1. May 21, 2020 - Board Of Adjustment

   Documents:

   5-21-2020 BOA AGENDA REVISED_.PDF

2. BA2020017 Staff Report

   Documents:

   01. BA2020017.PDF

3. BA2020018 Staff Report

   Documents:

   02. BA2020018.PDF

4. BA2020004 Staff Report

   Documents:

   03. BA2020004.PDF

5. BA2020016 Staff Report

   Documents:

   04. BA2020016.PDF

BOARD OF ADJUSTMENT
MARICOPA COUNTY
Gotowebinar.com
Phoenix, Arizona

AGENDA
Thursday, May 21, 2020

This meeting has been noticed in accordance with the Open Meeting Law (ARS §38-431).

Following CDC guidelines and Governor Ducey's Executive Order 2020-09 regarding recommendation to limit social gatherings, the public is invited to view the Board of Adjustment hearing on-line.

https://attendee.gotowebinar.com/register/232006155860030222

After registering, you will receive a confirmation e-mail containing information about joining the webinar.

To listen by telephone, dial 1 (213) 929-4232, when prompted enter Audio Access code 747-346-341. If you are not registered as a webinar participant, you may be able to listen to the hearing but will be unable to participate in the hearing. Registered participants may participate in real time when the Chairman instructs participants on how to be recognized or to provide comment.

If you would like to send a comment, or register support or opposition regarding one of the items on the agenda, please send an e-mail to Rachel.Applegate@Maricopa.Gov identifying the following:

- **Board of Adjustment hearing date**
- **Agenda item and case number**
- **Your name, address, e-mail and phone number**
- **Identify yourself as applicant / applicant representative / in support / in opposition / other**
- **Indicate support or opposition**
- **Indicate if you wish to speak or do not wish to speak**
- **You may attach items to the email that you wish to be presented to the Board.**
- **Any such email must be received prior to the public hearing beginning for that item. It is preferred for the e-mail to be received at least one day prior to the public hearing.**

All items on this agenda are for Board action unless otherwise noted. The Board may break for lunch at its discretion during this agenda. These items will be heard at the next available Board hearing if this hearing is cancelled or a quorum is lost.

Agendas are available within 24 hours of each meeting in the Maricopa County Planning & Development Office, 501 N. 44th St., 2nd Fl., Phoenix Arizona, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. Auxiliary aids and services are available upon request to individuals with disabilities upon 72 hours advance notice. Additional reasonable accommodations will be made available to the extent possible within the time frame of the

request. If you require accommodations in order to participate in any forthcoming meeting or hearing, please contact Rosalie Pinney at Rosalie.Pinney@maricopa.gov at 602-506-0625 or 602-506-3301. TDD is available at 602-506-7140.

The staff reports prepared for each agenda item shall become a part of the permanent record for each case acted on at the Board meeting. Any material submitted as part of the record for a case will not be returned.

Public demonstrations of any kind by principals, witnesses, or spectators at any hearing before this Board, including cheering, booing, hand clapping, or the interruption of the hearing by voluntary remarks from the audience shall be strictly forbidden, and any person or persons who shall continue to participate in such conduct after having once been admonished for such conduct, shall be subject to being ejected from the hearing room by order of the Chairman.

Every witness shall fill out speaker's card and shall be limited up to a maximum of 3 minutes. Rebuttal by the applicant shall be limited up to a maximum of 5 minutes.

The Board of Adjustment is established, governed and limited by the provision of ARS §11-816. All Actions by the Board of Adjustment are final unless an appeal is filed with Superior Court within thirty (30) days of the Board's decision.

Results of the Board's action shall be available for the purpose of obtaining zoning clearances 24 hours after completion of the Board hearing.

Continuance Agenda: Items listed on the Continuance Agenda are items that are recommended for continuance by staff with concurrence from the applicant. These items will not have a hearing at this time, but shall be moved for continuance either indefinitely or to a date-certain. Those items that are continued indefinitely will require new notification.

Consent Agenda: Items listed on the Consent Agenda are considered routine by the Board and may be enacted in one motion. Any item on the Consent Agenda may be removed from the Consent Agenda and placed on the Regular Agenda for public hearing if a Board member or a citizen so desires.

Code Compliance Review: Staff will present the appeal from the decision of a Hearing Officer to the Board. After any questions from the Board, the appellant will be permitted to present the basis for the appeal. On an appeal the Board is limited to affirming the decision of the hearing officer or remanding the matter due to a procedural error. Therefore, the presentation by the appellant should be limited to demonstrating a procedural error that warrants a remand for a new or supplemental hearing before the hearing officer.

Regular Agenda: Items listed on the Regular Agenda are items that receive a full hearing. Staff will give a brief presentation and after question from the Board, the applicant will be permitted to present the merits of their case. The applicant's justification should demonstrate that owing to peculiar conditions relating to the subject property, a strict interpretation of the ordinance would work an unnecessary hardship, and that granting of the variance would not damage the intent and purpose of the zoning ordinance.

Call To Order: 10:00 a.m.

Roll Call: Board of Adjustment Members

Approval of Minutes: Revisit the hearing minutes from June 21, 2018 approved by the Board on August 16, 2018.

Announcements: The Chair shall make the normal meeting announcements.

Continuance Agenda: None

Consent Agenda:

1. **BA2020017** **Becker Property** **District 1**
   Applicant: Dustin Becker
   Location: APN 304-70-098A @16132 E. Twin Acres Dr. in the Gilbert area
   Zoning: Rural-43
   Request: Modification to condition 'b' of BA2019027 for a time extension
   Findings: **The request meets the statutory test for variance approval**
   Presented by: Ray Banker

2. **BA2020018** **Petross Property** **District 4**
   Applicant: Dustin Petross
   Location: APN 200-64-016C and 200-64-012B @ 15015 N. 71st Avenue – 1,425 ft. north of the NEC of Acoma Drive & 71st Avenue, in the Peoria area
   Zoning: Rural-43
   Requests: Variance to permit:
   1) Proposed lot area of 43,186 sq. ft. where 43,560 sq. ft. is the minimum lot area required; and
   2) Proposed lot width of 140' where 145' is the minimum lot width required
   Findings: **The request meets the statutory test for variance approval**
   Presented by: Sean Watkins

Code Compliance Review: None

Regular Agenda:

3. **BA2020004** **Oldham Property** **District 2**
   Applicant: iPlan, LLC
   Location: APN 219-33-024F @ 2833 N. 89th St. in the Mesa area
   Zoning: R1-35
   Requests: Variance to permit:
   1) Proposed hillside disturbance outside the lot's principal buildable envelope; and
   2) Proposed height of 35' where a maximum 30' is allowed

	Findings:	**The request does not meet the statutory test for variance approval**
	Presented by:	Ray Banker

4.	**BA2020016**	**Duarte Property**	**District 4**
	Applicant:	Lydia Reyes	
	Location:	APN142-33-003X @ 8343 W. Griswold Rd. – 85th Ave. & Griswold Rd., in the Peoria area	
	Zoning:	Rural-43	
	Request:	Variance to permit: 1) Existing front setback of 3' for an accessory structure (chicken coop) where 40' is the minimum permitted	
	Findings:	**The request does not meet the statutory test for variance approval**	
	Presented by:	Eric R. Smith	

Other Matters:

Adjournment: The Chair shall adjourn the hearing.

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case:	BA2020017 – Becker Property
Hearing Date:	May 21, 2020
Supervisor District:	1

Applicant/ Property Owner:	Dustin Becker
Request:	Modification to condition 'b' of BA2019027 for a time extension
Site Location:	APN 304-70-098A @16132 E. Twin Acres Dr. in the Gilbert area
Site Size:	40,377 sq. ft.
Current Use / Zoning:	Vacant / Rural-43

Staff Analysis:

1. On July 18, 2019, the Board approved BA2019027 to permit:

   1) Proposed lot area of 40,377 square feet where 43,560 square feet is the minimum permitted per MCZO Article 503.5.1

   Board approval was subject to conditions 'a' – 'c':

   a) General compliance with the site plan stamped received June 17, 2019.

   b) All required building permits for the proposed and existing development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

   c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

   The findings for original Variance approval remain unchanged. Due to COVID-19 concerns presenting complications for completing work within stipulated timeframes, staff recommends modifying condition 'b' to allow a 1-year time extension for permit application and no expiration for construction completion. There is a pending (issued) permit for a single-family residence on the subject parcel under B201910704.

Recommendation:

Based on the same Findings of Approval for BA2019027, staff offers the Board the following Conditions of Approval for BA2020017:

a) General compliance with the site plan stamped received June 17, 2019.

b) All required building permits for the proposed and existing development shall be applied for within 1-year of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to pursue the construction permit to completion without expiration, shall negate the Board's approval.

c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Presented by: Ray Banker, Planner
Reviewed by: Darren V. Gerard, AICP

Attachments: BA2020017 Application (1 page)
BA2019027 BOA Staff Report (16 pages)
BA2019027 BOA Minutes (4 pages)

Planning & Development Department
VARIANCE / INTERPRETATION APPLICATION

ALL FEES ARE DUE AT TIME OF APPLICATION AND ARE NON-REFUNDABLE

Is this Design Build? ☐ Yes ☐ No Is this Residential? ☒ Yes ☐ No

Please select the type of Board of Adjustment application from the checkboxes below.

☒ Residential Variance | ☐ Non-residential Variance | ☐ Interpretation | ☐ BA Blanket Variance

Is this subject property within an area of 15% or greater hillside slopes? Yes ☐ No ☒

REQUEST

Description of Request: Stipulation/condition modification for time extension to BA2019027
Existing Use of Property: Residential home
Existing Zoning District: RU-43
Related Case Number(s): BA2019027 & B201910704

PROPERTY INFORMATION

Address (if known): 16132 E. Twin Acres Gilbert, AZ 85298
General Location (include nearest city/town): Town of Gilbert

Size in Acres: .93 Square Feet: 40,410
Legal Description: Section: 15 Township: 2S Range: 6E
Assessor's Parcel Number: 304-70-098A
Subdivision Name (if applicable):

APPLICANT INFORMATION

Name: Dustin Becker Contact: Dustin Becker
Address: 2106 S. Roma St.
City: Gilbert State: AZ Zip: 85295
Phone #: 480-695-5623 Fax #:
E-mail Address: Dustin@bjorkbuilders.com

PROPERTY OWNER INFORMATION

Name: Dustin Becker Contact: Dustin Becker
Address: 2106 S. Roma St.
City: Gilbert State: AZ Zip: 85295
Phone #: 480-695-5623 Fax #:
E-mail Address: Dustin@bjorkbuilders.com

PROPERTY OWNER AND APPLICANT AUTHORIZATION

I (property owner) _____ authorize **(applicant's name)** Dustin Becker to file this application on all matters relating to this request with Maricopa County. By signing this form as the property owner I hereby agree to abide by any and all conditions that may be assigned by the Maricopa County Board of Supervisors, Maricopa County Planning and Zoning Commission, or Maricopa County Planning and Development Department staff as applicable, as part of any approval of this request, including conditions, development agreements, and/or any other requirement that may encumber or otherwise affect the use of my property.

PROPOSITION 207 WAIVER

The property owner acknowledges that the approval being sought by this application may cause a reduction in the existing rights to use, divide, sell or possess the private property that is the subject of this application. The property owner further acknowledges that it is the property owner who has requested the action sought by the filing of this application. Therefore, with full knowledge of all rights granted to the property owner pursuant to A.R.S.§1§12-1132 through 1138, the property owner does hereby waive any and all claims for diminution in value of the property with regard to any action taken by Maricopa County as result of the filing of this application.

Property Owner Signature: _____ Date: 4-16-20

INSPECTIONS

By submitting this application, I am inviting County staff to conduct all site inspections they deem necessary.

VERIFICATION OF APPLICATION INFORMATION

I certify that the statements in this application and support material are true. Any approvals or permits granted by Maricopa County in reliance upon the truthfulness of these statements may be revoked or rescinded.

Owner or Authorized Agent Signature: _____ Date: 4-16-20

ARS § 1605 TIMEFRAME EXTENSION

I authorize a **50% timeframe extension** for the review of my application as adopted by the Board of Supervisors per ARS § 1605 and as amended.

Property Owner Signature: _____ Date: 4-16-20

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case:	BA2019027 – Webb Property
Hearing Date:	July 18, 2019
Supervisor District:	1
Applicants:	Dustin Becker and Jessica McGalliard
Owner:	Russell and Rebecca Webb
Request:	**Variance to the development standard of the Maricopa Zoning Ordinance to permit:**
	1) Proposed lot area of 40,377 square feet where 43,560 square feet is the minimum permitted per MCZO Article 503.5.1
Site Location:	APN 304-70-098A @16132 E. Twin Acres Dr. in the Gilbert area
Site Size:	40,377 sq. ft.
Current Use / Zoning:	Vacant / Rural-43
Open Violation:	**No Violation on property**
Citizen Support/Opposition:	No known opposition
Findings:	☒ **The request fails to meet the statutory test for variance approval**

Background:

1. **Circa 2004:** Subject parcel was split from parent parcel 304-70-098, which resulted in parcels 304-70-098A and 304-70-098B.

2. **February 11, 2004: BA2004006** was **denied** by the Board of Adjustment for the subject property being under the required lot size of 40,377 sq. ft. which is identical to this request.

3. **April 2, 2012:** The current owner took possession of the subject property via a Warranty Deed recorded under docket **20120273555.**

4. **June 17, 2019:** The owner's authorized agent (possible future owner) applied for the subject variance request.

Reviewing Agencies Comments:

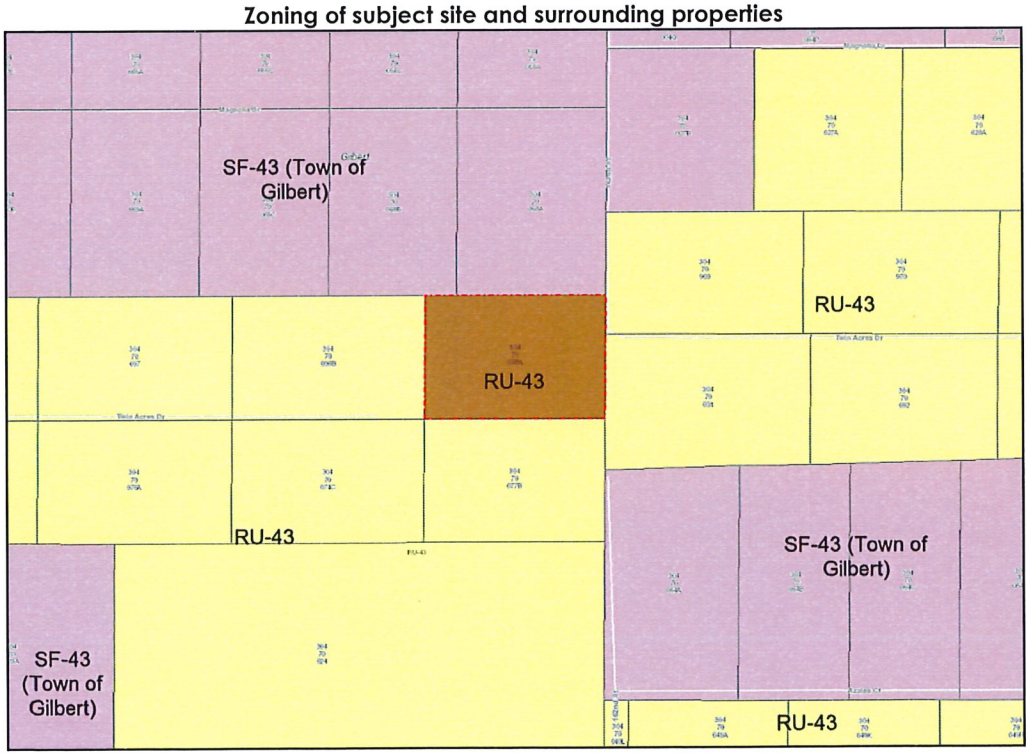
5. **Engineering (Transportation, Drainage, and Flood Control):** No objection to the request, see attached memo dated July 2, 2019.

6. **Environmental Services Department (MCESD):** No objection to the request, see attached memo dated June 21, 2019.

Existing On-Site and Surrounding Zoning/Land Use:

7. On-site: Rural-43/Vacant
   North: SF-43 (Town of Gilbert)/Single-family residence
   South: Rural-43/Vacant
   East: 162nd St. & Twin Acres Dr. easements then Rural-43/Single-family residences
   West: Rural-43 /Single-family residence

Zoning of subject site and surrounding properties



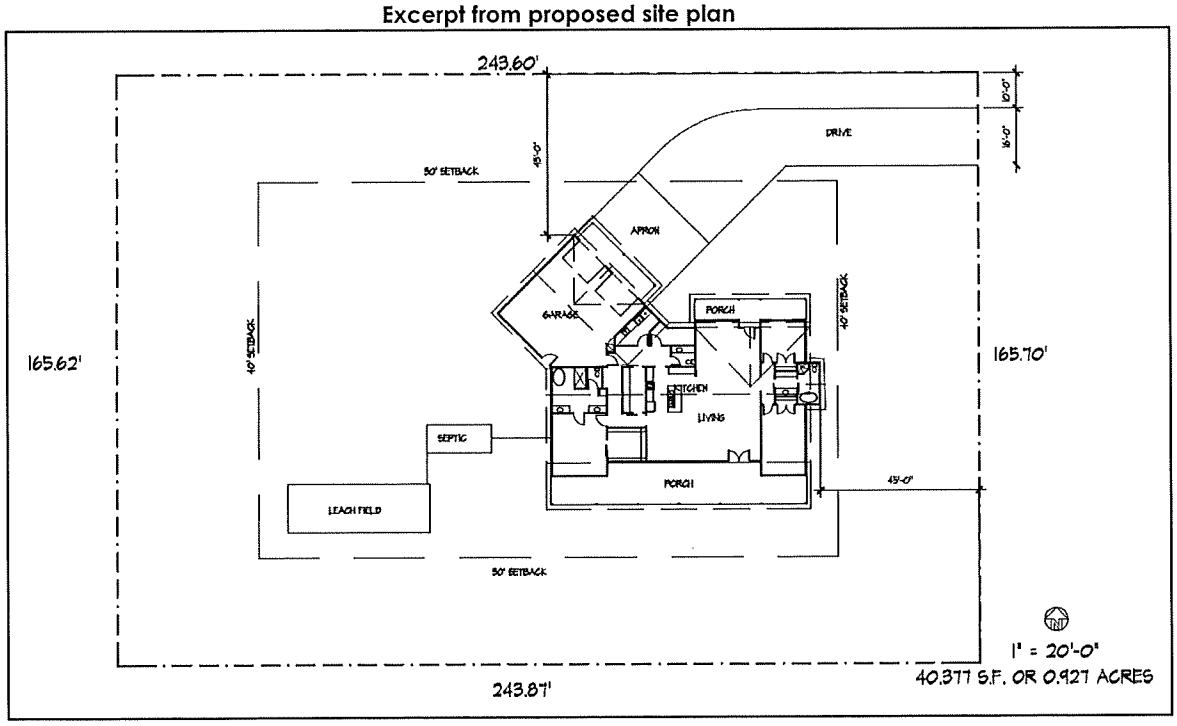
Site Analysis:

8. The subject site is located in the southeastern portion of the County in the Gilbert area. The closest major intersection is northwest of the site at Greenfield Rd. and Queen Creek Rd. The immediate area around the subject site has been developed through lot splitting. As can be seen on the zoning exhibit of the site and surrounding area, the site is part of a Gilbert County Island with many adjacent and nearby lots within the Town of Gilbert jurisdiction.

9. The subject site is a rectangular shaped lot that fronts onto an ingress/egress easement to the east of the parcel (162nd St. and Twin Acres Dr.) as indicated on the site plan for the property. The total area of the lot is 40,377 sq. ft. and the lot is approximately 165' in width. The site is currently vacant and the applicant is proposing to develop the property with a single-family residence. Site topography is unremarkable, there appears to be some existing screening on the subject site.

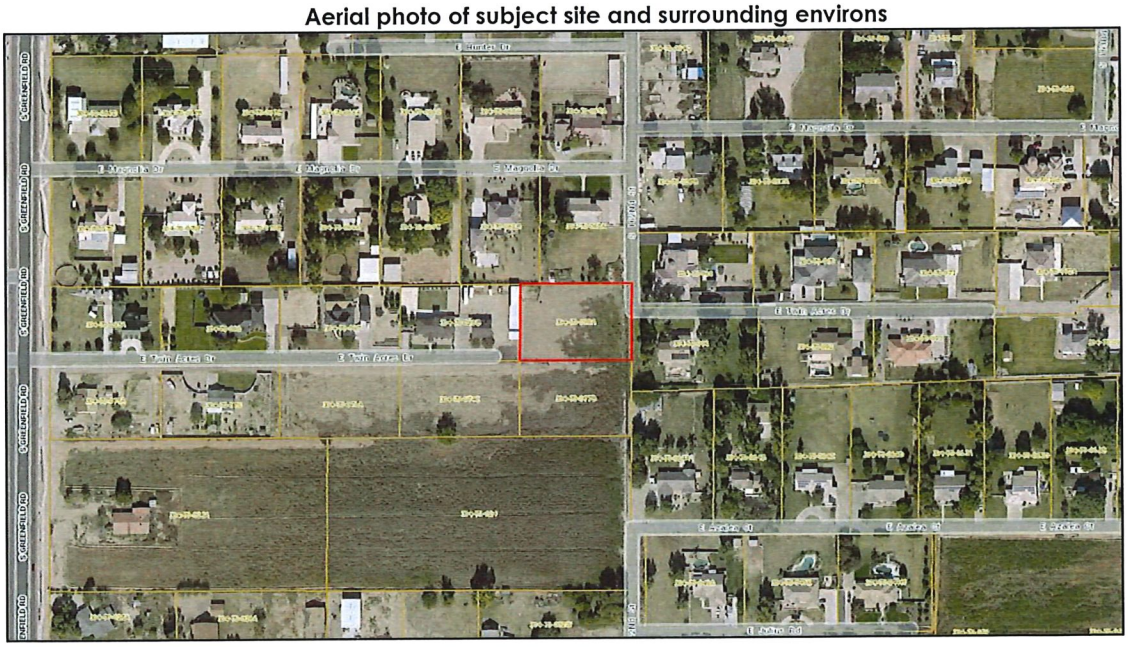
10. The need for this variance ultimately stems from lot splitting. There have been subsequent ownership changes after the splitting occurred. While the request may be considered de-minimis, staff is unfortunately unable to support the request without the appropriate statutory or ordinance derived authority to do so. There was also the previous identical request for the same site that was denied by the BOA with case BA2004006 for reasons of the need for the variance is self-created and it is contrary to the intent of the zoning ordinance. As previously mentioned, the applicant plans to build a residence on the subject property. The site plan shown below shows the home being located within the building envelope of the lot with generous setbacks to adjacent properties. It should be noted that the property to the south of the subject site is vacant and is also a sub-substandard sized lot under separate ownership. The applicant has provided justifications for the request within the attached supplemental questionnaire and narrative. The Town of Gilbert responded (email attached) with no concerns as long setbacks and be met and access is provided.

Excerpt from proposed site plan



Aerial photo of subject site

Aerial photo of subject site and surrounding environs



Aerial of subject site and surrounding area (Circa December 2003-January 2004)

11. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the owner (Note: changes to proposed standards are indicated in bold).

Standard	Rural-43 Zoning District	Proposed Standard
Minimum Lot Area	43,560-sq. ft.	**40,377-sq. ft.**

Note: Standards indicated in **bold** do not meet base zoning standards

ARS § 11-816.B.2 and MCZO Article 303.2.2 states the Board of Adjustment may, "Allow a variance from the terms of the ordinance if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of the zoning ordinance will be preserved."

State Statute / County Zoning Ordinance Tests:

12. **Statutory Test -1 Peculiar condition** – Discuss and explain what is/are the peculiar condition facing the property and include reference to the Maricopa County Zoning Ordinance Regulation or Development Standard to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulation or Development Standard would impose a hardship on the property.

'The existing and neighboring lots were split without regards to the MCZO and this lot is short the minimum 1 acre to obtain a building permit (MCZO 503.5). it is currently .93 of an acre. I am asking to be granted a variance to build my home on the property. The lot currently has electric, water, and gas on the property'.

13. **Statutory Test 2 – Unnecessary Hardship –** Explain the unnecessary hardship the peculiar condition on the site create with respect to existing Regulation and Standard of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

'The only unnecessary hardship that exists is the lot is just under an acre. This is one of five lots that were split. This lot is the last one to be developed and was shorted 3,150 sq. ft. through the split process. Due to the lot sizes on the boarding properties we are unable to acquire the extra square footage needed with making those lots an acre'.

14. **Statutory Test 3 – General Intent and Purpose of the Zoning Ordinance -** Discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

'Building a home on this RU-43 lot in a residential area is not going to cause any negative impact to the neighborhood or current easements. The current lot is unused dirt and weeds. The Roosevelt irrigation canal is overgrown with vegetation and impeding the flow down stream. If we are granted the variance the canal will be maintained. We have met with 3 of the 4 bordering neighbors and they all are hopeful that the variance is granted. We hope to build a modest single family home within the setback regulations (MCZO 503.4). I will plant grass and trees on the property as well as pay property taxes'.

15. **Per MCZO – Evidence of the ability and intention of the applicant to proceed with construction work within 120 days after variance decision by the Board of Adjustment.** Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit or as-built permit currently filed with Planning and Development Department and the current review status. Specify the permit number. If no permit have been filed, please provide a timeline for building permit submittal and projected timeframe for construction. Conversely, indicate if the variance request is/are not related to a specific development proposal.

'The lot is currently in escrow and I am just waiting on the outcome of this variance request to move forward and pull a building permit. I have already hired an architect and he has completed the site, floor, and building elevations. My financial lender has approved the plan and lot. Construction work will proceed well before the 120 days after the boards decision'.

Findings:

16. The applicant has the burden of proving that, in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2, the property is entitled to receive a variance. To do so, the applicant must present evidence that, due to a peculiar condition related to the land, that being something that is not a common condition of other properties, applying the requirement of the MCZO as written to this particular property would work an undue hardship on the property. In addition, the applicant must demonstrate that the granting of the variance would preserve the general intent and purpose of the MCZO.

Based upon what the applicant has submitted and the staff analysis in this report, staff offers the following findings:

- The applicant has failed to demonstrate that there is a peculiar condition facing the property because the need for the request stems from lot splitting.
- The applicant has failed to demonstrate that the strict application of the MCZO to the applicant's property has caused undue physical hardship that prevents the development of the property. There are possible alternatives available to the property, such as obtaining more land from the property to the south.
- The applicant has failed to demonstrate the peculiar condition / physical hardship is not self-created in the line of title in that the lot split was done by a previous owner where a variance request was already denied for the sub-standard lot.

17. However, if the Board finds that the applicant has proven entitlement to the variance; then, the Board must state on the record the basis for that determination with findings and conclusion in a motion to grant the relief sought.

In such event staff would offer the Board the following Conditions of Approval:

a) General compliance with the site plan stamped received June 17, 2019.

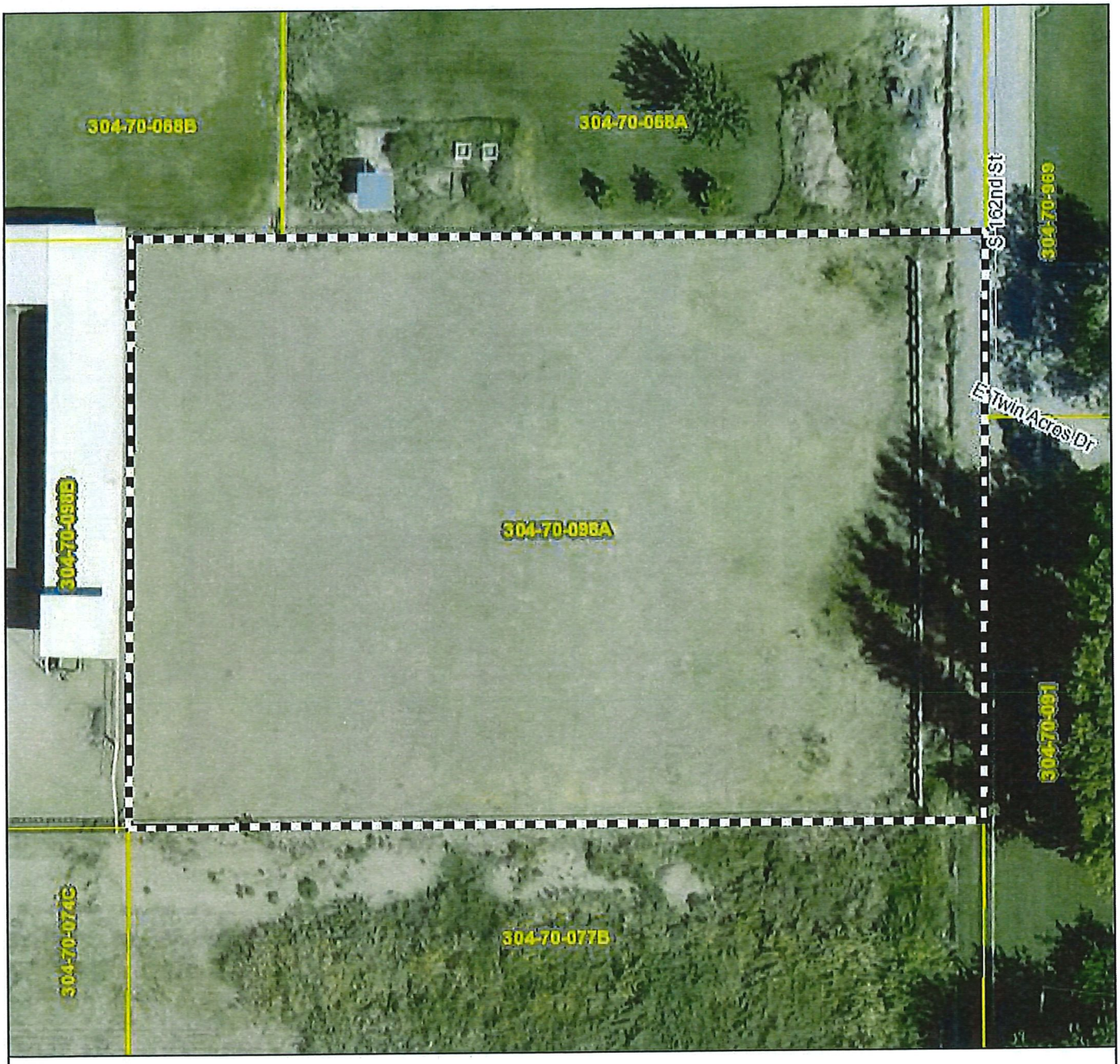
b) All required building permits for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Presented by: Ray Banker, Planner
Reviewed by: Matt Holm, AICP, Planning Supervisor

Attachments:
Case Map (1 page)
Application / Supplemental Questionnaire (3 pages)
Site Plan (1 page)
Narrative (1 page)
Engineering Comments (1 page)
MCESD Comments (1 page)
Email from Town of Gilbert (1 page)

MARICOPA COUNTY



Application Name: Webb Property

Legal Description
T02S R06E 015, T2S R06E 15

Applicant DUSTIN BECKER	**Applicant Phone/Email** 480.695.5623 DUSTIN@BJERKBUILDERS.COM	**BA2019027**
Case Address 16132 E TWIN ACRES Dr GILBERT AZ 85298	**Parcel Primary:** 304-70-098A	
Generated June 28, 2019 10:11 AM	Gross Acres: .93 approx.	Map scale 1:604

Supervisor District No. 1

VARIANCE FOR UNDERSIZED LOT (40,377 SQ.FT.) TO BUILD RESIDENTIAL HOME

N
W E
S

Maricopa County Planning & Development - Phoenix, AZ

Planning & Development Department
VARIANCE / INTERPRETATION APPLICATION

ONE STOP SHOP

ALL FEES ARE DUE AT TIME OF APPLICATION AND ARE NON-REFUNDABLE

Is this Design Build? ☐ Yes ☐ No Is this Residential? ☒ Yes ☐ No

Please select the type of Board of Adjustment application from the checkboxes below.

☒ Residential Variance | ☐ Non-residential Variance | ☐ Interpretation | ☐ BA Blanket Variance

Is this subject property within an area of 15% or greater hillside slopes? Yes ☐ No ☒

REQUEST

Description of Request: Variance for undersized lot to build residential home
Existing Use of Property: Vacant land
Existing Zoning District: RU-43
Related Case Number(s): N/A

PROPERTY INFORMATION

Address (if known): 4971 S. 162nd Gilbert, AZ 85298
General Location (include nearest city/town): Gilbert, AZ

Size in Acres: .93 Square Feet: 40,410 sq
Legal Description: Section: 15 Township: 2S Range: 6E
Assessor's Parcel Number: 304-70-098-A
Subdivision Name (if applicable):

APPLICANT INFORMATION

Name: Dustin Becker & Jessica McGalliard Contact: Dustin Becker
Address: 2106 S. Rome St.
City: Gilbert State: AZ Zip: 85295
Phone #: 480-695-5623 Fax #:
E-mail Address: Dustin@bjerkbuilders.com

PROPERTY OWNER INFORMATION

Name: Russell & Rebecca Wedd Contact:
Address: 18679 E. Druids Glen Rd.
City: Queen Creek State: AZ Zip: 85142
Phone #: Fax #:
E-mail Address:

PROPERTY OWNER AND APPLICANT AUTHORIZATION

I **(property owner)** RUSSELL K. WEDD authorize **(applicant's name)** Dustin Becker to file this application on all matters relating to this request with Maricopa County. By signing this form as the property owner I hereby agree to abide by any and all conditions that may be assigned by the Maricopa County Board of Supervisors, Maricopa County Planning and Zoning Commission, or Maricopa County Planning and Development Department staff as applicable, as part of any approval of this request, including conditions, development agreements, and/or any other requirement that may encumber or otherwise affect the use of my property.

PROPOSITION 207 WAIVER

The property owner acknowledges that the approval being sought by this application may cause a reduction in the existing rights to use, divide, sell or possess the private property that is the subject of this application. The property owner further acknowledges that it is the property owner who has requested the action sought by the filing of this application. Therefore, with full knowledge of all rights granted to the property owner pursuant to A.R.S.§1§12-1132 through 1138, the property owner does hereby waive any and all claims for diminution in value of the property with regard to any action taken by Maricopa County as result of the filing of this application.

Property Owner Signature: [signature] Date: 6-16-2019

INSPECTIONS

By submitting this application, I am inviting County staff to conduct all site inspections they deem necessary.

VERIFICATION OF APPLICATION INFORMATION

I certify that the statements in this application and support material are true. Any approvals or permits granted by Maricopa County in reliance upon the truthfulness of these statements may be revoked or rescinded.

Owner or Authorized Agent Signature: [signature] Date: 6-16-2019

ARS § 1605 TIMEFRAME EXTENSION

I authorize a **50% timeframe extension** for the review of my application as adopted by the Board of Supervisors per ARS § 1605 and as amended.

Properly Owner Signature: [signature] Date: 6-16-2019

PA2019027 RECEIVED 17 JUN 2019

Planning & Development Department

BOARD OF ADJUSTMENT
VARIANCE SUPPLEMENTAL QUESTIONNAIRE

ARS §11-816 B.2

The Board of Adjustment may allow a variance from the terms of the ordinance when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purposes of the zoning ordinance will be preserved.

1. Please discuss and explain what is/are the peculiar condition(s) facing the property and include reference to the Maricopa County Zoning Ordinance Regulation(s) or Development Standard(s) to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulation(s) or Development Standard(s) would impose a hardship on the property.

The existing and neighboring lots were split without regards to the MCZO and this lot is short the minimum 1 acre to obtain a building permit (MCZO 503.5). It is currently .93 of an acre. I am asking to be granted a variance to build my home on the property. The lot currently has electric, water, and gas on the property.

2. Please explain the unnecessary hardship the peculiar condition(s) on the site create with respect to existing Regulation(s) and Standard(s) of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

The only unnecessary hardship that exists is the lot is just under an acre. This is one of five lots that were split. This lot is the last one to be developed and was shorted 3,150 sf through the split process. Due to the lot sizes on the boarding properties we are unable to acquire the extra square footage needed with making those lots under an acre.

3. Please discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

Building a home on this RU-43 lot in a residential area is not going to cause any negative impact to the neighborhood or current easements. The current lot is unused dirt and weeds. The Roosevelt irrigation canal is overgrown with vegetation and impeding the flow down stream. If we are granted the variance the canal will be maintained. We have met with 3 of the 4 bordering neighbors and they all are hopeful that the variance is granted. We hope to build a modest single family home within the setback regulations (MCZO 503.4) I will plant grass and trees on the property as well as pay property taxes.

BA2019027

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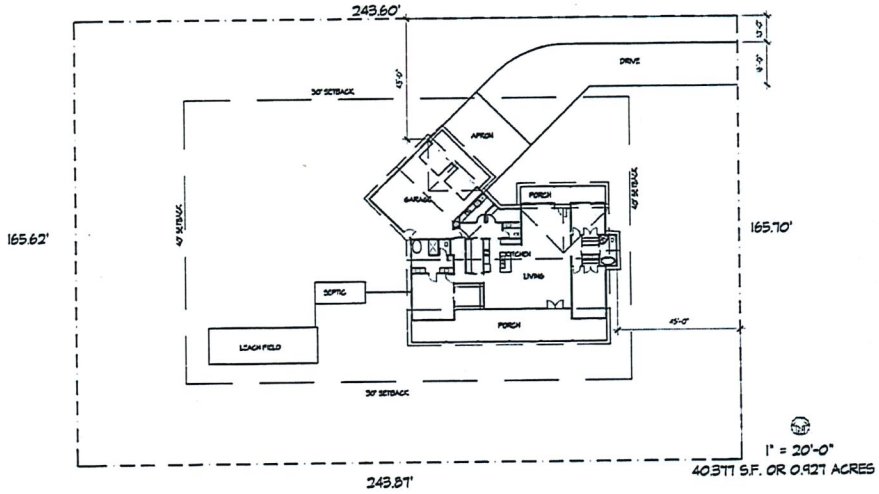
4. Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit(s) or as-built permit(s) currently filed with Planning and Development Department and the current review status. Specify the permit number(s). If no permit(s) have been filed, please provide a timeline for building permit(s) submittal and projected timeframe for construction. Conversely, indicate if the variance request(s) is/are not related to a specific development proposal.

The lot is currently in escrow and I am just waiting on the outcome of this variance request to move forward and pull a building permit. I have already hired an architect and he has completed the site, floor, and building elevations. My financial lender has approved the plan and lot. Construction work will proceed well before the 120 days after the boards decision.

*Additional sheets may be attached.

** DO NOT USE THIS FORM IF YOU ARE SUBMITTING AN INTERPRETATION



SITE PLAN
1" = 20'-0"

eden ARCHITECT

edenarchitects.com
1122 North Gilbert Road, Suite 104
Mesa, Arizona 85203
480.827.9922 480.827.0443 fax
info@edenarchitects.com

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BA 001.0021

BECKER HOME
4971 S.162ND ST.
GILBERT, AZ 85297
MARICOPA COUNTY

CONTRACTOR
COMPANY

BUILDER
OWNER

Date	5.17.2019
Drawn By	JC
Project Number	190605
Revisions	
Date	Description

DESIGN DEVELOPMENT NOT FOR CONSTRUCTION

SITE PLAN

Sheet A-1 OF

Additional Variance Information

In 2004 (15 years ago) a variance was applied for and denied. At that time the lot we are now requesting a variance had open and used lots surrounding it at all locations except for the bordering west property. In the 2004 the lot owner had the ability and to purchase land from a bordering lot due to all the availability. This is no longer the case in 2019. All the bordering properties have been developed in the past 15 years. The property to the south is currently under construction, leaving our lot an island amongst development.

We plan on building our home well within the county required setbacks with plenty of space between a structure and our property line. The lack of the full acre would not be noticeable with the size of the yard and the location of a modest single level home on the lot.
We are now aware that this variance is needed from a self-created wild cat split that was not of our own doing and was out of our control. We are asking you to review our home plan and now current conditions in the neighborhood and grant us this variance.

Thank you,

Dustin Becker

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BA2019027

Maricopa County
Planning & Development Department

Simon Edwards
Planning & Development
501 North 44th Street, Suite 200
Phoenix, Arizona 85008
Phone: (602) 372-0850
Fax: (602) 506-3282
www.maricopa.gov/planning
Email address:
SimonEdwards@mail.maricopa.gov

Date:	July 2nd, 2019
Memo To:	Darren Gerard, AICP, Deputy Director, Department of Planning & Development
Attn:	Ray Banker, Planner, Planning & Development Services
From:	Simon Edwards, Engineering Associate, Planning & Development Services
cc:	Michael Norris, P.E., Drainage Engineering Manager, Planning & Development Services
Subject:	BA2019027 – Residential Variance New SFR on Under-Sized RU-43 Lot – D1 Memo
Job Site Address:	16132 E Twin Acres Drive, Gilbert, AZ 85297
APN(s):	304-70-098A

Drainage has no objection to the variance request to allow for the construction of a new single-family residence on an under-size, RU-43 zoned lot at APN: 304-70-098A; submittal date stamped June 21st, 2019.

The Flood Control District of Maricopa County has no objections or requirements; the subject parcel is not located within a regulated floodplain.

MCDOT has no objections to the requested variance.

Please contact me if you have any questions or require clarification of these comments.

Maricopa County

Environmental Services Department
Water and Waste Management Division

Subdivision Infrastructure &
Planning Program
1001 N. Central Avenue #150
Phoenix, Arizona 85004
Phone: (602) 506-0376
Fax: (602) 506-5813
TDD 602 506 6704

DATE: June 21, 2019

TO : Ray Banker, Planning & Development Dept.
Planner

FROM: Souren Naradikian, P.E.
Senior Civil Engineer

SUBJECT: Undersized Lot for R-43. BA2019027

The Maricopa County Environmental Services Department (MCESD) has reviewed information concerning the above referenced project provided by the Maricopa County Planning & Development Department. This request is for Undersized Lot for R-43 to build residential home at APN # 304-70-098A. Water and wastewater services provider is not disclosed, MCESD has no concerns, the variance will not impact the utilities. NOID must be obtained prior to construction permit issued if applicable.
Stormwater - While the parcel is located in the urbanized unincorporated area, the disturbed area is estimated to be much less than one acre and is therefore, not regulated by the Maricopa County Stormwater Quality Program.

Based on the above, MCESD **raise no objection** to the Planning & Development Department in Accela Automation on June 21, 2019 and will allow the project to proceed at this time.

It should be noted that this document does not approve the referenced project. Comments are provided only as advisory to Maricopa County Planning and Development Department to assist staff to prepare a staff report. Other Maricopa County agencies may have additional requirements. Final review and approval will be made through Planning and Development Department procedures. Applicant may need to submit separate applications to the Maricopa County Environmental Services Department for approval of proposed facilities regulated by the Department. Review of any such application will be based on regulations in force at the time of application.

Ray Banker (PND)

To: Catherine Lorbeer
Subject: RE: New Case: BA2019027 (Variance Request)

From: Catherine Lorbeer <Catherine.Lorbeer@gilbertaz.gov>
Sent: Monday, June 24, 2019 10:16 AM
To: Ray Banker (PND) <Ray.Banker@Maricopa.Gov>
Subject: RE: New Case: BA2019027 (Variance Request)

Hi Ray,

If it's meeting setbacks and has access, we don't have any comments on this item.

Thanks,
Catherine

BA2019027	**Webb Property**	**District 1**
Applicants:	Dustin Becker & Jessica McGalliard	
Location:	16132 E. Twin Acres Dr. in the Gilbert area	
Zoning:	Rural-43	
Request:	Variance to permit: 1) Proposed lot area of 40,377 sq. ft. where 43,560 sq. ft. is the minimum permitted	

Mr. Banker presented BA2019027 and noted the subject parcel is 3,180 square feet under the minimum one acre required. The applicant is in the process of purchasing the property to build a single-family residence. As shown on the proposed site plan, access would be from the east via an ingress/egress easement and the setbacks proposed for a residence would be met. The applicant provided documentation showing support from the surrounding neighbors with seven support documents. Staff just received letters of opposition from a neighbor that came to the hearing late. Staff is unable to support this request since there is no peculiar condition facing the property and the site is as a result of lot splitting over time. There are possible alternatives to the variance by acquiring more land to meet the minimum one acre requirement. There was a previous variance on this site under BA2004006 for the same exact request. It was denied by the Board in 2004.

Mr. Dustin Becker, the applicant, said he and Ms. Jessica McGalliard are wanting to purchase this lot and build a home. In 2004 there was a request for a variance, and back then there was more land to acquire as to why they might have denied that variance. Today the lot is surrounded by homes and the land to the south is currently under construction. That neighbor is not inclined to sell any property so they could have a full acre. All the lots in the neighborhood have a house on them, except for the lot they are wanting to build a house on. If there is not a home it will remain an island, and he is not sure where they would acquire any land in the future. He didn't speak with the neighbors to the north, only the Maricopa County neighbors. The lady here in opposition approved it, so he isn't sure what she wants to say about it today.

Chairman Morris said this site originally had a variance request for a substandard lot size and that was denied back in 2004 and at that time based upon the aerial maps there was an opportunity for the property owner to expand in one direction or another, which would give them the additional 3,500 square feet they were looking for, but that opportunity doesn't exist today. Mr. Becker said no it does not.

Chairman Morris asked if they are under contract to purchase the property. Mr. Becker said yes.

Chairman Morris asked if they explored a rezoning or any other options with staff. Mr. Becker said the only other option would be to purchase the additional 3,200 square feet or file for this variance and hopefully we warrant the need for the variance.

Chairman Morris asked about the rezoning of that lot. Mr. Gerard said it would be a residential spot zone that staff wouldn't support.

Member Schwartz said they are between a rock and a hard spot, they cannot rezone because it will set a precedence, and you don't want people splitting their lots shy of the amount.

Member Ward said 20 years later there's nothing to be done about it. The people surrounding the lot get the benefit of always having an extra acre.

Ms. Laura Esparza said she lives to the west of this property. Originally this lot was 1.9 acres and the owner of the property cut it off to sell it and make a profit. The others that purchased the property have tried to get extra footage from the other homeowners and are objecting to it. She is concerned the property values would go down. If you build on a smaller lot and compare it to a regular house on one acre it lowers the value.

Ms. Esparza asked is the legal address of this lot on 162nd Street or Twin Acres Drive? Mr. Banker said the addressing department assigned 16132 E. Twin Acres Drive.

Ms. Esparza asked what the accessibility to that lot is. Mr. Banker said it depends on the easement, but from the site plan provided by the applicant the driveway is shown to access from the east.

Ms. Esparza said the access was her biggest concern. This is the last green area in Gilbert on a County Island with horses and cows and everyone has chickens. If you allow this variance then the guy on the south side will try and sell his .9 acre. The acreage just south of that is four or five acres with alfalfa, then they will start chopping that up also if you allow the variance. It's a prime location in Gilbert and she doesn't want it to get rezoned. She doesn't want anyone driving in her backyard to get to the property.

Member Schwartz asked if she would prefer a vacant lot or a rezoning or a lot to remain 2,000 feet short. Ms. Esparza said you cannot stop growth but you can manage it. As long as the access is on 162nd Street that would be okay, but some of the other neighbors are against this more then she is. She is trying to find a compromise since she is adjacent to it. The neighbors north of the lot are definitely opposed to this. Nobody knew about this until the sign was put up on July 5, and no one received a letter in the mail. She had to scramble at the last minute for letters, and she apologizes for the last minute documentation. There would have been more people here but they really didn't know about it.

Member Schwartz asked staff about the legal notice and the process. Mr. Banker said staff is not required to send out notice to the surrounding neighbors. They post the property for 10 days for variances, which is different than doing a rezone or a Special Use Permit where you are required to mail out to the neighbors within 300 feet, but not in this case.

Mr. Becker said he will have access to the east and not on her street. The surrounding neighbors that would share a property line are in approval of this. He's not sure who disapproved but they might not even be able to view the property. Chairman Morris said she was referencing the properties to the north in Gilbert, and he asked if there are properties to the north that share a property line. Mr. Becker said yes.

Chairman Morris asked what kind of outreach was done with the neighbors. Mr. Becker said he knocked on doors and introduced himself. He told them they were short square footage and asked if they would approve if he filed for a variance.

Vice Chairman Loper asked what size home is proposed on the property. Mr. Becker said just under 3,000 square feet. The setbacks are smaller than those in the regulations and he is way

within the setbacks. The Town of Gilbert also said they had no objection as long as they were within the setbacks.

Vice Chairman Loper asked if that's a comparable size to the neighbors. Mr. Becker said it is comparable to the house to the north and believes the homes to the west are smaller.

Vice Chairman Loper asked it's really not the substandard lot that is dictating the size of the house because you are well within the setbacks and this is your choice for the home, and even if it was 43,560 square feet would you still be doing this same home. Mr. Becker said correct.

Member Ward asked recognizing the concern about keeping the flavor of a County Island with the other properties and having less than an acre, would this be setting any kind of precedent? Mr. Gerard said variances should not be considered precedential, they each have to come back on their own merits.

Chairman Morris said every one of these properties that come before us are unique, and every one of the applicants need to make a case on their own. They may point to a pattern of development in a certain area but every property needs to show they have a unique circumstance on their own.

Mr. Becker said he received a letter from the Roosevelt Water District. There's a canal on the east side of the property and the people downstream could not get water since it was overgrown, and that's because it was vacant lot and nobody was taking care of it. He helped the neighbor get rid of the debris, and if you grant this variance that will not be an issue in the future because there will be somebody maintaining it.

Member Schwartz said he is in support of the variance. It is in the public's best interest to have a home there even if the property is 2,000 square feet short instead of leaving it vacant.

Vice Chairman Loper said he wished they would have done the outreach with the neighbors to the north and we don't know their opinion. Over the past 15 years there's been efforts made to try and acquire additional property to make this legal and that's been unsuccessful. Here we are and it's not serving any purpose other than a vacant piece of property. The size of the home is not indicative of a smaller lot, and it is indicative by being their wish. He is in support of the variance.

Chairman Morris said staff's response of the potential rezoning of the property given what could occur on this property. He is not an appraiser but he has enough experience in land use that sometimes a vacant lot in the neighborhood can have a much more detrimental impact on property values of surrounding houses than a well-built consistent home. Given the small amount we are talking about he would be shocked if an appraiser picked up on the fact that this lot was substandard given the type of houses in the rest of the neighborhood.

BOARD ACTION: Member Schwartz motioned to approve BA2019027 with conditions 'a'-'c'. Member Ward second. Approved 4-0.

a) General compliance with the site plan stamped received June 17, 2019.

b) All required building permits for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019024	**Interpretation**	**All Districts**
Applicant:	Tom Galvin, Rose Law Group	
Request:	MCZO, Art. 804.2.45 and 805.2.1 Third-Party Sales of medical marijuana extracts and other products in the C-2 and C-3 zoning districts	

Chairman Morris and Member Loper recused themselves from this case, and Member Schwartz is acting Chairman.

Ms. Sarnowski presented BA2019024 and noted the applicant requested the Zoning Official interpret the definition of Medical Marijuana Dispensary to include sales to third parties for resale as an allowed use in the C-2 and C-3 zoning districts. This is not a site specific issue and would apply County wide. The Zoning Official interpreted the definition to allow the retail sale only to those who possess medical marijuana cards who are the actual users. A medical marijuana dispensary is a retail operation and the interpretation proposed by the applicant would include wholesale sales. Wholesale operations is permitted in IND-1 zoning district and not in commercial zoning districts. It is the view of the department that wholesale is not permitted in or compatible with retail operations and only appropriate in industrial zoning districts. It is staff's interpretation of the ordinance that cultivation, infusion, extraction, and similar activities related to a medical marijuana dispensary can be considered ancillary to and can occur on the premises of a medical marijuana dispensary for on-site sales in the C-2 and C-3 zoning districts. Such activity for product to be exported/distributed off-site to other medical marijuana dispensaries is an industrial use as it is wholesale sales, and requires industrial zoning. This interpretation is spelled out in more detail in the Director's letter to Rose Law Group, dated June 26, 2019 and is in the staff report. The Maricopa County Zoning Ordinance is a permissive regulatory document meaning that if a use is not expressly listed as a permitted use then it is a prohibited use, unless in the determination of the Zoning Inspector it is one of the uses considered to be customarily incidental to, and ancillary to, the permitted primary use of the property. Staff recommends to the Board to deny the applicant's interpretation and uphold staff's interpretation.

Mr. Gerard said for clarification, our ordinance is a permissive document and it rolls up. Anything that's permitted in C-2 and C-3 is permitted in Industrial, so you can be in an industrial zoning district have wholesale and off-site grow locations and also have the retail sales and dispensary, but it doesn't go the other direction. It's not specifically called out and we don't consider it ancillary.

Member Ward said what stood out to her in the report is the weight, and asked if they could put a weight restriction on the vehicles. Mr. Gerard said he believes that may be appropriate direction to consider for regulatory reform and it's not appropriate venue for an interpretation which would be applied across the County to every C-2 site.

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case:	BA2020018 – Petross Property
Hearing Date:	May 21, 2020
Supervisor District:	4

Applicant:	Dustin Petross
Property Owners:	Tara & Dustin Petross
Requests:	Variances to the development standards of the Maricopa County Zoning Ordinance to permit: 1) Proposed lot area of 43,186 sq. ft. where 43,560 sq. ft. is the minimum lot area required per MCZO 503.5.1; and 2) Proposed lot width of 140' where 145' is the minimum lot width required per MCZO 503.5.2
Site Location:	APN 200-64-016C and 200-64-012B @ 15015 N. 71st Avenue – 1,425 ft. north of the NEC of Acoma Drive & 71st Avenue, in the Peoria area
Site Size:	Approx. 43,186 sq. ft.
Current Use / Zoning:	Single Family Residence / Rural-43
Open Violation:	No Violation on property
Citizen Support/Opposition:	No known opposition
Findings:	☒ **The request meets the statutory test for variance approval**

Background:

1. **May 19, 1969:** The Del Witt Ranchos subdivision was approved by the Board of Supervisors. The subject property is Lot 4 of this subdivision.

2. **September 19, 2000:** Northern portion of subject property (200-64-012B) was created by two-way split of former parcel 200-64-012 (200-64-012A is the other parcel created by the split and it is the property to the north of the subject property).

3. **March 9, 2009**: Main portion of subject property (200-64-016C) was created by a combination of former parcels 200-64-013A and 200-64-016B.

4. **April 24, 2019:** According to the current deed, Tara and Dustin Petross purchased the subject property (i.e. parcels 200-64-016C and 200-64-012B).

5. **January 10, 2020:** Building permit B20200264 for a new accessory structure on the subject property submitted to Planning and Development.

6. **April 21, 2020:** Current variance request submitted to Planning and Development.

Reviewing Agencies Comments:

7. **Engineering** (**Transportation, Drainage, and Flood Control**): No objection to the request, see attached memo dated April 27, 2020.

8. **Environmental Services Department (MCESD):** No objection to the request, see attached memo dated April 27, 2020.

Existing On-Site and Surrounding Zoning/Land Use:

9.

On-site:	Rural-43 / Single-Family Residence
North:	Rural-43 / Single-Family Residence
South:	Rural-43 / Single-Family Residence
East:	Rural-43 / Single-Family Residence
West:	Rural-43 / Single-Family Residence

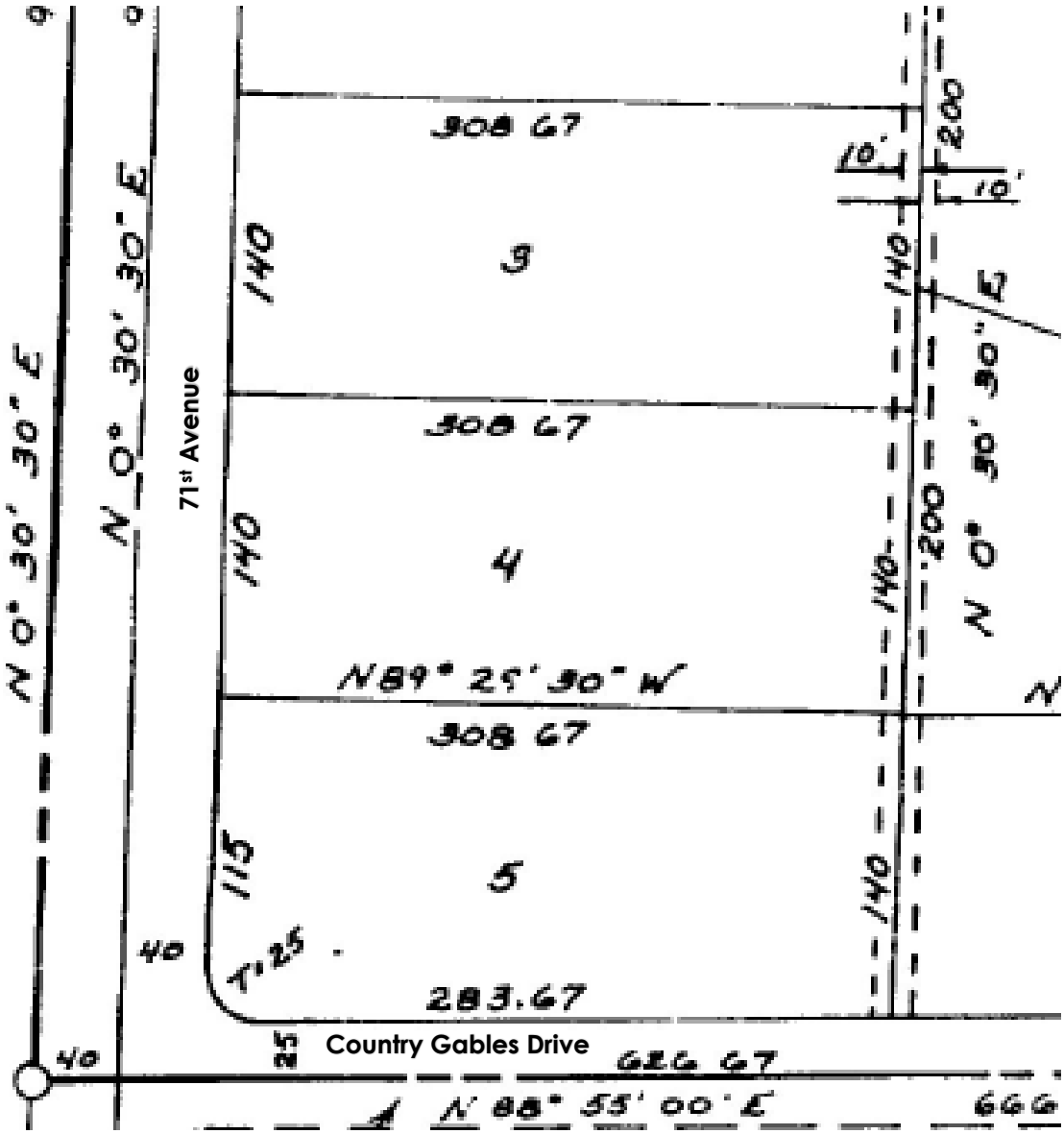
Site Analysis:

10. The subject property comprises parcels 200-64-016C and 200-64-012B, both of which are zoned Rural-43 and are owned by the applicant who recently submitted a request to the County Assessor and Recorder Offices to combine these two parcels. This variance is conditioned such that the combination of parcels 200-64-016C and 200-64-012B must be completed in order for the requested variances to be in effect. Once the two parcels are combined the resulting property will be 140 feet wide (where 145 feet in width is required per MCZO 503.5.2) and will comprise 43,186 sq. ft. (where 1 acre [i.e. 43,560 sq. ft.] is required per MCZO 503.5.1), as shown on the current site plan, except that a new APN number will be assigned for the new, combined property and the boundary between the two current parcels would be eliminated. The subject property is apparently flat with no floodplain or obvious drainage issues. Currently, it contains a single-family residence that (according to Assessor's data and aerial photography) was built in approximately 1980.

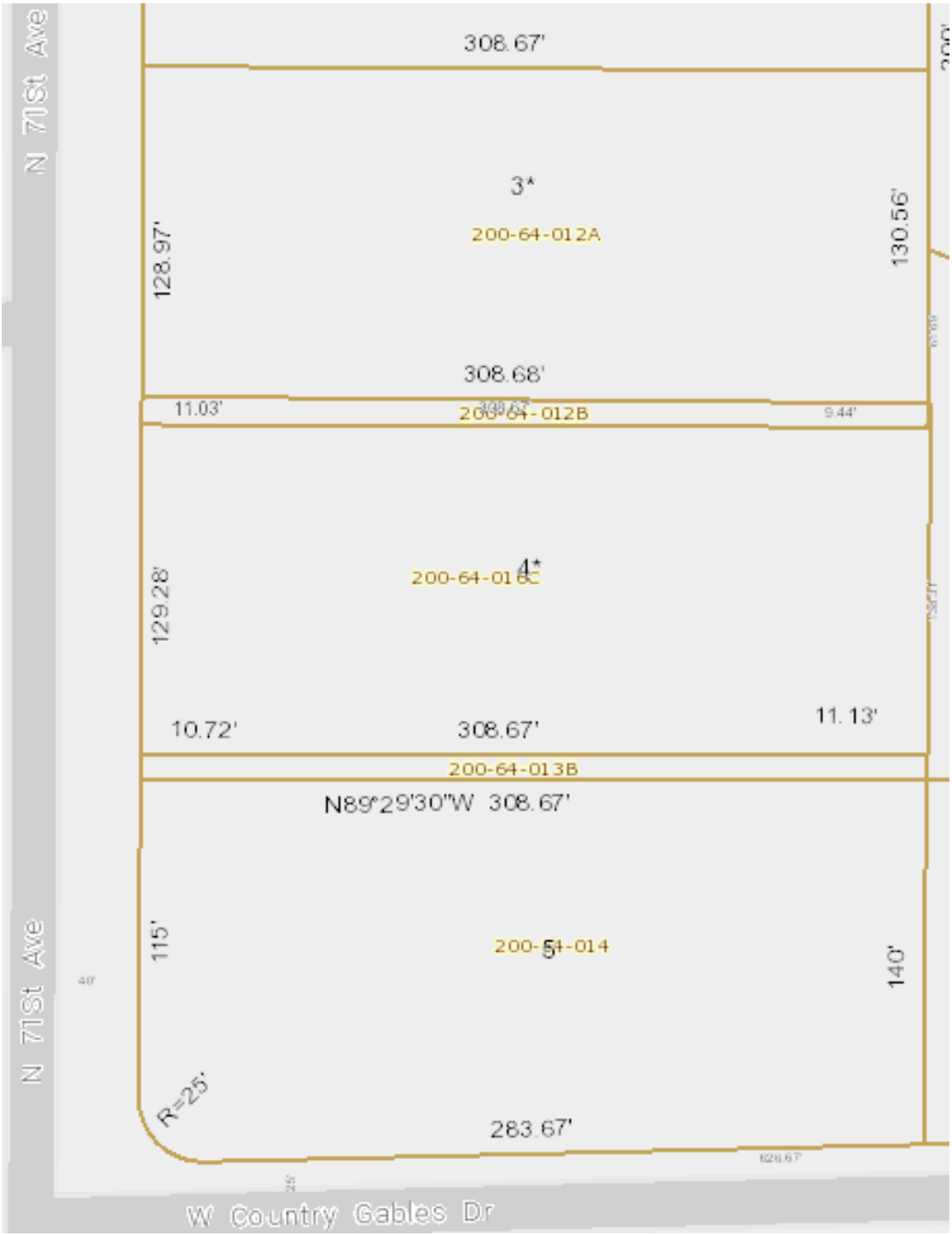
11. The property was created as Lot 4 of the Del Witt Ranchos subdivision, which was originally 140 ft. wide and 308.67 feet deep, meaning it comprised approximately 43,214 sq. ft. Ordinarily, substandard lot dimensions that were implemented as part of an approved (by the Board of Supervisors) and recorded subdivision and /or lots that were created before May 29, 1969 (when the Zoning Ordinance became effective) would be considered legally-non-conforming (LNC), thus precluding the need for variances for the substandard lot dimensions. In this case, however, several modifications were made to the subject property since the subdivision was recorded in 1969, negating LNC status of the substandard property dimensions.

12. The platted Lot 4 and adjacent lots were substandard for width and area for the Rural-43 zone. There have been a number of boundary line adjustments affecting lots 3, 4 and 5 since the plat was recorded, but the resulting lots remain substandard, as shown below. Lots 3, 4 and 5 are built-out with single family residences.

Excerpt of Del Witt Ranchos Subdivision Plat
Showing Lot 4 in Original Configuration



Subject Property
(Lot 4 / APN 200-64-016C & APN 200-64-012B)
Current Configuration



2020 Aerial Photograph (Subject Property Outlined in Red)
(North is to the Right)

Current Zoning Map (Subject Property Outlined in Red)
(North is to the Right)

13. In the response to question 4 of the Variance Supplemental Questionnaire submitted with this variance request the applicant states that building permit B202000264 (for a new accessory building) "has been issued," but that is incorrect. B202000264 is currently in process with review comments "out to customer," meaning revisions are needed in order to make the plans approvable by staff. This variance is in response to that revision request.

14. The following table is included to illustrate and contrast the standards for the base zoning district with those proposed by the owner (Note: changes to proposed standards are indicated in **bold**).

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	50-feet
Rear Yard Setback	40-feet	216-feet
Side Yard Setback	30-feet	30-feet
Street-Side Yard Setback	20-feet	20-feet
Maximum Height	30-feet	30-feet
Minimum Lot Area	43,560-sq. ft.	**43,186-sq. ft.**
Minimum Lot Width	145-feet	**140-feet**
Lot Coverage	25%	5.1%

ARS § 11-816.B.2 and MCZO Article 303.2.2 states the Board of Adjustment may, "Allow a variance from the terms of the ordinance if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of the zoning ordinance will be preserved."

State Statute / County Zoning Ordinance Tests:

15. **Statutory Test -1 Peculiar conditions** – Discuss and explain what are the peculiar conditions facing the property and include reference to the Maricopa County Zoning Ordinance Regulations or Development Standards to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulations or Development Standards would impose a hardship on the property.

    "Unfortunately, the property that we purchased last year had an original lot split from a survey company in May of 1969 that does not meet the current RU-43 zoning requirements. Also, for some reason the original survey company from 1969 also has our lot as two (2) separate lots (200-64-012B and 200-64-016C). Both are deeded to us and the property address 15015 N 71st Ave Peoria, AZ 85381. In good faith we are having both lots surveyed as one as well as trying to have both lots combined as one. Please note that both lots are deeded together and show them being deeded together on the ownership deed. But regardless of that the combined lots originally zoned by the surveyor as RU-43 do not meet current RU-43 minimum width of 145'or the minimum lot size of 43,560 sq ft. Currently the lot is 140' wide and 43,186 sq ft."

16. **Statutory Test 2 – Unnecessary Hardship –** Explain the unnecessary hardship the peculiar conditions on the site created with respect to existing Regulations and Standards of the

Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

"Unfortunately, the current situation leaves us with a lot that has an official zoning on record. But does not match the current RU-43 zoning standards. And as such is preventing us from being able to build our detached garage that has already been approved by all departments other than zoning. We are literally zoned as a RU-43 as submitted by the original survey company from May of 1969. But due to current zoning requirements we are left with a lot that we cannot use until the zoning issues is resolved."

17. **Statutory Test 3 – General Intent and Purpose of the Zoning Ordinance -** Discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

    "Please refer to the supplemental report from Patrick Maloney Plans Examiner- Zoning, related to articles 503.5, 503.5.1 and 503.5.2."

18. **Per MCZO – Evidence of the ability and intention of the applicant to proceed with construction work within 120 days after variance decision by the Board of Adjustment.** Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permits or as-built permits currently filed with Planning and Development Department and the current review status. Specify the permit numbers. If no permits have been filed, please provide a timeline for building permits submittal and projected timeframe for construction. Conversely, indicate if the variance request is not related to a specific development proposal.

    "We are working on having both deed lots 200-64-012B and 200-64-016C combined into one and have had the lot surveyed to confirm lots B & C listed above due indeed matches the original approved lot split sizes performed by the original surveyor back in 1969 when the development Del Witt Ranchos was submitted and approved. I have also attached the title docs stating that both lots are deeded together and were signed for by Maricopa County when the new title and ownership were recorded. Please note that these zoning issues are creating a significant hardship for us as the garage that we are looking to install has already been paid for and we are paying rental storage on the unit until it can be shipped. We also have a permit # B202000264 that has been issued. All fees have been paid and all planning has been approved with the exception of the current lot zoning. Unfortunately, due to the original developer and plot surveyor we are literally in a zoning limbo, the lot has been zoned as a RU-43 since 1969 and now as a new owner of the property we cannot build our garage due to the lot not meeting the current RU-43 zoning that has been assigned to the property since its original inception.."

Findings:

19. The applicant has the burden of proving that, in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2, the property is entitled to receive a variance. To do so, the applicant must present evidence that, due to a peculiar condition related to the land, that being something that is not a common condition of other properties, applying the requirement of the MCZO as written to this particular property would work an undue hardship on the property. In addition, the applicant must demonstrate that the granting of the variance would preserve the general intent and purpose of the MCZO.

Based upon what the applicant has submitted and the staff analysis in this report, staff offers the following findings:

- The applicant has demonstrated that there is a peculiar condition facing the property in that the property was created as Lot 4 of the Del Witt Ranchos subdivision, which was originally 140 ft. wide and comprised approximately 43,214 sq. ft. Those original property dimensions do not meet the current Rural-43 zoning district development standards. Lot splits and combinations affecting the subject property have occurred since 1969 under previous ownership, making the property subject to current zoning standards, however, the current property is the same width as the original Lot 4 width and the current property area is smaller than the original Lot 4 area. The current property lies approximately 10 feet north of the original location of Lot 4 (the approximate width of current parcel 200-64-013B). Accordingly, approval of this variance would result in a property that is virtually the same as the original Lot 4 with only slight differences in the property area and location, which does not appreciably change or impact the surrounding, developed lots.
- The applicant has demonstrated applying the requirements of the MCZO to this property that has this peculiar condition an undue physical hardship exists that prevents the development of the property in that the property is the same width, virtually the same area and in virtually the same location as the original Lot 4, which would have been considered legally non-conforming (and therefore developable without additional entitlement) if several lot combinations and splits affecting the subject property had not occurred post 1969.
- The applicant has demonstrated the peculiar condition / physical hardship is not self-created. Per the current deed, the current owners purchased the subject property on April 24, 2019, approximately 19 years after the last lot combination/split known to staff to have affected the dimensions of the subject property.
- The applicant has demonstrated that the general intent and purpose of the MCZO will be preserved despite the variance because the current property is virtually the same as the original Lot 4 with only slight differences in the property area and location, which do not appear to comprise a hardship for surrounding properties.

And further, staff offers the Board the following Conditions of Approval:

a) General compliance with the Site Plan stamped received April 23, 2020.

b) Current parcels 200-64-016C and 200-64-012B must be combined into a single property with a new APN number (as yet to be determined) and the combined property must be no less than 140 feet wide and comprise no less than 43,186 sq. ft. in order for this variance to be in effect.

c) No driveway may be located on top of the leach field for the septic system.

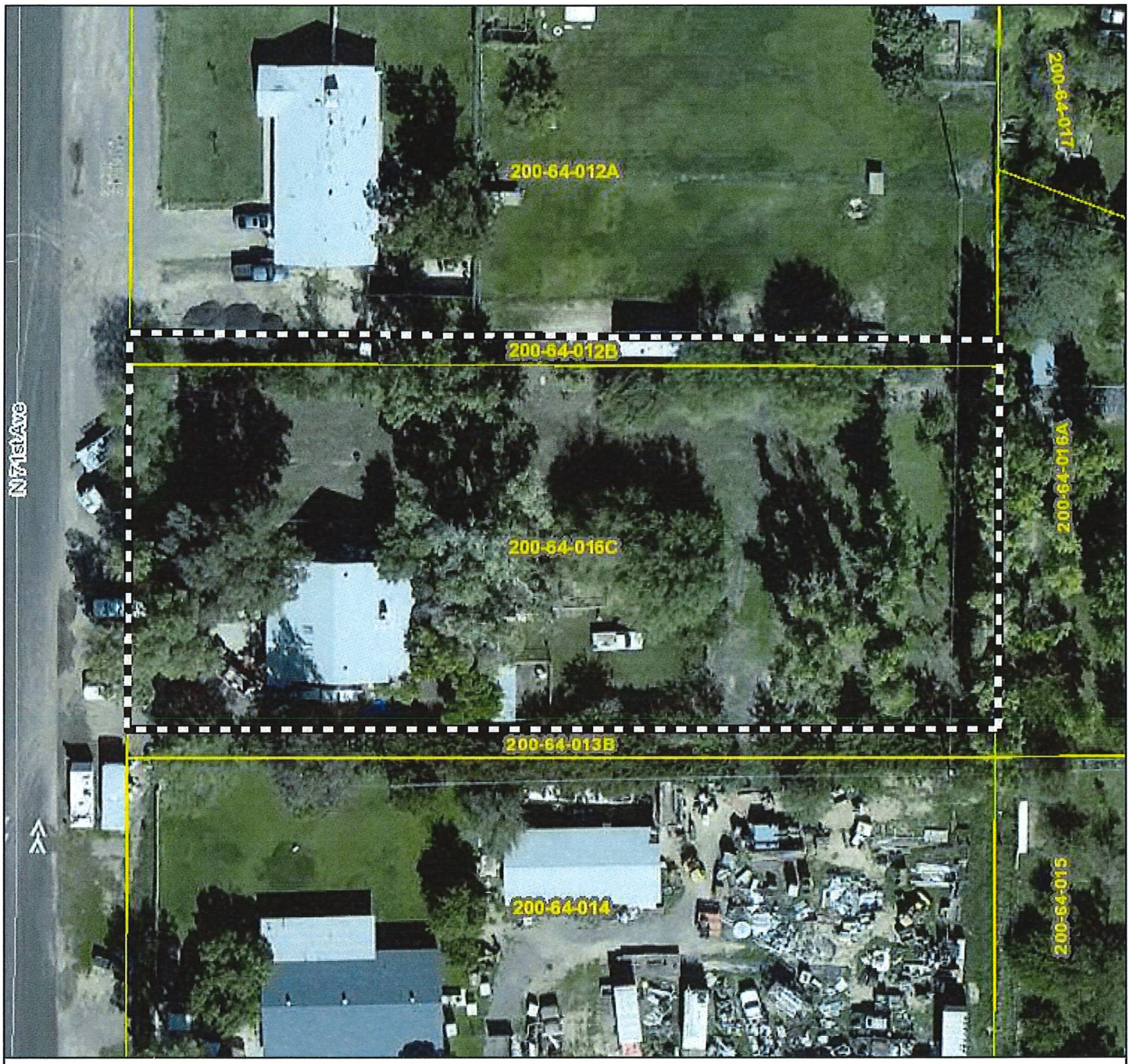
d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

20. However, if the Board finds that any aspect of the statutory test has not been proven, Board must state on the record the basis for that determination in a motion to deny the relief sought.

Presented by: Sean Watkins, Planner
Reviewed by: Darren V. Gerard, AICP, Planning Manager

Attachments: Case Map (1 page)
Application / Supplemental Questionnaire (3 pages)
Site Plan (1 page)
Engineering Comments (1 page)
MCESD Comments (1 page)

MARICOPA COUNTY



Application Name: Petross Property EDR

Legal Description
T03N R01E 012, T3N R01E 12

Applicant Dustin Petross	**Applicant Phone/Email** 602.516.4256 dustinpetross@gmail.com	**BA2020018**
Case Address 15015 N 71ST Ave PEORIA AZ 85381	**Parcel Primary:** 200-64-016C	
Generated May 1, 2020 13:20 PM	Gross Acres: 0.99 approx.	Map scale 1:766

Supervisor District No. 4

VARIANCE TO PROVIDE FOR SUB-STANDARD LOT AREA AND WIDTH

N
W E
S

Maricopa County Planning & Development - Phoenix, AZ

Planning & Development Department
VARIANCE / INTERPRETATION APPLICATION

ONE STOP SHOP

ALL FEES ARE DUE AT TIME OF APPLICATION AND ARE NON-REFUNDABLE

Is this Design Build? ☐ Yes ☐ No Is this Residential? ☒ Yes ☐ No

Please select the type of Board of Adjustment application from the checkboxes below.

☒ Residential Variance | ☐ Non-residential Variance | ☐ Interpretation | ☐ BA Blanket Variance

Is this subject property within an area of 15% or greater hillside slopes? Yes ☐ No ☒

REQUEST

Description of Request: variance request due to lot size/ width
Existing Use of Property: residential
Existing Zoning District: RU-43
Related Case Number(s):

PROPERTY INFORMATION

Address (if known): 15015 N 71st Ave Peoria, AZ 85381
General Location (include nearest city/town): 71st Ave and Country Gables

Size in Acres: .99 Square Feet:
Legal Description: LOT 4 Section: 12 Township: 3N Range: 1E
Assessor's Parcel Number: 200-64-016C
Subdivision Name (if applicable): Del Witt Ranchos

APPLICANT INFORMATION

Name: Dustin Petross Contact:
Address: 15015 N 71st Ave
City: Peoria State: AZ Zip: 85381
Phone #: 602-516-4256 Fax #:
E-mail Address: dustinpetross@gmail.com

PROPERTY OWNER INFORMATION

Name: Dustin and Tara Petross Contact:
Address: 15015 N 71st Ave
City: Peoria State: AZ Zip: 85381
Phone #: 602-516-4256 Fax #:
E-mail Address: dustinpetross@gmail.com

PROPERTY OWNER AND APPLICANT AUTHORIZATION

I (property owner) Dustin Petross authorize (applicant's name) Dustin Petross to file this application on all matters relating to this request with Maricopa County. By signing this form as the property owner I hereby agree to abide by any and all conditions that may be assigned by the Maricopa County Board of Supervisors, Maricopa County Planning and Zoning Commission, or Maricopa County Planning and Development Department staff as applicable, as part of any approval of this request, including conditions, development agreements, and/or any other requirement that may encumber or otherwise affect the use of my property.

PROPOSITION 207 WAIVER

The property owner acknowledges that the approval being sought by this application may cause a reduction in the existing rights to use, divide, sell or possess the private property that is the subject of this application. The property owner further acknowledges that it is the property owner who has requested the action sought by the filing of this application. Therefore, with full knowledge of all rights granted to the property owner pursuant to A.R.S.§1§12-1132 through 1138, the property owner does hereby waive any and all claims for diminution in value of the property with regard to any action taken by Maricopa County as result of the filing of this application.

Property Owner Signature: _____ Date: 4-20-20

INSPECTIONS

By submitting this application, I am inviting County staff to conduct all site inspections they deem necessary.

VERIFICATION OF APPLICATION INFORMATION

I certify that the statements in this application and support material are true. Any approvals or permits granted by Maricopa County in reliance upon the truthfulness of these statements may be revoked or rescinded.

Owner or Authorized Agent Signature: _____ Date: 4-20-20

ARS § 1605 TIMEFRAME EXTENSION

I authorize a **50% timeframe extension** for the review of my application as adopted by the Board of Supervisors per ARS § 1605 and as amended.

Property Owner Signature: _____ Date: 4-20-20

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BA2020018

Planning & Development Department

BOARD OF ADJUSTMENT
VARIANCE SUPPLEMENTAL QUESTIONNAIRE

ONE STOP SHOP

ARS §11-816 B.2

The Board of Adjustment may allow a variance from the terms of the ordinance when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purposes of the zoning ordinance will be preserved.

1. Please discuss and explain what is/are the peculiar condition(s) facing the property and include reference to the Maricopa County Zoning Ordinance Regulation(s) or Development Standard(s) to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulation(s) or Development Standard(s) would impose a hardship on the property.

Unfortunately, the property that we purchased last year had an original lot split from a survey company in May of 1969 that does not meet the current RU-43 zoning requirements. Also, for some reason the original survey company from 1969 also has our lot as two (2) separate lots (200-64-012B and 200-64-016C) Both are deeded to us and the property address 15015 N 71 st Ave Peoria, AZ 85381. In good faith we are having both lots surveyed as one as well as trying to have both lots combined as one. Please note that both lots are deeded together and show them being deeded together on the ownership deed. But regardless of that the combined lots originally zoned by the surveyor as RU-43 due not meet current RU-43 minimum width of 145' or the minimum lot size of 43,560 sq ft. Currently the lot is 140' wide and 43,186 sq ft.

2. Please explain the unnecessary hardship the peculiar condition(s) on the site create with respect to existing Regulation(s) and Standard(s) of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

Unfortunately, the current situation leaves us with a lot that has an official zoning on record. But does not match the current RU-43 zoning standards. And as such is preventing us from being able to build our detached garage that has already been approved by all departments other than zoning. We are literly zoned as a RU-43 as submitted by the original survey company from May of 1969. But due to current zoning requirements we are left with a lot that we cannot use until the zoning issues is resolved.

3. Please discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

Please refer to the supplemental report from Patrick Maloney Plans Examiner- Zoning, related to articles 503.5, 503.5.1 and 503.5.2

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4. Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit(s) or as-built permit(s) currently filed with Planning and Development Department and the current review status. Specify the permit number(s). If no permit(s) have been filed, please provide a timeline for building permit(s) submittal and projected timeframe for construction. Conversely, indicate if the variance request(s) is/are not related to a specific development proposal.

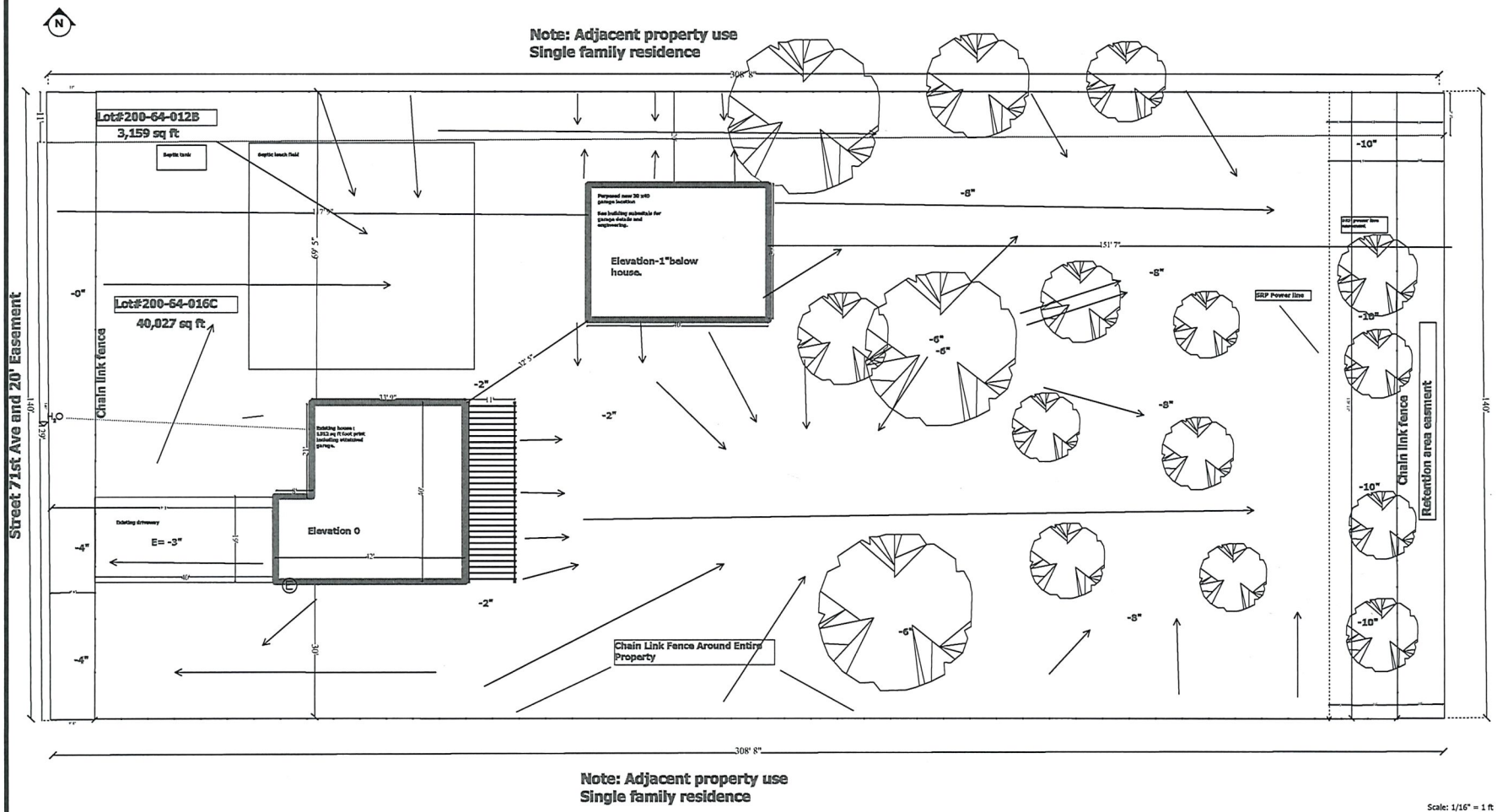
We are working on having both deed lots 200-64-012B and 200-64-016C combined into one and have had the lot surveyed to confirm lots B &C listed above due indeed matches the original approved lot split sizes performed by the original surveyor back in 1969 when the development Del Witt Ranchos was submitted and approved. I have also attached the title docs stating that both lots are deeded together and were signed for by Maricopa county when the new title and ownership were recorded. Please note that these zoning issues are creating a significant hardship for us as the garage that we are looking to install has already been paid for and we are paying rental storage on the unit until it can be shipped. We also have a permit # B202000264 that has been issued, All fees have been paid and all planning has been approved with the exception of the current lot zoning. Unfortunately, due to the original developer and plot surveyor we are literally in a zoning limbo, the lot has been zoned as a RU-43 since 1969 and now as a new owner of the property we cannot build our garage due to the lot not meeting the current RU-43 zoning that has been assigned to the property since its original inception.

*Additional sheets may be attached.

** DO NOT USE THIS FORM IF YOU ARE SUBMITTING AN INTERPRETATION

Petross Family Site Plan

Owner: Dustin Petross
Address: 15015 N 71st Ave
City: Peoria
State: AZ
Zip: 85381
Phone: 602-516-4256

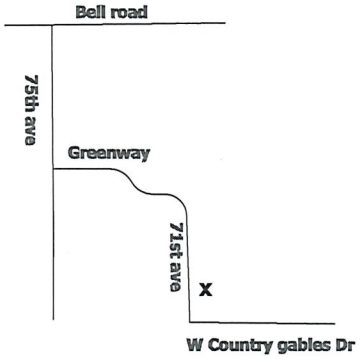


71st Ave with 20' setback from street to fence line

Scale: 1/16" = 1 ft

Vicinity Map

not to scale



Designer: DustinPetross
Address: 15015 N 71st Ave
City: Peoria
State/Zip: AZ, 85381
Phone: 602-516-4256
Cell: 623-363-9458
Email: Dustinpetross@gmail.com
Alternate Contact:

Lots #200-64-012B North
#200-64-016C Center

Lot size: 43,186
House footprint: 1512 sq ft
Patio foot print: 608 sq ft
Total lot coverage: 2120 sq ft
Zoning: Rural-43
Water: City of Peoria
Power: SRP
Pages: 1
Plan #: BA2020018
Revision date: 4-23-20

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BA2020018

Maricopa County
Planning & Development Department

Bob Fedorka, PE
Planning & Development
501 North 44th Street, Suite 200
Phoenix, Arizona 85008
Phone: (602) 506-7151
www.maricopa.gov/planning
Email address:
bob.fedorka@maricopa.gov

Date:	April 27, 2020
Memo To:	Darren Gerard, AICP, Deputy Director, Department of Planning & Development
Attn:	Sean Watkins, Planner, Planning & Development Services
From:	Bob Fedorka, PE, PND Engineering Supervisor, Planning & Development Services
cc:	Michael Norris, P.E., PND Engineering Manager, Planning & Development Services
Subject:	BA2020018 – Variance for Lot Size/Width
Job Site Address:	15015 N. 71st Avenue, Peoria
APN(s):	200-64-016C

PND Engineering has reviewed the 1st submittal of the application routed for review on April 21, 2020, for the subject variance and has no objections

Approval for the variance is at the discretion of the Maricopa County Board of Adjustments.

Please contact me if you have any questions or require clarification of these comments.

Maricopa County

Environmental Services Department
Water and Waste Management Division

Subdivision Infrastructure &
Planning Program
1001 N. Central Avenue #150
Phoenix, Arizona 85004
Phone: (602) 506-0376
Fax: (602) 506-5813
TDD 602 506 6704

DATE: April 27, 2020

TO : Sean Watkins, Planning & Development Dept.
Planner

FROM: Souren Naradikian, P.E.
Senior Civil Engineer

SUBJECT: Lot Width Variance. BA2020018

The Maricopa County Environmental Services Department (MCESD) has reviewed information concerning the above referenced project provided by the Maricopa County Planning & Development Department. This project is a request for Lot Width Variance at APN # 200-64-016C an 012B. Water and sewer service will not be impacted. MCESD has no concern. **The driveway for the Garage may not be on top of the Leach Filed for the septic system.**

Based on the above, MCESD **raise no objection** to the Planning & Development Department in Accela Automation on April 27, 2020 and will allow the project to proceed at this time.

It should be noted that this document does not approve the referenced project. Comments are provided only as advisory to Maricopa County Planning and Development Department to assist staff to prepare a staff report. Other Maricopa County agencies may have additional requirements. Final review and approval will be made through Planning and Development Department procedures. Applicant may need to submit separate applications to the Maricopa County Environmental Services Department for approval of proposed facilities regulated by the Department. Review of any such application will be based on regulations in force at the time of application.

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case:	BA2020004 – Oldham Property
Hearing Date:	May 21, 2020
Supervisor District:	2

Applicant/Owner:	iPlan, LLC/Kable and Maria Oldham
Requests:	**Variances to the development standards of the Maricopa Zoning Ordinance to permit**: 1) Proposed hillside disturbance outside of the lot's principal buildable envelope per MCZO, Art. 1201.6.1.1; and 2) Proposed height of 35' where a maximum 30' is allowed per MCZO Art. 601.3 and Art. 1201.4
Site Location:	219-33-024F @ 2833 N. 89th St. in the Mesa area
Site Size:	1.09 acres or 47,838 sq. ft.
Current Use / Zoning:	Vacant / R1-35
Open Violation:	**No Violation on property**
Citizen Support/Opposition:	No known opposition
Findings:	☒ **The request fails to meet the statutory test for variance approval**

Background:

1. **April 27, 2015:** The owners took possession of the property via a Warranty Deed recorded under docket number **20150288977**.

2. **February 20, 2020**: The applicant submitted for the subject variance request.

Reviewing Agencies Comments:

3. **Engineering** (**Transportation, Drainage, and Flood Control**): No objection to the request, see attached memo dated March 3, 2020.

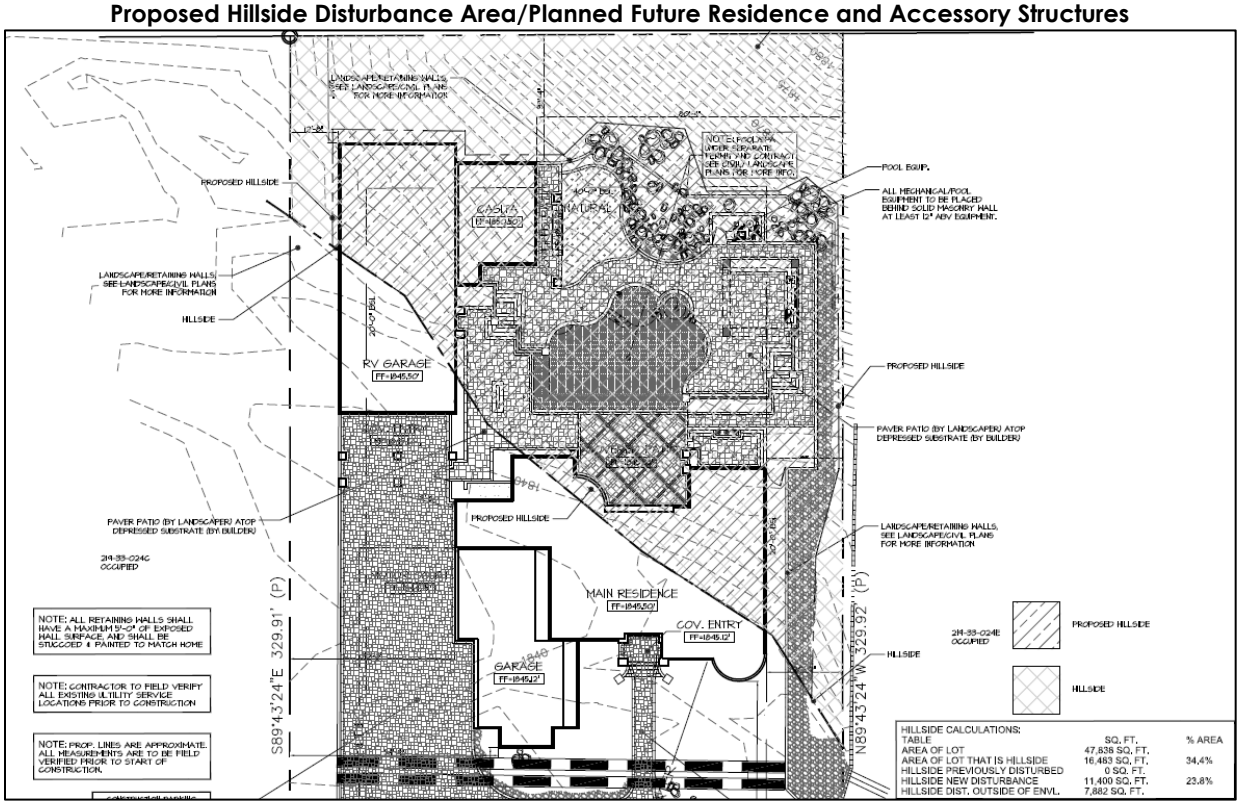
4. **Environmental Services Department (MCESD):** No objection to the request, see attached memo dated February 27, 2020.

Existing On-Site and Surrounding Zoning/Land Use:

5. On-site: R1-35 / Vacant
   North: R1-35 / Single-family residence
   South: R1-35 / Single-family residence
   East: R1-35 / Single-family residence
   West: R1-35 / Single-family residence

Aerial photo of subject site & surrounding environs

Proposed Hillside Disturbance Area/Planned Future Residence and Accessory Structures



6. The subject site is rectangular lot with the length running west to east. The lot fronts onto an easement road (89th St.) where 20' width of this ingress/egress easement is located on the western portion of the property. The total area of the lot is 1.09 acres and the site is currently vacant. A significant portion (approx. 35%) of the lot is considered 'hillside' – located on the east side of the parcel. The surrounding properties are developed with single-family residences.

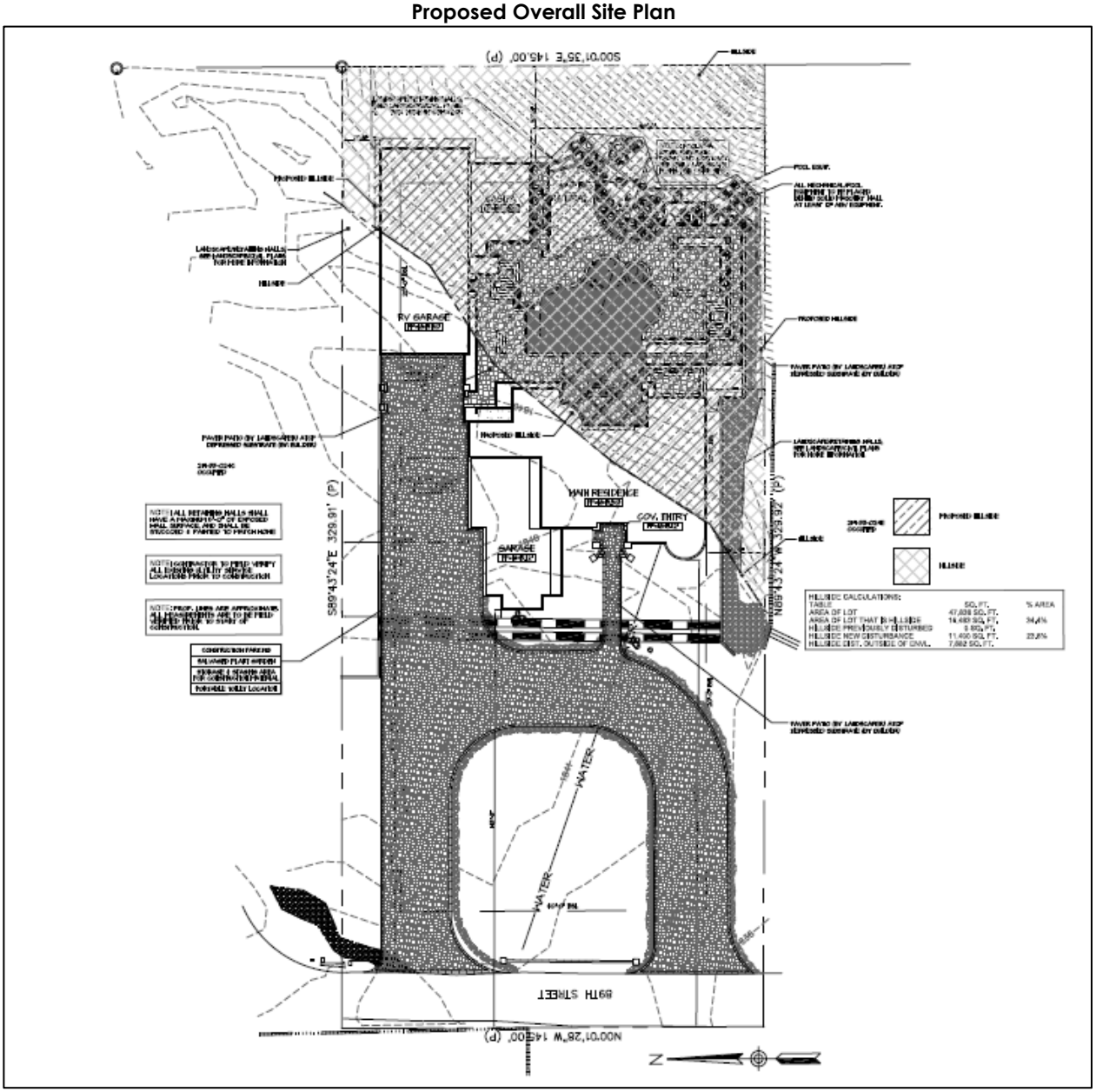
7. The applicant proposes to construct a single-family residence with accessory structures. The attached Grading and Drainage Plan shows that the septic system would be located near the front (west side) of the lot while the development for the residence and related structures is proposed on the eastern portion of the lot. Below is a table from this plan showing the planned area calculations for the development of this parcel.

AREA CALCULATIONS
LOT AREA = 47838 SF
LIVABLE = 3516 SF
GARAGE = 1389 SF
RV GARAGE = 2185 SF
ENTRY = 913 SF
PATIO = 384 SF
RAMADA = 400 SF
TOTAL = 8787 SF
LOT COVERAGE = 18.4%

8. The applicant states that only a small portion of the development falls under the hillside regulations. However, the site plan shows that the 11,400 sq. ft. of the 16,483 sq. ft. hillside area of the lot would be disturbed which is nearly 70% of the total hillside area. Furthermore, 7,882 sq. ft. of the disturbance would be located outside of the building

envelope, which is nearly 70% of the total disturbed area. It should be noted that the zoning ordinance allows for a maximum 75,000 sq. ft. of hillside disturbance within a lot. It must all be within the building envelope except for the driveway or utility connection. According to the site plan, the proposed hillside disturbance outside of the principal building envelope would include portions of the proposed RV garage, casita, patio, paving/grading, walls/etc. The applicant also states that the neighboring properties have also developed the same way; there are no records of variances applied for or granted on adjacent properties.

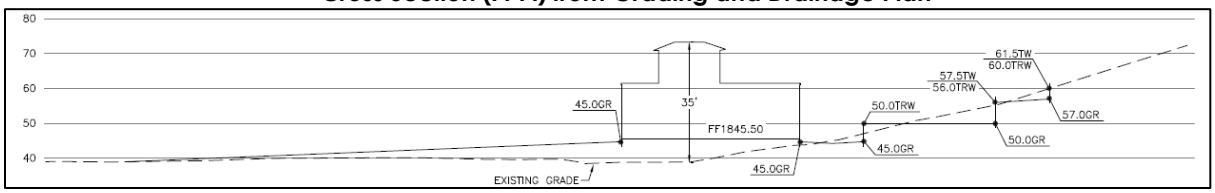
Proposed Overall Site Plan



9. Although it appears that the entire main residence would be located within the principal building envelope (as there is no setback variance requests), there is the request to increase the maximum building height to 35' where 30' is required. The applicant states within the supplemental questionnaire that they will only need 34' height but the cross section within the Grading and Drainage Plan (see next page) shows 35', so staff will include the 35' as part of the request. There is a design feature "turret" of the proposed home that would be the only portion of the house over 30' in height. The applicant

mentions that there is a wash running northeast to the southwest portion of the parcel and creates a drainage situation. The applicant states that this wash sits under the footprint of the proposed residence. The hillside regulations calls for a 30' maximum height from original natural grade. However, even if this did not fall under the hillside regulations, the height is still limited to 30' maximum per the R1-35 zoning district standards.

Cross Section (A-A) from Grading and Drainage Plan



10. A large portion of the proposed hillside disturbance is outside of the envelope. This is no different than any other R1-35 zoned lot other than limits for accessory structures outside of the envelope within the rear and side yard areas. However, this site is significantly larger (47,838 sq. ft.) than the minimum requirement (35,000 sq. ft.) for R1-35 zoning which could allow for more area of improvements. Although, the 20' wide ingress/egress easement along the western boundary does limit a portion of the parcel since the front 40' setback is measured from the edge of this easement (60' from western property line).

11. The following table is included to illustrate and contrast the hillside standards within the Maricopa County Zoning Ordinance and those proposed by the owner (Note: changes to proposed standards are indicated in bold).

Standard	MCZO Standards Per Section 1201	Proposed Standard
Hillside Disturbance in buildable area	75,000 sq. ft.	< 75,000 sq. ft.
Total Area of lot that is hillside		16,483 sq. ft.
Total Area of hillside disturbance		11,400 sq. ft.
Hillside disturbance outside principal buildable envelope	Not allowed	**Yes (7,882 sq. ft.)**
Maximum height	30' (also per R1-35 zoning)	**35'**

Note: Standards indicated in **bold** do not meet base zoning standards

ARS § 11-816.B.2 and MCZO Article 303.2.2 states the Board of Adjustment may, "Allow a variance from the terms of the ordinance if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of the zoning ordinance will be preserved."

State Statute / County Zoning Ordinance Tests:

12. **Statutory Test -1 Peculiar condition** – Discuss and explain what is/are the peculiar condition facing the property and include reference to the Maricopa County Zoning Ordinance Regulation or Development Standard to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of

the Zoning Regulation or Development Standard would impose a hardship on the property.

'Subject Property has a severe slope on only a very small portion of the lot area. In keeping with HOA Guidelines which call for "HARMONIOUS PLACEMENT OF HOMES WITH RELATION TO EXISTING PROPERTIES," there is only one place the house can be located as indicated in the submittal set. With the placement complying with HOA Guidelines, there is a portion of the home which touches what is considered to be "hillside" in nature. This now puts the entire project under "hillside" regulations from what we have been told. This interpretation would effectively force the homeowner to re-design or even eliminate the accessory buildings and site retaining walls shown on the current plans. Therefore diminishing his ability to utilize the property in the same manner with which many of his neighbors have. In fact, the two adjacent neighbors have site/retaining walls within the setback precisely the same as Mr. and Mrs. Oldham propose.

Additionally, there is a wash running diagonally across the lot NE to SW which sits under the footprint of the proposed home. This wash anomaly creates a drainage situation, since the home is now governed under "hillside" regulations, where the home exceeds the maximum allowed "hillside" height restriction in order to accommodate for drainage around the home of said wash. The civil engineer of record will not let the home's finished floor be dropped an inch from where it is in the submittal set.

Whereas if the heights were NOT governed under the "hillside" regulations, the home, even at the current finished floor level, is well below the allowed limits. We feel if "hillside" restrictions should be enforced at all, they should only be enforced upon those areas which truly exist directly over areas of land which are technically "hillside" in nature as described by the Hillside Zoning Ordinance. To penalize the entire project for a small sliver of home, seems to be counterproductive to the intent of the ordinance.'

13. **Statutory Test 2 – Unnecessary Hardship –** Explain the unnecessary hardship the peculiar condition on the site create with respect to existing Regulation and Standard of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

'If forced to move the home, accessory building, and rear yard dramatically to the West and avoid contact with any "hillside" portions of the lot, the Oldham's would now be in violation of their HOA CC&Rs. Moreover, they would no longer have anywhere left to legally place their septic tank, lines, and/or pits because of the wash running diagonally across the lot. And not to mention they essentially would be giving up on 60-70% of their own land where none of the surrounding neighbors have had such restrictions enforced.'

14. **Statutory Test 3 – General Intent and Purpose of the Zoning Ordinance -** Discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

'By granting the requested variance, you are simply allowing the Oldham's to utilize their property in the exact same manner their neighbors have. By granting the requested variance, you are allowing the Oldham's to abide by their HOA's CC&Rs. By granting the requested variance, you are allowing the Oldham's to account for proper/responsible drainage around the home as required by law. By granting the requested variance, you are allowing the Oldham's to actually use less retaining walls and leave more of their portion of the hill untouched and pristine.'

15. **Per MCZO – Evidence of the ability and intention of the applicant to proceed with construction work within 120 days after variance decision by the Board of Adjustment.** Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit or as-built permit currently filed with Planning and Development Department and the current review status. Specify the permit number. If no permit have been filed, please provide a timeline for building permit submittal and projected timeframe for construction. Conversely, indicate if the variance request is/are not related to a specific development proposal.

    'This variance request, as advised by County staff, is part of the initial submittal. The attached plans are precisely what the Oldham's intend to build just as soon the review is done, the variance is granted, and the permit is issued.'

    See attached supplemental questionnaire for more details provided by the applicant.

Findings:

16. The applicant has the burden of proving that, in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2, the property is entitled to receive a variance. To do so, the applicant must present evidence that, due to a peculiar condition related to the land, that being something that is not a common condition of other properties, applying the requirement of the MCZO as written to this particular property would work an undue hardship on the property. In addition, the applicant must demonstrate that the granting of the variance would preserve the general intent and purpose of the MCZO.

    Based upon what the applicant has submitted and the staff analysis in this report, staff offers the following findings:

    - The applicant has failed to demonstrate that there is a peculiar condition facing the property. The principal building envelope has sufficient area (over 23,000 sq. ft.) to accommodate the proposed development without hillside disturbed outside of the building envelope.
    - The applicant has failed to demonstrate that the strict application of the MCZO to the applicant's property has caused undue physical hardship that prevents the development of the property**.** There are alternatives available to the property, such as reducing the footprint of the proposed residence and/or accessory structures, along with relocating the future development to be further away from the hillside area. Thus, a variance is not warranted.
    - The applicant has failed to demonstrate that the general intent and purpose of the MCZO will be preserved with the variance in that a reasonably sized building envelope is defined for the subject lot. The increased height request is not only for hillside but also an R1-35 development standards. The proposed height for the "turret" is an architectural design feature and not a necessary component for site development.

17. However, if the Board finds that the applicant has proven entitlement to the variance; then, the Board must state on the record the basis for that determination with findings and conclusion in a motion to grant the relief sought.

In such event staff would offer the Board the following Conditions of Approval:

a) General compliance with the site plan stamped received March 27, 2020.

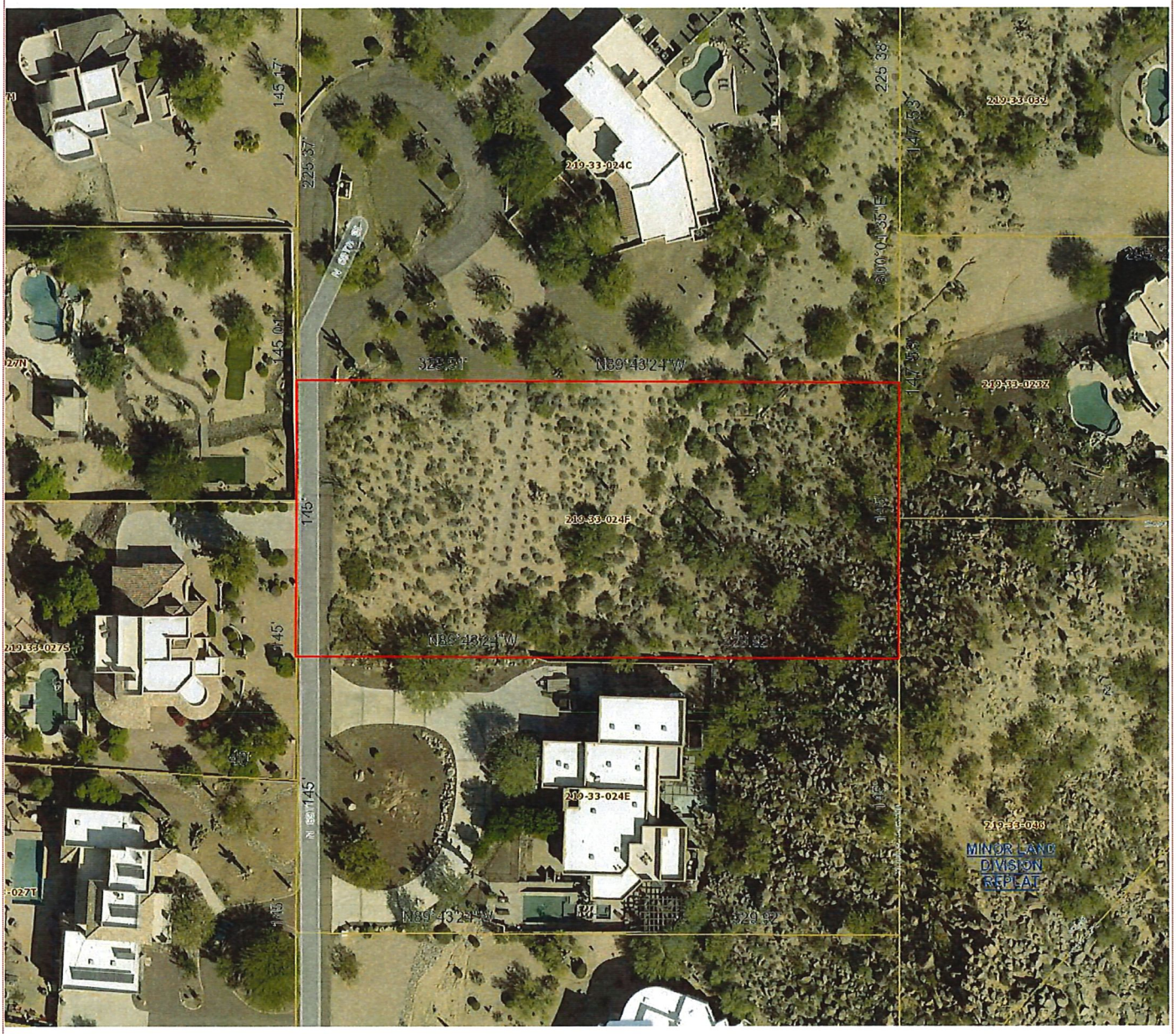
b) All required building permits for the proposed and existing development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Presented by: Ray Banker, Planner
Reviewed by: Darren V. Gerard, AICP, Planning Manager

Attachments: Case Map (1 page)
Application / Supplemental Questionnaire (6 pages)
Site Plan (1 page)
Grading and Drainage Plan (2 pages)
Engineering Comments (2 pages)
MCESD Comments (1 page)

MARICOPA COUNTY



Date: 5/7/2020 Legal Description: T2N, R7E, Section 33

Applicant: iPlan, LLC Phone: 480-807-1539

Case Address: 2833 N. 89Th St. Parcel: 219-33-024F

BA2020004
Aerial Date: 2020

SUPERVISORAL DISTRICT NO 2

Variance for hillside disturbance outside of the building envelope and building height increase to 35'

Planning & Development Department
VARIANCE / INTERPRETATION APPLICATION

ONE STOP SHOP

ALL FEES ARE DUE AT TIME OF APPLICATION AND ARE NON-REFUNDABLE

Is this Design Build? ☐ Yes ☐ No Is this Residential? ☒ Yes ☐ No

Please select the type of Board of Adjustment application from the checkboxes below.

☒ Residential Variance | ☐ Non-residential Variance | ☐ Interpretation | ☐ BA Blanket Variance

Is this subject property within an area of 15% or greater hillside slopes? Yes ☐ No ☐

REQUEST

Description of Request: Hillside Disturbance and Building Height
Existing Use of Property: Vacant
Existing Zoning District: R1-35
Related Case Number(s):

PROPERTY INFORMATION

Address (if known): ~~8840 E. McDowell Rd. Mesa AZ 85207~~ 2833 N. 89th Street
General Location (include nearest city/town): Mesa

Size in Acres: 1 Square Feet: 47,838
Legal Description: Section: Township: Range:
Assessor's Parcel Number: 217 33 024F
Subdivision Name (if applicable):

APPLICANT INFORMATION

Name: iPlan, LLC (Company) we are his agents Contact: Benjamin Schelair
Address: 4711 E Falcon Drive Suite 232
City: Mesa State: AZ Zip: 85215
Phone #: 480-807-1539 x 202 Fax #: 480-894-2529
E-mail Address: benschelair@iplandesign.com

PROPERTY OWNER INFORMATION

Name: Kable Oldham Contact:
Address: 8508 E Jacoranda Circle
City: Mesa State: AZ Zip: 85207
Phone #: 505-710-2550 Fax #:
E-mail Address: KOldham@henselphelps.com

PROPERTY OWNER AND APPLICANT AUTHORIZATION

I (property owner) Kable Oldham authorize (applicant's name) iPlan, LLC to file this application on all matters relating to this request with Maricopa County. By signing this form as the property owner I hereby agree to abide by any and all conditions that may be assigned by the Maricopa County Board of Supervisors, Maricopa County Planning and Zoning Commission, or Maricopa County Planning and Development Department staff as applicable, as part of any approval of this request including conditions development agreements and/or any other requirement that may encumber or otherwise affect the use of my property.

PROPOSITION 207 WAIVER

The property owner acknowledges that the approval being sought by this application may cause a reduction in the existing rights to use, divide, sell or possess the private property that is the subject of this application. The property owner further acknowledges that it is the property owner who has requested the action sought by the filing of this application. Therefore, with full knowledge of all rights granted to the property owner pursuant to A.R.S.§§12-1132 through 1138, the property owner does hereby waive any and all claims for diminution in value of the property with regard to any action taken by Maricopa County as result of the filing of this application.

Property Owner Signature: [signature] Date: 1/30/20

INSPECTIONS

By submitting this application, I am inviting County staff to conduct all site inspections they deem necessary.

VERIFICATION OF APPLICATION INFORMATION

I certify that the statements in this application and support material are true. Any approvals or permits granted by Maricopa County in reliance upon the truthfulness of these statements may be revoked or rescinded.

Owner or Authorized Agent Signature: Jim Stoulton Date: 2/19/20

ARS § 1605 TIMEFRAME EXTENSION

I authorize a **50% timeframe extension** for the review of my application as adopted by the Board of Supervisors per ARS § 1605 and as amended.

Property Owner Signature: Date:

RECEIVED MAR 27 2020 BA2020004

Planning & Development Department

BOARD OF ADJUSTMENT
VARIANCE SUPPLEMENTAL QUESTIONNAIRE

ONE STOP SHOP

ARS §11-816 B.2

The Board of Adjustment may allow a variance from the terms of the ordinance when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purposes of the zoning ordinance will be preserved.

1. Please discuss and explain what is/are the peculiar condition(s) facing the property and include reference to the Maricopa County Zoning Ordinance Regulation(s) or Development Standard(s) to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulation(s) or Development Standard(s) would impose a hardship on the property.

See attached

2. Please explain the unnecessary hardship the peculiar condition(s) on the site create with respect to existing Regulation(s) and Standard(s) of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

See attached

3. Please discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

See attached

RECEIVED MAR 2 7 2020

BA2020004

4. Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit(s) or as-built permit(s) currently filed with Planning and Development Department and the current review status. Specify the permit number(s). If no permit(s) have been filed, please provide a timeline for building permit(s) submittal and projected timeframe for construction. Conversely, indicate if the variance request(s) is/are not related to a specific development proposal.

See attached

*Additional sheets may be attached.

** DO NOT USE THIS FORM IF YOU ARE SUBMITTING AN INTERPRETATION

1. Subject Property has a severe slope on only a very small portion of the lot area. In keeping with HOA Guidelines which call for "HARMONIOUS PLACEMENT OF HOMES WITH RELATION TO EXISTING PROPERTIES," there is only one place the house can be located as indicated in the submittal set. With the placement complying with HOA Guidelines, there is a portion of the home which touches what is considered to be "hillside" in nature. This now puts the entire project under "hillside" regulations from what we have been told. This interpretation would effectively force the homeowner to re-design or even eliminate the accessory buildings and site retaining walls shown on the current plans. Therefore diminishing his ability to utilize the property in the same manner with which many of his neighbors have. In fact, the two adjacent neighbors have site/retaining walls within the setback precisely the same as Mr. and Mrs. Oldham propose.

Additionally, there is a wash running diagonally across the lot NE to SW which sits under the footprint of the proposed home. This wash anomaly creates a drainage situation, since the home is now governed under "hillside" regulations, where the home exceeds the maximum allowed "hillside" height restriction in order to accommodate for drainage around the home of said wash. The civil engineer of record will not let the home's finished floor be dropped an inch from where it is in the submittal set.

Whereas if the heights were NOT governed under "hillside" regulations, the home, even at the current finished floor level, is well below the allowed limits. We feel if "hillside" restrictions should be enforced at all, they should only be enforced upon those areas which truly exist directly over areas of land which are technically "hillside" in nature as described by the Hillside Zoning Ordinance. To penalize the entire project for a small sliver of home, seems to be counterproductive to the intent of the ordinance.

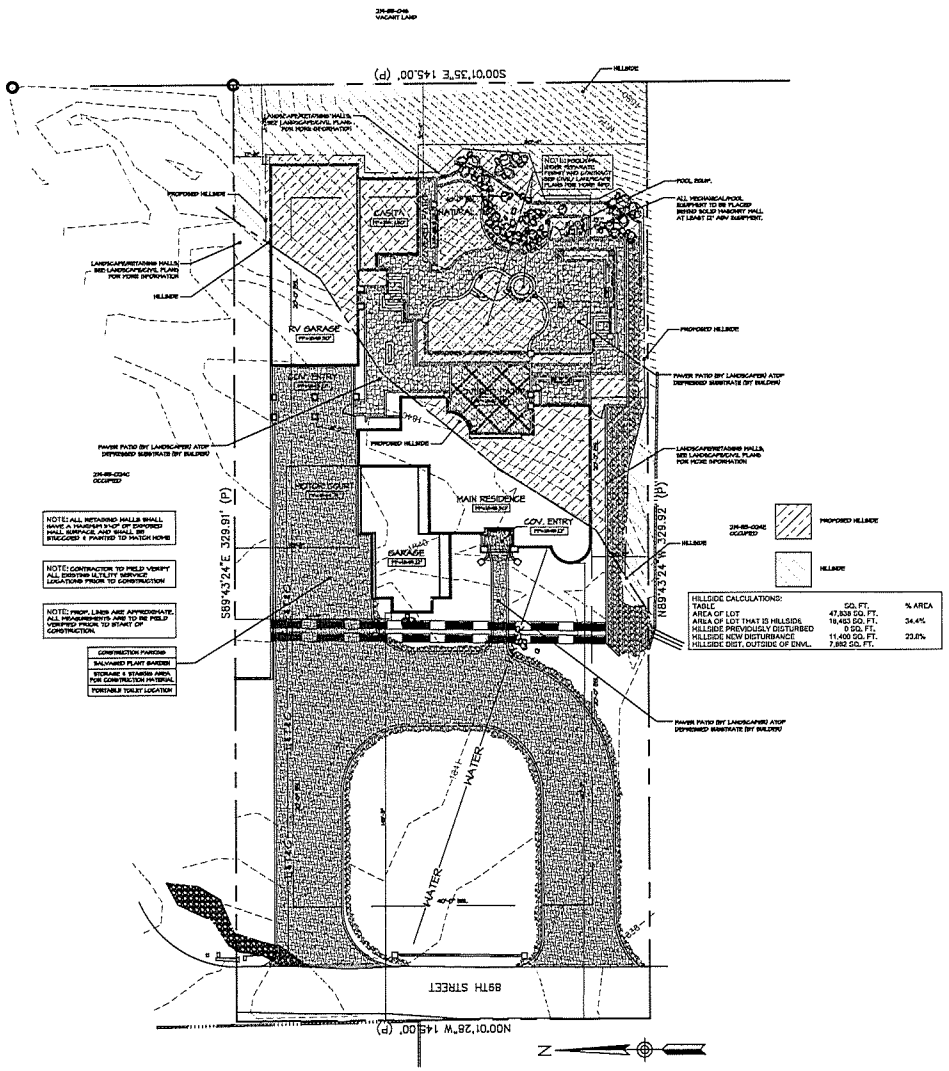
2. If forced to move the home, accessory building, and rear yard dramatically to the West and avoid contact with any "hillside" portions of the lot, the Oldham's would now be in violation of their HOA CC&Rs. Moreover, they would no longer have anywhere left to legally place their septic tank, lines, and/or pits because of the wash running diagonally across the lot. And not to mention they essentially would be giving up on 60-70% of their own land where none of the surrounding neighbors have had such restrictions enforced.

3. By granting the requested variance, you are simply allowing the Oldham's to utilize their property in the exact same manner their neighbors have. By granting the requested variance, you are allowing the Oldham's to abide by their HOAS's CC&Rs. By granting the requested variance, you are allowing the Oldham's to account for proper/responsible drainage around the home as required by law. By granting the requested variance, you are allowing

the Oldham's to actually use less retaining walls and leave more of their portion of the hill untouched and pristine.

4. This variance request, as advised by County staff, is part of the initial submittal. The attached plans are precisely what the Oldham's intend to build just as soon the review is done, the variance is granted , and the permit is issued.

5. Section A-A on The cover sheet of The grading & Drainge Plan shows the area that is over the 30' Max height. This is at a natural depression on the lot. All of the other areas of the house are well under the 30' Max height. This is under the turret area of the second floor. Without this natural depression and the lot was sloping at a contanious rate at this area, The turret would be under the 30' Rule. It Just happens Right under The turret. This area makes the max building height at 34'. This Variance Request Includes This in the application that the max height be overlook in this instance as the Rest of the house is under 30' and the turret does not stick out of the roof like at large tower over whelming the elevations of the home. They are in fact in line with other parts of the house that with the grade is well unde 30' from natural grade.



VARIANCE EXHIBIT "A"

1"=20'-0"

NORTH

Oldham Residence
A.P.N. 219-33-024F
2833 N. 89th St
Mesa, Arizona 85207

[i] PLAN, LLC
4711 East Falcon Drive • Suite 232
Mesa, Arizona 85215
studio (480) 807-1539 • fax (480) 694-2529
www.iplandesign.com

Home Builders Association OF CENTRAL ARIZONA

AMERICAN INSTITUTE OF BUILDING DESIGN
A B D
PROFESSIONAL BUILDING DESIGNER

VARIANCE EXHIBIT "A"

PLOT DATE: 3-27-20

Rev.	DATE:
1	
2	
3	
4	

PLAN #
6686

SHEET NO.
A1

COPYRIGHT 2016 i PLAN, LLC

WHEN APPROVED, MASTER WORK SET, FIRST TIME PLANS APPROVAL AND i PLAN ARE ALL TRADEMARKS OF i PLAN, LLC

RECEIVED MAR 2 7 2020

BA2020004

GRADING AND DRAINAGE PLAN

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 33, T-2-N, R-7-E OF THE G.&S.R.B.&M., MARICOPA COUNTY, ARIZONA

MARICOPA COUNTY P&D RESIDENTIAL GENERAL NOTES & CONDITIONS

1. REFERENCE MARICOPA COUNTY PERMIT AND ADDENDUMS FOR ADDITIONAL CONDITIONS.
2. HISTORIC DRAINAGE PATTERNS SHALL BE MAINTAINED AS SHOWN ON THE APPROVED PLANS.
3. ANY WORK PERFORMED WITHOUT APPROVAL OF THE APPLICABLE COUNTY DEPARTMENT OR AFFECTED UTILITY COMPANY AND/OR ALL WORK AND MATERIAL NOT IN CONFORMANCE WITH THE CONSTRUCTION DOCUMENTS IS SUBJECT TO REMOVAL AND REPLACEMENT AT THE OWNER'S EXPENSE.
4. THE ISSUANCE OF ANY CONSTRUCTION PERMIT SHALL NOT RELIEVE THE OWNER OR OWNER'S AGENT FROM COMPLIANCE WITH ALL OTHER GOVERNMENTAL REGULATIONS INCLUDING BUT NOT LIMITED TO ZONING & BUILDING REQUIREMENTS.
5. CONTACT MARICOPA COUNTY TO SCHEDULE AN IN-PROGRESS INSPECTION FOR ALL HEADWALLS, CUT OFF WALLS, AND WEIRS AFTER EXCAVATION AND FORM PLACEMENT, PRIOR TO PLACEMENT OF ANY MATERIAL.
6. AS SPECIFIED IN THE PERMIT CONDITIONS, CONTACT MARICOPA COUNTY TO SCHEDULE AN IN-PROGRESS INSPECTION FOR ALL GABION MATTRESSES, RIP-RAP, FILTER FABRIC, AND/OR GRAVEL UNDERLAYMENT AFTER EXCAVATION BUT PRIOR TO PLACEMENT OF ANY MATERIAL.
7. AS SPECIFIED IN THE PERMIT CONDITIONS, CONTACT MARICOPA COUNTY TO SCHEDULE AN IN-PROGRESS INSPECTION FOR ALL RETAINING WALLS AFTER EXCAVATION AND FORM PLACEMENT, PRIOR TO PLACEMENT OF ANY MATERIAL.
8. ADDITIONAL INSPECTIONS AND/OR RE-INSPECTIONS SHALL BE ASSESSED ADDITIONAL FEES IN CONFORMANCE WITH ADOPTED FEE SCHEDULES.
9. RIP-RAP AREAS SHALL BE OVER-EXCAVATED SUCH THAT TOP OF RIP-RAP WILL MEET ADJACENT GRADE.
10. DRAINAGE OPENINGS IN CMU WALLS SHALL BE AS SHOWN ON THE APPROVED PLANS OR NON-DECORATIVE TURNED BLOCK, EVERY OTHER BLOCK AT GRADE. IF TWO BLOCKS NEXT TO EACH OTHER ARE NOT TURNED, TWO TURNED BLOCKS NEXT TO EACH OTHER SHALL THEN FOLLOW.
11. SHOULD ANY PROPOSED DEVELOPMENT REQUIRE CLARIFICATION AS DETERMINED BY MARICOPA COUNTY, A PLAN ADDENDUM SIGNED AND SEALED BY A REGISTERED PROFESSIONAL ENGINEER SHALL BE SUBMITTED FOR APPROVAL. SUBMITTAL OF AN ADDENDUM MAY REQUIRE FORMAL PLAN MODIFICATION AS DEEMED BY MARICOPA COUNTY.
12. ALL CONSTRUCTION FILL SHALL MEET OR EXCEED MAG SPECIFICATION 211.
13. ALL CONSTRUCTION SHALL MEET OR EXCEED CURRENT MAG SPECIFICATIONS AND STANDARDS.
14. AN APPROVED SET OF PLANS SHALL BE MAINTAINED ON THE JOB SITE AT ALL TIMES PERMIT IS ACTIVE.
15. OMISSIONS OR CONFLICTS BETWEEN VARIOUS ELEMENTS OF THE DRAWINGS, NOTES, AND DETAILS SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER OF RECORD AND RESOLVED WITH MARICOPA COUNTY PRIOR TO PROCEEDING WITH THE WORK.
18. CONTACT BLUE STAKE AT 602-263-1100 A MINIMUM OF 2-DAYS PRIOR TO CONSTRUCTION.

FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

COMMUNITY NUMBER	PANEL NUMBER / PANEL DATE	SUFFIX	DATE OF FIRM (INDEX DATE)	FIRM ZONE
040037	2285 / 10-16-13	L	10-16-13	X

TOPOGRAPHY NOTE

ELEVATIONS SHOWN ON THIS PLAN ARE BASED ON A TOPOGRAPHY SURVEY COMPLETED IN JULY 2019 BY TELCYTE, LLC.

LEGAL DESCRIPTION

LEGAL PER DOCUMENT 2015-0288977, RECORDS OF MARICOPA COUNTY, ARIZONA

OUTDOOR LIGHTING NOTE

ALL OUTDOOR LIGHTING TO BE IN COMPLIANCE WITH MCZO SECTION 1112 AND ARTICLE 1112.4. ALL OUTDOOR LIGHTING TO BE LOW PRESSURE SODIUM (I.E. 150-WATT INCANDESCENT LIGHT).

OWNER

KABLE AND MARIA OLDHAM
8508 E. JACARANDA CIRCLE
MESA, AZ 85207
BENSCHEIER@PLANDESIGN.COM
480-807-1539

EARTHWORK QUANTITIES

FILL = 2500 CY*
CUT = 250 CY*
*QUANTITIES FOR ENGINEER'S USE ONLY. CONTRACTOR TO VERIFY.

SITE DATA

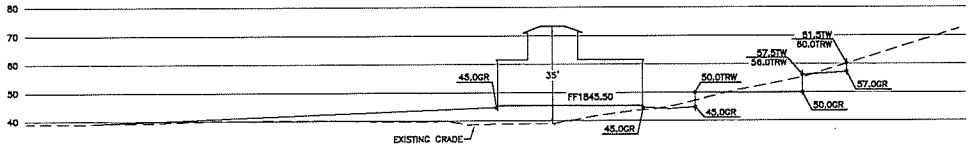
APN: 219-33-024F
LOT AREA = 47838 SF
1.0982 AC
ZONING = R1-35
DISTURBED AREA = 42255 SF

BENCHMARK

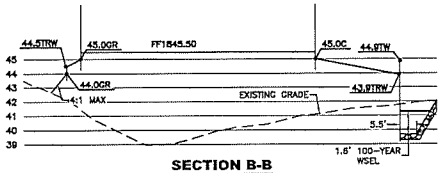
TOP OF 1/2" REBAR AT NORTHEAST PROPERTY CORNER
ELEVATION = 1845.8 NAVD88 DATUM

FINISH FLOOR CERTIFICATION

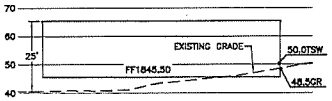
FINISH FLOOR WILL BE SAFE FROM INUNDATION FROM A 100-YEAR PEAK RUNOFF EVENT IF CONSTRUCTED IN ACCORDANCE WITH THE APPROVED GRADING PLAN.



SECTION A-A
SCALE: 1"=20'

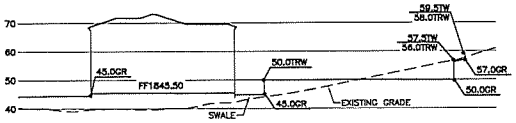


SECTION B-B
SCALE: 1"=20' HORIZONTAL
1"=4' VERTICAL

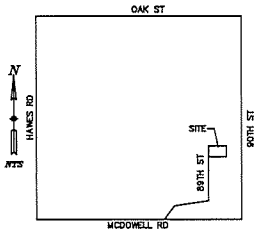


SECTION C-C
SCALE: 1"=20'

SECTION D-D
SCALE: 1"=20'



SECTION E-E
SCALE: 1"=20'



VICINITY MAP
N.T.S.

SHEET INDEX

COVER SHEET 1
GRADING AND DRAINAGE PLAN 2
RETAINING WALL DETAILS 3

AREA CALCULATIONS

LOT AREA = 47838 SF
LIVABLE = 3518 SF
GARAGE = 1389 SF
RV GARAGE = 2165 SF
ENTRY = 913 SF
PATIO = 384 SF
RAMADA = 400 SF
TOTAL = 8787 SF
LOT COVERAGE = 18.4%

LEGEND

C	CONCRETE/CONCRETE PAVER
GR	GRADE
EX	EXISTING
MCR	MARICOPA COUNTY RECORDER
TW	TOP OF WALL
TSW	TOP OF STEM WALL
TRW	TOP OF RETAINING WALL
ROW	RIGHT OF WAY
—E—	ELECTRIC SERVICE
— — —	EXISTING CONTOUR
—··—	EASEMENT LINE
—34—	NEW CONTOUR
—WS—	WATER SERVICE

HILLSIDE CALCULATIONS

AREA OF LOT	47838 SF
AREA OF LOT THAT IS HILLSIDE	16483 SF
HILLSIDE PREVIOUSLY DISTURBED	0 SF
HILLSIDE NEW DISTURBANCE	11400 SF

WALL QUANTITIES

0-6' RETAINING WALL	437 LF
6-9' RETAINING WALL	109 LF

DECLARATION OF RESPONSIBLE CHARGE

I HEREBY DECLARE THAT I AM THE ENGINEER OF WORK FOR THIS PROJECT, THAT I HAVE EXERCISED RESPONSIBLE CHARGE OVER THE DESIGN OF THE PROJECT AS DEFINED IN SECTION R4-30-301 OF THE RULES OF THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION, AND THAT THE DESIGN IS CONSISTENT WITH CURRENT STANDARDS.

I UNDERSTAND THAT THE REVIEW OF THE PROJECT DRAWINGS AND SPECIFICATIONS BY MARICOPA COUNTY IS CONFINED TO A REVIEW ONLY AND DOES NOT RELIEVE ME, AS ENGINEER OF WORK, OF MY RESPONSIBILITIES FOR THE PROJECT DESIGN.

NAME: CLINTON J. GARNER, P.E. LIC. NO. 36113 EXP 03-31-2022 DATE: 03-24-20

ARIZONA BLUE STAKE, INC. 1-800-STAKE-IT
CALL 811 BEFORE YOU DIG!
DIAL 811 OR 602-263-1100 1-800-STAKE-IT
811 Know what's below. Call before you dig.

36113 CLINTON J. GARNER ARIZONA U.S.A. 3-24-20

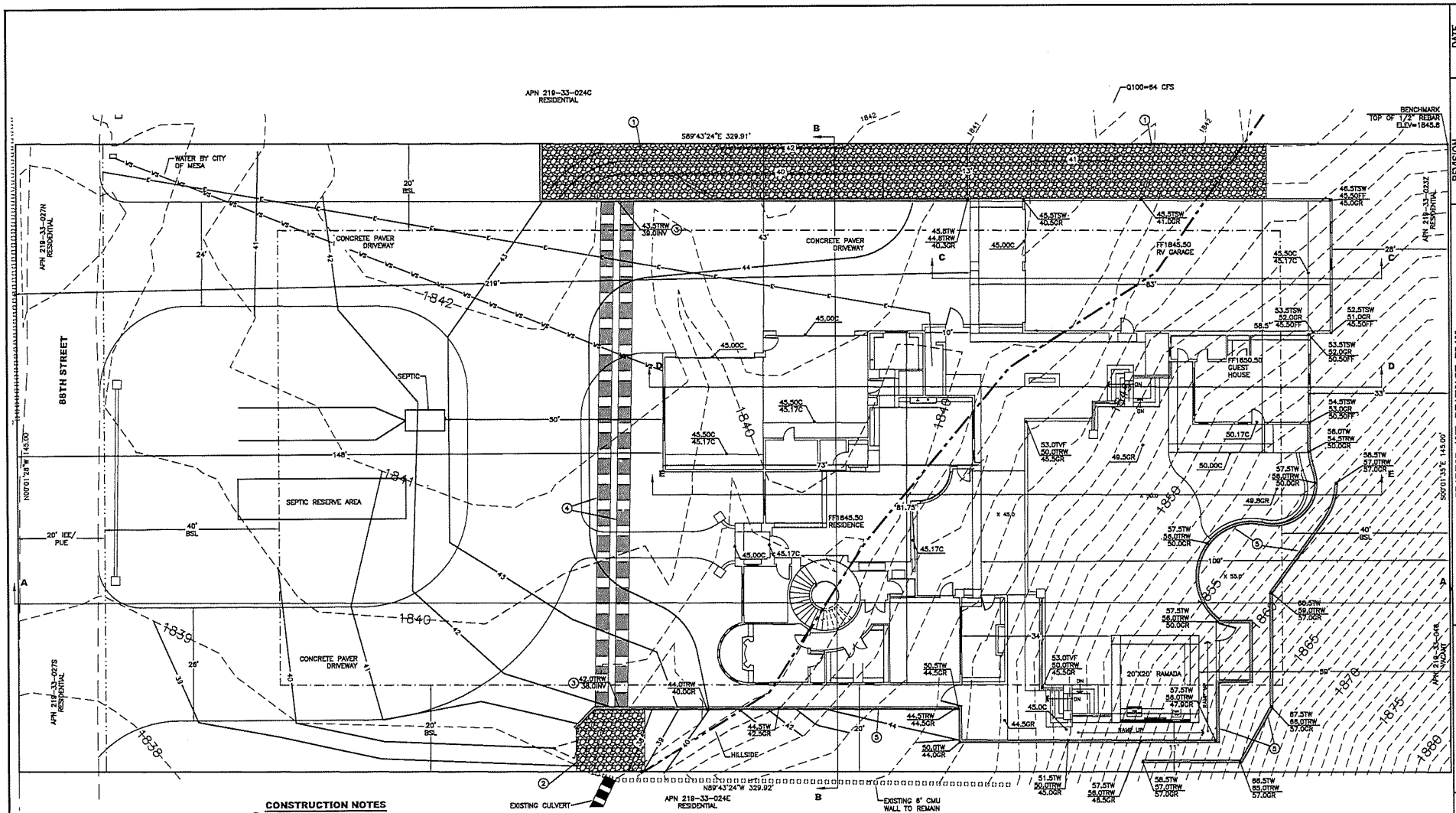
REVISION	DATE

GRADING AND DRAINAGE PLAN
APN 219-33-024F

JOB NUMBER 19-116
DRAWING CVR19116
DATE 03-24-20
SHEET 1 OF 3

GarnerGroup engineering
DUAL@CLINTGARNERGROUPAZ.COM
(O) 480-397-2673 (F) 480-287-9019
2054 E. INGRAHAM ST. MESA, AZ 85213

RECEIVED MAR 27 2020
BA2020004



LEGEND

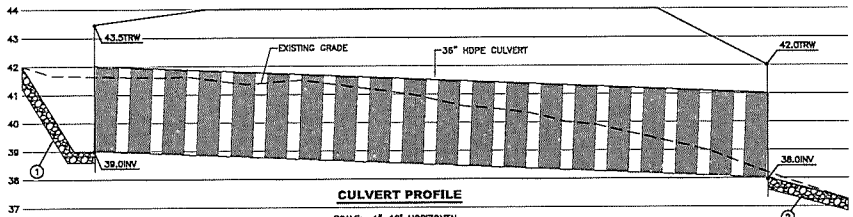
C	CONCRETE/CONCRETE PAVER
GR	GRADE
EX	EXISTING
INV	INVERT
TW	TOP OF WALL
DOC	DOCUMENT
TRW	TOP OF RETAINING WALL
TSW	TOP OF STEM WALL
—E—	ELECTRIC SERVICE
— — —	EXISTING CONTOUR
—·—·—	EASEMENT LINE
—34—	NEW CONTOUR
—WS—	WATER SERVICE
— — —	HILLSIDE LINE

CONSTRUCTION NOTES

1. 8" THICK RIPRAP PER RIPRAP SPECIFICATIONS THIS SHEET (D50=4.5").
2. 12" THICK RIPRAP PER RIPRAP SPECIFICATIONS THIS SHEET (D50=6").
3. HEADWALL PER MAG DTL 501.
4. 2-110' OF 36" HDPE CULVERT. SEE CULVERT CROSS SECTION THIS SHEET.
5. SEE SHEET 3 FOR RETAINING WALL DETAILS.
6. SOLID GROUT/WATERPROOF TO TSW/TW CALLOUT AS OCCURS.

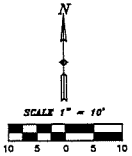
SECTION NOTE

SEE SHEET 1 FOR CROSS SECTION A-A THROUGH E-E



CULVERT PROFILE

SCALE: 1"=10' HORIZONTAL
1"=2' VERTICAL



REVISION	DATE
1	
2	
3	

GRADING AND DRAINAGE PLAN
APN 219-33-024F
2833 N. 88TH ST, MESA, AZ 85207

JOB NUMBER 19-116
DRAWING GD19116
DATE 03-24-20
SHEET 2 OF 3

GarnerGroup engineering
EMAIL CLIFF@GARNERGROUPAZ.COM
(P) 480-292-2873 (F) 480-292-9019
2054 E. HORNCROFT ST. MESA, AZ 85213

REGISTERED PROFESSIONAL ENGINEER
36113
CLINTON J. GARNER
3-24-20
ARIZONA, U.S.A.

Maricopa County

Planning & Development Department
Engineering Plan Review

Anthony J. Regis, PE, CFM
Planning & Development
501 North 44th Street, Suite 200
Phoenix, Arizona 85008
Phone: (602) 506-8790
Fax: (602) 506-3282
www.maricopa.gov/planning
Email address:
TonyRegis@mail.maricopa.gov

Date: March 3, 2020

Memo To: Darren Gerard, AICP, Deputy Director, Department of Planning & Development

Attn: Ray Banker, Planner, Planning & Development Services

From: Tony Regis, P.E., CFM, Plans Examiner Engineer (Drainage), Planning & Development

cc: Michael Norris, P.E., Drainage Engineering Manager, Planning & Development

Subject: BA2020004 – Lot Variance
(E1 Memo)

Job Site Address: NE of McDowell Rd and 89th St, Mesa

APN(s): 219-33-024F

Engineering Plan Review has reviewed the submittal received on February 20, 2020 for the subject application and has no objections to the requested variance.

Flood Control District of Maricopa County has no objections or requirements; the subject parcel is not located within a regulated floodplain.

MCDOT has no objections to the requested variance.

Should the Board of Adjustment find favorable approval for the applicants request, a drainage clearance will still need to be obtained prior to issuance of a building permit(s).

Please contact me if you have any questions or require clarification of these comments.

Any approval of this case should include the following standard stipulations:

1. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance; Drainage Policies and Standards; Floodplain Regulations for Maricopa County; MCDOT Roadway Design Manual; and current engineering policies, standards and best practices at the time of application for construction.

2. Engineering review of planning and/or zoning cases is for conceptual design only and does not represent final design approval nor shall it entitle applicants to future designs that are not in conformance with Section 1205 of the Maricopa County Zoning Ordinance and Drainage Policies and Standards; Floodplain Regulations for Maricopa County; and the MCDOT Roadway Design Manual.

Please contact me if you have any questions or require clarification of these comments.

Maricopa County

Environmental Services Department
Water and Waste Management Division

Subdivision Infrastructure &
Planning Program
1001 N. Central Avenue #150
Phoenix, Arizona 85004
Phone: (602) 506-0376
Fax: (602) 506-5813
TDD 602 506 6704

DATE: February 27, 2020

TO : Ray Banker, Planning & Development Dept.
Planner

FROM: Souren Naradikian, P.E.
Senior Civil Engineer

SUBJECT: Hillside disturbance and Building Height Variance. BA2020004

The Maricopa County Environmental Services Department (MCESD) has reviewed information concerning the above referenced project provided by the Maricopa County Planning & Development Department. This project is a request for Hillside disturbance and Building Height Variance at APN # 219-33-024F. Water and sewer service will be not impacted. MCESD has no concern.

Based on the above, MCESD **raise no objection** to the Planning & Development Department in Accela Automation on February 27, 2020 and will allow the project to proceed at this time.

It should be noted that this document does not approve the referenced project. Comments are provided only as advisory to Maricopa County Planning and Development Department to assist staff to prepare a staff report. Other Maricopa County agencies may have additional requirements. Final review and approval will be made through Planning and Development Department procedures. Applicant may need to submit separate applications to the Maricopa County Environmental Services Department for approval of proposed facilities regulated by the Department. Review of any such application will be based on regulations in force at the time of application.

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case:	BA2020016 – Duarte Property
Hearing Date:	May 21, 2020
Supervisor District:	4

Applicant:	Lydia Reyes
Property Owner:	Cesar Duarte
Request:	**Variance to the development standard of the Maricopa Zoning Ordinance to permit**: 1) Existing front setback of 3' for an accessory structure (chicken coop) where 40' is the minimum permitted per MCZO Article 503.4.1
Site Location:	APN142-33-003X @ 8343 W. Griswold Rd. – 85th Ave. & Griswold Rd., in the Peoria area
Site Size:	43,771 sq. ft.
Current Use / Zoning:	Single-family residence / Rural-43
Open Violation:	**Violation on property**
Citizen Support/Opposition:	Letter of support with six (6) signatures
Findings:	☒ **The request fails to meet the statutory test for variance approval**

Background:

1. **June 3, 2004**: The current parcel was created from a four-way lot split of the parent parcel 142-33-003T. The parcels created were 142-33-003U, -003V, 003W and the subject parcel **142-33-003X**.

2. **October 10, 2014**: The current owner took possession of the subject property.

3. **October 29, 2014:** Construction permit **B201406227** was submitted for a single family residence, a 3'(h) CMU wall, 6'(h) CMU wall, a CMU wall & wrought iron fencing combination and 3'(h) pipe rail fencing. The status of the permit is final.

4. **April 15, 2015:** Construction permit **B201502267** was submitted for a gas line to an above ground propane tank. The status of the permit is final.

5. **July 29, 2019:** Violation (**V201901412**) was opened on the property for construction without the required building permit, review or inspections. The status of the violation is closed.

6. **September 6, 2019**: Violation (**V201901674**) was opened on the property for construction without the required building permit, review or inspections. The status of the violation is admin remedy

7. **April 17, 2020:** The current variance application was submitted.

Reviewing Agencies Comments:

8. **Engineering** (**Transportation, Drainage, and Flood Control**): No objection to the request, see attached memo dated May 6, 2020.

9. **Environmental Services Department (MCESD):** No objection to the request, see attached memo dated May 8, 2020.

Existing On-Site and Surrounding Zoning/Land Use:

10.

On-site:	Rural-43 /Single-family residence
North:	Griswold Rd. then Rural-43 /Single-family residence
South:	Rural-43 /Single-family residence
East:	Rural-43 /Single family residence
West:	Rural-43 /Vacant

Site Analysis:

11. The site location is approximately 550-ft. east of 85th Ave. on the south side of Griswold Rd. The site comprises a single-family residence, a chicken coop and ramada. The applicant proposes allowing an existing accessory structure (chicken coop) to remain in the required front yard setback. The existing setback for the coop is 3-feet where 40-feet is the required front yard setback. The lot is 43,771 sq.-ft., trapezoid shaped, developed with a 6,231 sq.-ft. single family residence, a 632 sq.-ft. ramada and 806 sq.-ft. chicken coop. The topography is flat with the rear yard south of the residence, a casita structure to the southwest (rear) yard of the residence, and is otherwise unremarkable. The general neighborhood is the result of the lot splitting process. Staff notes, a rear made within the southwest corner of the site. The structure had a violation (V201901412) that was closed,

as there was no structure observed at the time of the Code Officer's inspection. However, there is no evidence that there has ever been a building permit issued for the ramada.

Aerial photo of subject site & surrounding environs

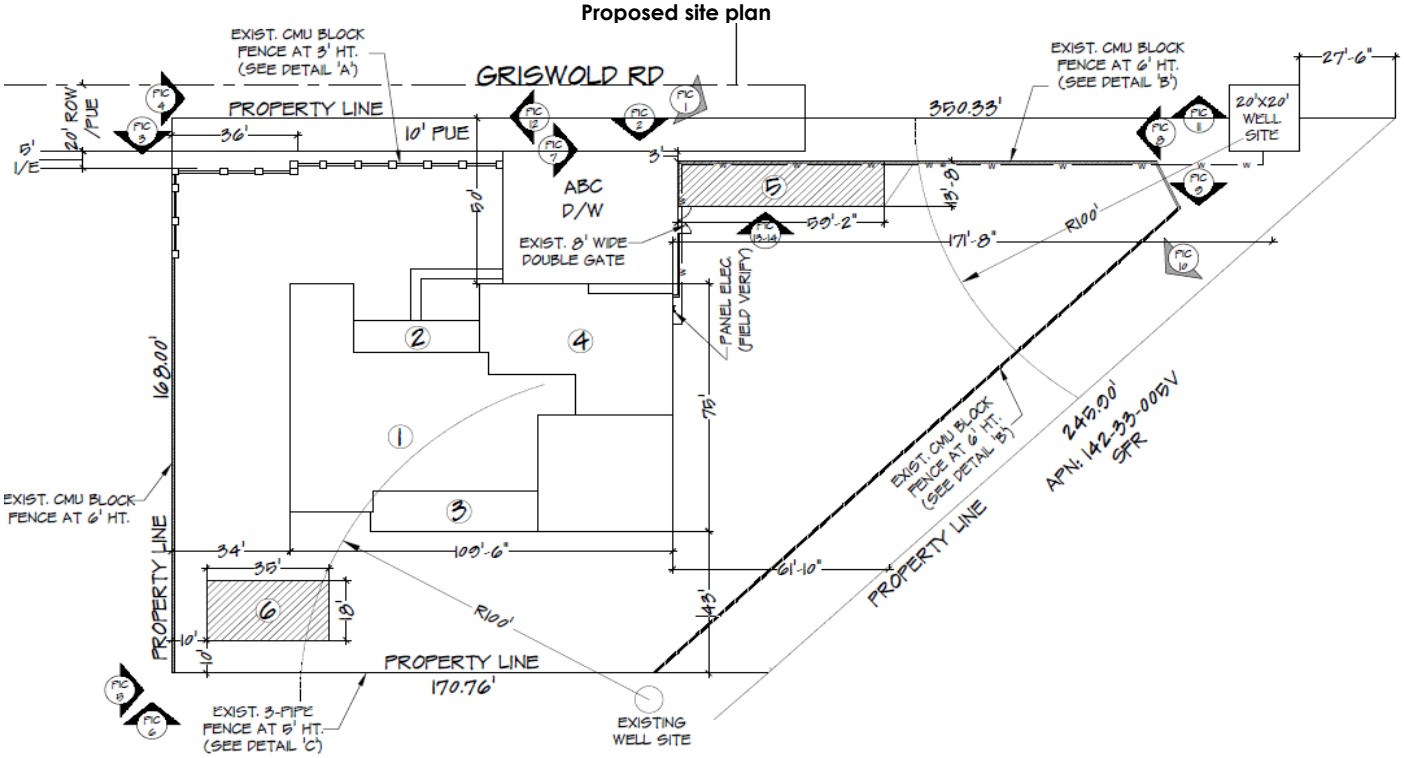
Aerial photo of subject site

12. The topography of the site is flat without any features that would hinder development of the chicken coop elsewhere on the site. There are mature trees west of the driveway, along the western, southern and one-half of the eastern property boundary. There are no peculiar conditions presenting a physical or topographical hardship. Had the property

owner inquired to the P&D staff, they would have been informed that the present location of the coop does not meet the Rural-43 zoning requirements. Staff received a letter of support with six (6) signatures.

Photo Duarte Chicken Coop

Proposed site plan



13. In considering this request, staff took into consideration a clear lack of peculiar conditions that may present a hardship. Viable alternatives exist where the existing coop structure could be built. Construction to the southeast of the front property line or along the western property boundary outside of the front setback or south of the residence without encroaching into the setbacks are two examples. Staff is not in support of the proposal.

14. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the owner (Note: changes to proposed standards are indicated in bold).

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	**3-feet**
Rear Yard Setback	40-feet	43-feet
Street Side Setback (east)	20-feet	61-feet
Side Yard Setback (west)	30-feet	34-feet
Maximum Height	30-feet	n/a
Minimum Lot Area	43,560-sq. ft.	43,771-sq. ft.
Minimum Lot Width	145-feet	168-feet
Lot Coverage	25%	17.5%

Note: Standards indicated in **bold** do not meet base zoning standards

ARS § 11-816.B.2 and MCZO Article 303.2.2 states the Board of Adjustment may, "Allow a variance from the terms of the ordinance if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of the zoning ordinance will be preserved."

State Statute / County Zoning Ordinance Tests:

15. **Statutory Test -1 Peculiar conditions** – Discuss and explain what is/are the peculiar conditions facing the property and include reference to the Maricopa County Zoning Ordinance Regulations or Development Standards to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulations or Development Standards would impose a hardship on the property.

"Property is located on RU-43 District, where the principal use of this Zoning District is to conserve and protect farms and other open land uses (Art.503.1).The required setbacks for this District are 40' front/rear and 30' sides as set forth on Art.503.4 with an exemption for accessory buildings to have a setback as close as 3' on the side/rear yards per Art. 1106.2 Existing property is an irregular shape; on an ideal scenario the shortest distance of the lot width should be considered the front setback, where on this case is opposite due to the street running along the longest north lot line creating to change the front setback to the street side. This street is a dead end to access a well site. So there will be no traffic here. Due to this irregular shape the most use of the backyard is toward the side yard. House was built in the first west half of the property for the family use and enjoyment and the other east half was left for the farming use. This east side is where the irregular shape of the property is located, this section is block fenced along the property line except the north fencing is 3' inside property line. Chicken coop was built on this north

side as an accessory building away from the surrounded neighbors and closer to the water source."

16. **Statutory Test 2 – Unnecessary Hardship –** Explain the unnecessary hardship the peculiar conditions on the site create with respect to existing Regulations and Standards of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

    "Due to the irregular shape of the property and street running along the longest side of the property line, created a condition to have a front setback along the street side where otherwise should have being side setback and allowing for a 3' setback for accessory building. Existing house is facing the street and in compliance with the front setback and the rest of the east side of property is fenced with a 6' ht. block fence."

17. **Statutory Test 3 – General Intent and Purpose of the Zoning Ordinance -** Discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

    "As Built-Chicken Coop was built in an area that otherwise should had been a side setback and in compliance with the 3' accessory building, but because the irregular shape and the end of street location is considered a front yard. Since this is an end of street to lead to a well site access we feel that granting of a variance where 40' setback is required and 3' setback is proposed will not have a negative impact on the general intent of the zoning ordinance. As Built Chicken Coop was built per code, behind a block fence and at the end of street where there will be no neighbors or traffic running through."

18. **Per MCZO – Evidence of the ability and intention of the applicant to proceed with construction work within 120 days after variance decision by the Board of Adjustment.** Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permits or as-built permits currently filed with Planning and Development Department and the current review status. Specify the permit numbers. If no permits have been filed, please provide a timeline for building permits submittal and projected timeframe for construction. Conversely, indicate if the variance requests is/are not related to a specific development proposal.

    "If Variance is granted, As Built Chicken Coop will be filled immediately (within two weeks of approval notification) and as soon as Building Permit is approved, inspections will be requested."

Findings:

19. The applicant has the burden of proving that, in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2, the property is entitled to receive a variance. To do so, the applicant must present evidence that, due to a peculiar condition related to the land, that being something that is not a common condition of other properties, applying the requirement of the MCZO as written to this particular property would work an undue hardship on the property. In addition, the applicant must demonstrate that the granting of the variance would preserve the general intent and purpose of the MCZO.

Based upon what the applicant has submitted and the staff analysis in this report, staff offers the following findings:

- The applicant has failed to demonstrate that there is a peculiar condition facing the property.
- The applicant has failed to demonstrate that the strict application of the MCZO to the applicant's property has caused undue physical hardship that prevents the development of the property**.** There are alternatives available to the property, such as moving the structure outside of the required front yard. Thus, the variance is not warranted.
- The applicant has failed to demonstrate the peculiar condition / physical hardship is not self-created in the line of title in that construction was by the current property owner without the required permit and inspections.

20. However, if the Board finds that the applicant has proven entitlement to the variance; then, the Board must state on the record the basis for that determination with findings and conclusion in a motion to grant the relief sought.

In such event staff would offer the Board the following Conditions of Approval:

a) General compliance with the site plan stamped received April 17, 2020.

b) All required building permits for the existing development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Presented by: Eric R. Smith, Planner
Reviewed by: Darren V. Gerard, AICP, Deputy Director

Attachments:

Case Map (1 page)
Application / Supplemental Questionnaire (3 pages)
Site Plan (1 page)
Engineering Comments (1 page)
MCESD Comments (1 page)
Compliance Agreement (3 pages)
Letter of support (1 page)

MARICOPA COUNTY

Date: 05/06/2020 Legal Description: T03N R01E S34

Applicant: Lydia Reyes Phone: 602.628.9473

Case Address: 8343 W. Griswold Rd. Peoria 85345 Parcel: 142-33-003X

BA2020016
Aerial Date: 2020

SUPERVISORAL DISTRICT NO 4

Existing accessory structure front yard setback.

Planning & Development Department
VARIANCE / INTERPRETATION APPLICATION

ONE STOP SHOP

ALL FEES ARE DUE AT TIME OF APPLICATION AND ARE NON-REFUNDABLE

Is this Design Build? ☐ Yes ☐ No Is this Residential? ☒ Yes ☐ No

Please select the type of Board of Adjustment application from the checkboxes below.

☒ Residential Variance | ☐ Non-residential Variance | ☐ Interpretation | ☐ BA Blanket Variance

Is this subject property within an area of 15% or greater hillside slopes? Yes ☐ No ☐

REQUEST

Description of Request: VARIANCE FOR AS BUILT CHICKEN COOP TO ALLOW 3' FRONT SETBACK WHERE 40' SETBACK IS REQUIRED.
Existing Use of Property: RESIDENTIAL AGRICULTURA
Existing Zoning District: RU-43
Related Case Number(s): V201901674

PROPERTY INFORMATION

Address (if known): 8343 W GRISWOLD RD PEORIA AZ 85345
General Location (include nearest city/town): MAIN CROSS STREETS ARE N OF NORTHERN AVE ADN E OF 85TH AVE

Size in Acres: 1 AC Square Feet: 43,771
Legal Description: Section: 34 Township: 3N Range: 1E
Assessor's Parcel Number: 142-33-003X
Subdivision Name (if applicable): N/A

APPLICANT INFORMATION

Name: LYDIA L REYES Contact: LYDIA
Address: 501 E PLAZA CIR STE 501A
City: LITCHFIELD PARK State: AZ Zip: 85340
Phone #: (602)628-9473 Fax #:
E-mail Address: LRHOMEDESIGNS@GMAIL.COM

PROPERTY OWNER INFORMATION

Name: SAUL DUARTE Contact: LUPE DUARTE
Address: 8343 W GRISWOLD RD
City: PEORIA State: AZ Zip: 85345
Phone #: (602)796-4759 Fax #:
E-mail Address: conniegdconstruction@gmail.com

PROPERTY OWNER AND APPLICANT AUTHORIZATION

I **(property owner)** _____ authorize **(applicant's name)** LYDIA L REYES to file this application on all matters relating to this request with Maricopa County. By signing this form as the property owner I hereby agree to abide by any and all conditions that may be assigned by the Maricopa County Board of Supervisors, Maricopa County Planning and Zoning Commission, or Maricopa County Planning and Development Department staff as applicable, as part of any approval of this request, including conditions, development agreements, and/or any other requirement that may encumber or otherwise affect the use of my property.

PROPOSITION 207 WAIVER

The property owner acknowledges that the approval being sought by this application may cause a reduction in the existing rights to use, divide, sell or possess the private property that is the subject of this application. The property owner further acknowledges that it is the property owner who has requested the action sought by the filing of this application. Therefore, with full knowledge of all rights granted to the property owner pursuant to A.R.S.§1§12-1132 through 1138, the property owner does hereby waive any and all claims for diminution in value of the property with regard to any action taken by Maricopa County as result of the filing of this application.

Property Owner Signature: Saul Duarte Date: 5/15/2020

INSPECTIONS

By submitting this application, I am inviting County staff to conduct all site inspections they deem necessary.

VERIFICATION OF APPLICATION INFORMATION

I certify that the statements in this application and support material are true. Any approvals or permits granted by Maricopa County in reliance upon the truthfulness of these statements may be revoked or rescinded.

Owner or Authorized Agent Signature: Lyda L Reyes Date: 5/15/2020

ARS § 1605 TIMEFRAME EXTENSION

I authorize a **50% timeframe extension** for the review of my application as adopted by the Board of Supervisors per ARS § 1605 and as amended.

Property Owner Signature: Saul Duarte Date: 5/15/2020

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BA2020016

VARIANCE SUPPLEMENTAL QUESTIONNAIRE

1. Please discuss and explain what is/are the peculiar condition(s) facing the property and include reference to the Maricopa County Zoning Ordinance Regulation(s) or Development Standard(s) to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulation (s) or Development Standard(s) would impose a hardship on the property.

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2. Please explain the unnecessary hardship the peculiar condition(s) on the site create with respect to existing Regulation(s) and Standard(s) of the Maricopa County Zoning Ordinance. Please, discuss and explain that the unnecessary hardship facing the property is not-self created in the line of title.

Due to the irregular shape of the property and street running along the longest side of the property line, created a condition to have a front setback along the street side where otherwise should have being side setback and allowing for a 3' setback for accessory building. Existing house is facing the street and in compliance with the front setback and the rest of the east side of property is fenced with a 6' ht. block fence.

BA2020016

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3. Please discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

As Built-Chicken Coop was built in an area that otherwise should had been a side setback and in compliance with the 3' accessory building, but because the irregular shape and the end of street location is considered a front yard.

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4. Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit(s) or as-built permit(s) currently filed with Planning and Development Department and the current review status. Specify the permit number(s). If no permit(s) have been filed, please provide a time line for a building permit(s) submittal and project timeframe for a construction. Conversely, indicate if the variance request(s) is/are not related to a specific development proposal.

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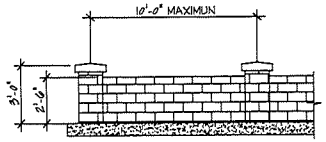
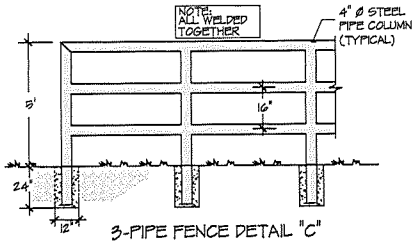


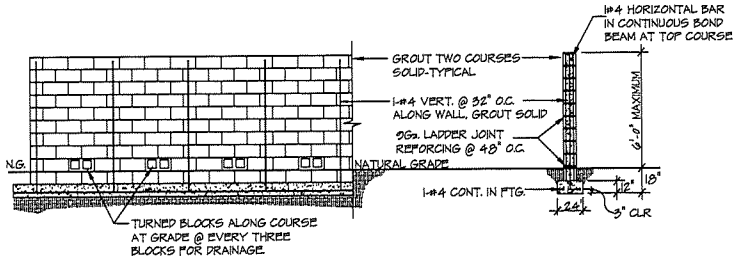
8"X8"X16" BLOCK WALL FENCE DETAIL "A"

N.T.S.



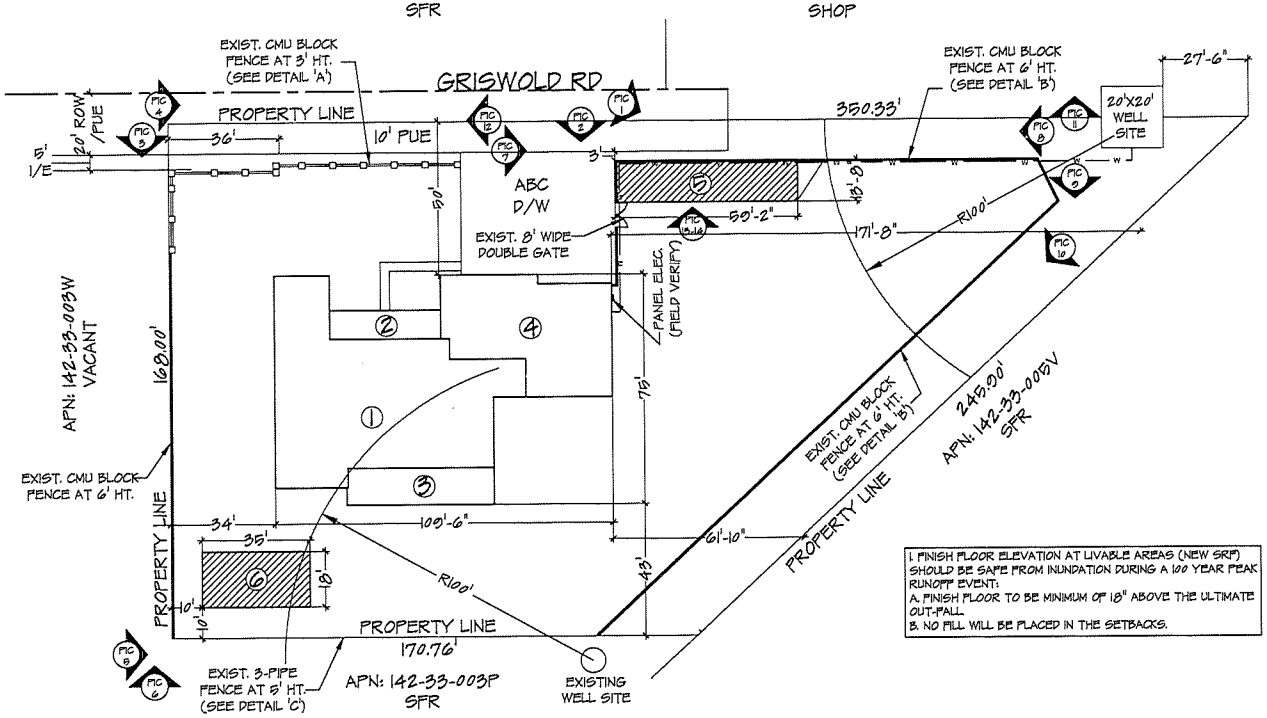
3-PIPE FENCE DETAIL "C"

N.T.S.



8"X8"X16" BLOCK WALL FENCE DETAIL "B"

N.T.S.



1. FINISH FLOOR ELEVATION AT LIVABLE AREAS (NEW SRF) SHOULD BE SAFE FROM INUNDATION DURING A 100 YEAR PEAK RUNOFF EVENT:
   A. FINISH FLOOR TO BE MINIMUM OF 18" ABOVE THE ULTIMATE OUT-FALL.
   B. NO FILL WILL BE PLACED IN THE SETBACKS.

SITE PLAN

SCALE: 1"=30'-0"

PROJECT INFORMATION:

PROJECT:	DUARTE'S CHICKEN COOP AS-BUILT
OWNER:	DUARTE CESAR
PROJECT ADDRESS:	8343 W GRISWOLD RD PEORIA, AZ 85345
A.P.N.:	142-33-003X
ZONING DISTRICT:	RU-43
LOT #:	-
SUBDIVISION:	-
LOT AREA:	43,771 S.F.

BUILDING AREA:

1 EXIST. LIVABLE :	3,531 S.F.
2 EXIST. PORCH :	342 S.F.
3 EXIST. PATIO :	571 S.F.
4 EXIST. GARAGE :	1,787 S.F.
5 NEW AS-BUILT CHICKEN COOP :	806 S.F.
6 NEW AS-BUILT RAMADA :	630 S.F.
TOTAL UNDER ROOF:	7,667 S.F.

EXIST. BLOCK WALL FENCE AT 3' HT. DETAIL "A":	167 L.F.
EXIST. BLOCK WALL FENCE AT 6' HT. DETAIL "B":	520 L.F.
EXIST. 3-PIPE FENCE AT 5' HT. DETAIL "C":	138 L.F.

LOT COVERAGE

17.51 % (7,667 S.F.)

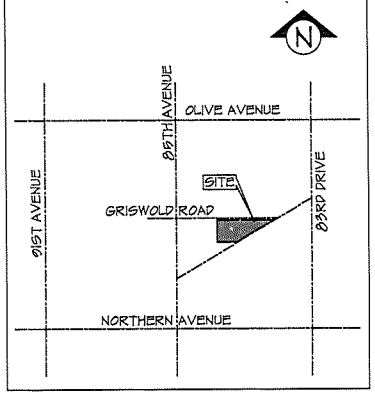
BUILDING CODES

ALL CONSTRUCTION SHALL COMPLY WITH THE FOLLOWING CODES:

2012 INTERNATIONAL BUILDING CODE
2012 INTERNATIONAL RESIDENTIAL CODE
2011 NATIONAL ELECTRICAL CODE
2012 INTERNATIONAL PLUMBING CODE
2012 INTERNATIONAL MECHANICAL CODE
2012 INTERN. ENERGY CONSERVATION CODE

VICINITY MAP

NOT TO SCALE



"Dreams to Your Design"
(602) 628-9473
lthomedesigns@gmail.com

PARCEL NUMBER: 142-33-003X

ZONING: RU-43

DUARTE'S CHICKEN COOP AS-BUILT

8343 W GRISWOLD RD
PEORIA, AZ. 85345

SEAL:

REVISIONS:

PROJECT NO:	-
DATE:	MAR-2020
DRAWN BY:	E. PADILLA
CHECKED BY:	LR
FILENAME:	DUARTE'S CHICKEN COOP

SP

Maricopa County
Planning & Development Department

Bob Fedorka, PE
Planning & Development
501 North 44th Street, Suite 200
Phoenix, Arizona 85008
Phone: (602) 506-7151
www.maricopa.gov/planning
Email address:
bob.fedorka@maricopa.gov

Date:	May 6, 2020
Memo To:	Darren Gerard, AICP, Deputy Director, Department of Planning & Development
Attn:	Eric Smith, Planner, Planning & Development Services
From:	Bob Fedorka, PE, PND Engineering Supervisor, Planning & Development Services
cc:	Michael Norris, P.E., PND Engineering Manager, Planning & Development Services
Subject:	BA2020016 – Variance for Setback
Job Site Address:	8343 W. Griswold Road, Peoria
APN(s):	142-33-003X

PND Engineering has reviewed the 1st submittal of the application routed for review on May 6, 2020, for the subject variance and has no objections

Approval for the variance is at the discretion of the Maricopa County Board of Adjustments.

Please contact me if you have any questions or require clarification of these comments.

Maricopa County

Environmental Services Department
Water and Waste Management Division

Subdivision Infrastructure &
Planning Program
1001 N. Central Avenue #150
Phoenix, Arizona 85004
Phone: (602) 506-0376
Fax: (602) 506-5813
TDD 602 506 6704

DATE: May 11, 2020

TO : Eric R. Smith, Planning & Development Dept.
Planner

FROM: Souren Naradikian, P.E.
Senior Civil Engineer

SUBJECT: VARIANCE FOR AS BUILT CHICKEN COOP TO ALLOW 3' FRONT SETBACK WHERE 40' SETBACK IS REQUIRED. BA2020016

The Maricopa County Environmental Services Department (MCESD) has reviewed information concerning the above referenced project provided by the Maricopa County Planning & Development Department. This project is a request for VARIANCE FOR AS BUILT CHICKEN COOP TO ALLOW 3' FRONT SETBACK WHERE 40' SETBACK IS REQUIRED at APN # 142-33-003X. Water and sewer service will not be impacted. MCESD has no concern.

Based on the above, MCESD **raise no objection** to the Planning & Development Department in Accela Automation on May 11, 2020 and will allow the project to proceed at this time.

It should be noted that this document does not approve the referenced project. Comments are provided only as advisory to Maricopa County Planning and Development Department to assist staff to prepare a staff report. Other Maricopa County agencies may have additional requirements. Final review and approval will be made through Planning and Development Department procedures. Applicant may need to submit separate applications to the Maricopa County Environmental Services Department for approval of proposed facilities regulated by the Department. Review of any such application will be based on regulations in force at the time of application.

Planning & Development Department
Code Compliance Division

Date Prepared: 10-21-2019

In the Matter of:

Cesar Duarte
8343 W. Griswold Road
Peoria, AZ 85345

Case # V201901674

Compliance Agreement

1. Violation: Construction without benefit of required permits/clearances ("Violation") for property located in unincorporated Maricopa County at 8343 W. Griswold Road, Parcel 142-33-003X ("the Property"). The Respondent admits to responsibility for the Violation and for bringing the Property into compliance.

2. Respondent: Cesar Duarte ("Respondent") is the property owner of record of the Property.

3. **Plan of Compliance:** Respondent agrees to the following compliance schedule:

    1. ***Critical deadline #1:*** The Respondent shall be assessed a $300.00 non-compliance fine upon execution of this agreement. This fine will only be due and payable if the terms of the agreement are not met.

    2. ***Critical deadline #2:*** By December 20, 2019, the Respondent shall (re)submit all applications necessary to resolve the unpermitted construction issues on the subject property.

    3. ***Critical deadline #3:*** The Respondent shall bring the Property into compliance by March 30, 2020. By this time all construction on the Property shall have benefit of a completed construction permit. A completed construction permit means that it has been issued and passed the required final drainage and building safety inspections. It is the responsibility of the Respondent to contact the Maricopa County Planning & Development Department's ("Department") Safety Inspections Division to schedule the required inspections upon issuance of permit(s). It is the responsibility of the Respondent to contact the Department's Code Compliance Division for a compliance verification inspection when compliance has been achieved.

    Any construction permits or demolition permits shall either be pursued to completion, or shall be formally terminated with payment of cancellation fees for services rendered to date. Any expired construction permits or demolition permits applicable to the Property shall be formally terminated with payment of cancellation fees for services rendered to date.

BA2020016

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4. Penalties: A $300.00 non-compliance fine shall be assessed, but not collected, upon execution of the agreement. In addition, there shall begin accruing a $30.00 daily non-compliance fine that shall accrue from execution of this agreement until compliance is verified. In the event Respondent complies with the requirements and deadlines outlined in the Plan of Compliance portion of this agreement, all of the accrued non-compliance fines shall be dismissed and no additional non-compliance fine shall be due and owing. However, in the event Respondent fails to comply with any requirement or deadline of the Plan of Compliance, the accrued non-compliance fine to said date shall be due and owing. Further, beginning March 31, 2020, the daily non-compliance fine shall increase to $50.00 per diem.

   The failure of Respondent to pay any of the above agreed upon penalties shall void this agreement and shall subject the Respondent and the property owner to an action by Maricopa County seeking an order from the court against the Property.

5. **NOTICE:** THE FAILURE OF THE RESPONDENT TO REMEDY THE VIOLATION IN ACCORDANCE WITH THE PLAN OF COMPLIANCE MAY RESULT IN THE VIOLATION BEING RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE.

6. Closing of Violation Case: The Violation case referenced above shall be closed once the terms of this agreement have been met. This compliance agreement may be revised upon written request of the Respondent.

7. No Priority: Application (re)submittals for administrative remedy of a violation will not be expedited in the queue for technical review in front of other customers. All (re)submittals shall be made at least four weeks prior to the desired date of technical review. An executed copy of this agreement shall be provided with each (re)submittal.

8. Guarantee: The compliance agreement is considered executed when signed by both parties. The undersigned Respondent guarantees payment of any non-compliance fines that become due and owing, and payment of any construction permit fees that are invoiced for investigative fees, plan review fees, and inspection fees that are part of the administrative remedy of the Violation case referenced above. The undersigned Respondent guarantees the Property will be brought into compliance. The failure of Respondent to achieve any of the above agreed upon dates shall void this agreement and shall subject the Respondent and the property owner to an action by Maricopa County seeking an order from the court against the Property.

9. Offer Remains Valid: This agreement is effective if executed by noon November 4, 2019.

The Respondent agrees this is a fair and reasonable resolution to the Violation:

Cesar Duarte Cesar Duarte 10/22/2019

Signature / Printed Name / Date
RESPONDENT (NAME)

BA2020016

Charles Hart AICP 11-1-19

Signature / Printed Name / Date
Charles Hart, AICP, Principal Planner
For the Director of the Maricopa County Planning & Development Department

Cesar Duarte
8343 W. Griswold Road
Peoria, AZ 85345

May 12, 2020

To Whom It May Concern,

I Cesar Duarte reside at 8343 W. Griswold Road, Peoria, AZ 85345. Mr. Paul Baker whose property (parcels 142-22-007H, 142-22-007J & 142-22-007K) is passed my residence has filed a complaint against my chicken coop. Mr. Baker does not reside at his location and is used primarily for commercial storage. I have lived at this location for 4 years and never had a problem. The chicken coop is not of made of structural material it is only for my chickens. I live at the end of the road and the neighbors on my street have not complained about this otherwise I would done something about it. Therefore, I don't see how this is a problem for Mr. Baker. I am also including signatures of support from my neighbors who do not see this as a problem.

Property Owner	Address	Signature
Saul Duarte	8406 W. Griswold Road, Peoria, AZ	Saul Duarte
Danny Willoby	8129 N. 85th Ave, Peoria, AZ	Danny Willoby
Rick Wilson	8438 W. Griswold Rd, Peoria, AZ	Rick Wilson
Catalina Wonw	8211A N. 85th Ave, Peoria, AZ	Catalina Wonw
Lim Wong	8201 N. 85th Ave, Peoria, AZ	Lim Wong
Nelly Chell	8123 N. 85th Ave, Peoria, AZ	nelly Chell

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