

**Marked Agendas**  
**Approved Minutes**  
**Approved Reports**



## Current Planning Services

One Civic Center  
7447 E Indian School Road, Suite 105  
Scottsdale, AZ 85251

August 8, 2014

Bryan Mealey  
Zzone Development LLC  
9096 E Bahia Dr Ste A-102  
Scottsdale, AZ 85260-1587

Re: 249-PA-2014  
2-BA-2014  
Cactus & 101 Variance

Dear Bryan Mealey,

This letter is to advise you that the variance referenced above was approved with the following stipulations at the August 6, 2014 Board of Adjustment meeting.

1. A masonry wall of not more than eight (8) feet in height and of a design consistent with that presented in Exhibit #4 shall be constructed along the north edge of the property. Masonry wall shall be constructed to meet all current City of Scottsdale construction standards.
2. Various trees and other vegetation as depicted on Exhibit #1 and Exhibit #2 shall be installed outside the constructed north wall. All irrigation necessary to support new vegetation shall also be installed.
3. The wall along the north edge of the property, all vegetation located between sidewalk and new masonry wall and the irrigation necessary to support the vegetation, shall be maintained in accordance with all applicable City of Scottsdale code requirements and in compliance with Exhibit #1 and Exhibit #2.
4. The new masonry wall along the north edge of the property shall be staggered at both the eastern and western edges as depicted in Exhibit #1 and Exhibit #2. Staggered segments must be offset by a minimum of 10 feet, as depicted in referenced exhibits.

Enclosed is a copy of the signed Zoning Ordinance Variance Decision Form for your records.

If you have any questions, please feel free to call me at 480-312-7015.

Sincerely,

Karen Fitzpatrick  
Planning Assistant  
Board of Adjustment





# ZONING ORDINANCE VARIANCE

## Board of Adjustment Decision

### Variance Request

Case Numbers: 249 - PA - 2014 / 2 - BA - 2014

Project Name: Cactus & 101 Variance

Location: 8710 E. Sunnyside Drive

#### Description of Request:

☐ Single-Family Residential    ☐ Multi-Family Residential    ☐ Commercial    ☐ Industrial

Section of the Zoning Ordinance to be varied: Article V, Section 5.204.G

Scottsdale Ordinance Requires: Article V, Section 5.204.G states that "Walls, fences and hedges up to three (3) feet in height are allowed on the front property line or within the required front yard".

Applicant's Request: Section 5.204.G requesting a wall height of eight (8) feet in the front yard setback on the north side and northeast corner of the property..

Amount of Variance: Section 5.204.G – five (5) feet in wall height

### Board of Adjustment Decision

Hearing Date: August 6, 2014

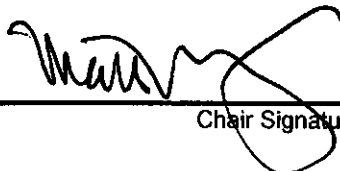
☐ Approved

☒ Approved with Stipulation(s): SEE ATTACHMENT "A"

☐ Denied

☐ Continued to: \_\_\_\_\_

☐ Other: \_\_\_\_\_

  
Chair Signature

### Planning and Development Services Department

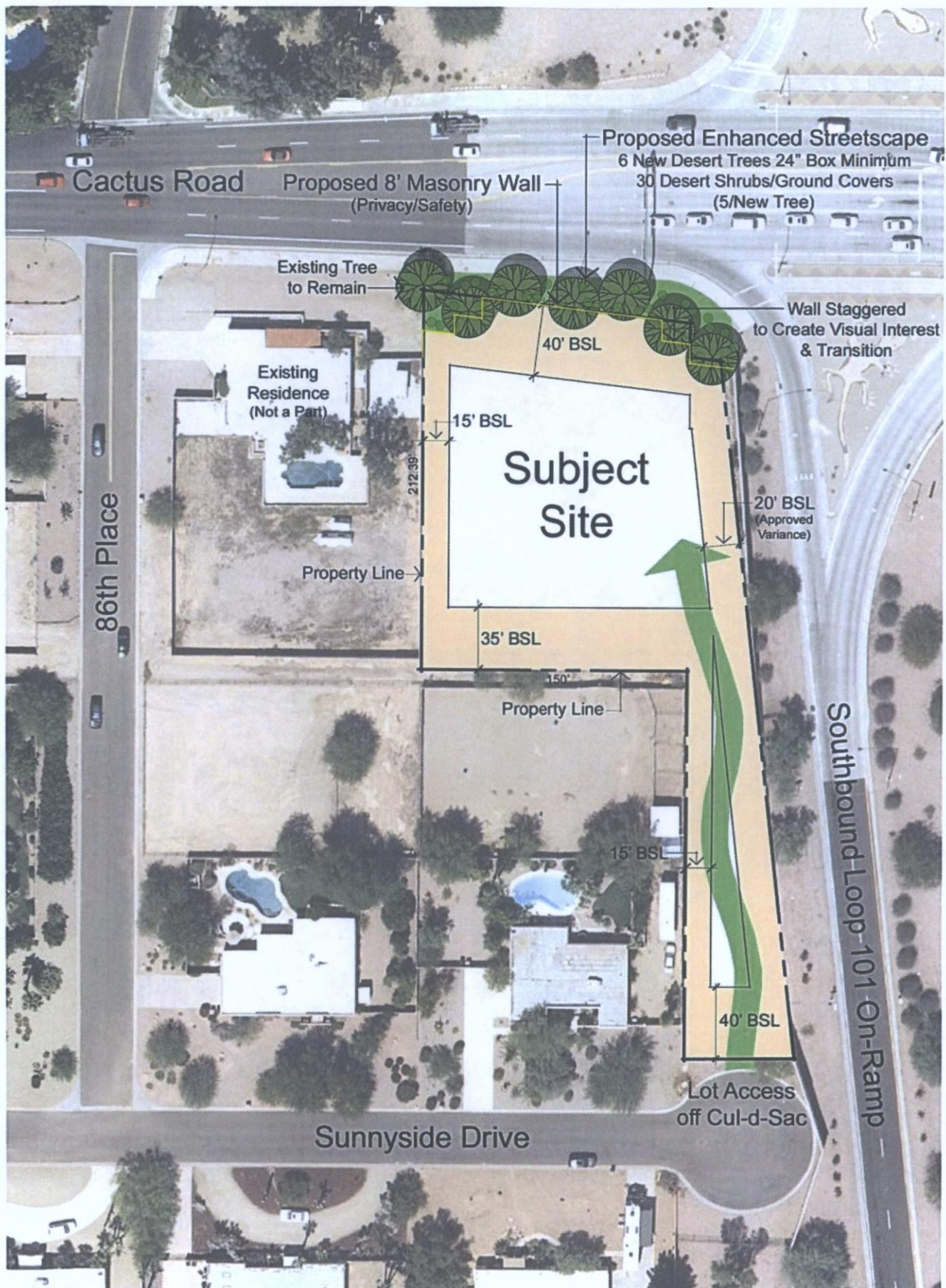
7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 Phone: 480-312-7000 Fax: 480-312-7088

### **Conditions of Approval for Case 2-BA-2014**

In accordance with Section 1.804.C. of the Zoning Ordinance, the following conditions of approval are hereby set forth for case 2-BA-2014. Violation of any condition herein shall be a violation of the Zoning Ordinance and such violation shall render the variance null and void.

1. A masonry wall of not more than eight (8) feet in height and of a design consistent with that presented in Exhibit #4 attached hereto shall be constructed along the north edge of the property. Masonry wall shall be constructed to meet all current City of Scottsdale construction standards.
2. Various trees and other vegetation as depicted on Exhibit #1 and Exhibit #2 attached hereto shall be installed outside the constructed north wall. All irrigation necessary to support new vegetation shall also be installed.
3. The wall along the north edge of the property, all vegetation located between sidewalk and new masonry wall and the irrigation necessary to support the vegetation, shall be maintained in accordance with all applicable City of Scottsdale code requirements and in compliance with Exhibit #1 and Exhibit #2 attached hereto.
4. The new masonry wall along the north edge of the property shall be staggered at both the eastern and western edges as depicted in Exhibit #1 and Exhibit #2 attached hereto. Staggered segments must be offset by a minimum of 10 feet, as depicted in referenced exhibits.





2-BA-2014

Exhibit #1



# Cactus Road

Proposed 8' Masonry Wall

Proposed Enhanced Streetscape  
6 New Desert Trees - 24" Box Min.  
30 Desert Shrubs/Groundcovers

Existing  
Tree

Wall Staggered  
to Create Visual Interest  
& Transition

2-BA-2014

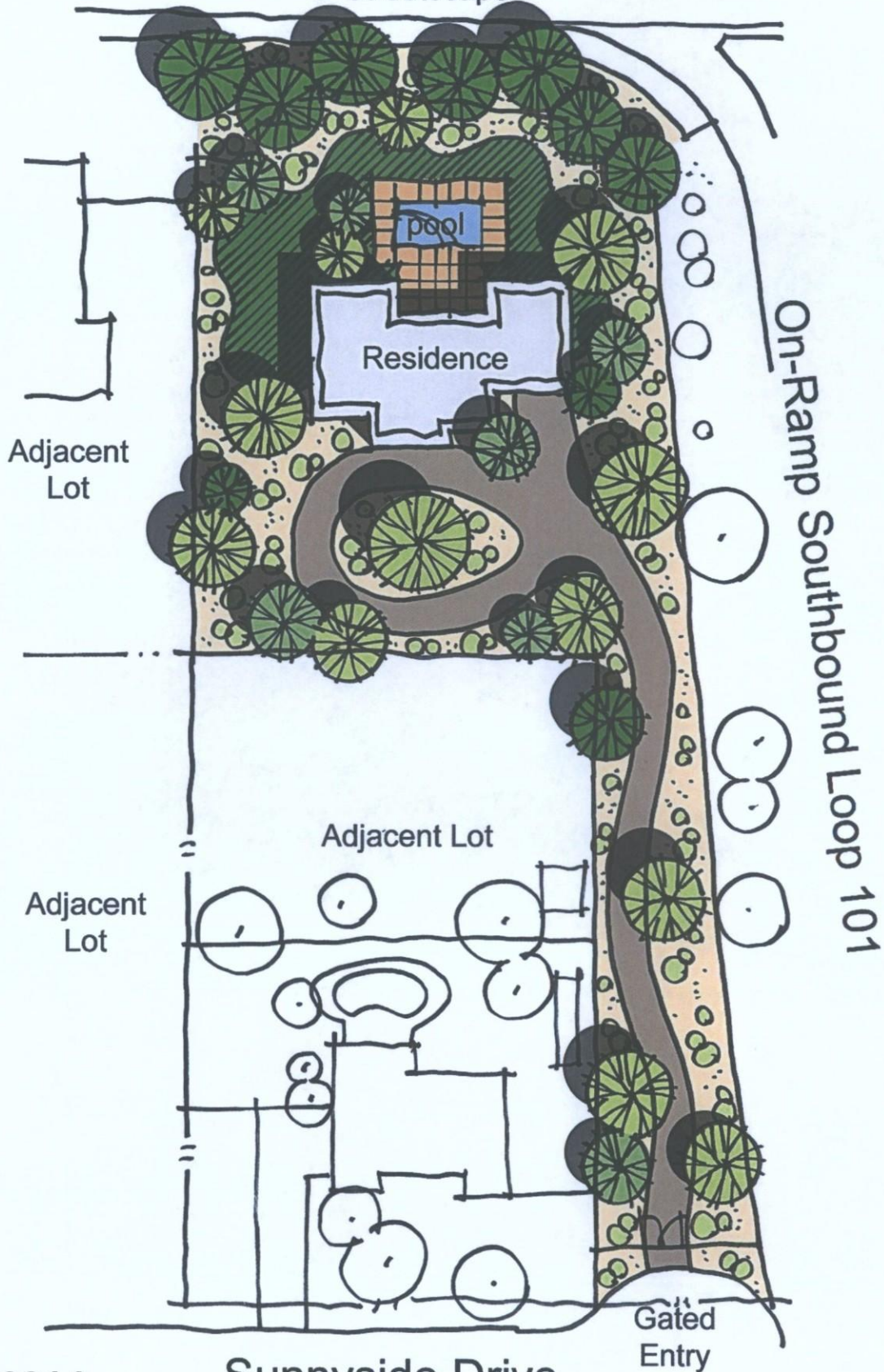
Exhibit #2

## Proposed Wall/Streetscape Along Cactus Road



Cactus Road

Streetscape



2-BA-2014

Sunnyside Drive

Gated Entry

On-Ramp Southbound Loop 101

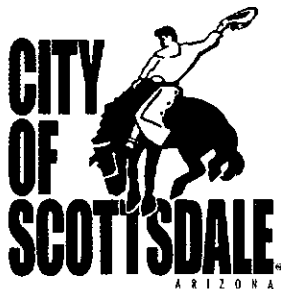
# Conceptual Site Plan

Exhibit #3





**Exhibit #4**



# ZONING ORDINANCE VARIANCE

## Board of Adjustment Decision

### Variance Request

Case Numbers: 249 - PA - 2014 / 2 - BA - 2014

Project Name: Cactus & 101 Variance

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#### Description of Request:

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Applicant's Request: Request by applicant for variances to the City of Scottsdale Zoning Ordinance Section 5.204.G requesting a wall height of eight (8) feet in the front yard setback on the north side and northeast corner of the property..

Amount of Variance: Section 5.204.G – up to five (5) feet in wall height

### Board of Adjustment Decision

Hearing Date: June 4, 2014

☐ Approved ☐ Approved with Stipulation(s): \_\_\_\_\_  
☐ Denied ☒ Continued to: August 6, 2014 at 6 pm.  
☐ Other: \_\_\_\_\_

  
Chair Signature

### Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 Phone: 480-312-7000 Fax: 480-312-7088



# ZONING ORDINANCE VARIANCE

## Board of Adjustment Decision

### Variance Request

Case Numbers: 249 - PA - 2014 / 2 - BA - 2014

Project Name: Cactus & 101 Variance

Location: 8710 E. Sunnyside Drive

#### Description of Request:

☐ Single-Family Residential    ☐ Multi-Family Residential    ☐ Commercial    ☐ Industrial

Section of the Zoning Ordinance to be varied: Article V, Section 5.204.E.1.c

Scottsdale Ordinance Requires: Article V, Section 5.204.E.1.c states that "On a corner lot the required front yard of forty (40) feet shall be provided on each street".

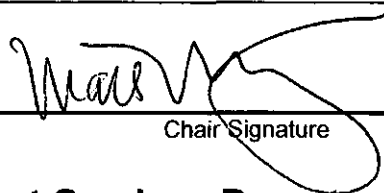
Applicant's Request: Request by applicant for variances to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c - requesting a setback of twenty (20) feet on the east side of the property.

Amount of Variance: Section 5.204.E.1.c – twenty (20) foot setback;

### Board of Adjustment Decision

Hearing Date: June 4, 2014

☒ Approved    ☐ Approved with Stipulation(s): \_\_\_\_\_  
☐ Denied    ☐ Continued to: \_\_\_\_\_  
☐ Other: \_\_\_\_\_

  
Chair Signature

### Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 Phone: 480-312-7000 Fax: 480-312-7088





# ZONING ORDINANCE VARIANCE

## Board of Adjustment Decision

### Variance Request

Case Numbers: 249 - PA - 2014 / 2 - BA - 2014

Project Name: Cactus & 101 Variance

Location: 8710 E. Sunnyside Drive

#### Description of Request:

☐ Single-Family Residential ☐ Multi-Family Residential ☐ Commercial ☐ Industrial

Section of the Zoning Ordinance to be varied: Article V, Section 5.204.E.1.c

Scottsdale Ordinance Requires: Article V, Section 5.204.E.1.c states that "On a corner lot the required front yard of forty (40) feet shall be provided on each street".

Applicant's Request: Request by applicant for variances to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c - requesting a setback of twenty (20) feet on the east side of the property.

Amount of Variance: Section 5.204.E.1.c – twenty (20) foot setback;

### Board of Adjustment Decision

Hearing Date: May 7, 2014

☐ Approved

☐ Approved with Stipulation(s): \_\_\_\_\_

☐ Denied

☒ Continued to: 6/4/14

☐ Other: \_\_\_\_\_

  
Chair Signature

### Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 Phone: 480-312-7000 Fax: 480-312-7088



# ZONING ORDINANCE VARIANCE

## Board of Adjustment Decision

### Variance Request

Case Numbers: 249 - PA - 2014 / 2 - BA - 2014

Project Name: Cactus & 101 Variance

Location: 8710 E. Sunnyside Drive

#### Description of Request:

☐ Single-Family Residential    ☐ Multi-Family Residential    ☐ Commercial    ☐ Industrial

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Amount of Variance: Section 5.204.G – five (5) feet in wall height

### Board of Adjustment Decision

Hearing Date: May 7, 2014

☐ Approved    ☐ Approved with Stipulation(s): \_\_\_\_\_  
☐ Denied    ☒ Continued to: 6/4/14  
☐ Other: \_\_\_\_\_

Matthew  
Chair Signature

### Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 Phone: 480-312-7000 Fax: 480-312-7088

# BOARD OF ADJUSTMENT REPORT



Meeting Date: 8/6/2014  
Item No.: 2

## ACTION

**Cactus & 101 Variance  
2-BA-2014**

**Request to consider the following:**

1. Approve a variance request to the City of Scottsdale Zoning Ordinance Section 5.204.G pertaining to wall height on the north side and northeast corner of the property located at 8710 E. Sunnyside Drive with Single-Family Residential District (R1-35) zoning.

## OWNER

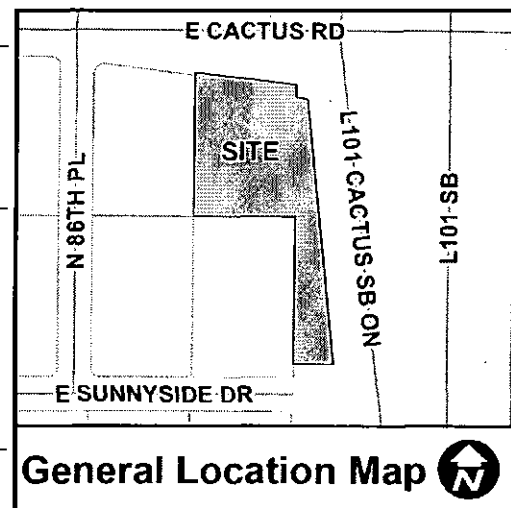
Cactus 101, LLC

## APPLICANT CONTACT

Bryan Mealey  
Zzone Development LLC  
480-628-1465

## LOCATION

8710 E Sunnyside Drive



## BACKGROUND

### History

The subject property was annexed into the City of Scottsdale in 1962 under Ordinance 165. The property was platted under the Desert Hills North subdivision in 1972. The subject property contains Lot 78, and remnant portions of Lot 59 and 79 from the Desert Hills North plat and is approximately 45,480 square feet in size. Single-family structures were permitted and constructed in the 1970's on these three lots.

The subject property was part of the area acquired by the Arizona Department of Transportation (ADOT) for the construction of Loop 101. ADOT demolished the homes and

constructed the Loop 101, which included the southbound on-ramp from Cactus Road adjacent to the subject property. In 2004, ADOT sold the subject property reserving a 15 foot wide wall easement along the east side of the property for maintenance purposes and granting legal access to the property from E Sunnyside Drive. The ADOT consolidation of Lot 78 and remnants portion of Lot 59 and Lot 79 into the subject property was not submitted to the City of Scottsdale for approval. The subject property will be required to submit an application to tie the lots together upon development of the lot.

The initial hearing on this variance request was on May 7, 2014 with an associated request for a variance on the setback. The applicant requested a continuance at this hearing, but testimony from the public was given at this hearing. The Board of Adjustment continued this case to the June 4, 2014 meeting. At the June 4<sup>th</sup> hearing, the Board of Adjustment approved the variance request for the setback reduction. After discussing the variance request for the wall height, the Board continued this variance request to the August 6, 2014 meeting. Public testimony was given on the wall height variance request at the June 4<sup>th</sup> hearing.

### **Zoning/Development Context**

The subject property is zoned Single-Family Residential District (R1-35). The property has frontage on three sides: E. Cactus Road, the Loop 101 and E. Sunnyside Drive. The surrounding properties are zoned Single-Family Residential District (R1-35).

### **Zoning Ordinance Requirements**

- Pursuant to Article V, Section 5.204.G states "Walls, fences and hedges up to three (3) feet in height are allowed on the front property line or within the required front yard except as provided in Article VII." The applicant is requesting a Variance of 5 feet in height to allow an eight (8) feet wall within the forty (40) front yard setback on the north side of the property.

### **Code Enforcement Activity**

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

### **Community Input**

The City has sent out hearing postcards to properties within 750 feet of the subject site and posted a sign at the subject site. Staff has received correspondence in support and in opposition to the requested variance. Correspondence in support of the wall height stated the wall is necessary to mitigate the noise and provide security. The correspondence received in opposition to the wall height stated the wall would be detrimental to the neighborhood and out of character.

## **VARIANCE CRITERIA ANALYSIS**

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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 special circumstances resulted from the ADOT improvements for the Loop 101 highway. The property has frontage adjacent to E. Cactus Road, but under the City of Scottsdale's code requirements, access to the property is not allowed from E. Cactus Road.

Staff Analysis: Prior to the Loop 101 construction, Lots 78, 79 and 59 in the Desert Hills North subdivision were typical square-shaped lots of approximately 35,000 square feet. Each lot had a front yard, two side yards and a rear yard. After construction of Loop 101, ADOT consolidate Lot 78 and the remaining area of Lot 79 and Lot 59 and created an irregular shaped lot. The construction of the Loop 101 freeway resulted in the creation of a front yard setback on the east side of the subject property.

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 the front yard setback required on three sides of this property reduces the usable and enjoyable amount of land. The applicant states that wall Variance is needed to protect the property owners from the traffic on E. Cactus Road.

Staff Analysis: This property is approximately 45,480 square feet. The minimum lot size for the R1-35 zoning district is 35,000 square feet. The building envelope with the approved Variance request of 20 feet on the east side is now approximately 17,876 square feet. Similar building envelope sizes of properties in the area range from approximately 12,850 square feet to 19,465 square feet. The building envelope will remain the same regardless of the wall height Variance request along E. Cactus Road.

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

The applicant states that the circumstances of the property were not self-imposed by the current property owner or past ownership.

Staff Analysis: ADOT acquired the property and demolished the existing houses to construct the Loop 101 and the southbound on-ramp from E. Cactus Road. The remaining area after the construction of the Loop 101 was consolidated by ADOT as the subject property and sold to the applicant. The construction of the Loop 101 freeway resulted in the creation of a front yard setback on the east side of the subject property. The wall height variance request along E. Cactus Road is a result of the site design the applicant is proposing.

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 approval of the variance will not be detrimental to the neighborhood. The proposed eight (8) foot high wall location will not impede any persons

residing, working or traveling in the area. The wall will not obstruct any views of upcoming traffic because the Loop 101 on-ramp is a right turn only lane.

Staff Analysis: The intent of the maximum wall height of 3 feet in required front yard setbacks is to create an open rural residential character, to establish view corridors, and to maintain uninterrupted visual continuity along front property lines. The requested variance will not allow a structure or wall to encroach in a vehicle path of travel or safety sight-line visibility triangle. Existing homes along E. Cactus Road west of the site maintain at least a 20-foot setback from the property line to any structure or wall over 3 feet in height. Comments in opposition and support were received.

## SUMMARY

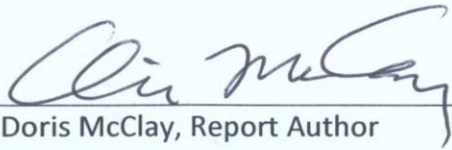
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Based on the facts presented by the applicant, the evidence would support a finding that the property has special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The size, shape, or configuration of the property is unique and applicable. Further, the applicant's proposed variance does not appear that it would 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.

The Board of Adjustment does have the ability to grant the variance for the wall height along E. Cactus Road on the applicant's property line. In order to maintain consistency with the established setback of structures on the property to the west, the Board also has the ability to require that an 8-foot wall along Cactus be set back 20 feet instead of the requested property line. This would maintain the established view corridor along E. Cactus Road.

**APPROVED BY**

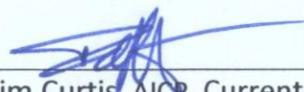
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Doris McClay, Report Author

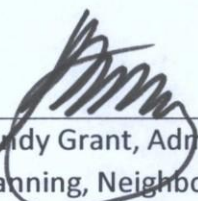
7/21/14  
Date

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

7.21.2014  
Date

  
Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov

7/21/2014  
Date

  
Randy Grant, Administrator  
Planning, Neighborhood and Transportation  
480-312-2664, rgrant@scottsdaleaz.gov

7/22/14  
Date

**ATTACHMENTS**

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1. Project Description and Justification
2. Context Aerial
3. Aerial Close-Up
4. Setback exhibit with proposed wall location
5. Zoning Map
6. Site Photographs
7. Neighborhood Notification Map
8. Proposed Site Plan
9. Correspondence
10. May 7, 2014 Board of Adjustment Minutes and written comment cards
11. June 4, 2014 Draft Board of Adjustment Minutes and written comment cards





*Where Vision Is Built*

9096 E. Bahia Dr. A-102

Scottsdale, AZ 85266

ROC 2611870

## APPLICATION NARRATIVE

City of Scottsdale  
Board of Adjustment  
7447 E Indian School Ste 105  
Scottsdale, AZ 85251

April 2, 2014

**Re: The Property address located @ 8710 E. Sunnyside Dr. aka.. Parcel 175-13-121A**

Dear Board Members,

It is with special request that the following Zoning Ordinance Variance be granted due to special circumstances regarding the above referenced land. This property was purchased from Arizona State Department of Transportation (ADOT) in August 2013 and is currently deemed vacant land.

Pursuant to the location of this property, it is classified with having three (3) street frontages. One along the North property line parallel with Cactus Road, the East property line parallel the 101 freeway and the South property line on Sunnyside Drive which is a dead end cul de sac. Our property sits along the existing 101 Freeway wall. With this property being classified with three frontages, it greatly hinders the building envelope and usable land by having three 40' Building Setback Lines.

The North frontage along Cactus is a product of circumstance. By code we would not be allowed to use it as access to the property. The current frontage designation also prohibits any fence wall greater than 3' in height to be installed past the BSL "Building Setback Line" of 40'. In addition there is a 15' wall maintenance easement along the East property line imposed by ADOT and a 10' horse trail easement along the South property line imposed by the CC&R's. These substantially reduce the usable and enjoyable amount of land.

Our request is that a variance be granted allowing a perimeter fence wall to be constructed on the property line past the North and East BSL in order to screen the approximate 40,000 car traffic count that passes our property on a daily basis as well as granting a variance for the wall height of 8' in height. We would also request that the East BSL be reduced to 20' "See Attached".

Due to the special circumstances applicable to this property resulting from ADOT improvements, we as owners would be greatly deprived of the privileged enjoyable use of the land. Not to mention the safety hazard of our newly constructed home. This circumstance is and was in no way self imposed or created by the current or past ownership.

The proposed wall location would not be detrimental nor impeded any persons residing, working or traveling in the area. The wall location would also correspond to similar wall locations located across Cactus Rd. on homes backing Cactus Rd. Because the 101 on ramp is a right turn "one way" only, the fence location would not obstruct any view of oncoming traffic.

Thank you,

A handwritten signature in black ink, appearing to read "Tony Ardizzone".

Tony Ardizzone  
Owner of Cactus 101, LLC



ATTACHMENT #2





## Cactus Road & Loop 101 Variance

**2-BA-2014**

ATTACHMENT #3





E CACTUS RD

8 FOOT WALL

40  
FEET

15  
FEET

SITE

20  
FEET

35  
FEET

L101 CACTUS SBLN

E SUNNYSIDE DR

ATTACHMENT #4





2-BA-2014

ATTACHMENT #5











#2













#5

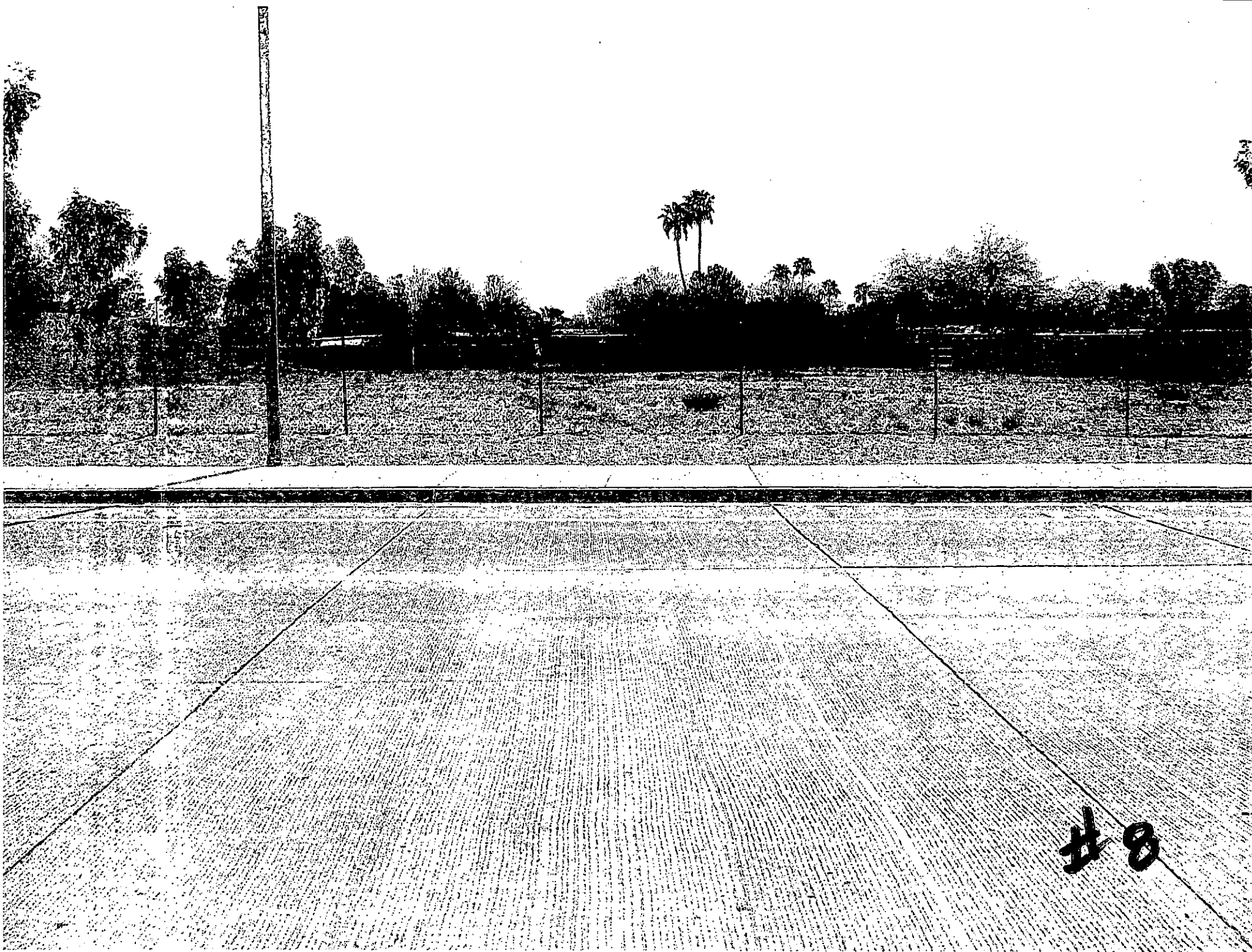












#8





















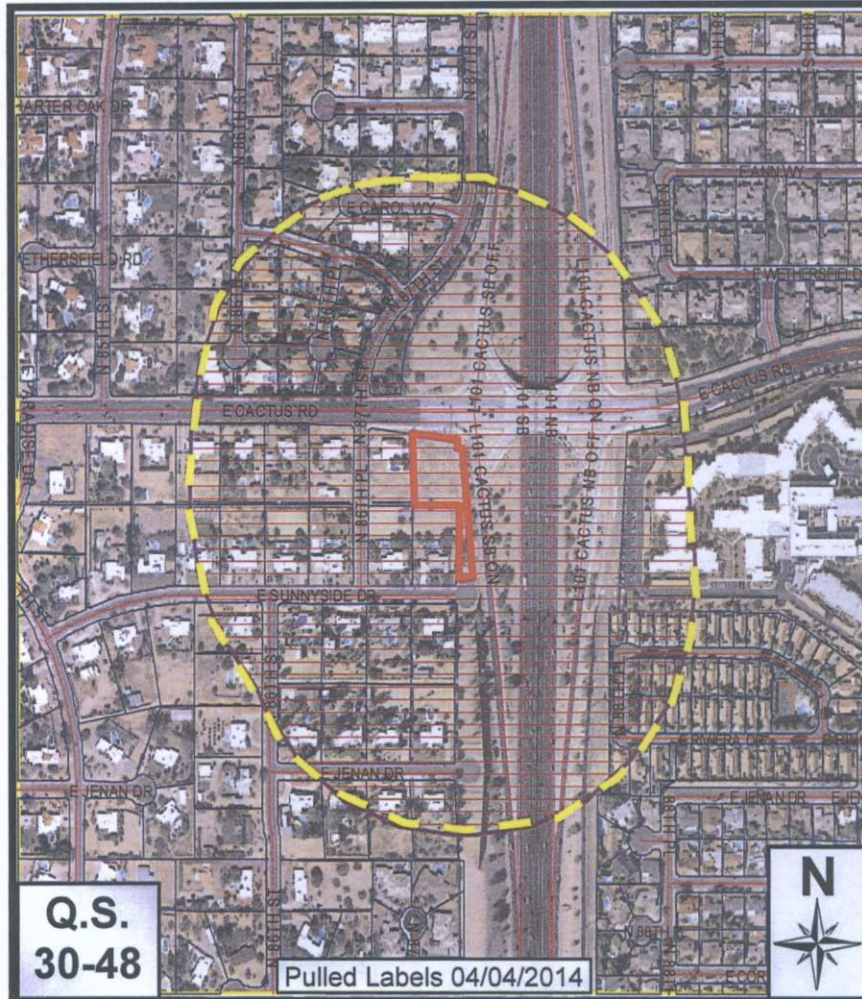




14



## City Notifications – Mailing List Selection Map



### Map Legend:



Site Boundary



Properties within 750-feet

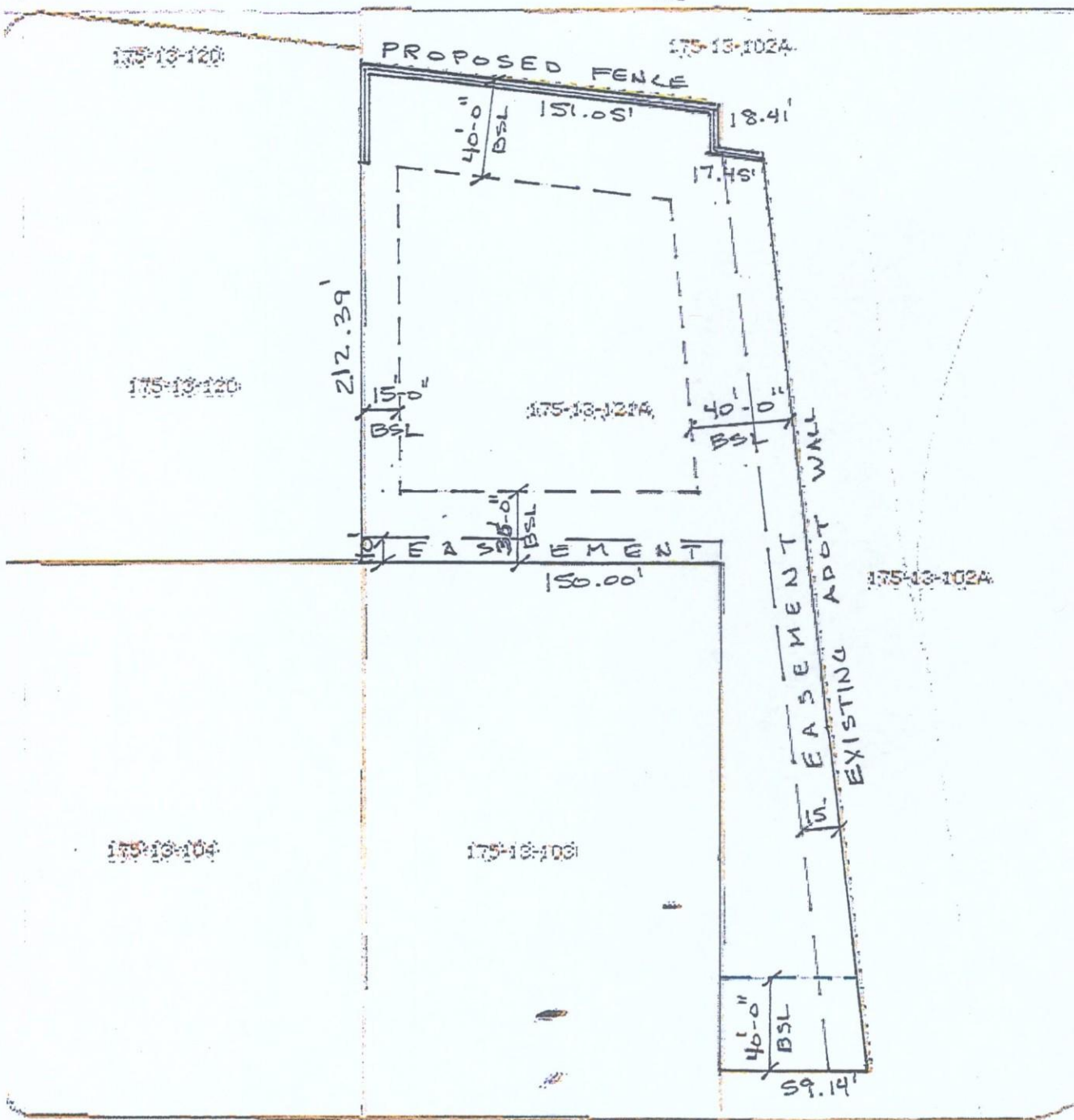
### Additional Notifications:

- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Twitter
- City Website-Projects in the hearing process

**Cactus & 101**

**2-BA-2014**

ATTACHMENT #7



PARCEL 175-13-121A  
8710 E SUNNYSIDE DR  
SLOTTSDALE AZ 85260

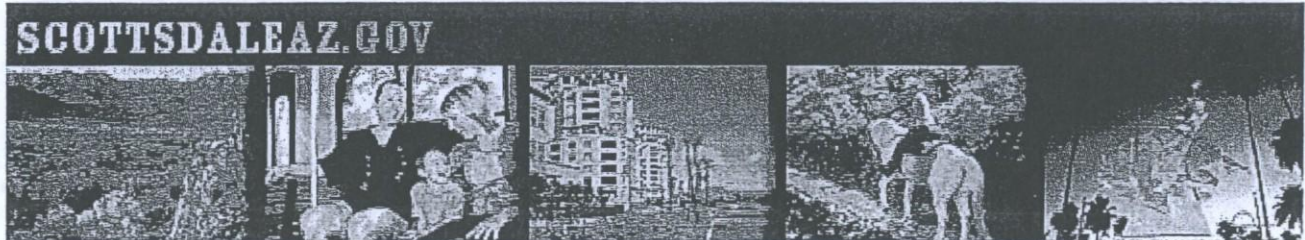
SUNNYSIDE DR.



## McClay, Doris

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**From:** paulzebo@cox.net  
**Sent:** Monday, April 21, 2014 4:17 PM  
**To:** McClay, Doris  
**Subject:** Found the request -against



I reviewed the applicants request and differ in opinion with them regarding the norther easement. I followed the south side of cactus to Hayden and found no house with a wall greater than 3 foot. By allowing this applicant to construct a fence or wall greater than 3 foot would create an eyesore and not blend into the area. Should the applicant wish to build a wall it should retain the 40 foot easement rule. The logic that the circumstances is and was in no way self imposed is pure BS. They did they due diligence and made a decision to purchase the land with these restrictions, so it in fact is, self imposed. Ya don't buy a piece of land like that and not know the restrictions. I would ask the City turn down the request and require this commercial builder to abide by all current regulations for the property.

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## McClay, Doris

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From: jdds11@cox.net  
Sent: Wednesday, April 23, 2014 11:52 AM  
To: McClay, Doris  
Subject: New Wall



I live in Desert Hills North and I am in favor of the project. A new wall that has stucco (sp?) and is painted will be much better than the chain fence that is up now. This will make the for a better entrance way into Desert Hills North.

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Curtis, Tim

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**From:** Lee A. Potter <lee\_potter@yahoo.com>  
**Sent:** Monday, May 19, 2014 11:14 PM  
**To:** Curtis, Tim  
**Subject:** vote no on case number 2-ba-2014 (case number cactus & 101 variance)

Dear Tim Curtis,

After researching case number 2-ba-2014 (case name cactus & 101 variance) about the proposed changes on property address 8710 East Sunnyside Drive Scottsdale, AZ 85260, **I am completely against this project and I would like you all to vote against it.**

Tony Ardizzone makes it sound like he is planning on building his house and was unaware of all these regulations. Tony failed to mention he is President of ZZone Construction. He is a licensed Arizona general contractor of over 32 years and a real estate broker. Please see his profile on his website <http://www.zzoneconstruction.com/about/>. When he purchased that land, he knew of all the regulations and even proudly boasts of overturning these on his website. All his statements of "greatly hinders the building envelope and usable land", "these substantially reduce the usable and enjoyable amount of land", "greatly deprived of the privileged enjoyable use of the land" is a joke! He knows the regulations and he shouldn't have purchased it. His tall walls will devalue my home and others in the neighborhood by creating an uninviting entrance and atmosphere. So his statement about the "wall location would not be detrimental nor impede any persons residing...in the area" is not correct. The value of my property and my neighbor's homes would depreciate and it would be an eye sore in my neighborhood. Plus according to the scenic corridors design guidelines put together in 2000, prior to him purchasing the property, this area is to "maintain the natural beauty" of our desert landscapes and anyone buying property afterwards has to obey this. Putting a tall fence/wall is not keeping to our natural beauty which makes Scottsdale rank consistently as one of the finest and livable cities in the country. By allowing one bad apple to break the rules you set a precedent to future rulings and therefore eventually souring our beautiful Scottsdale over time. Current tall walls in place were installed prior to the 2000 scenic corridor design guidelines and are thus grandfathered into it but no new structures are allowed.

I would greatly appreciate it if you would turn down his entire project at the next hearing on June 4, 2014. If I am available to attend, I would like to speak in front of the board. The land would be best used as landscaping like the land across the street on cactus which keeps to the beauty of Scottsdale. Tony discusses how he gives back to the community on his ZZone Construction website, here is his chance to prove it and to do what is right by turning it into a park!

Best Regards,

Lee Alayna Potter  
8534 East Sunnyside Drive  
Scottsdale, AZ 85260

**Lee Alayna Potter**  
**602-363-3675**



## McClay, Doris

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**From:** pmlatino@aol.com  
**Sent:** Monday, May 05, 2014 3:34 PM  
**To:** McClay, Doris  
**Subject:** Cactus & 101 Freeway

Dear Mrs. McClay,

My name is Mary Latino and I live in the immediate area of Cactus Road and the 101 freeway in Scottsdale, AZ. I have lived at this address for over 20 years and I am a proud Scottsdale resident. I am fully aware of the 8 foot wall variance that the property owner is applying for. I would like to go on record and have my comments provided to the City of Scottsdale Board of Adjustments hearing. They are as follows:

I, Mary Latino am in full support of this 8' wall variance. I believe it is a win-win for both the residents in the area and the property owner. This is a unique piece of land that sits on a hard corner of a residential neighborhood and a major interstate freeway. This piece of land is one that needs special consideration.

Furthermore, this wall will allow the residents in the area not to have the ability to be distracted from their driving while passing this property or getting on to the 101 freeway. This wall will limit residents looking into someone's home activities from a back yard perspective and allow our neighbors the driving safety from this distraction. The property owner can enjoy his property without having a slew of nosy neighbors and passer-by's looking into his home and allowing for the privacy that our homes are intended for.

Thank you for taking my comments into account.

Mary Latino



## McClay, Doris

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**From:** Ruenger, Jeffrey  
**Sent:** Monday, May 05, 2014 8:26 AM  
**To:** McClay, Doris; Carr, Brad  
**Cc:** Fitzpatrick, Karen  
**Subject:** FW: Cactus & 101 Variance - Case Number: 2-BA-2014

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**From:** Ken Kichler [<mailto:kkichler@cox.net>]

**Sent:** Sunday, May 04, 2014 9:21 AM

**To:** Projectinput

**Cc:** Pat Erickson; Dan Sommer-Work; Tim Leggett; Mark and Mary Sitto; Harry and Sheryl Martin; Ray LeFre(Frankie); Dan Sommer-Home; Judy and Joe Flanigan

**Subject:** Cactus & 101 Variance - Case Number: 2-BA-2014

Hello Doris:

I know these questions are late, but wasn't sure if any of my comments pertained to this case. I wanted to send them to you in case they have some meaning.

At the May 7 hearing, are comments taken from the floor? If so, may be I could asked them formally then?

First, There are CC & R's in place for Desert Hills North properties. Are they superceded by Zoning variances? This lot is under those CC & R's. If they sway the variance for the 8 foot wall, the CC & R's limit walls to 6 feet.

Second, there is a Force Water Main along the east side of the subject property (we call it the "panhandle") that our neighborhood owners were told by the City that nothing would be allow to be constructed over it. Does that still hold true? How does the "front yard" setback play with that?

Third, there is an easement at the rear of the property which is 8 feet. The adjacent property to the south, 8702 E. Sunnyside, also has the easement restriction of 8 feet or a total easement width of 16 feet. That should still be in place, correct? Especially since the 12186 N. 86th Place property (adjacent to subject lot to the west) and the property adjacent to it, 8616 E. Sunnyside to the south also have that easement. The properties west of 86th Place ALL have that easement restriction and have abided by it.

Thanks for your time, if nothing else for reading this email. Please let me know what needs to be done further.

I have cc'd a number of concerned Desert Hills North property owners although there are many more interested.

Ken Kichler  
8616 E. Sunnyside Drive  
480-991-2634  
[kkichler@cox.net](mailto:kkichler@cox.net)



McClay, Doris

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From: paulzebo@cox.net  
Sent: Monday, May 05, 2014 2:22 PM  
To: McClay, Doris  
Subject: Domino Effect

SCOTTSDALEAZ.GOV



Received this email from one of the homeowners and note this would open the door for every homeowner on the south side of Cactus. Does the City of Scottsdale really want that? The applicant knew the restrictions and should be required to abide by them just like every other property owner. "But you know what, this could actually help people who would want this size wall on their own properties. If this goes through, other people could apply and get the same thing. If that helps you block the traffic noise, go for it. " From: Dan Sommer Sent: Monday, May 05, 2014 1:12 PM To: 'Jan Buggeln'; Ken Kichler; Harry and Sheryl Martin; Mark and Mary Sitto; Tim Leggett; Ray LeFre(Frankie); Gaye Richardson; Richard and Ruth Kemler; Judy and Joe Flanigan; DanSOMMER; Brian McKay; Brian Mueller; John and Denise Brisch; John and Tammy Dobradenla; Ralph and Lu Love; Brian Mueller; Frank DiCicco; Bob Noble; Pat Erickson; 'paulzebo@cox.net' Cc: 'Tony Ardizzone' Subject: 101 and Cactus Property Issue I have read all the e-mails this weekend. All of you know that I was one of the team leaders in pushing for Tony not to build a commercial building on that site. Tony saw how determined we were several years ago and to our relief, he decided not to try and push for a commercial property. In fact, Ken and I met with him and tried to convince him to put a single family home on the site (that is what it is zoned for). At that time, he was not interested in that idea. Well now he wants to put an upscale (single level as per our CCNRs) on the property. We should be happy about that Tony is now going along with what we asked him to do several years ago. A beautiful, upscale home will enhance the value of all our homes. Let's be realistic, Tony needs the 8 foot wall (which will be stucco and painted) to enhance the property. That portion of the lot will be someone's backyard, not front yard. If he is to sell the high end home, the person will need the higher wall for privacy. In addition, nice high stucco painted wall is a lot better looking than a dented fence with weeds behind it. It is true, no one from the 101 to Hayden has an 8 foot wall. But you know what, this could actually help people who would want this size wall on their own properties. If this goes through, other people could apply and get the same thing. If that helps you block the traffic noise, go for it. I am sorry if I have upset anyone with this e-mail. That is not my attention. We all should want a high-end home on that site. It will only help Desert Hill North. Tony is cced on this e-mail. He is willing to meet with all of us at 6:00pm on Tuesday, May 6th and answer any questions you may have. I suggest we take him up on the offer and have a calm discussion. We could meet at the site.



## McClay, Doris

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**From:** tim.leggett@forensicdynamics.com  
**Sent:** Tuesday, May 06, 2014 4:49 PM  
**To:** Tony Ardizzone; McClay, Doris  
**Subject:** RE: Cactus 101 approval.

Doris, I am Tony's neighbor directly to the south (8702 E Sunnyside Dr), and have been at this property for 10 years now. The noise abatement wall on the 101 does an adequate job of minimizing noise from the freeway, but unfortunately, the "gap" required for freeway exit and entrance permits highway sound to travel parallel with loop 101...essentially the noise abatement wall is effectively defeated. The existing houses in the neighborhood were constructed in the mid- 70's, when proper insulation was an ill-considered expenditure of funds. Even with today's noise insulation standards, I consider a home built at the subject site to be largely non-livable without some type of noise limiting structure. Indeed, my property, just 200 ft south, is intolerable at times...for example Arizona Bike week.

I am completely in favor of the property owner at the corner of Cactus and 101 building a suitable single story, single family residence, in accordance with the local CC & R's. Indeed, I feel it would enhance the neighborhood. Unfortunately, I can envision no one doing so without the protection of an appropriately sized wall. A 3 ft high wall is for cosmetic purposes only...it would do absolutely nothing to reduce road noise entering the lot. This is a special property. It is located at the confluence of the Cactus interchange and the Cactus/101 off/on ramp. It therefore needs special consideration. City of Scottsdale will not be "opening a can of worms" by offering a special variance here. If you elect not to permit a suitable height wall, this property will languish behind a broken chain-link fence and will be inhabited exclusively by over grown weeds. I don't think thats in anyone's best interest.

Unfortunately, I cannot make the meeting, but you may call me anytime to discuss.

Tim Leggett, P.Eng, P.E.

President and C.E.O.,

Crashteam/Forensic Dynamics Inc.

250-371-4577

----- Original Message -----

Subject: Cactus 101 approval.

From: "Tony Ardizzone" <tony@monolithgroup.com>

Date: Tue, May 06, 2014 2:44 pm

To: <DMcClay@scottsdaleaz.gov>, <tim.leggett@forensicdynamics.com>

Hey neighbor- I have copied The City of Scottsdale spokesperson for our case on this e-mail. Would you please be kind enough to hit "Reply All" and voice your objection or approval for our 8'wall.

Thank you.

*Tony Ardizzone*

Chief executive officer

The Monolith Group

9096 E. Bahia Dr.

Building A-102

Scottsdale, AZ 85260

W: 480.367.1901

M: 602.697.0013

Web: [www.monolithgroup.com](http://www.monolithgroup.com)



## McClay, Doris

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**From:** Kit Kneedler <kitkneedler@aol.com>  
**Sent:** Tuesday, May 27, 2014 1:30 PM  
**To:** McClay, Doris  
**Subject:** Case #2BA-2014 Parcel# 175-13-121A

This note is to comment on the proposed variances pertaining to the property located at the Cactus road and the 101 freeway south bound corner. My wife and I have no objections the the wall height increase or the setback request. We do however ask that the City of Scottsdale and the Desert Hills North CC&Rs be enforced regarding height limits and setbacks other than the requested variances.

Thank you, Kathleen and Donald Kneedler



**McClay, Doris**

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**From:** Ed Stoffels <estoffels@cox.net>  
**Sent:** Tuesday, May 27, 2014 4:56 PM  
**To:** McClay, Doris  
**Subject:** FW: Cactus & 101 Variance 2-BA-2014

**I believe that by granting the variances for the property at 8710 E Sunnyside Drive pertaining to the required front yard setback (Section 5.204.E.1.c) and the wall height (Section 5.204.G) should be granted.**

**This is a unique piece of property with access only from Sunnyside Drive and the variances would allow a Single-Family Residence to replace what has become an eyesore in our neighborhood.**

**In the end, I believe that it will add value to our homes in Desert Hills North.**

**Thank you for considering my comments.**

**Ed Stoffels**



# 101 and Cactus Property Variance (case 2-BA-2014)

We the undersigned live in the Desert Hill North Community.  
We support the variance for an eight foot wall for the  
property at 101 and Cactus.

We believe that this single family residence will enhance our community  
and support the applicant.

	Name	Address
1.)	Den <del>Sweeney</del>	12005 N. 41th St.
2.)	TIM LEGGETT	8702 E. SUNNYSIDE DR.
3.)	BRIAN BELANGER	11804 N 85th ST
4.)	Ron Ballard	8603 E Eden Dr.
5.)	SUSAN BALLARD	" " "
6.)	MARK SITTO	8609 E. SUNNYSIDE DR
7.)	MARY SITTO	" " "
8.)	KENNETH KICHLER	8616 E. SUNNYSIDE DR.
9.)	CAROL KICHLER	8616 E. SUNNYSIDE DR
10.)	Sheryl Martin	8703 E. Sunnyside Dr.
11.)	Aniko Kress	85th E CACTUS RD
12.)	Harry MARTIN	8703 E. SUNNYSIDE DR
13.)		
14.)		
15.)		
16.)		
17.)		
18.)		
19.)		
20.)		
21.)		
22.)		
23.)		
24.)		
25.)		
26.)		





**SCOTTSDALE BOARD OF ADJUSTMENT  
KIVA-CITY HALL  
3939 DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA**

**WEDNESDAY, May 7, 2014**

**REGULAR MEETING MINUTES**

**PRESENT:** Matt Metz, Vice Chair  
Matt Mason, Board Member  
Tim Stratton, Board Member  
Sergio Martinez, Board Member  
Paul Garry, Board Member

**ABSENT:** Taylor Roncancio, Board Member  
William Adler, Board Member

**STAFF:** Brad Carr  
Sherry Scott  
Doris McClay  
Karen Fitzpatrick

**CALL TO ORDER**

Vice Chair Metz called the meeting of the Scottsdale Board of Adjustment to order at 6:02 p.m.

**ROLL CALL**

A formal roll call was conducted confirming members present as stated above.

**APPROVAL OF MINUTES**

1. Approval of the March 5, 2014 Regular Meeting Minutes.

**MOTION BY BOARD MEMBER MARTINEZ; 2<sup>ND</sup> BY VICE CHAIR MASON.  
APPROVED FIVE (5) – ZERO (0).**

\* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at: [www.scottsdaleaz.gov/boards/BOA.asp](http://www.scottsdaleaz.gov/boards/BOA.asp)



**REGULAR AGENDA**

2. 2-BA-2014 (Cactus & 101 Variance), Request by applicant for variances to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c pertaining to the required front yard setback on the east side of the property and Section 5.204.G pertaining to wall height on the north side and northeast corner of the property located at 8710 E. Sunnyside Drive with Single-Family Residential District (R1-35) Zoning.

Located at 8710 E Sunnyside Dr

Bryan Mealey, applicant, Cactus 101, LLC, owner  
Doris McClay, coordinator

**REQUEST BY APPLICANT TO CONTINUE. MOTION BY BOARD MEMBER STRATTON TO CONTINUE TO JUNE 4, 2014; 2<sup>ND</sup> BY BOARD MEMBER MARTINEZ. APPROVED FIVE (5) – ZERO (0).**

**THREE (3) CITIZENS SPOKE IN OPPOSITION TO THIS CASE:**

**CAROL BRADSHAW; PAT ERICKSON; SHERYL MARTIN.**

**ONE (1) CITIZEN SPOKE WITH GENERAL COMMENTS: RAY LEFRE'**

**TWO (2) WRITTEN COMMENTS RECEIVED IN OPPOSITION: RANDY GOLDBERG; MUNDHEL SITTO.**

**ONE (1) SPEAKER CHOSE TO WAIT UNTIL THE JUNE 4, 2014 MEETING TO SPEAK: HARRY MARTIN.**

**ADJOURNMENT**

With no further business to discuss, the Board of Adjustment adjourned at 6:15 p.m.

**Board of Adjustment consists of:**

Matt Metz, Vice Chair

Paul Garry, Board Member

Matt Mason, Board Member

Tim Stratton, Board Member

Taylor Roncancio, Board Member

Sergio Martinez, Board Member

Bill Adler, Board Member

\* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at: [www.scottsdaleaz.gov/boards/BOA.asp](http://www.scottsdaleaz.gov/boards/BOA.asp)





# WRITTEN COMMENTS

This card is used to submit written comments to the Board or Commission.  
Written comment cards may be submitted to the Staff at any time. Cards submitted after public testimony has begun will be provided to the Board or Commission at the conclusion of the testimony for that item.

NAME (print) Randy Goldberg MEETING DATE \_\_\_\_\_

NAME OF GROUP/ORGANIZATION (if applicable) \_\_\_\_\_

ADDRESS 8608 E. Sunnyside Dr. ZIP 85260

HOME PHONE 480 247-2662 WORK PHONE \_\_\_\_\_

E-MAIL ADDRESS(optional) randyurc@yahoo.com

AGENDA ITEM # 2-BA-2014 (Cactus) ☐ SUPPORT ☒ OPPOSE

COMMENTS (additional space is provided on the back) I very much oppose ANY Building or wall - other than a buffer to the 101 and Cactus noise/traffic - This is already way too congested and would negatively affect houses in nearby area.

This card constitutes a public record under Arizona law.



# WRITTEN COMMENTS

This card is used to submit written comments to the Board or Commission.  
Written comment cards may be submitted to the Staff at any time. Cards submitted after public testimony has begun will be provided to the Board or Commission at the conclusion of the testimony for that item.

NAME (print) MUNICIPALITY SITIO MEETING DATE 5/7/14

NAME OF GROUP/ORGANIZATION (if applicable) \_\_\_\_\_

ADDRESS 8609 E. Sunnyside Dr. Scottsdale AZ ZIP 85260

HOME PHONE 480-991-5961 WORK PHONE 602-561-4060

E-MAIL ADDRESS(optional) HLCCALG@LAND HOT MAIL . com

AGENDA ITEM # 2-BA-2014 ☐ SUPPORT ☒ OPPOSE

COMMENTS (additional space is provided on the back) Keep the zoning the way it is NO NEED FOR CHANGE.

This card constitutes a public record under Arizona law.



DRAFT



**SCOTTSDALE BOARD OF ADJUSTMENT  
KIVA-CITY HALL  
3939 DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA**

**WEDNESDAY, June 4, 2014**

**REGULAR MEETING MINUTES**

**PRESENT:** Matt Metz, Chair  
Matt Mason, Vice Chair  
Tim Stratton, Board Member  
Sergio Martinez, Board Member  
Taylor Roncancio, Board Member

**ABSENT:** Paul Garry, Board Member  
William Adler, Board Member

**STAFF:** Brad Carr  
Sherry Scott  
Doris McClay  
Karen Fitzpatrick

**CALL TO ORDER**

Vice Chair Metz called the meeting of the Scottsdale Board of Adjustment to order at 6:02 p.m.

**ROLL CALL**

A formal roll call was conducted confirming members present as stated above.

**GREETING FROM MAYOR LANE**

**COMMENTS FROM MAYOR LANE THANKING BOARD MEMBERS FOR THEIR SERVICE.**

\* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at: [www.scottsdaleaz.gov/boards/BOA.asp](http://www.scottsdaleaz.gov/boards/BOA.asp)

**ATTACHMENT #11**



**MOTION TO CONTINUE CONSIDERATION OF THE WALL VARIANCE TO THE AUGUST 6, 2014 MEETING BY BOARD MEMBER STRATTON. SECOND BY BOARD MEMBER MARTINEZ. MOTION APPROVED FIVE (5) TO ZERO (0).**

**ADJOURNMENT**

With no further business to discuss, the Board of Adjustment adjourned at 7:07 p.m.

**Board of Adjustment consists of:**

Matt Metz, Chair

Paul Garry, Board Member

Matt Mason, Vice Chair

Tim Stratton, Board Member

Taylor Roncancio, Board Member

Sergio Martinez, Board Member

Bill Adler, Board Member

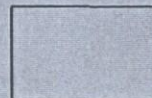
\* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at: [www.scottsdaleaz.gov/boards/BOA.asp](http://www.scottsdaleaz.gov/boards/BOA.asp)





## REQUEST TO SPEAK

REFER TO 6/4



Request to Speak cards must be submitted to City Staff **BEFORE** public testimony begins.

Public testimony is limited to three (3) minutes per speaker.

Additional time **MAY** be granted to speakers representing two or more persons.

Cards for designated speakers and the person(s) they represent must be submitted together.

NAME (print) HARRY MARTIN MEETING DATE 5-7-14

NAME OF GROUP/ORGANIZATION (if applicable) HARRY MARTIN

ADDRESS 8703 E. SUNNYSIDE DR ZIP 85260

HOME PHONE 604 418-9092 WORK PHONE \_\_\_\_\_

E-MAIL ADDRESS (optional) \_\_\_\_\_

☒ I WISH TO SPEAK ON AGENDA ITEM # 1 ☐ I WISH TO DONATE MY TIME TO \_\_\_\_\_

☐ I WISH TO SPEAK DURING "PUBLIC COMMENT"\* CONCERNING \_\_\_\_\_

\*Citizens may complete one Request to Speak "Public Comment" card per meeting and submit it to City Staff. "Public Comment" time is reserved for citizen comments regarding non-agendized items. The Board and Commission may hear "Public Comment" testimony, but is prohibited by state law from discussing items which are not listed on the agenda.

**This card constitutes a public record under Arizona law.**



# BOARD OF ADJUSTMENT REPORT



Meeting Date: 6/4/2014  
Item No.: 2

## ACTION

### Cactus & 101 Variance 2-BA-2014

#### Request to consider the following:

1. Approve a variance request to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c pertaining to the required front yard setback on the east side of the property located at 8710 E. Sunnyside Drive with Single-Family Residential District (R1-35) zoning.
2. Approve a variance request to the City of Scottsdale Zoning Ordinance Section 5.204.G pertaining to wall height on the north side and northeast corner of the property located at 8710 E. Sunnyside Drive with Single-Family Residential District (R1-35) zoning.

## OWNER

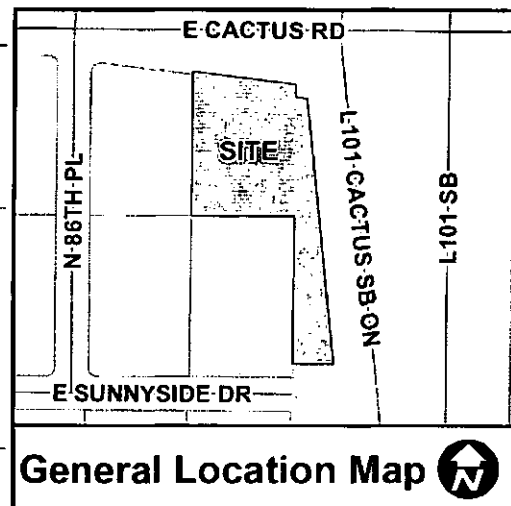
Cactus 101, LLC

## APPLICANT CONTACT

Bryan Mealey  
Zzone Development LLC  
480-628-1465

## LOCATION

8710 E Sunnyside Drive



## BACKGROUND

### History

The subject property was annexed into the City of Scottsdale in 1962 under Ordinance 165. The property was platted under the Desert Hills North subdivision in 1972. The subject property contains Lot 78, and remnant portions of Lot 59 and 79 from the Desert Hills North plat and is



approximately 45,480 square feet in size. Single-family structures were permitted and constructed in the 1970's on these three lots.

The subject property was part of the area acquired by the Arizona Department of Transportation (ADOT) for the construction of Loop 101. ADOT demolished the homes and constructed the Loop 101, which included the southbound on-ramp from Cactus Road adjacent to the subject property. In 2004, ADOT sold the subject property reserving a 15 foot wide wall easement along the east side of the property for maintenance purposes and granting legal access to the property from E Sunnyside Drive. The ADOT consolidation of Lot 78 and remnants portion of Lot 59 and Lot 79 into the subject property was not submitted to the City of Scottsdale for approval. The subject property will be required to submit an application to tie the lots together upon development of the lot.

### **Zoning/Development Context**

The subject property is zoned Single-Family Residential District (R1-35). The property has frontage on three sides: E. Cactus Road, the Loop 101 and E. Sunnyside Drive. The surrounding properties are zoned Single-Family Residential District (R1-35).

### **Zoning Ordinance Requirements**

- Pursuant to Article V, Section 5.204.E.1.c states "On a corner lot, the required front yard of forty (40) feet shall be provided on each street." A front yard setback is required from any type of street right-of-way, including Loop 101 on the east side. The applicant is requesting a Variance of 20 feet on the east side of the lot adjacent to the Loop 101 right-of-way to allow a setback of 20 feet.
- Pursuant to Article V, Section 5.204.G states "Walls, fences and hedges up to three (3) feet in height are allowed on the front property line or with the required front yard except as provided in Article VII." The applicant is requesting a Variance of 5 feet in height to allow an eight (8) feet wall within the forty (40) front yard setback on the north side of the property.

### **Code Enforcement Activity**

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

### **Community Input**

The City has sent out hearing postcards to properties within 750 feet of the subject site and posted a sign at the subject site. Staff has received one e-mail in opposition to the requested Variances at the time of writing this report.

## **VARIANCE CRITERIA ANALYSIS**

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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 special circumstances resulted from the ADOT improvements for the Loop 101 highway. The property has frontage adjacent to E. Cactus Road, but under the City of Scottsdale's code requirements, access to the property is not allowed from E. Cactus Road.

Staff Analysis: Prior to the Loop 101 construction, Lots 78, 79 and 59 in the Desert Hills North subdivision were typical square-shaped lots of approximately 35,000 square feet. Each lot had a front yard, two side yards and a rear yard. After construction of Loop 101, ADOT consolidate Lot 78 and the remaining area of Lot 79 and Lot 59 and created an irregular shaped lot. The construction of the Loop 101 freeway resulted in the creation of a front yard setback on the east side of the subject property.

- 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 the front yard setback required on three sides of this property reduces the usable and enjoyable amount of land. The applicant states that wall Variance is needed to protect the property owners from the traffic on E. Cactus Road.

Staff Analysis: This property is approximately 45,480 square feet. The minimum lot size for the R1-35 zoning district is 35,000 square feet. The building envelope with the required setback is approximately 15,163 square feet. The building envelope with the Variance request of 20 feet on the east side is approximately 17,876 square feet. Similar building envelope sizes of properties in the area range from approximately 12,850 square feet to 19,465 square feet. The building envelope will remain the same regardless of the wall height Variance request along E. Cactus Road.

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

The applicant states that the circumstances of the property were not self-imposed by the current property owner or past ownership.

Staff Analysis: ADOT acquired the property and demolished the existing houses to construct the Loop 101 and the southbound on-ramp from E. Cactus Road. The remaining area after the construction of the Loop 101 was consolidated by ADOT as the subject property and sold to the applicant. The construction of the Loop 101 freeway resulted in the creation of a front yard setback on the east side of the subject property. The wall height Variance along E. Cactus Road is a result of the site design the applicant is proposing.

- 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 approval of the Variances will not be detrimental to the neighborhood. The proposed eight (8) foot high wall location will not impede any persons



residing, working or traveling in the area. The wall will not obstruct any views of upcoming traffic because the Loop 101 on-ramp is a right turn only lane.

Staff Analysis: The intent of the maximum wall height of 3 feet in required front yard setbacks is to create an open rural residential character, to establish view corridors, and to maintain uninterrupted visual continuity along front property lines. None of the requested Variances would allow a structure or wall to encroach in a vehicle path of travel or safety sight-line visibility triangle. Existing homes along E. Cactus Road west of the site maintain at least a 20-foot setback from the property line to any structure or wall over 3 feet in height. Comments in opposition were received.

## **SUMMARY**

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Based on the facts presented by the applicant, the evidence would support a finding that the property has special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The size, shape, or configuration of the property is unique and applicable. Further, the applicant's proposed variance does not appear that it would 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.

The Board of Adjustment does have the ability to grant the Variance for the wall height along E. Cactus Road on the applicant's property line. In order to maintain consistency with the established setback of structures on the property to the west, the Board also has the ability to require that an 8-foot wall along Cactus be set back 20 feet instead of the requested property line. This would maintain the established view corridor along E. Cactus Road.

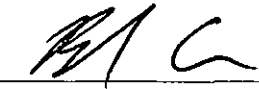


**APPROVED BY**

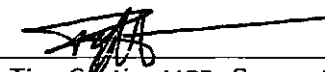
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Doris McClay, Report Author

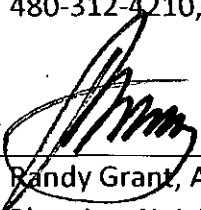
5/20/14  
Date

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

5.22.2014  
Date

  
Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov

5/20/2014  
Date

  
Randy Grant, Administrator  
Planning, Neighborhood and Transportation  
480-312-2664, rgrant@scottsdaleaz.gov

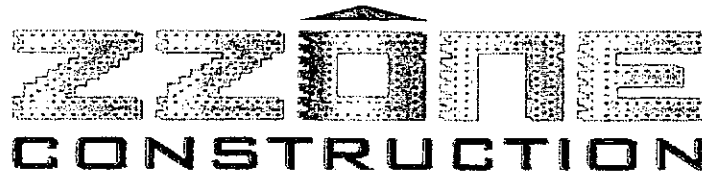
5/22/14  
Date

**ATTACHMENTS**

---

1. Project Description and Justification
2. Context Aerial
3. Aerial Close-Up
4. Setback exhibit with proposed wall location
5. Zoning Map
6. Site Photographs
7. Neighborhood Notification Map
8. Proposed Site Plan
9. Correspondence
10. May 7, 2014 Draft Board of Adjustment Minutes and written comment cards





*Where Vision Is Built*

9096 E. Bahia Dr. A-102

Scottsdale, AZ 85266

ROC 2611870

## APPLICATION NARRATIVE

City of Scottsdale  
Board of Adjustment  
7447 E Indian School Ste 105  
Scottsdale, AZ 85251

April 2, 2014

**Re: The Property address located @ 8710 E. Sunnyside Dr. aka.. Parcel 175-13-121A**

Dear Board Members:

It is with special request that the following Zoning Ordinance Variance be granted due to special circumstances regarding the above referenced land. This property was purchased from Arizona State Department of Transportation (ADOT) in August 2013 and is currently deemed vacant land.

Pursuant to the location of this property, it is classified with having three (3) street frontages. One along the North property line parallel with Cactus Road, the East property line parallel the 101 freeway and the South property line on Sunnyside Drive which is a dead end cul de sac. Our property sits along the existing 101 Freeway wall. With this property being classified with three frontages, it greatly hinders the building envelope and usable land by having three 40' Building Setback Lines.

The North frontage along Cactus is a product of circumstance. By code we would not be allowed to use it as access to the property. The current frontage designation also prohibits any fence wall greater than 3' in height to be installed past the BSL "Building Setback Line" of 40'. In addition there is a 15' wall maintenance easement along the East property line imposed by ADOT and a 10' horse trail easement along the South property line imposed by the CC&R's. These substantially reduce the usable and enjoyable amount of land.

Our request is that a variance be granted allowing a perimeter fence wall to be constructed on the property line past the North and East BSL in order to screen the approximate 40,000 car traffic count that passes our property on a daily basis as well as granting a variance for the wall height of 8' in height. We would also request that the East BSL be reduced to 20' "See Attached".

Due to the special circumstances applicable to this property resulting from ADOT improvements, we as owners would be greatly deprived of the privileged enjoyable use of the land. Not to mention the safety hazard of our newly constructed home. This circumstance is and was in no way self imposed or created by the current or past ownership.

The proposed wall location would not be detrimental nor impeded any persons residing, working or traveling in the area. The wall location would also correspond to similar wall locations located across Cactus Rd. on homes backing Cactus Rd. Because the 101 on ramp is a right turn "one way" only, the fence location would not obstruct any view of oncoming traffic.

Thank you,

A handwritten signature in black ink, appearing to read "Tony Ardizzone".

Tony Ardizzone  
Owner of Cactus 101, LLC



## Cactus Road & Loop 101 Variance

2-BA-2014

ATTACHMENT #2





## Cactus Road & Loop 101 Variance

**2-BA-2014**

ATTACHMENT #3





E CACTUS RD

8 FOOT WALL

40  
FEET

15  
FEET

SITE

20  
FEET

35  
FEET

L101 CACTUS SB ON

E SUNNYSIDE DR

ATTACHMENT #4





2-BA-2014

ATTACHMENT #5

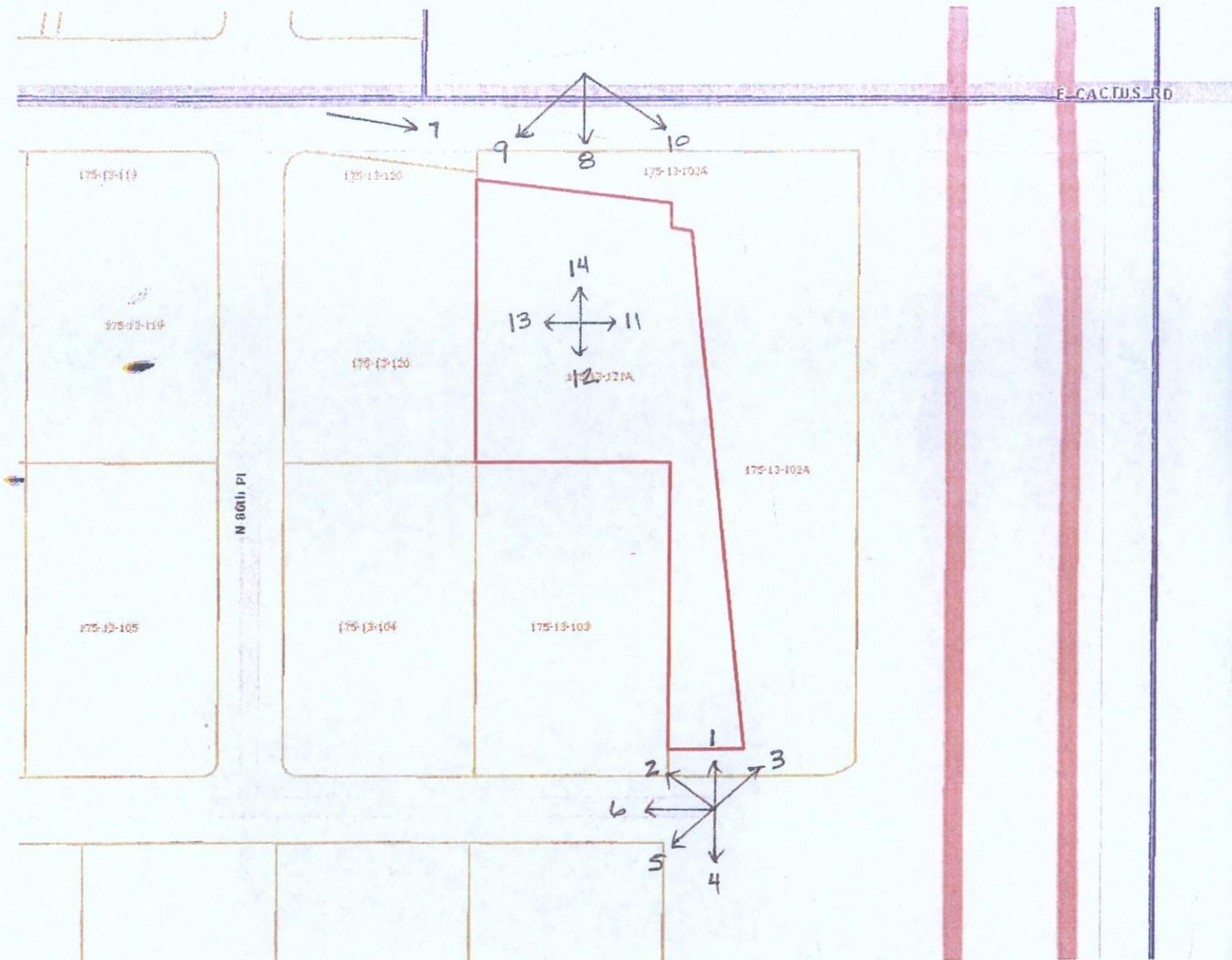


PHOTO NUMBERS

PARCEL 175-13-121A

4  
N



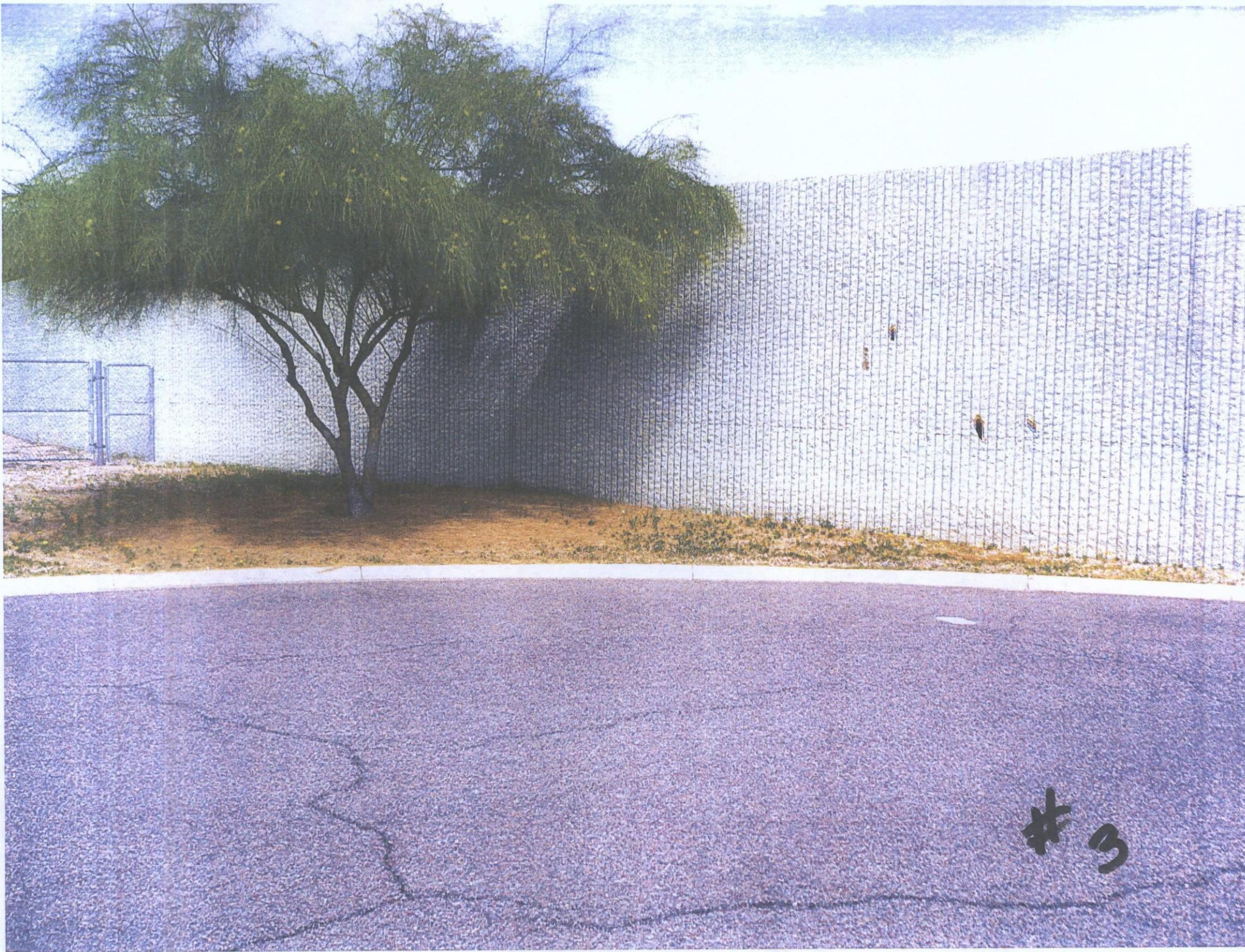






#2































101 SOUTH  
→



BUILD TO SUIT  
FOR SALE  
Exclusive Custom  
Home Site  
CALL 480-625-1465

# 10











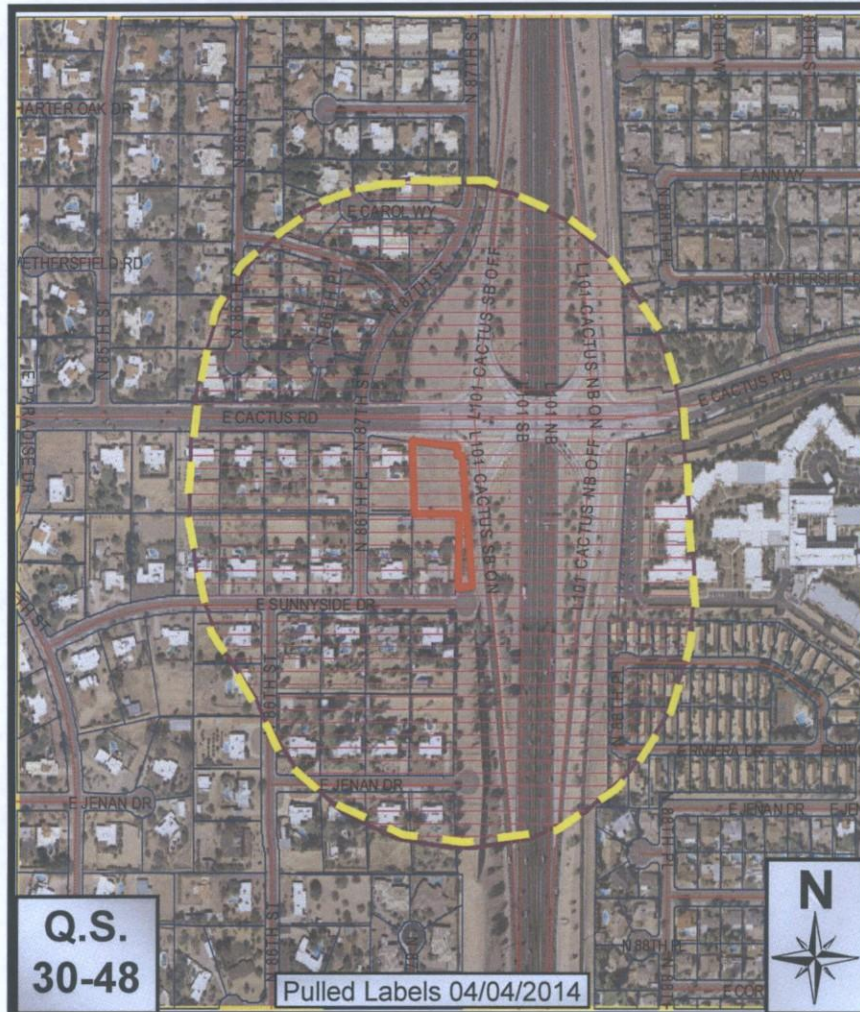








## City Notifications – Mailing List Selection Map



### Map Legend:



## Site Boundary

### Properties within 750-feet

### Additional Notifications:

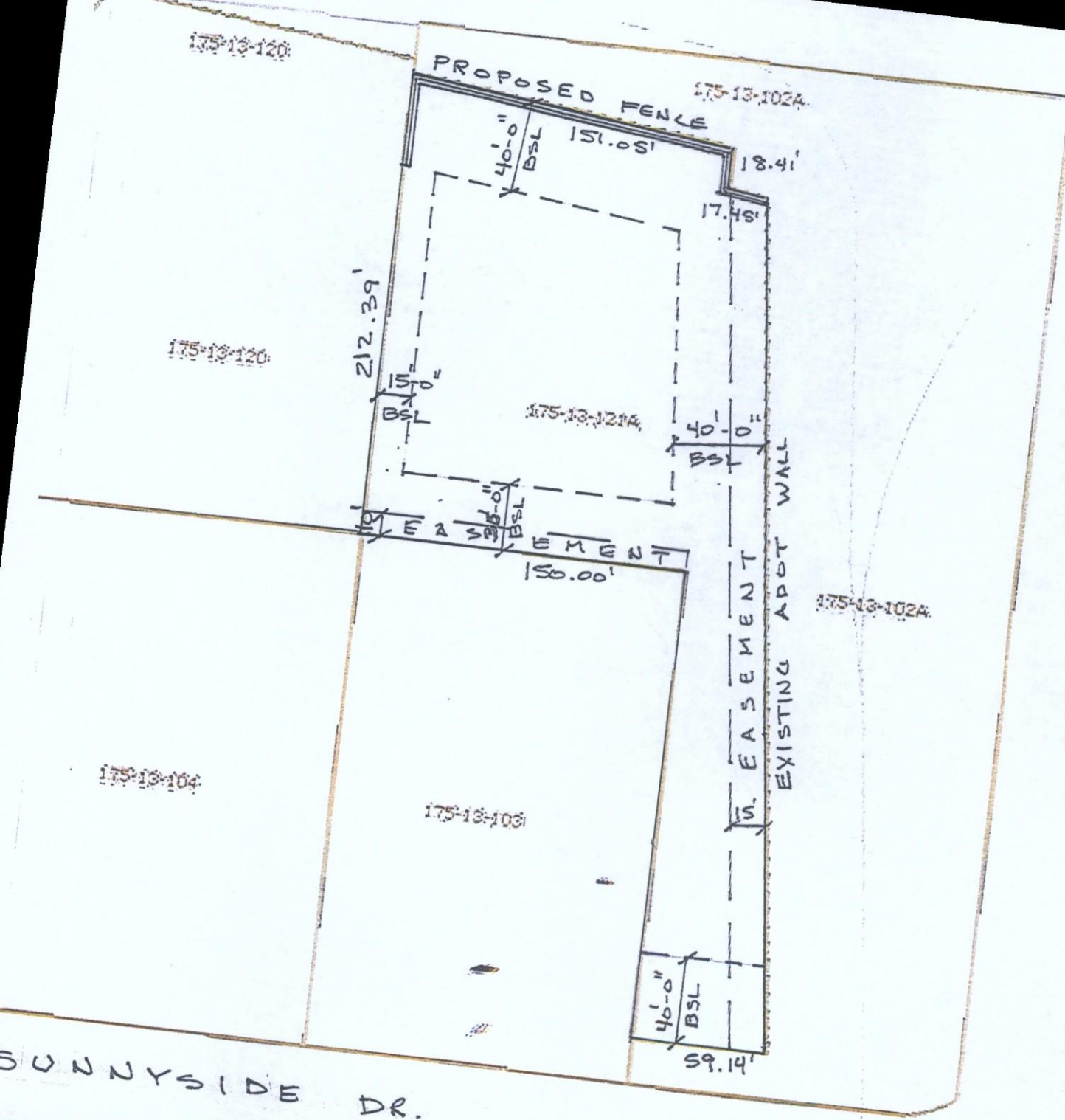
- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Twitter
- City Website-Projects in the hearing process

# Cactus & 101

**2-BA-2014**

ATTACHMENT #7





PARCEL 175-13-121A  
8710 E SUNNYSIDE D  
SCOTTSDALE AZ 85260

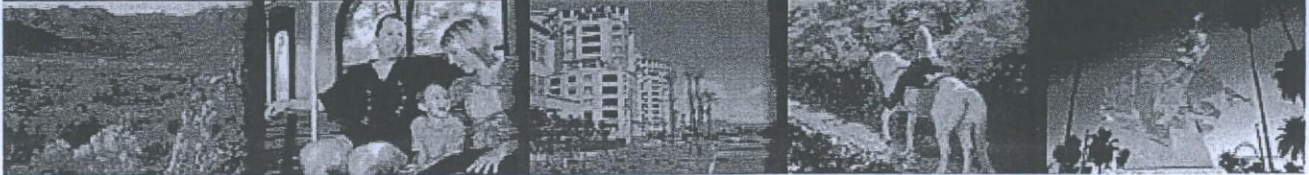


## McClay, Doris

---

**From:** paulzebo@cox.net  
**Sent:** Monday, April 21, 2014 4:17 PM  
**To:** McClay, Doris  
**Subject:** Found the request -against

**SCOTTSDALEAZ.GOV**



I reviewed the applicants request and differ in opinion with them regarding the norther easement. I followed the south side of cactus to Hayden and found no house with a wall greater than 3 foot. By allowing this applicant to construct a fence or wall greater than 3 foot would create an eyesore and not blend into the area. Should the applicant wish to build a wall it should retain the 40 foot easement rule. The logic that the circumstances is and was in no way self imposed is pure BS. They did they due diligence and made a decision to purchase the land with these restrictions, so it in fact is, self imposed. Ya don't buy a piece of land like that and not know the restrictions. I would ask the City turn down the request and require this commercial builder to abide by all current regulations for the property.

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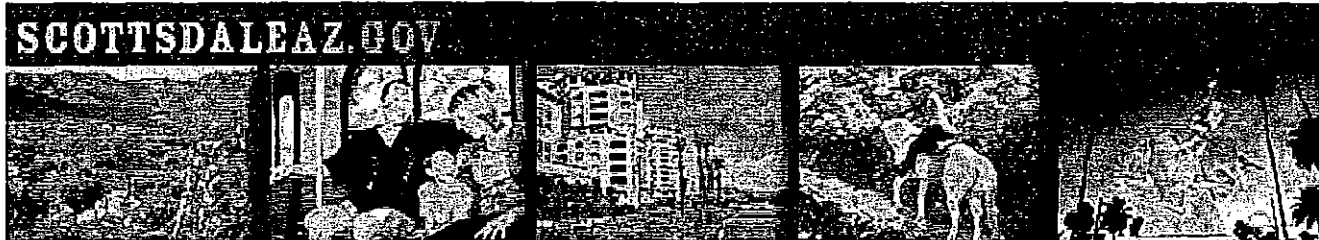
**ATTACHMENT #9**



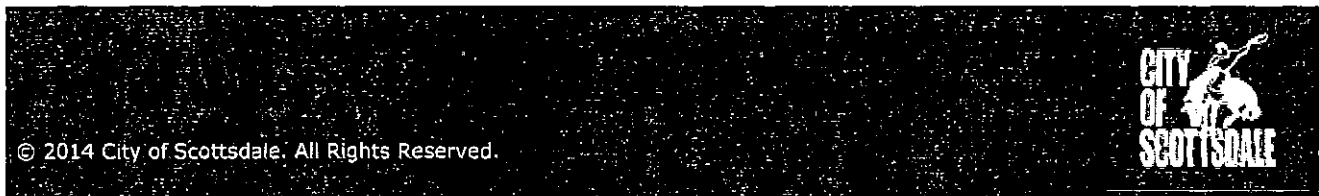
## McClay, Doris

---

**From:** jdds11@cox.net  
**Sent:** Wednesday, April 23, 2014 11:52 AM  
**To:** McClay, Doris  
**Subject:** New Wall



I live in Desert Hills North and I am in favor of the project. A new wall that has stucco (sp?) and is painted will be much better than the chain fence that is up now. This will make the for a better entrance way into Desert Hills North.





## McClay, Doris

---

**From:** pmlatino@aol.com  
**Sent:** Monday, May 05, 2014 3:34 PM  
**To:** McClay, Doris  
**Subject:** Cactus & 101 Freeway

Dear Mrs. McClay,

My name is Mary Latino and I live in the immediate area of Cactus Road and the 101 freeway in Scottsdale, AZ. I have lived at this address for over 20 years and I am a proud Scottsdale resident. I am fully aware of the 8 foot wall variance that the property owner is applying for. I would like to go on record and have my comments provided to the City of Scottsdale Board of Adjustments hearing. They are as follows:

I, Mary Latino am in full support of this 8' wall variance. I believe it is a win-win for both the residents in the area and the property owner. This is a unique piece of land that sits on a hard corner of a residential neighborhood and a major interstate freeway. This piece of land is one that needs special consideration.

Furthermore, this wall will allow the residents in the area not to have the ability to be distracted from their driving while passing this property or getting on to the 101 freeway. This wall will limit residents looking into someone's home activities from a back yard perspective and allow our neighbors the driving safety from this distraction. The property owner can enjoy his property without having a slew of nosy neighbors and passer-by's looking into his home and allowing for the privacy that our homes are intended for.

Thank you for taking my comments into account.

Mary Latino



## McClay, Doris

---

**From:** Ruenger, Jeffrey  
**Sent:** Monday, May 05, 2014 8:26 AM  
**To:** McClay, Doris; Carr, Brad  
**Cc:** Fitzpatrick, Karen  
**Subject:** FW: Cactus & 101 Variance - Case Number: 2-BA-2014

---

**From:** Ken Kichler [<mailto:kkichler@cox.net>]  
**Sent:** Sunday, May 04, 2014 9:21 AM  
**To:** Projectinput  
**Cc:** Pat Erickson; Dan Sommer-Work; Tim Leggett; Mark and Mary Sitto; Harry and Sheryl Martin; Ray LeFre(Frankie); Dan Sommer-Home; Judy and Joe Flanigan  
**Subject:** Cactus & 101 Variance - Case Number: 2-BA-2014

Hello Doris:

I know these questions are late, but wasn't sure if any of my comments pertained to this case. I wanted to send them to you in case they have some meaning.

At the May 7 hearing, are comments taken from the floor? If so, may be I could asked them formally then?

First, There are CC & R's in place for Desert Hills North properties. Are they superceded by Zoning variances? This lot is under those CC & R's. If they sway the variance for the 8 foot wall, the CC & R's limit walls to 6 feet.

Second, there is a Force Water Main along the east side of the subject property (we call it the "panhandle") that our neighborhood owners were told by the City that nothing would be allow to be constructed over it. Does that still hold true? How does the "front yard" setback play with that?

Third, there is an easement at the rear of the property which is 8 feet. The adjacent property to the south, 8702 E. Sunnyside, also has the easement restriction of 8 feet or a total easement width of 16 feet. That should still be in place, correct? Especially since the 12186 N. 86th Place property (adjacent to subject lot to the west) and the property adjacent to it, 8616 E. Sunnyside to the south also have that easement. The properties west of 86th Place ALL have that easement restriction and have abided by it.

Thanks for your time, if nothing else for reading this email. Please let me know what needs to be done further.

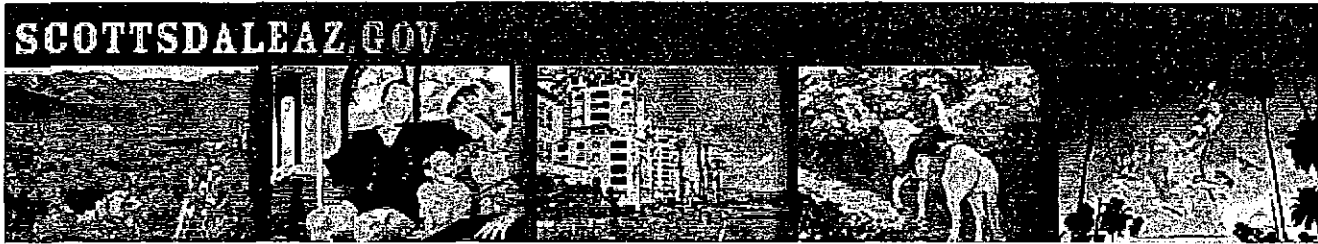
I have cc'd a number of concerned Desert Hills North property owners although there are many more interested.

Ken Kichler  
8616 E. Sunnyside Drive  
480-991-2634  
[kkichler@cox.net](mailto:kkichler@cox.net)



## McClay, Doris

**From:** paulzebo@cox.net  
**Sent:** Monday, May 05, 2014 2:22 PM  
**To:** McClay, Doris  
**Subject:** Domino Effect



Received this email from one of the homeowners and note this would open the door for every homeowner on the south side of Cactus. Does the City of Scottsdale really want that? The applicant knew the restrictions and should be required to abide by them just like every other property owner. "But you know what, this could actually help people who would want this size wall on their own properties. If this goes through, other people could apply and get the same thing. If that helps you block the traffic noise, go for it. " From: Dan Sommer Sent: Monday, May 05, 2014 1:12 PM To: 'Jan Buggeln'; Ken Kichler; Harry and Sheryl Martin; Mark and Mary Sitto; Tim Leggett; Ray LeFre(Frankie); Gaye Richardson; Richard and Ruth Kemler; Judy and Joe Flanigan; DanSOMMER; Brian McKay; Brian Mueller; John and Denise Brisch; John and Tammy Dobradenla; Ralph and Lu Love; Brian Mueller; Frank DiCicco; Bob Noble; Pat Erickson; 'paulzebo@cox.net' Cc: 'Tony Ardizzone' Subject: 101 and Cactus Property Issue I have read all the e-mails this weekend. All of you know that I was one of the team leaders in pushing for Tony not to build a commercial building on that site. Tony saw how determined we were several years ago and to our relief, he decided not to try and push for a commercial property. In fact, Ken and I met with him and tried to convince him to put a single family home on the site (that is what it is zoned for). At that time, he was not interested in that idea. Well now he wants to put an upscale (single level as per our CCNRs) on the property. We should be happy about that Tony is now going along with what we asked him to do several years ago. A beautiful, upscale home will enhance the value of all our homes. Let's be realistic, Tony needs the 8 foot wall (which will be stucco and painted) to enhance the property. That portion of the lot will be someone's backyard, not front yard. If he is to sell the high end home, the person will need the higher wall for privacy. In addition, nice high stucco painted wall is a lot better looking than a dented fence with weeds behind it. It is true, no one from the 101 to Hayden has an 8 foot wall. But you know what, this could actually help people who would want this size wall on their own properties. If this goes through, other people could apply and get the same thing. If that helps you block the traffic noise, go for it. I am sorry if I have upset anyone with this e-mail. That is not my attention. We all should want a high-end home on that site. It will only help Desert Hill North. Tony is cced on this e-mail. He is willing to meet with all of us at 6:00pm on Tuesday, May 6th and answer any questions you may have. I suggest we take him up on the offer and have a calm discussion. We could meet at the site.



**Curtis, Tim**

---

**From:** Lee A. Potter <lee\_potter@yahoo.com>  
**Sent:** Monday, May 19, 2014 11:14 PM  
**To:** Curtis, Tim  
**Subject:** vote no on case number 2-ba-2014 (case number cactus & 101 variance)

Dear Tim Curtis,

After researching case number 2-ba-2014 (case name cactus & 101 variance) about the proposed changes on property address 8710 East Sunnyside Drive Scottsdale, AZ 85260, **I am completely against this project and I would like you all to vote against it.**

Tony Ardizzone makes it sound like he is planning on building his house and was unaware of all these regulations. Tony failed to mention he is President of ZZone Construction. He is a licensed Arizona general contractor of over 32 years and a real estate broker. Please see his profile on his website <http://www.zzoneconstruction.com/about/>. When he purchased that land, he knew of all the regulations and even proudly boasts of overturning these on his website. All his statements of "greatly hinders the building envelope and usable land", "these substantially reduce the usable and enjoyable amount of land", "greatly deprived of the privileged enjoyable use of the land" is a joke! He knows the regulations and he shouldn't have purchased it. His tall walls will devalue my home and others in the neighborhood by creating an uninviting entrance and atmosphere. So his statement about the "wall location would not be detrimental nor impede any persons residing...in the area" is not correct. The value of my property and my neighbor's homes would depreciate and it would be an eye sore in my neighborhood. Plus according to the scenic corridors design guidelines put together in 2000, prior to him purchasing the property, this area is to "maintain the natural beauty" of our desert landscapes and anyone buying property afterwards has to obey this. Putting a tall fence/wall is not keeping to our natural beauty which makes Scottsdale rank consistently as one of the finest and livable cities in the country. By allowing one bad apple to break the rules you set a precedent to future rulings and therefore eventually souring our beautiful Scottsdale over time. Current tall walls in place were installed prior to the 2000 scenic corridor design guidelines and are thus grandfathered into it but no new structures are allowed.

I would greatly appreciate it if you would turn down his entire project at the next hearing on June 4, 2014. If I am available to attend, I would like to speak in front of the board. The land would be best used as landscaping like the land across the street on cactus which keeps to the beauty of Scottsdale. Tony discusses how he gives back to the community on his ZZone Construction website, here is his chance to prove it and to do what is right by turning it into a park!

Best Regards,

Lee Alayna Potter  
8534 East Sunnyside Drive  
Scottsdale, AZ 85260

**Lee Alayna Potter**  
**602-363-3675**



## McClay, Doris

---

**From:** tim.leggett@forensicsdynamics.com  
**Sent:** Tuesday, May 06, 2014 4:49 PM  
**To:** Tony Ardizzone; McClay, Doris  
**Subject:** RE: Cactus 101 approval.

Doris, I am Tony's neighbor directly to the south (8702 E Sunnyside Dr), and have been at this property for 10 years now. The noise abatement wall on the 101 does an adequate job of minimizing noise from the freeway, but unfortunately, the "gap" required for freeway exit and entrance permits highway sound to travel parallel with loop 101...essentially the noise abatement wall is effectively defeated. The existing houses in the neighborhood were constructed in the mid- 70's, when proper insulation was an ill-considered expenditure of funds. Even with today's noise insulation standards, I consider a home built at the subject site to be largely non-livable without some type of noise limiting structure. Indeed, my property, just 200 ft south, is intolerable at times...for example Arizona Bike week.

I am completely in favor of the property owner at the corner of Cactus and 101 building a suitable single story, single family residence, in accordance with the local CC & R's. Indeed, I feel it would enhance the neighborhood. Unfortunately, I can envision no one doing so without the protection of an appropriately sized wall. A 3 ft high wall is for cosmetic purposes only...it would do absolutely nothing to reduce road noise entering the lot. This is a special property. It is located at the confluence of the Cactus interchange and the Cactus/101 off/on ramp. It therefore needs special consideration. City of Scottsdale will not be "opening a can of worms" by offering a special variance here. If you elect not to permit a suitable height wall, this property will languish behind a broken chain-link fence and will be inhabited exclusively by over grown weeds. I don't think thats in anyone's best interest.

Unfortunately, I cannot make the meeting, but you may call me anytime to discuss.

Tim Leggett, P.Eng, P.E.

President and C.E.O.,

Crashteam/Forensic Dynamics Inc.

250-371-4577

----- Original Message -----

Subject: Cactus 101 approval.

From: "Tony Ardizzone" <tony@monolithgroup.com>

Date: Tue, May 06, 2014 2:44 pm

To: <DMcClay@scottsdaleaz.gov>, <tim.leggett@forensicsdynamics.com>

Hey neighbor- I have copied The City of Scottsdale spokesperson for our case on this e-mail. Would you please be kind enough to hit "Reply All" and voice your objection or approval for our 8' wall.

Thank you.

*Tony Ardizzone*

Chief executive officer

The Monolith Group

9096 E. Bahia Dr.

Building A-102

Scottsdale, AZ 85260

W: 480.367.1901

M: 602.697.0013

Web: [www.monolithgroup.com](http://www.monolithgroup.com)



**DRAFT**



**SCOTTSDALE BOARD OF ADJUSTMENT  
KIVA-CITY HALL  
3939 DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA**

**WEDNESDAY, May 7, 2014**

**REGULAR MEETING MINUTES**

**PRESENT:** Matt Metz, Vice Chair  
Matt Mason, Board Member  
Tim Stratton, Board Member  
Sergio Martinez, Board Member  
Paul Garry, Board Member

**ABSENT:** Taylor Roncancio, Board Member  
William Adler, Board Member

**STAFF:** Brad Carr  
Sherry Scott  
Doris McClay  
Karen Fitzpatrick

**CALL TO ORDER**

Vice Chair Metz called the meeting of the Scottsdale Board of Adjustment to order at 6:02 p.m.

**ROLL CALL**

A formal roll call was conducted confirming members present as stated above.

**APPROVAL OF MINUTES**

1. Approval of the March 5, 2014 Regular Meeting Minutes.

**MOTION BY BOARD MEMBER MARTINEZ; 2<sup>ND</sup> BY VICE CHAIR MASON.  
APPROVED FIVE (5) – ZERO (0).**

\* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at: [www.scottsdaleaz.gov/boards/BOA.asp](http://www.scottsdaleaz.gov/boards/BOA.asp)

**ATTACHMENT #10**



## **REGULAR AGENDA**

2. 2-BA-2014 (Cactus & 101 Variance), Request by applicant for variances to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c pertaining to the required front yard setback on the east side of the property and Section 5.204.G pertaining to wall height on the north side and northeast corner of the property located at 8710 E. Sunnyside Drive with Single-Family Residential District (R1-35) Zoning.

Located at 8710 E Sunnyside Dr

Bryan Mealey, applicant, Cactus 101, LLC, owner  
Doris McClay, coordinator

**REQUEST BY APPLICANT TO CONTINUE. MOTION BY BOARD MEMBER STRATTON TO CONTINUE TO JUNE 4, 2014; 2<sup>ND</sup> BY BOARD MEMBER MARTINEZ. APPROVED FIVE (5) – ZERO (0).**

**THREE (3) CITIZENS SPOKE IN OPPOSITION TO THIS CASE:**

**CAROL BRADSHAW; PAT ERICKSON; SHERYL MARTIN.**

**ONE (1) CITIZEN SPOKE WITH GENERAL COMMENTS: RAY LEFRE'**

**TWO (2) WRITTEN COMMENTS RECEIVED IN OPPOSITION: RANDY GOLDBERG; MUNDHEL SITTO.**

**ONE (1) SPEAKER CHOSE TO WAIT UNTIL THE JUNE 4, 2014 MEETING TO SPEAK: HARRY MARTIN.**

## **ADJOURNMENT**

With no further business to discuss, the Board of Adjustment adjourned at 6:15 p.m.

### **Board of Adjustment consists of:**

Matt Metz, Vice Chair

Paul Garry, Board Member

Matt Mason, Board Member

Tim Stratton, Board Member

Taylor Roncancio, Board Member

Sergio Martinez, Board Member

Bill Adler, Board Member

\* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at: [www.scottsdaleaz.gov/boards/BOA.asp](http://www.scottsdaleaz.gov/boards/BOA.asp)





# WRITTEN COMMENTS

This card is used to submit written comments to the Board or Commission.  
Written comment cards may be submitted to the Staff at any time. Cards submitted after public testimony has begun will be provided to the Board or Commission at the conclusion of the testimony for that item.

NAME (print) Randy Goldberg MEETING DATE \_\_\_\_\_

NAME OF GROUP/ORGANIZATION (if applicable) \_\_\_\_\_

ADDRESS 8608 E. Sunnyside Dr. ZIP 85260

HOME PHONE 480 247-2662 WORK PHONE \_\_\_\_\_

E-MAIL ADDRESS(optional) randyucc@yahoo.com

AGENDA ITEM # 2-BA-2014 (cactus) ☐ SUPPORT ☒ OPPOSE

COMMENTS (additional space is provided on the back) I very much oppose ANY Building or wall - other than a buffer to the lot and cactus noise/traffic - This is already way too congested and would negatively affect houses in nearby area.

This card constitutes a public record under Arizona law.



# WRITTEN COMMENTS

This card is used to submit written comments to the Board or Commission.  
Written comment cards may be submitted to the Staff at any time. Cards submitted after public testimony has begun will be provided to the Board or Commission at the conclusion of the testimony for that item.

NAME (print) MUNICIPALITY OF SCOTTSDALE MEETING DATE 5/7/14

NAME OF GROUP/ORGANIZATION (if applicable) \_\_\_\_\_

ADDRESS 8609 E. Sunnyside Dr. Scottsdale AZ ZIP 85260

HOME PHONE 480-991-5961 WORK PHONE 602-561-4060

E-MAIL ADDRESS(optional) THECCARET LAND@HOTMAIL.COM

AGENDA ITEM # 2-BA-2014 ☐ SUPPORT ☒ OPPOSE

COMMENTS (additional space is provided on the back) Keep the zoning the way it is no need for change.

This card constitutes a public record under Arizona law.



# BOARD OF ADJUSTMENT REPORT



Meeting Date: 5/7/2014  
Item No.: 2

## ACTION

### Cactus & 101 Variance 2-BA-2014

#### Request to consider the following:

1. Approve a variance request to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c pertaining to the required front yard setback on the east side of the property located at 8710 E. Sunnyside Drive with Single-Family Residential District (R1-35) zoning.
2. Approve a variance request to the City of Scottsdale Zoning Ordinance Section 5.204.G pertaining to wall height on the north side and northeast corner of the property located at 8710 E. Sunnyside Drive with Single-Family Residential District (R1-35) zoning.

## OWNER

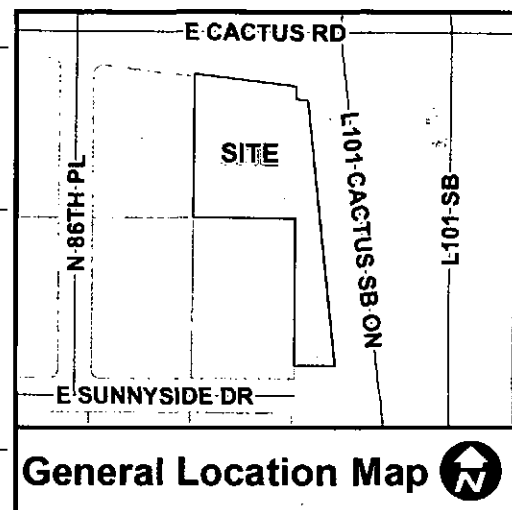
Cactus 101, LLC

## APPLICANT CONTACT

Bryan Mealey  
Zzone Development LLC  
480-628-1465

## LOCATION

8710 E Sunnyside Drive



## BACKGROUND

### History

The subject property was annexed into the City of Scottsdale in 1962 under Ordinance 165. The property was platted under the Desert Hills North subdivision in 1972. The subject property contains Lot 78, and remnant portions of Lot 59 and 79 from the Desert Hills North plat and is



approximately 45,480 square feet in size. Single-family structures were permitted and constructed in the 1970's on these three lots.

The subject property was part of the area acquired by the Arizona Department of Transportation (ADOT) for the construction of Loop 101. ADOT demolished the homes and constructed the Loop 101, which included the southbound on-ramp from Cactus Road adjacent to the subject property. In 2004, ADOT sold the subject property reserving a 15 foot wide wall easement along the east side of the property for maintenance purposes and granting legal access to the property from E Sunnyside Drive. The ADOT consolidation of Lot 78 and remnants portion of Lot 59 and Lot 79 into the subject property was not submitted to the City of Scottsdale for approval. The subject property will be required to submit an application to tie the lots together upon development of the lot.

### **Zoning/Development Context**

The subject property is zoned Single-Family Residential District (R1-35). The property has frontage on three sides: E. Cactus Road, the Loop 101 and E. Sunnyside Drive. The surrounding properties are zoned Single-Family Residential District (R1-35).

### **Zoning Ordinance Requirements**

- Pursuant to Article V, Section 5.204.E.1.c states "On a corner lot, the required front yard of forty (40) feet shall be provided on each street." A front yard setback is required from any type of street right-of-way, including Loop 101 on the east side. The applicant is requesting a Variance of 20 feet on the east side of the lot adjacent to the Loop 101 right-of-way to allow a setback of 20 feet.
- Pursuant to Article V, Section 5.204.G states "Walls, fences and hedges up to three (3) feet in height are allowed on the front property line or with the required front yard except as provided in Article VII." The applicant is requesting a Variance of 5 feet in height to allow an eight (8) feet wall within the forty (40) front yard setback on the north side of the property.

### **Code Enforcement Activity**

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

### **Community Input**

The City has sent out hearing postcards to properties within 750 feet of the subject site and posted a sign at the subject site. Staff has received one e-mail in opposition to the requested Variances at the time of writing this report.

## **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 special circumstances resulted from the ADOT improvements for the Loop 101 highway. The property has frontage adjacent to E. Cactus Road, but under the City of Scottsdale's code requirements, access to the property is not allowed from E. Cactus Road.

Staff Analysis: Prior to the Loop 101 construction, Lots 78, 79 and 59 in the Desert Hills North subdivision were typical square-shaped lots of approximately 35,000 square feet. Each lot had a front yard, two side yards and a rear yard. After construction of Loop 101, ADOT consolidate Lot 78 and the remaining area of Lot 79 and Lot 59 and created an irregular shaped lot. The construction of the Loop 101 freeway resulted in the creation of a front yard setback on the east side of the subject property.

- 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 the front yard setback required on three sides of this property reduces the usable and enjoyable amount of land. The applicant states that wall Variance is needed to protect the property owners from the traffic on E. Cactus Road.

Staff Analysis: This property is approximately 45,480 square feet. The minimum lot size for the R1-35 zoning district is 35,000 square feet. The building envelope with the required setback is approximately 15,163 square feet. The building envelope with the Variance request of 20 feet on the east side is approximately 17,876 square feet. Similar building envelope sizes of properties in the area range from approximately 12,850 square feet to 19,465 square feet. The building envelope will remain the same regardless of the wall height Variance request along E. Cactus Road.

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

The applicant states that the circumstances of the property were not self-imposed by the current property owner or past ownership.

Staff Analysis: ADOT acquired the property and demolished the existing houses to construct the Loop 101 and the southbound on-ramp from E. Cactus Road. The remaining area after the construction of the Loop 101 was consolidated by ADOT as the subject property and sold to the applicant. The construction of the Loop 101 freeway resulted in the creation of a front yard setback on the east side of the subject property. The wall height Variance along E. Cactus Road is a result of the site design the applicant is proposing.

- 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 approval of the Variances will not be detrimental to the neighborhood. The proposed eight (8) foot high wall location will not impede any persons



residing, working or traveling in the area. The wall will not obstruct any views of upcoming traffic because the Loop 101 on-ramp is a right turn only lane.

Staff Analysis: The intent of the maximum wall height of 3 feet in required front yard setbacks is to create an open rural residential character, to establish view corridors, and to maintain uninterrupted visual continuity along front property lines. None of the requested Variances would allow a structure or wall to encroach in a vehicle path of travel or safety sight-line visibility triangle. Existing homes along E. Cactus Road west of the site maintain at least a 20-foot setback from the property line to any structure or wall over 3 feet in height. A comment in opposition was received.

## **SUMMARY**

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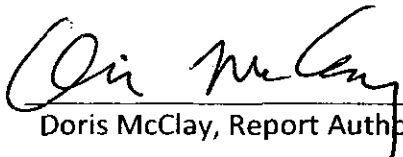
Based on the facts presented by the applicant, the evidence would support a finding that the property has special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The size, shape, or configuration of the property is unique and applicable. Further, the applicant's proposed variance does not appear that it would 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.

The Board of Adjustment does have the ability to grant the Variance for the wall height along E. Cactus Road on the applicant's property line. In order to maintain consistency with the established setback of structures on the property to the west, the Board also has the ability to require that an 8-foot wall along Cactus be set back 20 feet instead of the requested property line. This would maintain the established view corridor along E. Cactus Road.




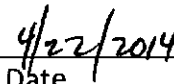
**APPROVED BY**


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Doris McClay, Report Author

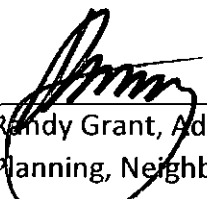
  
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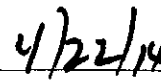
  
Brad Carr, AICP, Board of Adjustment Liaison  
480-312-7713, bcarr@scottsdaleaz.gov

  
Date

  
Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov

  
Date

  
Randy Grant, Administrator  
Planning, Neighborhood and Transportation  
480-312-2664, rgrant@scottsdaleaz.gov

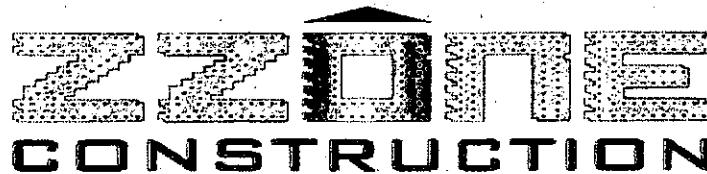
  
Date

**ATTACHMENTS**

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1. Project Description and Justification
2. Context Aerial
3. Aerial Close-Up
4. Setback exhibit with proposed wall location
5. Zoning Map
6. Site Photographs
7. Neighborhood Notification Map
8. Proposed Site Plan
9. Correspondence





*Where Vision Is Built*

9096 E. Bahia Dr. A-102

Scottsdale, AZ 85260

ROC 2611870

## APPLICATION NARRATIVE

City of Scottsdale  
Board of Adjustment  
7447 E Indian School Ste 105  
Scottsdale, AZ 85251

April 2, 2014

**Re: The Property address located @ 8710 E. Sunnyside Dr. aka.. Parcel 175-13-121A**

Dear Board Members,

It is with special request that the following Zoning Ordinance Variance be granted due to special circumstances regarding the above referenced land. This property was purchased from Arizona State Department of Transportation (ADOT) in August 2013 and is currently deemed vacant land.

Pursuant to the location of this property, it is classified with having three (3) street frontages. One along the North property line parallel with Cactus Road, the East property line parallel the 101 freeway and the South property line on Sunnyside Drive which is a dead end cul de sac. Our property sits along the existing 101 Freeway wall. With this property being classified with three frontages, it greatly hinders the building envelope and usable land by having three 40' Building Setback Lines.

The North frontage along Cactus is a product of circumstance. By code we would not be allowed to use it as access to the property. The current frontage designation also prohibits any fence wall greater than 3' in height to be installed past the BSL "Building Setback Line" of 40'. In addition there is a 15' wall maintenance easement along the East property line imposed by ADOT and a 10' horse trail easement along the South property line imposed by the CC&R's. These substantially reduce the usable and enjoyable amount of land.

Our request is that a variance be granted allowing a perimeter fence wall to be constructed on the property line past the North and East BSL in order to screen the approximate 40,000 car traffic count that passes our property on a daily basis as well as granting a variance for the wall height of 8' in height. We would also request that the East BSL be reduced to 20' "See Attached".

Due to the special circumstances applicable to this property resulting from ADOT improvements, we as owners would be greatly deprived of the privileged enjoyable use of the land. Not to mention the safety hazard of our newly constructed home. This circumstance is and was in no way self imposed or created by the current or past ownership.

The proposed wall location would not be detrimental nor impeded any persons residing, working or traveling in the area. The wall location would also correspond to similar wall locations located across Cactus Rd. on homes backing Cactus Rd. Because the 101 on ramp is a right turn "one way" only, the fence location would not obstruct any view of oncoming traffic.

Thank you,

A handwritten signature in black ink, appearing to read "Tony Ardizzone".

Tony Ardizzone  
Owner of Cactus 101, LLC

**ATTACHMENT #1**





Q.S.  
30-48  
G.I.S. ORTHOPHOTO 2013

# Cactus Road & Loop 101 Variance

2-BA-2014

ATTACHMENT #2





## Cactus Road & Loop 101 Variance

**2-BA-2014**

ATTACHMENT #3







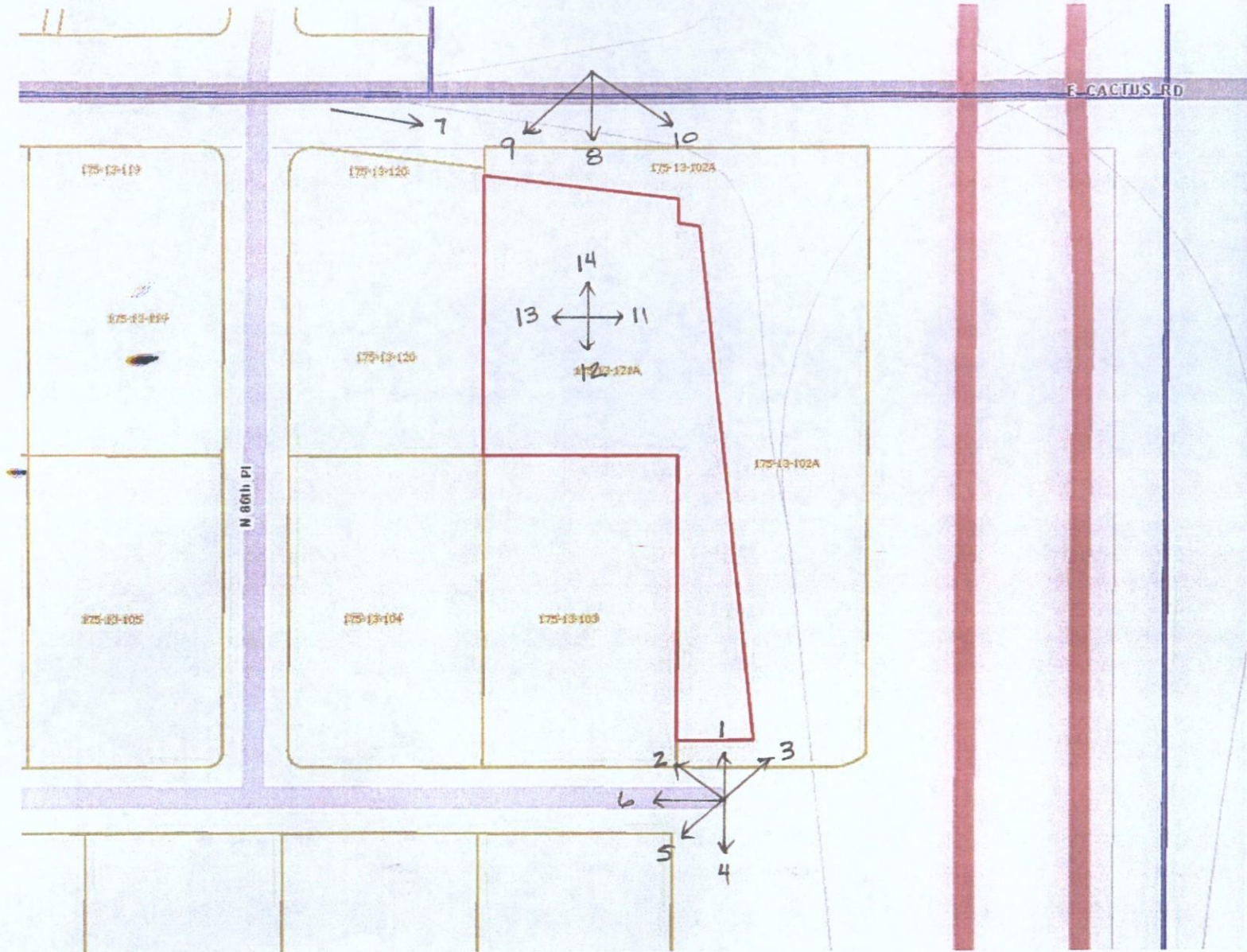


2-BA-2014

ATTACHMENT #5







## PHOTO NUMBERS

PAREL 175-13-121A

4  
↑  
N









#2









#4









#6







#8





#9





01 SOUTH  
→



BUILD TO SUIT  
FOR SALE  
Exclusive Custom  
Home Site  
CALL: 480-628-1466

# 10





11



#12





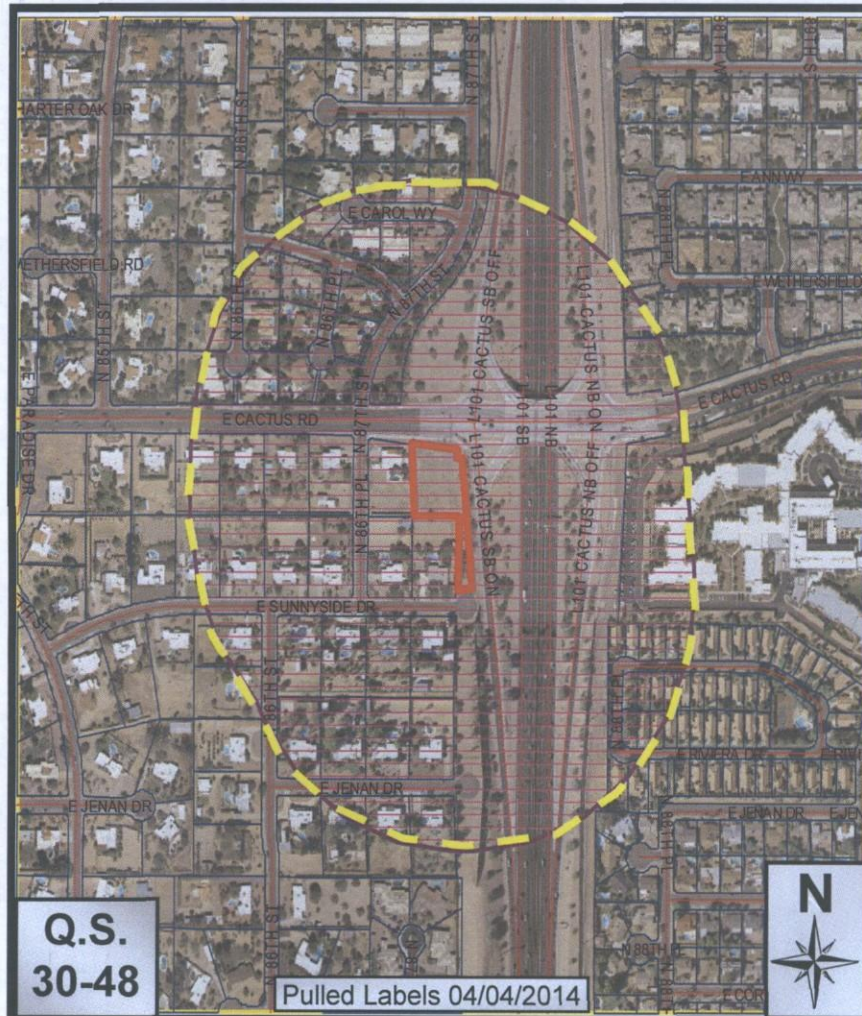








## City Notifications – Mailing List Selection Map



### Map Legend:



## Site Boundary

## Properties within 750-feet

### Additional Notifications:

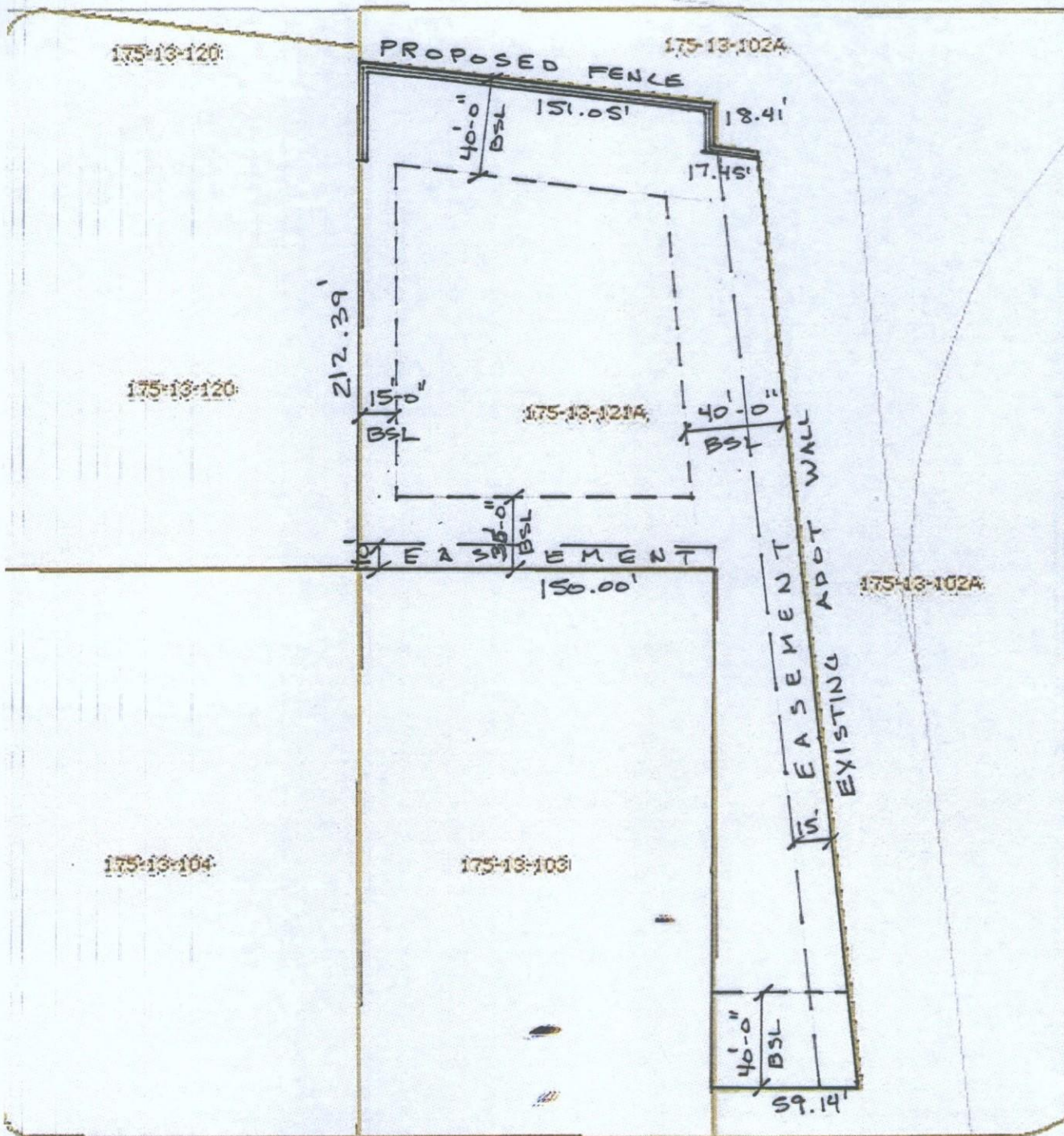
- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Twitter
- City Website-Projects in the hearing process

# Cactus & 101

**2-BA-2014**

ATTACHMENT #7





PARCEL 175-13-121A  
 8710 E SUNNYSIDE DR  
 SLOTTSDALE A2 85260

SUNNYSIDE DR.

ATTACHMENT #8

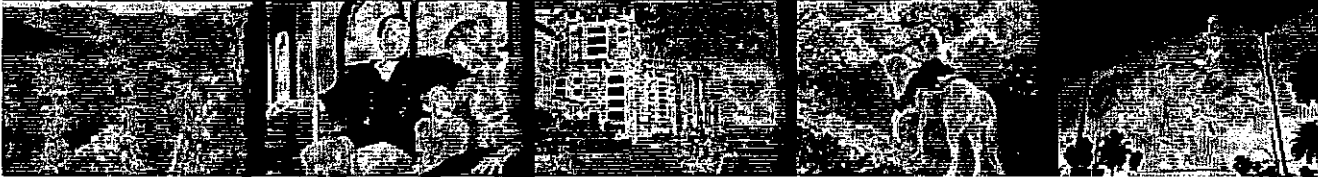


## McClay, Doris

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**From:** paulzebo@cox.net  
**Sent:** Monday, April 21, 2014 4:17 PM  
**To:** McClay, Doris  
**Subject:** Found the request -against

**SCOTTSDALEAZ.GOV**



I reviewed the applicants request and differ in opinion with them regarding the norther easement. I followed the south side of cactus to Hayden and found no house with a wall greater than 3 foot. By allowing this applicant to construct a fence or wall greater than 3 foot would create an eyesore and not blend into the area. Should the applicant wish to build a wall it should retain the 40 foot easement rule. The logic that the circumstances is and was in no way self imposed is pure BS. They did they due diligence and made a decision to purchase the land with these restrictions, so it in fact is, self imposed. Ya don't buy a piece of land like that and not know the restrictions. I would ask the City turn down the request and require this commercial builder to abide by all current regulations for the property.

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**ATTACHMENT #9**