174-A

FROM: Arnold Jablon, Director
Department of Permits & Development Management

Residential Processing Fee Paid (\$50.00)
Accepted by _____
Date _____

RE: Undersized Lots

11/11/99

Pursuant to Section 304.2 (Baltimore County Zoning Regulations) effective June 25, 1992, this office is requesting recommendations and comments from the Office of Planning and Community Conservation prior to this office's approval of a dwelling permit.

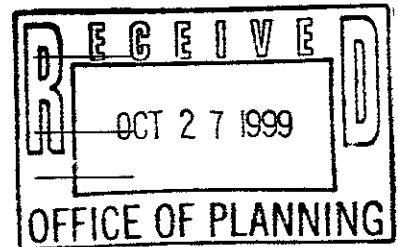
MINIMUM APPLICANT SUPPLIED INFORMATION:

CARL E. CANATELLA 4001 BAKER LANE 21236 410 296-6500
Print Name of Applicant Address Telephone Number
Lot Address 412 KATHERINE AVE. Election District 15 Councilmanic District 5 Square Feet 9425
Lot Location: NE S W side corner of KATHERINE AVENUE, 1250 feet from NE S W corner of CAPE MAY ROAD
(street) (street)
Land Owner: CARL E. & DORIS CANATELLA Tax Account Number 15-20-661360
Address: 4001 BAKER LANE, BALTO, MD 21236 Telephone Number (410) 256-5461

CHECKLIST OF MATERIALS- (to be submitted for design review by the Office of Planning and Community Conservation)

TO BE FILLED IN BY ZONING REVIEW, DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ONLY!
PROVIDED?

- | | YES | NO |
|--|-------------------------------------|--------------------------|
| 1. This Recommendation Form (3 copies) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Permit Application | <u>PENDING VARIANCES</u> | <input type="checkbox"/> |
| 3. Site Plan
Property (3 copies) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Topo Map (2 copies): available in Room 206, County Office Building - (please label site clearly) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Building Elevation Drawings | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5. Photographs (please label all photos clearly)
Adjoining Buildings | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Surrounding Neighborhood | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6. Current Zoning Classification: <u>DR, 3.5.</u> | | |



TO BE FILLED IN BY THE OFFICE OF PLANNING ONLY!

RECOMMENDATIONS / COMMENTS:

- Approval Disapproval Approval conditioned on required modifications of the application to conform with the following recommendations

Signed by: Jeffrey W. Long
for the Director, Office of Planning and Community Conservation

Date: 11-4-99

SCHEDULED DATE CERTIFICATE OF FILING AND POSTING FOR A BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2

Department of Permits and Development Management (PDM)
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

The application for your proposed Building Permit application has been reviewed and is accepted for filing by John Sullivan on 10-26-99
(name of planner) Date (A)

A sign indicating the proposed building must be posted on the property for fifteen (15) days before a decision can be rendered. The cost of filing is \$50.00. This fee is subject to change. Confirm all current fees prior to filing the application.

In the absence of a request for public hearing during the 15-day posting period, a decision can be expected within approximately four weeks. However, if a valid demand is received by the closing date, then the decision shall only be rendered after the required public special hearing.

*SUGGESTED POSTING DATE 11-4-99 D (15 Days Before C)

DATE POSTED _____

HEARING REQUESTED? YES _____ NO _____ - DATE _____

CLOSING DAY (LAST DAY FOR HEARING DEMAND) 11-19-99 C (B-3 Work Days)

TENTATIVE DECISION DATE 11-25-99 B (A + 30 Days)

*Usually within 15 days of filing

CERTIFICATE OF POSTING

District: _____

Location of Property: _____

Posted by: _____ Date of Posting: _____
Signature

Number of Signs: _____

SCHEDULED DATES, CERTIFICATE OF FILING AND POSTING FOR A BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2

Department of Permits and Development Management (PDM)
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

The application for your proposed Building Permit application has been reviewed and is accepted for filing by John Sullivan on 10-26-99
(name of planner) Date (A)

A sign indicating the proposed building must be posted on the property for fifteen (15) days before a decision can be rendered. The cost of filing is \$50.00. This fee is subject to change. Confirm all current fees prior to filing the application.

In the absence of a request for public hearing during the 15-day posting period, a decision can be expected within approximately four weeks. However, if a valid demand is received by the closing date then the decision shall only be rendered after the required public special hearing.

*SUGGESTED POSTING DATE 11-4-99 D (15 Days Before C)

DATE POSTED _____

HEARING REQUESTED? YES _____ NO _____ - DATE _____

CLOSING DAY (LAST DAY FOR HEARING DEMAND) 11-19-99 C (B-3 Work Days)

TENTATIVE DECISION DATE 11-25-99 B (A + 30 Days)

*Usually within 15 days of filing

CERTIFICATE OF POSTING

District: _____

Location of Property: _____

Posted by: _____ Date of Posting: _____
Signature

Number of Signs: _____

INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM

TO: Director, Office of Planning and Community Conservation
Attention: Jeffrey Long
County Courts Building, Room 406
401 Bosley Avenue
Towson, MD 21204

Permit or Case No. 00-174-A

Residential Processing Fee Paid (\$50.00)
Accepted by _____
Date _____

FROM: Arnold Jablon, Director
Department of Permits & Development Management

RE: Undersized Lots

Pursuant to Section 304.2 (Baltimore County Zoning Regulations) effective June 25, 1992, this office is requesting recommendations and comments from the Office of Planning and Community Conservation prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:

CARL E. CANATELLA 4001 BAKER LANE 21236 410 296-6500
Print Name of Applicant Address Telephone Number

Lot Address 412 KATHERINE AVE. Election District 15 Councilmanic District 5 Square Feet 9425

Lot Location: NE S W side corner of KATHERINE AVENUE, 1250 feet from NE S W corner of CAPE MAY ROAD
(street) (street)

Land Owner: CARL E. & DORIS CANATELLA Tax Account Number 15-20-661360

Address: 4001 BAKER LANE, BALTO., MD 21236 Telephone Number 410, 256-5461

CHECKLIST OF MATERIALS- (to be submitted for design review by the Office of Planning and Community Conservation)

TO BE FILLED IN BY ZONING REVIEW, DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ONLY!
PROVIDED?

	YES	NO
1. This Recommendation Form (3 copies)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Permit Application	<u>PENDING JUDGMENTS</u>	<input type="checkbox"/>
3. Site Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Property (3 copies)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Topo Map (2 copies): available in Room 206, County Office Building - (please label site clearly)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Building Elevation Drawings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Photographs (please label all photos clearly)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Adjoining Buildings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Surrounding Neighborhood	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Current Zoning Classification: <u>DR, 3.5.</u>	<input type="checkbox"/>	<input type="checkbox"/>

TO BE FILLED IN BY THE OFFICE OF PLANNING ONLY!

RECOMMENDATIONS / COMMENTS:

- Approval Disapproval Approval conditioned on required modifications of the application to conform with the following recommendations:

Signed by: _____
for the Director, Office of Planning and Community Conservation

Date: _____



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 11.5.99

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 174

JJS

Dear Ms Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

do Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

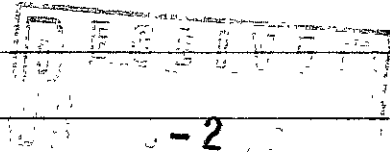
My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

1 December 1999
502 Katherine Avenue
Baltimore, MD 21221
(410) 391-6277

Mr. Lawrence Schmidt
Young Commissioner Baltimore County
New Courthouse Building - Room 405
401 Busby Avenue
Towson, MD 21204



-2

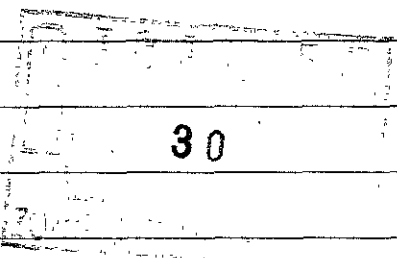
Dear Commissioner Schmidt,

I withdraw my opposition, as stated
in my letter of yesterday, to Case CO-174A.
While all I wrote in that letter is how
I feel, it really would not be fair to
oppose if I cannot hear the case.

Respectfully,
Mary H. Baltus.

It is just that this immediate area
is extremely depressed and needs
no additional blight or congestion.

As
12/7



30 November 1999
502 Katherine Avenue
Baltimore, MD 21221
(410) 391-6277

Mr. Lawrence Schmidt
Zoning Commissioner - Baltimore County
New Court House Building - Room 407
401 Bosley Avenue
Towson, MD 21204

Dear Commissioner Schmidt,

Just yesterday the zoning notice for Case 00-174-A at 412 Katherine Ave - 21221 came to my attention. I oppose the granting of the requested variance for many reasons.

The area involved carries a great deal of drainage from the wooded area it borders. This is the case with all of the surrounding waterfront properties located here, including mine. The run-off in this area is particularly bad as the land is mostly clay; the destruction of trees and upheaval of land with the Cape May Sewer and Water Project in the mid-80's only aggravated the problem. At present there is even a bright yellow caution cordon where the ground has sunken at

one corner of the #412 property.

Besides these environmental conditions Baltimore County is facing enormous overall development problems. Minimum requirements and restrictions have been set (and stress minimum). To lower these requirements anywhere at this time would only be encouraging more and more rezoning requests and most probably lead to an untold number of low quality housing - the "off to the races mentality" of which Mr. Arnold Keller speaks.

An examination of the housing conditions between 412 and 500 Katherine Avenue would clearly show the dwellings are already undesirable. At 500 Katherine Avenue just this past February it required two roll back dumpsters to clear the property which since then is on the way to returning to what it was before the clearance. Included in the properties between 412 and 500 are about five neglected rentals, parking of unused vehicles and commercial vans and equipment, more open dumps and behind that a woods full of trash. Katherine Avenue needs no more garages

in the foreground - it does need more open spaces, a clamp down on construction without permits, tighter restrictions on land loads and rental projects and assistance with erosion of the water front land.

Based on these considerations I ask the zoning Commission and Office to stand tall and deny this 00-174-A request for variance.

I am unable to attend the hearing on Decem Dec 7 as I will be out of the state December 1 through 12.

Respectfully,
Mary H. Baltus

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME

ADDRESS

Carl E. Canatella

4404-202 Freestone Lane
Nottingham, MD 21236

PHILIP HOCK

410 KATHERINE AVENUE
BALTIMORE, MD. 21221

MR. & MRS. Glenn Ogle

416 KATHERINE Ave.
Balto., MD. 21221



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

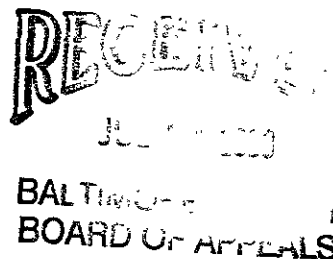
410-537-3000 • 1-800-633-6101

Robert L. Ehrlich, Jr.
Governor

Kendl P. Philbrick
Acting Secretary

Michael S. Steele
Lt. Governor

July 29, 2003



Re: Notice of Permit Decision
Nontidal Wetlands and Waterways Permit Application
Tracking Number 02-NT-0083/200262424

Dear Property Owner, Public Official, or Interested Person:

Pursuant to Environment Article Sections 5-503(a) and 5-906(a) and COMAR 26.17.04, 26.23.01 and 26.08.02, the Water Management Administration has made a decision and has issued the above referenced Nontidal Wetlands and Waterways Permit to:

Mr. Albert Wylie

For: Regulated activities necessary for the construction of a funeral home with associated parking, access road, and stormwater management facilities. The proposed project will permanently impact 1,160 square feet of scrub-shrub nontidal wetlands, 5,030 square feet of emergent nontidal wetlands, and 13,813 square feet of the 25-foot nontidal wetland buffer associated with an unnamed tributary to Brice Run, a Use III waterway. Impacts also include: 1,255 square feet of isolated emergent nontidal wetlands, and 11,940 square feet of 25-foot isolated nontidal wetland buffer. Mitigation for wetland losses will be achieved by an 8,605 square feet off-site, in-kind wetland creation at the Farber Property, in Baltimore County. The project is located at 9142 and 9204 Route 26 (Liberty Road) near the intersection with Chapman Road, Baltimore County, Maryland.

Any person aggrieved by this decision may request a formal contested case (adjudicatory) hearing on the matter. To obtain a contested case hearing, a person must write a letter stating:

1. The full name and address of the person requesting the hearing and a telephone number at which the requester may be reached during normal business hours;
2. The name, address and telephone number of any attorney representing the requester, or a statement that the requester intends to proceed without counsel;
3. A detailed description of the grounds for the request including the specific legal right, duty, privilege or interest of the requester which may be adversely affected by the permit decision, and which is different from those interests held by the general public;
4. A statement of the specific relief desired as a result of the adjudicatory hearing; and

Notice of Permit Decision

Tracking Number 02-NT-0083/200262424

July 29, 2003

Page 2

5. A general outline of the evidence to be presented in support of the desired relief, including the names and addresses of all witnesses to be called by the requester.

The letter requesting the contested case hearing shall be addressed to Mr. Robert M. Summers, Director, Water Management Administration, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230. The request must be received by 5:00 PM on Tuesday, August 12, 2003.

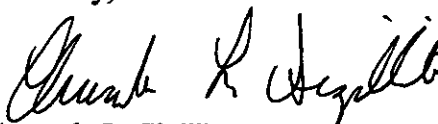
A party to a contested case hearing may request a temporary stay of activity under the permit pending final decision in the contested case, provided that:

1. The person requesting the temporary stay shows that there is a substantial likelihood of prevailing on the merits of the final determination of the contested case proceeding;
2. The temporary stay will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources; and,
3. The conditions and criteria for granting a temporary stay as provided in regulations for contested case hearings have been met.

If a temporary stay of the issuance of a permit is being requested it must be included with the request for a contested case hearing sent to Mr. Robert M. Summers, Director, Water Management Administration.

If you have any questions or need any additional information, please do not hesitate to contact me at 410-537-3766.

Sincerely,



Amanda L. Sigillito, Chief
Nontidal Wetlands and Waterways Division

/AS

Enclosures

cc: Theresa Capobianco (WMA)

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
NOTICE OF DECISION

In the Matter of: **Albert Wylie**
 Wylie Funeral Home, Inc.
 Nontidal Wetlands and Waterways
 Permit Number 02-NT-0083/200262424

Hearing Date: **July 16, 2002**

Hearing Location: **Soldiers Delight Visitor's Center**

Decision: **Approved**



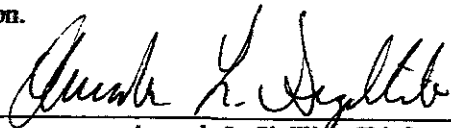
The review of the nontidal wetlands and waterways permit application in the above-referenced matter has been governed by criteria set forth under Title 5, Subtitle 5, Appropriation or Use of Waters, Reservoirs, and Dams and Subtitle 9, Nontidal Wetlands, Environment Article, Annotated Code of Maryland; and Code of Maryland Regulations (COMAR) Title 26, Subtitle 17, Chapter 04, Construction on Nontidal Waters and Floodplains and Subtitle 23 Nontidal Wetlands. The permit application has been reviewed for compliance with Maryland water quality standards under COMAR Title 26, Subtitle 08, Chapter 02 Water Quality.

After examination of all documents and evidence in the above referenced matter, I have determined that:

1. The applicant has demonstrated a need for the wetland impacts associated with the construction of the proposed facility and associated parking;
2. The applicant has satisfied the requirements for an alternative site analysis;
3. The applicant has minimized impacts to nontidal wetlands;
4. No rare, threatened or endangered species have been identified in the area of the proposed project;
5. The project is consistent with State water quality requirements;
6. Mitigation requirements will be satisfied by creating 8,605 square feet off-site, in-kind wetland creation at the Farber Property in Baltimore County; and
7. Public Notice and Public Informational Hearing requirements have been satisfied.

Nontidal Wetlands and Waterways permit application 02-NT-0083/200262424 meets the criteria set forth in statute and regulation governing impacts to wetlands and waterways. Nontidal Wetlands and Waterways Division authorization number 02-NT-0083/200262424 may be issued by the Water Management Administration to authorize Albert Wylie to construct a funeral home with associated parking, and a stormwater facility. The project will permanently impact 1,160 square feet of scrub-shrub nontidal wetlands, 5,030 square feet of emergent nontidal wetlands, and 13, 813 square feet of the 25-foot nontidal wetland buffer associated with an unnamed tributary to Brice Run. Impacts also include: 1,255 square feet of isolated emergent nontidal wetlands and 11,940 square feet of the 25-foot isolated nontidal wetland buffer. Mitigation for wetland losses will be achieved by an 8,605 square feet off-site, in-kind, wetland creation located at the Farber Property, in Baltimore County. The project is located at 9142 and 9204 Liberty Road (Route 26) near the intersection with Chapman Road in Baltimore County, Maryland.

A brief explanation of the rationale for this decision is contained in the attached Summary Basis of Decision.



Amanda L. Sigillito, Chief
Nontidal Wetlands and Waterways Division

July 29, 2003
Date

SUMMARY OF BASIS FOR DECISION

Mr. Albert Wylie
Name of Applicant

02-NT-0083/200262424
Application Number

R. Aaron Brown
MDE Project Manager

July 29, 2003
Date of Decision

The Environment Article, Annotated Code of Maryland and the Code of Maryland Regulations establish criteria for the Maryland Department of the Environment (Department or MDE) to consider when evaluating projects that propose to change the course, current or cross section of a nontidal stream or other body of water or to impact a nontidal wetland. If the criteria are satisfied, the Department may issue a permit for the proposed activity. The Department may deny a permit for a waterway construction activity that it believes is inadequate, wasteful, dangerous, impracticable or detrimental to the best public interest. The Department may not issue a nontidal wetland permit for a regulated activity unless it finds that the applicant has demonstrated that a regulated activity which is not water-dependent has no practicable alternative, will minimize alteration or impairment of the nontidal wetland, and will not cause or contribute to a degradation of ground or surface waters.

In the case of the Wylie Funeral Home, proposed by Mr. Albert Wylie, the question for the Department to address is whether or not the proposed project impacts are acceptable under the nontidal wetland and waterway construction regulations.

Project Need

Permitted impacts to nontidal wetlands and waterways must be determined to be necessary and unavoidable to meet the basic project purpose. The proposed project is necessary to provide the Wylie Funeral Home with a facility in the Randallstown area. The proposed project complies with current zoning, which is RO-Residential Office, and DR. 5.5-High Density Residential. Mr. Wylie has identified the Randallstown-Liberty Road corridor as a market area in need of this type of service.

Alternatives Analysis

For projects that are not water-dependent, the applicant must conduct an alternatives analysis to demonstrate that the project has no practicable alternative. The factors to be considered are whether the project purpose can be accomplished using one or more alternative sites in the general area; a reduction in the size, scope, configuration or density would result in less impact; the applicant made a good faith effort to accommodate the site constraints that caused the alternative sites to be rejected; and that the regulated activity is necessary for the project to meet a demonstrated public need.

Mr. Wylie was unable to locate another small, open site within the market area that provided road frontage along Liberty Road. Frontage along Liberty Road provides visibility and access.

Avoidance and Minimization

If the alternative site analysis is accepted, the applicant must demonstrate that adverse impacts to nontidal wetlands and waterways are necessary and unavoidable. In the subject case, the applicant investigated three alternative site designs to minimize impacts. The original site plan proposed impacting the entire wetland adjacent to the Liberty Road, but was re-designed removing the freestanding sign and proposed fountain out of the wetland. This eliminated 1,840 square feet of wetland impacts. The original plan also

located the entrance road further east along Liberty Road, eliminating impacts to wetlands, but the State Highway Administration (SHA) rejected this due to line of site problems with traffic on Liberty Road. Therefore, the applicant was required to place the entrance to the west and construct a turn lane. These SHA requirements resulted in impacts to jurisdictional wetlands.

The second alternative site plan proposed shifting the building towards the rear of the site, and moving the parking area towards the front. This configuration was prohibited by the zoning restriction, which does not allow buildings to be placed in the rear of the lot with the parking area located in the front or on the sides. Property zoning requirements, and comments by the Baltimore County Department of Planning to the applicant limited wetland impacts associated with lot fill. The zoning divides the property, with RO-Residential Office in the front and DR. 5.5-High Density Residential in the rear. The DR. 5.5 requires a 75-ft residential transition area setback. The 75-ft setback must be maintained between adjacent property lines and proposed structures. In order to reduce visual impacts to Liberty Road and adjacent houses and accommodate the 75-ft setback, the Baltimore County Office of Planning is requiring the parking area to be located in the rear of the site, and the building placed in the front. This requirement resulted in unavoidable wetland impacts.

The third alternative site plan located the stormwater management facility further back from Liberty Road but the transitional setback areas reduced the required minimum parking. The front of the site does not have a 75-ft residential transition area setback because of the RO-Residential Office zoning. The stormwater management facility is located at the front of the site because it is the lowest point on the site and will collect water entering the property.

Water Quality

Erosion and sediment control, and stormwater quality measures are designed to prevent the degradation of ground and surface water quality. In addition to stormwater quality management, an erosion and sediment control plan must be approved by the local government before development can proceed. The Wylie Funeral Home will be subject to erosion/sediment control, and water quality measures to prevent the degradation of ground and surface water quality.

Brice Run and its tributaries are classified as Use III waters. An issue was raised regarding impacts due to the proposed impervious parking surfaces. Specifically, members of the general public were concerned that the water level would increase both during and after construction and, thereby, adversely affect the adjacent properties. The Department could not find any evidence to support this concern. The applicant's engineered plans include the installation of underdrains during the construction of the parking lot and the building. The underdrains will be directed towards the stormwater management facility. The stormwater management facility will be located within a seep area. Underdrains will be placed at the toe of the slope of the facility to allow for positive drainage during construction.

Endangered Species

There is no record of rare, threatened or endangered species on the project site and none were identified during the Department's review of the permit application. The applicant's consultant requested information from the U.S. Fish and Wildlife Service for information on Rare, Threatened, and Endangered Species on March 4, 2002. The U.S. Fish and Wildlife Service responded on April 29, 2002 by stating that: "Except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project impact area". The applicant's consultant did not find any Rare, Threatened, and Endangered Species during any field visits.

Mitigation

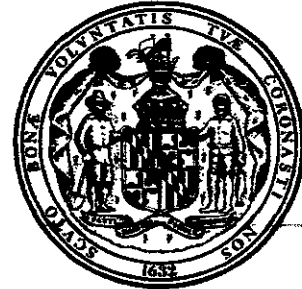
Mitigation is only a consideration in a permit decision after steps have been taken to avoid and minimize impacts to nontidal wetlands and waterways. Mitigation is required for all approved permanent impacts to wetlands and impacts to Use III and IV streams. The approved impacts are to 6,285 square feet of emergent wetlands and 1,160 square feet of scrub-shrub wetlands. Wetland replacement ratios are 1:1 for emergent wetlands and 2:1 for scrub-shrub wetlands. The applicant will mitigate for wetland impacts by an off-site, in-kind wetland creation of 8,605 square foot in Greenspring Valley at the Farber Property in Baltimore County.

Public Notice and Public Informational Hearing

Adjoining property owners must be notified of proposed impacts to wetlands and waterways. In addition, an opportunity to comment and request a public informational hearing must be provided via a local newspaper. The first public notice on this application was issued on May 9, 2002. A public informational hearing was requested on May 13, 2002 and held on July 16, 2002. Public comments pertaining to impacts to nontidal wetlands and waterways made at public informational hearings and in writing are given consideration in the permit decision. The applicant provided information on alternative analysis, avoidance and minimization, water quality, endangered species, and mitigation during the public hearing. Concerns by the community about wetland impacts, and water quality were discussed. The community questioned the wildlife value of the wetlands on the site and expressed concern for the preservation of these wetland systems. (Please see the above "Endangered Species" section for a discussion on rare, threatened and endangered species.) The degradation of water quality and quantity to Bryce Run from the grading and filling of wetland seep areas was also questioned by the community. The use of under drains will provide positive drainage to the outfall pipe under Liberty Road. The use of under drains and stormwater management should not lead to any further degradation of Bryce Run.

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
NONTIDAL WETLANDS & WATERWAYS PERMIT

AUTHORIZATION NUMBER: 02-NT-0083/200262424
EFFECTIVE DATE: July 29, 2003
EXPIRATION DATE: July 29, 2006
PERMITTEE: Mr. Albert Wylie
638-634 North Gilmore Street
Baltimore, Maryland 21217



IN ACCORDANCE WITH ENVIRONMENT ARTICLE §5-503(a) AND §5-906(a), ANNOTATED CODE OF MARYLAND (1996 REPLACEMENT VOLUME), COMAR 26.17.04 AND 26.23.01, AND THE ATTACHED PERMIT CONDITIONS OF AUTHORIZATION, Mr. Albert Wylie, ("PERMITTEE"), IS HEREBY AUTHORIZED BY THE WATER MANAGEMENT ADMINISTRATION ("ADMINISTRATION") TO CONDUCT A REGULATED ACTIVITY IN A NONTIDAL WETLAND, BUFFER, OR EXPANDED BUFFER, AND/OR TO CHANGE THE COURSE, CURRENT OR CROSS-SECTION OF WATERS OF THE STATE, IN ACCORDANCE WITH THE ATTACHED PLANS APPROVED BY THE ADMINISTRATION, NONTIDAL WETLANDS AND WATERWAYS DIVISION ON July 21, 2003, ("APPROVED PLAN") AND PREPARED BY G.W. Stevens, Jr. & Associates, Inc. AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Construction of a funeral home with associated parking, access road, and stormwater management facilities. The proposed project will permanently impact 1,160 square feet of scrub-shrub nontidal wetlands, 5,030 square feet of emergent nontidal wetlands, and 13,813 square feet of the 25-foot nontidal wetlands buffer associated with an unnamed tributary to Brice Run, a Use III waterway. Impacts also include: 1,255 square feet of isolated emergent nontidal wetlands, and 11,940 square feet of 25-foot isolated nontidal wetland buffer. Mitigation for wetland losses will be achieved by an 8,605 square feet off-site, in-kind wetland creation at the Farber Property, in Baltimore County. The project is located at 9142 and 9204 Liberty Road (Route 26) near the intersection with Chapman Road in Baltimore County, Maryland.

MD Grid Coordinates: 189293± N; 416957± E

Amanda L. Sigillito, Chief
Nontidal Wetlands & Waterways Division

Attachments: Conditions of Authorization
U.S. Army Corps of Engineers Authorization (MDSPPG-2)

cc: Tracy Keefer-U.S. Army Corps of Engineers-Section Northern
MDE-Compliance Program w/ file
Henry Leskinen-Eco-Science Professionals, Inc.

GENERAL CONDITIONS

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization may be transferred only with prior written approval of the Administration. In the event of transfer, transferee agrees to comply with all terms and conditions of Authorization.
2. **Initiation of Work, Modifications, and Extension of Term:** Authorized Person shall initiate authorized activities within two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the term. Requests for modification shall be in accordance with applicable regulations and shall state reasons for changes, and shall indicate the impacts on nontidal wetlands, streams, and the floodplain, as applicable. The Administration may grant a request at its sole discretion.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, Approved Plan or an administrative order may be subject to penalties in accordance with §5-514 and §5-911, Environment Article, Annotated Code of Maryland (1996 Replacement Volume).
4. **Failure to Comply:** If Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (a) submits false or inaccurate information in Permit application or subsequently required submittals; (b) deviates from the Approved Plan, specifications, terms and conditions; (c) violates, or is about to violate terms and conditions of this Authorization; (d) violates, or is about to violate, any regulation promulgated pursuant to Title 5, Environment Article, Annotated Code of Maryland as amended; (e) fails to allow authorized representatives of the Administration to enter the site of authorized activities at any reasonable time to conduct inspections and evaluations; (f) fails to comply with the requirements of an administrative action or order issued by the Administration; or (g) does not have vested rights under this Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization does not authorize any injury to private property, any invasion of rights, or any infringement of federal, State or local laws or regulations, nor does it obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.
7. **Site Access:** Authorized Person shall allow authorized representatives of the Administration access to the site of authorized activities during normal business hours to conduct inspections and evaluations necessary to assure compliance with this Authorization. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person shall notify the Administration's Compliance Program at least five (5) days before starting authorized activities and five (5) days after completion. For Frederick, Washington, Allegany and Garrett counties, Authorized Person shall call (301) 689-8494. For all other counties, call the Baltimore office at (410) 631-3510.
9. **Sediment Control:** Authorized Person shall obtain approval from the Baltimore Soil Conservation District (if required) for a grading and sediment control plan specifying soil erosion control measures.
The approved grading and sediment control plan shall be included in the Approved Plan, and shall be available at the construction site.

10. Federally Mandated State Authorizations:

X Water Quality Certification: Water Quality Certification is granted for this project provided that all work is performed in accordance with the authorized project description and associated conditions.

X Coastal Zone Consistency: This Authorization constitutes official notification that authorized activities are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. Activities within the following counties are not subject to this requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

11. Best Management Practices During Construction: Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.

12. Disposal of Excess: Unless otherwise shown on the Approved Plan, all excess fill, spoil material, debris, and construction material shall be disposed of outside of nontidal wetlands, nontidal wetlands buffers, and the 100-year floodplain, and in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands.

13. Temporary Staging Areas: Temporary construction trailers or structures, staging areas and stockpiles shall not be located within nontidal wetlands, nontidal wetlands buffers, or the 100-year floodplain unless specifically included on the Approved Plan.

14. Temporary Stream Access Crossings: Temporary stream access crossings shall not be constructed or utilized unless shown on the Approved Plan. If temporary stream access crossings are determined necessary prior to initiation of work or at any time during construction, Authorized Person, its employees, agents or contractors shall submit a written request to the Administration and secure the necessary permits or approvals for such crossings before installation of the crossings. Temporary stream access crossings shall be removed and the disturbance stabilized prior to completion of authorized activity or within one (1) year of installation.

15. Discharge: Runoff or accumulated water containing sediment or other suspended materials shall not be discharged into waters of the State unless treated by an approved sediment control device or structure.

16. In stream Construction Prohibition: To protect important aquatic species, activities within stream channels are prohibited as determined by the classification of the stream (COMAR 26.08.02.08): unnamed tributary to Brice Run is a Use III Waterway: In stream work is not authorized by this Nontidal Wetland & Waterway Permit.

17. In stream Blasting: Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.

18. Minimum Disturbance: Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by Permit or Approved Plan shall be the minimum necessary to conduct permitted activities. All disturbed areas shall be stabilized vegetatively no later than seven (7) days after construction is completed or in accordance with the approved grading or sediment and erosion control plan.

19. Restoration of Construction Site: Authorized Person shall restore the construction site upon completion of authorized activities. Undercutting, meandering or degradation of the stream banks or channel bottom, any deposition of sediment or other materials, and any alteration of wetland vegetation, soils, or hydrology, resulting directly or indirectly from construction or authorized activities, shall be corrected by Authorized Person as directed by the Administration.

20. Nontidal Wetland Mitigation Requirement: Permittee shall mitigate 2:1 for 1,160 ft² of scrub-shrub nontidal wetlands, 1:1 for 5,030 ft² emergent wetlands, and 1,255 ft² of isolated emergent wetlands by creating 8,605 ft² nontidal wetlands at an offsite mitigation site located at the Farber Property. The Phase II Mitigation Plan shall be submitted to the Administration by September 29, 2003, unless an extension has been granted in writing by the Administration. The Phase II Mitigation Plan shall govern in the event of discrepancy with the mitigation requirements in Permit.

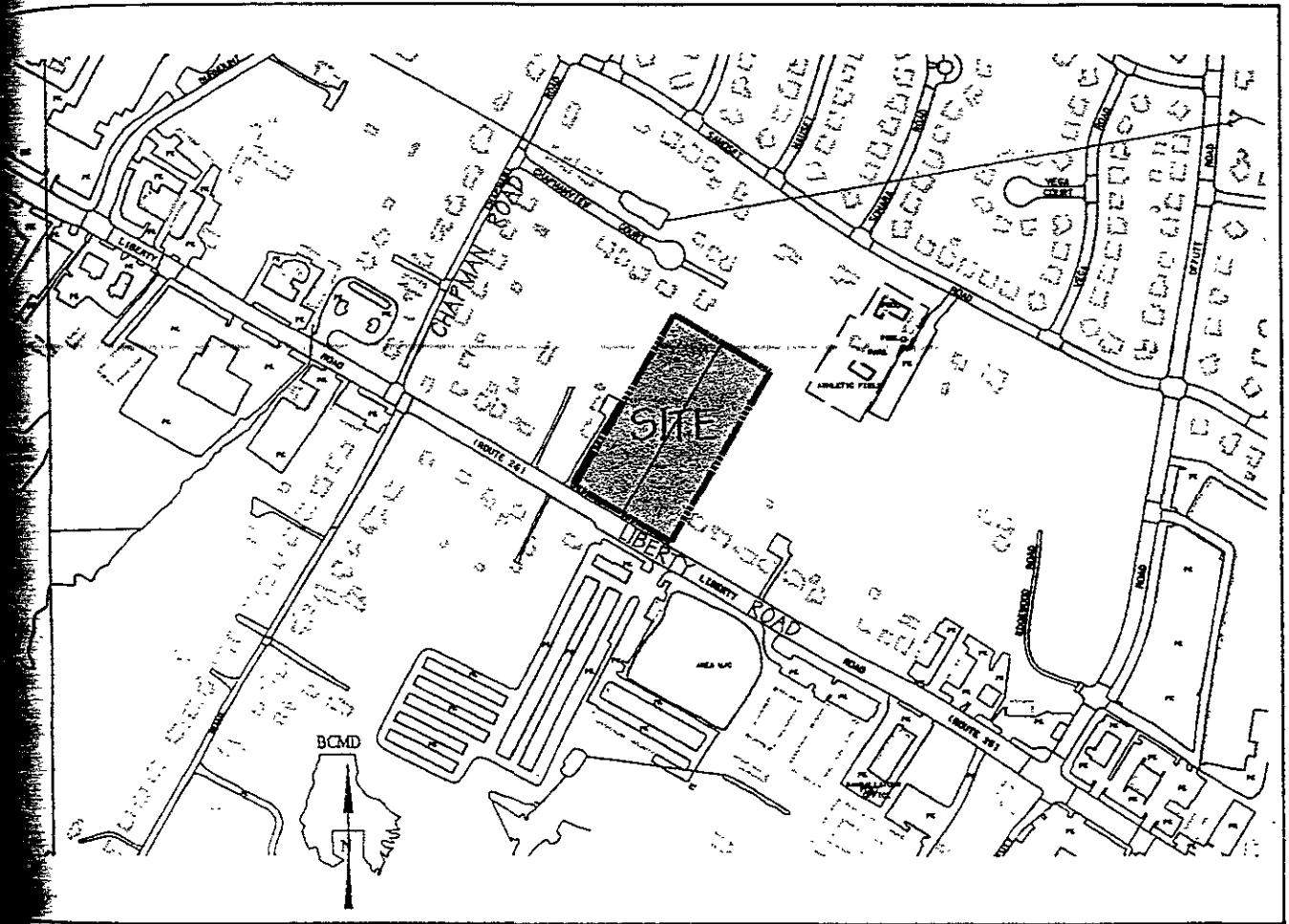


Figure 1. Vicinity Map for Wylie Funeral Home Property -
Randallstown, Baltimore County, MD

Scale: 1" = 500'

Professionals, Inc.

Figure 2c

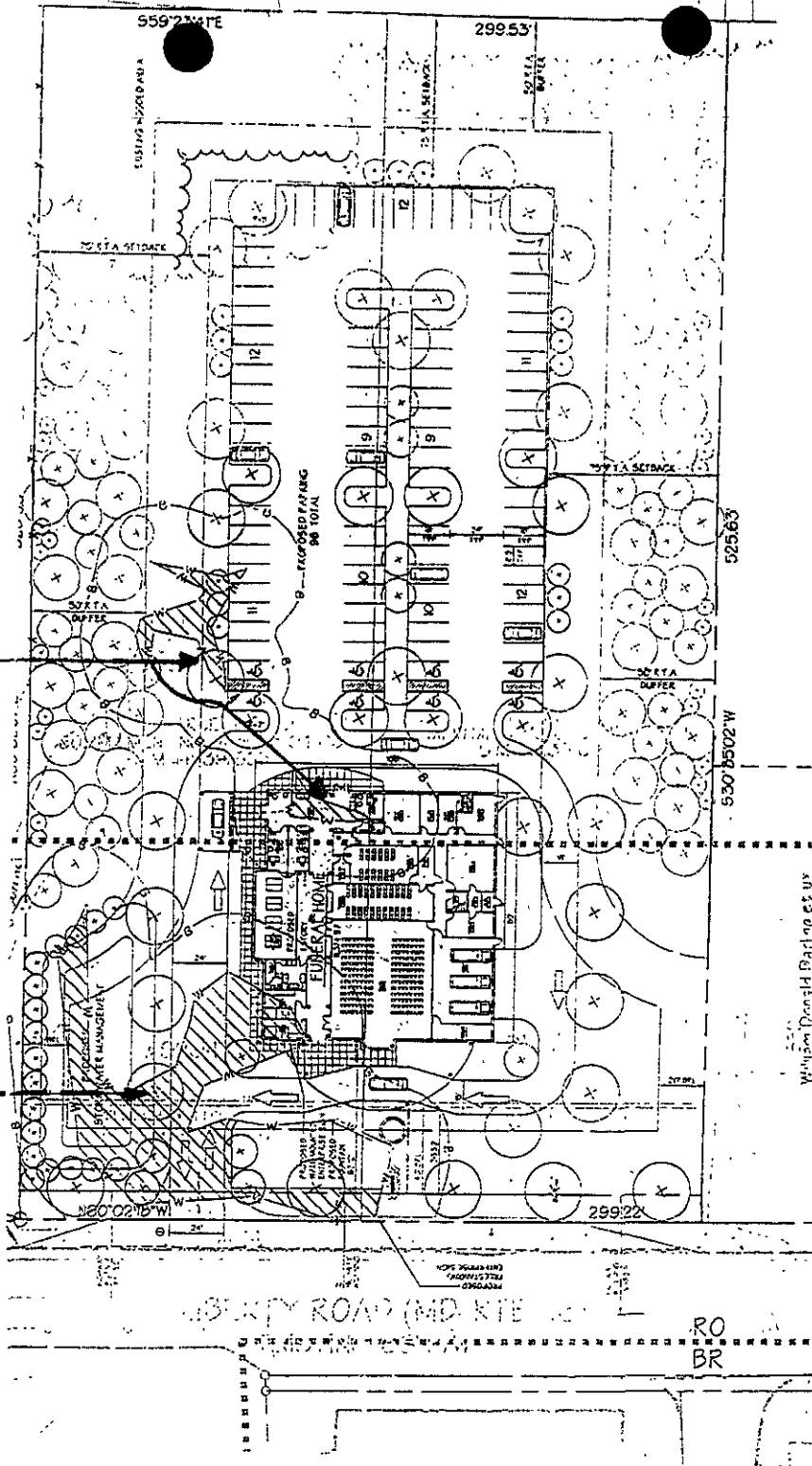
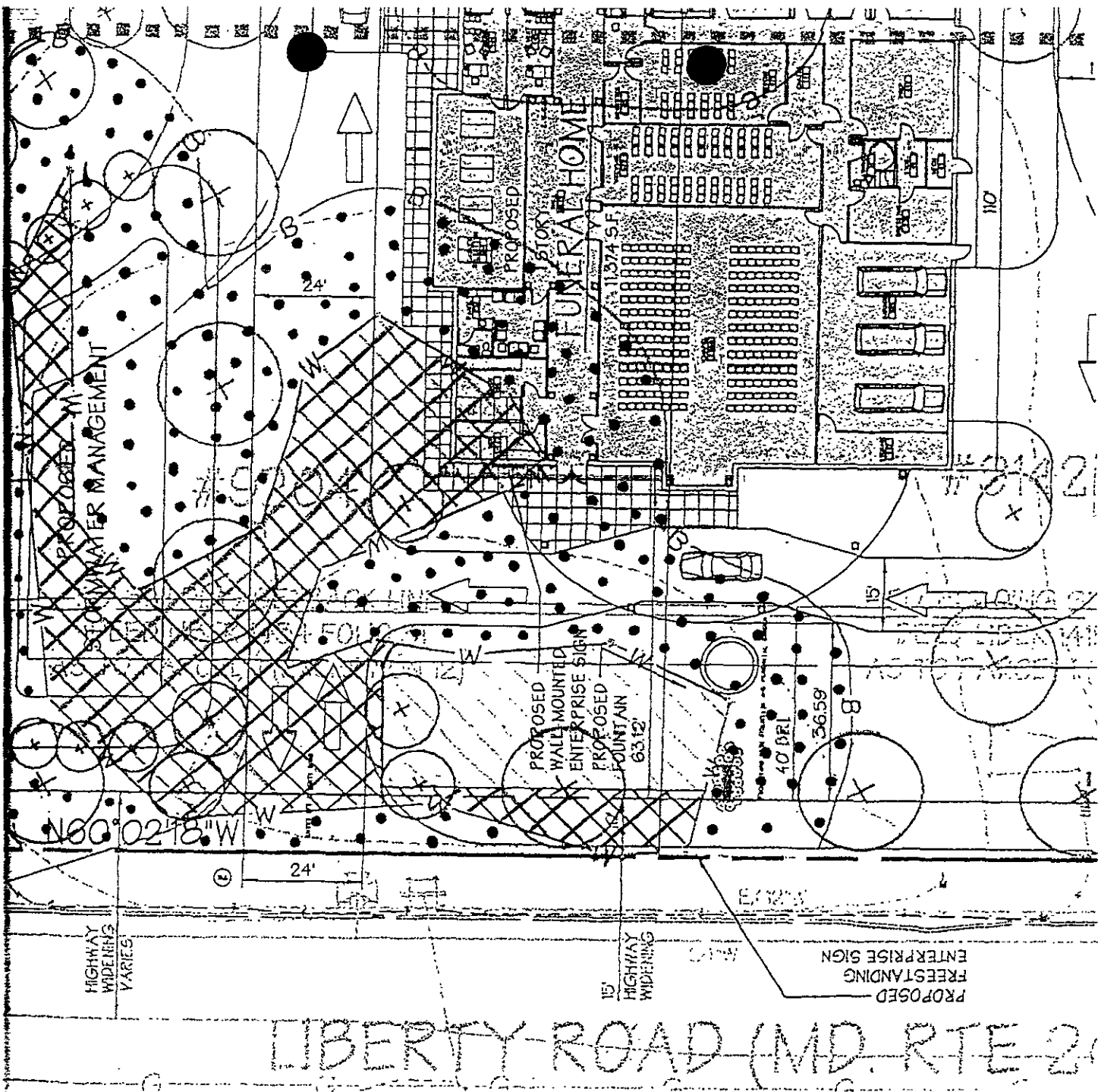


Figure 2b

Figure 2a. Wetland Impact Locations
Wylie Funeral Home Property
Baltimore County, MD
Scale: 1" = 80'



WETLAND IMPACTS:

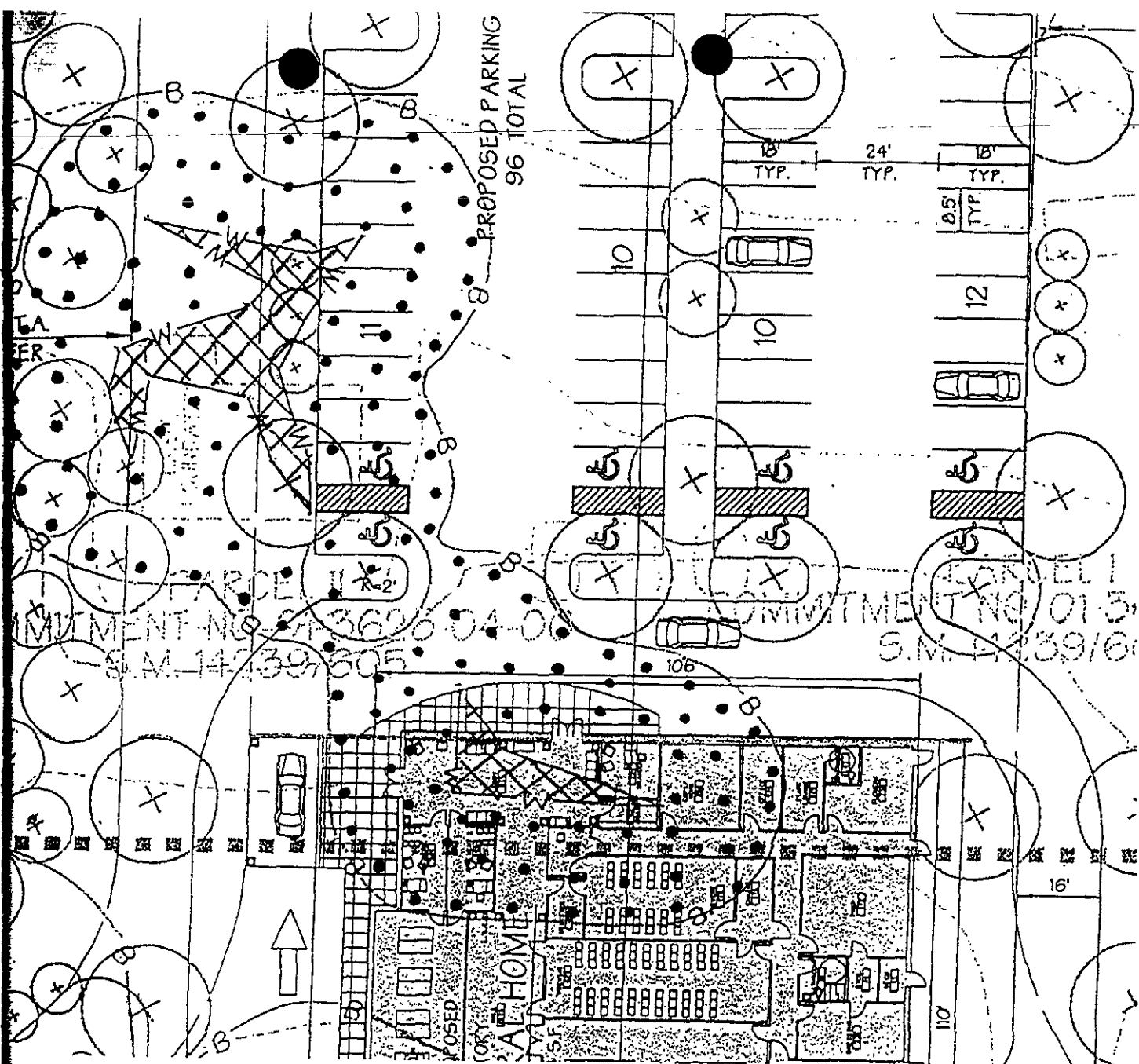
5,030 SF Emergent Wetlands
1,160 SF Emergent/Scrub-Shrub



BUFFER IMPACTS:

13,813 SF Wetlands Buffer (B)

Figure 2b. Proposed Wetland and Buffer Impacts
Wylie Funeral Home Property
Baltimore County, MD
Scale: 1" = 30'



- ISOLATED WETLAND IMPACTS: 1,255 SF Emergent Wetlands
- BUFFER IMPACTS: 11,940 SF Wetlands Buffer

Figure 2c. Proposed Wetland and Buffer Impacts
Wylie Funeral Home Property
Baltimore County, MD
Scale: 1" = 30'



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

Effective October 1, 2001

02-NT-0083/200262424
Corps Permit Number

CENAB-OP-R-MDSPGP-2 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-2)

TO WHOM IT MAY CONCERN:

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-2. It has been determined that the project qualifies for the MDSPGP-2. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VI of the MDSPGP-2 effective on October 1, 2001.

VI. General Conditions

The following conditions apply to all activities authorized under the MDSPGP-2.

A. General Requirements:

1. **Other Permits.** Authorization under the MDSPGP-2 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Applicability.** Applicability of the MDSPGP-2 shall be reviewed with reference to the Corps definition of Waters of the United States, including wetlands and navigable waters of the United States. Applicants are responsible for delineating boundaries of all Waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
3. **Minimal Effects.** Projects authorized by the MDSPGP-2 shall have no more than minimal individual and cumulative adverse environmental effects.
4. **Discretionary Authority.** Notwithstanding compliance with the terms and conditions of the MDSPGP-2, the Corps retains discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-2 based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis during the review process for Category III activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposal warrant individual review. In some instances the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific project, which has received a case-specific verification as a Category I activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with VII.E on page 85 of the MDSPGP-2.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-2 is voided. No work may be conducted until the Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-2.

5. **Single and Complete Projects.** The MDSPGP-2 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. All components of a project shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-2 shall not be used for any activity or portion of a project, e.g., a pier or boat ramp, that is part of, or dependent on, an overall project, e.g., the dredging of a main navigation channel or a spur channel, for which an individual permit or some other alternate Corps permit is required.

6. **Stacking of Category I activities.** Activity d.(2) in Category I (e.g., Underground and Overhead Utility Lines) may not be stacked or combined with any other Category I activity. Any single and complete project with both utility line impact(s) and other Category I activity(s), will be reviewed as a Category III project in accordance with the Category III process specified on page 9, provided the total impact to Waters of the United States, including wetlands, is less than one acre. If any other Category I activities, except Activity d.(2), are stacked or combined to authorize a single and complete project, the total impact to Waters of the United States for all activities in the single and complete project must not exceed the 500 linear feet limit or be greater than 5,000 square feet impact limit (except for tidal marsh creation projects that have a limit of less than 17,500 square feet), while complying with each activity-specific impact limit and conditions. For example, total road crossing impacts are still limited to not exceed 200 linear feet.
7. **Authorized activities in navigable waters subject to Section 10 of the Rivers and Harbors Act of 1899.**
 - a. If future operations by the United States require removal, relocation or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States on account of any such removal or alteration.
 - b. The U.S. Code of Federal Regulations, Title 33, Part 64 states that all structures erected in navigable waters in depths in excess of three feet at mean low water (MLW) require obstruction lights unless the applicant is advised to the contrary by the Coast Guard District Commander. If the structures authorized by this permit are to be built in water depths in excess of three feet at MLW, the permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights.

B. National Concern:

1. **Historic Properties.** Any activity authorized by the MDSPGP-2 shall comply with Section 106 of the National Historic Preservation Act. The Maryland Department of the Environment (MDE), in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archeological and historical resources in the project area. The Corps shall determine if consultation under Section 106 with the Maryland Historic Trust or the Advisory Council on Historic Preservation is required. The applicant must notify the Corps if the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the permit area subject to Department of the Army jurisdiction that might be eligible for listing in the National Register of Historic Places, the permittee shall immediately stop work in the permit area and notify the District Engineer. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the Maryland Historic Trust, Office of Preservation Services, and the National Register of Historic Places.
2. **National Lands.** Activities authorized by the MDSPGP-2 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuge, National Forests, National Marine Sanctuaries or any area administered by the National Park Service (e.g. Assateague Island National Seashore).
3. **Endangered Species.** The MDSPGP-2 does not authorize any activity that may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA); or which is likely to destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and the procedures outlined in the MDSPGP-2 Standard Operating Procedures. MDE, in cooperation with Maryland Department of Natural Resources, shall conduct an initial review and notify the Corps and the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from the FWS and NMFS.

4. **Essential Fish Habitat (EFH).** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a federal agency that may adversely affect EFH. EFH has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding or growing to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS, in consultation with the District, has determined that projects authorized under Category I (includes projects reviewed under Category II) of the MDSPGP-2 which comply with all terms and conditions of the MDSPGP-2 and all activity-specific impact limits and conditions, will not have an adverse effect on EFH. Projects that are proposed in areas designated as EFH and that do not qualify for MDSPGP-2 authorization under Category I, will require a case-by-case EFH effect determination.
5. **Wild and Scenic Rivers.** No activity is authorized under the MDSPGP-2 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, or U.S. Fish and Wildlife Service).
6. **Federally Authorized Civil Works Projects.**
 - a. **Federal Navigation Project.** The MDSPGP-2 does not authorize interference with any Federal navigation project. The permittee understands and agrees that, if future operations of the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VI.A.7.a. of the MDSPGP-2)
 - b. **Other Federally Authorized Civil Work Projects (i.e., flood control, dams, and reservoirs).** The MDSPGP-2 does not authorize interference with any proposed or existing Federally authorized civil works project.
7. **Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
 - b. Damages to the permitted project, or uses thereof, as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
 - d. Design or construction deficiencies associated with the permitted work; and
 - e. Damage claims associated with any future modification, suspension, or revocation of the MDSPGP-2 or any specific MDSPGP-2 verification.
8. **Navigation.** Projects authorized under the MDSPGP-2 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized under the MDSPGP-2. Nothing in the MDSPGP-2 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under Navigation Servitude of the United States. (See VI.A.7.a of the MDSPGP-2)

C. Minimization of Environmental Impacts:

1. **Minimization.** Discharges of dredged or fill material into Waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable on-site.
2. **Mitigation.** Generally, compensatory mitigation will be required for all permanent tidal or nontidal wetland impacts either through the State's tidal or nontidal wetland compensation fund or by the permittee as required by the special condition of the MDSPGP-2 or the State authorization.
3. **Work in Wetlands.** Heavy equipment working in wetlands shall be avoided if possible and, if required, shall minimize soil and vegetation disturbance by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to pre-construction contours and elevations upon completion of the work.
4. **Temporary Fill and Mats.** Temporary fill and the use of mats are both considered discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-2. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-2 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original contours and elevations and revegetated with comparable native species.
5. **Erosion and Sediment Control.** Adequate erosion and sediment control measures, practices and devices, such as vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of a) preventing erosion, b) collecting sediment and suspended and floating materials, and c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.
6. **Water Crossings.**
 - a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted or otherwise constructed to withstand and to prevent the restriction of high flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the waterbody.
 - b. No open trench excavation shall be conducted in-stream without use adequate diversion structures.
 - c. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.
 - d. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.
7. **Utility Lines.**
 - a. Impacts shall be minimized by using directional drilling, jack and bore, missile, or similar methods when feasible.
 - b. All in-stream work shall be conducted "in the dry" whenever practicable, by using stream diversion devices other than earthen or stone cofferdams.
8. **Discharge of Pollutants.** All activities that are authorized under the MDSPGP-2 and that involve any discharge or relocation of pollutants into Waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations.
9. **Spawning Areas.** Discharge in fish and shellfish spawning or nursery areas during spawning seasons shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year.

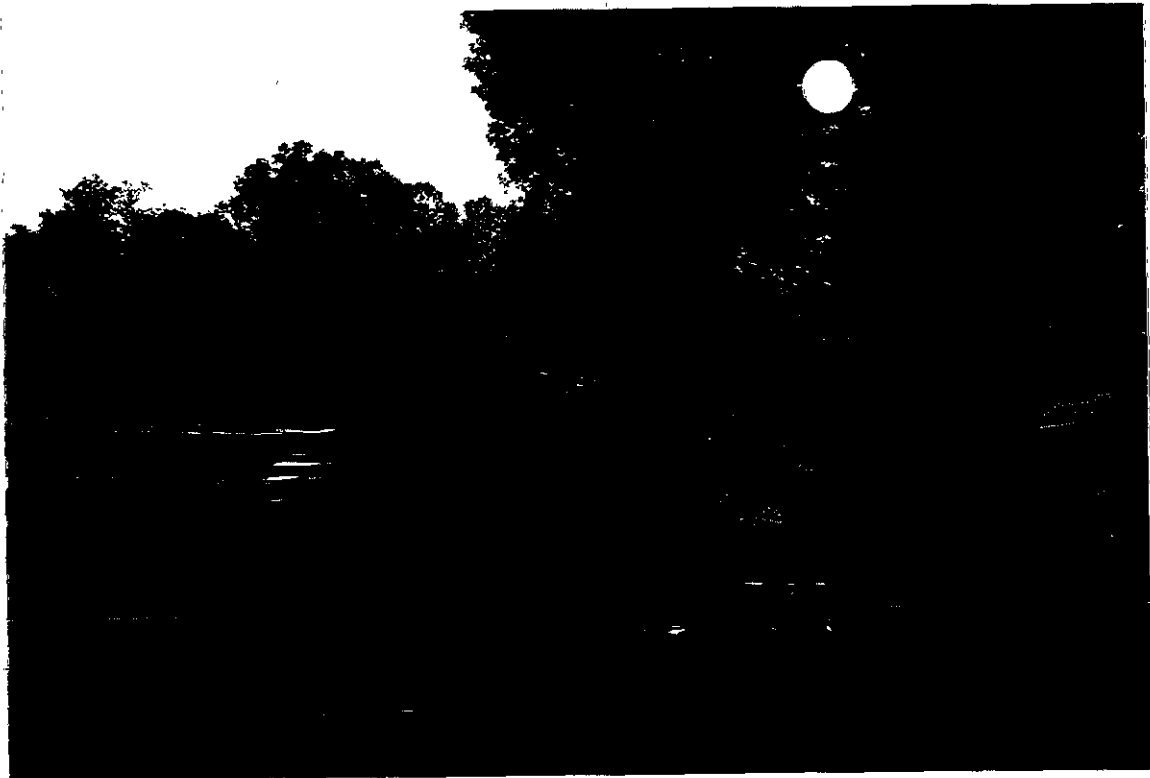
10. **Environmental Values.** *The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-2 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife and natural environmental values.*

D. Procedural Conditions:

1. **Inspections.** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-2. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.
2. **Compliance Certification.** Every permittee who receives a written MDSPGP-2 verification shall submit a signed certification regarding the completed work and any required mitigation. The certification form will be forwarded to the permittee with the MDSPGP-2 verification. The completed form will include the following:
 - a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-2 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-2 verification, including any general and/or specific conditions, the permittee shall describe the specifics of the deviation from the authorized activity.
 - b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.
 - c. The signature of the permittee, certifying the completion of the work and compensatory mitigation. After the project is completed, the certification shall be sent to the District at the following address:

U.S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P.O. Box 1715
Baltimore, MD 21203-1715
3. **Maintenance.** The permittee shall maintain the work or structures authorized in good condition and in compliance with the terms and conditions of the MDSPGP-2.
4. **Property Rights.** The MDSPGP-2 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.
5. **Modification, Suspension and Revocation.** The MDSPGP-2, or any verification under it, may be either modified, suspended, or revoked in whole or in part pursuant to Department of the Army policies and procedures and any such action shall not be the basis for any claim for damages against the United States.
6. **Restoration.** The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-2, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.
7. **Special Conditions.** The Corps may impose other special conditions on any project authorized under the MDSPGP-2, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of public interest. Failure to comply with all conditions of the authorization/verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.
8. **False or Incomplete Information.** If the Corps verifies a project under the MDSPGP-2 and subsequently discovers that it has relied on false, incomplete or inaccurate information provided by the permittee, the MDSPGP-2 verification may be revoked and the Government may institute appropriate legal proceedings.
9. **Compliance.** Any activity performed in Waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-2 that includes the MDSPGP-2 Category List activity-specific conditions, constitutes unauthorized work and is subject to an enforcement action by the Corps or the Environmental Protection Agency (EPA). Furthermore, the MDSPGP-2 does not delegate any Section 404 enforcement or regulatory authority. When unauthorized work occurs in Waters of the United States, including wetlands and navigable waters, it is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of Class I administrative penalty order pursuant to Section 309(g) of the Clean Water Act.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the Clean Water Act.
- d. Referral of the case to the U.S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



Plat to accompany Petition for Zoning Variance Special Hearing

PROPERTY ADDRESS: 412 KATHERINE AVENUE

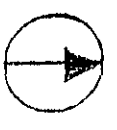
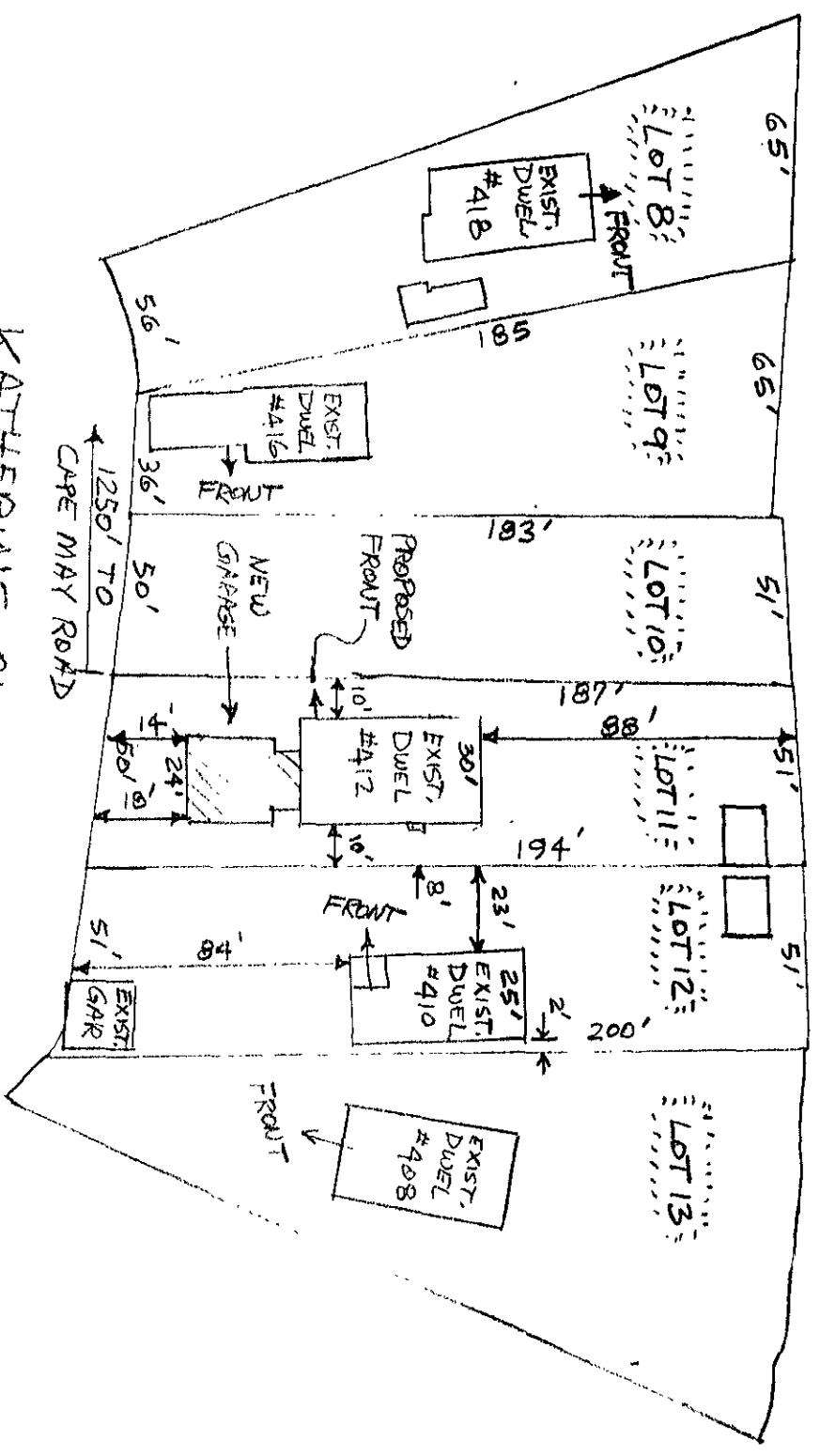
see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: CAPE MAY

plat book # W.R.C. folio # 177, lot # 11, section #

OWNER: CARL E. & DORIS CAVATTELLA

NORMAN CREEK

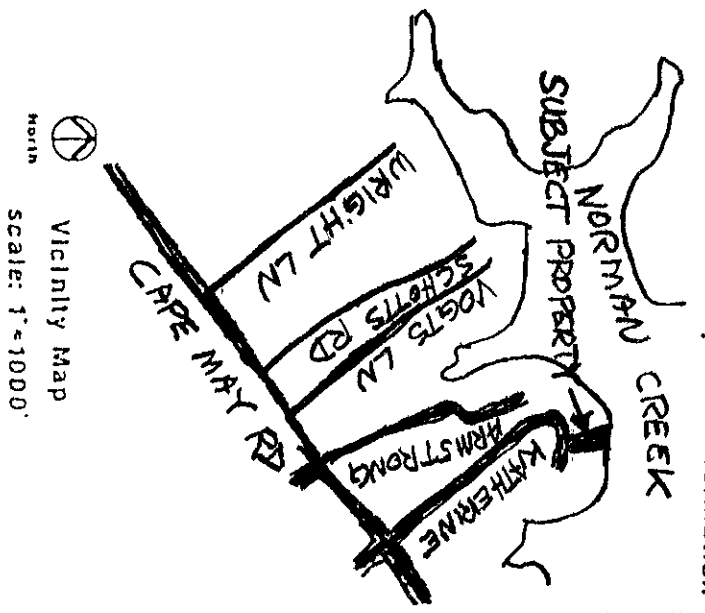


North

date: 9/28/99

prepared by: CARL CAVATTELLA

Scale of Drawing: 1" = 50'



LOCATION INFORMATION

Election District: 15

Councilmanic District: 5

1" = 200' scale map#: NE1J

Zoning: D.R. 3.5

Lot size: 0.24 9425

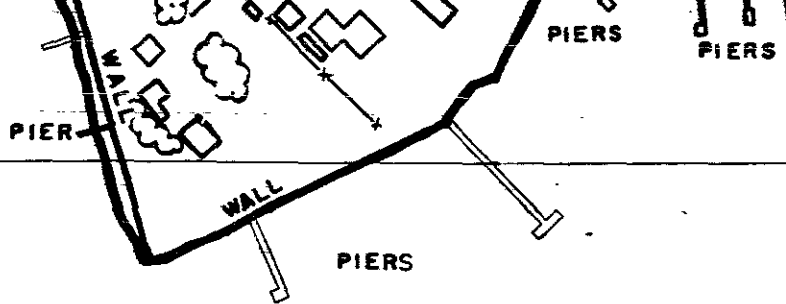
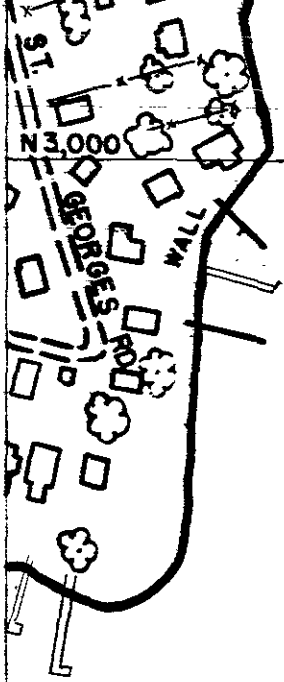
acreage square feet

- Public Private
- SEWER:
- WATER:
- Chesapeake Bay Critical Area:
- Prior Zoning Hearings: NONE

Zoning Office USE ONLY!

reviewed by: _____ ITEM #: _____ CASE #: _____

CC 174 00-174-A

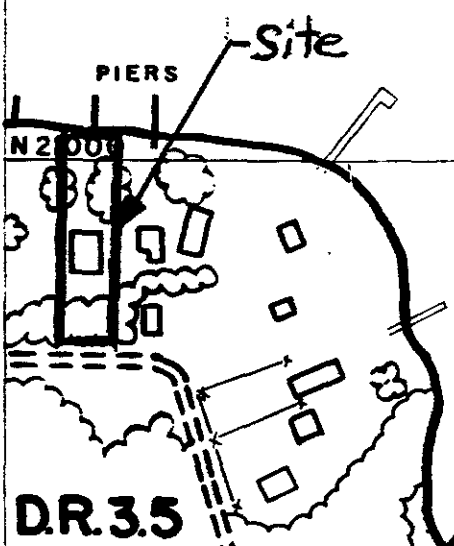


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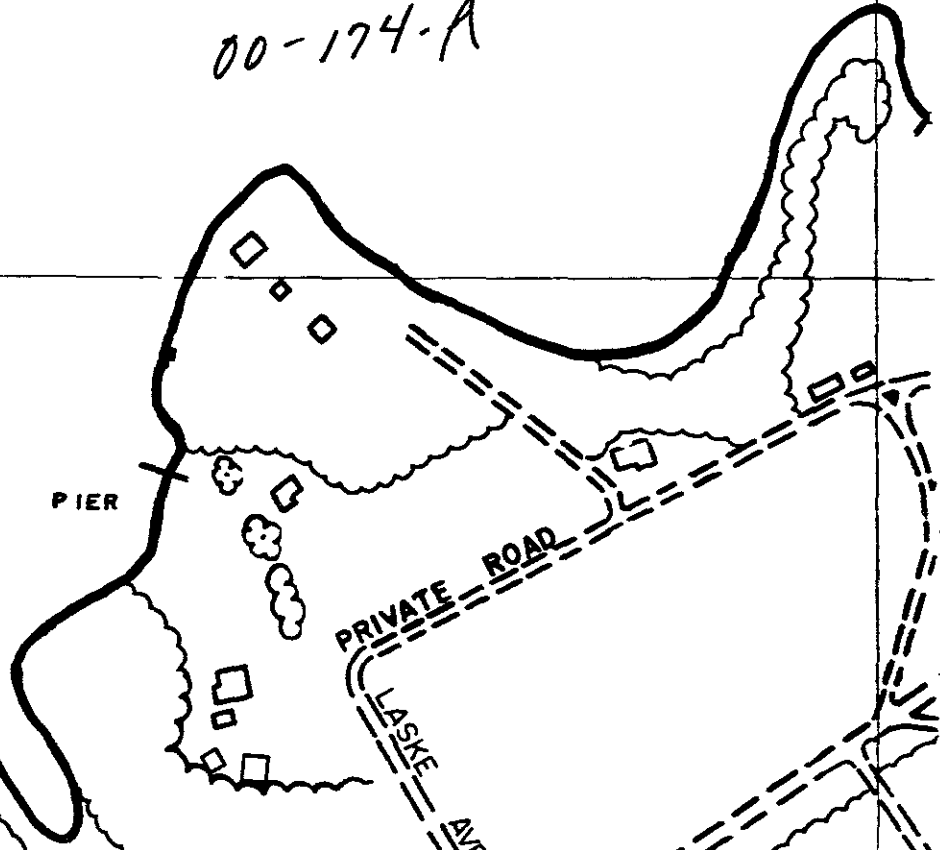
NORMAN

00-174-A

(SHEET NO. 1-2)



PIER
PIER
PIER



PRIVATE ROAD

LASKE AVE

MAY

PRIVATE ROAD

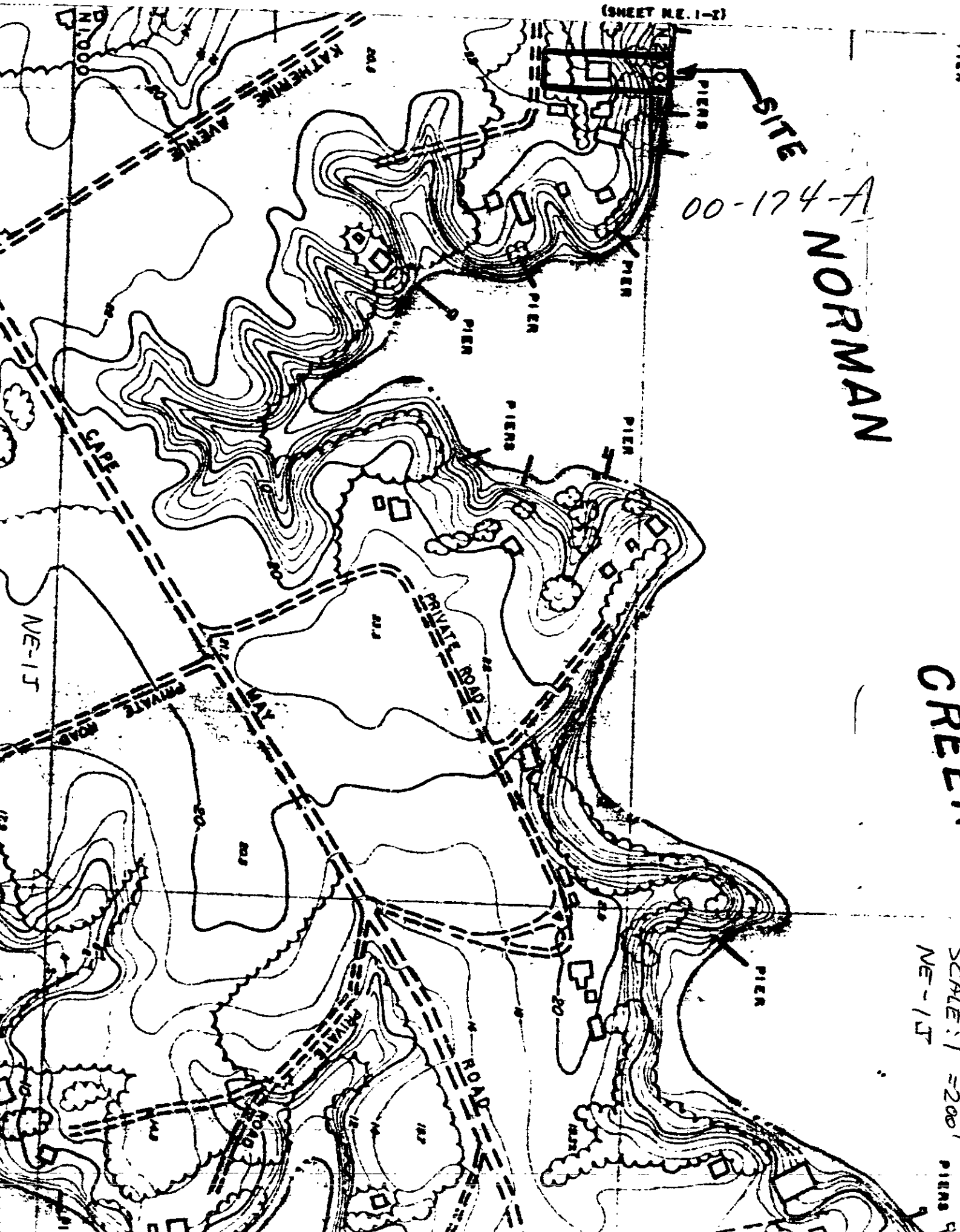
174

D.R. 3.5

KATHERINE AVENUE

SCALE: 1" = 200'
NE 1 J

CAPE



00-174-A
NORMAN

CREE...

SCALE: 1" = 200'
NE-1J PIER 9

1741

00-1741-A



PREPARED BY AIR PHOTOGRAPHICS, INC.
 MARTINSBURG, W. V. 25401

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE	LOCATION	SHEET
1" = 200' ±	BACK RIVER NECK	N.E.
DATE OF PHOTOGRAPHY	CAPE MAY	I-J
JANUARY 1986		