

**CASE NUMBER: 21AN0114**

**APPLICANT: Mark Rempe**



**STAFF'S ANALYSIS  
AND  
RECOMMENDATION**

**Board of Zoning Appeals (BZA)**

90 DAYS

**Public Hearing Date:**

DECEMBER 2, 2020

**Applicant's Contact:**

MARK REMPE

(804-683-6303)

**Planning Department Case Manager:**

AMY SOMERVELL

(804-748-1970)

**CHESTERFIELD COUNTY, VIRGINIA**

Magisterial District: **Bermuda**



0.4 acre – 14131 Pine Street

**REQUEST**

A variance to use a parcel of land which fronts on a dedicated, but unimproved public road (Pine Street) for dwelling purposes in a Residential (R-7) District.

**Note:**

Recommended conditions are located in Attachment 1, an Access Plan and an Exhibit are located within the report.

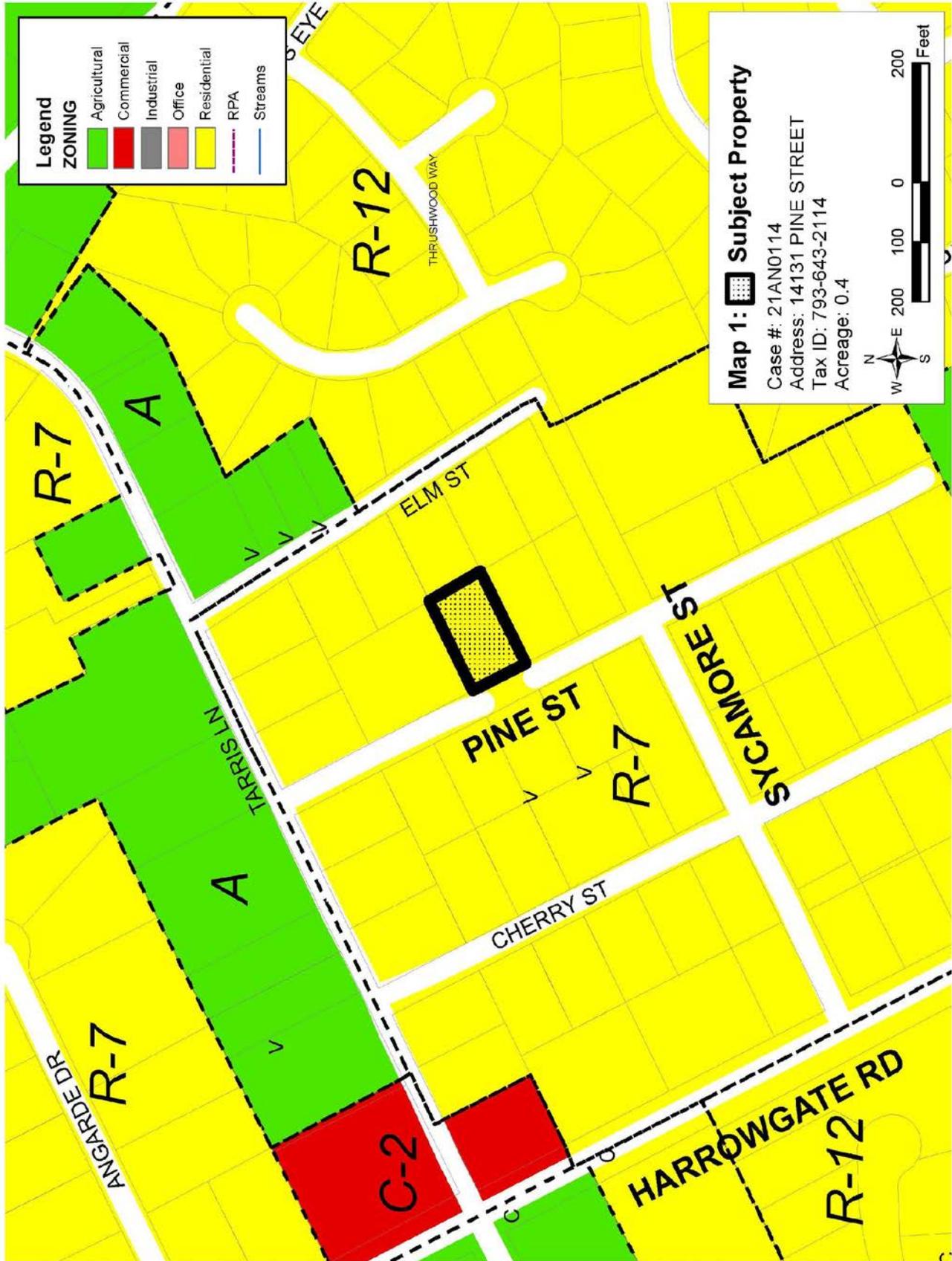
**RECOMMENDATION**

STAFF

**RECOMMEND DENIAL**

- There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road is constructed to State standards.
- No extraordinary circumstances or conditions applying to this property which do not apply generally to all other properties in the area.
- A practical alternative exists that would eliminate the need for this variance.

<b>SUMMARY OF IDENTIFIED ISSUES</b>	
<b>Department</b>	<b>Issue</b>
PLANNING	<ul style="list-style-type: none"> <li>• This lot is within a subdivision, recorded with the expectation that lots have State road frontage.</li> <li>• Constructing Pine Street to State standards would improve the street network and rectify drainage issues for the subject property as well as other properties owned by the applicant that front the unimproved portion of this street.</li> <li>• Drainage improvement will require construction plan submittal; therefore, road construction plans could be incorporated into the same review.</li> </ul>
CDOT	<ul style="list-style-type: none"> <li>• A license agreement must be obtained from the County to use Pine Street as a dedicated but unimproved right of way.</li> <li>• Although a license agreement requires private maintenance agreement, the County often is requested to preform road maintenance without budgeted funds.</li> <li>• Chesterfield Department of Transportation (CDOT) supports improvements and acceptance of a section of Pine Street into the State system.</li> </ul>
ENVIRONMENTAL ENGINEERING	<ul style="list-style-type: none"> <li>• Existing drainage problem coming from the undeveloped portion of Pine Street area is a concern.</li> <li>• A stormwater basin was constructed within the unimproved right-of-way to detain the post-development flow rates.</li> <li>• This basin was only intended to be a temporary solution until either Pine Street was constructed or an easement could be obtained on the subject lot and the necessary drainage infrastructure is installed.</li> </ul>



## Map 2: Surrounding Land Uses & Development



## PLANNING

Staff Contact: Amy Somervell (804-748-1970) somervella@chesterfield.gov

## BACKGROUND

- The Board of Zoning appeals hears request for no public road frontage for parcels meeting one of the following criteria:
  - Recorded prior to April 1976
  - Subdivided for a member of the property owner's immediate family
  - Recorded through the plat validation process
- The Zoning Ordinance requires a property being used for dwelling purposes to have a minimum of fifty (50) feet of public road frontage.
- Subject property was recorded in 1946 with the recordation of Locust Grove Subdivision prior to County road frontage requirements.
- The applicant is contract purchaser of the subject property, and his intent is to construct one (1) single-family dwelling.
- The applicant owns two (2) undeveloped lots located across Pine Street from the subject property both of which have received variance approvals for no public road frontage (Case 05AN0143 and Case 05AN0144 Map 2).
  - Drainage problems were revealed during the above cases which comes from the undeveloped portion of the Pine Street area and continue to be a concern.
  - During construction review of the above undeveloped lots, the builder (current applicant) was unable to obtain a drainage easement to install infrastructure improvements which would alleviate the existing drainage problem; therefore, a stormwater basin was

constructed within the unimproved right-of-way to detain the post-development flow rates to below the pre-development flow rates.

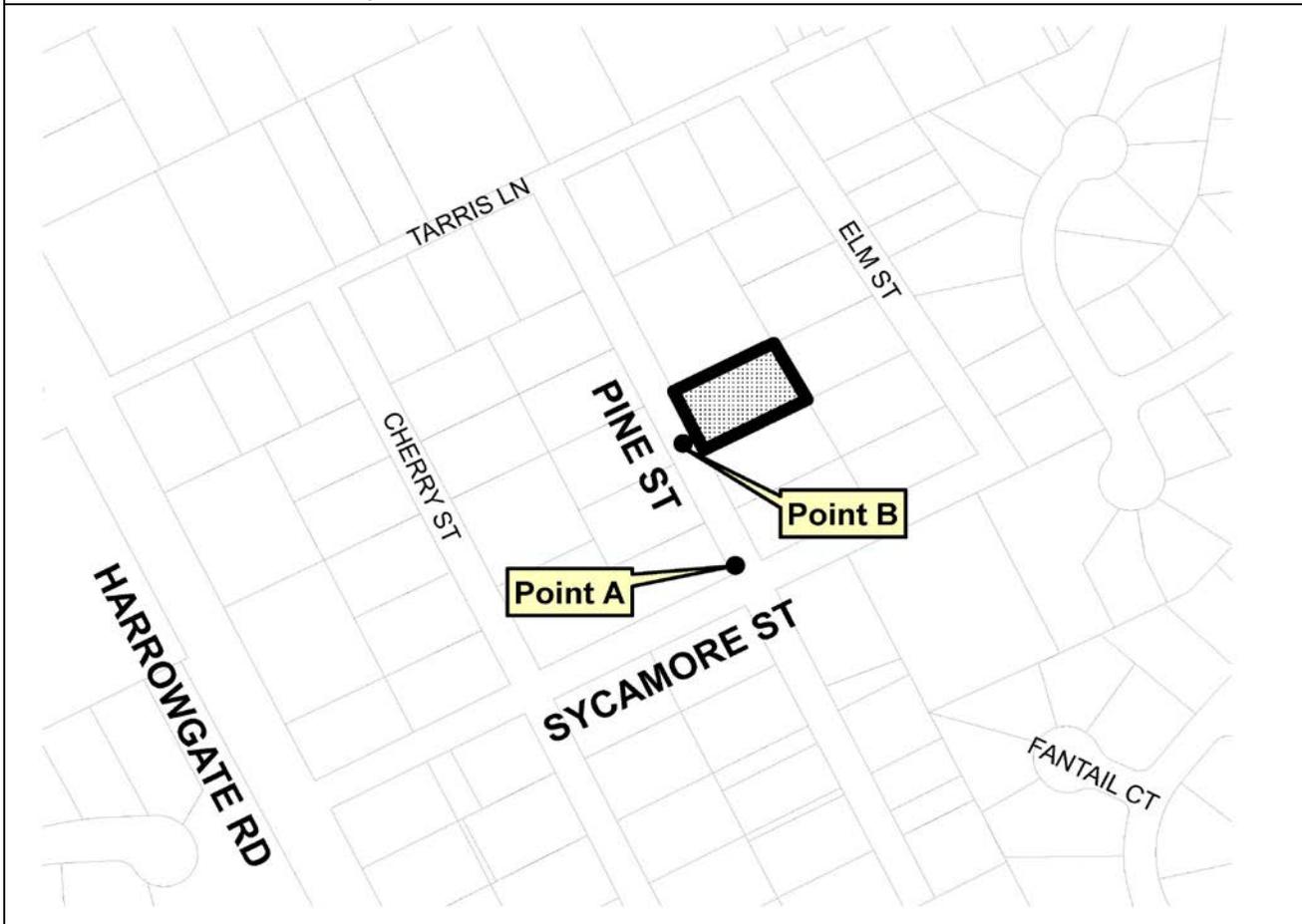
➤ This basin was only intended to be a temporary solution until either Pine Street was constructed or an easement could be obtained for the necessary drainage infrastructure to be installed.

- Same applicant has shown interest in purchasing vacant Lot 16 which is also deficient in required road frontage.

The lack of public road frontage may be rectified by either receiving a variance for no public road frontage or constructing Pine Street to State standards.

### Map 3: Access Plan

The access is proposed over a dedicated but unimproved right of way (Pine Street) from Point A to Point B as shown on the map.



### PROPOSAL

The applicant desires to build one (1) single-family dwelling on the subject property. As justification, the applicant indicates the following:

*“To build a new single-family dwelling on a vacant lot. The lot has a gravel road for access. The house fits within the character of the neighborhood. Variances were granted across the street on two (2) lots. The lot is an older lot and pre-dates the code. There are numerous lots that have been granted variances to allow gravel road access.”*

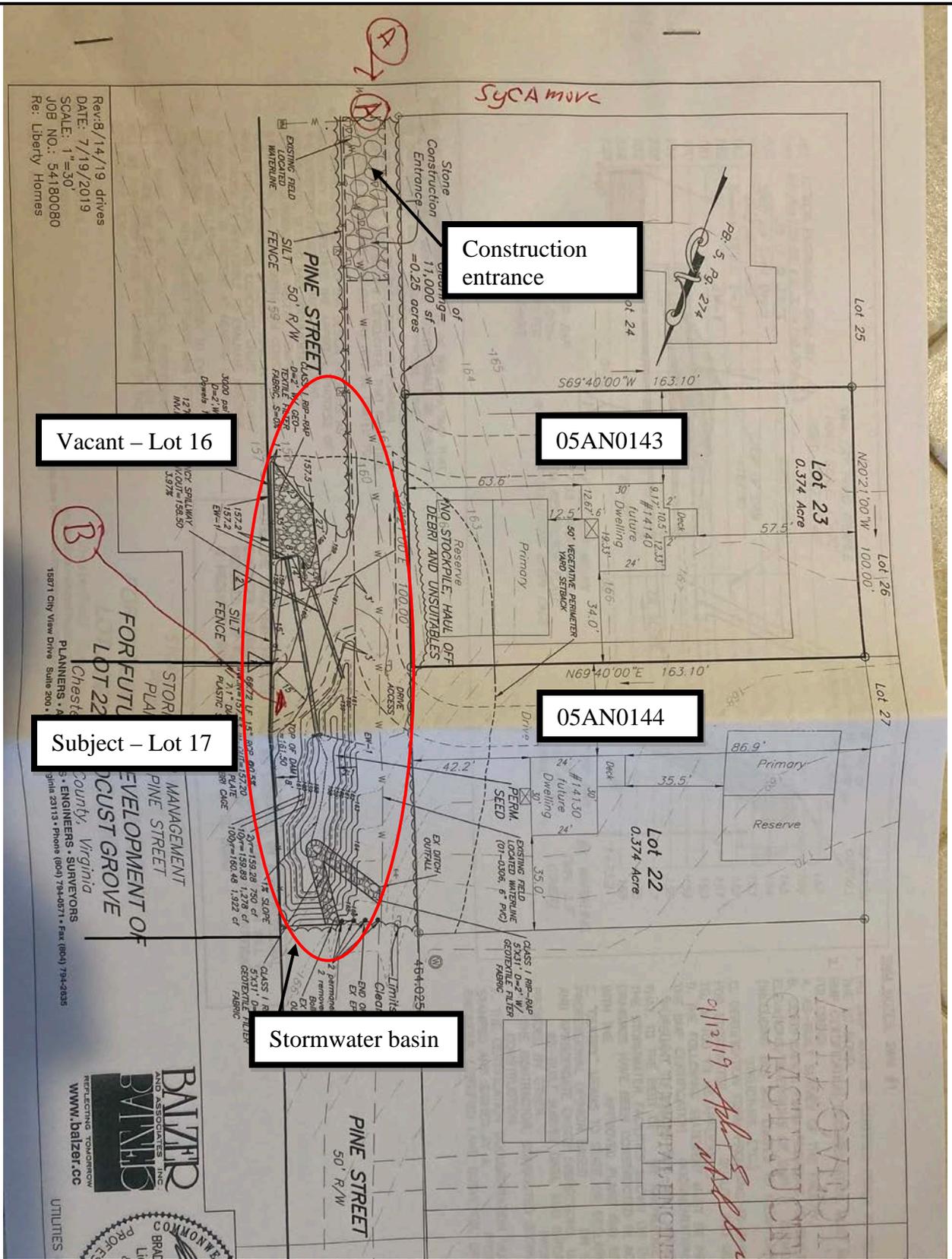
## ACCESS

Staff's inspection of the property revealed the following:

- A stone construction entrance, typical with new home development, has been constructed at the entrance of Pine Street from Sycamore Street (Map 4, Point A).
  - The road consists of large stone and dirt measuring approximately 15 feet in width without a substantial base at the entrance.
  - The road then tapers to approximately 12 feet in width with a mix of smaller gravel and dirt leading to the subject property.
- The unimproved portion of Pine Street does not serve any single-family dwellings. One (1) single-family dwelling fronts the unimproved portion of Pine Street which was constructed 1975 and is under the same ownership as the subject property; however, the access is from Sycamore Street.
- A stormwater basin exists within the unimproved right-of-way to detain drainage. This basin was intended to be a temporary solution for a drainage issue.

This access does not meet standards typically imposed with requests such as this. Conditions ensure compliance with minimum access road standards from Point A to Point B (Access Plan) to support fire equipment and/or ambulances, as requested by the Chesterfield County Fire Department.

Map 4: Exhibit - Applicant's Adjacent Lots



## EXAMINATION OF ALTERNATIVES

Staff has identified one (1) alternative that exists to alleviate the need for this variance request which is the construction of Pine Street from Point A to Point B to State standards to serve this use. Staff encourages any construction within a recorded subdivision to be developed with the infrastructure to support the use as the expectation is that all lots should be served by State road frontage. In this case, the applicant is developing multiple lots which front Pine Street. Constructing Pine Street to State standards would benefit the subject property and the two (2) lots owned by the applicant that obtained variances for no public road frontage but continues to deal with drainage issues. Additionally, the applicant may elect to further develop the vacant lot adjacent to the subject property (Lot 16 – Map 4) which is also deficient in road frontage. Incrementally improving the street network within the undeveloped portion of the subdivision, through the construction plan process, provides for orderly development instead of retrofitting construction on a lot by lot basis. Simultaneous construction of Pine Street and construction necessary to rectify drainage concerns may better be resolved through the construction plan process.

The criterion for acceptance by Virginia Department of Transportation (VDOT) requires the road be built to State standards and a minimum of three occupied dwellings use the road. The applicant is seeking approval to construct three (3) single-family dwellings on lots fronting the unimproved portion of Pine Street which meets one (1) of VDOT's criteria for acceptance. The burden of maintaining a State road that is open to public use should not rest on individual property owners and by granting this variance the responsibility of maintaining the access becomes that of the future homeowner.

There are no conditions which this request is based that are unique to the property and are not generally applicable to other properties in the area. Staff finds with the potential for further development, and the identified development concerns, construction of Pine Street may be the best tool to facilitate adequate provisions for road, and drainage infrastructure. Given this variance alternative, new single-family dwellings should be served by a State maintained road.

## FIRE SERVICE

Staff Contact: Anthony Batten (804-717-6167) [BattenA@chesterfield.gov](mailto:BattenA@chesterfield.gov)

The Fire Dept recommends the owner provide a 15-foot all-weather road capable of supporting 75,000 lbs in order to provide access for fire apparatus and ambulances. This road should extend from the improved public road to the proposed dwelling.

## Nearby Fire and Emergency Medical Service (EMS) Facilities

Fire Station	The Harrowgate Fire Station, Company Number 21
EMS Facility	The Harrowgate Fire Station, Company Number 21

## COUNTY DEPARTMENT OF TRANSPORTATION

Staff Contact: Steve Adams (804-748-1037) adamsSt@chesterfield.gov

Traffic generated by this development will access a dedicated but unimproved county right of way (i.e., not in the State Highway System for maintenance). To use county rights of way, a license agreement must be obtained from the county. The license agreement usually requires the applicant to maintain the access road within the right of way. In similar situations throughout the county, residents often request the county to perform maintenance on the right of way even though a private maintenance agreement exists. County funds are not budgeted for this service. The unimproved right-of-way should be improved and accepted into the State System; therefore, a variance would not be required.

## WATER AND WASTEWATER SYSTEMS

Staff Contact: Jamie Bland (804-751-4439) blandj@chesterfield.gov

Connection to public water will be required per county code. 18-60.A.1.a.

## ENVIRONMENTAL ENGINEERING

Staff Contact: Rebecca Rochet (804-748-1028) RochetR@chesterfield.gov

### **Geography**

The subject property generally drains from west to east to an existing channel along the rear of the property. The channel drains to a culvert under Sycamore Street and to Timsbury Creek via a natural channel. Timsbury Creek is a tributary of Swift Creek. The property and access are located within the Lower Swift Creek Watershed.

### **Erosion and Sediment Control**

The building permit will serve as the land disturbance permit for the house and driveway within the limits of the parcel. A separate land disturbance permit must be obtained from the Department of Environmental Engineering if greater than 2,500 square feet of total land will be disturbed within the unimproved right-of-way.

### **Drainage**

In 2004, two variance requests (05AN0143 and 05AN0144) were approved to use the parcels located at 14130 and 14140 Pine Street. These parcels are located directly across the unimproved right-of-way from the subject property. As presented in the staff reports for the above referenced variance requests, there is an existing drainage problem at 14151 Pine Street, which is located at the corner of Sycamore and Pine Streets. The drainage problem is coming from the undeveloped Pine Street area. During the development of the two lots in 2019 and 2020, the builder was unable to obtain a drainage easement to install infrastructure improvements which would alleviate the existing drainage problem; therefore, a stormwater

basin was constructed within the unimproved right-of-way to detain the post-development flow rates to below the pre-development flow rates. This basin was only intended to be a temporary solution until either Pine Street was constructed or an easement could be obtained on the subject lot and the necessary drainage infrastructure is installed.

With the development of the subject parcel, the Department of Environmental Engineering suggests a condition for a proper drainage outfall to be constructed and placed in an easement within the subject property or at the lowest point on Pine Street. The developer shall dedicate a public drainage easement, install the necessary drainage improvements to divert the runoff from undeveloped Pine Street to an adequate receiving channel, and remove the existing detention basin within the unimproved right-of-way. A construction plan for the drainage improvements and removal of the BMP shall be submitted to the Department of Environmental Engineering for review and approval. In addition, a land disturbance permit for these improvements must be issued prior to the issuance of a building permit on the subject property.

## CONDITIONS

1. Prior to the approval of a building permit, the property owner shall provide a copy of the approved license agreement with the County to use the dedicated and unimproved County right-of-way from Point A to Point B, as shown on the plat attached to the staff report. (P)
2. A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B which shall extend to the proposed house location in accordance with the following standards:
  - (a) This roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone, if an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight and shall be maintained to this standard. The roadway shall not be approved if it is rutted or potholed.
  - (b) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
  - (c) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
  - (d) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
  - (e) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
  - (f) Any cross drains shall be designed in accordance with Environmental Engineering standards. (P)
3. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine compliance as set forth above. (P)
4. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers. (P)
5. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided. (P)

6. The developer shall dedicate a public drainage easement, install the necessary drainage improvements to divert the runoff from undeveloped Pine Street to an adequate receiving channel, and remove the existing detention basin within the unimproved right-of-way. A construction plan for the drainage improvements and removal of the BMP shall be submitted to the Department of Environmental Engineering for review and approval. In addition, a land disturbance permit for these improvements must be issued prior to the issuance of a building permit on the subject property. (EE)