Application
Narrative
Cash Transmittal
Pre-Application
Pre-App Narrative
Pre-App Cash Transmittal
Development Standards

Supplemental Packet

4/18/2018

1-BA-2018

3-BA-2018

4-BA-2018

LAW OFFICES OF
Lazarus, Silvyn & Bangs, P.C.
A PROFESSIONAL CORPORATION

April 18, 2018

VIA HAND-DELIVERY

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

RE: Supplemental Narrative Submitted on Behalf of CL Holdings 68th Place, LLC ("CL Holdings"), the Owner of Property Located at 12012 North 68th Place, Scottsdale, Arizona (the "Property") – Board of Adjustment Case Nos. 1-BA-2018 (Appeal of ZA Decision), 3-BA-2018 (Disability Accommodation), and 4-BA-2018 (Variance) (collectively the "Applications")

Dear Board of Adjustment Members:

The Law Offices of Lazarus, Silvyn and Bangs, P.C. submits this supplemental narrative with exhibits in support of the above-referenced applications filed on behalf of CL Holdings 68th Place, LLC, the owner of the Property located at 12012 N. 68th Place.

For the Board's ease of reference, this supplemental narrative is intended to supercede and combine all legal arguments from the initial narratives previously submitted as part of the Applications to the City of Scottsdale. A Table of Exhibits is also submitted herewith.

Respectfully,

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

Attachments

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RE: Supplemental Narrative Submitted on Behalf of CL Holdings 68th Place, LLC ("CL Holdings"), the Owner of Property Located at 12012 North 68th Place, Scottsdale, Arizona (the "Property") – Board of Adjustment Case Nos. 1-BA-2018 (Appeal of ZA Decision), 3-BA-2018 (Disability Accommodation), and 4-BA-2018 (Variance) (collectively the "Applications")

Dear Board of Adjustment Members:

Pursuant to Section 403 of the City of Scottsdale Rules of Procedure for the Board of Adjustment,[1] the law offices of Lazarus, Silvyn and Bangs, P.C. submits this supplemental narrative with exhibits in support of the above-referenced applications filed on behalf of CL Holdings 68th Place, LLC, the owner of the Property located at 12012 N. 68th Place. A total of 3 Applications have been filed on behalf of CL Holdings in an attempt to exhaust administrative remedies under the City of Scottsdale Zoning Ordinance and to obtain Board of Adjustment approval to transition the existing sober living home to a licensed care home for the purpose of providing new counseling services and assistance with the self-administration of medication to disabled residents recovering from alcohol and substance abuse. A summary of the 3 Applications follows:

1. An appeal of the Zoning Administrator's decision issued to CL Holdings on January 11, 2018[2] (the "ZA Decision") denying CL Holdings' November 27, 2017 request for an administrative approval of a disability accommodation of the previous 750-foot care home separation requirement in the R1-35 zoning district, which was later increased by the City's care home Text Amendment to 1,200 feet[3] (Case No. 1-BA-2018) (*See* Zoning Ordinance § 1.801.B),

[1] *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").

[2] Although the date that appears on the ZA Decision letter is December 7, 2017, the letter was not issued by the City to CL Holdings until January 11, 2018. On January 11, 2018, the ZA Decision was emailed and postmarked for delivery by U.S. Mail. *See* **Exhibit 16** attached hereto.

[3] On December 5, 2017, the Scottsdale City Council voted to approve a text amendment to the Zoning Ordinance increasing the care home separation requirement in the R1-35 zoning district from 750 feet to 1200 feet. The text amendment took effect on January 5, 2018. *See* **Exhibits 2** and **3** attached hereto.

2. An application for the Board's approval of a disability accommodation of the new 1,200-foot care home separation requirement in the R1-35 zoning district in effect as of January 5, 2018 (Case No. 3-BA-2018) (*See* Zoning Ordinance §§ 1.801(C), 1.806 and 1.920), and
3. An application for the Board's approval of a variance of the new 1,200-foot care home separation requirement in the R1-35 zoning district in effect as of January 5, 2018 (Case No. 4-BA-2018) (*See* Zoning Ordinance §§ 1.801(A) and 1.804).

For the Board's ease of reference, this supplemental narrative is intended to supercede and combine all legal arguments from the initial narratives previously submitted as part of the Applications to the City of Scottsdale. A Table of Exhibits is also submitted herewith.

I. PURPOSE OF APPLICATIONS IS TO OBTAIN STATE LICENSE TO PROVIDE COUNSELING SERVICES AND MEDICATION ASSISTANCE TO RESIDENTS OF EXISTING SOBER LIVING HOME.

Ultimately, CL Holdings is seeking a decision from the Board of Adjustment (the "Board") which would allow a transition in the Property's use from an existing unlicensed sober living home to a state-licensed care home through either a variance or a disability accommodation procedure.

A. EXISTING CONDITIONS.

Since 2011, CL Holdings has provided a unique sober living home option with equestrian facilities on 2.18 acres of land for up to 14 sober, disabled individuals recovering from alcohol and substance abuse.[4] The sober living home is well-maintained and meets or exceeds the general quality of the surrounding residences in this area of Scottsdale.[5] The sober living home has also successfully integrated with its surrounding single-family residential neighborhood, providing disabled residents the opportunity to live in a peaceful, tranquil environment which emulates a conventional family setting.[6] The disabled residents live in the home with a house manager and engage in the same activities which would typically occur within a family setting.[7] The house manager serves in a parental role at the sober living home to help residents plan for the future, teach life skills, provide emotional support, and help equip the residents with independent living skills.[8] The disabled residents either work or attend school, must abide by a curfew, and are responsible for daily tasks such as cleaning, personal hygiene, budgeting, cooking and transportation arrangements.[9] The CL Holdings sober living home is unique from other sober living homes and care homes in Scottsdale due to the availability of equestrian facilities and the residents' therapeutic interactions with horses on a large, single-family residential lot with ample open space.[10] Since 2011, no care or treatment requiring licensure by the Arizona Department of Health Services ("ADHS") has been

[4] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[5] *See* Broker's Letter attached hereto as **Exhibit 30;** *See also* Real Estate Agent's Letter attached hereto as **Exhibit 31;** *See also* Letters of Support attached hereto as **Exhibit 11** and **Exhibit 12.**

[6] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13;** *See also* Letters of Support attached hereto as **Exhibits 11** and **Exhibit 12.**

[7] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13**;

[8] *Id.*

[9] *Id.*

[10] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13**;

provided to disabled residents living in the sober living home.[11] The sober living home does not offer services to individuals who do not live in the home.[12]

B. REASON FOR REQUESTS.

Due in part to the opioid crisis in the State of Arizona and nationwide, the need for sober living homes and licensed behavioral health residential facilities has increased in recent years.[13] CL Holdings has determined that the disabled residents living on the Property would benefit greatly from counseling services and assistance with the self-administration of medication. CL Holdings plans to transition the sober living home into a "care home", as defined by the City of Scottsdale Zoning Ordinance, by obtaining a "behavioral health residential facility" license from ADHS. With this state license, CL Holdings would continue to use the Property in a family-like manner similar to the existing sober living home use, with a few exceptions, including:

- The number of allowable disabled residents living within the home would be reduced from 14 to 10 individuals,
- A total of 2-3 staff persons, consisting of both shift personnel, 2 staff persons living on-site, and a registered nurse, would be available at any given time with an on-call doctor,
- CL Holdings would be authorized to provide care, counseling services and assistance with the self-administration of medication to its disabled residents in accordance with state statutes and regulations pertaining to behavioral health residential facilities, and
- An automatic fire sprinkler system would be installed within the home.[14]

Prior to obtaining the ADHS license, CL Holdings must obtain the Board's approval of a variance or a disability accommodation of 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 Zoning Ordinance. The following sections of this letter provide a comprehensive analysis of the legal arguments and evidence submitted by CL Holdings' in support of the 3 pending applications.

II. PROPERTY DESCRIPTION, LOCATION AND SURROUNDING USES.

CL Holdings' Property is located approximately 300 feet south of the southwest corner of the N. 68th Place and E. Cactus Road intersection.[15] The Property and surrounding lots are zoned R1-35 Single-Family Residential zoning district.[16] 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

[11] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13**;

[12] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13;**

[13] *See* Governor Ducey's Declaration of Emergency attached hereto as **Exhibit 5;** *see also* Declaration of Michelle Siwek attached hereto as **Exhibit 13**;

[14] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[15] *See* Context Aerial Map attached hereto as **Exhibit 1.**

[16] *See* Zoning Maps attached hereto as **Exhibit 20.**

corral and pool.[17]

At this location, Cactus Road is a heavily-traveled major collector street with approximately 28,300 average daily vehicle trips (as of 2016).[18] The posted speed limit along Cactus Road is 45 mph. A radar speed sign has been installed at Cactus Road west of 68th Place as an attempted traffic calming measure. The 68th Place and E. Cactus Road intersection is not signalized, preventing direct access for pedestrians or bicyclists to travel north and south along 68th Place.[19]

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.[20] The Royal Palms Assisted Living Home is located at 12202 N. 68th 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).[21]

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.[22] 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."[23] Royal Palms Assisted Living Home and the CL Holdings sober living home are two very distinct types of community residences, differing in the age and disabilities of the residents, as well as the care and services provided.[24] These two uses also receive different licenses from ADHS.

III. HISTORY OF INTERACTION BETWEEN CL HOLDINGS SOBER LIVING HOME AND ROYAL PALMS ASSISTED LIVING HOME.

Both CL Holdings and the Royal Palms care homes have been operating since 2011 without any adverse impacts to the community.[25] There has been no interaction of the disabled individuals residing at the Property and at Royals Palms.[26] In fact, from 2011 through 2017, CL Holdings was not aware of the

[17] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13**; *See also* Fire Sprinkler Plan and Site Plans attached hereto as **Exhibits 24** and **25**.

[18] *See* 2016 Average Daily Traffic Volume Segment Map attached hereto as **Exhibit 19.**

[19] *See* Context Aerial dated March 29, 2018 submitted herewith as **Exhibit 1.**

[20] *See* Zoning Map attached hereto as **Exhibit 20**; *See also* Context Aerial dated March 29, 2018 submitted herewith as **Exhibit 1.**

[21] *See* Context Aerial dated March 29, 2018 submitted herewith as **Exhibit 1.**

[22] *See* List of Care Homes Located Outside City of Scottsdale's Jurisdiction attached hereto as **Exhibit 4.**

[23] *See* A.R.S. § 36-401.A.15.

[24] *See* Declaration of Michelle Siwek attached hereto as **Exhibit13.**

[25] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13;** *see also* Letter of Support from Royal Palms attached hereto as **Exhibit 10;** *see also* Letters of Support attached hereto as **Exhibit 11 and 12;** *see also* Lexis Nexis Community Crime Map attached hereto as **Exhibit 21.**

[26] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13;** *see also* Royals Palms Letter of Support attached hereto as **Exhibit 10.**

existence of the Royal Palms Assisted Living Home. In 2017, CL Holdings submitted its fire line plan to the City of Scottsdale for review and approval as part of its state licensing application requirements. On or about September 27, 2017, CL Holdings was then notified by the City that its fire line plans had been rejected because the Property did not meet the minimum separation requirement from the Royal Palms Assisted Living Home. It was at that time that CL Holdings first learned of the Royal Palms home.[27]

IV. THE EXISTING SOBER LIVING HOME USE OPERATES AS A LEGAL NON-CONFORMING FAMILY USE.

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.[28]

Before the City's group home/care home text amendment took effect on January 5, 2018 (the "Text Amendment"),[29] 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. (Emphasis added)
>
> . . .
>
> ***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[30] as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as herein defined. (Emphasis added).

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.[31] The Zoning Administrator's interpretation with regard to CL Holdings' legal non-conforming use was correct given that the Property's use since 2011 has been analogous or comparable to a "family" living as a single housekeeping unit rather than a licensed "adult

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[27] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[28] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[29] *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").

[30] Prior to January 5, 2018, the Zoning Ordinance did not define the phrase "single housekeeping unit."

[31] *See* ZA Decision attached hereto as **Exhibit 16.**

care home." CL Holdings' sober living home is not an "analogous" use to the former definition of "adult care home." CL Holdings' use is not similar in one or more important ways to an "adult care home" and it does not resemble an "adult care home" in one or more aspects because:

- CL Holdings' existing sober living home use is not a residential care institution licensed by the State of Arizona,
- the existing sober living home use does not provide care services to adults, and
- 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.

V. GROUP HOME/CARE HOME TEXT AMENDMENT AND PROPOSED USE OF PROPERTY.

CL Holdings submitted these applications to allow for a minor programmatic transition in the existing use of the Property – adding counseling services and assistance with the self-administration of medication under a state license.[32] By obtaining a state license, CL Holdings' use will no longer qualify as a sober living home operating as a legal non-conforming "family". Under the current definitions in the Zoning Ordinance, CL Holdings' proposed use would be considered a "care home" due its: (i) state licensure as a health care institution[33] and (ii) the new care services to be provided to its disabled residents (counseling and medication assistance). As of January 5, 2018, the new definition of "care home" is as follows:

> *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.[34] (Emphasis added).

A care home is a permitted use as of right in the R1-35 Single-Family Zoning District.[35] As part of the recent Text Amendment, the Scottsdale Mayor and City Council adopted a new distance standard increasing the required separation between care homes in the R1-35 District from 750 feet to 1,200 feet.[36]

Under the City of Scottsdale Zoning Ordinance, all dwellings shared by no more than 10 disabled residents and licensed as a health care institution by ADHS are grouped together under the single definition of "care home" regardless of the vast differences in the types of disabilities and the services

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[32] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[33] "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. Health care institution does not include a community residential setting as defined in section 36-551. *See* A.R.S. § 36-401(A)(21).

[34] *See* Zoning Ordinance § 3.100, Definition of "Care Home" effective as of January 5, 2018.

[35] *See* Sections 5.202.A and 5.102.A.2 of the Zoning Ordinance effective as of January 5, 2018.

[36] *See* Text Amendment Resolution attached hereto as **Exhibit 2;** *see also* Zoning Ordinance §§ 5.202.A and 5.102.A.2.c. effective as of January 5, 2018.

and treatment provided under the various sub-categories of ADHS licenses. There are currently 23 classes and subclasses of health care institution licenses issued by ADHS.[37] These health care institution classifications are based upon the characteristics of the persons receiving care services and treatment, the level of care or treatment being provided, and, in some cases, the size of the facility.[38] Notably, the list of health care institution classes and subclasses provides a separate classification for a "behavioral health residential facility" and an "assisted living home".[39] The separate classification of these two licenses demonstrates that they are licenses issued to facilities differentiated by the characteristics of the residents and the care services and treatment provided.[40]

Despite these separate ADHS license classifications, under the City's current 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 two 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, notice the 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 assisted living definitions.

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)
Definition of Behavioral Health Residential Facility:[41] A health care institution that provides treatment to an individual experiencing a behavioral health issue that: a. Limits the individual's ability to be independent, or b. Causes the individual to require treatment to maintain or enhance independence.	***Definition of Assisted Living Home:***[42] An assisted living facility that provides resident rooms to ten or fewer residents. ***Definition of Assisted Living Facility:***[43] A residential care institution, including an adult foster home, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuous basis.

[37] *See* Declaration of Charles Jackson attached hereto as **Exhibit 14.**

[38] *See* Declaration of Charles Jackson attached hereto as **Exhibit 14.**

[39] *See* Declaration of Charles Jackson attached hereto as **Exhibit 14.**

[40] *See* Declaration of Charles Jackson attached hereto as **Exhibit 14.**

[41] Emphasis added. *See* A.A.C. § R9-10-101.29.

[42] Emphasis added. *See* Ariz. Rev. Stat. § 36-401.A.9.

[43] Emphasis added. *See* Ariz. Rev. Stat. § 36-401.A.8.

Behavioral Health Residential Facility (CL Holdings' Proposed Use)	**Assisted Living Home w/ Directed Care Services** (Royal Palms' Use)
Definition of Treatment:[44] A procedure or method to cure, improve, or palliate an individual's medical condition or behavioral health issue.	***Definition of Directed Care Services***:[45] 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.
Definition of Behavioral Health Issue:[46] 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.	***Definition of Supervisory Care Services***:[47] 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.
	Definition of Personal Care Services:[48] 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.

The ADHS definitions above establish that the care, treatment and services provided by a behavioral health residential facility are different from those provided by an assisted living home. Assisted living homes do not provide treatment to individuals with behavioral health issues, such as mental disorders, personality disorders, or conditions caused by substance abuse, that limit an individual's ability to be independent or causes the individual to require treatment to maintain or enhance independence.[49]

Furthermore, the disabled persons residing within the proposed licensed behavioral health residential facility are unique from the senior/elderly population residing within an assisted living home. For instance, the elderly, disabled residents in an assisted living home often require assistance with activities of daily living and may be persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions. These senior disabled residents would not be treated in a behavioral health residential facility. Likewise, young and middle-aged adults needing

[44] *See* A.A.C. § R9-10-101.209.

[45] Emphasis added. *See* Ariz. Rev. Stat. § 36-401.A.15.

[46] *See* A.A.C. § R9-10-101.25.

[47] *See* Ariz. Rev. Stat. § 36-401.A.45.

[48] *See* Ariz. Rev. Stat. § 36-401.A.36.

[49] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13;** *see also* Declaration of Charles Jackson attached hereto as **Exhibit 14.**

treatment to cure or improve their behavioral health issues relating to mental disorders, personality disorders or substance abuse would not be treated in an assisted living home.[50]

The Zoning Ordinance's all-inclusive definition of "care home" and the 1,200-foot separation requirement make no distinction between these two very different uses and the residents that they serve. As set forth below in greater detail, the application of the newly adopted care home definition and separation requirement creates a disparate impact and unduly restricts the opportunity for a disabled person in need of a licensed behavioral health residential facility to find adequate housing in the western part of Scottsdale. Therefore, a reasonable accommodation is warranted pursuant to Zoning Ordinance Section 1.920.

VI. CASE NO. 1-BA-2018 – APPEAL OF ZONING ADMINISTRATOR'S ADMINISTRATIVE DISABILITY ACCOMMODATION DECISION.

A. REQUEST FOR CASE NOS. 1-BA-2018 AND 3-BA-2018 TO BE HEARD SIMULTANEOUSLY.

CL Holdings requests that the 2 disability accommodation cases (Case Nos. 1-BA-2018 and 3-BA-2018) be heard and decided by the Board simultaneously inasmuch as the 2 cases involve the same set of facts, evidence and criteria to be satisfied.

B. TIMING OF ZA INTERPRETATION REQUEST, ZA DECISION AND EFFECTIVE DATE OF TEXT AMENDMENT ESTABLISHING NEW DISABILITY ACCOMMODATION CRITERIA AND PROCESS.

The City's Text Amendment took effect on January 5, 2018[51] - in between the time that CL Holdings submitted a November 27, 2017 request to the Zoning Administrator for a reasonable accommodation and the January 11, 2018 decision by the Zoning Administrator. The timing of the Text Amendment is significant because it created a reasonable accommodation process which required a hearing and decision before the Board of Adjustment. Thus, on January 5, 2018 (prior to the January 11, 2018 ZA Decision), the following reasonable accommodation procedure was in full force and effect in the Zoning Ordinance:

> **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. (Emphasis added).

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[50] *See* Declaration of Michelle Siwek attached hereto as **Exhibit13,** *see also* Declaration of Charles Jackson attached hereto as **Exhibit 14.**

[51] Text Amendment took effect 30 days after City Council adopted Resolution and Ordinance on 12/5/2017.

CL Holdings is requesting a reasonable accommodation from a separation requirement which exceeds a 10% modification. Under Section 1.920 of the Zoning Ordinance, the Board of Adjustment has the sole authority to issue a reasonable accommodation in this matter. Typically, a decision by a zoning administrator in excess of his authority under state zoning enabling statutes and the zoning ordinance is void and has no force or effect. Moreover, the Joint Statement issued by HUD and the Justice Department in 2016 states, "Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that these procedures should ordinarily be followed."[52] No deference or weight should be given to the ZA Decision in this matter. CL Holdings' counsel has filed an appeal of the ZA Decision merely out of an abundance of caution and to prevent an affirmative defense from the City that CL Holdings failed to exhaust administrative remedies.

The timing of the Text Amendment is also relevant because it significantly modified the definitions of "family" and "care home" and increased the separation requirement for care homes in the R1-35 district from 750 feet to 1200 feet.[53] Again, these modifications and increase took effect on January 5, 2018, after CL Holdings had filed its request for a reasonable accommodation of the 750-foot separation requirement. Thus, the request and the ZA Decision pertain to use definitions and a separation standard which are no longer in effect. CL Holdings would request that the Board of Adjustment proceed with a *de novo* hearing regarding the reasonable accommodation application, Case No. 3-BA-2018, and issue an order based upon the current 1,200-foot separation standard as the initial decisionmaker, rather than an appeal body.

C. BOARD OF ADJUSTMENT AUTHORITY AND STANDARD OF REVIEW WHEN DECIDING AN APPEAL OF A ZONING ADMINISTRATOR'S DECISION.

The Board of Adjustment is not limited to reviewing evidence submitted to the Zoning Administrator and is in no way bound by the findings of fact of the Zoning Administrator. The Board has the specific authority to "reverse or affirm, in whole or in part, or modify the order, requirement, or decision of the zoning administrator appealed from, and make the order, requirement, decision, or determination as necessary."[54] As a quasi-judicial body having the power to conduct evidentiary hearings and to administer oaths to witnesses,[55] a Board of Adjustment is cloaked with the authority to hear and decide appeals of a zoning administrator's decision based upon a *de novo* review of all evidence and testimony presented to the Board.[56] CL Holdings respectfully requests that the Board receive evidence and testimony at the May 2, 2018 hearing and render findings of fact and conclusions of law in an order granting the disability accommodation requested by the Applicant.

Scottsdale Zoning Ordinance Section 1.805(D)(1) states that the Board of Adjustment shall determine whether the "Zoning Administrator's interpretation of the Zoning Ordinance or other decision

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[52] *See* Joint Statement, pg. 16, attached here to as **Exhibit 27.**

[53] *See* Text Amendment Resolution 10963, pgs, 4 and 10 attached hereto as **Exhibit 2.**

[54] Emphasis added. *See* A.R.S. § 9-462.06.G.3.

[55] *See* A.R.S. § 9-462.06.B; *see also See Austin Shea (Arizona) 7th Street and Van Buren, LLC v. City of Phoenix,* 213 Ariz. 385, 390, ¶ 21, 142 P.3d 693, 698 (App.2006) (finding that "[i]n resolving the matters coming before it, the Board meets in public and may take testimony from witnesses who are placed under oath" demonstrating that the "Board acts in a quasi-judicial capacity").

[56] *See Lane v. City of Phoenix,* 169 Ariz. 37, 41, 816 P.2d 934, 938 (App.1991); *see also Murphy v. Town of Chino Valley,* 163 Ariz. 571, 789 P.2d 1072 (App.1989).

is arbitrary, capricious or an abuse of discretion." In the event the Board of Adjustment were to determine that the ZA had authority to issue the January 11, 2018 Decision, the new evidence and caselaw submitted by CL Holdings would support a determination by the Board finding the ZA Decision to be arbitrary, capricious and an abuse of discretion. *See* Section VII below.

VII. CASE NO. 3-BA-2018 – DISABILITY ACCOMMODATION APPLICATION FILED AFTER ZONING ORDINANCE TEXT AMENDMENT.

A. APPLICANT HAS SUBMITTED EVIDENCE TO THE BOARD SATISFYING ALL DISABILITY ACCOMMODATION TESTS.

The federal Fair Housing Act is "a broad mandate to eliminate discrimination against and equalize housing opportunities for disabled individuals."[57] Arizona courts have recognized that, "[b]ecause it is 'a broad remedial statute,' its provisions are to be generously construed and 'its exemptions must be read narrowly'"[58] in "recognition of the important goal of preventing housing discrimination."[59] Both the FHA and the Arizona Fair Housing laws state that unlawful acts of "discrimination" against persons with disabilities include "a refusal to make a reasonable accommodation in rules, policies, practices or services if the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling."[60]

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."[61] 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;

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[57] *See Canady v. Prescott Canyon Estates Homeowners Ass'n*, 204 Ariz. 91, 93, 60 P.3d 231, 233 (App.2002) (citing *Bronk v. Ineichen,* 54 F.3d 425, 428 (7th Cir. 1995)).

[58] *Id.* (citing *City of Edmonds v. Washington State Bldg. Code Council,* 18 F.3d 802, 806 (9th Cir.1994)).

[59] *Id.* (citing *Massaro v. Mainlands Section 1 & 2 Civic Ass'n, Inc.,* 3 F.3d 1472, 1475 (11th Cir. 1993), *cert. denied, 513 U.S. 808, 115 S.Ct. 56 (1994)).*

[60] *See* 42 U.S.C.A. § 3604(f)(2)(A)-(C) and (3)(B); *see also* A.R.S. § 41-1491.19(B)(1) and (E)(2).

[61] *See* Section 1.920 of the Zoning Ordinance effective January 5, 2018.

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;

6. 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.

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

8. 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, 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 the disabled persons living within the CL Holdings' residence and to prevent a denial of the equal opportunity for disabled individuals recovering from drug and alcohol addiction to live in a single-family residential neighborhood of their choice.

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).**

CL Holdings is requesting a disability accommodation pursuant to the Federal Fair Housing Act (FHA) and Arizona Fair Housing laws on behalf of CL Holdings and the disabled residents residing at the Property who are recovering from substance abuse and alcohol addiction.

The residents of CL Holdings 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. "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.

The residents of CL Holdings are also considered "disabled" under Arizona's Fair Housing Laws. Section 41-1491(5) of Ariz. Rev. Stat. defines the term "disability" as follows:

> 5. "*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 does not include current illegal use of or addiction to any drug or illegal or federally controlled substance. 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). (Emphasis added).

The Joint Statement issued by Department of Housing and Urban Development (HUD) and the Department of Justice dated November 10, 2016 (the "Joint Statement") clarifies the types of impairments included within the term "physical and mental impairment", as underlined above. The Joint Statement confirms that this term "includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, ... mental illness, drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism."[62] The residents residing at the sober living home are not permitted to use controlled substance or alcohol. The residents are sober.[63] Therefore, they are considered to be persons with disabilities.

Within the Ordinance approving the Text Amendment, Ordinance No. 4326, the City Council recognized in their recitals that "a person 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 . . . ."[64]

Thus, based upon these federal and state definitions of "handicap" and "disability", the examples provided in the Joint Statement and the recitals in the City's Text Amendment Ordinance 4326, the requested accommodation is requested on the behalf of one (1) or more individuals with a disability protected under federal and Arizona Fair Housing laws.

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

To show that an accommodation is necessary, CL Holdings must show that, but for the accommodation, the disabled individuals residing at the Property "likely will be denied an equal opportunity to enjoy the housing of their choice." Emphasis added. *Cook v. Town of Colorado City, Ariz.*, 934 F. Supp.2d 1097, 1117 (D.Arizona 2013); *U.S. v. California Mobile Home Park Management Co.*, 107 F. 3d 1374, 1380 (9th Cir. 1997) (quoting *Smith & Lee Assocs., Inc., v. City of Taylor,* 102 F.3d 781, 795 (6th Cir. 1996)). The caselaw of Arizona and throughout the country reaffirms a disabled person's right to choose a dwelling or a community of their choice, as demonstrated by the excerpt below from *Canady v. Prescott Canyon Estates Homeowners Ass'n:*

> Equal opportunity gives handicapped individuals the right to choose to live in neighborhoods of their choice because that right serves to end their exclusion from mainstream society. . . . To succeed with their claim, aggrieved parties must show that, without an accommodation, "they likely will be denied an equal opportunity to enjoy the housing of their choice."[65]

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[62] Emphasis added. *See* Joint Statement attached hereto as **Exhibit 27.**

[63] *See* Declaration of Michelle Siwek, ¶ 7, attached hereto as **Exhibit 13.**

[64] *See* Ordinance 4326 attached hereto as **Exhibit 3.**

[65] Emphasis added. Internal citations omitted. *See Canady*, 204 Ariz. at 94, 60 P.3d at 234 (citing Smith & Lee Assoc., Inc. v. City of Taylor, 102 F.3d 781, 794-795 (6th Cir.1996)).

In the 1970s, group homes and community residences began to be formed in single-family neighborhoods as part of a broader movement to deinstitutionalize and change the care of people with disabilities.[66] The goal was to reintegrate disabled residents into society rather than to continue large-scale institutional treatment and the stigma and negative social effects resulting therefrom.[67] As confirmed by CL Holdings' expert witness, Daniel Lauber, community residences have several advantages over larger institutional facilities, such as a greater opportunity:

a. to perform regular daily activities, such as working a job and forming relationships,

b. to engage in social interaction with nondisabled persons and neighbors, and

c. to foster a sense of inclusion in a neighborhood or community.[68]

With a recent increase in the number of individuals recovering from a disability associated with opioid addiction, there is a great demand and need for licensed community residences providing housing and treatment for these particular sober individuals in recovery.[69]

Several of the care homes within the City of Scottsdale, and particularly the area surrounding CL Holdings' Property, provide care services to frail, elderly residents under an assisted living home license issued by ADHS.[70] The assisted living homes do not specialize in providing treatment and care for substance abuse and alcohol disorders.[71] With a behavioral health residential facility license, CL Holdings would not be providing care services to senior residents.[72] Instead, CL Holdings would be providing treatment and counseling services for individuals with behavioral health issues arising from a substance abuse disability.[73]

The across-the-board application of a 1200-foot separation requirement to all care homes, regardless of their specialized services, is causing a disparate impact on the availability of large-lot, single-family housing in the western area of Scottsdale for sober, disabled individuals recovering from alcohol or substance abuse addictions. Larger single-family residential properties allow for greater rehabilitative opportunities and options due to their size and open space. As shown by (i) the demonstrative excerpt of the Care Home Map prepared by the City of Scottsdale dated January 3, 2018[74], (ii) the Care Home List produced by the City on February 28, 2018[75], and (iii) the limited availability of lots with open space (similar to the CL Holdings 2-acre Property)[76], there would be no opportunity for disabled residents

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[66] *See* Declaration of Daniel Lauber attached hereto as **Exhibit 15.**

[67] *See* Declaration of Daniel Lauber attached hereto as **Exhibit 15.**

[68] *See* Declaration of Daniel Lauber attached hereto as **Exhibit 15.**

[69] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[70] *See* Demonstrative Map of Care Homes attached hereto as **Exhibit 9.**

[71] *See* Letters of Support at **Exhibit 10** and **12.**

[72] *See* Declaration of Michelle Siwek, ¶¶ 33-34 attached hereto as **Exhibit 13;** *see also* Declaration of Charles Jackson, ¶¶ 11-14, attached hereto as **Exhibit 14.**

[73] *Id.*

[74] *See* Demonstrative Excerpt of Care Home Map attached hereto as **Exhibit 9.**

[75] *See* Care Home List produced by City of Scottsdale attached hereto as **Exhibit 7.**

[76] *See* Real Estate Agent's Letter attached hereto as **Exhibit 31.**

recovering from drug and alcohol abuse to live in a single-family home of their choosing with equestrian facilities and open space on a property measuring at least 2 acres in the area of Scottsdale lying west of Hayden Road near Cactus Road and Shea Boulevard.[77] All of the large lots approximately 2 acres in size are located within 1,200 feet of an existing assisted living home for the elderly.[78]

The disparate impact of the 1,200-foot separation requirement in this area of Scottsdale is arising, in part, by the existing assisted living homes treating elderly residents in the area. In contrast, there is only one behavioral health residential facility providing services and treatment to people recovering from substance addiction and alcoholism (approx. 1.5 miles away from CL Holdings Property). The physical setting of the one existing behavioral health residential facility is unlike the CL Holdings Property in many regards, having a lot size of less than one acre, less open space, and no equestrian facilities. Without an accommodation in this unique instance, disabled residents recovering from alcohol and substance abuse who are 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 dwellings in a community of their choice.

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 1,200-foot separation unduly restricts this disabled class from finding adequate housing of its choice, as set forth above in the preceding section. Contrary to the ZA Decision, under Arizona caselaw, the analysis is not limited to whether the disabled person has adequate housing opportunities within an entire city.[79] Other jurisdictions have also recognized that the law dictates "that a handicapped individual must be allowed to enjoy a particular dwelling, not just some dwelling somewhere in the town."[80] The ZA Decision misses this key distinction by reasoning that there "is no justification for waiving this standard because . . . [w]ithin the City of Scottsdale there are currently 113 adult care homes."

CL Holdings has submitted overwhelming evidence that the 1,200-foot separation standard unduly restricts the opportunity for disabled persons recovering from substance and alcohol abuse to find adequate housing of their choice. *See* Section VII.A.2 above.

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

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[77] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[78] *Id., see also* Demonstrative Excerpt of Care Home Map attached hereto as **Exhibit 9;** *see also* Real Estate Agent's Letter attached hereto as **Exhibit 31.**

[79] *See Canady*, 204 Ariz. at 94, 60 P.3d at 234 (citing Smith & Lee Assoc., Inc. v. City of Taylor, 102 F.3d 781, 794-795 (6th Cir.1996)).

[80] Emphasis added. *Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683 at 694 (M.D. La. 2013) (quoting *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1186 (E.D.N.Y. 1993)).

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.[81]

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

In *Canady v. Prescott Canyon Estates Homeowners Ass'n*, Division One of the Arizona Court of Appeals recognized that there is an "affirmative duty to reasonably accommodate disabled persons" regardless of whether the accommodation would "make an affirmative change in an otherwise valid policy."[82] In the ZA Decision, the Zoning Administrator goes to great lengths to deny CL Holdings' reasonable accommodation request based upon the valid, general policies of the City of Scottsdale Zoning Ordinance.[83] The Zoning Administrator cites to the promotion and protection of the public health, safety and welfare of the citizens of Scottsdale and providing social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, as reflected in the General Plan.[84] The Zoning Administrator also cites to the promotion and preservation of residential development as the purpose of the R1-35 zoning district.[85] All of these statements reflect that the Zoning Ordinance, as a whole, is "an otherwise valid policy." Despite those valid policies, this Board and the City have an affirmative duty to reasonably accommodate disabled persons on a case-by-case basis.

A reasonable accommodation process was recently made part of the City of Scottsdale Zoning Ordinance by a legislative action of the City Council. By adding a formal process to the Zoning Ordinance, the policy-makers of the City recognized the FHA and Arizona Fair Housing Act requirements pertaining to reasonable accommodations and the possibility that a particular standard or requirement in the Zoning Ordinance could unduly restrict the opportunity of disabled persons from finding adequate housing. The City's typical goals of uniformity and promoting public health, safety and welfare through zoning do not provide a sufficient reason for applying separation requirements to the detriment of a protected class of citizens. Zoning Ordinances were never intended to impose a set of steadfast development standards and requirements to all property, as demonstrated by the variance process created by state statute and recognized by counties and cities throughout the state.

Moreover, 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 set forth in its General Plan. In the ZA Decision, the Zoning Administrator, in generalized terms, refers to policies within the General Plan which promote "social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources."[86] When looking at the specific goals and policies of the City's General Plan 2001, it is apparent that granting this accommodation would further the City's purposes by promoting the following policies under Goal No. 6 of the General Plan's Housing Element:

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[81] *See* Governor's Declaration of Emergency Declaring Opioid Epidemic attached hereto as **Exhibit 5.**

[82] Emphasis added. *See Canady*, 204 Ariz. at 93-94, 60 P.3d at 233-34.

[83] *See* ZA Decision, pg. 2 attached hereto as **Exhibit 16.**

[84] *Id.*

[85] *Id.*

[86] *Id.*

- **"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".**[87]

The ZA Decision also denies CL Holdings' reasonable accommodation request because the "buffers between Adult Care Homes are in place to protect the character of the neighborhoods, and to insure, as in this case, that the low density of the zoning district is maintained and to protect neighboring citizens welfare."[88] In *Oxford House, Inc. v. Town of Babylon,* 819 F.Supp. 1179, 1183 (E.D.N.Y.1993), the residents of a group home for recovering alcoholics and drug addicts sought an injunction to prevent the Town of Babylon from enforcing its Zoning Ordinance to evict them. The United States District Court of the Eastern District of New York determined that the Town of Babylon had failed to reasonably accommodate the group home residents based, in part, upon the following:

> The Town contends that it enforces the ordinance against all violators . . . [and that] the enforcement of the ordinance furthers a legitimate governmental interest in maintaining the residential character of the areas zoned for single family dwellings . . . . Although a town's interest in zoning requirements is substantial . . ., the Court finds that evicting plaintiffs from the East Farmingdale Oxford House is not in furtherance of that interest. Five Town officials testified that the Town has received no substantial complaints from plaintiffs' neighbors within the past year. Furthermore, the house is well maintained and does not in any way burden the Town or alter the residential character of the neighborhood. The presence of the East Farmingdale Oxford House in a single-family, residential district does not undermine the purpose of the Town's Zoning Ordinance. Therefore, defendant cannot justify evicting plaintiffs as being in furtherance of its asserted governmental interest.[89]

Similar to the evidence cited in *Oxford House, Inc. v. Town of Babylon*, the evidence proffered in this case establishes that the requested accommodation will not alter the underlying purposes of the care home separation requirement identified by the Zoning Administrator, as listed below.

- **Protection of the Character of the Neighborhood:** Photographs, aerial photographs, crime maps, letters of support from neighbors, sworn declarations and the opinion of a highly experienced and well-respected realtor in the Scottsdale community have all verified that the sober living home has been well-maintained and has become an integrated part of the neighborhood with no negative impact upon the neighborhood's safety or the character.[90]

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[87] *See* City of Scottsdale General Plan 2001, Housing Element, attached hereto as **Exhibit 17.**

[88] *See* ZA Decision, pg. 2 attached hereto as **Exhibit 16.**

[89] Internal citations omitted. *Oxford House, Inc. v. Town of Babylon,* 819 F.Supp. 1179, 1183-84 (E.D.N.Y.1993)

[90] *See* Existing Conditions Photographs attached hereto as **Exhibit 6;** *see also* Lexis Nexis Demonstrative Crime Maps attached hereto as **Exhibit 21;** *see also* Letters of Support from Nearby Property Owners attached hereto as **Exhibit**

- **Ensuring that the Low Density of the R1-35 Zoning District is Maintained:** In the event the Board of Adjustment renders a decision granting the reasonable accommodation request, CL Holdings would be obtaining a state license and reducing the number of disabled residents living on the premises from 14 individuals to 10 individuals, in accordance with the City's current definition of "care home". Thus, by granting the accommodation, the policy of preserving lower densities in the R1-35 zoning district would be promoted. Furthermore, the CL Holdings Property is unique when compared to most R1-35 zoned properties in the area, which are approximately one acre in size. The CL Holdings Property is 2.18 acres. Density calculations are based upon the number of dwelling units per acre. Thus, by comparing the sheer size of the CL Holdings Property with most other one-acre Properties in the R1-35 zoning district, the CL Holdings Property would have a lower density (0.45 du/acre) than the one-acre properties (1 du/acre).

- **Protecting Neighboring Citizens Welfare:** There is been no evidence cited by the Zoning Administrator or submitted as part of these proceedings which would support a denial of the accommodation based upon CL Holdings' jeopardizing or impacting the welfare of neighboring Citizens. CL Holdings has submitted substantial evidence to the contrary.[91]

Finally, the ZA Decision denies CL Holdings' reasonable accommodation application based upon a purely conclusory statement that, "because there is only one real property between the existing Adult Care Home on the north side of E. Cactus Rd. [Royal Palms] and this subject property, the impact for the neighboring property would be considerable."[92] Again, CL Holdings' evidence proves otherwise. The neighboring property which the Zoning Administrator is attempting to protect from a hypothetical considerable impact is the property located directly north of the CL Holdings Property at 12034 N. 68th Place. Notwithstanding the argument that the unsightly condition of the neighboring property is more of an impact on the neighborhood than CL Holdings' use[93], the owner of the neighboring property at 12034 N. 68th Place has written a letter in support of the reasonable accommodation request.[94] In the letter, the property owner of 12034 N. 68th Place states as follows:

> Since CL Holdings purchased the property in 2011, I have had no issues or concerns arising from the sober living home or the disabled residents who live there. The owners and residents are good neighbors. I believe that transitioning the sober living home to a state-licensed behavior health residential facility providing counseling and care

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11; *see* Declaration of Michelle Siwek, ¶¶ 6, 8, attached hereto as **Exhibit 13;** *see also* Letter from Realtor Yvonne Corrigan-Carr attached hereto as **Exhibit 31.**

[91] *See* Letter of Support at **Exhibits 10** and **11;** *see also* Declaration of Michelle Siwek at **Exhibit 13;** *see also* Lexis Nexis Demonstrative Crime Map attached as **Exhibit 21.**

[92] *See* ZA Decision, pg. 2, attached hereto as **Exhibit 16.**

[93] *See* Realtor Letter attached hereto as **Exhibit 31.**

[94] *See* Letter of Support from Wayne Rozdolski attached hereto as **Exhibit 11.**

> services to sober, disabled residents recovering from drug and alcohol abuse would create no negative impacts on me or the surrounding community.[95]

The property owner abutting CL Holdings' Property on the south, Luis Gonzalez, also submitted the following statements in a letter of support of the reasonable accommodation request:

> I support the transition of the sober living home to a state-licensed, behavioral health residential facility providing counseling and care services to up to ten (10) sober, disabled residents recovering from drug and alcohol abuse. I believe that CL Holdings' demonstrated capability of operating a safe, sober living home integrated into our neighborhood and the additional state-licensing requirements and regulations applicable to behavioral health residential facilities will ensure that the proposed use will create no negative impacts to my property or the surrounding community.[96]

CL Holdings also received the following letter of support from the Royal Palms Assisted Living Home, which is the home located within 1,200 feet of CL Holdings' Property:

> We are writing this letter in support of the variance and disability accommodation applications filed by CL Holdings 68th Place . . . . Royal Palms' residents have had no history of interaction with the disabled residents living at the CL Holdings sober living home. We do not foresee any future interaction amongst residents or issues arising from CL Holdings' licensure as a behavioral health residential facility. We support the rights of disabled persons, including those recovering from drug and substance abuse, to live in a single family residential community.[97]

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 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 – CL Holdings and Royal Palms – are also located in two different subdivisions. Royal Palms is part of the Sunrise Shadows subdivision located in a Phoenix neighborhood.[98] CL Holdings Property is part of the Desert Estates Unit One subdivision located in a Scottsdale neighborhood.[99]

Other than Royal Palms, there are no other care homes within 1,200 feet of the CL Holdings' Property. The presence of only 2 care homes within 1,200 feet of one another would not alter the nature or the purpose of the separation requirement to prevent the clustering of care homes, especially

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[95] Emphasis added. *Id.*

[96] *See* Letter of Support from Luis and Christine Gonzalez attached hereto as **Exhibit 11.**

[97] *See* Letter of Support from Royal Palms attached hereto as **Exhibit 10.**

[98] *See* Sunrise Shadows subdivision plat attached hereto as **Exhibit 23.**

[99] *See* Scottsdale Zoning Map 8 attached hereto as **Exhibit 20;** *see also* Desert Estates Unit One subdivision plat attached hereto as **Exhibit 22.**

when the evidence demonstrates that both homes have been established for more than 7 years with no history of interaction and no negative impacts on the community.[100]

Since 2011, CL Holdings has been integrated into the community and would not change the single-family character of the R1-35 neighborhood by merely obtaining a license from ADHS. CL Holdings has not had any complaints and has operated for the benefit of those recovering from substance abuse. The CL Holdings 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 recovery 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.[101] Based upon these facts, the proposed use of the CL Holdings Property and its request for a reasonable accommodation of the 1,200-foot separation requirement would not alter the nature or the purpose of the City of Scottsdale Zoning Ordinance.

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;

Allowing CL Holdings 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. CL Holdings 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 by making exceptions to the way zoning ordinances are applied in order to afford the disabled the same opportunity to housing as those who are not disabled.

6. 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.

The City of Scottsdale has enacted an objectionable reasonable accommodation criterion in an attempt to prevent the Board from evaluating the profitability or financial hardship upon CL Holdings as part of this reasonable accommodation request. In the recent case, *Valencia v. City of Sprinfield, Illinois,* 883 F.3d 959 (7thCir.2018), the 7th Circuit of the United States Court of Appeals found that the City of Springfield discriminated against disabled residents when the City denied their application for a conditional use permit (similar to a reasonable accommodation request) to allow them to occupy a residence located within 600 feet of another home occupied by disabled residents. The Court confirmed that the determination of whether a requested accommodation is reasonable or not is "a highly-fact

[100] *See* Declaration of Daniel Lauber attached hereto as **Exhibit 15.**

[101] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13;** *see also* Declaration of Daniel Lauber attached hereto as **Exhibit 15.**

specific inquiry and requires balancing the needs of the parties."[102] When balancing the needs of the parties, the 7th Circuit recognized that the trier of fact may consider evidence that is not typically objective and easily ascertainable, such as subjective human costs:

> Some costs related to reasonableness "may be objective and easily ascertainable." For example, "some governmental costs associated with the specific program at issue may be a matter of simply looking at a balance sheet." Other costs "may be more subjective and require that the court demonstrate a good deal of wisdom in appreciating the intangible but very real human costs associated with the disability in question." This refers to "those intangible values of community life that are very important if that community is to thrive and is to address the needs of its citizenry.[103]

The intangible values of community life and the benefits derived therefrom by disabled persons recovering from substance and alcohol abuse is set forth in detail in the Declarations of Michelle Siwek and Daniel Lauber.[104] These intangible values should be considered by the Board of Adjustment when balancing the needs of the parties to determine whether the requested accommodation in this matter is reasonable.

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

CL Holdings will comply with all applicable building and fire codes including fire suppression requirements, site plans, permits, and fees mandated by ADHS for licensure. CL Holdings is aware of such requirements and will comply therewith.

8. 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 specific facts of this application prove that the requested disability accommodation would not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

Denying the requested reasonable accommodation based upon the stereotypes and unsubstantiated fears of neighbors and property owners would violate the Fair Housing Act and the Equal Protection Clause.[105] As set forth in the Joint Statement, "[i]mposing restrictions on housing because of

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[102] Emphasis added. *See Valencia v. City of Springfield, Illinois,* 883 F.3d 959, 968 (7th Cir.2018) (citing *Oconomowoc Residential Programs vs. City of Milwaukee,* 300 F.3d 775, 784 (7th Cir.2002)).

[103] Internal citations omitted. *See Valencia,* 883 F.3d at 968 (citing *Wis. Cmty. Servs. Inc. v. City of Milwaukee,* 465 F.3d 737, 752 (7th Cir.2006)).

[104] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13;** *see also* Declaration of Daniel Lauber attached hereto as **Exhibit 15.**

[105] *See* City of Cleburne v. Tex. V. Cleburne Living Center, 473 U.S. 432, 448, 105 S.Ct. 3249, 3258-59 (1985)(finding that "mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceeding, are not permissible bases for treating a home for the mentally retarded differently from apartment

alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class" would violate the Fair Housing Act.[106] Similarly, denying a reasonable accommodation request based upon such stereotypes would violate the Fair Housing Act. The Joint Statement has made it clear that state and local governments are prohibited from enacting or applying zoning and land use laws based upon meritless claims and emotions by members of the community:

> When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative. (Emphasis added).[107]

Emails sent to the City in opposition to this case have cited to generalized and alleged public safety and property concerns based upon stereotypes and prejudicial beliefs, as well as several extraneous issues unrelated to the requested disability accommodation.[108] Thus, the following claims raised by the opposition should not be considered by the Board in deciding whether to grant this reasonable accommodation request.

Unsupported Claims by Opposition Based upon Stereotypes, Prejudicial Beliefs and Unrelated Concerns:

- Approval of this reasonable accommodation would be inconsistent or at odds with Scottsdale's international reputation of being a top-notch vacation/holiday location.
- Approval of this reasonable accommodation will reduce the value of the existing high-end properties around it and will permanently change the future positive growth and development of critical Scottsdale neighborhoods.
- Approval of this reasonable accommodation will blunt the betterment of housing and safety.
- Approval of this reasonable accommodation will invite more problems and hazards for nearby schools and families with infants and teenage children.

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houses, multiple dwellings and the like" and that the City "may not avoid the strictures of [the Equal Protection] Clause by deferring to the wishes and objections of some fraction of the body politic").

[106] *See* Joint Statement attached hereto as **Exhibit 27.**

[107] *See* Joint Statement attached hereto as **Exhibit 27.**

[108] *See* Opposition Emails attached hereto as **Exhibit 32.**

- Approval of this reasonable accommodation will invite more incidents to happen, such as "where a 16-year-old girl was nearly abducted by 2 men in a white truck."
- Approval of this reasonable accommodation will cause others to feel uncomfortable in their own homes.
- Approval of this reasonable accommodation would be a "shady, undeserved" zoning change that is "uninvited, distasteful, and dangerous."
- Approval of this reasonable accommodation should be denied because there is no HOA to protect the "integrity" of the area.
- Approval of this reasonable accommodation should be denied because a zoning approval was issued last year for a commercial business which boards and trains horses.
- Approval of this reasonable accommodation should be denied in order to prevent an open invitation for well-funded companies to open shop in the neighborhood.
- Approval of this reasonable accommodation should be denied because there are "enough" group homes in the area already.[109]

Each of these claims made by the opposition are unsupported by evidence. To the contrary, CL Holdings has submitted substantial evidence proving that, "under the specific facts of this case,"[110] a Board decision granting the reasonable accommodation would not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. To summarize, the evidence presented by CL Holdings demonstrates the following:

Facts Supported by Evidence Submitted by CL Holdings

- Since CL Holdings began operating a sober living home on the Property in 2011, the Property has been well-maintained and is consistent with the large, equestrian lots and homes throughout the neighborhood.[111]
- Neighboring property owners have submitted letters of support for this application, confirming that the existing sober living home has become an integrated part of the neighborhood and has not caused any issues or concerns.[112]
- Neighboring property owners have confirmed that they have had no negative interactions with the disabled residents living at the Property since 2011.[113]
- The Lexis Nexis Community Crime Map available on the City of Scottsdale website confirms that, when considering reported crimes for properties within a 1-mile radius of the CL Holdings sober living home over the past year, the sober living home is located within a low crime area (blue overlay area) as opposed to higher crime areas to the southeast and along Scottsdale Road (green,

[109] *See* Opposition Emails attached hereto as **Exhibit 32.**

[110] *See* Section 1.806(D) of the Scottsdale Zoning Ordinance effective as of January 5, 2018.

[111] *See* Letters of Support from Neighbors attached hereto as **Exhibit 11;** *see also* Letter from Real Estate Agent Y. Corrigan-Carr attached hereto as **Exhibit 31.**

[112] *See* Letters of Support from Neighbors attached hereto as **Exhibit 11.**

[113] *Id.*

yellow and red overlay areas). The Map also confirms that, based upon the several categories selected, there were no reported crimes at the Property over the past year.[114]

- At the City of Scottsdale public hearings regarding the Text Amendment, the Scottsdale Police Department reported that, overall, sober living homes were not causing more problems in City neighborhoods.[115]

- The home will be operated in a very similar manner after receiving an approval of this reasonable accommodation and a state license, with the exception of reducing the number of disabled residents from 14 to 10, providing counseling services and assisting residents with the self-administration of medication, if necessary.[116] Such changes will not increase the likelihood that the home would pose a direct threat to the health or safety of other individuals or would create substantial physical damage to the property of others after receiving the reasonable accommodation approval.

There is no evidence in the record before the Board that would support a finding that the requested accommodation would result in a direct threat to the health or safety of other individuals or a substantial physical damage to the property of others. Instead, based upon the Declaration of Emergency in effect in this state, the 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. 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.

Based upon the evidence submitted, CL Holdings respectfully requests a Board of Adjustment decision approving a reasonable accommodation of the 1,200-foot separation requirement applicable to care homes within the R1-35 zoning district.

VIII. CASE NO. 4-BA-2018 – VARIANCE APPLICATION.

A. BOARD OF ADJUSTMENT AUTHORITY.

1. 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.[117] With regarding to variances, Subsections G and H of Ariz. Rev. Stat. § 9-462.06 provide as follows:

> G. The board of adjustment shall:
>
> . . .

[114] *See* Lexis Nexis Community Crime Map attached hereto as **Exhibit 21.**

[115] *See* Newspaper Article attached hereto as **Exhibit 29.**

[116] *See* Declaration of Michelle Siwek attached hereto as **Exhibit 13.**

[117] *See* Ariz. Rev. Stat. §§ 9-462.06.C and G.

> 2. Hear and decide appeals for variances from the terms of the zoning ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location or surroundings, the strict application of the zoning ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to conditions as will ~~assure that the adjustment authorized shall not constitute a grant of~~ special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located. (Emphasis added).
>
> . . .
>
> H. The board of adjustment may not:
>
> . . .
>
> 2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.[118]

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 variances from the provisions of [the] Zoning Ordinance."[119]

B. APPLICANT HAS SUBMITTED EVIDENCE TO THE BOARD SATISFYING ALL FOUR (4) VARIANCE TESTS.

The Scottsdale Zoning Ordinance provides 4 tests that must be satisfied by an applicant seeking a variance. A variance is authorized if the applicant can establish:

a. That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and

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

c. That the special circumstances applicable to the property were not self-imposed or created by the property owner; and

d. That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.[120]

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[118] *See* Ariz. Rev. Stat. §§ 9-462.06.G and H.

[119] *See* Zoning Ordinance § 1.801.

[120] Emphasis added. *See* Zoning Ordinance § 1.804.A.

The Applicant is capable of satisfying all four (4) variance tests. A variance of the 1,200-foot separation requirement is fundamental to preventing an unnecessary property hardship resulting from the literal enforcement of the Zoning Ordinance separation provision applicable to care homes in the R1-35 zoning district.

1. **First Test: Special Circumstances Apply to the Property and a Strict Application of the Zoning Ordinance Would Deprive the Property of Privileges Enjoyed by Other Property of the Same Classification in the Same Zoning District.**

There are several special circumstances and hardships which apply to the Property's surroundings and location and a strict application of the Zoning Ordinance would deprive the Property of privileges enjoyed by other properties of the same classification in the same zoning district.

- ***Cactus Road Serves as a Physical Barrier and Separates the Two Homes.*** The significant width of the Cactus Road right-of-way and the average daily traffic traveling along Cactus Road would serve as a physical barrier creating separation between the CL Holdings' proposed behavioral health residential facility and the existing Royal Palms Assisted Living Home. The intersection of 68th Place and Cactus Road is not signalized, making it impossible for pedestrians and bicyclists to lawfully cross Cactus Road as a direct connection between the two (2) homes.

- ***Use and Condition of Abutting Parcel Negatively Impacts the Viable Single-Family Residential Use of the Property.*** As shown by the Context Aerial Map and photographs submitted herewith, the parcel to the north of CL Holdings' Property is being used for unsightly outdoor storage of the owner's personal belongings. These abutting conditions pose a hardship to the Property, making it difficult to use, sell or lease the property at market value for single-family residential purposes.

- ***Application of City of Scottsdale "Care Home" Definition and Prevalence of Assisted Living Facilities are Preventing Different Types of Care Homes from Being Established in the Area.*** In its Zoning Ordinance, the City of Scottsdale does not distinguish between assisted living facilities and behavioral health residential facilities. Instead, the City has adopted a care home definition which would apply uniformly to these two (2) very different uses. As reflected by the definitions set forth in Ariz. Rev. Stat. § 36-401 and A.A.C. § R9-10-101, as well as the classes and subclasses of health care institutions listed under A.A.C. § R9-10-102, ADHS has created several types of licenses reflecting the nature of the care services and treatment provided by each . Furthermore, the City's uniform application of the term "care home" also prevents equal housing and services for individuals with disabilities who would not qualify to live in a senior assisted living home. In this case, the prevalence of licensed assisted living homes in the surrounding area prevents CL Holdings from operating a behavioral health residential facility and providing much needed treatment and care services to disabled individuals wanting to live in a single-family residential setting in this area of Scottsdale. According to the list of care homes produced by the City of Scottsdale on February 28, 2018

together with the Care Home Map dated January 3, 2018, the nearest Scottsdale behavioral health residential facility is approximately 1.5 miles away from the Property.[121]

The purpose of the separation requirement is to avoid clustering of similar uses. The uses at issue are different and distinguishable by the ADHS definitions and their actual use. The Royal Palms' home is limited to providing care to disabled individuals who are elderly.[122] With the licensing approval sought by CL Holdings, the home on the subject Property would provide treatment to disabled individuals with no age limitation.

2. **Second Test: Authorization of the Variance is Necessary for the Preservation of Privileges and Rights Enjoyed by Other Property of the Same Classification in the Same Zoning District, and Does Not Constitute a Grant of Special Privileges Inconsistent with the Limitations upon Other Properties in the Vicinity and Zone in which such Property is Located.**

The authorization of the variance is necessary for the preservation of CL Holdings' privileges and rights to operate a care home/behavioral health residential facility use in a single-family residential zoning district. After recognizing: (1) the significant barrier and separation of uses created by Cactus Road, (2) the undesirable use of the parcel to the north, (3) the significant differences in age, disabilities and services when comparing the assisted living home and CL Holdings' behavioral health residential facility, and (4) the City's non-uniform application of its distance requirement to a use beyond its jurisdictional boundaries, it becomes readily apparent that the authorization of a variance does not constitute a grant of special privileges inconsistent with limitations upon other similarly situated properties.

3. **Third Test: The Special Circumstances Applicable to the Property Were Not Self-Imposed or Created by the Property Owner.**

The events giving rise to the special circumstances in this case were neither self-imposed nor created by the Property Owner.

- The uses and conditions of the abutting parcel to the north were not created by the owner of the Property, and
- The disparate impact created by the City' application of the newly-adopted "care home" definition were not created by the owner of the Property.

4. **Fourth Test: Authorization of the Variance Will Not be Materially Detrimental to Persons Residing or Working in the Vicinity, to Adjacent Property, to the Neighborhood or to the Public Welfare in General.**

Having relied on at least one document prepared by Daniel Lauber, AICP, when writing its zoning amendments for care homes for people with disabilities, the city should be well aware that the primary purpose of a spacing distance between care homes is to foster normalization and community integration

[121] *See* licenses designated with a "BH" prefix in the list of care homes produced by the City of Scottsdale on February 28, 2018 and attached hereto as **Exhibit "4".**

[122] *See* Royal Palms Assisted Living Home website.

of the care home residents, two core principles of care homes for people with disabilities. One of the underlying concerns is that the residents of a care home will interact or socialize mostly with other people with disabilities from the nearby care home to the exclusion of the so-called "able bodied" neighbors without disabilities. These nearby non-disabled neighbors are supposed to serve as role models for the people with disabilities.

The spacing distance between care homes allowed as of right is set so that there's no doubt that the homes are far enough apart to foster this normalization and community integration and use of non-disabled neighbors as role models. However, when a care home is proposed to be located within the spacing distance of an existing care home, zoning codes need to make exceptions to this spacing distance on a case by case basis. In this instance, allowing this exception will not hinder normalization and community integration of the residents of either home, nor the ability to utilize non-disabled neighbors as role models.

The presence of the Royal Palms Assisted Living Home 415 feet from the lot line of the applicant's recovery residence poses no obstacle to normalization or community integration among the residents of either home. The two homes are separated by a large lot and Cactus Road which serves as a barrier to interaction between the residents of Royal Palms and CL Holdings' CL Holdings Recovery Home. The rather significant width of the Cactus Road right-of-way and the high average daily traffic traveling along Cactus Road have acted as a physical barrier separating CL Holdings' existing recovery residence and Royal Palms Assisted Living Home — there is no reason to imagine the road would not continue to act as a barrier after CL Holdings' receives its state license. The intersection of 68th Place and Cactus Road is not signalized, which will continue to make it impossible for pedestrians and bicyclists to lawfully cross Cactus Road as a direct connection between the two homes.

As the evidence will show, there has been no interaction between the residents of the two existing care homes during the seven years they have both been at their current addresses. This lack of interaction is due in large part to the barrier that Cactus Road creates which prevents interaction between the residents of Royal Palms Assisted Living and the current and future residents of the CL Holdings Recovery Home. The lack of interaction is also due to the very different nature of the occupants of both care homes, the former being frail elderly and the later being people in recovery from drug and/or alcohol dependency. Lacking disability and age commonalities further discourages interaction and socialization between the two sets of occupants and increases the use of nondisabled neighbors as role models. Consequently, granting the variance to CL Holdings will not undermine the ability of both homes to achieve their core goals.

Over the past seven years there is no evidence that the presence of both homes has had any negative impacts on the surrounding neighborhood. The neighborhood has remained residential in character. Two care homes separated by a barrier like Cactus Road hardly constitute a concentration -- the two care homes are in distinct neighborhoods in two different cities.

In this case, the separation requirements are not preventing clustering of similar uses, they are effectively prohibiting new care homes with entirely different care services or treatment programs from being established in single-family residential districts. By treating dissimilar care homes as one in the same, the City is discriminating against individuals with a wide range of disabilities recognized by the Americans with Disabilities Acts and the Fair Housing Act. Authorizing a variance to prevent housing

discrimination in this circumstance will not be materially detrimental to persons residing or working in the vicinity of the Property, to adjacent property, to the neighborhood or the public welfare in general.

As opposed to being a detriment, granting a variance for CL Holdings' proposed behavioral health residential facility will, in fact, benefit the persons residing and working in the area, the neighborhood and the public welfare in general by:

- Requiring that CL Holdings update the residence with automatic fire sprinkler systems and comply with State licensing rules and regulations, which would be required if the home is licensed as a behavioral health residential facility, thus benefiting the health and safety of its residents and other individuals and reducing the risk that substantial physical damage would occur to the property of others;

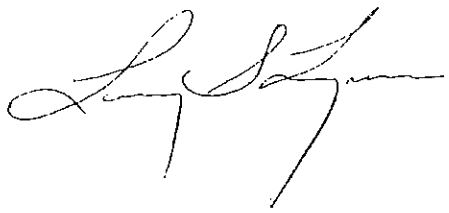
- Promoting Goal No. 6 of the Housing Element of the City of Scottsdale General Plan 2001.

- Offering treatment and counseling services which directly respond to alcohol and substance abuse addiction, including the opioid epidemic declared throughout the U.S. and in the State of Arizona.[123]

IX. CONCLUSION.

For the foregoing reasons, CL Holdings respectfully requests an approval of a variance or a disability accommodation of the 1,200-foot separation requirement applicable to care homes.

Respectfully,



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

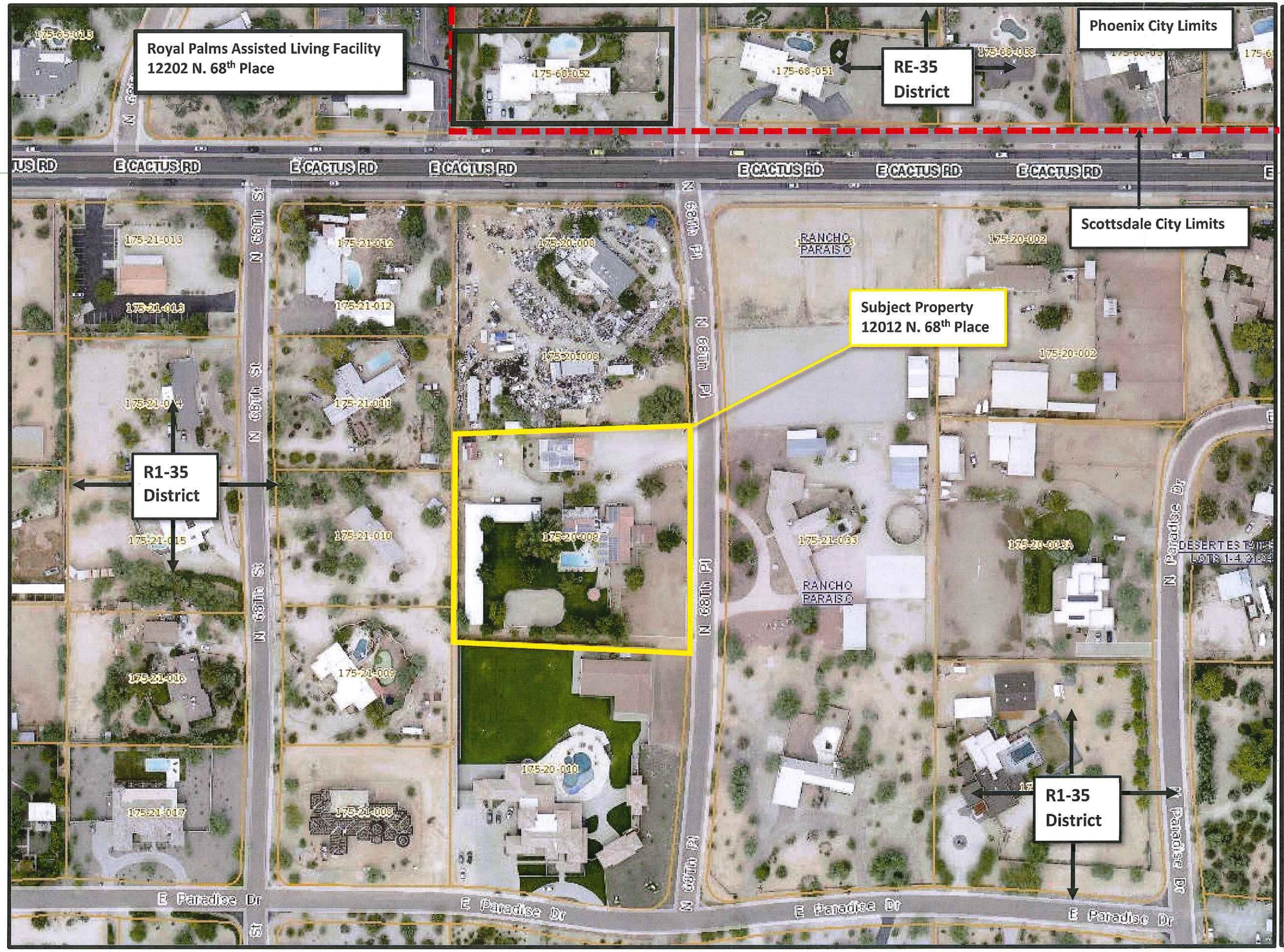
Attachments

[123] *See* Declaration of Emergency signed by Governor Douglas A. Ducey on June 5, 2017, attached hereto as **Exhibit "5".**

CONTENTS

TABLE OF EXHIBITS SUBMITTED WITH SUPPLEMENTAL NARRATIVE
ON BEHALF OF CL HOLDINGS 68TH PLACE, LLC
BOARD OF ADJUSTMENT CASE NOS. 1-BA-2018, 3-BA-2018 AND 4-BA-2018
April 18, 2018

EXHIBIT NO.	EXHIBIT DESCRIPTION
1	Context Aerial Photo
2	Scottsdale Resolution 10963
3	Scottsdale Ordinance 4362
4	List of Care Homes and Care Home Map produced by City of Scottsdale
5	*Governor's Declaration of Emergency Declaring Opioid Epidemic*
6	Existing Conditions Photographs
7	Arizona Department of Health Services Residential List for Scottsdale as of February 1, 2018
8	Demonstrative map of Care Homes produced by City of Scottsdale – version 1
9	Demonstrative map of Care Homes produced by City of Scottsdale – version 2
10	Letter of Support from Royal Palm Assisted Living Facility
11	Letters of Support from nearby property owners
12	Letters of Support from Assisted Living Facilities
13	Declaration of Michelle Siwek
14	Declaration of Chuck Jackson
15	Declaration of Daniel Lauber
16	Zoning Administrator Decision in Case 1-BA-2018
17	Scottsdale General Plan 2001 – Housing Element
18	Scottsdale Street Classification Map 2008
19	2016 Scottsdale Daily Traffic Segment Map
20	Scottsdale Zoning Maps
21	Lexis Nexis - Demonstrative Crime Maps
22	Desert Estates Subdivision Plat (CL Holdings)
23	Sunrise Shadows Subdivision Plat (Royal Palms)
24	Fire Sprinkler Plan
25	2003 and 2011 Site Plans
26	Aerial Photo of Shea Behavioral Health Residential Property
27	Joint Statement from HUD and Justice Department dated November 10, 2016
28	Valencia v City of Springfield, Illinois
29	Newspaper Article – Scottsdale Sober Living Homes
30	Broker Opinion Letter
31	Real Estate Agent Opinion Letter
32	Opposition Emails
33	Photos of Adjacent Property Creating Hardship



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

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 5th 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

16090331

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

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. ~~v~~Variances 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.

[Renumber 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.

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.

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 c*~~*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 means 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

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 c~~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~~ (~~10~~12) per residential lot.

c. *Location:* ~~An adult~~ care home shall not be located within ~~seven hundred fifty~~twelve hundred (~~750~~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. *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.

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.

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

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.

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 c~~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~~10~~) 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.

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

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.

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

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.

~~1~~2. Day care home.

~~2~~3. Dwelling unit(s), including Vacation rental or Short-term rental.

~~3~~4. 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.

~~4~~5. Temporary buildings for uses incidental to construction work to be removed upon completion or abandonment of construction work.

~~5~~6. Model dwelling units.

~~6~~7. 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.*

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.

~~5~~7. Churches and places of worship.

~~6~~8. 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.

~~5~~6. Wireless communications facilities, Types 1, 2 and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

~~6~~7. Churches and places of worship.

~~7~~8. 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.

~~2~~3. Day-care home.

~~3~~4. Dwelling, single-family detached or attached, including Vacation rental or Short-term rental.

~~4~~5. Dwelling, multiple family.

~~5~~6. Municipal uses.

~~6~~7. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

~~7~~8. School: Public and charter, elementary and high.

~~8~~9. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of construction work.

~~9~~10. Temporary sales office buildings and model homes.

~~10~~11. 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.

~~5~~4. Golf course, regulation or par-three, that is incidental to and located within the development.

~~6. Orphanage.~~

~~7~~5. 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

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

~~8~~6. Private club~~, fraternity, sorority and lodges~~.

~~9~~7. Private lake, semi-public lake, tennis courts.

~~10~~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, 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

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.

~~11~~9. Public buildings other than hospitals.

10~~2~~. Public utility buildings, structures or appurtenances thereto for public service uses.

11~~3~~. Recreational uses.

124. Residential health care facility.

13~~5~~. Travel accommodation.

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

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 5th 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

1490876

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

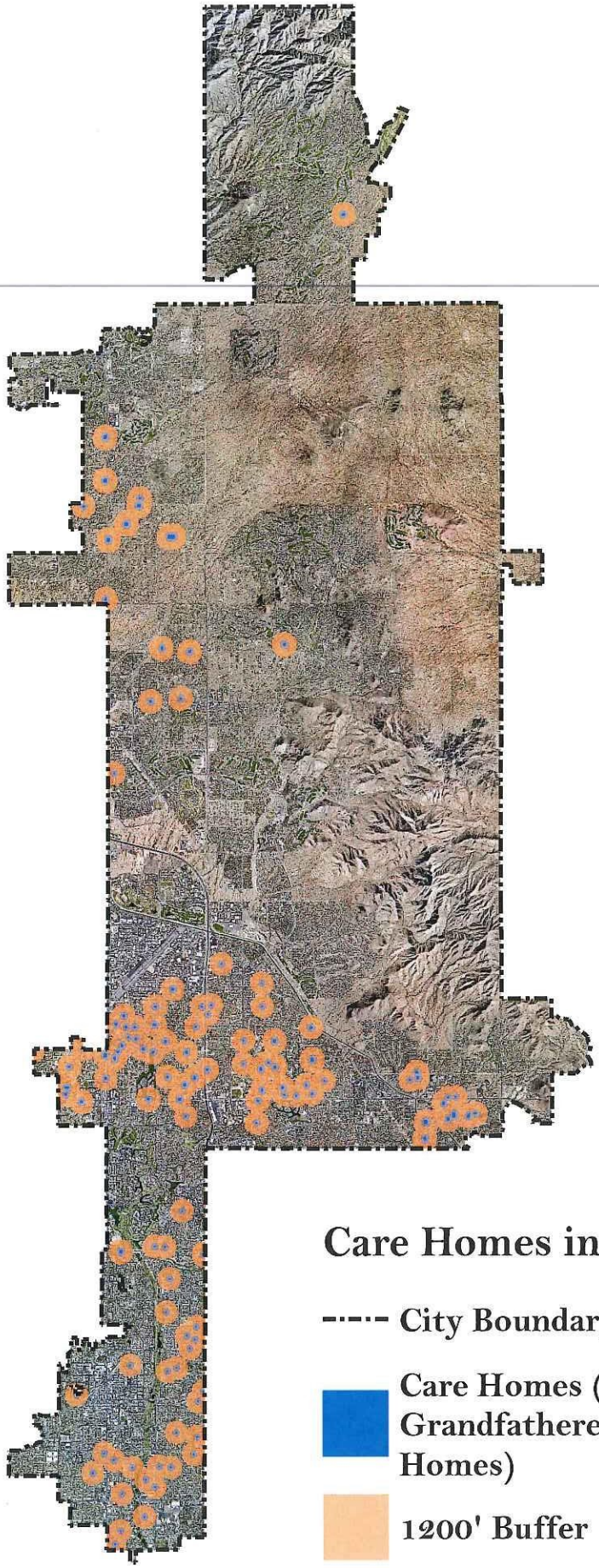
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1	apn	qs_num	site address	license	name	city	state	zip_code	phone	fax_email	capacity	case status	cds_case	state licensing	status	Business_F
2	173-02-266	20-47	8108 EAST MONTEBELLO AVENUE	AL1920H	COZY VILLA	SCOTTSDALE	AZ	85250	480-483-2150	(480) 368-5531	3	APPROVED	NA	LICENSED	LEGACY APPROVED	
3	173-27-128	19-48	5132 NORTH 86TH PLACE	AL7139H	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) 854-4486	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) 607-9723	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	AL8059H	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	SCOTTDSALE	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	AL9681H	HORIZON MANOR I	SCOTTSDALE	AZ	85260	480-295-6786	(408) 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	iulana@carefreealh.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	lcmatis@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	602-904-0404	arnold.braasch@gmail.com	10	APPROVED	3-AC-2015	LICENSED	LEGACY APPROVED	
70	173-55-239	17-48	4235 NORTH 87TH PLACE	AL10145H	87TH PLACE ASSISTED LIVING	SCOTTSDALE	AZ	85251	480-766-2973	jjakecrawford@aol.com	10	APPROVED	12-AC-2016	LICENSED	LEGACY APPROVED	
71	217-26-006X	30-51	9626 EAST KALIL DRIVE	UNK	9626 E KALIL	SCOTTSDALE	AZ	85260	602-741-1549	hjohnston3@cox.net	10	APPROVED	13-AC-2016	UNLICENSED	LEGACY PENDING LICENSE	
72	217-26-108	29-51	9660 EAST CLINTON AVENUE	AL10527H	PEAK CARE ASSISTED LIVING SCOTTSDALE LIFE II HOME	SCOTTSDALE	AZ	85260	800-906-1030 x101	rocky@peakcareliving.com	0	APPROVED	15-AC-2016	LICENSED	LEGACY APPROVED	
73	129-01-095	14-44	2801 NORTH 71ST PLACE	UNK	OLD TOWN SCOTTSDALE ASSISTED LIVING	SCOTTSDALE	AZ	85257	714-420-1793	cjpederson4@centurylink.net	10	APPROVED	18-AC-2016	UNLICENSED	LEGACY PENDING LICENSE	
74	175-10-169	31-46	12558 NORTH 76TH STREET	UNK	ADULT CARE HOME	SCOTTSDALE	AZ	85260	602-527-6400	debli114@gmail.com	10	APPROVED	19-AC-2016	UNLICENSED	LEGACY PENDING LICENSE	
75	217-27-040B	30-53	10510 EAST SUNNYSIDE DRIVE	UNK	PERMIT 227655	SCOTTSDALE	AZ	85259	480-261-7385	smena98754@aol.com	10	APPROVED	21-AC-2016	UNLICENSED	LEGACY PENDING LICENSE	
76	217-03-182	47-52	10111 EAST SADDLE HORN TRAIL	UNK	NORTH SCOTTSDALE ASSISTED LIVING	SCOTTSDALE	AZ	85255	949-483-1808	chandlerjcall@gmail.com	10	APPROVED	22-AC-2016	UNLICENSED	LEGACY PENDING LICENSE	
77	217-32-145	27-57	9221 N 123RD STREET	AL10349	LA HACIENDA	SCOTTSDALE	AZ	85259	480-634-0059	richarderns1@gmail.com	0	APPROVED	23-AC-2016	LICENSED	LEGACY APPROVED	
78	175-36-002F	29-44	7150 E GARY ROAD	AL10267	BETTER LIVING CARE HOMES SCOTTSDALE	SCOTTSDALE	AZ	85254	604-767-6383	info@betterlivingcarehomes.org	0	APPROVED	2-AC-2017	LICENSED	LEGACY APPROVED	
79	173-69-055	19-48	8501 EAST PLAZA AVENUE	AL10529H	THE PLAZA ASSISTED LIVING	SCOTTSDALE	AZ	85250	714-420-1793	cjpederson4@centurylink.net	10	APPROVED	3-AC-2017	LICENSED	LEGACY APPROVED	
80	131-41-045	14-48	8608 E ROANOKE AVENUE	UNK	ROANOKE ADULT CARE HOME	SCOTTSDALE	AZ	85257	602-615-1527	sam.southwest@gmail.com	10	APPROVED	4-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
81	217-23-003A	31-51	9970 E CHARTER OAK RD	UNK	BETTERMENT HOUSE	SCOTTSDALE	AZ	85260	480-612-0296	faith@carlavista.com	10	APPROVED	5-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
82	217-26-304	29-52	10720 N 101ST STREET	UNK	GROZAV	SCOTTSDALE	AZ	85260	951-892-9328	bgrozav@gmail.com	10	APPROVED	6-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	

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
83	217-25-476	30-50	9405 EAST POINSETTIA DRIVE	UNK	POINSETTIA	SCOTTSDALE	AZ	85260	602-615-1527	sam.southwest@gmail.com	0	APPROVED	7-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
84	131-10-036	13-46	7807 EAST CYPRESS STREET	UNK	ELIZABETH BUER ASSISTED LIVING	SCOTTSDALE	AZ	85257	602-618-5695	elizabeth.goodman@aps.com	0	APPROVED	8-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
85	216-68-348	52-44	6828 EAST DUANE LANE	UNK	ASSISTED LIVING PROJECT	SCOTTSDALE	AZ	85266	602-679-1456	ocstudio@live.com	10	APPROVED	9-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
86	212-10-045	49-44	26639 NORTH 71ST PLACE	UNK	NORTH SCOTTSDALE ASSISTED LIVING HOME	SCOTTSDALE	AZ	85266	480-221-2948	support@northscottsdaleseniorliving.org	10	APPROVED	10-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
87	217-35-160	28-51	9815 NORTH 98TH PLACE	AL10022	BLUE LAKES ASSISTED LIVING LLC	SCOTTSDALE	AZ	85258	602-686-9619	(480) 404-9158	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
88	217-39-012B	29-57	12224 EAST SHANGRI LA ROAD	BH5034	SERENITY CARE CENTER, LLC	SCOTTSDALE	AZ	85259	602-510-0295	(480) 718-8839	6	APPROVED	NA	LICENSED	LEGACY APPROVED	
89	217-32-071F	28-58	12749 EAST TURQUOISE AVENUE	BH4989	SERENITY CARE CENTER LLC	SCOTTSDALE	AZ	85250	602-510-0295	(480) 718-8839	6	APPROVED	NA	LICENSED	LEGACY APPROVED	
90	131-22-474	14-46	7626 EAST SHERIDAN	BH616	SOUTHWEST BEHAVIORAL HEALTH SERVICES, INC	SCOTTSDALE	AZ	85257	602-285-4318	(602) 265-8533	5	APPROVED	NA	LICENSED	LEGACY APPROVED	
91	175-10-067	31-46	7585 EAST SWEETWATER AVENUE	UNK	GABRIEL GROZAV CARE HOME	SCOTTSDALE	AZ	85260	951-565-0172	ggrozav2@gmail.com	10	APPROVED	11-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
92	175-39-011	29-43	6530 EAST CLINTON STREET	AL6884H	ASSISTED LIVING	SCOTTSDALE	AZ		480-682-8974		0	APPROVED	16-AC-2017	LICENSED	LEGACY APPROVED	
93	131-29-062	14-45	7308 EAST VIRGINIA AVENUE	UNK	SERENE VALLEY	SCOTTSDALE	AZ		650-580-7035	alhinfo@yahoo.com	10	APPROVED	17-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
94	215-54-052	33-47	14025 NORTH 82ND PLACE	UNK	14025 N 82nd Place	SCOTTSDALE	AZ		773-350-0460	albenabah@gmail.com	10	APPROVED	14-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
95	131-21-051	13-45	1721 NORTH 74TH PLACE	UNK	1721 N 74th Pl - Care Home	SCOTTSDALE	AZ		480-252-9122	michaelgreenland1@gmail.com	5	APPROVED	15-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
96	131-10-119	13-46	7935 EAST PALM LANE	UNK	PALM LANE ASSISTED LIVING	SCOTTSDALE	AZ	85257	650-580-7035	alhinfo@yahoo.com	10	APPROVED	18-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
97	175-66-007	32-46	7924 EAST SWEETWATER AVENUE	UNK	CARE HOME	SCOTTSDALE	AZ	85260	602-790-8100	(623) 780-0786	10	APPROVED	19-AC-2017	UNLICENSED	LEGACY PENDING LICENSE	
98	216-66-201	53-46	29914 NORTH 78TH STREET	AL5726H	DIXILETA ADULT CARE HOME II	SCOTTSDALE	AZ	85262	480-577-0174	(480) 393-3096	8	APPROVED	NA	LICENSED	LEGACY APPROVED	
99	174-12-058	21-47	6401 NORTH 82ND STREET	AL7904H	SUNRISE HOME FACILITY I INC	SCOTTSDALE	AZ	85250	480-367-9117	(480) 922-3520	10	APPROVED	NA	LICENSED	LEGACY APPROVED	
100	174-69-008	22-48	8736 EAST JOSHUA TREE LANE	AL1529H	CALINI'S ADULT CARE HOME	SCOTTSDALE	AZ	85250	480-242-8742	(480) 607-7365	10	APPROVED	NA	LICENSED	LEGACY APPROVED	0922565
101	217-26-323	29-52	10250 EAST BECKER LANE	AL5413H	NORTH SCOTTSDALE GARDENS ASSISTED LIVING HOME	SCOTTSDALE	AZ	85260	80-657-9385	(480) 219-8763	10	APPROVED	NA	LICENSED	LEGACY APPROVED	0938313
102	217-27-374	29-53	10710 EAST MESCAL STREET	AL6365H	TRINITY HOME OF SCOTTSDALE, LLC	SCOTTSDALE	AZ	85259	480-451-0741	(480) 451-0742	8	APPROVED	NA	LICENSED	LEGACY APPROVED	1012015
103	217-41-295	32-49	13330 NORTH 88TH PLACE	AL4870H	SIERRA'S ASSISTED LIVING, THE	SCOTTSDALE	AZ	85260	602-622-1667	(480) 614-1382	10	APPROVED	NA	LICENSED	LEGACY APPROVED	0921210
104	217-29-518	29-58	12705 EAST SAHUARO DRIVE	AL6348H	EAST SHEA ASSISTED LIVING	SCOTTSDALE	AZ	85259	480-621-8423	(480) 621-8356	10	APPROVED	NA	LICENSED	LEGACY APPROVED	1055529
105	216-50-121A	55-44	32100 NORTH SCOTTSDALE ROAD	AL7079H	UPON THE ROCK ASSISTED LIVING	SCOTTSDALE	AZ	85262	480-221-1140	(480) 595-5492	10	APPROVED	NA	LICENSED	LEGACY APPROVED	1075034
106	217-15-809	34-49	9043 EAST HILLERY DRIVE	AL8821H	RAINTREE ASSISTED LIVING LLC	SCOTTSDALE	AZ	85260	602-487-7951	(888) 213-8186	6	APPROVED	2-AC-2012	LICENSED	LEGACY APPROVED	1091813
107	173-61-086C	18-47	8319 EAST HAZELWOOD	AL9841H	HAZELWOOD MANOR ASSISTED LIVING HOME	SCOTTSDALE	AZ	85251	480-656-0614	(480) 656-0654	10	APPROVED	10-AC-2008	LICENSED	LEGACY APPROVED	1119027
108	217-26-230	30-51	9823 EAST JENAN DRIVE	AL8593H	ARIZONA ROYAL CARE HOME, LLC	SCOTTSDALE	AZ	85260	602-264-2668	(480) 264-2668	10	APPROVED	5-AC-2009	LICENSED	LEGACY APPROVED	1094203
109	217-26-245	29-52	10031 EAST DESERT COVE AVENUE	AL8828H	RETREAT AT DESERT COVE, THE	SCOTTSDALE	AZ	85260	602-214-4005	(602) 443-8005	10	APPROVED	4-AC-2010	LICENSED	LEGACY APPROVED	1083847
110	175-30-081	29-47	10610 NORTH 84TH STREET	AL9084H	CALINIS ALOS II	SCOTTSDALE	AZ	85260	480-219-8554		5	APPROVED	3-AC-2013	LICENSED	LEGACY APPROVED	1100466
111	175-03-053	32-46	13452 NORTH HAYDEN ROAD	AL9203H	SUNRISE CARE HOME-HAYDEN	SCOTTSDALE	AZ	85260	480-703-6644		10	APPROVED	5-AC-2013	LICENSED	LEGACY APPROVED	1095070
112	130-41-208	16-48	8704 EAST AMELIA AVENUE	AL9480H	SERENE VALLEY ALH	SCOTTSDALE	AZ	85251	480-248-5548		10	APPROVED	4-AC-2014	LICENSED	LEGACY APPROVED	1108891
113	219-11-223	64-54	39022 NORTH FERNWOOD LANE	BH5061	SERENITY CARE CENTER, LLC	SCOTTSDALE	AZ	85262	561-722-8055	erousseau@treatmentllc.com	0	APPROVED	14-AC-2016	LICENSED	LEGACY APPROVED	1132082
114	216-70-001J	51-47	28760 NORTH 83RD STREET	BH5353	83RD GROUP HOME	SCOTTSDALE	AZ	85266	772-266-7682	erousseau@treatmentllc.com	0	APPROVED	13-AC-2017	LICENSED	LEGACY APPROVED	
115	217-32-033J	28-57	10250 NORTH 124TH STREET		10250 N 124TH ST CARE HOME	SCOTTSDALE	AZ	85259	(623) 252-6483	amit2222@gmail.com	10	APPROVED	1-AC-2018	UNLICENSED	LEGACY PENDING LICENSE	
116	217-33-034J	28-55	11345 EAST BERYL AVENUE		11345 E BERYL CARE HOME	SCOTTSDALE	AZ	85259	623-252-6483	amit2222@gmail.com	10	APPROVED	2-AC-2018	UNLICENSED	NEW PENDING LICENSE	

Spreadsheet of Care Homes Located Outside City of Scottsdale's Jurisdiction 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
1	**apn**	**qs_num**	**site address**	**license**	**name**	**city**	**state**	**zip_code**	**phone**	**fax_email**	**capacity**	**case_status**	**cds_case**	**state licensing**	**status**
2	167-79-122	31-41	5937 EAST CACTUS ROAD	AL8066H	AGAVE MANOR	SCOTTSDALE	AZ	85254	602-373-9933	(480) 368-9777	10	APPROVED	NA	LICENSED	LEGACY APPROVED
3	175-68-052	31-44	12202 NORTH 68TH PLACE	AL5847H	ROYAL PALM ASSISTED LIVING	SCOTTSDALE	AZ	85254	480-609-7006	(480) 483-4659	10	APPROVED	NA	LICENSED	LEGACY APPROVED
4	173-47-023C	17-43	6646 EAST MONTEROSA	AL9186H	CONSTANT CARE ASSISTED LIVING OF ARCADIA	SCOTTSDALE	AZ	85251	602-803-5642	(602) 358-7512	10	APPROVED	6-AC-2013	LICENSED	LEGACY APPROVED



Care Homes in Scottsdale

City Boundary

Care Homes (Currently All Grandfathered Approved Homes)

1200' Buffer

Last Updated 1/3/2018

DECLARATION OF EMERGENCY
and **NOTIFICATION OF ENHANCED SURVEILLANCE ADVISORY**
Opioid Overdose Epidemic

WHEREAS, the Arizona Department of Health Services has confirmed 790 deaths due to opioids in Arizona in 2016, which equates to an average of more than two Arizonans per day; and

WHEREAS, the Arizona Department of Health Services has confirmed that the number of opioid deaths has increased 74% from 2012-2016, with 2016 showing Arizona's highest number of deaths; and

WHEREAS, opioids are powerful pain killers that are highly addictive; and

WHEREAS, of the 1,497 drug overdose deaths in 2016, 52.7% noted opioids as a primary cause of death; and

WHEREAS, these deaths as a result of overdose are preventable; and

WHEREAS, the opioid overdose epidemic affects all Arizonans; and

WHEREAS, in Arizona, law enforcement and first responders have the authority to carry and administer the life saving drug Naloxone; and

WHEREAS, the Arizona Department of Health Services requires more robust and more accurate data to successfully combat the opioid overdose epidemic; and

WHEREAS, the Governor and the Director of the Arizona Department of Health Services have reasonable cause to believe that disease, illness, and health conditions, including death, are being caused by the opioid overdose epidemic; and

WHEREAS, it is necessary and appropriate to take action to ensure that the residents of Arizona remain safe and healthy; and

WHEREAS, the Governor is authorized to declare an emergency pursuant to A.R.S. § 26-303(D).

NOW, THEREFORE I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and Laws of the State, do hereby determine that the opioid overdose epidemic present in Arizona justifies a declaration of a State of Emergency and issuance of an Enhanced Surveillance Advisory, pursuant to A.R.S. §§ 26-303(D), 36-782, and 36-787, and I do hereby:

a. Declare that a State of Emergency exists in Arizona due to the Opioid Overdose Epidemic, effective June 5, 2017; and

b. Direct that the State of Arizona Emergency Response and Recovery Plan be used to direct and control State and other assets, and authorize the Director of the Arizona Department of Emergency and Military Affairs to coordinate State assets; and

c. Authorize the Director of the Arizona Department of Health Services to coordinate all matters pertaining to the public health emergency response of the State in accordance with A.R.S. § 36-787(A)(2); and

d. Require the Director of the Arizona Department of Health Services to:

1) within seven days of this order, provide consultation to the Governor on identifying and recommending the necessary elements for an Enhanced Surveillance Advisory pursuant to A.R.S. § 36-782(B); and

2) initiate emergency rule making with the Arizona Attorney General's Office in order to develop rules for opioid prescribing and treatment within health care institutions pursuant to A.R.S. § 36-405; and

3) develop guidelines to educate healthcare providers on responsible prescribing practices; and

4) develop and provide training to local law enforcement agencies on proper protocols for carrying, handling, and administering Naloxone in overdose situations; and

5) provide a report on findings and recommendations, including additional needs and response activities, and preliminary recommendations that require legislative action to the Governor by September 5, 2017.

This Emergency Declaration will be eligible for termination upon my receipt and acceptance of the Arizona Department of Health Services' Opioid Overdose Epidemic Response Report.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

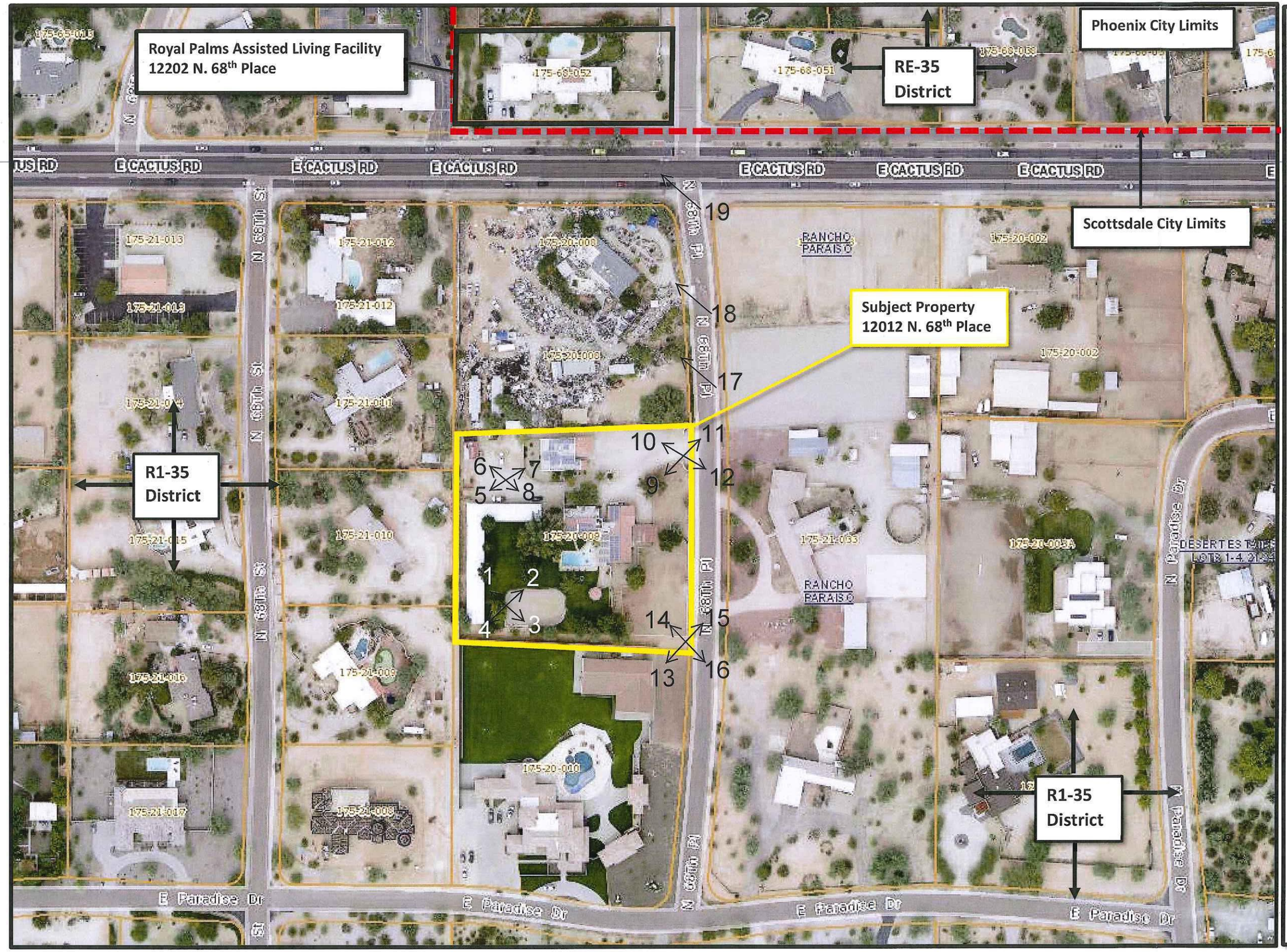
Douglas A. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this 5th day of June in the Year Two Thousand Seventeen and of the Independence of the United States of America the Two Hundred and Forty-first.

ATTEST: Michele Reagan

Secretary of State



CONTEXT AERIAL
03/29/2018

Property Owner:
CL Holdings 68th Place, LLC

Address: 12012 N. 68th Place

APN: 175-20-009

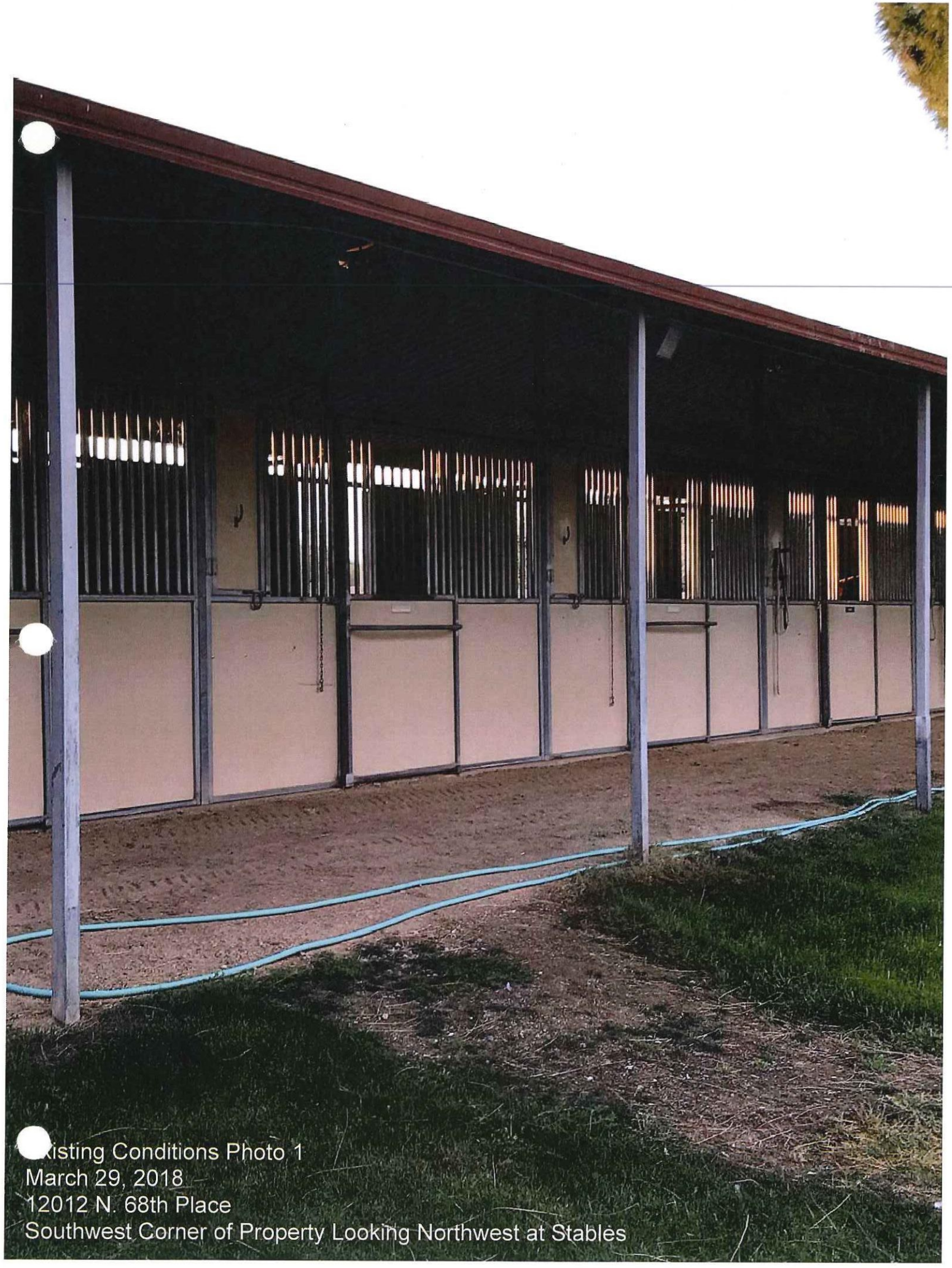
Net Parcel Area:
94,843 s.f.
2.18 acres

Zoning: R1-35 Single-Family Residential District

Proposed Use: Care Home (Behavioral Health Residential Facility)

Proposed Site Improvements:
- **No new buildings or structures proposed**

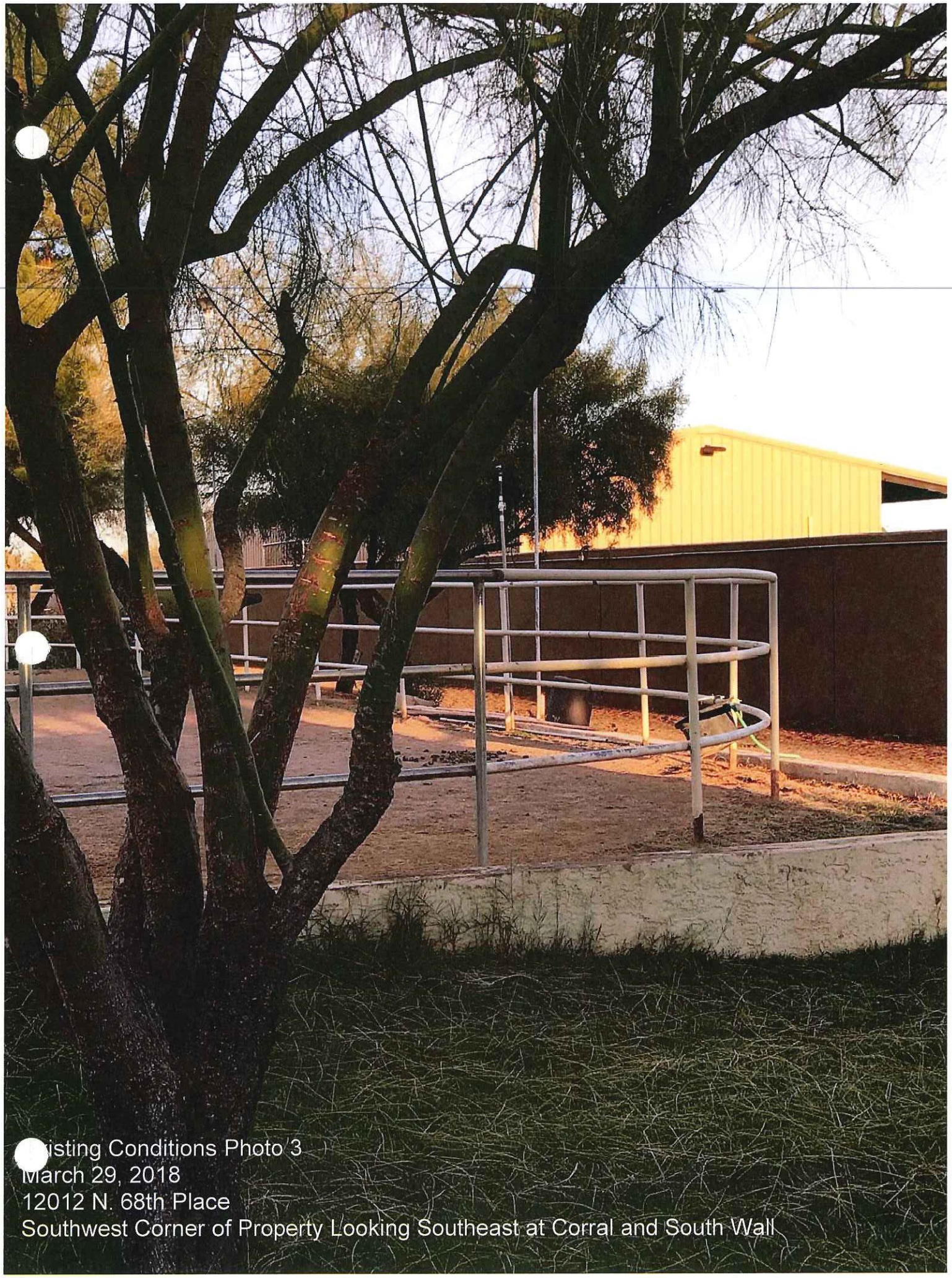
Source: Maricopa County Assessor's GIS Aerial Photograph 2017



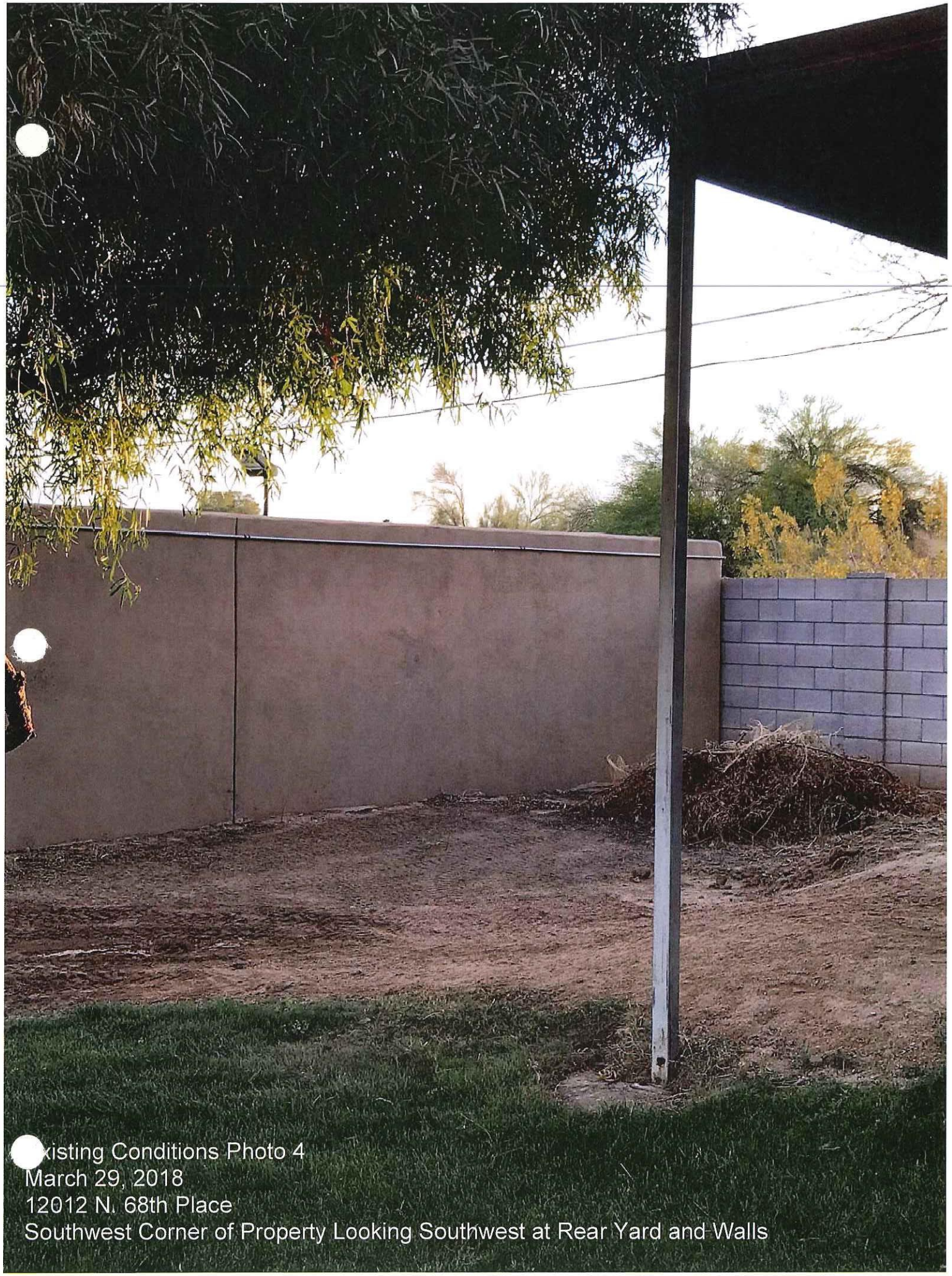
Existing Conditions Photo 1
March 29, 2018
12012 N. 68th Place
Southwest Corner of Property Looking Northwest at Stables



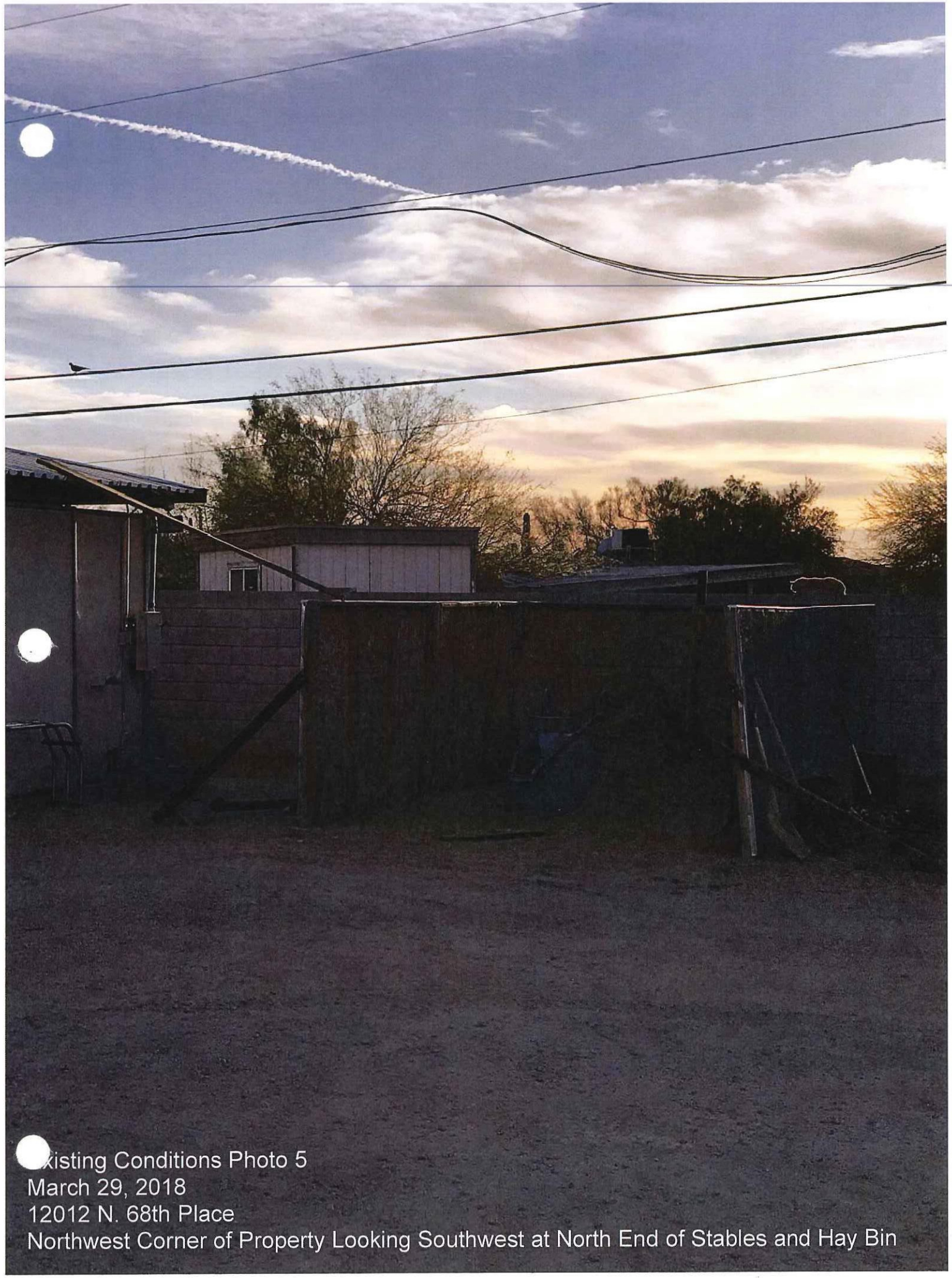
Existing Conditions Photo 2
March 29, 2018
12012 N. 68th Place
Southwest Corner of Property Looking Northeast at Rear Yard and Residence



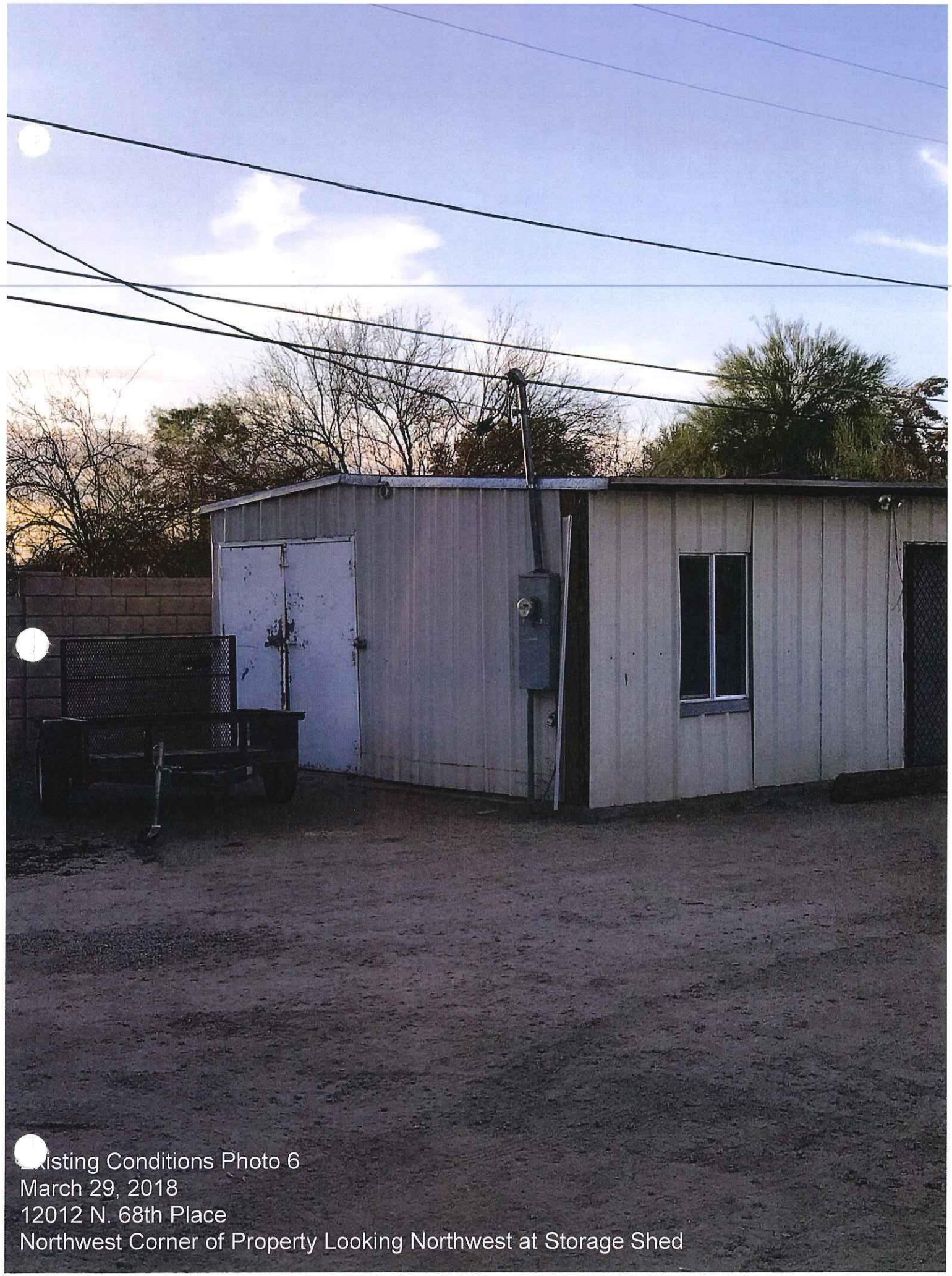
Existing Conditions Photo 3
March 29, 2018
12012 N. 68th Place
Southwest Corner of Property Looking Southeast at Corral and South Wall



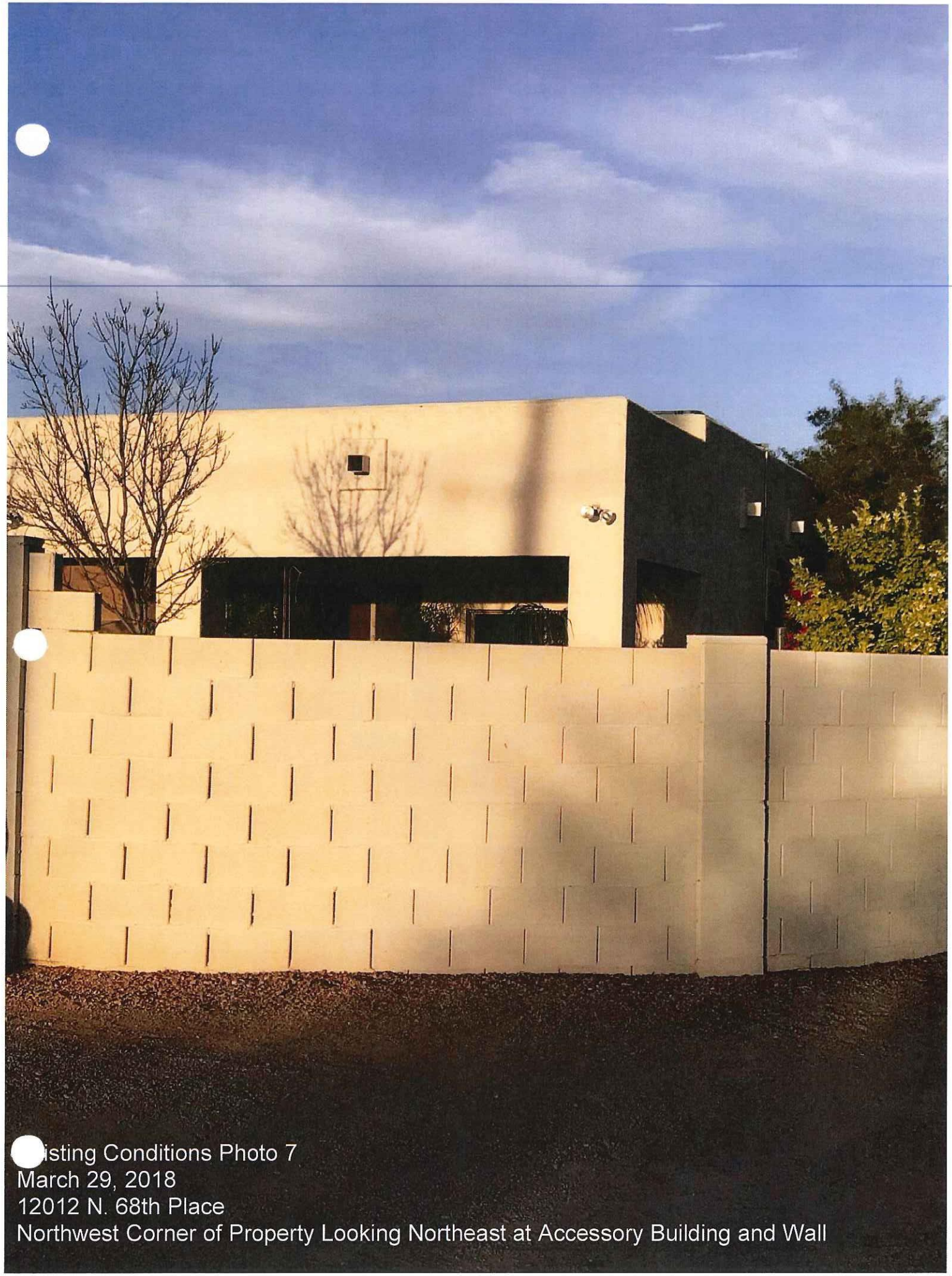
Existing Conditions Photo 4
March 29, 2018
12012 N. 68th Place
Southwest Corner of Property Looking Southwest at Rear Yard and Walls



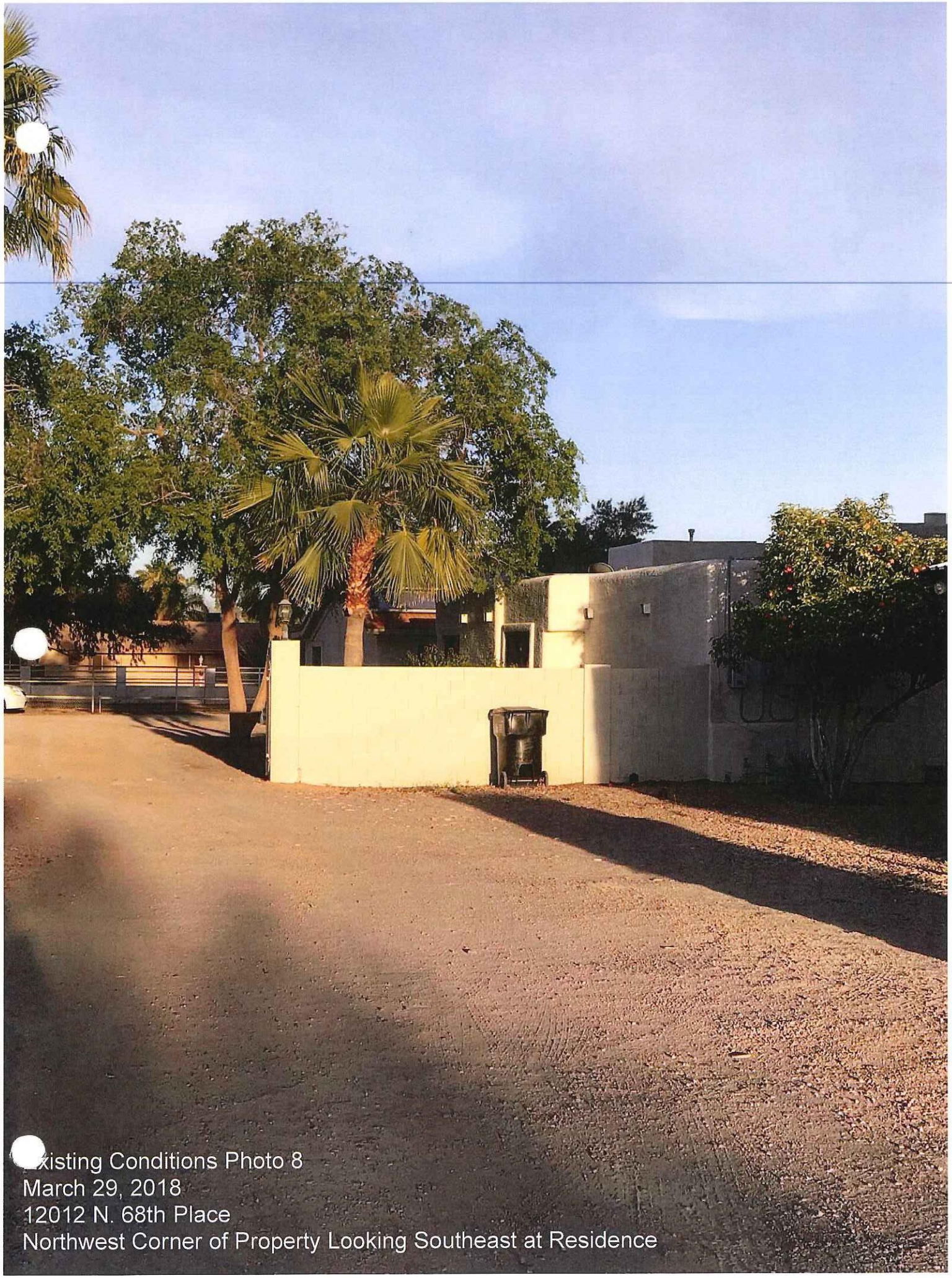
Existing Conditions Photo 5
March 29, 2018
12012 N. 68th Place
Northwest Corner of Property Looking Southwest at North End of Stables and Hay Bin



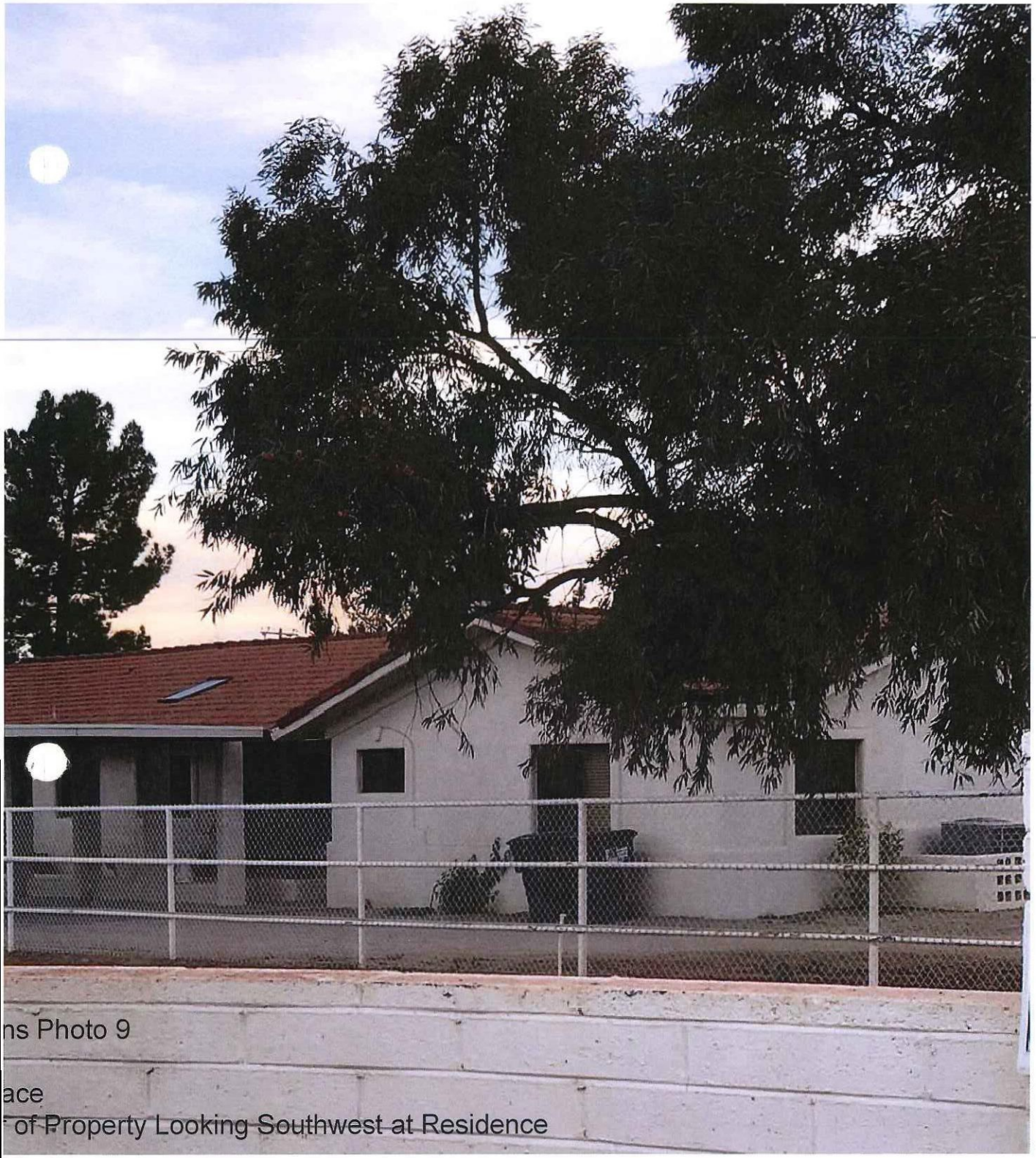
Existing Conditions Photo 6
March 29, 2018
12012 N. 68th Place
Northwest Corner of Property Looking Northwest at Storage Shed



Existing Conditions Photo 7
March 29, 2018
12012 N. 68th Place
Northwest Corner of Property Looking Northeast at Accessory Building and Wall

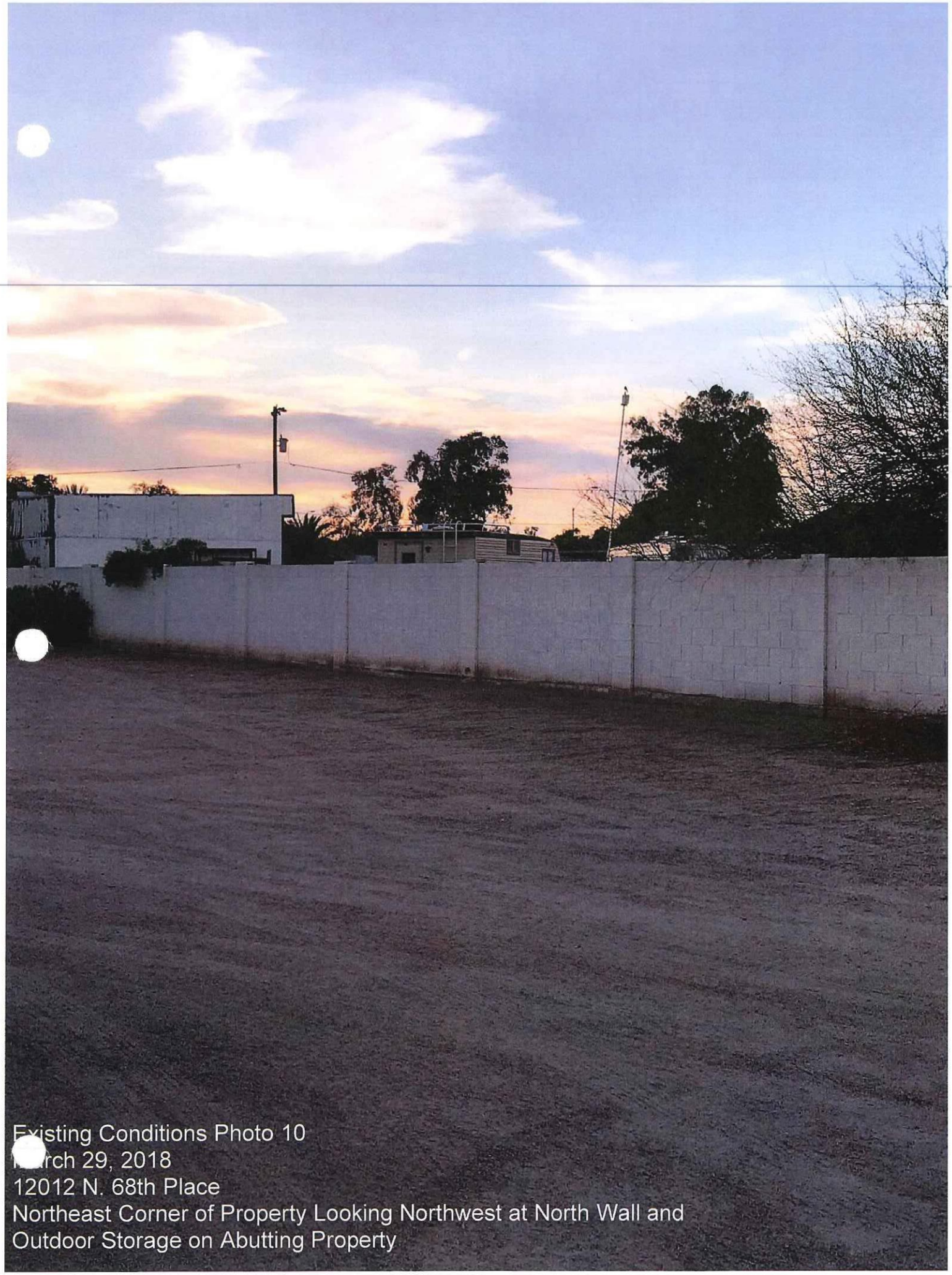


Existing Conditions Photo 8
March 29, 2018
12012 N. 68th Place
Northwest Corner of Property Looking Southeast at Residence

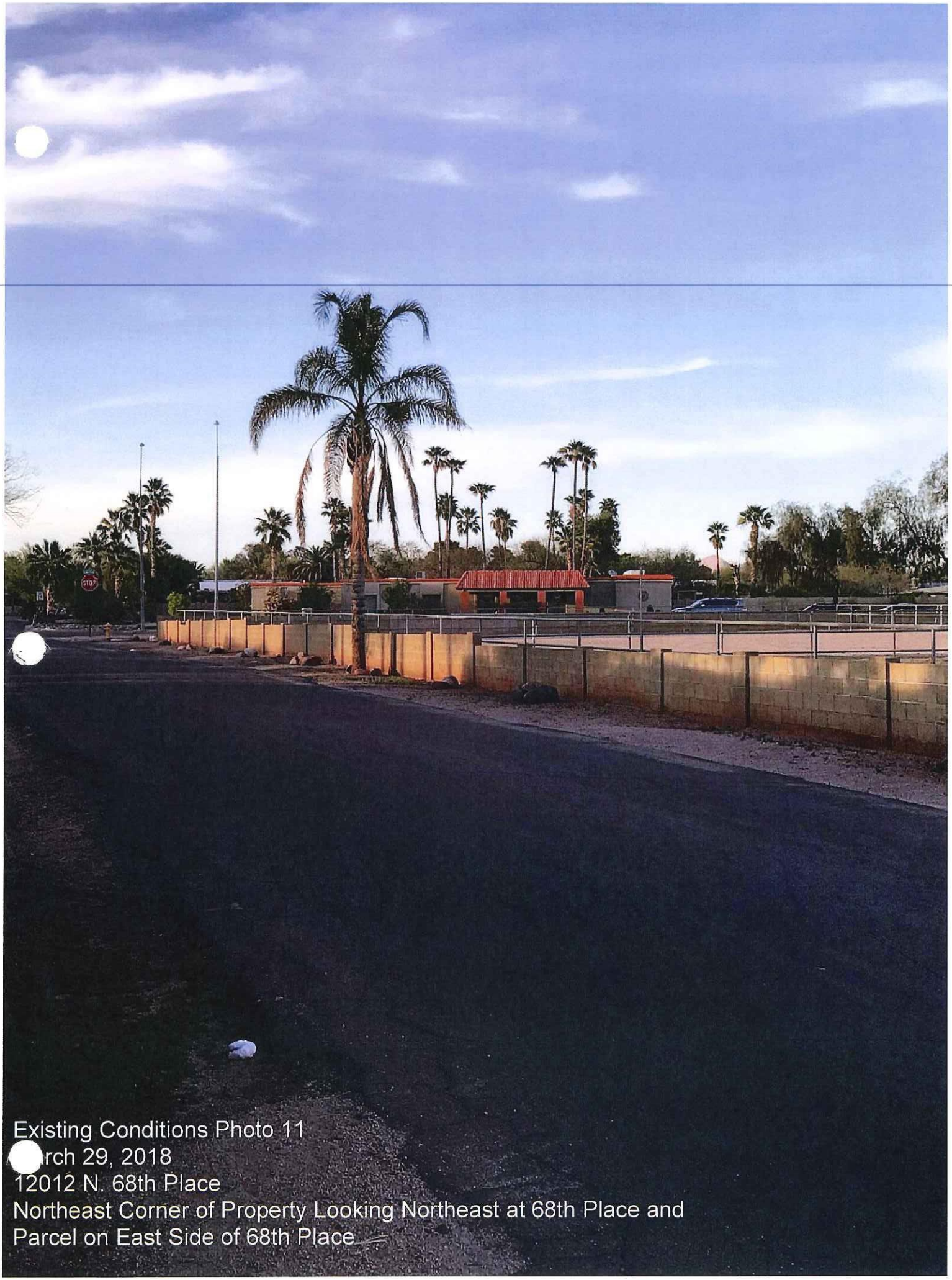


ns Photo 9

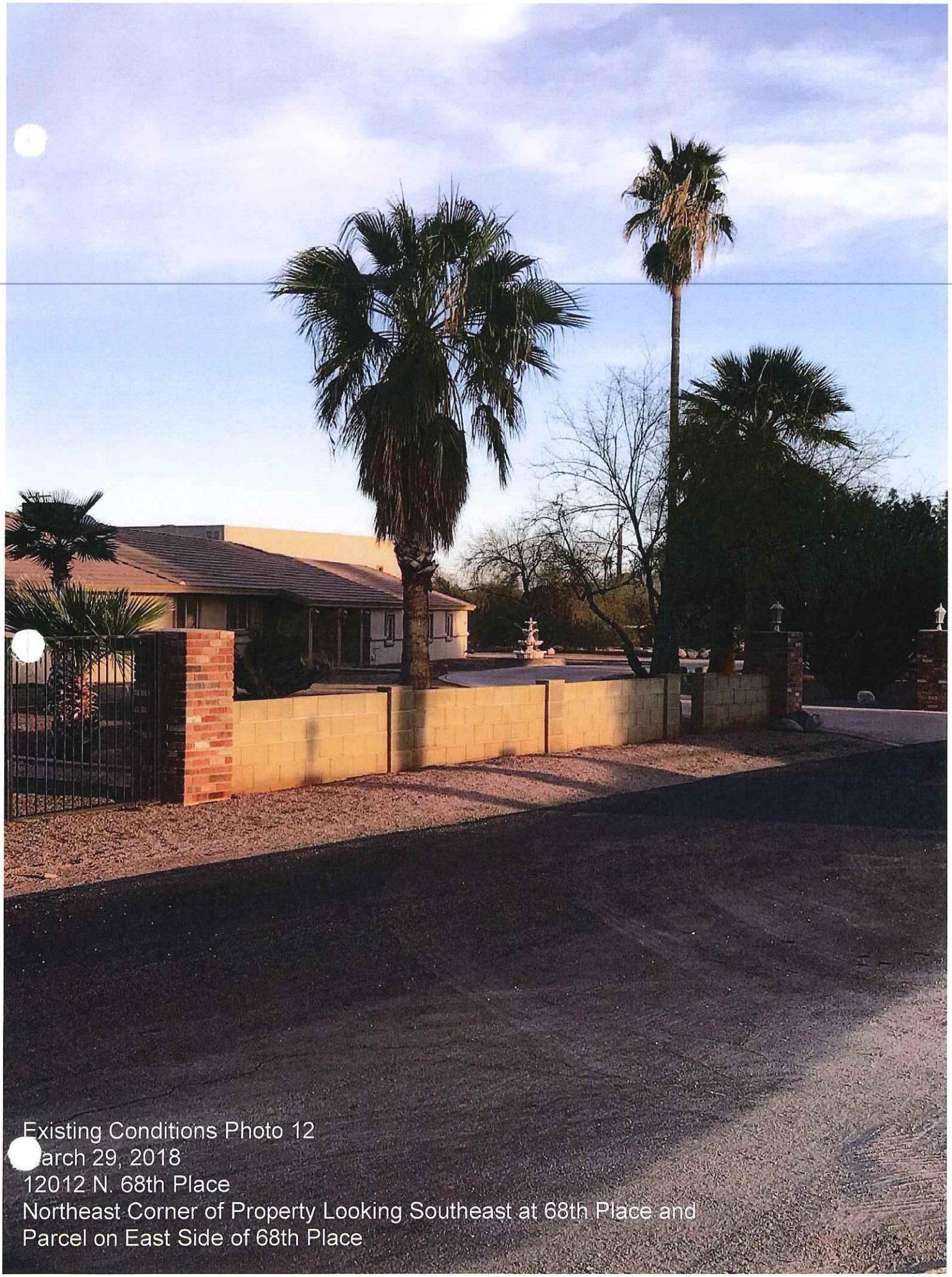
ace
of Property Looking Southwest at Residence



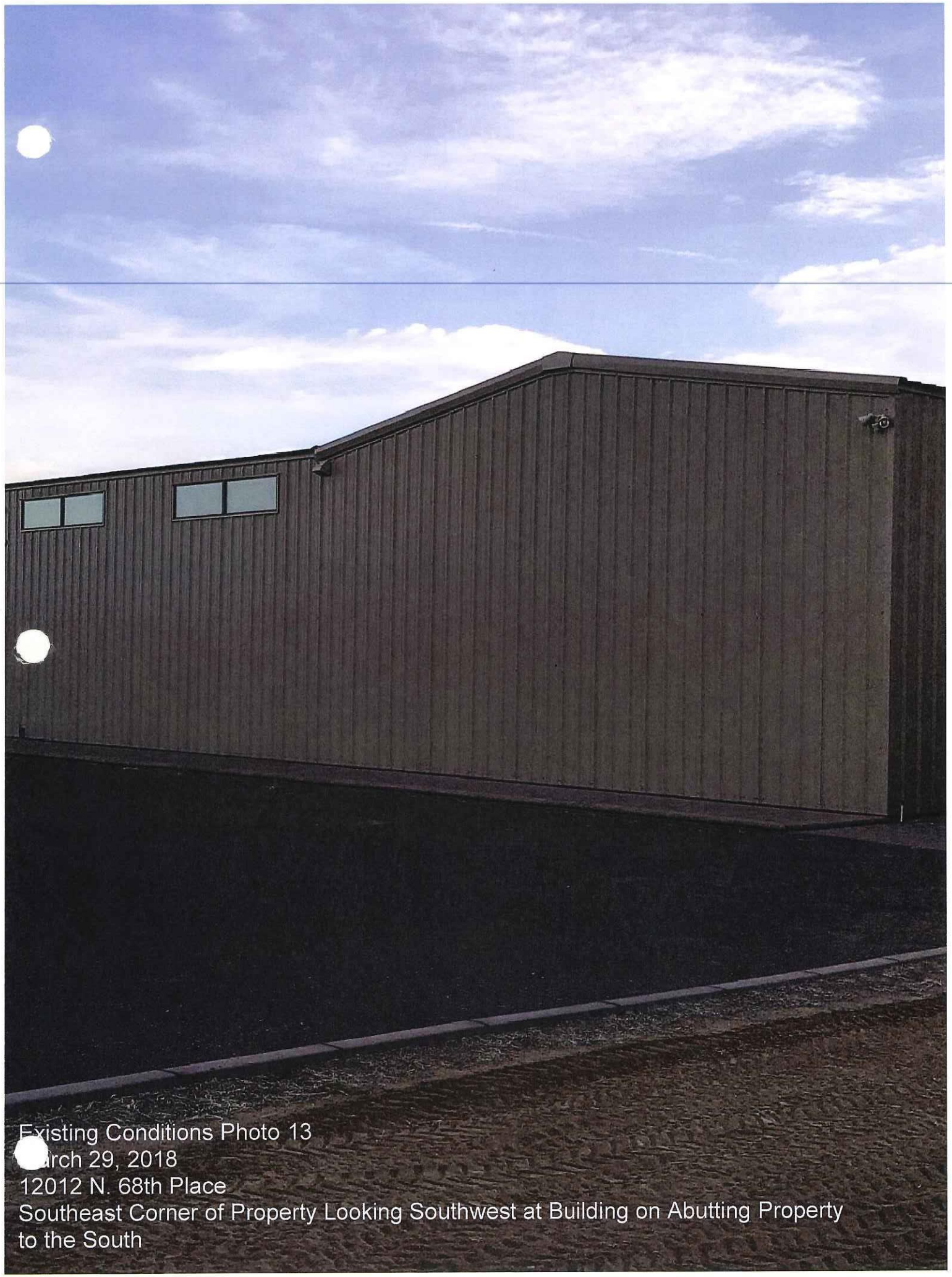
Existing Conditions Photo 10
March 29, 2018
12012 N. 68th Place
Northeast Corner of Property Looking Northwest at North Wall and Outdoor Storage on Abutting Property



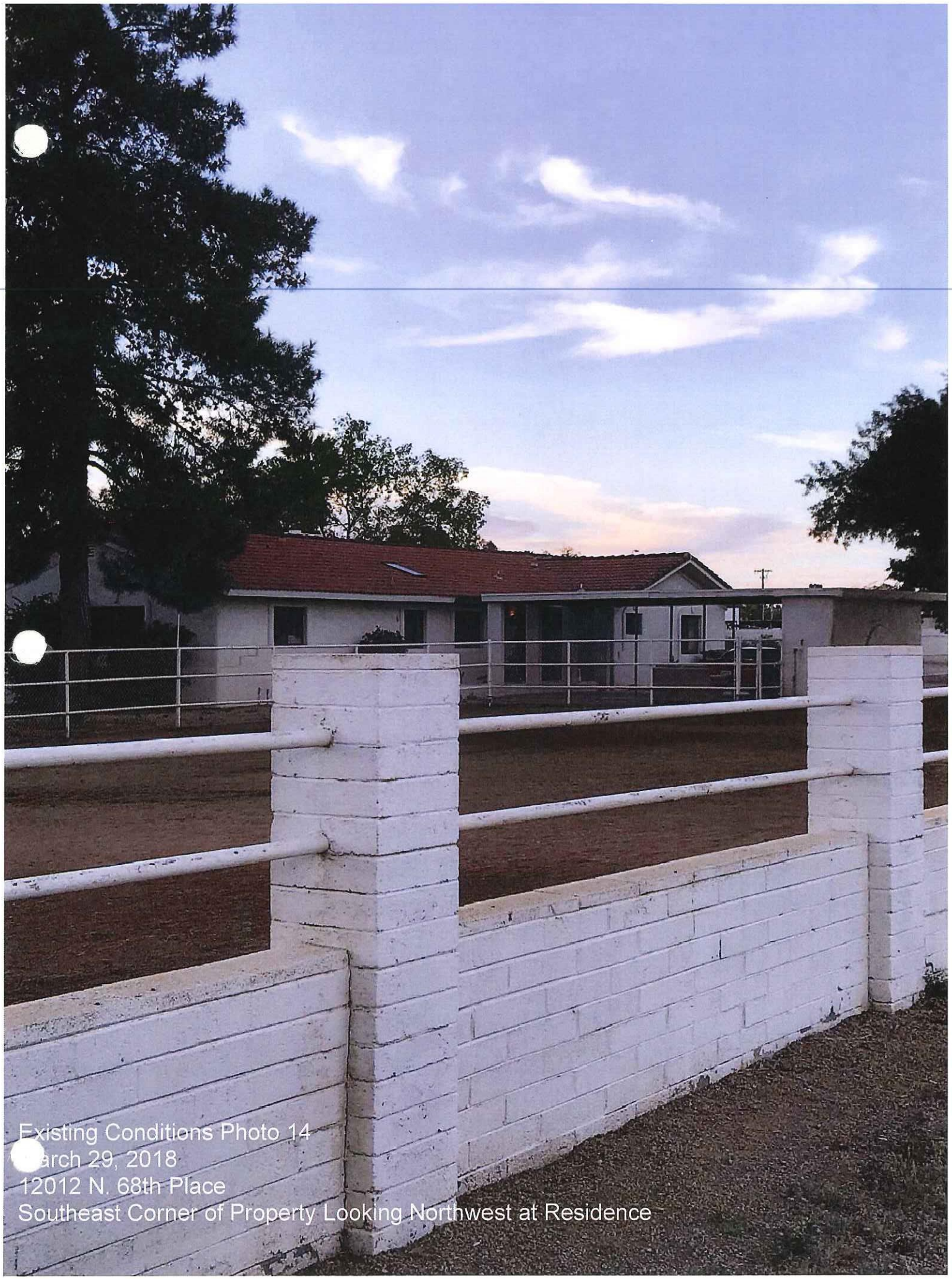
Existing Conditions Photo 11
March 29, 2018
12012 N. 68th Place
Northeast Corner of Property Looking Northeast at 68th Place and Parcel on East Side of 68th Place



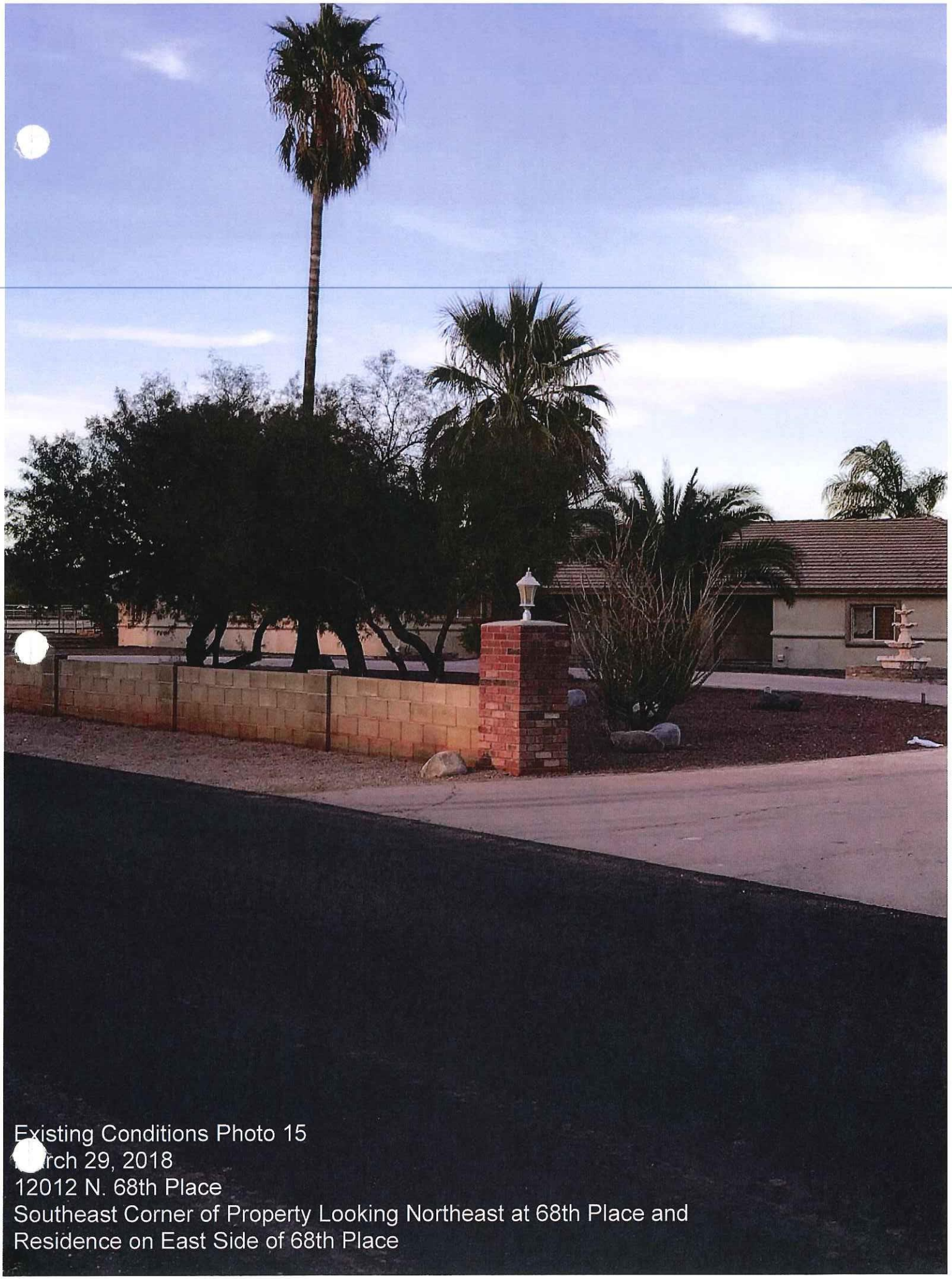
Existing Conditions Photo 12
arch 29, 2018
12012 N. 68th Place
Northeast Corner of Property Looking Southeast at 68th Place and
Parcel on East Side of 68th Place



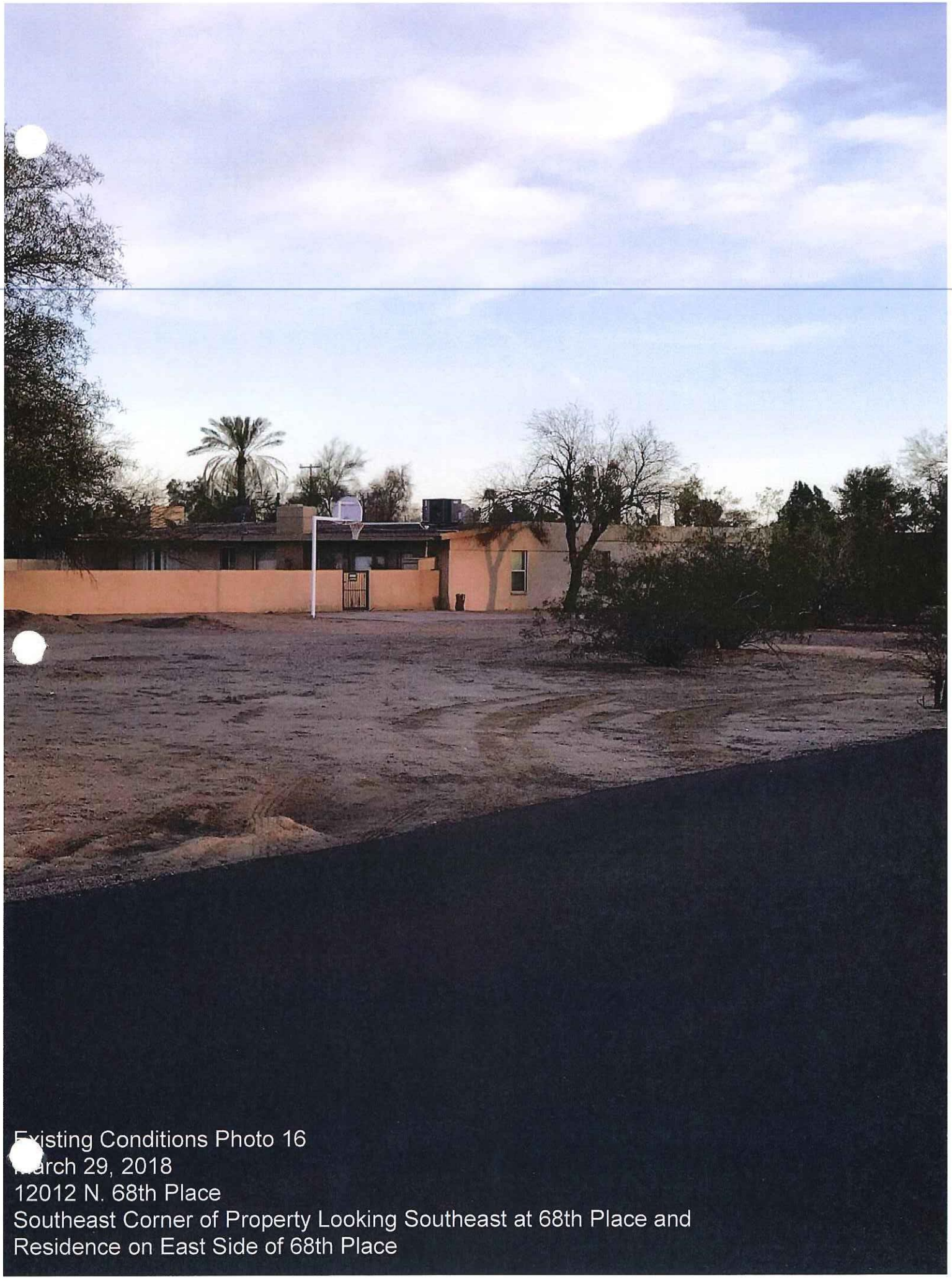
Existing Conditions Photo 13
March 29, 2018
12012 N. 68th Place
Southeast Corner of Property Looking Southwest at Building on Abutting Property to the South



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



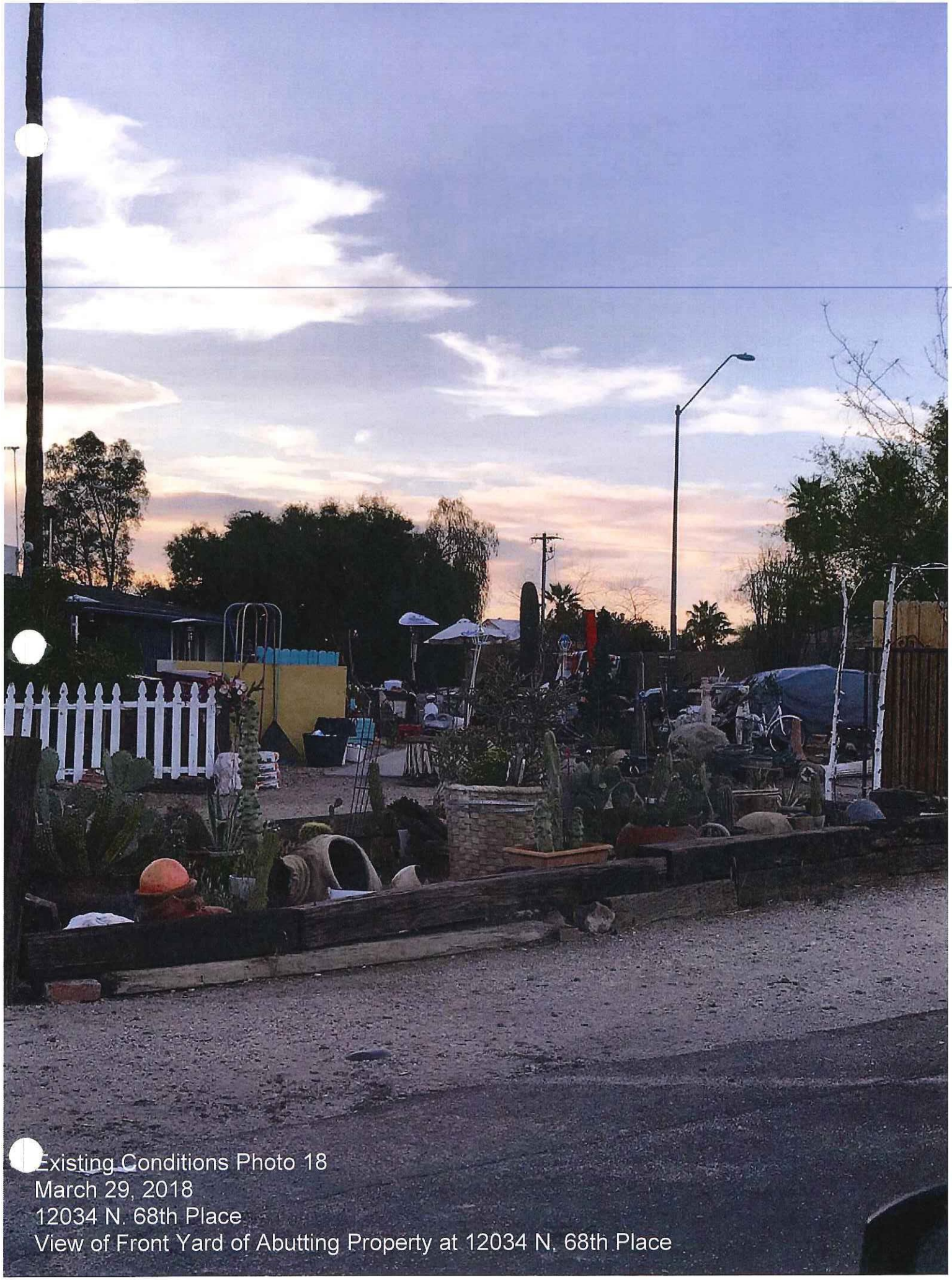
Existing Conditions Photo 15
March 29, 2018
12012 N. 68th Place
Southeast Corner of Property Looking Northeast at 68th Place and Residence on East Side of 68th Place



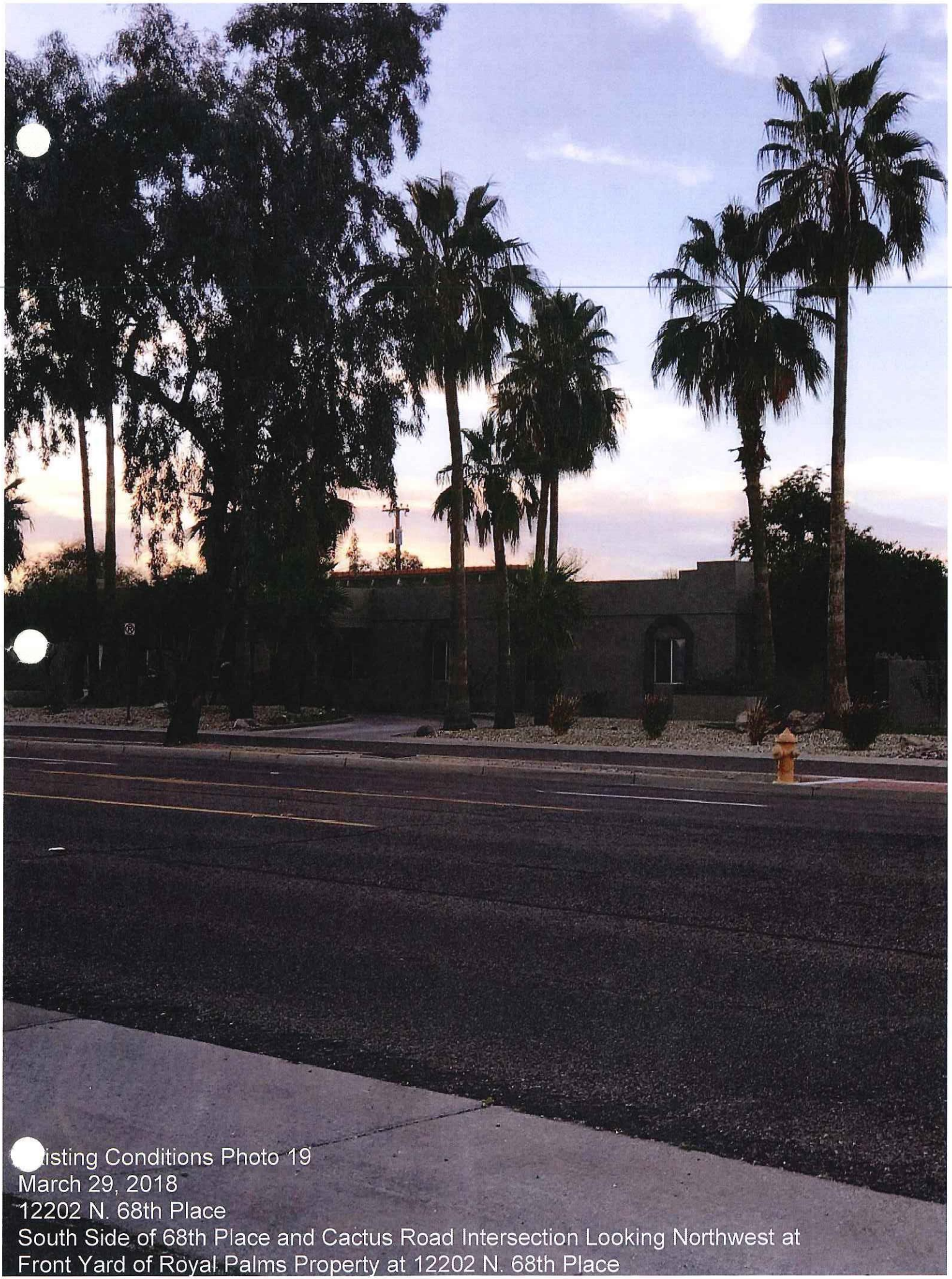
Existing Conditions Photo 16
March 29, 2018
12012 N. 68th Place
Southeast Corner of Property Looking Southeast at 68th Place and Residence on East Side of 68th Place



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

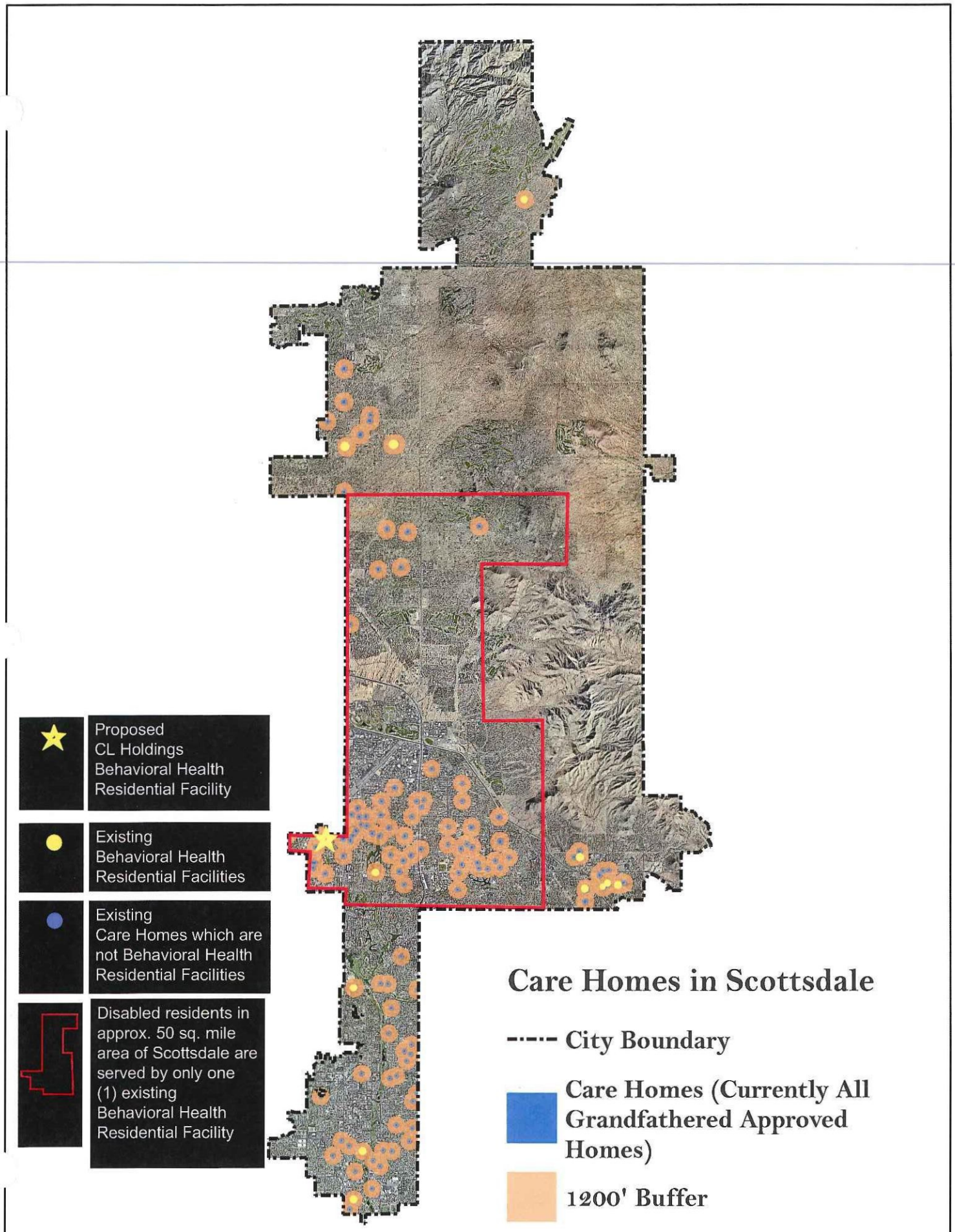
Arizona Department of Health Services - List of Licensed Residential Facilities Located in Scottsdale, Arizona as of February 1, 2018

rundate	subtype	FACID	FACTY	ZIP	LEGALNAME	ADDRESS	LICENSE	LICENSE_EF	LICENSE_E	CITY	state
2/1/2018	ADULT FOSTER CARE	AL5552	1C1	85257	DONEITTA NICKI WERNER	8416 EAST HOLLY	AL5552F	10/1/2017	9/30/2018	SCOTTSDALE	AZ
2/1/2018	ADULT FOSTER CARE	AL5589	1C1	85254	GIERBA ADULT FOSTER CARE	5210 EAST EVERETT DRIVE	AL5589F	10/1/2017	9/30/2018	SCOTTSDALE	AZ
2/1/2018	ADULT FOSTER CARE	AL7396	1C1	85266	MALGORZATA PODPORA-ADULT FOSTER HOME	7502 EAST BAJADA ROAD	AL7396F	4/1/2017	3/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL9784	1J1	85260	AMBER CREEK MEMORY CARE COMMUNITY	11250 NORTH 92ND STREET	AL9784C	11/1/2017	10/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL9474	1J1	85260	ATRIA PARK OF SIERRA POINTE	14500 NORTH FRANK LLOYD WRIGHT BOULEVA	AL9474C	7/1/2017	6/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL5292	1J1	85253	BARTON HOUSE	7007 EAST MOUNTAIN VIEW ROAD	AL5292C	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL7404	1J1	85253	BARTON HOUSE II	7001 EAST MOUNTAIN VIEW ROAD	AL7404C	1/1/2018	12/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL10063	1J1	85260	BELMONT VILLAGE SCOTTSDALE	13850 NORTH FRANK LLOYD WRIGHT BLVD	AL10063C	6/1/2017	5/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL7714	1J1	85254	BROOKDALE NORTH SCOTTSDALE	15436 NORTH 64TH STREET	AL7714C	6/1/2017	5/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL8757	1J1	85260	DESERT FLOWER	9185 EAST DESERT COVE	AL8757C	7/1/2017	6/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL8808	1J1	85251	GARDENS OF SCOTTSDALE, THE	6001 EAST THOMAS ROAD	AL8808C	9/1/2017	8/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL6929	1J1	85260	JUNE AND FRANK SACKTON ASSISTED LIVING APARTMENTS AT WESTMINSTER VILLAGE	12000 NORTH 90TH STREET	AL6929C	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL8636	1J1	85255	MARAVILLA SCOTTSDALE	7375 EAST PRINCESS BOULEVARD	AL8636C	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL8850	1J1	85257	MIMOSA SPRINGS	8435 EAST MCDOWELL ROAD	AL8850C	11/1/2017	10/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL8856	1J1	85258	SCOTTSDALE MEMORY CARE	9450 EAST MOUNTAIN VIEW ROAD	AL8856C	9/1/2017	8/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL10612	1J1	85257	SCOTTSDALE VILLAGE SQUARE	2620 NORTH 68TH STREET	AL10612C	2/1/2018	1/31/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL8384	1J1	85260	SILVERADO SENIOR LIVING - SCOTTSDALE	9410 EAST THUNDERBIRD ROAD	AL8384C	1/1/2018	12/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL6287	1J1	85258	SUNRISE OF SCOTTSDALE	7370 EAST GOLD DUST AVENUE	AL6287C	3/1/2018	2/28/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL2627	1J1	85255	VI AT GRAYHAWK, A VI AND PLAZA COMPANIES COMMUNITY	7501 EAST THOMPSON PEAK PARKWAY	AL2627C	8/1/2017	7/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL8222	1J1	85255	VI AT SILVERSTONE, A VI & PLAZA COMPANIES COMMUNITY	22605 NORTH 74TH STREET	AL8222C	11/1/2017	10/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-DIRECTED	AL9221	1J1	85251	VILLA OCOTILLO MANAGEMENT CO, LLC	3327 NORTH CIVIC CENTER PLAZA	AL9221C	11/1/2017	10/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-PERSONAL	AL9105	1J2	85259	ANDARA	11415 NORTH 114TH STREET	AL9105C	6/1/2017	5/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-PERSONAL	AL3357	1J2	85254	FORUM PUEBLO NORTE ASSISTED LIVING	7108 EAST MESCAL STREET	AL3357C	7/1/2017	6/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-PERSONAL	AL7944	1J2	85257	MCDOWELL VILLAGE	8300 EAST MCDOWELL ROAD	AL7944C	10/1/2017	9/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-PERSONAL	AL6092	1J2	85251	SPRINGS OF SCOTTSDALE, THE	3212 NORTH MILLER ROAD	AL6092C	10/1/2017	9/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING CENTER-PERSONAL	AL9650	1J2	85260	THE MANOR VILLAGE AT SCOTTSDALE	9160 EAST DESERT COVE AVENUE	AL9650C	4/1/2018	3/31/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL10097	1G1	85254	24 HR HOME LLC	5447 EAST BECK LANE	AL10097H	7/1/2017	6/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL2100	1G1	85254	A & I ADULT CARE HOME	5327 EAST ANDERSON DRIVE	AL2100H	2/1/2018	1/31/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL4936	1G1	85254	A & I ADULT CARE HOME	5241 EAST ANDERSON DRIVE	AL4936H	11/1/2017	10/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8220	1G1	85260	A & M ASSISTED LIVING OF SCOTTSDALE, LLC	7512 EAST LARKSPUR DRIVE	AL8220H	12/1/2017	11/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL5757	1G1	85254	A HAPPY PLACE ADULT CARE HOME, INC.	4918 EAST KAREN DRIVE	AL5757H	10/1/2017	9/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL5436	1G1	85257	A PLACE IN THE SUN	6879 EAST VERNON AVENUE	AL5436H	4/1/2017	3/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL4977	1G1	85250	A R D C SCOTTSDALE HOME	8632 EAST PECOS LANE	AL4977H	8/1/2017	7/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9929	1G1	85254	ABERDEEN HOME, LLC	10639 NORTH ABERDEEN ROAD	AL9929H	12/1/2017	11/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9773	1G1	85254	ABOVE & BEYOND ASSISTED LIVING	5119 EAST CALAVAR DRIVE	AL9773H	6/1/2017	5/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9818	1G1	85254	ACTIVE CARE HOME II LLC	5711 EAST AIRE LIBRE AVENUE	AL9818H	8/1/2017	7/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL10008	1G1	85254	ACTIVE CARE HOME III LLC	17826 NORTH 56TH STREET	AL10008H	3/1/2018	2/28/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9745	1G1	85254	ACTIVE CARE HOMES, LLC	16212 NORTH 55TH PLACE	AL9745H	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9427	1G1	85254	ADAGIO HOUSE I	4839 EAST CHARLESTON AVENUE	AL9427H	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9927	1G1	85254	ADAGIO HOUSE II LLC	5328 EAST ANDERSON DRIVE	AL9927H	2/1/2018	1/31/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9937	1G1	85254	ADAGIO HOUSE III LLC	17814 NORTH 56TH STREET	AL9937H	2/1/2018	1/31/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9234	1G1	85254	AGAPE CARE HOME OF SCOTTSDALE	5920 EAST LUDLOW DRIVE	AL9234H	2/1/2018	1/31/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8734	1G1	85260	AGAPE SENIOR LIVING OF SCOTTSDALE, LLC	8611 EAST CHOLLA STREET	AL8734H	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL10391	1G1	85254	AGAVE CARE HOME OF SCOTTSDALE	4833 EAST MARCONI AVENUE	AL10391H	7/6/2017	6/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8066	1G1	85254	AGAVE MANOR	5937 EAST CACTUS ROAD	AL8066H	6/1/2017	5/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL6683	1G1	85254	ARABIAN VIEWS ASSISTED LIVING ONE	5501 EAST WOODRIDGE DRIVE	AL6683H	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8593	1G1	85260	ARIZONA ROYAL CARE HOME, LLC	9823 EAST JENAN DRIVE	AL8593H	12/1/2017	11/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL4808	1G1	85254	ASSISTED LIVING AT BLOOMFIELD MANOR, INC	5815 EAST AIRE LIBRE AVENUE	AL4808H	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8602	1G1	85254	ASSISTED LIVING AT MOUNTAIN VISTA	12823 NORTH 65TH PLACE	AL8602H	11/1/2017	10/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8649	1G1	85254	ASSISTED LIVING AT THE PHOENICIAN	5915 EAST ST JOHN ROAD	AL8649H	1/1/2018	12/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL4974	1G1	85254	ASSISTED LIVING AT THE WOODRIDGE, INC	5717 EAST WOODRIDGE DRIVE	AL4974H	8/1/2017	7/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL5797	1G1	85253	ASSISTED LIVING OF PARADISE VALLEY	6146 EAST VIA ESTRELLA	AL5797H	1/1/2018	12/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL2868	1G1	85254	ASSISTED LIVING OF SCOTTSDALE	6819 EAST SHEA BOULEVARD	AL2868H	3/1/2018	2/28/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8727	1G1	85254	ASSISTED LIVING OF SCOTTSDALE II	5431 EAST SHEA BOULEVARD	AL8727H	5/1/2017	4/30/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9021	1G1	85254	ASSURED CARE ASSISTED LIVING	5239 EAST HARTFORD AVENUE	AL9021H	4/1/2017	3/31/2018	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8640	1G1	85254	AVANT ONE ASSISTED LIVING LLC	12201 NORTH 61ST STREET	AL8640H	3/1/2018	2/28/2019	SCOTTSDALE	AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL2181	1G1	85254	BELL ADULT CARE HOME	5343 EAST WOODRIDGE DRIVE	AL2181H	12/1/2017	11/30/2018	SCOTTSDALE	AZ

2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10263	1G1	85259	BETHANY ADULT HOME CARE LLC	12847 EAST BECKER LANE	AL10263H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7088	1G1	85254	BETHESDA AT MARAVILLA II	6008 EAST HARTFORD AVENUE	AL7088H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10267	1G1	85254	BETTER LIVING CARE HOME SCOTTSDALE LLC	7150 EAST GARY ROAD	AL10267H	6/5/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6060	1G1	85260	BLOOMFIELD HOUSE	9409 EAST BLOOMFIELD	AL6060H	5/1/2017	4/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10022	1G1	85258	BLUE LAKES ASSISTED LIVING LLC	9815 NORTH 96TH PLACE	AL10022H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9613	1G1	85260	BRIDGE ROYAL HOMECARE	8425 EAST CACTUS ROAD	AL9613H	2/1/2018	1/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL1181	1G1	85254	CACTUS GLEN CARE HOME	5647 EAST WALTANN LANE	AL1181H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6732	1G1	85255	CALAVAR ASSISTED LIVING HOME	23402 NORTH 84TH STREET	AL6732H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL1529	1G1	85250	CALINI'S ADULT CARE HOME	8736 EAST JOSHUA TREE LANE	AL1529H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9084	1G1	85260	CALINI'S ALOS II	10610 NORTH 84TH STREET	AL9084H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL4853	1G1	85260	CALINI'S ASSISTED LIVING OF SCOTTSDALE	11030 NORTH 84TH PLACE	AL4853H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6949	1G1	85260	CALLINI'S ASSISTED LIVING	8139 EAST CHOLLA STREET	AL6949H	4/1/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9890	1G1	85255	CAREFREE ASSISTED LIVING HOME	8038 EAST HAPPY VALLEY ROAD	AL9890H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8379	1G1	85254	CAREMERIDIAN - LUDLOW	6512 EAST LUDLOW DRIVE	AL8379H	4/1/2018	3/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6303	1G1	85254	CARING FOR LOVED ONES ASSISTED LIVING	5718 EAST SHARON DRIVE	AL6303H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6919	1G1	85254	CARING FOR LOVED ONES II	14810 NORTH 52ND STREET	AL6919H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL4812	1G1	85260	CASA BUENAVANTE	7741 EAST CHARTER OAK ROAD	AL4812H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9467	1G1	85258	CENTRAL SCOTTSDALE ASSISTED LIVING, LLC	10571 NORTH 96TH PLACE	AL9467H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7139	1G1	85250	CHAPARRAL HOME CARE LLC	5132 NORTH 86TH PLACE	AL7139H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10327	1G1	85254	CLASSIC ASSISTED LIVING LLC	14002 NORTH 64TH STREET	AL10327H	4/1/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL0603	1G1	85254	COMFORT GIVERS ASSISTED LIVING, INCORPORATED	12802 NORTH 57TH STREET	AL0603H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8313	1G1	85254	COMFORT GIVERS II ASSISTED LIVING, LLC	13809 NORTH 57TH STREET	AL8313H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9528	1G1	85254	COMFORT HOME ASSISTED LIVING FACILITY	5420 EAST KAREN DRIVE	AL9528H	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5228	1G1	85254	COMPASS ROSE ASSISTED LIVING HOME	6835 EAST PERSHING AVENUE	AL5228H	2/1/2018	1/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9186	1G1	85251	CONSTANT CARE ASSISTED LIVING OF ARCADIA	6846 EAST MONTEROSA	AL9186	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL1920	1G1	85250	COZY VILLA	8108 EAST MONTEBELLO AVENUE	AL1920H	4/1/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10179	1G1	85254	DBCARE ASSISTED LIVING, LLC	5206 EAST NICHOLAS PLACE	AL10179H	4/3/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9112	1G1	85259	DESERT COVE ASSISTED LIVING	10405 EAST DESERT COVE AVENUE	AL9112H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8542	1G1	85254	DESERT JEWEL AT ORANGE TREE	5640 EAST SHEA BOULEVARD	AL8542H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7798	1G1	85254	DESERT PARADISE ASSISTED LIVING	5705 EAST AIRE LIBRE AVENUE	AL7798H	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5443	1G1	85254	DIAMOND QUALITY ASSISTED LIVING CARE HOME	6177 EAST BLANCHE DRIVE	AL5443H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5726	1G1	85262	DIXILETA ADULT CARE HOME II	29914 NORTH 78TH STREET	AL5726H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL2440	1G1	85254	DREAM CATCHER ASSISTED LIVING HOME	5449 EAST CROCUS DRIVE	AL2440H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10195	1G1	85259	EAST SHEA ASSISTED LIVING LLC	12705 EAST SAHUARO DRIVE	AL10195H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6061	1G1	85254	ELITE LOVING CARE HOME	6722 EAST JEAN DRIVE	AL6061H	5/1/2017	4/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10115	1G1	85254	ELYSIUM A.L.H.	16818 NORTH 66TH STREET	AL10115H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL4052	1G1	85254	ETERNITY ALH	16810 NORTH 66TH STREET	AL4052H	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL3388	1G1	85254	EVERGREEN ASSISTED LIVING	11635 NORTH 56TH STREET	AL3388H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10471	1G1	85254	GENTLE HEARTS CARE HOME LLC	15640 NORTH 54TH WAY	AL10471H	10/27/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8464	1G1	85254	GOLDEN HERITAGE ASSISTED LIVING HOME	17015 NORTH 58TH WAY	AL8464H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10369	1G1	85254	GRACE HILL ASSISTED LIVING LLC	15207 NORTH 55TH WAY	AL10369H	5/2/2017	4/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10370	1G1	85254	GRACE HILL ASSISTED LIVING LLC	15219 NORTH 55TH WAY	AL10370H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10474	1G1	85254	GRACE HILL ASSISTED LIVING LLC #3	15213 NORTH 55TH WAY	AL10474H	12/11/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7896	1G1	85254	GRANDVIEW ASSISTED LIVING, LLC	5938 EAST GRANDVIEW ROAD	AL7896H	11/1/2017	10/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10355	1G1	85254	GREENWAY HOME CARE	5801 EAST BECK LANE	AL10355H	5/1/2017	4/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6405	1G1	85254	GREENWAY MANOR II, THE	6144 EAST ANDERSON DRIVE	AL6405H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9627	1G1	85260	HANDS OF CARE	11444 NORTH 88TH PLACE	AL9627H	3/1/2017	2/28/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7399	1G1	85258	HARTS HOME, EXCEPTIONAL ELDER CARE	8438 EAST WELSH TRAIL	AL7399H	2/1/2017	1/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10637	1G1	85260	HAYDEN ESTATES ASSISTED LIVING	7585 EAST SWEETWATER AVENUE	AL10637H	2/1/2018	1/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10089	1G1	85260	HAYDEN VILLA	7917 EAST CACTUS ROAD	AL10089H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9841	1G1	85251	HAZELWOOD MANOR ASSISTED LIVING	8319 EAST HAZELWOOD	AL9841H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9137	1G1	85250	HOME AWAY FROM HOME ASSISTED LIVING HOME CARE	8525 EAST PASADENA AVENUE	AL9137H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6265	1G1	85251	HOME SWEET HOME ON CHEERY LYNN	8701 EAST CHEERY LYNN ROAD	AL6265H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8718	1G1	85254	HORIZON MANOR 2	5645 EAST NISBET ROAD	AL8718H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9661	1G1	85260	HORIZON MANOR I	13614 NORTH 89TH STREET	AL9661H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10070	1G1	85254	JADE ROYALE CARE HOME LLC, ON PARADISE LANE	5837 EAST PARADISE LANE	AL10070H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10400	1G1	85254	JADE ROYALE CARE HOME ON TATUM LLC	4802 EAST HILLERY DRIVE	AL10400H	7/26/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8118	1G1	85254	KATIE'S CARE HOME	5402 EAST MARILYN ROAD	AL8118H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7273	1G1	85254	KIERLAND ASSISTED LIVING HOME	16433 NORTH 68TH PLACE	AL7273H	11/1/2017	10/31/2018 SCOTTSDALE	AZ

2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10170	1G1	85260	KIT'S HOUSE	8111 EAST CHARTER OAK DRIVE	AL10170H	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10349	1G1	85259	LA HACIENDA ASSISTED LIVING	9221 NORTH 123RD STREET	AL10349H	4/27/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8013	1G1	85260	LAS FUENTES ASSISTED LIVING	7340 EAST SWEETWATER AVENUE	AL8013H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9059	1G1	85260	LAS FUENTES ASSISTED LIVING II	8617 EAST SWEETWATER AVENUE	AL9059H	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7526	1G1	85266	LAS FUENTES ASSISTED LIVING III	7191 EAST MONTGOMERY ROAD	AL7526H	5/1/2018	4/30/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9593	1G1	85255	LAS FUENTES ASSISTED LIVING IV	7247 EAST TAILFEATHER DRIVE	AL9593H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10339	1G1	85257	LENDING HAND SCOTTSDALE ASSISTED LIVING	7746 EAST LATHAM STREET	AL10339H	6/26/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL1004	1G1	85258	LIANN'S HOMES	7021 NORTH 79TH PLACE	AL1004H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL2346	1G1	85260	LIANN'S HOMES	9693 EAST DAVENPORT DRIVE	AL2346H	2/1/2018	1/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL2348	1G1	85258	LIANN'S HOMES	8411 EAST VIA DE JARDIN	AL2348H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5038	1G1	85255	LOVIN MANOR	29192 NORTH 76TH STREET	AL5038H	11/1/2017	10/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6295	1G1	85255	LOVIN MANOR TOO	8434 EAST LA JUNTA	AL6295H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10291	1G1	85254	MARILYN MANOR ASSISTED LIVING HOME LLC	6327 EAST MARILYN ROAD	AL10291H	4/18/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10562	1G1	85259	MATIS ASSISTED LIVING	11420 NORTH 122ND PLACE	AL10562H	12/8/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10145	1G1	85251	MEADOWBROOK QUALITY ASSISTED LIVING	4235 NORTH 87TH PLACE	AL10145H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9122	1G1	85254	MIRAMONTE ALH	14601 NORTH 55TH PLACE	AL9122H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6221	1G1	85251	MONTEREY GERIATRIC CARE	8331 EAST MONTEREY WAY	AL6221H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9799	1G1	85254	MORNING GLORY CARE HOME	13650 NORTH 57TH PLACE	AL9799H	3/1/2017	2/28/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10364	1G1	85260	MY HOME SWEET HOME IN SCOTTSDALE	7480 EAST CAMINO SANTO	AL10364H	7/11/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7560	1G1	85254	NEW PARADISE LLC	5554 EAST CAMPO-BELLO DRIVE	AL7560H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9609	1G1	85254	NORTH RANCH ASSISTED LIVING HOME LLC	6121 EAST BEVERLY LANE	AL9609H	11/1/2017	10/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5413	1G1	85260	NORTH SCOTTSDALE GARDENS ASSISTED LIVING HOME	10250 EAST BECKER LANE	AL5413H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7739	1G1	85254	NORTH SCOTTSDALE PLACE	14203 NORTH 68TH PLACE	AL7739H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9978	1G1	85254	OAKMONT ASSISTED LIVING	5545 EAST YUCCA STREET	AL9978H	3/1/2017	2/28/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8857	1G1	85254	OUR PARENTS HOME, LLC	6414 EAST JUNIPER AVENUE	AL8857H	3/1/2017	2/28/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9081	1G1	85257	OUR PARENTS HOUSE	2524 NORTH 80TH PLACE	AL9081H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10478	1G1	85259	PEAK CARE ASSISTED LIVING SCOTTSDALE LIFE HOME	10125 NORTH 131ST PLACE	AL10478H	7/21/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10527	1G1	85260	PEAK CARE ASSISTED LIVING SCOTTSDALE LIFE II HOME	9660 EAST CLINTON AVENUE	AL10527H	11/1/2017	10/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10377	1G1	85257	PERPETUAL HELP ASSISTED LIVING	8201 EAST LEWIS AVENUE	AL10377H	9/19/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5663	1G1	85255	PINNACLE PEAK ASSISTED LIVING	7878 EAST VISTA BONITA DRIVE	AL5663H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8821	1G1	85260	RAINTREE ASSISTED LIVING LLC	9043 EAST HILLERY DRIVE	AL8821H	8/1/2017	7/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8828	1G1	85260	RETREAT AT DESERT COVE, THE	10031 EAST DESERT COVE AVENUE	AL8828H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5847	1G1	85254	ROYAL PALM ASSISTED LIVING	12202 NORTH 68TH PLACE	AL5847H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9596	1G1	85260	ROYAL PALMS I ASSISTED LIVING	7366 EAST PARADISE DRIVE	AL9596H	11/1/2017	10/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10669	1G1	85260	SAINT TERESA'S SENIOR CARE HOME, LLC	9742 EAST GELDING DRIVE	AL10669H	1/24/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9984	1G1	85254	SAMARITAN ANGEL CARE SERVICES LLC	6321 EAST EVANS DRIVE	AL9984H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6095	1G1	85254	SCOTTSDALE ADULT CARE HOME	6943 EAST LUDLOW DRIVE	AL6095H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7614	1G1	85254	SCOTTSDALE CASA DE PARADISE	7125 EAST PARADISE DRIVE	AL7614H	6/1/2017	5/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8506	1G1	85259	SCOTTSDALE FOOTHILLS ASSISTED LIVING	10474 EAST CORRINE DRIVE	AL8506H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7787	1G1	85260	SCOTTSDALE HOME CARE LLC	7412 EAST WETHERSFIELD ROAD	AL7787H	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7942	1G1	85260	SCOTTSDALE NORTH INC A L	9883 EAST CORTEZ STREET	AL7942H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL4912	1G1	85254	SENIOR PARADISE LIVING	5045 EAST PARADISE LANE	AL4912H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9490	1G1	85251	SERENE VALLEY ASSISTED LIVING HOME, LLC	8704 EAST AMELIA AVENUE	AL9490H	11/1/2017	10/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8671	1G1	85266	SERENITY OF NORTH SCOTTSDALE	29750 NORTH 77TH PLACE	AL8671H	2/1/2018	1/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9420	1G1	85254	SHEA ESTATES ASSISTED LIVING	6101 EAST VOLTAIRE AVENUE	AL9420H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL4870	1G1	85260	SIERRA'S ASSISTED LIVING, THE	13330 NORTH 88TH PLACE	AL4870H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL0755	1G1	85254	SILVER BELLS ADULT CARE HOME	5248 EAST MARCONI AVENUE	AL0755H	5/1/2017	4/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6377	1G1	85254	SILVER BELLS II	5541 EAST ANGELA DRIVE	AL6377H	1/1/2018	12/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL1505	1G1	85258	SUMMA CARE - SCOTTSDALE	7038 NORTH VIA DE VIDA	AL1505H	5/1/2017	4/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL6742	1G1	85254	SUN VALLEY HEIGHTS ASSISTED LIVING	17244 NORTH 57TH STREET	AL6742H	10/1/2017	9/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL1459	1G1	85254	SUN VALLEY MANOR ASSISTED LIVING HOME	17245 NORTH 56TH WAY	AL1459H	4/1/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9719	1G1	85254	SUN VIEW ESTATE HOME CARE IV	5301 EAST TIERRA BUENA LANE	AL9719H	7/1/2017	6/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL0397	1G1	85254	SUNNYHILL ADULT CARE HOME	6228 EAST PERSHING AVE	AL0397H	2/1/2018	1/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL8023	1G1	85260	SUNNYHILL ADULT CARE HOME INC, II	7311 EAST SUNNYSIDE DRIVE	AL8023H	4/1/2017	3/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7433	1G1	85254	SUNNYSIDE SCOTTSDALE, LLC	5249 EAST TIERRA BUENA LANE	AL7433H	3/1/2018	2/28/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL10246	1G1	85254	SUNRISE CARE HOMES SWEETWATER	6431 EAST SWEETWATER AVENUE	AL10246H	12/1/2017	11/30/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL9203	1G1	85260	SUNRISE CARE HOMES-HAYDEN	13452 NORTH HAYDEN ROAD	AL9203H	9/1/2017	8/31/2018 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL7904	1G1	85250	SUNRISE CARE HOMES-MCDONALD	6401 NORTH 82ND STREET	AL7904H	2/1/2018	1/31/2019 SCOTTSDALE	AZ
2/1/2018 ASSISTED LIVING HOME-DIRECTED	AL5705	1G1	85254	SUNRISE CARE HOMES-SHEA	11002 NORTH 66TH STREET	AL5705H	12/1/2017	11/30/2018 SCOTTSDALE	AZ

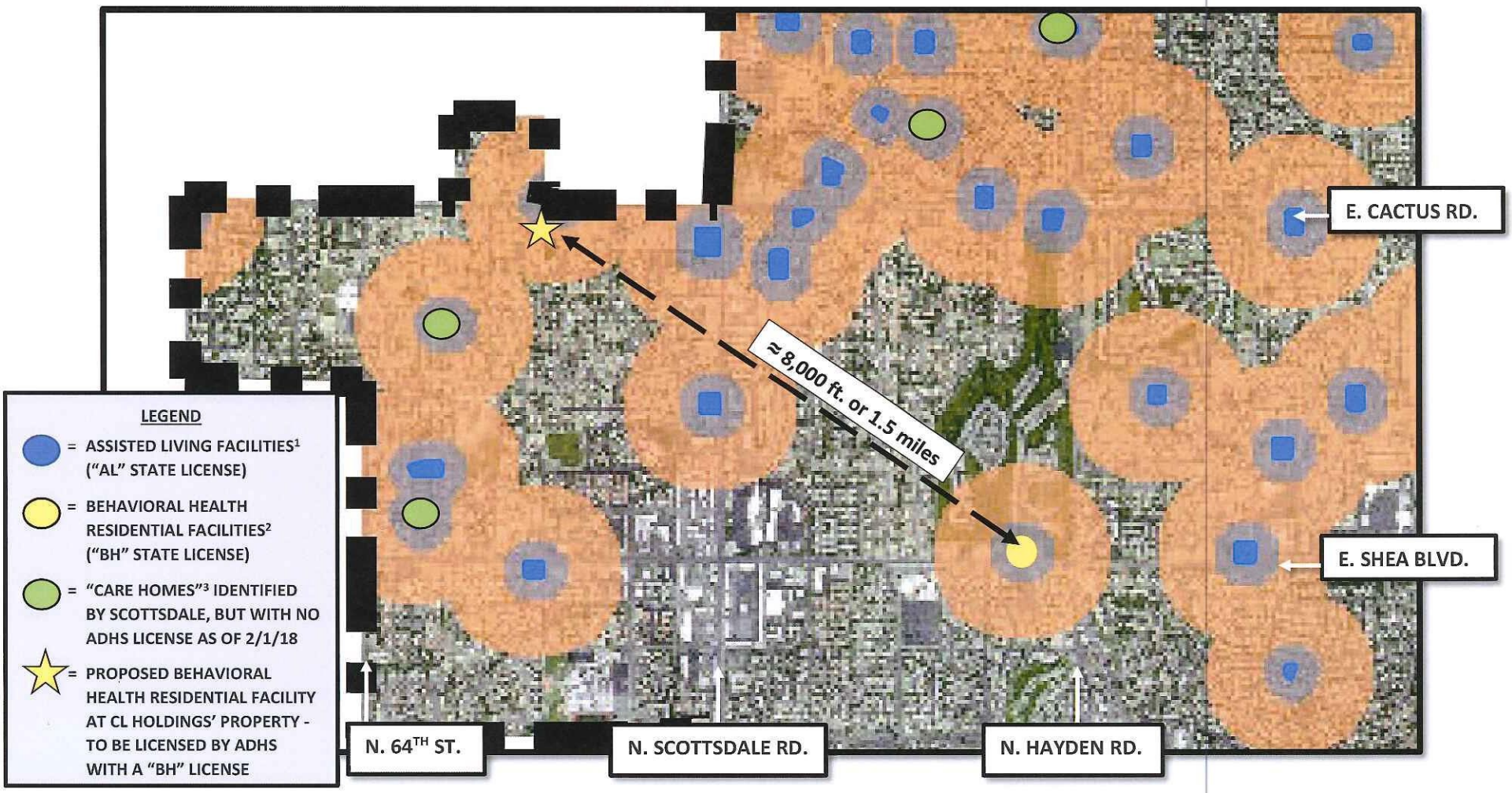
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9616	1G1	85254	SUNSET VIEW	16633 NORTH 60TH PLACE	AL9616H	12/1/2017	11/30/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9652	1G1	85260	SWEETWATER PINES	7515 EAST SWEETWATER AVENUE	AL9652H	2/1/2018	1/31/2019	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL4270	1G1	85254	SWEETWATER PLACE	12433 NORTH 71ST STREET	AL4270H	1/1/2018	12/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL6463	1G1	85254	SWISS TOUCH	5235 EAST WAGONER ROAD	AL6463H	2/1/2018	1/31/2019	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL10618	1G1	85254	THE KIERLAND SANCTUARY	15841 NORTH 63RD PLACE	AL10618H	1/2/2018	12/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL10529	1G1	85250	THE PLAZA ASSISTED LIVING OF SCOTTSDALE, LLC	8501 EAST PLAZA AVENUE	AL10529H	11/17/2017	10/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL4644	1G1	85254	THUNDERBIRD ASSISTED LIVING HOME	6149 EAST THUNDERBIRD ROAD	AL4644H	4/1/2017	3/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL7104	1G1	85254	TOP QUALITY A L H	14403 NORTH 60TH STREET	AL7104H	8/1/2017	7/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL9643	1G1	85251	TRANQUILITY ASSISTED LIVING HOME	4526 NORTH 82ND STREET	AL9643H	2/1/2018	1/31/2019	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL6365	1G1	85259	TRINITY HOME OF SCOTTSDALE, LLC	10710 EAST MESCAL STREET	AL6365H	1/1/2018	12/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8494	1G1	85259	TRINITY HOME ON CLINTON	10521 EAST CLINTON STREET	AL8494H	7/1/2017	6/30/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL10418	1G1	85254	TULSI ASSISTED LIVING, LLC	15220 NORTH 52ND PLACE	AL10418H	10/1/2017	9/30/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8077	1G1	85260	TUSCAN PLACE ASSISTED LIVING HOME	13637 NORTH 87TH STREET	AL8077H	7/1/2017	6/30/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL7079	1G1	85266	UPON THE ROCK ASSISTED LIVING	32100 NORTH SCOTTSDALE ROAD	AL7079H	3/1/2018	2/28/2019	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL7417	1G1	85254	VILLA BELLA HOME	5520 EAST KELTON LANE	AL7417H	5/1/2017	4/30/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL5190	1G1	85254	VILLA ON SWEETWATER	6739 EAST SWEETWATER	AL5190H	1/1/2018	12/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL8166	1G1	85259	VIP PARADISE CARE LLC	12650 EAST COCHISE DRIVE	AL8166H	9/1/2017	8/31/2018	SCOTTSDALE AZ
2/1/2018	ASSISTED LIVING HOME-DIRECTED	AL10130	1G1	85254	WOODRIDGE ASSISTED LIVING	6020 EAST WOODRIDGE DRIVE	AL10130H	9/1/2017	8/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4464	1M1	85260	A BETTER TODAY RECOVERY SERVICES	7838 EAST SHEA BOULEVARD	BH4464	5/1/2017	4/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4531	1M1	85266	A BETTER TODAY RECOVERY SERVICES	7210 EAST DALE ROAD	BH4531	12/1/2017	11/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4868	1M1	85254	A BETTER TODAY RECOVERY SERVICES	6145 EAST SHEA BOULEVARD	BH4868	7/1/2017	6/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4859	1M1	85257	BBC-GRACEFUL HOMES	808 NORTH 74TH STREET	BH4859	6/1/2017	5/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH5232	1M1	85254	I CARE GROUP HOME, LLC	5529 EAST BLOOMFIELD ROAD	BH5232	7/24/2017	6/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH3855	1M1	85254	LIVING SPRINGS SANCTUARY BEHAVIORAL HEALTH AGENCY	4929 EAST LAUREL LANE	BH3855	8/1/2017	7/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4435	1M1	85259	PROMISES SCOTTSDALE	12816 EAST TURQUOISE AVENUE , 10195 NORTH 128TH ST	BH4435	12/1/2017	11/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4532	1M1	85259	PROMISES SCOTTSDALE	13050 EAST TURQUOISE AVENUE	BH4532	1/1/2018	12/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH5331	1M1	85254	SCOTTSDALE RECOVERY CENTER LLC	13402 NORTH 60TH STREET	BH5331	1/5/2018	12/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4989	1M1	85250	SERENITY CARE CENTER LLC	12749 EAST TURQUOISE AVENUE	BH4989	9/1/2017	8/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH4988	1M1	85250	SERENITY CARE CENTER, LLC	6838 NORTH ROCKING ROAD	BH4988	9/1/2017	8/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH5033	1M1	85259	SERENITY CARE CENTER, LLC	12340 EAST MOUNTAIN VIEW ROAD	BH5033	10/1/2017	9/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH5034	1M1	85259	SERENITY CARE CENTER, LLC	12224 EAST SHANGRI LA ROAD	BH5034	10/1/2017	9/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH5061	1M1	85262	SERENITY CARE CENTER, LLC	39022 NORTH FERNWOOD LANE	BH5061	12/1/2017	11/30/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH5353	1M1	85266	SERENITY CARE CENTER, LLC	28760 NORTH 83RD STREET	BH5353	1/26/2018	12/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - ADULT	BH616	1M1	85257	SOUTHWEST BEHAVIORAL HEALTH SERVICES, INC - SHERIDAN GROUP HOME	7626 EAST SHERIDAN	BH616	6/1/2017	5/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - CHILD	BH3648	1M2	85254	DEVEREUX ARIZONA - REPITE #4	6429 EAST EUGIE TERRACE	BH3648	9/1/2017	8/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - CHILD	BH3649	1M2	85254	DEVEREUX ARIZONA - RESPITE # 5	6439 EAST EUGIE TERRACE	BH3649	9/1/2017	8/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - CHILD	BH3881	1M2	85254	DEVEREUX ARIZONA - RESPITE #2	6411 EAST EUGIE TERRACE	BH3881	9/1/2017	8/31/2018	SCOTTSDALE AZ
2/1/2018	BH RESIDENTIAL FACILITY - CHILD	BH1383	1M2	85257	NEW FOUNDATION, THE	1200 NORTH 77TH STREET, ROOMS 10-12	BH1383	10/1/2017	9/30/2018	SCOTTSDALE AZ



Last Updated 1/3/2018

EXCERPT FROM CITY OF SCOTTSDALE MAP TITLED "C[illegible]E HOMES IN SCOTTSDALE" UPDATED JANUARY 3, 20[illegible]

Demonstrative Exhibit Depicting the Location of the One (1) Existing Behavioral Health Residential Facility in the Vicinity of the Proposed CL Holdings' Behavioral Health Residential Facility



1 "Assisted Living Facility" means a residential care institution, including an adult foster home, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuous basis. *See* A.R.S. § 36-401(A)(8). Assisted Living Facilities do not provide treatment to persons recovering from alcoholism and substance abuse.

2 "Behavioral Health Residential Facility" means a health care institution that provides treatment to an individual experiencing a behavioral health issue that: (a) limits the individual's ability to be independent, or (b) causes the individual to require treatment to maintain or enhance independence." *See* A.A.C. § R9-10-101(29). Behavioral Health Residential Facilities provide treatment to persons recovering from alcoholism and substance abuse.

3 "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. *See* Zoning Ordinance § 3.100.

April 10, 2018

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

RE: CL Holdings 68th Place, LLC Variance and Disability Accommodation Cases for Property Located at 12012 N. 68th Place; City of Scottsdale Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018

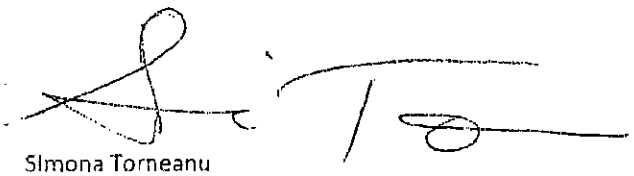
Dear Board of Adjustment Members,

I am the owner of the Royal Palms Assisted Living Home located at 12202 North 68th Place. Royal Palms is licensed by the Arizona Department of Health Services as an assisted living home with directed care services for the elderly. Our residents receive care for disabilities largely incident to age. We do not provide specialized care or treatment for persons younger than 55 years old who are recovering from drug or substance abuse.

We are writing this letter in support of the variance and disability accommodation applications filed by CL Holdings 68th Place for the above referenced property. Royal Palms' residents have had no history of interaction with the disabled residents living at the CL Holdings sober living home. We do not foresee any future interaction amongst residents or issues arising from CL Holdings' licensure as a behavior health residential facility. We support the rights of disabled persons, including those recovering from drug and substance abuse, to live in a single family residential community.

Once again, our assisted living home also does not provide the same care services and treatment that would be provided at a licensed behavioral health residential facility for disabled residents recovering from drug or substance abuse.

Sincerely,



Simona Torneanu
Owner, Royal Palms Assisted Living, LLC
12202 N. 68th Place
Scottsdale, AZ 85254

April 11, 2018

City of Scottsdale Board of Adjustment
7447 East Indian School Road
Scottsdale, Arizona 85251

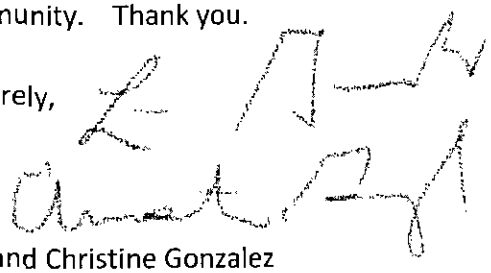
RE: Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 - Applications for Variance or Disability Accommodation Approval for Property Located at 12012 North 68th Place (the CL Property)

Dear Chairman and Members of the Board of Adjustment:

I am writing this letter in support of the variance and disability accommodation requests that have been filed by CL Holdings 68th Place, LLC. My home abuts the CL Property to the south, and I have owned my property since 2012. Over the course of approximately 6 years, CL Holdings has provided a home to individuals who are sober and recovering from alcohol and substance abuse. The home is well-kept and typical of the ranch-style homes with equestrian facilities in the neighborhood. We have not had any negative interactions with the disabled residents living at the home. To date, CL Holdings and the residents have been good neighbors.

I support the transition of the sober living home to a state-licensed, behavioral health residential facility providing counseling and care services to up to ten (10) sober, disabled residents recovering from drug and alcohol abuse. I believe that CL Holdings' demonstrated capability of operating a safe, sober living home integrated into our neighborhood and the additional state-licensing requirements and regulations applicable to behavioral health residential facilities will ensure that the proposed use will create no negative impacts to my property or the surrounding community. Thank you.

Sincerely,



Luis and Christine Gonzalez
6832 E. Paradise Drive
Scottsdale, Arizona 85254

April 11, 2018

Board of Adjustment
CITY OF SCOTTSDALE
7447 E. Indian School Road
Scottsdale, Arizona 85251

RE: CL Holdings 68th Place, LLC Applications for Variance or Disability Accommodation Approval for Property Located at 12012 N. 68th Place; Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 (the "Applications")

Dear Board of Adjustment:

I am the owner of the abutting residence located directly north of the sober living home owned and operated by CL Holdings 68th Place, LLC at 12012 N. 68th Place. I support the CL Holdings' Applications and the issuance of a variance or disability accommodation by the Board of Adjustment allowing CL Holdings to operate a state-licensed behavioral health residential facility at the property.

Since CL Holdings purchased the property in 2011, I have had no issues or concerns arising from the sober living home or the disabled residents who live there. The owners and residents are good neighbors. I believe that transitioning the sober living home to a state-licensed behavior health residential facility providing counseling and care services to sober, disabled residents recovering from drug and alcohol abuse would create no negative impacts on me or the surrounding community.

Sincerely,



Wayne Rozdolski
12034 N. 68th Place
Scottsdale, Arizona 85254

April 16, 2018

City of Scottsdale
BOARD OF ADJUSTMENT
7447 East Indian School Road
Scottsdale, Arizona 85251

RE: CL Holdings 68th Place, LLC Applications for Variance and Disability Accommodation Approval for Property Located at 12012 N. 68th Place; Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018

Dear Board of Adjustment Chairman and Members:

I am writing this letter in support of City of Scottsdale Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 which have been filed by my neighbor and the owner of the above-referenced property, CL Holdings 68th Place, LLC. I am the owner of 6911 East Paradise Drive which is the second house to the south and east of the above-referenced property. I have lived in this home for 32 years. As a neighboring property owner, I am aware that CL Holdings has been providing sober living housing to disabled individuals who are sober and recovering from alcohol and substance abuse. I have had no issues with the owners or residents who live there. The home's appearance is well-maintained and consistent with the large, equestrian lots and homes throughout the neighborhood. Overall, the home has become an integrated part of the neighborhood, and we have not had any issues or concerns arising from the sober living home use.

I would request that the Board grant either the variance or a disability accommodation to CL Holdings so that it may transition from a sober living home to a state-licensed, behavioral health residential facility. I believe that this transition to a state-licensed facility will benefit the neighborhood. As a licensed home, I understand that the home's use will remain the same with the exception of: (1) limiting the number of disabled residents living on the property to 10, (2) providing counseling services to the residents, (3) having 2-3 staff members on site at any given time, and (4) being required to comply with all state requirements and regulations, including the requirement to install an automatic fire sprinkler system in the home. This additional oversight by the state is a positive for our community and the residents served by CL Holdings. Thank you.

Sincerely,

Loretta Lill

Loretta Lill
6911 E. Paradise Dr.
Scottsdale, AZ 85254

April 16, 2018

Board of Adjustment
City of Scottsdale
7447 E. Indian School Rd.
Scottsdale, Arizona 85251

RE: CL Holdings 68th Place, LLC Applications for Variance and Disability Accommodation Approval for Property Located at 12012 N. 68th Place; Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018

Dear Board of Adjustment:

I am writing this letter in support of the Variance and Disability Accommodation which have been filed by my neighbor and the owner of the above-referenced property, CL Holdings 68th Place, LLC. I own three lots along Cactus Road including: 7002 E. PARADISE DR., 7022 E. PARADISE DR., and 7102 E. PARADISE DR. I reside at the 7002 E. Paradise Drive property. As a neighboring property owner and resident, I am aware that CL Holdings has been providing sober living housing to disabled individuals who are sober and recovering from alcohol and substance abuse. I have had no issues with the owners or residents who live there. The home's appearance is well-maintained and consistent with the large lots and homes throughout the neighborhood. Overall, the home has become an integrated part of the neighborhood, and we have not had any issues or concerns arising from the sober living home use.

I would request that the Board grant either the variance or a disability accommodation to CL Holdings so that it may transition from a sober living home to a state-licensed, behavioral health residential facility. I believe that this transition to a state-licensed home will benefit the neighborhood. As a licensed home, I understand that the number of disabled residents living on the property would be capped at 10, counseling services would be provided to the residents, staff would be present around the clock, and the home would be required to comply with all state requirements and regulations, including the requirements to install an automatic fire sprinkler system in the home. This additional oversight by the state is a positive for our community and the residents served by CL Holdings. Thank you.

Sincerely,



Bill Jachimek
7002 E. Paradise Dr.
Scottsdale, AZ 85254

April 13, 2018

Board of Adjustment
CITY OF SCOTTSDALE
7447 E. Indian School Road
Scottsdale, Arizona 85251

RE: CL Holdings 68th Place Variance and Disability Accommodation Cases for Property Located at 12012 N. 68th Place; Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018

Dear Board of Adjustment:

I represent SCOTTSDALE CASA DE PARADISE which is located at 7125 EAST PARADISE DRIVE and is approximately 1,987 feet from the CL Holdings 68th Place, LLC property referenced above. SCOTTSDALE CASA DE PARADISE is a home which provides supervisory, personal and directed care services limited to seniors. The care we provide is distinct from the treatment provided at a behavioral health residential facility for disabled residents recovering from alcohol and substance abuse without age restrictions. The elderly residents we serve are distinct from those housed at a behavioral health residential facility in terms of age and disability.

We support the granting of a variance or a disability accommodation for CL Holdings to operate a state-licensed behavioral health residential facility at the property located at 12012 N. 68th Place. The disabled residents living in our assisted living home have no history of interacting with the disabled residents living at the CL Holdings Property and our assisted living home is geographically distinct from the CL Holdings Property. Furthermore, we support disabled persons having the equal opportunity to live in the community of their choice. Thank you.

Sincerely,

Melinda Lore

Print Name: Melinda S Lore
Title: Owner
Scottsdale Casa

April 13, 2018

Board of Adjustment
CITY OF SCOTTSDALE
7447 E. Indian School Road
Scottsdale, Arizona 85251

RE: CL Holdings 68th Place Variance and Disability Accommodation Cases for Property Located at 12012 N. 68th Place; Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018

Dear Board of Adjustment:

I represent SUNNYHILL ADULT CARE HOME INC, II which is located at 7311 EAST SUNNYSIDE DRIVE and is approximately 3,125 feet from the CL Holdings 68th Place, LLC property referenced above. SUNNYHILL ADULT CARE HOME INC, II is a home which provides supervisory, personal and directed care services limited to seniors. The care we provide is distinct from the treatment provided at a behavioral health residential facility for disabled residents recovering from alcohol and substance abuse without age restrictions. The elderly residents we serve are distinct from those housed at a behavioral health residential facility in terms of age and disability.

We support the granting of a variance or a disability accommodation for CL Holdings to operate a state-licensed behavioral health residential facility at the property located at 12012 N. 68th Place. The disabled residents living in our assisted living home have no history of interacting with the disabled residents living at the CL Holdings Property and our assisted living home is geographically distinct from the CL Holdings Property. Furthermore, we support disabled persons having the equal opportunity to live in the community of their choice. Thank you.

Sincerely,

Michael McLaughlin

Print Name:
Title: Manager

April 13, 2018

Board of Adjustment
CITY OF SCOTTSDALE
7447 E. Indian School Road
Scottsdale, Arizona 85251

RE: CL Holdings 68th Place Variance and Disability Accommodation Cases for Property Located at 12012 N. 68th Place; Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018

Dear Board of Adjustment:

I represent ASSISTED LIVING OF SCOTTSDALE which is located at 6819 EAST SHEA BOULEVARD and is approximately 4,717 feet from the CL Holdings 68th Place, LLC property referenced above. ASSISTED LIVING OF SCOTTSDALE is a home which provides supervisory, personal and directed care services limited to seniors. The care we provide is distinct from the treatment provided at a behavioral health residential facility for disabled residents recovering from alcohol and substance abuse without age restrictions. The elderly residents we serve are distinct from those housed at a behavioral health residential facility in terms of age and disability.

We support the granting of a variance or a disability accommodation for CL Holdings to operate a state-licensed behavioral health residential facility at the property located at 12012 N. 68th Place. The disabled residents living in our assisted living home have no history of interacting with the disabled residents living at the CL Holdings Property and our assisted living home is geographically distinct from the CL Holdings Property. Furthermore, we support disabled persons having the equal opportunity to live in the community of their choice. Thank you.

Sincerely,

Print Name: Donna Shea
Title: owner ALOS

DECLARATION OF MICHELLE SIWEK

I, MICHELLE SIWEK, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts contained in this Declaration. If called upon to testify, I could and would testify competently as to the truth of the facts stated herein.

2. I am a Member of CL Holdings 68th Place, LLC, an Arizona limited liability company ("CL Holdings") and the Chief Financial Officer of an Arizona based behavioral health substance abuse treatment center.

3. I make this Declaration in support of CL Holdings' applications requesting Board of Adjustment approval of a disability accommodation or a variance of the 1200-foot separation requirement applicable to care homes within the R1-35 Single-Family Residential zoning district. The City of Scottsdale has assigned the following case numbers to CL Holdings' applications: Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018.

4. I have substantial experience owning and operating sober living homes and state-licensed behavioral health residential facilities serving the disabled population of individuals recovering from alcoholism and substance abuse.

5. Since 2011, CL Holdings has owned a large, single-family residential property located at 12012 N. 68th Place in Scottsdale, Arizona (the "Property").

6. The 2.18-acre Property is improved with an approximate 4,610 squarefoot single-family residence, a guest house, a pool, and equestrian facilities including stables and corrals.

7. Beginning in 2011 through the present, CL Holdings has used the Property as a sober living home for sober, disabled residents recovering from alcohol and substance abuse.

8. The sober living home is well-maintained and is integrated with the surrounding single-family residential neighborhood.

9. Up to 14 residents have lived within the sober living home at any given time. A house manager lives on-site.

10. The existing sober living use emulates a conventional family setting.

11. The disabled residents live in the home with the house manager and engage in the same activities which would typically occur within a family setting.

12. The house manager serves in a parental role at the sober living home, helping residents plan for the future, teaching life skills, providing emotional support, and helping equip the residents with independent living skills.

13. The disabled residents either work or attend school, must abide by a curfew, and are responsible for daily tasks such as cleaning, personal hygiene, budgeting, cooking and transportation arrangements.

14. This household functions as the equivalent of a family and allows the recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse.

15. Many persons in recovery cannot maintain the traditional family organization that the City's ordinance dictates.

16. The potential recovery of people who are handicapped or disabled by reason of alcoholism or drug abuse is greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons.

17. It is often critical that a person in the early and middle stages of recovery share a bedroom with another recovering addict for mutual support and monitoring.

18. The quality and nature of the relationship among the residents are akin to that of a family. The emotional and mutual support and bonding given each resident in support of his recovery from drug addiction and alcoholism is the equivalent of the type of love and support received in a traditional family.

19. It has been found that individuals who decide to live in sober housing programs, such as that offered by CL Holdings, are allowed to engage in the process of recovery from alcoholism and substance abuse, at their own pace, and that the effects of the disease are greatly

ameliorated as a result. By living with other persons who are in recovery, the residents should never have to face an alcoholic's or addict's deadliest enemy: loneliness and isolation.

20. In addition, the residents live at CL Holdings by choice. The choice is usually motivated by the individual's desire not to relapse into drug and/or alcohol use again after that individual has bottomed out, i.e., lost jobs, home or family. It is also motivated by the desire that one must change their lifestyle, the manner in which they conduct their affairs, and the need to become a responsible, productive member of society.

21. The CL Holdings sober living home is unique from other sober living homes and care homes in Scottsdale due to the availability of equestrian facilities and the residents' therapeutic interactions with horses on a large, single-family residential lot.

22. Since 2011, no care or treatment requiring licensure by the Arizona Department of Health Services has been provided to disabled residents living in the sober living home.

23. The sober living home does not offer services to individuals who do not live in the home.

24. Due in part to the opioid crisis in the State of Arizona and nationwide, the need for sober living homes and licensed behavioral health residential facilities has increased in recent years.

25. CL Holdings has determined that the disabled residents living on the Property would benefit greatly from counseling services and assistance with the self-administration of medication.

26. Subject to an approval by the Board of Adjustment, CL Holdings plans to transition the sober living home into a "care home", as defined by the City of Scottsdale Zoning Ordinance, by obtaining a "behavioral health residential facility" license from the Arizona Department of Health Services (ADHS).

27. With this state license, CL Holdings would continue to use the Property in a family-like manner similar to the existing sober living home use, with a few exceptions that would have no impact on the surrounding neighborhood, including:

a. The number of allowable disabled residents living within the home would be reduced from 14 to 10 individuals,

b. Up to 2 staff persons would live on-site with a registered nurse and a potential shift-schedule staff person being available at any given time,

c. CL Holdings would be authorized to provide care, counseling services and assistance with the self-administration of medication to its disabled residents in accordance with state statutes and regulations pertaining to behavioral health residential facilities, and

d. An automatic fire sprinkler system would be installed within the home.

28. Except for the programmatic changes and the reduction of residents listed immediately above, the proposed use will be identical to the current use.

29. Since 2011, neither the CL Holdings sober living home nor its disabled residents have contributed to crime in the area.

30. Since 2011, CL Holdings has never received a complaint or a notice of violation from the City of Scottsdale relating to its use of the Property or any alleged nuisances.

31. Since 2011, the CL Holdings sober living home residents have had no interaction with the elderly, disabled residents living at the Royal Palms Assisted Living Home at 12202 N. 68th Place in Scottsdale, Arizona. The Royal Palms Assisted Living Home is the *only* care home within the 1,200-foot spacing distance applicable to care homes allowed in the R1-35 zoning district as of right.

32. The subject Property operated for seven years before I became aware, in 2017, that the Royal Palms Assisted Living Home exists. I learned of its presence solely from the City of Scottsdale, not by any interaction or contact with Royal Palms. In 2017, CL Holdings submitted its fire line plan to the City of Scottsdale for review and approval as part of its state licensing application requirements. On or about September 27, 2017, the City notified CL Holdings that the City was rejecting its fire line plans because the Property is within 1,200 feet of the Royal Palm Assisted Living Home.

33. The care, treatment and services provided by a licensed behavioral health residential facility are different from those provided by an assisted living home. Assisted living homes do not provide treatment to individuals with behavioral health issues, such as mental disorders, personality disorders, or conditions caused by substance abuse, that limit an individual's ability to be independent or causes the individual to require treatment to maintain or enhance independence.

34. The disabled individuals who would reside within the proposed licensed behavioral health residential facility differ substantially from the senior/elderly population residing within an assisted living home. For instance, the elderly, disabled residents in an assisted living home often require assistance with activities of daily living and are often persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions. These senior disabled residents would not be treated in a behavioral health residential facility. Likewise, young and middle-aged adults needing treatment to cure or improve their behavioral health issues relating to mental disorders, personality disorders or substance abuse would not be treated in an assisted living home.

35. With a recent increase in the number of individuals recovering from a disability associated with opioid addiction, there is a great demand for licensed community residences providing housing and treatment for these particular sober individuals in recovery.

36. Based upon my review of the Care Home Map prepared by the City of Scottsdale dated January 3, 2018, there would be no opportunity for disabled residents recovering from drug and alcohol abuse to live in a single-family residential and equestrian setting on a property measuring 2 acres or more in the area of Scottsdale lying west of Hayden Road near Cactus Road and Shea Boulevard. All of the large lots approximately 2 acres in size are located within 1200 feet of an existing assisted living home for the elderly.

37. The nearest licensed behavioral health residential facility is located approximately 1.5 miles to the east of the Property near the Shea Boulevard and Hayden Road intersection. That

facility is very different from the Property, having a lot size of less than one (1) acre, no equestrian facilities and no views onto a golf course.

38. Failure to waive the 1200 spacing requirement would result in the displacement of persons in recovery from alcoholism and substance abuse. By displacing the residents because of the loss of housing due to the spacing requirement, the probabilities of relapse are greatly increased.

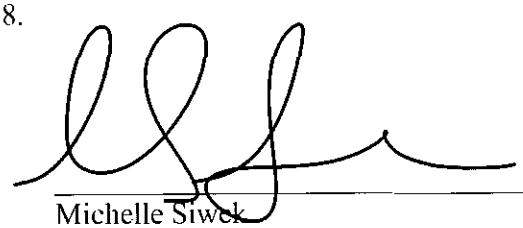
39. On January 11, 2018, I received by email the Zoning Administrator's decision denying my request for an administrative approval of a disability accommodation from the 750-foot care home separation requirement in effect as of November 27, 2017 (the date of my request). I also received notification that the City of Scottsdale would be mailing the decision to me on January 11, 2018. *See* City's email correspondence dated January 11, 2018 and copy of City's January 11, 2018 postmarked envelope containing the ZA Decision, attached hereto and incorporated herein as **Exhibit "A"**.

40. I did not receive a copy of the Zoning Administrator's Decision prior to January 11, 2018.

41. I confirmed with the City Planner assigned to my case that my 30-day time period to file an appeal to the Board of Adjustment would be calculated from January 11, 2018. *See* email correspondence dated January 18, 2018 attached hereto and incorporated herein as **Exhibit "B".**

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated this 17th day of April, 2018.



Michelle Siwek

EXHIBIT "A"

From: Michelle Siwek
To: Heather Dukes; Larry Lazarus
Subject: FW: Zoning Administrator Letter for CL Holdings 68th Place Care Home
Date: Tuesday, March 13, 2018 1:16:18 PM
Attachments: Care Home Separation.pdf

From: Moriarity, Ben <BMoriarity@Scottsdaleaz.gov>
Sent: Thursday, January 11, 2018 8:11 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Cc: Grant, Randy <RGrant@Scottsdaleaz.gov>; Gleason, Teri <TGleason@ScottsdaleAz.gov>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Michelle,

Attached is the letter from Randy Grant, a hard copy is also being mailed.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Thursday, January 11, 2018 8:03 AM
To: Moriarity, Ben
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Good morning Ben,
I haven't seen anything as of yet on my reasonable accommodation determination. It has been 45 days, is there any way you can check on it?

Michelle Siwek
Cell: 480.414.2596

From: Moriarity, Ben [mailto:BMoriarity@Scottsdaleaz.gov]
Sent: Monday, November 27, 2017 10:46 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>

Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

I will see you then and yes, Randy Grant is the Zoning Administrator.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Monday, November 27, 2017 10:32 AM
To: Moriarity, Ben
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Ok, I will get there by 1:30, to confirm Randy Grant is the Administrator?

From: Moriarity, Ben [mailto:BMoriarity@Scottsdaleaz.gov]
Sent: Monday, November 27, 2017 9:42 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Michelle,

Yes you can deliver the request for the Zoning Administrator's decision, but I will be in meetings from 2pm – 4pm. Please come before 2pm or after 4pm, so that I can be available to receive the letter.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Monday, November 27, 2017 8:40 AM

To: Moriarity, Ben
Cc: michelle@thesiweks.com
Subject: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Good morning Ben,
Can I deliver to you the letter a have for a reasonable accommodation to the Zoning Administrator?
I could bring it around 3 pm today November 27th if that works with your schedule?

Thank you!

Michelle Siwek
Cell: 480.414.2596

Planning & Development Services

7447 E. Indian School Rd.
Scottsdale, AZ 85251

PHONE 480-312-7000
WEB www.ScottsdaleAZ.gov

December 7, 2017

Michelle Siwek
Centered Living, CL Holdings 68th Pl, LLC
12012 N. 68th Place
Scottsdale, Arizona 85254

Re: Adult Care Home Separation Requirement

Ms. Siwek,

On November 27, 2017 you requested a disability accommodation from the Adult Care Home separation requirement of 750 feet per Section 5.102.2.c of the Zoning Ordinance. Included in your request is to change from a family to a care home. I have determined that an accommodation is not warranted in this case. I also determine that the living situation you describe is a "family" under the ordinance existing at the time you began operating so long as no care is provided. As such, your family is "grandfathered" under the City's amended Ordinance under the following conditions:

1. No increase in the number of disabled residents and
2. No care is being provided at the residence

Centered Living at 12012 N. 68th Place is approximately 410 feet from a licensed adult care home to the north, 12202 N. 68th Place. The properties are separated by one single family home property and E. Cactus Road. Because the property is on the same N. 68th Place street frontage as the adult care home to the north, under the ordinance existing at the time you began the standard calls for adult care homes to be separated by 750 feet. Because it is not currently authorized as an adult care home, we assume there are fewer than 6 residents.

City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), on December 4, 2017 and it went into effect January 5, 2018. Because this request was received prior to the adoption of the new text, the authority to analyze this request belongs to the Zoning Administrator, per Section 1.202 of the Zoning Ordinance.

Although you can continue as a family with no care provided, a care home is not allowed at this location because:

1. The property is within 750' of another care home.
2. There is no justification for waiving this standard because there are alternative locations nearby. Within the City of Scottsdale there are currently 113 adult care homes. If the disabled residents at 12012 N. 68th Place need additional care that can only be achieved in a care home within a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for an adult care home at a different property that is properly separated from

other adult care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home. (See Attachment 1, Care home availability map)

3. I find that allowing a care home to operate at this location would fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale. The purpose of this ordinance 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. In addition the purpose of the Single-family residential (R1-35) zoning district is to promote and preserve residential development. The minimum lot size, although less than one (1) acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto, together with required recreational, religious and educational facilities. (Zoning Ordinance, Section 5.201)

   The buffers between Adult Care Homes are in place to protect the character of neighborhoods, and to insure, as in this case, that the low density of the zoning district is maintained and to protect neighboring citizens welfare.

   Because there is only one real property between the existing Adult Care Home on the north side of E Cactus Rd. and this subject property, the impact for the neighboring property would be considerable and the Zoning Ordinance established separation requirement should be upheld.

At this time I do not see good cause to grant a disability accommodation. The home can continue to be used as it has been, with no increase in the number of residents or level of activity.

Sincerely,

Randy Grant
Director, Planning and Development Services

ATTACHMENTS:

1. Care home availability location map
2. Requested letter of determination

You can appeal the Zoning Administrator's decision to the Board of Adjustment pursuant to Zoning Ordinance Section 1.202.B and any timely appeal shall be processed pursuant to Section 1.805

Planning and Development Services

7447 E. Indian School Rd., Suite 105
Scottsdale, AZ 85251

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0001391779 JAN 11 2018

MICHELLE SINEK
CENTERED LIVING, CL HOLDINGS 68TH PL. LLC
12012 N. 68TH PLACE
SCOTTSDALE, AZ. 85254

EXHIBIT "B"

From: Michelle Siwek
To: Heather Dukes; Larry Lazarus
Subject: FW: Zoning Administrator Letter for CL Holdings 68th Place Care Home
Date: Tuesday, March 13, 2018 1:19:11 PM

From: Moriarity, Ben <BMoriarity@Scottsdaleaz.gov>
Sent: Thursday, January 18, 2018 9:47 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Cc: Grant, Randy <RGrant@Scottsdaleaz.gov>; Gleason, Teri <TGleason@ScottsdaleAz.gov>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Michelle,

It is the date you received it, 1/11/2018

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Thursday, January 18, 2018 9:43 AM
To: Moriarity, Ben
Cc: Grant, Randy; Gleason, Teri
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Thank you, so I am clear on the timing, is the 30 day requirement from the day I received the decision which was 1/11/18 or the date of the letter which is 12/7/17?

From: Moriarity, Ben [mailto:BMoriarity@Scottsdaleaz.gov]
Sent: Thursday, January 18, 2018 9:23 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Cc: Grant, Randy <RGrant@Scottsdaleaz.gov>; Gleason, Teri <TGleason@ScottsdaleAz.gov>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Michelle,

Per section 1.202.B an appeal must be filed with the City Clerk within 30 days of the Zoning Administrator's decision. Also, per section 1.805 the Board of Adjustment will hear the appeal. To

submit an appeal case please follow the attached checklist, once you have all the items completed you may call to schedule a case submittal meeting.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Thursday, January 18, 2018 9:14 AM
To: Moriarity, Ben
Cc: Grant, Randy; Gleason, Teri
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Thank you!

From: Moriarity, Ben [mailto:BMoriarity@Scottsdaleaz.gov]
Sent: Wednesday, January 17, 2018 4:33 PM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Cc: Grant, Randy <RGrant@Scottsdaleaz.gov>; Gleason, Teri <TGleason@ScottsdaleAz.gov>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Michelle,

I'll check on the process for you regarding the appeal. The date on the letter simply did not auto fill, but was saved when the letter was first drafted.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Tuesday, January 16, 2018 10:28 AM
To: Moriarity, Ben
Cc: Grant, Randy; Gleason, Teri; michelle@thesiweks.com

Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Ben,
Good morning, attached is my letter of appeal to the Board of Adjustment. Can you deliver to the appropriate department or should I come down to the City to deliver a copy?

Also, do you know why the determination was dated December 7, 2017 but not delivered to me until January 11, 2018?
Thank you for your assistance.

Michelle Siwek
Cell: 480.414.2596

From: Moriarity, Ben [mailto:BMoriarity@Scottsdaleaz.gov]
Sent: Thursday, January 11, 2018 8:11 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Cc: Grant, Randy <RGrant@Scottsdaleaz.gov>; Gleason, Teri <TGleason@ScottsdaleAz.gov>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Michelle,

Attached is the letter from Randy Grant, a hard copy is also being mailed.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Thursday, January 11, 2018 8:03 AM
To: Moriarity, Ben
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Good morning Ben,
I haven't seen anything as of yet on my reasonable accommodation determination. It has been 45 days, is there any way you can check on it?

Michelle Siwek
Cell: 480.414.2596

From: Moriarity, Ben [mailto:BMoriarity@Scottsdaleaz.gov]
Sent: Monday, November 27, 2017 10:46 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

I will see you then and yes, Randy Grant is the Zoning Administrator.

Ben Moriarity
Planner
Planning & Development Department

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BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Monday, November 27, 2017 10:32 AM
To: Moriarity, Ben
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Ok, I will get there by 1:30, to confirm Randy Grant is the Administrator?

From: Moriarity, Ben [mailto:BMoriarity@Scottsdaleaz.gov]
Sent: Monday, November 27, 2017 9:42 AM
To: 'Michelle Siwek' <michelle@thesiweks.com>
Subject: RE: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Michelle,

Yes you can deliver the request for the Zoning Administrator's decision, but I will be in meetings from 2pm – 4pm. Please come before 2pm or after 4pm, so that I can be available to receive the letter.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE

7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Michelle Siwek [mailto:michelle@thesiweks.com]
Sent: Monday, November 27, 2017 8:40 AM
To: Moriarity, Ben
Cc: michelle@thesiweks.com
Subject: Zoning Administrator Letter for CL Holdings 68th Place Care Home

Good morning Ben,
Can I deliver to you the letter a have for a reasonable accommodation to the Zoning Administrator?
I could bring it around 3 pm today November 27th if that works with your schedule?

Thank you!

Michelle Siwek
Cell: 480.414.2596

DECLARATION OF CHARLES JACKSON

I, CHARLES JACKSON, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts contained in this Declaration. If called upon to testify, I could and would testify competently as to the truth of the facts stated herein.

2. I make this Declaration in support of CL Holdings' applications requesting Board of Adjustment approval of a disability accommodation or a variance of the 1200-foot separation requirement applicable to care homes within the R1-35 Single-Family Residential zoning district. The City of Scottsdale has assigned the following case numbers to CL Holdings' applications: Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018.

3. I am currently the Chief Administrative Officer of an Arizona-based behavioral health substance abuse treatment center.

4. Prior to 2015, I worked as a Team Lead for the Bureau of Residential Facilities Licensing within the Arizona Department of Health Services ("ADHS"). During this time, I also served as a subject matter expert for behavioral health treatment practices and licensed facilities within the ADHS purview, which required me to coordinate and present to stakeholder groups, the Governor's office, legislative bodies, and to issue formal interpretations of the rules.

5. I have substantial experience interpreting and applying the Arizona state statutes and regulations pertaining to the licensure of health care institutions, including behavioral health residential facilities and assisted living facilities.

6. The state statutes applicable to the licensing of health care institutions by ADHS are set forth under Ariz. Rev. Stat. Section 36-401, *et seq.* The ADHS regulations promulgated thereunder are provided under Title 9, Chapter 10 of the Arizona Administrative Code (A.A.C.).

7. While employed by ADHS, I played a significant role in the rules committee tasked with drafting and revising the regulations in Title 9, Chapter 10 of the A.A.C.

8. A health care institution is defined as "every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies." A health care institution "does not include a community residential setting as defined in section 36-551." *See* A.R.S. § 36-401(A)(21) attached hereto as **Exhibit "A"**.

9. The existing CL Holdings' sober living home at 12012 N. 68th Place would not require a license from ADHS as a health care institution or any of the classes or subclasses thereunder because the sober living home does not provide:

a. Medical services,

b. Nursing services,

c. Behavioral health services,

d. Health screening services,

e. Other health-related services,

f. Supervisory care services,

g. Personal care services, or

h. Directed care services.

Furthermore, the existing CL Holdings sober living home is not a home health agency, an outdoor behavioral health care program or a hospice service agency.

10. There are currently 23 classes and subclasses of health care institution licenses issued by ADHS. These health care institution classifications are based upon: (a) the characteristics of the persons receiving care, services and treatment, (b) the level of care, services or treatment being provided, and, (c) in some instances, the size of the facility. *See* A.A.C. § R9-10-102(A) attached hereto as **Exhibit "B"**.

11. Notably, the list of health care institution classes and subclasses provides a separate classification for a "behavioral health residential facility" and an "assisted living home". The separate classification of these 2 licenses demonstrates that they are licenses issued to facilities differentiated by the characteristics of the residents and the care services and treatment provided. *See* §§ A.A.C. R9-10-102(A)(9) and (A)(11) attached hereto as **Exhibit "B"**.

12. The care, treatment and services provided by a licensed behavioral health residential facility are different from those provided by an assisted living home. Assisted living homes do not provide treatment to individuals with behavioral health issues, such as mental disorders, personality disorders, or conditions caused by substance abuse, that limit an individual's mental or behavioral ability to be independent or causes the individual to require treatment to maintain or enhance independence.

13. The disabled population which would reside within the proposed licensed behavioral health residential facility is unique from the senior/elderly population residing within an assisted living home. The elderly, disabled residents in an assisted living home often require assistance with activities of daily living and are often persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions. These senior disabled residents would not be treated in a behavioral health residential facility. Likewise, young and middle-aged adults needing treatment to cure or improve their behavioral health issues relating to mental disorders, personality disorders or substance abuse would not be treated in an assisted living home.

14. The key differences in these facilities are based upon the services provided to disabled individuals. Assisted living facilities provide supervisory, personal, and directed care services. Behavioral health residential facilities provide behavioral health services. These services are defined in our state statutes as separate and distinct types of services. *See* **Exhibit "A"** attached hereto.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated this 17th day of April, 2018.



CHARLES JACKSON

EXHIBIT "A"

36-401. Definitions; adult foster care

A. In this chapter, unless the context otherwise requires:

1. "Accredited health care institution" means a health care institution, other than a hospital, that is currently accredited by a nationally recognized accreditation organization.

2. "Accredited hospital" means a hospital that is currently accredited by a nationally recognized organization on hospital accreditation.

3. "Adult day health care facility" means a facility that provides adult day health services during a portion of a continuous twenty-four-hour period for compensation on a regular basis for five or more adults who are not related to the proprietor.

4. "Adult day health services" means a program that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous twenty-four-hour period. Adult day health services may also include preventive, therapeutic and restorative health-related services that do not include behavioral health services.

5. "Adult foster care home" means a residential setting that provides room and board and adult foster care services for at least one and no more than four adults who are participants in the Arizona long-term care system pursuant to chapter 29, article 2 of this title or contracts for services with the United States department of veterans affairs and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's family.

6. "Adult foster care services" means supervision, assistance with eating, bathing, toileting, dressing, self-medication and other routines of daily living or services authorized by rules adopted pursuant to section 36-405 and section 36-2939, subsection C.

7. "Assisted living center" means an assisted living facility that provides resident rooms or residential units to eleven or more residents.

8. "Assisted living facility" means a residential care institution, including an adult foster care home, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuous basis.

9. "Assisted living home" means an assisted living facility that provides resident rooms to ten or fewer residents.

10. "Behavioral health services" means services that pertain to mental health and substance use disorders and that are either:

(a) Performed by or under the supervision of a professional who is licensed pursuant to title 32 and whose scope of practice allows for the provision of these services.

(b) Performed on behalf of patients by behavioral health staff as prescribed by rule.

11. "Construction" means the building, erection, fabrication or installation of a health care institution.

12. "Continuous" means available at all times without cessation, break or interruption.

13. "Controlling person" means a person who:

(a) Through ownership, has the power to vote at least ten percent of the outstanding voting securities.

(b) If the applicant or licensee is a partnership, is the general partner or a limited partner who holds at least ten percent of the voting rights of the partnership.

(c) If the applicant or licensee is a corporation, an association or a limited liability company, is the president, the chief executive officer, the incorporator or any person who owns or controls at least ten percent of the voting securities. For the purposes of this subdivision, corporation does not include nonprofit corporations.

(d) Holds a beneficial interest in ten percent or more of the liabilities of the applicant or the licensee.

14. "Department" means the department of health services.

15. "Directed care services" means 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.

16. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

17. "Director" means the director of the department of health services.

18. "Facilities" means buildings that are used by a health care institution for providing any of the types of services as defined in this chapter.

19. "Freestanding urgent care center":

(a) Means an outpatient treatment center that, regardless of its posted or advertised name, meets any of the following requirements:

(i) Is open twenty-four hours a day, excluding at its option weekends or certain holidays, but is not licensed as a hospital.

(ii) Claims to provide unscheduled medical services not otherwise routinely available in primary care physician offices.

(iii) By its posted or advertised name, gives the impression to the public that it provides medical care for urgent, immediate or emergency conditions.

(iv) Routinely provides ongoing unscheduled medical services for more than eight consecutive hours for an individual patient.

(b) Does not include the following:

(i) A medical facility that is licensed under a hospital's license and that uses the hospital's medical provider number.

(ii) A qualifying community health center pursuant to section 36-2907.06.

(iii) Any other health care institution licensed pursuant to this chapter.

(iv) A physician's office that offers extended hours or same-day appointments to existing and new patients and that does not meet the requirements of subdivision (a), item (i), (iii) or (iv) of this paragraph.

20. "Governing authority" means the individual, agency, partners, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.

21. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. Health care institution does not include a community residential setting as defined in section 36-551.

22. "Health-related services" means services, other than medical, that pertain to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.

23. "Health screening services" means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.

24. "Hospice" means a hospice service agency or the provision of hospice services in an inpatient facility.

25. "Hospice service" means a program of palliative and supportive care for terminally ill persons and their families or caregivers.

26. "Hospice service agency" means an agency or organization, or a subdivision of that agency or organization, that is engaged in providing hospice services at the place of residence of its clients.

27. "Inpatient beds" or "resident beds" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.

28. "Licensed capacity" means the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this chapter if the person is expected to stay in the health care institution for more than twenty-four hours. For a hospital, licensed capacity means only those beds specified on the hospital license.

29. "Medical services" means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.

30. "Modification" means the substantial improvement, enlargement, reduction or alteration of or other change in a health care institution.

31. "Nonproprietary institution" means any health care institution that is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or that is operated by the state or any political subdivision of the state.

32. "Nursing care institution" means 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.

33. "Nursing services" means those services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

34. "Organized medical staff" means a formal organization of physicians, and dentists where appropriate, with the delegated authority and responsibility to maintain proper standards of medical care and to plan for continued betterment of that care.

35. "Outdoor behavioral health care program" means an agency that provides behavioral health services in an outdoor environment as an alternative to behavioral health services that are provided in a health care institution with facilities. Outdoor behavioral health care programs do not include:

(a) Programs, facilities or activities that are operated by a government entity or that are licensed by the department as a child care program pursuant to chapter 7.1 of this title.

(b) Outdoor activities for youth that are designated to be primarily recreational and that are organized by church groups, scouting organizations or similar groups.

(c) Outdoor youth programs licensed by the department of economic security.

36. "Personal care services" means 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 the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.

37. "Physician" means any person who is licensed pursuant to title 32, chapter 13 or 17.

38. "Recidivism reduction services" means services that are delivered by an adult residential care institution to its residents to encourage lawful behavior and to discourage or prevent residents who are suspected of, charged with or convicted of one or more criminal offenses, or whose mental health and substance use can be reasonably expected to place them at risk for the future threat of prosecution, diversion or incarceration, from engaging in future unlawful behavior.

39. "Recidivism reduction staff" means a person who provides recidivism reduction services.

40. "Residential care institution" means a health care institution other than a hospital or a nursing care institution that provides resident beds or residential units, supervisory care services, personal care services, behavioral health services, directed care services or health-related services for persons who do not need continuous nursing services.

41. "Residential unit" means a private apartment, unless otherwise requested by a resident, that includes a living and sleeping space, kitchen area, private bathroom and storage area.

42. "Respite care services" means services that are provided by a licensed health care institution to persons otherwise cared for in foster homes and in private homes to provide an interval of rest or relief of not more than thirty days to operators of foster homes or to family members.

43. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of a health care institution does not pose a direct risk to the life, health or safety of patients or residents.

44. "Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity.

45. "Supervisory care services" means 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.

46. "Temporary license" means a license that is issued by the department to operate a class or subclass of a health care institution at a specific location and that is valid until an initial licensing inspection.

47. "Unscheduled medical services" means medically necessary periodic health care services that are unanticipated or cannot reasonably be anticipated and that require medical evaluation or treatment before the next business day.

B. If there are fewer than four Arizona long-term care system participants receiving adult foster care in an adult foster care home, nonparticipating adults may receive other types of services that are authorized by law to be provided in the adult foster care home as long as the number of adults served, including the Arizona long-term care system participants, does not exceed four.

C. Nursing care services may be provided by the adult foster care licensee if the licensee is a nurse who is licensed pursuant to title 32, chapter 15 and the services are limited to those allowed pursuant to law. The licensee shall keep a record of nursing services rendered.

EXHIBIT "B"

Supp. 17-3

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Supplement to the
Arizona Administrative Code
The official compilation of Arizona Rules

Replacement Check List

For rules filed in the third quarter between
July 1 - September 30
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 09. Health Services

Chapter 10. Department of Health Services - Health Care Institutions: Licensing

Sections, Parts, Exhibits, Tables or Appendices modified
R9-10-120

☐ REMOVE Supp. 16-3 Pages: 1 - 259	☐ REPLACE with Supp. 17-3 Pages: 1 - 261

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Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: "'Rule' means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency."

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The "R" stands for "rule" with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature's website, www.azleg.gov. An agency's authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State's website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency's exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor's notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

Editor's Note: The heading for 9 A.A.C. 10 changed from "Licensure" to "Licensing" per a request from the Department of Health Services (Supp. 03-4).

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).

Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under exemptions from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1993, Ch. 163, § 3(B); Laws 1996, Ch. 329, § 5; Laws 1998, Ch. 178 § 17, and Laws 1999, Ch. 311. Exemption from A.R.S. Title 41, Chapter 6 means that the Department of Health Services did not submit these rules to the Governor's Regulatory Review Council for review; the Department may not have submitted notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Former Article 2, consisting of Sections R9-10-201 through R9-10-250, renumbered as Sections R9-10-301 through R9-10-335 as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days.

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Article 3, consisting of Sections R9-10-301 through R9-10-333, adopted effective February 4, 1981.

Former Article 3, consisting of Sections R9-10-301 through R9-10-335, repealed effective February 4, 1981.

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Article 5, consisting of Sections R9-10-501 through R9-10-518, repealed effective April 4, 1994 (Supp. 94-2).

Article 5, consisting of Sections R9-10-501 through R9-10-518, adopted as permanent rules effective October 30, 1989.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 5, consisting of Sections R9-10-501 through R9-10-518, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 5, consisting of Sections R9-10-501 through R9-10-574, repealed effective October 20, 1982.

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Article 6, consisting of Sections R9-10-611 through R9-10-624, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4)

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Article 7, consisting of Sections R9-10-701 through R9-7-710, repealed; New Article 7, consisting of Sections R9-10-701 through R9-7-724 adopted; both actions effective November 1, 1998 under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Article 7, consisting of Sections R9-10-701 through R9-10-710, adopted as permanent rules effective October 30, 1989.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 7, consisting of Sections R9-10-701 through R9-10-710, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 7, consisting of Sections R9-10-701 through R9-10-737, repealed effective October 20, 1982.

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Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 8, consisting of Sections R9-10-801 through R9-10-812, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

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ARTICLE 9. OUTPATIENT SURGICAL CENTERS

Article 9, consisting of Sections R9-10-901 through R9-10-917 adopted effective February 17, 1995 (Supp. 95-1).

Article 9, consisting of Sections R9-10-911 through R9-10-925, repealed effective February 17, 1995 (Supp. 95-1).

Article 9, consisting of Sections R9-10-911 through R9-10-925, adopted effective October 20, 1982 (Supp. 82-5).

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Article 10, consisting of Sections R9-10-1001 through R9-10-1017, made new by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1).

Article 10, consisting of Sections R9-10-1011 through R9-10-1030, repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2).

The proposed summary action repealing R9-10-1011 through R9-10-1030 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rules. Sections in effect before the proposed summary action have been restored (Supp. 97-1).

Article 10, consisting of R9-10-1011 through R9-10-1030, repealed by summary action, interim effective date of July 21, 1995.

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Article 11, consisting of Sections R9-10-1101 through R9-10-1109 adopted effective July 22, 1994 (Supp. 94-3).

Article 11, consisting of Sections R9-10-1111 through R9-10-1127 repealed effective July 22, 1994 (Supp. 94-3).

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Article 12, consisting of Sections R9-10-1201 through R9-10-1230, repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3)

Article 12, consisting of Sections R9-10-1201 through R9-10-1230, adopted effective February 4, 1981.

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ARTICLE 13. BEHAVIORAL HEALTH SPECIALIZED TRANSITIONAL FACILITY

New Article 13, consisting of Sections R9-10-1301 through R9-10-1317, made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted as permanent rules effective November 25, 1992 (Supp. 92-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2)

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted as an emergency effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1306, adopted as an emergency effective March 29, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency expired.

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Article 15, consisting of Sections R9-10-1501 through R9-10-1514, adopted under an exemption from the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311, filed in the Office of the Secretary of State December 23, 1999 (Supp. 99-4).

Article 15, consisting of Sections R9-10-1501 through R9-10-1514, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4)

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Article 17, consisting of Sections R9-10-1711 through R9-10-1713, R9-10-1715 through R9-10-1723, and R9-10-1731 through R9-10-1734, repealed effective July 6, 1994 (Supp. 94-3).

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ARTICLE 1. GENERAL

R9-10-101. Definitions

In addition to the definitions in A.R.S. § 36-401(A), the following definitions apply in this Chapter unless otherwise specified:

1. "Abortion clinic" has the same meaning as in A.R.S. § 36-449.01.
2. "Abuse" means:
   a. The same:
      i. For an individual 18 years of age or older, as in A.R.S. § 46-451; and
      ii. For an individual less than 18 years of age, as in A.R.S. § 8-201;
   b. A pattern of ridiculing or demeaning a patient;
   c. Making derogatory remarks or verbally harassing a patient; or
   d. Threatening to inflict physical harm on a patient.
3. "Accredited" has the same meaning as in A.R.S. § 36-422.
4. "Activities of daily living" means ambulating, bathing, toileting, grooming, eating, and getting in or out of a bed or a chair.
5. "Adjacent" means not intersected by:
   a. Property owned, operated, or controlled by a person other than the applicant or licensee; or
   b. A public thoroughfare.
6. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
7. "Administrative office" means a location used by personnel for recordkeeping and record retention but not for providing medical services, nursing services, or health-related services.
8. "Admission" means, after completion of an individual's screening or registration by a health care institution, the individual begins receiving physical health services or behavioral health services and is accepted as a patient of the health care institution.
9. "Adult" has the same meaning as in A.R.S. § 1-215.
10. "Adult behavioral health therapeutic home" means a residence that provides room and board, assists in acquiring daily living skills, coordinates transportation to scheduled appointments, monitors behaviors, assists in the self-administration of medication, and provides feedback to a case manager related to behavior for an individual 18 years of age or older based on the individual's behavioral health issue and need for behavioral health services and may provide behavioral health services under the clinical oversight of a behavioral health professional.
11. "Adverse reaction" means an unexpected outcome that threatens the health or safety of a patient as a result of a medical service, nursing service, or health-related service provided to the patient.
12. "Ancillary services" means services other than medical services, nursing services, or health-related services provided to a patient.
13. "Anesthesiologist" means a physician granted clinical privileges to administer anesthesia.
14. "Applicant" means a governing authority requesting:
   a. Approval of a health care institution's architectural plans and specifications, or
   b. A health care institution license.
15. "Application packet" means the information, documents, and fees required by the Department for the:
   a. Approval of a health care institution's modification or construction, or
   b. Licensing of a health care institution.
16. "Assessment" means an analysis of a patient's need for physical health services or behavioral health services to determine which services a health care institution will provide to the patient.
17. "Assistance in the self-administration of medication" means restricting a patient's access to the patient's medication and providing support to the patient while the patient takes the medication to ensure that the medication is taken as ordered.
18. "Attending physician" means a physician designated by a patient to participate in or coordinate the medical services provided to the patient.
19. "Authenticate" means to establish authorship of a document or an entry in a medical record by:
   a. A written signature;
   b. An individual's initials, if the individual's written signature appears on the document or in the medical record;
   c. A rubber-stamp signature; or
   d. An electronic signature code.
20. "Authorized service" means specific medical services, nursing services, or health-related services provided by a specific health care institution class or subclass for which the health care institution is required to obtain approval from the Department before providing the medical services, nursing services, or health-related services.
21. "Available" means:
   a. For an individual, the ability to be contacted and to provide an immediate response by any means possible;
   b. For equipment and supplies, physically retrievable at a health care institution; and
   c. For a document, retrievable by a health care institution or accessible according to the applicable time-frames in this Chapter.
22. "Behavioral care":
   a. Means limited behavioral health services, provided to a patient whose primary admitting diagnosis is related to the patient's need for physical health services, that include:
      i. Assistance with the patient's psychosocial interactions to manage the patient's behavior that can be performed by an individual without a professional license or certificate including:
         (1) Direction provided by a behavioral health professional, and
         (2) Medication ordered by a medical practitioner or behavioral health professional; or
      ii. Behavioral health services provided by a behavioral health professional on an intermittent basis to address the patient's significant psychological or behavioral response to an identifiable stressor or stressors; and
   b. Does not include court-ordered behavioral health services.
23. "Behavioral health facility" means a behavioral health inpatient facility, a behavioral health residential facility, a substance abuse transitional facility, a behavioral health specialized transitional facility, an outpatient treatment center that only provides behavioral health services, an adult behavioral health therapeutic home, a behavioral health respite home, or a counseling facility.
24. "Behavioral health inpatient facility" means a health care institution that provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual to:

a. Have a limited or reduced ability to meet the individual's basic physical needs;
b. Suffer harm that significantly impairs the individual's judgment, reason, behavior, or capacity to recognize reality;
c. Be a danger to self;
d. Be a danger to others;
e. Be persistently or acutely disabled as defined in A.R.S. § 36-501; or
f. Be gravely disabled.

25. "Behavioral health issue" means 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.
26. "Behavioral health observation/stabilization services" means crisis services provided, in an outpatient setting, to an individual whose behavior or condition indicates that the individual:
    a. Requires nursing services,
    b. May require medical services, and
    c. May be a danger to others or a danger to self.
27. "Behavioral health paraprofessional" means an individual who is not a behavioral health professional who provides, under supervision by a behavioral health professional, the following services to a patient to address the patient's behavioral health issue:
    a. Services that, if provided in a setting other than a health care institution would be required to be provided by an individual licensed under A.R.S, Title 32, Chapter 33; or
    b. Health-related services.
28. "Behavioral health professional" means:
    a. An individual licensed under A.R.S. Title 32, Chapter 33, whose scope of practice allows the individual to:
        i. Independently engage in the practice of behavioral health as defined in A.R.S. § 32-3251; or
        ii. Except for a licensed substance abuse technician, engage in the practice of behavioral health as defined in A.R.S. § 32-3251 under direct supervision as defined in A.A.C. R4-6-101;
    b. A psychiatrist as defined in A.R.S. § 36-501;
    c. A psychologist as defined in A.R.S. § 32-2061;
    d. A physician;
    e. A behavior analyst as defined in A.R.S. § 32-2091;
    f. A registered nurse practitioner licensed as an adult psychiatric and mental health nurse; or
    g. A registered nurse.
29. "Behavioral health residential facility" means a health care institution that provides treatment to an individual experiencing a behavioral health issue that:
    a. Limits the individual's ability to be independent, or
    b. Causes the individual to require treatment to maintain or enhance independence.
30. "Behavioral health respite home" means a residence where respite care services, which may include assistance in the self-administration of medication, are provided to an individual based on the individual's behavioral health issue and need for behavioral health services.
31. "Behavioral health specialized transitional facility" means a health care institution that provides inpatient behavioral health services and physical health services to an individual determined to be a sexually violent person according to A.R.S. Title 36, Chapter 37.
32. "Behavioral health staff" means a:
    a. Behavioral health paraprofessional,
    b. Behavioral health technician, or
    c. Personnel member in a nursing care institution or assisted living facility who provides behavioral care.
33. "Behavioral health technician" means an individual who is not a behavioral health professional who provides, with clinical oversight by a behavioral health professional, the following services to a patient to address the patient's behavioral health issue:
    a. Services that, if provided in a setting other than a health care institution would be required to be provided by an individual licensed under A.R.S, Title 32, Chapter 33; or
    b. Health-related services.
34. "Biohazardous medical waste" has the same meaning as in A.A.C. R18-13-1401.
35. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
36. "Case manager" means an individual assigned by an entity other than a health care institution to coordinate the physical health services or behavioral health services provided to a patient at the health care institution.
37. "Certification" means, in this Article, a written statement that an item or a system complies with the applicable requirements incorporated by reference in A.A.C. R9-1-412.
38. "Certified health physicist" means an individual recognized by the American Board of Health Physics as complying with the health physics criteria and examination requirements established by the American Board of Health Physics.
39. "Change in ownership" means conveyance of the ability to appoint, elect, or otherwise designate a health care institution's governing authority from an owner of the health care institution to another person.
40. "Chief administrative officer" or "administrator" means an individual designated by a governing authority to implement the governing authority's direction in a health care institution.
41. "Clinical laboratory services" means the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or impairment of a human being, or for the assessment of the health of a human being, including procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.
42. "Clinical oversight" means:
    a. Monitoring the behavioral health services provided by a behavioral health technician to ensure that the behavioral health technician is providing the behavioral health services according to the health care institution's policies and procedures,
    b. Providing on-going review of a behavioral health technician's skills and knowledge related to the provision of behavioral health services,
    c. Providing guidance to improve a behavioral health technician's skills and knowledge related to the provision of behavioral health services, and

d. Recommending training for a behavior health technician to improve the behavioral health technician's skills and knowledge related to the provision of behavioral health services.

43. "Clinical privileges" means authorization to a medical staff member to provide medical services granted by a governing authority or according to medical staff bylaws.
44. "Collaborating health care institution" means a health care institution licensed to provide outpatient behavioral health services that has a written agreement with an adult behavioral health therapeutic home or a behavioral health respite home to:
    a. Coordinate behavioral health services provided to a resident at the adult behavioral health therapeutic home or a recipient at a behavioral health respite home, and
    b. Work with the provider to ensure a resident at the adult behavioral health therapeutic home or a recipient at a behavioral health respite home receives behavioral health services according to the resident's treatment plan.
45. "Communicable disease" has the same meaning as in A.R.S. § 36-661.
46. "Conspicuously posted" means placed:
    a. At a location that is visible and accessible; and
    b. Unless otherwise specified in the rules, within the area where the public enters the premises of a health care institution.
47. "Consultation" means an evaluation of a patient requested by a medical staff member or personnel member.
48. "Contracted services" means medical services, nursing services, health-related services, ancillary services, or environmental services provided according to a documented agreement between a health care institution and the person providing the medical services, nursing services, health-related services, ancillary services, or environmental services.
49. "Contractor" has the same meaning as in A.R.S. § 32-1101.
50. "Controlled substance" has the same meaning as in A.R.S. § 36-2501.
51. "Counseling" has the same meaning as "practice of professional counseling" in A.R.S. § 32-3251.
52. "Counseling facility" means a health care institution that only provides counseling, which may include:
    a. DUI screening, education, or treatment according to the requirements in 9 A.A.C. 20, Article 1; or
    b. Misdemeanor domestic violence offender treatment according to the requirements in 9 A.A.C. 20, Article 2.
53. "Court-ordered evaluation" has the same meaning as "evaluation" in A.R.S. § 36-501.
54. "Court-ordered pre-petition screening" has the same meaning as in A.R.S. § 36-501.
55. "Court-ordered treatment" means treatment provided according to A.R.S. Title 36, Chapter 5.
56. "Crisis services" means immediate and unscheduled behavioral health services provided to a patient to address an acute behavioral health issue affecting the patient.
57. "Current" means up-to-date, extending to the present time.
58. "Daily living skills" means activities necessary for an individual to live independently and include meal preparation, laundry, housecleaning, home maintenance, money management, and appropriate social interactions.
59. "Danger to others" has the same meaning as in A.R.S. § 36-501.
60. "Danger to self" has the same meaning as in A.R.S. § 36-501.
61. "Detoxification services" means behavioral health services and medical services provided to an individual to:
    a. Reduce or eliminate the individual's dependence on alcohol or other drugs, or
    b. Provide treatment for the individual's signs or symptoms of withdrawal from alcohol or other drugs.
62. "Diagnostic procedure" means a method or process performed to determine whether an individual has a medical condition or behavioral health issue.
63. "Dialysis" means the process of removing dissolved substances from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane.
64. "Dialysis services" means medical services, nursing services, and health-related services provided to a patient receiving dialysis.
65. "Dialysis station" means a designated treatment area approved by the Department for use by a patient receiving dialysis or dialysis services.
66. "Dialyzer" means an apparatus containing semi-permeable membranes used as a filter to remove wastes and excess fluid from a patient's blood
67. "Disaster" means an unexpected occurrence that adversely affects a health care institution's ability to provide services.
68. "Discharge" means a documented termination of services to a patient by a health care institution.
69. "Discharge instructions" means documented information relevant to a patient's medical condition or behavioral health issue provided by a health care institution to the patient or the patient's representative at the time of the patient's discharge.
70. "Discharge planning" means a process of establishing goals and objectives for a patient in preparation for the patient's discharge.
71. "Discharge summary" means a documented brief review of services provided to a patient, current patient status, and reasons for the patient's discharge.
72. "Disinfect" means to clean in order to prevent the growth of or to destroy disease-causing microorganisms.
73. "Documentation" or "documented" means information in written, photographic, electronic, or other permanent form.
74. "Drill" means a response to a planned, simulated event.
75. "Drug" has the same meaning as in A.R.S. § 32-1901.
76. "Electronic" has the same meaning as in A.R.S. § 44-7002.
77. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
78. "Emergency" means an immediate threat to the life or health of a patient.
79. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
80. "Environmental services" means activities such as housekeeping, laundry, facility maintenance, or equipment maintenance.
81. "Equipment" means, in this Article, an apparatus, a device, a machine, or a unit that is required to comply with the specifications incorporated by reference in A.A.C. R9-1-412.
82. "Exploitation" has the same meaning as in A.R.S. § 46-451.

83. "Factory-built building" has the same meaning as in A.R.S. § 41-2142.
84. "Family" or "family member" means an individual's spouse, sibling, child, parent, grandparent, or another individual designated by the individual.
85. "Food services" means the storage, preparation, serving, and cleaning up of food intended for consumption in a health care institution.
86. "Garbage" has the same meaning as in A.A.C. R18-13-302.
87. "General consent" means documentation of an agreement from an individual or the individual's representative to receive physical health services to address the individual's medical condition or behavioral health services to address the individual's behavioral health issues.
88. "General hospital" means a subclass of hospital that provides surgical services and emergency services.
89. "Gravely disabled" has the same meaning as in A.R.S. § 36-501.
90. "Hazard" or "hazardous" means a condition or situation where a patient or other individual may suffer physical injury.
91. "Health care directive" has the same meaning as in A.R.S. § 36-3201.
92. "Hemodialysis" means the process for removing wastes and excess fluids from a patient's blood by passing the blood through a dialyzer.
93. "Home health agency" has the same meaning as in A.R.S. § 36-151.
94. "Home health aide" means an individual employed by a home health agency to provide home health services under the direction of a registered nurse or therapist.
95. "Home health aide services" means those tasks that are provided to a patient by a home health aide under the direction of a registered nurse or therapist.
96. "Home health services" has the same meaning as in A.R.S. § 36-151.
97. "Hospice inpatient facility" means a subclass of hospice that provides hospice services to a patient on a continuous basis with the expectation that the patient will remain on the hospice's premises for 24 hours or more.
98. "Hospital" means a class of health care institution that provides, through an organized medical staff, inpatient beds, medical services, continuous nursing services, and diagnosis or treatment to a patient.
99. "Immediate" means without delay.
100. "Incident" means an unexpected occurrence that harms or has the potential to harm a patient, while the patient is:
    a. On the premises of a health care institution, or
    b. Not on the premises of a health care institution but directly receiving physical health services or behavioral health services from a personnel member who is providing the physical health services or behavioral health services on behalf of the health care institution.
101. "Infection control" means to identify, prevent, monitor, and minimize infections.
102. "Informed consent" means:
    a. Advising a patient of a proposed treatment, surgical procedure, psychotropic drug, or diagnostic procedure; alternatives to the treatment, surgical procedure, psychotropic drug, or diagnostic procedure; and associated risks and possible complications; and
    b. Obtaining documented authorization for the proposed treatment, surgical procedure, psychotropic drug, or diagnostic procedure from the patient or the patient's representative.
103. "In-service education" means organized instruction or information that is related to physical health services or behavioral health services and that is provided to a medical staff member, personnel member, employee, or volunteer.
104. "Interval note" means documentation updating a patient's:
    a. Medical condition after a medical history and physical examination is performed, or
    b. Behavioral health issue after an assessment is performed.
105. "Isolation" means the separation, during the communicable period, of infected individuals from others, to limit the transmission of infectious agents.
106. "Leased facility" means a facility occupied or used during a set time period in exchange for compensation.
107. "License" means:
    a. Written approval issued by the Department to a person to operate a class or subclass of health care institution at a specific location; or
    b. Written approval issued to an individual to practice a profession in this state.
108. "Licensed occupancy" means the total number of individuals for whom a health care institution is authorized by the Department to provide crisis services in a unit providing behavioral health observation/stabilization services.
109. "Licensee" means an owner approved by the Department to operate a health care institution.
110. "Manage" means to implement policies and procedures established by a governing authority, an administrator, or an individual providing direction to a personnel member.
111. "Medical condition" means the state of a patient's physical or mental health, including the patient's illness, injury, or disease.
112. "Medical director" means a physician who is responsible for the coordination of medical services provided to patients in a health care institution.
113. "Medical history" means an account of a patient's health, including past and present illnesses, diseases, or medical conditions.
114. "Medical practitioner" means a physician, physician assistant, or registered nurse practitioner.
115. "Medical record" has the same meaning as "medical records" in A.R.S. § 12-2291.
116. "Medical staff" means physicians and other individuals licensed pursuant to A.R.S. Title 32 who have clinical privileges at a health care institution.
117. "Medical staff by-laws" means standards, approved by the medical staff and the governing authority, that provide the framework for the organization, responsibilities, and self-governance of the medical staff.
118. "Medical staff member" means an individual who is part of the medical staff of a health care institution.
119. "Medication" means one of the following used to maintain health or to prevent or treat a medical condition or behavioral health issue:
    a. Biologicals as defined in A.A.C. R18-13-1401,
    b. Prescription medication as defined in A.R.S. § 32-1901, or
    c. Nonprescription medication as defined in A.R.S. § 32-1901.
120. "Medication administration" means restricting a patient's access to the patient's medication and providing the med-

ication to the patient or applying the medication to the patient's body, as ordered by a medical practitioner.

121. "Medication error" means:
    a. The failure to administer an ordered medication;
    b. The administration of a medication not ordered; or
    c. The administration of a medication:
        i. *In an incorrect dosage,*
        ii. More than 60 minutes before or after the ordered time of administration unless ordered to do so, or
        iii. By an incorrect route of administration.
122. "Mental disorder" means the same as in A.R.S. § 36-501.
123. "Mobile clinic" means a movable structure that:
    a. Is not physically attached to a health care institution's facility;
    b. Provides medical services, nursing services, or health related service to an outpatient under the direction of the health care institution's personnel; and
    c Is not intended to remain in one location indefinitely.
124. "Monitor" or "monitoring" means to check systematically on a specific condition or situation.
125. "Neglect" has the same meaning:
    a. For an individual less than 18 years of age, as in A.R.S. § 8-201; and
    b. For an individual 18 years of age or older, as in A.R.S. § 46-451.
126. "Nephrologist" means a physician who is board eligible *or board certified in nephrology by a professional credentialing board.*
127. "Nurse" has the same meaning as "registered nurse" or "practical nurse" as defined in A.R.S. § 32-1601.
128. "Nursing personnel" means individuals authorized according to A.R.S. § Title 32, Chapter 15 to provide nursing services.
129. "Observation chair" means a physical piece of equipment that:
    a. Is located in a designated area where behavioral health observation/stabilization services are provided,
    b. Allows an individual to fully recline, and
    c. Is used by the individual while receiving crisis services.
130. "Occupational therapist" has the same meaning as in A.R.S. § 32-3401.
131. "Occupational therapist assistant" has the same meaning as in A.R.S. § 32-3401.
132. "Ombudsman" *means a resident advocate who performs* the duties described in A.R.S. § 46-452.02.
133. "On-call" means a time during which an individual is available and required to come to a health care institution *when requested by the health care institution.*
134. "Opioid treatment" means providing medical services, nursing services, health-related services, and ancillary services to a patient receiving an opioid agonist treatment medication for opiate addiction.
135. "Opioid agonist treatment medication" means a prescription medication that is approved by the U.S. Food and Drug Administration under 21 U.S.C. § 355 for use in the treatment of opiate addiction.
136. "Order" means instructions to provide
    a. Physical health services to a patient from a medical practitioner or as otherwise provided by law; or
    b Behavioral health services to a patient from a behavioral health professional.
137. "Orientation" means the initial instruction and information provided to an individual before the individual starts work or volunteer services in a health care institution.
138. "Outing" means a social or recreational activity that:
    a. Occurs away from the premises,
    b. Is not part of a behavioral health inpatient facility's or behavioral health residential facility's daily routine, and
    c. Lasts longer than four hours.
139. "Outpatient surgical center" means a class of health care *institution that has the facility, staffing,* and equipment to provide surgery and anesthesia services to a patient whose recovery, in the opinions of the patient's surgeon and, if an anesthesiologist would be providing anesthesia services to the patient, the anesthesiologist, does not require inpatient care in a hospital.
140. "Outpatient treatment center" means a class of health care institution without inpatient beds that provides physical health services or behavioral health services for the diagnosis and treatment of patients.
141. "Overall time-frame" means the same as in A.R.S. § 41-1072.
142 "Owner" means a person who appoints, elects, or designates a health care institution's governing authority.
143. "Participant" means a patient receiving physical health services or behavioral health services from an adult day health care facility or a substance abuse transitional facility.
144. "Participant's representative" means the same as *"patient's representative" for a participant.*
145. "Patient" means an individual receiving physical health services or behavioral health services from a health care institution.
146. "Patient follow-up instructions" means information relevant to a patient's medical condition or behavioral health issue that is provided to the patient, the patient's representative, or a health care institution.
147. "Patient's representative" means:
    a. A patient's legal guardian;
    b. If a patient is less than 18 years of age and not an emancipated minor, the patient's parent;
    c. If a patient is 18 years of age or older or an emancipated minor, an individual acting on behalf of the patient with the written consent of the patient or patient's legal guardian; or
    d. A surrogate as defined in A.R.S. § 36-3201.
148. "Person" means the same as in A.R.S. § 1-215 and includes a governmental agency.
149. "Personnel member" means, except as defined in specific Articles in this Chapter and excluding a medical staff member, a student, or an intern, an individual providing physical health services or behavioral health services to a *patient*
150. "Pest control program" means activities that minimize the presence of insects and vermin in a health care institution to ensure that a patient's health and safety is not at risk
151. "Pharmacist" has the same meaning as in A.R.S. § 32-1901
152. "Physical examination" means to observe, test, or inspect an individual's body to evaluate health or determine cause of illness, injury, or disease.
153. "Physical health services" means medical services, nursing services, health-related services, or ancillary services provided to an individual to address the individual's medical condition.

154. "Physical therapist" has the same meaning as in A.R.S. § 32-2001.
155. "Physical therapist assistant" has the same meaning as in A.R.S. § 32-2001.
156. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
157. "Premises" means property that is designated by an applicant or licensee and licensed by the Department as part of a health care institution where physical health services or behavioral health services are provided to a patient.
158. "Professional credentialing board" means a non-governmental organization that designates individuals who have met or exceeded established standards for experience and competency in a specific field.
159. "Progress note" means documentation by a medical staff member, nurse, or personnel member of:
    a. An observed patient response to a physical health service or behavioral health service provided to the patient,
    b. A patient's significant change in condition, or
    c. Observed behavior of a patient related to the patient's medical condition or behavioral health issue.
160. "PRN" means *pro re nata* or given as needed.
161. "Project" means specific construction or modification of a facility stated on an architectural plans and specifications approval application.
162. "Provider" means an individual to whom the Department issues a license to operate an adult behavioral health therapeutic home or a behavioral health respite home in the individual's place of residence.
163. "Provisional license" means the Department's written approval to operate a health care institution issued to an applicant or licensee that is not in substantial compliance with the applicable laws and rules for the health care institution.
164. "Psychotropic medication" means a chemical substance that:
    a. Crosses the blood-brain barrier and acts primarily on the central nervous system where it affects brain function, resulting in alterations in perception, mood, consciousness, cognition, and behavior; and
    b. Is provided to a patient to address the patient's behavioral health issue.
165. "Quality management program" means ongoing activities designed and implemented by a health care institution to improve the delivery of medical services, nursing services, health-related services, and ancillary services provided by the health care institution.
166. "Recovery care center" has the same meaning as in A.R.S. § 36-448.51.
167. "Referral" means providing an individual with a list of the class or subclass of health care institution or type of health care professional that may be able to provide the behavioral health services or physical health services that the individual may need and may include the name or names of specific health care institutions or health care professionals.
168. "Registered dietitian" means an individual approved to work as a dietitian by the American Dietetic Association's Commission on Dietetic Registration.
169. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
170. "Registered nurse practitioner" has the same meaning as A.R.S. § 32-1601.
171. "Regular basis" means at recurring, fixed, or uniform intervals.
172. "Research" means the use of a human subject in the systematic study, observation, or evaluation of factors related to the prevention, assessment, treatment, or understanding of a medical condition or behavioral health issue.
173. "Resident" means an individual living in and receiving physical health services or behavioral health services from a nursing care institution, a behavioral health residential facility, an assisted living facility, or an adult behavioral health therapeutic home.
174. "Resident's representative" means the same as "patient's representative" for a resident.
175. "Respiratory care services" has the same meaning as "practice of respiratory care" as defined in A.R.S. § 32-3501.
176. "Respiratory therapist" has the same meaning as in A.R.S. § 32-3501.
177. "Respite services" means respite care services provided to an individual who is receiving behavioral health services.
178. "Restraint" means any physical or chemical method of restricting a patient's freedom of movement, physical activity, or access to the patient's own body.
179. "Risk" means potential for an adverse outcome.
180. "Room" means space contained by a floor, a ceiling, and walls extending from the floor to the ceiling that has at least one door.
181. "Rural general hospital" means a subclass of hospital having 50 or fewer inpatient beds and located more than 20 surface miles from a general hospital or another rural general hospital that requests to be and is licensed as a rural general hospital rather than a general hospital.
182. "Satellite facility" has the same meaning as in A.R.S. § 36-422.
183. "Scope of services" means a list of the behavioral health services or physical health services the governing authority of a health care institution has designated as being available to a patient at the health care institution.
184. "Seclusion" means the involuntary solitary confinement of a patient in a room or an area where the patient is prevented from leaving.
185. "Self-administration of medication" means a patient having access to and control of the patient's medication and may include the patient receiving limited support while taking the medication.
186. "Sexual abuse" means the same as in A.R.S. § 13-1404(A).
187. "Sexual assault" means the same as in A.R.S. § 13-1406(A).
188. "Shift" means the beginning and ending time of a continuous work period established by a health care institution's policies and procedures.
189. "Signature" means:
    a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
    b. An electronic signature.
190. "Significant change" means an observable deterioration or improvement in a patient's physical, cognitive, behavioral, or functional condition that may require an alteration to the physical health services or behavioral health services provided to the patient.
191. "Speech-language pathologist" means an individual licensed according A.R.S. Title 35, Chapter 17, Article 4

to engage in the practice of speech-language pathology, as defined in A.R.S. § 36-1901.

192. "Special hospital" means a subclass of hospital that:
    a. Is licensed to provide hospital services within a specific branch of medicine; or
    b. Limits admission according to age, gender, type of disease, or medical condition.
193. "Student" means an individual attending an educational institution and working under supervision in a health care institution through an arrangement between the health care institution and the educational institution.
194. "Substantial" when used in connection with a modification means:
    a. A change in a health care institution's licensed capacity, licensed occupancy, or the number of dialysis stations;
    b. An addition or deletion of an authorized service;
    c. A change in the physical plant, including facilities or equipment, that costs more than $300,000; or
    d. A change in the building where a health care institution is located that affects compliance with applicable physical plant codes and standards incorporated by reference in A.A.C. R9-1-412.
195. "Substance abuse" means an individual's misuse of alcohol or other drug or chemical that:
    a. Alters the individual's behavior or mental functioning;
    b. Has the potential to cause the individual to be psychologically or physiologically dependent on alcohol or other drug or chemical; and
    c. Impairs, reduces, or destroys the individual's social or economic functioning.
196. "Substance abuse transitional facility" means a class of health care institution that provides behavioral health services to an individual over 18 years of age who is intoxicated or may have a substance abuse problem.
197. "Supportive services" has the same meaning as in A.R.S. § 36-151.
198. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.
199. "Surgical procedure" means the excision or incision of a patient's body for the:
    a. Correction of a deformity or defect,
    b. Repair of an injury, or
    c. Diagnosis, amelioration, or cure of disease.
200. "Swimming pool" has the same meaning as "semipublic swimming pool" in A.A.C. R18-5-201.
201. "System" means interrelated, interacting, or interdependent elements that form a whole.
202. "Tax ID number" means a numeric identifier that a person uses to report financial information to the United States Internal Revenue Service.
203. "Telemedicine" has the same meaning as in A.R.S. § 36-3601.
204. "Therapeutic diet" means foods or the manner in which food is to be prepared that are ordered for a patient.
205. "Therapist" means an occupational therapist, a physical therapist, a respiratory therapist, or a speech-language pathologist.
206. "Time out" means providing a patient a voluntary opportunity to regain self-control in a designated area from which the patient is not physically prevented from leaving.
207. "Transfer" means a health care institution discharging a patient and sending the patient to another licensed health care institution as an inpatient or resident without intending that the patient be returned to the sending health care institution.
208. "Transport" means a licensed health care institution:
    a. Sending a patient to a receiving licensed health care institution for outpatient services with the intent of the patient returning to the sending licensed health care institution, or
    b. Discharging a patient to return to a sending licensed health care institution after the patient received outpatient services from the receiving licensed health care institution.
209. "Treatment" means a procedure or method to cure, improve, or palliate an individual's medical condition or behavioral health issue.
210. "Treatment plan" means a description of the specific physical health services or behavioral health services that a health care institution anticipates providing to a patient.
211. "Unclassified health care institution" means a health care institution not classified or subclassified in statute or in rule.
212. "Vascular access" means the point on a patient's body where blood lines are connected for hemodialysis.
213. "Volunteer" means an individual authorized by a health care institution to work for the health care institution on a regular basis without compensation from the health care institution and does not include a medical staff member who has clinical privileges at the health care institution.
214. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state and federal holiday or a statewide furlough day.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

R9-10-102. Health Care Institution Classes and Subclasses; Requirements

A. A person may apply for a license as a health care institution class or subclass in A.R.S. Title 36, Chapter 4 or this Chapter, or one of the following classes or subclasses:

1. General hospital,
2. Rural general hospital,
3. Special hospital,
4. Behavioral health inpatient facility,
5. Nursing care institution,
6. Recovery care center,
7. Hospice inpatient facility,
8. Hospice service agency,
9. Behavioral health residential facility,
10. Assisted living center,
11. Assisted living home,
12. Adult foster care home,
13. Outpatient surgical center,
14. Outpatient treatment center,
15. Abortion clinic,
16. Adult day health care facility,
17. Home health agency,
18. Substance abuse transitional facility,

19. Behavioral health specialized transitional facility,
20. Counseling facility,
21. Adult behavioral health therapeutic home,
22. Behavioral health respite home, or
23. Unclassified health care institution.

B. A person shall apply for a license for the class or subclass that authorizes the provision of the highest level of physical care services or behavioral health services the proposed health care institution plans to provide. The Department shall review the proposed health care institution's scope of services to determine whether the requested health care institution class or subclass is appropriate.

C. A health care institution shall comply with the requirements in Article 17 of this Chapter if:
1. There are no specific rules in another Article of this Chapter for the health care institution's class or subclass, or
2. The Department determines that the health care institution is an unclassified health care institution.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2)

R9-10-103. Licensing Exceptions

A. A health care institution license is required for each health care institution facility except:
1. A facility exempt from licensing under A.R.S. § 36-402, or
2. A health care institution's administrative office.

B. The Department does not require a separate health care institution license for:
1. A satellite facility of a hospital under A.R.S. § 36-422(F);
2. An accredited facility of an accredited hospital under A.R.S. § 36-422(G);
3. A facility operated by a licensed health care institution that is:
   a. Adjacent to and contiguous with the licensed health care institution premises; or
   b. Not adjacent to or contiguous with the licensed health care institution but connected to the licensed health care institution facility by an all-weather enclosure and:
      i. Owned by the health care institution, or
      ii. Leased by the health care institution with exclusive rights of possession;
4. A mobile clinic operated by a licensed health care institution; or
5. A facility located on grounds that are not adjacent to or contiguous with the health care institution premises where only ancillary services are provided to a patient of the health care institution.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-104. Approval of Architectural Plans and Specifications

A. For approval of architectural plans and specifications for the construction or modification of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in A.A.C. R9-1-412, an applicant shall submit to the Department an application packet including:
1. An application in a format provided by the Department that contains:
   a. For construction of a new health care institution:
      i. The health care institution's name, street address, city, state, zip code, telephone number, and e-mail address;
      ii. The name and address of the health care institution's governing authority;
      iii. The requested health care institution class or subclass; and
      iv. If applicable, the requested licensed capacity, licensed occupancy, and dialysis stations for the health care institution;
   b. For modification of a licensed health care institution:
      i. The health care institution's license number,
      ii. The name and address of the licensee,
      iii. The health care institution's class or subclass, and
      iv. The health care institution's existing licensed capacity, licensed occupancy, or dialysis stations; and the requested licensed capacity, licensed occupancy, or dialysis stations for the health care institution;
   c. The health care institution's contact person's name, street address, city, state, zip code, telephone number, and e-mail address;
   d. The name, street address, city, state, zip code, telephone number, and e-mail address of:
      i. The project architect; or
      ii. If the construction or modification of the health care institution does not require a project architect, the project engineer or other individual responsible for the completion of the construction or modification;
   e. A narrative description of the project;
   f. If providing or planning to provide medical services, nursing services, or health-related services that require compliance with specific physical plant codes and standards incorporated by reference in A.A.C. R9-1-412, the number of rooms or inpatient beds designated for providing the medical services, nursing services, or health-related services;
   g. If providing or planning to provide behavioral health observation/stabilization services, the number of behavioral health observation/stabilization chairs designated for providing the behavioral health observation/stabilization services;
   h. For construction of a new health care institution and if modification of a health care institution requires a project architect, a statement signed and sealed by the project architect, according to the requirements in 4 A.A.C. 30, Article 3, that the:
      i. Project architect has complied with A.A.C. R4-30-301; and
      ii. Architectural plans and specifications comply with applicable licensing requirements in A.R.S. Title 36, Chapter 4 and this Chapter;

DECLARATION OF DANIEL LAUBER

I, DANIEL LAUBER, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts contained in this Declaration. If called upon to testify, I could and would testify competently as to the truth of the facts stated herein.

2. I am an attorney licensed to practice in the State of Illinois and before the Supreme Court of the United States with over 40 years of experience as a professional city planner and fair housing expert.

3. I make this Declaration in support of CL Holdings' applications requesting Board of Adjustment approval of a disability accommodation or a variance of the 1,200-foot separation requirement applicable to care homes within the R1-35 Single-Family Residential zoning district. The City of Scottsdale has assigned the following case numbers to CL Holdings' applications: Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018.

4. As set forth in detail on my resume attached hereto as **Exhibit "A,"** my educational background includes a Bachelor of Arts Degree in Sociology earned from the University of Chicago in 1970, a Masters Degree in Urban Planning from the University of Illinois (Urbana) in 1972, and a Juris Doctorate from Northwestern University School of Law in 1985.

5. Since 1985, I have served as a consulting attorney to numerous municipalities, counties, states, and community residence providers regarding land use regulations pertaining to community residences for people with disabilities, compliance with the Fair Housing Act, and reasonable accommodation processes and requirements which are at issue in the above referenced cases.

6. I conducted a project under the "Community Residence Location Planning Act" to bring the State of Illinois' 115 home rule municipalities into at least partial compliance with the Fair Housing Amendments Act of 1988's zoning requirements for community residences for people with disabilities.

7. I have served as a consulting attorney and expert witness in lawsuits throughout the country including for the U.S. Department of Justice, as well as administrative and quasi-judicial proceedings regarding these subject matters.

8. I have conducted workshops on zoning for community residences for people with disabilities for the U.S. Department of Housing and Urban Development and at professional conferences of the American Bar Association and the American Planning Association.

9. I wrote the American Planning Association's *Policy Guide on Community Residences* and the American Bar Association's model zoning for group homes.

10. My 1974 Planning Advisory Service Report No. 300, *Zoning for Family and Group Care Facilities* written for the American Society of Planning Officials (now the American Planning Association) pioneered the use of spacing distances between community residences for people with disabilities *allowed as of right* in residential zoning districts. Since enactment of the Fair Housing Amendments Act of 1988, the case law has made it abundantly clear that it is facially discriminatory to apply such spacing distances and zoning requirements for a license to community residences that fit within the cap on the number of unrelated individuals living as a single housekeeping unit as set in the local zoning code's definition of "family."

11. I have conducted one of 50+ studies on the impacts of community residences for people with disabilities on the surrounding neighborhood. Like the other studies, my 1988 study, *Impacts on the Surround Neighborhood of Group Homes for Persons With Developmental Disabilities*, found no negative impacts on property values, property turnover rates, or neighborhood safety. Other studies have included recovery residences (then called "halfway houses").

12. I am currently serving as a consultant on zoning and licensing for community residences for the City of Phoenix and have previously served as a consultant to the City of Prescott to draft zoning amendments for community residences and a licensing ordinance for structured sober living homes, both in accord with the Fair Housing Act. I have conducted in-depth studies for Phoenix and for Prescott — and for other cities around the country — that provide the factual

basis for the zoning approaches they have taken to regulate community residences for people with disabilities including sober living homes.

13. In the late 1960s, group homes and community residences began to be formed as part of a broader movement to deinstitutionalize and change the care of people with disabilities. The goal was to provide people with disabilities with as normal a living environment as possible by emulating a biological family to achieve normalization and community integration. Essential to this process is interaction with so-called "able-bodied" neighbors who serve as role models. The overarching aim was to reintegrate disabled residents into society rather than to isolate them in large-scale institutions where all they learn is how to live in an institution and to spare them the stigma and negative social effects resulting institutionalization.

14. At the very beginning of its FAQs on the city's Care Home Ordinance, Attachment 6 to its December 5, 2017 City Council Report, the City of Scottsdale cited a two-page piece that I wrote entitled, "Rational and Legal Local Zoning Under the Fair Housing Act for Community Residences for People With Disabilities," which summarizes the maximum zoning restrictions a jurisdiction can impose on community residences for people with disabilities. *See* **Exhibit "A"** attached hereto and incorporated herewith.

15. Having apparently relied on "Rational and Legal Local Zoning Under the Fair Housing Act for Community Residences for People With Disabilities," the City of Scottsdale should understand that a proposed community residence should be allowed when the proposed residence is located within the spacing distance applicable to community residences allowed as of right and will not hinder normalization and community integration of the residents of either home nor hamper interaction with non-disabled neighbors as role models.

16. In the application at hand, the existence of the Royal Palms Assisted Living Home with its southern lot line 415 feet from the north lot line of CL Holding's Centered Living Recovery Home does not pose any impediments to achieving normalization or community integration of the occupants of Royal Palms or CL Holding's Centered Living Recovery Home. The two homes are separated by a wide lot and Cactus Road which serve as barriers to interaction between the

residents of Royal Palms and CL Holdings' Centered Living Recovery Home. The rather significant width of the Cactus Road right-of-way and the high average daily traffic traveling along Cactus Road have acted as a physical barrier discouraging interaction between the residents of the two homes. There is no reason to imagine the road would not continue to act as a barrier after CL Holdings receives its state license. The intersection of 68th Place and Cactus Road is not signalized, which will continue to make it very difficult for pedestrians and bicyclists to lawfully cross Cactus Road.

17. As the applicant has attested, there has, indeed, been no interaction between the residents of the two homes, and Michelle Siwek was not even aware that Royal Palms Assisted Living Home existed until city staff informed her in 2017, nearly seven years after she established the Centered Living Recovery Home.

18. The lack of interaction is also likely due to the very different nature of the occupants of both care homes. Royal Palms houses frail elderly. Center Living Recovery houses individuals in recovery from drug and/or alcohol dependency. Lacking disability and age commonalities further discourages interaction and socialization between the two sets of occupants. Consequently, granting the variance to CL Holdings will not undermine the ability of both homes to achieve their core goals.

19. Over the past seven years, during which both homes have been at these locations, there is no evidence brought forward that the presence of both homes has produced any negative impacts on the surrounding neighborhoods. The neighborhoods have remained residential in character. Two care homes separated by a barrier like Cactus Road hardly constitute a concentration — the two care homes are in distinct neighborhoods in two different cities.

20. At about the time that group homes were first being established, the Fair Housing Act of 1968 ("FHA") was enacted to provide for fair housing throughout the United States but was originally limited to prohibiting discrimination on the basis of race, color, religion or national origin.

21. The Fair Housing Amendments Act of 1988 (FHAA) extended FHA protections to persons with disabilities, making it unlawful "[t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap."

22. The amendments adopted as part of the FHAA had the effect of guaranteeing the ability of disabled individuals to live in the residence of their choice within the community.

23. When the FHAA went into effect in 1989, all local jurisdictions were required to make a "reasonable accommodation" for community residences for people with disabilities, which includes, by federal law, people with an addiction to illegal drugs or alcohol who are not currently using illegal drugs or alcohol.

24. The FHAA, as interpreted and applied by court decisions across the country, requires municipalities to grant an exception to ordinances, local procedures, rules or practices if a requested accommodation is reasonable and necessary to afford a handicapped person the equal opportunity to use and enjoy a dwelling and to live in a community of their choice.

25. Under the FHAA and prevailing case law, the availability of other possible sites in a city is not a legal basis to deny a reasonable accommodation request. The Fair Housing Act focuses on whether there is discrimination regarding the specific site at issue, *not* whether other locations are available elsewhere in a jurisdiction.

26. I admit to being more than a little bit puzzled as to why this site is even subject to this hearing since the actual land use will not change. It will still be a recovery residence, albeit with a license to provide additional in-house services to its residents. That does not change the land use itself.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated this 18th day of April, 2018.

Daniel Lauber

Daniel Lauber, AICP

EXHIBIT "A"

Law Office Daniel Lauber

Law Office of Daniel Lauber

7215 Oak Avenue ✉ River Forest, Illinois 60305 ✆ 708/366-5200

Email: dan@lauber.law http://www.grouphomes.law

Daniel Lauber, AICP

Over 40 years experience in planning & fair housing

Attorney/Planning Consultant. ***Planning/Communications {1979+} and the Law Office of Daniel Lauber {Nov. 1985+}***

- ☐ We help cities and counties bring their zoning provisions for community residences for people with disabilities (group homes, sober homes, recovery communities, small halfway houses) into compliance with the nation's Fair Housing Act and applicable state statutes that comply with the Fair Housing Act. Zoning revisions are based on a thorough report that provides the planning rationale that enables the client jurisdiction to legally require a spacing distance and licensing and/or certification for community residences. We also write licensing ordinances for community residences for which the state does not have a licensing requirement such as sober living homes or recovery residences.
- ☐ We provide consulting services to municipalities, counties, and states on planning, zoning, housing, and fair housing matters.
- ☐ We provide other planning and legal services as needed including developing land–use regulations and comprehensive plans for municipalities; site selection; developing affordable housing policy and programs; and public relations and communications. Activities include legal representation, expert testimony, report and plan preparation.
- ☐ We conduct Analyses of Impediments to Fair Housing Choice and Assessments of Fair Housing, and prepare Fair Housing Action Plans for cities, counties, consortiums, and states that receive CDBG funds as required by the U.S. Department of Housing and Urban Development. These analyses include an evaluation of the jurisdiction's zoning provisions for community residences for people with disabilities.
- ☐ We conduct studies of housing needs and provide expertise on techniques to preserve existing affordable housing and generate new affordable housing.
- ☐ We design and conduct random sample surveys of citizens and other populations using sound, scientific methods that produce accurate, representative results.
- ☐ We turn local government studies, plans, and zoning codes into clear, understandable, and visually pleasing documents that a lay person can understand.

Prior Professional Experience

Lecturer. **Department of Sociology and Anthropology, Loyola University of Chicago {Autumn 1989}**

Taught undergraduate course, Sociology 125 — Chicago: Growth of a Metropolis primarily to juniors and seniors. Course combined sociology, urban planning, and urban history to expand upon the usual course curriculum offered.

Researcher. **Lawyers Committee for Better Housing, Chicago, Illinois {Summer, 1983}**

Prepared detailed study recommending reforms in the housing receivership process for Illinois municipalities. Prepared for Chicago Mayor Harold Washington's Transition Team.

Adjunct Professor of Environmental Science. **Division of Science, College of Arts and Sciences, Governors State University, University Park, Illinois {1979–1980}**

Guest lecturer for planning courses; conducted research on effects and regulation of condominium conversions and the use of social impact analysis in municipal planning.

Columnist. ***Chicago Sun–Times*** {1979}

Created and wrote "CondoWatch" column, first regular newspaper feature on condominium conversion in the United States.

Senior Planner. **Planning Division, Village of Oak Park, Illinois {1977 – 1979}**

Researched and wrote award–winning Comprehensive Plan 1979 in compliance with 701 Comprehensive Planning Assistance requirements; prepared grant applications and budgets; prepared zoning ordinance revisions and reports; reviewed zoning applications and proposed ordinances; worked with code enforcement personnel; supervised assistant planners; provided staff assistance to Plan Commission and Village Board of Trustees.

Senior Planner/701 Program Coordinator. **Office of Research and Planning, Illinois Department of Local Government Affairs (predecessor to Department of Commerce and Community Affairs) {1975 – 1977}**

Administered 701 Comprehensive Assistance Program for northeastern Illinois; prepared 701 applications and budgets; provided technical assistance by written report and oral presentation to local governments on planning, administration, risk management, home rule, downtown and economic development, annexation, incorporation, code enforcement; conducted workshops on housing; trained and supervised agency staff; prepared articles and grant applications; prepared chapters of the state land–use plan.

Research Associate. **Planning Advisory Service, American Society of Planning Officials (predecessor organization to the American Planning Association) {1972 – 1975}**

Researched and wrote Planning Advisory Service reports, magazine articles, and ASPO's comments on federal legislation; answered over 1,500 inquiries from planning agencies and consultants on all aspects of planning and administration.

Principal Contributing Consultant. **American Bar Association Advisory Commission on Housing and Urban Growth {Spring 1975}**

Researched and wrote zoning hearing examiner portion of "Improving the Administration of Land Use Controls," in *Housing for All Under Law: New Directions in Housing, Land Use, and Planning Law,* (Ballinger Publishing Company), 1977.

Consultant. ***The Planning Group, Urban Investment and Development Company, Chicago, Illinois (since acquired by JMB Realty) {1971 – 1972}***

Prepared study of open space programs; prepared reports on new town planning concerning: mass transit, governmental districts, annexation and PUD provisions, economic indicators, quality of life, youth needs, buyer profiles; prepare analysis of proposed purchase of industrial park.

Professional Memberships and Honors

Board of Directors:

American Planning Association (APA): **President**: 1985–86; Director: 1978–79, 1981–87; 1992–94; 2003–2005
American Institute of Certified Planners: **President**: 1992–94, 2003–2005; Commissioner: 1992–1995; 2002–2005
American Society of Planning Officials: Director: 1976–78
Oak Park Regional Housing Center: 1995–2003
Metro–Help (National Runaway Switchboard): 1977–79
University of Illinois Alumni Association: 1983–85
American Association on Mental Retardation, Region VI Executive Committee, 1988–1991: Legal Advocacy Vice Chairman: 1988–91

Additional memberships:

American Bar Association: 1983+
Committee on Regulation of Land Use: 1987–1992
Chairman, Group Home and Congregate Living Subcommittee: 1989–1992
Group Home Model Zoning Ordinance Subcommittee: 1987–1989
Committee on Condominiums, Cooperatives and Homeowner Associations, Section of Real Property, Probate, and Trust Law: 1983–85
Chicago Bar Association: 1986+
Constitutional Law and Civil Rights Committee: 2007+
Real Property Law Committee, Subcommittee on Zoning and Land Use, Vice Chair: 1989–1990; member: 1986–2001
Local Government Committee: 1986–2001
Illinois State Bar Association, 1986–2000
Local Government Committee, 1993–1994
American Planning Association, 1979+:
Ad Hoc Committee on National Housing Policy: 1987–1988
National/State Policy Coordinating Committee: 1989–1990
Planners Support Committee: 1994–1995

Awards:

- 2009 Best Practices Award from the Illinois Chapter of the American Planning Association for the *Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois 2007*
- 1998 Paul Davidoff Award from the American Planning Association for demonstrating a sustained social commitment to advocacy planning in support of the needs of society's less fortunate members
- 1991 Illinois American Planning Association Chapter Award of Merit for Program or Project of Unusually High Merit Performed Under Serious Budgetary, Staff, or Political Constraints
- 1983 Illinois American Planning Association Chapter Award of Merit for *Oak Park Comprehensive Plan 1979*
- 1997 Mid–America Publishers Association Award for "Best Makeover" in book design for *Professional's Job Finder* book
- 1995 Benjamin Franklin Award: "Most Improved Redesign" for *Government Job Finder* book
- 1994 National Gold Ink Competition Pewter Award for design and production of the *Non–Profits' Job Finder,* 3rd edition

Education and Bar Admission

Admitted to the Bar of the Supreme Court of the United States (March 1, 1995)
Admitted to Illinois Bar (Nov. 1985) and U.S. District Court for Northern District of Illinois (Dec. 1985)
"Fair Housing Skills Training Program" conducted by The John Marshall Law School, February 1996
Juris Doctor, Northwestern University School of Law: June 1985
Dean's List: Autumn 1984, Spring 1983, Autumn 1983
Student Funded Public Interest Fellowship: Summer 1983
Chairman, Course Evaluation Committee, Student Bar Association, 1984–1985
Masters of Urban Planning, University of Illinois (Urbana): June 1972
Research and Teaching Assistant: 1970–1972
B.A. (sociology), University of Chicago: June 1970
Dean's List: 1968–69, 1969–70

Group Homes and Other Community Residences

(Partial Listing)

Planning:

Governor's Planning Council on Developmental Disabilities — Conducted and published scientific study of impacts of group homes on property values, neighborhood stability, and safety in the surrounding neighborhoods; Sept. 1986

Illinois Department of Mental Health and Developmental Disabilities, Division of Developmental Disabilities, Region Two (9–county Chicago region) (1980–1981) — Managed year–long project on zoning for family and group care homes for the developmentally disabled, consisting of technical assistance, expert testimony, ordinance analysis and preparation, workshops, public education and public relations, site selection, analysis of state legislation

Philadelphia Department of Mental Health and Mental Retardation — Advised planning, law, building inspection, and zoning officials on zoning for group homes.

North Shore Association for the Retarded (name has since been changed to *Shore Community Services, Inc.)* — Devised and coordinated successful efforts to win zoning approval for group homes for developmentally disabled adults in Evanston, IL; expert witness on effects of group homes (1982)

Lake County, IL Dept. of Planning, Zoning, and Environmental Quality — Consultant to the defense in unsuccessful court challenge to location of halfway house for prison pre–parolees.

Legal (also see next section entitled "Consulting: Planning and Law"):

Government

Amicus Brief, *City of Edmonds v. Washington State Building Code Council,* 514 U.S. 725 (1995): Principle author of the American Planning Association's Amicus Curiae Brief on behalf of respondents. Decided May 15, 1995 for the respondents. Several observers of the case believe that this brief is one of several that had a significant influence on the outcome.

Delray Beach, Florida (2017) — Consulting attorney to the city attorney's office on zoning for community residences for people with disabilities. Prepared the 55–page study *Delray Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* to guide city's revisions to its zoning treatment of community residences for people with disabilities. Drafted amendments to the city's zoning code adopted in July 2017. Produced zoning application form and guidelines for submitting conditional use permit applications.

Prescott, Arizona (2016) — Consulting attorney to the city attorney's office on ordinance to establish licensing for structured sober living homes as permitted by state legislation adopted earlier in the year. Prepared licensing ordinance designed protect the residents of structured sober living homes from abusive practices, require training and oversight of staff, and require each home to establish a policy that provides a safe discharge of residents.

Prescott, Arizona (2013–2015) — Consulting attorney to the city attorney's office on zoning for community residences for people with disabilities. Prepared the 2015 study *Prescott, Arizona: Principles to Guide Zoning for Community Residences for People With Disabilities* to guide city's revisions to its zoning treatment of community residences for people with disabilities and drafted language for amendments to the city's zoning code that the City Council adopted. Following adoption of the zoning ordinance amendments, the U.S. Department of Housing and Urban Development terminated its investigation of Prescott's zoning treatment of community residences

for people with disabilities. The zoning and licensing ordinances, coupled with the insurance industry's crackdown on scam artists, filtered out the scam artists and reduced the number of recovery residences or sober homes by more than 70 percent.

Herrin, Illinois (2013) — Drafted zoning amendments covering community residences for people with disabilities to bring Herrin zoning into compliance with the Fair Housing Act; researched and wrote the study *Principles to Guide Zoning for Community Residences for People With Disabilities in Herrin, Illinois*, June 2013; presented expert testimony to the city's Zoning Board of Appeals.

Dublin, Ohio (2014) — As consulting attorney to the city's law firm Frost Brown Todd LLC, we prepared a 33–page study, *Dublin, Ohio: Principles to Guide Zoning for Community Residences for People With Disabilities*, that established the basis for zoning code amendments we drafted with the city's law firm to bring the city's zoning provisions for community residences for people with disabilities into compliance with the nation's Fair Housing Act.

Willow Springs, Illinois (2013) — Provided legal assistance on zoning for community residences for people with disabilities in compliance with the Fair Housing Act.

Dallas, TX (2012) — Provided legal assistance to the City Attorney's office with a focus on compliance with the nation's Fair Housing Act on the drafting of a new ordinance to license community residences not subject to licensing by the State of Texas

Boulder City, NV (2012) — Conducted zoning analysis for proposed use to determine whether it was a residential use or institutional use under the city's zoning code

Clark County, NV (2006–2008) — Legal and planning consultant to Clark County in defense and settlement of group home fair housing and zoning federal lawsuit, *Nevada Fair Housing Center, Inc. v. Clark County*

Boulder City, Nevada (2010) — Prepared report and amendments to zoning code for community residences for people with disabilities. Conducted joint City Council and Planning Commission workshop.

Mesquite, Nevada (2010) — Prepared report and amendments to zoning code for community residences for people with disabilities. Conducted City Council workshop.

Clark County, Nevada (2005–2006) — Prepared study and amendments to the county's zoning code for community residences for people with disabilities

Open Door Rehabilitation Center (2004–2005) — Wrote zoning text amendments to provide as of right for community residences for people with disabilities in Sandwich, Illinois. Served as expert witness for these text amendments as well as area variances and special use permit for group homes for people with developmental disabilities. Prepared request to Illinois Department of Mental Health and Developmental Disabilities for waiver of license–imposed spacing distance

City of Trotwood, Ohio (1997): Expert consultant in federal court case; wrote zoning ordinance amendments for community residences as part of proposed case settlement

*City of Springfield, IL (*1997): Expert witness and consultant in federal court case

City of East Peoria, Illinois (1993) — Legal consultant; wrote comprehensive zoning ordinance amendments to regulate group homes, halfway houses, shelters, and other community residences in accord with the 1988 amendments to the federal Fair Housing Act

Illinois Planning Council on Developmental Disabilities (1990–1991): Project to implement Illinois' Community Residence Location Planning Act which required all 110 home rule municipalities to prepare plans showing how they intend to amend their zoning ordinances for group homes to bring them into compliance with 1988 amendments to the federal Fair Housing Act. Conducted seven workshops for municipal officials; provided technical assistance to city attorneys and planners; wrote zoning amendments for 11 cities; appeared as expert witness before local plan commissions; wrote guidebook and legal analysis; wrote model zoning ordinance provisions; wrote report for Illinois General Assembly including recommendations for state legislative action; prepared press releases; evaluated 99 ordinances for compliance with the Fair Housing Act's 1988 amendments. **This project won the 1991 award from the Illinois Chapter of the American Planning Association** for a "Planning Program of Unusually High Merit Performed Under Serious Budgetary, Manpower, or Political Constraints."

Park District of Alsip (1990–91): Co–counsel in successful court defense against claim of violation of Fair Housing Act by group home operator. *Alsip Park District v. D&M Partnership*, Case No. 89 L 51342, Circuit Court of Cook County, IL. August 2, 1991.

Oxford, Ohio (1989) — Co–conducted with attorney/planner Brian Blaesser a critical assessment of the city's zoning ordinance; rewrote portions of zoning ordinance

Illinois Department of Mental Health and Developmental Disabilities, Division of Developmental Disabilities (1983) — Provided technical assistance to service providers and municipal and county officials on zoning for group homes, wrote model zoning provisions for local governments, conducted workshops on group home zoning for local officials

Community Residence Providers

St. John Assisted Living Group Home (2017) — As consulting attorney, obtained the first reasonable accommodation issued by Fort Collins, Colorado under its new zoning provision to enable this group home for the frail elderly to receive zoning approval. The city agreed to waive its zoning provision that required a larger lot size for group homes with more than three residents (and shelters for victims of domestic violence) than would be required for other single–family homes, thus averting a costly lawsuit.

Forconi Group Home (2017) — As consulting attorney, provided legal guidance to successfully receive a special use permit from Park County, Wyoming to establish a group home for four adults with developmental disabilities or traumatic brain injuries despite opposition from some neighbors in this largely rural area.

Independent Advocacy Group (2016) — Expert witness for a conditional use permit for a group home housing three people with developmental disabilities in Springfield, Illinois.

Cardinal McCloskey Community Services (2014) — As consulting attorney and planner, provided assistance to this group home operator to successfully prevent Bedford, NY from objecting under the state's unique Padavan Law to the location of a proposed group home for four young adults with developmental disabilities. Prepared cover letter, FAQs, and annotated bibliography of property value studies for distribution to prospective neighbors inviting them to a coffee to learn about the proposed group home. Provided guidance to the operator for conducting the coffee and appearing at public hearings. Educated local town staff on the Fair Housing Act and appropriate zoning treatment of group homes.

Astara House (2014) — As consulting attorney, provided guidance to the Ziegler Metzger LLP attorney for this recovery community for people in recovery from drug and/or alcohol addiction to successfully receive a special use permit from Bedford, OH.

The H Group (2012–2014) — Represented The H Group in successful effort to secure zoning ordinance revisions to allow a community residence for people with developmental disabilities that a southern Illinois city rejected in June 2012. Parties' agreement settling five housing discrimination complaints filed with HUD reached in March 2014. Provided consulting services on zoning for community residences in additional Illinois communities.

Our Family Home (2013) — Provided legal and planning assistance to operator of community residence for elderly with dementia or Alzheimer's when Montgomery, Ohio sought to impose zoning restrictions illegal under Ohio state law and federal law. Met with neighbors of the proposed group home. Analyzed shortcomings in the zoning treatment of group homes by Montgomery, Ohio. Provided guidance to litigators who achieved successful settlement with the city to allow the community residence as a permitted use and to amend its zoning code to comply with Ohio and federal law.

LifeCare Homes of America (2011–2013) — Represented operator of proposed group home for the frail elderly before homeowners' association regarding restrictive covenants. Persuaded the homeowners' association to drop its opposition to the group home, stop obstructing architectural approvals, and amend its restrictive covenants to comply with the Fair Housing Act. Obtained opinion from the county verifying that the group home is a permitted use allowed as of right.

Tranquility House (2011–2012) — Represented operator of recovery home in application for a special use permit in Blue Island, Illinois.

Plum Creek Senior Group Home (2011) — Represented operator of proposed group homes for the frail elderly in negotiations with the City of Park Ridge, Illinois.

Kings Treatment Center (2008–2009) — Provided legal representation on zoning matters for group home proposals in Winfield, Kansas

Habilitative Systems (2009) — Provided legal representation on zoning matters for group home in Chicago

Hope House (2008–2009) — Provided legal representation on zoning and building code matters in Hillside, Illinois

Sequoia Recovery Services (2007–2009) — Provided planning and zoning law advice for recovery communities in Pontiac, MI

Time to Change, Inc. (2006–2007)— Provided legal and planning assistance to operator to win special use permit to establish a 120–bed community correctional facility in an industrial park in Commerce City, Colorado

Recovery Resource Center (2003–2005): Represented the center in zoning matters in west suburban Cook County, Illinois and completely rewrote the center's corporate by–laws

King's Alcohol/Drug Treatment Center (2005): Secured correct interpretation by county officials of zoning and housing code provisions for two recovery communities for young adults in Sedgwick County, KS

Independent Lifestyles (1996+): Represented this operator of group homes for the frail elderly and other people with severe physical disabilities on zoning and hazards reports issues before the City of Wauwatosa, WI (1996) and other Milwaukee–area cities including Franklin, WI (2006)

Unity House (2003–2005) — Represented recovery home for men addicted to alcohol or illegal drugs in zoning matters.

Elgin Villa (2003–2007) — Represented recovery homes for men addicted to alcohol or illegal drugs in zoning and housing code matters

Poplar Place (2004) — Secured corrected interpretation of zoning requirements to allow a group home for the frail elderly in a Milwaukee suburb

Kevin Spilsbury (2004) — Represented neighbors responding to zoning proposal for mini–institution with 56 recovering addicts and alcoholics in two adjacent houses in a fenced compound in Clark County, NV

City of Altoona, Pennsylvania (1994–1995) — Legal consultant to draft comprehensive zoning ordinance amendments to regulate group homes, halfway houses, shelters, and other community residences in accord with the 1988 amendments to the federal Fair Housing Act.

Chabad of California (1999–2001): Provided legal guidance in a variety of zoning and building code matters in Los Angeles, CA, regarding residential rabbinical schools and colleges, drug treatment centers, and recovery communities.

Yellow Brick Road Recovery Community (2001+): Represented operator in response to $1,000 ticket from Village of Maywood, IL, for violation of the zoning code. Violation was nonsuited.

Dungarvin of Wisconsin (2001–2002): Ended efforts by LaCrosse, WI, to prohibit Dungarvin group home for adults with developmental disabilities from locating in a residential district — without having to file a lawsuit

Dungarvin of Illinois (1998–1999): Represented group home for adults with developmental disabilities in its efforts to locate in residential district in Cordova, IL (population: 600). Drafted revisions to the village's zoning code which the village board adopted with some changes that made the client's group home a permitted use.

Senior Residential Care of America (1997–1999): Represented this community–based residential facility for 20 frail elderly before the Village of River Hills, WI, in application for special use permit

Villa Family Live–In Centers, LLC (1996): Represented this operator of group homes for the frail elderly before the City of Oak Creek, Wisconsin for a special use permit

Lighthouse Academy and Residential Center (1995): Represented operator of proposed boarding school for abused, neglected, and abandoned teenagers placed by the Illinois Department of Children and Family Services seeking to locate in the City of Joliet, Illinois

Lifecare Homes (1996–97): Represented this operator of group homes for the frail elderly before the City of West Allis, Wisconsin, for an exception to the state's 2,500–foot spacing distance

Jack Clark's Family Recovering Communities (1995–1996): Represented this halfway house for individuals recovering from drug and alcohol addictions for a special use permit from the Village of Maywood, Illinois

Villa Family Live–In Centers LLC (1996) — Represented operator of group homes for senior citizens with disabilities before local plan commissions and zoning boards in Wisconsin

Shelter, Inc. (1992–1993)— Consultant on site acquisition for shelters for abused children

Berde et al v. Albero — Consultant to attorneys for intervenors, Protection and Advocacy, Inc., Oakland, California — seeking to prevent use of restrictive covenant to exclude group home

Dungarvin, Inc. (1993) — Represented Dungarvin before Lakewood, Colorado, zoning board to obtain special use permit for group home for residents with developmental disabilities.

Proviso Family Services: Served as attorney and expert witness in public hearing for special use permit for group home for six women with mental illness. After winning approval of Maywood, Illinois, Plan Commission, the Village Board amended the zoning ordinance to make such group homes a permitted use.

West Meadowview Civic Association v. Kankakee County Training Center for the Disabled, Case No. 91–CH–80, 221st Judicial Circuit, Kankakee County, IL (1991). Served as co–counsel for defendant group home operator in challenge to group home based on restrictive covenant. Convinced plaintiff's attorney to drop the lawsuit.

Foundation for Chemical Dependency Programs (1990): Represented operator seeking zoning map amendment and special use permit to open halfway house for teen–agers in recovery from drug and alcohol addiction in unincorporated Will County, Illinois. Also handled press relations. Zoning issued by 25–1 vote of County Board despite neighbor filing petition requiring a 3/4 vote for approval. Also handled licensing issues.

Dungarvin, Inc. (1991) — Served as attorney to successfully persuade Town of Schererville, Indiana, to withdraw zoning and code objections to proposed group home.

Martin Luther Homes — Served as attorney for special use permit hearing for group home for persons with mental illness.

Expert Witness:

United States v. City of Chicago Heights, 161 F. Supp. 2nd 819 (N.D. Ill. 2001 — Expert witness for the U.S. Department of Justice on zoning and planning law issues. Deposed in 2000. Identified legal issues that led to district court's summary judgment decision in favor of the United States.

Tracey P., et al v. Sarasota County, C.A. No. 8:05–CV–927–JDW–EAJ, U.S. District Court, Middle District of Florida — Expert witness for defendant Sarasota County in federal lawsuit; deposed Dec. 20, 2006; case settled Dec. 2007.

Rimrock Foundation v. City of Billings, et al, Cause Number CV 06–162–BLG–CSO— Expert witness for Billings, Montana in federal lawsuit. Produced expert witness report that helped lead to settlement of the case (2008).

T.W. and Southern Living Centers v. City of Belleville, IL (1997) — Testified as expert witness on zoning and group home impacts in federal court case in Belleville, IL. Case No. 97–790–WDS (U.S. District Court, Southern District)

City of Mattoon v. Heritage Enterprises of Charleston, Inc., The Graywood Foundation, Inc., and Mile Stones Midwest, Inc. (1997–1998): Deposed as expert witness on group home exclusion case in state court in Mattoon, IL (Coles County Circuit Court Cause No. 97–MR–36)

Ancheta v. Westborough Homeowners Improvement Association (1997): Expert witness in California state court case involving application of restrictive covenants to group home.

Staley, Staley and Huggins v. LB Properties (1992) — Testified as expert witness in successful defense of neighbor effort to overturn ruling by East Peoria Zoning Administrator that group home (RFMS) was a permitted use. Illinois Circuit Court, Case No. 91–CH–64 (May 19, 1992).

USA v. City of Chicago Heights and *RFMS, Inc. v. City of Chicago Heights*, Civil Action No. 89 C 4981, U.S. District Court, N.D. of Illinois. Settled in favor of RFMS, 1990. Served as expert witness to Rosenthal and Schanfield law firm handling Fair Housing Act lawsuit against Chicago Heights for denying special use permit for group home. Resulted in settlement issuing special use permit for group home and $45,000+ in fines and costs.

Center for New Horizons — Served as expert witness before Chicago Plan Commission seeking special use permit to establish a group home for displaced abused boys from the neighborhood; prepared argument portion of brief appealing denial of special use permit. Scheduled to appear as expert witness in court case which was eventually dropped.

Cook County Legal Assistance (Chicago) — Expert witness in successful zoning lawsuit to overturn denial of special use permit for day care center.

Expert witness on proper zoning treatment and impacts of group homes or halfway houses on property values:

- *Helping Hand Center* (2010) — Expert witness before Cook County (Illinois) Zoning Board of Appeals for special use permit
- *Safehaven Group Home (1995)* — Expert witness before Cheltenham, PA, Township Zoning Board
- *Northwest Suburban Aid for the Retarded* (1994) — Expert witness in request for special use permit for group home located within 1,320–foot spacing distance
- *Oxford House–C. et al. vs. City of St. Louis* federal district court (1993) — Testified as an expert witness on behalf of Oxford House, a recovery community for people with alcohol and drug addictions.
- "K" Care, Inc. (1992) — Testified at court–ordered special use permit hearing in Lac du Flambeau, Wisconsin
- *Marshall v. L.B. Properties*, No. 91–CH–64, 10th Judicial Circuit, Tazewell County, Illinois (1992) — Testified in court as expert witness for group home operator in lawsuit that overturned the city's effort to bar two group homes for adults with developmental disabilities.
- *Martin v. Constance* (1990) — Testified as expert witness in St. Louis federal court suit under Fair Housing Act
- *ARC Community Support Systems* (1990) — Effingham, Illinois, Fair Housing Act lawsuit, settled before trial
- *Grace House* — Deposed as expert witness on behalf of halfway house for alcoholic women in Louisville, Kentucky
- Martin Luther Homes, group home for persons with mental illness, Pontiac, IL
- Group homes for persons with developmental disabilities:
- Grace–Harding Homes, Lawton, OK; Expert witness at trial on restrictive covenant to exclude group home; case decided
- *Knisley v. Morgan County Housing*, No. 85–CH–12, 7th judicial circuit, Morgan County, Sept. 6, 1985. Expert witness for plaintiff Morrissey Construction in Jacksonville, Illinois, lawsuit. Case settled just before trial.
- Residential Management Services, DuPont, IN (around 1990) — Testified as expert witness in state court on behalf of group home operator charged with violating zoning ordinance.
- Corporation for Independent Living, Hartford, CT (around 1990) — Testified as expert witness in state court in successful challenge to attempt by condominium to treat group homes as businesses prohibited by condominium by–laws.
- Clearbrook Center, Rolling Meadows, IL.
- North Shore Association for the Retarded, Evanston, IL.
- Macon County Community Mental Health Board, Decatur, IL (1979).

Consulting: Planning and Law

(Partial listing; most community residence and fair housing experience is listed in the previous section entitled "Group Homes and Other Community Residences")

Planning:

Analyses of Impediments to Fair Housing Choice (AI)

Each analysis of impediments analyzed and reported on the client jurisdiction's housing; land use regulations including zoning for community residences for people with disabilities; demographics; income; actual extent of integration; real estate practices; mortgage lending; housing affordability; relationship between public transportation, employment, and housing; and other factors that affect fair housing choice. The extent of integration is estimated fairly through a "Free Market Analysis" that takes into account actual household income and the actual cost of housing to approximate the proportions of each race and Hispanics of any race that would be expected to live in the jurisdiction and each census tract in a free housing market *not* distorted by housing discrimination.

Fairfax County, Virginia — Researched and produced the ***Fairfax County, Virginia Analysis of Impediments to Fair Housing Choice 2016–2020***, 299 pages, 2017.

Houston, Texas — Researched and produced most of the ***2015 Analysis of Impediments to Fair Housing Choice, City of Houston,*** Appendix 2: *Analysis of Houston's Development Controls for Exclusionary Impacts* (pp. 177–199), Appendix 3: *Impacts of Development Regulations and Practices on Housing for People with Disabilities* (pp. 200–223), Appendix 4: *Free Market Analysis* (pp. 224–509), August 2015.

Billings, Montana — Researched and produced the ***Billings, Montana Analysis of Impediments to Fair Housing Choice 2012***, 141 pages, 2012.

District of Columbia — Researched and wrote the ***District of Columbia Analysis of Impediments to Fair Housing Choice 2006–2011,*** 195 pages, 2012.

Lakewood, Ohio — Researched and produced the ***Lakewood, Ohio Analysis of Impediments to Fair Housing Choice 2011***, 94 pages, 2011.

Clark County, Nevada — Conducted and published the ***Clark County, Nevada Analysis of Impediments to Fair Housing Choice 2011***, included unincorporated Clark County, Boulder City, North Las Vegas, and Mesquite. 140 pages, 2011.

Murfreesboro, TN — Researched and produced the ***Murfreesboro, Tennessee Analysis of Impediments to Fair Housing Choice 2010***, 92 pages, 2010.

Naperville, Illinois — Conducted and published the ***Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois, 2007***, 78 pages, 2007. Received a 2009 Best Practices Award from the Illinois Chapter of the American Planning Association.

Naperville, Illinois — Researched and produced the 78–page ***Naperville Housing Needs and Market Analysis 2009***. In addition to unearthing demographic and housing market data, research included a random sample survey of residents (65.7% response rate) and one of employees (45% response rate) to identify housing preferences, location of work and home, income, current housing, future housing intentions, commuting issues, and more.

Hillsborough County, Florida — Researched and produced paper on the use of accessory apartments as a tool to produce affordable housing; conducted research on the use of housing density bonuses and inclusionary zoning (2008)

Park Forest, IL — Housing programs and policy

Highland Park, IL — Prepared new subdivision ordinance

Montgomery County (MD) Condominium Conversion Task Force — Conducted presentation on preserving affordable rental housing and provided consulting advice

Philadelphia, PA — Planning Department — Consulted on preserving affordable housing; conducted educational sessions for city officials on zoning for group homes

Plenary and Session Speaker, Community Living Arrangements Conference

Oak Park, IL — Designed and published award–winning *Comprehensive Plan 1979*; designed and prepared 1991 revision

American City Corporation — Conducted workshop on group housing for four city officials from Baltimore, Philadelphia, Cincinnati, and Columbus — Robert Woods Johnson program

Impacts of Landfills — Conducted research for an application for landfill in Texas

American Invsco (Chicago) — Prepared national analysis and summary of local and state laws regulating conversion of rental housing to condominium for property acquisitions division

American Association of Retired Persons/National Retired Teachers Association — Conducted workshops on fighting inflation in housing at NRTA–AARP National Issue Forums, Milwaukee, Wisconsin and Portland, Oregon, 1981

Metropolitan Planning Council (Chicago) — Conducted research and presentation on use of low–equity cooperatives in District of Columbia and Montgomery County (Maryland)

Lincolnshire, IL — Drafted community opinion survey on planning and growth issues

Legal:

Midwest Bank Corporation of Delaware — Represented bank before Hinsdale Plan Commission. Won zoning approval for a drive–in bank facility adjacent to residential neighborhood

Golden Age Retirement Home — Served as attorney and consultant for zoning text and map amendments, special use permit

Maywood, Illinois, Plan Commission — Retained by village to interpret zoning ordinance provisions related to appeal of zoning administrators' decision

Deer Valley Homeowners Association — Represented neighborhood association in zoning case in Will County, Illinois

Brenner Development Group — Represented residential and commercial developer to receive zoning permits from Hinsdale, Illinois, to build townhouse development

Expert Witness:

- *Hanna v. City of Chicago,* Case No. 03 CH 5933, Circuit Court of Cook County, Illinois, Chancery Division; Deposed expert witness for the plaintiff in August 2005. Lawsuit rendered moot when the city rezoned the subject property to is previous designation.
- *Shirley Berry, et. al. v. Town of Tarboro, et. al.* (Eastern District of North Carolina, U.S. District Court 4:01–CV–140–H(3) (2002–2003)— Expert witness for the plaintiffs on acceptable zoning and planning practices in exclusionary zoning case. Retained by Land Loss Prevention Project. Settled favorably for the plaintiffs in 2003.
- Perkins Clay Partnership — Testified as an expert witness on appropriate zoning for townhouse development before Hinsdale, Illinois, Plan Commission; advised attorney
- Lutheran Home Services of Arlington Heights (Illinois) — Testified as expert witness on cost–revenue analysis before Arlington Heights Plan Commission

Research

Forbes magazine, Chicago bureau — Conducted research on real estate and banking practices

Levy and Erens, law firm — Prepared report on laws that restricted use of property

Daniel Edelman, Inc. (Chicago), public relations — Prepared municipal political analyses

Citizens Schools Committee — Prepared successful application for foundation funding

Professional Publications

(Partial listing in reverse chronological order)

Law and Zoning (Includes Fair Housing):

"A Real LULU: Zoning for Group Homes and Halfway Houses Under the Fair Housing Amendments Act of 1988," in *The John Marshall Law Review*, Winter 1996, pp. 369–407.

"Three Decades On, Group Home Zoning Still at Issue," "Legal Lessons" column in *Planning* magazine, November 2015, p. 11.

Community Residence Location Planning Act Compliance Guidebook, May 1990, 47 pp. Explains how group homes operate, whom they house, the 1988 amendments to national Fair Housing Act, and court decisions under the 1988 amendments. Suggests four zoning approaches that comply, to varying degrees of certainty, with the Fair Housing Act. Identifies zoning approaches that certainly violate the act. Appendix includes executive summary and bibliography from Lauber's 1986 study on the impacts of group homes on the surrounding neighborhood.

Community Residence Location Planning Act News, June 1990, 4 pp. and Aug. 1990, 14 pp. The June issue answers questions about the Illinois Community Residence Location Planning Act. The August issue contains model

zoning provisions for each of the legal zoning approaches suggested in the compliance guidebook described above. The August issues also includes zoning recommendations for halfway house and hospices and a sample application form for administrative occupancy permits. Detailed commentary explains the why and wherefores of each zoning provision.

Recommendations to the Illinois General Assembly on Zoning for Community Residences, Jan., 1991, 44 pp. Prepared for the Illinois Planning Council on Developmental Disabilities, this report identifies proper zoning techniques and reviews the results of a state project to bring the zoning ordinances of 110 home rule municipalities into compliance with the 1988 amendments to the Fair Housing Act.

"Avoid Zoning Pitfalls for Community Residences," in *The Suburban Housing Newsletter*, Summer 1993, pages 1–3.

"Group Think," in *Planning* magazine, October 1995, pp. 11–13.

"Nation's Hottest Zoning Issue: Fair Housing Act Allows Zoning for Group Homes," in *Housing & Human Services Quarterly*, American Planning Association, Fall/Winter 1990–91, pp. 1–3.

"Fair Housing Act Allows Zoning for Group Homes," in *Planning & Zoning News*, March 1990, Vol. 8, No. 5, pp. 18–19. This article offers a preliminary evaluation of how the 1988 amendments to the Fair Housing Act affect zoning for group homes.

Impacts of Group Homes on the Surrounding Neighborhood: An Evaluation of Research, IDMH/DD, August 1981, 22 pp.

"Mainstreaming Group Homes" in *Planning*, Dec. 1985, pp. 14–18.

Toward a Sound Zoning Treatment of Group Homes for the Developmentally Disabled, May 1985, 103 pp.

Guide to Chicago Zoning, Illinois Department of Mental Health and Developmental Disabilities (Illinois Department of Mental Health/Developmental Disabilities), April 1981, variable pagination.

"Zoning Hearing Examiners Rescue Cities, Counties from Administrative Tangles, Rising Court Appeals," in *Innovations*, Illinois Department of Local Government Affairs, Jan. 1977, pp. 10–11.

"Socially–Informed Planning and Decision Making: Some Preliminary Ideas," in *Intergovernmental Planning, Approaches to the "No Growth" vs. "Growth is Good" Dilemma*. Proceedings of the Annual Summer Institute on Zoning and Planning, 1976, Bureau of Urban and Regional Planning Research, University of Illinois, 1976, pp. 29–51.

"The Housing Act & Discrimination," in *Planning*, Feb. 1975, pp. 24–25.

The Hearing Examiner in Zoning Administration, PAS Report No. 312, ASPO, 1975, 26 pp.

"Some Tips on the New Housing Act," in *Planning*, Nov. 1974, pp. 21–23.

Zoning for Family & Group Care Facilities, PAS Report No. 300, ASPO, March 1974, 30 pp. Frequently reprinted and entered as evidence in court cases. Established first model zoning guidelines for community living arrangements.

Recent Cases in Exclusionary Zoning, PAS Report No. 292, ASPO, June 1973, 33 pp. Reprinted as chapters on exclusionary zoning in *Management & Control of Growth: Issues–Techniques–Problems–Trends* (Urban Land Institute, 1975, Vol. I), and in *Land Use Controls: Present Problems and Future Reforms* (Center for Urban Policy Research, Rutgers University, 1974).

Planning:

Government Job Finder, 1997–2000, 3rd edition, Planning/Communications, 325 pages, 1997.

"Racially Diverse Communities: A National Necessity," a chapter in *African Americans in Urban America: Contemporary Experiences,* Wendy Kellogg, ed., Kendall/Hunt Publishing Company, 1996, pages 180–200.

Book review of "Breaking New Ground: Developing Innovative AIDS Care Residences," in *Journal of the American Planning Association*, Winter 1994, pp. 124–125.

"Racially Diverse Communities: A National Necessity," a chapter in *Challenging Uneven Development: An Urban Agenda for the 1990s,* Phillip Nyden and Wim Wiewel, eds., Rutgers University Press, 1991, pp. 49–84.

"The More Things Change," commentary in *Journal of the American Planning Association*, Autumn 1993, page 486.

The Compleat Guide to Finding Jobs in Government, Planning/Communications, 1989, 183 pages, ISBN: 0–9622019–0–1. Second printing, 1989.

Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities, Governors' Planning Council on Developmental Disabilities, Sept. 1986, 36 pp. Two printings.

"Condominium Conversions: A Reform in Need of Reform," Chapter 16 of *Land Reform, American Style,* Frank J. Popper and Charles Geisler, eds., Rowman and Allanheld, 1984, pp. 273–301.

"Viewpoint," (revive low–equity cooperative housing programs) in *Planning*, April 1984, p. 18.

Achieving the Promise of Housing Receiverships, Lawyers Committee for Better Housing, August 1983, 27 pp.

The Compleat Guide to Jobs in Planning and Public Administration, Planning/Communications, May 1982; second edition, 1984, 44 pp.

"Towards a Rational Housing Policy: The Role of Condominium Conversions," in *Condominium and Cooperative Conversion: The Federal Response*, U.S. Government Printing Office, 1981, pp. 284–316.

"Condo conversion laws: the next generation," in *Planning*, Feb. 1981, pp. 19–23.

"Condominium conversions — the number prompts controls to protect the poor and elderly," in *Journal of Housing*, April 1980, pp. 201–209.

Condominium Conversion Regulations: Protecting Tenants, PAS Report No. 343, APA, September 1979, 22 pp. (co–author)

"Social Planning, Vancouver," in *Planning*, March/April 1975, pp. 19–21.

Job Descriptions for Planning Agencies, PAS Report No. 302, ASPO, May 1974, 22 pp.

"Oak Park: Integration Takes More Than a Racial Quota," in *Planning*, April/May 1974, pp. 14–17.

Other Professional Activities: Workshops, Speeches, Etc.

(Partial listing)

Housing and Fair Housing:

"What an AI Can Do to Integrate Fair Housing into Planning Practices" presentation part of the session "The Role of States and Local Government – The Consolidated Plan and the Analysis of Impediments and Compliance With the Fair Housing Act," 20–minute presentation at *Implementing the Duty to Affirmatively Further Fair Housing,* sponsored by the Fair Housing Legal Support Center and Clinic, The John Marshall Law School (Chicago, IL Sept. 20–21, 2013)

Speaker with Richard Rothstein, author of *The Color of Law: How Our Government Segregated America*. Explained what communities have done and can do to achieve stable, racial integration. (Oak Park, Dec. 7, 2017)

"Achieving and Maintaining Racial Diversity," a 90–minute presentation at the Tenth Annual Fair Housing Conference of the Fair Housing Center of Southwest Michigan, theme: "Affirmatively Furthering Fair Housing – Moving Forward" (Kalamazoo, MI April 12, 2013)

"The Essential AI: What Belongs in a Competent Analysis of Impediments to Fair Housing Choice," fair housing training conducted with Michael Allen and Caroline Peattie at *Analysis of Impediments to Fair Housing and Affirmative Marketing,* a day–long training seminar for recipients of Community Development Block Grants sponsored by the U.S. Department of Housing and Urban Development (San Francisco, CA August 18, 2011)

"The Effective Analysis of Impediments," panel presentation at the *City of Raleigh Fair Housing Board 9th Annual Fair Housing Conference* (Raleigh, NC April 29, 2011)

"Key Elements and Best Practices: Creating a Competent Analysis of Impediments to Fair Housing Choice," three–hour presentation with Caroline Peattie at *Analysis of Impediments to Fair Housing and Affirmative Marketing,* a day–long training seminar for recipients of Community Development Block Grants sponsored by the U.S. Department of Housing and Urban Development, Western Center on Law and Poverty, and Legal Aid Foundation of Los Angeles (Los Angeles, CA March 16, 2011)

"Creating an Effective Analysis of Impediments to Fair Housing," a one–hour presentation at *Race Place and Fair Housing in Texas,* A Statewide Conference at the University of Texas School of Law (Austin, TX October 15, 2010)

"Fair Housing & Economic Opportunity: Updating the AI, Ensuring Compliance & Making Progress Toward Change," a three–hour panel presentation at *Annual Community and Economic Development Conference and Training* conducted by the National Association for County Community & Economic Development (Ann Arbor, MI Oct. 2, 2010)

"Integrating Fair Housing into Municipal Law: Group Homes, AIs, and the Fair Housing Act," Teleconference speaker, International Municipal Lawyers Association (IMLA), July 13, 2010.

Speaker and panelist in session "Strategies for Change," at "A Dream Deferred: Residential Segregation in Oregon," sponsored by HUD, Fannie Mae Foundation, Fair Housing Council of Oregon, et al. (Portland, OR May 3, 2005)

Speaker and panelist at the conference "The Struggle for Fair Housing: Weighing Our Progress," conducted by the Fair Housing Center of West Michigan (Grand Rapids, MI April 29, 2004)

Speaker on preserving racial diversity at the two–day Fair Housing 1968–1998: Promises Kept, Promises Broken," University of Miami School of Law (Feb., 6–7, 1998)

Plenary session speaker, Annual Town and Community Planning Conference, Iowa State University: evaluated Housing & Community Development Act (Nov. 1977)

"Funding for Limited–Equity Cooperatives: An Approach for Chicago," American Planning Association Illinois/Wisconsin Conference (1979)

(Also see "Preservation of Affordable Housing — Policy and Programs" below)

Fair Housing: Community Residences *(group homes,small halfway houses, recovery communities):*

"Healthy and Legal – Zoning for Group Homes in Tennessee," keynote address at "Farmhouse to Penthouse" the 2013 Fall Conference of the Tennessee Chapter of the American Planning Association (Kingsport, TN Sept. 26, 2013)

"Coming Soon to Your Community: Housing for People With Disabilities," a 90–minute session at the American Planning Association–Chicago Metro Section Fall Conference (Chicago, October 4, 2013)

"Group Home Zoning: How to Comply With the Fair Housing Act," a 90–minute presentation at the 2013 Fall Conference of the Illinois State Section of the American Planning Association (Columbia, IL, Sept. 27, 2013)

"Focus on Community Residences/Group Homes," part of the session "LULUs: Locally Unwanted Land Uses," American Bar Association Annual Conference, (Chicago, July 31, 2009)

"The Fair Housing Act: Group Homes and Zoning: Fair or Foul?" American Bar Association Annual Conference (Atlanta, August 13, 1991).

"Federal Statutory and Regulatory Changes in Fair Housing Amendment," Association of State Mental Health Attorney Annual Conference (Kansas City, MO, Oct. 1, 1990)

"Must Zoning Accommodate Group Homes?," Fair Housing Enforcement: A Focus on Special Issues Affecting the Disabled, Families with Children, and the First Amendment, Fair Housing Legal Support Center, John Marshall Law School (Chicago, April 28, 1995)

"Impact of Zoning on Free Housing Choices," Third Annual Fair Housing Summit of the Indiana Fair Housing Task Force, April 10, 2000, Muncie, IN

Plenary Session Speaker, "Myths of Fair Housing," at "Fair Housing Conference," sponsored by U.S. Department of Housing & Urban Development, Municipality of Anchorage, and Alaska Chapter of the American Planning Association, Anchorage, AK. Conducted plenary session as a two–hour workshop. (April 1998)

Plenary Speech, National Conference on Technology and Politics of Planning (Illinois Planning Council on Developmental Disabilities, Chicago, April 1986)

Featured speaker, "Communities That Care: Housing for Special Populations" Conference, Wright State University Center for Urban and Public Affairs, Miami Valley Regional Planning Commission (Oct. 23, 1987)

"Handicap and Zoning Ordinances," Annual Meeting of the Indiana Consortium of State and Local Human Rights Agencies (Hammond, IN, June 13, 1996)

Speaker on zoning for group homes under the Fair Housing Act at the "Fair Housing 1968–1998: Promises Kept, Promises Broken," University of Miami School of Law (Feb., 6–7, 1998)

Faculty, Illinois Institute for Continuing Legal Education, "Municipal Law: 1987 Update," (May 20 and 28, 1987)

"Overcrowding and the Definition of Family," Illinois Chapter American Planning Association Annual Conference, June 11, 1998

"Enforcement Panel," *Opening Doors,* 14th Annual Fair Housing Seminar, co–sponsored by Cook County Commission on Human Rights, HUD, Chicago Association of Realtors, and 15 other organizations (June 3, 1994)

"Zoning Issues," 28th Annual Meeting, Wisconsin Association of Residential Facilities (June 2, 1997)

Zoning Institute (American Institute of Certified Planners): Conducted three–hour workshop on zoning for group homes (Oct. 1985)

Annual Zoning and Planning Conference, Governors State University, course on:

Zoning for Group Homes and Halfway Houses (1985)

Speaker, workshops on "Dealing with Community Fears" and "Zoning Issues," Housing Symposium on Creating Housing for People with Special Needs (Evanston Regionalized Housing Plan Committee, May 1986)

Plenary and Session Speaker, Community Living Arrangements Conference (City of Philadelphia, Sept. 1986)

"Zoning for Group Homes and Halfway Houses Workshop," Annual Zoning Institute, San Francisco (American Institute of Certified Planners, Oct. 1985)

Conducted half–day workshops for municipal planners in six–county Chicago area, Illinois Department of Mental Health and Developmental Disabilities (Feb., March, May, 1981)

"Group Homes and Halfway Houses Workshop," Zoning and Planning Workshop at Governors State University (University Park, IL, Oct. 1981)

Speeches or workshops on zoning for group homes and/or impacts of group homes:

- "Group Homes: Impacts and Zoning," Young Adults Institute National Conference (New York, April 29, 1987)
- "Winning Zoning Approval for Group Homes," American Association on Mental Retardation, Great Lakes Region Annual Conference (Sept. 1988)
- "Strategies to Win Community Support and Zoning Approval for Group Homes," workshop at 1988 Community Program Innovations National Conference (Boston, June 1988)
- "Symposium on Housing for the Mentally Ill," Alliance for the Mentally Ill of DuPage County, Illinois (1987)

- "Mentally Ill in Our Communities: Where Do We Go From Here?" Illinois League of Women Voters (1987)
- "More Than a Place to Stay: Housing the Mentally Ill in Our Communities," Panel Speaker, Roosevelt University Public Administration Program, League of Women Voters of Cook County (Nov. 19, 1988)
- "Group Homes: Impacts, Winning Neighborhood Support, and Zoning," 1987 TASH Annual Conference
- Panel Speaker, North Shore Interfaith Housing Council Annual Meeting (Nov. 20, 1988)
- Alliance for Mentally Ill of the South Suburbs (August 17, 1987)
- American Planning Association Upper Midwest Conference (Sept. 18, 1987)
- American Planning Association Mid–Atlantic Regional Conference (Virginia Beach, Virginia, Sept. 1986)
- "Legal Zoning for Group Homes," Chicago Bar Association, Zoning and Land Use Subcommittee (Oct. 20, 1988)

American Planning Association Annual National Conference — Session speaker and/or moderator:

- Low– and moderate–income housing (1974)
- Social impact analysis (1977)
- Impact and regulation of condominium conversion (1978, 1979, 1980)
- Preserving affordable housing (1981)
- How to write well (1982)
- Low–equity cooperatives (1985)
- Zoning for group homes and halfway houses (1986)
- "Opening the City to Persons with Disabilities: Transportation Accessibility and Group Homes" (1988)
- Workshop on zoning for group homes under the Fair Housing Act (1990)
- "Achieving and Preserving Racial Diversity," workshop (1992)
- "Planning for Residential Integration" (1995)
- "Zoning for Community Residences" (1996)
- "NIMBYs and Commissioners" (1996)
- "Preserving Racially Diverse Communities" with Professor Gary Orfield (1998)
- "Real Solutions for Affordable Housing" (2004, 2005)

Other Planning and Zoning:

Faculty, *Doing Your Job: A One–Day Workshop on Local Planning and Zoning*, full–day workshops for planning commissioners, elected officials, and planners, sponsored by the Institute for Public Policy and Administration, Governors State University (University Park, Illinois):

Part I: Rockford, Matteson, Moline, Champaign (1988)

Part II: Rockford, Matteson, Oak Brook Terrace (1989)

Annual Zoning and Planning Conference, Governors State University, course on:

Recent Developments in Zoning Law, and the Zoning Hearing Examiner (1986)

"Socially Informed Planning" — Institute on Zoning and Planning, University of Illinois (Urbana), 1975, 1976

Guest Lecturer:

Guest Lecturer, "Fair Housing and Group Homes," Fair Housing Legal Clinic, John Marshall Law School, April 1, 2013

Faculty, "Ethics in Urban Planning," a mini–course in "Community Planning & Development," sponsored by the Municipal Art Society Planning Center and Hunter College, New York, NY, October 14, 2003

University of Illinois (Urbana)— social planning (1975); planning in the real world (1981)

Governors State University— socially–informed planning (1976–77, 1979)

Preservation of Affordable Housing — Policy and Programs

(Partial listing)

"Bringing Sense to American Housing Policy," Keynote Address, 2005 annual conference of the National Association of Housing Cooperatives, Kansas City, KS, Sept. 15, 2005; published in *Cooperative Housing Bulletin,* Nov./Dec. 2005, Vol. XXI, No. 6, pp. 1, 4, 15

"Sensible and Effective Approaches to Affordable Housing," three–hour workshop presented at *Planning at the Crossroads Regional Planning Conference*, a nine–state conference of the American Planning Association (Oct. 13, 2004)

Faculty, "Making Real Efforts Toward Affordable Housing in Your Community," a 90–minute course for the University of Wisconsin's 32nd Annual *Planning and Zoning for Community Land–Use Management* conducted in Charlotte, NC; Madison, WI; and Albuquerque, NM (Spring, 2002)

American Association of Retired Persons/National Retired Teachers Association — workshops on fighting inflation in housing at NRTA–AARP National Issue Forums, Milwaukee, Wisconsin and Portland, Oregon, 1981

Metropolitan Planning Council (Chicago) — Research and presentation on use of low–equity cooperatives in District of Columbia and Montgomery County (Maryland)

EXHIBIT "B"

Rational and Legal Local Zoning Under the Fair Housing Act for Community Residences for People With Disabilities

People with substantial disabilities often need to live where they receive staff support to engage in the everyday life activities most of us take for granted. These sorts of living arrangements — group homes, halfway houses, and recovery communities — fall under the broad rubric "community residence." Their primary use is as a residence or a home like yours and mine, not a treatment center nor an institution.

One of the essential characteristics of community residences is that they seek to emulate a family. The staff function as parents, doing the same things our parents did for us and we do for our children. The residents with disabilities are in the role of the siblings, being taught or retaught the same life skills and social behaviors our parents taught us and we try to teach our children.

Community residences seek to achieve "normalization" of their residents and incorporate them into the social fabric of the surrounding community. Most are licensed by the state to assure that residents receive proper support and care.

Guiding Principles

- Community residences are a residential use of land.
- As long as they are not clustered together on a block, community residences have no effect on the value of neighboring properties as found by more than 70 scientific studies.
- Community residences have no effect on neighborhood safety as found by every scientific study.
- Other studies have found that group homes and halfway houses for persons with disabilities do not generate undue amounts of traffic, noise, parking demand, or any other adverse impacts.
- To achieve their goals of normalization and community integration, community residences should be scattered throughout all residential districts rather than concentrated in any single neighborhood or on a single block.
- The Fair Housing Amendments Act of 1988 requires local government to make a "reasonable accommodation" in their laws and policies to enable people with disabilities to live in the community of their choice — which means allowing community residences for those who need to live in one with minimal restrictions.

Rational and Legal Zoning Protections for Community Residences

Zoning provisions can be less demanding than those reported here, but they may run the risk of enabling counter-productive clustering and concentrations.

Nearly every city, village, town, and county has a zoning ordinance that defines a "family" or "household" that can occupy a dwelling unit. These definitions allow related people to occupy a home as well as a specified number of unrelated people, usually 3, 4, or 5 unrelated individuals.

When a proposed community residence for people with disabilities complies with a jurisdiction's definition of "family," it must be allowed as of right (a permitted use) in all residential districts under the definition of "family." So if the zoning definition of "family" allows up to 5 unrelated people to live together, then a community residence for up to 5 people with disabilities complies with that definition and must be allowed *without any additional zoning restrictions* everywhere a family can reside. Any additional zoning requirement placed on such a home would be discriminatory on its face. It is pretty blatant facial discrimination to exclude from the definition of "family" community residences for people with disabilities that fit within the cap on unrelateds.

A jurisdiction without a cap on the number of unrelated people in a dwelling unit must allow community residences for people with disabilities of as right the same as any other "family" — requiring a license or a spacing distance would be discriminatory on its face.

A jurisdiction that does not define "family" or "household" in its zoning code also must allow community residences for people with disabilities of as right the same as any other group of unrelated people — requiring a license or a spacing distance would be facially discriminatory.

The requirement to make a "reasonable accommodation" kicks in when a proposed community residence for people with disabilities would house more unrelated people than the zoning code's definition of "family" allows. So if an operator wished to open a group home for 7 people with disabilities when the definition of "family" caps the number of related residents at 5, the city would have to make a "reasonable accommodation" to allow this group home for 7 residents.

Collectively, court decisions suggest that any reasonable accommodation must meet three tests:

- The proposed zoning restriction must be *intended to achieve a legitimate government purpose*
- The proposed zoning restriction must *actually achieve that legitimate government purpose*
- The proposed zoning restriction must be the *least drastic means necessary to achieve that legitimate government purpose*

The zoning restrictions described below enable community residences to locate in all residential zoning districts through the least drastic regulation needed to accomplish the legitimate government interests of preventing clustering of several community residences on a block (which undermines the ability of community residences to achieve their purposes and function properly and can alter the residential character of a neighborhood), as well as protecting the residents of the community residences from improper or incompetent care and from abuse. They are narrowly tailored to the needs of the residents with disabilities to provide greater benefits than any burden that might be placed upon the residents with disabilities.

A proposed community residence that houses more unrelated people than allowed under a town's definition of "family" should be allowed as a permitted use in all residential zoning districts if it:

- **Is located more than 660 linear feet from property line to property line or 660 linear feet along the shortest legal pedestrian path from the proposed home to an existing community residence, whichever is shortest, and**
- **Is eligible for or has received the appropriate license or certification from the state, the local county, local city, or federal government.**

If a proposed community residence would be located *within* this 660 linear foot spacing distance (the length of a typical block) or if a license or certification is *not* required for it, then the heightened scrutiny of a special or conditional use permit is warranted. Note that if a license or certification is denied, the proposed community residence is not allowed at all, even by special use permit.

It may be legal to require a special use permit in single–family districts for community residences that limit the length of residency, i,.e. halfway houses. A city cannot, however, treat community residences for people with certain disabilities differently than other disabilities.

Regulating the number of occupants of a community residence

According to a 1995 U.S. Supreme Court decision, the proper vehicle for regulating how many people can live in a community residence is through a village's building code or property maintenance code applicable to *all* residences. In its 1995 decision in Edmonds v. Oxford House, 514 U.S. 725, 115 S.Ct. 1776, 131 L.Ed.2d 801 (1995), the Court ruled that housing codes that "ordinarily apply uniformly to all residents of all dwelling units ... to protect health and safety by preventing dwelling overcrowding" are legal and apply to all housing, including community residences for people with disabilities. It also found that zoning ordinance restrictions that focus on the "composition of households rather than on the total number of occupants living quarters can contain" are subject to the Fair Housing Act. Ibid. at 1782.

Consequently, the provisions of a town's building or property maintenance code that determine how many people can live in a dwelling apply to community residences, which by definition, are dwellings. Generally these codes regulate occupancy by the number of square feet in each bedroom based on health and safety standards applicable to all people. They usually require 70 square feet of liveable space for the first occupant of a bedroom and an additional 50 square feet for each additional occupant of a bedroom. So if two people share a bedroom, the bedroom must be at least 120 square feet in size, like 10 x 12 feet.

A zoning ordinance, however, can set a rational limit on the total number of people who live in a community residence based on emulating a family. Experts generally believe that a community residence with up to 12 residents can emulate a family. But it is very unlikely that the home with more than 12 residents can effectively emulate a family. It's pretty clear that a "home" for 16 or 20 people is a mini–institution and not a community residence.

Further reading

Visit http://www.grouphomes.law to access a key law review article that explains these limitations on zoning, research on the impacts of community residences on the surrounding neighborhood, and a video workshop on zoning for community residences.

Consult with a qualified attorney. This document does *not* constitute legal advice.
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Planning & Development Services

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PHONE 480-312-7000
WEB www.ScottsdaleAZ.gov

December 7, 2017

Michelle Siwek
Centered Living, CL Holdings 68th Pl, LLC
12012 N. 68th Place
Scottsdale, Arizona 85254

Re: Adult Care Home Separation Requirement

Ms. Siwek,

On November 27, 2017 you requested a disability accommodation from the Adult Care Home separation requirement of 750 feet per Section 5.102.2.c of the Zoning Ordinance. Included in your request is to change from a family to a care home. I have determined that an accommodation is not warranted in this case. I also determine that the living situation you describe is a "family" under the ordinance existing at the time you began operating so long as no care is provided. As such, your family is "grandfathered" under the City's amended Ordinance under the following conditions:

1. No increase in the number of disabled residents and
2. No care is being provided at the residence

Centered Living at 12012 N. 68th Place is approximately 410 feet from a licensed adult care home to the north, 12202 N. 68th Place. The properties are separated by one single family home property and E. Cactus Road. Because the property is on the same N. 68th Place street frontage as the adult care home to the north, under the ordinance existing at the time you began the standard calls for adult care homes to be separated by 750 feet. Because it is not currently authorized as an adult care home, we assume there are fewer than 6 residents.

City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), on December 4, 2017 and it went into effect January 5, 2018. Because this request was received prior to the adoption of the new text, the authority to analyze this request belongs to the Zoning Administrator, per Section 1.202 of the Zoning Ordinance.

Although you can continue as a family with no care provided, a care home is not allowed at this location because:

1. The property is within 750' of another care home.
2. There is no justification for waiving this standard because there are alternative locations nearby. Within the City of Scottsdale there are currently 113 adult care homes. If the disabled residents at 12012 N. 68th Place need additional care that can only be achieved in a care home within a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for an adult care home at a different property that is properly separated from

other adult care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home. (See Attachment 1, Care home availability map)

3. I find that allowing a care home to operate at this location would fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale. The purpose of this ordinance 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. In addition the purpose of the Single-family residential (R1-35) zoning district is to promote and preserve residential development. The minimum lot size, although less than one (1) acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto, together with required recreational, religious and educational facilities. (Zoning Ordinance, Section 5.201)

   The buffers between Adult Care Homes are in place to protect the character of neighborhoods, and to insure, as in this case, that the low density of the zoning district is maintained and to protect neighboring citizens welfare.

   Because there is only one real property between the existing Adult Care Home on the north side of E Cactus Rd. and this subject property, the impact for the neighboring property would be considerable and the Zoning Ordinance established separation requirement should be upheld.

At this time I do not see good cause to grant a disability accommodation. The home can continue to be used as it has been, with no increase in the number of residents or level of activity.

Sincerely,

Randy Grant
Director, Planning and Development Services

ATTACHMENTS:

1. Care home availability location map
2. Requested letter of determination

You can appeal the Zoning Administrator's decision to the Board of Adjustment pursuant to Zoning Ordinance Section 1.202.B and any timely appeal shall be processed pursuant to Section 1.805

RECEIVED
11/27/17

November 27, 2017

To: Randy Grant, Zoning Administrator
7447 E. Indian School Road
Scottsdale, Arizona 85251

Subject: Letter of Determination
Request Disability Accommodation Request of 750' Setback for Group Home for the Disabled

---

Dear Sir,

The purpose of this letter is to respectfully request the Zoning Administrator make a determination to allow CL Holdings 68th Place, LLC (Centered Living) located at 12012 N. 68th Place, permission to operate an adult care home within 750' of another adult care home for the disabled as outlined in the Draft Care Home Ordinance (Draft Ordinance) dated September 5, 2017.

Per the Draft Ordinance, the City has outlined a disability/reasonable accommodation pathway for those protected classes with a disability. For purposes of this letter, the disabled class are those individuals in recovery from drug and alcohol abuse pursuant to the Federal Fair Housing Act (FFHA), 42 U.S.C. §3604(f)(3)(B). In addition, Disability shall be defined and construed as the term by the Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325 ; 122 Stat. 3553).

As part of the Draft Ordinance, the City outlines the process for a disability/reasonable accommodation pathway set for vote on December 5, 2017; a critical step in allowing those in recovery from drug and alcohol abuse certain accommodations as outlined by the FFHA. This further includes the application of municipalities land use ordinances understanding that one of the purposes of a disability accommodation provision is to address individual needs and respond to individual conditions. In this regard, courts have held that municipalities are encouraged to change, waive, or make exception to their zoning rules to afford people with disabilities the same access to housing as those who are without disabilities.

I appreciate, at the direction from staff at the initial planning and zoning meeting, the opportunity to write this request for a reasonable accommodation determination. For your reference the following conditions are extracted for the Draft Ordinance (in grey) outlining the conditions for a disability/reasonable accommodation.

SECTION 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.

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;

The above conditions are set forth below outlining sufficient evidence to authorize a disability accommodation for Centered Living.

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.);
Centered Living is requesting a disability accommodation to the separation requirement of 750' of another adult care home pursuant to the Federal Fair Housing Act (FFHA),42 U.S.C. §3604(f)(3)(B) on behalf of the residents and owner of Centered Living located at 12012 N. 68th Place, Scottsdale, Arizona 85254.

The residents of Centered Living are considered "handicapped" under the 1988 amendments to the FFHA, 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 are for those disabled individuals who are indeed 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).

2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
Centered Living can demonstrate that the proposed disability accommodation is reasonable, for the FFHA requires a showing that the accommodation "may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling." 42 U.S.C. 3604(f)(3)(B).

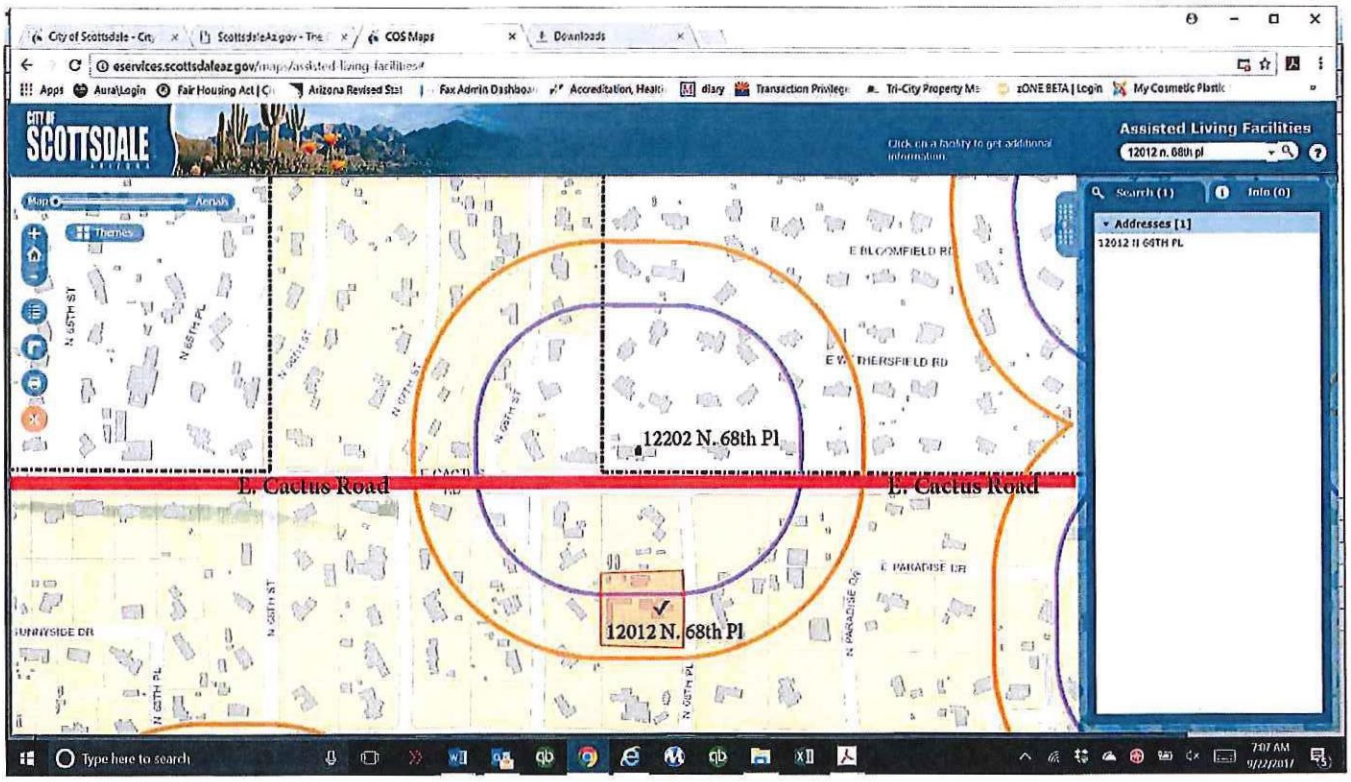
In addition, for purposes of this request, 42 U.S.C. 3604(f)(3)(B) defines discrimination to include a "refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such (handicapped] person equal opportunity to use and enjoy a dwelling." Centered Living asserts that the request is necessary for disabled individuals recovering from substance abuse and to use 12012 N. 68th Place for this equal opportunity.

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 750' 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, the Arizona Department of Health Services 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 and is attached for your reference.

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

The map below depicts the two properties in question. http://www.scottsdaleaz.gov/maps

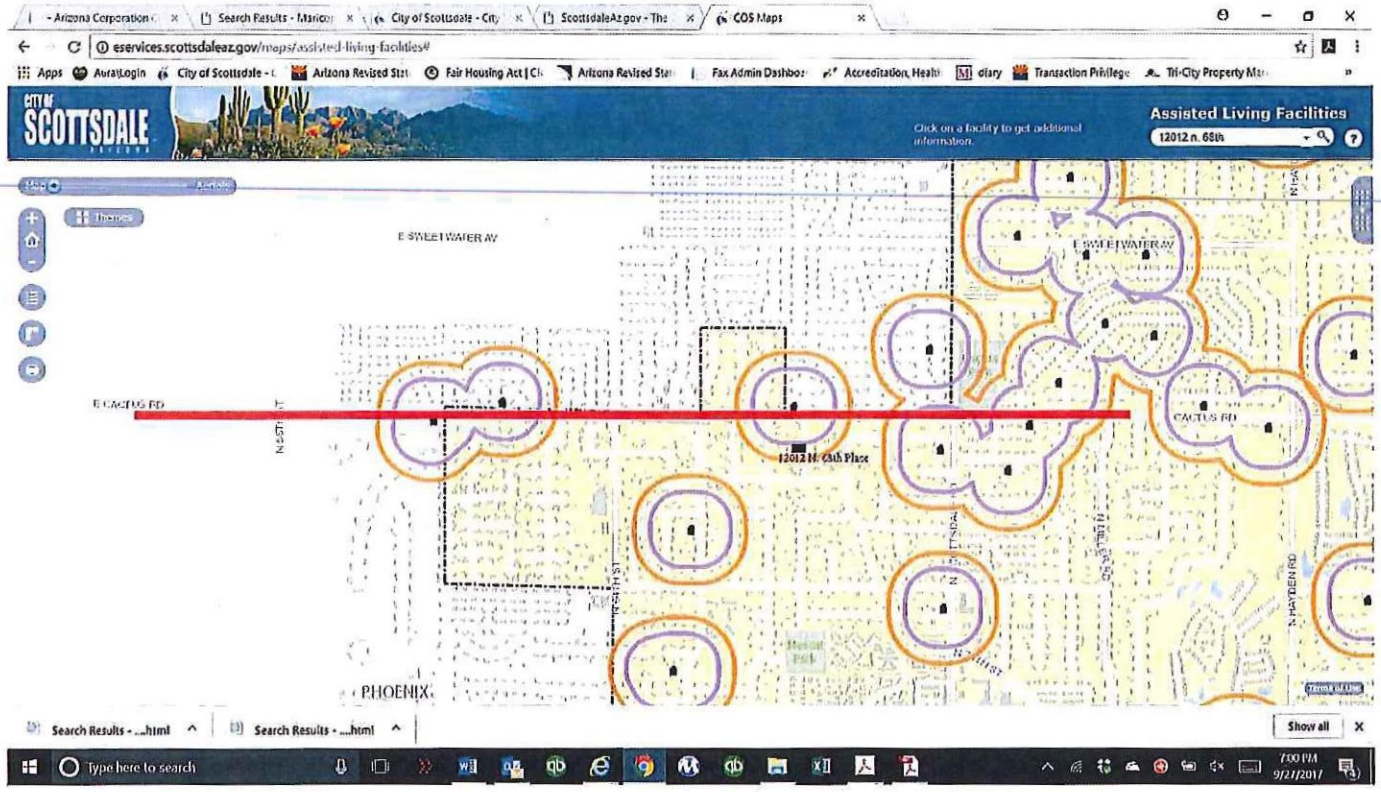


a) This request does not fundamentally alter the nature and purpose of the zoning ordinance. The assisted living home located at 12202 N. 68th Pl in Scottsdale (Royal Palm) is located on the north side of Cactus Road, an arterial road or arterial thoroughfare defined as a high-capacity urban road. Cactus road is a man-made barrier providing the necessary separation and this main arterial road clearly provides the necessary separation between the two properties allowing the character of the two distinct neighborhoods to remains unchanged.

b) Secondly, the two properties are in two different developments, Sunrise Shadows located in a *Phoenix* neighborhood vs. Desert Estates located in a Scottsdale neighborhood.

c) 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 750' or 1200' (Draft Ordinance increased the separation to 1200') for recovering addicts and alcoholics in the area, therefore, Centered Living is integrated into the community and does not change the character of the neighborhood.

Access to housing for this disabled class is imperative. The map below shows a snapshot view of care homes for the disabled but the homes in the immediate area are for the elderly, very few, if any are for those recovering from substance abuse.



d) It is important to note; Centered Living has been operating as a sober living residence since 2011 and is integrated in the community and the neighborhood (Royal Palm began operation in 2015). Centered Living has not had any complaints and has operated for the benefit of those recovering from substance abuse. Per the City's zoning code permits "any number of persons living as a single housekeeping unit" are to be considered a family and operate as single housekeeping unit. 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 recovery 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 groups of unrelated recovering alcoholics and substance abusers to live in a structured, safe and therapeutic environment is necessary to the recovery process. Therefore, this request for disability accommodation is an extension of what Centered Living provides to the disabled and will be under the licensing of ADHS.

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;

In addition to the criteria outlined in the Draft Ordinance, per the federal guidelines, a reasonable accommodation must meet two tests: (1) Does the request proposed create a fundamental alteration in the zoning scheme and (2) Does the request impose an undue burden or expense to the local government? Allowing Centered Living to operate does not alter the zoning scheme nor or does not pose an undue burden or expense on the City.

Here, accommodating Centered Living would not cause the City any undue financial or administrative burdens nor would it undermine the purpose which the requirement seeks to achieve. 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. The FFHA 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.

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.

The owner of Centered Living acknowledges and understands that the profitability or financial hardship is not considered when determining a disability accommodation. None is cited here.

C. 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.

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 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 health and safety of disabled individuals; recovering addicts and alcoholics seeking treatment for substance abuse and undermines the state emergency directive. The state emergency seeks to expand access to treatment not hinder it. The state emergency seeks to expand access to treatment not hinder it. Currently, statistics from the Governor's Office of Youth, Faith and Family denote 99% of 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.

Additional Request.

If a public hearing is part of the zoning process, Centered Living kindly requests an accommodation be made to allow this process to occur administratively and/or not open to a public hearing. The current climate in Scottsdale, as evidenced in the town hall meetings, have aggressive neighbors not only targeting those individuals in recovery from substance abuse but the homes in which they live. Therefore, we request for the safety of those individuals and the homes in which they reside that this hearing is not open to the public.

In summary, we feel that the information outlined above is sufficient evidence to grant a reasonable accommodation for Centered Living to operate an adult care home within 750' of another care home for the disabled.

If you need further information, please do not hesitate to call me at 480.414.2596.

Sincerely,



Michelle Siwek on behalf of Centered Living
12012 N. 68th Place
Scottsdale, AZ 85254

DECLARATION OF EMERGENCY
and **NOTIFICATION OF ENHANCED SURVEILLANCE ADVISORY**
Opioid Overdose Epidemic

WHEREAS, the Arizona Department of Health Services has confirmed 790 deaths due to opioids in Arizona in 2016, which equates to an average of more than two Arizonans per day; and

WHEREAS, the Arizona Department of Health Services has confirmed that the number of opioid deaths has increased 74% from 2012-2016, with 2016 showing Arizona's highest number of deaths; and

WHEREAS, opioids are powerful pain killers that are highly addictive; and

WHEREAS, of the 1,497 drug overdose deaths in 2016, 52.7% noted opioids as a primary cause of death; and

WHEREAS, these deaths as a result of overdose are preventable; and

WHEREAS, the opioid overdose epidemic affects all Arizonans; and

WHEREAS, in Arizona, law enforcement and first responders have the authority to carry and administer the life saving drug Naloxone; and

WHEREAS, the Arizona Department of Health Services requires more robust and more accurate data to successfully combat the opioid overdose epidemic; and

WHEREAS, the Governor and the Director of the Arizona Department of Health Services have reasonable cause to believe that disease, illness, and health conditions, including death, are being caused by the opioid overdose epidemic; and

WHEREAS, it is necessary and appropriate to take action to ensure that the residents of Arizona remain safe and healthy; and

WHEREAS, the Governor is authorized to declare an emergency pursuant to A.R.S. § 26-303(D).

NOW, THEREFORE I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and Laws of the State, do hereby determine that the opioid overdose epidemic present in Arizona justifies a declaration of a State of Emergency and issuance of an Enhanced Surveillance Advisory, pursuant to A.R.S. §§ 26-303(D), 36-782, and 36-787, and I do hereby:

a. Declare that a State of Emergency exists in Arizona due to the Opioid Overdose Epidemic, effective June 5, 2017; and

b. Direct that the State of Arizona Emergency Response and Recovery Plan be used to direct and control State and other assets, and authorize the Director of the Arizona Department of Emergency and Military Affairs to coordinate State assets; and

c. Authorize the Director of the Arizona Department of Health Services to coordinate all matters pertaining to the public health emergency response of the State in accordance with A.R.S. § 36-787(A)(2); and

d. Require the Director of the Arizona Department of Health Services to:

1) within seven days of this order, provide consultation to the Governor on identifying and recommending the necessary elements for an Enhanced Surveillance Advisory pursuant to A.R.S. § 36-782(B); and

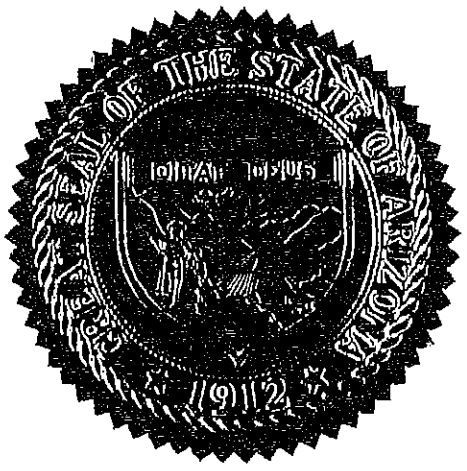
2) initiate emergency rule making with the Arizona Attorney General's Office in order to develop rules for opioid prescribing and treatment within health care institutions pursuant to A.R.S. § 36-405; and

3) develop guidelines to educate healthcare providers on responsible prescribing practices; and

4) develop and provide training to local law enforcement agencies on proper protocols for carrying, handling, and administering Naloxone in overdose situations; and

5) provide a report on findings and recommendations, including additional needs and response activities, and preliminary recommendations that require legislative action to the Governor by September 5, 2017.

This Emergency Declaration will be eligible for termination upon my receipt and acceptance of the Arizona Department of Health Services' Opioid Overdose Epidemic Response Report.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this 5th day of June in the Year Two Thousand Seventeen and of the Independence of the United States of America the Two Hundred and Forty-first.

ATTEST: Michele Reagan

Secretary of State

Adult Care Home Application

Zoning/spacing approval will expire after 180 days if a license has not yet been obtained from the AZ Department of Health Services

CITY OF SCOTTSDALE

Project Name: CL HOLDINGS 68TH PLACE CARE HOME		
Property's Address: 12012 N 68TH PLACE SCOTTSDALE 85254	**A.P.N.:** 175-20-009	
Zoning designation: RI-35		
Owner: CL HOLDINGS 68TH PLACE LLC		
Applicant: MICHELLE SIWEK		
Company: CL HOLDINGS 68TH PLACE LLC		
Address: 8321 N. CANTA REDONDO	**State:** AZ	**Zip:** 85253
Phone: 480.414.2596	**E-mail:** MICHELLE@THESIWEKS.COM	
Michelle Siwek Owner /Applicant Signature	Digitally signed by Michelle Siwek DN: cn=Michelle Siwek, o, ou, email=michelle@thesiweks.com, c=US Date: 2017.11.18 12:03:29 -07'00'	

City of Scottsdale's submittal requirements:

1. This application form with the information above completed and signed.
2. A site plan or current aerial map which shows all existing and proposed roofed structures on the property and includes the net lot area and gross floor area for all roofed structures in square feet. NOTE: The total Floor Area Ratio may not exceed 35%.
3. Signed Affidavit of Authority to Act as the Property Owner form
4. Please answer all of the following. You may use a separate sheet of paper if necessary
   - What is the maximum number of residents? 10
   - Are the residents all over the age of 18? (Circle one) Y/N yes
   - What is the minimum length of stay for a resident? 30 days
   - How many caretakers will live on site? 1
   - How many caretakers will visit the site on a regular basis? minimum 5 per week in 12 hour shifts
   - What type of care will be provided on site? behavioral health
   - Provide the state license type: BEHAVIORAL HEALTH RESIDENTIAL FACILITY
   - Provide the NAICS (North American Industry Classification System) number: 623220

City of Scottsdale's Registration and Permit process for Adult Care facilities in an existing building:

A. Applicant shall submit a Pre Application Request. This will trigger a Pre Application meeting with a Planner on staff. The applicant shall bring this completed form to the Pre Application meeting. Once the Planner can verify that the proposed Adult Care Home complies with the applicable sections of the Zoning Ordinance, Section 5.012.A.2 or 5.102.A.2. an Adult Care (AC) case will be created and the property will be mapped. NOTE: Please be advised that this spacing approval will expire after 180 days if the applicant has not yet obtained license from the Arizona Department of Health Services.

B. Submit this signed, approved application to the One Stop Shop in the One Stop Shop at 7447 East Indian School Road, Suite 100 and pay for a C of O for Existing Building Permit. All proposed Adult Care homes are required to undergo an inspection within 24 hours of obtaining a 'C of O for existing building' permit. **NOTE: Please be advised, this permit is valid for 180 days from the date that the permit is issued.**

Adult Care Home
Application

Zoning/spacing approval will expire after 180 days if a license has not yet been obtained from the AZ Department of Health Services

CITY OF SCOTTSDALE

City Use Only: ____-PA-_____ ____-AC-_____

☐ Approved for 'C of O for Existing Building' permit issuance _____
Staff signature and date

C. The applicant shall schedule an inspection meeting with the City of Scottsdale Building and Fire Inspector(s).

D. The City of Scottsdale Building and Fire Inspector signifies approval of the 'C of O for Existing Building' permit and will issue a new Certificate of Occupancy.

Required Notice

1. Pursuant to A.R.S. §9-836, an applicant/agent may request a clarification from the City regarding an interpretation or application of a statute, ordinance, code or authorized substantive policy, or policy statement. Requests to clarify an interpretation or application of a statute, ordinance, code, policy statement administered by the Planning and Development Services Department, including a request for an interpretation of the Zoning Ordinance, shall be submitted in writing to the One Stop Shop to the attention of the Planning and Development Services Department Administrator. All such requests must be submitted in accordance with the A.R.S. §9-839 and the City's applicable administrative policies available at the Planning and Development Services One Stop Shop, or from the city's website: http://www.scottsdaleaz.gov/building-resources/forms.

   Planning and Development Services
   One Stop Shop
   7447 E. Indian School Rd, Suite 105
   Scottsdale, AZ 85251
   Phone: (480) 312-7000

Affidavit of Authorization to Act for Property Owner

CITY OF SCOTTSDALE

1. This affidavit concerns the following parcel of land:

   a. Street Address: 12012 N 68TH PLACE
   b. County Tax Assessor's Parcel Number: 175-20-009
   c. General Location: 68TH AND CACTUS
   d. Parcel Size: 94,843 SQ FT
   e. Legal Description: LOT 13 DESERT ESTATES 1 LOTS 5-20 MCR 005421
   (If the land is a platted lot, then write the lot number, subdivision name, and the plat's recording number and date. Otherwise, write "see attached legal description" and attach a legal description.)

2. I am the owner of the land or I am the duly and lawfully appointed agent of the owner of the land and have authority from the owner to sign this affidavit on the owner's behalf. If the land has more than one owner, then I am the agent for all of the owners, and the word "owner" in this affidavit refers to all of them.
3. I have authority from the owner to act for the owner before the City of Scottsdale with regard to any and all reviews, zoning map amendments, general plan amendments, development variances, abandonments, plats, lot splits, lot ties, use permits, building permits and other land use regulatory or related matters of every description involving the land, or involving adjacent or nearby lands in which the owner has (or may acquire) an interest, and all applications, dedications, payments, assurances, decisions, agreements, legal documents, commitments, waivers and other matters relating to any of them.
4. The City of Scottsdale is authorized to rely on my authority as described in this affidavit until three work days after the day the owner delivers to the Director of the Scottsdale Planning & Development Services Department a written statement revoking my authority.
5. I will immediately deliver to the Director of the City of Scottsdale Planning & Development Services Department written notice of any change in the ownership of the land or in my authority to act for the owner.
6. If more than one person signs this affidavit, each of them, acting alone, shall have the authority described in this affidavit, and each of them warrant to the City of Scottsdale the authority of the others.
7. Under penalty of perjury, I warrant and represent to the City of Scottsdale that this affidavit is true and complete. I understand that any error or incomplete information in this affidavit or any applications may invalidate approvals or other actions taken by the City of Scottsdale, may otherwise delay or prevent development of the land, and may expose me and the owner to other liability. I understand that people who have not signed this form may be prohibited from speaking for the owner at public meetings or in other city processes.

Name (printed)	Date	Signature
MICHELLE SIWEK	11/17, 2017	Michelle Siwek
	, 20	
	, 20	
	, 20	

Planning and Development Services
7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088

My copy

Pre-Application Request

Purpose:

The purpose of the Pre-Application submittal, and meeting, is for the applicant and city staff to discuss a proposed Development Application, and the information and process that is necessary for city staff to process the proposal.

In accordance with the Zoning Ordinance, no development application shall be accepted before a Pre-Application has been submitted, and a Pre-Application meeting has been conducted with city staff, unless the Pre-Application meeting has been waived by the Zoning Administrator.

Submittal:

The completed Pre-Application Request form and all required materials and fees should be submitted in person to the One-Stop-Shop located at 7447 East Indian School Road; or, may they be submitted digitally at following website: https://eservices.scottsdaleaz.gov/eServices/PreApps/Default.aspx

All checks shall be payable to "City of Scottsdale."

Scheduling

After the Pre-Application submittal has been accepted at the One-Stop-Shop, a staff member will contact the Applicant within five (5) Staff Working Days to schedule a Pre-Application meeting with the assigned staff member(s). Generally, a Pre-Application meeting is scheduled within five (5) to fifteen (15) Staff Working Days from the date of the submittal.

Project Name: CL Holdings 68th Place Care Home

Property's Address: 12012 N 68th Place Scottsdale Arizona 85254 **APN:** 175-20-009

Property's Zoning District Designation: R1-35

Property Details:

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

Has a 'Notice of Compliance' been issued? ☐ Yes ☒ No If yes, provide a copy with this submittal

Owner: Michelle Siwek	**Applicant:** Michelle Siwek
Company: CL Holdings 68th Pl, LLC	**Company:** CL Holdings 68th Pl, LLC
Address: 8321 N. Canta Redondo, Paradise Valley Az 85253	**Address:** 8321 N. Canta Redondo, Paradise Valley Az 85253
Phone: 480-414-2596 **Fax:**	**Phone:** 480-414-2596 **Fax:**
E-mail: michelle@thesiweks.com	**E-mail:** michelle@thesiweks.com
Owner Signature	Applicant Signature

Official Use Only Submittal Date: _____ Application No.: _____ -PA- _____

Project Coordinator: _____

Pre-Application Request

Development Application Type: Please check the appropriate box of the Type(s) of Application(s) you are requesting		
Zoning	**Development Review**	**Signs**
☐ Text Amendment (TA)	☐ Development Review (Major) (DR)	☐ Master Sign Program (MS)
☐ Rezoning (ZN)	☐ Development Review (Minor) (SA)	☐ Community Sign District (MS)
☐ In-fill Incentive (II)	☐ Wash Modification (WM)	**Other**
☐ Conditional Use Permit (UP)	☐ Historic Property (HP)	☐ General Plan Amendment (GP)
Exemptions to the Zoning Ordinance	**Land Divisions**	☐ In-Lieu Parking (IP)
☐ Hardship Exemption (HE)	☐ Subdivision (PP)	☐ Abandonment (AB)
☐ Special Exception (SX)	☐ Subdivision (Minor) (MD)	☑ Adult Care (AC)
☐ Variance (BA)		☐ Single-Family Residential
☐ Minor Amendment (MN)		☑ Other: disability accomodation

Submittal Requirements: (fees subject to change every July)

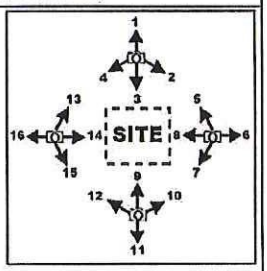
☒ Pre-Application Fee: $87
(No fees are changed for Historic Preservation (HP) properties.)

☐ Records Packet Fee: $_____
Processed by staff. The applicant need not visit the Records desk to obtain the packet.
(Only required when requested by Staff)

☒ Application Narrative:
The narrative shall describe the purpose of the request, and all pertinent information related to the request, such as, but not limited to, site circulation, parking and design, drainage, architecture, proposed land use, and lot design.

☐ Property Owner Authorization Letter
(Required for the SA and MS Pre-Applications)

☐ Site / Context Photographs



- Provide color photographs showing the site and the surrounding properties. Use the guidelines below for photos.
- Photos shall be taken looking in towards the project site and adjacent to the site.
- Photos should show adjacent improvements and existing on-site conditions.
- Each photograph shall include a number and direction.
- Sites greater than 500 ft. in length, also take the photo locations shown in the dashed lines.
- Photos shall be provided 8 ½ x 11 paper, max. two per page.

☐ Other

_____

_____

- ***The following list of Additional Submittal Information is not required for a Pre-Application meeting, <u>unless</u> indicated below by staff prior to the submittal of this request.***
- ***Applicants are advised to provide any additional information listed below. This will assist staff to provide the applicant with direction regarding an application.***

<u>Additional Submittal Information</u>

☐ Site Plan
☐ Subdivision plan
☐ Floor Plans
☐ Elevations
☐ Landscape plans
☐ H.O.A. Approval letter
☐ Sign Criteria Regulations & Language
☐ Material Samples – color chips, awning fabric, etc.
☐ Cross Sections – for all cuts and fills
☐ Conceptual Grading & Drainage Plan
☐ Exterior Lighting – provide cut sheets, details and photometrics for any proposed exterior lighting.
☐ Boundary Survey (required for minor land divisions)
☐ Areal of property that includes property lines and highlighted area abandonment request.
☐ One copy of the recorded document for the area that is requested to be abandoned. Such as: subdivision plat, map of dedication, GLO (General Land Office) federal patent roadway easement, or separate dedication document. A copy of most recorded documents to be abandoned may be purchased at the City of Scottsdale Records Dept. (480-312-2356), or the Maricopa County Recorder's Office (602-506-3535). A copy of the General Land Office (GLO) federal patent roadway easement may be purchased from the Bureau of Land Management (602-417-9200).

REJECTED
By D Wilson 09/27/2017

Additional information is necessary to verify CPVC piping can be used for this installation with DecoShield. DecoShield is not a listed as protection for piping. Therefore, piping must meet the product listing requirements for an exposed installation. Based on Statewasher product data, this installation would not comply. Please show that the proposed installation meets the listing requirements for the product to be installed. Specify the piping manufacturer and provide product documentation that the installation meets the installation criteria for exposed piping.

= CPVC BELOW THE CEILING INSIDE DECOSHIELD SEE PRODUCT SPECS.

Appears obstructed by beams?

Sloped

Not smooth flat

A fire sprinkler permit cannot be issued for a care home at this location. This location has been reviewed and cannot obtain zoning approval for a care home because it is within 660' radius of another care home. A Pre-application request can be made for a public hearing process with the Board of Adjustment to try and obtain a variance for an accommodation request but that has not happened to date.

PARTIAL FIRE SPRINKLER SECTION
SCALE: 1/4" = 1'-0"

FIRE SPRINKLER PIPING PLAN
SCALE: 1/4" = 1'-0"

NOTES

1. ALL ELEMENTS OF THIS DESIGN AND INSTALLATION ARE TO CONFORM WITH NFPA-13D STANDARDS AND LOCAL CODES.
2. THE WATER SUPPLY AND GAUGE ARE/TO BE PROVIDED BY OTHERS AT APPROX. 2"-0" A.F.F. AT THE RISER LOCATION(S) SHOWN.
3. (1) K-6 MM 110 VOLT, 60Hz, SINGLE PHASE POWER SUPPLY IS TO BE PROVIDED BY OTHERS AT THE ELECTRICAL SERVICE PANEL. THE FLOW SWITCH WILL BE CONNECTED INTO THE ELECTRICAL BELL FOR ON-SITE AUDIBLE ACTIVATION REPORTING.
4. ALL ELECTRIC WORK IS PERFORMED BY OTHERS.
5. THE SYSTEM'S TEST TO BE LOCATED IN THE EXTERIOR WALL ADJACENT TO THE RECOMMENDED MONITOR SPRINKLER IN AN 8 x 8 ACCESS PANEL @ 7'-0" A.F.F.
6. SPRINKLER SPACING AS FOLLOWS: S=9 O.C. FOR 3/4 PIPE, S=9 O.C. FOR 1" PIPE, S=9 O.C. FOR 1-1/4 PIPE, S=9 O.C. FOR 1-1/2 THRU 2" PIPE.
7. FOR SPRINKLER HEAD SPACING AND DESIGN CRITERIA, SEE AREA SHOWN ON PLANS.
8. ALL INSULATION TO BE INSTALLED ABOVE OR AROUND (E.I.) APPROVED CPVC PIPING.
9. THIS SYSTEM TO BE HYDROSTATICALLY TESTED AT 200 PSI FOR 2 HOURS.
10. ALL UNDERGROUND SYSTEM MATERIALS TO BE U.L.- APPROVED CPVC (E. N. S. D.
11. ALL REPLACEMENT SPRINKLERS TO BE EQUAL TO EXISTING.
12. (1-HD) INDICATES PIPE CL. DIAMETER ON THE ISOPIC.
13. ALL PIPING TO BE 3/4" UNLESS NOTED OTHERWISE.
14. USE OF THESE DRAWINGS BY THE INSTALLING CONTRACTOR SHALL INDICATE ACCEPTANCE OF ALL THE INFORMATION PROVIDED ON THESE PLANS AND SHALL TRANSFER FINAL RESPONSIBILITY OF THE CORRECTNESS OF THE SYSTEM OF THE INSTALLING CONTRACTOR.

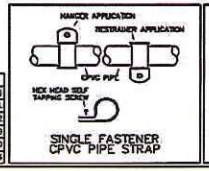
SPRINKLER LEGEND

SYM	QNT	MANF.	DETAIL	TEMP	K	CUT	ORIF SIZE	ORIENT	MODEL #	FINISH	K. I. D.
(SR)	2	RDO	WHITE	175	4.90	1/2"	7/16	TYCD	U12-HCCD	WHITE	TY2224
(SR)	42	RDO	WHITE	160	4.90	1/2"	7/16	TYCD	U12-CSHC'D	WHITE	TY3356
	44	TOTAL NEW HEADS ADDED									

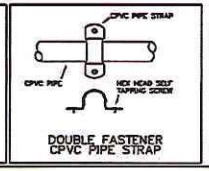
POOL HOUSE DESIGN INFO	
LIVABLE SQ. FT.	4810
OTHER SQ. FT.	0
GARAGE SQ. FT.	0
TOTAL NEW SQ. FT.	4810
WATER PSI	60 + 10% = 70.0
DATE	09-02-2017

HYDRAULIC DATA REMOTE AREA #1 (2 HEAD CALC 16X16 SPACING)	
OCCUPANCY CLASS	RESIDENTIAL
TOTAL HEADS FLOWING	2
K-FACTOR	4.9
TOTAL WATER REQUIRED	33.2
TOTAL PRESSURE REQUIRED	71.1

HYDRAULIC DATA REMOTE AREA #2 (1 HEAD CALC 18X18 SPACING)	
OCCUPANCY CLASS	RESIDENTIAL
TOTAL HEADS FLOWING	2
K-FACTOR	4.9
TOTAL WATER REQUIRED	22.9
TOTAL PRESSURE REQUIRED	43.4



SINGLE FASTENER CPVC PIPE STRAP



DOUBLE FASTENER CPVC PIPE STRAP

I, [illegible], HEREBY CERTIFY THAT I AM NOT DESIGN THIS FIRE SPRINKLER SYSTEM. I CERTIFY THAT I HAVE ADHERED THE CLIENTS AND TO THE BEST OF MY KNOWLEDGE THESE DRAWINGS COMPLY WITH ALL APPLICABLE CODES AND WITH ORDINANCE (NFPA13, 13D, 13R). IT IS THE RESPONSIBILITY OF THE INSTALLING CONTRACTOR TO FOLLOW THE FIRE SPRINKLER PLANS CERTIFIED AND IN DOING THAT THE INSTALLATION IS IN ACCORDANCE WITH ALL APPLICABLE CODES AND STANDARDS.

SIGNED BY AGENT _____ NEXT LEVEL IF ABOVE DATE: 8-8-18 [illegible]

SERVICE 1ST
FIRE PROTECTION, LLC.
ROC# 257161
[illegible]
[illegible]

heckr gonzalez
sprinkler plans
fire protection engineering
480.628.5700

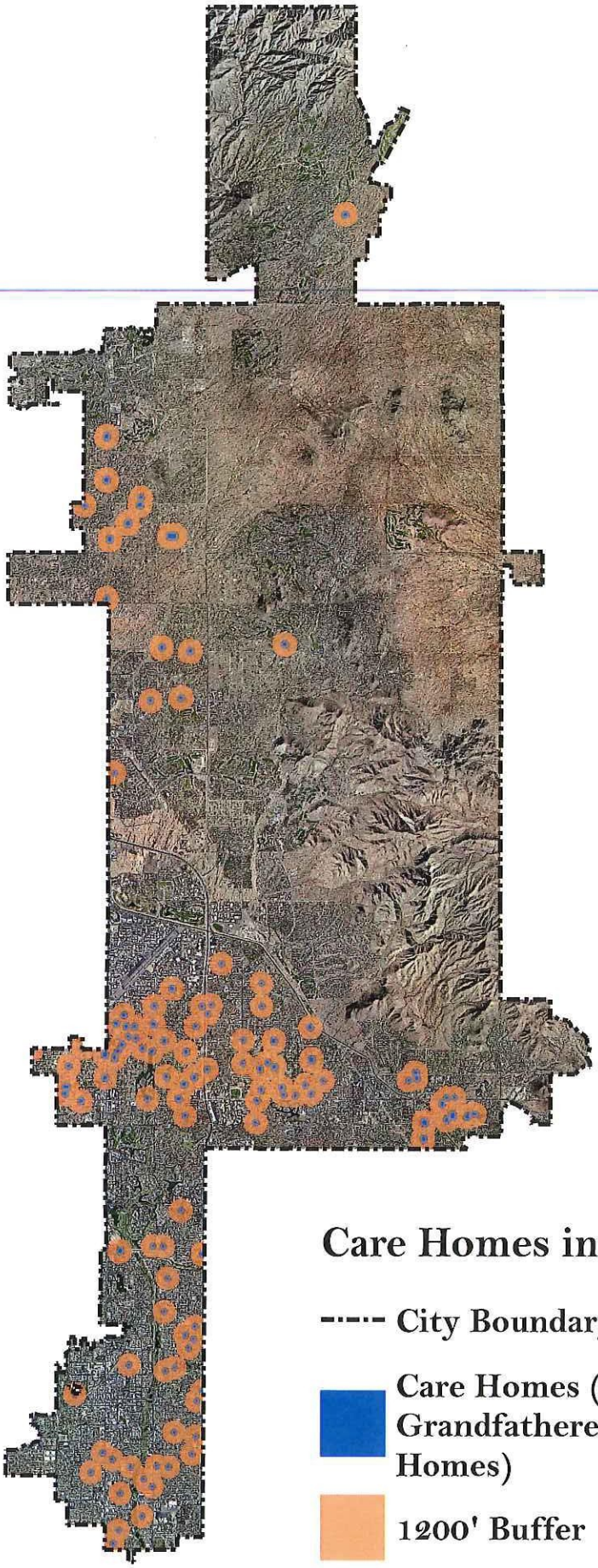
MICHELLE SIWEK
13212 NORTH 68TH PLACE
SCOTTSDALE, ARIZONA
480-419-0644

MICHELLE SIWEK CAREHOME
FIRE SPRINKLER PLANS
12012 NORTH 68TH PLACE
SCOTTSDALE, ARIZONA

REVISIONS

DATE: 08-22-2017
DRAWN BY: HG
SHEET: FP-1 OF 1

N 68th Pl
N 68th Pl
12012 North 68th Place
Google



Care Homes in Scottsdale

City Boundary

Care Homes (Currently All Grandfathered Approved Homes)

1200' Buffer

Last Updated 1/3/2018

City of Scottsdale General Plan 2001



City of Scottsdale, Arizona

2001 General Plan

adopted October 30, 2001

ratified by Scottsdale citizens March 12, 2002

City Council

Mary Manross, Mayor

Cynthia Lukas
Ned O'Hearn
David Ortega
Robert Pettycrew
Tom Silverman
George Zraket

Planning Commission

Betty Drake, Chair

Margaret Dunn
David Gulino
Kay Henry
Charles Lotzar
Tony Nelssen
Kevin Osterman

Other Boards and Commissions

Airport Advisory Commission
Building Advisory Board of Appeals
Board of Adjustment
Development Review Board
Endowment Advisory Board
Environmental Quality Advisory Board
Historic Preservation Commission
Housing Board
Human Services Commission
Library Board
McDowell Sonoran Preserve Commission
Neighborhood Enhancement Commission
Parks and Recreation Commission
Redevelopment Board
Scottsdale Pride Committee
Transportation Commission

Housing

VISION STATEMENT

Scottsdale will be a community that embraces a variety of housing opportunities that enhance the character, diversity, and vitality of the city, as well as respect and conserve our Sonoran desert. Our vision is to incrementally, but steadfastly expand housing opportunities for current and future citizens. This involves fiercely protecting our existing stock of housing inventory, while offering support programs to help with improvements and upkeep. It means ensuring that new housing involving public investment of any kind includes a range of pricing options. It also means encouraging builders through incentives to broaden the spectrum of home options in proposed residential developments. Our vision focuses on the people who occupy housing as much as the product itself. Housing options will include a wide range of opportunities for people living and working in Scottsdale, people at different life stages, income levels, and social and physical needs.

Introduction

Since incorporating in 1951, Scottsdale's housing and neighborhoods have shifted and evolved in response to marketplace trends and family lifestyles. From the early 1950's through the 1970's, Scottsdale pioneered creative housing solutions in Arizona, such as town home communities for part-time residents and the "live, work and play" master-planned communities like McCormick Ranch. One-mile planning areas with ranch-style homes, schools as the centerpiece of the area and commercial uses at the edges were the norm for development during these decades.





In the early 1980's, Scottsdale annexed approximately 105 square miles of county land zoned for low-density housing. With the new land, low cost of living, and Scottsdale's nationally recognized image as a quality place to live and raise a family, the 1980's and 1990's were a period of planning and vigorous building for the north areas of our city. A number of master-planned communities and custom homes on larger lots were built. By the end of 1999, approximately 80 percent of the residential building permits being issued were for custom homes.

The following table shows population and housing differences between 1960, 1980, and 2000. The estimated buildout population of Scottsdale is expected to be less than 300,000.

	1960	1980	2000 estimate
Population	27,000	88,800	212,980
Housing Units (constructed)	9,800	43,900	106,700
Household size (people/dwelling unit)	3.60	3.49	2.26
Median Income	$7,300	$21,500	$63,000
Vacancy/ Occupancy Rates	.85	.90	.88
Home Price (median)	$15,800	$60,000	$198,000

In general, housing in Scottsdale has a higher cost and value than comparable housing in other Valley communities because of the community amenities and quality of life in Scottsdale. While this is beneficial for property and resale values, it makes provision of housing for the full spectrum of Scottsdale's citizens, our service workers, seniors on limited incomes, and citizens with special social or physical needs, more difficult.

The demographics of our community are changing and land identified for housing development is becoming increasingly limited. Now and in the future we will need to focus attention on the revitalization and preservation of our more mature housing neighborhoods, to seek creative infill development strategies, and to encourage a diversity of housing that accommodates a variety of income levels, households, and socioeconomic needs.

City Government intervention in housing opportunities v. market driven housing

During the Future in Focus public participation process, citizens spoke about the importance of having a diversity of housing opportunities. Housing in Scottsdale is more costly than other Valley communities, giving rise to questions about a good supply of workforce (for example, teachers, police officers, etc.) housing and of people being able to remain in neighborhoods throughout their lives if they choose. Oftentimes however, people are concerned about the aesthetics or character of "affordable" housing, based on individual examples and past experiences with affordable housing "projects". The General Plan policies support the foundation of high quality, safe and affordable housing throughout the community, however, some feel that housing should be strictly market driven and the government should not be involved.

Scottsdale Values ...

- Housing and neighborhoods that contribute to a sustainable community.
- A community that contains a broad diversity of owner occupied and rental housing types.
- A community in which residents can live, work, and play in close proximity and where neighborhoods have easy connections with other neighborhoods and surrounding amenities.
- Citizen involvement in the preservation and revitalization of Scottsdale neighborhoods.
- Preservation and development of high quality, safe, and affordable housing to serve the people who live and work here.
- Housing that is energy efficient, environmentally sensitive, and that blends with the city's natural surroundings.
- "Life cycle" housing opportunities for people to be able to live in Scottsdale throughout their lives.
- Participation in regional efforts addressing the region's housing needs.



Goals and Approaches



1. **Preserve the quality of existing dwellings and neighborhoods so that people will find our community a healthy, safe and attractive place to call home today and into the future.**

- Support existing and future housing rehabilitation and neighborhood preservation efforts.
- Encourage ongoing property maintenance to sustain neighborhood vitality, value, and overall sense of community pride.
- Seek appropriate resources to revitalize and preserve at-risk single- and multi-family developments.
- Encourage rehabilitation of historic residential buildings and remodeling of older multi-unit buildings.
- Continue an active property maintenance, inspection, and code enforcement program in partnership with the community to promote healthy neighborhoods.
- Leverage state and federal funding opportunities for the preservation of high quality, safe and affordable housing.
- Analyze city ordinances and policies that affect housing diversity and availability.

2. **Seek a variety of housing options that blend with the character of the surrounding community.**

- Maintain Scottsdale's quality-driven development review standards for new housing development.
- Encourage physical design, building structure, and lot layout relationships between existing and new construction to help the new developments complement the surrounding neighborhoods.
- Encourage energy efficiency via integration of the city's Green Buildings and Sustainability programs (or future programs) in new housing design.
- Support community dialogue to reassess and streamline the development review process so as to encourage creative housing designs.
- Encourage the creation of mixed-use projects as a means to increase housing supply while promoting diversity and neighborhood vitality.
- Consider incentives that encourage the development of diverse housing types, including smaller, more affordable units.

3. **Seek a variety of housing options that meet the socioeconomic needs of people who live and work here.**

- Encourage and establish appropriate incentives for development of aesthetically pleasing housing that will accommodate a variety of income levels and socioeconomic needs.
- Support programs that will increase home ownership among entry level and moderate-income households who work in Scottsdale.
- Find creative solutions to encourage the development of new housing that is more affordable to entry level and moderate-income households for both homeowners and renters.
- Support reduction of government and regulatory constraints to enhance housing affordability, such as streamlining project coordination and processing time and promoting innovative and creative design.
- Encourage energy efficiency via integration of city's Green Buildings and Sustainability programs (or future programs) in housing design as a contribution to long-term housing affordability and as a benefit to our environment.
- Consider incentives that encourage the development of diverse housing types, including smaller, more affordable units.





4. **Encourage housing development that provides for "live, work, and play" relationships as a way to reduce traffic congestion, encourage economic expansion and increase overall quality of life for our residents.**

- Encourage a variety of housing densities throughout Scottsdale, with mixed-uses in areas of major employment and transit hubs, to offer greater live-work choices to a broader economic range of households.
- Support partnerships whereby builders and/or major employers (in partnership with the city) help provide housing options for Scottsdale's workforce.
- Encourage the development of work force housing in the new development and expansion of hotels, resorts, and other generators of service-level employment.
- Support the creation and implementation of policies that encourage employers to assist in meeting employee housing needs.
- Support the use of future innovations in technology and telecommunications as a way to remain flexible to changing demographics, community profiles and quality of life choices, including opportunities like home based businesses, telecommuting, on-line shopping, etc.
- Consider a variety of strategies to increase housing intensity and diversity in appropriate locations, such as around commercial areas, near transit centers or major employment.

- Explore opportunities for new or redeveloped housing to serve the employment base.
- Encourage housing linked/connected to the city's mobility system.
- Work to adjust the housing mix based on changing demographics and economics of the city.

5. **Encourage the investment of resources and use of existing and future tools to promote the revitalization of Scottsdale's older neighborhoods and adaptation of dated housing stock.**



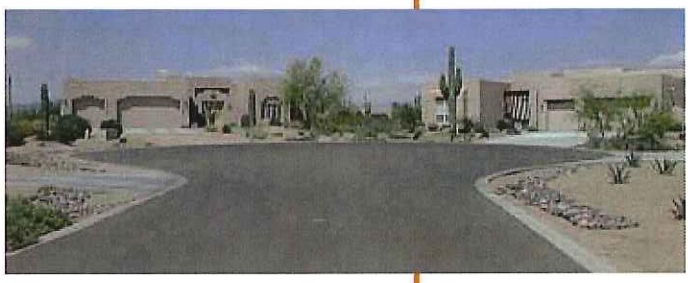


- Support policies and programs that provide opportunities for homeowners to update or renovate their homes and examine existing regulations that may be barriers to adaptation of existing homes.
- Encourage community involvement in the maintenance and enhancement of properties and rights of way in residential neighborhoods.
- Coordinate city programs dealing with neighborhood enhancement and support activities that work to revitalize neighborhoods.
- Expect use of relocation benefits to mitigate hardship on individuals and families during redevelopment process relocations.
- Support policies that seek quality housing with affordability for a wide range of income groups when redeveloping properties.
- Support proactive communications with affected residents and business owners during the planning and implementation of redevelopment projects.
- Work to ensure a one-to-one replacement of housing removed by redevelopment projects to maintain long-term housing affordability.

6. **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.**

- Encourage the development of a full range of senior housing while also finding ways to incorporate adjacent service facilities, where appropriate.
- Support efforts to examine city processes and policies to promote opportunities for mixed-use development/structure options.
- 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.
- Encourage links between housing and adjacent uses, such as senior centers, childcare centers, preschools, youth centers, and other community facilities to provide opportunities for inter-generational connections.

- Integrate elderly and assisted-care facilities into neighborhoods and create connections between residential developments to promote opportunities for inter-generational connections and continuum of care for the elderly.
- Encourage redevelopment activities that provide opportunities to address housing affordability challenges.
- Seek opportunities to locate housing for those citizens with special needs, near transportation services that will make their mobility easier.
- Support existing and future use of federal, state, and local matching funds in partnership with non-profit and social agencies to acquire and rehabilitate multi-family housing in at-risk areas of Scottsdale.
- Support agencies and organizations that provide shelter, housing, and services.
- Support housing that includes services and facilities to meet health care, mobility, child or elder care, youth services, recreation, or social service needs of households.
- Participate actively in identifying regional partners and regional solutions for those special needs that may be most appropriately addressed on a regional basis.

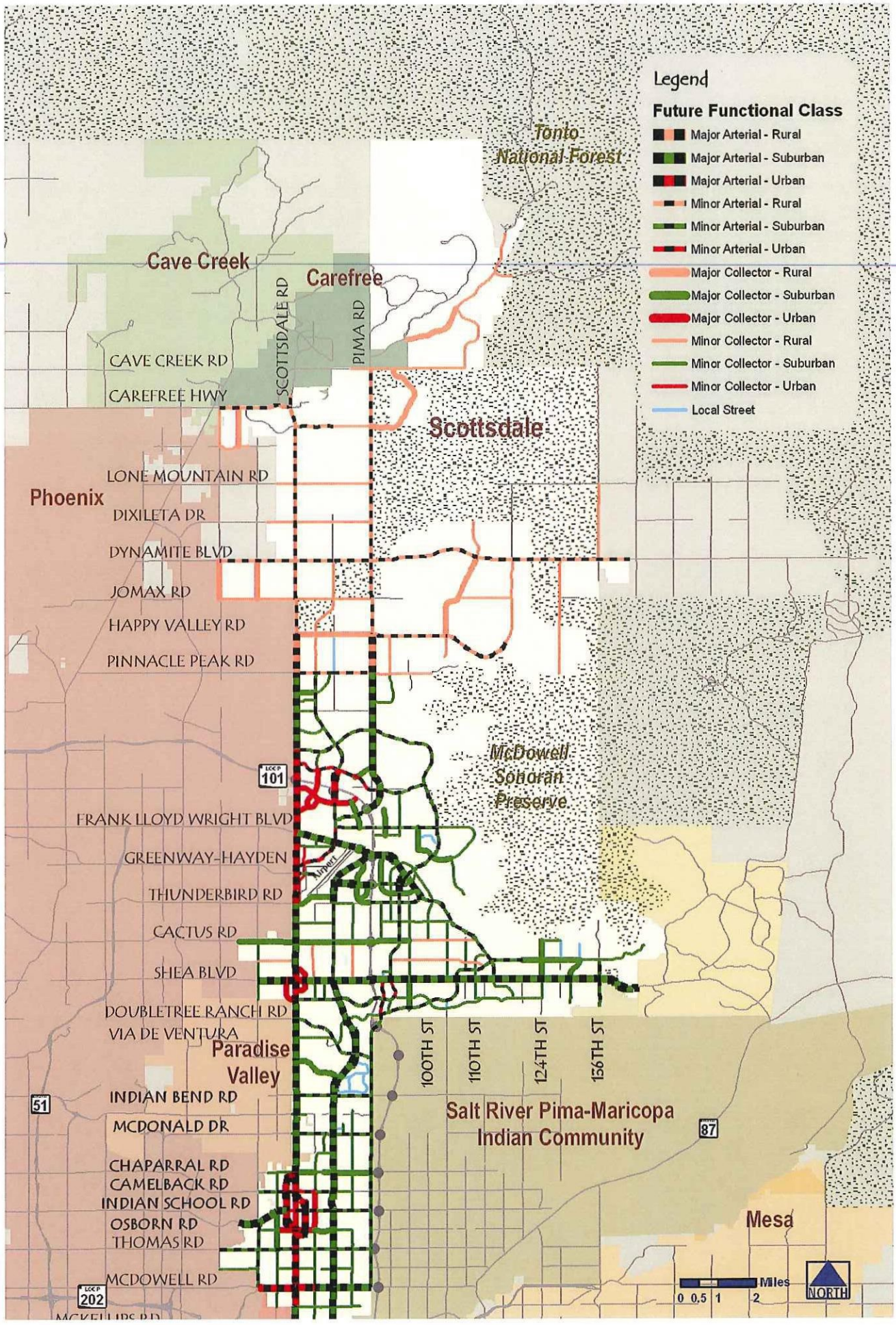


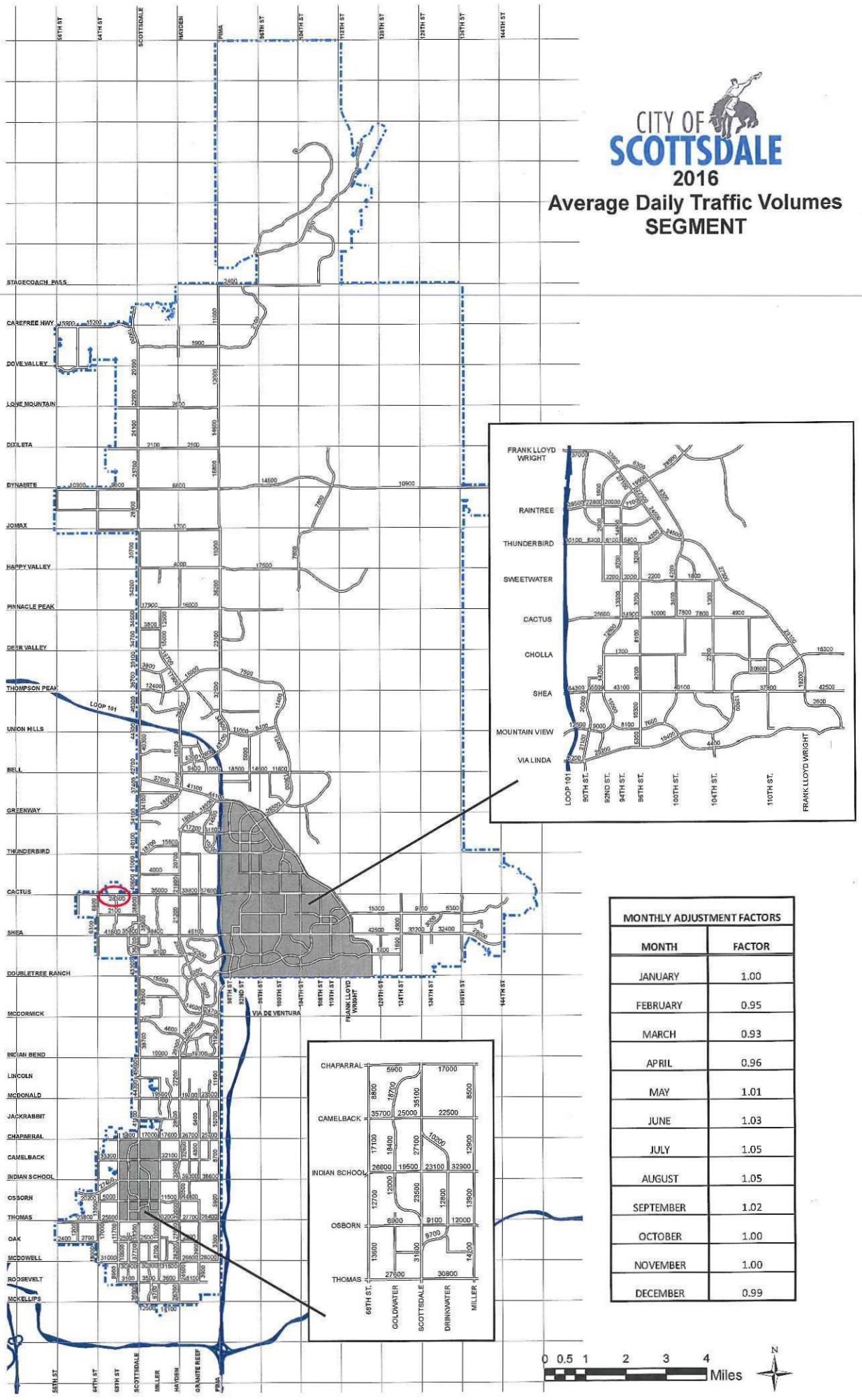
Related Plans and Policies:

- The Five-year Consolidated plan for the Community Development Block Grant and HOME programs funded by the Department of Housing and Urban Development.
- The Agency Plan for the Section 8 Rental Assistance Program
- The Strategy for the Preservation and Creation of High Quality, Safe and Affordable Housing, July 1999.
- Green Building Program and Guidelines
- Great Sonoran Guidelines

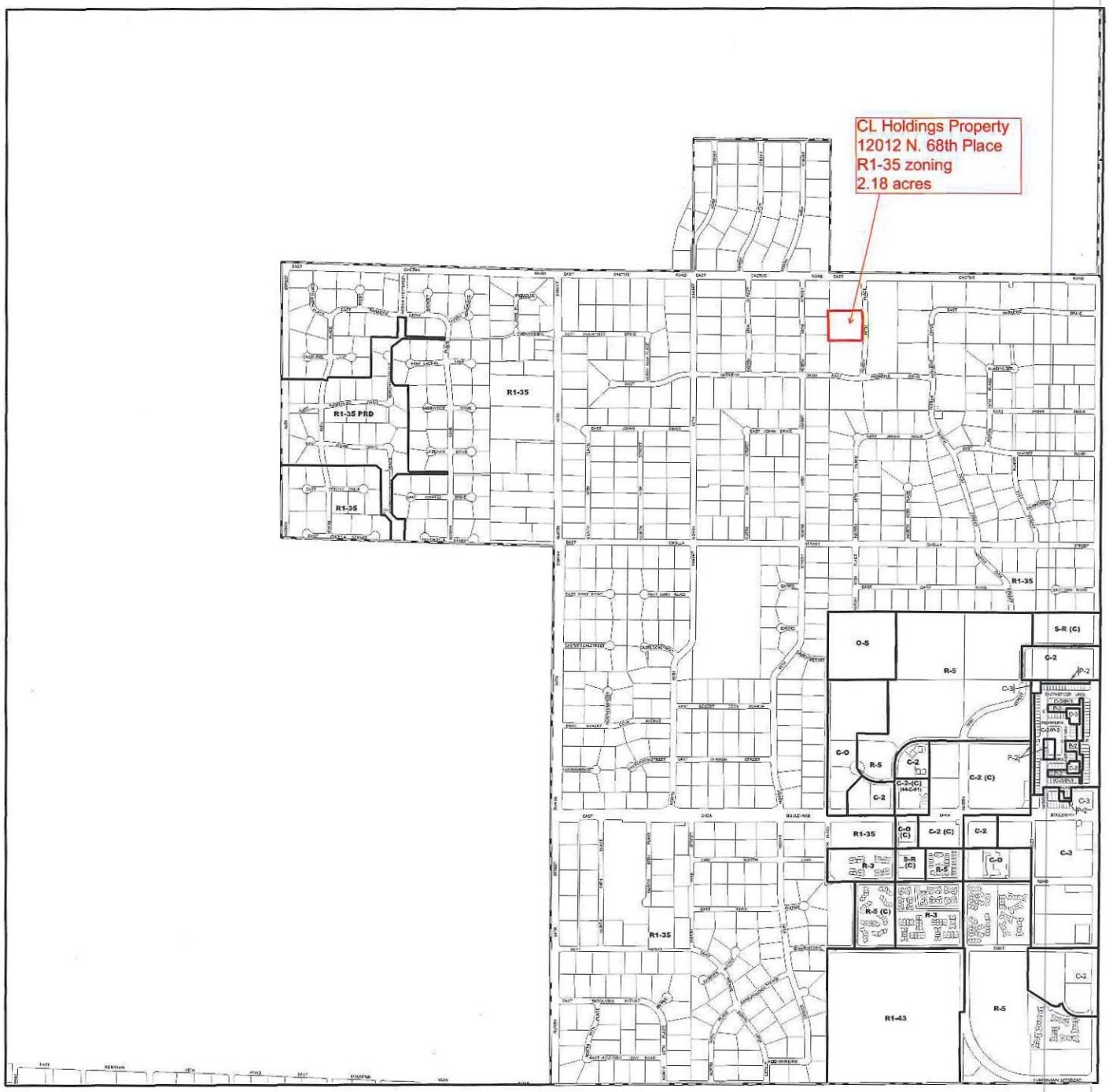
Reference:

- City of Scottsdale housing statistics and analyses


Legend
Future Functional Class
Major Arterial - Rural
Major Arterial - Suburban
Major Arterial - Urban
Minor Arterial - Rural
Minor Arterial - Suburban
Minor Arterial - Urban
Major Collector - Rural
Major Collector - Suburban
Major Collector - Urban
Minor Collector - Rural
Minor Collector - Suburban
Minor Collector - Urban
Local Street
Tonto National Forest
Cave Creek
Carefree
SCOTTSDALE RD
PIMA RD
CAVE CREEK RD
CAREFREE HWY
Scottsdale
LONE MOUNTAIN RD
Phoenix
DIXILETA DR
DYNAMITE BLVD
JOMAX RD
HAPPY VALLEY RD
PINNACLE PEAK RD
McDowell Sonoran Preserve
101
FRANK LLOYD WRIGHT BLVD
GREENWAY-HAYDEN
Airport
THUNDERBIRD RD
CACTUS RD
SHEA BLVD
DOUBLETREE RANCH RD
VIA DE VENTURA
Paradise Valley
100TH ST
110TH ST
124TH ST
136TH ST
51
INDIAN BEND RD
MCDONALD DR
Salt River Pima-Maricopa Indian Community
87
CHAPARRAL RD
CAMELBACK RD
INDIAN SCHOOL RD
OSBORN RD
THOMAS RD
Mesa
MCDOWELL RD
202
Miles
0 0.5 1 2
NORTH



MONTHLY ADJUSTMENT FACTORS	
MONTH	FACTOR
JANUARY	1.00
FEBRUARY	0.95
MARCH	0.93
APRIL	0.96
MAY	1.01
JUNE	1.03
JULY	1.05
AUGUST	1.05
SEPTEMBER	1.02
OCTOBER	1.00
NOVEMBER	1.00
DECEMBER	0.99



GENERAL NOTI
- This is a computer gen
contact the City of Scotts

...ny questions please
...ent at (480) 312-7992.

LEGEND:

- Adopted Zones - Zones without case numbers
- Approved Zones - Zones with corresponding case numbers in area

City Boundary

			54	55		
			52	53	57	
			50	51		
45	46	47	48	49		
40	41	42	43	44		
35	36	37	38	39	56	
	31	32	33	34		
	27	28	29	30		
	23	24	25	26		
	19	20	21	22	18	
8	14	15	16	17	13	
	9	10	11	12		
	7					
5	6					
3	4					
1	2					

NORTH

SCALE: 1" = 400'

0 200 400 800

The map scale of 1" = 400' is based on a full size print of 30" x 36"

Zoning Map 8

CITY OF SCOTTSDALE

SCOTTSDALE GEOGRAPHIC INFORMATION SYSTEMS

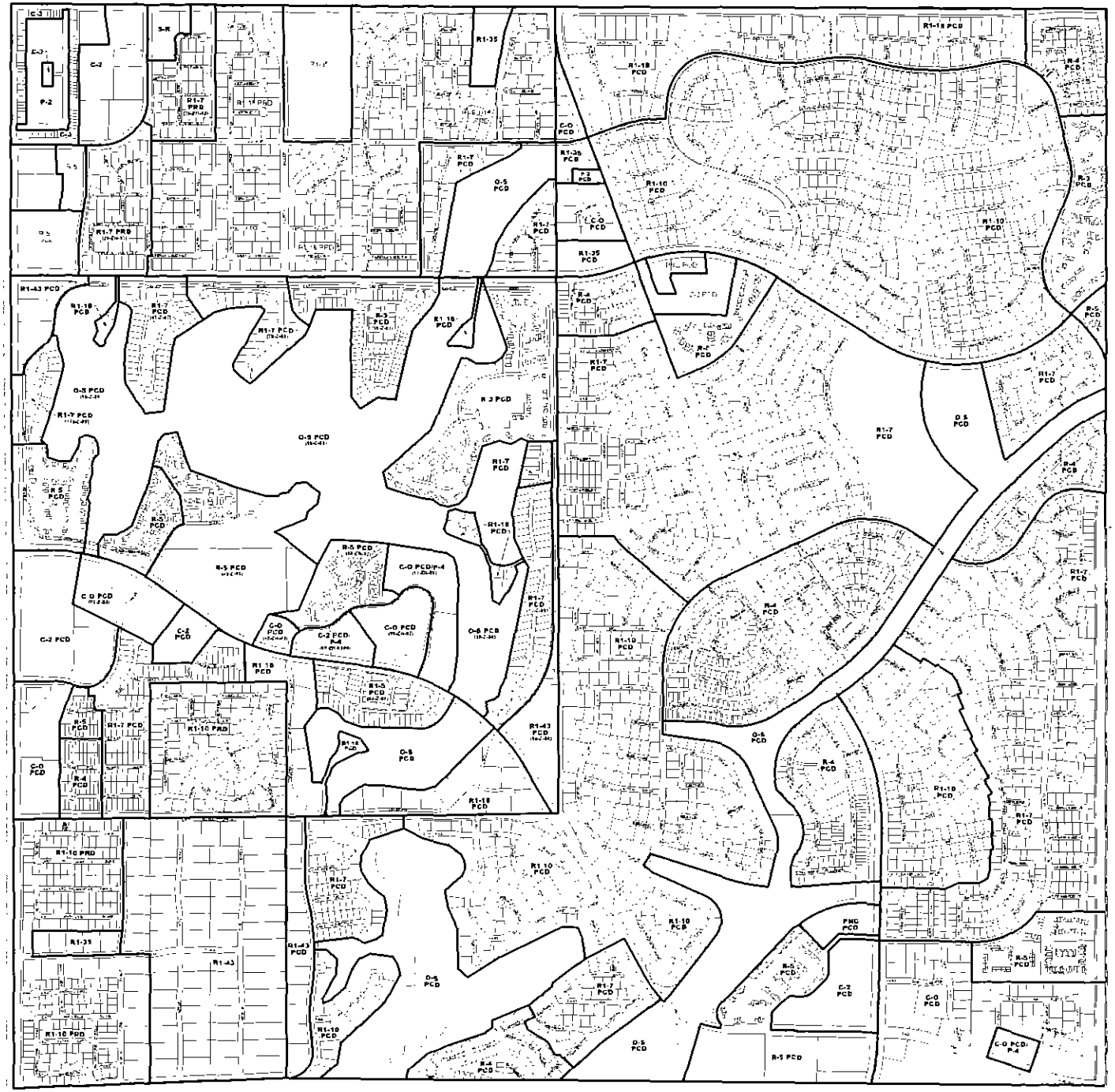
3629 North Drinkwater Boulevard
Scottsdale, Arizona 85251

N O T I C E

THIS DOCUMENT IS PROVIDED FOR GENERAL INFORMATION PURPOSES ONLY. THE CITY OF SCOTTSDALE DOES NOT WARRANT ITS ACCURACY, COMPLETENESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE. PLEASE REFER TO THE DISCLAIMER AND LIMITATION OF LIABILITY INFORMATION.

THE CITY OF SCOTTSDALE

09-Apr-18



GENERAL NOTE:

LEGEND:

		54	55			
		52	53	57		
		50	51			
45	46	47	48	49		
40	41	42	43	44		
35	36	37	38	39	56	
	31	32	33	34		
	27	28	29	30		
	23	24	25	26		
	19	20	21	22	18	
8	14	15	16	17	13	
	9	10	11	12		
	7					
5	6					
3	4					
1	2					

NORTH

SCALE 1" = 400'

0 200 400 800

Zoning Map 9

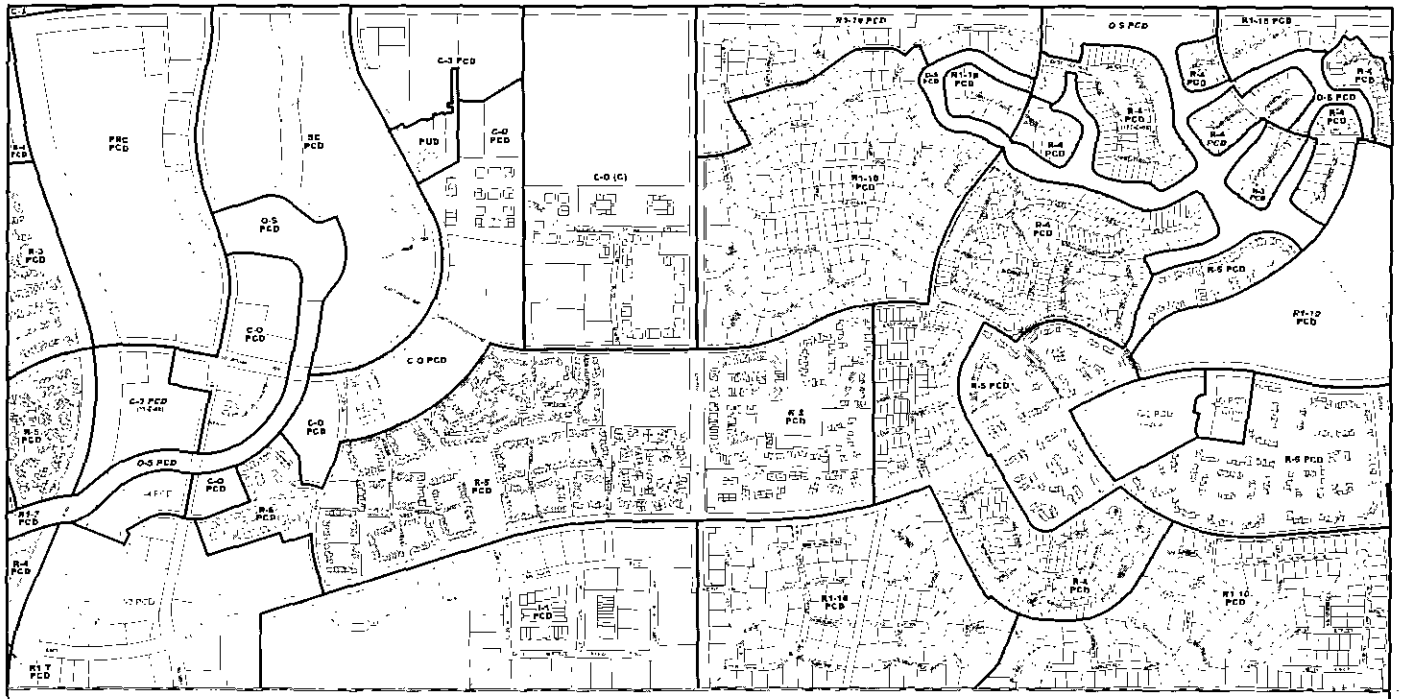
CITY OF SCOTTSDALE

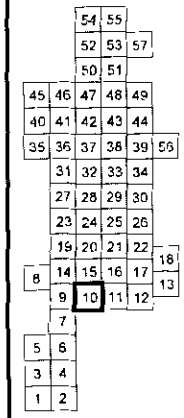
SCOTTSDALE GEOGRAPHIC INFORMATION SYSTEMS

N O T I C E

THE CITY OF SCOTTSDALE

88-Apr-11





GENERAL NOTES

LEGEND:

NORTH

SCALE 1" = 400'

0 200 400 800

The map scale (1" = 400') is correct on 24 x 36 size paper

Zoning Map 10

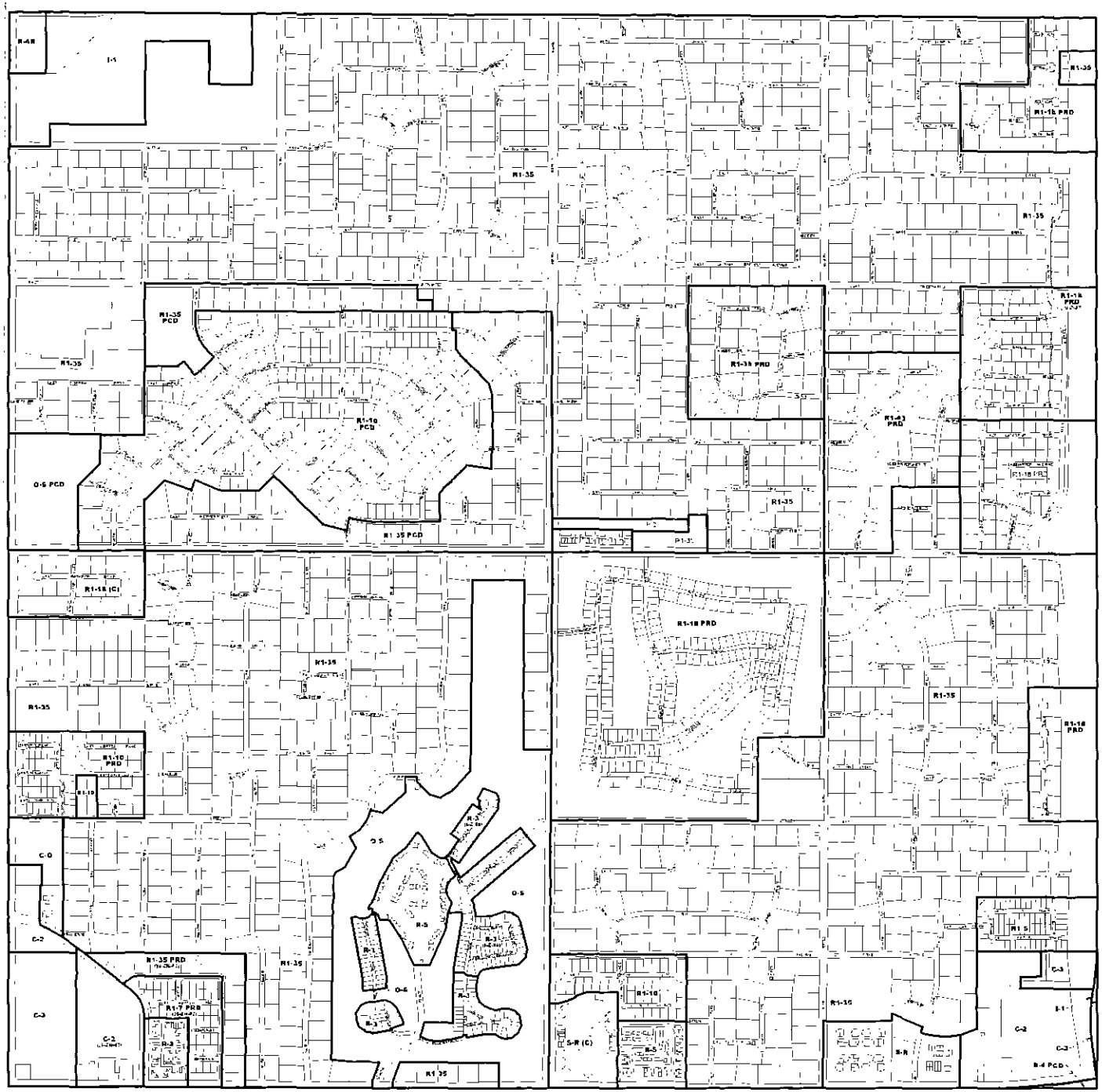
CITY OF SCOTTSDALE

SCOTTSDALE GEOGRAPHIC INFORMATION SYSTEMS

NOTICE

THE CITY OF SCOTTSDALE

08-Apr-16



GENERAL NOTES

LEGEND:

		54	55			
		52	53	57		
		50	51			
45	46	47	48	49		
40	41	42	43	44		
35	36	37	38	39	56	
	31	32	33	34		
	27	28	29	30		
	23	24	25	26		
	19	20	21	22	18	
8	14	15	16	17	13	
	9	10	11	12		
	7					
5	6					
3	4					
1	2					

NORTH

SCALE 1 = 400'

0 200 400 800

This map scale of 1 : 400' is based on a full size print of 30 x 37"

Zoning Map 14

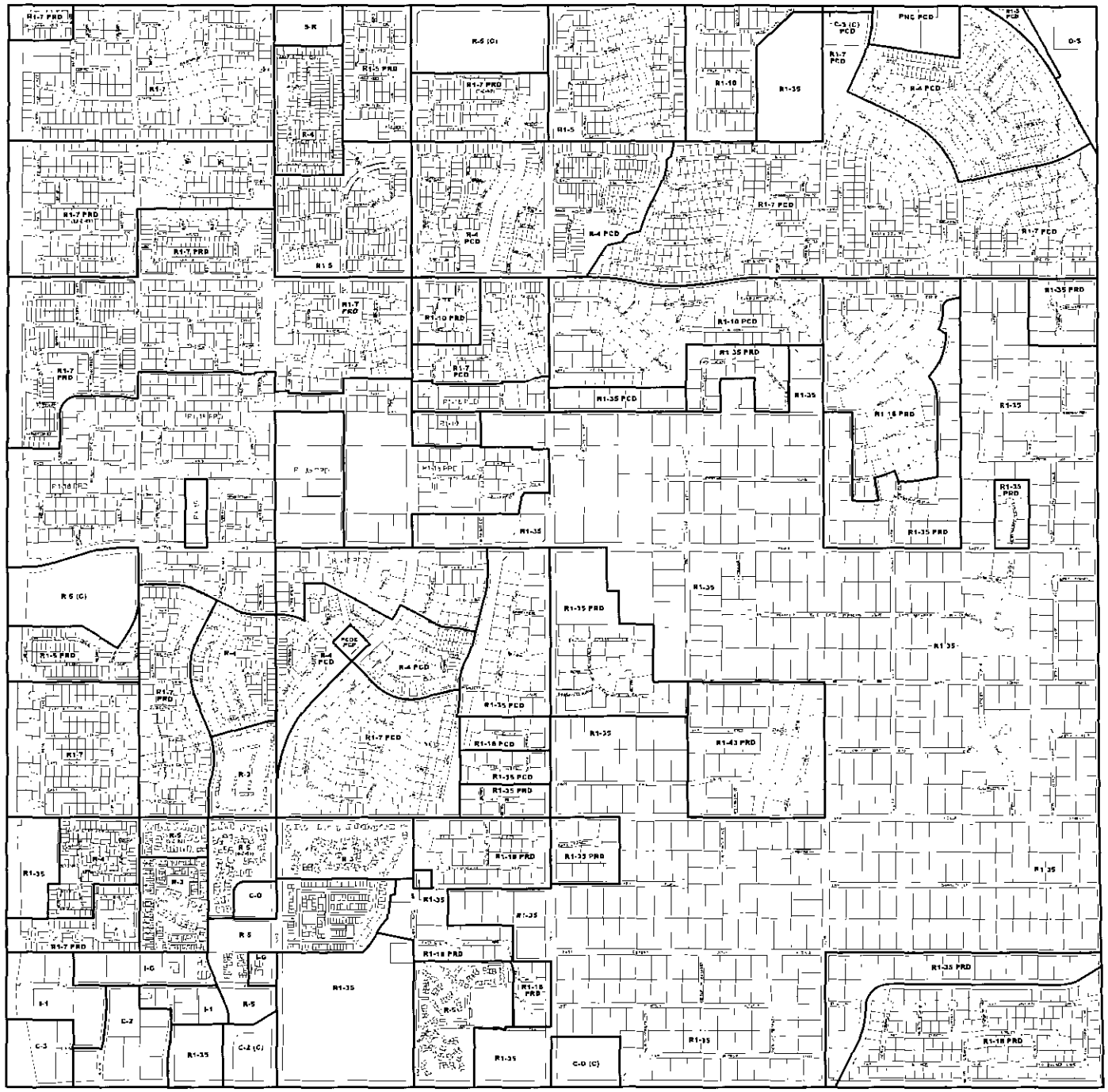
CITY OF SCOTTSDALE

SCOTTSDALE GEOGRAPHIC INFORMATION SYSTEMS

N O T I C E

THE CITY OF SCOTTSDALE

(Map 14)



NOTICE

THE CITY OF SCOTTSDALE

GENERAL NOTE

LEGEND:

			54	55		
			52	53	57	
			50	51		
45	46	47	48	49		
40	41	42	43	44		
35	36	37	38	39	56	
	31	32	33	34		
	27	28	29	30		
	23	24	25	26		
	19	20	21	22		18
8	14	15	16	17		13
	9	10	11	12		
	7					
5	6					
3	4					
1	2					

NORTH

SCALE 1" = 400'

0 200 400 800

The map scale of 1" = 400' is based on a full size plot of 30" x 36"

Zoning Map 15

CITY OF SCOTTSDALE

SCOTTSDALE GEOGRAPHIC INFORMATION SYSTEMS

04-April-01



GENERAL NOTE

LEGEND:

		54	55			
		52	53	57		
		50	51			
45	46	47	48	49		
40	41	42	43	44		
35	36	37	38	39	56	
	31	32	33	34		
	27	28	29	30		
	23	24	25	26		
	19	20	21	22	18	
8	14	15	16	17	13	
	9	10	11	12		
	7					
5	6					
3	4					
1	2					

NORTH

SCALE 1" = 400'

0 200 400 800

Zoning Map 19

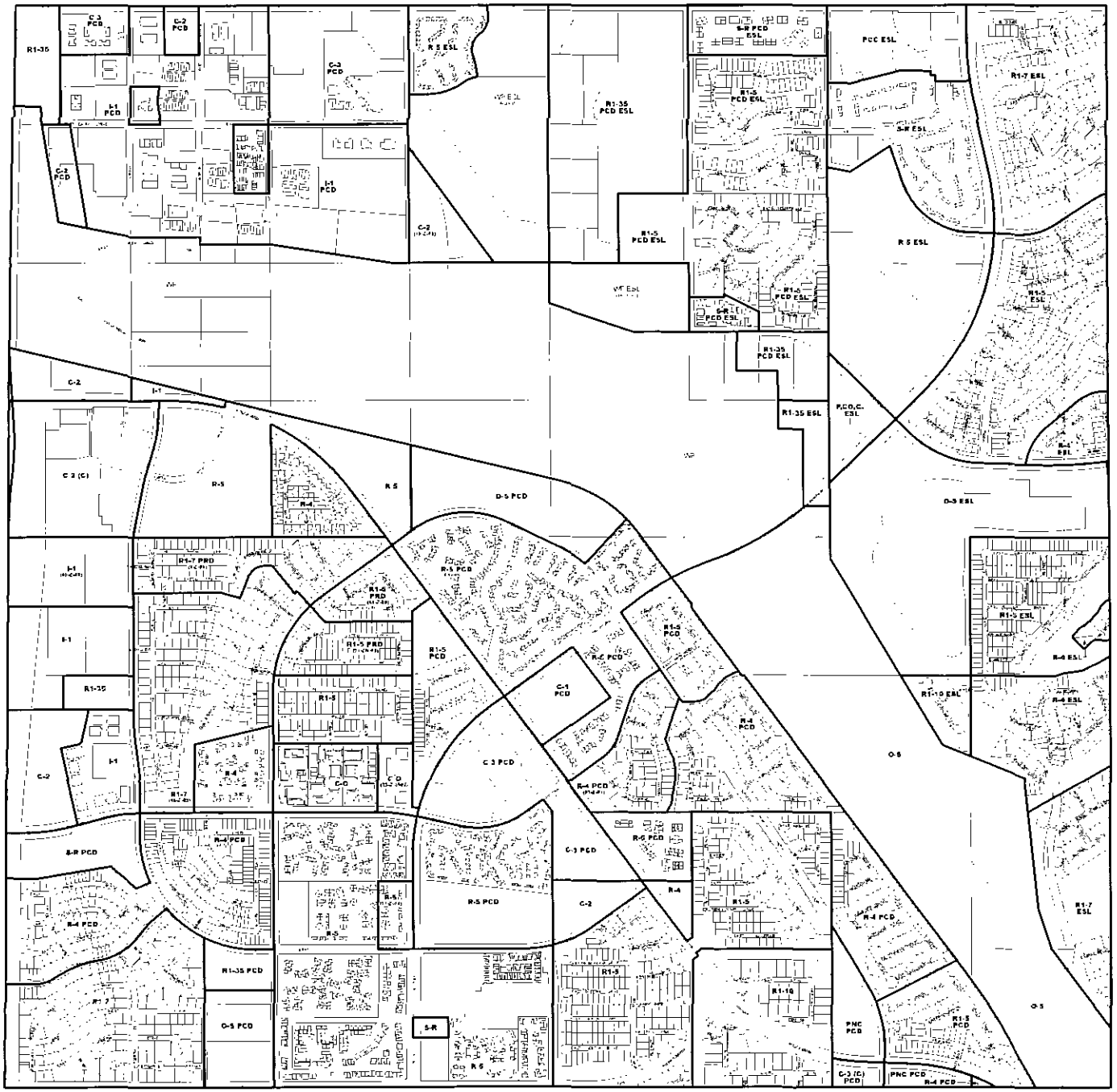
CITY OF SCOTTSDALE

SCOTTSDALE GEOGRAPHIC INFORMATION SYSTEMS

N O T I C E

THE CITY OF SCOTTSDALE

08 Apr 16



N O T I C E

THE CITY OF SCOTTSDALE

GENERAL NOTES

LEGEND:

			54	55		
			52	53	57	
			50	51		
45	46	47	48	49		
40	41	42	43	44		
35	36	37	38	39	56	
	31	32	33	34		
	27	28	29	30		
	23	24	25	26		
	19	20	21	22	18	
8	14	15	16	17	13	
	9	10	11	12		
	7					
5	6					
3	4					
1	2					

NORTH

SCALE 1 = 400

0 200 400 800

The PMC scale 1:1 = 400 is based on a full size print of 30 x 36

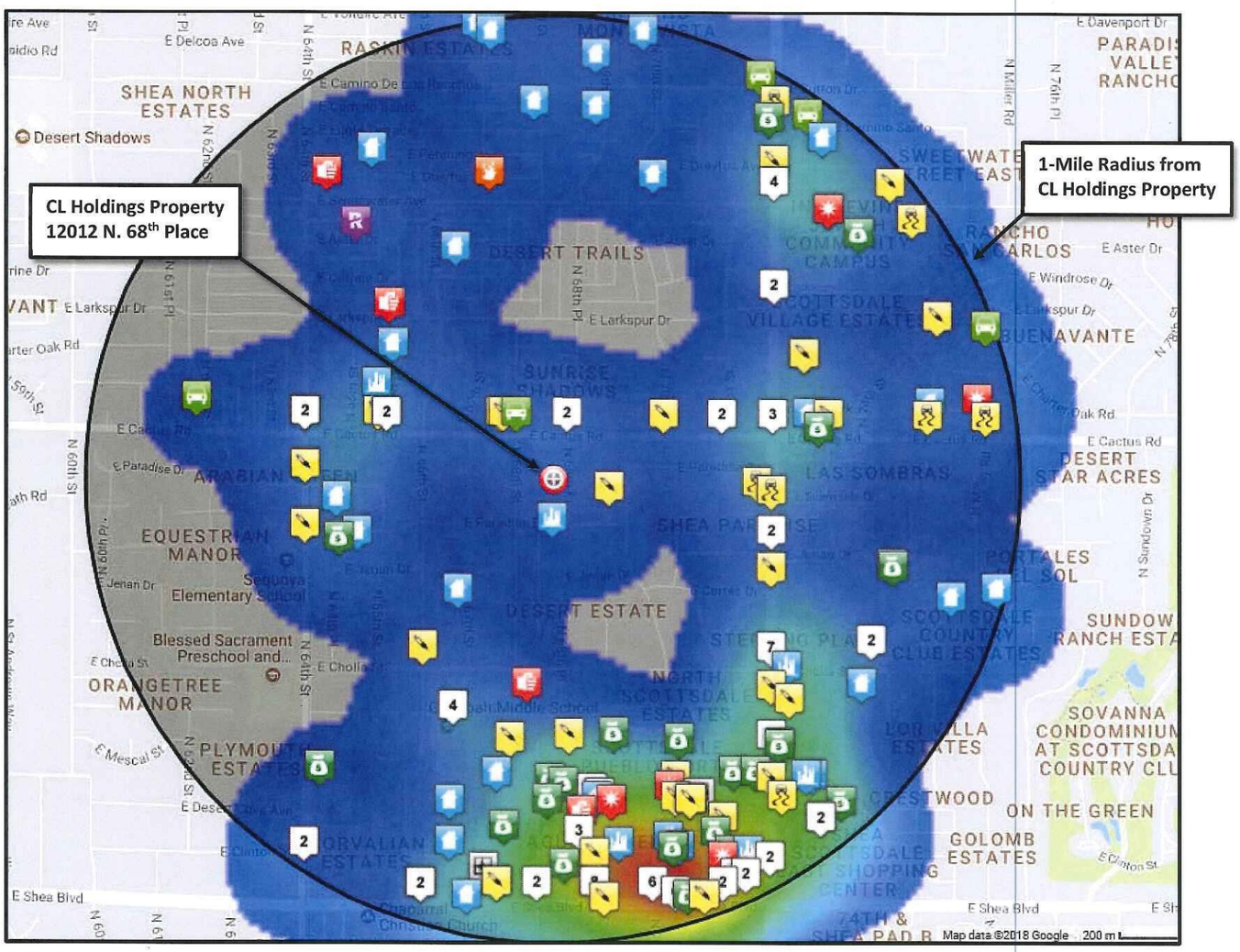
Zoning Map 20

CITY OF SCOTTSDALE

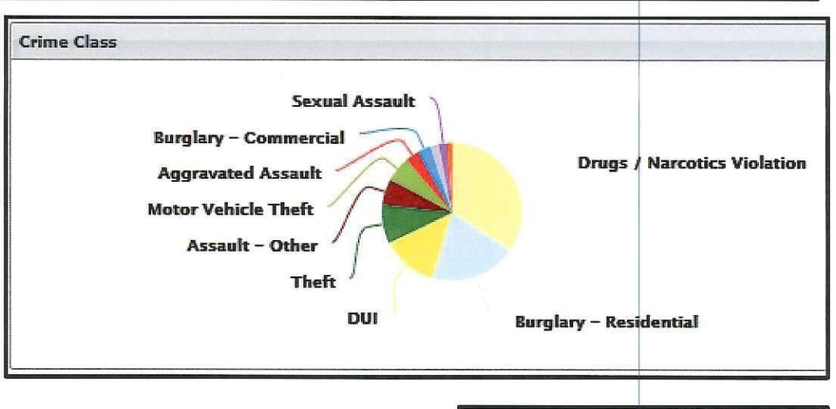
SCOTTSDALE GEOGRAPHIC INFORMATION SYSTEMS

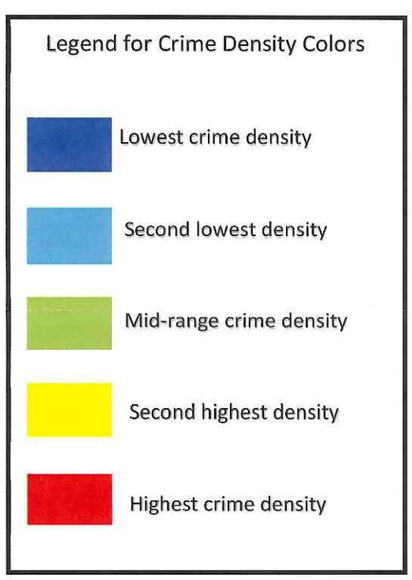
8/4/2016

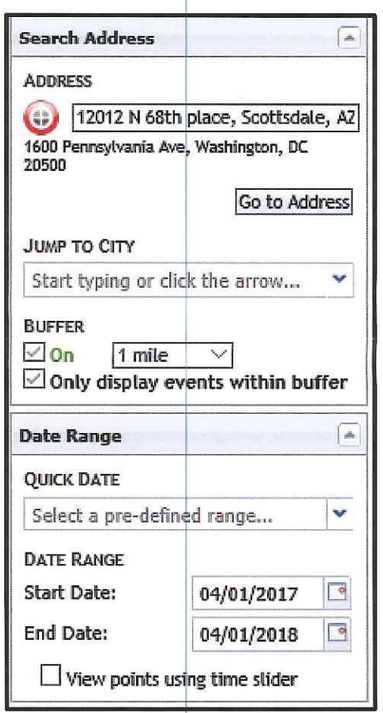
LEXIS NEXIS COMMUNITY CRIME MAP FOR AREA WITHIN 1-MILE RADIUS OF CL HOLDINGS' PROPERTY
From April 1, 2017 through April 1, 2018





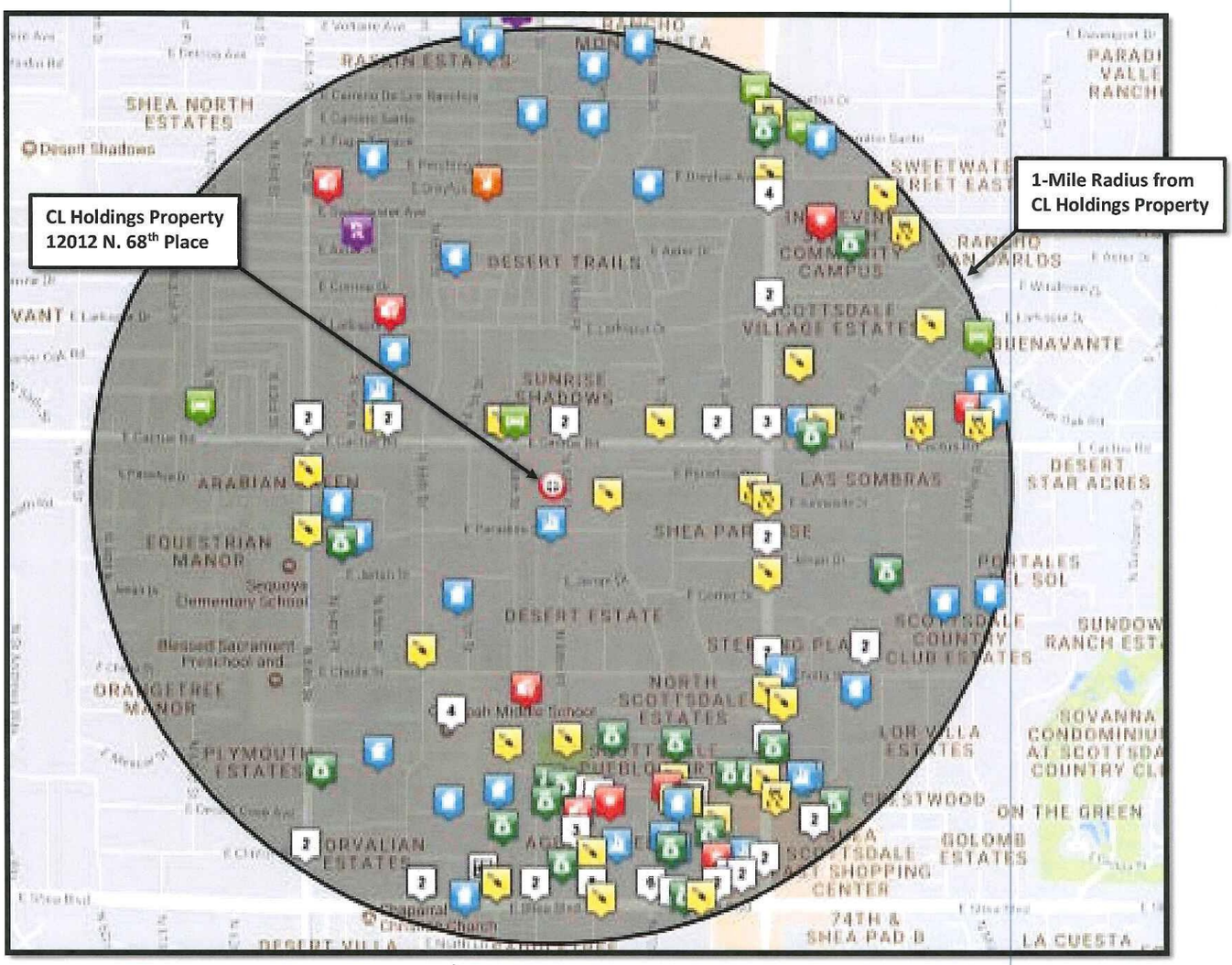




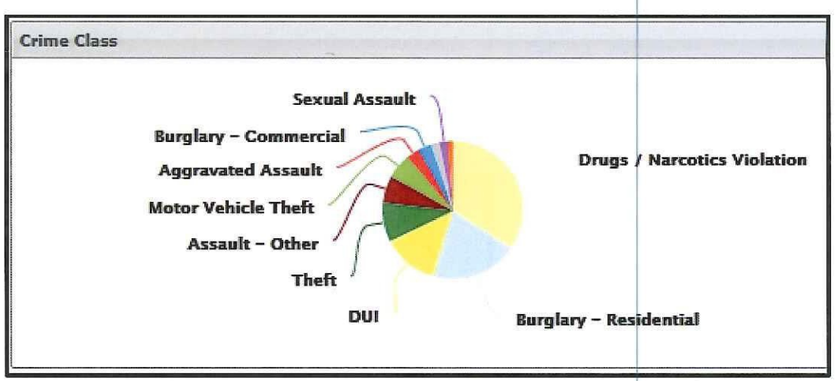


Printed on April 15, 2018 from Lexis Nexis Community Crime Map at: http://communitycrimemap.com/?address=Scottsdale,A

LEXIS NEXIS COMMUNITY CRIME MAP FOR AREA WITHIN 1-MILE RADIUS OF CL HOLDINGS' PROPERTY
From April 1, 2017 through April 1, 2018



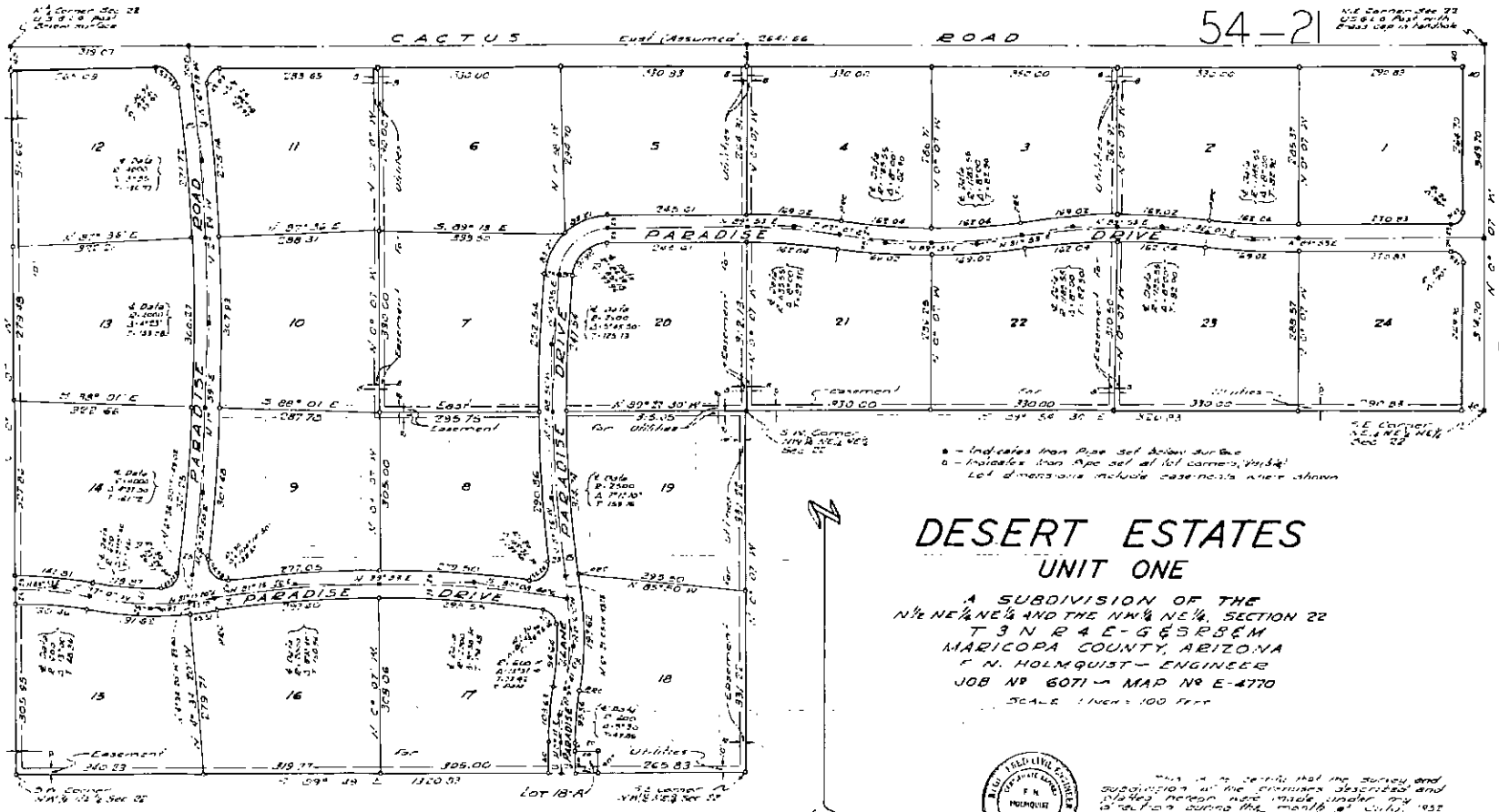






Printed on April 15, 2018 from Lexis Nexis Community Crime Map at: http://communitycrimemap.com/?address=Scottsdale,A

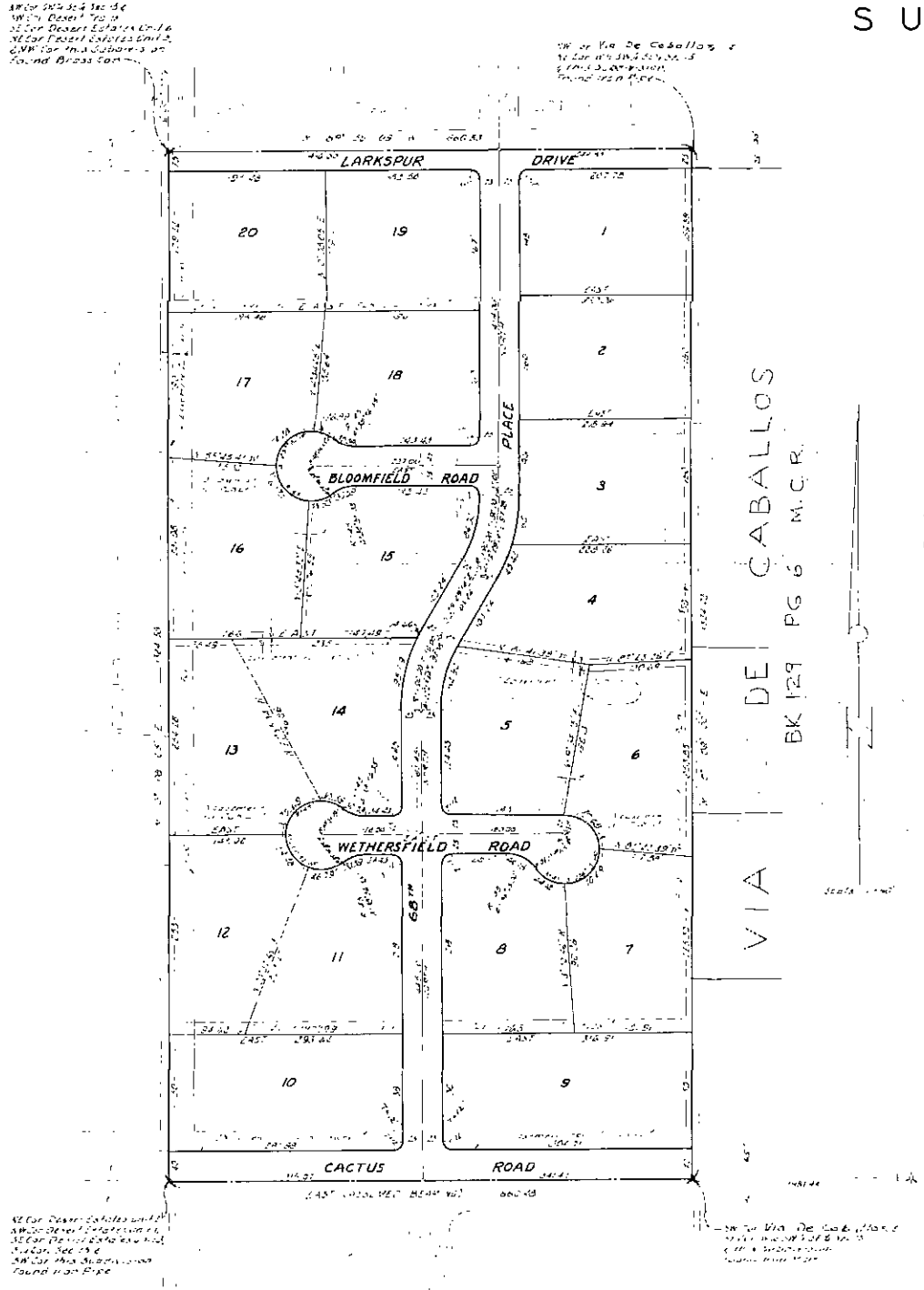
54-21


CACTUS ROAD
SCOTTSDALE ROAD
PARADISE DRIVE
PARADISE DRIVE
PARADISE DRIVE
PARADISE DRIVE
East (Assumed) 264.66
N. 89° 38' E.
S. 89° 38' E.
N. 89° 33' E.
S. 89° 33' E.
N. 89° 51' E.
S. 89° 51' E.
N. 89° 55' E.
S. 89° 55' E.
N. 89° 59' E.
S. 89° 59' E.
N. 89° 58' E.
S. 89° 58' E.
N. 89° 57' E.
S. 89° 57' E.
N. 89° 52' E.
S. 89° 52' E.
N. 89° 55' E.
S. 89° 55

129-30

SUNRISE SHADOWS

A SUBDIVISION OF
THE WEST 1/2 OF THE SW 1/4 OF THE SE 1/4
OF SECTION 15, T. 3N., R. 4E., G&S.R.B&M.
MARICOPA COUNTY, ARIZONA



State of Arizona
County of Maricopa
KNOW ALL MEN BY THESE PRESENTS: That Stewart Title & Trust of Phoenix, an Arizona corporation as Trustee, has caused and under the name of SUNRISE SHADOWS the West 1/2 of the NE1/4 SW1/4 Section 15 T3N R4E G&SRBM, Maricopa County, Arizona, as shown and platted hereon, and hereby subdivides this plat as and for the plat of said SUNRISE SHADOWS and hereby declares that said plat sets forth the location and gives the dimensions and dimensions of the lots and streets constituting same, and that each lot and each street shall be known by the number or name given to each respectively on said plat and Stewart Title & Trust of Phoenix as Trustee hereby dedicates to the public, for use as such the streets as shown on said plat and includes in the described premises Easements are granted for the purposes shown.

IN WITNESS WHEREOF, Stewart Title & Trust of Phoenix, as Trustee has hereunto caused its corporate name to be signed hereto by its ... thereunto duly authorized and its corporate seal to be hereunto affixed this 1st day of April, 1970.

STEWART TITLE & TRUST OF PHOENIX, TRUSTEE

Vice Pres. & Sec.

Trust Officer

State of Arizona
County of Maricopa
On this, the 1st day of April, 1970 before me, the undersigned officer, personally appeared S.M. Gillett and Helen Fuller who acknowledged themselves to be the Vice President and Trust Officer respectively of Stewart Title & Trust of Phoenix, a corporation, and for the purposes therein contained, that they as such officers, respectively, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation as Trustee, by themselves as such officers respectively.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires Feb. 17, 1973

This is to certify that the survey and subdivision of the West 1/2 of the NE1/4 SW1/4 Section 15 T3N R4E G&SRBM as shown and platted hereon was made under my direction and supervision in November 1969

Registered Land Surveyor

Date

Reg. No.

Approved by the Mayor and City Council of the City of Phoenix, Arizona this 8th day of April, 1970

Attest: City Clerk

Mayor

Surveyor on the City Engineer of the City of Phoenix, Arizona

City Engineer

Date

Reg. No.

Construction within the easements shall be limited to walks, grass, trees, shrubs, or temporary fences (only as shall not be prohibited by the City of Phoenix and not be required to remove any portion of such) the cause of maintenance, construction or reconstruction.

The 10' drainage easement to be kept clear of all obstructions.

WILEY & ASSOCIATES
SURVEYORS ENGINEERS
945 3002
SCOTTSDALE ARIZONA

129-30

MICHELLE SIWEK CAREHOME

FIRE SPRINKLER PLANS

12012 NORTH 68TH PLACE

SCOTTSDALE, ARIZONA

FIRE SPRINKLER PIPING PLAN

SCALE: 1/4" = 1'-0"

PARTIAL FIRE SPRINKLER SECTION

SCALE: 1/4" = 1'-0"

MICHELLE SIWEK

12012 NORTH 68TH PLACE

SCOTTSDALE, ARIZONA

480-628-5780

hector gonzalez sprinkler plans fire protection engineering

SERVICE 1ST FIRE PROTECTION, LLC.

WAYNE BRISTOW

PH. 623.853.3299

FAX 623.979.4078

FP-1

GRADING & DRAINAGE PLAN

MORGAN RESIDENCE

LOT 13, DESERT ESTATES UNIT 1, AS RECORDED IN BOOK 54 OF MAPS, PAGE 21, M.C.R., MARICOPA COUNTY, ARIZONA

SITE PLAN APPROVED

4706-02

4/24/03

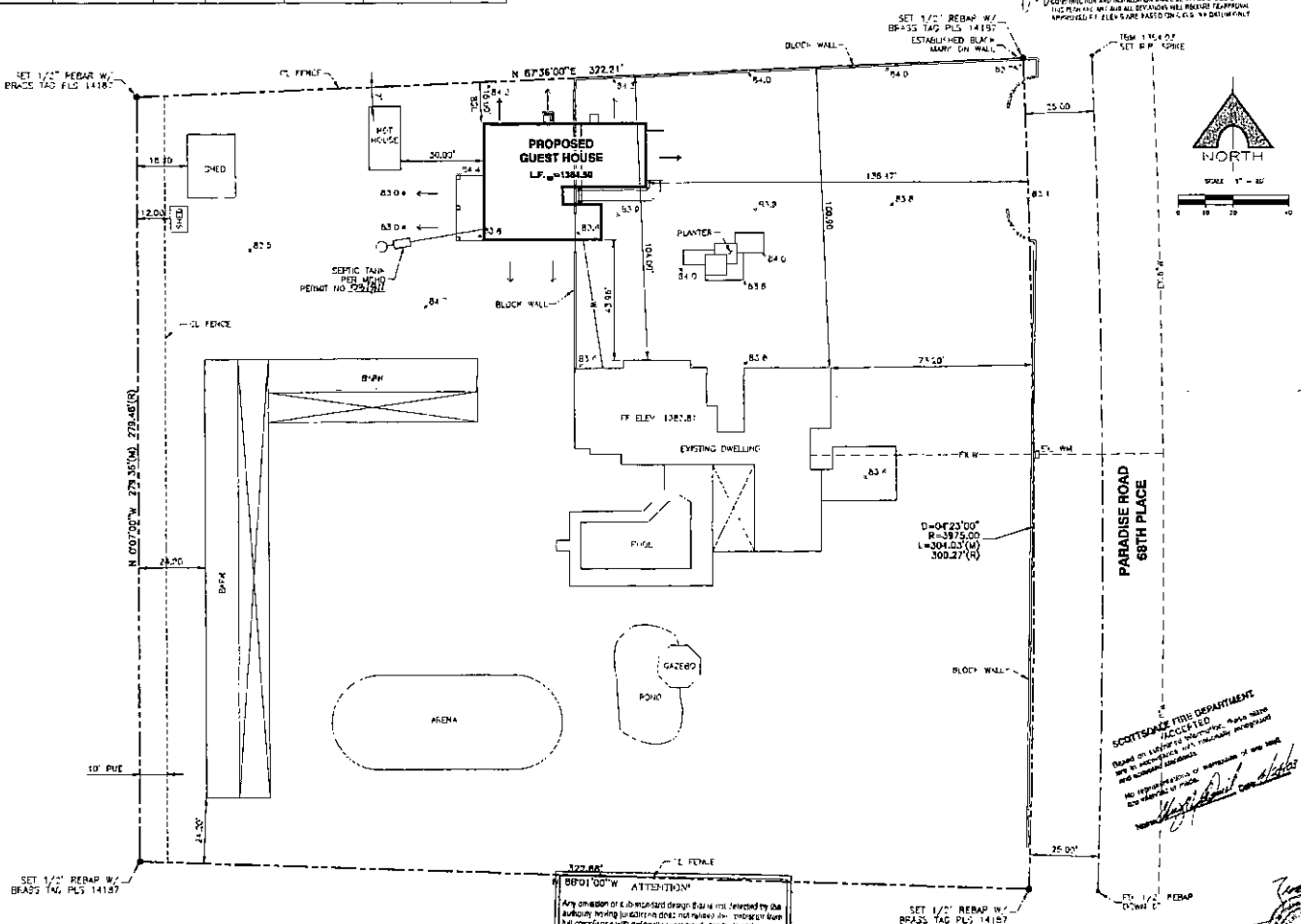
PLANNING

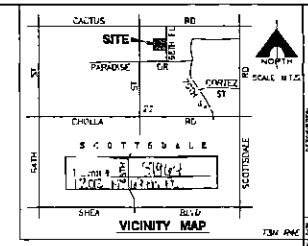
CONSTRUCTION AND INSTALLATION SHALL BE IN ACCORDANCE WITH THIS PLAN AND ALL DEVIATIONS WILL REQUIRE RE-APPROVAL

APPROVED FF ELEV'S ARE BASED ON ELEV'S W/ DATUM ONLY

FLOOD INSURANCE RATE MAP (F.I.R.M.) INFORMATION

COMMUNITY NUMBER	PANEL NUMBER (Panel Date)	SUFFIX	F.I.R.M. DATE Index Date	F.I.R.M. ZONE	BASE FLOOD ELEVATION (In AO Zone Use Depth)
045012	1665 (07 - 19 - 01)	E	JULY 19, 2001	X	NONE





PROPERTY ADDRESS
12012 NORTH 68TH PLACE
SCOTTSDALE, ARIZONA 85254

A.P. NO.
175-20-009

NET AREA
94,571.37 S.F. / 2.17 AC.

ZONING
R1-35

DESERT LANDFORM
N/A

Q.S. NO.
30-44

LEGAL DESCRIPTION

LOT 13 OF DESERT ESTATES UNIT ONE IN A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA AS RECORDED IN BOOK 54 OF MAPS, PAGE 21 M.C.R.

BENCHMARK

BRASS CAP IN HH @ CACTUS RD. AND SCOTTSDALE RD
ELEV = 1389.27 (NGVD DATUM)

BENCHMARK CERTIFICATION

I HEREBY CERTIFY THAT ALL ELEVATIONS REPRESENTED ON THIS PLAN ARE BASED ON THE ELEVATION DATUM FOR THE CITY OF SCOTTSDALE BENCHMARK PROVIDED ABOVE

LEGEND

PROPERTY LINE

CENTERLINE

NOTES

1. LAND DESIGNATED AS NAOS SHALL BE PERMANENTLY MAINTAINED AS OPEN SPACE. THE ENTIRE NATURAL AREA OPEN SPACE (NAOS) WILL BE PERMANENTLY MAINTAINED AS NATURAL OPEN SPACE THROUGH EASEMENT DEDICATION, OR DEDICATION TO THE CITY OR OTHER ENTITY. NAOS SHALL BE MAINTAINED BY THE PROPERTY OWNER.
2. ALL MECHANICAL EQUIPMENT (AIR CONDITIONING, POOL EQUIPMENT, ETC.) SHALL BE SCREENED A MINIMUM OF ONE (1) FOOT HIGHER THAN THE HIGHEST PORTION OF THE EQUIPMENT, AND SHALL BE COMPATIBLE WITH THE ADJACENT MAIN BUILDING. SHOW LOCATION OF EQUIPMENT ON SITE PLAN AND BUILDING ELEVATIONS.
3. POOL SHALL BE APPROVED BY A SEPARATE PERMIT AND SECURED FROM UNWANTED ACCESS.
4. NO UTILITIES SHALL BE LOCATED WITHIN THE DESIGNATED NAOS.
5. 5% SLOPE AWAY FROM HOUSE FOR A MINIMUM DISTANCE OF 10 FEET.
6. VERIFY TOP OF SITE WALLS WITH ARCHITECTURAL.
7. GUEST HOUSE WILL NOT PROVIDE COOKING FACILITIES & WILL NEVER BE OFFERED FOR RENT.
8. NO NATIVE PLANTS AFFECTED BY PROPOSED CONSTRUCTION.

APPROVED NATIVE PLANT 3/19/03

SCOTTSDALE FIRE DEPARTMENT ACCEPTED

FIRE DEPARTMENT GUIDELINES FOR EMERGENCY VEHICLE ACCESS

ACCESS GRADES FROM 0 TO 12% FOR ONE SINGLE FAMILY RESIDENCE

DRIVE LENGTH	DRIVE WIDTH	DRIVE SURFACE	TURN-A-ROUND REQUIRED	HOSE LAY	SPRINKLER REQUIREMENTS MOD-13E	4 HEAD
LESS THAN 200 FT	12'	AW	NO	LESS THAN 200 FT	YES	NO

PLANS ACCEPTED BY FIRE DEPT TO BE ON JOB SITE AT ALL TIMES

ON SITE INSPECTION DURING THE INSTALLATION AND TEST WITNESSING ARE NECESSARY FOR FINAL ACCEPTANCE

OWNER
CHARLES F. & PATRICIA MORGAN
12012 N 68TH PL.
SCOTTSDALE, ARIZONA 85254
TEL NO (480) 998-4904
FAX NO (480) 998-5092

ENGINEER
DESERT LAND ENGINEERING, INC.
8107 E. CAMBRIDGE AVE.
SCOTTSDALE, ARIZONA 85257
CONTACT PERSON: RICK GUTIERREZ, P.E.
TEL NO (480) 429-1750
FAX NO (480) 429-1751
E-MAIL: desertland@cox.net

Q.S. # 30-44

MARCH 4, 2003

DESERT LAND ENGINEERING, INC.

MORGAN RESIDENCE
GRADING & DRAINAGE PLAN
LOT 13, DESERT ESTATES UNIT 1, AS RECORDED IN BOOK 54 OF MAPS, PAGE 21, M.C.R., MARICOPA COUNTY, ARIZONA
4706-02

SHEET 1

DLE JOB NO 030120

Plans 1 thru 3 of 4 4706-02 4/4/03

GRADING & DRAINAGE PLAN

MORGAN RESIDENCE

LOT 13, DESERT ESTATES UNIT 1, AS RECORDED IN BOOK 54 OF MAPS, PAGE 21, M.C.R., MARICOPA COUNTY, ARIZONA

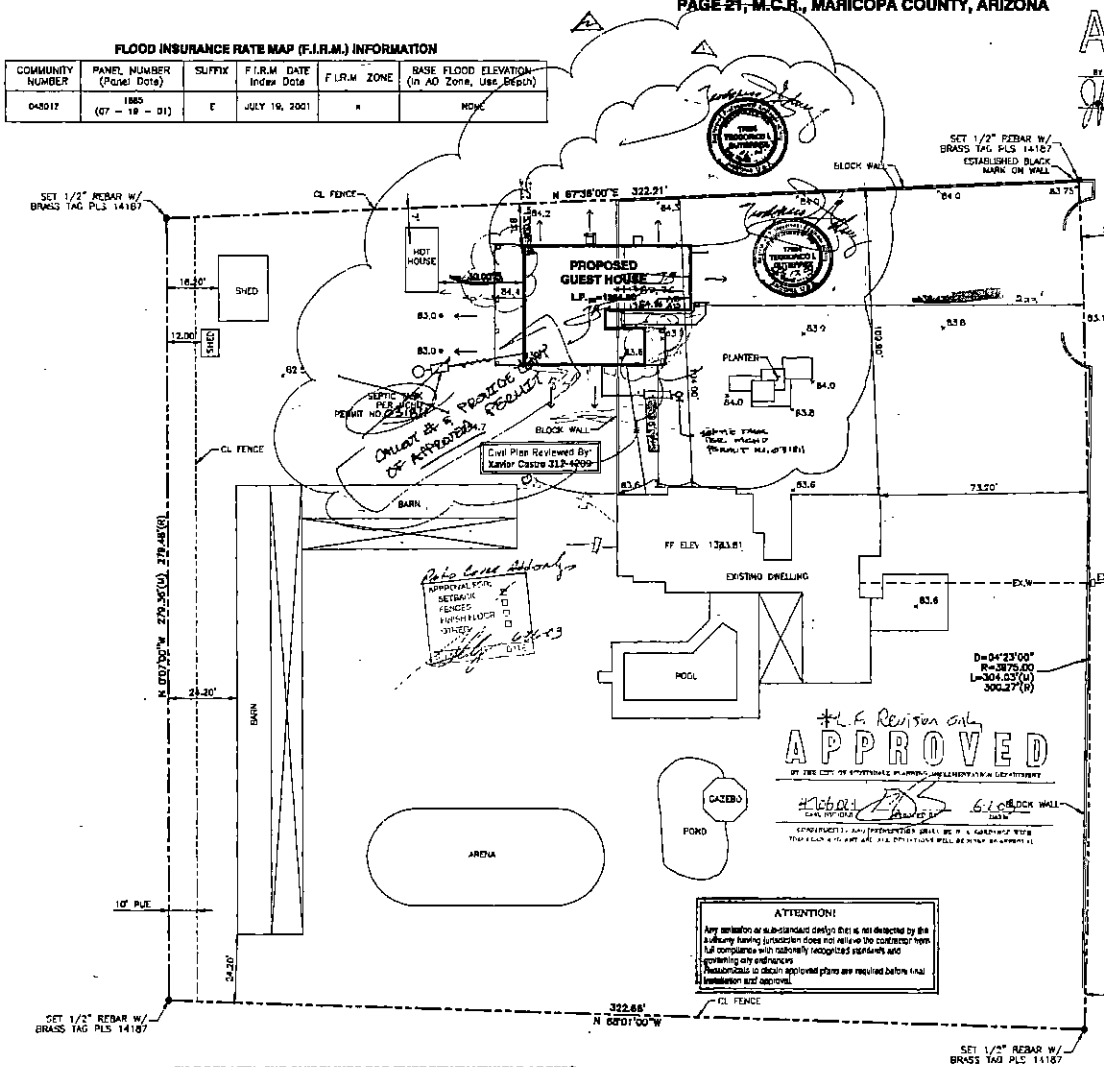
SITE PLAN APPROVED

BY THE CITY OF SCOTTSDALE DEVELOPMENT SERVICES DEPARTMENT

CONSTRUCTION AND INSTALLATION SHALL BE IN ACCORDANCE WITH THIS PLAN AND ANY AND ALL DEVIATIONS WILL REQUIRE RESUBMITTAL. APPROVED F.F. ELEV'S ARE BASED ON C.O.S. DATUM ONLY

FLOOD INSURANCE RATE MAP (F.I.R.M.) INFORMATION

COMMUNITY NUMBER	PANEL NUMBER (Panel Date)	SUFFIX	F.I.R.M. DATE Index Date	F.I.R.M. ZONE	BASE FLOOD ELEVATION (In AO Zone, Use Depth)
045012	1885 (07 - 19 - 01)	E	JULY 19, 2001	X	NONE



Civil Plan Reviewed By: Xavier Castro 312-4099

Relo Guest House Approved

APPROVED BY THE CITY OF SCOTTSDALE PLANNING IMPLEMENTATION DEPARTMENT

Revision only

APPROVED

APPROVAL FOR SETBACK, FENCES, FINISH FLOOR, SIGNAGE

ATTENTION! Any omission or sub-standard design that is not detected by the authority having jurisdiction does not relieve the contractor from full compliance with nationally recognized standards and governing city ordinances. Resubmittals to obtain approved plans are required before final inspection and approval.

SCOTTSDALE FIRE DEPARTMENT ACCEPTED

Street alignment, turning radius, grade and surface construction, these plans are in accordance with nationwide recognized standards.

No representations or warranties of any kind are expressed or made.

Date: 4/30/03

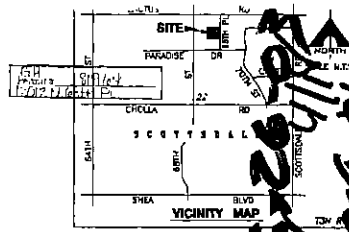
FIRE DEPARTMENT GUIDELINES FOR EMERGENCY VEHICLE ACCESS

ACCESS GRADES FROM 0 TO 12% FOR ONE SINGLE FAMILY RESIDENCE

DRIVE LENGTH	DRIVE WIDTH	DRIVE SURFACE	TURN-A-ROUND REQUIRED	HOSE LAY	SPRINKLER REQUIREMENTS MOD-130	4 HEAD
LESS THAN 200 FT.	12'	AW	NO	LESS THAN 200 FT.	YES	NO

PLANS ACCEPTED BY FIRE DEPT TO BE ON JOB SITE AT ALL TIMES

ON SITE INSPECTION DURING THE INSTALLATION AND TEST WITNESSING ARE NECESSARY FOR FINAL ACCEPTANCE



PROPERTY ADDRESS
12012 NORTH 68TH PLACE
SCOTTSDALE, ARIZONA 85254

A.P. NO.
175-20-009

NET AREA
94,671.37 S.F. / 2.17 AC.

ZONING
R1-35

DESERT LANDFORM
N/A

O.S. NO.
30-44

LEGAL DESCRIPTION
LOT 13 OF DESERT ESTATES UNIT ONE IN A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY ARIZONA AS RECORDED IN BOOK 54 OF MAPS, PAGE 21 M.C.R.

BENCHMARK
BC IN HH @ CACTUS RD. AND SCOTTSDALE RD
ELEV.=1385.27 (88 DATUM)

BENCHMARK CERTIFICATION
I HEREBY CERTIFY THAT ALL ELEVATIONS REPRESENTED ON THIS PLAN ARE BASED ON THE ELEVATION DATUM FOR THE CITY OF SCOTTSDALE BENCHMARK PROVIDED ABOVE.

LEGEND
PROPERTY LINE
CENTERLINE

NOTES
1. LAND DESIGNATED AS NAOS SHALL BE PERMANENTLY MAINTAINED AS OPEN SPACE. THE ENTIRE NATURAL AREA OPEN SPACE (NAOS) WILL BE PERMANENTLY MAINTAINED AS NATURAL OPEN SPACE THROUGH EASEMENT, DONATION, OR DEDICATION TO THE CITY OR OTHER ENTITY. NAOS SHALL BE MAINTAINED BY THE PROPERTY OWNER.
2. ALL MECHANICAL EQUIPMENT (AIR CONDITIONING, POOL EQUIPMENT, ETC.) SHALL BE SCREENED A MINIMUM OF ONE (1) FOOT HIGHER THAN THE HIGHEST PORTION OF THE EQUIPMENT, AND SHALL BE COMPATIBLE WITH THE ADJACENT MAIN BUILDING. SHOW LOCATION OF EQUIPMENT ON SITE PLAN AND BUILDING ELEVATIONS.
3. POOL SHALL BE APPROVED BY A SEPARATE PERMIT AND SHALL BE FENCED FROM UNWANTED ACCESS.
4. NO UTILITIES SHALL BE LOCATED WITHIN THE DESIGNATED N...
5. 5% SLOPE AWAY FROM HOUSE FOR A MINIMUM DISTANCE OF 10 FEET.
6. VERIFY TOP OF SITE WALLS WITH ARCHITECTURAL.
7. GUEST HOUSE WILL NOT PROVIDE COOKING FACILITIES & ... BE OFFERED FOR RENT.
8. NO NATIVE PLANTS AFFECTED BY ... CONSTRUCTION.

APPROVED NATIVE PLANT

OWNER	CHARLES F. & PATRICIA MORGAN 12012 N. 68TH PL. SCOTTSDALE, ARIZONA 852... TEL. NO. (480) 99... FAX NO. (480) 998-...
ENGINEER	DESERT LAND ENGINEERING, INC. 8107 E. CAMBRIDGE AVE. SCOTTSDALE, ARIZONA 85257 CONTACT PERSON: RICK GUTIERREZ, P.E. TEL. NO. (480) 429-1750 FAX NO. (480) 429-1751 E-MAIL: deserland1@cox.net

O.S. # 30-44

MARCH 4, 2003

SHEET 1 OF 1 SHEETS

4706-02

PLANNING/DEVELOPMENT SERVICES

CITY COPY

L.F. Raised

DLE JOB NO. CD01201

GRADING & DRAINAGE PLAN

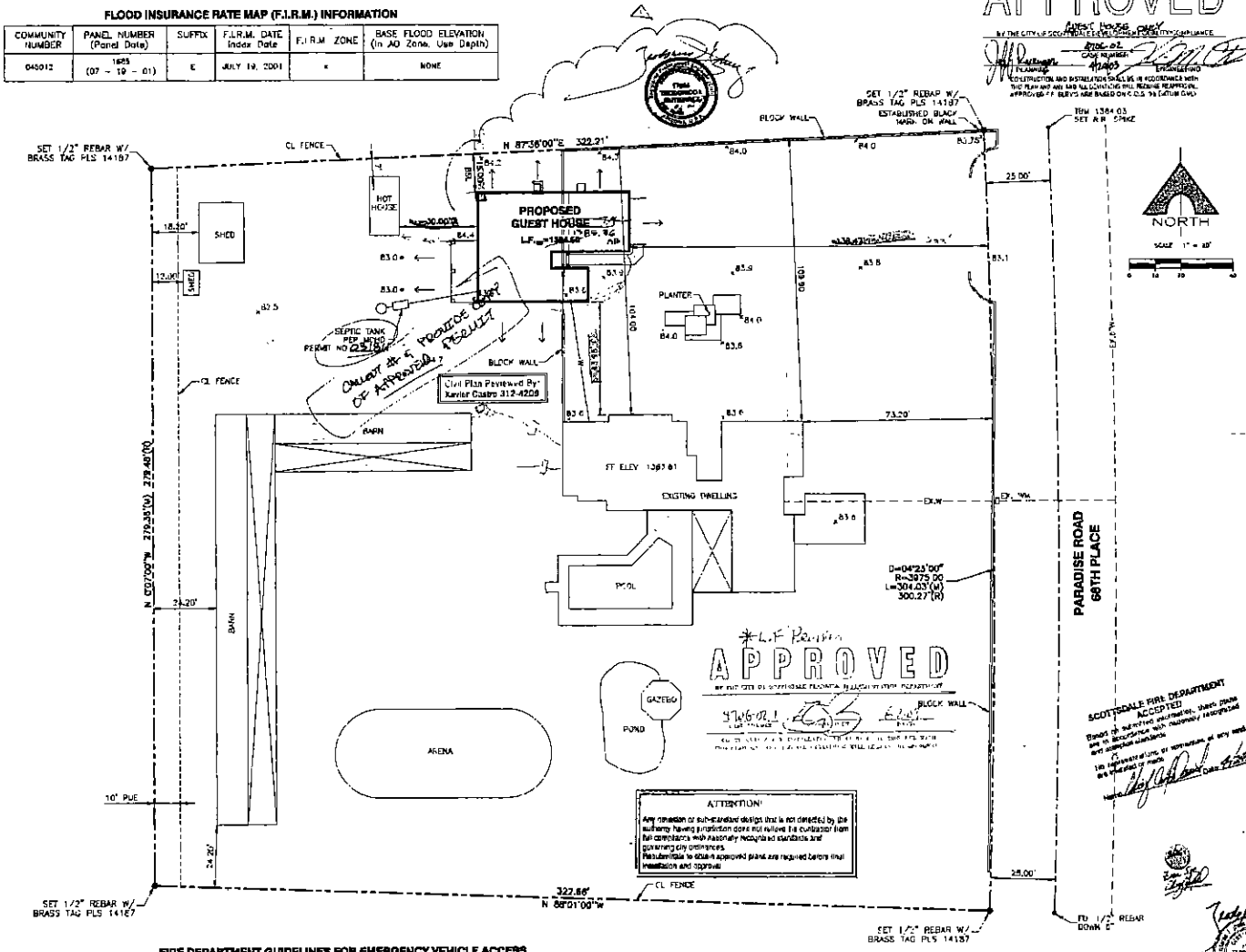
MORGAN RESIDENCE

LOT 13, DESERT ESTATES UNIT 1, AS RECORDED IN BOOK 54 OF MAPS, PAGE 21, M.C.R., MARICOPA COUNTY, ARIZONA

SITE PLAN APPROVED

FLOOD INSURANCE RATE MAP (F.I.R.M.) INFORMATION

COMMUNITY NUMBER	PANEL NUMBER (Panel Date)	SUFFIX	F.I.R.M. DATE Index Date	F.I.R.M. ZONE	BASE FLOOD ELEVATION (In AO Zone, Use Depth)
045012	1685 (07 - 19 - 01)	E	JULY 19, 2001	X	NONE

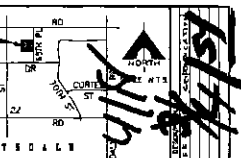


APPROVED
BY THE CITY OF SCOTTSDALE'S DEVELOPMENT SERVICES FOR CITY COMPLIANCE
CASE NUMBER: 4706-02
4/14/03
CONSTRUCTION AND INSTALLATION SHALL BE IN ACCORDANCE WITH THIS PLAN AND ANY SAID NA CONTAINING WILL REQUIRE RESUBMITTAL.
APPROVED FF ELEVS ARE BASED ON C.O.S. '99 DATUM DATA

SCOTTSDALE FIRE DEPARTMENT ACCEPTED
Based on submittal information shown hereon and in accordance with applicable ordinances.
In the event of error, or omission, or any need for additional or more restrictive requirements, the undersigned reserves the right to require corrections.
Date: 4/24/03

APPROVED
BY THE CITY OF SCOTTSDALE PLANNING & DEVELOPMENT DEPARTMENT
4/16/03
Date

APPROVED NATIVE PLANT
4/14/03



PROPERTY ADDRESS
12015 NORTH 68TH PLACE
SCOTTSDALE, ARIZONA 85254

A.P. NO.
175-20-009

NET AREA
94,571.37 S.F. / 2.17 AC.

ZONING
R1-35

DESERT LANDFORM
N/A

Q.S. NO.
30-44

LEGAL DESCRIPTION

LOT 13 OF DESERT ESTATES UNIT ONE IN A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY ARIZONA AS RECORDED IN BOOK 54 OF MAPS, PAGE 21 M.C.R.

BENCHMARK

BC IN HH @ CACTUS RD. AND SCOTTSDALE RD
ELEV.=1389.27 (88 DATUM)

BENCHMARK CERTIFICATION

I HEREBY CERTIFY THAT ALL ELEVATIONS REPRESENTED ON THIS PLAN ARE BASED ON THE ELEVATION DATUM FOR THE CITY OF SCOTTSDALE BENCHMARK PROVIDED ABOVE.

LEGEND

——— PROPERTY LINE
— — — CENTERLINE

NOTES

1. LAND DESIGNATED AS NAOS SHALL BE PERMANENTLY MAINTAINED AS OPEN SPACE. THE ENTIRE NATURAL AREA OPEN SPACE (NAOS) WILL BE PERMANENTLY MAINTAINED AS NATURAL OPEN SPACE THROUGH EASEMENT, DONATION, OR DEDICATION TO THE CITY OR OTHER ENTITY NAOS SHALL BE MAINTAINED BY THE PROPERTY OWNER.
2. ALL MECHANICAL EQUIPMENT (AIR CONDITIONING, POOL EQUIPMENT, ETC.) SHALL BE SCREENED A MINIMUM OF ONE (1) FOOT HIGHER THAN THE HIGHEST PORTION OF THE EQUIPMENT AND SHALL BE COMPATIBLE WITH THE ADJACENT MAIN BUILDING. SHOW LOCATION OF EQUIPMENT ON SITE PLAN AND BUILDING ELEVATIONS.
3. POOL SHALL BE APPROVED BY A SEPARATE PERMIT AND SECURED FROM UNWANTED ACCESS.
4. NO UTILITIES SHALL BE LOCATED WITHIN THE DESIGNATED NAOS.
5. 5% SLOPE AWAY FROM HOUSE FOR A MINIMUM DISTANCE OF 10 FEET.
6. VERIFY TOP OF SITE WALLS WITH ARCHITECTURAL.
7. GUEST HOUSE WILL NOT PROVIDE COOKING FACILITIES & WILL NEVER BE OFFERED FOR RENT.
8. NO NATIVE PLANTS AFFECTED BY PROPOSED CONSTRUCTION.

FIRE DEPARTMENT GUIDELINES FOR EMERGENCY VEHICLE ACCESS

ACCESS GRADES FROM 0 TO 12% FOR ONE SINGLE FAMILY RESIDENCE

DRIVE LENGTH	DRIVE WIDTH	DRIVE SURFACE	TURN-A-ROUND REQUIRED	HOSE LAY	SPRINKLER REQUIREMENTS MOD-13D	4 HEAD
LESS THAN 200 FT.	12'	AW	NO	LESS THAN 200 FT.	YES	NO

PLANS ACCEPTED BY FIRE DEPT TO BE ON JOB SITE AT ALL TIMES

ON SITE INSPECTION DURING THE INSTALLATION AND TEST WITNESSING ARE NECESSARY FOR FINAL ACCEPTANCE

OWNER CHARLES F. & PATRICIA MORGAN
12015 N 68TH PL.
SCOTTSDALE, ARIZONA 85254
TEL. NO. (480) 998-4904
FAX NO. (480) 998-5052

ENGINEER DESERT LAND ENGINEERING, INC.
8107 E. CAMBRIDGE AVE.
SCOTTSDALE, ARIZONA 85257
CONTACT PERSON: RICK GUTIERREZ, P.E.
TEL. NO. (480) 429-1750
FAX NO. (480) 429-1751
E-MAIL desertlnd1@cox.net

Q.S. # 30-44 LOT 13 Desert Est. Unit 1 MARCH 4, 2003

DLE JOB NO. 030120-1

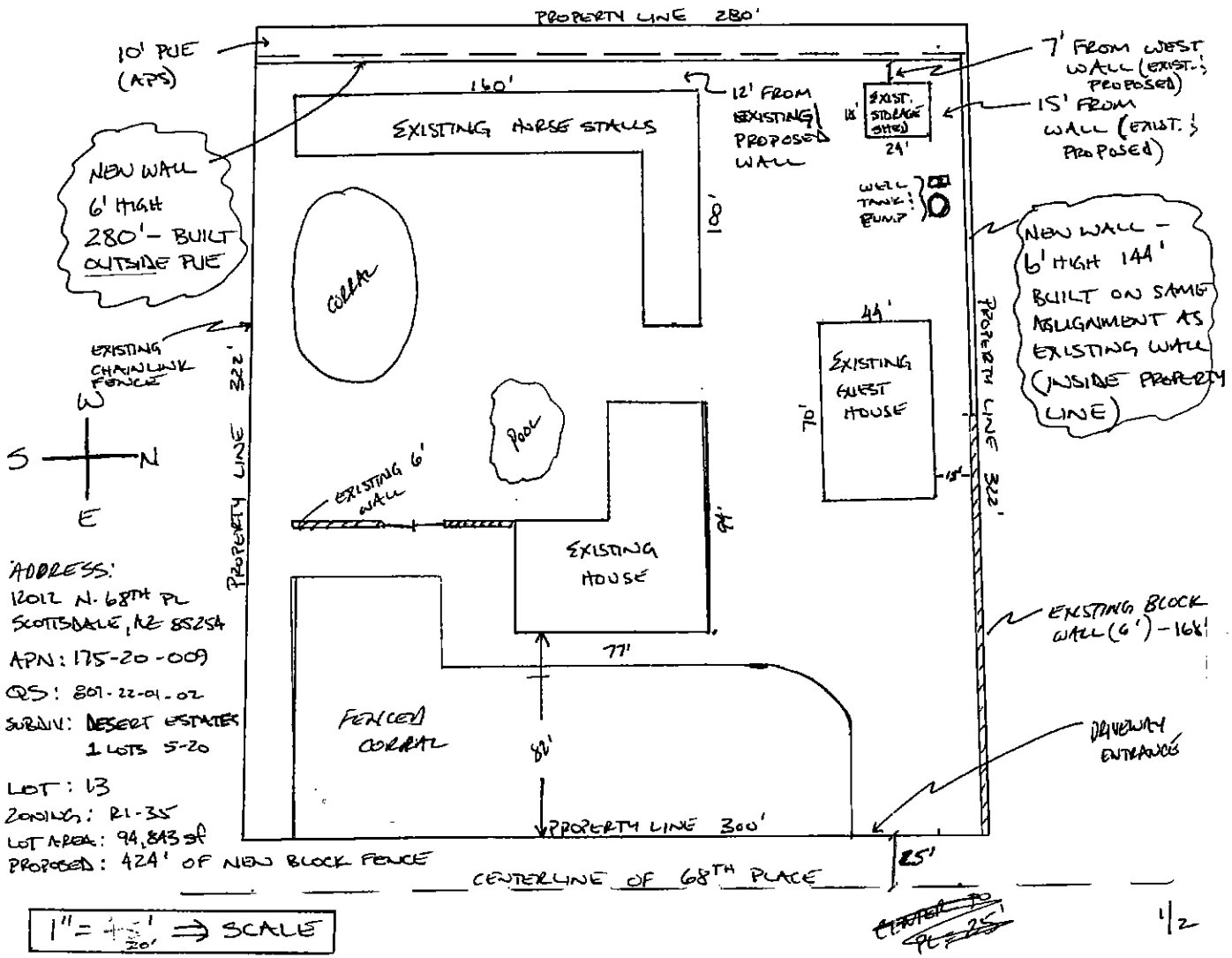
4706-02

LF. RAISED 4706-02

PLANNING

SHEET 1

17130



ADDRESS:
12012 N. 68TH PL
SCOTTSDALE, AZ 85254

APN: 175-20-009

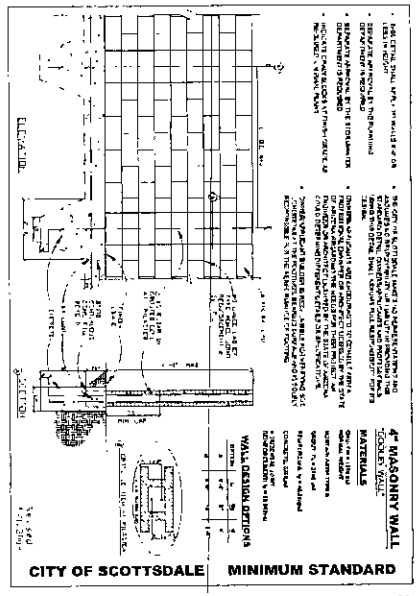
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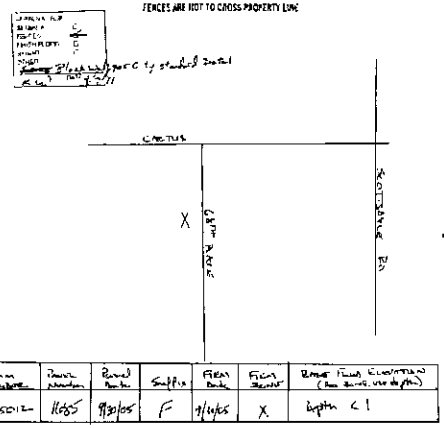
SUBDIV: DESERT ESTATES 1 LOTS 5-20

LOT: 13
ZONING: R1-35
LOT AREA: 94,843 sf
PROPOSED: 424' OF NEW BLOCK FENCE

1" = 40' ⇒ SCALE

1/2

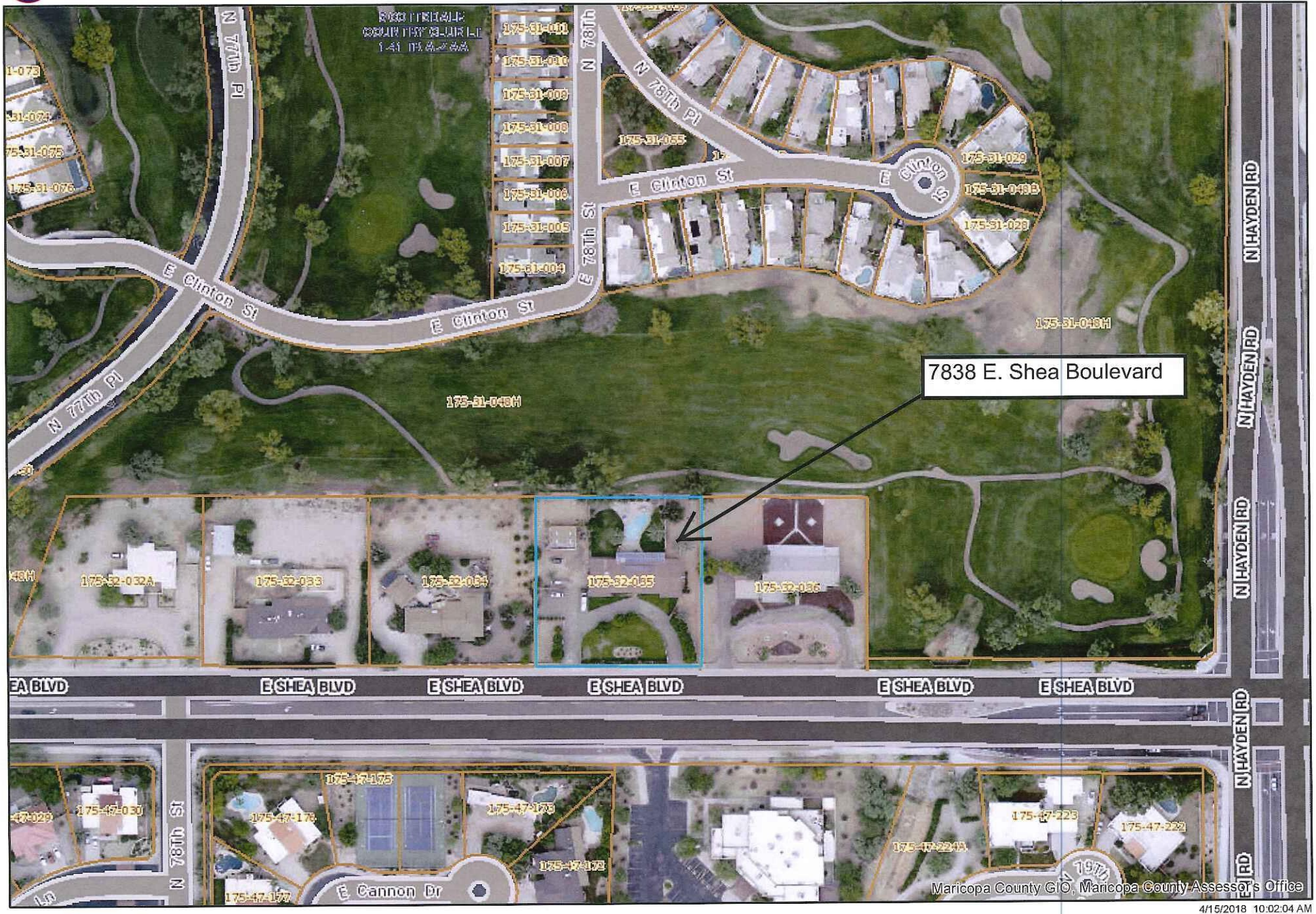




CASE#	11655	9/30/05	F	9/14/05	X	Lights < 1

1/2

Map



Aerial Photograph of Nearest Licensed Behavioral Health Residential Facility to CL Holdings Property

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C
November 10, 2016

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE

STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION OF THE FAIR HOUSING ACT

INTRODUCTION

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the Federal Fair Housing Act ("the Act"),[1] which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.[2] The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act's requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ's and HUD's Joint

[1] The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.

[2] The Act uses the term "handicap" instead of "disability." Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of "disability" in the Americans with Disabilities Act

Statement on Group Homes, Local Land Use, and the Fair Housing Act, issued on August 18, 1999. The first section of the Joint Statement, Questions 1–6, describes generally the Act's requirements as they pertain to land use and zoning. The second and third sections, Questions 7–25, discuss more specifically how the Act applies to land use and zoning laws affecting housing for persons with disabilities, including guidance on regulating group homes and the requirement to provide reasonable accommodations. The fourth section, Questions 26–27, addresses HUD's and DOJ's enforcement of the Act in the land use and zoning context.

This Joint Statement focuses on the Fair Housing Act, not on other federal civil rights laws that prohibit state and local governments from adopting or implementing land use and zoning practices that discriminate based on a protected characteristic, such as Title II of the Americans with Disabilities Act ("ADA"),[3] Section 504 of the Rehabilitation Act of 1973 ("Section 504"),[4] and Title VI of the Civil Rights Act of 1964.[5] In addition, the Joint Statement does not address a state or local government's duty to affirmatively further fair housing, even though state and local governments that receive HUD assistance are subject to this duty. For additional information provided by DOJ and HUD regarding these issues, see the list of resources provided in the answer to Question 27.

Questions and Answers on the Fair Housing Act and State and Local Land Use Laws and Zoning

1. How does the Fair Housing Act apply to state and local land use and zoning?

The Fair Housing Act prohibits a broad range of housing practices that discriminate against individuals on the basis of race, color, religion, sex, disability, familial status, or national origin (commonly referred to as protected characteristics). As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic. Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residences.

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is drawn almost verbatim "from the definition of 'handicap' contained in the Fair Housing Amendments Act of 1988"). This document uses the term "disability," which is more generally accepted.

[3] 42 U.S.C. §12132.

[4] 29 U.S.C. § 794.

[5] 42 U.S.C. § 2000d.

2. What types of land use and zoning laws or practices violate the Fair Housing Act?

Examples of state and local land use and zoning laws or practices that may violate the Act include:

- Prohibiting or restricting the development of housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status, by, for example, placing a moratorium on the development of multifamily housing because of concerns that the residents will include members of a particular protected class.
- Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals, by, for example, requiring an occupancy permit for persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.
- Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class, by, for example, requiring a proposed development to provide additional security measures based on a belief that persons of a particular protected class are more likely to engage in criminal activity.
- Enforcing otherwise neutral laws or policies differently because of the residents' protected characteristics, by, for example, citing individuals who are members of a particular protected class for violating code requirements for property upkeep while not citing other residents for similar violations.
- Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy the housing, by, for example, denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities.

3. When does a land use or zoning practice constitute intentional discrimination in violation of the Fair Housing Act?

Intentional discrimination is also referred to as disparate treatment, meaning that the action treats a person or group of persons differently because of race, color, religion, sex, disability, familial status, or national origin. A land use or zoning practice may be intentionally discriminatory even if there is no personal bias or animus on the part of individual government officials. For example, municipal zoning practices or decisions that reflect acquiescence to community bias may be intentionally discriminatory, even if the officials themselves do not personally share such bias. (See Q&A 5.) Intentional discrimination does not require that the

decision-makers were hostile toward members of a particular protected class. Decisions motivated by a purported desire to benefit a particular group can also violate the Act if they result in differential treatment because of a protected characteristic.

A land use or zoning practice may be discriminatory on its face. For example, a law that requires persons with disabilities to request permits to live in single-family zones while not requiring persons without disabilities to request such permits violates the Act because it treats persons with disabilities differently based on their disability. Even a law that is seemingly neutral will still violate the Act if enacted with discriminatory intent. In that instance, the analysis of whether there is intentional discrimination will be based on a variety of factors, all of which need not be satisfied. These factors include, but are not limited to: (1) the "impact" of the municipal practice, such as whether an ordinance disproportionately impacts minority residents compared to white residents or whether the practice perpetuates segregation in a neighborhood or particular geographic area; (2) the "historical background" of the action, such as whether there is a history of segregation or discriminatory conduct by the municipality; (3) the "specific sequence of events," such as whether the city adopted an ordinance or took action only after significant, racially-motivated community opposition to a housing development or changed course after learning that a development would include non-white residents; (4) departures from the "normal procedural sequence," such as whether a municipality deviated from normal application or zoning requirements; (5) "substantive departures," such as whether the factors usually considered important suggest that a state or local government should have reached a different result; and (6) the "legislative or administrative history," such as any statements by members of the state or local decision-making body.[6]

4. Can state and local land use and zoning laws or practices violate the Fair Housing Act if the state or locality did not intend to discriminate against persons on a prohibited basis?

Yes. Even absent a discriminatory intent, state or local governments may be liable under the Act for any land use or zoning law or practice that has an unjustified discriminatory effect because of a protected characteristic. In 2015, the United States Supreme Court affirmed this interpretation of the Act in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*[7] The Court stated that "[t]hese unlawful practices include zoning laws and other housing restrictions that function unfairly to exclude minorities from certain neighborhoods without any sufficient justification."[8]

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[6] *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–68 (1977).

[7] ___ U.S. ___, 135 S. Ct. 2507 (2015).

[8] *Id.* at 2521–22.

A land use or zoning practice results in a discriminatory effect if it caused or predictably will cause a disparate impact on a group of persons or if it creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic. A state or local government still has the opportunity to show that the practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. These interests must be supported by evidence and may not be hypothetical or speculative. If these interests could not be served by another practice that has a less discriminatory effect, then the practice does not violate the Act. The standard for evaluating housing-related practices with a discriminatory effect are set forth in HUD's Discriminatory Effects Rule, 24 C.F.R § 100.500.

Examples of land use practices that violate the Fair Housing Act under a discriminatory effects standard include minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification. Similarly, prohibiting low-income or multifamily housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.

5. Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its zoning or land use laws respecting housing?

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.

6. Can state and local governments violate the Fair Housing Act if they adopt or implement restrictions against children?

Yes. State and local governments may not impose restrictions on where families with children may reside unless the restrictions are consistent with the "housing for older persons" exemption of the Act. The most common types of housing for older persons that may qualify for this exemption are: (1) housing intended for, and solely occupied by, persons 62 years of age or older; and (2) housing in which 80% of the occupied units have at least one person who is 55 years of age or older that publishes and adheres to policies and procedures demonstrating the intent to house older persons. These types of housing must meet all requirements of the exemption, including complying with HUD regulations applicable to such housing, such as verification procedures regarding the age of the occupants. A state or local government that zones an area to exclude families with children under 18 years of age must continually ensure that housing in that zone meets all requirements of the exemption. If all of the housing in that zone does not continue to meet all such requirements, that state or local government violates the Act.

Questions and Answers on the Fair Housing Act and Local Land Use and Zoning Regulation of Group Homes

7. Who qualifies as a person with a disability under the Fair Housing Act?

The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism.

The term "major life activity" includes activities such as seeing, hearing, walking breathing, performing manual tasks, caring for one's self, learning, speaking, and working. This list of major life activities is not exhaustive.

Being regarded as having a disability means that the individual is treated as if he or she has a disability even though the individual may not have an impairment or may not have an impairment that substantially limits one or more major life activities. For example, if a landlord

refuses to rent to a person because the landlord believes the prospective tenant has a disability, then the landlord violates the Act's prohibition on discrimination on the basis of disability, even if the prospective tenant does not actually have a physical or mental impairment that substantially limits one or more major life activities.

Having a record of a disability means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

8. What is a group home within the meaning of the Fair Housing Act?

The term "group home" does not have a specific legal meaning; land use and zoning officials and the courts, however, have referred to some residences for persons with disabilities as group homes. The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.

In this Statement, the term "group home" refers to a dwelling that is or will be occupied by unrelated persons with disabilities. Sometimes group homes serve individuals with a particular type of disability, and sometimes they serve individuals with a variety of disabilities. Some group homes provide residents with in-home support services of varying types, while others do not. The provision of support services is not required for a group home to be protected under the Fair Housing Act. Group homes, as discussed in this Statement, may be opened by individuals or by organizations, both for-profit and not-for-profit. Sometimes it is the group home operator or developer, rather than the individuals who live or are expected to live in the home, who interacts with a state or local government agency about developing or operating the group home, and sometimes there is no interaction among residents or operators and state or local governments.

In this Statement, the term "group home" includes homes occupied by persons in recovery from alcohol or substance abuse, who are persons with disabilities under the Act. Although a group home for persons in recovery may commonly be called a "sober home," the term does not have a specific legal meaning, and the Act treats persons with disabilities who reside in such homes no differently than persons with disabilities who reside in other types of group homes. Like other group homes, homes for persons in recovery are sometimes operated by individuals or organizations, both for-profit and not-for-profit, and support services or supervision are sometimes, but not always, provided. The Act does not require a person who resides in a home for persons in recovery to have participated in or be currently participating in a

substance abuse treatment program to be considered a person with a disability. The fact that a resident of a group home may currently be illegally using a controlled substance does not deprive the other residents of the protection of the Fair Housing Act.

9. In what ways does the Fair Housing Act apply to group homes?

The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes. Persons with disabilities who live in or seek to live in group homes are sometimes subjected to unlawful discrimination in a number of ways, including those discussed in the preceding Section of this Joint Statement. Discrimination may be intentional; for example, a locality might pass an ordinance prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities. These ordinances are facially discriminatory, in violation of the Act. In addition, as discussed more fully in Q&A 10 below, a state or local government may violate the Act by refusing to grant a reasonable accommodation to its zoning or land use ordinance when the requested accommodation may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling. For example, if a locality refuses to waive an ordinance that limits the number of unrelated persons who may live in a single-family home where such a waiver may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling, the locality violates the Act unless the locality can prove that the waiver would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme. Furthermore, a state or local government may violate the Act by enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community. Unlawful actions concerning group homes are discussed in more detail throughout this Statement.

10. What is a reasonable accommodation under the Fair Housing Act?

The Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling.

Even if a zoning ordinance imposes on group homes the same restrictions that it imposes on housing for other groups of unrelated persons, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. What constitutes a reasonable accommodation is a case-by-case determination based on an individualized assessment. This topic is discussed in detail in Q&As 20–25 and in the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

11. Does the Fair Housing Act protect persons with disabilities who pose a "direct threat" to others?

The Act does not allow for the exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. Nevertheless, the Act does not protect an individual whose tenancy would constitute a "direct threat" to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others unless the threat or risk to property can be eliminated or significantly reduced by reasonable accommodation. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (for example, current conduct or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate or significantly reduce the direct threat. See Q&A 10 for a general discussion of reasonable accommodations. Consequently, in evaluating an individual's recent history of overt acts, a state or local government must take into account whether the individual has received intervening treatment or medication that has eliminated or significantly reduced the direct threat (in other words, significant risk of substantial harm). In such a situation, the state or local government may request that the individual show how the circumstances have changed so that he or she no longer poses a direct threat. Any such request must be reasonable and limited to information necessary to assess whether circumstances have changed. Additionally, in such a situation, a state or local government may obtain satisfactory and reasonable assurances that the individual will not pose a direct threat during the tenancy. The state or local government must have reliable, objective evidence that the tenancy of a person with a disability poses a direct threat before excluding him or her from housing on that basis, and, in making that assessment, the state or local government may not ignore evidence showing that the individual's tenancy would no longer pose a direct threat. Moreover, the fact that one individual may pose a direct threat does *not mean that another individual with the same disability or other individuals in a group home* may be denied housing.

12. Can a state or local government enact laws that specifically limit group homes for individuals with specific types of disabilities?

No. Just as it would be illegal to enact a law for the purpose of excluding or limiting group homes for individuals with disabilities, it is illegal under the Act for local land use and zoning laws to exclude or limit group homes for individuals with specific types of disabilities. For example, a government may not limit group homes for persons with mental illness to certain neighborhoods. The fact that the state or local government complies with the Act with regard to group homes for persons with some types of disabilities will not justify discrimination against individuals with another type of disability, such as mental illness.

13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?

Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together without violating the Act as long as the restrictions are imposed on all such groups, including a group defined as a family. Thus, if the definition of a family includes up to a certain number of unrelated individuals, an ordinance would not, on its face, violate the Act if a group home for persons with disabilities with more than the permitted number for a family were not allowed to locate in a single-family-zoned neighborhood because any group of unrelated people without disabilities of that number would also be disallowed. A facially neutral ordinance, however, still may violate the Act if it is intentionally discriminatory (that is, enacted with discriminatory intent or applied in a discriminatory manner), or if it has an unjustified

discriminatory effect on persons with disabilities. For example, an ordinance that limits the number of unrelated persons who may constitute a family may violate the Act if it is enacted for the purpose of limiting the number of persons with disabilities who may live in a group home, or if it has the unjustified discriminatory effect of excluding or limiting group homes in the jurisdiction. Governments may also violate the Act if they enforce such restrictions more strictly against group homes than against groups of the same number of unrelated persons without disabilities who live together in housing. In addition, as discussed in detail below, because the Act prohibits the denial of reasonable accommodations to rules and policies for persons with disabilities, a group home that provides housing for a number of persons with disabilities that exceeds the number allowed under the family definition has the right to seek an exception or waiver. If the criteria for a reasonable accommodation are met, the permit must be given in that instance, but the ordinance would not be invalid.[9]

14. How does the Supreme Court's ruling in *Olmstead* apply to the Fair Housing Act?

In *Olmstead v. L.C.*,[10] the Supreme Court ruled that the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. By contrast, a segregated setting includes congregate settings populated exclusively or primarily by individuals with disabilities. Although *Olmstead* did not interpret the Fair Housing Act, the objectives of the Fair Housing Act and the ADA, as interpreted in *Olmstead*, are consistent. The Fair Housing Act ensures that persons with disabilities have an equal opportunity to choose the housing where they wish to live. The ADA and *Olmstead* ensure that persons with disabilities also have the option to live and receive services in the most integrated setting appropriate to their needs. The integration mandate of the ADA and *Olmstead* can be implemented without impairing the rights protected by the Fair Housing Act. For example, state and local governments that provide or fund housing, health care, or support services must comply with the integration mandate by providing these programs, services, and activities in the most integrated setting appropriate to the needs of individuals with disabilities. State and local governments may comply with this requirement by adopting standards for the housing, health care, or support services they provide or fund that are reasonable, individualized, and specifically tailored to enable individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. Local governments should be aware that ordinances and policies that impose additional restrictions on housing or residential services for persons with disabilities that are not imposed on housing or

[9] Laws that limit the number of occupants per unit do not violate the Act as long as they are reasonable, are applied to all occupants, and do not operate to discriminate on the basis of disability, familial status, or other characteristics protected by the Act.

[10] 527 U.S. 581 (1999).

residential services for persons without disabilities are likely to violate the Act. In addition, a locality would violate the Act and the integration mandate of the ADA and *Olmstead* if it required group homes to be concentrated in certain areas of the jurisdiction by, for example, restricting them from being located in other areas.

15. Can a state or local government impose spacing requirements on the location of group homes for persons with disabilities?

A "spacing" or "dispersal" requirement generally refers to a requirement that a group home for persons with disabilities must not be located within a specific distance of another group home. Sometimes a spacing requirement is designed so it applies only to group homes and sometimes a spacing requirement is framed more generally and applies to group homes and other types of uses such as boarding houses, student housing, or even certain types of businesses. In a community where a certain number of unrelated persons are permitted by local ordinance to reside together in a home, it would violate the Act for the local ordinance to impose a spacing requirement on group homes that do not exceed that permitted number of residents because the spacing requirement would be a condition imposed on persons with disabilities that is not imposed on persons without disabilities. In situations where a group home seeks a reasonable accommodation to exceed the number of unrelated persons who are permitted by local ordinance to reside together, the Fair Housing Act does not prevent state or local governments from taking into account concerns about the over-concentration of group homes that are located in close proximity to each other. Sometimes compliance with the integration mandate of the ADA and *Olmstead* requires government agencies responsible for licensing or providing housing for persons with disabilities to consider the location of other group homes when determining what housing will best meet the needs of the persons being served. Some courts, however, have found that spacing requirements violate the Fair Housing Act because they deny persons with disabilities an equal opportunity to choose where they will live. Because an across-the-board spacing requirement may discriminate against persons with disabilities in some residential areas, any standards that state or local governments adopt should evaluate the location of group homes for persons with disabilities on a case-by-case basis.

Where a jurisdiction has imposed a spacing requirement on the location of group homes for persons with disabilities, courts may analyze whether the requirement violates the Act under an intent, effects, or reasonable accommodation theory. In cases alleging intentional discrimination, courts look to a number of factors, including the effect of the requirement on housing for persons with disabilities; the jurisdiction's intent behind the spacing requirement; the existence, size, and location of group homes in a given area; and whether there are methods other than a spacing requirement for accomplishing the jurisdiction's stated purpose. A spacing requirement enacted with discriminatory intent, such as for the purpose of appeasing neighbors' stereotypical fears about living near persons with disabilities, violates the Act. Further, a neutral

spacing requirement that applies to all housing for groups of unrelated persons may have an unjustified discriminatory effect on persons with disabilities, thus violating the Act. Jurisdictions must also consider, in compliance with the Act, requests for reasonable accommodations to any spacing requirements.

16. Can a state or local government impose health and safety regulations on group home operators?

Operators of group homes for persons with disabilities are subject to applicable state and local regulations addressing health and safety concerns unless those regulations are inconsistent with the Fair Housing Act or other federal law. Licensing and other regulatory requirements that may apply to some group homes must also be consistent with the Fair Housing Act. Such regulations must not be based on stereotypes about persons with disabilities or specific types of disabilities. State or local zoning and land use ordinances may not, consistent with the Fair Housing Act, require individuals with disabilities to receive medical, support, or other services or supervision that they do not need or want as a condition for allowing a group home to operate. State and local governments' enforcement of neutral requirements regarding safety, licensing, and other regulatory requirements governing group homes do not violate the Fair Housing Act so long as the ordinances are enforced in a neutral manner, they do not specifically target group homes, and they do not have an unjustified discriminatory effect on persons with disabilities who wish to reside in group homes.

Governments must also consider requests for reasonable accommodations to licensing and regulatory requirements and procedures, and grant them where they may be necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling, as required by the Act.

17. Can a state or local government address suspected criminal activity or fraud and abuse at group homes for persons with disabilities?

The Fair Housing Act does not prevent state and local governments from taking nondiscriminatory action in response to criminal activity, insurance fraud, Medicaid fraud, neglect or abuse of residents, or other illegal conduct occurring at group homes, including reporting complaints to the appropriate state or federal regulatory agency. States and localities must ensure that actions to enforce criminal or other laws are not taken to target group homes and are applied equally, regardless of whether the residents of housing are persons with disabilities. For example, persons with disabilities residing in group homes are entitled to the same constitutional protections against unreasonable search and seizure as those without disabilities.

18. Does the Fair Housing Act permit a state or local government to implement strategies to integrate group homes for persons with disabilities in particular neighborhoods where they are not currently located?

Yes. Some strategies a state or local government could use to further the integration of group housing for persons with disabilities, consistent with the Act, include affirmative marketing or offering incentives. For example, jurisdictions may engage in affirmative marketing or offer variances to providers of housing for persons with disabilities to locate future homes in neighborhoods where group homes for persons with disabilities are not currently located. But jurisdictions may not offer incentives for a discriminatory purpose or that have an unjustified discriminatory effect because of a protected characteristic.

19. Can a local government consider the fears or prejudices of neighbors in deciding whether a group home can be located in a particular neighborhood?

In the same way a local government would violate the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities (see Q&A 5), a local government violates the law if it blocks a group home or denies a reasonable accommodation request because of neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers themselves do not have biases against persons with disabilities.

Not all community opposition to requests by group homes is necessarily discriminatory. For example, when a group home seeks a reasonable accommodation to operate in an area and the area has limited on-street parking to serve existing residents, it is not a violation of the Fair Housing Act for neighbors and local government officials to raise concerns that the group home may create more demand for on-street parking than would a typical family and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the requested accommodation, if a similar dwelling that is not a group home or similarly situated use would ordinarily be denied a permit because of such parking concerns. If, however, the group home shows that the home will not create a need for more parking spaces than other dwellings or similarly-situated uses located nearby, or submits a plan to provide any needed off-street parking, then parking concerns would not support a decision to deny the home a permit.

20. When does a state or local government violate the Fair Housing Act by failing to grant a request for a reasonable accommodation?

A state or local government violates the Fair Housing Act by failing to grant a reasonable accommodation request if (1) the persons requesting the accommodation or, in the case of a group home, persons residing in or expected to reside in the group home are persons with a disability under the Act; (2) the state or local government knows or should reasonably be expected to know of their disabilities; (3) an accommodation in the land use or zoning ordinance or other rules, policies, practices, or services of the state or locality was requested by or on behalf of persons with disabilities; (4) the requested accommodation may be necessary to afford one or more persons with a disability an equal opportunity to use and enjoy the dwelling; (5) the state or local government refused to grant, failed to act on, or unreasonably delayed the accommodation request; and (6) the state or local government cannot show that granting the accommodation would impose an undue financial and administrative burden on the local government or that it would fundamentally alter the local government's zoning scheme. A requested accommodation may be necessary if there is an identifiable relationship between the requested accommodation and the group home residents' disability. Further information is provided in Q&A 10 above and the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

21. Can a local government deny a group home's request for a reasonable accommodation without violating the Fair Housing Act?

Yes, a local government may deny a group home's request for a reasonable accommodation if the request was not made by or on behalf of persons with disabilities (by, for example, the group home developer or operator) or if there is no disability-related need for the requested accommodation because there is no relationship between the requested accommodation and the disabilities of the residents or proposed residents.

In addition, a group home's request for a reasonable accommodation may be denied by a local government if providing the accommodation is not reasonable—in other words, if it would impose an undue financial and administrative burden on the local government or it would fundamentally alter the local government's zoning scheme. The determination of undue financial and administrative burden must be decided on a case-by-case basis involving various factors, such as the nature and extent of the administrative burden and the cost of the requested accommodation to the local government, the financial resources of the local government, and the benefits that the accommodation would provide to the persons with disabilities who will reside in the group home.

When a local government refuses an accommodation request because it would pose an undue financial and administrative burden, the local government should discuss with the requester whether there is an alternative accommodation that would effectively address the disability-related needs of the group home's residents without imposing an undue financial and administrative burden. This discussion is called an "interactive process." If an alternative accommodation would effectively meet the disability-related needs of the residents of the group home and is reasonable (that is, it would not impose an undue financial and administrative burden or fundamentally alter the local government's zoning scheme), the local government must grant the alternative accommodation. An interactive process in which the group home and the local government discuss the disability-related need for the requested accommodation and possible alternative accommodations is both required under the Act and helpful to all concerned, because it often results in an effective accommodation for the group home that does not pose an undue financial and administrative burden or fundamental alteration for the local government.

22. What is the procedure for requesting a reasonable accommodation?

The reasonable accommodation must actually be requested by or on behalf of the individuals with disabilities who reside or are expected to reside in the group home. When the request is made, it is not necessary for the specific individuals who would be expected to live in the group home to be identified. The Act does not require that a request be made in a particular manner or at a particular time. The group home does not need to mention the Fair Housing Act or use the words "reasonable accommodation" when making a reasonable accommodation request. The group home must, however, make the request in a manner that a reasonable person would understand to be a disability-related request for an exception, change, or adjustment to a rule, policy, practice, or service. When making a request for an exception, change, or adjustment to a local land use or zoning regulation or policy, the group home should explain what type of accommodation is being requested and, if the need for the accommodation is not readily apparent or known by the local government, explain the relationship between the accommodation and the disabilities of the group home residents.

A request for a reasonable accommodation can be made either orally or in writing. It is often helpful for both the group home and the local government if the reasonable accommodation request is made in writing. This will help prevent misunderstandings regarding what is being requested or whether or when the request was made.

Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that these procedures should ordinarily be followed. If no procedure is specified, or if the procedure is unreasonably burdensome or intrusive or involves significant delays, a request for a reasonable accommodation may,

nevertheless, be made in some other way, and a local government is obligated to grant it if the requested accommodation meets the criteria discussed in Q&A 20, above.

Whether or not the local land use or zoning code contains a specific procedure for requesting a reasonable accommodation or other exception to a zoning regulation, if local government officials have previously made statements or otherwise indicated that an application for a reasonable accommodation would not receive fair consideration, or if the procedure itself is discriminatory, then persons with disabilities living in a group home, and/or its operator, have the right to file a Fair Housing Act complaint in court to request an order for a reasonable accommodation to the local zoning regulations.

23. Does the Fair Housing Act require local governments to adopt formal reasonable accommodation procedures?

The Act does not require a local government to adopt formal procedures for processing requests for reasonable accommodations to local land use or zoning codes. DOJ and HUD nevertheless strongly encourage local governments to adopt formal procedures for identifying and processing reasonable accommodation requests and provide training for government officials and staff as to application of the procedures. Procedures for reviewing and acting on reasonable accommodation requests will help state and local governments meet their obligations under the Act to respond to reasonable accommodation requests and implement reasonable accommodations promptly. Local governments are also encouraged to ensure that the procedures to request a reasonable accommodation or other exception to local zoning regulations are well known throughout the community by, for example, posting them at a readily accessible location and in a digital format accessible to persons with disabilities on the government's website. If a jurisdiction chooses to adopt formal procedures for reasonable accommodation requests, the procedures cannot be onerous or require information beyond what is necessary to show that the individual has a disability and that the requested accommodation is related to that disability. For example, in most cases, an individual's medical record or detailed information about the nature of a person's disability is not necessary for this inquiry. In addition, officials and staff must be aware that any procedures for requesting a reasonable accommodation must also be flexible to accommodate the needs of the individual making a request, including accepting and considering requests that are not made through the official procedure. The adoption of a reasonable accommodation procedure, however, will not cure a zoning ordinance that treats group homes differently than other residential housing with the same number of unrelated persons.

24. What if a local government fails to act promptly on a reasonable accommodation request?

A local government has an obligation to provide prompt responses to reasonable accommodation requests, whether or not a formal reasonable accommodation procedure exists. A local government's undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation.

25. Can a local government enforce its zoning code against a group home that violates the zoning code but has not requested a reasonable accommodation?

The Fair Housing Act does not prohibit a local government from enforcing its zoning code against a group home that has violated the local zoning code, as long as that code is not discriminatory or enforced in a discriminatory manner. If, however, the group home requests a reasonable accommodation when faced with enforcement by the locality, the locality still must consider the reasonable accommodation request. A request for a reasonable accommodation may be made at any time, so at that point, the local government must consider whether there is a relationship between the disabilities of the residents of the group home and the need for the requested accommodation. If so, the locality must grant the requested accommodation unless doing so would pose a fundamental alteration to the local government's zoning scheme or an undue financial and administrative burden to the local government.

Questions and Answers on Fair Housing Act Enforcement of Complaints Involving Land Use and Zoning

26. How are Fair Housing Act complaints involving state and local land use laws and practices handled by HUD and DOJ?

The Act gives HUD the power to receive, investigate, and conciliate complaints of discrimination, including complaints that a state or local government has discriminated in exercising its land use and zoning powers. HUD may not issue a charge of discrimination pertaining to "the legality of any State or local zoning or other land use law or ordinance." Rather, after investigating, HUD refers matters it believes may be meritorious to DOJ, which, in its discretion, may decide to bring suit against the state or locality within 18 months after the practice at issue occurred or terminated. DOJ may also bring suit by exercising its authority to initiate litigation alleging a pattern or practice of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

If HUD determines that there is no reasonable cause to believe that there may be a violation, it will close an investigation without referring the matter to DOJ. But a HUD or DOJ

decision not to proceed with a land use or zoning matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and DOJ encourage parties to land use disputes to explore reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation or conciliation of the HUD complaint. HUD attempts to conciliate all complaints under the Act that it receives, including those involving land use or zoning laws. In addition, it is DOJ's policy to offer prospective state or local governments the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

27. How can I find more information?

For more information on reasonable accommodations and reasonable modifications under the Fair Housing Act:

- HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, *available at* https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0 or http://www.hud.gov/offices/fheo/library/huddojstatement.pdf.

- HUD/DOJ Joint Statement on Reasonable Modifications under the Fair Housing Act, *available at* https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0 or http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf.

For more information on state and local governments' obligations under Section 504:

- HUD website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504.

For more information on state and local governments' obligations under the ADA and *Olmstead*:

- U.S. Department of Justice website, www.ADA.gov, or call the ADA information line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).
- Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.*, *available at* http://www.ada.gov./olmstead/q&a_olmstead.htm.
- Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*, *available at* http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf.

For more information on the requirement to affirmatively further fair housing:

- Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42,272 (July 16, 2015) (to be codified at 24 C.F.R. pts. 5, 91, 92, 570, 574, 576, and 903).
- U.S. Department of Housing and Urban Development, Version 1, Affirmatively Furthering Fair Housing Rule Guidebook (2015), *available at* https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf.
- Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Vol. 1, Fair Housing Planning Guide (1996), *available at* http://www.hud.gov/offices/fheo/images/fhpg.pdf.

For more information on nuisance and crime-free ordinances:

- Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services (Sept. 13, 2016), *available at* http://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf.

Gillespie, Jonathan 3/29/2018
For Educational Use Only

883 F.3d 959
United States Court of Appeals, Seventh Circuit.

Mary B. VALENCIA, et al. Plaintiffs–Appellees,

v.

CITY OF SPRINGFIELD, **ILLINOIS**, Defendant–Appellant.

No. 17-2773

Argued February 8, 2018

Decided March 1, 2018

Synopsis

Background: **Disabled** residents of family care residence filed action alleging that city discriminated against them on the basis of their **disabilities**, in violation of the Fair Housing Act (FHA), the Americans with **Disabilities** Act (ADA), and the Rehabilitation Act, when city denied their application for conditional use permit to allow them to occupy the residence, notwithstanding that home was located within **600** **feet** of another such facility occupied by **disabled** residents in violation of zoning ordinance. The United States District Court for the Central District of **Illinois**, Richard Mills, J., 2017 WL 3288110, granted preliminary injunction enjoining city from evicting residents. City appealed.

[Holding:] The Court of Appeals, Flaum, Circuit Judge, held that residents demonstrated likelihood of success on the merits, supporting issuance of preliminary injunction barring city from evicting them.

Affirmed.

West Headnotes (23)

[1] Injunction
Nature of remedy in general

An equitable, interlocutory form of relief, a preliminary injunction is an exercise of a very far-reaching power, never to be indulged in except in a case clearly demanding it.

Cases that cite this headnote

[2] Injunction
Extraordinary or unusual nature of remedy

A preliminary injunction is never awarded as a matter of right.

Cases that cite this headnote

[3] Injunction
Grounds in general;multiple factors

A party seeking a preliminary injunction must satisfy the following three **requirements**: (1) absent a preliminary injunction, it will suffer irreparable harm in the interim period prior to final resolution of its claims; (2) traditional legal remedies would be inadequate; and (3) its claim has some likelihood of succeeding on the merits.

Cases that cite this headnote

[4] Injunction
Balancing or weighing factors;sliding scale

If the moving party satisfies each of the threshold **requirements** for issuance of a preliminary injunction, the court proceeds to the balancing phase, in which the court weighs the irreparable harm that the moving party would endure without the protection of the preliminary injunction against any irreparable harm the nonmoving party would suffer if the court were to grant the requested relief; in so doing, the court employs a sliding scale approach: the more likely the plaintiff is to win, the less heavily need the balance of harms weigh in his favor; the less likely he is to win, the more need it weigh in his favor.

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Cases that cite this headnote

[5] **Injunction**
Likelihood of success on merits

A party moving for preliminary injunctive relief need not demonstrate a likelihood of absolute success on the merits; instead, he must only show that his chances to succeed on his claims are better than negligible.

Cases that cite this headnote

[6] **Injunction**
Likelihood of success on merits

Although the likelihood of success on the merits **required** for a preliminary injunction is a low threshold, does not mean that a party moving for interim injunctive relief with a relatively weak case will always obtain the injunction.

Cases that cite this headnote

[7] **Injunction**
Likelihood of success on merits

If it is plain that the party seeking the preliminary injunction has no case on the merits, the injunction should be refused regardless of the balance of harms.

Cases that cite this headnote

[8] **Federal Courts**
Preliminary injunction;temporary restraining order

In reviewing the grant or denial of a preliminary injunction, an appellate court examines legal conclusions de novo, findings of fact for clear error, and the balancing of harms for abuse of discretion.

Cases that cite this headnote

[9] **Federal Courts**
Abuse of discretion in general
Federal Courts
Preliminary injunction;temporary restraining order

A district court abuses its discretion when, in conducting its preliminary injunction analysis, it commits a clear error of fact or an error of law; absent such errors, an appellate court accords a district court's decisions during the balancing phase of the preliminary injunction analysis great deference.

Cases that cite this headnote

[10] **Civil Rights**
Zoning, building, and planning;land use
Civil Rights
Public regulation;zoning
Civil Rights
Discrimination by reason of handicap, **disability**, or illness

The anti-discrimination provisions of the Fair Housing Act (FHA), the ADA, and the Rehabilitation Act all apply to municipal zoning decisions. Rehabilitation Act of 1973 § 504, 29 U.S.C.A. § 794(a); 42 U.S.C.A. § 3604(f)(1); Americans with **Disabilities** Act of 1990 § 2 et seq, 42 U.S.C.A. § 12101 et seq.

Cases that cite this headnote

[11] **Civil Rights**
Elements of discrimination claims in general
Civil Rights
Accommodations in general
Civil Rights
Discrimination by reason of handicap, **disability**, or illness

A plaintiff may prove a violation of the Fair Housing Act (FHA), ADA, or Rehabilitation Act by showing: (1) disparate treatment; (2) disparate impact; or (3) a refusal to make a reasonable accommodation; for each respective theory, the same analysis generally

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applies under all three statutes. Rehabilitation Act of 1973 § 504, 29 U.S.C.A. § 794(a); 42 U.S.C.A. § 3604(f)(1); Americans with Disabilities Act of 1990 § 2 et seq., 42 U.S.C.A. § 12101 et seq.

Cases that cite this headnote

[12] **Federal Courts**
Theory and Grounds of Decision of Lower Court

The Court of Appeals may affirm the district court's grant of a motion for preliminary injunction on any basis that appears in the record.

Cases that cite this headnote

[13] **Injunction**
Likelihood of success on merits

The granting of a preliminary injunction is not a decision on the merits of the plaintiff's suit; rather, it is merely a decision that the suit has enough merit, which need not be great merit, to justify an order that will freeze the situation, in the plaintiff's favor, for such time as it may take to determine whether the suit is, or is not, meritorious.

Cases that cite this headnote

[14] **Injunction**
Operation and effect

The propriety of preliminary injunctive relief and resolution of the merits are significantly different issues, and therefore findings made at the preliminary injunction stage do not bind the district court as the case progresses.

Cases that cite this headnote

[15] **Civil Rights**
Discrimination by reason of handicap, disability, or illness

The Fair Housing Act (FHA) requires accommodation of disabilities if such accommodation (1) is reasonable, and (2) necessary, (3) to afford a handicapped person the equal opportunity to use and enjoy a dwelling. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[16] **Civil Rights**
Discrimination by reason of handicap, disability, or illness

Whether a requested housing accommodation for a disabled person is reasonable under the Fair Housing Act (FHA) or not is a highly fact-specific inquiry and requires balancing the needs of the parties. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[17] **Civil Rights**
Discrimination by reason of handicap, disability, or illness

An accommodation for a disabled person is reasonable under the Fair Housing Act (FHA) if it is both efficacious and proportional to the costs to implement it; on the other hand, an accommodation is unreasonable if it imposes undue financial or administrative burdens or requires a fundamental alteration in the nature of the program. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[18] **Civil Rights**
Discrimination by reason of handicap, disability, or illness

Some costs related to reasonableness of a housing accommodation for a disabled person under the Fair Housing Act (FHA) may be objective and easily ascertainable; other costs may be more subjective and require that the court demonstrate a good deal of wisdom

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in appreciating the intangible but very real human costs associated with the disability in question. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[19] **Civil Rights**

Discrimination by reason of handicap, disability, or illness

A zoning waiver is an unreasonable accommodation for a disabled person under the Fair Housing Act (FHA) if it is so at odds with the purposes behind the rule that it would be a fundamental and unreasonable change. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[20] **Civil Rights**

Discrimination by reason of handicap, disability, or illness

Whether the requested housing accommodation is necessary under the Fair Housing Act (FHA) requires a showing that the desired accommodation will affirmatively enhance a disabled plaintiff's quality of life by ameliorating the effects of the disability; in other words, the plaintiffs must show that without the required accommodation they will be denied the equal opportunity to live in a residential neighborhood. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[21] **Civil Rights**

Discrimination by reason of handicap, disability, or illness

The equal opportunity element of the Fair Housing Act (FHA) limits the duty to accommodate a disabled person so that not every rule that creates a general inconvenience or expense to the disabled needs to be modified; instead, the FHA requires only accommodations necessary to ameliorate the effect of the plaintiff's disability so that she may compete equally with the non-disabled in the housing market. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[22] **Civil Rights**

Discrimination by reason of handicap, disability, or illness

When a zoning authority refuses to reasonably accommodate small group living facilities for disabled persons, it denies disabled persons an equal opportunity to live in the community of their choice in violation of the Fair Housing Act (FHA). 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

[23] **Civil Rights**

Property and housing

Disabled residents of group home in residential neighborhood demonstrated likelihood of success on the merits of their claims against city that issuance of conditional use permit to allow them to occupy the home was reasonable accommodation under the Fair Housing Act (FHA), notwithstanding that home was located within 600 feet of another such facility occupied by disabled residents in violation of zoning ordinance, supporting issuance of preliminary injunction barring city from evicting disabled residents; conditional use permit would give disabled residents same housing opportunity as non-disabled individuals, housing for disabled persons was in short supply in the city, conditional use permit would advance the integration of disabled persons into the city, and such benefits likely outweighed potential costs and burdens to city of implementation. 42 U.S.C.A. § 3604(f)(3)(B).

Cases that cite this headnote

Gillespie, Jonathan 3/29/2018
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Appeal from the United States District Court for the Central District of Illinois. No. 3:16-cv-03331—Richard Mills, *Judge*.

Attorneys and Law Firms

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Before Flaum, Easterbrook, and Manion, Circuit Judges.

Opinion

Flaum, Circuit Judge.

***962** Plaintiffs allege the City of Springfield ("Springfield" or "the City") unlawfully discriminated against three disabled individuals when it ruled they could no longer occupy a single-family residence located within 600 feet of an existing disabled group home. Finding that plaintiffs possessed a reasonable likelihood of success on the merits, the district court granted them a preliminary injunction and enjoined the City from initiating eviction proceedings while this case is pending. The City appeals. For the reasons stated below, we affirm.

I. Background

A. Factual Background

Like most municipalities, Springfield's zoning code ("the Code") divides the city into multiple zoning districts, including residential districts. Springfield, Ill., Code of Ordinances § 155.004. The primary permitted use within residential districts is "single-family detached residences." *Id.* § 155.016. The Code defines "family" as:

> One or more persons each related to one another by blood, marriage, or adoption, or is a group of not more than five persons not all so related occupying a single dwelling unit which is not a boardinghouse or lodging house as defined in this section.

Id. § 155.001.

In addition to single-family detached residences, the Code also allows certain residential districts to be used for "family care residence[s]." *Id.* § 155.016. The Code defines a "family care residence" as:

> A single dwelling unit occupied on a relatively permanent basis in a family-like environment by a group of no more than six unrelated persons with disabilities, plus paid professional support staff provided by a sponsoring agency either living with the residents on a 24–hour basis or present whenever residents with disabilities are present at the dwelling, and complies with the zoning regulations for the district in which the site is located.

Id. § 155.001. The Code imposes additional restrictions on family care residences. In relevant part, such residences must be "located upon a zoning lot which is more than 600 feet from the property line of any other such facility." *Id.* § 155.053. According to the Code, this is to ensure that family care residences, "which operate most effectively in residential environments, do not adversely affect those environments through over concentration." *Id.*

Plaintiff Individual Advocacy Group, Inc. ("IAG") is a non-profit organization that ***963** provides residential

services to adults with disabilities, including assistance in dressing, food preparation, shopping, home maintenance, and cleaning. Such services allow disabled individuals to live in family-like settings in typical residential communities, a configuration commonly referred to as Community Integrated Living Arrangements ("CILAs"). Notably, unlike other residential service agencies, IAG does not own or operate group homes. Rather, IAG clients (or their legal guardians) rent individual dwellings on their own behalf, and then IAG provides in-home support. [1]

In 2012, IAG contacted several property owners in Springfield about providing housing for CILAs. In August 2013, Christine and Robyn Hovey agreed to rent a home located at 2328 Noble Avenue ("the Noble home") to three IAG clients. The Noble home is located in a residential district that allows both single-family detached residences and family care residences. It is a one-story ranch house that resembles other dwelling units in the neighborhood. The district court found there is nothing about the exterior of the Noble home that indicates it is inhabited by disabled individuals. Although IAG employees are present any time the home is occupied, they do not drive marked vehicles, and there are generally no more than two staff cars present at any time.

In March 2014, after the Hoveys completed significant renovations, [2] IAG clients J.M., J.D., and former plaintiff A.D. [3] moved into the Noble home. Each possessed a substantial physical or mental impairment, and two were non-ambulatory. At the time, A.D. was a sixty-two year-old male who was confined to a wheelchair and almost completely nonverbal.

Unbeknownst to the Hoveys, IAG, or its clients, Sparc —another non-profit organization supporting those with developmental disabilities—had been operating a family care residence ("the Sparc home") across the street from the Noble home for approximately twelve years. Like the Noble home, the Sparc home is indistinguishable from other homes in the area. However, according to the City, the property lines of the Noble home and the Sparc home are separated by only 157 feet.

In August 2016, the City notified the Hoveys that a complaint had been filed because the Noble home was located within 600 feet of the Sparc home, in violation of § 155.053 of the Code. The City thus informed the Hoveys that the Noble home residents would be evicted unless the Hoveys applied for a Conditional Permitted Use ("CPU"). Under the Code, "[a]ny family care residence ... not in compliance with [§ 155.053] ... may seek a conditional permitted use under ... the zoning ordinance." *Id.* To qualify for a CPU, a family care residence must establish that: (1) "the proposed location and use will not have any adverse impact upon residents of nearby facilities when located within 600 feet of another such facility"; and (2) "[t]he proposed location will not have any detrimental affect [sic] upon existing privacy, ***964** light or environment of surrounding residences." *Id.* § 155.211.1.

On October 7, 2016, the Hoveys and IAG submitted a joint CPU application. On November 10, 2016, the Springfield–Sangamon County Regional Planning Commission ("the County Commission") recommended the CPU be denied because "[t]he evidence provided in the petition [did] not provide sufficient detail to allow staff to make a reasonable determination whether the design and method of operation of the proposed use [would] minimize the adverse effects on the character of the surrounding area."

On November 16, 2016, the Springfield Zoning and Planning Commission ("the Springfield Commission") held a public hearing. At the hearing, Dr. Charlene Bennett, IAG's executive director, testified that when the Noble home opened, IAG was not aware of the Sparc home across the street. She further testified that, except for one instance in early 2014 when a Sparc resident entered the Noble home without supervision, the residents of the Noble home have had no contact with the residents of the Sparc home.

Plaintiffs also presented testimony from Daniel Lauber, a land use planning and zoning expert. Lauber testified that because the Noble home was leased by IAG's clients, not IAG itself, the City should treat its residents as a "family" under § 155.001 and classify the home as a single-family detached residence rather than a family care residence. Lauber further testified that, even if the home was deemed

Gillespie, Jonathan 3/29/2018
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a family care residence, a CPU was warranted because the home was consistent with the City's comprehensive plans and did not adversely affect the surrounding community.

In response, certain residents of the 2300 block of Noble Avenue asked that the CPU be denied because caregivers "rac[ed] up and down their block to get to work on time," "listen[ed] to ... loud music in their vehicles," "park[ed] on the wrong side of the street," and blocked driveways and sidewalks.

At the conclusion of the hearing, the Springfield Commission voted 4–3 to recommend denial of the CPU. The Springfield City Council considered the recommendations of the County Commission and the Springfield Commission on December 20, 2016. Once again, IAG requested the City either deem the Noble home a single-family detached residence or grant a CPU. Following a public comment period, the City Council voted 8–2 to affirm the Springfield Commission's recommendation and deny the CPU.

B. Procedural Background

On December 22, 2016, plaintiffs filed a complaint in the United States District Court for the Central District of Illinois. Plaintiffs alleged the City discriminated against the Noble home residents on the basis of their disabilities, in violation of the Fair Housing Act ("FHA"), 42 U.S.C. §§ 3601–31, Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101–213, and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a). In addition to monetary damages, plaintiffs sought an order directing the City to grant their requested CPU and permanently refrain from treating the Noble home as a non-conforming use under the Code.

Plaintiffs' raised multiple theories of liability. First, they claimed the Code facially discriminates against disabled individuals because it imposes a 600–foot spacing requirement on unrelated disabled persons living in family care residences, but not on unrelated non-disabled persons living in single-family dwellings.[4] Second, they argued *965 that even if the 600–foot spacing requirement is facially neutral, it has a disparate impact on persons with disabilities. Third, they claimed that by refusing to grant the Noble home a CPU, the City failed to make a reasonable accommodation.

On January 11, 2017, plaintiffs moved for a preliminary injunction to enjoin the City from instituting eviction proceedings against the Noble home residents during the pendency of the case. They limited the bases of their motion to their theories of disparate treatment and reasonable accommodation.[5]

In response, the City challenged plaintiffs' motion on only one issue: whether plaintiffs demonstrated a reasonable likelihood of success on the merits. On August 3, 2017, the district court granted plaintiffs' motion, finding that plaintiffs possessed a reasonable likelihood of success under both theories of liability.[6] This appeal followed.[7]

II. Discussion

A. The Preliminary Injunction Standard

[1] [2] "An equitable, interlocutory form of relief, 'a preliminary injunction is an exercise of a very far-reaching power, never to be indulged in except in a case clearly demanding it.' " *Girl Scouts of Manitou Council, Inc. v. Girl Scouts of United States of Am., Inc.*, 549 F.3d 1079, 1085 (7th Cir. 2008) (quoting *Roland Mach. Co. v. Dresser Indus., Inc.*, 749 F.2d 380, 389 (7th Cir. 1984)); *see also Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1044 (7th Cir. 2017) ("A preliminary injunction is an extraordinary remedy."). "It is never awarded as a matter of right." *Whitaker*, 858 F.3d at 1044. "To determine whether a situation warrants such a remedy, a district court engages in an analysis that proceeds in two distinct phases: a threshold phase and a balancing phase." *Girl Scouts*, 549 F.3d at 1085–86.

[3] "To survive the threshold phase, a party seeking a preliminary injunction must satisfy three requirements." *Id.* at 1086. It must show that: (1) "absent a preliminary injunction, it will suffer irreparable harm in the interim period prior to final resolution of its claims"; (2) "traditional legal remedies would be inadequate"; and (3) "its claim has some likelihood of succeeding on the merits." *Id.*

*966 [4] If the moving party satisfies each of these requirements, the court "proceeds to the balancing phase of the analysis." *Id.* In the balancing phase, "the court weighs the irreparable harm that the moving party would endure without the protection of the preliminary injunction against any irreparable harm the nonmoving party would suffer if the court were to grant the requested relief." *Id.* "In so doing, the court employs a sliding scale approach: '[t]he more likely the plaintiff is to win, the less heavily need the balance of harms weigh in his favor; the less likely he is to win, the more need it weigh in his favor.' " *Id.* (alteration in original) (quoting *Roland Mach.*, 749 F.2d at 387). "Where appropriate, this balancing process should also encompass any effects that granting or denying the preliminary injunction would have on nonparties (something courts have termed the 'public interest')." *Id.* (quoting *Ty, Inc. v. Jones Grp., Inc.*, 237 F.3d 891, 895 (7th Cir. 2001)).

[5] [6] [7] As stated above, the City contests only a single aspect of the preliminary injunction inquiry: whether plaintiffs are likely to succeed on the merits. "A party moving for preliminary injunctive relief need not demonstrate a likelihood of absolute success on the merits. Instead, he must only show that his chances to succeed on his claims are 'better than negligible.' " *Whitaker*, 858 F.3d at 1046 (quoting *Cooper v. Salazar*, 196 F.3d 809, 813 (7th Cir. 1999)). Although "[t]his is a low threshold," *id.*, it "does not mean ... that applicants for interim injunctive relief with relatively weak cases will always obtain injunctions." *Sofinet v. INS*, 188 F.3d 703, 707 (7th Cir. 1999). "If it is plain that the party seeking the preliminary injunction has no case on the merits, the injunction should be refused regardless of the balance of harms." *Green River Bottling Co. v. Green River Corp.*, 997 F.2d 359, 361 (7th Cir. 1993).

[8] [9] In reviewing the grant or denial of a preliminary injunction, this court "examines legal conclusions de novo, findings of fact for clear error, and the balancing of harms for abuse of discretion." *Coronado v. Valleyview Pub. Sch. Dist. 365–U*, 537 F.3d 791, 795 (7th Cir. 2008); *see also Whitaker*, 858 F.3d at 1044. In other words, "[a] district court abuses its discretion when, in conducting its preliminary injunction analysis, it commits a clear error of fact or an error of law." *Girl Scouts*, 549 F.3d at 1086. "Absent such errors, we accord a district court's decisions during the balancing phase of the analysis great deference." *Id.*; *see also Turnell v. CentiMark Corp.*, 796 F.3d 656, 662 (7th Cir. 2015) ("[W]e give substantial deference to the court's weighing of evidence and balancing of the various equitable factors.").

B. The Statutes at Issue

The FHA, passed in 1968, "was enacted 'to provide, within constitutional limitations, for fair housing throughout the United States.' " *Oconomowoc Residential Programs v. City of Milwaukee*, 300 F.3d 775, 782 (7th Cir. 2002) (quoting 42 U.S.C. § 3601). Although the original Act only prohibited discrimination on the basis of race, color, religion, or national origin, the Fair Housing Amendment Act of 1988 ("FHAA") extended FHA protections to persons with disabilities. *See* Pub. L. No. 100-430, 102 Stat. 1619. The FHA makes it unlawful "[t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap." 42 U.S.C. § 3604(f)(1).

Similarly, Title II of the ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied *967 the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." *Id.* § 12132.

Finally, under the Rehabilitation Act, "[n]o otherwise qualified individual with a disability ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a).

[10] [11] Importantly, all three statutes apply to municipal zoning decisions. *See Wis. Cmty. Servs., Inc. v. City of Milwaukee*, 465 F.3d 737, 752 n.12 (7th Cir. 2006) (en banc); *Oconomowoc*, 300 F.3d at 782. A plaintiff may prove a violation of the FHA, ADA, or Rehabilitation Act by showing: (1) disparate treatment; (2) disparate impact; or (3) a refusal to make a reasonable accommodation. *Reg'l Econ. Cmty. Action Program, Inc. v. City of Middletown*, 294 F.3d 35, 48 (2d Cir. 2002). For each respective theory, the same analysis generally applies under all three statutes. *See id.* at 48–53.

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C. Reasonable Accommodation

[12] [13] [14] The district court found that plaintiffs possessed a reasonable likelihood of success under theories of both intentional discrimination and reasonable accommodation. We need not address both issues here. "[W]e may affirm on any basis that appears in the record," *see Kidwell v. Eisenhauer*, 679 F.3d 957, 965 n.1 (7th Cir. 2012), and plaintiffs' reasonable accommodation claim offers a sufficient avenue for affirming the district court's ruling. [8]

[15] The FHAA requires public entities "to reasonably accommodate a disabled person by making changes in rules, policies, practices or services as is necessary to provide that person with access to housing that is equal to that of those who are not disabled." *Good Shepherd Manor Found., Inc. v. City of Momence*, 323 F.3d 557, 561 (7th Cir. 2003); *see also* 42 U.S.C. § 3604(f)(3)(B). "Although the plain language of the FHAA provides little guidance concerning the reach of its accommodation requirement, the contours of the obligation have been given substantial elaboration by this court and other courts of appeals." *Wis. Cmty. Servs.*, 465 F.3d at 749. "The basic elements of an FHAA accommodation claim are well-settled." *Id.* "The FHAA requires accommodation if such accommodation (1) is reasonable, and (2) necessary, (3) to afford a handicapped person the equal opportunity to use and enjoy a dwelling." *Oconomowoc*, 300 F.3d at 783. [9]

*968 [16] [17] "Whether a requested accommodation is reasonable or not is a highly fact-specific inquiry and requires balancing the needs of the parties." *Id.* at 784. "An accommodation is reasonable if it is both efficacious and proportional to the costs to implement it." *Id.* On the other hand, "[a]n accommodation is unreasonable if it imposes undue financial or administrative burdens or requires a fundamental alteration in the nature of the program." *Id.*

[18] [19] Some costs related to reasonableness "may be objective and easily ascertainable." *Wis. Cmty. Servs.*, 465 F.3d at 752. For example, "some governmental costs associated with the specific program at issue may be a matter of simply looking at a balance sheet." *Id.* Other costs "may be more subjective and require that the court demonstrate a good deal of wisdom in appreciating the intangible but very real human costs associated with the disability in question." *Id.* This refers to "those intangible values of community life that are very important if that community is to thrive and is to address the needs of its citizenry." *Id.* Of particular relevance here, "[a] zoning waiver is unreasonable if it is so 'at odds with the purposes behind the rule that it would be a fundamental and unreasonable change.' " *Oconomowoc*, 300 F.3d at 784 (quoting *Dadian v. Vill. of Wilmette*, 269 F.3d 831, 838–39 (7th Cir. 2001)).

[20] "Whether the requested accommodation is necessary requires a 'showing that the desired accommodation will affirmatively enhance a disabled plaintiff's quality of life by ameliorating the effects of the disability.' " *Dadian*, 269 F.3d at 838 (quoting *Bronk v. Ineichen*, 54 F.3d 425, 429 (7th Cir. 1995)). "In other words, the plaintiffs must show that without the required accommodation they will be denied the equal opportunity to live in a residential neighborhood." *Oconomowoc*, 300 F.3d at 784. "This has been described by courts essentially as a causation inquiry." *Wis. Cmty. Servs.*, 465 F.3d at 749.

[21] Finally, "[t]he 'equal opportunity' element limits the accommodation duty so that not every rule that creates a general inconvenience or expense to the disabled needs to be modified." *Id.*

> Instead, the statute requires only accommodations necessary to ameliorate the effect of the plaintiff's disability so that she may compete equally with the non-disabled in the housing market. We have enforced this limitation by asking whether the rule in question, if left unmodified, hurts "handicapped people *by reason of their handicap,* rather than ... by virtue of what they have in common with other people, such as a limited amount of money to spend on housing."

Id. (alterations in original) (quoting *Hemisphere Bldg. Co., Inc. v. Vill. of Richton Park*, 171 F.3d 437, 440 (7th Cir. 1999)). In the context of a zoning waiver, " 'equal opportunity' means the opportunity to choose to live in a residential neighborhood." *Oconomowoc*, 300 F.3d at 784.

"The burden is on the plaintiffs to show that the accommodation it seeks is reasonable on its face." *Id.* at 783. "Once the plaintiffs have made this prima facie showing, the defendant must come forward to demonstrate unreasonableness or undue hardship in the particular circumstances." *Id.*

> This burden-shifting analysis applies to the "necessary" and "equal opportunity" elements of the requirement as well, as "a plaintiff is in the best position to show what is necessary to afford its clients (i.e., the handicapped population that it wishes to serve) an equal opportunity to ***969** use and enjoy housing, [while] a defendant municipality is in the best position to provide evidence concerning what is reasonable or unreasonable within the context of the zoning scheme."

Id. at 783 n.5 (alteration in original) (quoting *Lapid–Laurel, L.L.C. v. Zoning Bd. of Adjustment*, 284 F.3d 442, 458 (3d Cir. 2002)).

[22] Here, the CPU sought by plaintiffs would afford the Noble Home residents an equal opportunity to establish a residential home. *See Oconomowoc*, 300 F.3d at 784. "Often, a community-based residential facility provides the only means by which disabled persons can live in a residential neighborhood, either because they need more supportive services, for financial reasons, or both." *Id.* Thus, "[w]hen a zoning authority refuses to reasonably accommodate these small group living facilities, it denies disabled persons an equal opportunity to live in the community of their choice." *Id.*

[23] The City counters that plaintiffs are not seeking an *equal* opportunity to enjoy a dwelling. Interpreting the definition of "family" found in § 155.001 of the Code, the City claims "there is no provision under [the City's] zoning code for three unrelated *non*-disabled adults to live in a single family home." [10] By extension, according to the City, plaintiffs "are seeking an opportunity which would not be afforded to similarly situated non-disabled persons under any circumstances." We agree with the district court that this theory is dubious. The present record does not provide any evidence that the City "has ever taken any measure to enforce [a] prohibition against three unrelated non-disabled adults residing in a single family home." Practically speaking, therefore, plaintiffs seek the same opportunity as unrelated non-disabled individuals.

On the questions of reasonableness and necessity, our decision in *Oconomowoc* is instructive. There, Milwaukee denied an occupancy permit for a disabled adult residential facility because two other group homes were operating within 2,500 feet of the proposed home (one of which was located within 358 feet). *Id.* at 778–79.

The facility appealed to Milwaukee's Board of Zoning Appeals, arguing that a variance was necessary as a reasonable accommodation under the FHAA. *Id.* The facility presented evidence of the scarcity of disabled housing, as well as detailed information about the needs of two individual plaintiffs suffering from traumatic brain injuries. *Id.* At the same time, prospective neighbors of the group home expressed concerns that the disabled residents "might become violent" and "threaten the safety of residents of the community." *Id.* at 779–80. Other neighbors "raised concerns about the amount of traffic," "parking restrictions that could constitute a hazard for the group homes residents," and the "lack of sidewalks." *Id.* at 780.

The Board of Zoning Appeals denied the request for a variance, stating that the proposed home would constitute a "flagrant violation of the state's distance requirement." *Id.* The Board also cited the neighbors' safety concerns, and concluded that the proposed facility could impose ***970** "undue costs, expenses, and other burdens on the City." *Id.*

After the facility sued for violations of the FHAA, the district court granted partial summary judgment in its favor, finding that Milwaukee failed to provide a reasonable accommodation. *Id.* at 781. We affirmed. In our opinion, we first stated that Milwaukee's zoning code and variance procedure were "not in and of [themselves] an accommodation." *Id.* at 785. We further held that the facility "sufficiently established that the [variance] was reasonable and necessary to provide [the disabled residents] with an equal opportunity to enjoy housing in a residential community in Milwaukee." *Id.* at 787. Specifically, we stressed that the individual plaintiffs "require[d] a living arrangement where supportive services [were] available twenty-four hours a day" and was

"wheelchair accessible," and noted that neither plaintiff could afford to purchase their own home. *Id.*

In contrast, we held that Milwaukee failed to prove "either that the accommodation was unreasonable or that it created an undue hardship." *Id.* We stated that the prospective neighbors' public safety concerns could not "be based on blanket stereotypes about disabled persons rather than particularized concerns about individual residents." *Id.* at 786. Moreover, "[Milwaukee's] own engineer testified that the proposed group home would not have a significant adverse impact on traffic and therefore [would] not, in this fashion, impose any financial or administrative burdens on the City." *Id.* Similarly, Milwaukee did not demonstrate that the group home at issue was "any more likely to generate calls to the police than other area residents." *Id.*

This case is akin to *Oconomowoc.* As the district court found, the Noble home is necessary to fulfill "IAG's mission to provide residential services to disabled adults in a community-based setting." This necessity is further highlighted by the district court's finding that "group homes are in short supply." In fact, "[i]t took several months for IAG to find a home that would accommodate the needs of its clients."

In addition, at this stage in the proceedings, the record shows that IAG's CPU request is reasonable. It would plainly effectuate plaintiffs' goal of establishing a CILA for Noble home residents, and would further advance the integration of disabled individuals into the Springfield community. Moreover, these benefits likely outweigh the potential costs of implementation. The financial and administrative burden on the City is negligible. According to the evidence before the Court, neither police nor emergency services have been called to the Noble home in the three years since it opened. To the contrary, at the City Council hearing on plaintiffs' CPU request, an alderman acknowledged that there have been "no issues" with the home. Further, the district court found that, because IAG made no requests for City services (such as street signs or traffic signals), "[i]t would cost the City no money to allow A.D. and the other residents to remain in the Noble home."

Nor is there sufficient evidence of intangible costs to the neighborhood. Although neighbors of the Noble home raise various traffic concerns, the City's own Traffic Engineer did not object to plaintiffs' CPU request. Moreover, while the City also argues that the requested accommodation will have a negative effect on the residents of the Sparc home, we agree with the district court's conclusion that "any potential 'adverse impact' to the residents of the Sparc house due to the close proximity of the Noble home is entirely speculative." According to the record, there has been virtually no interaction between the residents ***971** of the two homes since the Noble home was occupied. As a result, "[t]here is simply no basis to conclude that the continued existence of the Noble home will have any effect on the ability of the Sparc residents to integrate into the community."

Regardless, it is not clear that greater interface between the residents of the Noble and Sparc homes would be problematic. Sure, a report cited by the City from the Illinois Planning Council on Developmental Disabilities recognizes "that it is important for group homes to locate in a 'normal' residential neighborhood" in order to encourage integration between disabled and non-disabled residents. But there is no evidence that this would not occur if both the Noble and Sparc homes remain in place. Indeed, the report only states that "clusters of *four or five* group homes on a single block could ... undermine the ability of neighboring group homes to function properly" (emphasis added). This is a far cry from the two homes at issue here.

In sum, plaintiffs have shown a "better than negligible" likelihood of success on the merits of their reasonable accommodation theory. *See Whitaker*, 858 F.3d at 1046. Therefore, the district court's grant of a preliminary injunction was proper.

III. Conclusion

For the foregoing reasons, we AFFIRM the judgment of the district court.

All Citations

883 F.3d 959

Footnotes

1 Although IAG clients (or their legal guardians) are technically the lessees of a particular residence, IAG enters into written agreements with landlords to pay any security deposit and, if necessary, supply a new **disabled** tenant in the event a lessee departs the home.

2 These renovations included, *inter alia*, widening doorways, enlarging two bathrooms, and lowering kitchen counters to make the home wheelchair accessible.

3 A.D. died on September 12, 2017. Plaintiff Mary B. Valencia, who is A.D.'s sister and legal guardian, originally filed this suit on A.D.'s behalf. On October 31, 2017, the district court terminated A.D. as a party and substituted Valencia.

4 Plaintiffs' theory relied upon the interaction of the terms "family" and "family care residence" in the Code. Interpreting these two ordinance provisions, plaintiffs contended that five or fewer unrelated, *non*-**disabled** individuals can constitute a "family" and thus live in a single-family detached residence (without a **600**–**foot** spacing **requirement**), but five unrelated, ***disabled*** persons must live in a family care residence.

5 Plaintiffs did this because, in their view, the City's zoning code is not facially neutral. *See Larkin v. Mich. Dep't of Soc. Servs.*, 89 F.3d 285, 290 (6th Cir. 1996) (noting that cases involving facially discriminatory statutes present cases of disparate treatment, not disparate impact).

6 The court further found that the Noble home residents would incur irreparable harm because "it would be very difficult" for them "to find a suitable residence" before eviction proceedings were complete. Additionally, "any post-trial relief would come too late to avoid the injuries that would result if preliminary injunctive relief [was] not granted." Finally, the court concluded that a preliminary injunction "would serve the public interest."

7 The City claims it does not appeal "because it desires to immediately remove the Plaintiffs from the Noble home." Rather, it believes the district court's interpretation of the Code "effectively renders moot any factual determination that might be made" after a trial on the merits. According to the City, if the district court's interpretation stands, "it is unlikely that any set of facts would save the ordinance from violating the FHA."

8 Although the City appealed in hopes of resolving the proper interpretation of its Code, we believe such a ruling would be best made with the assistance of a full record. The City's fear that the district court's preliminary interpretation "renders moot any factual determination that might be made" at trial is overstated. "[T]he granting of a preliminary injunction is not a decision on the merits of the plaintiff's suit." *Ayres v. City of Chicago*, 125 F.3d 1010, 1013 (7th Cir. 1997). Rather, "[i]t is merely a decision that the suit has enough merit—which need not be great merit—to justify an order that will freeze the situation, in the plaintiff's favor, for such time as it may take to determine whether the suit is, or is not, meritorious." *Id.* "The propriety of preliminary relief and resolution of the merits are ... 'significantly different' issues," *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 721 n.10, 127 S.Ct. 2738, 168 L.Ed.2d 508 (2007) (quoting *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 393, 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981)), and therefore "findings made at the preliminary injunction stage do not bind the district court as the case progresses." *Michigan v. U.S. Army Corps of Eng'rs*, 667 F.3d 765, 782 (7th Cir. 2011).

9 As stated above, the **requirements** for reasonable accommodation under the FHAA are the same as those under the ADA and Rehabilitation Act. *See Oconomowoc*, 300 F.3d at 783; *Gile v. United Airlines, Inc.*, 95 F.3d 492, 497 (7th Cir. 1996).

10 According to the City, the phrase "a group of not more than five persons not all so related" in the Code's definition of "family" only means that "a group of some related and some unrelated persons not exceeding five" may occupy a single dwelling unit. That is, the definition means "that not *all* [persons] need be related, but *some* of them are." Thus, under the City's interpretation, "[f]ive unrelated persons cannot be considered a family under the ordinance" and therefore "could not legally occupy a single family home."

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Scottsdale takes largely 'hands-off' approach on residential treatment houses/sober living homes

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By Heather Moore CONNECT

(3TV/CBS 5) - With the opioid crisis reaching epidemic proportions, neighborhoods all across Arizona are feeling the effects

The explosion of both treatment homes and sober living homes embedded in single family streets has grabbed concern of nearby residents and the attention of city leaders.

In Scottsdale, a woman picking up her granddaughter was shocked to find out the school bus drops off kids right in front of two large homes where people are dealing with addiction.

"This is scary to me. Sexual addictions and drug addictions and all types of people coming in," said the grandmother.

The homes on Turquoise Avenue and 128th Street are run by Promises, a treatment center who runs another home just down the block.

"Obviously, parents in the area weren't leaving their kids to be out," said Marilyn Reinfeld, who lives nearby.

Up until recently, there was another treatment center less than 400 feet away, and neighbors were alarmed.

"In the house over here, it was a heroin, opiate detox," describes Reinfeld. "We were very upset because now we knew the laws. We knew that another drug rehab was not supposed to be within 700-1000 feet."

[RELATED: Do you have these drugs in your medicine cabinet?]

The homes sit on 1-acre lots, where a lot full of cars are parked in the back.

White vans come and go and large commercial trucks partially block the narrow streets to deliver food.

There's an uneasy feeling with the neighbors.

"On any given day I could find people ringing my doorbell looking for 'The Rehab,'" explains Reinfeld.

The close proximity of care homes can be found in other parts of the city as well

"In a two-block area, I think we have eight of them. It's too much," explains another woman who was afraid to be identified.

[SPECIAL SECTION: Opioid crisis in Arizona]

"I've been here 29 years now and what's happened to the neighborhood basically is we've got a lot of group homes coming in," she added.

In her experience, some of those homes are not without problems.

[SLIDESHOW: Two Arizona counties have high opioid prescription rates]

"The one time we were robbed, we went over to the rehab center, saying we know who did it and they said, 'Oh, those were the people and [inaudible]. They had parties out there. They would scream at each other, yelling obscenities. I couldn't sit in the backyard. There's absolutely no recourse," said the long-time resident.

She points out the transient nature of 30- to 90-day treatment plans raises another concern.

"I'll never know who those neighbors are because they constantly change," she explains.

Scottsdale reacts to sober living home concerns

In December, the City of Scottsdale changed up the rules.

"We had a very large turnout at the open houses," said Greg Bloemberg, a senior planner with the City.

It was in response to residents weary of group homes in their neighborhoods, hoping for more restrictions.

"I would say this is one of the most [sic] toughest, contentious issues I've had to deal with," said Bloemberg, who says the outcome was not what residents were hoping for.

"I think a lot of people maybe begrudgingly understand that there's just not much we can do," explained Bloemberg.

The City of Scottsdale lumps all group care homes together. The majority are assisted-living homes and others are used for drug and alcohol treatment.

[INFOGRAPHIC: Numbers paint grim story in Arizona's opioid crisis]

As part of the new rules, these care homes must all be at least 1,200 feet apart, whereas before they could be as close as 500 to 750 feet apart.

Instead of the previous maximum of 10 people in a care home, the new ordinance now allows 12. That includes 10 residents plus two care workers who can all reside in a single family home.

All care homes are licensed by the state's health department.

The treatment centers can be found under "behavioral health facilities," where you can research inspections, complaints and actions taken.

Arizona lists 2,728 licensed care homes of which 406 are used to treat addiction.

In Scottsdale's 212 licensed care homes, about one in 10 are treatment facilities where the cost is often staggering.

"Treatment will go where the money is," explains Carey Davidson, an interventionist.

Questions raised over sober living homes

One major frustration with these big-money businesses embedded in neighborhoods is that nearby homeowners and families aren't told what's going on. The City of Scottsdale says it's not allowed.

[INFOGRAPHICS: Opioid deaths in AZ by age, race, type of opioids]

"These homes have a lot of protections," explains Bloemberg.

Bloemberg says the federal Fair Housing Act recognizes addiction as a disability so the City says they cannot discriminate and treat these homes any differently from any other single-family homes.

He said residents were most concerned about the influx of what are called, "sober living homes."

Unlike the residential treatment homes, there is no care and no supervision.

They can be found anywhere in Scottsdale and there's no easy way to tell how many of them there are.

According to interventionist Carey Davidson, a sober living home is where an addict goes to live after treatment to work their sobriety.

"Definitely on the rise," Davidson says about the homes springing up to meet the demand of those who need help. "Oftentimes they're searching the internet, they're looking for places that can give them hope, can promise them help and healing, and it's not always the case."

He says some are well run and cause no issues in a neighborhood, but many are not.

"I know that there's active using going on in some of these homes. Less rules, more problems," explains Davidson.

Whereas behavioral health facilities are licensed, the so-called, "sober homes" are not.

"They can open a home with no regulations. There's nobody holding them accountable," explains Davidson.

That means there are no separation requirements and no standard of care. Many who open sober homes are former addicts.

"The cause becomes the business. But when the money starts flowing, that business becomes a racket," said Davidson.

"There's [sic] laws where people can just set up, rent a house oftentimes bring people in. Say the house is $1,000 a month. They bring six people in, charge them $500 a month. They're making money and that's oftentimes the driving reason that they're doing the sober house under the guise of, 'Hey, we're gonna help people '" Davidson explains.

Residents who showed up to the hearings last year turned out mostly for the City to regulate sober living homes. After all, a state law passed in 2016 allows cities to do that. But Scottsdale officials say at the risk of expensive discrimination lawsuits, that is not going to happen

"We have to provide a single-family setting for sober living homes per federal law," explained Bloemberg

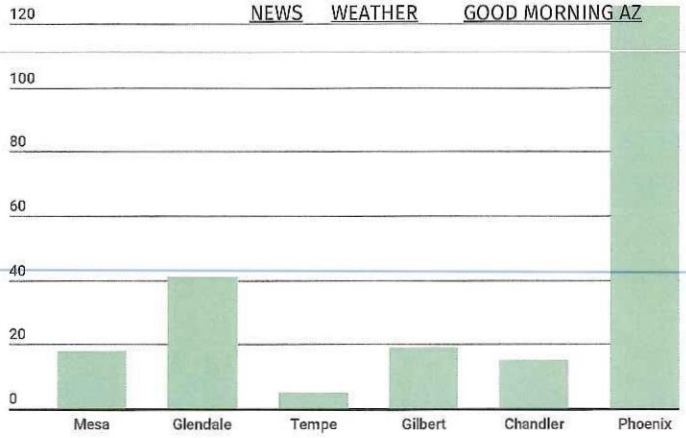
So in Scottsdale's new ordinance, capacity was the only issue addressed for the sober living homes. The maximum residents allowed is now six, down from 10 previously. No one is going door-to-door to check for compliance. That will be up to residents.

"The only recourse right now is complaint. Either a neighbor makes a complaint or calls code enforcement," said Bloemberg.

At the hearings, he said Scottsdale police reported overall sober living homes were not causing more problems in city neighborhoods, leaving City leaders to speculate perception could be a big part of the issue.

"Everyone will agree that there is a problem, and these people need help. However, not in my backyard," said Davidson.

Phoenix has the highest number of behavioral health facilities in the Valley and Prescott with 125. Tempe had the lowest with five.



Number of facilities in each city/to

Share

[INFOGRAPHIC: Number of facilities in Valley cities and Prescott]

However, Prescott has one facility for every 792 people while Tempe has one facility per 36,000 people.

State legislators on a mission

Across Arizona, cities have their own laws or are currently working toward regulations regarding both treatment homes and sober living homes.

State lawmakers are currently on a mission to establish a standard of care and get them all under the same regulations.

Two bills are in the works that address these issues and lawmakers are confident they will have new rules in place in the next few months. One of the bills is SB 1465.

Right now, it's up to the cities to regular the behavioral treatment facilities and sober living homes. The City of Phoenix said it currently working on its own ordinance to regulate these types of homes.

Tempe and Glendale don't allow "sober living homes" in single-family homes. Tempe said they are allowed in agricultural and multi-family zones with a permit. Glendale said the homes are allowed in "heavy commercial zoning districts."

For those wondering if there are licensed treatment homes in their neighborhoods, the Arizona Department of Health Services has a special tool on their website.

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SENATE BILL 1465

AN ACT

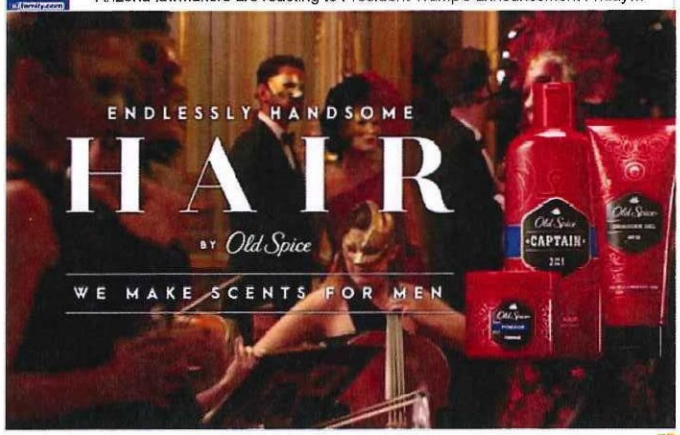
AMENDING SECTION 9-500.39, ARIZONA REVISED STATUTES; A
9-500.40, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 201
SESSION, CHAPTER 1, SECTION 1; AMENDING SECTION 11-269.17,
STATUTES; AMENDING SECTION 11-269.18, ARIZONA REVISED STAT
BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 3
36, CHAPTER 18, ARIZONA REVISED STATUTES, BY ADDING ARTICL
SOBER LIVING HOMES.

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April 17, 2018

Board of Adjustment
CITY OF SCOTTSDALE
3939 N. Drinkwater Boulevard
Scottsdale, Arizona 85251

RE: City of Scottsdale Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 - Variance and Disability Accommodation Applications for 12012 N. 68th Place

Dear Board Members:

This letter is submitted in support of the above-referenced cases to be heard and decided by the Board of Adjustment on May 2, 2018. It is my understanding that the owner of the property located at 12012 N. 68th Place (the "Property") is requesting a variance or a disability accommodation approval from the Board in order to operate a care home licensed by the State of Arizona for disabled persons recovering from alcohol and substance abuse within 1200 feet of the Royal Palms assisted living home for the elderly. I also understand that, since 2011, the owner of the Property has been using the residence as an unlicensed sober living home providing housing to disabled residents but no care services. Licensure from the state would allow the owner to continue using the Property as-is but would allow certain treatment and care services to be offered to the residents, such as the addition of counseling services.

I have been asked to provide an opinion regarding the character of the Property in relation to its surroundings as well as the impact, if any, created by the neighboring residence located directly north of the Property. As a licensed real estate broker with HomeSmart having over twenty years of experience helping Buyers and Sellers throughout the Valley, I am qualified to give this opinion.

The Property is a large, single-family residential lot improved with a traditional ranch-style home constructed in 1957 within approximately 4,610 s.f. in living space, a guest house, pool, horse stables, and a corral. The Property is well-maintained and is either consistent with or exceeds the quality of the ranch-style homes in the area.

I have driven by the residence and have reviewed historical aerial photographs of the residence from 2010 to the present before giving this opinion. The abutting residence is poorly maintained. There is a substantial amount of unsightly outdoor storage both in the backyard and visible from the front yard. From the historical aerial photos, it appears that the outdoor storage has significantly grown each year. This, combined with the unusual placement of fake Christmas trees, junky knick-knacks and neglected items strewn throughout the front yard and along 68th Place, would negatively impact the value and use of the abutting Property as a single-family residence.

Some detriments can be given a qualitative dollar amount or specific range. For instance, corner properties on certain thoroughfares can expect a sales price of 20% below properties along the same street not abutting the busy street.

However, the extent of the impact of the deteriorated condition of the neighbor would be far greater and can not be properly quantified as many Buyers would not buy a property abutting such a situation for any amount. No discount would be enough for certain Buyers that would not want their families subject to a potential fire hazard and the increased probability of rodent infestation. Nor would others want to have potential business partners and/or clients see the deteriorated state of the neighbor if they home officed.

I believe the proposed transition in the Property's use from an unlicensed, integrated sober living home to a care home licensed by the State as a behavioral health residential facility would be appropriate and necessary to fully utilize the Property given the special hardship of being located next to the undesirable conditions of the 12034 N. 68th Place property. It is also my opinion that it would be very difficult to market the Property for a single-family use given this hardship.

Thank you for your consideration in this matter.

Sherry L. Rampy

Sherry L. Rampy, Associate Broker
HomeSmart
Mobile: 602-571-5032 Email: SherryRampy@cox.net

Attachments

April 17, 2018

Board of Adjustment
CITY OF SCOTTSDALE
3939 N. Drinkwater Boulevard
Scottsdale, Arizona 85251

RE: City of Scottsdale Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 – Variance and Disability Accommodation Applications for 12012 N. 68th Place, Scottsdale, Arizona (the "Property")

Dear Board Members:

This letter is submitted in support of the above-referenced cases to be heard and decided by the Board of Adjustment on May 2, 2018. It is my understanding that the owner of the property located at 12012 N. 68th Place (the "Property") is requesting a variance or a disability accommodation approval from the Board in order to operate a care home licensed by the State of Arizona for disabled persons recovering from alcohol and substance abuse within 1200 feet of the Royal Palms assisted living home for the elderly. I have been informed that, since 2011, the owner of the Property has been using the residence as an unlicensed sober living home, providing housing to disabled residents but no care services. I have also been informed that licensure from the state would allow the owner to continue using the Property as-is but would allow certain treatment and care services to be offered to the residents, such as the addition of counseling services.

I have been asked to provide an opinion regarding the character of the Property in relation to its surroundings as well as the impact, if any, created by the neighboring residence located directly north of the Property. As a licensed real estate agent with decades of experience in the real estate profession, beginning in 1979, I believe I am qualified to give this opinion.

My background includes representing buyers, sellers and investors in residential sales in multiple states, managing and building real estate companies, leading real estate corporations as a Regional Director and then as National Director of a national real estate company and then taking the helm as Executive Vice President for an international real estate conglomerate with offices in several countries. In each of these positions I was directly involved with real estate clients, agents, broker-managers and the sale of real estate on a daily basis. After relocating to Arizona, I affiliated with Coldwell Banker Residential Brokerage in Scottsdale, AZ in January of 2007, because I wanted to personally work with buyers and sellers. I represent residential clients throughout all parts of the Valley and in particular, Scottsdale.

During my work in real estate in the past 10+ years in Arizona, I: have been appointed by the Maricopa County Superior Court to act as Special Real Estate Commissioner to list and market homes being sold under Court order; listed, marketed and sold dozens of homes under the

challenging conditions of a short sale, and served as Chairman of Short Sale Master Minds for the State of Arizona for Coldwell Banker since 2011; acted as an advisor for lenders, attorneys, and others involved in the sale of properties; listed and sold approximately 100 residential homes, including luxury and executive homes, and homes zoned for horses; have been asked to advise FannieMae to resolve problems or issues involving properties where FannieMae had backed the loans; and performed the myriad duties required of a full-time Realtor. I also completed numerous BPOs (Broker Price Opinions) for banks, attorneys and relocation companies. A BPO is completed by a licensed Realtor and uses the same data and the same/similar, detailed forms that a licensed appraiser uses for an appraisal, such as information regarding exterior factors, including, but not limited to, neighboring properties that impact the value of the subject property. Many major lenders order a BPO instead of an appraisal, to determine property value when the lender holds a loan on the property.

The subject Property is a large, single-family residential lot improved with a traditional ranch-style home which Maricopa County tax records show was constructed in 1957. Records also show the living space to be in excess of 4000 sq. feet. I have viewed the property, which includes a main residence, a guest house, pool, horse stables, and a corral. Both the interior of the home and the grounds are very well-maintained, which is consistent with or exceeds the quality of the ranch-style homes in the area.

I would note that the Property's lot size is rather unique within the western, single-family residential area of Scottsdale lying between Cactus Road and Shea Boulevard. According to the Maricopa County Assessor's records, the lot size of the Property is approximately 94,843 s.f. (or approximately 2.18 net acres). I have been informed that it was subdivided in 1952 as part of the Desert Estates Unit One subdivision ("Desert Estates") which created 24 such 2-acre lots, and that three of the 24 lots (Lots 9-11) were later combined into one large parcel, leaving a total of 21 lots within Desert Estates. I believe the Maricopa County Assessor's GIS Maps shows that Desert Estates is the only subdivision which offers 2-acre single-family lots in the square-mile area between Cactus Road on the north, Shea Boulevard on the south, 64th Street on the west and Scottsdale Road on the east; and that in the next square mile directly east, between Scottsdale Road and Hayden Road, there are only 2 existing residential lots of the same 2-acre size (located at 7315 E. Jenan Drive and 7345 E. Jenan Drive). Therefore, in this 2-square-mile residential area, there are only 23 single-family residential lots which measure approximately 2-acres or more with adequate room for the extensive open space as well as equestrian and guest house improvements offered at the Property. *See Exhibit A.*

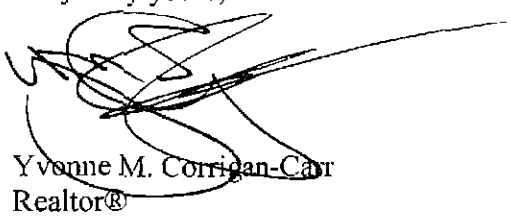
With regard to the impact created by the residence located at 12034 N. 68th Place, which is directly north of the Property: I have driven by the residence on more than one occasion to view the front of the property, and have reviewed historical aerial photographs of the residence from 2010 to the present, including the aerial view that I pulled from the Arizona Regional Multiple Listing Service (ARMLS) website on April 17, 2018, employing their map and satellite option, before giving this opinion. *See 2018 ARMLS aerial view exhibit attached.* Additionally, because most buyers considering the purchase of a specific home look over the fence into the backyards of the homes that abut the home they wish to purchase, I did the same.

There is extensive evidence that the residence located at 12034 N. 68th Place is poorly maintained, which alone would impact the decision of a buyer considering the purchase of an adjacent property. However, the amount of debris, broken furniture, garbage, broken statuary, unsightly outdoor storage, items that appear to be old Christmas trees, and broken or neglected items strewn throughout the front yard and along 68th Place, is extreme. The front yard faces 68th Place and anyone driving to or from a residence on that street will have a full view of this debris. From what I personally viewed in the back yard from the fence, and saw in the aerial view from ARMLS, there is also a substantial amount of unsightly outdoor storage in the backyard, along with what appear to be rusting out-buildings, and some rusting or abandoned vehicles or travel trailers, along with broken and discarded items covering large areas of the backyard. From the historical aerial photo dated 2010 and the aerial view from ARMLS dated 2018, it appears that the outdoor storage has significantly grown each year. *See Exhibit B.*

In my experience, the condition of the residence located at 12034 N. 68th Place would directly and negatively impact the value and use of the abutting Property as a single family residence. It is my opinion that that the condition of 12034 N. 68th Place creates a special hardship for the owners of the subject Property, that it would be very difficult to market the subject Property, and there is a significant impact on the ability of the owners to, or likelihood that the owners could, rent or sell the Property for use as a single family residence given this hardship.

I believe the proposed transition in the Property's use from an unlicensed, integrated sober living home to a care home licensed by the State as a behavioral health residential facility would be appropriate and would best utilize the Property given the special hardship of being located next to the undesirable conditions of the 12034 N. 68th Place property.

Very truly yours,



Yvonne M. Corrigan-Carr
Realtor®
CRB, CRS, CDPE, SFR, GRI, CHMS
Arizona License # SA012362000
Direct: 602-334-7623 Office: 480-951-1010
Email: yvonne.azrealtor@gmail.com
Coldwell Banker Residential Brokerage
Office License # LC627335002
7975 N. Hayden Road, Suite C-100
Scottsdale, AZ 85258

Attachments:

Exhibit A – 2017 Maricopa County Assessor's Aerial Photograph

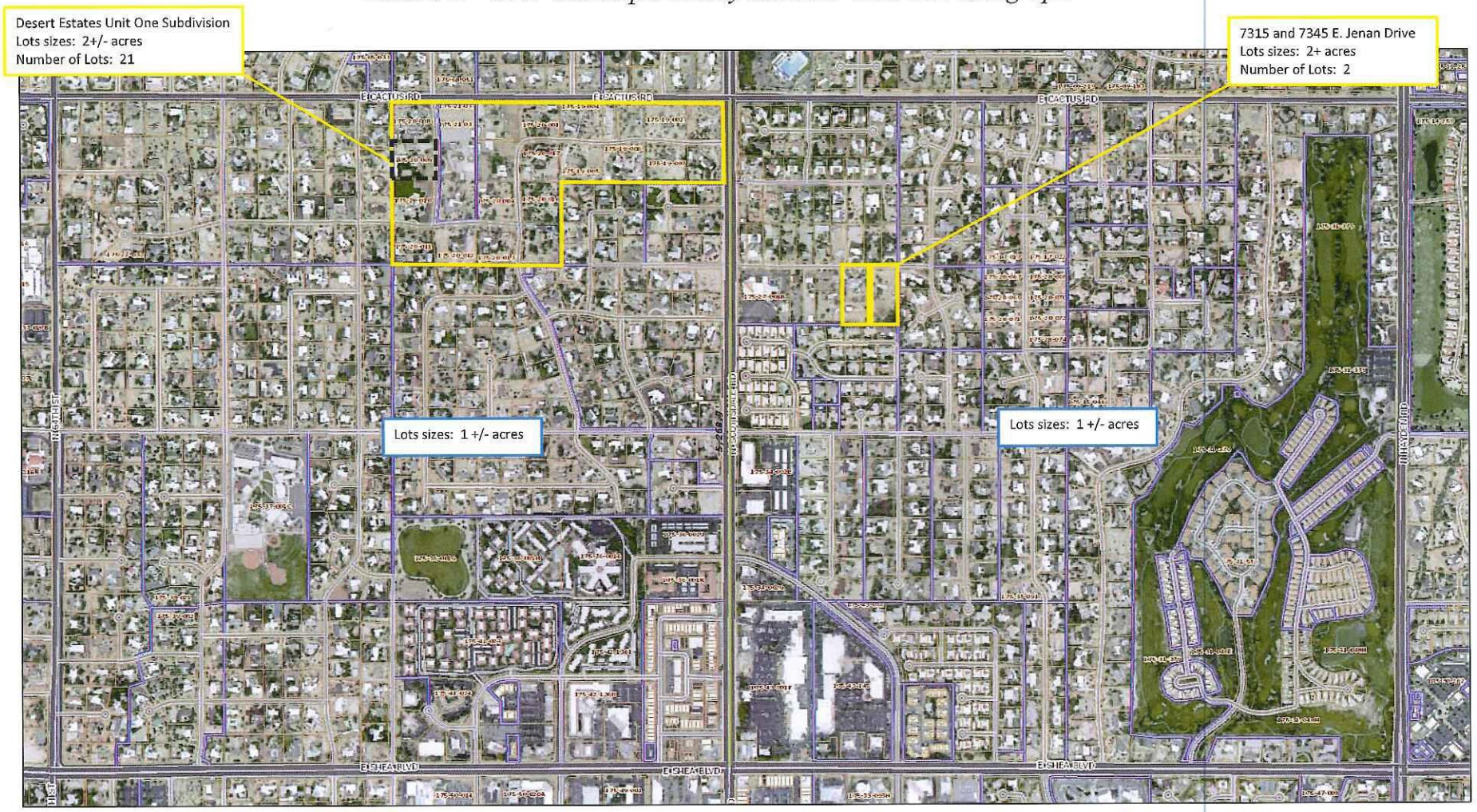
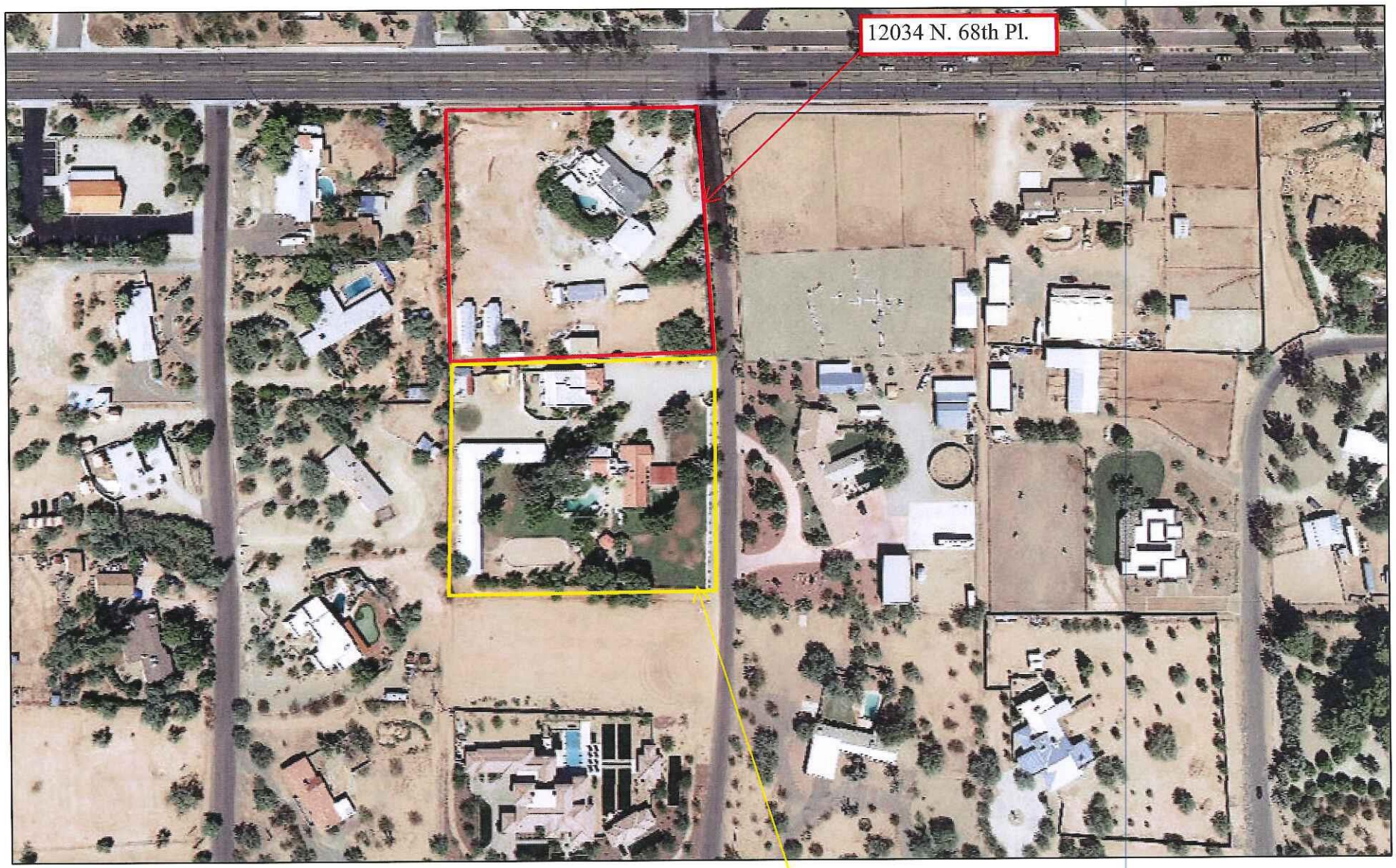


Exhibit B - 2010 City of Scottsdale Historical Aerial Photograph



April 15, 2018

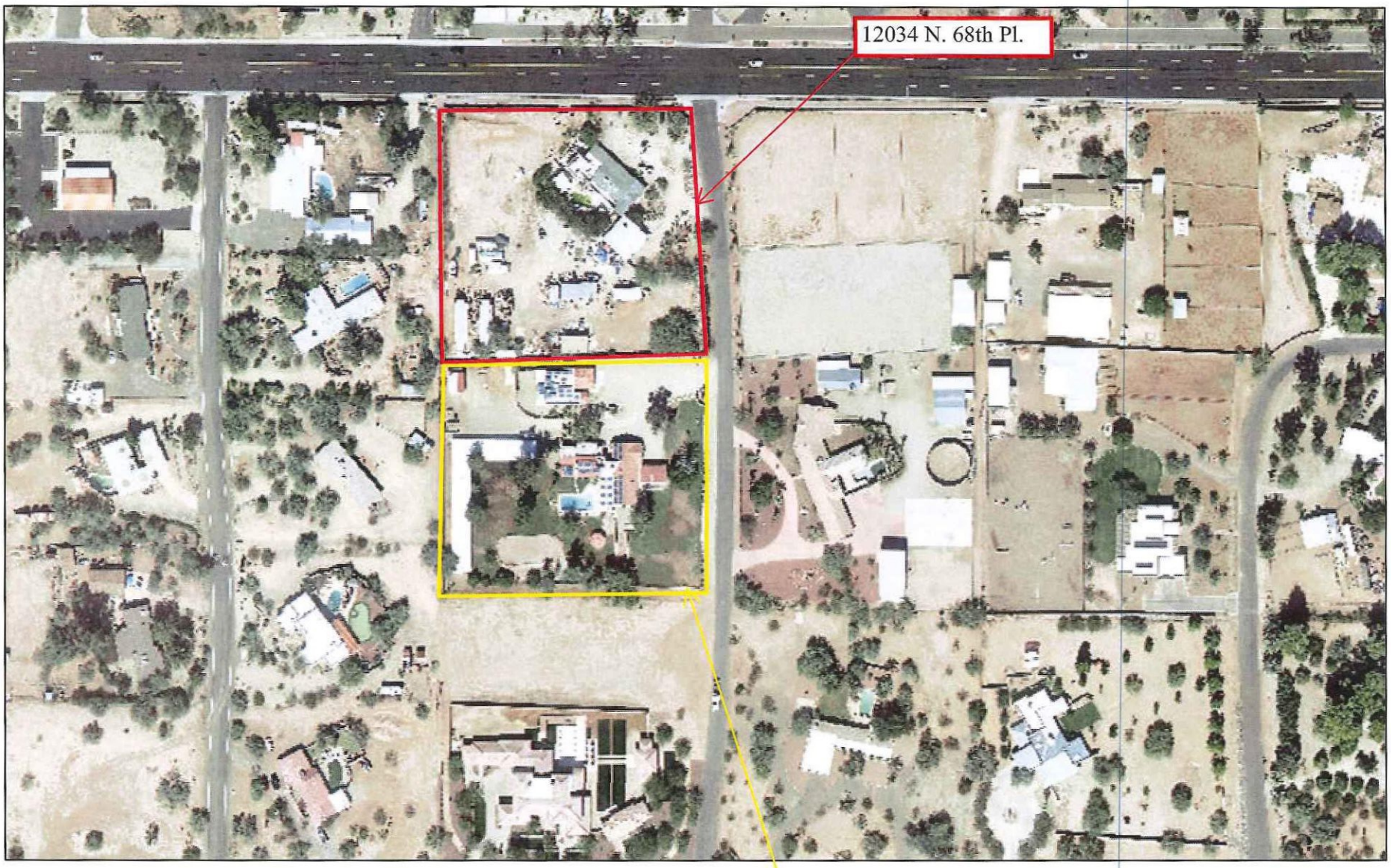
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0 0.015 0.03 0.06 mi

0 0.0275 0.055 0.11 km

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Exhibit B - 2012 City of Scotts ale Historical Aerial Photograph



April 15, 2018

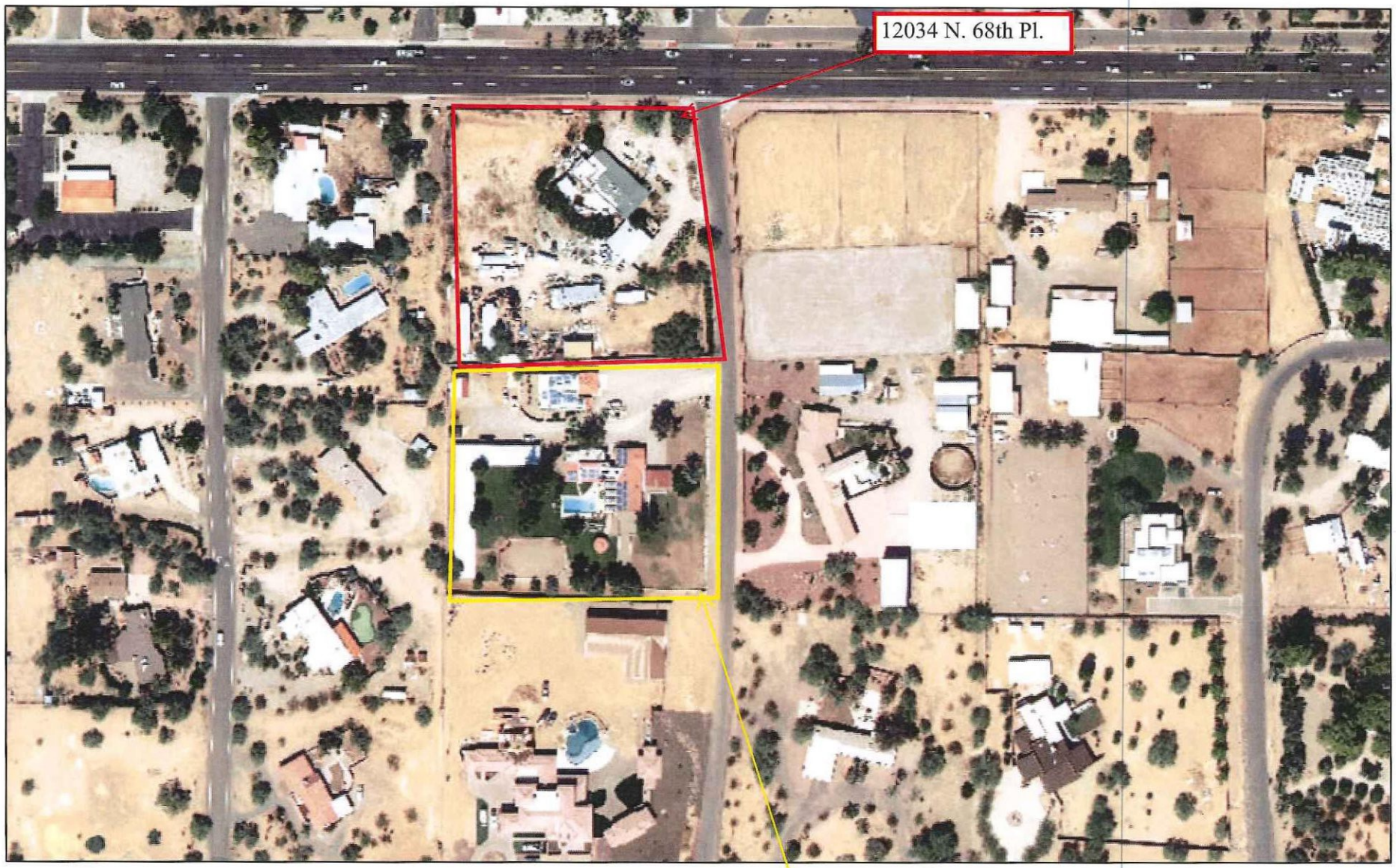
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Exhibit B - 2013 City of Scot[illegible]ale Historical Aerial Photograph



April 15, 2018

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Exhibit B - 2014 City of Scottsdale Historical Aerial Photograph



April 15, 2018

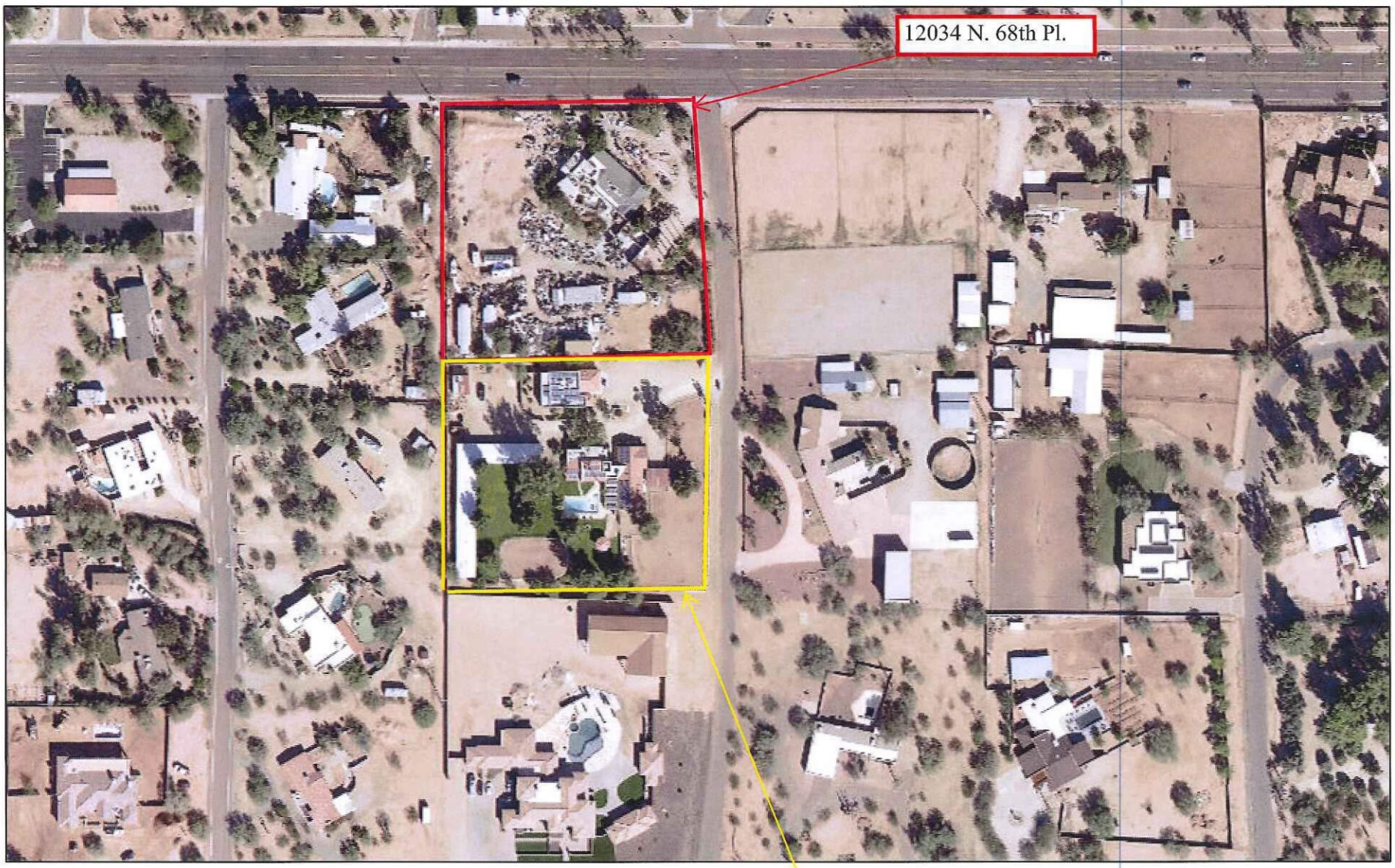
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Exhibit B - 2015 City of Scottsdale Historical Aerial Photograph



April 15, 2018

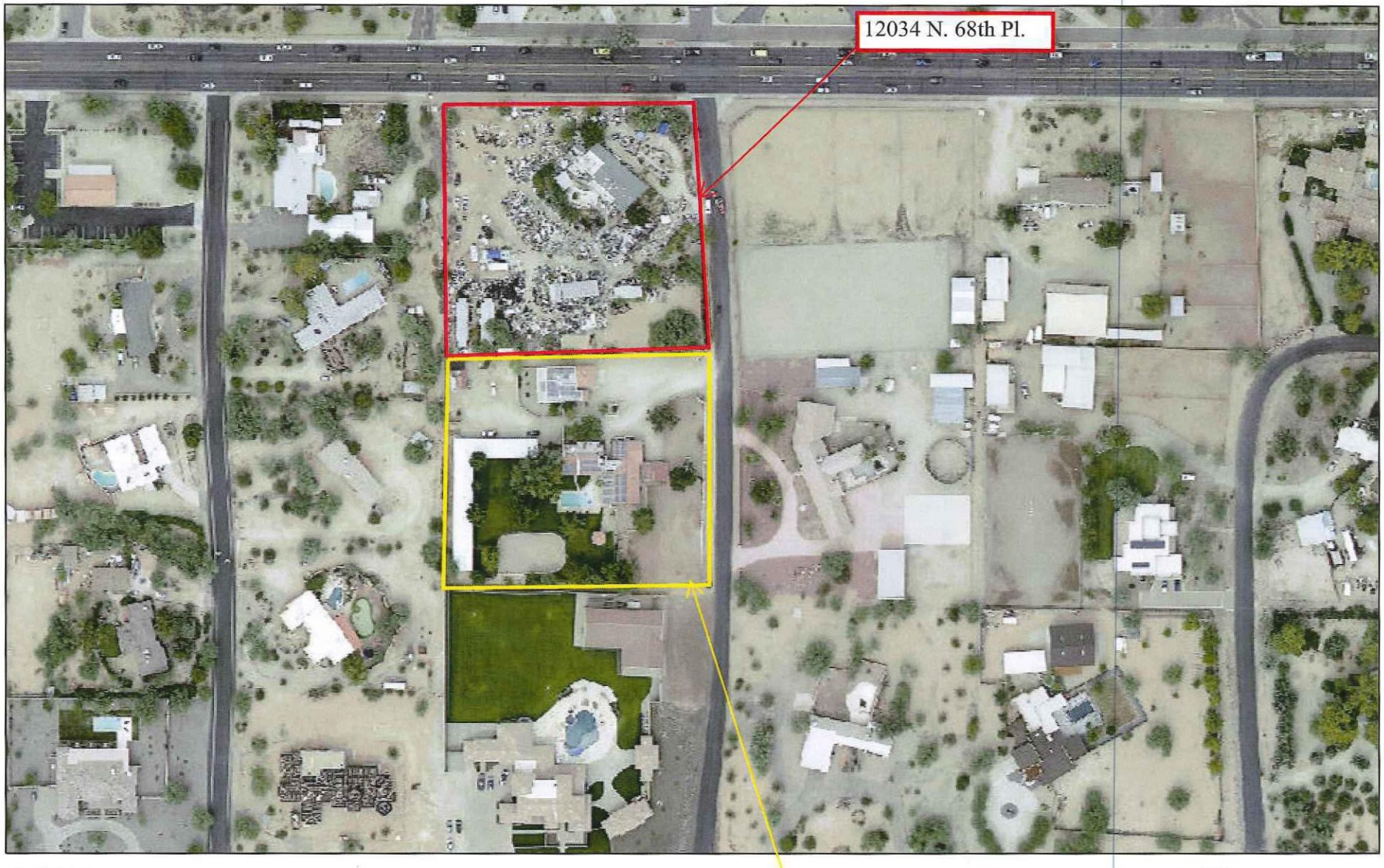
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Exhibit B - 2016 City of Scottsdale Historical Aerial Photograph



April 15, 2018

1:2,000

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Notice: This document is provided for general information purposes only. The City of Scottsdale does not warrant its accuracy, completeness, or suitability for any particular purpose. It should not be relied upon without field verification.



RE: City of Scottsdale Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 – Variance and Disability Accommodation Applications for 12012 N. 68th Place, Scottsdale, Arizona (the "Property"). AERIAL SATELLITE IMAGE from AZ Regional Multiple Listing Service

From:	Kuester, Kelli
To:	Sue Bour
Cc:	City Council; Thompson, Jim; Carr, Brad; Moriarity, Ben
Subject:	RE: Case No. 3 - BA - 2018, 4 - BA - 2018
Date:	Monday, April 9, 2018 3:03:27 PM

Dear Mrs. Bour,

Mayor Lane and the City Councilmembers have asked that I acknowledge receipt of and thank you for your email and input.

Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: Sue Bour <tsopm414@aol.com>
Sent: Monday, April 09, 2018 10:41 AM
To: Moriarity, Ben <BMoriarity@Scottsdaleaz.gov>
Cc: City Council <CityCouncil@scottsdaleaz.gov>
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 out 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

From: Greer, Timothy
To: Moriarity, Ben
Cc: Bryan Sheets (Bryan.Sheets@supremelending.com)
Subject: Case No 3-BA-2018, 4_BA-2018
Date: Tuesday, April 10, 2018 10:37:20 AM

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

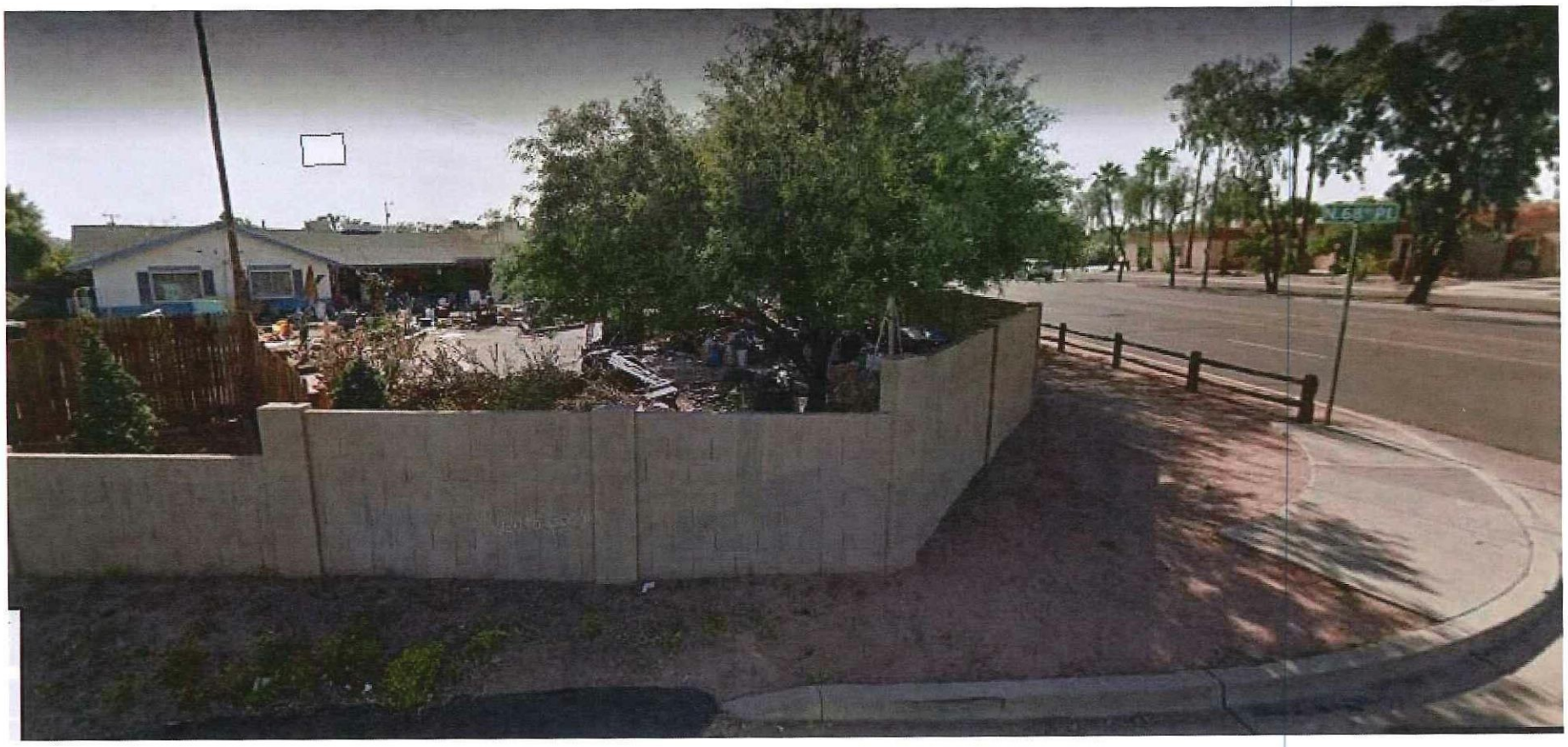


View looking west: **Subject Property** (12012 N. 68th Place)

Adjacent Property (12034 N. 68th Place) creating hardship



View looking south from Cactus Road of adjacent property (12034 N. 68th Place) creating hardship



View from NEC of adjacent property (12034 N. 68th Place) creating hardship



Zoomed in view of that portion of adjacent property (12034 N. 68th Place) along north side of Subject Property

City of Scottsdale Cash Transmittal

114669

114669
7 01116979
3/30/2018 PLN-1STOP
KHEMBY HP600G2020
3/30/2018 4:25 PM
$153.00

Received From :

Lazarus, Silvan & Bangs, P.C.
420 W ROOSEVELT ST
PHOENIX, AZ 85003

Bill To :

CL HOLDINGS 68TH PL, LLC
8321 N CANTA REDONDO
PARADISE VALLEY, AZ 85253
480-414-2596

Reference #	811-PA-2017			**Issued Date**	3/30/2018
Address	12012 N 68TH PL			**Paid Date**	3/30/2018
Subdivision	DESERT ESTATES UNIT ONE			**Payment Type**	CHECK
Marketing Name		**Lot Number**	13	**Cost Center**	
MCR	054-21	**Metes/Bounds**	No	**Jurisdiction**	SCOTTSDALE
APN	175-20-009	**Gross Lot Area**	0	**Water Zone**	
Owner Information		**NAOS Lot Area**	0	**Water Type**	
CL HOLDINGS 68TH PL, LLC		**Net Lot Area**	0	**Sewer Type**	
8321 N CANTA REDONDO		**Number of Units**	1	**Meter Size**	
PARADISE VALLEY, AZ 85253		**Density**		**QS**	30-44
480-414-2596					

Code	Description	Additional	Qty	Amount	Account Number
3140	BOARD OF ADJUSTMENT FEES		1	$153.00	100-21300-44221

4-BA-2018
3/30/2018

SIGNED BY HEATHER DUKES ON 3/30/2018

Total Amount $153.00

(When a credit card is used as payment I agree to pay the above total amount according to the Card Issuer Agreement.)

3" and larger water meter fees are based on cost recovery. The city will contact the owner of the construction permit if additional funds are due. Payment will be due within 30 days notification.

TO HAVE WATER METER SET - CALL 480-312-5650 AND REFER TO TRANSMITTAL # 114669

Development Application

CITY OF SCOTTSDALE

Development Application Type:
Please check the appropriate box of the Type(s) of Application(s) you are requesting

Zoning	Development Review	Signs
☐ Text Amendment (TA)	☐ Development Review (Major) (DR)	☐ Master Sign Program (MS)
☐ Rezoning (ZN)	☐ Development Review (Minor) (SA)	☐ Community Sign District (MS)
☐ In-fill Incentive (II)	☐ Wash Modification (WM)	Other:
☐ Conditional Use Permit (UP)	☐ Historic Property (HP)	☐ Annexation/De-annexation (AN)
Exemptions to the Zoning Ordinance	Land Divisions (PP)	☐ General Plan Amendment (GP)
☐ Hardship Exemption (HE)	☐ Subdivisions	☐ In-Lieu Parking (IP)
☐ Special Exception (SX)	☐ Condominium Conversion	☐ Abandonment (AB)
☒ Variance (BA)	☐ Perimeter Exceptions	Other Application Type Not Listed
☐ Minor Amendment (MA)	☐ Plat Correction/Revision	☐

Project Name: CL Holdings 68th Place, LLC Care Home

Property's Address: 12012 North 68th Place, Scottsdale, Arizona 85254

Property's Current Zoning District Designation:

The property owner shall designate an agent/applicant for the Development Application. This person shall be the owner's contact for the City regarding this Development Application. The agent/applicant shall be responsible for communicating all City information to the owner and the owner application team.

Owner: CL Holdings 68th Place, LLC	**Agent/Applicant:** Larry S. Lazarus, Esq. & Heather N. Dukes, Esq.
Company: Owner's Representative: Michelle Siwek, Manager	**Company:** LAZARUS, SILVYN & BANGS, P.C.
Address: 8321 N. Canta Redondo, Paradise Valley, AZ 85253	**Address:** 420 W. Roosevelt Street, Phoenix, Arizona 85003
Phone: 480-414-2596 **Fax:**	**Phone:** 602-340-0900 **Fax:**
E-mail: michelle@thesiweks.com	**E-mail:** llazarus@lsblandlaw.com; hdukes@lsblandlaw.com
Designer:	**Engineer:**
Company:	**Company:**
Address:	**Address:**
Phone: **Fax:**	**Phone:** **Fax:**
E-mail:	**E-mail:**

Please indicate in the checkbox below the requested review methodology (please see the descriptions on page 2).

- *This is not required for the following Development Application types: AN, AB, BA, II, GP, TA, PE and ZN. These applications[1] will be reviewed in a format similar to the Enhanced Application Review methodology.*

☐ **Enhanced Application Review:** I hereby authorize the City of Scottsdale to review this application utilizing the Enhanced Application Review methodology.

☐ **Standard Application Review:** I hereby authorize the City of Scottsdale to review this application utilizing the Standard Application Review methodology.

Owner Signature

Heather N. Dukes

Agent/Applicant Signature

Official Use Only Submittal Date: Development Application No.:

4-BA-2018
3/30/2018

Development Application

CITY OF SCOTTSDALE

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Phone: 480-414-2596 **Fax:**	**Phone:** 602-340-0900 **Fax:**
E-mail: michelle@thesiweks.com	**E-mail:** llazarus@lsblandlaw.com; hdukes@lsblandlaw.com
Designer:	**Engineer:**
Company:	**Company:**
Address:	**Address:**
Phone: **Fax:**	**Phone:** **Fax:**
E-mail:	**E-mail:**

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