

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING LAMAR MCDANIEL TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED IN THE 4200 BLOCK OF BONNY OAKS DRIVE AND THE ORIGINAL YOUNGSTOWN ROAD RIGHT-OF-WAY TO RESTORE ACCESS TO THE LANDLOCKED PROPERTY, AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That LAMAR MCDANIEL, (hereinafter referred to as “Temporary User”) be and is hereby permitted to use temporarily the right-of-way located in the 4200 block of Bonny Oaks Drive and the original Youngstown Road right-of-way to restore access to the landlocked property, as shown on the maps attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED, That said temporary usage shall be subject to the following conditions:

1. Temporary User shall execute the Indemnification Agreement attached hereto in favor of the City of Chattanooga, its officers, agents and employees for any and all claims for damages for injuries to persons or property related to or arising out of the temporary usage.
2. Temporary User agrees to vacate the property and temporary use upon reasonable notice from the City to do so.
3. Temporary User shall provide adequate access for maintenance of any utilities located within the easement.

4. Any encroachment onto property other than the City of Chattanooga requires the approval of the property owner.

ADOPTED: _____, 2012

/mms

INDEMNIFICATION AGREEMENT

This Indemnification Agreement is entered into by and between THE CITY OF CHATTANOOGA, TENNESSEE (hereinafter the "City"), and LAMAR MCDANIEL (hereinafter "Temporary User"), this _____ day of _____, 2012.

For and in consideration of the granting of the temporary usage of the right-of-way located in the 4200 block of Bonny Oaks Drive and the original Youngstown Road right-of-way to restore access to the landlocked property, as shown on the maps attached hereto and made a part hereof by reference, the receipt of which is hereby acknowledged, Temporary User agrees as follows:

1. Temporary User shall defend, and hold harmless the City of Chattanooga, Tennessee, its officers, agents and employees from any and all claims for damages for injuries to persons or property related to or arising out of the aforementioned temporary use.

2. Temporary User shall vacate the property and temporary use upon reasonable notice from the City to do so; the parties hereto agree that "reasonable notice" shall be deemed to be thirty (30) days. Temporary User shall restore the property to its original condition when it is returned to the City.

3. Temporary User shall provide adequate access for maintenance of any utilities located within the easement.

4. Any encroachment onto property other than the City of Chattanooga requires the approval of the property owner.

_____, 2012
Date

BY: _____
Lamar McDaniel

CITY OF CHATTANOOGA, TENNESSEE

_____, 2012
Date

BY: _____
Ron Littlefield, Mayor

City of Chattanooga



Resolution Request Form

(This form is only required for resolutions requiring expenditure of City funds)

Date: August 29, 2012

Preparer: William C. Payne

Department: Public Works - Engineering

Brief Description of Purpose for Resolution:

Resolution Number (if approved by Council):

District 5

A City Council Action is requested to approve Temporary Usage No. 96013 for Lamar McDaniel for the right-of-way of the 4200 block Bonny Oaks Drive and the original Youngstown Road right-of-way to restore access to the landlocked property, as shown on the attached drawing.

Name of Vendor/Contractor/Grant, etc.	N/A	New Contract/Project? (Yes or No)	N/A
Total project cost \$	N/A	Funds Budgeted? (YES or NO)	N/A
Total City of Chattanooga Portion \$	N/A	Provide Fund	N/A
City Amount Funded \$	N/A	Provide Cost Center	N/A
New City Funding Required \$	N/A	Proposed Funding Source if not budgeted	N/A
City's Match Percentage %	N/A	Grant Period (if applicable)	N/A

List all other funding sources and amount for each contributor.

Amount(s)	Grantor(s)
_____	_____
_____	_____
_____	_____
\$ _____	_____

Agency Grant Number _____
CFDA Number if known _____

Other comments: (Include contingency amount, contractor, and other information useful in preparing resolution)

Approved by:

Reviewed by: FINANCE OFFICE
DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Memorandum

To: Bill Payne
cc: Dennis Malone
From: Bill Cannon
Date: August 28, 2012
Re: Temporary Usage Request # 96013
Lamar McDaniel
4268 Bonny Oaks Dr.
Recommendations Regarding Temporary Usage Request

I have completed my review of Mr. McDaniel's request regarding the Temporary Usage of the Right of Way along the 4200 block of Bonny Oaks Dr. and the original Youngstown Road ROW (see attached maps and deed). The applicant wishes to restore access to the property which was landlocked when Youngstown Road was rerouted by the adjoining railroad. My comments are as follows:

- The applicant has two adjoining parcel's in the subject area, one of which has a Bonny Oaks Dr. address and technically has access along a gravel portion of the original Youngstown Road off Bonny Oaks Dr. (SR17) and the other parcel is completely landlocked to the south.
- The original portion of Youngstown Road was 50 ft in width and there is apparently no record of the right of way being abandoned or transferred to the railroad.
- It appears that some of the locations noted on the map provided by the applicant are on Railroad and State right of way or property other than the City of Chattanooga's.

After review, granting this Temporary Usage does not conflict with the Public's interest. Therefore, I recommend that the request for ***Temporary Usage be granted for any remaining City interest in a portion of the original Youngstown Road where said right of way intersected with the 4200 block of Bonny Oaks Drive subject to the following condition:***

- ***Any encroachment onto property other than the City of Chattanooga's requires the approval of the property owner.***

8-6-12 (Date)



For Office Use Only

Technician Signature: [Signature]
Date: 8/9/12

William C. Payne, P. E.
City Engineer
Development Resource Center
1250 Market Street, Suite 2100
Chattanooga, Tennessee 37402

WO# 96013

Re: Request for Temporary Usage

SR# 640575

CLOSED SR
8/9/2012

Dear Mr. Payne:

This is a request for a temporary usage of the unopened Youngstown Road right-of-way from the NORFOLK SOUTHERN RAILWAY TO BONNY OAKS DRIVE.

RECEIVED

The reason for this request is as follows:

AUG - 9 2012

To RESTORE ACCESS TO MY PROPERTY LOCATED AT 4268 BONNY OAKS DRIVE WHICH WAS LANDLOCKED WHEN YOUNGSTOWN ROAD WAS RELOCATED WHEN THE RAILWAY WAS CONSTRUCTED.

STORM WATER

In making this request: Temporary User agrees as follows:

1. Temporary User will defend, indemnify, and hold harmless the City of Chattanooga, Tennessee its officers, agents, and employees from any and all claims for damages for injuries to persons or property related to or arising out of the aforementioned temporary use.
2. Temporary User will vacate the property and temporary use upon reasonable notice from the City to do so; the parties have to agree that reasonable notice shall be deemed to be thirty (30) days to restore the property to substantially the same condition that existed prior to granting the temporary use, including complying with any environmental regulations upon the request of the city to vacate the property and temporary use.
3. Temporary User will provide full access for maintenance of any utilities located within the easement.
4. Temporary User will obtain any and all other permits, variances, or approvals necessary to accommodate the temporary use.
5. Temporary user agrees to maintain the property in the condition equal to or better than the condition at the time the temporary use is granted.
6. If this request is for maintaining wells the applicant will upon satisfactory completion of use as determined by the Tennessee Department of Environment and Conservation, the wells will be abandoned using standard and acceptable practices, which shall include grouting from the bottom to top with a mixture of Portland cement and powdered bentonite and restoring the surface to its original condition as reasonably as possible.

My address and phone number are as follows:

4033 SOUTH ACCESS, CHATTANOOGA, TN 37406
P.O. BOX 802, COLTEWAH, TN 37363
OFFICE: 423-622-3430, FAX: 423-622-2505, CELL: 423-667-0270
(Processing Fee \$110.00)

LAMAR McDANIEL
Print Applicant Name

8-6-12
Date

LAMAR McDANIEL
Print Owner's Name

8-6-12
Date

[Signature]
Owner's Signature (Required)

NOTE: This application will not be processed without the owner's signature and a site map/drawing of the location.

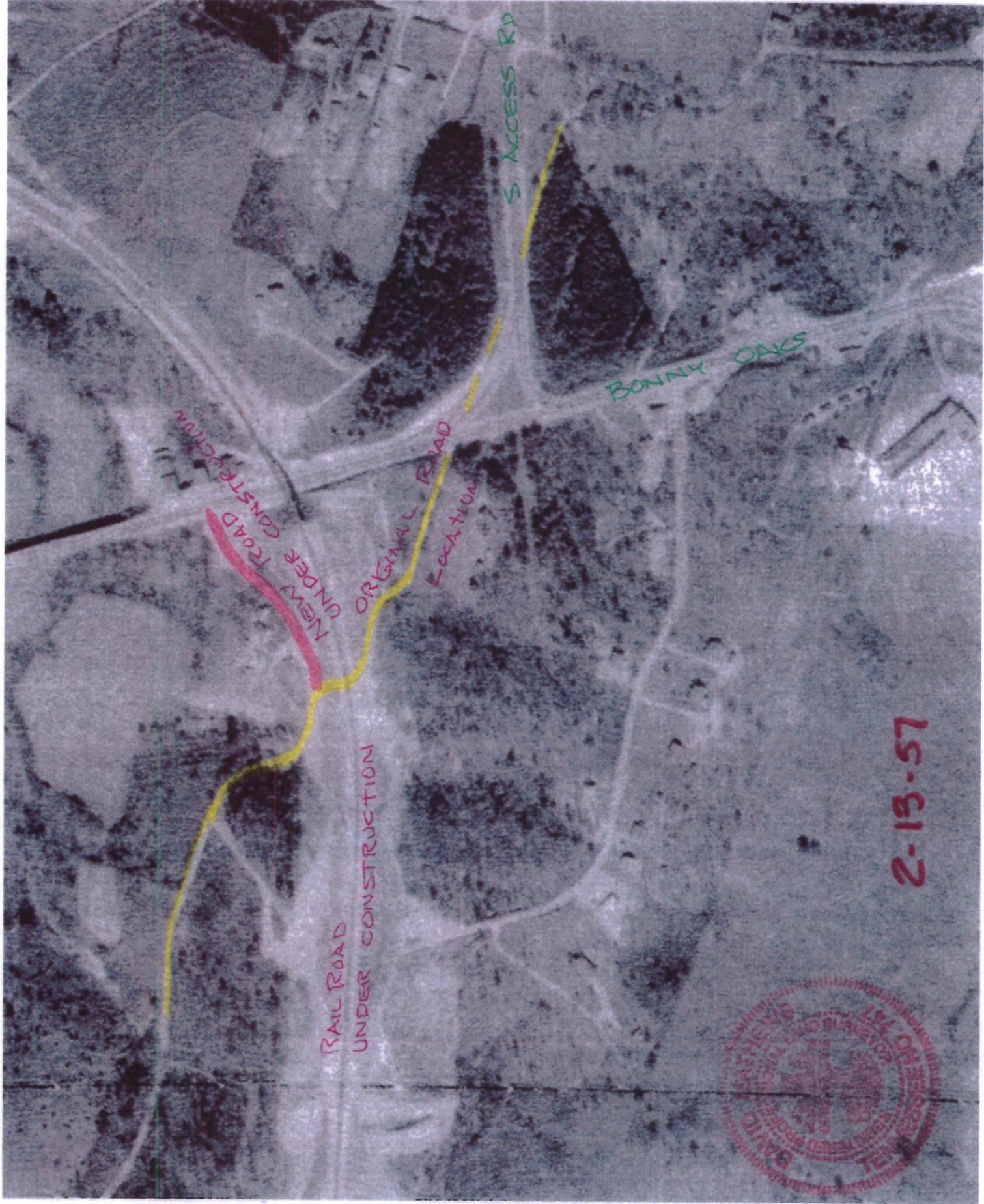


Bonny Oaks

Temp Use 96013
Lamar McDaniel

Youngstown

ACCESS



NEW ROAD UNDER CONSTRUCTION

ORIGINAL ROAD LOCATION

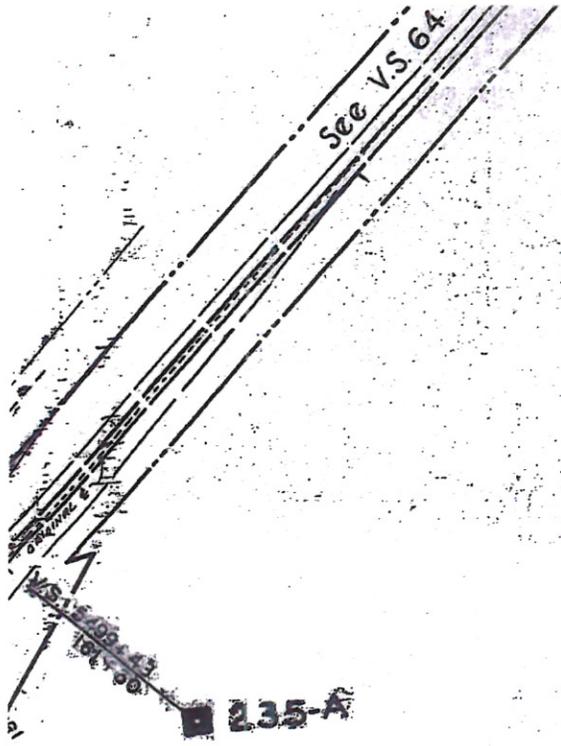
S. ACCESS RD

BONINY OAKS

RAIL ROAD UNDER CONSTRUCTION

2-13-57





RIGHT OF WAY AND TRACK MAP

C. N. O. & T. P. RY. CO.

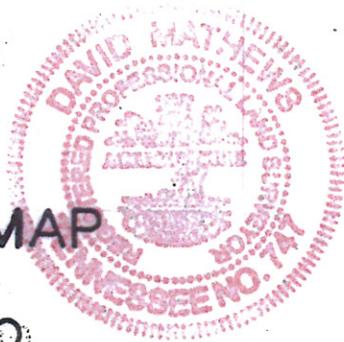
Operated by

THE CINCINNATI, NEW ORLEANS & TEXAS PACIFIC RY. CO.

STATION 75+03 TO STATION 161+50

SCALE: 1 IN. = 200 FT. FEBRUARY 8, 1957.

Office of Chief Engineer
Washington, D. C.



09-08-06 GWM

THIS DEED, made this 9th day of October, 1955, between

ELI SUTTLES, owning an undivided one-sixth interest, RUBY SUTTLES Mc DANIEL (formerly Ruby Suttles), BEATRICE WATKINS, and CLARA MITCHELL, being the surviving wife and children, respectively, of Enoch Suttles, deceased, constituting all of his heirs at law, owning an undivided one-sixth interest, AUDIE SUTTLES KING (formerly Audie Suttles), WADIE SUTTLES, ESTHER BALINGER, HENRIETTA BRIANT, and ONIA SUTTLES, being the surviving widow and children, respectively, of Charlie Suttles, deceased, constituting all of his heirs at law, owning an undivided one-sixth interest, ROY SUTTLES and ~~JACKSON~~ S. COOPER, being the children of Ike Suttles, deceased, there being no surviving widow, constituting all of his heirs at law, owning an undivided one-sixth interest, LEO WALKER, JR., being the husband of Cora Suttles Walker, deceased, there being no surviving husband, constituting her sole heir at law, owning an undivided one-sixth interest, and EDITH GILBERT, being the child of Ines Suttles Kaseley, deceased, there being no surviving husband, constituting her sole heir at law, owning an undivided one-sixth interest, all as tenants in common, declaring they have made no partition or division between them by either oral or written agreement of the hereinafter described real estate, as parties of the first part; and

12/12/55
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THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, party of the second part;

WITNESSETH:

NO (11)

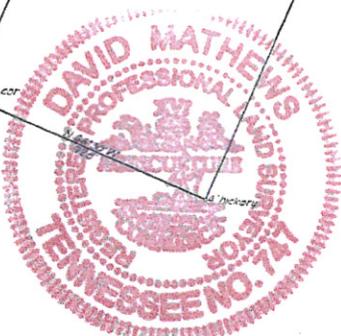
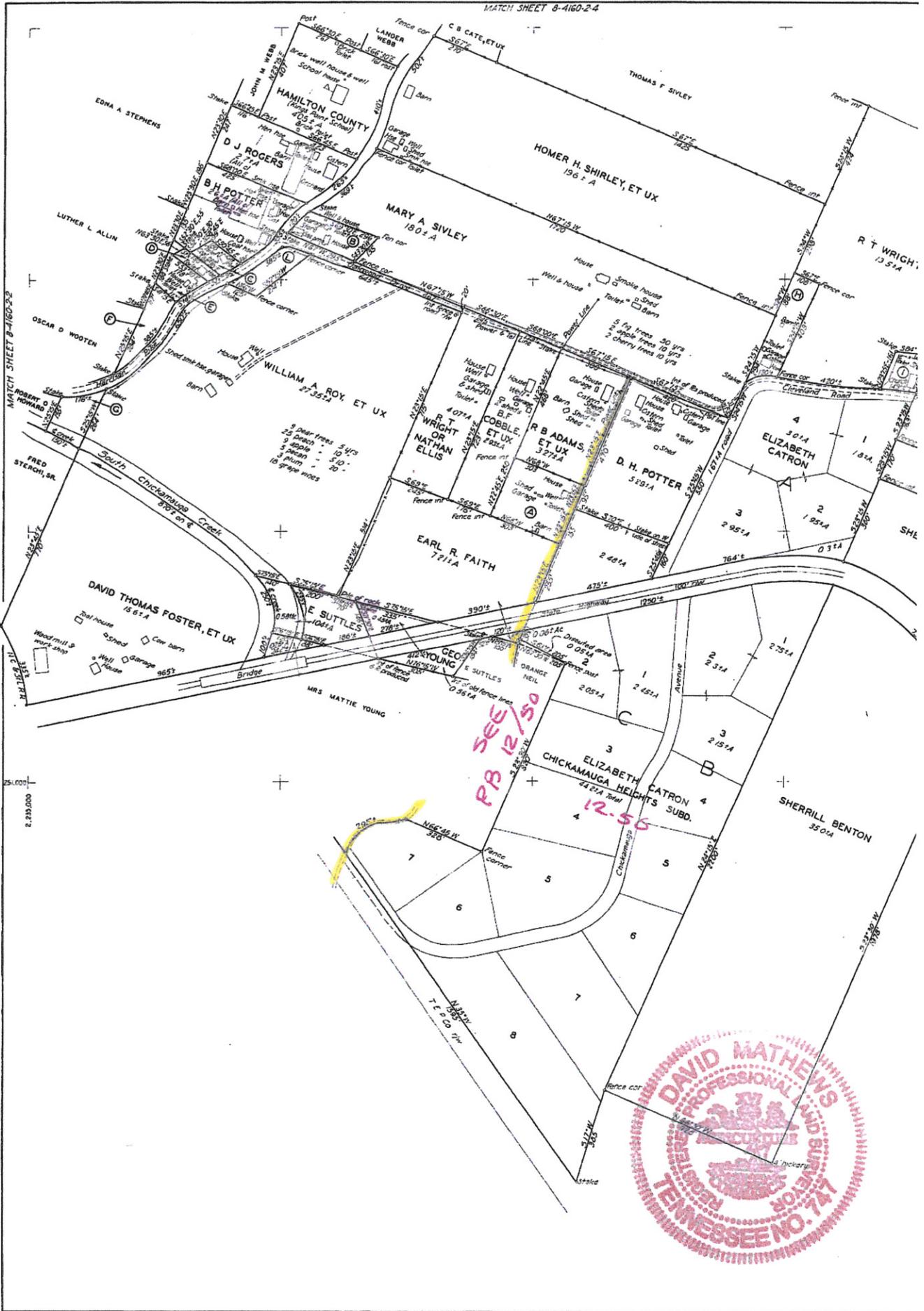
THAT THE PARTIES OF THE FIRST PART, for and in consideration of the sum of two thousand and no/100 Dollars (\$2,000.00), cash to them paid by the party of the second part, receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed and by these presents do grant, bargain, sell and convey, unto the party of the second part, its successors and assigns, full right and title in and to the following described premises, to wit,

IN THE SECOND CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE: Beginning at the point on the southerly right of way line of Tennessee Highway No. 59 where it is intersected by the line dividing the lands formerly owned by James Lee and the lands of Edith Gilbert and Ely Suttles; thence North 77 degrees 16 minutes East along the said Highway right of way line 180 feet to a point in the edge of an unpaved road now or formerly known as Youngtown Road; thence along the westerly boundary of said unpaved road 229 feet to a stake in the line dividing the lands of Edith Gilbert and Ely Suttles and the lands formerly owned by J. L. Jenkins; thence North 78 degrees 30 minutes West along the said line dividing the lands of Edith Gilbert and Ely Suttles and the lands formerly of J. L. Jenkins 149 feet to a point; thence North 24 degrees 01 minutes East 154.5 feet to the point of beginning. The above parcel of land containing 56/100 Acres, more or less, is shown on drawing No. 46895, dated March 4, 1955, and last revised August 24, 1955, prepared in the office of Chief Engineer, of S. N. O. & T. P. Ry. Co., Washington, D. C. SUBJECT TO Zoning Regulations of Hamilton County, Tennessee.

TO HAVE AND TO HOLD the said Premises, with the appurtenances, to the said PARTY OF THE SECOND PART, its successors and assigns, forever in fee simple.

THE PARTIES OF THE FIRST PART covenant unto and with the said party of the second part that they, the parties of the first part, are seized and possessed of said premises in fee and have a good right to convey the same herein; that they are free of encumbrances, except as herein set forth; and the parties of the first part will, and their heirs and administrators shall warrant and defend the title to said premises hereby conveyed unto said party of the second part, its successors and assigns, against the lawful claims of all persons whatsoever.





SEE
PB 12/50
12.56

MATCH SHEET 8-4160-2-2

251.000
2.233.000

MATCH SHEET 8-4160-2-3

MATCH SHEET 8-4160-2-1

MATCH SHEET 8-4160-2-5

MATCH SHEET 8-4160-2-6

MATCH SHEET 8-4160-2-7

MATCH SHEET 8-4160-2-8

MATCH SHEET 8-4160-2-9

MATCH SHEET 8-4160-2-10