APPLICATION ACCEPTED: December 20, 2010
BOARD OF ZONING APPEALS: March 2, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

February 23, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-DR-075

DRANESVILLE DISTRICT

APPLICANT:	Christopher W. Devine, Trustee
OWNERS:	Christopher W. Devine and Lea Marie Devine
SUBDIVISION:	Kingstream
STREET ADDRESS:	12101 Eddyspark Drive
TAX MAP REFERENCE:	11-1 ((4)) 256
LOT SIZE:	10,151 square feet
ZONING DISTRICT:	R-3 (Cluster)
ZONING ORDINANCE PROVISIONS:	8-914 and 8-922
SPECIAL PERMIT PROPOSAL:	To permit reduction to minimum yard requirements based on error in building location to permit deck to remain 3.4 feet from a side lot line and to permit reduction of certain yard requirements to permit construction of an addition (screen porch) 14.5 feet from the rear lot line

STAFF RECOMMENDATION: Staff recommends approval of SP 2010-DR-075 for the addition (screen porch), subject to the proposed development conditions contained in Appendix 1 of this staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

O:\SMCKNI\SP\DEVINE SP 2010-DR-075 (50%)\STAFF REPORT\Staff Report Devine.doc *Shelby Johnson*

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. 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.

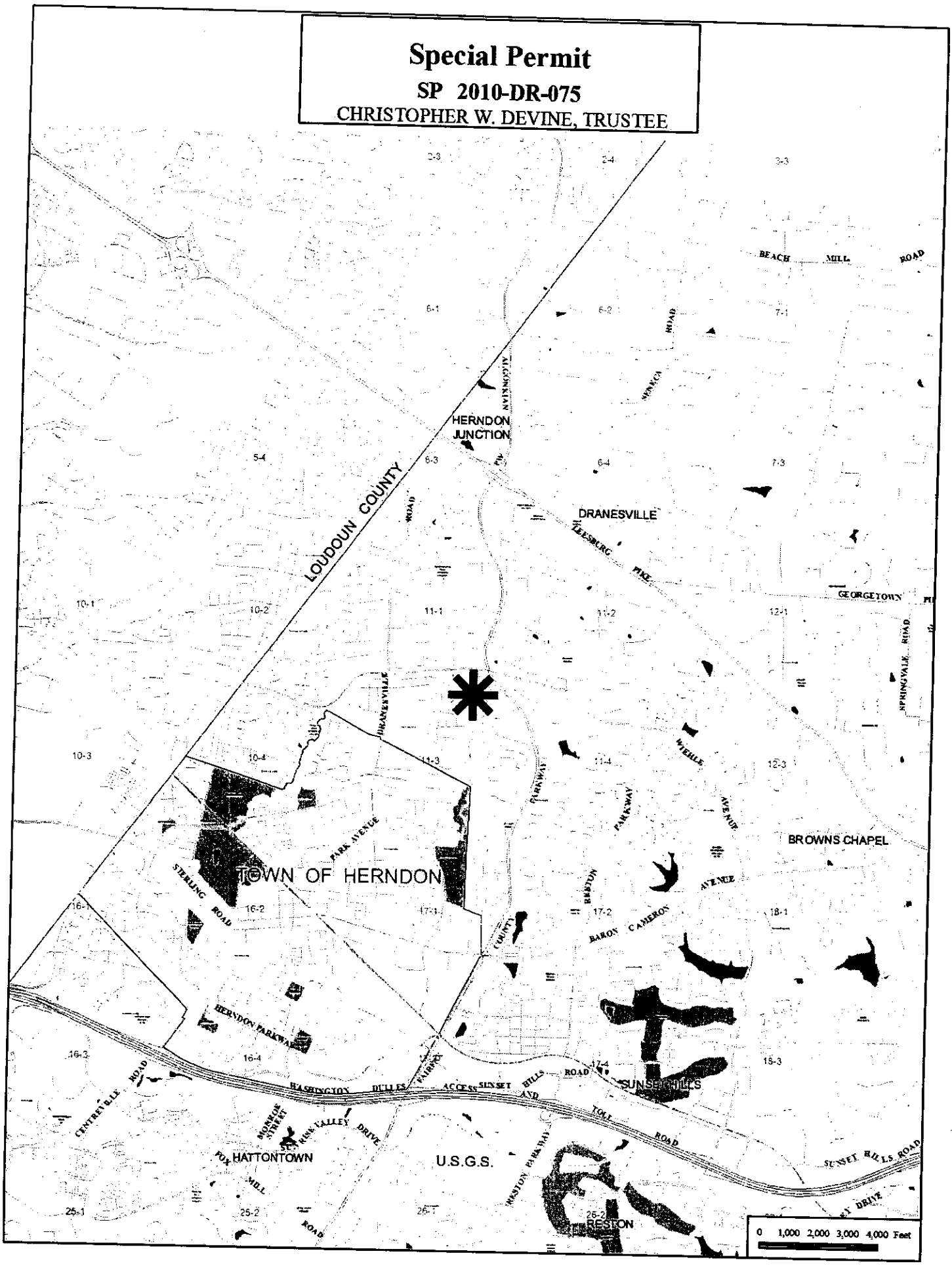
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government 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 2010-DR-075

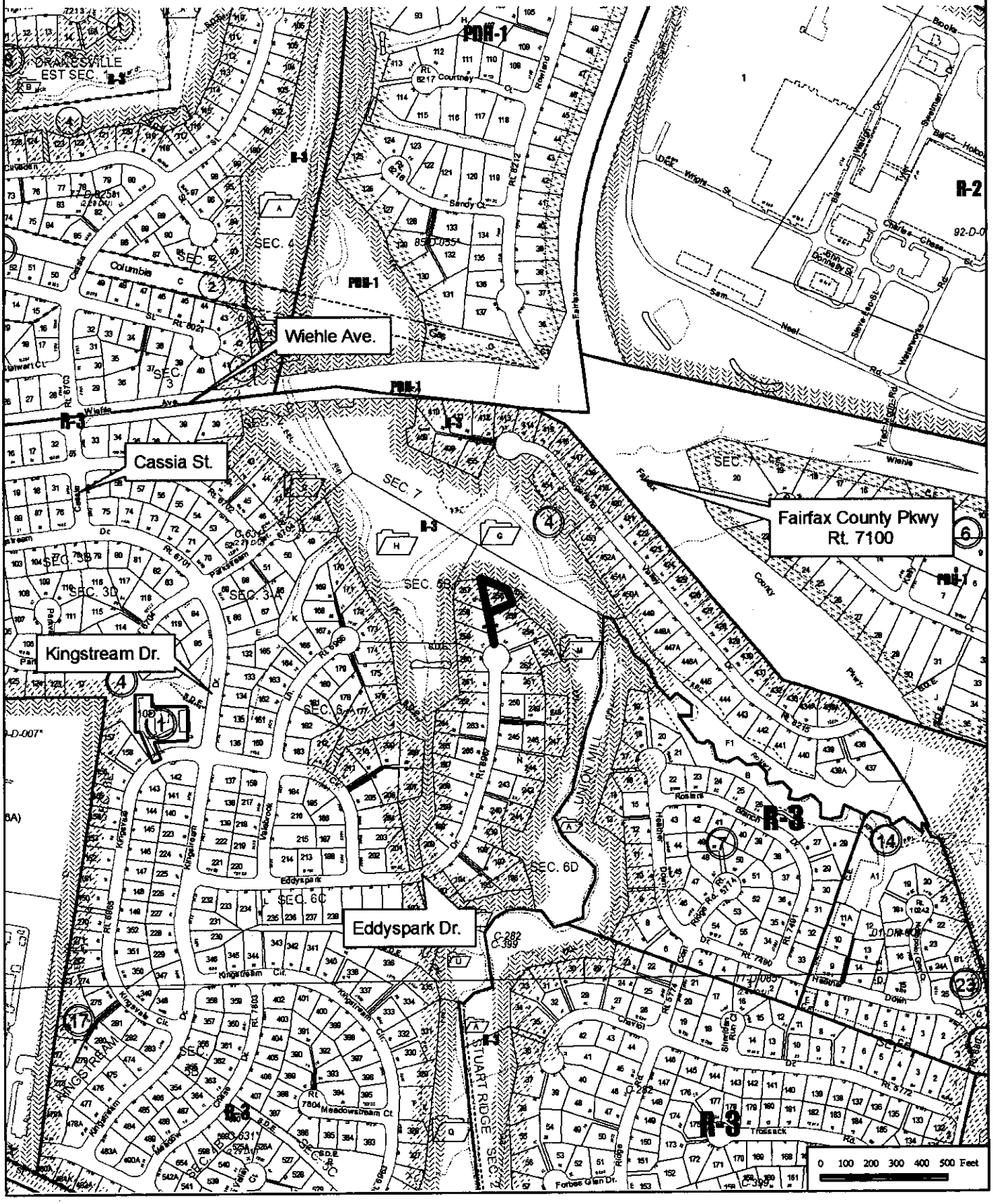
CHRISTOPHER W. DEVINE, TRUSTEE



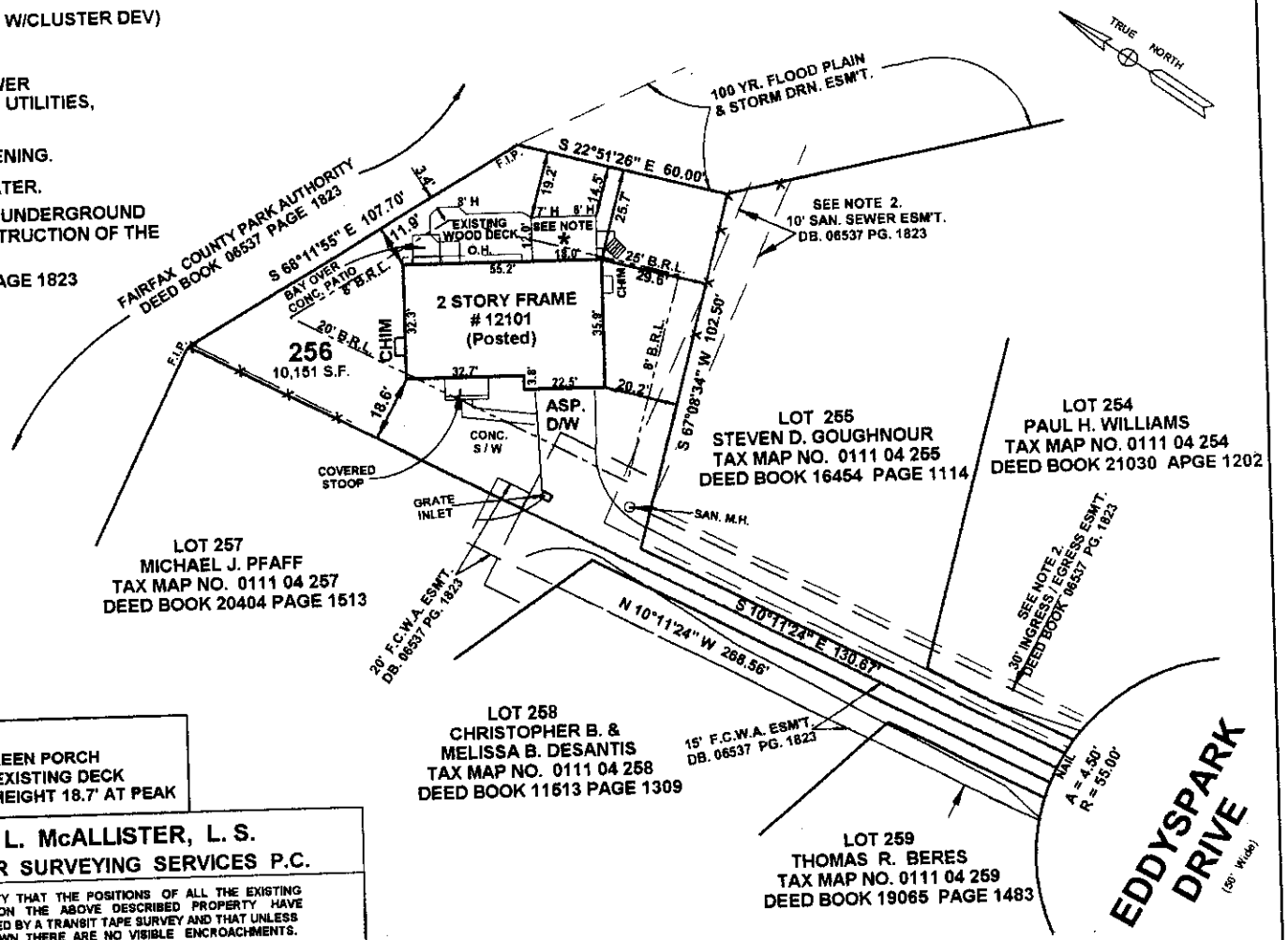
Special Permit

SP 2010-DR-075

CHRISTOPHER W. DEVINE, TRUSTEE



1. ALL LOTS SHOWN HEREON ARE ZONED R-3C (R-3 W/CLUSTER DEV)
   8500 S.F. WITH S. E.
   B.R.L'S. FRONT 20FT., SIDE 8FT., 26FT. REAR
2. EASEMENT FOR INGRESS / EGRESS, SANITARY SEWER LATERALS, CONSTRUCTION AND MAINTENANCE OF UTILITIES, AND COUNTY AND OTHER EMERGENCY VEHICLES.
3. THERE ARE NO EXISTING LANDSCAPING OR SCREENING.
4. PROPERTY IS SERVED BY PUBLIC SEWER AND WATER.
5. TO THE BEST OF MY KNOWLEDGE THERE ARE NO UNDERGROUND UTILITIES THAT WILL BE IMPACTED BY THE CONSTRUCTION OF THE SCREEN PORCH ON THE EXISTING DECK.
6. SUBDIVISION PLAT RECORDED IN DB. 6537 AT PAGE 1823
   DATE RECORDED: NOV. 03, 1986



SPECIAL PERMIT PLAT

LOT 256 SECTION 6 - D

KINGSTREAM

FAIRFAX COUNTY, VIRGINIA

* PROPOSED SCREEN PORCH TO BE BUILT ON EXISTING DECK 12' X 18' (216 S.F.) HEIGHT 18.7' AT PEAK

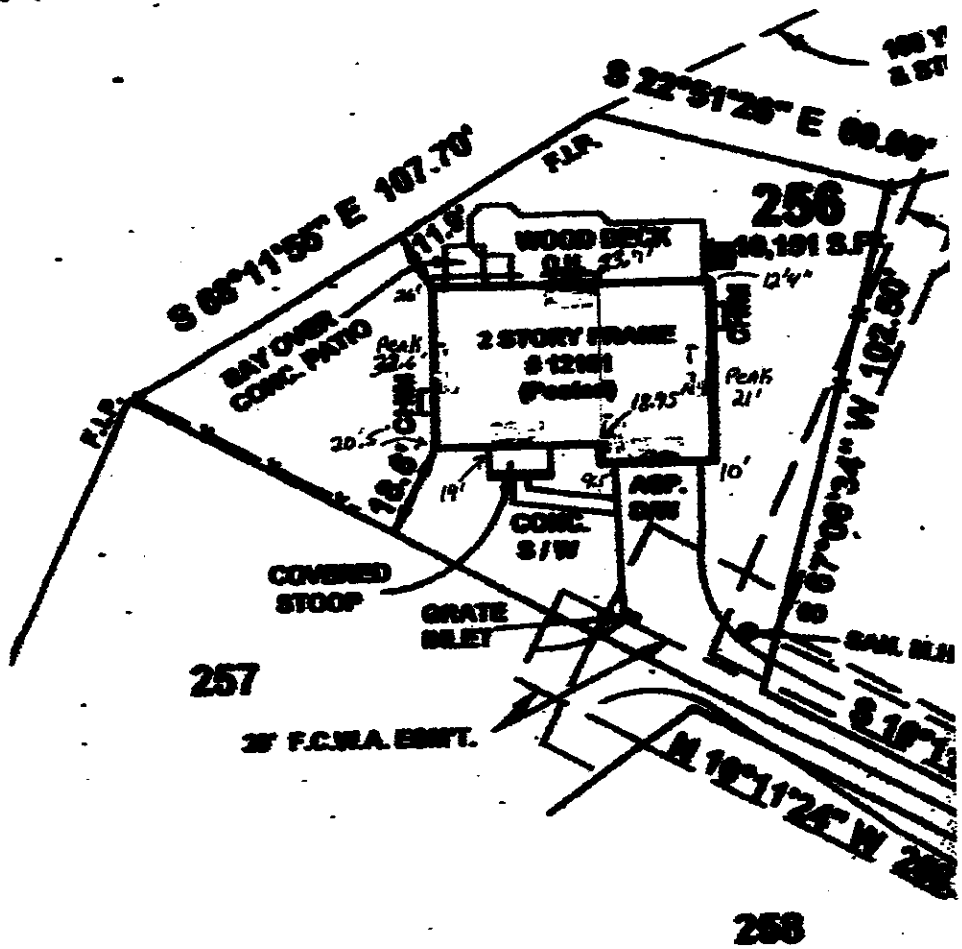
COMMONWEALTH OF VIRGINIA
NOV. 05, 2010
CURTIS L McALLISTER
Lic No. 1597
LAND SURVEYOR

CURTIS L. McALLISTER, L. S.
HIGHLANDER SURVEYING SERVICES P.C.

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN ESTABLISHED BY A TRANSIT TAPE SURVEY AND THAT UNLESS OTHERWISE SHOWN THERE ARE NO VISIBLE ENCROACHMENTS.

SCALE: 1" = 60'	DRAWN CLM / cadd
DATE: NOV. 05, 2010	CHECK BY CKM
NO TITLE REPORT FURNISHED	PHONE # 703-273-1619
D.B. 17947 PAGE 115	DEVINE

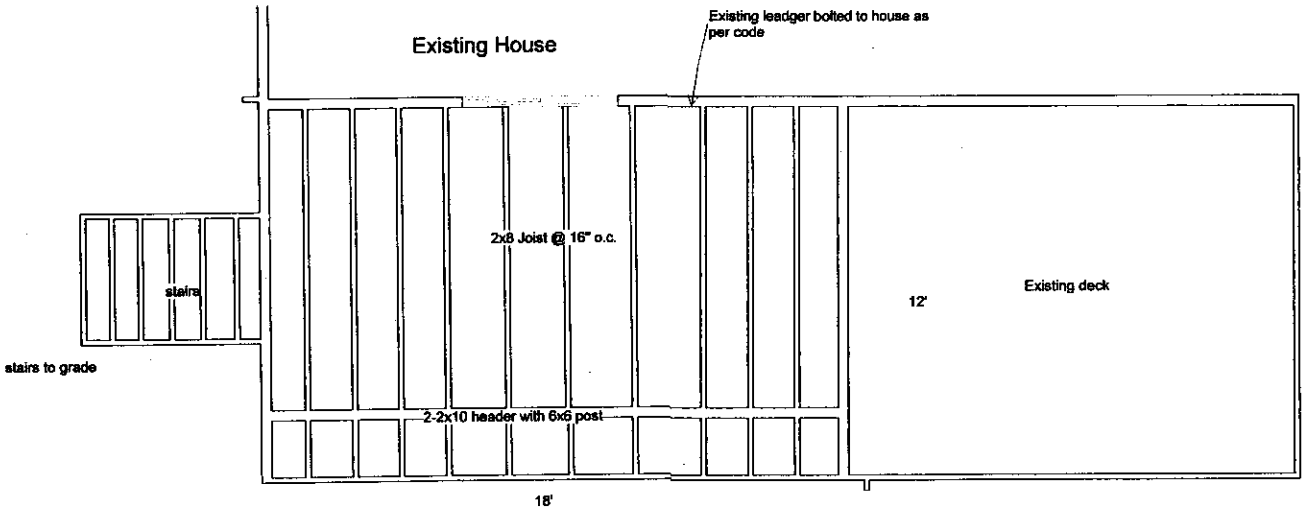
NOT A BOUNDARY SURVEY AND IS NOT
USED FOR CONSTRUCTION PURPOSES.



Height of Eaves to Grade

20.5'
19'
18.75'
9.5'
10'
12.4'
23.75'
26'

Average Eave to Grade = 17.49'
Highest Ridge = 32.6'
mid Point of Roof = 25.04'



Existing deck

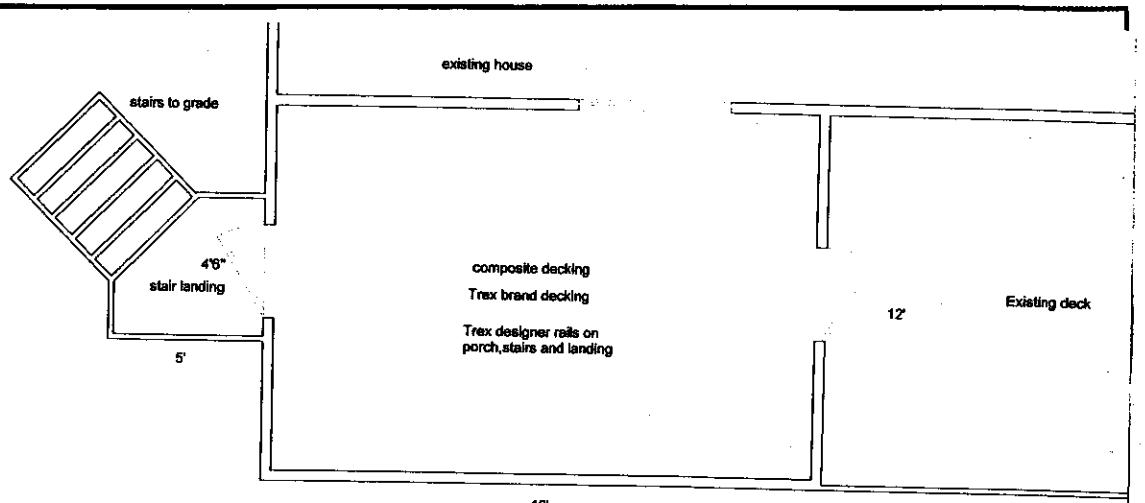
RECEIVED
Department of Planning & Zoning
AUG 24 2010
Zoning Evaluation Division

12101 Eddys Park Dr.
Herndon, VA. 20170

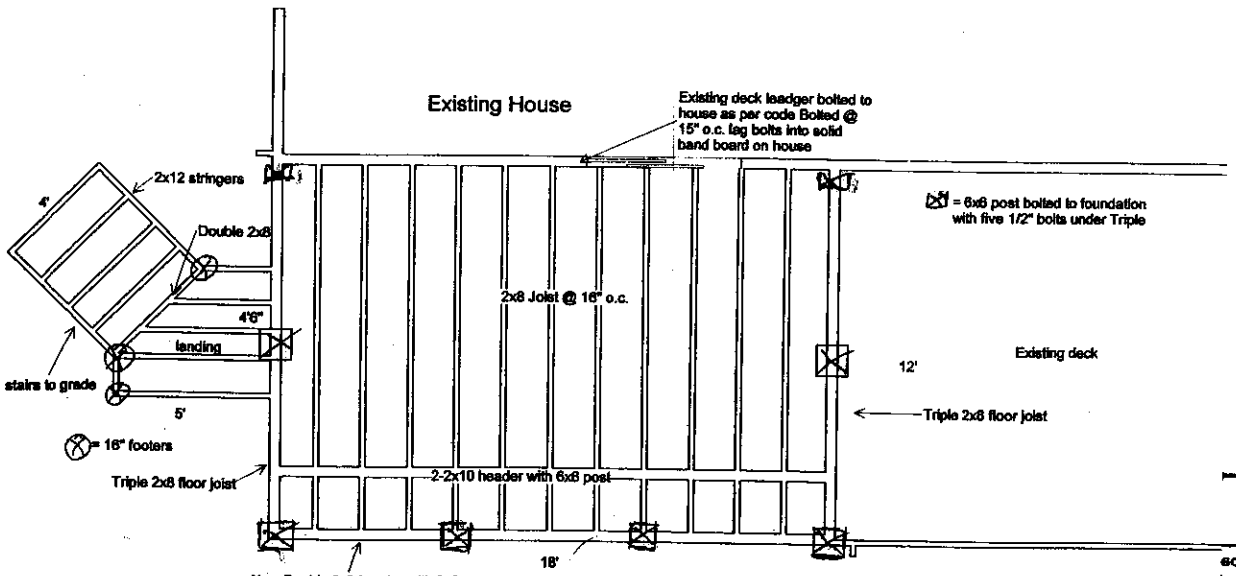
SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY
DATE:		REVISED

LASIK BUILDERS
Thomas S. Lasik
12814 Briery River Terrace
Herndon, VA. 20170-2804
703 437-0890
DESIGNER: Thomas S. Lasik

DRAWING NUMBER



FloorPlan



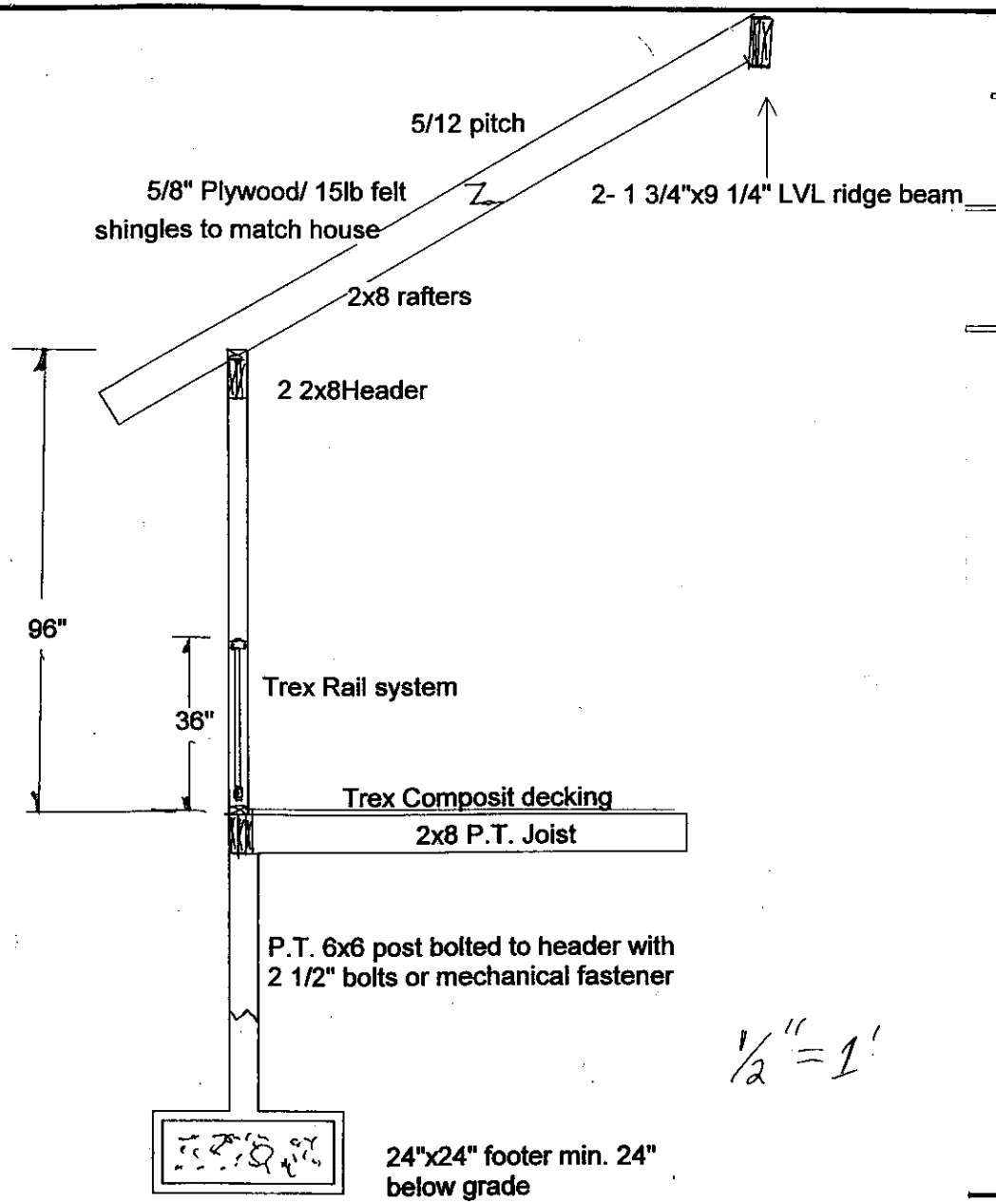
New deck
Frame and
Foundation

12101 EDDYS PARK DR.
HERNDON, VA. 20170

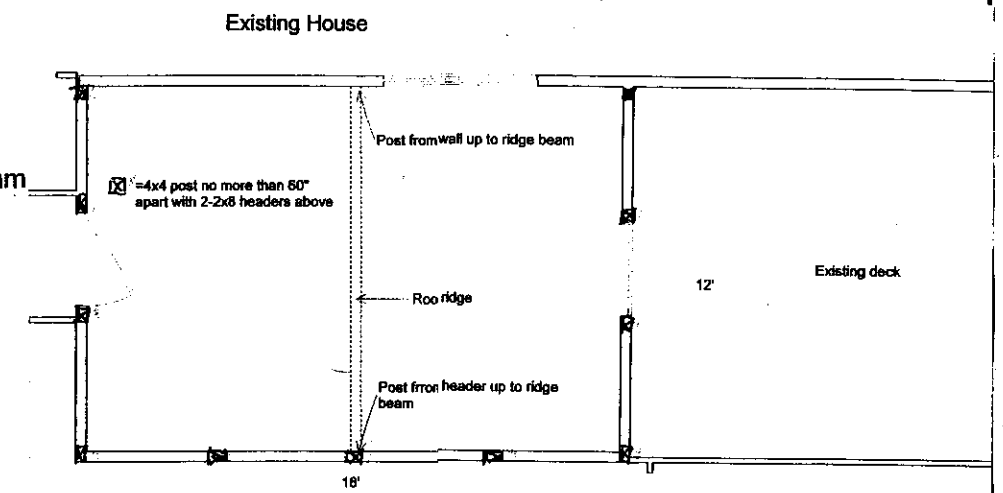
SCALE: 1/4"=1	APPROVED BY:	DRAWN BY
DATE:		REVISED

LASIK BUILDERS
Thomas S. Lasik
12614 Briary River Terrace
Herndon, VA. 20170-2804
703 437-0890
DESIGNER: Thomas S. Lasik

DRAWING NUMBER



1/2" = 1'



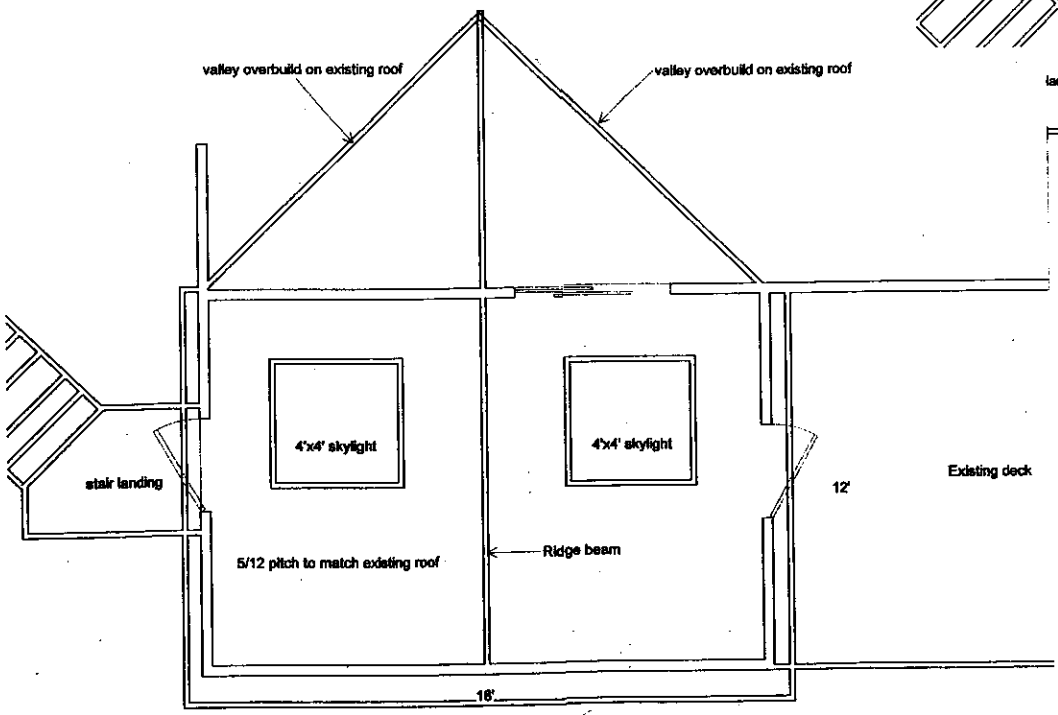
New deck
wall Frame

12101 EDDYS PARK DR.
HERNDON, VA 20170

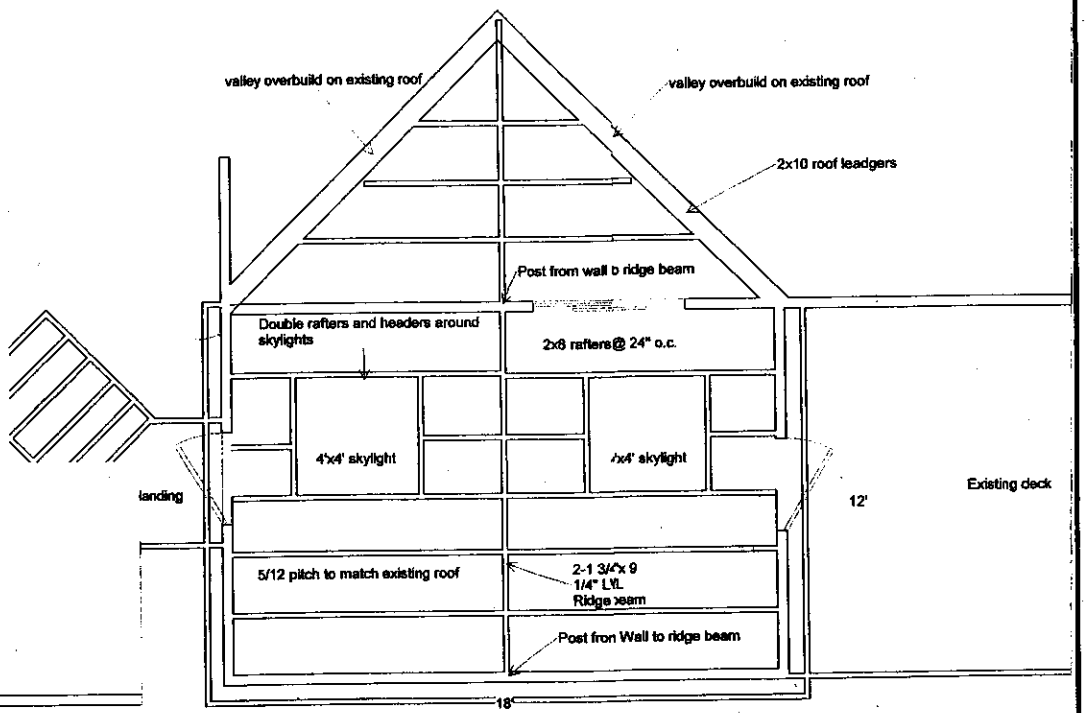
SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY
DATE:		REVISED

LASIK BUILDERS
Thomas S. Lasik
12614 Briary River Terrace
Herndon, VA. 20170-2804
703 437-0890
DESIGNER: Thomas S. Lasik

DRAWING NUMBER



Roof Plan



Roof Plan

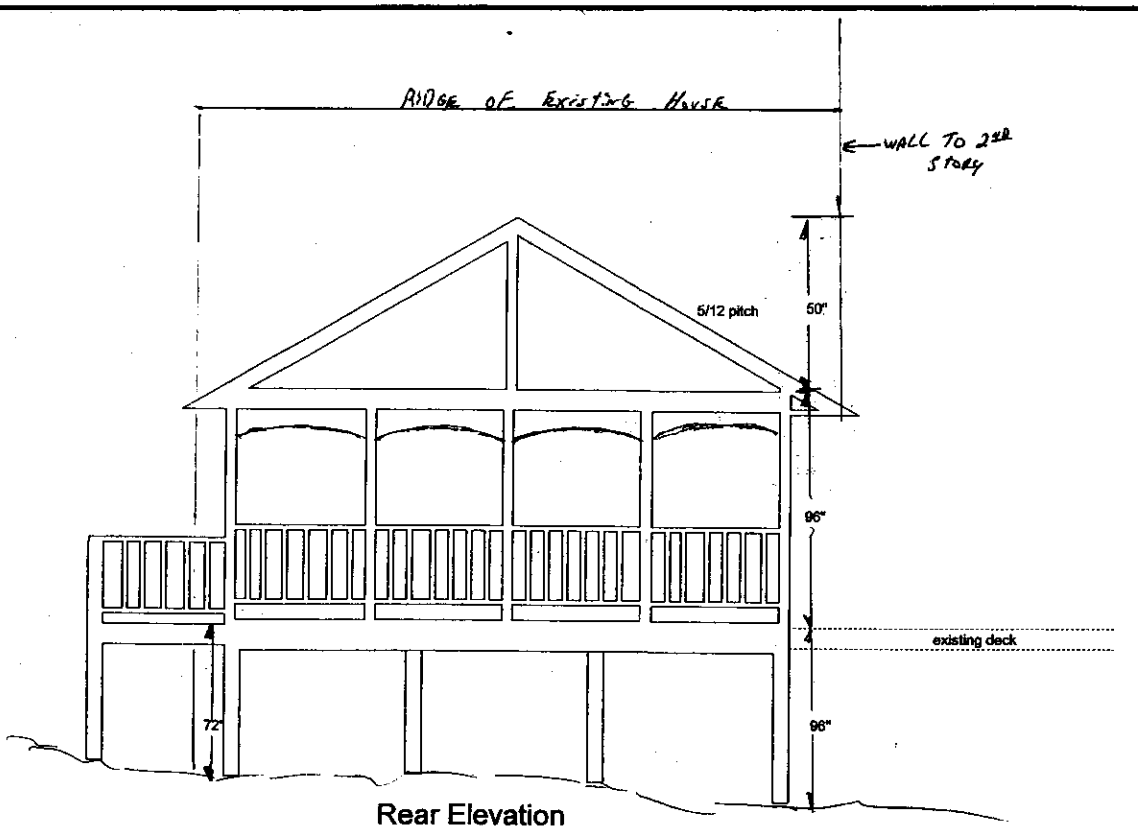
12101 EDDY PARK DR.
HERNDON, VA. 20170

SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY
DATE:		REVISED

LASIK BUILDERS
Thomas S. Lasik
12814 Briery River Terrace
Herndon, VA. 20170-2804
703 437-0890
DESIGNER: Thomas S. Lasik

DRAWING NUMBER

side elevation



Rear Elevation

12101 EDDYS PARK DR.
HERNDON VA. 20170

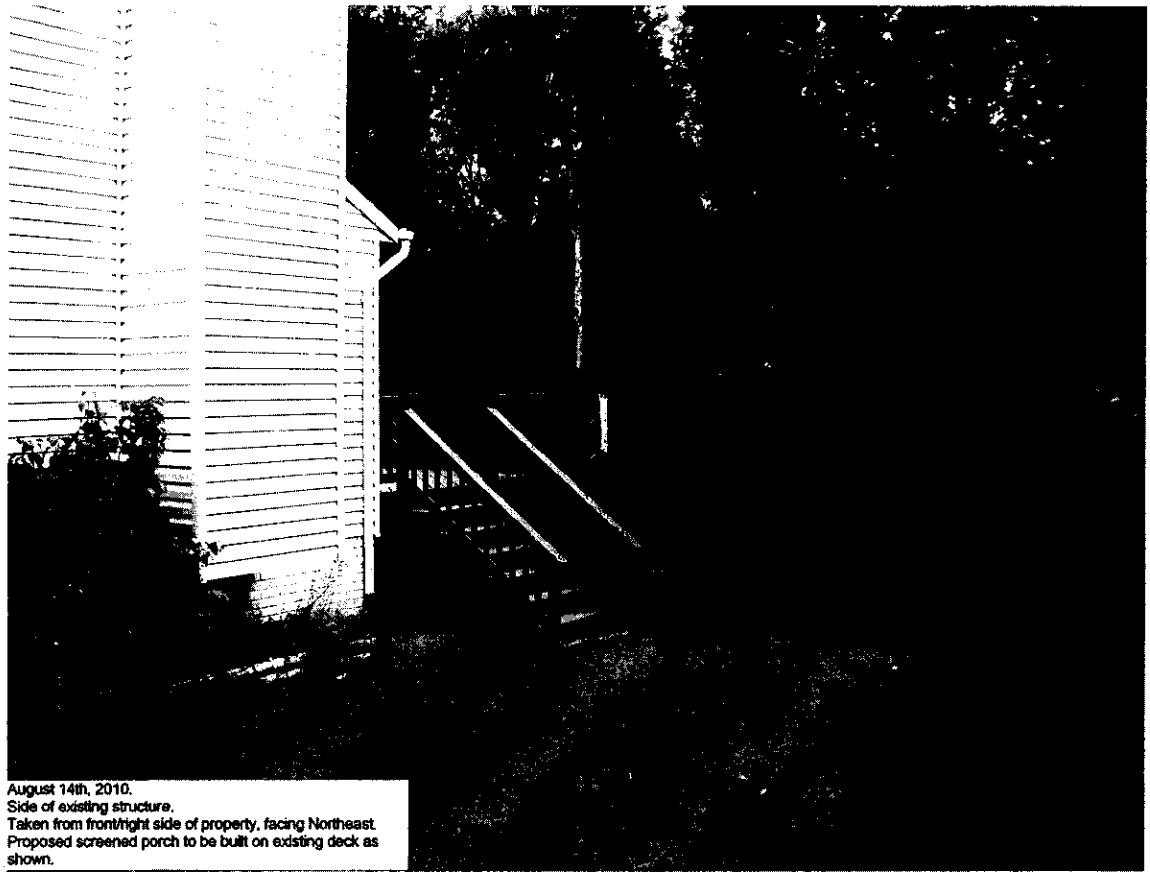
SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY
DATE:		REVISED

LASIK BUILDERS
Thomas S. Lasik
12814 Briery River Terrace
Herndon, VA. 20170-2804
703 437-0690
DESIGNER: Thomas S. Lasik

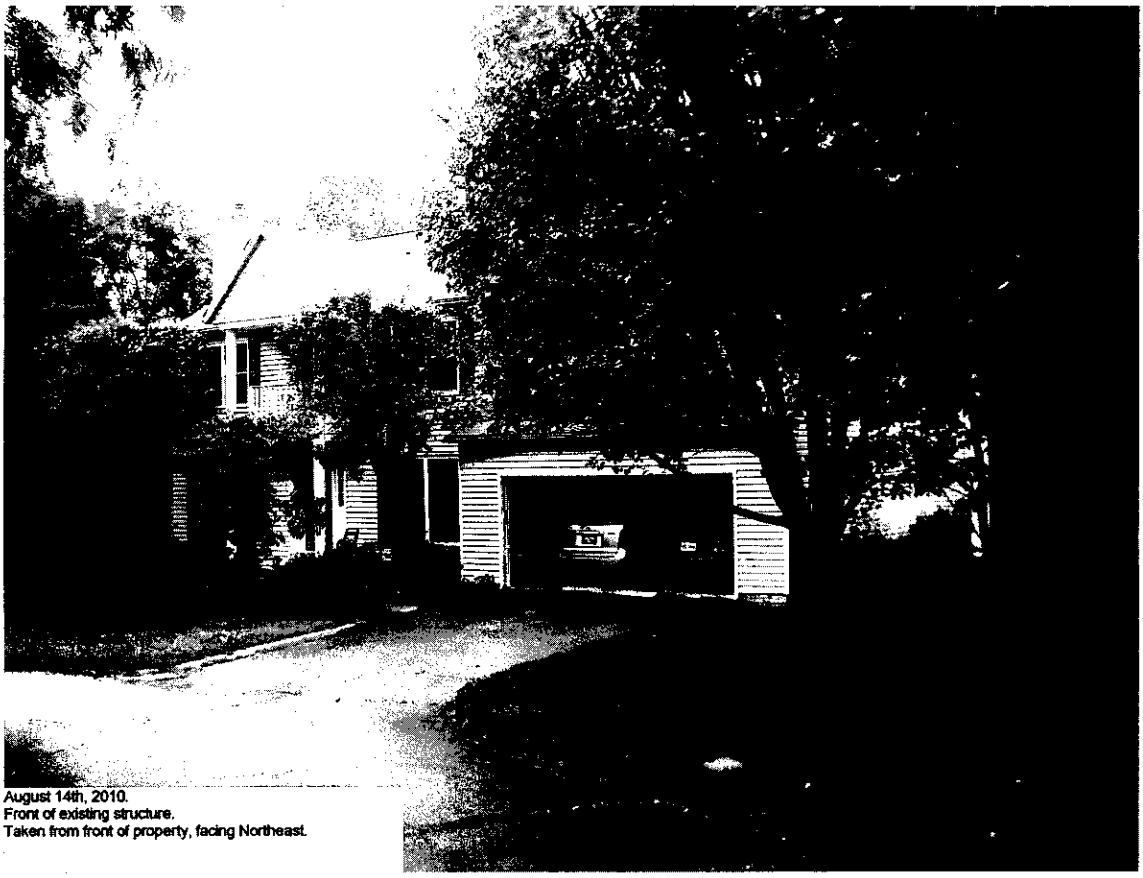
DRAWING NUMBER

POC: Christopher Devine (703)282-7248 (c)

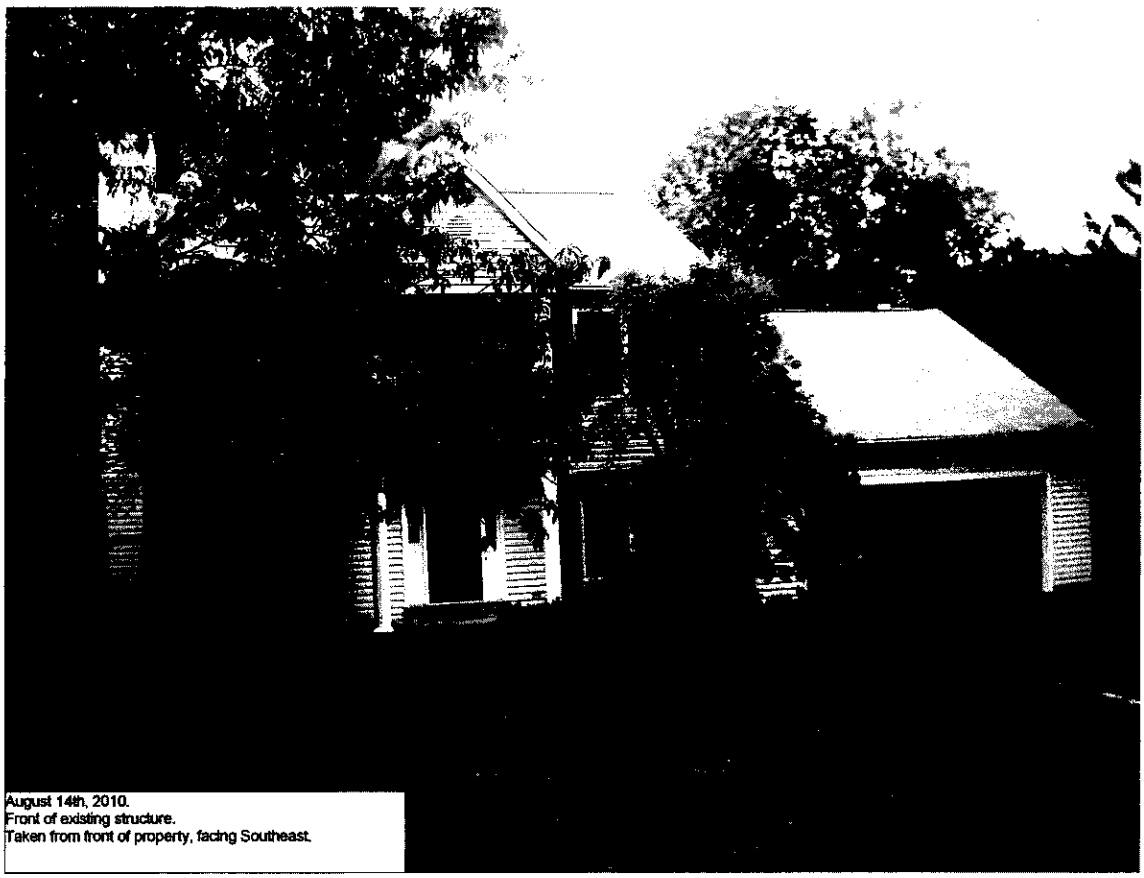
August 14th, 2010.
Rear of existing structure.
Taken from left side of property, facing South.
Proposed screened porch to be built on far side of deck.



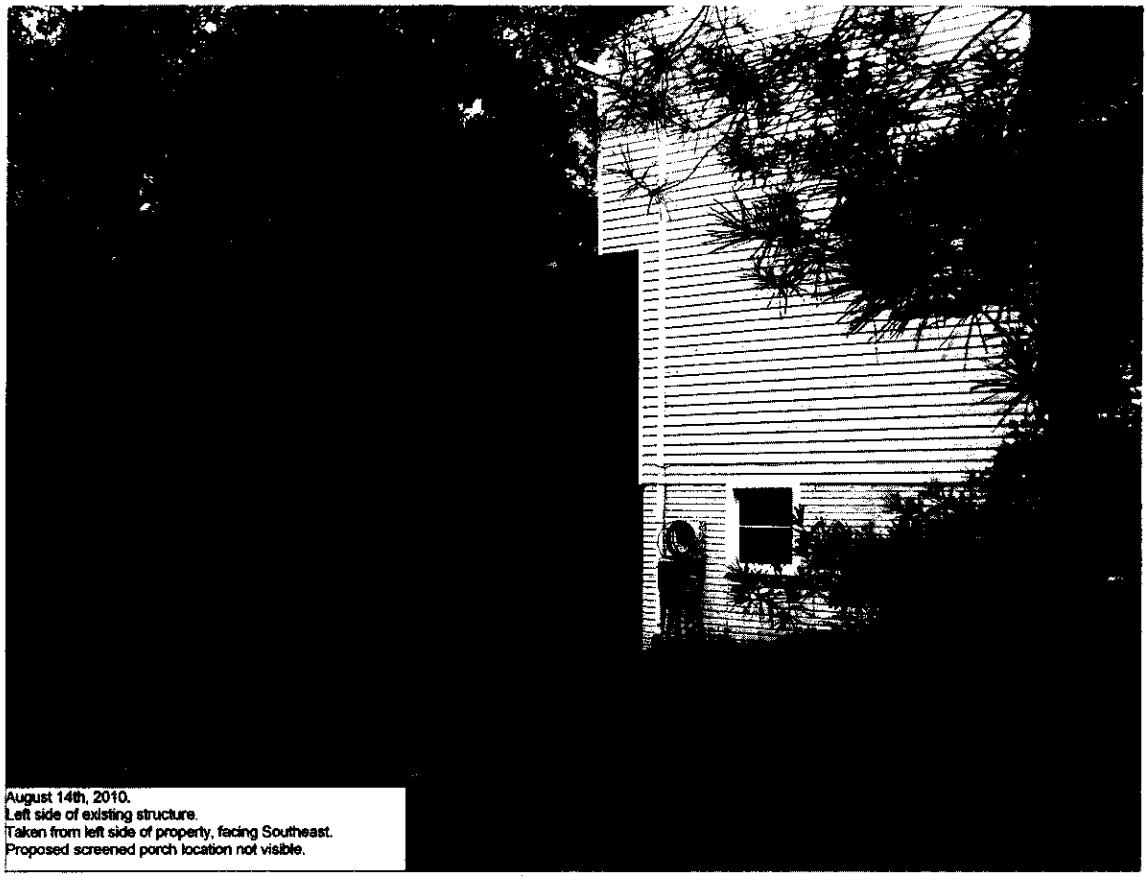
August 14th, 2010.
Side of existing structure.
Taken from front/right side of property, facing Northeast.
Proposed screened porch to be built on existing deck as shown.



August 14th, 2010.
Front of existing structure.
Taken from front of property, facing Northeast.

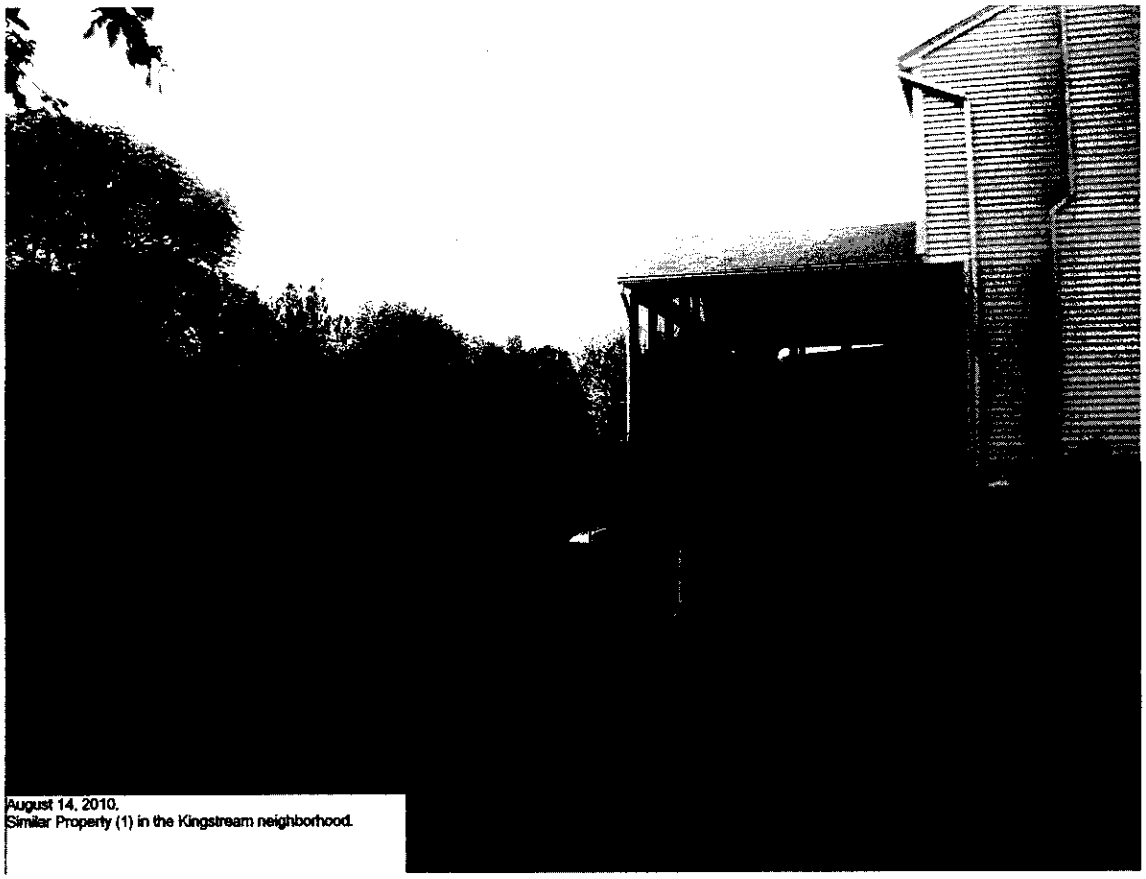


August 14th, 2010.
Front of existing structure.
Taken from front of property, facing Southeast.



August 14th, 2010.
Left side of existing structure.
Taken from left side of property, facing Southeast.
Proposed screened porch location not visible.

POC: Christopher Devine (703)282-7248 (c)

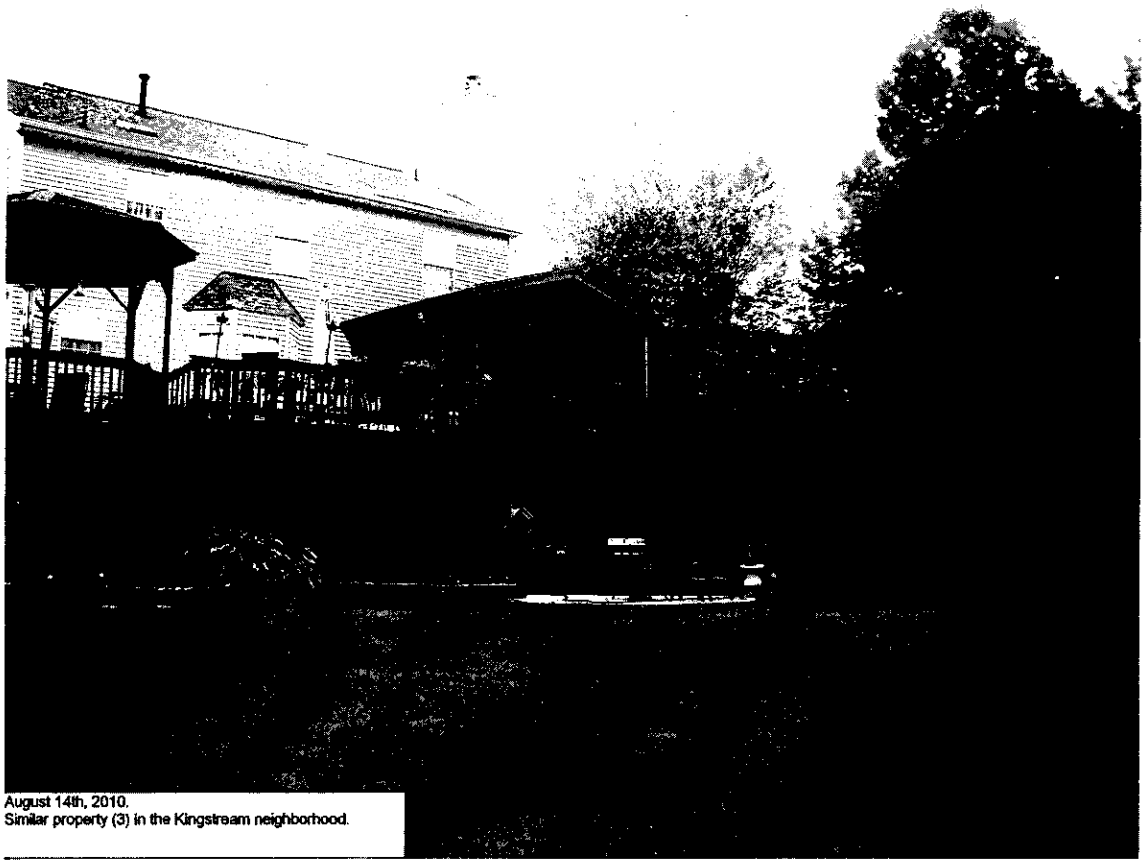


August 14, 2010.
Similar Property (1) in the Kingstream neighborhood.

POC: Christopher Devine (703)282-7248 (c)

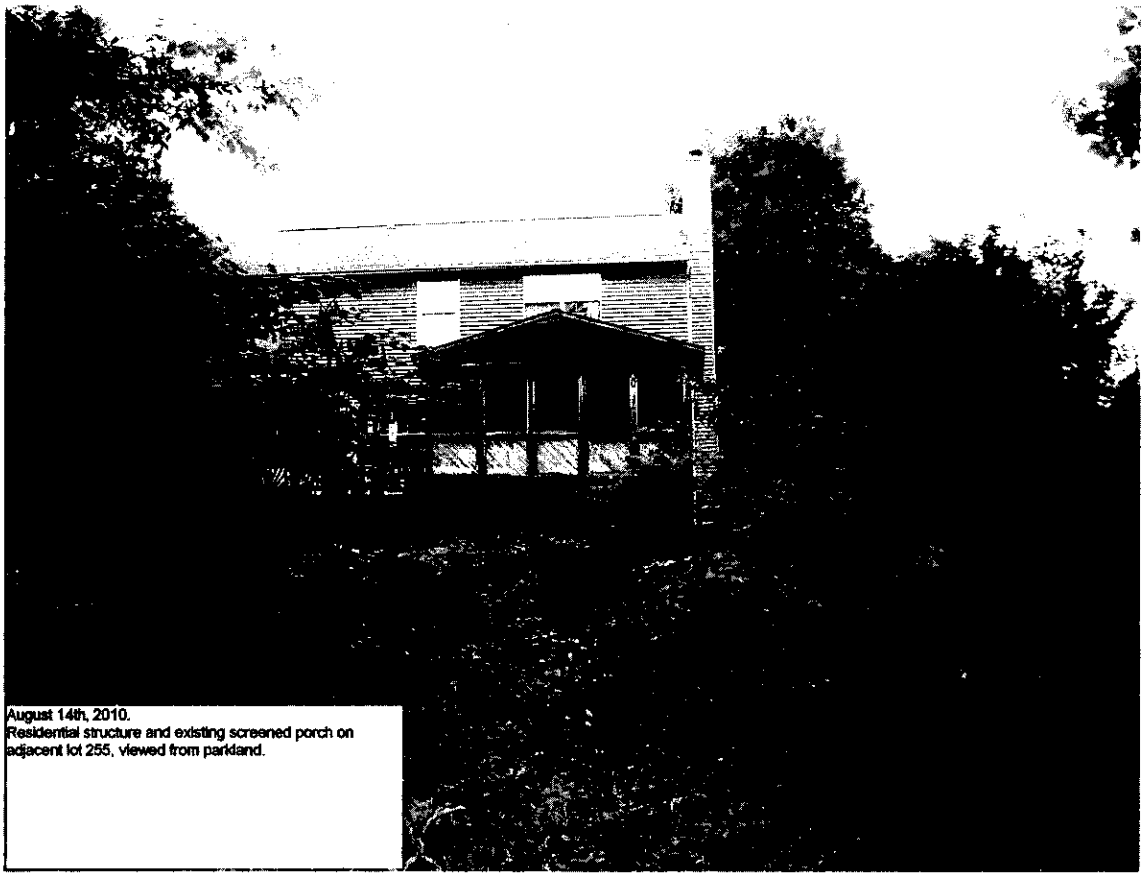
August 14th, 2010.
Similar properties (1 and 2) in the Kingstream neighborhood.

POC: Christopher Devine (703)282-7248 (c)



August 14th, 2010.
Similar property (3) in the Kingstream neighborhood.

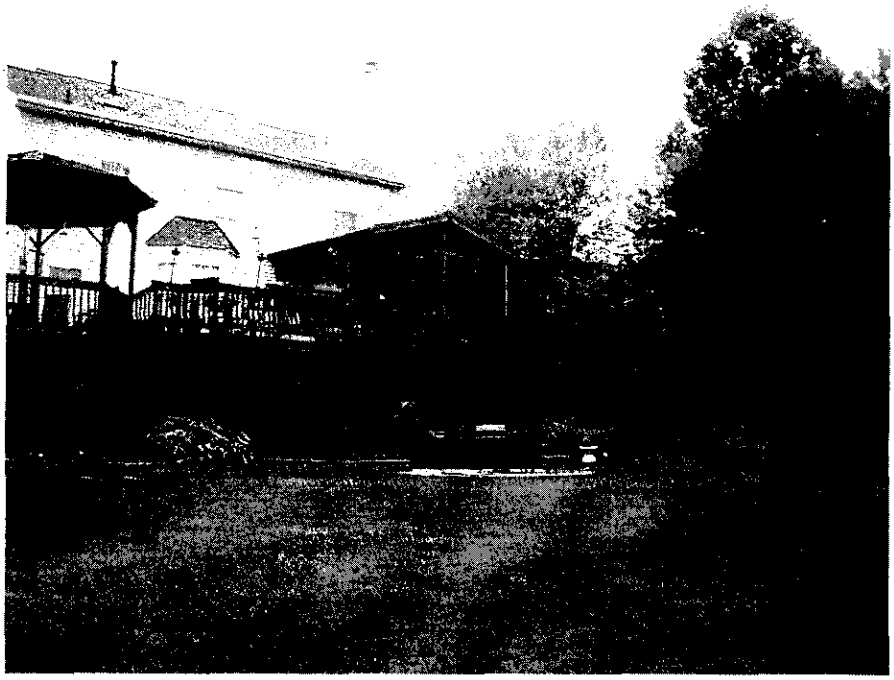
Photographs – Also provided in digital format on submitted CD



August 14th, 2010.
Residential structure and existing screened porch on adjacent lot 255, viewed from parkland.

Property 1 in the Kingstream neighborhood

Properties 1 and 2 in the Kingstream neighborhood



Property 3 in the Kingstream neighborhood

The location, size and height of the proposed screened porch will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof. As noted previously, the area adjacent to the rear of the lot (and therefore the location of the proposed screened porch) is a 100-year flood plain within Fairfax County parkland. Thus there will be no further development of any kind on the adjacent land to the rear. With respect to the sides of the property, there are no neighbors with visibility to the proposed structure from one of the sides. The neighbor adjacent to the other side has a similar lot facing the parkland (lot 255 on the county zoning map), has an existing screened porch as part of their residence, and intends to provide full support to this application as a subsequent step in the process. The following photographs (also provided in digital form on the CD included with this submission package) were taken on 14 August 2010 and show the property on lot 255 from the rear and also as viewed from the location of the proposed screened porch.

Residential structure and existing screened porch on adjacent lot 255, viewed from rear parkland

Existing screened porch on adjacent lot 255 (background), viewed from location of proposed screened porch (foreground)

DESCRIPTION OF THE APPLICATIONS

This application includes two special permit requests. The first request is for approval to permit a reduction to minimum yard requirements based on an error in building location to permit the existing deck to remain 3.4 feet from the northern side lot line.

Description of Special Permit Request #1

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit Request #1	Wood Deck	Side (North)	8.0 feet	3.4 feet	4.6 feet	57.5%

*Minimum yard requirement per Section 3-307

The second request is to permit a reduction of certain yard requirements to permit construction of a screen porch addition to be located 14.5 feet from the rear lot line. The screen porch is proposed to measure 216 square feet in area and encloses a portion of the existing wood deck at the rear of the dwelling.

Description of Special Permit Request #2

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit Request #2	Addition (Screen Porch)	Rear	25.0 feet	14.5 feet	10.5 feet	42.0%

*Minimum yard requirement per Section 3-307

EXISTING SITE DESCRIPTION

Zoned to the R-3 Zoning District and developed under the cluster regulations, the application property is located in the Kingstream Subdivision, north of the cul-de-sac at the northern end of Eddyspark Drive. The 10,151 square-foot lot is currently developed with a two-story, vinyl, single-family detached dwelling. County records indicate that the dwelling measures 2,502 square feet of above-grade living area with a 1,000 square-foot basement recreation room. The front entrance is constructed with a two-story, colonial-style front porch. Access to the site is provided via a shared drive that extends north from the end of the cul-de-sac on Eddyspark Drive. A private driveway extends eastward from the shared drive and terminates at the front of the two-car attached garage. A 594-square foot wood deck is located at the rear of the dwelling. Mature vegetation is located along the perimeter of the property, particularly in the front and rear yards. A 100-year Flood Plain is adjacent to the rear and side lot lines and a storm drain easement is located along the eastern lot line. The site is also

encumbered by a sanitary sewer easement to the south, a Fairfax County Water Authority easement and an ingress/egress easement to the west and south. The site is surrounded by single-family detached homes to the east, south and west; Fairfax County Park Authority land is adjacent to the applications site's rear and side yards.

CHARACTER OF THE AREA

	Zoning	Use
North	R-3 (Cluster)	Fairfax County Park Authority
South	R-3 (Cluster)	Single family detached dwellings
East	R-3 (Cluster)	Single family detached dwellings
West	R-3 (Cluster)	Single family detached dwellings

BACKGROUND

County records indicate the existing dwelling was constructed in 1988. A building permit was issued in 1995 for the existing wood deck to measure approximately 532 square feet in area and 8 feet in height, to be located 8 feet from the western side lot line and over 13 feet from the rear lot line, a copy of which is included as Appendix 4 of this report. The deck was constructed 3.4 feet from the western side lot line.

Following adoption of the current Ordinance, the Board of Zoning Appeals (BZA) heard the following similar special permit and variance applications in the vicinity of the application parcel:

- *Variance VC 87-D-007* was approved on April 8, 1987 for Tax Map 11-1 ((4)) 454, zoned R-3 (Cluster), at 12045 Sugarland Valley Drive, to permit construction of sunroom addition to dwelling 15.0 feet from rear lot line and to 11 feet from the edge of a floodplain (25 feet minimum rear yard required by Sect. 3-307 and 15 feet minimum horizontal distance to a floodplain required by Sect. 2-415).

- *Variance VC 90-D-088* was approved on October 31, 1990 for Tax Map 11-1 ((4)) 264, zoned R-3 (Cluster), at 12122 Eddyspark Drive, to permit construction of addition 15.0 feet from rear lot line (25 feet minimum rear yard required).

- *Special Permit SP 01-D-003* was approved on April 25, 2001 for Tax Map 11-1((4)) 421, zoned R-3 (Cluster), at 12036 Sugarland Valley Drive, to permit a reduction to minimum yard requirements based on error in building location to permit storage structure to remain 3.5 feet from rear lot line and 3.1 feet from side lot line.

- *Variance VC 01-D-018* was approved on April 25, 2001 for Tax Map 11-1((4)) 421, zoned R-3 (Cluster), at 12036 Sugarland Valley Drive, to permit construction of addition 16.8 feet from rear lot line.

ANALYSIS

Special Permit Plat (Copy at front of staff report)

- **Title of Plat:** Special Permit Plat, Lot 256, Section 6-D, Kingstream
- **Prepared by:** Curtis L. McAllister, Land Surveyor, Highlander Surveying Services, P.C.
- **Dated:** November 5, 2010
- **Building Permit Required and Obtained for Deck:** Yes
- **Error Made by:** Previous owner, per the applicant

Proposal:

The applicant is requesting special permit approval for a reduction to minimum yard requirements based on error in building location to permit the existing wood deck to remain 3.4 feet from the western side lot line. The Zoning Ordinance requires an open deck to be set back a distance of 8.0 feet from a side lot line in the R-3 (Cluster) Zoning District. A reduction of 4.6 feet (57.5%) of the minimum required side yard is needed. The applicant also proposes to enclose a portion of the existing wood deck to construct a screen porch addition measuring 216 square feet in area, to be located a distance of 14.5 feet from the rear lot line; therefore a reduction of 10.5 feet (or 42.0%) is requested. The applicant has committed to maintaining the existing mature vegetation on site. All of the proposed construction is to occur outside of the floodplain.

ZONING ORDINANCE REQUIREMENTS

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

The application must meet all of the following standards, copies of which are attached as Appendix 5:

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location
- Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

Sect. 8-006 General Special Permit Standards

Staff believes that the application for the addition meets all of the 8 General Special Permit Standards. Of particular note regarding this application is General Standard 3 and Standard 5.

General Standard 3 requires that the application proposed use be harmonious with and 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. *By observation of the neighborhood via photographs submitted by the applicant, staff believes that the proposed addition will not adversely affect the use or development of neighboring properties. The existing vegetation will remain undisturbed as the addition utilizes the footprint of the existing wood deck. The proposed addition is similar in size and location of other home additions throughout the neighborhood, some of which were previously approved by the BZA. Staff believes that this standard has been met.*

General Standard 5 requires that 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. *The property has a significant amount of mature vegetation on site. Since the proposed addition is to be located within the same footprint of an existing deck, there should be minimal impact to existing vegetation which will continue to serve as a buffer between the existing dwelling and adjacent properties. The applicant has committed to maintaining the existing mature trees and staff has proposed a development condition to ensure that these trees are protected and that other mature vegetation will be relocated or replanted if removed. With the adoption of these development conditions, staff believes that this standard has been met.*

Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 5 relates to accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. Staff believes that the application has met all of the remaining standards, specifically Standards 4, 6, 7, 8, and 9.

Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. *According to County records, the existing dwelling*

measures 2,502 square feet of above-grade living area, plus 484 square feet for the two-car garage, which totals 2,986 square feet. Therefore, 150% of the total gross floor area could result in an addition up to 4,479 square feet in size for a possible total building size of 7,465 square feet at build out. The proposed screen porch addition measures 216 square feet in area, realizing a total house size of 3,202 square feet. Therefore the application meets this provision.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. *The elevation drawings submitted indicate that the materials, size and scale of the proposed screen porch addition will be compatible with the existing structure. The addition is clearly subordinate in bulk and scale to the principal dwelling and the proposed addition will not create any additional height to the overall existing structure as the roofline of the addition is proposed to be lower than the existing roofline of the dwelling. Staff believes that the application meets this provision.*

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. *With review of the photographs submitted, staff believes that the proposed improvements are compatible with the surrounding houses in the neighborhood. The surrounding neighborhood contains homes with additions of similar size and height. Therefore, staff believes that this provision is met.*

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. *Staff believes that the application meets the erosion and storm water runoff portion of the standards since the Department of Public Works and Environmental Services (DPWES) has not indicated that there are drainage complaints on file related to this property. Staff believes that the screen porch addition will have very little impact on stormwater runoff, noise, light, air, safety or erosion since the overall footprint of the screen porch will add minimal impervious area to the existing site. The porch is proposed to be located over an existing deck. Staff believes that the application meets this provision.*

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. *The proposed scale of the screen porch addition is consistent with the existing dwelling and is proposed in a logical location at the rear of the dwelling where an existing wood deck is located. The*

lot is oddly shaped and the site is severely limited by existing recorded sanitary sewer and storm drainage easements on the lot. The proposed location appears to be the most appropriate location for the proposed structure. There is no Resource Protection Areas (RPA) located on the property. However, there is a floodplain located adjacent to the rear line of the property. The proposed screen porch addition appears to be greater than 15 feet from the floodplain line in accordance with Sect. 2-415; thereby, staff believes that the application meets this provision of the Ordinance.

CONCLUSION

Staff believes that the subject application is in conformance with the Comprehensive Plan and the applicable Zoning Ordinance provisions, subject to the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of SP 2010-DR-075 for the proposed addition, subject to the Proposed Development Conditions contained in Appendix 1 of the staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

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.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Building Permit History
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2010-DR-075

February 23, 2011

If it is the intent of the Board of Zoning Appeals to approve SP 2010-DR-075 located at Tax Map 11-1 ((4)) 256 to permit reduction of certain yard requirements pursuant to Sections 8-914 and 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.

2. This special permit is approved for the location 12101 Eddyspark Drive and size, 216 square feet for the proposed addition, as shown on the plat prepared by Curtis L. McAllister, Land Surveyor, Highlander Surveying Services, P.C., dated November 5, 2010, as submitted with this application and is not transferable to other land.

3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,986 square feet existing + 4,479 square feet (150%) = 7,465 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.

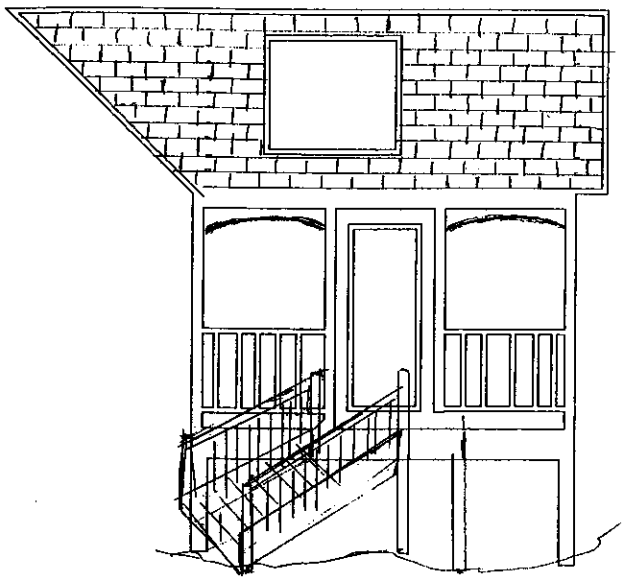
4. The additions shall be generally consistent with the architectural drawings as depicted on Attachment 1 to these conditions.

5. Prior to commencement of and during the entire construction process, tree protective fencing shall be installed between the location of the proposed additions and existing vegetation within all property boundaries. Tree protection fencing in the form of 14-gauge welded wire fence mounted on steel posts shall be installed at the limits of clearing and grading to protect the critical root zones of on-site and off-site trees from any construction activity, including material

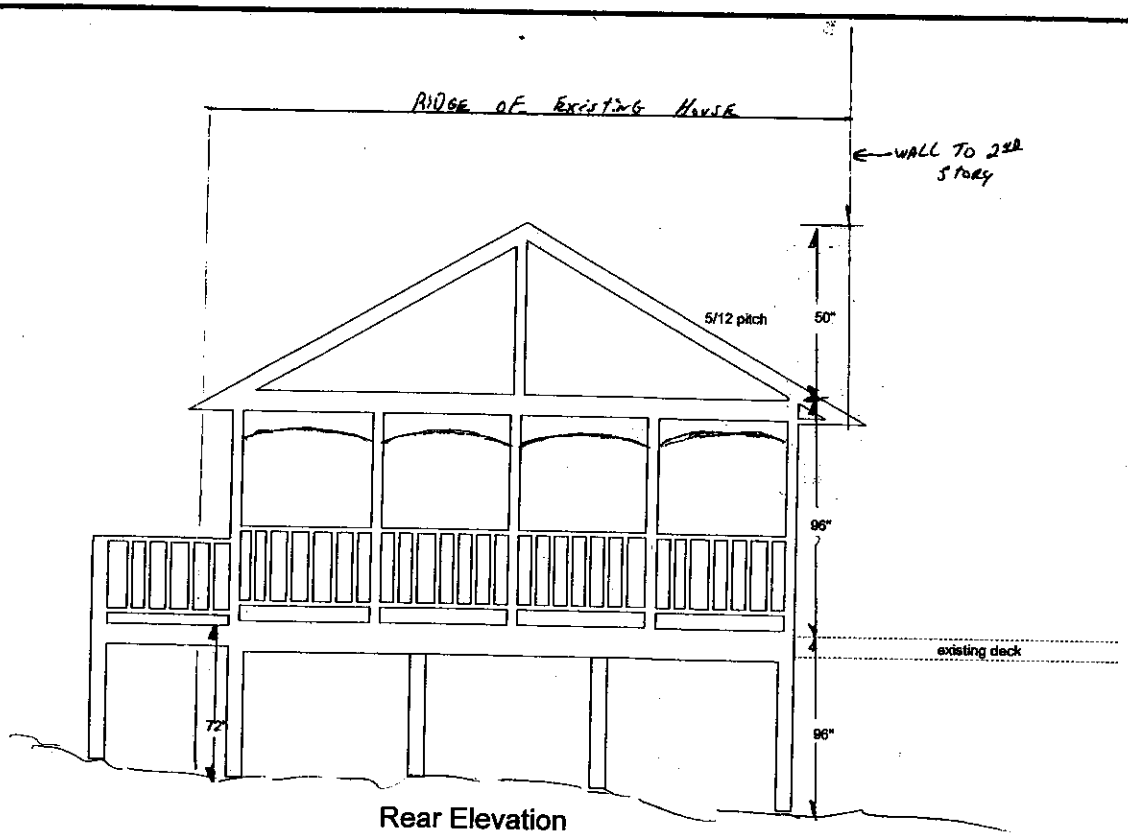
storage and vehicular and construction equipment traffic. The applicant shall monitor the site to ensure that inappropriate activity such as the storage of construction equipment does not occur within the tree save areas. Any trees that are damaged or removed shall be replaced with a like kind in size and species.

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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.



side elevation



Rear Elevation

12101 EDDYS PARK DR.
HERNDON VA. 20170

SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY
DATE:		REVISED

LASIK BUILDERS
Thomas S. Lasik
12814 Briery River Terrace
Herndon, VA. 20170-2804
703 437-0890
DESIGNER: Thomas S. Lasik

DRAWING NUMBER

ATTACHMENT 1

Application No.(s): SP 2010-DR-075
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 OCTOBER 2010
(enter date affidavit is notarized)

I, Christopher W. Devine, Trustee, 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

109597a

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.)

NAME (enter first name, middle initial, and last name)	**ADDRESS** (enter number, street, city, state, and zip code)	**RELATIONSHIP(S)** (enter applicable relationships listed in **BOLD** above)
Christopher W. Devine, Trustee of the Christopher W. Devine Living Trust, Lea Marie Devine, Beneficiary	12101 Eddyspark Dr Herndon, VA 20170	Applicant/Title Owner
Lea Marie Devine, Trustee of the Lea Marie Devine Living Trust, Christopher W. Devine, Beneficiary	12101 Eddyspark Dr Herndon, VA 20170	Title Owner

(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 2010-DR-075
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 OCTOBER 2010 109597a
(enter date affidavit is notarized)

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)

NONE

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 2010 - DR-075
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 OCTOBER 2010 109597a
(enter date affidavit is notarized)

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)

NONE

(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 2010-DR-075
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 OCTOBER 2010 109597a
(enter date affidavit is notarized)

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 2010-DR-075
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 OCTOBER 2010
(enter date affidavit is notarized)

109597a

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: Christopher W. Devine, TRUSTEE

(check one) [✓] Applicant [ ] Applicant's Authorized Agent

Christopher W. Devine, TRUSTEE
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 22 day of October 20 10 in the State/Comm. of Virginia, County/City of Loudoun.

Notary Public

My commission expires: 10/31/11

LESDY LOPEZ NOTARIAL SEAL COMMONWEALTH OF VIRGINIA REG. # 7107469 EXPIRES 10-31-2011

FORM SP/VC-1 Updated (7/1/06)

RECEIVED
Department of Planning & Zoning
DEC 17 2010
Zoning Evaluation Division

SPECIAL PERMIT STATEMENT OF JUSTIFICATION

(Note: This is a revised submission, to replace the last revision of the Statement of Justification submitted 12/16/10 .)

The special permit being sought is for construction of a screened porch onto an existing rear exterior deck as part of a residential dwelling. The lot backs to a combination of Fairfax County wooded parkland (Sugarland Run) and a 100-year flood plain, with no rear adjacent lots. The proposed use is recreational, as further described below in section I.

Items A through I below are in accordance with the Special Permit Statement of Justification instructions provided the Special Permit Statement of Justification, page 14. Following these items are responses to the numbered items found in Section 8-922, Provision for the Reduction of Certain Yard Requirements. Lastly, provided are responses to the items found in Section 8-914 Error in Building Location to address the existing deck.

A. Type of operation(s).

N/A - Residential

B. Hours of operation.

N/A - Residential

C. Estimated number of patrons/clients/patients/pupils/etc.

N/A - Residential

D. Proposed number of employees/attendants/teachers/etc.

N/A - Residential

E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day.

N/A - Residential

F. Vicinity or general area to be served by the use.

N/A - Residential

G. Description of building facade and architecture of proposed new building or additions.

- Proposed screened porch will be built onto existing exterior deck
- Please see drawing package included as part of the plat submission

H. A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers.

Other than normal residential household items, no hazardous or toxic substances will be generated, utilized, stored, treated, and/or disposed of on site.

I. A statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modification.

The proposed used of the screened porch conforms to the provisions of all applicable ordinances, regulations, adopted standards in that it is consistent with all residential uses for such structures in Fairfax County as a whole as well as within the Kingstream neighborhood where the residence is located. The intended use of the porch is to allow enjoyment of the views and proximity to the adjacent county parkland without the nuisance of insects, including the potentially disease-carrying mosquito population. There are currently no county provisions in place for the control of the insect population in this section of parkland.

The screened porch is in harmony with the use of neighboring properties. The following photographs (also provided in digital form on the CD included with this submission package) were taken on 14 August 2010 and show several similar properties in the Kingstream subdivision, all backing to the same county parkland.

With respect to the requirements of Section 8-922, Provision for the Reduction of Certain Yard Requirements, the following information is provided:

- The requested reduction will not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
- If granted, this special permit will only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
- Resulting gross floor area in square feet:

Existing structure	Proposed structure	Total
2502	216	2718

- As described in item I. above, the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
- As described in item I. above and as shown in the included photographs, the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
- The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specifically, no trees, shrubs, or landscaping are included as part of the structure nor are existing trees, shrubs, and/or landscaping affected.
- The existing deck was built at no fault of the owner; the portion that will remain open after construction of the proposed screened porch will remain no closer than 3.4 feet from the lot line as shown on the plat.

With respect to the requirements of Section 8-914, Error in Building Location, the following information is provided:

- The existing deck was built at no fault of the owner; the portion that will remain open after construction of the proposed screened porch will remain no closer than 3.4 feet from the lot line as shown on the plat.
- **A.** The error for the location of the existing deck exceeds ten (10) percent of the measurement involved, as it is currently 3.4 feet from the lot line.
- **B.** As the deck was constructed prior to the current owner buying the home, the noncompliance was through no fault of the current property owner .
- **C.** Such reduction does not impair the purpose and intent of this Ordinance.
- **D.** It will not be detrimental to the use and enjoyment of other property in the immediate vicinity.
- **E.** It will not create an unsafe condition with respect to both other property and public streets.
- **F.** To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner – specifically, removal of the deck.

- **G.** The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

In summary, the proposed used of the screened porch conforms to the provisions of all applicable ordinances, regulations, and adopted standards. It is in harmony with other residences in the Kingstream neighborhood including the adjacent property.

APPENDIX 4

BUILDING PERMIT APPLICATION

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
FAIRFAX COUNTY, VIRGINIA
PERMIT APPLICATION CENTER
12055 Government Center Parkway, 2nd Floor
Fairfax, Virginia 22035-5504
(703) 222-0801

PERMIT # 95096130850

FOR INSPECTIONS CALL: (703) 222-0455

FILL IN ALL APPROPRIATE INFORMATION IN THIS COLUMN (PLEASE PRINT OR TYPE)

JOB LOCATION:
ADDRESS 12101 Eddies Park Drive
LOT # 256 BUILDING
FLOOR SUITE
SUBDIVISION Kingstream Sec 1
TENANT'S NAME Elway & Pinto

OWNER INFORMATION: OWNER ☑ TENANT ☐
NAME Ms. Elway & Mr. Pinto
ADDRESS 12101 Eddies Park Drive
CITY Herndon STATE VA ZIP 22070
TELEPHONE (703) 481-3519

CONTRACTOR INFORMATION:
CHECK IF SAME AS OWNER ☐
COMPANY NAME Woodcraft Builders
ADDRESS 3133 West Ox Road
CITY Herndon STATE VA ZIP 22011
TELEPHONE (703) 264-3307
LOCAL CONTRACTOR LICENSE # X
STATE CONTRACTORS LICENSE # 2701021171A
COUNTY BUSINESS ACCOUNT # BPOL8171
APPLICANT Sean Dai

DESCRIPTION OF WORK
38' x 14' Deck

HOUSE TYPE single family
ESTIMATED COST OF CONSTRUCTION $5000-
BLDG AREA (SQ FT OF FOOTPRINT)
USE GROUP OF BUILDING R4
TYPE OF CONSTRUCTION 5B

SEWER SERVICE: PUBLIC ☑ SEPTIC ☐ OTHER ☐
WATER SERVICE: PUBLIC ☑ WELL ☐ OTHER ☐
OTHER PLEASE SPECIFY

DESIGNATED MECHANICS' LIEN AGENT:
(Residential Construction Only)
NAME:
ADDRESS:

NONE DESIGNATED: ☑ PHONE:

CHARACTERISTICS FOR NEW SFD, TH, APT & CONDOS:

# KITCHENS		EXTER. WALLS	
# BATHS		INTER. WALLS	
# HALF BATHS		ROOF MATERIAL	
# BEDROOMS		FLOOR MATERIAL	
# OF ROOMS		FIN. BASEMENT	%
# STORIES		HEATING FUEL	
BUILDING HEIGHT	7'10"	HEATING SYSTEM	
BUILDING AREA		# FIREPLACES	
BASEMENT			

DO NOT WRITE IN THIS SPACE - COUNTY USE ONLY
PLAN # W-95-11122
TAX MAP # 11-1-04-0256

ROUTING	DATE	APPROVED BY:
ZONING	4-6-95	[illegible]
SITE PERMITS	4-6-95	[illegible]
SANITATION		
HEALTH DEPT.		
FIRE MARSHAL	4/6/95	[illegible]
BUILDING REVIEW		
LICENSING	3-30-95	MZ
ASBESTOS		

FEE $ 50
FILING FEE $ 50
AMOUNT DUE $ 50

BUILDING PLAN REVIEW
REVIEWER [illegible] # OF HOURS 0.3
REVISION FEES $
FIRE MARSHAL FEES $
FIXTURE UNITS PLAN LOC: L ☐ R ☐

APPROVED FOR ISSUANCE OF BUILDING PERMIT
BY [illegible] DATE 4-6-95

ZONING REVIEW: ZONING CLASS R3C
USE SFD
ZONING CASE #
GROSS FLOOR AREA OF TENANT SPACE

YARDS:
FRONT N/C
FRONT
L SIDE 8.1
R SIDE N/C
REAR 13+

GARAGE: 1 ☐ 2 ☐ 3 ☐
OPTIONS: YES ☐ NO ☐
REMARKS:

GRADING AND DRAINAGE REVIEW
SOILS: # 41/48 A ☑ B ☐ C ☐
HISTORICAL DISTRICT
AREA TO BE DISTURBED (TOTAL SQ FT)
ADD'L IMPERVIOUS AREA (ADDED SQ FT)
PROFFERS
PLAN # APPR. DATE

STAMPS:

FOOTINGS AND PIERS MUST BE PLACED ON COMPETENT MATERIAL

(See reverse side of application)

REMARKS:

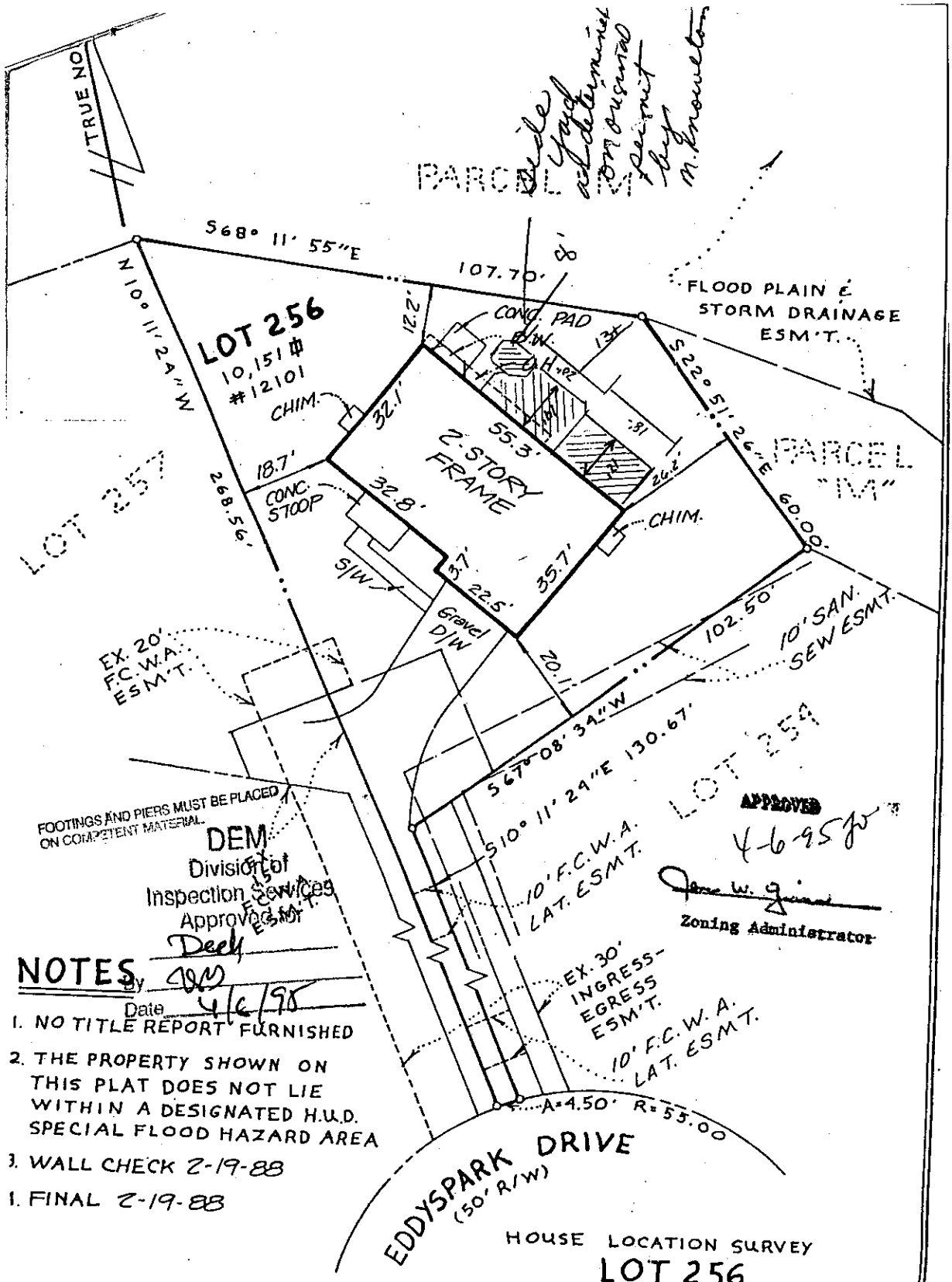
Any and all information and/or stamps on the reverse side of this form are a part of this application and must be complied with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

Sean Dai 3/30/95
Signature of Owner or Agent *Date*

Notary Signature *Date*
(Notarization required if owner not present at time of application)

Printed Name and Title

Form 13 30(D2) 3/93



NOTES

1. NO TITLE REPORT FURNISHED
2. THE PROPERTY SHOWN ON THIS PLAT DOES NOT LIE WITHIN A DESIGNATED H.U.D. SPECIAL FLOOD HAZARD AREA
3. WALL CHECK 2-19-88
1. FINAL 2-19-88

COMMONWEALTH OF VIRGINIA
JOHN L. MARSHALL
CERTIFICATE No.
1375 & 234
2/12/88
LAND SURVEYOR

HOUSE LOCATION SURVEY

LOT 256

SECTION 6D

KINGSTREAM

DEED BOOK 6537 PAGE 1834
DRANESVILLE DISTRICT
FAIRFAX COUNTY VIRGINIA

Scale 1" = 25'

Date FEB. 19, 1988

VINTO
LAND DESIGN CONSULTANTS, INC.
DESIGNERS ✦ PLANNERS ✦ SURVEYORS
10759-B Ambassador Drive ✦ Manassas, Virginia 22110 ✦ (703) 368-0603 ✦ Metro 631-8387
Two Cardinal Park Drive ✦ Suite 101A ✦ Leesburg, Virginia 22075 ✦ (703) 771-1393 ✦ 478-8139

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.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:

   A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.

   B. Total area of the property and of each zoning district in square feet or acres.

   C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

   D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.

E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.

F. Means of ingress and egress to the property from a public street(s).

G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).

H. If applicable, the location of well and/or septic field.

I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:

A. The error exceeds ten (10) percent of the measurement involved, and

B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and

C. Such reduction will not impair the purpose and intent of this Ordinance, and

D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

E. It will not create an unsafe condition with respect to both other property and public streets, and

F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-922 Provisions for Reduction of Certain Yard Requirements

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:

A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.

B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.

C. Accessory structure location requirements set forth in Sect. 10-104.

D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.

3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.

4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed, no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed.

5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.

6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.

7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.

8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with

regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.

9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.

10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.

11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

    A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.

    B. Total area of the property and of each zoning district in square feet or acres.

    C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

    D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.

E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.

F. Means of ingress and egress to the property from a public street(s).

G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).

H. If applicable, the location of a well and/or septic field.

I. Existing and proposed gross floor area and floor area ratio.

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. The location, type and height of any existing and proposed landscaping and screening.

L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.