

- VI. OTHER BUSINESS FROM THE FLOOR
- VII. PLANNING STAFF COMMENTS AND SUGGESTIONS
- VIII. BOARD COMMENTS AND SUGGESTIONS
- IX. ADJOURNMENT

The next Board of Adjustment meeting is scheduled for June 14, 2012.

FOR SPECIAL ACCOMMODATIONS



Please contact Diana Figueroa at (623) 930-2808 or dfigueroa@glendaleaz.com at least three working days prior to the meeting if you require special accommodations due to a disability. Hearing impaired persons should call (623) 930-2197.

After 5:00 p.m. on Monday, prior to the meeting, staff reports for the above referenced cases will be available online at <http://www.glendaleaz.com/planning/boardsandcommissions.cfm>. If after reviewing the material you require further assistance, please call the staff contact listed for each application at (623) 930-2800.

Upon a public majority vote of a quorum of the Board of Adjustment, the Board may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purpose:

- (i) discussion or consultation for legal advice with the city's attorneys (A.R.S. § 38-431.03(A)(3)).

Confidentiality Requirements Pursuant to A.R.S. § 38-431.03(C)(D): Any person receiving executive session information pursuant to A.R.S. § 38-431.02 shall not disclose that information except to the Attorney General or County Attorney by agreement of the Board of Adjustment, or as otherwise ordered by a court of competent jurisdiction.

CITY OF GLENDALE
BOARD OF ADJUSTMENT
WORKSHOP MINUTES

COUNCIL CHAMBERS BUILDING
CONFERENCE ROOM B-3
5850 WEST GLENDALE AVENUE
GLENDALE, ARIZONA 85301

THURSDAY, MARCH 8, 2012
5:30PM

- I. CALL TO ORDER
The meeting was called to order at 6:00pm.
- II. ROLL CALL
Board Members Present: Board members Cathy Cheshier (Cholla), Jack Bethel (Barrel), Sandra Mendez (Ocotillo), and Chairperson Jeff Blake (Mayoral)

Board Members Absent: Ryan Mander (Cactus)

City Staff: Tabitha Perry, Assistant Planning Director, Paul Li, Assistant City Attorney, Karen Stovall, Senior Planner, Remigio Cordero, Planner, and Diana Figueroa, Recording Secretary
- III. EXECUTIVE SESSION
The Chair **MOVED** to enter into Executive Session at 6:02pm. Board member Cheshier **SECONDED** the **MOTION**. The **MOTION** was **APPROVED UNANIMOUSLY**.

The Board of Adjustment met with the Assistant City Attorney for legal advice regarding the City's Medical Marijuana Dispensary Zoning Ordinance. (A.R.S. §38-431.03(A)(3)).

Confidentiality Requirements Pursuant to A.R.S. §38-431.03(C)(D): Any person receiving executive session information pursuant to A.R.S. §38-431.02 shall not disclose that information except to the Attorney General or County Attorney by agreement of the Board of Adjustment, or as otherwise ordered by a court of competent jurisdiction.

Executive Session ended at 6:35pm.
- IV. RETURN TO OPEN SESSION
The Board returned to Open Session at 9:20pm.

V. ADJOURMENT

With no further business, the workshop was adjourned at 9:27pm.

Respectfully submitted,

Diana Figueroa

DRAFT

MINUTES

CITY OF GLENDALE BOARD OF ADJUSTMENT

**COUNCIL CHAMBERS BUILDING
CONFERENCE ROOM B-3
5850 WEST GLENDALE AVENUE
GLENDALE, ARIZONA 85301**

**THURSDAY, MARCH 8, 2012
6:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at approximately 6:40 pm.

II. ROLL CALL

Board members Bethel, Mendez, and Vice Chairperson Cheshier and Chairperson Blake were in attendance.

Board member Mander was absent.

City Staff: Tabitha Perry, Assistant Planning Director, Karen Stovall, Senior Planner, Remigio Cordero, Planner, Paul Li, Assistant City Attorney, Deborah Robberson, Deputy City Attorney, Diana Figueroa, Recording Secretary

III. APPROVAL OF MINUTES

Chairperson Blake called for a motion regarding the Minutes from the Regular Meeting of February 9, 2012.

Board member Bethel made a **MOTION** to **APPROVE** the minutes as written. Vice Chairperson Cheshier **SECONDED** the motion, which was **APPROVED UNANIMOUSLY**.

IV. WITHDRAWALS AND CONTINUANCES

Chairperson Blake asked staff if there were any requests for Withdrawals or Continuances. Ms. Perry said there were none.

V. PUBLIC HEARING ITEMS

Chairperson Blake explained the policies and procedures of the public hearing stating that only four Board members were present and asked if the applicants wanted to continue. Chairperson Blake called for the public hearing items to be presented.

1. **VAR11-02**: A request by Withey Morris PLC, representing PV Union Hills LLC, to reduce the separation requirement from a medical marijuana dispensary to a residentially zoned property to 350 feet where a minimum of 500 feet is required

in the C-2 (General Commercial) zoning district. The site is located west of the northwest corner of the Loop 101 Freeway and Union Hills Drive (8160 West Union Hills Drive, Suite 108) in the Cholla District. Staff Contact: Karen Stovall, Senior Planner.

Ms. Perry introduced Ms. Deborah Robberson, Deputy City Attorney, and explained she is representing the city whereas Mr. Li is representing the Board of Adjustment.

Ms. Robberson said she is advocating a position for the City of Glendale. She stated the city's position is granting a variance in this case would be an improper granting of a use variance. She explained this different from the typical variances brought before the Board. She said when the Board grants those types of uses, they give permission for a higher structure, or a larger structure, or a structure is allowed to be located closer to the property line, etc. This, however, isn't a case to vary development standards. Instead, the applicant wants the Board to change the zoning requirement of a separation distance between uses. She said the result is that this property is not currently available to be used as a medical marijuana dispensary. Granting this variance request would allow changes the permitted uses on this property. Granting use variances are not allowed under the State law.

Board member Bethel asked if this would set a precedent if a variance were granted that changes the use of this property. Ms. Robberson stated she felt it would.

Board member Mendez asked what other options are available to the applicant. Ms. Robberson said the applicant can chose a property that meets the zoning for this use.

Chairperson Blake called for staff's presentation.

Karen Stovall, Senior Planner presented this agenda item. She stated VAR11-02 is a request by Withey Morris, PLC for the property at 8160 West Union Hills Drive. The applicant is requesting a variance to reduce the separation requirement from a medical marijuana dispensary to a residentially zoned property to 350 feet where a minimum of 500 feet is required in the C-2 (General Commercial) zoning district.

The property to the west is part of the New River floodplain. The property to the east of the site is part of the Loop 101 Freeway. Both properties are zoned R1-6. The property is located west of the northwest corner of the Loop 101 Freeway and Union Hills Drive and the proposed business would be located within an existing commercial shopping center. The tenant suite would occupy approximately 1,930 square feet on the east end of Building A.

In May of 2011, the applicant mailed notification letters to adjacent property owners and interested parties. The applicant did not receive any response to those letters. The Planning Department received an e-mail from a citizen who had questions and concerns regarding the application and staff responded to those questions. Once the notification

postcards for this public hearing were mailed, staff received a second e-mail from the same citizen in opposition to the request. Both emails are included in the staff report. Staff did receive another email in opposition to this request today. She said copies have been provided to the Board.

Ms. Stovall addressed staff findings to the Board. In Finding One, the applicant seeks to locate the dispensary too close to residentially zoned properties; this is a circumstance that is self-imposed. Residentially zoned properties exist within 500 feet of the proposed use, including the New River floodplain, which is approximately 350 feet to the west and the Loop 101 Freeway approximately 450 feet to the east. These properties are unlikely to be developed with residential uses in the future; both are zoned for residential.

In the second finding, the strict application of the Zoning Ordinance would prohibit the proposed medical marijuana dispensary from operating on this site; however, the same separation requirement imposed by the Zoning Ordinance on this property prohibits this use on other C-2 zoned properties throughout the entire city. The Ordinance does not deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district.

With the third finding, there is no property hardship that has been established; however, the requested reduction of the separation requirement is the minimum necessary to permit the proposed medical marijuana dispensary in the planned location.

With respect to the fourth finding, it is debatable whether or not approval of this variance request could have a detrimental effect on the surrounding neighborhood. The individual's concerns expressed during the Citizen Participation Process dealt with whether or not the applicant could legally file for a variance, not with the specific findings needed to grant the variance. The operation of the business should be inconspicuous from the perimeter of the shopping center and the surrounding streets could accommodate the amount of traffic generated by the business.

In conclusion, the variance request to reduce the separation requirement from a medical marijuana dispensary to a residentially zoned property does not appear to meet all four findings and should be denied. If the Board decides to grant the variance, it should be subject to the stipulation listed in the staff report.

Chairperson Blake called for questions from the Board.

Vice Chairperson Cheshier asked if a Conditional Use Permit (CUP) was considered for this property. Ms. Stovall explained that a CUP would not be required for the proposed use if it meets the district requirements. If this area would have been 500 feet away from a residential district, no CUP would have been required.

Vice Chairperson Cheshier questioned if the area west of this property in the New River wash area is zoned R1-6. Ms. Stovall confirmed it was. Vice Chairperson Cheshier asked if it could not be developed. Ms. Stovall said it could be developed.

Vice Chairperson Cheshier questioned which properties are undevelopable. Ms. Stovall clarified she stated it is unlikely but not impossible to develop. Vice Chairperson Cheshier confirmed that it could potentially be developed as residential.

With no more questions from the Board, Chairperson Blake called for the applicant's presentation.

Adam Baugh, Withey Morris PLC, 2525 East Arizona Biltmore Circle, Phoenix, Arizona, introduced himself. He began by stating although this request looks unusual, it is not uncommon. He felt the unusual circumstance was that there are two attorneys involved and stated this is unusual. He stated he is concerned that inappropriate legal advice has been given. He added the question from Board member Bethel asking if this request sets precedence should have been directed to the Board of Adjustment Attorney, Paul Li.

Mr. Baugh described the surrounding areas. He said the city's requirement is 500 feet away from a residential zoning district. He indicated this proposal is over 1,000 feet away. He said there are no residential uses within 500 feet of the site today nor will there ever be residential uses within 500 feet of this site.

He addressed the findings and noted this is a special circumstance noting property conditions and location surroundings. He felt it was odd to have a freeway zoned residential. He said this is a development standard variance. He explained a use variance is a request to allow a non permitted use on a property, which is not the case in this request.

The intent of the code is to provide a safety buffer, which is being provided in this request. This meets the variance test and restores equity to the variance process that is lost through the strict application of the zoning ordinance.

He reminded the Board there are no residential projects proposed for the surrounding areas. Mr. Baugh proposed a stipulation that dispensary use shall cease operating and abandon the use within 180 days if development of any future residential use occurs in the floodway or freeway within 500 feet of the dispensary. Any future development would include a Certificate of Occupancy.

Mr. Baugh concluded that if the purpose of this Board is to protect neighborhoods, then this variance should be granted. He was available for questions.

Chairperson Blake called for questions from the Board.

Chairperson Blake asked the applicant if he researched all C-2 zoned properties and he questioned why he selected a property that needed variance approval. Mr. Baugh has

reviewed every parcel in Arizona. He noted there are very few eligible properties. He said this site is one that would impact residential homes the least. This is the most ideal site. He was not aware of any sites that are developed and constructed and ready to be occupied.

Chairperson Blake explained of a property in another state which was highly unlikely to be developed, but eventually was developed. He questioned if the New River could also be developed in the future. Mr. Baugh said he is not an engineer and would not be able to answer this question. He reiterated that if the property was developed they would withdraw their site based upon the stipulation he offered.

Vice Chairperson Cheshier confirmed the land is privately owned and CMP is the owner, not the Maricopa County Flood Control District. She felt although the 500 foot requirement limits potential properties she questioned if there were other C-2 zoned sites where this type of facility could be located. Ms. Perry said staff does not do this type of research. She reminded the Board that there may be other sites outside of the City of Glendale limits.

Board member Bethel stated he appreciated Mr. Baugh's presentation and asked if the applicant consulted with an attorney prior to selecting this location. He said there were two potential sites available. One property was vacant land.

Board member Bethel confirmed that the applicant and attorney were aware that the zoning precluded this, but decided to proceed anyhow. Mr. Baugh said both were aware. He stated there are very special circumstances which create a hardship. He believes approval of this request would not create precedence and added that each case should be judged on its own merits.

Board member Mendez asked why the City of Glendale is a preferable location. Mr. Baugh explained there are geographical areas where these types of facilities can be located. They are called "chaws". Mr. Baugh said there are only three chaws available for dispensaries within the City of Glendale.

Chairperson Blake opened the public hearing.

Mr. Paul Perez, president of PP Wellness Center, 3304 West Malapai, Phoenix, spoke in favor of VAR11-02. He said they believed they did their due diligence in making sure the proposed site was over 500 feet away from any residential properties. He believed they had chosen a suitable property. Mr. Perez said he was not aware that the freeway was zoned residential. He said this is a unique location and circumstance; therefore, he suggested adding a stipulation that would read the facility would be removed if someone wished to construct residential. He quoted an article from May 18, 2011, *Arizona Republic* in which Mr. Jon Froke, Planning Director, stated "the dispensary site is closer than the allowable quarter-mile from residentially zoned land. The site is sandwiched between a natural river wash and land that fronts up to the Loop 101. Froke said there are

no homes in that area. It's an isolated parcel because of how wide the freeway is through there. Really, this site is a commercial district there." Mr. Perez said the city and Planning Department are referencing this area as commercial property. He was available for questions.

Vice Chairperson Cheshier asked for the context of the news article. Mr. Perez said it was a news article regarding medical marijuana applicants in Glendale written after his application was submitted. He said city staff granted his reservation for the site.

Board member Mendez asked if this dispensary was not established, where would patients receive medical marijuana. Mr. Perez explained the state has yet to issue licenses so he does not have an answer.

Mr. Baugh had no closing statements.

Chairperson Blake asked for staff's comments.

Ms. Stovall confirmed through the Maricopa County Assessor's Office website that the New River Floodplain is privately owned. She added staff would disagree with the applicant's opinion about the intent for the way the Zoning Text Amendment was written and approved. The Ordinance requires a separation from a residential zoning district not a residential land use. What is zoned residential one day, may be developed the next day. Staff cannot predict future land use on properties. She said residential zoning of the freeway is not unique. Ms. Stovall said it is incorrect to say the property may never be developed as residential.

Vice Chairperson Cheshier asked if staff was aware of the proposed stipulation. Ms. Stovall said no, staff was not aware of the proposed stipulation until this meeting.

Vice Chairperson Cheshier asked if this had any bearing on staff. Ms. Robberson stated the proposed stipulation is typical of a zoning stipulation. Staff is not in favor.

Board member Bethel redirected his question regarding setting precedent to Mr. Li, the Board of Adjustment attorney. Mr. Li said every application must be viewed on a case by case basis.

With no further questions, Chairperson Blake closed the public hearing.

Chairperson Blake called for discussion from the Board.

Chairperson Blake stated that he felt the Board was being asked to set a precedent. He asked the Board if they would be willing to defend themselves in the future.

Board member Mendez stated she felt the likelihood of hearing a similar case would be rare. She added she understands each case is based on its own merits. She said if

Glendale is able to receive a medical marijuana dispensary she would not want to place a burden on those who need medicine by forcing them to drive to other cities.

Vice Chairperson Cheshier expressed concern with the proposed stipulation. She felt it would be highly unlikely that a viable business would be willing to shut their doors and relocate. She said one dispensary has been approved in the City of Glendale. She said there is one city hall and people are able to go to city hall to meet their needs. She said the Board needs to base their decision on the four findings. Vice Chairperson Cheshier felt if people needed medical marijuana, they would find a way to get to a facility regardless of its location.

Chairperson Blake asked Mr. Li, Assistant City Attorney, to proceed with the findings.

Based on the facts and evidence presented, Mr. Li requested a voice vote from the Board. He read each finding and waited as the Board responded.

Finding One. Chairperson Blake called for a voice vote on Finding One. The Board responded with a 4 – 0 vote of “Nay”.

Finding Two. Chairperson Blake called for a voice vote on Finding Two. The Board responded with a 4 – 0 vote of “Nay”.

Finding Three. Chairperson Blake called for a voice vote on Finding Three. The Board responded with 3 “Nays” and 1 “Aye”, Board member Bethel.

Finding Four. Chairperson Blake called for a voice vote on Finding Four. The Board responded with a 4 – 0 vote of “Nay”.

Mr. Li asked that if based upon these findings, does the Board wish to grant a variance on **VAR11-02** subject to the stipulations as set forth by the Planning Department.

Chairperson Blake called for a motion.

Board member Bethel MADE a MOTION to deny VAR11-02. Vice Chairperson Cheshire SECONDED the MOTION.

Mr. Li stated the applicant’s attorney asked if each Board member would explain their position for their vote. Mr. Li reminded the Board they may choose to explain their position, but do not need to do so.

Board member Bethel voted no. He said the applicant and his attorney knew that this was property that was going to have to be rezoned in order to meet their requirement. He said it was self imposed. Also, he is concerned of the potential of the surrounding property being developed into residential.

Vice Chairperson Cheshier voted aye. She said the 500 foot restriction is in place by the city for purposes deemed by the city. She does not believe the four findings meet any of the criteria. She felt there might be other C-2 sites available.

Board member Mendez voted aye to support denial. She said she understands the applicant's logic, however, from an administrative perspective and although it is unlikely the floodplain would be developed, this request does not meet the first finding. It appears this situation is self imposed.

Chairperson Blake voted aye. He also believed this is a self imposed condition. He felt there might be other locations in Glendale available. He stated he is concerned about the 500 feet residential requirement restriction. He felt it is wise to keep the barrier between residential and this C-2 zoned property.

Chairperson Blake reminded the Board that if they are in favor of a denial an "aye" vote is needed. If they disagree with the denial a vote of "no" is needed.

Board member Bethel voted aye.

Chairperson Blake said the Board DENIED VAR11-02.

2. **VAR11-03:** A request by Santos Ugalde, representing the property owner Jesus Martinez, for a variance to reduce the accessory structure setback to 3 feet on the north where 13 feet is required in the R1-6 (Single Residence) zoning district. The site is in the Cactus District, located north of the northwest corner of 47th Drive and Bethany Home Road (6212 North 47th Drive).

Remigio Cordero, Planner, presented this agenda item. Mr. Cordero stated that VAR11-03 is a request by Santos Ugalde, representing the property owner, Jesus Martinez for the property located 6212 North 47th Drive. The applicant is requesting a variance in the R1-6 zoning district to reduce the north side yard accessory structure setback to three feet where 13 feet is required in the R1-6 zoning district. The property is a rectangular shaped lot, it is approximately 82 feet wide, and 120 feet deep. It is located north of the northwest corner of 47th Drive and Bethany Home Road. The lot is approximately 9,846 square feet in size. This lot is part of the Nancy Kay Annex subdivision. This subdivision was platted in the county in 1948. The home was constructed in 1953. The subdivision was annexed into the City of Glendale in 1959.

The applicant has constructed a single story accessory structure without approvals or permits. The applicant has submitted plans for review with the Community Development Group. Plan review is on hold pending the outcome of this variance request.

On October 17, 2011, the applicant mailed 62 notification letters to adjacent property owners and interested parties. The applicant received no response in regards to the request. The Planning Department received no response regarding the request.

With respect to the four findings, there are no special circumstances or conditions applicable to this property. The physical characteristics of the property are consistent with the surrounding area. The applicant's lot is of adequate size and shape to locate an accessory building in such a manner where it could have met the ordinance accessory structure side yard setback to the north. The accessory structure setback is based on wall height. Based on the height of the structure at 12 feet, this setback would need to be 13 feet.

With respect to the second finding, there are no special circumstances that would prohibit the full use of the property as enjoyed by others in the neighborhood. The accessory structure could have been designed and constructed to meet the required setback.

With respect to the third finding, the variance is not the minimum necessary to alleviate the property's hardship that does not exist. The applicant could have consulted with the Community Development Group to obtain the proper setback requirements for an accessory structure.

With respect to the fourth finding, granting this variance would not have a detrimental effect on the surrounding property owners or surrounding neighborhood. There is an adequate side yard setback that would allow storm water to runoff on the applicant's property. There are similar properties in the area that have structures similar to the applicant.

Mr. Cordero said in conclusion, staff is recommending denial of this variance request. However, if the Board were to recommend approval of this case, it should be subject to the four stipulations listed in the staff report. He was available for questions.

Chairperson Blake called for questions from the Board.

Board member Mendez said it would appear to make sense for the accessory structure to be aligned with the existing house. Mr. Cordero said the 13 foot required setback is due to the requirements in the R1-6 district requiring that for each foot of wall height the structure must be moved away from the property by two feet. Therefore, for every foot increased in height sets it back two feet.

Ms. Perry stated the house was constructed in 1953. She said although it would appear that the accessory structure should line up with the principle structure for aesthetic purposes, as Mr. Cordero explained, all new construction needs to meet current day requirements.

Board member Bethel asked if there is a similar setback on the alley side of the property. Mr. Cordero explained the applicant meets the required setback along the alleyway.

Board member Bethel asked if the adjacent neighbor objected to this request. Mr. Cordero said no opposition was received.

Chairperson Blake asked how this request came to city staff. Mr. Cordero explained this was generated by a Code Compliance violation.

Chairperson Blake asked if the Board members received a copy of the violation. Mr. Cordero said complaints are confidential.

Chairperson Blake asked for remediation options. Mr. Cordero explained after obtaining a demolition permit, a portion of the wall and roof would need to be demolished. He said this portion would need to be moved an additional five feet back onto the property and reconstructed.

Vice Chairperson Cheshier said this would be a substantial financial cost for the applicant. Mr. Cordero said he is unsure of the costs.

Vice Chairperson Cheshier asked if the applicant would need to move the structure 10 feet. Mr. Cordero said no, and explained the applicant proposed modifications to the structure.

Chairperson Blake asked if the structure were changed to a flat roof, would that be allowed. Mr. Cordero said based on the Residential Design Guidelines a flat roof is not allowed. The roof must match the style of the roof of the house.

Board member Bethel asked who designed the proposal. Mr. Cordero said the applicant submitted the remediation design.

Board member Mendez asked if there are other accessory structures in the neighborhood which are setback as this. Mr. Cordero said yes, there are several structures within this subdivision which are similar to what the applicant constructed. She asked if those structures were constructed prior to 1993 zoning ordinance revisions. Mr. Cordero said he does not know.

Chairperson Blake asked if this was the only complaint in the area for setback violation. Mr. Cordero said yes.

Chairperson Blake called for the applicant to come forward to make a presentation.

Mr. Santos Ugalde introduced himself and provided a brief presentation. He was available for questions.

Chairperson Blake called for questions from the Board.

Board member Mendez asked the applicant if he would be willing to make changes to the structure. Mr. Ugalde said yes. She asked if this would bring the structure into compliance. Mr. Cordero said yes, after building permits are obtained.

Board member Bethel verified the board's decision is regarding the existing structure not what is being proposed. Mr. Cordero said yes.

Vice Chairperson Cheshier clarified the existing structure is what has brought the applicant before the Board, not what is being proposed in his remediation plan. Mr. Cordero said yes.

Vice Chairperson Cheshier asked Mr. Ugalde if he is willing to make the proposed changes. Mr. Ugalde said yes.

Chairperson Blake said if the variance request is denied, the applicant will make the suggested changes. Mr. Cordero said yes, they will make the modifications.

Board member Bethel asked if the Board could approve the variance subject to the stipulation. Ms. Perry clarified the request for the Board. She said the variance request is what is constructed currently. The Board needs to base their decision on what exists today.

Chairperson Blake asked if the request is denied, the applicant has the option of making the modifications. Ms. Perry said if the Board denies this request, the applicant must demolish the structure or make revisions to the structure to bring it into compliance.

Vice Chairperson Cheshier verified that the stipulations in this variance request are unrelated to the remediation proposed. Ms. Perry said that is correct.

Board member Mendez said the property owner is requesting a variance for the existing structure with a reduction in setbacks. She asked if this would be on the existing structure not on the plan displayed to mediate the problem. Ms. Perry said this is correct.

Chairperson Blake opened the floor for Public Comment. No one wished to speak.

Chairperson Blake closed the public hearing.

Board member Mendez said if decisions are based on the findings, this request does not meet findings 1, 2, and 3.

Vice Chairperson Cheshier stated she is struggling with finding 4.

Board member Bethel said this is a difficult decision when there are other properties in the neighborhood with accessory structures constructed within the setbacks.

Chairperson Blake agreed with the Board members but believes this is a self imposed situation.

Board member Mendez asked if the Planning Department has an outreach program reminding homeowners they need permits prior to construction. Mr. Cordero said yes, there were workshops held at a Home Depot in Glendale. He said in addition staff is able to provide information at the service counter at City Hall.

Board member Bethel thanked Mr. Ugalde for attending this evening.

Chairperson Blake asked Mr. Li, Assistant City Attorney, to proceed with the findings.

Based on the facts and evidence presented, Mr. Li requested a voice vote from the Board. He read each finding and waited as the Board responded.

Finding One. Chairperson Blake called for a voice vote on Finding One. The Board responded with a 4 – 0 vote of “Nay”.

Finding Two. Chairperson Blake called for a voice vote on Finding Two. The Board responded with 3 “Nays” and 1 “Aye” by Board member Mendez.

Finding Three. Chairperson Blake called for a voice vote on Finding Three. The Board responded with a 4 – 0 vote of “Nay”.

Finding Four. Chairperson Blake called for a voice vote on Finding Four. The Board responded with 3 “Ayes” and 1 “Nay” by Board member Bethel.

Mr. Li asked that if based upon these findings, does the Board wish to grant a variance on **VAR11-03** subject to the stipulations as set forth by the Planning Department.

Vice Chairperson Cheshier MADE a MOTION to DENY Variance request VAR11-03. Board member Bethel SECONDED the MOTION. The vote was 4 to 0 to DENY VAR11-03.

3. **VAR11-06:** A request by Habitat for Humanity to reduce the side yard setbacks to 5 feet where 20 feet is required in the R-4 (Multiple Residence) zoning district. The site is located in the Ocotillo District, west of the northwest corner of 61st and Palmaire avenues (6112 West Palmaire Avenue).

Remigio Cordero, Planner, presented this agenda item. Mr. Cordero stated that VAR11-06 is a request by Habitat for Humanity for the property located at 6112 West Palmaire Avenue. The applicant is requesting a variance in the R-4 zoning district to reduce the side yard setback to five feet where 20 feet is required. The property is rectangular in shape, is approximately 45 feet wide by 170 feet deep, in an area approximately 7,650 square feet in size. The applicant is proposing to construct a new

2,030 square foot single family home that is comparable in scale to the houses in the existing neighborhood.

On November 21, 2011, the applicant mailed 62 notification letters to adjacent property owners and interested parties. The applicant and staff did not receive any response regarding the mailing.

With respect to the four findings, in the first finding, the 45 foot width of the lot creates a special circumstance not self-imposed by the property owner. The construction of a new home requires some level of relief based on the setback requirement.

In the second finding, the strict application of the Zoning Ordinance would limit the property to 20 foot side yard setbacks and would eliminate the possibility of constructing a new home due to the total width of the property being 45 feet.

With respect to the third finding, the requested side setbacks are the minimum necessary to construct a single-family residential home on the lot. The front and rear setbacks, maximum lot coverage, and minimum lot depth are in conformance with current R-4 zoning standards.

With respect to the finding four, the requested building setbacks are consistent with other properties in the surrounding area and will not be detrimental to the neighboring properties.

In conclusion, the variance request appears to meet all four findings and should be recommended for approval subject to the stipulations listed in the staff report.

Chairperson Blake called for the applicant to come forward to make a presentation.

Ms. Tana Nichols, representative from Habitat for Humanity, thanked the Board members for their consideration. She stated she is in agreement with staff's report and was available for questions.

Chairperson Blake called for questions from the Board. There were none.

Chairperson Blake opened the floor for Public Comment. There was none.

Chairperson Blake closed the public hearing.

Chairperson Blake asked Mr. Li, Assistant City Attorney, to proceed with the findings.

Based on the facts and evidence presented, Mr. Li requested a voice vote from the Board. He read each finding and waited as the Board responded.

Finding One. Chairperson Blake called for a voice vote on Finding One. The Board responded with a 4 – 0 vote of “Aye”.

Finding Two. Chairperson Blake called for a voice vote on Finding Two. The Board responded with a 4 – 0 vote of “Aye”.

Finding Three. Chairperson Blake called for a voice vote on Finding Three. The Board responded with a 4 – 0 vote of “Aye”.

Finding Four. Chairperson Blake called for a voice vote on Finding Four. The Board responded with a 4 – 0 vote of “Aye”.

Mr. Li asked that if based upon these findings, does the Board wish to grant a variance on **VAR11-06** subject to the three stipulations as set forth by the Planning Department.

Chairperson Blake called for a motion. Board member Bethel made a MOTION to APPROVE VAR11-06 subject to the three stipulations. Board member Mendez SECONDED the MOTION, which was unanimously approved.

4. **VAR11-07:** A request by Habitat for Humanity to reduce the side yard setbacks to 10 feet where 15 feet is required in the R-2 (Mixed Residence) zoning district. The site is located in the Ocotillo District, north of the northeast corner of 54th and State avenues (7315 North 54th Avenue).

Remigio Cordero, Planner presented this agenda item. Mr. Cordero stated that VAR11-07 is a request by Habitat for Humanity for the property located at 7315 North 54th Avenue. The applicant is requesting a variance in the R-2 zoning district to reduce the side yard setback to 10 feet on the north and south side where 15 feet is required. The property is rectangular in shape, is approximately 55 feet wide by 128 feet deep, with an area approximately 7,640 square feet in size. The applicant is proposing to construct a new 2,030 square foot single family home that is comparable in scale to the houses in the existing neighborhood.

On November 21, 2011, the applicant mailed 59 notification letters to adjacent property owners and interested parties. The applicant and staff did not receive any response regarding the mailing.

With respect to the four findings, in the first finding, the 55 foot width of the lot creates a special circumstance not self-imposed by the property owner. The construction of a new home requires some level of relief based on the setback requirement.

With respect to the second finding, the strict application of the Zoning Ordinance would limit the property to 15-foot side yard setbacks and limit the type of housing product due to total width. Several of the properties in the neighborhood have setbacks that are similar to those proposed by Habitat for Humanity.

The third finding, the requested side setbacks are the minimum necessary to construct a single-family residential home on the lot. The front and rear yard setbacks, maximum lot coverage, and minimum lot depth are in conformance with current R-2 zoning district.

With respect to the fourth finding, the requested building setbacks are consistent with other properties in the area and will not detrimentally affect any of the neighboring properties.

In conclusion, the variance request appears to meet all four findings and should be recommended for approval subject to the stipulations set forth in the staff report.

Chairperson Blake called for questions from the Board. There were none.

Chairperson Blake called for the applicant to come forward to make a presentation.

Ms. Tana Nichols, representative from Habitat for Humanity thanked the Board members for their consideration and City of Glendale staff for their support.

Chairperson Blake opened the public hearing. No one wished to speak. The public hearing was closed.

Board member Mendez said this proposed home is in her area and she appreciates Habitat for Humanity and likes the homes they construct.

Chairperson Blake also said he appreciates Habitat for Humanity.

Chairperson Blake asked Mr. Li, Assistant City Attorney, to proceed with the findings.

Based on the facts and evidence presented, Mr. Li requested a voice vote from the Board. He read each finding and waited as the Board responded.

Finding One. Chairperson Blake called for a voice vote on Finding One. The Board responded with a 4 – 0 vote of “Aye”.

Finding Two. Chairperson Blake called for a voice vote on Finding Two. The Board responded with a 4 – 0 vote of “Aye”.

Finding Three. Chairperson Blake called for a voice vote on Finding Three. The Board responded with a 4 – 0 vote of “Aye”.

Finding Four. Chairperson Blake called for a voice vote on Finding Four. The Board responded with a 4 – 0 vote of “Aye”.

Mr. Li asked that if based upon these findings, does the Board wish to grant a variance on **VAR11-07** subject to the three stipulations as set forth by the Planning Department.

Board member Bethel made a MOTION to APPROVE VAR11-07 subject to the three stipulations listed in the staff report. Vice Chairperson Cheshier SECONDED the MOTION, which was unanimously APPROVED.

VI. OTHER BUSINESS FROM THE FLOOR

Chairperson Blake asked staff if there was business from the floor. There was none.

VII. PLANNING STAFF COMMENTS AND SUGGESTIONS

Chairperson Blake asked staff if there were any comments or suggestions. There were none.

VIII. BOARD COMMENTS AND SUGGESTIONS

Chairperson Blake asked the board if there were any comments or suggestions. There were none.

Board member Mendez encouraged staff to continue their efforts on educating the community about obtaining permits.

Vice Chairperson Cheshier suggested information to educate the public could be inserted into the water bills.

Ms. Perry stated the Planning Department partners with Building Safety. Building Safety is the department where one would apply for a building permit. Building Safety does an outstanding job trying to reach the community. She said information has previously been included in the utility bills. Unfortunately, she said some residents are not aware of the requirements.

Chairperson Blake asked staff how the community was made aware of the Board of Adjustment meeting schedule. Ms. Perry said the properties are physically posted with a meeting notification poster. Also, a notice of public hearing is sent to The Glendale Star and information regarding the Board meeting is posted on the city's webpage.

In response to a question from Chairperson Blake, Ms. Perry explained the applicant mails notification letters to those persons who are listed on the City's Interested Parties list. She will ensure the interested board members are also included on this list. Board members Mendez and Cheshier were asked to be notified of planning related activity in their respective districts.

Board member Bethel apologized for his tardiness this evening.

IX. ADJOURNMENT

Chairperson Blake made a motion to adjourn the meeting. Vice Chairperson Cheshier seconded the motion, which was approved unanimously.

The meeting was adjourned at approximately 9:20 pm.

The next Board of Adjustment meeting is scheduled for April 12, 2012.

Respectfully submitted,

Diana Figueroa, Recording Secretary

DRAFT

MINUTES

CITY OF GLENDALE BOARD OF ADJUSTMENT

**COUNCIL CHAMBERS BUILDING
CONFERENCE ROOM B-3
5850 WEST GLENDALE AVENUE
GLENDALE, ARIZONA 85301**

**THURSDAY, APRIL 12, 2012
6:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at approximately 6:13 pm.

II. ROLL CALL

Board members Bethel, Vice Chairperson Cheshier and Chairperson Blake were in attendance.

Board members Mander and Mendez were absent.

City Staff: Tabitha Perry, Assistant Planning Director, Remigio Cordero, Planner, Paul Li, Assistant City Attorney, Diana Figueroa, Recording Secretary

III. APPROVAL OF MINUTES

Without a quorum present, no action could be taken.

IV. WITHDRAWALS AND CONTINUANCES

Chairperson Blake asked staff if there were any requests for Withdrawals or Continuances. Ms. Perry said there were none.

V. PUBLIC HEARING ITEM

With no quorum present, this item was moved to the next Board of Adjustment meeting scheduled for May 10, 2012.

1. **VAR12-01:** A request by D. Craig Walling, to reduce the rear yard setback to 25 feet where 30 feet is required and reduce the south side yard setback to 10 feet where 15 feet is required in the SR-17 (Suburban Residence) zoning district. The site is located west of the southwest corner of 77th Avenue and Wagoner Road (18416 North 78th Drive). Staff Contact: Remigio Cordero, Planner (Sahuaro District).

VI. OTHER BUSINESS FROM THE FLOOR

Chairperson Blake asked staff if there was business from the floor. There was none.

VII. PLANNING STAFF COMMENTS AND SUGGESTIONS

Chairperson Blake asked staff if there were any comments or suggestions. There were none.

VIII. BOARD COMMENTS AND SUGGESTIONS

Chairperson Blake asked the Board if there were any comments or suggestions.

The Board expressed their displeasure with the lack of a quorum. Board members must notify staff or the Chair if they are not planning to attend. The inability to hold a Board meeting is disrespectful of the Board members' time, staff's time, and most important, applicants' time.

The Board members discussed other options in order to ensure there is a quorum.

Ms. Perry said staff would conduct research and return to the Board with their findings.

Mr. Li distributed Maricopa County Superior Court information regarding the PP Wellness suit against the City of Glendale regarding the Board of Adjustment's decision on VAR11-02, a request by Withey Morris PLC, representing PV Union Hills LLC. This was denied by the Board at its March 8, 2012, meeting.

Mr. Li asked if the Board had any questions regarding this information to contact him.

After a brief discussion, it was determined an Executive Session was needed to discuss this issue. This will take place on Thursday, May 10, 2012, at 5:15pm.

ADJOURNMENT

With no further business, the meeting was adjourned at approximately 6:35 pm.

The next Board of Adjustment meeting is scheduled for May 10, 2012.

Respectfully submitted,

Diana Figueroa, Recording Secretary



Planning Department Staff Report

DATE: May 10, 2012 **AGENDA ITEM:** 1

TO: Board of Adjustment

FROM: Tabitha Perry, Assistant Planning Director
PRESENTED BY: Remigio Cordero, Planner

SUBJECT: **VARIANCE APPLICATION CASE VAR12-01: WALLING VARIANCE – 18416 NORTH 78TH DRIVE**

REQUEST: To reduce the rear yard setback to 25 feet where 30 feet is required and to reduce the south side yard setback to 10 feet where 15 feet is required in the SR-17 (Suburban Residence) zoning district.

APPLICANT/OWNER: D. Craig Walling.

REQUIRED ACTION: The Board must consider the facts and determine that the findings required to grant a variance have been met. The Board may condition a variance to ensure that it will not grant special privileges inconsistent with the limitation of other similarly zoned properties. The Board must deny the request if the required findings have not been met.

RECOMMENDATION: Staff recommends approval of the variance request.

PROPOSED MOTION: Move to approve VAR12-01.

SUMMARY: The applicant is requesting a variance to reduce the rear and south side setback to construct a 700 square foot attached garage. The applicant has approval from their home owners association (HOA) to construct the attached garage as proposed.

PREVIOUS ACTION: At the Board of Adjustment meeting of April 12, 2012, this item was continued to May 10, 2012.

BOARD ACTION: Board member _____ MADE a MOTION to _____ Case No. VAR12-01, subject to staff report stipulations. Board member _____ SECONDED the MOTION. The MOTION was _____, with a vote of _____ to _____.

DETAILS OF REQUEST:

General Plan Designation:

1-2.5 - Low Density Residential 1-2.5 du/ac

Property Location and Size:

The property is located west of the southwest corner of 77th Avenue and Wagoner Road and the lot size is approximately 18,939 square feet in size.

Zoning Ordinance Requirements:

Section 5.200, Table 1, Suburban Residence Development Standards.

SR-17 District – Side yard setback: 15 feet.

Rear yard setback: 30 feet.

Surrounding Land Use and Zoning:

North: Single Family Residence, zoned SR-17.

East: Single Family Residence, zoned SR-17.

South: Single Family Residence, zoned SR-17.

West: Professional Office Complex, zoned PAD (Planned Area Development).

History:

- This property is part of the Hidden Manor 3 subdivision, which was platted in Maricopa County in August 1977.
- The property was annexed into the city on December 26, 1979.
- The home was built in the City in 1983.

CITIZEN PARTICIPATION TO DATE:

Applicant's Citizen Participation Plan:

On January 30, 2012 the applicant mailed 56 notification letters to adjacent property owners and interested parties. The applicant did not receive any response regarding the request. The Planning Department received one response stating the applicant did not meet any of the required findings. The applicant's Citizen Participation Final Report is attached.

Board of Adjustment Public Hearing Notification:

A Notice of Public Hearing was published in *The Glendale Star* on March 22, 2012. Notification postcards of the public hearing were mailed to adjacent property owners and interested parties on March 23, 2012. The property was posted on March 23, 2012.

STAFF FINDINGS AND ANALYSIS:

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff's analysis.

1. **There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings, which were not self-imposed by the owner;**

There are special circumstances or conditions applicable to this property relative to the angled property line. The physical characteristics of this property are consistent with the surrounding area and the current zoning district. The applicant's lot is of adequate size and shape to construct an addition in such a manner that it can meet the required development standards. The applicant's lot width and depth exceed the SR-17 zoning district minimum requirements.

2. **Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district;**

The strict application of the Zoning Ordinance would deprive the property as other accessory buildings have been constructed in Hidden Manor. The property is adequate in size to meet the required side and rear yard setbacks for the proposed attached garage. Therefore, the lot width, depth, and size meet the minimum development standards for the SR-17 zoning district. The City allows accessory structures in the SR-17 zoning district. The SR-17 zoning district is less restrictive on setbacks for accessory structures.

3. **The variance is the minimum necessary to alleviate the property hardship; and**

The variance is the minimum necessary to alleviate a property hardship.

4. **Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the city in general.**

The requested building setbacks are consistent with other properties in the surrounding area and will not detrimentally affect any neighboring properties. There are other properties throughout the neighborhood that have setbacks less than the applicant's proposal. The 1983 zoning ordinance development standards for the SR-17 zoning district were 25 feet for the rear yard and 10 feet for the side yard, which is what the applicant is requesting. These properties were developed prior to the current zoning ordinance being enacted in 1993.

RECOMMENDATION:

The variance request meets all findings. If the Board decides to grant the variance, it should be subject to the following stipulations:

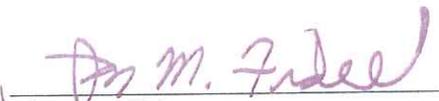
1. Development shall be in conformance with applicable site plan, date-stamped February 7, 2012.
2. All mechanical equipment shall be ground mounted.
3. All overhead utilities shall be placed underground.

ATTACHMENTS:

1. Vicinity Zoning Map.
2. Aerial Photograph, dated November 2008.
3. Applicant's Site Plan, dated February 7, 2012.
4. Applicant's Narrative, date stamped February 7, 2012.
5. Citizen Participation Final Report (without mailing labels), approved February 29, 2012.

PROJECT MANAGER: Remigio Cordero, Planner (623) 930-2597
rcordero@glendaleaz.com

REVIEWED BY:

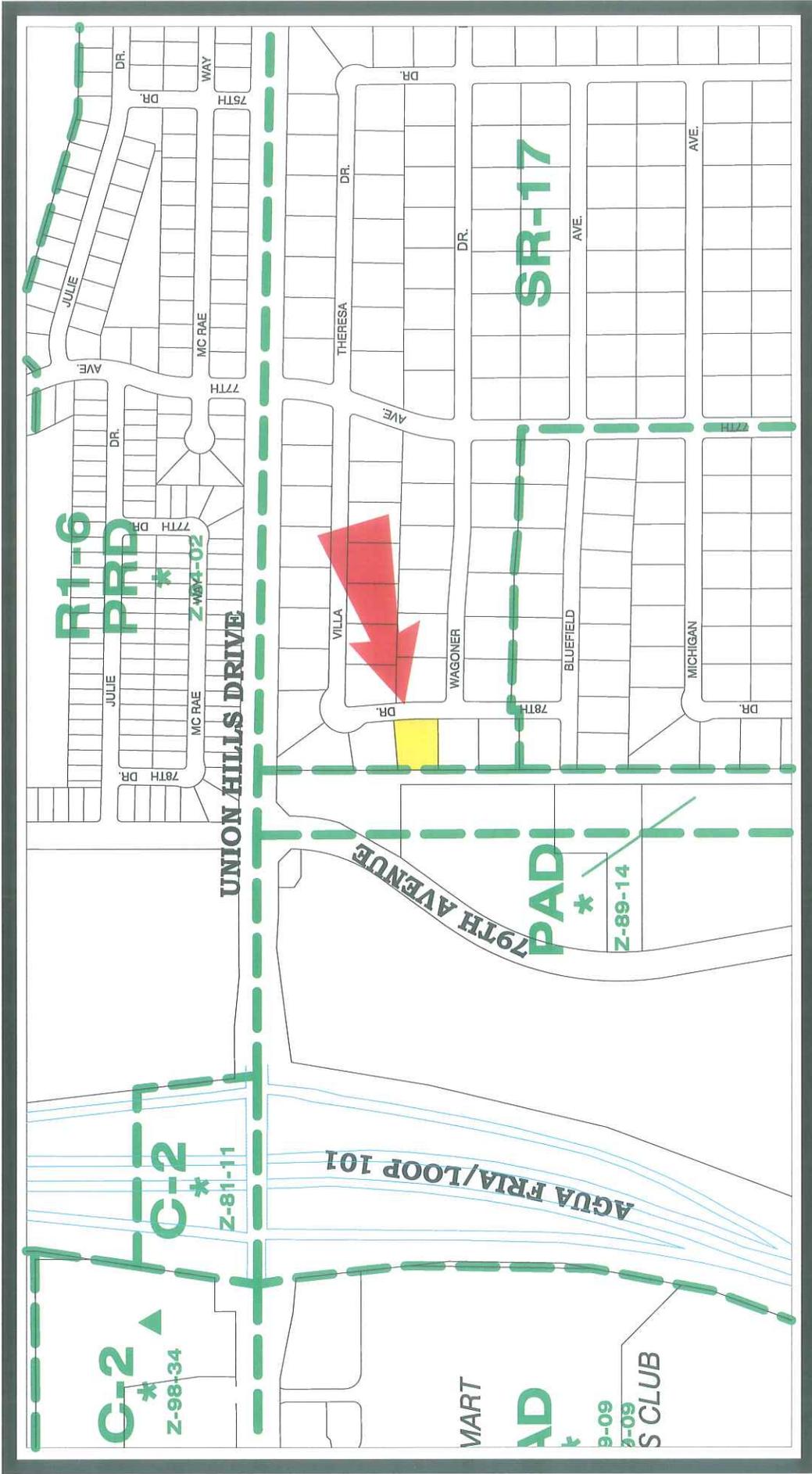


Planning Director



Deputy City Manager

RC/df



CASE NUMBER
VAR12-01

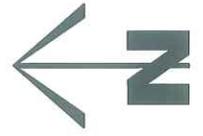
LOCATION
18416 N. 78TH DRIVE

REQUEST
VARIANCE TO REDUCE THE REAR YARD SETBACK TO 25' WHERE 30' IS REQUIRED AND TO REDUCE THE SIDE YARD SETBACK TO 10' WHERE 15' IS REQUIRED IN THE SR-17 (SUBURBAN RESIDENCE) ZONING DISTRICT.





Case Number
VAR12-01



Aerial Date: November, 2008

FEB 07 2012

SEWER

N 78TH DRIVE

130'

18416

EASEMENT

26.5

41.5

50.5

EXISTING HOUSE

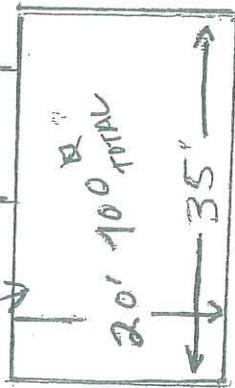
44.5

EXISTING PATIO

151.5'

150'

PROPOSED ADDITION



N ↑

20'

Garage addition 18416 N 78th Drive

FEB 07 2012

The basic structure will be a 20Ft.X35Ft. frame and stucco building erected on the south side of the property behind the fence.

It will have 9Ft. interior ceiling height, allowing for an 8Ft.X16Ft. garage door in the front of the building. Also there will be a 7Ft.X10Ft. garage door in the south side toward the rear of the building and a 4Ft. walk thru door on the north side at the east end of the building. I would like an electrical sub panel set inside the building on the north wall west of the walk thru door and a single hose bib on the outside close to the walk thru door. The interior should be left unfinished.

The building is to be attached to the house by a breeze way approximately 5Ft in width exact dimensions will be determined after surveying and elevations are determined.

The exterior to be stucco color matched to the slump block on the house. The roof pitch should match the house and be shingled to match.

There will also be a concrete drive entering the build from the east to connect to the existing drive.

CITIZENS PARTICIPATION FINAL REPORT

Submitted by D. Craig Walling Home Owner

GARAGE ADDITION

Located in the backyard at

18416 N 78th Drive in

The Hidden Manor Subdivision

VAR 12-01

APPROVED

FEB 29 2012

City of Glendale
Planning Department

Amirji Cordus

February 21, 2012

Citizens Participation Plan Overview

1. Contact was established with the Hidden Manor HOA
2. Met with immediate neighbors and obtained their concurrence
3. Contacted the Glendale City planning office
4. Drafted a letter to comply with the interested parties notification
5. The notification letters were mailed on January 30, 2012. No other notification methods were used.

The total number of individuals notified was 56. The total number that actually participated in the process was six.

Only one listed concerns, Mrs. Barbara Garland. She stated that I met none of the requirements for granting a variance. She further stated that I am not being denied privileges which other similar property owners possess.

There were no other concerns or issues raised by any of the participants.

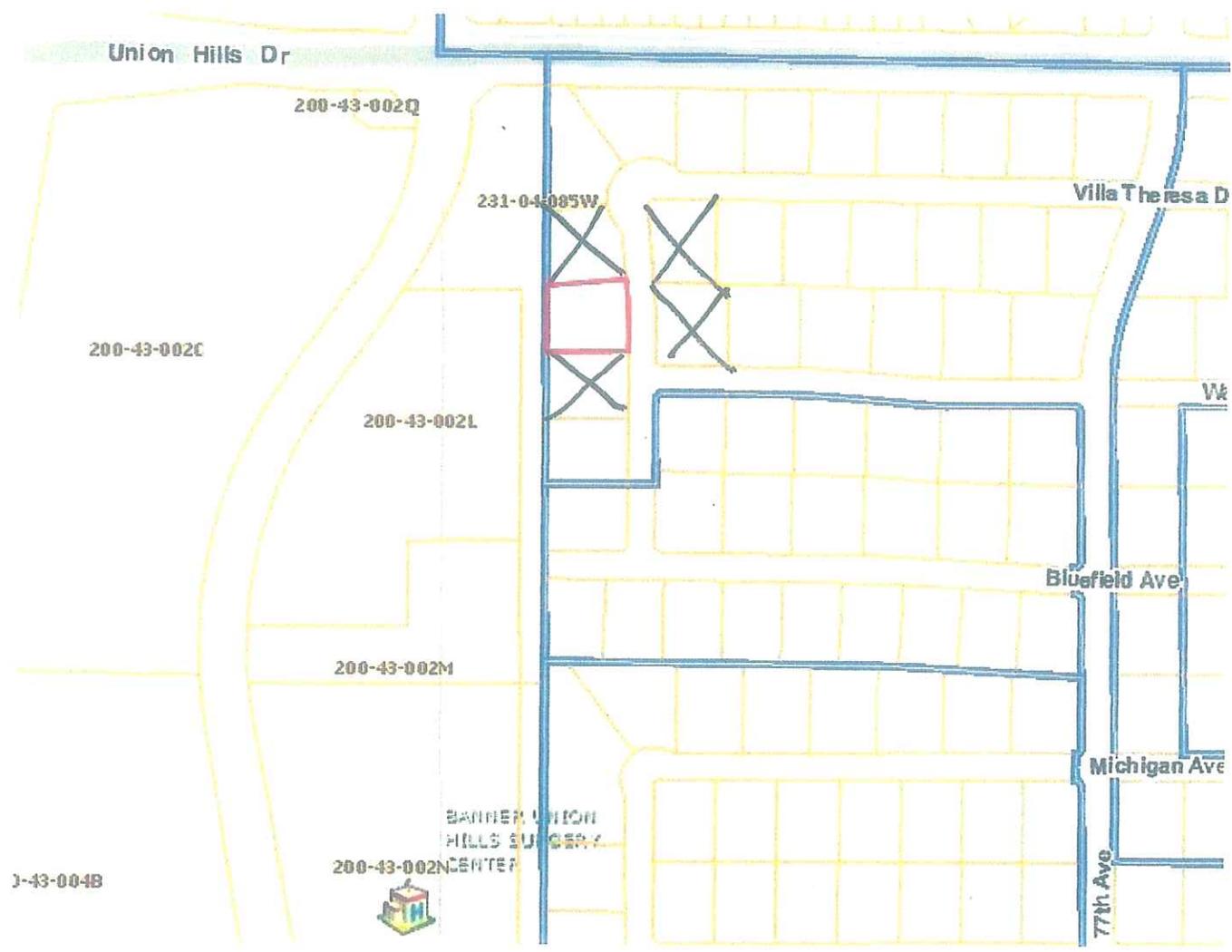
Appendix

Outline map of notification area

Notification list

Letter of notification mailed January 30, 2012

Mrs. Barbara Garland's comments





~ARCHITECTURAL APPROVAL REQUEST FORM~

Submit to: Hidden Manor Homeowners Association
Attn: Cesar Pena
7604 West Bluefield
Glendale, AZ 85308

Requested by: Date: _____
Name: Craig Walling
Address: 18418 N. 78th Drive Unit: 3 Lot: 128
Phone: 505-330-8200

The Hidden Manor CC&R's require that the Homeowner submit to the Architectural Committee, for approval, all proposed exterior additions, changes or alterations to the house and/or lot prior to obtaining a building permit from the city. In order for the Architectural Committee to make a fair evaluation of the request, the application should include detailed information describing the proposed change (typically, drawings, or sketches, specifications, setbacks, locations, etc. showing the nature, kind, shape, color and materials to be used).

General description of work to be performed:

20 ft x 35 ft Garage
See Attached

Estimated Start Date: Jan 15th Estimated Completion Date: April 15th

The Hidden Manor Architectural Committee also requests that you inform all of the Hidden Manor neighbors that are adjacent to the property of your proposed improvement (this may require up to four (4) signatures depending on the layout of your particular lot) and have them sign below indicating that they have acknowledged your application and have no objections to the changes or improvements. **Note: each of the owners signing below should consider the affect that these changes or improvements will have on the resale value of their homes.**

Owners Name: Besardi Owners Name: Scott & Corrie BHL
Address: 18418 N. 78th Drive Address: 18422 N. 78th Drive
Phone: 602-439-2785 Phone: 602-510-1894
Owners Name: L. Hanman Owners Name: Jim & Ginger Colson
Address: 7732 Wagoner Address: 7733 W. Villa Theresa
Phone: 602-828-4088 Phone: _____

Applicant (Homeowners) Signature: Craig Walling
Notice to Applicant: ~ Once your application has been approved, you will need to determine if these improvements or changes require a permit from the City of Glendale Department of Building and Safety. You or your contractor should check with the Department about permits and other requirements before starting any work.

For Committee/Board use only
Date Received: 12/18/2011 Approved [Signature] Disapproved _____
Comments: _____

**INTERESTED PARTIES
NOTIFICATION LIST FOR
PROPOSED DEVELOPMENT -
CITY WIDE & SAHUARO**

CITY OF GLENDALE
NEIGHBORHOOD PARTNERSHIPS
5850 W GLENDALE AVE #270
GLENDALE AZ 85301

DON TATE
6735 W ROBIN LN
GLENDALE AZ 85310

KAREN ABORNE
7318 W GRIFFIN AVE
GLENDALE AZ 85303

HARRIET AGIUS
7132 W GROVERS AVE
GLENDALE AZ 85308

MARY SMITH
8968 W CITRUS WAY
GLENDALE AZ 89305

DOUG ATTIG
6066 N 84TH DR
GLENDALE AZ 85305

A.I. BABINEAU
4815 W COCHISE DR
GLENDALE AZ 85302

ROD BEAL
18869 N 71ST LN
GLENDALE AZ 85308

BOB BOHART
5603 W BELMONT
GLENDALE AZ 85301

JOYCE CLARK
8628 W CAVALIER DR
GLENDALE AZ 85305

TOM TRAW
6024 N 83RD AVE
GLENDALE AZ 85303

ALMON DAVIS
6005 W MONTE CRISTO AVE
GLENDALE AZ 85306

MIKE DEPINTO
6507 W SHAW BUTTE DR
GLENDALE AZ 85304-2414

DANIEL DREW
4502 W MORTEN AVE
GLENDALE AZ 85301

SAMANTHA JOHNSON
CBD DIVERSIFIED
3131 E CAMELBACK RD
STE 210
PHOENIX AZ 85016

TRISH EDWARDS
8626 N 53RD AVE
GLENDALE AZ 85302

JUDY FARR
6527 W HILL LN
GLENDALE AZ 85310

BARBARA FENNEMA
18033 N 83RD DR
PEORIA AZ 85382

SUSAN FERRELL
4646 W KRALL ST
GLENDALE AZ 85301

MICHAEL SOCACIU
8574 W BERRIDGE LN
GLENDALE AZ 85305

B GARLAND
5012 N 64TH DR
GLENDALE AZ 85301

MARK GARRATT
7605 N 72ND AVE
GLENDALE AZ 85303

DENNIS GERHARD
10613 N 48TH AVE
GLENDALE AZ 85304

DIANE HAND
5349 W ACAPULCO
GLENDALE AZ 85306

MAGI SHRECK
10673 W RANCHO DR
GLENDALE AZ 85307

JOHN AND SUE JONES
18658 N 78TH DR
GLENDALE AZ 85308

ARLINE YZQUIERDO
8525 N 52ND DR
GLENDALE AZ 85302

DEBRA KIST
5643 W MOUNTAIN VIEW RD
GLENDALE AZ 85302

JOHN KOLODZIEJ
6258 N 88TH LN
GLENDALE AZ 85308

BONNIE STEIGER
5325 W ACAPULCO
GLENDALE AZ 85308

RONALD AND KAY LONGCOR
8022 W MONTEBELLO AVE
GLENDALE AZ 85303

TERRY LANE
6103 N 87TH LN
GLENDALE AZ 85305-2452

KATHLEEN LEWIS
7456 W AURORA DR
GLENDALE AZ 85308

MICKEY LUND
5708 W ROYAL PALM RD
GLENDALE AZ 85302

CHERI MCCLOSKEY
5336 W BECK LN
GLENDALE AZ 85306

CARRIE AND MITCH MEEK
6563 W PIUTE AVE
GLENDALE AZ 85308

DAVE TRISH
6773 W VIA MONTOYA DR
GLENDALE AZ 85310

BILL NORGREN
8608 W CAVALIER
GLENDALE AZ 85305

LAURA RAKOCZYNSKI
9403 N 50TH DR
GLENDALE AZ 85302

PATTY WYRICK
9626 N 58TH DR
GLENDALE AZ 85302

VALLEY PARTNERSHIP
5110 N 44TH ST STE 200
PHOENIX AZ 85018

CHRISTIAN WILLIAMS
PEORIA UNIFIED SCHOOL DISTRICT
6330 W THUNDERBIRD RD
GLENDALE, AZ 85306

THE ARIZONA REPUBLIC
17235 N 75TH AVE
STE A 100
GLENDALE AZ 85308

WILLIAM RAY
7305 W ANGELA DR
GLENDALE AZ 85308

RICHARD SCHWARTZ
8232 W MONTEBELLO AVE
GLENDALE AZ 85303

DIANA M SEGER
6132 W TOWNLEY AVE
GLENDALE AZ 85302

MEL SMITH
PO BOX 12572
GLENDALE AZ 85318

*City of Glendale Mayor's Office
Mayor Scruggs
5850 W. Glendale Ave.*

*Glendale City Council
Steve Frate
5850 W. Glendale, Ave.*

*Remigio Codero Planner
Planning Dept.
5850 W. Glendale Ave. Suite 212*

*Diana Figueroa Sr. Sec
5850 W. Glendale, Ave*

*Hidden Manor Homeowners Assoc.
7604 W. Bluefield
Glendale, AZ 85308*

January 30, 2012

D. Craig Walling
18416 N 78th Drive
Glendale, AZ 85308

Dear Neighbor:

This letter is to inform you that I am applying for a zoning variance with the City of Glendale. The property is located at 18416 N. 78th Drive in the Saguaro District.

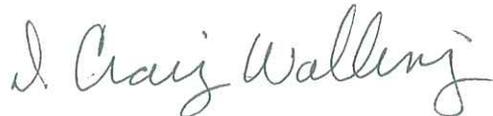
The purpose of a variance is to create equity by allowing deviations from the Zoning Ordinance Development Standards.

I am requesting a variance to allow building set back of 25 feet to the rear of the lot and 10 feet to the south side. The Ordinance requirements for building set backs are 30 feet to the rear and 15 feet from the side of the lot.

This is required to allow me to build a structure the size I need. This will also allow for proper access and fitting in with the existing house, landscaping and fencing.

I have included a site plan with this letter for your review. Please provide any comments to my Variance Request by February 15, 2012. Please write me at the above address or call me at 505-330-8200. You may also contact Remigio Cordero with the City of Glendale Planning Department at 623-930-2597.

Sincerely,

A handwritten signature in cursive script that reads "D. Craig Walling".

D. Craig Walling

Windows Live™ Hotmail (3) Messenger (0) SkyDrive | MSN

Cra

Hotmail

New | Reply Reply all Forward | Delete Junk Sweep ▾ Mark as ▾ Move to ▾ Cat

Inbox (3)

FW: Craig Walling Variance

[Back to messages](#) |

Folders

Junk

Drafts

Sent

Deleted

POP (1312)

New folder

Quick views

Flagged (2)

Office docs

Photos

Shipping updates

New category

Messenger

You're signed in to Messenger. To change your status, click your name in the upper right corner.

Keep me signed in | [Sign out of Messenger](#)

3 invitations

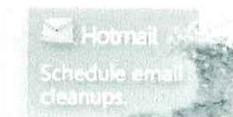
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[Calendar](#)



Craig Walling [Add to contacts](#)
To bcwalling@hotmail.com

11:06 AM

[Reply](#) ▾

From: Bobbie [mailto:bjwg@cox.net]
Sent: Sunday, February 05, 2012 2:57 PM
To: Cordero, Remigio
Subject: Craig Walling Variance

I have received notice that Mr. Craig Walling of 18416 North 7th Drive is seeking a variance from the set back requirements for his residence.

Mr. Walling has said this variance is needed to "create equity." However, Mr. Walling's request does not meet any of the requirements for granting a variance. There are no special circumstances; Mr. Walling is not being denied privileges which other similar property owners possess; Mr. Walling is requesting special privileges through this variance which other similar property owners do not possess; any "hardship" connected with Mr. Walling's property is totally self-imposed. Mr. Walling's variance request creates inequity among the neighboring property owners; it sets a negative precedence for the rest of the community.

Therefore, I would oppose the granting of this variance because it does not meet the requirements for a variance and gives Mr. Walling privileges which other property owners are denied.

Barbara Garland





Planning Department Staff Report

DATE: May 10, 2012 **AGENDA ITEM:** 2

TO: Board of Adjustment

FROM: Tabitha Perry, Assistant Planning Director
PRESENTED BY: Remigio Cordero, Planner

SUBJECT: VARIANCE APPLICATION CASE VAR12-03: TOPAR
VARIANCE – 4664 WEST PUGET AVENUE

REQUEST: To increase the wall height to 8 feet where 6 feet is permitted in the R1-6 (Single Residence) zoning district.

APPLICANT/OWNER: William Topar.

REQUIRED ACTION: The Board must consider the facts and determine that the findings required to grant a variance have been met. The Board may condition a variance to ensure that it will not grant special privileges inconsistent with the limitation of other similarly zoned properties. The Board must deny the request if the required findings have not been met.

RECOMMENDATION: Staff recommends approval subject to stipulations.

PROPOSED MOTION: Move to approve VAR12-03 subject to stipulations.

SUMMARY: The applicant is requesting a variance to increase the block wall height to 8 feet where 6 feet maximum is required. If approved the applicant will be able to construct the west wall to 8 feet in height.

BOARD ACTION: Board member _____ MADE a MOTION to _____
Case No. VAR12-03, subject to staff report stipulations. Board member _____
SECONDED the MOTION. The MOTION was _____ with a vote of _____ to _____

DETAILS OF REQUEST:

General Plan Designation:

Medium Density Residential.

Property Location and Size:

The property is located on the southeast corner of 47th and Olive avenues. The property is an irregular shaped lot that is approximately 14,941 square feet in size.

Zoning Ordinance Requirements:

5.3180 Accessory Uses:

A. Fences and walls. See Section 7.201.

1. Front yard: Maximum height - three (3) feet.

2. Side or rear yard: Maximum height - six (6) feet, except eight (8) feet when abutting an arterial street.

Surrounding Land Use and Zoning:

North: Single Family Residence across Olive Avenue, zoned R-4 (Multiple Residence).

East: Single Family Residence, zoned R1-6.

South: Single Family Residence, zoned R1-6.

West: Shopping Center across 47th Avenue, zoned C-2 (General Commercial).

History:

- This property was annexed into the city on April 13, 1965. The home was constructed as part of the Manzanita Manor 2 subdivision in 1980.

CITIZEN PARTICIPATION TO DATE:

Applicant's Citizen Participation Process:

On March 27, 2012 the applicant mailed 55 notification letters to adjacent property owners and interested parties. The applicant received one letter from a nearby neighbor stating their support of the applicant's request. The Planning Department received one email response in support of the applicant's request indicating the applicant has a hardship due to the close proximity to an adjacent commercial property. The applicant's Citizen Participation Final Report is attached.

Board of Adjustment Public Hearing Notification:

A Notice of Public Hearing was published in *The Glendale Star* on April 19, 2012. Notification postcards of the public hearing were mailed to adjacent property owners and interested parties on April 20, 2012. The property was posted on April 20, 2012.

STAFF FINDINGS AND ANALYSIS:

The Board of Adjustment must analyze four findings based on the evidence prior to granting a variance. Each finding is presented below along with staff's analysis.

- 1. There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings, which were not self-imposed by the owner;**

There is a special condition with the property's location that is not self imposed by the property owner. The property is located on the corner of a major arterial street and a collector street. The use to the west of the applicant's property is a commercial use. The amount of vehicular and foot traffic that is generated from the commercial use and the close proximity to this property create privacy issues for the applicant.

- 2. Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district;**

The strict application of the Zoning Ordinance would limit the property to a 6 foot high masonry wall on the 47th Avenue rear property line. The ordinance states that a residential property's rear and side wall shall exceed no higher than 6 feet in height, except when facing an arterial, the wall shall be increased to 8 feet. There is a commercially zoned shopping center adjacent to the west of this property. The zoning ordinance allows for an 8 foot high masonry wall when a residential property is abutting a commercially zoned property. Although the applicant's property is not abutting the commercially zoned property it is located directly across the street.

- 3. The variance is the minimum necessary to alleviate the property hardship; and**

The variance is the minimum necessary to alleviate the property hardship of being located on the corner of a major arterial and across from a commercial shopping center. The height increase will provide an additional buffer from pedestrian activities and on-going traffic.

- 4. Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the city in general.**

Increasing the wall height to 8 feet will not have a detrimental effect on surrounding neighborhood. The variance will allow uniformity in the wall height which will be similar to other walls in the area.

RECOMMENDATION:

The variance request appears to meet all four findings and should be approved. If the Board decides to grant the variance, it should be subject to the following stipulations:

1. Development shall be in conformance with applicable site plan, date stamped March 1, 2012.

2. A permit for the 8 foot masonry wall shall be submitted to the Community Development Group for review.
3. The masonry wall shall be stained to match the adjacent walls.

- ATTACHMENTS:**
1. Applicant's Site Plan, date stamped March 1, 2012.
 2. Citizen Participation Final Report approved April 16, 2012.
 3. Vicinity Zoning Map.
 4. Aerial Photograph, dated November, 2008.

PROJECT MANAGER: Remigio Cordero, Planner (623) 930-2597
rcordero@glendaleaz.com

REVIEWED BY:

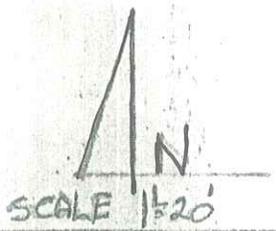


Planning Director



Deputy City Manager

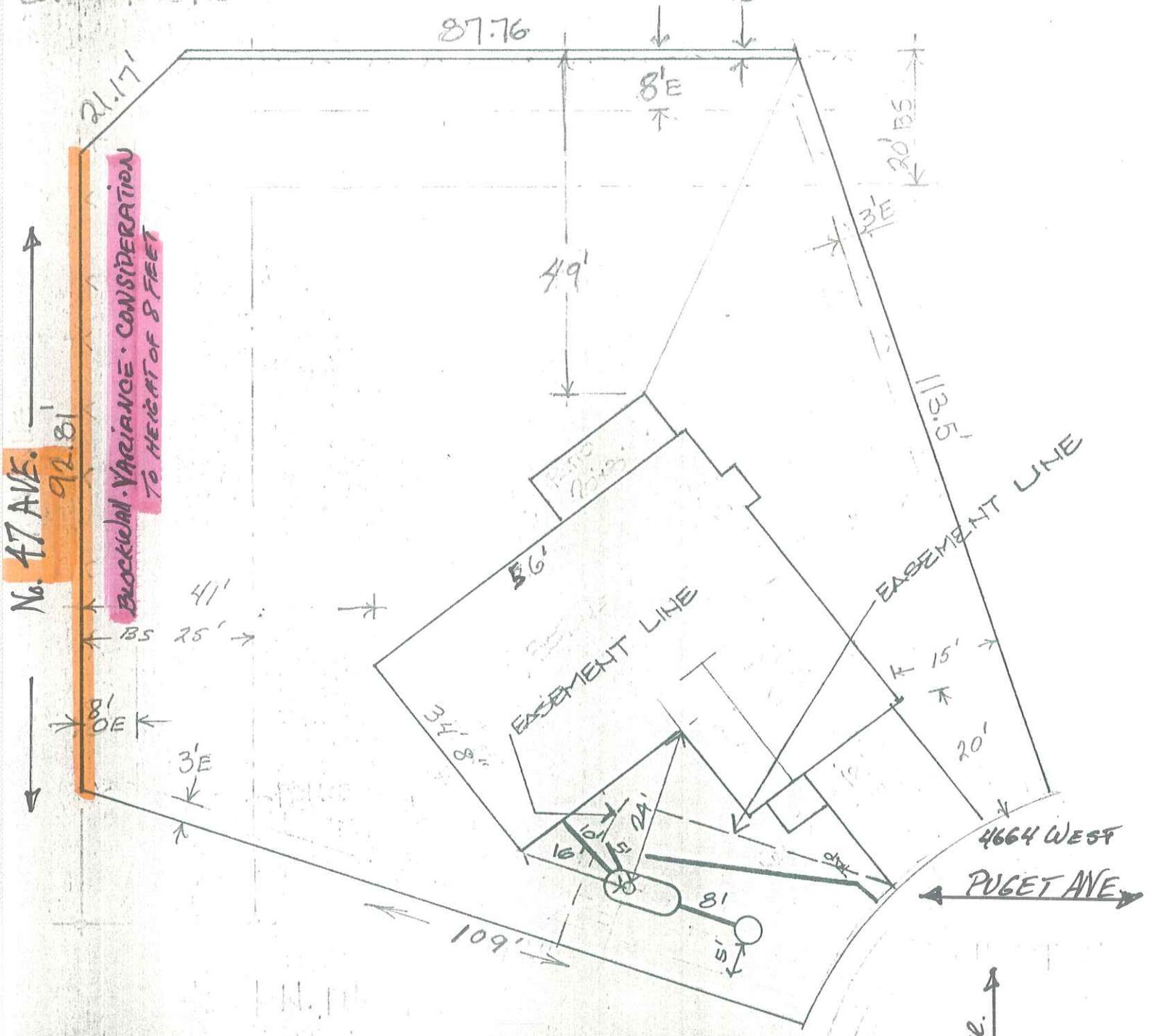
RC/df



MAR 01 2012

LOT #: 15,061 #
 HSE: 2333
 CWS: 10.51%

← W. OLIVE AVE. →



No. 47 AVE.

Blockial Variance - Consideration
 To Height of 8 Feet

92.81'

LOT 449

No. 46 DR.

4/12/2012

CITIZEN PARTICIPATION FINAL REPORT

COVER PAGE

WILLIAM & BERNARDINA TOPAR

4664 W. PUGET AVE.

GLENDALE, AZ 85302

SUBJECT: TOPAR VARIANCE = VAR 12-03

C/P FINAL REPORT CHECK LIST: #1

E-MAIL : bill@rapotresearch.com

PHONE : (623) 939-7984

PARCEL # : 148 - 10 - 317

LOCATION : CACTUS DISTRICT

APPROVED

APR 16 2012

**City of Glendale
Planning Department**

Ronnie Corduro

4/12/2012

CITIZEN PARTICIPATION FINAL REPORT

PROJECT DESCRIPTION

Request is for a Variance to increase the height of a 93 foot long block wall along N.47th Ave. to (8) feet, where (6) feet is required in the R1-6 (single residence) zoning district.

The **existing** (6) foot block wall along N. 47th Ave. is **contiguous** to an **existing** (8) foot block wall along W. Olive Ave.

C/P FINAL REPORT CHECK LIST: #2

4/12/2012

CITIZEN PARTICIPATION PLAN

PROJECT: Increase the height of existing block wall along and facing N. 47th Ave. to (8) feet.

LOCATION: 4664 W. Puget Ave., Glendale, AZ 85302.

PARCEL NUMBER: 148 – 10 – 317

VARIANCE APPLICATION: VAR; 12-03

PUBLIC NOTIFICATION: Letter Recommended

NOTIFICATION MAP & OWNERS LIST: (see attached)

INTERESTED-PARTY LIST: (see attached)

PROPOSAL INDIVIDUAL IMPACT CONSIDERATIONS: With respect to any and all interested individuals, the impact is no different for an individual exposed to a **proposed** (8) foot block wall on N 47th Ave., than the same individual is exposed to an **existing** (8) foot block wall on W. Olive Ave.

The **existing** (8) foot block wall on W. Olive Ave. and the **proposed** (8) foot block wall on N. 47th Ave. are, contiguously **one wall**.

To the best of my ability, the affect of my proposal on any interested individual, directly or indirectly, is zero.

INTERESTED INDIVIDUALS TO-DATE : To-date no individual has expressed any interest in this project.

CHANGES & AMENDMENTS TO PROPOSAL: All individuals notified in the Citizen Participation Plan will be notified relative to any changes or amendments, as before.

CITIZEN PARTICIPATION & PLANNING DEPT. REVIEW: At the close of the Citizen Participation vetting period. (15 continual days after implementation) I will meet with Planner Remigio Cordero to review the results of the notification effort.

PROPOSED SCHEDULE - CITIZEN PARTICIPATION: (a) Submit to planner (3/26/2012). (b) C/P Implementation (3/27/2012). (c) 15 Continual days (4/11/2012). (d) Final C/P (4/18/2012).

C/P FINAL REPORT CHECK LIST : #3



CITIZEN PARTICIPATION FINAL REPORT CHECKLIST

Revised 09/01/2009

4/12/2012

COMPLETION OF THE FOLLOWING IS NECESSARY FOR APPROVAL OF YOUR FINAL REPORT

- ✓ 1. Attach a cover page titled "Citizen Participation Final Report," which lists information such as the project name, location, and case number(s), if assigned at this time.
- ✓ 2. Provide brief description of the proposed project.
- ✓ 3. Provide a brief overview of the elements of their Citizen Participation Plan.
- ✓ 4. List dates that notification letters and meeting notices were mailed, newsletters, and other publications were posted and/or advertised.
- ✓ 5. Attach an outlined map of the specific areas where residents and property owners who were notified are located.
- SEE #74 6. List the names of homeowners associations and registered neighborhood groups, and their representatives, and individuals on the district's "Interested Parties" list who were notified, and individuals on the Additional Notification List who were notified.
- NONE 7. If applicable, identify dates and locations of all meetings where citizens were invited to discuss the proposal.
- SEE #14 8. Provide the total number of individuals noticed and the number of people that actually participated in the process.
- NONE 9. List concerns, issues, and problems expressed by the participants.
- N/A 10. State how each concern, issue, and problem has been addressed and how applicant intends to continue to address them.
- N/A 11. State concerns, issues, and problems the applicant is unable or unwilling to address and why.
- N/A 12. Specifically identify how the proposal has been revised to address public concerns.
- ✓ 13. Attach copies of letters, affidavits, meeting invitations, newsletters, publications, sign-in sheets, petitions received in support or against the proposed project, and any other materials pertaining to the notification process.
- ✓ 14. Attach a **complete** mailing list used which includes all individuals located in the notice area, homeowners associations, registered neighborhood groups/ associations, individuals on the district's "Interested Parties" list and individuals on the Additional Notification list. The report should specify that the mailing list is attached as an **appendix**.

Parcel # 148-10-317
William & Berardina Topar
4664 W. Puget Ave.
Glendale, AZ 85302



Planning Department

NEIGHBORHOOD NOTIFICATION LETTER

AFFIDAVIT OF MAILING

Case No. (if available) VAR 12-03

Project Name: TOPAR VARIANCE

I, William Topar certify that I am the authorized applicant / representative to the City of Glendale for the above application, and do hereby affirm that notice as required for the case noted above has been completed in accordance with the Citizen Participation Process in the City of Glendale's Zoning Ordinance, and a copy of the letter and mailing labels has also been submitted.

Applicant/Representative Signature: [Handwritten Signature]

STATE OF ARIZONA

SS.

COUNTY OF MARICOPA

The foregoing instrument was acknowledged before me this 27 day of March, 2012

[Handwritten Signature]
Notary Public

My Commission Expires:

3/29/13



4/12/2012

C/P FINAL REPORT CHECK LIST : #5

RECOMMENDED NEIGHBORHOOD NOTIFICATION AREA

NAME OF REQUEST:

TOPAR VARIANCE

LOCATION:

4664 West Puget Avenue

The property owner is requesting a variance to increase the rear wall along 47th Avenue to 8 feet where 6 feet is required in the R1-6 (Single Residence) zoning district.

ZONING DISTRICT: R1-6 (Single Residence)

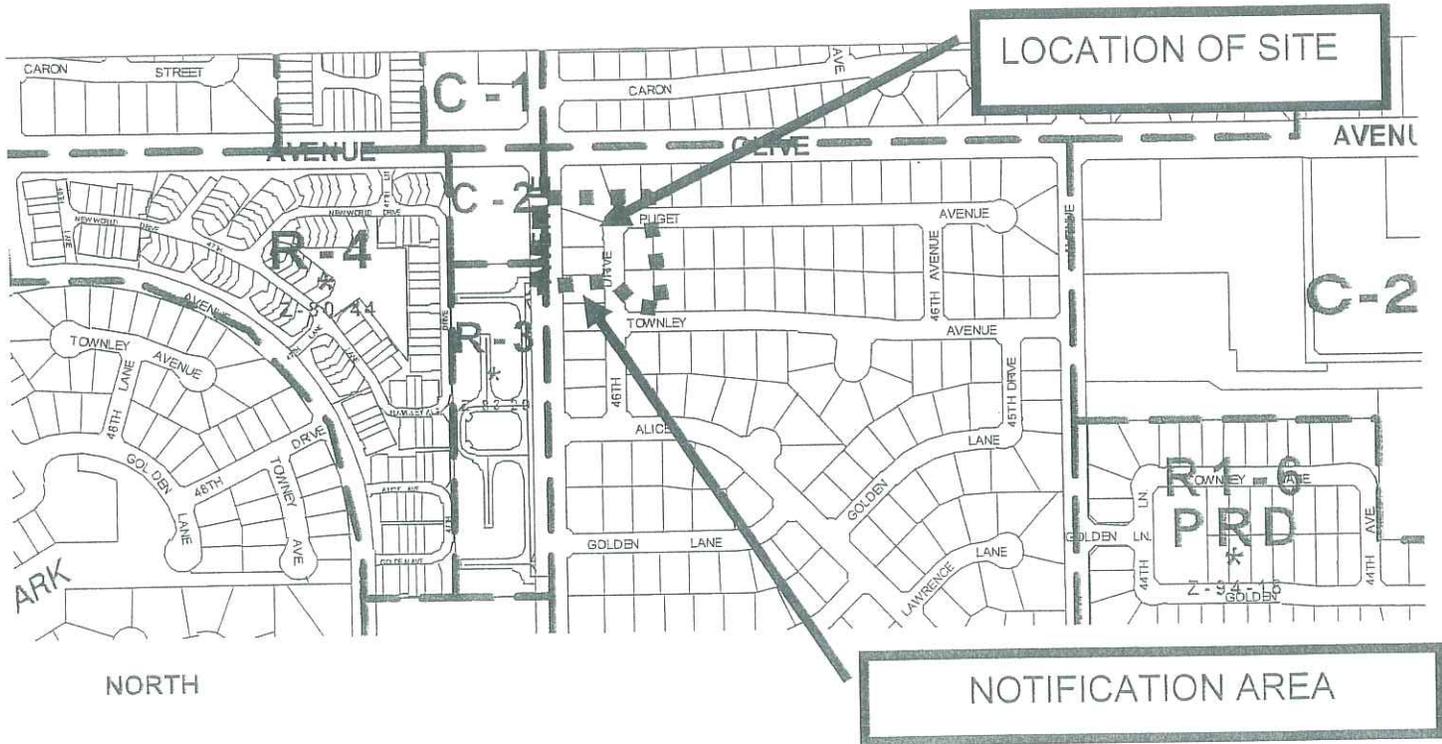
COUNCIL DISTRICT: Cactus

PROPERTY OWNERS

Parcel # 148-10-316
Terry & Trina Scolli
8838 N. 46th Drive
Glendale, AZ 85302

Parcel# 148-10-318
Sdravko & Jasminka Sulaver
4658 W. Puget Ave.
Glendale, AZ 85302

Parcel# 148-10-345
Elizabeth Ann Sprink
4657 W. Puget Ave.
Glendale, AZ 85302



246'

48-09-010C

NB9-35'30" W 240'

194.15'

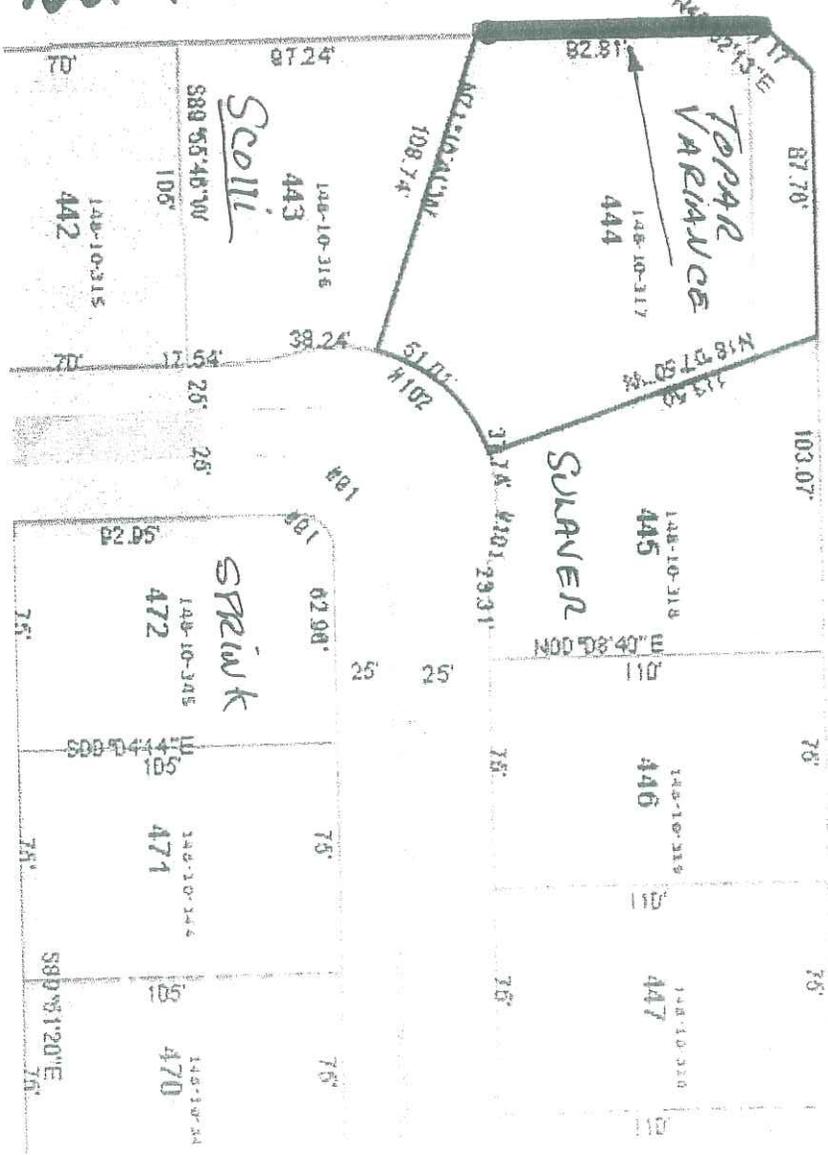
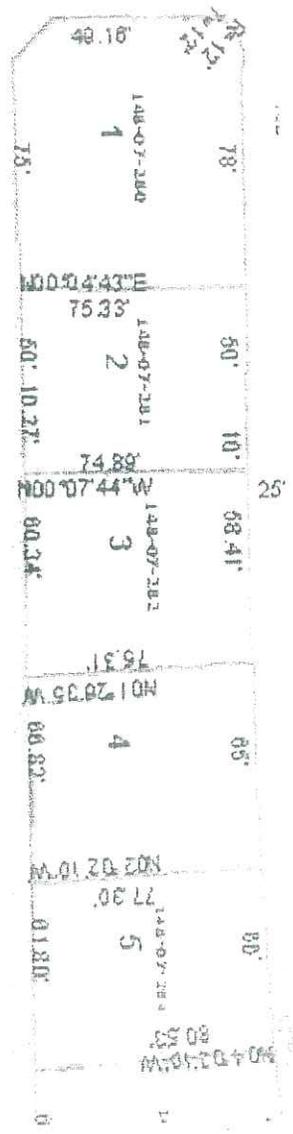
40°

141.50'



← No. 47th AVE. →

← WEST OLIVE AVE. →



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148-10-320
148-10-321

Sprink
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4657 West Puget Avenue
Glendale, AZ 85302
April 2, 2012

William & Bernardina Topar
4664 West Puget Avenue
Glendale, AZ 85302

Dear William & Bernardina,

I am in receipt of the Notification Letter dated March 27, 2012. Thank you.

Since the purpose of the correspondence is to notify me (as well as other neighbors) of your intention to apply for a Parcel Variance, kindly allow me to offer you my unwavering support for your request. Quite frankly, your request is very reasonable and much aligned due to the decades of inconsiderate and disrespectful human beings that have ravaged your aforementioned property.

As a property owner, neighbor, and friend, if I can be of further assistance in your quest for this vital variance of discernable means, please let me know.

Sincerely,

Elizabeth Sprink

Elizabeth Sprink
(623) 937-3511

Parcel # 148-10-345

C/P FINAL REPORT- CHECK LIST: #13

Cordero, Remigio

From: Bobbie [bjwg@cox.net]
Sent: Friday, March 30, 2012 4:49 PM
To: Cordero, Remigio
Subject: VAR: 12-03

Mr. William Topar has notified me that he is applying for a variance to allow an 8 foot fence along his 47th Avenue property line. There is now an 8 foot fence along the arterial Olive Avenue property line. Mr. Topar has listed among his reasons for requesting this variance the allowable reasons for granting a variance. Reason 1. Special circumstances. The special circumstances would include the property's location directly across the street from commercial property with its increased traffic pattern which would not apply to other property within the neighborhood. Reason 2. The reason for the variance is not self-imposed, but is due to the location of the property. Reason 3. Granting of the variance would not be materially detrimental to the character of the neighborhood. Reason 4. Granting the variance would not bestow privileges upon the applicant which other property owners are denied. Reason 5. Because of the location of the property, privileges of enjoyment of the property which other similar property owners enjoy may be denied.

Mr. Topar's request should be granted.

Barbara Garland

#14

APPENDIX

GEORGIA KNOX
17214 N 66TH TER
GLENDALE AZ 85308

RONALD AND KAY LONGCOR
8022 W MONTEBELLO AVE
GLENDALE AZ 85303

TERRY LANE
6103 N 87TH LN
GLENDALE AZ 85305-2452

KATHLEEN LEWIS
7456 W AURORA DR
GLENDALE AZ 85308

MICKEY LUND
5708 W ROYAL PALM RD
GLENDALE AZ 85302

CHERI MCCLOSKEY
5336 W BECK LN
GLENDALE AZ 85306

CARRIE AND MITCH MEEK
6563 W PIUTE AVE
GLENDALE AZ 85308

DAVE TRISH
6773 W VIA MONTOYA DR
GLENDALE AZ 85310

BILL NORGREN
8608 W CAVALIER
GLENDALE AZ 85305

LAURA RAKOCZYNSKI
9403 N 50TH DR
GLENDALE AZ 85302

PATTY WYRICK
9626 N 58TH DR
GLENDALE AZ 85302

VALLEY PARTNERSHIP
5110 N 44th ST STE 200
PHOENIX AZ 85019

MAGI SHRECK
10673 W RANCHO DR
GLENDALE AZ 85307

CARLOS SANTA CRUZ
4631 WEST MONTEBELLO
GLENDALE, AZ 85301

CARLOS SANTA CRUZ
4631 WEST MONTEBELLO
GLENDALE, AZ 85301

RICHARD SCHWARTZ
8232 W MONTEBELLO AVE
GLENDALE AZ 85303

DIANA M SEGER
6132 W TOWNLEY AVE
GLENDALE AZ 85302

JEFF BLAKE
19210 NORTH 70TH AVENUE
GLENDALE AZ 85308

GARY SHERWOOD
5928 WEST PERSHING AVE
GLENDALE AZ 85304-1123

CATHY CHESHIER
5896 WEST DEL LAGO CIR
GLENDALE AZ 85308

City of Glendale Mayors Office
Mayor Scruggs
5850 W. Glendale Ave.
Glendale, AZ 85301

Remigio Cordero, Planner
Planning Dept. Suite 212
5850 W. Glendale Ave.
Glendale, AZ 85301

Diana Figueroa, Senior Scty.
Planning Dept. Suite 212
5850 W. Glendale Ave.
Glendale, AZ 85301

Glendale City Council
Council Member Lieberman
5850 W. Glendale Ave.
Glendale, AZ 85301

Parcel # 148-10-316
Terry&Trina Scoll
8838 N. 46th Drive
Glendale, AZ 85302

Parcel # 148-10-318
Sdravko&Jasminka Sulaver
4658 W. Puget Ave.
Glendale, AZ 85302

Parcel # 148-10-345
Elizabeth Ann Sprink
4657 W. Puget Ave.
Glendale, AZ 85302

4/12/2012

C/P FINAL REPORT CHECK LIST: #14 #6 #8

TOTAL COUNT NOTIFIED: 55

TOTAL RESPONSES: 1

INTERESTED PARTIES
NOTIFICATION LIST FOR
PROPOSED DEVELOPMENT -
CITY WIDE & CACTUS

MEL SMITH
PO BOX 12572
GLENDALE AZ 85318

SUSAN FERRELL
4646 W KRALL ST
GLENDALE AZ 85301

KAREN ABORNE
7318 W GRIFFIN AVE
GLENDALE AZ 85303

HARRIET AGIUS
7132 W GROVERS AVE
GLENDALE AZ 85308

MARY SMITH
8968 W CITRUS WAY
GLENDALE AZ 89305

DOUG ATTIG
6066 N 84TH DR
GLENDALE AZ 85305

A.I. BABINEAU
4815 W COCHISE DR
GLENDALE AZ 85302

ROD BEAL
18869 N 71ST LN
GLENDALE AZ 85308

BOB BOHART
5603 W BELMONT
GLENDALE AZ 85301

CITY OF GLENDALE
NEIGHBORHOOD PARTNERSHIPS
5850 W GLENDALE AVE #270
GLENDALE AZ 85301

JOYCE CLARK
8628 W CAVALIER DR
GLENDALE AZ 85305

ALMON DAVIS
6005 W MONTE CRISTO AVE
GLENDALE AZ 85306

MIKE DEPINTO
6507 W SHAW BUTTE DR
GLENDALE AZ 85304-2414

DANIEL DREW
4502 W MORTEN AVE
GLENDALE AZ 85301

SAMANTHA JOHNSON
CBD DIVERSIFIED
3131 E CAMELBACK RD
STE 210
PHOENIX AZ 85016

TRISH EDWARDS
8626 N 53RD AVE
GLENDALE AZ 85302

JUDY FARR
6527 W HILL LN
GLENDALE AZ 85310

BARBARA FENNEMA
18033 N 83RD DR
PEORIA AZ 85382

THE ARIZONA REPUBLIC
17235 N 75TH AVE
STE A 100
GLENDALE AZ 85308

WILLIAM RAY
7305 W ANGELA DR
GLENDALE AZ 85308

B GARLAND
5012 N 64TH DR
GLENDALE AZ 85301

MARK GARRATT
7605 N 72ND AVE
GLENDALE AZ 85303

DENNIS GERHARD
10613 N 48TH AVE
GLENDALE AZ 85304

DIANE HAND
5349 W ACAPULCO
GLENDALE AZ 85306

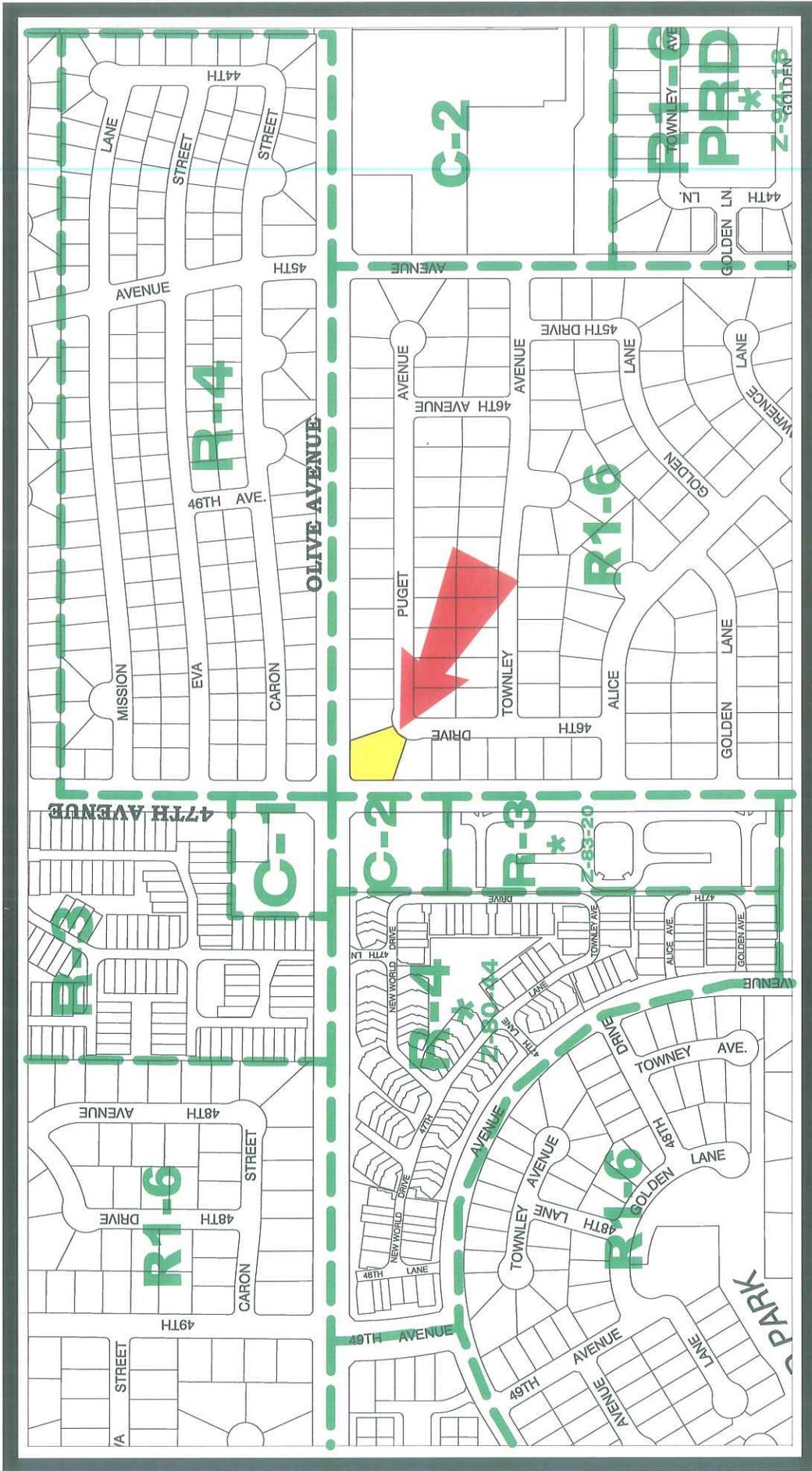
MICHAEL SOCACIU
8574 W BERRIDGE LN
GLENDALE AZ 85305

JOHN AND SUE JONES
18658 N 78TH DR
GLENDALE AZ 85308

ARLINE YZQUIERDO
8525 N 52ND DR
GLENDALE AZ 85302

DEBRA KIST
5643 W MOUNTAIN VIEW RD
GLENDALE AZ 85302

JOHN KOLODZIEJ
6258 N 88TH LN
GLENDALE AZ 85308



REQUEST

A VARIANCE TO INCREASE THE WALL HEIGHT TO 8' WHERE 6' IS PERMITTED IN THE R1-6 (SINGLE RESIDENCE) ZONING DISTRICT.

CASE NUMBER

VAR12-03



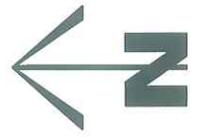
LOCATION

4664 W. PUGET AVENUE



Case Number
VAR12-03

Aerial Date: November, 2008





Planning Department Staff Report

DATE: May 10, 2012 **AGENDA ITEM:** 3

TO: Board of Adjustment

FROM: Tabitha Perry, Assistant Planning Director
PRESENTED BY: Remigio Cordero, Planner

SUBJECT: **VARIANCE APPLICATION CASE VAR12-04: ADVANCED PAIN SOLUTIONS VARIANCE – 4416 WEST PEORIA AVENUE**

REQUEST: To reduce the separation requirement from a medical marijuana dispensary to a residentially zoned property to 425 feet where a minimum of 500 feet is required and to reduce the separation requirement from a school to 1,236 feet where 1,320 feet is required in the C-2 (General Commercial) zoning district.

APPLICANT/OWNER: Earl, Curley, and Lagarde P.C. / Peoria Plaza LLC

REQUIRED ACTION: The Board must consider the facts and determine that the findings required to grant a variance have been met. The Board may condition a variance to ensure that it will not grant special privileges inconsistent with the limitation of other similarly zoned properties. The Board must deny the request if the required findings have not been met.

RECOMMENDATION: Staff recommends denial.

PROPOSED MOTION: Move to deny VAR12-04.

SUMMARY: The applicant is requesting a variance to reduce the required separation from a residentially zoned property and a school that is located within the City of Phoenix city limits. The residentially zoned property is currently an active fire station. North Pointe is a private secondary and high school. If the variance is approved, the applicant will need to obtain a license to operate from the State of Arizona as well as permits and a business license from the city.

BOARD ACTION: Board member _____ MADE a MOTION to _____
Case No. VAR12-04, subject to staff report stipulation. Board member _____
SECONDED the MOTION. The MOTION was _____ with a vote of _____ to _____.

DETAILS OF REQUEST:

General Plan Designation:

General Commercial.

Property Location and Size:

The property is located west of the northwest corner of 43rd and Peoria avenues. The property is approximately 1.25 acres in size and the tenant suite is 1,146 square feet in size.

Zoning Ordinance Requirements:

Section 7.802. G and H – Medical Marijuana Dispensary

- G Shall not be located within 500 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
- H Shall not be located within 1,320 feet of an elementary, secondary or high school. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.

Surrounding Land Use and Zoning:

North: Commercial in the City of Phoenix, zoned C-2.

East: Commercial retail, zoned C-2.

South: Commercial retail, across Peoria Avenue, zoned C-2.

West: Commercial retail and office, zoned C-1 (Neighborhood Commercial).

History:

- The existing buildings were constructed within the City in 1975.

CITIZEN PARTICIPATION TO DATE:

Applicant's Citizen Participation Process:

On March 28, 2012, the applicant mailed 92 notification letters to adjacent property owners and interested parties informing them of a neighborhood meeting. On April 12, 2012, the neighborhood meeting was held. In attendance were the applicant, their client, a news reporter, and the project planner. There was no one in attendance from the nearby neighborhood or from the interested parties list. The Planning Department received seven emails and one phone call regarding the request. All of these individuals expressed their opposition to the applicant's request. The applicant's Citizen Participation Final Report is attached.

Board of Adjustment Public Hearing Notification:

A Notice of Public Hearing was published in *The Glendale Star* on April 19, 2012. Notification postcards of the public hearing were mailed to adjacent property owners and interested parties on April 20, 2012. The property was posted on April 20, 2012.

STAFF FINDINGS AND ANALYSIS:

The Board of Adjustment must analyze four findings based on the evidence prior to granting a variance. Each finding is presented below along with staff's analysis.

- 1. There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings, which were not self-imposed by the owner;**

The applicant is seeking to locate a medical marijuana dispensary that is located too close to residentially zoned property and a school. The school property is located less than the required 1,320 lineal feet from the proposed tenant suite. The separation from this tenant suite to the residentially zoned property is less than the required 500 feet. The applicant provided a property survey showing that the proposed dispensary was located too close to a school and a residentially zoned property. These are self-imposed hardships because the applicant was aware of the required separations.

- 2. Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district;**

The strict application of the Zoning Ordinance would prohibit the proposed medical marijuana dispensary from operating on this site; however, the same separation requirement imposed by the Zoning Ordinance on this property prohibits this use on other C-2 zoned properties throughout the city. The Ordinance does not deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district.

- 3. The variance is the minimum necessary to alleviate the property hardship; and**

The variance is not the minimum necessary to alleviate a property hardship that does not exist. The applicant provided a property survey showing that this proposed dispensary was too close to an existing school and residentially zoned property.

- 4. Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the city in general.**

It is debatable whether or not approval of this variance request will have a detrimental effect on the surrounding neighborhood. There were several notified residents and business owners from the surrounding neighborhood that participated via email during the citizen participating process. Their concerns were that having a medical marijuana dispensary too close to an existing school and a residentially zoned property would be detrimental to the community.

RECOMMENDATION:

The variance request does not meet all four findings and should be denied. If the Board decides to grant the variance, it should be subject to the following stipulation:

1. Development shall be in conformance with the project narrative and property surveys, date-stamped March 27, 2012.

ATTACHMENTS:

1. Applicant's Narrative, date stamped March 27, 2012.
2. Citizen Participation Final Report (without mailing labels), approved April 13, 2012.
3. Property Survey, date stamped March 27, 2012.
4. Vicinity Zoning Map.
5. Aerial Photograph, dated November, 2008.

PROJECT MANAGER: Remigio Cordero, Planner (623) 930-2597
rcordero@glendaleaz.com

REVIEWED BY:



Planning Director

RC/df



Deputy City Manager

Advanced Pain Solutions Inc.
4416 W. Peoria Avenue, Glendale, Arizona
(West of the northwest corner of Peoria Avenue and 43rd Avenue)

Variance Request Narrative
Application Number: VAR12-04

Prepared for:
Advanced Pain Solutions
4416 W. Peoria Avenue
Glendale, Arizona 85302

Property Owner:
Peoria Plaza, LLC
P.O. BOX 35441
Tucson, Arizona 85740

Prepared:
March 19, 2012

MAR 27 2012

*Advanced Pain Solutions, Inc.
4416 West Peoria Avenue
Variance Project Narrative*

Introduction

Advanced Pain Solutions, Inc., seeks a Variance to reduce the separation requirement from a Medical Marijuana Dispensary to: 1) A residentially zoned property (Fire Station) to 425-feet where a minimum of 500-feet is required; and 2) A school property to 1,263-feet where a minimum of 1,320 feet is required.

Project Information

This request is to allow a Medical Marijuana Dispensary to be located in a 1,140 square feet suite within an existing building located at 4416 W. Peoria Avenue, generally located west of the northwest corner of Peoria and 43rd Avenues. The approximately 1.25 acres property is irregular in shape and zoned C-2 (General Commercial). The overall commercial property includes a freestanding convenience mart at the southwest corner of the property, adjacent to Peoria Avenue, and in-line shops along the northern portion of the property. The existing buildings were built on the property in 1975. The subject suite is located near the middle portion of existing in-line building.

The property is a completely self contained site that fronts on Peoria Avenue and backs to a +/- 220 feet wide canal and drainage channel along the north side of the property. Access to the property is provided via Peoria Avenue from two existing driveways. To the north, across the +/- 220-feet wide canal and drainage channel, exist a commercial retail center within the City of Phoenix city limits (zoned C-2); to the east, exists a self-serve carwash facility (zoned C-2); to the west exists an office development (zoned C-1); and to the south, across Peoria Avenue, exists the Target Shopping Center (zoned C-2). Peoria Avenue and 43rd Avenue is a signalized intersection.

Section 7.802(G) of the City's Zoning Ordinance permits a Medical Marijuana Dispensary in C-2 zoning districts subject to three spacing requirements; 1) not within 5,280 feet of another approved medical marijuana use; 2) not within 500 feet of a residentially zoned property; or 3) not within 1,320 feet from schools.

Site, Surrounding Area and Existing Zoning

The overall subject property is irregular shaped and is currently zoned C-2 (General Commercial) and in commercial use. The property is located within a commercial corridor and is situated at the eastern edge of the City of Glendale adjacent to the City of Phoenix city

limits. The property enjoys convenient access from Peoria Avenue and 43rd Avenue-both arterial roads.

General Plan Land Use Designation:

North: City of Phoenix, Commercial
South: Planned Commercial
East: General Commercial
West: General Commercial

Existing Land Uses:

North: 220-foot wide canal and drainage channel. Beyond the canal and drainage channel, City of Phoenix, commercial/retail shopping center.
South: Commercial/retail.
East: Commercial-Self-serve carwash facility.
West: Office and retail.

Existing Zoning:

North: C-2 (General Commercial)
South: C-2 (General Commercial)
East: C-2 (General Commercial)
West: C-1 (Neighborhood Commercial)

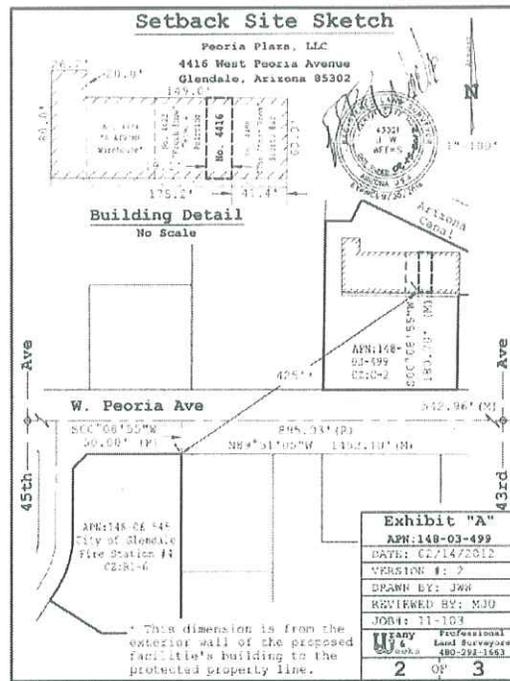
Purpose and Intent

The citizens of Arizona approved legislation to allow the use of medical marijuana to offer pain relief to those with severe debilitating medical conditions such as Cancer, Glaucoma, HIV, Acquired immune deficiency syndrome, Crohn's disease and Alzheimer's disease. As part of the legislation each municipality also adopted local ordinances that established criteria for Medical Marijuana Dispensaries. The City of Glendale adopted a Zoning Ordinance which established distance/separation requirements between the same use, separation from residentially zoned property, and separation from schools so these uses wouldn't congregate to close together or be too close to schools and residential areas. The intent of the separation requirement was to provide a sufficient separation and to locate these uses within commercially zoned or industrially zoned districts.

The intent of this variance request is to reduce the separation requirement from a Medical Marijuana Dispensary to:

1) *A residentially zoned property (Fire Station) from 500-feet to 425-feet.*

There is no residential home/use within the required minimum 500-foot zoning ordinance separation requirement. The closest residential home/use is more than 600-feet from the proposed dispensary. However, in this case, there is a City of Glendale Fire Station that is located on the south side of Peoria Avenue which happens to be located on a property that is zoned residential. This request seeks a variance from the residentially zoned property line which includes the City Fire Station. The property and the proposed use clearly meet the intent of the zoning ordinance to locate this use within a commercially zoned property and to provide sufficient separation between this use and residential uses. It provides 20% (100-foot) more separation between the proposed use and the closest residential use.



and

2) *A elementary, secondary or high school property from 1,320 to 1,263-feet.*

This variance for separation from a school is needed to justify a unique standard of measuring distance “as a crow flies” to the property line of such school use. The variance is merely for 57-feet or 4.5% reduction. In this case the ordinance requires the “distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the *property line* {emphasis added} of the protected use.” The school property in question is developed with their parking area along the northern portion

believe is not in the spirit or intent of the Zoning Ordinance. Due to this special circumstance we believe that a strict application of the Zoning Ordinance does deprive our property owner of its privileges enjoyed by other properties in the same classification in the same zoning district. Given the fact that the closest residence is more than 600 feet away (the Ordinance only requires 500-feet of separation) granting this variance does not have a detrimental effect on the adjoining properties, the surrounding neighborhood, or the City in general. The Fire Station located on a residentially zoned parcel is a unique condition not normally found elsewhere as shown in the General Plan. In fact, the General Plan classifies this Fire Station property as "Public Facility" not "Residential."

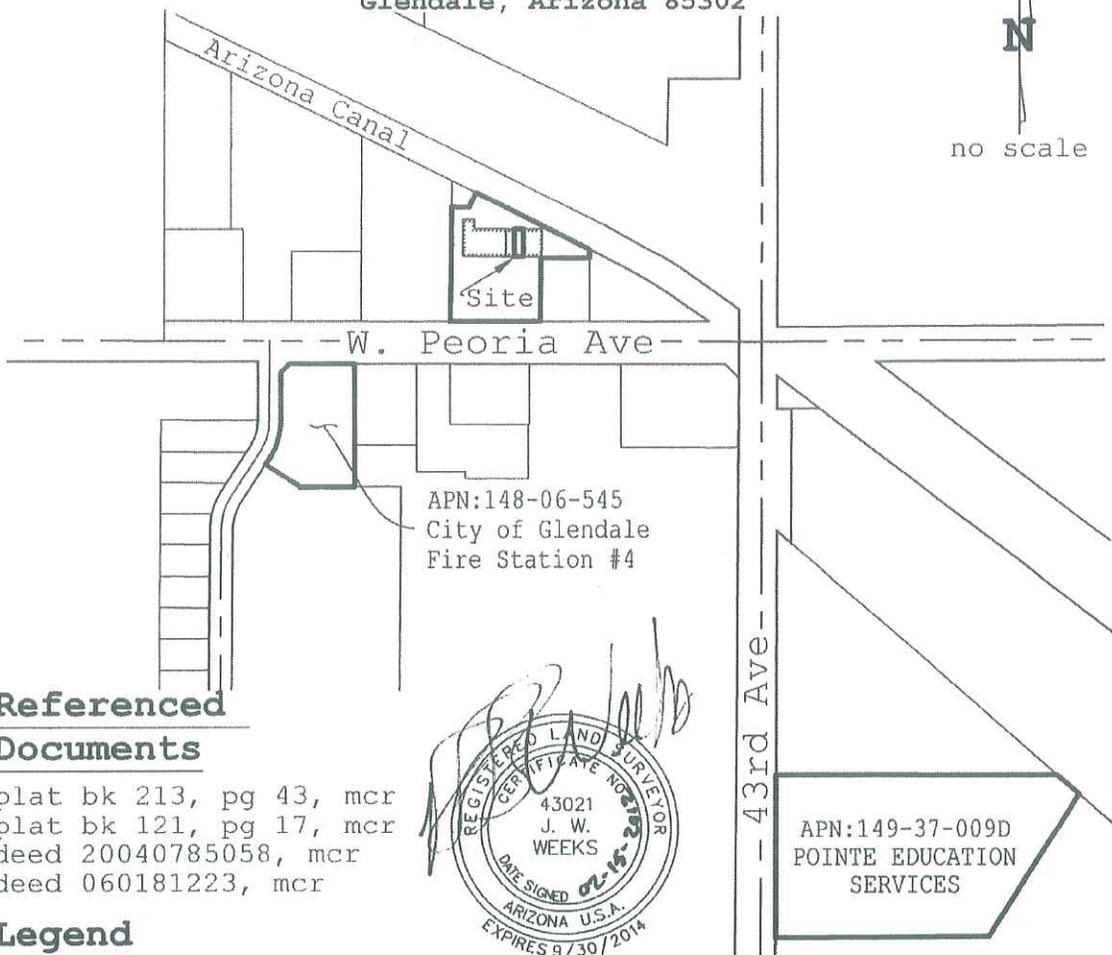
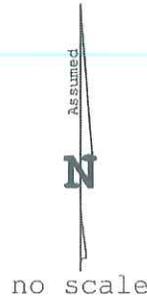
The strict application of the Zoning Ordinance that requires the measurement from the exterior walls of the proposed use to the property line of a school is a strict application of the Zoning Ordinance which deprives the applicant of his privileges enjoyed by other properties located in the C-2 zoning district. Given the existing school's configuration, the parking lot is located on the north end of the site which provides further separation from the proposed use and the actual school buildings. If consideration is given as to the method of travel (i.e. Vehicular and/or pedestrian route) to the location of the actual school buildings then the separation between uses exceeds the minimum requirement of 1,320 feet. We believe that the distance requirement should be measured as a vehicle travels and/or as a pedestrian travels to provide sufficient separation between uses, not as the crow flies. In this instance, as the crow flies is closer than if you were to either drive or walk between the two uses. Reviewing the zoning map this area is comprised of commercial zoned property. This request is appropriately located in this commercial area and therefore, we respectfully request your approval of this application.

Conclusion

We believe the intent of the City's separation requirements is provided in this case under both circumstances. Although the Fire Station is located on a "residential zoned" property it is not a residential use as intended by the Zoning Ordinance. The closest residential home/use is more than 600-feet way. Clearly this meets the intent of the Zoning Ordinance for separation from a residential use. Additionally, given the separation from the proposed use to the school buildings is actually greater if traveled by street than in a straight line we believe the intent of the Ordinance is met in this condition. These special circumstances were not imposed by the property owner. We believe the unique circumstances of this case support the justification for granting this variance requests and meets the Ordinance findings.

Setback Site Sketch

Peoria Plaza, LLC
 4416 West Peoria Avenue
 Glendale, Arizona 85302



Referenced Documents

plat bk 213, pg 43, mcr
 plat bk 121, pg 17, mcr
 deed 20040785058, mcr
 deed 060181223, mcr



Legend

- 123-45-678 assessor's parcel number
- bc brass cap
- CZ: city zoning designation
- (M) measured
- (R) record
- ⊙ brass cap
- ▨ building footprint
- ▤ concrete
- lot line
- - - right-of-way
- - - section line
- subject property
- - - tie

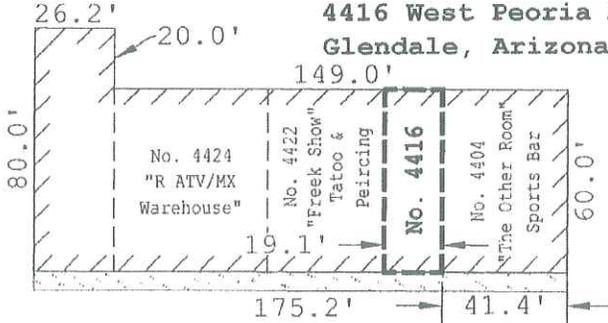


Exhibit "A"	
APN: 148-03-499	
DATE: 02/14/2012	
VERSION #: 2	
DRAWN BY: JWW	
REVIEWED BY: MJU	
JOB#: 11-103	
Urany & Weeks	Professional Land Surveyors 480-292-1663
1	OF 3

Setback Site Sketch

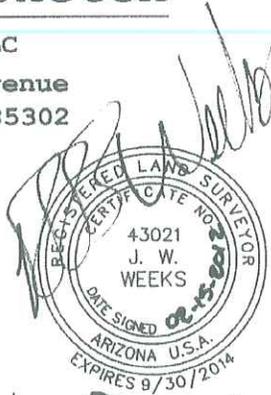
Peoria Plaza, LLC

4416 West Peoria Avenue
Glendale, Arizona 85302



Building Detail

No Scale



Assumed

N

1"=100'

Ave

45th

W. Peoria Ave

S00°08'55"W
50.00' (R)

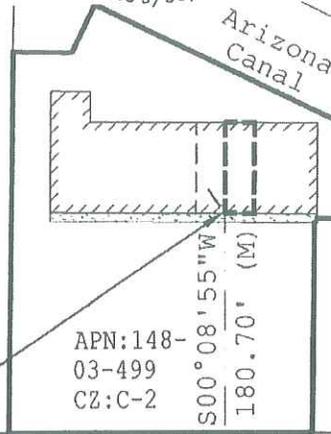
895.03' (R)

N89°51'05"W 1452.10' (M)

542.96' (M)

APN:148-06-545
City of Glendale
Fire Station #4
CZ:R1-6

* This dimension is from the exterior wall of the proposed facility's building to the protected property line.



Ave

43rd

Exhibit "A"

APN:148-03-499

DATE: 02/14/2012

VERSION #: 2

DRAWN BY: JWW

REVIEWED BY: MJU

JOB#: 11-103

W
&
Weeks

Professional
Land Surveyors
480-292-1663

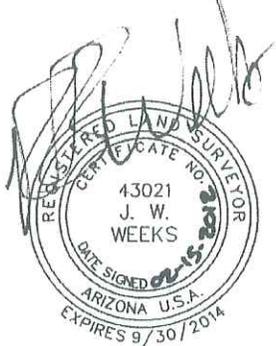
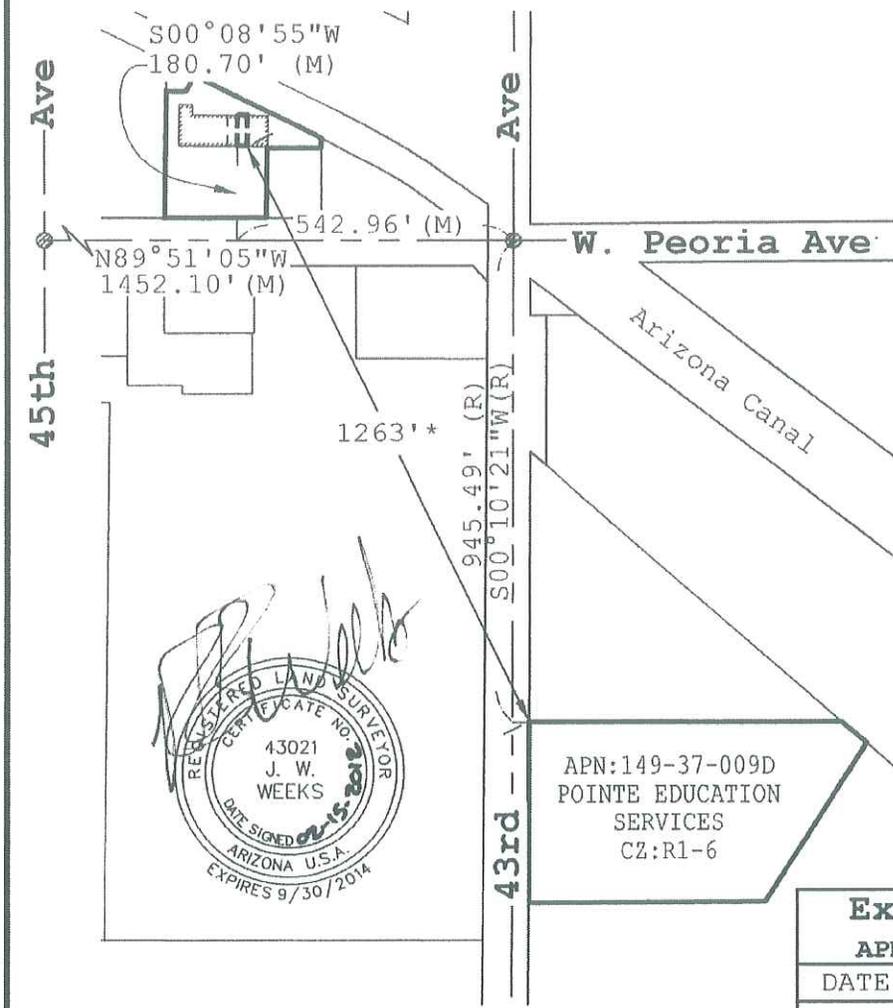
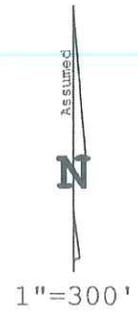
2

OF

3

Setback Site Sketch

Peoria Plaza, LLC
 4416 West Peoria Avenue
 Glendale, Arizona 85302



* This dimension is from the exterior wall of the proposed facility's building to the protected property line.

Exhibit "A"	
APN: 148-03-499	
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DRAWN BY: JWW	
REVIEWED BY: MJU	
JOB#: 11-103	
W rany & Weeks	Professional Land Surveyors 480-292-1663
3	OF 3

Citizen Participation Final Report for

Advanced Pain Solutions Inc.
at 4416 W. Peoria Avenue, Glendale, Arizona
(West of the northwest corner of Peoria Avenue and 43rd Avenue)

Variance Request
Application Number VAR12-04

Prepared for:
Advanced Pain Solutions
4416 W. Peoria Avenue
Glendale, Arizona 85302

Property Owner:
Peoria Plaza, LLC
P.O. BOX 35441
Tucson, Arizona 85740

Prepared:
April 13, 2012

APPROVED

APR 13 2012

City of Glendale
Planning Department

Lenizhi Cochran

CITIZEN PARTICIPATION FINAL REPORT

*Advanced Pain Solutions, Inc.
4416 West Peoria - Variance*

In accordance with the City of Glendale Citizen Participation Ordinance, this is the Citizen Participation Final Report which summarizes the results of citizen participation efforts on the proposed Variance application for Advanced Pain Solutions, Inc.

PROJECT/REQUEST DESCRIPTION

Advanced Pain Solutions, Inc., seeks a Variance to reduce the separation requirement from a Medical Marijuana Dispensary to: 1) A residentially zoned property (City of Glendale Fire Station) to 425-feet where a minimum of 500-feet is required; and 2) An elementary, secondary or high school property to 1,263-feet where a minimum of 1,320 feet is required.

This request is to allow a Medical Marijuana Dispensary to be located in a 1,140 square feet suite within an existing building located at 4416 W. Peoria Avenue, generally located west of the northwest corner of Peoria and 43rd Avenues. The approximately 1.25 acres property is irregular in shape and zoned C-2 (General Commercial). The existing buildings were constructed property in 1975. The overall commercial property includes a freestanding convenience mart at the southwest corner of the property, adjacent to Peoria Avenue, and in-line shops along the northern portion of the property. The subject suite is located near the middle portion of existing in-line building.

The property is a completely self contained site that fronts on Peoria Avenue and backs to a canal along the north side of the property. Access to the property is provided via Peoria Avenue from two existing driveways. To the north, across the +/- 220 wide canal, is a commercial retail center in the City of Phoenix (zoned C-2); to the east, is a self-serve carwash facility (zoned C-2); to the west is an office development (zoned C-1); and to the south, across Peoria Avenue, is the Target Shopping Center (zoned C-2). Peoria Avenue and 43rd Avenue is a signalized intersection.

TECHNIQUES/OVERVIEW

The Citizen Participation Final Report was prepared in accordance with the City of Glendale Citizen Participation Ordinance (CPO). As prepared, the Report meets the City's CPO requirements and the recommended notification area as identified by the Planning Department.

- As per the approved Citizen Participation Plan, on March 28, 2012, Earl, Curley & Lagarde P.C. mailed 92 first class letters to: all property owners within 500-feet of the subject site; Interested Parties as provided by the Planning Department; City Councils' and the Mayor offices; Remigio Cordero, Planner, and Diana Figueroa, Senior Secretary to advise them of the proposed Variance application and to notify them of

neighborhood meeting to discuss the application. (See APPENDIX). As per the City of Glendale Planning Department, there were no registered Glendale Homeowners Associations and/or Registered neighborhood Groups in the area.

- The letter invited residents to attend a neighborhood meeting at the City of Glendale on Thursday, April 12, 2012 at 6:00 PM. The letter provided a brief explanation of the proposed application, explained the purpose of the meeting and included an aerial photograph which identified the site location/boundaries.
- The neighborhood letter also included the applicant's contact information so that if anyone wanted to express concerns, issues, or problems they could by calling, writing, emailing, or faxing the applicant.
- A neighborhood meeting was held on April 12, 2012 @ 6:00 PM to inform those in attendance of the proposed variance application.
- Attached under Appendix is a copy of the Notification Letter, a map showing the property owners within 500-feet of subject site, the property owners list within 500-feet and Interested Parties list.

NEIGHBORHOOD MEETING OUTCOME

- The neighborhood meeting was held on April 12, 2012, at the City of Glendale City Hall (Meeting Room B2). Only Cecilia Chan from The Arizona Republic and 1 resident (who left prior to the meeting starting), Planner Remigio Cordero, and Mike Curley & the client attended the meeting. (See APPENDIX Sign-In Sheet).
- Questions regarding the application process, number of mailings and what the request was for were asked by the Ms. Chan. All of this same information is in the previously submitted application materials. Mr. Curley provided a general overview of the proposal and explained where the project was in the City process.
- As of this writing the applicant's office has not received any phone calls, faxes, or e-mails inquiries about the requests or about the neighborhood meetings.
- The City of Glendale Planner received 5-e-mails and 1 phone call in opposition. There were no specific reasons as to the opposition. (See APPENDIX for copy of e-mails).
- Should any adjacent property owners and/or other interested individuals raise any concern between now and the Variance hearing date, the Applicant will make every effort to address their concern in the appropriate manner, such as but not limited to personal visits, phone calls, or other acceptable means. Members of the Project Team are committed to working with the City of Glendale, surrounding neighbors, and any

interested parties to ensure the compatibility and success of Advanced Pain Solutions, Inc., at this location.

CONCERNS, ISSUES-RAISED AND HOW IT WAS ADDRESSED

Other than Ms. Chan, one resident or business attended the neighborhood meeting but the resident/business owner left prior to the meeting starting. Therefore there were no concerns, issues and/or problems expressed for the applicant to address.

CONCERNS, ISSUES – NOT ADDRESSED

Other than Ms. Chan, one resident or business attended the neighborhood meeting but the resident/business owner left prior to the meeting starting. There were no concerns, issues and/or problems expressed for the applicant to address.

APPENDIX

Map showing Properties within 500-feet of subject site

RECOMMENDED NEIGHBORHOOD NOTIFICATION AREA

NAME OF REQUEST: Advanced pain Solutions Inc., Variance

LOCATION: 4416 W. Peoria Avenue

Request: A variance to reduce the separation requirement from a Medical Marijuana Dispensary to: 1) A residentially zoned property to 425-feet where a minimum of 500-feet is required; and 2) A elementary, secondary or high school property to 1,263-feet where a minimum of 1,320 feet is required.

ZONING DISTRICT: C-2 (General Commercial)

COUNCIL DISTRICT: Barrel



Properties with 500-feet of Subject Site

14806545 GLENDALE CITY OF 5850 W GLENDALE AVE GLENDALE, AZ 85301	14806553B DAYTON HUDSON CORP PO BOX 9456 MINNEAPOLIS, MN 554409456	14806551B DAYTON HUDSON CORP PO BOX 9456 MINNEAPOLIS, MN 554409456
14937010 S R P A I & P D PO BOX 1980 PHOENIX, AZ 85001	14803490C PEORIA 44 LLC 8767 E VIA DE VENTURA STE 370 SCOTTSDALE, AZ 85258	14803493 PEORIA 44 LLC 8767 E VIA DE VENTURA STE 370 SCOTTSDALE, AZ 85258
14803005D US RESTAURANT PPROPERTIES OPERATING LP PO BOX 1671 ORLANDO, FL 328021671	14803496 BETHANY PROFESSIONAL PLAZA II LLC PO BOX 4103 CAVE CREEK, AZ 85327	14803498 PEORIA PLAZA LLC PO BOX 35441 TUCSON, AZ 85740
14803499 PEORIA PLAZA LLC PO BOX 35441 TUCSON, AZ 85740	14934001K FLOOD CONTROL DISTRICT OF MARICOPA COUNTY 2801W DURANGO ST PHOENIX, AZ 85009	14806544 ALZATE JORGE 10438 N 44TH DR GLENDALE, AZ 85302
14803008V GLENDALE CITY OF 5850 W GLENDALE AVE GLENDALE, AZ 85301	14803008L GLENDALE CITY OF 5850 W GLENDALE AVE GLENDALE, AZ 85301	14806590A GENIBEL 4 LLC 5252 TOPEKA DR TARZANA, CA 91356
14806003B JONES DAVID PAUL 4451 W PEORIA AVE GLENDALE, AZ 85302	14806558 DP89 LLC 3200 E CAMELBACK RD STE 175 PHOENIX, AZ 85018	14803008Z GUGLIELMO FAMILY LIMITED PARTNERSHIP 3497 N CAMPBELL STE 703 TUCSON, AZ 85719
14934001J PEORIA PROPERTIES 3033 N CENTRAL AVE STE 604 PHOENIX, AZ 85012	14803491B GUGLIELMO FAMILY LIMITED PARTNERSHIP 3497 N CAMPBELL STE 703 TUCSON, AZ 85719	14934001W FRANK E OKUNO AND BETTY H TR 9980 PALM COURT MORGAN HILL, CA 950370000
14803494 MANDILE FAMILY SURVIVORS TRUST A 7003 W CORRINE DR PEORIA, AZ 85381	14806556A FIRST INTERSTATE BANK PO BOX 2609 CARLSBAD, CA 92018	14806557 FIRST INTERSTATE BANK PO BOX 2609 CARLSBAD, CA 92018
14934001V EC ROSS PLAZA LLC/VALLEY FAIR ROSS PLAZA LLC 5663 BALBOA BLVD STE 227 ENCINO, CA 91316	14803490B 43RD AVENUE AND PEORIA PARTNERS LLC 8776 E SHEA BLVD #B3A-495 SCOTTSDALE, AZ 85260	14806555 43 AND PEORIA RETAIL BUILDING LLC 1724 W 4TH ST TEMPE, AZ 85281
14803491A COMMUNITY BANK OF ARIZONA 2001 W WICKENBURG WAY WICKENBURG, AZ 85390	14803005G FLOOD CONTROL DISTRICT OF MARICOPA COUNTY 2801W DURANGO ST PHOENIX, AZ 85009	14803005F FLOOD CONTROL DISTRICT OF MARICOPA COUNTY 2801W DURANGO ST PHOENIX, AZ 85009

14806554B TARGET CORPORATION P O BOX 9456 MINNEAPOLIS, MN 55440	14803005L NARAZONA CORPORATION PO BOX 61655 PHOENIX, AZ 850821655	14803005H NARAZONA CORPORATION PO BOX 61655 PHOENIX, AZ 850821655
14806556C 43 AND PEORIA RETAIL BUILDING LLC 1724 W 4TH ST TEMPE, AZ 85281	14806556B BURGENER CLIFTON W/CLIFTON L 4242 W SANDRA TER PHOENIX, AZ 85053	

INTERESTED PARTIES LIST

<p>INTERESTED PARTIES NOTIFICATION LIST FOR PROPOSED DEVELOPMENT - <u>CITY WIDE & BARREL</u></p>	<p>CITY OF GLENDALE NEIGHBORHOOD PARTNERSHIPS 5850 W GLENDALE AVE #270 GLENDALE AZ 85301</p>	<p>RON PROTHERO 6316 W KEIM DR GLENDALE AZ 85301</p>
<p>KAREN ABORNE 7318 W GRIFFIN AVE GLENDALE AZ 85303</p>	<p>HARRIET AGIUS 7132 W GROVERS AVE GLENDALE AZ 85308</p>	<p>MAGI SHRECK 10673 W RANCHO DR GLENDALE AZ 85307</p>
<p>DOUG ATTIG 6066 N 84TH DR GLENDALE AZ 85305</p>	<p>A.I. BABINEAU 4815 W COCHISE DR GLENDALE AZ 85302</p>	<p>ROD BEAL 18869 N 71ST LN GLENDALE AZ 85308</p>
<p>BOB BOHART 5603 W BELMONT GLENDALE AZ 85301</p>	<p>JOYCE CLARK 8628 W CAVALIER DR GLENDALE AZ 85305</p>	<p>DON TATE 6735 W ROBIN LN GLENDALE AZ 85310</p>
<p>ALMON DAVIS 6005 W MONTE CRISTO AVE GLENDALE AZ 85306</p>	<p>MIKE DEPINTO 6507 W SHAW BUTTE DR GLENDALE AZ 85304-2414</p>	<p>DANIEL DREW 4502 W MORTEN AVE GLENDALE AZ 85301</p>
<p>SAMANTHA JOHNSON CBD DIVERSIFIED 3131 E CAMELBACK RD STE 210 PHOENIX AZ 85016</p>	<p>TRISH EDWARDS 8626 N 53RD AVE GLENDALE AZ 85302</p>	<p>JUDY FARR 6527 W HILL LN GLENDALE AZ 85310</p>
<p>BARBARA FENNEMA 18033 N 83RD DR PEORIA AZ 85382</p>	<p>SUSAN FERRELL 4646 W KRALL ST GLENDALE AZ 85301</p>	<p>JOHN KOLODZIEJ 6258 N 88TH LN GLENDALE AZ 85308</p>
<p>B GARLAND 5012 N 64TH DR GLENDALE AZ 85301</p>	<p>MARK GARRATT 7605 N 72ND AVE GLENDALE AZ 85303</p>	<p>DENNIS GERHARD 10613 N 48TH AVE GLENDALE AZ 85304</p>
<p>DIANE HAND 5349 W ACAPULCO GLENDALE AZ 85306</p>	<p>DAVE TRISH 6773 W VIA MONTOYA DR GLENDALE AZ 85310</p>	<p>JOHN AND SUE JONES 18658 N 78TH DR GLENDALE AZ 85308</p>
<p>ARLINE YZQUIERDO 8525 N 52ND DR GLENDALE AZ 85302</p>	<p>DEBRA KIST 5643 W MOUNTAIN VIEW RD GLENDALE AZ 85302</p>	<p>TERRY LANE 6103 N 87TH LN GLENDALE AZ 85305-2452</p>

<p>GEORGIA KNOX 17214 N 66TH TER GLENDALE AZ 85308</p>	<p>RONALD AND KAY LONGCOR 8022 W MONTEBELLO AVE GLENDALE AZ 85303</p>	<p>BILL NORGRN 8608 W CAVALIER GLENDALE AZ 85305</p>
<p>KATHLEEN LEWIS 7456 W AURORA DR GLENDALE AZ 85308</p>	<p>MICKEY LUND 5708 W ROYAL PALM RD GLENDALE AZ 85302</p>	<p>CHERI MCCLOSKEY 5336 W BECK LN GLENDALE AZ 85306</p>
<p>CARRIE AND MITCH MEEK 6563 W PIUTE AVE GLENDALE AZ 85308</p>	<p>DAVE TRISH 6773 W VIA MONTOYA DR GLENDALE AZ 85310</p>	<p>WILLIAM RAY 7305 W ANGELA DR GLENDALE AZ 85308</p>
<p>LAURA RAKOCZYNSKI 9403 N 50TH DR GLENDALE AZ 85302</p>	<p>PATTY WYRICK 9626 N 58TH DR GLENDALE AZ 85302</p>	<p>VALLEY PARTNERSHIP 5110 N 44TH ST STE 200 PHOENIX AZ 85018</p>
<p>CHRISTIAN WILLIAMS PEORIA UNIFIED SCHOOL DISTRICT 6330 W THUNDERBIRD RD GLENDALE, AZ 85306</p>	<p>THE ARIZONA REPUBLIC 17235 N 75TH AVE STE A 100 GLENDALE AZ 85308</p>	<p>MICHAEL SOCACIU 8574 W BERRIDGE LN GLENDALE AZ 85305</p>
<p>RICHARD SCHWARTZ 8232 W MONTEBELLO AVE GLENDALE AZ 85303</p>	<p>DIANA M SEGER 6132 W TOWNLEY AVE GLENDALE AZ 85302</p>	<p>TOM TRAW 6024 N 83RD AVE GLENDALE AZ 85303</p>
<p>MARY SMITH 8968 W CITRUS WAY GLENDALE AZ 89305</p>	<p>MEL SMITH PO BOX 12572 GLENDALE AZ 85318</p>	<p>SANDRA MENDEZ 5412 WEST NORTHVIEW AVE GLENDALE AZ 85301</p>
<p>JEFF BLAKE 19210 NORTH 70TH AVENUE GLENDALE AZ 85308</p>	<p>GARY SHERWOOD 5928 WEST PERSHING AVE GLENDALE AZ 85304-1123</p>	<p>CATHY CHESHIER 5896 WEST DEL LAGO CIR GLENDALE AZ 85308</p>

E-mails received from the City of Glendale

From: savipog5@aol.com [<mailto:savipog5@aol.com>]

Sent: Tuesday, April 10, 2012 1:40 PM

To: Cordero, Remigio

Subject: VAR12-04

I am adamantly opposed to a medical marijuana dispensary in this neighborhood under any circumstances. I will actively campaign against any City Council person who has appointed a Member of the Board of Adjustment who votes for this.

I have no intention of attending Thursdays meeting to here the pot shops attorney tell me I don't need to worry. I DON'T WANT IT HERE!

I understand there is a state law with regards to marijuana dispensaries. However, nothing requires us to allow them into our neighborhoods where they need a variance to operate.

Scott
602-999-3125

From: CAPSTONE HOLDINGS LLC [<mailto:capstone500@gmail.com>]

Sent: Tuesday, April 10, 2012 3:59 PM

To: Cordero, Remigio

Subject: VAR12-04

I am opposed to the variance request.

Thank you,
Elonica Saville
480.389.4117

From: elonicas@aol.com [<mailto:elonicas@aol.com>]

Sent: Tuesday, April 10, 2012 4:02 PM

To: Cordero, Remigio

Subject: VA12-04

I am opposed to the variance request. Julia Poggi

From: Dante Saville [<mailto:1dantemax@gmail.com>]

Sent: Wednesday, April 11, 2012 8:30 PM

To: Cordero, Remigio

Subject: variance

I am very opposed to the variance var12-04.

Dante Maxwell

From: HENRY T TRUSHEL [<mailto:htrushel@msn.com>]

Sent: Thursday, April 12, 2012 3:01 PM

To: Cordero, Remigio

Subject: var-12-04

I am VERY MUCH OPPOSED to var-12-04. I do not want a marijuana dispensary in MY neighborhood.

Thank you.
Hank Trushel
10226 N 45th Avenue
Glendale, Az 85302
602-301-0411
EMAIL htrushel@msn.com

EARL, CURLEY & LAGARDE, P.C.
ATTORNEYS AT LAW

Telephone (602) 265-0094
Fax (602) 265-2195

3101 North Central Avenue
Suite 1000
Phoenix, Arizona 85012

March 28, 2012

**RE: Advanced Pain Solutions, Inc.,
4416 W. Peoria Avenue
Neighborhood Meeting - Application Number VAR12-04**

Dear Neighbor, Property Owner, Interested Party or Homeowners Association:

This letter is to inform you that our office has recently filed a Variance request with the City of Glendale. Advanced Pain Solutions, Inc., seeks a Variance to reduce the separation requirement from a Medical Marijuana Dispensary to: 1) A residentially zoned property (City of Glendale Fire Station #4) to 425-feet where a minimum of 500-feet is required; and 2) An elementary, secondary or high school property to 1,263-feet where a minimum of 1,320 feet is required.

This request is to allow a Medical Marijuana Dispensary to be located in a 1,140 square feet suite within an existing building located at 4416 W. Peoria Avenue, generally located west of the northwest corner of Peoria and 43rd Avenues. The approximately 1.25 acres property is irregular in shape and zoned C-2 (General Commercial). The existing buildings were built on the property in 1975. The overall commercial property includes a freestanding convenience mart at the southwest corner of the property, adjacent to Peoria Avenue, and in-line shops along the northern portion of the property. The subject suite is located near the middle portion of the existing in-line building.

The property is a completely self-contained site that fronts on Peoria Avenue and backs to a canal along the north side of the property. Access to the property is provided via Peoria Avenue from two existing driveways. To the north, across the +/- 220 wide canal, exist a commercial retail center with the City of Phoenix city limits (zoned C-2); to the east, exists a self-serve carwash facility (zoned C-2); to the west exists an office development (zoned C-1); and to the south, across Peoria Avenue, exists the Target Shopping Center (zoned C-2). Peoria Avenue and 43rd Avenue is a signalized intersection.

Section 7.802(G) of the City's Zoning Ordinance permits a Medical Marijuana Dispensary in C-2 zoning districts subject to three spacing requirements; 1) not within 5,280 feet of another approved medical marijuana use; 2) not be within 500 feet of a residentially zoned property; or 3) not within 1,320 feet from schools.

We would like to invite you to a Neighborhood Meeting to learn more about the request on:

DATE: Thursday, April 12, 2012
TIME: 6:00 PM
LOCATION: City of Glendale City Hall (Meeting Room B2)
5950 W. Glendale Avenue, Glendale, Arizona 85301

March 28, 2012
Page 2

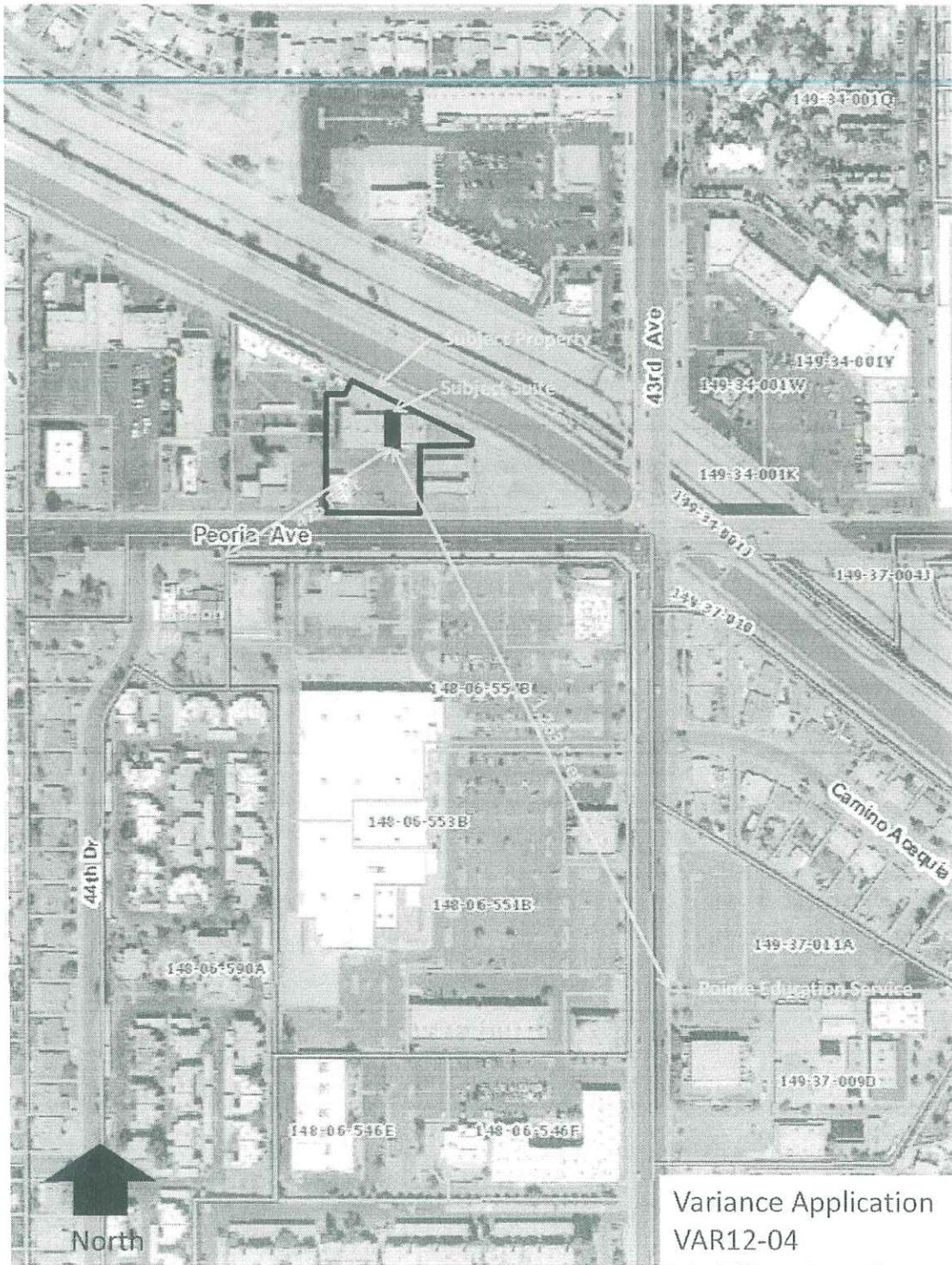
I have included an aerial photo of the site's location and the proposed Site Plan for your review. Comments and questions will be accepted at this time. If you are unable to attend the neighborhood meeting, please write, e-mail, fax, or call me at (602) 265-0094. You may also contact Remigio Cordero, Planner, with the City of Glendale Planning Department at (623) 930-2597.

Sincerely,


Michael J. Curley

MJC

Attachment: As Stated.



Cordero, Remigio

To: Cordero, Remigio
Subject: FW: Marijuana Dispensary

From: "r56twisted@cox.net" <r56twisted@cox.net>
Date: April 26, 2012 10:33:00 PM EDT
To: "Perry, Tabitha" <TPerry@GLENDALEAZ.com>
Subject: Marijuana Dispensary

Dear Ms. Perry,

On May 10th, an Organization is asking for a variance from the City of Glendale to open a Marijuana Dispensary in the strip mall on the NW corner of Peoria and 43rd Avenue. Both Glendale and Phoenix prohibit such businesses within 1320 feet (1/4 mile) from Schools. My Niece attends North Pointe Preparatory, which is in Phoenix, but within the distance of the 1/4 mile. I am concerned on the variance being change by any organization that will allow it closer to any school. I think that because of the school being located in Phoenix should be able to decide on the variance before its is to late.

I do agree there is a place for medical marijuana, but I think because it is being requested in Glendale, that the parents and students in the Phoenix area should be aware and have a say on the issue.

I am also concerned of how these dispensaries plan to advertise. Once they are issued a license, it will be to late to change. I have heard of some of the advertising problems in California. I think we need to stay with the original guidelines so the dispensary has a place in the community, but don't become an eyesore.

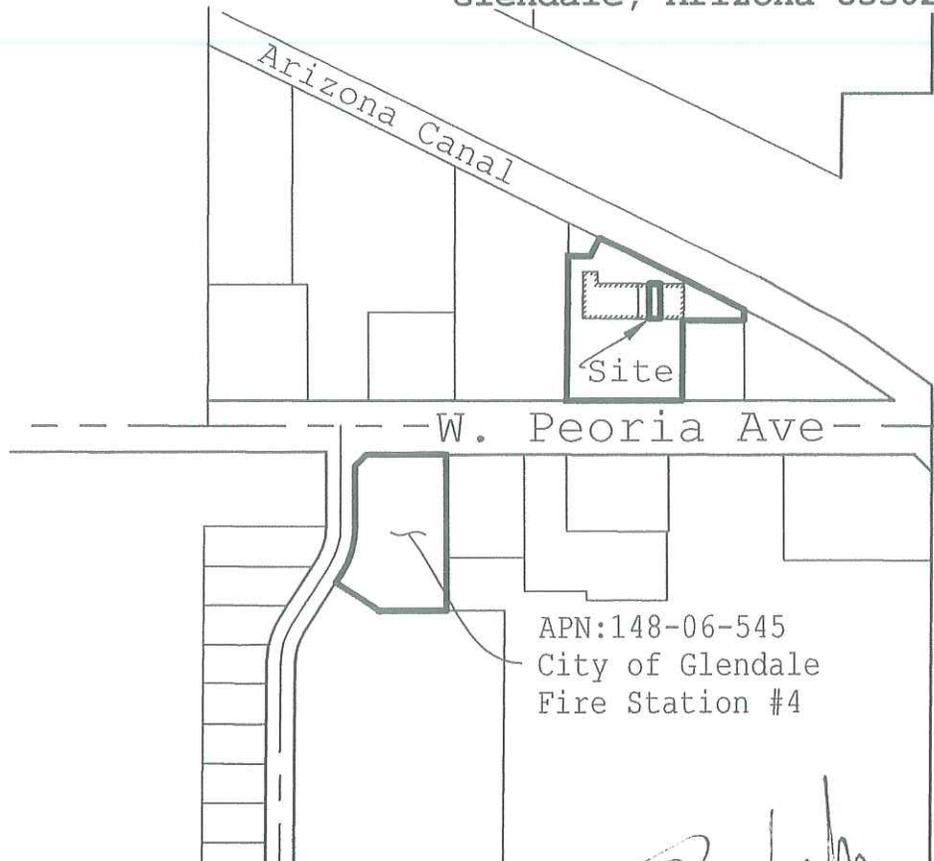
Thank you,
Rebecca Huscher
623-628-9442

Setback Site Sketch

Peoria Plaza, LLC
 4416 West Peoria Avenue
 Glendale, Arizona 85302



no scale



APN:148-06-545
 City of Glendale
 Fire Station #4

43rd Ave

APN:149-37-009D
 POINTE EDUCATION
 SERVICES

Referenced Documents

plat bk 213, pg 43, mcr
 plat bk 121, pg 17, mcr
 deed 20040785058, mcr
 deed 060181223, mcr



Legend

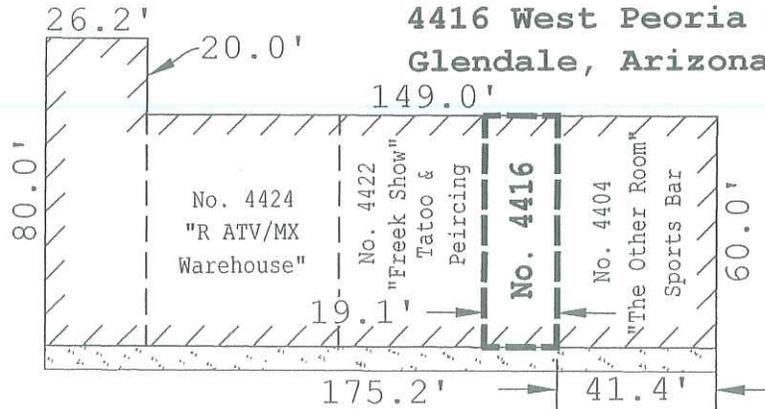
- 123-45-678 assessor's parcel number
- bc brass cap
- CZ: city zoning designation
- (M) measured
- (R) record
- ⊙ brass cap
- ▨ building footprint
- ▩ concrete
- lot line
- - - right-of-way
- - - section line
- subject property
- - - tie

MAR 27 2012

Exhibit "A"	
APN:148-03-499	
DATE: 02/14/2012	
VERSION #: 2	
DRAWN BY: JWW	
REVIEWED BY: MJU	
JOB#: 11-103	
Urany & Weeks	Professional Land Surveyors 480-292-1663
1	OF 3

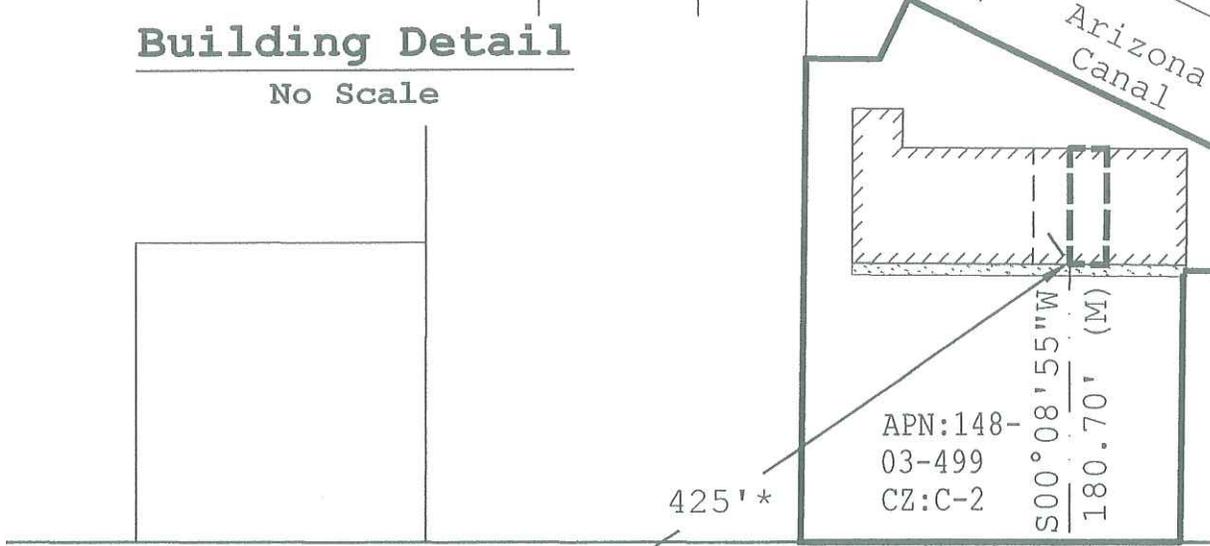
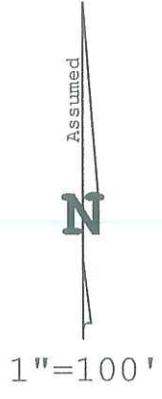
Setback Site Sketch

Peoria Plaza, LLC
 4416 West Peoria Avenue
 Glendale, Arizona 85302



Building Detail

No Scale



Ave

Ave

W. Peoria Ave

542.96' (M)

S00°08'55"W
 50.00' (R)

895.03' (R)

N89°51'05"W 1452.10' (M)

45th

43rd

APN:148-06-545
 City of Glendale
 Fire Station #4
 CZ:R1-6

* This dimension is from the exterior wall of the proposed facility's building to the protected property line.

Exhibit "A"	
APN:148-03-499	
DATE: 02/14/2012	
VERSION #: 2	
DRAWN BY: JWW	
REVIEWED BY: MJU	
JOB#: 11-103	
U rany & Weeks	Professional Land Surveyors 480-292-1663
2	OF 3

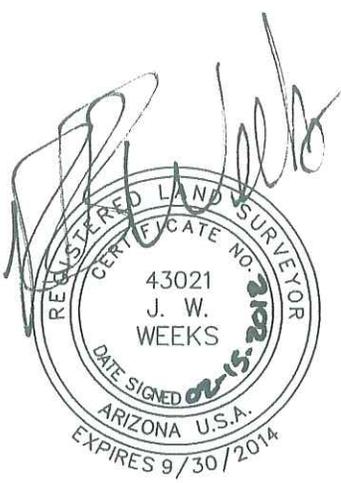
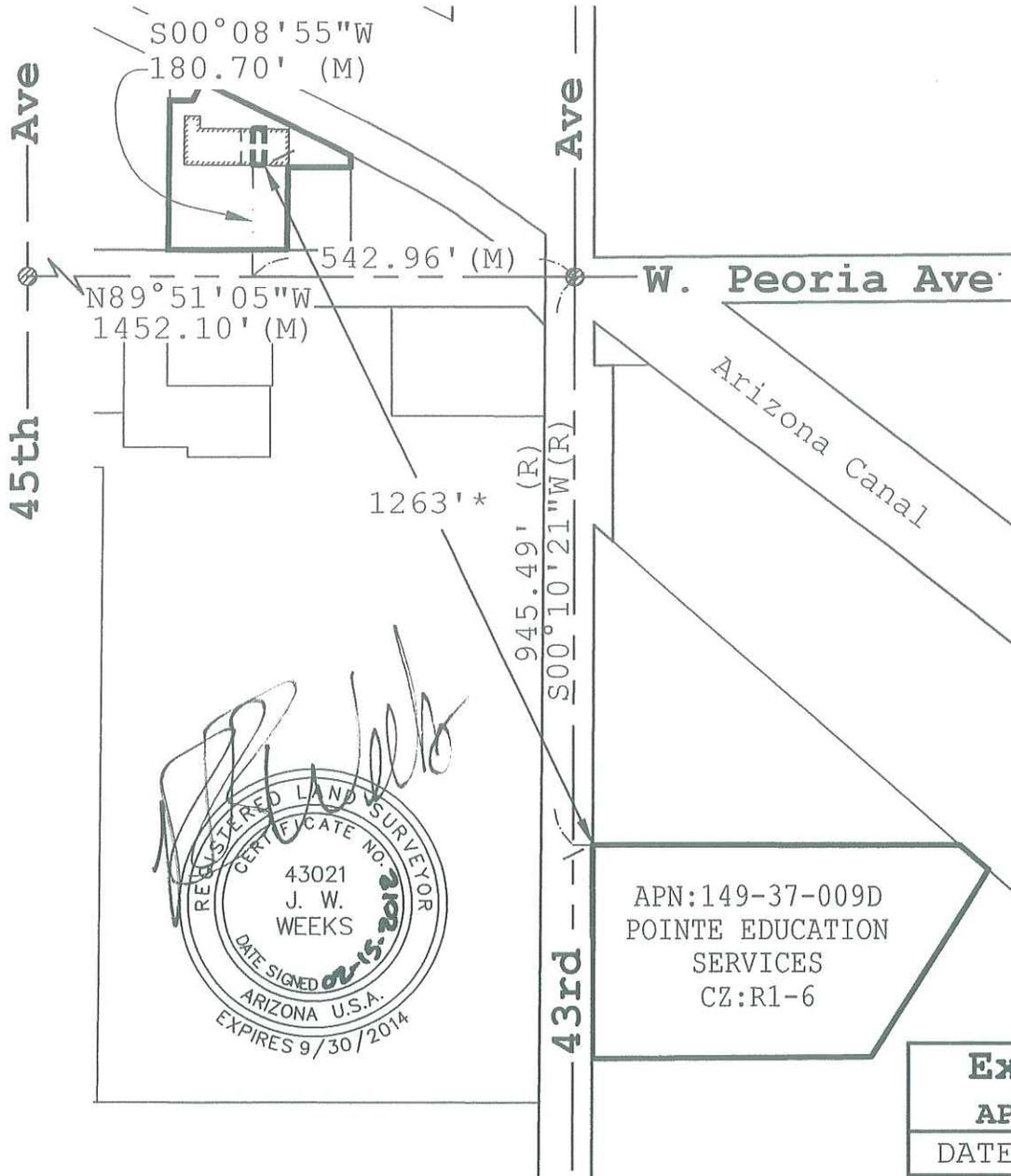
MAR 27 2012

Setback Site Sketch

Peoria Plaza, LLC
 4416 West Peoria Avenue
 Glendale, Arizona 85302



1"=300'

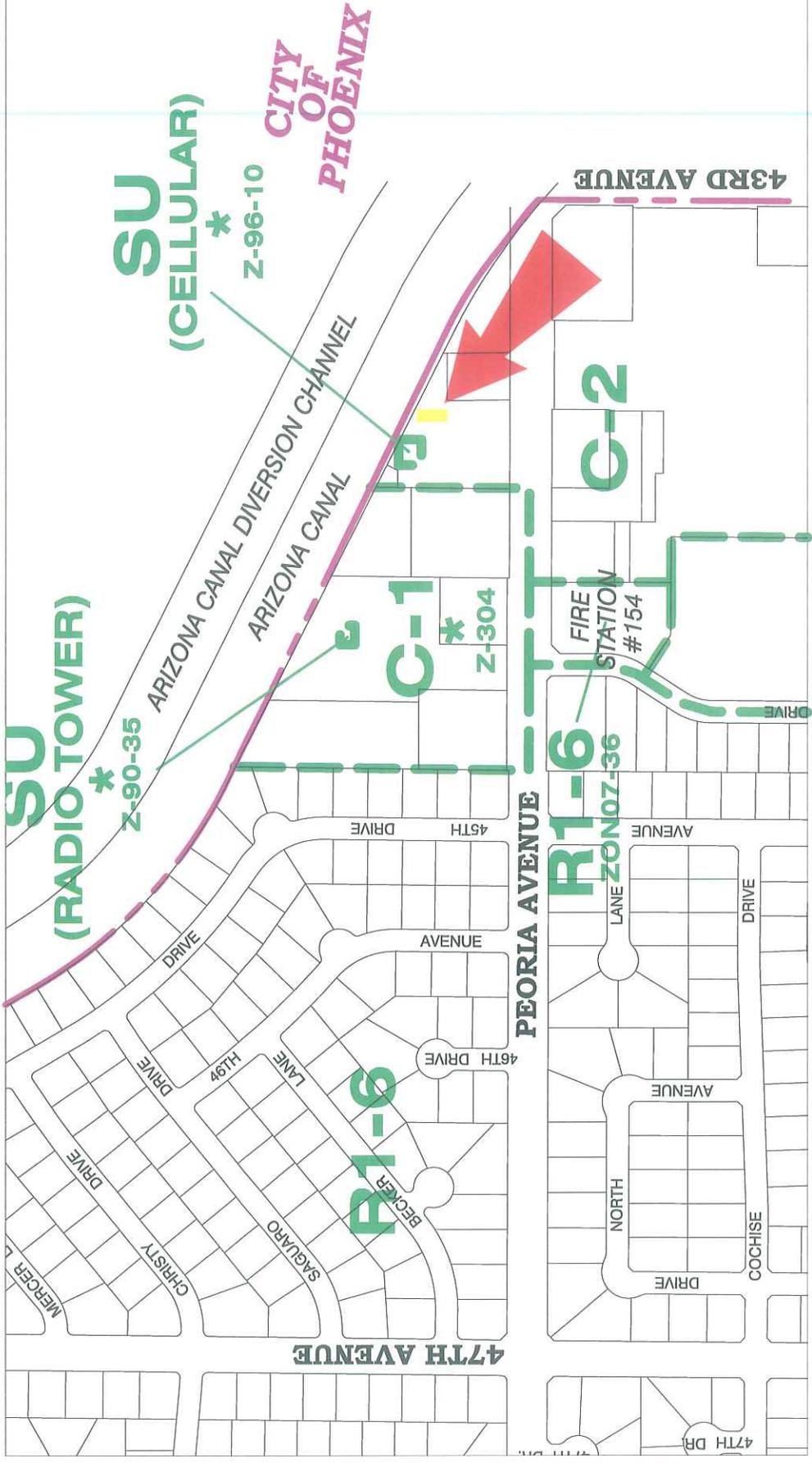


APN:149-37-009D
 POINTE EDUCATION
 SERVICES
 CZ:R1-6

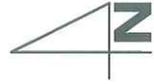
Exhibit "A"	
APN:148-03-499	
DATE: 02/14/2012	
VERSION #: 2	
DRAWN BY: JWW	
REVIEWED BY: MJU	
JOB#: 11-103	
U rany & Weeks	Professional Land Surveyors 480-292-1663
3	OF 3

* This dimension is from the exterior wall of the proposed facilities building to the protected property line.

MAR 27 2012



CASE NUMBER
VAR12-04



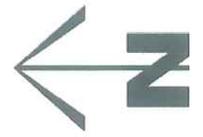
LOCATION
4416 W. PEORIA AVENUE

REQUEST

A VARIANCE TO REDUCE THE SEPARATION REQUIREMENT FROM A MEDICAL MARIJUANA DISPENSARY TO A RESIDENTIALLY ZONED PROPERTY AND A SCHOOL.



Case Number
VAR12-04



Aerial Date: November, 2008