



**KENNEDALE**  
Board of Adjustment  
www.cityofkennedale.com

## **BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS**

### **AGENDA**

#### **REGULAR MEETING**

**January 4, 2018**

**CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

**WORK SESSION – 6:00 PM**

**REGULAR SESSION - 7:00 PM**

#### **I. BOA MEMBER TRAINING**

#### **II. CALL TO ORDER**

#### **III. ROLL CALL**

#### **IV. SWEARING IN OF SPEAKERS**

#### **V. MINUTES APPROVAL**

1

A. Consider approval of minutes from the November 2017 BOA meeting.

#### **VI. VISITOR/CITIZENS FORUM**

*At this time, any person with business before the Board of Adjustment not scheduled on the Agenda may speak to the Board, provided that an official 'Speaker's Request Form' has been completed and submitted to the Board Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.*

#### **VII. REGULAR ITEMS**

- A. **CASE # BOA 17-06** to receive comments and consider action on a request by Sterling Adams/ Apple Auto Salvage for a Special Exception as required by the Unified Development Code Section 6.2, "Schedule of Uses," to allow a Salvage Yard in an Industrial Zoning District at 7002 E. Kennedale Parkway, Kennedale, TX 76060, more particularly described as HUDSON, WADE H SURVEY Abstract 716 Tract 3C2A 3D1A & 3D2.
- B. **CASE # BOA 17-07** to receive comments and consider action on a request by the City of Kennedale for a Variance as required by the Unified Development Code Article 3, Agricultural and Residential Zoning districts generally, to all encroachment into side setback by 36 inches in an "R-1" Single Family district at 913 Shady Creek Dr., more particularly described as Shady Creek East Addition Lot 7 Block 1.

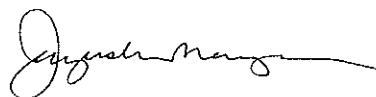
#### **VIII. REPORTS/ANNOUNCEMENTS**

## IX. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989

## CERTIFICATION

*I certify that a copy of the January 4, 2018, Board of Adjustment & Building Board of Appeals agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.*

A handwritten signature in black ink, appearing to read "Jay Narayana", is written over a horizontal line.

Jay Narayana, AICP  
Interim Planning Director

## **BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS**

### **AGENDA**

#### **SPECIAL MEETING**

**November 17, 2017**

**CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

**REGULAR SESSION - 7:00 PM**

### **I. CALL TO ORDER**

Chairman Clark called the meeting to order at 7:00PM

### **II. ROLL CALL**

| PLACE | COMMISSIONER              | PRESENT | ABSENT |
|-------|---------------------------|---------|--------|
| 1     | John Clark, Chair         | X       |        |
| 2     | Brian Cassady             | X       |        |
| 3     | <b>VACANT</b>             |         |        |
| 4     | Patrick Vader, Vice Chair | X       |        |
| 5     | Martin Young              |         | X      |
|       | <b>ALTERNATES</b>         |         |        |
|       | Jeff Nevarez              | X       |        |
|       | Lana Sather               |         | X      |
|       | Kelli Rod                 |         | X      |
|       | Josh Altom                |         | X      |

Chairman Clark noted three regular board members were present and asked Mr. Jeff Nevarez to sit in for a quorum to be present.

Staff present: George Campbell, City Manager; James Donovan, City Attorney; Sandra Johnson, Building Official for Interim Jay Narayana; and Kassy Lane, Interim Board Secretary for Alicia Santos

### **III. SWEARING IN OF SPEAKERS**

Ms. Lane swore in the speakers Debbie Weems and Clay Gafford.

### **IV. VISITOR/CITIZENS FORUM**

*At this time, any person with business before the Board of Adjustment not scheduled on the Agenda may speak to the Board, provided that an official 'Speaker's Request Form' has been completed and submitted to the Board Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.*

## **V. REGULAR ITEMS**

A. **CASE # BOA 17-07** to receive comments and consider action on a request by Clay Gafford for a Variance to the Unified Development Cod Article 3, Agricultural and Residential Zoning districts generally, to all encroachment into side setback by 36 inches in an "R-1" Single Family district at 913 Shady Creek Drive, more particularly described as Shady Creek East Addition Lot 7 Block 1.

### **1. Staff/Applicant presentation**

Mr. Campbell advised the board that a building permit was requested by Mr. Gafford on June 1, 2017 and a permit was issued in error by the City on June 7, 2017. Mr. Gafford began construction in June, although question was raised on the proximity of building prior to the issuance of the permit. The building is 5 feet from property line and encroaches the side yard. The required side yard setback is 8 feet. The City issued a stop work order on November 6, 2017. Mr. Campbell explained his intention to bring this issue to the board was to consider a decision to be made as soon as possible. Mr. Clark asked if the City provided all the required notices to surrounding neighbors. Mr. Campbell explained that not all notices were provided but both immediate parties were notified and ready to testify. He also stated that not all advertising requirements were met for a hearing request for a variance. Mr. Clark asked how much additional time would be needed to repost and re-advertise to bring back before BOA. Mr. Campbell deferred to Mr. Donovan. Mr. Donovan advised the board that the legal advertisement requirement is eleven (11) days' notice. Mr. Clark advised not to proceed with the hearing to ensure they are in compliance with the law for advertising and posting requirements. Mr. Clark deferred to the commissioners to discuss. Mr. Cassidy raised the question about the regular meeting in December. Mr. Clark responded there is a scheduled meeting for December 5, 2017. Mr. Nevarez brought up the Tree Lighting ceremony scheduled for December 5, 2017 and the board could decide to table the meeting. Mr. Vader stated he is in favor of tabling the meeting. Mr. Gafford asked if the requirement was 200 feet from his property. Mr. Donovan confirmed the legal requirements of notifying the surrounding neighbors of Mr. Gafford's property. Mr. Clark apologized to the parties involved and understands the need to resolve the issue quickly. He advised to schedule the next meeting in December with all the legal requirements. Mr. Campbell suggested polling the board members and ensuring it does not conflict with any community events.

### **2. Action by the Board of Adjustment**

Mr. Vader made the motion to table the meeting, second by Mr. Cassidy. The motion was passed with all in favor. Closed at 7:12PM

## **VI. REPORTS/ANNOUNCEMENTS**

No reports or announcements made

## **VII. ADJOURNMENT**

Mr. Nevarez made a motion to adjourn, second by Mr. Vader. The motion was passed with all in favor.

The meeting adjourned at 7:14PM



## STAFF REPORT TO THE BOARD OF ADJUSTMENT

**Date:** December 29, 2017

**Agenda Item No:** REGULAR ITEMS (B)

### I. SUBJECT

**CASE # BOA 17-07** to receive comments and consider action on a request by Clay Gafford for a Variance as required by the Unified Development Code Article 3, Agricultural and Residential Zoning districts generally, to all encroachment into side setback by 36 inches in an "R-1" Single Family district at 913 Shady Creek Dr., more particularly described as Shady Creek East Addition Lot 7 Block 1

### II. SUMMARY

#### BACKGROUND AND OVERVIEW

|                                         |                                                                            |
|-----------------------------------------|----------------------------------------------------------------------------|
| <b>Request</b>                          | Variance from side yard setback                                            |
| <b>Applicant</b>                        | Clay Gafford                                                               |
| <b>Location</b>                         | 913 Shady Creek Dr., North of Harrison Rd., and South of City of Arlington |
| <b>Current Zoning</b>                   | Single-Family Residential District R-1                                     |
| <b>Current Land Use</b>                 | Single-family residence                                                    |
| <b>Surrounding Uses</b>                 | Single family residential (acreage lots and neighborhood-type lots)        |
| <b>Future Land Use Plan Designation</b> | Neighborhood/Open Space                                                    |
| <b>Staff Recommendation</b>             | BOA decision based on Variance Criteria                                    |

#### CURRENT STATUS OF PROPERTY

This property is zoned "R-1" single family residential, which allows additions as long as they meet the required setbacks and other development restrictions. The required side yard setback for additions is eight (8) feet.

A residential building permit was issued on June 7, 2017. However, the residential building permit was issued in error. The site plan submitted shows five (5) feet for the side setback and that is what was approved. However the UDC requirement (UDC Section 3.3, Table 3.3) is eight (8) feet. A foundation inspection was approved on 06/08/2017.

On November 3, 2017 a complaint was received from the property at 911 Shady Creek Drive. The property owners concern was that the building was too close to the shared property line. This became more evident once the walls and roof were built.

A "Stop Work Order" was posted after a measurement was made showing the five (5) feet setback, not the required eight (8) feet.

## **SURROUNDING PROPERTIES & NEIGHBORHOOD**

The property is located in a primarily residential area. The properties on either side are zoned AG and the property behind is residential area of the City of Arlington.

## **REQUIREMENTS FOR A VARIANCE**

The Board of Adjustment is permitted to grant variances to the development regulations in Article VI of the zoning code such as the front yard, side yard, rear yard, lot width, lot depth, lot coverage, minimum setback, off-street parking, off-street loading, lot area, maximum height, or other building regulations. Variances are permitted only where the literal enforcement of the provisions of Article VI would result in an unnecessary hardship, or where such variance is necessary to permit the reasonable development of a specific parcel of land which differs from other parcels of land in the same district by being of such area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district.

In other words, in order to grant a variance, the variance applicant is required to demonstrate that the property itself is unusually different enough from other properties in the same zoning district that it can't be developed in the same way as other parcels in the same district, which creates a hardship. A hardship cannot be of the applicant's own making, and it cannot be financial (e.g., the applicant can't meet the development regulations simply due to the applicant's financial situation).

The board should consider the following questions in determining whether a variance request meets this standard:

- (1) is the request owing to a special condition inherent in the property itself;
- (2) is the condition unique to the property for which a variance is requested;
- (3) is the condition self-created;
- (4) will a strict enforcement of the zoning ordinance create hardship above that suffered by the general public; and
- (5) will the hardship deprive the property owner of the right to use his property?

If you find the answers above demonstrate conditions favorable to granting a variance, the board should also consider these questions:

- (6) would granting the variance be contrary to the public interest; and
- (7) is the request within the spirit of the ordinance and further substantial justice?

## ANALYSIS

### **(1) Is the request owing to a special condition inherent in the property itself?**

No. The property is the same size as other properties in the district. The property does not have floodplain, unusual topography or shape, or other factors that would make it difficult to develop the property under the city's R-1 zoning district regulations.

### **(2) Is the condition unique to the property for which a variance is created?**

As mentioned above, the property does not have a unique condition. It is approximately 123 feet wide, and 179 feet deep. The property does have a large drainage channel running approximately twenty eight (28) feet from the back of the house to the rear property line.

### **(3) Is the condition self-created?**

Yes, however the Gafford's were working under the assumption of an approved and issued residential building permit from the city.

### **(4) Will a strict enforcement of the zoning ordinance create a hardship above that suffered by the general public?**

No, it will not. Other property owners within the R-1 zoning district must also meet the setback requirements to the R-1 zoning district..

### **(5) Will the hardship deprive the property owner of the right to use his property?**

No. The property is already developed.

### **(6) Would granting the variance be contrary to the public interest?**

The property owner (neighbor) to the west has told staff her concern is the quality of life (view). The view will be the same for the neighbor no matter what the distance is from the property line. The neighbor was also concerned with the drainage from the roof of the structure along the fence. Gutter along the west side of the structure with the drain spouts directed to the rear of the property would correct any drainage issues.

**(7) Is the request within the spirit of the ordinance and further substantial justice?**

Yes. Due to the residential building permit being issued in error, the Gafford's were working under the assumption the side setback was correct.

**STAFF RECOMMENDATION**

**Will the literal enforcement of the provisions of this article result in an unnecessary hardship?**

No. The Gafford's are not under an unnecessary hardship.

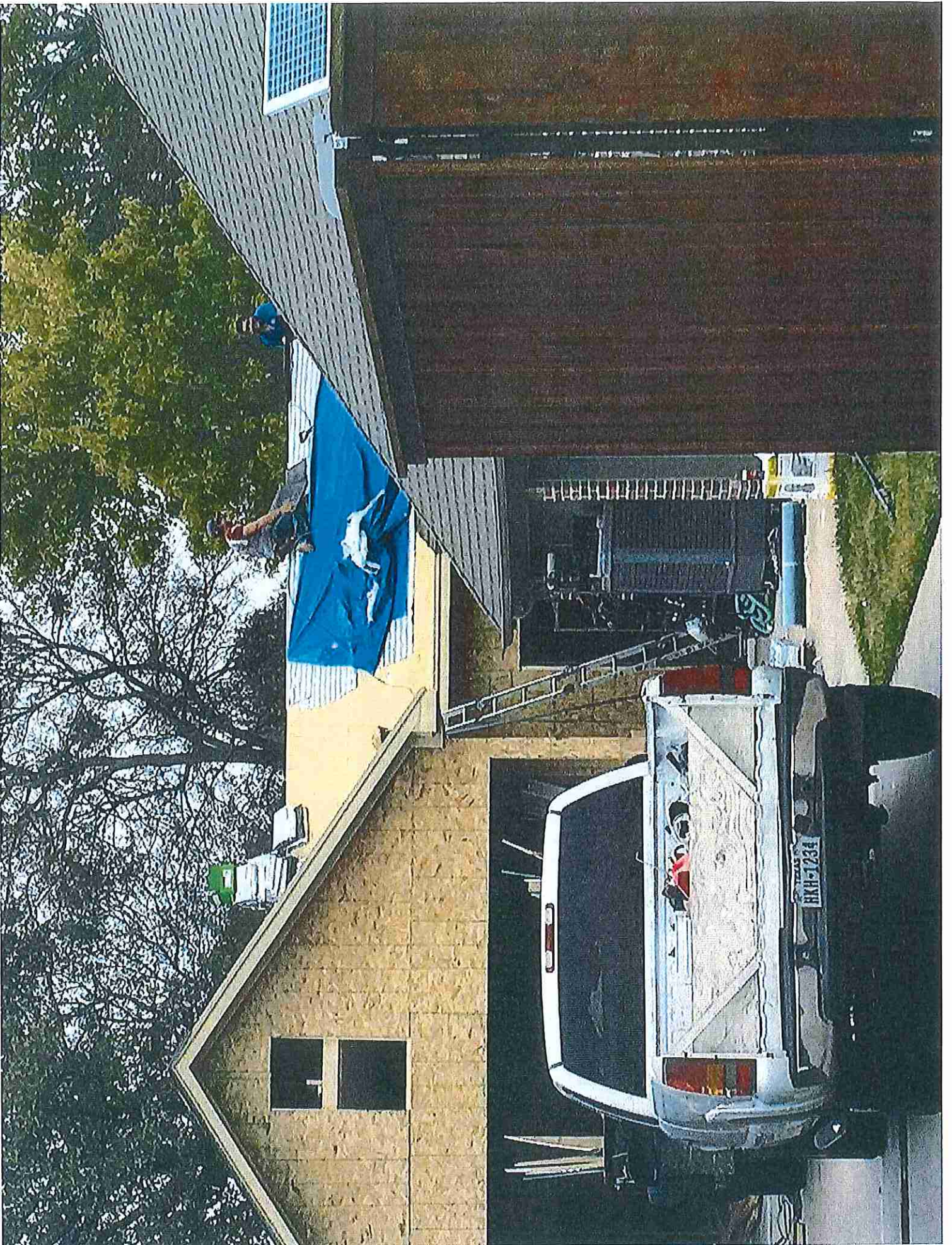
Based on the above analysis, staff recommends approving the request for a variance with the stipulation that the Gafford's install gutters along the west side of the new construction and have them drain to the rear of the property.

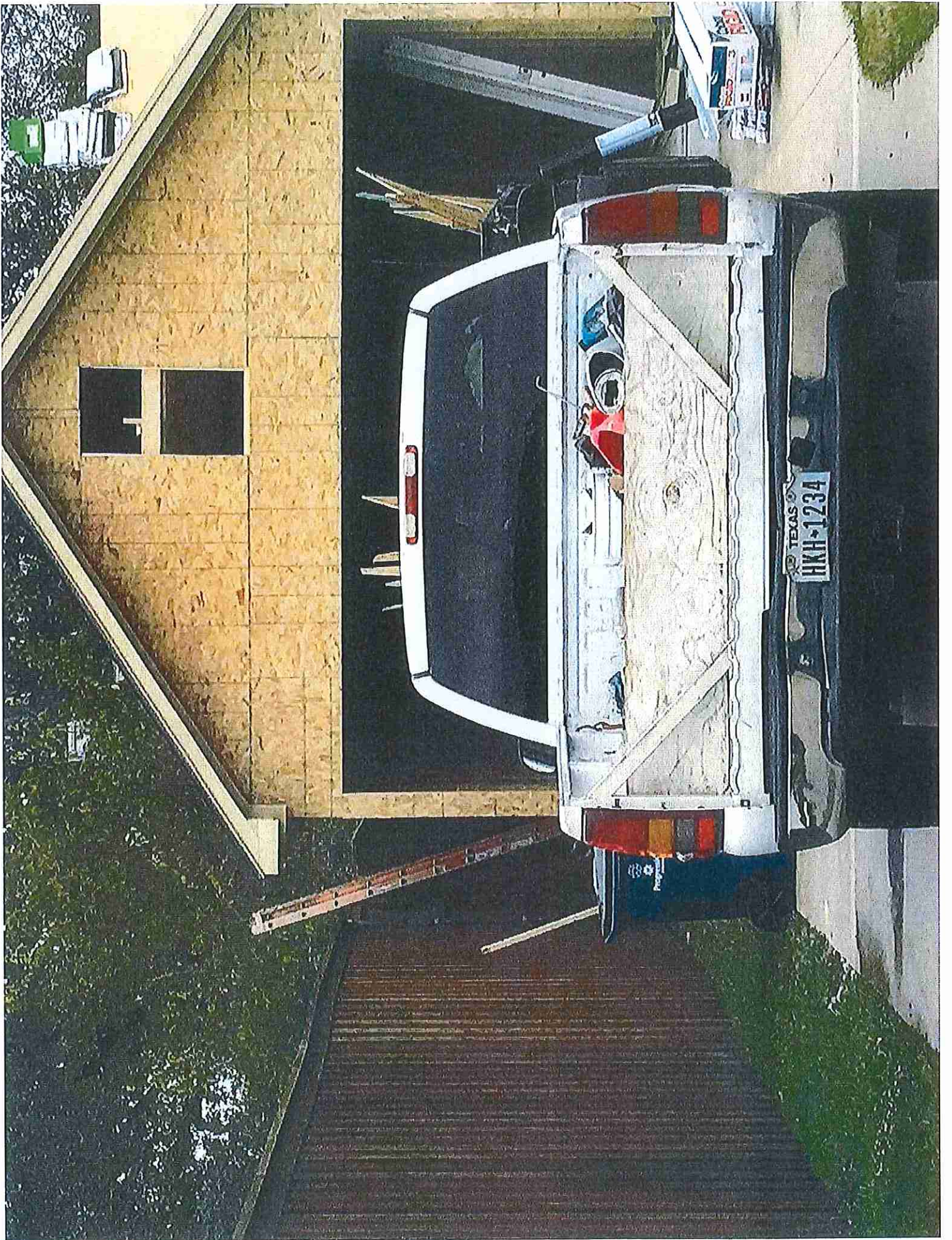
**ACTION BY THE BOARD OF ADJUSTMENT**

*The board may grant or deny the request or postpone its vote until a later date. If you postpone your decision, you should state in your motion when the case will be heard by the board again. Sample motions are provided for your reference below. You are not required to use either of the motions provided, but your motion should state why you are granting or denying the request.*

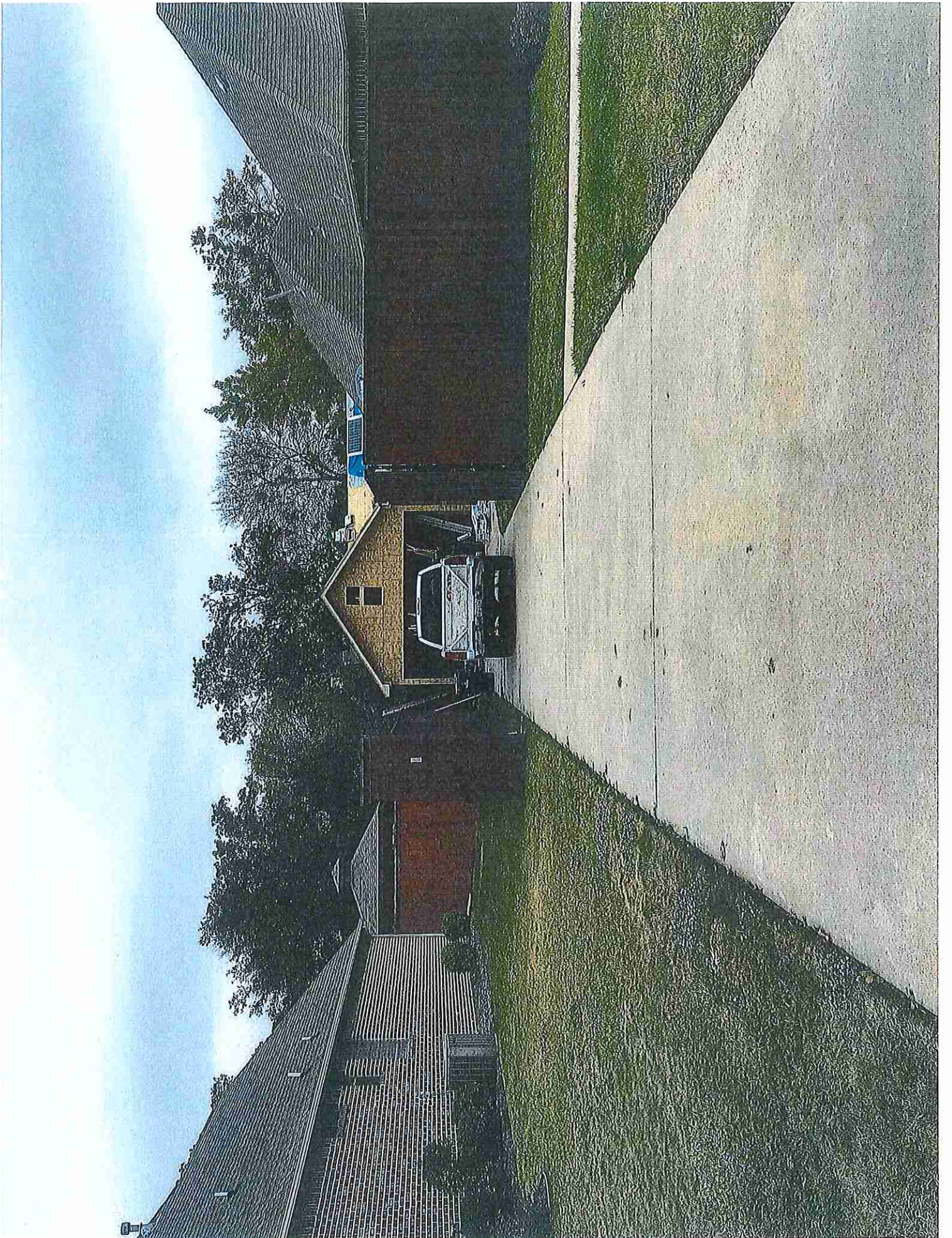
Approve: Based on the evidence and testimony provided, I find that the proposed request meets the standards for a variance and make a motion to approve the requested variance.

Deny: Based on the evidence and testimony provided, I find that the proposed use does not meet the standards for a variance and make a motion to deny the request.











**KENNEDALE**  
Development Services  
www.cityofkennedale.com

**CITY OF KENNEDALE  
BOARD OF ADJUSTMENT  
APPLICATION FOR VARIANCE**

---

**APPLICANT AND OWNER INFORMATION**

**SECTION 1. APPLICANT.**

Name Clay batford

Work Phone \_\_\_\_\_ OR Home 682-472-0141

*Please provide a phone number where we can reach you during regular business hours.*

Mailing Address

913 Shady Creek Dr  
Kennedale TX 76060

---

**SECTION 2. OWNER.**

*If the owner is the applicant, write "same as applicant" below and leave the rest of this section blank.*

Name Same as applicant

Work Phone \_\_\_\_\_ Home \_\_\_\_\_

Mailing Address

\_\_\_\_\_

\_\_\_\_\_

---

**SECTION 3. PROPERTY INFORMATION.**

|                                              |                           |
|----------------------------------------------|---------------------------|
| <b>Property Location</b> (Number and Street) | <u>913 Shady Creek Dr</u> |
|                                              | <u>Kennedale TX 76060</u> |



**KENNEDALE**  
Development Services  
www.cityofkennedale.com

|                          |                                                                                                 |
|--------------------------|-------------------------------------------------------------------------------------------------|
| <b>Legal Description</b> | (Lot, Block, and Subdivision/Addition) <u>Lot 7 Block 1</u><br><u>Shady Creek East Addition</u> |
|--------------------------|-------------------------------------------------------------------------------------------------|

Note: Attach a metes and bounds description if the property is not platted.

---

**VARIANCE REQUEST**

Zoning District Residential 1 - Single family Residential District

City Code reference for requirements that creates need for variance  
unified Development Code Article 3 - Agricultural + Residential  
Zoning districts

Describe City Code Requirement setback for accessory building is 8ft

---

Describe variance requested  
A variance has been requested for a side setback of five feet

---

What hardship has been created? Yes; Building is already built



**KENNEDALE**  
Development Services  
www.cityofkennedale.com

What created the hardship?

A valid permit was issued; construction was inspected on 3 separate occasions - all visits resulted in green tags & the final visit we were given a verbal approval to continue, witnessed by Noe Carrillo 817-875-7981

I declare that the above is true and correct.

  
\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date 11/20/17

### **Required attachments**

The following items must be submitted with your application and the required application fee.

- 1) Two SITE PLANS, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements; and
- 2) A STATEMENT OF FACTS AND REASONS why the zoning regulations should not be applied to the property in question and how the standards governing the Board's actions would be satisfied; and
- 3) A STATEMENT from authorized city staff citing the reasons for refusing to issue a permit under the plans submitted.



City of Kennedale  
Permits and Planning Department  
405 Municipal Drive  
Kennedale, Texas 76060  
(817) 985-2130

Permit Number 17-0298  
Application Date 06-01-2017

## YOUR PERMIT HAS BEEN REVOKED

|                                                        |                                            |                                    |
|--------------------------------------------------------|--------------------------------------------|------------------------------------|
| Name of Applicant                                      | Clay Gafford                               | Phone (682) 472-0141               |
| Company                                                |                                            | Cell ( ) -                         |
| Street Address                                         | 913 Shady Creek Dr.                        | Emerg.( ) -                        |
| City of Kennedale                                      | TX                                         | ZIP 76060                          |
| Other Contact                                          |                                            | Permit Fee Received No ( ) Yes (✓) |
|                                                        |                                            | Contractor: Homeowner              |
| Project Location                                       | 913 Shady Creek Dr. Kennedale, Texas 76060 |                                    |
| Type of Work                                           | Garage Addition                            |                                    |
| Purpose of Work - New (✓) Replace ( ) Repair ( ) Other |                                            |                                    |
| Comments                                               |                                            |                                    |
|                                                        |                                            |                                    |
|                                                        |                                            |                                    |
|                                                        |                                            |                                    |

|                                                                              |                 |
|------------------------------------------------------------------------------|-----------------|
| For City's use -- Do not write in this section                               |                 |
| PERMIT REVOKED BY Sandra Johnson                                             | INITIALED SJ    |
| Title Building Official                                                      | DATE 11-21-2017 |
| SIGNATURE Sarah Johnson                                                      |                 |
| REASON PERMIT REVOKED                                                        |                 |
| Building does not meet the required side setback.                            |                 |
| REQUIREMENTS TO REISSUE PERMIT                                               |                 |
| Request a variance from Board of Adjustments (BOA) or (re)move the building. |                 |
|                                                                              |                 |
|                                                                              |                 |

November 20, 2017

Mr. Clay Gafford  
913 Shady Creek Dr.  
Kennedale TX 76060

Re: Building Permit for project ID # PATI-17-0298

Dear Mr. Gafford,

This letter is written to acknowledge receipt of your application this morning to the Board of Adjustment of the City of Kennedale for a Variance to the 8' side yard setback requirement for your garage addition at 913 Shady Creek Dr.(Lot 7, Block 1 Shady Creek East Addition) in Kennedale Texas. **Further, this letter is to advise you that the original building permit, which may have been erroneously issued on June 7, 2017 for such construction, is hereby revoked.**

Your refusal to comply with previous stop work orders of both November 6, 2017 and November 13, 2017 and your indication-statement to the City Attorney earlier today that building any city officials are not permitted to enter your property without specific permission makes to monitoring the building activity impossible and make the revocation of the permit necessary. No further construction work on the garage addition may occur until this issue is resolved and the building permit is reinstated.

You will be notified as soon as your application for a variance can be reviewed for completeness and a public hearing on your request can be scheduled.

Should you have any further questions about this matter please call Sandra Johnson at 817-985-2132.

Sincerely,

George C. Campbell  
City Manager  
City of Kennedale

Copy: Sandra Johnson, Building Official  
Wayne Olson, City Attorney

## Sandra Johnson

---

**From:** Wayne Olson <wolson@toase.com>  
**Sent:** Friday, November 17, 2017 11:15 AM  
**To:** George Campbell; Sandra Johnson  
**Cc:** James Donovan; Karen Bass  
**Subject:** Board of Adjustment tonight

George and Sandra,

Just to make sure we're on the same page with the variance case on tonight's Board of Adjustment agenda, I wanted to cover a couple of the issues that are likely to arise.

First of all, I wanted you to know that James Donovan will be there tonight for the hearing. James and I have discussed this and he is familiar with all the issues. There is no executive session posted so any feedback he gives to the Board will have to occur in open session. Some of the items I'm going to raise in this email will probably not need to be discussed in the open session but if you want to discuss them with James tonight you can do so.

There are a few procedural issues that could become legal issues. The meeting tonight was not posted as a public hearing; but the Board is required to hold a public hearing on all variance cases. So the case tonight needs to be conducted as a public hearing. I don't believe that the failure to post it as a public hearing prevents the Board from holding a public hearing, but that issue might come up.

Next, I spoke with Kathy about what notices of the hearing had been sent. The answer I got was none. This was new to Kathy since Rachel left so she wasn't sure how Board of Adjustment meetings are typically noticed. I would expect that in the past you would have sent notice of a variance request to all property owners within 200 feet, probably at least 10 days in advance. Obviously that wouldn't have been done for this case because the meeting was hurriedly scheduled. I wanted to point out, however, that as a general rule if a particular practice of noticing meetings is established, that practice should be used for all cases. If that practice is not followed on a specific matter, an aggrieved party could challenge the effectiveness of the notice. For this case, however, I advised Kathy that she needed to send written notice to the property owner and the neighbor informing them of the action being considered by the Board and their right to attend the hearing.

Beyond this, the application itself is awkward. The city, not the property owner, requested the variance. Although the city has the authority to do this, it is unusual for the city to do so for a private property owner. City staff should not recommend for or against this variance request. The City should just lay out the facts to the Board and the property owner and the neighbor should present the equitable and practical considerations for the Board.

Then there's the substantive issues with the case. There are all kinds of issues as to how this mistake happened and there are equities on both sides of the dispute. As a matter of law, however, the fact that a building permit was issued by mistake does not give a property owner the right to construct the building. This is especially true where the building would adversely affect a neighbor due to the very nature of the mistake – in our case the failure to meet the required setback. Nor does this type of mistake constitute "unnecessary hardship" typically required in order for a board of adjustment to grant a variance. I have personally been involved in several lawsuits over the years where similar cases have gone to court and the court has ordered the building to be moved or torn down. The predominant case law on these types of issues indicates that in spite of the improper issuance of a building permit the board must weigh the other factors required for approval of a variance. If those other factors don't justify the granting of a variance, it should be denied. There is at least one case, however, which decided in favor of a board that granted a variance under similar circumstances.

Having said all this, it is my opinion that having the board of adjustment rule on a variance is the best way to proceed. City staff has no authority to allow the building to be constructed in violation of the UDC regulations. If the Board grants a variance, it could be subject to challenge; but if nobody challenges that decision we have a basis to allow the building to remain. If there is a challenge and it raises the issues I addressed above, it will be my recommendation that the City consider other options, or at the very least conduct a new variance proceeding after proper notices and postings have occurred.

George, I know you are travelling today so I thought it would be best to lay this out for you to look over at your convenience. If you want to talk to me about this please give me a call. Otherwise, James can discuss these issues with you tonight.

Wayne



Wayne K. Olson  
Taylor, Olson, Adkins, Sralla & Elam, LLP  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107  
Phone: (817) 332-2580  
Fax: (817) 332-4740  
[www.toase.com](http://www.toase.com)

**City of Kennedale**

405 Municipal Drive  
Kennedale, TX 76060

(817) 985-2133 Voice  
(817) 483-0182 Fax

**PATIO COVER**

Issue Date: June 7, 2017

**PROJECT DESCRIPTION:**

PROJECT #  
PATI-17-0298

(817) 985-2138  
Inspections

[www.mygov.us](http://www.mygov.us)  
Permits

**LOCATION**

913 Shady Creek Dr.  
Kennedale, TX 76060

**LEGAL**

Shady Creek East Addition Blk 1 Lot 7

**CONTRACTOR**

Home Owner

**OWNER**

Clay R Gafford



Permit Number:

17-0298

CITY OF KENNEDALE, TEXAS  
ACCESSORY BUILDING/WORK APPLICATION

Date: 6/1/17

Project Information:

Address: 913 Shady Creek Dr.

Legal Description: Subdivision Shady Creek Estates Lot 7 Block 1

Residential ☒ Commercial ☐

Construction Value: \$10,000

Property Owner Name: Clay Gafford Phone Number: (682) 412-0141

Who is performing the work? Owner ☒ Contractor ☐

Contractor Information:

Name: Phone Number:

Address:

Applicant Information:

Name: Clay Gafford Phone Number: (682) 412-0141

Address: 913 Shady Creek Dr.

Electrical work is being performed? Yes ☐ No ☒

Electrical Contractor:

Name: Phone Number:

Address:

There are existing accessory/storage buildings on site. Yes ☒ No ☐

Select Work Description:

Carport ☐

Patio Cover ☒

Awning/Canopy ☐

Shed ☐

Deck ☐

Sq. Ft: 462

Applicant: Clay Gafford

Signature: [Signature]

crgafford@gmail.com

**Official Use Only:**

Area sq. ft. \_\_\_\_\_ Garage sq. ft. \_\_\_\_\_ Zoning: \_\_\_\_\_

Occupancy group: \_\_\_\_\_

Residential: \_\_\_\_\_

Commercial: \_\_\_\_\_

Approved by: \_\_\_\_\_

Remarks: \_\_\_\_\_

|                     |           |
|---------------------|-----------|
| Building fee:       | \$ 181.25 |
| Plan review fee:    | 25.00     |
| Drive approach fee: | _____     |
| Electrical fee:     | _____     |
| Plumbing fee:       | _____     |
| Mechanical fee:     | _____     |

Total permit fees (includes impact/utility fees):

\$ 206.25

**UTILITIES**

Service available \_\_\_\_\_

Date \_\_\_\_\_

Water deposit \$ \_\_\_\_\_

Sewer deposit \$ \_\_\_\_\_

Remarks: \_\_\_\_\_

|                                         |  |                    |  |
|-----------------------------------------|--|--------------------|--|
| _____-inch water impact fee:            |  | sewer impact fee:  |  |
| _____-inch Fort Worth water impact fee: |  | street impact fee: |  |
| _____-inch water tap fee:               |  | sewer tap fee:     |  |
| _____-inch meter cost fee:              |  |                    |  |
| _____-inch meter installation fee:      |  |                    |  |

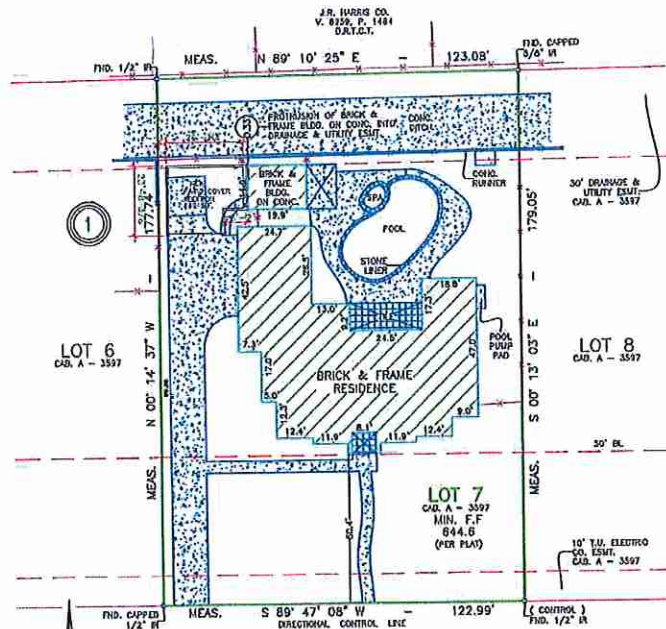
Total utility fees: \$ \_\_\_\_\_

Reference No: 1609300913 G.F. No: ATD-07-000071600071  
 Title Co: ALAMO TITLE COMPANY  
 Purchaser: GAFFORD

PROPERTY DESCRIPTION

Lot 7, in Block 1, of Shady Creek Estates, Section 1, Phase A, an Addition to the City of Kennedale, Tarrant County, Texas, according to the Plat thereof recorded in Volume A, Page 3597, of the Plat Records of Tarrant County, Texas.

Minimum finished floor elevation requirement (MIN. F.F.) shown is per recorded plat only. Actual finished floor elevation was not verified.



913 SHADY CREEK DRIVE

SCALE: 1" = 30'

SURVEYOR'S CERTIFICATION

I, DAVID J. ROSE, REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUNDS UNDER MY SUPERVISION AND CORRECTLY SHOWS THE BOUNDARY LINE, AND DIMENSIONS OF THE LAND INDICATED THEREON, AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, SAID PROPERTY BEING SUBJECT TO ANY AND ALL EASEMENTS, RESERVATIONS AND RESTRICTIONS THAT MAY BE OF RECORD, AND THAT ONLY THE EASEMENTS SHOWN ON THE REFERENCED PLAT OF RECORD, VISIBLE EASEMENTS AND THOSE OF WHICH THE SURVEYOR HAS BEEN GIVEN WRITTEN NOTICE FROM TITLE COMPANY ARE SHOWN ON THIS PLAT. SURVEYOR DID NOT ABSTRACT THIS PROPERTY. THIS SURVEY WAS PERFORMED EXCLUSIVELY FOR THE TITLE COMPANY AND PURCHASER SHOWN AND IS LICENSED FOR ONE SINGLE USE. THIS SURVEY WILL BE VOID IF USED BY ANY OTHER PERSON OR FOR ANY OTHER PURPOSE. SURVEYOR BEARS NO RESPONSIBILITY FOR SAID USE.

**PROLINE**

SURVEYING LTD.

www.prolinesurveyors.com

Ph# 817-276-1148 info@prolinesurveyors.com

© Proline Surveying, LTD. 2016



DRAWN BY: JP/AV DATE: 8/31/16

SURVEY ONLY VALID WITH ORIGINAL SIGNATURE

This survey is hereby accepted and approved.

Purchaser

Purchaser

Date

STATE TOWN REGISTRATION NUMBER 10103787



16

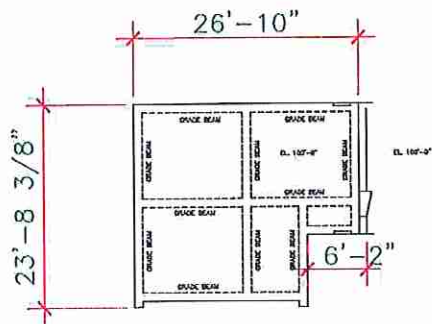




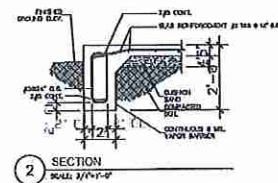
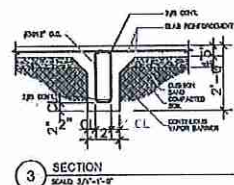
[illegible]

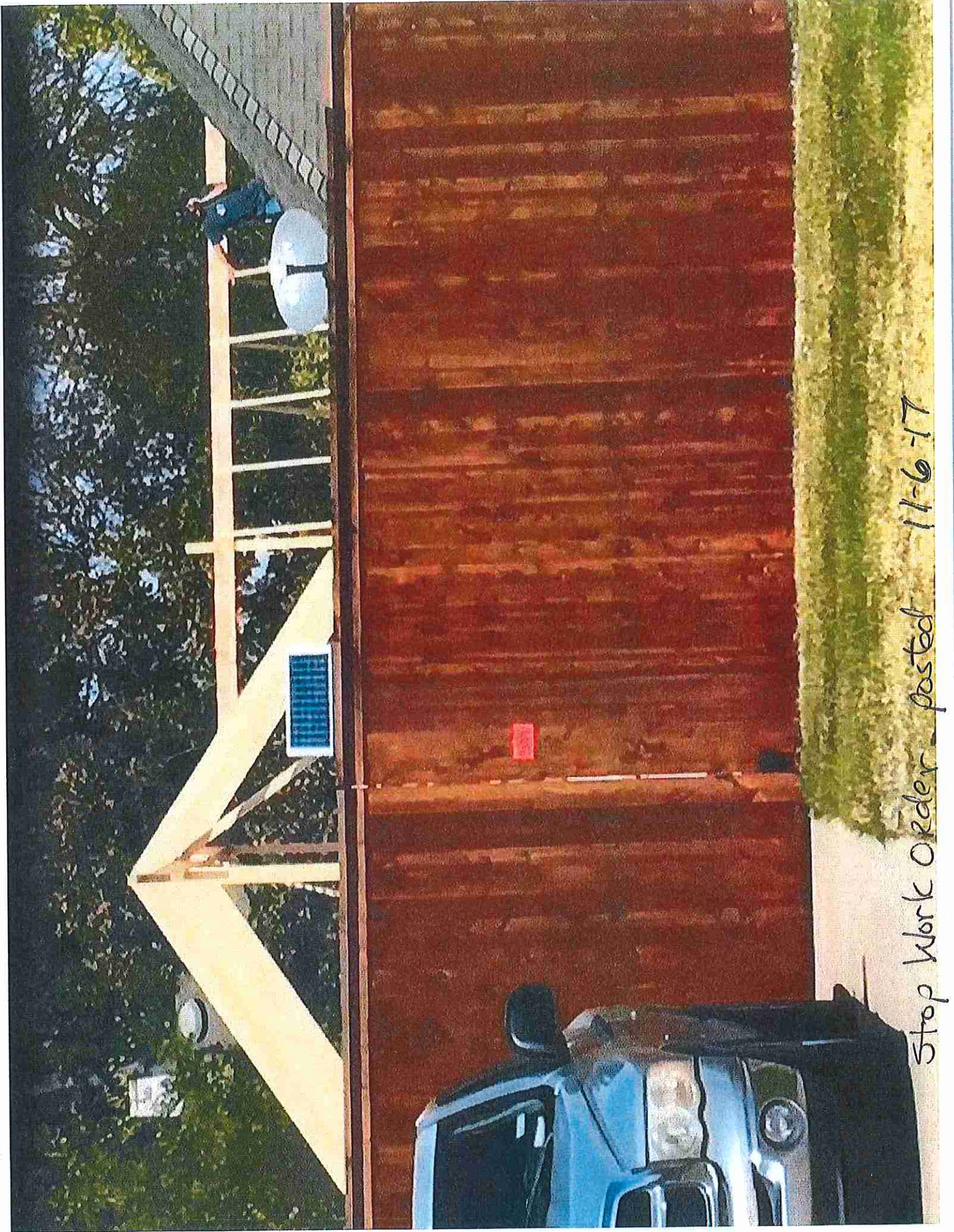
1. ALL CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 3000 PSI AT 28 DAYS. W/DOA  
STAMPING. WATER CONTENT SHALL BE CONTROLLED AND MONITORED IN ACCORDANCE WITH AC  
BUILDING CODE TO INSURE GOOD QUALITY CONSTRUCTION.

2. ALL CONCRETE/ADDITIONAL REINFORCING SHALL BE GRADE 60, UNLESS SOME OTHER, AND SHALL  
CONFORM TO ASTM A630-02.

[illegible]

## 01 FOUNDATION PLAN





Stop Work Order posted 11-6-17

11-13-17

# WARNING

This Construction Does Not Meet City Building Regulation Requirements As Follows:

- ☐ Building Permit Has Not Been Issued.
- ☒ Building Does Not Meet The Required Set Back.
- ☒ Building Does Not Meet The Code Requirements.

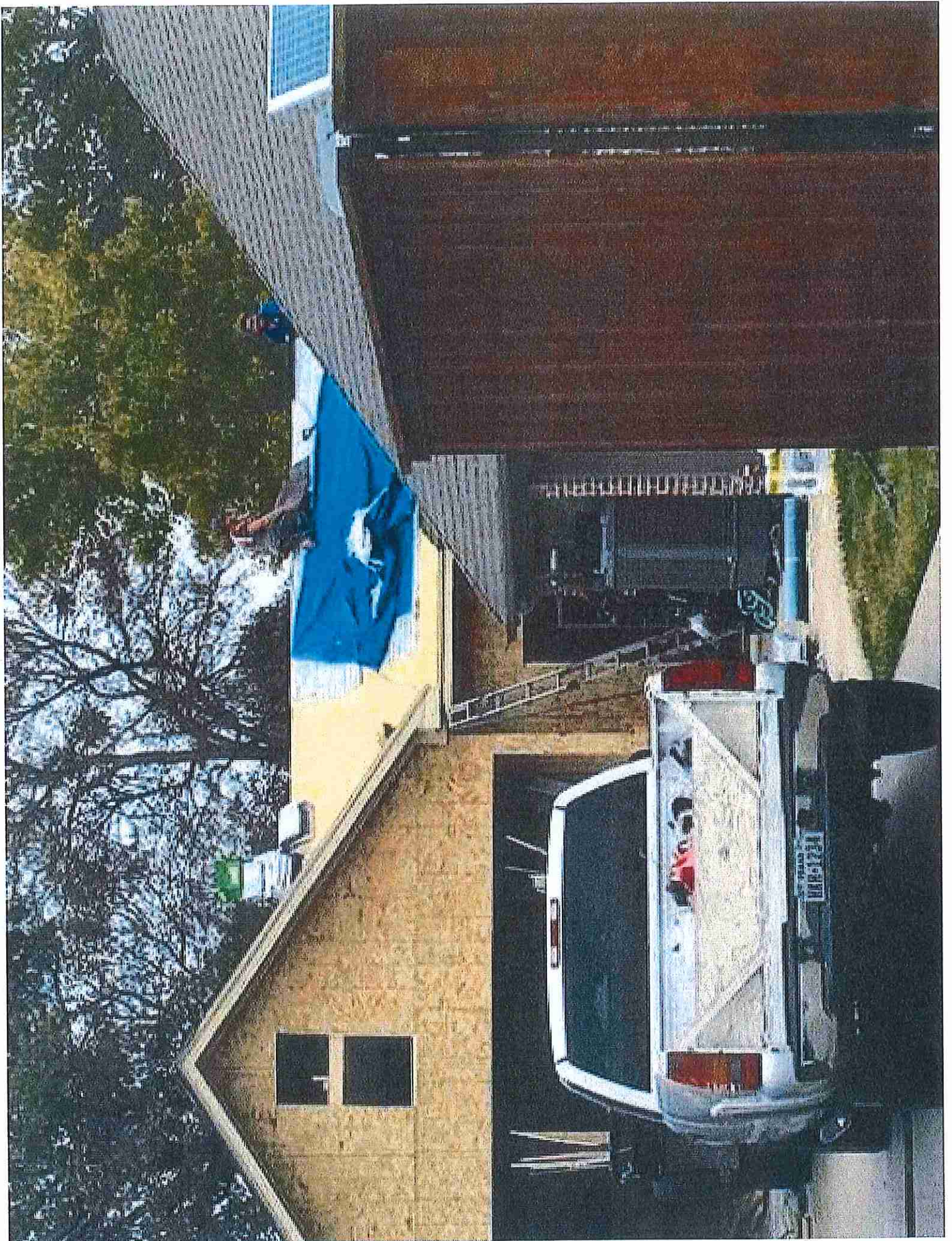
**STOP CONSTRUCTION AT ONCE!** 817-985-2632

Contact City Building Inspector at City Hall, 483-1297 With Regard To Corrections.

*Andrea Johnson*  
BUILDING INSPECTOR

DO NOT REMOVE





CITY OF KENNEDALE, TEXAS 817-985-2130

ADDRESS 913 Shady Creek DATE 6-8-17

THIS INSTALLATION HAS  
BEEN INSPECTED AND  
CONFORMS TO CITY  
CODES, ACCORDING TO  
MY INTERPRETATION.

ST

**DO NOT REMOVE  
THIS TAG.  
OVER FOR NOTATIONS.**

Plumbing

Foundation

Framing

Electrical

Htg. & A/C

Other

patio

11-7-17

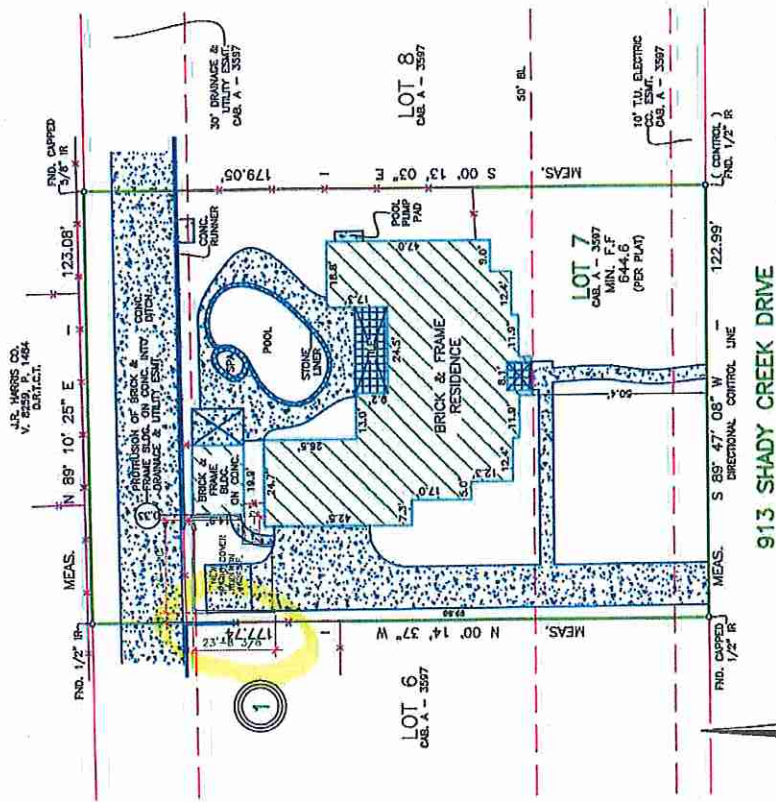
Email from Clay

Reference No: 160300913 G.F. No: ATD-07-6003071600671  
 Title Co: ALAMO TITLE COMPANY  
 Purchaser: GAFFORD

PROPERTY DESCRIPTION

Lot 7, in Block 1, of Shady Creek Estates, Section 1, Phase A, an Addition to the City of Kennedale, Tarrant County, Texas, according to the Plat thereof recorded in Volume A, Page 3397, of the Plat Records of Tarrant County, Texas.

Minimum finished floor elevation requirement (MIN. F.F.) shown is per recorded plat only. Actual finished floor elevation was not verified.



This survey is hereby accepted and approved.

Purchaser \_\_\_\_\_

Purchaser \_\_\_\_\_

Date \_\_\_\_\_

STATE FIRM REGISTRATION NUMBER 10130707

LEGEND

|                    |   |
|--------------------|---|
| BOUNDARY LINE      | — |
| BUILDING           | — |
| OVERHEAD UTILITIES | — |
| FENCE              | — |
| BRICK              | — |
| WOOD DECK          | — |
| CONCRETE           | — |

SCALE: 1" = 30'

SURVEYOR'S CERTIFICATION

I, DAVID J. ROSE, REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE FOREGOING UNDER MY SUPERVISION AND CORRECTLY SHOWS THE BOUNDARY LINE AND DIMENSIONS OF THE LAND INDICATED THEREON, AND THAT I AM A MEMBER IN GOOD STANDING OF THE TEXAS SURVEYORS ASSOCIATION. I HAVE NOT BEEN CONVICTED OF A CRIME INVOLVING FRAUD OR PERJURY, AND I HAVE NOT BEEN EXCLUDED OR RESTRICTED FROM PRACTICING AS A LAND SURVEYOR BY THE TEXAS SURVEYORS BOARD. I HAVE NOT BEEN EXCLUDED OR RESTRICTED FROM PRACTICING AS A LAND SURVEYOR BY THE TEXAS SURVEYORS BOARD. I HAVE NOT BEEN EXCLUDED OR RESTRICTED FROM PRACTICING AS A LAND SURVEYOR BY THE TEXAS SURVEYORS BOARD.

**PROLINE**  
 SURVEYING LTD.  
[www.prolinesurveyors.com](http://www.prolinesurveyors.com)  
 Ph# 817-276-1148 info@prolinesurveyors.com  
 © Proline Surveying, L.L.C. 2015



DAVID J. ROSE  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 No. 54435  
 State of Texas

DATE: 8/31/16  
 SURVEY ONLY VALID WITH ORIGINAL SIGNATURE







November 15, 2017

Clay Gafford  
913 Shady Creek Dr  
Kennedale, TX 76060

Dear Mr. Gafford,

The Kennedale Board of Adjustment will hold a public hearing on **Friday November 17, 2017 at 7:00 P.M.** in the City Hall Council Chambers at **405 Municipal Drive** to receive comments on a request for a variance to the Kennedale City Code as described below.

**CASE # BOA 17-07** to receive comments and consider action on a request by the City of Kennedale for a Variance as required by the Unified Development Code Article 3, Agricultural and Residential Zoning districts generally, to all encroachment into side setback by 36 inches in an "R-1" Single Family district at 913 Shady Creek Dr., more particularly described as Shady Creek East Addition Lot 7 Block 1

This letter is not a summons to appear at the public hearing; you are not required to attend. If you attend, however, you will have the opportunity to speak either in favor of or against the request.

If you have any questions about the request or about the public hearing, please let me know.

Sincerely,

Sandra Johnson  
Building Official

Encl.

City of Kennedale

Board of Adjustment meeting 11/17/2017

I'd like to give a brief overview of the timeline for patio cover addition construction.

First the neighbor behind us duct taped 4 tarps together and strung them across two trees covering more than 50 ft. See attached photo. At this point the patio project was engineered and designed to protect property value. Next a building permit application was completed and submitted with framing plan, foundation plan, front and rear elevations, and survey with plan plotted to scale. The goal was to tie into the existing pool house for a pool house addition. Making the two structures one. This is accomplished in 3 ways:

1) holes were drilled into existing pool house foundation and rebar was epoxied in place; as a result, new foundation steel was permanently attached to the existing pool house and concrete foundation was poured per foundation plan submitted with permit application.

City of Kennedale green tag issued for foundation. At this point Samantha at 911 Shady Creek drive came over stood on the new patio foundation and had a 20-minute conversation about blocking out the tarp guy behind us. She agreed and was totally for blocking him out to protect property values.

2) walls of existing pool house were exposed and new walls of patio addition were permanently attached per building plans submitted.

City of Kennedale building official Sandra Johnson visited and verified we were good to go after the new walls were constructed. This was witness by Noe Carrillo of Keller, TX Phone number 817-875-7981

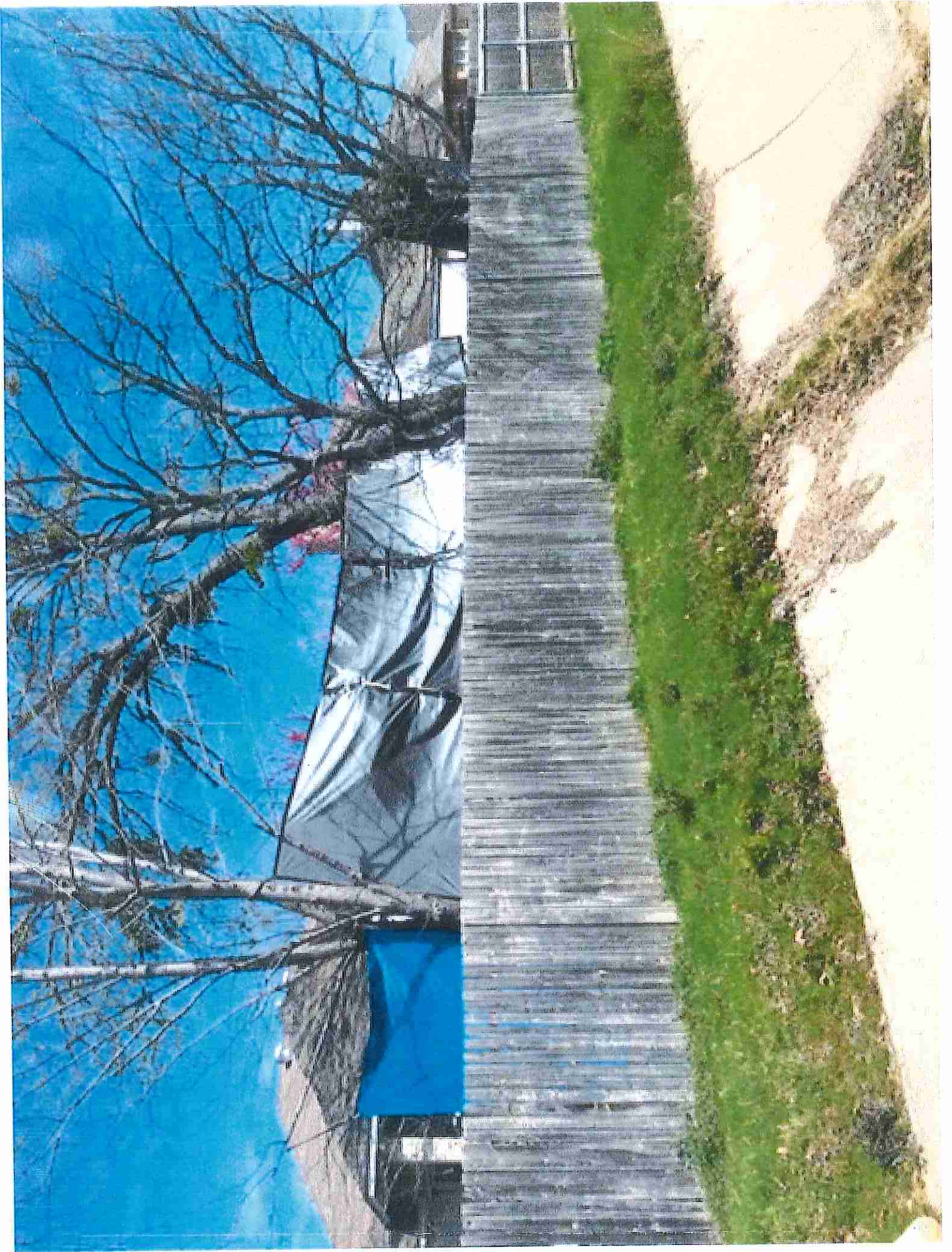
3) The roof of existing pool house was demoed to allow new roof framing plan to be executed. Upon completion of the basic framing plan. I was instructed to halt construction due to a complaint. We dried the structure in to protect a building that has existed on our property since before 2004 per survey attached from 2004.

In summary the complaint from Samantha at 911 Shady Creek dr holds little weight as we are going to put gutters on the structure and tie them into existing French drains to solve any water runoff issues. Second, she has a patio cover that from my driveway looks to be very close to the property line as well. See attached photo. The complaints coming from Samantha having nothing to do with setback requirements, water run off or her changed view. The complaints are designed to personally harass me and my wife because of a dog incident several months ago. She is upset and is lashing out in any way possible. My wife and I have been subjected to verbal abuse on several occasions and most recently she has been giving us the middle finger anytime we are coming to and from our house. Please do not allow her to harass us any further. Please note the text message I received in error yesterday from Samantha accusing myself and the city of Kennedale officials of corruption.

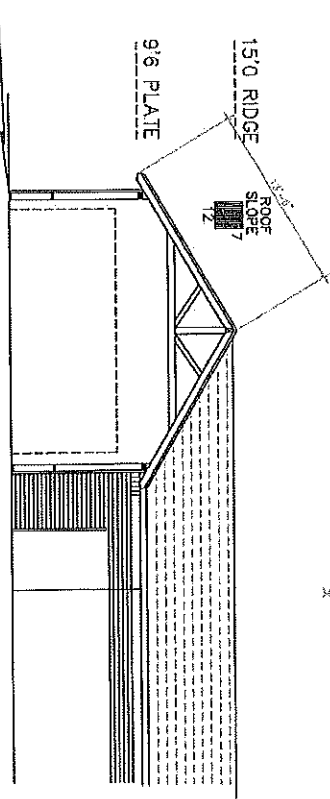
Thank you for your time and consideration.

Clay Gafford

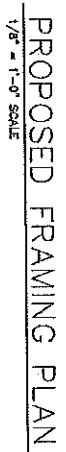
Clay  
Gafford  
paperwork  
for BOA.







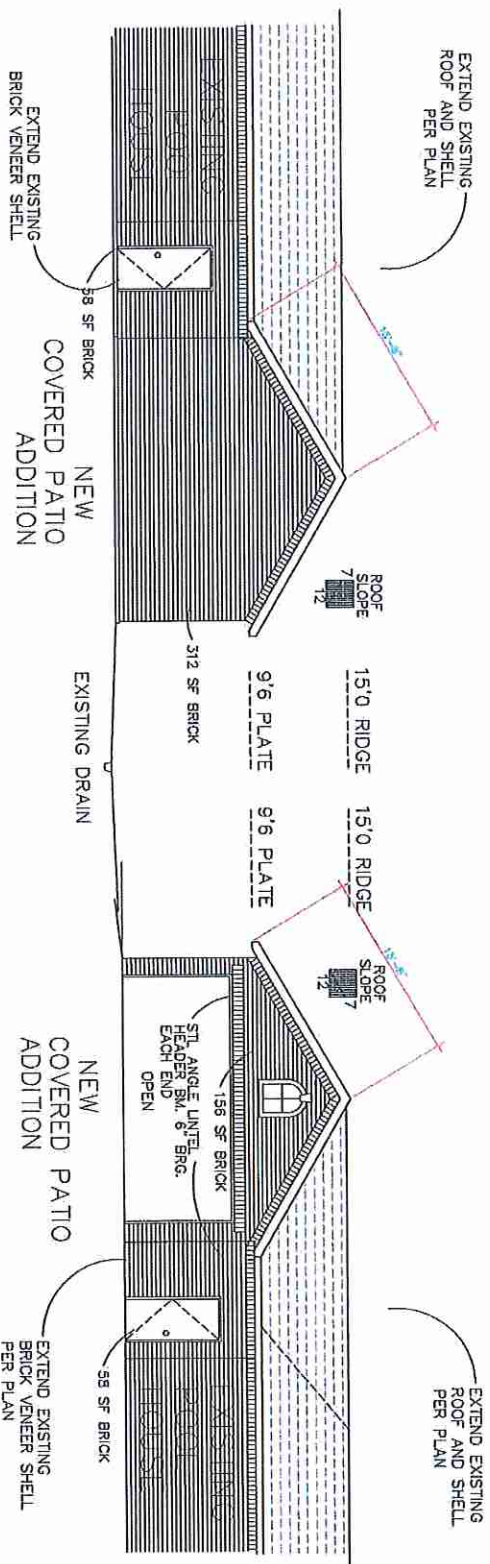
PROPOSED FRONT ELEVATION



**Gafford Residence**      Patio Cover  
Project

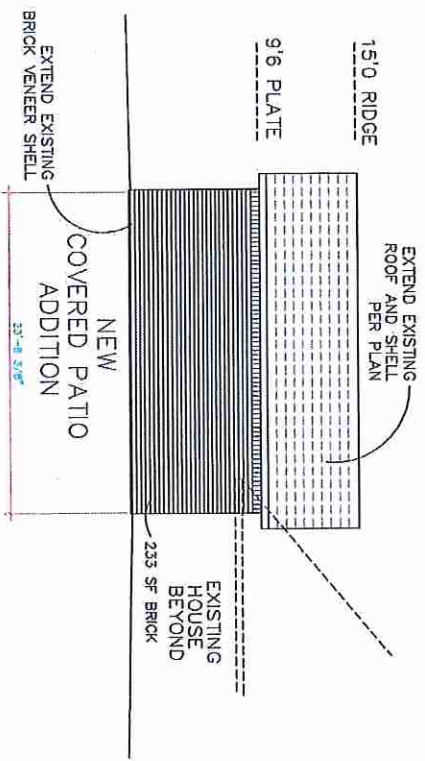
---

913 SHADY CREEK DR.      Kennedale, Texas 76060

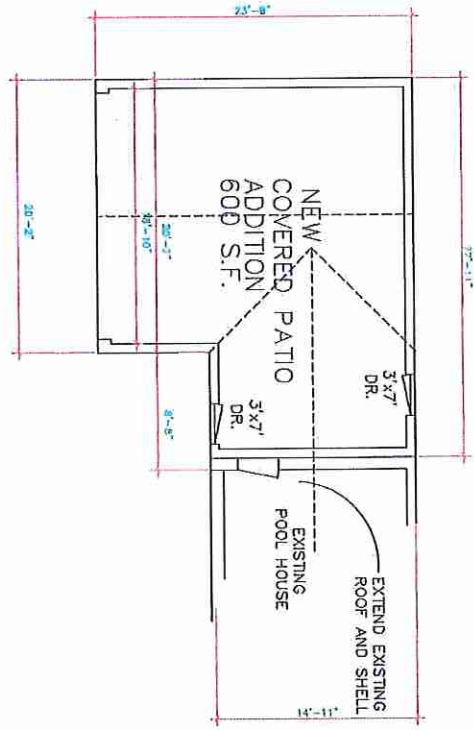


PROPOSED REAR ELEVATION

PROPOSED FRONT ELEVATION



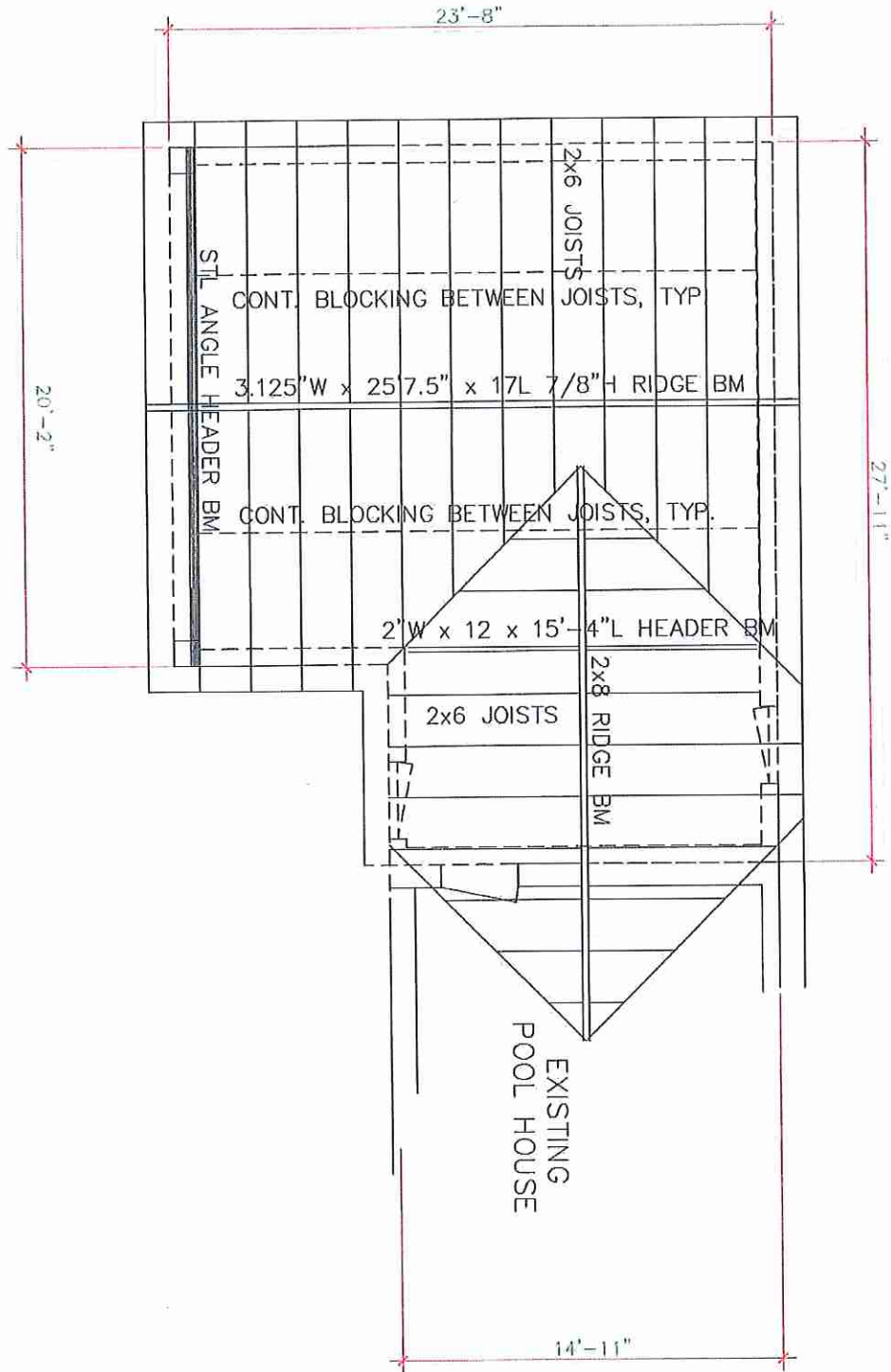
PROPOSED SIDE ELEVATION



PROPOSED FLOOR PLAN

# PROPOSED FRAMING PLAN

1/8" = 1'-0" SCALE



|                                                                                                           |  |                                                                                               |  |                                                                                                                                                                                                                                                                                                                                                  |  |
|-----------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>REVISION</b><br>NO. 1<br>DATE 10/1/11<br>BY [Signature]<br>CHECKED [Signature]<br>APPROVED [Signature] |  | <b>Gafford Residence</b><br>Patio Cover Project<br>913 SHADY CREEK DR. Kennedale, Texas 76060 |  | <b>THE STATE OF TEXAS</b><br>COUNTY OF TARRANT<br>CITY OF KENNEDELE<br>I, [Signature], being duly sworn, depose and say that the foregoing is a true and correct copy of the original as the same appears in the files of the [Signature]<br>SUBSCRIBED AND SWORN TO before me this 10th day of October, 2011.<br>My Commission Expires: 10/1/12 |  |
| SHEET NO. 1<br>TOTAL SHEETS 1<br>SCALE 1/8" = 1'-0"<br>DATE 10/1/11<br>BY [Signature]                     |  | A2                                                                                            |  | [Blank Box]                                                                                                                                                                                                                                                                                                                                      |  |

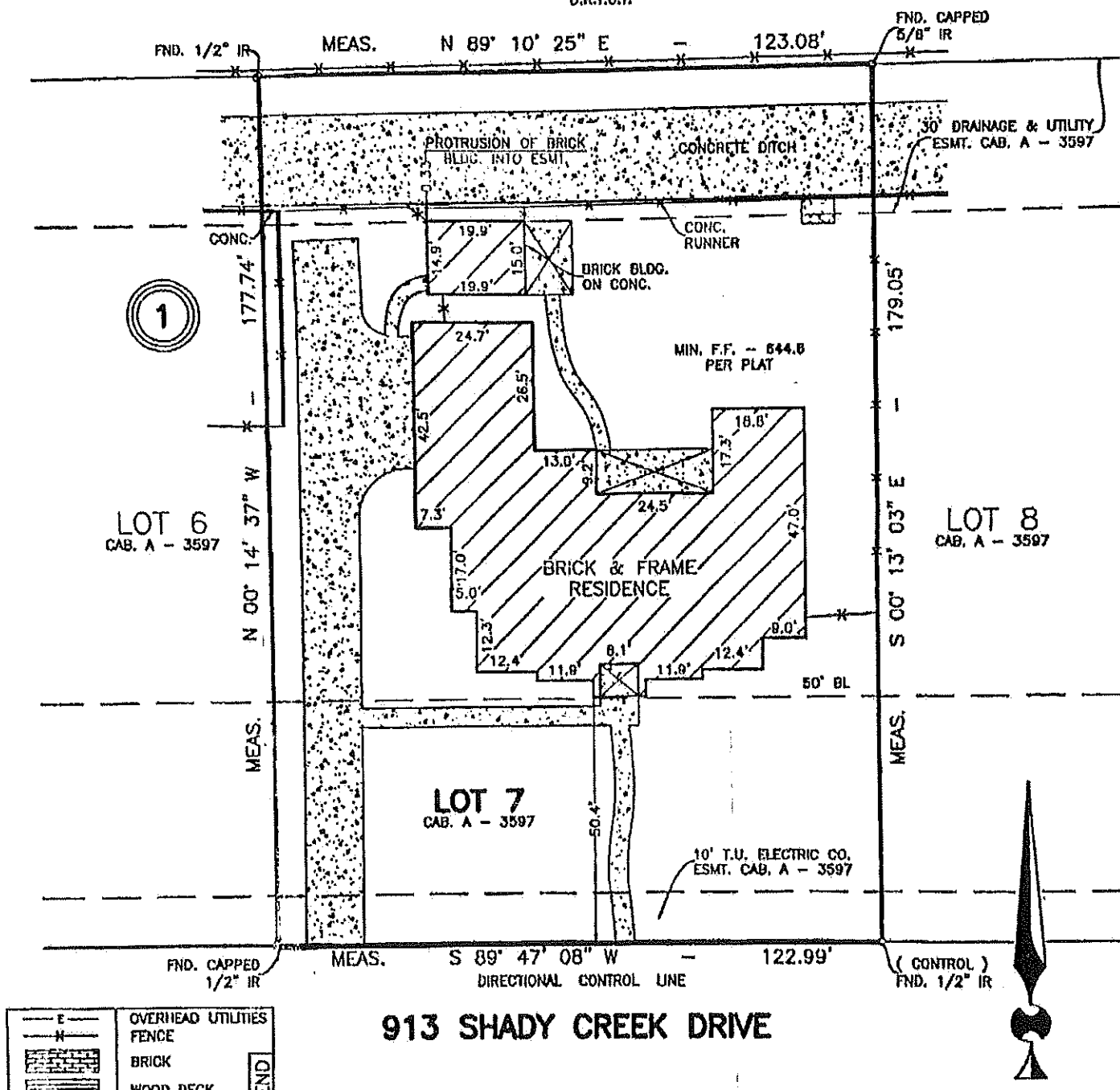
Reference No: 573Y04 G F No AR04102350 HH  
 Title Co: HEXTER-FAIR TITLE COMPANY  
 Purchaser: HUNTER

### PROPERTY DESCRIPTION

Lot 7, Block 1, of SHADY CREEK ESTATES, SECTION ONE, PHASE A, an Addition to the City of Kennedale, Tarrant County, Texas, according to the Plat thereof recorded in Volume A, Page 3597, of the Plat Records of Tarrant County, Texas.

NOTE: Minimum finished floor elevation requirement (MIN. F.F.) shown is per recorded plat only. Actual finished floor elevation was not verified.

J.R. HARRIS CO.  
 V. 8259, P. 1484  
 D.R.T.C.T.



RAYMOND M. MEEKS  
Attorney at Law  
1000 N Walnut Creek Drive, Suite 120  
Mansfield, Texas 76063-1506

Phone (817) 473-1119

Samantha Morrow  
911 Shady Creek  
Mr. Gafford's  
neighbor who  
complained. Paperwork  
from her attorney

November 17, 2017

Board of Adjustment  
City of Kennedale  
Via email to: [sjohnson@cityofkennedale.com](mailto:sjohnson@cityofkennedale.com)

Re: CASE # BOA 17-07

Mr. Chairman and Honorable Members:

I am writing on behalf of Samantha Morrow. Ms. Morrow would have preferred to address you in person, but she is a high school basketball coach, and she is coaching in a tournament in Allen this evening. I am including with this submittal her statement in regard to the facts of this case. In the event that you see fit to continue this hearing to another date, she will be happy to appear and give this testimony in person and under oath if necessary.

I am also submitting for the record and for your review copies of the following:

1. Plat of Shady Creek East Subdivision.
2. Google Earth photo of 911 and 913 Shady Creek Drive
3. Photos of the original survey for 911 Shady Creek Drive
4. Photos of the original survey for 913 Shady Creek Drive
5. Copy of the Texas statute which creates the authority for a Board of Adjustment to grant a variance.

It is unusual, to say the least, for a city to appeal its own decision and request a variance from the literal enforcement of its own ordinance without a request from the benefitted property owner. It is, therefore, incumbent upon you to examine how this case came about, and why Mr. Gafford did not apply for a variance himself.

You should also resolve the issue regarding the conflicting survey. The original surveys are fifteen and thirteen years old, and show the portion of the fence in question to be on the property line. Mr. French, who built both houses, will tell you he is certain the fence was placed on the property line, and that those two surveys, done by the same surveyor two years apart, are not in error. That means that the encroachment into the side yard setback is 5 or 6 feet and not 3 feet as suggested by the Applicant.

Section 211.009 (3) of the Texas Local Government Code, sets out the authority of a Board of Adjustment to allow a variance. I have highlighted the portion that sets forth that that authority. The City of Kennedale ordinance which further governs your board tracts the language of the Texas statute.

The Staff Report sets out seven questions for you to answer in your findings. Under state law and your local ordinance, you would have to find answer "yes" to Numbers 1, 2, 4 and 5 and 7, and you would have to answer "no" to Numbers 3 and 6 in order to grant a variance. Staff's recommendation to grant the variance is contrary to the Staff's own answers in its report.

1. We agree with Staff that the answer is "no." If you look at the plat of the subdivision, you will see that this lot is a similar size and shape of the other lots which are similarly situated.
2. We agree with Staff that the answer is "no." There are no issues of slope or topography which make this lot unique in comparison to the similarly situated lots. Staff's comment about the drainage channel is irrelevant, because it affects the other lots on that side as well.
3. We agree with staff that the answer is "yes." Mr. Gafford was advised in advance of the issues and eventually continued with the project. The hardship is entirely self-created and could easily been avoided if Mr. Gafford had cooperated with City officials at the start. Given his behavior, it is difficult to believe that he was relying in good faith on a valid building permit as Staff now suggests.
4. We agree with Staff that the answer is "no." Mr. Gafford will not suffer a hardship as a result of strict enforcement of the setback requirement.
5. We agree with Staff that the answer is "no."
6. Staff does not answer this question, but speaks to the neighbor's plight and what could ameliorate it. The question is about the public interest. If the public had no interest in side yard setbacks, those requirements would not exist. Since ancient times, the law has considered building up against your neighbor's property line, therefore blocking air and light, to be a nuisance. If you allow a variance to this without proper grounds, it certainly offends the interest of the public. Your answer should be "yes."
7. We disagree with Staff. Their mistake is not a valid reason to grant a variance. If it was in fact a mistake, the City can compensate Mr. Gafford for his economic hardship. Under Texas law, an economic hardship cannot be a reason for granting a variance. Granting a variance in this situation certainly offends the spirit of the ordinance, and your answer should be "no."

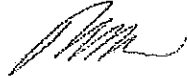
In order to legally grant a variance, you have to find in the Applicant's favor on every point. If you answer "no" to 1, 2, 4, 5 or 7 or if you answer "yes" to 3 or 6, you have to deny the request for variance.

November 17, 2017  
Board of Adjustment  
City of Kennebec  
Page 3

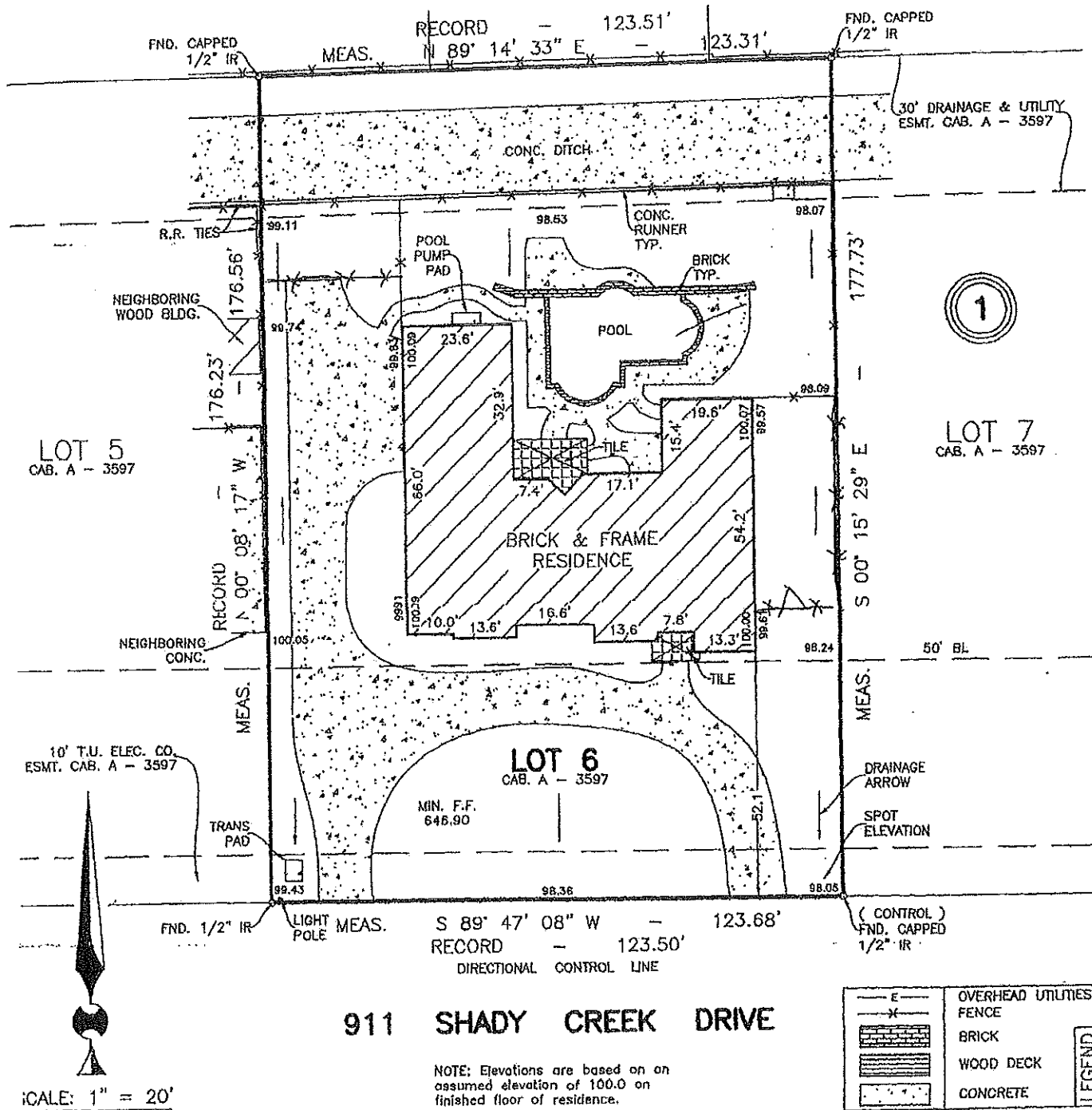
Ms. Morrow made numerous requests for copies of the original permit application and the permit that was issued by the City. There has been no response to that request. Under the circumstances, you should continue this hearing until those items can be examined by all interested parties. Failing that, please review those items and include them in your written findings.

Please provide us with your written findings as soon as possible after your determination.

Respectfully submitted,



Raymond M. Meeks  
Attorney at Law  
State Bar Number 13900500



According to FIRM Map 48439C 0439 H 8-2-95 This property is located in Zone X which IS NOT in the 100 year special flood hazard area. THE ABOVE FLOOD STATEMENT IS BASED ON THE MAP PANEL SHOWN, AND WHILE THIS SURVEY DOES NOT SHOW THE PROPERTY TO BE IN THE 100 YEAR SPECIAL FLOOD HAZARD AREA, ALL FLOOD ZONES ARE SUBJECT TO SOME DEGREE OF FLOODING. FOR MORE INFORMATION CONTACT THE LOCAL FLOODPLAIN ADMINISTRATOR OR FEMA.

#### SURVEYORS CERTIFICATION

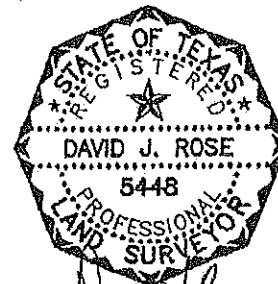
DAVID J. ROSE, REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY SUPERVISION AND CORRECTLY SHOWS THE BOUNDARY LINE, AND DIMENSIONS OF THE LAND INDICATED THEREON, AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, SAID PROPERTY BEING SUBJECT TO ANY AND ALL EASEMENTS, RESERVATIONS AND RESTRICTIONS THAT MAY BE OF RECORD, AND THAT ALL THE EASEMENTS SHOWN ON THE REFERENCED PLAT OF RECORD AND THOSE OF WHICH THE SURVEYOR HAS BEEN GIVEN WRITTEN NOTICE FROM TITLE COMPANY ARE SHOWN ON THIS PLAT. SURVEYOR DID NOT ABSTRACT THIS PROPERTY AND RELIES SOLELY ON THE TITLE WORK PROVIDED TO HIM FOR NOTICE OF ANY EASEMENTS WHICH MAY AFFECT THIS PROPERTY.

PRO LINE SURVEYING, LTD.

P.O. Box 924  
Arlington, Texas 76004  
(817) 278-1148

DRAWN BY JP

12-09-02



DAVID J. ROSE

Sec. 211.008. BOARD OF ADJUSTMENT. (a) The governing body of a municipality may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) A board of adjustment must consist of at least five members to be appointed for terms of two years. The governing body must provide the procedure for appointment. The governing body may authorize each member of the governing body, including the mayor, to appoint one member to the board. The appointing authority may remove a board member for cause, as found by the appointing authority, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) Each case before the board of adjustment must be heard by at least 75 percent of the members.

(e) The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter. Meetings of the board are held at the call of the presiding officer and at other times as determined by the board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(f) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(g) The governing body of a Type A general-law municipality by ordinance may grant the members of the governing body the authority to act as a board of adjustment under this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 363, Sec. 1, eff. Sept. 1, 1997.

Sec. 211.009. AUTHORITY OF BOARD. (a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; and

(4) hear and decide other matters authorized by an ordinance adopted under this subchapter.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify

the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of 75 percent of the members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or

(3) authorize a variation from the terms of a zoning ordinance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1993, 73rd Leg., ch. 126, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, Sec. 2, eff. Aug. 28, 1995.

Sec. 211.010. APPEAL TO BOARD. (a) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal

is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

(e) A member of the governing body of the municipality who serves on the board of adjustment under Section 211.008(g) may not bring an appeal under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 363, Sec. 2, eff. Sept. 1, 1997.

Sec. 211.011. JUDICIAL REVIEW OF BOARD DECISION. (a) Any of the following persons may present to a district court, county court, or county court at law a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

- (1) a person aggrieved by a decision of the board;
- (2) a taxpayer; or
- (3) an officer, department, board, or bureau of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on

the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

(g) The court may not apply a different standard of review to a decision of a board of adjustment that is composed of members of the governing body of the municipality under Section 211.008(g) than is applied to a decision of a board of adjustment that does not contain members of the governing body of a municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 363, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 646, Sec. 1, eff. Aug. 30, 1999.

November 17, 2017  
Board of Adjustments  
City of Kennedale  
Re: CASE # BOA 17-07

#### STATEMENT OF SAMANTHA MORROW

Mr. Chairman and Honorable Board Members

My name is Samantha Morrow. I reside at 911 Shady Creek Drive, Kennedale, Texas. I have resided there since August of 2004.

In September of last year, Mr. and Mrs. Gafford purchased and moved into the property next door at 913 Shady Creek Drive. In the spring of this year, Mr. Gafford and I had a discussion about the location of the fence between the two properties. He claimed he had a survey showing my fence encroached onto his property. I have the survey that I got at closing that shows the original fence on the property line, so I did not agree. Also, the surveyor who surveyed the property when Mr. Gafford purchased it had marked the corner pins with flags, and I recall the pins being in line with the existing fence. After that, Mr. Gafford extended the fence toward the front of the house along the same line as the existing fence.

I noticed at the time of the fence construction that there was concrete being poured that came within about two feet of the fence. I was talking to the fence contractor one day, and asked him what the concrete was for. He said that they were going to build a full garage there. I confronted Mr. Gafford, and he said he was building a small carport. On April 22, 2017, I contacted the City to find out how far a garage would have to be off of the property line, and I was told eight feet. I advised Mr. Comeaux that my neighbor was building two feet off my property line, and he asked me to call him. He assured me that such construction could not happen that close to my property line.

There was no construction for a long while after the concrete pad was poured. On November 2, 2017 construction commenced again. I called the City and spoke to someone named "Todd." He advised me that he could not find a permit for that project, and the permit that Mr. Gafford obtained was for a patio cover. He said that Sandra Johnson would be out on Friday or Monday to look at the construction.

The construction did not cease, and Sandra Johnson advised me that the permit had been issued by "mistake." I was advised that he was probably too far along to do anything about it at this point and that I should consider moving. I contacted the City Manager and some City Council members to let them know what was going on. The City Manager told me that they had issued a

November 17, 2017  
Board of Adjustment  
City of Kennedale  
Page 2

stop work order "...in the hope that Mr. Gafford will cease any further building until a final decision on this issue can be addressed and decided by the Board of Adjustment." Then I received a copy of the notice of the Board of Adjustment hearing, and that is when I learned that the City is the applicant for the variance and not Mr. Gafford.

I contacted my old neighbor, Mr. Hunter, from whom Mr. Gafford had purchased his house. He sent me photos of his survey which was also done by David Rose, and which clearly shows the original fence on the property line just as my survey does.

I also contacted Ed French, who built both of the houses. Mr. French lived in my house from 2002 until 2004 when we purchased it. He said that there was no way my survey was wrong, and that the fence has been on the property line for fifteen years.

I have made multiple requests to see copies of Mr. Gafford's application for permit and the permit that was supposedly issued in August. No one will respond to those requests.

I respectfully request the Board to follow the law and to find that the application for variance by the City of Kennedale be denied.

A handwritten signature in cursive script, appearing to read "Janet Moore". The signature is written in dark ink on a white background.

11/15/2017

911 Shady Creek Dr - Google Maps



<https://www.google.com/maps/place/911+Shady+Creek+Dr,+Kennedale,+TX+76060/@32.6563252,-97.2057319,90m/data=!3m1!1e3!4m5!3m4!1s0x864e64f18a71bd65:0x31673c66292fcb6a18m2!3d32....> 2/3



**Date:** December 29, 2017

**Agenda Item No:** REGULAR ITEMS (A)

## **I. SUBJECT**

**CASE # BOA 17-06** to receive comments and consider action on a request by Sterling Adams/ Apple Auto Salvage for a Special Exception as required by the Unified Development Code Section 6.2, "Schedule of Uses," to allow a Salvage Yard in an Industrial Zoning District at 7002 E. Kennedale Parkway, Kennedale, TX 76060, more particularly described as HUDSON, WADE H SURVEY Abstract 716 Tract 3C2A 3D1A & 3D2.

## **II. SUMMARY**

### **BACKGROUND AND OVERVIEW**

|                                         |                                                  |
|-----------------------------------------|--------------------------------------------------|
| <b>Request</b>                          | Special exception to operate a salvage yard      |
| <b>Applicant</b>                        | Sterling Adams/ Apple Auto Salvage               |
| <b>Location</b>                         | 7002 E. Kennedale Parkway                        |
| <b>Surrounding Uses</b>                 | Commercial and industrial uses, residential uses |
| <b>Surrounding Zoning</b>               | Light Industrial                                 |
| <b>Future Land Use Plan Designation</b> | Light industrial                                 |
| <b>Staff Recommendation</b>             | Approve for a period of five (5) years           |

### **CURRENT STATUS OF PROPERTY**

This property is zoned Industrial. According to the business license applications on file, the business has been in operation since at least 2001, and the owner says the business has been at this location since 1987 (see attached business license application). The first special exception for a salvage yard at this location was granted in 2002; an additional special exception was granted in October 2005 for a period of ten years. It was renewed in 2015 for two (2) years.

The Future Land Use Plan classifies this property as part of the Light Industrial character district, which is intended to accommodate light industrial uses but not heavy ones, and the properties across the street are identified being as within an Urban Corridor, which is intended to be generally commercial in nature.

### **SURROUNDING PROPERTIES & NEIGHBORHOOD**

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The property is located at the south end of Kennedale Pkwy, approximately 0.7 miles from the south city limits on Kennedale Parkway. Many of the surrounding land uses are commercial or industrial in character, but there are some residential uses located nearby. The closest residential area is separated from the Sterling Adams property by a railroad line with a tall berm, and the salvage yard's operations are not clearly visible from that neighborhood.

The board has granted this business a special exception on a two-year basis in 2015, after the previous 10-year special exception expired in 2015.

## SPECIAL EXCEPTION HISTORY

- First Special Exception granted in 2002
- Renewed in April 2005 for ten (10) years
- Renewed in November 2015 for two (2) years

## ANALYSIS

### STANDARDS FOR GRANTING A SPECIAL EXCEPTION.

No application for a special exception shall be granted by the Board of Adjustment unless the board finds all of the conditions described below are present.

#### STANDARD 1

**The board must find that the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare.**

*Sterling Adam's application should demonstrate that the salvage yard does not have a negative on the public health, safety, or general welfare. Potential elements of a salvage yard operation that could affect general welfare include the following.*

#### NOISE

To staff's knowledge, noise levels have not increased from the previous year. Therefore, as long as noise levels remain consistent with current levels, staff's analysis of this issue is the same as last year (see attached report).

#### LIGHT

It does not appear that lights from this business would be visible from Danny Dr. (the nearby residential neighborhood), so staff is not concerned about lighting as a nuisance or harm to the general welfare at this time.

If the board approves the special exception request, staff recommends adding a condition **that if the business adds or changes any exterior lighting on site, the lighting must be kept to a level that is not visible to nearby residential areas.**

#### POLLUTION

Staff are not aware of any violations documented by the Texas Commission on Environmental Quality. However, please note at this time, Kennedale is not subject to the more stringent storm water requirements from the TCEQ or the EPA that apply to large cities. Kennedale is expected to be phased

into those requirements in the coming years. When those regulations go into effect, the city may need to revisit whether this land use is still able to meet this standard for a special exception.

#### CRIME

The business is not known to be involved with any activity related to auto theft.

#### OTHER HAZARDS

The fire department has no concerns about fire hazards at this property (see staff report from 2015; the staff analysis on this issue has not changed).

#### STANDARD 2

**The board must find that the requested use will not impair or diminish the establishment, maintenance, or operation of, or use, values, or enjoyment of other property in the neighborhood for purposes already permitted.**

*This would include continuance of existing uses.*

#### EXISTING AND PERMITTED USES IN THE VICINITY OF THIS LOCATION

The staff analysis from the 2015 report continues to apply this year. To summarize, the salvage yard will not impede the use or operation of nearby industrial uses and is unlikely to affect existing commercial uses. There is a potential for negative impact on nearby residential uses and for impediments to redevelopment for commercial uses. However, in the short term, given the nature of surrounding land uses, the salvage yard is not expected to affect uses already permitted.

#### STANDARD 3

**The board must find that the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

*Would the requested use be likely to impede the development and improvement of surrounding property for uses already permitted in the area but that don't exist there now? Would it impede improvement of property for existing uses?*

The properties on either side of Apple Salvage Yard are primarily zoned for light industrial use. Permitted light industrial uses include, but are not limited to:

- Light manufacturing;
- Auto Salvage;
- Warehousing;
- Wholesale and distribution; and
- Mini-warehouse/self-storage.

Some light industrial uses--especially those that do not depend on customers visiting their facilities--would be willing to locate near a salvage yard. Those with clients who visit their facilities or that prefer a more commercial-looking environment could object to being located near a use with such an industrial character. In addition, properties located very near Apple Salvage Yard to the rear are residences along Danny Drive. Some of the property owners in the nearby neighborhood have expressed to city staff that they would like their part of the community to be cleaned up and that

they dislike having so many commercial/industrial businesses located so closely. The presence of a salvage yard this close to the neighborhood has the potential to inhibit the orderly improvement of that neighborhood.

Therefore, the presence of a salvage yard has the potential to impede the normal and orderly development and improvement of surrounding property. Whether development is impeded partly depends on how the salvage yard is operated. To date, staff have not received any complaints from nearby residents.

#### **STANDARD 4**

**The board must find that adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.**

According to Public Works staff, the business is served by all necessary site improvements.

#### **STANDARD 5**

**The board must find that adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.**

*"Adequate measures" would include an adequate drive approach, deceleration lane if needed, etc.*

According to Public Works staff, adequate measures have been provided.

#### **STANDARD 6**

**The board must find that the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.**

#### **AREA, YARD, HEIGHT, LOT COVERAGE, BUILDING SIZE, & EXTERIOR REQUIREMENTS**

The Industrial zoning district does not have a minimum requirement for lot area or building size and has no masonry requirement.

#### **PARKING REGULATIONS**

Adequate parking for customers has been provided.

#### **FIRE LANE**

Apple Salvage yard has a fire lane that meets the city's requirements.

## **STAFF RECOMMENDATION**

Based on the above analysis, staff recommends approval of the special exception subject to the conditions listed below, which are intended to ensure the continued operation of Apple Salvage yard meets the requirements of a special exception.

### **RECOMMENDED CONDITIONS OF APPROVAL:**

- 1) The special exception shall be granted for five (5) years, to expire in December 2022 unless conditions on the site change from the current site plan. In such a case, the special exception shall expire and the applicant will have to make a new special exception request for the use.
- 2) UDC Section 11.33 Salvage Operation establishes the following standards for Salvage Uses in the City:
  - a. Setback. Outside storage is subject to a 50 foot front setback.
  - b. Screening. Screening is subject to the requirements of Section 13.8 G.6.
  - c. Fence Signs. No signs or advertising shall be attached to or otherwise appear on any fence or wall.
  - d. Height. Outside storage, salvage, and/or scrap shall not be stacked, accumulated, kept, or otherwise placed higher than the required screening material.
  - e. Compliance. Any building or use in existence before the effective date of Ordinance No. 187 shall be required to comply with the screening regulations by the earliest of the following dates:
    - i. March 9, 2002; or
    - ii. The date on which ownership changes; or
    - iii. The date on which a lease for the property terminates or is renewed.
- 3) Outdoor storage areas must be maintained in good condition, with adequate gravel fill in place at all times.
- 4) No outside storage shall be permitted on grass or other areas that are unpaved or without gravel.
- 5) Any heavy-duty equipment or other equipment that may create loud noises shall be prohibited from use before 8 AM or after 8 PM.
- 6) If the business adds or changes any exterior lighting on site, the lighting must be kept to a level that is not visible to nearby residential areas.

## **ACTION BY THE BOARD OF ADJUSTMENT**

*The board may grant or deny the request or postpone its vote until a later date. If you postpone your decision, you should state in your motion when the case will be heard by the board again. Sample motions are provided for your reference below. You are not required to use either of the motions provided, but your motion should state why you are granting or denying the request.*

Approve: Based on the evidence and testimony provided, I find that the proposed request meets the standards for a special exception and make a motion to approve case BOA 17-06.

Deny: Based on the evidence and testimony provided, I find that the proposed use does not meet the standards for a special exception and make a motion to case BOA 17-06.



## APPLICATION FOR SPECIAL EXCEPTION

Special Exception Use Requested: Salvage Yard

Note: the use must be listed as a special exception use in Kennedale City Code Section 17-421.

### Applicant

|                                                        |                                                        |
|--------------------------------------------------------|--------------------------------------------------------|
| NAME: <u>Sterling Adams Apple Auto Salvage</u>         |                                                        |
| PHONE: <u>817-478-4849</u><br><u>817 319 2628</u>      | EMAIL OR ALTERNATE PHONE: <u>tinashree@outlook.com</u> |
| MAILING ADDRESS:<br>(Street) <u>7301 Mansfield Hwy</u> |                                                        |
| (City, State, Zip Code) <u>Kennedale, TX 76060</u>     |                                                        |

### Property for which a Special Exception is requested

|                                                                                        |
|----------------------------------------------------------------------------------------|
| ADDRESS: <u>7002 E Kennedale Pkwy</u>                                                  |
| LEGAL DESCRIPTION:<br><u>Hudson, Wade H Survey Abstract: 71k Tract: 3c2a 301A +3D2</u> |

NOTE: Attach metes and bounds description if property is not platted.

### Property Owner

|                                                             |                                               |
|-------------------------------------------------------------|-----------------------------------------------|
| NAME: <u>Sterling Adams</u>                                 |                                               |
| PHONE: <u>817 478 4451</u>                                  | EMAIL OR ALTERNATE PHONE: <u>817 319 2628</u> |
| MAILING ADDRESS:<br>(Street) <u>7556 Gibson Cemetery Rd</u> |                                               |
| (City, State, Zip Code) <u>Mansfield, TX 76063</u>          |                                               |

1. Has a previous application or appeal been filed on this property? ☒ Yes ☐ No

1.a. If yes, when was the application or appeal filed? 2015 2455

2. Identify any requirements of Section 17-422 of the Kennedale city code that cannot be met. Give reason(s) why the requirement(s) cannot be met. Use the back of this form or attach a separate page if additional space is needed.

☐

all met

3. If the special exception request is for a land use, is the request for a use not allowed in the zoning district?

☐ Yes ☐ No

3.a. Is this a remodel of an existing structure? ☐ Yes ☐ No

3.b. Is this new construction? ☐ Yes ☐ No

4. If the special exception request is for oil or gas well drilling, how many wells are requested for this location? ☐

5. Special exceptions may be granted by the Board of Adjustment only if all of the conditions listed on the Notice to Special Exception Applicant are present.

Tina Adams  
Signature of applicant

10/4/17  
Date

Tina Adams  
Manager

512 745 5985

Standards for Special Exception:

1. That the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare.

RESPONSE: At Apple Auto salvage we take care to make sure the general public are not at risk of endangerment in regards to their health, safety, morals or general welfare. We are in compliance with all laws, regulations and ordinances that are relevant to the business. In addition to improving the environment by aiding in recycling efforts, we strive to provide the best customer service that is possible. We take pride in helping members of the community find cost effective alternatives to buying new parts. The maintenance and operation of this establishment is not detrimental to nor does it endanger the public health, safety, morals or general welfare.

2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use.

RESPONSE: This establishment and the maintenance or operation thereof, does not impair or diminish the uses, values and enjoyment of other properties in the area. We are neighbored by other salvage yards, recyclers, and mechanic shops, some of which have been in operation for more than 15 years. Apache Foreign Salvage, Jazz Automotive, and Hawk Steel are nearby businesses with similar interests as Apple Auto Salvage. Only friendships and good business relationships have been built within our neighborhood.

3. That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

RESPONSE: The operation of this facility does not and will not impede the development and improvement of the surrounding property. All operations that are carried out at this facility are permitted within the district. The properties to the north and south have successfully carried out improvements to their property without obstruction from Apple Auto Salvage.

4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

RESPONSE: According to the ordinances set forth by the city of Kennedale, all necessary site improvements have been made. Adequate utilities, access roads and drainage are being provided. In response to the conditions set forth from the 2015 Special Exception meeting, all conditions have been met: a designated fire lane with crushed asphalt has been laid and well maintained, all outdoor storage areas are maintained and in good condition, all vehicles are not stacked higher than 15 feet and are only stored at the rear of the property, and lastly the customer parking area was paved with concrete in February 2016 less than 6 months after the board meeting.

5. That adequate measures have been or will be taken to provide ingress or egress so as to minimize traffic congestion in the public streets.

RESPONSE: Adequate measures have been taken to provide ingress or egress so as to minimize traffic congestion in the public streets. We have space for about 20 vehicles in the paved parking lot with stripes indicating parking spots and for handicap parking as well as some overflow parking towards the north end of the property.

6. That the use shall conform to all applicable area, yard, height, lot coverage, building size and other requirements and regulation of the district in which it is located.

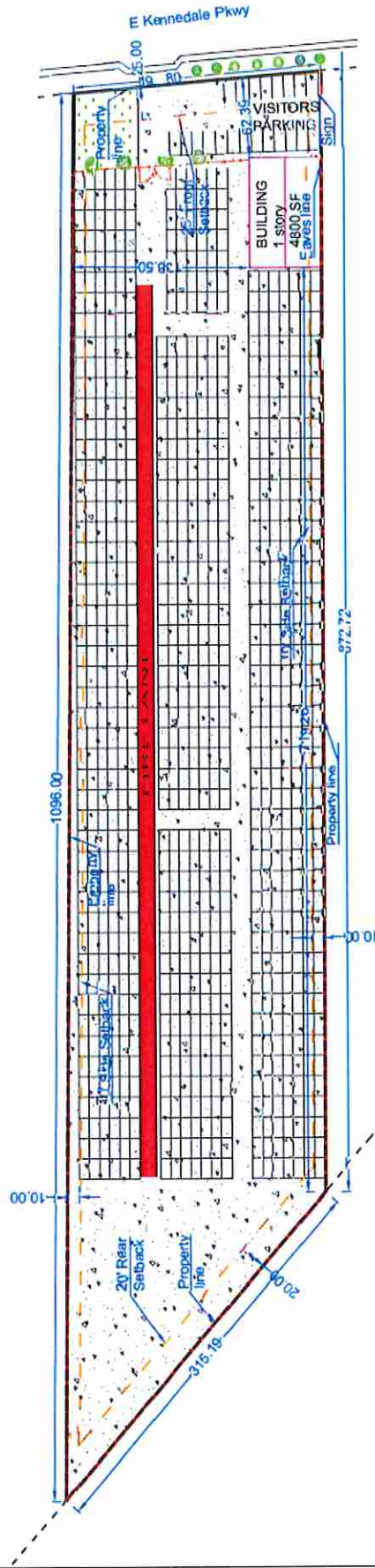
RESPONSE: This use conforms to all applicable area, yard, height, lot coverage, building size and other requirements and regulation of the district in which it is located. The size, shape, location of the building and property has not been altered since it was established in 1986.



**KENNEDALE**  
Board of Adjustment  
www.cityofkennedale.com

## STAFF REPORT TO THE BOARD OF ADJUSTMENT

### Existing Site Plan

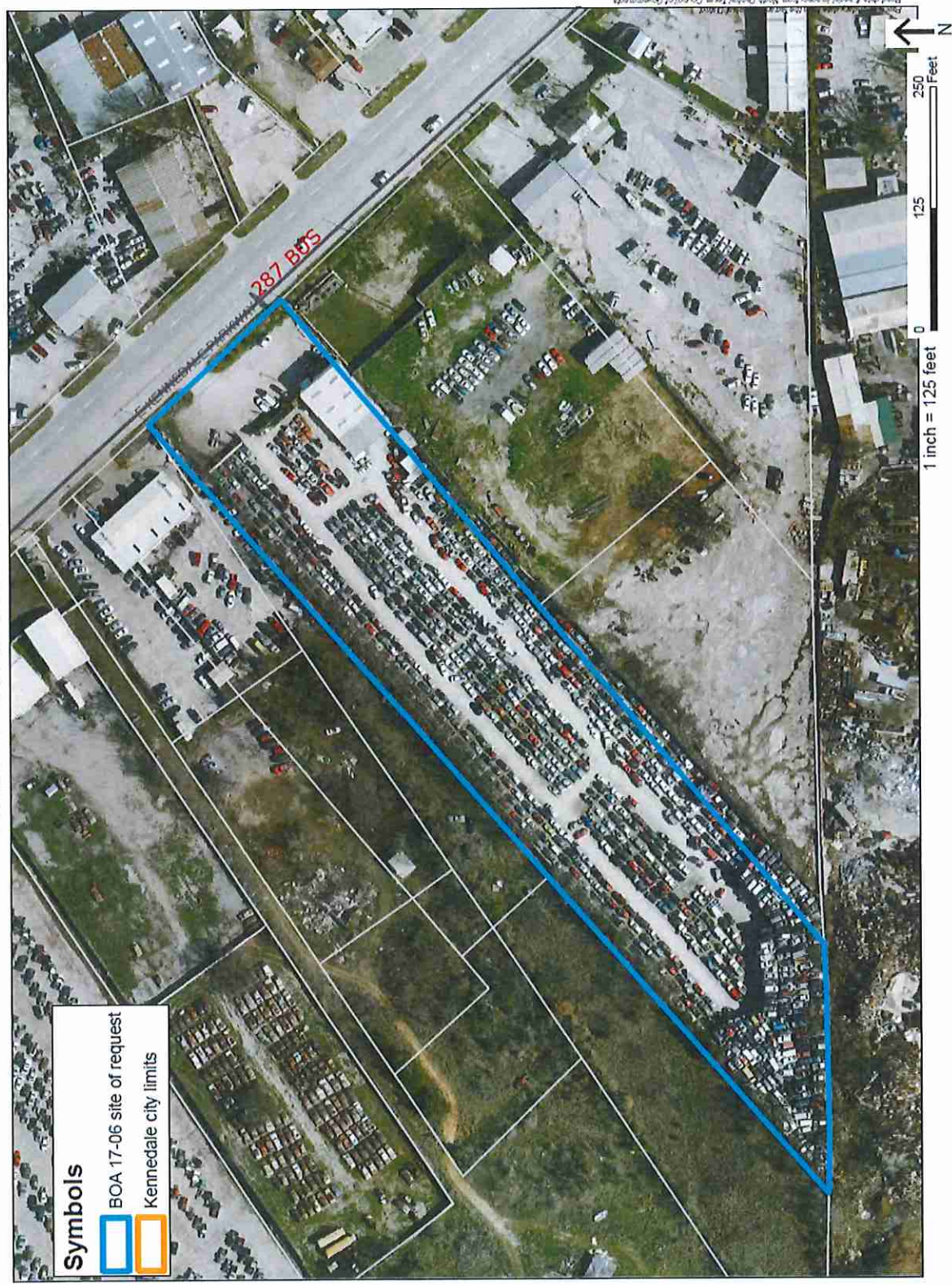


GRAPHIC SCALE

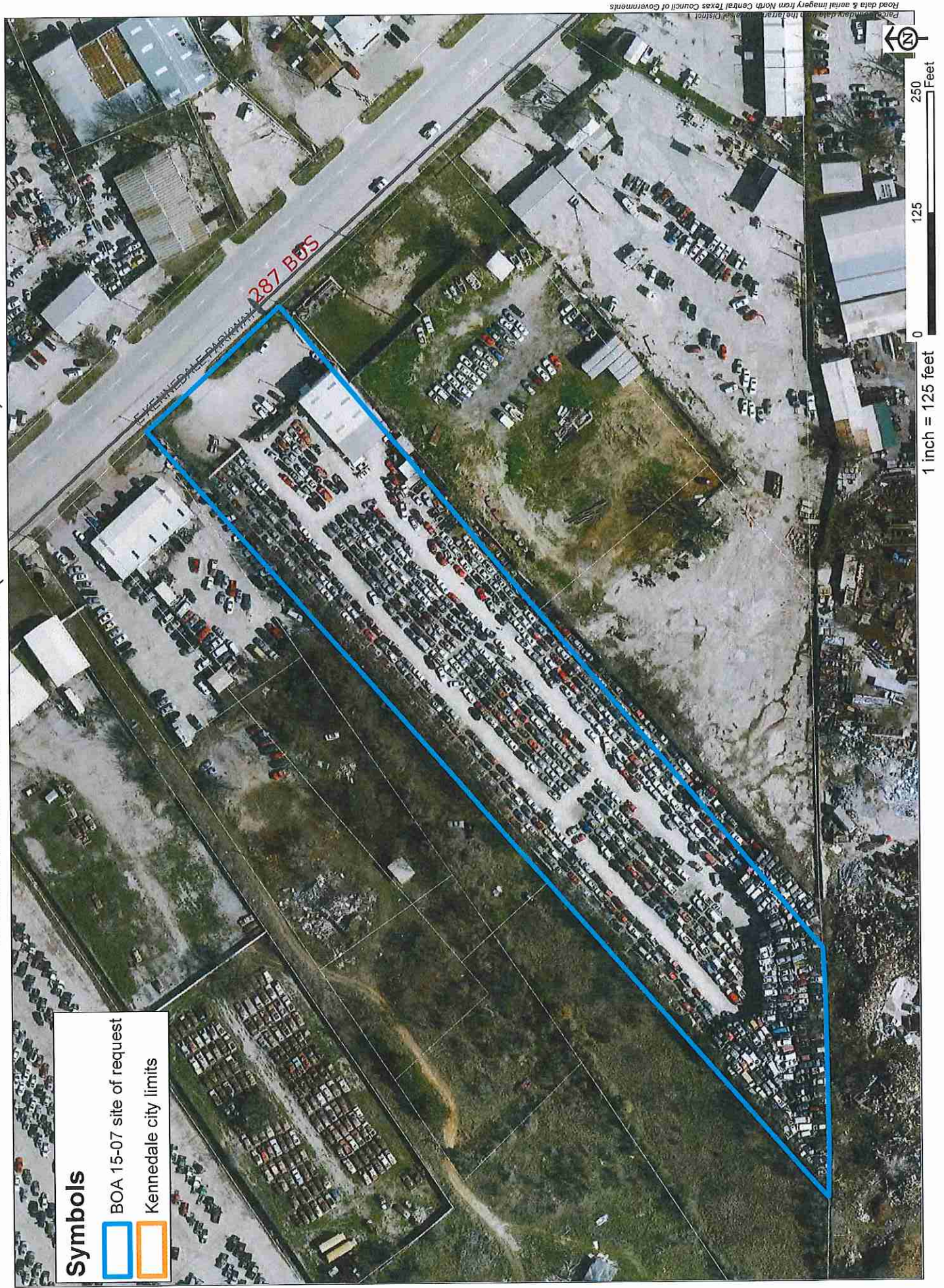


Address: 7002 E Kennedale Pkwy  
Kennedale, TX 75050  
Zoning: Industrial (I)  
Scale: 1"=80'

BOA 17-06: Aerial view



BOA 15-07: Aerial view (1 in = 125 ft)



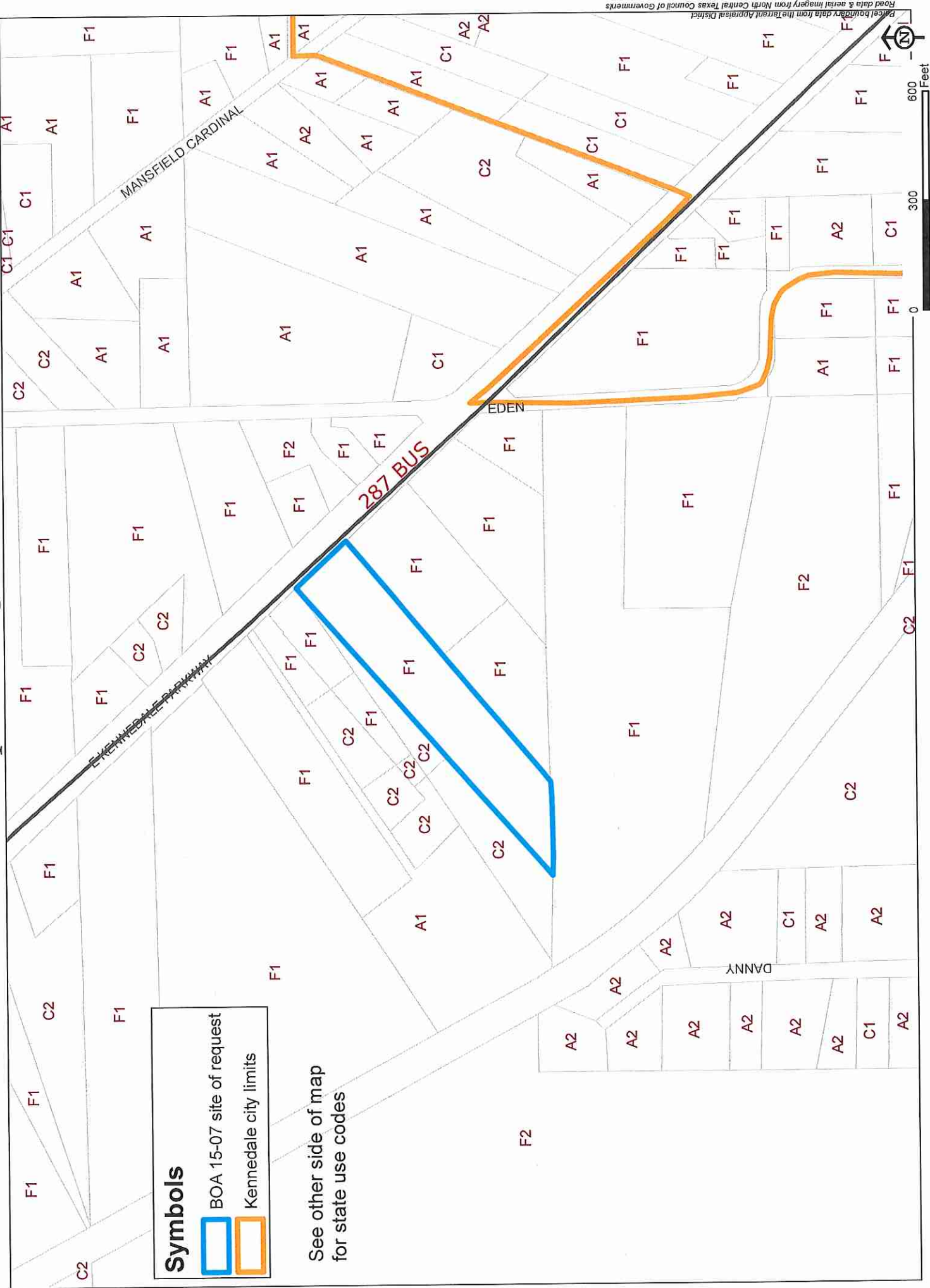
# BOA 15-07: contour map



1 inch = 229 feet

0

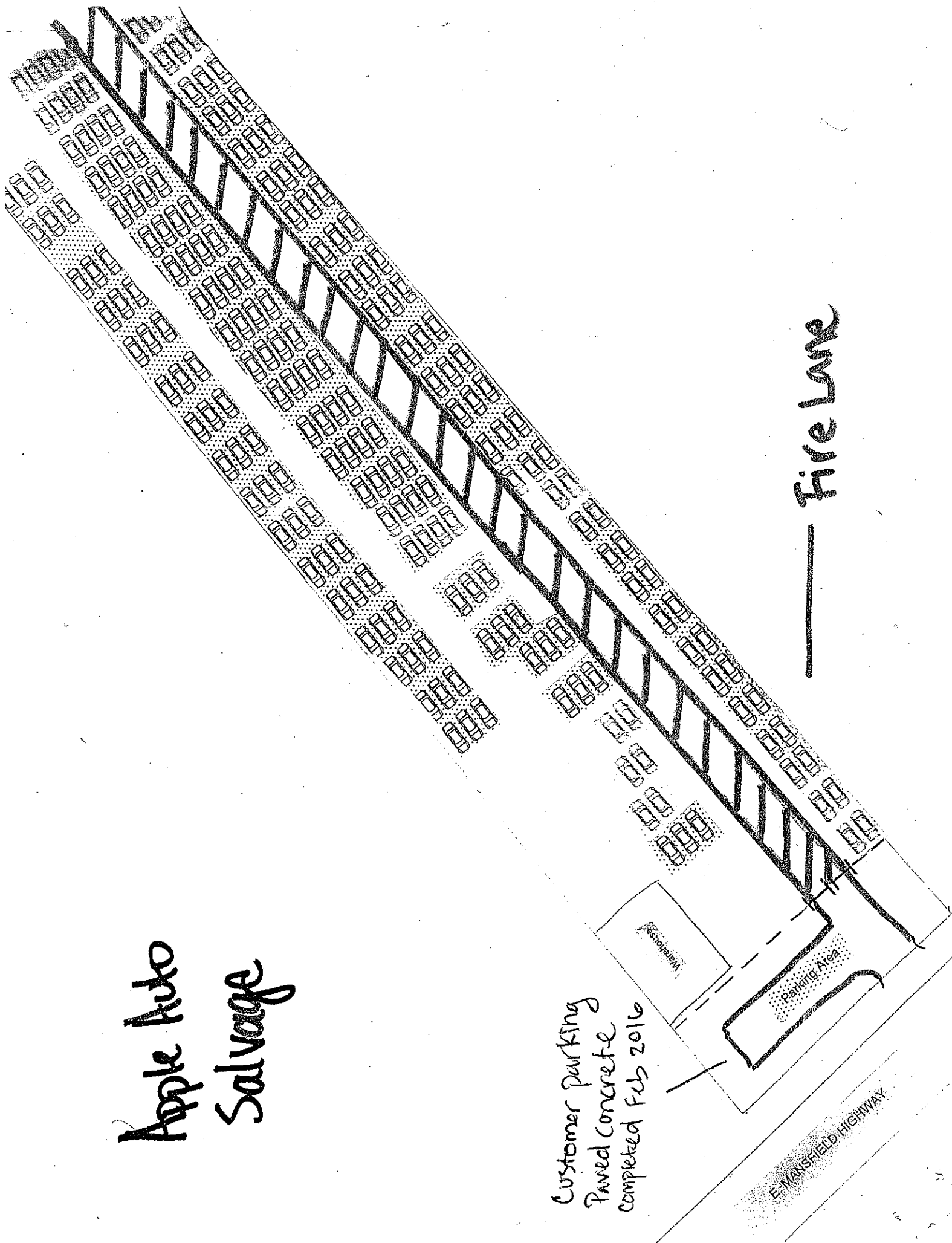
# BOA 15-07: Map Showing Site of Request

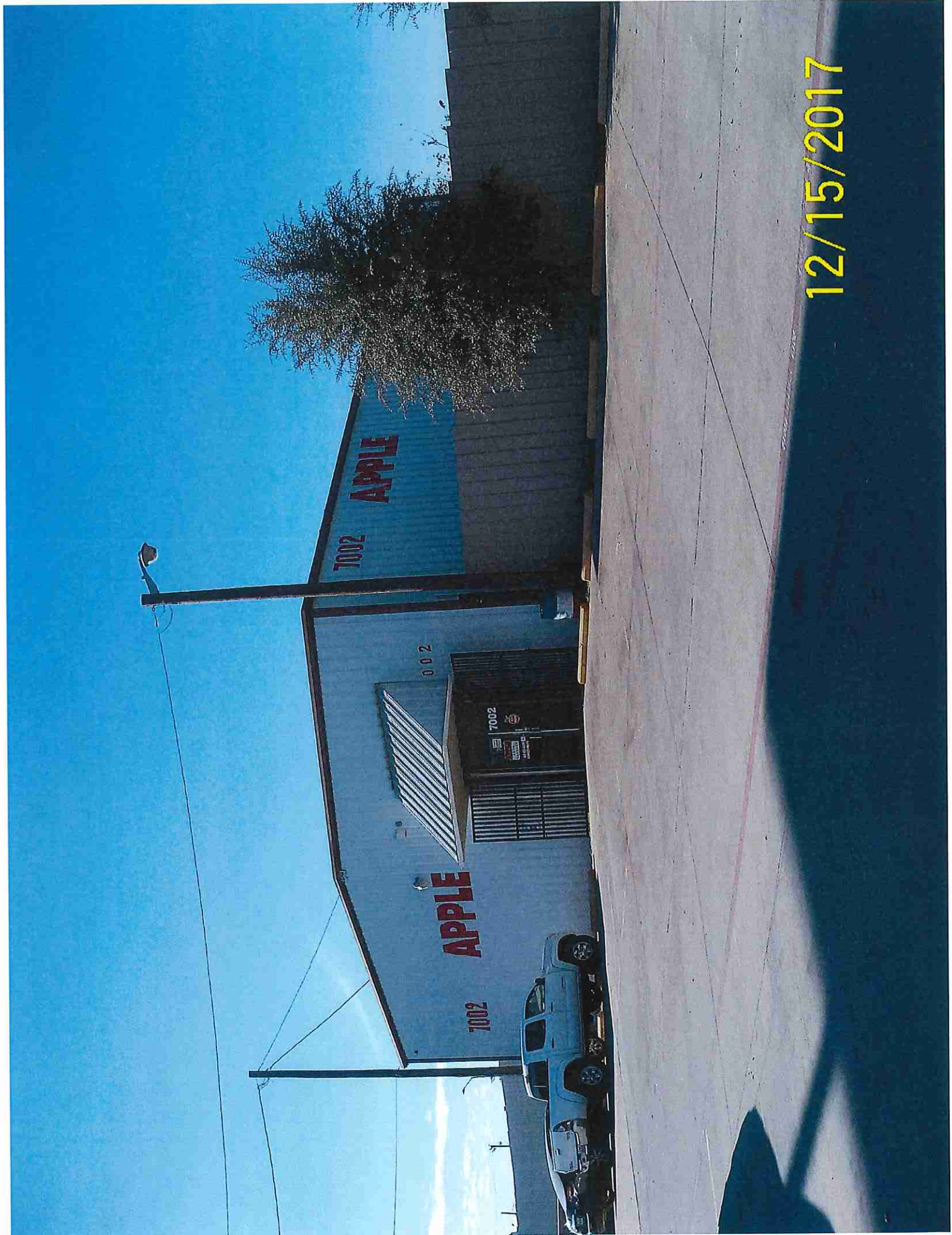


# Apple Auto Salvage

Customer parking  
Paved Concrete  
Completed Feb 2016

Fire Lane

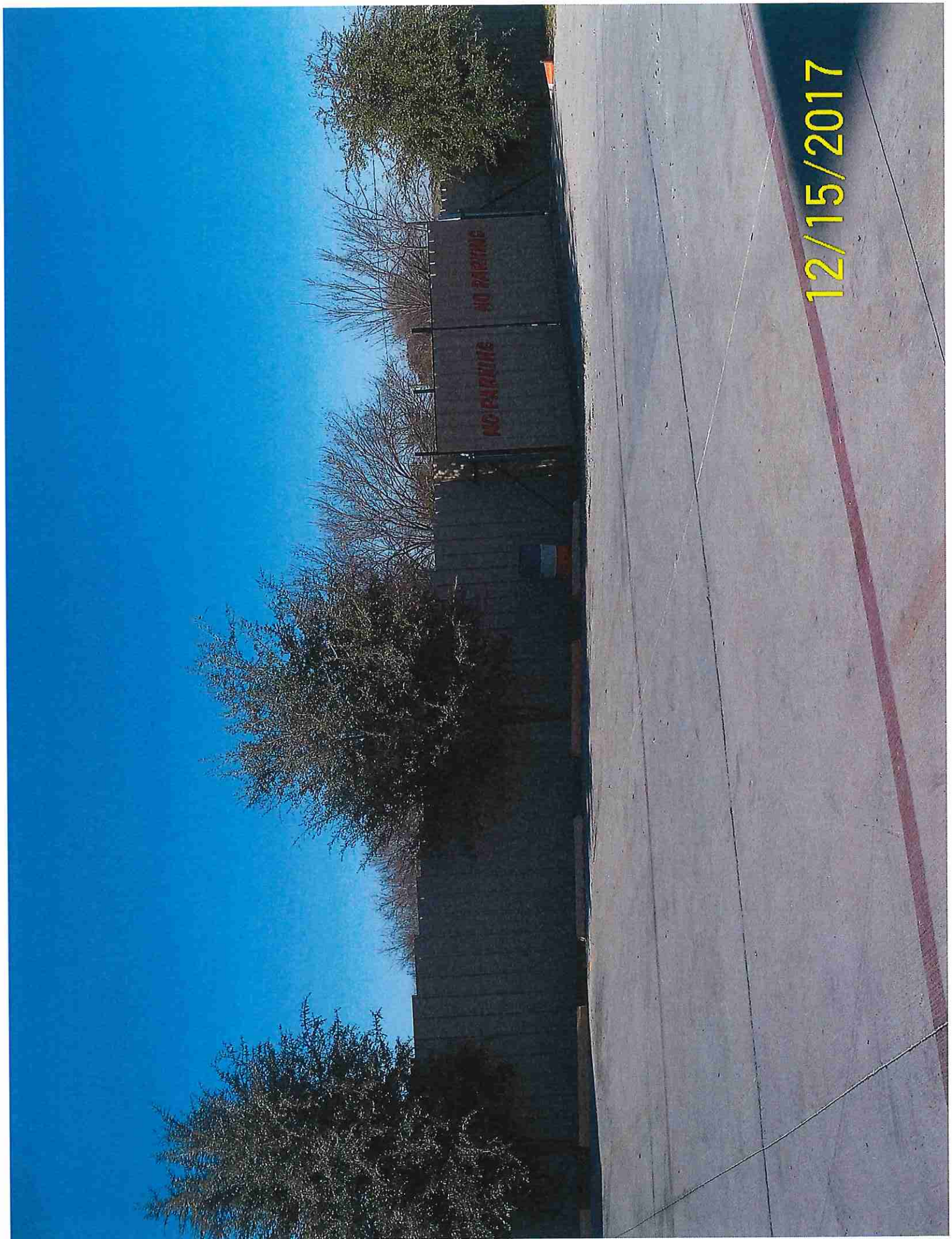




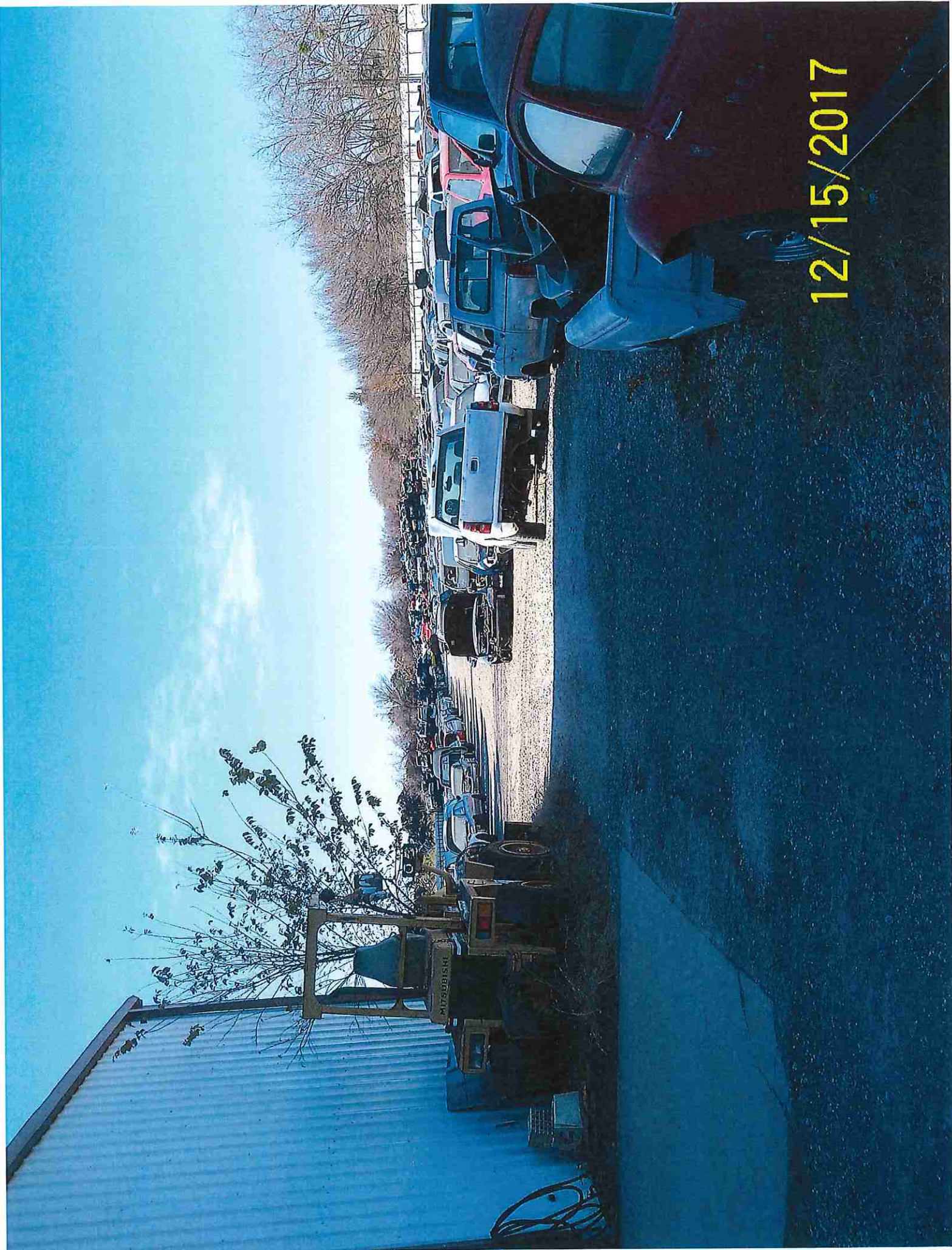
12/15/2017



12/15/2017

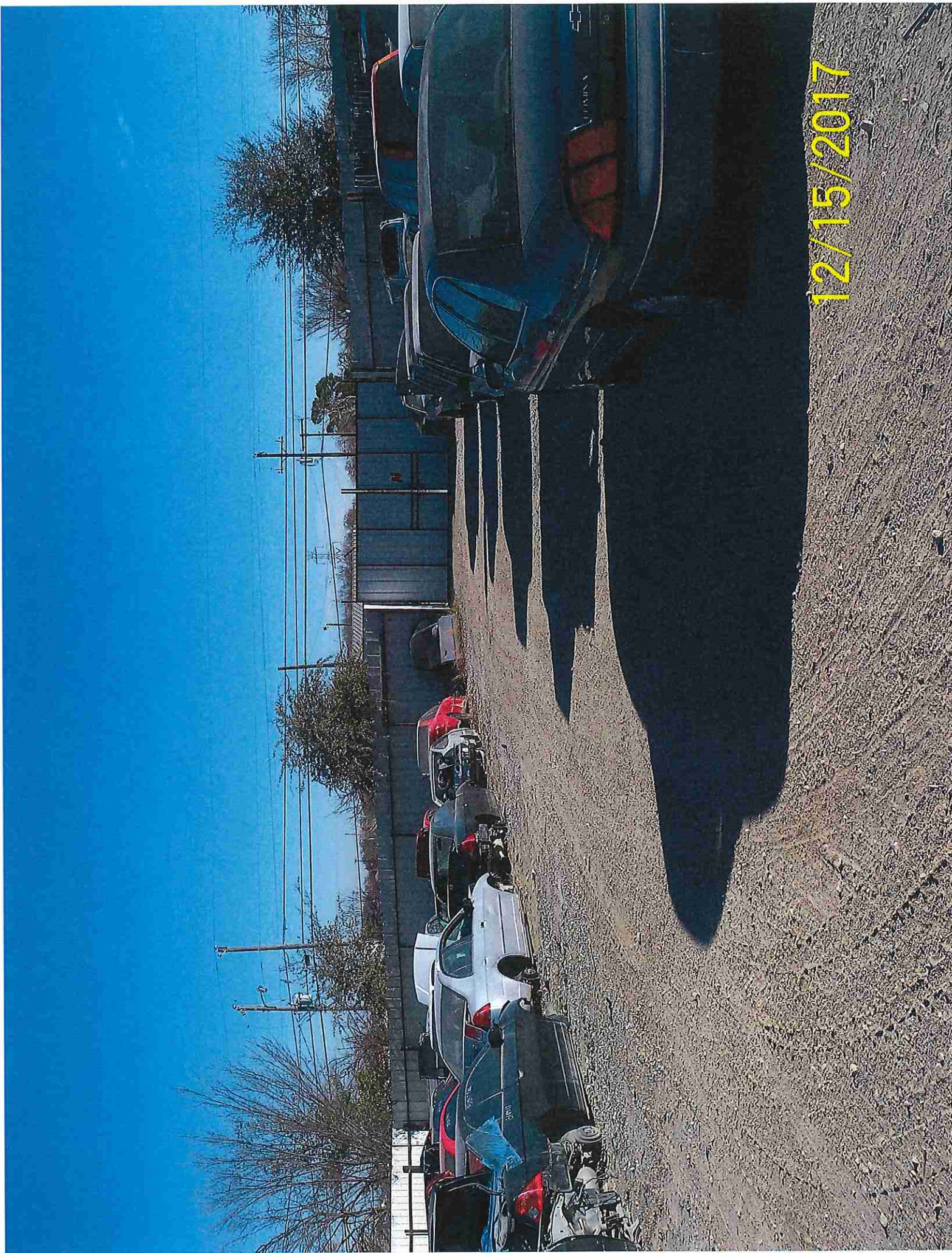


12/15/2017



12/15/2017

12/15/2017



# INDUSTRIAL STORMWATER

## FACT SHEET SERIES

### *Sector M: Automobile Salvage Yards*



U.S. EPA Office of Water  
EPA-833-F-06-028  
December 2006

### ***What is the NPDES stormwater permitting program for industrial activity?***

Activities, such as material handling and storage, equipment maintenance and cleaning, industrial processing or other operations that occur at industrial facilities are often exposed to stormwater. The runoff from these areas may discharge pollutants directly into nearby waterbodies or indirectly via storm sewer systems, thereby degrading water quality.

In 1990, the U.S. Environmental Protection Agency (EPA) developed permitting regulations under the National Pollutant Discharge Elimination System (NPDES) to control stormwater discharges associated with eleven categories of industrial activity. As a result, NPDES permitting authorities, which may be either EPA or a state environmental agency, issue stormwater permits to control runoff from these industrial facilities.

### ***What types of industrial facilities are required to obtain permit coverage?***

This fact sheet specifically discusses stormwater discharges from automobile salvage yards as defined by Standard Industrial Classification (SIC) and includes battery reclaimers, salvage yards, and automobile recyclers (Primary SIC 5015). Facilities and products in this group fall under the following categories, all of which require coverage under an industrial stormwater permit:

- ◆ Activities related to dismantling of used motor vehicles for the purpose of selling parts
- ◆ Wholesale or retail distribution of used motor vehicle parts

### ***What does an industrial stormwater permit require?***

Common requirements for coverage under an industrial stormwater permit include development of a written stormwater pollution prevention plan (SWPPP), implementation of control measures, and submittal of a request for permit coverage, usually referred to as the Notice of Intent or NOI. The SWPPP is a written assessment of potential sources of pollutants in stormwater runoff and control measures that will be implemented at your facility to minimize the discharge of these pollutants in runoff from the site. These control measures include site-specific best management practices (BMPs), maintenance plans, inspections, employee training, and reporting. The procedures detailed in the SWPPP must be implemented by the facility and updated as necessary, with a copy of the SWPPP kept on-site. The industrial stormwater permit also requires collection of visual, analytical, and/or compliance monitoring data to determine the effectiveness of implemented BMPs. For more information on EPA's industrial stormwater permit and links to State stormwater permits, go to [www.epa.gov/npdes/stormwater](http://www.epa.gov/npdes/stormwater) and click on "Industrial Activity."

### What pollutants are associated with my facility's activities?

Pollutants conveyed in stormwater discharges from automobile salvage yards will vary. There are a number of factors that influence to what extent industrial activities and significant materials can affect water quality.

- ◆ Geographic location
- ◆ Topography
- ◆ Hydrogeology
- ◆ Extent of impervious surfaces (i.e., concrete or asphalt)
- ◆ Type of ground cover (e.g., vegetation, crushed stone, or dirt)
- ◆ Outdoor activities (e.g., material storage, loading/unloading, vehicle maintenance)
- ◆ Size of the operation
- ◆ Type, duration, and intensity of precipitation events

The activities, pollutant sources, and pollutants detailed in Table 1 are commonly found at automobile salvage yards.

**Table 1. Common Activities, Pollutant Sources, and Associated Pollutants at Automobile Salvage Yards**

| Activity                                     | Pollutant Source                                                                                                                                                                 | Pollutant                                                                                                                                    |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Vehicle Dismantling                          | Oil, anti-freeze, batteries, gasoline, diesel fuel, hydraulic fluids, electrical switches                                                                                        | Oil and grease, ethylene glycol, heavy metals, mercury                                                                                       |
| Used Parts Storage                           | Batteries, chrome bumpers, wheel balance weights, tires, rims, filters, radiators, catalytic converters, engine blocks, hub caps, doors, drivelines, galvanized metals, mufflers | Sulfuric acid, galvanized metals, oil and grease, heavy metals, petroleum hydrocarbons, total suspended solids (TSS)                         |
| Outdoor Vehicle and Equipment Storage        | Leaking engines, chipping/corroding bumpers, chipping paint, galvanized metal                                                                                                    | Oil and grease, arsenic, organics, heavy metals, total suspended solids (TSS)                                                                |
| Vehicle and Equipment Maintenance            | Parts cleaning                                                                                                                                                                   | Chlorinated solvents, oil and grease, heavy metals, acid/alkaline wastes                                                                     |
|                                              | Waste disposal of greasy rags, oil filters, air filters, batteries, hydraulic fluids, transmission fluids, radiator fluids, degreasers                                           | Oil, heavy metals, chlorinated solvents, acid/alkaline wastes oil, heavy metals, chlorinated solvents, acid/alkaline wastes, ethylene glycol |
|                                              | Spills of oil, degreasers, hydraulic fluids, transmission fluid, and radiator fluids                                                                                             | Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol                                                                  |
|                                              | Fluids replacement, including oil, hydraulic fluids, transmission fluid, and radiator fluids                                                                                     | Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol                                                                  |
| Vehicle, Equipment, and Parts Washing Areas  | Washing and steam cleaning waters                                                                                                                                                | Oil and grease, detergents, heavy metals, chlorinated solvents, phosphorus, salts, suspended solids                                          |
| Liquid Storage in Above Ground Storage Tanks | External corrosion and structural failure                                                                                                                                        | Fuel, oil and grease, heavy metals, materials being stored                                                                                   |
|                                              | Installation problems                                                                                                                                                            |                                                                                                                                              |
|                                              | Spills and overfills due to operator error                                                                                                                                       |                                                                                                                                              |
| Illicit Connection to Storm Sewer            | Sanitary water                                                                                                                                                                   | Bacteria, biochemical oxygen demand (BOD), suspended solids                                                                                  |
|                                              | Floor drains                                                                                                                                                                     | Oil and grease, heavy metals, chlorinated solvents, fuel, ethylene glycol                                                                    |
|                                              | Vehicle washwaters                                                                                                                                                               | Oil and grease, detergents, metals, chlorinated solvents, phosphorus, suspended solids                                                       |
|                                              | Radiator flushing wastewater                                                                                                                                                     | Ethylene glycol                                                                                                                              |
|                                              | Leaking underground storage tanks                                                                                                                                                | Materials stored or previously stored                                                                                                        |

## ***What BMPs can be used to minimize contact between stormwater and potential pollutants at my facility?***

A variety of BMP options may be applicable to eliminate or minimize the presence of pollutants in stormwater discharges from automobile salvage yards. You will likely need to implement a combination or suite of BMPs to address stormwater runoff at your facility. Your first consideration should be for pollution prevention BMPs, which are designed to prevent or minimize pollutants from entering stormwater runoff and/or reduce the volume of stormwater requiring management. Prevention BMPs can include regular cleanup, collection and containment of debris in storage areas, and other housekeeping practices, spill control, and employee training. It may also be necessary to implement treatment BMPs, which are engineered structures, intended to treat stormwater runoff and/or mitigate the effects of increased stormwater runoff peak rate, volume, and velocity. Treatment BMPs are generally more expensive to install and maintain and include oil-water separators, wet ponds, and proprietary filter devices.

The management practices discussed herein are well suited mechanisms to prevent or control the contamination of stormwater discharges associated with automobile salvage yards. In general, it is important to develop a stormwater management policy statement, review the policy with employees, and keep it posted. Additionally, identifying weaknesses in current facility practices will aid the permittee in determining appropriate BMPs that will achieve a reduction in pollutant loadings.

All facilities should implement BMPs in the following areas of the site:

- ◆ Vehicle dismantling and maintenance areas
- ◆ Vehicle, parts, and equipment storage areas
- ◆ Material storage areas
- ◆ Vehicle, parts, and equipment cleaning areas

Mercury switch used in vehicle. Be aware: specific permit requirements may vary according to permitting authority so it is important to reference the requirements applicable of the state in which your facility is located. For instance, many states are now addressing the issue of mercury switch removal to prevent mercury releases that occur from automobile recycling. Mercury switches have been used until recently for hood, trunk, or door lights.

BMPs must be selected and implemented to address the following:

### **Good Housekeeping Practices**

Good housekeeping is a practical, cost-effective way to maintain a clean and orderly facility to prevent potential pollution sources from coming into contact with stormwater. It includes establishing protocols to reduce the possibility of mishandling materials or equipment and training employees in good housekeeping techniques. Common areas where good housekeeping practices should be followed include trash containers and adjacent areas, material storage areas, vehicle and equipment maintenance areas, and loading docks. Good housekeeping practices must include a schedule for regular pickup and disposal of garbage and waste materials and routine inspections of drums, tanks, and containers for leaks and structural conditions. Practices also include containing and covering garbage, waste materials, and debris. Involving employees in routine monitoring of housekeeping practices has proven to be an effective means of ensuring the continued implementation of these measures.

### **Minimizing Exposure**

Where feasible, minimizing exposure of potential pollutant sources to precipitation is an important control option. Minimizing exposure prevents pollutants, including debris, from coming into contact with precipitation and can reduce the need for BMPs to treat contaminated stormwater runoff. It can also prevent debris from being picked up by stormwater and carried into drains and surface waters. Examples of BMPs for exposure minimization include covering materials or activities with temporary

structures (e.g., tarps) when wet weather is expected or moving materials or activities to existing or new permanent structures (e.g., buildings, silos, sheds). Even the simple practice of keeping a dumpster lid closed can be a very effective pollution prevention measure.

### Erosion and Sediment Control

BMPs must be selected and implemented to limit erosion on areas of your site that, due to topography, activities, soils, cover, materials, or other factors are likely to experience erosion. Erosion control BMPs such as seeding, mulching, and sodding prevent soil from becoming dislodged and should be considered first. Sediment control BMPs such as silt fences, sediment ponds, and stabilized entrances trap sediment after it has eroded. Sediment control BMPs should be used to back-up erosion control BMPs.

### Management of Runoff

Your SWPPP must contain a narrative evaluation of the appropriateness of stormwater management practices that divert, infiltrate, reuse, or otherwise manage stormwater runoff so as to reduce the discharge of pollutants. Appropriate measures are highly site-specific, but may include, among others, vegetative swales, collection and reuse of stormwater, inlet controls, snow management, infiltration devices, and wet retention measures.

A combination of preventive and treatment BMPs will yield the most effective stormwater management for minimizing the offsite discharge of pollutants via stormwater runoff. Though not specifically outlined in this fact sheet, BMPs must also address preventive maintenance records or logbooks, regular facility inspections, spill prevention and response, and employee training.

Specific runoff management practices for automobile salvage facilities include the installation/use of:

- ◆ Berms or drainage ditches on the property line (to prevent run-on from neighboring properties)
- ◆ Berms for uncovered outdoor storage of soiled parts, engine blocks, and above-ground liquid storage
- ◆ Detention ponds
- ◆ Filtering devices and oil/water separators

All BMPs require regular maintenance to function as intended. Some management measures have simple maintenance requirements, others are quite involved. You must regularly inspect all BMPs to ensure they are operating properly, including during runoff events. As soon as a problem is found, action to resolve it should be initiated immediately.

Implement BMPs, such as those listed below in Table 2 for the control of pollutants at automobile salvage yards, to minimize and prevent the discharge of pollutants in stormwater. Identifying weaknesses in current facility practices will aid the permittee in determining appropriate BMPs that will achieve a reduction in pollutant loadings. BMPs listed in Table 2 are broadly applicable to automobile salvage yards; however, this is not a complete list and you are recommended to consult with regulatory agencies or a stormwater engineer/consultant to identify appropriate BMPs for your facility.

**Table 2. BMPs for Potential Pollutant Sources at Automobile Salvage Yards**

| Activity                            | BMPs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dismantling and vehicle maintenance | <p>Minimize exposure</p> <p><input type="checkbox"/> Installation of a consolidated processing area, including a covered and bermed impermeable concrete surface equipped with a drain, where all fluids are drained.</p> <p>Fluid and Parts Removal</p> <p><input type="checkbox"/> Drain all fluids from vehicles upon arrival at the site. Segregate the fluids and properly store or dispose of them.</p> <p><input type="checkbox"/> Drain oil filters (and all vehicle parts) before disposal or recycling.</p> |

Table 2. BMPs for Potential Pollutant Sources at Automobile Salvage Yards (continued)

| Activity                                        | BMPs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dismantling and vehicle maintenance (continued) | <p>Fluid and Parts Removal (continued)</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Inspect vehicles for leaks as soon as possible once they arrive on-site. Inspect vehicles quarterly for signs of leakage. Check for unwanted material that could have been placed in the vehicle.</li> <li><input type="checkbox"/> When pulling parts from vehicles in the yard, employ a catch sled or tray to recover the majority of fluids which will be released. Place drip pans, large plastic sheets, or canvas under vehicles or equipment during maintenance and dismantling activities. Where drip pans are used, they should not be left unattended to prevent accidental spills.</li> <li><input type="checkbox"/> Engine oil should be drained and stored in clearly labeled tanks or containers. Tanks and containers must be kept in good operating condition, free of any visible spills or leaks, structural damage, or deterioration.</li> <li><input type="checkbox"/> Remove battery as soon as feasible after vehicle enters the facility.</li> <li><input type="checkbox"/> Promptly transfer used fluids to the proper container.</li> <li><input type="checkbox"/> Empty and clean drip pans and containers; do not leave full drip pans or other open containers around the shop.</li> <li><input type="checkbox"/> Remove all mercury switches as soon as possible making sure not to puncture the mercury container during removal. Ship switches to End of Life Vehicle Solutions (ELVS).</li> </ul> <p>Vehicle Processing</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Maintain an organized inventory of materials used in the maintenance shop.</li> <li><input type="checkbox"/> Designate one person to keep track of parts in the yard. As soon as a hulk is salvaged to its minimum extent, it should be processed for shredding to minimize the dripping of fluids and clutter in the yard.</li> </ul> <p>Material Storage</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Nonhazardous substances that are contaminated with a hazardous substance are considered a hazardous substance.</li> <li><input type="checkbox"/> Store cracked batteries in a nonleaking secondary container.</li> <li><input type="checkbox"/> Keep waste streams separate (e.g., waste oil and mineral spirits).</li> </ul> <p>Recycling and Disposal</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Recycle anti-freeze, gasoline, used oil, mineral spirits, windshield washer fluid, and solvents.</li> <li><input type="checkbox"/> Label and track the recycling of waste material (e.g., used oil, spent solvents, and batteries).</li> <li><input type="checkbox"/> Dispose of greasy rags, oil filters, air filters, batteries, spent coolant, and degreasers properly.</li> </ul> <p>Discharges</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Know where your sumps and drains discharge to. Do not pour liquid waste down floor drains, sinks, or outdoor storm drain inlets.</li> <li><input type="checkbox"/> Plug floor drains that are connected to the storm or sanitary sewer. If necessary, install a sump that is pumped regularly.</li> <li><input type="checkbox"/> Screen out sludges and solids before they reach the waste sump. Use an absorbent pad around the perimeter of sumps to prevent unwanted hazardous materials from entering.</li> <li><input type="checkbox"/> Prohibit the practice of hosing down the shop floor, using dry cleanup methods, and/or collecting the stormwater runoff from the maintenance area and providing treatment.</li> <li><input type="checkbox"/> Treat stormwater discharges with devices such as oil-water separators.</li> </ul> |
| Outdoor vehicle, equipment, and parts storage   | <p>Minimizing Exposure</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Cover all storage areas with a permanent cover (e.g., roofs) or temporary cover (e.g., canvas tarps).</li> <li><input type="checkbox"/> Store lead parts in a covered container that is capable of handling the excessive weight of lead. If storing lead tire weights with batteries, make sure weights are not placed under batteries or allowed to roll around as that could puncture batteries.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

**Table 2. BMPs for Potential Pollutant Sources at Automobile Salvage Yards (continued)**

| Activity                                                  | BMPs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Outdoor vehicle, equipment, and parts storage (continued) | <p>Runoff Minimization</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Install curbing, berms, or dikes around storage areas.</li> <li><input type="checkbox"/> Install berms or drainage ditches on the property line.</li> <li><input type="checkbox"/> Install berms for uncovered outdoor storage of oily parts, engine blocks, and above ground liquid storage.</li> <li><input type="checkbox"/> Install filtering devices and oil/water separators.</li> <li><input type="checkbox"/> Use drip pans, large sheets of plastic, or canvas under all vehicles and equipment waiting for and during maintenance.</li> <li><input type="checkbox"/> Store mercury switches in covered, leak-proof containers in a way that prevents the glass capsule from breaking. (Manage mercury switches as hazardous waste. Containers should be labeled with "Hazardous Waste - Spent Mercury Switches")</li> <li><input type="checkbox"/> Use secondary containment for stored liquids such as oil, gas, and antifreeze, as well as for lead acid batteries.</li> </ul> <p>Good Housekeeping</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Tank storage should be secured and locked.</li> <li><input type="checkbox"/> Do not stockpile old tires as they are both a fire hazard and a breeding ground for mosquitoes and rodents. Use indoor tire racks.</li> <li><input type="checkbox"/> Confine storage of parts, equipment, and vehicles to designated areas.</li> <li><input type="checkbox"/> Vehicles of similar make and model should be located in a common area. Vehicles whose parts have higher demand should be in a common area and easily accessible.</li> <li><input type="checkbox"/> Repair malfunctioning equipment that is responsible for any leak or spill as soon as possible.</li> <li><input type="checkbox"/> Store batteries on impervious surfaces. Store batteries inside on a pallet or outside in a leak proof container. Curb, dike, or berm this area.</li> </ul> |
| Vehicle, equipment, and parts washing areas               | <ul style="list-style-type: none"> <li><input type="checkbox"/> Designate an area for cleaning activities.</li> <li><input type="checkbox"/> Perform all parts cleaning operations indoors or cover and berm outside cleaning areas.</li> <li><input type="checkbox"/> Clean parts using minimal amounts of solvents or detergents.</li> <li><input type="checkbox"/> Recycle and reuse cleaning fluids where practical.</li> <li><input type="checkbox"/> Use phosphate-free biodegradable detergents.</li> <li><input type="checkbox"/> Use detergent-based or water-based cleaning systems in place of organic solvent degreasers.</li> <li><input type="checkbox"/> Contain steam cleaning washwaters or discharge under an applicable NPDES permit.</li> <li><input type="checkbox"/> Ensure that washwaters drain well.</li> <li><input type="checkbox"/> Inspect cleaning area regularly.</li> <li><input type="checkbox"/> Install curbing, berms, or dikes around cleaning areas.</li> <li><input type="checkbox"/> Remove or deploy airbags prior to crushing or other maintenance activities.</li> <li><input type="checkbox"/> Be certain all fluids have been drained from vehicle prior to crushing.</li> <li><input type="checkbox"/> Fluid should be collected in a covered container, tested, and disposed of accordingly.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Vehicle crushing activities                               | <ul style="list-style-type: none"> <li><input type="checkbox"/> Capture crusher fluids to prevent spillage. Collect this mixture of fluids in a spill-proof covered container and dispose of it properly. It should not be allowed to drain onto the ground. Keep the drain within the crusher clean so that the fluids do not collect and overflow from the crusher onto the ground.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

**Table 2. BMPs for Potential Pollutant Sources at Automobile Salvage Yards (continued)**

| Activity                                  | BMPs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Vehicle crushing activities (continued)   | <ul style="list-style-type: none"> <li><input type="checkbox"/> Installation of an engineering fabric, such as geotextiles, followed by gravel, or a bermed impermeable concrete surface would be ideal as a foundation under the crusher.</li> <li><input type="checkbox"/> Develop a preventative maintenance program that involves timely inspections and/or maintenance of the crusher and facility equipment and vehicles.</li> <li><input type="checkbox"/> Keep the crusher equipment clean.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Automotive wastes                         | <ul style="list-style-type: none"> <li><input type="checkbox"/> Fuel - Drain fuel tanks, using air or hand pumps, into double-walled storage tanks. "Good" fuels can be reused on-site; "bad" fuels must be disposed of.</li> <li><input type="checkbox"/> Antifreeze - Reclaim and re-use, if possible.</li> <li><input type="checkbox"/> Freon (CFCs) - Voluntarily recapture, in anticipation of new regulations.</li> <li><input type="checkbox"/> Used motor oil - Drain and store in double-walled tanks. Re-use on-site or send offsite for refining/fuel blending. Accepted practice to leave oil in the engine during storage. Oil filters should drain for 24-hours. Empty filters return to vehicle for scrap metal reclamation.</li> <li><input type="checkbox"/> Other fluids and oils - Drain as completely as mechanically possible. Do not burn used oil unless approved.</li> <li><input type="checkbox"/> Asbestos Brake Shoes and Clutches - If handled, should be wetted down to prevent asbestos particulates from becoming airborne.</li> <li><input type="checkbox"/> Mercury switches - Remove promptly and avoid breakage. Store as hazardous waste.</li> <li><input type="checkbox"/> Do not use vehicle fluids, oil, or fuels for dust or weed control.</li> </ul> |
| Liquid storage in above ground containers | <ul style="list-style-type: none"> <li><input type="checkbox"/> Maintain good integrity of all storage containers.</li> <li><input type="checkbox"/> Install safeguards (such as diking, berming, or permanent secondary containment) against accidental releases at the storage area.</li> <li><input type="checkbox"/> Valves on permanent secondary containment should be kept in the "off" position and locked at all times, except when collected water is removed.</li> <li><input type="checkbox"/> Inspect storage tanks to detect potential leaks and perform preventive maintenance.</li> <li><input type="checkbox"/> Inspect piping systems (pipes, pumps, flanges, couplings, hoses, and valves) for failures or leaks.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Illicit connection to storm sewer         | <ul style="list-style-type: none"> <li><input type="checkbox"/> Plug all floor drains if it is unknown whether the connection is to storm sewer or sanitary sewer systems. Alternatively, install a sump that is pumped regularly.</li> <li><input type="checkbox"/> Perform dye testing to determine if interconnections exist between sanitary water system and storm sewer system.</li> <li><input type="checkbox"/> Update facility schematics to accurately reflect all plumbing connections.</li> <li><input type="checkbox"/> Install a safeguard against vehicle washwaters and parts cleaning waters entering the storm sewer unless permitted.</li> <li><input type="checkbox"/> Maintain and inspect the integrity of all underground storage tanks; replace when necessary.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

### ***What if activities and materials at my facility are not exposed to precipitation?***

The industrial stormwater program requires permit coverage for a number of specified types of industrial activities. However, when a facility is able to prevent the exposure of ALL relevant activities and materials to precipitation, it may be eligible to claim no exposure and qualify for a waiver from permit coverage.

If you are regulated under the industrial permitting program, you must either obtain permit coverage or submit a no exposure certification form, if available. Check with your permitting authority for additional information as not every permitting authority program provides no exposure exemptions.

### ***Where do I get more information?***

For additional information on the industrial stormwater program see [www.epa.gov/npdes/stormwater/msgp](http://www.epa.gov/npdes/stormwater/msgp).

A list of names and telephone numbers for each EPA Region or state NPDES permitting authority can be found at [www.epa.gov/npdes/stormwatercontacts](http://www.epa.gov/npdes/stormwatercontacts).

### ***References***

Information contained in this Fact Sheet was compiled from EPA's past and present Multi-Sector General Permits and from the following sources:

- ◆ Automotive Recyclers Association. 2000. "Stormwater Best Management Practices." <http://ara.timberlakepublishing.com/content.asp?pl=430&sl=468&contentid=474>
- ◆ City of Phoenix, Street Transportation Department, Storm Water Management Section. 2004. Prevent Stormwater Contamination Best Management Practices for Section M - Automotive Salvage Yards. SIC Code: 5015. <http://phoenix.gov/STREETS/ausalya5.pdf>
- ◆ Delaware Department of Natural Resources and Environmental Control, Division of Air and Waste Management: Solid and Hazardous Waste. 2000. Salvage Yard Manual. [www.dnrec.state.de.us/dnrec2000/divisions/awm/hw/hw/salvage.htm](http://www.dnrec.state.de.us/dnrec2000/divisions/awm/hw/hw/salvage.htm)
- ◆ Florida Department of Environmental Protection and Florida Auto Dismantlers and Recyclers Association. 2002. Florida Green Yards, An Environmental Compliance Workbook for Automotive Recyclers. [www.dep.state.fl.us/central/Home/Green\\_Yards/Compliance\\_Wkb\\_SalvageYards.pdf](http://www.dep.state.fl.us/central/Home/Green_Yards/Compliance_Wkb_SalvageYards.pdf)
- ◆ Environmental Compliance for Automotive Recyclers. 2005. [www.ecarcenter.org](http://www.ecarcenter.org)
- ◆ Michigan Department of Environmental Quality. 1999. Guide for Salvage Yard Owners. [www.deq.state.mi.us/documents/deq-ead-tas-salvyard.pdf](http://www.deq.state.mi.us/documents/deq-ead-tas-salvyard.pdf)
- ◆ Monroe County Small Business Pollution Prevention Task Group and New York State Department of Environmental Conservation. "Auto Recyclers Guide to a Cleaner Environment – Best Management Practices."
- ◆ Northeast Waste Management Officials' Association. "P2Rx Topic Hub: Mercury–Automotive Table of Contents." [www.newmoa.org/prevention/topichub/toc.cfm?hub=104&subsec=7&nav=7](http://www.newmoa.org/prevention/topichub/toc.cfm?hub=104&subsec=7&nav=7)
- ◆ Sustainable Conservation. "Auto Recycling Project Overview." [www.suscon.org/autorecycling/index.asp](http://www.suscon.org/autorecycling/index.asp)
- ◆ Sustainable Conservation. "Stormwater Management: A Guide for Auto Recycler Owners and Operators." [www.suscon.org/autorecycling/pdfs/autorecycling\\_factsheet\\_english.pdf](http://www.suscon.org/autorecycling/pdfs/autorecycling_factsheet_english.pdf)

## INDUSTRIAL STORMWATER FACT SHEET SERIES

### *Sector M: Automobile Salvage Yards*

- ◆ U.S. EPA – Region 8 Hazardous Waste Management Division, Hazardous Waste Minimization Program. 1995. EnviroSense Fact Sheet: Pollution Prevention Opportunities for the Automotive Recycling Industry.  
<http://es.epa.gov/techinfo/facts/epa/epa-fs.html>
- ◆ U.S. EPA, Office of Science and Technology. 1999. Preliminary Data Summary of Urban Stormwater Best Management Practices. EPA-821-R-99-012  
[www.epa.gov/OST/stormwater](http://www.epa.gov/OST/stormwater)
- ◆ U.S. EPA. The National Vehicle Mercury Switch Recovery Program.  
[www.epa.gov/mercury/switch.htm](http://www.epa.gov/mercury/switch.htm)
- ◆ U.S. EPA, Office of Wastewater Management. *NPDES Stormwater Multi-Sector General Permit for Industrial Activities (MSGP)*.  
[www.epa.gov/npdes/stormwater/msgp](http://www.epa.gov/npdes/stormwater/msgp)
- ◆ VT Solid Waste Districts and Alliances, VT Department of Environmental Conservation, Environmental Assistance Division. Best Management Practices (BMP) for Vermont's Auto Salvage Yards.  
[www.anr.state.vt.us/DEC/ead/sbcap/salvage/PDF/bmpguide.pdf](http://www.anr.state.vt.us/DEC/ead/sbcap/salvage/PDF/bmpguide.pdf)

**BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS**

**AGENDA**

**REGULAR MEETING**

**November 3, 2015**

**CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

**REGULAR SESSION - 7:00 PM**

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. SWEARING IN OF SPEAKERS**

**IV. MINUTES APPROVAL**

A. Consider approval of minutes from July 7, 2015 Board of Adjustment meeting.

B. Consider approval of minutes from October 6, 2015 Board of Adjustment meeting.

**V. VISITOR/CITIZENS FORUM**

*At this time, any person with business before the Board of Adjustment not scheduled on the Agenda may speak to the Board, provided that an official 'Speaker's Request Form' has been completed and submitted to the Board Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.*

**VI. REGULAR ITEMS**

A. **BOA 15-07** to receive comments and consider action on a request by Sterling Adams for a Special Exception as required by City Code Section 17-421, *Schedule of uses and off-street parking requirements*, to allow a salvage yard in an "I" Industrial District at 7002 E Kennedale Parkway, more particularly described as Wade H Hudson Survey A 716 Tract 3C2A, 3D1A & 3D2.

1. Staff presentation
2. Applicant presentation
3. Public hearing
4. Applicant response
5. Staff response and summary
6. Action by the Board of Adjustment

**VII. REPORTS/ANNOUNCEMENTS**

A. Updates from City Council

**VIII. ADJOURNMENT**

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989

**CERTIFICATION**

*I certify that a copy of the November 3, 2015, Board of Adjustment & Building Board of Appeals agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.*

A handwritten signature in black ink that reads "Rachel Roberts". The signature is written in a cursive, flowing style.

Rachel Roberts, Board Secretary



## **STAFF REPORT TO THE BOARD OF DIRECTORS**

---

**Date:** November 3, 2015

**Agenda Item No:** MINUTES APPROVAL - A.

---

**I. Subject:**

Consider approval of minutes from July 7, 2015 Board of Adjustment meeting.

**II. Originated by:**

Katherine Rountree, Permits Clerk

**III. Summary:**

Consider approval of minutes from July, 7 2015 Board of Adjustment meeting.

**IV. Recommendation:**

Approve

**V. Alternative Actions:**

**VI. Attachments:**

|    |                        |                                   |
|----|------------------------|-----------------------------------|
| 1. | 07.07.2015 BOA Minutes | 07.07.2015 BOA Minutes Final.docx |
|----|------------------------|-----------------------------------|

**BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS**  
**MINUTES**  
**REGULAR MEETING**  
**July 7, 2015**  
**CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**  
**REGULAR SESSION - 7:00 PM**

**I. CALL TO ORDER**

Mr. Vader called the meeting to order at 7:00 PM

**II. ROLL CALL**

|          |                   |
|----------|-------------------|
| Present? | Commissioner      |
| X        | Brian Cassady     |
| X        | Jeff Madrid       |
| X        | Patrick Vader     |
| X        | Martin Young      |
|          | <i>Alternates</i> |
| X        | Jeff Nevarez      |
|          | Lana Sather       |
|          | <i>Vacant</i>     |

A quorum was present.

Staff present: Sandra Johnson (building official); Katherine Rountree (board secretary); Charles Comeaux (code enforcement officer); Rachel Roberts (city planner).

Mr. Nevarez was asking to serve as a regular member of the board for this meeting.

**III. SWEARING IN OF SPEAKERS**

Ms. Roberts swore in those who wished to speak.

**IV. MINUTES APPROVAL**

**A. Consider approval of minutes from June 2, 2015 Board of Adjustment meeting.**

Mr. Madrid motioned to approve the minutes. The motion was seconded by Mr. Nevarez and passed with all in favor.

**V. VISITOR/CITIZENS FORUM**

No one registered to speak.

**VI. REGULAR ITEMS**

- A. CASE # BOA 15-01** to receive comments and consider action on a request by Anthony Taiwo for a variance to City Code Section 17-405 Zoning Districts Generally, sub-section (d)(j), requiring a swimming pool to be located at least eight feet from the main building. The variance is requested for 305 Autumnwood Ct, more particularly described as Winding Creek Estates Block 1 Lot 15.

**1. Staff Presentation**

Ms. Roberts said that the space requirements for pools are generally eight (8) ft. from the property line. She said that there is an unusual limited space for a swimming pool at this location. Ms. Roberts went over the certain conditions and standards that the applicant must meet to be granted a variance. Ms. Roberts said the property has special conditions different from other properties in R-3 subdivisions that prevented the applicant from being able to build a pool..

## **2. Applicant Presentation**

Anthony Taiwo, 305 Autumnwood Ct, said that the pool will be about two feet from the house. Mr. Taiwo's representative from Kingsway Pools answered and said there will be drains to prevent the water from reaching the foundation of the home and that the patio cover will be about 13 feet from the pool.

## **3. Public Hearing**

Gary Swan, 302 Autumnwood Ct, did not wish to speak but wished to register the written opinion that he did not have any issues with the pool being put in.

John Desilva, 311 Autumnwood Ct, did not wish to speak but wished to register the written opinion that he did not have any issues with the Taiwos building a pool. He wrote that they were excited about building a pool when building their new home.

## **4. Applicant Response**

There was no applicant response.

## **5. Staff Response and Summary**

Staff recommended approval.

## **6. Motion by the Board of Adjustment.**

Mr. Madrid motioned to approve the request for a variance. The motion was seconded by Mr. Cassady and passed with all in favor.

## **VII. REPORTS/ANNOUNCEMENTS**

Ms. Roberts stated that Chairman Adams has moved to a different city and will no longer be the Chairman of the board.

## **VIII.ADJOURNMENT**

Mr. Vader adjourned the meeting.

The meeting adjourned at 7:14 PM



## STAFF REPORT TO THE BOARD OF DIRECTORS

---

**Date:** November 3, 2015

**Agenda Item No:** MINUTES APPROVAL - B.

---

**I. Subject:**

Consider approval of minutes from October 6, 2015 Board of Adjustment meeting.

**II. Originated by:**

Katherine Rountree, Permits Clerk

**III. Summary:**

Consider approval of minutes from October 6, 2015 Board of Adjustment meeting

**IV. Recommendation:**

Approve

**V. Alternative Actions:**

**VI. Attachments:**

|    |                        |                                   |
|----|------------------------|-----------------------------------|
| 1. | 10.06.2015 BOA Minutes | 10.06.2015 BOA Minutes Final.docx |
|----|------------------------|-----------------------------------|

**BOARD OF ADJUSTMENT & BUILDING  
BOARD OF APPEALS  
MINUTES  
REGULAR MEETING  
October 6, 2015  
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL  
DRIVE REGULAR SESSION - 7:00 PM**

**I. CALL TO ORDER**

Mr. Vader called the meeting to order at 7:02 PM.

**II. ROLL CALL**

|          |                   |
|----------|-------------------|
| Present? | Commissioner      |
| X        | Brian Cassady     |
|          | Jeff Madrid       |
| X        | Patrick Vader     |
| X        | Martin Young      |
|          | <i>Alternates</i> |
| X        | Jeff Nevarez      |
| X        | Lana Sather       |
|          | <i>Vacant</i>     |

There was a quorum.

Mr. Nevarez and Ms. Sather were asked to join the board as regular members.

Staff Present: Rachel Roberts (city planner); Katherine Rountree (board secretary)

**III. SWEARING IN OF SPEAKERS**

Ms. Rountree swore in those who wished to speak.

**IV. MINUTES APPROVAL**

The minutes from the previous meeting were not yet available for the board to consider.

**V. VISITOR/CITIZENS FORUM**

No one signed up to speak.

**VI. REGULAR ITEMS**

**A. Case # BOA 15-06** to receive comments and consider action on a request by Pet Buddies LLC dba Camp BowWow Kennedale for a Special Exception as required by City Code Section 17-421, Schedule of uses and off-street parking requirements, to allow a kennel/dog day care in a "C-2" General Commercial zoning district at 340 Bolen Rd, more particularly described as A & A Addition Block 1 Lot 1A.

**1. Staff presentation**

Ms. Roberts described the land uses in the area surrounding the site. She went over the six minimum standards required for a special exception. She said the business will control the noise from the pets and that the business has standards on discarding pet waste properly. She recommended approval with conditions.

## **2. Applicant presentation**

Staci Copeland located at 1336 Sunset Circle, Cedar Hill, TX, went over a presentation for the board. Mr. Cassady asked if there was going to be an overnight staff person and Ms. Copeland said there would not since the dogs would be asleep and if there was a person present, they would stay awake. Mr. Vader asked about egress and access to and from the property. Ms. Copeland said the franchisor usually looks to be in an industrial zoning.

## **3. Public hearing**

No one signed up to speak.

## **4. Applicant response**

There was no public hearing and no applicant response.

## **5. Staff response and summary**

Staff recommends approval with the following conditions:

1. If an 8 ft. high fence is not installed at the time of development, an 8 ft. fence will be installed at the request of city staff if noise complaints from nearby property owners or tenants are made.
2. No dogs shall be left outside unattended by Camp BowWow staff.
3. No dogs shall be permitted to remain outside overnight.
4. Pet waste containers shall be emptied by a commercial waste removal company at least once per week.
5. Outdoor areas shall be "poop scooped" at least once per day, with waste material disposed of in appropriate waste receptacles that limit odor and other nuisances.
6. Apply brick on the face of the entrance of the building.

## **6. Board determination**

Mr. Cassady motioned to approve with the conditions listed above. The motion was seconded by Mr. Nevarez and passed with all in favor.

## **VII. REPORTS/ANNOUNCEMENTS**

Saturday, Oct 17<sup>th</sup>, the Beginners Bird Identification Workshop will be held.

Saturday, Oct. 24<sup>th</sup> from 9:00 AM – 11:00 AM will be the Bring It recycling program.

Saturday, Oct. 24<sup>th</sup> starting at 5:00 PM will be the Trunk or Treat program.

Monday, Oct 12<sup>th</sup> at 6:00 PM, the city's consultants are having a public forum for the zoning code update and there will be an opportunity to speak with the consultants.

## **VIII. ADJOURNMENT**

Mr. Young motioned to adjourn the meeting. The motion was seconded by Ms. Sather and passed with all in favor.

The meeting adjourned at 7:33 PM.



## STAFF REPORT TO THE BOARD OF DIRECTORS

---

**Date:** November 3, 2015

**Agenda Item No:** REGULAR ITEMS- A

---

**I. Subject:**

**BOA 15-07** to receive comments and consider action on a request by Sterling Adams for a Special Exception as required by City Code Section 17-421, *Schedule of uses and off-street parking requirements*, to allow a salvage yard in an "I" Industrial District at 7002 E Kennedale Parkway, more particularly described as Wade H Hudson Survey A 716 Tract 3C2A, 3D1A & 3D2.

1. Staff presentation
2. Applicant presentation
3. Public hearing
4. Applicant response
5. Staff response and summary
6. Action by the Board of Adjustment

**II. Originated by:**

Rachel Roberts, City Planner

**III. Summary:**

### **Background and Overview.**

**Request:** Special exception to operate a salvage yard

**Applicant:** Sterling Adams of Apple Auto Salvage

**Location:** 7002 E Kennedale Pkwy (south end of Kennedale Pkwy)

**Surrounding uses:** commercial, industrial, and residential uses (described below)

This property is zoned Industrial. According to the business license applications on file, the business has been in operation since at least 2001, and the owner says the business has been at this location since 1987 (see attached business license application). The first special exception for a salvage yard at this location was granted in 2002; an additional special exception was granted in October 2005 for a period of ten years.

### **Analysis.**

The special exception is a tool that allows a city to determine where and when a particular use is suitable. The tool is especially useful for governing placement of more intensive uses that may not always be compatible with surrounding areas. Kennedale's city code requires a special exception for any business owner wanting to operate a salvage yard in an Industrial zoning district.

### **Standards for granting a special exception.**

No application for a special exception shall be granted by the board of adjustment unless the board finds all of the conditions described below are present.

|                     |                                                                                                                                                                                                |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard (1)</b> | <b>The board must find that the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare.</b> |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Mr. Adams' application should demonstrate that the salvage yard does not have a negative on the public health, safety, or general welfare. Potential elements of a salvage yard operation that could affect general welfare include (but are not limited to) the following.

- Noise
- Light
- Pollution (in soil, air, or storm water)
- Crime (e.g., salvaging stolen cars)

*Noise.* City staff has not observed noise levels in excess of city code and have not received complaints from neighbors. The business closes by 6 PM daily. However, this does not necessarily mean that the operation does not produce excessive noise. The applicant should describe to the board how the operations at Apple Auto Salvage do not generate excessive noise.

*Light.* Apple Auto Salvage has businesses on either side of it. Residential is nearby to the rear, but light from this site is most likely blocked effectively by the landscaping along the side property lines and by the tall stacks of cars along the rear property line (see attached pictures).

*Pollution.* Staff is not aware of any violations documented by the Texas Commission on Environmental Quality. However, there are many opportunities for pollution from a salvage yard. At this site, fluids are drained from vehicles on a concrete surface, but the work area is open on three sides and does not appear to have drains for catching spills. The applicant should speak to how his operation prevents contamination of soil, air, or water.

*Other hazards.* The kinds of materials and chemicals that can be present at a salvage yard present a potential for fire or explosions, with the potential to affect persons and property within a half-mile radius (see attached handout from the EPA). However, Kennedale's fire chief is not concerned about fire on this property spreading to surrounding properties.

*Crime.* The police department does not know of any theft or other crime associated with Apple Auto.

|                     |                                                                                                                                                                                                                       |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard (2)</b> | <b>The board must find that the requested use will not impair or diminish the establishment, maintenance, or operation of, or use, values, or enjoyment of other property in the neighborhood for these purposes.</b> |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*This would include continuance of existing uses as well as establishment of uses that don't exist now but are already permitted in the district.*

Existing uses in the vicinity of Apple Auto Salvage:

Salvage yards— The existing salvage yards adjacent to Apple Auto are not likely to be impaired by the continued operation of the business.

Other businesses in the vicinity— Other businesses are a combination of commercial and industrial uses, including an auto repair business, a restaurant, and a feed store.

Neighborhood (mobile home)— Generally, salvage yards are not suitable to be located next to an existing neighborhood. A salvage yard could easily impair or diminish the use and enjoyment of a residential neighborhood. Fortunately, as shown on the attached map, another property buffers this site from the neighborhood, decreasing Apple Auto Salvage's potential to impact the residents of Danny Drive. But to ensure the residents will not be affected, Mr. Adams should establish how his operation will not or has not impaired the use of existing residences on Danny Drive.

|                     |                                                                                                                                                                                                               |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard (3)</b> | <b>The board must find that the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.</b> |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*Would the requested use be likely to impede the development and improvement of surrounding property for uses already permitted in the area but that don't exist there now? Would it impede improvement of property for existing uses?*

The area surrounding Apple Auto Salvage is zoned primarily for light industrial use, rather than more heavy industrial uses such as salvage yards. Permitted light industrial uses include, but are not limited to: commercial bakery, distribution center, electrical components manufacturing, ice cream plant, machine shop, pottery manufacturing, warehouse, and welding shop. Some light industrial uses (especially those that do not depend on customers visiting their facilities) would be willing to locate near a salvage yard. Those with clients who visit their facilities or that prefer a more commercial-looking environment might object to being located near a use with such a heavy industrial character.

Some commercial uses are also permitted in the Industrial zoning district. Some commercial businesses--such as auto parts stores--would most likely not consider a salvage yard as an impediment to setting up shop in this area, but, according to information from the Kennedale Economic Development Corporation, it has been an obstacle to business recruitment, with several potential businesses expressing concern about the proximity of salvage yards.

In addition, as mentioned above, one of the properties near Apple Auto Salvage is a residential neighborhood. Some of the property owners in this neighborhood have said they would like their part of the community to be cleaned up and that they dislike having so many commercial/industrial businesses located so closely. The presence of a salvage yard so nearby has the potential to inhibit the orderly improvement of the neighborhood. Therefore, while the presence of a salvage yard will not necessarily impede the normal and orderly development and improvement of surrounding property, it has the potential to do so. Development of surrounding properties depends on how a salvage yard in this area is operated and also on the public perception of the effect of salvage yards. Mr. Adams should provide information to the board about how his salvage yard will not impede the normal and orderly development of the surrounding properties for the uses permitted in the district.

|              |                                                                                                                                            |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Standard (4) | The board must find that adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided. |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------|

#### *Utilities*

The property is served by the city water system and by a grandfathered septic system, so adequate utilities are provided at this time.

#### *Drainage*

To ensure the property has adequate storm water drainage facilities in place, the storm water coordinator has requested the applicant provide copies of any reports from inspections made by the storm water inspectors at the Texas Commission for Environmental Quality or by consulting inspectors and also that the applicant provide a copy of the business's Storm Water Pollution Prevention Plan for the City's files.

#### *Other site improvements*

As the board will see in the attached pictures, a travel lane for vehicles is provided throughout the outside storage area. The lane is not paved, however, and is blocked in some places by junked vehicles. It appears as though the storage area (including but not limited to the travel/ fire lane) once had a more appropriate road base, but this base has worn down over time and is now like a more sand-like material. A previous special exception was granted with the condition that "adequate topping material" be used on site. This requirement is vague, and staff does not have any information that would confirm whether gravel or similar road base was considered adequate.

For the special exception granted to AB's (a neighboring salvage yard) earlier this year, the board required that the fire lane be paved. After meeting with AB's owner, however, fire department staff determined that the material in use for the fire lane was sufficient. Planning staff's concern with allowing a non-concrete or non-asphalt material to be used is that these other materials require more maintenance over time and can become an enforcement problem. However, if an alternative road base would be approved by the fire department, the board may want to continue permitting it to be used in this case.

If the board grants the requested special exception, staff recommends that the board require the travel lane in the vehicle storage area be designated as a fire lane and be kept clear of any obstructions. Staff also recommends the board require the applicant to install a material approved by the fire department (but a minimum standard of hard-packed gravel) and that the fire department be required to make annual inspections of the fire lane. If the fire lane or the storage area topping materials are not maintained according to fire department and permit department standards, the business would be considered in violation of its special exception.

#### *Parking lot*

The customer parking lot also does not meet current city codes, as it is not paved with asphalt or concrete. If the business opened in 1987, the parking lot at that time would not have been required to be paved, but a paved (asphalt or concrete) surface is preferred because it will not create contaminated runoff with sediments such as rock, gravel, sand and mud that can block the storm water drainage system or cause contamination of waterways. Public Works staff request that the customer parking lot be required to be paved (asphalt or concrete) if a special exception is granted.

|                     |                                                                                                                                                                                |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard (5)</b> | <b>The board must find that adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.</b> |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*"Adequate measures" would include adequate drive approach, deceleration lane if needed, etc.*

Public Works staff does not have concerns about traffic congestion due to this use.

|                      |                                                                                                                                                                                                                         |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard (6).</b> | <b>The board must find that the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.</b> |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*Area, yard, height, lot coverage, building size, and exterior requirements*

The Industrial zoning district does not have a minimum requirement for lot area or building size and has no masonry requirement. The Business 287 overlay district does have a masonry requirement, but the existing building was already built before that regulation was adopted and is not been required to comply.

*Parking space regulations*

In terms of parking space regulations, because the parking lot is unpaved, it is difficult to tell if enough parking is provided. However, based on the number of parking stops provided, staff considers the number of spaces to be adequate, even if the parking surface is not. Staff estimates that approximately 21 spaces are needed based on the parking requirements for the industrial and retail components, and 21 spaces are provided.

*Additional requirements of the zoning district*

The Business 287 overlay district regulations require that "Outside storage, salvage, and/or scrap shall not be stacked, accumulated, kept, or otherwise placed above the solid fence or wall" required by the overlay district. The regulations are not limited to the fence facing the street in front of the business but instead apply to all fence lines around the property. As shown in the attached photographs, the vehicles stacked along the back and sides (toward the back) of the lot are stacked well above the fence line, which is a violation of the overlay district regulations.

The business is holding the vehicles in storage until the price of metal goes up. Staff does not want to deprive the business of income from these vehicles, but safety is a higher concern for the city. Staff does not object at this time to vehicles being stacked above the fence line in the back of the property where landscaping (i.e., trees) block the view of the cars from other properties, but a height limit should be imposed.

### **Staff Recommendation**

If the special exception is granted this time, staff recommends allowing the applicant to continue to use gravel for outside storage with the following additional conditions:

- Graveled areas must be maintained in good condition, with adequate gravel fill in place at all time.
- No outside storage shall be permitted on grass or other areas that are unpaved or without gravel.

- The business shall submit a site plan to the city for review, designating areas to be reserved as a fire lane, and with the approved fire lane to be paved as described above (a minimum of hard-pack gravel and required annual inspections).
- If vehicles are allowed to be stacked higher than the fence, the board should place a maximum height limit so that the intent of the code can be met, even if the strict letter of the code is not followed.

### **Recommended conditions**

If the special exception is granted, staff recommends the following elements be conditions of approval, in addition to the conditions applied as part of previous special exceptions granted for this location.

1. The special exception shall be granted for a maximum of four (4) years, to expire in May 2019.
2. The applicant shall submit a site plan to the city, subject to review and approval of city staff, designating a fire lane meeting city standards. The fire lane shall be paved within six (6) months of the date the special exception is granted with a suitable road base as described in the staff report (minimum of hard-packed gravel) and must be maintained in good condition at all times.
3. Outdoor storage areas must be maintained in good condition, with adequate gravel fill in place at all times. No storage shall be permitted on grass or other areas that are unpaved or without gravel cover.
4. Stacked vehicles stored onsite shall not exceed a maximum height to be determined by the fire department.
5. The customer parking area must be paved with asphalt or concrete within one year of the date the special exception is granted.
6. The business must comply with all applicable TCEQ and EPA regulations.

### **Action by the Board of Adjustment.**

- The board can approve the request, deny the request, or approve it with conditions.
- You may also postpone/continue the case until a later date, but you must specify when the case will be continued.
- If you approve or deny the request, your motion should state why you are doing so (i.e., it meets all standards for a special exception, it doesn't mean the standard concerning ..).

Sample motions are provided below for your reference; please note that you are not required to use one of the sample motions.

#### Approve without conditions or time limits

I find that the use meets the standards and requirements for a special exception and make a motion to grant the request.

#### Approve with conditions

I find that the use will meet the standards for a special exception with the addition of conditions to secure compliance with the standards and requirements of Section 17-422 of the city code and make a motion to approve the request for a special exception (NOTE TO BOARD: if you would like to set a time period after which the special exception expires, state that time period here), with the following conditions...

#### Deny

I find that the use does not meet the standards and requirements for receiving a special exception (NOTE TO BOARD: state which standards or requirements haven't been met) and make a motion to deny the request for a special exception.

### **Special Exception history**

This business has been in operation since 1987 (the business provided 1987 as the business start date on a business permit application).

#### **History:**

- Granted in 2002 for two years.
- Reviewed in June 2004, found in compliance. No action was taken by the board.
- Granted in October 2005 for ten years.

### **Conditions applied to previous special exceptions**

- (1) All City Codes, Business 287 Overlay Ordinances, and Texas Transportation code must be met.
- (2) Must meet all landscaping requirements after completion of the widening of Highway 287.
- (3) An approved topping material to be installed within six months (of April 2002).

### **VI. Attachments:**

|    |                                 |                                                        |
|----|---------------------------------|--------------------------------------------------------|
| 1. | BOA 15-07 application           | BOA 15-07 application.pdf                              |
| 2. | Map of site (BOA 15-07)         | BOA 15-07 map of site.pdf                              |
| 3. | Aerial view (1 in = 125 ft)     | BOA 15-07 aerial (1 in equals 125 ft) (compressed).pdf |
| 4. | Aerial view (1 in = 229 ft)     | BOA 15-07 aerial (1 in equals 229 ft) (compressed).pdf |
| 5. | Pictures -- fire lane           | Fire lane pictures.pdf                                 |
| 6. | Pictures -- stacked cars        | Stacked cars.pdf                                       |
| 7. | EPA handout on salvage yards    | EPA handout -- salvage yards.pdf                       |
| 8. | Apple Auto bus. lic. appl. 2001 | Apple Auto business license appl 2001.pdf              |



|                                           |
|-------------------------------------------|
| RECEIVED<br>sept OCT 00 2015<br>BY: _____ |
|-------------------------------------------|

|                                                                                      |
|--------------------------------------------------------------------------------------|
| RECEIVED<br>SEP 08 2015<br>Kountze<br>APPLICATION FOR SPECIAL EXCEPTION<br>BY: _____ |
|--------------------------------------------------------------------------------------|

BoA 15-07

Special Exception Use Requested: \_\_\_\_\_

Junk Yard Salvage yard

Note: the use must be listed as a special exception use in Kennedale City Code Section 17-421.

## Applicant

|                                                 |                                                      |
|-------------------------------------------------|------------------------------------------------------|
| NAME: Sterling Adams                            |                                                      |
| PHONE: 817 478 4451<br>817-319-2628             | EMAIL OR ALTERNATE PHONE:<br>tina.adams@maus.uta.edu |
| MAILING ADDRESS:<br>(Street) 7301 Mansfield Hwy |                                                      |
| (City, State, Zip Code)<br>Kennedale, Tx 76060  |                                                      |

## Property for which a Special Exception is requested

|                                                                                     |
|-------------------------------------------------------------------------------------|
| ADDRESS: 7002 E Kennedale Pkwy                                                      |
| LEGAL DESCRIPTION:<br>HUDSON, WADE H Survey Abstract: 716 Tract: 3e2a<br>3D1A + 3D2 |

NOTE: Attach metes and bounds description if property is not platted.

## Property Owner

|                                                 |                                           |
|-------------------------------------------------|-------------------------------------------|
| NAME: Sterling Adams                            |                                           |
| PHONE: 817 478 4451                             | EMAIL OR ALTERNATE PHONE:<br>817 319 2628 |
| MAILING ADDRESS:<br>(Street) 7301 Mansfield Hwy |                                           |
| (City, State, Zip Code)<br>Kennedale, Tx 76060  |                                           |

1. Has a previous application or appeal been filed on this property? ☒ Yes ☐ No

1.a. If yes, when was the application or appeal filed? ~~2003~~ 2004 10 years

2. Identify any requirements of Section 17-422 of the Kennedale city code that cannot be met. Give reason(s) why the requirement(s) cannot be met. Use the back of this form or attach a separate page if additional space is needed.  
☐

3. If the special exception request is for a land use, is the request for a use not allowed in the zoning district?  
☐ Yes ☐ No

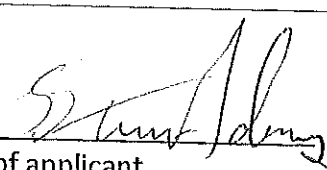
3.a. Is this a remodel of an existing structure? ☐ Yes ☐ No

3.b. Is this new construction? ☐ Yes ☐ No

4. If the special exception request is for oil or gas well drilling, how many wells are requested for this location? ☐

5. Special exceptions may be granted by the Board of Adjustment only if all of the conditions listed on the Notice to Special Exception Applicant are present.

On a separate page(s), please describe how your requested use will meet all of the six conditions stated above.

  
Signature of applicant

9-2-15  
Date

No application for a special exception shall be granted by the board of adjustment unless the board finds all of the following conditions are present:

(1)

That the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare;

RESPONSE: At Apple Auto Salvage we take care to make sure the general public are not at risk of endangerment to their health, safety, morals or general welfare. We are in compliance with all laws, regulations, and ordinances that are relevant to this issue. Other than helping the environment by aiding in recycling efforts, we strive to provide the best customer service that is possible. We take pride in helping the members of the community find cheaper alternatives to buying new parts. The maintenance and operation of this establishment is not materially detrimental to nor does it endanger the public health, safety, morals or general welfare.

(2)

That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use;

RESPONSE: This establishment and the maintenance or operation thereof, does not impair or diminish the uses, values and enjoyment of other properties in the area. We are neighbored by other salvage yards and recyclers and Mechanic shops, some of which have been in operation for more than 15 years. Apache Foreign, Jazz Automotive, and Hawk Steel are nearby businesses with similar interests as AAS. Only friendships and good relationships have been built within our neighborhood.

3)

That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

RESPONSE: The operation of this facility does not and will not impede the development and improvement of the surrounding property. All operations that are carried out at this facility are permitted within the district. The properties to the north and south have successfully carried out improvements to their property without obstruction from AAS.

(4)

That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;

RESPONSE: According to the ordinances set forth by the city of Kennedale, all necessary site improvements have been made. Adequate utilities, access roads and drainage are being provided.

(5)

That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and

RESPONSE: Adequate measures have been taken to provide ingress or egress so as to minimize traffic congestion in the public streets. Following our last special exemption meeting the highway was widened and our driveway was changed for the purpose of minimizing traffic congestion in the streets.

(6)

That the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.

RESPONSE: This use conforms to all applicable area, yard, height, lot coverage, building size and other requirements and regulation of the district in which it is located. The size, shape, location of the building and property has not been altered since it was established in 1986.

**CITY OF KENNEDALE**  
**ANNUAL BUSINESS PERMIT APPLICATION FOR 2001**

Apple Auto Salvage  
BUSINESS NAME

(817) 478-4899  
BUSINESS PHONE #

7002 Mansfield Hwy.  
BUSINESS (PHYSICAL) ADDRESS

MAILING ADDRESS (IF DIFFERENT FROM ABOVE)

Tx. 04317298  
TEXAS DRIVER'S LICENSE #

75-1857570  
TAX ID. #

Stirling Adams 6401 Pennsylvania Ave Kennedale, Tx.  
BUSINESS OWNER(S) NAME & ADDRESS

Stephen Adams P. 8032 Pinewood Dr, Benbrook, Tx. 76116  
BUSINESS MANAGER(S) NAME & ADDRESS

Salvage yard- New and used auto parts  
BUSINESS DESCRIPTION AND NATURE OF PRODUCT SOLD

CIRCLE ONE: RETAIL WHOLESALE MANUFACTURING HOME OCCUPATION OTHER

87 to present - and beyond  
DATE OF COMMENCEMENT AND LENGTH OF DURATION

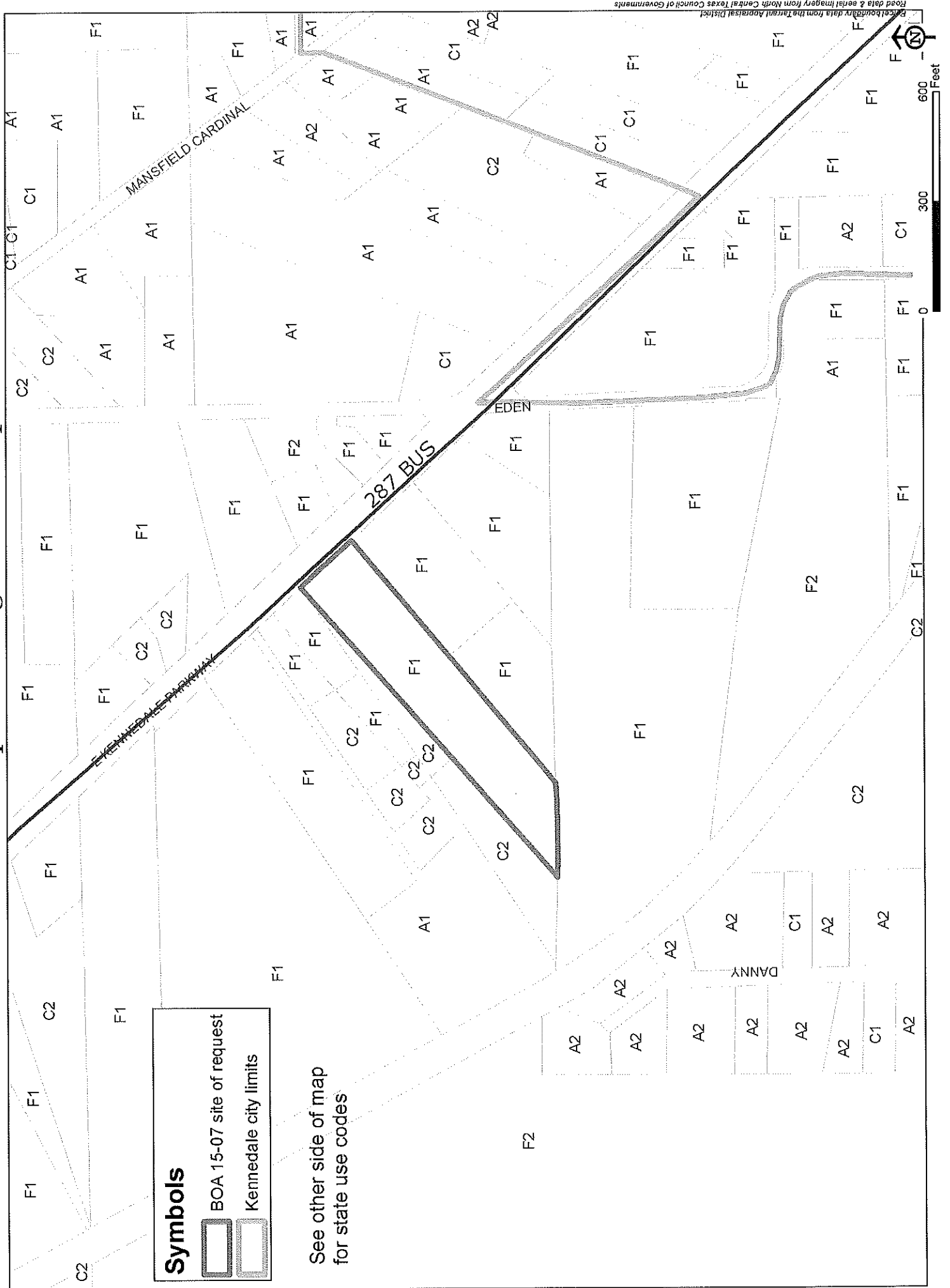
Per Section 11-41 of the City Code, it is unlawful to operate any business, whether retail, wholesale, manufacturing, home occupation or otherwise, from any premises within the City, without having first acquired a Permit from the City of Kennedale. Permits are renewable annually and serve to register a Business with the City and, as such, do not in any way interfere, pre-empt or conflict with any regulations or requirements to State or Federal Licenses which certain types of Businesses may be required to obtain. After providing the information above, please return this form along with your \$10.00 Permit fee to:

CITY OF KENNEDALE  
PERMITS/CODE ENFORCEMENT DEPARTMENT  
ATTENTION: CHRISSY FOLEY  
209 NORTH NEW HOPE ROAD  
P. O. BOX 268  
KENNEDALE, TEXAS 76060

2001 BUS.LIC. #1532  
pd 2-12-01  
CHK #3836

Upon receipt of this form and fee, your Business Permit will be mailed to you. Businesses not Permitted within 21 days of receipt of this notification will be issued a Citation and a fine of up to \$200.00. If you have closed business or moved out of the city, please advise on this application and return.

# BOA 15-07: Map Showing Site of Request



## STATE USE CODES

| <b>A RESIDENTIAL</b> |                                |
|----------------------|--------------------------------|
| <b>A1</b>            | Single-Family                  |
| <b>A2</b>            | Mobile Homes                   |
| <b>A3</b>            | Condominiums                   |
| <b>A4</b>            | Townhomes                      |
| <b>A5</b>            | Planned Unit Development (PUD) |
| <b>A9</b>            | Interim use                    |

| <b>B RESIDENTIAL</b> |              |
|----------------------|--------------|
| <b>B1</b>            | Multi-Family |
| <b>B2</b>            | Duplex       |
| <b>B3</b>            | Triplex      |
| <b>B4</b>            | Quadraplex   |

| <b>C VACANT PLATTED LOTS/TRACTS</b> |                              |
|-------------------------------------|------------------------------|
| <b>C1</b>                           | Residential                  |
| <b>C2</b>                           | Commercial                   |
| <b>C3</b>                           | Rural                        |
| <b>C6</b>                           | Vacant Exempt (Right-of-Way) |

| <b>D ACREAGE</b> |             |
|------------------|-------------|
| <b>D1</b>        | Ranch Land  |
| <b>D2</b>        | Timberland  |
| <b>D3</b>        | Farmland    |
| <b>D4</b>        | Undeveloped |

| <b>E FARM/RANCH</b> |                             |
|---------------------|-----------------------------|
| <b>E1</b>           | House + Limited Acres       |
| <b>E2</b>           | Mobile Home + Limited Acres |
| <b>E3</b>           | Other Improvements          |

| <b>F COMMERCIAL/INDUSTRIAL</b> |            |
|--------------------------------|------------|
| <b>F1</b>                      | Commercial |
| <b>F2</b>                      | Industrial |
| <b>F3</b>                      | Billboards |

| <b>G OIL/GAS/MINERAL RESERVES</b> |                          |
|-----------------------------------|--------------------------|
| <b>G1</b>                         | Oil/Gas/Mineral Reserves |

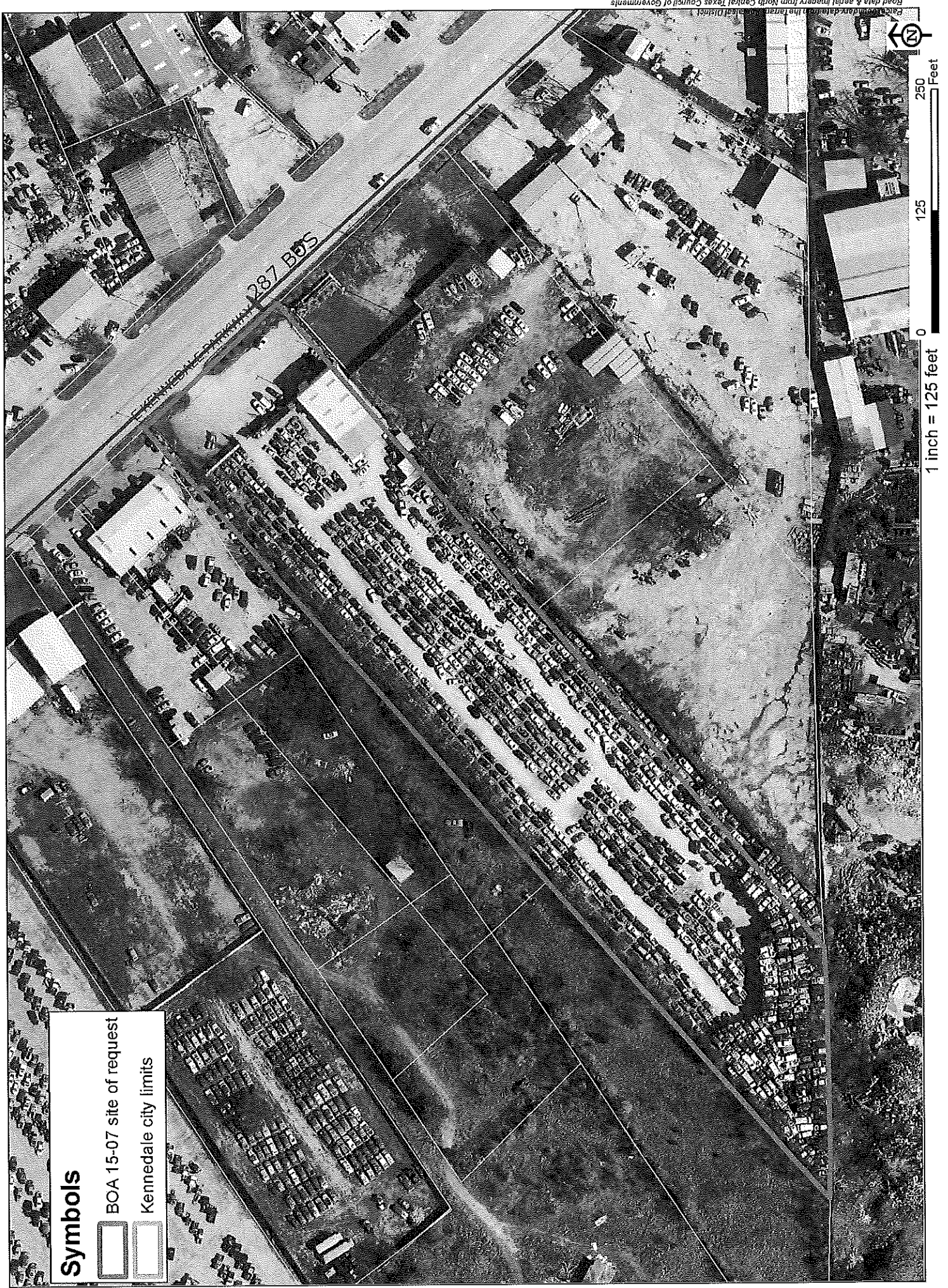
| <b>J UTILITIES</b> |                     |
|--------------------|---------------------|
| <b>J1</b>          | Water Systems       |
| <b>J2</b>          | Gas Companies       |
| <b>J3</b>          | Electric Companies  |
| <b>J4</b>          | Telephone Companies |
| <b>J5</b>          | Railroads           |
| <b>J6</b>          | Pipelines           |
| <b>J7</b>          | Cable Companies     |
| <b>J8</b>          | Other               |

| <b>L COMMERCIAL/INDUSTRIAL</b> |                |
|--------------------------------|----------------|
| <b>L1</b>                      | Commercial BPP |
| <b>L2</b>                      | Industrial BPP |

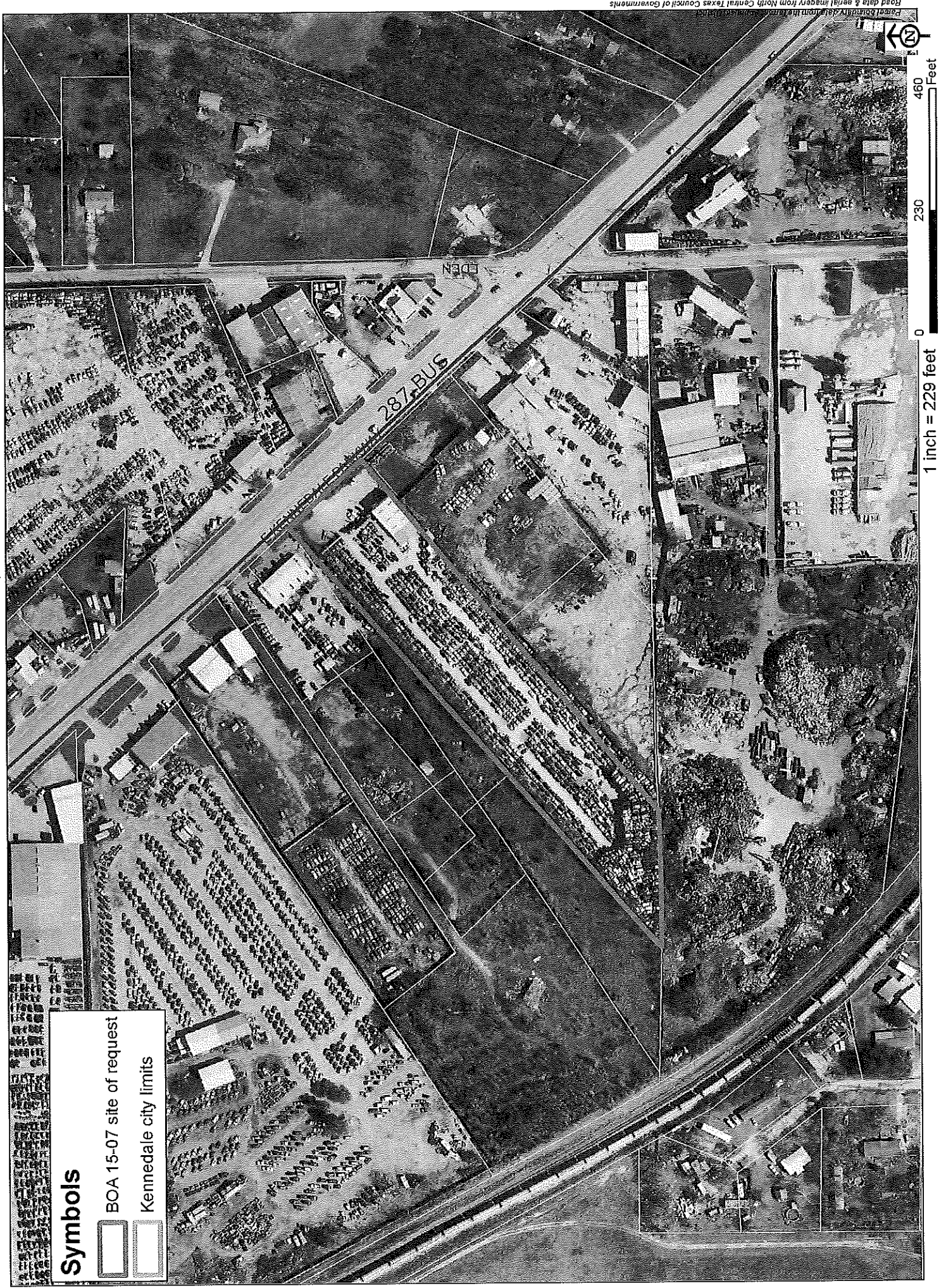
| <b>M MOBILE HOMES</b> |                   |
|-----------------------|-------------------|
| <b>M2</b>             | Private Aircraft  |
| <b>M3</b>             | Mobile Home       |
| <b>M4</b>             | Other Tangible PP |

| <b>O RESIDENTIAL INVENTORY</b> |          |
|--------------------------------|----------|
| <b>O1</b>                      | Vacant   |
| <b>O2</b>                      | Improved |

BOA 15-07: Aerial view (1 in = 125 ft)

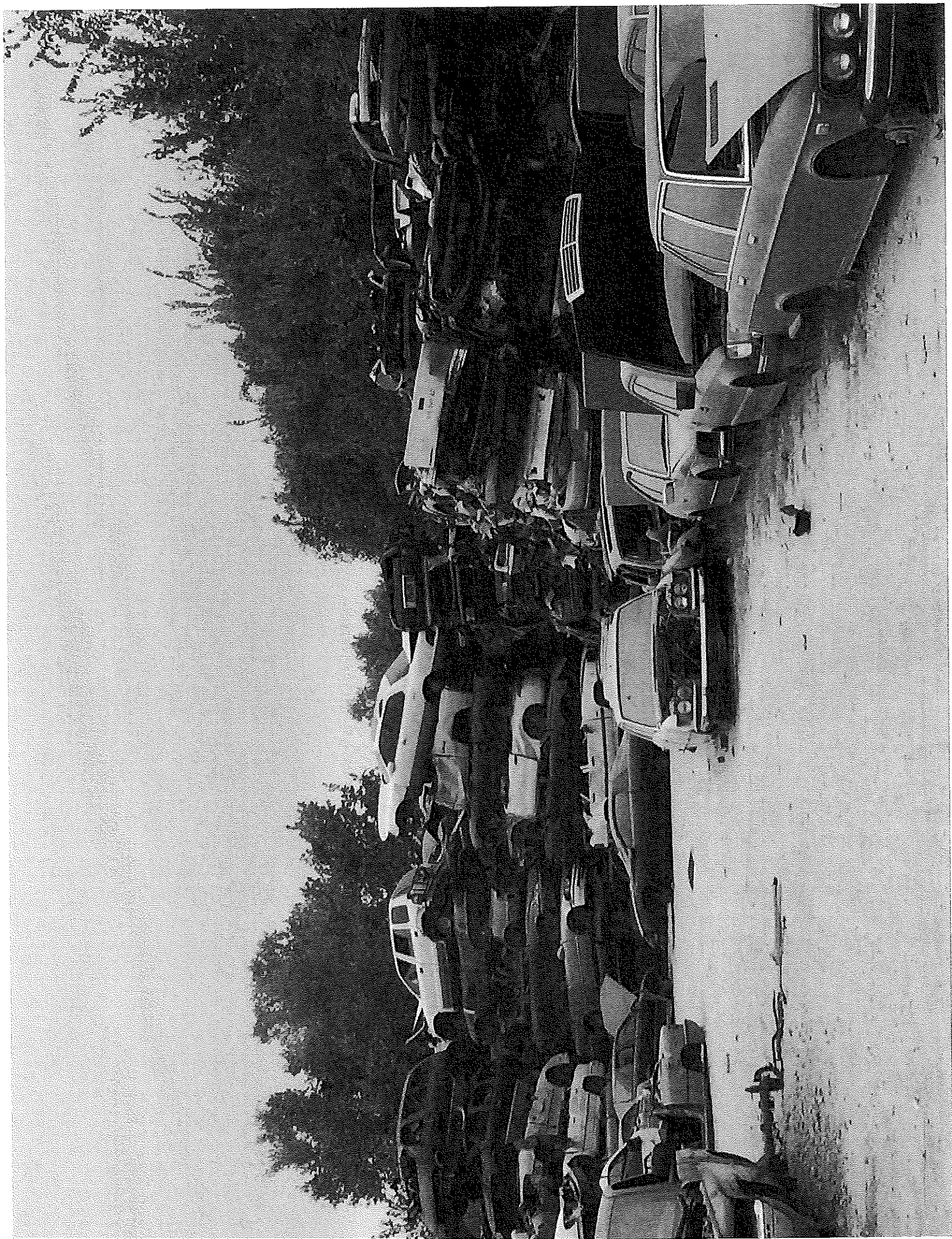


BOA 15-07: Aerial view (1 in = 229 ft)





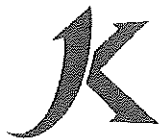












## **STAFF REPORT TO THE BOARD OF DIRECTORS**

---

**Date:** November 3, 2015

**Agenda Item No:** REPORTS/ANNOUNCEMENTS - A.

---

**I. Subject:**

Updates from City Council

**II. Originated by:**

**III. Summary:**

At the most recent City Council meeting, the Council appointed a new member to the board to fill the vacant position of chair. John Clark will be the new chair of the board. The Council also made board appointments. The Council also approved changes to various city policies (e.g., purchasing policy, fraud policy, unclaimed property policy, etc)

The Council selected Halff Associates to help the City prepare a grant application through FEMA for participation in FEMA's Hazard Mitigation Grant Program. If the City is awarded it grant, we may be able to begin a voluntary buy-out program for several properties along Village Creek.

**IV. Recommendation:**

**V. Alternative Actions:**

**VI. Attachments:**