



APPLICATION ACCEPTED: May 22, 2008
BOARD OF ZONING APPEALS: September 16, 2008
MOVED AT APPLICANT'S REQUEST
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 9, 2008

STAFF REPORT

VARIANCE APPLICATION NO. VC 2008-MV-002

MT. VERNON DISTRICT

APPLICANTS & PROPERTY OWNERS: John A. and Mary L. McEwan
STREET ADDRESS: 9325 Ludgate Drive
TAX MAP REFERENCE: 110-4 ((1)) 5
LOT SIZE: 2.22 acres
ZONING DISTRICT: R-2
ZONING ORDINANCE PROVISION: 18-0401
VARIANCE PROPOSAL: To permit a minimum lot width of 24.6 feet

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this variance does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

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Kelli Goddard-Sobers

Variance Application

VC 2008-MV-002

Applicant: JOHN A. AND MARY L. MCEWAN
Accepted: 05/22/2008
Proposed: TO PERMIT MINIMUM LOT WIDTH OF 24.6 FEET

Area: 2.22 AC OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 18-0401 03-0206

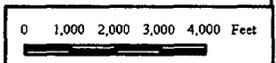
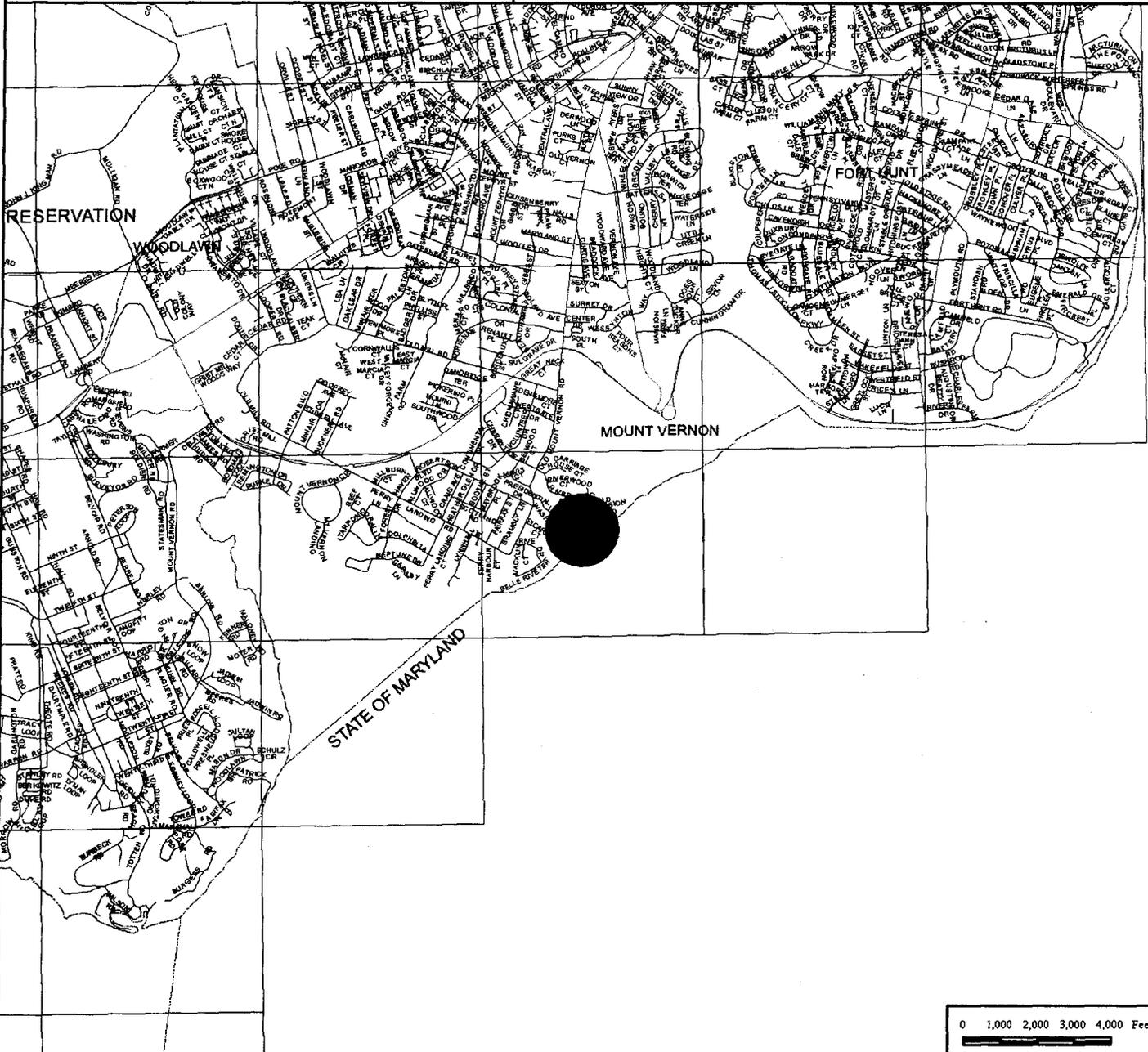
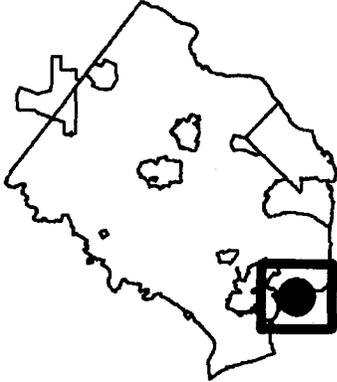
Paragraph: 1 2A

Located: 9325 LUDGATE DRIVE

Zoning: R-2

Overlay Dist:

Map Ref Num: 110-4- /01/ /0005



Variance Application

VC 2008-MV-002

Applicant: JOHN A. AND MARY L. MCEWAN
Accepted: 05/22/2008
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Area: 2.22 AC OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 18-0401 03-0206

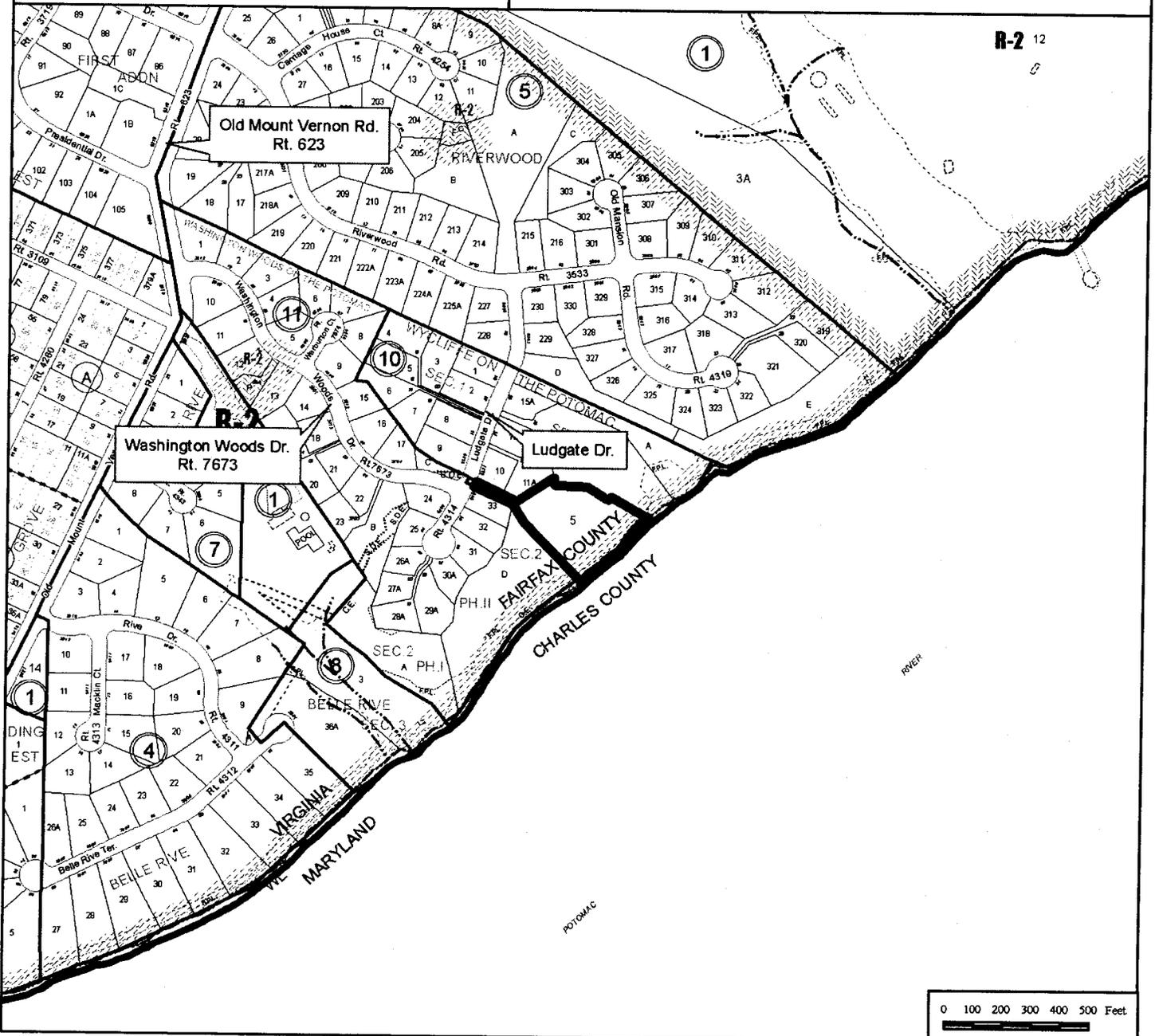
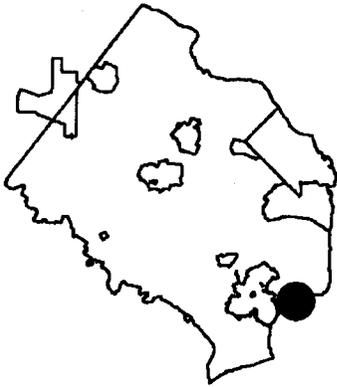
Paragraph: 1 2A

Located: 9325 LUDGATE DRIVE

Zoning: R- 2

Overlay Dist:

Map Ref Num: 110-4- /01/ /0005



NOTES

1. TAX MAP: 110-01-0005
2. ZONE: R-2 (RESIDENTIAL DU/AD)
3. LOT AREA: 96,709 SF (2.201 ACRES)
4. REQUIRED YARDS:
 - FRONT: 35.0 FEET
 - SIDE: 15.0 FEET
 - REAR: 25.0 FEET
5. HEIGHTS:
 - WALLS: AS NOTED
 - FENCES: 65.2 FEET
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAN ARE EXISTING UNLESS INDICATED AS PROPOSED.
9. THE SURVEY IS NOT AWARE OF ANY UTILITY PLACEMENTS 24 FEET IN FRONT OR 6 FEET BEHIND THE PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 3' INTERVALS, AND IS APPROXIMATE.
11. THERE ARE FLOODPLAIN AND RESOURCE PROTECTION AREAS ON THIS PROPERTY. THE PROPERTY IS NOT A FLOODPLAIN. HEREON IS BASED ON THE ADOPTED CHEVAKE ANY RESERVATION ORDINANCE MAP.
12. THIS VARIANCE IS SOUGHT TO ALLOW A MINIMUM LOT WIDTH OF 24.6 FEET INSTEAD OF 100 FEET AS REQUIRED (SECT. 2-20-640)

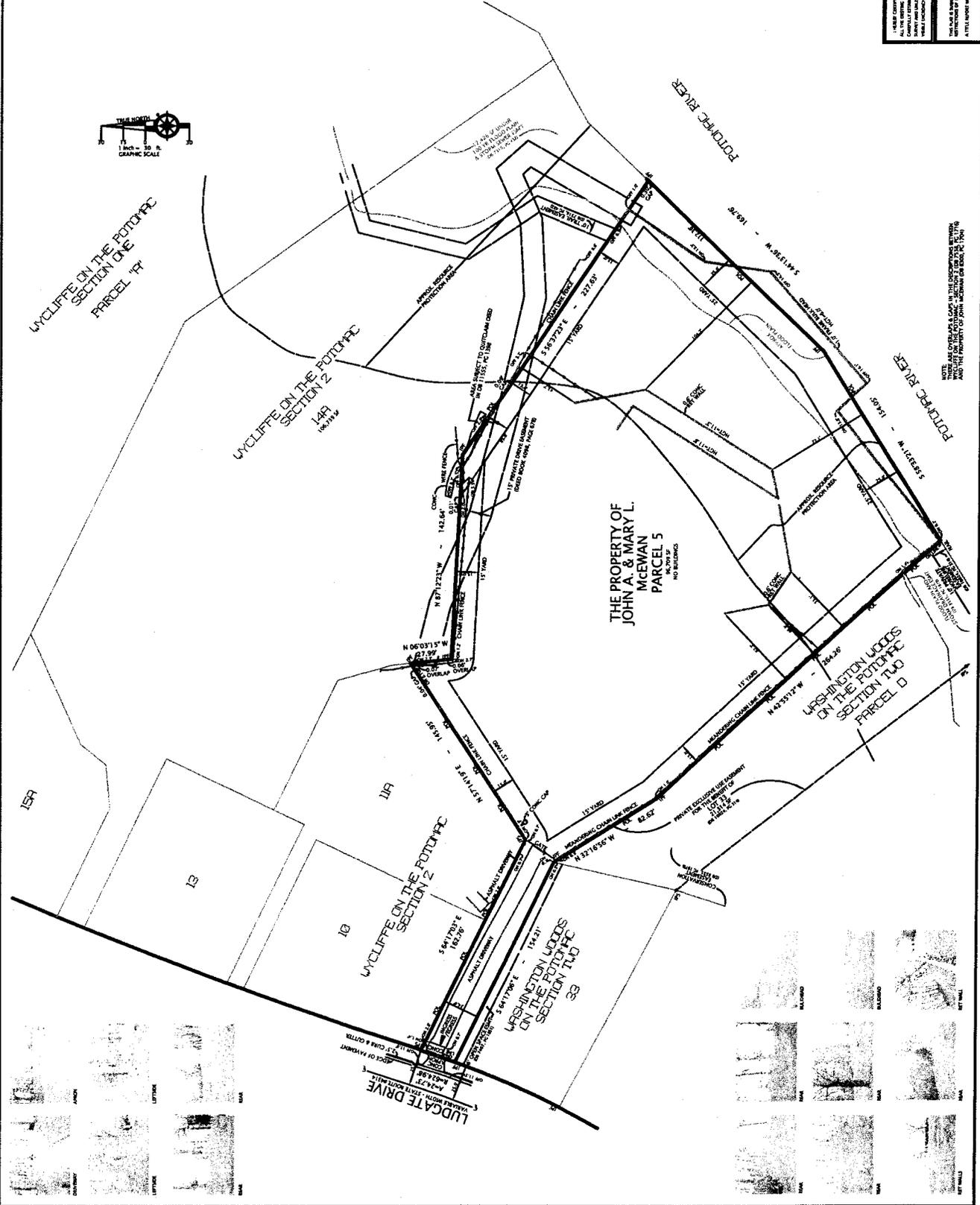


WYCLIFFE ON THE POTOMAC
SECTION ONE
PARCEL 17F

WYCLIFFE ON THE POTOMAC
SECTION 2
14F
106,734 sq ft

THE PROPERTY OF
JOHN A. & MARY L. MCEWAN
PARCEL 5
NO BUILDINGS

WASHINGTON LUGGS
ON THE POTOMAC
SECTION TWO
PARCEL D



VARIANCE PLAT

THE PROPERTY OF
JOHN A. & MARY L. MCEWAN
FAIRFAX COUNTY, VIRGINIA
MOUNT VERNON DISTRICT
SCALE: 1" = 30'

DATE: MARCH 02, 2007
DECEMBER 21, 2007 (ADDM FIELDWORK)

1. HAVE I RECEIVED THE APPROVED OF THE BOARD OF SUPERVISORS?
2. HAVE I RECEIVED THE APPROVED OF THE BOARD OF SUPERVISORS?
3. HAVE I RECEIVED THE APPROVED OF THE BOARD OF SUPERVISORS?
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DATE: MARCH 02, 2007
DECEMBER 21, 2007 (ADDM FIELDWORK)

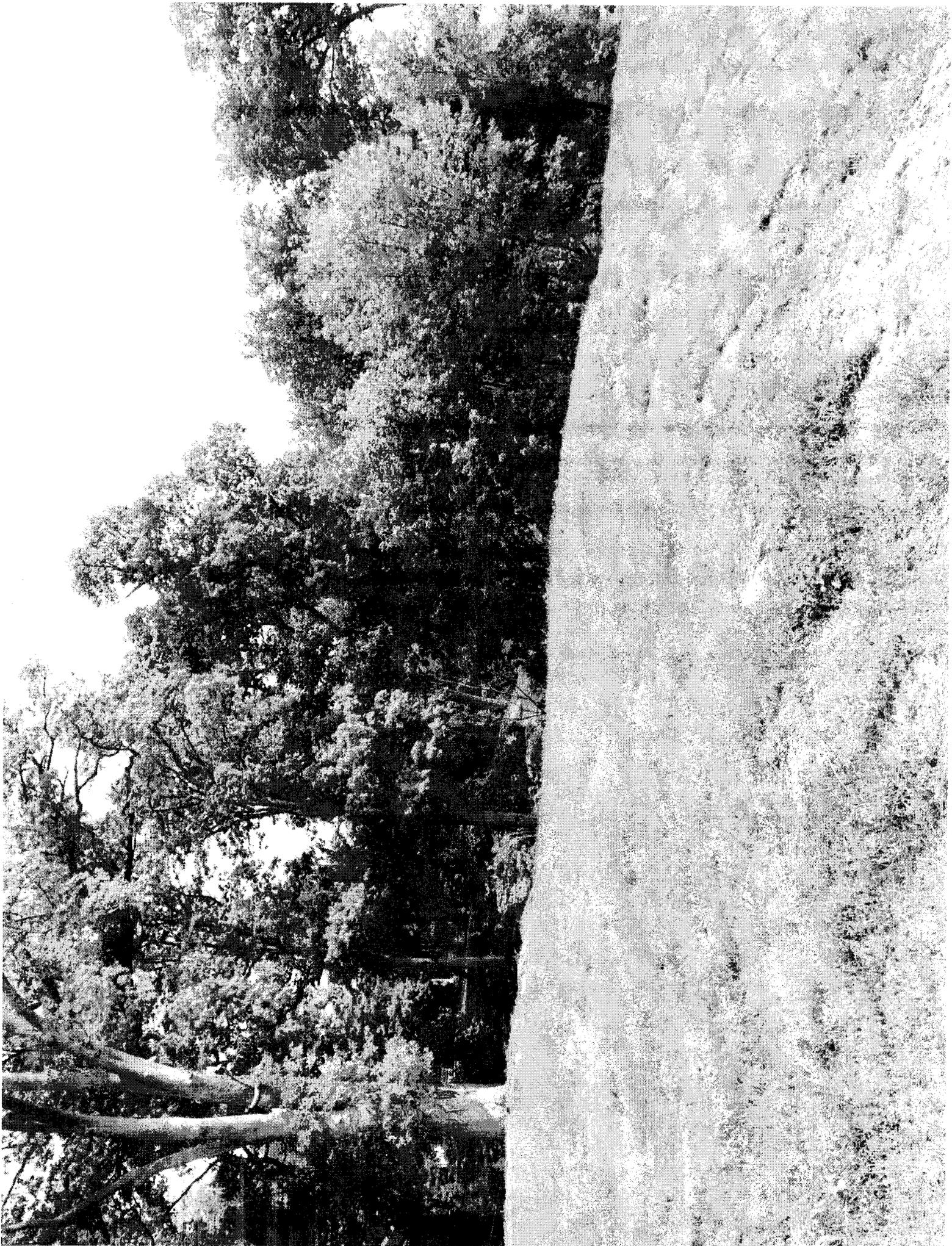
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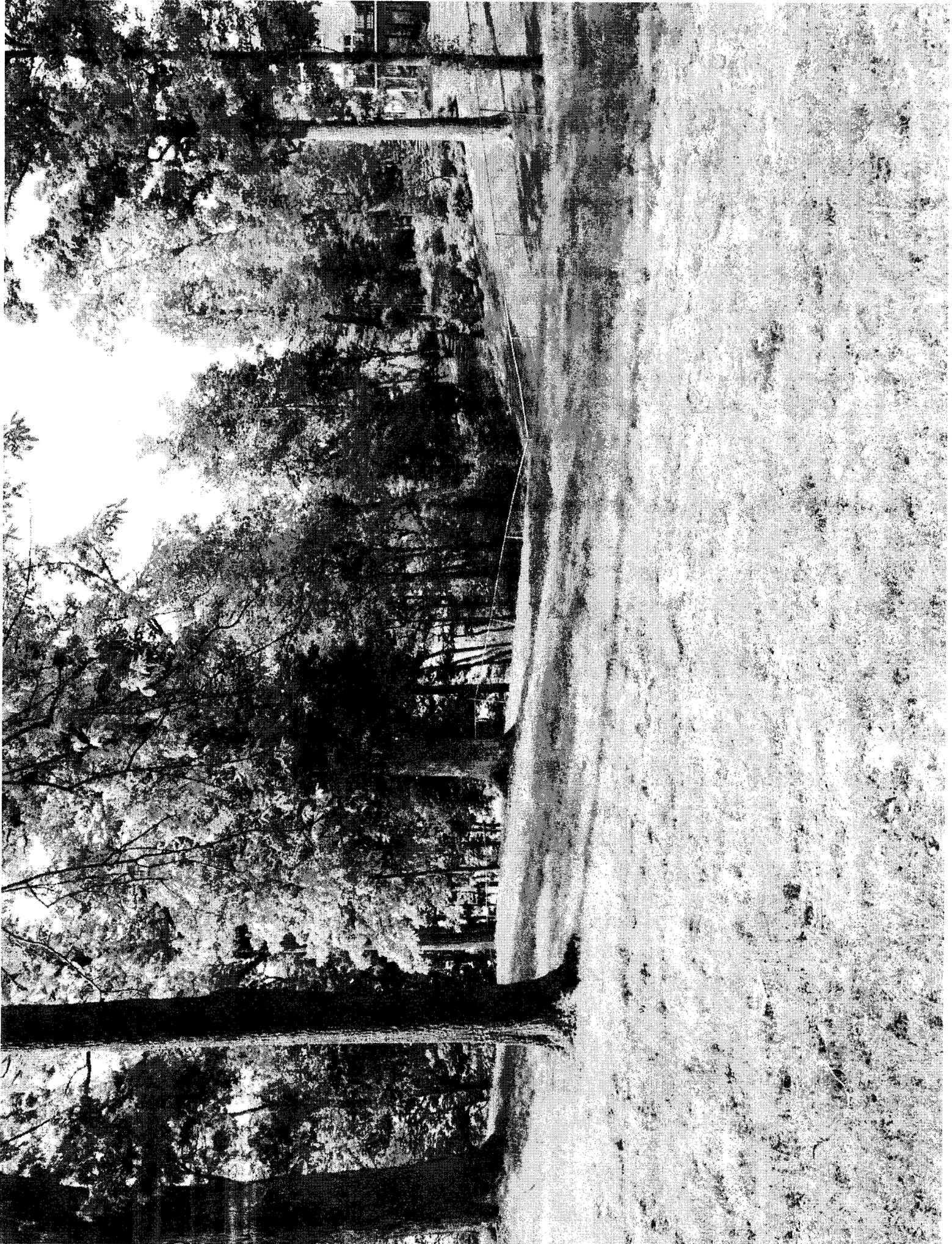
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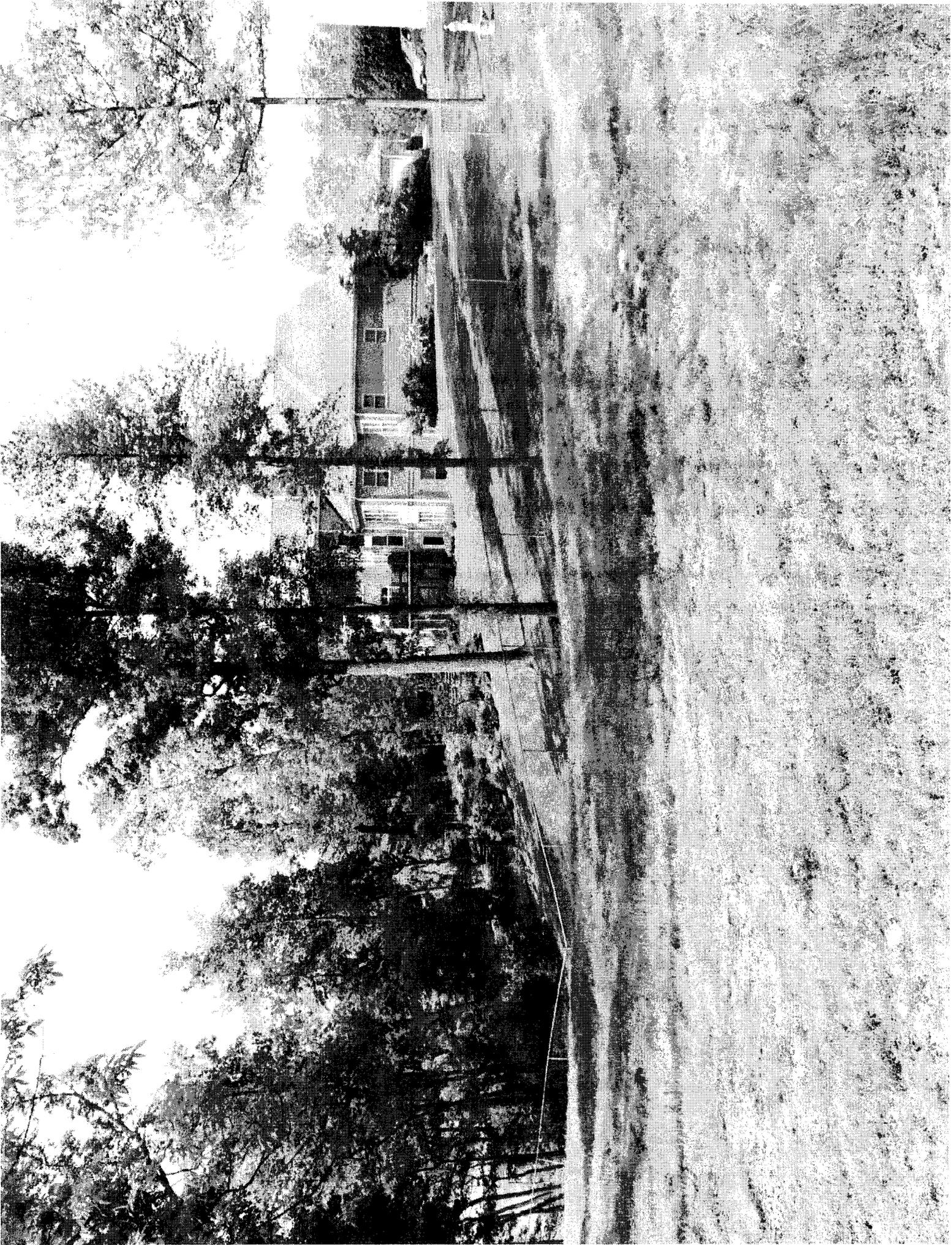
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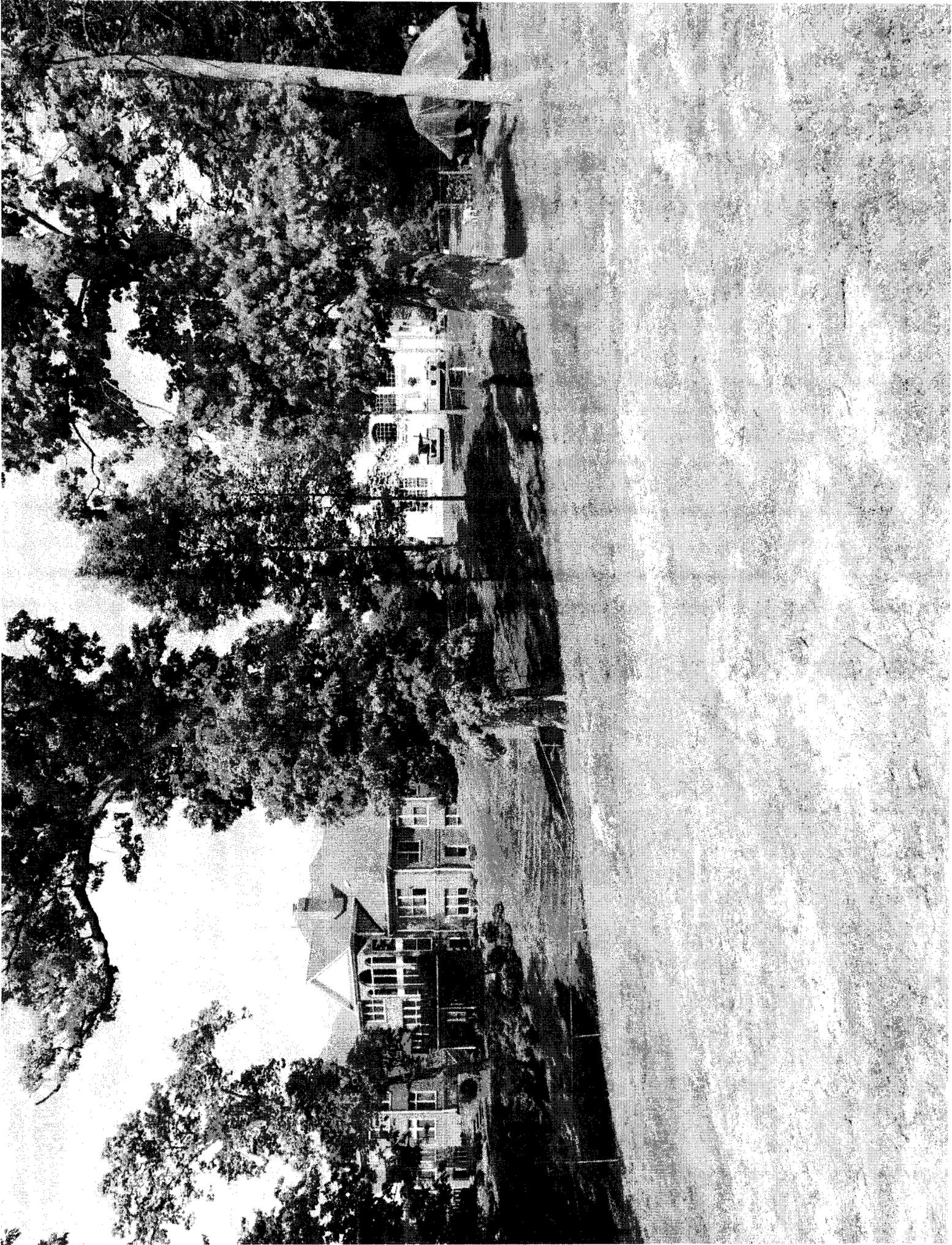
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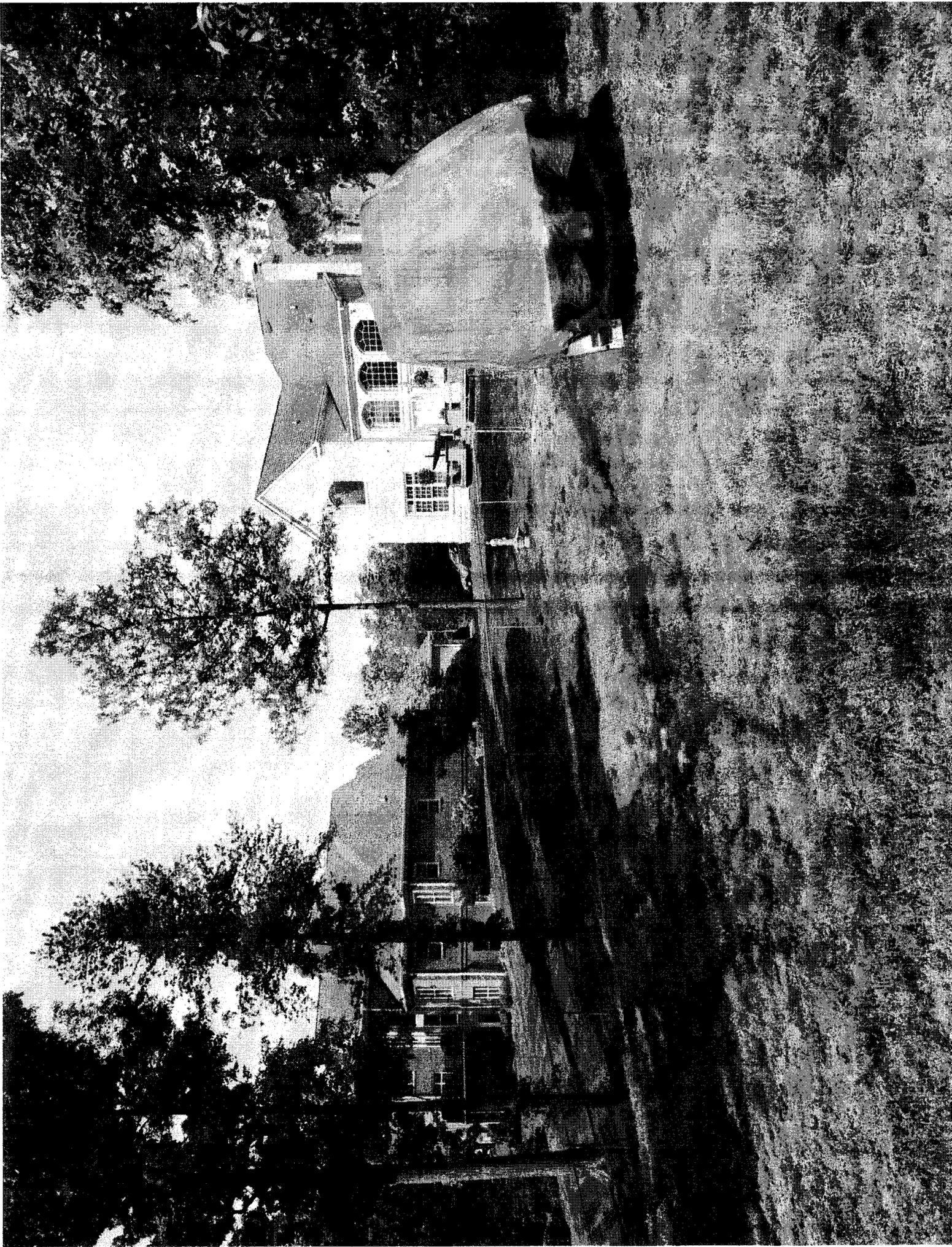


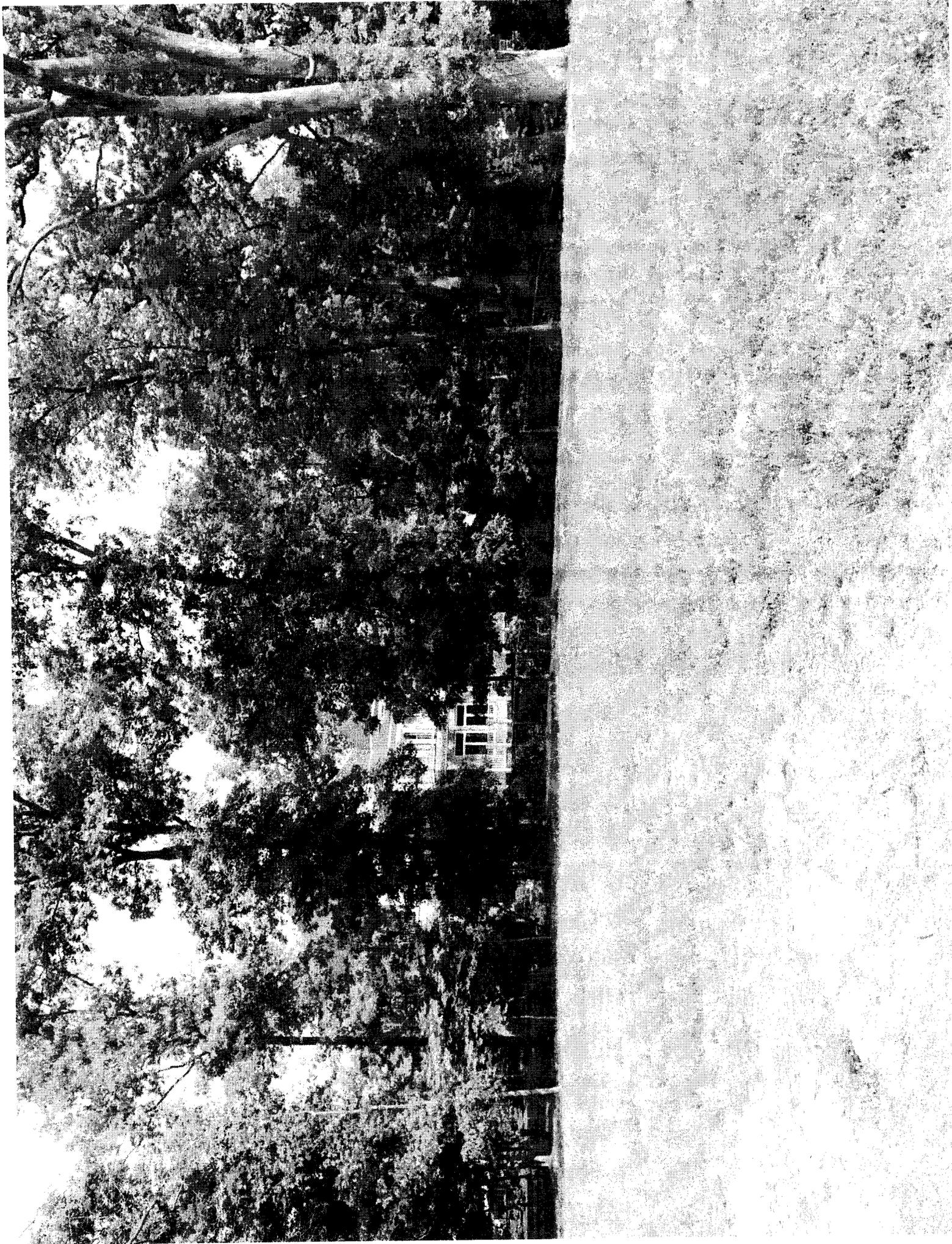












DESCRIPTION OF THE APPLICATION

The applicants are seeking approval of a variance to permit a minimum lot width of 24.6 feet where 100 feet is required.

CHARACTER OF THE AREA

	Zoning	Use
North	R-2	Single Family Detached Dwelling
South	R-2C	Single Family Detached Dwelling
East		Potomac River
West	R-2C	Single Family Detached Dwelling

DESCRIPTION OF PROPERTY

The subject property is cleared, with large deciduous trees along the periphery of the lot. An asphalt driveway provides access to the site from Ludgate Drive. The topography is undulating with mounds of soil throughout the property. The rear third of the lot drops steeply downward toward the Potomac River. A 6-foot high frame bulkhead extends across the rear property line on the edge of the Potomac River. Toward the rear of the site there are two large retaining walls (11.8 feet and 11.3 feet high) with gravel filling in the area against the interior wall. There is an extensive break in the western end of the interior retaining wall. It appears that an attempt was made to patch the wall as there are remnants of wood planks and wire mesh attached to some segments. A Resource Protection Area (RPA) encompasses the rear third and a floodplain encompasses the rear fourth of the property adjacent to the Potomac River.

BACKGROUND

Records indicate that the subject 2.2 acre lot was created on October 31, 1974 (deed book 4125, page 548) when it was divided off from a 7.9 acre tract. The parent tract was owned by Henry and Roselina Altshuler who divided the lot and sold Lot 5 to Mr. Tiauw Liem.

The lot was sold several times and in 1990, the then owner, Mr. Seyed Falsafi filed for a variance (VC 91-V-116) to the minimum lot width requirement, to allow the subdivision of Lot 5 into two lots each having lot widths of 12.0 feet. On April 10, 1992 the variance application was denied (see Appendix 4) by the Board of Zoning Appeals (BZA). Mr. Seyed Falsafi later sold the property to Mount Vernon Company LC in 1992 (deed book 8300, page 1704), who then sold it a month later to Ms. Linda Caine (deed book 8335, page 922). From 1992 to 1994, Ms. Linda Caine filed several building permit

applications for the construction of a single family detached dwelling. None of the building permits were ever finalized for the construction of a single family detached dwelling. A building permit was finalized on April 6, 1994 for the construction of a retaining wall (see Appendix 5).

Ms. Linda Caine sold the property to Launch Inc. in 1996 (deed book 9669, page 270) who then sold it in 2000 to the current owners, John and Marylou McEwan (deed book 11568, page 1532).

On June 7, 2006 a Lot Validation Determination letter (see Appendix 6) was issued by the Department of Public Works and Environmental Services (DPWES) which stated that the lot did not meet the current Zoning Ordinance requirements for lot width and did not meet the applicable lot width requirements when it was created or any time after. On June 8, 2006 a follow-up letter (also Appendix 6) to the Lot Validation Determination was issued explaining that in order for a lot to be buildable, it must either meet the current Zoning Ordinance requirements, have been recorded prior to the effective date of the first Zoning Ordinance on March 1, 1941 or, met the applicable zoning regulations in effect when recorded. In addition to meeting the requirements of the Zoning Ordinance, in order to be issued the required building permits for the construction of a dwelling, the lot must also comply with the subdivision regulations in effect at the time of recordation.

The Subdivision Ordinance contains a provision designed to validate certain lots. It states that the lot must meet the ZO requirements in effect at the time of recordation or contained a principal structure on March 9, 2004 that was occupied or had been occupied at any time between March 9, 1999 and March 9, 2004. The lot is currently vacant and did not contain any principal structure on March 9, 2004 that was occupied or had been occupied between March 9, 1999 and March 9, 2004.

ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of VC Plat:** Variance Plat on Parcel 5 The Property of John A. & Mary L. McEwan
- **Prepared By:** Dominion Surveyors Inc. dated March 2, 2007, as revised through December 26, 2007

Proposal:

The applicants John A. and Mary L. McEwan are the owners of lot 5, which is a 2.22 acre lot, zoned R-2 and is currently vacant. The applicants are seeking approval of a variance to permit a minimum lot width of 24.6 feet. The required lot width for an internal lot in the R-2 District is 100 feet. Thus, the applicants are requesting a variance of 75.4 feet to the minimum lot width requirement.

ENVIRONMENTAL ANALYSIS (Appendix 7)**Issue:**

The property is bounded on one side by the Potomac River and a portion of the property is located in a Resource Protection Area (RPA)/EQC associated with the river. The boundary of the EQC is coterminous with the RPA. The application contains no information regarding limits of clearing and grading, building location, landscaping or potential restoration of the area. The applicants were asked to depict all of the above on the plat and to provide an existing vegetation map so that staff could determine if there are any trees on the lot that may be affected by clearing and grading. The limits of clearing and grading and the location of any proposed structures should remain outside of the limits of the Resource Protection Area (RPA). The applicants should also be prepared to provide a landscape plan which includes some level of restoration of the RPA with some native plants.

Resolution:

This issue remains unresolved.

Issue:

Fairfax County soils maps indicate the presence of Marine Clay soils on the subject property. Typically, development of these soils requires a geotechnical study. The construction of single-family dwellings on such lots requires deep footings to prevent slippage. The applicants must comply with building code requirements for the construction of a dwelling and other permanent structures on the property. Any final determination regarding the most appropriate construction methods required will be made by DPWES at the time of the building plan review.

Resolution:

This issue will have to be addressed at the time of grading plan review.

Transportation Analysis (Appendix 8)

No transportation issues have been identified in conjunction with this application.

Stormwater Management Analysis (Appendix 9)**Issue:**

The site contains a Resource Protection Area (RPA) and a regulated flood plain on the parcel. Two retaining walls and a bulkhead are shown in the RPA and the applicants were requested to demonstrate that all necessary approvals including, but not limited to, building permits were obtained for these structures. If they were constructed in

accordance with all applicable provisions of County Code in effect at the time they were built, they may remain as long as they are not enlarged or expanded. Also any future proposed development must comply with the Chesapeake Bay Preservation Ordinance (CBPO).

Resolution:

On June 28, 1983 a Joint Permit application (see Appendix 10) was submitted to the Virginia Marine Resource Commission (VMRC) to construct a bulkhead to prevent further deterioration of the slope fronting the Potomac River, as the bank had collapsed due to shore erosion in April 1983. No action had been taken on the permit application as it was deemed an emergency situation by the VMRC and the applicant was allowed to proceed with construction. A Wetlands Permit would not have been issued for construction of the bulkhead as the VMRC preceded the adoption of the Wetlands Ordinance and the creation of the Wetlands Board on October 17, 1983. In 1993 a building permit was issued for the construction of the retaining wall (see Appendix 4). However, it now appears that a portion of the retaining wall has collapsed and will need to be repaired.

ZONING ORDINANCE REQUIREMENTS (See Appendix 11)

This variance application must satisfy all of the nine (9) enumerated requirements contained in Sect. 18-404, Required Standards for Variances. If the BZA determines that a variance can be justified, it must then decide the minimum variance, which would afford relief as set forth in Sect. 18-405.

CONCLUSION

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

APPENDICES

1. Proposed Development Conditions
2. Applicants' Affidavit
3. Applicants' Statement of Justification
4. Variance Resolution and Plat
5. Building Permit
6. Lot Validation letter and follow-up letter
7. Environmental Analysis
8. Transportation Analysis
9. Stormwater Analysis
10. Joint Permit Application
11. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**VC 2008-MV-002****September 9, 2008**

If it is the intent of the Board of Zoning Appeals to approve VC 2008-MV-002 located at Tax Map 110-4 ((1)) 5 to permit a minimum lot width of 24.6 feet pursuant to Section 18-0401 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This variance is approved for the minimum lot width of 24.6 feet, as shown on the plat prepared by Dominion Surveyors Inc., dated March 2, 2007, revised through December 26, 2007, submitted with this application and is not transferable to other land. All development shall be in conformance with this plat as qualified by these development conditions. These conditions shall be recorded by the applicants among the land records of Fairfax County. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning (DPZ) and the Department of Public Works and Environmental Services (DPWES) prior to the approval of any permits and grading plan for this lot.
2. All prospective purchasers of the property shall be notified in writing prior to sale of the property that these conditions have been recorded in the land records of Fairfax County and must be implemented prior to the approval of the grading plan for this lot.
3. Prior to any land disturbing activity, a grading plan which establishes the minimum limits of clearing and grading necessary to construct the improvements and a tree preservation and restoration plan shall be submitted to the Department of Public Works and Environmental Services (DPWES), including the Urban Forest Management Division (UFMD), for review and approval. The maximum extent of clearing and grading shall also be shown. The tree preservation and restoration plan shall preserve as much of the existing tree canopy as possible as determined by DPWES and shall meet the tree cover requirements of the Zoning Ordinance. Prior to any land disturbing activity for construction, a pre-construction conference shall be held between DPWES, including the Urban Forester and representatives of the applicants to include the construction site superintendent responsible for onsite construction activities. The purpose of this meeting shall be to discuss and clarify the limits of clearing and grading, areas of tree preservation, and the erosion and sedimentation control plan to be implemented during construction. In no event shall an area of the site be left denuded for a period longer than fourteen (14) days. Any utilities located outside the limits of clearing and grading shall be located and installed in a manner which is the least disruptive to the natural vegetation as possible, duly considering the cost and engineering feasibility of their installation.

The grading plan shall require that the area outside of the limits of clearing and grading be preserved and labeled as "perpetually undisturbed open space". A Conservation Easement subject to UFM may be required in order to ensure the perpetual undisturbed state of the restoration area. The restoration plan shall be developed with the intention of revegetating and restoring the perpetually undisturbed open space to its natural habitat. No existing wooded areas may be disturbed to plant the restoration material. The applicants may maintain the undisturbed open space as needed to remove only undesirable vegetation such as brambles and vines with the intention of maintaining the evergreen tree cover until such time as natural succession takes over. There shall be no mowing of grass in the perpetually undisturbed open space.

4. Due to the presence of problem soils, if requested by DPWES during grading plan review, the applicants shall have a geotechnical study of the application property prepared by a geotechnical engineer, shall submit a report to DPWES for review and approval, and shall implement the recommendations outlined in the approved study.
5. All construction on site shall comply with the current Chesapeake Bay Ordinance requirements. An exception shall be obtained, if necessary, from the DPWES.

This approval, contingent upon the above-noted conditions, shall not relieve the applicants from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless the lot has been recorded in the land records. The Board of Zoning Appeals may grant additional time to record the lot if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): _____
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/20/08
 (enter date affidavit is notarized)

I, Benjamin T. Danforth, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below 99187a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE**,** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
John A. McEwan Mary L. McEwan	9401 Ludgate Drive Alexandria, VA 22309	Owners/Applicants
Lawson, Tarter & Charvet, P.C. William B. Lawson, Jr., Esq. Benjamin T. Danforth, Esq.	6045 Wilson Blvd., Suite 100 Arlington, VA 22205	Attorneys/Agents
Jane Kelsey & Associates, Inc. Jane Kelsey	4041 Autumn Court Fairfax, VA 22030	Planner/Agent "

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/20/08
(enter date affidavit is notarized)

99187a

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Lawson, Tarter & Charvet, P.C.
6045 Wilson Boulevard, Suite 100
Arlington, VA 22205

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

William B. Lawson, Jr., Esq.
P. David Tarter, Esq.
Ina C. Charvet, Esq.

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(b)

DATE: 3/20/08
(enter date affidavit is notarized)

99187a

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Jane Kelsey & Associates, Inc.
4041 Autumn Court
Fairfax, VA 22030

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

Jane Kelsey

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/20/08
(enter date affidavit is notarized)

99187a

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

None

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/20/08
(enter date affidavit is notarized)

99187a

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

None

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/20/08
(enter date affidavit is notarized)

99187a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

James R. Hart is a member of the Fairfax County Planning Commission and the Fairfax County Board of Zoning Appeals. James R. Hart and his law firm, Hart & Horan, PC, represented two clients in a litigation matter; however, said clients are not parties to this application. Mr. Hart's clients hired Jane Kelsey of Jane Kelsey & Associates, Inc. as a consultant on the same litigation matter, and Jane Kelsey and Jane Kelsey & Associates, Inc. are listed as agents for the applicants in Par. 1(a) of this affidavit. Mr. Kelsey was also an expert witness in the case.

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

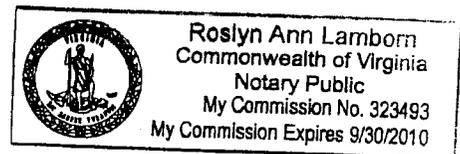
[] Applicant *BTD*
[x] Applicant's Authorized Agent *Anthony/Agent*

Benjamin T. Danforth, Esq. Attorney/Agent
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 20th day of March 2008, in the State/Comm. of Virginia, County/City of Arlington.

Roslyn Ann Lamborn
Notary Public

My commission expires: 9/30/2010



LAWSON TARTER & CHARVET, P.C.

William B. Lawson, Jr., Esquire
blawson@lawsonarter.com

February 26, 2008

VIA U.S. MAIL

Fairfax County Board of Zoning Appeals
12055 Government Center Parkway
Suite 801
Fairfax, Virginia 22035

Re: Variance Application (the "Application")
9325 Ludgate Drive (the "Property" or the "Lot")
Tax Map # 110-4 ((1)) 0005

Dear Board of Zoning Appeals:

My firm represents John and Mary Lou McEwan (the "Applicants") with respect to the Application. The Applicants' Property has an unusual history, which, coupled with the Lot's irregular shape, creates a unique hardship (a 2 acre unbuildable lot) that warrants relief from the strict terms of the County's zoning ordinance (the "Ordinance"). Granting the variance requested by the Applicants, which would be for relief from the required lot width, would permit the Applicants to use the Property in the manner they expected to when they purchased it: as a buildable lot.

When the Applicants decided to purchase the Property in 2000 for 1.5 million dollars, they did so based on a justifiable belief that it was buildable. Since that time, they have paid a substantial amount in real estate taxes on the Property (the Property was assessed at approximately 1.25 million dollars in 2007). Now, due a recent County determination that the Lot is unbuildable, all the Applicants effectively have to show for their investment is a scenic area to use for private picnics.

The Property's history displays why the Applicants paid such a substantial sum for what they believed was a buildable lot. First, a single-family dwelling was located on the Property from 1956 to 1990. Second, in 1991, as part of a separate and unrelated variance application on the Property, Fairfax County staff and the Board of Zoning Appeals stated that the Lot was "a buildable lot" that could "be developed by-right with a single family detached dwelling." Third, in 1994, a building permit was issued authorizing the construction of a single family dwelling on the Property.

RECEIVED
Department of Planning & Zoning
FEB 27 2008
Zoning Evaluation Division

It is not clear when, but in the eyes of the County, at some point since the mid 1990's, the Lot ceased to be buildable. In addition, the lot validating amendment to the Ordinance that was intended to correct these situations does not apply because of the timing of the removal of the house that was located on the Property. Some of the confusion and inconsistency regarding the Lot's status results from the Lot's unusual shape. The Lot is a pipe stem, with the majority of the Lot's area setback almost 150 feet from the nearest right-of-way – Ludgate Drive. Despite a surfeit of overall square footage (the Lot is over six times larger than the R-2 zoning district's minimum lot area requirement and could yield a density of 4 lots), the Lot does not meet R-2's minimum width requirement (although at its widest point the Lot is over 300 feet wide), because the Ordinance's measuring point for minimum lot width cuts through the Property at its pipe stem, its narrowest point.

For the reasons set forth above and as more fully detailed below, the Application meets the following variance standards and should be granted.

I. **The Property was acquired in good faith.**

The Applicants purchased the Property with a good faith belief that it was buildable.

II. **The Property was exceptionally narrow at the time of the effective date of the Ordinance.**

The Lot's width from a zoning perspective - 25 feet - was exceptionally narrow at the time of the effective date of the Ordinance (and remains exceptionally narrow today).

III. **The Property's condition is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Ordinance.**

The hardship facing the Property and the Applicants is unique. Most of the R-2 lots in the County do not face the same lot width problem. And, although the Ordinance contains a "lot validating" provision to aid irregular lots, this provision does not aid the Applicants, because there was not a house existing on the Lot in 2004 (a requirement in order for the "lot validating" provision to apply).

IV. **The strict application of this Ordinance would produce undue hardship.**

The strict application of the Ordinance would effectively render the Lot, which the Applicants purchased for 1.5 million dollars and the County has assessed at approximately 1.25 million dollars, useless.

- V. **The undue hardship is not shared generally by other properties in the same zoning district and the same vicinity, and the strict application of the Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the Property.**

Most, if not all, of the residential lots in the vicinity of the Property contain residences. The strict enforcement of the Ordinance would prohibit and restrict all reasonable use of the Property, by rendering it unbuildable.

- VI. **The authorization of the variance will not be of substantial detriment to adjacent property.**

A house can be built on the Property that complies with all applicable setbacks and will not be detrimental to adjacent properties. In addition, a house existed on the Lot for many years.

- VII. **The character of the zoning district will not be changed by the granting of the variance.**

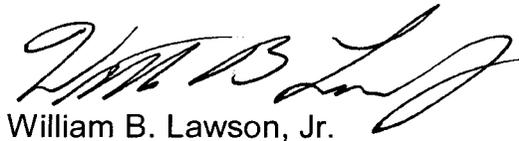
The character of the zoning district will remain residential if the variance is granted.

- VIII. **The variance will be in harmony with the intended spirit and purposes of the Ordinance and will not be contrary to the public interest.**

The requested variance is consistent with the spirit and purposes of the ordinance and the public interest.

Thank you for your consideration of this matter. Please contact me with any questions regarding the Application.

Sincerely,


William B. Lawson, Jr.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 91-V-116 by SEYED M. FALSAFI, under Section 18-401 of the Zoning Ordinance to allow subdivision of 1 lot into 2 lots with proposed Lots 1 and 2 having lot widths of 12.0 feet, on property located on Ludgate Drive, Tax Map Reference 110-4((1))5, Mrs. Harris moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 2, 1992; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 2.22 acres.
4. The property does have unusual topography but that is where it stops meeting the Ordinance.
5. This property can be developed by right with one house and under the Ordinance the Board of Zoning Appeals has to be shown there is a hardship approaching confiscation of property in order to grant a variance.
6. The property has demonstrated the Environmental Quality Corridor requirements need to be met because of previous slope failure and because there are problem soils on the site.
7. Reasonable use of the property can be achieved without a variance.
8. Although substantial planning would occur under the variance request, that is not reason enough to grant a variance on the property.
9. There would be substantial detriment to the adjoining property owners and to future property owners.
10. A bad precedent would be set by allowing a variance when no hardship has been demonstrated.
11. The applicant's agent testified that the overwhelming concern was an additional house.
12. The only hardship that was brought up by the applicant's agent was the financial hardship, and that cannot be classed as a hardship.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;

- E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

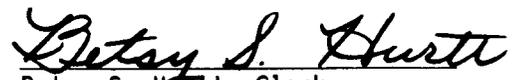
THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **DENIED**.

Mr. Kelley seconded the motion which carried by a vote of 4-0. Chairman DiGiulian, Mrs. Thonen, and Mr. Hammack were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 10, 1992.

A Copy Teste:


Betsy S. Hurtt, Clerk
Board of Zoning Appeals



CONSERVATION AGREEMENT
THE APPLICANT SHALL ADHERE TO THE LIMITS OF CLEARING SPECIFIED ON THIS PLAN. A CONDITION OF GRANTING AS SHOWN ON THIS PLAN IS THAT THE APPLICANT SHALL MAINTAIN AND RESTORE THE NATURAL HABITAT TO THE ORIGINAL STATE. TO BE TO RESTORE THE NATURAL HABITAT AND FERTILITY WILL BE DONE WITHIN THE EASEMENT RECOMMENDED BY COUNTY EXTENSION ACTIVITY.

VARIANCE REQUESTED
THIS VARIANCE APPLICATION IS TO ALLOW TWO LOTS WITH LESS THAN THE MINIMUM LOT WIDTH FOR A CONVENTIONAL SUBDIVISION AS REQUIRED BY FAIRFAX COUNTY ZONING ORDINANCE. THE APPLICANT REQUESTS THAT THE SUBDIVISION OF THE 3.2301 ACRE PARCEL INTO TWO LOTS BE APPROVED.

- 1) THE PROPERTY DELINEATED ON THIS SHEET IS LOCATED ON THE MOUNT VERNON DISTRICT AS SHOWN ON THE ZONING MAP.
- 2) THE PROPERTY IS LOCATED ON THIS SHEET AS SHOWN BY THE TYPICAL MAP FOUND IN §§ 15.1, 15.2, 15.3 AND 15.4 OF THE ZONING ORDINANCE. THE COUNTY RECORDS OF FAIRFAX COUNTY, VIRGINIA, SHOW THE PROPERTY IS LOCATED ON THE ZONING MAP AS SHOWN ON THIS SHEET.
- 3) TITLE REPORT FURNISHED BY JAMES H. JONES, INC., 10000 WOODS DRIVE, ALEXANDRIA, VA 22304. PHONE (703) 481-9888.
- 4) SUMMARY AND TOPOGRAPHIC INFORMATION IS BASED ON FIELD SURVEY BY THIS FIRM.
- 5) THIS SITE WILL BE SERVED BY PUBLIC WATER AND SEWER.
- 6) ALL UTILITIES DETAILING REQUIREMENTS WILL BE SUBMITTED AT THE TIME OF FINAL PLAN SUBMISSION.
- 7) SUBSEQUENT PLAN AND FINAL CONSTRUCTION SHALL CONFORM TO ALL APPLICABLE RULES AND REGULATIONS OF FAIRFAX COUNTY.
- 8) NO CHANGES HAVE BEEN MADE ON THIS SITE.
- 9) A SOIL REPORT PREPARED BY JOHN J. JONES ASSOCIATES, INC. HAS BEEN SUBMITTED TO THE SPECIAL PERMITS FOR APPROVAL. THE SITE IS ENTIRELY COVERED BY SCATTERED INDIVIDUAL MATURE TREES.
- 10) THE COUNTY WIDE TRAIL MAP INDICATES A TRAIL IS REQUIRED ON THIS PROPERTY FRONTING THE POTOMAC RIVER.

PERMITTING CALCULATIONS

Total Site Area (100% Blot)
= 3.2301 acres
= 1,737,737 sq. ft.
= 1,956,000 sq. ft. (including 21% density)
= 1,956,000 sq. ft. (including 21% density)
= 1,956,000 sq. ft. (including 21% density)

Minimum Lot Area
= 13,311 sq. ft.
= 13,311 sq. ft.
= 13,311 sq. ft.

Minimum Lot Width
= 133.11 ft.
= 133.11 ft.
= 133.11 ft.

Minimum Lot Depth
= 133.11 ft.
= 133.11 ft.
= 133.11 ft.

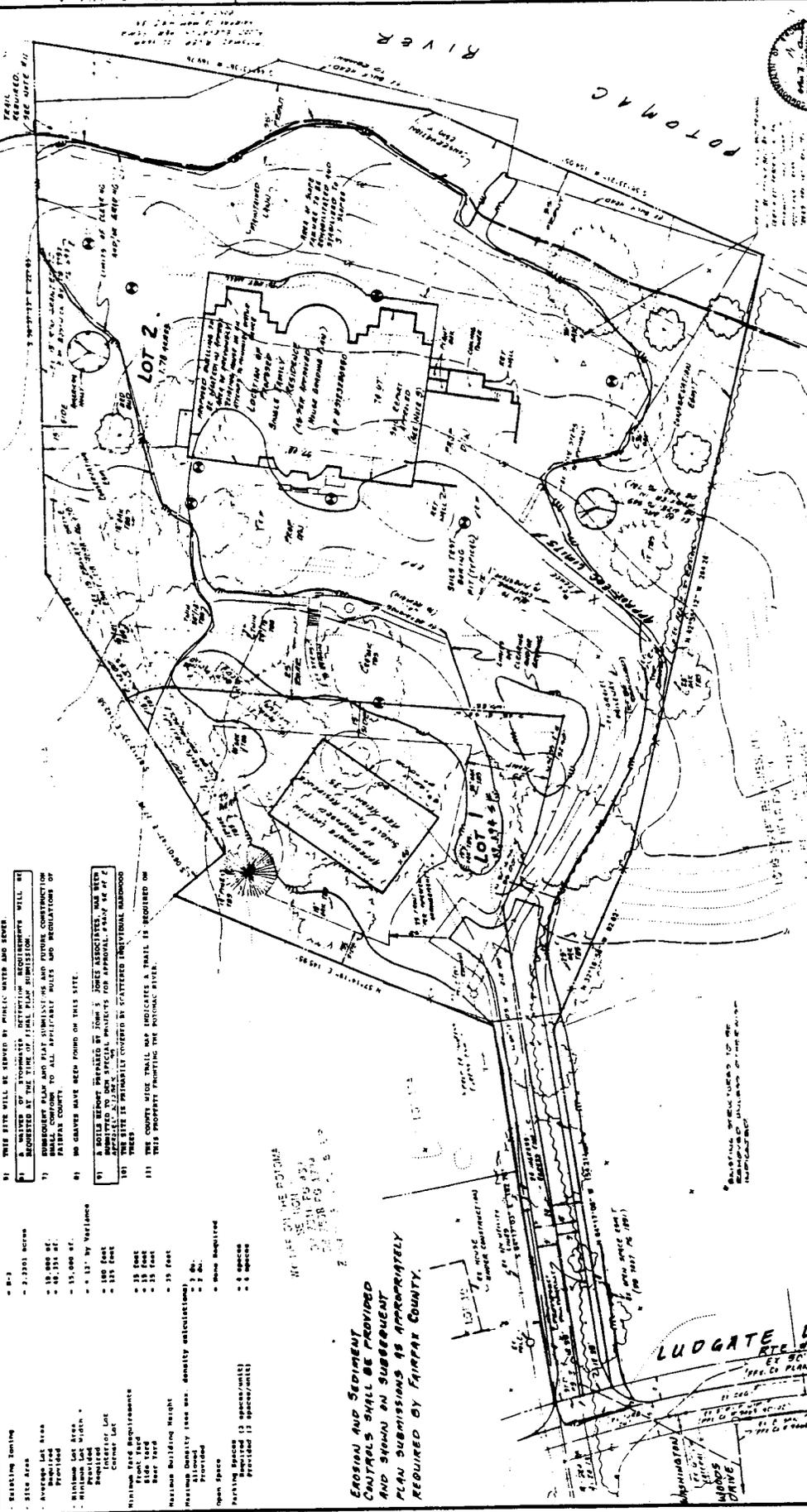
Minimum Lot Area Requirements
= 13,311 sq. ft.
= 13,311 sq. ft.
= 13,311 sq. ft.

Minimum Building Height
= 10 feet
= 10 feet
= 10 feet

Maximum Density (see max. density calculations)
= 2.00
= 2.00
= 2.00

Open Space
= 2.00
= 2.00
= 2.00

Permitted (3 spaces/acre)
= 2.00
= 2.00
= 2.00



RECEIVED
OFFICE OF COMPREHENSIVE PLANNING
NOV 23 1991

PLEASE PRINT ESTIMATE TREES TO BE SAVED (S.E.) LABELED WITH THEIR SIZE AND LOCATION WITHIN THE CONSERVATION EASEMENT. (100 S.F. EACH) ARE BEING TO BE PLANTED.
THIS COVER CALCULATIONS ARE AS FOLLOWS:
TOTAL LOT SUBMITTABLE
ADJUSTED SITE AREA COVERED REQUIRED
E.T. THIS COVER TO BE PRESERVED IN 1.73
THIS COVER TO BE PLANTED

EROSION AND SEDIMENT CONTROLS SHALL BE PROVIDED AND SHOWN ON SUBSEQUENT PLAN SUBMISSIONS AS APPROPRIATE REQUIRED BY FAIRFAX COUNTY.

QUANTITY	DESCRIPTION	UNIT	AMOUNT
1	CONSERVATION EASEMENT	SQ. FT.	1,737,737
1	TRAIL	LINEAL FT.	1,000
1	PARKING	SQ. FT.	1,000
1	OPEN SPACE	SQ. FT.	1,000
1	PERMITTED	SQ. FT.	1,000
1	EROSION AND SEDIMENT CONTROLS	SQ. FT.	1,000



BOARD OF ZONING APPEALS
SUPPORT BRANCH

BUILDING PERMIT APPLICATION

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
 FAIRFAX COUNTY, VIRGINIA
 PERMIT APPLICATION CENTER
 12055 Government Center Parkway, 2nd Floor
 Fairfax, Virginia 22035-5504
 (703) 222-0801

PERMIT # 110-4-01-0005

FOR INSPECTIONS CALL: (703) 222-0455

FILL IN ALL APPROPRIATE INFORMATION IN THIS COLUMN (PLEASE PRINT OR TYPE)

JOB LOCATION:
 ADDRESS 9325 LUDGATE DR.
 LOT # _____ BUILDING _____
 FLOOR _____ SUITE _____
 SUBDIVISION _____
 TENANT'S NAME _____

OWNER INFORMATION: OWNER TENANT
 NAME LINDA CAINE
 ADDRESS 3914 CAPTAINS ROW
 CITY ALEX STATE VA ZIP 22309
 TELEPHONE 373-0600

CONTRACTOR INFORMATION:
 CHECK IF SAME AS OWNER
 COMPANY NAME TEUS WILCKE COMP.
 ADDRESS 604 WILLIAM ST
 CITY LEESBURG STATE VA ZIP 22401
 TELEPHONE (703) 377-4965
 LOCAL CONTRACTOR LICENSE # _____
 STATE CONTRACTORS LICENSE # 2701039202
 COUNTY BUSINESS ACCOUNT # 22-6184
 APPLICANT _____

DESCRIPTION OF WORK
CONSTRUCT TIEBACK RETAINING WALL

HOUSE TYPE SINGLE FAMILY
 ESTIMATED COST OF CONSTRUCTION 200,000
 BLDG AREA (SQ FT OF FOOTPRINT) _____
 USE GROUP OF BUILDING _____
 TYPE OF CONSTRUCTION _____

SEWER SERVICE: PUBLIC SEPTIC OTHER
 WATER SERVICE: PUBLIC WELL OTHER
 OTHER PLEASE SPECIFY _____

DESIGNATED MECHANICS' LIEN AGENT:
(Residential Construction Only)
 NAME: _____
 ADDRESS: _____
 NONE DESIGNATED: PHONE: _____

CHARACTERISTICS FOR NEW SFD, TH, APT & CONDOS:

# KITCHENS _____	EXTER. WALLS _____
# BATHS _____	INTER. WALLS _____
# HALF BATHS _____	ROOF MATERIAL _____
# BEDROOMS _____	FLOOR MATERIAL _____
# OF ROOMS _____	FIN. BASEMENT _____ %
# STORIES _____	HEATING FUEL _____
BUILDING HEIGHT <u>15/20</u>	HEATING SYSTEM _____
BUILDING AREA _____	# FIREPLACES _____
BASEMENT _____	

DO NOT WRITE IN THIS SPACE - COUNTY USE ONLY

PLAN # R-493-00875
 TAX MAP # 110-4-01-0005

ROUTING	DATE	APPROVED BY:
ZONING	<u>4-16-93</u>	<u>[Signature]</u>
SITE PERMITS	<u>4-16-93</u>	<u>[Signature]</u>
SANITATION		
HEALTH DEPT.		
FIRE MARSHAL		
BUILDING REVIEW	<u>5-3-93</u>	<u>[Signature]</u>
LICENSING	<u>4/19/93</u>	<u>[Signature]</u>
ASBESTOS		

FEE \$ 3000.00
 FILING FEE \$ 1500.00
 AMOUNT DUE \$ _____

BUILDING PLAN REVIEW
 REVIEWER _____ # OF HOURS _____
 REVISION FEES \$ _____
 FIRE MARSHAL FEES \$ _____
 PICTURE UNITS _____ PLAN LOC. J R

APPROVED FOR ISSUANCE OF BUILDING PERMIT
 BY [Signature] DATE _____

ZONING REVIEW: ZONING CLASS R-2
 USE Residential
 ZONING CASE # _____
 SQUARE FOOTAGE OF TENANT SPACE _____

YARDS: 10 GARAGE: 1 2 3
 FRONT 10 OPTIONS: YES NO
 FRONT REMARKS: 7 ft. - 2 ft.
 L SIDE 10
 R SIDE 10
 REAR 10

GRADING AND DRAINING REVIEW
 SOILS: # _____ A B C
 HISTORICAL DISTRICT _____
 AREA TO BE DISTURBED (TOTAL SQ FT) _____
 ADD'L IMPERVIOUS AREA (ADDED SQ FT) _____
 PROFFERS _____
 PLAN # Not Binded APPROVAL DATE _____

STAMPS:

(See reverse side of application)

REMARKS: General
W.M. NEITZBY

Any and all information and/or stamps on the reverse side of this form are a part of this application and must be complied with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

[Signature] Date _____
 Signature of Owner or Agent

 Printed Name and Title

[Signature] Date _____
 Notary Signature
 (Notarisation required if owner not present at time of application)



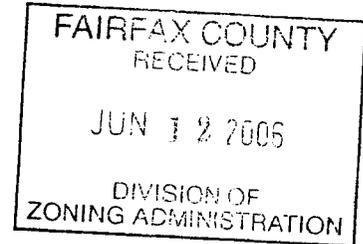
County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Buildable Lot Determination

0	3	2	9	4	-	L	V	-	0	0	1	-	1
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Property Tax Map Number: 110-4-01-0005
Property Address: 9325 Ludgate Drive
Applicant's Name: John McEwan
Applicant's Address: 9318 Ludgate Drive
Applicant's Phone Number: (703) 780-2296
Current Zoning: R-2
Magisterial District: Mount Vernon
Subdivision Name: N/A



The Department of Public Works and Environmental Services have reviewed the subject lot for compliance with the Fairfax County Subdivision Ordinance. Based on a search of the pertinent deed information associated with this lot, it appears that the subject lot was created and recorded on October 31, 1974 in Deed Book 4125 Page 548. From a subdivision perspective, this action is described as one of the following:

- _____
 Initial/Date Recordation of a metes and bounds description or plat prior to September 1, 1947.
- _____
 Initial/Date Recordation of a deed and plat in compliance with the Subdivision Ordinance in effect at the time.
- TSN/03-01-06
 Initial/Date Recordation of a metes and bounds description or plat after September 1, 1947 and at least on March 25, 2003, or thereafter the subject lot has been included on the Fairfax County Real Property Identification Map as a separate lot and has been taxed as a separate lot.

The Zoning Administration Division, Department of Planning and Zoning (DPZ) have reviewed the subject lot for compliance with the applicable requirements of the Fairfax County Zoning Ordinance. The subject lot is currently zoned R-2 which district requires a minimum lot area of 15,000 square feet and a minimum lot width of 100 feet. The subject lot has a lot area of 95,483 square feet and a lot width of 25 feet.

- The subject lot meets the current Zoning Ordinance requirements for lot area and lot width.

Department of Public Works and Environmental Services
 Land Development Services, Environmental and Site Review Division
 12055 Government Center Parkway, Suite 535
 Fairfax, Virginia 22035-5503
 Phone 703-324-1720 • TTY 703-324-1877 • FAX 703-324-8359



- The subject lot does not meet the current Zoning Ordinance requirements for lot area and/or lot width. However, the grandfathering provision of Sect. 2-405 of the Zoning Ordinance is applicable based on DPZ research that indicates that the lot met the applicable Zoning Ordinance requirements, with regard to lot area and lot width, when created/recorded or such creation/recordation predated the first Zoning Ordinance (March 1, 1941).
- The subject lot does not meet the current Zoning Ordinance requirements for lot area and/or lot width and did not meet such requirements at the time it was created. However, the grandfathering provision of Section 2-405 of the Zoning Ordinance is applicable based on DPZ research that indicates that the lot contained a principal structure on March 9, 2004, that was occupied or had been occupied at any time between March 9, 1999 and March 9, 2004, or is under construction pursuant to a building permit and that a Non-Residential Use Permit will be issued within 12 months after March 9, 2004.
- The subject lot does not meet the current Zoning Ordinance requirements for lot width and did not meet the applicable lot width requirements when the lot was created or any time thereafter. A separate letter from the DPZ, explaining this noncompliance will be subsequently issued.

Reviewing Authority: Jayne Collins 06-01-06
 Zoning Administration Division Date
 Department of Planning and Zoning

Based on the foregoing the following is applicable to the subject lot:

- The subject lot is considered a valid lot under the Subdivision Ordinance and a building permit may be issued for the development of a use permitted by right, by special permit or by special exception on the lot, provided all County and applicable Zoning Ordinance regulations, including minimum yard requirements, are met.
- The subject lot is an outlot under the Subdivision Ordinance and does not constitute a buildable lot.

Approving Authority:  06-07-06
 Land Development Services Date
 Department of Public Works and
 Environmental Services

cc: Janet E. Coldsmith, Director, Real Estate Division, DTA
 Robert A. Farrimond, GIS and Mapping Services Branch, DIT
 Eileen M. McLane, Deputy Zoning Administrator, Ordinance Administration Branch, DPZ
 Leslie B. Johnson, Deputy Zoning Administrator, Zoning Permit Review Branch, DPZ
 Ken Williams, Chief, Plan and Document Control, ESRD, DPWES

Buildable Lot Determination

0	3	2	9	4	-	L	V	-	0	0	1	-	1
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County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

June 8, 2006

Mr. John McEwan
9318 Ludgate Drive
Alexandria, Virginia 22309-2711



RE: Lot Validation 03294-LV-001-1
William Neitzey Estate, Pt. Pcl. 5
9325 Ludgate Drive
Tax Map Ref: 110-4 ((1)) 0005
Zoning District: R-2

Dear Mr. McEwan:

This is a follow-up letter to Lot Validation determination 03294-LV-001-1, issued by the Department of Public Works and Environmental Services (DPWES), and explains the zoning noncompliance issue relating to the referenced property.

The referenced Lot 5 contains 2.192 acres (95,484 square feet) with a lot width of approximately 25 feet and is zoned R-2, Residential District, Two Dwelling Units/Acre. The R-2 District has a minimum lot area requirement of 15,000 square feet and a minimum lot width requirement of 100 feet. As such, Lot 5 does not comply with the minimum lot width requirement of the R-2 District.

In order for a lot to be buildable from a zoning perspective, it must either meet the current Zoning Ordinance requirements or, in accordance with Sect. 2-405 of the Zoning Ordinance, among other things, either have been recorded prior to the effective date of the first Zoning Ordinance on March 1, 1941 or met the applicable zoning regulations in effect when recorded and not have been subsequently rezoned or subdivided at the request of the owner or the owner's agent. In addition, under Par. 1 of Sect. 18-603 of the Zoning Ordinance, in order to be issued the requisite building permits for the construction of a dwelling, a lot must also have complied with the subdivision regulations in effect at the time of recordation.

The subdivision regulations are administered by DPWES and that office has determined that Lot 5 was created in its current configuration by a metes and bounds description recorded on October 31, 1974 in Deed Book 4125, Page 548. At the time of recordation, Lot 5 was zoned RE-0.5, and it did not meet the minimum lot width requirement of 100 feet for that district. The Subdivision Ordinance contains a provision which is designed to validate certain lots. In order to

Mr. John McEwan
June 8, 2006
Page 2

qualify for subdivision lot validation, a lot must be taxed as a separate lot, be shown as a separate lot on the County's tax map, and either have met the Zoning Ordinance requirements in effect at the time of recordation or sometimes or contained a principal structure on March 9, 2004 that was occupied or had been occupied at any time between March 9, 1999 and March 9, 2004. Lot 5 did not meet the minimum lot width requirement when it was recorded in 1974 and it does not meet the current R-2 District minimum lot width requirement. Further, the lot does not contain a principal structure. As such, Lot 5 does not meet the zoning criteria needed to be determined a valid lot.

I realize this is not the answer you were anticipating; however, I trust it satisfactorily responds to your request. Should you require additional information about the lot validation determination, please contact Tom Nelson in DPWES at (703) 324-1720. Please direct zoning questions to me at (703) 324-1314.

Sincerely,



Jayne M. Collins
Assistant to the Zoning Administrator

JMC/

cc: Gerald W. Hyland, Supervisor
Mount Vernon District
William E. Shoup, Zoning Administrator
Eileen M. McLane, Deputy Zoning Administrator
for Ordinance Administration Branch
Leslie B. Johnson, Deputy Zoning Administrator
for Zoning Permit Review Branch
Thomas E. Nelson, DPWES



County of Fairfax, Virginia

MEMORANDUM

DATE: August 7, 2008

TO: Regina Coyle, Director
Zoning Evaluation Division, DPZ

FROM: Pamela G. Nee, Chief *PGN*
Environment and Development Review Branch, DPZ

SUBJECT: ENVIRONMENTAL ANALYSIS: VC 2008-MV-002
McEwan

The memorandum, prepared by John Bell, includes citations from the Comprehensive Plan that provide guidance for the evaluation of the variance plat dated March 2, 2007. The extent to which the application conforms to the applicable guidance contained in the Comprehensive Plan is noted. Possible solutions to remedy identified issues are suggested. Other solutions may be acceptable, provided that they achieve the desired degree of mitigation and are also compatible with Plan policies.

COMPREHENSIVE PLAN CITATIONS:

The Comprehensive Plan is the basis for the evaluation of this application. The assessment of the proposal for conformity with the environmental recommendations of the Comprehensive Plan is guided by the following citations from the Plan:

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through February 25, 2008 on page 4 through 16, the Plan states:

“Objective 2: Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County.

Policy k. For new development and redevelopment, apply better site design and low impact development techniques such as those described below, and pursue commitments to reduce stormwater runoff volumes and peak flows, to increase groundwater recharge, and to increase preservation of undisturbed areas. In order to minimize the impacts that new development and redevelopment projects may have on the County’s streams, some or all of the following practices should be considered where not in conflict with land use compatibility objectives:

Department of Planning and Zoning
Planning Division
12055 Government Center Parkway, Suite 730
Fairfax, Virginia 22035-5509
Phone 703-324-1380
Fax 703-324-3056
www.fairfaxcounty.gov/dpz/



- Minimize the amount of impervious surface created.
- Site buildings to minimize impervious cover associated with driveways and parking areas and to encourage tree preservation.
- Encourage fulfillment of tree cover requirements through tree preservation instead of replanting where existing tree cover permits. Commit to tree preservation thresholds that exceed the minimum Zoning Ordinance requirements.

Programs to improve water quality in the Potomac River/Estuary, and Chesapeake Bay will continue to have significant impacts on planning and development in Fairfax County. There is abundant evidence that water quality and the marine environment in the Bay are deteriorating, and that this deterioration is the result of land use activities throughout the watershed.

In order to protect the Chesapeake Bay and other waters of Virginia from degradation resulting from runoff pollution, the Commonwealth has enacted regulations requiring localities within Tidewater Virginia (including Fairfax County) to designate "Chesapeake Bay Preservation Areas". Within which land uses are either restricted or water quality measures must be provided. Fairfax County has adopted a Chesapeake Bay Preservation Ordinance pursuant to these regulations.

The more restrictive type of Chesapeake Bay Preservation Area is known as the "Resource Protection Area (RPA)." With a few exceptions (e.g. water wells, recreation, infrastructure improvements, "water dependent" activities, and redevelopment), new development is prohibited in these areas. In Fairfax County, RPAs include the following features:

- water bodies with perennial flow;
- tidal wetlands;
- tidal shores;
- nontidal wetlands contiguous with and connected by surface flow to tidal wetlands or water bodies with perennial flow;
- a buffer area not less than 100 feet in width around the above features; and
- as part of the buffer area, any land within a major floodplain.

The other, less sensitive category of land in the Preservation Areas is called the "Resource Management Area (RMA)." Development is permitted in RMAs as long as it meets water quality goals and performance criteria for these areas. These goals and criteria include stormwater management standards, maintenance requirements and reserve capacity for on-site sewage disposal facilities, erosion and sediment control requirements, demonstration of attainment of wetlands permits, and conservation plans for agricultural activities. In Fairfax County, RMAs include any area that is not designated as an RPA. . . .

Objective 3: Protect the Potomac Estuary and the Chesapeake Bay from the avoidable impacts of land use activities in Fairfax County.

Policy a. Ensure that new development and redevelopment complies with the County's Chesapeake Bay Preservation Ordinance, as applied to Chesapeake Bay Preservation Areas adopted by the Board of Supervisors

Objective 6: Ensure that new development either avoids problem soil areas, or implements appropriate engineering measures to protect existing and new structures from unstable soils.

Policy a: Limit densities on slippage soils, and cluster development away from slopes and potential problem areas.

Policy b: Require new development on problem soils to provide appropriate engineering measures to ensure against geotechnical hazards. . . .

Objective 9: Identify, protect and enhance an integrated network of ecologically valuable land and surface waters for present and future residents of Fairfax County.

Policy a: For ecological resource conservation, identify, protect and restore an Environmental Quality Corridor system (EQC). . . . Lands may be included within the EQC system if they can achieve any of the following purposes:

- Habitat Quality: The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest.
- "Connectedness": This segment of open space could become a part of a corridor to facilitate the movement of wildlife.
- Aesthetics: This land could become part of a green belt separating land uses, providing passive recreational opportunities to people.
- Pollution Reduction Capabilities: Preservation of this land would result in significant reductions to nonpoint source water pollution, and/or, micro climate control, and/or reductions in noise.

The core of the EQC system will be the County's stream valleys. Additions to the stream valleys should be selected to augment the habitats and buffers provided by the stream valleys, and to add representative elements of the landscapes that are not represented within stream valleys. The stream valley component of the EQC system shall include the following elements . . .

- All 100 year flood plains as defined by the Zoning Ordinance;

- All areas of 15% or greater slopes adjacent to the flood plain, or if no flood plain is present, 15% or greater slopes that begin within 50 feet of the stream channel;
- All wetlands connected to the stream valleys; and
- All the land within a corridor defined by a boundary line which is 50 feet plus 4 additional feet for each % slope measured perpendicular to the stream bank. The % slope used in the calculation will be the average slope measured within 110 feet of a stream channel or, if a flood plain is present, between the flood plain boundary and a point fifty feet up slope from the flood plain. This measurement should be taken at fifty foot intervals beginning at the downstream boundary of any stream valley on or adjacent to a property under evaluation.

Modifications to the boundaries so delineated may be appropriate if the area designated does not benefit habitat quality, connectedness, aesthetics, or pollution reduction as described above. In addition, some intrusions that serve a public purpose such as unavoidable public infrastructure easements and rights of way are appropriate. Such intrusions should be minimized and occur perpendicular to the corridor's alignment, if practical.

Preservation should be achieved through dedication to the Fairfax County Park Authority, if such dedication is in the public interest. Otherwise, EQC land should remain in private ownership in separate undeveloped lots with appropriate commitments for preservation. The use of protective easements as a means of preservation should be considered.

When preservation of EQC land is achieved through the development process it is appropriate to transfer some of the density that would otherwise have been permitted on the EQC land to the non-EQC portion of the property to provide an incentive for the preservation of the EQC and to achieve the other objectives of the Plan. The amount of density transferred should not create an effective density of development that is out of character with the density normally anticipated from the land use recommendations of the Plan. For example, town homes should not normally be built adjacent to an EQC in an area planned for two to three dwelling units per acre. Likewise, an increase in the effective density on the non EQC portion of a site should not be so intense as to threaten the viability of the habitat or pollution reduction capabilities that have been preserved on the EQC portion of the site.

Policy b. To provide an incentive for the preservation of EQCs while protecting the integrity of the EQC system, allow a transfer of some of the density from the EQC portion of developing sites to the less sensitive areas of these sites. The increase in effective density on the non-EQC portion of a site should be no more than an amount which is directly proportional to the percentage of the site that is preserved. Overall site yield will decrease as site constraints increase. Maximum density should be determined according to a simple mathematical expression based upon the ratio of EQC land to total land.

This policy is in addition to other plan policies which impact density and does not supersede other land use compatibility policies.

The retention of environmental amenities on developed and developing sites is also important. The most visible of these amenities is the County's tree cover. It is possible to design new development in a manner that preserves some of the existing vegetation in landscape plans. It is also possible to restore lost vegetation through replanting. An aggressive urban forestry program could retain and restore meaningful amounts of the County's tree cover.

Objective 10: Conserve and restore tree cover on developed and developing sites. Provide tree cover on sites where it is absent prior to development.

Policy a: Protect or restore the maximum amount of tree cover on developed and developing sites consistent with planned land use and good silvicultural practices.

Policy b: Require new tree plantings on developing sites which were not forested prior to development and on public rights of way.”

ENVIRONMENTAL ANALYSIS

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed development. Solutions are suggested to remedy the concerns that have been identified by staff. There may be other acceptable solutions. Particular emphasis is given to opportunities provided by this application to conserve the county's remaining natural amenities.

Resource Protection Area (RPA)/Environmental Quality Corridor (EQC)

Issue:

The subject property is bounded on one side by the Potomac River and a portion of the property is located in an RPA/EQC associated with the river. The boundary of the EQC is coterminous with the RPA. The current application contains no information regarding limits of clearing and grading, building location(s), landscaping or potential restoration of this area.

Resolution:

The applicants should provide information regarding the limits of clearing and grading and building location(s). The limits of clearing and grading as well as the location of any structures should remain outside of the limits of the RPA/EQC. The applicant should also be prepared to provide a landscaping plan which includes some level of restoration to the RPA with native plants. The Urban Forestry Management Branch in the Department of Public Works and Environmental Services may provide additional requirements or guidance regarding requirements for restoration and planting within the RPA.

Marine Clay Soils

Issue:

Fairfax County soils maps indicate the presence of Marine Clay soils on the subject property. Development on these soils typically requires a geotechnical study. Typically, the construction of single-family dwellings on such lots requires deep footings to prevent slippage.

Resolution:

The applicants will be required to comply with building code requirements for the construction of a dwelling and other permanent structures on the subject property. Any final determination regarding the most appropriate construction methods required will be made by staff in the Department of Public Works and Environmental Services at the time of building plan review.

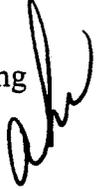
PGN: JRB



County of Fairfax, Virginia

MEMORANDUM

TO: Regina Coyle, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Angela Kadar Rodeheaver, Chief 
Site Analysis Section
Department of Transportation

FILE: 3-6 (VC 2008-MV-002)

SUBJECT: Transportation Impact

REFERENCE: VC2008-MV-002; John A. and Mary L. McEwan
Land Identification Map: 110-4((1))5

DATE: June 10, 2008

Transmitted herewith are the comments of the Department of Transportation with respect to the referenced application. These comments are based on plats made available to this department dated December 27, 2007.

The proposed application, to permit minimum lot width, would not create any significant additional impacts on the surrounding public street system. Therefore, this department would not object to the approval of the subject application.

AKR:pcs



County of Fairfax, Virginia

MEMORANDUM

JUL 2 - 2008

DATE:

TO: Regina Coyle, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Sharad Regmi, Stormwater Engineer *SR*
Stormwater and Geotechnical Section
Environmental and Site Review Division
Department of Public Works and Environmental Services

SUBJECT: Application for Variance, VC 2008-MV-002, John A. and Mary L. McEwan, Tax Map #110-4-01-0005, Mt. Vernon District

We have reviewed the subject submission and offer the following comments related to Stormwater management:

Chesapeake Bay Preservation Ordinance (CBPO)

The site contains Resource Protection Area (RPA) on the parcel.

Two retaining walls and a bulkhead are shown in the RPA. The applicant needs to demonstrate that all necessary approvals including, but not limited to, building permits were obtained for the retaining walls and bulkhead. Any future proposed development must comply with CBPO.

The existing walls and bulkhead, if they were established in accordance with all applicable provisions of County Code in effect at the time they were built, may remain as long as they are not enlarged or expanded (CBPO 118-5-1).

Floodplain

There is a regulated floodplain on the parcel.

If further assistance is desired, please contact me at 703-324-1720.

cc: Craig Carinci, Director, Stormwater Planning Division, DPWES
Zoning Application File

Department of Public Works and Environmental Services
Land Development Services, Environmental and Site Review Division
12055 Government Center Parkway, Suite 535
Fairfax, Virginia 22035-5503
Phone 703-324-1720 • TTY 711 • FAX 703-324-8359



K 21 5

No Action
emergency situation as per
U.M.R.C. KAM-7/18/83

7/5/83

MEMORANDUM

DATE: June 28, 1983

REQUEST FOR AGENCY EVALUATION OF PERMIT APPLICATION # 83-0606-3-W

TO: YIMS SWCB SHD-BWE SHD-BSS _____ _____ _____ _____

FROM: Virginia Marine Resources Commission, Environmental Division

Attached is a permit application from Henry T. H. Liem for your review and evaluation. Your evaluation is requested no later than July 19, 1983 in order to permit expeditious processing. By statute, we are obliged to refer an objection by any State Agency to the full Commission in public hearing.

An unacceptable evaluation will be considered an AGENCY OBJECTION. Evaluations suggesting modifications or indicating that the proposal is unacceptable should include attached justification.

Mark H. Jones
Environmental Engineer

AGENCY EVALUATION

I have conducted a thorough review of the proposed project based upon the statutory perspective of this agency and my evaluation is that:

- the proposed project is ACCEPTABLE.
- certain aspects of the proposal are objectionable and unless the attached suggested modifications are incorporated, the project is UNDESIRABLE (see attached).

(Suggested modifications should be provided to the applicant expeditiously for his consideration).

- there are aspects that are objectionable and in our opinion not reconcilable; therefore, the project is UNACCEPTABLE (see attached).

(Will be considered an AGENCY OBJECTION requiring review by the full Commission in accordance with Section 62.1-3.01(b) of the Code of Virginia; it must be fully justified and may require appearance to testify at public hearing).

Was a field investigation of the proposal performed by a member of your Agency?

_____ Yes _____ No

Date of investigation _____

Name of investigator _____

BY _____

TITLE _____

AGENCY _____

DATE _____

FOR STATE WATER CONTROL BOARD ONLY:

CERTIFICATE REQUIRED

NO CERTIFICATE REQUIRED

**JOINT PERMIT APPLICATION
FOR ACTIVITIES IN WATERS OF THE COMMONWEALTH OF VIRGINIA**

PRIVACY ACT STATEMENT

The Department of the Army permit program is authorized by Section 10 of the River and Harbor Act of 1899, Section 404 of P. L. 92-583 and Section 103 of P. L. 92-532. These laws require permits authorizing structures and work in or affecting navigable waters of the United States, the discharge of dredges or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Information provided in SAG Form 1065 will be used in evaluating the application for a permit. Information in the application is made a matter of public record through issuance of a public notice. Disclosure of the information requested is voluntary; however, the data requested are necessary in order to communicate with the applicant and to evaluate the permit application. If necessary information is not provided, the permit application cannot be processed nor can a permit be issued.

Please refer to instructions (Page 1) for explanation of numbered items before you begin to fill in the application. If additional space is needed, attach extra 8 X 10-1/2" sheets.

1. Name and address of applicant. Telephone no. during business hours
 Henry T.H. Liem Home A/C (703) 360-3411
 9303 Old Mt. Vernon Rd. Office A/C (202) 676-0659
 Mount Vernon, Virginia 22121
 (P.O. Box 67, Mount Vernon, Virginia 22121)

2. Name, address and title of authorized agent (if any). Telephone no. during business hours
 I.P.D.S., Ltd. Home A/C () _____
 802 Sligo Avenue Office A/C (301) 585-5676
 Silver Spring, Maryland 20910

3. Provide a concise description of the proposed activity:
 Shore erosion caused collapse of bank. Residence is severely threatened and immediate action is required. Slope failure occurred at the end of April. Bulkhead as shown on sketch is proposed before slope reconstruction and stabilization can be attempted. 375 LF of bulkhead, including flankwalls of treated wooden tongue and groove construction, pilings and tie-backs @ 6' o/c; +6.5' MLW.

4. Name of waterway at location of activity:
 _____ a-tributary to the Potomac River

5. Location where proposed activity exists or will occur:
Fairfax see above 1.
 County/City Street, Road or Other descriptive location
2500' south of Mount Vernon boat dock.
 Name of and distance to local town, community, or other identifying location

6. Proposed use: Private Commercial Government Other (explain)
 No commercial benefit.

RECEIVED

Date Stamp **JUN 13 1983**

For office use only
 Application No. VA 83-0606

MARINE RESOURCES COMMISSION

7. Project Purpose:

Primary: Protect residence from further deterioration of slope through slope erosion.

Secondary: Afford enough distance from bulkhead to residence to maintain natural friction angle of soil type (Marine Clay)

8. What public benefit may be derived from your project?

Creation of clean shoreline and elimination of water pollution through erosion.

9. Does this proposal involve dumping, filling on, or altering of wetlands? For definition of wetlands see page 3)? YES NO If "YES," in your opinion approximately how much? 5000 square feet

10. Will there be any discharge (either direct or indirect) of waste materials from construction or operation of the proposed facility into State waters? YES NO

11. Is your proposal to be a marina or boatyard or an addition and/or improvement of same? YES NO If "YES," have you obtained the State Health Department's approval for your sanitary facilities as required by Section 62.1-3 of the Code of Virginia: YES NO N/A

12. Have you previously applied to, or obtained a permit from, any agency (Federal, State, Interstate, or local) for any structures, construction, discharge, permits, or other activities described in this application? YES NO If "YES," provide the following information:

Issuing Agency	Type of Approval	ID. No.	App. No.	Approval Date
N/A				

13. Is any portion of the proposal for which you are seeking a permit now complete? YES NO If answer is "YES," give details below. State when the work was completed. Please clearly differentiate on your drawings that portion of the work which is existing and that which is proposed.

14. Approximately how long will it take to complete the proposed project after construction is begun?

One (1) month

15. Total cost of the proposed project (including materials and labor) \$ 85,000.--

16. Is proposed project adjacent to your highland property? YES NO

For office use only
Application No. VA _____

17. Give the names and addresses of all adjoining property owners to the proposed project:

Left facing water:

Mr. and Mrs. Steven Hartwell
9301 Old Mount Vernon Road
Mount Vernon, Virginia 22121

Right facing water:

Dr. and Mrs. Short
9313 Old Mount Vernon Road
Mount Vernon, Virginia 22121

18. Give the names and addresses of waterfront property owners across the waterway (if less than 500 feet wide). If work is within a cove, give the names and addresses of property owners located on the cove.

Potomac River is more than 500 feet wide at this point.

19. Give the names and addresses of known claimants of Water Rights and/or Oyster Planting Grounds:

None

20. List the name and address of the newspaper having general circulation in the area of the project. Failure to complete will delay processing.

21. Check appendices completed and attached as part of this application.

APPENDIX

- A. Bulkheads, Dredging, Filling, or Riprap
- B. Piers, Boat Ramps, Moorings, or Marinas
- C. Submarine/Overhead Crossings
- D. Jetties, Groins, and Breakwaters

For office use only
Application No. VA _____

ALL APPLICANTS MUST SIGN THIS DOCUMENT. However, it may be signed by a duly authorized agent if the statement of authorization is completed and returned.

I hereby make application for permits and a Certificate of Water Quality Compliance (401), if required, to authorize the activities I have described herein. Upon my signature, I agree to allow the duly authorized agents of the Marine Resources Commission, Army Corps of Engineers, National Marine Fisheries Service, Environmental Protection Agency, U. S. Fish and Wildlife Service, State Water Control Board, State Health Department, local wetlands board, if applicable, and the Virginia Institute of Marine Science to enter upon the premises of the proposed project at a reasonable time for the purpose of inspection.

The permittee agrees, as evidenced by acceptance of the permit or certificate granted and payment of the consideration, to comply with all of the terms and conditions as set forth in the permit or certificate. The Permittee further agrees that the project will be constructed within the boundaries as outlined in the drawings attached hereto. (In the case of a dredging permit, the Permittee agrees that the dredging and disposal material will be confined within the boundaries as outlined in the drawings attached hereto.)

I hereby certify that the information submitted in this application is true and accurate to the best of my knowledge, and that I possess the authority to undertake the proposed activity

June 8 19 83
Date

Siegfried Teichler, Pres. IPDS, Ltd. 
APPLICANT'S/AGENT'S NAME (PRINTED/TYPED) APPLICANT'S/AGENT'S SIGNATURE AND TITLE

STATEMENT OF AUTHORIZATION

I hereby designate and authorize Mr. Siegfried Teichler (AGENT) to act on my behalf as my agent in the processing of this permit application and to furnish, upon request, supplemental information in support of the application.

Henry T. H. Liem 
APPLICANT'S NAME (PRINTED/TYPED) APPLICANT'S SIGNATURE

NOTE: Mail the original application (pages 5 - 8) and applicable appendices (pages 9 - 15) with attached drawing(s) to the Marine Resources Commission, Environmental Affairs Division, P. O. Box 756, Newport News, Virginia 23607.

APPENDIX A

BULKHEADS, DREDGING, FILLING, OR RIPRAP

ACTIVITIES (CHECK APPROPRIATE BOXES FOR APPLICABLE SECTION TO BE USED)

- A. BULKHEADING
- B. DREDGING
- C. FILLING
- D. RIPRAP

A. BULKHEADING: Please reflect answers to the following on application drawings:

1. What type of material will be used for construction of the bulkhead? (Reinforced concrete; steel sheet pilings; treated tongue-and-groove timber; etc.)

Treated tongue and groove timber and pilings

2. Is the proposal considered "MAINTENANCE" of an existing bulkhead?
 YES NO

3. Is it possible to construct your new bulkhead not more than two (2) feet channelward of the old deteriorated bulkhead which is to be replaced?
 YES NO

4. Will deadmen be utilized? (See sample drawing page 18 for "DEADMEN" illustration.)

N/A YES NO

If "NO," explain below methods to be used to anchor bulkhead. If "YES," explain type and location:

Tie back piles

5. Will the bulkhead be placed landward of the mean high water line? YES NO

6. Will the bulkhead be placed channelward of the mean low water line? YES NO

7. Will wooden materials be:

SALT TREATED CREOSOTE TREATED OTHER (Explain)

8. Will all metal fittings and cables or tie rods be galvanized? YES NO

9. Will both ends of the proposed bulkhead have return walls to prevent the bulkhead from being outflanked by normal or storm tides? YES NO

10. Will both ends be tied into existing bulkheads which are in good repair?
 YES NO

11. Will the bulkhead be backfilled? YES NO If "YES," please complete Part C, Appendix A, for Filling.

B. DREDGING: Please reflect answers to the following on the application drawings:

1. How many cubic yards of dredged material will you dredge channelward of mean low water line? N/A cubic yards (SEE EXAMPLE CALCULATION ON PAGE 23)

2. How many cubic yards of dredged material will you dredge between the mean high and mean low water line? None cubic yards (SEE EXAMPLE CALCULATION ON PAGE 23)

APPENDIX A CONTINUED

B. DREDGING (CONTINUED)

3. What method will be used to perform the dredging?

Amount hydraulically dredged: N/A cubic yards

Amount dragline (clamshell) dredged: N/A cubic yards

4. What are the characteristics (type and composition of the dredged material)?

N/A

5. What is the location of the disposal area? (IN RELATION TO THE DREDGED AREA, WHERE WILL THE SPOIL BE PLACED?)

N/A

6. How will the spoil be retained? (BY BULKHEAD, EARTHEN BERM, LEVEES, ETC.)

N/A

Note: Bottom samples to determine heavy metal or other toxic material must be taken and analyzed if deemed necessary by the State Water Control Board staff and/or the Corps of Engineers. The responsibility, as well as the expenses incurred for obtaining and analyzing these samples, will be borne by the applicant.

C. FILLING: Please reflect answers to the following on the application drawings:

1. Will there be fill placed between the mean high and mean low water line?
 YES NO If "YES," indicate number of cubic yards 800 YDS.

2. Will there be fill placed channelward of the mean low water line?
 YES NO If "YES," indicate number of cubic yards 200 YDS.

3. Will the fill be one of the following: A. Hauled in from upland sources. B. Obtained from dredged material.

4. What will be the method of placement of the fill material? Grade-all

5. What are the characteristics (type and composition) of the fill material? Porous material

6. What is the total area to be filled? 6200 square feet

7. What is the total area of wetlands to be filled? 6000 square feet

D. What type of ground cover will be provided for denuded areas associated with the proposed activity to arrest soil erosion and prevent sediment from reaching State waters?

Grass seed Kentucky #31 and Crown Vetch

E. Describe type of structure, if any, to be erected on filled area.

None

D. RIPRAP: Please reflect answers to the following on application drawings:

1. What type of material will be used for construction of the riprap? (Quarry stone, broken concrete, cinder blocks, etc.)

Quarry stone (Maryland - Blue Stone)

2. What is the average size of the armor¹⁾ stone? 200 - 400 LB
3. What is the average size of the core¹⁾ stone beneath the armor? Bedding 8"aver
4. Will the riprap be placed channelward of the mean high water line?
 YES NO If "YES," indicate number of cubic yards 25
5. Will the riprap be placed channelward of the mean low water line?
 YES NO If "YES," indicate number of cubic yards _____
6. Is the proposal considered "MAINTENANCE" of an existing riprap?
 YES NO
7. What is the approximate average slope of the existing embankment? Cliff
8. What will be the slope of the riprap structure? 2:1
9. What is the average cubic yards of riprap per running foot of shoreline?

Only at flank walls.

¹⁾ See page 20 for illustration of armor and core stone.

18-404 Required Standards for Variances

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property; or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

18-405 Conditions

Upon a determination by the BZA that the applicant has satisfied the requirements for a variance as set forth in Sect. 404 above, the BZA shall then determine the minimum variance that would afford relief. In authorizing such variance the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be met.