IN RE: PETITION FOR SPECIAL HEARING SE/S of Bay Drive, 600 ft. NE centerline of Miami Beach Road 15th Election District 6th Councilmanic District (Northeast of Miami Beach Road, Bay Drive – Parcel 124)

Patricia & Wayne Edwards

Petitioners

- BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * CASE NO. 05-370-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing filed by the legal owners of the subject property, the Patricia and Wayne Edwards. The Petitioners are requesting special hearing relief for property located Northeast of Miami Beach Road, Bay Drive, Parcel 124 in the eastern area of Baltimore County. The special hearing request is filed pursuant to Sections 500.7 and 1A04.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to alter the minimum lot size requirement from 1.5 acres to 0.41 acres and to allow setbacks of 10 ft. and 17 ft. to property lines and 40 ft. to a centerline of road in lieu of the required 50 ft. and 75 ft. respectively.

The property was posted with Notice of Hearing on February 22, 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 February 20, 2005, to notify any interested persons of the scheduled hearing date.

Amended Petition

After discussion among adjacent property owners and the Petitioners, the Petitioners agreed o move the new home to the Briar Point Drive side of the property. The Petitioner then amended his Petition as follows: to allow setbacks of 5 ft. on both sides to property lines in lieu of the



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required 50 ft. The request to allow a home 40 ft. to a centerline of road in lieu of the required 75 ft. was withdrawn.

Applicable Law

Section 1A04.3B 1 of the B.C.Z.R. Area Regulations

1A04.3 Height and area regulations.

- B. Area regulations.
 - 1. Lot area; density control. A lot having an area of less than one and one-half acres may not be created in an R.C.5 Zone. The maximum gross residential density of a lot of record is 0.667 dwelling per acre.

The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003 but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2., may apply for a special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Section 1A04.4 may not be varied.

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 Department of Environmental Protection & Resource Management (DEPRM) dated February 11, 2005, a copy of which is attached hereto and made a part hereof. In addition, a ZAC comment was received from the Office of Planning dated February 15, 2005, and a revised comment dated March 7, 2005 copies of which are attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing relief was Wayne Edwards, the Petitioner. Paul M. Naldret and Donald Hicks appeared at the hearing on behalf of Hick's Engineering Associates, Inc., the firm that prepared the site plan of the property. Deborah Dopkin, Esq. represented the Petitioners. Also in attendance at the hearing were Paula & Thomas Clemens and Gil Jasinski, adjacent property owners and Richard Chadsey, appearing on behalf of Karen and Paul Watsic. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject site is 0.41 acres in size, zoned RC 5 and vacant. This is a waterview lot, which has 60 ft. of frontage on Bay Drive and 50 ft. of frontage on Briar Point Drive. The lot is approximately 325 ft. long. See Petitioner's Exhibit 1. The Petitioner originally proposed to build a home on the lot fronting on Bay Drive that would have required side yard setbacks of 10 ft. and 17 ft. in lieu of the required 50 ft. Originally the new home would have been 40 ft. from the centerline of Bay Drive to be in line with adjacent homes.

Karen Watsic owns two lots to the west of the subject property and became concerned that, if the new home were built as proposed, the pattern of development of the neighborhood would be substantially changed. Ms. Watsic who works with Richard Chadsey as a professional engineer proposed that instead of fronting on Bay Drive, the new house would be moved back on the lot and front on Briar Point Drive, thus preserving the alternating pattern of homes on this block. See Petitioners' Exhibit 2. This pattern has the advantage of maximizing the separation between homes which increases privacy for all. Ms. Watsic was unable to attend the hearing and sent a letter with Mr. Chadsey to explain her position. The other citizens are adjacent property owners who likewise supported Ms. Watsic's idea.

After some discussion, the Petitioner agreed to move the house back toward Briar Point Drive as requested by Ms. Watsic. However, because the lot is wider at the Bay Drive end, moving the house back toward Briar Point Drive would require greater side yard variances. Because of the increased space between homes with this approach, Mr. Chadsey suggested, and the Petitioners agreed, that the width of the new home could be increased so that the side yards would be 5 ft. on either side. This increased the width of the new home from 30 ft. to 40 ft. In addition, by moving the house back on the lot, the new home would line up with other homes on Briar Point Drive rather than Bay Drive which would allow the Petitioners to meet the 75 ft. set back from centerline of road requirement thereby eliminating the need for the third variance.

As this change was made at the request of the adjacent property owners, all agreed that the property should not be re-posted or re-advertised, even though the requests for variance were different from that advertised and posted. The Amended Petition reflecting the change of the location of the new home was documented by redline change on Petitioners' Exhibit 1.

The parties further agreed that the subject lot was a lot of record not in a subdivision prior to September 2, 2003 and that the new provisions of Section 1A04.3B1b of the B.C.Z.R. are applicable to this case, and that a special hearing is the appropriate method to seek the relief from the setback and area regulations.

Ms. Dopkin proffered that the revised plan meets all the requirements of Section 502.1 and the revised plan would not adversely affect the health, safety, or welfare of the community. In addition, she noted that the Petitioners would meet all of the Performance Standards of Section 1A04.4 of the B.C.Z.R. prior to building permit.

Findings of Fact and Conclusions of Law

The first issue to be addressed is what appears to be an anomaly in the RC 5 regulations. Section 1A04.3B1b specifies that an owner of a lot of record which does not meet the minimum

acreage <u>or setback</u> requirements may apply for a special hearing to alter the minimum lot size. The regulation does not specifically say that the owner may apply for a special hearing to alter the setback requirements as well. I believe that relief for setback requirements was inadvertently left out of the regulations and should be considered in the same special hearing process in conjunction with the hearing to alter minimum lot size.

I find the subject lot was a lot of record before September 2, 2003 and, therefore, qualifies for the special hearing to alter acreage and setback requirements. This lot is 0.41 acres in lieu of the required 1.5 acres, but there are no lots on either side which can be purchased so as to meet the 1.5 acre size minimum. It would be a hardship on the Petitioners not to be able to build a home on this lot as many of the adjacent owners have done.

I find that the revised plan which moves the new home back on the lot to front on Briar Point Drive instead of Bay Drive to be most reasonable. This has the advantage of preserving the pattern of development in the neighborhood because each home alternatively fronts on Bay Drive and Briar Point Drive. This pattern maximizes privacy of each home by separating each house an additional 50 or so feet. It has the added advantage that the variance from the centerline of the road is no longer needed. However, the side yard set back for the new home was changed to 5 ft. on each side by agreement, because the lot is smaller toward Briar Point Drive and there is more distance between homes with this pattern. I find that Petitioners' Exhibit 1, revised Plan to Accompany, will not adversely affect the surrounding community.

Consequently, I approve the Petitioners' request to alter the minimum lot size and setback requirements by special hearing.

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' requests should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 16 day of March, 2005, that the Petitioners' request for special hearing relief filed pursuant to Section 500.7 and 1A04.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to alter the minimum lot size requirement from 1.5 acres to 0.41 acres and to allow setbacks of 5 feet on each side of a proposed dwelling to property lines in lieu of the required 50 ft. be and is hereby GRANTED, subject to the following conditions:

- 1. The Petitioners may apply for their building 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;
- 2. Compliance with the ZAC comments made by DEPRM dated February 11, 2005, a copy of which is attached hereto and made a part hereof.
- 3. Compliance with the Amended ZAC comments made by the Office of Planning dated March 7, 2005, a copy of which is attached hereto and made a part hereof. The ZAC comments recommend that prior to being granted a building permit such that the Office of Planning issues a satisfactory statement of findings, the Petitioners' site plan must meet the Performance Standards of Section 1A04.4 of the B.C.Z.R.
- 4. When applying for a building permit, the revised site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioners' request to allow a home 40 ft. to a centerline of road in lieu of the required 75 ft. having been withdrawn, be and is hereby DENIED AS MOOT.

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

Zoning Commissioner

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





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

March 1 6, 2005

Deborah Dopkin, Esquire 409 Washington Avenue Towson, Maryland 21204

Re: Petition for Special Hearing

Case No. 05-370-SPH

Description of Mismi Booch Bood, Ba

Property: Northeast of Miami Beach Road, Bay Drive - Parcel 124

Dear Ms. Dopkin:

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,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure

c: Mr. & Mrs. Wayne Edwards, 926 Frog Mortar Road, Baltimore, MD 21220
Paul M. Naldret, P.E. & Donald Hicks, P.E., Hick's Engineering Associates, Inc.,
200 E. Joppa Road, Towson, MD 21286
Paula & Thomas Clemens, 4030 Bay Drive, Baltimore, MD 21220
Gil Jasinski, 4029 Bay Drive, Baltimore, MD 21220
Richard Chadsey, G. W. Stephens & Associates, Inc., 1020 Cromwell Bridge Road,
Towson, MD 21284
Karen & Paul Watsic, 3915 Briar Point Road, Baltimore, MD 21220



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





Petition for Special Hearing

for the property located at BAY Daive

to the Zoning Commissioner of Baltimore County

which is presently zoned _____

PARLEL

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Attorney For Petiti	oner:			9031 Sim.	ns AVENUE	410-529-0480
TBD				Address BAITU.	MD	Telephone No. 21234
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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: #05-370-SPH

S/east side of Bay Drive, 600 feet n/east of Miamil Beach Road

N/east of Maryl Parish Book

Beach Road

N/east of Mlami Beach Road

15th Election District — 6th Councilmanic District

Legal Owner(s): Wayne & Patricia Edwards

Special Hearing: to alter the minimum fot size requirement from 1.5 acres to 0.41 acres and to allow setbacks of 10 feet and 17 feet to property lines and 40 feet to a centerline of road in lieu of the required 50 feet and 75 feet respectively.

Hearing: Thursday, March 10, 2005 at 9:00 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) 887-4388.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 2/746 Feb. 22

CERTIFICATE OF PUBLICATION

<u>2/24</u> ,20 <u>05</u>
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of successive weeks, the first publication appearing
on <u>2</u> 22 ,20 <u>05</u> .
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News
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LEGAL ADVERTISING

WATE CASHER WATE CASHER		
ABTOW: Crisiones Water Comments ABTOWN COMMENT ABTOWN COMME	OMITY MANTAND ACCOUNT ACCOUN	
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CERTIFICATE OF POSTING

2005

1		RE: Case No.: 25-37	0-3PH
		Petitioner/Developer: 仏	•
		PATRICIA EDU	JARDS
		Date of Hearing/Closing:	MARCH 101
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204			
ATTN: Kristen Matthews {(410) 887-33	94}		•
Ladies and Gentlemen:	•		•
This letter is to certify under the penaltie posted conspicuously on the property loc	s of perjury tha ated at:	t the necessary sign(s) require	d by law were
B/EAST SIDE OF E	BAY DRIVE	GOO FEET NICH	ST OF
MIAMI BEACH RD.		, , , , , , , , , , , , , , , , , , ,	
The sign(s) were posted on	2/2	2/05	
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		(Signature of Sign Poster)	' (Date)
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	; - ,	1508 Leslie Road	
	. ₋ -	(Address)	- 1
		Dundaik, Maryland 212	222
	-	(City, State, Zip Cod	le)
		(410) 282-7940	•
	- '	(Telephone Number	•)
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Department of Permits and Development Management

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



Baltimore County

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

February 1, 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: 05-370-SPH

S/east side of Bay Drive, 600 feet n/east of Miami Beach Road N/east of Miami Beach Road 15th Election District – 6th Councilmanic District

Legal Owners: Wayne & Patricia Edwards

Special Hearing to alter the minimum lot size requirement from 1.5 acres to 0.41 acres and to allow setbacks of 10 feet and 17 feet to property lines and 40 feet to a centerline of road in lieu of the required 50 feet and 75 feet respectively.

Hearing: Thursday, March 10, 2005 at 9:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Wayne & Patricia Edwards, 9031 Simms Ave., Baltimore 21234 Paul Naldrett, 200 E. Joppa Rd., Ste. 402, Towson 21286

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, FEBRUARY 23, 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.



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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 22, 2005 Issue - Jeffersonian

Please forward billing to:
Wayne Edwards
9031 Simms Avenue
Baltimore, MD 21234

410-529-0480

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: 05-370-SPH

S/east side of Bay Drive, 600 feet n/east of Miami Beach Road N/east of Miami Beach Road 15th Election District – 6th Councilmanic District Legal Owners: Wayne & Patricia Edwards

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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 <u>Baltimore County Zoning Regulations</u> (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:
Petitioner: A. Paul M. Navorett
Address or Location: x BAY 200 E. Joppa Ro Sute 407. TOWSON 170 212-86
TOW50~ 170 212-86
PLEASE FORWARD ADVERTISING BILL TO:
Name: A WAYNE EDWARDS
Address: x 9031 SIMMS AVENUE
X BAUTO MAD 21234
Telephone Number: x 410-529-04.80:

Department of Permits and 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

March 2, 2005

Mr. Wayne Edwards Mrs. Patricia Edwards 9031 Simms Avenue Baltimore, MD 21234

Dear Mr. & Mrs. Edwards:

RE: Case Number:05-370-SPH, Bay Drive Parcel 124

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 26, 2005.

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,

M. Callado

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR:rjc

Enclosures

c: People's Counsel Hicks Engineering Associates, Inc. Paul Naldret 200 E. Joppa Rd Ste 402 Towson, MD 21286-3160



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

February 8, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: February 7, 2005

Item No.: 368-378

370

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 J. Mezick Fire Marshal's Office (0)410-887-4881 (C)443-829-2946 MS-1102F

cc: File



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

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



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

Maryland Department of Transportation

Date:

2.3.05

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

RE:

Baltimore County

Item No. 370

JLL

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

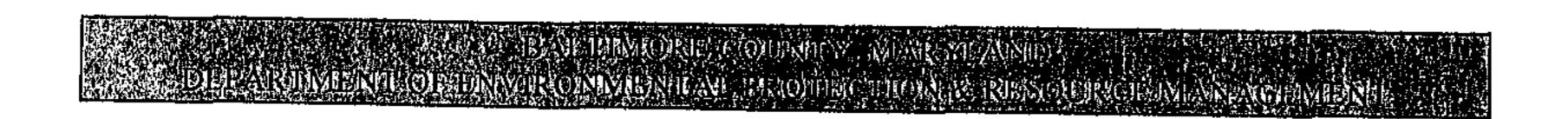
Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief

f. J. Dredh

Engineering Access Permits Division



TO:

Tim Kotroco

PDM

FROM:

John D. Oltman, Jr J

DEPRM

DATE:

February 3, 2005

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of January 24, 2005.

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

05-348 05-351 05-357 05-358 05-376

Reviewers:

Sue Farinetti, Dave Lykens

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

FROM:

John D. Oltman, Jr

DATE:

February 11, 2005

SUBJECT:

Zoning Item # 05-370

Address

4032 Bay Drive

Zoning Advisory Committee Meeting of February 7, 2005

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Additional Comments:

Property is located in a limited Development Area (LDA) of the CBCA and must comply with LDA regulations, specifically:

1.) Maximum of 25% impervious surface cover;

2.) Minimum of 15% tree cover (6 trees for a lot of this size).

Reviewer:

Martha Stauss

Date: February 15, 2005

SHARED\DESHARED\Devcoord\ZACSHEL-1-11-05.doc



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: March 7, 2005

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

Bay Drive

AMENDED COMMENTS

INFORMATION:

Item Number:

5-370

Petitioner:

Wayne Edwards

Zoning:

RC 5

Requested Action:

Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has further reviewed the subject request. Generally the parcels in the immediate area are long and narrow and have double frontage (Bay Drive and Briar Point Road). The Office recommends that the proposed house location be revised so that the house fronts onto Briar Point Road. This relocation will necessitate amending the variance requests, which the Office supports, to allow 10 foot side yard setbacks on both sides of the dwelling as the lot is 50 feet wide along Briar Point Road. However, by staggering the house locations from lot to lot greater privacy will be achieved for each lot due to increased spacing between the homes. The Office of Planning has received correspondence and a graphic from adjacent property owners that illustrate this recommendation. The Office of Planning does not oppose the petitioner's request to permit a single-family dwelling on an undersized lot with side yard setbacks of 10 feet in lieu of the minimum required 50 feet, and a 40-foot front yard setback in lieu of the minimum required 75 feet from the centerline of the road.

Notwithstanding the aforementioned, the subject property is an existing lot of record that is not within a subdivision approved by record plat. As such, this office is required to provide a

statement of finding to the Zoning Commissioner indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this office:

- 1. Submit building elevations to this office for review and approval prior to the issuance any building permit. The proposed dwelling shall be compatible in size, exterior building materials, color, and architectural detail as that of the existing dwellings in the area.
- 2. Orient the front of the proposed dwelling towards Briar Point Road and incorporate prominent entries and porches or stoops in the front building façade.
- 3. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
- 4. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.
- 5. Ensure that exterior of all buildings use the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.
- 6. Provide landscaping along the public road.

For further questions or additional information concerning the matters stated herein, please contact David Pinning in the Office of Planning at 410-887-3480.

Division Chief:

LL

Attachment

C: Wayne and Patricia Edwards

Karen and Paul Watsic

Paula and Edward Clemens

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BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: February 23, 2005

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For February 14, 2005

Item No. 370

The Bureau of Development Plans Review has reviewed the subject-zoning item.

The flood protection elevation (MCS) for this site is 11.4 feet.

In conformance with Federal Flood Insurance requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the county.

The minimum right-of-way for all roads in Baltimore County is 40 feet. Variance shall be modified accordingly.

RWB:CEN:jrb

cc: File

PETITION FOR SPECIAL HEARING RE:

SE/side Bay Drive, 600 NE Miami Beach Rd

15th Election & 6th Councilmanic Districts

Legal Owner(s): Wayne & Patricia Edwards

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

05-370-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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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 February, 2005, a copy of the foregoing Entry of Appearance was mailed to Paul M. Naldrett, 200 E. Joppa Road, Ste. 402, Towson, MD 21286, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Thurs -407 3/10 9:00 a

March 4, 2005

Ms. Lynn Lanham
Department of Planning
401 Bosley Avenue
Room 406
Towson MD 21204

Dear Ms. Lanham:

I am submitting this exhibit and letter for your consideration in conjunction with your evaluation of Zoning Case No. 05-370-SPH. I am submitting this information of behalf of the residents at 4030 Bay Drive. In addition, my husband and I have just made a significant investment in a new home at 3915 Briar Point Road, on property that has been in our family since the 1960's and in a neighborhood in which we plan on being long-term residents.

Our goal in making these suggestions is to help each existing and future homeowner achieve the maximum benefits by taking a comprehensive look at the properties that may be developed between Briar Point Road and Bay Drive.

When we went through this process to build our home, we fronted our home on Briar Point Road to give consideration to the existing home at 4030 Bay Drive, so as not to block their views or build "on top" of them. We incurred some additional expenses in doing this, but felt it was best for the neighborhood. Our hope was that this staggered approach would start a pattern. The attached exhibit illustrates how a staggered approach would offer each homeowner the "feeling" of a larger side yard, provide greater clearances between homes which improves fire safety issues, helps eliminate nuisance problems such as flood lights from one home infringing on another, and generally creates a more synergistic flow and planned look to an area dealing with a unique issue of many adjacent undersized lots. Given that all of these lots front on both Briar Point Road and Bay Drive, there is an opportunity to avoid houses being built "on top" of each other, as occurs frequently on the waterfront lots. We believe that this comprehensive approach, in the long run, will enhance the neighborhood, preserve property values, and preserve water views for current and future homeowners.

MAR - 7 2005

OFFICE OF PLANNING

In its current form we oppose the variances requested as the request tends to overcrowd land, causes undue concentration, and interferes with adequate light and air (particularly for the home at 4030 Bay Drive). If the variance request was modified such that the proposed home was staggered to front on Briar Point Road, the proposed 30-ft wide dwelling could still be constructed by adjusting the side yard setbacks to approximately 10-ft, which is typical of the area. In these modifications were made, we would support the request for side yard setbacks as this relief would meet the spirit and intent of the regulations, while protecting the general welfare of the neighborhood. Given the length of these undersized lots, strict compliance with the setbacks from the centerline of the road would not result in practical difficulty or unreasonable hardship. We understand that the new property owners will want water views, and given the heights that the new homes are built at, this should be achievable whether the home fronts on Briar Point or Bay Drive. We can speak from direct experience in regard to this issue.

No schematic architecture was in the zoning or planning files for this case. In accordance with Section 4A03.5 (B)(2), part of the evaluation of undersized lot approvals is for the planning department to evaluate the home based on "new buildings shall be appropriate in the context of the neighborhood n which they are proposed to be located. Appropriateness shall be evaluated on the basis of new building size, lot coverage, building orientation, and location of the lot or tract." We ask that all of the information presented herein be taken into consideration during your evaluation.

We generally support those who want the opportunity to build new homes on these undersized lots, provided that consideration is given to how to create a quality environment for all of us to enjoy for years to come.

Sincerely,

Karen Watsic Kawawa Communication Review & Communication of the Communic 3915 Briar Point Road

Baltimore MD 21220

410-668-4565

Paula Clemens

Edward Clemens 4030 Bay Drive

Baltimore MD 21220

410-335-5187

MAR - 7 2005

CASE NAME BOUNDANCE, POURCE 124 CASE NUMBER 05-370-594 DATE 3/10/05

SITIZEN'S SIGN-IN SHEET

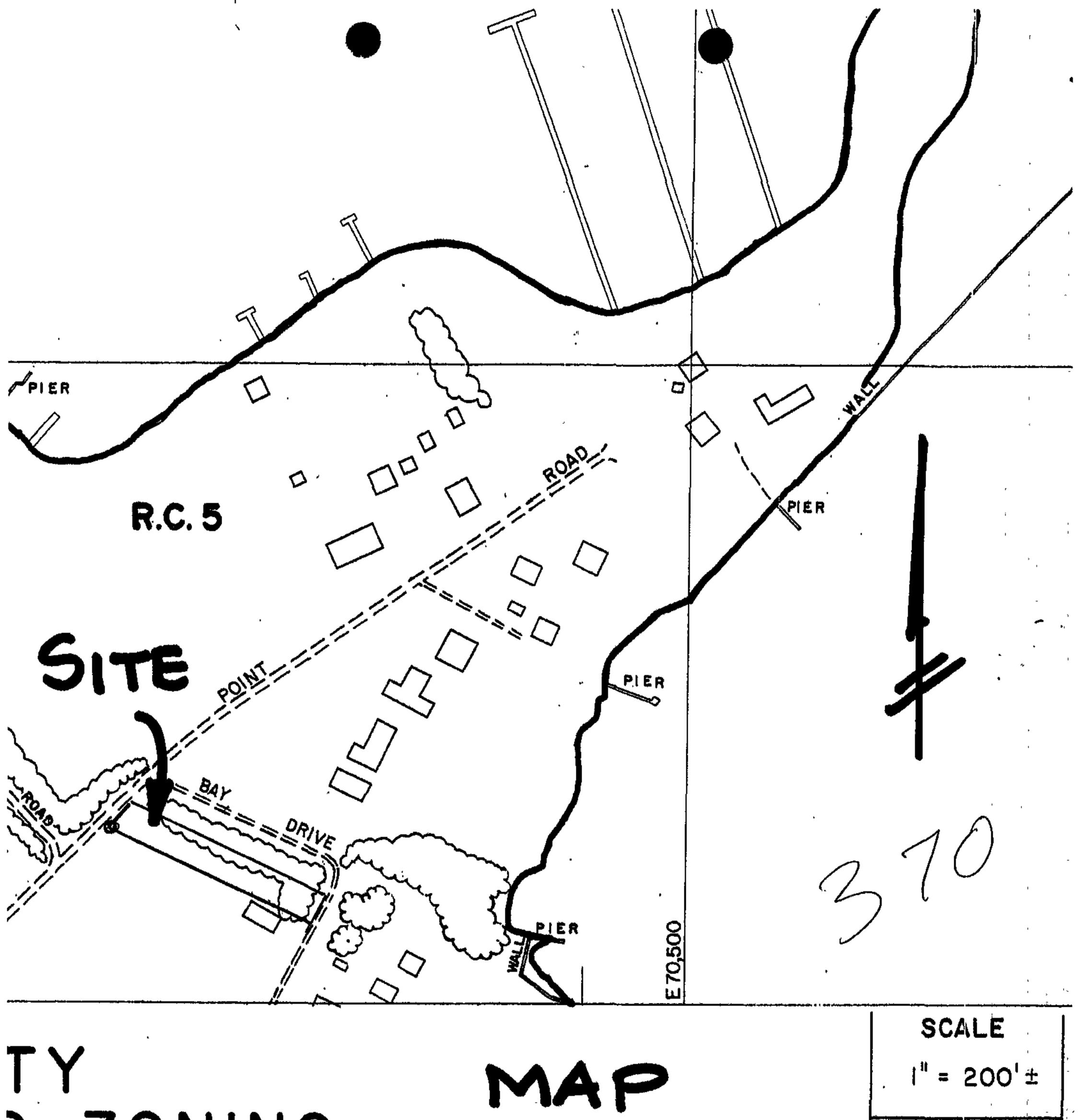
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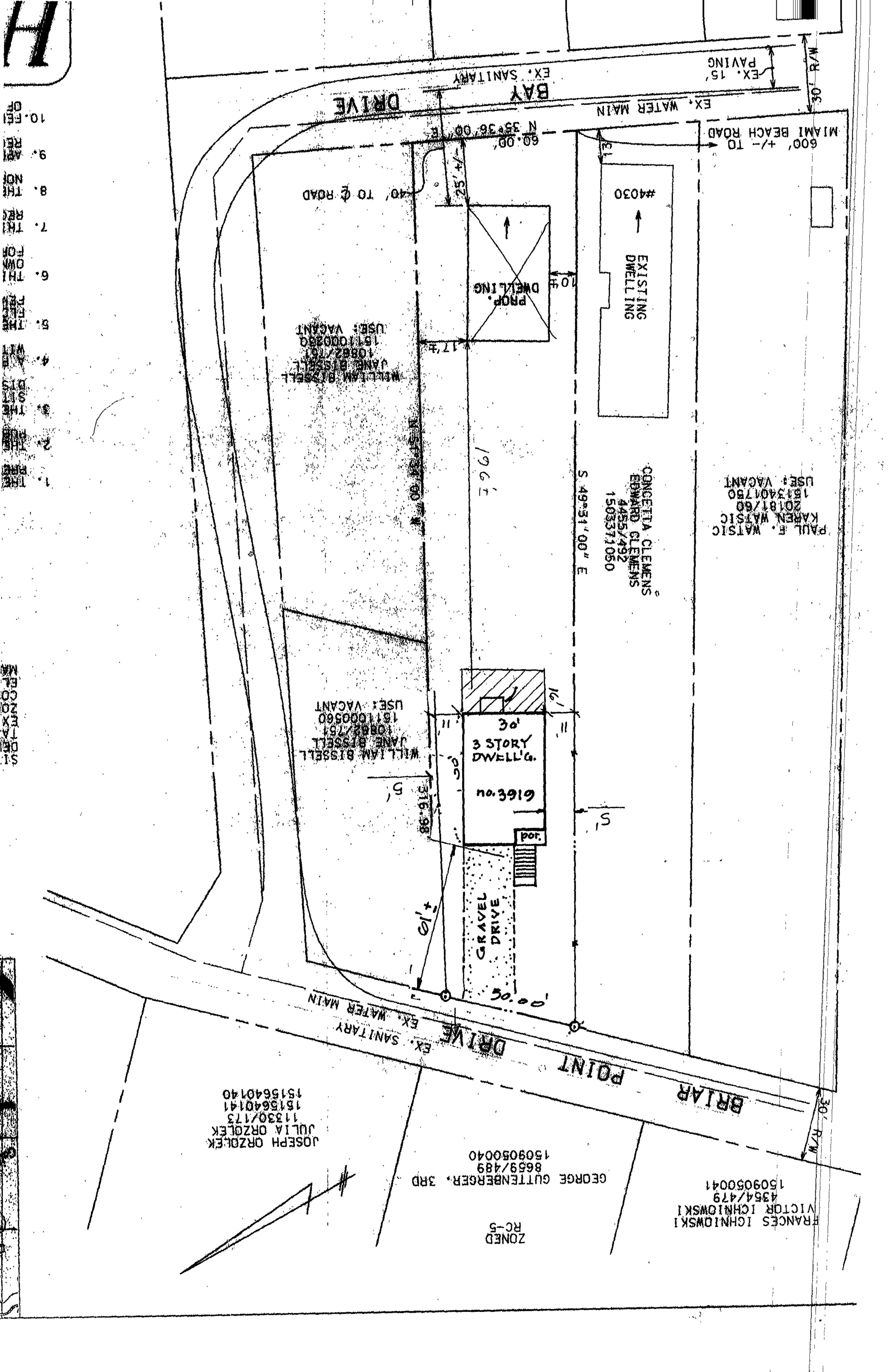
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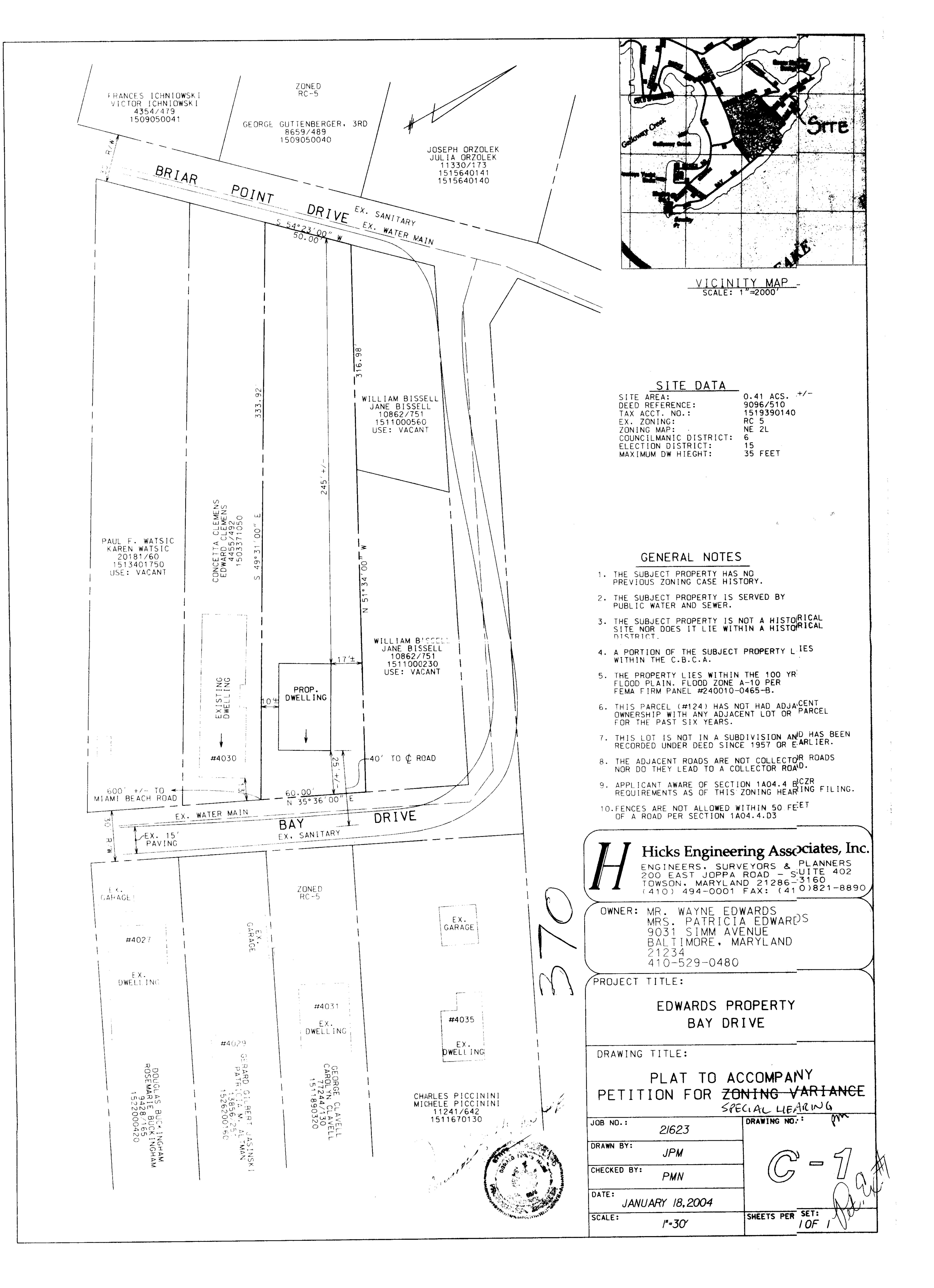



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DATE OF PHOTOGRAPHY JANUARY 1986





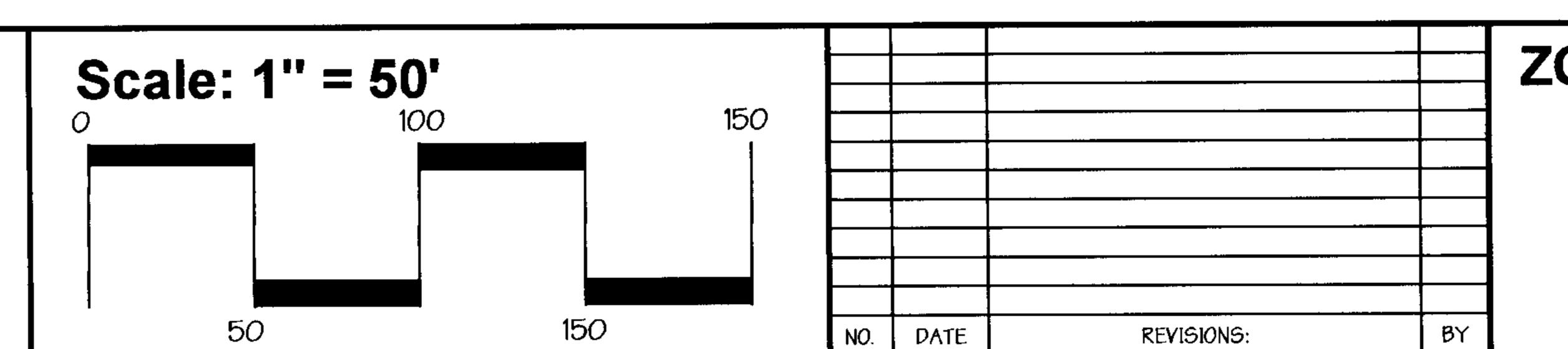


GNS

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.

CIVIL ENGINEERS & LAND SURVEYORS

1020 CROMWELL BRIDGE ROAD TOWSON, MARYLAND 21286-3396 (410) 825-8120



DRAWING NUMBER:

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SHEET 1 OF 1