



APPLICATION ACCEPTED: January 30, 2012
DATE OF PUBLIC HEARING: April 18, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

April 11, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-MA-003

MASON DISTRICT

APPLICANT/OWNER: Silvia M. Albert

LOCATION: 3334 Nevius Street

SUBDIVISION: Aura Heights

TAX MAP: 61-1 ((13)) 12

LOT SIZE: 12,500 square feet

ZONING: R-3

ZONING ORDINANCE PROVISION: 8-917

SPECIAL PERMIT PROPOSAL: To permit modifications 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 special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

O:\bcho00\SP\Apr 18 - SP 2012-MA-003 (Albert)\staff_report.doc

Brenda J Cho

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 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.**

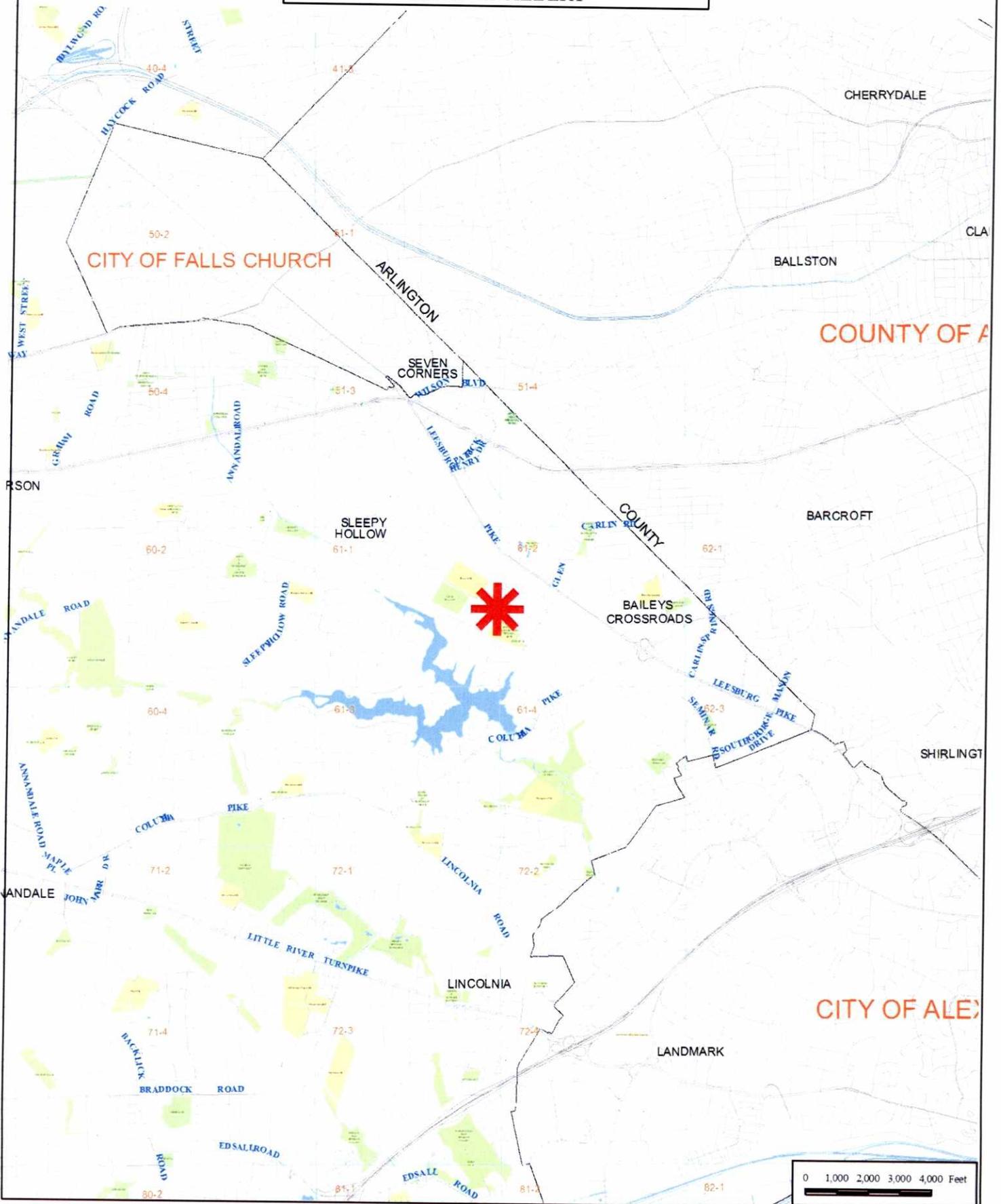


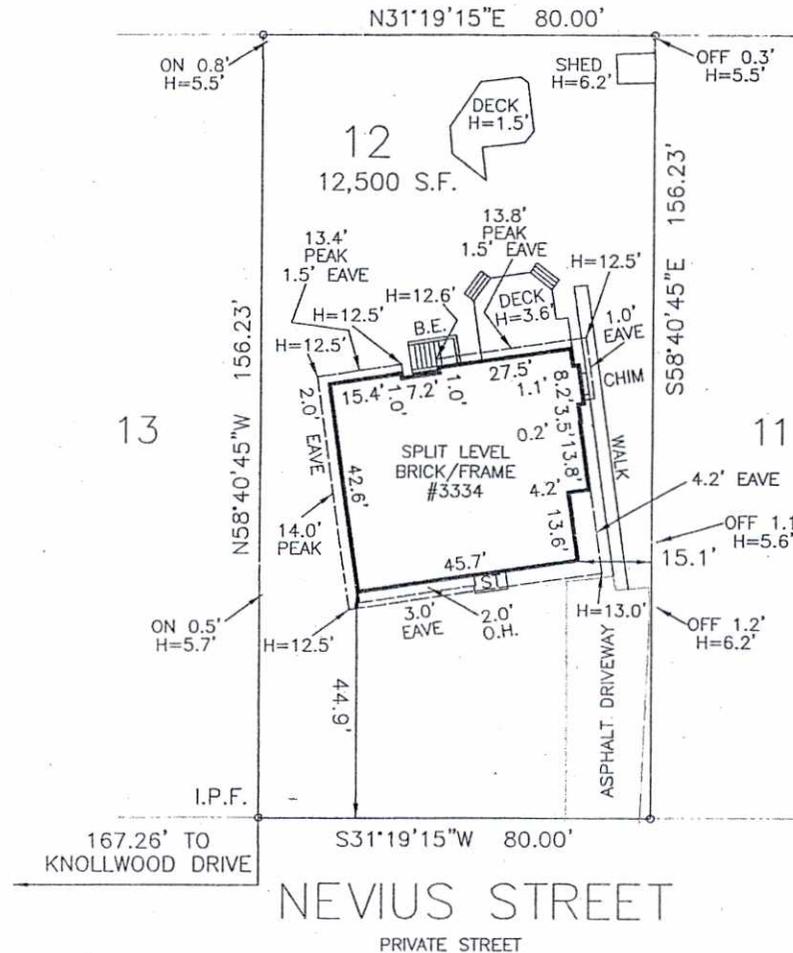
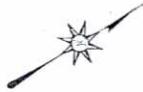
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2012-MA-003

SILVIA M. ALBERT





NEVIUS STREET
PRIVATE STREET

PLAT
SHOWING SPECIAL PERMIT PLAT ON
LOT 12

AURA HEIGHTS
FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 30' JANUARY 17, 2012

RECEIVED
 Department of Planning & Zoning
 JAN 19 2012
 Zoning Evaluation Division

CASE NAME: _____

GRAPHIC SCALE
0 30 60

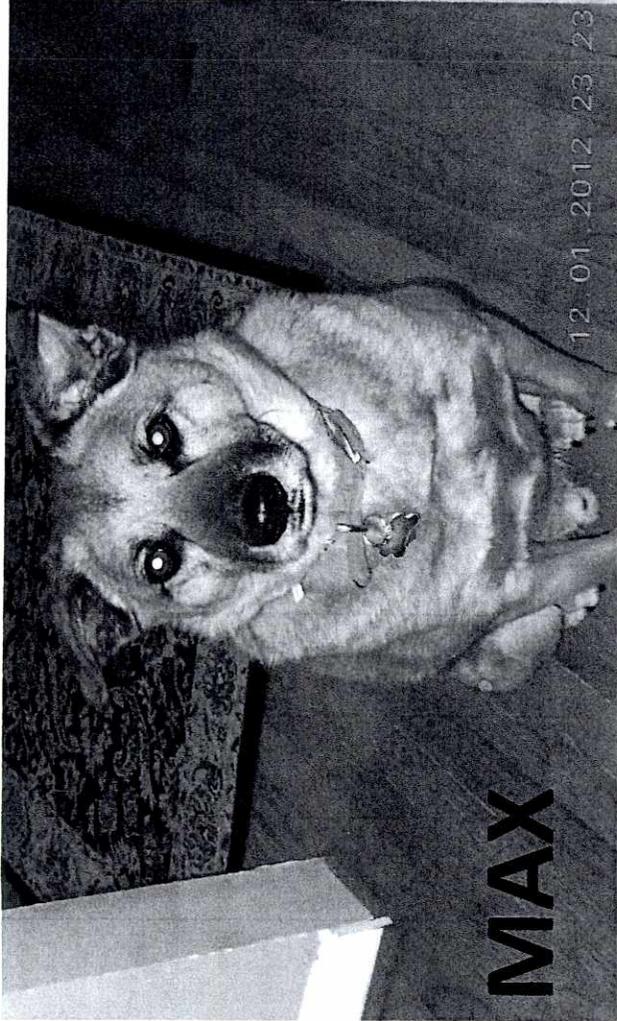


BY PROVISIONS OF THE VIRGINIA CODE: NO CORNER MARKERS SET.
BOUNDARY SURVEY NOT PERFORMED.
PLAT SUBJECT TO RESTRICTIONS OF RECORD, TITLE REPORT NOT FURNISHED.

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY, AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.

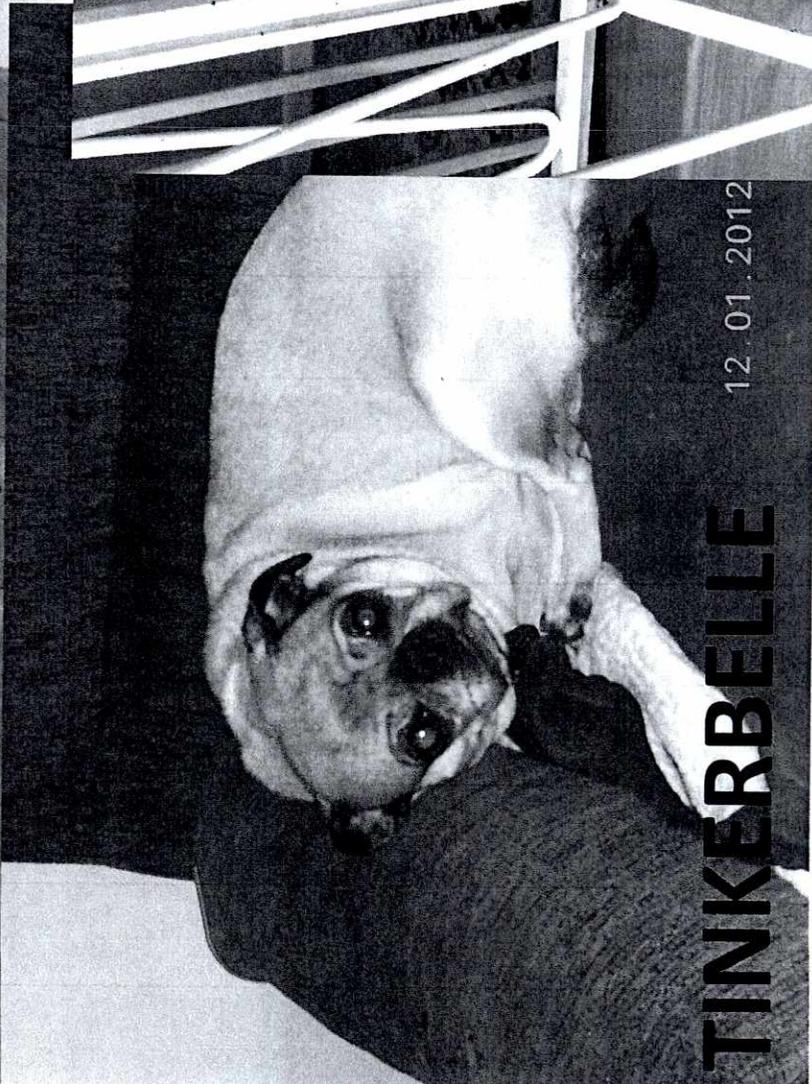
REQUESTED BY:
SILVIA ALBERT

ALEXANDRIA SURVEYS, LLC
3949 PENDER DRIVE, STE #105 FAIRFAX, VIRGINIA 22030
TEL. NO. 703-660-6615 FAX NO. 703-768-7764



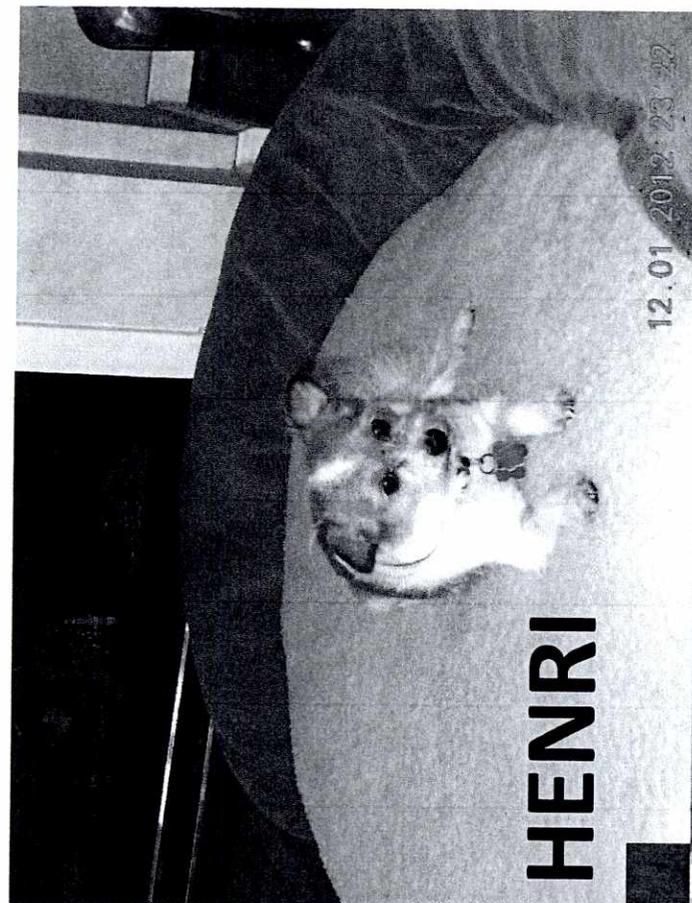
MAX

12.01.2012 23.23



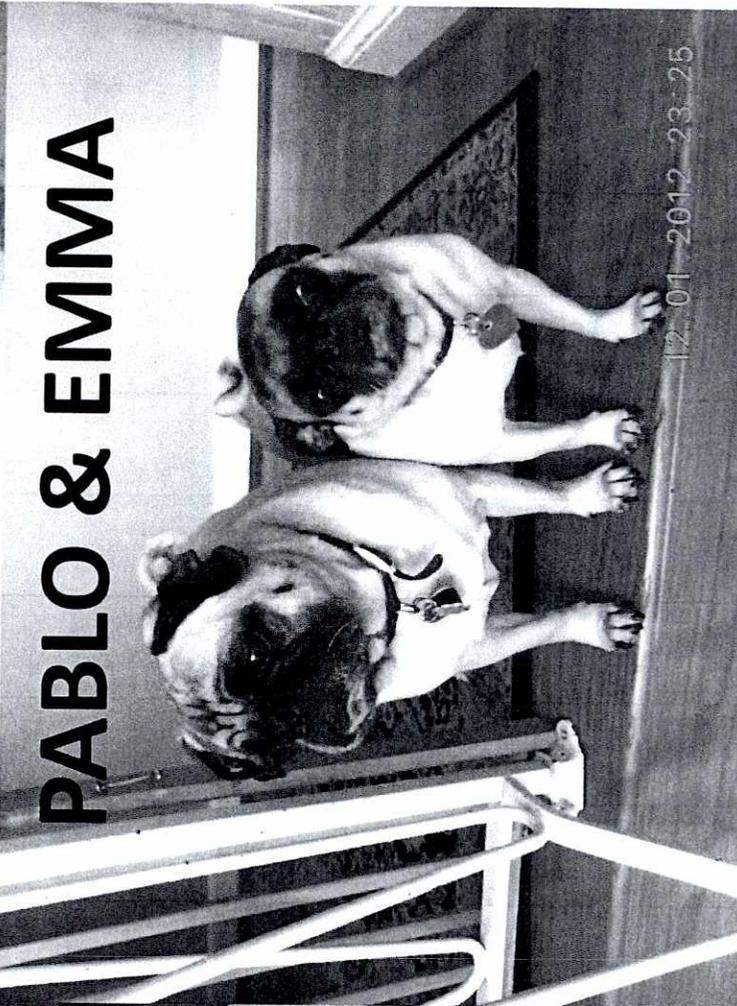
TINKERBELLE

12.01.2012



HENRI

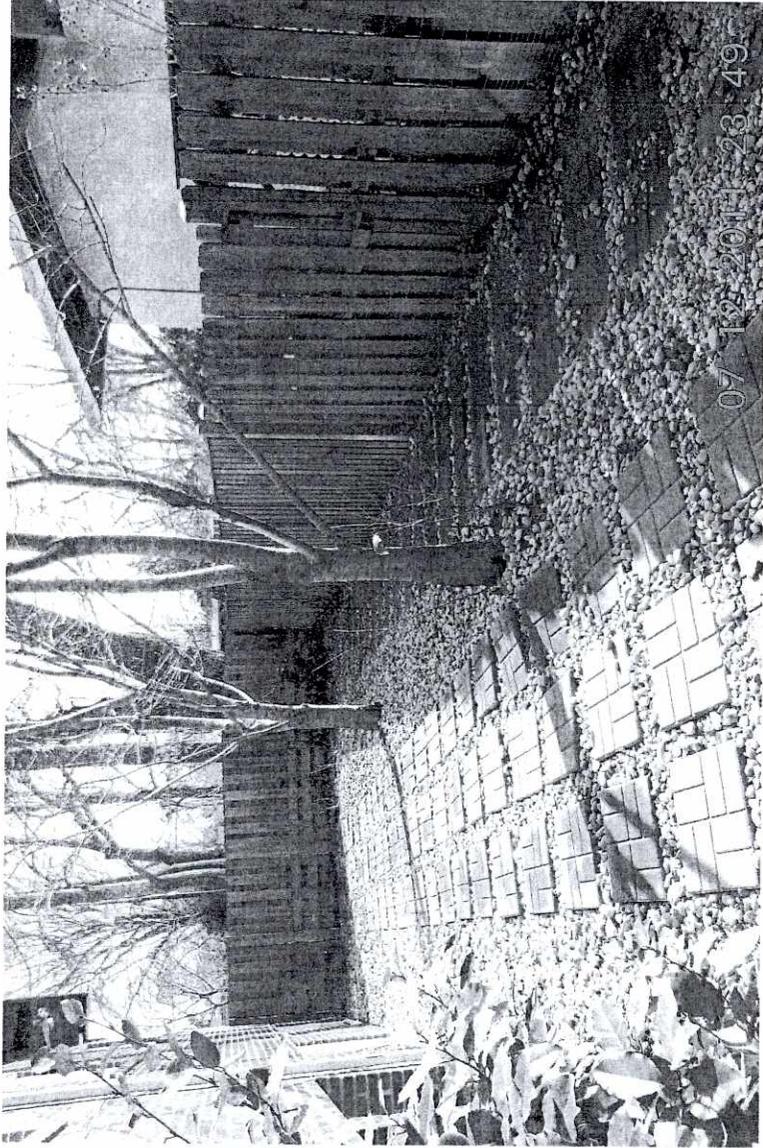
12.01.2012 23.22



PABLO & EMMA

12.01.2012 23.25

3334 NEWNS ST
BACKYARD
LEFT FRONT

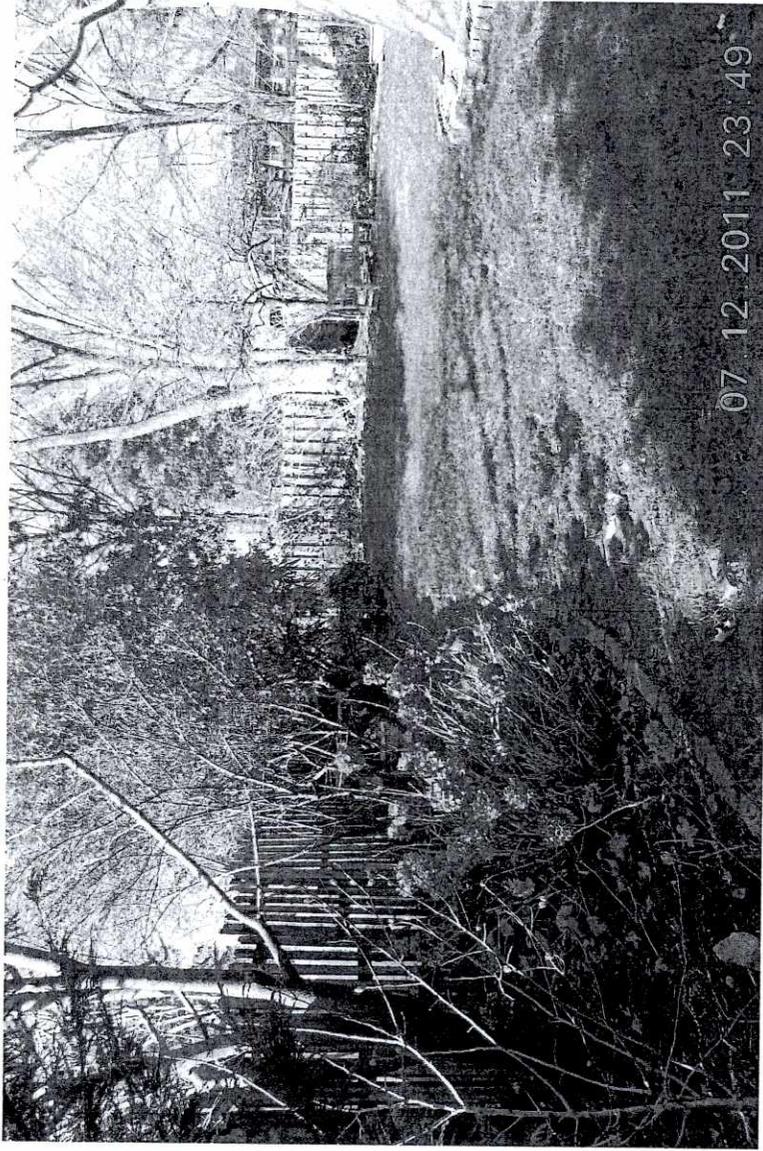


(F)

3334 NEVILS ST

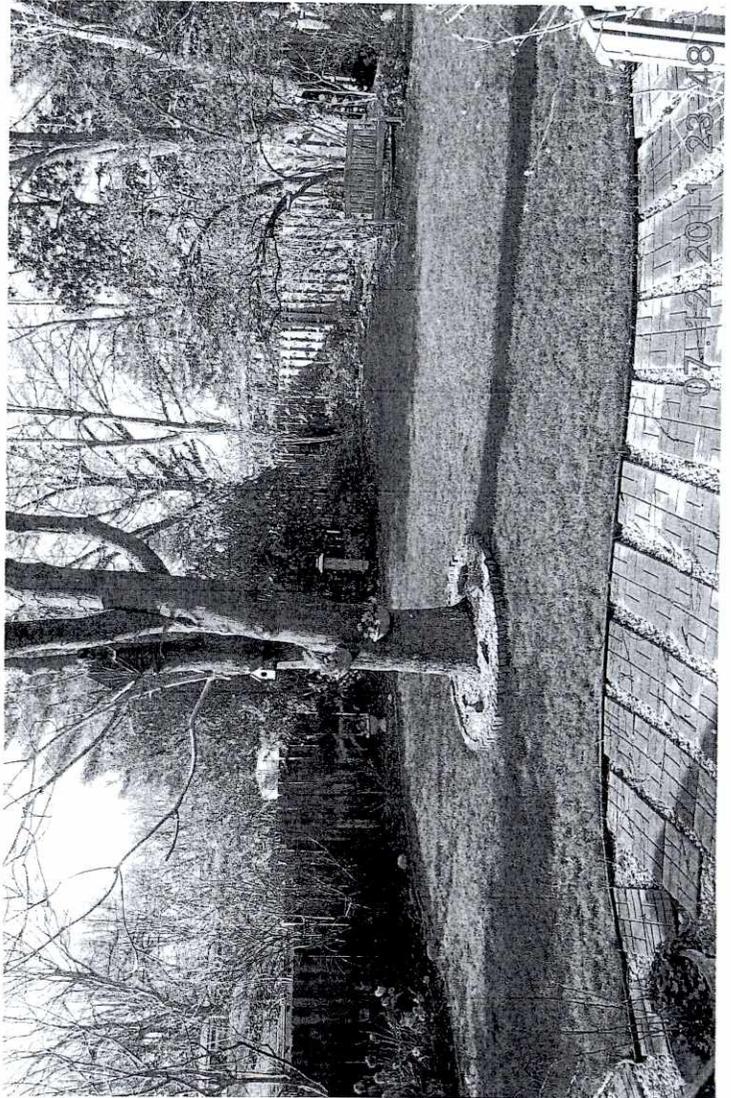
BACK YARD LEFT SIDE &

LEFT REAR



07 12 2011 23:49

②



3334 NEBINS ST
BACKYARD LEFT SIDE
CENTER REAR

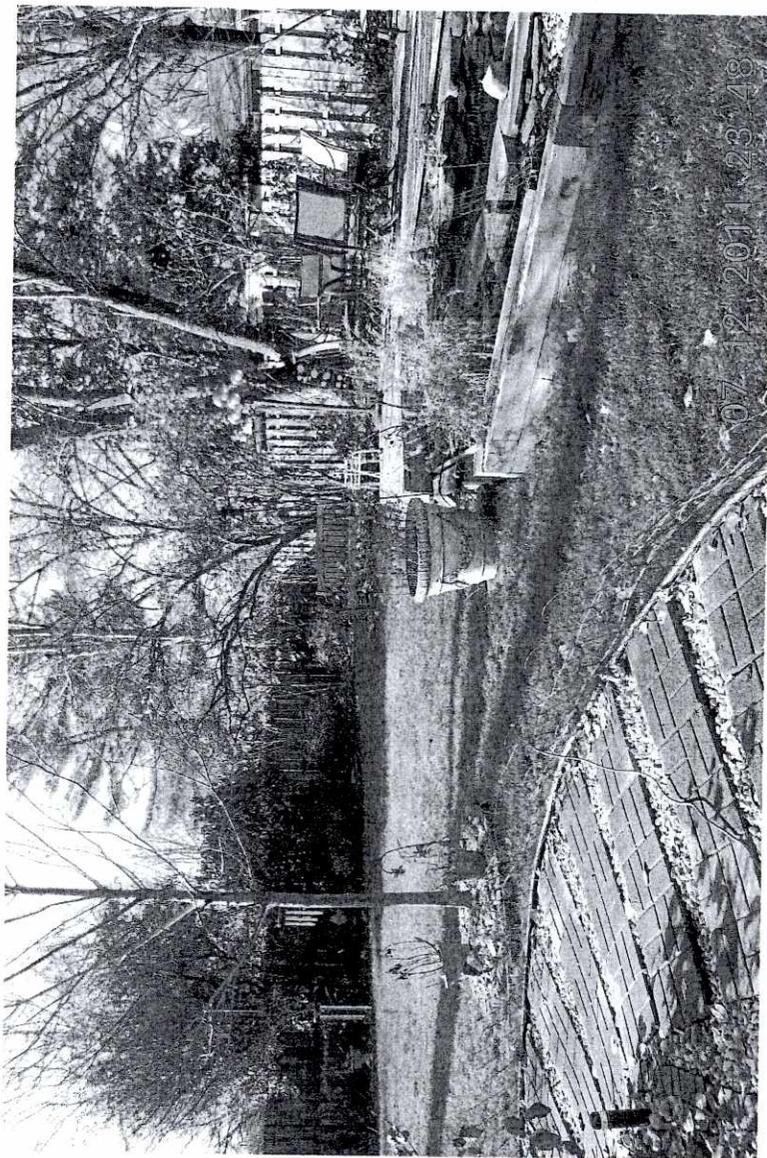
(3)

④

3334 NEVILUS ST

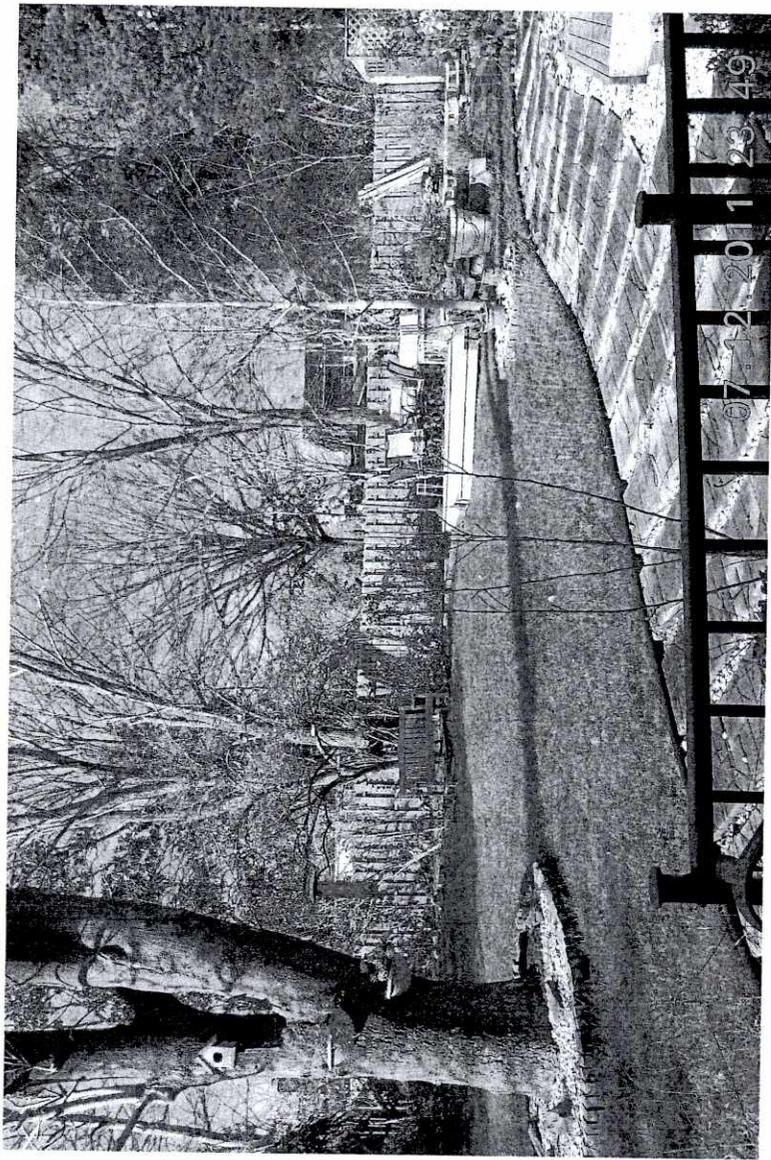
BACKYARD

CENTER LEFT



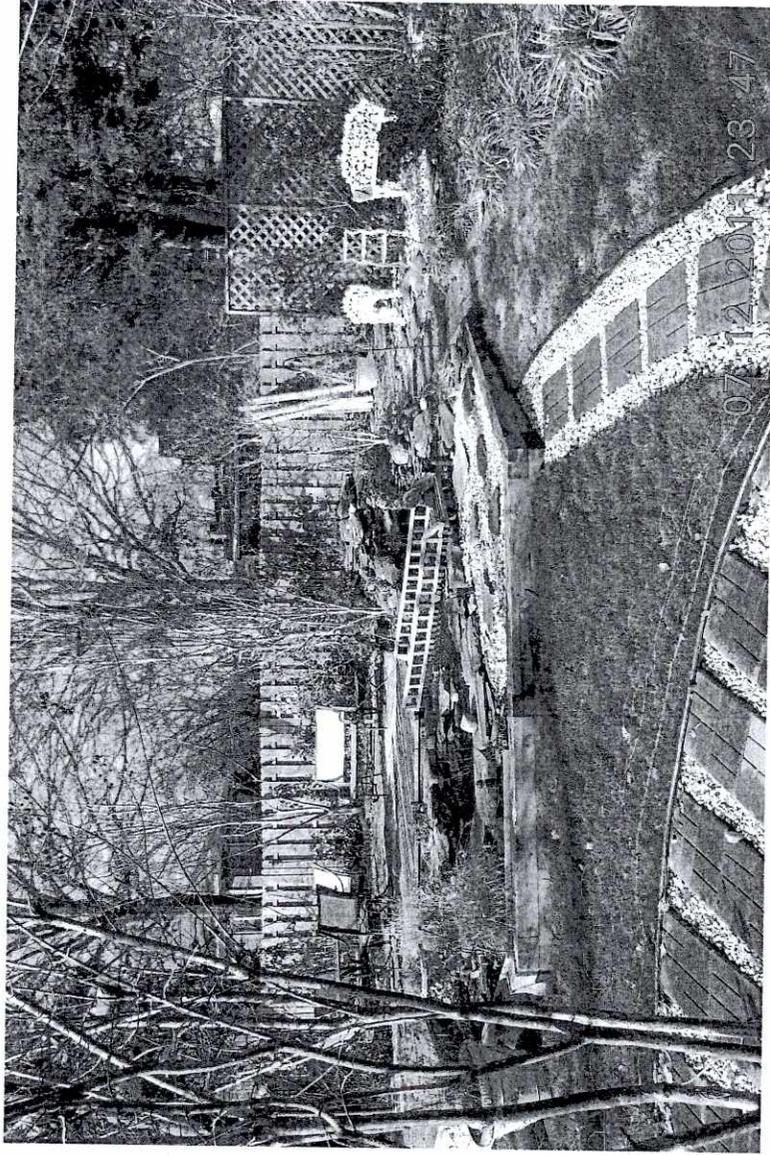
5

3374 NEVILUS ST
BAUKYARD
CENTER



3334 MEVINS ST
BACKYARD
RIGHT REAR

6

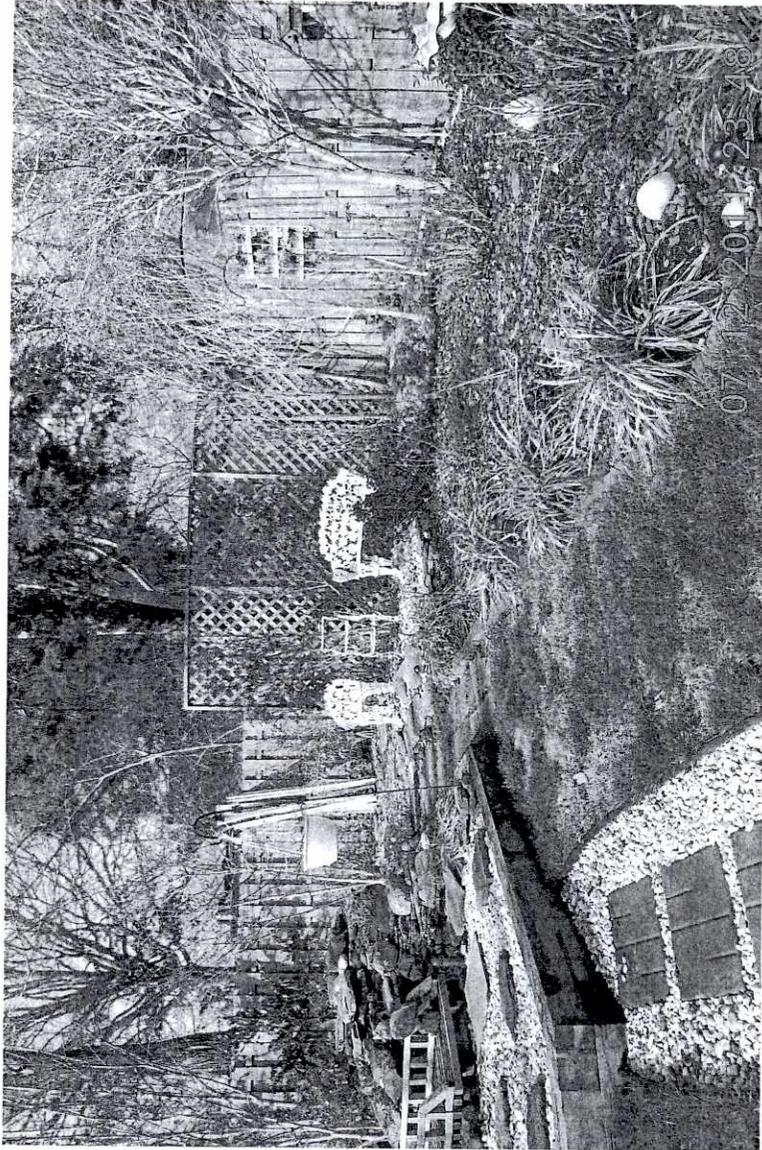


7

3334 NEVINS ST

BACKYARD

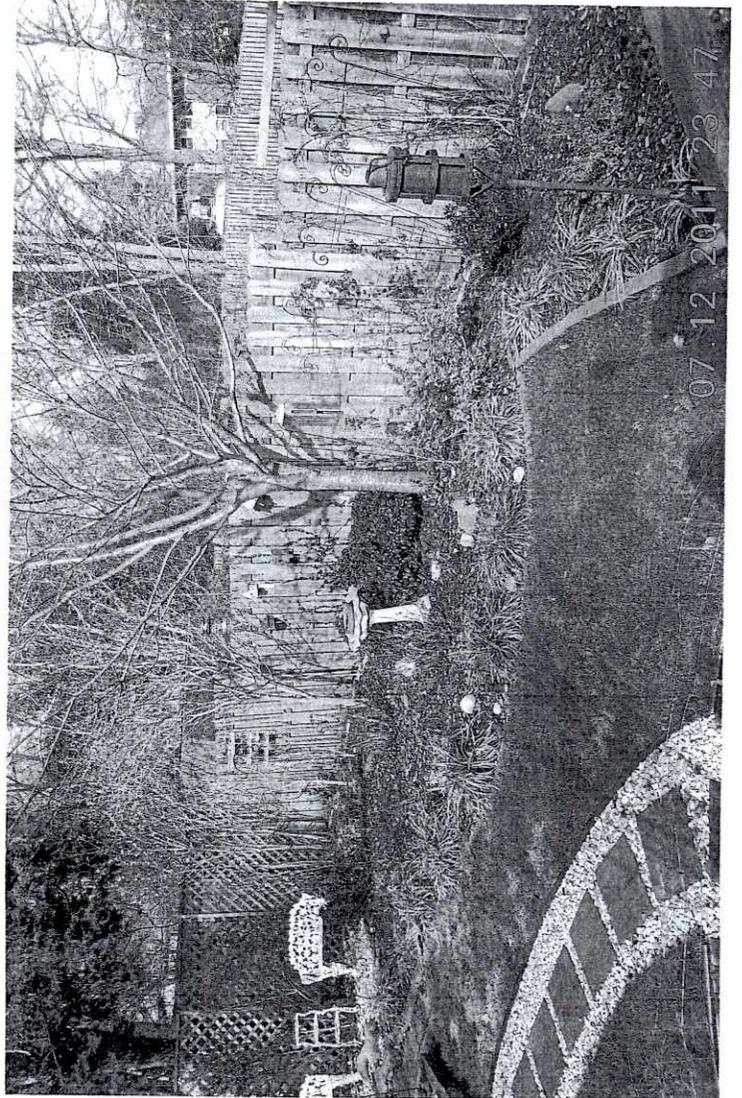
RIGHT SIDE REAR



8



3334 NEVUS ST
BACKYARD RIGHT SIDE
CENTRAL - PUMP

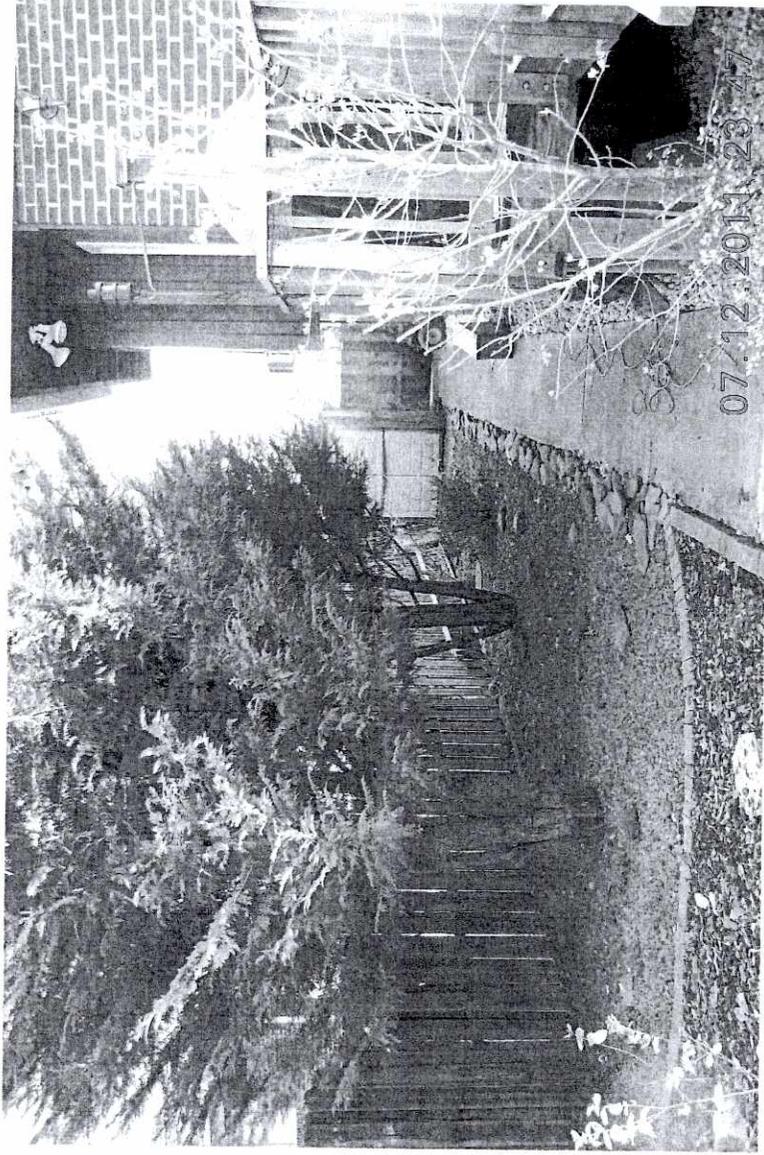


9

3334 WELLS ST

BACKYARD

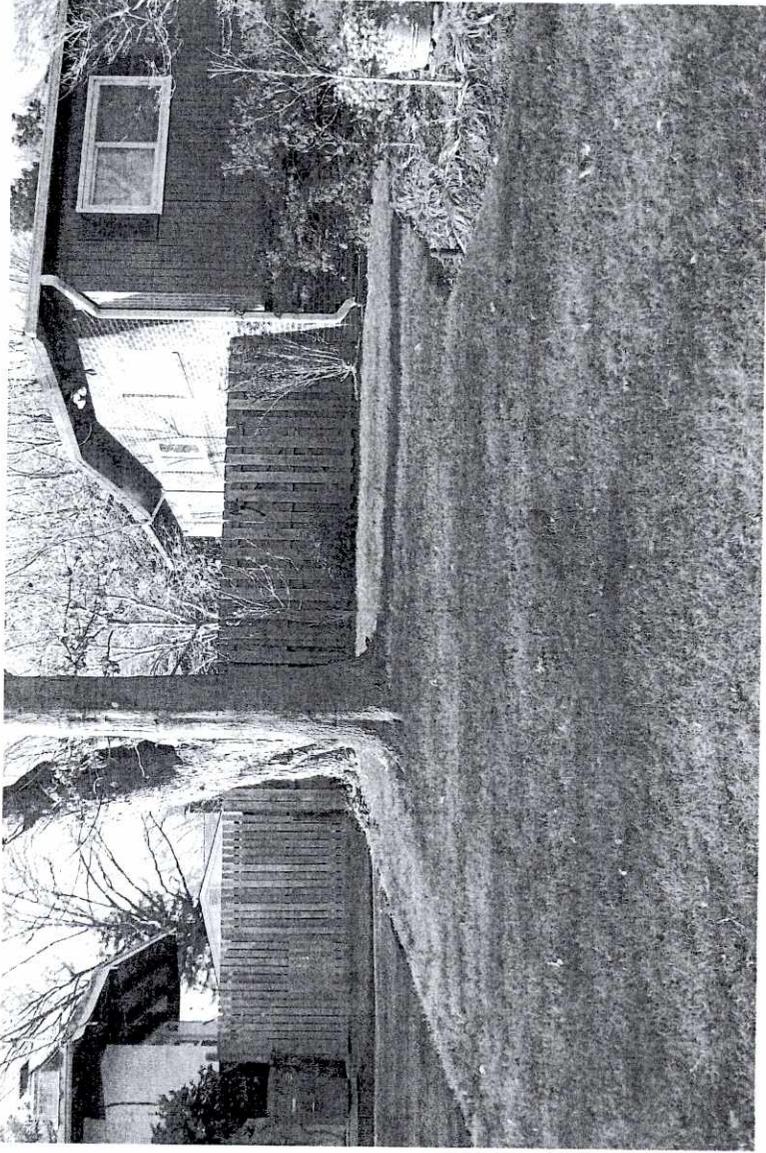
RIGHT SIDE FRONT



10

3334 ALBUQUIS ST
BACKYARD FENCE
WITH RABBIT FENCING
ALONG THE BOTTOM



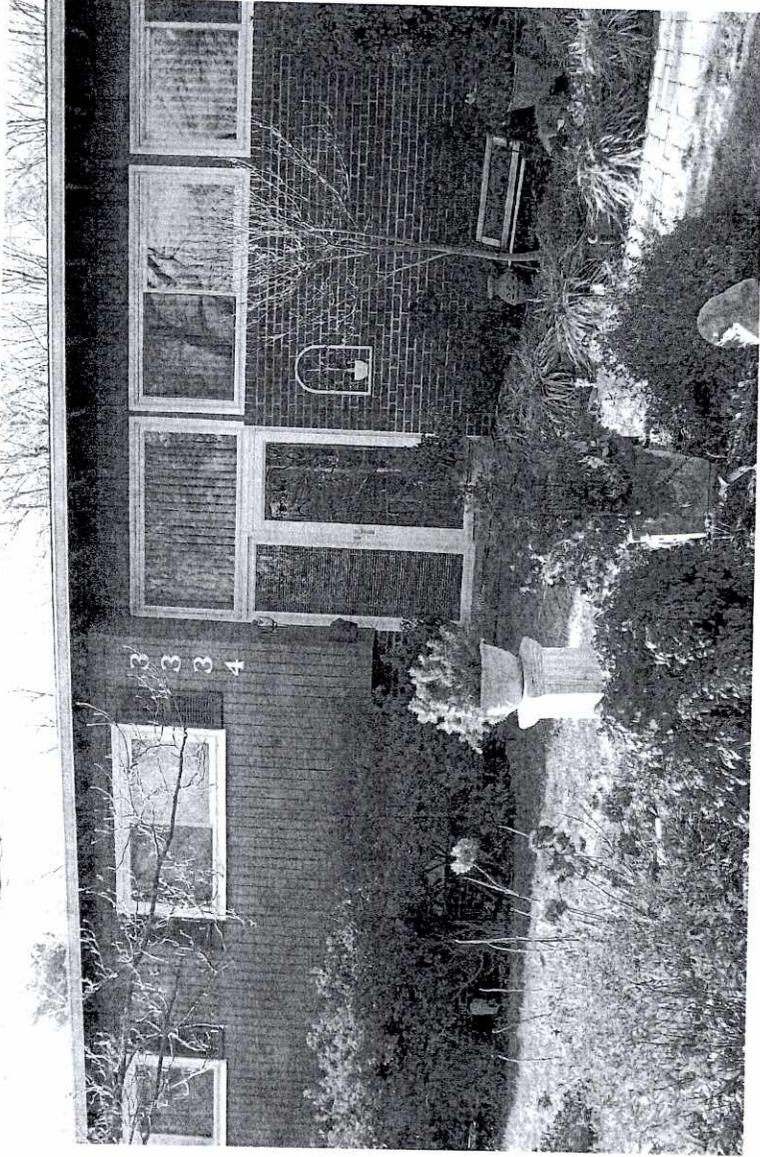


3334 WILKINS ST
FRONT LEFT

(11)

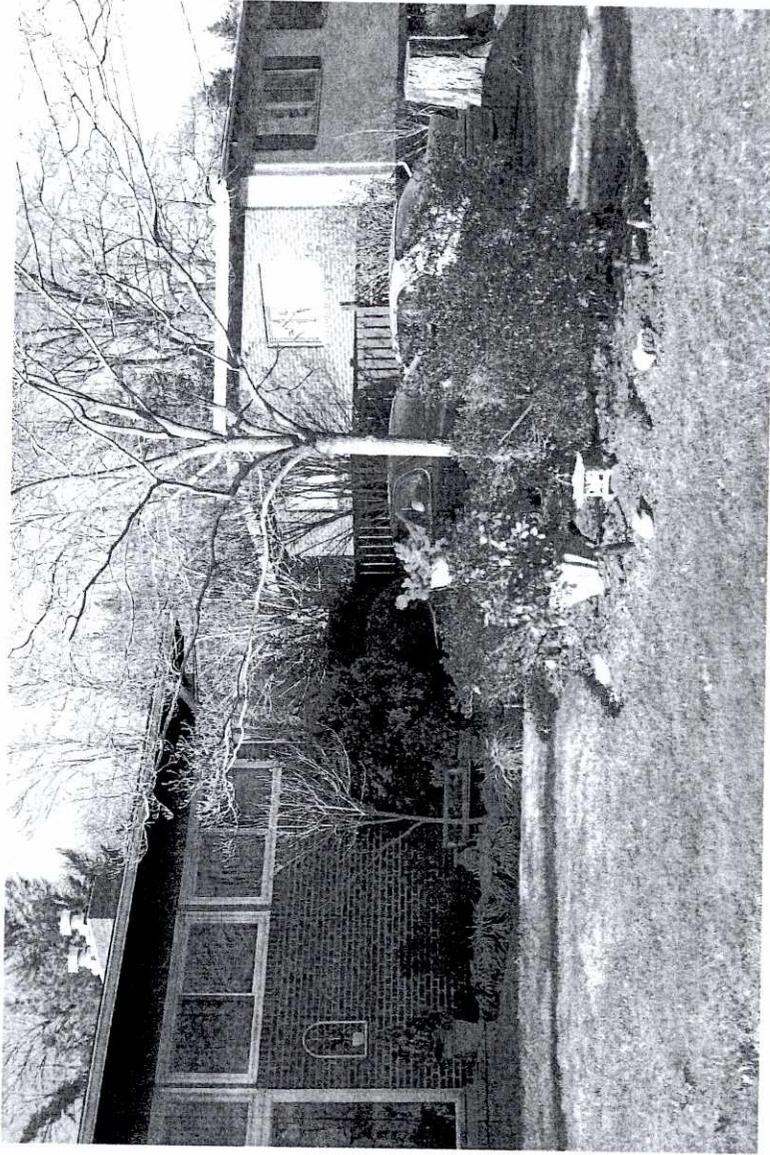
3334 AUSTIN ST
FRONT CENTER

(12)



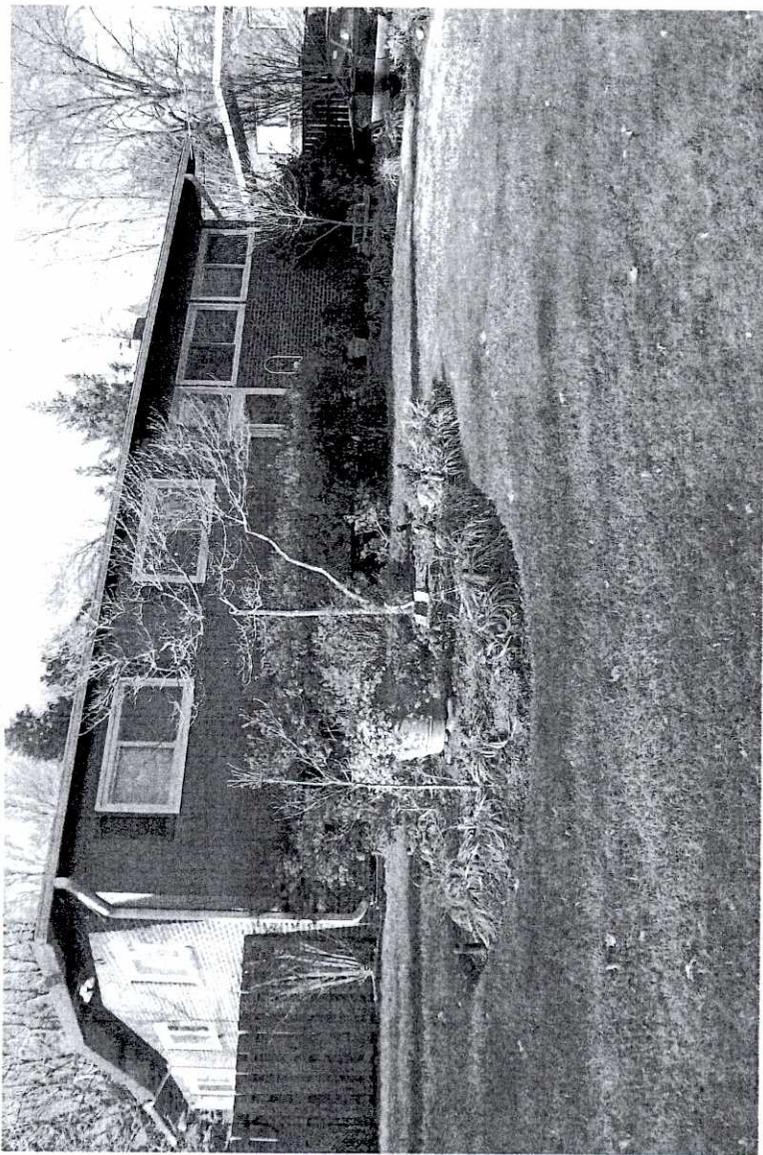
13

3334 NEWUS ST
FRONT RIGHT



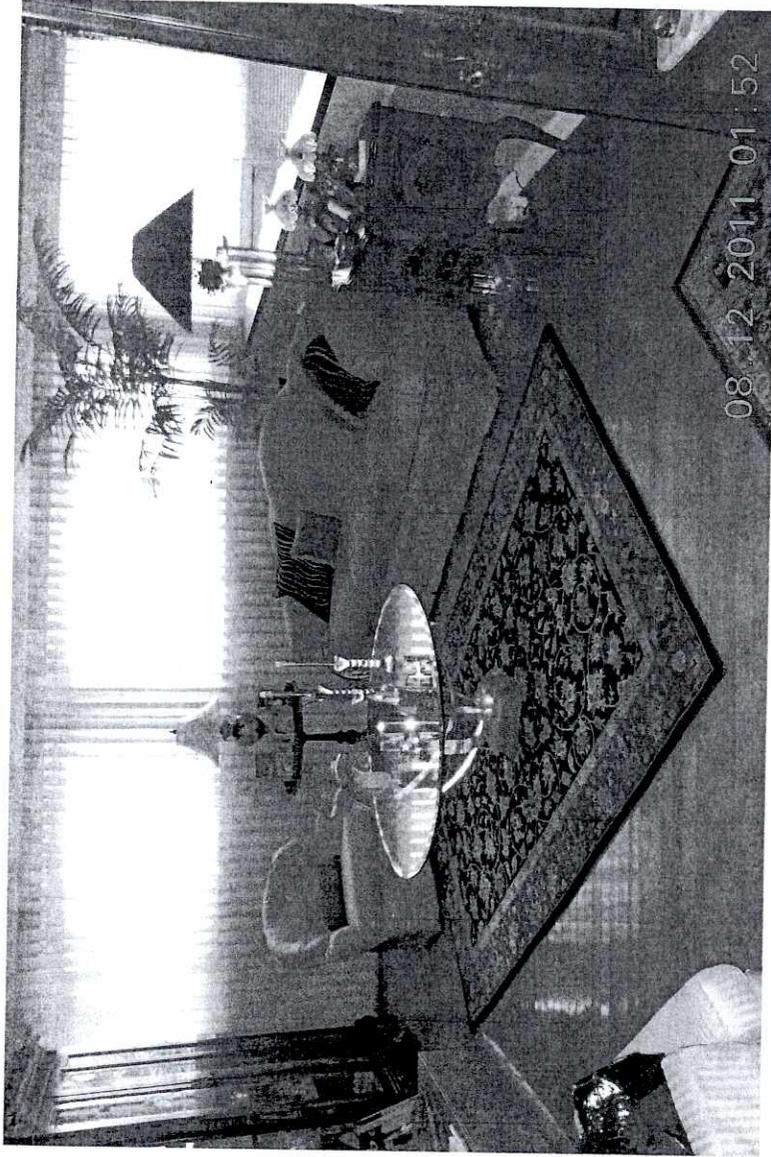
14

3334 ADELPHI ST
FRONT YARD



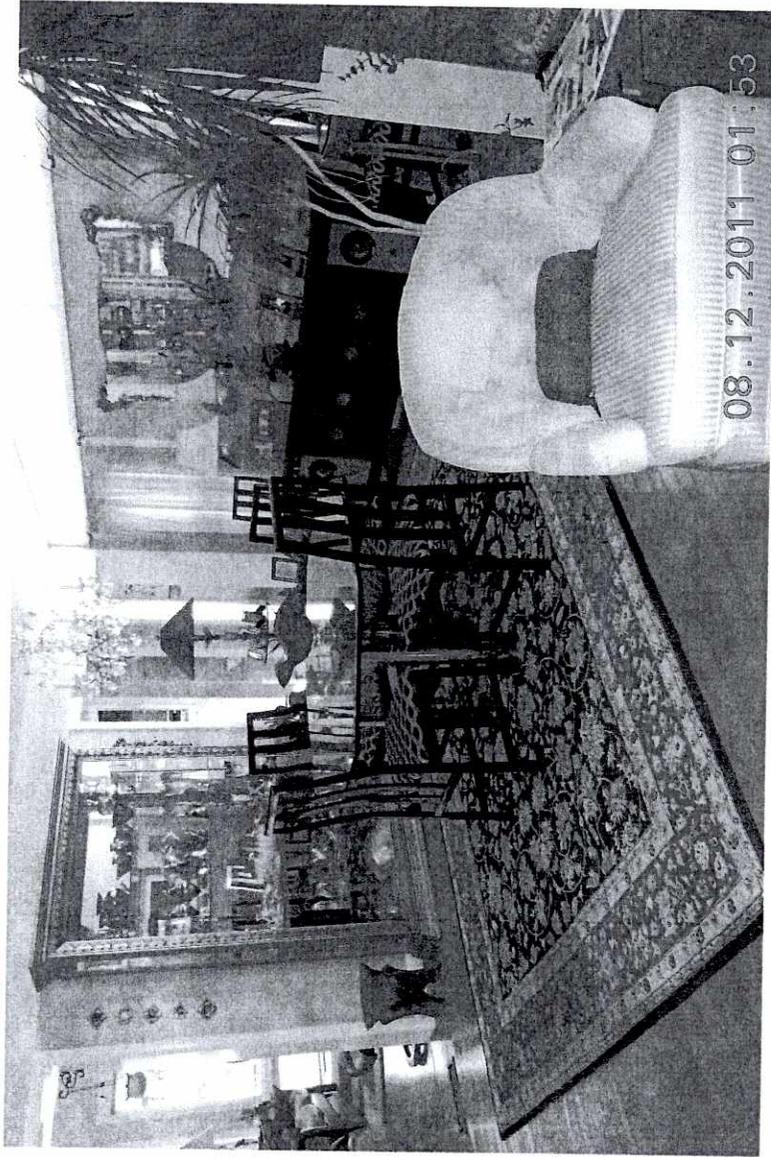
3334 NEVILS ST
LIVING ROOM

15



16

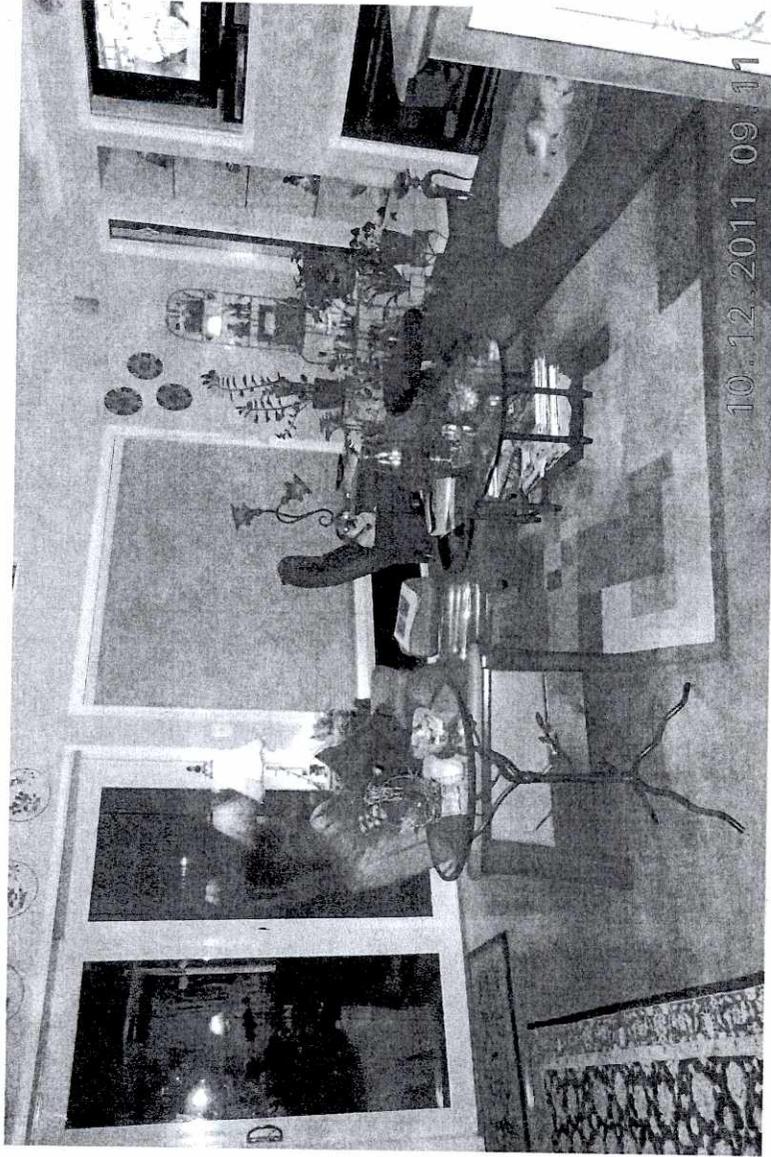
3334 NEVILUS ST
DINING ROOM



3334 NEVILS ST

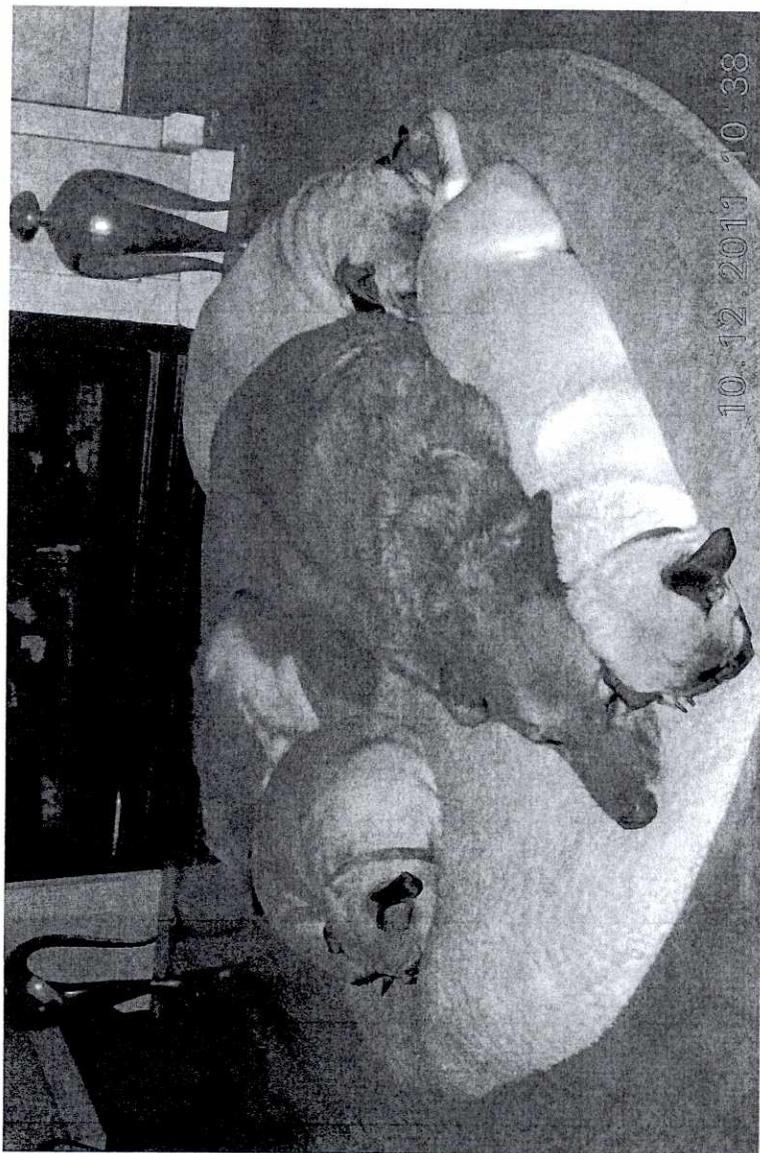
Family Room

(17)



3334 NEVILS ST
THE FIVE DOGS

I



18

3334 NEVINS ST

THE FIVE DOGS

②



①9

3334 Nevius St., Falls Church, VA 22041
Backyard right rear corner including shed



RECEIVED
Department of Planning & Zoning
JAN 19 2012
Zoning Evaluation Division

DESCRIPTION OF THE APPLICATION

The applicant requests approval of a special permit to permit a modification to the limitations on the keeping of animals to permit five adult dogs. Par. 2A of Section 2-512 of the Zoning Ordinance limits three to four dogs to a residential lot size between 12,500 square feet and 20,000 square feet. The applicant proposes to keep five dogs on the application site.

EXISTING SITE DESCRIPTION

The subject site measures 12,500 square feet in area. The site is zoned R-3 and developed with a split level, brick and frame single family detached dwelling. The house is situated at an angle on the site, and it was originally built in 1956. There is an asphalt driveway at the front. At the rear of the house, there is an open wood deck. In the northeast corner of the site, there is a shed, which measures 6.2 feet in height. Wood fencing between 5.5 to 5.7 feet in height surrounds the rear yard, and a portion of the fence along the left (east) side of the house is on the adjacent property. The site is landscaped with trees, shrubs and other plantings around the site and within landscape islands.

CHARACTER OF THE AREA

| | Zoning | Use |
|--------------|--------|---------------------------------|
| North | R-3 | Single Family Detached Dwelling |
| South | R-3 | Single Family Detached Dwelling |
| East | R-3 | Single Family Detached Dwelling |
| West | R-3 | Single Family Detached Dwelling |

BACKGROUND

A Notice of Violation (NOV) was issued on December 7, 2011, for a violation of keeping five dogs, and copy of the NOV is included as Appendix 4. The Zoning Ordinance permits between three to four dogs on a lot sized 12,500 square feet, and five dogs were found on site during an inspection. The five dogs include a Chihuahua-Terrier, Chow-Lab, and three pugs. All of the dogs are over six months of age.

A copy of the submitted special permit plat titled "Plat Showing Special Permit Plat on Lot 12, Aura Heights" prepared by Alexandria Surveys, LLC, dated and sealed January 17, 2012, is included at the front of the staff report.

There are no special permit or variance applications with a similar request in the vicinity of the application parcel.

ZONING ORDINANCE REQUIREMENTS

- 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)

Par. 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.

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated December 7, 2011
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2012-MA-003****April 11, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-MA-003 located at Tax Map 61-1 ((13)) 12 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, Silvia M. Albert, and is not transferable without further action of this Board, and is for the location indicated on the application, 3334 Nevius Street (12,500 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 five dogs. If any of these animals die, are sold or given away, they shall not be replaced, except that four 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 2012-MA-003
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: December 15, 2011
 (enter date affidavit is notarized)

I, SILVIA M. ALBERT, 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 114382

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) |
|---|--|---|
| SILVIA M. ALBERT | 3334 NEVIUS ST, FALLS CHURCH, VA 22041 | APPLICANT, 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 2012-NA-003
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: DECEMBER 15, 2011
(enter date affidavit is notarized)

114382

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 2012-MA-003

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: DECEMBER 15, 2011
(enter date affidavit is notarized)

114382

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 2012-MA-003
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: DECEMBER 15, 2011
(enter date affidavit is notarized)

114382

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 2012-MA-003

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

114382

DATE: December 15, 2011
(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)

Silvia M. Albert

Applicant

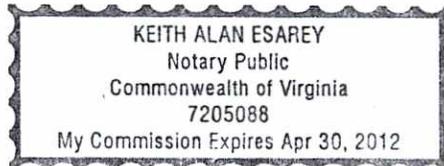
Applicant's Authorized Agent

SILVIA M. ALBERT, TITLE OWNER
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 15th day of December 2011, in the State/Comm. of Virginia, County/City of Fairfax.

Keith Alan Esarey
Notary Public

My commission expires: 04/30/2012



Zoning Ordinance 8-917 Exemption Proposal**Applicant: Silvia M. Albert****Address: 3334 Nevius Street, Falls Church, VA 22041-1730****Telephone Number: 703-998-8209****Tax Map #: 0611 13 0012****Zoning District: R-3**

I, Silvia M. Albert, respectfully request the Fairfax County Board of Zoning Appeals to grant a Group 9 Special Permit for modification to the limitations on the keeping of animals in accordance with Section 8-917 of the Zoning Ordinance to allow 5 dogs to remain on my property referenced above, one more than the 4 dogs allowed under the current zoning ordinance.

Background Information:

I have owned and lived on the property since 1977 and have always kept dogs for pets. In 2008 I owned three dogs, a male and female pug and a Chow-Lab mix breed, when my daughter who had two dogs of her own, a female spayed Pug and a male neutered Chihuahua-Terrier mix, got married and moved to an apartment with her husband. Her apartment did not allow pets and asked if I could keep her dogs until such time as she could reclaim them. I agreed and was not aware of any restrictions to keeping 5 dogs.

Since that time, my daughter has had two children and her and her family has been relocated to Hawaii. Her husband is in the Army and is currently deployed to Iraq. Given the amount of time that has passed and the expense involved of shipping the dogs to Hawaii, the likelihood of her ever taking the dogs back is remote. The dogs have been living with me for over three years and have bonded with my own. To give one of them up would be heartbreaking not only to me and my husband but to the other dogs as well. It would be almost impossible for me to give one of my dogs away.

All of my dogs are up-to-date with their shots and licenses and have been spayed or neutered. They are house pets and are not a nuisance to any of my neighbors. I am retired so I spend a lot of time at home caring for my dogs and my property is completely fenced in, including rabbit fencing around the base and padlocks on the gates, to make sure the dogs cannot get out of the yard and roam free.

Below is a list of the dogs, including their age, breed, and weight.

1. Henri, 7 year old male mixed Chihuahua-Terrier, approximately 7 pounds,
2. Max, 7 year old male mixed Chow-lab, approximately 50 pounds,
3. Emma, 7 year old female pug, approximately 16 pounds,
4. Pablo, 7 year old male pug, approximately 30 pounds, and
5. Tinker-bell, 10 year old pug, approximately 16 pounds

As you can see from the list above, they are not large dogs.

RECEIVED
Department of Planning & Zoning

JAN 19 2012

Zoning Evaluation Division

I have included a disk with pictures of my property and of the dogs. You will see from the pictures, having one extra dog has not diminished the neighborhood or local area in any way. Not once has any of my neighbors come to my door or contacted me either by telephone, paper mail or electronic mail, complaining of my dogs.

I am extremely attached to all of my dogs and do not want to give any of them up, which is evidenced by my filing this request and paying a \$910 filing fee that I can barely afford as I am living on a fixed pension income and my husband is unemployed.

Given the above information, I respectfully ask that my request be approved and the zoning exemption be granted.

Additional information based on the deficiency letter item # 921 02.

The dogs are house pets and kept in the home and not allowed to roam free. They do have access to the backyard through a sliding patio door and basement door. The property is secure with 6 foot fencing around the entire back yard with limited outside access through two entry gates which are kept padlocked so the dogs cannot inadvertently get out. When any of the dogs leave the house other than the backyard, they are on a leash and never out of my control.

Zoning Ordinance 8-917 Exemption Proposal

Applicant: Silvia M. Albert

Address: 3334 Nevius Street, Falls Church, VA 22041-1730

Telephone Number: 703-998-8209

Tax Map #: 0611 13 0012

Zoning District: R-3

Hazardous or Toxic Materials Statement

I, Silvia M. Albert, affirm that there are no hazardous or toxic waste substances on my property as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355. As set forth in Commonwealth of Virginia / Department of Waste Management Regulations VR 672.10.1- Virginia Hazardous Waste Management Regulations; and/or Petroleum Products as defined in Title 40, Code of Federal Regulations part280; no hazardous or toxic waste substances will be generated, utilized, stored, treated, and/or disposed of on my property. I further affirm that there are no existing or proposed hazardous or toxic waste substances storage tanks or containers of any size and contents on my property.

RECEIVED
Department of Planning & Zoning
JAN 19 2012
Zoning Evaluation Division

Zoning Ordinance 8-917 Exemption Proposal

Applicant: Silvia M. Albert

Address: 3334 Nevius Street, Falls Church, VA 22041-1730

Telephone Number: 703-998-8209

Tax Map #: 0611 13 0012

Zoning District: R-3

Conformity Statement

I, Silvia M. Albert, affirm that the except for the zoning modification applied of keeping 5 dogs, the proposed application will conform to the provisions of all applicable ordinances, regulations, and adopted standards.

Department of Planning & Zoning
JAN 19 2012
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.

NOTICE OF VIOLATION

DATE OF ISSUANCE: December 7, 2011

SHERIFF'S LETTER

CASE #: 201107998 SR#: 78316

SERVE: Silvia M. Albert
3334 Nevius Street
Falls Church, VA 22041

LOCATION OF VIOLATION 3334 Nevius Street
Falls Church, VA 22041-1730
Tax Map #: 61-1 ((13)) 12
Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on December 3, 2011 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-512 (2A) Keeping of Dogs

An inspection of the above referenced property revealed that you are keeping five dogs on the referenced-property. The above-referenced property contains 12,500 square feet of area. Commonly accepted pets are defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

Domesticated rabbits; hamsters; ferrets; gerbils; guinea pigs; pet mice and pet rats; turtles; fish; dogs; cats; domestic chickens, ducks and geese under two (2) months old; birds such as canaries, parakeets, doves and parrots; worm/ant farms; non-poisonous spiders; chameleons and similar lizards; and non-poisonous snakes. The BZA may allow other pets to be kept as commonly accepted pets in accordance with the provisions of Part 9 of Article 8.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Additionally, Par. 2A & B of Sect. 2-512 of the Fairfax County Zoning Ordinance provides:

Limitations on the Keeping of Animals

- 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 |
| 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 41.1 of The Code.

Therefore, the keeping of more than four dogs on this lot, which contains 12,500 of square feet of land, is a violation of Par. 2A of Sect. 2-512 of the Zoning Ordinance as outlined above.

You are hereby directed to clear this violation within thirty (30) days after the date of this Notice. Compliance must be accomplished by:

- Reducing the number of dogs located at this property to no more than four, or
- Applying to and ultimately obtaining approval of a Group 9 Special Permit from the Fairfax County Board of Zoning Appeals

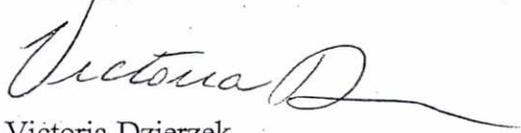
for modifications to limitations on the keeping of animals in accordance with Sect. 8-917 of the Zoning Ordinance to allow the more than 4 dogs to remain on the referenced lot.

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 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) 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 \$600.00 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 or need additional information, please do not hesitate to contact me at (703) 324-1398 or (703) 324-1300.

Sincerely,

A handwritten signature in cursive script that reads "Victoria Dzierzek". The signature is written in black ink and is positioned above the printed name.

Victoria Dzierzek
Code Compliance Investigator III

ZONING ORDINANCE PROVISIONS**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 5 of Article 9, 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 |
| 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 41.1 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 riding or boarding stable shall be subject to the provisions of Part 6 of Article 8, and a kennel, animal shelter shall be subject to the provisions of Part 5 of Article 9.

8. The keeping of wild, exotic, or vicious animals shall not be allowed except as may be permitted by Chapter 41.1 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.