



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: December 13, 2016

Title: Request for Variance for 8675 S. Silver Star Drive

Introduction/Background:

In 2008, the owners of 8675 S. Silver Star Drive, Roberta Busch and Roger Rump, proposed a secondary dwelling on their property. While reviewing the Floodplain Use Permit (FPUP) application, the Regional Flood Control District (District) discovered that the existing single-family residence, permitted and constructed in 1994, was built in non-conformance with the terms and conditions of the FPUP issued at that time.

Discussion:

The owners chose to demonstrate that the single-family residence, as built, is not prone to flooding from the base flood. The current Federal Emergency Management Agency (FEMA) Special Flood Hazard Area is an approximate floodplain, and a detailed evaluation was not performed. The owners hired an engineer to more precisely evaluate the flooding risk and floodplain limits. The result of this analysis was that the structure is located outside of the floodplain limits of the both the Brawley Wash and an unnamed tributary. However, the structure would remain in the FEMA Special Flood Hazard Area until an application for a Letter of Map Revision (LOMR) is submitted and approved by FEMA. The LOMR process is burdensome and the owners have indicated it would be a hardship to attempt to revise the FEMA Flood Insurance Rate Maps (FIRMs).

Conclusion:

The floodplain study revealed that that actual risk of flooding is low from the base flood; the District concurs with these findings. However, since the FIRMs will not be revised, the structure is considered to be in the floodplain and subject to minimum elevation requirements. The variance request is to allow the structure to remain as constructed with a finished floor elevation below what is required by the FIRMs. The current FIRMs are inaccurate, but it would be a hardship to attempt to change them, and the actual risk of flooding is low.

Recommendation:

The District recommends approval of the variance request due to the hardship of revising the FIRMs and the low risk of flooding from the base flood based on better information. The owners will sign a covenant running with the land that memorializes this action and states that there may be negative implications to flood insurance premiums.

Fiscal Impact:

None

Board of Supervisor District:

1 2 3 4 5 All

Department: Flood Control District

Telephone: 724-4600

Department Director Signature/Date:

Suzanne Shultz

Deputy County Administrator Signature/Date:

John W. Smith 11/10/16

County Administrator Signature/Date:

C. DeCherney 11/14/16

DATE: November 7, 2016

TO: Flood Control District Board of Directors

FROM: Suzanne Shields, P.E.
Director 

SUBJECT: **Hearing for a Variance Request for a Single-Family Residence at 8675 S. Silver Star Drive**

Over the past seven years, the Regional Flood Control District (District) has been working with the property owners of 8675 S. Silver Star Drive, Roberta Busch and Roger Rump, to bring the single-family residence on the above referenced property into compliance with the Floodplain Management Ordinance (Ordinance) and the National Flood Insurance Program (NFIP).

In 2008, the property owners applied for a Floodplain Use Permit (FPUP) for a secondary dwelling on their property. During the review of FPUP application, it was discovered that the single-family residence, permitted in 1994, was constructed partially within the Federal Emergency Management Agency's (FEMA) Zone AO3 Special Flood Hazard Area. This location is in conflict with the conditions of the permit which stated that the structure was to be constructed in the Zone AO1 Special Flood Hazard Area and outside of the more severe Zone AO3. In addition, an Elevation Certificate, also a condition of the permit, was never returned.

In order to address this violation, the property owners agreed to obtain an Elevation Certificate and to hire an Arizona-registered civil engineer to evaluate the actual flood risk associated with the Brawley Wash more precisely, as opposed to relying on the approximate values on the Flood Insurance Rate Maps (FIRMs). Many attempts were made to more precisely model the floodplain, but numerous technical issues prevented the District from accepting better information.

To further compound the issue, the Elevation Certificate for the single-family residence, completed on March 2, 2014, showed that the structure was also not adequately elevated for the Zone AO1 floodplain. The minimum elevation requirement for the lowest floor of a habitable structure in a Zone AO1 floodplain is two feet above highest adjacent natural grade. The Elevation Certificate revealed that the lowest floor was only 0.47 feet above highest adjacent natural grade.

A second civil engineer was hired to demonstrate that the structure was not impacted by flooding from either the Brawley Wash or any tributaries from the Sierrita Mountains. This analysis was completed and approved by the District on August 11, 2015. The District concurs that, notwithstanding its location in the Special Flood Hazard Area, the structure is not subject to flooding from the base flood (100-year flood).

The reason for the variance request is due to the structure's location within the Special Flood Hazard Area. Without exception, in Zone AO floodplains FEMA requires habitable structures to be elevated. The only alternatives to the elevation requirement are removing the structure from the floodplain by submitting a Letter of Map Revision (LOMR) to FEMA, or seeking a variance.

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The property owners do not have the wherewithal to complete a LOMR due to the time and cost associated with such an endeavor. Although the District has a plan to seek a LOMR for the Brawley Wash, this activity would not commence for a number of years. As such, the recommended method to achieve compliance is to request a variance. To restate, the District believes the single-family residence is outside of the 100-year, or base flood, from both the Brawley Wash and its tributaries and has a low risk of flooding. The variance request is in lieu of revising the FIRMs.

The Flood Control District Advisory Committee reviewed the variance request at their October 19, 2016 meeting and subsequently voted to recommend approval of the variance request.

The Ordinance authorizes the Board of Directors of the Flood Control District (Board) to hear requests for variances. In order to issue a variance, the Board must make the following determinations:

1. A determination that the variance is the minimum necessary to afford relief, considering the flood hazards;
2. A determination of good and sufficient cause;
3. A determination that failure to grant a variance would result in exceptional hardship to the applicant;
4. A determination that the granting of a variance will not create a danger or hazard to persons or property in a regulatory floodplain or erosion hazard area in the area of jurisdiction or result in increased flood heights, additional threats to public safety, the creation of a nuisance, the victimization of or fraud on the public, or that the variance is not in conflict with other local laws or titles; and
5. Special circumstances such as size, topography, location, or surroundings of the property, would cause strict application of the regulations to deprive the property of the privileges enjoyed by similar property in a regulatory floodplain or erosion hazard area.

The District believes that these determinations can be made and the variance also conforms to the variance requirements of the NFIP as provided for in 44 CFR 60.06. The granting of a variance will come with the condition that the owner sign covenants that run with the land, which state that a variance has been granted for the single-family residence on the subject property and the variance will result in increased flood insurance premium rates.

The District recommends approval of the variance request.

SS/tj

Attachments

c: C. H. Huckelberry, County Administrator
John Bernal, Deputy County Administrator – Public Works
Eric Shepp, P.E., Deputy Director – Regional Flood Control District



**REQUEST FOR VARIANCE
MADE PURSUANT TO PIMA COUNTY ORDINANCE NO. 2010-FC5
FLOODPLAIN AND EROSION HAZARD MANAGEMENT ORDINANCE**



FORM TO BE COMPLETED BY PETITIONER (PLEASE PRINT CLEARLY):

DATE: 8-17-16 TOWNSHIP: 15 S RANGE: 10 E SECTION: 27 TAX CODE: 208-61-0070

PROPERTY OWNER INFORMATION

LAST NAME: Busch, Rump FIRST NAME: Roberta, Roger
 DAYTIME PHONE #: 520-308-2623 ALTERNATE PHONE #: 520-664-7027/520-664-7028
 ADDRESS: 8675 S Silver Star Dr CITY: Tucson STATE: AZ ZIP CODE: 85735

PETITIONER INFORMATION

LAST NAME: See above % DUDLEY FIRST NAME: DAN
 DAYTIME PHONE #: 520-544-4446 ALTERNATE PHONE #: ()
 ADDRESS: 1801 W. Ina Road CITY: Tucson STATE: AZ ZIP CODE: 85704

16.56.020 Variances.

- A. Variances within adopted Special Flood Hazard Areas as designated by FEMA shall conform to the variance requirements of the Federal Flood Insurance Program as provided within 44 CFR 60.6.
- B. Variances for relief to regulations under this Title for locally regulated floodplains, erosion hazard zones and/or riparian habitat shall conform to variance requirements of this Title. See 16.56.040.
- C. A property owner may request a variance hearing by filing a variance request petition with the Chief Engineer and the Clerk of the Board on a form approved by the District.
 - 1. The petitioner shall state the section of the code from which the variance is being sought and shall contain a detailed explanation of the variance request.
 - 2. The Clerk of the Board shall schedule a hearing before the Board on the request for a variance pursuant to 16.56.050.
- D. In accordance with A.R.S. Section 48-3610, whenever a development plan or application has been filed with the District that requires a variance under 44 CFR 60.6 and is within 1 mile of the boundary between the District's area of jurisdiction and the jurisdiction of a city or town, then the District shall advise, the jurisdiction in writing. (Ord. 2010 FC-1; Ord. 2005 FC-2 § 2 (part), 2005)

AND ATTACH ANY PERTINENT MAPS, DRAWINGS, DATA OR OTHER INFORMATION AS TO WHY THE VARIANCE SHOULD BE GRANTED

PLEASE STATE THE SECTION OF THE CODE FROM WHICH THE VARIANCE IS SOUGHT: Section 16.26.030.B

PLEASE INDICATE FLOODPLAIN USE PERMIT APPLICATION NUMBER, IF APPLICABLE: 94-176

PLEASE PROVIDE THE REASONS FOR YOUR REQUEST (attach additional sheets if needed):

SFR constructed with FFE below RFE as evaluated by Zone number of FEMA SFHA. However, flood hazard on parcel has been delineated by approved engineering analysis; this analysis demonstrates that FFE is elevated above RFE from this analysis. Engineering analysis is titled: Busch Parcel, is dated June 2015 and was sealed by Derek M Roberts PE on 7/05/15.

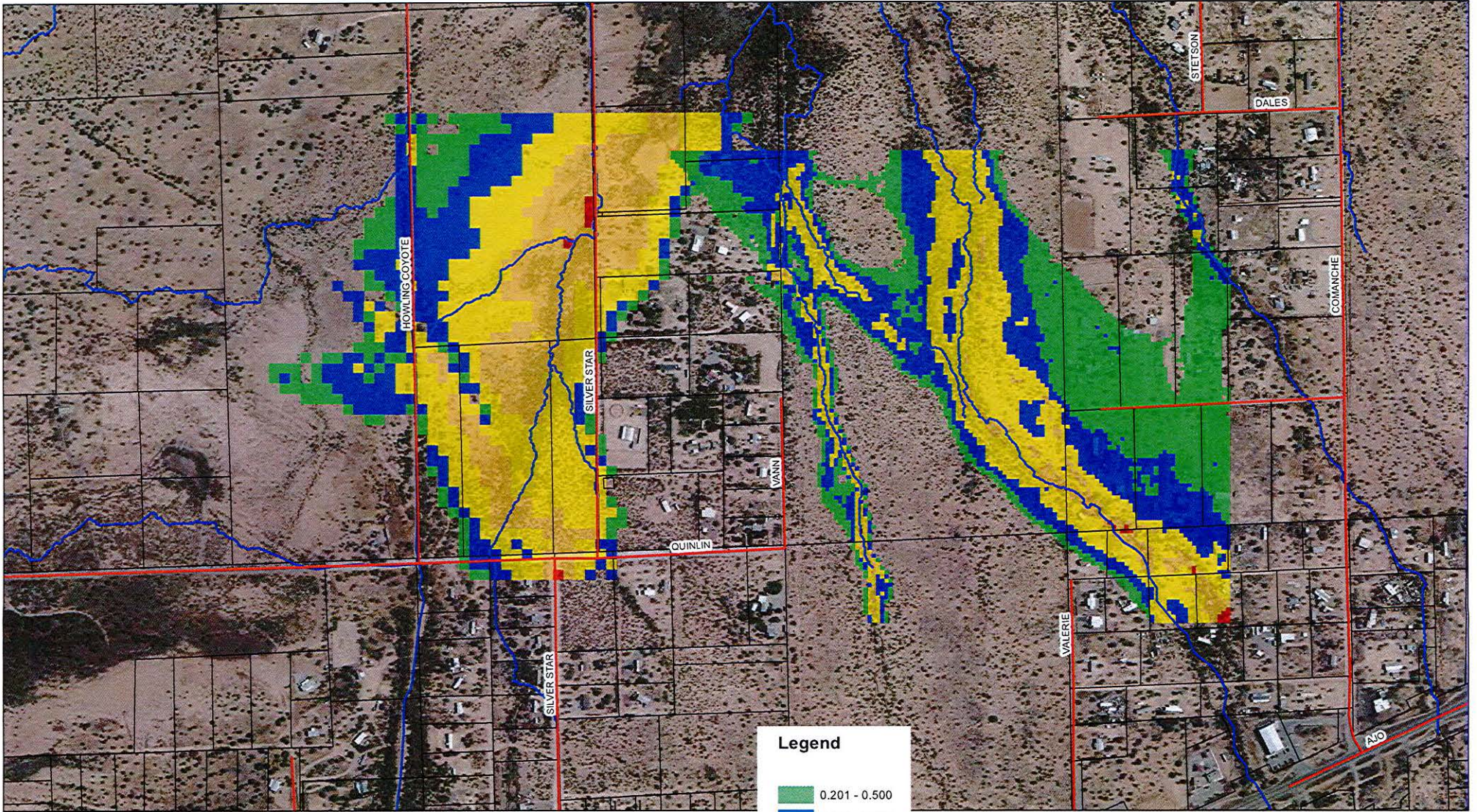
PLEASE DESCRIBE THE SPECIFIC RELIEF OR ACTION YOU REQUEST (attach additional sheets if needed):

Removal of special condition of Floodplain Use Permit No. 94-176 which requires FFE and associated service equipment to be elevated to RFE as evaluated by FEMA FRIM Panel 04019C 2810L.

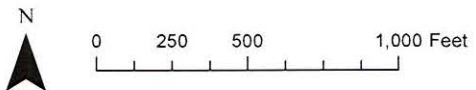
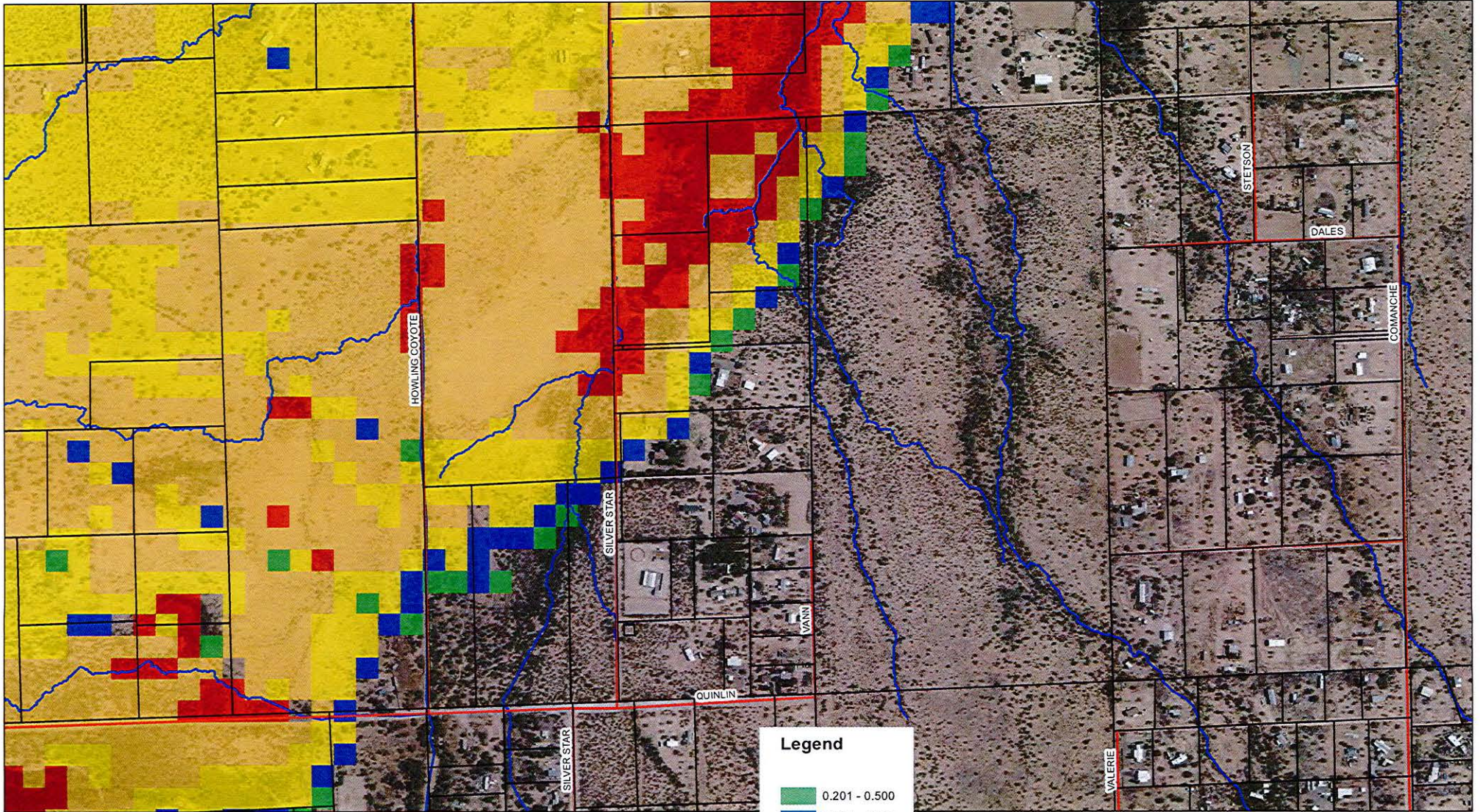
REQUESTOR SIGNATURE: 

WHEN COMPLETED PLEASE SEND TO:

PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT
 CHIEF ENGINEER
 C/O FLOODPLAIN MANAGEMENT DIVISION
 97 E. CONGRESS, 3RD FLOOR
 TUCSON, ARIZONA 85701-1797



**8675 S Silver Star Drive
Results of FLO-2D by Alliance
August 2015**



Legend

0.201 - 0.500
0.501 - 1,000
1,001 - 2,000
2,001 - 3,000
3,001 - 5,631

**Flow Depths from Brawley at
8675 S Silver Star Drive
Results of FLO-2D by Alliance
August 2015**