



IV.-E.

Agenda Item

County of Hanover

Board Meeting: February 25, 2015

Subject: Request for Approval of Roadway Use Permit and Agreement – Brian W. Gibson, Kiptopeake Way (Portion), Totopotomoy, Section II (**Ashland Magisterial District**)

**Summary of
Agenda Item:**

This is a request to authorize private access across a publicly owned, unmaintained stub road (portion of Kiptopeake Way) in Totopotomoy, Section II Subdivision. Totopotomoy, Section II, was recorded in 1971, but a portion of Kiptopeake Way, south of its intersection with Chotank Trail, was never accepted by VDOT into the state highway system for maintenance; therefore, the right-of-way is still dedicated to the County.

The applicant has applied for rezoning to RS(c), Single Family Residential District with conditions, to allow for the creation on one additional lot. Access to the new lot would be provided by this portion of Kiptopeake Way under consideration.

Staff supports the applicant's request for approval of a Roadway Use Permit and Agreement.

**County
Administrator's
Recommended
Board Motion:**

Motion for approval of the attached Roadway Use Permit and Agreement to use County right-of-way along Kiptopeake Way (portion) for private access in Totopotomoy, Section II Subdivision.

ROADWAY USE PERMIT AND AGREEMENT

THIS AGREEMENT is entered into 2/4, 2015, by BRIAN W. GIBSON (the "Owner") and HANOVER COUNTY, a political subdivision of the Commonwealth of Virginia (the "County").

WITNESSETH:

WHEREAS, Brian W. Gibson is the Owner of a certain parcel of land located in Hanover County, Virginia, described as GPIN 7797-56-1294; and

WHEREAS, Kiptopeake Way south of its intersection with Chotank Trail ("the Road Section") is shown on a certain subdivision plat of Totopotomoy, Section II, dated April 14, 1971 and prepared by Associated Engineers, recorded in the Hanover County Circuit Court Clerk's Office, has been improved but has not been accepted by the Virginia Department of Transportation; and

WHEREAS, the Hanover County Board of Supervisors at a meeting held _____, 2015, granted permission to the Owner, successors and assigns to use the Road Section for purposes of ingress and egress for a single-family residence; and

WHEREAS, the grant of permission was on the condition that the Owner, successors and assigns agree to indemnify the County from any and all liability and damages relating to or arising out of the use of the Road Section; and

WHEREAS, the Road Section is owned by Hanover County; and

WHEREAS, it is the desire of all of the parties to this agreement that the Road Section be maintained and kept in good repair; and

WHEREAS, the parties desire that this instrument be recorded in the Clerk's Office of the Circuit Court of Hanover County and that this agreement be binding upon the successors in interest and title, and/or assigns of the Owner and that the obligations contained in this Agreement run with the land benefitted.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the Owner, for themselves, their successors and assigns, agree that (i) the Owner shall indemnify, hold harmless, and defend the County, its officials, employees and agents from any and all claims for liability and damages related to or arising out of the use of the Road Section, including attorney's fees, court costs and other expenses, and that the County is not responsible or liable for that use, and (ii) that the Owner shall be responsible for maintaining the unimproved portion of the Road Section in a good, safe and high state of repair so as not to allow it to deteriorate from its present condition or be subject to accumulation of debris, ruts, holes, standing water, snow, ice, or other danger or obstruction, and that the Owner shall pay the expenses of such maintenance as long as there be such need. It is not the intention of the parties that the Owner shall have any obligation to improve the Road Section to State standards.

Notary Public

Approved as to form:

Dennis A. Walter
Deputy County Attorney



RECEIVED

JUL 29 1971

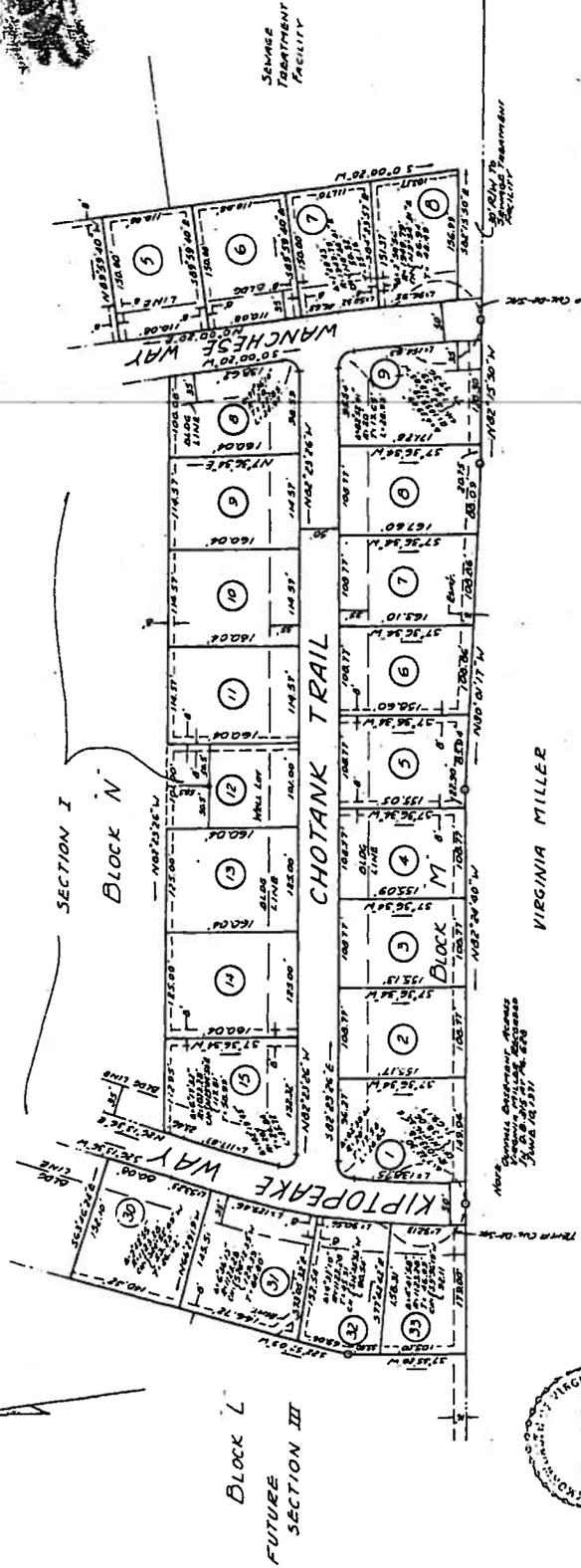
SOURCE OF TITLE

The Property Embraced Within This Subdivision Was Conveyed To Totopotomoy, Inc. A Virginia Corporation, By Deed Dated 27th Of May, 1968 And Recorded In Deed Book 278, Hanover County, Va. 1968 In The Circuit Court Clerks Office And Deed 12, A Deed Or Concession And Deeds To Parties Deed Recorded In Deed Book 274, Page 760.

SUBDIVISION CERTIFICATE

The Subdivision Or Land Shown On This Plat Designated As Totopotomoy Section 23 With The Precise Location And In Its Entirety In Deeds Or In The Conveyances Wherein It Is A Part, Within The Limits Of This Subdivision As Of The Width And Extent Shown On This Plat, Given Under Our Hand And Seal This 27th Day Of July, 1971.

Robert L. Downing Registrar
Robert L. Downing Secretary



APPROVED
HANOVER CO. PLANNING COMMISSION

7-29-71
DATE

TOTOPOTOMOY

SECTION II
CHECKED BY: [Signature]
April 14, 1971
SCALE: 1"=100'

Associated Engineers
Robert L. Downing
Certified Land Surveyor
Ashland, Virginia

STATE OF VIRGINIA
COUNTY OF HANOVER To Wit:
I, William Thomas Sweeney, Notary Public In And For The State Of Virginia, County Of Hanover, Do Hereby Certify That George E. W. Le, Pres. And S. D. Cary, Sec. Of Totopotomoy And Walter E. White, Jr. Sec. Of Build Mutual Leases, Hans Names Are Signed To The Aforesaid Plat, Bearing Date Of July 1, 1971 HAVE ACKNOWLEDGED THE SAME BEFORE ME IN MY OFFICE AS NOTARY PUBLIC, COUNTY AND STATE Aforesaid, Given Under My Hand And Seal This 5th Day Of July, 1971. My Commission Expires December 31, 1973.



ENGINEERS CERTIFICATE
To The Best Of My Knowledge And Belief All Of The Requirements As Set Forth In The Ordinance For Approving Plats Or Subdivisions For Recordation In Hanover County, Virginia Have Been Complied With.

Notes:
1. Easement
2. Water Supply
3. Current Water System
4. Sewer Disposal
5. Central Sewer System
6. Area Within This Subdivision: 11.9 acres
7. All Dimensions Are For Reference Purposes Only And Are Covered By Deeds Lines

RESUBDIVISION CERTIFICATE

THE RESUBDIVISION OF LAND SHOWN ON THIS PLAN, DESIGNATED AS "TOPOTOMOY" SECTION II, LOT 1, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS. THERE IS A MORTGAGE ON THIS PROPERTY THE RECORD OF THE STREETS AND EASEMENTS, WITHIN THE LIMITS OF THIS RESUBDIVISION IS OF THE WIDTH AND EXTENT SHOWN ON THIS PLAN. GIVEN UNDER OUR HANDS AND SEALS THIS 28th DAY OF JULY 1982

John F. Dwyer
Trustee
Carolyn E. Gallier
Donald W. Gallier

SOURCE OF TITLE

THE PROPERTY EMERGED WITHIN THIS RESUBDIVISION WAS CONVEYED TO DONALD W. AND CAROLYN E. GALLIER BY DEED DATED 4-7-72, AND RECORDED IN DEED BOOK 350, PAGE 488 ON 4-7-72, AND RECORDED DATED 4-9-72, AND RECORDED IN DEED BOOK 303, PAGE 48 ON 4-11-72, IN THE CIRCUIT COURT CLERK'S OFFICE HANOVER COUNTY, VIRGINIA.

STATE OF VIRGINIA

COUNTY OF HENRICO TO WIT:

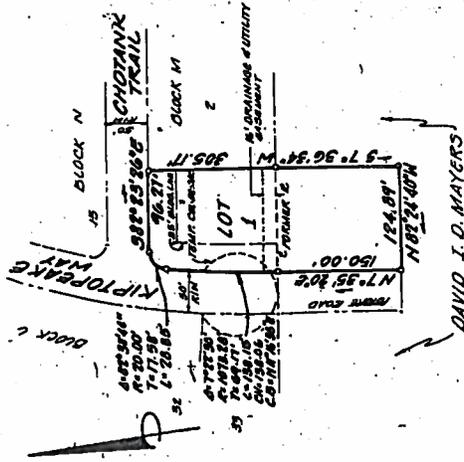
I, *David J. Hessler*, A NOTARY PUBLIC IN AND FOR THE STATE OF VIRGINIA, COUNTY OF HENRICO, DO HEREBY CERTIFY THAT THE OWNERS AND TRUSTEES HEREON BEARING DATE OF JULY 28, 1982, HAVE ACKNOWLEDGED THE SAME BEFORE IN MY COUNTY OF HENRICO AND STATE AFORESAID.

GIVEN UNDER MY HAND AND SEAL THIS 28th DAY OF JULY 1982.

MY COMMISSION EXPIRES *May 16, 1986*.

David J. Hessler
NOTARY PUBLIC

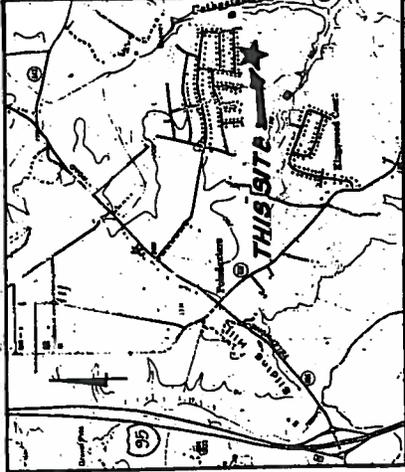
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F.L. 10 MS
2/13
ADMITTED TO RECORD
BOOK 5 PAGE 141



DAVID J. D. MAYERS

APPROVED

PLANNING OFFICE
HANOVER COUNTY
2/1/83



VICINITY MAP
SCALE: 1" = 2000'

ENGINEER'S CERTIFICATE

TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL OF THE REQUIREMENTS AS SET FORTH IN THE ORDINANCE FOR APPROVING PLANS OF RESUBDIVISIONS FOR RECREATION IN HANOVER COUNTY, VIRGINIA HAVE BEEN COMPLIED WITH.

William F. Gordon
WILLIAM F. GORDON, E.C.E.

JOHNSON & ANDERSON OF VIRGINIA, INC.
ARCHITECTS - ENGINEERS - PLANNERS
POST OFFICE BOX 88 ASHLAND, VIRGINIA 22805

RESUBDIVISION OF TOPOTOMOY SECTION II - BLOCK M LOT 1

magisterial dist. *CHICKERHOMINY*
Hanover County, Virginia
designed *D.C.B.* scale 1" = 100'
drawn *L.B.S.* checked *D.C.B.*
date *MAY 10 1982* sheet no. *1*



project no. *110301*
RECEIVED

OCT 02 2014

HANOVER COUNTY
PLANNING OFFICE