

IN RE: PETITION FOR SPECIAL HEARING
SE/S of Belair Road, 12,000 sq. ft. +/-
NE from centerline of Bradshaw Road
11th Election District
3rd Councilmanic District
(12001 Belair Road)

Joyce & Gene Schwandtner
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* CASE NO. 05-305-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, Joyce and Gene Schwandtner. The Petitioners are requesting special hearing relief for property owned at 12001 Belair Road in the Kingsville area of Baltimore County. The special hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a principal building to be constructed to be situated 100 ft. from the centerline of a Collector Road in lieu of the required 150 ft. as stated in Section 1A04.3.B.2.b of the B.C.Z.R.

The property was posted with Notice of Hearing on January 19, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on January 20, 2005, to notify any interested persons of the scheduled hearing date.

At the February 4, 2005 hearing, an adjacent property owner, Mr. Keenan, complained that the property was not posted on Jerusalem Road. He argued that the area impacted by the proposal was on Jerusalem Road and should have been posted on this road. The Petitioner indicated that the property fronted on both Belair Road and Jerusalem Road but that the posting was properly made on Belair Road as this was the mailing address for the property. By

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agreement the case was continued and the property re-posted but not readvertised on Jerusalem Road at a time and date to be scheduled.

A next hearing date was scheduled for March 3, 2005 at 9:00 a.m. in Room 106 of the County Office Building. The Jerusalem end of the property was posted with Notice of Hearing for the March 3, 2005 hearing on February 15, 2005, in order to notify all interested citizens of the requested zoning relief requested.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: A ZAC comment was submitted by the Office of Planning dated February 1, 2004 which did not oppose the request provided certain conditions were met, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearings on behalf of the requested special hearing and variance relief was Pastor Michael Wollman for Petitioners and Kenneth Wells of KJ Wells, Inc., the firm that prepared the site plan of the property. Appearing as interested citizens at the hearings were Charles Keenan, Suzanne L. Opdyke, and Elizabeth Mansfield, adjoining property owners.

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Appearing as protestants were Leigh Keller, Ila Christenbury, Robin Beers and Charlotte Pine. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Wells testified that the subject property is approximately 3.7 acres and zoned RC 5. The long, narrow property fronts on both Belair and Jerusalem Roads. See Petitioner's Exhibit 1. The Petitioners occupy a single-family dwelling located in the center of the property with a Belair Road address. They would like to subdivide the property such that one more lot (Lot 2) will be created on the rear so as to build one single-family dwelling which has access to Jerusalem Road. Lot 2 would be 1.5 acres leaving Lot 1 approximately 2.0 acres. The Church north of the subject property is interested in acquiring this lot as a future parsonage.

The property is quite hilly and slopes steeply up from Jerusalem Road so that the proposed home will sit approximately 20 feet above the roadbed. Mr. Wells indicated that because of the steep slopes the new home would have its septic area, shown on Exhibit 1, elevated above the new home and the proposed well which will be located close to Jerusalem Road. He indicated that this very unusual arrangement has been approved by DEPRM.

The request for variance arises because the location of the new home is 100 feet from Jerusalem Road rather than the 150 feet required by the RC 5 regulations. Mr. Wells explained that he could push the house back up the hill to meet the 150 foot setback requirement but that the driveway connecting to Jerusalem Road would require switch back design such that many more trees and vegetation would have to be disturbed. The proposed location would allow a straight driveway from Jerusalem Road. See Petitioners' Exhibit 3. If the new home were moved back further from the road it would not be in line with adjoining existing homes along Jerusalem Road which are each approximately 60 feet from the road. Finally, he noted that as

the Office of Planning comments indicated, Jerusalem Road is designated a scenic highway on the County Master Plan. In addition, the Keenan home to the south is listed on the Maryland Historical Trust Inventory. He indicated that to preserve the scenic aspect of the road to the greatest degree possible, and have the least impact on the historic home, the new home should not be pushed back up the hill to meet the regulations as it would be much more visible from Jerusalem Road. He noted that with the proposed design, the forest along Jerusalem Road would be disturbed as little as possible and the scenic view along the road would be preserved. He indicated that the Office of Planning Comments agreed with this position which is compatible with the goals of the Greater Kingsville Community Plan. The proposed location would allow the house to blend into the existing forest along the road. In any case, he noted that the Plan would meet each of the requests by the Office of Planning, including the "Enclosed Views" along scenic routes required by CMDP Scenic Route Guidelines.

Ms. Mansfield, who owns the property across Jerusalem Road, expressed her concern that storm water from the subject property which now flows onto her property, would increase if more forest were disturbed by the switch back driveway design that would result from the home being pushed back up the hill to meet the regulations. She supported locating the home as proposed.

Ms. Opdyke, who owns the adjacent property to the north, indicated that she had no objection to the proposed location of the new home. She objected to the new home being pushed higher up the hill to meet the setback regulations because this would interfere with her privacy.

Ms. Christenbury, a Board Member and Secretary of the Greater Kingsville Community Association, indicated that her organization generally opposes waivers and variances to the

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zoning regulations. She noted the Jerusalem Road corridor had historic structures and was a designated scenic route. She objected to removing approximately 70 feet of the dense canopy of vegetation along the road for the entrance to the new home. However, she was sensitive to the concerns of adjacent property owners who support the Petition.

Ms. Pine indicated that she represented the Long Green Valley Association and her organization opposed all variances. She indicated that this property owner created his own hardship, the house can meet the regulations and not every property can be fully developed.

Ms. Keller indicated that she also was opposed to variances and waivers generally, objected to 70 feet of foliage being taken away for the entrance to the new home, indicated the second lot should have access to Belair Road not Jerusalem Road, and opposed any off-site forest mitigation.

Ms. Beers indicated that moving the home back up the hill would provide more buffer from the scenic road, cited contrary provisions of the Greater Kingsville Community Plan and regretted the loss of rural heritage inherent in the continuing building along Jerusalem Road.

In rebuttal, Mr. Wells again indicated that, if the house were pushed back up the hill, he could not meet the 15% grade maximum for the driveway to the new home and would have to design a driveway with more disturbance to the forest along the road. He indicated that other than the request for relief, the subdivision and new home would meet all County regulations. He disputed that the owner was creating his own hardship, which he indicated was caused by the severe topography of the land. Finally, he disputed the suggestion that in having an entrance on Jerusalem Road he would be destroying "old growth forest" and cited DEPRM's comments in support thereof.

At the request of the community, the record in this case remained open so the various community associations could review their positions, discuss the matter further with the Petitioner and adjacent property owners. However, after several weeks, the Parties indicated that this Commission should decide the case on the record made at the hearing.

Findings of Fact and Conclusions of Law

The essence of the testimony from the representatives of the various community associations is that they would like to keep the Jerusalem Road portion of the property as it is. This is a designated scenic route with a historically identified home nearby. They object to any home with access to Jerusalem Road as this would mean removing some of the canopy which travelers now enjoy along the road. They uphold the principle that variances should not be granted which would in any way allow development in the area.

As mentioned at the hearing, however, our system of land use will only accomplish what the representatives want if the public purchases the property. As opposed to other countries' land use processes, if the public does not buy the property, we allow property owners to develop their property in accord with reasonable regulations. Our regulations have been interpreted by the appellate courts, which give further direction as to how our regulations apply in different circumstances.

Considering all the evidence, I find that the Petitioner's request for variance meets the tests outlined in *Cromwell v Ward* and other appellate cases. First, the extreme topography of Lot 2, which is not in dispute, is exactly the kind of special circumstance which our statute and the appellate cases identify as a unique property in a zoning sense. The Lot rises sharply from Jerusalem Road so much so that a driveway to a home 150 feet from the road will require switch back design. I also find that the property owner will suffer a hardship, if he can not use the lot

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for a residence, when the lot meets all other regulations in this RC 5 zone except road setback. I further find that granting the variance will not increase the density on this lot beyond that otherwise allowed as the lot meets the 1.5 acre minimum lot size. I find that use of the property for a residence is within the spirit and intent of the regulations as single-family dwellings are allowed by right in this zone.

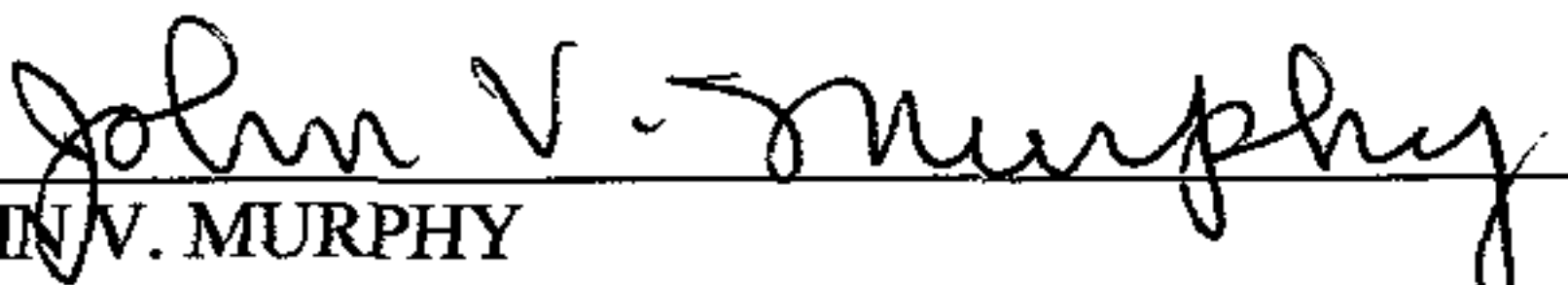
The only difficult issue in this case is whether the proposed use will adversely affect the community. Again this is a scenic route. Any access to a home on this road will remove some of the canopy which makes the road scenic. However, the choice is between granting a variance to allow a home 100 feet from the road or deny the variance and have a home 150 feet from the road. Both will require access to Jerusalem Road. Both will remove some canopy. However, the Petitioner points out that less environmental canopy damage will occur with the home 100 feet from the road because the switch back driveway is eliminated. The Planning Office supports the Petitioner's request for the home 100 feet from the road. While the adjacent property owners would like to have no development, given the choice we actually have here, they find the closer home the best choice not only from an environmental standpoint but simple privacy considerations. They do not want the home elevated above them as would occur if the home were pushed back up the hill. Considering all the evidence, I find that the proposed use at 100 feet from the road will not adversely affect the health, safety, or welfare of the community. To assure this is the case, I will require the Petitioner to submit for review and approval a landscape plan to minimize the removal of canopy and replant on-site such foliage as the Baltimore Landscape Architect shall require to maintain to the degree possible the scenic view along the Petitioners' frontage on Jerusalem Road.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' special hearing request should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 29 day of March, 2005, that the Petitioners' request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a principal building to be constructed to be situated 100 ft. from the centerline of a Collector Road in lieu of the required 150 ft. as stated in Section 1A04.3.B.2.b of the B.C.Z.R.), be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners shall submit for review and approval a landscape plan to minimize the removal of canopy and replant on-site such foliage as the Baltimore County Landscape Architect shall require to maintain to the degree possible, the scenic view along the Petitioner's frontage on Jerusalem Road.
2. The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, 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;
3. The Petitioners must comply with the ZAC comments submitted by the Office of Planning dated February 1, 2005, a copy of which is attached hereto and made a part hereof; and
4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

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3/29/05

DATE

By 

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

March 29, 2005

Mr. & Mrs. Gene Schwandtner
12001 Belair Road
Kingsville, Maryland 21087

Re: Petition for Special Hearing
Case No. 05-305-SPH
Property: 12001 Belair Road

Dear Mr. & Mrs. Schwandtner:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in black ink that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Pastor Michael Wollman, 12022 Jerusalem Road, Kingsville, MD 21087
Kenneth Wells, KJ Wells, Inc., 7403 New Cut Road, Kingsville, MD 21087
Charles Keenan, 11944 Jerusalem Rd., Kingsville, MD 21087
Suzanne L. Opdyke, 12008 Jerusalem Rd., Kingsville, MD 21087
Elizabeth Mansfield, 11945 Jerusalem Rd., Kingsville, MD 21087
Leigh Keller, P. O. Box 174, Kingsville, MD 21087
Ila Christenbury, 12009 Cedar La., Kingsville, MD 21087
Robin Beers, 12442 Jerusalem Rd., Kingsville, MD 21087
Charlotte Pine, 13310 Fork Rd., Baldwin, MD 21013

Visit the County's Website at www.baltimorecountyonline.info





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 12001 Belair Road

which is presently zoned RC-5

This Petition shall be filed with the Department of Permits and Development Management. 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 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

to allow a principal building to be constructed to be situated 100 feet from the center line of a Collector Road in lieu of the required 150 feet as stated in Section 1A04.3.B.2.b of the BCZR.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

City

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Gene Schwandtner

Name - Type or Print

Signature

Joyce Schwandtner

Name - Type or Print

Signature

12001 Belair Road

410-592-9072

Address

Telephone No.

Kingsville

Md.

21087

State

Zip Code

Representative to be Contacted:

Kenneth Wells

Name

7403 New Cut Road

410-592-8800

Address

Telephone No.

Kingsville

Md.

21087

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By

Date

Case No. 05-305SPH

REV 9/15/98

ORIGINAL RECEIVED FOR FILING
3/29/05
By

kjWellsInc

*Trading for Kenneth J. Wells, Inc.
Land Surveying and Site Planning*

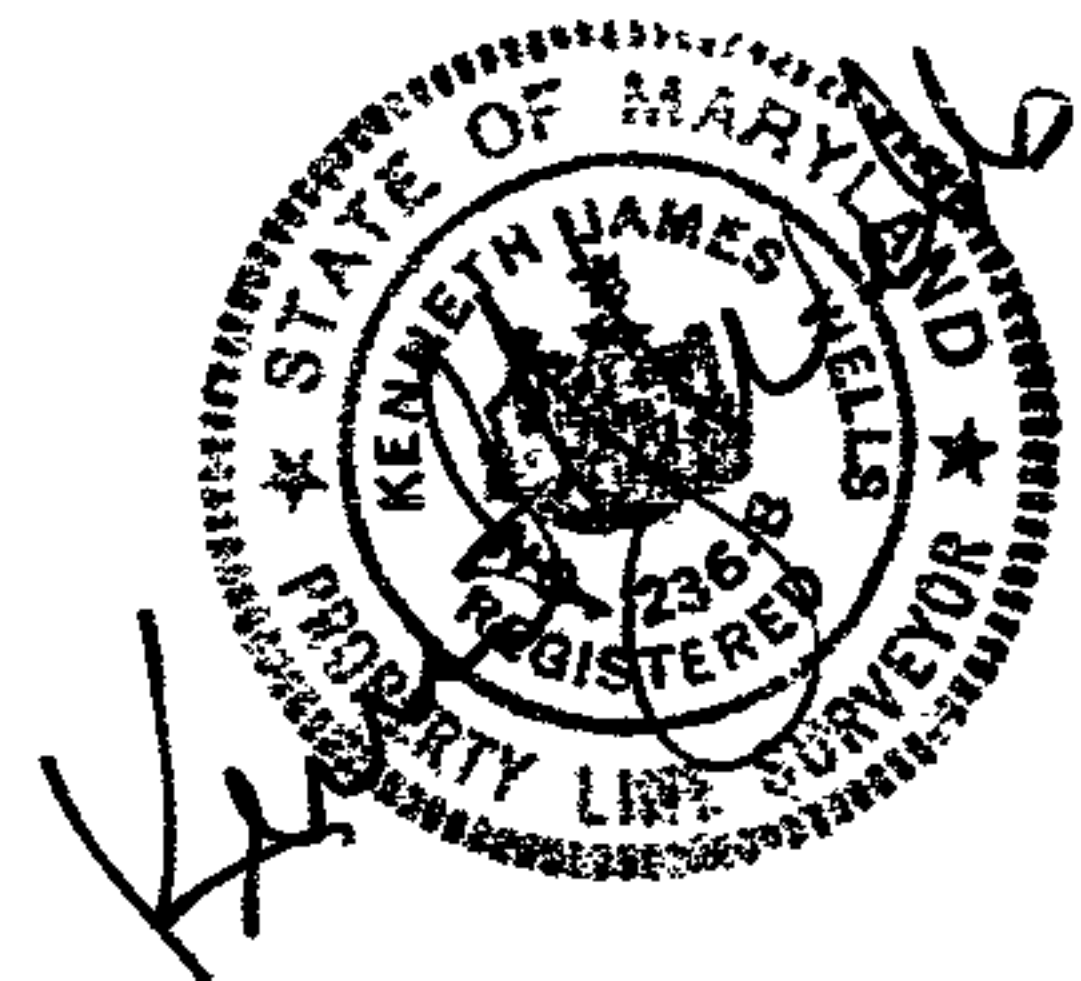
Telephone: (410) 592-8800
Fax: (410) 817-4055
email: kjWellsInc@msn.com

7403 New Cut Road
Kingsville, Md. 21087-1132

December 15, 2004

**Zoning Description
for
12001 Belair Road
Kingsville, Maryland
11th Election District
3rd Councilmanic District**

Beginning at a point located on the southeast side of Belair Road (U.S. Route 1) which is 66 feet wide which at a distance of 1,200 feet more northeast of the centerline of Bradshaw Road the nearest improved street which varies in width, thence the four following bearings and distances: 1) *South 15 degrees 38 minutes 19 seconds West 202.00 feet*, 2) *South 66 degrees 53 minutes 05 seconds East 204.75 feet*, 3) *South 27 degrees 51 minutes 55 seconds West 64.08 feet*, 4) *South 51 degrees 58 minutes 05 seconds East 347.68 feet* to the centerline of Jerusalem Road, thence along the centerline of Jerusalem Road 5) *North 39 degrees 49 minutes 55 seconds East 354.75 feet*, thence the two following bearings and distances: 6) *North 65 degrees 03 minutes 05 seconds West 516.80 feet*, 7) *North 67 degrees 55 minutes 05 seconds West 147.22 feet* to the place of beginning. Containing 3.7027 acres of land more or less.



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

285
No. 1000

DATE 12-17-04 ACCOUNT 1000 100 3.50

AMOUNT \$ 3.50

RECEIVED FROM: E. SCHWARTZ 12/17/04

FOR: LOT

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #05-305-SPH
 12001 Belair Road
 S/east side of Belair Road,
 12,000 sq. ft. +/- n/east
 from the centerline of
 Bradshaw Road
 11th Election District
 3rd Councilmanic District
 Legal Owner(s): Gene &
 Joyce Schwandtner

Special Hearing: to allow a principal building to be constructed and to be situated 100 feet from the centerline of a Collector Road in lieu of the required 150 ft.

Hearing: Friday, February 4, 2005 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM WISEMAN
 Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
 (2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

1/25/ Jan. 20 36210

CERTIFICATE OF PUBLICATION

1/20/, 2005

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/20/, 2005.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkins

LEGAL ADVERTISING

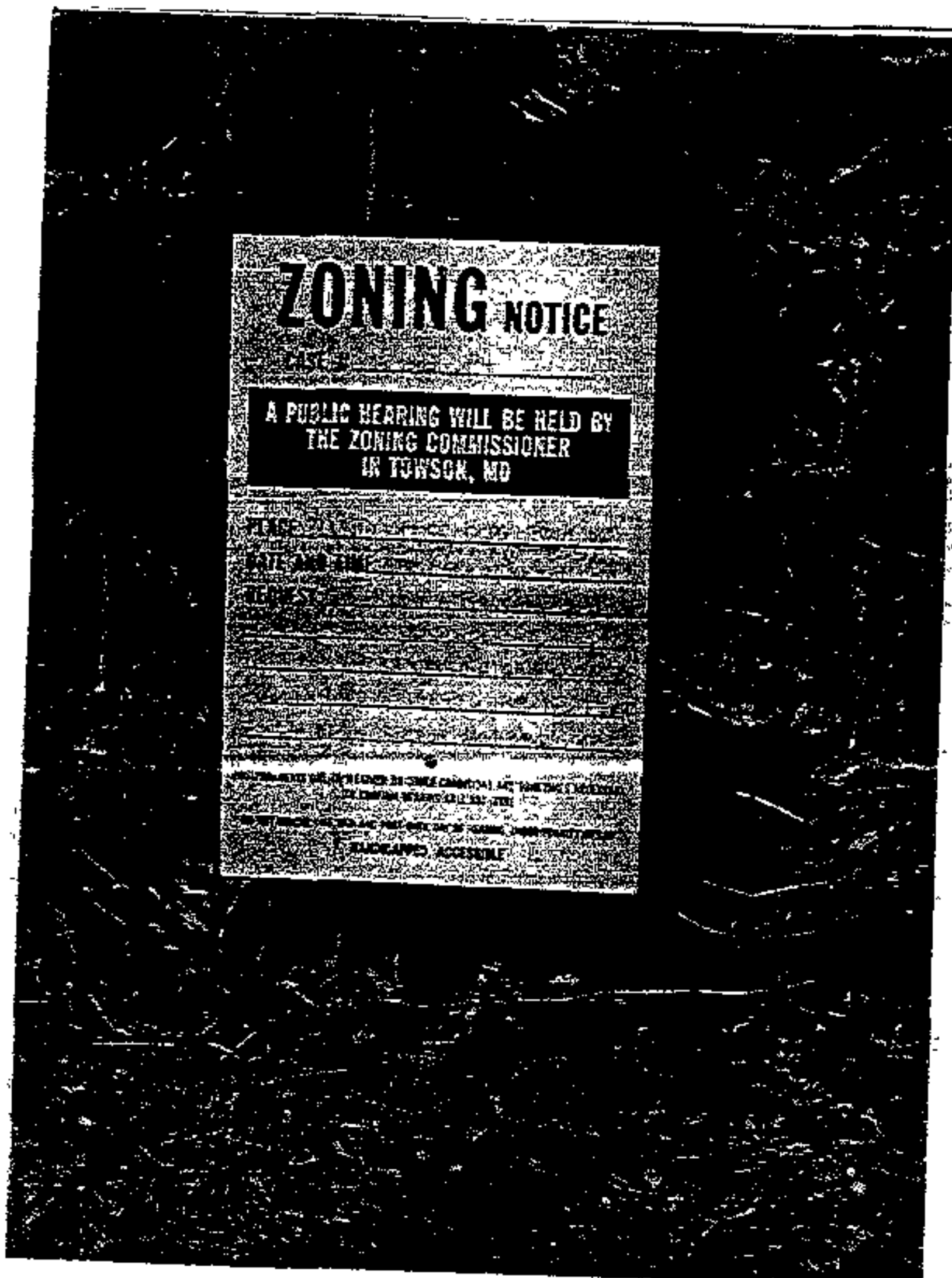
CERTIFICATE OF POSTING

Date: 2-28-05

RE: Case Number 05-305-SPH
Petitioner/Developer: EUGENE SCHWANDTNER
Date of Hearing/Closing: MARCH 3, 2005 9AM

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 12004 JERUSALEM ROAD (PROPOSED) and REAR OF 12004 BELAIR ROAD

The sign(s) were posted on 2-26-05
(Month, Day, Year)



J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

1015 OLD BARN ROAD
(Street Address of Sign Poster)

PARKTON, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

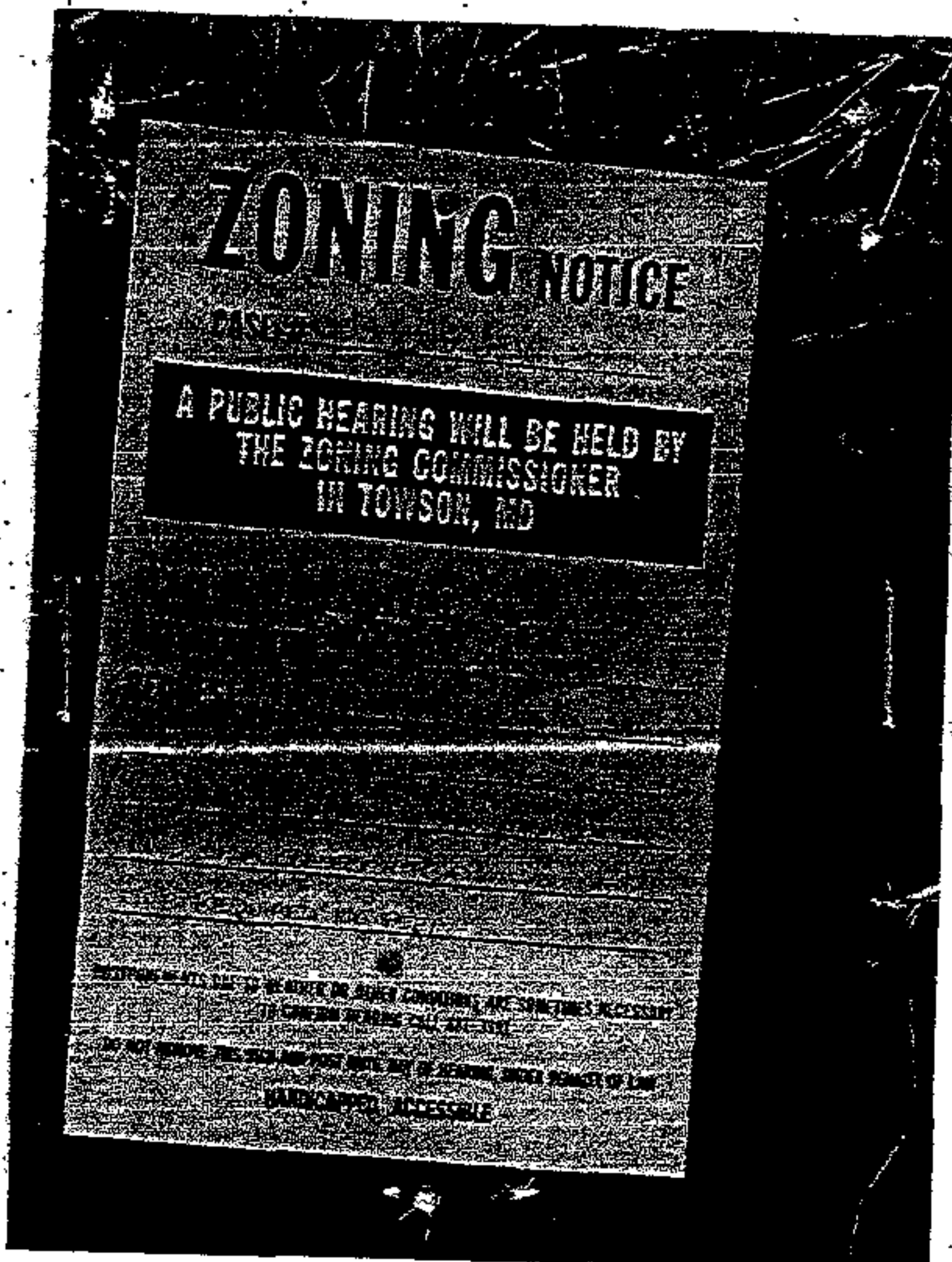
CERTIFICATE OF POSTING

Date: 2/20/05

RE: Case Number 05-305 SPH
Petitioner/Developer: Eugene Schwoodtner
Date of Hearing/Closing: 3/3/05

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 12001 Belair Rd
relocated to Jerusalem Rd per letter dated Feb. 7, 2005
from John Murphy.

The sign(s) were posted on Feb 15 2005
(Month, Day, Year)



J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

1015 Old Barn Rd
(Street Address of Sign Poster)

Parkton, Md 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

CERTIFICATE OF POSTING

Date: 1-20-05

RE: Case Number 05-305 SPH
Petitioner/Developer: Eugene W Schwandtner
Date of Hearing/Closing: 2/4/05

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 12001 Belair Road
Kingsville, Md 21087

The sign(s) were posted on 1-19-05

(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

1015 OLD BARN RD.
(Street Address of Sign Poster)

PARKTON, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)



Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

January 4, 2005

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 05-305-SPH

12001 Belair Road

S/east side of Belair Road, 12,000 sq. ft. +/- n/east from the centerline of Bradshaw Road

11th Election District – 3rd Councilmanic District

Legal Owners: Gene & Joyce Schwandtner

Special Hearing to allow a principal building to be constructed and to be situated 100 feet from the centerline of a Collector Road in lieu of the required 150 ft.

Hearing: Friday, February 4, 2005 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Gene & Joyce Schwandtner, 12001 Belair Road, Kingsville 21087
Kenneth Wells, 7403 New Cut Road, Kingsville 21087

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JANUARY 20, 2005.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, January 20, 2005 Issue - Jeffersonian

Please forward billing to:
Gene Schwandtner
12001 Belair Road
Kingsville, MD 21087

410-592-9072

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 05-305-SPH

12001 Belair Road

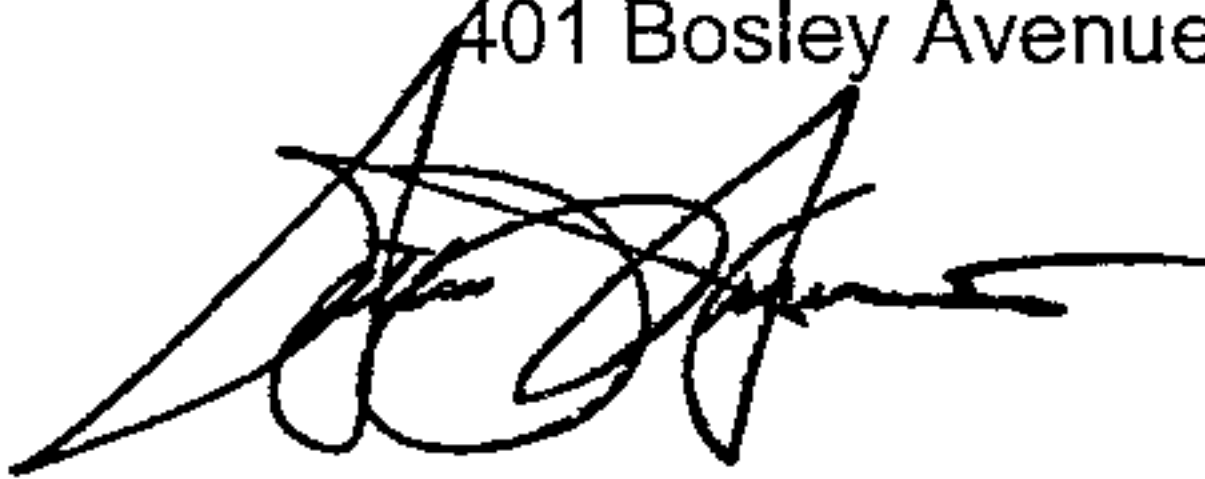
S/east side of Belair Road, 12,000 sq. ft. +/- n/east from the centerline of Bradshaw Road

11th Election District – 3rd Councilmanic District

Legal Owners: Gene & Joyce Schwandtner

Special Hearing to allow a principal building to be constructed and to be situated 100 feet from the centerline of a Collector Road in lieu of the required 150 ft.

Hearing: Friday, February 4, 2005 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204



WILLIAM WISEMAN
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number ~~208~~ 305
Petitioner GENE SCHWANDTNER
Address or Location: 12001 BELAIR Rd., Kingville, Md. 21087

PLEASE FORWARD ADVERTISING BILL TO

Name Same
Address _____

Telephone Number: 410-592-9072

**Department of Permits
Development Management**

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204



Baltimore County

*James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director*

January 26, 2005

Gene Schwandtner
Joyce Schwandtner
12001 Belair Road
Kingsville, Maryland 21087

Dear Mr. and Mrs. Schwandtner:

RE: Case Number: 05-305-SPH, 12001 Belair Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 17, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours.

A handwritten signature in black ink that reads "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Kenneth Wells 7403 New Cut Road Kingsville 21087

Visit the County's Website at www.baltimorecountyonline.info



Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500



Baltimore County

James T Smith, Jr., County Executive
John J Hohman, Chief

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

January 4, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: January 10, 2005

Item No.: ~~305~~, 306, 308-309, 311-318

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Marshal's Office has no comments at this time.

Lieutenant Franklin J. Cook
Fire Marshal's Office
(O) 410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

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Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*



Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

Date: 1.3.05

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 305 JCM

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval. Our review has determined that no construction is required within the State Highway Administration's right-of-way.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
PDM

FROM: John D. Oltman, Jr JDO
DEPRM

DATE: February 3, 2005

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of January 3, 2005.

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-305

05-306

05-308

05-309

05-310

05-312

05-313

05-316

05-317

05-317

Reviewers: Sue Farinetti, Dave Lykens

Pat
2/4

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: February 1, 2005

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

RECEIVED

FEB - 2 2005

SUBJECT: 12001 Belair Road

INFORMATION:

Item Number: 5-305

ZONING COMMISSIONER

Petitioner: Joyce Schwandtner

Zoning: RC 5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provided the following are met:

Scenic Route:

Jerusalem Road is a scenic route and lot 2 retains much of the rural charm that once characterized all of Kingsville. It is covered with dense forest growth and an ancient stone wall runs along a portion of this stretch of Jerusalem Road.

The forest and brush along Jerusalem Road should be disturbed as little as possible and the old wall should be retained in its original form. The plan should clearly indicate the amount of forest and brush removal and a restriction should be entered into the land records that future owners cannot remove additional trees and or vegetation. Additionally all existing vegetation other than the minimum areas essential for the access drive, building site, and septic line and field shall be retained.

Historical Review:

The Keenan property at 11944 Jerusalem Road, abutting the southwest side of the Schwandtner property, contains the "Fluharty's Folly" house. The earliest part of this historically important

ORIGINAL RECEIVED FOR PLANNING
3/29/05
Ray

dwelling dates from 1760. It is listed as # BA-244 on the Maryland Historical Trust Inventory. Its setting should be protected against adverse visual effects from development on the Schwandtner property.

For that purpose, and because Jerusalem Road is also a designated Scenic Route, the requirements for Enclosed Views should be applied to the proposed Lot 2 on the Schwandtner property, particularly the third standard (p. 8 in the CMDP Scenic Route Guidelines):

3. Where the scenic road is bordered by residential and historic buildings, design new development to be compatible with the existing development [in] building ... height, scale, proportion, materials and design.

Compatibility does not necessarily mean that the new dwelling on Lot 2 must match the appearance of the neighboring historic house, but whatever parts of the new house are visible from Jerusalem Road should be consistent in character. Compliance with the new RC-5 setback regulation will require sitting the new house even further up the slope than the site shown on the 8/21/2003 Minor Subdivision Plan. This shift will increase the likelihood that the new house will be prominently visible above Jerusalem Road, contrary to the principles for protecting enclosed view along the road and also intrusive on the setting of "Fluharty's Folly." Thus, the following requirements should be established by an enforceable note on the approved plan:

1. The height of the dwelling on Lot 2 shall not be more than 1 ½ stories, measured along the side facing Jerusalem Road.
2. Elevation drawings showing the design and materials of the front (facing Jerusalem Road), and both sides, shall be submitted for review and approval by the Director of Planning before the issuance of a building permit.

Prepared by:

Mark Cump

Division Chief:

Lyne Loeber

AFK/LL:MAC:

ORDER RECEIVED FOR FILMS
DATE 3/29/05
BY Ray

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: January 21, 2005

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For January 10, 2005
Item Nos. 305, 306, 308, 309, 310,
311, 313, 314, 315, 316, 317, and
318

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

RWB:CEN:jrb

cc: File

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
12001 Belair Road; SE/side of Belair Road, *
12,000 sq ft NE c/line Bradshaw Road * ZONING COMMISSIONER
11th Election & 3rd Councilmanic Districts *
Legal Owner(s):Gene & Joyce Schwandtner * FOR
Petitioner(s) *
* BALTIMORE COUNTY
* 05-305-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

RECEIVED

Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of January, 2005, a copy of the foregoing Entry of Appearance was mailed to Kenneth Wells, 7403 New Cut Road, Kingsville, MD 21087, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

February 7, 2005

Mr. & Mrs. Gene Schwandtner
12001 Belair Road
Kingsville, Maryland 21087

Re: Petition for Special Hearing
Case No. 05-305-SPH
Property: 12001 Belair Road

Dear Mr. & Mrs. Schwandtner:

The above-referenced case was continued at the February 4, 2005 hearing by agreement of the parties. The hearing has been rescheduled by the Department of Permits & Development Management for Thursday, March 3, 2005 at 9:00 a.m. in Room 106 of the County Office Building in Towson.

The February 4, 2005 hearing was continued with the following stipulations:

1. Mr. Wells would obtain a new hearing date from the County;
1. Mr. Wells will have the property posted with the new hearing date on the Jerusalem Road portion of the property and will send the bill for such posting to the Greater Kingsville Civic Association, c/o Leigh Keller, 1st Vice-President. The association will pay the cost of posting;
2. The Petition does not have to be re-advertised or the property re-posted on Belair Road;
3. Mr. Keenan will notify the immediate neighbors on Jerusalem Road; and
4. The parties will meet and discuss the Petitioners' proposal at such time and place as they agree.

Thank you for your attention and cooperation in this matter. Should anyone have any questions or require any additional information, please feel free to contact this office.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj

Visit the County's Website at www.baltimorecountyonline.info



Copies to:

K J Wells, Inc., 7403 New Cut Road, Kingsville, MD 21087

Pastor Michael Wollman, 12002 Jerusalem Road, Kingsville, MD 21087

Ms. Leigh Keller, P. O. Box 174, Kingsville, MD 21098

Charles Keenan, 11944 Jerusalem Road, Kingsville, MD 21087

Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087

The Greater Kingsville Civic Association Inc.

P.O. Box 221
Kingsville, Maryland 21087

March 17, 2005

John V. Murphy
Deputy Zoning Commissioner
Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RECEIVED

MAR 21 2005

ZONING COMMISSIONER

RE: Special Hearing Case No. 05-305-SPH
Schwandtner Property

Dear Deputy Commissioner Murphy,

Thank you for the extension of time leaving the record open, to allow a larger body of our community the opportunity to vote on this difficult issue. We had our General Membership meeting on March 16, 2005. This was a larger meeting than just our regular monthly Board meetings and included participation and votes from some of our Board members along with our general members from the Greater Kingsville community.

This difficult issue was discussed in detail and it was the vote of the Membership that the Greater Kingsville Civic Association go on record as not supporting the variance for this property, and request that the existing law of 150 foot be upheld.

The multitude of significant reasons for this position was stated in great depth at the hearing on March 3, 2005. Thank you for your time and consideration on this matter of serious concern.

Sincerely,

Patricia L. Garner

Patricia L. Garner, President
Greater Kingsville Civic Association

c: Ken Wells

March 10, 2005

RECEIVED

MAR 14 2005

Deputy Zoning Commissioner
Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

ZONING COMMISSIONER

RE: Special Hearing Case No. 05-305-SPH
Schwandtner Property

Dear Deputy Zoning Commissioner John V. Murphy,

Thank you for spending so much time and interest on Case# 05-305-SPH, the Schwandtner property in Kingsville. We appreciated your very helpful comments and your suggestion for us to take some time to reconsider our position, while you hold the record open for a week. We are requesting a little more time to take your advice. After the hearing, we realized we have a previously scheduled meeting next week and request another week to allow time to present this issue for our other members to consider.

Thank you again for your time and concern.

Sincerely,

Robin Beers

Robin Beers
Rural Protection Committee
Greater Kingsville Civic Association

c: Ken Wells

kjWellsInc

*Trading for Kenneth J. Wells, Inc.
Land Surveying and Site Planning*

Telephone: (410) 592-8800
Fax: (410) 817-4055
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

March 10, 2005

RECEIVED

MAR 10 2005

Mr. John Murphy
Deputy Zoning Commissioner
Baltimore County, Maryland
Suite 405
County Courts Building
Towson, Maryland 21204

ZONING COMMISSIONER

Via Fax 410-887-3468

Re: Petition for Special Hearing
305 Case No. 05-035 SPH
Property: 12001 Belair Road

Dear Mr. Murphy:

Robin Beers had left me several messages today with respect to the subject matter before you. Unfortunately, I was out for most of the day and was unable to return her call, but intend to do so later. In essence, she had indicated that she would like to request that the file be left open until she can present it to the Board Members of GKCA during its meeting scheduled for sometime next week.

With all due respect to Ms. Beers, she and the other members of her sub-committee had ample time (five weeks) to bring this matter before their Board. Presuming that they were fully aware of the next scheduled Board meeting prior to the last hearing, they had every opportunity to ask for the file to remain open for a greater period of time. They also had the option of convening a special meeting to discuss the matter at hand.

Should Ms. Beers or her compatriots make that request, I am respectfully asking that their request be denied and that they be held to your stipulation that the file would be closed after one week from March 3, 2005. I believe that you have been very fair in providing GKCA the opportunity to provide any additional evidence that may influence your decision.

Thank you in advance for your consideration.

Very truly yours,

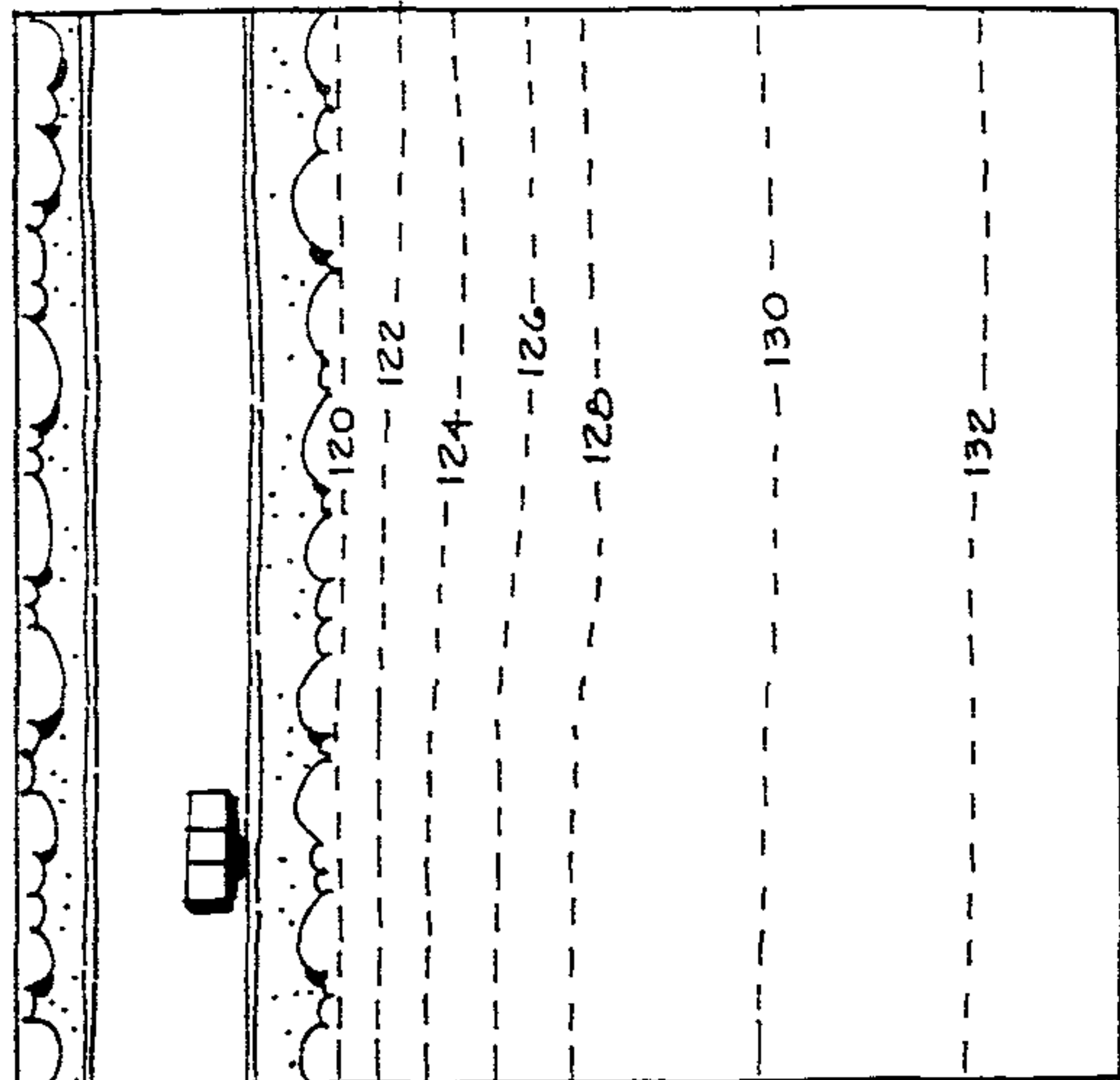

Kenneth J. Wells

cc: Robin Beers

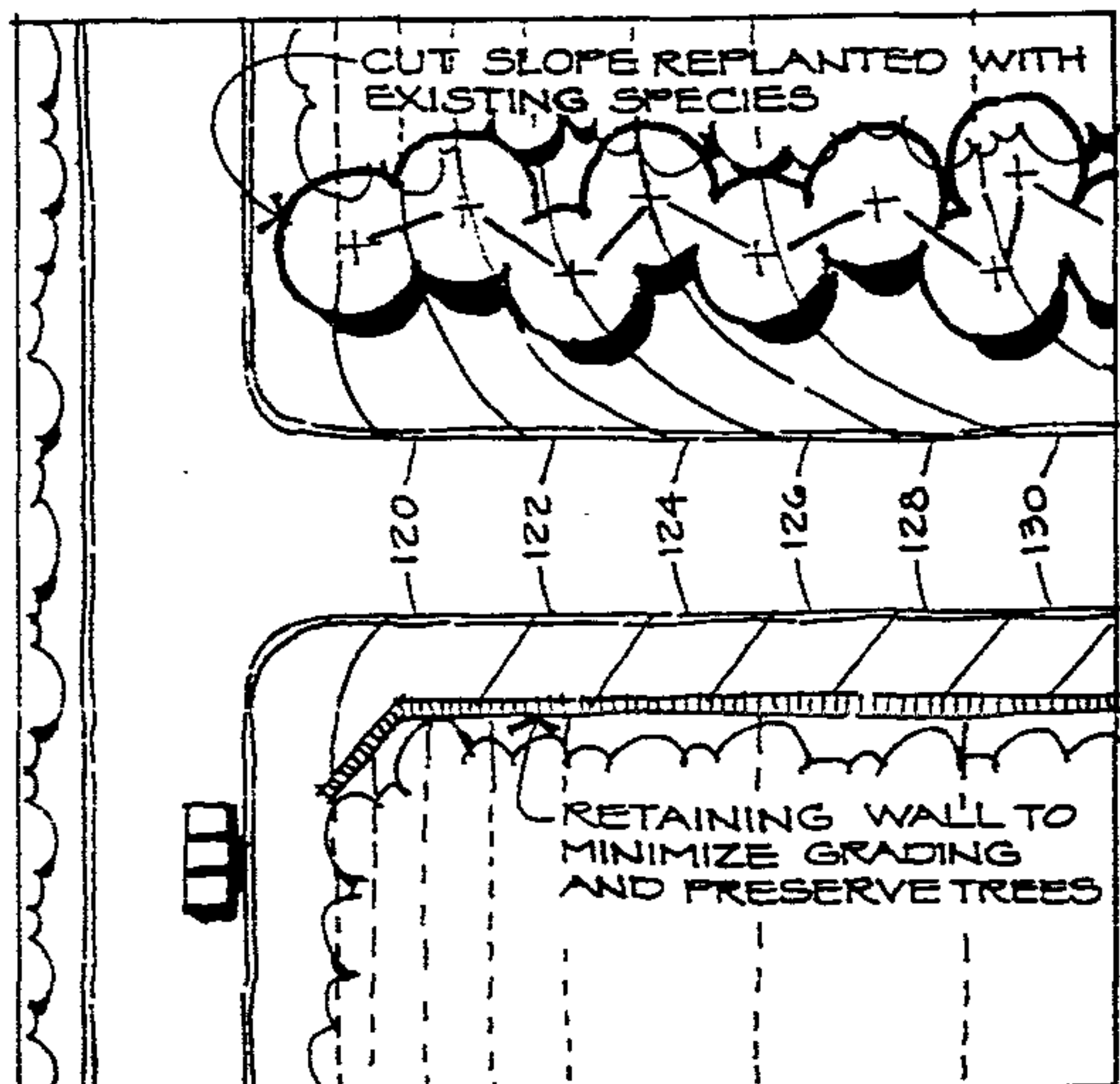
Development Guidelines

For Enclosed Views:

1. Maintain a buffer area between the road and the new development. The buffer should be wide enough to maintain the road's visual character, with a minimum width of at least 30 feet from the right-of-way.
2. Supplement a wooded buffer with evergreen trees and shrubs planted on the interior side to screen or partially screen new development.
3. Where the scenic road is bordered by residential or historic buildings, design new development to be compatible with the existing development in respect to building setbacks, height, scale, proportion, materials and design; site materials and design; paving design (vehicular and pedestrian) and landscaping, including street trees.

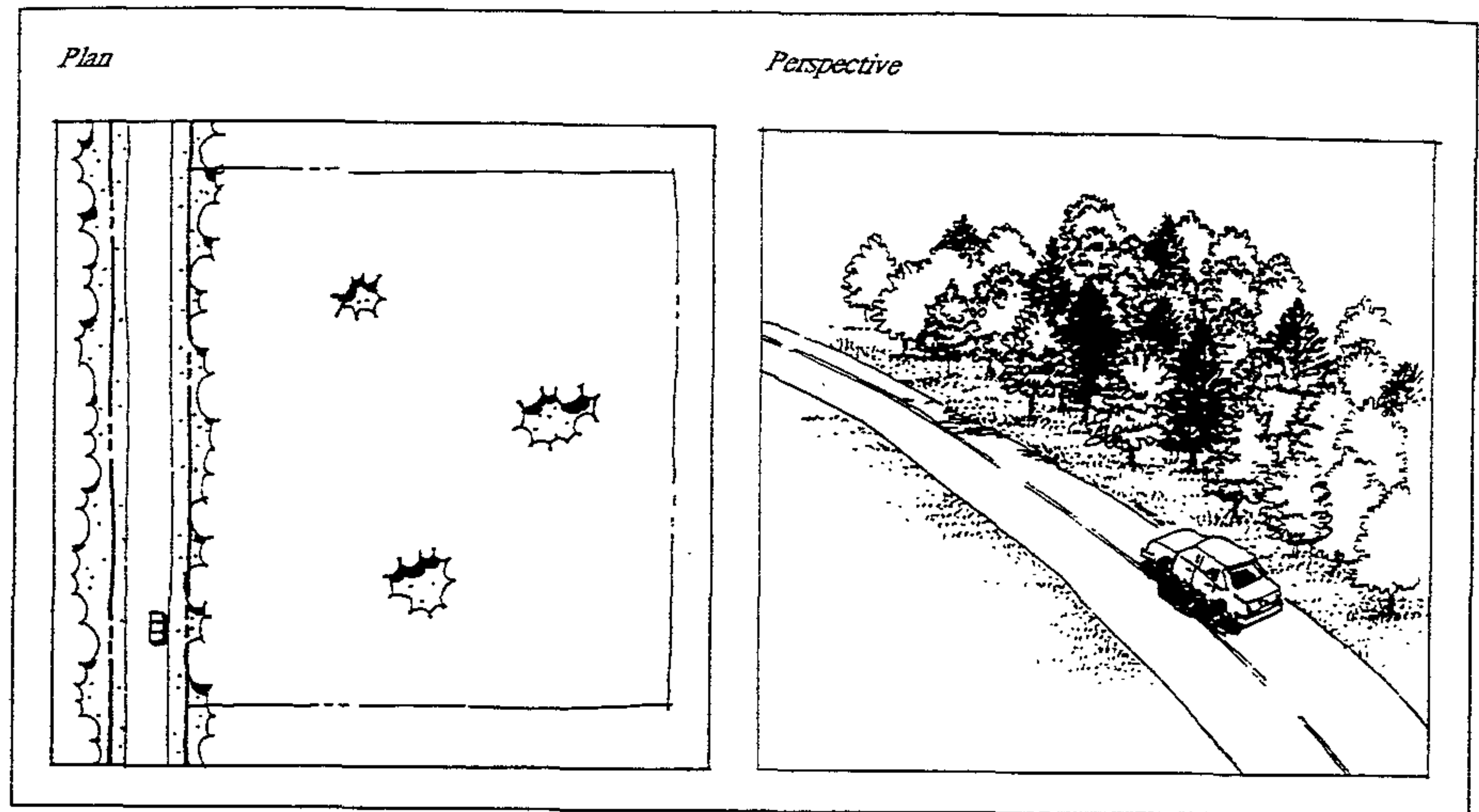


Enclosed view, steep slopes -- Existing condition

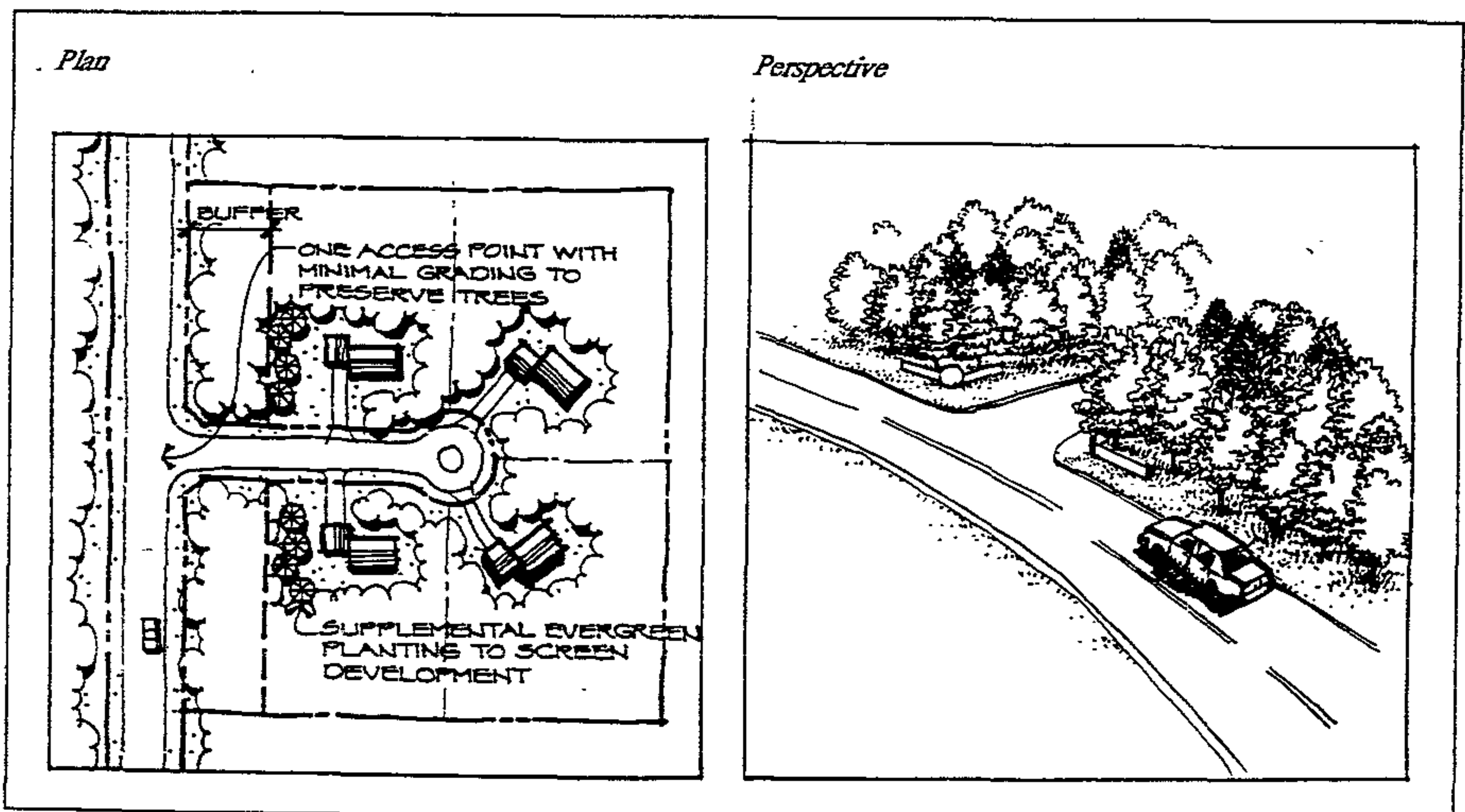


Enclosed view, steep slopes -- Proposed grading alternatives

Development Guidelines



Enclosed view, wooded site -- Existing condition



Enclosed view, wooded site -- Proposed development

CASE NAME 12001 Belvoir Rd
CASE NUMBER 05-305-SPH
DATE 2/4/05

CITIZEN'S SIGN-IN SHEET

[illegible]

CASE NAME 12001 Belair Rd
CASE NUMBER 05-305-SP4
DATE 3/3/05

~~CITIZEN'S SIGN-IN SHEET~~

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Suzanne L. Opyke	12008 Jerusalem Rd	Kingsville, MD 21087	cloulaue03@comcast.net
Elizabeth L. Mangold	11945 Jerusalem Rd	Kingsville Md. 21087	
ELIEN KEEGER	POB 174	KINGSVILLE, MD, 21087	
Ilachristenbury	12009 Cedar Lane	Kingsville, MD 21087	
Robin Beers	12442 Jerusalem Rd	Kingsville, MD 21087	
Charlotte Pine	13310 Fork Rd	Baldwin MD 21013	
Protestants			
Dr. Bon			
Dr. Bon			

CASE NAME 12001 Belair Rd
CASE NUMBER 05-305 SH
DATE 2/04/2005

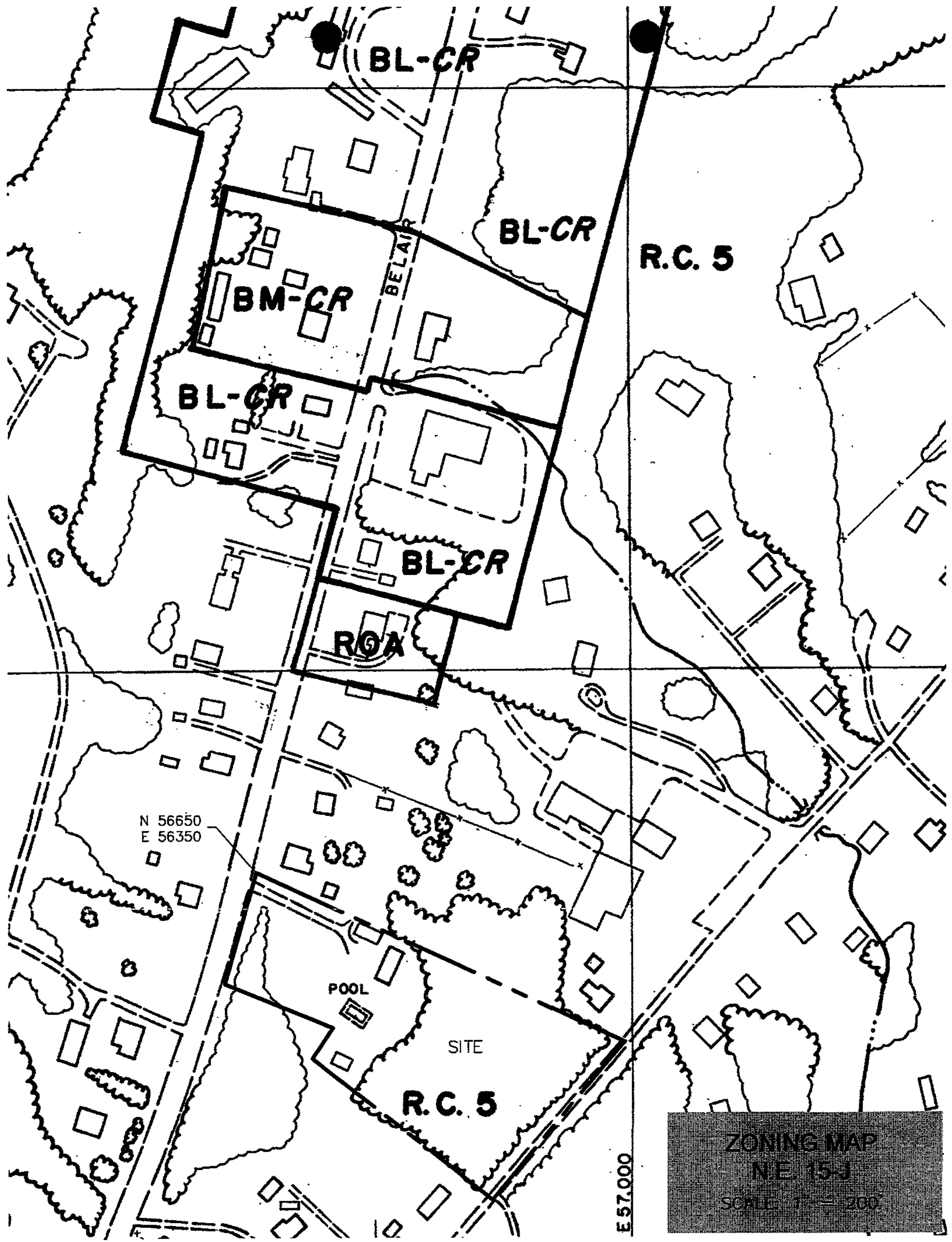
PETITIONER'S SIGN-IN SHEET

[illegible]

CASE NAME 2001 Belair Rd
CASE NUMBER 05-3055PH
DATE 3/3/05

PETITIONER'S SIGN-IN SHEET

[illegible]



BL-CR

BL-CR

R.C. 5

BM-CR

BL-CR

BL-CR

RGA

N 56650
E 56350

POOL

SITE

R.C. 5

E 57,000

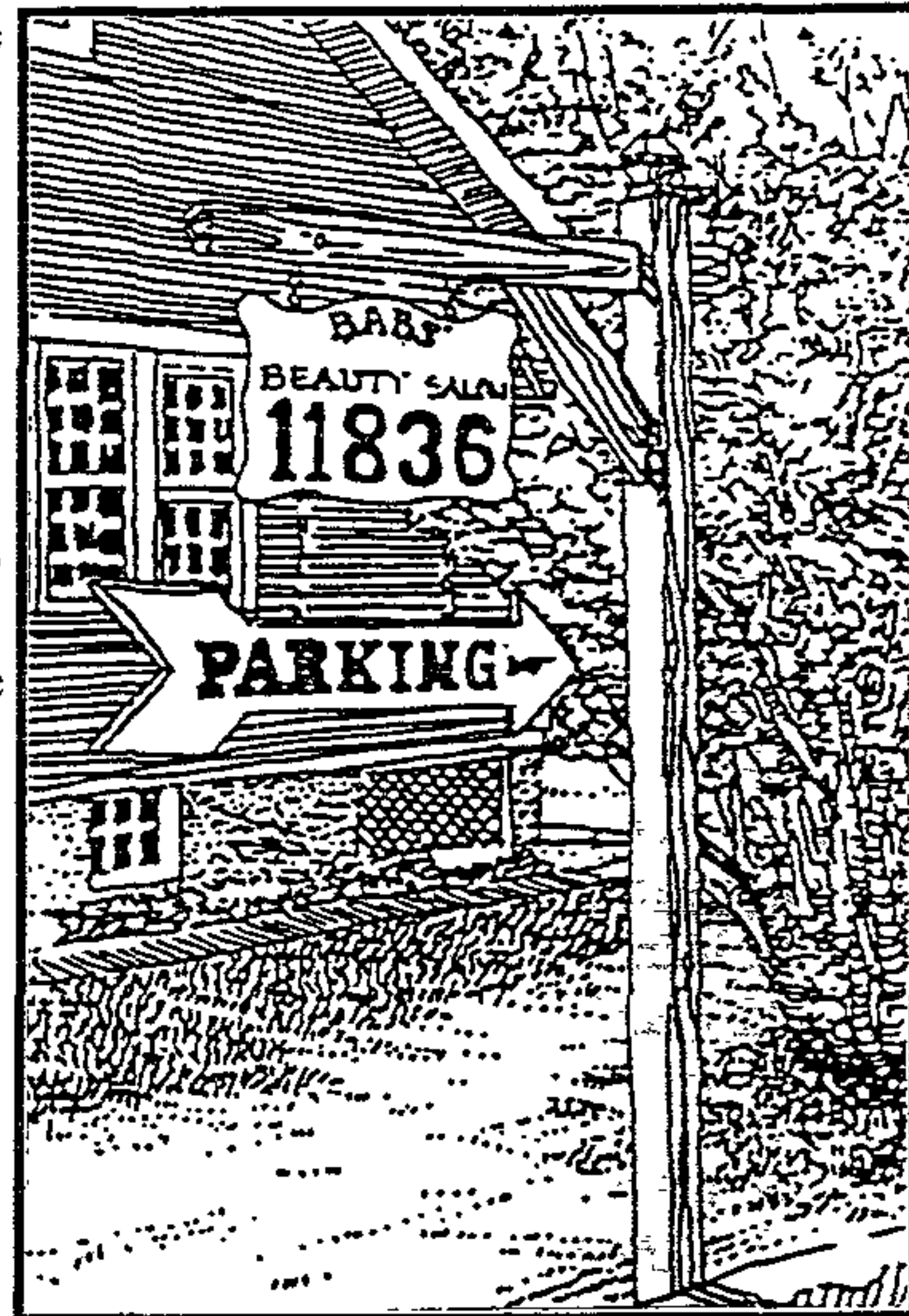
ZONING MAP
NE 15-J
SCALE: 1" = 200'

GREATER KINGSVILLE AREA COMMUNITY PLAN

should follow the spirit of the Historic Design Guidelines published by the Landmarks Preservation Commission. Shopping center construction as exists in the suburban areas of the County or even in the rural town centers is not appropriate for the small villages comprising the Community. The restoration guidelines contained in the Hereford Master Plan are excellent guidelines equally applicable to similar development in the Community.

Signage

Signs can be a major source of visual pollution. There is no consistent style of signage in the Plan area. Signs usually must be adapted for the particular use and location of the facility. A sign that might be appropriate for Belair Road in size and configuration might be wholly inappropriate in Upper Falls. As with architectural styling, however, suburban and urbanized characteristics do not fit in with the character of the Plan area. Plastic and back lit signs as occur in Perry Hall are not indicative of a rural character. The CR zoning district contains appropriate signage guidelines which should be supported throughout the Community.



Permanent signage in residential developments is not appropriate. The object of new development should be to blend in with the adjacent neighborhood, not to stand out apart from the Community. The quality of the development should speak for itself, and signs advertising particular developments should be discouraged as not in keeping with the established Community.

RECOMMENDATIONS

33. THAT A DESIGN REVIEW COMMITTEE BE ESTABLISHED TO WORK WITH THE COUNTY AND WITH DEVELOPERS TO ENCOURAGE COMPATIBLE DEVELOPMENT DESIGN.

Each development has its own particular needs and configuration, and each development project will meld in a unique way with adjacent properties. Developers have to be made aware of concerns with respect to compatibility and should be assisted in configuring the proposed development, large or small, in such a way as it enhances the rural character of the Community.

Ref #2

34. LANDSCAPING SHOULD BE USED TO COINCIDE WITH THE NATURAL ENVIRONMENT.

Landscaping should be a required component of development in the Community. Buffers and landscaping which emulate naturally occurring landscaping will enhance a development and lessen the environmental impact and improve and maintain the rural environment.

35. SCENIC VISTAS AND VIEWS OF SIGNIFICANT STRUCTURES IN THE COMMUNITY SHOULD BE A CONSIDERATION IN THE REVIEW OF ANY DEVELOPMENT PROJECT.

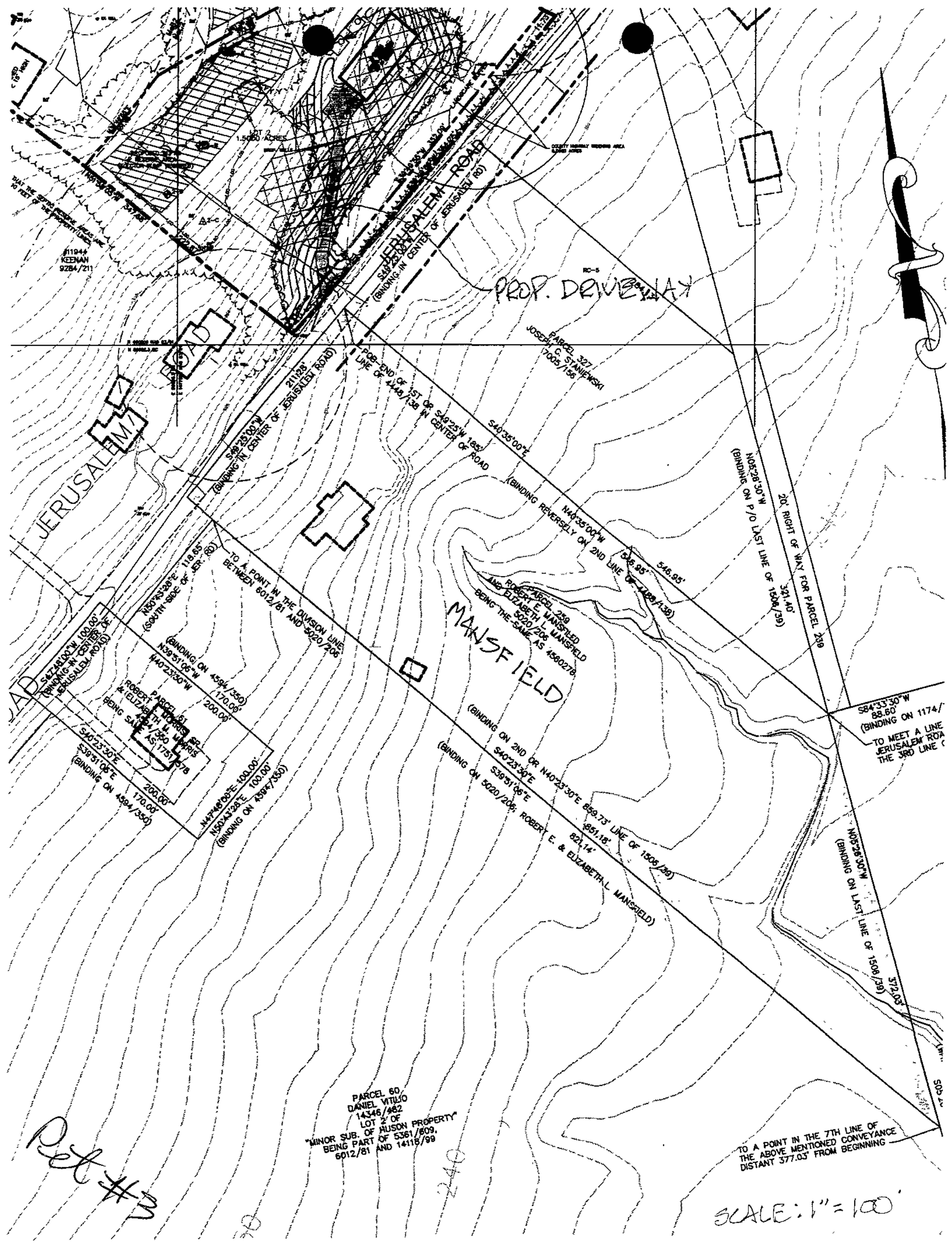
The 1989-2000 Master Plan for Baltimore County indicated the importance of scenic vistas. The concept of the importance of visual impact extends to far more, however, than natural hillsides or flowing streams. History is a part of the Community's fabric, and significant structures, emblematic of the Community's history and character, need to have their visual relationship to the Community conserved. A proposed chart of historic and important properties and structures is attached (see Appendix E). The chart breaks the properties down into categories of significance for guidance purposes only. It does not attempt to rank historic significance or importance but only impact from a visual and community sense of impact of the site.

36. COMMERCIAL ARCHITECTURE AND SIGNAGE IN THE PLAN AREA SHOULD BE REFLECTIVE OF THE COMMUNITY'S CHARACTER.

Guidelines for design of commercial structures in rural villages should be adopted. Community groups should work together with developers to encourage design compatible with the rural character. New sign guidelines for rural areas should be adopted, and planners should be able to demonstrate to developers the advantages of blending signage and architectural design in ways which enhance the proposed project.

37. THAT THE DESIGN REVIEW COMMITTEE REFERENCED IN RECOMMENDATION 33 PREPARE DESIGN GUIDELINES TO PROMOTE COMPATIBLE DEVELOPMENT DESIGN.

The design guidelines should be submitted to the County and officially adopted into the Greater Kingsville Area Community Plan by the Planning Board and by the County Council.



PROP. DRIVEWAY

MANSFIELD

PARCEL 60,
DANIEL VITLJO
14346/462
LOT 2 OF
"MINOR SUB. OF HUSON PROPERTY"
BEING PART OF 5361/609,
6012/81 AND 14115/99

SCALE: 1" = 100'

TO A POINT IN THE 7TH LINE OF
THE ABOVE MENTIONED CONVEYANCE
DISTANT 377.03' FROM BEGINNING

584°33'30"W
88.60'
(BINDING ON 1174/
TO MEET A LINE
JERUSALEM ROAD
THE 3RD LINE C

N06°26'30"W
(BINDING ON 1ST LINE OF 1508/39)
572.05'

20' RIGHT OF WAY FOR PARCEL 259
321.40'
(BEGINNING ON P/O 1ST LINE OF 1508/39)
N06°26'30"W

PARCEL 327
JOSEPH C. STANIEWSKI
7005/156

PARCEL 259
ROBERT E. MANSFIELD
AND ELIZABETH L. MANSFIELD
5020/206
BEING THE SAME AS 4380278

PARCEL 51
ROBERT E. MANSFIELD
AND ELIZABETH L. MANSFIELD
4584/350
BEING SAME AS 1751/578

TO A POINT IN THE DIVISION LINE
BETWEEN 6012/81 AND 5020/206
N55°43'38"E 118.85'
(SOUTH SIDE OF JER. RD.)
(BINDING ON 4584/350)
N39°51'05"W 170.08'
N40°23'30"W 200.00'

PARCEL 211
KEENAN
9284/211

JERUSALEM ROAD

JERUSALEM ROAD
(BINDING IN CENTER OF JERUSALEM RD.)
S40°35'00"E
(BINDING REVERSELY ON 2ND LINE OF 1508/39)
N40°35'00"W
(BINDING REVERSELY ON 2ND LINE OF 1508/39)
S46.95'

JERUSALEM ROAD
(BINDING IN CENTER OF JERUSALEM RD.)
S40°35'00"E
(BINDING REVERSELY ON 2ND LINE OF 1508/39)
N40°35'00"W
(BINDING REVERSELY ON 2ND LINE OF 1508/39)
S46.95'

11944
KEENAN
9284/211