



AGENDA ITEM 4A

ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING

DATE REQUESTED: September 21, 2011

NAME & NUMBER OF PROJECT: Texas Custom Choppers – SP-2010-0335D

NAME OF APPLICANT OR ORGANIZATION: Urban Design Group
(Don Sampson, 347-0040)

LOCATION: 15602-1/2 Storm Dr.

PROJECT FILING DATE: November 19, 2010

PDR/ ENVIRONMENTAL STAFF: Brad Jackson, 974-3410
brad.jackson@austintexas.gov

PDR/ CASE MANAGER: Jay Baker, 974-2636
Jay.baker@austintexas.gov

WATERSHEDS: Running Deer Creek Watershed, Water Supply Rural
Drinking Water Protection Zone

ORDINANCE: Comprehensive Watershed Ordinance (current Code)

REQUEST: Variance requests are as follows:

1. To allow up to 53% impervious cover for the site.
[LDC Section 25-8-454(D)(1)(a)]
2. To eliminate the requirement that 40% of the site
be restored to its natural state to serve as a buffer.
[LDC Section 25-8-454(D)(2)]

STAFF RECOMMENDATION: Not recommended.

REASONS FOR RECOMMENDATION: Findings-of-fact have not been met.



MEMORANDUM

TO: Betty Baker, Chairperson
Members of the Zoning and Platting Commission

FROM: Brad Jackson, Senior Environmental Reviewer
Planning and Development Review Department

DATE: September 21, 2011

SUBJECT: Texas Custom Choppers (SP-2010-0335D)
15602-1/2 Storm Dr.

Variance Requests: Variance from LDC 25-8-454(D)(1)(a) to allow the development to construct up to 53% impervious cover on the site. Variance from LDC Section 25-8-454(D)(2) to eliminate the requirement that 40% of the site be restored to its natural state to serve as a buffer.

The applicant is proposing to permit the illegal construction of additional parking and building additions to a completed site plan, SP-00-2103DS, titled Poalson Investments. The Poalson Investments site plan was approved for development of up to 20% impervious cover and construction was completed in March of 2001. Sometime between 2003 and 2008 as determined by aerial photographs, the site was expanded with additional buildings and concrete parking/driveways to its current intensity of 53% impervious cover. The property has since changed ownership and been red-tagged by the City for being out of compliance with its original site plan. The applicant proposes to expand the existing detention facilities and add water quality facilities to treat the entire site in exchange for permitting of the illegal development. The existing impervious cover on the site is 0.398 acres or 17,336.9 square feet. The net site area is 0.753 acres, or 32,800.7 square feet, for a total of 53% impervious cover on the site.

Description of Project Area

This 0.753 acre site (both gross and net site area) is situated in the COA 2-mile ETJ in the Drinking Water Protection Zone. The site is located within the Running Deer Creek Watershed, which is classified as Water Supply Rural. Topographically, the site slopes down from 620 eastward from an elevation of 828 feet at 620 to 810 feet at the eastern property boundary. The entire site is relatively flat, with no slopes over 15%.

Vegetation

According to the Soil Survey of Travis County, the site contains Brackett soils, rolling (B1D) and Brackett soils and rock outcrop (BoF). Brackett soils are described as shallow and well drained soils

that develop under a prairie of mid to tall grasses and some trees. The geology at this site is characterized by thin clay soils covering weathered limestone. The site lies within the Glen Rose formation that consists primarily of limestone, dolomite and marl. The site vegetation is sparse, consisting of a few live oaks.

Critical Environmental Features

There are no Critical Environmental Features on or within 150 feet of this site.

Water/Wastewater

The project currently receives water service from the Water Control and Improvement District (WCID) No. 17. Wastewater is treated through an on-site septic tank system.

Variance Requests

The variances being requested by this project are as follows:

1. **Variance from City Code Section LDC 25-8-454(D)(1)(a) to allow the development to construct up to 53% impervious cover on the site instead of the 20% required by code.**
2. **Variance from City Code Section LDC 25-8-454(D)(2) to eliminate the requirement that 40% of the site be restored to its natural state to serve as a buffer.**

On July 13, 2011, the applicant requested the above variances.

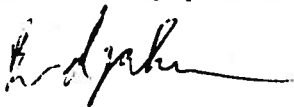
Recommendations

Staff does not recommend granting the variance requests because the findings of fact have not been met.

Recommended Conditions of Variance Approval

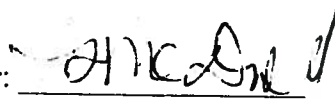
1. The applicant should be required to purchase additional mitigation lands within a Water Supply Rural watershed to provide pervious cover that would be restricted from development and bring the site within 20% impervious cover overall.

If you have any questions or need additional information, please feel free to contact me at 974-3410.

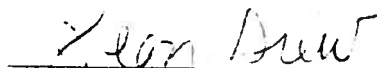


Brad Jackson, Senior Environmental Reviewer
Planning and Development Review

Environmental Program Coordinator:


Ingrid McDonald

Environmental Resource Management:


Jean Drew

Similar Cases

Whitestone Church (SP-2007-0461D) requested a variance from LDC 25-8-454(D)(1)(a) to exceed the allowable impervious cover in the Lake Travis Watershed. The EV Board recommended approval on February 6, 2008 by a vote of 6-0-0-1, with the following conditions:

Staff conditions:

1. Revegetation in accordance with City of Austin Specification 609(S) for seeding and planting.
2. Landscaping in accordance with ECM, Section 2 using only native and drought tolerant plants.
3. Grass swales and vegetative filter strips.
4. An IPM plan.
5. Drip irrigation for the septic system.

Additional Board Conditions (to which the applicant had agreed):

6. The applicant agreed to enter into a restrictive covenant that would limit impervious cover to 0.052 acres on the nearby cemetery, which is less than 5% of the net site area of the tract.

The Zoning and Platting Commission approved this variance on April 15, 2008 with a vote of 7-1-0-0.



Planning & Development Review Department
Staff Recommendations Concerning Required Findings
Of Fact

Application Name: Texas Custom Choppers
Application Case No: SP-2010-0335D

Code Reference: Land Development Code Section 25-8-454(D)(1)(a)

Variance Request: To allow the development to construct up to 53% impervious cover on the site.

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.
No. The amount of impervious cover above and beyond the limit set by code has historically not been awarded to sites in the area through the variance process. Neighboring sites in the area have exceeded the allowable impervious cover limits through the H.B. 1704 grandfathering process.

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

No. The development is based on a condition caused by the method chosen by the applicant to develop the property. The property was purposely developed with impervious cover exceeding the allowable after the site was legally constructed through a site plan. The new owner assumes the liabilities of the property and is therefore responsible for the methods chosen by the old owner.

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

No. The amount of impervious cover requested is more than double the allowed in this watershed.

- c) Does not create a significant probability of harmful environmental consequences; and

No. This variance does not directly create a significant probability of harmful environmental consequences. The drainage from the site will be treated through an on-site water quality pond. The indirect environmental consequences of the precedent set

by granting this variance could have a detrimental affect on the environment of watersheds within the Water Supply Rural area of Austin. Additional variances requested to exceed the allowable impervious cover by neighboring sites would likely be requested at a significant rate.

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. The proposed project will result in water quality that is at least equal to the water quality achievable without the variance because the site will be providing a water quality pond to treat the site's drainage.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The above criteria for granting a variance are met;

N/A

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A

Reviewer Name: Brad Jackson

Reviewer Signature:



Date: August 4, 2011

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).



**Planning & Development Review Department
Staff Recommendations Concerning Required Findings
Of Fact**

Application Name:	Texas Custom Choppers
Application Case No:	SP-2010-0335D
Code Reference:	Land Development Code Section 25-8-454(D)(2)
Variance Request:	To eliminate the requirement that 40% of the site be restored to its natural state to serve as a buffer.

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.
No. The applicant would be able to meet the downstream buffer area requirement if they had not illegally built additional impervious cover on the site. Other similarly situated properties provide the 40% downstream buffer in accordance with City code.
2. The variance:
 - a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;
No. The development is based on a condition caused by the method chosen by the applicant to develop the property. The property was purposely developed with impervious cover exceeding the allowable after the site was legally constructed through a site plan. This additional impervious cover is the reason the applicant cannot meet this 40% downstream buffer requirement. The new owner assumes the liabilities of the property and is therefore responsible for the methods chosen by the old owner.
 - b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;
No. The elimination of the downstream buffer is a result of developing the majority of the property with impervious cover. The amount of impervious cover developed is more than double what is allowed by City code.
 - c) Does not create a significant probability of harmful environmental consequences; and

No. This variance does not directly create a significant probability of harmful environmental consequences. The drainage from the site will be treated through an on-site water quality pond. The indirect environmental consequences of the precedent set by granting this variance could have a detrimental affect on the environment of watersheds within the Water Supply Rural area of Austin. Additional variances requested to exceed the allowable impervious cover by neighboring sites would likely be requested at a significant rate.

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. The proposed project will result in water quality that is at least equal to the water quality achievable without the variance because the site will be providing a water quality pond to treat the site's drainage.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The above criteria for granting a variance are met;

N/A

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A

Reviewer Name: Brad Jackson

Reviewer Signature:



Date: August 4, 2011

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).



July 13, 2011

Mr. Jay Baker, P.E.,
Case Manager
City of Austin
505 Barton Springs Road, 4th Floor
Austin, TX 78704

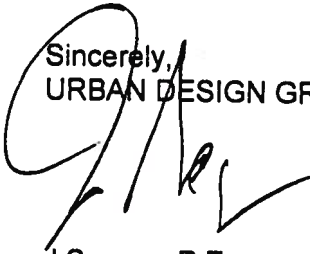
Re: Texas Custom Choppers (SP-2010-0335D)
Variance Request from LDC 25-8-454(D) (1)

Good Day Mr. Baker,

The Texas Custom Choppers development, located at 15602 Storm Drive, was found by the City to be out of compliance with the original site plan, case number SP-00-2103DS. This was due to additional impervious cover being added to the site by previous owners, wholly unrelated to the current owner. In an effort to bring the site back into compliance without the detrimental removal of the current level of impervious cover, a water quality and detention pond, designed to current code is proposed. To that end, a variance from LDC 25-8-454(D) (1) is requested in order to exceed the code impervious cover limit of 20%, and allow the current impervious cover level of 52.7%.

Attached to this variance request is the "Findings of Fact" established by the owner's attorney.

Sincerely,
URBAN DESIGN GROUP


J Segura, P.E.

COATS | ROSE

A Professional Corporation

JOHN M. JOSEPH

jmjoseph@coatsrose.com
Direct Dial
512.541.3593

November 18, 2010

Via Hand-Delivery

Case Manager
Planning & Development Review Dept.
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: Site Plan for Texas Custom Choppers; 15602 Storm Drive: Request for Variance
from City of Austin Land Development Code §§ 25-8-454(D)(1), (2)

Dear Case Manager,

This firm represents Barry Williamson, a Manager of W.O. Holdings, LLC, the current owner/operator of the above-referenced property/business. This letter is enclosed with a site plan application for the unpermitted portions of the existing improvements on the site, with the exception of the proposed expansion/improvement of the existing detention pond.

The applicant requests environmental variances from: (1) LDC § 25-8-454(D)(1), which limits the allowable impervious cover on the site to 20% NSA (25% NSA with transfers), to allow for the existing impervious cover amounting to 52.7% NSA; and (2) LDC § 25-8-454(D)(2), which requires a 40% NSA downstream buffer, to allow for the improvements as shown on the site plan application.

The applicant asserts that the requested environmental variances should be granted by the Zoning and Platting Commission pursuant to LDC § 25-8-41 based on the following findings of fact:

1. The requirements will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

Yes. Given that the applicant purchased the property with all current improvements (with the exception of the 180 square foot sidewalk), the variances are necessary to allow the applicant to remedy the present permitting deficiency while remaining in business and the

1717 W. 6th Street, Suite 420 Austin, Texas 78703

Phone: 512-469-7987 Fax: 512-469-9408

Web: www.coatsrose.com

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amount of impervious cover on nearby, similarly situated tracts exceeds that which is present on the subject tract.

2. The variances:

- a. are not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

Yes. The applicant purchased the property with all current improvements existing thereon, with the exception of the 180-square-foot sidewalk.

- b. are the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

Yes. The proposed expansion/improvement of the existing detention pond to meet current detention and water quality requirements is the minimum limits the non-compliance of the site to two environmental regulations.

- c. do not create a significant probability of harmful environmental consequences.

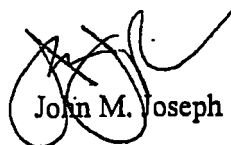
Yes. Through the expansion/improvement of the existing detention pond to meet current detention and water quality regulations, the grant of the proposed variances does not create a significant probability of harmful environmental consequences.

3. Development with the variances will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. Since the proposed water quality controls will meet current water quality regulations, the water quality is at least equal to water quality achievable without the variance.

Should you have any questions, please contact me at (512) 541-3593 or jmjoseph@coatsrose.com.

Sincerely,



John M. Joseph

Copy via email: Barry Williamson, W.O. Holdings, LLC
Don Sansom, P.E., Urban Design Group



July 13, 2011

Mr. Jay Baker, P.E.,
Case Manager
City of Austin
505 Barton Springs Road, 4th Floor
Austin, TX 78704

Re: Texas Custom Choppers (SP-2010-0335D)
Variance Request from LDC 25-8-454(D) (2)

Good Day Mr. Baker,

The Texas Custom Choppers development, located at 15602 Storm Drive, was found by the City to be out of compliance with the original site plan, case number SP-00-2103DS. This was due to additional impervious cover being added to the site by previous owners, wholly unrelated to the current owner. In an effort to bring the site back into compliance without the detrimental removal of the current level of impervious cover, a water quality and detention pond, designed to current code is proposed. To that end, a variance from LDC 25-8-454(D) (2) is requested in order to eliminate the 40% Net Site Area downstream buffer.

Attached to this variance request is the "Findings of Fact" established by the owner's attorney.

Sincerely,
URBAN DESIGN GROUP

A handwritten signature in black ink, appearing to read 'J Segura', is written over the typed name.

J Segura, P.E.

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The applicant asserts that the requested environmental variances should be granted by the Zoning and Platting Commission pursuant to LDC § 25-8-41 based on the following findings of fact:

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amount of impervious cover on nearby, similarly situated tracts exceeds that which is present on the subject tract.

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Yes. The applicant purchased the property with all current improvements existing thereon, with the exception of the 180-square-foot sidewalk.

- b. are the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

Yes. The proposed expansion/improvement of the existing detention pond to meet current detention and water quality requirements is the minimum limits the non-compliance of the site to two environmental regulations.

- c. do not create a significant probability of harmful environmental consequences.

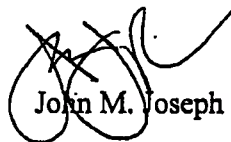
Yes. Through the expansion/improvement of the existing detention pond to meet current detention and water quality regulations, the grant of the proposed variances does not create a significant probability of harmful environmental consequences.

- 3. Development with the variances will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. Since the proposed water quality controls will meet current water quality regulations, the water quality is at least equal to water quality achievable without the variance.

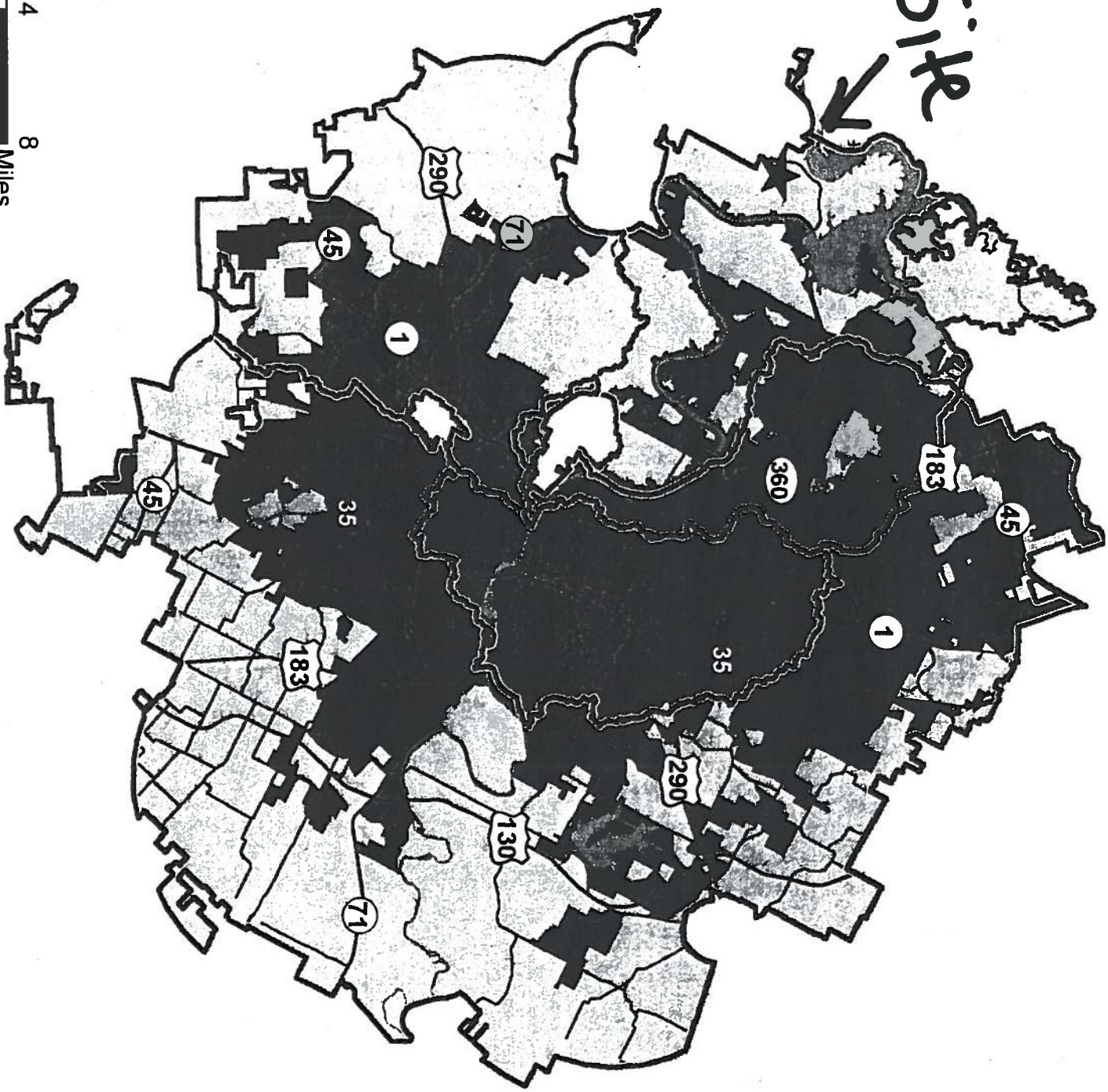
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Sincerely,


John M. Joseph

Copy via email: Barry Williamson, W.O. Holdings, LLC
Don Sansom, P.E., Urban Design Group

Site



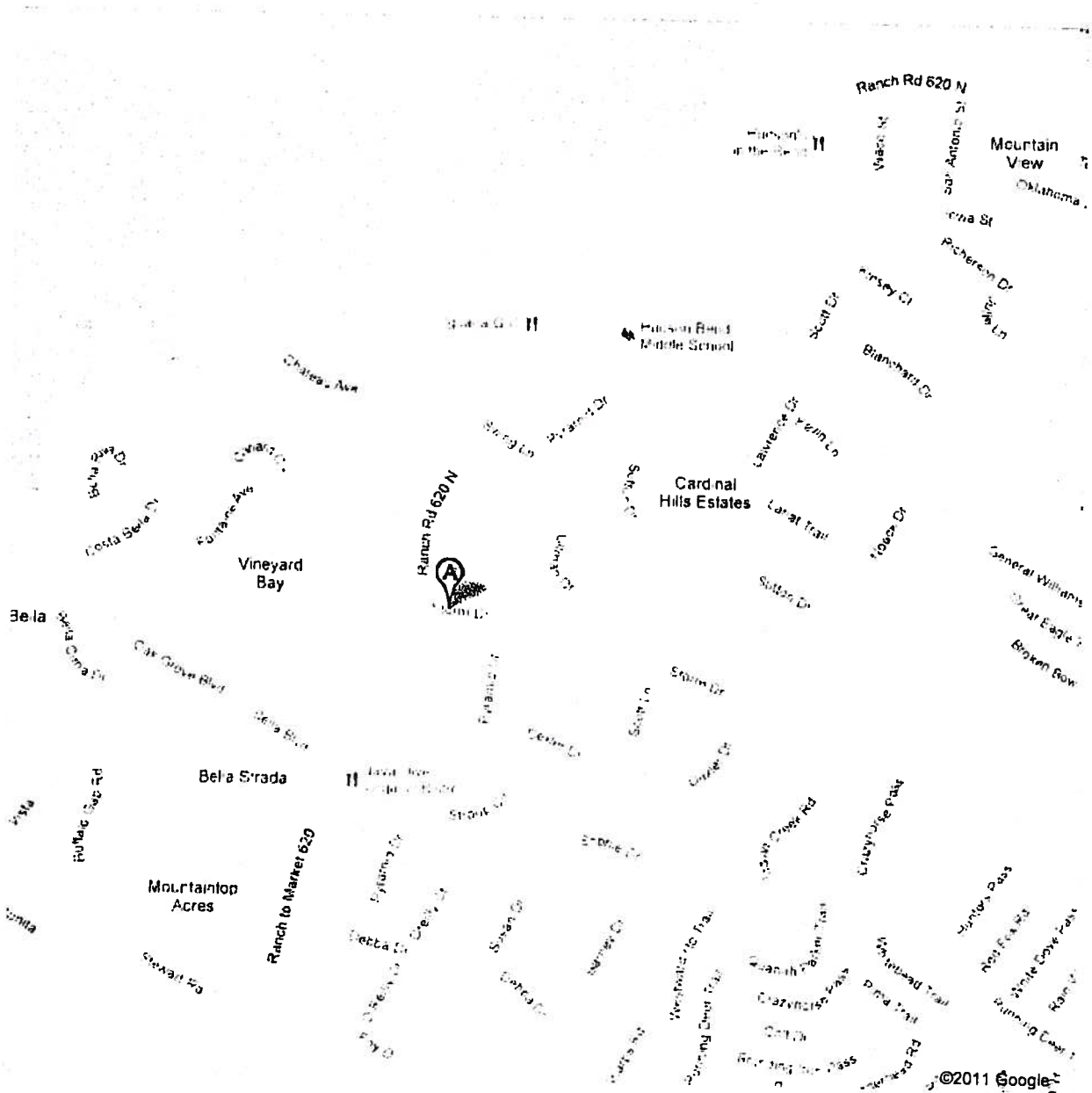
Driving Directions to Texas Custom Choppers

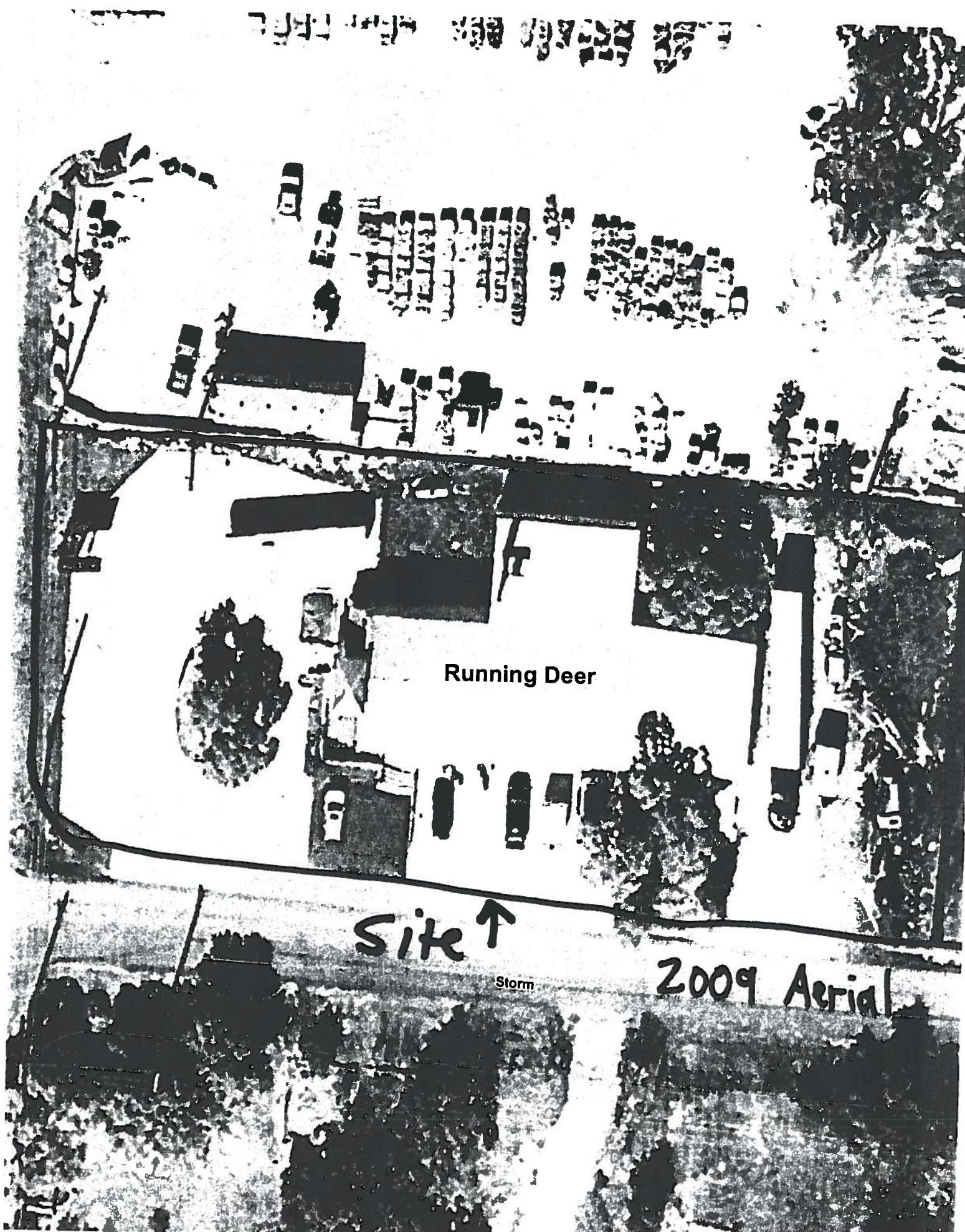
From One Texas Center, take Barton Springs Road west towards Mopac (Loop One). Take Mopac North to the 2222 exit, go left on 2222 heading west past 360 until you reach 620. Turn left on 620 heading south and cross over the Colorado River at Mansfield Dam. Continue west another 2 miles until the intersection of 620 and Storm Dr on the left. Texas Custom Choppers is at the intersection of Storm Dr. and 620.

Google maps

Address 15602 Storm Dr
Austin, TX 78734

Notes Texas Custom Choppers



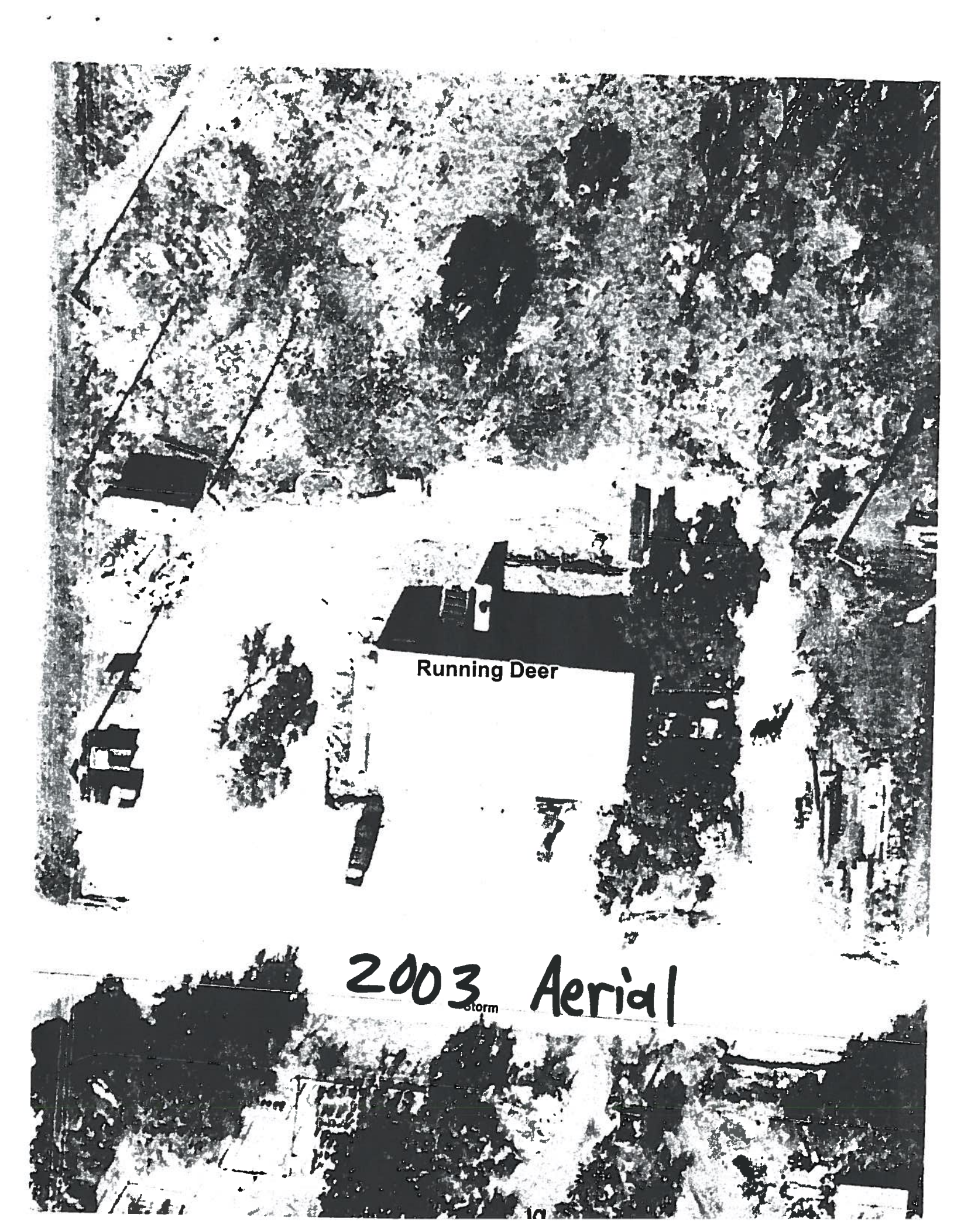


Running Deer

Site ↑

Storm

2009 Aerial

An aerial photograph of a residential area. A large, light-colored house with a dark roof is the central focus. The house has a chimney and a small porch. It is surrounded by trees and other smaller buildings. The text 'Running Deer' is printed on the side of the house.

Running Deer

2003 Aerial

storm