

IN RE: PETITION FOR SPECIAL HEARING BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 90-304-SPH

E/S Creek Road, 375' +/- NE of Bay Front Road (2103 Creek Road) 15th Election District 7th Councilmanic District Henry W. McCluskey, et ux Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The petitioners herein request a special hearing to approve the nonconforming use of the subject property as a boat yard in accordance with petitioner's Exhibit 1.

The Petitioners appeared, testified, and were represented by Norman R. Stone, Jr., Esquire. Also appearing on behalf of the Petition were Captain Robert W. Love, Sr., and William R. Keller. There were no Protestants.

Testimony indicated that the subject property, known as 2103 Creek Road, consists of 0.48 acres zoned U.R. 5.5 and is improved with two single family dwellings and a boat yard with 18 slips. Said property, which is comprised of two lots, known as Lot 1102 and a small portion of Lot 1103 of the subdivision known as Lodge Forest, is located within the Chesapeake Bay Critical Areas on North Point Creek. Testimony indicated that Petitioners acquired Lot 1102 in 1962. Petitioners own Lots 1102 through 1107, which about Lots 1174 through 1178 as set forth in Petitioner's Exhibit 1. Petitioners testified that a portion of Lot 1103 and the entire Lot 1104 were granted a special exception for a mobile boat hoist and boat yard in the Petition for Special Exception Case No. 5440-KA on January 5, 1962. Lots 1174 through 1178, Lot 1107 and the majority of Lot 1106 are zoned B.M. as a result of a change in zoning in the comprehensive

map process in 1984. As a result of a Writ of Mandamus filed by Petitioners in the Circuit Court of Baltimore County, Case No. 60/71/89, CSP 4061, by Order dated December 5, 1989 it was established that Lot 1105 and a portion of Lot 1106 were erroneously zoned D.R. 5.5 and were corrected to a B.M. zone. When Petitioners applied for pier permits for Lots 1174 through 1178, Mr. McCluskey was advised that he must establish the nonconforming use of the boat yard on Lot 1102 and the instant Petition was filed.

Mr. McCluskey testified that he has had regular contact with the subject property since late 1943, early 1944, when he was approximately 10 years of age and his family regularly visited the then property owner, Mrs. Pisitti. Mr. McCluskey testified that at that time, the property existed in the same condition as depicted in Petitioner's Exhibit 1. He testified that Mrs. Pisitti rented boat slips and had a pier similar to the existing pier. Mr. McCluskey indicated that the property was subsequently purchased by Mr. & Mrs. William Brooks, Petitioners' Aunt and Uncle. He testified that his Aunt and Uncle continued to rent out boat slips and permitted parking in the nine (9) parking spaces depicted on Petitioner's Exhibit 1. Mr. McCluskey testified that he lived in the rear dwelling with his mother and step-father from 1946 to 1954. At all times, he remembered both houses being occupied for residential purposes and the boat slips being rented out. Mr. McCluskey testified he purchased Lots 1103 and 1104 in 1954 and moved into and established his residence in the dwelling on Lot 1104.

Mr. McCluskey further testified that in approximately 1954, Lot 1102, the lot in question, was sold to a Mrs. Mahoney who continued to use both dwellings for residential purposes and rented out the boat slips. In

approximately 1962, Petitioners purchased the property from Mrs. Mahoney and have continuously and without interruption rented the 18 boat slips and used the related parking area to the front of the property, identified on Petitioner's Exhibit 1 as having nine (9) parking spaces. Testimony indicated that at all times the two residences were continuously rented for residential purposes.

To support Petitioners' testimony, Captain Love testified that he has been familiar with the area since 1926. Captain Love indicated that he has a distinct recollection of boat slips being rented in the same location as depicted in Petitioner's Exhibit 1 as early as 1944. He testified that he has a recollection of there being two houses on the subject property.

Mr. Keller testified that he grew up in the area and has been familiar with the area since 1936 when he was approximately 5 years of age. He testified that he has had regular contact with the subject property and is aware of boat slips being rented from the pier attached to Lot 1102 since prior to the effective date of the zoning regulations.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-con-

forming. See *McKemy v. Baltimore County, Md.*, 39 Md. App. 257, 385 A.2d. 96 (1978).

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

*McKemy v. Baltimore County, Md.*, Supra.

After due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the subject property has been used continuously and without interruption for a boat yard since prior to the effective date of the zoning regulations, and as such, a legal nonconforming use of the subject property exists.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 2nd day of March, 1990 that the Petition for Special Hearing to approve the use of the subject property as a boat yard,

ORDER RECEIVED FOR FILING

Date: 3/2/90 By: [Signature]

ORDER RECEIVED FOR FILING

Date: 3/2/90 By: [Signature]

ORDER RECEIVED FOR FILING

Date: 3/2/90 By: [Signature]

ORDER RECEIVED FOR FILING

Date: 3/2/90 By: [Signature]

in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The nonconforming pier is limited to the 18 boat slips as depicted in Petitioner's Exhibit 1.
- 3) The nonconforming parking for use in conjunction with the boat yard is limited to that area on Lot 1102 containing nine (9) parking spaces as depicted in Petitioner's Exhibit 1.
- 4) Petitioners further established that the two residential dwellings on the subject property enjoy a nonconforming use for residential purposes.

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21284  
(301) 887-3333

J. Robert Haines  
Zoning Commissioner

March 2, 1990



Norman R. Stone, Jr., Esquire  
6905 Dumanway  
Baltimore, Maryland 21222

RE: PETITION FOR SPECIAL HEARING  
E/S Creek Road, 375' +/- NE of Bay Front Road  
(2103 Creek Road)  
15th Election District - 7th Councilmanic District  
Henry W. McCluskey, et ux - Petitioners  
Case No. 90-304-SPH

Dear Mr. Stone:

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

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

Very truly yours,

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ANN:bjs  
cc: People's Counsel  
File

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 603.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a request for non-conforming use for a boatyard as shown on site plan lot #1102.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

Contract Purchaser:  
N/A  
(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Norman R. Stone, Jr., Esquire  
(Type or Print Name)

Address

City and State

Address

Baltimore, Maryland 21222  
City and State

Attorney's Telephone No.: 288-5270

Legal Owner(s):

Henry W. McCluskey  
(Type or Print Name)

Signature

Joanne A. McCluskey  
(Type or Print Name)

Signature

Address

City and State

2103 Creek Road 477-2446  
Address Phone No.

Edgemere, Maryland, 21219  
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Henry W. McCluskey  
Name

2103 Creek Road 477-2446  
Address Phone No.

Edgemere, Maryland 21219  
Address Phone No.

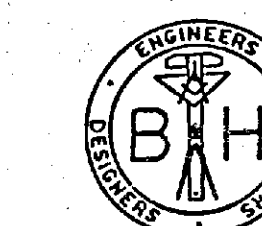
ORDERED By The Zoning Commissioner of Baltimore County, this 29 day of Nov, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commission of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 1st day of Feb, 1990, at 10 o'clock P.M.

J. Robert Haines  
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING

Date: 3/2/90 By: [Signature]

Phone: (301)-574-2227



CRITICAL AREA 163  
90-304-SPH  
BROYLES, HAYES AND ASSOCIATES  
Engineers • Designers • Surveyors  
1922 MIDDLEBOROUGH ROAD • BALTIMORE, MD. 21221

DESCRIPTION OF LOT 1102 AND PART OF 1103 OF

"Lodge Forest" in Plat Book 10 Folio 76  
Property of Henry W. and Joanne McCluskey  
Liber 4654 Folio 216

Beginning for the same at a point on the east side of Creek Road, said point being 375'± north east of the intersection of the east side of Creek Road a 40' right-of-way and the centerline of the northern leg of Bay Front Road, thence running the following 4 courses viz:

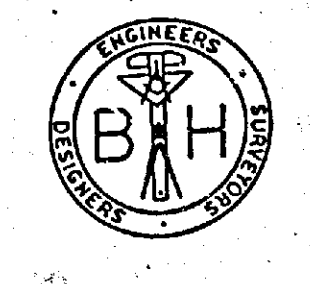
1. S 71° 43' 10" E 325'± feet
2. S 15° 46' 60" W 81.06'± feet
3. N 71° 43' 10" E 320'± feet
4. N 09° 16' 50" E 60.64'± feet, to the point of beginning containing 0.45 acres ±.



ORDER RECEIVED FOR FILING

Date: 3/2/90 By: [Signature]

Phone: (301)-574-2227 90-304-SPH

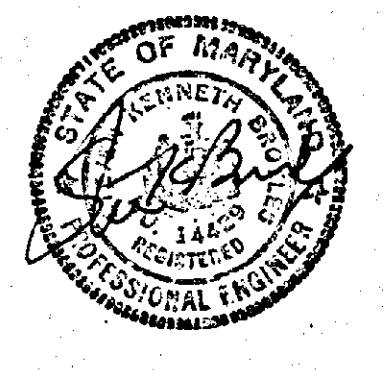


**BROYLES, HAYES AND ASSOCIATES**  
Engineers • Designers • Surveyors  
1822 MIDDLEBOROUGH ROAD • BALTIMORE, MD. 21221

DESCRIPTION OF LOT #1102 AND PART OF 1103 OF  
"Lodge Forest"  
Liber 4654 Folio 216

Beginning for the same on east side of Creek Road at 363.54' northerly along east side of said road from north side of Bay Front Road, said point of beginning being at the division line between lots 1101 and 1102 as laid out on the plat of Lodge Forest, running thence along front side of Creek Road

- S 10° 43' W 60.77 feet to a point 10.13 feet southerly along the east side of said road from division line between lots 1102 and 1103 on the plat above referred to, thence leaving said road and on running parallel with and 10 feet southerly measured at right angles from said division line
- S 70° 07' E 308.4 feet to the shore line and waters of North Point Creek thence binding on the shore line waters of North Point Creek
- N 12° 35' E 61.20 feet to the division line between lots 1101 and 1102 on said plat; and thence running and binding on said line
- N 70° 07' W 310.1± to the point of beginning containing 0.45 acres ±.



HOWARD AND STONE  
PROFESSIONAL BUILDING  
6905 DUNMANWAY  
DUNDALK, MARYLAND 21222  
(301) 284-2880  
(301) 288-5270

RECEIVED  
JAN 30 1990  
ZONING OFFICE

Mrs. Ann McLaughlin-Nastarowicz  
Deputy Zoning Commissioner  
Room 109, County Office Building  
Towson, MD 21204

January 25, 1990

Re: Petition for Special Hearing  
Case No. 90-304-SPH, Item No. 163  
Petitioners: Henry W. and JoAnn McCluskey. Hearing date February 1, 1990 at 2:00 p.m.

Dear Mrs. McLaughlin-Nastarowicz:

Pursuant to our telephone conversation of this date, I am scheduled to testify on three of my bills on February 1, 1990 at 1:00 p.m. in the Judicial Proceedings Committee.

I expect to be finished by 1:30 p.m. and will head immediately to Towson for the above scheduled hearing.

I am hopeful that I will arrive at the hearing room between 2:30 p.m. and 3:00 p.m.

I will attempt to notify anyone, who I am aware of having an interest in this issue, of the delay.

Thanking you for your cooperation in this matter, I am

Very truly yours,

*Norman A. Stone, Jr.*  
Norman A. Stone, Jr.

NRS,JR:js

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 4, 1990  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Jan 4, 1990.

THE JEFFERSONIAN,

*S. Zabe Olson*  
Publisher

NOTICE OF HEARING  
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 109 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland on the following date and at the following time:  
Special Hearing: THURSDAY, FEBRUARY 1, 1990 at 2:00 p.m.  
Special Hearing: Non-conforming use for a bookstore.  
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission however, retains the right to stay the issuance of said permit during the appeal period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.  
NOTE:  
IF "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed to the next business day. The phone 887-3391 in either hearing date.

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: *B-24* Date of Posting: *1/25/90*  
Posted for: *Special Hearing*  
Petitioner: *Henry W. & JoAnn McCluskey, et al.*  
Location of property: *111 W. Chesapeake Ave., 275' W. of Bay Front Rd., Lot # 1102 & part of Lot # 1103*  
Location of Sign: *Being carried by carrier to the property of J. Robert Haines, Lot # 1102 & 1103*  
Remarks:  
Posted by: *M. Haines* Date of return: *1/19/90*  
Number of Signs: *1*

CERTIFICATE OF PUBLICATION

OFFICE OF  
Dundalk Eagle  
4 N. Center Place  
P.O. Box 6936  
Dundalk, Md. 21222  
January 9, 1990

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hearings Case #90-304-SPH - P.O. #0101068 - Req. #M38130 - 84 lines @ \$42. was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one week before the same was inserted in the issues of January 4, 1990.

Kimbel Publication, Inc.  
per Publisher.

Baltimore County  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
NOTICE OF HEARING  
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 109 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland on the following date and at the following time:  
Special Hearing: THURSDAY, FEBRUARY 1, 1990 at 2:00 p.m.  
Special Hearing: Non-conforming use for a bookstore.  
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission however, retains the right to stay the issuance of said permit during the appeal period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.  
NOTE:  
IF "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed to the next business day. The phone 887-3391 in either hearing date.

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

8507 Chesapeake Avenue  
Baltimore, MD 21219  
January 20, 1990

Mr. Robert Haines  
Zoning Commissioner Baltimore County  
111 W. Chesapeake Avenue  
Towson, MD 21204

Dear Mr. Haines,

After visiting the property and hearing the particulars of the request of Mr. William McCluskey regarding the petition for a non-conforming use zoning of his lots 1102 and part of 1103 the community council found no problem and wish to offer our approval for the zoning request.

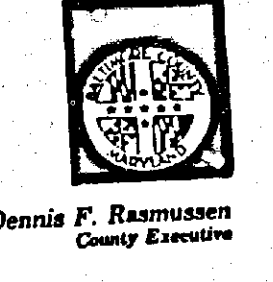
Sincerely

*Joseph G. Sinsak, Jr.*  
Joseph G. Sinsak, Jr.  
President

*3*  
*3*

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

DATE 1/22/90



Mr. & Mrs. Henry W. McCluskey  
2103 Cook Road  
Edgemoor, Maryland 21218

Dennis F. Rasmussen  
County Executive

Petition for Special Hearing  
CASE NUMBER: 90-304-SPH  
478 Cook Road, 375' W. of Bay Front Road  
Lot 1102 and part of Lot 1103, Lodge Forest Subdivision  
10th Election District - 7th Councilmanic  
Petitioners (s) Henry W. McCluskey, et al  
HEARING: THURSDAY, FEBRUARY 1, 1990 at 2:00 p.m.

Dear Petitioners  
Please be advised that \$ 116.00 is due for advertising and posting of the above captioned property.  
THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE.

Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

receipt  
No 1203  
Account # 6001-6150  
Number

90-304-A

DATE	QTY	PRICE
1/21/90		M9000416
PUBLIC HEARING FEES		
090 - POSTING SIGNS / ADVERTISING	1 X	\$116.11
TOTAL		\$116.11

LAST NAME OF OWNER: MCCLUSKEY

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 109 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing  
CASE NUMBER: 90-304-SPH  
478 Cook Road, 375' W. of Bay Front Road  
Lot 1102 and part of Lot 1103, Lodge Forest Subdivision  
10th Election District - 7th Councilmanic  
Petitioners (s) Henry W. McCluskey, et al  
HEARING: THURSDAY, FEBRUARY 1, 1990 at 2:00 p.m.

Special Hearings Non-conforming use for a bookstore.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE:  
IF "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.  
*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

Mr. & Mrs. McCluskey  
Norman R. Stone, Jr., Esq.

HENRY W. MCCLUSKEY and  
JOANN A. MCCLUSKEY, his wife

Plaintiffs

BALTIMORE COUNTY, MARYLAND,  
et al

Defendants

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY

Case No.

CONSENT ORDER

Upon the matter contained in the foregoing complaint for Writ of Mandamus and Affidavit thereto, it is this 31 day of December, 1989,

ORDERED, by The Circuit Court for Baltimore County that Baltimore County, Maryland through its agents, servants and employees, P. David Fields, Director of Office of Planning and Zoning, and J. Robert Haines, Baltimore County Zoning Commissioner, change and correct the zoning from DR 5.5 to BM to included, in addition to the area currently zoned BM, all of lots 1105 and 1106 as set out on the attached 1988 200 scale zoning map, which map is appended hereto and made a part hereof and marked as Exhibit No. 3, and as outlined in red thereon. More specifically, the entire subject property as shown as currently zoned BM and the parcel outlined in red on the attached exhibit is to be classified uniformly BM.

IT IS FURTHER ORDERED that all official zoning maps of Baltimore County be amended to reflect such change on the property of the Plaintiffs, Henry W. McCluskey and JoAnn A. McCluskey, and all surrounding property affected thereby.

Consented To By:

*Howard and Stone*  
Attorneys for Defendants  
*Howard and Stone*  
HOWARD AND STONE  
6905 DUNMANWAY  
DUNDALK, MARYLAND 21222  
Telephone: 288-2860  
Attorneys for Plaintiff

*John Haines*  
JUDGE

True Copy Test  
Suzanne McGee, Clerk  
*Robert Haines*  
Zoning Commissioner



Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 405  
Towson, Maryland 21284  
(301) 887-3654

November 29, 1989



Dennis F. Rasmussen  
County Executive

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 163, 164, 165, 166, 168, & 169.

Very truly yours,

*Michael S. Flanigan*  
Michael S. Flanigan  
Traffic Engineer Associate II

MSF/lw

RECEIVED  
DEC 6 1989  
ZONING OFFICE

Baltimore County  
Fire Department  
800 York Road  
Towson, Maryland 21284-2586  
(301) 887-4500  
Paul H. Reinke  
Chief

DECEMBER 4, 1989



Dennis F. Rasmussen  
County Executive

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: HENRY W. MCCLUSKEY  
Location: LOT #1102 AND PART OF LOT #1103  
Item No.: 163 Zoning Agenda: NOVEMBER 28, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. FIRE PREVENTION SYSTEMS SHALL BE INSTALLED ON ALL PIERS IN EXCESS CLASS II STANDPIPE SYSTEMS SHALL BE INSTALLED ON ALL PIERS IN EXCESS OF 200 FT. IN LENGTH EXTENDING FROM THE SHORELINE, ACCORDING TO NFPA 303, 1986 EDITION, SEC. 4-5.3.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Carlton R. Kelly* 12-4-89 Noted and Approved  
Planning Group Special Inspection Division Fire Prevention Bureau

JK/KEK

DEC 05 1989

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: December 19, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting  
for November 28, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 163, 164, 165, 166, 167, and 168.

For Item 169 the property dimensions shown do not agree with plat 13/86.

*Robert W. Bowling*

ROBERT W. BOWLING, P.E. Chief  
Developers Engineering Division

RWB:e

DEC 27 1989

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines  
Zoning Commissioner

DATE: January 18, 1990

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 163  
North Point Marina  
Chesapeake Bay Critical Area Findings

RECEIVED  
FEB 7 1990

ZONING OFFICE

SITE LOCATION

The subject property is located at 2107 Creek Road. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Henry W. McCluskey

APPLICANT PROPOSAL

The applicant has requested a special hearing for a non-conforming use for a boatyard as shown on site plan lot #1102.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.>

Memo to Mr. J. Robert Haines  
January 18, 1990  
Page 2

DEFINITIONS

(21) "Development activities" means the construction or substantial alteration of residential, commercial, industrial, institutional, or transportation facilities or structures. <COMAR 14.15.01.01.(21)>

REGULATIONS AND FINDINGS

1a. Regulation: Development in the Critical Area

14.15.02.01 Introduction

The Commission is charged with the development of criteria that will accommodate growth, and also provide for the conservation of habitat and the protection of water quality in the Critical Area. In this Chapter, criteria are proposed for directing, managing, and controlling development (e.g., residential, commercial, industrial and related facilities) so that the adverse impacts of growth in the Critical Area are minimized. These criteria are based on the general policies found in Regulation 02.

1b. Regulation:

14.15.02.07 Grandfathering

After program approval, local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has been abandoned for more than one year or is otherwise restricted by existing local ordinances.

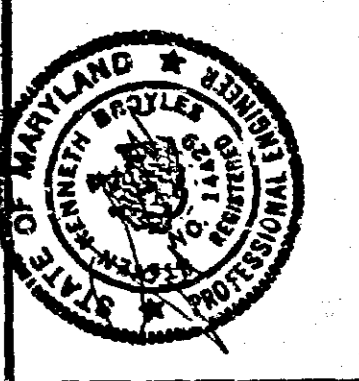
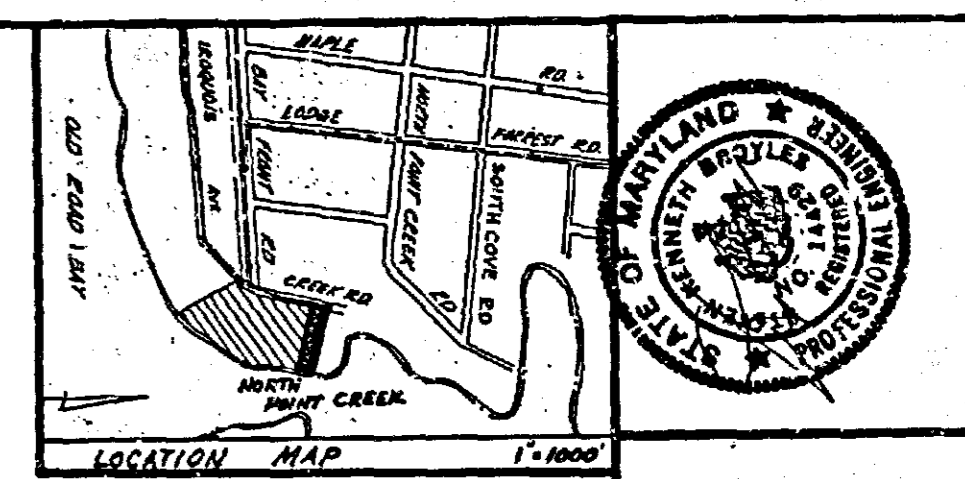
FINDING: This zoning variance request does not propose any development activities in accordance with the definition stated above. Therefore, this request does not require a Chesapeake Bay Critical Area Findings. If any intensification or expansion is proposed, then a Critical Area Findings shall be required.

CONCLUSION

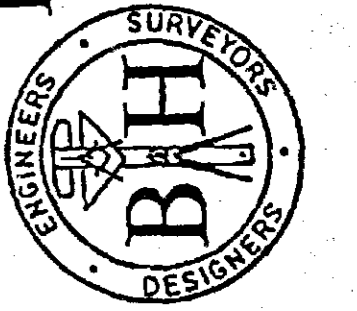
A Critical Area Findings is not required for this petition. If there are any questions, please contact Mr. David Flowers at 887-2904.

*Robert W. Sheesley*  
Robert W. Sheesley, Director  
Department of Environmental Protection  
and Resource Management

RWS:DCF:ju  
Attachment  
cc: The Honorable Ronald B. Hickerrell  
The Honorable Norman B. Lauenstein  
The Honorable Dale T. Volz  
Mrs. Janice B. Guter



**BROYLES, HAYES & ASSOC.**  
 ENGINEERS • DESIGNERS • SURVEYORS  
 1922 MIDDLEBOROUGH RD.  
 BALTO, MD. 21221  
 (301)-574-2227

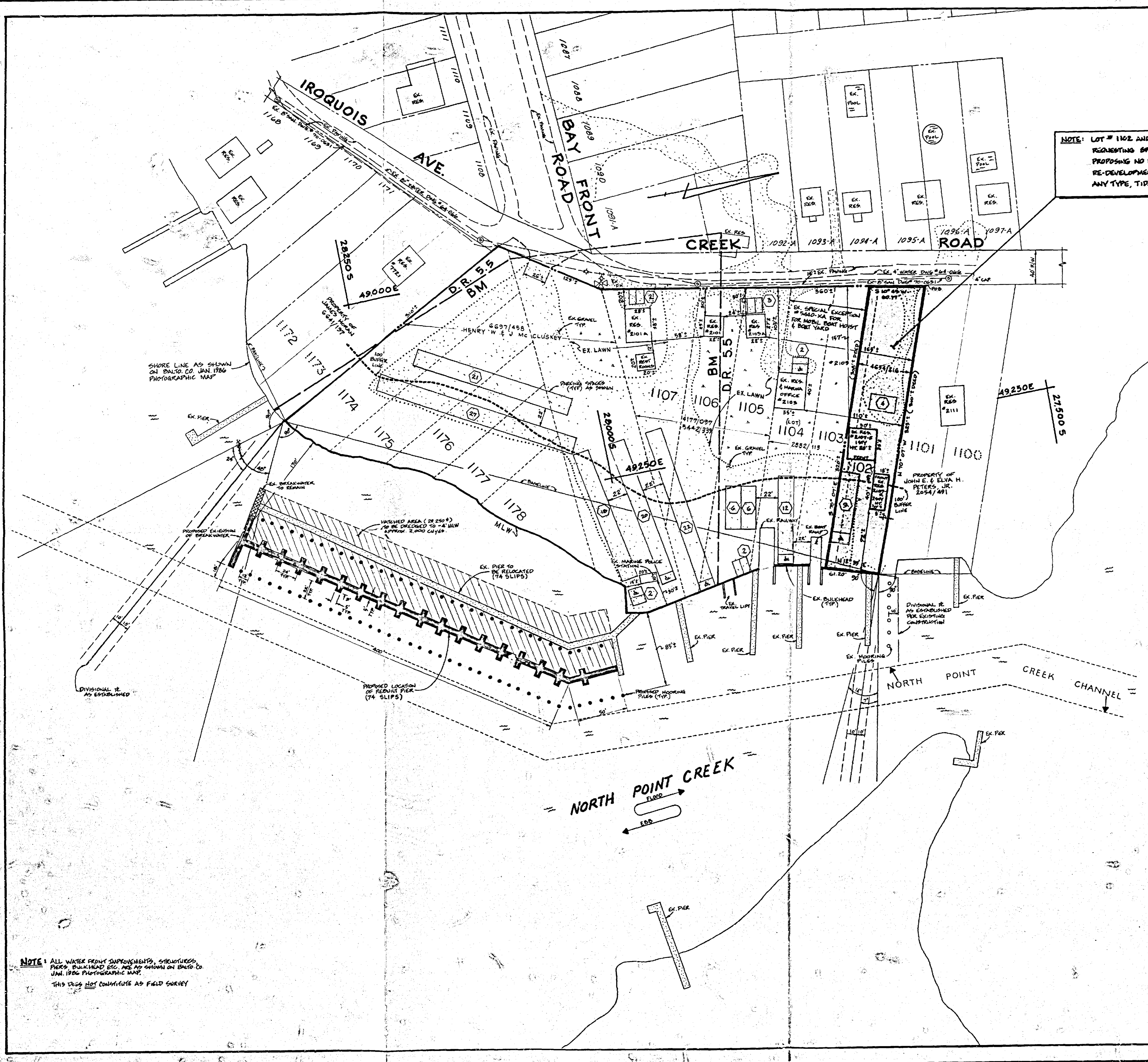


**NORTH POINT MARINA**

REVISIONS

103  
 CRITICAL AREA  
 90-304-S.P.H.  
 SITE PLAN

**NOTE:** LOT # 1102 AND PART OF 1103 AREA REQUESTING SPECIAL HEARING IS PROPOSING NO EXPANSION, DEVELOPMENT, RE-DEVELOPMENT OR CONSTRUCTION OF ANY TYPE, TIDAL OR UPLAND.



SHORE LINE AS SHOWN ON BALTO. CO. JAN. 1986 PHOTOGRAPHIC MAP

**NOTE:** ALL WATER FRONT IMPROVEMENTS, STRUCTURES, PIERS, BULKHEADS, ETC. ARE AS SHOWN ON BALTO. CO. JAN. 1986 PHOTOGRAPHIC MAP. THIS DOES NOT CONSTITUTE AS FIELD SURVEY

**OVERALL SITE DATA FOR GENERAL INFORMATION**  
 FOR ALL PROPERTY OWNED BY HENRY M. & JOANNE MCCLUSKEY

- NET SITE AREA = 180,920 sq ft (4.15 ac)
- GROSS SITE AREA = 180,600 sq ft (4.17 ac)
- CURRENT ZONING: BM = 2.75 ac  
DR 5.5 = 1.61 ac  
SPECIAL EXCEPTION 5440-XA FOR MOBIL BOAT HOIST AND BOAT YARD, ON LOT 1104 AND PART OF LOT 1103 OF THE SUBDIVISION OF "LOGE FOREST" PLAT BOOK 10, P. 30-37, GRANTED ON JAN. 5, 1982.
- PROPERTY REFERENCE: 2882/113, 4177/1097, 4654/218, 3443/339
- OWNER: HENRY M. & JOANNE MCCLUSKEY
- EXISTING USE: 6 SINGLE FAMILY DWELLINGS, 145 SLIP BOAT YARD
- PROPOSED USE: 8 SINGLE FAMILY DWELLINGS, 145 SLIP BOAT YARD
- PUBLIC WATER AND SANITARY SEWER IS EXISTING ON SITE
- EXISTING FLOOR AREA = 6,038 sq ft
- EXISTING FLOOR AREA RATIO = 3.16 X
- PROPOSED FLOOR AREA = 6,038 sq ft
- PROPOSED FLOOR AREA RATIO = 3.16 X
- EXISTING IMPERVIOUS AREA = 6,038 sq ft = 3.16 X
- PROPOSED IMPERVIOUS AREA = 6,038 sq ft = 3.16 X
- 15th ELECTION DISTRICT, 7th COUNCILMANIC DISTRICT, CENSUS TRACT 4321

**PARKING DATA**

- PARKING CALCULATION:  
6 SINGLE FAMILY DWELLINGS X 2 SPACES/DWELLING = 12 SPACES  
145 SLIP BOAT YARD X 0.5 SPACES/SLIP = 73 SPACES
- PARKING REQUIRED: = 85 SPACES
- PARKING PROVIDED INCLUDING HANDICAPPED SPACES: = 156 SPACES
- HANDICAPPED SPACES REQUIRED: = 6 SPACES
- HANDICAPPED SPACES PROVIDED: = 6 SPACES
- DIMENSION OF STANDARD PARKING SPACE: 9'-6" X 18'
- DIMENSION OF HANDICAPPED PARKING SPACE: 12' X 18'
- DIMENSION OF ISLANDS FOR 2 WAY TRAFFIC: 22' X 18'

**SITE DATA FOR LOT 1102 AND PART OF 1103**  
 REQUEST FOR LONGTERM USE

- NET SITE AREA = 19,500 sq ft (0.45 ac)
- GROSS SITE AREA = 20,700 sq ft (0.48 ac)
- CURRENT ZONING: DR 5.5 = 0.45 ac
- PROPERTY REFERENCE: 4654/218 LOT 1102 AND PART OF LOT 1103 OF THE SUBDIVISION OF "LOGE FOREST" PLAT BOOK 10, P. 30-37
- OWNER: HENRY M. & JOANNE MCCLUSKEY
- EXISTING USE: 2 SINGLE FAMILY DWELLINGS, 16 SLIP BOAT YARD
- PROPOSED USE: 2 SINGLE FAMILY DWELLINGS, 16 SLIP BOAT YARD
- PUBLIC WATER AND SANITARY SEWER IS EXISTING ON SITE
- EXISTING FLOOR AREA = 1,770 sq ft
- EXISTING FLOOR AREA RATIO = 9.08 X
- PROPOSED FLOOR AREA = 1,770 sq ft
- PROPOSED FLOOR AREA RATIO = 9.08 X
- EXISTING IMPERVIOUS AREA = 1,770 sq ft = 9.18 X
- PROPOSED IMPERVIOUS AREA = 1,770 sq ft = 9.18 X
- 15th ELECTION DISTRICT, 7th COUNCILMANIC DISTRICT, CENSUS TRACT 4321

**PARKING DATA**

- PARKING CALCULATION:  
2 SINGLE FAMILY DWELLINGS X 2 SPACES/DWELLING = 4 SPACES  
16 SLIP BOAT YARD X 0.5 SPACES/SLIP = 8 SPACES
- PARKING REQUIRED: = 13 SPACES
- PARKING PROVIDED INCLUDING HANDICAPPED SPACES: = 13 SPACES
- HANDICAPPED SPACES REQUIRED: = 1 SPACES
- HANDICAPPED SPACES PROVIDED: = 1 SPACES
- DIMENSION OF STANDARD PARKING SPACE: 9'-6" X 18'
- DIMENSION OF HANDICAPPED PARKING SPACE: 12' X 18'
- DIMENSION OF ISLANDS FOR 2 WAY TRAFFIC: 22' X 18'

SCALE: 1"=50'  
 DATE: 11-13-89  
 DWG. BY: H.R.S.