MEMORANDUM

PUBLIC WORKS DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

TO: Honorable Richard Elías, Supervisor, District # 5

FROM: Arlan Colton, Planning Director

DATE: May 1, 2013

SUBJECT: *Co9-84-41 **INTERNATIONAL WILDLIFE – GATES PASS ROAD REZONING**
Co12-84-109 **PASEO MONTANA LOTS 1-25**

The above referenced Modification of a Rezoning Condition (Substantial Change) and Plat Note Waiver are within your district and are scheduled for the Board of Supervisors' **TUESDAY, MAY 14, 2013** hearing.

REQUEST:

1. **A Modification (Substantial Change) of Rezoning Condition #18** that requires an 85 foot setback from the planned right of way adjacent to Gates Pass Road, a major street and scenic route.
2. **A Plat Note Waiver** to allow a building within the 85 foot building setback. (To be heard by the Board of Supervisors only.)
   ***Co9-84-41 & Co12-84-109 are to be heard together as one case, but separate motions are required.**

OWNER:
Timmins Family TR
Attn: William V. & Susan A. Timmins
4870 W. McElroy Drive
Tucson, AZ 85745-9178
(Parcel 212-13-0520)

AGENT:
Loose, Brown and Associates, PC
Attn: Jesse R. Callahan
1670 E. River Road, Suite 250
Tucson, AZ 85718

DISTRICT: 5

STAFF CONTACT: Terrill Tillman

PUBLIC COMMENT TO DATE: As of May 1, 2013, staff has received petitions with 101 signatures, 3 e-mails, and 7 written letters of opposition to the modification of a rezoning condition and the plat note waiver.

PLANNING AND ZONING COMMISSION RECOMMENDATION: DENIAL.

STAFF RECOMMENDATION:
Co9-84-41 - **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**
Co12-84-109 - **APPROVAL.**

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM: The subject property lies outside the Maeveen Marie Behan Conservation Land Systems.

CP/TT/ar
Attachments

Board of Supervisors Memorandum

Subject: Co9-84-41

FOR MAY 14, 2013 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Arlan Colton, Planning Director
Public Works-Development Services Department-Planning Division

DATE: May 1, 2013

ADVERTISED ITEM FOR PUBLIC HEARING

MODIFICATION (SUBSTANTIAL CHANGE) OF A REZONING CONDITION & PLAT NOTE WAIVER

***Co9-84-41** **INTERNATIONAL WILDLIFE – GATES PASS ROAD REZONING**
Co12-84-109 **PASEO MONTANA LOTS 1-25**

Timmins Family TR, represented by Loose Brown Attorneys requests the following:

1. **A Modification (Substantial Change) of Rezoning Condition #18** that requires an 85 foot setback from the planned right of way adjacent to Gates Pass Road, a major street and scenic route.
2. **A Plat Note Waiver** to allow a building within the 85 foot building setback. (To be heard by the Board of Supervisors only.)

The applicant requests to reduce the required 85 foot setback from the planned right of way adjacent to Gates Pass Road to 19 feet for an existing guest house. The subject property is zoned CR-1(BZ)(GZ-2) [(Single Residence Zone) (Buffer Overlay Zone) (Gateway Overlay Zone – Public Preserve)] and is located adjacent, and north of Gates Pass Road and adjacent, and northeast of McElroy Drive described as Lot 1 of Paseo Montana Subdivision (Book 38, Page 85). On motion, the Planning and Zoning Commission voted, 10-0, to recommend **DENIAL OF ITEM 1.** Staff recommends **APPROVAL OF BOTH ITEMS WITH STANDARD AND SPECIAL CONDITIONS.**
(District 5)

***Co9-84-41 & Co12-84-109 are to be heard together as one case, but separate motions are required.**

Planning and Zoning Commission Public Hearing Summary (March 27, 2013)

A continuance was requested in writing by the applicant.

A motion was made and seconded to **DENY** the continuance request.

Voted: To **DENY** the continuance request (9 – 1; Commissioner Membrila voted NAY).

Staff presented the staff report to the commission. Staff stated that the request is to modify rezoning condition #18 that requires an 85-foot setback for an existing guest house that is set back 19 feet from the property boundary adjacent to Gates Pass Road on Lot 1. The recorded subdivision plat, Paseo Montana (recorded at Book 38, Page 85 of maps and plats) depicts the 85-foot building setback; therefore, a Plat Note Waiver to allow a building within the 85-foot building setback is also requested. Staff explained that the Plat Note Waiver does not require any action of the Planning and Zoning Commission.

Staff recommended approval of the request to modify rezoning condition #18 which reduces the setback and recommended the addition of conditions #19, #20, #23 and #24. Condition #19 imposes building limitations within the modified setback and requires revegetation adjacent to Gates Pass Road, McElroy Drive, and the International Wildlife Museum. Condition #20 requires removal of the proposed pedestrian walkway and conditions #23 & #24 relate to annexation and Proposition 207 respectively. The amended conditions are as follows and only apply to Lot 1:

***

18. Setbacks to be 85 feet from the planned right-of-way~~.~~ except for the guesthouse on Lot 1 of the Paseo Montana subdivision. The setback shall be 19 feet measured to the property boundary adjacent to Gates Pass Road, a Major Street and Scenic Route. Existing porch adjacent to Gates Pass Road shall be completely removed. The submitted site plan is used to depict the setbacks of the guest house only within the boundaries of the property and is not for the calculation of lot coverage or setbacks as noted under Zoning Information Table. No other uses, existing or proposed, are approved based upon the site plan submitted at public hearing.

19. ~~Grading permitted only for pads of houses, roads, driveways and septic tanks.~~No expansion, above-ground structures, or walls, or fences are to be located within the 19 foot setback on Lot 1 of the Paseo Montana subdivision. The subject property south of the wash shall be revegetated and enhanced with plants from the Buffer Overlay Zone (BOZO) plant list for disturbance/grading that occurred

outside the guest house footprint. A 19 foot wide bufferyard "D" (see Landscape Design Manual) with a plant multiplier of .6 shall be installed and maintained along the full length of the property adjacent to Gates Pass Road and a 45 linear foot, 20 foot wide bufferyard "D" shall be installed and maintained adjacent to both McElroy Drive and the International Wildlife Museum as measured from the corner property boundary adjacent to Gates Pass Road. Fifty percent of the required trees are to be mature box species distributed evenly throughout the bufferyards.

20. ~~Building height be a maximum of twenty feet in accordance with newly adopted height regulations.~~The existing driveway or proposed walkway shall not be allowed to remain on the corner spandrel which is also an access control easement. The driveway or walkway shall be obliterated and revegetated.

~~19.~~21. Grading permitted only for pads of houses, roads, driveways and septic tanks.

~~20.~~22. Building height be a maximum of twenty feet in accordance with newly adopted height regulations.

23. In the event the subject property is annexed, the property owner shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

24. The property owner shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

A commissioner asked if the property was inspected by Pima County and if the continued construction of the guest house was allowed. Staff stated that the applicant submitted a plan set that demonstrated compliance with the required setbacks. The guest house was not built in conformance with the approved plan set, and the reduced setback was not noticed while undergoing inspections. The construction of the guest house was allowed to continue.

A commissioner asked whether staff would make the same recommendation if the guest house had not been built. Staff explained that the recommendation was based upon the fact that there are no plans to widen Gates Pass Road and the guest house is located 64 feet away from the edge of the right-of-way. On any developed Major Street and Scenic Route, a structure would be allowed to be located 30 feet away from the built edge of the right-of-way. The guest house is located in between the International Wildlife Museum and McElroy Drive, two paved areas. Staff further explained that the recommendation was based upon the scenic qualities of Gates Pass Road with the actual view being the saguaro studded mountains and not the right-of-way.

A commissioner asked about the house across the street and whether it was located within the Major Street and Scenic Route. Staff responded that the house across the street is located within the Major Street and Scenic Route setback, but was not subject to the 85-foot building setback because this property is not within the Paseo Montana Subdivision.

A commissioner asked what the recommendation of staff was to the Board of Adjustment. Staff responded that staff recommended denial in the Board of Adjustment case because there are specific criteria a Board of Adjustment must consider when making a recommendation. The Planning and Zoning Commission and the Board of Supervisors do not operate under the same criteria for legislative acts.

A commissioner asked whether the Board of Supervisors hears the Board of Adjustment cases. Staff responded that a Board of Adjustment decision is appealable to Superior Court, which the applicant did.

A commissioner noted that the recommendation of the Department of Transportation is denial. Staff responded that the Department of Transportation is consistent with its recommendation of denial for structures located within the Major Streets and Scenic Route setback. Staff reiterated that Gates Pass Road is designated as a 150-foot future right-of-way that will never be built. The comprehensive plan update will address the realigning of the Major Streets and Routes Plan with the Comprehensive Plan so that some of the outdated street widths may be reduced.

A commissioner questioned if the house across the street had approval to be located within the Major Street and Routes Plan. Staff responded that the Board of Adjustment approved the variance request for the location of the house prior to the construction of the home.

A commissioner asked about the history of the Superior Court case and decision. The applicant's representative responded that the Judge considered the fact that Mr. Timmins had an expensive structure that was built reliant upon the building permit. The

applicant's representative further explained that the Judge determined that to remove the structure constitutes waste and granted the side yard. The second electric panel, driveway, and porch will be removed in accordance with the Superior Court judgment

A commissioner asked why the guest house was relocated from the drawn location. The applicant's representative stated that Pima County approved the location of the guest house in the field and that the applicant built the house in good faith reliant upon the County's approval.

A commissioner requested whether the addition of the second electrical meter and kitchen were approved. The applicant's representative stated that Pima County had approved the second electrical meter and kitchen in the field which the Judge has required to be removed.

Staff clarified that when there are discrepancies from an approved drawing, the field inspector will request that the applicant revise the plan set to demonstrate what was actually built.

A commissioner asked whether the plans were to scale and if the drawings show the 85-foot building setback.

Staff responded that we don't always require a scaled drawing and will accept the written dimension.

A commissioner questioned the setback requirement for the guest house to a property line.

Staff responded that the setback for the guesthouse is 20 feet to the side yard. Staff recognizes the litigation with the department but reiterated that the recommendation is as neutral as possible. The recommendation of approval with conditions is based upon the request to modify the rezoning condition which reduces the 85-foot building setback.

Speaker #1 stated that she resides in the house across the street in which a variance was obtained prior to the construction of her home, and it is located within the Major Street and Scenic Route setback. The speaker believes that the approved site plan was not representative of the wash and building site and ignored county regulations and rules.

Speaker #2 stated her objection is because there is a large wash in between Mr. Timmins' house and the guest house, thereby effectively dividing the property.

Speaker #3 stated the guest house affects property values and requested that the Planning and Zoning Commission refuse the application.

Speaker #4 stated that his concerns have been addressed by previous speakers and that he uses the guest house as a landmark for directions. The speaker believes that to allow the guest house to stay in that location sets a bad precedence for Pima County.

Speaker #5 stated that he is a member of the neighborhood association that has been fighting inappropriate development in the Tucson Mountain area. The speaker attended that Board of Adjustment case in 2010 and spoke against the variance request. The speaker communicated that to allow the building to remain within this scenic route setback sets a bad precedent.

Speaker #6 stated his opposition to the request and presented signatures from the neighbors in opposition. The speaker discussed that Mr. Timmins is a GIS (mapping) expert and questioned why no recourse was taken against the contractor. He requested that the building be torn down.

Speaker #7 stated the she is here to represent the Tucson Mountains Association. The additional setback was not because Gates Pass Road would be widened but to preserve the beautiful Tucson Mountains. The speaker asked for the removal of the structure.

Speaker #8 expressed that the lot was originally cleared for the storage of the roadway construction equipment. Boulders were placed along the setback of the cleared area of that parcel. The boulders were moved to place the guest house in that location.

Speaker #9 stated that this is a bad precedent for Pima County and if this is granted, this will not be the last time that people build out of conformance with the Pima County Code.

The applicant's representative stated that this was not done intentionally. The neighbors are upset about the aesthetics and believe the guest house will not be noticed with the County's landscaping recommendation and when construction is completed.

The public hearing was closed.

It was motioned and seconded to DENY the modification.

Voted: To DENY the request (10-0).

Staff clarified that as a result of a speaker's comment regarding the outside lighting adjacent to Gates Pass Road that remains turned on, if the Board of Supervisors saw fit to approve the request it would recommend to the Board the rezoning conditions be amended to reflect the requirement for the elimination of the outside lighting as follows:

25. The outdoor light source shall be directed downward and shielded from view of the adjacent properties.

CP/TT/ar
Attachments

c: Timmins Family TR, Attn: William V & Susan A Timmins, 4870 W. McElroy Drive Tucson, AZ 85745-9178, (Parcel 212-13-0520)
Loose, Brown and Associates, PC, Attn: Jesse R. Callahan 1670 E. River Road, Suite 250, Tucson, AZ 85718
Chris Poirier, Assistant Planning Director
Co9-84-41 File

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March 13, 2013

Tom Drzazgowski
Terri Tillman
Assistant Planning Director
Pima County Development Services Department – Planning Division
201 N. Stone Ave.
Tucson, AZ 85701

Re: Request for Continuance of Planning & Zoning Commission Meeting March 27, 2013 for 4870 W. McElroy Dr., Tucson, AZ 85745-9178

Dear Mr. Drzazgowski and Ms. Tillman:

This letter serves to request a formal continuance of the above hearing. Mr. Timmins and the undersigned's office have both corresponded with the County of the need for the continuance. Today we received email correspondence from Terri Tillman stating that a formal letter must be sent to grant the continuance. Please consider this letter as the formal request. Copies of the email correspondence advising of the need for the continuance are attached and incorporated herein by reference.

We thank you in advance for your professional courtesy and cooperation.

Very truly yours,

LOOSE, BROWN & ASSOCIATES, P.C.

Jesse R. Callahan

JRC
Enclosures: as stated
cc: William Timmins

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT - PLANNING DIVISION
STAFF REPORT TO THE PLANNING AND ZONING COMMISSION

HEARING March 27, 2013

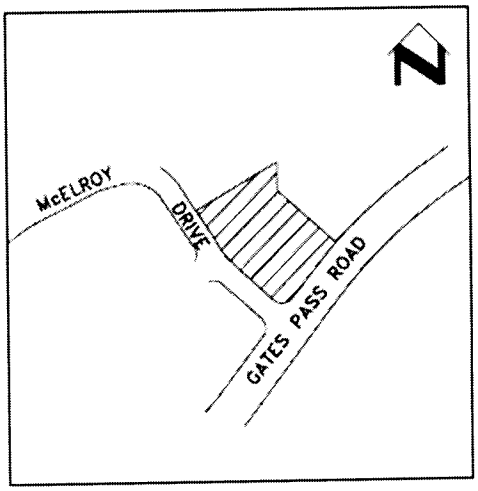
DISTRICT 5

CASES Co9-84-41 International Wildlife – Gates Pass Road Rezoning

REQUEST Modification of Rezoning Conditions - (Substantial Change) on approximately 1.07 on acres

OWNER Timmins Family TR
Attn: William V & Susan A Timmins
4870 W. McElroy Drive
Tucson, AZ 85745-9178
(Parcel 212-13-0520)

AGENT Loose, Brown and Associates, PC
Attn: Jesse R. Callahan
1670 E. River Road, Suite 250
Tucson, AZ 85718



APPLICANT'S REQUEST

The applicant requests a **Modification (substantial change) of Rezoning Condition** #18 that requires an 85-foot setback from the planned right-of-way adjacent to Gates Pass Road, designated as a Major Street and Scenic Route. The recorded subdivision plat, Paseo Montana (book 38 and page 85) depicts the 85-foot building setback, therefore, a **Plat Note Waiver** to allow a building within the 85-foot building setback is also requested. The applicant has an existing guest house setback 19 feet from the property boundary adjacent to Gates Pass Road on Lot 1.

The Pima County Zoning Code Section 18.91 requires two different processes for the special actions within this case as follows: 1) The Planning and Zoning Commission hear and make a recommendation to the Board of Supervisors to approve/deny the modification of a rezoning condition, and; 2) The Board of Supervisors hear and approve/deny the modification of a rezoning condition and *the plat note waiver.* The plat note waiver does not require Planning and Zoning Commission action. The special actions have been combined to simplify the process on behalf of the applicant.

PUBLIC COMMENT

Staff has received no public comments to date.

COMPREHENSIVE PLAN DESIGNATION

The Comprehensive Plan designation is Low Intensity Urban (LIU) 1.2. The purpose of the LIU designation is for low density residential and other compatible uses and to provide incentives for clustering residential development while providing natural open space. The subject property's CR-1® (GZ)(BOZO) [(Single Residence Zone) (Buffer

Overlay Zone) (Gateway Overlay Zone – Public Preserve)] zoning is in conformance with the LIU designation.

Comprehensive Plan Special Area Policy S-8 (Tucson Mountains North) applies to this site. The purpose of the special area policy is to protect the diverse vegetation, wildlife habitat, and riparian areas while planning for growth. The policy provides guidance for minimal impact to the natural surroundings by regulating building heights and requiring compatible building colors in context with the surrounding environment. This policy has been implemented through the rezoning conditions.

SURROUNDING LAND USES/GENERAL CHARACTER

North	CR-1	Developed Residential
West	CR-1	Developed Residential
South	SR	Developed Residential
East	SR	Developed/International Wildlife Museum

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the request to modify rezoning condition #18 which reduces the setback and recommends the addition of conditions #19, #20, #23 and #24. Condition #19 imposes building limitations within the modified setback and requires revegetation adjacent to Gates Pass Road, McElroy Drive, and the International Wildlife Museum. Condition #20 requires removal of the proposed pedestrian walkway and conditions #23 & #24 relate to annexation and Proposition 207 respectively. The amended conditions are as follows and only apply to Lot 1:

1. Submittal of a complete hydraulic and hydrologic drainage report as determined necessary by the Department of Transportation and Flood Control;

2. Submittal of a development plan if determined necessary by the appropriate County agencies;

3. Dedication of necessary right-of-way for roads and drainage by separate instrument if the property is not to be subdivided;

4. Recording an acceptable plat which will provide for dedication of necessary right-of-way for roads and drainage if the property is to be subdivided;

5. Completion of requirement for a rezoning ordinance within three years from the date of approval by the Board of Supervisors;

6. Recording a covenant holding Pima County harmless in the event of flooding;

7. Conformance with County paving policies as determined appropriate by the Department of Transportation and Flood Control;

8. Prior to grading or clearing of land, a grading plan will be submitted and approved by the Department of Transportation and Flood Control District.

9. Recording the necessary development related assurances as determined appropriate by the various County agencies;

10. Provision of development related assurances as required by the appropriate agencies;

11. Recording a covenant to the effect that there will be no further subdividing or lot splitting without the written approval of the Board of Supervisors;

12. Making a suitable arrangement with the Pima County Wastewater Management Department for the provision of sanitary sewerage disposal which may include:
    A. If individual on-lot sewage disposal systems are used, application by the owner for and issuance by Pima County Health Department of on-lot sewage disposal permits for each and every lot within the proposed development, prior to adoption of the zoning ordinance; or
    B. If public sanitary sewerage service is used, construction by the owner or developer, at no cost to Pima County, of approximately 11,000 lineal feet of sewer line to be funded on a private basis.

13. Requirements of the Department of Transportation are as follows:
    A. Dedication of 75 foot wide half right-of-way for the north half right-of-way of Gates Pass Road adjoining the subject property.
    B. Adherence to Pima County Hillside Development Zone Ordinance.
    C. All driveways serving more than one dwelling unit shall be paved to the applicable Pima county standards prior to the issuance of any building permits.
    D. Access to the subject property from Gates Pass Road shall need the approval of the Department of Transportation prior to the submittal of a tentative plat or development plan for any portion of the subject property.
    E. Provision of all necessary improvements on Gates Pass Road determined necessary by the Department of Transportation.
    F. Provision of all on-site improvements determined necessary by the Subdivision Review Section of this department.

14. Requirements of the Flood Control District are as follows:
    A. Prior to receiving building permits for construction, the petitioner must submit all required drainage reports and plans and receive approval by the Flood Control Section. In developing the reports and plans, the requirements and regulations incorporated in the following reports, at a minimum must be satisfied:
        1. Flood Plain Management Ordinance 1983-FCI;
        2. Drainage and Channel Design Standards;
        3. Flood Control District Policies.

15. No grading to occur until 30 days prior to construction.

16. Landscaping to consist of low water use and low pollen producing vegetation.

17. Buildings to be treated with earth tone colors.

18. Setbacks to be 85 feet from the planned right-of-way~~.~~ except for the guesthouse on Lot 1 of the Paseo Montana subdivision. The setback shall be 19 feet measured to the property boundary adjacent to Gates Pass Road, a Major Street and Scenic Route. Existing porch adjacent to Gates Pass Road shall be

completely removed. The submitted site plan is used to depict the setbacks of the guest house only within the boundaries of the property and is not for the calculation of lot coverage or setbacks as noted under Zoning Information Table. No other uses, existing or proposed, are approved based upon the site plan submitted at public hearing.

19. ~~Grading permitted only for pads of houses, roads, driveways and septic tanks.~~No expansion, above ground structures, or walls, or fences are to be located within the 19 foot setback on Lot 1 of the Paseo Montana subdivision. The subject property south of the wash shall be revegetated and enhanced with plants from the Buffer Overlay Zone (BOZO) plant list for disturbance/grading that occurred outside the guest house footprint. A 19 foot wide bufferyard "D" (see Landscape Design Manual) with a plant multiplier of .6 shall be installed and maintained along the full length of the property adjacent to Gates Pass Road and a 45 linear foot, 20 foot wide bufferyard "D" shall be installed and maintained adjacent to both McElroy Drive and the International Wildlife Museum as measured from the corner property boundary adjacent to Gates Pass Road. Fifty percent of the required trees are to be mature box species distributed evenly throughout the bufferyards.

20. ~~Building height be a maximum of twenty feet in accordance with newly adopted height regulations.~~The existing driveway or proposed walkway shall not be allowed to remain on the corner spandrel which is also an access control easement. The driveway or walkway shall be obliterated and revegetated.

~~19.~~21. Grading permitted only for pads of houses, roads, driveways and septic tanks.

~~20.~~22. Building height be a maximum of twenty feet in accordance with newly adopted height regulations.

23. In the event the subject property is annexed, the property owner shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

24. The property owner shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

STAFF REPORT

The applicant requests to modify rezoning condition #18 to allow an existing guest house currently located within the 85-foot building setback of Gates Pass Road, a designated Major Street and Scenic Route.

The property is the subject of an open violation case (P10CV00376), previous Board of Adjustment case (Co10(5)10-06), and Arizona Superior Court case. The applicant's letter of request, site plan, and Exhibits A-P are labeled as such and attached as Item 1.[1] The applicant also submitted a cd containing the recorded Board of Adjustment hearing.

Analysis

Staff supports this request subject to the requested conditions. The 85-foot building setback stemmed from the rezoning case Co9-84-41 which required an *additional setback* to the Major Streets and Scenic Routes (MSSR) setback to preserve the scenic qualities of the area. The MSSR setback is 75 feet plus 30 feet as measured from the center line of Gates Pass Road. Rezoning condition #18 was added by the Planning and Zoning Commission at the July 16, 1984, hearing because the Tucson Mountain Association and Westside Coalition requested that the building setback be greater to ameliorate the impact of development, to preserve and protect the scenic character in the sensitive Tucson Mountain area. The Board of Supervisors approved the rezoning on August 16, 1984 subject to the amended conditions. Ordinance 1985-123 was adopted July 16, 1985 memorializing the rezoning.

In May of 1985, the subdivision plat for Paseo Montana was approved reflecting the additional 45 feet of right-of-way dedication to the north of Gates Pass Road for a total of a 75 foot half right-of-way leaving a required 30 foot setback measured from the property boundary as the MSSR setback. The subject property (lot 1), and lots 23, 24, and 25 of the Paseo Montana subdivision are subject to the MSSR setback *and* the 85-foot building setback; however, all adjacent parcels to Gates Pass Road have a natural area designation to preserve the scenic qualities of the thoroughfare except for lot 1. Lot 1 is located in between McElroy Street to the west/southwest and abuts the development of the International Wildlife Museum to the east. The visual impact of the guest house is lessened by the development of the large paved areas directly east of the subject property and the aesthetic visual line of sight is broken by the paved street to the west/southwest.

Considerations as listed below have been given to the guiding special area policy (S-8) of the Tucson Mountains North, the Gateway Overlay zone (GZ), and the Buffer Overlay zone (BOZO), recognizing that the Tucson Mountains are a gateway to the Saguaro National Park. Without the additional 85-foot building setback, the existing guest house would be encroaching into the MSSR setback by 11 feet. The property boundary is 45 feet from the edge of the built right-of-way adjacent to Gates Pass Road and there are no plans for widening Gates Pass Road. There is existing, semi-lush vegetation within the right-of-way in between the built roadway and the subject property boundary. It is staff's opinion that the impact of the guest house in this location is somewhat minimal because of its adjacency to both the International Wildlife Museum and McElroy Drive. The proposed revegetation (Rezoning Condition #19) of the subject property along

[1]The Board of Supervisors' authority to modify rezoning conditions is legislative and not adversarial in nature. Therefore, Staff does not attempt to refute here all of the legal arguments the applicant has made in support of the request. Staff notes, however, that it disagrees with some of the assertions the applicant has made in support of the request, including the allegation that the Hearing Officer dismissed a citation for violating the 85-foot plat setback. Mr. Timmins acknowledged, under oath, before the Hearing Officer and Superior Court, that the plat setback was not in issue and that ultimately the Board of Supervisors would have to decide a request to modify that setback.

Gates Pass Road will serve to enhance and protect the scenic corridor providing 64 feet of buffering from the guest house to the edge of the pavement *helping to meet the intent* of the additional building setback imposed by rezoning condition #18. The proposed revegetation also furthers the goals of the special area policy through the enhancement of vegetation and includes the use of plants from the Buffer Overlay Zone Plant list. The proposed restriction preventing further development (Rezoning Condition #19) within the MSSR and 85-foot building setback helps to ensure the scenic qualities are maintained.

MAEVEEN MARIE BEHAN CONSERVATION LAND SYSTEMS CLASSIFICATION

The subject property lies outside the Maeveen Marie Behan Conservation Land Systems.

SURROUNDING LAND USES/GENERAL CHARACTER

North	CR-1	Developed Residential
West	CR-1	Developed Residential
South	SR	Developed Residential
East	SR	Developed/International Wildlife Museum

TRANSPORTATION REPORT

Staff has reviewed the request to reduce to modify rezoning condition #18 and to reduce the 85-foot building setback along Gates Pass Road to 19 feet and recommends denial. The existing guest house is located 19 feet from the property line along Gates Pass Road and is located entirely within the 85 feet wide building setback and encroaches 11 feet into the 30 feet wide Major Streets and Scenic Routes Plan building setback.

Gates Pass Road is a paved, County maintained, urban collector, with two 12 feet wide travel lanes. The posted speed limit is 35 mph and the most recent traffic count from 2011 is 2,200 ADT, which is well below the 10,000 to 15,000 ADT capacity for Gates Pass Road. This road is designated both a scenic and major route per the Major Streets and Scenic Routes Plan with a planned right-of-way of 150 feet wide. Gates Pass Road was designated a major route with planned 150 feet when Paseo Montana was platted in 1985 but the scenic routes ordinance had not yet been adopted. The existing right-of-way on Gates Pass Road varies but is 105 feet wide, with 75 north half and 30 feet south half, adjacent to this site. On all major and scenic routes, there is a designated building setback of half the future right-of-way plus 30 feet per 18.77.030 and 18.77.040. In this case it is 105 feet from the centerline of the future 150 wide right-of-way, 30 feet of which is within the boundary of lot 1.

McElroy Drive is a paved, County maintained, local road with 50 feet existing right-of-way, has two travel lanes and has a posted speed limit of 25 mph. There are no curbs or sidewalks and there is existing guard rail on both sides of McElroy Drive for the drainage area that exists between the existing residence and guesthouse.

Paseo Montana plat has large natural area and building setbacks along all southern lots, including this lot. For the 6 other lots the area is labeled as natural area and this one is labeled as an 85 feet building setback. It appears that the rezoning condition for the 85 feet setback for lot 1 was added for scenic setback reasons adjacent to Gates Pass Road and the natural area was because of Hillside slopes. The Scenic Routes Ordinance had not yet been adopted when this rezoning and plat were approved but was undergoing review and public meetings. Neighbors and concerned citizens in the

Tucson Mountain area were requesting large setbacks along roadways and lower densities than had previously been planned. The 105 feet Major Streets and Scenic Routes Plan building setback applied then and now on this lot and affects 30 feet adjacent to Gates Pass Road. Department of Transportation staff typically recommends denial of any building or structure within the Major Streets and Scenic Routes Plan setback for Zoning Code Sections 18.77.030 and 18.77.040. Therefore, staff recommends **denial** of this request. This is a very important regional and scenic route that should have no encroachments into adjacent setbacks. There are no clear zones or site visibility triangle issues related to the encroachment since the pavement for Gates Pass Road today, is located 80 or more feet away.

Both the existing driveway or proposed 5 feet wide walkway, are located on a recorded access control easement (the corner spandrel of the intersection and Gates Pass Road frontage) per the recorded plat. This location is unsafe for a driveway or walkway and should not be allowed under any circumstance. Either should be eliminated or moved further north away from the corner and revegetated to prevent continued access.

Whether this request is approved or denied, staff recommends the following condition:

The existing driveway or proposed walkway shall not be allowed to remain on the corner spandrel which is also an access control easement. The driveway or walkway shall be obliterated and revegetated.

FLOOD CONTROL REPORT
The District has reviewed and neither supports nor objects to the request. The following comments describe the property as it is impacted by the Floodplain Management Ordinance:

1. The lot is split by a wash which separates the main residence from the guest house.

2. Floodplain Use Permits have been approved for both the residence and guest house.

In conclusion there are no floodplain or riparian habitat issues which create the need for the modification or which raise concerns should it be approved.

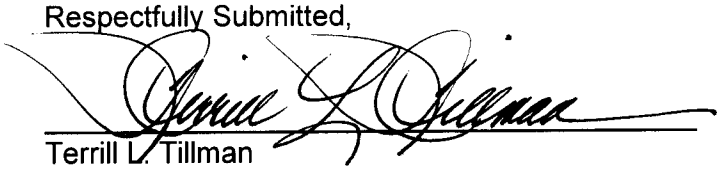
WASTEWATER RECLAMATION REPORT
The Planning Section of the RWRD has no objection to this rezoning condition/plat note waiver request.

NORTHWEST FIRE/RESCUE DISTRICT REPORT
To date, staff has not received a response to a request for comments.

TUCSON CITY WATER COMPANY REPORT
Tucson Water currently provides water service to this parcel and has no objection to this request.

TUCSON ELECTRIC POWER COMPANY REPORT
To date, staff has not received a response to a request for comments.

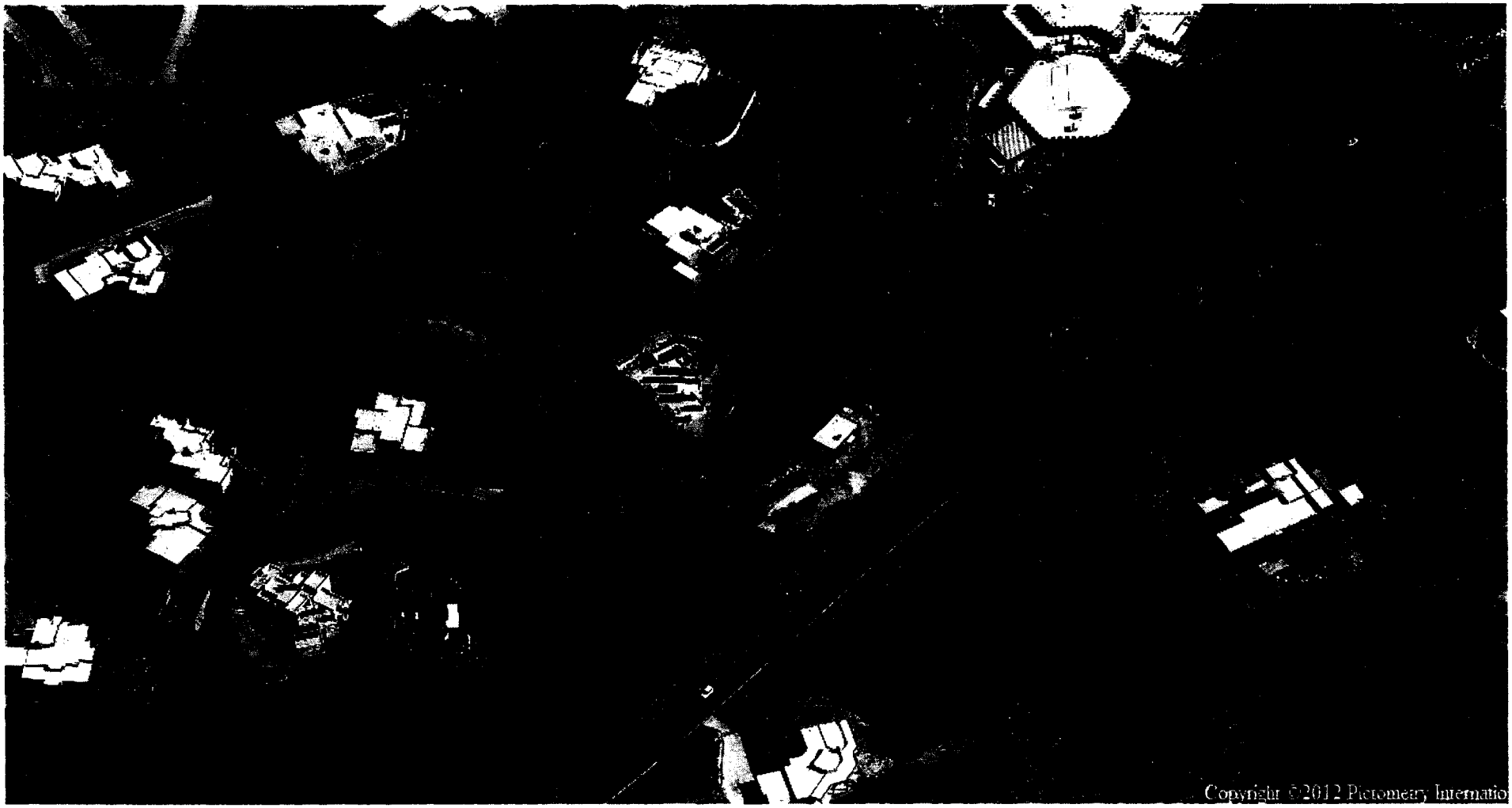
Respectfully Submitted,



Terrill L. Tillman
Senior Planner

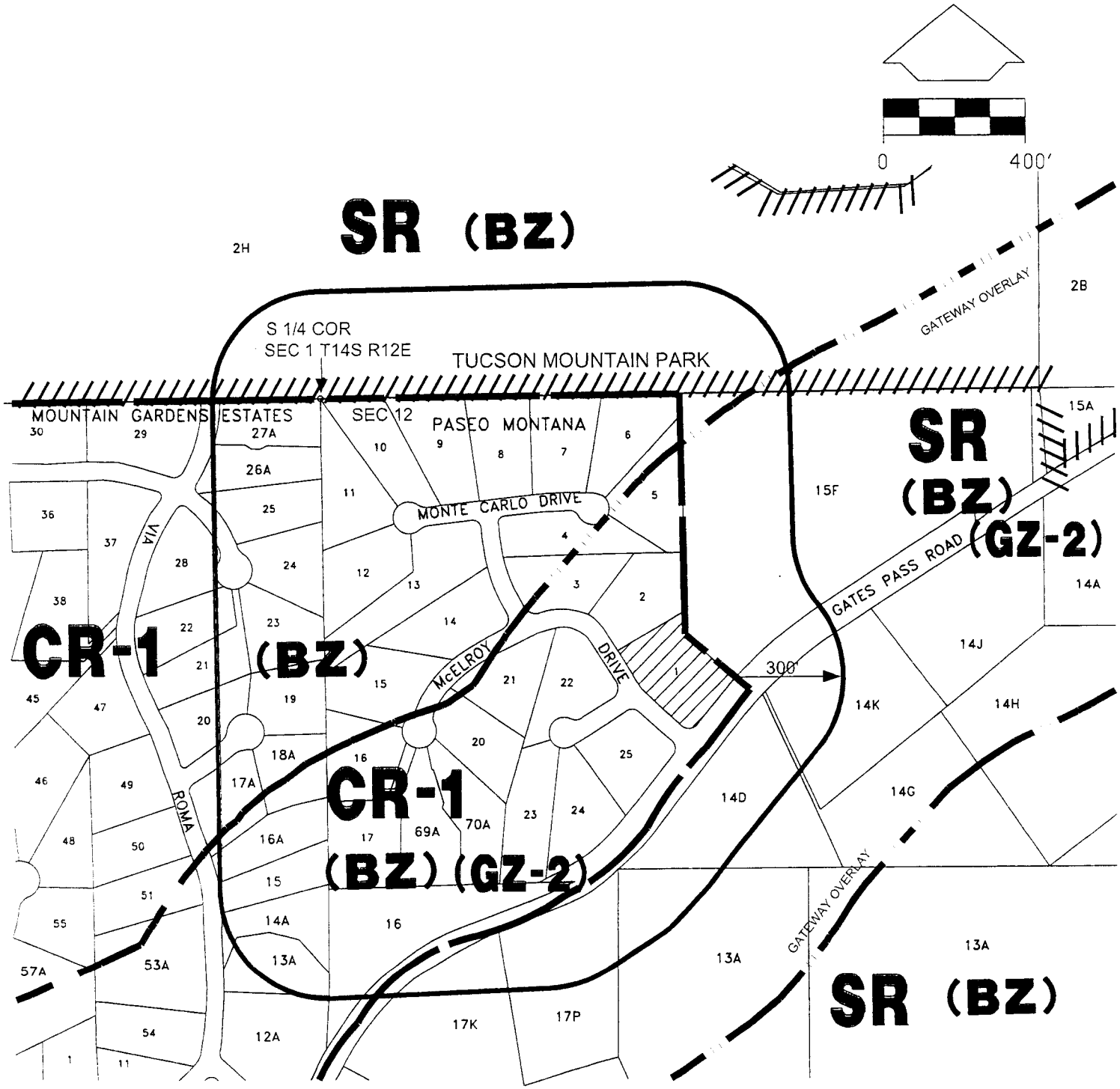
CP/TT

c: Timmins Family TR, Attn: William V & Susan A Timmins
Loose, Brown and Associates, PC, Attn: Jesse R. Callahan
Arlan Colton, Pima County Planning Official



Co9-84-41 INTERNATIONAL WILDLIFE — GATES PASS ROAD REZONING **2012**

MODIFICATION OF REZONING CONDITIONS, SUBSTANTIAL CHANGE



Petition area

Notification area

BASE MAP 19

Notes SUBSTANTIAL CHANGE - MODIFICATION OF REZONING CONDITION & PLAT NOTE WAIVER

Tax codes 212-13-0520

Date 02/22/13

Drafter DS

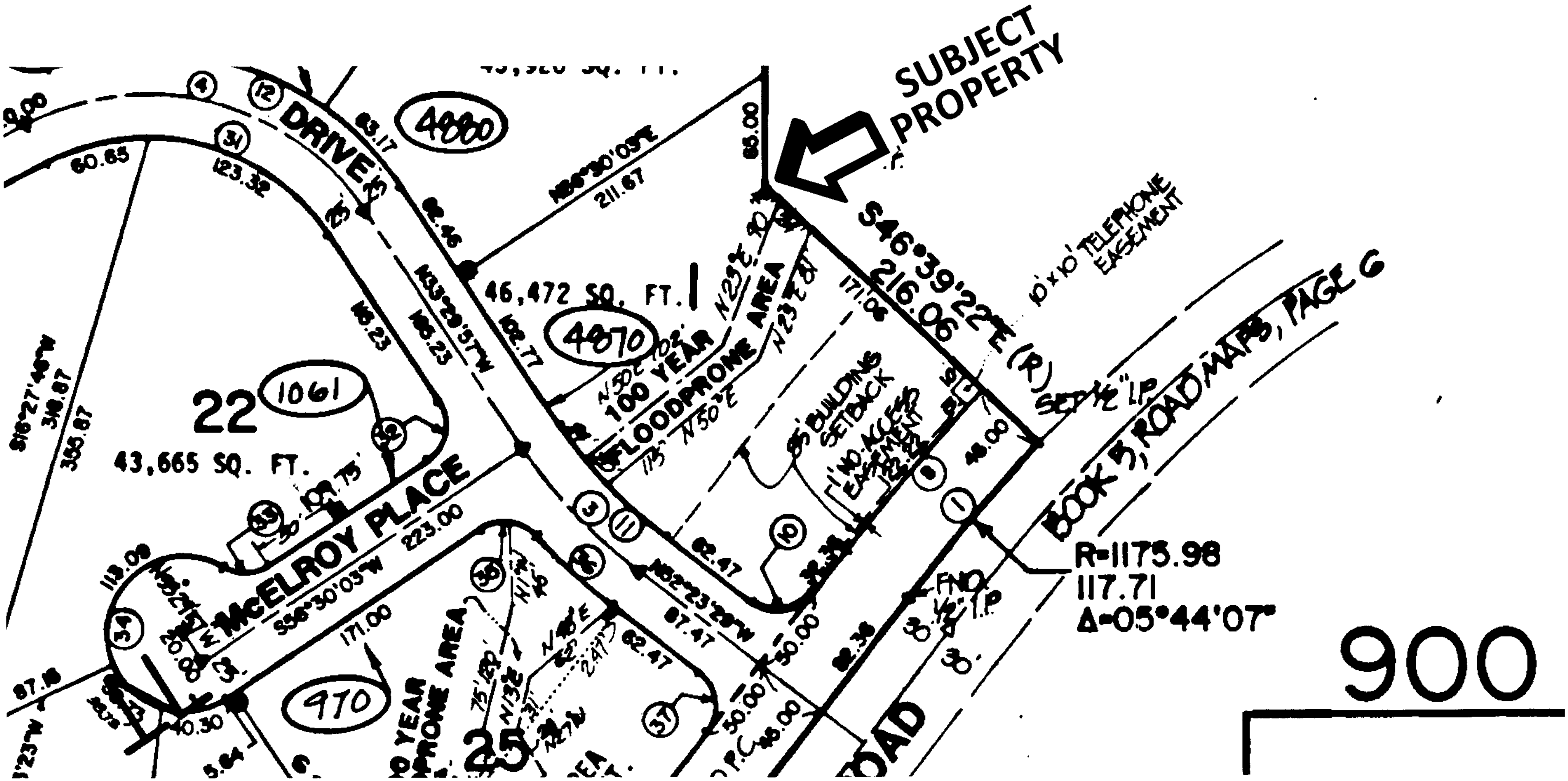
File no. C09-84-41

INTERNATIONAL WILDLIFE

GATES PASS ROAD REZONING

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT

PLANNING DIVISION



SUBJECT PROPERTY
DRIVE
McELROY PLACE
BOOK 5, ROAD MAPS, PAGE 6
ROAD
46,472 SQ. FT.
43,665 SQ. FT.
22
25
4880
4870
1061
970
100 YEAR FLOODPRONE AREA
S46°39'22"E (R)
216.06
N86°30'05"E
211.67
N33°23'51"W
S36°30'03"W
223.00
171.00
171.06
N32°23'29"W
10'x10' TELEPHONE EASEMENT
25' BUILDING SETBACK
1' NO ACCESS EASEMENT
R=1175.98
117.71
Δ=05°44'07"
S16°27'46"W
318.87
355.87
900

SURVEY & UTIL. SYMBOLS

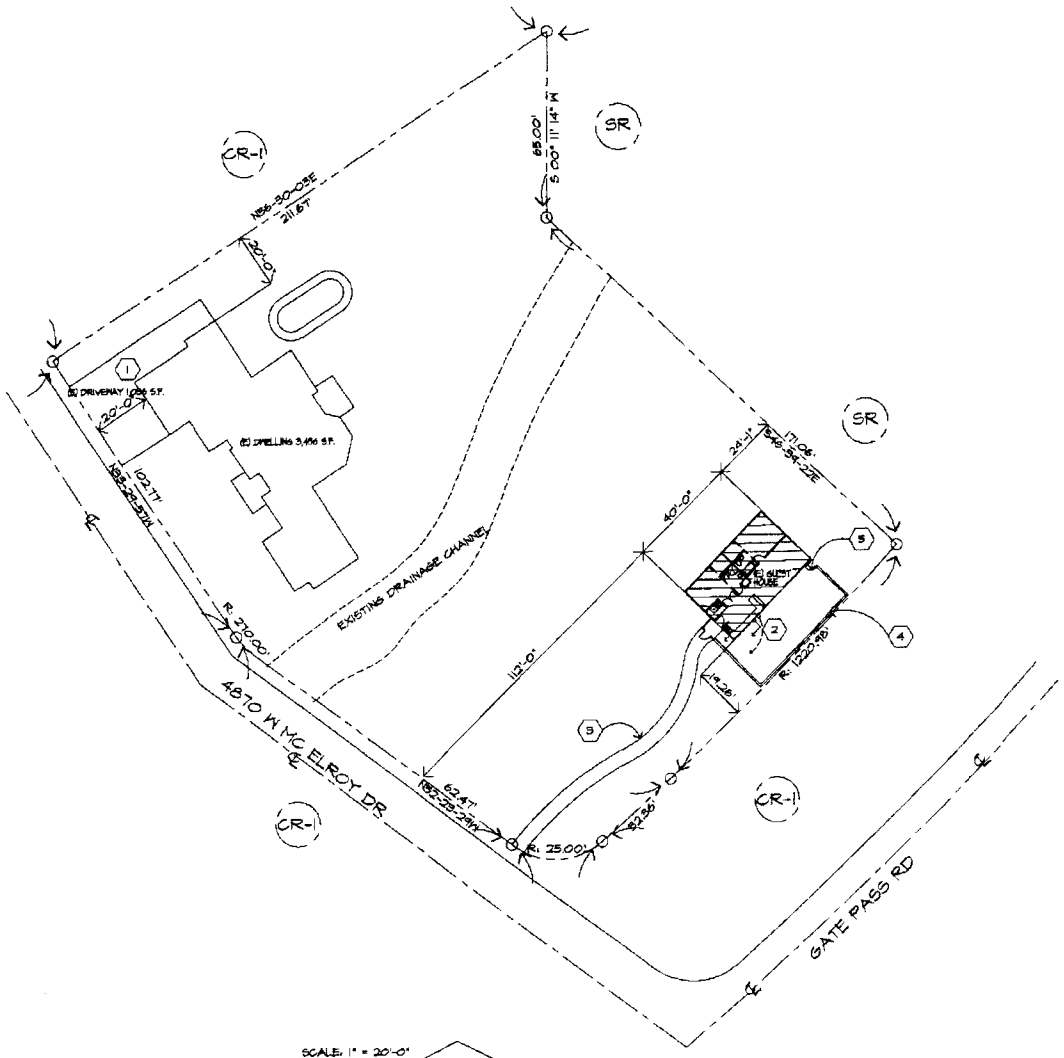
- FINISH ELEV. / EXISTING ELEV.
- DRAINAGE DIRECTION
- MANHOLE
- CLEAN OUT
- FIRE HYDRANT
- BFPV — BACK FLOW VALVE
- WM — WATER METER
- GM — GAS METER
- S — SEWER LINE
- W — WATER LINE
- UGE — UNDERGROUND ELECTRIC
- G — GAS LINE
- PROPERTY CORNER

SURVEY ABBREV.

(E)	EXISTING
FFE	FINISH FLOOR
FG	FINISH GRADE
℄	CENTER LINE
EG	EXISTING GRADE
FP	FINISH PAVEMENT
TOP	TOP OF PAVEMENT
TOM	TOP OF WALL
—	PROPERTY LINE
P.U.E.	UTILITY EASEMENT

PROJECT SYMBOLS

- BUILDING SECTION
- DETAIL REFERENCE
- REVISION MARK
- KEY NOTE
- PLAN ORIENTATION

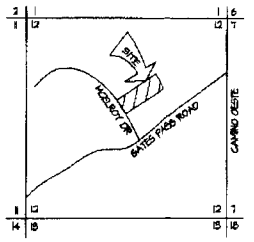


SITE PLAN

SCALE: 1" = 20'-0"

NORTH

1. (E) DRIVE WAY
2. (E) UNDER GROUND ELECTRIC
3. 3'-0" WALK WAY
4. 5'-8" CMU WALL FENCE
5. 3'-0" GATE



GENERAL NOTES

SHOP DRAWINGS TO BE SUBMITTED TO GENERAL CONTRACTOR AND PROCESSED FOR REVIEW PRIOR TO EXECUTING OR FABRICATING THAT AREA OF WORK.

CONTRACTOR(S) TO BE RESPONSIBLE FOR CONTACTING IN WRITING TO VERIFY DIMENSION OMISSIONS OR DISCREPANCIES IN THESE DRAWINGS, PRIOR TO EXECUTING OR FABRICATING THAT AREA OF WORK. AT NO TIME ARE THESE DRAWINGS TO BE SCALED.

NO DEVIATION FROM THE APPROVED DRAWINGS SHALL BE PERMITTED WITHOUT THE WRITTEN APPROVAL OF THE OWNER AND BUILDING OFFICIAL.

BUILDING LIGHTING SHALL COMPLY W/ IRC & CDT LIGHT POLLUTION ORDINANCE ALL EXTERIOR LIGHTS TO BE LESS THAN 160M INCANDESCENT.

CONTRACTOR TO BE AWARE OF EXISTING ELEC. BOXES, WATER METER, TEL. BOXES, ETC. & ADJUST AS REQUIRED

ZONING INFORMATION

ID #: 212-13-0520

ADDRESS : 4870 N MCELROY DR

LEGAL DESCRIPTION : PASEO MONTANA LOT 1 (112TI/1527) (FORMERLY 204-40-0520)

ZONING	CR-1	SETBACKS
OCC. GROUP	RES. (R-3)	FRONT: 20'-0"
CONSTRUCTION TYPE	V-B	REAR: 27'-0"
		SIDE :20'-0" / 19.26'

LOT AREA: 51,978 S.F. (1.8 ACRE)

BUILDING CALCULATIONS

LIVING AREA	PORCH	DRIVEWAY
(E) 3,496 S.F.	(N) 90 SF	(E) 1,092 S.F.
(N) 1,000 S.F.		

TOTAL LOT COVERAGE: 5,498/ 51,978 S.F. = .10% LOT COVERAGE

DRAWING INDEX

THIS PROJECT COMPLY W/ IRC-2006

CASITA ADDITION
for MR TIMMINS
by Eby Custom Remodeling & Building
4870 W MCELROY DR
TUCSON ARIZONA 85745

DATE 01-08-10
JOB NO 01-10
SHEET NO. 1 OF 5 SH.

DRAFTING SERVICES (520) 850-8434

LOOSE BROWN ATTORNEYS
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11240 N. Tatum Blvd.
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Ph: 602.971.4800
Fax: 602.953.3621

NW Phoenix Office:
18444 N. 25th Ave.
Suite 420
Phoenix, AZ 85023
Ph: 602.971.4800
Fax: 602.396.2300

Tucson Office:
1670 E. River Road
Suite 250
Tucson, AZ 85718
Ph: 520.615.3100
Fax: 520.615.3110

www.loosebrown.com

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JESSE R. CALLAHAN
TROY D. ROBERTS

OF COUNSEL:
ERNST JANENSCH
FRANK A. SCERBO*

*ALSO ADMITTED IN MICHIGAN
°ALSO ADMITTED IN NEW YORK AND CONNECTICUT (R)

Writer's E-mail:
jesse@loosebrown.com

February 7, 2013

Chris Poirier
Assistant Planning Director
Pima County Development Services Department – Planning Division
201 N. Stone Ave.
Tucson, AZ 85701

Re: Amended Application for Plat Note Waiver and Modification of Rezoning Condition for 4870 W. McElroy Dr., Tucson, AZ 85745-9178

Dear Mr. Poirier:

This letter serves to apply for a plat note waiver and request for modification of rezoning condition to address the requirements set forth in the Submittal Item Checklist for Special Board of Supervisors' Hearing Request and correspondence from Pima County Development Services.

Owner: Timmins Family Trust

Applicant: Law firm of Loose, Brown & Associates as counsel for William Timmins

Address: Loose, Brown & Associates
1670 E. River Road, Suite 250, Tucson, AZ 85718
(w) 520-615-3100
(fax) 520-615-3110

Situs Address: 4870 W. McElroy Dr., Tucson, AZ 85745-9178
Assessors Tax Code ID#: Tax Area 0108

Explanation and justification for request: The Timmins Family Trust respectfully requests that the 85 foot setback that is on the plat be waived for the guest house located on the above property. Timmins also requests a modification of the rezoning condition, pursuant to a request submitted via e-

mail correspondence from Terri Tillman, a Senior Planner with Pima County Development Services. A copy of the

During a bench trial in prior litigation in this matter, the Chief Zoning Inspector, Tom Drzazgowski, admitted he would not have approved the very same plans that Pima County in fact approved for the construction of Timmins' guest house. The plans at issue, however, were approved. In addition, a Pima County inspector, Gerry Monson, visited Timmins' guest house prior to construction and approved the layout and location of the structure. It was only after Timmins built the guest house that the County tried to reverse course and cited Timmins, threatening to destroy the guest house.

Importantly, Timmins was previously cited for the alleged zoning conditions and plat map requirements. *See* Stipulated Facts in Joint Pre-Trial Memorandum previously lodged with the County; *see also* 8/19/2010 Notice of Violation and Citation ("Non-adherence to recorded subdivision plat). This alleged violation and citation was subsequently ***dismissed*** on 10/11/2010, without appeal. *See* Order of Partial Dismissal (dismissing citation no. P10CV00376-1, which provided "Structure does not meet required 85' setback off of Gates Pass Rd. Non-adherence to recorded subdivision plat."). Accordingly, under the legal principles of *res judicata*, collateral estoppel, and the federal constitutional prohibition against double jeopardy, Timmins should not be further prosecuted with threats of razing the guest house.

In fact, a nearly identical issue was already litigated in Superior Court after Pima County Board of Adjustment, District 5 erroneously rejected these very same arguments. Before the Superior Court trial judge, the County argued the structure at issue should be "removed", *i.e.* torn down. Under the common law principle disfavoring waste, the Superior Court held that the structure should not be razed and awarded Timmins attorney fees and costs incurred. That same principle applies herein.

Since the dismissal and the final judgment entered by Superior Court, Timmins has done everything possible to comply with the requirements to remove the driveway and install a subpanel for the electrical connection to the guest house. In response, the County has refused to approve the plans Timmins resubmitted to comply with the judgment of the Superior Court. Incredibly, Mr. Drzazgowski told Timmins he was going to reject the revised plans before Timmins even submitted them. Subsequently, the revised plans were rejected. Along with that rejection, the County moved forward with its threat to raze Timmins' guest house. The County's insistence on tearing down a structure it originally approved is inexplicable and contrary to the final judgment entered by the Superior Court, and in violation of the prior Order of Partial Dismissal, which went without appeal.

Timmins has acted in good faith at all times in complying with the requirements of the County. Timmins relied on the County's approval and measurement of the structure in initially building the structure at its current location. In order to meet new building requirements post-litigation, as ordered by the Superior Court, *e.g.* modification of the electrical connection and removal of the driveway, the 85 foot setback must be waived and the rezoning condition must be modified. Without the waiver and rezoning modification, the County's actions will be inconsistent with the Orders of the Superior Court and the prior dismissal of the alleged violation.

Size of subject property: 51,378 sq. ft. (1.18 acre)

Site Plan: Please find enclosed the revised site plan and eighty five foot setback illustration. (Enclosed). The original survey from when the home was constructed is also included herewith.

Disclosure of Ownership: Timmins Family Trust. Trust beneficiaries/officers are William Timmins and Susan Timmins.

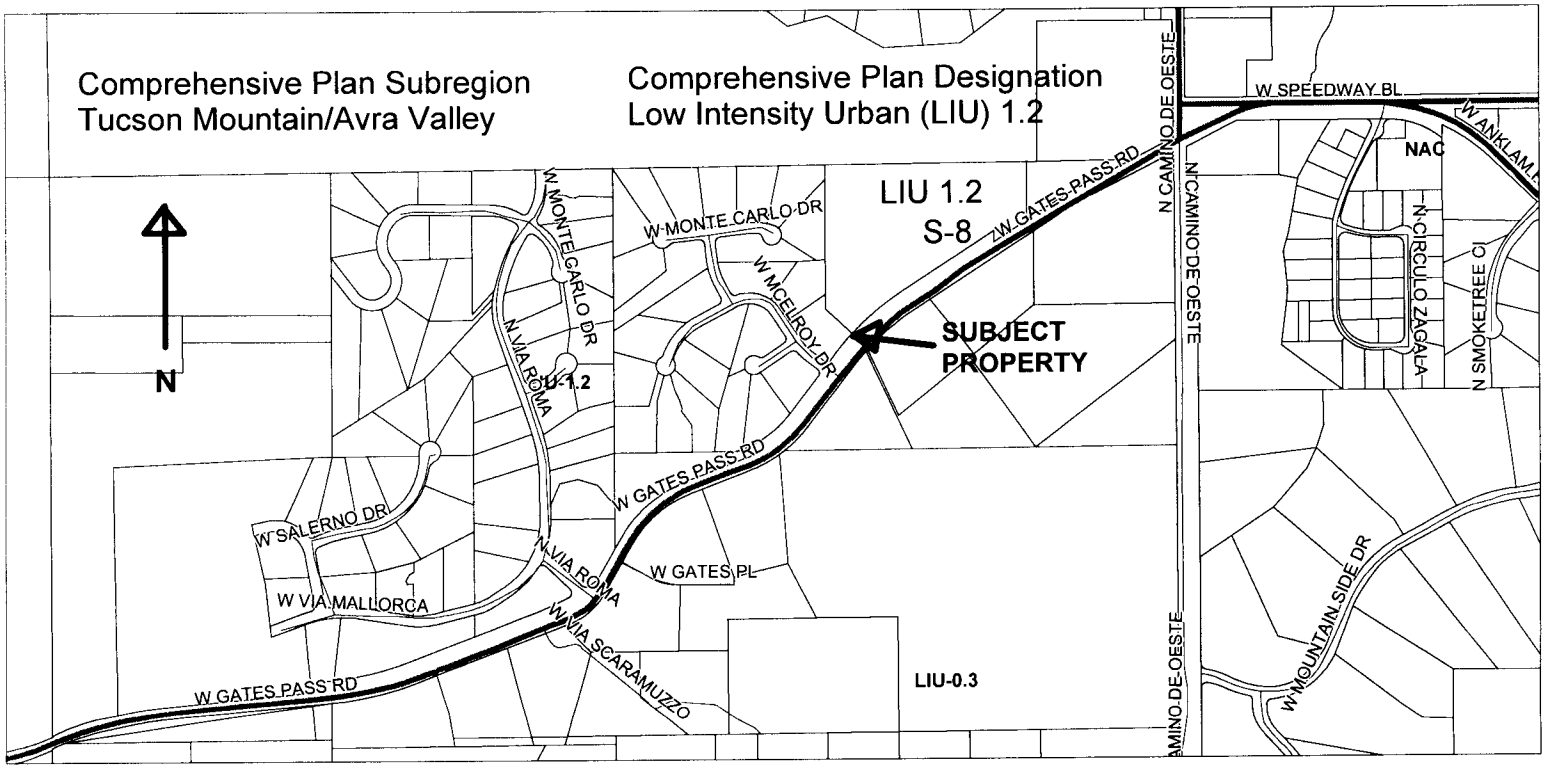
Fee:	1 Special Action f/Waiver of Condition	1115
	1 Modification of Rezoning Condition	370
	2 Advertised Public Hearings	1488
	Total	$2973

Very truly yours,

LOOSE, BROWN & ASSOCIATES, P.C.

Jesse R. Callahan

JRC
Cc: William Timmins
Letter.doc


Comprehensive Plan Subregion
Tucson Mountain/Avra Valley
Comprehensive Plan Designation
Low Intensity Urban (LIU) 1.2
LIU 1.2
S-8
SUBJECT PROPERTY
N
W SPEEDWAY BL
W ANKLAM
NAC
N CAMINO DE OESTE
W GATES PASS RD
W MONTE CARLO DR
W MCELROY DR
N VIA ROMA
LIU-1.2
W SALERNO DR
W VIA MALLORCA
W GATES PL
W VIA SCARAMUZZO
LIU-0.3
N CIRCULO ZAGALA
N SMOKETREE CI
W MOUNTAIN SIDE DR

8. **Low Intensity Urban** **LIU (or C) on the Land Use Plan Maps**

a. Purpose: To designate areas for low density residential and other compatible uses; to provide incentives for clustering residential development and providing natural open space; and to provide opportunities for a mix of housing types throughout the region.

b. Residential Gross Density: Only land area zoned and planned for residential use, or natural or cluster open space areas, shall be included in gross density calculations. Natural and cluster open space shall be defined as set forth in Section 18.09.040B, except that cluster open space shall not include land developed under the GC Golf Course Zone. Projects utilizing any of the cluster options set forth in this section shall conform with the provisions of Section 18.09.040 Cluster Development Option. Residential gross density shall conform with the following:

1) Low Intensity Urban 3.0:
   (a) Minimum - (none)
   (b) Maximum - 3.0 RAC. The maximum gross density may be increased in accordance with the following cluster option:
      (i) Gross density of 4.0 RAC with 30 percent cluster open space.
   (c) Residential Gross Densities for Developments Using Transfer of Development Rights (TDR's): Projects within designated Receiving Areas utilizing TDR's for development (refer to Chapter 18.92 of the Zoning Code) shall conform to the following density requirements, however the Board of Supervisors, on appeal at public hearing, may modify the required minimum density if environmental site constraints preclude the ability to achieve the minimum density.

      Minimum – 1.5 RAC
      Maximum – 3.0 RAC. The maximum gross density may be increased in accordance with the following cluster option:
      (i) Gross density of 4.0 RAC with 30 percent cluster open space.

2) Low Intensity Urban 1.2:
   (a) Minimum - (none)
   (b) Maximum - 1.2 RAC. The maximum gross density may be increased in accordance with the following cluster options:
      (i) Gross density of 2.5 RAC with 30 percent cluster open space, plus 15 percent natural open space; or
      (ii) Gross density of 4.0 RAC with 30 percent cluster open space, plus 30 percent natural open space.
   (c) Residential Gross Densities for Developments Using Transfer of Development Rights (TDR's): Projects within designated Receiving Areas utilizing TDR's for development (refer to Chapter 18.92 of the Zoning Code) shall conform to the following density requirements:

      Minimum – (none)
      Maximum – 1.2 RAC. The maximum gross density may be increased in accordance with the following cluster option:
      (i) Gross density of 2.0 RAC with 30 percent cluster open space plus 20 percent natural open space.

S-8 Tucson Mountains North (TM/AV) [5-01]

General location: Northern portion of the Tucson Mountains Subregion, portions of T13S, R12E; T13S, R13E, T14S, R12E, T14S, R13E.

Description: The northern portion of the subregion is located between urbanization areas in the City of Tucson and the public reserves of Tucson Mountain Park and Saguaro National Park, and is distinguished by rugged terrain, highly diverse vegetation, significant wildlife habitat and many riparian areas. The purpose of the Tucson Mountains North Special Area is to protect this special environment while planning for expected growth. To achieve this purpose, planning strategies include: 1) declining westward land use intensities; and 2) a low-density conservation area and buffer to Tucson Mountain Park and Saguaro National Park.

Policies:

A. Structures. All structures west of Silverbell Road shall be limited to a maximum height of 24 feet, and shall be sited and landscaped to minimize negative visual impacts. All structures shall be of a color which is in context with the surrounding environment.

B. Open Space Dedication. Natural area designations not dedicated to and accepted by Pima County for restricted use as a perpetual open space at the time of an exchange for an allowed density increase on a given portion shall, for those parcels, provide that the property owners within 660 feet and the Tucson Mountains Association are nominal beneficiaries of the natural open space created.

C. Notwithstanding the zoning districts permitted under the Comprehensive Plan Land Use Plan Legend, SH (Suburban Homestead Zone) and RH (Rural Homestead Zone) shall not be permitted.

D. Notwithstanding the zoning districts permitted in accordance with the Major Resort Community provisions, CPI (Campus Park Industrial Zone) or TR (Transitional Zone) shall not be permitted.

ITEM 1

EXHIBIT #2

Development Services

Notice of Violation and Citation

Zoning Code Enforcement
201 N. Stone Avenue, Second Floor
Tucson, AZ 85701
(520) 740-6441 Fax: (520) 243-1629

NOTICE OF VIOLATION

DESCRIPTION OF PROPERTY OR PREMISES IN VIOLATION

Address of Violation: City, State Zip Code:	4870 W McElroy Rd Tucson AZ 85745	Case No.:	P10CV00376
Owner:	Timmins Family TR ATTN: William V & Susan A Timmins TR	Owner Phone:	N/A
Owner address: City, State Zip Code:	4870 W McElroy Rd Tucson AZ 85745	Tenant Phone:	N/A
Tenant/Business Name:	N/A	Business Phone:	N/A
Tenant/Business address: City, State Zip Code:	N/A	Parcel No. :	212130520
Person contacted on site:	Mr. William V. Timmins	Zoning:	CR1
Additional Info:	N/A		

PERSON OR BUSINESS COMMITTED VIOLATION(S) OF THE PIMA COUNTY CODE SECTIONS LISTED BELOW:

No:	Code Section:	Description of violation(s):
1.	18.77.040 – Scenic Routes	Structure does not meet required 85' setback off of Gates Pass Rd. Non-adherence to recorded subdivision plat.
2.	18.77.040 – Scenic Routes	Structure is not painted a desert earth-tone color. See Note 13 of the recorded subdivision plat.
3.	18.09.020G – Guest Houses	Structure does not meet Guest House requirements.
4.	2006 International Building Code Sections 105 (Permits), 109 (Inspections), 110 (Certificate of Occupancy and 113 (Violations).	Structure occupied w/o Final Inspection / Certificate of Occupancy
5.	2006 International Building Code Sections 105 (Permits), 106 (Construction Documents), 109 (Inspections) and 113 (Violations).	Structure built without adherence to approved plans. Construction not in accordance with approved plans.

REQUIREMENTS TO RESOLVE VIOLATION(S)

No:	Compliance time:	Actions required to resolve violation(s):
1.	October 7, 2010	Apply for the Board of Supervisor's approval to reduce the structure's setback through a waiver.
2.	October 7, 2010	Paint the structure in accordance with Note 13 of the recorded subdivision plat or apply for the Board of Supervisor's approval for a plat note waiver.
3.	October 7, 2010	Remove the kitchen or record the appropriate covenant with a Doctor's letter for an ill or handicapped relative. Remove the separate electric meter and sub-meter the structure or obtain a variance from the Board of Adjustment for a separate electric meter. Remove the separate driveway or obtain a variance from the Board of Adjustment for the separate driveway. Cease rental of the Guest House.
4.	October 7, 2010	Obtain Final Inspections for the structure for a Certificate of Occupancy.
5.	October 7, 2010	Obtain approved revisions to the approved plans for the portions of the structure's construction not adhering to the approved plans.

EXHIBIT A

Development Services

Notice of Violation and Citation

Zoning Code Enforcement

201 N. Stone Avenue, Second Floor
Tucson, AZ 85701
(520) 740-6441 Fax: (520) 243-1629

INSPECTOR VERIFICATION

Inspector name: Robert D. Farkas

Inspector signature: Robert D. Farkas Date: August 19, 2010

Notice Delivery: First Class Mail: XX Certified Mail: ___ Given to _____ on site.

Pima County
Development Services

Notice of Violation and Citation

Zoning Code Enforcement
201 N. Stone Avenue, Second Floor
Tucson, AZ 85701
(520) 740-6441 Fax: (520) 243-1629

CITATION

Pima County vs. Defendant

Address of Violation: City, State Zip Code:	4870 W McElroy Rd Tucson AZ 85745	Citation No.:	P10CV00376
Defendant Name(s):	TIMMINS FAMILY TR ATTN: WILLIAM V & SUSAN A TIMMINS TR	Owner Phone:	N/A
Defendant Address: City, State Zip Code:	4870 W McElroy Rd Tucson AZ 85745	Occupant Phone:	N/A
Tenant/Business Name:	N/A	Business Phone:	N/A
Tenant Business Address City, State, Zip Code	N/A	Parcel Number:	212130520

The undersigned says the defendant(s) did, on July 2, 2010, at the location above, commit the following violation(s) of the 2008 Pima Zoning Code, Sections: 18.95.030.B4, 18.77.040 and 18.09.020.G, and the 2006 International Building Code, Sections 105 (Permits), 106 (Construction Documents), 109 (Inspections), 110 (Certificate of Occupancy) and 113 (Violations).

I certify that upon reasonable grounds I believe the defendant committed the described violations contrary to code items listed above, and I have caused to be served a copy of this complaint upon the defendant.	Inspector: Robert D. Farkas	Date: 08/19/2010
	Signature: Robert D. Farkas	

Notice of Arraignment Date

Your arraignment date before the administrative Hearing Officer is **October 7, 2010** at **9:00 A.M.** in the basement, level B of the Public Works at 201 N Stone Avenue, Tucson, AZ 85701.

You have two options for response to this Citation for Code Violations. Failure to do one of the following may result in a judgment and fine being imposed against you.

Option 1: Complete and submit the attached Entry of Plea in Lieu of appearing at the arraignment. Read the instructions for Entry of Plea carefully.

Option 2: Appear at the arraignment on the date and time listed above.

INSPECTOR RECOMMENDATIONS

No.	Recommendation:
1.	Should the property be brought into compliance and the Inspector is given notice prior to October 7, 2010, then the citation may be dismissed and the case closed. If the property is not in compliance prior to October 7, 2010, then the recommendation at hearing will be a $750.00 fine with $50.00 due within 14 days and the remaining $700.00 suspended for a period of 45 days from the date of judgment pending compliance with the code. Compliance may be achieved by applying for the Board of Supervisor's approval to **reduce the structure's setback** through a waiver.
2.	Should the property be brought into compliance and the Inspector is given notice prior to October 7, 2010, then the citation may be dismissed and the case closed. If the property is not in compliance prior to October 7, 2010, then the

EXHIBIT B

Pima County
Development Services

Notice of Violation and Citation

Zoning Code Enforcement
201 N. Stone Avenue. 2nd Floor
Tucson, AZ 85701
(520) 740-6441 Fax: (520) 243-1629

	recommendation at hearing will be a $750.00 fine with $50.00 due within 14 days and the remaining $700.00 suspended for a period of 45 days from the date of judgment pending compliance with the code. Compliance may be achieved by **painting the structure** in accordance with Note 13 of the recorded subdivision plat or applying for the Board of Supervisor's approval for a plat note waiver.
3.	Should the property be brought into compliance and the Inspector is given notice prior to October 7, 2010, then the citation may be dismissed and the case closed. If the property is not in compliance prior to October 7, 2010, then the recommendation at hearing will be a $750.00 fine with $50.00 due within 14 days and the remaining $700.00 suspended for a period of 45 days from the date of judgment pending compliance with the code. Compliance may be achieved by **removing the kitchen** or recording the appropriate covenant with a Doctor's letter for an ill or handicapped relative; **removing the separate electric meter** and sub-metering the structure or obtaining a variance from the Board of Adjustment for a separate electric meter, **removing the separate driveway** or obtaining a variance from the Board of Adjustment for the separate driveway and **ceasing future rental** of the Guest House.
4.	Should the property be brought into compliance and the Inspector is given notice prior to October 7, 2010, then the citation may be dismissed and the case closed. If the property is not in compliance prior to October 7, 2010, then the recommendation at hearing will be a $750.00 fine with $50.00 due within 14 days and the remaining $700.00 suspended for a period of 45 days from the date of judgment pending compliance with the code. Compliance may be achieved by **obtaining Final Inspections** for the structure for a certificate of occupancy.
5.	Should the property be brought into compliance and the Inspector is given notice prior to October 7, 2010, then the citation may be dismissed and the case closed. If the property is not in compliance prior to October 7, 2010, then the recommendation at hearing will be a $750.00 fine with $50.00 due within 14 days and the remaining $700.00 suspended for a period of 45 days from the date of judgment pending compliance with the code. Compliance may be achieved by **obtaining revisions to the approved plans** for the portions of the structure's construction not adhering to the approved plans.

BEFORE THE PIMA COUNTY ZONING/BUILDING CODES ENFORCEMENT HEARING OFFICER

201 N. Stone Ave, Tucson, AZ 85701
(520)740-6800

Pima County vs. **TIMMINS FAMILY TRUST,** **Defendant**	Case No. P10CV00376-1 thru 5 ORDER OF PARTIAL DISMISSAL

The Hearing Officer having heard testimony, at the hearing on this case of October 7, 2010, from the assigned County enforcement inspector in this case, wherein he indicated that two of the citations in this particular case have been addressed and can be dismissed.

IT IS HEREBY ORDERED AS FOLLOWS:

1. Citation Nos. P10CV00376-1 (pertaining to scenic route setbacks) and P10CV00376-2 (pertaining to scenic route earth-tone colors) have been resolved and are hereby dismissed.

2. Citation Nos. P10CV00376-3, P10CV00376-4, and P10CV00376-5 remain in force and are subject to a separate Judgements as issued on today's same date.

ORDERED this 11th day of October, 2010.

HEARING OFFICER (Jim Portner)

Copies mailed/delivered to parties by AK on 10-12-10

Form HO-86-4
REV 12/2004

BEFORE THE PIMA COUNTY ZONING/BUILDING CODES 201 N. Stone Ave, Tucson, AZ 85701

EXHIBIT C

BEFORE THE PIMA COUNTY ZONING/BUILDING CODES ENFORCEMENT HEARING OFFICER

201 N. Stone Ave., Tucson, AZ 85701
(520) 740-6800

PIMA COUNTY vs. TIMMINS FAMILY TRUST, **Defendants**	Case No. P10CV00376-3 **JUDGMENT**

Defendant Present X **Defendant Not Present** _____

The Hearing Officer having heard the evidence by all parties in the matter of the above captioned Zoning/Building Codes Enforcement Complaint, the Hearing Officer finds as follows:

Based upon photographic and other evidence presented by the County Code Enforcement Inspector at the hearing of October 7, 2010 the defendant is found responsible for a violation of Section 18.09.020.G (guest house requirements and standards) of the Pima County Zoning Code.

BASED ON THE ABOVE FINDINGS, IT IS HEREBY ORDERED THAT:

__X__ Judgment is entered in favor of Pima County and against Defendant, who is ordered to pay a civil fine in the amount of

Seven Hundred Fifty Dollars (**$750.00**), to be paid as follows:

A fine of seven hundred fifty dollars ($750.00) is levied, $50.00 of which is due within fourteen (14) days of the date of this Judgement and the remaining $700.00 amount of which is suspended for a period of ninety (90) days from the date of this Judgement so as to provide the Defendant the opportunity to bring the property into compliance with the Code. Upon achievement of compliance within 90 days per the following, the remaining portion of the fine shall be dismissed:

1. Achieve conformance of the guest house in question with all requirements of Section 18.09.020.G and as outlined in the Inspector's citation materials.

Note: The Hearing Officer recognizes that additional compliance time may be required in this case based upon the public-notice and Board of Supervisors agenda scheduling attendant to the setback variance needed to resolve the violation. This issue will be addressed once the variance schedule has been determined.

FAILURE TO CORRECT VIOLATIONS MAY RESULTS IN FURTHER SANCTIONS.

ORDERED this 11th day of October, 2010.

HEARING OFFICER (Jim Portner)

NOTICE OF RIGHT TO APPEAL: Any party may appeal the Hearing Officer=s final Judgment to the Board of Supervisors by filing a written notice of appeal. The notice of appeal shall identify the order or judgment being appealed and shall conform to the requirements of Chapter 4 of the Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure. A copy of the Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure may be obtained from the Hearing Officer for a nominal charge. THE NOTICE OF APPEAL MUST BE FILED WITHIN FIFTEEN CALENDAR DAYS AFTER THE ENTRY OF THE ORDER OF JUDGEMENT.

Copies mailed/delivered to parties by AK on 10-12-10

Form HO-86-3
REV. 1/2007

BEFORE THE PIMA COUNTY ZONING/BUILDING CODES ENFORCEMENT HEARING OFFICER

201 N. Stone Ave., Tucson, AZ 85701
(520) 740-6800

PIMA COUNTY vs. TIMMINS FAMILY TRUST, **Defendant**	Case No. P10CV00376-4 **JUDGEMENT**

Defendant Present __X__ **Defendant Not Present** _____

The Hearing Officer having heard the evidence by all parties in the matter of the above captioned Zoning/Building Codes Enforcement Complaint, the Hearing Officer finds as follows:

Based upon photographic and other evidence presented by the Pima County Code Enforcement Inspector at the hearing of October 7, 2010, the defendant is found responsible for a violation of Section 105 (permits), Sec. 109 (inspections), Sec. 110 (certificate of occupancy), and Sec. 113 (violations) of the 2006 International Building Code (IBC).

BASED ON THE ABOVE FINDINGS, IT IS HEREBY ORDERED THAT:

__X__ Judgment is entered in favor of Pima County and against Defendant, who is ordered to pay a civil fine in the amount of **Seven hundred fifty** Dollars (**$750.00**), to be paid as follows:

A fine of seven hundred fifty dollars ($750.00) is levied, $50.00 of which is due within fourteen (14) days of the date this Judgement and the remaining $700.00 amount of which is suspended for a period of ninety (90) days to allow the Defendant the opportunity to bring the property into compliance. Said compliance can be achieved by:

1. Obtaining final inspection approval for the guest house structure in question, OR
2. Removing the structure and/or work in violation from the property.

Note: The Hearing Officer recognizes that additional compliance time may be required in this case based upon the public-notice and Board of Supervisors agenda scheduling attendant to the setback variance needed to resolve the violation. This issue will be addressed once the variance schedule has been determined.

FAILURE TO CORRECT VIOLATIONS MAY RESULTS IN FURTHER SANCTIONS.

ORDERED this 11th day of October, 2010.

HEARING OFFICER (Jim Portner)

NOTICE OF RIGHT TO APPEAL: Any party may appeal the Hearing Officer's final Judgment to the Board of Supervisors by filing a written notice of appeal. The notice of appeal shall identify the order or judgment being appealed and shall conform to the requirements of Chapter 4 of the Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure. A copy of the Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure may be obtained from the Hearing Officer for a nominal charge. THE NOTICE OF APPEAL MUST BE FILED WITHIN FIFTEEN CALENDAR DAYS AFTER THE ENTRY OF THE ORDER OF JUDGEMENT.

Copies mailed/delivered to parties by MR on 10-12-10

Form HO-86-3
REV. 1/2007

BEFORE THE PIMA COUNTY ZONING/BUILDING CODES ENFORCEMENT HEARING OFFICER

201 N. Stone Ave., Tucson, AZ 85701
(520) 740-6800

PIMA COUNTY vs. TIMMINS FAMILY TRUST, Defendant	Case No. P10CV00376-5 JUDGEMENT

Defendant Present __X__ **Defendant Not Present** _____

The Hearing Officer having heard the evidence by all parties in the matter of the above captioned Zoning/Building Codes Enforcement Complaint, the Hearing Officer finds as follows:

Based upon photographic and other evidence presented by the Pima County Code Enforcement Inspector at the hearing of October 7, 2010, the defendant is found responsible for a violation of Section 105 (permits), Sec. 106 (construction documents), Sec. 109 (inspections), and Sec. 113 (violations) of the 2006 International Building Code (IBC).

BASED ON THE ABOVE FINDINGS, IT IS HEREBY ORDERED THAT:

__X__ Judgment is entered in favor of Pima County and against Defendant, who is ordered to pay a civil fine in the amount of

__Seven hundred fifty__ Dollars ($750.00), to be paid as follows:

A fine of seven hundred fifty dollars ($750.00) is levied, $50.00 of which is due within fourteen (14) days of the date this Judgement and the remaining $700.00 amount of which is suspended for a period of ninety (90) days to allow the Defendant the opportunity to bring the property into compliance. Said compliance can be achieved by:

1. Complete the construction of the guest house structure in question in accordance with approved plans, OR
2. Removing the structure and/or work in violation from the property.

Note: The Hearing Officer recognizes that additional compliance time may be required in this case based upon the public-notice and Board of Supervisors agenda scheduling attendant to the setback variance needed to resolve the violation. This issue will be addressed once the variance schedule has been determined.

FAILURE TO CORRECT VIOLATIONS MAY RESULTS IN FURTHER SANCTIONS.

ORDERED this 11th day of October, 2010.

HEARING OFFICER (Jim Portner)

NOTICE OF RIGHT TO APPEAL: Any party may appeal the Hearing Officer's final Judgment to the Board of Supervisors by filing a written notice of appeal. The notice of appeal shall identify the order or judgment being appealed and shall conform to the requirements of Chapter 4 of the Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure. A copy of the Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure may be obtained from the Hearing Officer for a nominal charge. THE NOTICE OF APPEAL MUST BE FILED WITHIN FIFTEEN CALENDAR DAYS AFTER THE ENTRY OF THE ORDER OF JUDGEMENT.

Copies mailed/delivered to parties by AR on 10-12-10

Form HO-86-3
REV. 1/2007

Transcript from Hearing Timmins Case
P10CV00376-Citation numbers 1 thru 5
Thursday October 7, 2010

Audio File Time 38:11 - Timmins Case
Starts at: 38:10 minutes into the CD

Jim Portner - *Hearing Officer*: We are proceeding here with our next case of the day which is P10CV00376-Citation Numbers 1 thru 5. Written in the name of Timmins Family Trust and William and Susan Timmins. We have the defendant parties and their attorney council here today. Before we came on tape I did give some additional instructions to those in attendance today. We may some individuals from the public who also wish to speak on this case and we will kind of deal with that when we get to that point in the process. I do need to swear everyone in except for the attorneys. So if everybody other than would raise their right hand. I would appreciate that. Do you promise to tell the truth the whole truth nothing but the truth so help you God?

William Timmins (Defendant), Carlson Eby (Construction Contractor), and Robert Farkas (Development Services Code Inspector): I do

Hearing Officer: Thank you very much. Discovery has clearly occurred in this case. So at this point I am going to just turn it over to the County Inspector for your presentation.

Robert Farkas: Good morning my name is Robert Farkas I am a Pima County Codes Enforcement Inspector. We are here for case number P10CV00376. The address is 4870 W. McElroy Drive Tucson Arizona (Hearing Officer - no talking please sorry) and the defendants are William and Susan Timmins of the Timmins Family Trust.

I would like to turn your attention to Exhibit number one. Current Assessors Record indicating that the Timmins are the owners of 4870 W. McElroy Drive in Tucson and I would like to turn your attention to Exhibit number two. It is the notice of the violation citation that I issued on August 19 2010 to the Timmins Family Trust at 4870 W McElroy Drive Road and Drive I'm sorry and it was issued for a guest house, a permitted guest house with violations.

There were five citations.

The first was the structure did not meet the required 85' setback from Gates Pass Road. That was under section 18.770.40.

The second citation is that the structure is not painted a desert earth tone color. That was per Note 13 of the Subdivisions Plat. That again was under 18.770.040.

Number three was that the structure did not meet the guest house requirements and that was under section 18.09.020G *Guest House Requirements*.

Citation four was for structure occupied without final inspection or certificate of occupancy and that was under the *2006 International Building Code* Sections 105 (Permits), 109 (Inspections), 110 (Certificate of Occupancy) and 113 (Violations), and

The fifth and final citation was structure not build according to approved plans and that was again under the same *2006 Building Code* and Sections.

I would like to turn your attention to exhibit number three.

Hearing Officer: Could I just ask a quick question about one of those citations?

Robert Farkas: Sure

Hearing Officer: The first one. You had started by saying it was a permitted structure. Did you mean it is permitted per the Code but there OK so there was a permit issued for construction which is clear by the rest of the citation.

Robert Farkas: Right

Hearing Officer: But how did they not meet the setback requirement was it not built where the permit application showed it would be built or was it built where the permit application showed it would be built?

Robert Farkas: The permit application plans for the permit application showed a setback and at that time that setback was inspected by a field inspector and where the building was set was by code building inspector approval. So that setback was 85' at that the time and I don't believe it was on the plans if this setback was Natural or Scenic.

Hearing Officer: OK. What I guess what I am not understanding is did they build it where they told the County they were going to build it or did they tell the County they were going to build it and then they built it closer?

Robert Farkas: At this point in time they do have a survey that is indicating that they did build it where it was supposed to be built.

Hearing Officer: OK

Robert Farkas: Which will be submitted.

Hearing Officer: OK, so until Got it OK alright

Robert Farkas: That was a fair question.

Hearing Officer: ..That clarifies it for me. I just want to know the nature of the violation. Thank you. Go ahead.

Robert Farkas: OK There is the photographs Exhibit number three and that shows the main residence to the left and the guest house to the right. The smaller structure right on Gates Pass Road and there is a second aerial I believe these are both from 2010

The second aerial is just to give an indication of the area between the guest house and the main house and that is a wash area in which no utilities can be run between the guest house and the main house. [redacted]

Hearing Officer: And this use to the southeast is that the Wildlife Museum?

Robert Farkas: Wildlife Museum Yes

Hearing Officer: OK

Robert Farkas: And turn to the next photograph which was taken on July 21st 2010 is the front of the guest house without final inspection. The second photograph shows the driveway which is the contention at this time. Code says that the guest house should not have a second driveway.

Hearing Officer: Second driveway, right.

Robert Farkas: The next photograph is of the interior of the guest house. This photograph shows it had a range and electric service to it and inspection on October 4th indicates that the service was removed, the cabinets were restored and the counter.

Hearing Officer: OK

Robert Farkas: The next photo is the service, which is an individual meter. Typically guest house per code should have a sub paneled meter.

The next photograph is taken from the porch of the guest house and shows the distance, the viewing distance to the road on Gates Pass. And the final photo shows from the road to the guest house on Gates Pass.

And the fourth exhibit is the notes from opening the case to my inspection on October 4th indicating that the kitchen issue has been resolved by removing the stove from kitchen facility.

That ends the presentation.

Hearing Officer: Is there anything substantive in these 6 8 pages that I should pay attention to or is it just there for the record.

Robert Farkas: For the record basically unless the defendants have questions regarding those notes.

Hearing Officer: OK so the last entry cooking range has been removed and replaced with cabinetry, blah blah blah blah blah. Does that have any impact on any of the pending violations? Does it resolve any of them by itself?

Transcript from Hearing Timmins Case
P10CV00376-Citation numbers 1 thru 5
Thursday October 7, 2010

Robert Farkas: Partial resolutions of several general requirements being that the guest house [illegible] being color of the guest house and the kitchen cooking facility have been removed.

Hearing Officer: Got it. Alright then I think understand as much as I going after that at this point and I anticipate learning more. So gentleman I don't know who is going to be the primary spokesman for you. Whoever speaks I need your name and address for the record.

Jesse Callahan (Attorney for the Defendant): My name is Jesse Callahan

Hearing Officer: Please pull that to you.

Jesse Callahan: My name is Jesse Callahan I am the attorney appearing on behalf of Mr. Timmins. My address is 11240 N. Tatum Blvd. Suite 110, Phoenix Arizona 85028.

Hearing Officer: OK

Jesse Callahan: If the Hearing Office doesn't mind I am going to ask Mr. Carlson to testify as a witness first he has an emergency that he has to attend at 11 o'clock.

Hearing Officer: That's fine. That's fine just give me your name and address for the record

Jesse Callahan: *OK.* Actually before that Mr. Timmins has a few things he would like to say on his own behalf.

William Timmins: I am William Timmins. My address is 4870 W. McElroy Drive, Tucson Arizona 85745. I just want to address the setback very quickly. The setback was measured and approved by the or the location of the property was approved by the County and they did come out and do a measurement. I want to this over to my contractor to get his one note before we turn it back over to Mr. Callahan to proceed and then I will make further comments.

Hearing Officer: OK But just so I understand so, you are saying that a County inspector went out there verified the setback as being adequate and in compliance with code requirements.

Robert Farkas: The County Inspectors is expected to site a building when conducting the location of the footings and excavations for the rebar as part of the inspection process per the plan.

Hearing Officer: OK. So I am a little confused. So just stick with me guys. What you asserting is that you think you have got the issue resolved in respect to the setback.

William Timmins: No

Hearing Officer: No.

William Timmins: No. No it is not resolved with respect. It is resolved with the setback to Scenic requirement and then in regards to the location of the actual structure. The structure, the structures location was approved per a 1' plus 85' that we were advised by the County that the structure had a setback from Gates Pass Road and that is where Mr. Carlson's testimony would be relevant here because he was the one that spoke with the County and the County did come out and verify that the location where we were building was an approved location per setback requirements. But that is in contention.

Hearing Officer: Fairly OK.

Carlson Eby: My name is Carlson Eby and I live at 11771 N. First Avenue, Oro Valley Arizona 85737. Originally before this project actually even began I had gone down to the County Building to find out what the setbacks were. We had heard they were 85' from the original set of plans Mr. Timmins had from the house when it was originally built. But they were very sketchy. Upon that time the plans examiner that I spoke with pulled up a plat for the property and he blew up this particular paper and as we were discussing it he said "OK Here is Gates Pass Road here is McElroy Drive it looks like you have a 1 foot no access easement right here and then 85' from that point back." And that is exactly where we measured from, I'm going to give this..

Hearing Officer: Even with my glasses I can't see that far, you are going to have to..

Carlson Eby: If you don't mind I'll just give you the idea..

Hearing Officer: That I got.

Carlson Eby: .. would determine

Hearing Officer: So you have a 1' no access along Gates Pass and there is your 85' building setback line.

Carlson Eby: And that where we actually set the building back where it was built. Now, when the County inspector came out and I do not have his number, but his name is Gerry I think it is G37 if I am not mistaken. He came out to inspect the footers of the building, the rebar and the zoning. He measured off the zoning. And Gerry is a very particular individual I will say. He checked every square inch of the footers to make sure complied with the one foot depth in solid rock, even at that. And at that time he passed off on the zoning and for everything that was there that was required and that is where we started the project, poured the pad and went from there.

Hearing Officer: OK

Carlson Eby: So as far as we knew. The setbacks were not an issue at any time and..

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

Carlson Eby: We did absolutely and what was given from the County when I originally went down there and what Gerry had gone and measured off when he came out and that is where we were.

Hearing Officer: OK, alright.

Carlson Eby: Thanks

Jesse Callahan: In additional to Mr. Carlson Mr. Eby's testimony there has been a survey conducted and that survey does show that the that shows it is in compliance with the applicable setbacks and if the hearing officer would.

William Timmins: If I could explain that.

Jesse Callahan: Mr. Timmins is actually qualified to testify as to these setbacks. He is, you can go ahead and tell him what your occupation is.

William Timmins: I work with Geographical Information Systems. So what I did is relying on a couple of things. First of all Mr. Farkas came out and we tape measured off approximately for the Scenic Setback, which I believe we are in compliance with. The Scenic Routes people told me it was half of the amount of the Scenic Route plus 30' which would be 105'. We measured approximately 110' from the structure, not taking into consideration the porch which is 6', to the centerline of the road. I also have some relative measurements that I did using the pictometry imagery. Which basically shows a 25 X 40 foot structure and then using 1cm as 40', shows me that the porch is about 106' from where it should be.

And then there is also in regards to the Scenic Setback. Scenic Setbacks have been overturned but I don't even believe it is necessary based on disturbance and you can see another structure there that is within 80' of the right of way I believe and that was based on disturbance. And then I have some imagery that I have used that has been enhanced that actually shows disturbance in a darker color. And you can see the disturbance of the area in thru there whereas the area across the street from the property is natural and is much lighter. So the entire, my entire parcel there between the arroyo and Gates Pass Road has been overturned or disturbed at some time and I don't know how all that top soil has been done because it is pretty much solid rock there.

Hearing Officer: I have given you a lot of leeway.

William Timmins: Alright

Hearing Officer: Now let me say a couple of things.

William Timmins: Yes sir.

Hearing Officer: Pictometry is pictometry and I don't trust you know for survey issues the number that I am going to get off of Pictometry. They are going to be close, but I am going to trust the survey.

William Timmins: Exactly

Hearing Officer: *OK*

William Timmins: I agree.

Hearing Officer: So that stuffs nice and frankly other disturbance on other parcels. Again I am here about finding the facts on this case, this citation that is here in front of me today. So you know every case that is in front of me the person who is sitting in that chair can say "my neighbor did this or my neighbor did that" I am sorry, irrelevant. I am here for this property this property and the facts that pertain to this case. So I am much more concerned, I mean if you want to go and file citations on other people you know in the neighborhood OK

William Timmins: No no

Hearing Officer: We will have cases. But I am much more concerned in something that Scott Shane for example puts his seal on and that gives me some hard survey data than I am in Pictometry stuff that is supportive information that is great. But this is the kind of stuff that is more valuable to me.

Now the other side of that is I am not the one who is going to resolve this issue as to whether or not the setback is in fact being honored or not. Other people are going to do that. That is not the Hearing Officer role in this to absorb all the survey data and make a determination whether or not if the setback. How is this going to get resolved? There is a lot of data here that tells me from this side they believe there is not an issue with respect to setback. What is the process by which this ultimately gets crunched evaluated by the County and the County either concurs or continues to contest.

Robert Farkas: Well the defendant does have a plan and that is reflected in my recommendations for the time frame as he has made an application to the Board of Adjustment to start the process rolling.

Hearing Officer: OK

Robert Farkas: Whatever that process be that the County will go thru.

Hearing Officer: So is it the County's position they have already evaluated this information and still believes that is a setback issue which then mandates the variance. Cause what I am hearing from you and maybe I am just an just clueless and not hearing any of this correctly.

But what I think I am hearing from this side is there is no setback issue any more we verified that we meet 85' or am I just not hearing it.

William Timmins: There is not a Scenic Route setback issue. There is an issue as to where the structure is located on my parcel, in regards to the setbacks.

Hearing Officer: In regards to the 85' setback.

William Timmins: Correct. Well that was all taken into consideration.

Hearing Officer: That's what I thought.

William Timmins: It was measured wrong and approved by the County and so that where..

Hearing Officer: OK

William Timmins: where we got have a problem that is an issue Board of Supervisors not the Board of Adjustment.

Hearing Officer: OK. So it is coming to me slow but sure, I apologize.

William Timmins: So that is why I am saying we are compliant with one with the compliant with one the citation but we are not compliant with the setback.

Hearing Officer: Alright.

Robert Farkas: Just to add they are ahead where most people would have been in this process when they came to the Administrative Hearing [redacted] so we move to get the hearing done and get the recommendations out.

Hearing Officer: Got it. OK So we spent enough time beating the setback issue to death.

Robert Farkas: We sure have.

Hearing Officer: On the other citations anything you want to be speaking to me about your plan of action, your moving forward steps those kinds of things.

William Timmins: So I guess the desert color is not an issue.

Robert Farkas: It is dismissed

William Timmins: It is dismissed, and then the Guest house currently meets the requirements, based on the submissions to the County for removing the kitchen

Robert Farkas: Right that is noted in the recommendations.

William Timmins: And then the structure is no longer occupied, so that is..

Robert Farkas: And that is noted in the recommendations as well

William Timmins: And then the structure was actually built with adherence to the approved plans, which were wrong, they were approved inappropriately by the County.

Robert Farkas: Correct

William Timmins: In regards to wiring and all kinds of things.

Robert Farkas: And the recommendations note the same because we don't know what the outcome is going to be out all of your reviews at the Board of Adjustment and the Board of Supervisors. So whatever they say we have follow just as you do and that will just remain like that for the record until we resolve it.

Hearing Officer: So I should have just told you to get to the recommendations as you have obviously been working on this for some time.

Robert Farkas: Yes.

Hearing Officer: Alright OK. Then at this point I am not going to hear recommendations yet. Now I am getting enough sense of the dialogue that has obviously been going on a very technical level for a long time back and forth between yourself and the County. So now sir I will go to you. Anything you want to add.

Donald Faulkner: You leave me with nothing to say because nothing has been resolved you are saying you are going to work with...

Hearing Officer: Well I have not heard the recommendations yet. So I don't know.

Donald Faulkner: Well the only thing that I would have to say is about the Scenic Setback. I believe we have a Scenic Setback. But the County says there isn't one.

Hearing Officer: You know let's do this I am not going to preclude your opportunity to speak. I am expected to be more enlightened when I hear the formal recommendations from the County so that will help clarify things. And I will still afford you an opportunity after I hear those and I will still afford you an opportunity after I hear those and if I have any questions I will afford you and mam if you like to add to mine. So sit tight listen up and let's see where we find ourselves in a few minutes. So at this point I will hear you recommendations and ask any questions that I might have.

Robert Farkas: We have five citations what I have done is created a Consolidation page instead of the information [redacted]

Hearing Officer: Yeah.

Hearing Officer: OK hold on the formal one there being. Hold on this one right here. OK. So this is a companion document only this is what I am supposed to be able to read and understand, correct.

Robert Farkas: There were five citations and I [redacted] And it Repeats five times

The recommendations are for the Timmins Case P10CV00376 that the defendant be found responsible for the following violation. Encroachment in the Scenic Route Setback per the recorded subdivision plat requiring verification setback or obtaining a variance or removing the structure where the setback that has been encroached upon. And I will add to this that the defendant has submitted a registered survey today at this hearing for review for the verification for this citation number one.

Hearing Officer: OK. But still I sorry I am for sub reading on this but is slippery for me. First I think I got it then something else gets introduced and I am wondering whether I really understand it or not.

Robert Farkas: The survey is verifying the 85'.

Hearing Officer: Right

Robert Farkas: Right Mr. Timmins?

William Timmins: Yes.

Hearing Officer: But we still have a setback issue that requires a variance. So one way or another, and sir this is for your edification too. There is still not a full resolution of the setback issue and there is a required variance application that they will have to apply for that will be noticed to all the neighbors, will be heard by the Board of Adjustment and the Board of Adjustment will take public testimony and render a final decision as to whether the other aspect of the setback issue is in fact resolved. So the setback issue is partially resolved not fully and there is a whole other process to resolve it that will at discretion of the Board of Adjustment. That is the way I understand it.

William Timmins: Well there are actually two setback issues.. One is the Scenic Route Setback which I have been cited for here.

Hearing Officer: Right

William Timmins: And then there is another one for which I have not been cited for yet. And my contention is that we do fit within the Scenic Route Setback but the building setback we don't. And that is going to be an issue based on..

Hearing Officer: So

William Timmins: improper plan review.

Hearing Officer: So your assert..So your assertion then if I am hearing you right is citation number one should be dismissed?

William Timmins: Yes

Hearing Officer: Because you are in compliance Scenic Route Setback

William Timmins: Correct

Hearing Officer: But you still even if that is dismissed you still have this other process to go thru that requires public notice and all the rest?

William Timmins: With the Board of Supervisors not the Board Adjustment.

Hearing Officer: That's right I'm sorry.

Robert Farkas: That was not part of the original citation in the notice of violation citing that secondary setback that he has to deal with now.

Hearing Officer: County attorney would you like to speak to that?

County Attorney: No [redacted]

Robert Farkas: the citation outlined Citation only included the Scenic setback as a citation. There was no notation for the secondary building setback which he now has to deal with now and in the future

Mr. Faulkner: That is the word.

Hearing Officer: OK What I am hearing here because the citation that was issued was for a Scenic Route it has now been verified that the Scenic Route violation that this should be dismissed. Now in the course of the investigation of citation number one it came out that there is this whole other setback issue which requires a variance from the Board of Adjustment. They recognize this, they understand and accept this and know they have to go thru that separate process. But because there was not a citation for that setback they are saying that this one should be dismissed because technically and correctly they are in compliance with the Scenic Route aspect of the setback issue.

Hearing Officer: Ok so now your recommendation is to dismiss.

Robert Farkas: Dismiss citation number one.

Hearing Officer: Right.

Transcript from Hearing Timmins Case
P10CV00376-Citation numbers 1 thru 5
Thursday October 7, 2010

Robert Farkas: *Citation one*

Hearing Officer: You are going to dismiss citation number one so I will do a partial dismissal order but I am going to put on there as a note of reference that there is still this other aspect of the setback issue even though this is dismissed that the defendant recognizes that and is pursuing a separate variance process with the Board of Supervisors.

Robert Farkas: Alright.

Hearing Officer: OK. Go Citation number two go.

Robert Farkas: Citation number two is dismissed. The property is compliant with Note 13 of the recorded subdivision plat requiring that the structure to be painted an approved desert earth tone color, per submission of the satisfactory reflectivity ratings for the paint used.

Hearing Officer: OK

Robert Farkas: Citation number 3 is for the Guest House Requirement under 2008 Pima County Zoning Code Section 18.09.020.G. And it requires and recommending that they remove the separate electric meter and install a subpanel or obtain a variance or if unable to do either remove the structure

Second obtain a variance for the second driveway or removing the second drive from the property.

And third obtain a permit for the septic now under flood plain review or removing the structure. The recent review today found that the flood plain review has passed all of the reviews for the septic.

On Citation Number 4 failure to obtain final inspections. Citations #1, 3 and 5 when satisfied will obtain final inspection

Hearing Officer: OK

Robert Farkas: and Citation Number 5 Structure not constructed per approved plans required final inspection [redacted]

This also will be resolved at the Board of Adjustment and Board of Supervisors process comes to a conclusion.

Hearing Officer: Am I correct the Board of Adjustment does in fact does in fact. Wait no. The variance for the second driveway goes to the Board of Adjustment. OK so they are involved in some small aspect of this.

Robert Farkas: They are all really tied together [redacted]

Hearing Officer: Understood

Hearing Officer: OK. If they go to the Board of Supervisors on the variance request required for the building setback and the Board denies them. What is their only form or of relief, removal of the structure?

Robert Farkas: Yes.

Hearing Officer: So everything hangs on that. You understand that?

William Timmins: Yes

Hearing Officer: OK alright.

Robert Farkas: Would you like the recommendations.

Hearing Officer: Please do because I am about burned out.

Robert Farkas: Finally that the Defendant be assessed a total of $750 for each oh I've got to reduce that now because it is only three citation, each of three citations suspended for 90 days of which $50 is due for each citation for a total of $150 is due and payable in 14 days. Failure to comply within 90 days may result in assessment of the remaining $700 fine for each citation for a total of $2,100. I am also going that the end of the 90 days the option is available for a request for an extension of time based on the review process by the Board of Adjustment and the Board of Supervisors.

Hearing Officer: OK. Even though it is not attendant to this citation number one that clearly the critical pass process that allows resolution of one of these things. Can you give me any sense of time from when they submit the variance request, public notice, staff report and all of that before they will actually have a Board of Supervisors hearing.

Robert Farkas: I talked to the planning staff and it is 6 to 8 weeks for the Board of Adjustment and it can be up to 6 months or more for the Board of Supervisors depending on what is required

Hearing Officer: Really.

Hearing Officer: Alright sir now I get a sense you might want to say something?

Donald Faulkner: I have two questions.

Hearing Officer: Ok then I can't do it from the audience. If you do want to have it on the record I do need to have you come up here

Jesse Callahan: Don't you need to swear in the witness?

Hearing Officer: Yeah I will take care of that don't worry.

Hearing Officer: Do you want to pull yourself up a chair or do you just want to hold the microphone? Just take a seat in the center there, since that seems to be theoretically where you really sit on this issue.

Hearing Officer: Ok you got the microphone up there. Name and address for the record please your affiliation if you would please also.

Donald Faulkner: My name is Donald Faulkner and I am president of the Paseo Montana Homeowners Association my address is 49, 4970 huh, 4940 W. Monte Carlo Drive.

Hearing Officer: OK I do need to swear you in. Oh Tucson Arizona what is your zip?

Donald Faulkner: Tucson Arizona 85745

Hearing Officer: If you would raise your right hand. Do you promise to tell the truth the whole truth so help you God?

Donald Faulkner: I do.

Hearing Officer: Alright thank you very much.

Donald Faulkner: The question that I would have besides uh knowing now that our next step is going before the Board of Supervisors and the variance committees uh would be if he was in violation for a guest house and he removed the kitchen would he also have to remove the 220 service?

Hearing Officer: That is a..That is a technical permitting issue that I will defer to this gentleman on but.

Robert Farkas: [redacted] the 220 service as the current meter electric service panel on the house. Or are you talking just about line..

Donald Faulkner: There is.

Robert Farkas: to the range. The circuit and circuit breaker circuit should actually service the range and that is what we required to be removed else. When we finally make a decision it is just the circuit and the range nothing else.

Donald Faulkner: OK. The second.

Hearing Officer: These gentlemen will verify that it meets guest house requirements thru the inspections and permit.

Donald Faulkner: The second question would be he is planning to do a wall. Wouldn't that also be in the setback?

Robert Farkas: We have not received any submission for the wall to determine what is or isn't in the setback but he would have to apply for a permit for a wall if it was over 4'.

Hearing Officer: In order to do that legitimately he would have bring down a site plan. Apply for a permit upstairs. Planning staff zoning staff all the rest upstairs would verify whether or not the wall was allowable per setback requirements per scenic routes everything else before they could proceed with construction of any such wall.

Donald Faulkner: Then my last questions – The service the TEP service box isn't that also in the setback requirement because it is closer to the street than the house is?

Hearing Officer: I believe that utility pedestals and things like that are not considered structures.

Robert Farkas: They are not governed by our jurisdiction at all.

Hearing Officer: Right

Donald Faulkner: So is he not in Scenic location at all.

Robert Farkas: because review for that [illegible]

Hearing Officer: Within scenic routes all over Pima County that are millions of TEP pedestals, water meters, telephone poles. Those are all exempt from Scenic Route requirements. Utilities don't have to, Utilities don't have to satisfy Scenic Routes requirements just private developers.

You can question the individual if you like.

William Timmins: Don just in regards to the TEP facility that is there. That was there before we started construction

Carlson Eby: It was a junction box.

William Timmins: That there was already a facility at the location.

Hearing Officer: That is not material to me it is not governed by the code and I have no jurisdiction there whatsoever. Alright thank you very much.

Donald Faulkner: That is all I have to say.

Hearing Officer: Alright thank you very much. Mamm I trust that you are not interested in speaking.

Audience Attendee: I am good.

Hearing Officer: Alright OK. So I've got some detailed recommendations here. Obviously there has been an ongoing dialogue back and forth between the parties to get this resolved. I trust that that good faith effort on both sides is going to continue from here on out, The only thing I am left with is the amount of time to grant here. And I am not comfortable granting a huge amount of time on the guess that it might take some additional amount of time or longer amount of time than is anticipated by the Board or whatever. So I am in line with granting a shorter amount of time to insure that there is dedicated effort on here and then if we find out that the Board process requires more we will deal with that as a request for addition time once we know what the Board is mandating for that process. You submit a letter based making the request based upon what the Board process outlines then I will contemplate giving a time extension once we know and have something definitive. OK

And I would just make a comment to the association representatives. Most of what is left here and now in terms of my purview is technical matters. Now the whole ball of wax I would think from your perspective would is going to be that Board of Supervisors Hearing. As it is with these gentlemen everything is going to hinge on that. So I would ask you to work together on you know. Hopefully that does not have to be a contentious hearing and you guys can actually can come to some understanding and accommodation with each other before you go into that hearing so that Board has some direction as to what is a reasonable solution that respects both parties interest in the matter.

With that I am going to take these recommendations. I said they are purely technical and accept as is and I'll put in an indication that we can I'll be disposed to consider granting additional time if it is mandated by the Board of Supervisors variance process which is joined at the hip as necessary to resolve some of these technical matters.

Robert Farkas: That is why I am giving 90 days for six to eight weeks additional [redacted] Add 30 more days

Hearing Officer: So you are going to get three judgments in the mail. Fines hanging over your head. A little bit of money due up front. You got some time. You will also get a partial order for dismissal for citations numbers one and two because they have technically been already address. And you will get a dismissal on those two and judgments on the other three.

William Timmins: Thank you

Jesse Callahan: Thank you.

Hearing Officer: Thank you. OK that completes this case.

Protest Letters

Terri Tillman

From: William Bracker <williambracker@gmail.com>
Sent: Wednesday, March 13, 2013 6:21 PM
To: Terri Tillman
Subject: Reference File Number: C09-84-41 INTERNATIONAL WILDLIFE GATES PASS ROAD REZONE
Attachments: Gates_Pass_A[1].docx; Gates_Pass_A[1].pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms Tillman:

Per our phone conversation today, please find attached our letter in opposition to the subject file number.

If at all possible could you please confirm receipt of this letter via return email.

Please note I have included Word 2007 and PDF formats, for some reason the PDF format contains a 2nd blank page...please disregard the blank page.

Regards,

Dr. William E. Bracker
520 471-4879

To: Members, Pima County Planning and Zoning Commission

From: Lynne C. Bracker and William E. Bracker, Jr.
owners Lot 13A, Mountain Gardens Estates

Date: March 13, 2013

Subject: Meeting—Wednesday, March 27, 2013 at 9:00 A.M. Hearing: CO9-84-41 International Wildlife—Gates Pass Road Rezoning.

Please Note: Our property lies within the CR-1, BZ, and GZ-2 boundaries in question

Dear Members of the Pima County Planning and Zoning Commission:

We respectfully request that the Commission **REJECT BOTH REQUESTS** as stated in C09-84-41 for the following reasons:

The building in question was constructed in violation and with total disregard of the major street/scenic route (Gates Pass Road) zoning setback restriction. The petition for waiver and change of rezoning at this point is clearly a situation of asking forgiveness after the fact rather than following county requirements of obtaining required waivers prior to construction. We believe these waivers would NOT have been granted. The setbacks are in place to protect the gateway to the Tucson Mountain Park via Gates Pass Road. Allowing this zoning change will open the door for similar construction and/or impingement along the Gates Pass corridor with a low probability of enforcement.

Due to the fact that the impingement on the setback is so extreme it can only be concluded that this was a willful encroachment and not a simple measurement error. Why should some property owners feel that they can operate outside the codes and then complain when they are caught?

It's time to send a message to all property owners: Pima County is protecting the rights of its citizens by equal application of zoning prior to construction.

Please **DENY** the application and show all property owners that the Pima County Zoning codes have some meaning and will be enforced.

Respectfully Submitted,

Lynne C. Bracker

William E. Bracker, Jr.

Please Note: Our property lies within the CR-1, BZ, and GZ-2 boundaries in question

Pima County Development Services
Planning Division
201 North Stone Avenue
2nd Floor
Tucson, Arizona 85701

March 13, 2013

Re: Co9-84-41 INTERNATIONAL WILDLIFE – GATES PASS REZONING

This letter is in regard to the unfinished guesthouse that was built in the summer of 2010 at the corner of West McElroy Drive and Gates Pass Road. The guesthouse is on a CR-1 zoned lot in the Paseo Montaña subdivision, which was created in 1985 when the plat was registered with the county.

My husband and I have lived in Paseo Montaña for the past 7 years, so we are very familiar with the building of the guesthouse in our subdivision. The owner of the lot, Mr. Timmins, did not notify the other homeowners of his plans to build a second residence on his property. So we were caught unaware and were very surprised when construction of the guesthouse began in early summer of 2010.

Even though Mr. Timmins said that he had a building permit from the county, several things just didn't look right with his construction site. The guesthouse was very close to Gates Pass Road, a designated scenic roadway, and it was located on the opposite side of a wash from his main house. There was a separate driveway to the guesthouse, and a separate electrical box. The pipe for a sewer line was in an open ditch extending from the guesthouse toward McElroy Drive. And to the neighbors' surprise, the guesthouse was occupied even though it was obvious that the sewer line was not connected.

Pima County stopped the construction and occupancy of the Timmins' guesthouse in the fall of 2010 because of several zoning violations. Mr. Timmins then applied for zoning variances for the guesthouse, which has remained unfinished since the summer of 2010.

The Pima County Board of Adjustment held a public hearing on January 13, 2011 to decide whether to grant the requested zoning variances. During the hearing, the board discussed discrepancies between what Mr. Timmins' building permit allowed and what he actually built on his lot:

- The Timmins' lot has a building setback of 85 feet from the property line that borders Gates Pass Road. This setback is in the subdivision plat that was recorded in 1985. The site plan for the building permit clearly shows that the guesthouse would be located 85 feet from the property line. However, Mr. Timmins built his guesthouse just 19 feet from the property line.

- The CR-1 zoning codes state that a guesthouse and the main house cannot have separate utilities. The site plan for the Timmins' building permit clearly shows that utilities from the main house would be extended to the guesthouse. However, Mr. Timmins had a separate electrical box installed for the guesthouse. Separate water and sewer lines were being installed when construction was stopped.

- The CR-1 zoning codes state that a guesthouse must use the same access as the main house. The site plan for the Timmins' building permit has no separate driveway for the guesthouse. However, Mr. Timmins had a separate driveway installed for the guesthouse.

At the conclusion of the Board of Adjustment hearing, the board members were unanimous in declining all of the zoning variances. They decided that the zoning violations were "self-caused" because Mr. Timmins did not build his guesthouse according to the site plan in his building permit. The board did not want to set a precedent for allowing a building to remain within a scenic setback along Gates Pass Road. It was also the opinion of the board that Mr. Timmins had subdivided his CR-1 zoned lot by installing the separate driveway and utilities for the guesthouse. CR-1 zoned lots cannot be subdivided. The board members were in agreement that the guesthouse should be removed from the property.

Following the Board of Adjustment hearing in 2011, Mr. Timmins filed a law suit against Pima County, and the case has been tied up in superior court for the past two years.

Now the Timmins' case has reached the Planning and Zoning Commission and the Board of Supervisors. We are urging the commission and the supervisors to follow the Board of Adjustment's recommendation and decline any rezoning requests from Mr. Timmins. We agree with the board's decision that Mr. Timmins did not build according to his own site plan, and his violations of the zoning codes were entirely self-caused.

We think that it's very important to enforce the zoning codes in Pima County. As explained at the Board of Adjustment hearing in 2011, neighborhood groups are concerned that granting the zoning variance for this one guesthouse will set a precedent. The 85 foot building setback on the Timmins' lot was put there for a reason, to keep houses at a distance from Gates Pass Road to preserve its scenic quality. If the setback is reduced for this one guesthouse, then builders and homeowners in the future could decide to ignore the zoning codes because they think the county won't enforce them.

And this is just the beginning of the law suits that Mr. Timmins could file against Pima County. There are still the zoning violations for the separate driveway and separate utilities for the guesthouse. Litigation against the county for this one guesthouse could go on for years, tying up county resources at the tax payers' expense.

The homeowners in the Gates Pass area aren't the only ones affected by allowing the guesthouse to stay. The thousands of people who travel Gates Pass Road every month to enjoy one of the most scenic drives in southern Arizona will also be affected.

Best Regards,

Wendy Beardsley
Burt Beardsley

Wendy Beardsley
Burt Beardsley
4941 West Monte Carlo Drive
Tucson, Arizona 85745

Terri Tillman

From: Celia Turner
Sent: Friday, March 15, 2013 1:03 PM
To: 'Ivy Schwartz'; Terri Tillman
Subject: RE: For P&Z Commission meeting 3/27/13 re Co9-84-41

Thanks. We will include this letter in the staff report.
If you need further information, please contact Terri at terri.tillman@pima.gov

Thanks.

Celia
Coordinator for BOA & P &Z Meetings
Pima County Planning
201 N. Stone Av., Second Floor
Tucson, AZ 85701
As of 3/7/13 phone numbers.... Main 724-9000 Direct 724-6797
Fax 623-5411

-----Original Message-----
From: Ivy Schwartz [mailto:ischwartz3211@cox.net]
Sent: Friday, March 15, 2013 12:59 PM
To: Carmine DeBonis; Celia Turner
Cc: Richard Elias
Subject: For P&Z Commission meeting 3/27/13 re Co9-84-41
Importance: High

Good afternoon. Please find attached Tucson Mountains Association letter in opposition to the re-zoning of the guest house on Gates Pass (Co9-84-41 INTERNATIONAL WILDLIFE - GATES PASS ROAD REZONING).

Please include with P&Z materials. Thank you!

Ivy Schwartz
President
Tucson Mountains Association

Tucson Mountains
ASSOCIATION
SINCE 1974

PO BOX 86117 • TUCSON, AZ 85754-6117

March 15, 2013

Carmine DeBonis, Jr., Director
Pima County Development Services
201 N. Stone Avenue
Tucson, Arizona 85701

Dear Carmine:

In the Planning and Zoning Commission's announcement for a public hearing on March 27, a proposal is presented to discuss a "modification of rezoning conditions and plat note waiver" in the Paseo Montana subdivision. The change is to reduce the required 85 foot building setback for a guest house built in 2010. The new setback is proposed to be 19 feet. We object to this proposed revision for the following reasons:

- Designated Scenic Highway—The lot is located on a designated scenic roadway. The setback under the CR-1 zoning for all lots in this area is 85 feet. The guest house is set back 19 feet, which is only 22% of the required distance. The purpose of this setback on Gates Pass Road is to keep houses at a distance from the road to preserve its scenic quality. The guest house is highly noticeable, and a distraction from the scenic value of this important gateway to Tucson Mountain Park, Old Town Tucson, the Desert Museum, and Saguaro National Park.
- Multiple Zoning Code Violations—The owner clearly intended to violate the code, since not only the setback was ignored, but a separate driveway and utilities were built for the guest house. The result is a subdivision of this CR-1 zoned lot for two separate buildings. It is apparent the owner intended to bypass requirements in the original permit.
- Community Opposition—There is significant opposition to this proposal by residents on the west side. It would be a bad precedent to allow buildings like the one constructed, and it will embolden others to violate the zoning code in the future.

We request that the County deny any zoning variance for the subject property.

Sincerely,

Dr. Ivy Schwartz
President

c: Supervisor Richard Elias

Donald and Susan Faulkner
4940 West Monte Carlo Drive
Tucson, AZ 85745
(520) 490-3495 * (520) 490-1812

Forwarded via electronic mailing to: terri.tillman@dsd.pima.gov

Original to be delivered to

Pima County Development Services
Planning Division
201 North Stone Avenue, Second Floor
Tucson, AZ 85701

Re: Co9-84-41 INTERNATIONAL WILDLIFE – GATES PASS REZONING

We are homeowners in Paseo Montana Subdivision, which is the subdivision that is being greatly impacted by the above variance requests. We are most concerned of the legal ramifications that would be caused by passage of these variances. We strongly urge that the setback be DENIED.

Gates Pass Road has been a scenic route of pride for Tucsonans for many years. It is a very unique area, in that it is in the vicinity and has the same characteristics as the Saguaro National Park West. Having this residence built so close to the road negates and encroaches upon the beauty of our Tucson Mountains.

Pima County's Code 18.77.040 clearly defines the purposes for protecting the scenic areas located in Pima County, while enhancing the visual resources of the area. The **encroachment of this family residence clearly negates the scenic route**, and further sets a precedent of allowing future and additional buildings in any historic or scenic setback area.

Pima County Board of Adjustment, in a public hearing on January 13, 2011, found that Mr. Timmins caused all of these issues, and concluded that all zoning variances are denied. This second residence was constructed on a CR-1 Lot, and in effect, subdivides the lot all in direct violation of the County's own zoning requirements and the CC&Rs of the Paseo Montana Subdivision. It is clear that allowing this building to remain would set an undesirable precedent within the scenic setback of Gates Pass Road.

As of this writing, Paseo Montana Subdivision will present a "Petition to Save Scenic Gates Pass 85' Setback", currently signed by 19 of the 25 lots, a clear majority of homeowners.

We would hope that the Pima County Planning and Zoning and the Board of Supervisors continue to protect the quality of Tucson's Gates Pass Road scenic area, and that all requests relative to Mr. Timmins' petition are denied.

Donald Faulkner

Susan Faulkner

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
Jane Hill	Jane Hill	2721 N Oracle Rd T/A		3/12/13
Norman Hill	Norman Hill	2721 N Oracle Rd T/A		3/12/13
OAKLEY LUTES	Oakley Lutes	2117 Dancing Dr Sierra Vista		3/12/13
Alejandra Gerado		1943 W. Lester T/A		3/14/13
Yvette Palma	Y Palma	318 E. Hagen Pl. 85706		

Terri Tillman

From: cobagy@aol.com
Sent: Monday, March 18, 2013 6:43 AM
To: Terri Tillman
Subject: International Wildlife--Gates Pass Rezoning

Dear Ms. Tillman,

I am writing in regard to William Timmins request for rezoning of his guesthouse at Gates Pass Road and McElroy. (Co9-84-41 International Wildlife--Gates Pass Rezoning).

As a homeowner (4930 West Monte Carlo) I strongly urge you to recommend denying Mr. Timmins rezoning request. His guesthouse was built as a rental unit--with full knowledge that many restrictions were being disregarded.

Mr. Timmins only built the guest house as a rental. In the 13 years that we have lived in the neighborhood, he has had a constant stream of people who have rented rooms in his house. Although he lives there with his wife, there are always many cars in the driveway and parked in front of the house. As a neighbor, I am very upset to think of the traffic and the loss of property values that would result if the guest house rezoning was granted--then there would be even more cars and renters at that location.

Furthermore, the driveway to the guesthouse is a serious danger. It is located right at the turn off of Gates Pass Road onto McElroy. Cars turning into the subdivision cannot see any cars backing out of the driveway as it is dangerously close to Gates Pass.

Mr. Timmins has offered to plant trees and shrubs in front of the guesthouse, but he has not disclosed to the Planning and Zoning Commission that the guesthouse was built on solid rock. Nothing grows there now, and nothing will grow there even if he can hollow out a few holes for plantings.

Mr. Timmins blatantly disregarded Pima County zoning and building regulations, and when the neighbors protested, he threatened to sue each homeowner who spoke against his guesthouse.

Mr. Timmins's guesthouse is ugly, it looks like a storage unit. It is a blight on the Paseo Montana Neighborhood as well as on the Gates Pass Scenic Corridor.

I strongly urge you to recommend that the rezoning request be denied----and order that the guesthouse be town down.

Respectfully,

Carolyn O'Bagy Davis
4930 West Monte Carlo
Tucson, AZ 85745

Mailing address:
PO Box 85787
Tucson, AZ 85754

Terri Tillman

From: John Davis <JDavis@azlitho.com>
Sent: Monday, March 18, 2013 7:20 AM
To: Terri Tillman
Subject: CO 9 84 41 Gates Pass Rezoning: William Timmins

Dear Ms. Tillman,

I am a property owner in the subdivision in which the subject rezoning applicant resides. I wish to object to the granting of any relief that Mr. and Mrs. Timmins request in the matter. The improvements at question were made without consideration of the CC & R's applying to the property and without notice to or discussion with the property owners within the subdivision. Had they done so, they may not have been in the position they are currently in.The improvements bear no semblance to what is generally considered to be a guest house, to the contrary, the property has been effectively subdivided with what appears to be a substandard free standing "Casita" requiring ingress and egress, utilities, and parking from the public right of way. To allow these improvements to remain will degrade property values for scores of nearby residents, destroy the esthetics of the Gates Pass Corridor, and create a very bad precedent for future development in the area.

I do not believe that the county, if found to be responsible for allowing the contruction of the subject improvements contrary to the zoning requirements be allowed to mitigate potential damages through the granting of a zoning variance. Simply put: if the property violates zoning requirements, no variance should be granted. The longterm proerty values of the area and the beauty of the Gates Pass Corridor should takes precedence over all.

Respectfully,

John Davis
4930 W Monte Carlo Dr.

Thanks,
John Davis
CEO

520-622-7667 x 218
800-959-5885 Toll Free
520-300-4177 Fax

383 N. Commerce Park Loop Tucson, Arizona 85745 www.azlitho.com

Terri Tillman

From: jean windmiller <jmwindmiller@msn.com>
Sent: Monday, March 18, 2013 8:57 AM
To: Terri Tillman
Subject: Timmons Guest House

Good Morning,

I live in the Gates Pass area, and am on the board of the Gates Pass Area Neighborhood Association.

I do not like the Timmons guest house, it's built in violation of a number of codes, and will set a precedent if allowed to remain.

Please force him to remove it.

Thank you,

Jean M. Windmiller

Terri Tillman

From: mike@stractions.com
Sent: Monday, March 18, 2013 10:07 AM
To: Terri Tillman
Cc: John Olson
Subject: Opposition to C09-84-41
Attachments: Letter to Mr. Tillman re Guest House.docx

Greetings,
Please see the attached letter expressing my opposition to modifying the setback to accommodate an intentional violation of the setback and neighborhood CCRs.
Thank you,

Mike Olson

Stractions

Tel: (520) 982-2670
www.stractions.com

Mike Olson

990 N. McElroy Place• Tucson, Arizona 85745• Phone: (520) 982-2670 •
E-Mail: mike@stractions.com

Date: 18 Mar 2013

Mr. Terri Tillman
Pima County Development Services
Planning Division
201 North Stone Avenue, Second Floor
Tucson, AZ 857041
Forwarded via electronic mailing to terri.tillman@dsd.pima.gov

Dear Mr. Tillman:

I would like to express my displeasure with the Guest House at the Corner of McElroy Drive and Gates Pass Road and I strongly urge that the setback be denied. I am in Opposition to C09-84-41.

The owner of the guest house in question intentionally violated the setback and many CCRs of the neighborhood, and then completely disregarded the county's authority, and the neighbors' rights and opinions.

To change the setback to accommodate such antisocial and selfish behavior or cover up an honest mistake in approving his building permit are not a good reasons to rewrite the setback law that protects the natural environment in this fragile ecosystem.

Once again, I strongly urge that the setback be denied.

Sincerely,

John Michael Olson

John Michael Olson
Homeowner in Paseo Montana Subdivision

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

March 9 2013

Pima County Development Services Department, Planning Division
201 N. Stone Ave.
Tucson, AZ 85701

RE: 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 request that these changes be denied due to the flagrant disregard of the established zoning regulations the negative impact this will have on the community.

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.

In addition, we are gravely concerned that 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 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,

Eric Lyons, Ph.D.

Marisa Michaels-Lyons, Ed.D.

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
Gene Hill	Gene Hill	2721 N Oracle Rd T/A		3/12/13
Norman Hill	Norman Hill	2721 N Oracle Rd T/A		3/12/13
OAKLEY LUTES	Oakley Lutes	2117 Ironwood Dr Green Valley		3/12/13
Alejandra Gerardo		1943 W. Lester T/A		3/14/13
Yvette Palma	Palma	318 E. Hagen Pl. 85706		
Deborah Montgomery	Deborah Montgomery	2710 E. Manchester 85706		3/18/13
Sidney Hardie		2225 E. Prince Rd Tucson AZ 85719		3/18/13
Stephen Waith	Ward	432 E Speedway TU 85705		3/19/13
Richard Faulkner		2530 N Broken Arrow Dr		3/20/13
Brianna Vijada	Brianna Vijada	2530 N Broken Arrow Trl		3-20-13
Dan Montgomery		2710 E Manchester 85716		3-21-13

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.**
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Printed Name	Signature	Address	Comment	Date
Denise Kerr	Denise Kerr	PO Box 12438 Cocturo AZ 85652		3-23-13
ELIZABETH C. ESPINOZA	Elizabeth C. Espinoza	315 S. AVENIDA DEL ORVIETO 85748		3/23/13
Susan Jennings	Susan Jennings	2700 W Camino Del Oeste 85745		3/23/13
Sheila Bembridge	Sheila Bembridge	1548 West Calon Shadows Lane 85737		3/23/13

Petition to Save Scenic Gates Pass 85' Setback

Petition summary and background	
Action petitioned for	**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.**

Printed Name	Signature	Address	Comment	Date
Barbara Fleming	Barbara Fleming	846 W Cmo de Oeste 85745		3/11/2013
Jan Windmiller	Jan Windmiller	4741 W Placita de Suerte		11 March 2013
George P. Darnell	George P. Darnell	6130 W. Camino del Desierto		3/11/13
RICHARD H. HAWKINS	Richard H. Hawkins	5100 W. Cmo del Descanso		3/11/13
ROGER E. CARPENTER	Roger E. Carpenter	1124 N. CAMINO de OESTE TUCSON 85745		MARCH 8, 2013
Carolyn Leigh	Carolyn Leigh	4530 West Speedway Tucson, AZ 85745	I redraw my plans for my guesthouse (and supported the scenic overlay) it cost me money & time. This should not be allowed to succeed in this!	March 18, 2013
JUDITH CARPENTER	Judith Carpenter	1124 N. CAMINO DE OESTE TUCSON, AZ. 85745		3/19/2013
Wendy Beardsley	Wendy Beardsley	4941 West Monte Carlo Drive Paseo Montaña neighborhood	There was no public hearing in Jan, 2010, when Timmins 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

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.
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	Printed Name	Signature	Address	Comment	Date
1	WM C FINLAYSON	William C Finlayson	10 20 N Via Roma Tucson, 85745		3-14-13
2	William Y. Velez	William y Velez	1000 N. Via Roma		3/14/13
3	BERNIECE VELEZ	Berniece Velez	1000 N Via Roma Tucson		3/14/13
4	William Remmel	William Remmel	3003 W Broadway Blvd #3		3-14-13
5	ROBERT BRUCE BORDEN	Robert B Borden	630 N VIA LUCIA DR		3-14-13
6	Brian Gohara	Brian Gohara	5121 W. Salerno Dr.		3/15/13
7	Regina L. Cox	Regina Cox	619 N. Via Roma		3/15/13
8	CAROL CROUSE	Carol Crouse	5161 W. Monte Carlo Dr 85745		3/15/13
9	ANA GONZALEZ	Ana Gonzalez	800 N VIA ROMA, TUCSON AZ 85745		3/15/13
10	Melissa Russum	Melissa A Russum	640 N Via Roma 85745		3-15-13
11	LYNNE BRACKER	L L Bracker	650 N VIA ROMA 85745		3/15/13

Petition to Save Scenic Gates Pass 85' Setback

Petition summary and background	
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
1	William Bracken	W E Pm	5741 W. Salerno 85704	Rio Rico Gain Mt. Gardens	3-15-13
2	DL. VENABLE	DL Venable	5135 W VIA MALLORCA		3/15/13
3	Lawrence Dehus	Lawrence Dehus	5011 W. Monte Carlo Dr		3/15/13
4	Mari Ann Finlayson	Mari Ann Finlayson	1020 W Via Roma 85745		3/15/13
5	Chris Strohm	Chris Strohm	4881 W. VIA SCARAMUZZA		3/15/2013
6	Adam Hostetter		5220 W VIA Mallorca	Other owners followed these rules - to great expense.	3/16/13
7	Erleen Martin	ERLEEN MARTIN	5140 W. Salerno Dr.		3/16/13
8	William Russum	William Russum	640 N. Via Roma	How did this progress to this level?	2013-0346
9	Pam Hogan	Pam Hogan	5100 W Salerno Dr.		3-16-13
10	MARC HOGAN	Marc Hogan	5100 W Salerno Dr.		3.16.13
11	JANICE CROWDER-TORREZ	Janice Crowder-Torrez	5120 W. Via Mallorca		3-16-13

Petition to Save Scenic Gates Pass 85' Setback

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	Printed Name	Signature	Address	Comment	Date
1	Doug Michaelis		541 N. Via Roma		3/16/13
2	Becky Michaelis		"		"
3	Vivienne Ledesma		4961 W Monte Carlo Dr.		3/17/13
4	Jerry Lothrop		4961 W Monte Carlo "		3/17/13

Petition to Save Scenic Gates Pass 85' Setback

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Printed Name	Signature	Address	Comment	Date
(1) William Zeller		5140 W. Via Mallorca ~~85745~~		3-16-13
(2) Nancy Zeller		5140 W. Via Mallorca 85745		3-16-13
~~Bill~~				

Re: Co 9-84-41 Timmins Zoning Variance Request

Enclosures:

- Petition signed by 19 of the 25 property owners of Paseo Montana requesting denial of the variance request.
- Petition signed by concerned citizens requesting denial of the variance request
- Satellite Photo of Timmins property prior to construction showing east-west boulder line constructed by the subdivision's site developer to serve as a scenic setback marker and sight barrier
- Satellite photo of Timmins property with above rock barrier removed and "guest house" sitting over its prior alignment.
- Copy of William Timmins LinkedIn profile establishing that he is an authority on mapping, site placement, and location in showing that he had earned an MA in Urban & Regional Planning together with a lengthy list of accomplishments in providing mapping products,services and training.
- Copy of a partial list of entities trained by Mr. Timmins's firm, GIS Services including Pima County Mapping & Records, and DOT Departments.

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.
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Printed Name	Signature	Address	Comment	Date
Susan Faulkner	Susan Faulkner	4940 W. Monte Carlo T/A		3/11/2013
DONALD. FAULKNER	Donald L. Faulkner	4940 W. Monte Carlo DR		3-11-13
Ann Anovitz		4960 W. Monte Carlo Dr.		3/11/13
Alan Reeter		4910 W. Monte Carlo Dr		3/11/13
Dean CARUthers		999 N Bonaschar LN		3/11/13
KIM OLSON		990 Mcelroy pl		3/11/13
RAY MORGAN	R. Morgan	4921 W. Monte Carlo		3/11/13
Burnt Beardsley	Burt Beardsley	4941 W. Monte Carlo		3/11/13
Todd Lutes		4950 W. Monte Carlo Dr.		3/12/13
JOHN DAVIS		4930 W. MONTE CARLO DR		3/12/13
Carolyn Davis	Carolyn Davis	4930 W. Monte Carlo Drive		3-12-13

Printed Name	Signature	Address	Comment	Date
Teresa Bourne	T Bourne	4920 W. Monte Carlo Dr.		3/12/13
Kris Morgan	Kris Morgan	4921 W. MonteCarlo Dr		3/12/13
ERIC LYONS		4951 W. McElroy Dr.		3/12/13
MARISA MICHELLE LYONS		"		3/17/13
MARILYN DUNNIGAN	Marilyn Dunnigan	4950 W. McElroy Dr		3/12/13
Robert Dunnigan	Robert Dunnigan TUCSON AZ 85714	4950 W. McElroy Dr		3/12/2013
Lukas Zürcher	Lukas Zürcher F.	4920 W. Monte Carlo Dr		3/12/2013
Frank Daversa	Frank Daversa	4921 W. McElroy Dr.		3/12/13
Virginia DAVERSA	Virginia Daversa	4921 W. McElroy Dr		3/12/13
Traci Caruthers		9991 Boushchaln.		3/13/13
Tony Lodor		4961 W Monte Carlo		3/14/13
VIVIENNE LEDESMA	Vivienne Ledesma	4961 W. Monte Carlo Dr.		3/14/13
Joyce Douglas	Joyce Douglas	4961 W McElroy Dr		3/16/13
JOHN M. DOUGLAS	John M. Douglas	4961 W. McELROY DR.		3/16/13
Abe Valenzuela	A M Valenzuela	4900 W Monte Carlo Dr		3/16/13
EDMUNDO MARTINEZ	Edmundo Martinez	4961 W. McElroy PL.		3/16/13

Printed Name	Signature	Address	Comment	Date
Sylvia G Martinez		980 N McElroy		03/17/13
Susan Petti		4950 W. Monte Carlo Dr.		3/17/13
J. C. Flores		840 N. Smoketree	Lot 3 Owner	3/17/13
P. Braale		4941 N. McElroy		3/17/13

Google maps

Get Directions My Maps

Print Send Link

Use Earth view to see maps in 3D

Watch our video to learn more or click the Download button to get started.

Google earth

feet 200
meters 60

Bill Timmins

2nd

Director at GIS Services for Emerging Technologies

Tucson, Arizona Area | Information Technology and Services

Current ADAPX, Global Training Institute Profesionals, GITA
Previous TerraGo Authorized Reseller, Primerica, GITA Arizona
Education Arizona State University

Sales Basic

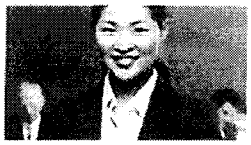
500+ connections

BACKGROUND

SUMMARY

Experience: Over 38 years of interest in geographical information systems
Goals:
1. Integration of field data collection solutions which allow access and creation of GIS features and associated data solutions that require little or no knowledge of GIS or databases.
2. To form business partnerships that promote the use of geographical information systems (GIS) technology.

Specialties: Training for Geographical Information Systems (GIS)
GIS Needs Analysis and Associated Services (application development and integration)
GIS Business Partner Agreements



Quick Intro To Capturx

Capturx For Arc Gis Desktop

EXPERIENCE

Capturx Digital Pen Solutions

ADAPX
August 2008 – Present (4 years 8 months)

Adapx™ is a natural interface software company which helps teams improve collaboration, field data collection and decision making with the Capturx™ line of software products for ArcGIS, Autodesk and Excel.

Director

Global Training Institute Profesionals
January 2008 – Present (5 years 3 months)

Global Training Institute Professionals provides seminars and classes for GIS, GPS, and mobile data solutions.

President AZ Chapter

GITA

January 2008 – Present (5 years 3 months) | Arizona

Seminar organization, scholarship program, membership

▾ 1 recommendation

Howard Ward
Owner, TerraSystems Southwest, Inc.

Bill is a creative problem solver and a key member of the GIS community in Arizona. He has a long history of helping organizations evaluate and acquire GIS technology, and he is a pleasure to work with on both a personal and professional level. View

GeoPDF Solutions for ArcGIS

TerraGo Technologies

2007 – Present (6 years)

Sales and Support

District Leader

PRIMERICA

Primerica Financial Services

October 2005 – Present (7 years 6 months)

Financial services including; insurance, investments, and mortgages.
A financial needs analysis is provided to determine which services fit the client best.

LizardTech Authorized Reseller

LIZARDTECH

LizardTech

September 1999 – Present (13 years 7 months)

Imagery and document compression software product sales and services for satellite imagery, aerial photography, and documents. Sales both OCONUS and CONUS.

▾ 1 recommendation

Gar Clarke
GIT Coordinator at New Mexico Office of the State Enginner

Professionally, Bill Timmins has always gotten the job completed quickly, competently, and competitively. He is a person of integrity and looks for the creative solution. View

Director

GIS Services

October 1992 – Present (20 years 6 months)

Director in charge of five divisions:
1. GIS Training and Seminars
2. GIS Software and Hardware Sales
3. Satellite Imagery Sales and Services
4. Mobile Data Technology Solutions
5. Document Management and Compression

▸ 1 project

▾ 6 recommendations, including:

Tony Kendzior CLU, ChFC
tony@tonykendzior.com
Medical Malpractice Insurance Consult...

I've known Bill for years and years. He's always working and looking out for the best interest of his friends, his family... View

Karen Thomas, GISP
GIS Supervisor at San Jacinto River Aut...

GIS Services is a caring, respectable business that makes sure to provide good information and advice to their customers... View

4 more recommendations

Director Geographical Information Services

GIS Services - TerraGo for Map2PDF

March 1992 – Present (21 years 1 month)

MAP2PDF allows GIS professionals to publish and distribute maps and geo-collaborate with colleagues or with the public with no need for the recipients of the GeoPDF to have any knowledge of GIS. User permissions can be set for only view capability or to enable annotations, markup/redlines, and symbol creation that are stored in the GeoPDF and can be exported as small shapefiles with metadata back into ArcGIS. All active layers and attributes in ArcGIS become available on the GeoPDF allowing query and access to the associated tables. All of the expense falls on the map author, who will need MAP2PDF to export the GeoPDF from ArcGIS and if the author wants to enable the user to make entries the

How You're Connected

You

James Willinger

Bill Timmins
Get introduced ▸

In common with Bill

1

Location

People Similar to Bill

Matt Baker
GIS Coordinator at Metropolitan Airports Co...
Connect

MAP2PDF Bundle and Adobe Professional. The software the end users needs is free and available by download -- Adobe Reader and GeoPDF Tools.

Director
TerraGo Authorized Reseller
2006 – 2011 (5 years)

Marketing

Division
Primerica
2002 – 2010 (8 years)

District Leader

Board Member
GITA Arizona
1994 – 2008 (14 years)

President

National Director for Government Services
FMS Mobile Networking
October 1999 – April 2000 (7 months)

Development of business opportunities with resellers and teaming partners to promote FMS Mobile Networking wireless and hardware capabilities for automated vehicle tracking and data capture. Supervised sales personnel and provided input for GIS Internet mapping to FMS employees in Phoenix, Houston, and Las Vegas and responsible for development of government related sales nationwide.

Director GIS Services of STC
GIS Services of Scientific Technologies Corp
July 1996 – August 1998 (2 years 2 months)

GIS training and software leads were generated and responded to for software sales, application development, and support services. Responsible for coordination of STC employees involved in GIS training and applications and business partner development.

▾ 2 recommendations

Win Wheeler
Business Intelligence Analyst at Organi...

I have worked with Bill Timmins in a technical supporting role for numerous GIS projects and training assignments. Bill's... View

Steve Pollackov
FDNY GIS Commanding Officer

I haven't had much dealings with Bill, but my interactions with him have always been Professional. Bill values GIS and the... View

Fleet Tracking and Management Services
Trimble Navigation
January 1996 – October 1996 (10 months)

Governemnt Sales Manager

Consultant for GIS Startup
SAIC
August 1995 – February 1996 (7 months)

Consultant services provided to establish a GIS Business Center (GISBC). Tasks include the organization of a suite of GIS training courses, provided at client sites and within GIS user communities. SAIC Staff, teaming agreements, and consultant contracts allow the GISBC to provide a wide range of GIS services. As a full service GIS center the GISBC was set up to provide user needs/requirements analysis, training, support services, and application development

Director GIS Sales Manager and GIS Specialist
GIS Training and Application Center
November 1993 – January 1996 (2 years 3 months)

Responsible for start up GTAC to provide GIS and Remote Sensing software products as well as associated hardware, support, and services. Training was provided for ArcView and ArcCAD by Bill Timmins and supplemented by four additional staff as the center became established in 1994. Support GIS efforts included the U. S. Marine Corps GIS capabilities CONUS and OCONUS in Okinawa.

Fire Master Plan Specialist

City of Miami Fire Department

January 1990 – January 1991 (1 year 1 month)

Preparation of ten-year emergency services master plan to identify the needs, issues, concerns, goals, and an evaluation the resources in terms of personnel and equipment. Additional responsibilities included the development of objectives and determinations of budget and manpower needs and the development of AML's for GIS monitoring of the management objectives and information processing requirements using ARC/INFO.

PROJECTS

Arizona Counter Terrorism Information Center

January 2009 – Present

The Center is comprised of over 300 police and fire personnel in the Phoenix metro area as well as DHS and FBI personnel.

- 5 team members, including:

Bill Timmins
Director at GIS Services for Emerging T...

Sharon Nicholson - GIS Coordinator AZ...

Gary Kennedy - Phoenix Fire Departme...

Robert Barr - Phoenix Police Department

SKILLS & EXPERTISE

Most endorsed for...

99+	GIS
99+	Geography
99+	ArcGIS
99	Geomatics
87	GPS
39	Remote Sensing
38	Spatial Analysis
28	ESRI
25	Databases
23	Cartography

Bill also knows about...

23 Microsoft Excel · 18 Microsoft Office · 15 Data Management · 13 Solution Selling

10 Marketing · 8 Adobe Acrobat · Capturx for ArcGIS · Capturx for Excel

EDUCATION

Arizona State University

PhD, Geography (GIS)

1990 – 1991

Finished course work but did not submit disertation

Specialization in GIS development for transportation planning and K-12 education

Activities and Societies: Research Associate for Geography Department in transportation study. Software: IBM's Geographic Facilities Information System - Graphic Pgram Generator

University of Florida

MA, Urban and Regional Planing (GIS)
September 1987 – August 1989

Urban and Regional Planning Dept., Univ. of Florida - intern Coordinator for placement for graduate students in the Urban and Regional Planning program. Students were matched with potential employers based on student skills and the value of experiences that would be available from the various placements.

IBM GPG GFIS GEOPLAN Center - Research Associate
Responsibilities included the development of a GIS application for the Alachua County Codes Department.

College of Forestry, University of Florida - Research Associate
Responsibilities included the review of current and proposed hazard mitigation and planning applications for forest fires and development conflicts. The work was done with help from the Federal Emergency Management Agency and the U.S. Forest Service regional offices.

9-J5 Growth Management Legislation submissions for the comprehensive plans in Florida for the University of Florida, Town of Hastings, City of Madison and Town of Lee.

Activities and Societies: Urban & Regional Information Systems Association, PHI KAPPA PHI National Honor Society (4.0 GPA), American Planning Association, American Association of Geographers, American Congress Surveying & Mapping, American Society for Photogrammetry & Remote Sensing

▾ 1 recommendation

David Costakis
Quality Manager at Northrop Grumman Corporation

I have known Bill Timmins since he was one of my graduate students at the University of Florida over 25 years ago, and I will always remember him as the hardest working, most dedicated student I ever had the pleasure of knowing. I have also known... View

Arizona State University

MA, Georaphy (GIS)
1974 – 1977

Specialization in Geographical Informatoon Systems with developed application for Wilderness Studies

Activities and Societies: American Planning Association, American Association of Geographers, American Congress Surveying & Mapping, American Society for Photogrammetry & Remote Sensing

State University of New York at Oswego

BS, Geography
1970 – 1974

SUNY Plattsburgh

BA, Geographny
September 1969 – December 1973

ADDITIONAL INFO

Interests

Geographical Information Systems Emerging Technologies for Field Data Access and Collection

Advice for Contacting Bill

Interested in business relationships with:
1. ESRI Users and ESRI Business Partners for provision of training services.
2. Providing imagery, imagery compression products and services, and document compression products by the development of business partner agreements and direct client contacts.
3. Provision of Homeland Security solutions for emergency services for Business Sites, Universities and Colleges, and School Districts.

HONORS & AWARDS

PHI KAPPA PHI National Honor Society (4.0 GPA)

ORGANIZATIONS

Geospatial Information Technology Association of Arizona – President Arizona, Urban & Regional Information Systems Association, ESRI South Western Users Group (SWUG), Arizona Geographical Information Council, GeoSpatail Information Technologies Association, Severn Hills Regional Users Group, SE ESRI Regional Users Group, NE ArcInfo Users Group, and Primerica

RECOMMENDATIONS

Received (11) ▾ Given (9)

President AZ Chapter
GITA

Howard Ward
Owner, TerraSystems Southwest, Inc.

"Bill is a creative problem solver and a key member of the GIS community in Arizona. He has a long history of helping organizations evaluate and acquire GIS technology, and he is a pleasure to work with on both a personal and professional level.

November 25, 2012, Howard was with another company when working with Bill at GITA

LizardTech Authorized Reseller
LizardTech

Gar Clarke
GIT Coordinator at New Mexico Office of the State Enginner

"Professionally, Bill Timmins has always gotten the job completed quickly, competently, and competively. He is a person of integrity and looks for the creative solution.

August 2, 2004, Gar was Bill's client

Director
GIS Services

Tony Kendzior CLU, ChFC tony@tonykendzior.com
Medical Malpractice Insurance Consultant | Captive Insurance Company Advisor | Financial Advisor

"I've known Bill for years and years. He's always working and looking out for the best interest of his friends, his family and clients. I can't say enough good things about him.

July 28, 2011, Tony was with another company when working with Bill at GIS Services

Karen Thomas, GISP
GIS Supervisor at San Jacinto River Authority

"GIS Services is a caring, respectable business that makes sure to provide good information and advice to their customers. It is a brilliant reflection of Bill's work ethic and philosophy. Bill is an invaluable source of information regarding GIS and the periphery of technology surrounding it. He offers his time in voluntary capacities to make sure the GIS industry... **more**

June 9, 2009, Karen worked with Bill at GIS Services

Claudia Haack
Vice President Strategic Development at WECC

"Bill gave us a kick-start with internal, custom trainings for our users. His knowledge and casual style put participants at ease for faster and better learning. He made GIS real and realistic.

February 23, 2006, Claudia was Bill's client

SEE MORE

CONNECTIONS

Shared (1)

James Willinger 1st
President - CEO at Wide World of Maps

GROUPS

ASU Arizona State Un...
Join

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RECOMMENDATIONS

- Received (11)
- [illegible]

1. President AZ Chapter
GITA

Howard Ward
Owner, TerraSystems Southwest, Inc.
Bill is a creative problem solver and a key member of the GIS community in Arizona. He has a long history of helping organizations evaluate and acquire GIS technology, and he is a pleasure to work with on both a personal and professional level.

2. LizardTech Authorized Reseller
LizardTech

Gar Clarke
GIT Coordinator at New Mexico Office of the State Engineer
Professionally, Bill Timmins has always gotten the job completed quickly, competently, and competively. He is a person of integrity and looks for the creative solution.

3. Director
GIS Services

Tony Kendzior CLU, ChFC tony@tonykendzior.com
Medical Malpractice Insurance Consultant | Captive Insurance Company Advisor | Financial Advisor
I've known Bill for years and years. He's always working and looking out for the best interest of his friends, his family and clients. I can't say enough good things about him.

Karen Thomas, GISP
GIS Supervisor at San Jacinto River Authority
GIS Services is a caring, respectable business that makes sure to provide good information and advice to their customers. It is a brilliant reflection of Bill's work ethic and philosophy. Bill is an invaluable source of information regarding GIS and the periphery of technology surrounding it. He offers his time in voluntary capacities to make sure the GIS industry...more

Claudia Haack
Vice President Strategic Development at WECC
Bill gave us a kick-start with internal, custom trainings for our users. His knowledge and casual style put participants at ease for faster and better learning. He made GIS real and realistic.

Steve Saxman
Biz Dev at SyCara - SEO Tool. We Optimize Optimization.
Bill is a true industry pro. Very knowledgable and creative. Always very responsive and offering help and even gives leads for my business as well. The Go-to-Guy for GIS.

Carlos Domingo
President and CEO at Telefonica I+D
Mr. Timmons has been an authorized reseller for LizardTech for several years, and continues to be one of the top performing resellers in our geospatial product channel. He has a lot of knowledge about our products and he is always very responsive to customer inquires.

Todd Finck
Merger/Acquisition, Consulting, Investor
Bill Timmons is a knowledgable and honest individual. That same honesty and hard-work ethic is apparent when working GIS Services.

4. Director GIS Services of STC

GIS Services of Scientific Technologies Corp

Win Wheeler
Business Intelligence Analyst at Organically Grown Company
I have worked with Bill Timmins in a technical supporting role for numerous GIS projects and training assignments. Bill's knowledge of Geographic Information Systems excels most in the industry and his ability to transfer that knowledge is exceptional. I would not hesitate to recommend Bill for any assignment to which he is qualified.

Steve Pollackov
FDNY GIS Commanding Officer
I haven't had much dealings with Bill, but my interactions with him have always been Professional. Bill values GIS and the field in general and seems always willing to make advancements in the field.

5. MA
University of Florida

David Costakis
Quality Manager at Northrop Grumman Corporation
I have known Bill Timmins since he was one of my graduate students at the University of Florida over 25 years ago, and I will always remember him as the hardest working, most dedicated student I ever had the pleasure of knowing. I have also known Bill in his professional life after his graduation, and I am pleased to endorse him as a dedicated person of high integrity,... more

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GIS Services specializes in ***flexibility***: Classes can be held ***where you want them, when you need them***, and ***custom tailored*** to your requirements. We can come to you – classes can be held at your facility with our computers or yours. If that is not convenient, we can schedule classes in your locality at a site GIS Services provides. Not enough folks for your own class then ask about the availability of open enrollment classes.

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For more information, contact Barbara at GIS Services, 520-971-7622 – 8am-5pm PST or email btgis@earthlink.net, or Bill at 520.991.0727 – 8am-5pm EST or email gis@northlink.com .

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Apache Junction Fire District, Apache Junction AZ
Apache-Sitgreaves Nat. Forest, Springerville AZ
AZ Geological Survey, Tucson AZ
AZ Department of Environmental Quality, Phoenix
AZ Department of Environmental Quality, Tucson
AZ Department of Health Services, Phoenix AZ
AZ Department of Health Services /EDC/OEH/ISS, Phoenix AZ
AZ Department of Health Services, Phoenix AZ
AZ Department of Health Services, Phoenix AZ
AZ Department of Water Resources, Phoenix AZ
AZ Department of Transportation, Traffic Studies, Phoenix AZ
AZ Department of Transportation, TPG, Phoenix AZ
AZ Department of Water Resources, Phoenix AZ
AZ Division of Emergency Services, Phoenix AZ
AZ Game and Fish, Phoenix AZ
AZ State Attorney Generals Office, Phoenix AZ
AZ State DEQ Air Quality Division, Phoenix AZ
AZ State DEQ Water Quality Division, Phoenix AZ
AZ State Department of Commerce, Phoenix AZ
AZ State Department of Health Services, Cancer Registry, Phoenix AZ
AZ State Governors Office, Phoenix AZ
AZ State Land Department, Phoenix AZ
AZ State University, Tempe AZ
AZ Women and Children Health, Phoenix AZ
Association of Bay Area Governments (ABAG), Oakland CA
BIA Apache Summit Forestry Complex, Ruidoso NM
BIA Branch of Forestry, Mescalero NM
BIA Chinle Agency, Chinle AZ
BIA Fort Apache Agency, Whiteriver AZ
BIA Laguna Agency, Laguna NM
BIA Mescalero Agency
BIA Phoenix Area Office, Phoenix AZ
BIA Shiprock, Shiprock NM
BIA, San Juan NM
BIA Shiprock Agency, Branch of Natural Resources
BIA-AAO-Branch of Forestry, Albuquerque NM
BLM, Cheyenne WY
Battelle, Albuquerque NM
Bernalillo County Sheriff Dept., Albuquerque NM
Bernalillo County, Info. Technology, Albuquerque NM
Bernallio County GIS, Albuquerque NM
Blue Cross Blue Shield, Phoenix AZ
Brown and Root, Aliquippa PA
Bureau of Reclamation, Phoenix AZ
CHEMRAD, Knoxville TN
CMSI, Jacksonville FL
Capulin Volcano National Monument, Capulin NM
Carlsbad High School, Carlsbad NM
Carlsbad National Park NM
Carson National Forest, Taos NM
Chihuahuan Desert Lab, Carlsbad NM
Chino Mines, Hurley NM
Citizens Communications, Flagstaff AZ
City of Albuquerque NM
City of Albuquerque NM, GIS Department
City of Albuquerque NM, Police, Dept
City of Albuquerque NM, Public Works
City of Albuquerque NM, Technical Division
City of Apache Junction, Apache Junction AZ
City of Bisbee, Bisbee AZ
City of Bullhead City, Bullhead City AZ
City of Chandler, Chandler AZ
City of Flagstaff, Flagstaff AZ
City of Gilbert, Gilbert AZ
City of Glendale, Glendale, AZ
City of Jacksonville, Jacksonville FL
City of Loveland, Loveland CO
City of Mesa, Mesa AZ
City of Mesa, Fire Department, Mesa AZ
City of Mesa, Information Services, Mesa AZ
City of Mesa, Police Department, Mesa AZ
City of Peoria, Planing Division, Peoria AZ
City of Phoenix City Mangers Office, Phoenix AZ
City of Phoenix Aviation, Phoenix AZ
City of Phoenix ITD, Phoenix AZ
City of Phoenix License Services, Phoenix AZ
City of Phoenix Managers Office, Phoenix AZ
City of Phoenix Neighborhood Services, Phoenix AZ
City of Phoenix Police Dept., Phoenix AZ
City of Phoenix Street Transportation Dept.
City of Phoenix Water Services, Phoenix AZ
City of Phoenix, Fire Department, Phoenix AZ
City of Phoenix, Planning Department, Phoenix AZ
City of Santa Fe, Santa Fe NM
City of Scottsdale AZ, Information Systems (GIS)
City of Show Low, Show Low AZ
City of Surprise, Planning, Surprise AZ
City of Tracy, Tracy CA
City of Tucson Community Services, Tucson AZ
City of Tucson. AZ
    11 classes (ArcView, ArcCAD, ArcInfo)
City of Tucson DOT, Tucson AZ
City of Tucson Neighborhood Services, Tucson AZ
City of Tucson Planning Department, Tucson AZ
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City of Tucson Special Projects, Tucson AZ
City of Tucson Water, Tucson AZ
City of Tucson, Tucson AZ
City of Tucson, Engineering Division, Tucson AZ

City of Yuma AZ, Planning and Neighborhood Services
Coconino County Highway Department, Flagstaff AZ
Colorado Plateau Field Station, NAU, Flagstaff AZ
Columbus Electric, Deming NM

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Department of Natural Resource, Annapolis MD
Department of Natural Resource, Columbia MD
Department of Natural Resource, Easton MD
Department of Economic Security, Tucson AZ
Department of Military Affairs, Phoenix AZ
Dona Ana County Assessor, Las Cruces NM
ETAK, Phoenix AZ
Earth Data Analysis Center, Albuquerque NM
El Coronado Ranch, Pearce AZ
Environet Inc., Phoenix AZ
Ft. McDowell Indian Community Environmental Department, Ft. McDowell AZ
Fort Apache Agency, Whiteriver AZ
Fossil Butte National Monument, Kemmer WY
Ft. McDowell Yavapai Nation, Fountain Hills, AZ
GIS Services, Locust Valley NY
Gateway Community College, Phoenix AZ
Geraghty & Miller, Phoenix AZ
Gila River National Forest, Mimbres NM
Glen Canyon National Park Service, Page AZ
Glendale Community College, Glendale AZ
Golden Spike National Historic Site, UT
Grand Canyon Monitoring and Research Center, Flagstaff AZ
Guadalupe Mountain National Park, Salt Flat TX
Harding County, Mosquero NM
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Kenny Aerial Mapping, Phoenix AZ
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La Paz County, NM
Larimer County, Fort Collins CO
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Los Alamos County, Los Alamos NM
Los Alamos National Labs, Los Alamos NM
Luz Social Services, Tucson AZ
Lyndon B. Johnson Nat. Forest, Johnson City TX
MEVATEC Corp., White Sands NM
Maricopa Association of Governments, Phoenix AZ
Maricopa Co. Assessor, Phoenix AZ
Maricopa County AZ Department of Transportation
Maricopa County Dept. of Public Health, Phoenix AZ

Maricopa County Elections, Phoenix AZ
Maricopa County Parks, Phoenix AZ
Maryland Department of Natural Resources, Annapolis
McKinley County, Assessors Office, Gallup NM
Santa Fe Pacific Gold, Santa Fe NM
Mesa Community College, 15 Week Class, Mesa AZ
Mesa County IMD, Grand Junction CO
Metropolitan Transportation Comm., Oakland CA
Middle Rio Grande Conservancy District (MRGCD), Albuquerque NM
NM EDC, Santa Fe NM
NM Game and Fish, Santa Fe NM
NM Game and Fish, Roswell NM
NM Interstate Stream Commission, Santa Fe NM
NM Space Commercialization, Las Cruces NM
NMED - DOE Bureau, Santa Fe NM
National Park Service, Saguaro National Park East, Tucson AZ
National Park Service, Santa Fe NM
NRCS, Santa Fe NM
National Park Service, Science Center, Grand Canyon
National Park Service, Amistad NRA, Del Rio TX
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National Park Service, UNM, Albuquerque NM
Natrona Co. School District, Casper WY
Navajo Nation NTUA, Farmington NM
Nebraska National Forest, Chardon NE
New Mexico One Call, Santa Fe NM
OCHSHCN, Phoenix AZ
Organ Pipe Cactus National Monument, Ajo AZ
Oro Valley Planning Department, Oro Valley AZ
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Otero County, NM
Pima Co. Animal Control, Tucson AZ
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Pima County Health Department, Tucson AZ
Prescott National Forest, Prescott AZ
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Public Service Company of NM, Albuquerque NM
Pueblo of Laguna, Dept. of Natural Res., Laguna NM
Rio Ariba NM
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San Juan County, Aztec NM
San Juan Pueblo, San Juan Pueblo NM
Sandia National Labs, Albuquerque NM
Sandoval Co., GIS Dept., Bernalillo NM

Santa Fe County, GIS/ASD, Santa Fe NM

Santa Fe National Forest, Santa Fe NM

Scottsdale Community College, Scottsdale AZ

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Town of Fountain Hills, Fountain Hills AZ
Town of Gilbert, Gilbert AZ
Town of Marana, Marana AZ
Town of Oro Valley, Oro Valley AZ
Town of Paradise Valley, Paradise Valley AZ
Town of Queen Creek, Queen Creek AZ
Town of Taos, Taos NM
Triumph Technology, Albuquerque NM
Tucson Airport Authority, Tucson AZ
Tucson Unified School District #1, Tucson AZ
U.S. Army Corps of Engineers, NM
USDA Forest Service, Overgaard AZ
USDA Forest Service, Santa Fe NM
USDA Forest Service, Albuquerque NM
USDA Forest Service, Apache-Sitgreaves National Forest, Springerville AZ
USDA Forest Service, Cibola NF, Albuquerque NM
USDA Forest Service, Coronado Forest AZ
USDA Forest Service, Lincoln National Forest NM
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USDI Bureau of Land Management, Worland WY
USGS, Flagstaff AZ
USGS, Tucson AZ
Unita County, Evanston WY
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Utility Automation 200, Huntsville AL
Valencia Co., NM
Village of Angel Fire, NM
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Wilbur Smith Associates, Lexington KY
Wupatki Sunset Crater, AZ
Yavapai Tribe, Prescott AZ

GATES PASS AREA NEIGHBORHOOD ASSOCIATION
C/O 1124 N. Camino de Oeste Tucson AZ 85745
Ph. (520) 622-4070 < eidolon2@mindspring.com >

The Pima County Board of Supervisors
C/O. The Clerk of the Board
130 W. Congress St., 5th Floor
Tucson AZ 85701

Re: Co9-84-41, Timmins' gust house

Dear Pima County Supervisors:

On March 27, 2013, the Planning and Zoning Commission turned down, by a vote of 10 - 0, a request by a Mr. Timmins to approve some exceptions to the County code. The Commission's judgement on this case, # **Co9-84-41**, was only a recommendation, and Mr. Timmins appeal to remove the 85-ft set back from his land, and / or to allow his Building to remain in the scenic zone, will be heard soon by the Board of Supervisors.

Among the materials you will review for this case are not only Pima County Staff descriptions, and various views of the site, but some petition signatures from neighbors who have been very much upset about this guest house since construction first began three years ago.

At a recent membership meeting of the Gates Pass Area Neighborhood Association, additional signatures of people opposed the continued existence of this structure were collected. The two petition pages are enclosed with this letter in order that they will be included in the file for this case.

We all thank you all for you close attention to this matter.

Sincerely yours,

Roger E. Carpenter

Roger E. Carpenter
(GPANA Board member)

RECEIVED
APR 18 2013
BY: .....

CLERK'S NOTE:
COPY TO SUPERVISORS
COUNTY ADMINISTRATOR

DATE 4/17/13 (KW)

cc: Development Servic

Petition to Save Scenic Gates Pass 85' Setback

Petition summary and background	
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
Olivia Cateno Bedford	Olivia Cateno Bedford	P.O Box 85477 Tuc. Az 85754		4/13/13
Katharine VN Randall	Katharine VN Randall	1726 N. Pla. La Zarca 85745		4/13/13
Wylie Baker	Wylie Baker	1726 N. Pla La Zarca 85745		4/13/13
Jim Wilson	Jim Wilson	5220 W Via Marcona		4/13/13
Carolyn Leigh	Carolyn Leigh	4530 West Speedway Tucson 85745		4/13/13
Michael Addis	Michael Addis	5318 W. Camino Del Desierto Tucson 85745		4/13/13
Rebecca Patterson	Rebecca Patterson	5010 W Monte Carlo Dr Tucson, Az 85745		4/13/13
Peter Pennings	Peter Pennings	5010 W. Monte Carlo Dr. Tucson, AZ 85745		4/13/13
Gary A. Kurdosky	Gary A. Kurdosky	5345 W Camino del Desierto	85745	4/13/13
Ann M Becker	Ann M Becker	5300 W Cmo del Desierto 85745		4/13/13
ALAN GILPATRICK	Alan Gilpatrick	5061 W. CMO DEL DESIERTO		4/13/13

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 a distance of 0 feet from Gates Pass Road and adjacent and northeast of McElroy Drive at Paseo Montana Subdivision, will be held 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
CLOVIS JACK Snider	Clovis J Snider	5700 West Gates Pass, Tucson		13 April 2013
ROBERT James PEXER		846 N. CMO DE OESTE TUCSON 85745		13-Apr-13
DIANNA K. LUETY		5354 W. CMO DEL DESIERTO		APR 13-2013
Karola Saller		1977 N Placita La Zarca		4-13-13

REZONING CONDITIONS

&

LETTER OF AUTHORIZATION

New Public Hearings (continued)

14) Co9-84-39 Aries Enterprises - Benson Highway Rezoning (continued)

16. Landscaping to consist of low water use and low pollen producing vegetation.
17. Adherence to acceptable site plan.

Motion carried unanimously by nine members.

15) Co9-84-41 INTERNATIONAL WILDLIFE - GATES PASS ROAD REZONING
Petition (Co9-84-41) of International Wildlife Foundation to rezone approximately 30 acres from SR (suburban ranch) to CR-1 (low density single family) uses, located north of Gates Pass Road and approximately 1/4 mile west of Camino de Oeste. Subject property lies within and the rezoning conforms to the Tucson Mountain Area Plan, Co13-61-20.

The petitioner's representative presented the request to the Commission. Four people from the audience spoke regarding the request.

ON MOTION, it was

VOTED: To recommend to the Pima County Board of Supervisors that the rezoning to CR-1 be APPROVED, subject to the following standard and special conditions, with #17 being a part of the motion and the addition of numbers 18, 19 and 20.

1. Submittal of a complete hydraulic and hydrologic drainage report as determined necessary by the Department of Transportation and Flood Control;
2. Submittal of a development plan if determined necessary by the appropriate County agencies;
3. Dedication of necessary right-of-way for roads and drainage by separate instrument if the property is not to be subdivided;
4. Recording an acceptable plat which will provide for dedication of necessary right-of-way for roads and drainage if the property is to be subdivided;
5. Completion of requirements for a rezoning ordinance within three years from the date of approval by the Board of Supervisors;
6. Recording a covenant holding Pima County harmless in the event of flooding;
7. Conformance with County paving policies as determined appropriate by the Department of Transportation and Flood Control;
8. Prior to grading or clearing of land, a grading plan will be submitted and approved by the Department of Transportation and Flood Control District for the purpose of determining the extent and effect of such grading.
9. Recording the necessary development related covenants as determined appropriate by the various County agencies;
10. Provision of development related assurances as required by the appropriate agencies;
11. Recording a covenant to the effect that there will be no further subdividing or lot splitting without the written approval of the Board of Supervisors;

New Public Hearings (continued)

15) Co9-84-41 International Wildlife - Gates Pass Road Rezoning (continued)

12. Making a suitable arrangement with the Pima County Wastewater Management Department for the provision of sanitary sewerage disposal which may include:
    A. If individual on-lot sewage disposal systems are used, application by the owner for and issuance by Pima County Health Department of on-lot sewage disposal permits for each and every lot within the proposed development, prior to adoption of the zoning ordinance; or
    B. If public sanitary sewerage service is used, construction by the owner or developer, at no cost to Pima County, of approximately 11,000 lineal feet of sewer line to be funded on a private basis.
13. Requirements of the Department of Transportation are as follows:
    A. Dedication of 75 foot wide half right-of-way for the north half right-of-way of Gates Pass Road adjoining the subject property.
    B. Adherence to Pima County Hillside Development Zone Ordinance.
    C. All driveways serving more than one dwelling unit shall be paved to the applicable Pima County standards prior to the issuance of any building permits.
    D. Access to the subject property from Gates Pass Road shall need the approval of the Departmnet of Trasportation prior to the submittal of a tentative plat or development plan for any portion of the subject property.
    E. Provision of all necessary improvements on Gates Pass Road determined necessary by the Department of Transportation.
    F. Provision of all on-site improvements determined necessary by the Subdivision Review Section of this department.
14. Requirements of the Flood Control District are as follows:
    A. Prior to receiving building permits for construction, the petitioner must submit all required drainage reports and plans and receive approval by the Flood Control Section. In developing the reports and plans, the requirements and regulations incorporated in the following reports, at a minimum must be satisfied:
        1. Flood Plain Management Ordinance 1983-FC1;
        2. Drainage and Channel Design Standards;
        3. Flood Control District Policies.
    B. The petitioner must dedicate all rights-of-way and/or grant flowage easements for drainage purposes to Pima County as determined necessary by Pima County's Flood Control District.
    C. Financial contribution to drainage improvements as determined necessary by the Flood Control District will be required prior to the issuance of the zoning ordinance for any portion of the subject property.
15. No grading to occur until 30 days prior to construction.
16. Landscaping to consist of low water use and low pollen producing vegetation.
17. Buildings to be treated with earth tone colors.
18. Setbacks to be 85 feet from the planned right-of-way.
19. Only grading permitted for pads of houses, roads, driveways and septic tanks.
20. Building height be a maximum of twenty feet.

Motion carried unanimously by nine members.

DECEMBER 19, 2012

TO WHOM IT MAY CONCERN:

This letter serves to provide notice that I, William V. Timmins, as a trust officer of the Timmins Family Trust, authorize Loose, Brown & Associates to represent me for the application of plat note waiver for the residential property the Timmins Family Trust owns at 4870 W. McElroy Dr., Tucson, AZ 85745-9178.

William V. Timmins

SUPPLEMENTAL SUBMITTAL BY THE APPLICANT 2-24-13

LOOSE, BROWN & ASSOCIATES, P.C.
Donald A. Loose (006636)
Jesse R. Callahan (025393)
11240 N. Tatum Blvd., Suite 110
Phoenix, Arizona 85028
(602) 971-4800
don@loosebrown.com
Attorneys for Petitioners

IN PROCEEDINGS BEFORE THE PIMA COUNTY BOARD OF SUPERVISORS

WILLIAM V. TIMMINS AND SUSAN A. TIMMINS, as Trustees of the Timmins Family Trust; WILLIAM V. TIMMINS AND SUSAN A. TIMMINS, husband and wife, Petitioners.	**Co9-84-41** **SUPPLEMENTAL MEMORANDUM TO BOARD OF SUPERVISORS RE REQUEST FOR PLAT NOTE WAIVER AND MODIFICATION OF REZONING CONDITION**

Timmins, through counsel undersigned, hereby supplements their Memorandum in support of their Request for Plat Map Waiver. The Pima County Planning and Zoning Commission ("Commission") recommended that the Board of Supervisors deny Timmins' Request for a Modification of Rezoning Condition. The Commission predicated its recommendation on information furnished by members of the general public. Apparently, the Commission accepted as true the allegation that Timmins ***intentionally*** violated the setback, which formed the basis for the Commission's recommendation.

The County, on the other hand, supports Timmins' requests "subject to the requested conditions." Staff Report, pg. 5. Timmins is in agreement with each of the County's requested conditions. Therefore, the only remaining opposition to granting Timmins the requested relief emanates from people who assume that Timmins acted with a malicious state of mind in

constructing the guesthouse. As set forth below, the Board of Supervisors should not accept this unfounded speculation.

I. The General Public

The members of the public took carte blanche at impugning Timmins' integrity and honesty during the hearing before the Commission. They made wild accusations that Timmins concocted an elaborate scheme to intentionally build the guesthouse in violation of the setback, so that he could engage in litigation later on. Many of these allegations were made for the first time, which was also the first hearing in this matter where Timmins was not present to confront these wild accusations. The simple fact is that this will be Timmins' fourth litigated matter in these proceedings regarding the guesthouse considered for construction in 2009. It defies logic that anyone would beg this litigation on themselves.

In December of 2009, the guesthouse plans were reviewed with the remaining members of the Paseo Montana Architectural Review Committee (ARC) (Exhibit A). Richard Giachetti was also consulted as the architect for plan review (Exhibit B). They both confirmed that there was no longer a review process. These facts combined with the approval obtained from the County during plan review, and later with Development Services when construction was almost completed, entirely undermine the absurdly illogical claim that Timmins intentionally acted in bad faith so that he could go through years of expensive litigation rather than obtain permission at the beginning of the process. Nevertheless, out of an abundance of caution, Timmins takes in turn each of the statements and letters furnished for the Planning and Zoning Hearing and responds to them. Timmins' responses are set forth in Exhibit C hereto, which is incorporated herein by reference.

Timmins impeccable character should not be on trial in this matter. The primary issues in this case have already been resolved in Timmins' favor, whether through the prior order dismissing the scenic route setback and plat map violations, or through the final ruling and judgment of The Honorable Charles Harrington. Both of these final verdicts should be enforced rather than reversed. Indeed, no legal authority exists to permit the Board of Supervisors to reverse the prior rulings, whereas *res judicata*, collateral estoppel, and double jeopardy all prohibit such a result.

The Commission, however, expressly based its recommendation on impugning Timmins' character by finding he acted in bad faith. As such, Timmins intends to call character witnesses and those who have lived in his house as guests (not renters as implied by the neighbors) at the upcoming hearing to testify as to Timmins' truthfulness, which is apparently now an issue in these proceedings. I hope that this will prove to be unnecessary.

II. Facts and Law

The members of the public sat idly by and allowed Mr. Timmins to pour six figures into building a foundation and structure, only to come back later and, through mob rule, demand that it be torn down. The first such instance of this mob rule was a sham homeowners association, which promptly disbanded upon being advised that it was acting illegally. The second such instance took place before the Board of Adjustment, District 5 (BOA).

The BOA accepted the speculation of the mob as to Timmins' state of mind and ordered that Timmins tear down his guesthouse. The BOA's ruling was subsequently ***reversed*** by Judge Harrington, who further found it would constitute waste to force the razing of Timmins' guesthouse. The ruling by Judge Harrington was based on sworn testimony and admissible

evidence, and permitted the structure to stand where it is currently constructed. The ruling from the BOA and the recommendation from the Committee, on the other hand, are based on unfounded hatred. The Board should not base its decision on misinformation spread by an inappropriately formed homeowners association, (whose sole and illegitimate purpose for formed was to have the guesthouse torn down), and speculation as to Mr. Timmins' state of mind, but should instead base its decision on the undisputed sworn testimony and prior orders and judgments in this matter.

After putting aside the irrelevant and malicious personal attacks against Timmins, the facts and law are both on Timmins' side in this case. Timmins built the guesthouse where the County approved and advised during plan review. Timmins' contractor interacted with the first County inspector, Gerry Monson, who measured the distance from the road during the zoning inspection and approved the location. The inspection card and testimony at the first hearing conducted by Mr. Portner confirmed this with sworn testimony from Robert Farkas of Development Services. The Order of Partial Dismissal, based on undisputed sworn testimony, dismissed the plat map violation *and* the scenic route setback violation. The dismissal went without appeal by the County. Any further prosecution by the County on these matters is therefore legally prohibited. The Honorable Charles Harrington also held that it would constitute "waste" to tear down the guesthouse, thus prohibiting that from happening. A denial of Timmins' requested relief would therefore violate these prior rulings. The Board's decision has therefore been simplified.

Timmins has already prevailed through 1) an order of dismissal as to the setback and plat map citations, and 2) an order from a superior court judge finding that it would constitute waste

to force Timmins to tear down the structure. Any ruling by the Board of Supervisors that would require Timmins to tear down the guesthouse would violate longstanding legal principles of *res judicata*, collateral estoppel, and double jeopardy, which require conformance with the prior order and judgment, not contempt thereof. The proper result to cure the alleged concerns from the general public regarding aesthetics is to complete construction of the guesthouse and comply with every recommendation from the County, which will cure the alleged visual impact.

III. Conclusion

Timmins understands that people are upset at the current appearance of an incomplete construction project, which has sat dormant for several years. Such a concern, however, is not a basis to raze the guesthouse. Forcing Timmins to tear down the guesthouse simply because people do not like the way it looks ***before it is completed*** would be an egregious abuse of discretion. Such a ruling would further undermine the prior order of dismissal and final judgment entered in the two prior litigated matters in this case.

DATED 23rd Day of April 2013.

LOOSE, BROWN & ASSOCIATES, P.C.

By:_____
Jesse R. Callahan
Attorneys for Timmins

ORIGINAL filed this 23rd Day of April 2013
with Pima County Board of Supervisors

EXHIBIT A

William and Susan Timmins
4870 W McElroy Dr., Tucson Arizona 85745

December 29, 2010

Prior to construction of the guest house the location and guest house were discussed with Elmer and Marcella Smith, who were the only remaining members of the Architectural Review Committee.

We were advised that there was no longer an active Home Owners Association and that they had no objections as the remaining members of the Architectural Review Committee to the construction of the guest house.

Richard Giachetti was also contacted who was the architect who reviewed plans for our subdivision and he advised us (William and Susan Timmins) that he has not done any reviews in over 10 years and that there was no longer an active review being conducted by his company..

William and Susan Timmins have agreed that improvements will be made to the guest house which will include:

A wall around the eastern side of the guest house (Gates Pass side) which will connect to the porch entrance with a gate to the northern uncovered porch area.

A porch revision facing McElroy Drive which matches in design the current porch on the main residence and accompanying security doors to match the style on the main residence.

An uncovered porch area on the north side of the guest house adjacent to the parking lot of the International Wildlife Museum of pavers.

Vegetation which will be added to shield the structure from Gates Pass to include at a minimum of two mesquite trees and jojoba bushes

William Timmins

Signature

Dated 01/12/2011

Elmer Smith/Marcella Smith

Signature

Dated 01/12/2011

Notary

STATE OF Arizona, COUNTY OF Pima

On January 12th, 2011 before me, the undersigned, a Notary Public in and for said State, personally appeared William Timmins and Elmer Smith, and Marcella Smith proved to me on the basis of satisfactory evidence/to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he/she~~/they executed the same in ~~his/her~~/their authorized capacity(ies), and that by ~~his/her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Arizona that the forgoing paragraph is true and correct.

WITNESS my hand and official seal

Signature

Alicia R Ernsky

Name (typed or printed)

Alicia R Ernsky

My commission expires:

07/26/2014

(Seal)

Alicia R Ernsky
Notary Public
Pima County, Arizona
My Comm. Expires 7-26-14

EXHIBIT B

RG RICHARD E. GIACHETTI ARCHITECT
1636 North Swan, Suite 201 • Tucson, Arizona 85712 • (520) 327-6600
FAX (520) 327-6690

January 11, 2011

Members of the Paseo Montana Subdivision
C/O William and Susan Timmins
4870 W. McElroy Drive
Tucson, Arizona 85745

This letter is to advise that I have not been reviewing plans for the Subdivision for the last ten to twelve years. Since I have not been reviewing plans for many years I do not consider myself the review architect for the subdivision. Should you desire, I would be happy to discuss becoming the subdivision review architect.

Should you have any questions please contact me.

Sincerely,

Richard E. Giachetti, Architect

EXHIBIT C

Neighbors Statements and Letters Response

Planning and Zoning Hearing March 27, 2013

Statements made at Hearing

A. Patricia Noland Butcher

Ms. Butcher argued the following:
"The setbacks were ignored both County and the CC&Rs of that subdivision. They ignored the County requirements with regards to the guesthouse provisions, the sewer, the electrical, the kitchen and occupancy." (Page 11, lines 43 to 45, Planning and Zoning Commission Hearing (PZH).

The CC&Rs have no bearing on the issue before the Board of Supervisors but are addressed in Exhibit 1 hereto. The accusations regarding the CC&R violations are inaccurate and the result of mob mentality.

The sewer was properly permitted, as set forth in the submittal from Brazos Geotech dated July, 15, 2010. Ms. Butcher's accusations are again unfounded and simply false. The sewer is in compliance with County requirements and has been permitted.

The electrical issues were created by TEP and County approval. A letter from TEP regarding the need for the electrical panel as constructed is attached hereto as Exhibit 2. Contrary to the Commission's accusation, the letter from TEP unequivocally shows that in the field TEP made a decision to connect a separate electrical panel rather than tunneling through rock to connect to the existing panel, including safety reasons.

With respect to the kitchen, it was approved prior to construction both with a kitchen – to accommodate elderly relatives anticipated to potentially move in June of 2010 – and without a kitchen (i.e., a stove) if they did not move in and the structure was

to be used by guests. Timmins was made aware that the structure could not be rented at the time of the filing of these covenants.

The County's representative, Robert Farkas, who has personal knowledge of the matter, contradicts Ms. Butcher's statements, which were not given under oath. Mr. Farkas specifically admitted under oath at the code enforcement hearing that the guesthouse was built with adherence to the approved plans, that the plans were wrong, and that the plans were approved inappropriately by Pima County. Timmins Statement of Facts, ¶ 9 dated 1/11/13. The sworn testimony provided by Timmins' contractor, Carlson Eby, and Mr. Timmins, are consistent with the sworn testimony of Mr. Farkas. The unsworn statements made by Ms. Butcher regarding Timmins' intent are inadmissible speculation and irrefutably false.

Ms. Butcher stated:

> "They have two unrelated people living in that guesthouse and that is part of what really brought this to a head for me." (Page 11, lines 45 to 46, PZH).

The two women who were in the guesthouse had bedrooms in Timmins' main dwelling and were not living in the guesthouse. If Ms. Butcher had any issues with them being on the porch, in regards to noise or trash, they were never brought to Timmins attention.

Ms. Butcher further implied that Timmins intentionally put in the driveway, which will be modified to a walkway, and violated the setback requirements.

> "If they are gonna be required to move the illegal driveway and I think that ought to be very important to be put into your condition and require it be landscaping to screen the guesthouse from view of Gates Pass and frankly from my house." (Page 12, lines 4 to 7, PZH).

Timmins installed the driveway for a disabled relative, as set forth infra, and has already agreed to remove the driveway. Timmins has been prevented from doing any work at the project on advisement by Development Services since the initial citation over two years ago. The structure thus appears unfinished and is aesthetically unacceptable to not only the neighbors but to Mr. Timmins.

Timmins advised the Board of Adjustment and County that they would modify the driveway to a walkway and submitted revised plans for review in August of 2012 after the Superior Court ruling.

Timmins has maintained all along that the completed site would have vegetation that would screen the structure from Gates Pass Road and agrees with the Staff recommendations at the PZH. A rendering of the completed site was requested and provided to the persons purporting to act on behalf of the Paseo Montana Home Owners Association Architectural Review Committee, which was in fact an illegally formed and now disbanded HOA. The "HOA" had one purpose, to remove Timmins' guesthouse.

B. Anne Anovitz

Ms. Anovitz complained that Timmins "has in effect divided the property into a lot that has two houses on it on a one acre lot." This is *per se* untrue. The guesthouse, as ordered by the Honorable Charles Harrington, will be served by the same electrical panel as Timmins' main house, and it will not have a separate driveway, which was stipulated to by Mr. Timmins over two years ago. The guesthouse does not accomplish a lot split. The guesthouse is quite small and to say that Timmins surreptitiously subdivided the property is unsupported and false.

Ms. Anovitz also advised the Commission that:

"He built his house according to that but then he told us that since we did not have an official association he didn't have to pay attention to the CC&Rs". (Page 12, lines 18 and 19, PZH).

This statement is again wrong. Mr. Timmins responded to the neighbors' CC&R allegations in email correspondence and in meetings. Timmins was in favor of modifying the CC&R's to accommodate other neighbors in violation of them as he considered some of the CC&R requirements that were unrelated to his situation to not be in the best interest of the homeowners in the subdivision.

As examples Mr. Dunnigan leaves his trash can out at the bottom of his driveway as do some other neighbors in his cul-de-sac as their driveways are quite steep. Mr. Timmins believed they should be allowed to do this with screening or the neighbors might come up with some suggestions. A few of the neighbors do have mailboxes that do not conform to acceptable standards and work trailers owned by residents are visible in driveways for extended periods. Mr. Timmins suggested some leeway for these issues as well.

C. Robert Dunnigan

Mr. Dunnigan argued the following: I am **Robert Dunnigan**. I live at 2950 West Monte Carlo Drive in Paseo Montana. I used to be fairly friendly with Mr. Timmins but since this all evolved I've learned he is not the guy I thought he was. He's intelligent. He's ambitious. He's uncus (sic) in his complicities (sic). I wouldn't trust him as far as I could throw him. He told me he wanted the guesthouse for his mother. Well unfortunately his mother died. Then he built it for his daughter in law mother-in law and I don't know how that plays in legally. And when he built it he had a lot of people in there. Women with their housecoats and I was told by a neighbor that they were from or either employees or patients family from Tucson Heart Hospital where his wife works as a nurse and that they were renting it at normal rates for a short term rental. When Mr. Timmins came around to me to ask me to sign his petition for a variance I told him absolutely no,

he had never consulted with anybody that I knew in the neighborhood and he just went ahead and built that place with disregard for all of us. It's obviously affected our property value and I walk, I try to walk despite my cane. I need the exercise, up to Gates Pass and on Gates Pass. One day I had a guy stop and say "Is that, did the County build a shed out there for their road department?" I said no and then I had another guy from Via Roma come and say "How did they get that house so close to the scenic highway." And I disagree with this lady over here who said when you drive up west on Gates Pass that you don't really see the side of the road. Well half the cactus on Gates Pass are on the side of the road and I'm not directly on the road bed so I wish you would make him tear it down. It's an abomination for this neighborhood and it definitely affects all our property values and he's a very complicitus guy and he's uncus. He is a hood. I hope you refuse his petition. I thank you for your time. (Page 12, lines 29 to 49, PZH).

Timmins advised Mr. Dunnigan prior to the construction process that he was building the house for elderly relatives and guests. During the permitting process, prior to construction and issuance of a permit, Timmins was advised he was was required to file covenants stating as such. The guesthouse was permitted with the filing of a House Kitchen Declaration of Covenants Running with the Land recorded January 15, 2010 both for a guest house with a kitchen and a Covenant filed to run with the land and to allow a guesthouse if the kitchen were to be removed (Docket 13726, page 415) (Exhibit 3 hereto). As both were filed prior to construction, Mr. Timmins knew he could not rent the guesthouse or subdivide his parcel, and he did not and does not intend to rent the guesthouse or subdivide his parcel.

The kitchen can be put back in place if the conditions of the covenant filed are met at a later date. Mr. Timmins agreed to remove the driveway. To suggest that the construction of a driveway for an ill family member somehow proves that Mr. Timmins acted in bad faith is not a logical inference. The driveway was constructed to accommodate the County's elderly van service and access by emergency vehicles.

As set forth above, Mr. Dunnigan engaged in direct personal attacks on Mr. Timmins by assaulting Mr. Timmins' character. Mr. Dunnigan also supports his claims by referencing statements allegedly given by unidentified third parties. These claims are merely *ad hominem* attacks, which do not address the merits of the requested relief, and are comprised of inadmissible and unreliable hearsay.

Mr. Dunnigan is correct that Mr. Timmins built the guesthouse at issue for his family and for short term guests. At no time did he state that the guesthouse was for his mother or mother in law and Mr. Dunnigan was aware that both had died prior to 2007.

During Timmins' time in Florida, house sitters, who lived there one person at a time, paid $600 per month to live in a 3,000 plus square foot home with all utilities and a pool service paid for by Timmins. Other guests in Mr. Timmins house who did not pay rent have been requested to attend and provide testimony. Mr. and Mrs. Timmins provide for friends and relatives who are less fortunate.

With respect to the remainder of Mr. Dunnigan's allegations, they merely concern the aesthetic features of the unfinished guesthouse and Mr. Timmins also agrees that the guesthouse is presently not pleasing to the eye, but it is also unfinished. The other allegation that there were renters in the guesthouse in housecoats is not correct. The women always had bedrooms in Mr. Timmins' home. The women did not have "housecoats" on at any time either at the guesthouse or in Mr. Timmins home. These allegations, besides being false, have nothing to do with the propriety of the Board of Supervisors granting Timmins the requested relief.

With the County's recommendations, Mr. Timmins' cooperation, and original

intentions, any aesthetic issues will be cured. As set forth in the architectural rendition of the property, people will no longer be able to refer to the guesthouse as a "shed." (Ex. 4 attached hereto)

D. Eric Lyons

> Mr. Lyons argued the following: The two things that I do want to add is that I do use that guest house as a land mark for people coming to my house where I say please drive past the International Wildlife Museum, look for the guesthouse the ugly thing sitting on the corner, hang a right after that. It is very obvious to everyone coming up that road. The second thing is that if we do start making allowances for people to build and then be able to keep it simply because we don't allow waste I think that is bad precedence for this neighborhood. (Page 13, lines 11 to 416, PZH).

With respect to Judge Harrington's ruling that it would constitute waste to tear down the guesthouse, it does not set a precedent for anything. It is an unpublished opinion unique to *this* case, is only binding on the proceedings in *this* case, and cannot be cited in support of any potential future variance and/or waiver requests.

Mr. Lyons, like all of the public, again complains about the aesthetics of the guesthouse. ***Remember, the guesthouse has remained an incomplete construction project for years and Mr. Timmins has on numerous occasions advised the neighbors of his intentions to landscape and shield the structure from view.*** He was advised and complied with the illegally formed Architectural Review Committee request for a rendering of the completed structure and advised them he would put money in escrow to accommodate their requests. As set forth above and below, the aesthetic issues will be entirely resolved once construction is complete.

E. Roger Carpenter

Mr. Carpenter attempts to discount the plain and undisputed fact that the

guesthouse at issue is in closest proximity to a museum parking lot and built on heavily disturbed soils. Exhibit 5 hereto, showing the disturbed area prior to construction. These ***facts***, however, should not be discounted because they constitute unique circumstances that undermine the alleged concerns over aesthetics and precedential effects.

With respect to Mr. Carpenter's allegations that the guesthouse resembles a "tool house," once the guesthouse is completed in conformance with the County's recommendations, as well as Mr. Timmins intentions, the guesthouse will not resemble anything like its current status, which is an incomplete construction project.

Timmins understands that people are upset at the current appearance of an incomplete construction project, which has sat dormant for several years. Such a concern, however, is not a basis to raze the guesthouse. Forcing Timmins to tear down the guesthouse simply because people do not like the way it looks ***before it is completed*** would be an egregious abuse of discretion. Such a ruling would further undermine the prior order of dismissal and final judgment entered in the two prior litigated matters in this case.

F. John Davis

> Mr. Davis argued the following: I am a property owner in the Paseo Montana Subdivision and I have with me today the signatures of more than 75% of the property owners in our subdivision requesting that this request for a variance be denied. I think one of the most absurd things before you is that Mr. Timmins is the principal of GIS Services. GIS is an acronym for Geographic Information Services. He's an international expert on mapping, aerial locating, and he trains clients in the use of software and equipment for this. In his list of locally trained entities he lists Pima County Department of Transportation, Pima County Mapping and Records Section, the City of Tucson Department of Transportation Engineering Department, towns of Oro Valley, Marana, and the Tucson Airport Authority. According since Mr. Timmins is an expert at map-making I think he

> has to be held to the absolutely highest standards. When you evaluate any site specific documents that he submitted on his application for a building permit, any plat maps that were submitted and improvement locations and one thing that I have with me today that we recently noticed in a Google aerial map for lot one, you will see a series of perfectly lined boulders approximately 4 to8 feet in diameter. There's twenty of them that run the entire east west link of lot one and approximates the Gates Pass corridor buffer setback. None of those boulders were in place today. They all had to be removed in order to build this particular piece of property. So it's very obvious from Mr. Timmins standpoint and his expertise that he had a clear understanding that they were there for a reason and he had to move them in order to do this. (Page 14, lines 20 to 37, PZH).

Opposition to the structure only came about after the structure was built. In Timmins' initial contact with the neighbors after Timmins had made them aware of the guesthouse, the majority of the neighbors were not opposed to the structure. As it has sat unfinished without adequate landscaping and proposed entrance modifications the opposition has grown. If the structure had been completed as proposed the aesthetics would not be an issue today. Timmins agrees that as the structure exists today it is an unsightly yet incomplete construction project.

In regards to Timmins' expertise with mapping, he is not a plan reviewer or site inspector and relied on the approval from the County, as set forth in the Pima County Inspection card showing numerous site inspections signed off on by the County from 12/11/10 through 6/15/10. A geographical system overlay of the site plan on top of the survey based on known survey points shows the guesthouse in the location where it was built. *See* Exhibit 6, the site overlay. Moreover, the screening of Timmins' current house can be accomplished with respect to the guesthouse, as shown in the attached photographs. *See* Exhibit 7 hereto, demonstrating the screening by vegetation. Exhibit 7 also shows the close proximity to the parking lot. In fact, the surrounding homes impact

the "view shed" far more than Timmins' main house and the guesthouse, which will be screened by vegetation. *See* Exhibit 8 hereto, showing that the surrounding homes, unlike Timmins' home, are not as screened by vegetation.

G. Judith Meyer

Ms. Meyer went on for quite some time arguing against any development in the area. Her concerns solely regard aesthetics and a misapprehension of applicable law:

Ms. Meyer's alleged concerns about the aesthetics of the guesthouse are addressed *supra* and *infra*.

Ms. Meyer's arguments concerning the law are fundamentally flawed. Timmins has already prevailed through 1) an order of dismissal as to the setback and plat map citations, and 2) an order from a superior court judge finding that it would constitute waste to force Timmins to tear down the structure. Any ruling by the Board of Supervisors that would require Timmins to tear down the guesthouse would violate the longstanding legal principles of *res judicata*, collateral estoppel, and double jeopardy, which require conformance with the prior order and judgment, not contempt thereof. These legal principles have nothing to do with the promissory estoppel that Ms. Meyer appears to be complaining about.

The proper result to cure the alleged concerns from the general public regarding aesthetics is for Timmins to complete the guesthouse and comply with all of the recommendations of the County, which will cure the alleged visual impact.

H. Ray Morgan

Mr. Morgan alleged that he personally spoke with Mr. Timmins, which is patently

false:

My name is **Ray Morgan**. I live at 4920 West Monte Carlo. I worked for an excavation company 25 years ago that put in most of the lots where we cleared a lot to park our heavy equipment where I put my house. I helped clear that lot. We specifically put those boulders along Gates Pass Road delineating the setback. The day I saw Mr. Timmins moving those boulders out of the way I stopped and told him you're violating setback. The next day I saw stakes go in the ground. I stopped once again and told Mr. Timmins and his contractor, and I informed them both that they were well inside the setback. I've never seen a house go up so fast in my life. Within three weeks that structure was built. Mr. Timmins knew from the very beginning. My job, just so you all know, I'm a Homicide investigator for the Public Defender's Office. I check facts before I open my mouth always. He was well aware and went forward anyway. I'm not the only one that told him. There are people on vacation that can't be here but they are the most vocal among us and they will tell you that they spoke to him too after the foundation was put in and the pad was poured that it was well inside the corridor. Mr. Timmins continued with his construction. He went on to build the road. He went on to put the driveway into his house and the electrical panel. He was well aware all along. Mr. Timmins, when I very first talked to him made the comment to me that it was easier to get forgiveness than permission. Now I'm not saying it was collusion but after the pad was poured I called the Inspector, I believe his name was Gerry, I called and spoke to him and I told him that that was well within the setback and that shouldn't be allowed. He told me that he would look into it. Like I said, that house then went up in three weeks. That's all I want to say about Mr. Timmins. He is not an innocent man here. He was well aware of what was going on and he knows what I do for a living. I was friends with Mr. Timmins until this occurred. My home is the second home built in that subdivision. I watched everybody build a house and I'm kind of a hawk. I make sure they stay within compliance. Mr. _____a variance to build his home because it had to be so close to the wash beside his house and I signed that variance for him to have that done and that was done before the construction on his house. He knew what the rules were. Aside from that, to grant this is not only going to be to put all the residents in Paseo Montana at a disadvantage because of the eyesore but the residents of Pima County who drives up to Gates Pass has to drive by this one room sealed apartment with this porch on it and a light that's lit all night long for everybody that is driving down Gates Pass Road to see. I think that's intentional as well. And that's really all I got to say. (Page 17, lines 1 to 31, PZH)

Mr. Morgan's statements that he spoke to Mr. Timmins and his contractor about the construction of the guesthouse prior to the pad being poured are not true. Mr. Timmins did not tell Mr. Morgan "it is easier to ask for forgiveness than to get permission". Mr. Morgan claims he knows Mr. Timmins and was his "friend" but he has never been in Mr. Timmins home and Mr. Timmins has not been in Mr. Morgan's home, as you would expect "friends" to do. Timmins is not even sure who Mr. Morgan is. No one else approached Mr. Timmins as is stated until July of 2010, six months after construction had started, when the structure was complete pending sewer, front porch modifications, the proposed wall and landscaping.

Mr. Timmins, ***under oath and penalty of perjury***, will refute each of Mr. Morgan's allegations. Mr. Morgan tellingly failed to provide his testimony under oath and penalty of perjury during the years this matter has been pending.

I. Dr. Lynn Bracker

> Dr. Braker argued as follows: "I am concerned about precedence. I don't believe this will be the last if you folks grant this. I think there will be at least one maybe two more little guesthouses popping up and that is just on the north side of the road. I don't know about the south side where people come and ask for forgiveness." (Page 17, lines 40 to 43, PZH)

Dr. Bracker's concerns are based on sheer speculation as to what will happen in the future. ***The nearest object in sight to the guesthouse is the museum parking lot***. The guesthouse's unique proximity to this parking lot undermines the concern that granting the requested relief will set a bad precedent for property owners nearby. The instant circumstances are also distinguishable from potential future cases because 1) the guesthouse was constructed in a heavily disturbed area, and 2) the plan review and site

inspection process were replete with errors and omissions. The quantum of unique factors applicable in this case undermines the alleged concerns about setting a bad precedent.

Letters Review submitted to Planning and Zoning Hearing Members

A. Letter 1 – Lynne and William Bracker

> Their letter states: "Due to the fact that the impingement on the setback is so extreme it can only be concluded that this was a willful encroachment and not a simple measurement error. Why should some property owners feel that they can operate outside the codes and then complain when they are caught." .

They are not familiar with the good faith in which Timmins built the structure and their argument has no merit. As set forth above, Timmins acted in good faith at all times throughout this matter. Speculation to the contrary should be rejected.

B. Letter 2 – Wendy and Burt Beardsley

> Their letter states: "They (BOA) decided that the zoning violations were "self caused" because Mr. Timmins did not build the guesthouse according to the site plan in his building permit"..."It was also the opinion of the board that Mr. Timings had subdivide his CRd-1 zoned lot by installing the separate driveway and utilities for the guesthouse." .

The BOA did not determine that the violations were "self caused" and denied all the variance requests based on a flawed legal analysis. As such the Superior Court later determined in Summary Judgment that the BOA rulings were inappropriate.

C. **Letter 3 – Dr. Ivy Schwartz**

> Dr. Schwartz letter states: "The guesthouse is highly noticeable." and that..."It is apparent the owner intended to bypass requirements in the original permit." .

The guesthouse will not be noticeable once landscaping required by Pima County

is complete. He also makes the statement that implies Timmins intended to bypass requirements, when all facts and testimony given by Timmins and Pima County Staff show just the opposite.

D. **Letter 4 – Donald and Susan Faulkner**

Their letter states: "Gates Pass Road has been a scenic route of pride for Tucsonans for many years. It is a very unique area, in that it is in the vicinity and has the same characteristics as the Saguaro National Park West. Having this residence built so close to the road negates and encroaches upon the beauty of our Tucson Mountains." And that... As of this writing, Paseo Montana Subdivision will present a "Petition to Save Scenic Gates Pass 85' Setback". .

Again the argument is restated that the guesthouse will not be as noticeable once landscaping is complete. Comparing the developed area on Gates Pass Road in and around the Paseo Montana Subdivision to the Saguaro National Park West is a stretch, to say the least. There is not a Scenic Gates Pass 85' Setback as stated, but rather a 105' Scenic Right of Way, the citation for which was dismissed.

E. **Letter 5 - Carolyn O'Bagy Davis**

This letter states: "Mr. Timmins only built the guest house as a rental. In the 13 years that we have lived in the neighborhood, he has had a constant stream of people who have rented rooms in his house."

Since the Timmins moved into their home in 1993 they have had not tenants renting and this is a misconception furthered by rumors and hearsay. From 1996 to 2002, Mr. Timmins father Ralph Timmins lived in the home with them. Ralph Timmins moved with Mr. and Mrs. Timmins to Florida in 2002, where he died in 2005. The Timmins relocated to Florida to take care of Mrs. Timmins' mother. During the time in Florida from 2002 to 2007 (when Mrs. Timmins mother passed away) there were three individuals who house sat the Timmins' home, one person at a time. From the fall of

2002 to 2004, Al Dickson lived in the home and from 2004 to 2005 James Massee. Both were house sitters. From 2005 to 2007, the Timmins' daughter, Heather Connally, who had relocated to Tucson, lived there.

In 2008 Theresa Marson moved in due to circumstances where her home had been broken into and she was threatened and then unable to work due to her foot being broken. For three and a half years, Ms. Marson lived in the home and contributed a total of $900 ($150 per month toward the end of her stay for the last 6 months). Jade Suppo moved in for about a year during this time and did not contribute towards household expenses, as she was supporting her family in the Philippines and paying for her cousin's college education in California.

Barbara Lucero currently lives in the Timmins' home since the fall of 2011. She was in a safe house in Florida and Timmins arranged for transportation for her from the Villages to the Orlando airport and a flight to Tucson. Ms. Lucero has not paid rent.

The Timmins take care of family and friends and their actions prove it. Prior to this, only Elmer and Marcie Smith, their next door neighbors, and Robert Dunnigan, were considered friends. The Timmins did and do interact with a few of their neighbors who walk their dogs and four other neighbors who have been in their home since it was built are Ms. Anovitz, Mr. Dunnigan and Elmer and Marcie Smith.

Ms Davies states that... "Mr. Timmins blatantly disregarded Pima County zoning and building regulations, and when the neighbors protested, he threatened to sue each homeowner who spoke against his guesthouse". .

Mr. Timmins advised the illegally Homeowners Association with the following email followed by a letter from his attorney when an assessment was levied by the HOA:

From: director@gisservices.net
To: paseomontanahoa@hotmail.com
CC: areeter@medfilms.com; anna@anovitz.com; wendybeardsley@earthink.net; c_b_eby@msn.com; tracicaruthers@q.com; ej-mmsmith7@msn.com; denver4921@live.com; jerroldeledesma@msn.com; j2jdougls@msn.com; ja47bricks@live.com; jdavis@azlitho.com; lzurcher@email.arizona.edu; jmo13@earthlink.net; nkwoods@msn.com
Subject: HOA
Date: Fri, 18 Feb 2011 11:24:47 -0700

I request that a notice be sent to all Members (lot holders) in the subdivision advising that the HOA was not formed properly and that there are no current Board members and that the letter dated February 7th 2011 requesting $20 was sent in error and that no "assessments" can be required to be paid at this time.

I have contacted the County Attorneys Office who referred me to the Sheriffs department. They provided a case number in regards to my request on a complaint for harassment and advised me that the request for funds may hold more weight as a fraud case if the HOA is not a valid entity and has inappropriately requested funds as an "assessment".

This took me on a phone journey to the Civil Division of the County, the Consumer Protection/Attorney Generals Office, the Legislative Office and finally back to the Arizona Corporation Commission (Tucson Phone 628.6560). I was advised that the HOA as a non profit should be filed with the Corporation Commission - which it is not.

I have no objection to the neighbors forming a HOA but would vote against having one formed and don't believe a majority of the neighbors with an understanding of what a HOA can do would support the formation of one. If you wish to form a valid HOA, according to the procedure as I understand it, at least three neighbors should provide a mailed letter to all members of the neighborhood with a meeting date specified as 30 days after the mailing to hold a meeting to elect a nominating committee to propose members for a Board. **This possibly can be the meeting you have proposed for the 13th of March but the letter should not have come with the letterhead it has.**

There are a few items which I believe should be modified and addressed IF a valid HOA is formed:

Revision of mailbox requirements;

The appearance of trash cans outside of walled areas - especially where steep inclines do not allow easy movement to the street or where the containers are on the side of the house and not visible from the front elevation - also the neighbors on the cul-de-sac where most of these "offenses" are occurring might be assisted in construction of a walled area to place their containers by the street;

Allowances for vehicles and trailers parked in driveways.

Review of documents filed since 1991 (1993 or 1994 amendments?)

Review of those in violation of other items as specified in governing documents

Other items may be suggested as well?

Again the argument is restated that the guesthouse will not be noticeable once landscaping is completed.

F. **Letter 6 - John Davis**

This letter states: "The improvements at question were made without consideration of the cc & R's applying to the property and without notice to or discussion with the property owners within the subdivision" and that "To allow these improvements to remain will degrade property values for scores of nearby residents, destroy the esthetics of the Gates Pass corridor, and create a very bad precedent for future development in the area".

The improvements were made with consultation with remaining members of the Architectural Review Committee. As many homes and a guest house have been built in the subdivision no one has ever consulted Mr. or Mrs. Timmins. The CC & R infractions implied by the HOA were without merit (26 items noted).

Again the aesthetics are in question and the Pima County recommended approval with improvements that were in line with those proposed by Timmins from the beginning of discussion with the neighbors.

G. **Letter 7 - John Michael Olson**

This letter states: "The owner of the guest house in question intentionally violated the setback and many CCRs of the neighborhood, and then completely disregarded the county's authority, and the neighbors' rights and opinions."

This statement has no merit at all as Timmins followed County approval in locating the structure, which is the remaining item to be determined by the Board. As soon as he was confronted by the neighbors he met with them and has respect for their rights and opinions.

II. Conclusion

The statements made by the foregoing persons defy logic, lack foundation, and are irrelevant and unreliable. No logical person would find it easier to engage in protracted litigation seeking forgiveness rather than following the rules. In fact, the undisputed sworn testimony in this matter proves Mr. Timmins acted in good faith. Any statements to the contrary are speculation, at best.

EXHIBIT 1

Review and Objections to CC&R Violations Listed by HOA

Although these are not at issue with the Board they are constantly brought up in hearings.

Twenty six violations were enumerated in a letter dated September 2, 2010 to the Pima County Building Department, from the "Home Owners Association".

In addressing the 26 CCR "violations" stated in the letter:

Items 1, 2, 8, 11, and 18 require review by the Architectural Review Committee (ARC). ***A notarized statement from the remaining members of the ARC advised that they had no objection to the guest house and preliminary plans that were submitted to them in December of 2009 prior to construction. A letter was provided to the County from Richard Giachetti who was the designated architect for review and he stated that he has not been reviewing plans for many years and did not consider himself the review architect.***

Item 3 refers to the dwelling unit being 2,000 sq feet. ***The dwelling unit complies as it is defined as the residence and guest houses are allowed by County Code within our zoning.***

Item 4 refers to shielding of the air conditioner. ***This will be put in place.***

Item 5 refers to the utility lines being installed underground. ***They are.***

Item 6 refers to the color of the roof. ***It is the same acceptable color as my residence.***

Item 7 refers to the color of the guesthouse. ***In compliance with hillside shading and has been approved by the County.***

Item 9 refers to only allowing for single family residences. ***Guesthouses are acceptable per Code and there is another guesthouse in the subdivision.***

Item 10 refers to no outbuilding being allowed. ***Guesthouses are allowed***

Item 11 occupancy - ***Those who were in the guesthouse resided in the main residence.***

Item 12 refers to elevated tanks. ***There never has been any proposed.***

Item 13 refers to parking and the driveway. ***Driveway will be replaced with a walkway.***

Item 14 refers to the lot being subdivided. ***It cannot be subdivided***

Item 15 refers to mechanical equipment being concealed from view. ***It will be upon completion of the structure and is the same item as 4 above repeated.***

Item 16 refers to electrical meter. ***This will be concealed as well with proposed wall.***

Item 17 refers to Zoning for CR-1 which prohibits rental. ***The unit will not be rented.***

Item 19 plans must conform to Uniform Building Codes and the CC&Rs. ***The structure does conform to the Building Codes and these CC&Rs.***

Item 20 refers to occupancy. ***The guesthouse will not be used for guests or elderly relatives until an occupancy permit is issued***

Item 21 refers to each house having a two car garage. **Guesthouses are excluded**

Item 22 refers to lighting being shielded. ***They are per County inspection.***

Item 23 refers to mechanical equipment. ***This is the same as Item 4 and 15.***

Item 24 refers to solar panels. ***These cannot be restricted by CC&Rs and are not on the guest house but rather on the main residence and conform to TEP guidelines.***

Item 25 refers to color of the structure. **Same as Item 7**

Item 26 is roof color. ***Again the same as Items 7 and 25.***

EXHIBIT 2

GIS Services - Bill Timmins

From: EDickerson@tep.com
Sent: Tuesday, December 21, 2010 3:38 PM
To: director@gisservices.net
Cc: MRodriguez@tep.com; anabustamante@tep.com
Subject: 4870 W. McElroy - WR222254

Mr. Timmins,

It is my understanding that TEP received a valid application, a supporting Permit #P10CP00289 and initiated WR222254 on March 9, 2010 to provide service to a guest house at 4870 W. McElroy. TEP did not assess serving the guest house from the existing service because it met requirements for providing a second service installation. Supporting information is as follows:

- TEP had existing facilities in close proximity to the guest house (45' away).
- Existing service panel was over 300' from requested location (voltage drop and flicker would have been significant).
- Customer installed approved meter panel and paid $640 secondary service charge + O&M costs.
- TEP was in receipt of a Final County Clearance on 6/1/2010.

Please let me know if you require additional information.

Thank you,
Eileen

Eileen Dickerson
T&D Supervisor II
Tucson Electric Power
(520) 918-8279
(520) 904-5767

EXHIBIT 3

GUEST HOUSE KITCHEN

DECLARATION OF COVENANTS RUNNING WITH THE LAND

This Declaration of Covenants is made by: WILLIAM TIMMINS

_____, the Declarant.

1. *Affected property.* Declarant is the owner of the land referred to in this Declaration as the Affected Property and more particularly described as:

4870 W McELROY
TUCSON ARIZONA 85745

(address)

and legally described in Exhibit A attached to and made a part of this Declaration.

2. *Purpose.* This Declaration is executed in order to satisfy Declarant's obligations arising from the issuance of a Pima County Zoning Use Permit allowing a guest house kitchen pursuant to Pima County Zoning Code Section 18.09.020 (G) (8).
3. *Declaration.* Declarant, for itself and its successors and assigns, hereby declares that all of the Affected Property and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, encumbered, used, occupied, maintained, altered and improved Affected to the covenants, conditions, restrictions and other provisions set forth in these Covenants for the period these Covenants are in effect.
4. *Effect.* The provisions of these Covenants are not personal and are intended to and shall run with the land and, until their expiration or termination, shall bind, be a charge upon and inure to the mutual benefit of (a) the owner of all or a portion of the Affected Property, (b) Declarant and its successors and assigns, and (c) Pima County and any successor governmental entity.
5. *Restriction.* The guest house kitchen for the use of ill, handicapped or elderly relatives who are in need of special care or supervision which is described in the Pima county Use Permit issued pursuant to Pima County Zoning Code Section 18.09.020 (G) (8) shall be removed from the

Affected Property within ninety days of the date the guest house is no longer occupied by the person specified in the Use Permit.

6. *Effective Date.* These Covenants shall be effective on the date they are recorded in the Office of the Pima County Recorder.
7. *Duration.* All provisions of this Declaration shall continue in full force and effect for a period of ninety-nine years from the effective date of this Declaration.
8. *Amendment.* These Covenants may be amended only upon the concurrence of both Pima County or any successor governmental entity and Declarant or its successors and assigns.
9. *Enforcement.* The covenants contained in this Declaration are not personal and shall run with the Affected Property and shall be servitude in favor of Pima County as (a) a body politic and (b) trustee of real property dedicated to the public in the vicinity of the Affected Property.

Executed 01/15/2010
(Date)

By: William Timmins
WILLIAM TIMMINS

STATE OF ARIZONA }
County of Pima }

This Instrument was acknowledged before me on 15th day January of 2010, by William Timmins.

Marion E. Courtis
Notary Public

12-03-2010
My commission expires

OFFICIAL SEAL
MARION E. COURTIS
NOTARY PUBLIC-ARIZONA
PIMA COUNTY
My Comm. Exp. Dec. 3, 2010

20100142200

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: RJL
DEPUTY RECORDER
9544 PE-2

W

WILLIAM TIMMONS
4870 W MCELROY DR
TUCSON AZ 85745

DOCKET: 13726
PAGE: 415
NO. OF PAGES: 5
SEQUENCE: 20100100104
01/15/2010
COV 12:20

MAIL
AMOUNT PAID $ 10.00

COVENANT

I, the undersigned, as owner of the property located at 4870 W McElroy Dr, Tucson Az 85741 covenant that a kitchen shall not be built within the guest house located on this property, unless the appropriate zoning is secured to allow a second dwelling unit. I acknowledge that this covenant runs with the land and that any subsequent owner or owners must abide by these restrictions.

Signature

01/15/2010
Date

SUBSCRIBED AND SWORN TO before me this 15th day of January 2010.

Notary Public

OFFICIAL SEAL
MARION E. COURTIS
NOTARY PUBLIC-ARIZONA
PIMA COUNTY
My Comm. Exp. Dec. 3, 2010

12-03-2010
My commission expires

L:\zoning\ZONING FORMS\COVENANT.doc Revised 07/25/2005

5

EXHIBIT 4

Architectural Rendering Requested by Neighbors

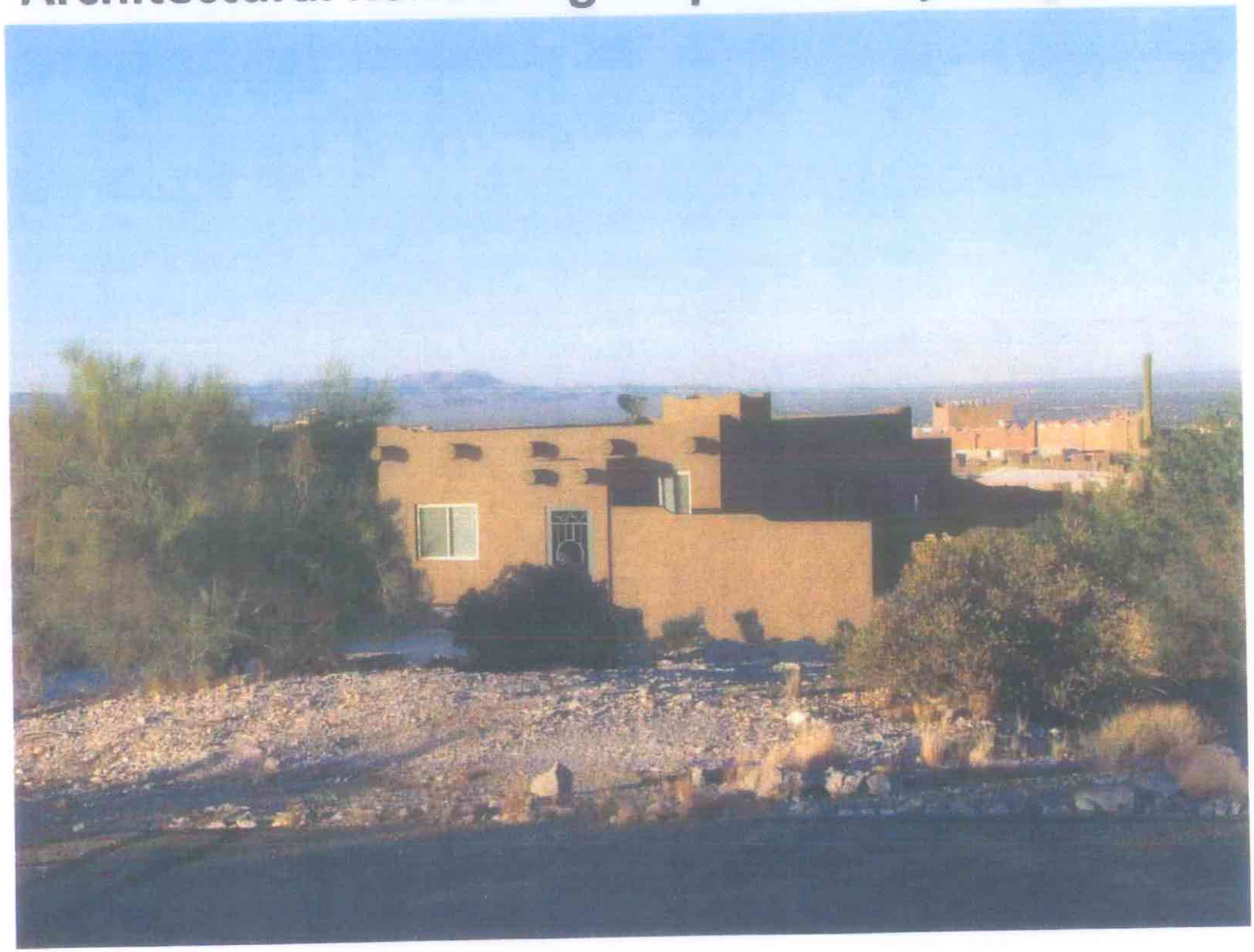
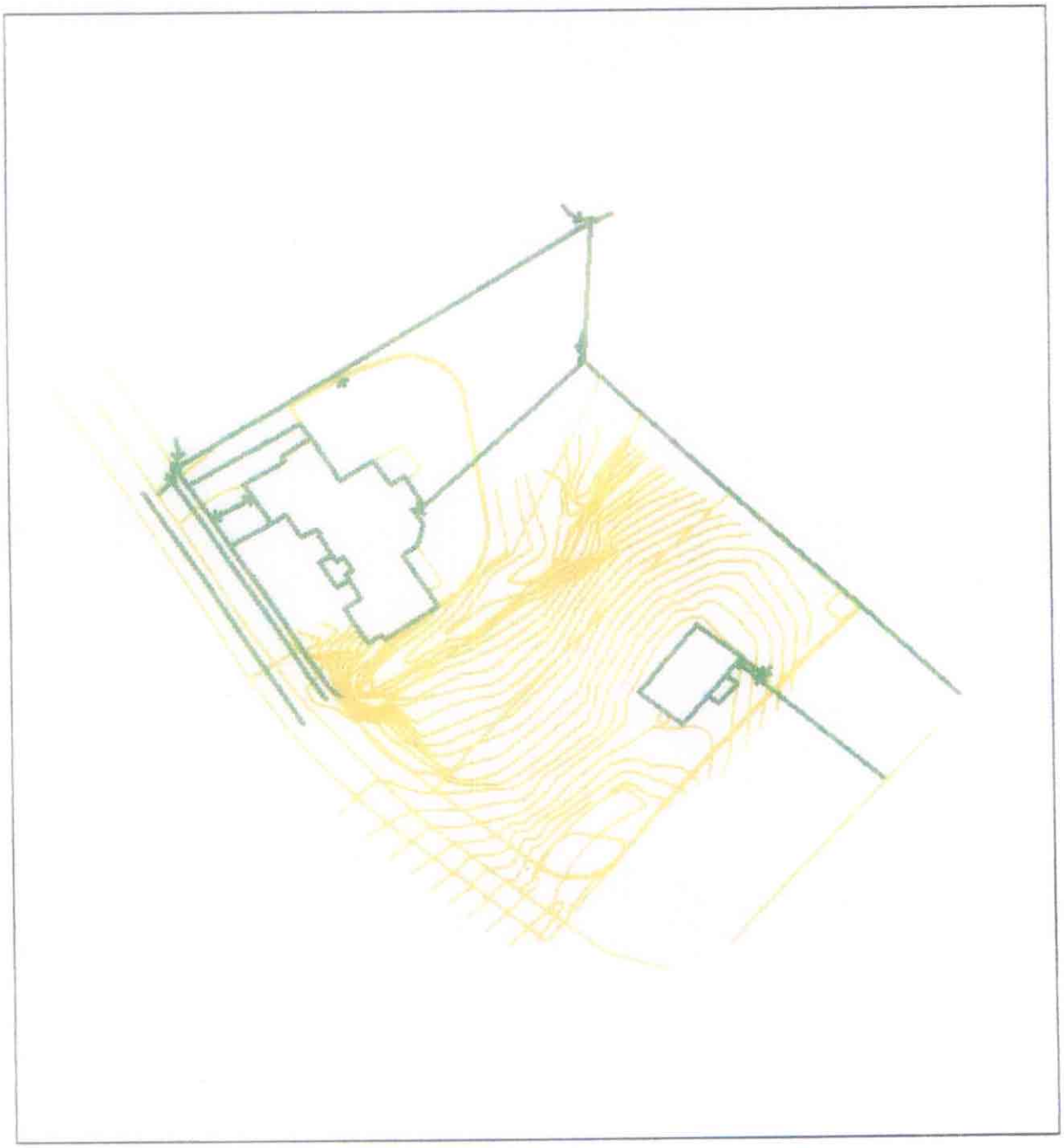


EXHIBIT 5

EXHIBIT 6



Guest House
4870 W McElroy Dr
Bill & Susan Timmins

Site_Plan_To_County

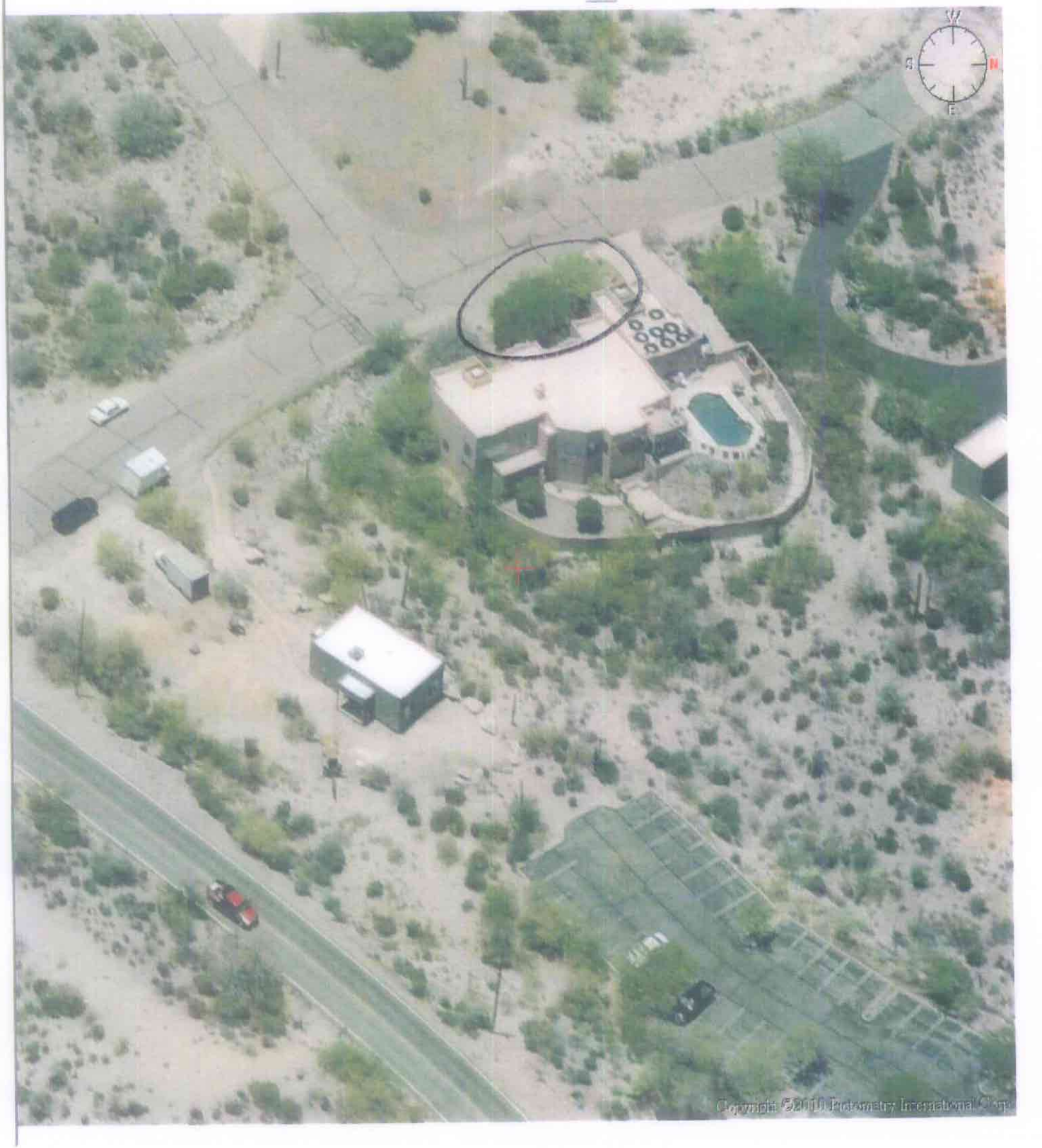
Shane Survey

An overlay of the Site Plan provided to the County, based on the known survey points on the NW boundary of the property at the time of submission, shows the Guest House in its current location in agreement with the Shane Survey requested by the County after the structure was built.

EXHIBIT 7

Pictometry Photos
Wed 06/09/2010, 12:14 MST
100% Zoom

Year
2010




SPEED
LIMIT
25

EXHIBIT 8

Co9-84-41 INTERNATIONAL WILDLIFE — GATES PASS ROAD REZONING **2012**

MODIFICATION OF REZONING CONDITIONS, SUBSTANTIAL CHANGE