



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION


MCPB
Item No. 3
03-21-02

March 15, 2002

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Daniel K. Hardy, Supervisor *DKH*
Transportation Planning
County-Wide Planning Division

William Barron, Eastern County Team Leader 
Community-Based Planning Division
ER

FROM: Edward Axler, 301-495-4536 for the Park and Planning Department

SUBJECT: DPWT Docket No. AB-653
Abandonment of the Unimproved Right-of-Way of Winthrop Drive
Between Lot 8, Block 4 and Lot 7, Block 3, Old Salem Village
Silver Spring, Maryland

The area of the subject abandonment has utilities located within the right-of-way and, therefore, the abandonment is proceeding via the Montgomery County Department of Public Works and Transportation (DPWT).

RECOMMENDATION

Staff recommends approval of the subject abandonment with the following conditions:

1. The applicant should submit a complete record plat application consolidating the entire right-of-way of Winthrop Drive to be abandoned into a single lot with Lot 8, Block 4 to the west.
2. Coordinate with the utility representatives for necessary easements regarding the existing PEPCO pole and guide-wire and the north-south WSSC line within the abandonment area. The record plat should delineate all utility easements (e.g., PEPCO and WSSC) and other appropriate easements.

3. Coordinate with DPWT regarding the status of a two-foot-wide strip along the 60-foot southern property line shown in reservation on the 1941 record plat for Old Salem Village.

DISCUSSION

Winthrop Drive is functionally classified as a secondary residential street. The unimproved portion of Winthrop Drive is a 60-foot-wide right-of-way south of Piping Rock Drive between Lot 8, Block 4 and Lot 7, Block 3 as shown on Exhibit No. 1. DPWT Docket No. AB-653, describing the proposed abandonment, is included as Attachment No. 1.

Lots 8 and 9, Block 4 contains a single-family detached house on it where the applicant, Kevin Lucas lives with his mother. Mr. Lucas' mother owns both Lots 8 and 9, Block 4. Kevin Lucas owns Lot 7, Block 3 which is vacant.

Staff estimates a total area between Lot 8, Block 4 and Lot 7, Block 3 of 9,125.4 square feet (or 0.209 acres). On the 1941 record plat for Old Salem Village (Attachment No. 2), the 60-foot-wide right-of-way includes a two-foot reservation strip along the southeast property line. Even though the 60-foot by two-foot reservation strip is not shown on the 1948 record plat (Attachment No. 3), DPWT suggested that the applicant's abandonment not include this two-foot strip. DPWT's position is that a title search is needed first before abandonment of the two-foot reservation strip. If the 60-foot by 2-foot strip is not included in the abandonment, the total area of the subject abandonment is reduced to 9005.4 square feet (or 0.207 acres).

The improved or paved portion of Winthrop Drive runs for one block between Bishop Road (e.g., the next intersection to the north) and Piping Rock Drive. If the abandonment were approved, the right-of-way for Winthrop Drive would terminate at Piping Rock Drive rather than continuing to the southern property line of Old Salem Village.

Reason for the Abandonment

The applicant is proceeding with the abandonment of the unimproved portion of Winthrop Drive between Lot 8, Block 4 and Lot 7, Block 3 based on the Planning Board approval of Preliminary Plan No. 1-98027, Tucker Property (e.g., the adjacent subdivision to the south). On February 19, 1998, the Planning Board approved Preliminary Plan No. 1-98027 with a cul-de-sac from Bonifant Road (now Antietam Court) rather than constructing Winthrop Drive between Bonifant Road and Piping Rock Drive. The Planning Board voted for the cul-de-sac after considering the public testimony concerning the anticipated increase in cut-through traffic on Piping Rock Drive and Winthrop Drive between New Hampshire Avenue (MD 650) and Bonifant Road.

Refer to the letter from Kevin Lucas, the applicant, dated December 13, 2001, explaining the abandonment request, Attachment No. 4. Mr. Lucas' intention is to build a garage in the southeast corner of Lot 8, Block 4 without the setback requirements for the adjoining unimproved roadway.

Abandonment Process

All necessary requirements are being satisfied for DPWT to process this abandonment. The Planning Board's recommendation will be sent to DPWT for a public hearing which is scheduled on April 12, 2002, conducted by the Hearing Examiner. Following that hearing, the County Executive will make his recommendation to the Montgomery County Council for final action.

Montgomery County Code

Section 49-63 (e) of the Montgomery County Code identifies the criteria, which must be met for the County Council to abandon a right-of-way. In summary, the right-of-way to be abandoned must either not be needed for public use or the abandonment must be necessary for public health, safety, and welfare. Staff finds that the abandonment of the 9005.4-square-foot portion of Winthrop Drive is consistent with the County Code as it is not needed for public use.

Summary

The recommended abandonment is consistent with the Montgomery County Code. There are no outstanding community issues. Staff, therefore, recommends approval of the abandonment of the designated portion of Winthrop Drive.

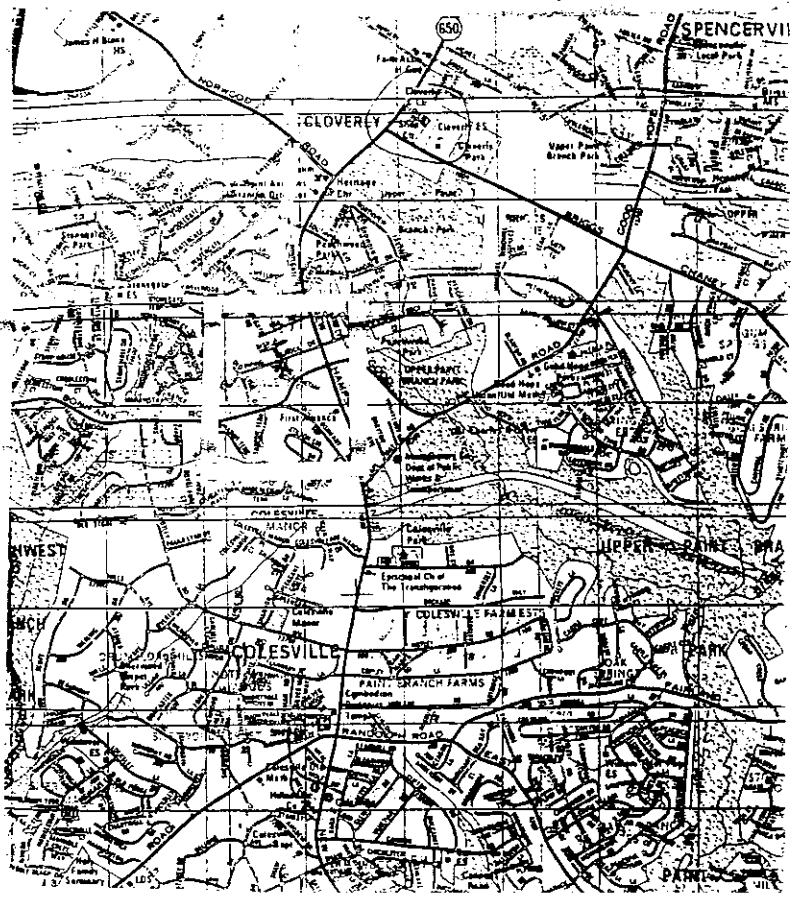
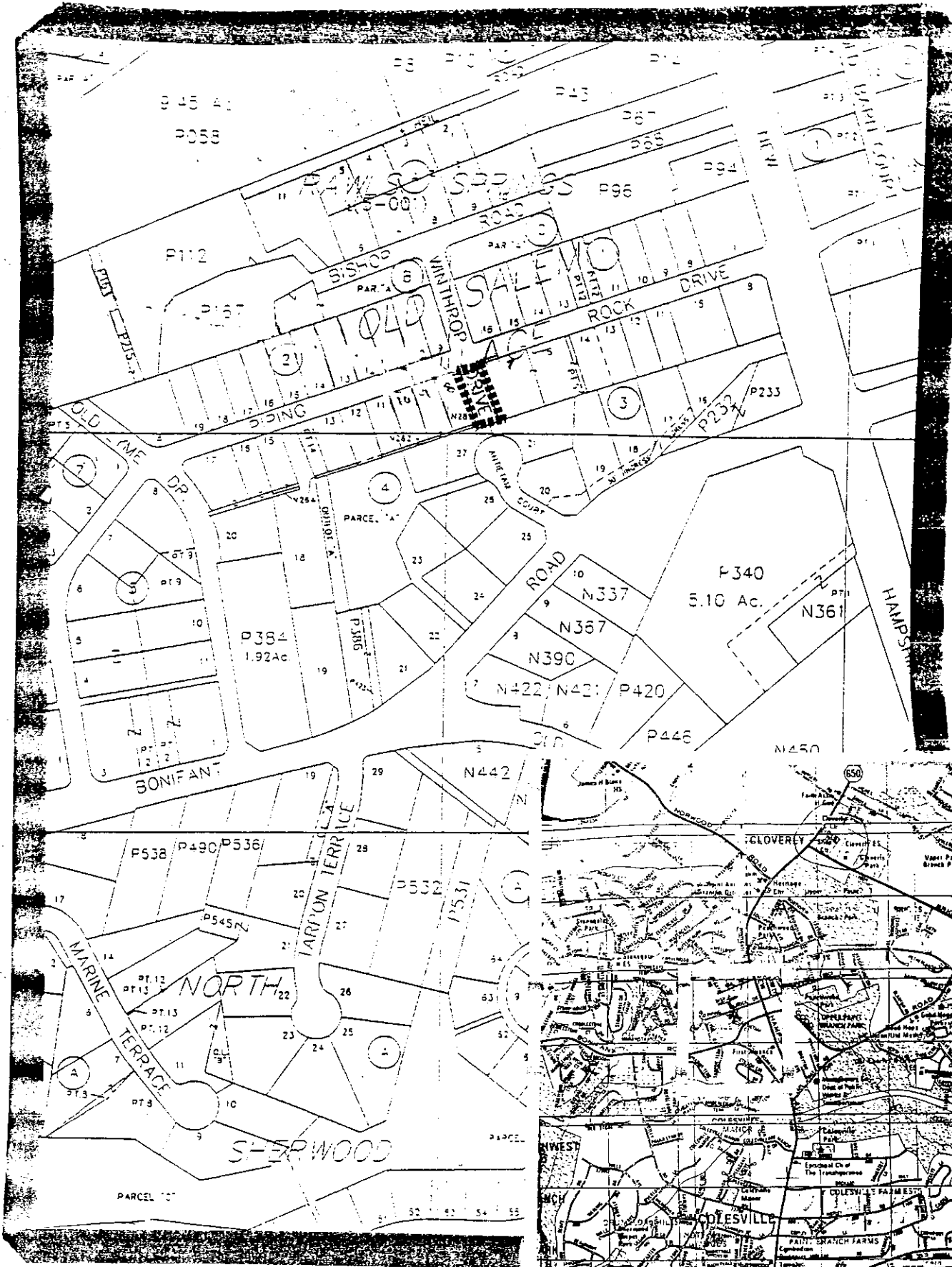
EA:cmd

Attachments

cc: Kevin Lucas

AB-653 Winthrop Drive - Memo to MCPB.doc

Exhibit 1



Attachment 1



DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Douglas M. Duncan
County Executive

Albert J. Genetti, Jr., P.E.
Director

January 24, 2002

RECEIVED
020152
FEB 01 2002

Mr. Arthur Holmes, Jr., Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

RE: AB653 – Proposed Abandonment of
Winthrop Drive
Bethesda, Maryland

Dear Mr. Holmes:

Enclosed for review by the Maryland National Capital Park and Planning Commission are Executive Order No. 12-02 describing the above-captioned abandonment proposal, location map, and one copy of petitioners' letter requesting the abandonment.

Please submit the Planning Board's recommendation to the Department of Public Works and Transportation by March 29, 2002, since the hearing date is scheduled for April 12, 2002.

Sincerely,

A handwritten signature in black ink that reads "Veena Gulhar".

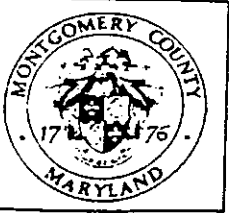
Veena Gulhar
Office Services Coordinator

VG:vg
AB653.doc

Enclosures



007



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject: AB 653: Abandonment of a Portion of Winthrop Drive Silver Spring, Maryland	Executive Order No. 12-02	Subject Suffix PAS
Originating Department Public Works and Transportation	Department Number AB 5-02	Effective Date 1/11/02

AB 653

ABANDONMENT OF A PORTION OF WINTHROP DRIVE

1. Pursuant to Section 49-62 of the Montgomery County Code 1994, the County Executive or his Designee shall conduct a Public Hearing

at 10:00 a.m. on April 12, 2002
101 Monroe Street, EOB Lobby Auditorium
Rockville, Maryland 20850

To consider a petition submitted by Kevin Lucas, to abandon a portion of Winthrop Drive, Silver Spring, Maryland, as more fully described on Exhibits, which are available for examination at the Office of the Montgomery County Department of Public Works and Transportation, Division of Engineering Services, Property Acquisition Section, 101 Monroe Street, 6th Floor, Rockville, Maryland 20850.

2. After the aforesaid Hearing, the Hearing Officer Shall report his findings and recommendations to the County Executive for further consideration as prescribed by the County Code.

Approved as to Form and Legality
Office of the County Attorney

APPROVED

By: *William J. Brennan*
Date: 1/7/2002

Scott W. Reilly
~~William M. Mooney, Jr.~~ *Scott W. Reilly*
Assistant Chief Administrative Officer

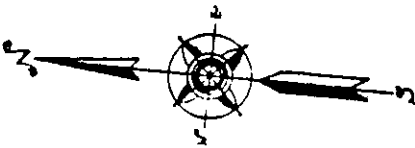
Distribution:
Department of Public Works and Transportation
Department of Finance

12

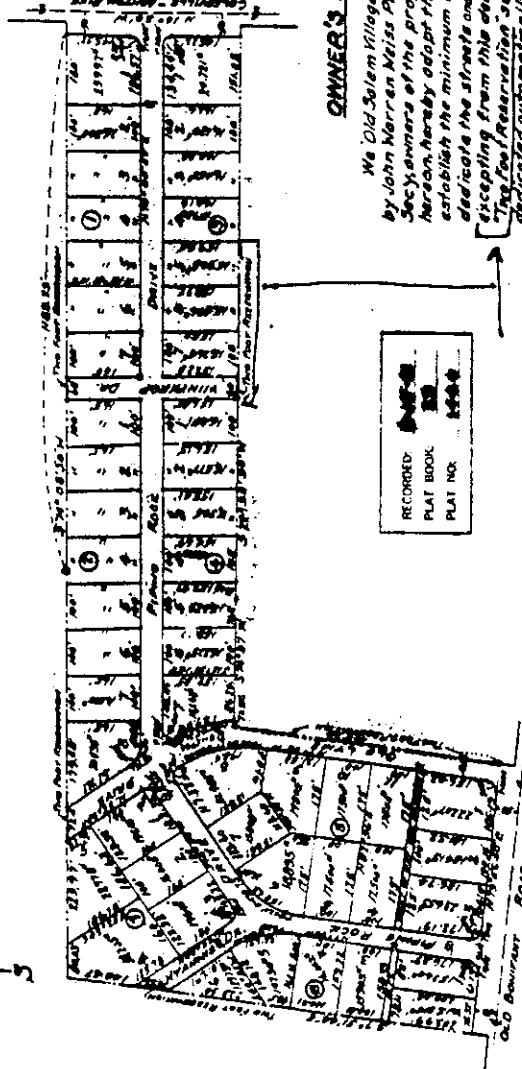
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1

OLD SALEM VILLAGE NORTH OF COLESVILLE MONTGOMERY COUNTY MARYLAND



AUGUST 1941
JOSEPH N. STARKET
CIVIL ENGINEER
SILVER SPRING MD.



RECORDED:
PLAT BOOK: 100
PLAT NO.: 1000

OWNER'S DEDICATION

We, Old Salem Village, Inc., a Maryland corporation
by John Warren Weiss, Pres. and Howard E. Hubert
Secy. owners of the property shown and described
herein hereby adopt this plan and described
establish the minimum building restriction lines and
dedicate the streets and the right-of-way to public use, however
[excepting from this dedication any lands designated
The fee reservation such lands to be deemed to be
dedicated automatically at such times as street
extensions adjacent thereto are dedicated in
adjoining property.

dated August 6, 1941 OLD SALEM VILLAGE INC.

Witnessed: *John Warren Weiss*
John Warren Weiss, Pres.

Witnessed: *Howard E. Hubert*
Howard E. Hubert, Secy.

Date: Aug 16, 1941

Joseph N. Starket
Joseph N. Starket, Civil Engineer

CITIZENS BLK & LOAN ASSN

George W. Smith
George W. Smith, Secy.

ENGINEERS CERTIFICATE

I hereby certify that the plan shown herein is
correct; that it is a subdivision of the land conveyed
by John Warren Weiss and wife to Old Salem Village, Inc.
by deed dated Aug. 3, 1941 and recorded among the
Land Records of Montgomery County, Maryland in
Liber of Folio and that stones marked thus *
and iron pipes marked thus + have been placed as
indicated and at all lot corners.

DATE: Aug 6, 41
Joseph N. Starket
Joseph N. Starket
CIVIL ENGINEER

APPROVED: *Joseph N. Starket*
Joseph N. Starket
CIVIL ENGINEER

MARYLAND RECORDS CONTROL FILE NO. 1549
Joseph N. Starket
Joseph N. Starket
CIVIL ENGINEER
M.N.C.R. RECORD FILE NO. 1549

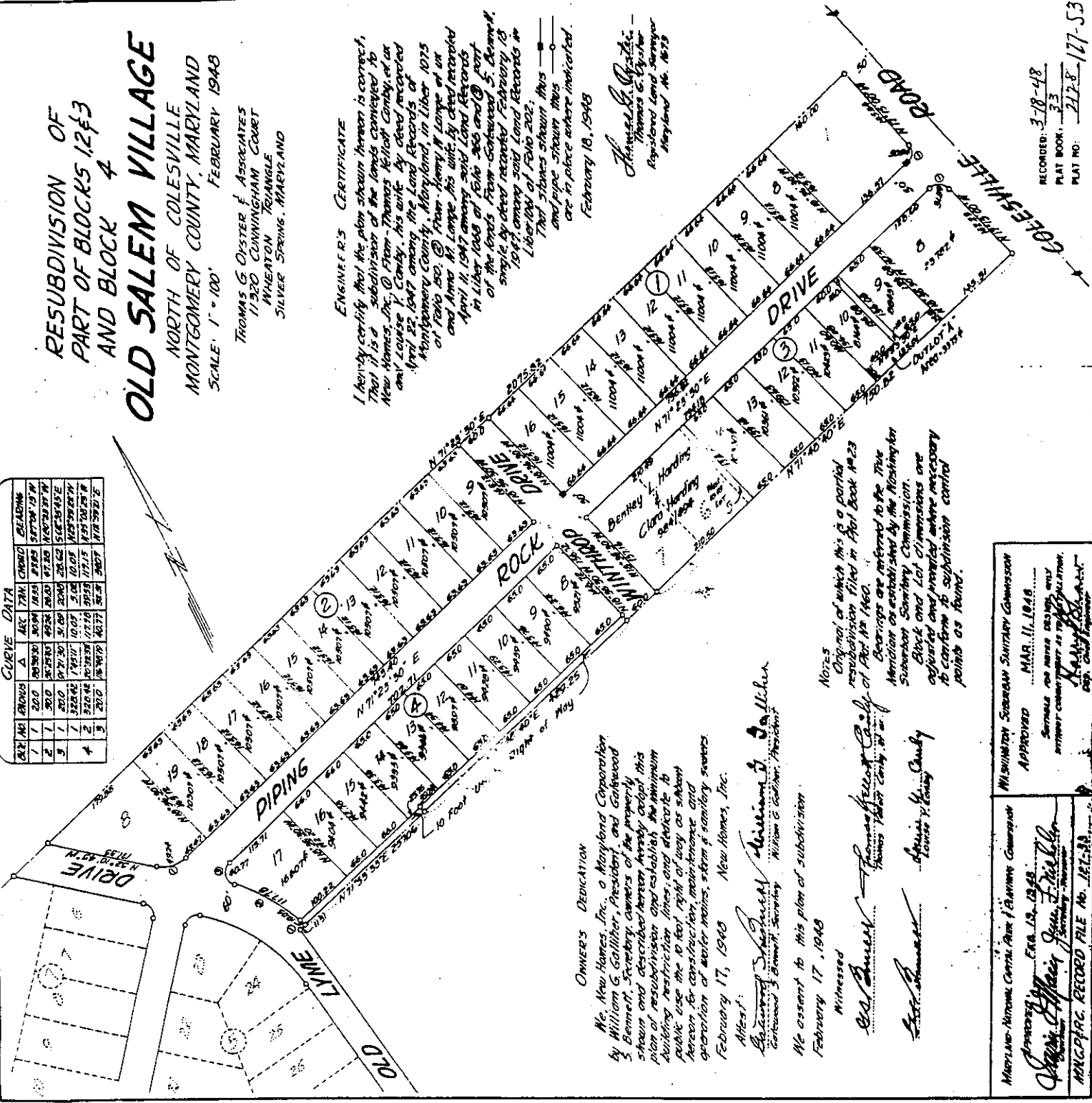
RESUBDIVISION OF
PART OF BLOCKS 1, 2 & 3
AND BLOCK 4
OLD SALEM VILLAGE
NORTH OF COLESVILLE
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 100'
FEBRUARY 1948

THOMAS G. OYSTER & ASSOCIATES
11320 CUNNINGHAM COURT
WHEATON TRIANGLE
SILVER SPRING, MARYLAND

ENGINEER'S CERTIFICATE
I hereby certify that the plan shown hereon is correct, that it is a subdivision of the lands conveyed to New Homes, Inc., of From-Thomas Hilltop Company, et al and Louise Y. Conley, his wife, by deed recorded April 22, 1947 among the Land Records of Montgomery County, Maryland, in Liber 1075 of 1940-50. That Harry M. Lange, et al and Anna M. Lange, his wife, by deed recorded April 11, 1947 among said Land Records in Liber 1068 of 1940-50 and 9 feet of the lands from-Gottward S. Bennett, single, by deed recorded February 18, 1947 among said Land Records in Liber 104 of 1940-20.
That names shown this and pipe shown this are in place as here indicated.
February 18, 1948

Thomas G. Oyster
Thomas G. Oyster
Registered Land Surveyor
Maryland No. 1873

ARC	CHORD	ANGLE	AREA	PERIMETER	CHORD	ANGLE	AREA	PERIMETER
1	200	90°	10000	628.318	1000	90°	10000	6283.18
2	1	90°	0.5	3.14159	100	90°	50	31.4159
3	1	90°	0.5	3.14159	100	90°	50	31.4159
4	1	90°	0.5	3.14159	100	90°	50	31.4159
5	1	90°	0.5	3.14159	100	90°	50	31.4159



OWNER'S DEDICATION
We, New Homes, Inc. of Maryland Corporation by William G. Gallher, President, and Gottward S. Bennett, Secretary, owners of the property shown and described herein hereby adopt this plan of subdivision and establish the minimum building restriction lines, and dedicate to public use the 10 foot right of way as shown hereon for construction, maintenance and operation of water mains, storm & sanitary sewers.
February 17, 1948
New Homes, Inc.

Witness:
Gottward S. Bennett, Secretary
William G. Gallher, President

We assent to this plan of subdivision
February 17, 1948
Witnessed

Thomas G. Oyster
Thomas G. Oyster
Registered Land Surveyor
Maryland No. 1873

Notes
Original of which this is a partial resubdivision filed in Plat Book 1423 of Plat No. 1460.
Bearings are referred to the True Meridian as established by the Washington Suburban Survey Commission.
Block and Lot dimensions are adjusted and prorated where necessary to conform to subdivision control points as found.

MARYLAND-NATIONAL CAPITAL AREA PLANNING COMMISSION
APPROVED FEB. 19, 1948
Thomas G. Oyster, Secretary
Maryland No. 1873

MONTGOMERY COUNTY PLANNING COMMISSION
APPROVED MAR. 11, 1948
S. Bennett, Secretary
Maryland No. 1873

MONTGOMERY COUNTY PLANNING COMMISSION
APPROVED FEB. 19, 1948
Thomas G. Oyster, Secretary
Maryland No. 1873

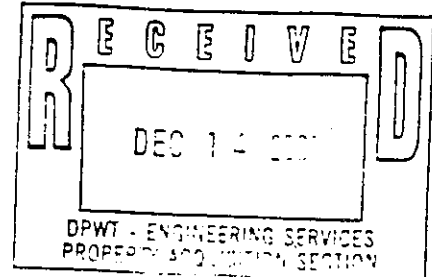
RECORDED: 378-48
PLAT BOOK: 33
PLAT NO.: 278-177-53

Attachment 4

Kevin Lucas
119 Piping Rock Drive
Silver Spring, MD 20905
301-384-9212

December 13, 2001

The Honorable Douglas Duncan
County Executive
Executive Office Building
101 Monroe Street
Rockville, Maryland 20850



RE: Application for Abandonment of a Portion of
Winthrop Drive, Silver Spring, MD

Dear Mr. Duncan:

My mother, Dorothy Lucas and I are seeking the abandonment of all the unimproved portion of Winthrop Drive south of Piping Rock Drive. This right-of-way (R-O-W) was dedicated to public use and described in Plat No. 1460 (enclosed). Our properties, 119 and 201 Piping Rock Drive are adjoining the subject R-O-W to the east and west. The original intent appeared to be the connection of Winthrop Drive to the south. However, in 1998, Plat No. 20819 (enclosed) was recorded, which shows a cul de sac, Antietam Court, being dedicated to public use. It is now apparent that Winthrop Drive will never be connected to this sub-division, and therefore, the subject portion of the road adjacent to our lots is no longer needed by the County. Please advise me if there is any additional information that is required to process this abandonment application. Thank-you for your attention to this matter.

- 1 I have enclosed a check for \$ 2,500.00 as the filling fee.
- 2 Plats No. 1460 and Plat No. 20819

Sincerely yours,

Kevin E. Lucas

cc: Gayle Libby Curtiss, Esq.
Property Acquisition Section

Kevin Lucas

