

IN RE: PETITION FOR SPECIAL HEARING
NW/Corner Bay Drive and Wye Road
(1550 Wye Road)
15th Election District
5th Council District

Thomas V. Stem, Sr., et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 05-226-SPH)
*

* * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

This matter comes before the Zoning Commissioner on a Motion for Reconsideration filed by Thomas V. Stem, Sr., and his wife, Bernadette L. Stem, through their attorney, John B. Gontrum, Esquire, of the decision rendered in the above-captioned matter on March 15, 2005. By way of background, a Petition for Special Hearing was filed by the owners of the subject property, Thomas V. Stem, Sr., and his wife, Bernadette L. Stem, seeking relief to allow the replacement of an existing dwelling, which had been allegedly damaged by Hurricane Isabel in 2003. Further relief was requested, if deemed necessary, from Section 1A04.3.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to alter the minimum acreage and setback requirements. Due to the number of residents who appeared at the first hearing and questioned the propriety of the relief sought, the Petitioners amended their request. At a subsequent hearing held on March 8, 2005, testimony and evidence presented disclosed that the subject property is a corner lot, 74 feet wide by 300 feet deep, and contains a gross area of 24,200 sq.ft. (0.510 acres) more or less, zoned R.C.5. Presently, the lot is unimproved, but for a garage and shed, which are located in the front of the property close to the intersection. It was indicated that the Petitioners have traditionally used the property and the accessory structures thereon to support the use of their residential property located immediately across from this site at 3735 Bay Drive.

As noted above, the Petitioners wish to develop the property with a single-family dwelling. Initially, they proposed to build the structure towards the rear of the lot, facing Wye Road. The Protestants had no objections to the proposal in that they viewed the development as an improvement to the property. However, all were opposed to the existing structures remaining

on the property and believed that they should be removed. In this regard, the Office of Planning wanted the house located in the front portion of the lot, and oriented to face Bay Drive to be consistent with the other houses along this street. This would of course require the removal of the accessory structures.

Ultimately, the Petitioners and the Office of Planning agreed to a compromise. The Petitioners agreed to relocate the dwelling towards the front of the property, closer to Bay Drive, with a minimum setback of 60 feet from that road and a 38-foot setback from Wye Road. The Office of Planning agreed that the house could be oriented to face Wye Road; however, requested that the side of the house facing Bay Drive incorporate certain design elements so that it would be consistent in appearance with the other homes that face that road.

Accordingly, the undersigned Zoning Commissioner granted relief consistent with the above, pursuant to my Opinion and Order dated March 15, 2004.

Subsequent to the issuance of said Order, Counsel for the Petitioners filed the instant Motion for Reconsideration. Within their Motion, the Petitioners argue that they should be able to build the home anywhere on their property, provided the minimum setbacks set forth above are maintained. Counsel for the Petitioners contends that although the houses across Bay Drive from this site are shown on the plan to face that road, they actually face the water, and thus, the orientation of the proposed dwelling towards Wye Road will have no impact. Moreover, the Petitioners believe they should be able to retain the existing accessory structures to support the new dwelling. Counsel for the Petitioners further argued that there were no Protestants at the March 8th hearing and that the neighbors who did appear supported the Petitioners' request. Finally, Counsel argues that amended relief should be granted to permit the proposed dwelling to be constructed somewhere between the existing accessory structures and the originally proposed location, and to allow the existing accessory structures to remain on the property.

After due consideration of the arguments raised by Counsel and a further review of my Opinion and Order, I am not persuaded to grant the Motion. I believe the Findings of Fact and Conclusions of Law issued by me were clear as to the ultimate location of the proposed

dwelling on the site. Moreover, I concur with the Office of Planning's position that the dwelling should be located towards the front of the lot, consistent with the other houses that front Bay Drive, regardless of the fact that some of the houses may face the water, as contended by the Petitioners. This Zoning Commissioner acknowledges the fact that the existing accessory structures will have to be removed in order to construct the dwelling where directed by the Office of Planning. Furthermore, while I agree that the Protestants are not opposed to the proposed improvements, it was clear from the testimony presented at the hearing that the neighbors wanted the existing accessory structures removed. It is to be noted that Mike Vivirito, neighborhood activist and President of the Bowleys' Quarters Improvement Association, has advised this Zoning Commissioner that the position of the community has not changed in this regard. Thus, I am persuaded to deny the Motion.

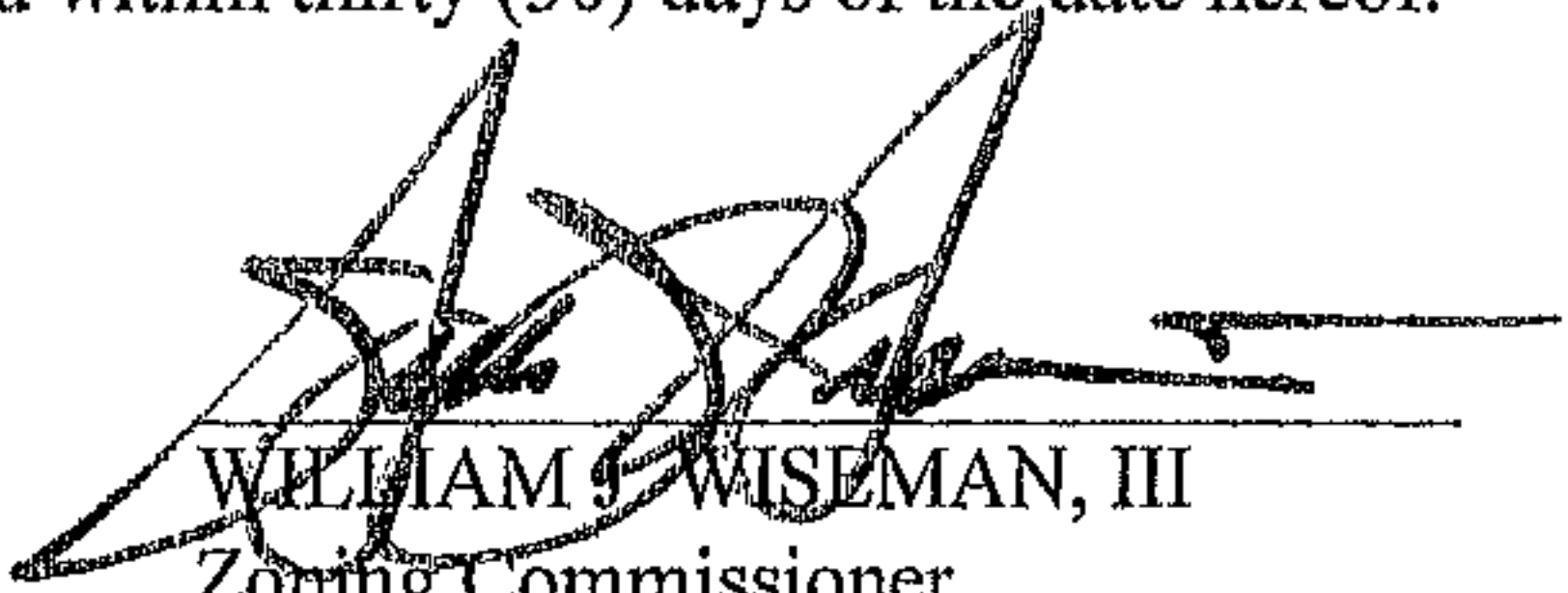
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12th day of May 2005 that the Motion for Reconsideration filed in the above-captioned matter be and is hereby DENIED; and,

IT IS FURTHER ORDERED that all of the terms and conditions set forth in the Order issued March 15, 2005 shall remain in full force and effect; and,

IT IS FURTHER ORDERED that Restriction No. 2 of the Order issued March 15, 2005 shall be amended to include the provision that a copy of the revised site plan shall be forwarded to the Office of Planning for review and approval prior to the issuance of any permits.

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

WJW:bjs


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

CASE NAME 3734 BAY DRNE
CASE NUMBER 06-1515PH
DATE 10/20/85

CASE NAME 3734 BAY DRNE
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[illegible]

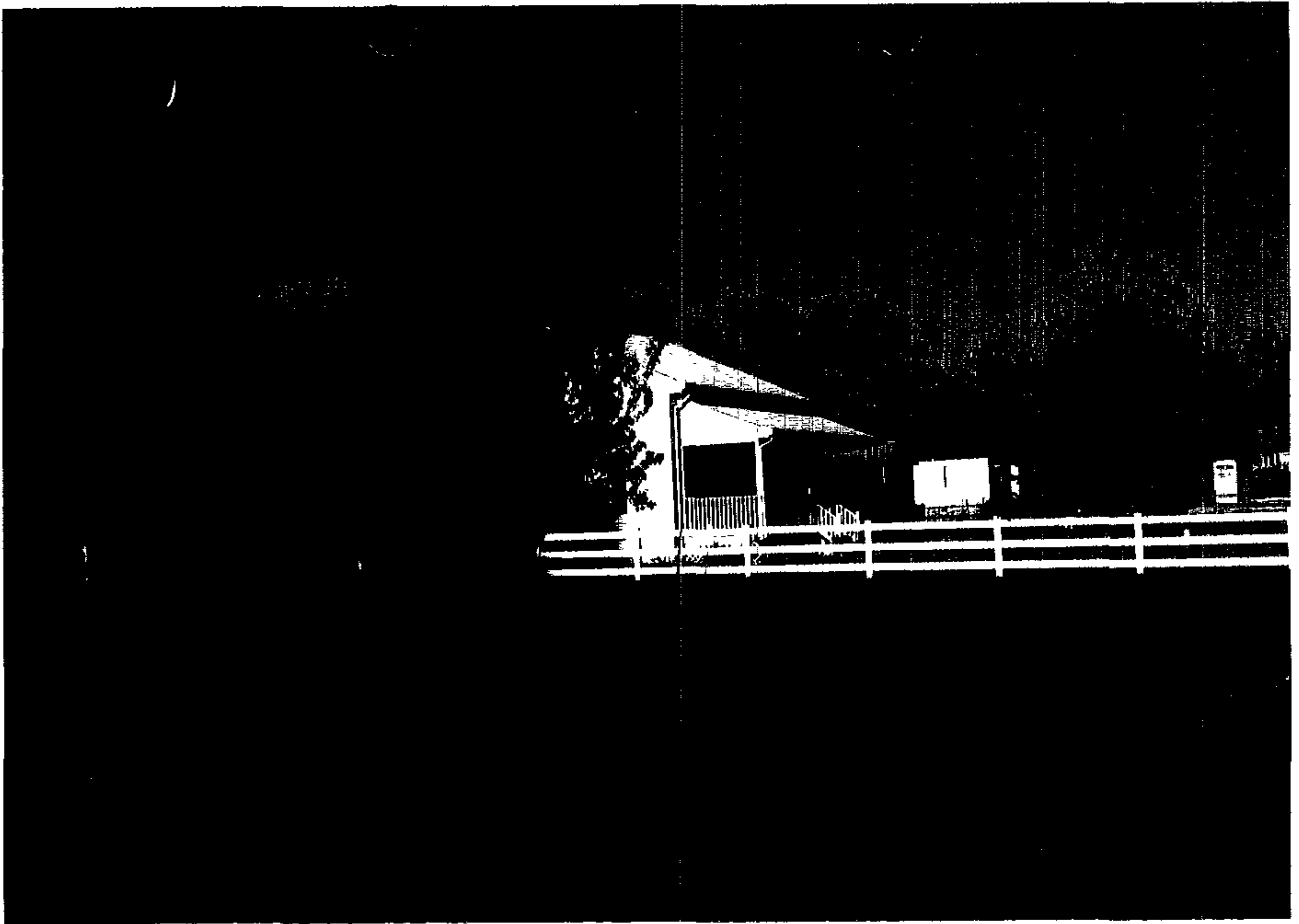
Case No.:

06-151-SPH

~~County Exhibits~~

STEM / BORDENSKI

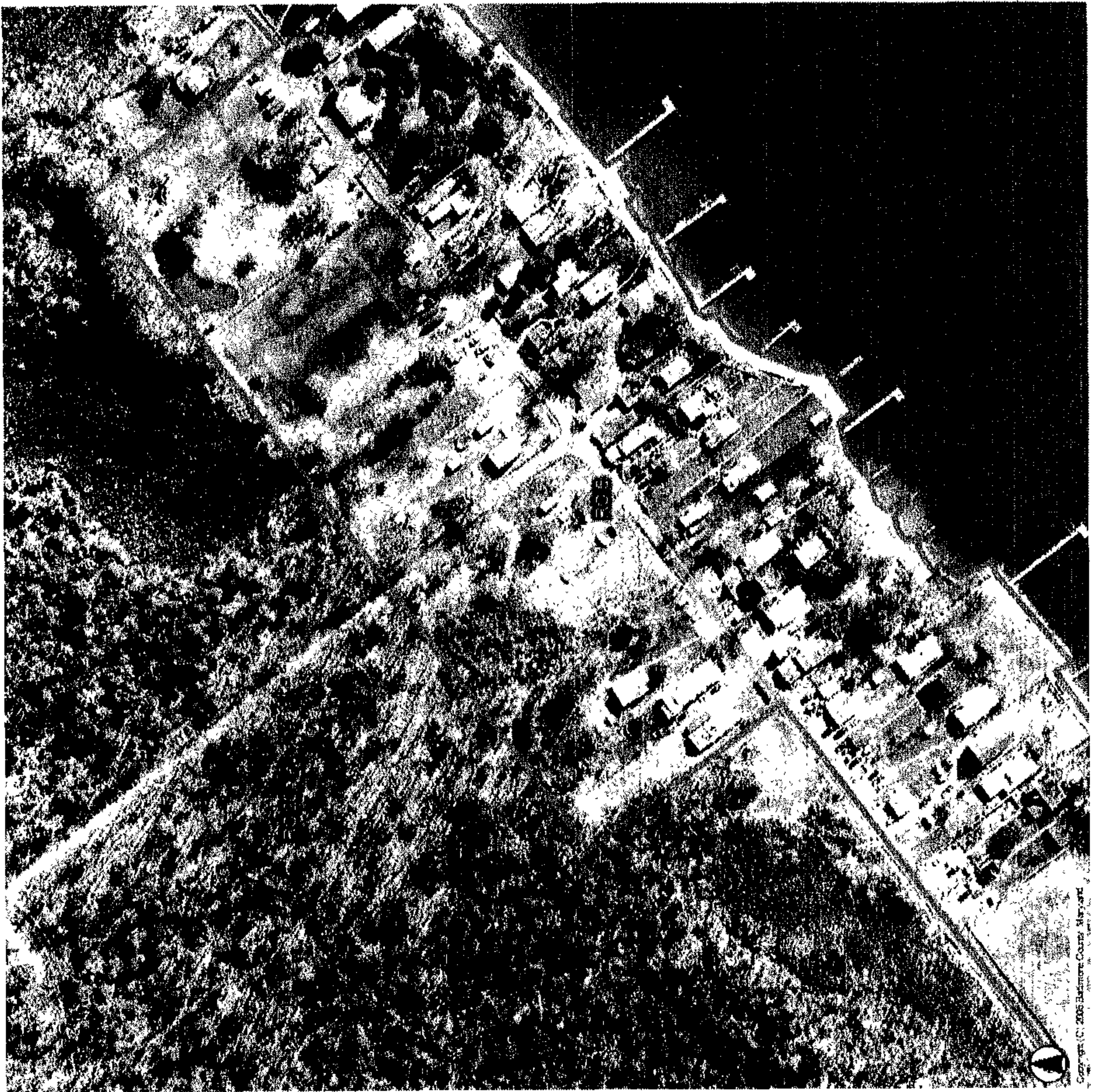
No. 1	NEW SITE PLAN
No. 2	^{PRIOR CASE} SITE PLAN - Case # 05-226 ^{SP} ₁₄
No. 3	Photo of Home being Constructed ACROSS WYE ROAD
No. 4	AERIAL MAP
No. 5	
No. 6	
No. 7	
No. 8	
No. 9	
No. 10	
No. 11	
No. 12	



PETITIONER'S

EXHIBIT NO.

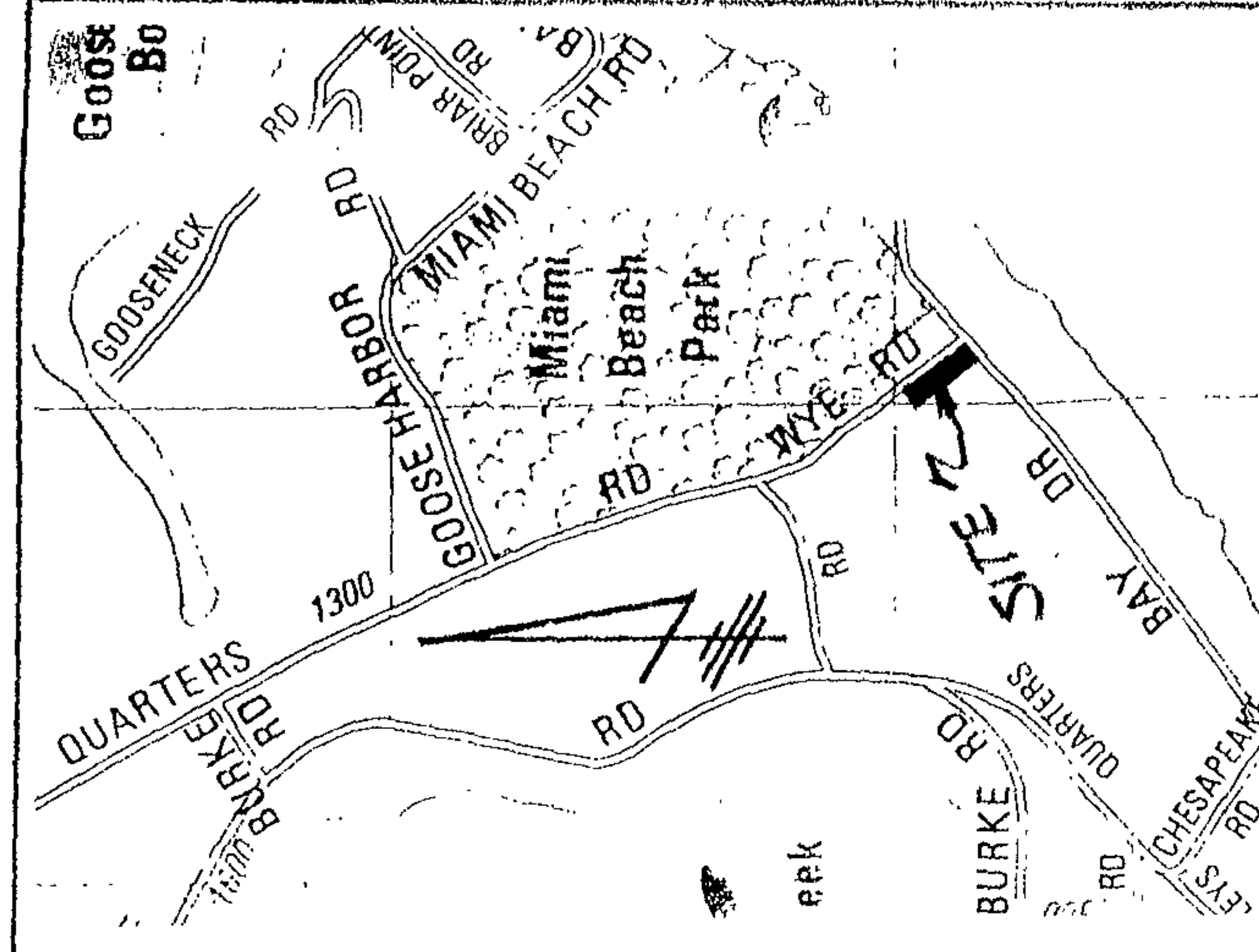
3



MAP 098C1 & 098C2

#151

Exhibit
4
Pattern of Dev.

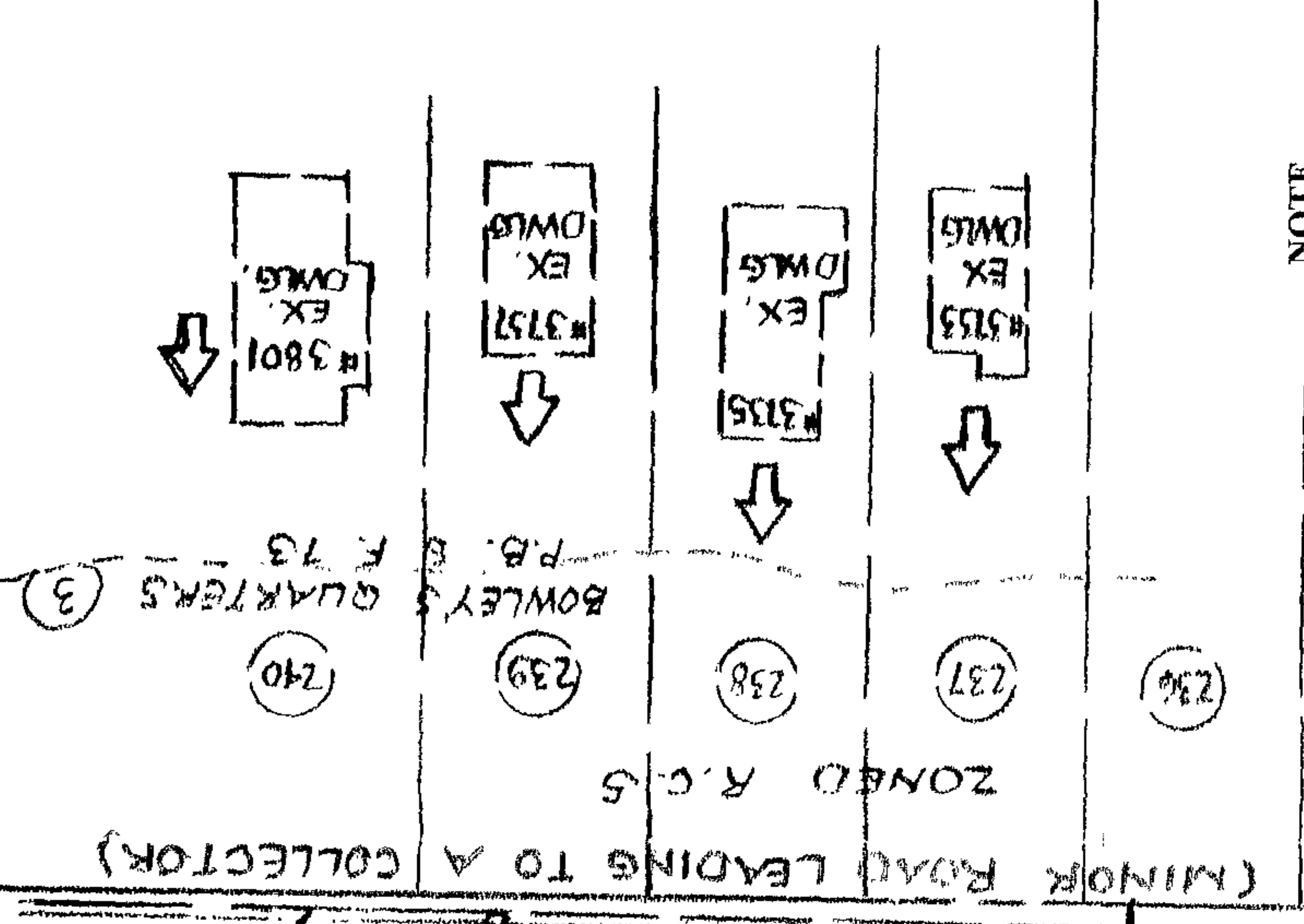


VICINITY MAP
SCALE: 1" = 1000'

#151

EXHIBIT NO. 1
PETITIONER'S

PLAT TO ACCOMPANY PETITION FOR
SPECIAL HEARING
3734 BAY DRIVE
ELECTION DISTRICT 15,C5
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 50 FEET JULY 1, 2005
SHEET 1 OF 2



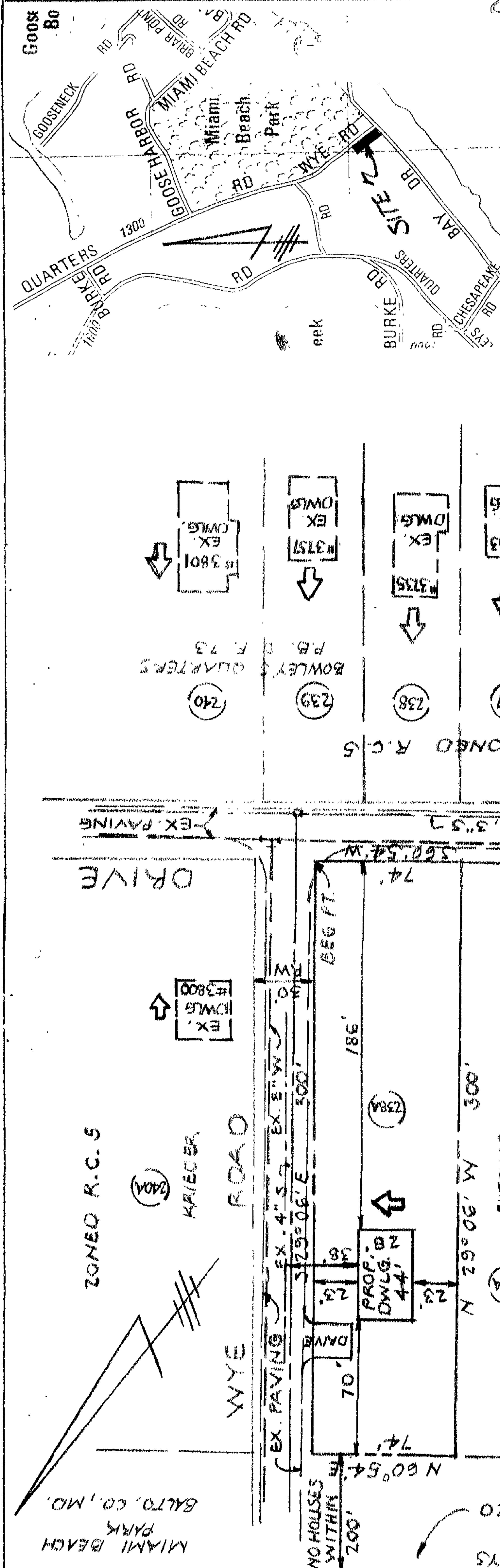
NOTE
IN ACCORDANCE WITH THE R.C.5 PERFORMANCE STANDARDS,
INFORMATION CONCERNING THIS CASE WILL BE FORWARDED
TO THE OFFICE OF PLANNING

NOTES

1. ZONING.....R.C.5 (MAP NO. 098C1 & 098C2)
2. AREA = 24,200 S.F. = 0.510 ACRE +/-
3. BUILDING AREA = 1,435 S.F.
BUILDING COVERAGE = 5.9 %
4. MAXIMUM BUILDING HEIGHT = 35 FEET
5. SITE IS LOCATED IN THE CBCA AND FLOOD ZONE A
6. NO HISTORIC BUILDINGS EXIST
7. ZONING HISTORY - CASE NO.05-226-SPH
SEE ORDER SHEET 2
8. PUBLIC WATER AND SEWER EXISTING
9. THERE HAS BEEN NO ADJACENT OWNERSHIP WITH
ADJOINING LOTS OR PROPERTIES FOR THE LAST 6 YEARS

OWNER
THOMAS V. STEM, SR.
BERNADETTE LISA STEM
3735 BAY DRIVE
BALTIMORE, MARYLAND 21220
410-344-1178

MERRITT DEVELOPMENT
CONSULTANTS INC.
2416 E. JOPPS ROAD
BALTIMORE MD 21234



OWNER
THOMAS V. STEM, SR.
BERNADETTE LISA STEM
3735 BAY DRIVE
BALTIMORE, MARYLAND 21220
410-344-1178

CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MD 21040
(410) 679-8719

SPECIAL HEARING TO PERMIT A FRONT SETBACK OF 38 FEET FROM THE CENTER OF A ROAD OR STREET OTHER THAN A COLLECTOR ROAD OR A ROAD OR STREET LEADING TO A COLLECTOR IN LIEU OF THE REQUIRED 75 FEET, TO PERMIT A REAR SETBACK OF 23 FEET IN LIEU OF THE REQUIRED 50 FEET, TO PERMIT A LOT SIZE OF 0.51 ACRE IN LIEU OF THE REQUIRED 1.5 ACRES AND TO CONFIRM THAT OVERALL DENSITY OF THE NEIGHBORHOOD IS NOT EFFECTED

STATE OF MARYLAND
GEORGEA TIZARD II
REGISTERED PROFESSIONAL
NO. 15430
JAN 15 2005

PLAT TO ACCOMPANY PETITION FOR
SPECIAL HEARING
1550 WYE ROAD
ELECTION DISTRICT 15,C5
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 50 FEET JANUARY 2, 2005

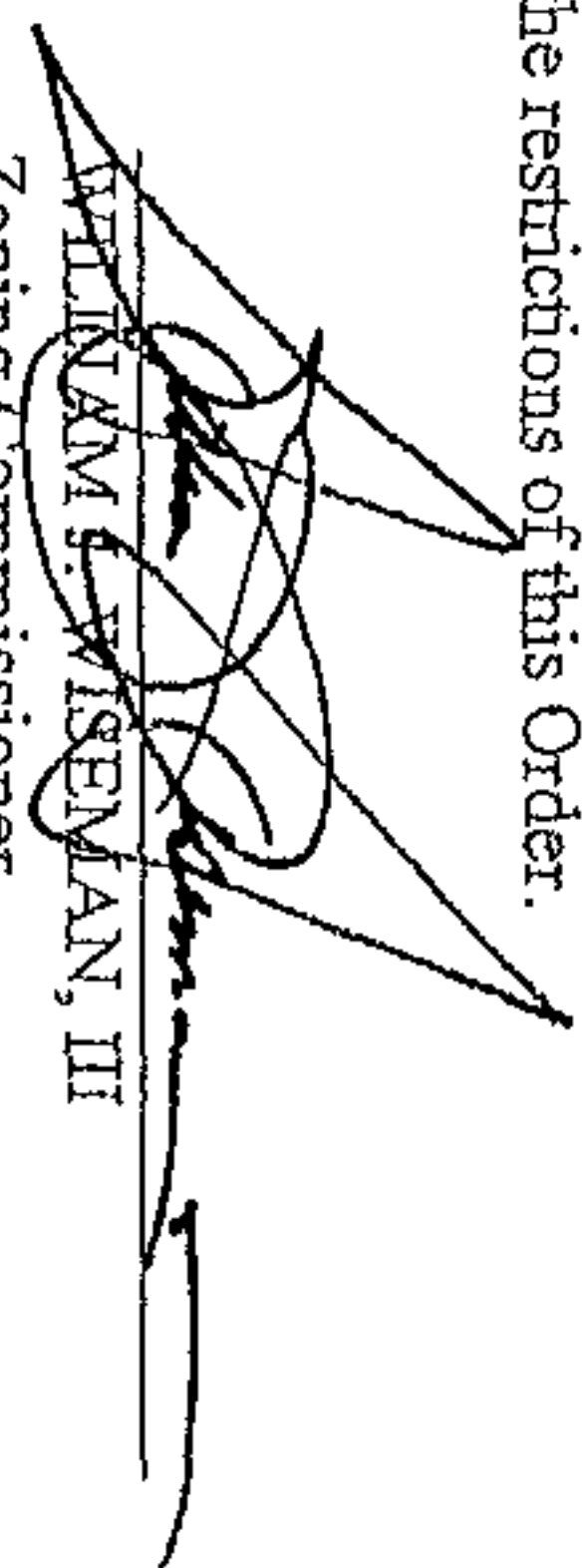
EXHIBIT 1

EXHIBIT NO.

ORDER FOR CASE NO. 05 - 226 - 5PH

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of March 2005 that the Petition for Special Hearing, as amended, seeking relief, pursuant to Section 1A04.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a proposed dwelling on the subject property with a front setback of 38 feet from the center of a road or street other than a collector road, or a road or street leading to a collector road (Wye Road), in lieu of the required 75 feet; to permit a rear yard setback of 23 feet in lieu of the required 50 feet; to permit a street centerline setback of 60 feet in lieu of the required 100 feet (Bay Drive); to permit a lot size of 0.51 acres in lieu of the required 1.5 acres; and confirmation that the overall density of the neighborhood will not be affected by the proposed development, be and is hereby GRANTED, subject, however, 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) Prior to the issuance of any permits, the Petitioners shall submit a revised site plan showing the new location of the dwelling and incorporating the modified relief granted herein to the Department of Permits and Development Management for inclusion in the case file.
- 3) Prior to the issuance of any permits, the Petitioners shall submit building elevation drawings of the proposed dwelling, including proposed building materials, color scheme, and architectural details, to the Office of Planning for review and approval to insure compatibility with existing houses in the area.
- 4) Compliance with the ZAC comments submitted by DEPRM and the Bureau of Development Plans Review relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations for the protection of water quality, streams, wetlands and floodplains. Copies of those comments have been attached hereto and are made a part hereof.
- 5) 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 A. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

PLAT TO ACCOMPANY PETITION FOR
SPECIAL HEARING
3734 BAY DRIVE
ELECTION DISTRICT 15,C5
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 50 FEET JULY 1, 2005
SHEET 2 OF 2