



IV.A.

690 Chesterfield Pkwy W • Chesterfield MO 63017-0760
Phone: 636-537-4000 • Fax 636-537-4798 • www.chesterfield.mo.us

Board of Adjustment Staff Report

Variance Type: Area or Bulk

Meeting Date: September 1, 2011

From: Aimee Nassif, AICP
Planning and Development Services Director

Location: 17550 Wild Horse Creek Rd.

Applicant: DLJ Chesterfield, LLC

Description: **B.A. 02-2011 17550 Wild Horse Creek Rd (DLJ Chesterfield, LLC):** A request for a variance from Section 1003.105.7.1(a) for Lot 2 of the Mary Schaeffer Estates Subdivision Adjustment Plat to allow a primary school to be operated on a 4.16 acre site in lieu of the 5.0 acre minimum lot size for primary schools. (18V610063)

PROPOSAL SUMMARY

DLJ Chesterfield, LLC is requesting a variance from the minimum lot size requirement for the “NU” Non-Urban District. The purpose of this area variance request is to locate and operate a primary school on a 4.16 acre lot in lieu of the 5.0 acre minimum required lot size established in Section 1003.105.7.1(a) of the Chesterfield City Code.

An application submitted by DLJ Chesterfield, LLC is attached hereto which includes an explanation of the above referenced request and statement of unnecessary hardship. Also attached for your reference is a copy of the letter officially rejecting an Application for a Re-Occupancy Permit sent by the Department on May 31, 2011.

SITE HISTORY AND EXISTING CONDITIONS

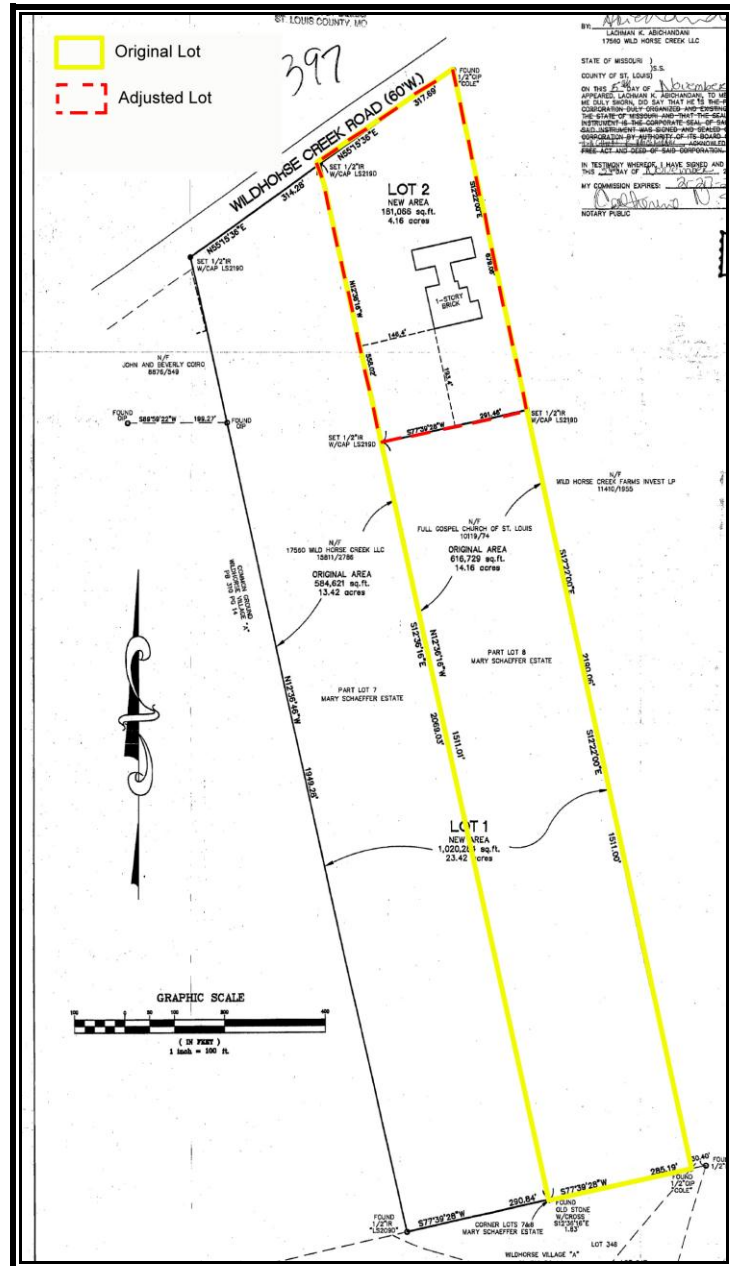
The subject site was originally zoned “NU” Non-Urban District by St. Louis County in 1965. According to St. Louis County records, and confirmed by the applicant’s application, the existing church on the property was constructed in 1986. At the time of construction, the subject site was 14.16 acres in size.

B.A. 02-2011
September 1, 2011

17550 Wild Horse Creek Rd
(DLJ Chesterfield, LLC)

In 2004 an application for a boundary adjustment plat was submitted and approved by the City of Chesterfield. This plat was recorded with the St. Louis County Recorder of Deeds on November 16, 2004 in Deed Book 352, Page 869. This plat consolidated 10 acres of the subject site into the property to the west.

Lot 2 as shown on the plat is the existing 4.16 acre parcel. The original 14.16 acre site was platted in 2004 into 2 lots and the larger, 10 acre lot, was sold.

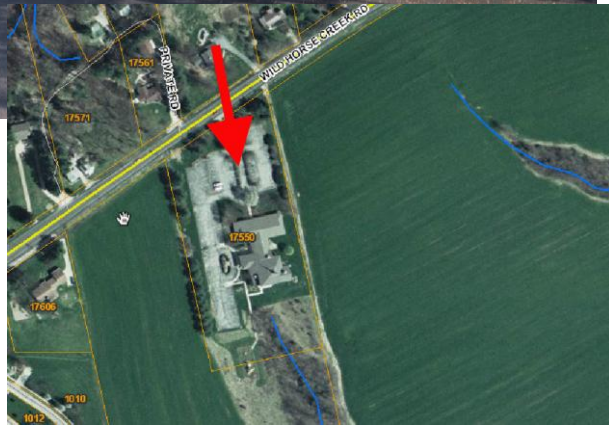


An Application for a Re-Occupancy Permit was submitted to the City of Chesterfield on May 18, 2011 for a school. The application stated the previous use of the site was a church and school and the proposed use was for a school also. **The City of Chesterfield had no records, documentation or other information stating that a school had ever been in operation at this site. Therefore, if a school was occupying the church site, it was being done without the proper permits or authorization from the City and was thereby an illegal use.** As the site did not meet the minimum lot size for a primary school (minimum of 5 acres), the application was denied. See Exhibit 6.

Below are photos of the site taken by Staff. The subject site, 17550 Wild Horse Creek Road, is shown below.



View of the front of the site



View of the rear of the property



View looking at the west side of the church



BOARD OF ADJUSTMENT POWERS AND RESPONSIBILITIES

In consideration of a request for a variance, the Board of Adjustment is required to follow State Statute and City Code requirements. **Missouri Revised Statute Chapter 89.090 requires that a Board of Adjustment may only grant variances when the applicant has established the necessary “practical difficulties or unnecessary hardship” and when “the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done”.**

In determining if a practical difficulty or unnecessary hardship has been established by the Applicant, the Board must determine if relief is necessary due to an unusual or unique character of the property or lot. The burden of proving this is on the applicant and an individual cannot create a situation and then claim he needs a variance. (Wolfner v. Board of Adjustment of City of Warson Woods, 114 S.W.3d 298 Mo.App.E.D., 2003).

APPLICANT REQUEST

The applicant has stated in the application that practical difficulties do exist because the property owner has been unable to purchase additional land from the adjacent property owners to comply with the minimum lot size requirement. Please refer to the attached application for full statement from the applicant.

Based on the applicant's inability to purchase additional land and the stated history of this site being used for school purposes, the applicant is requesting a variance to allow a primary school to be located on a 4.16 acre tract of land in lieu of the required minimum 5 acre lot size for this use.

DEPARTMENT REVIEW AND RECOMMENDATION

The Department of Planning and Public Works has reviewed the request and submits the following information for the Board's consideration during review.

A review of all available zoning districts was completed to determine if another zoning district would allow for a primary school to be located on the subject site without a variance. This review revealed that a primary school is only permitted within the residential zoning districts within the City of Chesterfield Zoning Ordinance. Additionally, each of these districts requires a minimum lot size of five acres for a primary school. As such, the applicant cannot request a change in zoning to a different zoning classification; a variance is the only form of relief from the regulation.

Upon review of this Application, Staff does not find that a practical difficulty or unnecessary hardship has been established by the applicant. As previously mentioned, practical difficulty or unnecessary hardship cannot arise from a situation created by an individual, rather, the difficulty or hardship must relate specifically to the parcel of land. The application for the Board's review was made necessary based on the action in 2004 which sold 10 acres to the neighboring property. Had this action not occurred, or if the property owner had only sold 9.14 acres of land, the property would have met the minimum lot size required for a primary school.

Further, the narrative submitted by the Applicant states, "... which allows for a ratio of 15 students per acre with only the minimum site area being a single point of non-compliance for this parcel." While the above statement is factually correct, Staff believes that reviewing this regulation in the full context of the regulation as stated in the Zoning Ordinance results in a different conclusion. Section 1003.107.7.(1)(c) reads:

Specialized private schools shall be located on a tract of land containing one (1) acre for each fifteen (15) pupils, but in no case less than five (5) acres, nor more than that required by the school land area requirements, as listed in paragraph 7.(1)(a).

First, the above regulation is for a different use than that being requested by the applicant (primary school is a different use category than a specialized school). Second, the above regulation states that "in no case less than five (5) acres..." is required for specialized private schools.

The minimum lot size criteria of 5 acres was established in order to ensure that a sufficient amount of land is available to accommodate items such as the necessary parking, internal site circulation, building footprint, outdoor activity, noise, and other zoning matters in conjunction with a school use. The Applicant has stated that a school had previously existed on this site, however, we have found no documentation to support that fact and the proper permits and applications were never received or reviewed by the City for a school use. Therefore, any prior activity of a school was an illegal use.

The other question which Staff reviews and the Board must consider when granting a variance is whether or not the granting of the variance will have a detrimental effect to the public, health, safety, or welfare of the general public. An analysis of this point becomes moot since it is our determination that a practical difficulty or unnecessary hardship has not been established. It can be noted that this property abuts two large, undeveloped tracts of land. **The 24 acre tract of land abutting this site to the west has submitted a zoning petition to the City for the development of a single family residential subdivision.**

Section 1003.105.7.1(a) of the Chesterfield City Code requires that a primary school be situated on a tract of land with a minimum lot area of 5 acres. Other land uses exist which are currently available for this site that require a reduced minimum lot size such as a religious institution, nursery school, day nursery or kindergarten.

Staff has reviewed the request for B.A. 02-2011 and finds that the Applicant has not met the burden of proof necessary for a variance and recommends denial of the request as submitted.

Respectfully submitted,

Aimee E. Nassif, AICP
Planning and Development Services Director

Exhibits

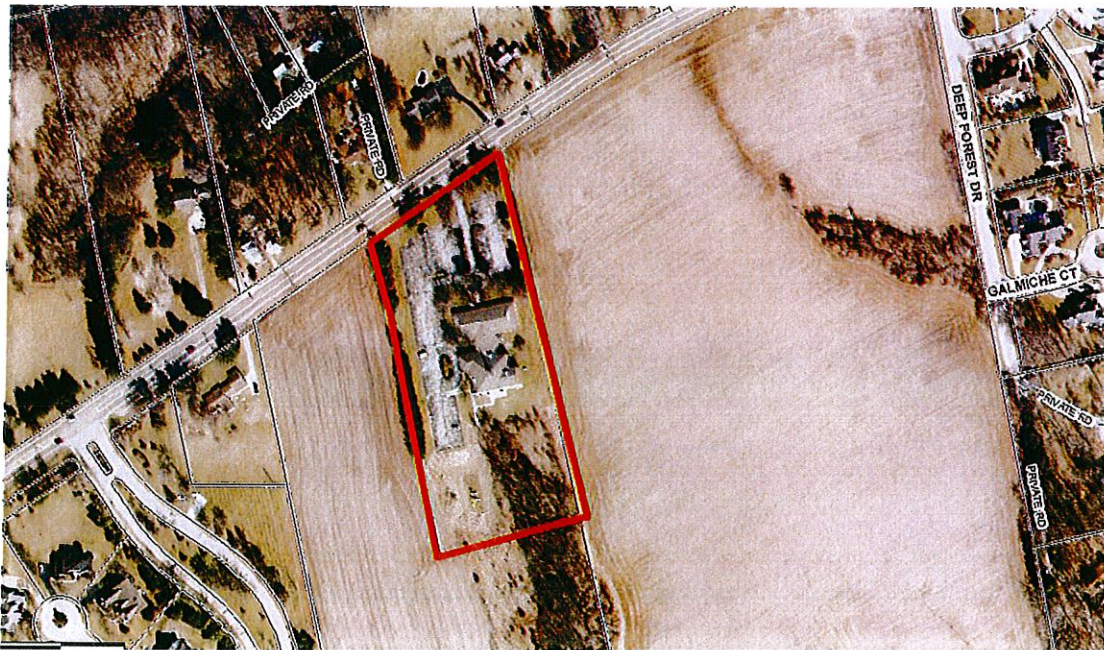
1. City of Chesterfield Zoning Ordinance (not in packet)
2. Notice of Publication
3. Affidavit of Publication (not in packet)
4. Staff Report
5. Copy of Recorded Plat
6. City of Chesterfield Letter dated May 31, 2011
7. Petitioner's Application
 - a. Application to Board of Adjustment
 - b. Letter of rejection for Re-Occupancy Permit
 - c. Property area before and after November 2004 exhibit

Notice of Public Hearing
City of Chesterfield
Board of Adjustment

NOTICE IS HEREBY GIVEN that the Board of Adjustment of the City of Chesterfield will hold a Public Hearing on Thursday, September 1, 2011 at 6:00 p.m. in the City Council Chambers at the City of Chesterfield City Hall, 690 Chesterfield Parkway West, Chesterfield, Missouri 63017.

The Board will consider the following:

B.A. 02-2011 17550 Wild Horse Creek Rd (DLJ Chesterfield, LLC): A request for a variance from Section 1003.105.7.1(a) for Lot 2 of the Mary Schaeffer Estates Subdivision Adjustment Plat to allow a primary school to be operated on a 4.16 acre site in lieu of the 5.0 acre minimum lot size for primary schools. (18V610063)



All interested parties are invited to appear and be heard at the hearing.

Copies of the request are available for review at City Hall Monday through Friday, from 8:30 a.m. to 4:30 p.m. If you should need additional information about this project, please contact Aimee Nassif, Planning and Development Services Director by telephone at 636-537-4749 or by email at anassif@chesterfield.mo.us.

City of Chesterfield

Aimee Nassif, AICP
Planning and Development Services Director



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1003.105. "NU" Non-Urban District regulations.

1. *Scope of provisions.* This section contains the district regulations of the "NU" Non-Urban District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this appendix which are incorporated as part of this section by reference. The "NU" Non-Urban District of the City of Chesterfield encompasses areas within which rough natural topography, geological conditions, or location in relation to urbanized areas creates practical difficulties in providing and maintaining public roads, and public or private utility services and facilities. The "NU" Non-Urban District also encompasses areas where specific potential development patterns have not been identified or where significant non-urban uses have been established.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
 - (1) Churches.
 - (2) Commercial vegetable and flower gardening, as well as plant nurseries and greenhouses, but not including any structure used as a salesroom.
 - (3) Dairy farming.
 - (4) Dwelling, single-family.
 - (5) Dwelling, single-family earth sheltered.
 - (6) Farming, including the cultivation and sale of any plant crops and domestic animals.
 - (7) Forests, wildlife reservations, as well as conservation projects.
 - (8) Golf courses, including practice driving tees on the same premises. Miniature golf courses and independent practice driving tees are excluded.
 - (9) Home occupations.
 - (10) Hunting and fishing as well as propagation of wildlife of any kind.
 - (11) Libraries, public or private not-for-profit.
 - (12) Local public utility facilities, provided that any installation other than poles and equipment attached to the poles, shall be:
 - (a) Adequately screened with landscaping, fencing, or walls, or any combination thereof;
or

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- (b) Placed underground; or
- (c) Enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Department of Planning for review. No building permit or installation permit shall be issued until these plans have been approved by the Department of Planning.

- (13) Mausoleums or crematoriums in an existing cemetery, any other provision of the law notwithstanding, but no such structure shall be situated closer than one hundred (100) feet to any cemetery property line.
- (14) Parks, parkways, and playgrounds, public or private not-for-profit.
- (15) Schools, public or private kindergarten, elementary, secondary, and collegiate.

3. [Reserved.]

4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures, and uses are permitted in conjunction with a permitted land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:

- (1) Devices for the generation of energy, such as solar panels, wind generators, and similar devices.
- (2) Individual sewage treatment facilities serving an individual dwelling, farm, or nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.
- (3) Private stables.
- (4) Permitted signs (see Section 1003.168 "Sign Regulations").

5. *Performance standards.* All uses in the "NU" Non-Urban District shall operate in conformity with the appropriate performance standards contained in Section 1003.163, "Zoning Performance Standard Regulations."

6. *Height limitations for structures.* The total height of any structure shall not exceed that permitted in Section 1003.161, "Air Navigation Space Regulations."

7. *Lot area and yard requirements.* The minimum lot area and yard requirements for land uses

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 and developments in the "NU" Non-Urban District shall be as set out below:

(1) *Minimum lot area requirements:*

- (a) The following permitted land uses shall be situated on tracts of land providing not less than the following areas:

TABLE INSET:

Use	Minimum Area
Church	3 acres
Dwelling, single-family	3 acres
Dwelling, single-family, earth sheltered	3 acres
Local public utility facilities	10,000 sq. ft.
Mechanical sewage treatment facility	3 acres
Residential substance abuse treatment facilities	3 acres (except 5 acres for a facility of more than 8 resident patients).

Schools	Minimum area
Nursery or day nursery	1 acre
Kindergarten (separate)	3 acres
Primary	5 acres
Junior high	10 acres
Senior high	20 acres
Collegiate	10 acres

- (b) Any lot or tract of record on the effective date of this ordinance, which contains less than three (3) acres, may be used as a site for one (1) single-family dwelling together with customary accessory structures and uses.
- (c) Specialized private schools shall be located on a tract of land containing one (1) acre

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for each fifteen (15) pupils, but in no case less than five (5) acres, nor more than that required by the school land area requirements, as listed in paragraph 7.(1)(a).

- (d) Mechanical sewage treatment facilities may be located on tracts of land less than three (3) acres in area where the facility is located on platted common land within a subdivision. The minimum lot area, however, shall in no case be less than ten thousand (10,000) square feet.
 - (e) [*Reserved.*]
 - (f) All other permitted land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area.
- (2) *Creation of new lots.* No new lots shall be created of less than three (3) acres in area except for local public utility facilities. Lots of less than three (3) acres in area, created for the above uses, shall not be used for any other use. In the event the permitted use terminates, the lot shall be established as common ground for an adjacent development or combined with an adjacent parcel or parcels by means of a boundary adjustment. Prior to the approval of a subdivision record plat creating a lot of less than three (3) acres, a deed or other legal instrument must be approved by the City Attorney and recorded with the St. Louis County Recorder of Deeds, which guarantees the required transfer of the property in the event the permitted use is terminated with a copy to be filed with the City of Chesterfield.
- (3) *Minimum yard requirements; general.*
- (a) Front yard. No structure shall be allowed within fifty (50) feet of any roadway right-of-way line.
 - (b) Side and rear yard. No structure shall be allowed within twenty (20) feet of any property line other than a roadway right-of-way line.
- (4) *Specific yard requirements and exceptions.*
- (a) Notwithstanding any other provisions of this appendix, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
 - (b) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.
 - (c) Permitted information signs, six (6) feet or less in heights are allowed within the minimum front yard setback.
 - (d) Permitted directional signs, three (3) feet or less in height, are allowed within the

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minimum front yard setback or sight distance triangle.

- (e) A permitted freestanding sign may be located no closer than twenty-five (25) feet from any roadway right-of-way line.
 - (f) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Department of Planning. Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non Urban, "PS" Park and Scenic, "AG" Agricultural, or any residential district.
 - (g) In the event that greater than fifty (50) percent of the existing dwelling structures on the same side of a street and in both directions from a lot, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a variation in front yard setbacks of no more than ten (10) feet, the required front yard for that lot shall be the average setback of those structures. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than seventy-five (75) feet be required.
 - (h) If a lot of record existing on the effective date of this ordinance has a width of one hundred (100) feet or less, the side yard on each side of any structure erected on such lot may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instances shall such yard be less than five (5) feet in width.
 - (i) Any nonresidential structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one (1) additional foot for every foot of height above thirty (30) feet.
 - (j) No private stable shall be allowed within one hundred (100) feet of any property line. Affiliated pasture areas shall be fenced.
8. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 1003.165, "Off-Street Parking and Loading Requirements."
9. Sign regulations. Sign regulations are set forth in Section 1003.168, "Sign Regulations."
- (Ord. No. 520, § 1, 11-19-90; Ord. No. 521, § 1, 11-19-90; Ord. No. 538, § 1, 12-17-90; Ord. No. 574, § 1, 4-15-91; Ord. No. 899, § 1(2), 4-18-94; Ord. No. 1269, § 1, 5-19-97; Ord. No. 1350, §§ 6, 7, 11-17-97; Ord. No. 1524, § 1, 6-21-99)

MARY SCHAEFFER ESTATE ADJUSTMENT

A BOUNDARY ADJUSTMENT PLAT OF PART OF LOTS 7 AND 8 OF MARY SCHAEFFER ESTATES SUBDIVISION IN U.S. SURVEY 150, AS RECORDED IN PLAT BOOK 17 AT PAGE 4, ST. LOUIS COUNTY, MO. LOCATED IN TOWNSHIP 45 NORTH, RANGE 3 EAST OF THE FIFTH PRINCIPAL MERIDIAN

EXHIBIT
6

ZONED: NU
SETBACKS ARE:
FRONT: 50'
SIDE: 20'
REAR: 20'

THE UNDERSIGNED OWNERS HAVE CAUSED THESE LOTS TO BE ADJUSTED IN LAND AREA IN THE MANNER SHOWN ON THE ABOVE BOUNDARY ADJUSTMENT PLAT WHICH SHALL HEREAFTER BE KNOWN AS "MARY SCHAEFFER ESTATE ADJUSTMENT" A BOUNDARY ADJUSTMENT PLAT OF "PART OF LOT 7 AND LOT 8 OF MARY SCHAEFFER ESTATE", ST. LOUIS COUNTY, MISSOURI.

SUBJECT TO ALL EASEMENTS AND RESTRICTIONS.

BY: Richard Lachman
LACHMAN K. ABICHANDANI
17560 WILD HORSE CREEK LLC

BY: Wangyi Cao
FULL GOSPEL CHURCH OF ST. LOUIS

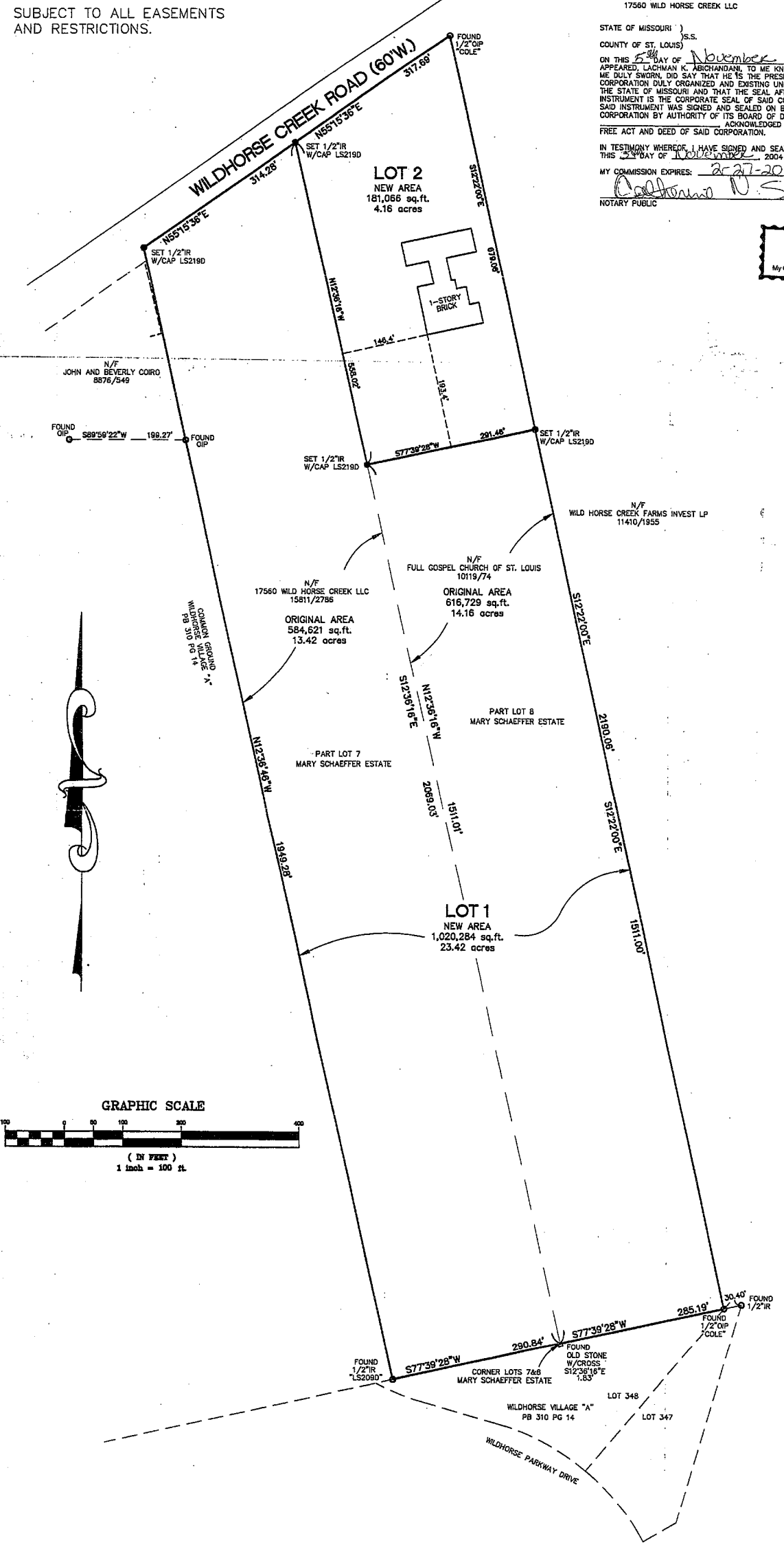
STATE OF MISSOURI)
COUNTY OF ST. LOUIS) S.S.
ON THIS 27 DAY OF November, 2004, BEFORE ME PERSONALLY APPEARED, LACHMAN K. ABICHANDANI, TO ME KNOWN, WHO, BEING BY ME DULY SWORN, DID SAY THAT HE IS THE PRESIDENT OF A CORPORATION DULY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MISSOURI AND THAT THE SEAL AFFIXED TO THE FORGOING INSTRUMENT IS THE CORPORATE SEAL OF SAID CORPORATION AND THAT SAID INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BOARD OF DIRECTORS, AND SAID ACKNOWLEDGED SAID INSTRUMENT TO BE THE FREE ACT AND DEED OF SAID CORPORATION.
IN TESTIMONY WHEREOF, I HAVE SIGNED AND SEALED THE FOREGOING THIS 27 DAY OF November, 2004.
MY COMMISSION EXPIRES: 2-27-2009
Catherine N. Shaw
NOTARY PUBLIC

STATE OF MISSOURI)
COUNTY OF ST. LOUIS) S.S.
ON THIS 27 DAY OF November, 2004, BEFORE ME PERSONALLY APPEARED, Wangyi Cao, TO ME KNOWN, WHO, BEING BY ME DULY SWORN, DID SAY THAT HE IS THE PRESIDENT OF A CORPORATION DULY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MISSOURI AND THAT SAID INSTRUMENT WAS SIGNED ON BEHALF OF SAID ORGANIZATION.
IN TESTIMONY WHEREOF, I HAVE SIGNED AND SEALED THE FOREGOING THIS 27 DAY OF November, 2004.
MY COMMISSION EXPIRES: 2-27-2009
Catherine N. Shaw
NOTARY PUBLIC

CATHERINE N. SHAW
Notary Public - Notary Seal
St. Louis County
My Commission Expires February 27, 2009

WHEREAS, _____ BY A DEED OF TRUST, DATED _____, 20____, AND RECORDED IN THE RECORDER'S OFFICE, IN BOOK _____, PAGE _____, OF THE COUNTY OF ST. LOUIS AND THE STATE OF MISSOURI, IN CERTAIN REAL ESTATE, TO SECURE THE PAYMENT OF CERTAIN NOTE OR NOTES IN SAID DEED DESCRIBED AND SET FORTH; AND WHEREAS, SAID DEED OF TRUST AND NOTE OR NOTES HAS OR HAVE BEEN PARTLY PAID AND SATISFIED.
NOW, THEREFORE, THE UNDERSIGNED, PRESENT HOLDER AND LEGAL OWNER OF SAID DEED OF TRUST AND NOTE OR NOTES, DOES BY HEREBY REMISE, AND QUIT-CLAIM UNTO THE PRESENT OWNERS, PART OF THE ESTATE IN SAID GROUND SHOWN ON THIS PLAT.
TO HAVE AND TO HOLD THE SAME, WITH ALL THE APPURTENANCES THERETO BELONGING FREE, CLEAR AND DISCHARGED FROM THE ENCUMBRANCES OF SAID DEED OF TRUST AND NOTE OR NOTES, IN WITNESS WHEREOF, THE UNDERSIGNED HAS EXECUTED THESE PRESENTS THIS _____ DAY OF _____, 20____.

BY: _____ OFFICER
STATE OF MISSOURI)
COUNTY OF ST. LOUIS) S.S.
ON THIS _____ DAY OF _____, 20____, BEFORE ME PERSONALLY APPEARED, _____, TO ME KNOWN, WHO, BEING BY ME DULY SWORN, DID SAY THAT HE IS THE PRESIDENT OF A CORPORATION DULY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MISSOURI AND THAT THE SEAL AFFIXED TO THE FORGOING INSTRUMENT IS THE CORPORATE SEAL OF SAID CORPORATION AND THAT SAID INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BOARD OF DIRECTORS, AND SAID ACKNOWLEDGED SAID INSTRUMENT TO BE THE FREE ACT AND DEED OF SAID CORPORATION.
MY COMMISSION EXPIRES: _____
NOTARY PUBLIC



17560 WILDHORSE CREEK ORIGINAL TRACT
A TRACT OF LAND BEING PART OF LOT 7 IN MARY SCHAEFFER ESTATE SUBDIVISION (PB 17, PG 4), IN U.S. SURVEY 150, TOWNSHIP 45 NORTH, RANGE 3 EAST, ST. LOUIS COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF LOT 7 OF SAID MARY SCHAEFFER SUBDIVISION, FROM WHICH A OLD STONE BEARS SOUTH 12 DEGREES 36 MINUTES 16 SECONDS EAST A DISTANCE OF 1.83 FEET; THENCE ALONG THE SOUTH LINE OF SAID LOT 7, SOUTH 77 DEGREES 39 MINUTES 28 SECONDS WEST A DISTANCE OF 290.84 FEET TO A POINT; THENCE LEAVING SAID SOUTH LINE OF LOT 7, NORTH 12 DEGREES 36 MINUTES 46 SECONDS WEST A DISTANCE OF 1949.28 FEET TO A POINT IN THE SOUTH LINE OF WILDHORSE CREEK ROAD (60'W); THENCE ALONG THE SAID SOUTH LINE, NORTH 55 DEGREES 15 MINUTES 36 SECONDS EAST A DISTANCE OF 314.28 FEET TO A POINT; THENCE LEAVING THE SOUTH LINE OF SAID WILDHORSE CREEK ROAD, SOUTH 12 DEGREES 36 MINUTES 16 SECONDS EAST A DISTANCE OF 558.02 FEET TO A POINT; THENCE NORTH 77 DEGREES 39 MINUTES 28 SECONDS EAST A DISTANCE OF 291.46 FEET TO A POINT IN THE EAST LINE OF LOT 7; THENCE ALONG SAID EAST LINE, SOUTH 12 DEGREES 22 MINUTES 00 SECONDS EAST A DISTANCE OF 1511.00 FEET TO A POINT LOCATED AT THE SOUTHEAST CORNER OF SAID LOT 7; THENCE ALONG SAID SOUTH LINE SOUTH 77 DEGREES 39 MINUTES 28 SECONDS WEST A DISTANCE OF 285.19 FEET TO THE POINT OF BEGINNING AND CONTAINING 584,621 SQUARE FEET (13.42 ACRES).
END OF DESCRIPTION

LOT 1
A TRACT OF LAND BEING PART OF LOT 7 AND PART OF LOT 8 IN MARY SCHAEFFER ESTATE SUBDIVISION (PB 17, PG 4), IN U.S. SURVEY 150, TOWNSHIP 45 NORTH, RANGE 3 EAST, ST. LOUIS COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF LOT 7 OF SAID MARY SCHAEFFER SUBDIVISION, FROM WHICH A OLD STONE BEARS SOUTH 12 DEGREES 36 MINUTES 16 SECONDS EAST A DISTANCE OF 1.83 FEET; THENCE ALONG THE SOUTH LINE OF SAID LOT 7, SOUTH 77 DEGREES 39 MINUTES 28 SECONDS WEST A DISTANCE OF 290.84 FEET TO A POINT; THENCE LEAVING SAID SOUTH LINE OF LOT 7, NORTH 12 DEGREES 36 MINUTES 46 SECONDS WEST A DISTANCE OF 1949.28 FEET TO A POINT IN THE SOUTH LINE OF WILDHORSE CREEK ROAD (60'W); THENCE ALONG THE SAID SOUTH LINE, NORTH 55 DEGREES 15 MINUTES 36 SECONDS EAST A DISTANCE OF 314.28 FEET TO A POINT; THENCE LEAVING THE SOUTH LINE OF SAID WILDHORSE CREEK ROAD, SOUTH 12 DEGREES 36 MINUTES 16 SECONDS EAST A DISTANCE OF 558.02 FEET TO A POINT; THENCE NORTH 77 DEGREES 39 MINUTES 28 SECONDS EAST A DISTANCE OF 291.46 FEET TO A POINT IN THE EAST LINE OF LOT 7; THENCE ALONG SAID EAST LINE, SOUTH 12 DEGREES 22 MINUTES 00 SECONDS EAST A DISTANCE OF 1511.00 FEET TO A POINT LOCATED AT THE SOUTHEAST CORNER OF SAID LOT 7; THENCE ALONG SAID SOUTH LINE SOUTH 77 DEGREES 39 MINUTES 28 SECONDS WEST A DISTANCE OF 285.19 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,020,284 SQUARE FEET (23.42 ACRES).
END OF DESCRIPTION

FULL GOSPEL CHURCH ORIGINAL TRACT
A TRACT OF LAND BEING PART OF LOT 8 IN MARY SCHAEFFER ESTATE SUBDIVISION (PB 17, PG 4), IN U.S. SURVEY 150, TOWNSHIP 45 NORTH, RANGE 3 EAST, ST. LOUIS COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF LOT 8 OF SAID MARY SCHAEFFER SUBDIVISION, FROM WHICH A OLD STONE BEARS SOUTH 12 DEGREES 36 MINUTES 16 SECONDS EAST A DISTANCE OF 1.83 FEET; THENCE ALONG THE WEST LINE OF SAID LOT 8, NORTH 12 DEGREES 36 MINUTES 16 SECONDS WEST A DISTANCE OF 2089.03 FEET TO A POINT IN THE SOUTH LINE OF WILDHORSE CREEK ROAD (60'W); THENCE ALONG SAID SOUTH LINE, NORTH 55 DEGREES 15 MINUTES 36 SECONDS EAST A DISTANCE OF 317.69 FEET TO A POINT IN THE EAST LINE OF LOT 8; THENCE ALONG SAID EAST LINE, SOUTH 12 DEGREES 22 MINUTES 00 SECONDS EAST A DISTANCE OF 1949.28 FEET TO A POINT BEING THE SOUTHEAST CORNER OF SAID LOT 8; THENCE ALONG SAID SOUTH LINE OF LOT 8, SOUTH 77 DEGREES 39 MINUTES 28 SECONDS WEST A DISTANCE OF 285.19 FEET TO THE POINT OF BEGINNING AND CONTAINING 616,729 SQUARE FEET (14.16 ACRES).
END OF DESCRIPTION

LOT 2
A TRACT OF LAND BEING PART OF LOT 8 IN MARY SCHAEFFER ESTATE SUBDIVISION (PB 17, PG 4), IN U.S. SURVEY 150, TOWNSHIP 45 NORTH, RANGE 3 EAST, ST. LOUIS COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT IN THE SOUTH LINE OF WILDHORSE CREEK ROAD (60'W) AT THE INTERSECTION WITH THE WEST LINE OF LOT 8 OF SAID MARY SCHAEFFER ESTATE SUBDIVISION; THENCE ALONG THE SOUTH LINE OF WILDHORSE CREEK ROAD, NORTH 55 DEGREES 15 MINUTES 36 SECONDS EAST A DISTANCE OF 317.69 FEET TO A POINT IN THE EAST LINE OF SAID LOT 8; THENCE LEAVING SAID SOUTH LINE OF ROADWAY, SOUTH 12 DEGREES 22 MINUTES 00 SECONDS EAST A DISTANCE OF 679.08 FEET TO A POINT; THENCE LEAVING THE EAST LINE OF SAID LOT 8, SOUTH 77 DEGREES 39 MINUTES 28 SECONDS WEST A DISTANCE OF 291.46 FEET TO A POINT; THENCE NORTH 12 DEGREES 36 MINUTES 16 SECONDS WEST A DISTANCE OF 558.02 FEET TO THE POINT OF BEGINNING AND CONTAINING 181,066 SQUARE FEET (4.16 ACRES).
END OF DESCRIPTION

SURVEYOR'S CERTIFICATION:
THIS IS TO CERTIFY TO FLORINDA S. ABICHANDANI, THAT AT HER REQUEST, WE BURDINE AND ASSOCIATES, INC. DURING THE MONTH OF JULY, 2004, HAVE COMPLETED A BOUNDARY ADJUSTMENT PLAT OF PART OF LOTS 7 AND 8 OF MARY SCHAEFFER ESTATE SUBDIVISION, AND THE RESULTS ARE CORRECTLY SHOWN HEREON. THIS PLAT IS BASED ON A BOUNDARY SURVEY OF A TRACT OF LAND IN U.S. SURVEY 150, TOWNSHIP 45 NORTH, RANGE 3 EAST, ST. LOUIS COUNTY, MISSOURI, AND SAID SURVEY IS IN ACCORDANCE WITH THE CURRENT MINIMUM STANDARDS FOR A URBAN CLASS PROPERTY BOUNDARY SURVEYS AS ESTABLISHED BY THE MISSOURI DEPARTMENT OF NATURAL RESOURCES, DIVISION OF GEOGRAPHIC AND LAND SURVEY.
David Burdine
DAVID D. BURDINE, P.L.S. 2004001328
BURDINE AND ASSOCIATES, INC. 215-D

THIS IS TO CERTIFY THAT THIS BOUNDARY ADJUSTMENT PLAT OF PART OF LOTS 7 AND 8 MARY SCHAEFFER ESTATE AS RECORDED IN BK 17 PAGE 4, CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, WAS APPROVED BY THE CITY COUNCIL OF CHESTERFIELD BY ORDINANCE NO. _____ ON THE _____ DAY OF _____, 2004 AND HEREBY AUTHORIZES THE RECORDING OF THIS PLAT WITH THE OFFICE OF THE ST. LOUIS COUNTY RECORDER OF DEEDS.
ATTESTED:
John Nations
JOHN NATIONS, MAYOR
Marty Demay
MARTY DEMAY, CITY CLERK

17560 WILDHORSE CREEK
BOUNDARY ADJUSTMENT PLAT
BURDINE AND ASSOCIATES, INC.
Registered Land Surveyors
314-282-1600
1538 Jeffco Blvd.
Arnold, Mo. 63010
Located on
Jeffco Blvd.
South of Church Rd.
FIELDWORK BY: MK CHECKED BY: DRZ PROJECT NO.:
DRAWN BY: DDB DATE: 07/28/04 04121
REVISED 10/04/04 SCRIPT SHEET NO: _____ OF 1



690 Chesterfield Pkwy W • Chesterfield MO 63017-0760
Phone: 636-537-4000 • Fax 636-537-4798 • www.chesterfield.mo.us

May 31, 2011

Mr. & Mrs. Matthew Wohlstadter
1098 Del Ebro Drive
Ballwin, MO 63011

Re: Full Gospel Church (17550 Wild Horse Creek Road)

Mr. & Mrs. Wohlstadter:

On May 18th, 2011, the City of Chesterfield received an application from you for Re-Occupancy of the structure located at 17550 Wild Horse Creek Road. As you know, this structure was previously occupied by a Church. In your application to the City of Chesterfield, you have requested to occupy and utilize this structure and property for which it sits as a school.

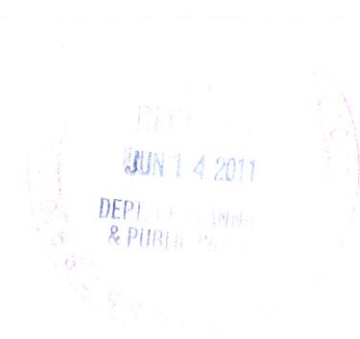
This property is currently zoned "NU" Non-Urban District and is governed under City of Chesterfield Zoning Ordinance Section 1003.105. Although the land use of a "school" is permitted in this zoning district, supplemental requirements, per 1003.105.7.1.(a) require that a school at a minimum be located on a property of five (5) acres. The property addresses 17550 Wild Horse Creek Road is 4.16 acres in size and therefore, does not meet this requirement.

It is the Department of Planning & Public Works determination that your request for Re-Occupancy be denied based on Zoning Ordinance Section 1003.105.7.1.(a). To discuss options regarding this request, you may contact me at 636.537.4741 or sseymour@chesterfield.mo.us.

Sincerely,

Shawn P. Seymour, AICP
Senior Planner

Cc: Aimee Nassif, Planning & Development Services Director

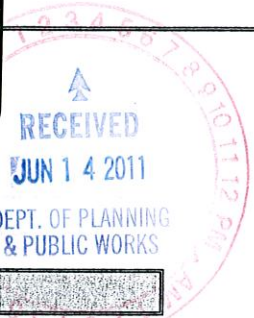




City of Chesterfield

DEPARTMENT OF PLANNING AND PUBLIC WORKS

EXHIBIT
8a



BOARD OF ADJUSTMENT APPLICATION

The Board of Adjustment is a local body consisting of volunteers appointed by the Mayor. The Board hears requests for variances and appeals of administrative determinations. A variance is deviation from the zoning ordinance requirements for a specific parcel. The types of variances heard before the Board of Adjustment are Use, Area, and Bulk Variances. A variance is granted only upon demonstration of a hardship such as lot size, topography, or other issues not created by the lot owner. For questions about this application, please contact the Department of Planning and Public Works at 636-537-4746. For information about this and other projects under review by the Department of Planning and Public Works, please visit "Planning Projects" at www.Chesterfield.mo.us.

Check (✓) the type of variance for which you are applying:

Area or Bulk variance: A request to allow deviation from the dimensional (i.e. height, bulk yard) requirements of a zoning district.

Use variance: A request to allow deviation for the permissible uses of a zoning district.

Sign variance: A request to allow deviation from dimensional/quantity regulations

Appeal of Administrative Determination

Please note areas in gray will be completed by the Department of Planning and Public Works.

STATE OF MISSOURI) BOA NUMBER _____
) HEARING DATE _____
CITY OF CHESTERFIELD)

Petition for Appeal from Zoning Regulations

I. APPLICANT INFORMATION

Owner(s) of record of the hereinafter described property according to St. Louis County Assessor's

Record: DLJ Chesterfield, LLC

Address: 3494 Jeffco Blvd., Arnold, MO. 63010

City: Arnold State: MO Zip: 63010

Tel.: (636) 461-3205 Fax: (636) 461-3255

Petitioner, if other than owner(s): _____

Address: _____

City: _____ State: _____ Zip: _____

Tel.: _____ Fax: _____

Legal Interest: _____

(Provide date of contract and date of expiration of contract)

*Attach additional sheets as necessary for other Parties of Interest (Architect, Engineer, etc.)

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Ph. (636)537-4746 Fax (636)537-4798 www.chesterfield.mo.us

II. PROPERTY INFORMATION

Project Address: 17550 Wildhorse Creek Road, Chesterfield, Missouri 63005

Locator Number(s): 18V 610 163

(List additional locator numbers on separate sheet and attach to petition)

Acreage: 4.2 (To the nearest tenth of an acre)

Subdivision Name (If applicable): Lot 2 of the Mary Schaeffer Estates Subdivision Adjustment Plat

Current Zoning District: "NU" - Non Urban District

Legal Description of Property: Lot 2 of the Mary Schaeffer Estates Subdivision Adjustment Plat recorded in Plat Book 352 Page 809 of the St. Louis County Records. The St. Louis County parcel ID (locator number) is 18V 610 163

(Attach additional sheets as necessary)

III. NATURE OF REQUEST FOR VARIANCE

Unique physical characteristics of the lot (e.g., size, slope, etc.): 4.16 acres (181,066 s.f.)

(Attach additional sheets as necessary)

Description of the necessity of the proposed improvement: No site improvement is needed.
We are requesting the use group area restriction of a 5-acre site area minimum be relaxed for this specific parcel.

(Attach additional sheets as necessary)

Ordinance Number and section to which a variance is sought: Zoning Ordinance Number
and Section 1003.105.7.1(a). This section requires that a "school" in the NU - Non-Urban District, be
located on a minimum site of 5-acres.

(Attach additional sheets as necessary)

Do deed restrictions or subdivision trust indentures for the property prohibit the use or construction which is requested by this petition? Check (✓) one Yes ✓ No

Statement of unnecessary hardship, practical difficulty or other information warranting action by the Board:

Recently, the property located at 17550 Wildhorse Creek Road hosted a church and private school. The church was founded and operated on site since 1986, and the private school operated as long as recent memory serves (since this was a private school the actual records for the founding date of the school are not available). The private school that operated on this site, provided a pre-K through 8th grade curriculum. The current site area for this property is 4.16 acres (181,066 square feet). The current property owner (DLJ Chesterfield, LLC) would like to invite a private school tenant to occupy this current building in August, 2011 for the upcoming school year. The proposed private school tenant has 61 students enrolled, and would provide a pre-K through 8th grade curriculum - consistent with the previous school.

This property is situated between two (2) large parcels of land, and all requests made by the current owner (DLJ Chesterfield, LLC) to purchase additional property has been declined by adjacent property owners due to their separate development objectives.

We respectfully submit our hardship request for your consideration for this specific property, which involves relaxing the site area requirement for a school use from a 5-acre minimum to the current site area (4.16 acres) due to this specific parcel being effectively land-locked. The proposed school use for this site is consistent with the City of Chesterfield zoning ordinance (Section 1003.105) and the spirit and intent of a provision in the Chesterfield ordinance (Section 1003.105.7.1 (c)) which allows for a ratio of 15 students per acre, with only the minimum site area being a single point of non-compliance for this parcel.

This site has hosted similar institutional functions for a majority of their 30+ year history, and our expressed intent is to provide the City of Chesterfield with another high-level educational amenity. While we have pursued the purchase of additional property, which would have eliminated the need for this hardship request, we have been denied the ability to increase this site area by the 16.8% needed to gain the 5-acre minimum. Thank you for your consideration regarding this hardship request.

(Attach additional sheets as necessary)

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Ph. (636)537-4746 Fax (636)537-4798 www.chesterfield.mo.us

Description of the effect or impact on neighboring properties:

The existing site use has been for similar institutional functions for a majority of their substantial history (church and private school). The proposed use will exclude the church function, and be limited to a private school use (pre-K through 8th grade). With the proposed use of this site being similar in nature to the previous user, it is believed that the impact on neighboring properties and existing City infrastructure is non-existent.

(Attach additional sheets as necessary)

For Area or Bulk Variance Requests, complete the following section:

A. Setbacks/Height:

	The Petitioner(s) request the following setback(s):	City of Chesterfield Regulations require the following setback(s) for this site:
Front Yard:	<u>no setback variance is pursued</u>	<u>50'-0" of any roadway R.O.W.</u>
Side Yard:	<u>no setback variance is pursued</u>	<u>20'-0" of any property line</u>
Rear Yard:	<u>no setback variance is pursued</u>	<u>20'-0" of any property line</u>
Height:	<u>no height variance is pursued</u>	<u>none listed in Section 1003.105</u>

Provide the following:

1. A \$70.00 fee. (Checks/money orders to be made payable to the City of Chesterfield)
2. Two completed copies of this application with original signatures. *Please note: A copy with the Chairman's signature and the Board's decision will be returned to you.*
3. Twenty-five (25) copies of the following for inclusion in the packet:
 - A site plan showing the dimensions and location (including distance from property lines) of all existing and proposed buildings and structures.
 - Letters from abutting property owners stating their position.
 - Copies of the completed application.
 - The City of Chesterfield rejection or denial.
 - Any other information as required by the City of Chesterfield

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For Sign Variance Requests, complete the following section:

B. Signage:

**The Petitioner(s) request
the following :**

**City of Chesterfield
Regulations allow the
following for this site:**

**Number of attached business
signs:** _____

**Size of attached business
signs:** _____

**Number of freestanding
business signs:** _____

**Size of freestanding business
signs:** _____

Explain why the sign variance request would not cause a public health or safety concern to the neighborhood or the public welfare.

Provide the following:

1. A \$70.00 fee. (Checks/money orders to be made payable to the City of Chesterfield.)
2. Two completed copies of this application with original signatures. *Please note: A copy with the Chairman's signature and the Board's decision will be returned to you.*
3. Twenty-five (25) copies of the following for inclusion in the packet:
 - A site plan showing:
 - ___ • The subject property with adjoining streets, existing buildings, major parking lot, and distance to property lines.
 - The location of proposed signs.
 - If attached wall signs, the cross section of wall on which sign is to be placed with dimensions and total square feet (or portion of total wall that will contain petitioner's business)
 - ___ A detail sign plan indicating:
 - Dimension of signs with detail sign lettering layout.
 - Total square feet of signs. If attached, what percent of wall.
 - Light detail, if any.
 - ___ Letters from abutting property owners stating their position.
 - ___ Copies of the completed application.
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 - ___

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IV. COMPLIANCE

Is property in compliance with all previous conditions of approval of all applicable Ordinance requirements?

Yes No. If no, please explain: _____

Is property in compliance with all Zoning, Subdivision, and Code requirements?

Yes No. If no, please explain: _____

[THIS SPACE INTENTIONALLY LEFT BLANK]

V. STATEMENT OF CONSENT

STATEMENT OF CONSENT

I hereby give CONSENT to TONY SOFIA (type, stamp or print clearly full name of agent) to act on my behalf to submit, this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge of the property and I have an ownership interest and/or am the owner under contract in the subject of this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the City of Chesterfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I understand this application, related material and all attachments become official records of the City of Chesterfield, Missouri, and will not be returned. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER/CONTRACT PURCHASER INFORMATION:

I am the owner contract purchaser. (check (✓) one)

Dan Jones

(Name- type, stamp or print clearly)

DLJ Chesterfield, LLC

(Name of Firm)

Note: Attach additional sheets as necessary.

Dan Jones
(Signature)

3494 Jeffco Blvd., Arnold, MO. 63010

(Address, City, State, Zip)

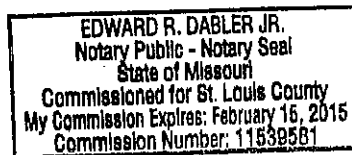
NOTARY PUBLIC INFORMATION: STATE OF MISSOURI, CITY OF CHESTERFIELD

The foregoing instrument was subscribed and sworn to before me this 9 day of June 20 11.

Signed Edward R. Dabler Jr Print Name: EDWARD R. DABLER, JR
Notary Public

Seal/Stamp:

My Commission Expires: 2-15-2015



**VII. CITY OF CHESTERFIELD
LIENS AND FINES CERTIFICATION**

Project Name: _____ **Ward:** _____
Address: _____ **Locator:** _____

STATE OF MISSOURI, CITY OF CHESTERFIELD

I do hereby certify to the Council of the City of Chesterfield that:

___ There are no fines and/or liens of record on the property by or owed to the City of Chesterfield.

___ There are the following fines and/or liens owed to the City of Chesterfield:

1. _____
2. _____
3. _____
4. _____
5. _____

Director of Finance
City of Chesterfield

Date

[THIS PAGE FOR INTERNAL USE]

STAFF / BOA USE ONLY

Intake Date: _____

This petition is granted / denied (circle one) on the _____ day of _____ 20 _____

Signed: _____

Chairman

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tabbies
86



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Phone: 636-537-4000 • Fax 636-537-4798 • www.chesterfield.mo.us

May 31, 2011

Mr. & Mrs. Matthew Wohlstadter
1098 Del Ebro Drive
Ballwin, MO 63011

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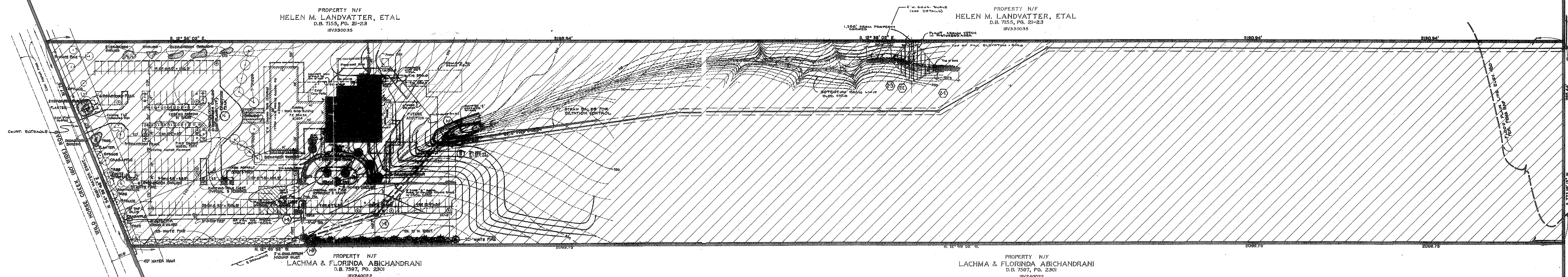
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Sincerely,

Shawn P. Seymour, AICP
Senior Planner

Cc: Aimee Nassif, Planning & Development Services Director



WILD HORSE CREEK ROAD

WILDHORSE PARKWAY DRIVE

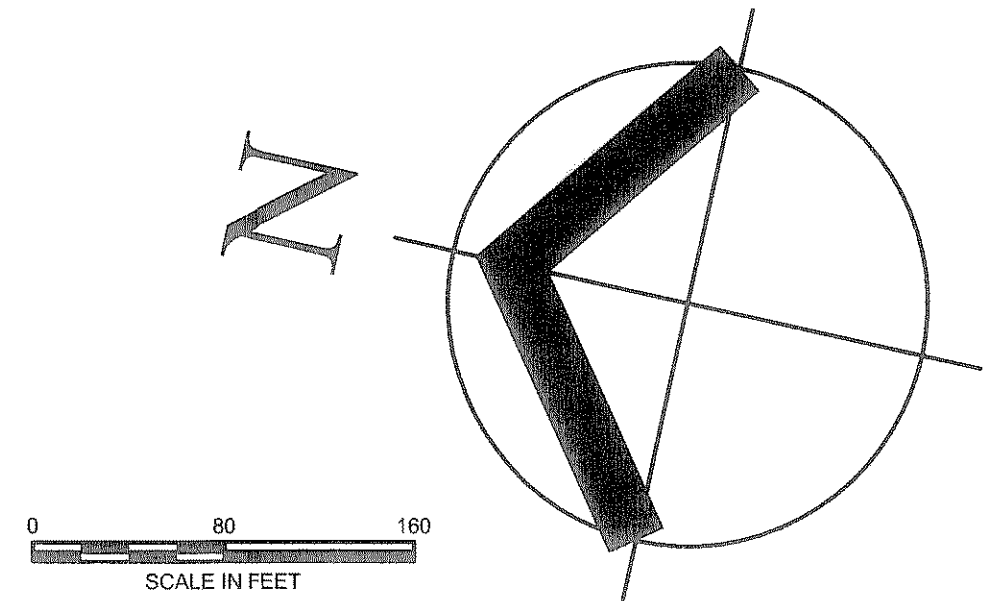
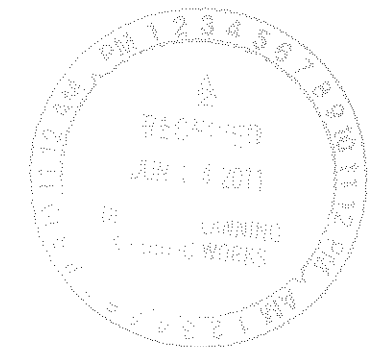
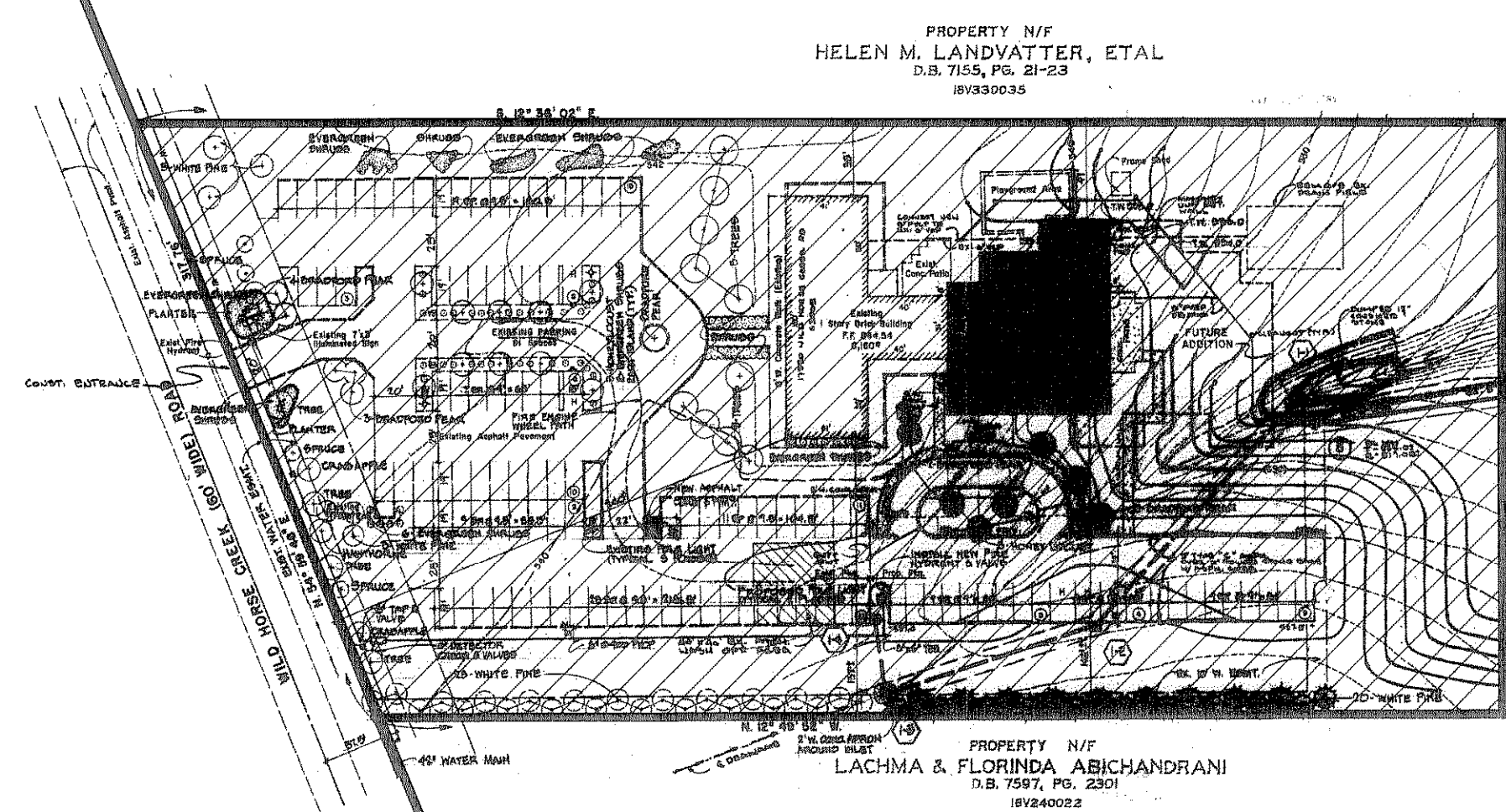


EXHIBIT
8c



PROPERTY AREA BEFORE NOVEMBER 2004
14.16 ACRES



PROPERTY N/F
HELEN M. LANDVATTER, ETAL
D.B. 7155, PG. 21-23
8V930035

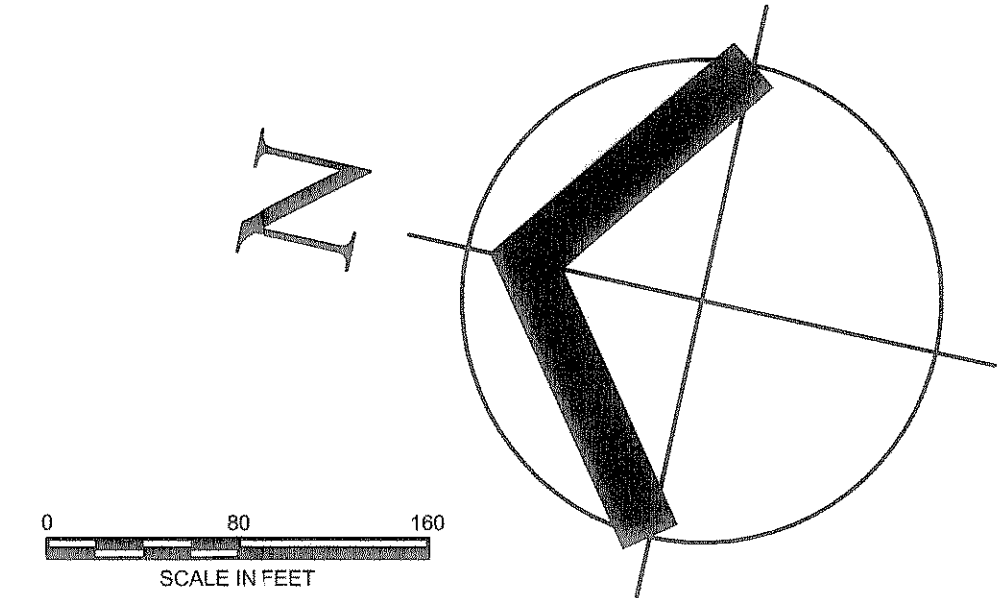
PROPERTY N/F
HELEN M. LANDVATTER, ETAL
D.B. 7155, PG. 21-23
8V930035

PROPERTY N/F
LACHMA & FLORINDA ABICHANDRANI
D.B. 7597, PG. 2301
8V940032

PROPERTY N/F
LACHMA & FLORINDA ABICHANDRANI
D.B. 7597, PG. 2301
8V940032

WILD HORSE CREEK ROAD

WILDHORSE PARKWAY DRIVE



PROPERTY AREA AFTER NOVEMBER 2004
4.16 ACRES