

20-142-003 Ann Pogue Exception to the Intrafamily Transfer

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Dugan, McKissick & Longmore, LLC
22738 Maple Road, Suite 210
Lexington Park, Maryland 20653
301-862-3764

Adjacent Property: Original Parcel 71

- The properties described in the staff report have been in the Pogue family for many years.
- Robert Steele Pogue originally obtained an interest in the Original Parcel 71 in 1962
 - Deed recorded among Land Records at Liber 101, Folio 431
- Later, added his second wife on March 17, 1997
 - Deed recorded among Land Records at Liber 268, Folio 193

Additional Property

- Additional neighboring property obtained by Robert Steele Pogue and his wife Dianne L. Pogue on December 30, 1998 from Robert Steele's Mother, Lucy Long Pogue (Liber 452, Folio 20)
- Robert Steele Pogue conveyed a portion of the property to his son, Terry Northrop Pogue on October 29, 1991 (Liber 628, Folio 375)
- Original Covenants recorded on September 18, 1992 (Liber 0711, Folio 303)
 - These are the Family Conveyance Covenants discussing tonight

Relevant Deeds in Applicant's Title

- December 30, 1988 Deed – from Lucy Long Pogue to Ann Holt Pogue Jenkins and Patrick Jenkins (Liber 452, Folio 18)
- January 13, 1997 Deed – from Ann Holt Pogue Jenkins and Patrick Jenkins to Ann Hold Pogue Jenkins (Liber 1124, Folio 375)
- November 15, 2008 Deed from Robert Steele Pogue, Dianne Lee Pogue, Ann Holt Pogue Jenkins, and Terry Northrop Pogue to Ann Holt Pogue (Liber 3228, Folio 001)
 - This is a BLAP (Boundary Line Adjustment Plat) Deed

Boundary Line Adjustment Plat

- A Boundary Line Adjustment Plat was prepared and recorded on May 23, 2008
- This created “Adjusted Parcel 11”
- This includes the original Parcel owned by Ann Pogue and part of the additional property subject to the covenants
- Therefore, a waiver is needed to transfer to a non-family member

GENERAL NOTES

1. Subject property is located on Tax Map 36 at Block 1 at Parcels II, TI & 254.
2. The total area of this site is 10.04 Acres +/-.
3. Subject property is zoned RPD (Residential District) as shown on Official Zoning Maps for St. Mary's County, MD, and also within the RCA (Resource Conservation Area) Overlay Zone.
4. Building Restriction Lines (BRL's) shall be as shown hereon. The BRL's are mapped in accordance with the St. Mary's County Comprehensive Zoning Ordinance (CZO) 02-01 Chapter 32.3.2 and Schedule 32.1 for Zone RPD as follows: 25' Front, 15' Side, and 20' Rear applied from the more restrictive of the lots lines or from sensitive areas mapped on CZO 02-01 Chapter 11.
5. These lots are to be served by individual septic systems and deep drilled wells. Deep Drilled Wells shall be drilled to an approved confined aquifer.
6. This Health Department Approval certifies the above lots are in conformance with pertinent Health Department Laws and Regulations as of the approval date; however, this approval is subject to changes in such laws and regulations. Changes in topography or site designations may void this approval. The designated parcel is the only one approved by the St. Mary's County Health Department for sewage disposal purposes. The approved lots include a minimum area of 10,000 sq. ft. for sewage disposal purposes, as required by current Maryland State Health Law. Improvement of any nature, including but not limited to the installation of other utility lines in this area may render the lot undevelopable. To determine the exact area of the lot approved for sewage disposal purposes, or to establish a different area for such purposes, you should contact the St. Mary's County Health Department, Office of Environmental Health.
7. This subdivision is in compliance with the St. Mary's County Comprehensive Water and Sewerage Plan.
8. There shall be a 10' Utility Easement along all lot lines. The easements are to include use by the St. Mary's County Metropolitan Commission, its successors and assigns, for construction, maintenance, repair, inspection and operation of public water and sewer facilities, should such facilities ever be installed.
9. Unless otherwise shown, there are no restrictions of record affecting this subdivision, subject to a Title Search.
10. Areas established for Resource Protection on this site, in accordance with required protection laws, must remain in undisturbed open space & undeveloped.
11. There are no Outlots, Outparcels or Parcels included herewith.
12. Parcels II, TI, and 254 (Tract I) have direct access to a State Road (Bushwood Wharf) Parcel 254 (Tract 2) is to be accessed by the 30' Access Easement as shown hereon. CAUTION: This access easement does not necessarily provide access from these lots to a County or State road at this time. Road and utility construction and maintenance are the responsibility of the buyer of these lots, unless otherwise provided hereon.
13. Existing structures within subject property do not meet side and/or front yard restrictions established by the St. Mary's County Comprehensive Zoning Ordinance (CZO) 02-01 and is therefore an existing non-conforming use.
14. Current Water and Sewerage Plan Category Designation are as follows: Water = N-NP-5, and Sewer = S-NP-5.
15. No plans currently exist for future subdivision.
16. Parcel 251 (Tract 2) shall be served by the 30' Access Easement as shown hereon.
17. Premise Addresses for the Lots hereon are shown as follows: XXXXXX.
18. This plat was prepared without the benefit of a Title Report, which could reveal additional conveyances, easements, covenants-of-way and/or other more stringent building restriction lines not shown hereon.
19. The Horizontal and Vertical Datums shown hereon are assumed. North Rotation is referenced to the Deed Record in Liber EVA 124 at Folio 375.
20. The Subject Property shown hereon appears to be located in Flood Hazard Zones "X" and "AE (E) 5/6" as delineated on Flood Insurance Rate Maps for St. Mary's County, Maryland, as distributed by the Federal Emergency Management Agency, Community Panel Number 24021-0141C, Effective Date October 19th, 2004. All structures placed in the floodplain on the parcels shall be subject to the requirements of CZO 16-B. No enclosed structure can be added to the floodplain on site unless it is elevated and receives a Waterway Construction permit issued by MDE. No structure can be approved in the floodplain buffer without a variance.
21. Non-Tidal Wetlands information on site of subject subdivision was derived from the "National Wetlands Inventory" Maps distributed by the U.S. Department of the Interior. FWS (quadr.) MD, and Maryland DNR maps.
22. Soils information shown hereon was taken from the "Soil Survey of St. Mary's County, Maryland" as prepared by the U.S. Department of Agriculture, Soil Conservation Service, Sheet #14 thereof.
23. Except for the Field Run Topography around subject Sewage Reserve Areas, topographic information shown hereon was taken from a map obtained from the St. Mary's County Department of Public Works, as compiled by Photostance, Inc., using photogrammetric methods.
24. There appear to be no Critical Habitats, Cultural Features or Historic Sites located within subject property per MERRLH online maps.
25. The lots shown hereon contain an area of at least 20,000 square feet not including rights-of-way (existing or proposed), 50 year flood plains, and grades of 25% or greater.
26. Unless otherwise shown hereon, there are no wells or septic systems within 100' of the lot lines.
27. Existing development on Parcels II, TI, and 251 (Tract 1 and 2) is exempt from Stormwater Management pursuant to the St. Mary's CZO 02-01. Any further development shall be subject to the provisions of the Stormwater Management, Erosion & Sediment Control Ordinance.
28. Subject subdivision is exempt from the Forest Conservation requirements of the St. Mary's County Comprehensive Zoning Ordinance per Section 15.2.2. The requirements of Chapter 12 (Forest and Woodland Resources) in the Critical Area) supersede the requirements of Section 15.2.2.2.
29. Parcels II, TI, and 251 (Tract 1 and 2) are not grandfathered and are ineligible for variances to exceed impervious surface limits or for new encroachments into the Critical Area Buffer. For lots exceeding impervious surface coverage or with impervious surfaces in the Buffer, changes to impervious surface coverage shall be subject to CZO 41.5.3.1(3) limitations on impervious surface trading. If replacement structures are proposed, the replacement structures shall be relocated outside the Critical Area Buffer.
30. Recording of this Boundary Line Adjustment Plat will expand existing deeded parcels of record as shown in the Boundary Line Adjustment Table; and will not result in additional building sites or increase in density or intensity beyond the current land use shown hereon.

OWNER'S CERTIFICATE

We, Ann Holt Pogue Jenkins, Robert Steele Pogue, Diane Lee Pogue, and Terry Northrop Pogue, the owners of the property shown hereon and described in the Surveyor's Certificate Affidavit hereto, hereby adopt this boundary line adjustment plat upon its approval by all required agencies. There are no pending suits or actions at law, leases, liens, mortgages or deeds of trust affecting this subdivision except as noted or shown hereon. All parties in interest have affixed their signatures indicating their assent to this plan.

We further establish the minimum building restriction lines as required by the St. Mary's County Zoning Ordinance and dedicate the streets, walkways, easements, rights-of-way and other improvements, where applicable, to public use.

The requirements of Section 3-10B of the Annotated Code of Maryland (Real Property Article) as far as it concerns the making of the plan and setting of the markers required therein have been complied with to the best of our knowledge, information and belief.

There shall be a 10' utility easement along all lot lines. These easements are to include use by the St. Mary's County Metropolitan Commission, its successors and assigns for construction, installation, maintenance, repair, inspection and operation of public water and sewer facilities, should such facilities ever be installed.

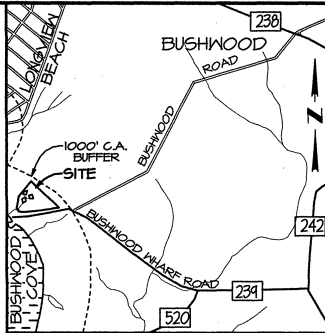
Ann Holt Pogue Jenkins 5-11-08
Date
Ann Holt Pogue Jenkins 5/9/8
Date
Robert Steele Pogue 5-11-08
Date
Diane Lee Pogue 5-9-08
Date
Terry Northrop Pogue 5-9-08
Date

SURVEYOR'S CERTIFICATE

I, the undersigned, a Licensed Surveyor in the State of Maryland, hereby certify, to the best of my knowledge, information and belief, that: this plat was prepared under my direct responsible charge; this plat and the survey work it reflects are in compliance with COMAR 04.13.06.12; the plat shown hereon is correct (subject to title search) and conforms to the specifications; this is a Boundary Line Adjustment Plat of (Parcel II) all of the lands conveyed into Ann Holt Pogue Jenkins by deed dated January 15, 1991 from Ann Holt Pogue and Patrick Jenkins, as recorded among the Land Records for St. Mary's County, Maryland, in Liber EVA 124 at Folio 375; (Parcel TI) all of the lands conveyed into Robert Steele Pogue and Diane Lee Pogue by deed dated March 17, 1991 from Robert Steele Pogue, as recorded among said Land Records in Liber DBK 266 at Folio 145; (Parcel 254) all of the lands conveyed into Terry Northrop Pogue by deed dated December 13, 2000 from Cynthia Marie Pogue, as recorded among said Land Records in Liber EVA 1615 at Folio 504.

The requirements of Section 3-10B of the Annotated Code of Maryland (Real Property Article) as far as it concerns the making of the plan and setting of the markers required therein have been complied with to the best of my knowledge, information and belief.

William F. Hoge
Professional Land Surveyor
MD Registration #10028
3/5/08
Date



VICINITY MAP
SCALE: 1" = 200'

CRITICAL AREA NOTES

1. All of subject property lies within Maryland's Critical Area. Any and all development activities proposed within this area are subject to Critical Area Regulations and will not be permitted until all appropriate local, state and federal agencies have approved the Development Plan.
2. The Critical Area Buffer must remain in natural vegetation and may not be disturbed except as provided under Chapter 11 Section 8 (Habitat Protection Standards) of the St. Mary's County Comprehensive Zoning Ordinance (CZO) 02-01.
3. No Development is permitted in wetlands without approval from the appropriate local, state and federal agencies.
4. All existing forest shown hereon shall remain undisturbed except as permitted under the provisions of Chapter 12 (Forest and Woodland Resources) in the Critical Area) of the St. Mary's County Comprehensive Zoning Ordinance (CZO) 02-01. Any and all afforested or reforested areas created under said provisions, as may be designated on this plat, shall be preserved from future disturbances.
5. Locations of Natural Heritage Areas, Threatened or Endangered Species and Habitats of Significant Plants or Wildlife are identified on this plat in accordance with Chapter 11 (Habitat Protection Standards) of the St. Mary's County Comprehensive Zoning Ordinance (CZO) 02-01.
6. The plan has been prepared in accordance with deeds and plats of record and the recording thereof does not assume title to any portion or portions of said property which may lie beyond the natural mean high water mark or tidal wetlands used for calculations of density rights, and furthermore, a 100' protective buffer, as may be shown hereon, shall be maintained from said mean high water mark or adjacent tidal wetlands since the riparian rights to the same are subject to the regulatory powers of the state and federal governments.
7. Each lot shall be required to meet impervious surface limits and clearances as shown hereon in accordance with Chapter 41 (Clearance) of the St. Mary's County Comprehensive Zoning Ordinance (CZO) 02-01.

PLAT ARCHIVES 2.50
TOTAL 2.50
Nett SHED 1.7500
Nett SHED 1.7500
Nett SHED 1.7500
Nett SHED 1.7500

65-36

CRITICAL AREA BOUNDARY LINE ADJUSTMENT PLAT

& MAP OF RECORD CORRECTION PLAT OF PARCEL II

TAX MAP 36, PARCELS II, TI, & 254
SEVENTH ELECTION DISTRICT
ST. MARY'S COUNTY, MARYLAND
FOR: Robert Pogue

ZONING NUMBER: 07-141-041

ST. MARY'S COUNTY HEALTH DEPARTMENT APPROVAL

SANITARIAN DATE

Diane Lee Pogue 5/16/08
ENVIRONMENTAL HEALTH DIRECTOR DATE

ST. MARY'S COUNTY DEPT. OF LAND USE & GROWTH MANAGEMENT (LUGM)

DIRECTOR DATE

William F. Hoge 5/22/08
CHAIRMAN DATE

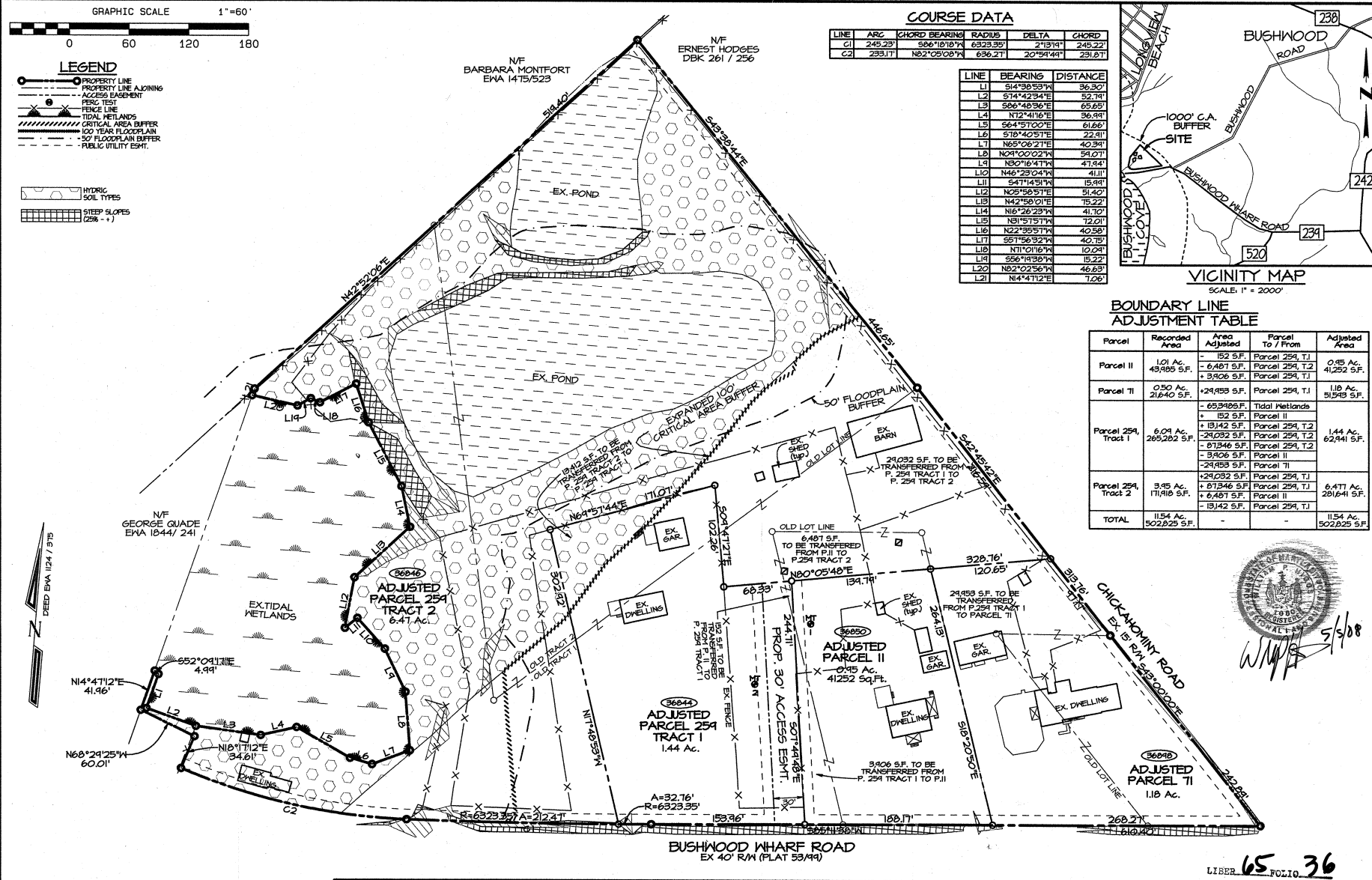


LITTLE SILENCES REST, INC.

41650 COURT HOUSE DRIVE - SUITE 101 - P.O. BOX 2340
LEONARDTOWN, MD 20650
PHONE: (301) 475-2238 - FAX: (301) 475-3720

DATE 07/30/07
CZ 0208-06
FOLDER M3887
SCALE AS SHOWN
SHEET KE
CHECKED MFL
REVISIONS 02/21/07
SHEET 1 OF 2

ST. MARY'S COUNTY CIRCUIT COURT (Subdivision Plats, SM) Plat Book 65, pp. 36A-36B, MSA_51252_9060. Date available 2008/05/23. Printed 04/14/08



CRITICAL AREAS EXISTING CONDITIONS TABLE

PARCEL	LOT AREA	SLOPES 15% OR GREATER	EXISTING FOREST	EXISTING INTERFERIOUS SURFACE
P. II	0.45 Ac.	0.02 Ac.	2,800 S.F.	0.11 Ac. / 11.6%
P. TI	1.18 Ac.	0.01 Ac.	4,800 S.F.	0.21 Ac. / 22.9%
P. 254, TI	1.44 Ac.	-	800 S.F.	0.13 Ac. / 9.0%
P. 254, T.2	6.51 Ac.	0.21 Ac.	800 S.F.	0.13 Ac. / 2.0%

ST. MARY'S COUNTY HEALTH DEPARTMENT APPROVAL

SANITARIAN _____ DATE _____

Danilo Caliendo 5/16/08
ENVIRONMENTAL HEALTH DIRECTOR

ST. MARY'S COUNTY DEPT. OF LAND USE & GROWTH MANAGEMENT (LUGM)

DIRECTOR _____ DATE _____

CHAIRMAN _____ DATE _____

LSR RECORD PLAT
LITTLE SILENCES REST, INC.
41850 COURT HOUSE DRIVE - SUITE 101 - P.O. BOX 2840
LEONARDTOWN, MD 20655
PHONE: (301) 475-2238 - FAX: (301) 475-3720

DATE 01/30/07
JOB 0208-06
FOLDER M888T
SCALE 1" = 60'
DRAWN KE
CHECKED WPH
REVISIONS 02/21/07
SHEET 2 OF 2

CRITICAL AREA BOUNDARY LINE ADJUSTMENT PLAT
PARCEL OF RECORD CORRECTION PLAT
TAX MAP 38, GRID 07
PARCELS II, TI, & 254
SEVENTH ELECTION DISTRICT
ST. MARY'S COUNTY, MARYLAND
FOR: Robert Pogue
ZONING NUMBER: 07-141-041

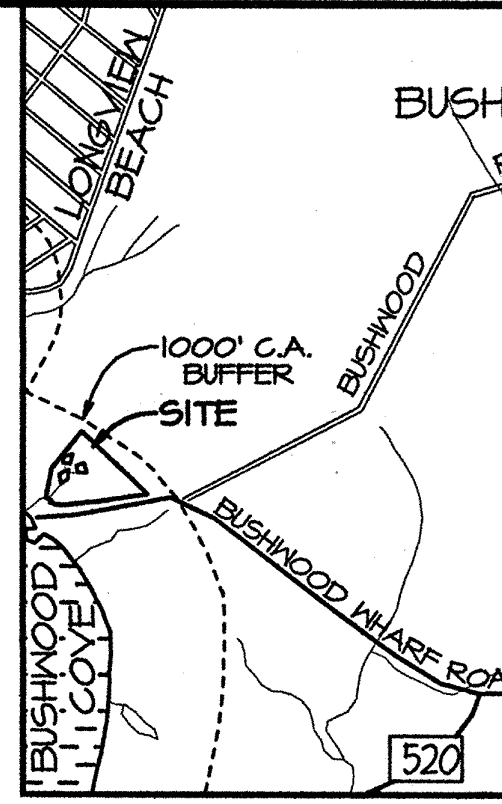
P158743 MSA Sm 1262 9060.2

Portion of 2008 Boundary Line Adjustment Plat

COURSE DATA

LINE	ARC	CHORD BEARING	RADIUS	DELTA	CHORD
C1	245.23'	S86°18'18"W	6323.35'	2°13'19"	245.22'
C2	233.17'	N82°05'08"W	636.27'	20°59'49"	231.87'

LINE	BEARING	DISTANCE
L1	S14°38'53"W	36.30'
L2	S74°42'34"E	52.79'
L3	S86°48'36"E	65.65'
L4	N72°41'16"E	36.99'
L5	S64°57'00"E	61.66'
L6	S78°40'57"E	22.91'
L7	N65°06'27"E	40.39'
L8	N09°00'02"W	59.07'
L9	N30°16'47"W	47.94'
L10	N46°23'04"W	41.11'
L11	S47°14'51"W	15.99'
L12	N05°58'57"E	51.40'
L13	N42°58'01"E	75.22'
L14	N16°26'23"W	41.70'
L15	N31°57'57"W	72.01'
L16	N22°35'57"W	40.58'
L17	S57°56'32"W	40.75'
L18	N71°01'16"W	10.09'
L19	S56°19'38"W	15.22'
L20	N82°02'56"W	46.63'



Reason For Request

- Ms. Pogue now desires to sell her property
- No known relatives who desire to purchase it
- It has been become a financial burden
- Ms. Pogue's daughter is planning to have her mother live with her in an in-law suite to assist Ms. Pogue in relation to medical conditions