



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 58
AGENDA DATE: Thu 09/29/2005
PAGE: 1 of 3**

SUBJECT: Set a public hearing to consider a floodplain variance requested by Mr. and Mrs. James Damman to allow construction of an addition to an existing single-family residence in the 100 year floodplain of Lake Austin at 2503 Tydings Cove (Suggested date and time: October 6, 2005 at 6:00 p.m., City Hall Council Chambers, 301 West Second Street.)

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Watershed Protection and **DIRECTOR'S**
DEPARTMENT: Development Review **AUTHORIZATION:** Joe Pantalione

FOR MORE INFORMATION CONTACT: Ray Windsor, 974-3362; Gary Kosut, P.E., 974-3374; Martha Vincent, 974-3371

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

The applicant and property owners, Mr. and Mrs. James Damman, have submitted a building permit application (BP-05-4191RA) for new construction of a one-story addition, covered patio, and garage to their existing two-story residence. The application also includes the construction of a swimming pool. The house is within the 100-year floodplain of Lake Austin; this encroachment triggers the Land Development Code (LDC) 25-7-92 (B), which prohibits buildings in the 100-year floodplain. The project does not meet the exception criteria of LDC 25-7-93 (General Exceptions), 25-7-94 (Exceptions in the Central Business District), or 25-7-95 (Exceptions for Parking Areas).

The existing lowest floor of the house does not conform to (i.e., is lower than) the Land Development Code's requirement for elevation above the floodplain. The LDC 25-12-3, Section 5903, states that a structure that does not conform to the floodplain regulations shall not be expanded, changed, enlarged, or altered in a way which increases its nonconformity. Additionally, no substantial improvement of the structure shall be made unless the structure is changed to conform to the floodplain regulations. Because the applicant does not propose substantial improvement to the house, the applicant is not required to bring the existing house into compliance with respect to the elevation requirement according to the City's LDC. LDC-12-3, Appendix Chapter 58, Article 9. B (1) does however require that new construction have the lowest floor elevated to or above the regulatory flood datum.

The owners desire to increase the size and hence the "non-conformity" of their residence with respect to the City of Austin's floodplain regulations and do not wish to comply with the LDC elevation requirement for the proposed new construction and have therefore been denied a building permit. The applicants seek variances from the floodplain management regulations of the City of Austin in order to proceed with their proposed construction.



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 58
AGENDA DATE: Thu 09/29/2005
PAGE: 2 of 3**

APPLICABLE CODE:

Land Development Code (LDC) 25-7-92 restricts encroachment of buildings or parking areas in the 100-year floodplain.

The existing house is located within the 100-year floodplain of Lake Austin. The project does not qualify for an exemption under the several provisions of the LDC.

LDC Section 25-12-3, Local amendments to the Building Code, Section 5903. Nonconforming Uses. A structure, or the use of a structure or premises, which was lawful before the adoption this chapter, but which does not conform to the requirements of these regulations, may be continued subject to the following conditions:

- (1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

The applicant proposes an addition of 1064 sq. ft. of residential space at the first floor, an attached garage of 548 sq. ft. and a covered patio of 159 sq. ft.

LDC Section 25-12-3, Local amendments to the Building Code, Section 58, Article 9.B(1) requires new construction of any residential structure to have the lowest floor elevated to or above the RFD (regulatory flood datum equals the 100-year floodplain elevation plus one foot).

The lowest level floor elevation of the existing house is at 498.78 feet above mean sea level. The 100-year flood level is at 498.00 feet, meaning that the RFD is 499.00 feet. Therefore, the floor of the proposed new construction must be at or above 499.00 feet in order to comply with LDC 25-12-3. The applicants do not wish to construct the addition at this elevation (499.00 feet) and therefore, they seek a variance.

LDC Section 25-7-152 (A) requires the owner of real property to be developed to dedicate a drainage easement to the limits of the 100-year floodplain.

It is the Watershed Protection and Development Review Department's recommendation that, without regard to the Department's other recommendations herein, the requirement to dedicate a drainage easement to the extent of the 100-year floodplain be waived under this variance request with the condition and understanding that the property owners shall dedicate a drainage easement to the perimeter(s) of the house, addition, garage and their rooflines within the 100-year floodplain.

PREREQUISITES FOR GRANTING VARIANCES:

LDC Section 25-12, Building Code Appendix Chapter 58, Article 8, Administration, Article 10 states that variances shall only be issued upon:

- 1) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 2) Showing a good and sufficient cause;
- 3) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 58
AGENDA DATE: Thu 09/29/2005
PAGE: 3 of 3**

- 4) A determination that granting a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

CONSIDERATIONS:

The applicant proposes additions to an existing residence which does not conform to the City of Austin's floodplain regulations. The structure's "non-conformance" is worsened by the proposed additions. Access to the residence by emergency responders is restricted by Lake Austin floodwaters. (At the 100-year flood, the house is surrounded by water varying in depth from 0.22 to 1.92 feet.) The property owners currently have use of the property for its intended purposes. Good and sufficient cause to grant variances and an exceptional hardship (associated with the land) has not been demonstrated.

VARIANCE PROCEDURES:

The City Council shall hear and render judgment on requests for variances from the flood plain management regulations. Variances shall not be issued within any designated floodway (25-year floodplain) if any increase in flood levels during the base flood (100-year flood) discharge would result. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing relevant factors have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases. The relevant factors to be considered are:

- 1) The danger to life and property due to flooding or erosion damage;
- 2) The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
- 3) The danger that materials may be swept onto other lands to the injury of others;
- 4) The compatibility of the proposed use with existing and anticipated development;
- 5) The safety of access to the property during times of flood for ordinary and emergency vehicles;
- 6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- 7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- 8) The necessity to the facility of a waterfront location, where applicable;
- 9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 10) The relationship of the proposed use to the comprehensive plan for the area.



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 58
AGENDA DATE: Thu 09/29/2005
PAGE: 4 of 3**

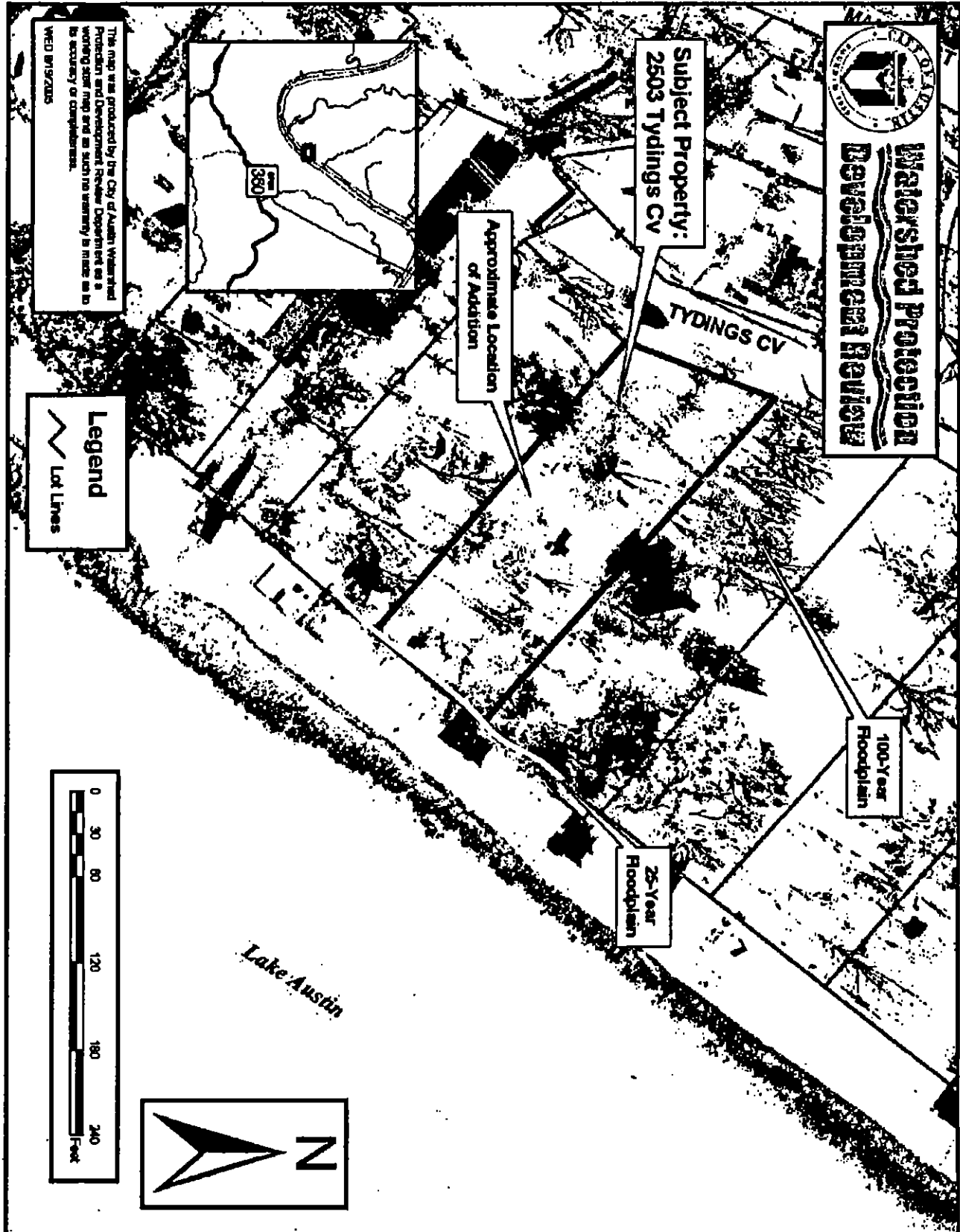
Backup Information Packet

Conduct a public hearing to consider a variance request to allow expansion and remodeling of an existing single-family structure at 2503 Tydings Cv in the 100-year floodplain and to waive the requirement to dedicate a drainage easement to the full extent of the 100-year floodplain of Lake Austin.

(Suggested date and time: October 6, 2005, at 6:00 p.m.)

1. Site Location Map for 2503 Tydings Cv
2. Floodplain Variance Procedures.
3. Photograph of the existing house at
2503 Tydings Cv
4. Photograph of the existing house at
2503 Tydings Cv
5. Photograph of the existing house at
2503 Tydings Cv

Location Map for 2503 Tydings Cv



2. FLOODPLAIN VARIANCE PROCEDURES

Building Code, Appendix Chapter 58, Article 8 outlines procedures for consideration of flood plain development and evaluation of variance requests.

PREREQUISITES FOR GRANTING VARIANCES:

Variances shall only be issued upon:

- 1) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 2) Showing a good and sufficient cause;
- 3) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
- 4) A determination that granting a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

VARIANCE PROCEDURES:

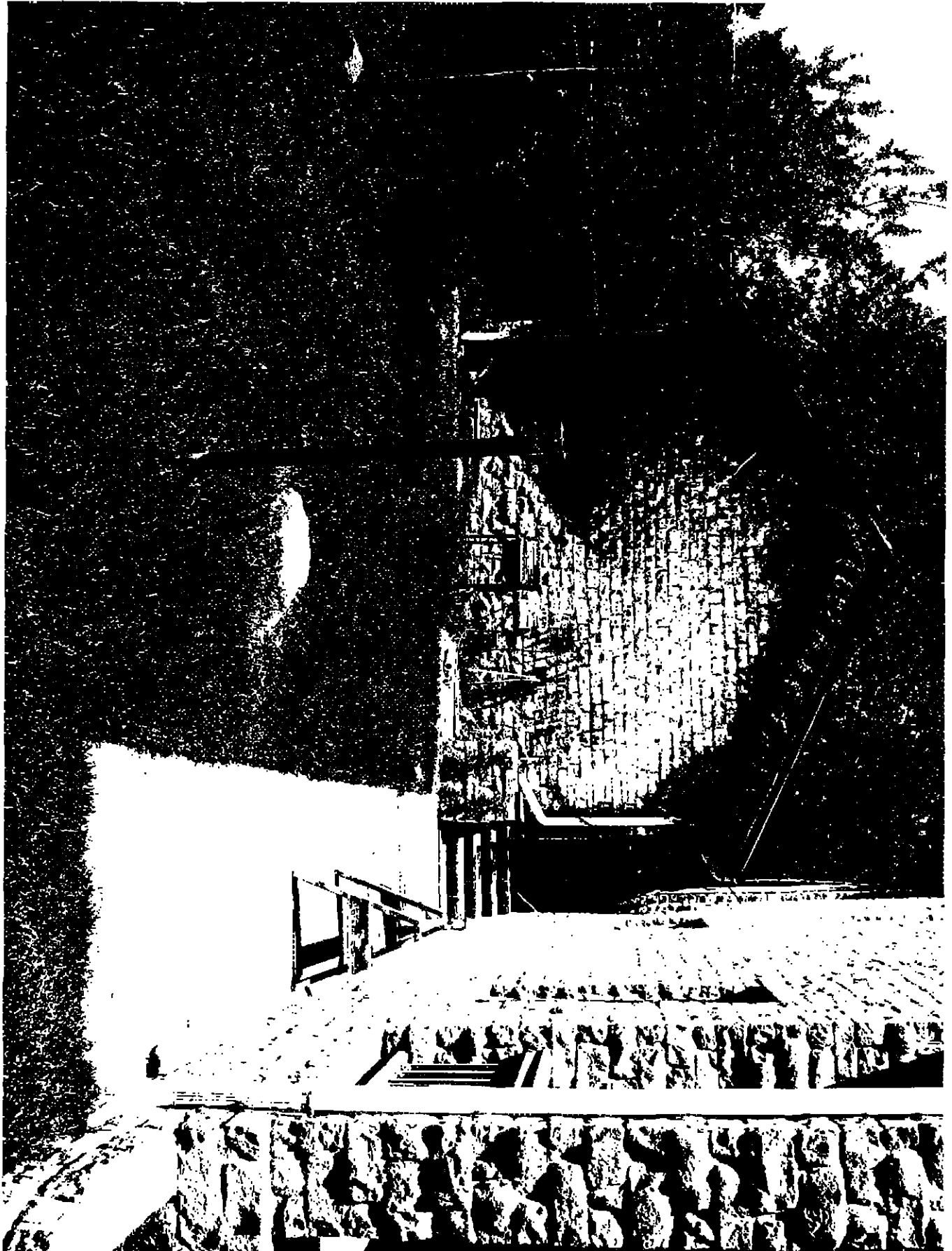
The City Council shall hear and render judgement on requests for variances from the flood plain management regulations. Variances shall not be issued within any designated floodway (25-year floodplain) if any increase in flood levels during the base flood (100-year flood) discharge would result. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing relevant factors have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases. The relevant factors to be considered are:

- 1) The danger to life and property due to flooding or erosion damage;
- 2) The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
- 3) The danger that materials may be swept onto other lands to the injury of others;
- 4) The compatibility of the proposed use with existing and anticipated development;
- 5) The safety of access to the property during times of flood for ordinary and emergency vehicles;
- 6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- 7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- 8) The necessity to the facility of a waterfront location, where applicable;
- 9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 10) The relationship of the proposed use to the comprehensive plan for the area.

Photograph of existing house at 2503 Tydings Cv



Photograph of existing house at 2503 Tydings Cv



Photograph of existing house at 2503 Tydings Cv

