BOARD OF ADJUSTMENT
REPORT

Meeting Date: 6/1/2016
Item No.: 4

ACTION

Foss Residence
7-BA-2016

Request to consider the following:

1. Approve a variance request to the City of Scottsdale Zoning Ordinance, Section 5.204.E.1.a. pertaining to front yard setback for a property located at 11428 N. 66th Street with Single-family Residential (R1-35) zoning.
2. Approve a variance request to the City of Scottsdale Zoning Ordinance, Section 5.204.E.2. pertaining to side yard setback for a property located at 11428 N. 66th Street with Single-family Residential (R1-35) zoning.

OWNER

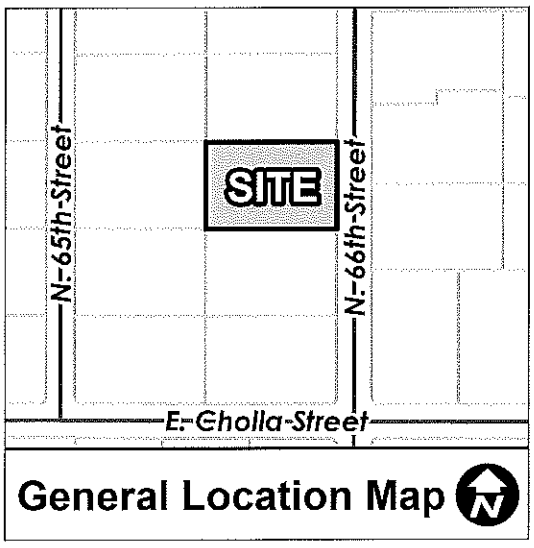
Tracy Foss
602-410-2064

APPLICANT CONTACT

Lauri Timmons
David Timmons Design Studio
480-596-3408

LOCATION

11428 N 66th Street



BACKGROUND

History

The subject property is Lot 39 of the Desert Estates Unit Eleven subdivision which was platted in 1961. The Maricopa County Assessors' records identify the existing home on the property was permitted and constructed in 1966 in its current location on the site. The existing pool on the

property was permitted and constructed shortly after the home construction. The current site walls were permitted and constructed in 2010 and an addition to the guest house accessory structure was permitted and constructed in 2012. The current garage appears to have been built without permit, within the front and side yard setbacks, between the years 2000 – 2002, as a carport, later converted to a garage, and is considered a nonconforming structure.

Zoning/Development Context

The subject site is zoned Single-family Residential (R1-35) and is located north of the northwest corner on E. Cholla Street and N. 66th Street, south of E. Cactus Road between N. Scottsdale Road and N. 64th Street.

Adjacent Uses and Zoning

- North — Desert Estates Unit Eleven subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- South — Desert Estates Unit Eleven subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- East — Desert Estates Unit Twelve subdivision (east of N. 66th Street), zoned Single-family Residential district (R1-35); existing single-family residences.

  7-BA-1996, The Patterson Residence Setback, was a variance request for the property at 11445 N. 66th Street, a property seventy-five (75) feet north of the subject property on the east side of 66th Street. The request was for a variance of eleven and a half (11.5) feet to the side yard setback on the south side, making the side yard setback three and a half (3.5) feet. The request was to allow for a garage in the side yard. The request was denied by the Board of Adjustment by a vote of 5-1.

- West — Desert Estates Unit Eleven subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.

Zoning Ordinance Requirements

Pursuant to Section 5.204.E.1.a. of the City of Scottsdale Zoning Ordinance, pertaining to front yard setback: there shall be a front yard having a depth of not less than forty (40) feet.

The applicant is requesting a variance of fourteen (14) feet which would reduce the required front yard setback for this parcel from forty (40) feet to twenty-six (26) feet along the N. 66th Street frontage.

Pursuant to Section 5.204.E.2. of the City of Scottsdale Zoning Ordinance, pertaining to side yard setback: there shall be side yards of not less than fifteen (15) feet on each side of a building.

The applicant is requesting a variance of three and a half (3.5) feet which would reduce the required side yard setback for this parcel from fifteen (15) feet to eleven and a half (11.5) feet along the south side of the property.

Code Enforcement Activity

There has been no recent code enforcement activity at the subject site.

Community Input

Notification was sent to properties within 750 feet of the subject site. Staff has not received any neighborhood input, as of the writing this report.

Discussion

The applicant is proposing a remodel of the existing home that includes increasing the height of the house from 12 feet at its highest point to a building height of less than 15 feet in order to install new insulation, mechanical equipment, a fire sprinkler system, and rebuilding the patio structure on the rear of the house. The zoning requirements currently restrict any building closer than forty (40) feet to the front setback and fifteen (15) feet to the side setback, making the garage built without a permit nonconforming to the City of Scottsdale Zoning Ordinance. Because the structure does not conform a permit cannot be issued without the nonconformity being corrected.

VARIANCE CRITERIA ANALYSIS

1. **That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district:**

   The applicant states that the house orientation restricts the normal functionality of the lot. Original placement of the house and pool limit logical placement of a garage without the loss of existing livable space and/or the pool.

   Staff Analysis: The property was platted with a rectangular shape that is similar in size, shape and topography to other properties within the R1-35 district. The property is located within the middle of the Desert Estates subdivision and is surrounded by other single-family lots of similar size and shape. The existing home and pool diagonal placement on the property limit additional opportunities on the south portion of the home, but not elsewhere on the lot.

2. **That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located:**

   The applicant states that having a garage has become the standard for the neighborhood. Granting of a variance would not be a special privilege, but would allow the property owner to obtain permits to upgrade the property as others in the neighborhood are able to upgrade their properties.

Staff Analysis: Of the other nineteen (19) similarly shaped properties within the subdivision all appear to have been built forty (40) feet setback from the front property line. Five (5) properties within the subdivision have constructed detached accessory structures behind the main house for the purpose of covered parking. These similar properties appear to adhere to the City of Scottsdale Zoning Ordinance Section 7.200 pertaining to accessory structures. Regardless of the outcome of the variance, the property can be developed similar to other lots in the overall subdivision.

3. **That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:**

   The applicant states that a professional survey was conducted on 4/5/2016, and the survey results confirmed the fact that the original structure was placed nearly 4 inches within the front yard setback. The building has never been in compliance with the ordinance. Subsequently, a previous owner enclosed the original carport and converted the area into livable space while constructing a new carport along the same axis as the original structure exacerbating the original front yard setback encroachment. The new addition then encroached into the side yard. The above stated conditions were not brought on by the current owner or applicant of this property.

   Staff Analysis: The size, shape, and topography of the property is similar to others in the district. The orientation of the home and unpermitted structure within the required setbacks were built by the then property owners and were self-imposed at the time of construction.

4. **That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:**

   The applicant states that the rural feel of the R1-35 zoning is kept intact for a number of reasons:

   1) The total street right-of-way is 60 feet,

   2) The north end of the building is set back an additional 77 feet 6 inches from the street right-of way. The existing building is 12 feet at its highest point.

   With the requested improvements to the exterior structure, the maximum height of the building will be less than 15 feet. The ordinance allows for a maximum building height of 30 feet.

   In addition there has been no evidence of any complaint or concern by the neighbors or the City of Scottsdale previously. The granting of a variance will allow them to make upgrades to the property that will be beneficial to the property value and the image of the property.

   Staff Analysis: The building setback, if measured from the street curb, is forty (40) feet and generally provides an open character along the street frontage if the variance is approved. The side yard variance could be detrimental to the neighboring property to the south

because of Section 5.204.F.2 of the City of Scottsdale Zoning Ordinance, pertaining to the minimum distance between main buildings on adjacent lots shall be not less than thirty (30) feet. The neighboring buildings are currently separated by approximately forty-eight (48) feet, but if the neighbor desired to add an addition on the north side of their home they would only be permitted to build as close as eighteen and a half (18.5) feet to their north property line in order to maintain thirty (30) feet between buildings. Staff has not received any neighborhood input in support or against the proposed variances, as of the writing this report.

SUMMARY

Based on the facts presented by the applicant, the evidence would support a finding that the property may not have special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. Although the home configuration is on a diagonal axis, the size, shape, configuration, location and surroundings of the property is not unique and applicable other options exist for the property. Further, the applicant's proposed variances appear that they may be detrimental to persons residing or working in the surrounding neighborhood. However, the decision about whether the criteria have been met is for the Board to make after hearing all the evidence at the hearing.

APPROVED BY

Ben Moriarity, Report Author — Date: 5/10/16

Brad Carr, AICP, Board of Adjustment Liaison
480-312-7713, bcarr@scottsdaleaz.gov — Date: 5.10.2016

Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov — Date: 5/11/2016

Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov — Date: 5/12/16

ATTACHMENTS

1. Applicant's Project Narrative and Hardship Justification
2. Context Aerial
3. Aerial Close-Up
4. Zoning Map
5. Site Photographs
6. Proposed Site Plan

DAVID TIMMONS
ARCHITECTURAL
DESIGN STUDIO

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Phoenix, Arizona 85032
Phone: (480) 596-3408
Email: TimmonsStudio@cox.net
Web: timmonsdesignstudio.com

BOARD OF ADJUSTMENT VARIANCE PROJECT NARRATIVE

RE: Foss Residence
11428 N. 66th Street
Scottsdale, Arizona 85254
APN: 175-23-040

Type of variance requested, section(s) of the Zoning Ordinance to be varied:

This is a request for a variance to the Zoning Ordinance Sec. 5.204.E.1.a front yard depth and Sec. 5.204.E.2 side yard dimension for the above referenced property. We are requesting that the required front yard of 40 feet be reduced to 26 feet and the required side yard be reduced from 15 feet to 11 feet 6 inches

This narrative addresses the 4 elements necessary for a variance.

1. **That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district:**

The property is located in Desert Estates, Unit Eleven, Lot 39 of 41 lots, recorded June 2, 1961. Of the 41 lots, this property is one of only two lots that were built on or near the time of the recording of this subdivision where the houses were placed at a significantly skewed angle to the lot boundaries and street alignment. The other skewed lot appears to have a smaller original building footprint and placed more centrally on the lot.

The original building was placed at such an angle that it completely restricts the normal functionality and best use of the property. Because of the original placement of the building and swimming pool, there is no place to build a new garage that functions logically with the existing layout of the home and that does not require a loss of existing livable space and/or the swimming pool. It is cost prohibitive to the Foss's to make needed improvements to the property without the approved variance.

To bring the property into compliance, without the variance, requires that the existing garage would need to be removed. This further reduces the value of the property and restricts the ability to sell the home in the future without a carport or garage.

It was in an effort to remodel and enhance the street appearance and the energy efficiency of this home that the ordinance violation was discovered. Arizona Public Service (APS) provided the Foss's a House Energy Report that showed their power consumption within the last 12 months was 21% higher than their neighbors.
In an effort to respond to these facts, plans were submitted but not approved for a remodel that would create a much more attractive street presence while addressing major insulation deficiencies and updating an inefficient mechanical system with a design that adheres to current building practices.

2. **That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district and does not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which such property is located:**

Approval of this variance will allow for continued increase in value of the adjacent properties and of the subject property as well. At this point, no new work, save for superficial improvements, can be made to the residence without the granting of this variance. The building will not be allowed to be improved upon, therefore, diminishing the value of the property, while the values of the neighboring properties continue to go up.

Based on personal research, we found 22 homes sold within a half mile radius of the neighborhood in the last 24 months: Only one other home sold without 2 car covered parking; The average size of homes sold is 2,608 square feet, and the Foss's residence is 2,028 square feet; 19 homes sold that were greater than 2,208 square feet and 3 homes were smaller.

Property values have gone up considerably since the early 1960's. The standard of living and lifestyle has changed substantially in Scottsdale over the years. This is made evident in the size and scope of additions, remodels and teardowns of older homes for the construction of new luxury homes in this subdivision and adjacent subdivisions. Many of the properties zoned R1-35 were originally designed with smaller residences and horse privileges. With the current trends, these properties readily make way for these types of improvements

The rural feel of the R1-35 Zoning is kept intact for a number of reasons: 1) The total street right-of-way is 60 feet. 2) The north end of the building is set back an additional 77 feet 6 inches from the street right-of way. The existing building is 12 feet at its highest point. With the requested improvements to the exterior structure, the maximum height of the building will be less than 15 feet. The ordinance allows for a maximum building height of 30 feet.

3. **That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:**

A professional survey was conducted on 4/5/2016, and the survey results confirmed the fact that the original structure (built in 1961) was placed nearly 4 inches within the front yard setback. The building has never been in compliance with the ordinance. Subsequently, a previous owner enclosed the original carport and converted the area into livable space while constructing a new

carport along the same axis as the original structure exacerbating the original front yard setback encroachment. The new addition then encroached into the side yard. During the original construction on the property, a swimming pool was built in extreme close proximity to the residence which greatly limits options for expansion to the structure.

The original placement of the residence has always been in violation of the ordinance. The original placement of the swimming pool restricts options for placement of a new garage without the destruction and loss of existing livable space. The above stated conditions were not brought on by the current owner or applicant of this property.

The original building was placed at such an angle that it completely restricts the normal functionality and best use of the property.

4. **That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:**

Over the 50 plus years that this residence has been in existence, there is no evidence of any complaint or concern about the setbacks on this property, even as City inspectors have been on site numerous times for several permitted construction projects.

The necessary improvements include the following: 1) Insulation in the attic space. Current conditions do not allow for the installment of adequate insulation. To provide for the additional insulation, the roof structure must be raised which requires a permit. 2) New mechanical system and insulated ducts are needed as well and require a permit. 3) The existing patio structure is failing and needs to be replaced but it also requires a permit. A Desired improvement would be to provide a fire sprinkler system throughout the house, however, this also requires a permit.

Without this variance, the building will not be allowed to be improved upon, diminishing the value of the property and therefore detrimental to the adjacent properties and neighborhood.

Foss Residence

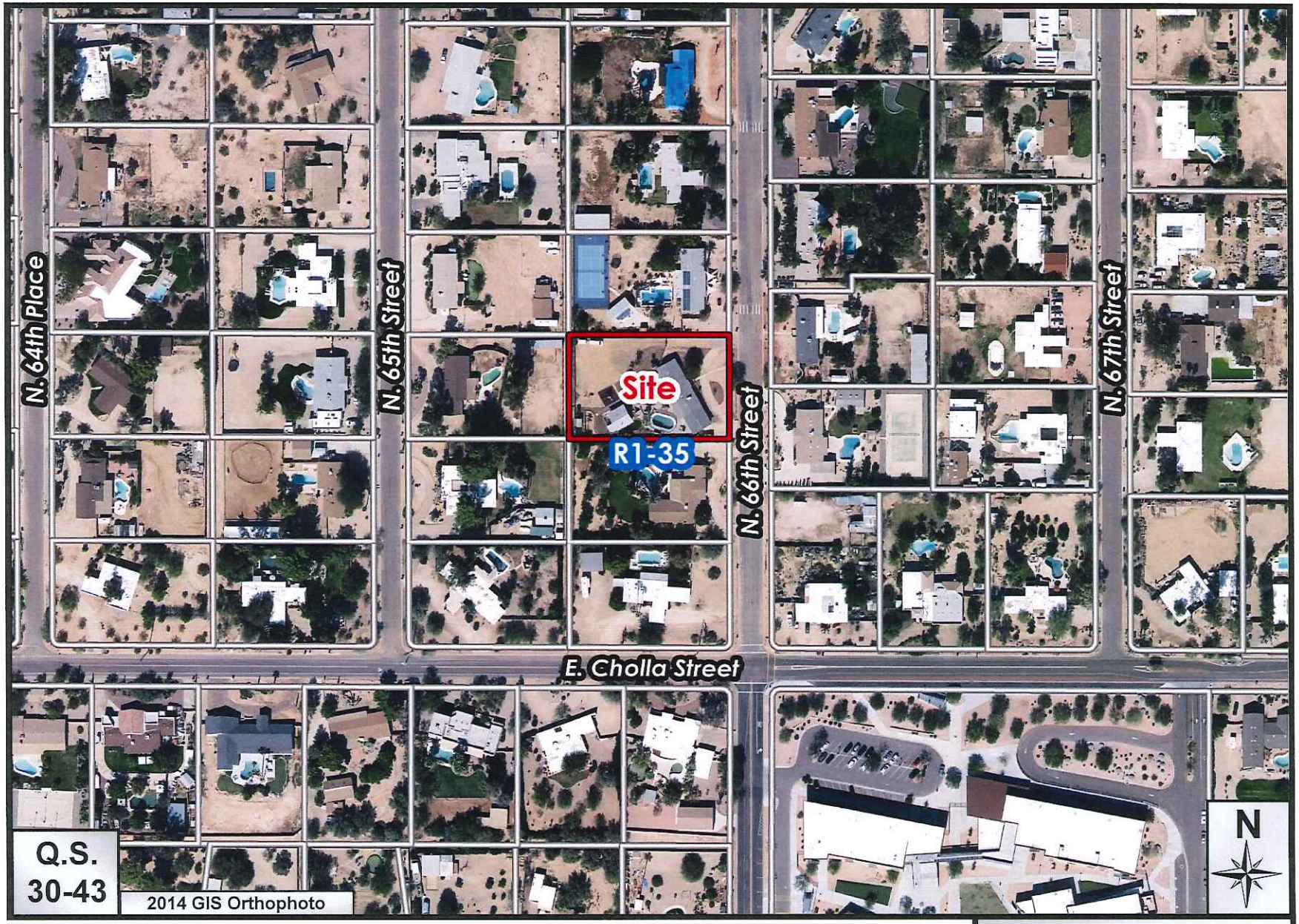
7-BA-2016

ATTACHMENT #2

Foss Residence

7-BA-2016

ATTACHMENT #3



Foss Residence

7-BA-2016

ATTACHMENT #4

PHOTO ALBUM

NORTH

VICINITY MAP

SCALE: NO SCALE

7-BA-2016
04/28/16

DAVID TIMMONS
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Phoenix, Arizona 85032
Phone: (480) 596-3408
email: TimmonsStudio@cox.net
web: timmonsdesignstudio.com

201602 4/25/16

VARIANCE APPLICATION FOR

RAY & TRACY FOSS

11428 NORTH 66th ST.
SCOTTSDALE, AZ. 85254

ATTACHMENT #5

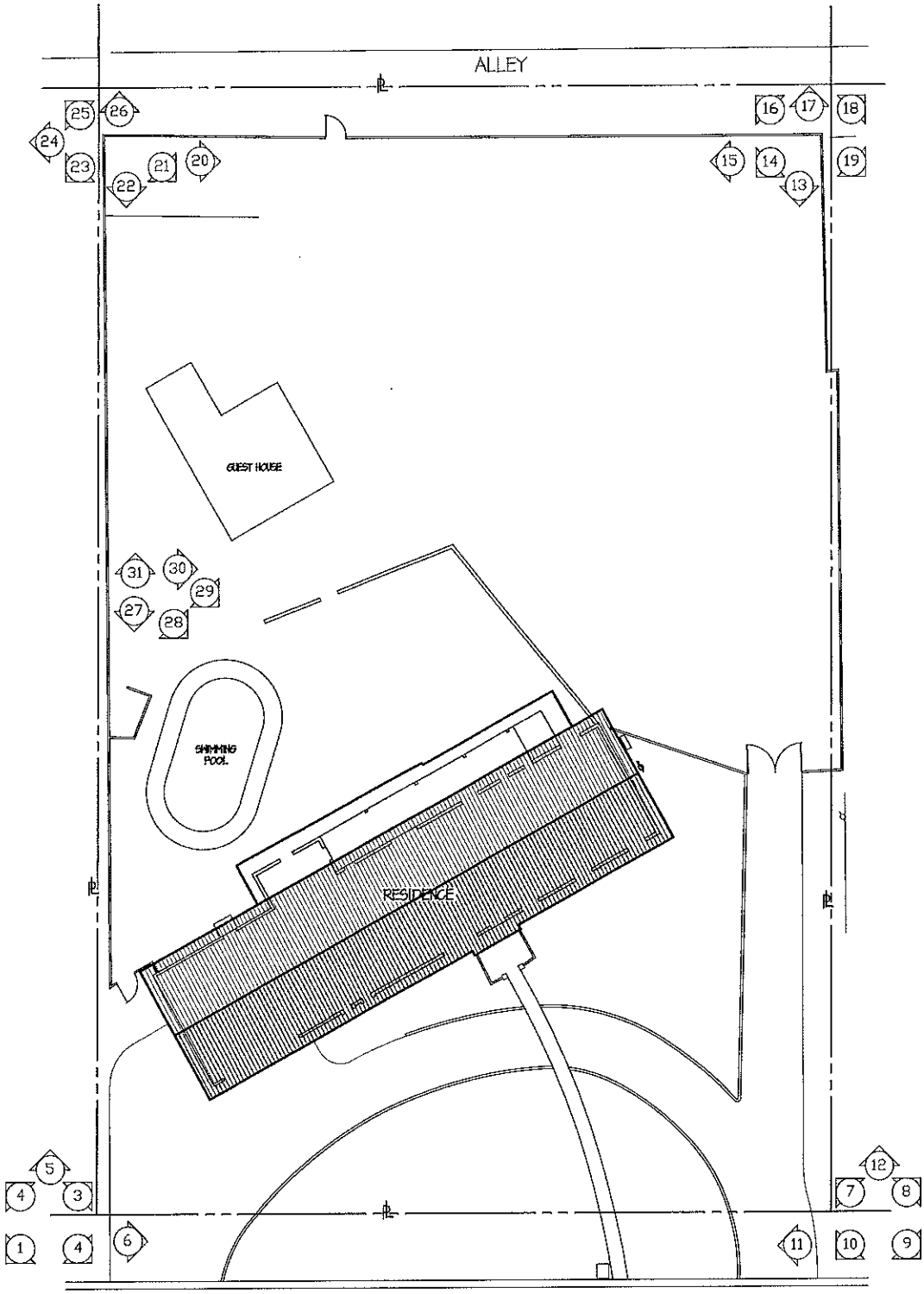
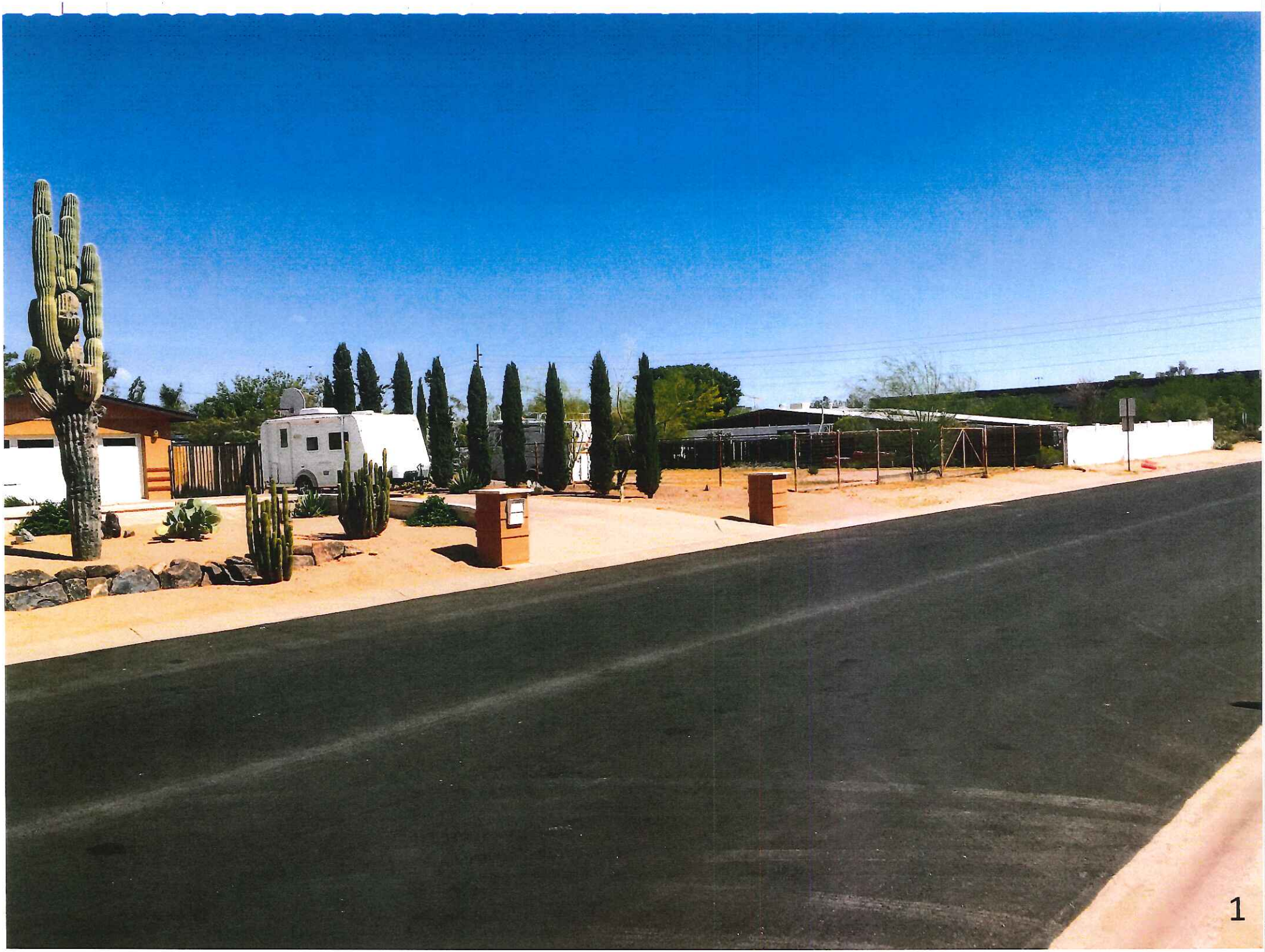


PHOTO KEY PLAN

SCALE: NO SCALE



SPEED BUMPS
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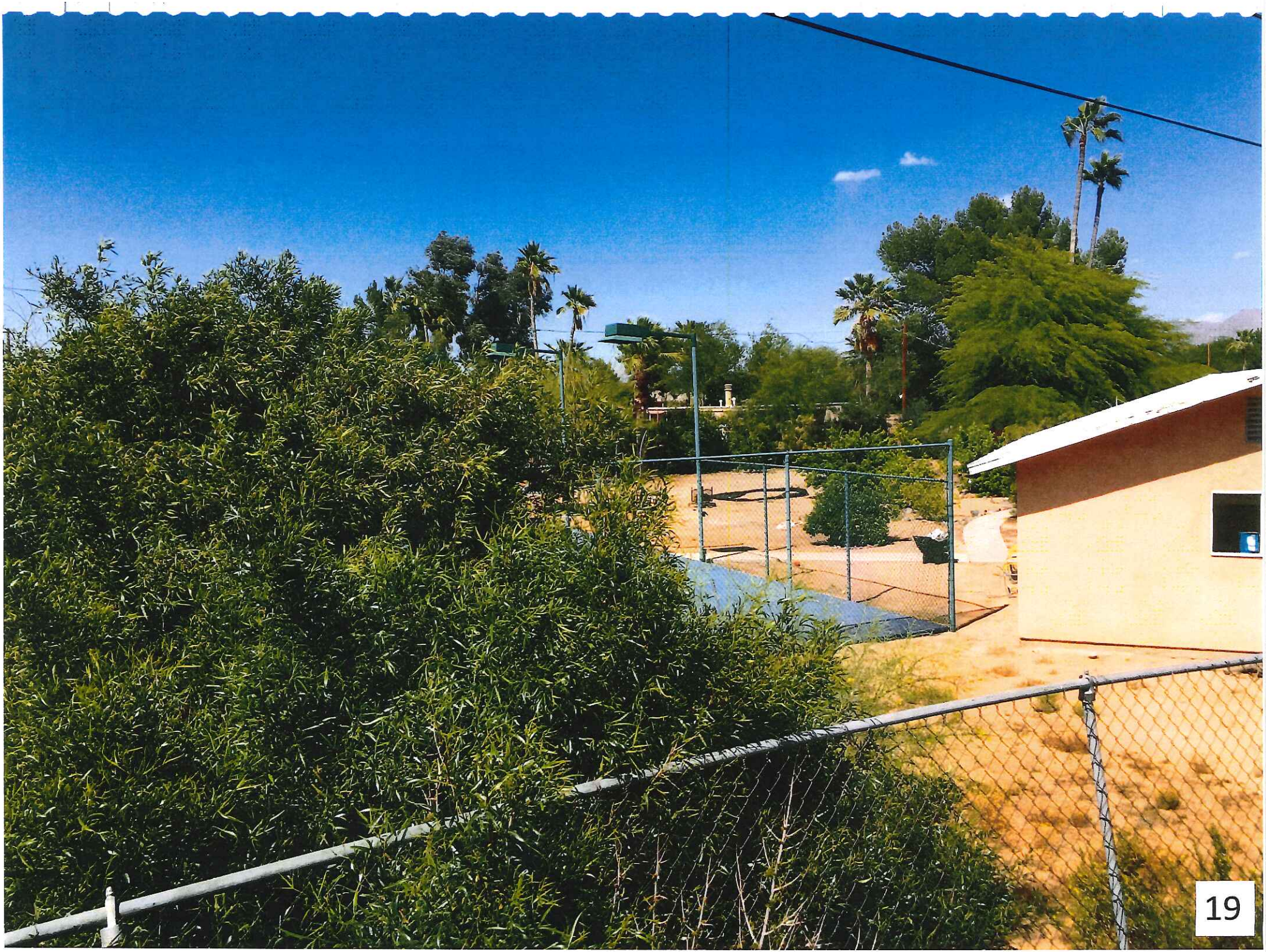
Bounder



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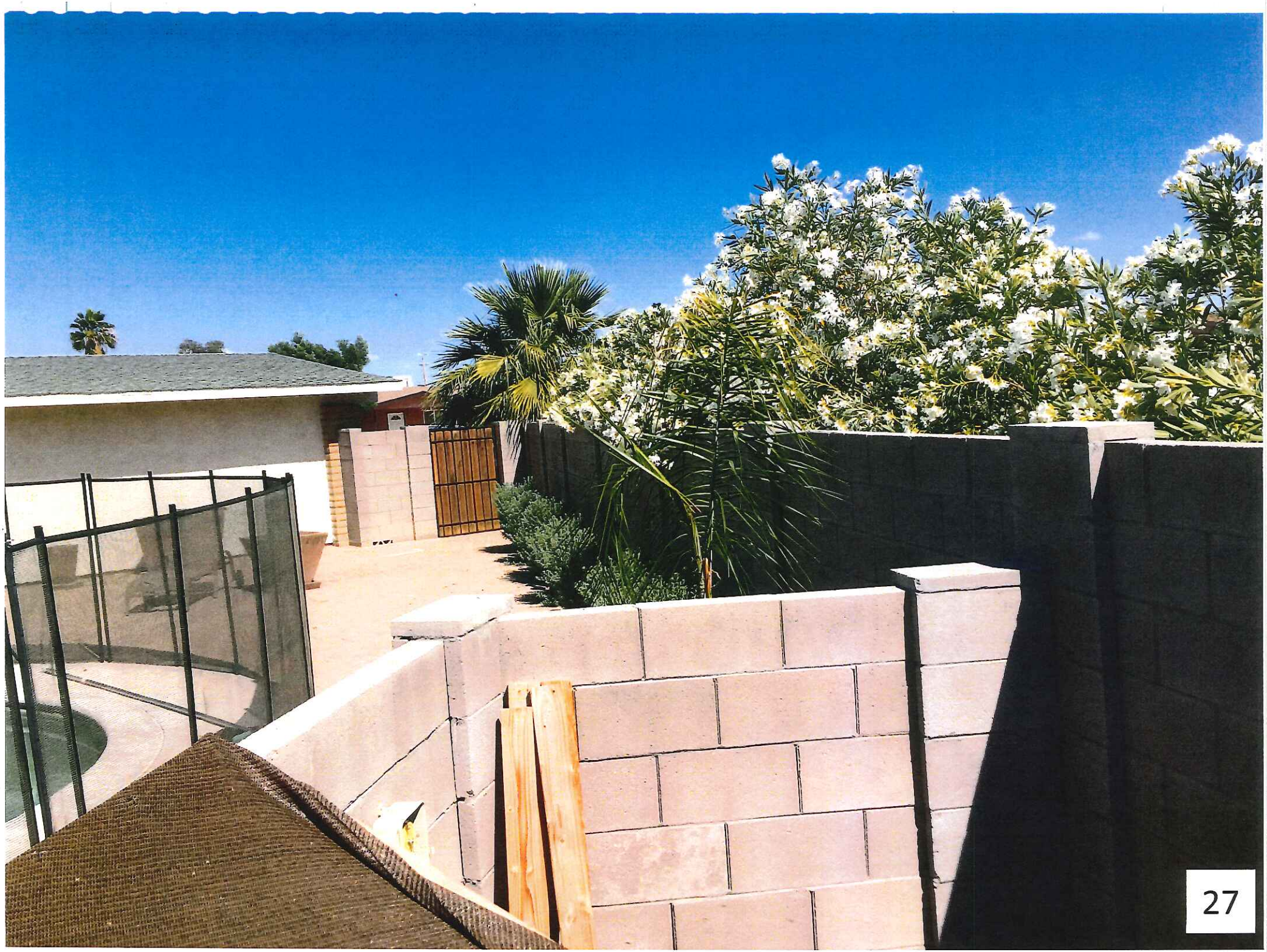
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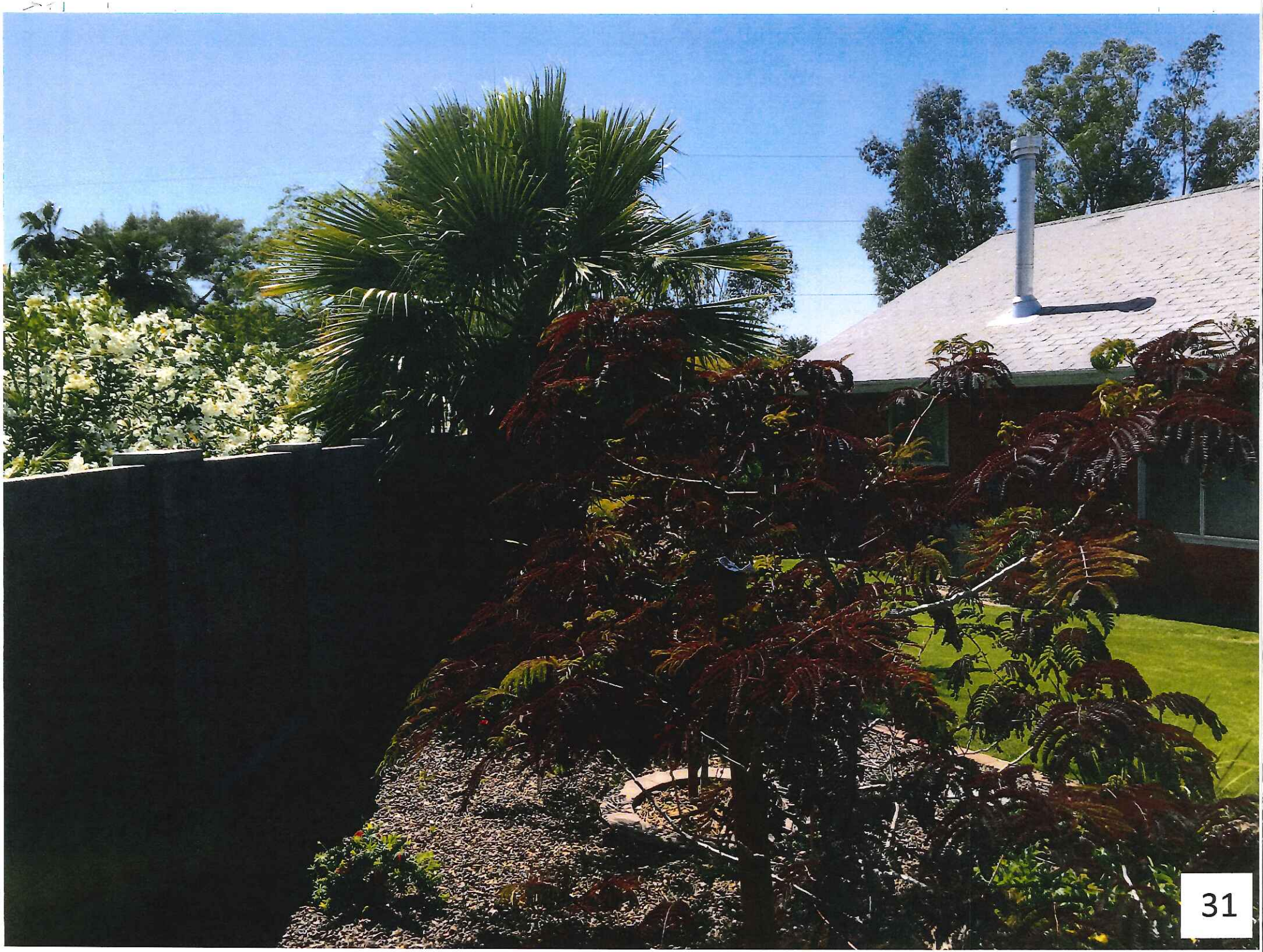
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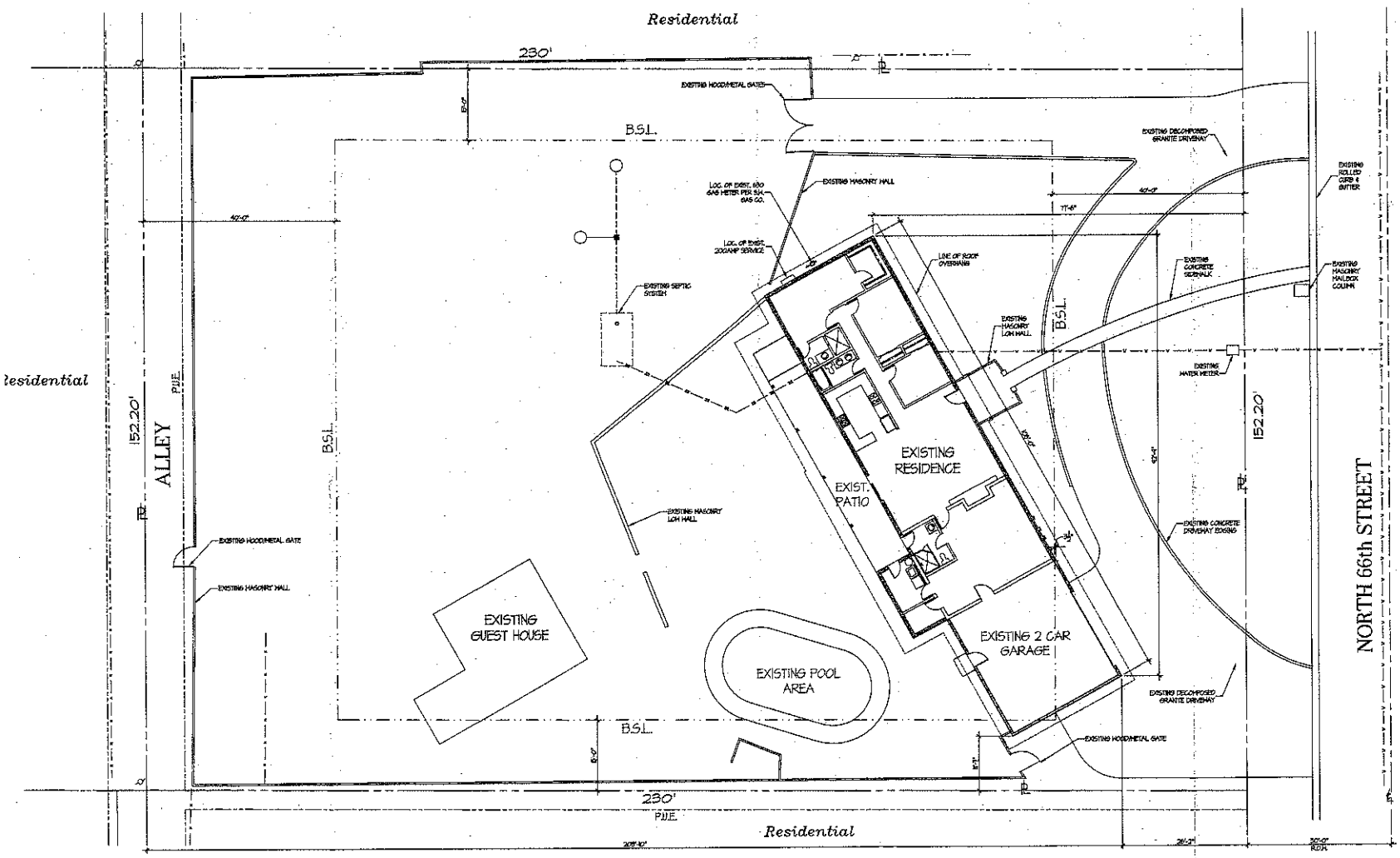
ATTACHMENT #6



SITE DATA:

APN:	175-23-040	Lot Square Footage:	35,008 S.F.
Property Address:	11428 NORTH 66th STREET SCOTTSDALE, AZ. 85254	Existing Livable:	2,209.4 S.F.
		Existing Building Footprint:	3,505.3 S.F.
		Existing Guest House Bldg. Ft. Pt.:	700.0 S.F.
Subdivision:	DESERT ESTATES II	Total Building Footprint:	4,205.3 S.F.
Lot #:	39		
MCR #:	94-50	Lot Coverage:	12%
Section Township Range:	22 3N 4E		
Zoning:	R1-35		

VICINITY MAP
SCALE: NO SCALE

ARCHITECTURAL SITE PLAN
SCALE: 1" = 10'-0"

0 10 20 40

SCALE: 1" = 10.0'

FOSS RESIDENCE
11428 NORTH 66th STREET
SCOTTSDALE, ARIZONA 85254

LOT 39
DESERT ESTATES II
APN: 175-23-040

EXP. 4/30/16

REVISIONS	DATE	BY
1ST COMMENTS	-	-

DRAWN BY: DT
CHECKED BY: DT
DATE: 4/25/16
SCALE: 1" = 10.0'
JOB NUMBER:
DRAWING TITLE: ARCHITECTURAL SITE PLAN
SHEET: A-1
OF SHEETS

7-BA-2016
04/25/16