

**Marked Agendas  
Approved Minutes  
Approved Reports**

**The May 2, 2018  
Board of Adjustment  
Meeting Agenda and  
Minutes can be found at**

<http://www.scottsdaleaz.gov/boards/board-of-adjustment>

# BOARD OF ADJUSTMENT REPORT



Meeting Date: 5/2/2018  
Item No.: 4

## ACTION

### CL Holdings 68th Place Care Home Disability Accommodation 3-BA-2018

#### Request to consider the following:

1. Approve a request by owner for a Disability Accommodation to the City of Scottsdale Zoning Ordinance, Sections 5.202.A and 5.102.A.2.c pertaining to Care Home location/separation, for a property with Single-family Residential (R1-35) zoning located at 12012 N. 68th Place.

## OWNER

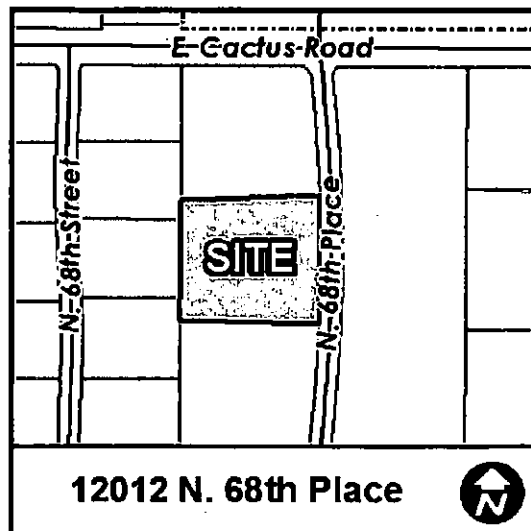
CL Holdings 68th Pl, LLC  
480-414-2596

## APPLICANT CONTACT

Larry S. Lazarus  
Lazarus, Silvyn & Bangs, P.C.  
602-340-0900

## LOCATION

12012 N 68th Place



## BACKGROUND

### Context

The site is Lot 13 of the Desert Estates Unit One subdivision, zoned Single-family Residential district (R1-35) and is located south of E. Cactus Road. on the west side of N. 68<sup>th</sup> Place.

### Adjacent Uses and Zoning

- North Desert Estates Unit One subdivision, zoned Single-family Residential (R1-35); existing single-family residence. Farther north is E. Cactus Road, the jurisdictional

- border between the City of Scottsdale and the City of Phoenix, and a single-family residence used as a care home.
- South Desert Estates Unit One subdivision, zoned Single-family Residential (R1-35); existing single-family residence.
- East Rancho Paraiso, zoned Single-family Residential (R1-35) with a Conditional Use Permit (4-UP-2013) for a Ranch and a variance (12-BA-1995) for maximum wall height in the front yard.
- West Desert Estates Unit Two subdivision, zoned Single-family Residential (R1-35); existing single-family residences.

### History

- September 27, 2017 Fire sprinkler plans for a care home at 12012 N. 68<sup>th</sup> Place were rejected because the care home use proposed is not adequately separated from an existing care home approximately 410 feet north of the property.
- November 27, 2017 CL Holdings submitted a request for a Zoning Administrator decision regarding a reasonable accommodation seeking relief from the 750-foot separation requirement between adult care homes per Section 5.102.A.2.c of the Zoning Ordinance.
- December 4, 2017 City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), that went into effect January 5, 2018.
- January 11, 2018 Letter from the Zoning Administrator was delivered to CL Holdings, upholding previous administrative implementation of Section 5.102.A.2.c of the Zoning Ordinance.
- On February 12, 2018 the applicant filed for an appeal of the Zoning Administrator's decision per the provisions of Section 1.805. of the Zoning Ordinance.
- March 30, 2018 the applicant submitted this Disability Accommodation (3-BA-2018) and a Variance case (4-BA-2018).

### Zoning Ordinance Requirements

Pursuant to Sections 5.202.A and 5.102.A.2.c City of Scottsdale Zoning Ordinance pertaining to R1-35 Use Regulations, Care Home location: A care home shall not be located within twelve hundred (1200) feet, measured from lot line to lot line, of another care home.

*The applicant is requesting an accommodation of seven hundred eighty-five (785) feet which would reduce the required care home separation from twelve hundred (1200) feet to four hundred fifteen (415) feet.*

### Code Enforcement Activity

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

### Community Input

The site has been posted and notification was sent to properties within 750 feet of the site. Staff has received two emails and two phone messages in opposition siting the approval of the request would negatively alter the character of the neighborhood.

### DISABILITY ACCOMMODATION CRITERIA ANALYSIS

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**A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:**

- 1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.)**

The applicant states that the residents of Centered Living are considered "handicapped" under the 1988 amendments to the FHA, unlike other groups of unrelated, non-disabled persons. See 42 U.S.C. 3600 et seq. Recovering addicts and alcoholics are specifically included within the definition of "handicapped individual." See, 42 U.S.C. 3602(h) and 24 C.F.R. 100.201(a)(2). "Handicap" means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This request for a disability accommodation is for those disabled individuals who are recovering addicts and alcoholics.

Staff Analysis: Per the request, the residents at 12012 N. 68th Place are disabled, their specific handicap or disability being recovering addicts and recovering alcoholics, as defined within ADA 2008 amendments:

Sec. 12114. Illegal use of drugs and alcohol

(a) Qualified individual with a disability

For purposes of this subchapter, qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) Rules of construction

Nothing in subsection (a) of this section shall be construed to exclude as a qualified individual with a disability an individual who

- (1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;
- (2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- (3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

**2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling.**

The applicant states with an increase in the number of individuals recovering from a disability associated with opioid addiction, there is a great demand for licensed homes providing housing and treatment for these individuals. Without an accommodation, disabled residents wanting to live in a residential environment with treatment services, equestrian facilities and open space will be denied an equal opportunity to use and enjoy the dwelling.

Staff Analysis: Centered Living has been operating at 12012 N. 68th Place since 2011 without the designation of a care home or state license. The residents at this location could continue to live at this location as a "Family" without the need for a disability accommodation. But, it is the applicant's desire to provide care services and become licensed by the State of Arizona which would require the property to comply with the care home criteria including the required care home separation of twelve hundred (1200) feet that would require a disability accommodation or variance. There are other locations that qualify under the separation requirements.

**3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale.**

The applicant states the subject Property allows access to an entirely different category of disabled individuals. The 1,200 separation unduly restricts this disabled class from finding adequate housing. On June 5, 2017, Governor Ducey declared a statewide health emergency in the opioid epidemic. As part of this public health emergency, ADHS has been commissioned to identify ways to expand access to treatment. Denying this accommodation will restrict a disabled class from finding adequate housing in a therapeutic environment necessary for recovery from substance abuse disorders. The national state of emergency was declared in August of 2017 again demanding more

access to treatment for this disabled class. There are not currently enough available resources for those seeking treatment for substance abuse as denoted in the Declaration signed by Governor Ducey

Staff Analysis: If the disabled residents at 12012 N. 68th Place need additional care that can only be achieved in a care home in a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for care home at a different property that is properly separated from other care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home, as shown in attachment 5 and 6, care home availability map, the residential areas outside of existing care home buffers.

**4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale**

The applicant states the requested accommodation does not fundamentally alter the nature and purpose of the zoning ordinance or the City of Scottsdale's land use goals and policies. Granting this accommodation would further the City's purposes by promoting the following policies under Goal No. 6 of the Housing Element of the City of Scottsdale General Plan 2001:

- o "Encourage the increased availability and integration of a variety of housing that supports flexibility, mobility, independent living, and services for all age groups and those with special needs," and
- o "Support existing and future policies and techniques that provide housing opportunities to meet the unique housing needs of young working families, the elderly, and disabled."

The Royal Palms assisted living home located at 12202 N. 68th Place is located on the north side of Cactus Road, which is a high-capacity major collector road. Cactus Road is a man-made barrier providing the necessary separation between the two properties allowing the character of the two distinct neighborhoods to remain unchanged. The two properties are two different developments, Sunrise Shadows located in a Phoenix neighborhood vs. Desert Estates located in a Scottsdale neighborhood.

Since 2011, Centered Living has been integrated into the community and would not change the character of the neighborhood by merely obtaining a license from ADHS. Centered Living has not had any complaints and has operated for the benefit of those recovering from substance abuse. The Centered Living household functions as the equivalent of a family and allows recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse. The potential recover of people who are handicapped or disabled by reason of alcoholism or drug abuse and are in recovery are greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons. The quality and nature of

the relationship among the residents are akin to that of a family. The need of unrelated, recovering alcoholics and substance abusers to live in a structured, safe and therapeutic environment is necessary for an effective recovery process. Therefore, this request for a disability accommodation is an extension of what Centered Living provides to the disabled and will be under the licensing authority and monitoring of ADHS.

**Staff Analysis:** The purpose of requiring separation between care homes is to promote and protect the public health, safety, and welfare of the citizens of the City of Scottsdale and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, as reflected in the General Plan.

Because there is only one real property between the existing care home on the north side of E Cactus Rd. and this subject property, the impact for the disabled residents of the care homes and the neighboring property would be considerable. The request to adjust the separation requirement from twelve hundred (1200) feet to four hundred fifteen (415) feet is a 65% change and not reasonable. Through benchmarking with four other similar Arizona cities, as part of the Care Homes/Group Homes Text Amendment (2-TA-2017), the requirement from twelve hundred (1200) feet was found to be a common standard.

Studies have shown, for normalization to occur, it is essential that community residence residents have such so-called "able-bodied" neighbors as role models. But if another community residence is opened very close to an existing group home, such as next door or within a few doors of it, the residents of the new home may replace the "able-bodied" role models with other people with disabilities and quite possibly hamper the normalization efforts of the existing community residence. (Daniel Lauber, AICP (2015). *Prescott, Arizona: Principles to Guide Zoning for Community Residences for People With Disabilities*). The two care homes might be drawn to relate closer with each other, rather than to normalize with the surrounding neighbors, in so creating a cluster.

The buffers between care homes have also been established to protect the character of neighborhoods for the benefit of all residents, including the disabled, and to insure, as in this case, that the low density of the zoning district is maintained and to protect citizens welfare. The United States Supreme Court has sanctioned the concept of preserving family neighborhoods in *Village of Belle Terre v. Boraas*:

The regimes of boarding houses, fraternity houses, and the like present urban problems. More people occupy a given space; more cars rather continuously pass by; more cars are parked; noise travels with crowds.

A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land use project addressed to family needs. This

goal is a permissible one within *Berman v. Parker*, supra. The police power is not confined to elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people. 416 U.S. 1, 9 (1974).

5. **The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law.**

The applicant states allowing Centered Living to obtain a license from ADHS and continue operating a home for disabled residents at the Property will not impose an undue burden or expense to the local government

Staff Analysis: There is no anticipated financial or administrative burden.

- B. **The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.**

- C. **The requested accommodation must comply with all applicable building and fire codes.**

Applicant is aware of such requirements and will comply with all applicable codes.

- D. **The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.**

The applicant states that not approving the disability accommodation would be a threat to the health and safety of recovering addicts.

Staff Analysis: there is no apparent direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

## **SUMMARY**

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Based on the facts presented by the applicant, the evidence would support a finding that the property does not meet the Ordinance criteria for a reasonable accommodation, and that the request for such a large accommodation from the Ordinance's distance requirement is unreasonable.

**APPROVED BY**

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Ben Moriarity, Report Author  
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4/18/18

Date



Brad Carr, AICP, Board of Adjustment Liaison  
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4.18.2018

Date



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4/18/2018

Date



Randy Grant, Planning and Development Director  
480-312-2664, rgrant@scottsdaleaz.gov

4/18/18

Date

**ATTACHMENTS**

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1. Project Description and Justification
2. Context Aerial
3. Aerial Close-Up
4. Zoning Map
5. Care Home Availability Map
6. Care Home Availability Map Close-Up
7. Site Plan
8. Citizen Involvement



LAW OFFICES OF

**Lazarus, Silvyn & Bangs, P.C.**

A PROFESSIONAL CORPORATION

March 30, 2018

**VIA HAND-DELIVERY**

Board of Adjustment  
CITY OF SCOTTSDALE  
Planning and Development Services Division  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

**RE: Application for Disability Accommodation from the 1200-ft. Care Home Separation Requirement (the "Application") Submitted on Behalf of CL Holdings 68<sup>th</sup> Place, LLC, an Arizona limited liability company ("CL Holdings") Regarding Property Located at 12012 North 68<sup>th</sup> Place, Scottsdale, Arizona (the "Property")**

Dear Board of Adjustment Members:

Pursuant to Sections 1.806 and 1.920 of the City of Scottsdale Zoning Ordinance, the law offices of Lazarus, Silvyn and Bangs, P.C. submits this narrative in support of a disability accommodation application filed on behalf of CL Holdings 68<sup>th</sup> Place, LLC, the owner of the above-referenced Property. CL Holdings is seeking a decision from the Board of Adjustment (the "Board") approving a disability accommodation from the 1,200-foot separation requirement applicable to care homes in the R1-35 zoning district. See Sections 5.202.A and 5.102.A.2.c of the City of Scottsdale Zoning Ordinance (the "Zoning Ordinance"). A disability accommodation is necessary in order for CL Holdings to establish a state-licensed behavioral health residential facility on the Property within 1,200 feet of an assisted living home with directed care services for seniors. The requested disability accommodation is reasonable and necessary to afford disabled persons recovering from alcohol and substance abuse the equal opportunity to live in the community of their choice in accordance with the protections and requirements under the Fair Housing Act. In this particular case, the 1,200-foot separation requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale's single-family residential zoning districts.

CL Holdings reserves the right to supplement this narrative with additional information, evidence and written materials at least 14 calendar days prior to the Board's public hearing.<sup>1</sup> After careful consideration of the evidence submitted in support of this disability accommodation application, the Applicant would request that the Board enter an order with findings of fact and conclusions of law granting an approval of the disability accommodation required for CL Holdings to operate a behavioral health residential facility on the Property.

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<sup>1</sup> See Section 403 of the City of Scottsdale Rules of Procedure for the Board of Adjustment revised on July 13, 2016, effective September 7, 2016 (hereinafter "BOA Rules of Procedure").

**I. PROPERTY DESCRIPTION, LOCATION AND SURROUNDING USES.**

CL Holdings' Property is located approximately 300 feet south of the southwest corner of the N. 68<sup>th</sup> Place and E. Cactus Road intersection. The Property and surrounding lots are zoned R1-35 Single-Family Residential zoning district. The Property's size is approximately 2.18 acres and is currently developed with an approximately 4,610 s.f. single-family residence built in 1957, a guest house, stables, a corral and pool. The home and improvements on the Property resemble other dwelling units and horse properties in the neighborhood. There is nothing about the exterior of the home that indicates it is inhabited by disabled residents.<sup>2</sup>

At this location, Cactus Road is a heavily-traveled major collector street with approximately 28,300 average daily vehicle trips (as of 2016). The posted speed limit along Cactus Road is 45 mph. A radar speed sign has been installed at Cactus Road west of 68<sup>th</sup> Place as an attempted traffic calming measure. The 68<sup>th</sup> Place and E. Cactus Road intersection is not signalized, preventing direct access for pedestrians or bicyclists to travel north and south along 68<sup>th</sup> Place.

The Property is located within Scottsdale's city limits. Approximately 415 feet north of the Property, the north boundary of the Cactus Road right-of-way serves as the jurisdictional boundary between the City of Scottsdale on the south and the City of Phoenix on the north. The Royal Palms Assisted Living Home is located at 12202 N. 68<sup>th</sup> Place within the jurisdiction of the City of Phoenix just north of the city limits boundary (approximately 415 feet from the CL Holdings Property, on the north side of Cactus Road).<sup>3</sup>

Royal Palms, which is located within 1,200 feet of the subject property, is licensed through the Arizona Department of Health Services ("ADHS") as an assisted living home providing directed care services to the elderly under License No. AL5847H. Directed care services are "programs and services, including supervisory and personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions."<sup>4</sup>

**II. EXISTING USE OF PROPERTY.**

Since 2011, CL Holdings has provided a supportive, family environment to residents recovering from alcohol and substance abuse at the Property. CL Holdings does not provide care or treatment, does not administer medication, and does not assist with self-administration of medication to residents. Therefore, CL Holdings is not required to obtain a license from ADHS and has been operating as a "family" under the City of Scottsdale Zoning Ordinance since 2011.

Both CL Holdings and the Royal Palms care homes have been operating since 2011 without any adverse impacts to the community. There has been no interaction of the disabled individuals residing at the Property and at Royals Palms. The residential character of the neighborhood has remained unchanged.

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<sup>2</sup> See Photographs dated March 28, 2018, attached hereto as **Exhibit "7"**.

<sup>3</sup> See Context Aerial dated March 29, 2018 submitted herewith as **Exhibit "1"**.

<sup>4</sup> See A.R.S. § 36-401.A.15.

Before the City's most recent text amendment took effect on January 5, 2018<sup>5</sup>, the Zoning Ordinance defined the terms "analogous use", "family" and "adult care home" as follows:

**Adult care home** shall mean a residential care institution which provides supervisory care, personal care, or custodial care services to adults who require the assistance of no more than one (1) person to walk or to transfer from a bed, chair, or toilet, but who are able to self-propel a wheel-chair, as subject to licensing by the State of Arizona.

...

**Analogous use** shall mean any use which is comparable to the permitted uses, is similar in one (1) or more important ways to the permitted uses, or resembles the permitted uses in one (1) or more aspects. Analogous uses shall not be any more deleterious, obnoxious or harmful than the uses permitted.

...

**Family** shall mean one (1) or more persons occupying a premise[s] and living as a single housekeeping unit<sup>6</sup> as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as herein defined.<sup>7</sup>

Based upon these prior definitions, on January 11, 2018, the Zoning Administrator issued to CL Holdings an interpretation of the Zoning Ordinance finding CL Holdings to be a legal non-conforming "family" use subject to the following conditions: (1) No increase in the number of disabled residents, and (2) No care is being provided at the residence. The Zoning Administrator's interpretation with regard to CL Holdings' legal non-conforming use was correct given that the Property's use has been analogous or comparable to a "family" living as a single housekeeping unit rather than a licensed "adult care home."<sup>8</sup>

### III. PROPOSED USE OF PROPERTY.

CL Holdings is now submitting this reasonable accommodation application to allow for a change in the use of the Property – from an unlicensed, legal non-conforming "family" use to a care home use licensed by ADHS as a behavioral health residential facility. The proposed behavioral health residential facility would be operated within the existing residence on the Property. If approved, the CL Holdings'

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<sup>5</sup> See City of Scottsdale Resolution 10963 adopted December 5, 2017, attached hereto as **Exhibit "2"**; see also Ordinance No. 4326 adopted December 5, 2017 attached hereto as **Exhibit "3"** (altogether the "Text Amendment").

<sup>6</sup> Prior to January 5, 2018, the Zoning Ordinance did not define the phrase "single housekeeping unit."

<sup>7</sup> See Zoning Ordinance Section 3.100 in effect prior to January 5, 2018.

<sup>8</sup> CL Holdings' existing use is not analogous to the former definition of "adult care home." CL Holdings' use is not similar in one (1) or more important ways to an "adult care home" and it does not resemble an "adult care home" in one (1) or more aspects because: (i) CL Holdings' existing use is not a residential care institution (defined as a health care institution providing various care services including "supervisory care services, personal care services, behavioral health services, directed care services or health-related services" see A.R.S. § 36-401.A.40), (ii) the existing use does not provide care services to adults, and (iii) the existing use is not open to adults who require the assistance of a person to walk or to transfer from a bed, chair, or toilet, but who are able to self-propel a wheel-chair. See former definition of "Adult Care Home" in City of Scottsdale Resolution 10963 adopted December 5, 2017, attached hereto as **Exhibit "2"**.

behavioral health residential facility would provide housing, treatment and care services to no more than 10 adults with disabilities associated with recovery from drug and alcohol abuse.

A care home is a permitted use in the R1-35 Single-Family Zoning District. As part of the recent Text Amendment, the Scottsdale Mayor and City Council adopted an increased distance standard requiring a 1,200-foot separation between care homes in the R1-35 District.<sup>9</sup> As of January 5, 2018, a "care home" is defined as:

*Care home* shall mean a dwelling shared as a primary residence by no more than ten (10) adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents. For purposes of this definition, a person must live in the dwelling a minimum of thirty (30) consecutive days for this dwelling to be considered a primary residence. A care home is a principal, not an accessory, use.<sup>10</sup>

Under the City of Scottsdale Zoning Ordinance, all dwellings licensed as a health care institution by ADHS are grouped together under the single definition of "care home" regardless of the vast differences in services and treatment provided under the various sub-categories of ADHS licenses. Thus, based upon the City's definition of "care home," a state-licensed "behavioral health residential facility" providing care services and treatment for disabled individuals recovering from drug and alcohol abuse would be considered the same use as a state-licensed "assisted living facility" providing directed care services to disabled seniors. The following side-by-side comparison of these 2 ADHS licensing categories demonstrates the differences between a behavioral health residential facility (CL Holdings' proposed use) and an assisted living home with directed care services (Royal Palms' use). For instance, there is a considerable focus on "treatment" of "behavioral health issues" as part of the definition of behavioral health residential facilities. The words "treatment" and "behavioral health issues" are altogether missing from the definition of assisted living home. The Zoning Ordinance's all-inclusive definition of "care home" makes no distinction between these 2 very different uses and the residents that they serve.

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<sup>9</sup> See Zoning Ordinance §§ 5.202.A and 5.102.A.2.c.

<sup>10</sup> See Zoning Ordinance § 3.100, Definition of "Care Home."

**Comparison of Two (2) ADHS Licenses:  
 Behavioral Health Residential Facility vs. Assisted Living Home with Directed Care Services**

Behavioral Health Residential Facility (CL Holdings' Proposed Use)	Assisted Living Home w/ Directed Care Services (Royal Palms' Use)
<p><b>Definition of Behavioral Health Residential Facility:</b><sup>11</sup></p> <p>A health care institution that provides <u>treatment</u> to an individual experiencing a <u>behavioral health issue</u> that:</p> <ul style="list-style-type: none"> <li>a. Limits the individual's ability to be independent, or</li> <li>b. Causes the individual to require <u>treatment</u> to maintain or enhance independence.</li> </ul>	<p><b>Definition of Assisted Living Home:</b><sup>12</sup></p> <p>An <u>assisted living facility</u> that provides resident rooms to ten or fewer residents.</p> <p><b>Definition of Assisted Living Facility:</b><sup>13</sup></p> <p>A residential care institution, including an adult foster home, that provides or contracts to provide supervisory care services, personal care services or <u>directed care services</u> on a continuous basis.</p>
<p><b>Definition of Treatment:</b><sup>14</sup></p> <p>A procedure or method to <u>cure, improve, or palliate an individual's medical condition or behavioral health issue.</u></p>	<p><b>Definition of Directed Care Services:</b><sup>15</sup></p> <p>Programs and services, <u>including supervisory and personal care services</u>, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.</p>
<p><b>Definition of Behavioral Health Issue:</b><sup>16</sup></p> <p>An individual's condition related to a mental disorder, a personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor or stressors.</p>	<p><b>Definition of Supervisory Care Services:</b><sup>17</sup></p> <p>General supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.</p>
	<p><b>Definition of Personal Care Services:</b><sup>18</sup></p> <p>Assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.</p>

<sup>11</sup> Emphasis added. See A.A.C. § R9-10-101.29.

<sup>12</sup> Emphasis added. See Ariz. Rev. Stat. § 36-401.A.9.

<sup>13</sup> Emphasis added. See Ariz. Rev. Stat. § 36-401.A.8.

<sup>14</sup> See A.A.C. § R9-10-101.209.

<sup>15</sup> Emphasis added. See Ariz. Rev. Stat. § 36-401.A.15.

<sup>16</sup> See A.A.C. § R9-10-101.25.

<sup>17</sup> See Ariz. Rev. Stat. § 36-401.A.45.

<sup>18</sup> See Ariz. Rev. Stat. § 36-401.A.36.

**IV. BOARD OF ADJUSTMENT AUTHORITY.**

**A. Arizona Revised Statutes and Zoning Ordinance.**

Arizona's zoning enabling statutes prescribe the authority of the Board of Adjustment to hear and decide applications for variances, appeals from the decisions of the zoning administrator, and to exercise other powers as may be granted by the zoning ordinance of a municipality.<sup>19</sup> In accordance with these state statutes, Section 1.801 of the City's Zoning Ordinance grants authority to the Board to "hear all applications for requests for Disability Accommodation made pursuant to Section 1.920."<sup>20</sup> The Text Amendment effective January 5, 2018 provided to the Board, for the first time, the authority to hear and decide Disability Accommodations.<sup>21</sup> Applications which seek a modification of a separation requirement greater than 10% require a hearing and a decision by the Board of Adjustment.<sup>22</sup> In this case, the modification requested is greater than 10%.

**V. APPLICANT WILL SUBMIT EVIDENCE TO THE BOARD SATISFYING ALL DISABILITY ACCOMMODATION TESTS.**

The Scottsdale Zoning Ordinance provides the opportunity for applicants to "request a disability accommodation from a development standard or separation requirement if the standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale."<sup>23</sup> Pursuant to Section 1.806 of the Zoning Ordinance, a disability accommodation is authorized if the applicant can establish all of the following:

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;
4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;

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<sup>19</sup> See Ariz. Rev. Stat. §§ 9-462.06.C and G.

<sup>20</sup> See Zoning Ordinance § 1.801.C.

<sup>21</sup> See City of Scottsdale Resolution 10963 adopted December 5, 2017, attached hereto as Exhibit "2".

<sup>22</sup> See Zoning Ordinance § 1.920.

<sup>23</sup> *Id.*

- B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.
- C. The requested accommodation must comply with all applicable building and fire codes.
- D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

As demonstrated below and in future supplemental materials, the Applicant is capable of satisfying all disability accommodation tests. A disability accommodation from the 1,200-foot separation requirement is necessary in this case to prevent a disparate impact on persons with disabilities and to prevent a denial of the equal opportunity for disabled individuals to live in a single-family residential neighborhood in the R1-35 zoning district.

- A. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq).**

Centered Living is requesting a disability accommodation from the care home separation requirement of 1200 feet pursuant to the Federal Fair Housing Act (FHA) and Arizona fair housing laws on behalf of the residents and owner of Centered Living located at 12012 N. 68<sup>th</sup> Place, Scottsdale, Arizona 85253.

The residents of Centered Living are considered "handicapped" under the 1988 amendments to the FHA, unlike other groups of unrelated, non-disabled persons. See 42 U.S.C. 3600 et seq. Recovering addicts and alcoholics are specifically included within the definition of "handicapped individual." See, 42 U.S.C. 3602(h) and 24 C.F.R. 100.201(a)(2). "Handicap" means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This request for a disability accommodation is for those disabled individuals who are recovering addicts and alcoholics.

Pursuant to A.R.S. §41-1491 et seq., the residents of Centered Living are considered "disabled". A "Disability" means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment or being regarded as having such an impairment. Disability shall be defined and construed as the term is defined and construed by the Americans with Disabilities Act of 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325; 122 Stat. 3553).

- B. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling.**

The Fair Housing Act requires accommodation of disabilities if such accommodation is reasonable and necessary to afford a handicapped person the equal opportunity to use and enjoy a dwelling. With a recent increase in the number of individuals recovering from a disability associated

with opioid addiction, there is a great demand for licensed homes providing housing and treatment for these particular individuals.

Several of the care homes within the City of Scottsdale provide care services to frail, elderly residents under an assisted living home license issued by ADHS. With a behavioral health residential facility license, CL Holdings would not be providing care services to frail, elderly residents. Instead, CL Holdings would be providing treatment and counseling services for individuals with behavioral health issues arising from a substance abuse disability.

The across-the-board application of a 1200-ft separation requirement to all care homes, regardless of their specialized services, is causing the increased demand for services and homes to go unfulfilled. Without an accommodation in this instance, disabled residents wanting to live in a residential environment with treatment services, equestrian facilities and open space will be denied an equal opportunity to use and enjoy the dwelling.

**C. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale.**

Because the subject Property allows access to an entirely different category of disabled individuals than that offered in assisted living homes in Scottsdale, it unduly restricts the opportunity for certain disabled individuals to find adequate housing in Scottsdale. In addition, the 1,200 setback unduly restricts this disabled class from finding adequate housing. On June 5, 2017, Governor Ducey declared a statewide health emergency in the opioid epidemic. As part of this public health emergency, ADHS has been commissioned to identify ways to expand access to treatment. Denying this reasonable accommodation will restrict a disabled class from finding adequate housing in a therapeutic environment necessary for recovery from substance abuse disorders. The national state of emergency was declared in August of 2017 again demanding more access to treatment for this disabled class. There are not currently enough available resources for those seeking treatment for substance abuse as denoted in the Declaration signed by Governor Ducey attached as **Exhibit 5**.

**D. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;**

The requested accommodation does not fundamentally alter the nature and purpose of the zoning ordinance or the City of Scottsdale's land use goals and policies. In fact, granting this accommodation would further the City's purposes by promoting the following policies under Goal No. 6 of the Housing Element of the City of Scottsdale General Plan 2001:

- "Encourage the increased availability and integration of a variety of housing that supports flexibility, mobility, independent living, and services for all age groups and those with special needs," and
- "Support existing and future policies and techniques that provide housing opportunities to meet the unique housing needs of young working families, the elderly, and disabled" (Emphasis added).

The Royal Palms assisted living home located at 12202 N. 68<sup>th</sup> Place is located on the north side of Cactus Road, which is a high-capacity major collector road. Cactus road is a man-made barrier

providing the necessary separation, and the main arterial road clearly provides the necessary separation between the two properties allowing the character of the two distinct neighborhoods to remain unchanged.

The two properties are two different developments, Sunrise Shadows located in a Phoenix neighborhood vs. Desert Estates located in a Scottsdale neighborhood.

In addition, permitting Centered Living to exist would not significantly compromise the policies reflected in any of its land use ordinances that the City would apply or enforce nor is there any significant evidence that such an accommodation would significantly compromise the City's legitimate interests in protecting the residential character of the surrounding neighborhood. In addition, there are no other care homes within 1200 feet of the Property for recovering addicts and alcoholics in the area.

Since 2011, Centered Living has been integrated into the community and would not change the character of the neighborhood by merely obtaining a license from ADHS. Centered Living has not had any complaints and has operated for the benefit of those recovering from substance abuse. The Centered Living household functions as the equivalent of a family and allows recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse. The potential recover of people who are handicapped or disabled by reason of alcoholism or drug abuse and are in recovery are greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons. The quality and nature of the relationship among the residents are akin to that of a family. The need of unrelated, recovering alcoholics and substance abusers to live in a structured, safe and therapeutic environment is necessary for an effective recovery process. Therefore, this request for a disability accommodation is an extension of what Centered Living provides to the disabled and will be under the licensing authority and monitoring of ADHS.

- E. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;**

Allowing Centered Living to obtain a license from ADHS and continue operating a home for disabled residents at the Property will not impose an undue burden or expense to the local government and will not alter the zoning scheme of the City of Scottsdale. Centered Living is not requesting that the City build housing, rather, it is requesting that the City remove an obstacle to housing for the disabled in a unique circumstance. The FHA places an affirmative duty on the municipality to accommodate the needs of persons with disabilities. The FHA stresses that municipalities such as the City to make exceptions to the way its zoning ordinances are applied to afford the disabled the same opportunity to housing as those who are not disabled.

- F. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.**

This test will be addressed as part of CL Holding's supplemental narrative.

**G. The requested accommodation must comply with all applicable building and fire codes.**

Centered Living will comply with all applicable building and fire codes including fire suppression requirements, permits, drawings and fees mandated by ADHS for licensure. Centered Living is aware of such requirements and asserts compliance.

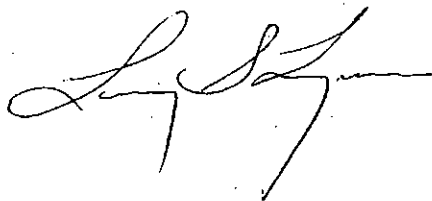
**H. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.**

The requested disability accommodation does not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. Failure to approve a reasonable accommodation can result in a threat to the health and safety of disabled individuals, a threat to the health and safety of recovering addicts and alcoholics seeking treatment for substance abuse, and undermines the state emergency directive pertaining to opioid addiction. The state emergency directive seeks to expand access to treatment, not hinder it. Currently, statistics from the Governor's Office of Youth, Faith and Family denote that AHCCCS centers for substance abuse are 99% occupied with all available beds operating at the max and approximately 400 individuals on average are on the waitlist for treatment as of 2017.

**VI. CONCLUSION**

For the foregoing reasons, CL Holdings respectfully requests an order from the Board granting the requested disability accommodation for the care home separation requirement in Section 5.102.A.2.c. of the Zoning Ordinance for the purpose of allowing CL Holdings to operate a state-licensed behavioral health residential facility at 12012 N. 68<sup>th</sup> Place.

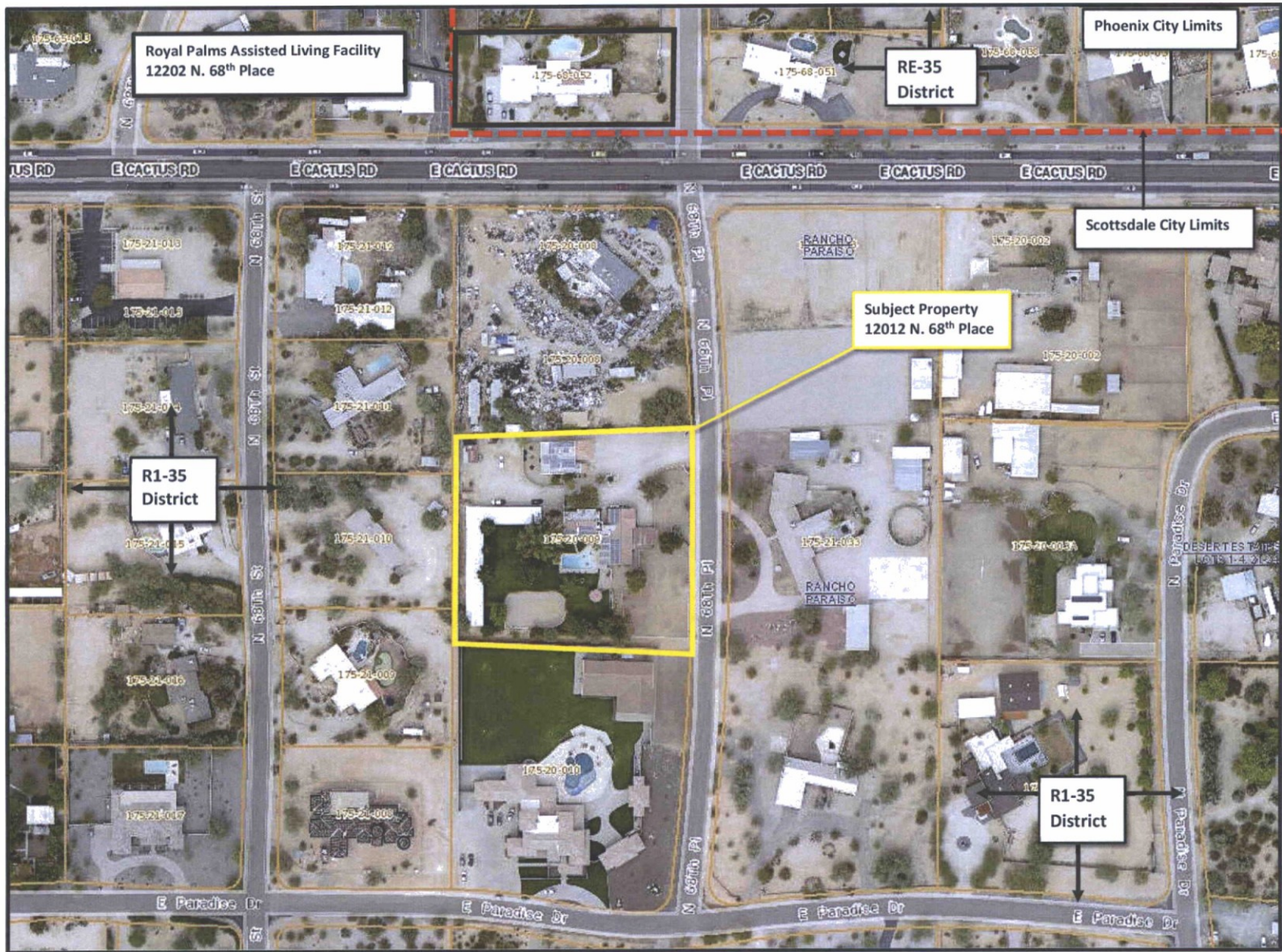
Respectfully,



Larry S. Lazarus  
LAZARUS, SILVYN & BANGS, P.C.

Attachments

1



Royal Palms Assisted Living Facility  
12202 N. 68th Place

RE-35  
District

Phoenix City Limits

Scottsdale City Limits

Subject Property  
12012 N. 68th Place

R1-35  
District

R1-35  
District

**CONTEXT AERIAL**  
03/29/2018

Property Owner:  
CL Holdings 68th Place, LLC

Address: 12012 N. 68th Place

APN: 175-20-009

Net Parcel Area:  
94,843 s.f.  
2.18 acres

Zoning: R1-35 Single-Family  
Residential District

Proposed Use: Care Home  
(Behavioral Health  
Residential Facility)

Proposed Site  
Improvements:  
- No new buildings or  
structures proposed

Source: Maricopa County  
Assessor's GIS Aerial  
Photograph 2017

**2**

RESOLUTION NO. 10963

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK OF THE CITY OF SCOTTSDALE AND ENTITLED "2-TA-2017--CARE HOMES/GROUP HOMES TEXT AMENDMENT."

WHEREAS, State Law permits cities to declare documents a public record for the purpose of incorporation into city ordinances; and

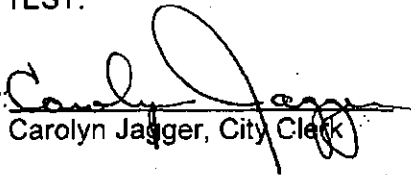
WHEREAS, the City of Scottsdale wishes to incorporate by reference amendments to the Zoning Ordinance; Ordinance No. 455, by first declaring said amendments to be a public record.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

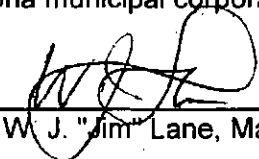
Section 1. That certain document entitled "2-TA-2017--Care Homes/Group Homes Text Amendment," attached as Exhibit 'A', a paper and an electronic copy of which are on file in the office of the City Clerk, is hereby declared to be a public record. Said copies are ordered to remain on file with the City Clerk for public use and inspection.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 5<sup>th</sup> day of December, 2017.


ATTEST:

By:   
Carolyn Jagger, City Clerk

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By:   
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY  
  
Bruce Washburn, City Attorney

By: Patricia J. Boomsma, Assistant City Attorney

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

### AMENDMENTS TO ZONING ORDINANCE RELATING TO GROUP LIVING AND CARE HOMES

The City Council of the City of Scottsdale hereby amends the Zoning Ordinance (Ord. No. 455), specifically, Sec. 1.202 (Interpretations and Decisions), Sec. 1.801 (Powers of the Board of Adjustment), Sec. 1.1304 (Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use), Sec. 3.100 (Definitions), Sec. 5.010 (Single-family Residential (R1-190)), Sec. 5.012 (Use Regulations), Sec. 5.100 (Single-family Residential (R1-43)), Sec. 5.102 (Use Regulations), which affects all other Single-family Residential and Two-Family Residential districts (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 and R-2), Sec. 5.700 (Medium-Density Residential (R-3)), Sec. 5.703 (Use Regulations), Sec. 5.800 (Townhouse Residential (R-4)), Sec. 5.803 (Use Regulations), Sec. 5.900 (Resort/Townhouse Residential (R-4R)), Sec. 5.903 (Use Regulations), Sec. 5.1001 (Multiple-family Residential (R-5)), and Sec. 5.1003 (Use Regulations), and adds new Sec. 1.806 (Disability Accommodation), and new Sec. 1.920 (Request for Disability Accommodation) as specified below, with strikethroughs indicating deleted language and shading indicating new language:

#### **Sec. 1.202. - Interpretations and decisions.**

A. The provisions of this Zoning Ordinance shall be interpreted and applied by the Zoning Administrator. Any request for a Zoning Ordinance interpretation or decision must be made in writing to the Zoning Administrator. The Zoning Administrator shall respond in writing to such requests for Zoning Ordinance interpretations or other decisions within forty-five (45) days from the date of the written request, provided no building permits have been issued on the subject development. A record of the Zoning Administrator's responses shall be available for public review.

B. The appeal of Zoning Ordinance interpretations or other decisions by the Zoning Administrator may be initiated by any aggrieved person or by any officer, department, board or commission of the city affected by the interpretation or decision of the Zoning Administrator. For purposes of this subsection an aggrieved person is one who receives a particular and direct adverse impact from the interpretation or decision which is distinguishable from the effects or impacts upon the general public. Appeals must be filed with the City Clerk no later than thirty (30) days after the Zoning Administrator issues any written interpretation or decision. Any timely appeal shall be processed pursuant to Section 1.805.

C. When the provisions of this Zoning Ordinance are interpreted or applied they shall be held to be the minimum requirements for the promotion of the public safety, health and general welfare.

D. The presumption established in this Zoning Ordinance is that all general uses of land are permissible within at least one (1) zoning district in the city's planning jurisdiction. The use regulations set forth in each district cannot be all inclusive, and may include general use descriptions that encompass several specific uses. Uses listed specified in each district shall be interpreted liberally to include other uses which have similar impacts to the listed uses. However, the use regulations shall not be interpreted to allow more than one principal use

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

in a dwelling in a residential district shown on Table 4.100.A, or the residential portion of a Planned Community P-C, or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown in Table 4.100.A, or to allow an unspecified use in one (1) zoning district which more closely relates to a use that is permissible in another zoning district. The Zoning Administrator shall interpret uses within each district.

E. Accessory uses are allowed in all districts. Accessory uses shall not alter the principal primary use of building or lot, or adversely affect other properties in the district. All accessory uses shall be reasonably compatible with the types of uses permitted in the surrounding areas.

### Sec. 1.801. – Powers of the Board of Adjustment.

The Board of Adjustment shall hear all applications for:

A. ~~Vari~~ances from the provisions of this Zoning Ordinance; ~~The Board shall also hear appeals from the:~~

~~A. B. Appeals from the Zoning Administrator's interpretation of the Zoning Ordinance or other decisions; and~~

~~B. C. Requests for Disability Accommodation made pursuant to section 1.920; and~~

~~D. Under the Land Divisions ordinance, the General Manager's interpretations and decisions made on appeals.~~

[Re-number current 1.806 to 1.807, and insert the following new 1.806:]

### **Sec. 1.806. : Disability Accommodation**

A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;
4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;

B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

- C. The requested accommodation must comply with all applicable building and fire codes.
- D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

### **Sec. 1.920: Request for Disability Accommodation**

An applicant may request a disability accommodation from a development standard or separation requirement if the standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the city of Scottsdale. The zoning administrator may administratively approve up to a ten percent (10%) modification of a development standard or separation requirement upon finding that such a modification will further the policies contained in the Arizona and federal fair housing laws and the Americans with Disabilities Act. All other requests for disability accommodation shall be submitted to the Board of Adjustment as a request for disability accommodation.

### **Sec. 1.1304. - Enlargement, extension, reconstruction or structural alteration of nonconforming structure; enlargement of nonconforming use.**

- A. Except as set forth in paragraph (b) of this subsection, no existing structure designed or arranged in a manner not permitted under the regulations of this Zoning Ordinance for the district in which such structure is located shall be enlarged, extended, reconstructed or structurally altered unless such structure together with such enlargement, extension, reconstruction or structural alterations conform in every respect with the regulations specified by this Zoning Ordinance for such district in which said structure is located. Provided nothing herein shall prohibit any reasonable repairs or alterations to such structure. Similarly, except as set forth in paragraph (c) of this subsection, no existing use not permitted under the regulations of this Zoning Ordinance shall be enlarged or extended unless such use conforms in every respect with the regulations specified by this ordinance for the district in which such use is located.
- B. For all dwellings located in residential zoning districts that are not located within an environmentally sensitive lands overlay zone:
  - 1. Structural enlargements, extensions, reconstruction or modifications to dwellings are permitted if:
    - a. The enlargement, extension, reconstruction or modification is made to the ground level story;
    - b. The height of any portion of the dwelling is not increased;
    - c. The total of the initial and any subsequent enlargement, extension, reconstruction or modification constitutes less than fifty (50) percent of the gross floor area of the existing dwelling; and
    - d. The dwelling enlargement, extension, reconstruction, or structural modification conforms to all of the regulations specified by this Zoning Ordinance for such district in which the dwelling is located.
  - 2. Nothing contained in this subsection shall prohibit any reasonable repairs or alterations to such dwelling.

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

3. An existing use not permitted under the regulations of this Zoning Ordinance shall not be enlarged or extended unless such use conforms to the regulations specified by this Zoning Ordinance for the district in which the use is located.

C. Any authorized care home that is lawfully located and operating in a residential zoning district on December 5, 2017, may continue to operate in their existing location. Nothing in this section will grandfather a care home operating unlawfully or that is located in violation of the provisions of the Zoning Ordinance of the City of Scottsdale existing on December 5, 2017.

### Section 3:100: Definitions

*Adult care home* shall mean a residential care institution which provides supervisory care, personal care, or custodial care services to adults who require the assistance of no more than one (1) person to walk or to transfer from a bed, chair, or toilet, but who are able to self-propel a wheelchair, as subject to licensing by the State of Arizona dwelling shared as a primary residence by no more than ten adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents. For purposes of this definition, a person must live in the dwelling a minimum of thirty consecutive days for this dwelling to be considered a primary residence. A care home is a principal, not an accessory, use.

*Convalescent home or nursing home* shall mean any place or institution which makes provisions for bed care, or for chronic or convalescent care for one (1) or more persons exclusive of relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Alcoholics, drug addicts, persons with mental diseases and persons with communicable diseases, including contagious tuberculosis, shall not be admitted or cared for in these homes licensed under the State of Arizona, as a convalescent and nursing home.

*Disability* means a physical or mental impairment that substantially limits one or more major life activities where the person with a disability either has a record of having such impairment or is regarded as having such impairment. A person with a disability shall not include any person currently engaging in the illegal use of controlled substances under Arizona law. The term disability will be interpreted consistent with the Americans with Disabilities Act and the Federal Fair Housing Act.

*Dwelling* shall mean any building, or portion thereof, which that is designed exclusively principally for residential purposes, and that includes sleeping, cooking and sanitary facilities.

*Family* shall mean one (1) to six (6) adults and, if any, their related dependent children or more persons occupying a premise[s] and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as herein defined. For purposes of the Zoning Ordinance, "Family" includes a residential facility as that term is defined in Title 36, Chapter 5.1, Article 2 of the Arizona Revised Statutes, in which persons with developmental disabilities live and that is licensed, operated, supported or supervised by the State of Arizona.

*Group home* means a dwelling shared by more than six adults as their primary residence in which no supervisory or other care is provided. For purposes of this definition, a person must

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

live in the dwelling a minimum of thirty consecutive days for this dwelling to be considered a primary residence.

*Minimal residential health care facility* shall mean a residential health care facility which provides resident rooms or residential units, and may include independent living units and such services such as central dining, transportation and limited medical assistance.

*Related dependent children* shall mean all persons under the age of 18, or who have been declared dependent by a court of competent jurisdiction, who are related to one of the adults by blood, guardianship, or adoption, or who is the foster child of one of the adults.

*Residential health care facility* shall mean a health care institution with, at a minimum, 24-hour supervisory care services.

*Single housekeeping unit* shall mean a group of one (1) or more persons residing together in a dwelling who share use of and responsibility for common areas, household activities, and responsibilities such as meals, chores, household maintenance, and expenses. This term excludes living situations where an entity or individual other than a resident provides job training or life skill development services on-site, or provides supervisory, medical, personal, or custodial care services to more than six adults residing in the dwelling.

*Specialized residential health care facility* shall mean a health care institution that provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician, convalescent or nursing home which normally provides medical care and supervision.

*Supervisory care services* means general supervision, including daily awareness of resident functioning and continuing needs, and the ability to intervene in a crisis and to assist in the self-administration of prescribed medications.

### Sec. 5.012. - Use regulations. [R1-190]

A. *Permitted uses.* Buildings, structures, or premises shall be used and buildings and structures shall hereafter be erected, altered, or enlarged only for the following uses:

1. Accessory buildings, swimming pools, home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
2. Adult care homes; subject to the following criteria:
  - a. *Floor area ratio:* Is limited to thirty-five hundredths (0.35) of the net lot area.
  - b. *Capacity:* The maximum number of residents, other than including up to ten disabled persons, the manager/supervisor, or property owner, and residential staff at the home is twelve ten (4012) per residential lot.
  - c. *Location:* An adult care home shall not be located within seven hundred fiftytwo hundred (7501200) feet, measured from lot line to lot line, of another adult care home on the same street frontage or within five hundred (500) feet in any other direction of another adult care home.

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

- d. *Compatibility*: The home and its premises shall be maintained in a clean, well-kept condition, that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
  - e. *Criteria*: Care homes must be licensed by the State of Arizona and must provide proof of such licensing by the State of Arizona as a health care institution to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.
  - f. *Accommodation*: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to Section 1.806 of this Zoning Ordinance.
3. Charter school located on property with a net lot size of one (1) acre or more.
  4. Day care home.
  5. Day care group home.
  6. Dwelling units, single-family, including Vacation rental or Short-term rental; limited to one main dwelling unit per lot.
  7. Guest house, as an accessory use subject to the following criteria:
    - a. The cumulative square footage of the guest house(s) shall be no greater than one-half (1/2) the livable square footage of the main dwelling.
    - b. Any guest house shall be connected to the existing water meter for the main dwelling. It shall not be separately metered.
    - c. The guest house shall not be rented or offered for rent independent of the main dwelling.
  8. Model homes.
  9. Municipal uses.
  10. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.
  11. Private tennis courts.
  12. Public, elementary and high schools
  13. Temporary sales office buildings and buildings for uses incidental to construction work, to be removed upon completion or abandonment of construction work.
  14. Churches and places of worship; subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R1-190 District:
    - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than twenty thousand (20,000) square feet (net).
    - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.

## 2-TA-2017 – Care Homes/Group Homes Text Amendment

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- c. Building height: Development Review Board may allow building heights, including, towers, spires, and mechanical equipment (such equipment must be screened) limited to thirty (30) feet in height, and may allow a maximum of ten (10) percent of the roof area to exceed the height limit by fifteen (15) feet. Height and location are subject to the Development Review Board review and approval for compatibility with the established neighborhood character. Maximum permissible heights may not be achievable in all neighborhoods. (This provision supersedes Section 7.100. through 7.102, exceptions to height restrictions, which shall not apply to churches within this district.)
- d. Required open space:
  - i. Minimum: 0.24 multiplied by the net lot area.
  - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
  - iii. NAOS may be included in the required open space.
- e. Parking: Parking shall observe the minimum front yard setbacks of the district for all frontages. On streets classified in the Transportation Master Plan as major arterial or greater, parking may be located between the established front building line and the front yard setback. On all other street classifications, parking shall be located behind the established front building line(s).

A minimum of fifteen (15) percent of all parking areas shall be landscaped.

A ten-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height.

All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. shall be set back a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be shut off by 10:00 p.m.

- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines that are adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

There shall be a three-foot high landscaped berm along all street frontage where parking occurs.

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- h. Access: All churches must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.

Access to a local or local collector residential street is prohibited when the primary worship center, auditorium or other major gathering place exceeds three thousand (3,000) square feet.

- i. Operations: No outdoor activities shall be permitted after 10:00 p.m.

- j. Noise: Outdoor speakers or paging systems are not allowed.

B. *Uses subject to conditional use permit.*

1. Cemetery (see Section 1.403 for criteria).
2. Ham transmitting or receiving radio antennas in excess of seventy (70) feet.
3. Community buildings and recreational facilities not publicly owned, such as: athletic fields, boys' clubs, etc.
4. Farms and ranches.
5. Golf course (except miniature golf course or commercial driving range).
6. Wireless communications facilities; Type 4, subject to requirements of Sections 1.400, 3.100 and 7.200.
7. Private colleges and universities having a regular curriculum, with their related services and activities.
8. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with the following standards, including, but not limited to, the following as well as those otherwise required in the R1-190 District.
  - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than eighty-six thousand (86,000) square feet minimum lot size.
  - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
  - c. Noise: Outdoor speaker systems or bells are not allowed.
  - d. Required open space:
    - i. Minimum: 0.24 multiplied by the net lot area.
    - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
    - iii. NAOS may be included in the required open space.
  - e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped in addition to open space in

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- d. above. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.
- i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. Any additions to, expansions of or proposed playgrounds or outdoor activity areas shall be setback fifty (50) feet from any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A. property line (including right-of-way width) or setback twenty-five (25) feet from any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multiple-family Residential R-5 or Manufactured Home M-H district property line (including right-of-way width). All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. by a minimum six-foot high screen wall and/or landscape screen, as approved by the Development Review Board.
- j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.
- k. Circulation plan: The applicant shall submit a circulation plan to ensure minimal conflicts between the student drop-off area, potential van and bus drop-off area, parking, access driveways, pedestrian and bicycle paths on site.

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9. Public utility buildings, structures or appurtenances thereto for public service uses.
10. Recreational uses (see section 1.403 for specific uses and development criteria for each).

### **Sec. 5.102. - Use regulations. [R1-43]**

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Accessory buildings, swimming pools, home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.

2. Adult Care homes; subject to the following criteria:

a. Floor area ratio: Is limited to thirty-five hundredths (0.35) of the net lot area.

b. Capacity: The maximum number of residents, including up to ten disabled persons, other than the manager/supervisor, or property owner, and residential staff at the home is ten-twelve (12) per residential lot.

c. Location: An adult care home shall not be located within seven hundred fifty (750) twelve hundred (1200) feet, measured from lot line to lot line, of another adult care home on the same street frontage or within five hundred (500) feet in any other direction of another adult care home.

d. Compatibility: The home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.

e. Parking: All parking for the property owner residents and any employees shall be provided in off-street locations but in no case shall parking occupy more than three-tenths (0.3) of the required front yard.

f. Criteria: Care homes must provide proof of licensing as a health care institution by the State of Arizona to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.

g. Accommodation: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to Section 1.806 of this Zoning Ordinance.

3. Charter school located on property with a net lot size of one (1) acre or more.
4. Day care home.
5. Day care group home.
6. Dwelling units, single-family, including Vacation rental or Short-term rental, limited to one main dwelling per lot.
7. Guest houses, as an accessory use subject to the following criteria:
  - a. The cumulative square footage of the guest house(s) shall be no greater than one-half (1/2) the livable square footage of the main dwelling.

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- b. The guest house shall be connected to the water meter for the main dwelling. It shall not be separately metered.
- c. The guest house shall not be rented or offered for rent independent of the main dwelling.
- 8. Model homes.
- 9. Municipal uses.
- 10. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.
- 11. Private tennis courts.
- 12. Public, elementary and high schools.
- 13. Temporary sales office buildings and buildings for uses incidental to construction work, to be removed upon completion or abandonment of construction work.
- 14. Churches and places of worship; subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R1-43 District:
  - a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than twenty thousand (20,000) square feet (net).
  - b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
  - c. Building height: Development Review Board may allow building heights, including towers, spires, and mechanical equipment (such equipment must be screened) limited to thirty (30) feet in height, and may allow a maximum of ten (10) percent of the roof area to exceed the height limit by fifteen (15) feet. Height and location are subject to the Development Review Board review and approval for compatibility with the established neighborhood character. Maximum permissible heights may not be achievable in all neighborhoods. (This provision supersedes Sections 7.100 through 7.102, exceptions to height restrictions, which shall not apply to churches within this district.)
  - d. Required open space.
    - i. Minimum: 0.24 multiplied by the net lot area.
    - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.
    - iii. NAOS may be included in the required open space.
  - e. Parking: Parking shall observe the minimum front yard setbacks of the district for all frontages. On streets classified in the Transportation Master Plan as major arterial or greater, parking may be located between the established front building line and the front yard setback. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped. A ten-foot minimum landscape setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential

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Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be set back a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be shut off by 10:00 p.m.

- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines that are adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

There shall be a three-foot high landscaped berm along all street frontages where parking occurs.

- h. Access: All churches must have primary access to a street classified in the Transportation Master Plan as a minor collector or greater.

Access to a local or local collector residential street is prohibited when the primary worship center, auditorium or other major gathering place exceeds three thousand (3,000) square feet.

- i. Operations: No outdoor activities shall be permitted after 10:00 p.m.

- j. Noise: Outdoor speakers or paging systems are not allowed.

**B. Uses subject to conditional use permit.**

1. Cemetery (see section 1.403 for criteria).
2. Community buildings and recreational facilities not publicly owned, such as: Athletic fields, boys' clubs, etc.
3. Farms.
4. Golf course (except miniature golf course or commercial driving range).
5. Ham transmitting or receiving radio antennas in excess of seventy (70) feet.
6. Wireless communications facilities; Type 4, subject to requirements of Sections 1.400, 3.100 and 7.200.
7. Private colleges and universities having a regular curriculum, with their related services and activities.
8. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with standards, including, but not limited to, the following as well as those otherwise required in the R1-43 District.

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- a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than eighty-six thousand (86,000) square feet minimum lot size.
- b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.
- c. Noise: Outdoor speaker systems or bells are not allowed.
- d. Required open space:
  - i. Minimum: 0.24 multiplied by the net lot area.
  - ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by net lot area for each foot of building height over twenty (20) feet.
  - iii. NAOS may be included in the required open space.
- e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas in addition to open space in d. above shall be landscaped. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
- g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.
- h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.
- i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. Any additions to, expansions

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of or proposed playgrounds or outdoor activity areas shall be setback fifty (50) feet from the property line (including right-of-way width) of any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A. or setback twenty-five (25) feet from any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multi-family Residential R-5 or Manufactured Home M-H district property line (including right-of-way width). All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A. by a minimum six-foot high screen wall and/or landscape screen, as approved by the Development Review Board.

- j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.
  - k. Circulation plan: The applicant shall submit a circulation plan to ensure minimal conflicts between the student drop-off area, potential van and bus drop-off area, parking, access driveways, pedestrian and bicycle paths on site.
9. Public utility buildings, structures or appurtenances thereto for public service uses.
10. Recreational uses including commercial stables, ranches and tennis clubs (see section 1.403 for specific uses and development criteria for each).

### Sec. 5.703. - Use regulations. [R-3]

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

- 1. ~~Group homes.~~
- 42. Day care home.
- 23. Dwelling unit(s), including Vacation rental or Short-term rental.
- 34. Accessory buildings; swimming pool, private home occupations and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.
- 45. Temporary buildings for uses incidental to construction work to be removed upon completion or abandonment of construction work.
- 56. Model dwelling units.
- 67. Municipal uses.
- 6-18. Wireless communications facilities; types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

B. *Uses permitted by conditional use permit.*

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1. Wireless communications facilities; type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

2. Residential health care facility (see section 1.403 for criteria except as modified in section 5.704.C.)

### **Sec. 5.803. - Use regulations. [R-4]**

A. *Permitted uses.* Building, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Single-family dwelling having either party walls or walled courtyards, including Vacation rental or Short-term rental.

2. Accessory buildings and uses customarily incident to the permitted uses, including private garage, home occupations, swimming pools and recreation buildings. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.

~~3.~~ **Group homes.**

4. Municipal uses.

~~3.15.~~ Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

~~46.~~ Temporary sales office buildings and model homes.

~~57.~~ Churches and places of worship.

~~68.~~ Day care home.

B. *Permitted uses by conditional use permit.*

1. Wireless communications facilities; Type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

2. Residential health care facility (see section 1.403 for criteria except as modified in section 5.804.D.)

### **Sec. 5.903. - Use regulations. [R-4R]**

A. *Permitted Uses*

1. Travel Accommodation.

2. Dwelling units having either party walls or walled courtyards, including Vacation rental or Short-term rental.

3. Accessory buildings and uses customarily incidental to the permitted uses, including private garages, home occupations, swimming pool, recreation buildings and walled driveway entrance.

~~4.~~ **Group homes.**

~~5.~~ Municipal uses.

~~56.~~ Wireless communications facilities, Types 1, 2 and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

~~67.~~ Churches and places of worship.

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~~78.~~ Day care home.

B. *Permitted uses by conditional use permit.*

1. Golf courses.

2. Wireless communications facilities; Type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

3. Recreational uses (see section 1.403 for specific uses and development criteria for each).

### **Sec. 5.1003. - Use regulations. [R-5]**

A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Accessory buildings; swimming pool; home occupations; and other accessory uses. The landing and taking-off of aircraft is not a valid accessory use in residential districts and is prohibited.

~~2.~~ ~~Group home.~~

~~23.~~ Day-care home.

~~34.~~ Dwelling, single-family detached or attached, including Vacation rental or Short-term rental.

~~45.~~ Dwelling, multiple family.

~~56.~~ Municipal uses.

~~67.~~ Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

~~78.~~ School: Public and charter, elementary and high.

~~89.~~ Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of construction work.

~~910.~~ Temporary sales office buildings and model homes.

~~4011.~~ Churches and places of worship.

B. *Uses permitted by conditional use permit.*

1. Commercial and/or ham transmitting or receiving radio and television antennas in excess of seventy (70) feet.

2. Community buildings or recreational fields not publicly owned.

~~3.~~ Convent.

~~43.~~ Day-care center.

~~54.~~ Golf course, regulation or par-three, that is incidental to and located within the development.

~~6.~~ Orphanage.

~~75.~~ Plant nursery; provided, however, that all materials (other than plant materials) shall be screened from view by a solid fence or wall at least six (6) feet in height, and further that a

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completely enclosed building having a minimum floor area of five hundred (500) square feet shall be provided.

86. Private club, ~~fraternity, sorority and lodges.~~

97. Private lake, semi-public lake, tennis courts.

408. Private school having no room regularly used for housing or sleeping overnight. Subject to Development Review Board approval and compliance with the following standards, as well as those otherwise required in the R-5 District.

a. Lot area: The minimum lot area shall be equal to that required for the district, except that no lot shall be less than forty-three thousand (43,000) square feet (net).

b. Floor area ratio: In no case shall the gross floor area of the structure(s) exceed an amount equal to 0.20 multiplied by the net lot area.

c. Noise: Outdoor speaker system or bells are not allowed if the school building is within one hundred (100) feet of a single-family dwelling or multifamily dwelling unit.

d. Required open space.

i. Minimum: 0.24 multiplied by the net lot area.

ii. For building heights over twenty (20) feet: the minimum open space requirement plus 0.004 multiplied by the net lot area for each foot of building height over twenty (20) feet.

iii. NAOS may be included in the required open space.

e. Parking: Parking shall be allowed in the front yard setbacks of the district for schools on streets classified in the Transportation Master Plan as minor collector or greater. There shall be a three-foot high landscaped berm or wall along the street frontage where parking occurs. On all other street classifications, parking shall be located behind the established front building line(s). A minimum of fifteen (15) percent of all parking areas shall be landscaped. A twenty-foot minimum landscaped setback shall be provided where parking is adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

f. Lighting: All pole mounted lighting shall be directed down and shielded and shall be a maximum of sixteen (16) feet in height. All lighting adjacent to residential districts shall be setback a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.

g. Screening: There shall be a minimum six-foot high masonry wall and/or landscape screen, as approved by the Development Review Board, on the side and rear property lines adjacent to residential districts shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

h. Access: All private schools shall have frontage on a street classified in the Transportation Master Plan as a minor collector or greater. Side street access to a

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local collector residential street is prohibited when the number of students allowed to attend the school is greater than two hundred fifty (250). A drop off area shall be provided that accommodates a minimum of five (5) cars at one (1) time.

i. Operations: No outdoor activities shall be permitted after 8:00 p.m. unless otherwise approved through a special event permit. No playground or outdoor activity area shall be located within fifty (50) feet of any single-family residential district shown on Table 4.100.A., or the single-family residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the single-family residential districts shown on Table 4.100.A., or within twenty-five (25) feet of any Two-family Residential R-2, Medium Density Residential R-3, Townhouse Residential R-4, Resort/Townhouse Residential R-4R, Multiple-family Residential R-5 or Manufactured Home M-H district. All playgrounds and outdoor activity areas shall be screened from any residential district shown on Table 4.100.A., or the residential portion of a Planned Community P-C or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., by a minimum six-foot high screen wall.

j. Building design: All buildings shall be designed to be compatible with the surrounding residential neighborhood. All building elevations shall be approved by the Development Review Board.

419. Public buildings other than hospitals.

102. Public utility buildings, structures or appurtenances thereto for public service uses.

113. Recreational uses.

124. Residential health care facility.

135. Travel accommodation.

16. Wireless communications facilities; Type 4, subject to requirements of sections 1.400., 3.100., and 7.200.

**3**

ORDINANCE NO. 4326

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, TO APPROVE A TEXT AMENDMENT (2-TA-2017) TO THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE (ORDINANCE NO. 455), SPECIFICALLY, SEC. 1.202 (INTERPRETATIONS AND DECISIONS), SEC. 1.801 (POWERS OF THE BOARD OF ADJUSTMENT), SEC. 1.1304 (ENLARGEMENT, EXTENSION, RECONSTRUCTION OR STRUCTURAL ALTERATION OF NONCONFORMING STRUCTURE; ENLARGEMENT OF NONCONFORMING USE), SEC. 3.100 (DEFINITIONS), SEC. 5.010 (SINGLE-FAMILY RESIDENTIAL (R1-190)), SEC. 5.012 (USE REGULATIONS), SEC. 5.100 (SINGLE-FAMILY RESIDENTIAL (R1-43)), SEC. 5.102 (USE REGULATIONS), WHICH AFFECTS ALL OTHER SINGLE-FAMILY RESIDENTIAL AND TWO-FAMILY RESIDENTIAL DISTRICTS (R1-130, R1-70, R1-35, R1-18, R1-10, R1-7, R1-5 AND R-2), SEC. 5.700 (MEDIUM-DENSITY RESIDENTIAL (R-3)), SEC. 5.703 (USE REGULATIONS), SEC. 5.800 (TOWNHOUSE RESIDENTIAL (R-4)), SEC. 5.803 (USE REGULATIONS), SEC. 5.900 (RESORT/TOWNHOUSE RESIDENTIAL (R-4R)), SEC. 5.903 (USE REGULATIONS), SEC. 5.1001 (MULTIPLE-FAMILY RESIDENTIAL (R-5)), AND SEC. 5.1003 (USE REGULATIONS), ADD NEW SEC. 1.806 (DISABILITY ACCOMMODATION), AND ADD NEW SEC. 1.920 (REQUEST FOR DISABILITY ACCOMMODATION) TO ADDRESS VARIOUS TYPES OF CARE HOMES AND GROUP HOMES IN RESIDENTIAL ZONING DISTRICTS.

WHEREAS, in response to a citizen petition City staff has conducted research on state and federal law as well as looked at numerous ordinances of other jurisdictions; and

WHEREAS, the City of Scottsdale desires to permit disabled persons to reside in single family residential neighborhoods in compliance with the Fair Housing Act and the Americans with Disabilities Act; and

WHEREAS the City of Scottsdale desires to promote the social and treatment benefits to disabled persons provided in a residential setting by preventing a concentration of facilities for the disabled in any particular area so as to institutionalize that area; and

WHEREAS the City desires to maintain the residential character of its neighborhoods as a quiet place for families of all kinds to thrive; and

WHEREAS, federal and state fair housing laws protect the rights of persons with disabilities to obtain housing and pursuant to federal and state fair housing laws; and

WHEREAS, persons recovering from alcohol and drug addiction are considered persons with disabilities and thus are protected by fair housing laws so long as such persons are not currently using alcohol and drugs; and

WHEREAS, due to the care needs and transient residencies of disabled residents in some residential care facilities, such facilities reportedly result in increased parking demand, increased traffic, and the potential for impacts to the residential character of neighborhoods, which the City Council desires to address by providing limits on the size of both licensed and unlicensed facilities while providing persons with a disability opportunities for housing; and

WHEREAS, the Fair Housing Act does not preempt local zoning laws or preclude the adoption, amendment or enforcement of zoning regulations by the City of Scottsdale pursuant to its local police powers so long as such zoning regulations are consistent with state and federal laws, including the Fair Housing Act as amended; and

WHEREAS, the adoption of zoning ordinances and land use planning is a fundamental function and police power of local government; and

WHEREAS, zoning regulations are adopted and enforced in the City of Scottsdale for the protection of the health, safety and welfare of the public; and

WHEREAS, the State of Arizona licenses certain care homes for people with disabilities, which licensing necessitates the involvement of local jurisdictions in determining life safety code compliance of said care homes; and

WHEREAS, the Fair Housing Act makes it unlawful to utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of nondisabled persons; and

WHEREAS, the Fair Housing Act does not allow local land use policies or actions that treat groups of persons with some disabilities less favorably than groups of people with other disabilities; and

WHEREAS, clustering of care homes undermines the ability of care homes to achieve normalization and community integration for their residents which is one of the essential purposes of a care home; and

WHEREAS, the City of Scottsdale is hereby amending its zoning ordinance to make the reasonable accommodations required by the Fair Housing Act by removing any terms and conditions that have the effect of limiting or making housing unavailable to people with disabilities while preserving the ability of care homes and group living situations to emulate a family and achieve normalization and community integration of their residents; and

WHEREAS, while no aggregation of more than six adults will constitute a "family," the new zoning provisions establish a reasonable accommodation process for disabled persons who need relief from the limitations of the ordinance; and

WHEREAS, a care home for people with disabilities that has been denied required state licensing or certification would not be allowed due to the state's own licensing or certification laws; and

WHEREAS, current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act, by virtue of that status, and

WHEREAS, the City Council has determined that the proposed amendments will not unreasonably restrict the rights of persons with a disability to fair housing while providing protections and mitigation of impacts to the residential character of neighborhoods, and it is in the best interest of the public health, safety and general welfare of the Town to adopt the proposed amendments; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws.

WHEREAS, the Planning Commission held a public hearing on October 25, 2017 to consider a text amendment to the City of Scottsdale Zoning Ordinance, Case No. 2-TA-2017; and

WHEREAS, that certain document entitled "2-TA-2017 – Care Homes/Group Homes Text Amendment," one paper and one digital copies of which are on file in the office of the City Clerk, was declared to be a public record by Resolution No. 10963; and

WHEREAS, the City Council has determined that the subject Zoning Ordinance amendment is in conformance with the General Plan;

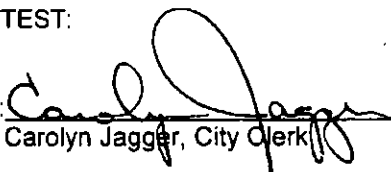
NOW THEREFORE BE IT ORDAINED by the Council of the City of Scottsdale that a text amendment to the City of Scottsdale Zoning Ordinance is hereby approved as follows.

Section 1. That the Zoning Ordinance of the City of Scottsdale is hereby amended as specified in that certain document entitled "2-TA-2017 – Care Homes/Group Homes Text Amendment," declared to be a public record by Resolution No. 10963 of the City of Scottsdale, is hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance.

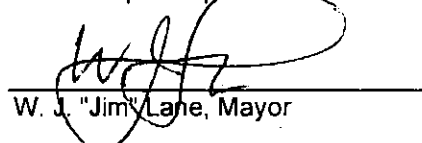
Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the document adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 5<sup>th</sup> day of December, 2017.

ATTEST:

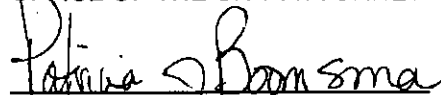
By:   
Carolyn Jagger, City Clerk

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By:   
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY



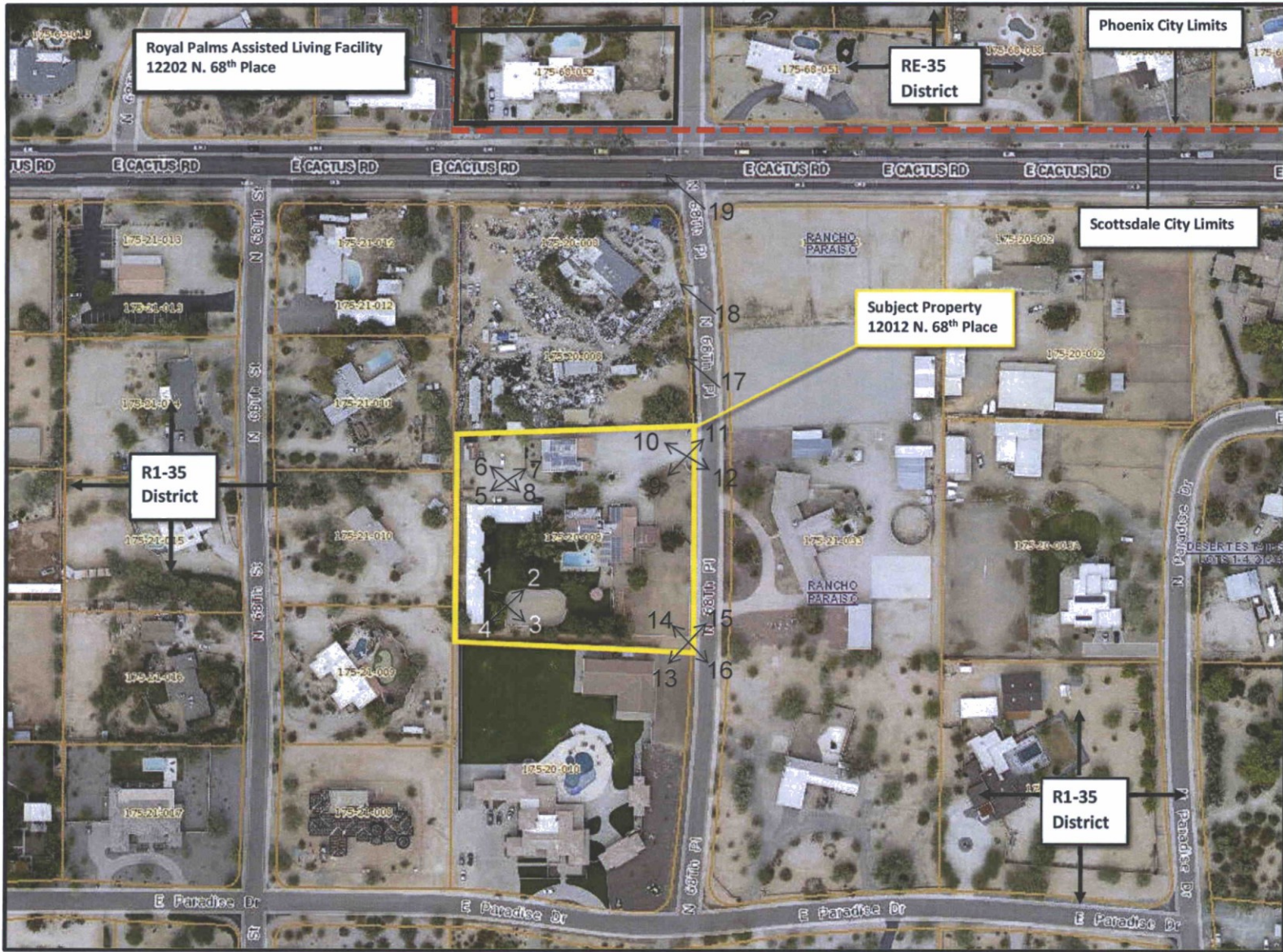
Bruce Washburn, City Attorney

By: Patricia J. Boomsma, Assistant City Attorney

**4**

Spreadsheet of Care Homes Located with the City of Scottsdale as of February 2018  
(Produced by the City of Scottsdale on February 28, 2018)

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1	apn	qs_num	site address	license	name	city	state	zip_code	phone	fax_email	capacity	case status	cds_case	state licensng	status	Business P
2	173-02-266	20-47	8108 EAST MONTEBELLO AVENUE	AL1920H	COZY VILLA	SCOTTSDALE	AZ	85250	480-483-2150	(480) 368-5531	3	APPROVED	NA	LICENSED	LEGACY APPROVED	
3	173-27-128	19-48	5132 NORTH 86TH PLACE	AL17139H	CHAPARRAL HOME CARE LLC	SCOTTSDALE	AZ	85250	480-675-0281	(480) 675-7643	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
4	173-61-121	18-47	4526 NORTH 82ND STREET	AL9643H	TRANQUILITY ASSISTED LIVING HOME	SCOTTSDALE	AZ	85251	650-580-7035	(480) 773-7279	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
5	130-36-095	15-47	8331 EAST MONTEREY WAY	AL6221H	MONTEREY GERIATRIC CARE	SCOTTSDALE	AZ	85251	480-970-1870	(480) 970-1870	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
6	130-40-208	15-48	8701 EAST CHEERY LYNN ROAD	AL6265H	HOME SWEET HOME ON CHEERY LYNN	SCOTTSDALE	AZ	85251	480-675-0101	(510) 217-4036	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
7	177-03-046	23-47	7038 NORTH VIA DE VIDA	AL1505H	SUMMA CARE - SCOTTSDALE	SCOTTSDALE	AZ	85258	602-703-3706	(480) 654-4466	5	APPROVED	NA	LICENSED	LEGACY APPROVED	
8	177-04-465	24-48	8411 EAST VIA DE JARDIN	AL2348H	LIANN'S HOMES	SCOTTSDALE	AZ	85258	480-607-9586	(480) 607-9583	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
9	175-38-021	29-43	11002 NORTH 66TH STREET	AL5705H	SUNRISE CARE HOMES-SHEA	SCOTTSDALE	AZ	85254	480-367-9117	(480) 922-3520	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
10	217-47-318	29-53	10405 EAST DESERT COVE AVENUE	AL9112H	DESERT COVE ASSISTED LIVING	SCOTTSDALE	AZ	85259	480-451-5389	(480) 656-1294	10	APPROVED	1-AC-2008	LICENSED	LEGACY APPROVED	
11	175-18-035	30-45	7366 EAST PARADISE DRIVE	AL9596H	ROYAL PALMS I ASSISTED LIVING	SCOTTSDALE	AZ	85260	480-348-7967	(480) 348-7967	10	APPROVED	6-AC-2014	LICENSED	LEGACY APPROVED	
12	175-63-035	29-48	11030 NORTH 84TH PLACE	AL4853H	CALINI'S ASSISTED LIVING OF SCOTTSDALE	SCOTTSDALE	AZ	85260	480-219-9442	(480) 699-7384	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
13	217-31-031E	28-59	10125 NORTH 131ST PLACE	AL4567H	SCOTTSDALE LIFE ASSISTED LIVING, LLC	SCOTTSDALE	AZ	85259	480-391-3780	(480) 391-1918	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
14	174-22-073	23-46	7021 NORTH 79TH PLACE	AL1004H	LIANN'S HOMES	SCOTTSDALE	AZ	85258	480-905-3144	(480) 607-9583	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
15	212-03-134	46-48	8434 EAST LA JUNTA	AL6295H	LOVIN MANOR TOO	SCOTTSDALE	AZ	85255	602-828-0232	(480) 367-7970	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
16	175-04-039	32-45	7340 EAST SWEETWATER AVENUE	AL8013H	LAS FUENTES ASSISTED LIVING	SCOTTSDALE	AZ	85260	602-793-9140	(480) 807-9723	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
17	175-09-179	31-46	7741 EAST CHARTER OAK ROAD	AL4812H	CASA BUENAVANTE	SCOTTSDALE	AZ	85260	480-483-4747	(480) 483-6845	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
18	212-02-337	44-46	7878 EAST VISTA BONITA DRIVE	AL5663H	PINNACLE PEAK ASSISTED LIVING	SCOTTSDALE	AZ	85255	02-326-5464	(480) 502-5527	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
19	217-50-374	32-51	9693 EAST DAVENPORT DRIVE	AL2346H	LIANN'S HOMES	SCOTTSDALE	AZ	85260	480-657-2856	(480) 607-9583	8	APPROVED	NA	LICENSED	LEGACY APPROVED	
20	217-60-073	31-50	9409 EAST BLOOMFIELD	AL6060H	BLOOMFIELD HOUSE	SCOTTSDALE	AZ	85260	480-661-0091	(480) 661-0634	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
21	217-20-123	29-59	12847 EAST BECKER LANE	AL6547H	BETHANY ADULT HOME CARE	SCOTTSDALE	AZ	85259	480-203-2835	(480) 203-2835	5	APPROVED	NA	LICENSED	LEGACY APPROVED	
22	217-50-561	33-51	9742 EAST GELDING DRIVE	AL9404H	MOTHER TERESA'S SENIOR CARE HOME	SCOTTSDALE	AZ	85260	480-614-5410	(480) 614-5410	10	APPROVED	7-AC-2008	LICENSED	LEGACY APPROVED	
23	212-08-369A	47-47	8038 EAST HAPPY VALLEY ROAD	AL9890H	CAREFREE ASSISTED LIVING HOME	SCOTTSDALE	AZ	85255	480-502-7959	(480) 515-1970	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
24	216-69-039A	52-45	29192 NORTH 76TH STREET	AL5038H	LOVIN MANOR	SCOTTSDALE	AZ	85255	480-828-0232	(480) 367-7970	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
25	216-69-049B	52-46	29750 NORTH 77TH PLACE	AL8671H	SERENITY ASSISTED LIVING	SCOTTSDALE	AZ	85262	480-585-9757	(480) 585-9583	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
26	212-03-078	45-47	23402 NORTH 84TH STREET	AL6732H	CALAVAR ASSISTED LIVING HOME	SCOTTSDALE	AZ	85255	480-563-2638	(480) 569-5170	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
27	175-12-212	31-48	8617 EAST SWEETWATER AVENUE	AL9059H	LAS FUENTES ASSISTED LIVING II	SCOTTSDALE	AZ	85260	602-793-9140	(480) 607-9723	8	APPROVED	NA	LICENSED	LEGACY APPROVED	
28	175-15-029	30-46	7917 EAST CACTUS ROAD	AL10089H	HAYDEN VILLA	SCOTTSDALE	AZ	85260	480-459-8206		10	APPROVED	NA	LICENSED	LEGACY APPROVED	
29	217-26-223	30-51	9883 EAST CORTEZ STREET	AL7942H	SCOTTSDALE NORTH INC A L	SCOTTSDALE	AZ	85260	80-682-8974	(480) 459-5589	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
30	217-25-314A	30-49	11444 NORTH 88TH PLACE	AL9627H	HANDS OF CARE	SCOTTSDALE	AZ	85260	480-264-6044	(480) 264-4785	10	APPROVED	2-AC-2008	LICENSED	LEGACY APPROVED	
31	175-46-068	28-48	8438 EAST WELSH TRAIL	AL7399H	HARTS HOME, EXCEPTIONAL ELDER CARE	SCOTTSDALE	AZ	85258	480-596-5700	(480) 483-8686	5	APPROVED	NA	LICENSED	LEGACY APPROVED	
32	173-70-150	19-48	8632 EAST PECOS LANE	AL4977H	A R D C SCOTTSDALE HOME	SCOTTSDALE	AZ	85250	480-236-7372	(480) 752-3261	9	APPROVED	NA	LICENSED	LEGACY APPROVED	
33	129-04-019	14-44	6879 EAST VERNON AVENUE	AL5436H	A PLACE IN THE SUN	SCOTTSDALE	AZ	85257	480-946-3087	(480) 947-0263	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
34	175-54-002	28-43	6819 EAST SHEA BOULEVARD	AL2868H	ASSISTED LIVING OF SCOTTSDALE	SCOTTSDALE	AZ	85254	480-998-0988	(480) 219-6494	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
35	175-10-178	31-45	7512 EAST LARKSPUR DRIVE	AL8220H	A & M ASSISTED LIVING OF SCOTTSDALE, LLC	SCOTTSDALE	AZ	85260	480-664-3999	(480) 588-5459	9	APPROVED	NA	LICENSED	LEGACY APPROVED	
36	217-35-027	28-51	10571 NORTH 96TH PLACE	AL9467H	CENTRAL SCOTTSDALE ASSISTED LIVING, LLC	SCOTTSDALE	AZ	85258	480-620-0748	(480) 907-7713	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
37	175-19-008	30-44	7125 EAST PARADISE DRIVE	AL7614H	SCOTTSDALE CASA DE PARADISE	SCOTTSDALE	AZ	85254	480-483-1492	(480) 951-1280	10	APPROVED	14-AC-2008	LICENSED	LEGACY APPROVED	
38	216-67-248A	53-44	7191 EAST MONTGOMERY ROAD	AL7526H	LAS FUENTES ASSISTED LIVING III	SCOTTSDALE	AZ	85255	602-793-9140	(480) 607-9723	10	APPROVED	2-AC-2009	LICENSED	LEGACY APPROVED	
39	175-09-228	31-45	7412 EAST WETHERSFIELD ROAD	AL7787H	SCOTTSDALE HOME CARE LLC	SCOTTSDALE	AZ	85260	602-397-1900	(480) 315-9541	5	APPROVED	7-AC-2009	LICENSED	LEGACY APPROVED	
40	175-18-018	30-45	7311 EAST SUNNYSIDE DRIVE	AL8023H	SUNNYHILL ADULT CARE HOME INC, II	SCOTTSDALE	AZ	85260	480-275-2237	(480) 951-5229	10	APPROVED	8-AC-2009	LICENSED	LEGACY APPROVED	
41	175-01-157	32-48	13637 NORTH 87TH STREET	AL8077H	TUSCAN PLACE ASSISTED LIVING HOME	SCOTTSDALE	AZ	85260	602-703-9583	(480) 471-6137	10	APPROVED	1-AC-2010	LICENSED	LEGACY APPROVED	
42	175-30-076	29-47	8139 EAST CHOLLA STREET	AL6949H	CALLINI'S ASSISTED LIVING	SCOTTSDALE	AZ	85260	480-656-3933	(480) 656-4989	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
43	217-32-012F	28-58	12650 EAST COCHISE DRIVE	AL8166H	VIP PARADISE CARE LLC	SCOTTSDALE	AZ	85259	602-704-4282	(602) 264-7048	10	APPROVED	2-AC-2010	LICENSED	LEGACY APPROVED	
44	217-27-304	29-53	10521 EAST CLINTON STREET	AL8494H	TRINITY HOME ON CLINTON	SCOTTSDALE	AZ	85259	480-451-0741	(480) 451-0742	5	APPROVED	2-AC-2011	LICENSED	LEGACY APPROVED	
45	217-22-076	31-53	10474 EAST CORRINE DRIVE	AL8506H	SCOTTSDALE FOOTHILLS ASSISTED LIVING	SCOTTSDALE	AZ	85259	480-621-8800	(480) 219-2203	10	APPROVED	3-AC-2011	LICENSED	LEGACY APPROVED	
46	175-63-007	29-48	8611 EAST CHOLLA STREET	AL8734H	AGAPE SENIOR LIVING OF SCOTTSDALE, LLC	SCOTTSDALE	AZ	85260	480-664-1112	(480) 664-7224	10	APPROVED	1-AC-2012	LICENSED	LEGACY APPROVED	
47	217-60-045	32-49	13614 NORTH 89TH STREET	AL9661H	HORIZON MANOR I	SCOTTSDALE	AZ	85260	480-295-6786	(480) 588-7138	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
48	131-02-023	14-47	2524 NORTH 80TH PLACE	AL9081H	OUR PARENTS HOUSE	SCOTTSDALE	AZ	85257	480-414-7502	(480) 247-3682	10	APPROVED	3-AC-2012	LICENSED	LEGACY APPROVED	
49	173-68-118	19-48	8525 EAST PASADENA AVENUE	AL9137H	HOME AWAY FROM HOME ASSISTED LIVING HOME CARE	SCOTTSDALE	AZ	85250	480-249-4118	(480) 970-7878	5	APPROVED	1-AC-2013	LICENSED	LEGACY APPROVED	
50	212-31-285	42-45	7247 EAST TAILFEATHER DRIVE	AL9593H	LAS FUENTES ASSISTED LIVING IV	SCOTTSDALE	AZ	85255	480-366-4913	(480) 316-4590	10	APPROVED	2-AC-2013	LICENSED	LEGACY APPROVED	
51	217-39-089	29-57	12105 EAST SHANGRI-LA ROAD	AL9330H	KAY ADULT CARE HOME	SCOTTSDALE	AZ	85259	480-694-5505		10	APPROVED	7-AC-2013	LICENSED	LEGACY APPROVED	
52	175-10-073	31-45	7515 EAST SWEETWATER AVENUE	AL9652H	SWEETWATER PINES	SCOTTSDALE	AZ	85260	602-430-5382		10	APPROVED	1-AC-2014	LICENSED	LEGACY APPROVED	
53	175-32-035	29-46	7838 EAST SHEA BOULEVARD	BH4464	A BETTER TODAY RECOVERY SERVICES	SCOTTSDALE	AZ	85260	480-223-2546		10	APPROVED	3-AC-2014	LICENSED	LEGACY APPROVED	
54	175-13-047	30-48	8425 EAST CACTUS ROAD	AL9613H	BRIDGE ROYAL HOMECARE	SCOTTSDALE	AZ	85260	480-221-5931	kiwigal10@gmail.com	5	APPROVED	7-AC-2014	LICENSED	LEGACY APPROVED	
55	173-39-132	18-45	7556 EAST COOLIDGE STREET	UNK	COOLIDGE	SCOTTSDALE	AZ	85251	480-784-7444	acassel@yahoo.com (email)	0	APPROVED	6-AC-2015	UNLICENSED	LEGACY PENDING LICENSE	
56	175-04-063	32-45	7480 EAST CAMINO SANTO	AL10364H	MY HOME SWEET HOME IN SCOTTSDALE, LLC	SCOTTSDALE	AZ	85260	480-202-4402		10	APPROVED	9-AC-2015	LICENSED	LEGACY APPROVED	
57	212-08-369A	47-47	8038 EAST HAPPY VALLEY ROAD	AL9890H	CAREFREE ASSISTED LIVING HOME	SCOTTSDALE	AZ	85258	480-502-7959	lulana@carefreeal.com	0	APPROVED	10-AC-2015	LICENSED	LEGACY APPROVED	
58	174-20-001A	22-45	6838 NORTH ROCKING ROAD	BH4988	SERENITY CARE CENTER, LLC	SCOTTSDALE	AZ	85250	480-677-1331	cclaud@treatmentllc.com	0	APPROVED	1-AC-2016	LICENSED	LEGACY APPROVED	
59	131-47-044	11-45	808 NORTH 74TH STREET	BH4859	GRACEFUL HOMES, LLC	SCOTTSDALE	AZ	85257	617-642-1481		0	APPROVED	2-AC-2016	LICENSED	LEGACY APPROVED	
60	175-23-037	30-43	11616 NORTH 66TH STREET	UNK	CASSIDY RESIDENCE	SCOTTSDALE	AZ	85254	480-741-1992	bernardcassidy@hotmail.com	10	APPROVED	3-AC-2016	UNLICENSED	LEGACY PENDING LICENSE	
61	131-33-049	14-47	8201 EAST LEWIS AVENUE	AL10377H	GUTIERREZ ASSISTED LIVING	SCOTTSDALE	AZ	85257	480-414-1244	kenet123@gmail.com	0	APPROVED	4-AC-2016	LICENSED	LEGACY APPROVED	
62	131-50-001	12-46	7746 EAST LATHAM STREET	AL9997H	LENDING HAND SCOTTSDALE ASSISTED LIVING	SCOTTSDALE	AZ	85257	480-388-7499	chandra.carcha@gmail.com	10	APPROVED	5-AC-2016	LICENSED	LEGACY APPROVED	
63	131-16-100	11-45	7320 EAST TAYLOR STREET	UNK	SAFE HAVEN LIVING	SCOTTSDALE	AZ	85257	480-330-3906	mark@defusco.com	0	APPROVED	7-AC-2016	UNLICENSED	LEGACY PENDING LICENSE	
64	217-44-010	30-57	11420 NORTH 122ND PLACE	AL10562	MATIS ADULT CARE HOME	SCOTTSDALE	AZ	85259	623-326-2903	kmatis@yahoo.com	0	APPROVED	8-AC-2016	LICENSED	LEGACY APPROVED	
65	217-31-038F	28-59	12816 EAST TURQUOISE AVENUE, 10195 NORTH 128TH ST	BH4435	SUNDANCE CENTER, THE	SCOTTSDALE	AZ	85259	480-840-2588	(480) 767-2701	14	APPROVED	NA	LICENSED	LEGACY APPROVED	
66	217-31-438	28-59	13050 E TURQUOISE AVENUE	BH4532	PROMISES SCOTTSDALE	SCOTTSDALE	AZ	85259	623-236-4611	(480) 773-7340	10	APPROVED	NANA	LICENSED	LEGACY APPROVED	
67	216-69-016	51-45	7210 EAST DALE LANE	BH4531	A BETTER TODAY RECOVERY SERVICES	SCOTTSDALE	AZ	85266	480-223-2546	(888) 850-2184	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
68	217-32-001C	28-57	12340 EAST MOUNTAIN VIEW ROAD	BH5033	MOUNTAINSIDE RED ROCK ADDICTION AND TREATMENT CO	SCOTTSDALE	AZ	85259	561-722-8055	cclaud@treatmentllc.com	0	APPROVED	10-AC-2016	LICENSED	LEGACY APPROVED	
69	175-11-102	31-47	8111 EAST CHARTER OAK DRIVE	AL10170	KIT'S PLACE	SCOTTSDALE	AZ	85260	602-9							



Royal Palms Assisted Living Facility  
12202 N. 68th Place

RE-35  
District

Phoenix City Limits

Scottsdale City Limits

Subject Property  
12012 N. 68th Place

R1-35  
District

R1-35  
District

**CONTEXT AERIAL**  
03/29/2018

Property Owner:  
CL Holdings 68th Place, LLC

Address: 12012 N. 68th Place

APN: 175-20-009

Net Parcel Area:  
94,843 s.f.  
2.18 acres

Zoning: R1-35 Single-Family  
Residential District

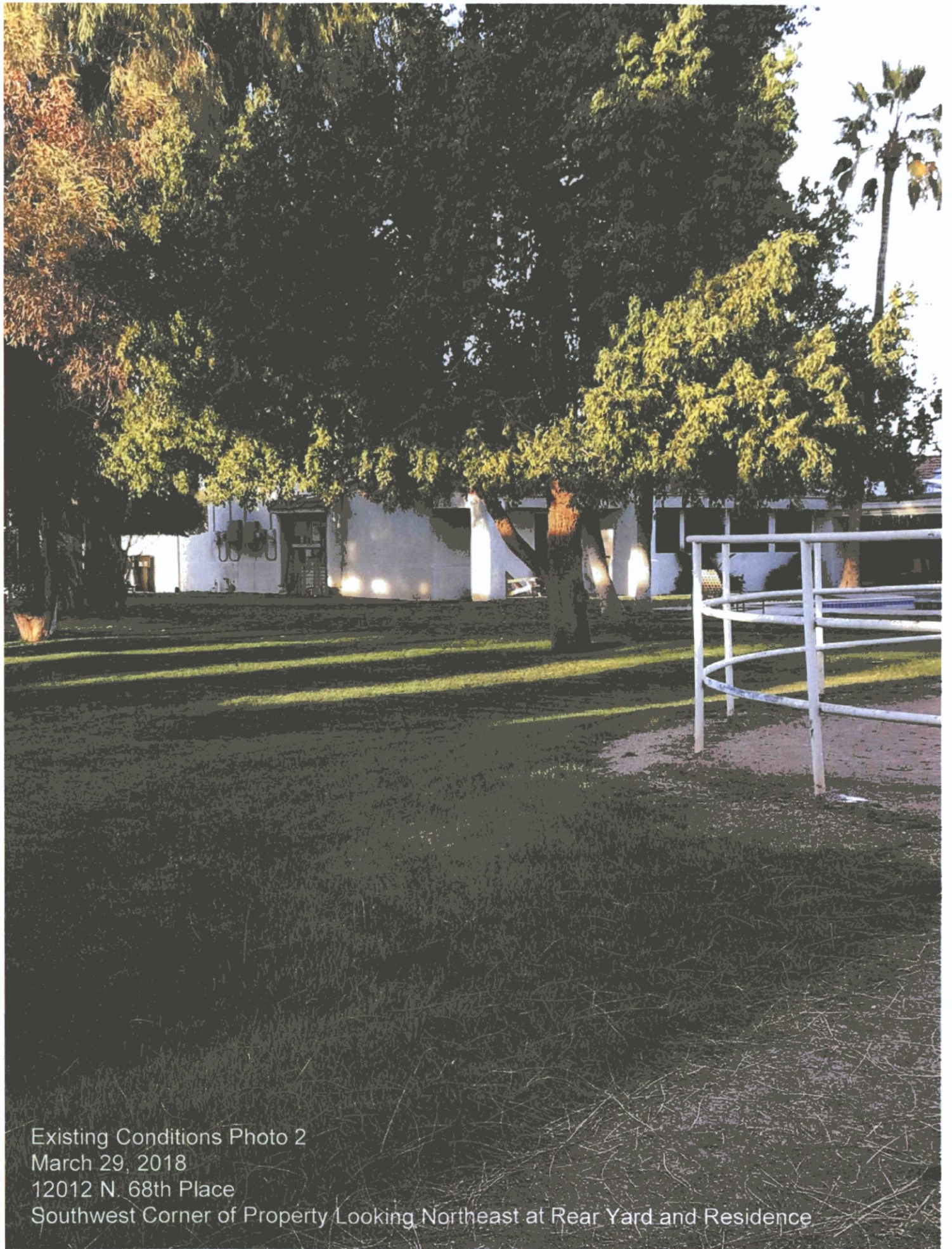
Proposed Use: Care Home  
(Behavioral Health  
Residential Facility)

Proposed Site  
Improvements:  
- No new buildings or  
structures proposed

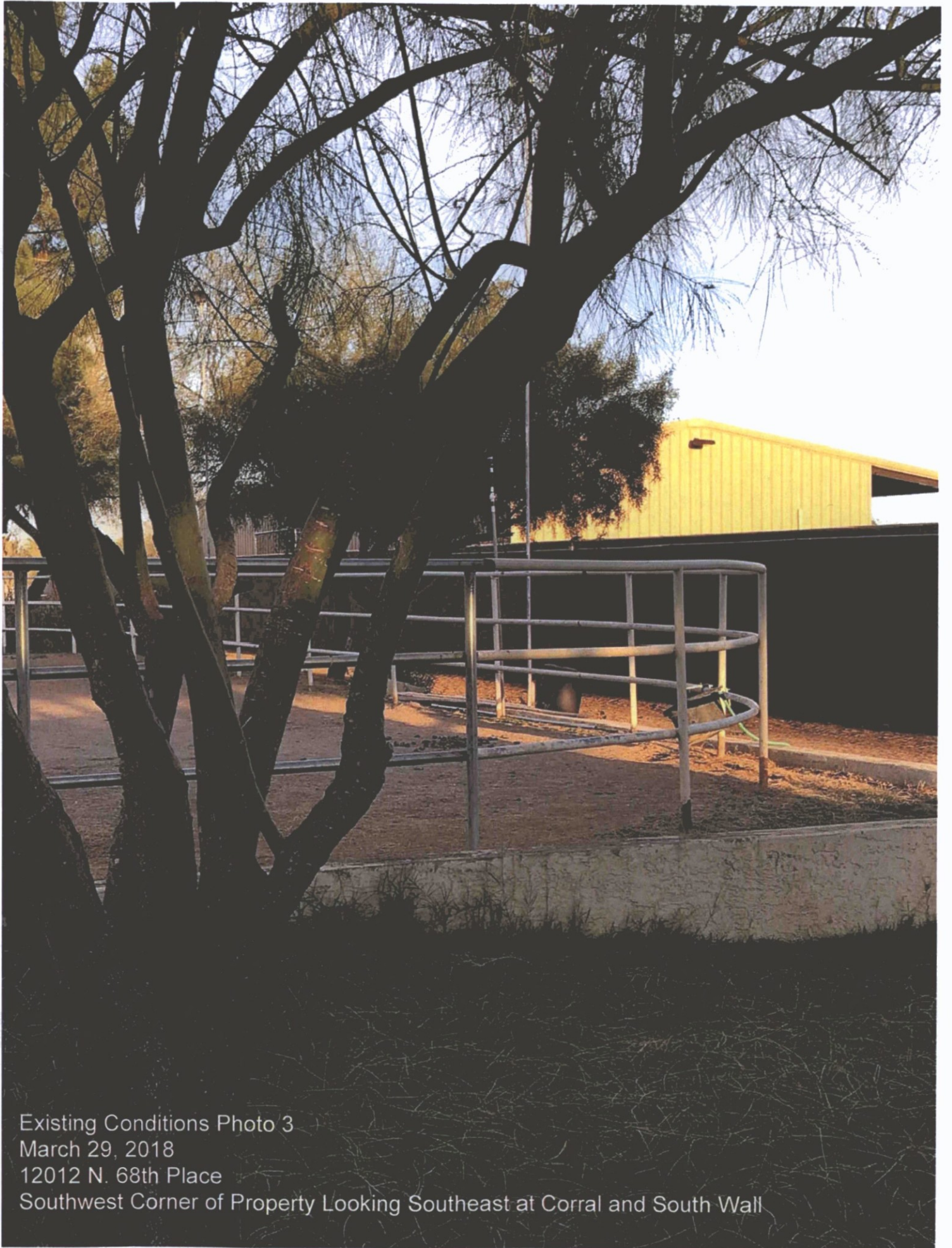
Source: Maricopa County  
Assessor's GIS Aerial  
Photograph 2017



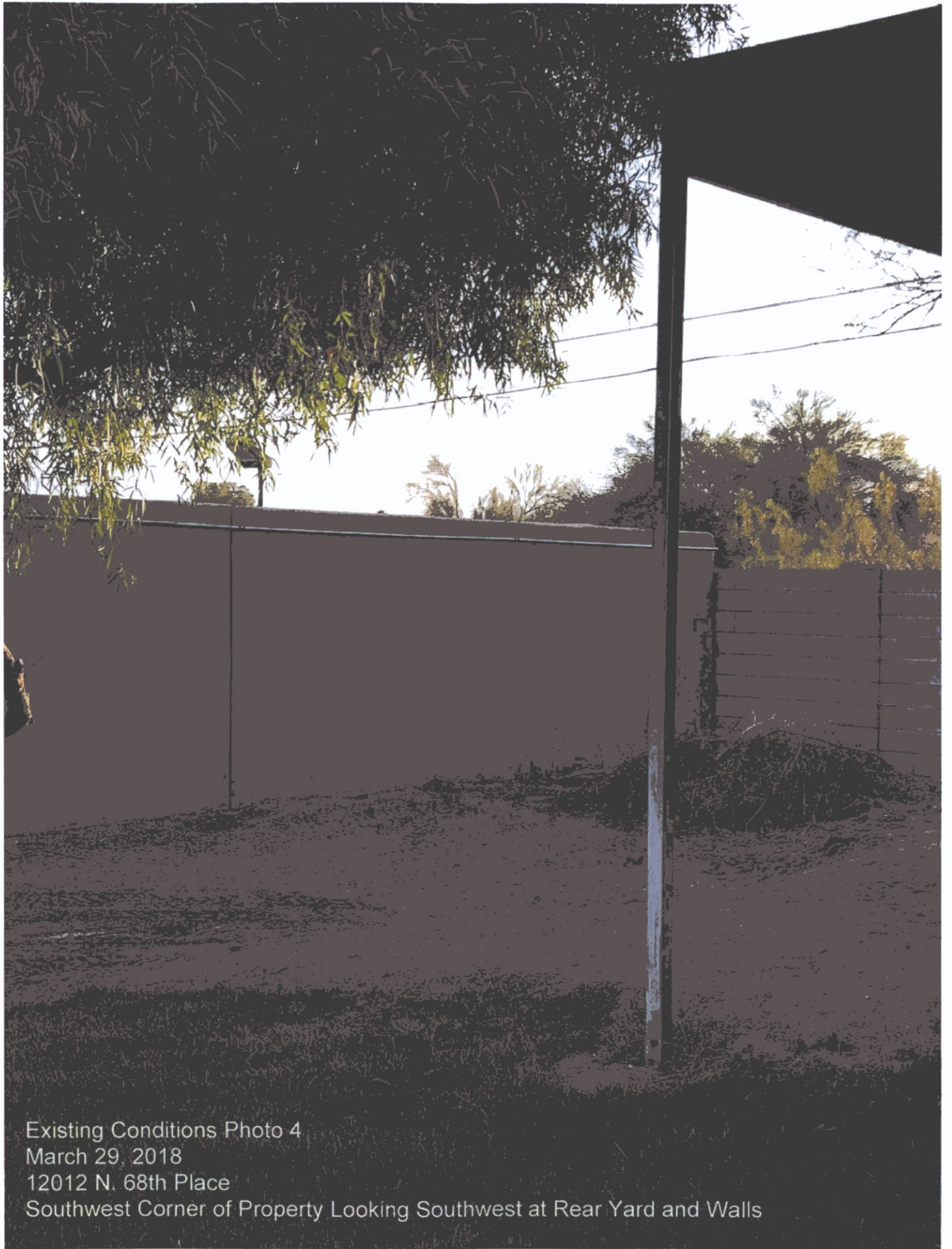
Existing Conditions Photo 1  
March 29, 2018  
12012 N. 68th Place  
Southwest Corner of Property Looking Northwest at Stables



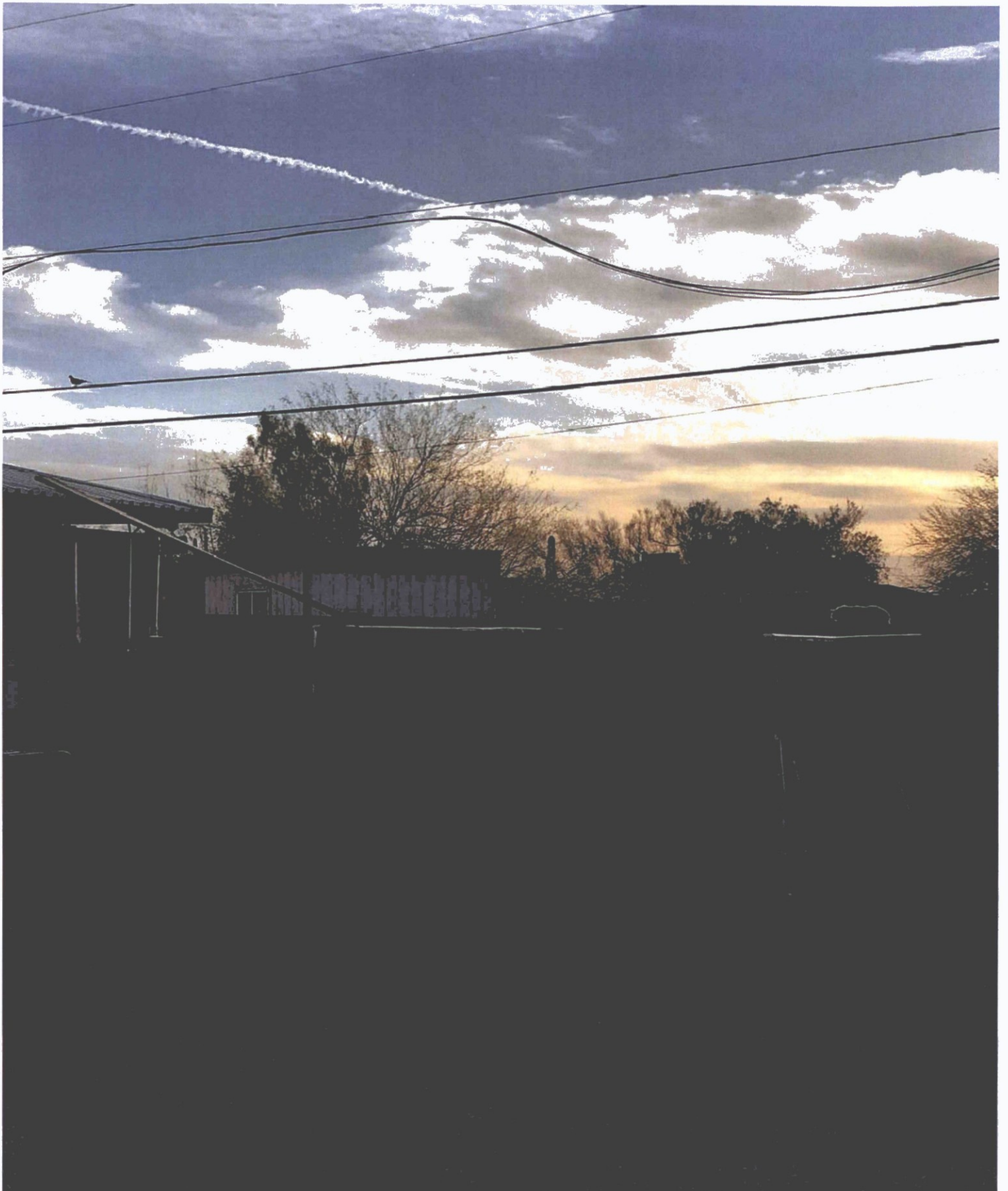
Existing Conditions Photo 2  
March 29, 2018  
12012 N. 68th Place  
Southwest Corner of Property Looking Northeast at Rear Yard and Residence



Existing Conditions Photo 3  
March 29, 2018  
12012 N. 68th Place  
Southwest Corner of Property Looking Southeast at Corral and South Wall



Existing Conditions Photo 4  
March 29, 2018  
12012 N. 68th Place  
Southwest Corner of Property Looking Southwest at Rear Yard and Walls



Existing Conditions Photo 5

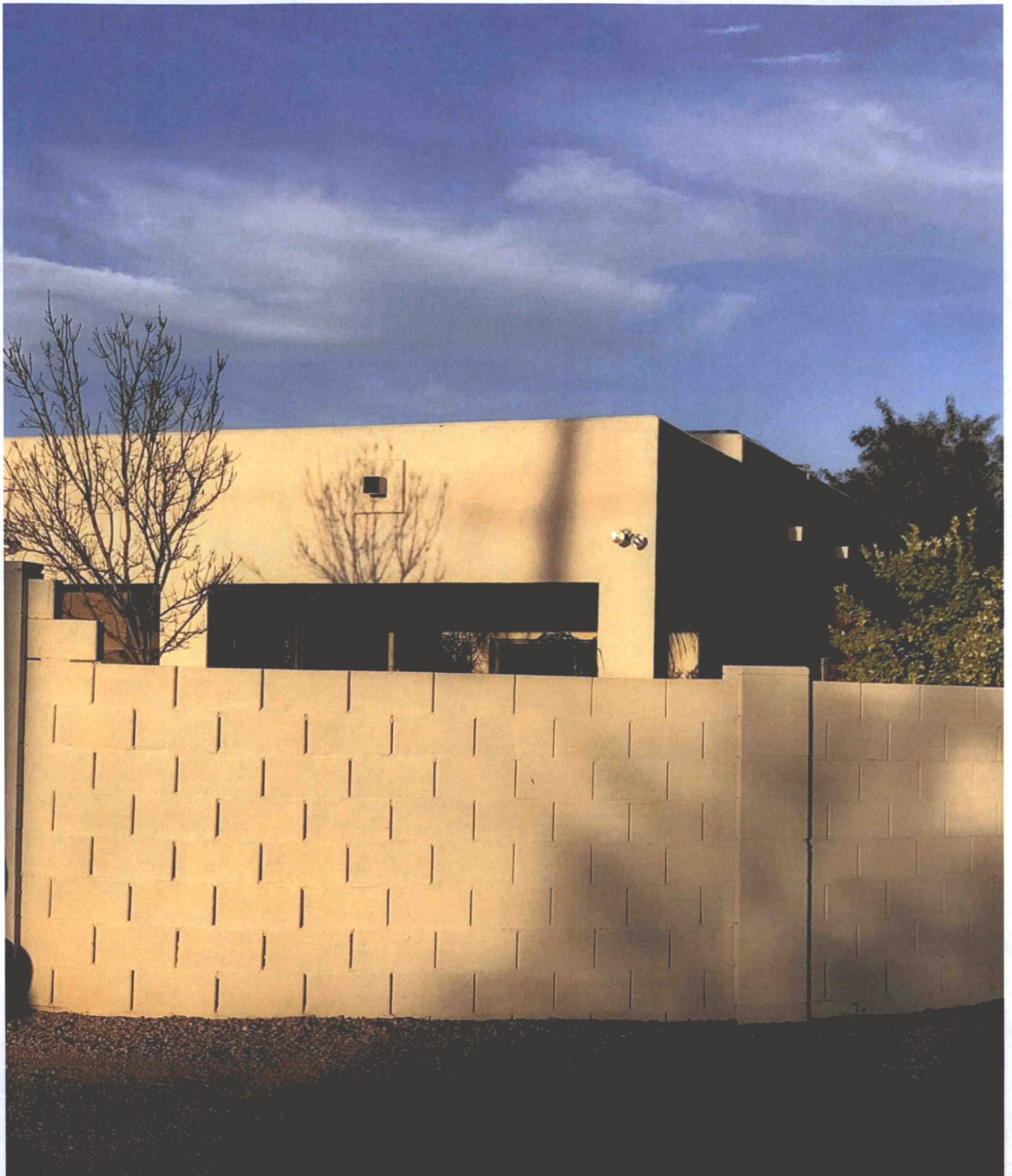
March 29, 2018

12012 N. 68th Place

Northwest Corner of Property Looking Southwest at North End of Stables and Hay Bin



Existing Conditions Photo 6  
March 29, 2018  
12012 N. 68th Place  
Northwest Corner of Property Looking Northwest at Storage Shed

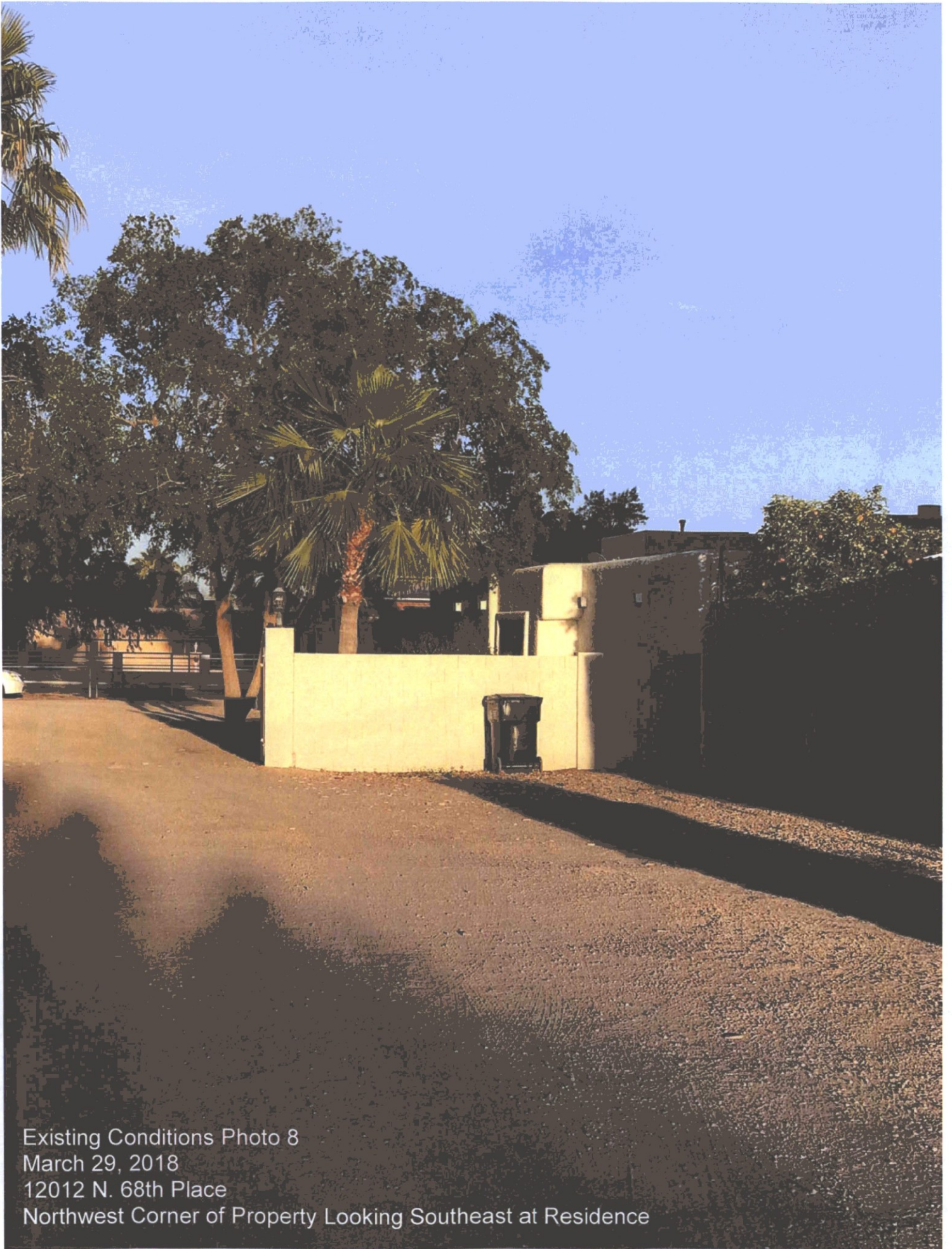


Existing Conditions Photo 7

March 29, 2018

12012 N. 68th Place

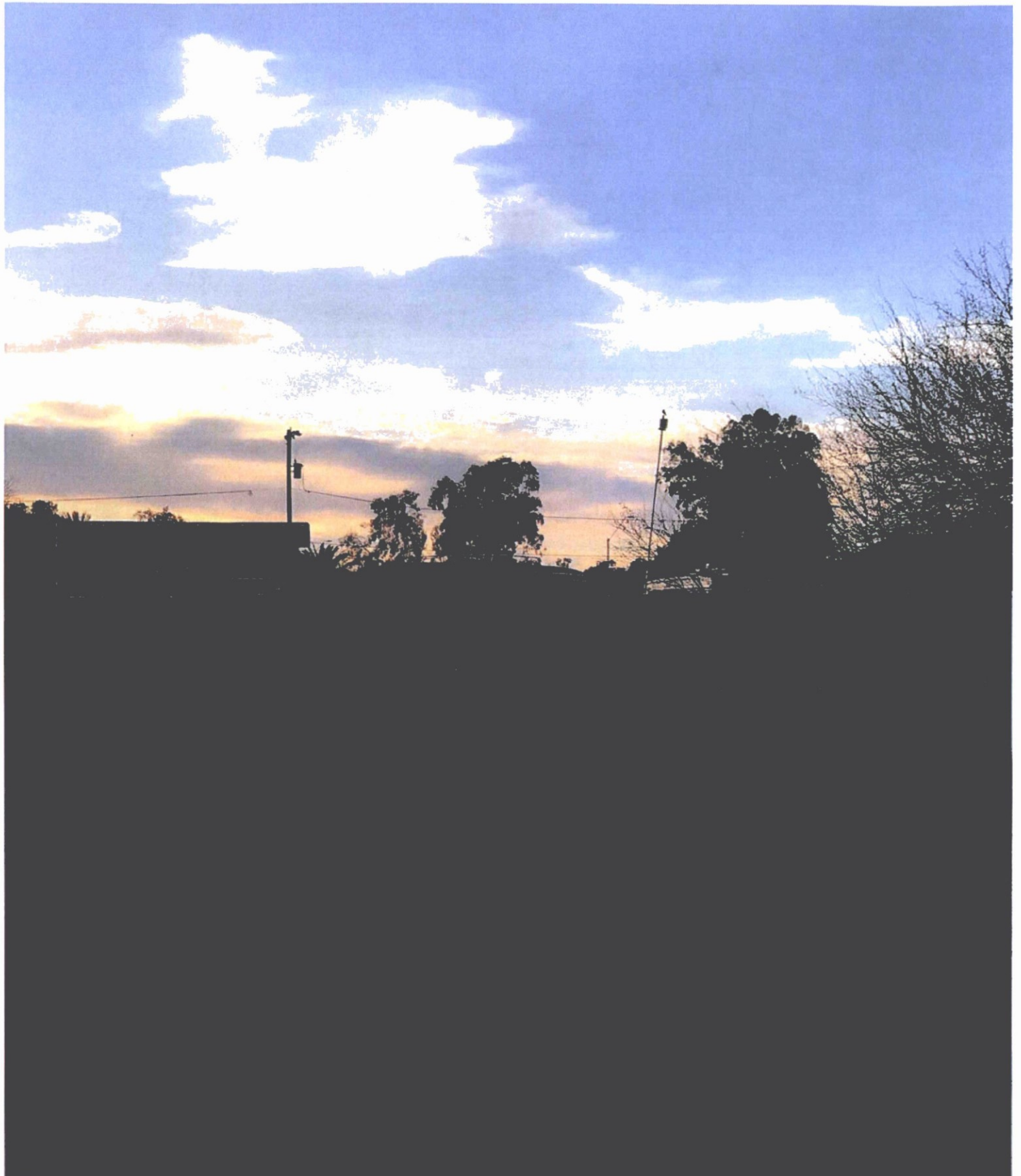
Northwest Corner of Property Looking Northeast at Accessory Building and Wall



Existing Conditions Photo 8  
March 29, 2018  
12012 N. 68th Place  
Northwest Corner of Property Looking Southeast at Residence



Existing Conditions Photo 9  
March 29, 2018  
12012 N. 68th Place  
Northeast Corner of Property Looking Southwest at Residence

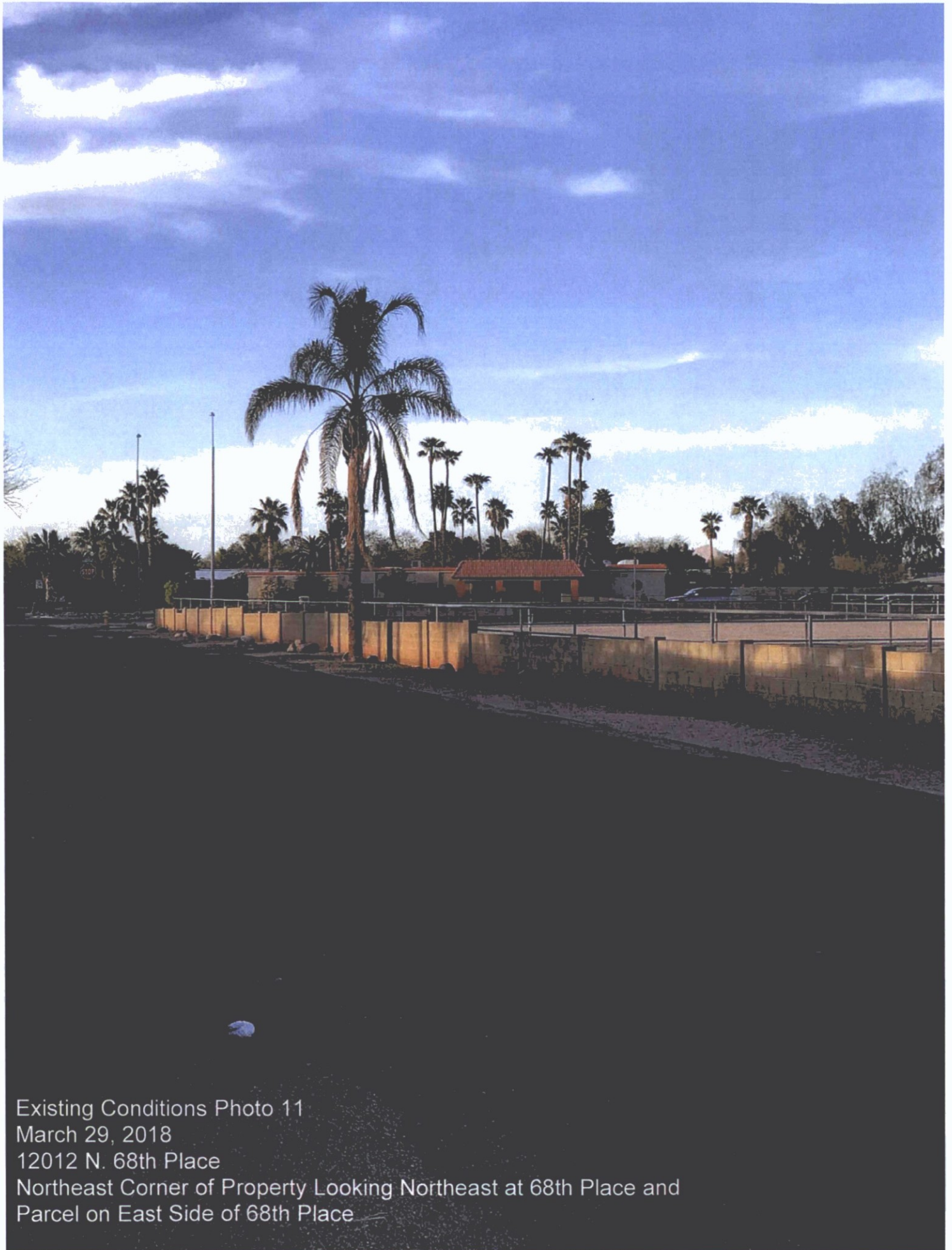


Existing Conditions Photo 10

March 29, 2018

12012 N. 68th Place

Northeast Corner of Property Looking Northwest at North Wall and  
Outdoor Storage on Abutting Property



Existing Conditions Photo 11

March 29, 2018

12012 N. 68th Place

Northeast Corner of Property Looking Northeast at 68th Place and  
Parcel on East Side of 68th Place



Existing Conditions Photo 12

March 29, 2018

12012 N. 68th Place

Northeast Corner of Property Looking Southeast at 68th Place and  
Parcel on East Side of 68th Place



Existing Conditions Photo 13

March 29, 2018

12012 N. 68th Place

Southeast Corner of Property Looking Southwest at Building on Abutting Property to the South



Existing Conditions Photo 14  
March 29, 2018  
12012 N. 68th Place  
Southeast Corner of Property Looking Northwest at Residence



Existing Conditions Photo 15

March 29, 2018

12012 N. 68th Place

Southeast Corner of Property Looking Northeast at 68th Place and  
Residence on East Side of 68th Place

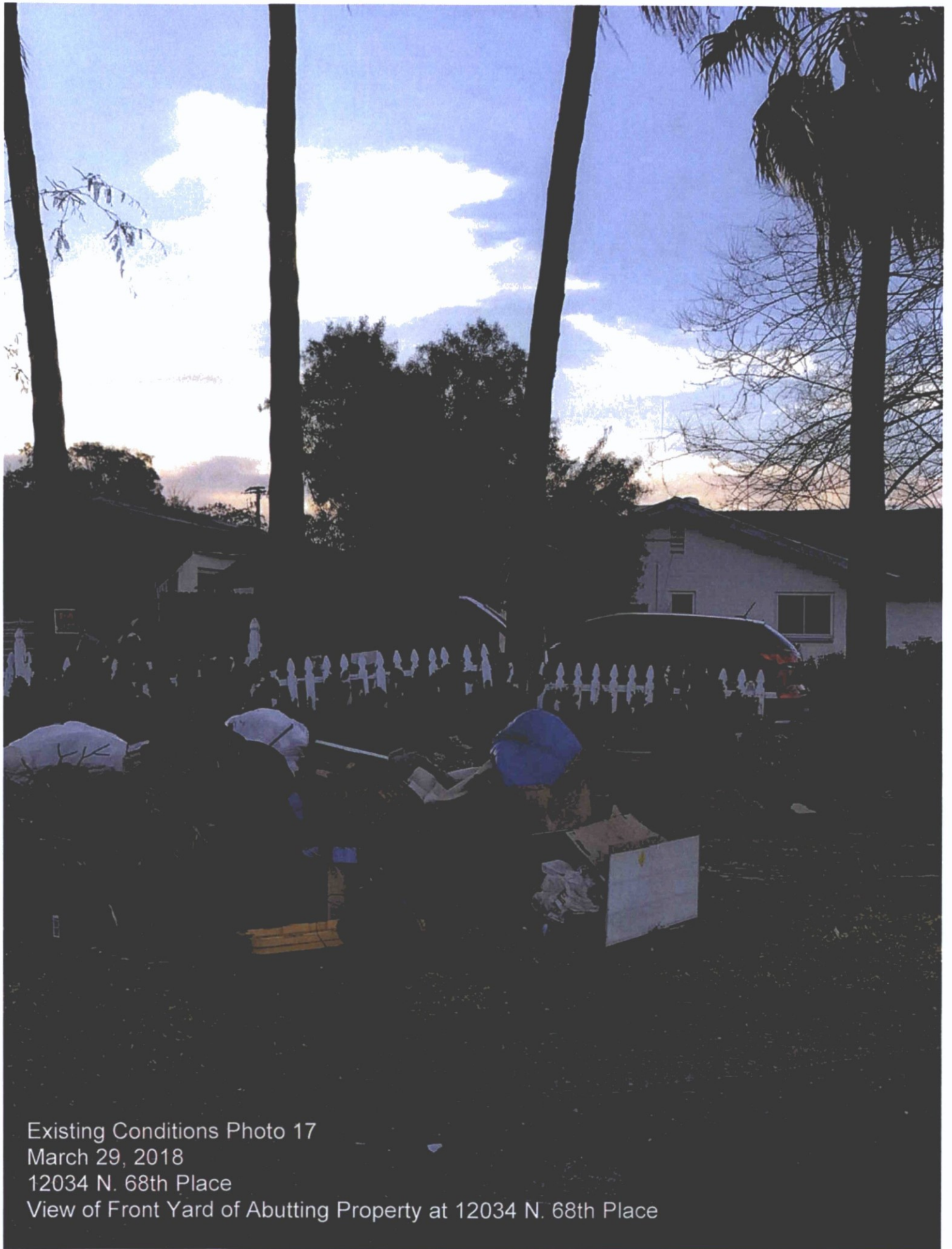


Existing Conditions Photo 16

March 29, 2018

12012 N. 68th Place

Southeast Corner of Property Looking Southeast at 68th Place and  
Residence on East Side of 68th Place

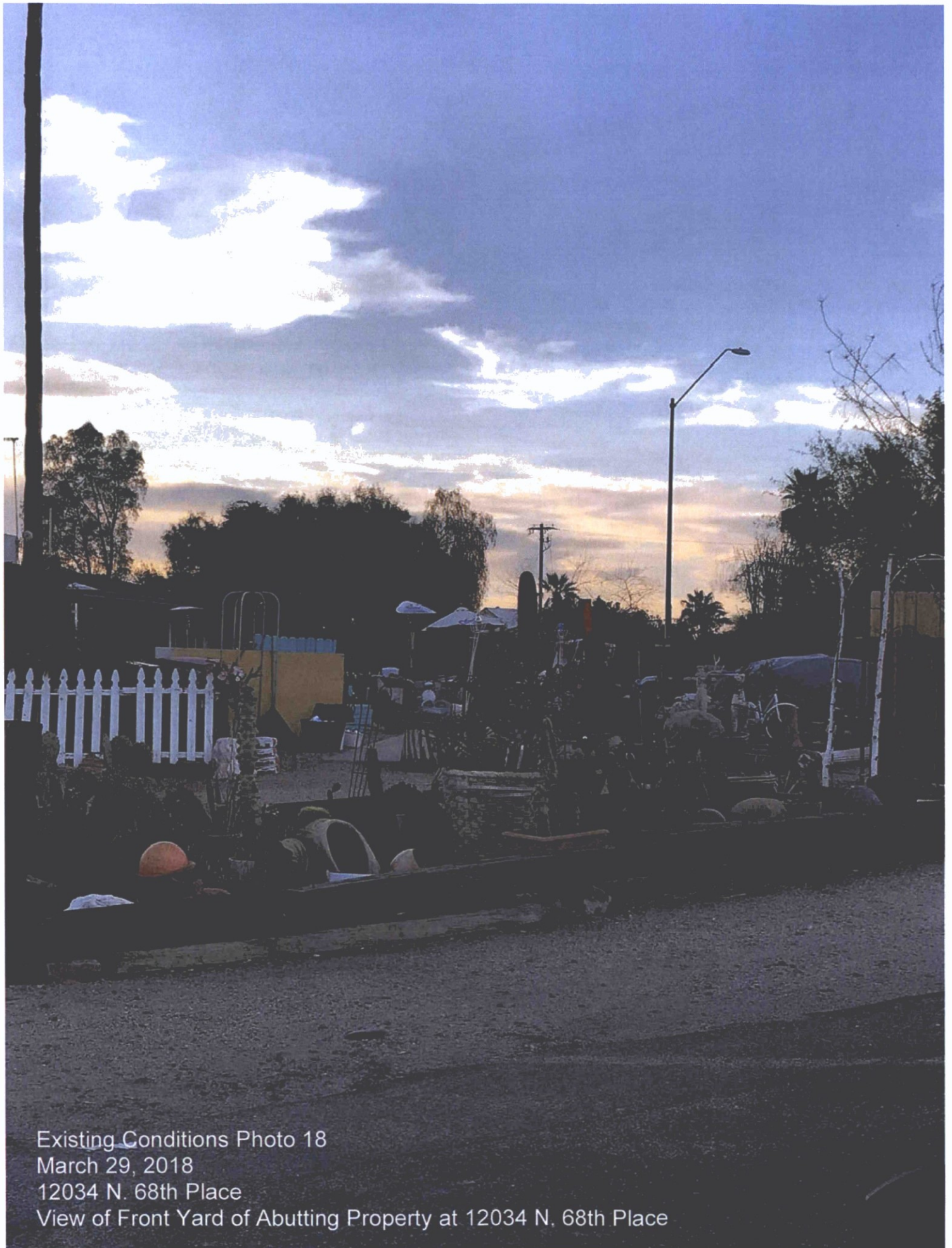


Existing Conditions Photo 17

March 29, 2018

12034 N. 68th Place

View of Front Yard of Abutting Property at 12034 N. 68th Place

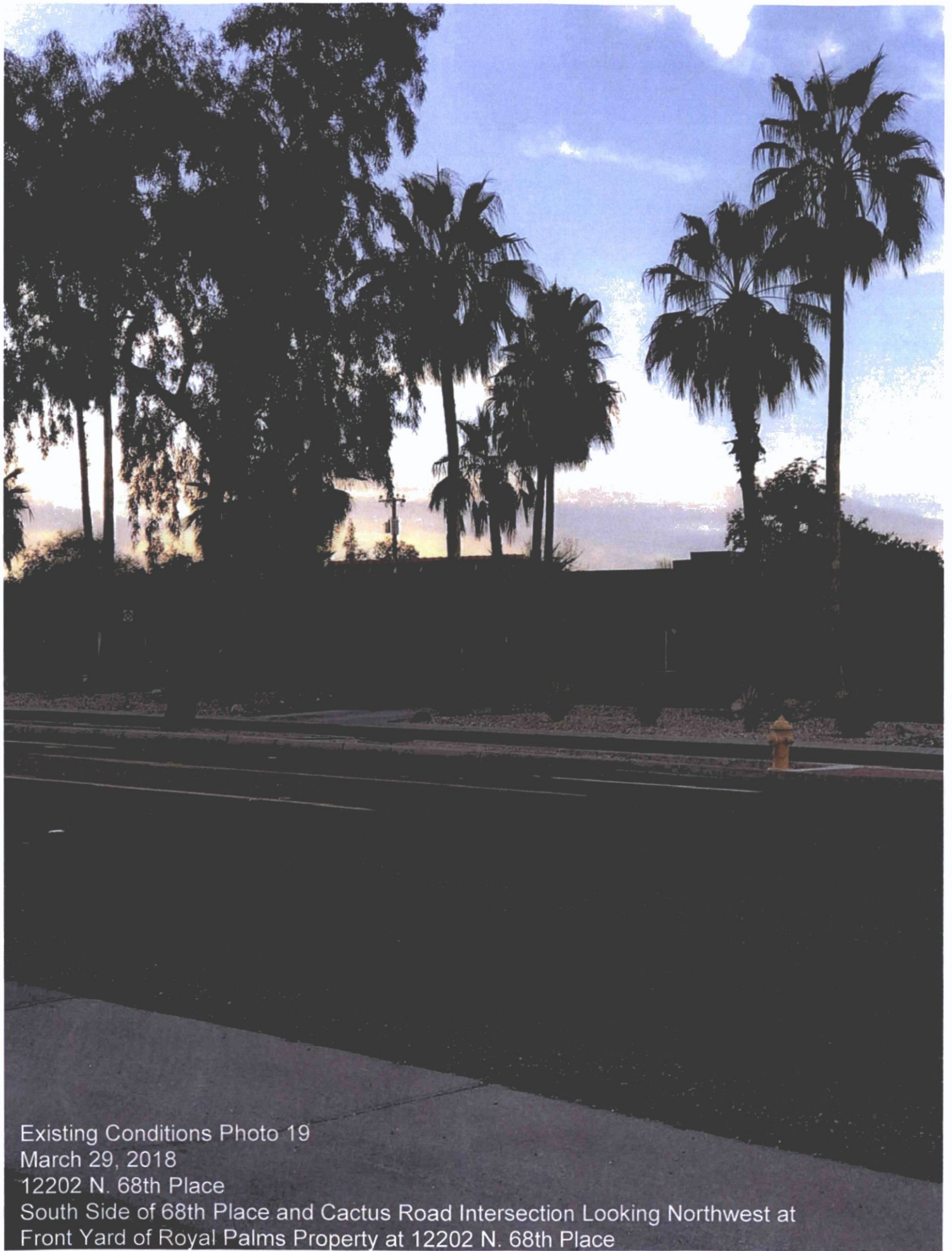


Existing Conditions Photo 18

March 29, 2018

12034 N. 68th Place

View of Front Yard of Abutting Property at 12034 N. 68th Place



Existing Conditions Photo 19

March 29, 2018

12202 N. 68th Place

South Side of 68th Place and Cactus Road Intersection Looking Northwest at

Front Yard of Royal Palms Property at 12202 N. 68th Place



**CL Holdings 68th Place Care Home Disability Accommodation**

**3-BA-2018**



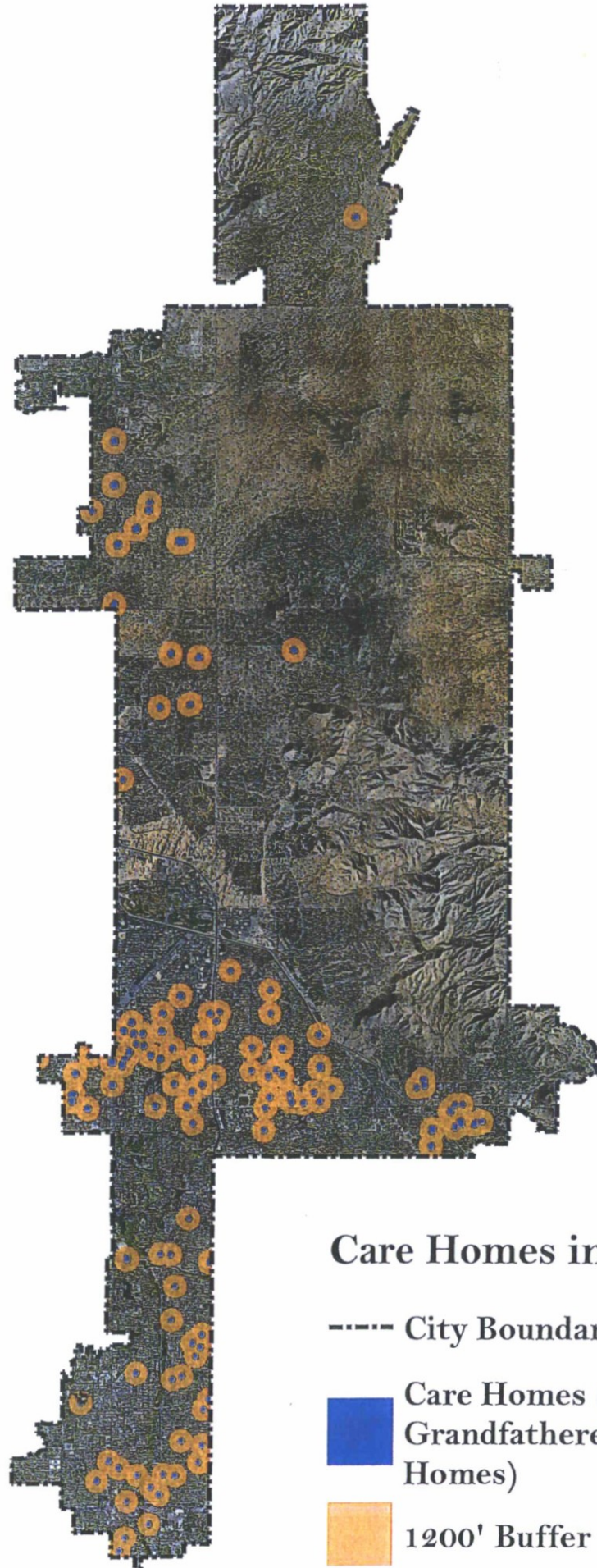
**CL Holdings 68th Place Care Home Disability Accommodation**

**3-BA-2018**




CL Holdings 68th Place Care Home Disability Accommodation

3-BA-2018











## Care Homes in Scottsdale

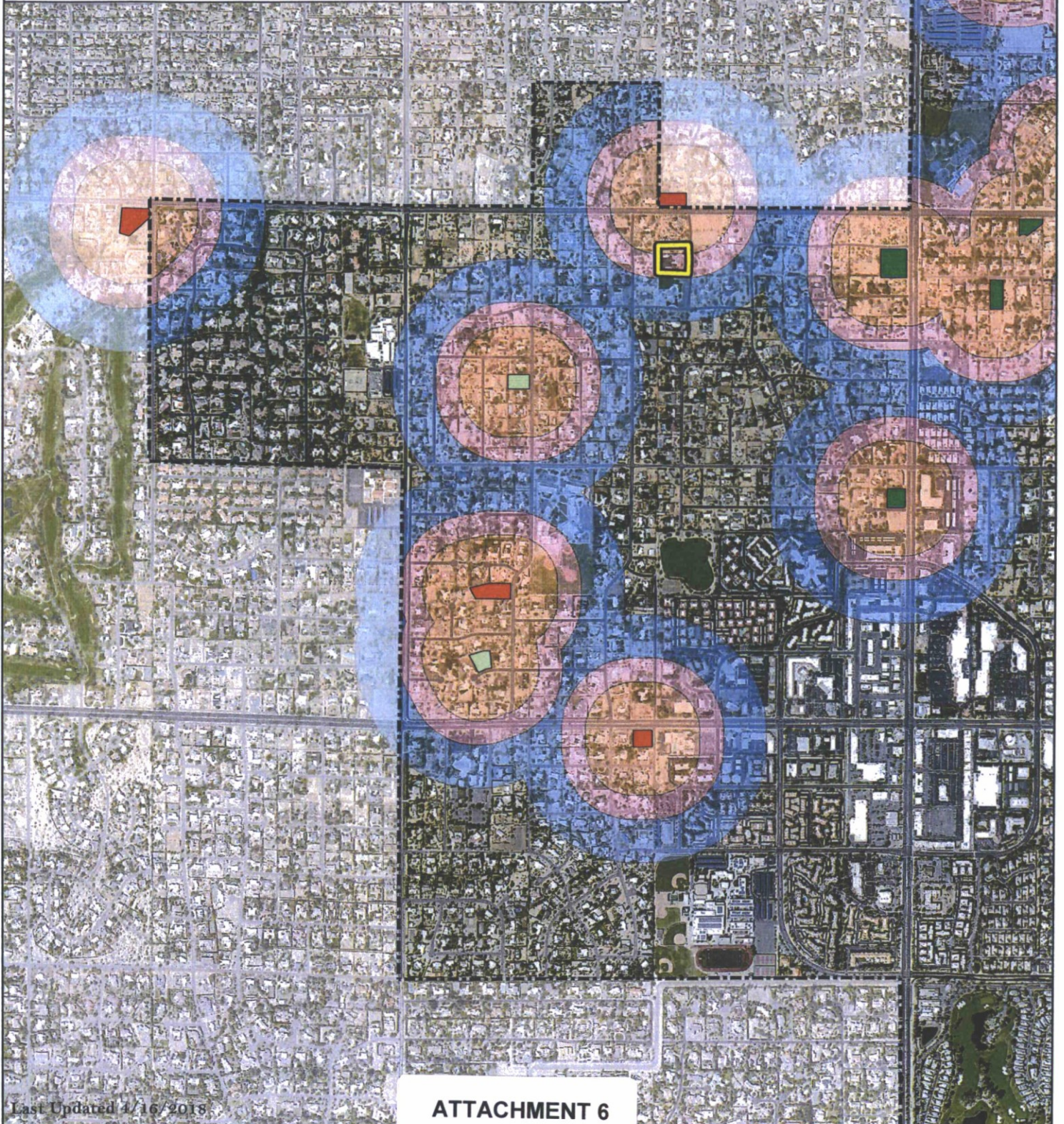
----- City Boundary

 Care Homes (Currently All Grandfathered Approved Homes)

 1200' Buffer

# Care Homes in Scottsdale

-  Project Site
-  Care Homes with State License Only
-  Legacy Approved Care Homes
-  Legacy Pending License Care Homes
-  500' Buffer
-  750' Buffer
-  1200' Buffer
-  City Boundary





## Moriarity, Ben

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**From:** Greer, Timothy <TGreer@Hensley.com>  
**Sent:** Tuesday, April 10, 2018 10:36 AM  
**To:** Moriarity, Ben  
**Cc:** Bryan Sheets (Bryan.Sheets@supremelending.com)  
**Subject:** Case No 3-BA-2018, 4\_BA-2018

Mr. Moriarty:

I left you a VM with the following information but I thought it might be appropriate to duplicate the communication with this e-mail.

In regards to the matter of a Variance and Disability application for the property located at 12012 North 68 place, my household is against such variance being granted.

The reason for our objection is that our neighborhood does not have a HOA to protect the integrity of the area so we rely on zoning codes by the City of Scottsdale.

The latest one (from last year) was rezoning a huge section of property in my neighborhood to commercial business boarding/training horses. Despite overwhelming opposition to this well-funded PR backed move, the city approved the variance.

We (and many others in the neighborhood) bought in this area BECAUSE of what it offered.

Please don't change that. Just because we have land and a lack of HOA it shouldn't be an open invitation for well-funded companies to open shop in the neighborhood. I think we have enough group homes in the area already.

Thanks for your time,

Sincerely,

Tim and Nancy Greer-480-905-8580  
6701 East Paradise Drive  
Scottsdale, AZ  
85254

"This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have

**ATTACHMENT 8**

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## **Moriarity, Ben**

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**From:** Sue Bour <tsopm414@aol.com>  
**Sent:** Monday, April 09, 2018 10:41 AM  
**To:** Moriarity, Ben  
**Cc:** City Council  
**Subject:** Case No. 3 - BA - 2018, 4 - BA - 2018

To: Brad Carr  
Ben Moriarity  
Guy Phillips

Board of Adjustment Staff Representative  
City of Scottsdale Planning and Development Division  
7447 E. Indian School Road  
Scottsdale, AZ 85251

Re: Case No. 3 - BA - 2018, 4 - BA - 2018

We recently received a letter from Lazarus, Silvyn & Bangs, P.C. stating that the property located at 12012 North 68th Place was applying for different zoning status. It is presently zoned for R1-35, this is single family residential district zoning. They are attempting to change the property status for a behavioral health residential facility for up to 10 residents on the property.

We are writing this letter to oppose this change in zoning status. This zoning change would be harmful to this neighborhood for multiple reasons. This area located near Cactus Road and Scottsdale Road, is physically the heart of Scottsdale, Arizona, which has international reputation of being a top notch vacation/holiday location. If this area continues to change it's zoning status it will not only reduce the value of the existing high end properties around it, but these non-residential zoning changes will permanently change the future positive growth and development of these critical Scottsdale neighborhoods to forever blunt betterment of housing and safety.

We currently, already have loitering and burglary issues in this area due to the lack of proper zoning, zoning changes, and neglect from the city of Scottsdale. We feel that another rezoning for a behavioral health facility is inviting more problems and hazards for the nearby families and school. There are families in this neighborhood with infants and teenage children. We recently, had an incident happen, where a 16 year old girl was nearly abducted by two men in a white truck. She was able to fight them off and run for help. Do we want more of this in our area? Do we have to have an abduction or a murder for the city of Scottsdale to bestow some attention, care and respect for this area?

I personally am already ill-at ease when walking for exercise in my own neighborhood. If this rezoning happens, I will only be more uncomfortable in my own home!

This safety issue is not the only problem with rezoning. We as home owners are being disregarded when it comes to our property values. Our homes are a great financial investment. Is the city of Scottsdale asking us to ignore our largest financial investments? How is it possible that the value of our homes do not register with the board when considering these devaluing changes? The only reason this area stands out as a ramshackled mess in Scottsdale/Paradise Valley is exactly this reason. We seem to be where these shady, undeserved zoning changes happen. Our opinion is NO. No more uninvited, distasteful, dangerous changes are welcome in our back yards! We want better for our children and our homes in this area.

We are respectfully asking the Board of Adjustment and the City of Scottsdale Planning and Development Division the REJECT this proposed zoning change. Please consider our families and future when making this decision.

Sincerely,  
**Sue Bour**  
tsopm414@aol.com



Community & Economic Development Division  
Planning and Development Services

7447 East Indian School Road, Suite 105  
Scottsdale, Arizona 85251

## **Board of Adjustment Meeting**

**Case:** 3-BA-2018 (CL Holdings 68<sup>th</sup> Place Care Home Disability Accommodation)  
**Topic:** Board of Adjustment Conditions and Stipulations  
**Meeting Date:** May 2, 2018  
**From:** Ben Moriarity, Planner

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### **Background**

These stipulations were made and approved through a motion by the Board during the May 2, 2018 Board of Adjustment meeting.

### **Attachment:**

- A. Stipulations for the Board of Adjustment Application: 3-BA-2018

**Stipulations for the  
Board of Adjustment Application:  
CL Holdings 68th Place Care Home Disability Accommodation  
Case Number: 3-BA-2018**

These stipulations are intended to protect the public health, safety, welfare, and the City of Scottsdale.

**BOARD OF ADJUSTMENT CONDITIONS AND STIPULATIONS:**

1. The maintenance of a State license shall be in good standing,
2. The property shall remain in the same lot configuration,
3. And the property shall maintain the same operations at the same standards as presented in the reasonable accommodation request and application to the Board of Adjustment as determined by the Zoning Administrator.