

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Road Commissioner

Chapter 17-2A
(1966)

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Road Commissioner

Chapter 17-2A
Series VI
(1966)

Subject: Regulations Relating to Use of State Road Rights of
Way and Areas Adjacent Thereto.

Section 1. General

- 1.01. Scope.--These regulations establish general rules per-
taining to the use of state road rights of way and adjacent areas.
- 1.02. Authority.--These rules and regulations are issued under
authority of West Virginia Code, Chapter 17, Articles 1, 2A, 4, 16,
22, and 23.
- 1.03. Effective Date.--These rules and regulations are pro-
mulgated on October 14, 1966, and become effective October 14, 1966.
- 1.04. Filing Date.--These rules and regulations were filed in
the Office of the Secretary of State on October 14, 1966.
- 1.05. Certification.--These rules and regulations are certi-
fied authentic by the State Road Commissioner by certification
number

Section 2. Definitions

2.01. Road; Public Road; Highway.--Within the meaning of these rules and regulations the words or terms "road", "public road", or "highway" shall be deemed to include, but shall not be limited to, the right of way, roadbed and all necessary culverts, sluices, drains, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the maintenance of travel, dispatch of freight and communication between individuals and communities; and such public road or highway shall be taken to include any road to which the public has access and which it is not denied the right to use, or any road or way leading from any other public road over the land of another person, and which shall have been established pursuant to law. (Reference, Chapter 17, Article 1, Section 3, Code.)

Section 3. Use of Right of Way; Permits

3.01. Purpose.--The purpose of these regulations is to establish rules governing and controlling the making of openings, placing of structures, laying of pipe and sewer lines, and the erection of poles and wires, in, upon, along, over, under and across state roads and highways, and the issuance of special permits

the traveling public or other highway users.

(d) Construction Plans Submitted with Application.--

All applications for permits covering such construction must be accompanied with a plan in sufficient detail that a complete structural analysis may be made by the Commissioner.

3.05. Underpass Structures.--All underpass structures, such as tunnels, coal mine haulways, airways, etc., constructed under state highways, must be constructed so as to properly support and otherwise protect the highway.

(a) Length.--All such structures constructed at or near the grade of an existing highway must be of sufficient length to conform to the existing width of the roadway or any existing proposed roadway construction or reconstruction plans.

(b) Pedestrians.--If necessary, such structures shall be provided with sidewalks to properly accommodate pedestrian traffic along the highway.

(c) Construction Plans Submitted with Application.--

All applications for permits covering such construction must be accompanied with a plan in sufficient detail that a complete structural analysis may be made by the Commissioner.

3.06. Subsurface Mining.--A permit must be obtained from the State Road Commissioner for all subsurface mining being carried on or to be carried on under any state highway.

(a) Conditions.--The individual or company doing the mining shall carry on the operation so as properly to protect the highway from damage, and in the event damage to the highway does occur, the individual or company doing the mining shall either restore the highway at his or its own expense in a manner satisfactory to the Commission or reimburse the Commission for the actual expense that may be incurred in restoring the highway.

(b) Maps.--All applications for permits covering subsurface mining shall be accompanied with a map showing the position of the coal seam or other mineral or minerals proposed to be mined, horizontally and

vertically with relation to the highway.

3.07. Seismic Surveys.--The State Road Commissioner may allow seismic surveys, for the location of oil or gas deposits, to be conducted on state roadways upon compliance with the following conditions.

(a) The work shall be performed when the ground is dry. Test holes shall be not larger than six (6) inches in diameter, and shall be drilled no closer than one-half (1/2) mile apart. Shot points shall be located at a safe distance from culverts, bridges and pavements, so as not to cause damage thereto. Shots shall not be in proximity to public or private buildings, and shall be so placed as to avoid disturbance to domestic water supplies. Upon completion of the work ditches shall be restored and shoulders reshaped to the satisfaction of the District Engineer. Drill holes shall be plugged with concrete at a depth

of thirty (30) inches below ground level.

3.08. Installations Under State Roads.--The State Road Commissioner may allow certain types of installations to be made under state roads if he determines that the public interest will not be harmed by such installation and provided that the construction of any such project meets with his approval. In such cases, the following general conditions must be satisfied.

(a) Oversize Encasement Required.--All carrier pipelines, power cables and other facilities (copper or steel tubing not larger than one and one-quarter [1-1/4] inches nominal diameter and cast iron sewer pipes excluded) crossing underneath state roads, excepting under municipal sections where not possible or practical, must be encased in a pipe or conduit of larger diameter for a length adequate to permit repair or replacement of the carrier pipe or facility without disturbing the traveled way, or a minimum of five (5) feet beyond the edge of the pavement. Under existing pavements the encasement must be jacked or bored, except where

unusual conditions are encountered, which said conditions shall be stipulated and set forth in each permit application.

(b) Storm and Sanitary Sewer Lines and Water Lines.---

All storm and sanitary sewer lines and all water lines crossing under state highways shall be installed at a minimum depth of thirty (30) inches below the pavement surface and eighteen (18) inches below the ditch line. A minimum diameter of fifteen (15) inches shall be required for storm sewers carrying surface drainage. No sanitary sewer line shall be connected to a storm sewer or be placed inside any culvert or other highway drainage structure, and no sewage or other obnoxious drainage matter shall be run into any storm sewer or highway drainage ditch. Construction methods and requirements shall in addition be in accordance with and conform to those specified and set forth in Section 3.11 of this Series.

(c) Certificate of Approval for Sanitary Sewer Lines.---

A certificate of approval from the Department of Health

of the State of West Virginia shall be required for the construction, major extension, or replacement of any sanitary sewer line or water line facilities running parallel to or crossing under or over a state highway.

(d) Private Purpose Drainpipes.--Drain pipes placed underneath private approaches to carry state road ditch drainage shall be at least fifteen inches (15") in diameter. The required diameter and type shall be at the option of the State Road Commissioner after considering all circumstances prevailing at the time and location of any particular project.

(e) Obstructions.--No pipe, wire, conduit, sewer, fence or other facility shall be placed inside any pipe or box culvert, nor shall such objects be placed across the ends of any pipe or culvert in such manner that the free flow of drainage water is obstructed.

(f) Boring and Tunneling Operations.--Where boring and tunnelling operations are conducted, the shoulders of the state road shall not be disturbed for a minimum distance

of five (5) feet from either edge of the pavement.

3.09. Pipe Lines Carrying Fuel Gas, Gasoline and Other Combustibles.--All pipe lines carrying fuel gas, gasoline and other combustibles, and crossing under any state road shall be installed at the following minimum depths:

<u>Diameter of Carrier Pipe</u>	<u>Minimum depth below ditch line</u>	<u>Minimum depth below road surface</u>
4" and less	18"	30"
Greater than 4" and including 22"	30"	36"
Greater than 22"	42"	48"

(a) Measurement Directions.--All distances shall be measured from the bottom of the standard ditch line and surface of existing road to top of conduit (encasement) pipe.

(b) Maximum Size Pipe For Combustibles.--No pipe lines of diameter greater than 22" carrying combustibles will be approved for installation parallel with state roads.

(c) Plans; Cross Sections Required.--The applica-

tion for such crossing shall show accurate cross sections for the full width of the right of way. Relative elevations shall be shown for road surface and top of conduit pipe.

(d) Warning Markers.--All pipe line crossings shall be identified by permanent warning markers, one marker on each side and plainly visible from the road.

3.10. Disconnection of Pipelines and Power Lines During Road Construction.--When so requested by the State Road Commissioner in connection with construction or maintenance work on state roads or on nearby roads, any person or company transporting any combustible substance or electric power under or over any portion of a state roadway, shall shut off and remove, at their own expense, all combustible agents from pipe lines and all connections from pipe lines and electric current from wires, including both main and service pipe lines and wires.

3.11. Installations by Open Trench or Bury Parallel with Highways.--All installations by open trench or bury parallel with any state highways shall be constructed in accordance with the

following requirements:

(a) The side of the trench or point of bury nearest the pavement shall be as close to the outer right of way line as feasible; and, in no event, shall it be closer than five (5) feet from pavement edge.

(b) Material excavated or plowed from the trench or furrow shall not be stockpiled or stored nearer than two (2) feet from pavement edge, nor shall said material be stockpiled or stored in a highway ditch line.

(c) Backfill material shall be handtamped to the spring line of pipe being buried along state highways, and then backfilled in layers not exceeding four (4) inches in depth, and thoroughly compacted by means of an approved tamper.

(d) Stabilizing material and/or sod removed from the roadway shall be replaced as directed by the State Road Commissioner.

3.12. Railway Grade Crossings.--All railway grade crossings

over any state highway shall be constructed in accordance with the following requirements:

(a) Conformity to Grade.--All railway grade crossings must be constructed so as to conform to the grade of the highway involved. If necessary, in order to obtain proper conforming grades and alignment, the railway company shall be required at its own expense to relocate and reconstruct in accordance with existing standards the section of the road affected.

(b) Spur Tracks.--Spur tracks shall not be super-elevated across the highway.

(c) High Speed Tracks; Avoiding Super-Elevation.--High speed tracks shall be so located as to cross the highway on a track tangent or slight curve in order to eliminate track super-elevation or cause minimum track super-elevation.

(d) Crossing at Right Angles.--All tracks shall cross the highway at as nearly right angle as feasible.

(e) Rail Elevation.--The top of rail elevation shall

conform to highway surface elevation; or, if not feasible, easy highway approach grades shall be provided. After track is placed, the top of rail elevation shall not be altered by the railway company, except by written authority of the State Road Commissioner.

(f) Pavement on Crossings.--The type of crossing pavement shall be concrete or other semi-permanent material when so specified by the State Road Commissioner.

(g) Maintenance of Crossings.--The railway company roadbed and crossing pavement shall be maintained by the railway company in a condition acceptable to the State Road Commissioner.

(h) Warning Devices.--Minimum standard warning devices, or better, shall be installed and maintained by the railway company.

3.13. Power, Telegraph and Telephone Transmission Lines.--
The installation, erection or construction of power, telegraph

and telephone transmission lines upon, over, under or across any state road shall be in accordance with the following regulations:

(a) Small scale maps showing the desired location of the lines with reference to the road and crossovers, if any, shall accompany the application. If deemed necessary, the Commissioner may require a map showing the line to be constructed, in sufficient detail so as to include the offsets from the poles to the center of the right of way.

(b) Where practicable, all poles shall be located not more than two feet inside the road right of way. In special instances, if deemed necessary, the location of the line shall be gone over on the ground by a representative of the applicant and the District Engineer and the location of each pole fixed.

(c) No poles, stubs for guys, or anchors shall be located in such a manner as to interfere with the ordinary maintenance activities of the State Road Commission or its contractors.

(d) Where pole and stub are located on opposite sides of the roadway, the horizontal clearance between stub and pole shall be the width of right of way less four feet, and where the right of way width is forty feet, the horizontal clearance shall be not less than thirty-six feet.

(e) In all construction details not specifically covered herein, the most recent requirements of the National Electrical Safety Code shall govern.

(f) The issuance of a permit under these or any other regulations to any applicant therefor, shall not impose upon the State, the State Road Commission or State Road Commissioner, any responsibility or liability for damages which may be incurred by the applicant by reason of the location of the pole lines within the right of way limits of the state road, whether such damages may be the result of injury to the line caused by passage of State Road Commission equipment thereunder or otherwise.

3.14. Television Wires.--The installation, erection or

construction of television wires or lines upon, over, under or across any state road shall be in accordance with the regulations of Section 3.13, which are applicable and also to the following conditions:

(a) Individual television lead-in wires, upon which no voltage is carried, or if booster is used, low voltage only, shall not be placed above existing power transmission or supply lines and shall not be attached to trees.

(b) Community television service wires shall not be placed above existing power transmission or supply lines and shall not be attached to trees. The voltage shall be stated on the application.

3.15. Utilities Proposed for Installation on Bridges.--

Applications for the authority to install utility facilities on bridges will not be approved if other means of crossing are feasible, such as, placing pipe lines in stream beds and supporting wires on independent poles or towers. As a general rule applications for the installation of pipe lines carrying

combustibles on existing bridges or new bridges will not be approved.

(a) On Existing Bridges.--Applications for the placement of pipe lines or power, telegraph, telephone or television wires or installations of any nature on, above, underneath or adjacent to existing bridges shall be accompanied by complete description and plans including weight per lineal foot of each such line and details of proposed method of attachment or placement on the bridge.

(1) As a general rule, drilling of concrete or steel will not be approved.

(2) All installations shall be placed below the elevation of the bridge floor and located as close to the centerline of the bridge or roadway or sidewalk as feasible.

(3) Trenching in the vicinity of piers and abutments shall be held a sufficient distance from footers and piling to insure against reduction of lateral support or undermining.

(4) Applications involving reduction of existing waterway area will not be approved.

(b) New Bridges.--Applications for the placement of utility lines or the installation of other facilities on, above, underneath or adjacent to new bridges will not be approved, except in accordance with the following conditions:

(1) Prior to completion of plans and specifications by the State Road Commissioner for proposed new bridges and other drainage structures, the applicant shall submit to the State Road Commissioner complete plans and specifications of the proposed installation, together with the weight per lineal foot and detail drawings for each such proposed utility line.

(2) The applicant shall bear all costs in connection with incorporating plans and specifications for the proposed installation into the overall plans and specifications for the structure by the State Road Commission.

(3) In the event said plans and specifications for the proposed installation are approved, the applicant shall bear construction costs resulting directly or indirectly from the inclusion of the installation in the construction of the bridge or other drainage structure.

(4) The burden of learning about proposed plans and new construction by the State Road Commission shall rest upon the applicant. Preliminary information will be made available to utility companies and other interested parties upon request made to the Road Commission or its District Offices.

(5) Failure of applicant to comply with any of the above requirements shall be sufficient cause for disapproval of application.

Section 4. Rules for Issuance of Permits for Making Openings, Placing Structures, Laying Pipe and Sewer Lines, and Erecting Poles and Wires, In, Upon, Along, Over, Under and Across State Roads

4.01. General.--These regulations are promulgated pursuant to the authority and provisions of Chapter 17, Article 16, Section 6, Code.

4.02. General Regulations for Issuance of Such Permits.--

(a) Form of Application.--All applications for a permit to make openings, place structures, lay pipe or sewer lines, or erect poles and wires, in, upon, along, over, under or across state roads, shall be submitted on standard permit forms of the State Road Commission. The nature of the work to be performed shall be described in detail in the body of the application. A plan or a plot must be attached to the original and all copies of the application, showing in detail the location of the proposed work with reference to the centerline of the highway and the highway right of way limits. If the application calls for an overhead structure or subsurface work, a section view must also be shown on the plan or plot.

(b) Approval of Application.--Applicants for permits

shall file four copies of such application with the District Engineer in whose territory the proposed crossing, construction or installation is to be made. Before any work can be started, the application must be approved by the District Engineer, the Director of the Maintenance Division, and the State Road Commissioner. If an interstate highway is involved, the plans and prints defining the proposed crossing must also be approved by the Division Engineer of the Bureau of Public Roads.

(c) Emergencies.--In case of emergency situations, such as broken water lines, gas lines, and electric lines which must be repaired immediately, the work may be done under written permission from the District Engineer in lieu of a permit. In all such cases, a confirming permit shall be prepared and processed in the regular manner. Such confirming permit shall contain complete information concerning the matter, together with sufficient justification for the issuance of an emergency permit.

(d) Signature Required.--Applications shall be signed by the applicant or his authorized representative or if made by a firm or corporation by a duly authorized official.

(e) Applicant Must First Seek Private Right of Way.--Applications by utilities for installation or construction of pipe lines, power, telephone or television service wires, or similar lines, running parallel to the highway and on the right of way of a state highway will not be considered until satisfactory proof is submitted that every feasible means has been exhausted to secure a private right of way.

(f) Sanitary Sewage and Water Systems.--All applications for installation of sanitary sewage and water systems shall be accompanied by a certificate of approval issued by the Department of Health of the State of West Virginia.

(g) Certificate of Convenience and Necessity; Public Service Commission Approval.--All applications shall

contain a statement as to whether or not a certificate of convenience and necessity is required for the proposed work. If the proposed work carries construction into a town, city or territory not already served, a certificate of approval from the Public Service Commission shall be filed with the application.

(h) Security.--The applicant shall, if requested, deposit with the State Road Commissioner a certified check in an amount designated by the District Engineer to cover any damage the State or State Road Commission may sustain by reason of the granting of the permit, including any expense incurred by the State or State Road Commission in restoring said highway to its original condition.

(i) Bond.--At the option of the Commissioner or his duly authorized agent, the applicant shall execute a bond in the amount designated by the District Engineer, with surety satisfactory to the Commissioner or his duly authorized agent, conditioned upon the proper

repair of any and all damages that may result to the state road by reason of the work authorized by the permit at any time within five years from the date of the beginning of said work, and to cover all inspection costs incurred by the State Road Commission.

(j) Completion Date.--The application shall state the date the proposed installation of work is to be completed.

4.03. General Conditions Applicable to Openings in or Structures on Public Roads by Permit.--

(a) All permits are subject to all regulations now or hereinafter adopted by the State Road Commissioner.

(b) The work shall be done under the supervision and to the satisfaction of the State Road Commissioner.

(c) The applicant shall notify the County Maintenance Superintendent in writing at least one day in advance of the date work will begin. Failure to comply with this rule will be cause for cancellation of the permit.

(d) The entire expense of replacing the highway in as good condition as before the work was done shall be paid by the persons to whom the permit was given, or by whom the work was done.

(e) The applicant or the person by whom the work was done shall repair in a manner satisfactory to the State Road Commissioner, or his duly authorized agent, all damage done to state roads by reason of the work authorized by the permit, and all other damage that may result therefrom, or, in the discretion of the Commissioner, or his authorized agent, such work may be done by the State Road Commission or its authorized agent, and the entire cost thereof shall be paid by the applicant or the person by whom the work was done under the permit.

(f) The person, firm or corporation to whom a permit is issued and the person by whom the work is done under a permit shall agree to save harmless the Commissioner, and any and all officers, agents, and employees of the State Road Commission, or the

Commissioner, from any damages to persons or property arising or resulting from work authorized or done under the permit.

(g) All permits granted shall be subject to the removal of the installation by the permittee at no cost to the State Road Commission, when required for the improvement of the road.

(h) No permit shall be granted for any purpose to any person, firm or corporation to disturb the paved surface of a state road paved with brick, concrete, sheet asphalt, bituminous concrete or bituminous penetration macadam, unless it is not reasonably possible to bore or jack through or tunnel thereunder because stone or some other hard substance renders it impractical to bore or tunnel.

(i) No permit shall be assigned or transferred without the written consent of the State Road Commissioner.

(j) The traveling public shall be protected at all times during the progress of the work. All excavations shall be barricaded during the day and marked by lighted red lanterns or torches from sunset to sunrise. During the hours of darkness the full pavement width shall be maintained clean and free of all obstructions, and in a safe condition for traffic. During daylight hours, if any part of the pavement is necessarily occupied by equipment or other obstructions, the applicant shall furnish all proper warning signs, and as many flagmen as may be deemed necessary by the State Road Commissioner to adequately direct traffic.

(k) The State Road Commissioner reserves the right at any time to revoke or annul any permit in the event the applicant or the person by whom the work is being done thereunder fails to comply with the terms and conditions under which it is granted.

Section 5. Removal of Obstructions From Roadway

5.01. Procedure For Effecting Removal of Obstructions.---The

procedure for effecting the removal of any obstruction, as the same is defined in Chapter 17, Article 16, Section 1, Code, from the right of way limits of any state highway, shall be as follows:

(a) Notice.--The County Maintenance Superintendent shall notify the owner or the person responsible for the obstruction that he or she is violating the law in placing, or causing to be placed, the obstruction within the highway right of way limits, and that immediate steps must be taken not only to remove the obstruction, but also to make any necessary repairs resulting from the existence of the obstruction.

(b) Additional Notice.--In the event of failure or undue delay on the part of the owner or the person responsible to remove immediately the obstruction, the County Maintenance Superintendent shall notify the District Engineer of the circumstances relating thereto. Thereupon the District Engineer shall notify the responsible party by letter to remove the obstruction. If the obstruction is not removed

within ten days, the Commissioner, or his duly authorized representative, shall then cause a written notice to be served upon the owner or person responsible for the obstruction in the manner provided by law for service of notice or process, notifying such owner or responsible person to remove said obstruction within 10 days from the date of the service of the notice.

(Penalty for non-compliance, removal by the State Road Commission and assessment and collection of costs therefor are governed by statute. See Chapter 17, Article 16, Sections 3, 4, 5, Code.)

Section 6. Rules and Regulations Governing Access to State Highways

6.01. Intent.--These rules and regulations implement the authority of the Commissioner, as provided by Chapter 17, Article 4, Sections 47-53, Code, to specify standards for the location, design and construction of access facilities to state highways and the authority and duty of the Commissioner to issue regulations concerning access to and from state highways from and to real property used or to be used for commercial, industrial or

mercantile purposes or from and to real property that is subdivided into lots in order to achieve the following purposes:

- (a) To provide for maximum safety of persons traveling upon, entering or leaving state highways;
- (b) To provide for efficient and rapid movement of traffic upon state highways;
- (c) To permit proper maintenance, repair and drainage of state highways; and
- (d) To facilitate appropriate public use of state highways.

These rules and regulations also supplement the authority of the Commissioner to control access to state highways pursuant to the provisions of Chapter 17, Article 2-A, Section 12, Code.

6.02. Definitions of Words Used in these Rules and Regulations.

6.02.1. Access Point Plan.--A map showing the proposed access point or points to and from a state highway from and to an existing or proposed commercial, industrial or mercantile establishment, including the salient features described in Section 6 hereof.

6.02.2. Highway.--Any road, public road or highway including the right of way, roadbed and all necessary culverts, sluices, drains, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the maintenance of travel, dispatch of freight and communication between individuals and communities; and such public road or highway shall be taken to include any road to which the public has access and which it is not denied the right to use, or any road or way leading from any other public road over the land of one or more persons to the land of another person, and which shall have been established pursuant to law.

6.02.3. Lot.--Any identified area of land one acre or less in size.

6.02.4. Parcel.--Any identified area of land owned by a person or owned by a combination of persons jointly or in common; or more than one identified area of land where such areas are contiguous and the owners act in concert in relation to such land.

6.02.5. State Highway.--Any highway under the supervision of the State Road Commissioner.

6.02.6. Subdivider.--Any person who owns land which has

been or is to be transformed into a subdivision.

6.02.7. Subdividing.--The dividing, laying out or separating at one time of five or more lots from or within a parcel of land or a successive dividing, laying out or separating of lots out of a parcel resulting in the creation of five or more lots within the parcel within a five-year period.

6.02.8. Person.---Any individual, corporation, society or association.

6.02.9. Subdivision.--Any parcel divided, laid out or separated into five or more lots at one time, or the successive dividing, laying out or separating of lots resulting in the creation of five or more lots within a parcel within a five-year period. Also, a parcel divided into tracts of land larger than one acre in size when thus divided with knowledge or reason to know that such tracts will be subsequently divided or separated into a total of five or more lots.

Lots which were created prior to June 8, 1963, are not subject to these rules and regulations, but such lots are counted in determining when subdividing occurs and a subdivision results

within the meaning of these rules and regulations; in any such subdivision, the lots created on and after June 8, 1963, are subject to these rules and regulations.

6.02.10. Subdivision Plan.--A map of the subdivision showing the lots therein and the other salient features described in Section 6.04 hereof.

6.03. Requirements Relating to Points of Access to State Highways from Subdivided Lands if any Part thereof Abuts on a State Highway.

6.03.1. Subdivision Plan.--A subdivision plan shall be submitted to the Commissioner for review when one or more points of access are proposed from and to a state highway to and from a subdivision of land which abuts in whole or in part on such highway. If such subdivision plan is not submitted, or even if the plan is submitted to the Commissioner but he makes timely objection to it which the subdivider does not correct, the Commissioner may:

- (a) post signs upon the adjacent highway right of way stating that the subdivision is not approved and

that access to and from lots therein from and to the highway is subject to control by the Commissioner, and

(b) designate reasonable access to and from the subdivision as a whole and prohibit any other access to and from the highway.

Any access thus prohibited may be removed, blocked, barricaded, or closed by the Commissioner.

If the Commissioner approves a plan which contains incorrect information, he may revoke his approval of the plan and take action as set forth in parts (a) and (b) of this subsection.

6.03.2. Access From Each Lot Prohibited.--A subdivision shall be laid out so that individual lots or parcels of land therein do not require direct vehicular access to any state highway.

(a) The subdivider shall provide an internal street network to serve the individual lots or parcels so that a minimum number of access points from the subdivision to any state highway will be necessary.

(b) In determining the appropriate location and

number of access points to the state highway, the Commissioner shall consider not only the particular subdivision plan before him, but also the present and reasonably foreseeable future access needs of adjacent lots and parcels of land, in order to obtain the best possible integration and coordination of all access to state highways.

6.03.3. Pattern of Access Plan; Location.--The Commissioner will require a desirable pattern and location of access from any state highway to a subdivision.

(a) In order to provide for maximum safety of persons traveling upon, entering or leaving the state highway, an access point will be permitted only where there will be a safe stopping distance from the access point determined on the basis of the posted speed limit for the area of the access point, or if no speed limit is posted, then on the basis of the reasonable and prudent speed for such area.

(b) In order to provide for efficient and rapid movement of traffic upon the state highway, the Com-

missioner may require that access points thereto be spaced the maximum possible distance apart consistent with providing reasonable access to the subdivision from the highway. The Commissioner may require a subdivider to locate an access point where it will form a crossroad with an existing, proposed, or contemplated access point.

(c) If existing streets and roads provide reasonable access from any state highway to the subdivision and they can be connected feasibly to an internal street network for the subdivision, no direct vehicular access from the subdivision to the highway will be permitted.

(d) Where feasible, the Commissioner may require a subdivider to provide frontage roads, acceleration and deceleration lanes, or a satisfactory alternative, so as to alleviate the highway congestion or traffic hazards that otherwise might develop at or near the intersection of the proposed subdivision access and the state highway.

(e) If a frontage road is feasible, the Commissioner

may require that it be set back from the present highway a sufficient distance to provide for maximum safety of persons traveling upon, entering, or leaving the highway.

6.03.4. Drainage.--The subdivision plan shall include provisions for adequate drainage in order to protect the existing highway drainage system from adverse effects. Where drain pipe is required the minimum diameter shall be no less than fifteen (15) inches, and the minimum length shall be no less than twenty (20) feet.

6.03.5. Time for Submission of Subdivision Plan and Starting Work.--As far as possible in advance of the start of any construction work on a subdivision of land any part of which abuts upon a state highway and at least six weeks prior thereto, the subdivider shall submit to the office of the District Engineer of the State Road Commission for the district in which the property is located a subdivision plan which includes, as a minimum, the information specified in Section 6.04 of these rules and regulations. Moreover, construction work shall not be commenced until one of the following conditions is satisfied:

- (a) The owner or owners of the affected property

receive notice from the Commissioner that the subdivision plan is approved.

(b) The owner or owners of the affected property have received no notice from the Commissioner regarding the approval, disapproval or suggested modification of the subdivision plan within six weeks following the date of its submission. (The owner or owners relying on this condition must have positive proof of the date the plan was submitted to the office of the appropriate District Engineer.)

(c) The owner or owners of the affected property receive permission to proceed with construction from a court of competent jurisdiction, subject to any conditions or restrictions specified by the court order.

The reason for delaying the start of construction work on such a subdivision until one of the conditions specified in this section is satisfied is to protect the subdivider from sustaining unexpected financial burdens. Such expenditures could occur if the subdivider were obliged to relocate partially or fully completed buildings or

other facilities to satisfy recommended changes in the subdivision plan made by the Commissioner under these rules and regulations subsequent to the time construction had begun.

6.03.6. Failure to Comply; Consequences.--If construction is begun prior to one of these conditions being satisfied, the consequences mentioned and described in Section 6.03.1(a) and 6.03.1(b) hereof may follow.

6.04. Particulars as to Subdivision Plan.

6.04.1. Information To Be Contained.--The subdivision plan (scale not to be less than 200 feet = 1 inch and preferably 100 feet = 1 inch) shall show the approximate distances and relationships, where applicable, of the following:

- (a) The name, if any, of the subdivision and its location.
- (b) The names and addresses of all owners of the subdivision.
- (c) The names of the persons who surveyed the subdivision, including the date of the survey.

- (d) A north point.
- (e) All property lines of the subdivision and of individual lots or tracts therein.
- (f) The geographic relationship to the subdivision of any lands which abut on a state highway and which are contiguous to the subdivision, indicating the owners of these lands and stating what interest, direct or indirect, if any, the subdivider has in these lands.
- (g) All existing points of access to any state highway from the lands described in Section 6.04.1(f) hereof.
- (h) The location, width, grade, base type and thickness, surface type and thickness of the surfacing material, together with drainage facilities, of each present and proposed point of access from any state highway to the subdivision, identifying each as being a private road, public road, or other type of entrance and indicating whether it is an existing or proposed access point.

[The "Standard Designs for Entrances to Highways," prepared by the Planning and Traffic Division (now Traffic Engineering Division) of the State Road Commission, dated October, 1959, should be consulted in this connection.]

(i) The primary use or uses of each existing or proposed access point from the state highway to the subdivision (e.g., agriculture, commercial, industrial, residential, or any combination of these), indicating the extent to which each is used or will probably be used for each purpose.

(j) The distances to the nearest highway or street intersection with the state highway on either side of, as well as opposite to, each existing or proposed access point to the subdivision.

(k) The physical appurtenances to be included on the subdivision map are divided into two categories:

I. Within the subdivision show:

1. Existing and proposed utility lines and

their connection points.

2. Existing and proposed internal street network.

3. All existing and proposed streets which extend, or may be extended, beyond the subdivision.

4. Topography, including all existing buildings.

5. The existing and proposed drainage system.

6. Any ponds, lakes, rivers, runs, creeks, or other watercourses.

II. For a distance of three hundred (300) feet on every side of the subdivision show:

1. Topography, including all existing building.

2. All existing streets which extend beyond the subdivision and their intersections with any state highway or existing street bordering the adjacent property.

3. Any ponds, lakes, rivers, runs, creeks,
or other watercourses.

(l) Any other pertinent information the Commissioner requests, in a particular instance, in order to determine the reasonableness of the number and of the location of all access points to the state highway from the subdivision.

(m) With a plan for any proposed subdivision lying within a zoned area, it must be certified by a duly authorized official of the appropriate zoning commission or body, that the proposed land use is in compliance with all zoning regulations in force and effect.

6.05. Requirements Relating to New Points of Access to Highways From Commercial, Industrial or Mercantile Establishments.

6.05.1. Review of Access Plan By Commissioner.--An access point plan shall be submitted to the Commissioner for review when either of the following conditions prevails:

(a) The owner or owners of the affected property wish to obtain access from a state highway to a commercial,

industrial or mercantile establishment that is newly constructed or to be constructed, whether such access will be directly to the property on which such establishment is or will be located or will be to such property over the property of another person or other persons.

(b) The owner or owners of the affected property wish to change an access location or add one or more new points of access from a state highway to a commercial, industrial or mercantile establishment.

6.05.2. Failure to Submit Plan; Objection By Commissioner.--

If such access point plan is not submitted, or even if the plan is submitted to the Commissioner, but he makes timely objection to it which the owner or owners of the affected property do not correct, the new or changed access point or points to the state highway from the commercial, industrial or mercantile establishment will be deemed unauthorized, and they may be blocked, removed, barricaded or closed by the Commissioner.

If the Commissioner approves a plan which contains incorrect information, he may revoke his approval of the plan and may take

such action against the new or changed access point or points as described in this section.

6.05.3. No Unnecessary Access Points.--Any commercial, industrial or mercantile establishment to be constructed shall be laid out so that a minimum number of direct vehicular access points to any state highway will be necessary; any existing commercial, industrial or mercantile establishment shall be provided no more direct vehicular access to any state highway than is necessary to reasonably accommodate customers and suppliers.

(a) No new point of direct vehicular access shall be permitted between any state highway and individual lots or parcels devoted to or to be devoted to commercial, industrial or mercantile purposes without first complying with these regulations and rules.

(b) In determining the number and location of access points to the state highway, the Commissioner will consider not only the particular access point plan before him, but also the present and possible future access needs of adjacent lots and parcels of land,

in order to obtain the best possible integration and coordination of all access to state highways.

6.05.4. Pattern and Location of Access Points.--The Commissioner will require a desirable pattern and location of access points from any state highway to any commercial, industrial or mercantile establishment.

(a) In order to provide for maximum safety of persons traveling upon, entering or leaving the state highway, an access point will be permitted only where there will be a safe stopping distance from the access point determined on the basis of the posted speed limit for the area of the access point, or if no speed limit is posted, then on the basis of the reasonable and prudent speed for such area.

(b) In order to provide for efficient and rapid movement of traffic upon the state highway, the Commissioner may require that access points thereto be spaced the maximum possible distance apart consistent with providing reasonable access to the commercial, industrial or mercantile establishment from the highway. The Commissioner may require the owner or owners of the affected com-

mercial, industrial or mercantile property to locate an access point where it will form a crossroad with an existing or proposed access point.

(c) If existing streets and roads provide reasonable ingress to and egress from any state highway and they can be used as suitable access to the commercial, industrial or mercantile establishment, no direct vehicular access to the state highway from the property on which such establishment is or will be located will be permitted.

(d) Where feasible, the Commissioner may require the owner or owners of the commercial, industrial or mercantile property to provide frontage roads, acceleration and deceleration lanes, or a satisfactory alternative, so as to alleviate highway congestion or traffic hazards that otherwise might develop at or near the intersection of the proposed access point or points and the state highway.

(e) If a frontage road is feasible, the Commissioner may require that it be set back from the present

highway a sufficient distance to provide for maximum safety of persons traveling upon, entering or leaving the highway.

6.05.5. Drainage.--The access point plan shall include provisions for adequate drainage in order to protect the existing highway drainage system from adverse effects.

6.05.6. Time For Submission of Access Point Plan and Starting Work.--As far as possible in advance of the start of any construction work on any new commercial, industrial or mercantile establishment that may need new or changed direct vehicular access to a state highway and at least six weeks prior thereto, the owner or owners of the establishment shall submit to the office of the District Engineer of the State Road Commission for the district in which the property is located an access point plan which includes, as a minimum, the information specified in Section 6.06 of these rules and regulations. Where the owner or owners of an existing commercial, industrial or mercantile establishment wish to change the location of access or add one or more new points of access from a state highway to such an establishment, the access point plan shall be submitted to the aforementioned office as soon as possible and at

least six weeks prior to the start of construction on the access point or points.

Moreover, construction work on such a new commercial, industrial or mercantile establishment or on the new or changed point or points of access from a state highway to such an existing establishment, as appropriate to what is stated above, shall not be commenced until one of the following conditions is satisfied:

(a) The owner or owners of the affected property receive notice from the Commissioner that the access point plan is approved.

(b) The owner or owners of the affected property have received no notice from the Commissioner regarding the approval, disapproval, or suggested modification of the access point plan within six weeks following the date of its submission. (The owner or owners relying on this condition must have positive proof of the date the plan was submitted to the office of the appropriate District Engineer.)

(c) The owner or owners of the affected property

receive permission to proceed with construction from a court of competent jurisdiction, subject to any conditions or restrictions specified by the court order.

The reason for delaying the start of construction work on such a commercial, industrial or mercantile establishment until one of the conditions specified in this section is satisfied is to protect the owner or owners of the affected property from sustaining unexpected financial burdens. Such expenditures could occur if the owner or owners were obliged to relocate partially or fully completed buildings or other facilities to satisfy recommended changes in the access point plan made by the Commissioner under these rules and regulations subsequent to the time construction had begun.

6.05.7. Starting Construction Before Satisfying Conditions; Consequences.--If construction is begun prior to one of these conditions being satisfied, the consequences mentioned and described in Section 6.05.2 hereof may follow.

6.06. Particulars as to Access Point Plan.

6.06.1. Information To Be Contained.--The access point plan (scale not to be less than 200 feet = 1 inch and preferably 100

feet = 1 inch) shall show the approximate distances and relations, where applicable, of the following:

(a) The name and location of the commercial, industrial or mercantile establishment.

(b) The names and addresses of all owners of the commercial, industrial or mercantile establishment.

(c) Whether the proposed access is to a commercial, industrial or mercantile establishment or combination thereof, and the nature of or type of business to be conducted thereat.

(d) A survey of the commercial, industrial or mercantile establishment, including all property lines.

(e) The date of the survey.

(f) The names of the persons who surveyed the affected property.

(g) A north point.

(h) The geographic relationship to the commercial,

industrial or mercantile establishment of any lands which abut on a state highway and which are contiguous to the land on which the establishment is located, indicating the owners of these lands and stating what interest, direct or indirect, if any, the owner or owners of the commercial, industrial or mercantile establishment have in these lands.

(i) All existing points of access to any state highway from the lands described in Section 6.06.1(h) hereof.

(j) The location, width, grade, base type and thickness, surface type and thickness of the surfacing material, together with drainage facilities, of each present and proposed point of access from any state highway to the commercial, industrial or mercantile establishment, identifying each as being a private road, public road or other type of entrance and indicating whether it is an existing or proposed access point. [The "Standard Designs for Entrances to Highways," prepared by the Planning and Traffic

Division (now Traffic Engineering Division) of the State Road Commission, dated October, 1959, should be consulted in this connection.]

(k) The primary use or uses of each existing or proposed access point from the state highway to the commercial, industrial or mercantile establishment (e.g., agriculture, commercial, industrial, residential, or any combination of these), indicating the extent to which each is used or will probably be used for each purpose.

(l) The distances to the nearest highway or street intersection with the state highway on either side of, as well as opposite to, each existing or proposed access point to the existing or proposed commercial, industrial or mercantile establishment.

(m) The physical appurtenances to be included on the access point plan are divided into two categories:

I. Within the property lines show:

1. Existing and proposed utility lines and

their connection points.

2. Existing and proposed internal street network, if any.

3. All existing and proposed streets, if any, which extend, or may be extended, beyond the property lines.

4. Topography, including all existing and proposed buildings.

5. The existing and proposed drainage system.

6. Existing and proposed parking areas.

7. Any ponds, lakes, rivers, runs, creeks, or other watercourses.

II. For a distance of three hundred (300) feet on every side of the property lines of the property on which the commercial, industrial, or mercantile establishment is located show:

1. Topography, including all existing buildings.

2. All existing streets which extend beyond the property lines of the property on which the commercial, industrial or mercantile establishment is or will be located and their intersections with any state highway or existing street bordering the adjacent property.

3. Any ponds, lakes, rivers, runs, creeks, or other watercourses.

(n) Any other pertinent information the Commissioner requests, in a particular instance, in order to determine the reasonableness of the number and of the location of all access points to the state highway from the commercial, industrial or mercantile establishment.

(o) With a plan for access to a highway from a commercial, industrial or mercantile establishment on property lying within a zoned area, it must be certified by a duly authorized official of the appropriate zoning commission or body, that the proposed land use is in compliance with all zoning regulations in force and effect.

6.07. Commissioner's Directing Changes In Existing Points of Access From State Highways to Commercial, Industrial or Mercantile Establishments.--

(NOTE: Section 6.05 will apply when the owner or owners of a commercial, industrial or mercantile establishment wish to change an existing access point to and from a state highway.)

6.07.1. Commissioner's Authority.--Under the provisions of Chapter 17, Article 4, Section 49 (c) (1), Code, the Commissioner may direct reasonable changes in any existing access point to and from a commercial, industrial or mercantile establishment provided:

(a) he determines from accident reports or traffic surveys that the public safety is seriously affected by such access point; and

(b) the changes in such access point would substantially reduce the hazard to the public safety.

6.07.2. Commissioner's Preliminary Finding; Notice; Hearing.--

When the Commissioner makes a preliminary determination that any

such existing access point should be changed and suggests the change therein, he will notify in writing the owner or owners of the affected property of the proposed change and also of the owner's or owners' right to a hearing before the Commissioner. If the owner or owners of the affected property object to any recommended changes in the access point plan made by the Commissioner, such owner or owners may request a hearing, provided the request is made in writing within thirty days after the Commissioner notifies the owner or owners of his recommended changes.

6.07.3. Judicial Review.--The owner or owners of the affected property may also seek judicial review of the determination of the Commissioner subsequent to the hearing mentioned in Section 6.07.2 above. The procedure to be followed for judicial review is the same as that described in Sections 6.10.3 and 6.10.4 of these rules and regulations.

6.08. Variances From These Rules and Regulations.

6.08.1. Commissioner's Discretion.--The Commissioner may, in appropriate cases and subject to appropriate conditions and safeguards, authorize variances from the above rules and regulations in specific cases where their literal application will result in

practical difficulty or unnecessary hardship, provided that such variances will be in harmony with the intent of Chapter 17, Article 4, Section 47 (a), Code.

6.09. Procedure for Filing and Handling Subdivision Plans and Access Point Plans.

6.09.1. Where Filed.--The owner or owners of the subdivision or commercial, industrial or mercantile property shall submit two (2) copies of a subdivision plan or access point plan, as the case may be, to the office of the District Engineer of the State Road Commission for the district in which the property is located.

6.09.2. Preliminary Review.--The district office will make a preliminary review of the subdivision plan or access point plan to determine whether it is in conformance with these rules and regulations. Following this review, the district office will forward one copy of the plan to the Commissioner or his designated representative, together with recommendations for approval, disapproval or modification of the subdivision plan or access point plan.

6.09.3. Notice of Commissioner's Decision.--Subsequent to

review and approval, disapproval or recommended modification of the subdivision plan or access point plan by the Commissioner or his designated representative the district office will notify the owner or owners of the affected property of the Commissioner's action. If revision of the subdivision plan or access point plan is recommended, the district office representatives will explain, when requested, the changes recommended and the reasons for the objections to the plan.

6.09.4. Altered or Modified Plans.--If at any time prior to the completion of construction of the access point or points, the owner or owners of the subdivision or commercial, industrial or mercantile establishment wish to modify the subdivision plan or access point plan subsequent to its approval by the Commissioner, the owner or owners shall contact the office of the District Engineer of the State Road Commission for the district in which the property is located and submit a revised subdivision plan or access point plan to that office. The modified plan will then be reviewed as if it were newly submitted. Moreover, construction should not be continued until one of the three conditions specified in Section 6.03.5. (for subdivision plans) or Section 6.05.6. (for access point plans)

is satisfied. Failure to comply may occasion the consequences described in Section 6.03.1(a) and (b) or Section 6.05.2, as appropriate.

6.10. Subdivision Plan and Access Point Plan Review Process.

6.10.1. Notice of Commissioner's Objections and Recommendations.--The Commissioner, acting through the district office, will notify the owner or owners of the affected property in writing of any objections to and recommended changes in the subdivision plan or access point plan within a period of six (6) weeks subsequent to the time the plan is submitted to the district office and will advise him or them in writing of the right to a hearing before the Commissioner or his designated representative on such objections.

6.10.2. Hearing.--If the owner or owners of the affected property object to any recommended changes in or objections to the subdivision plan or access point plan made by the Commissioner, such owner or owners may request such hearing, provided the Commissioner is notified in writing of the desire for a hearing and is notified within thirty days following the time at which the Commissioner notifies the owner or owners of his recommended changes or objections.

6.10.3. Appeal From Commissioner's Decision.--Should the owner or owners of the affected property continue to object to the Commissioner's determination made after the hearing specified in Section 6.10.2. above, the owner or owners may file a petition for appeal in the appropriate circuit court within thirty (30) days from notification of the determination or objections. The appropriate circuit court is the circuit court of the county in which the affected property is located or the Circuit Court of Kanawha County. Any owner or owners filing such a petition for appeal with the court shall promptly forward a copy of the petition to the Commissioner by certified or registered mail. Upon receipt of the copy of such petition, the Commissioner will certify and file in the court a complete transcript of the record upon which the determination or objections complained of were made. The Commissioner will pay all costs of the transcript. After hearing the appeal, the circuit court may either affirm, annul, or revise the determination or objections of the Commissioner, or may remand the proceeding to the Commissioner for such further action as the court directs.

6.10.4. Appeal to Supreme Court of Appeals.--The decision of the circuit court on an appeal from the determination or objections



BURL A. SAWYERS
COMMISSIONER

THE STATE ROAD COMMISSION
OF WEST VIRGINIA
1800 Washington Street, East
Charleston 5, West Virginia
25305

GEORGE H. SAMUELS
DIRECTOR
LEGAL DIVISION

July 28, 1967

Honorable Robert D. Bailey
Secretary of State
State Capitol
Charleston, West Virginia

Dear Mr. Bailey:

The 58th Legislature of West Virginia repealed Article 23, of Chapter 17, relating to salvage yards, and enacted in lieu thereof a new Article 23, relating to salvage yards. This act became effective July 1, 1967. The passage of the new act renders it necessary to repeal Section 8, Series VI, Administrative Regulations of the State Road Commissioner, relating to salvage yards, and to substitute in lieu thereof a new Section 8. We enclose herewith nine pages numbered 75-77f, comprising the revised Section 8, Series VI, and respectfully request that you incorporate the same in the volume of the Administrative Regulations of the State Road Commissioner on record in your office.

Very truly yours,

George H. Samuels
Director

GHS:JVs

Enclosures

OFFICE OF STATE
SECRETARY OF STATE
STATE OF WEST VIRGINIA

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Section 8. Salvage Yards

8.01. Definitions.--As used in these rules and regulations:

(a) "Salvage" shall mean old or scrap copper, brass, rope, rags, batteries, paper, rubber, trash, waste, junked, dismantled or wrecked machinery, machines or motor vehicles, or any parts of any junked, dismantled or wrecked machinery, machines or motor vehicles, iron, steel and other old or scrap ferrous or non-ferrous materials.

(b) "Salvage yard" shall mean any place which is maintained, operated or used for the storing, keeping, buying, selling, or processing of salvage, or for the operation and maintenance of a motor vehicle graveyard, and the term shall also include garbage dumps and sanitary fills. Any collection of three or more automobile hulks, or combination of ferrous or nonferrous materials together with one or more automobile hulks, or a collection of any salvage contained in an area more than one-quarter acre in size, shall be considered a salvage yard.

(c) "Fence" shall mean an enclosure, barrier or screen constructed of materials or consisting of plantings, natural objects or other appropriate means approved by the Commissioner and located, placed or maintained so as effectively to screen at all times salvage yards and the salvage therein contained from the view of persons passing upon the public roads of this State.

(d) "Owner or operator" shall include an individual, firm, partnership, association or corporation or the plural thereof.

(e) "Unzoned industrial area" shall mean an area within a municipality not zoned by State or local law, regulation or ordinance. A salvage yard shall be determined to be in an unzoned industrial area within a municipality when it is located within a radius of 1000 feet of at least one industrial activity which is in continuing operation for at least three months of the year. None of the following shall be considered industrial

activities:

- (1) Outdoor advertising structures.
- (2) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands.
- (3) Activities normally and regularly in operation less than 3 months of the year.
- (4) Transient or temporary activities.
- (5) Activities not visible from the traffic lanes of the main traveled way.
- (6) Activities more than 300 feet from the nearest edge of the main traveled way.
- (7) Activities conducted in a building principally used as a residence.
- (8) Railroad tracks, minor sidings, and passenger depots.
- (9) Junkyards, as defined in Section 136, Title 23, United States Code.

8.02. Application for License.--No salvage yard shall be established, operated or maintained without a license. Application

for a license to establish, maintain or operate a salvage yard shall be made in writing on the form prescribed by the Commissioner and shall be signed by the applicant or his authorized agent. A license fee in the amount of fifty (\$50.00) dollars, payable by certified or cashier's check or money order, shall accompany the application. This fee shall be payable annually in advance following the date of issuance.

Information required to be furnished shall include, but not be limited to, the name, address, and business capacity of the applicant, i.e., whether the business is conducted by an individual, partnership, corporation, society or association; the date such business was established; the date of the last salvage yard license (if any issued) and the number thereof, and the location of the salvage yard, including the number of the nearest State highway.

8.03. Areas in Which No Salvage Yard Permitted.--On or after July 1, 1967, no license shall be issued to establish, operate or maintain a salvage yard, or any part thereof, within 1000 feet of the nearest edge of the right of way of any road within the State road system, designated and classified as either expressway, trunkline, or feeder. On or after July 1, 1967,

no license shall be issued to establish, operate or maintain a salvage yard, or any part thereof, within 300 feet of the nearest edge of the right of way of any state local service road, unless the view thereof from said road shall be effectively screened and obscured by a fence or fences.

8.04. Existing Salvage Yards.--The license, issued prior to July 1, 1967, of any salvage yard which is located within 1000 feet of the nearest edge of the right of way of a road designated as either expressway, trunkline or feeder, or is located within 300 feet of the nearest edge of a state local service road, may be renewed only if the view of said salvage yard, and all parts thereof, is effectively screened from view of the traveling public.

Any salvage yard which on July 1, 1967, was duly licensed may continue to be operated and maintained without screening by fences so long as said yard is not located within 1000 feet of any road designated as either expressway, trunkline or feeder, or is not located within 300 feet of the nearest edge of the right of way of any state local service road.

The licensing of salvage yards situate within municipalities

shall be in accordance with the terms and provisions of Chapter 17, Article 23, Code, relating thereto.

8.05. Fences.--Fences shall be kept in good order and repair and no advertisement shall be permitted thereon other than the name of the licensee and the nature of the business conducted on the premises. The fence shall be of such height as effectively to screen the salvage yard and salvage contained therein, and shall be constructed of wood, metal or such other material as may be approved by the Commissioner. Fences shall be maintained in a manner satisfactory to the Commissioner.

(a) Fences must be located in such a manner as to not be hazardous to the traveling public.

(b) The construction of fences shall be uniform and no patchwork type of construction shall be permitted.

(c) Fences shall be painted where the composition is such that painting is required. The paint used shall be of such color as to blend into the surrounding neighborhood of the yard.

(d) Where a living fence is constructed the operator shall secure the consent and permission of the Commissioner as to the location and type of plant material which may be used, in order effectively to screen the view of the yard from the traveling public.

(e) Gates shall be of the same height as the component fence and shall be opened only for the purpose of permitting ingress and egress to and from the enclosure.

(f) The Commissioner shall have the right to make determination as to whether a salvage yard is effectively screened by the fencing employed.

8.06. Payment of Costs of Fencing.--The cost of the erection of fences shall be paid by the salvage yard operator, Provided, however, that if in the opinion of the Commissioner effective screening cannot be accomplished by the usual and ordinary methods, the Commissioner may determine and pay such additional costs as are necessary to provide effective screening.

8.07. Removal, Purchase or Condemnation of Salvage Yard.--

Whenever a salvage yard is so situate that in the opinion of the Commissioner the same cannot be effectively screened by fencing, the Commissioner may:

(a) With the consent of the owner or operator of such salvage yard pay the cost of removal of all salvage and equipment from such salvage yard to such other location as said owner or operator may direct and whereat a salvage yard business may lawfully be conducted.

(b) Purchase at private sale, or acquire by proceeding in eminent domain, in accordance with the provisions of Chapter 54, Code, all such property rights and interests, other than title to real property, as are necessary and required to effect a lawful termination of such salvage yard business.

8.08. Distance Measurements.--All measurements determinative of the location of salvage yards in relation to State highways shall be made in a line drawn perpendicular from the nearest edge of the right of way.

8.09. Maintenance.--Salvage in yards not required by law to be fenced, and all salvage exposed to view from the public highway, shall be neatly aligned, and all wrecked or used automobiles shall have doors, hoods and trunk lids closed.

A P P E N D I X A

STOPPING SIGHT DISTANCES

1. Definition: The "Stopping Sight Distance" is the minimum distance required to stop a vehicle traveling at or near the design speed before reaching an object in its path. For the purpose of these rules and regulations the design speed is assumed to be identical to the legal speed limit. The sight distance is based upon the sum of two variables: (1) the distance traveled from the time the object is sighted to the instant that the brakes are applied (perception plus reaction time), and (2) the distance required for stopping the vehicle after the brakes are applied, (braking time).

Stopping sight distance depends, in part, therefore, upon the speed of the vehicle, the perception time, and brake reaction time of the operator. There is a wide variation among vehicle operators as to the time that it takes them to react and apply the brakes after an obstruction is sighted. Investigations seem to indicate that the minimum value of perception time may vary from two seconds at 30 miles per hour to one second at 70 miles per hour. Brake reaction time is less than perception time, and tests indicate that the average brake reaction time is about

one-half second. To provide a factor of safety, a combined perception and brake reaction time of 2-1/2 seconds has been used in compiling the tables which follow. In addition, the necessary distance to stop once the brakes have been applied (braking time) depends upon the speed of the vehicle, the condition and type of the brakes, the tires, the roadway surface, and the alignment and grade of the highway. It also depends upon the climatic conditions. In the tables below, the frictional coefficients used are for wet pavements.

2. Formulation: (a) The formula used for calculating the perception plus reaction distance for the tables below was:

$d_1 = 1.47V \times 2.5$ where: 1.47 = a constant to convert miles per hour to feet per second,

V = assumed speed when the brakes are applied in miles per hour, and

2.5 seconds = perception plus reaction time

(b) The formula for calculating the braking distance for the tables

which follows was : $d_2 = \frac{V^2}{30(f+g)}$, where: d_2 = braking distance in feet,

V = assumed speed when the brakes are applied in miles per hour,

f = coefficient of
friction, and

g = the percentage of
grade divided by
100.

(c) The sum of the formulas (a + b) or ($d_1 + d_2$) yields the stopping sight distance.

3. Sample Calculation: Assuming a design speed of 30 m.p.h. (the speed limit on the given stretch of road) and a speed of 28 m.p.h. for the conditions, with an uphill grade of six per cent, (a) the distance traveled before the brakes are applied would be estimated at:

$$d_1 = 1.47V \times 2.5 \\ = 1.47 \times 28 \times 2.5 = \underline{103 \text{ feet}}$$

1.47 = a constant to change miles
per hour to feet per second

2.5 seconds = perception + reaction
time

(b) The braking distance estimate would be:

$$d_2 = \frac{28^2}{30 \cdot (0.36 + .06)} = \underline{62 \text{ feet}}$$

(c) The total stopping sight distance computation (a + b) or ($d_1 + d_2$) would be: 103 feet + 62 feet = 165 feet

4. Tables for Upgrade and Downgrade: Stopping sight distances for upgrades (Table I) and downgrades (Table II) relative to legal speed limits for different percentages of grade.

T A B L E I

Stopping Sight Distances In Feet-Upgrade

Legal Speed Limit	M.P.H. Assumed for Conditions	Coeff. of Friction	<u>Percent of Upgrade</u>						
			On the Level 0%	3%	6%	9%	12%	15%	18%
25	24	0.38	139'	135'	132'	129'	126'	124'	122'
30	28	0.36	176	170	165	161	158	154	151
35	32	0.34	219	211	204	198	193	188	184
40	36	0.33	263	252	243	235	229	222	217
45	40	0.32	314	300	288	277	268	260	253
50	44	0.31	369	351	336	323	311	301	293
55	48	0.30	432	409	390	373	359	347	336

T A B L E II

Stopping Sight Distance In Feet-Downgrade

Legal Speed Limit	M.P.H. Assumed for Conditions	Coeff. of Friction	<u>Percent of Downgrade</u>						
			On the Level 0%	3%	6%	9%	12%	15%	18%
25	24	0.38	139'	143'	148'	154'	162'	172'	184'
30	28	0.36	176	186	196	206	212	227	248
35	32	0.34	219	228	240	255	273	298	332
40	36	0.33	263	273	293	313	338	372	420
45	40	0.32	314	331	353	379	414	461	529
50	44	0.31	369	392	419	455	501	564	657
55	48	0.30	432	461	496	542	603	689	817

5. Stopping Sight Distance Over a Crest of a Hill: It is assumed that the height of the eye of the average driver, except drivers of buses or trucks, is about 4.5 above the pavement. The heights of the stationary object may vary, but a height of 4 inches is assumed in determining stopping sight distance. The formulas used for calculating the distances for hill crests are:

(1) $s = \frac{728}{A} + \frac{L}{2}$, When sight distance is greater than length of vertical curve, and

(2) $s = 38.2 \frac{L}{A}$ When sight distance is less than vertical curve,

Where: S = Sight distance in feet

L = Length of Vertical curve in feet

A = Algebraic difference of grades in % ($A = S_1 - S_2$)

T A B L E III

Sight Distance Over a Crest of a Hill in Feet (S)

Length of Vertical Curve	Algebraic Difference of Grades (%) (A)					
	3%	6%	9%	12%	16%	20%
300'	390'	270'	220'	190'	170'	140'
400	445	310	250	220	195	170
500	490	350	280	250	220	190
600	540	380	310	270	235	210
700	580	410	340	290	250	220
800	625	440	360	310	265	240
900	660	470	380	330	280	250
1000	695	490	400	350	300	270
1200	760	540	440	380	320	290
1400	830	580	480	410	350	320
1600	880	620	510	440	380	340
2000	990	700	570	490	420	380
2400	1080	770	630	550	460	420

T A B L E IV

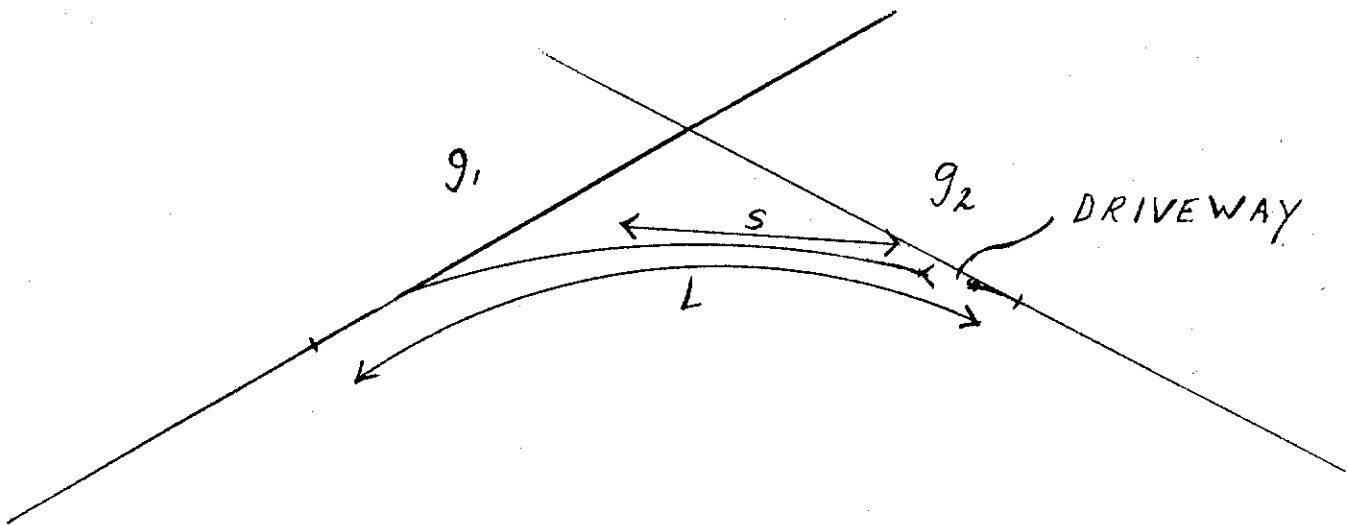
Recommended Stopping Sight Distance In Feet For Variances Speed Limits

(Based on height of eye of 4.5 feet and height of object 4 inches from road surface.)

Speed Limit (M.P.H.)	25	30	35	40	45	50	55
Minimum Sight Distance (Feet)	165	200	240	275	315	350	415

Sight distance at every point on a highway should be as long as can be justified economically and at least as long as indicated in Table IV.

6. Explanation of Table III:

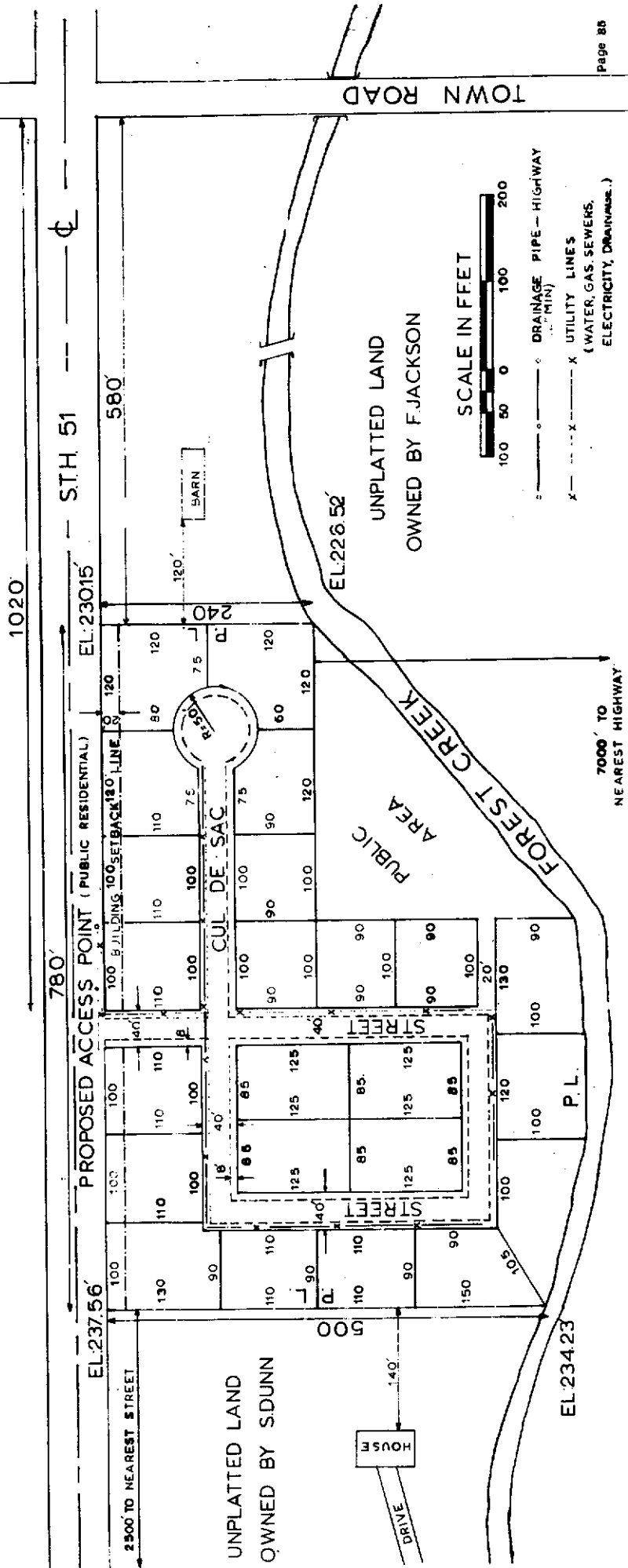


From Table III: (1) Assuming $L = 500'$ and $A = 12\%$, the sight distance would be $S = 250$ feet, and this sight distance would be sufficient for speeds up to 35 M.P.H. (See Table IV). (2) Assuming $L = 800'$ and $A = 6\%$, the sight distance would be $S = 440'$ and this sight distance would be sufficient for speeds up to 55 M.P.H. (See Table IV).

APPENDIX B
SUBDIVISION PLAN
FOREST CREEK

A Subdivision Located in Iron City, Stonewall County, West Virginia
On STH.51, 1000' West of Town Road.
Owner: Tom Pierce, 1963 First Avenue, Iron City, West Virginia.
Surveyed by: Douglas Taylor, R.L.S. 1942.
Date of Survey: August 12, 1963.

Notes:-
Access Surface: 2" Asphaltic Concrete
Grade at Access: 1/4" per ft at Shoulder.
Base: 4" Crushed Stone



APPENDIX C
ACCESS POINT PLAN

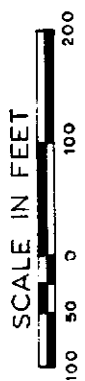
(For Newly Constructed Commercial, Industrial and Mercantile Establishments)
 Name of Business: XYZ Manufacturing Company
 Location: Beaver City, Moose County, West Virginia
 On STH 21, 4200' East of Star Street
 Surveyed by: A. Johnson, RLS 1256
 Date of Survey: August 16, 1963

Owner of Business: The XYZ Company
 27 Main Street, Peak, West Virginia

Notes:-

Access Surface: 2" Asphaltic Concrete
 Grade at Access: 1/4" per ft across Shoulder
 Base: 4" Crushed Stone

Adm. Reg. 17-2A
 Series VI

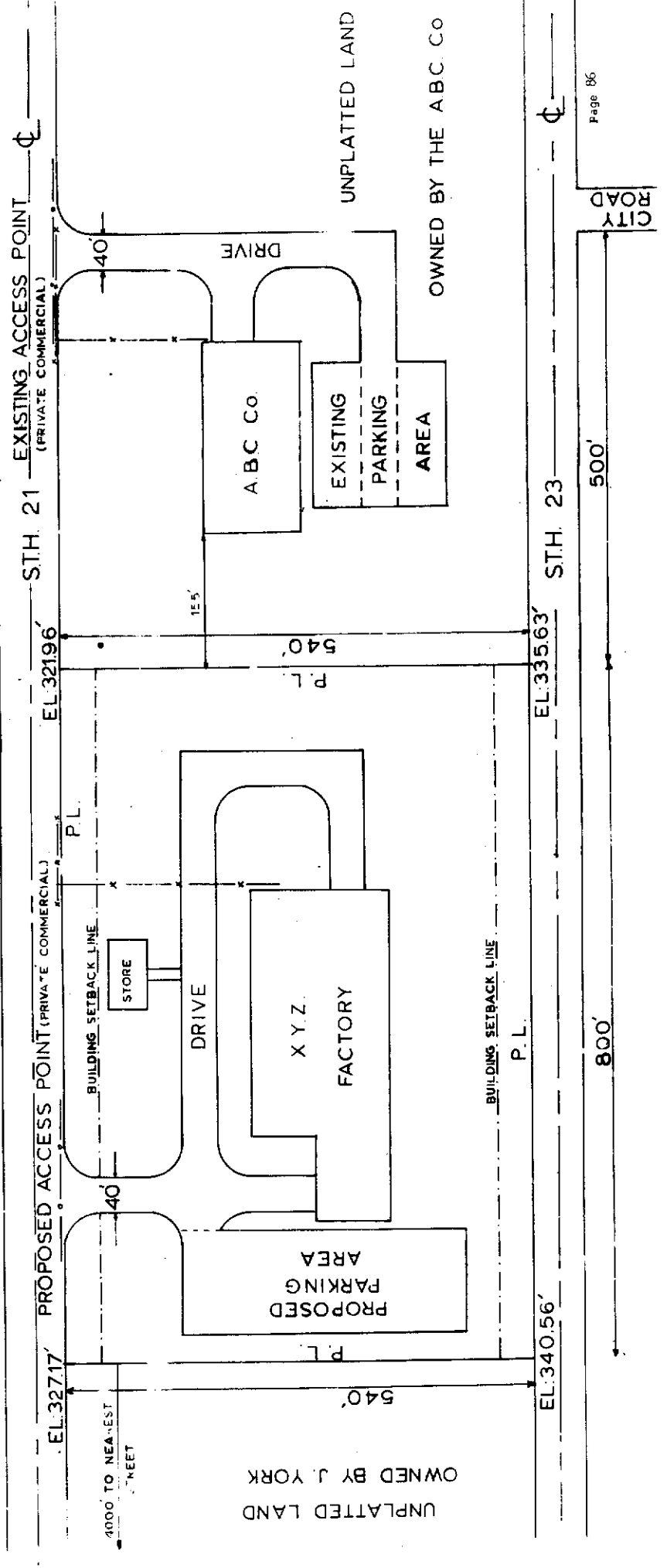


DRAINAGE PIPE (12" MIN)

UTILITY LINES
 (WATER, GAS, SEWERS,
 ELECTRICITY, DRAINAGE)



1050'

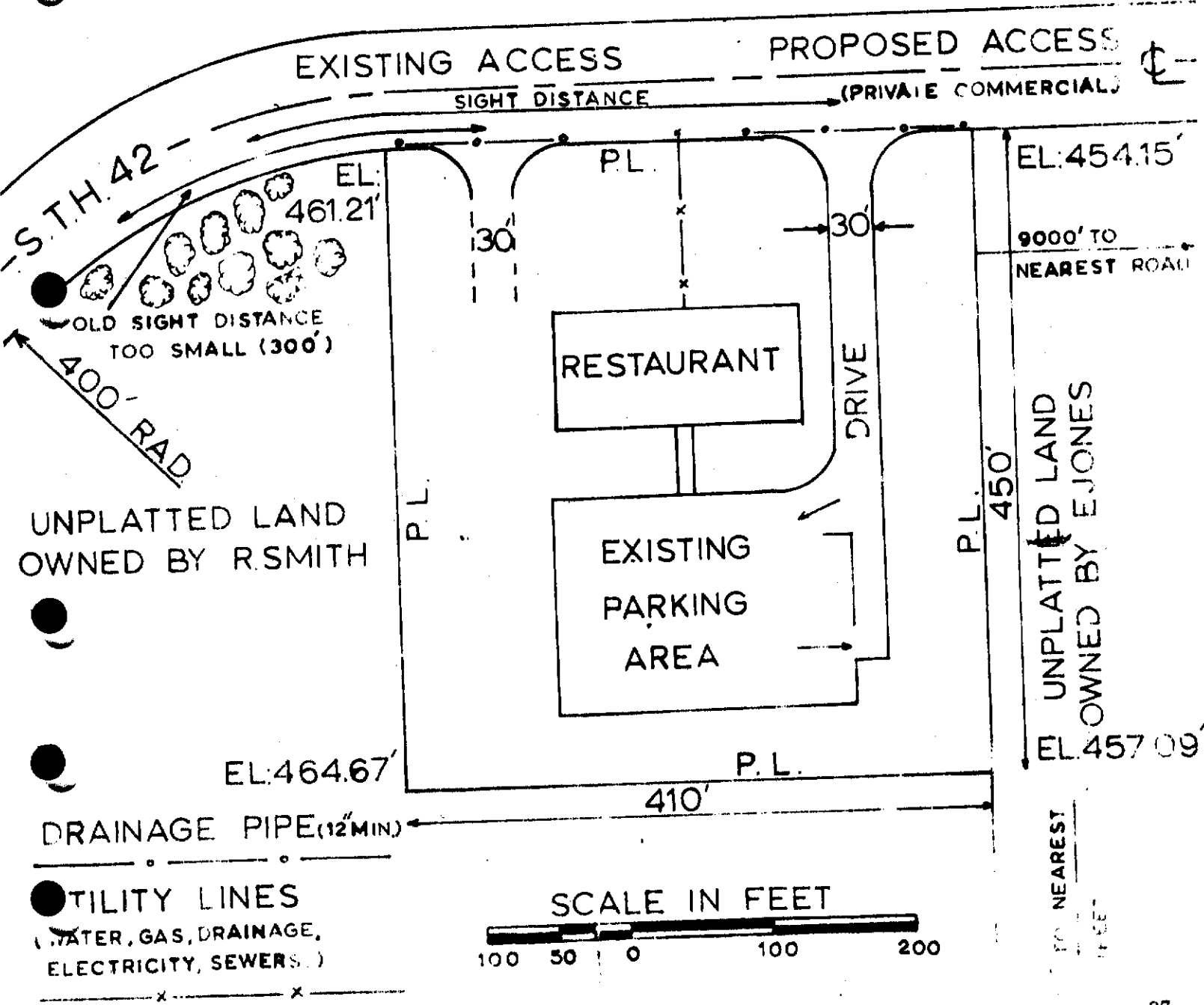


APPENDIX D ACCESS POINT PLAN

(Proposed Change of Access to State Trunk Highway)
Name of Business: The Ace Restaurant
Owner: Ace Foods Co., 12 2nd Street, Ford, West Virginia
Location: On S.T.H. 42, 20,000' West of York, Penn County, W. Va.
Surveyed by: A. Rowe RLS.1066. On May 7, 1963.

Notes:

Access Surface: 2" Asphaltic Concrete
Grade at Access: 1/4" per ft. across Shoulder
Base: 4" Crushed Stone



A P P E N D I X E

CHECK SHEET FOR PREPARATION OF ANY SUBDIVISION PLAN

This form does not set forth the sections of the Code or the rules and regulations hereinbefore issued by the Commissioner. It is only a convenient check list to aid the subdivider in determining whether the subdivision plan complies with the Code and the rules and regulations concerning access to state highways. In preparing the subdivision plan, the subdivider should review carefully each of the points below so that he will include in the plan the information required and also meet the specifications for access to state highways established by the Commissioner.

A subdivision plan must be filed with the district office of the State Road Commission for the county in which the affected property is located whenever one or more new access points from a state highway to a subdivision are desired.

THE ANSWER TO EACH ITEM BELOW SHOULD BE YES FOR YOUR SUBDIVISION PLAN OR FOR YOUR PROPOSED ACCESS POINT OR POINTS, AS APPROPRIATE.

IF THE CORRECT ANSWER TO ANY ITEM IS NO, EITHER:

A. CORRECT THE SUBDIVISION PLAN, OR

B. ATTACH TO THE PLAN A SUPPLEMENTAL STATEMENT

EXPLAINING THE REASONS FOR EACH NEGATIVE REPLY.

1. Is the name, if any, of the subdivision specified on the plan?
2. Is the exact location of the subdivision specified on the plan?
3. Are the names and addresses of all owners stated on the plan?
4. Are the names of the persons who surveyed the subdivision on the plan?
5. Is an accurate north point shown on the plan?
6. Does the plan contain the date of the most recent survey?
7. Is the scale of the plan not less than 200 feet = 1 inch?
(It is preferred that the scale be 100 feet = 1 inch.)
8. Does the plan show all property lines of the subdivision and of individual lots or tracts therein?
9. Does the plan show the geographic relationship to the subdivision of any lands which abut on a state highway and which are contiguous to the subdivision?

10. Does the plan show the names of the owners of the lands discussed in Item 9 and state what interest, direct or indirect, if any, the subdivider has in these lands?
11. Does the plan show all existing points of access to any state highway from any lands which are contiguous to the subdivision and which abut on such highway?
12. Does the plan show the present and proposed location, width, grade, base type and thickness, surface type and thickness of the surfacing material of each point of access from a state highway to the subdivision?
13. Does the plan identify each access point as being a private road, public road or other type of entrance and indicate whether it is an existing or proposed access point?
14. Does the plan show the primary use or uses of each existing or proposed access point from the state highway to the subdivision (e.g., agriculture, industrial, residential, or any combination of these), and indicate the extent to which each is used or will probably be used for each purpose?
15. Does the plan show the distance to the nearest highway or

- street intersection with the state highway on either side of, as well as opposite to, each existing or proposed access point to the subdivision?
16. Does the plan show all existing and proposed utility lines within the subdivision and their connection points?
 17. Does the plan show the existing and proposed internal street network of the subdivision?
 18. Does the plan show the elevation at all corners of the property lines of the subdivision?
 19. Does the plan show the existing and proposed drainage system?
 20. Does the plan show the topography, including all existing buildings within the subdivision and for a distance of three hundred (300) feet on every side thereof?
 21. Does the plan show all existing street extensions for a distance of three hundred (300) feet on every side of the subdivided land including the intersection with any state highway or any existing street?
 22. Does the plan show any existing lakes, rivers, runs, lagoons,

creeks or other watercourses within the subdivision and for a distance of three hundred (300) feet on every side thereof?

23. Is the subdivision laid out so that individual lots or parcels therein do not require direct vehicular access to any state highway?
24. Is there adequate sight distance to allow a vehicle traveling on the state highway to be stopped a safe distance before reaching each existing or proposed access point? (See Appendix A of this Series.)
25. Is each access point from the state highway to the subdivision located no less than a distance of 1000 feet from any other access point from and to that highway? (This 1000 feet minimum does apply, however, to the minimum distance between crossroads along the state highway.)
26. Does the subdivision plan provide for adequate drainage in order to protect the existing highway drainage system from adverse effects?
27. Is each access point from the state highway to the subdivision designed, and will it be constructed, in conformance with the

manual entitled, Standard Designs for Entrances to Highways,
published by the West Virginia State Road Commission.

NOTE: The information contained in the subdivision plan,
as indicated above, shall be accurately located,
where applicable.

A P P E N D I X F

CHECK SHEET FOR PREPARATION OF ANY ACCESS POINT PLAN

This form does not set forth the sections of the Code or the rules and regulations hereinbefore issued by the Commissioner. It is only a convenient check list to aid the owner or owners of a commercial, industrial or mercantile establishment in determining whether his or their access point plan complies with the Code and the rules and regulations concerning access to state highways. In preparing the access point plan, the owner or owners should review carefully each of the points below so that he or they will include in the plan the information required and also meet the specifications for access to state highways established by the Commissioner.

An access point plan must be filed with the district office of the State Road Commission for the county in which the affected property is located whenever the owner or owners of an existing or proposed commercial, industrial or mercantile establishment wish to either obtain one or more new points of access from a state highway to

the establishment or wish to change the location of one or more existing points of access.

THE ANSWER TO EACH ITEM BELOW SHOULD BE YES FOR YOUR ACCESS POINT PLAN OR FOR YOUR PROPOSED ACCESS POINT OR POINTS, AS APPROPRIATE. IF THE CORRECT ANSWER TO ANY ITEM IS NO, EITHER:

- A. CORRECT THE ACCESS POINT PLAN, OR
- B. ATTACH TO THE PLAN A SUPPLEMENTAL STATEMENT EXPLAINING THE REASONS FOR EACH NEGATIVE REPLY.

1. Is the name of the establishment specified on the plan?
2. Is the exact location of the establishment included on the plan?
3. Are the names and addresses of all owners stated on the plan?
4. Is the date of the most recent survey on the plan?
5. Are the names of the persons who surveyed the affected property stated on the plan?
6. Is an accurate north point shown on the plan?

7. Is the scale of the plan not less than 200 feet = 1 inch?
(It is preferred that the scale be 100 feet = 1 inch.)
8. Does the plan show all property lines?
9. Does the plan show the geographic relationship to the commercial, industrial or mercantile property of any lands which abut on a state highway and which are contiguous to the affected property?
10. Does the plan show the names of the owners of the abutting lands discussed in Item 9 and state what interest, direct or indirect, if any, the owner or owners of the commercial, industrial or mercantile property have in these lands?
11. Does the plan show all existing points of access to any state highway from any lands which are contiguous to the commercial, industrial or mercantile property and which abut on such highway?
12. Does the plan show the present and proposed location, width, grade, base type and thickness, surface type and thickness of the surfacing material of each point of access from a state highway to the commercial, industrial or mercantile establishment?

13. Does the plan identify each access point as being a private road, public road, or other type of entrance and indicate whether it is an existing or proposed access point?
14. Does the plan show the primary use or uses of each existing or proposed access point from the state highway to the commercial, industrial or mercantile establishment (e.g., agriculture, industry, residential or any combination of these), and indicate the extent to which each is used or will probably be used for each purpose?
15. Does the plan show the distance to the nearest highway or street intersection with the state highway on either side of, as well as opposite to, each existing or proposed access point to the commercial, industrial or mercantile establishment?
16. Does the plan show all existing and proposed utility lines within the property lines and their connection points?
17. Does the plan show the existing and proposed internal street network, if any?
18. Does the plan show the elevation at all corners of the property lines?

19. Does the plan show the existing and proposed drainage system for the affected property?
20. Does the plan show existing and proposed parking areas within the property lines?
21. Does the plan show the topography, including all existing buildings within the property lines and for a distance of three hundred (300) feet on every side thereof?
22. Does the plan show any lakes, rivers, runs, lagoons, creeks or other watercourses within the property lines and for a distance of three hundred (300) feet on every side thereof?
23. Is there adequate sight distance to allow a vehicle traveling on the state highway to be stopped a safe distance before reaching each existing or proposed access point? (See Appendix A of this Series.)
24. Is each access point from the state highway to the establishment located no less than a distance of 1,000 feet from any other access point from and to that highway? (This 1,000 minimum does not apply when the new access point creates a

crossroad with an existing access point. The 1,000 feet does apply, however, to the minimum distance between crossroads along the state highway.)

25. Does the plan provide for adequate drainage in order to protect the existing highway drainage system from adverse effects?

26. Is each access point from the state highway to the establishment designed, and will be constructed, in conformance with the manual entitled, Standard Designs for Entrances to Highways, published by the West Virginia State Road Commission?

NOTE: The information to be contained in the access point plan, as indicated above, shall be accurately located, where applicable.

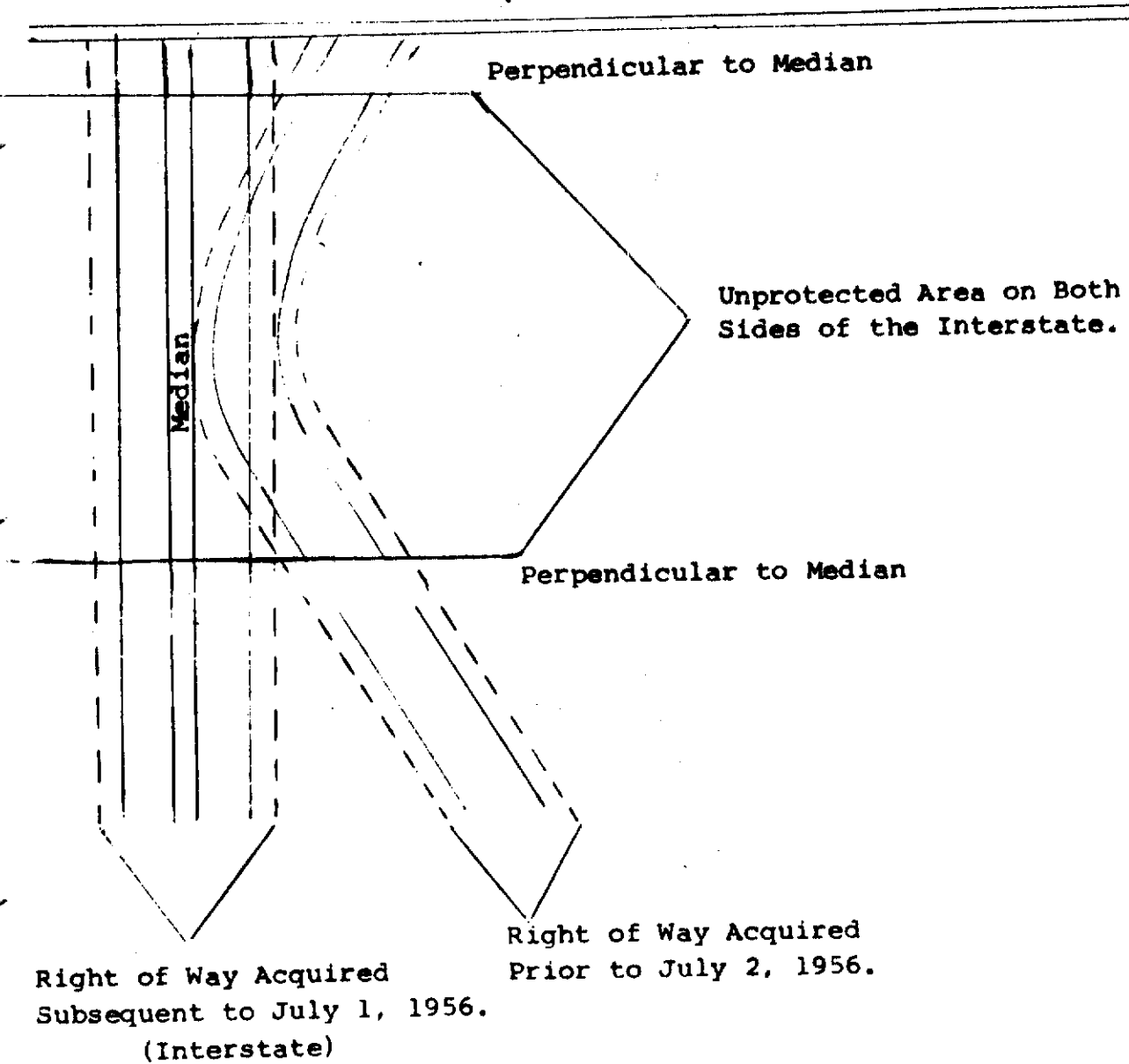
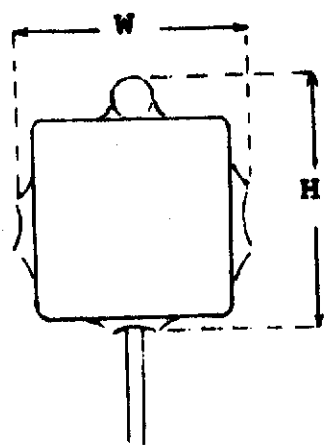
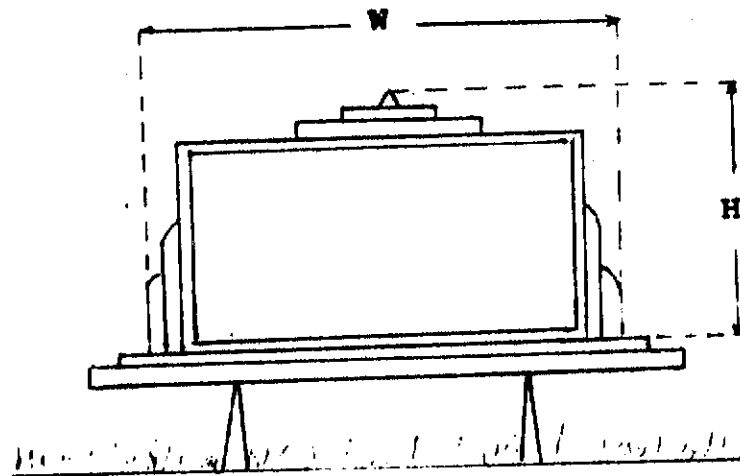


FIGURE 1



W = Width or Length
H = Height
W times H = Total Area

FIGURE 2

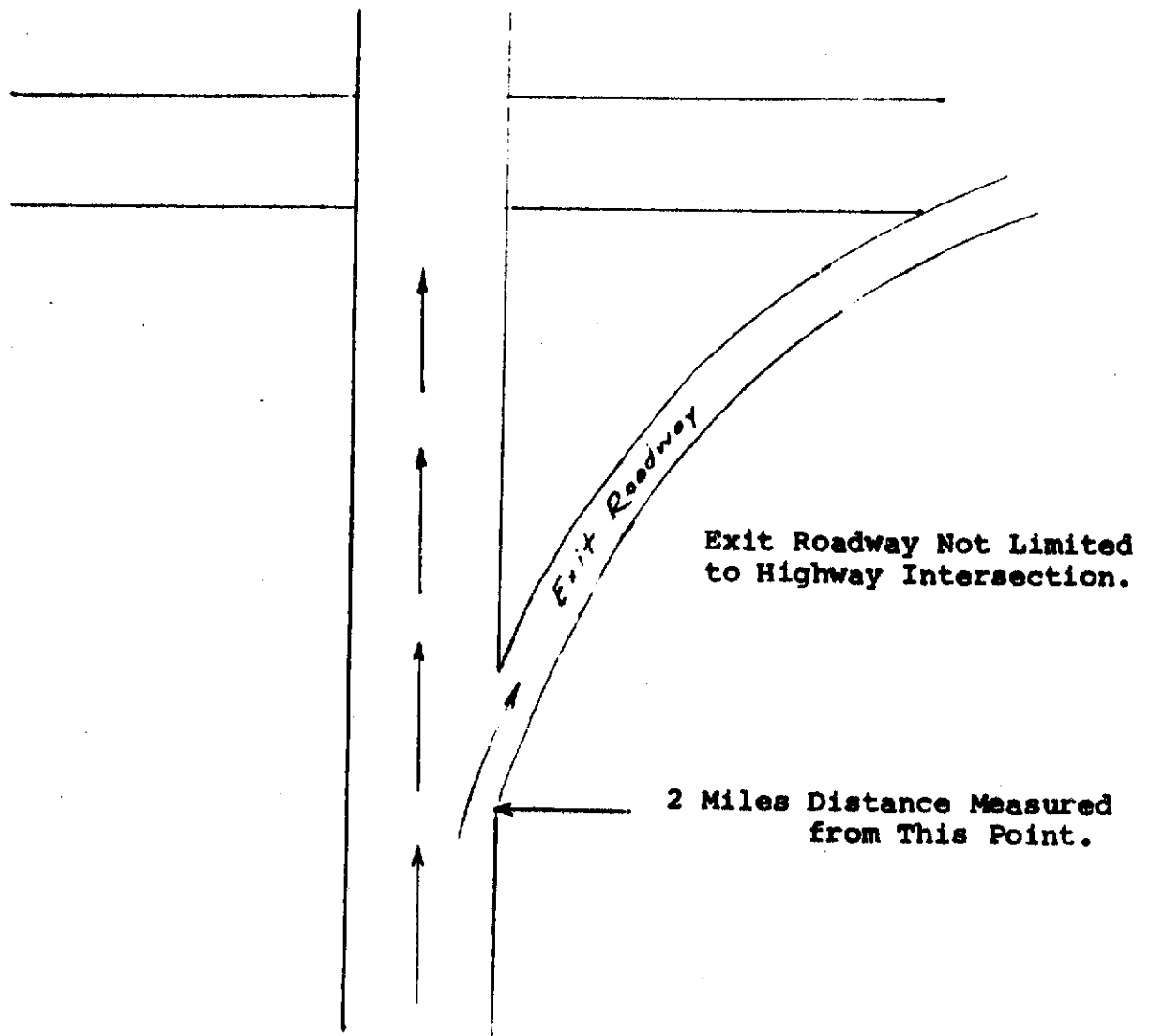


FIGURE 3

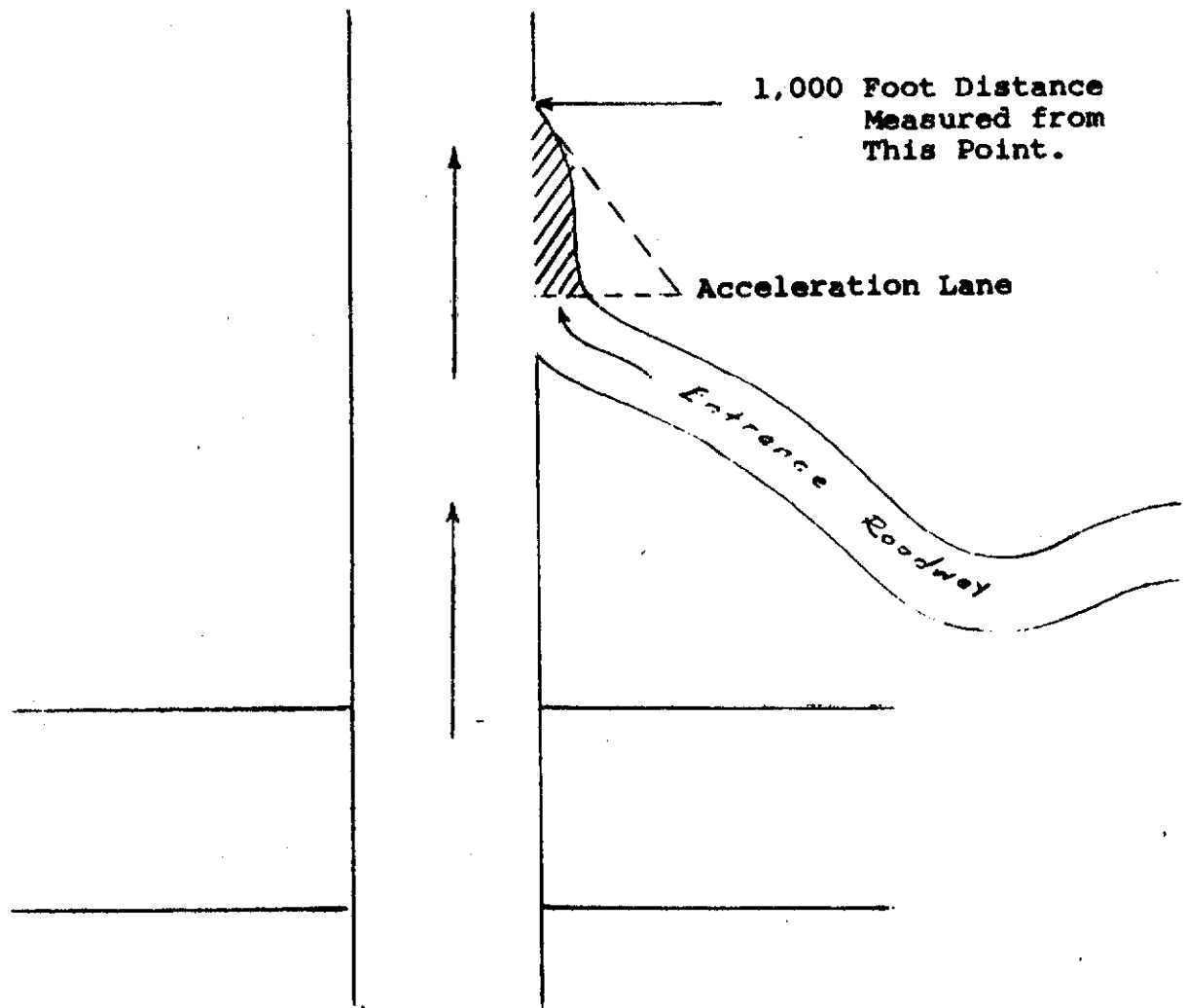


FIGURE 4

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