

IN RE: PETITION FOR SPECIAL HEARING
N & S/S New Cut Road, 2,459' E of the c/l
Harford Road
(6950 New Cut Road)
11th Election District
3rd Council District

Roger D. Gwinn, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 05-449-SPH

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Roger D. Gwinn, and his wife, Patricia M. Gwinn. The Petitioners request a special hearing to approve access to the local street (New Cut Road) through the existing right-of-way, which is 20 feet wide and approximately 678 feet long, in lieu of the required in-fee strip, pursuant to Section 32-4-409(c) of the Baltimore County Code, for proposed Lot 2. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petitioners were Sam DiBlasi, the Petitioners' son-in-law, and Ronald Kearney, the Surveyor who prepared the site plan for this property. Appearing as interested citizens/Protestants were Louis H. Sadler, adjacent property owner, and Charlotte Pine and Carol Shaw, representatives of the Long Green Valley Association.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located approximately 678 feet north of the right-of-way for New Cut Road, east of Harford Road in Kingsville. The property contains a gross area of 12.94 acres, more or less, split-zoned R.C.2 (9.80 acres) and R.C.5 (3.14 acres), and is improved with a single-family dwelling, known as 6950 New Cut Road. As shown on the site plan, the R.C.2 zone encompasses that portion of the property north of the subject right-of-way and contains the existing improvements. The southern portion of the tract is zoned R.C.5 and is presently unimproved. The Petitioners have

ORDER RECEIVED FOR FILING

Date

By

owned and resided on the property since 1985. The Petitioners are desirous of subdividing their property to create a building lot for a proposed single-family dwelling for their daughter and son-in-law. As shown on the site plan, proposed Lot 2 would be located in the southern end of the R.C.2 zoned area of the property and consist of 1.0 acre. Proposed Lot 1 would retain the existing dwelling and the remaining 11.94 acres. At issue in the instant case is the proposed access. In this regard, it is to be noted that for years, the Petitioners have utilized an existing right-of-way to access their property. Special hearing relief is requested to allow the daughter and son-in-law to utilize this same access, in lieu of the in-fee access required by the Baltimore County Code.

As noted above, the adjacent property owner, Louis Sadler, appeared, as did Ms. Pine and Ms. Shaw on behalf of the Long Green Valley Association. Essentially, these individuals are concerned about the proposed access and its relationship to any future development of the subject property. As noted above, the Petitioners currently utilize a 20-foot wide right-of-way over a private road, which is 678 feet long, to access New Cut Road from their property. The acquired easement is pursuant to a right-of-way agreement dated May 13, 1985 and recorded in the Land Records of Baltimore County in Liber 6954, Page 749. A copy of this agreement was submitted into evidence as Petitioner's Exhibit 3. The agreement grants free, uninterrupted and unobstructed ingress and egress from New Cut Road across the lands of Louis and Joan Sadler. The agreement further provides that the Petitioners, their successors and assigns shall "...have the right to make such improvements to the right-of-way as he may desire, and the right to install utilities, in, under, or above said right-of-way... All improvements shall be the financial responsibility of the party (Petitioners) of the second part." The agreement does not appear to restrict or limit in any way the use given to the owners of the Gwinn property.

The B.C.Z.R. indicates that all access to public roads occur via in-fee driveways; however, Section 32-4-409(c) thereof allows access via right-of-way, where same has been established before the development plan is submitted. Subsection (b)2(ii) thereof specifies that a panhandle driveway must be 12 feet in width, per lot, where two lots are involved. Thus, the

panhandle driveway/right-of-way must be 24 feet wide for the two lots requested here. However, pursuant to Petitioner's Exhibit 3, the right-of-way in this instance is only 20 feet wide.

As noted above, there is concern by the neighboring property owner and community representatives. Mr. Sadler on whose property the right-of-way is located, does not object to the proposed dwelling on Lot 2, however, is concerned with the attendant increase in traffic and resulting dust since his home is located immediately adjacent to the right-of-way. He is vehemently opposed to any further subdivision of the subject property by the Gwinns. Ms. Pine and Ms. Shaw share this concern and appropriately argue that the R.C.5 zoned portion of the tract could be further subdivided. They contend that unsafe conditions can arise on private roads and rights-of-way where those who use such access fail to provide a suitable roadway surface, a means for vehicles to pass one another, and/or maintain the road in a manner sufficient to handle emergency vehicles and equipment, such as a 65,000 lb. fire truck.

There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency. In this regard, the Office of Planning does not object to the requested relief, only that the Hearing Officer approve the access as proposed (see Petitioner's Exhibit 4, Item 7). Although the Petitioners have a right-of-way across the Sadler property and the legal right to construct and maintain the surface of the driveway in any manner they choose, I can impose certain conditions upon its use and maintenance as a condition to any future development of the subject property.

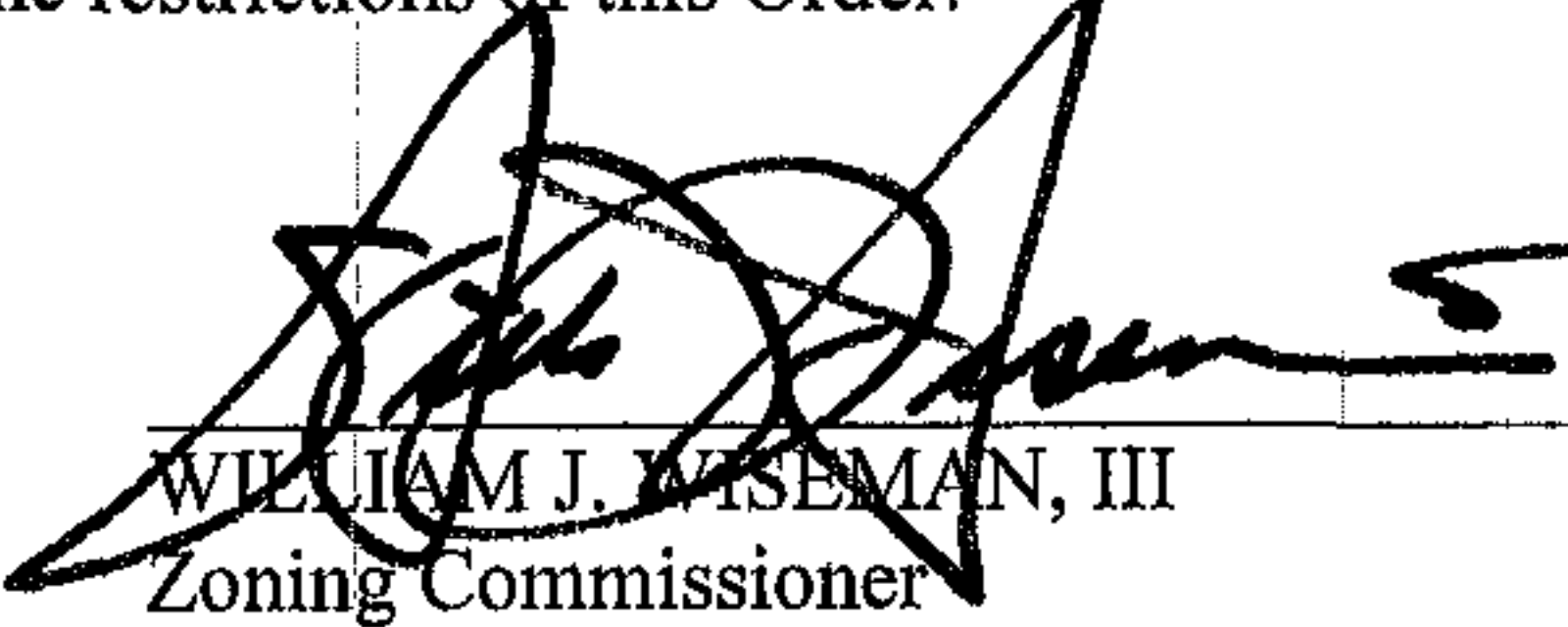
After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. I find that the proposed access is appropriate in this instance, given the fact that it has existed in its present scale and condition since 1985, and is proposed to serve only one additional lot. However, I agree with the argument presented by the Protestants as to the use and maintenance of the existing right-of-way in the event of future development. Therefore, in the event of any further subdivision of the subject property, the Petitioners will be required to improve and pave the existing right-of-way sufficient to support emergency vehicles weighing 65,000 lbs., and include a turnaround on the Petitioner's property.

VENUE/CLERK OF COURT
Date 5/29/15
By [Signature]

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29th day of April, 2005 that the Petition for Special Hearing to approve access to the local street (New Cut Road) through the existing right-of-way, which is 20 feet wide and approximately 678 feet long, in lieu of the required in-fee strip, pursuant to Section 32-4-409(c) of the Baltimore County Code, for proposed Lot 2 in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The relief granted herein is limited to proposed Lot 2. In the event of any future subdivision of the subject property, the private right-of-way shall be improved and paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. Said private right-of-way shall have a hard surface capable of supporting emergency apparatus weighing 65,000 lbs. on two axles, and include a turnaround on Petitioners' property. The turnaround shall have not less than a 120-foot outside diameter (35 feet) of roadway to allow the movement of a vehicle with an overall length of 49 feet. In addition, for any private access road serving more than two lots, a covenant (use in common and maintenance) shall be recorded with the record plat for each lot.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING

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

April 29, 2005

Mr. & Mrs. Roger D. Gwinn
6950 New Cut Road
Kingsville, Maryland 21087

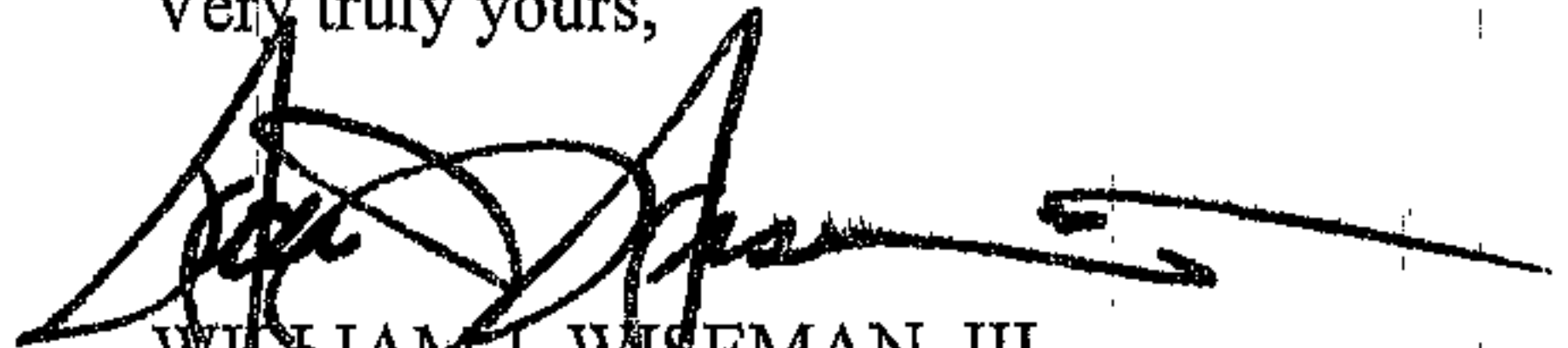
RE: PETITION FOR SPECIAL HEARING
N & S/S New Cut Road, 2,459' E of the c/l Harford Road
(6950 New Cut Road)
11th Election District – 3rd Council District
Roger D. Gwinn, et ux - Petitioners
Case No. 03-268-A

Dear Mr. & Mrs. Gwinn:

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 the Department of Permits and Development Management office at 887-3391.

Very truly yours,


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. Ronald M. Kearney
4401 Philadelphia Road, Bel Air, Md. 21015
Mr. Sam DiBlasi, 3563 Moultrie Place, Baltimore, Md. 21236
Mr. Louis Sadler, 6942 New Cut Road, Kingsville, Md. 21087
Ms. Charlotte Pine, 607 Baltimore Avenue, Towson, Md. 21204
Ms. Carol Shaw, P.O. Box 36, Fork, Md. 21051
Office of Planning; People's Counsel; Case File

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 6950 New Cut Road
which is presently zoned RC-2

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, as provided in Section 32-4-409 (c) of the Baltimore County Code Development Regulations, to allow access to the local street, New Cut Road, through the existing right of way, 20 feet wide and approximately 678 feet long, instead of an in-fee strip FOR PROPOSED LOT 2 etc

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 _____

Signature _____

Company _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Legal Owner(s):

Roger D. Gwinn
Name - Type or Print _____

Roger D. Gwinn
Signature _____

Patricia M. Gwinn
Name - Type or Print _____

Patricia M. Gwinn
Signature _____

6950 New Cut Road 410-592-3638
Address _____ Telephone No. _____

Kingsville, Maryland 21087
City _____ State _____ Zip Code _____

Representative to be Contacted:

Ronald M. Kearney
Name _____

4401 Philadelphia Road 410-989-0445
Address _____ Telephone No. _____

Bel Air, Maryland 21015
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 HR

UNAVAILABLE FOR HEARING -

Reviewed By LL Date 3/10/05

ORDER RECEIVED FOR FILING
4/29/05
Date 3/10/05

Case No. 05 449 SPH

REV 1/5/98

**ZONING DESCRIPTION
6950 NEW CUT ROAD**

Beginning at a point that is 2459 ft. East of the centerline of Harford Road, Maryland Route 147, and 678 ft. East of the centerline of New Cut Road, thence N 00° 34' 32" E 359.50 ft., N 28° 49' 49" W 451.34 ft., N 53° 01' 06" E 268.75 ft., N 33° 24' 53" W 497.06 ft., N 57° 55' 25" E 385.88 ft., S 32° 17' 15" E 473.19 ft., S 21° 24' 37" W 351.87 ft., S 01° 36' 27" E 720.31 ft., N 83° 00' 10" E 508.66 ft., S 00° 51' 33" E 232.12 ft., S 83° 59' 49" W 555.41 ft., N 05° 34' 11" W 148.51 ft., S 86° 35' 49" W 140.13 ft., to the place of beginning. Containing 12.94 acres.

Located in the 11th Election District and the 3rd Councilmanic District.

XAO

BALTIMORE COUNTY, MARYLAND

OFFICE OF BUDGET & FINANCE

MISCELLANEOUS RECEIPT

449

No. 442623

SL

DATE

3/10/05

ACCOUNT

001 000 6150

AMOUNT

\$ 65.00

RECEIVED
FROM

K L S Community

FOR

Special Community

6950 New City Rd

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHER'S VALIDATION

PAID RECEIPT

BUSINESS NO. 442623

TIME

NEW

3/10/05 3:00 PM 105.07.05

2

RECEIVED BY

DATE

OFFER

3/10/05

3:00 PM

105.07.05

RECEIPT # 352740

3/10/05

3:00 PM

105.07.05

RECEIPT # 352740

3/10/05

3:00 PM

105.07.05

Receipt for

65.00

NEW

65.00

NEW

Baltimore County, Maryland

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: #05-449-SPH
6950 New Cut Road
678 ft. n/east of New Cut Rd., and 2,459 ft. east of Harford Rd., proposed Lot #2
11th Election District — 3rd Councilmanic District
Legal Owner(s): Roger D. and Patricia M. Gwinn

Special Hearing: for a waiver to the development regulations to allow access to the local street, New Cut Road, through the existing right-of-way, 20 feet wide and approximately 678 feet long, instead of an 'in-fee strip for Proposed Lot 2.

Hearing: Wednesday, April 20, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake 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.
JT 4/6/3 April 5 45526

CERTIFICATE OF PUBLICATION

4/6/, 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 4/5/, 2005.

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

S. Wilkinson

LEGAL ADVERTISING

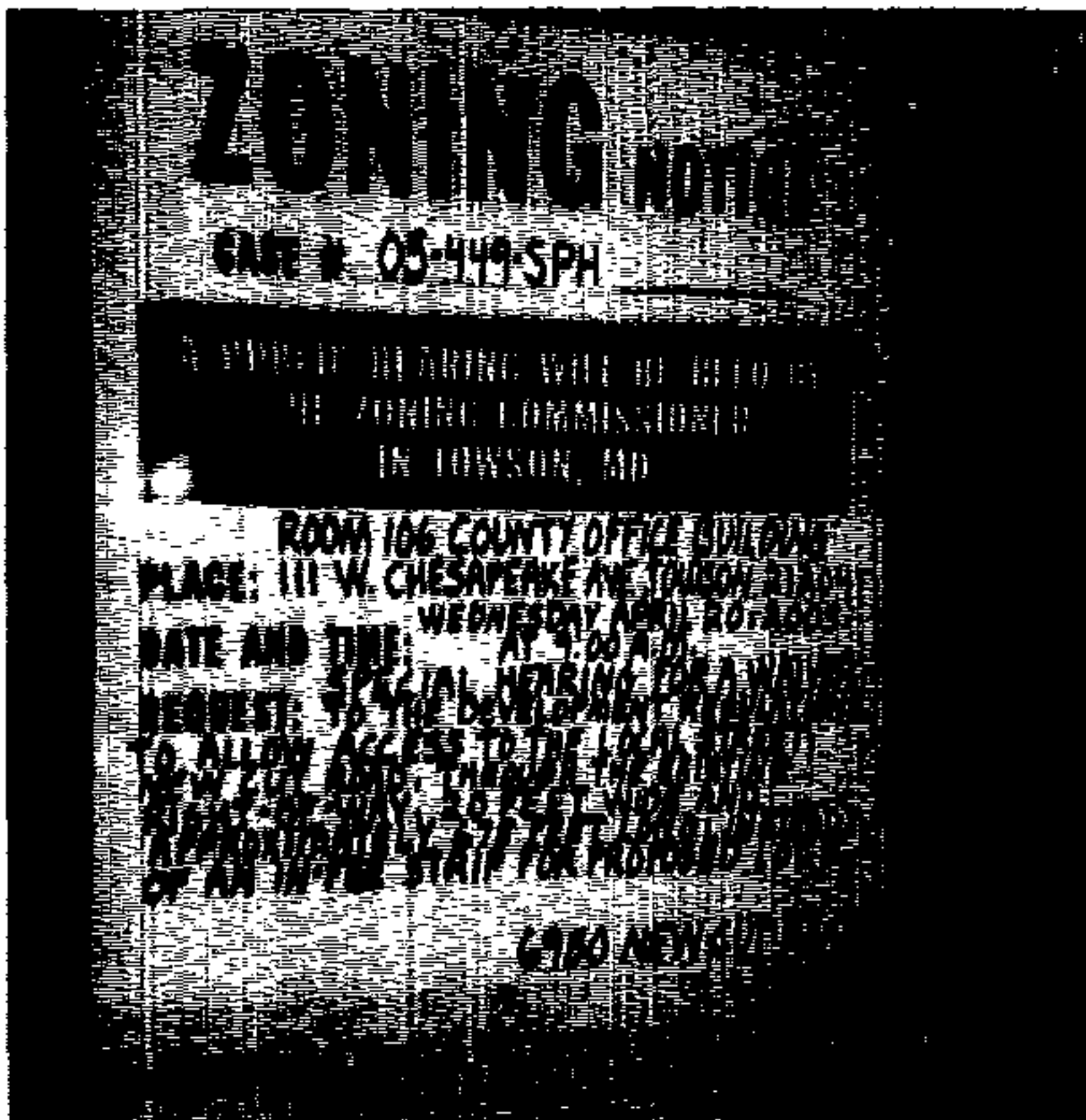
CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS Date April 4, 2005

RE: Case Number 05-449-SPH
Petitioner/Developer: ROGER & PATRICIA GWINN/RON KEARNEY
Date of (Hearing) Closing: April 20, 2005

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 6950 NEW CUT ROAD

The sign(s) were posted on April 2, 2005
(Month, Day, Year)



Linda O'Keefe
(Signature of Sign Poster)

LINDA O'KEEFE
(Printed Name of Sign Poster)

523 PENNY LANE
(Street Address of Sign Poster)

HUNT VALLEY MD 21030
(City, State, Zip Code of Sign Poster)

410-666-5366
(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

March 18, 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: 05-449-SPH

6950 New Cut Road

678 ft. n/east of New Cut Rd., and 2,459 ft. east of Harford Rd., proposed Lot #2

11th Election District – 3rd Councilmanic District

Legal Owners: Roger D. and Patricia M. Gwinn

Special Hearing for a waiver to the development regulations to allow access to the local street, New Cut Road, through the existing right-of-way, 20 feet wide and approximately 678 feet long, instead of an in-lot strip for Proposed Lot 2.

Hearing: Wednesday, April 20, 2005 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, reading "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Roger & Patricia Gwinn, 6950 New Cut Road, Kingsville 21087
Ronald Kearney, 4401 Philadelphia Rd., Bel Air 21015

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 5, 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
Tuesday, April 5, 2005 Issue - Jeffersonian

Please forward billing to:
Roger Gwinn
6950 New Cut Road
Kingsville, MD 21087

410-592-3638

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: 05-449-SPH

6950 New Cut Road

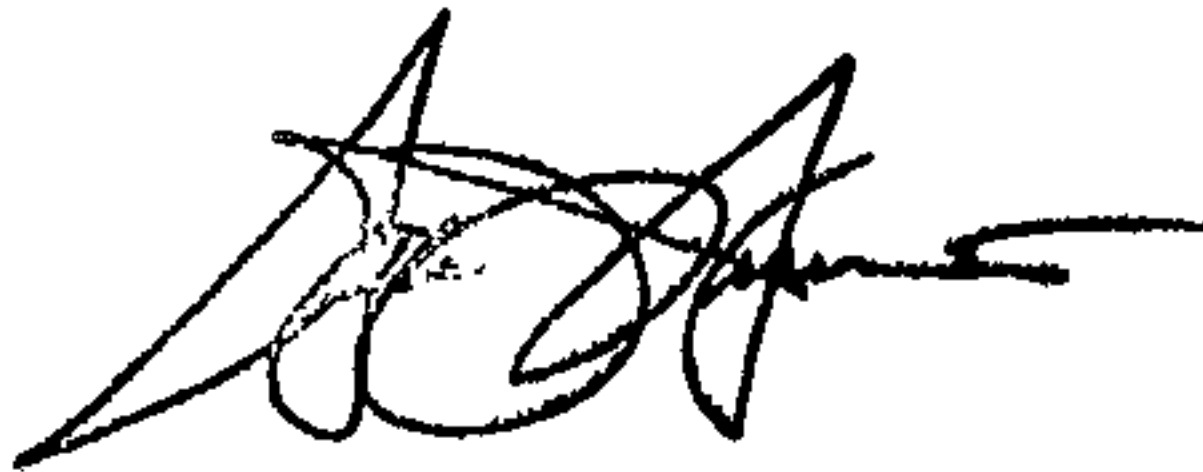
678 ft. n/east of New Cut Rd., and 2,459 ft. east of Harford Rd., proposed Lot #2

11th Election District – 3rd Councilmanic District

Legal Owners: Roger D. and Patricia M. Gwinn

Special Hearing for a waiver to the development regulations to allow access to the local street, New Cut Road, through the existing right-of-way, 20 feet wide and approximately 678 feet long, instead of an in-fee strip for Proposed Lot 2.

Hearing: Wednesday, April 20, 2005 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake 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: 05-449-SP24

Petitioner: ROGER GWINN

Address or Location: 6950 NEW CUT RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: ROGER GWINN

Address: 6950 NEW CUT RD.

KINGSVILLE, MD. 21087

Telephone Number: 410-592-3638

**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*

April 12, 2005

Roger D. Gwinn
Patricia M. Gwinn
6950 New Cut Road
Kingsville, Maryland 21087

Dear Mr. and Mrs. Gwinn:

RE: Case Number: 05-449-SPH, 6950 New Cut Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 10, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Ronald M Kearney 4401 Philadelphia Road Bel Air 21015

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



**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 22, 2005

Roger D. Gwinn
Patricia M. Gwinn
6950 New Cut Road
Kingsville, Maryland 21087

Dear Mr. and Mrs. Gwinn:

RE: Case Number: 05-449-SPH, 6950 New Cut Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 10, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Ronald M. Kearney 4401 Philadelphia Road Bel Air 21015

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

March 23, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: March 21, 2005

Item No.: 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 457, 461, 462.

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.

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

cc: File

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



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



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

Maryland Department of Transportation

Date: 3.18.05

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

RE: Baltimore County
Item No. 449 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
Engineering Access Permits Division

BW
4/20

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
FROM: John D. Oltman, Jr
DATE: April 19, 2005
SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of March 21, 2005

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

05-444
05-448
05-449

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

150
4/20

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 12, 2005

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

RECEIVED

APR 18 2005

SUBJECT: Zoning Advisory Petition(s): Case(s) 5-449

ZONING COMMISSIONER

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark Cunningham in the Office of Planning at 410-887-3480.

Prepared By:

Mark Cunningham

Division Chief:

Pat Keller

MAC/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director DATE: April 6, 2005
Department of Permits & Development
Management

FROM: Dennis A. Kennedy, Acting Supervisor ^{DAK}
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for March 28, 2005
Item No. 444, 446, 447, 448, 449
450, 451, 452, 453, 454 and 455

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

DAK:CEN:clw
cc: file

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
6950 New Cut Road; 678' NE New Cut Road, *
2,459' E Harford Road, Proposed Lot #2 * ZONING COMMISSIONER
11th Election & 3rd Councilmanic Districts *
Legal Owner(s): Roger & Patricia Gwinn * FOR
Petitioner(s) * BALTIMORE COUNTY
* 05-449-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.



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 28th day of March, 2005, a copy of the foregoing Entry of Appearance was mailed to Ronald M. Kearney, 4401 Philadelphia Road, Bel Air, MD 21015, Representative for Petitioner(s).

RECEIVED

APR 1 2005

Per.....



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

DATE _____

E-MAIL

[illegible]

CASE NAME 03-449. SPH
CASE NUMBER 7
DATE

CITIZEN'S SIGN-IN SHEET

[illegible]

Case No.:

05- 449-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN		
No. 2	DEEDS to Petitioners PROPERTY		
No. 3	RIGHT OF WAY		
No. 4	Office of Planning Curtis Murray Comment		
No. 5			
No. 6			
No. 7			
No. 8			
No. 9			
No. 10			
No. 11			
No. 12			

HARFORD RD

RC 2

SITE

P.O.B.

2,459' TO HARFORD RD.
← NEW CUT RD

← DRIVEWAY →

NEW CUT RD.

~~RC 5~~

NEW CUT RD

PETITIONER'S

EXHIBIT NO. 2

DEED -- FEE SIMPLE -- INDIVIDUAL GRANTOR -- LONG FORM

USE 695 1752

STATE OF MARYLAND
ASSISTANT CLERK

CLERK

DATE

This Deed, MADE THIS 27th day of June,

in the year one thousand nine hundred and eighty-five,
JAMES LEON MILWAY, Trustee,

by and between

of the State of Maryland, Grantor,

of the first part, and

ROGER D. GWINN and PATRICIA M. GWINN, his wife, of the State of Maryland, Grantees,

of the second part.

WITNESSETH, That in consideration of the sum of Fifty Thousand Dollars (\$50,000.00), and all other good and valuable considerations, the receipt whereof is hereby acknowledged,

The said James Leon Milway, Trustee,

COPY 15.00
C.F. 1X 250.00
C.F. 1X 250.00
DEED 0.00
E.H.K. JR. 1 515.00
HT0439 0001 R02 111:13
07/17/85

does grant and convey to the said Roger D. Gwin and Patricia M. Gwin, his wife, as tenants by the entireties, to be assigned, the survivor of them and unto the survivor's

Personal representative of the said James Leon Milway, Trustee, in fee simple, all

that lot of ground situate in and lying in Baltimore County, State of Maryland,

and described as follows, that is to say:
BEING all that fee simple parcel of land containing 14.392 acres of land, more or less, situate approximately 500 feet from the north side of New Cut Road, in the Eleventh Election District of Baltimore County, which by deed dated March 16, 1978, recorded among the Land Records of Baltimore County in Liber E.H.K.Jr., No. 5865, Folio 907, was granted and conveyed by Patricia S. Graham, Personal Representative of the Estate of Rosetta Milway, to James Leon Milway, Trustee, the grantor herein. Said property being the remainder of two parcels of land, the first being a parcel containing 19.86 acres, more or less, more particularly described in a deed recorded in Liber W.P.C., No. 611, Folio 49, which description is made a part hereof by reference thereto, saving and excepting therefrom a parcel containing 10 acres, more or less, that was conveyed by Rosetta Milway to the State of Maryland, by deed dated August 20, 1967, recorded in Liber 4797, Folio 706, and the second being a parcel containing 6.1 acres, more or less, more particularly described in a deed recorded in Liber W.P.C., No. 423, Folio 161, which description is made a part hereof by reference thereto, saving and excepting therefrom a parcel containing 2 acres, more or less, that was conveyed by Rosetta Milway to Neil D. McLain and wife by deed dated November 26, 1974, recorded in E.H.K.Jr., No. 5493, Folio 340 and re-recorded in Liber E.H.K.Jr., No. 5496, Folio 623. The net acreage of land being hereby conveyed being 14.392 acres, more or less.

TOGETHER with the buildings and improvements thereon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining; and in particular, the right of way through the lands of John F. Skelton out to the Baltimore and Harford Turnpike, as set forth in a deed dated December 11, 1913, and recorded among the Land Records of Baltimore County in Liber W.P.C., No. 423, Folio 161, from Harry Grauel and wife to Peter W. Doyle, and wife, and the 20 foot wide right-of-way across the land of Mary C. McAllister, et al., to New Cut Road as set forth in Right-of-Way Agreement dated May 13, 1986 between the said Mary C. McAllister, et al. and James Leon Milway, Trustee, which Agreement is intended to be recorded immediately prior hereto.

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE-LETTER OF INTENT

SIGNATURE [Signature] DATE 6-25-85

C 124*****0001001 220-1

LIBER 954: 753

FOR TITLE of the grantor, see the deed aforesaid from Patricia S. Graham, Personal Representative, recorded as aforesaid in Liber E.H.K.Jr., No. 5865, Folio 907. See also Estate of Rosetta Milway in Orphans' Court of Baltimore County (Estate No. 40726) and the Last Will and Testament of Rosetta Milway and Codicil, thereto, the sale and conveyance of the property above-described being pursuant to the terms and provisions of said Last Will and Testament, the trust therein created having terminated by virtue of the fact that Rosemary Milway has reached the age of 21 years and also has vacated the property.

PETITIONER'S

EXHIBIT NO. 3

LIBER 954 FEB 27 4 9

THIS RIGHT-OF-WAY AGREEMENT made this 19 day of May, 1985, by and between MARY C. McALLISTER and BERNADINE E. McALLISTER, of Baltimore County, State of Maryland, Parties of the First Part, Grantors, and JAMES LEON MILWAY, Trustee under the Last Will and Testament of ROSETTA MILWAY, of Baltimore County, State of Maryland, Party of the Second Part, Grantee.

WHEREAS, the parties are owners of contiguous parcels of land situate on or near the north side of New Cut Road, east of Harford Road in Baltimore County, Maryland, title of the Parties of the First Part being by Deed dated November 5, 1979 recorded in Liber E.H.K.Jr., No. 6118, folio 717, from MARY C. McALLISTER unto BERNADINE E. McALLISTER, whereby the said MARY C. McALLISTER reserved unto herself a life estate with powers, and title of the Party of the Second Part being by virtue of a Deed dated March 16, 1978, recorded in Liber E.H.K.Jr., No. 6855, folio 907, from PATRICIA S. GRAHAM, personal representative of the estate of ROSETTA MILWAY, said contiguous parcels having been under common ownership of PETER W. DOYLE for a number of years prior to 1930; and

WHEREAS, upon the death of PETER W. DOYLE and the subsequent distribution of parcels pursuant to the Last Will and Testament, the MILWAY parcel was left with no frontage on New Cut Road and no specific right-of-way to and from New Cut Road was set forth in the Land Records.

NOW, THEREFORE, in consideration of the sum of Five Dollars (\$5.00) and other valuable consideration, running from each to the other, the receipt whereof is hereby acknowledged and in order to confirm unto the Party of the Second Part, his heirs, personal representative, successors, and assigns, a right-of-way across the property of the Parties of the First Part, the Parties of the First Part do hereby grant, convey and confirm unto the Party of the Second Part, his heirs, personal representative, successors and assigns, a free uninterrupted and unobstructed permanent right-of-way, 20 feet wide across the land of the Party

STATE DEPARTMENT OF
AGRICULTURE & LAND
GRASSLANDS & TILLAGES NOT APPL

SIGNATURE HA06/28/85

TRANSFER TAX NOT REQUIRED

STATE OF MARYLAND

BALTIMORE COUNTY, MARYLAND

Signature James J. Calhoun

Date 6-11-85 Sec. 11-35 HW

of the First Part, for the ingress and egress to and from New Cut Road, as now laid out along the southerly edge of the property Party of the First Part and the line of the said Party of the Second Part, his heirs, personal representative, successors and assigns, having the right to make such improvements to the right-of-way as he may desire, and the right to install utilities in, under or above said right-of-way. The Parties of the First Part, and their personal representative and assigns, shall have the right to cross or traverse said right-of-way to the extent necessary to go back and forth between the respective portions of their property separated by said right-of-way. All improvements shall be the financial responsibility of the Party of the Second Part.

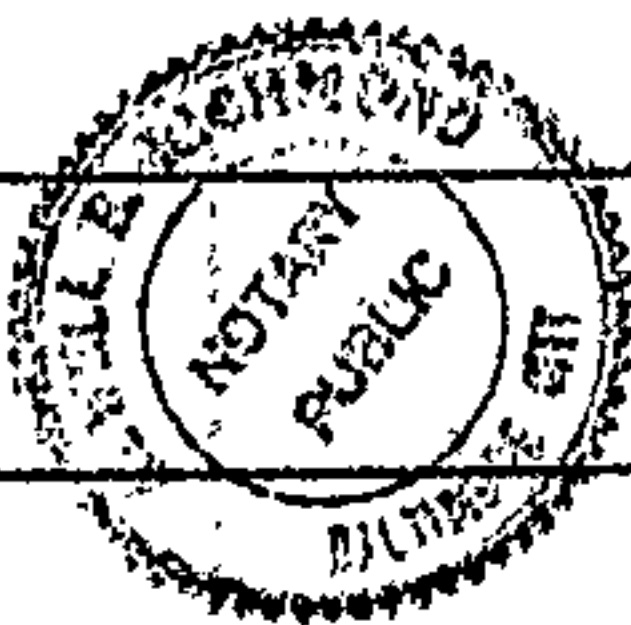
ANY and all rights and obligations created hereby shall inure to the benefit of and be the obligation of the respective heirs, personal representative, successors and assigns of the parties hereto.

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

THE Grantors hereby certify that the actual consideration paid or to be paid for this conveyance is NONE.

WITNESS the hands and seals of the herein named Grantors and Grantee.

Test:



Mary C. McAllister (SEAL)
MARY C. McALLISTER

Bernadine E. McAllister (SEAL)
BERNADINE E. McALLISTER

James Leon Milway (SEAL)
JAMES LEON MILWAY, Trustee

STATE OF MARYLAND, County of Baltimore, to wit:

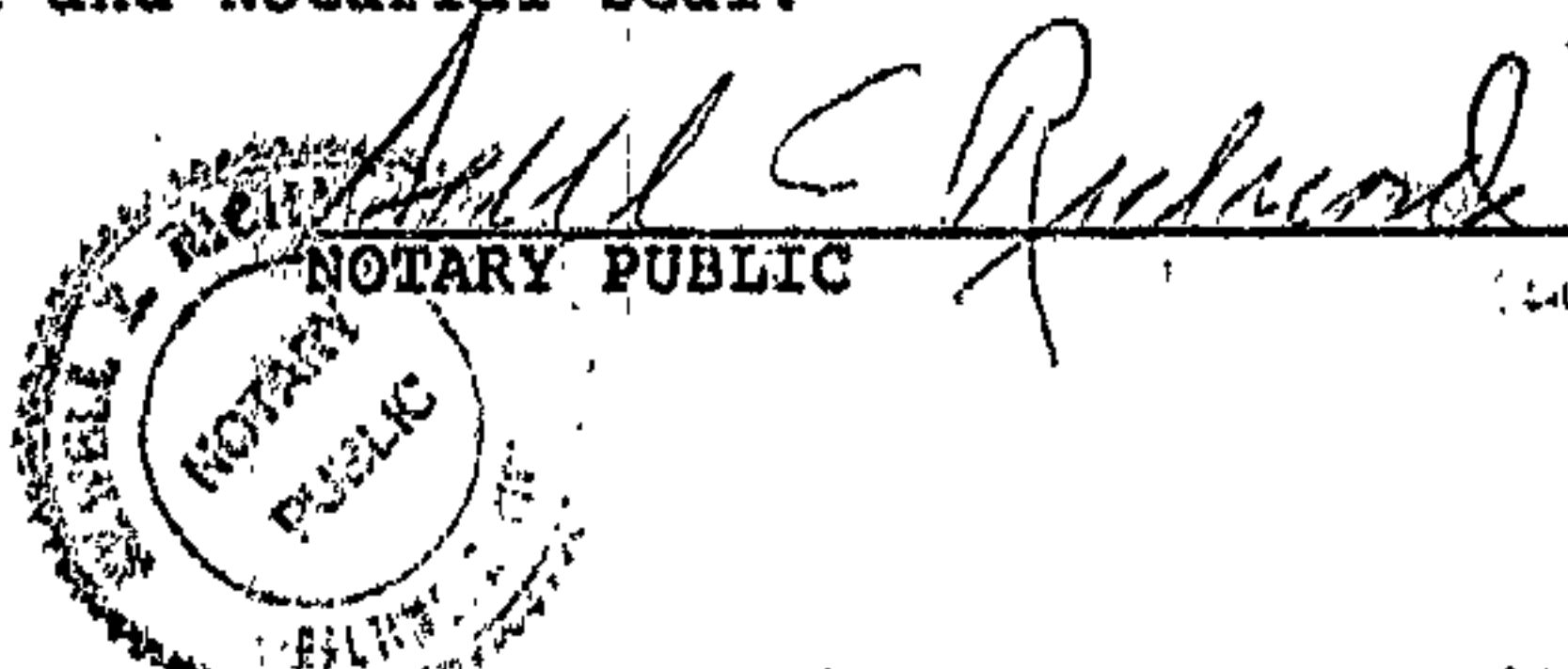
I HEREBY CERTIFY, That on this 13 day of May, 1985, before me, the subscriber, a Notary Public of the State of

Maryland, in and for Baltimore County, personally appeared MARY C. McALLISTER, Grantor, and acknowledged the foregoing Agreement to be her act.

AS WITNESS my hand and Notarial Seal.

My Commission expires

1 Oct 1986



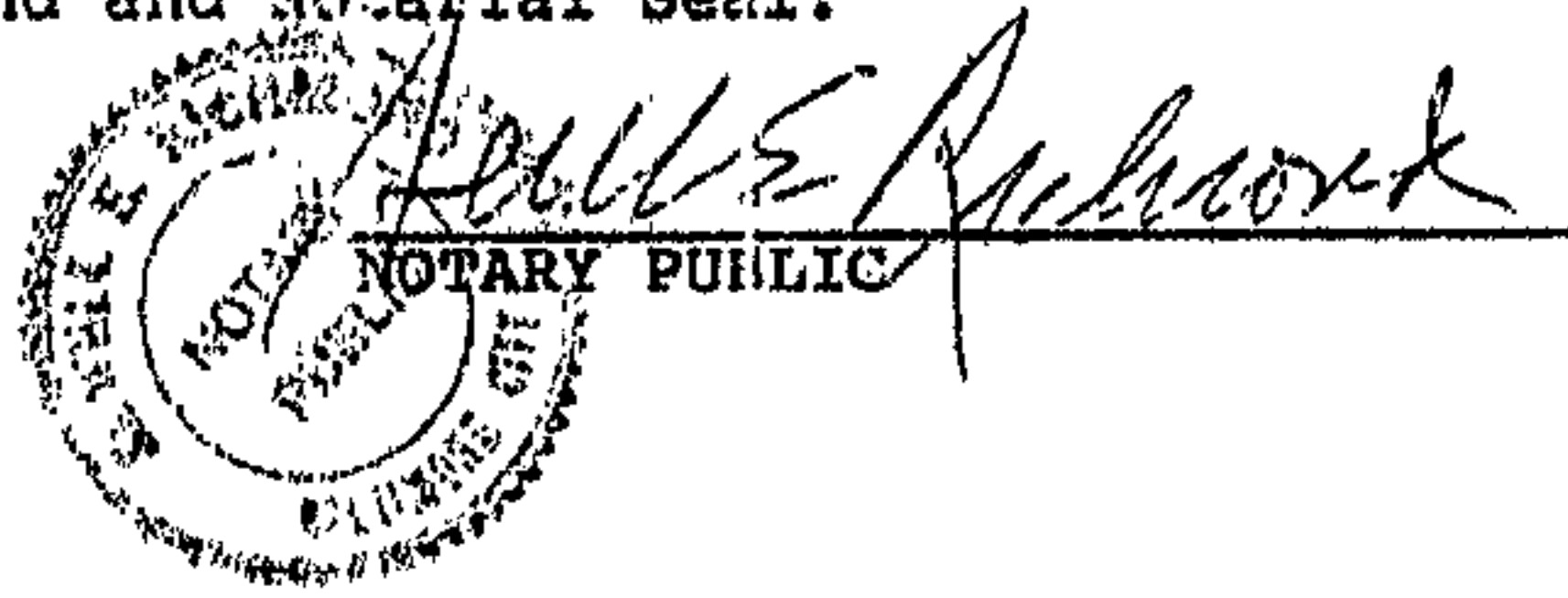
STATE OF MARYLAND, County of Baltimore, to wit:

I HEREBY CERTIFY, That on this 13 day of May, 1985, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County, personally appeared BERNADINE E. McALLISTER, Grantor, and acknowledged the foregoing Agreement to be her act.

AS WITNESS my hand and Notarial Seal.

My Commission expires

July 1986



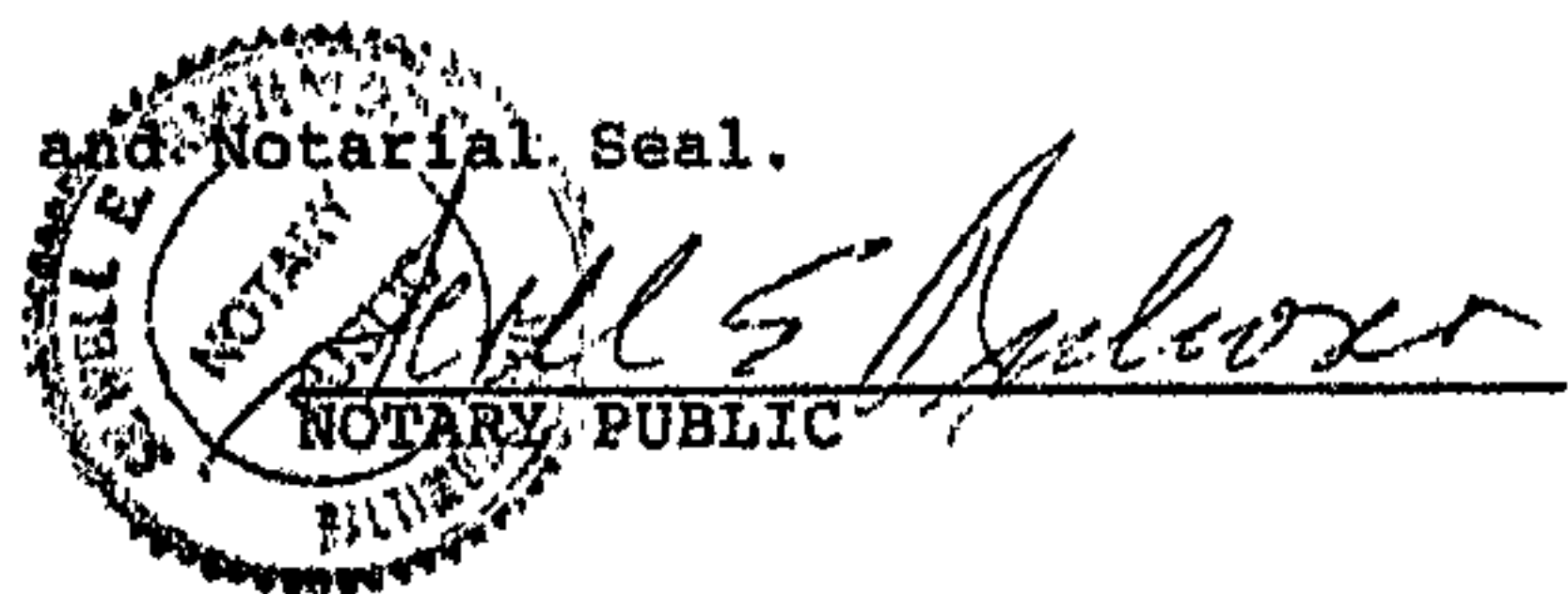
STATE OF MARYLAND, County of Baltimore, to wit:

I HEREBY CERTIFY, That on this _____ day of _____, 1985, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County, personally appeared JAMES LEON MILWAY, Grantee, and acknowledged the foregoing Agreement to be his act.

AS WITNESS my hand and Notarial Seal.

My Commission expires

July 1986



Stockdale Farrell
6717 Hayford Rd
21234

C RC/F 16.00
 ACUNT 0
 EHK JR Y 16.00
 #70439 COOL ROZ T1131
 07/17/8

PETITION S

EXHIBIT NO. 4

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Joe Chmura
Department of Permits and
Development Management

DATE: January 10, 2005

FROM: Curtis Murray
Development Review Section
Office of Planning

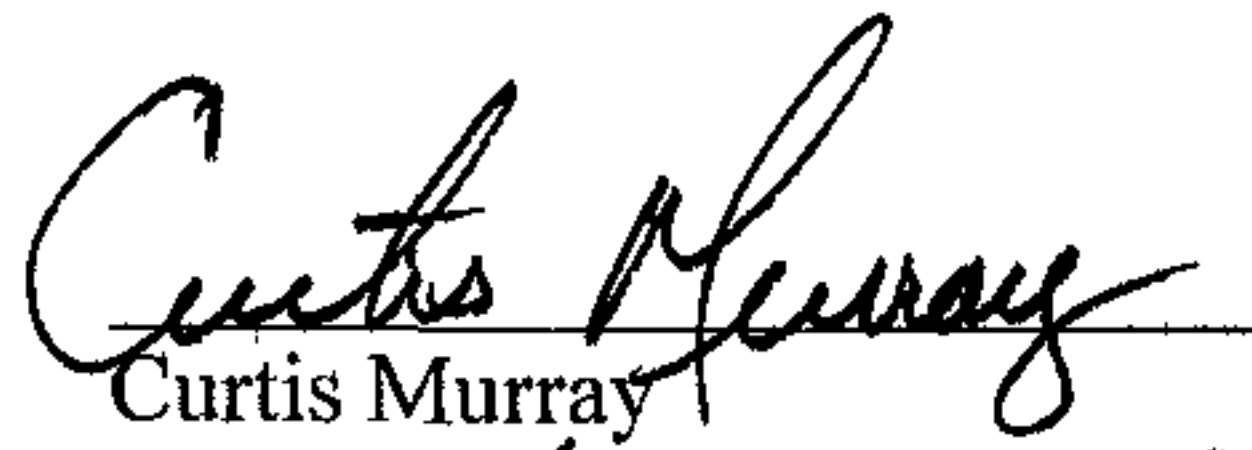
PROJECT NAME: Land of Gwynn, Roger

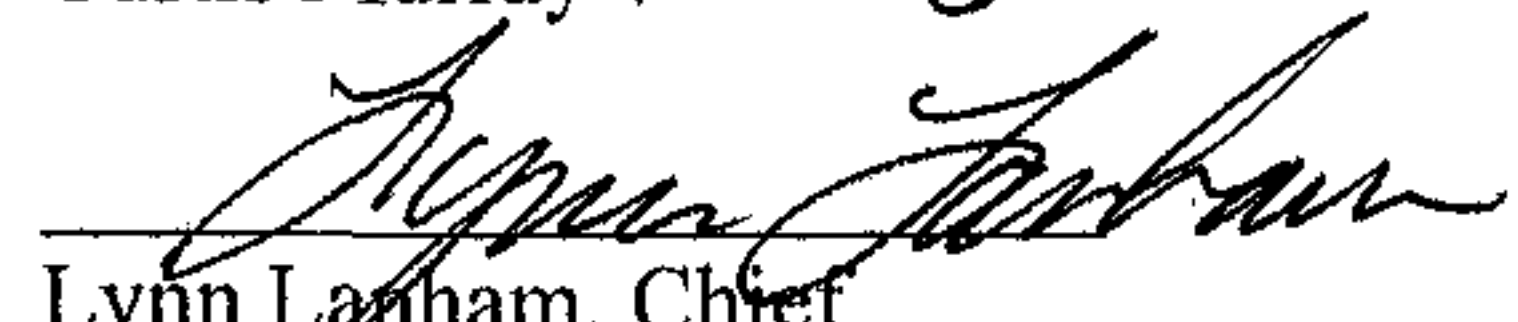
PROJECT NO.: 04167 M

The Office of Planning has reviewed the above referenced project and offers the following comments:

- ✓ 1. Show the north arrow on the plan with the reference system being used.
- ✓ 2. Indicate the front orientation of the proposed and existing dwellings using arrow(s).
3. Indicate the location of the paved mailbox and trash collection area(s).
- ✓ 4. Place the following note on the plan: "The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first."
5. Show the panhandle profile on the plan.
6. For a panhandle serving more than one lot, a covenant (use in common and maintenance) is to be recorded with the record plat.
7. Section 32-4-409 of the BCC states that The County may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable. This section further states that except as provided in subsection (c) of the aforementioned section, the county may permit a panhandle lot if the lot includes and in-fee strip of land for access to the local street.

With regards to the Roger Gwynn property there is an already established right-of-way that will allow access to the proposed lot. In this instance it is required that the Hearing Officer approve access to the local street or collector street through the existing right-of-way instead of an in-fee strip (Refer to section 32-4-409(c), BCC).


Curtis Murray


Lynn Lanham, Chief
Development Review

CM:LL:kma

EXHIBIT NO. 1