

Kent County Board of Appeals

TELEPHONE 410-778-7475

Kent County Government Center
400 High Street
Chestertown, Maryland 21620

FACSIMILE 410-810-2932

County Commissioners Hearing Room MEETING TO BE HELD VIRTUALLY via CONFERENCE CALL

COVID-19 Special Announcement Regarding Meeting Attendance

In response to the State of Emergency, individuals must refrain from attending meetings. Board of Appeals meetings are live streamed, and citizens may call in with questions when the Chair opens the floor for comment.

To access the Kent County conference bridge service off site:

1. Call 410-810-2213.
2. Enter PIN number **55266** when prompted.
3. Announce yourself to the group. Please mute your phone / device until the Chair opens the floor for comment.

Visit the County's website at <https://www.kentcounty.com> for the most up to date information regarding County Government operations.

AGENDA

Monday, April 20, 2020
7:00 p.m.

APPLICATIONS FOR REVIEW:

- 19-35 Remus S. Butler, Jr. and Franklin C. & Wynne D. Butler – Variances (Side Yards and Lot Size)
Related to a Lot Line Adjustment to address non-conforming structures
8600 and 8610 Caulks Field Road – Sixth Election District – Zoned Village “V”
- 20-11 Chester River Yacht and Country Club – Buffer Variance – Expansion of parking area
7738 Quaker Neck Road – Seventh Election District – Zoned Critical Area Residential “CAR,”
Community Residential “CR,” and Rural Residential “RR”

APPLICANT OR REPRESENTATIVE MUST BE PRESENT

APPLICANTS ARRIVING MORE THAN 10 MINUTES AFTER THE SCHEDULED HEARING WILL NOT BE HEARD AND WILL BE RESCHEDULED AT THE APPLICANT’S EXPENSE.

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Board of Appeals meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

Please note that times listed on the agenda are only estimates; however, projects will not be reviewed prior to their scheduled time. Applicants will be given the time necessary to assure full public participation and a fair and complete review of all projects. Therefore, the time each application is heard may be later than the time indicated on the agenda. Items on this agenda are subject to change due to cancellation of projects.

Other business without assigned times may be discussed during the course of this meeting as time allows.



Kent County Planning Commission

TELEPHONE 410-778-7475

Kent County Government Center
400 High Street
Chestertown, Maryland 21620

FACSIMILE 410-810-2932

April 9, 2020

Dr. Al Townshend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: Remus S. Butler, Jr. and Franklin C. and Wynee D. Butler
Variances – Side Setbacks and Minimum Lot Size
Tax Map 35, Parcel 60 and Parcel 61, Parcels 1 and 2

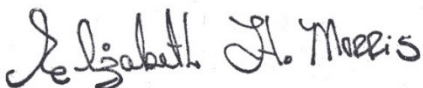
Dear Dr. Townshend:

At its April 2, 2020, meeting, the Kent County Planning Commission reviewed the application of Remus S. Butler, Jr., requesting a 4-foot and 0.3-foot variance from the minimum 8-foot side yard setback requirement for a dwelling and a 2,530.4 square foot variance from the 9,500 square foot minimum lot size requirement. As part of the same application, Franklin C. and Wynee D. Butler are requesting a 3-foot variance from the minimum 8-foot side yard setback requirement for an accessory structure. The properties are located at 8600 and 8610 Caulks Field Road in the Sixth Election District and are zoned Village. The owners are requesting the variances in order to complete an adjustment of lot lines that will make each parcel less nonconforming.

The Commission opined that a practical difficulty was due to the size and shape of the parcels and was not caused by the applicant's actions. After discussion and consideration of the applicant's testimony, the Commission voted to make a favorable recommendation for the variances to the required yard setbacks and lot size. The Commission's recommendation was based on the following findings of fact:

- Granting a variance will not cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The Comprehensive Plan is neutral on this issue and the proposal is consistent with the general intent of the Land Use Ordinance.
- The practical difficulty is caused by the unusual size and shape of the property.
- The reasonable use of the entire property was considered.

Sincerely,
Kent County Planning Commission



Elizabeth H. Morris
Chairman

cc: Remus S. Butler, Jr.
Franklin C. and Wynee D. Butler
Jack Kirby, Kirby and Associates, Inc.

PRELIMINARY STAFF REPORT

TO: Kent County Board of Appeals
SUBJECT: #19-35 – Remus S. Butler, Jr. and Franklin C. and Wynnee D. Butler
Variances – Side Setbacks and Minimum Lot Size
DATE: March 25, 2020

Description of Proposal

In order to complete an adjustment of lot lines, Remus S. Butler, Jr. is requesting a 4-foot and 0.3-foot variance from the minimum 8-foot side yard setback requirement for a dwelling and a 2,530.4 square foot variance from the 9,500 square foot minimum lot size requirement that will help minimize existing nonconformities on two parcels. As part of the same application, Franklin C. and Wynnee D. Butler are requesting a 3-foot variance from the minimum 8-foot side yard setback requirement for an accessory structure. The properties are located at 8600 and 8610 Caulks Field Road in the Sixth Election District and are zoned Village.

This application involves three parcels that are being reconfigured in order to make each one less nonconforming. Parcel 61 (Remus S. Butler, Jr.) was inadvertently subdivided into 2 parcels when the deed for Parcel 58 (Edward E. Butler) was recorded in 1973. Parcel 61, Parcel 1 became landlocked and Parcel 61, Parcel 2 is a 6,185.5 square foot triangle with a small, uninhabitable house located on it. Parcel 60 (Franklin and Wynnee Butler) ended up with 2 dwellings, one occupied by Frank and Wynnee Butler and one occupied by Remus Butler. The family is now trying to adjust the property lines so that there is one dwelling per parcel and so that the landlocked parcel has access to Caulks Field Road. It is impossible to accomplish this goal without variances.

Relevant Issues

- I. Density, Height, Width, Bulk, and Fence Requirements
 - A. *Comprehensive Plan*: “Ensure that all new development or redevelopment meets a high standard of planning, workmanship, and design.” (Page 31)
 - B. *Applicable Law*: Article V, Section 7.5 of the *Kent County Land Use Ordinance* establishes the density, height, width, bulk, and fence requirements for the Village District.

Minimum Yard	
Front	20 feet
Side	8 feet
Rear	10 feet

Minimum Lot Size – 9,500 square feet
Minimum Lot Frontage – 50 feet

- A. *Staff and TAC Comments*: Multiple variances are needed in order to complete the adjustment of lot lines.

Parcel 61, Parcel 2 is being adjusted to provide adequate lot frontage to Parcel 61, Parcel 1. It will go from being triangular to rectangular; and although it will be slightly larger in size, it will not meet the minimum lot size requirement. The resulting area will be 6,969.6 square feet. A variance

of 2,530.4 square feet is necessary. Parcel 61, Parcel 2 will also require a side yard setback variance of 4 feet for the dwelling.

Parcel 61, Parcel 1 is being adjusted so that it won't be landlocked and so the owner's house will be on his property. The house is currently on Parcel 60. The proposed lot lines have been located to work around existing structures and driveways. Parcel 61, Parcel 1 requires a side yard variance of 4 feet and 0.3 feet.

Parcel 60 requires a variance of 3 feet for an accessory structure that will no longer meet the side yard setback requirement.

II. Variance

- A. *Applicable Law*: Article IX, Section 2.2 of the Kent County Land Use Ordinance authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Such granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

In order to grant a variance, the Board of Appeals must find all the following:

- a. That the variance will not cause a substantial detriment to adjacent or neighboring property.
- b. That the variance will not change the character of the neighborhood or district.
- c. That the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or development of property immediately adjacent to the property, except that this criterion shall not apply in the Critical Area.
- e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
- g. In considering an application for a variance, the Board shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
- h. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
- i. The Board may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.

B. *Staff and TAC Comments:* The variance will not cause a substantial detriment to adjacent or neighboring properties and will not change the character of the neighborhood. The Comprehensive Plan is neutral on this application. The applicants are trying to improve the situation which is caused by the unusual size and shape of the parcels. The practical difficulty was not caused by the applicants' actions. The lot line adjustment is a reasonable request and allows for reasonable use of the properties.

STAFF RECOMMENDATION

Staff recommends approval of:

- 1) A 4-foot variance of the side yard setback requirement and a 2,530.4 square foot variance of the minimum lot size requirement for Parcel 61, Parcel 2.
- 2) A 4-foot and 0.3-foot variance of the side yard setback requirements for Parcel 61, Parcel 1.
- 3) A 3-foot variance of the side yard setback requirement for Parcel 60.

Staff recommends as a condition that the variance will lapse after the expiration of two years, if the lot line adjustment presented herein is not recorded.

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

✓ PD \$200.00
7/1/19 OK 7224
✓ PD Remaining
\$150.00 3/17/2003
check # 7333

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)

Remus S. Butler Jr.
8610 CAULKS FIELD ROAD
CHESTERTOWN, MD 21620
410-778-2299

For Office Use Only:	
Case Number/Date Filed:	<u>19-35</u>
Filed by:	<u>KIRBY & ASSOC., INC.</u>
Applicant:	
Planning Commission:	<u>4/2/2020</u>
Date of Hearing:	<u>BOA: 4/20/2020</u>
Parties Notified:	
Notice in Paper:	
Property Posted:	

Email: _____
TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article _____ Section _____
of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administrator Variance
_____ Special Exception _____ Non-conforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) CAULKS FIELD ROAD
In the 6TH Election District of Kent County.

Size of lot or parcel of Land: _____
Map: 35 Parcel: 61 Lot #: 1 & 2 Deed Ref: EHP 255/190
PARCELS

List buildings already on property: _____

If subdivision, indicate lot and block number: N/A

If there is a homeowners association, give name and address of association: N/A

PRESENT ZONING OF PROPERTY: VILLAGE

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) APPLICANT IS REQUESTING RELIEF FROM SIDE YARD & REAR YARD
ADD LOT WIDTH REQUIREMENTS TO MINIMIZE EXISTING NON-CONFORMANCES

If appealing decision of Zoning Administrator, list date of their decision: _____

Present owner(s) of property: Remus S. Butler Jr Telephone: 410-778-2299

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? 19-36 (Lot Line Revision)

If so, please give Application Number and Date: _____

RECEIVED
PLANNING HOUSING & ZONING
3/17/2020

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: SECRETARY OF HOUSING & URBAN DEVELOPMENT
SHEPHERD MAIL OFFICE COMPLEX, SUITE 10 OKLAHOMA CITY, OK 73107


Owner(s) on the South: IRENE E. MOORE
P.O. BOX 424, CHESTERTOWN, MD. 21620

Owner(s) to the East: HILL FAMILY LIMITED PART.
5376 EASTERN HEDGE ROAD, ROCK HALL, MD. 21661

Owner(s) to the West: _____
(UNKNOWN OPERATOR)

Homeowners Association, name and address, if applicable: N/A

BY SIGNING THIS APPLICATION I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.


Signature of Owner/Applicant/Agent or Attorney

3/17/20
Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the Board of Appeals. If you have any questions, contact Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals or the Planning Office is required to make out this Application. Application should be filled in by applicant or its agent. If the Planning Office assists you, they cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

PLAT BOOK: M.L.M. 222/534

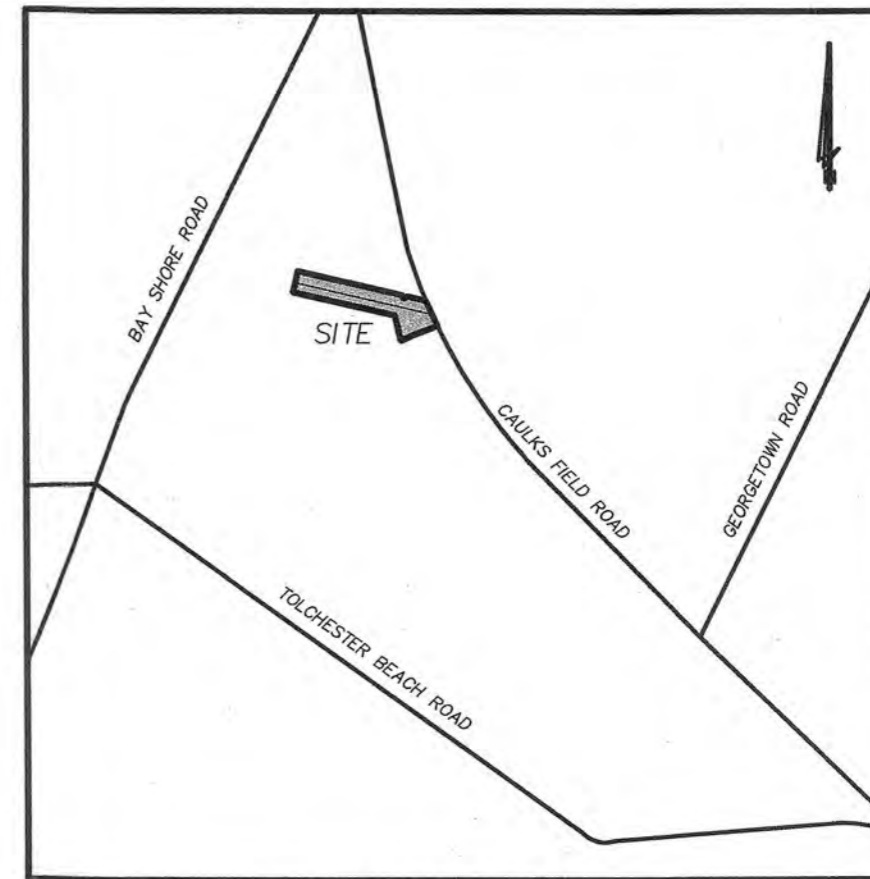
LEGEND

- DENOTES COMPUTED POINT UNLESS OTHERWISE SPECIFIED
- IRS DENOTES CAPPED IRON ROD TO BE SET
- IRF DENOTES IRON ROD FOUND
- N/F DENOTES NOW OR FORMERLY
- R/W DENOTES RIGHT-OF-WAY
- DWLG. DENOTES DWELLING

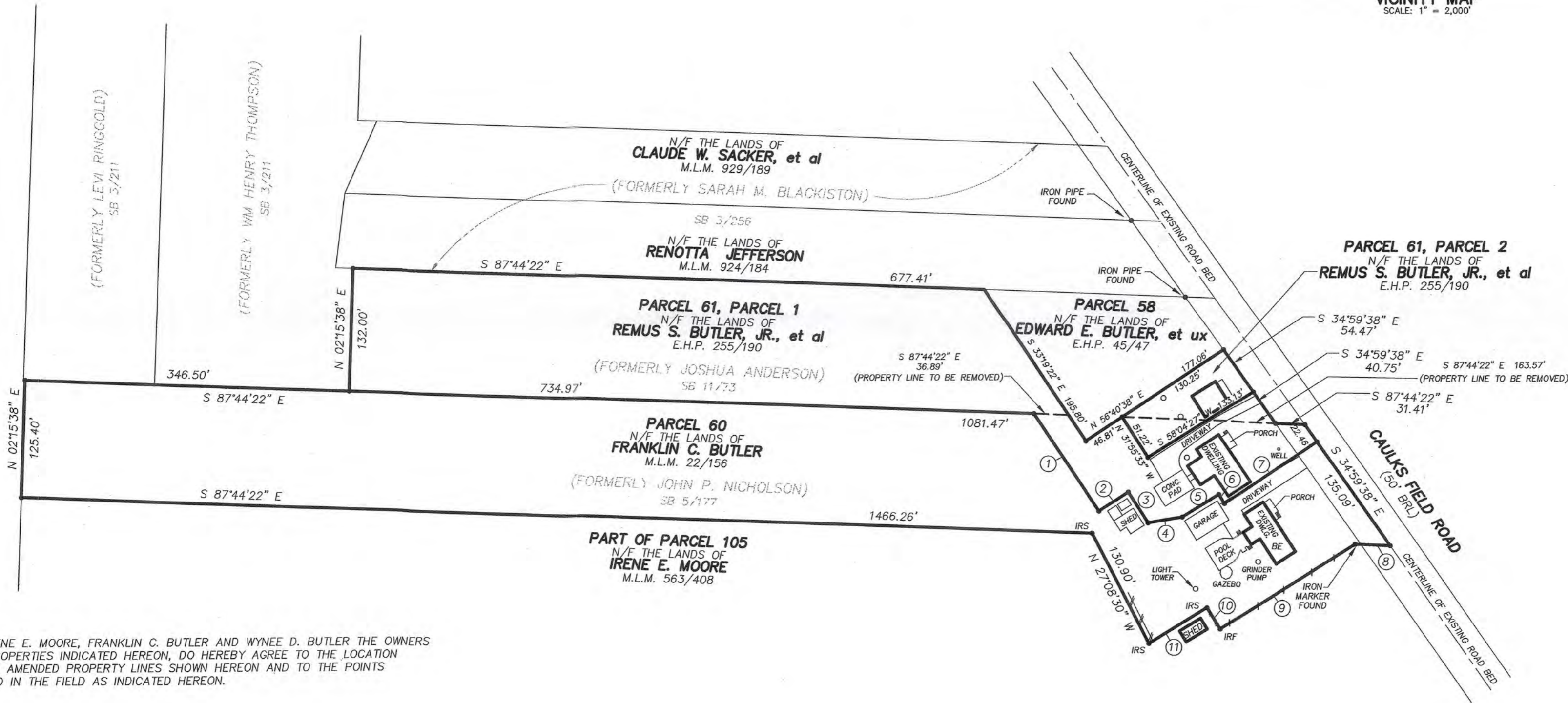
APPROVED: _____ DATE: _____ KENT COUNTY DIRECTOR OF PLANNING

APPROVED: _____ DATE: _____ KENT COUNTY HEALTH DEPARTMENT APPROVING AUTHORITY

APPROVED: _____ DATE: _____ KENT COUNTY DEPARTMENT OF WATER & WASTEWATER



VICINITY MAP
SCALE: 1" = 2,000'



WE, IRENE E. MOORE, FRANKLIN C. BUTLER AND WYNEE D. BUTLER THE OWNERS THE PROPERTIES INDICATED HEREON, DO HEREBY AGREE TO THE LOCATION OF THE AMENDED PROPERTY LINES SHOWN HEREON AND TO THE POINTS MARKED IN THE FIELD AS INDICATED HEREON.

REMUS BUTLER

FRANKLIN C. BUTLER

WYNEE D. BUTLER

NOTES:

- FOR CURRENT DEED REFERENCE SEE:
PARCEL 61, PARCEL 1 - E.H.P. 255/190
PARCEL 60 - M.L.M. 22/156
- PROPERTY ADDRESS: PARCEL 61, PARCEL 1 - 8610 CAULKS FIELD ROAD
PARCEL 60 - 8600 CAULKS FIELD ROAD
- THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A REVIEW OF AN ABSTRACT OF TITLE, WHICH MAY INDICATE EASEMENTS, RIGHTS-OF-WAY, OR OTHER ENCUMBRANCES THAT MAY NOT BE INDICATED ON THIS PLAT.

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE LOT LINE ADJUSTMENT SHOWN HEREON IS CORRECT BASED UPON EVIDENCE AND INFORMATION IN MY POSSESSION AND WAS PREPARED BY KIRBY & ASSOCIATES, INC. AT WHICH TIME THE UNDERSIGNED REGISTERED SURVEYOR WAS IN RESPONSIBLE CHARGE OF ITS PREPARATION AND THE SURVEYING WORK REFLECTED IN IT IS IN COMPLIANCE WITH THE REQUIREMENTS STATED IN REGULATION 09.13.06.03 OF THE MARYLAND MINIMUM STANDARDS FOR SURVEYORS.

JOHN P. KIRBY _____ DATED _____
PROFESSIONAL LAND SURVEYOR No. 21151
LICENSE EXPIRES: 1/28/2021

LINE	BEARING	DISTANCE
8	N 87°44'22" W	37.59'
9	S 58°02'14" W	170.53'
10	N 31°58'09" W	26.45'
11	S 58°55'25" W	72.78'

EXISTING AREA

PARCEL 61	-	2.196 Ac.±
PARCEL 2	-	0.142 Ac.±
PARCEL 60	-	4.465 Ac.±

RESULTING AREA

PARCEL 61	-	2.657 Ac.±
PARCEL 2	-	0.160 Ac.±
PARCEL 60	-	3.986 Ac.±

NEW PROPERTY LINES

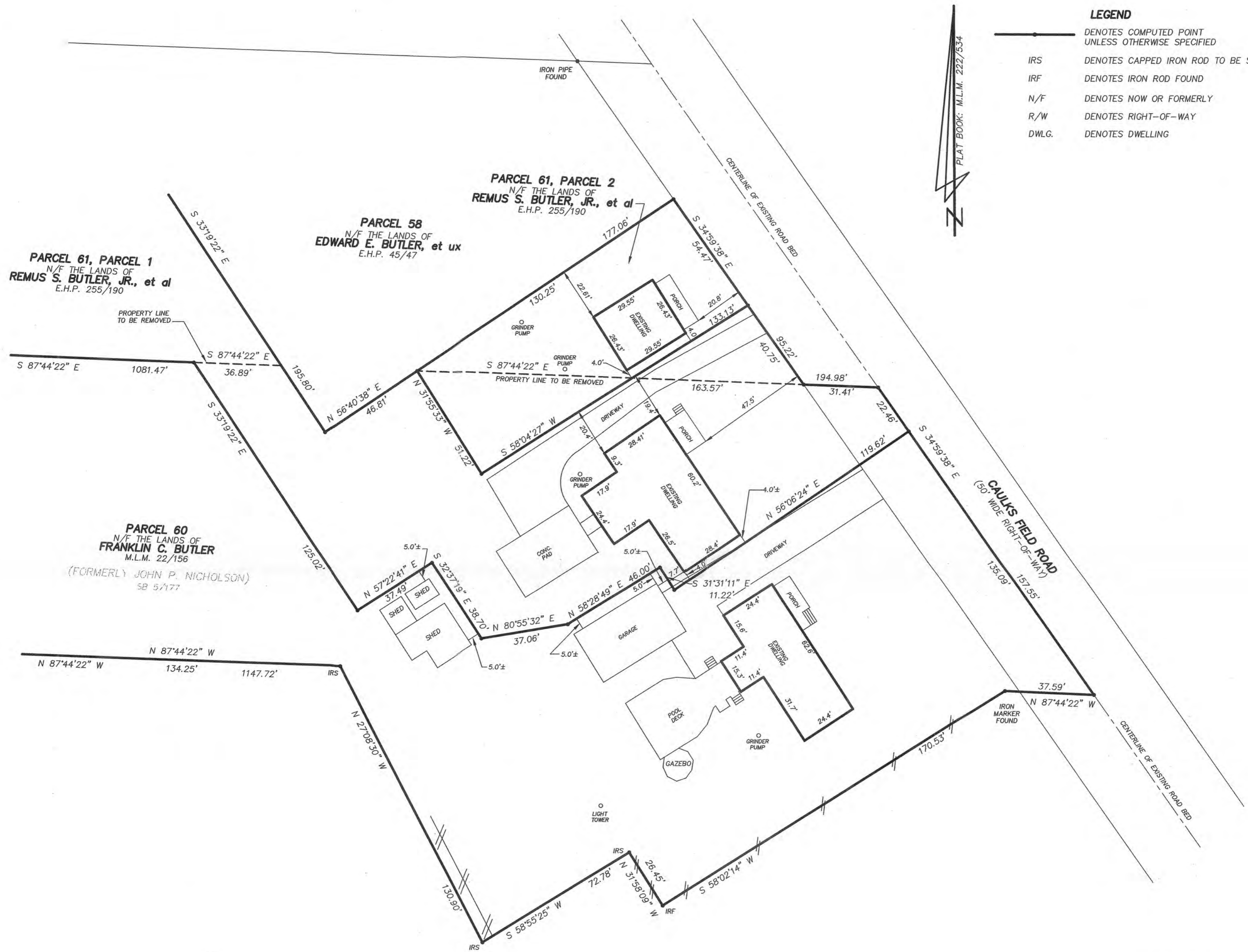
LINE	BEARING	DISTANCE
1	S 33°19'22" E	125.02'
2	N 57°22'41" E	37.49'
3	S 32°37'19" E	38.70'
4	N 80°55'32" E	37.06'
5	N 58°28'49" E	46.00'
6	S 31°31'11" E	11.22'
7	N 56°06'24" E	119.62'

KIRBY & ASSOCIATES, INC.
Professional Land Surveying Services
P.O. Box 27
206A Banjo Lane
Centreville, Maryland 21617
(410) 758-2726 Fax (410) 758-2312

SCALE	1"=100'
DATE	JUNE 2019
DRAWN BY	KIRBY
DESIGNED BY	K-19-077
APPROVED BY	K-100
SHEET NO.	1 OF 2
CADD FILE	19-077

LOT LINE ADJUSTMENT
BETWEEN THE LANDS OF
FRANKLIN C. & WYNEE D. BUTLER
& **REMUS D. BUTLER, JR., et al**
TAX MAP 42 GRID 1C PARCEL 60
TAX MAP 35 GRID 4C PARCEL 61, PARCEL 1
SIXTH ELECTION DISTRICT, KENT COUNTY, MARYLAND

DATE: 3/16/20
SEAL



LEGEND

—●— DENOTES COMPUTED POINT UNLESS OTHERWISE SPECIFIED

IRS DENOTES CAPPED IRON ROD TO BE SET

IRF DENOTES IRON ROD FOUND

N/F DENOTES NOW OR FORMERLY

R/W DENOTES RIGHT-OF-WAY

DWLG. DENOTES DWELLING

STATE OF MARYLAND
 JOSEPH KIRBY, JR.
 PROFESSIONAL SURVEYOR
 No. 15123
 3/16/20
 DATE
 SEAL

LOT LINE ADJUSTMENT
 BETWEEN THE LANDS OF
FRANKLIN C. & WYNEE D. BUTLER
 & **REMUS S. BUTLER, JR., et al**
 TAX MAP 42 GRID 1C PARCELS 60
 TAX MAP 35 GRID 4C PARCEL 61, PARCEL 1
 SIXTH ELECTION DISTRICT, KENT COUNTY, MARYLAND

KIRBY & ASSOCIATES, INC.
 Professional Land
 Surveying Services
 P.O. Box 27
 206A Banjo Lane
 Centreville, Maryland 21617
 (410) 758-2726 Fax (410) 758-2312

DATE	JUNE 2019	SCALE	1"=50'
JOB NO.	K-19-077	DRAWN BY	KIRBY
FOLDER REF	K-100	DESIGNED BY	KIRBY
		APPROVED BY	
SHEET NO.	1 OF 2		
CADD FILE	19-077		

- NOTES:**
- FOR CURRENT DEED REFERENCE SEE:
 PARCEL 61, PARCEL 1 - E.H.P. 255/190
 PARCEL 60 - M.L.M. 22/156
 - PROPERTY ADDRESS: PARCEL 105 - 8610 CAULKS FIELD ROAD
 PARCEL 60 - 8600 CAULKS FIELD ROAD
 - PROPERTIES INDICATED HEREON ARE SERVICED BY PUBLIC WATER & SEWER.
 - THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A REVIEW OF AN ABSTRACT OF TITLE, WHICH MAY INDICATE EASEMENTS, RIGHTS-OF-WAY, OR OTHER ENCUMBRANCES THAT MAY NOT BE INDICATED ON THIS PLAT.

EXISTING AREA	
PARCEL 61	- 2.196 Ac.±
PARCEL 2	- 0.142 Ac.±
PARCEL 60	- 4.465 Ac.±

RESULTING AREA	
PARCEL 61	- 2.657 Ac.±
PARCEL 2	- 0.160 Ac.±
PARCEL 60	- 3.986 Ac.±

DEPARTMENT OF
 PLANNING, HOUSING & ZONING
 RECEIVED 3/17/2020

Kent County Planning Commission

TELEPHONE 410-778-7475

Kent County Government Center
400 High Street
Chestertown, Maryland 21620

FACSIMILE 410-810-2932

April 9, 2020

Dr. Al Townshend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: Chester River Yacht and Country Club – Buffer Variance
Tax Map 44, Parcel 15

Dear Dr. Townshend:

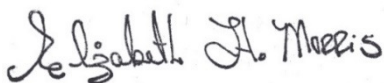
At its April 2, 2020, meeting, the Kent County Planning Commission reviewed the application of Chester River Yacht and Country Club requesting a variance to allow 828 square feet of lot coverage within the 100-foot Critical Area Buffer. The applicant is proposing an expansion of their onsite parking by 37 spaces to accommodate increased usage of their waterfront facilities and special events in the clubhouse. The property is located at 7738 Quaker Neck Road in the Seventh Election District and is zoned Critical Area Residential, Community Residential, and Rural Residential.

The Commission opined that strict application of the regulations created an unwarranted hardship that is not shared by other marinas which have parking in the buffer and that denial of the variance would be detrimental to the viability of the business. Furthermore, the need for a variance was not caused by the applicant's actions but by development of the property long before zoning or Critical Area regulations were adopted. After discussion and consideration of the applicant's testimony, the Commission voted to make a favorable recommendation for the buffer variance to allow 828 square feet of lot coverage within the 100-foot Critical Area Buffer. The Commission's recommendation was based on the following findings of fact:

- Granting a variance will not cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
- The use of pervious pavers will minimize impervious surfaces and the design protects mature trees.
- Based on the information received to date, the application is in harmony with the Critical Area Law and general spirit and intent of the Land Use Ordinance.
- The granting of the variance does not confer any special privileges that would be denied to other similar lands and uses.
- The reasonable use of the entire property was considered.

If the Board is inclined to grant approval, the Planning Commission recommends that mitigation be set at a ratio of 3:1 for buffer disturbance and that the areas be planted with native cultivars approved by the Planning Commission during site plan review.

Sincerely,
Kent County Planning Commission



Elizabeth H. Morris
Chairman

cc: Joe Baker, President, Chester River Yacht and Country Club
Kevin Shearon, DMS & Associates

PRELIMINARY STAFF REPORT

To: Kent County Board of Appeals
Subject: Chester River Yacht and Country Club
Buffer Variance
Date: April 10, 2020

Description of Proposal

The applicants wish to increase their onsite parking for an existing Private Club and Golf Course. In addition to site plan review, the applicants request a variance to allow 828 square feet of lot coverage within the 100-foot Critical Area Buffer. The expanded parking lot will provide 37 additional spaces. The 175-acre property is located on Quaker Neck Road in the Seventh Election District. The property is currently comprised of a private country club, a golf course, a swimming pool, a pier, a boathouse, and accessory buildings incidental to the maintenance of a private club and golf course. The surrounding area is characterized by single-family residential development and is zoned Critical Area Residential, "CAR", Community Residential, "CR" and Rural Residential "RR". The parking lot expansion is entirely within the CAR district.

BUFFER VARIANCE

Relevant Issues

I. Area, Height, Width and Yard Requirements

- A. *Applicable Law:* Article V, Section 5.5 of the Kent County Land Use Ordinance requires the minimum yard:
- | | |
|------------|------------------------|
| Front | 50 ft |
| Side | 15 ft |
| Rear | 30 ft |
| Waterfront | Minimum 100 ft buffer* |
- B. *Staff and TAC Comments:* A variance is required to place 828 square feet of lot coverage within the buffer.

II. Buffer Requirements

- A. *Comprehensive Plan:* "Maintain, enforce, and if necessary, strengthen regulations for floodplains and buffers." (Page 86)
- B. *Applicable Law:* Article V, Section 5.7.B3a of the Kent County Land Use Ordinance addresses development in the buffer:
- i. Development activities, including structures, roads, parking areas, and other impervious surfaces, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot buffer. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.

- ii. New or expanded development activities may be permitted in the minimum 100-foot buffer, provided:
 - a) The use is water dependent.
 - b) The project meets a recognized private right or public need.
 - c) Adverse effects on water quality and fish, plant, or wildlife habitats are minimized.
 - d) In so far as possible, non-water dependent structures or operations associated with water dependent projects or activities are located outside the minimum 100-foot buffer.

C. *Staff and Comments:* The applicants have applied for a variance to construct a portion of their proposed parking area within the buffer. A total of 828 square feet of lot coverage is proposed in the buffer. A portion of the lot coverage in the buffer will be impervious pavement that is necessary for the access lane to the parking area; and the remainder will be pervious pavers used for the parking spaces. Six of the 37 parking spaces are at least partially within the buffer. The applicant has proposed mitigation of 3:1 for the disturbance within the buffer and 1:1 for disturbance outside the buffer. A total of 13,225 square feet of mitigation is proposed. Mitigation will be a combination of native grasses, shrubs, and canopy and understory trees.

III. Variance

A. *Applicable Law:* Article IX Section 2.2 of the Kent County Land Use Ordinance authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Such granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance.

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a variance, the Board of Appeals must find all of the following:

- a. That the variance will not cause a substantial detriment to adjacent or neighboring property.
- b. That the variance will not change the character of the neighborhood or district.
- c. That the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.

- iii. The use or development of property immediately adjacent to the property, except that this criterion shall not apply in the Critical Area.
- e. That the practical difficulty or other injustice was not caused by the applicant's own actions.
- f. That within the Critical Area for variances of 15% slope, impervious surface, or buffer requirements:
 - i. The granting of a variance will be in harmony with the general spirit and intent of the Critical Area Law and the regulations adopted by Kent County.
 - ii. That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
 - iii. That the application for a variance will be made in writing with a copy provided to the Critical Area Commission.
 - iv. That the strict application of the Ordinance would produce an unwarranted hardship.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such variance will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County.
 - viii. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or structures.
 - ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of this Ordinance would result in unwarranted hardship to the applicant.
 - x. The Board of Appeals finds that the applicant has satisfied each one of the variance provisions.
 - xi. Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program.
- g. In considering an application for a variance, the Board shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
- h. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
- i. The Board may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.

- B. *Staff and TAC Comments:* It is staff's opinion that granting a variance will not cause a substantial detriment to neighboring properties or change the character of the neighborhood or district. The Chester River Yacht and County Club has existed at this location for many years; the existing parking area is setback from the road and is an accepted feature of the property. The existing property configuration already has some buffer encroachment, and the existing building is located in such a manner that any other parking lot arrangement would require much more lot coverage in the form of long drives. Additionally, due to the property being split by a State highway, the current parking scenario requires some individuals to cross the State highway in order to access the primary use on the property. Although this was not due to any action by the applicant, but a peculiar condition of the property, thereby creating a practical difficulty, the test for a variance of the Critical Area buffer is an unwarranted hardship. An unwarranted hardship occurs when, without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

Staff recognizes the proposed incursion in the 100-foot buffer is minimal and the row of parking closest to Quaker Neck Road will be constructed using pervious pavers. However, staff are unable to recommend favorably based on a plain reading of the requirements. That being said, the applicant will present the project and can provide additional, clarifying evidence and testimony at the public hearing.

Staff Recommendation: Staff recommends careful consideration of the application with conditions for mitigation. If the board is inclined to grant approval, staff recommends that mitigation be set at a ratio of 3:1 for buffer disturbance and that the areas of mitigation be planted with native cultivars and approved by the Planning Commission during site plan review.

BOARD OF APPEALS APPLICATION

✓ PD \$350.00
DMS check # 9036

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)

Chester River Yacht & Country Club
7738 Quaker Neck Road
Chestertown, Maryland 21620
Phone: (410) 778-3818

Email: kjs@dmsandassociates.com

For Office Use Only:
Case Number/Date Filed: 20-11
Filed by: DMS & Assoc.
Applicant:
Planning Commission:
Date of Hearing:
Parties Notified:
Notice in Paper:
Property Posted:

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article V Section 5.7.B.3(a)(1) of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administrator Variance
_____ Special Exception _____ Non-conforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 7738 Quaker Neck Road, Chestertown, Maryland 21620
In the 7th Election District of Kent County.

Size of lot or parcel of Land: 173.9 acres
Map: 44 Parcel: 15 Lot #: n/a Deed Ref: 10/518

List buildings already on property: Clubhouse, Poolhouse, Cart Barn, Marina Building, various support buildings associated with the golf course and yacht club.

If subdivision, indicate lot and block number: n/a
If there is a homeowners association, give name and address of association: n/a

PRESENT ZONING OF PROPERTY: CAR, CR, RR

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) Requesting a variance to allow 828-sf of impervious cover within the 100-ft shore buffer associated with the proposed parking lot expansion.

If appealing decision of Zoning Administrator, list date of their decision: n/a

Present owner(s) of property: Chester River Yacht & Country Club Telephone: (410) 778-3818

If Applicant is not owner, please indicate your interest in this property:

Has property involved ever been subject to a previous application? yes

If so, please give Application Number and Date: 05-127 buffer variance, 08-030 variance, 16-66 pier length variance

DEPARTMENT OF
PLANNING, HOUSING & ZONING
RECEIVED 2/27/2020

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.
List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: (see attached)

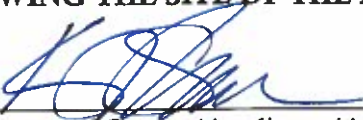
Owner(s) on the South: (see attached)

Owner(s) to the East: (see attached)

Owner(s) to the West: (see attached)

Homeowners Association, name and address, if applicable: n/a

BY SIGNING THIS APPLICATION I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.



Signature of Owner/Applicant/Agent or Attorney

2/27/2020

Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the Board of Appeals. If you have any questions, contact Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals or the Planning Office is required to make out this Application. Application should be filled in by applicant or its agent. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.



STATEMENT OF PURPOSE AND INTENT

THE SITE IS LOCATED ON THE NORTH SIDE OF QUAKER NECK ROAD, SOUTH OF THE TOWN OF CHESTERTOWN. IT IS THE CURRENT LOCATION OF THE CHESTER RIVER YACHT AND COUNTRY CLUB. THE INTENT OF THIS CONCEPT PLAN IS TO ADD ADDITIONAL PARKING SPACES TO THE EXISTING PARKING AREA. A PORTION OF THE ADDITIONAL PARKING IS PROPOSED WITHIN THE 100' SHORE BUFFER WHICH WILL REQUIRE A VARIANCE FOR LOT COVERAGE WITHIN THE 100' SHORE BUFFER.

THE PURPOSE OF THIS CONCEPT PLAN IS TO OBTAIN A FAVORABLE RECOMMENDATION FROM THE KENT COUNTY PLANNING COMMISSION AND AN APPROVAL FROM THE KENT COUNTY BOARD OF APPEALS FOR THE VARIANCE ASSOCIATED WITH THE PROPOSED IMPROVEMENTS ON THE SITE.

FOR DETAILED INFORMATION, SEE SHEET 2 OF 2

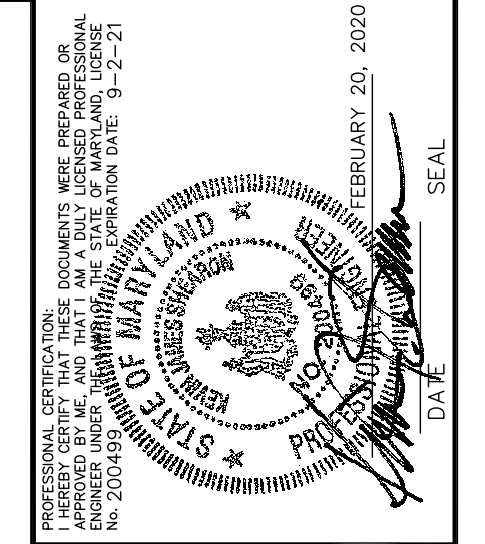


VICINITY MAP
SCALE 1" = 3000'

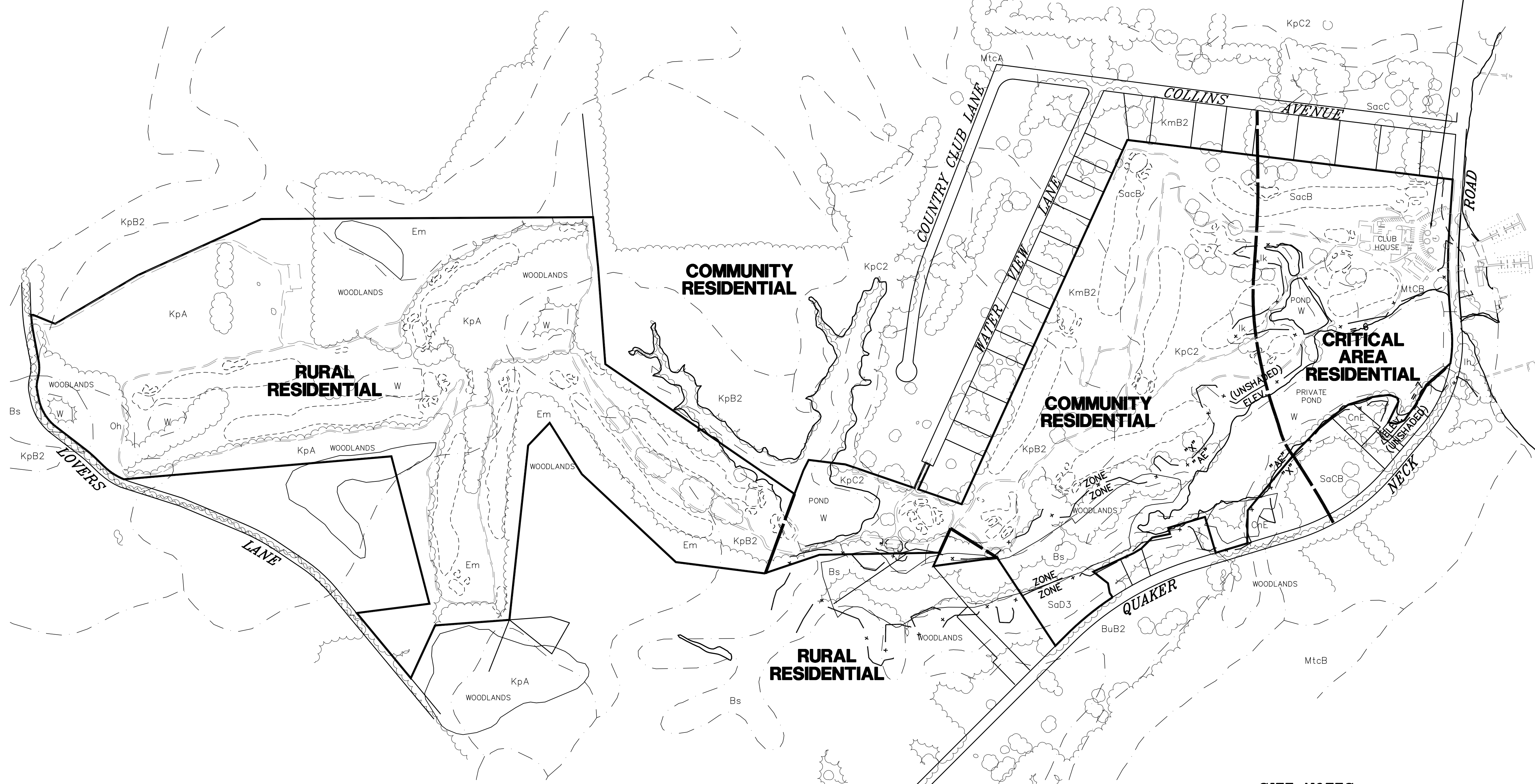
GENERAL NOTES

- These drawings show information obtained from the best available records regarding pipes, conduits, telephone lines, and other structures and conditions which exist along the lines of the work both at and below the surface of the ground. The owner and engineer disclaim any responsibilities for the accuracy or completeness of said information being shown only for the convenience of the contractor, who must verify the information to his own satisfaction. If the contractor relies on said information, he does so at his own risk. The giving of the information on the contract drawings will not relieve the contractor of his obligations to support and protect all pipes, conduits, telephone lines, and other structures.
- The contractor shall notify the following two (2) weeks prior to the start of construction and shall coordinate construction with the utility companies involved:

Delmarva Power & Light Company ----- 1-800-375-7117
Miss Utility ----- 1-800-441-8355
DMS & Associates, LLC ----- 1-443-262-9130
Kent Co. Sediment & Erosion Control Inspector - 1-410-778-7437
Maryland Department of the Environment-----1-410-631-3510
- All construction shall be marked for traffic and pedestrian safety.
- The Contractor shall provide all equipment, labor, and materials for any miscellaneous or test pit excavations required by the Engineer.
- The owner is responsible for the acquisition of all easements, both permanent and temporary.
- The Contractor assumes all responsibility for any deviations from these plans unless said deviation is approved by the Engineer. Contractor shall receive written permission from the Engineer if a deviation of the plans is necessary.
- All disturbed areas shall be smoothly graded to provide positive drainage in the direction of flow arrows herein and stabilized with topsoil, seed, and mulch. If settlement occurs, topsoil, seeding, and mulching shall be repeated until settlement subsides (See Erosion and Sediment Control Specifications).
- All trash, trees, and underbrush are to be cleared and removed off site to an approved dump site by the contractor.
- Any excess excavated material shall be removed off site by the contractor or material shall be placed on site as directed by the Engineer and/or Owner.
- Any existing survey monumentation that is disturbed during construction shall be replaced by a registered surveyor at the contractor's expense.
- The Contractor shall conduct his work in easements so that there will be a minimum of disturbance of the properties crossed. Any disturbed areas shall be restored to its original condition.
- All materials and methods of construction shall conform to the drawings, specifications, local building codes, and the standard specifications and details of Kent County.
- All drainage structures and swales shall remain functional during construction unless otherwise indicated on the plans.
- All water valves, boxes and hydrants shall be set and adjusted to finish grade.
- Wherever sewer or water mains or services run parallel to each other, a minimum horizontal separation of 10' shall be provided.
- Minimum cover over the sewer main shall be 42".
- All concrete used for utility work shall be in accordance with MD SHA Standards and Specifications for Mix No. 2.
- All paving materials and methods shall be in accordance with the latest MD SHA Standards and Specifications and be supplied by a State Certified plant.
- Trenches shall not remain open overnight. If it is necessary for trenches to remain open, steel plates capable of bearing traffic shall be used to completely cover the trench openings.
- Erosion and Sediment Control will be strictly enforced by the Kent County Sediment and Erosion Control Inspector.

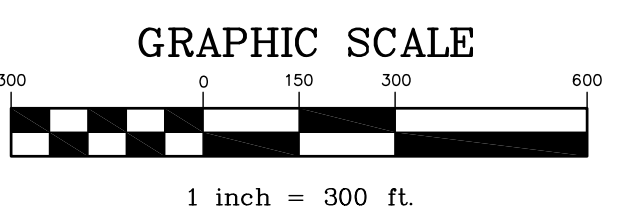


DAVIS, MOORE, SHEARON & ASSOCIATES, LLC
ENGINEERING, DRAFTING/DESIGN, ENVIRONMENTAL SERVICES & SURVEYING
P.O. BOX 80
CENTREVILLE, MARYLAND 21617
PHONE: 1-443-262-9148
FAX: 1-443-262-9148



LEGEND

- ZONING LINE
- EDGE OF WOODLANDS
- SOILS LINE AND TYPE (KpA, Em)
- FLOODPLAIN LINE



SITE NOTES

- PROPERTY LINE INFORMATION SHOWN HEREON IS TAKEN FROM DEED INFORMATION ONLY AND IS NOT THE RESULT OF A FIELD RUN SURVEY AT THIS TIME.
- FOR DEED REFERENCE, SEE LIBER 10, FOLIO 518.
- CURRENT ZONING CLASSIFICATION - CRITICAL AREA RESIDENTIAL, COMMUNITY RESIDENTIAL AND RURAL RESIDENTIAL
- THE PROPERTY IS PARTIALLY LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA DESIGNATION - LDA (LIMITED DEVELOPMENT AREA).
- SITE IS PARTIALLY LOCATED WITHIN 100 YEAR FLOODPLAIN AS SCALED FROM FLOOD INSURANCE RATE MAP COMMUNITY PANEL No. 240290279D AND 24029C290 (ZONE "AE") (ELEV. = 6 & 7), DATED JUNE 9, 2014.
- EXISTING IMPROVEMENTS WITHIN THE DEVELOPMENT AREA ARE THE RESULT OF A FIELD RUN SURVEY BY MICHAEL A. SCOTT, INC. IN NOVEMBER, 2019. HORIZONTAL DATUM IS NAD 83/91.
- EXISTING CONTOURS WITHIN THE DEVELOPMENT AREA ARE THE RESULT OF A FIELD RUN SURVEY BY MICHAEL A. SCOTT, INC. IN NOVEMBER, 2019. VERTICAL DATUM IS NAVD 88.
- SOILS SHOWN ONSITE CONSIST ARE SCALED FROM THE WEBSITE: <http://websoilsurvey.nrcs.usda.gov> FOR KENT COUNTY.

OWNER/DEVELOPER:
CHESTER RIVER YACHT & COUNTRY CLUB
7738 QUAKER NECK ROAD
CHESTERTOWN, MARYLAND 21620
PHONE No. 1-410-778-3818

SURVEYOR
MICHAEL A. SCOTT, INC.
400 SOUTH CROSS STREET, SUITE 3
CHESTERTOWN, MARYLAND 21620
PHONE No. 1-410-778-2310

ENGINEER
DMS & ASSOCIATES, LLC
P.O. BOX 80
CENTREVILLE, MARYLAND 21617
PHONE No. 1-443-262-9130

DATE	FEBRUARY 20	SCALE	1" = 300'
JOB No.	2019034	DRAWN BY	WJM
FOLDER #44	44-2019.34	DESIGNED BY	RJS
SHEET No.	1 OF 2		
CADD FILE	19034CP1		

OVERALL CONCEPTUAL SITE PLAN - PHASE 1
ON THE LANDS OF
CHESTER RIVER YACHT & COUNTRY CLUB
NEAR THE TOWN OF CHESTERTOWN
TAX MAP - 44, GRID - 30, PARCEL - 15
SEVENTH ELECTION DISTRICT, KENT COUNTY, MARYLAND
PREPARED FOR : CHESTER RIVER YACHT & COUNTRY CLUB



MITIGATION REQUIREMENTS

LOT COVERAGE INSIDE THE 100' BUFFER: 828 SQ. FT. @ 3:1 = 2,484 SQ. FT.
 LOT COVERAGE OUTSIDE 100' BUFFER: 10,690 SQ. FT. @ 1:1 = 10,690 SQ. FT.
 TOTAL MITIGATION REQUIRED: 2,484 FT. + 10,690 = 13,173 SQ. FT.
 TOTAL MITIGATION PROPOSED (SEE BELOW): 13,225 SQ. FT.

PROPOSED MITIGATION

VEGETATION TYPE	MAXIMUM CREDIT ALLOWED (SQ.FT.)	MAXIMUM % OF CREDIT	# OF PLANTS	CREDIT PROVIDED (SQ.FT.)	% PROVIDED
2" CANOPY TREE	200	N/A	30	6,000	
1" CANOPY TREE	100	N/A	0	0	
UNDERSTORY TREE	75	N/A	29	2,175	
LARGE SHRUB	50	30 %	34	1,700	13
SMALL SHRUB	25	20 %	0	0	
GRASSES/PERENNIAL	2	10 %	50	100	1
PLANTING CLUSTER 1 (1 TREE + 3 LG SHRUB)	300	N/A	5 TREES & 15 LARGE SHRUBS	1,500	
PLANTING CLUSTER 2 (2 UNDERSTORY + 3 LG SHRUB)	350	N/A	10 UNDERSTORY & 5 LG SHRUBS	1,750	
TOTAL				13,225	

LEGEND

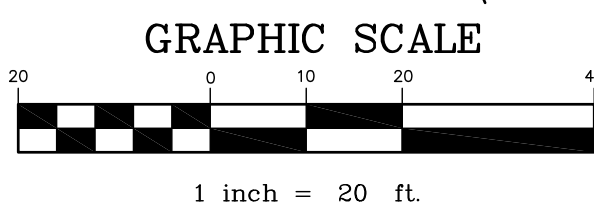
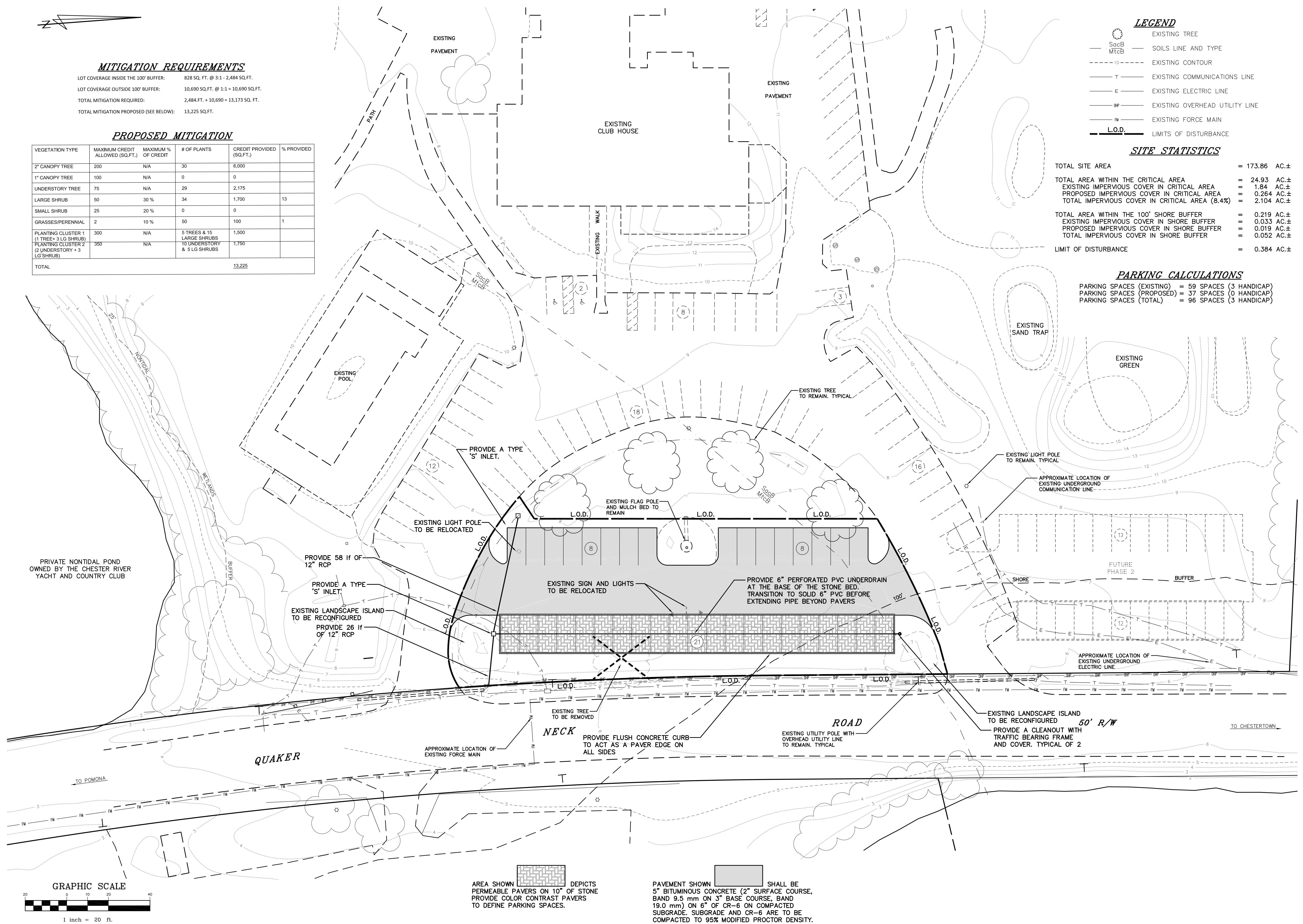
- EXISTING TREE
- SOILS LINE AND TYPE
- EXISTING CONTOUR
- EXISTING COMMUNICATIONS LINE
- EXISTING ELECTRIC LINE
- EXISTING OVERHEAD UTILITY LINE
- EXISTING FORCE MAIN
- LIMITS OF DISTURBANCE

SITE STATISTICS

TOTAL SITE AREA = 173.86 AC.±
 TOTAL AREA WITHIN THE CRITICAL AREA = 24.93 AC.±
 EXISTING IMPERVIOUS COVER IN CRITICAL AREA = 1.84 AC.±
 PROPOSED IMPERVIOUS COVER IN CRITICAL AREA = 0.264 AC.±
 TOTAL IMPERVIOUS COVER IN CRITICAL AREA (8.4%) = 2.104 AC.±
 TOTAL AREA WITHIN THE 100' SHORE BUFFER = 0.219 AC.±
 EXISTING IMPERVIOUS COVER IN SHORE BUFFER = 0.033 AC.±
 PROPOSED IMPERVIOUS COVER IN SHORE BUFFER = 0.019 AC.±
 TOTAL IMPERVIOUS COVER IN SHORE BUFFER = 0.052 AC.±
 LIMIT OF DISTURBANCE = 0.384 AC.±

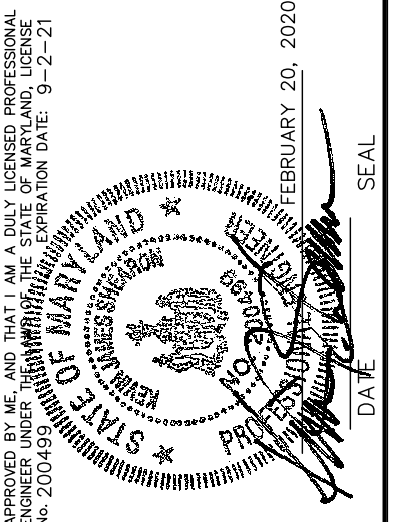
PARKING CALCULATIONS

PARKING SPACES (EXISTING) = 59 SPACES (3 HANDICAP)
 PARKING SPACES (PROPOSED) = 37 SPACES (0 HANDICAP)
 PARKING SPACES (TOTAL) = 96 SPACES (3 HANDICAP)



AREA SHOWN DEPICTS PERMEABLE PAVERS ON 10" OF STONE PROVIDE COLOR CONTRAST PAVERS TO DEFINE PARKING SPACES.

PAVEMENT SHOWN SHALL BE 5" BITUMINOUS CONCRETE (2" SURFACE COURSE, BAND 9.5 mm ON 3" BASE COURSE, BAND 19.0 mm) ON 6" OF CR-6 ON COMPACTED SUBGRADE. SUBGRADE AND CR-6 ARE TO BE COMPACTED TO 95% MODIFIED PROCTOR DENSITY.



DAVIS, MOORE, SHEARON & ASSOCIATES, LLC
 ENGINEERING, DRAFTING/DESIGN, ENVIRONMENTAL SERVICES & SURVEYING
 P.O. BOX 80
 CENTREVILLE, MARYLAND 21617
 PHONE: 410-262-9148
 FAX: 410-262-9148

REVISION

NO.	DATE	DESCRIPTION

CONCEPTUAL SITE PLAN - PHASE 1
 ON THE LANDS OF
CHESTER RIVER YACHT & COUNTRY CLUB
 NEAR THE TOWN OF CHESTERTOWN
 TAX MAP - 44, GRID - 30, PARCEL - 15
 SEVENTH ELECTION DISTRICT, KENT COUNTY, MARYLAND
 PREPARED FOR : CHESTER RIVER YACHT & COUNTRY CLUB

SCALE: 1" = 20'

DATE: FEBRUARY 20
 JOB No.: 2019034
 FOLDER No.: 44-2019.34
 SHEET No.: 2 OF 2
 CADD FILE - 19034CP2

DRAWN BY: WJM
 DESIGNED BY: KJS

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman

Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
dnr.maryland.gov/criticalarea/

April 13, 2020

Ms. Carla Gerber
Kent County
Department of Planning, Housing and Zoning
400 High Street
Chestertown, Maryland 21620

Re: **Chester River Yacht & Country Club
Buffer Variance Request (20-11)
Site Plan Review (20-12)
7738 Quaker Neck Road, Chestertown
(TM 0044, P 0015)**

Dear Ms. Gerber:

Thank you for submitting information regarding the Buffer variance request referenced above. The applicant requests a variance to Kent County Code Article V, Section 5.7.B.3(a)(1) in order to disturb the Critical Area Buffer. The applicant proposes to expand their parking area partially within the 100-foot Buffer. The waterfront site is 26.3 acres and designated as a Limited Development Area (LDA). The proposed parking addition will increase lot coverage from 2.77 to 3 acres, of which 828 square feet are proposed in the Buffer with 2,265 square feet of disturbance to the Buffer for the construction.

Based on the information provided, we cannot support the variance request as proposed. Under the law as established by the General Assembly, the variance cannot be granted unless the applicant proves, and the Board finds, that the applicant has met each of the variance standards required under COMAR 27.01.12, including the standard of "unwarranted hardship." "Unwarranted hardship" is defined as that which "without a variance an applicant shall be denied reasonable and significant use of the entire parcel or lot." The applicant has several opportunities to achieve additional parking without impact to the Buffer; therefore, this application does not meet the standard of unwarranted hardship. For example, the applicant could simply remove the five parking spaces proposed within the Buffer, and retain the proposed parking outside of the Buffer. There is also opportunity to add these parking spaces near the Golf Shop corner parking or add more parking to the curved part of the half parking circle. All of these options would eliminate disturbance to the 100-foot Buffer and would not require a variance.

Furthermore, granting this variance would confer upon the applicant a special privilege that would be denied to others. There is ample opportunity onsite to reconfigure the proposed parking in order to avoid an increase in lot coverage within the Buffer. No property owner is guaranteed the right to disturb the Critical Area Buffer for any purpose but certainly not in this case when it can easily be avoided.

Granting this variance would also adversely impact water quality and habitat within the Critical Area, and would not be in harmony with the general spirit and intent of the Critical Area law. The Critical Area Buffer is specifically protected within the Critical Area law and regulations as a Habitat Protection Area (HPA) and is considered the most important of all the HPAs. A vegetated Buffer is the last line of defense in controlling runoff that would negatively impact the water quality of the Chesapeake Bay. It also provides habitat benefits to marine and terrestrial species. Allowing additional lot coverage in the Buffer for five parking spaces, when there is opportunity to place those parking spaces elsewhere on the property, would not be in harmony with the efforts of the Critical Area law to protect the valuable resource that is the Critical Area Buffer.

Unless the Board finds that the applicant has met each one of the County's variance standards, the Board must deny this application. For the reasons discussed above, we do not believe that this request meets the variance standards and accordingly it should be denied

Thank you for the opportunity to provide comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Alexandra DeWeese".

Alexandra DeWeese
Natural Resources Planner

cc: KC 173-20