

TOWN OF DEWEY-HUMBOLDT
BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 16, 2012, 2:00 P.M.

A SPECIAL VARIANCE HEARING OF THE DEWEY-HUMBOLDT BOARD OF ADJUSTMENT WAS HELD ON MONDAY, APRIL 16, 2012, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. CHAIR LYDIA CHAPMAN PRESIDED.

1. **Call To Order.** The meeting was called to order at 2:00PM.
2. **Opening Ceremonies.**
 - 2.1. **Pledge of Allegiance.** Made.
3. **Roll Call.** Board Members Judy Davidson, Frank Davidson, Vice Chair Jack Hamilton, and Chair Lydia Chapman were present.
4. **Consent Agenda.**
 - 4.1. **Minutes.** Minutes from the February 21, 2012 BOA Meeting.
Board Member Judy Davidson made a motion to approve the minutes from the February 21, 2012 Board of Adjustment Meeting; Vice Chair Jack Hamilton seconded. The vote passed unanimously.
5. **Discussion Agenda – Unfinished Business.** Discussion and Possible Action on matters previously presented to the Board. None.
6. **Discussion Agenda-New Business-** Discussion and Possible Action on matters not previously presented to the Board.
 - 6.1 **Public Hearing - Variance Request from the side yard and building separation setback requirements.**

The Public Hearing was opened at 2:03PM.

Chair Lydia Chapman stated the hearing is for discussion and action on a variance for parcel number 402-03-281A, zoning case #ZV2012-1 filed by Stuart and Tanya Ott for a hearing on April 16, 2012 requesting a side yard setback and a setback to the house. She stated the hearing will begin with Mr. Arrington's Planner's Report (attached).

Mr. Arrington read his report. Variance request for APN: 402-03-281A; request to approve a conditional variance to allow for a reduction in the side yard and a separation setback requirement for the property located at 11965 E. Yavapai Drive. The property is currently zoned R1-70 and is 2.12 acres in size.

Request: For approval of a reduction in the required twenty-five (25) foot side yard setback at the west property line and the required ten feet separation between the home and the proposed accessory structure.

History

Current Zoning: R1-70

Land Splits: None

Current Use: Single Family Residence

Past Use: Vacant Property

On June 14, 2010, there was a building permit applied for to construct a 1,566 square foot manufactured home. The project was completed on October 27, 2010. At its completion the project met all required setbacks for the zoning. On October 15, 2010, applicant applied for an electrical permit to provide service to the structure. The project was completed on October 27, 2010.

Zoning Violations: None

Surrounding Land Use Designation:

North - Single Family Residence

East - Single Family Residence

South - Single Family Residence

West - Single Family Residence

Surrounding Zoning Classification:

North - R1-35/70

East - R1-35/70

South - R1-70

West - R1-70

Current Zoning Requirements:

The current zoning requirements for R1-70 are 70,000 square foot minimum lot size and 200-foot minimum lot width. Front setback of 50 feet; rear setback of 50 feet; interior side setback of 25 feet; exterior side setback of 30 feet. Vice Chair Jack Hamilton asked for clarification on interior side setback. Mr. Arrington stated that it is the designation for side by side lots. The maximum building height is two stories/30 feet and maximum lot coverage 15%.

Current Building Separation Requirements:

The current building separation requirements for this parcel are 10 feet between the primary structure and an accessory building.

Requested Variance:

The applicant is requesting relief from both the building and zoning codes of the Town. The aspect of the building code pertains to the 10 foot separation requirement between structures. The current regulations for the side yard setback in the R1-70 zoning district requires a 25-foot setback from the proposed structure to the property line. The applicant is requesting a side yard setback of 10 feet and a building separation setback between the primary structure and the proposed accessory structure of 3 feet.

Public Notification:

A sign was posted April 2, 2012. Since the posting of the property, one adjacent property owner (anonymous) discussed the case with staff and did not give an opinion either way. The applicant provided one letter of support from the property owner at 11795 E. Yavapai Drive. No objections to the proposed relief have been received on this case.

Chair Lydia Chapman asked if Mr. Arrington wanted to save his recommendation until after the presentation; he agreed.

Chair Chapman invited the Board and the applicant to ask questions of Mr. Arrington.

Vice Chair Jack Hamilton asked why the Town requests a 10 foot setback. Mr. Arrington responded he believes it is because this is a rural community with primarily R1-70 zoning;

the setbacks maintain the open space feel of the community and the current building codes require at least a 3 foot separation for non-combustible structures.

Board Member Frank Davidson asked what the number 15 referred to in the Planner's Report. Mr. Arrington responded it is the maximum lot coverage; only 15% of the lot may be covered with structures.

Board Member Judy Davidson asked to define combustible vs. non-combustible. Mr. Arrington stated that the applicant is proposing a metal and steel structure which is considered non-combustible.

Chair Chapman stated it appears 2/3 of what is required in setbacks is being eliminated. Mr. Arrington confirmed.

Chair Chapman asked Mr. Ott if they had any representatives speaking on their behalf; he responded no. Chair Lydia Chapman stated the instructions for the hearing and swore in Mr. Ott.

Evidence:

Mr. Ott stated several things have changed since they purchased the property in 2007, one change being the setbacks were 10 feet at that time. He stated he appreciated this process. He noted the structure is a flat-top metal carport with a concrete floor. The land is not level and is quite steep. The spot chosen for the structure is the most beneficial for the applicant.

Vice Chair Hamilton asked Mr. Ott if he put in the pad for the mobile home and if he did the grading for the lot. Mr. Ott responded that when it was purchased it already had a flat spot on the top and the road. A contractor was used for the wall.

Vice Chair Hamilton asked Mr. Ott when they put the mobile home on the pad, if he gave thought to where he would place utilities, house, garage, septic. Mr. Ott responded, yes, and noted it is a very small area, but they were able to get everything in that small pad. Mr. Ott stated it became obvious that putting a full size enclosed garage was not practical so they decided on the metal structure.

Vice Chair Hamilton asked Mr. Ott if he realized there was a problem why did he not make a larger pad. Mr. Ott responded they were looking at the cost of doing that compared to the cost of the current proposal; they did not fully realize what would happen with the space on the lot.

Vice Chair Hamilton asked Mr. Ott if the carport is going to have a cement base. Mr. Ott responded yes. Vice Chair Jack Hamilton asked Mr. Ott if the structure is open on all four sides. Mr. Ott responded yes.

Board Member Frank Davidson asked Mr. Ott if he considered building a smaller carport. Mr. Ott responded, no.

Vice Chair Hamilton asked Mr. Ott if he could create a spot lower on the property to put a carport. Mr. Ott responded that the shape of the lot was not conducive to doing so because of the well and the septic placement and setbacks; the structure would sit almost in the middle of the road and the further away it gets, the less useful it becomes.

Vice Chair Hamilton asked Mr. Ott if he considered bringing in fill dirt. Mr. Ott stated it comes down to cost and shape of the lot. He stated it is mostly road coming up to the pad. The further away the structure is placed from the house, the less useful it becomes. Mr. Ott

stated it is very steep in the area indicated by Vice Chair Jack Hamilton. He stated they originally considered putting the septic there but getting to that area to do the work was problematic. The current plan is practical and gives access to the front of the house.

There was discussion about which side of the house is considered the front. Mr. Arrington stated the front of the house is the access from the street (Yavapai). Chair Lydia Chapman asked all to refer to that as the front of the house (which is what the Ott's consider the back).

Chair Chapman asked Mr. Ott the width between the boundary line of the property and the ravine where the land drops off. Mr. Ott stated the width across is about 100 feet.

Chair Chapman asked the width from the porch facing east to the drop-off. Mr. Ott stated it is about 15 feet. Chair Lydia Chapman stated a variance in this case substantially changes the zoning and the Board is counting it as one variance but it is two and it is limiting 2/3 of the setbacks.

Mr. Ott stated there is a small area at the front for visitor parking, access for well maintenance, for power, etc. There is a very steep drop off on one side requiring a lot of work. Placing a large structure at the front would interfere with the views. Placing it at the back would make it difficult to back out; it is not a large area.

Board Member Judy Davidson asked Mr. Ott if he would need to grade or slope the land again. Mr. Ott responded yes, more work will need to be done, moving dirt almost all the way to the property line to allow for proper run-off and to level it.

Mr. Ott stated their neighbors built before the Town was incorporated and have a garage 10 feet from the property line. Mr. Ott did not feel that this variance would change how the area looks since the neighbors have a 20x25 foot garage at a 10 foot setback which was grandfathered before the Town's incorporation.

Chair Chapman stated there is no grandfathering in zoning or variances.

Mr. Arrington stated the accessory building to the west that Mr. Ott is referring to was permitted through the Town in 2006; there are provisions in the current zoning ordinance for lots with unusual configurations that would allow structures to be within 10 feet of a rear property line. It is called "density districts" which is what the neighbor's property fell within.

Vice Chair Hamilton asked Mr. Arrington if that is currently in Town Code or if it existed before the Town incorporated. Mr. Arrington stated it is in current Town Code. Mr. Arrington provided copies to the Board (attached). Vice Chair Jack Hamilton read the footnote of the chart presented, "detached accessory structures...may encroach within 5 feet to rear lot line to maintain a 10 foot building separation". Mr. Arrington stated the neighbor's lot has a rear lot line so the Town Code applied and the Town issued a permit.

Chair Chapman stated the code is not pertinent to Mr. Ott's request; it refers to the rear property line and the current request is referring to a side setback. The Board agreed it was not applicable.

Chair Chapman stated the presentation was concluded.

Chair Chapman asked if any Board members had "ex-parte" knowledge, or knowledge not in evidence, and if they discussed their decision with anyone. All Board members responded "no". Chair Lydia Chapman stated she had discussion with Mr. Arrington and Yvonne Kimball, Town Manager, about the high density areas. She stated she also spoke with

Cathy Kelley, Magistrate, about the zoning regulation. Chair Lydia Chapman directed the Board Members to the Board of Adjustment Notes document (attached), page 3 for the following questions. Mr. Ott received a copy of the document for reference.

Chair Chapman asked the Board Members, "Is the hardship self-created?"

Vice Chair Hamilton stated "yes", he believed the hardship was self-created because Mr. Ott said cost is the reason he did not increase the size of the lot, knowing he may have problems trying to put everything on the pad. In order to save money Mr. Ott kept the lot small instead of increasing it, and stated it would be expensive to bring in dirt on the east side, and it would block his view. View and cost is the reason and therefore it is a self-created hardship.

Board Member Judy Davidson stated based on the information presented and what she saw at the lot, she concurs with Mr. Hamilton that it was self-created.

Board Member Frank Davidson stated he concurred with Mr. Hamilton, it is a self-created situation.

Chair Chapman stated she concurred with Mr. Hamilton. To Mr. Ott she stated that if there is a hardship that is moved by cost the Board cannot take that into account, noting the decision must be based solely on the details of the land, size, shape, topography, geography.

Chair Chapman asked the Board members, "Is the hardship created by land use? Will strict interpretation of the code create an unnecessary hardship due to 'special circumstances'? (size; shape; topography; location/surroundings)."

Vice Chair Hamilton stated he believes strict interpretation of the code does not prevent Mr. Ott from putting a structure on his property, it just has to be relocated, noting that may be difficult, but there is plenty of room on the property. It is not a hardship of the property; it is a hardship Mr. Ott created. It may cost a little more; it may ruin the view, but it is not a hardship of the land.

Chair Chapman asked the Board if anyone does not concur with Mr. Hamilton's statement. None heard.

Chair Chapman asked the Board members, "Will special circumstance deprive the property of privileges enjoyed by other property of the same classification in the same zoning district without granting special privileges inconsistent with limitations upon other properties in the vicinity and zone in which the subject property is located?"

Vice Chair Hamilton stated the applicant presented an argument about the neighbor's land being close to the property line which has the same zoning, but according to the code that was presented, it was permissible; that does not apply to the current case. The neighbor's situation followed the code, whereas Mr. Ott's case does not.

Chair Chapman asked if there were any other comments. None heard.

Chair Chapman asked the Board members, "Is granting a variance materially detrimental to persons residing or working in the vicinity; to adjacent property; to the neighborhood, or to the public welfare in general?"

Vice Chair Hamilton responded, "No", it is not detrimental. If a variance was granted, it would not be detrimental to people residing or working in the vicinity; his neighbor indicated support. It does not affect the public welfare in general.

Chair Chapman asked the Board members if they all concurred. All agreed.

Chair Chapman stated she noticed when looking at the area that it appeared very dense already. Because of the Ott's home, the neighbor's garage/home and the way they are situated, the structures appeared in a row and very close. The Town's community plan (correction: general plan) talks about maintaining low density/low intensity and the Board should consider that also.

Chair Chapman asked the Board members, "In granting the variance is the integrity of the ordinance maintained?"

Board Member Judy Davidson stated she felt there was an issue and the way the applicant's lot was graded has added to the situation, making it much more dense. Mr. Arrington stated the configuration of the lot makes it difficult. From Yavapai Road to the pad is a drastic 60 foot change in grade elevation; it makes it difficult and a challenge which is why the applicant has requested a variance. It could have been done several different ways but that is the challenge with the site.

Chair Chapman asked Mr. Arrington if there is anything that would deter any kind of development of a structure or anything that would deter any other alternative.

Mr. Arrington stated it is a matter of expense; there are other methods to achieve the same goal. There are a number of lots in town with similar configuration; many are left undeveloped because of these restrictions. It is a matter of what the homeowner wants to take on.

Vice Chair Hamilton stated he did not believe the question was answered. The question is, is the ordinance maintained? The ordinance is setbacks and the Board would not be maintaining the integrity of the ordinance if the variance was granted. It would be a dual change in the ordinance.

Chair Chapman asked the Board members if there was concurrence or disagreement with Mr. Hamilton's statement. Board Members Frank and Judy Davidson concurred with Mr. Hamilton. Chair Lydia Chapman stated this is a large subtraction from what is required and did not feel it maintains the integrity, citing the reasons already given. Chair Chapman noted it would not necessarily be the deciding factor but it does not support the variance at this time.

Mr. Ott noted that the structure is not a garage, it is a carport, a covered structure with space for a couple of cars underneath.

Chair Chapman asked the Board Members if a covered structure that is open would change anyone's consideration; since cement or walls would not be visible, perhaps a roof, and the applicant's neighbor does not mind. The Board understood and did not change their consideration.

Chair Chapman called for the end of any discussion or debate.

Mr. Arrington resumed with the conclusion of his report. If the variance request is approved, the applicant must obtain a building permit within 60 days (attached staff report accurately reflects **six months**) from approval date. Current design documents call for 20 pounds per square inch (attached staff report accurately reflects 20 pounds per square **foot**) snow load roof design and they would need to comply with the Town's 30 pound per square inch (attached staff report accurately reflects per square **foot**) design criteria. In regards to the integrity of the zoning district being maintained, the fact that they requested a variance makes it a no. The request is a 60% reduction in side yard, and 70% on the separation

between primary and accessory building. The building code does allow a 3 foot separation as long as the structure is not combustible. It is up to the Board to decide based on what the applicants and staff have presented.

Chair Lydia Chapman made a motion to end discussion; seconded by Board Member Judy Davidson. The vote passed unanimously by roll call vote.

Chair Lydia Chapman read the variance request, to approve or disapprove the variance request for APN: 402-03-281A to approve a conditional variance to allow for a reduction in the side yard and separation setback requirement for the property located at 11965 E. Yavapai Drive. Case #ZV2012-1. Chair Lydia Chapman asked the Board if there was a motion to vote for approval or disapproval as previously dictated to the minute-taker. Vice Chair Jack Hamilton stated, so moved; seconded by Board member Frank Davidson. Mayor Terry Nolan, who was seated in the audience raised a point of order, noting that the motion should state approval of the variance and take a vote on that motion or the motion should state disapproval of the variance and take a vote on that motion, not both options in the same motion. Therefore, no vote was taken on this motion.

There was discussion about the wording of the motion.

Vice Chair Jack Hamilton made a motion to vote on the request by Mr. Ott for a variance and to give a reason for our vote. Chair Lydia Chapman stated more information on the variance should be included in the motion. There was further discussion about the wording of the motion. No vote was taken on this motion.

Vice Chair Jack Hamilton wished to re-state the motion. Vice Chair Jack Hamilton made a motion to vote on the variance request for APN: 402-03-281A request to approve a conditional variance to allow for a reduction in the side yard and separation setback requirement for the property located at 11965 E. Yavapai Drive. The property is 2.12 acres in size. Case #ZV2012-1. Chair Lydia Chapman noted that Mr. Hamilton's motion was to approve the variance. The motion failed for lack of a second.

Vice Chair Jack Hamilton made a motion not to approve the variance request for APN: 402-03-281A, the variance is to allow for a reduction in the side yard and separation setback requirement for the property located at 11965 E. Yavapai Drive. The property is 2.12 acres in size. Case #ZV2012-1; seconded by Board member Frank Davidson.

Board member Judy Davidson voted, "Yes", to not approve the variance, based on it being a self-imposed situation and it was not because of the land.

Board member Frank Davidson voted, "Yes", to not approve the variance, as it was a self-imposed problem and not caused by the land.

Vice Chair Jack Hamilton voted "Yes", to not approve the variance, because it was a hardship created by the owner, not the land.

Chair Lydia Chapman voted, "Yes", to not approve the variance, based on a) the hardship is self-created, b) land-use is secondary to self-creation, c) privileges enjoyed by others can also be enjoyed by the applicant with different planning, d) it is not detrimental to other residents, and e) it would affect the integrity of the zoning.

The vote passed unanimously.

The public hearing ended at 3:12PM.

7. **Planner's Report.** Mr. Arrington stated he will no longer be attending BOA meetings.
8. **Comments from the Public.** Mr. Ott thanked the Board for their time and stated he understood their reasons.
9. **Comments and Recommendations from Board Members for Future Meetings.** The next BOA meeting will be held on Monday, April 23, 2012 at 1:30PM to approve the meeting minutes. Chair Chapman informed Mr. Ott that if he wished to appeal the decision made in the meeting he should contact Mr. Arrington for further information on recourse.
10. **Adjourn.** The meeting was adjourned at 3:16 PM.

Lydia Chapman, Chair

ATTEST:

Mandi Garfield, Administrative Assistant

§ 153.069 DENSITY DISTRICTS.

(A) The following density districts and regulations are intended to be combined with the appropriate use districts. The density provisions in the accompanying chart, together with applicable general provisions (§ 153.065) as excepted below in divisions (C) and (D), shall regulate building heights, yards, lot sizes, lot area per dwelling unit, lot coverage and distance between buildings as though the same had been fully described in this section.

(B) Requirements of the density regulations are set forth in the table that follows.

<i>Density Regulations</i>												
Legend: A=Acres												
Dist.	Min Lot Size (in Sq. Ft.)	Min Area per dwelling	Min Lot Width and Depth	Min(1) Yard Setbacks Front	Min (1,2) Yard Setbacks Rear	Min (1,2) Yard Setbacks Interior	Min(1) Yard Setbacks Exterior	Max Building Height (Stories)	Max Building Height (Feet)	Max Lot Coverage (%)	Min Building Spacing (Feet)	
1	7,500	1,000	75	20	25	7	10	4(3)	50	50	10	
2	7,500	2,000	75	20	25	7	10	3(3)	40	50	10	
3	7,500	3,000	75	20	25	7	10	2	30	50	10	
4	7,500	4,000	75	20	25	7	10	2	30	50	10	
5	7,500	5,000	75	20	25	7	10	2	30	50	10	
7.5	7,500	7,000	75	20	25	7	10	2	30	50	10	
10	10,000	10,000	80	20	25	7	10	2	30	40	10	
12	12,000	12,000	90	20	25	7	10	2	30	40	10	
18	18,000	18,000	100	30	30	10	15	2	30	25	10	
25	25,000	25,000	130	30	30	10	15	2	30	20	10	

35	35,000	35,000	145	40	40	20	20	2	30	15	10
70	70,000	70,000	200	50	50	25	30	2	30	15	10
2A	87,120	87,120	225	50	50	25	30	2	30	10	10
175	175,000	175,000	300	50	50	30	50	2	30	10	10
5A	217,800	217,800	325	50	50	40	50	2	30	10	10
10A	435,600	435,600	500	50	50	50	50	2	30	5	10
36A	1,568,160	1,568,160	500	50	50	50	50	2	30	5	10

Notes:

(1) See yards and courts in § 153.093 for exceptions, deviations, and encroachments from minimum yard (setback) requirements.

(2) For C1, C2, C3, M1 and M2 Districts: Minimum interior side and rear yard requirements are waived if the yard is contiguous to C1, C2, C3, M1 or M2 zoned property. A setback of 20 feet shall be required whenever a lot zoned commercial or industrial abuts a lot zoned for residential purposes. Front and exterior side yard requirements shall be observed in all cases.

(3) Use permit required to exceed two stories.

(C) Detached accessory structures, other than structures housing animals, may encroach within five feet to rear lot line to maintain a ten-foot building separation. All other setbacks and building spacing separations must be achieved.

(D) The above is general information pertinent to the zoning requirements in the creation of a buildable parcel. It does not deal with specific questions, such as building safety, floodplain unit, environmental unit or engineering. These departments should be contacted before any actual splitting is pursued.

(Ord. 08-44 §516, passed 10-21-2008)

This is a guideline for the Order of the Findings when reviewed for approval. All members should participate by taking notes.

Board of Adjustments Notes

Hearing date: _____

1. Property, Parcel _____

2. Relief sought: _____

3. Applicant/s Name: _____

Address: _____

4. All Parties giving evidence (including Applicant): (S=Sworn In)

S _____ Name: _____

Address: _____

6. Before granting or not granting relief – discuss and note the following:

a) Is the hardship self-created? If “yes” why? (Remember chain of ownership.)

b) Is the hardship created by land use? Will strict interpretation of the code create an unnecessary hardship due to “special circumstances”? (size; shape; topography; location/surroundings) Describe.

c) Will special circumstances “deprive the property of privileges enjoyed by other property of the same classification in the same zoning district without granting special privileges inconsistent with limitations upon other properties in the vicinity and zone in which the subject property is located?”

d) Is granting a variance materially detrimental to persons residing or working in the vicinity; to adjacent property; to the neighborhood; or to the public welfare in general? Describe.

e) In granting a variance is the integrity of the ordinance maintained? If not, explain.

VARIANCE HEARING
APPLICATION CHECKLIST

Dewey-Humboldt
MAR 15 2012
Received

1. A FEE IN THE AMOUNT OF \$_____.
2. APPLICATION FORMS TO BE COMPLETED AND SIGNED BY THE APPLICANT:
 - HEARING APPLICATION (three pages)
Provide evidence that there are special circumstances or conditions applicable to the property of application, or to adjacent property, or to the neighborhood, that justify a variance from the requirements so that strict application thereof would work an unnecessary hardship, and that the granting of the request is necessary for the preservation and enjoyment of substantial property rights, and that granting of the request is necessary for the preservation and enjoyment of substantial property rights, and that granting will not materially affect the health or safety of the area residents nor the public welfare or be injurious to property or improvements.
 - DIRECTIONS TO PROPERTY
 - PERMISSION TO ENTER PROPERTY (*MUST BE NOTARIZED*)
 - SITE PLAN DRAWN TO ENGINEER'S SCALE (no smaller than 1" = 60')
3. DOCUMENTS TO BE SUBMITTED BY THE APPLICANT:
 - AGENT AUTHORIZATION (if applicable)
 - RECORDED DEED AND LEGAL DESCRIPTION
 - LETTERS OF SUPPORT (optional)
4. FORMS INCLUDED FOR APPLICANT'S REVIEW:
SECTION 207 E. - HEARINGS AND RULINGS AND
CHECKLIST FOR PLOT PLAN

PLEASE NOTE:

ALL VARIANCE APPLICATION REQUESTS ARE REVIEWED PRIOR TO ANY SCHEDULED PUBLIC HEARINGS. ALL RELATED CONCERNS AND/OR QUESTIONS NEED TO BE ADDRESSED BETWEEN THE APPLICANT AND STAFF AND/OR THE REVIEWING AGENCY.

*****ALL FORMS IN BLACK INK ONLY, PLEASE*****

QUESTIONS OFTEN ASKED ABOUT THE BOARD OF ADJUSTMENT

WHAT ARE THE POWERS AND DUTIES OF THE BOARD OF ADJUSTMENTS?

Board of Adjustment members are appointed by the Town Council and serve without pay.

THE BOARD HEARS:

Anyone who feels that an error has been made by the Land Use Specialist in enforcing the Code; and

Anyone who feels that special conditions of their property make it necessary to receive a variance to the terms of the Code; and

Questions and render and advisory decision on any matter referred to it by the Land Use Unit Manager.

WHEN CAN THE BOARD OF ADJUSTMENT GRANT A VARIANCE?

A variance can be granted when it can be demonstrated that ALL of the following criteria can be met:

Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other land, building or structures in the district; and

The literal interpretation of the Code would deprive the applicant of right commonly enjoyed by other properties in the same district under the terms of the Code; and

The alleged hardships caused by interpretation of the Code include more than personal inconvenience and financial hardship and do not result from actions of the applicant; and

Granting the variance will not confer upon the applicant any special privilege that is denied by the Code to other lands, structures or buildings in the district; and

The granting of the variance requested will not interfere or injure the rights of other property in the same district.

HOW DOES ONE APPLY TO THE BOARD OF ADJUSTMENTS?

1. Obtain an application provided by the Development Services Department.
2. Fully identify the premises in question.
3. Fully complete the application by clearly stating the request and reasons why the Board should approve the request.
4. Submit the application together with the filing fee.
5. Attend the Public Hearing before the Board of Adjustment and be prepared to present your request.

MAY A DECISION BY THE BOARD OF ADJUSTMENT BE APPEALED?

Yes. An appeal requires that a petition be filed with the jurisdictional County Superior Court within thirty days of the decision made by the Board of Adjustment.

TIPS ON APPEALING TO THE BOARD OF ADJUSTMENT:

- Read the application carefully and submit all requested information.
- Make the application as clear and concise as possible.
- Bring your own copies of relevant supporting materials (graphics and maps) to the Public Hearing.
- Clarify to the Board if you are requesting a variance, an appeal, or an advisory opinion.

SECTION 207- ADJUSTMENT BOARD

E. HEARINGS AND RULINGS: The Board of Adjustments shall hold at least one (1) public hearing, within a reasonable time from the date of application after giving a minimum of seven (7) days notice thereof to parties of interest and the public, by posting at the property of application (if property is involved) and by publishing once in a newspaper of general circulation in the Town. The Board of Adjustment shall render a decision within thirty (30) days after the initial hearing on same, unless an extension is agreed to by the Board and the applicant.

1. In approving an application (all or part) the Adjustment Board may designate such conditions in conjunction therewith that will, in its opinion, secure substantially the objectives of this Ordinance and may require guarantees in such form as it deems proper under the circumstances to ensure that such condition be complied with. Where any such conditions are violated or not complied with, the approval shall cease and the Land Use Specialist shall act accordingly.

2. In granting of permission to proceed on a specific development scheme or of a permit for a construction variance, the same shall be contingent upon permits being obtained and work commenced within SIX (6) MONTHS and being diligently pursued. Failure of such shall void the ruling unless a longer time had been granted or an extension in time is secured.

3. The concurring vote of three (3) members shall be necessary to render a ruling.

Dewey-Humboldt
MAR 15 2012
Received

TOWN OF DEWEY-HUMBOLDT
Hearing Application for Variance

Case # ZV2012-1 Assessor's Parcel# 402-03-281A

Name Stuart and Tanya Ott Supervisor District _____
(Print)

In accordance with A.R.S. 9-462.06, a variance may be granted from the terms of the Town Planning and Zoning Ordinance if the following requirements are satisfied to the Board of Adjustments and Appeals by the applicant.

PLEASE ANSWER THE BELOW REQUIREMENTS.

1. The peculiar conditions that make it necessary for you to request a Variance from the Ordinance are:

~~Please see attached~~

2. The unnecessary hardship that would be created if you cannot obtain a Variance:

~~Please see attached~~

3. The general intent and purpose of the Zoning Ordinance (which is to conserve and promote the public health, safety, convenience and general welfare by coordinated and harmonious growth and development) will be preserved because:

~~Please see attached~~

NOTE: Generally, the peculiar condition and unnecessary hardship are situations that run-with-the-land, i.e., rocks, ditches, hills, washes, etc... that would prevent enjoyment of property rights if strict interpretation of the Ordinance were enforced. Personal and/or self-imposed conditions or hardships may be given consideration but may not be valid or substantial reasons for a Variance.

PLEASE ANSWER THE BELOW REQUIREMENTS.

1. The peculiar conditions that make it necessary for you to request a Variance from the Ordinances are:

a) Due to the irregular shape of the lot and steep terrain, there is limited buildable space. The proposed carport site meets the setback requirements to the front and back of the lot, but not to the west property boundary. We are requesting a variance that would allow the carport (18'X24') to be constructed three feet from the west side of the home and 10 feet from the west property boundary.

b) There is a limited area to the north of the home that provides access for the maintenance of: propane tank, water well, power company, and visitor parking. Access to the septic tank is from the east side of the home. Placement of the carport on the west end of the home keeps this access area open to the north.

2. The unnecessary hardship that would be created if you cannot obtain a Variance:

a) Covered homeowner vehicle parking would not be available.

b) Without the addition of parking to the West of the home, homeowner access to the front (south) entrance of the house would remain restricted/limited.

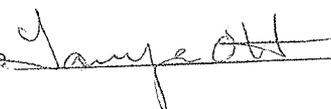
3. The general intent and purpose of the Zoning Ordinance (which is to conserve and "promote the public health, safety, convenience and general welfare by coordinated and "harmonious growth and development) will be preserved because:

a) The construction of this carport would not affect the general welfare of the adjacent property owners. See attached letter of support.

b) The property owner to the west has a permanently affixed home and metal garage opposite of the proposed carport site. The garage was constructed before D-H was incorporated and is 10 feet from the shared property line.

c) The construction of the proposed carport cover would not limit the adjacent homeowner's views or the future use of the lot.

Signature  Date 3-12-12

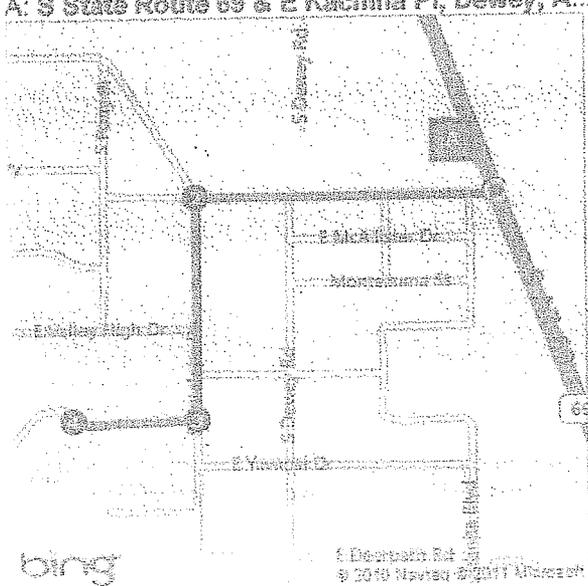
Signature  Date 3-12-12

Route: 0.9 mi, 3 min



This was your map view in the browser window

A: S State Route 69 & E Kachina Pl, Dewey, A...



B: 11965 E Yavapai Dr, Dewey, AZ 86327



From: Keith W. and Donna K. Bell
11795 E Yavapai Dr.
Dewey, AZ 86327

Town of Dewey-Humboldt
Board of Adjustments

To Whom it May Concern,

My wife and I have seen the plans and walked the site for our neighbor's proposed construction of a carport. Our neighbors are Stuart and Tanya Ott at 11965 E Yavapai Dr. We see no problem or future inconvenience with this proposed construction or its' location adjacent to our property. A variance within ten feet of the property line seems very reasonable.

We are available to answer any questions you might have.

Sincerely,


Keith W. Bell


Donna K Bell

03/11/2011

SITE PLAN CHECKLIST

NOTE: SITE PLAN MUST BE DRAWN TO SCALE WITHIN A MINIMUM LETTER SIZE FORMAT (24 X 36 MAXIMUM) THAT INCLUDES ALL OF THE FOLLOWING INFORMATION. LEGIBILITY OF THE GRAPHIC IS IMPORTANT. GENERATION OF THE GRAPHIC VIA CAD IS PREFERRED.

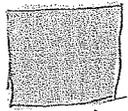
- Property dimensions
- Indicate scale used (Engineer's Scale - 1" = 20' 30' 40' 50' 60')
- Indicate North with directional arrow
- Proposed structures with all dimensions, including Pools
- Existing structures with all dimensions, including Pools
- Distances between structures
- Distance from all structures to the property lines
- Description of each structures use
- Adjacent streets/roads
- Driveway(s) and material used (i.e. gravel, concrete...)
- Location, Size, Dimensions of Septic System with Leach Area
 - ___ Perc test holes
 - ___ 100% Expansion area (minimum distance from septic and leach)
 - ___ Length and slope of outlet lines (5 foot min.)
 - ___ Distribution Box/Diversion Valve
 - ___ Inspection Pipe(s)
 - ___ Length and number of leach lines; distance between trenches
 - ___ Degree of slope in leaching area
 - ___ Length and slope of building sewer line (max 100 feet)
 - ___ Cleanout pipe in building sewer lines
 - ___ Setbacks from property lines, buildings wells, dry washes, other sewage systems, water lines.

(NOTE: If individual wells provide water, maintain minimum septic setbacks of 50' from property lines and 100' from all wells including neighboring wells).

- Location of all utilities, poles, meters and lines
- All easements, regardless of purpose (i.e. roads, utilities)
- Slope information
 - ___ Indicate High and Low points
 - ___ Indicate by arrows direction of slope
 - ___ Indicate difference in elevation between high and low points
- Distance from the closest structure to the top of bank of any watercourse(s)
(i.e. washes, streams, creeks, arroyos, rivers, drainage ways and slews)
- Location where orange Pre-issue card will be posted



Google earth

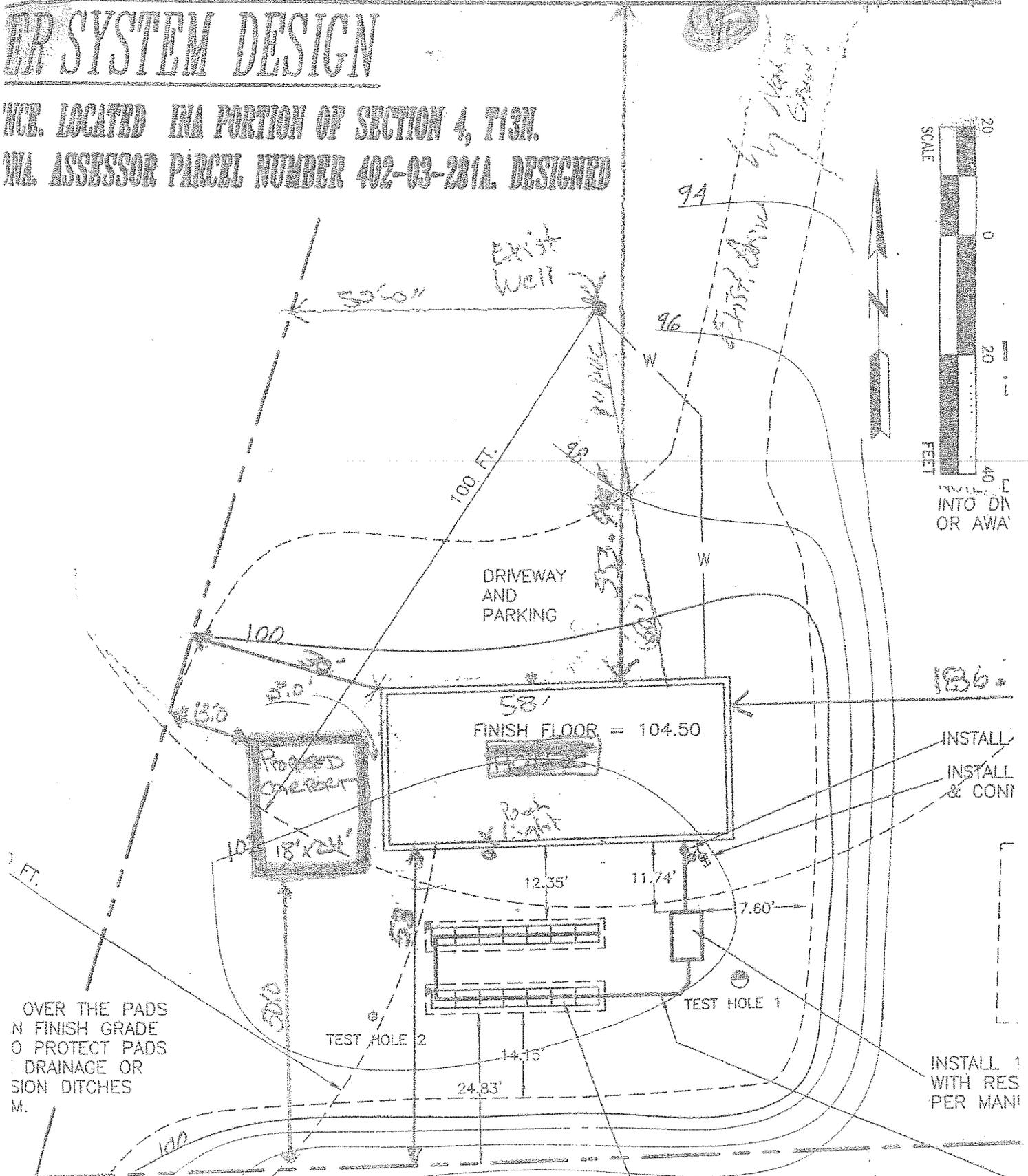


PROPOSED CARTPORT
LOCATION

DR SYSTEM DESIGN

LOCATED IN A PORTION OF SECTION 4, T13N.
 IN A ASSESSOR PARCEL NUMBER 402-03-281A. DESIGNED

YAVAPAI DR



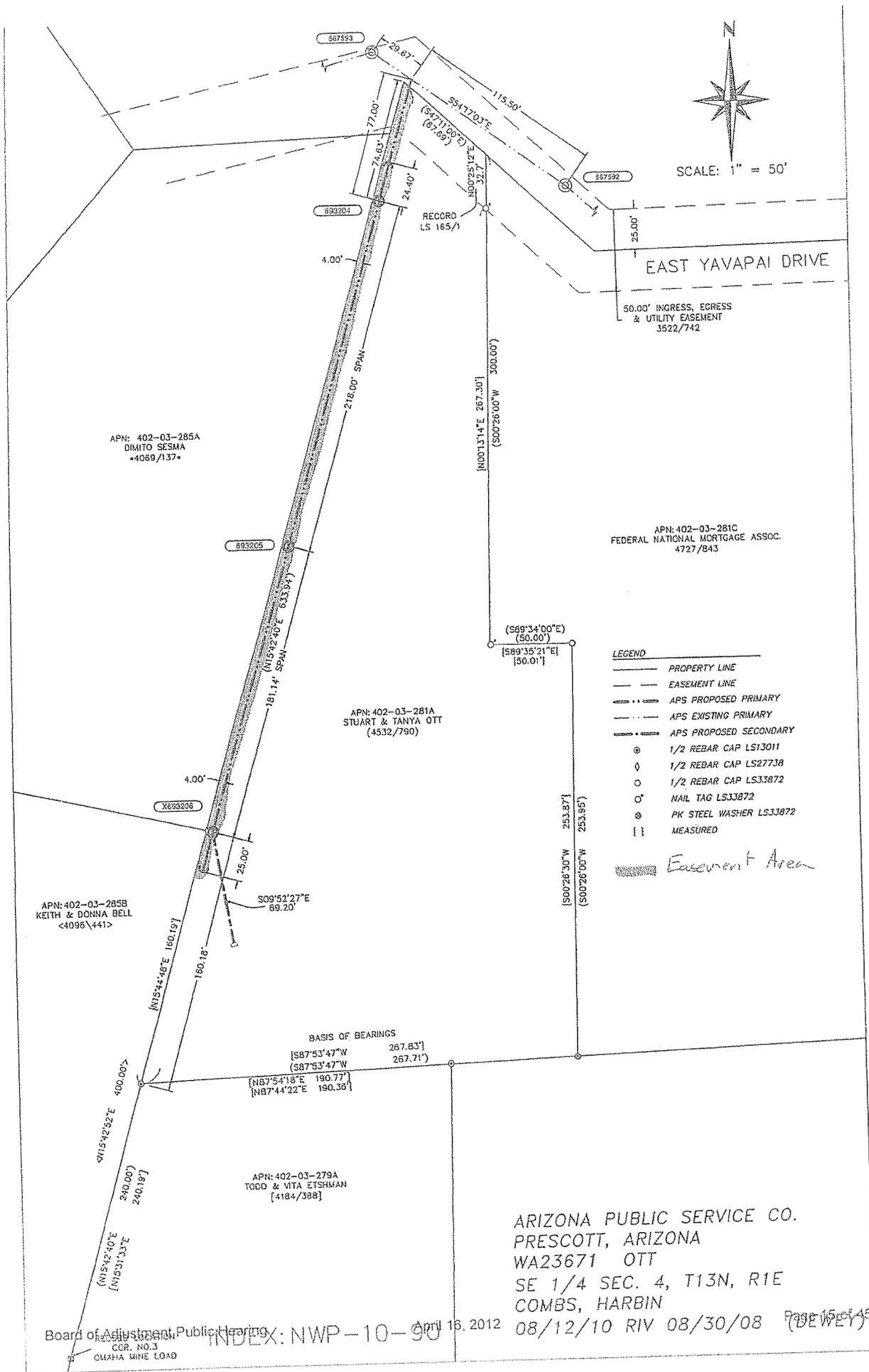
OVER THE PADS
 N FINISH GRADE
 O PROTECT PADS
 I DRAINAGE OR
 SION DITCHES
 M.

NOTE: THERE ARE NO
 DRY WASHES WITHIN
 200' OF PROPERTY

INSTALL ELJEN IN DRAIN SYSTEM
 PER MANUFACTURES RECOMMENDATIONS.
 INSTALL 7 TYPE "B" PADS IN TWO
 ROWS AS SHOWN IN PL Page 14 of 15 AND
 PER TYPICAL CROSS SECTION A-A ABOVE



SCALE: 1" = 50'



APN: 402-03-285A
DIMITO SESMA
4089/137

APN: 402-03-281C
FEDERAL NATIONAL MORTGAGE ASSOC.
4727/843

APN: 402-03-281A
STUART & TANYA OTT
(4532/790)

APN: 402-03-285B
KEITH & DONNA BELL
4096/441

APN: 402-03-279A
TODD & VITA ETSHMAN
4184/388

- LEGEND**
- PROPERTY LINE
 - - - EASEMENT LINE
 - APS PROPOSED PRIMARY
 - APS EXISTING PRIMARY
 - APS PROPOSED SECONDARY
 - ⊙ 1/2 REBAR CAP LS13011
 - ⊙ 1/2 REBAR CAP LS27738
 - ⊙ 1/2 REBAR CAP LS33872
 - ⊙ NAIL TAG LS33872
 - ⊙ PK STEEL WASHER LS33872
 - {} MEASURED

Easement Area

BASIS OF BEARINGS

[S87°53'47"W	267.83'
[S87°53'47"W	267.71'
[N87°54'18"E	190.77'
[N87°44'22"E	190.36'

ARIZONA PUBLIC SERVICE CO.
PRESCOTT, ARIZONA
WA23671 OTT
SE 1/4 SEC. 4, T13N, R1E
COMBS, HARBIN
08/12/10 RIV 08/30/08

B-4532 P-790
Page: 1 of 3
ND 4166181

at the request of Pioneer Title Agency, Inc.

FEES
\$ 7
\$6
\$5

when recorded mail to
Stuart W. Ott
PO Box 145
Gamerco NM 87317-0145

00452365-KLB

Tax Code: 402-03-281A

WARRANTY DEED

For the consideration of Ten Dollars, and other valuable consideration, I or we,

Daniel E. Giblin and Susan J. Giblin, Trustees, or their successors in trust, under the GIBLIN LIVING TRUST, dated September 1, 2000

do/does hereby convey to

Stuart W. Ott and Tanya R. Ott, HUSBAND AND WIFE AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
the following real property situated in Yavapai County, Arizona:

See Exhibit A attached hereto and made a part hereof.

PURSUANT TO ARS 33-404, THE BENEFICIARIES OF SAID TRUST ARE DISCLOSED IN INSTRUMENT RECORDED IN BOOK 4081, PAGE 97, RECORDS OF YAVAPAI COUNTY, ARIZONA.

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record.

The Grantor warrants the title against all persons whomsoever.

DATED this July 24, 2007

THE GIBLIN LIVING TRUST, dated
September 1, 2000

Daniel E. Giblin TTEE
Daniel E. Giblin, Trustee

Susan J. Giblin TTEE
Susan J. Giblin, Trustee

SEE ATTACHED ACCEPTANCE OF COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP

State of Arizona }
County of Yavapai } SS

This instrument was acknowledged before me this
25th day of July, 2007
by
Daniel E. Giblin and Susan J. Giblin, Trustees,
or their successors in trust, under the GIBLIN
LIVING TRUST, dated September 1, 2000

Catherine Bush
Notary Public



CATHERINE BUSH
Notary Public - Arizona
Yavapai County
Expires 03/02/2011

My commission will expire 3/2/2011



Exhibit A

A portion of the Southeast quarter of Section 4, Township 13 North, Range 1 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at corner number 2 (recorded as corner number 3) of the OMAHA MINE LOAD, Mineral Survey Number 3683;

Thence North 15°42'40" East, 240.00 feet to the TRUE POINT OF BEGINNING;

Thence North 15°42'40" East, 633.94 feet;

Thence South 47°11' East, 67.69 feet;

Thence South 00°26' West, 300.00 feet;

Thence South 89°34' East, 50.00 feet;

Thence South 00°26' West, 253.95 feet;

Thence South 87°53'47" West, 267.71 feet to the TRUE POINT OF BEGINNING.

YAVAPAI COUNTY
GOVERNMENT



Parcel ID 402-03-281A
 Check Digit 0
 Owner OTT STUART W & TANYA R RS (BD)
 Owner's Mailing Address PO BOX 145
 GAMERCO, NM 87317
 Secondary Owner N/A
 Recorded Date 10/3/2003
 Last Transfer Doc Docket 4081
 Physical Address 11965 E Yavapai Dr
 Last Transfer Doc Page 97
 Incorporated Area Town of Dewey-Humboldt

Contact
Yavapai
County
GIS

Assessor Acres 2.12
 School District Humboldt Unified SD #22
 Subdivision N/A
 Fire District Central Yavapai FD

Subdivision Type N/A
 County Zoning Violation No Zoning Violation

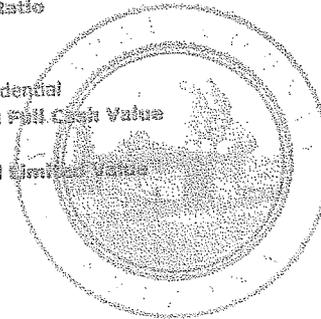
Improvements (2)

Type: Affixed Mobile Home
 Floor area: 1736
 Effective/constructed: 2008
 Type: Mobile Home Yard Improvements
 Floor area: 1
 Effective/constructed: 2010

Assessment

2012 Full Cash Value \$99,393
 2012 Limited Value \$99,393
 2012 Assessment Ratio 10
 2012 Legal Class Residential Other-Land
 2012 Net Assessed Full Cash Value \$9,939
 2012 Net Assessed Limited Value \$9,939
 Taxes
 Tax Area Code 2280

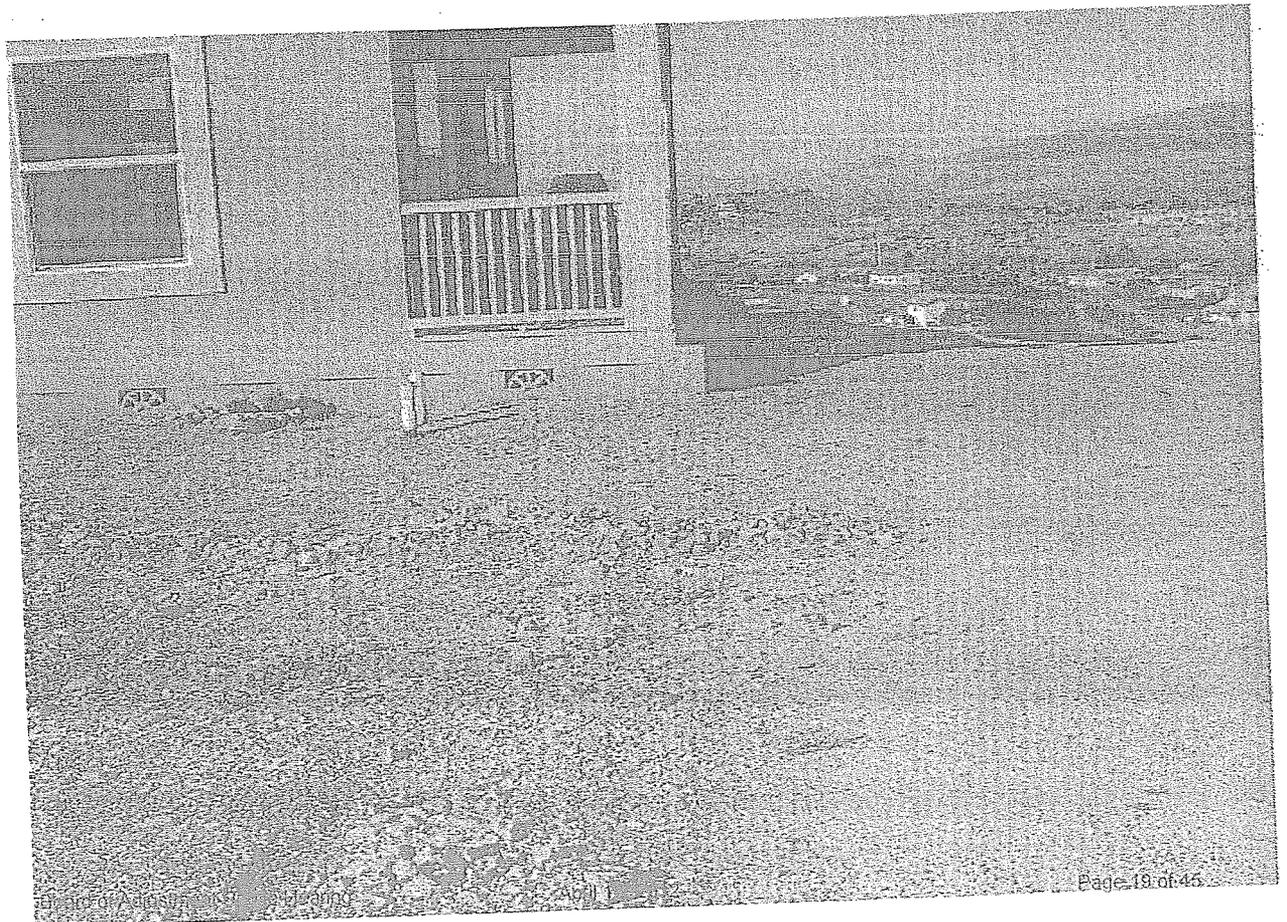
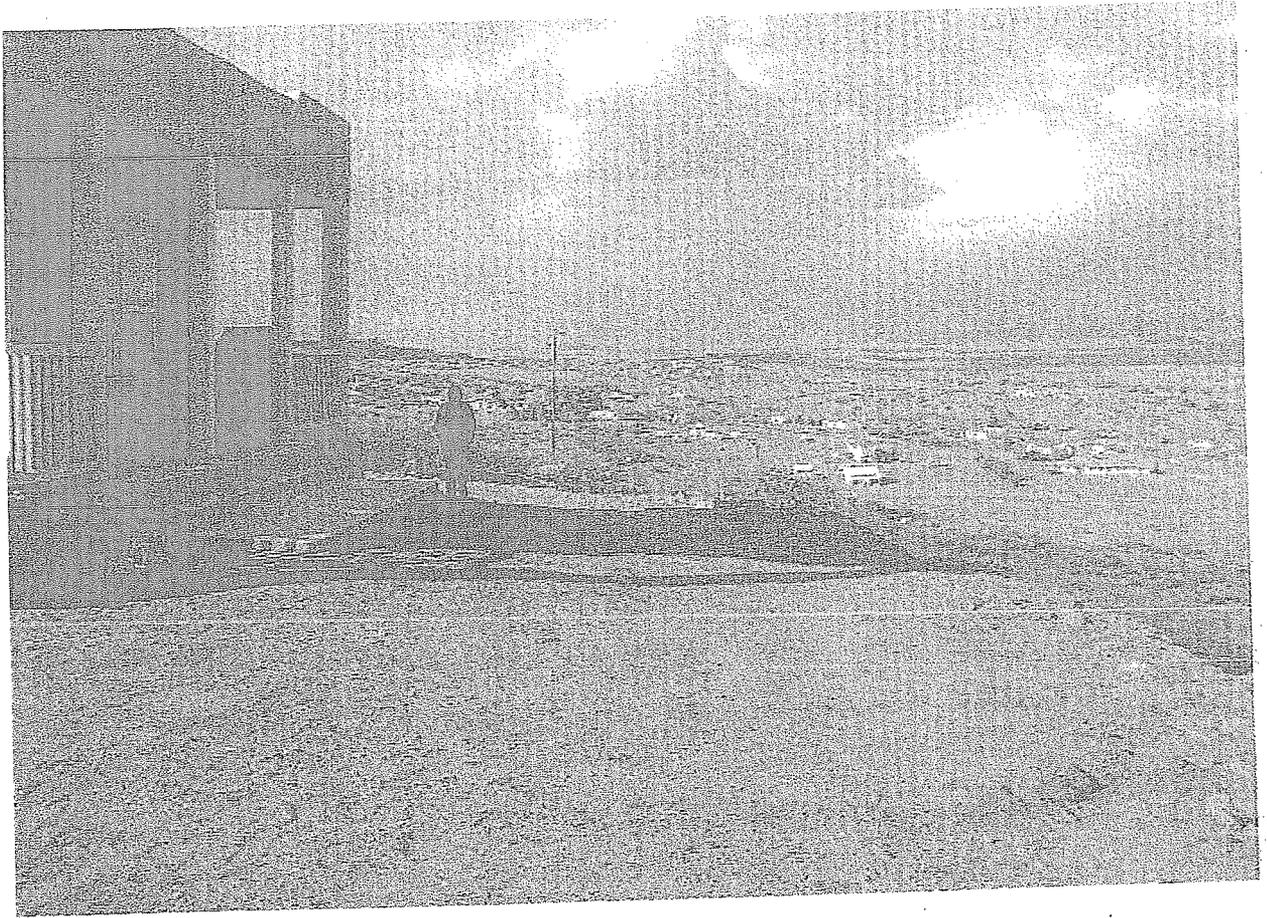
2011 Full Cash Value \$29,092
 2011 Limited Value \$29,065
 2011 Assessment Ratio 10
 2011 Legal Class Owner Occupied Residential
 2011 Net Assessed Full Cash Value \$2,909
 2011 Net Assessed Limited Value \$2,906
 2011 Taxes Billed \$272
 Sale Amount \$72,000

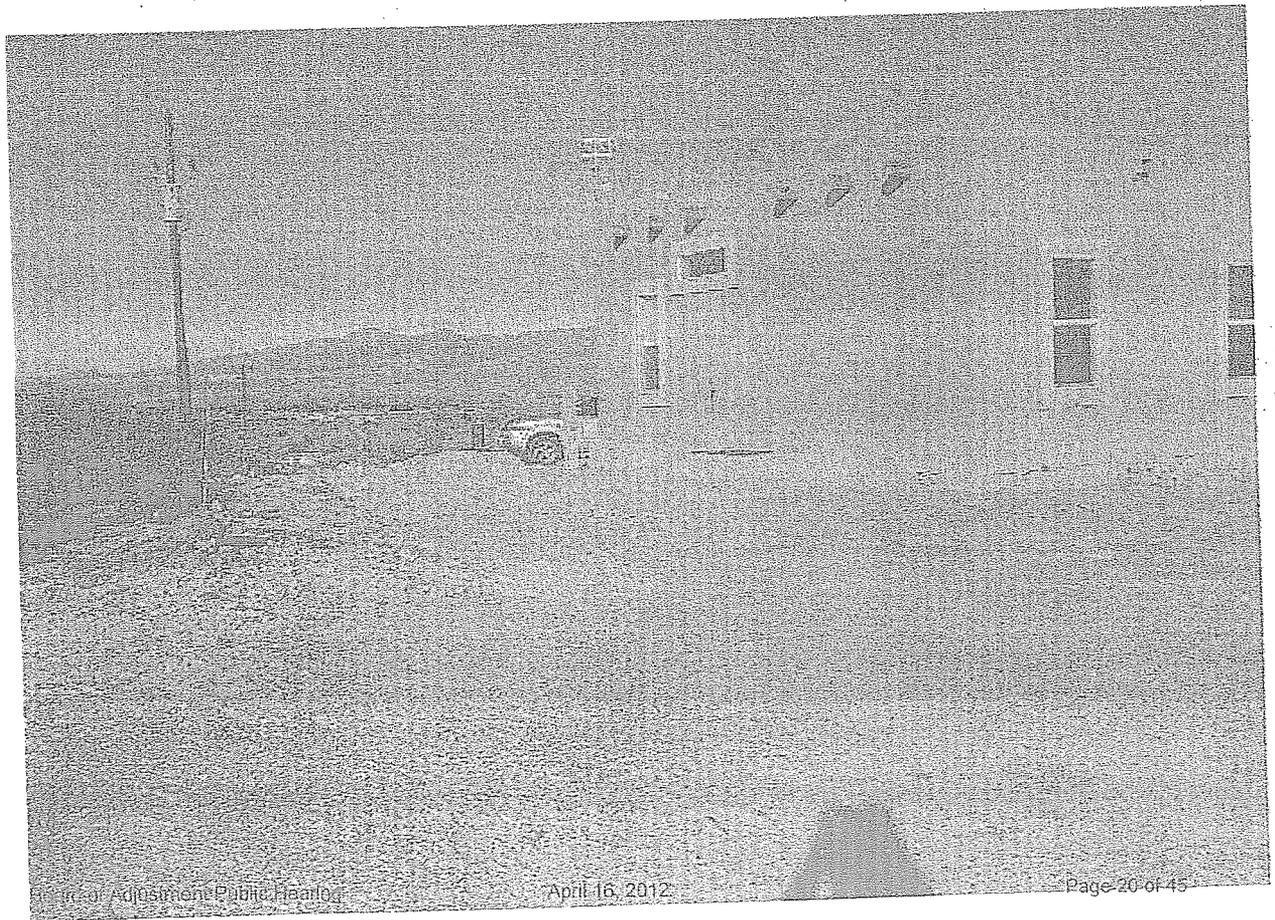


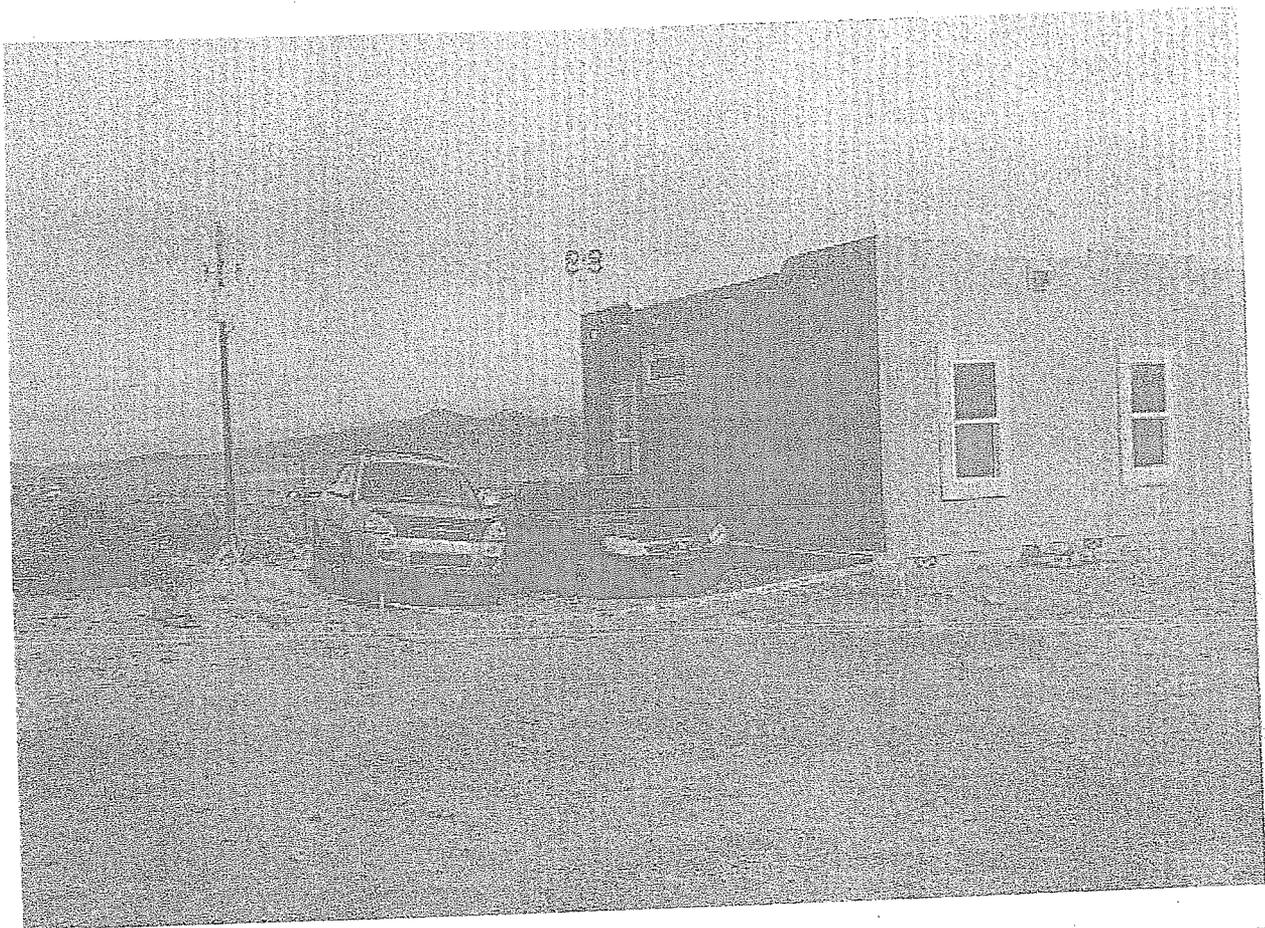
Recent Sale Date 7/1/2007
 Deed Type WARRANTY DEED

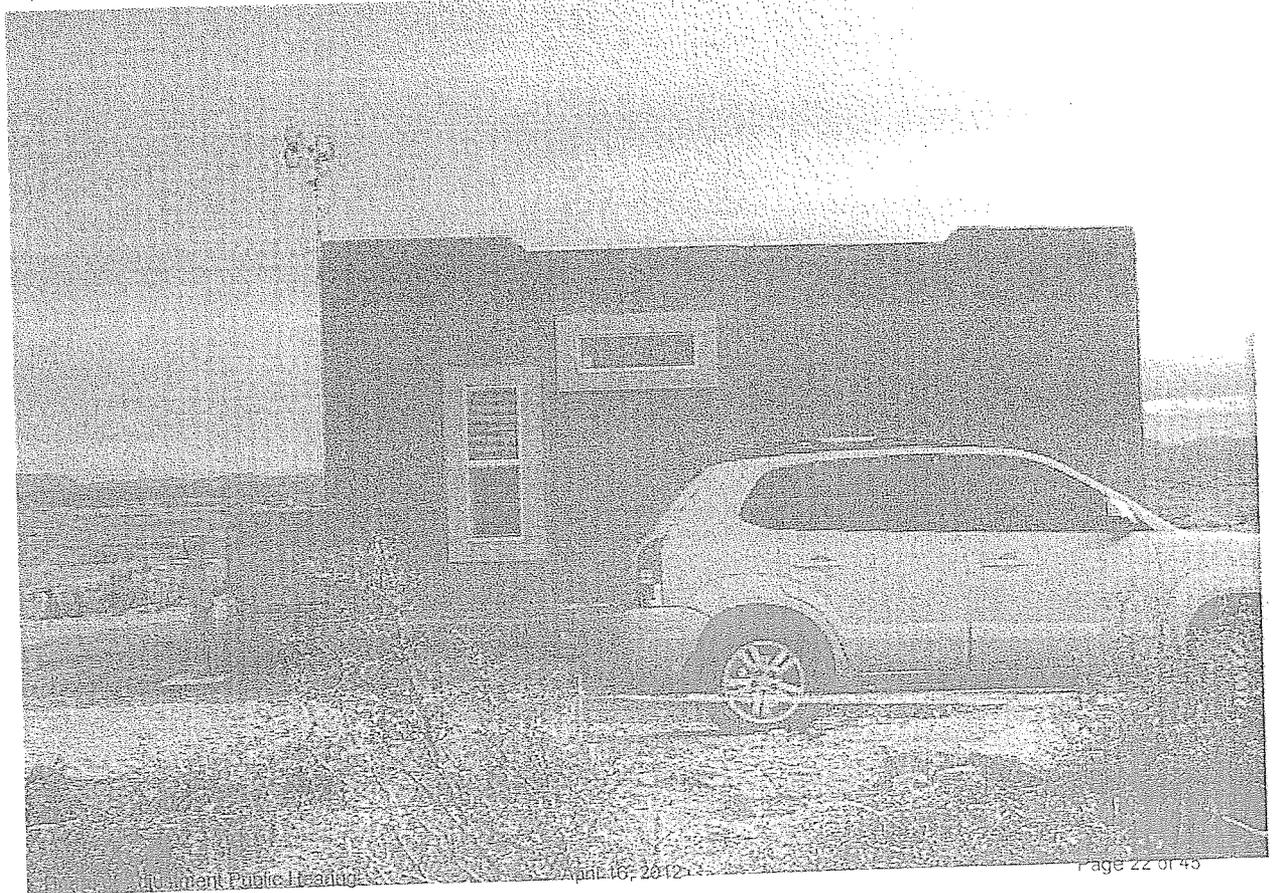
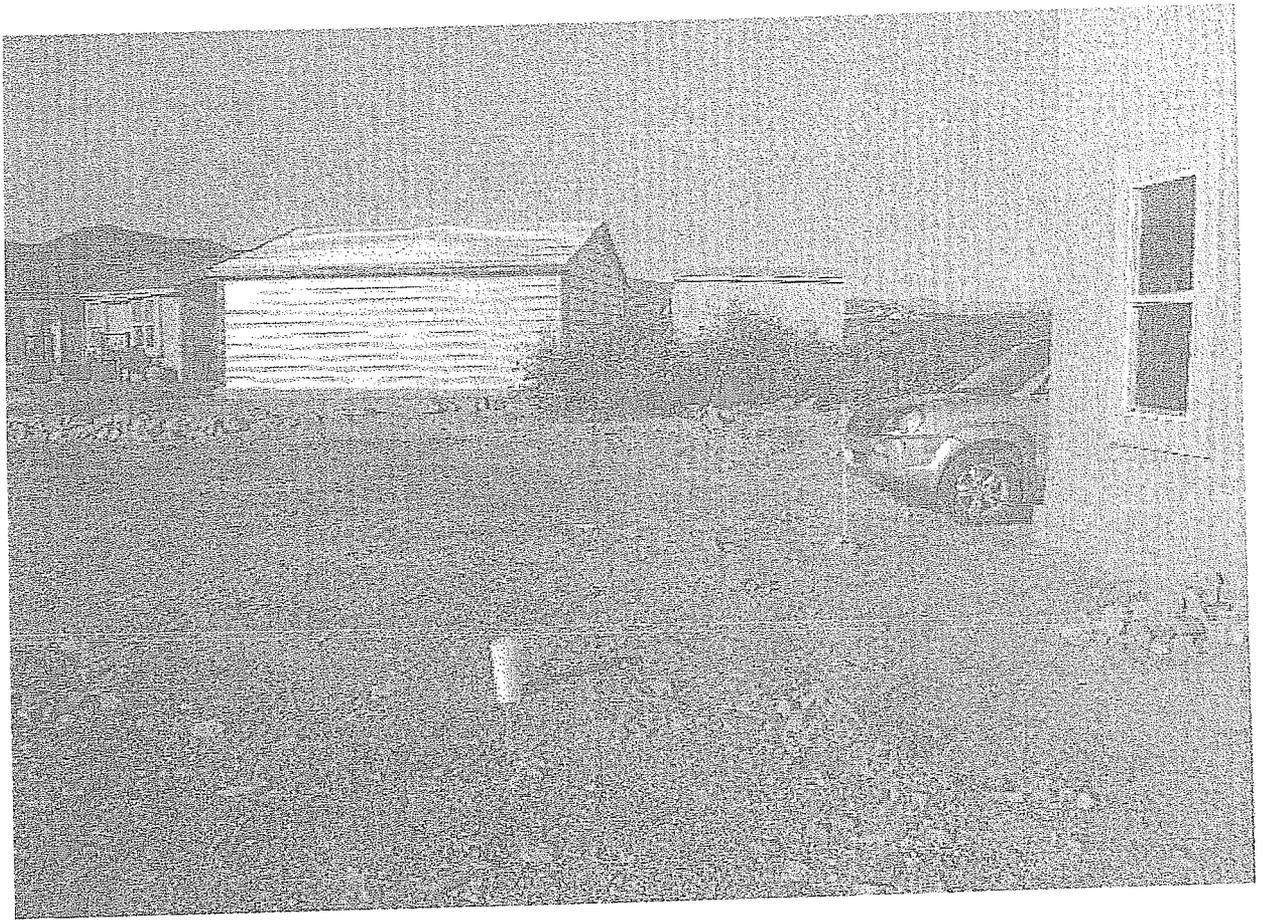
Sale Docket 4532
 Sale Page 790

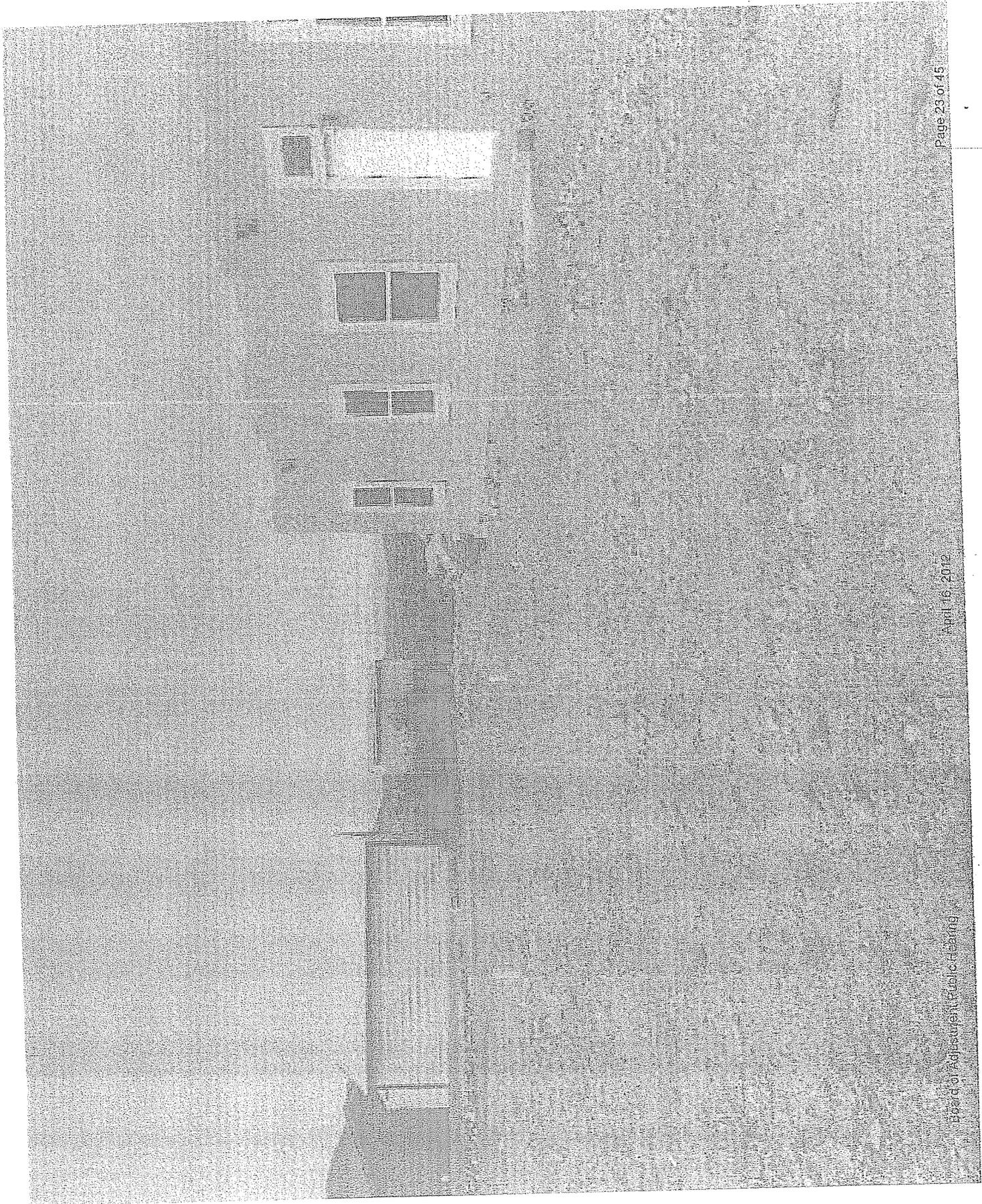
Disclaimer: New Assessor Data is now being displayed as the County has successfully transferred into a new system. Any parcel information on this website that is not yet entered into the New Assessor system yet will not have parcel information. Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against Yavapai County that may arise from the use of this data.



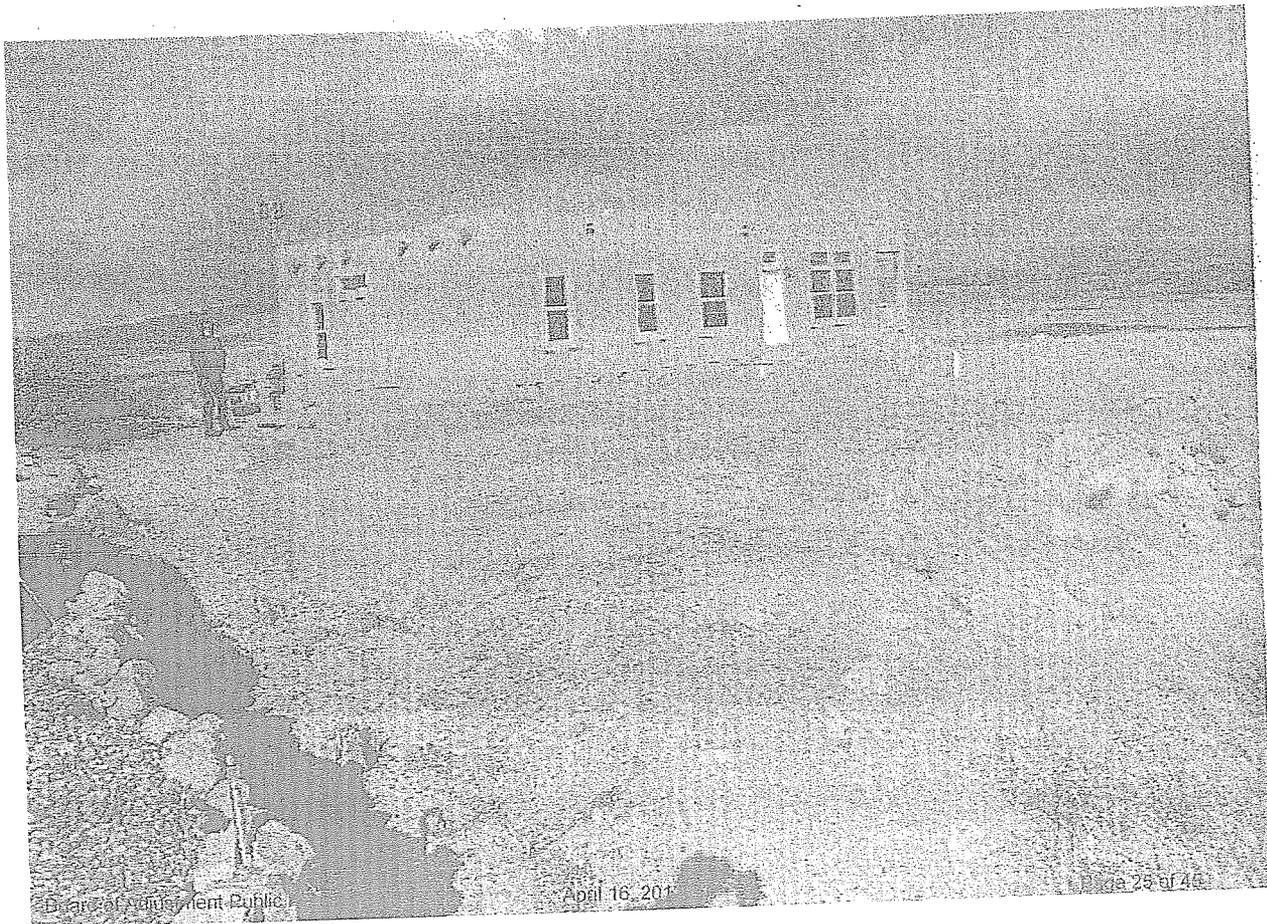
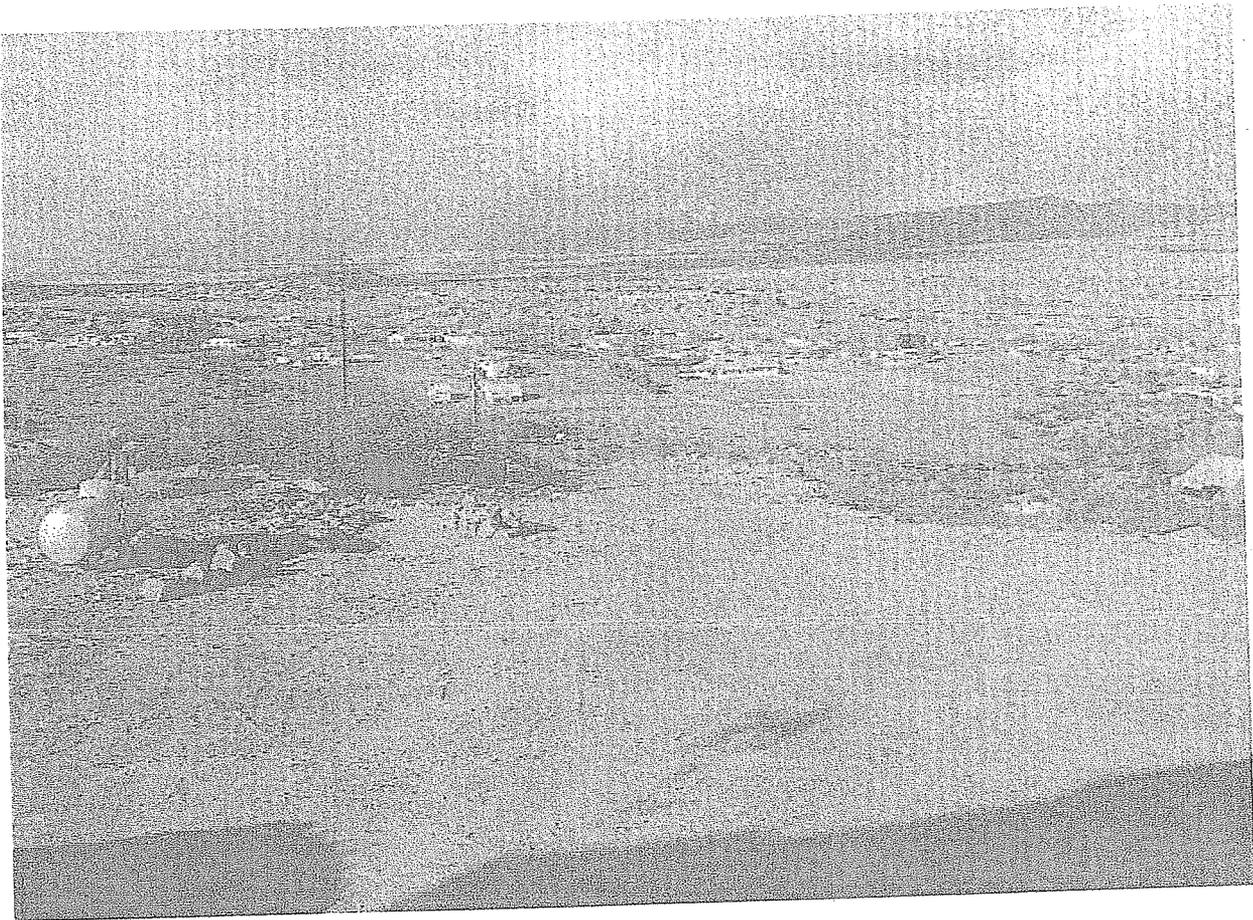












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**BOARD OF ADJUSTMENT
STAFF REPORT**

Agenda # 6.1

TO: BOARD OF ADJUSTMENT

FROM: GREGORY ARRINGTON, CODE ENFORCEMENT/COMMUNITY OUTREACH
COORDINATOR

MEETING DATE: APRIL 16, 2012

SUBJECT: VARIANCE REQUEST FOR APN: 402-03-281A; REQUEST TO APPROVE A CONDITIONAL
VARAINCE TO ALLOW FOR A REDUCTION IN THE SIDE YARD AND SEPARATION
SETBACK REQUIREMENT FOR THE PROPERTY LOCATED AT 11965 E. YAVAPAI DRIVE.
THE PROPERTY IS 2.12 ACRES IN SIZE

CASE NUMBER: ZV2012-1

REQUEST

The request is for approval of a reduction in the required twenty foot side yard setback at the west property line and the required ten feet separation between the home and the proposed accessory structure.

APPLICANT/OWNER

Stuart and Tanya Ott
APN: 402-03-281A
11965 E. Yavapai Drive
Dewey, AZ
Phone: 505-290-0463
Email: swopilot@hotmail.com

HISTORY

CURRENT ZONING: RI-70

LAND SPLITS: None

CURRENT USE: Single Family Residence

PAST USE: Vacant Property

JUNE 14, 2010: Applicant applied for a building permit to construct a 1,566 square foot Manufactured Home. The project was completed on October 27, 2010. At its completion the structure met the required setback for the zoning.

OCTOBER 15, 2010: Applicant applied for an Electrical permit to provide service to the structure. The project was completed on October 27, 2010.

ZONING VIOLATION: None

SURROUNDING LAND USE & ZONING DESIGNATIONS

	Land Use Designation	Zoning Classification
North	Single-family residence	R1-35/70
East	Single-family residence	R1-35/70
South	Single-family residence	R1-70
West	Single-family residence	R1-70

CURRENT ZONING REQUIREMENTS

Dist.	Min. Lot Size	Min. Lot Width	Setbacks	Max. Bldg. Hgt.	Max. Lot Coverage
R1-35	70,000	200	Front-50'/Rear-50'/Int.-25'/Ext.-30'	2/30	15

CURRENT BUILDING SEPARATION REQUIREMENTS

Primary Structures	Ten feet
--------------------	----------

REQUESTED VARIANCE

The applicant is requesting relief from the both the building and zoning codes for the town. The aspect of the building code pertains to the ten (10) foot separation requirement between structures. The current regulation for the side yard setback in the R1-70 Zoning district require a twenty-five foot setback from the proposed structure to the property lin. The applicant is requesting the following:

Side yard setback: Ten feet (10')

Building separation setback: Three feet (3')

PUBLIC NOTIFICATION

A sign was posted April 2, 2012. Since the posting of the property, one adjacent property owner (did not give his name) discussed the case with staff. He did not give an opinion either way.

The applicant provided one letter of support from the property owners at 11795 E. Yavapai Dr.

No objections to the proposal have been received on this case.

STAFF RECOMMENDATION

CONDITIONS

Applicant must obtain a building permit within six months from approval date.
Roof structure of the carport is currently designed for 20 PSF; need to comply with the Towns 30 PSF design criteria.

IS VARIANCE CONSISTENT WITH COMMUNITY PLAN

Not Applicable

WILL INTEGRITY OF THE ZONING DISTRICT BE MAINTAINED

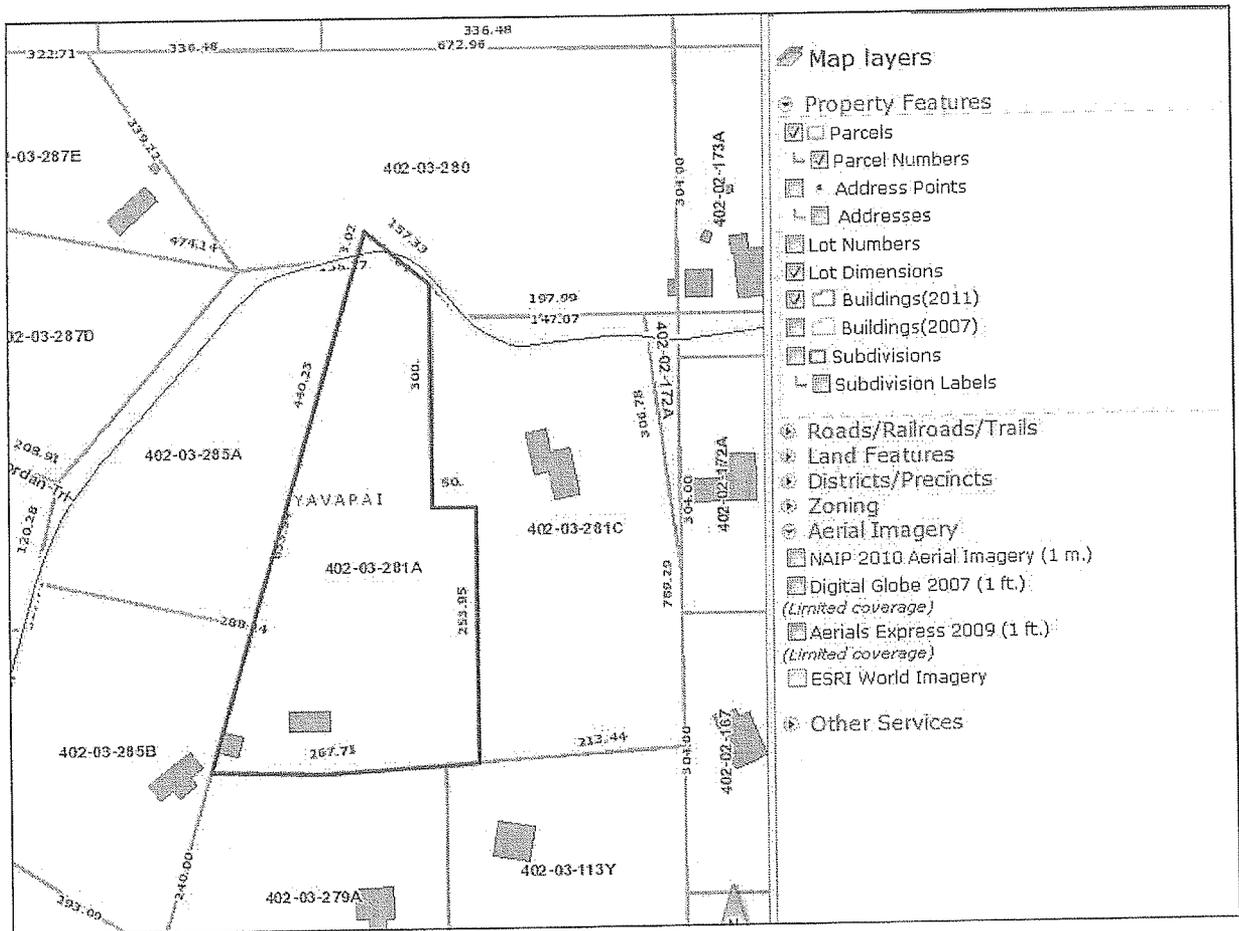
The integrity of the zoning district will be altered based on the following:

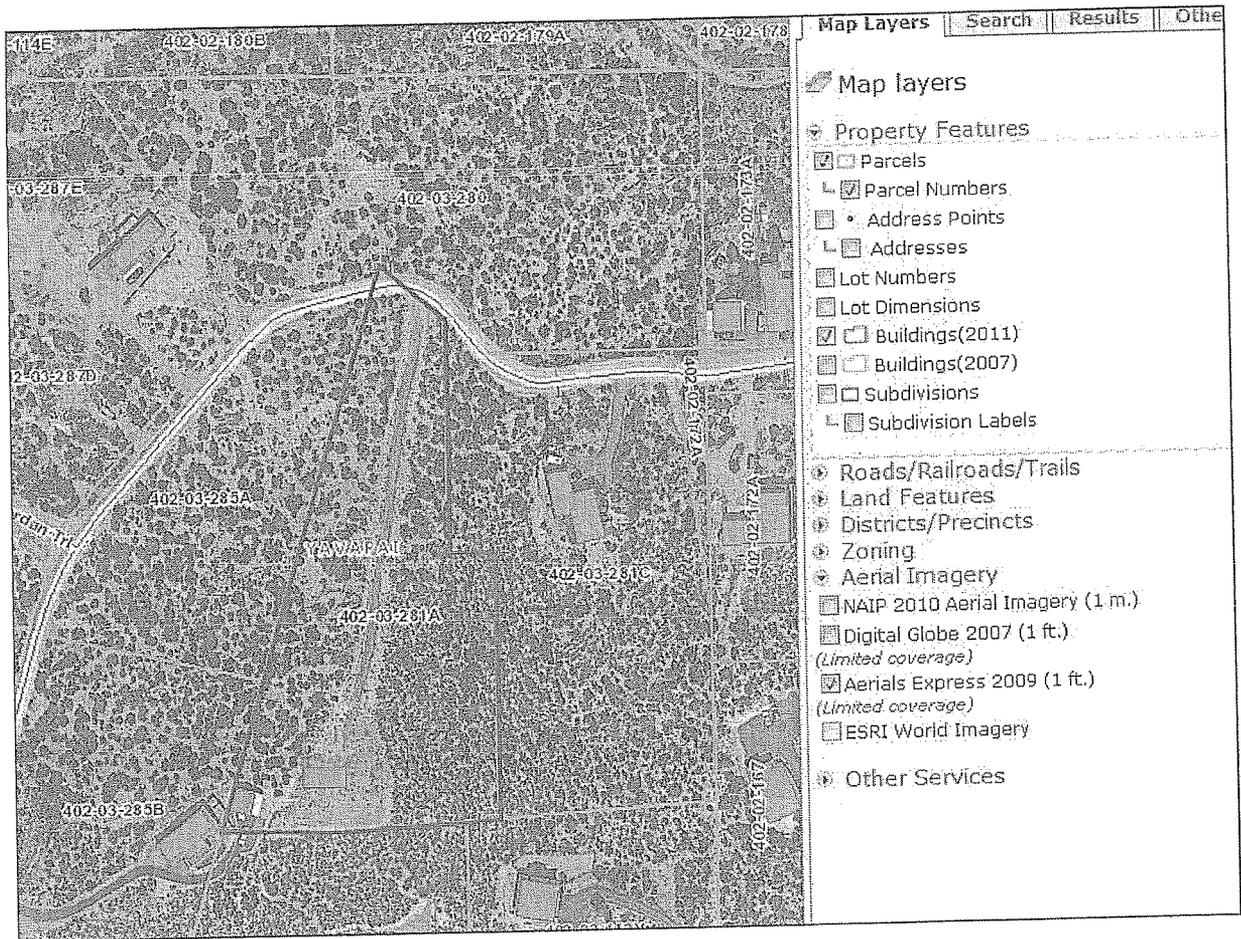
The reduction requested in the side yard setback equates to a sixty percent reduction in the current requirement.

The reduction requested in the building separation clearance equates to a seventy percent reduction in the current requirement.

EXHIBITS

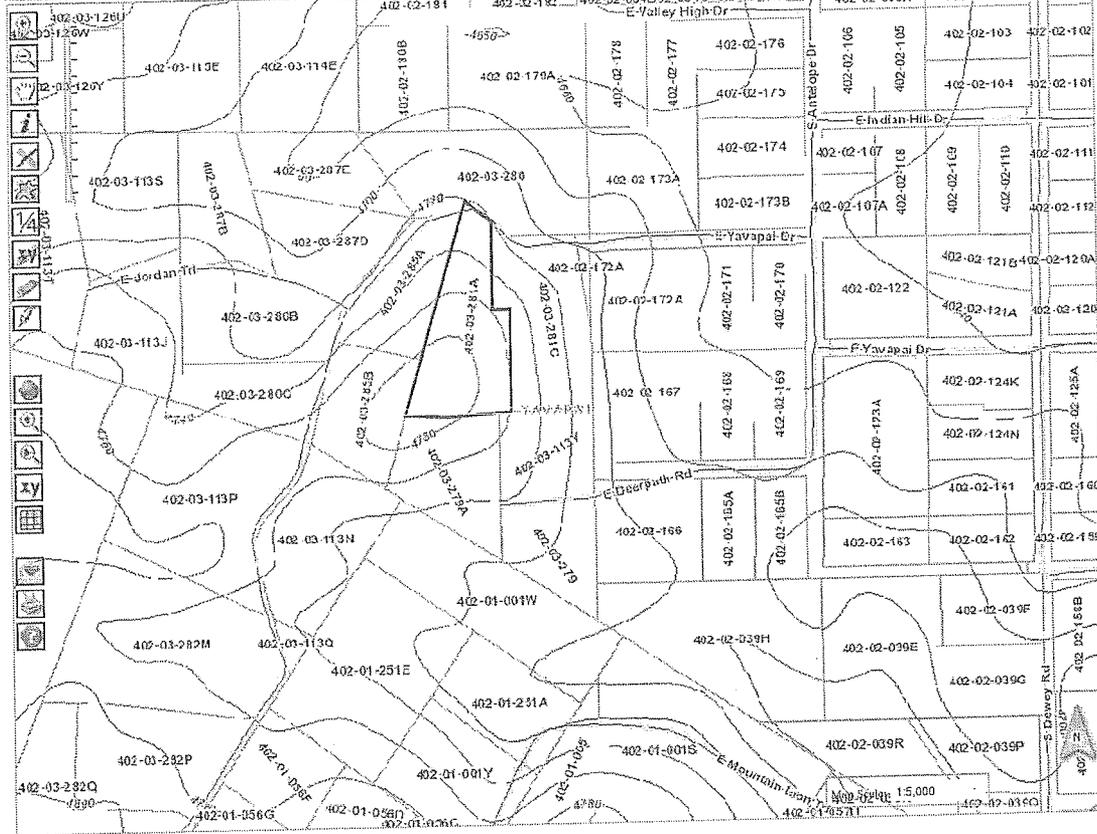
Site Plan
Aerial Map
Contour Map
Photos
Proposed Site Plan





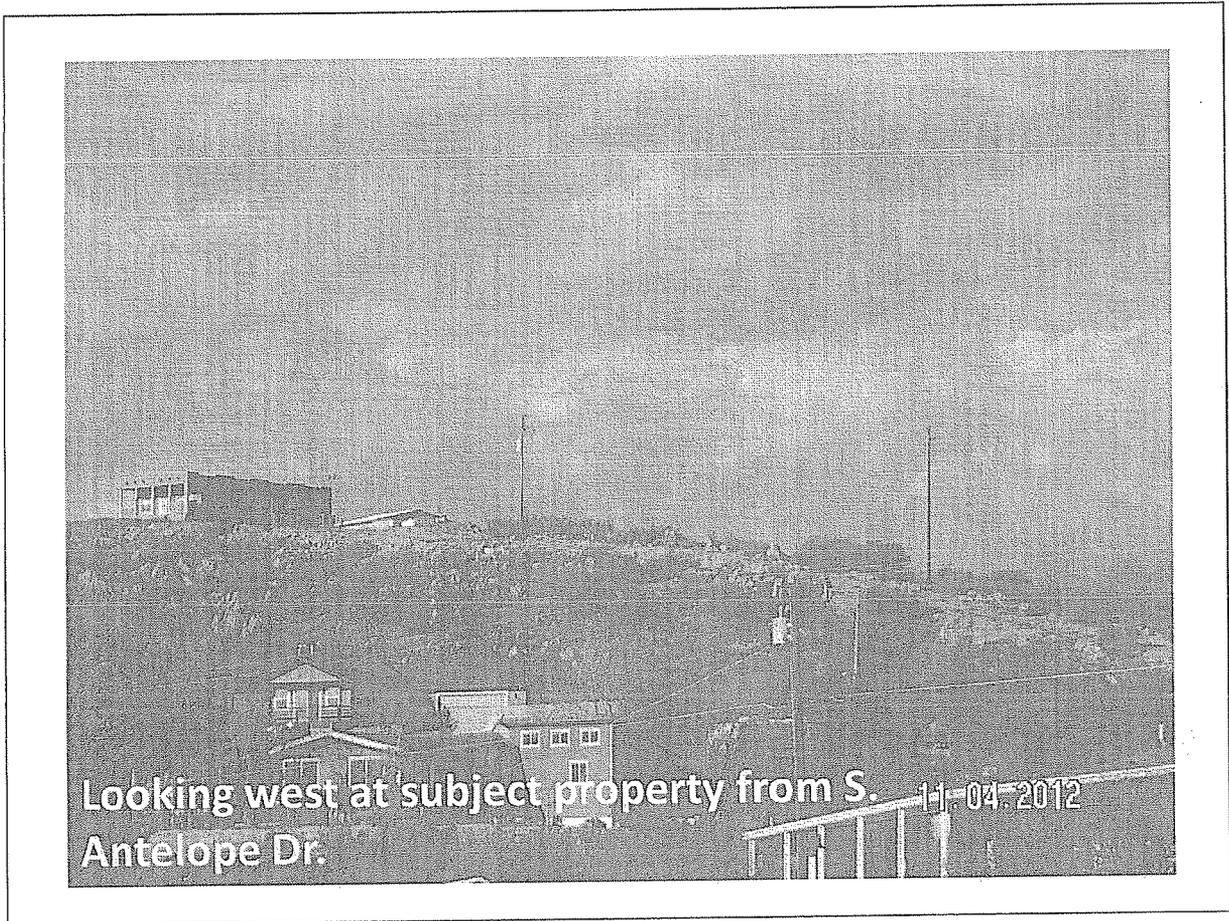


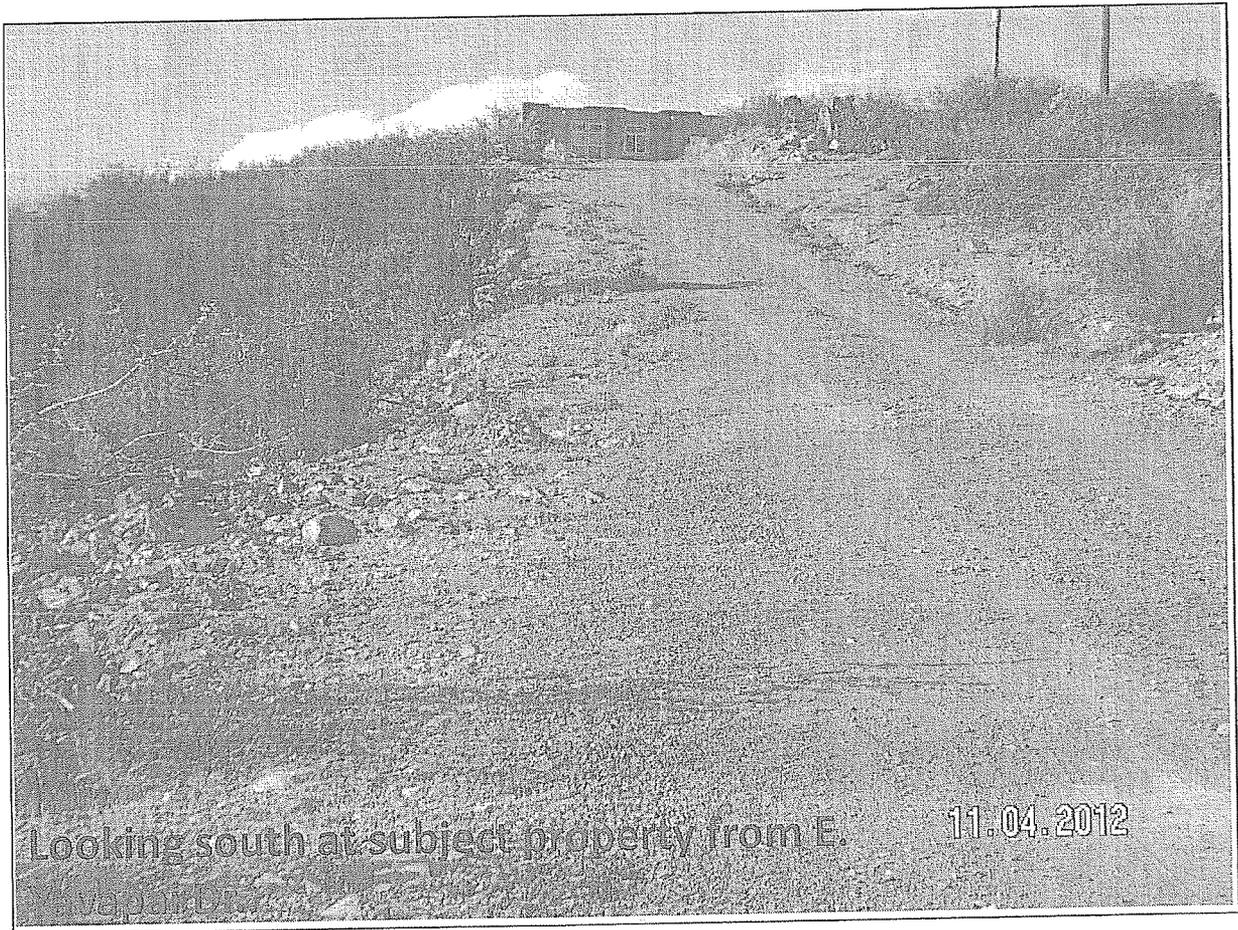
Interactive Map

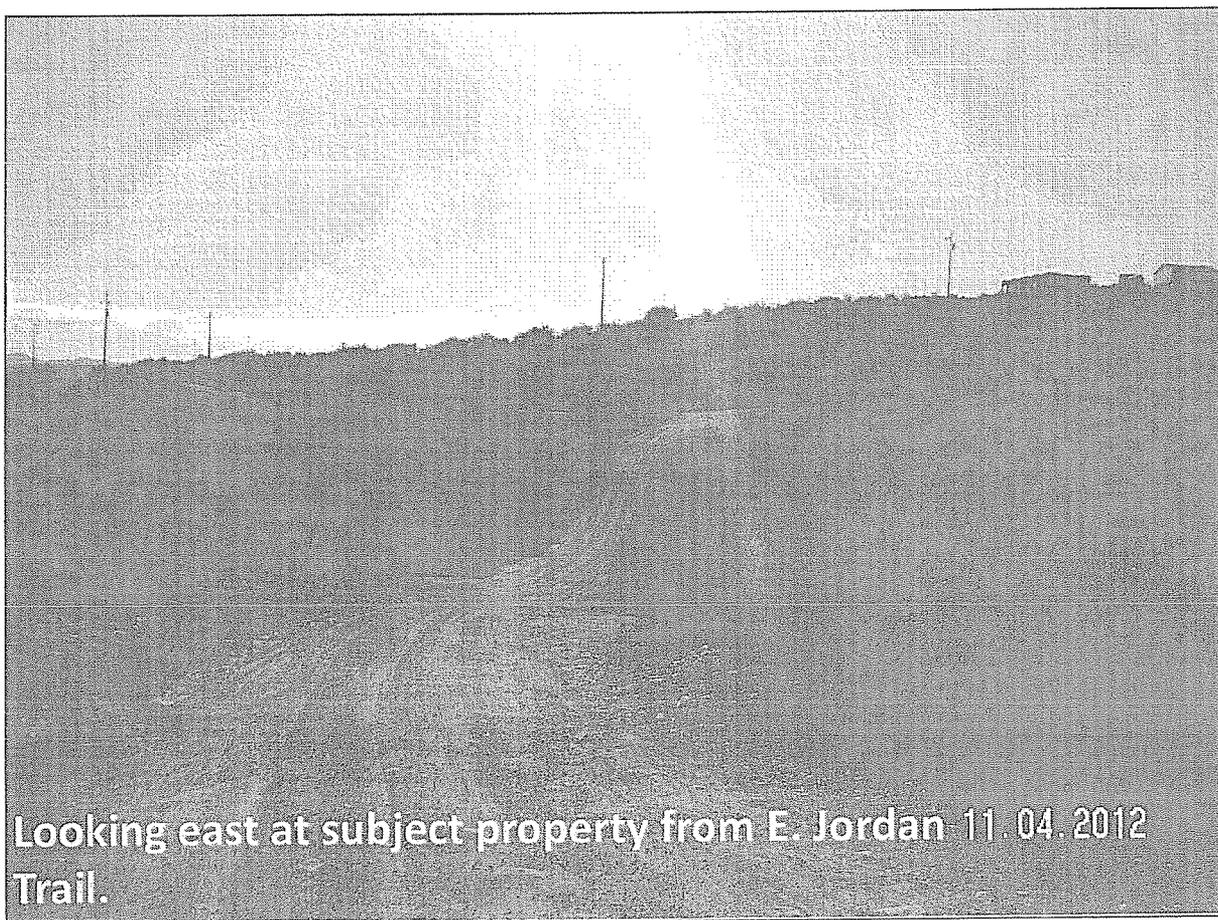


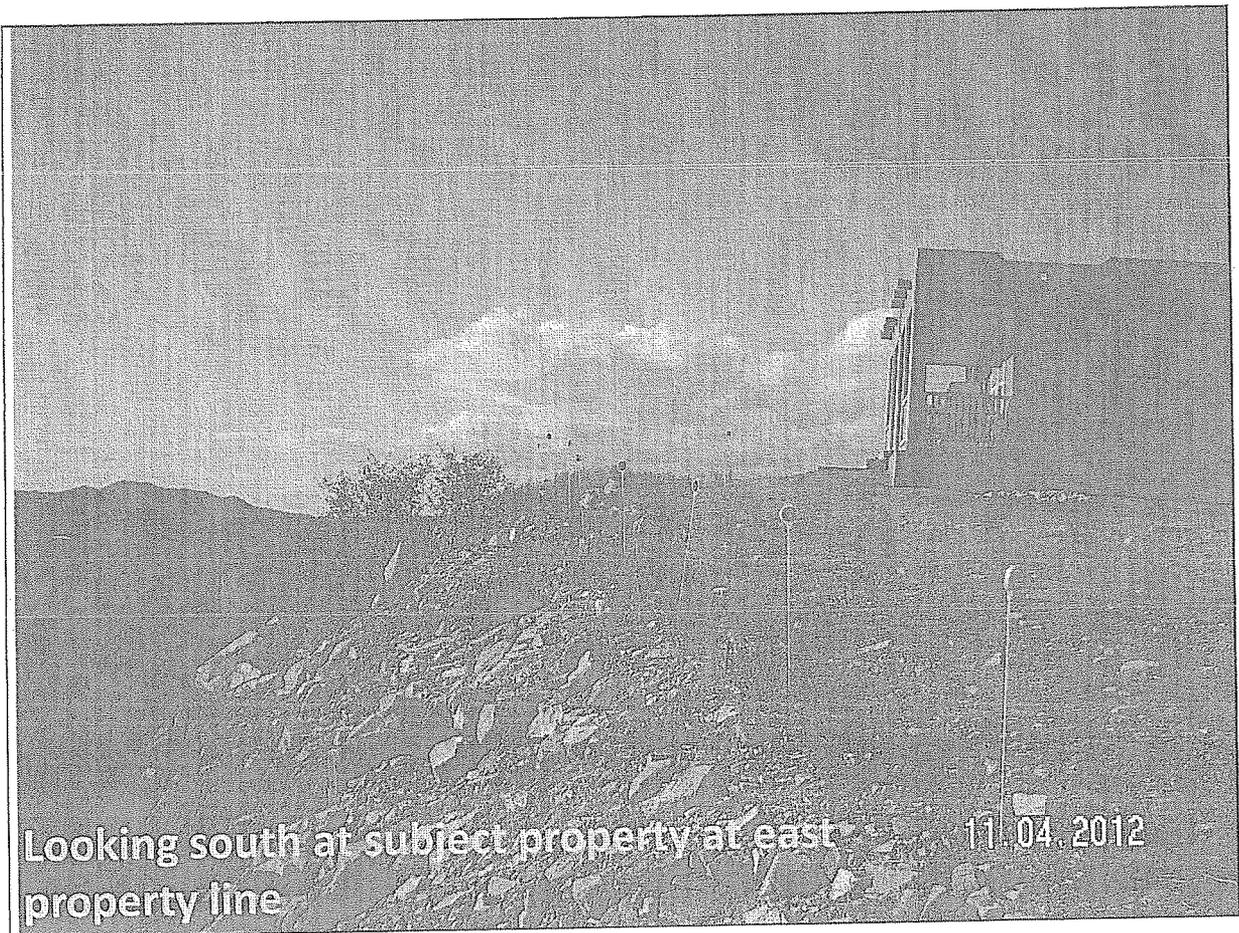
- Map Layers
- Search
- Results
- Other
- Help

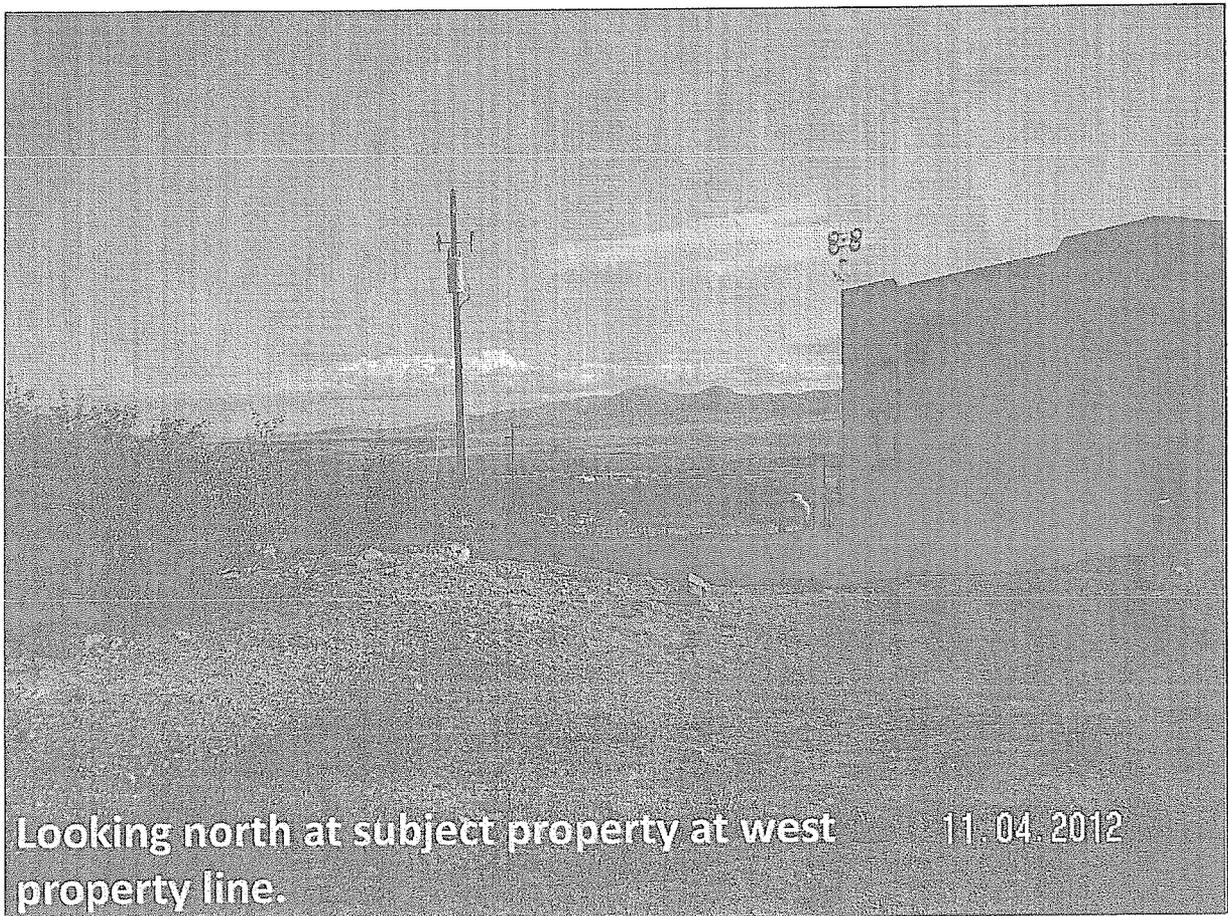
- Map layers
- Property Feature
 - Parcels
 - Parcel Number
 - Address Point
 - Addresses
 - Lot Numbers
 - Lot Dimensions
 - Buildings(2C)
 - Buildings(20)
 - Subdivisions
 - Subdivision L
 - Roads/Railroads
 - Land Features
 - Town/Range/
 - Town/Range
 - Cities, Towns, P
 - Parks
 - City Boundaries
 - Cottonwood
 - Peoria
 - Prescott
 - Sedona
 - Camp Verde
 - Chino Valley
 - Clarkdale
 - Dewey-Humbold
 - Jerome
 - Prescott Valley
 - Wickenburg
 - County Boundar
 - Points of Interes
 - Public Lands
 - Hydrology

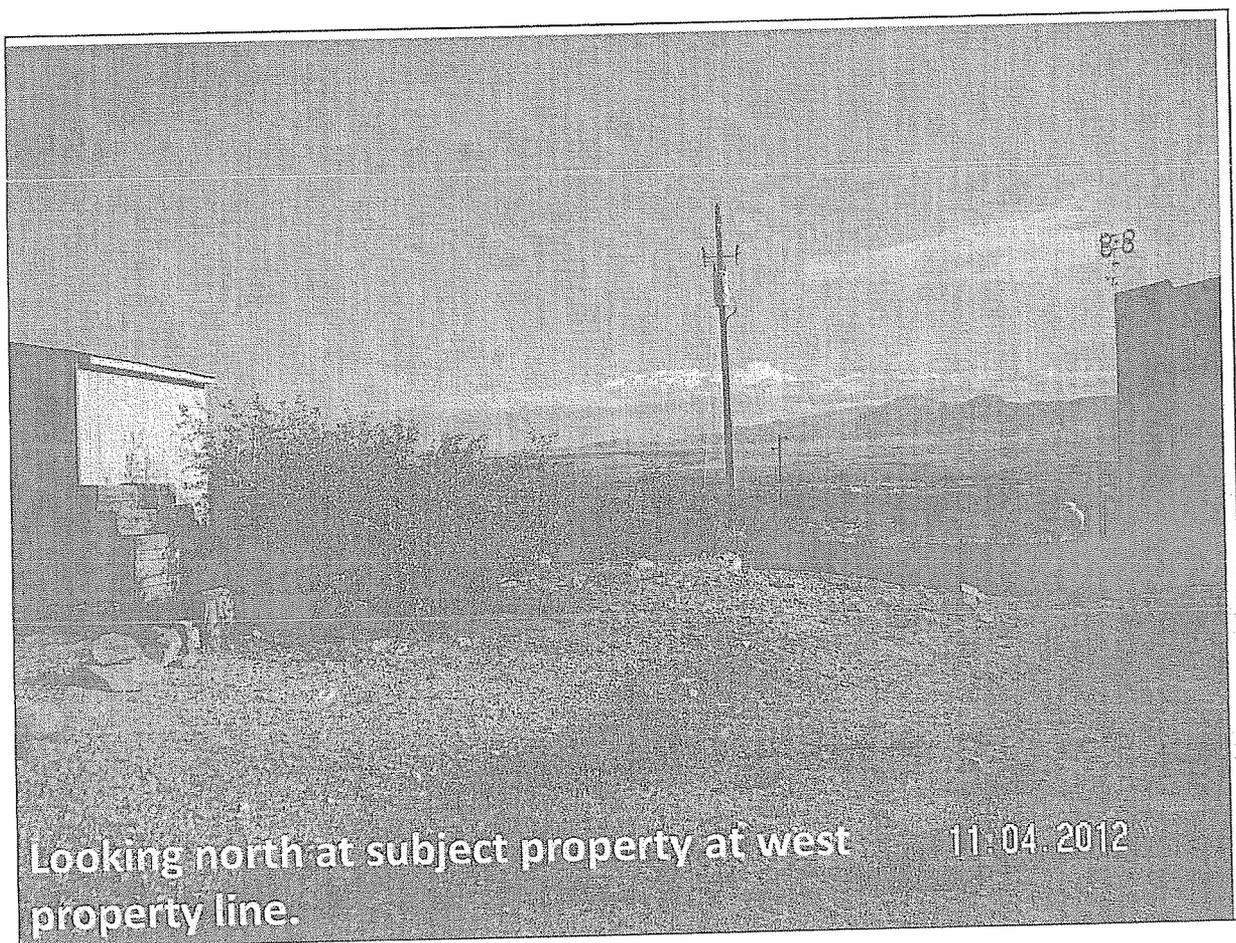






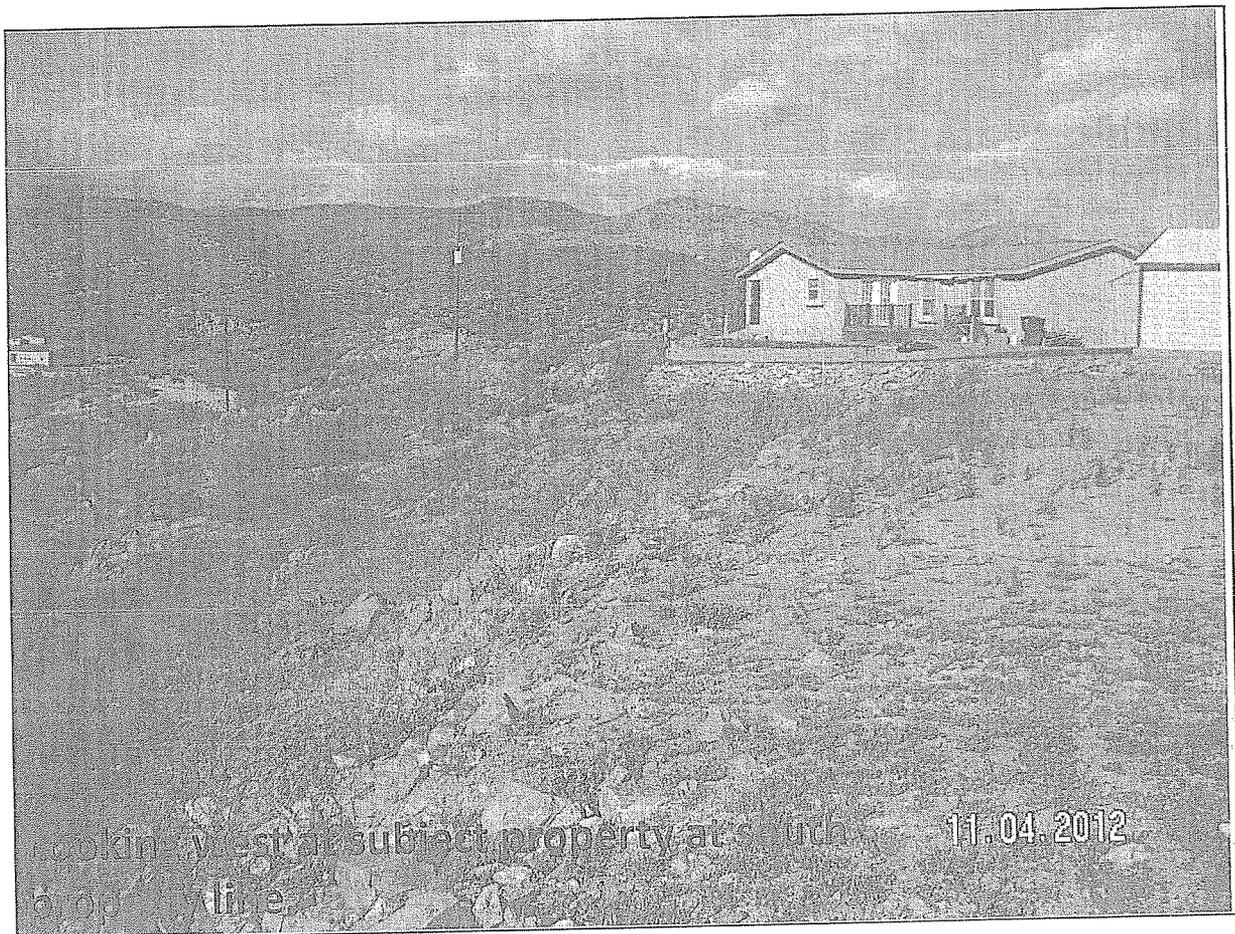


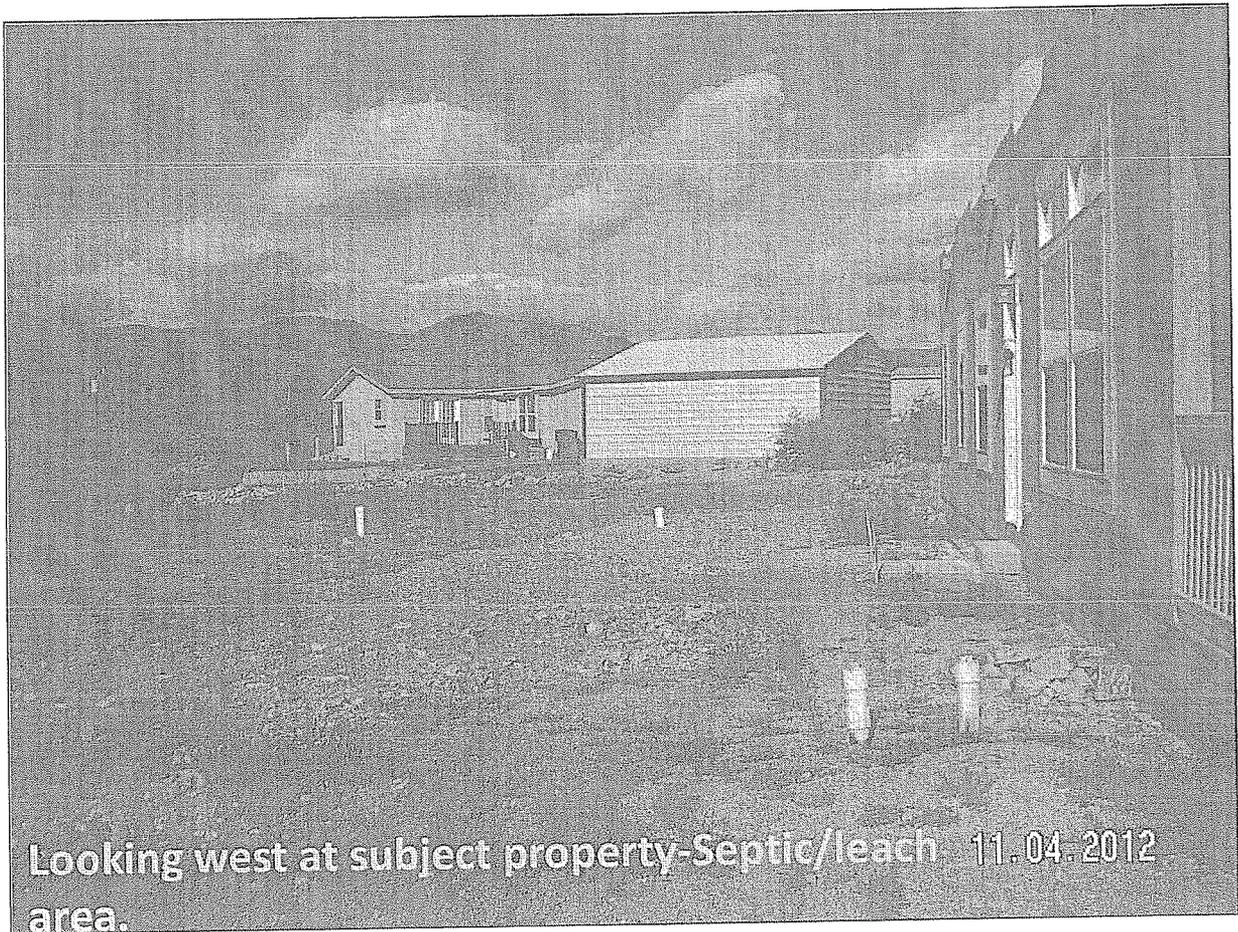


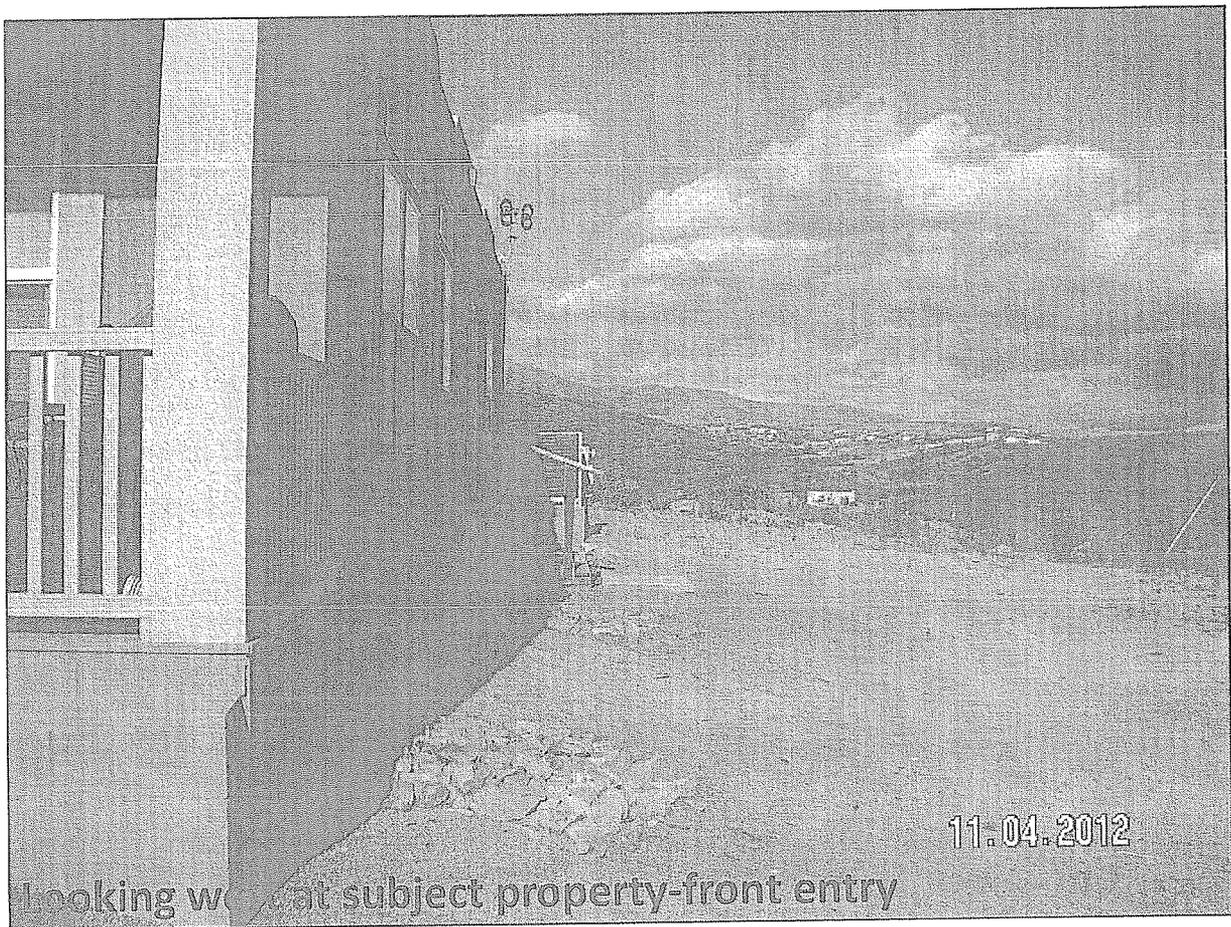


Looking north at subject property at west property line.

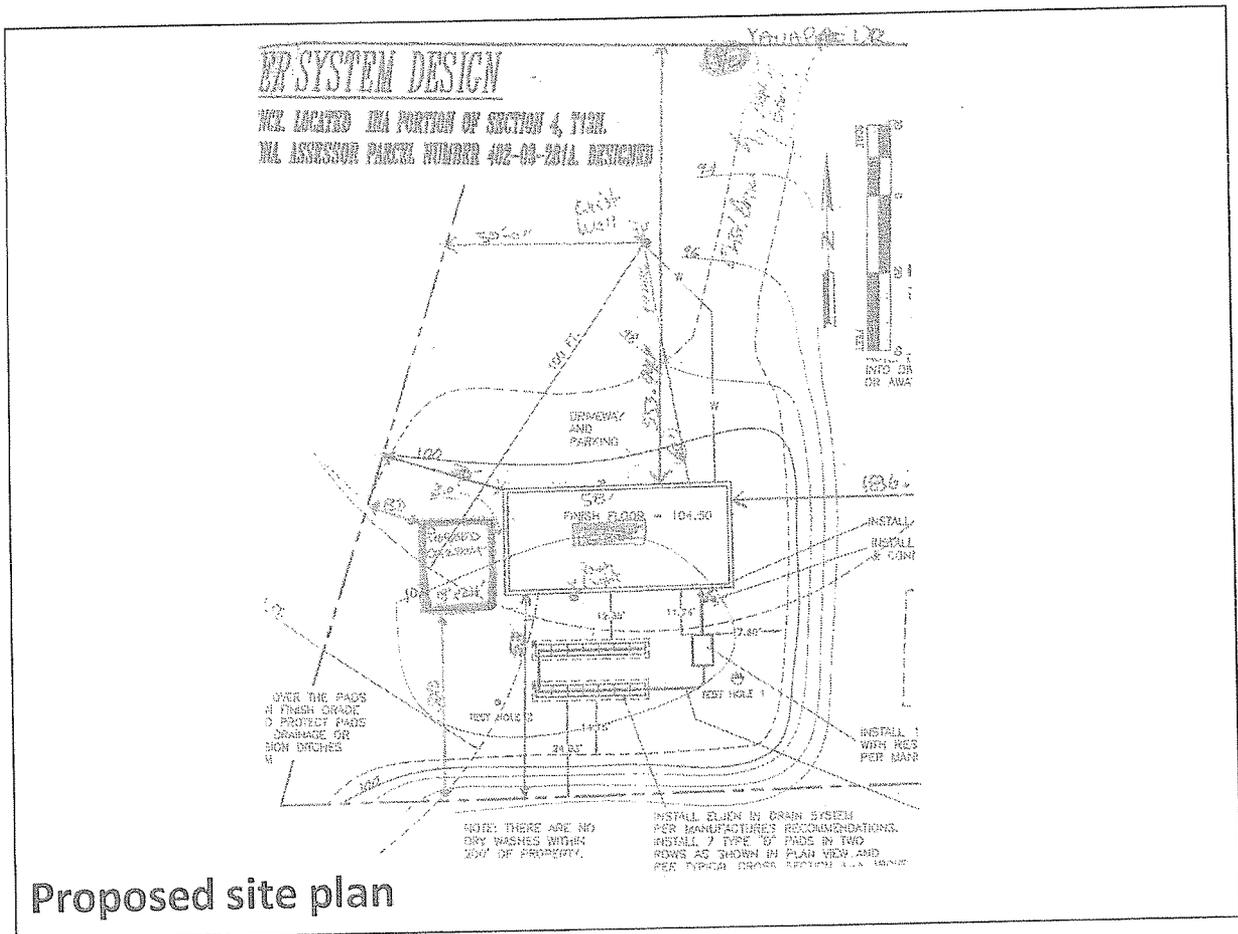
11:04 2012







Looking west at subject property-front entry



Proposed site plan

