



APPLICATION ACCEPTED: November 30, 2009  
BOARD OF ZONING APPEALS: February 10, 2010  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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February 3, 2010

## STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2009-LE-108**

### LEE DISTRICT

**APPLICANT:** James P. Harwell

**OWNERS:** Robert L. Chamberlain  
Faith Mellott-Chamberlain

**SUBDIVISION:** The Mews

**STREET ADDRESS:** 7064 Elton Way

**TAX MAP REFERENCE:** 91-2 ((17)) 13A

**LOT SIZE:** 1,848 square feet

**ZONING DISTRICT:** R-5

**ZONING ORDINANCE PROVISIONS:** 8-917

**SPECIAL PERMIT PROPOSAL:** To permit modification to the limitations on the keeping of animals.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

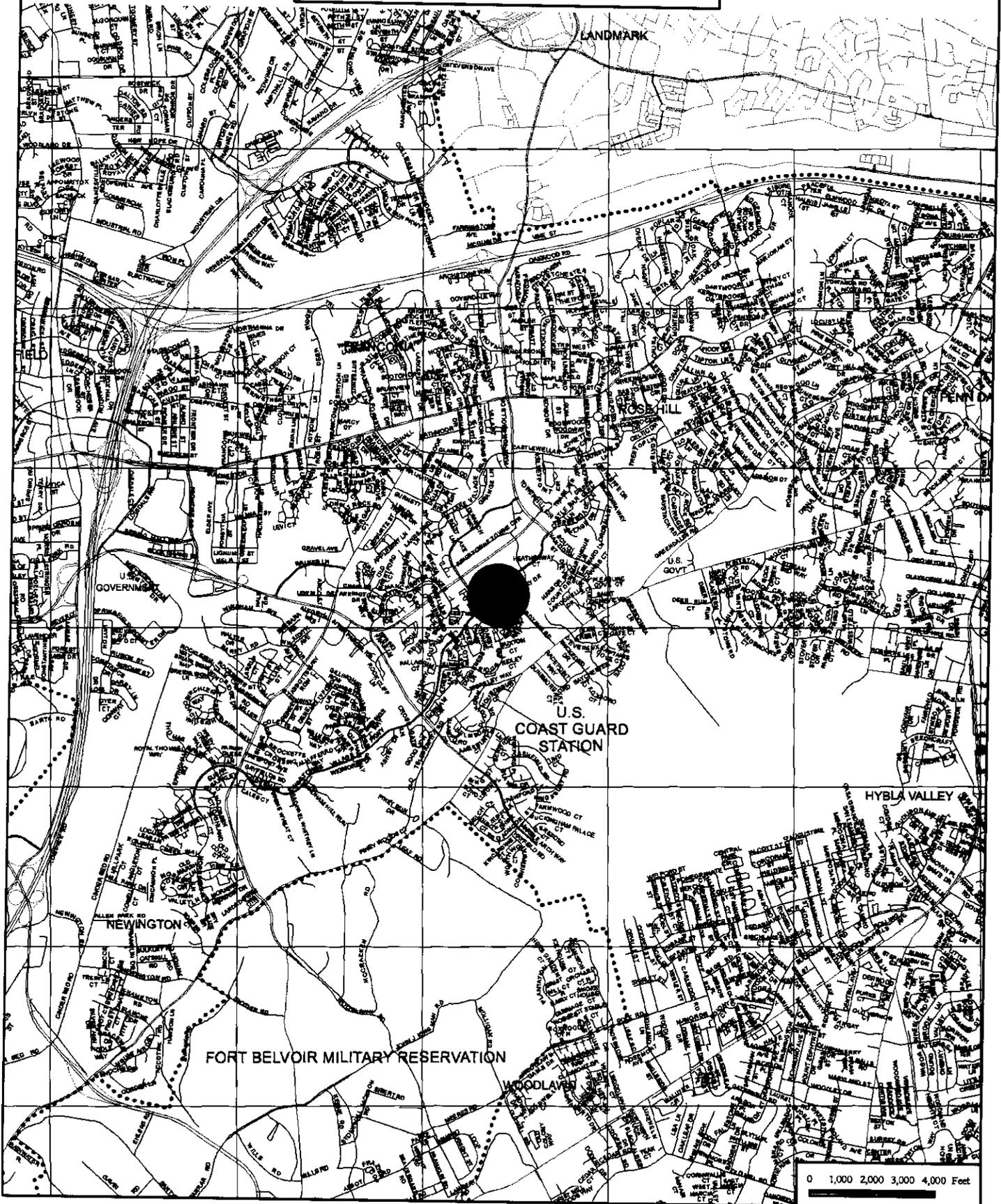
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

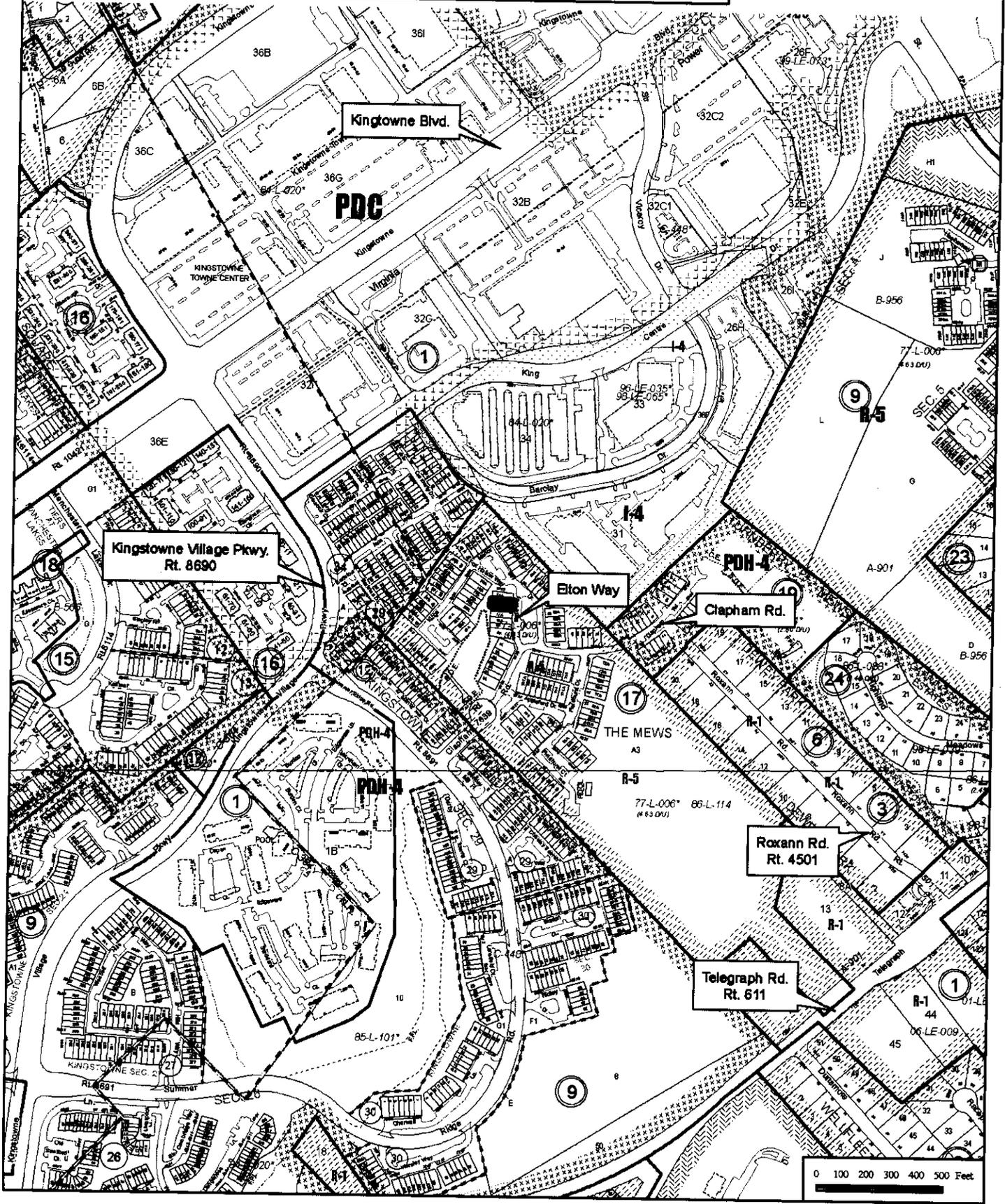


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

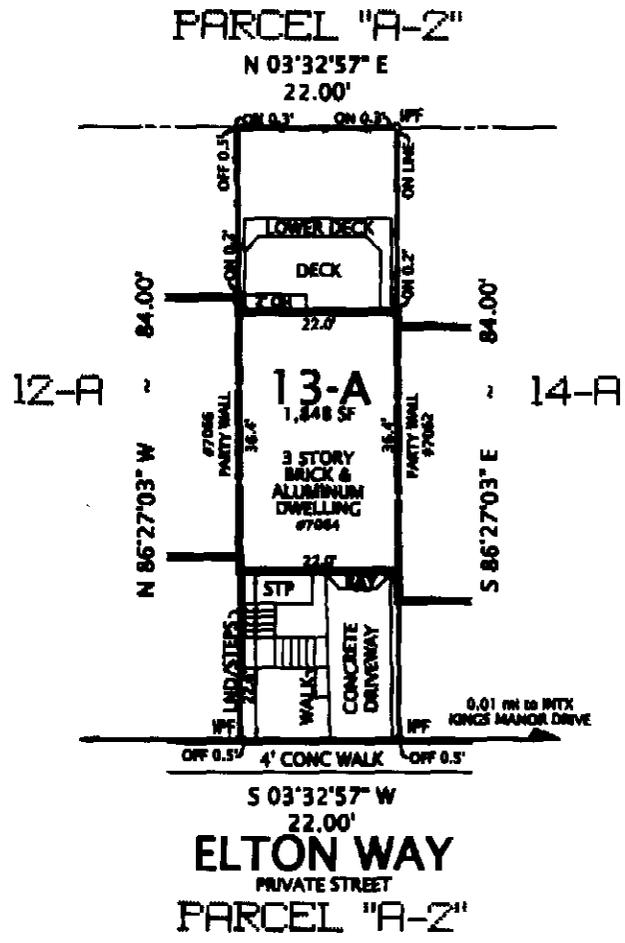
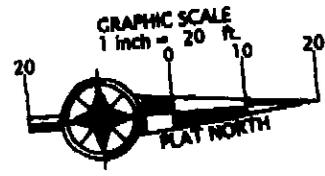
**Special Permit**  
**SP 2009-LE-108**  
**JAMES P. HARWELL**



**Special Permit**  
**SP 2009-LE-108**  
**JAMES P. HARWELL**



NOTES: 1. FENCES ARE FRAME.  
2. UTILITIES ARE UNDERGROUND.



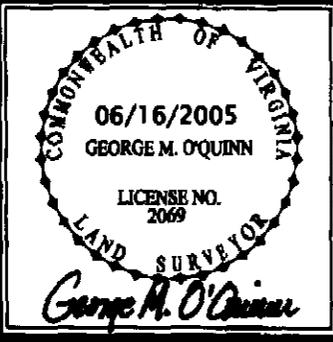
PLAT  
SHOWING HOUSE LOCATION ON  
LOT 13A  
**THE MEWS**  
(DEED BOOK 8335, PAGE 103)  
FAIRFAX COUNTY, VIRGINIA  
LEE DISTRICT  
SCALE: 1" = 20' JUNE 16, 2005

RECEIVED  
Department of Planning & Zoning  
NOV 03 2009  
Zoning Evaluation Division

*James P. Haswell*  
30 OCT 09

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.  
A TITLE REPORT WAS NOT FURNISHED.  
NO CORNER MARKERS SET.



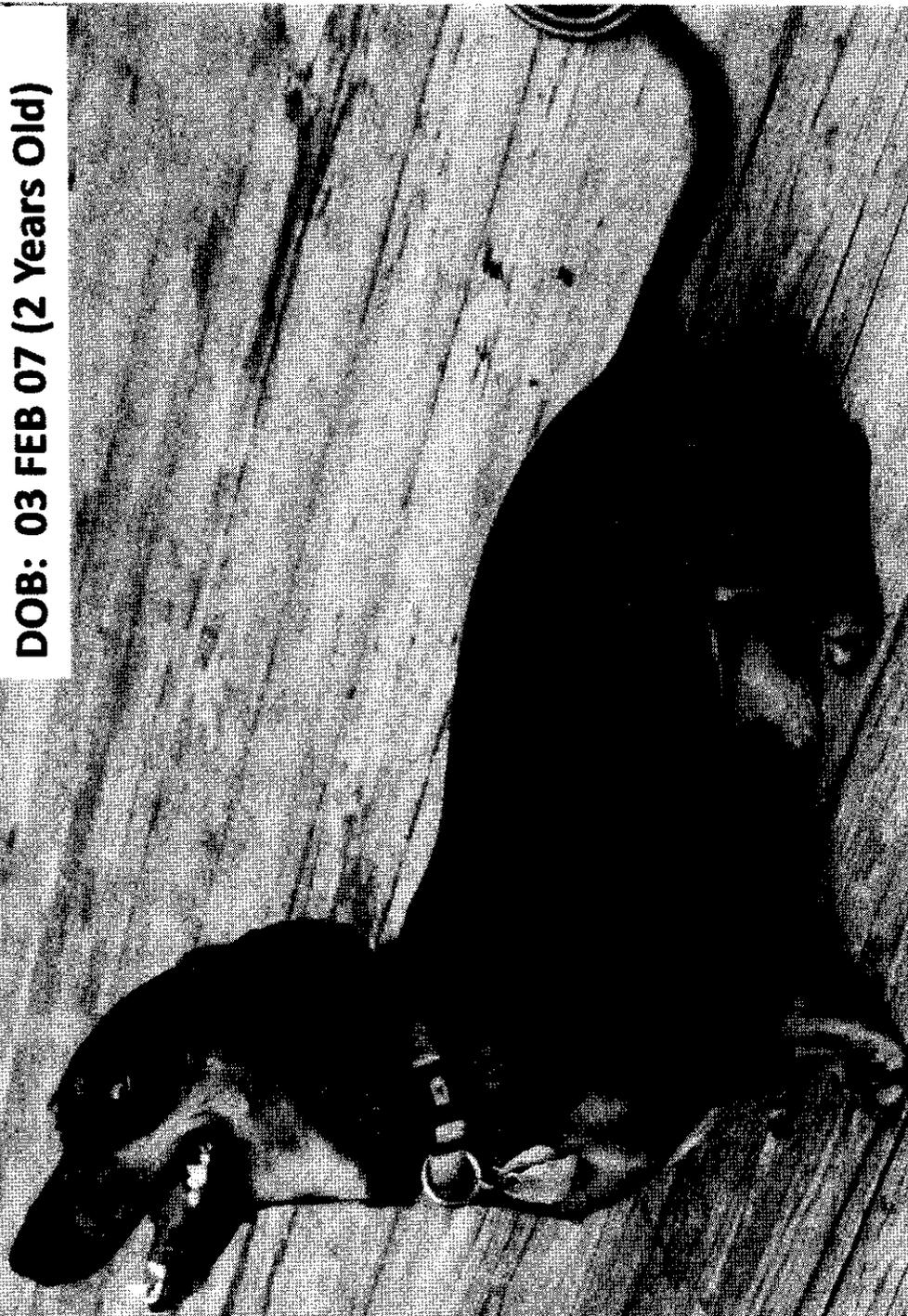
CASE NAME:  
CRAVEN -- CHAMBERLAIN  
LAND, CLARK, CARROLL,  
MENDELSON & BLAIR, P.C.

DOMINION SURVEYORS, INC. •  
8808-H PEAR TREE VILLAGE COURT  
ALEXANDRIA, VIRGINIA 22309  
703-619-6555  
FAX: 703-799-6412

**Rascal**

**Dachshund**

**DOB: 03 FEB 07 (2 Years Old)**



**Prunella**

**Basset Hound**

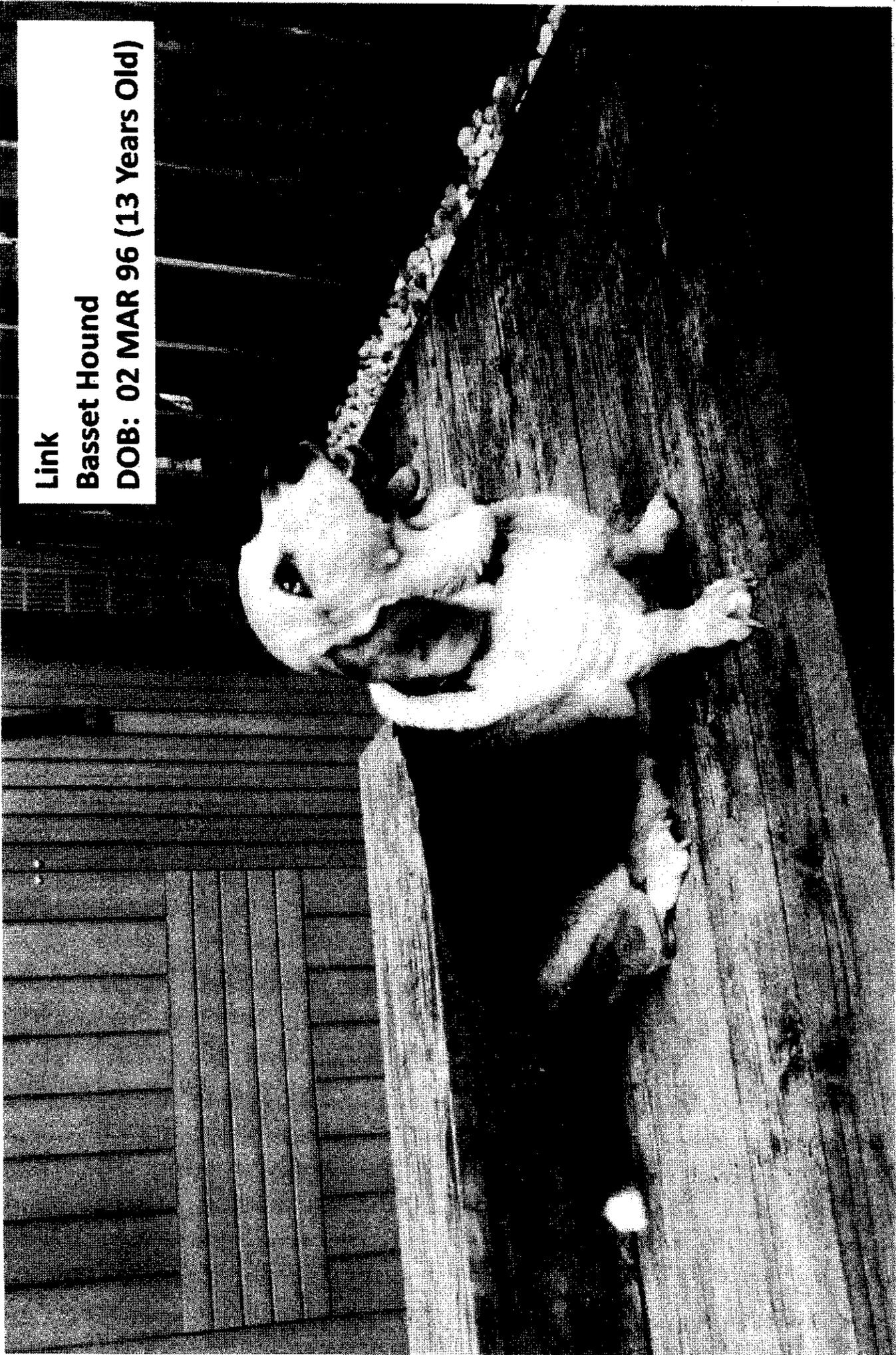
**DOB: 24 APR 00 (9 Years Old)**



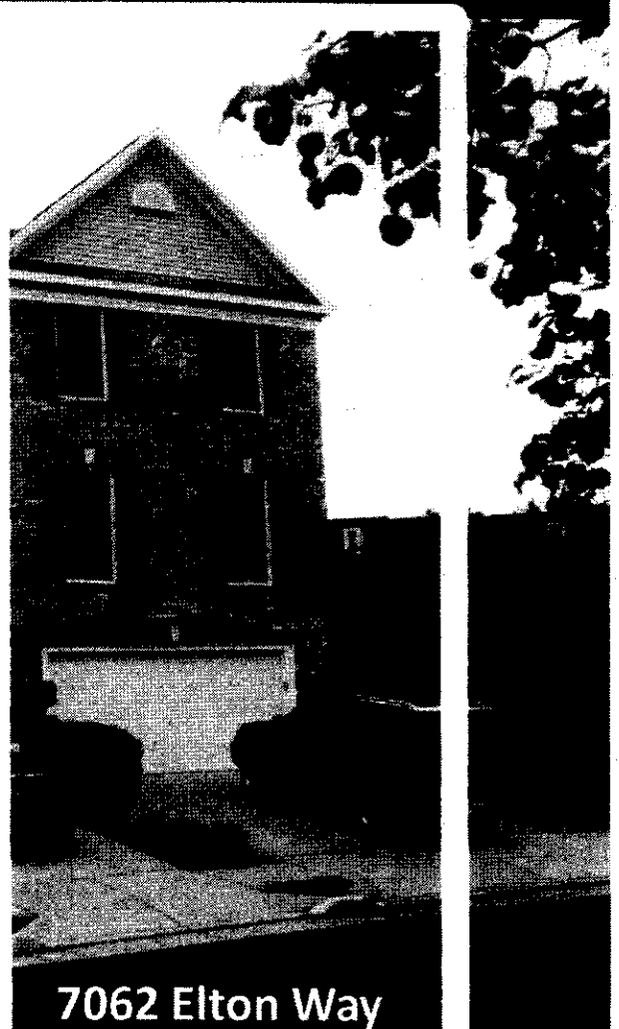
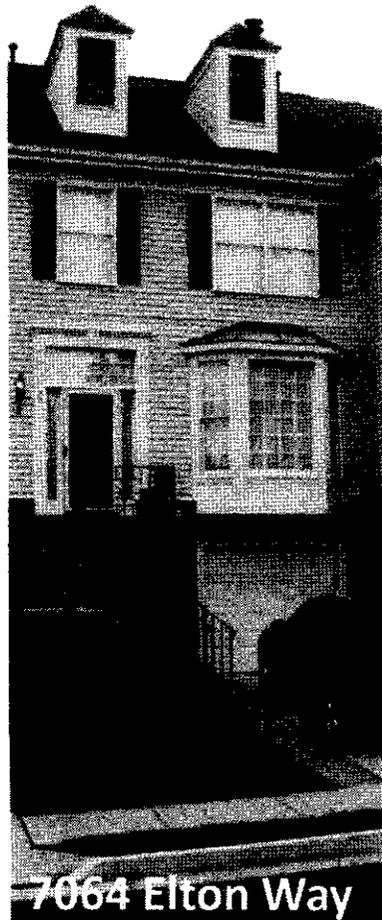
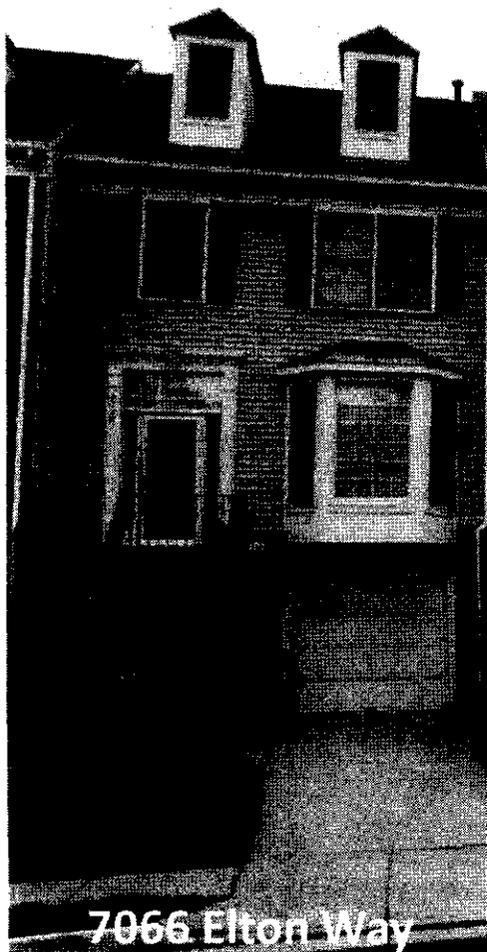
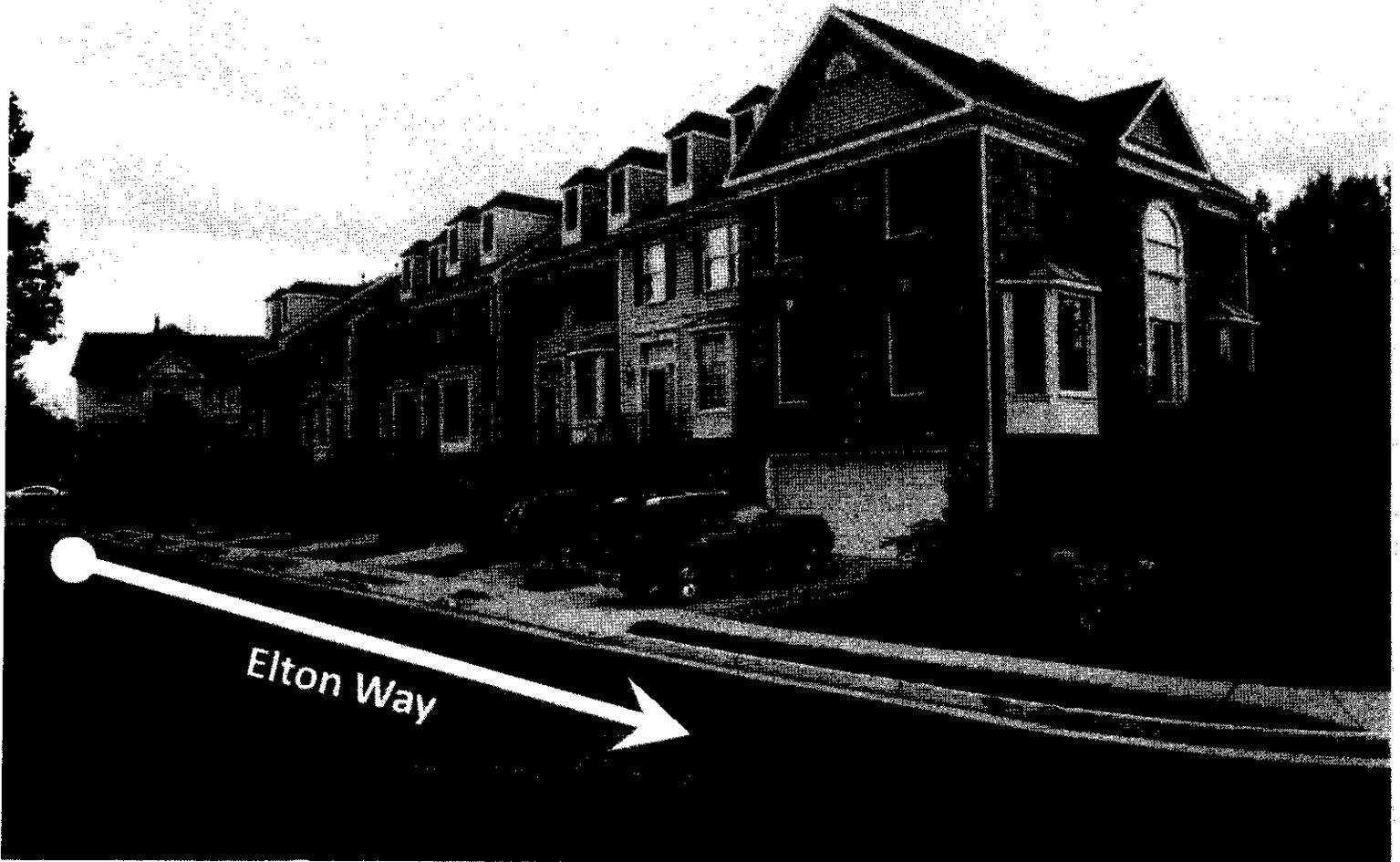
**Link**

**Basset Hound**

**DOB: 02 MAR 96 (13 Years Old)**



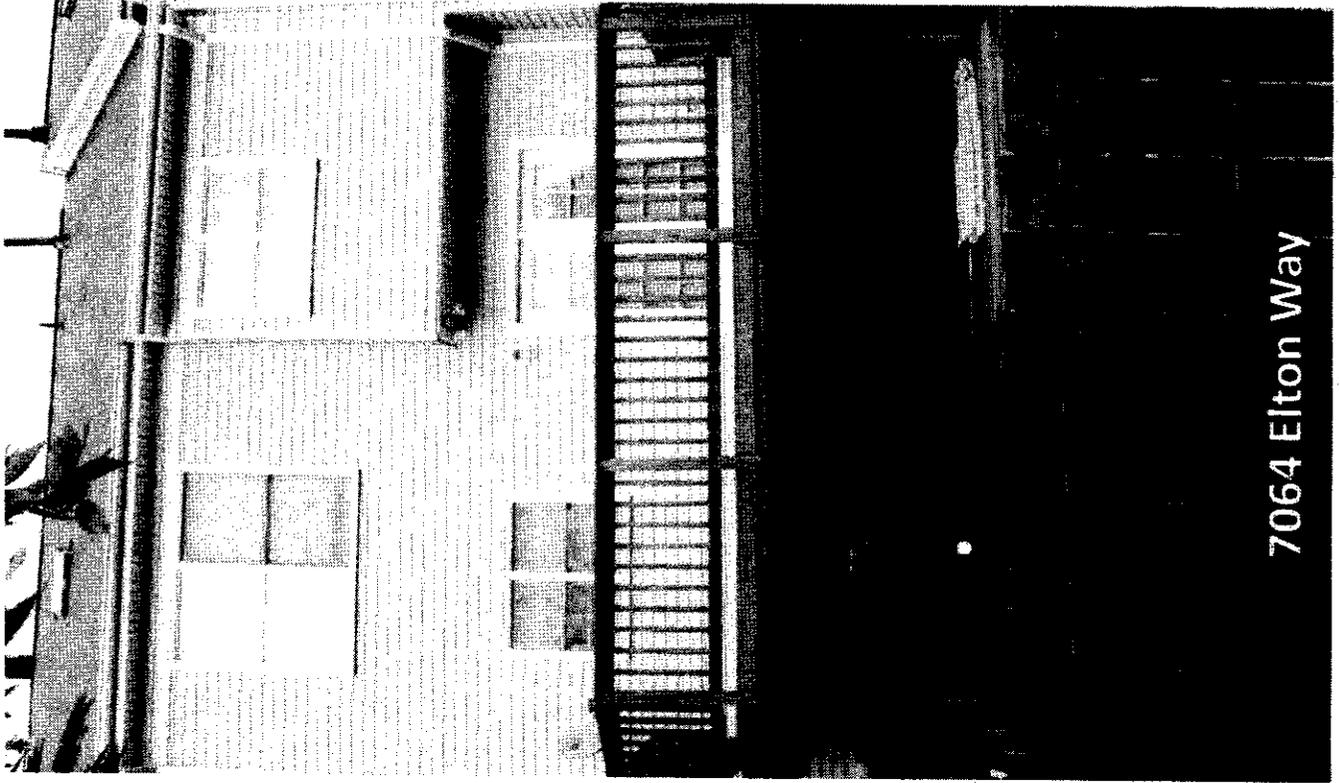
01 September 2009



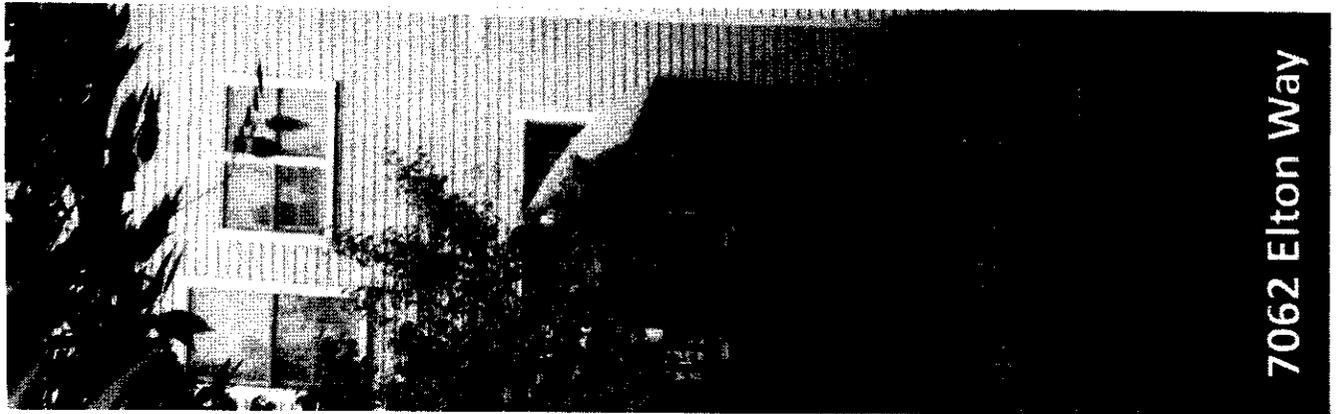
01 September 2009



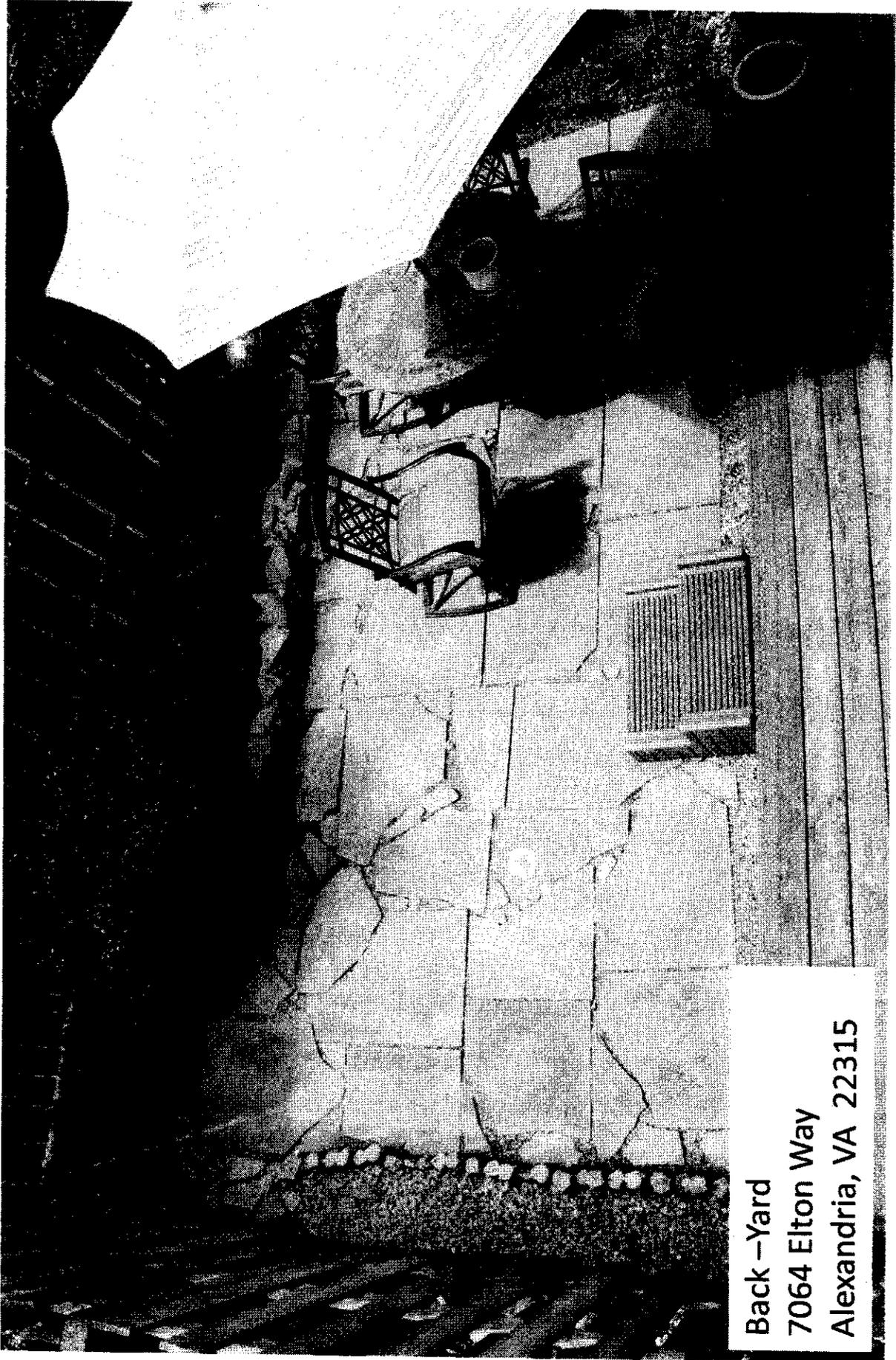
7062 Elton Way



7064 Elton Way



7062 Elton Way



Back -Yard  
7064 Elton Way  
Alexandria, VA 22315



**DESCRIPTION OF THE APPLICATION**

The applicant is requesting a special permit to permit modification to the limitations on the keeping of animals to permit the keeping of three (3) adult dogs. Section 2-512, Paragraph 2A of the Zoning Ordinance requires a residential lot of 12,500 square feet or more to keep three to four dogs. The keeping of up to two dogs would be permitted by-right on the applicant's property.

**LOCATION AND CHARACTER**

**Site Description**

The subject property is developed with a three-story, brick and aluminum townhouse on an interior lot measuring 1,848 square feet within The Mews Subdivision. In review of the photographs submitted with the application, the rear yard of the property is enclosed by a wood-on-wood fence, measuring 6 feet, 1 inch in height that creates a barrier between the application property and adjacent properties to the east and west. An elevated wood deck is located along the rear of the dwelling with a second ground-level patio area underneath that is accessed from the walk-out basement.

**Surrounding Area Description**

	<b>Zoning</b>	<b>Use</b>
<b>North</b>	I-4	Kingstowne - Wholesale, warehousing & Storage
<b>East</b>	PDH-4; R-1	Townhouse Development; Single Family Detached Dwellings
<b>South</b>	R-5	Townhouse Development
<b>West</b>	R-5	Townhouse Development

**BACKGROUND**

On July 28, 2009, the property owner and the applicant was issued a Notice of Violation (NOV) for the keeping of too many dogs. A copy of the NOV is included as Appendix 4 of this staff report. The applicant is the lessee of this property and has obtained written permission by the property owner to seek this special permit request.

County records indicate that the Board of Zoning Appeals (BZA) has not heard any similar special permit applications in the vicinity of the application site.

**ANALYSIS**

**Special Permit Plat** (Copy at front of staff report)

**Title of SP Plat:** Plat Showing House Location on Lot 13A, The Mews

**Prepared By:** George M. O'Quinn, Land Surveyor dated June 16, 2005, as signed by James P. Harwell, October 30, 2009

**Proposed Use:**

The applicant owns three (3) adult dogs, two basset hounds and one dachshund, ranging in age from 2 to 13 years old. The applicant wishes to keep all three dogs on a residential lot measuring 1,848 square feet in area. A lot consisting of a minimum of 12,500 square feet is required for the keeping of three to four dogs. The applicant states that the dogs are primarily kept indoors and are crate trained. A bark breaker is employed to deter barking. The dogs are not left outside for more than ten minutes at any time and the dogs are supervised by the owners when they are released in the back yard. The dogs are walked regularly for exercise, though the walks are limited due to the age of the older animals, age 9 and 13 years. As described by the applicant, animal waste is collected after each outside trip and the owners rinse the deck to prevent odor and treat the soil with lime in order to mitigate damage to adjacent properties.

**ZONING ORDINANCE REQUIREMENTS (Appendix 5)**

- Limitations on the Keeping of Animals (Sect. 2-512)
- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Modifications to the Limitations on the Keeping of Animals (Sect. 8-917)

Paragraph 1 of Sect. 8-917 states that the BZA shall consider the kinds and number of animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location that such animals shall be kept on the lot. The BZA may impose conditions as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission of noise and/or odor shall be detrimental to other property in the area.

Development conditions have been included in Appendix 1 that address the issues related to the keeping of animals on this site.

## **CONCLUSION**

If it is the intent of the BZA to approve this application, staff suggests the BZA condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated March 24, 2009
5. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2009-LE-108****February 3, 2010**

If it is the intent of the Board of Zoning Appeals to approve SP 2009-LE-108 located at Tax Map 91-2 (17)) 13A to permit a modification to the limitations on the keeping of animals, pursuant to Section 8-917 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant only, James P. Harwell, and is not transferable without further action of this Board, and is for the location indicated on the application, 7064 Elton Way (1,848 square feet) and is not transferable to other land.
2. The applicant shall make this special permit property available for inspection to County officials during reasonable hours of the day.
3. This approval shall be for the applicant's existing three dogs. If any of these animals die, are sold or given away, they shall not be replaced, except that two dogs may be kept on the property in accordance with the Zoning Ordinance
4. The yard area where the dogs are kept shall be cleaned of dog waste every day, in a method which prevents odors from reaching adjacent properties, and in a method approved by the Health Department.
5. At no time shall the dogs be left outdoors unattended for continuous periods of longer than 30 minutes.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Application No.(s): SP 2009-LE-108  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/28/09  
(enter date affidavit is notarized)

I, James Patrick Harwell, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)       applicant  
                          applicant's authorized agent listed in Par. 1(a) below      106122

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Robert L. Chamberlain	298 A Lee Road, West Point, NY 10996	<b>Title Owner</b>
Faith Mellott-Chamberlain	298 A Lee Road, West Point, NY 10996	Title Owner
James P. Harwell	7064 Elton Way, Alexandria, VA 22315	Applicant / Lessee
Shannon M. Harwell	7064 Elton Way, Alexandria, VA 22315	Lessee

(check if applicable)       There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.  
\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SP 2009-LE-108  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/28/09  
(enter date affidavit is notarized)

106122

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

(check if applicable)  There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2009-LE-108  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/28/09  
(enter date affidavit is notarized)

106122

1(c). The following constitutes a listing\*\*\* of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

(check if applicable)  The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable)  There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2009-LE-108  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/28/09  
(enter date affidavit is notarized)

106122

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SP 2009-LE-108  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/28/09 106122  
(enter date affidavit is notarized)

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one) James P. Harwell  
 Applicant [ ] Applicant's Authorized Agent

James P. Harwell, Applicant / Lessee  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 28 day of August 2009, in the State/Comm. of Virginia, County/City of Arlington.

Rosalind Y. Porter  
Notary Public

My commission expires: 31 March 2013



James P. Harwell  
7064 Elton Way  
Alexandria, VA 22315

I am petitioning the Fairfax County Board of Zoning Appeals for a Special Permit to own three dogs at our residence at 7064 Elton Way, Alexandria, VA, 22315.

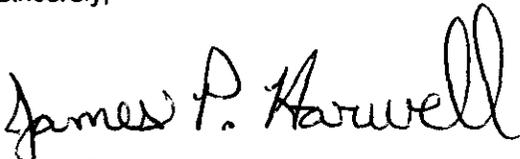
My wife and I own three dogs, two basset hounds and a dachshund, ranging in ages from 2 to 13. To provide context, the average life expectancy of a basset hound is 10 – 12 years. Our two bassets are 13 and 9, both are beyond or nearing the end of their life-expectancy. Our dogs are well behaved, good natured animals that are kept indoors the majority of the day. They are crate trained and kept in crates on the ground floor when we are not home. A bark breaker is employed to deter barking. They are never left outside for more than ten minutes at any time and my wife or I generally accompany them out when they are in our back yard. We clean up any waste after each trip outside and rinse our deck to prevent odors. Additionally, in order to prevent damage to our yard or an impact on adjacent yards we mix lime into the soil to maintain the appropriate ph. Additionally, we walk our dogs regularly for exercise, though our walks are short due to the stress it causes our older animals. We are committed to ensuring that the keeping of our animals be compatible, and in harmony, with adjacent areas in our community.

I received orders assigning me and my family to the National Capital Region (NCR) in December 2007 while I was deployed to Iraq. My wife and I were ordered to report to the NCR within 30 days of my re-deployment to Fort Lewis, WA, which required us to quickly find a home. While I was still deployed we were contacted by another military family with the offer to rent their home as they departed for West Point, New York. We informed them that we had three dogs, received approval, and paid our pet deposit prior to occupying our home. Upon arriving in Alexandria we registered our three dogs with the county, in accordance with local laws.

We have been dog owners for more than 13 years, 10 of which have been while serving in the military. During that time we have resided in four state, and six homes, with no previous complaints. We regularly address our neighbors to avoid any problems. We have learned to practice due diligence in order to ensure that our family is a welcome part of every community we join and to this end we have been generally successful. We have never before encountered a community with a restriction that precluded us from having our three dogs and only encountered the current challenge due to a move directed by the Army. Currently we are scheduled to remain members of our Alexandria community until early to mid 2011. We request that a special permit be issued to allow us to keep our three dogs for the remainder of our tour in the National Capital Regions.

We appreciate your consideration of our request for a special permit.

Sincerely,



James P. Harwell  
Applicant

RECEIVED  
Department of Planning & Zoning  
NOV 03 2009  
Zoning Evaluation Division



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

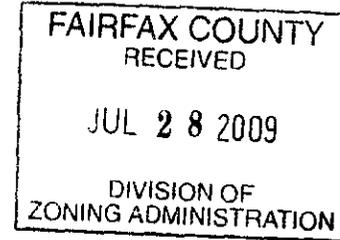
July 28, 2009

## NOTICE OF VIOLATION

### Certified Mail

### Return Receipt Requested

Receipt # 7008 0150 0002 8819 8913



James P. Harwell  
7064 Elton Way  
Alexandria, Virginia 22315

Re: 7064 Elton Way, Alexandria, Virginia 22315  
Subdivision: The Mews, Lot 13A  
Tax Map Ref.: 91-2 ((17)) 13A  
Zoning District: R-5

A zoning inspection of the above-referenced property, on July 23, 2009, and subsequent telephone conversation with you, revealed that you are keeping three dogs over the age of 6 months on a lot containing 1,848 square feet.

Therefore, you are in violation of Par. 2A of Sect. 2-512 of the Fairfax County Zoning Ordinance which limits the keeping of dogs as follows:

- 2. The keeping of dogs, except a kennel as permitted by the provisions of Part 6 of Article 8, shall be allowed as an accessory use on any lot in accordance with the following:
  - A. The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

<i>Number of Dogs</i>	<i>Minimum Lot Size</i>
1 to 2	No requirement
3 to 4	12,500 square feet
5 to 6	20,000 square feet



James P. Harwell

July 28, 2009

Page 2

7 or more      25,000 square feet plus 5,000 square  
feet for each additional dog above 7

You are, hereby, directed to clear this violation within thirty (30) days of receipt of this Notice. Compliance can be accomplished by the following:

- Reducing the number of dogs kept on the property to two dogs or,
- Making application and ultimately obtaining the Board of Zoning Appeals (BZA) approval of a Group 9 Special Permit for a modification of the limitations on the keeping of animals.

Should you choose to seek compliance by pursuing the approval of the BZA of a Group 9 Special Permit; you may call 703-324-1290 for more information.

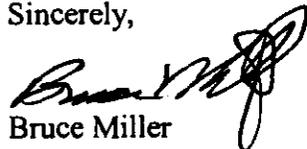
A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia.

This decision shall be final and unappealable if it is not appealed within such ten (10) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$2455.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions regarding this notice or need additional information, please do not hesitate to contact me at (703) 324-1391 or (703) 324-1300.

Sincerely,



Bruce Miller

Property Maintenance/Zoning Enforcement Inspector

BM/bm

**2-512 Limitations on the Keeping of Animals**

1. The keeping of commonly accepted pets shall be allowed as an accessory use on any lot, provided such pets are for personal use and enjoyment, and not for any commercial purpose. Dogs shall be subject to the provisions of Par. 2 below.
2. The keeping of dogs, except a kennel as permitted by the provisions of Part 6 of Article 8, shall be allowed as an accessory use on any lot in accordance with the following:
  - A. The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

<b><i>Number of Dogs</i></b>	<b><i>Minimum Lot Size</i></b>
1 to 2	No requirement
3 to 4	12,500 square feet
5 to 6	20,000 square feet
7 or more	25,000 square feet plus 5,000 square feet for each additional dog above 7

- B. Notwithstanding the above, dogs in numbers greater than those set forth above may be kept on a lot when it can be demonstrated that:
  - (1) Such dogs were kept on the lot prior to October 11, 1977 and have continued to be kept on such lot; or
  - (2) Three (3) dogs were kept on a lot of less than 12,500 square feet in size, or five (5) dogs were kept on a lot of 12,500 to 19,999 square feet in size, prior to February 25, 1985.

The provisions of this Paragraph B shall apply only to existing dogs when evidence is submitted which specifically identifies each animal and documents that such animal was present on the lot in accordance with the applicable time frames set forth above.

Nothing in this Ordinance shall be construed to determine the type of license required for dogs under the provisions of Chapter 41 of The Code.

3. The keeping of livestock or domestic fowl shall be allowed as an accessory use on any lot of two (2) acres or more in size. The

keeping of such livestock or domestic fowl shall be in accordance with the following:

- A. The number of livestock kept on a given lot shall not exceed the ratio of one (1) animal unit per one (1) acre, with an animal unit identified as follows:

2 head of cattle	= 1 animal unit
5 sheep	= 1 animal unit
3 horses	= 1 animal unit
5 swine	= 1 animal unit
5 goats	= 1 animal unit
5 llamas	= 1 animal unit
5 alpacas	= 1 animal unit

Horses shall include ponies, mules, burros and donkeys. In determining the number of livestock permitted, only horses six (6) months or older in age and cattle, sheep, goats, and swine one (1) year or older in age shall be counted. In addition, in determining the number of livestock permitted, combinations of animals are allowed, provided that the ratio of one (1) animal unit per one (1) acre is maintained.

- B. The number of domestic fowl kept on a given lot shall not exceed the ratio of one (1) bird unit per one (1) acre, with a bird unit identified as follows:

32 chickens	= 1 bird unit
16 ducks	= 1 bird unit
8 turkeys	= 1 bird unit
8 geese	= 1 bird unit

In determining the number of domestic fowl permitted, only fowl six (6) months or older in age shall be counted.

4. The keeping of honeybees in four (4) beehives or less shall be allowed as an accessory use on any lot. On any lot of 10,000 square feet in size or larger, more than four (4) beehives may be kept, provided there is an additional lot area of 2500 square feet for each hive. In all instances, there shall be one (1) adequate and accessible water source provided on site and located within fifty (50) feet of the beehive(s). In addition, if the landing platform of a hive faces and is within ten (10) feet of any lot line, there shall be a flight path barrier, consisting of a fence, structure or plantings not less than six (6) feet in height, located in front of the hive.

5. The keeping of racing, homing, or exhibition (fancy) pigeons shall be allowed as an accessory use on any lot 10,000 square feet or more in size.
6. All accessory structures associated with the keeping or housing of animals shall be located in accordance with the provisions of Part 1 of Article 10.
7. The BZA may approve a special permit to modify the provisions of Paragraphs 1 through 6 above, but only in accordance with Part 9 of Article 8; provided, however, that a kennel, animal shelter or riding or boarding stable shall be subject to the provisions of Part 6 of Article 8.
8. The keeping of wild, exotic, or vicious animals shall not be allowed except as may be permitted by Chapter 41 of The Code.

#### **8-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified

for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

### **8-903 Standards For All Group 9 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

### **8-917 Provisions for Modifications to the Limitations on the Keeping of Animals**

The BZA may approve a special permit to allow the keeping of animals that are not commonly accepted pets, to allow the keeping of animals in numbers greater and/or on lots smaller than permitted by Sect. 2-512, or to allow modifications to the location regulations of Par. 9 of Sect. 10-104, but only in accordance with the following:

1. In reviewing an application, the BZA shall consider the kinds and numbers of animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location that such animals will be kept on the lot. The BZA may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission of noise and/or odor detrimental to other property in the area.
2. Such modification may be approved if it is established that the

resultant use will be harmonious and compatible with the adjacent area.

3. Notwithstanding the requirements set forth in Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat, which may be prepared by the applicant and shall contain the following information:
  - A. The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
  - B. The dimensions, height and distance to all lot lines of any existing or proposed building, structure or addition where such animals are to be kept.
  - C. The delineation of any Resource Protection Area and Resource Management Area.
  - D. The signature and certification number, if applicable, of the person preparing the plat.