

Eric and Marisa Lyons
4951 W. McElroy Dr.
Tucson, AZ 85745

Pima County Clerk
Board of Directors
P.O. Box 27210
Tucson, AZ 85726-7210

RE: **Written Protest of Co9-84-41 Modification (Substantial Change)** of
Rezoning Conditions Timmins Family TR

Dear Board Members,

We are home owners in the Paseo Montana Subdivision, which is the subdivision impacted by the Modification and Rezoning pertaining to Co 9-84-41. As members of this community, we urge you to deny these substantial changes due to the flagrant disregard of established zoning regulations, threat to wildlife and neighborhood safety. We have four major concerns:

- The violation of the 85 foot setback from Gate's Pass Road is of particular concern to us for three reasons. First, Gates Pass is a major street and the independent driveway to this building **represents a safety hazard** for traffic coming onto McElroy due to its proximity to the intersection. Pedestrians (including numerous children in the neighborhood), bicyclists, and motorists are in danger of being struck by cars utilizing this driveway.
- Second, the 85 foot set back is a scenic route. The proximity of the building to the road **represents a major distraction** for the many motorists and bicyclists utilizing the Gate's Pass thoroughfare to enter Tucson Mountain Park and Saguaro National Park.
- Third, and possibly most troublesome, is the encroachment of the development on a natural path used by wildlife transiting the neighborhood. There is a natural wash that runs along the length of Gate's Pass Road which is utilized by javelina, deer, bobcats, and a variety of other animals. As professors at the University of Arizona and Pima Community College, we are particularly concerned that the **environmental impact was not assessed** and the building's presence may open the neighborhood and city to litigation – especially given its neighboring proximity to the International Wildlife Museum.
- We believe there are errors in the maps submitted as supporting documentation by Mr. Timmins
- Finally, this building is in **clear violation of the single-family zoning of lots** in the Paseo Montana Subdivision. Its private driveway, distance from the primary residence, and utilities connections constitutes a fully separate and

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157

independent residence. Permitting a modification to the zoning of this property to become a multi-residence property violates the low-density housing of the area, sets bad precedence for other property owners in the area, and destroys the local community and environment.

Overall, the **Substantial Change** to the 85 foot setback (condition #18) constitutes a negative change to the community, presents a safety hazard to the neighborhood, and an encroachment on the area's native wildlife. As such, we request that the rezoning modifications pertaining to Co9-84-41 be denied.

Thank you for both your consideration and attention to this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Lyons", with a long, sweeping horizontal line extending to the right.

Dr. Eric Lyons

A handwritten signature in black ink, appearing to read "Marisa Michaels-Lyons", written in a cursive style.

Dr. Marisa Michaels-Lyons

MARILYN DUNNIGAN
ROBERT DUNNIGAN
4950 W. McElroy Drive
Tucson, Arizona 85745

BT

MAY 09 13 PM 02:39 PC CLK OF BD

DATE 8 May 2013

SUBJECT Co 9-84-41

Int'l. Wildlife - Gates Pass Rezone
Timmons Family - TR

TO

Pima County Board of Supervisors
130 W. Congress St
Tucson Az 85701

Dear Pima County Supervisors

We strongly oppose granting a rezoning approval for Wm. Timmons. His too small house is barely set back from scenic Gates Pass Rd, maybe 19/20 feet; NOT 85 feet per county code.

IT IS AN EYESORE, AND ABOUT HALF THE SIZE REQUIRED by our Paseo Montana community C.C. & R's. THE 2nd driveway for the house is DANGEROUS, just barely off Gates Pass Rd.

We walk on Gates Pass Rd and have had passers by stop and ask us if it was some sort of Pima County storage building.

THE HOUSE IS AN ABOMINATION, ILLEGAL AND NOT SUITED FOR ITS LOCATION.

PLEASE REFUSE ITS RE-ZONING

TRULY
SIGNED

Robert Dunnigan
Marilyn Dunnigan

☐ PLEASE REPLY

☐ NO REPLY NECESSARY

Mr. Richard Elias, Acting Chair
Pima County Board of Supervisors
District5@pima.gov

May 10, 2013

Re: Co 9- 84 -41 Modification (Substantial Cange) of Rezoning Conditions, Timmins Family TR

Dear Mr. Eias,

The subject petition does not concern a distraught and confused property owner who has been overwhelmed by the complexities of the zoning and permitting requirements, rather it is a petition for relief from an individual that possess a master's degree in urban planning, who has completed the coursework for a doctorate in geography, who is an internationally known mapmaker, and an authority on mapping and geo location software and devices. As such, the petitioner should be held to the highest standards of expectations and reliance relative to any disclosures, documentation, exhibits, maps, and the placement of real property improvements.

The permitted site map contains no references or distances to known bench marks to position the petitioner's property relative to the public right of way, scenic easements, or setbacks. The approval of the site plan without a measurable means to verify the location of the proposed improvements may have been an oversight by the planning authorities. The greater concern however is that the site map was drawn incorrectly, it is elongated and distorted with portions of the east and west property boundaries drawn to a scale that is approximately 125% of that marked in the map legend. The stretched property lines provided the illusion that the guest house would be placed on a natural rock crown well away from the restricted flood zone area, and this is where these improvements were placed. It is interesting to note that property envelope for the preliminary site plan submitted earlier had been drawn correctly to the proper proportions but again without a benchmark reference.

The Timmins's guesthouse missed its permitted footprint by in creditable sixty-six feet, so the question really becomes: was this significant deviation a product of gross professional negligence on the part of a draftsman, a licensed builder, and a property owner who is an expert in mapping and geo positioning? Or was the deviation an act of deliberation to take advantage of a natural but restricted building site?

In either case, the variance request should be overwhelmingly denied.

Respectfully Submitted,


John Davis

4930 W. Monte Carlo Dr.
Tucson, Az 85745

MAY 10 10:13 AM '13 PCC CLK-F BD



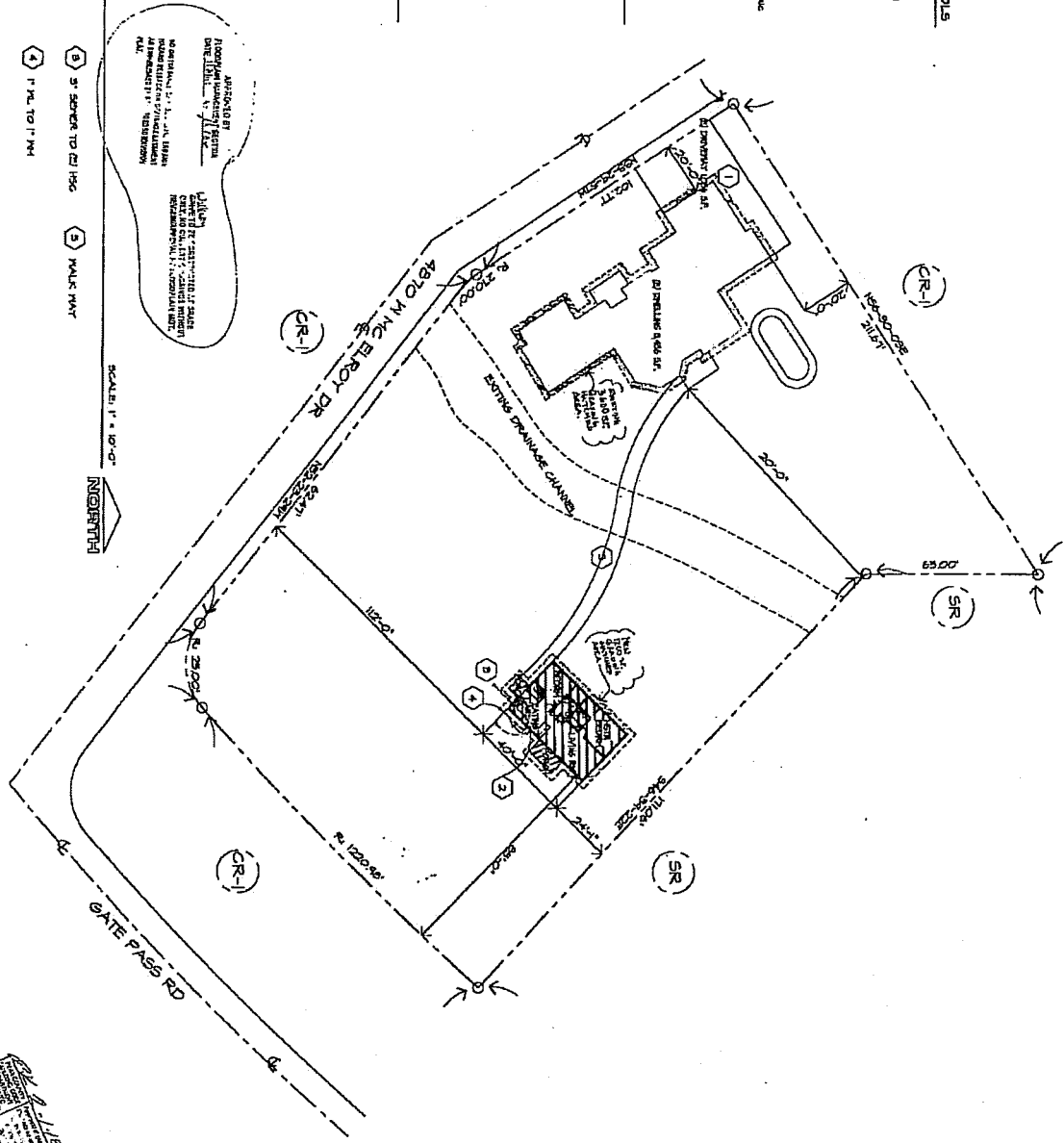
+ 00.00 PWR SLAY
 00.00 DASHING-ON
 ~~~~~ PULSE-EXTENSION  
 ○ WAVEFORM  
 ○ CLEAR CRT  
 ⊕ FREE INTERRUPT  
 STOP/DQ BACK-PLANE VALUE  
 □ M1 MASTER RESET  
 □ M2 SLS RESET  
 ~~~~~ SLS LATCH  
 ~~~~~ P1 MTR LATCH  
 ~~~~~ M2 UNPROGRAMMED ELECTRIC  
 ~~~~~ 0 SLS LATCH  
 ~~~~~ 0 ← MASTER POWER

| | |
|------|------------------|
| PT2 | FIRST FLOOR |
| PT3 | FIRST GARAGE |
| AC | CENTRAL LINE |
| DS | EXISTING DRIVE |
| PT | FIRST PAYMENT |
| TOP | TOP OF PAYMENT |
| TOP | TOP OF WALL |
| PT | PROPERTY LINE |
| WALL | UTILITY EASEMENT |

| | |
|---------------------------------------------------------------------------------|------------------|
|  | BUILDING SECTION |
|  | DETAIL NOTEBOOK |
|  | REVISION MARK |
|  | KEY NOTE |
|  | PLAN ORIENTATION |

1 DRIVE WAY

2 UNDER GROUND ELECTRIC

[illegible]

ADDRESS : 4610 W MC ELDON DR
 LBLN. DESCRIPTION : PASEO MONTANA LOT 1 (NATURIST)
 (FORMERLY 304-40-0300)
 ZONING : GR-1
 OCC. GROUP : RESIDENTIAL
 CONSTRUCTION TYPE : VSB (R-30)
 LOT AREA: 515.15 SQ. (1.18 ACRES)
 BUILDING AREA: 1,123
 BLDG. AREA: 1,123
 BLDG. AREA: 1,123
 IN 1200 SQ. FT.
 IN 1200 SQ. FT.
 IN 1200 SQ. FT.
 IN 1200 SQ. FT.
 TOTAL LOT COVERAGE: 515.15/ 515.15 = 100% LOT COVERAGE

- 1 • SITE PLAN
- 2 • FOUNDATION & FLOOR PLAN
- 3 • SECTION, ELEVATIONS & FRAMING PLAN
- 4 • MECHANICAL & PLUMBING PLAN
- 5 • ELECTRICAL & DETAIL PLAN

~~THIS PROJECT COMPLY W/ IRC-2006~~

CASITA ADDITION
FOR MR. TIMMINS
by Elly Claborn
Remodeling & Building
4870 N MICHELROY DR
TULSON, ARIZONA 85745

DATE 04-08-10
JOB NO. 108 NQ
O/H/O
SHEET NO. 1

OF 3 SH.

DRAFTING SERVICES
(520) 950-8634

PROCEED 289


Pima County
Office Copy

$\frac{0000}{+ \sqrt{0000}}$ **IFCBL**
EDITION

- [illegible]

| | |
|-----|-----------------|
| 101 | EXTERIOR |
| 102 | PERIM FLOOR |
| 103 | PERIM ABOVE |
| 104 | CROWN LINE |
| 105 | CROWN SPACE |
| 106 | PERIM FLOOR |
| 107 | TOP OF RAINCOAT |
| 108 | TOP OF RAIL |
| 109 | PROPERTY LINE |
| 110 | UTILITY ROAD-CH |

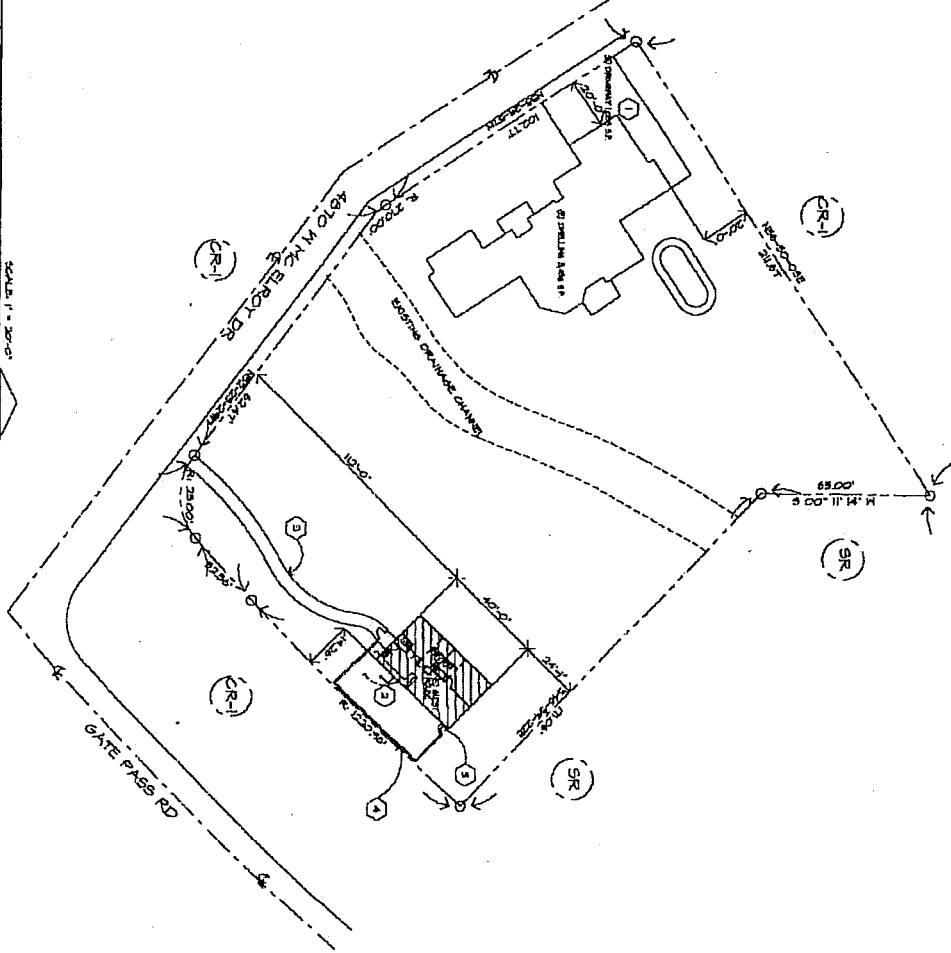
- PROJECT SYMBOLS**

| | |
|-----------------------------------------------------------------------------------|-------------------|
|  | BALANCE SHEET |
|  | DETAILED REPORTS |
|  | REVENUE STATEMENT |
|  | NET PROFIT |
|  | PLAN OPERATIONS |

1 PRIME KAT

- | | | | | | |
|---|---------------------------|---|------------------|---|-----------|
| 1 | 12 DRIVE PWT | 3 | 5-01 PULS PWT | 5 | 5-02 RATE |
| 2 | 12 UNDER DRIVING ELECTRIC | 4 | 5-03 CW PULS PWT | | |

SCALE: 1" = 20'-0"



ADDRESS : 4070 N MCLELLAN DR

[illegible]

1. SITE PLAN

1. SITE PLAN
2. ELEVATION PLAN

[illegible]

THIS PROJECT COMPLY W/IRC-2006

CASITA ADDITION
FOR MR TIMMINS
by Big Catznm
Remodelling & Building
4010 W MCCLURE DR
TUCSON ARIZONA 85745

DATE
01-09-10
JOB NO.
01-10
SHEET NO.
1

DRAFTING
SERVICES
520) 850-8634

Richard Elias, District 5
Pima County Board of Supervisors
130 West Congress Street, 11th Floor
Tucson, Arizona 85701

May 10, 2013

**Case Number: Co9-84-41 INTERNATIONAL WILDLIFE – GATES PASS REZONING
For the May 14, 2013 Meeting of the Pima County Board of Supervisors**

The 36 signatures on the enclosed petitions are from people who oppose the requested rezoning in case number Co9-84-41.

This case involves lot #1 in the Paseo Montaña subdivision at 4870 West McElroy Drive.

The enclosed petitions were originally submitted to Development Services for the public hearing held by the Planning and Zoning Commission on March 27, 2013.

These petitions are being resubmitted for the May 14, 2013 Board of Supervisors meeting because several signers own property within 300' of the property at 4870 West McElroy Drive.

Here are the addresses of petition signers who live within 300' of the property on McElroy Drive:

In the Mountain Gardens Estates subdivision:

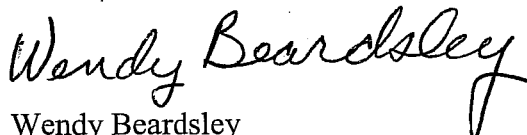
650 North Via Roma
800 North Via Roma
1000 North Via Roma
1020 North Via Roma
5011 West Monte Carlo Drive

In the Paseo Montaña subdivision:

4941 West Monte Carlo Drive
4961 West Monte Carlo Drive

The two properties in Paseo Montaña may already be represented on petitions that were submitted earlier this week.

Respectfully submitted,



Wendy Beardsley
4941 West Monte Carlo Drive
Tucson, Arizona 85745

MAY 10 12PM 0313PC CLK/D-FD



Petition to Save Scenic Gates Pass 85' Setback

| | |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Petition summary and background | A Public Hearing to consider modifying rezoning conditions requiring an 85 foot setback from the planned right of way adjacent to Gates Pass Road, and a Plat Note Waiver allowing an existing non-compliant structure adjacent and north of Gates Pass Road and adjacent and northeast of McElroy Drive of Paseo Montana Subdivision, will be heard by the Pima County Planning and Zoning Commission on March 27, 2013 at 9:00 A.M. |
| Action petitioned for | We, the undersigned, are concerned citizens who urge the Planning and Zoning Commission and the Pima County Board of Supervisors to DENY the proposed change to the Rezoning Conditions and to DENY a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road. |

| Printed Name | Signature | Address | Comment | Date |
|----------------------------|-----------------------------|-------------------------------------|---------|---------|
| Wm E Finlayson | William E. Finlayson | 1020 N Via Roma
Tucson, AZ 85745 | | 3-14-13 |
| William Y. Velez | William Y. Velez | 1000 N. Via Roma | | 3/11/13 |
| BERNIECE VELEZ | Berniece Velez | 1000 N. Via Roma Tucson | | 3/14/13 |
| William Remmel | William Remmel | 3003 W Broadway Blvd #3 | | 3-14-13 |
| Robert Bruce Brown | Robert Bruce Brown | 630 N Via Lucia Dr | | 3-14-13 |
| Briana Cobarr | Briana Cobarr | 5121 W. Salerno Dr. | | 3/15/13 |
| Regina L. Cox | Regina Cox | 619 N. Via Roma | | 3/15/13 |
| CAROL CROUSE | Carol Crouse | 5161 W. Monte Carlo Dr
85745 | | 3/15/13 |
| Ann Gonzalez | Ann Gonzalez | 800N Via Roma, Tucson AZ | | 3/15/13 |
| Melissa Rasmus | Melissa Rasmus | 640 N Via Roma 85745 | | 3-15-13 |
| LYNNE BRACKER & L Brackner | Lynne Brackner & L Brackner | 650 N Via Roma 85745 | | 3/15/13 |

Petition to Save Scenic Gates Pass 85' Setback

| | | | |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| Petition summary and background | A Public Hearing to consider modifying rezoning conditions requiring an 85 foot setback from the planned right of way adjacent to Gates Pass Road, and a Plat Note Waiver allowing an existing non-compliant structure adjacent and north of Gates Pass Road and adjacent and northeast of McElroy Drive of Paseo Montana Subdivision, will be heard by the Pima County Planning and Zoning Commission on March 27, 2013 at 9:00 A.M. | | |
| Action petitioned for | We, the undersigned, are concerned citizens who urge the Planning and Zoning Commission and the Pima County Board of Supervisors to DENY the proposed change to the Rezoning Conditions and to DENY a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road. | | |

| Printed Name | Signature | Address | Comment | Date |
|------------------|------------------|------------------------------|-------------------------------------------------------|-----------|
| William Bracka | W Bracka | 5121 W. Salsburg Dr | Pro PZ & Gov on Mt. Gadsden | 3-15-13 |
| DL VENABLE | DL Venable | 5135 W VIA MATRACA | | 3/15/13 |
| Katharine Delkus | Katharine Delkus | 5011 W. Monte Carlo Dr 35745 | | 3/15/13 |
| MarAnn Finleyson | MarAnn Finleyson | 1520 N Via Roma | | 3/15/2013 |
| Chris Strohm | Chris Strohm | 4881 W. VIA SCARAMUZZO | | 3/15/2013 |
| Sam Hostetler | Sam Hostetler | 5220 W Via Mallorca | Other owners followed these rules - to great expense. | 3/16/13 |
| Erleen McCarty | Erleen McCarty | 5140 W. Delano Dr | How did this progress to this level? | 3/16/13 |
| William Fissura | William Fissura | 670 N. Via Roma | | 3-16-13 |
| Franklin | Franklin | 5100 W Salsburg Dr | | 3-16-13 |
| MALRIGAN | MALRIGAN | 5120 W Salsburg | | 3-16-13 |
| JANICE CROWDER | JANICE CROWDER | 5120 W. Via Mallorca | | 3-16-13 |

TORRES

Petition to Save Scenic Gates Pass 85' Setback

Petition summary and background

A Public Hearing to consider modifying zoning conditions requiring an 85 foot setback from the planned right of way adjacent to Gates Pass Road, and a Plat Note Waiver allowing an existing non-compliant structure adjacent and north of Gates Pass Road and adjacent and northeast of McElroy Drive of Paseo Montana Subdivision, will be heard by the Pima County Planning and Zoning Commission on March 27, 2013 at 9:00 A.M.

Action petitioned for

We, the undersigned, are concerned citizens who urge the Planning and Zoning Commission and the Pima County Board of Supervisors to DENY the proposed change to the Rezoning Conditions and to DENY a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road.

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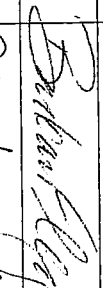


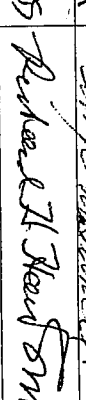
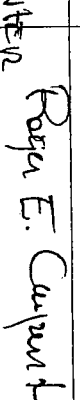
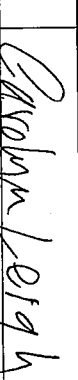


Petition to Save Scenic Gates Pass 85' Setback

| | |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Petition summary and background | A Public Hearing to consider modifying rezoning conditions requiring an 85 foot setback from the planned right of way adjacent to Gates Pass Road, and a Plat Note Waiver allowing an existing non-compliant structure adjacent and north of Gates Pass Road and adjacent and northeast of McElroy Drive of Paseo Montana Subdivision, will be heard by the Pima County Planning and Zoning Commission on March 27, 2013 at 9:00 A.M. |
| Action petitioned for | We, the undersigned, are concerned citizens who urge the Planning and Zoning Commission and the Pima County Board of Supervisors to DENY the proposed change to the Rezoning Conditions and to DENY a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road. |

[illegible]

Petition to Save Scenic Gates Pass 85' Setback

| | | | |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| Petition summary and background | <p>A Petition was filed to consider rezoning a portion of scenic Gates Pass 85' setback from the Planning and Zoning Commission to DENY the proposed change to the Rezoning Conditions and to DENY a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road.</p> | | |
| Action petitioned for | <p>We, the undersigned, are concerned citizens who urge the Planning and Zoning Commission to DENY the proposed change to the Rezoning Conditions and to DENY a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road.</p> | | |

| Printed Name | Signature | Address | Comment | Date |
|--------------------|------------------------------------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Barbara Fleming |  | 846 N Mo de Oeste 85745 | | 3/11/2013 |
| Jean Windmiller |  | 4741 W. Placita de Sante | | 11 March 2013 |
| George P. Darnell |  | 5130 W. Camino del Viejo | | 3/11/13 |
| Richard H. Hawkins |  | 5100 W. Camino del Viejo | | 3/11/13 |
| Roger E. Carpenter |  | 1124 N. Camino de Oeste Tucson 85745 | | March 18, 2013 |
| Carolyn Leigh |  | 4530 West Speedway Tucson, AZ 85745 | I re draw my plan for my guesthouse (and supported the same over my lifetime. This should not be allowed to succeed in this.) | March 18, 2013 |
| Juan Carpenter |  | 1124 N. Camino de Oeste Tucson AZ, 85745 | | 3/19/2013 |
| Wendy Beardsley |  | 4941 West Monte Carlo Drive Paseo Montana neighborhood | There was no public hearing in Jan, 2010, when Timmas applied for his building permit. But there should have been a rezoning hearing at that time, and this whole mess could have been prevented. | 3/27/2013 |

Ally Miller, District 1
Pima County Board of Supervisors
130 West Congress Street, 11th Floor
Tucson, Arizona 85701

**Case Number: Co9-84-41 INTERNATIONAL WILDLIFE – GATES PASS REZONING
For the May 14, 2013 Meeting of the Pima County Board of Supervisors**

Case Co9-84-41 involves a property owner who is requesting a zoning change in my neighborhood on the westside of Tucson. This letter explains my reasons for *opposing* the requested zoning change.

Bill Timmins is the owner of lot #1 at 4870 West McElroy Drive in the Paseo Montaña subdivision, just west of the International Wildlife Museum. The south property line of lot #1 borders a 45' right-of-way adjacent to Gates Pass Road, a designated Major Street and Scenic Route.

During the summer of 2010, Mr. Timmins had a guest house built on the southern portion of his lot that faces Gates Pass Road. The recorded plat for the subdivision depicts an 85' building setback from the south property line. But the guest house was built less than 20' feet from the south property line.

Public records show that Mr. Timmins' builder, Carlson Eby, has submitted two site plans to Development Services for building the guest house. When these two site plans are compared with the recorded plat for Paseo Montaña, it is evident that Mr. Eby planned to build the guest house in the 85' setback even before he applied for a building permit.

Here are the facts from the public records for case number Co9-84-41:

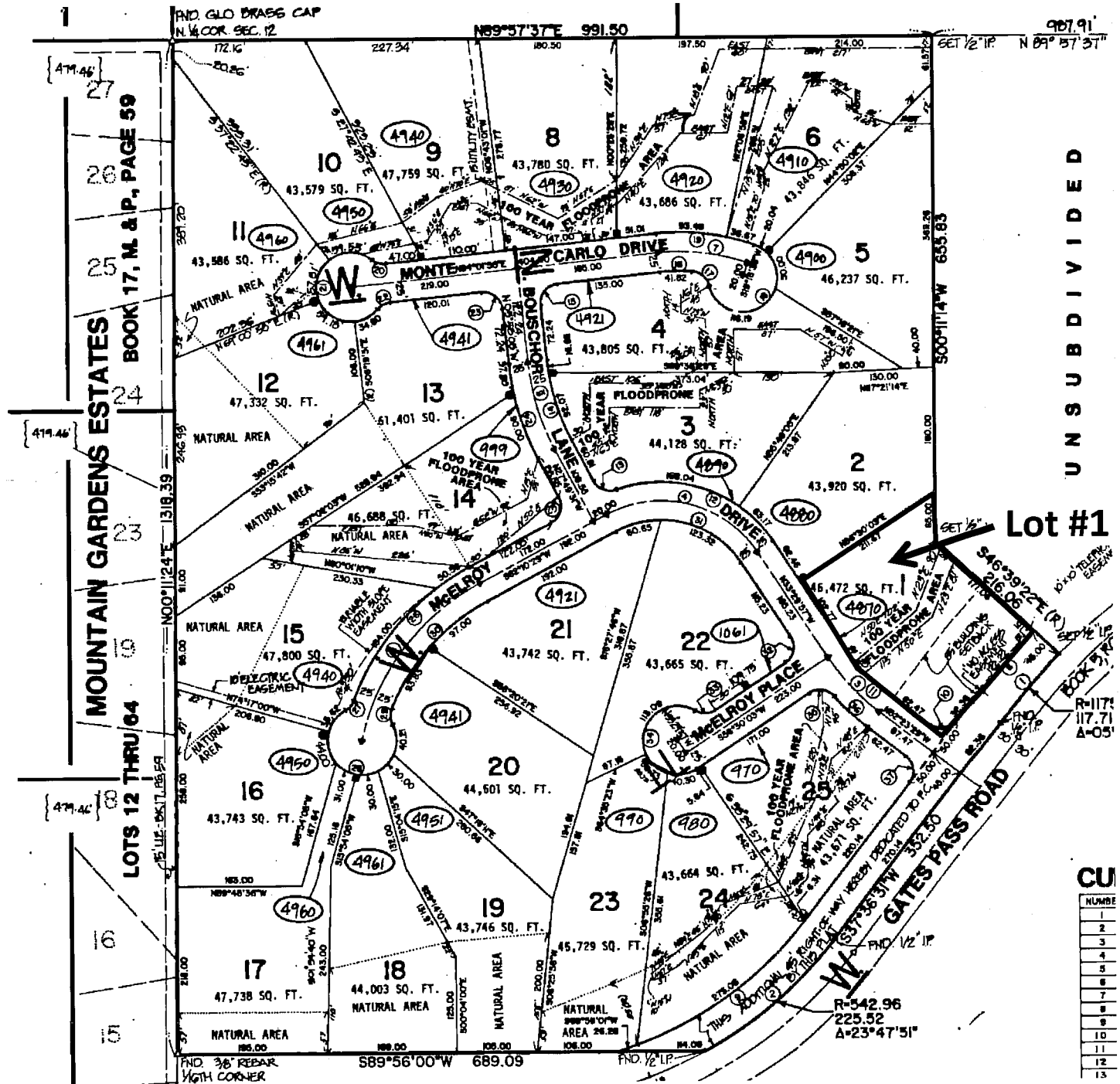
- The plat for the Paseo Montaña subdivision was recorded with Pima County in 1985. The plat defines the property lines for lot #1, and it clearly depicts the 85' building setback from the south property line. The plat shows a critical landmark, a 10' x 10' telephone easement, that defines the boundary between the south property line of lot #1 and the 45' right-of-way adjacent to Gates Pass Road. The 85' setback is measured from that telephone easement.*
- Carlson Eby, acting on behalf of Mr. Timmins, applied for a building permit with Pima County on 1/15/2010. Permit number P10CP00289 for the guest house was issued on 2/2/2010. Carlson Eby signed the application for the permit, and Mr. Timmins is the owner of the permit.*
- Carlson Eby drew two site plans for the guest house prior to applying for the building permit on 1/15/2010. One site plan shows the guest house will be 85 feet back from the south property line. The other site plan shows the guest house will be just over 19 feet back from the south property line. The site plan with the 85' setback was submitted with the application for the building permit.*
- If the site plan that was submitted for the building permit had been drawn in accordance with the recorded plat, the guest house would have to be located on a steep slope very near, if not in, a 100 year floodprone area.*
- The guest house was built just over 19 feet back from the south property line. So Mr. Timmins is now requesting that Pima County approve Carlson Eby's second site plan that matches what he built.*

To explain the items listed above, the following pages compare the recorded plat side-by-side with the two site plans.

The plat of the Paseo Montaña subdivision is on the next page. The subdivision is located on the north side of Gates Pass Road just west of the International Wildlife Museum. The three closest lots to Gates Pass Road (lots #24, #25 and #1) are separated from the road by a 45' right-of-way dedicated to Pima County. Mr. Timmins' lot #1 is outlined in red.

MAY 10 12 PM 04 09 POC CLK OF-BD





Paseo Montaña subdivision (Book 38, Page 85, Section 12, T:14:S, R:12:E) recorded on June 10, 1985.

PASEO MONTANA LOTS 1 - 25
 A SUBDIVISION OF A PORTION OF THE NORTHEAST
 QUARTER OF SECTION-12, T-14-S, R-12-E,
 G & S.R.B. & M. PIMA COUNTY, ARIZONA

MAP 19 ZONE CR-10 SEE GEN. NOTE 15

COUNTY OF PIMA
 OFFICIAL RECORD BOOK 38, PAGE 85
 INDEXED FILED
 1985 JUN 10

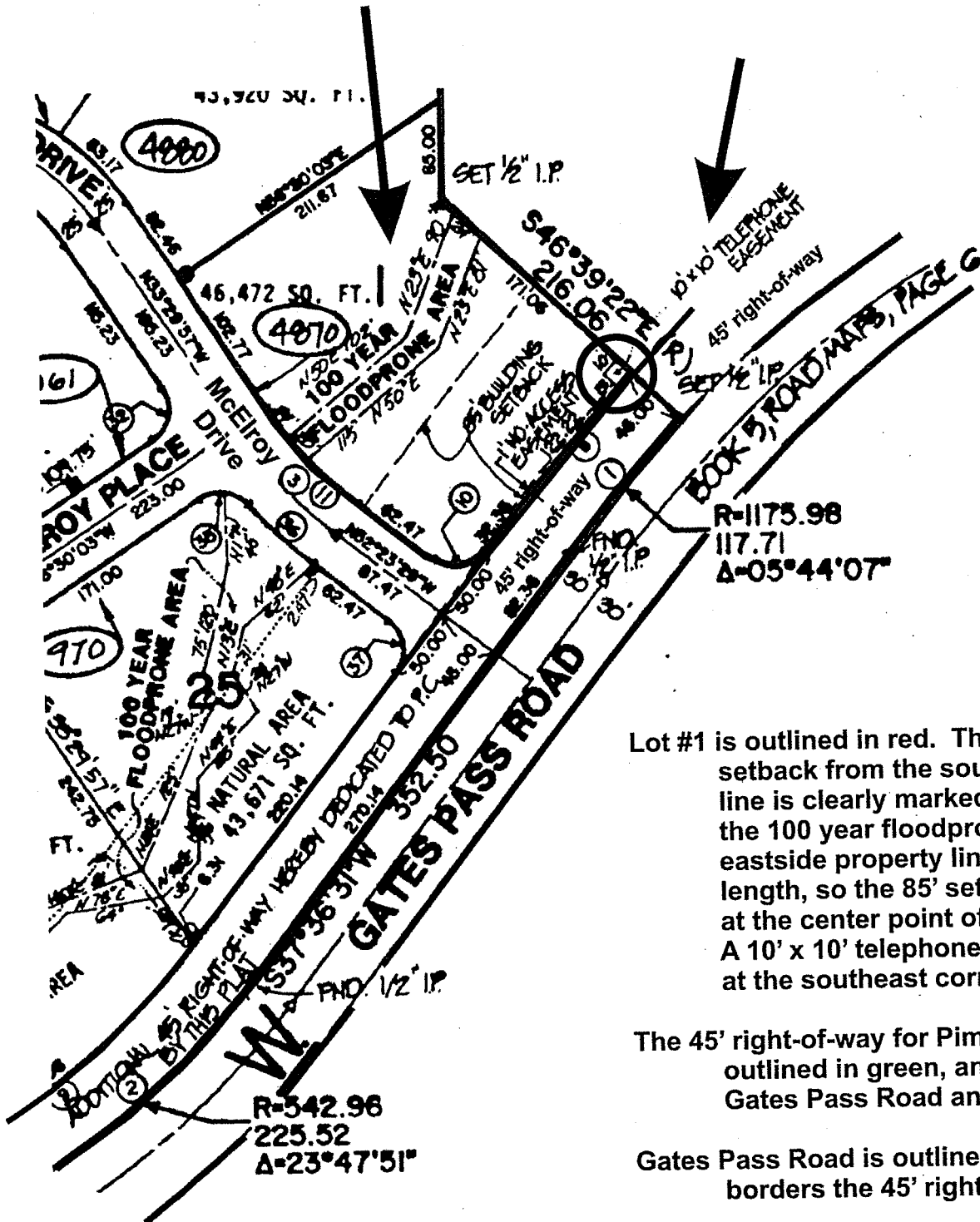
NO. 184029
 SCALE 1" = 100'

C09-84-41
 C013-81-20
 C012-84-109

BOOK 38 PAGE 85

Lot #1: 4870 West McElroy Drive

Paseo Montana Subdivision Plat for Lot #1 along Gates Pass Road



Lot #1 is outlined in red. The 85' building setback from the south property line is clearly marked, along with the 100 year floodprone area. The eastside property line is 171' in length, so the 85' setback line is at the center point of that 171' line. A 10' x 10' telephone easement is at the southeast corner of the lot.

The 45' right-of-way for Pima County is outlined in green, and lies between Gates Pass Road and lot #1.

Gates Pass Road is outlined in blue, and borders the 45' right-of-way.

There is a 1 foot easement along the south property line to prevent access from Gates Pass Road. The main residence on the property, built in 1995 by Reynolds Homes, is located between the 100 year floodprone area and the north property line, with access from McElroy Drive.

The site plan that Carlson Eby submitted with the building permit application is on the next page. The date on the plan is January 3rd or 8th of 2010, at least a week before Mr. Eby applied for the permit on January 15, 2010.

The scale for the plan is said to be 1" to 10' (plans are printed on drafting paper, which is usually 34" x 44" in size). The 85' setback line from the south property line to the guest house is clearly labeled and the 171' east property line is clearly labeled. The site plan appears to show that the guest house will be located 85' from the south property line. But appearances are deceiving in this case.

Twice 85 feet is 170 feet, so the 85' setback line should be half the length of the 171' east property line. But it isn't. As shown in red on the site plan, when the 85' setback line is doubled in length to make a 170' line, the 170' line is much shorter than the 171' east property line. There's a discrepancy because the 85' setback line is drawn to the 1" = 10' scale. But the 171' east property line is drawn to a larger 1" = 8' scale. (The smaller the denominator of a ratio, the larger the scale.) ***Carlson Eby used two different scales in the same drawing.***

By drawing the east and west property lines at a larger scale than the 85' setback line, Mr. Eby "stretched" the property lines by 45 feet and made the lot appear to be 20% longer than it actually is. But the property lines are still labeled as though they were drawn to the same 1" = 10' scale as the 85' setback line. Exaggerating the length of the lot like this makes the location of the guest house appear to be outside of the 85' setback.

The 45' right-of-way for Pima County is omitted from the site plan. The right-of-way borders the south property line and is important in defining the location of the property line.

The 10' x 10' telephone easement is omitted from the site plan. This easement is a critical landmark for determining the location of the south property line. The 85' building setback is measured from this easement.

It just isn't possible to build according to a site plan that uses two different scales. There's no way to tell where the south property line is located on Carlson Eby's site plan. So there's no way to determine where the 85' setback is located. And, without the 10' x 10' telephone easement on the plan, there's no landmark from which to measure the 85' building setback.

Not only is it impossible to build according to two different scales, it wasn't possible for the county inspectors to verify the location of the guest house using Carlson Eby's site plan. Without the 10' x 10' telephone easement and the 45' right-of-way on the site plan, the inspectors didn't know where to measure.

On the page after the site plan, the plat for lot #1 is compared side-by-side with Carlson Eby's site plan. The lot and the 85' building setback are outlined in red on the plat. The red outline from the plat is then superimposed on the site plan. The 45' right-of-way is labeled in green. Gates Pass Road is outlined and labeled in blue.

The side-by-side comparison shows clearly that Carlson Eby's site plan was not drawn in accordance with the recorded plat.

The location of the south property line is 45 feet in error, which makes the 85' setback also 45 feet in error. The 45' right-of-way isn't marked at all on the site plan, and the location of Gates Pass Road is 60 feet in error. If these errors were corrected, the site plan would show the guest house to be located just 40' back from the south property line, right in the 85' setback area.

DESIGNATED DIRECTION

- WAVEGATE
CLEAN OUT
PNE. INFLUENT
BYPASS
DPM
MATER. FEEDER
SNO. FEEDER
REVERSE LIFT
KATROL LIFT
LIFT
UNDERGROUND ELECTRIC
S&S LIFT
NIGHTLY ZONER

| | |
|--------|------------------|
| 02 | EXISTING |
| 17E | FRONT FLOOR |
| 17S | FRONT BALCONY |
| 2C | CENTRAL L&C |
| 2D | EXISTING BALCONY |
| 3E | FRONT PAVEMENT |
| TOP | TOP OF PAVEMENT |
| TOP | TOP OF WALL |
| 4P | PROPERTY LINE |
| 6 PILE | UTILITY EASEMENT |

- | PROJECT SYMBOL | DESCRIPTION |
|-----------------------------------------------------------------------------------|------------------|
|  | BUILDING SECTION |
|  | DETAIL NOTEBOOK |
|  | REVISION MARK |
|  | GET NOTE |
|  | PLAN ORIENTATION |

| | |
|---------------------------------------------------------------------------------|------------------|
|  | BUILDING SECTION |
|  | DETAIL PENCIL |
|  | REVISION MARK |
|  | KEY NOTE |
|  | PLAN ORIENTATION |

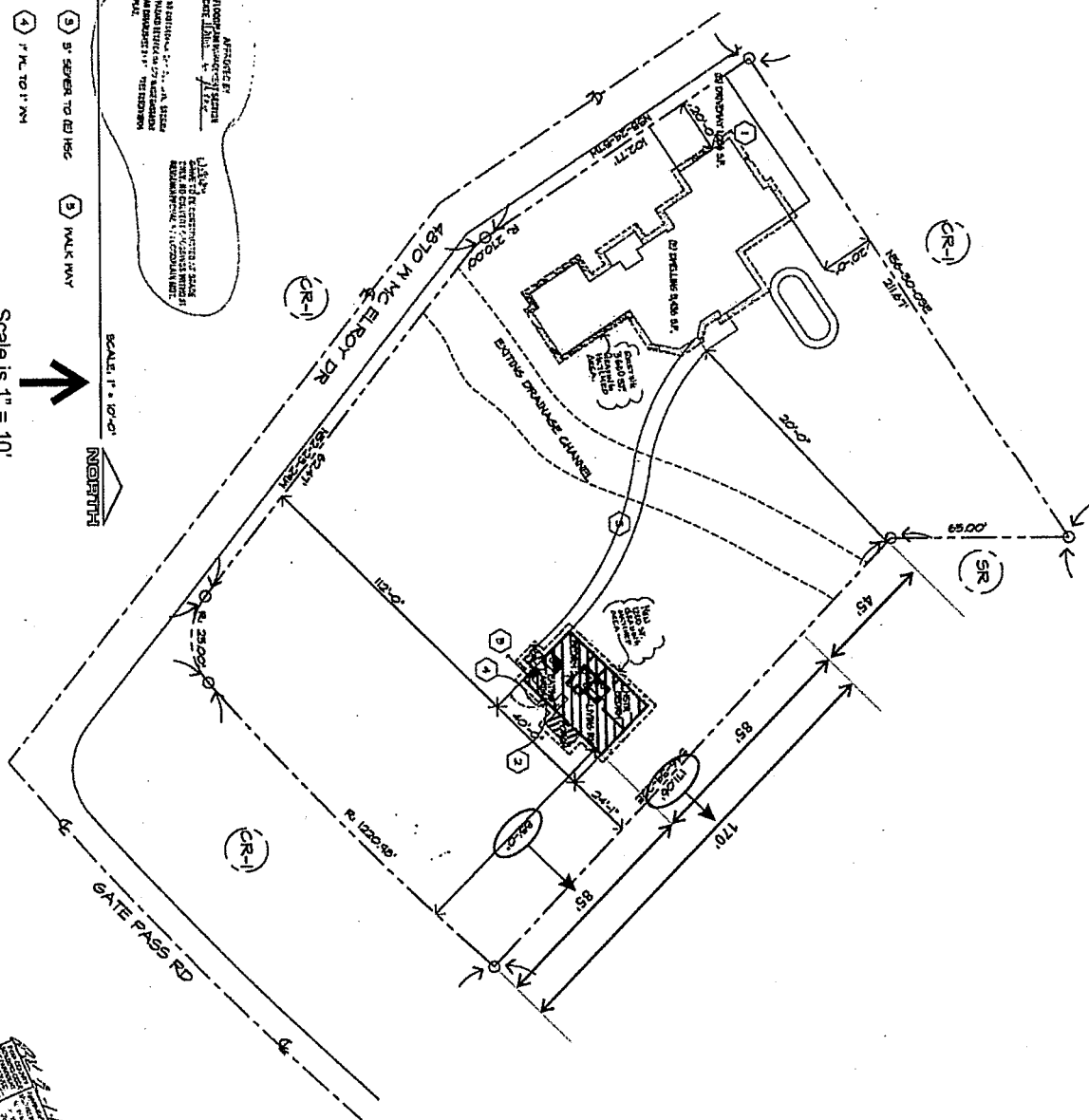
- 1 DRIVE WAY
- 2 UNDER GROUND ELECTRIC

1 DRIVE WAY

2 UNDER GROUND ELECTRIC

[illegible]

Scale is 1" = 10'
on drafting paper

[illegible]

ADDRESS, 4810 N MC ELROY DR
LEGAL DESCRIPTION, PASEO MONTANA LOT 1 (N27T15S2E)
T8S-R30E X 304-45-0370

ZONING SCAP
 CONSTRUCTION TYPE
 LOT AREA 51210 S.F. (110 ACRES)
 BUILDING CALCULATIONS
 FLOOR AREA
 10,000 S.F.
 TOTAL LOT COVERAGE 51510/51210 S.F. = 10% LOT COVERAGE
 GRI (1-5)
 (1-5) (1-3)
 SETBACKS
 FRONT 25'-0"
 REAR 25'-0"
 SIDE 15'-0" 65'-0"

- 1 • SITE PLAN
- 2 • FOUNDATION & FLOOR PLAN
- 3 • SECTION, ELEVATIONS & FRAMING PLAN
- 4 • MECHANICAL & PLUMBING PLAN
- 5 • ELECTRICAL & DETAIL PLAN

THIS PROJECT COMPLY W/ IRC-2006

CASITA ADDITION
for MR. TIMMINS

by Ezy Custom
Remodeling & Building
4810 W MCLEARY DR
TUCSON ARIZONA 85715

DATE
04-08-10

SHEET NO.
1

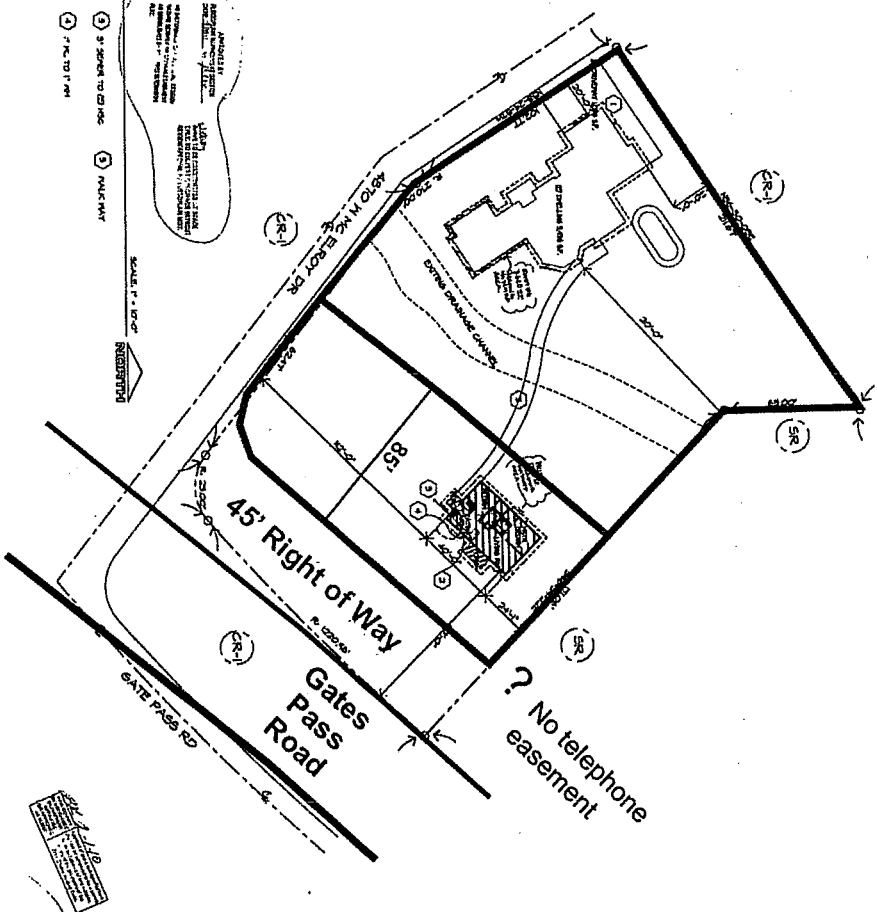
OF 3 SHEETS

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P10CPC0289

**Pima County
Office Copy**

Site Plan of Lot #1 for P10CP00289



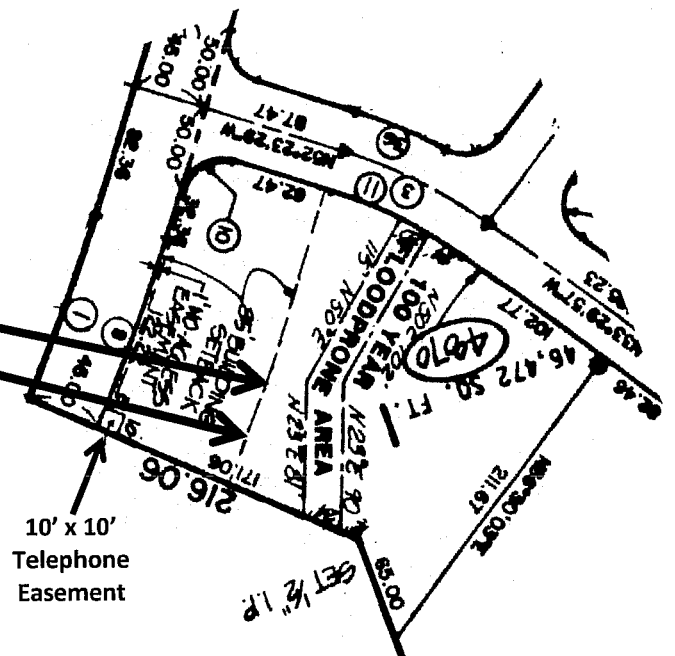
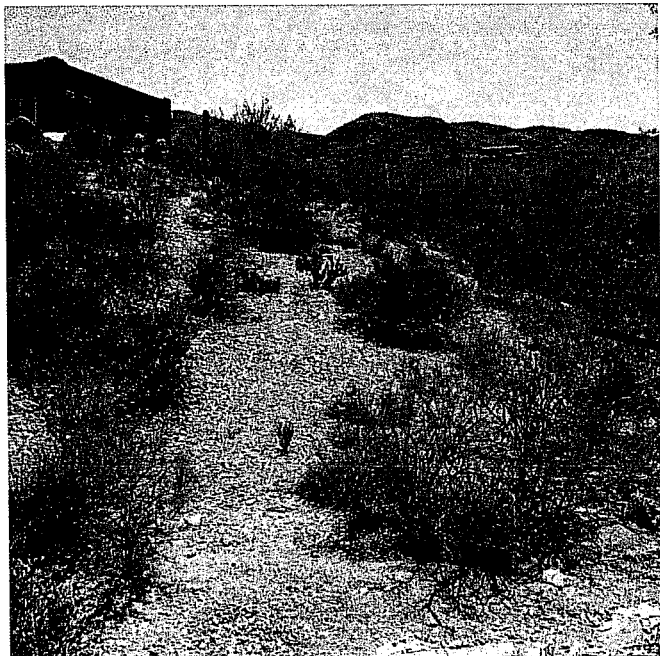
The red outline of Lot #1 from the plat is superimposed on the site plan. The site plan mistakenly includes the 45' right-of-way as part of the lot, which it isn't. There's no 10' x 10' telephone easement marking the southeast corner. Gates Pass Road is misplaced by 60'. When corrected for errors, the guest house is located just 40' back from the south property line, right in the 85' setback area.

A black and white photograph of a dark, rectangular building with several windows, situated in a desert-like environment. A large, spoked wheel is visible in the foreground, partially obscured by a low wall or fence. The ground is rocky and uneven.



If Carlson Eby had included the telephone easement on his site plan, just as it is on the plat, then it would have been simple to measure the 85' building setback from the telephone easement.

The photograph below shows the view of the guest house from the back, where the 85' building setback is located at the bottom of a steep slope near the 100 year floodprone area.



As the picture on the previous page shows, the property slopes downhill between the current location of the guest house and the 100 year floodprone area. This sloped area is where the guest house would be located if it were built 85' from the telephone easement, in accordance with the recorded plat. The area is steeply sloped, and it's very near, if not in, the 100 year floodprone area.

This sloped area brings up another item on the recorded plat that I can't find in Carlson Eby's plans. General Note #6 on the plat says:

6. HILLSIDE DEVELOPMENT ZONE ORDINANCE CLEARANCE IS REQUIRED FOR LOTS 1, 3, 5 AND 11 THROUGH 25 PRIOR TO THE ISSUANCE OF ANY PERMITS FROM THE ZONING INSPECTOR.

Building on lot #1 requires HDZ (Hillside Development Zone) clearance according to the plat.

When Reynolds Homes built Mr. Timmins' main house in 1995, the building permit had both Floodplain and Grading / HDZ clearance. I can't find HDZ clearance on Carlson Eby's permit from February of 2010.

If the guest house were located outside of the 85' building setback, it would be a difficult place to build. Both HDZ and Floodplain would have to give their approval, and it would probably be difficult to get clearance from both of them.

The guest house is now located just over 19' from the south property line, so what was built is not in accordance with the 85' setback in the recorded plat. But Carlson Eby has testified to the contrary.

On October 7, 2010, there was a hearing for Case P10CV00376, in which Mr. Timmins and Mr. Eby were found in violation of the 85' setback and other zoning codes. The hearing officer asked Mr. Eby the following:

Hearing Officer: And your testimony is that you felt you fully satisfied this 85' building setback requirement per the plat?

Carlson Eby: We did absolutely.

Following that hearing in 2010, the Board of Adjustment was unanimous in January of 2011 in declining Mr. Timmins' request for a zoning variance on the 85' building setback. The Planning and Zoning Commission in March of 2013 was also unanimous in declining to change the 85' building setback.

Now, Mr. Timmins is asking the Pima County Board of Supervisors to change the 85' building setback to just 19 feet. This is where Carlson Eby's second site plan comes into play.

Carlson Eby's second site plan that he drew before applying for a building permit is on the next page. This site plan shows the guest house to be just over 19' from the south property line. This is the site plan that Mr. Timmins wants approved so the Plat Note Waiver will change the 85' building setback to just 19' on his lot.

The date of this site plan is significant. It is dated in early January of 2010, either the 3rd or 8th of the month, ***at least a week before Carlson Eby applied for the building permit on January 15, 2010.***

If that's the case, then this site plan is evidence that Mr. Eby planned to build within the 85' setback area on Mr. Timmins lot before he applied for the building permit.

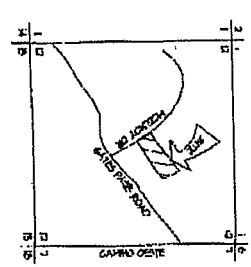
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 $\frac{00.00}{00.00}$

- BURVEY ABBEY.

- PROJECT SYMBOL

- ## SITE PLAN

-

[illegible]

24124B-0320

ADDRESS: 4870 N HENRIETY DR
LEGAL DESCRIPTION: 36400 NORTH AVE. (115715747)
CURRENTLY SOLD-OUT
ZONING: R-1
CONSTRUCTION TYPE: VAD
ACRES: 0.6-3
BEDS: 3
BATHS: 2
SQUARE FEET: 2100
EED: 100'-0", 11.50
LOT AREA: 3175 SQ. FT. (11.50 ACRES)
PLANNING AGENCY: 115715747
CITY: ALBUQUERQUE
COUNTY: BERNALILLO
IN 1000 SQ. FT.
TOTAL LOT COVERAGE: 3440 SQ. FT. = 10% LOT COVERAGE

1. SITE PLAN
2. ELEVATION PLAN

Date _____

THIS PROJECT COMPLY WITH RC-2006

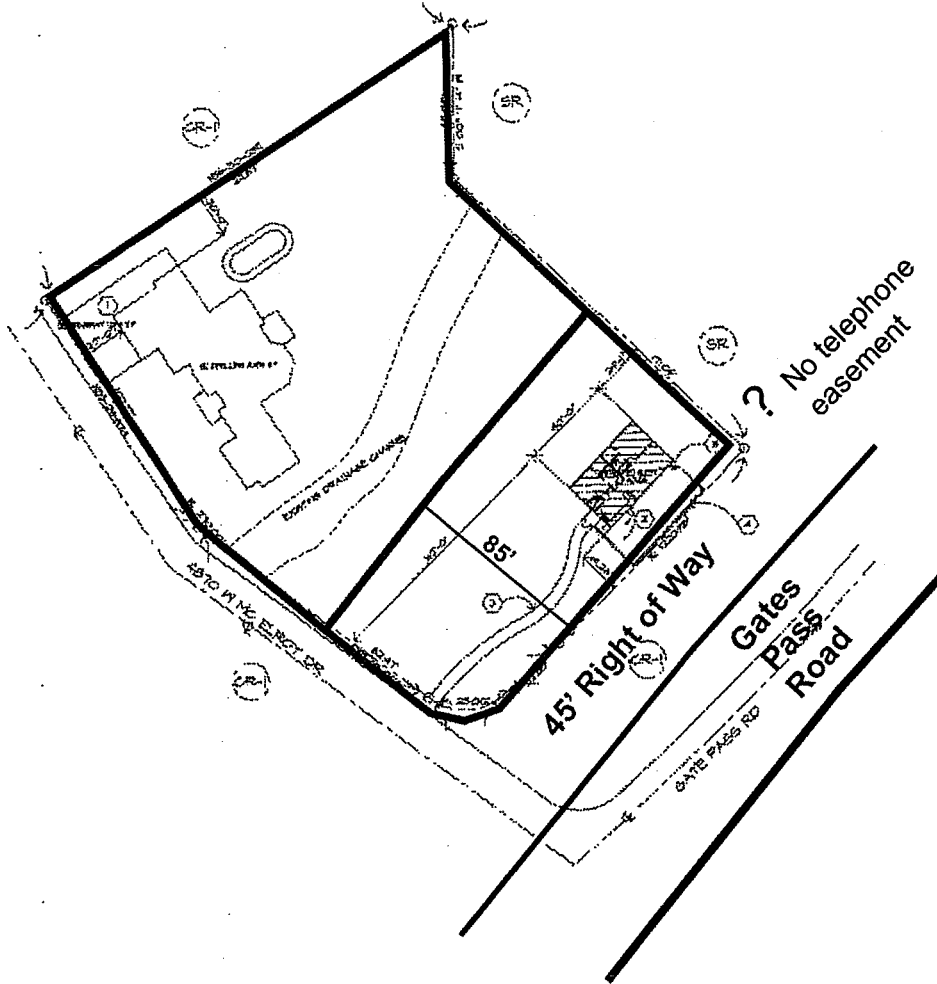
CASITA ADDITION
FOR MR TIMMINS

by Eby Custom
Remodeling & Etc.
4870 W MCLEARY DR
TULSON ARIZONA 85748

DATE 01-03-10
OF 10
S. 1
OF 10 S.
DRAWING
SERVICES
(520) 250-0634

Carlson Eby's second site plan is shown below superimposed with the red outline of the property lines and the 85' building setback from the recorded plat. The 45' right-of-way from the plat is labeled in green. The outline and label for Gates Pass Road from the plat are in blue.

Unlike the original site plan submitted with the building permit, this second site plan is all drawn to the same scale. The 10' x 10' telephone easement is still missing, the 45' right-of-way is still not labeled, and Gates Pass Road is still misplaced. However, this second site plan does not "stretch" the east and west property lines like the site plan that was submitted with the building permit.



Based upon what was built on Mr. Timmins' lot, Carlson Eby built Mr. Timmins' guest house according to his second site plan, not the plan that he submitted with the building permit.

Best Regards,

Wendy Beardsley

Wendy Beardsley
4941 West Monte Carlo Drive
Tucson, Arizona 85745