



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

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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 Membrilla 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 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.

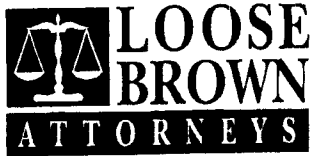
Voted: To DENY the request (10-0).

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

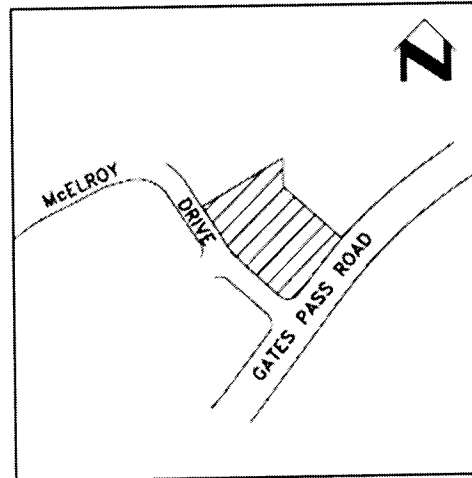
DISTRICT 5

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

¹The 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,

A handwritten signature in black ink, appearing to read "Terrill L. Tillman", written over a horizontal line.

Terrill L. Tillman
Senior Planner

CP/TT

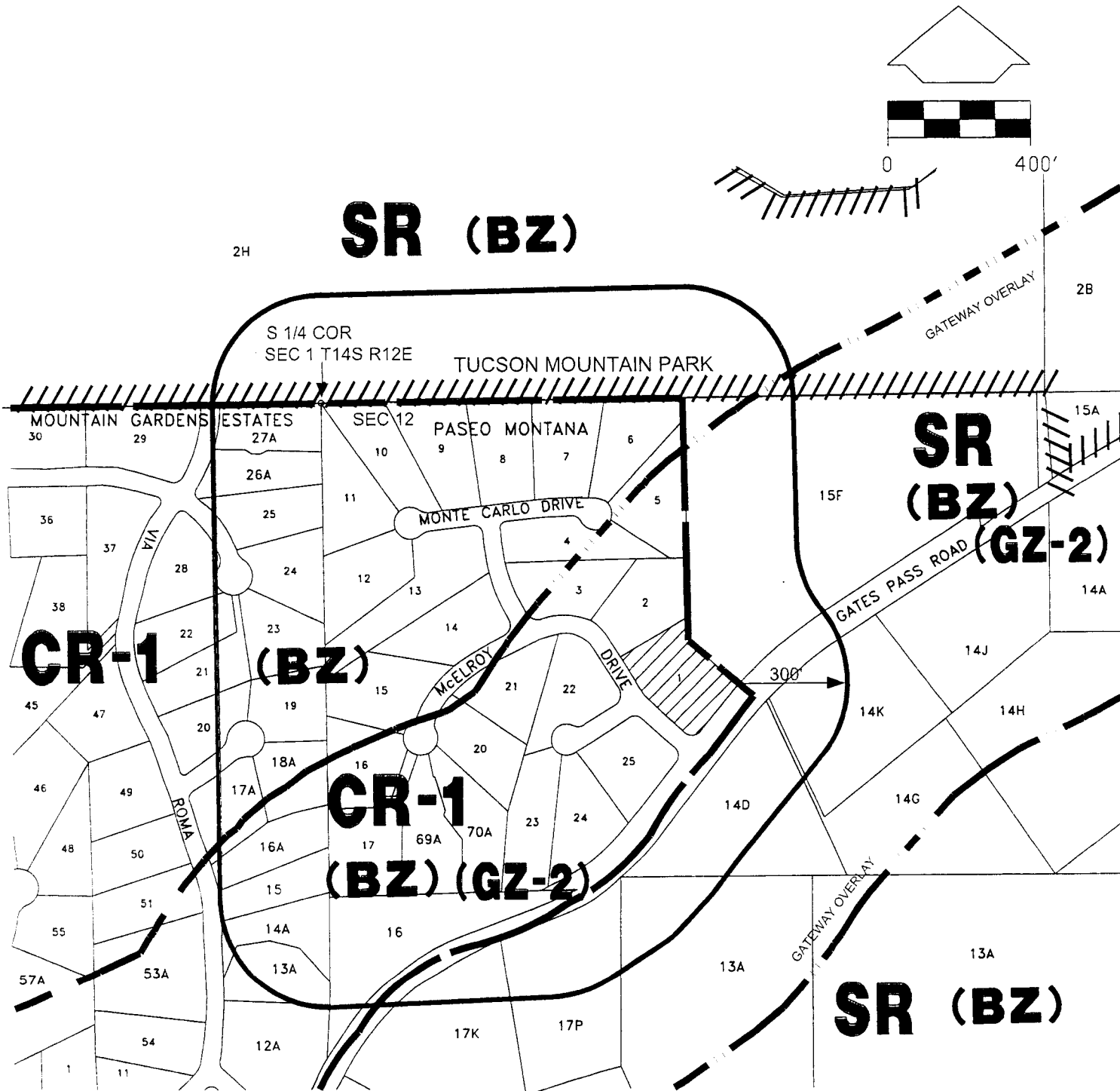
c: Timmins Family TR, Attn: William V & Susan A Timmins
Loose, Brown and Associates, PC, Attn: Jesse R. Callahan
Arlan Colton, Pima County Planning Official



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**Co9-84-41 INTERNATIONAL WILDLIFE — GATES PASS ROAD REZONING
MODIFICATION OF REZONING CONDITIONS, SUBSTANTIAL CHANGE**

2012



Petition area 

Notification area 

BASE MAP 19

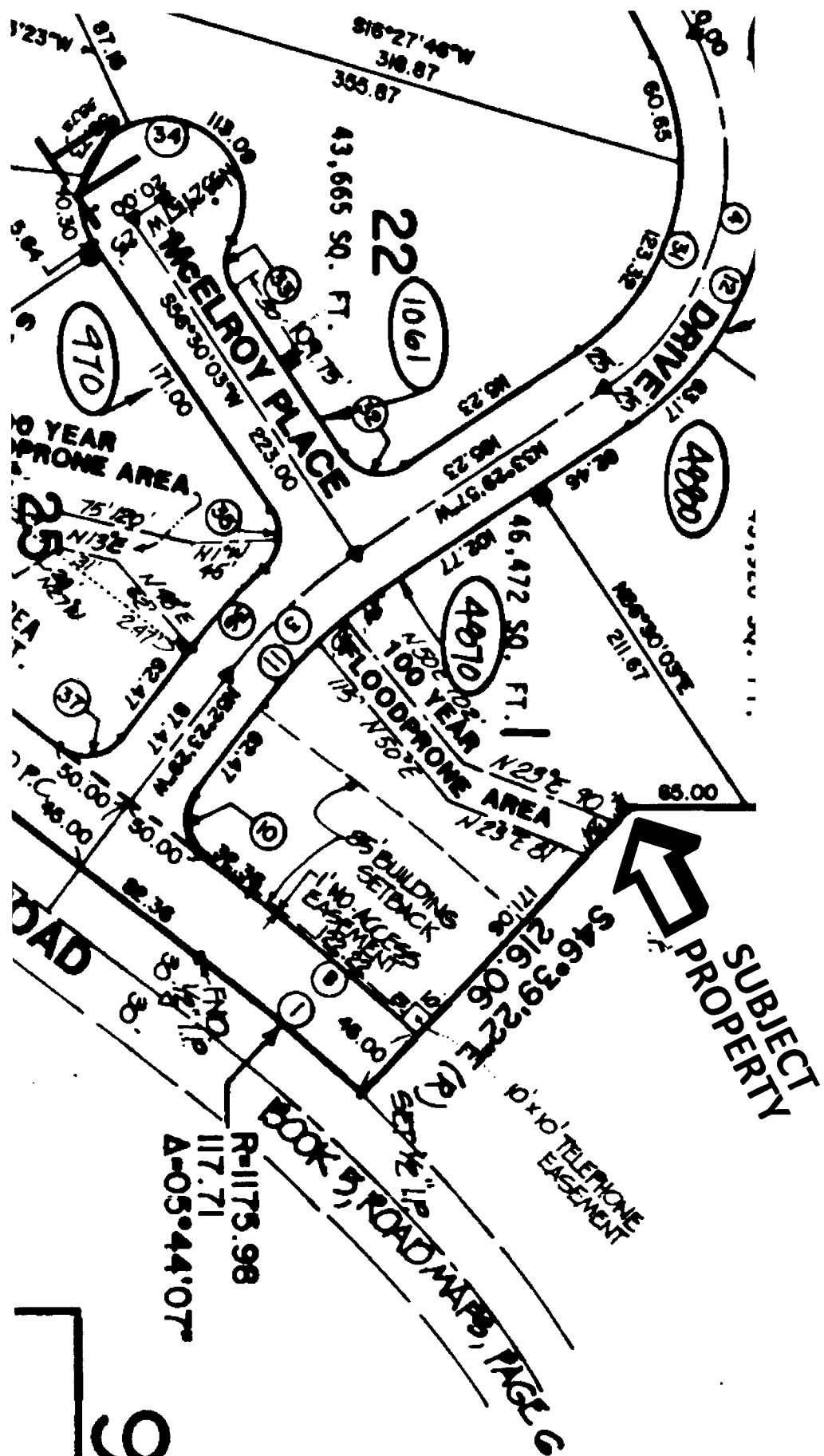
Notes SUBSTANTIAL CHANGE - MODIFICATION OF REZONING CONDITION & PLAT NOTE WAIVER

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



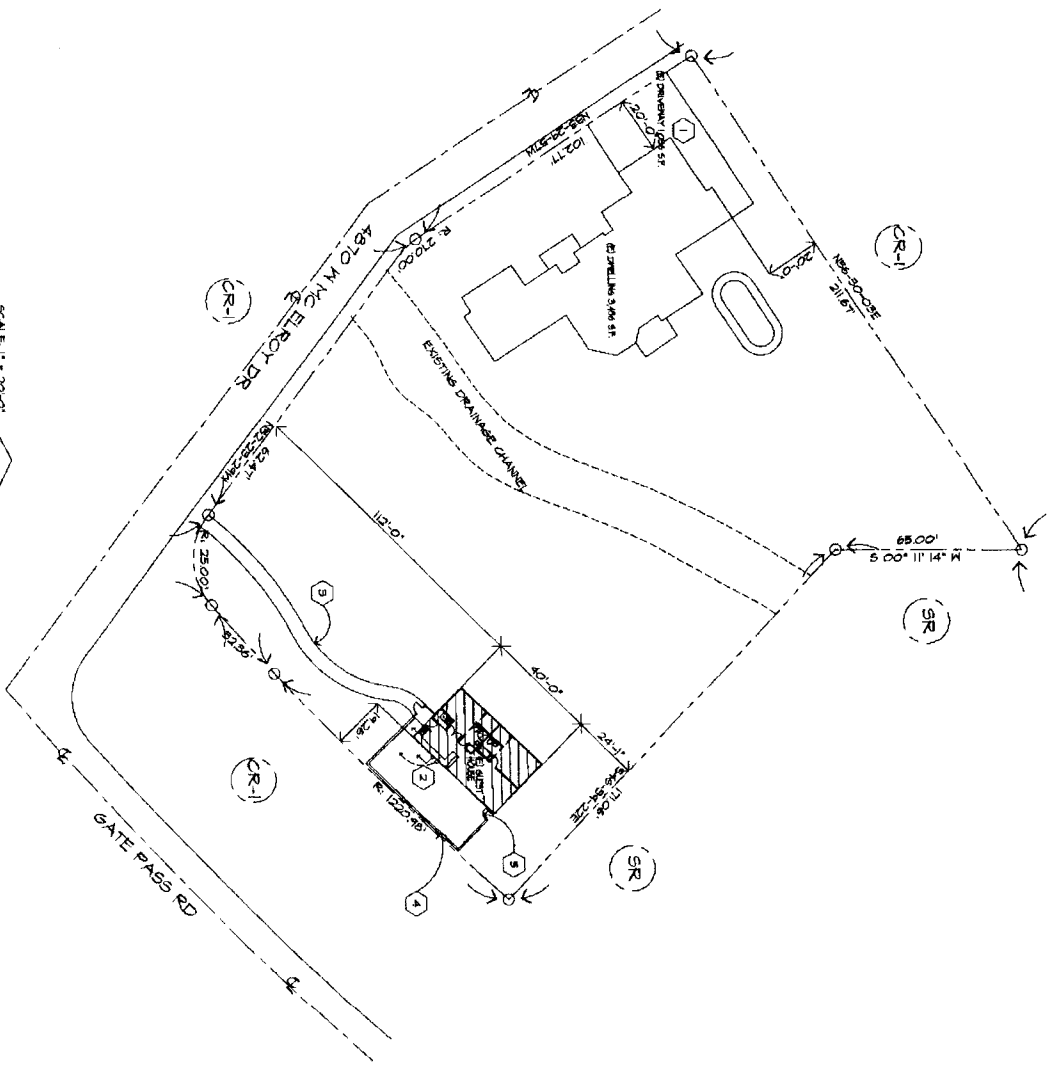
600

+ 0000 PAPER LAYER
 + 0000 EXISTING FILM,
 → DRAWING DIRECTION
 ~~~~~  
 ○ NANOCLE  
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 ~~~~~ CLIMB OUT  
 ~~~~~ PRESS INTERNAL  
 ⊕
 BPPV BOX FILM VALVE
 □ PPV WATER PIPER
 □ GW GAS PIPER
 ~~~~~ COVER LANE  
 ~~~~~ WATER LANE  
 ~~~~~ UNDERCOATED ELECTRIC  
 ~~~~~ GAS LANE  
 ~~~~~  
 → PROPERTY CORRELATION

20	EXISTING
21	FRESH PLOCE
22	FRESH GRADE
23	CENTER LINE
24	EXISTING GRADE
25	FRESH PAVED
26	TOP OF PAVED
27	TOP OF WALL
28	PROPOSED LINE
29	UTILITY EASEMENT
30	E.P.L.S.

 BUILDING SECTION  
 DETAIL REFERENCE  
 REVISION MARK  
 KEY NOTE  
 PLAN ORIENTATION

- 1 DRIVE WAY
- 2 UNDER GROUND ELECTRIC
- 3 5'-0" WALK WAY
- 4 5'-0" GATE
- 5 5'-0" WALL FENCE



and that they be admitted to general contractors and subcontractors for the purpose of soliciting work in the area of work. The first step to be taken in establishing that area of work, conducted to be the minimum and containing no further restrictions on subcontractors and their firms, is to enter a decision on the basis of the area of work. And the next step is to establish the area of work. And to the next step is to establish the area of work.

1. SITE PLAN

2. ELEVATION PLAN

**CASITA ADDITION**  
**FOR MR TIMMINS**  
by Edy Carlson  
Remodeling & Building  
4610 W MCLELLAN DR  
TUCSON ARIZONA 85715  
DATE 01-09-0  
JOB NO 01-0  
SHEET NO 1  
OF 5 SHE.  
**DRAFTING SERVICES**  
**(520) 850-8634**



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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](http://www.loosebrown.com)

DONALD A. LOOSE\*  
C. KYLE BROWN  
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OF COUNSEL:  
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Writer's E-mail:  
[jesse@loosebrown.com](mailto:jesse@loosebrown.com)

\*ALSO ADMITTED IN MICHIGAN  
<sup>cc</sup>ALSO ADMITTED IN NEW YORK  
AND CONNECTICUT (R)

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.

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

Very truly yours,

**LOOSE, BROWN & ASSOCIATES, P.C.**



Jesse B. Callahan

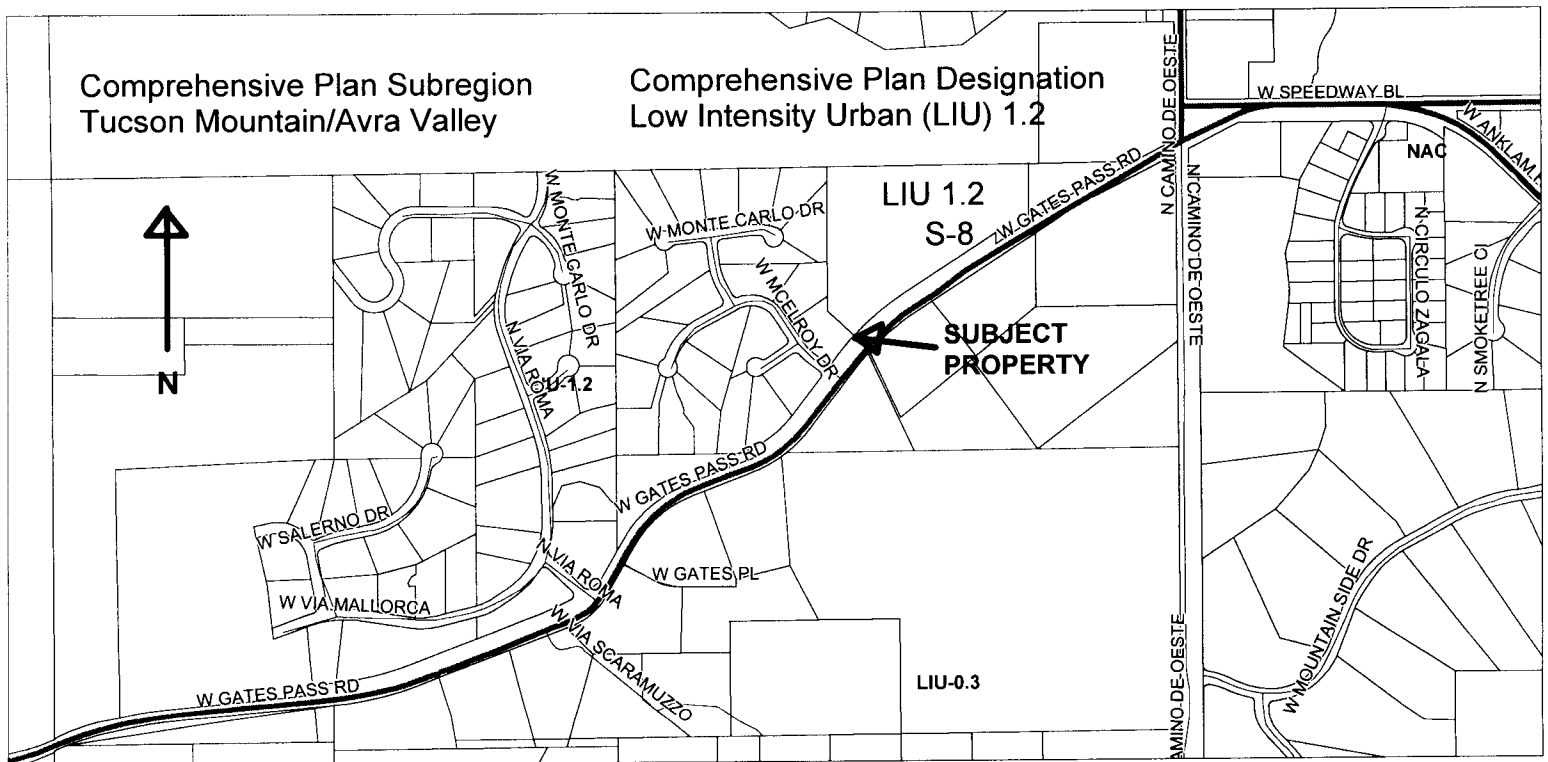
JRC

Cc: William Timmins

Letter.doc

Comprehensive Plan Subregion  
Tucson Mountain/Avra Valley

Comprehensive Plan Designation  
Low Intensity Urban (LIU) 1.2



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



# **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.



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



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

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 <b>reduce the structure's setback</b> 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





## 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 <b>painting the structure</b> 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 <b>removing the kitchen</b> or recording the appropriate covenant with a Doctor's letter for an ill or handicapped relative; <b>removing the separate electric meter</b> and sub-metering the structure or obtaining a variance from the Board of Adjustment for a separate electric meter, <b>removing the separate driveway</b> or obtaining a variance from the Board of Adjustment for the separate driveway and <b>ceasing future rental of the Guest House</b> .
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 <b>obtaining Final Inspections</b> 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 <b>obtaining revisions to the approved plans</b> 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.  <b>TIMMINS FAMILY TRUST,</b>  <b>Defendant</b>	Case No. <u>P10CV00376-1 thru 5</u>  <b>ORDER OF PARTIAL DISMISSAL</b>
------------------------------------------------------------------------------------	------------------------------------------------------------------------------

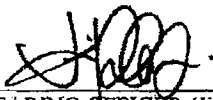
The Hearing Officer having heard testimony, at the hearing on this case of October 7, 2010, from the assigned County enforcement inspector in this case, wherein he indicated that two of the citations in this particular case have been addressed and can be dismissed.

**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 11<sup>th</sup> 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



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. <u>P10CV00376-3</u>  <b>JUDGMENT</b>
---------------------------------------------------------------------	--------------------------------------------------------------

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 11<sup>th</sup> 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. <u>P10CV00376-4</u>  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:

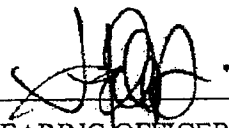
A fine of seven hundred fifty dollars (\$750.00) is levied, \$50.00 of which is due within fourteen (14) days of the date this Judgement and the remaining \$700.00 amount of which is suspended for a period of ninety (90) days to allow the Defendant the opportunity to bring the property into compliance. 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 11<sup>th</sup> 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. <u>P10CV00376-5</u>  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:

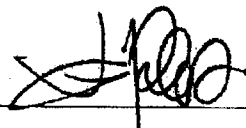
A fine of seven hundred fifty dollars (\$750.00) is levied, \$50.00 of which is due within fourteen (14) days of the date this Judgement and the remaining \$700.00 amount of which is suspended for a period of ninety (90) days to allow the Defendant the opportunity to bring the property into compliance. 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 11<sup>th</sup> 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

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 have 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

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

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

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

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

5 Robert Farkas: Sure

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

9 Robert Farkas: Right

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

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

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

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

22 Hearing Officer: OK

23 Robert Farkas: Which will be submitted.

24 Hearing Officer: OK, so until Got it OK alright

25 Robert Farkas: That was a fair question.

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

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

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

- 1 The second aerial is just to give an indication of the area between the guest house and the  
2 main house and that is a wash area in which no utilities can be run between the guest house  
3 and the main house. ~~It is the same as what I could not understand?~~
- 4 Hearing Officer: And this use to the southeast is that the Wildlife Museum?
- 5 Robert Farkas: Wildlife Museum Yes
- 6 Hearing Officer: OK
- 7 Robert Farkas: And turn to the next photograph which was taken on July 21<sup>st</sup> 2010 is the front  
8 of the guest house without final inspection. The second photograph shows the driveway  
9 which is the contention at this time. Code says that the guest house should not have a second  
10 driveway.
- 11 Hearing Officer: Second driveway, right.
- 12 Robert Farkas: The next photograph is of the interior of the guest house. This photograph  
13 shows it had a range and electric service to it and inspection on October 4<sup>th</sup> indicates that the  
14 service was removed, the cabinets were restored and the counter.
- 15 Hearing Officer: OK
- 16 Robert Farkas: The next photo is the service, which is an individual meter. Typically guest  
17 house per code should have a sub paneled meter.
- 18 The next photograph is taken from the porch of the guest house and shows the distance, the  
19 viewing distance to the road on Gates Pass. And the final photo shows from the road to the  
20 guest house on Gates Pass.
- 21 And the fourth exhibit is the notes from opening the case to my inspection on October 4<sup>th</sup>  
22 indicating that the kitchen issue has been resolved by removing the stove from kitchen  
23 facility.
- 24 That ends the presentation.
- 25 Hearing Officer: Is there anything substantive in these 6 8 pages that I should pay attention to  
26 or is it just there for the record.
- 27 Robert Farkas: For the record basically unless the defendants have questions regarding those  
28 notes.
- 29 Hearing Officer: OK so the last entry cooking range has been removed and replaced with  
30 cabinetry, blah blah blah blah blah. Does that have any impact on any of the pending  
31 violations? Does it resolve any of them by itself?

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

- 1 **Robert Farkas:** Partial resolutions of several general requirements being that the guest house  
2 ~~(b)(7)(D) and (b)(7)(F)~~ being color of the guest house and the kitchen cooking facility have  
3 been removed.
- 4 **Hearing Officer:** Got it. Alright then I think understand as much as I going after that at this  
5 point and I anticipate learning more. So gentleman I don't know who is going to be the  
6 primary spokesman for you. Whoever speaks I need your name and address for the record.
- 7 **Jesse Callahan (Attorney for the Defendant):** My name is Jesse Callahan
- 8 **Hearing Officer:** Please pull that to you.
- 9 **Jesse Callahan:** My name is Jesse Callahan I am the attorney appearing on behalf of Mr.  
10 Timmins. My address is 11240 N. Tatum Blvd. Suite 110, Phoenix Arizona 85028.
- 11 **Hearing Officer:** OK
- 12 **Jesse Callahan:** If the Hearing Office doesn't mind I am going to ask Mr. Carlson to testify as a  
13 witness first he has an emergency that he has to attend at 11 o'clock.
- 14 **Hearing Officer:** That's fine. That's fine just give me your name and address for the record
- 15 **Jesse Callahan:** OK. Actually before that Mr. Timmins has a few things he would like to say on  
16 his own behalf.
- 17 **William Timmins:** I am William Timmins. My address is 4870 W. McElroy Drive, Tucson  
18 Arizona 85745. I just want to address the setback very quickly. The setback was measured  
19 and approved by the or the location of the property was approved by the County and they did  
20 come out and do a measurement. I want to this over to my contractor to get his one note  
21 before we turn it back over to Mr. Callahan to proceed and then I will make further  
22 comments.
- 23 **Hearing Officer:** OK But just so I understand so, you are saying that a County inspector went  
24 out there verified the setback as being adequate and in compliance with code requirements.
- 25 **Robert Farkas:** The County Inspectors is expected to site a building when conducting the  
26 location of the footings and excavations for the rebar as part of the inspection process per the  
27 plan.
- 28 **Hearing Officer:** OK. So I am a little confused. So just stick with me guys. What you asserting  
29 is that you think you have got the issue resolved in respect to the setback.
- 30 **William Timmins:** No
- 31 **Hearing Officer:** No.

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

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

8 Hearing Officer: Fairly OK.

9 Carlson Eby: My name is Carlson Eby and I live at 11771 N. First Avenue, Oro Valley Arizona  
10 85737. Originally before this project actually even began I had gone down to the County  
11 Building to find out what the setbacks were. We had heard they were 85' from the original  
12 set of plans Mr. Timmins had from the house when it was originally built. But they were very  
13 sketchy. Upon that time the plans examiner that I spoke with pulled up a plat for the property  
14 and he blew up this particular paper and as we were discussing it he said "OK Here is Gates  
15 Pass Road here is McElroy Drive it looks like you have a 1 foot no access easement right here  
16 and then 85' from that point back." And that is exactly where we measured from, I'm going to  
17 give this..

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

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

20 Hearing Officer: That I got.

21 Carlson Eby: .. would determine

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

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

32 Hearing Officer: OK

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

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

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

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

6 Hearing Officer: OK, alright.

7 Carlson Eby: Thanks

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

11 William Timmins: If I could explain that.

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

14 William Timmins: I work with Geographical Information Systems. So what I did is relying on a  
15 couple of things. First of all Mr. Farkas came out and we tape measured off approximately for  
16 the Scenic Setback, which I believe we are in compliance with. The Scenic Routes people told  
17 me it was half of the amount of the Scenic Route plus 30' which would be 105'. We measured  
18 approximately 110' from the structure, not taking into consideration the porch which is 6', to  
19 the centerline of the road. I also have some relative measurements that I did using the  
20 pictometry imagery. Which basically shows a 25 X 40 foot structure and then using 1cm as  
21 40', shows me that the porch is about 106' from where it should be.

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

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

32 William Timmins: Alright

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

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

1 William Timmins: Yes sir.

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

5 William Timmins: Exactly

6 Hearing Officer: OK

7 William Timmins: I agree.

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

14 William Timmins: No no

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

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

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

29 Hearing Officer: OK

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

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

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

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

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

5 Hearing Officer: In regards to the 85' setback.

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

7 Hearing Officer: That's what I thought.

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

9 Hearing Officer: OK

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

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

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

15 Hearing Officer: Alright.

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

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

20 Robert Farkas: We sure have.

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

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

24 Robert Farkas: It is dismissed

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

27 Robert Farkas: Right that is noted in the recommendations.

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

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

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

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

4 Robert Farkas: Correct

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

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

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

12 Robert Farkas: Yes.

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

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

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

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

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

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

31 Hearing Officer: Yeah.

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

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

4 Robert Farkas: There were five citations and I [REDACTED] And it Repeats five  
5 times

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

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

15 Robert Farkas: The survey is verifying the 85'.

16 Hearing Officer: Right

17 Robert Farkas: Right Mr. Timmins?

18 William Timmins: Yes.

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

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

29 Hearing Officer: Right

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

33 Hearing Officer: So

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

1 William Timmins: improper plan review.

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

4 William Timmins: Yes

5 Hearing Officer: Because you are in compliance Scenic Route Setback

6 William Timmins: Correct

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

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

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

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

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

14 County Attorney: No [REDACTED]

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

18 Mr. Faulkner: That is the word.

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

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

28 Robert Farkas: Dismiss citation number one.

29 Hearing Officer: Right.

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

1 **Robert Farkas:** Citation one

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

6 **Robert Farkas:** Alright.

7 **Hearing Officer:** OK. Go Citation number two go.

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

11 **Hearing Officer:** OK

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

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

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

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

23 **Hearing Officer:** OK

24 **Robert Farkas:** and Citation Number 5 Structure not constructed per approved plans required  
25 final inspection [REDACTED]

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

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

31 **Robert Farkas:** They are all really tied together [REDACTED]

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

- 1 Hearing Officer: Understood
- 2 Hearing Officer: OK. If they go to the Board of Supervisors on the variance request required  
3 for the building setback and the Board denies them. What is their only form or of relief,  
4 removal of the structure?
- 5 Robert Farkas: Yes.
- 6 Hearing Officer: So everything hangs on that. You understand that?
- 7 William Timmins: Yes
- 8 Hearing Officer: OK alright.
- 9 Robert Farkas: Would you like the recommendations.
- 10 Hearing Officer: Please do because I am about burned out.
- 11 Robert Farkas: Finally that the Defendant be assessed a total of \$750 for each oh I've got to  
12 reduce that now because it is only three citation, each of three citations suspended for 90  
13 days of which \$50 is due for each citation for a total of \$150 is due and payable in 14 days.  
14 Failure to comply within 90 days may result in assessment of the remaining \$700 fine for each  
15 citation for a total of \$2,100. I am also going that the end of the 90 days the option is  
16 available for a request for an extension of time based on the review process by the Board of  
17 Adjustment and the Board of Supervisors.
- 18 Hearing Officer: OK. Even though it is not attendant to this citation number one that clearly  
19 the critical pass process that allows resolution of one of these things. Can you give me any  
20 sense of time from when they submit the variance request, public notice, staff report and all  
21 of that before they will actually have a Board of Supervisors hearing.
- 22 Robert Farkas: I talked to the planning staff and it is 6 to 8 weeks for the Board of Adjustment  
23 and it can be up to 6 months or more for the Board of Supervisors depending on what is  
24 required
- 25 Hearing Officer: Really.
- 26 Hearing Officer: Alright sir now I get a sense you might want to say something?
- 27 Donald Faulkner: I have two questions.
- 28 Hearing Officer: Ok then I can't do it from the audience. If you do want to have it on the  
29 record I do need to have you come up here
- 30 Jesse Callahan: Don't you need to swear in the witness?

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

- 1 **Hearing Officer:** Yeah I will take care of that don't worry.
- 2 **Hearing Officer:** Do you want to pull yourself up a chair or do you just want to hold the  
3 microphone? Just take a seat in the center there, since that seems to be theoretically where  
4 you really sit on this issue.
- 5 **Hearing Officer:** Ok you got the microphone up there. Name and address for the record  
6 please your affiliation if you would please also.
- 7 **Donald Faulkner:** My name is Donald Faulkner and I am president of the Paseo Montana  
8 Homeowners Association my address is 49, 4970 huh, 4940 W. Monte Carlo Drive.
- 9 **Hearing Officer:** OK I do need to swear you in. Oh Tucson Arizona what is your zip?
- 10 **Donald Faulkner:** Tucson Arizona 85745
- 11 **Hearing Officer:** If you would raise your right hand. Do you promise to tell the truth the  
12 whole truth so help you God?
- 13 **Donald Faulkner:** I do.
- 14 **Hearing Officer:** Alright thank you very much.
- 15 **Donald Faulkner:** The question that I would have besides uh knowing now that our next step  
16 is going before the Board of Supervisors and the variance committees uh would be if he was in  
17 violation for a guest house and he removed the kitchen would he also have to remove the 220  
18 service?
- 19 **Hearing Officer:** That is a..That is a technical permitting issue that I will defer to this  
20 gentleman on but.
- 21 **Robert Farkas:** ~~removing the 220 service~~ the 220 service as the current meter electric service  
22 panel on the house. Or are you talking just about line..
- 23 **Donald Faulkner:** There is.
- 24 **Robert Farkas:** to the range. The circuit and circuit breaker circuit should actually service the  
25 range and that is what we required to be removed else. When we finally make a decision it is  
26 just the circuit and the range nothing else.
- 27 **Donald Faulkner:** OK. The second.
- 28 **Hearing Officer:** These gentlemen will verify that it meets guest house requirements thru the  
29 inspections and permit.

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

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

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

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

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

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

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

14 Hearing Officer: Right

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

16 Robert Farkas: because review for that (b)(6) (b)(7)(C)

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

21 You can question the individual if you like.

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

24 Carlson Eby: It was a junction box.

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

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

28 Donald Faulkner: That is all I have to say.

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

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

1 Audience Attendee: I am good.

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

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

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

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

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

31 William Timmins: Thank you

32 Jesse Callahan: Thank you.

33 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: C09-84-41 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  
2<sup>nd</sup> 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.

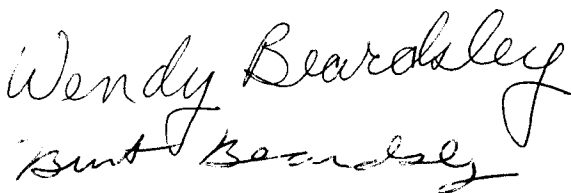
Now the Timmins' case has reached the Planning and Zoning Commission and the Board of Supervisors. We are urging the commission and the supervisors to follow the Board of Adjustment's recommendation and decline any rezoning requests from Mr. Timmins. We agree with the board's decision that Mr. Timmins 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,

A handwritten signature in cursive script that reads "Wendy Beardsley". Below the main signature, there is a smaller, less legible signature that appears to read "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](mailto: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



PO BOX 86117 • TUCSON, AZ 85754-6117

**PRESIDENT**

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(520) 743-4251  
Ischwartz3211@cox.net

**VICE PRESIDENT**

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*Alan Tonelson*  
(520) 743-5093  
alanintucson@q.com

*Earl Van Sweeringen*  
(520) 300-5158  
earlyv@bellsouth.net

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](mailto: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.

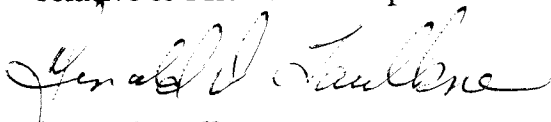
Gates Pass Road has been a scenic route of pride for Tucsonans for many years. It is a very unique area, in that it is in the vicinity and has the same characteristics as the Saguaro National Park West. Having this residence built so close to the road negates and encroaches upon the beauty of our Tucson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

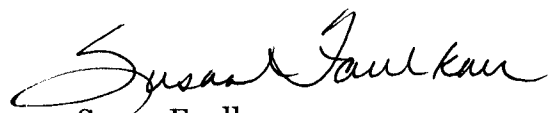
Pima County's Code 18.77.040 clearly defines the purposes for protecting the scenic areas located in Pima County, while enhancing the visual resources of the area. The **encroachment of this family residence clearly negates the scenic route**, and further sets a precedent of allowing future and additional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

<b>Petition summary and background</b>	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.
<b>Action petitioned for</b>	We, the undersigned, are concerned citizens who urge the Planning and Zoning Commission and the Pima County Board of Supervisors to <b>DENY</b> the proposed change to the Rezoning Conditions and to <b>DENY</b> a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road.

[illegible]

## 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.

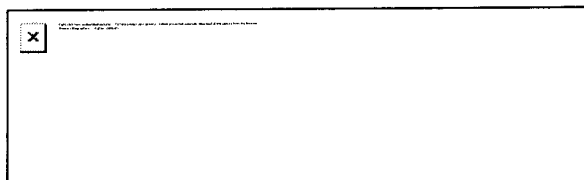
I do not believe that the county, if found to be responsible for allowing the construction of the subject improvements contrary to the zoning requirements be allowed to mitigate potential damages through the granting of a zoning variance. Simply put: if the property violates zoning requirements, no variance should be granted. The longterm property values of the area and the beauty of the Gates Pass Corridor should take 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](http://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**



**Tel: (520) 982-2670**

[www.stractions.com](http://www.stractions.com)

# Mike Olson



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

MAR 21 2013

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.

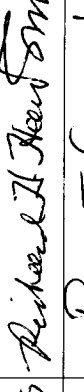
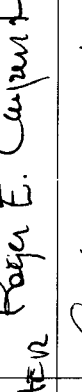
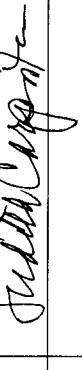
Printed Name	Signature	Address	Comment	Date
Marie West		2721 N Oracle Rd. Fla		3/12/13
Norman Hill		2721 N Oracle Rd. T/A		3/12/13
Oakley Lutes		2117 Quincy & De Vries		3/12/13
Alejandra Cerado		1943 W. Laker T/A		3/14/13
Yvette Palma		318 E. Hagen Pl. 85704		
Deborah Montgomery		2710 E. Manchester 85704		3/18/13
Sidney Hardie		2225 E. Prince Rd. Tucson AZ 85719		3/18/13
Stephen Warr		432 E. Sprouy Tr 85705		3/19/13
Richard Faulkner		2830 N. Bronson Ave 85741		3/20/13
Brianna Ojeda		2530 N. Broken Arrow Tr		3-20-13
Dan Montgomery		2710 E. Manchester 85716		3-21-13

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 <b>DENY</b> the proposed change to the Rezoning Conditions and to <b>DENY</b> a Plat Note Waiver to existing non-compliant structure at McElroy and Gates Pass Road.

[illegible]

# Petition to Save Scenic Gates Pass 85' Setback

Petition summary and background	
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		846 W. Camino de Oeste 85745		3/1/2013
John Windomiller		4741 W. Placita de Santa		11 March 2013
George P. Darnell		5130 W. Camino del Desierto		3/11/13
RICHARD H. HAWKINS		5100 W. Camino del Desierto		3/11/13
ROGER E. CARPENTER		1124 N. CAMINO DE OESTE TUCSON, 85745		MARCH 18, 2013
Carolyn Leigh		4530 West Speedway Tucson, AZ 85745	I re draw my plan for my guesthouse (and supported the scenic overlay) if cost were my way's time. This should not be allocated to succeed in 4 hrs.)	MARCH 18, 2013
JUDITH CARPENTER		1124 N. CAMINO DE OESTE TUCSON, AZ, 85745		3/19/2013
Wendy Beardsley		4941 West Monte Carlo Drive Paseo Montana neighborhood	There was no public hearing in Jan, 2013, 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

<b>Petition summary and background</b>	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.		
<b>Action petitioned for</b>	<b>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.</b>		

Printed Name	Signature	Address	Comment	Date
William C Finlayson	William C Finlayson	1020 N. Via Roma Tucson, 85745		3-14-13
William Y. Velez	William Y. Velez	1000 N. Via Roma		3-14-13
BERNICE VELEZ	Bernice Velez	1000 N. Via Roma Tucson		3/14/13
William Rimmel	William Rimmel	3003 W. Broadway Blvd #3		3-14-13
Rabert Bruce Brown	Rabert Bruce Brown	630 N. VIA ROMA DR		3-14-13
Brian Cochran	Brian Cochran	5101 W. Sagermo Dr.		3/15/13
Regina L. Cox	Regina Cox	619 N. Via Roma		3/15/13
CAROL CROUSE	Carol Crouse	5161 W. Monte Carlo Dr 85745		3/15/13
Ann Gonzalez	Ann Gonzalez	800 N. VIA ROMA, Tucson AZ		3/15/13
Melissa Russum	Melissa Russum	640 N Via Roma 85745		3-15-13
LYNNE BRACKER	Lynne Bracker	650 N. VIA ROMA 85745		3/15/13

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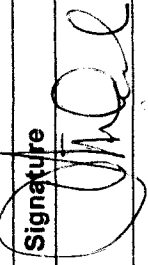
# Petition to Save Scenic Gates Pass 85' Setback

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
William Bracher	W Bracher	5741 W. SALERNO	Pro PZ & GWR	3-15-13
DL VENABLE	DL Venable	5135 W VIA MALORCA		3/15/13
Lawrence Debus	Lawrence Debus	5011 W. Monte Carlo Dr		3/15/13
Marian Finlayson	Marian Finlayson	1020 N Via Roma		3/15/13
Chris Strohm	Chris Strohm	4881 W. VIA SCARABEUS		3/15/2013
Sam Hostetter	Sam Hostetter	5200 W Via Malorca	Other owners followed these rules - to great expense.	3/16/13
Ernest Martin	Ernest Martin	5140 W. Salerona Dr		3/16/13
William Russell	William Russell	640 N Via Roma	How did this progress to this level?	2013-2346
Frankiegon	Frankiegon	5100 W Salerno Dr		3-16-13
MARILIGON	MARILIGON	5100 W Salerno Dr		3-16-13
JANICE CROWDER-TORRES	JANICE CROWDER-TORRES	5120 W. Via Malorca		3-16-13

# Petition to Save Scenic Gates Pass 85' Setback

<b>Petition summary and background</b>	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 Montano Subdivision, will be heard by the Pima County Planning and Zoning Commission on March 27, 2013 at 9:00 A.M.
<b>Action petitioned for</b>	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
Donc Michaelis		841 N. Via Roma		3/16/13
Betty Michaelis				✓
Vivianne Leisner		4961 W Monte Carlo Dr.		3/17/13
Jermy L. Stogner		4961 W Monte Carlo Dr.		3/17/13

(1)  
(2)  
(3)  
(4)

# Petition to Save Scenic Gates Pass 85' Setback

<b>Petition summary and background</b>	A Public Hearing to consider modifying rezoning conditions requiring an 65 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 Pasedo Montano Subdivision, will be heard by the Pima County Planning and Zoning Commission on March 27, 2023 at 9:00 A.M.
<b>Action petitioned for</b>	<b>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.</b>

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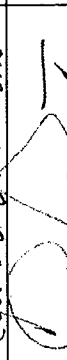
## Re: Co 9-84-41 Timmins Zoning Variance Request

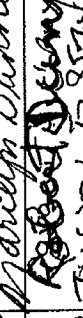
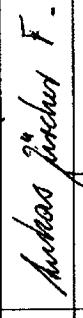
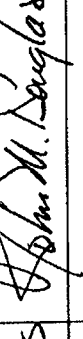
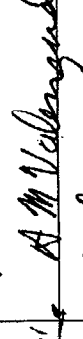
### Enclosures:

- 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

<b>Petition summary and background</b>	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.
<b>Action petitioned for</b>	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
Susan Faulkner		4940 W. Monte Carlo T/A		3/11/2013
DONALD D. FAULKNER		4940 W. Monte Carlo DE		3-11-13
Aimee Anavita		4960 W. Monte Carlo Dr.		3/11/13
Alan Reeter		4910 W. Monte Carlo Pr		3/11/13
Dawn Caruthers		999 N Bunscher LN		3/11/13
KIM OLSON		990 McElroy PL		3/11/13
RAY MORGAN		4921 W. Monte Carlo		3/11/13
Bunt Beaudig		4941 W. Monte Carlo		3/11/13
Todd Lutes		4950 W. Monte Carlo Dr.		3/12/13
JOHN DAVIS		4930 W. Monte Carlo DE		3/12/13
Carolyn Davis		4930 W. Monte Carlo Drive		3-12-13

Printed Name	Signature	Address	Comment	Date
Teresa Bourne		4920 W. Monte Carlo Dr.		3/12/13
Kris Morgan		4921 W. Monte Carlo Dr.		3/12/13
ERIC LYONS		4951 W. McElroy Dr.		3/12/13
MARISA MICHELLE LYONS		"		3/12/13
MARILYN DUNNIGAN		4950 W. McElroy Dr.		3/12/13
Robert Dunnigan		4950 W. McElroy Dr.		3/12/2013
Lukas Zürcher		4920 W. Monte Carlo Dr.		3/12/2013
Frank Dorena		4921 W. McElroy Dr.		3/12/13
Virginia DAVES		4921 W. McElroy Dr.		3/12/13
Traci Caruthers		999 N Boushchod Dr.		3/13/13
Tracy Lotter		4961 W. Monte Carlo Dr.		3/12/13
VIVIANE LEDESMA		4961 W. Monte Carlo Dr.		3/12/13
Joyce Douglas		4961 W. McElroy Dr.		3/16/13
JOHN M. DOUGLAS		4961 W. McElroy Dr.		3/16/13
Abe Valenzuela		4900 W. Monte Carlo Dr.		3/16/13
Edmunds Mart. 059		4900 W. Monte Carlo Dr.		3/16/13

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feet  
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## Bill Timmins

2nd

Director at GIS Services for Emerging Technologies  
Tucson, Arizona Area Information Technology and Services

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

Sales Basic

500+  
connections

### People Similar to Bill



**Matt Baker**  
GIS Coordinator at Metropolitan Airports Co...  
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Contact Info

### 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 Professionals

January 2008 – Present (5 years 3 months)

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

MCS Eagle 4.25" or 6.5" full-speed  
UV Curable inkjet - 600 DPI - UV  
Curable

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Earn an accredited MBA online, at  
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### People Also Viewed



**Michelle Donahue, GISP**  
President/CEO at MapDog GIS, LLC



**Jackie Smith**  
Enterprise GIS Director



**Shahira Hamdan**  
GIS Manager



**Jessica Touchard**  
Sr. Recruiter, GeoSearch, Inc.



**Dr. Mirana Laishram**  
Director (GIS and Remote Sensing)  
at Aryabhat Geospatial solution Pvt.ltd



**John Chioles**  
Senior GIS Project Manager || Open to  
new opportunities in Houston, TX



**Tripp Corbin, CFM, GISP**  
CEO - eGIS Associates, Inc.



**Subrata Paul**  
Delivery Manager- GIS & IT Services  
@ Gulf Computers LLC



**Jim Pugh**  
GIS Project Manager, Certified GIS  
Professional



**Bigyan Kar**  
Experienced CAD/GIS Operations,  
Turnkey Project Management and  
Business Development Professional

**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 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

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 Engineer

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**

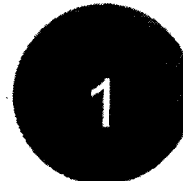
You



James Willinger



**Bill Timmins**  
[Get introduced](#)

**In common with Bill**

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 Organ...



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)

Government 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...

GIS

Geography

ArcGIS

Geomatics

GPS

Remote Sensing

Spatial Analysis

ESRI

Databases

Cartography



Bill also knows about...

Microsoft Excel   Microsoft Office   Data Management   Solution Selling

Marketing   Adobe Acrobat   Capturx for ArcGIS   Capturx for Excel

**EDUCATION****Arizona State University**

PhD, Geography (GIS)

1990 – 1991

Finished course work but did not submit dissertation

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 Program Generator

## University of Florida

MA, Urban and Regional Planning (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, Geography (GIS)

1974 – 1977

Specialization in Geographical Information 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, Geography

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, GeoSpatial Information Technologies Association, Sevier 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 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.

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



Adapx - Capturx User...  
Join



American Society for...  
Join



American Society of ...  
Join



American Society of ...  
Join



Arizona Professional ...  
Join



ESRI User Conference  
Join

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310,677 followers  
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Primerica  
Financial Services  
Follow



LizardTech  
Computer Software  
Follow

GIS Services  
Information Technology and Services  
Follow

Adapx  
Computer Software  
Follow

## RECOMMENDATIONS

- [Received \(11\)](#)
- [LizardTech](#)

### 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 competitively. He is a person of integrity and looks for the creative solution.

### 3. **Director** GIS Services



Tony Kendzior, CLU, ChFC [tony@tonykendzior.com](mailto: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

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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 Szerman

Biz Dev at SyCora - SEO Tool. We Optimize Optimization.

Bill is a true industry pro. Very knowledgeable 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 inquiries.



Todd Finck

Merger/Acquisition, Consulting, Investor

Bill Timmons is a knowledgeable 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 Timmons 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 Pollackus

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](#)

## ***GIS Services***

520.971.7622, fax 520.903.0987, [gis@northlink.com](mailto:gis@northlink.com)

### **GIS Services Brings the Training to You - Structured to Your Requirements**

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.

**Migrating from ArcView GIS 3.x to ArcView 8:** This two-day course introduces ArcView GIS 3.x users to the features and architecture of ArcView 8. Students learn how to use the new Windows-based applications ArcMap, ArcCatalog, and ArcToolbox and explore how these applications work together.

**Introduction to ArcGIS® I (for ArcView 8, ArcEditor 8, and ArcInfo 8):** This 2-day course introduces students to ArcGIS and provides the foundation for becoming a successful ArcView, ArcEditor, or ArcInfo user. Participants learn how to use ArcMap, ArcCatalog, and ArcToolbox and explore how these applications work together to provide a complete GIS software solution.

**Introduction to ArcGIS II (for ArcView 8, ArcEditor 8, and ArcInfo 8):** This 3-day course follows *Introduction to ArcGIS I (for ArcView 8, ArcEditor 8, and ArcInfo 8)*. With further exploration of ArcMap, ArcCatalog, and ArcToolbox, students focus on spatial analysis, automation of spatial and attribute data, editing, and advanced options for cartographic display and reports. Students conduct queries, perform spatial analysis, and present their results in a hard-copy map and report.

**Getting Started with VBA for ArcGIS:** This is a class for ESRI's Version 8 software and its customization environment. The class explores the VBA development environment and ArcGIS's customization dialog to provide users with useful knowledge for developing simple customizations for ArcGIS. Day one introduces users to object-oriented programming and Visual Basic for Applications, VBA. We will talk about the Component Object Model (COM), visual basic code structures, useful functions and statements. Day two will focus on ArcObjects, ESRI's object model, on which all your customizations will be based. We will spend the day reading the object model diagrams and creating custom code in VBA for ArcGIS. Day three will give us an opportunity to apply our knowledge of COM, ArcObjects and VBA to real-world customizations.

**Introduction to ArcView®:** This 2-day course gives the hands-on experience and conceptual overview needed to take full advantage of ArcView GIS software's display, editing, analysis, and presentation mapping functions. The course teaches basic ArcView GIS functionality.

**Intermediate ArcView:** A 2-day course for more experienced ArcView GIS users, emphasizing tools that were briefly covered in the Introduction to ArcView course. Subjects include geoprocessing tools, image manipulation, importing, and applying user scripts that extends the functionality of ArcView.

**Advanced ArcView GIS:** This 2-day course offers experienced ArcView GIS users in-depth instruction in the software's ability to integrate geographic information. Participants move beyond the basics as they perform GIS analysis using the software's total functionality including new geoprocessing tools.

**Spatial Analyst™:** A three-day, hands-on course covers the use of raster and vector data with this ArcView extension. It emphasizes problems that are best solved in a raster environment such as surface analysis and distance measurement.

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

ESRI and ArcView are trademarks of ESRI registered in the United States and certain other countries; registration is pending in the European Community. ArcGIS and the ArcGIS logo are trademarks of ESRI. ESRI Classes are taught by experienced 3<sup>rd</sup> party ESRI Business Partners.

## ***GIS Services***

520.971.7622, fax 520.903.0987, [gis@northlink.com](mailto:gis@northlink.com)

### **Agencies and Companies Trained 1997-2003**

ARC, Planning, Albuquerque NM  
Alameda Contra Costa Transit District, Oakland CA  
Animas Foundation, Gray Ranch NM  
Apache County Engineering, St Johns, AZ  
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  
Bernalillo 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, Planning Division, Peoria AZ  
City of Phoenix City Managers 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  
City of Tucson Solid Waste, Tucson AZ  
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

## *GIS Services*

520.971.7622, fax 520.903.0987, [gis@northlink.com](mailto:gis@northlink.com)

Community Partner of Southern AZ, Tucson AZ  
Computer Tutors of North Florida, Tallahassee FL  
Consensus Planning, Albuquerque NM  
Daniel B Stevens Inc., Albuquerque NM  
Department of Natural Resource, Aberdeen MD  
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  
Headquarters West, Ltd., Phoenix AZ  
Hopi Tribe, Kykotsmobi AZ  
InfoTech Enterprises, Tucson AZ  
Information Technology, Chandler AZ  
Jacksonville Sheriffs Office FL, CommCenter  
Kenny Aerial Mapping, Phoenix AZ  
Kirkland Air Force Base, Albuquerque NM  
La Paz County, NM  
Larimer County, Fort Collins CO  
Engle Law Offices, Chandler AZ  
Lincoln County Assessor, NM  
Lockheed Martin Las Vegas, Las Vegas NV  
Logan Simpson Design, Tempe AZ  
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  
National Park Service, Carlsbad NM  
National Park Service, Phoenix AZ  
National Park Service, Carlsbad NM  
National Park Service, Curecanti NM  
National Park Service, ICC/INIM, Santa Fe NM  
National Park Service, Grants NM  
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  
Oro Valley Police Dept., Oro Valley AZ  
Otero County, NM  
Pima Co. Animal Control, Tucson AZ  
Pima Co. DOT, Tucson AZ  
Pima Co., Mapping and Records, Tucson AZ  
Pima County Health Department, Tucson AZ  
Prescott National Forest, Prescott AZ  
Prince William County, Prince William VA  
Public Service Company of NM, Albuquerque NM  
Pueblo of Laguna, Dept. of Natural Res., Laguna NM  
Rio Arriba NM  
Rio De Flag Water Reclamation, Flagstaff AZ  
Robert Bates & Associates, Inc., Jacksonville FL  
SAIC, Albuquerque, NM  
SATLOC, Tempe AZ  
Saguaro National Park, Tucson AZ  
Salinas Pueblo Missions Monument, Mountainair NM  
Salt River Pima - Maricopa Indian Community, AZ  
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

## ***GIS Services***

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Sprint Voice Services, Las Vegas NV  
Stantec Consulting, Phoenix AZ  
State of Oklahoma Department of Health  
Stubbs and Schubart, Tucson AZ  
TRC, Albuquerque NM  
TRC/Alton Geoscience, Concord CA  
The Nature Conservancy, Tucson AZ  
Tonto National Forest, Phoenix AZ  
Torrence Co., Estancia NM  
Town of Chino Valley, Chino Valley AZ  
Town of Eloy, Eloy AZ  
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  
USDA Forest Service, Petersburg AK  
USDA Forest Service, Albuquerque NM  
USDI Bureau of Land Management, Worland WY  
USGS, Flagstaff AZ  
USGS, Tucson AZ  
Unita County, Evanston WY  
Univ. of Advancing Computer Tech., Phoenix AZ  
University of AZ, Tucson AZ  
Utility Automation 200, Huntsville AL  
Valencia Co., NM  
Village of Angel Fire, NM  
Washington D.C. Council of Governments  
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](mailto: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' guest 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.

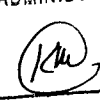
Sincerely yours,

  
Roger E. Carpenter  
(GPANA Board member)



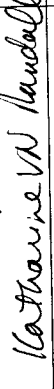
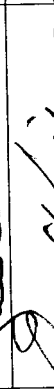
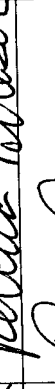
BY: .....

CLERK'S NOTE:  
COPY TO SUPERVISORS  
COUNTY ADMINISTRATOR

DATE 4/17/13 

cc: Development Services

# Petition to Save Scenic Gates Pass 85' Setback

Petition summary and background	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.			
Action petitioned for				
Printed Name	Signature	Address	Comment	Date
Dhruvin Chavara Bestor		P.O. Box 857477 Tucson, AZ	85745	4/13/13
Katharine Wlandall		1726 N. Plaza Zarca	85745	4/13/13
Wylie Baker		1726 N. Plaza Zarca	85745	4/13/13
Jim Wilson		5220 W VIA MACORCA	TUCSON	4/13/13
Carolyn Light		4530 West Speedway	Tucson 85745	4/13/13
Michael Adde		5318 W Camino Del Desierto	Tucson, AZ	4/13/13
Rebecca Patterson		5010 W Monte Carlo Dr	Tucson, AZ 85745	4/13/13
Peter Pennings		5010 W Monte Carlo Dr.	Tucson, AZ 85745	4/13/13
Gary A. Kordosky		5345 W Camino del Desierto	85745	4/13/13
Ann M Becker		5300 W Camino del Desierto	85745	4/13/13
ALAN GUNPATRICK		5001 W. Camino Del Desierto	85745	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)

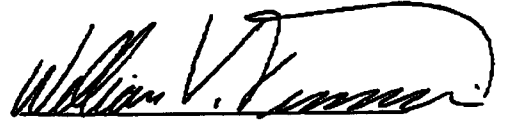
12. Making a suitable arrangement with the Pima County Wastewater Management Department for the provision of sanitary sewerage disposal which may include:
  - A. If individual on-lot sewage disposal systems are used, application by the owner for and issuance by Pima County Health Department of on-lot 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 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-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**

1 **LOOSE, BROWN & ASSOCIATES, P.C.**

Donald A. Loose (006636)

2 Jesse R. Callahan (025393)

11240 N. Tatum Blvd., Suite 110

3 Phoenix, Arizona 85028

(602) 971-4800

4 don@loosebrow.com

*Attorneys for Petitioners*

6 **IN PROCEEDINGS BEFORE THE PIMA COUNTY BOARD OF SUPERVISORS**

7 WILLIAM V. TIMMINS AND SUSAN A.  
TIMMINS, as Trustees of the Timmins Family  
8 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**

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

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

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

### 3 **I. The General Public**

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

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

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

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

## 13 **II. Facts and Law**

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

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

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

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

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

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

7 **III. Conclusion**

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

14 DATED 23<sup>rd</sup> Day of April 2013.

15 **LOOSE, BROWN & ASSOCIATES, P.C.**

16 By: \_\_\_\_\_

17 Jesse R. Callahan

Attorneys for Timmins

18 **ORIGINAL** filed this 23<sup>rd</sup> Day of April 2013

19 with Pima County Board of Supervisors  
20  
21  
22

## EXHIBIT A

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

Notary

STATE OF Arizona, COUNTY OF Pima

On January 12<sup>th</sup>, 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:

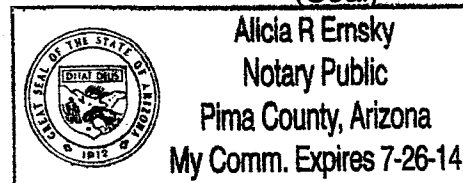
07/26/2014

Elmer Smith/Marcella Smith

Signature

Dated 01/12/2011

(Seal)



## 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

1                                    **Neighbors Statements and Letters Response**

2                    **Planning and Zoning Hearing March 27, 2013**

3                    **Statements made at Hearing**

4                    **A. Patricia Noland Butcher**

5                    Ms. Butcher argued the following:

6                    “The setbacks were ignored both County and the CC&Rs of that subdivision. They  
7                    ignored the County requirements with regards to the guesthouse provisions, the  
8                    sewer, the electrical, the kitchen and occupancy.” (Page 11, lines 43 to 45,  
9                    Planning and Zoning Commission Hearing (PZH).

10  
11                    The CC&Rs have no bearing on the issue before the Board of Supervisors but are  
12                    addressed in Exhibit 1 hereto. The accusations regarding the CC&R violations are  
13                    inaccurate and the result of mob mentality.

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

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

23                    With respect to the kitchen, it was approved prior to construction both with a  
24                    kitchen – to accommodate elderly relatives anticipated to potentially move in June of  
25                    2010 – and without a kitchen (i.e., a stove) if they did not move in and the structure was

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

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

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

15  
16 The two women who were in the guesthouse had bedrooms in Timmins' main  
17 dwelling and were not living in the guesthouse. If Ms. Butcher had any issues with them  
18 being on the porch, in regards to noise or trash, they were never brought to Timmins  
19 attention.

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

22 "If they are gonna be required to move the illegal driveway and I think that ought  
23 to be very important to be put into your condition and require it be landscaping to screen  
24 the guesthouse from view of Gates Pass and frankly from my house." (Page 12, lines 4 to  
25 7, PZH).

26

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

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

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

15 **B. Anne Anovitz**

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

1 Ms. Anovitz also advised the Commission that:

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

5  
6 This statement is again wrong. Mr. Timmins responded to the neighbors' CC&R  
7 allegations in email correspondence and in meetings. Timmins was in favor of modifying  
8 the CC&R's to accommodate other neighbors in violation of them as he considered some  
9 of the CC&R requirements that were unrelated to his situation to not be in the best  
10 interest of the homeowners in the subdivision.

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

18 **C. Robert Dunnigan**

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

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

14  
15 Timmins advised Mr. Dunnigan prior to the construction process that he was  
16 building the house for elderly relatives and guests. During the permitting process, prior  
17 to construction and issuance of a permit, Timmins was advised he was required to  
18 file covenants stating as such. The guesthouse was permitted with the filing of a House  
19 Kitchen Declaration of Covenants Running with the Land recorded January 15, 2010  
20 both for a guest house with a kitchen and a Covenant filed to run with the land and to  
21 allow a guesthouse if the kitchen were to be removed (Docket 13726, page 415) (Exhibit  
22 3 hereto). As both were filed prior to construction, Mr. Timmins knew he could not rent  
23 the guesthouse or subdivide his parcel, and he did not and does not intend to rent the  
24 guesthouse or subdivide his parcel.

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

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

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

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

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

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

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

4 **D. Eric Lyons**

5 Mr. Lyons argued the following: The two things that I do want to add is that I do  
6 use that guest house as a land mark for people coming to my house where I say  
7 please drive past the International Wildlife Museum, look for the guesthouse the  
8 ugly thing sitting on the corner, hang a right after that. It is very obvious to  
9 everyone coming up that road. The second thing is that if we do start making  
10 allowances for people to build and then be able to keep it simply because we don't  
11 allow waste I think that is bad precedence for this neighborhood. (Page 13, lines  
12 11 to 416, PZH).

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

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

25 **E. Roger Carpenter**

26 Mr. Carpenter attempts to discount the plain and undisputed fact that the  
27

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

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

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

16 **F. John Davis**

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

1 has to be held to the absolutely highest standards. When you evaluate any site  
2 specific documents that he submitted on his application for a building permit, any  
3 plat maps that were submitted and improvement locations and one thing that I  
4 have with me today that we recently noticed in a Google aerial map for lot one,  
5 you will see a series of perfectly lined boulders approximately 4 to 8 feet in  
6 diameter. There's twenty of them that run the entire east west link of lot one and  
7 approximates the Gates Pass corridor buffer setback. None of those boulders were  
8 in place today. They all had to be removed in order to build this particular piece  
9 of property. So it's very obvious from Mr. Timmins standpoint and his expertise  
10 that he had a clear understanding that they were there for a reason and he had to  
11 move them in order to do this. (Page 14, lines 20 to 37, PZH).

12  
13 Opposition to the structure only came about after the structure was built. In  
14 Timmins' initial contact with the neighbors after Timmins had made them aware of the  
15 guesthouse, the majority of the neighbors were not opposed to the structure. As it has sat  
16 unfinished without adequate landscaping and proposed entrance modifications the  
17 opposition has grown. If the structure had been completed as proposed the aesthetics  
18 would not be an issue today. Timmins agrees that as the structure exists today it is an  
19 unsightly yet incomplete construction project.

20 In regards to Timmins' expertise with mapping, he is not a plan reviewer or site  
21 inspector and relied on the approval from the County, as set forth in the Pima County  
22 Inspection card showing numerous site inspections signed off on by the County from  
23 12/11/10 through 6/15/10. A geographical system overlay of the site plan on top of the  
24 survey based on known survey points shows the guesthouse in the location where it was  
25 built. *See Exhibit 6*, the site overlay. Moreover, the screening of Timmins' current house  
26 can be accomplished with respect to the guesthouse, as shown in the attached  
27 photographs. *See Exhibit 7* hereto, demonstrating the screening by vegetation. Exhibit 7  
28 also shows the close proximity to the parking lot. In fact, the surrounding homes impact

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

4 **G. Judith Meyer**

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

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

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

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

21 **H. Ray Morgan**

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

1 false:

2 My name is Ray Morgan. I live at 4920 West Monte Carlo. I worked for  
3 an excavation company 25 years ago that put in most of the lots where we  
4 cleared a lot to park our heavy equipment where I put my house. I helped  
5 clear that lot. We specifically put those boulders along Gates Pass Road  
6 delineating the setback. The day I saw Mr. Timmins moving those  
7 boulders out of the way I stopped and told him you're violating setback.  
8 The next day I saw stakes go in the ground. I stopped once again and told  
9 Mr. Timmins and his contractor, and I informed them both that they were  
10 well inside the setback. I've never seen a house go up so fast in my life.  
11 Within three weeks that structure was built. Mr. Timmins knew from the  
12 very beginning. My job, just so you all know, I'm a Homicide investigator  
13 for the Public Defender's Office. I check facts before I open my mouth  
14 always. He was well aware and went forward anyway. I'm not the only  
15 one that told him. There are people on vacation that can't be here but they  
16 are the most vocal among us and they will tell you that they spoke to him  
17 too after the foundation was put in and the pad was poured that it was well  
18 inside the corridor. Mr. Timmins continued with his construction. He went  
19 on to build the road. He went on to put the driveway into his house and the  
20 electrical panel. He was well aware all along. Mr. Timmins, when I very  
21 first talked to him made the comment to me that it was easier to get  
22 forgiveness than permission. Now I'm not saying it was collusion but after  
23 the pad was poured I called the Inspector, I believe his name was Gerry, I  
24 called and spoke to him and I told him that that was well within the setback  
25 and that shouldn't be allowed. He told me that he would look into it. Like  
26 I said, that house then went up in three weeks. That's all I want to say  
27 about Mr. Timmins. He is not an innocent man here. He was well aware of  
28 what was going on and he knows what I do for a living. I was friends with  
29 Mr. Timmins until this occurred. My home is the second home built in that  
30 subdivision. I watched everybody build a house and I'm kind of a hawk. I  
31 make sure they stay within compliance. Mr. \_\_\_\_\_ a variance to build  
32 his home because it had to be so close to the wash beside his house and I  
33 signed that variance for him to have that done and that was done before the  
34 construction on his house. He knew what the rules were. Aside from that,  
35 to grant this is not only going to be to put all the residents in Paseo  
36 Montana at a disadvantage because of the eyesore but the residents of Pima  
37 County who drives up to Gates Pass has to drive by this one room sealed  
38 apartment with this porch on it and a light that's lit all night long for  
39 everybody that is driving down Gates Pass Road to see. I think that's  
40 intentional as well. And that's really all I got to say. (Page 17, lines 1 to  
41 31, PZH)  
42

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

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

13 **I. Dr. Lynn Bracker**

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

19  
20 Dr. Bracker's concerns are based on sheer speculation as to what will happen in  
21 the future. *The nearest object in sight to the guesthouse is the museum parking lot.* The  
22 guesthouse's unique proximity to this parking lot undermines the concern that granting  
23 the requested relief will set a bad precedent for property owners nearby. The instant  
24 circumstances are also distinguishable from potential future cases because 1) the  
25 guesthouse was constructed in a heavily disturbed area, and 2) the plan review and site

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

#### 5 **Letters Review submitted to Planning and Zoning Hearing Members**

##### 6 **A. Letter 1 – Lynne and William Bracker**

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

11  
12 They are not familiar with the good faith in which Timmins built the structure and  
13 their argument has no merit. As set forth above, Timmins acted in good faith at all times  
14 throughout this matter. Speculation to the contrary should be rejected.

##### 15 **B. Letter 2 – Wendy and Burt Beardsley**

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

21  
22 The BOA did not determine that the violations were “self caused” and denied all  
23 the variance requests based on a flawed legal analysis. As such the Superior Court later  
24 determined in Summary Judgment that the BOA rulings were inappropriate.

##### 25 **C. Letter 3 – Dr. Ivy Schwartz**

26 Dr. Schwartz letter states: “The guesthouse is highly noticeable.” and that...”It  
27 is apparent the owner intended to bypass requirements in the original permit.”  
28 .

29  
30 The guesthouse will not be noticeable once landscaping required by Pima County

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

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

5 Their letter states: “Gates Pass Road has been a scenic route of pride for  
6 Tucsonans for many years. It is a very unique area, in that it is in the vicinity  
7 and has the same characteristics as the Saguaro National Park West. Having  
8 this residence built so close to the road negates and encroaches upon the beauty  
9 of our Tucson Mountains.” And that... As of this writing, Paseo Montana  
10 Subdivision will present a “Petition to Save Scenic Gates Pass 85’ Setback”. .  
11

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

17 **E. Letter 5 - Carolyn O’Bagy Davis**

18 This letter states: “Mr. Timmins only built the guest house as a rental. In the  
19 13 years that we have lived in the neighborhood, he has had a constant stream  
20 of people who have rented rooms in his house.”  
21

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

1 2002 to 2004, Al Dickson lived in the home and from 2004 to 2005 James Masee. Both  
2 were house sitters. From 2005 to 2007, the Timmins' daughter, Heather Connally, who  
3 had relocated to Tucson, lived there.

4 In 2008 Theresa Marson moved in due to circumstances where her home had been  
5 broken into and she was threatened and then unable to work due to her foot being broken.  
6 For three and a half years, Ms. Marson lived in the home and contributed a total of \$900  
7 (\$150 per month toward the end of her stay for the last 6 months). Jade Suppo moved in  
8 for about a year during this time and did not contribute towards household expenses, as  
9 she was supporting her family in the Philippines and paying for her cousin's college  
10 education in California.

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

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

19 Ms Davies states that... "Mr. Timmins blatantly disregarded Pima County zoning  
20 and building regulations, and when the neighbors protested, he threatened to sue each  
21 homeowner who spoke against his guesthouse". .  
22

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

1 From: director@gisservices.net  
2 To: paseomontanahoa@hotmail.com  
3 CC: areeter@medfilms.com; anna@anovitz.com; wendybeardsley@earthlink.net;  
4 c\_b\_eby@msn.com; tracicaruthers@q.com; ej-mmsmith7@msn.com;  
5 denver4921@live.com; jerroldelesma@msn.com; j2jdougl@msn.com;  
6 ja47bricks@live.com; jdavis@azlitho.com; lzurcher@email.arizona.edu;  
7 jmo13@earthlink.net; nkwoods@msn.com  
8 Subject: HOA  
9 Date: Fri, 18 Feb 2011 11:24:47 -0700

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

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

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

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

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

33 Revision of mailbox requirements;

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

39 Allowances for vehicles and trailers parked in driveways.

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

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

42 Other items may be suggested as well?

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

3 **F. Letter 6 - John Davis**

4 This letter states: "The improvements at question were made without  
5 consideration of the cc & R's applying to the property and without notice to or  
6 discussion with the property owners within the subdivision" and that "To allow  
7 these improvements to remain will degrade property values for scores of  
8 nearby residents, destroy the esthetics of the Gates Pass corridor, and create a  
9 very bad precedent for future development in the area".  
10

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

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

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

19 This letter states: "The owner of the guest house in question intentionally  
20 violated the setback and many CCRs of the neighborhood, and then completely  
21 disregarded the county's authority, and the neighbors' rights and opinions."  
22

23 This statement has no merit at all as Timmins followed County approval in  
24 locating the structure, which is the remaining item to be determined by the Board. As  
25 soon as he was confronted by the neighbors he met with them and has respect for their  
26 rights and opinions.  
27  
28

1           **II.     Conclusion**

2           The statements made by the foregoing persons defy logic, lack foundation, and are  
3   irrelevant and unreliable. No logical person would find it easier to engage in protracted  
4   litigation seeking forgiveness rather than following the rules. In fact, the undisputed  
5   sworn testimony in this matter proves Mr. Timmins acted in good faith. Any statements  
6   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

12/21/2010

## EXHIBIT 3

**GUEST HOUSE KITCHEN  
DECLARATION OF COVENANTS RUNNING WITH THE LAND**

This Declaration of Covenants is made by:

WILLIAM TIMMINIS

\_\_\_\_\_, 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

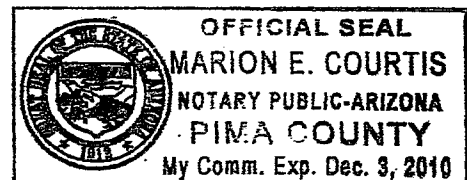
STATE OF ARIZONA

County of Pima }

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

Marion E. Courtis  
Notary Public

12-03-2010  
My commission expires



12-03-2010

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

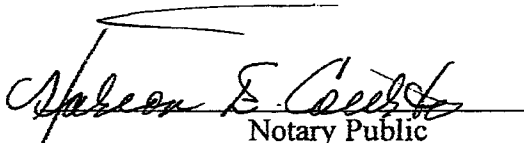
## COVENANT

I, the undersigned, as owner of the property located at 4870 W McElroy Dr, Tucson AZ 85745, 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.

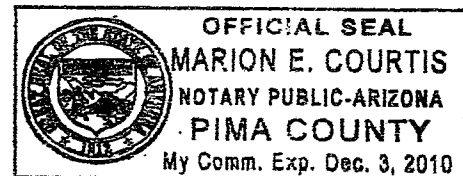
  
Signature

01/15/2010  
Date

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

  
Notary Public

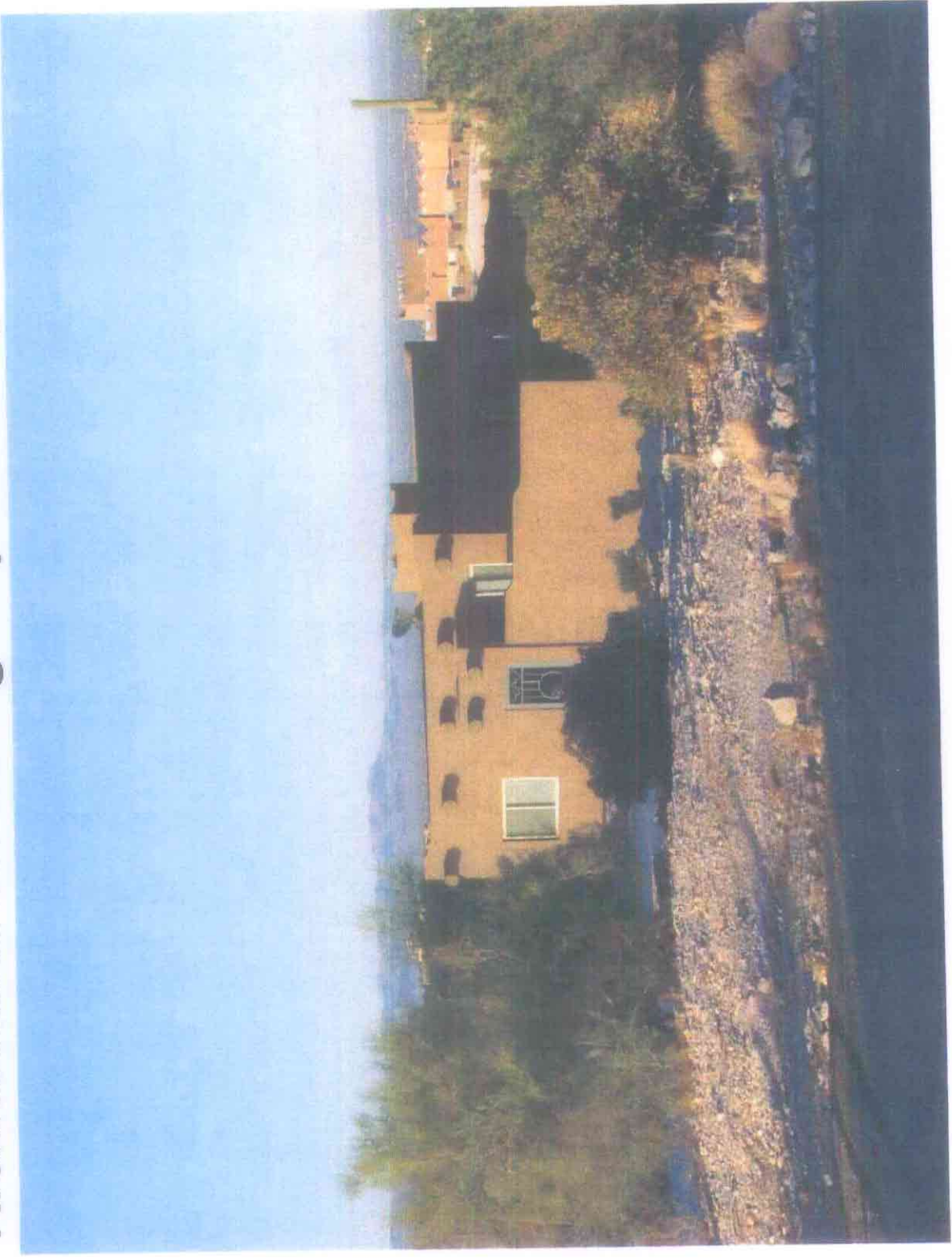
12-03-2010  
My commission expires



UP-500 UN-101

## EXHIBIT 4

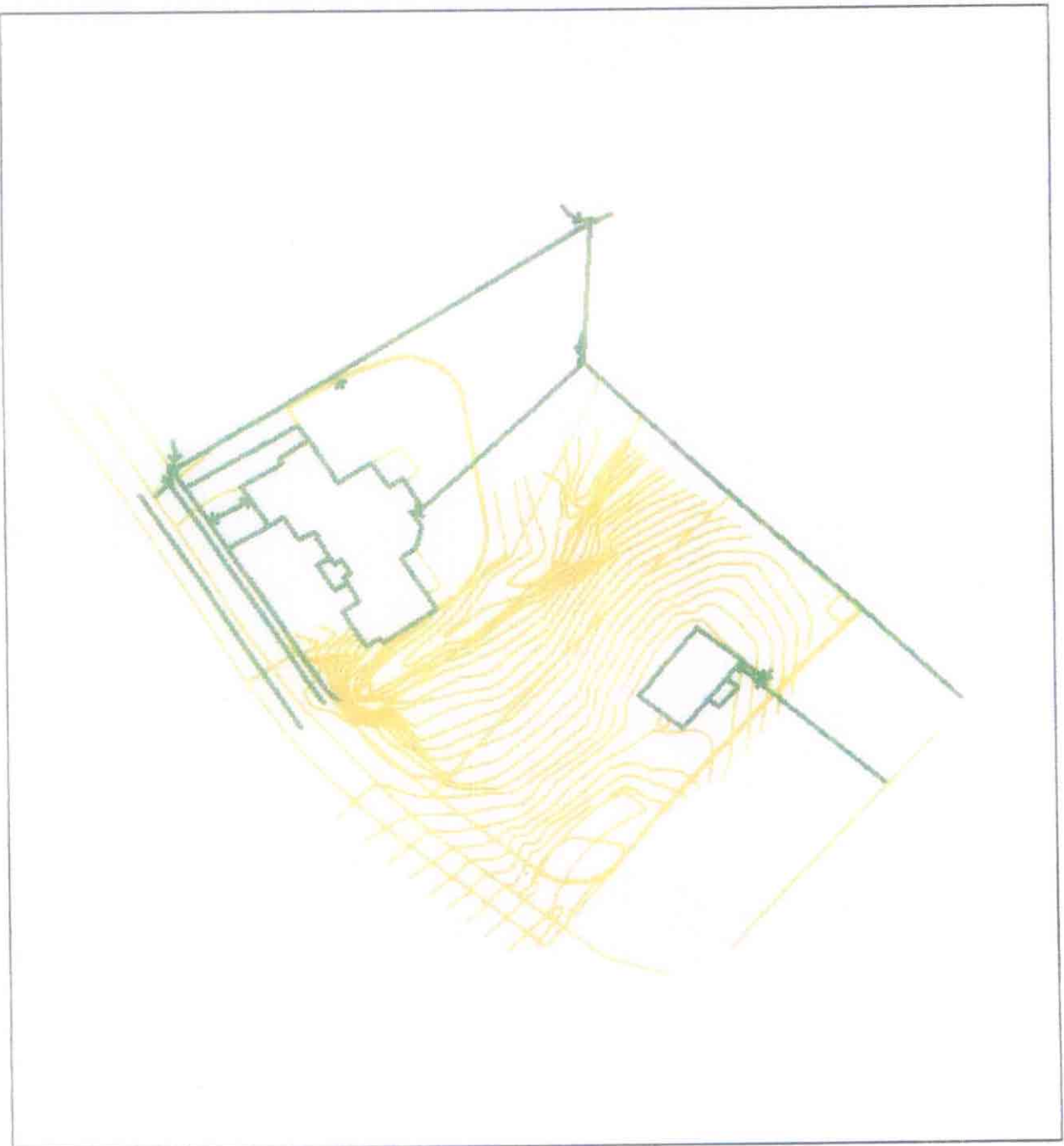
## Architectural Rendering Requested by Neighbors



## EXHIBIT 5



## EXHIBIT 6



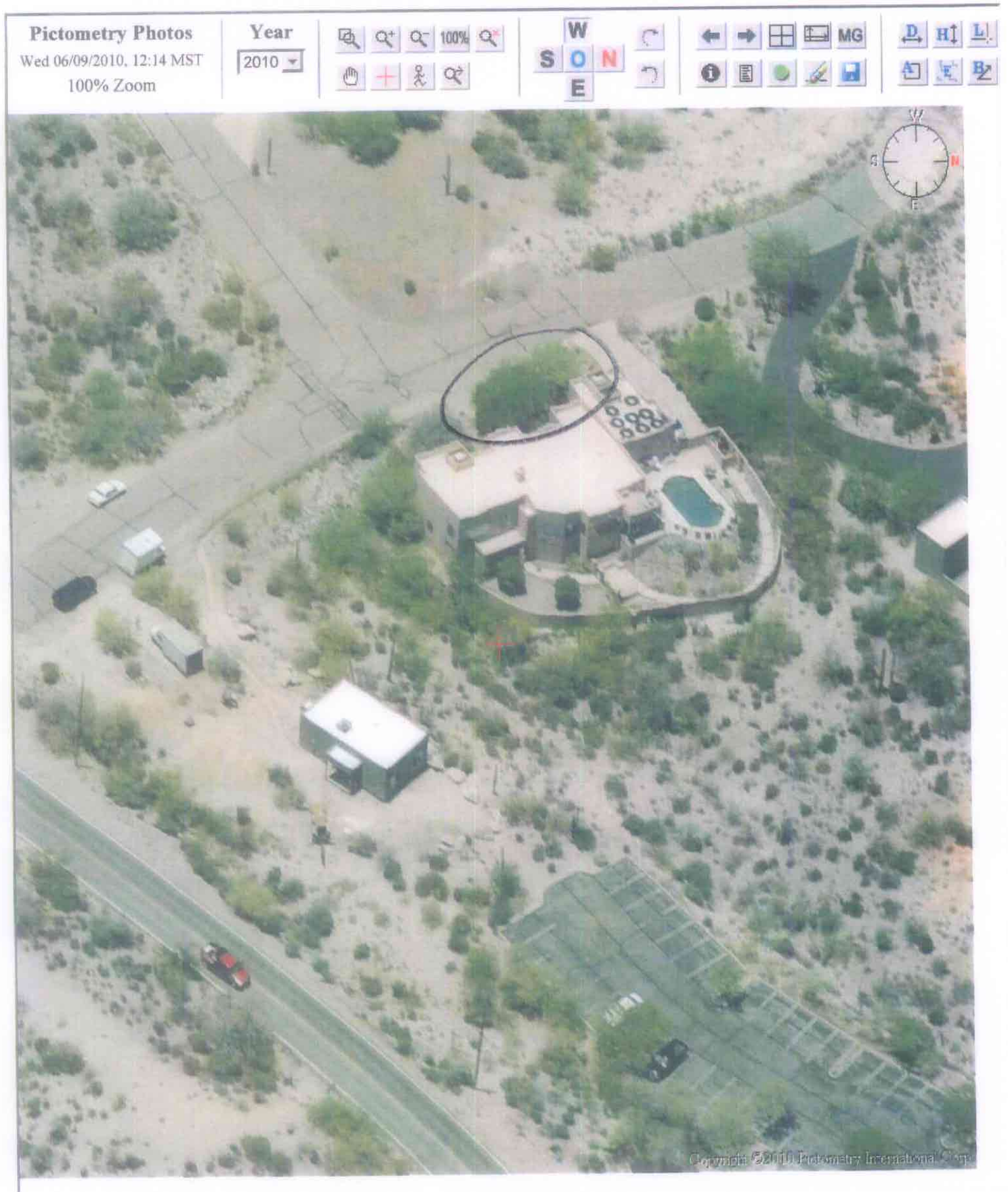
**Guest House**  
**4870 W McElroy Dr**  
**Bill & Susan Timmins**

— 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





## EXHIBIT 8



**Co9-84-41 INTERNATIONAL WILDLIFE — GATES PASS ROAD REZONING  
MODIFICATION OF REZONING CONDITIONS, SUBSTANTIAL CHANGE**

**2012**