

ROSALYNNE R. ATTERBEARY  
REVOCABLE TRUST *et. al.*

Plaintiffs

v.

PROPERTY OWNERS ASSOCIATION  
OF ARUNDEL ON THE BAY, INC.

and

ALL PROPERTY OWNERS IN THE  
SUBDIVISION OF ARUNDEL ON THE BAY

As identified on Exhibit E, attached  
hereto and incorporated herein by  
reference

Defendants

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* ANNE ARUNDEL COUNTY,  
\* MARYLAND

Case No. C-02-CV-15-003736

\* \* \* \* \*

**SECOND AMENDED COMPLAINT**

Plaintiffs, Rosalynne R. Atterbeary, Trustee of the Rosalynne R. Atterbeary Revocable Trust, and Clyde T. Coble, Trustee of the Wilma L. Coble Qualified Personal Residence Trust, by their attorneys, Eileen E. Powers, Barbara J. Palmer, and Blumenthal, Delavan, Powers & Palmer, P.A., hereby amend this action against the Defendant, the Property Owners Association of Arundel on the Bay, Inc., and add all property owners in the subdivision of Arundel on the Bay as additional Defendants, stating for cause as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff, Rosalynne R. Atterbeary Revocable Trust, is a Trust and Rosalynne R. Atterbeary is the Trustee of the Trust (“Atterbeary”).

2. Atterbeary owns real property located in Anne Arundel County, Maryland commonly known as 3551 Narragansett Avenue, Annapolis, Maryland 21403, and identified as Lots A and B, Block 11, as shown on a plat entitled “Revised Plat of Arundel on the Bay,” which plat is recorded among the Land Records of Anne Arundel County, Maryland in Plat Book 9, folio 25, by virtue of a deed recorded March 24, 2006 among the Land Records of Anne Arundel County in Liber 17623, folio 632 (“Atterbeary Property”).

3. Plaintiff, Wilma L. Coble Qualified Personal Residence Trust, is a Trust and Cyde T. Coble is the Trustee of the Trust (“Coble”).

4. Coble owns real property located in Anne Arundel County, Maryland commonly known as 3557 Narragansett Avenue, Annapolis, Maryland 21403, and identified as Lots K, L, and M, Block 12, as shown on a plat entitled “Revised Plat of Arundel on the Bay,” which plat is recorded among the Land Records of Anne Arundel County, Maryland in Plat Book 9, folio 25, by virtue of a deed dated December 6, 2012 and recorded among the Land Records in Liber 25464, folio 271 (“Coble Property”).

5. Defendant, the Property Owners Association of Arundel on the Bay, Inc., (“Association”) is a Maryland corporation which maintains its principal place of business and owns real property located in Anne Arundel County, Maryland. The Association is organized and exists to provide for the maintenance, preservation and architectural control of the residential lots and Association property within that certain subdivision known as Arundel on the Bay, as shown on a plat created in 1890 entitled “Arundel on the Bay,” which plat is recorded among the Land Records of Anne Arundel County, Maryland in Plat Book S.H. 34, folio 509 (“AOB Plat”) (*Exhibit A*), and on a revised plat created in 1927 entitled “Revised Plat of Arundel on the Bay,”

which plat is recorded among the Land records of Anne Arundel County, Maryland in Plat Book 9, folio 25 (“Revised AOB Plat”) (*Exhibit B*).

6. Defendants, comprised of all property owners in the subdivision of Arundel on the Bay, as those property owners are identified on Exhibit E, attached hereto and incorporated herein as though fully set forth in the caption and in this Paragraph 6 (“AOB Lot Owners”), are those persons determined to be necessary parties to this suit by virtue of an Order of this Court entered on December 1, 2016 (*Exhibit E*).

7. Personal jurisdiction over the Association and the AOB Lot Owners exists pursuant to Md. Cts. & Jud. Proc. Code Ann. § 6-102, and venue lies in Anne Arundel County pursuant to § 6-201(a) and § 6-202(7).

#### **FACTS COMMON TO ALL COUNTS**

8. Plaintiffs, Atterbeary and Coble (hereinafter collectively referred to as “Property Owners”), own property bounded to the west by a road identified as Narragansett Avenue on the Revised AOB Plat and bisected by a road identified as Magnolia Avenue on the Revised AOB Plat. The Coble Property is bounded to the east by a road identified as Chesapeake Avenue (now known as Chesapeake Walk) on the Revised AOB Plat. The Atterbeary Property is bounded to the east by the Chesapeake Bay.

9. Magnolia Avenue runs perpendicular to and abuts a portion of Chesapeake Walk and the shoreline of the Chesapeake Bay. The section of Magnolia Avenue located between Narragansett Avenue and Chesapeake Walk and the Chesapeake Bay has never been used or developed as a right-of-way for vehicular traffic. With the exception of the property described in Count I of this Complaint, that section of Magnolia Avenue is and has been open and undeveloped grass space, which has been maintained by the Property Owners and their

predecessors in title, and terminates in a bulkhead located adjacent to the waters of the Chesapeake Bay.

10. Chesapeake Walk runs parallel to the shoreline of the Chesapeake Bay. That section of Chesapeake Walk that abuts the Coble Property has never been used or developed as a right-of-way for vehicular traffic, but is and has been open and undeveloped grass space, which has been maintained by Coble and its predecessors in title, and terminates in a bulkhead located adjacent to the waters of the Chesapeake Bay.

11. Those sections of Magnolia Avenue and Chesapeake Walk that abut and adjoin the Atterbeary Property and/or the Coble Property may be referred to hereinafter as the “Disputed Roads,” and are shown on a Special Purpose Boundary Survey attached hereto as Exhibit F and incorporated herein by reference.

12. Neither the Association nor any AOB Lot Owner has a valid claim of right or title to the Disputed Roads.

13. The Association has claimed title to and a right to use and regulate the use of the Disputed Roads in a manner adverse to the interests of the Property Owners.

14. Anne Arundel County, Maryland (“County”) holds record title to a utility easement to parts of Magnolia Avenue and/or Chesapeake Walk pursuant to a Deed of Easement and Agreement dated November 11, 1975 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 2810, folio 214 (“County Easement”), which County Easement the Plaintiffs acknowledge and do not dispute in this action.

**COUNT I**  
**(Quiet Title, Adverse Possession, Magnolia Avenue)**

Plaintiff, Trustee of the Wilma L. Coble Qualified Personal Residence Trust, repeats and incorporates the allegations contained in paragraphs 1 through 14 as though fully stated herein

and brings this action to quiet title by adverse possession pursuant to Md. Real Prop. Code Ann. § 14-108.

15. Coble has been in actual peaceable possession of property under color of title and claim of right to a strip of land lying within Magnolia Avenue and running adjacent to the entire northern side of the Coble Property for a width of approximately eight (8) feet and a length of approximately two hundred twenty five (225) feet, since the same strip of land was conveyed to Coble's predecessor in title in a deed dated August 26, 1971 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 2431, folio 351 ("1971 Deed")(*Exhibit C*). That strip of land is described as "Parcel No. 2" in the 1971 Deed and is shown as "Parcel 2 of 2431-351" on a survey dated January 27, 1981 by J. R. McCrone, Jr., Inc. (*Exhibit D*) and on the Special Purpose Boundary Survey (*Exhibit F*).

16. The 1971 Deed recites that Parcel No. 2 has been "used adversely by William L. Linkins and Mabel K. Linkins [Coble's predecessors in title], their heirs and assigns, from 1932 to date, and lying and being in an 80 foot avenue, known as Magnolia Avenue."

17. During the 1980's, Coble installed a concrete driveway and sidewalk, planted several large trees and bushes, and created a planting bed in an area adjacent to the 8-foot strip that extends approximately fifteen (15) feet beyond the northern boundary of Parcel No. 2 into Magnolia Avenue for a distance of approximately two hundred twenty seven (227) feet, as shown and described as Parcel 3 on the Special Purpose Boundary Survey (*Exhibit F*). Coble has been in actual peaceable possession under color of title and claim of right to Parcel 3, and has maintained all of structures and plantings in that portion of Magnolia Avenue as its own property for a period in excess of statutory period of 20 years.

18. Coble and its predecessors in title have used those portions of Magnolia Avenue described as Parcel No. 2 in the 1971 Deed and as Parcels 2 and 3 on the Special Purpose Boundary Survey in an actual, notorious, exclusive, and hostile manner under a claim of right continuously for a period of more than twenty years.

19. The Association asserts a claim of title to and ownership of Magnolia Avenue, which claim denies or disputes Coble's right, title and interest in Parcels 2 and 3.

20. With the possible exception of the County with respect to the County Easement, which Coble acknowledges and does not dispute, no other person appears of record or claims to have a hostile outstanding right to that part of Magnolia Avenue described as Parcels 2 and 3.

21. Coble seeks to quiet title by order from this Court declaring that it is the absolute owner by adverse possession of that portion of Magnolia Avenue described in the 1971 Deed as Parcel No. 2 and as Parcels 2 and 3 on the Special Purpose Boundary Survey (*Exhibit F*).

WHEREFORE, Plaintiff prays for an Order of this Court determining that it is the absolute owner of that portion of Magnolia Avenue described as Parcel No. 2 in the 1971 Deed, and shown as Parcels 2 and 3 on the Special Purpose Boundary Survey, and enjoining the Defendants from asserting any claim, at law or otherwise, relating to the use and possession of that portion of Magnolia Avenue, and awarding Plaintiff costs, and for such other and further relief as the nature of the cause may require.

**COUNT II**  
**(Quiet Title, Magnolia Avenue)**

Plaintiff, Trustee of the Rosalynne R. Atterbeary Revocable Trust, repeats and incorporates the allegations contained in paragraphs 1 through 21 as though fully stated herein and brings this action to quiet title to the centerline of Magnolia Avenue that abuts the Atterbeary Property pursuant to Md. Real Prop. Code Ann. §§ 14-108 and 2-114.

22. The predecessors in title to the Atterbeary Property acquired title from the original developer of Arundel on the Bay, The Chesapeake and Columbia Investment Company, between 1890 and 1928, and/or its successor, the Meredith Lumber Company, between 1926 and 1933, and/or its successor, Arundel on the Bay Properties., Incorporated, after 1933.

23. Upon each conveyance from the original developer of Arundel on the Bay and its successors to bona fide purchasers between 1890 and 1935, there was no retention by the grantor of any interest in those streets, roads or highways upon which the conveyed lots bound, which interest, in each conveyance, was owned by the grantor.

24. Upon each of the original conveyances out of the tract of land subdivided as Arundel on the Bay, the grantor's interest in and title to the abutting streets, roads and highways was conveyed to the grantees, including Atterbeary's predecessors in title, pursuant to the common law then in effect, which common law was subsequently codified and is presently contained in Md. Real Prop. Code Ann. § 2-114.

25. The Association claims title to Magnolia Avenue, as well as other roads, streets and highways within Arundel on the Bay, and has used and declared an intent to continue to use and regulate the use of and access to that part of Magnolia Avenue to which Atterbeary holds title by operation of law in a manner contrary to Atterbeary's interests. Although the Circuit Court rejected the Association's claim of title to other similarly situated roads in Arundel on the Bay in the case of *Bellamy v. Property Owners Association of Arundel on the Bay, Inc.* (Civil Action No. C-06-115184) ("Bellamy Case"), the Association persists in asserting its erroneous claim of title to Magnolia Avenue.

26. With the possible exception of the County with respect to the County Easement, which Atterbeary acknowledges and does not dispute, no other person appears of record or claims to have a hostile outstanding right, title or interest in Magnolia Avenue.

27. Atterbeary seeks to remove any cloud from its title resulting from the Association's claim of superior title over that portion of Magnolia Avenue that immediately adjoins and abuts the Atterbeary Property.

WHEREFORE, Plaintiff, Trustee of the Rosalynne R. Atterbeary Revocable Trust, prays for an Order of this Court declaring that it is the absolute owner in fee simple to the center of that portion of Magnolia Avenue that immediately adjoins and abuts the Atterbeary Property, and awarding Plaintiff costs, and for such other and further relief as the nature of this cause may require.

**COUNT III**  
**(Quiet Title, Magnolia Avenue and Chesapeake Walk)**

Plaintiff, Trustee of the Wilma L. Coble Qualified Personal Residence Trust, repeats and incorporates the allegations contained in paragraphs 1 through 27 as though fully stated herein, and brings this action to quiet title pursuant to Md. Real Prop. Code Ann. §§ 14-108 and 2-114.

28. The predecessors in title to Coble Property acquired title from the original developer of Arundel on the Bay, The Chesapeake and Columbia Investment Company, between 1890 and 1928, and/or its successor, the Meredith Lumber Company, between 1926 and 1933, and/or its successor, Arundel on the Bay Properties, Incorporated, after 1933.

29. Upon each conveyance from the original developer of Arundel on the Bay and its successors to bona fide purchasers between 1890 and 1935, there was no retention by the grantor



of any interest in those streets, roads or highways upon which the conveyed lots bound, which interest, in each conveyance, was owned by the grantor.

30. Upon each of the original conveyances out of the tract of land subdivided as Arundel on the Bay, the grantor's interest in and title to the abutting streets, roads and highways was conveyed to the grantees, including Coble's predecessors in title, pursuant to the common law then in effect, which common law was subsequently codified and is presently contained in Md. Real Prop. Code Ann. § 2-114.

31. The Association claims title to Magnolia Avenue and Chesapeake Walk, as well as other roads, streets and highways within Arundel on the Bay, and has used and declared an intent to continue to use and regulate the use of and access to that part of Magnolia Avenue and Chesapeake Walk to which Coble holds title by operation of law, in a manner contrary to Coble's interests. Although the Circuit Court rejected the Association's claim of title to other similarly situated roads in Arundel on the Bay, including portions of Chesapeake Walk, in the *Bellamy Case*, the Association persists in asserting its erroneous claim of title to Magnolia Avenue and Chesapeake Walk.

32. With the possible exception of the County with respect to the County Easement, which Coble acknowledges and does not dispute, no other person appears of record or claims to have a hostile outstanding right, title or interest in Magnolia Avenue or Chesapeake Walk.

33. Coble seeks to remove any cloud from its title resulting from the Association's claim of superior title over those portions of Chesapeake Walk and Magnolia Avenue that immediately adjoin and abut the Coble Property.

WHEREFORE, Plaintiff, Trustee of the Wilma L. Coble Qualified Personal Residence Trust, prays for an Order of this Court declaring that it is the absolute owner in fee simple to the center of Magnolia Avenue and to all of that part of Chesapeake Walk that immediately adjoins the Coble Property, and awarding Plaintiff costs, and for such other and further relief as the nature of this cause may require.

**COUNT IV**  
**(Declaratory Judgment)**

Plaintiffs, Trustees of the Rosalynne R. Atterbeary Revocable Trust and Wilma L. Coble Qualified Personal Residence Trust, repeat and incorporate the allegations contained in paragraphs 1 through 33 as though fully stated herein, and bring this action for declaratory judgment pursuant to Md. Cts. & Jud. Proc. Code Ann. § 3-406.

34. Atterbeary and Coble claim fee simple title to those portions of Magnolia Avenue and Chesapeake Walk that adjoin their respective properties in Arundel on the Bay under the deeds described in this Second Amended Complaint and the prior deeds in their respective chains of title from the original conveyances of lots in Arundel on the Bay to bona fide purchasers for value.

35. Atterbeary and Coble acknowledge that the AOB Plat and Revised AOB Plat create a limited implied easement for adjacent lot owners in Arundel on the Bay to use Magnolia Avenue and Chesapeake Walk for pedestrian ingress and egress between their lots and the nearest public road and the waters of the Chesapeake Bay, in accordance with Maryland law, and for no other purpose.

36. The Association claims superior title to Magnolia Avenue and Chesapeake Walk, and based upon that claim, has used and encouraged and declared an intent to continue to use and

encourage AOB Lot Owners to access and use the Disputed Roads for ingress and egress, fishing, picnicking, partying, watching fireworks, and other related recreational uses.

37. The use of the Disputed Roads by non-adjacent lot owners for recreational and other purposes constitutes an alteration, enlargement and expansion of the limited implied easement created by the AOB Plat and Revised AOB Plat, to the extent provided by Maryland law, in a manner that impedes and interferes with Atterbeary's and Coble's use and enjoyment of their properties and substantially increases the burden on the Atterbeary Property and the Coble Property.

38. The use of the Disputed Roads for recreational and other purposes constitutes a continuing trespass on the Atterbeary Property and the Coble Property.

39. From time to time, Atterbeary and Coble have sought the assistance of the Anne Arundel County Police Department to enforce restrictions on the use of Magnolia Avenue and Chesapeake Walk, but their efforts have been unsuccessful because of the cloud on the title to Magnolia Avenue and Chesapeake Walk.

40. There exists a justiciable issue or controversy between the parties involving the rights and liabilities of the parties under the deeds described herein and the deeds and other documents pursuant to which the Association claims superior title, which controversy may be determined by a judgment of this Court.

41. There exists a justiciable issue or controversy between the parties involving the rights and liabilities of the parties under the deeds and plats described herein regarding the extent of an implied easement, if any, for the use of Magnolia Avenue and Chesapeake Walk, which controversy may be determined by a judgment of this Court.

WHEREFORE, Plaintiffs pray that this Court determine and adjudicate the rights and liabilities of the parties with respect to their respective deeds to property within Arundel on the Bay and the AOB Plat and Revised AOB Plat, and that this Court find and declare as follows:

a. That Atterbeary is the absolute fee simple owner to the center of that portion of Magnolia Avenue that binds on the Atterbeary Property;

b. That Coble is the absolute fee simple owner to the center of that portion of Magnolia Avenue and all of that portion of Chesapeake Walk that binds on the Coble Property;

c. That the Association and AOB Lot Owners do not have an easement or right to use those portions of Magnolia Avenue and Chesapeake Walk that bind on the Atterbeary Property and the Coble Property other than for ingress and egress by adjacent owners to the extent provided by Maryland law;

d. That Plaintiffs are awarded the costs of these proceedings;

e. And for such other and further relief as the nature of this cause may require.

**COUNT V**  
**(Permanent Injunction)**

Plaintiffs, Trustees of the Rosalynne R. Atterbeary Revocable Trust and Wilma L. Coble Qualified Personal Residence Trust, repeat and incorporate the allegations contained in paragraphs 1 through 41 as though fully stated herein, and bring this action for permanent injunction pursuant to Maryland Rules 15-501 through 15-502.

42. The Association, by words, deeds and acts, claims superior title to Chesapeake Walk and Magnolia Avenue and has used and intends to continue to use and to encourage its members and AOB Lot Owners to use those portions of Chesapeake Walk and Magnolia Avenue that abut the Atterbeary Property and the Coble Property for purposes other than to provide

ingress and egress by adjacent owners to the waters of the Chesapeake Bay, in accordance with Maryland law.

43. Atterbeary and Coble have made demands upon the Association to refrain from claiming title and to acknowledge their superior title to those portions of Chesapeake Walk and Magnolia Avenue that adjoin their respective properties.

44. Atterbeary and Coble have made demands upon the Association to cease encouraging the use of those portions of Magnolia Avenue and Chesapeake Walk that abut their respective properties by the Association's members and AOB Lot Owners.

45. The Association refuses to acknowledge that Atterbeary and Coble hold superior title to those portions of Magnolia Avenue and Chesapeake Walk that abut their properties, and continues to assert title to the Disputed Roads.

46. The Association refuses to cease encouraging the use of Magnolia Avenue and Chesapeake Walk by its members and AOB Lot Owners for pedestrian ingress and egress, and recreational and other similar uses of the Disputed Roads.

47. The Association's conduct has caused and continues to cause significant interference with the Property Owners' use and enjoyment of their properties.

48. The Association's conduct constitutes a continuing trespass on those portions of Magnolia Avenue and Chesapeake Walk that abut the Atterbeary Property and the Coble Property.

49. Unless the Association is enjoined from claiming superior title to and trespassing upon those portions of Magnolia Avenue and Chesapeake Walk that abut the Atterbeary Property and the Coble Property, and encouraging others to trespass upon those platted roads for purposes

other than those lawfully permitted, Atterbeary and Coble will suffer permanent and irreparable injury.

50. The benefits to Atterbeary and Coble in being granted an injunction are equal to or outweigh the potential harm which the Association would incur if the injunction is granted.

51. The public interest is best served by granting the injunction.

WHEREFORE, the Plaintiffs demand that this Court issue an Order granting them a permanent injunction restraining and enjoining the Defendant and AOB Lot Owners from trespassing on the Disputed Roads and encouraging others to use those portions of Magnolia Avenue and Chesapeake Walk that abut their respective properties for any purpose other than for ingress and egress by adjacent owners to the extent provided by Maryland law. The Plaintiffs further demand that the Court award them the costs of these proceedings, and to provide such other and further relief as the nature of this cause may require.

/s/

\_\_\_\_\_  
Eileen E. Powers CPF No.: 8212010372  
epowers@bdpplaw.com

/s/

\_\_\_\_\_  
Barbara J. Palmer CPF No. 8501010468  
[bpalmer@bdpplaw.com](mailto:bpalmer@bdpplaw.com)

Blumenthal, Delavan Powers & Palmer, P.A.  
170 Jennifer Road, Suite 240  
Annapolis, Maryland 21401  
(410) 573-2900

**CERTIFICATE OF COMPLIANCE WITH MARYLAND RULE 20-201(f)(2)**

I HEREBY CERTIFY, that in accordance with Maryland Rule 20-201(f)(2), this submission does not contain any restricted information.

/s/ \_\_\_\_\_  
Eileen E. Powers

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13<sup>th</sup> day of January, 2017, a copy of the foregoing Second Amended Complaint was electronically filed via the MDEC system and a copy will be electronically served upon:

Wayne T. Kosmerl  
N. Tucker Meneely  
Steven A. Brown  
125 West Street, 4<sup>th</sup> Floor  
Annapolis, Maryland 21401  
(410) 268-6600  
[Kosmerl@CouncilBaradel.com](mailto:Kosmerl@CouncilBaradel.com)  
[Meneely@CouncilBaradel.com](mailto:Meneely@CouncilBaradel.com)  
[Brown@CouncilBaradel.com](mailto:Brown@CouncilBaradel.com)

*Attorneys for Defendant*

/s/ \_\_\_\_\_  
Eileen E. Powers



Maryland State Archives

SH 37 FOLIO 509

Marshy Point. SOUTH RIVER.

Lands owned by FRANCIS J. LOCKERMAN & HEIRS

ISLAND.  
Lot N: 2  
Containing 11 acres.

FISHING COVE.

Company's Farm.  
Lot N: 1.  
Containing 273 1/4 acres.

EXHIBIT A

CHESAPEAKE BAY.

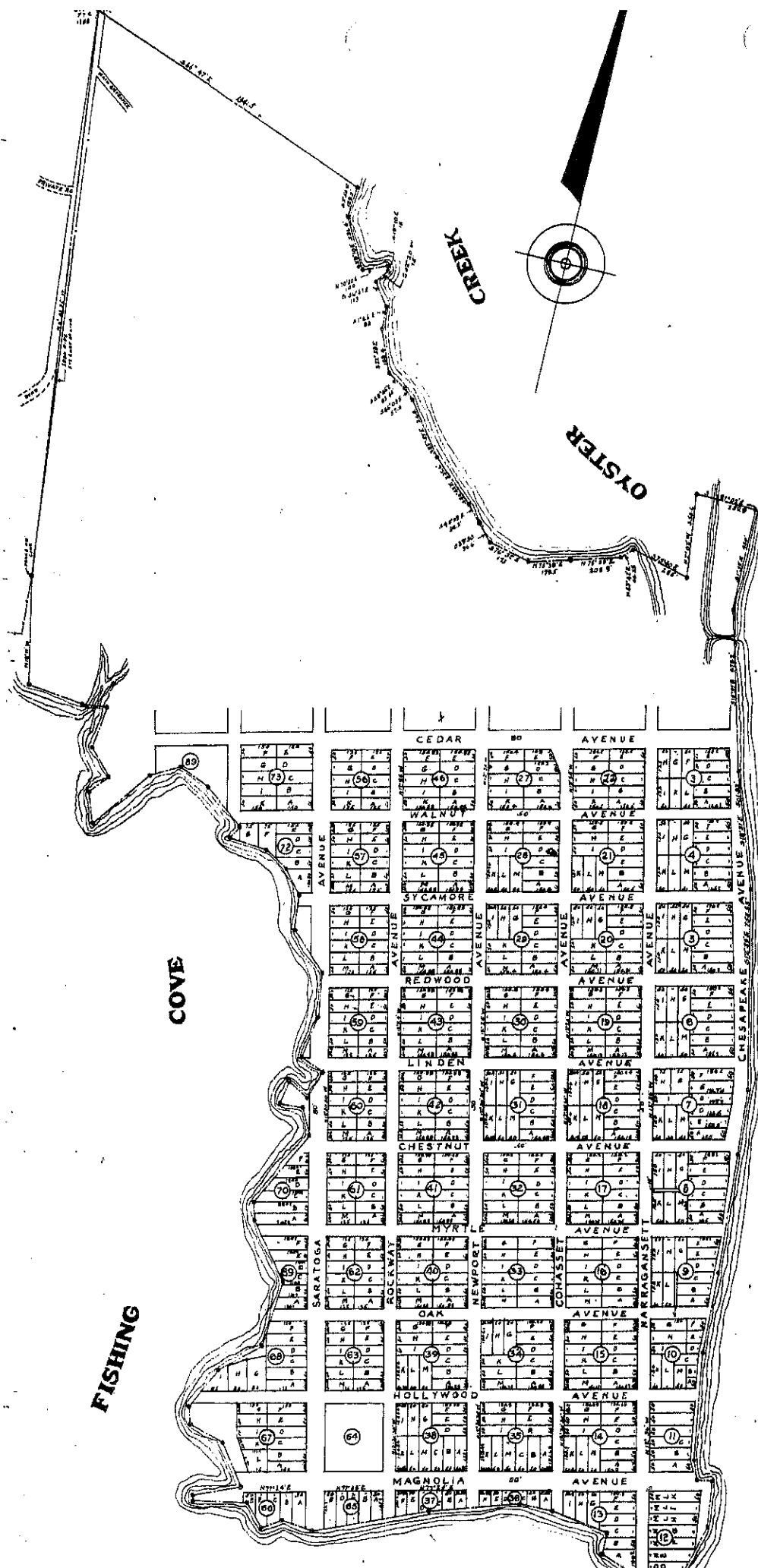
The Fishing Creek and "Thomas's Point Farm" the same being composed of the lands called "Davidge's Purchase" and part of "The Beaxens" located in the 2<sup>nd</sup> Election dist. of Anne Arundel County. and being the same lands devised by Jeremiah J. Chase to his daughter Hester Ann Chase, by his last will. Testament bearing date Dec 28<sup>th</sup> 1897, recorded in Liber J.G. folio 762, one of the record books in the office of Register of wills of Anne Arundel County, Md.

ARUNDEL on

owned by The Chesapeake Bay Bridge-Tunnel Co.

MSA CS 0130-1170





**ARUNDEL ON THE BAY**  
 "REVISED PLAT"  
 ANNE ARUNDEL COUNTY, MD.  
 J. REVELL CARR, COUNTY SURVEYOR  
 ANNAPOLIS, MARYLAND  
 MAY 1927, SCALE 7-500

OWNERS  
**MEREDITH LUMBER CO.**  
 ANNAPOLIS, MD.  
*Filed 15th May*  
*(No. 412)*

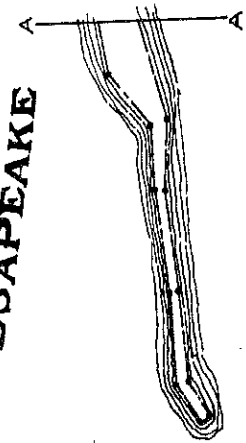
CABINET No. 1  
 ROD No. A-3  
 PLAT No. 11  
 Anne Arundel Co.

**CHESAPEAKE**

**BAY**

**COVE**

**FISHING**



**EXHIBIT B**



of a field survey.

LIBER 2431 PAGE 352

Being the same property used adversely by William L. Linkins and Mabel K. Linkins their heirs and assigns, from 1932 to date, and lying and being in an 80 foot avenue, known as Magnolia Avenue.

RECORDED FOR RECORD  
COUNTY  
1971 AUG 27 PM 2:20  
GEOFFREY S. HOLT, CLERK

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lots of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Grantees, as tenants by the entireties, unto the survivor of them, his or her

heirs and assigns, in fee simple;

subject, however, to restrictions set forth in deed recorded in Liber S.H. 39, Folio 359.

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

Witness the hands and seals of said grantors:

TEST:

*Dorothy P. McNew*  
Dorothy P. McNew

*Kent Linkins* (SEAL)  
Kent Linkins

*Louise L. Bezdek* (SEAL)  
Louise L. Bezdek  
Co-Executors under the Last Will and Testament of Mabel Kent Linkins

STATE OF MARYLAND, ANNE ARUNDEL COUNTY, to wit:

I HEREBY CERTIFY, That on this 28<sup>th</sup> day of August in the year one thousand nine hundred and seventy-one, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Kent Linkins and Louise L. Bezdek, Co-Executors under the Last Will and Testament of Mabel Kent Linkins

the above named grantors, and they acknowledged the foregoing Deed to be their act.

As Witness my hand and Notarial Seal.

*Dorothy P. McNew*  
Dorothy P. McNew, Notary Public

Mailed to *Towson & Kirk*

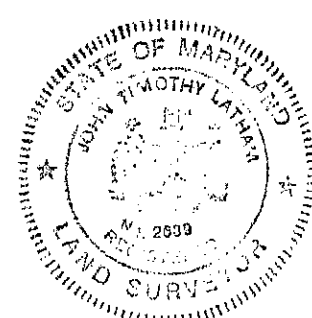
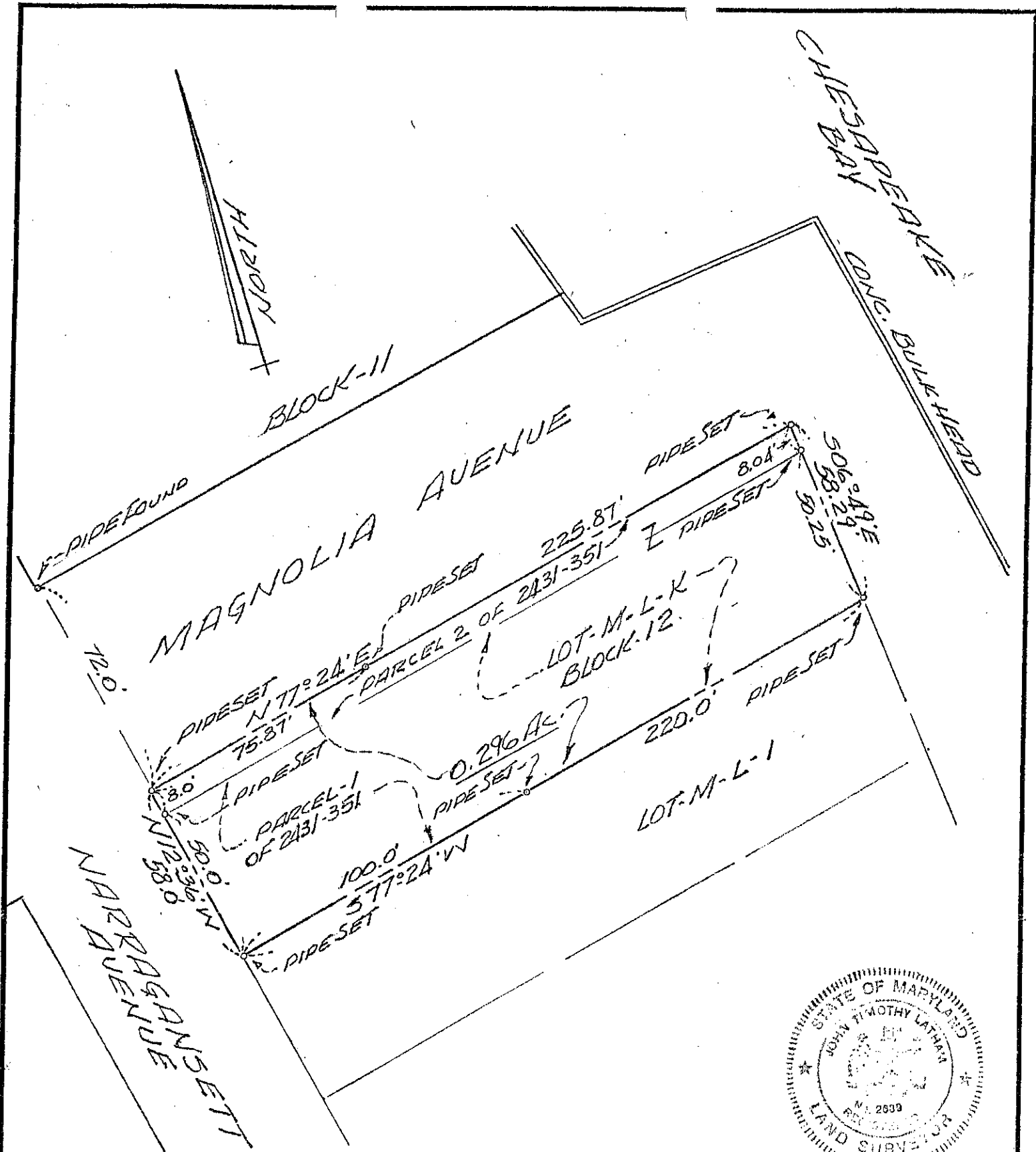


EXHIBIT D

<p>SURVEY OF          LOT M-L-K, BLOCK 12 &amp; PART OF          MAGNOLIA AVENUE          ARUNDEL ON THE BAY          2ND DIST. A.A.G., MD., FOR CLYDE T. COBLE</p>	<p>J. R. McCRONE, JR., INC.          REGISTERED PROFESSIONAL ENGINEERS          AND SURVEYORS          ANNAPOLIS, MARYLAND          PRINCE FREDERICK CHESTERTOWN          EASTON LEONARDTOWN DENTON</p>	<p>DRAWN BY <u>R.M.</u>          SCALE <u>1" = 40'</u>          DATE <u>1-27-81</u>          JOB NO. <u>101463015</u>          FOLDER <u>ARUNDEL ON THE BAY</u></p>
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**EXHIBIT E**

**DEFENDANTS**

**ALL PROPERTY OWNERS IN ARUNDEL ON THE BAY**

3400 NIAGARA LLC  
C/O PATRICK O'TOOLE  
3403 NIAGARA ROAD  
ANNAPOLIS, MD 21403-1853

ARUNDEL ON THE BAY  
P.O. BOX 4665  
ANNAPOLIS, MD 21403-6665

HARRY KELLY  
4225 COLORADO AVENUE NW  
WASHINGTON, DC 20011-4240

JOYCE P. MCMANUS  
3430 ROCKWAY AVENUE  
ANNAPOLIS, MD 21403-4851

KENNETH FONTANESI  
3460 ROCKWAY AVE  
ANNAPOLIS, MD 21403-4852

DANIEL L. RUEGG  
3519 SARATOGA AVE  
ANNAPOLIS, MD 21403-4900

MICHAEL W. A. IVY  
2909 N LEXINGTON ST  
ARLINGTON, VA 22207

DAVID J. OSIAS  
8050 GLENDALE RD  
CHEVY CHASE, MD 20815-5901

DOUG ADAMS, TRUSTEE  
3538 NARRAGANSETT AVE  
ANNAPOLIS, MD 21403-4932

LONNIE ALLEN JR.  
3522 ROCKWAY AVE  
ANNAPOLIS, MD 21403-4956

FAYE ALLEN, TRUSTEE  
1323 MAGNOLIA AVE  
ANNAPOLIS, MD 21403-4913

BARBARA H. T. ALSTON  
C/O BARBARA H. ALSTON  
5396 HARVEST MOON LN  
COLUMBIA, MD 21044-2698

CARL H. BITTORF  
1358 OAK AVE  
ANNAPOLIS, MD 21403-4923

GORDON T. BOYD  
3522 NARRAGANSETT AVE  
ANNAPOLIS, MD 21403-4931

DAVID K. BREWER  
1364 LINDEN AVE  
ANNAPOLIS, MD 21403-0000

AUDREY BROWN ET AL  
C/O KEVIN BROWN  
11705 BACKUS DR  
BOWIE, MD 20720-4451

EDWARD W. CASSIDY  
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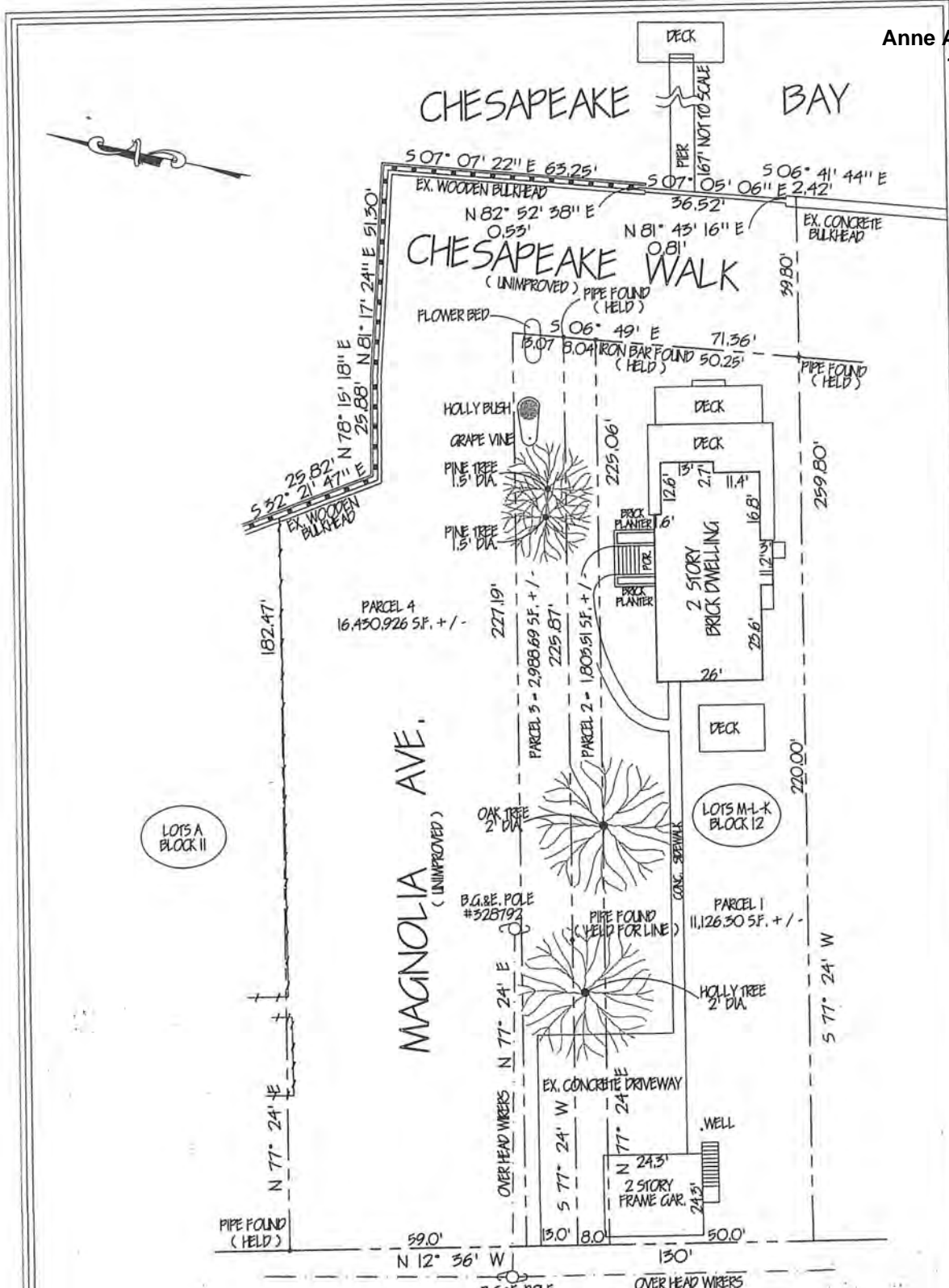
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I HEREBY CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THIS INFORMATION IS CORRECT AND IS BASED UPON A FIELD SURVEY CONDUCTED BY AND UNDER MY DIRECT SUPERVISION IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN REGULATION 02.15.06.02 OF THE CODE OF MARYLAND REGULATIONS.

JOHN J. DOWLING PROPY. L.S. NO. 169  
 (EXP. 5/09/18)

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