

## Baze Residence

Request for Variance

5680 N. 74<sup>th</sup> Place Scottsdale, AZ 85250

APN: 173-15-099

January 29, 2025

### Purpose of Request

This application seeks reasonable variance relief for a rare condition, a double corner lot that has streets on three sides. This condition is rare because developers almost always avoid it due to its inefficiencies. Here, it creates a significant burden on the developability of this parcel because each side that has a street must be interpreted under the zoning ordinance as a “front yard.” And as a front yard, a deep 35-foot building setback is imposed on principle structures and other limitations apply to accessory structures within a front yard setback.

We are filing this application on behalf of Tim and Susan Baze, owners of the subject property. The Bazes have owned this lot for 20-plus years. They are seeking an allowance to build a shed in their backyard—something other homeowners in this zoning district are able to build. But with the three front-yard setbacks required on this lot, they are not able to enjoy the same privileges afforded other properties in the same zoning district.



The requested relief will allow (1) the construction of a shed in the *functional* backyard and (2) the remedying of minor building encroachments that occurred from the time the home was originally built.

### Legal Requests

The variance requests are as follows:

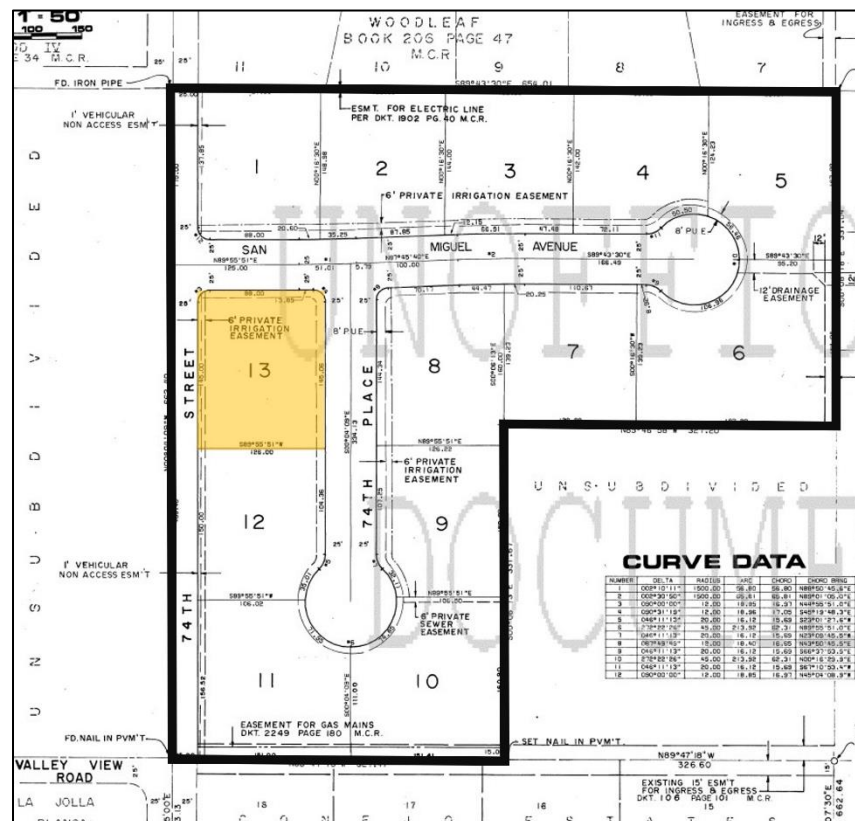
- Variance to allow an accessory structure in the required front yard setback of a corner lot.

- Variance to reduce the front yard setback to thirty (30) feet for the principal structure.
- Variance to reduce the rear yard setback to twenty-nine (29) feet for the principal structure.

## Background and History of Site

### Double Corner Lot

As noted above, a lot with three adjacent streets is rare. As such, when we conducted our internal analysis of this situation, we asked the question, "Why was this lot ever created with three adjacent streets?" When we pulled the 1979 plat for this lot, we found the answer. The plat is pasted below. The original piece of land, as it existed prior to being subdivided (the "Parent Parcel"), was relatively small and oddly shaped, like the letter "r." As we considered this shape and size, it seemed there were few, if any, alternative layouts available to the subdivider. The roadway on the west side of the site was locked in and unmovable, due to subdivisions that had already occurred to the north. Then, the developer needed to have a road that accessed to east side of the "r." That road became Miguel Avenue, which was centered within that eastern portion of the Parent Parcel. Next, the developer needed a road to access the bottom of the "r." That road became 74<sup>th</sup> Place, which was centered within the southern portion of the Parent Parcel. Finally, note that the zoning required lot sizes of 18,000 square feet, which is approximately the size of the resulting lots.



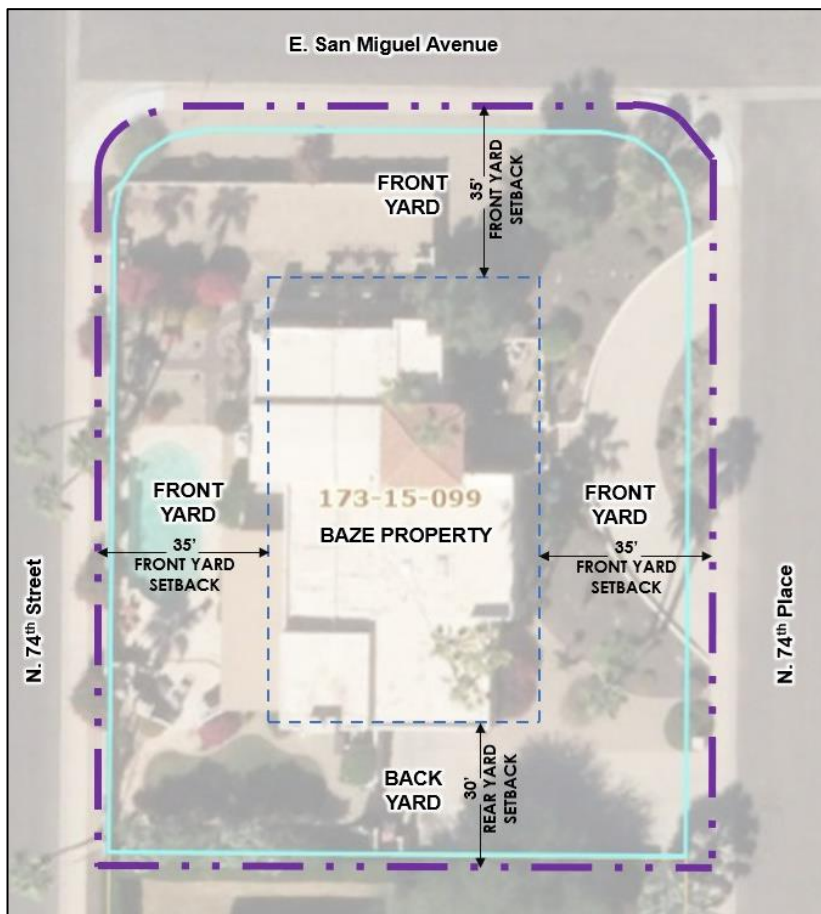
Given these conditions, we cannot see how the developer could have realistically avoided having the two additional roads at those two locations, since roads were

needed to access the east and south sections of the Parent Parcel and the two roads were each centered within those sections. And with the necessity of those two roads, the subject lot (Lot 13) was inevitably created with streets on three sides.

The design of the subdivision and Lot 13 then led to how the home needed to be situated on this property. With three adjacent streets and two corners, all three street sides became front yards and required 35-foot setbacks. That required the home to squeeze into a narrow box and it left large yards on both the south and north sides of the home (i.e. the *functional* side yards) and a reduced yard on the west side (i.e. the *functional* rear yard).

Previous Variance:  
(Case #51-BA-81)

On May 20, 1981, the City of Scottsdale Board of Adjustment approved a variance for the subject lot. That variance permitted a 6-foot wall on the west property line. Because the west and north sides of the home were required to be a “front yard,” those sides were also limited to a wall height of 3 feet. The variance allowed for a 6-foot wall because the Board of Adjustment recognized that these three front yards created a special circumstance. In a letter to the Board of Adjustment, the Building Director noted that this setback condition resulted in there being “very little usable rear yard.” In the Board of Adjustment decision, the Board noted that the variance would allow Lot 13 (and two other lots also receiving the variance) “to utilize their rear and side yards which they cannot presently do.” This history reveals that the City has previously recognized that the three front yard setbacks imposed on this lot create a non-self-imposed special circumstance—one that justifies variance relief to mitigate that circumstance.

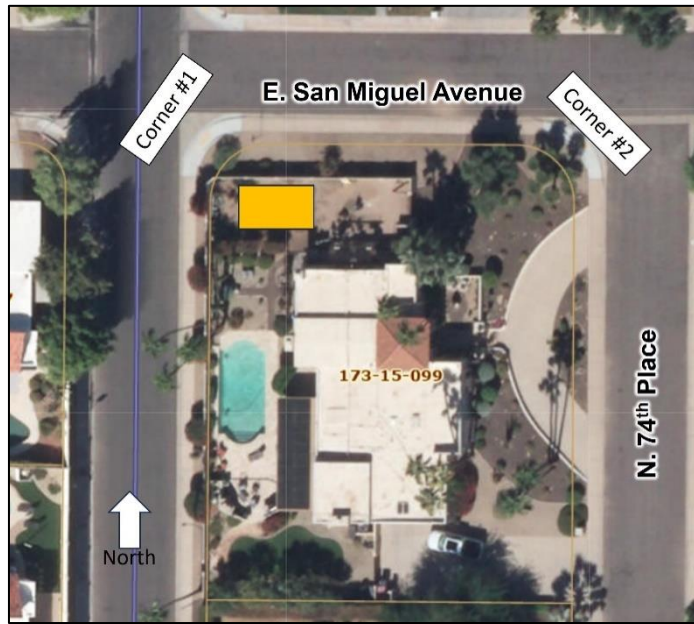




In this case, our client is asking for the City to rule in a manner that is consistent with this prior variance and determine that the lot's three frontages are a special circumstance that warrants variance relief.

### Purposes of Request

This application has two major purposes. First, the current homeowners, who have lived on the property for the last 20-plus years, seek to build a storage shed within the areas of their lot that function as the rear yard (west) and side yard (north) (see yellow box in the graphic to the right). During the permitting process for the shed, staff issued an interpretation and explained that the subject lot would need to be considered a “double corner lot” (as shown in the graphic).



It's worth noting that the ordinance does not even contain the term “double corner lot.” Rather, the code refers to a corner lot, which it defines as a lot that has two intersecting street frontages. This situation of having two corners adjacent to the lot is so uncommon that the ordinance doesn't even address it. Variance relief is the proper method for tailoring a fair and equitable remedy in this case.

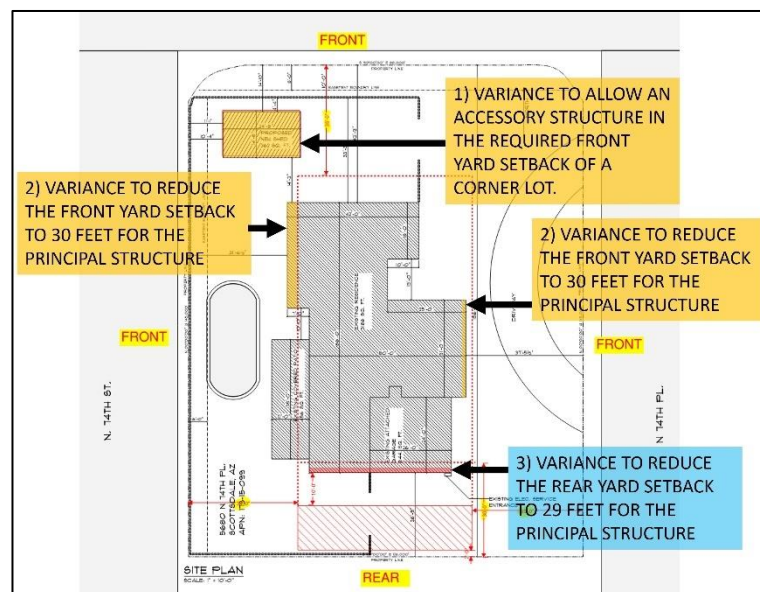
The effect of staff's interpretation that this lot is a “double corner lot” was that the east, north, and west property lines would all have to be viewed as front yards that required a deep 35-foot front building setback. This would be a surprise to most homeowners. Most would view this lot as having one front yard (east), one rear yard (west) and two side yards (north and south). That is certainly how this lot *functions* in practice. Staff recommended the homeowners pursue a variance to overcome this special circumstance.

The second purpose of this variance is to address minor building encroachments from when the house was originally built. As part of this process, a survey was conducted and it was discovered that small portions of the home, which was built in 1981, are slightly within the required setbacks, as shown in the attached survey. The east and south sides of the principal structure (i.e. the house) appear to be encroaching by a matter of a few inches. This could either be an error of the recent survey and maybe there is no issue. But

it could also have been a survey error in 1981 that caused the foundation to be poured slightly off. In either case, since we are already pursuing variance relief for the shed, we felt it was important to clean this up.

Similarly, on the west side, a portion of the building is inside of the 35' rear setback by a few feet. Were the west side of the lot to be classified as the rear yard, which is certainly how it functions in practice, the setback would be 30' and this encroaching portion on the west side would be in compliance. It's unclear, but this may be why the home was given a certificate of occupancy over 40 years ago, even with this encroachment of a few feet. The City reviewer or the inspector may have considered the west side to be the rear yard. But whatever occurred, we felt the best approach was to bring this into the variance application and remedy any potential issue that could be raised in the future with regard to the encroachment.

The first request is for a variance to allow an accessory structure in the required front yard setback of a corner lot. The City, of course, would not want an accessory structure to be located in a true front yard. That would put a shed in front of a house, which would be inappropriate and odd. But here, where the north and west sides of the lot function as the rear and side yard, this is precisely where we expect accessory structures to be located. This variance will address that oddity.



The second variance is to reduce the front yard setback to 30 feet for principal structures. This will address the encroachment on the west side and east side.

The third variance is to reduce the rear yard setback to 29 feet for the principal structure. This will address the encroachment on the south, which is a matter of inches.

With regard to the variances that will clean up the minor encroachments of the house, we do not wish an approval of our requests to inadvertently create a condition in which further encroachments would be possible. For that reason, we would recommend that the variance approval be stipulated to the site plan being attached to this application. Such a stipulation would ensure that the approval is limited to allowing the house to remain in its current location and the shed to be installed in the location shown, and it would prevent other encroachments.

### **Special Circumstances and Variance Test Criteria**

The City's variance process is in place to address situations like this, where special conditions exist on a particular property. The relief our clients are seeking for here is modest and normal. As the analysis below shows, they are not asking for anything that is not common in this area.

Our firm has carefully analyzed the facts of this case against the variance tests and firmly believe the test are satisfied. Below we provide the details of our analysis.

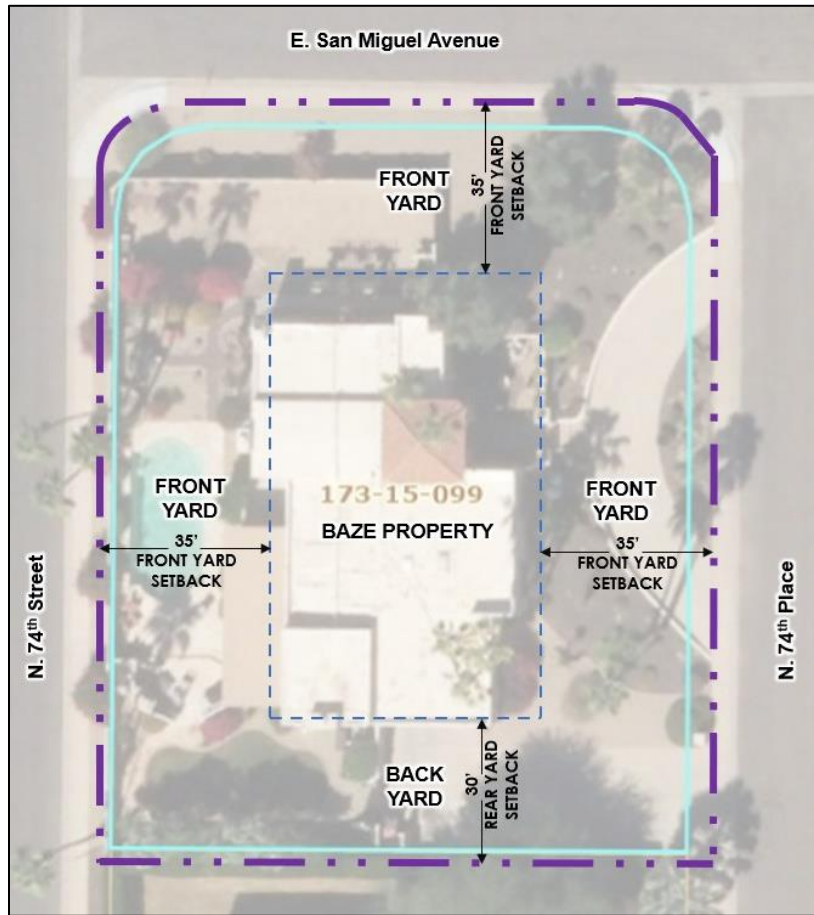
#### ***Special circumstances exist.***

##### **Special Circumstance #1:** Three front yard setbacks

The subject property carries the rare condition of being a double corner lot—a condition so rare the zoning ordinance doesn't specifically address it. That condition requires the lot to have a front yard on the east, a front yard on the north, and a front yard on the west. The front yard setback is, by design, deeper than other setbacks. At 35 feet, the front setback is designed to ensure that the front of a house has a true front yard. That is the aesthetic the zoning ordinance envisioned. But in this situation, requiring that same setback on the north and west doesn't make practical sense. Those sides are not the true front yards, nor would we expect them to function as front yards.

It was this same conclusion that caused the Board of Adjustment to grant the prior wall variance on this property. The Board of Adjustment granted the variance and allowed the wall height on the west and north to be 6 feet because it recognized that limiting the wall height to 3 feet was only appropriate for true front yards. In a true front yard, we do not want tall walls. We limit wall height to 3 feet because we want to see the front of the house, the front door, etc. We do not want a castle aesthetic with a tall wall in the front yard. But the Board of Adjustment recognized that this lot had only one real front yard, which was on the east, and used the variance process to allow the zoning ordinance to be modified to reflect that reality.

Here, we are asking for the same recognition. We are asking for the City to again recognize that this peculiar lot truly only has one functional front yard, on the east. It would be unfair to require the lot to have three front yards. That unfairness is evident in the exhibit below. Consider how much of the lot is consumed by the principal building setback requirement.



We ran the calculations, and the consequence of having three front yard setbacks is that the principal building setbacks consume a staggering +/- 74% of the lot. That is a clear special circumstance. No lot should be required to lose 74% of its area to setbacks.

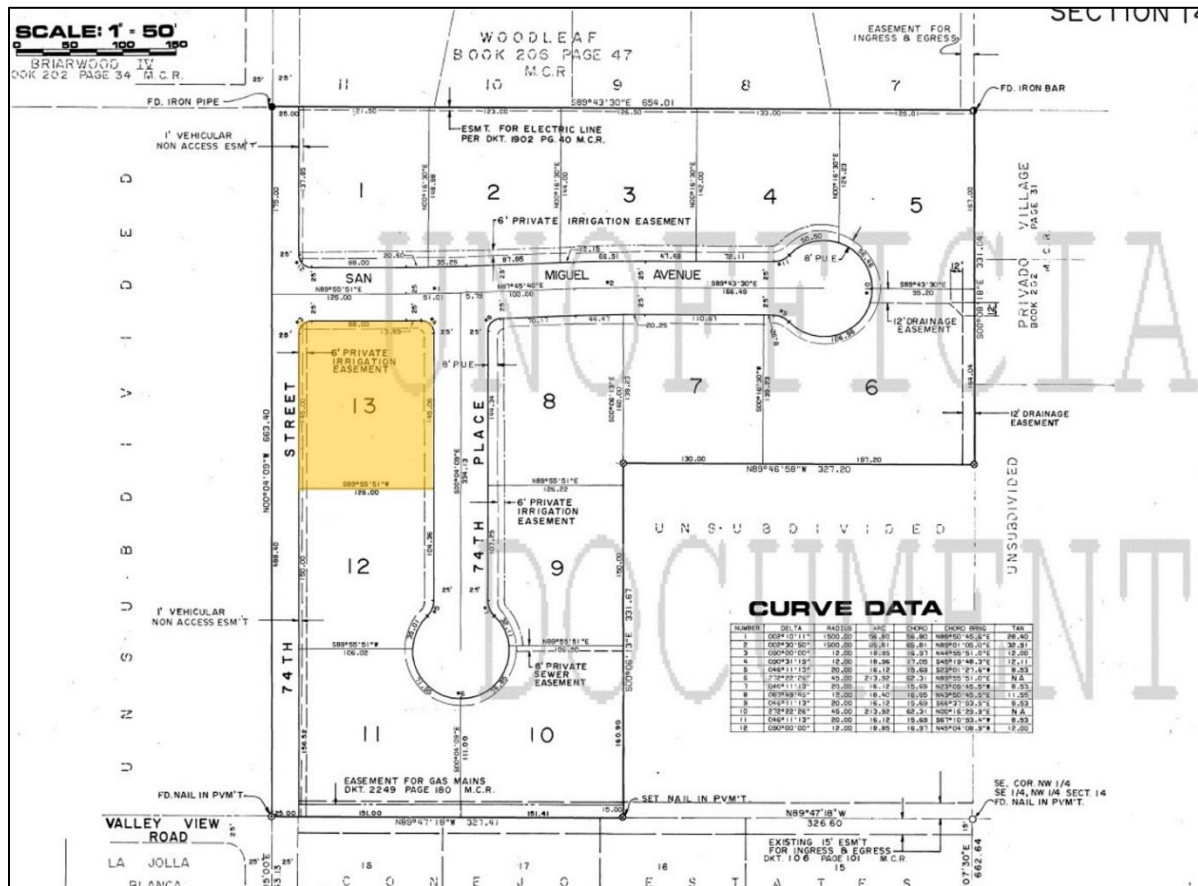
Similarly, because of the three front setbacks, the accessory structure is limited on where it can be located. As noted above, the City understandably does not want accessory structures to be in front of the house in a true front yard. But here, locating the accessory structure in the proposed location makes perfect sense.

### **Special Circumstance #2:** The subdivision process

In the discussion above, we pointed out the history of the subdivision that created the subject lot. As we noted, the original Parent Parcel was relatively small and had an odd "r" shape. As the subdividers pursued the subdivision, their hands were tied. Given the lot size requirement of 18,000 square feet, they didn't have any other viable and realistic



option for subdividing this property than to add a street to reach the eastern portion of the site and a street to reach the southern portion of the site. Given that 74<sup>th</sup> Street was already on the west side, once the subdividers added those two streets—in the only locations they realistically could be added—Lot 13 was destined to have streets on three sides.



So, not only does the resulting lot have a special circumstance by having three front yards, but its history also carries a special circumstance with it as well, which is what led to the lot having three sides. We believe this second special circumstance further adds support to the conclusion that this is a unique situation with special circumstances that warrant variance relief.



**Special Circumstance #3:** Orientation of the house on the lot to the east

This was alluded to in the prior discussion, but it is its own special circumstance and thus it should be broken out. Because of the way the plat was created, the only realistic way anyone could place a house on this lot was to orient the house to the east. If the house were to have faced west, it would have meant putting the back of the house to the rest of the cul-de-sac. Similarly, if the house had been oriented to the north, it would have meant facing the side of the house to the cul-de-sac. Either of those two orientations would have led to a strange and undesirable condition that would harm the rest of the community. The only viable orientation was to face the house east.

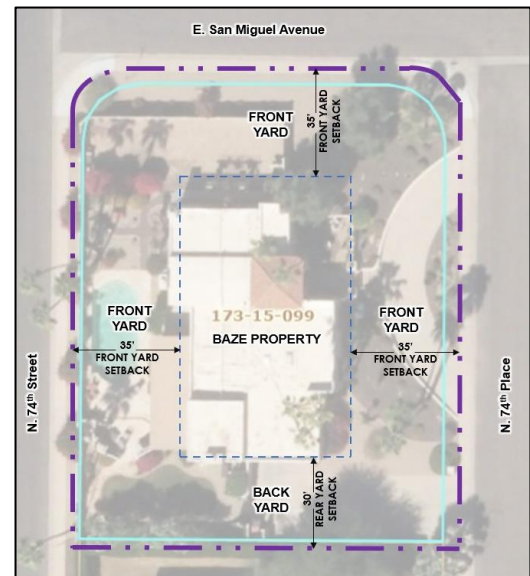
With the house oriented to the east, it does not make sense to label the north and west as front yards and require the type of setbacks that create front yards.



#### **Special Circumstance #4:** Location of the house on the lot

When the house was built, the requirement for three front yard setbacks applied, and it required the house to be compressed into the box in the setback exhibit shown to the right. This resulted in much larger setbacks on the north and south of the building than would likely have been created. But in these areas, which function as side yards, the use of that area is limited. Indeed, this is why most homes have reduced side yards. People want to recreate in their rear yard, not their side yard. Sometimes properties will have one larger side yard, but it's uncommon to have two larger side yards.

There are two net results of this condition. First, the functional rear yard to the west of the property was narrower than it would have been had the house been allowed to extend to the south and north, which would have been more common. That has led to a more compressed area for rear-yard amenities. But it also further limits the area a shed, which is often located in the rear yard, can be located.



The second result is that the north side of the house is inefficient space. Although the owners have been able to make good use of the large *south* setback, by putting in a putting green and using the eastern half of the southern setback for a driveway into their garage, the northern setback is ineffective. That is what this shed would overcome. It would allow that space to be put to good use. Otherwise, a large portion of the lot, which is already 74% consumed with the principal building setbacks, would be lost to a large degree.

We believe there are sufficient special circumstances present in this case, which are not self-imposed, to justify the variance relief being requested. The City's legal test asks whether the "strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same clarification in the same zoning district." That test is clearly met here. The ordinance does not even contemplate a double corner lot condition. Staff was required to interpret the zoning ordinance's reference to a single "corner lot" as applying here in a double fashion. The strict interpretation of the ordinance on this lot is restricting a normal and customary use of single-family property.

As for the clean-up variances, those are justified by the same special circumstances identified above, especially the manner in which the buildable envelope for this lot is only +/- 26% of the total size. That massive imposition of building setbacks more than justifies the minimal degree of encroachments that occurred during the house's construction in the early 1980's.

***The authorization of the variance is necessary for the preservation of rights enjoyed by other properties in the same zoning classification.***

The right to build a storage shed is normally not an issue for most single-family properties. But here, due to the lot's special circumstances, a very normal and customary property right of being able to build an accessory structure in one's back yard is being severely constrained. Granting the requested relief would not result in the property owner "overusing" the property. It would simply allow these property owners to use their lot in a manner that is consistent with other single-family homes in the same zoning district. We believe this is the most fair and equitable way to allow for the owners to enjoy the privileges and rights enjoyed by other properties in the same classification, who do not have a double corner lot condition.

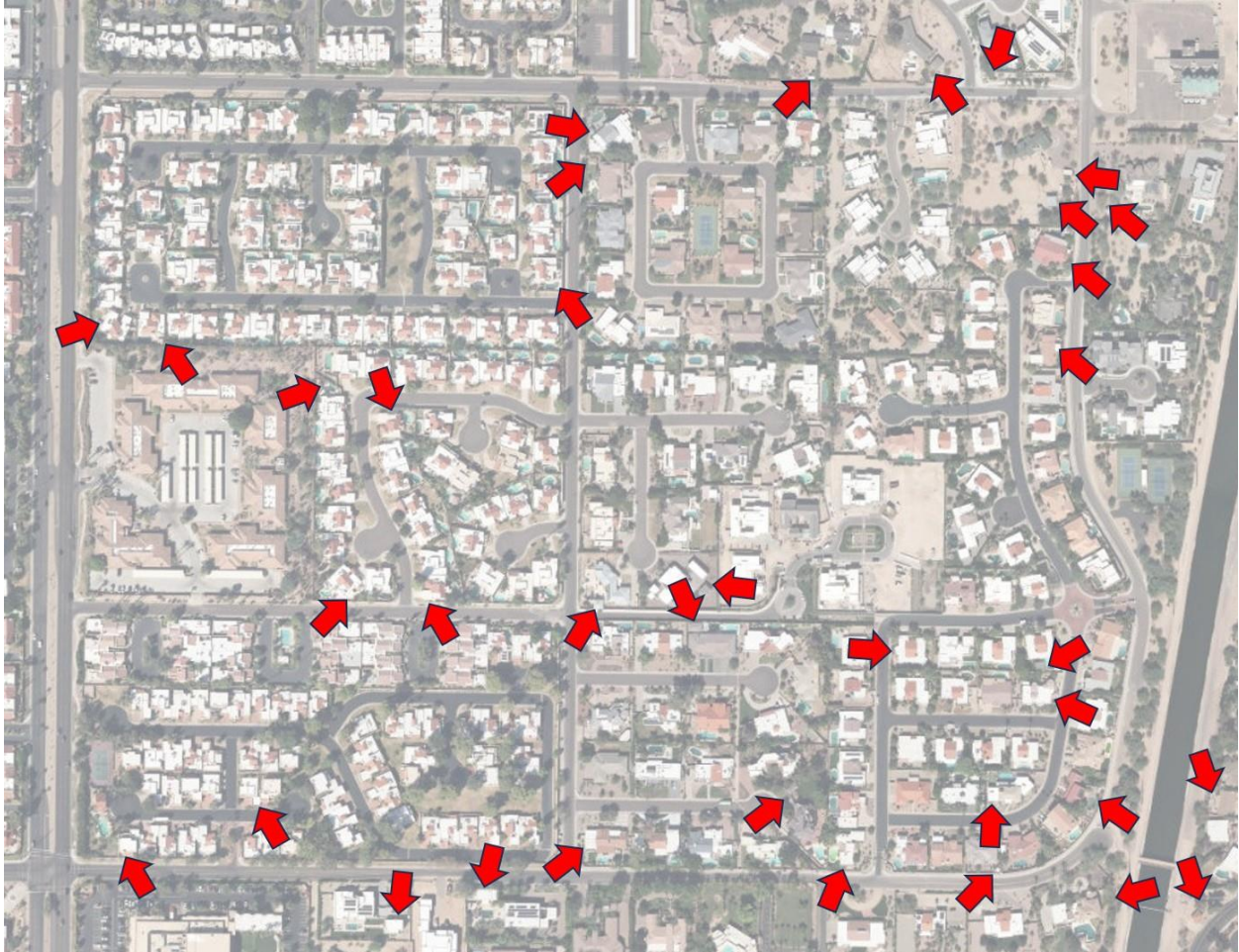
***Since there are special circumstances to the property, it must be determined that they were not self-imposed.***

None of the special circumstances identified in this narrative were self-imposed. The original subdivision was compelled to occur in the manner it did because of the shape of the original Parent Parcel and the existing street on the west. As we have detailed above, there was no other viable approach possible. That process then led inevitably to the lot having two corners, which created the three front setbacks. With the cul-de-sac to the east and with the lot's front setbacks creating a very constrained building envelope, the house had no realistic choice but to be oriented to the east and to be located where it was on the lot. That in turn created large and inefficient yards on the north and south and a reduced yard on the west. None of these factors were self-imposed by the owner in the way this test is designed to control against. These are domino effects of both the original Parent Parcel's size, shape, and positioning and the creation of a lot with two corners.



***The variance will not be materially detrimental.***

The variances requested will not be materially detrimental to the persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the general public welfare. The structure and its position on the lot are similar to other structures built in backyards and side yards throughout the neighborhood. In the exhibit below, we have identified all those principal and accessory structures in the immediate area that are near to the property line.



None of these structures has materially harmed the neighborhood. Likewise, our proposed structure would not materially harm the neighborhood either. Indeed, the proposal would be consistent with the existing character of the area.



## Conclusion

For the reasons stated in this above analysis, we firmly believe the variance tests are met in this case. These owners are not asking for anything extreme or for the ability to overuse their property. They are asking for normal and customary privileges that are denied to them because of the special circumstances on the lot. The zoning ordinance cannot contemplate every possible scenario. That is why the variance process exists. As we look at this, we ask the question, "If this doesn't qualify for minor variance relief, what property would qualify?"

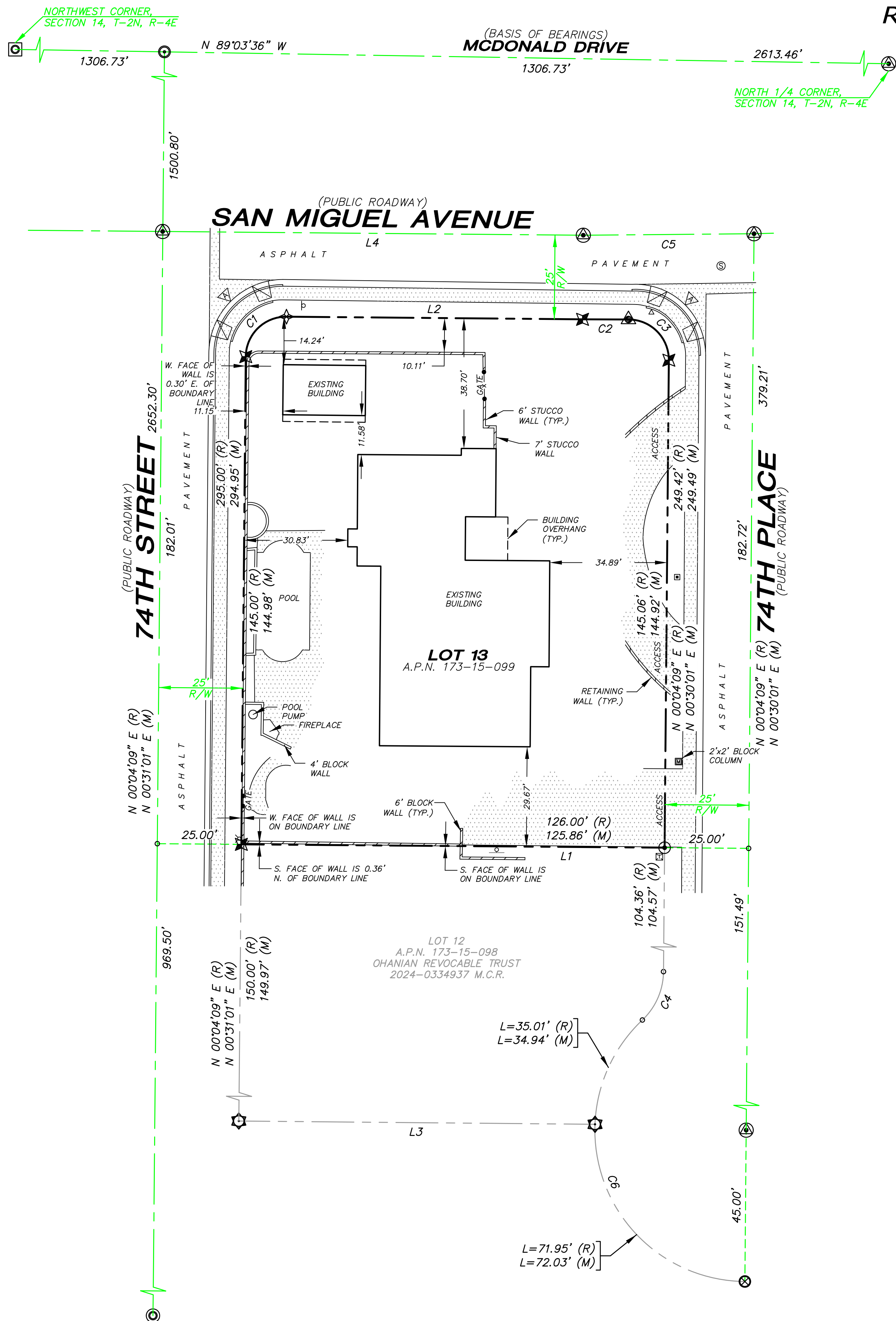
We sincerely appreciate the Board's attention to this case. Although it's minor relief, it's important to the property owners who have lived and invested in this Property for 20-plus years. They are not professional developers who have this lot tied up in escrow and are trying to see what development rights are possible before closing on the property. They are normal single-family property owners who are being harmed by a set of special circumstances.

We respectfully urge the Board to grant the requested relief, subject to the stipulation that the approval be limited to the placement of the structures in the attached site plan.

# BOUNDARY SURVEY

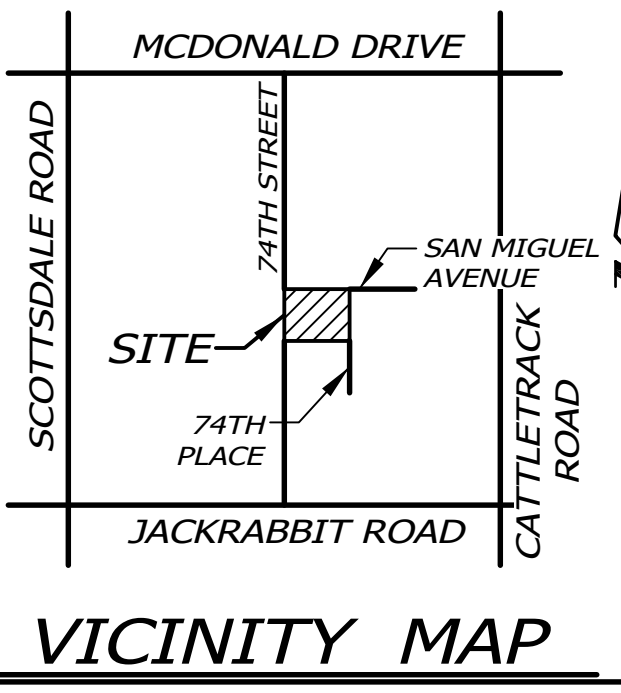
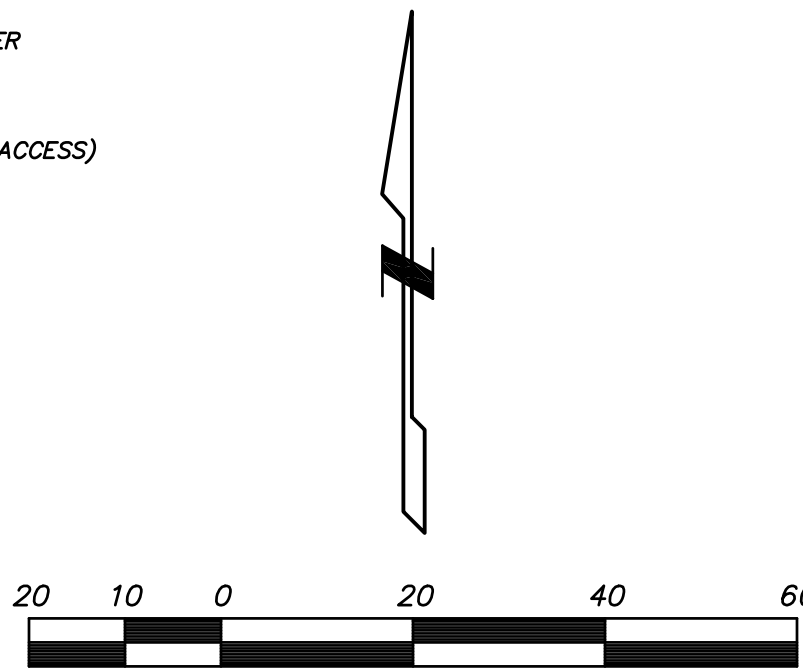
## 5680 N. 74TH PLACE

OF A PORTION OF THE NORTHWEST QUARTER OF SECTION 14,  
TOWNSHIP 2 NORTH, RANGE 4 EAST OF THE GILA AND SALT  
RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA



### LEGEND

- BOUNDARY LINE
- CENTER LINE OR MONUMENT LINE
- CONCRETE SURFACE
- 24 INCH VERTICAL CURB & GUTTER
- 24 INCH ROLLED CURB
- 6 INCH CONCRETE CURB
- INDICATES DRIVEWAY (MEANS OF ACCESS)
- WALL
- FENCE
- FOUND 1/2" REBAR WITH ALUMINUM CAP STAMPED "LS 37937"
- FOUND 1/2" REBAR WITH NO IDENTIFICATION (0.4' DOWN) SET ALUMINUM CAP STAMPED "KLEIN 42137"
- FOUND 5/8" REBAR WITH NO IDENTIFICATION SET TAG STAMPED "KLEIN 42137"
- FOUND 1/2" REBAR WITH ALUMINUM CAP STAMPED "KLEIN 42137"
- FOUND 1/2" REBAR WITH NO IDENTIFICATION (0.3' DOWN) SET ALUMINUM CAP STAMPED "KLEIN 42137"
- FOUND 1/2" REBAR WITH ALUMINUM CAP STAMPED "LS 35694"
- FOUND 5" MARICOPA COUNTY BRASS CAP IN HANDHOLE (0.5' DOWN)
- FOUND 3" CITY OF SCOTTSDALE BRASS CAP FLUSH
- FOUND 3" CITY OF SCOTTSDALE BRASS CAP IN HANDHOLE (0.15' DOWN)
- CALCULATED POSITION NO MONUMENT FOUND OR SET
- SCHEDULE B ITEM
- BASKETBALL HOOP
- ELECTRIC TRANSFORMER
- GUARD POST OR GATE POST
- LIGHT POLE
- MAIL BOX
- SEWER MANHOLE
- STREET SIGN
- TELECOMMUNICATIONS RISER
- WATER METER
- HT.
- HEIGHT
- A.P.N.
- M.C.R.
- R/W
- BK.
- BOOK
- PG.
- PAGE
- (TYP.)
- RECORD PER BK. 208 OF MAPS, PG. 28, M.C.R.
- (M)
- MEASURED



### OWNER

A.P.N.: 173-15-099  
OWNER: TIMOTHY F. AND SUSAN A. BAZE LIVING TRUST  
DEED: 2019-0070842, M.C.R.

### DESCRIPTION

LOT 13, DEL PRADO, ACCORDING TO BOOK 208 OF MAPS, PAGE 28, RECORDS OF MARICOPA COUNTY, ARIZONA

### NOTES

- THE BASIS OF BEARING IS THE MONUMENT LINE OF MCDONALD DRIVE, ALSO BEING THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 14, USING A BEARING OF NORTH 89 DEGREES 03 MINUTES 36 SECONDS WEST, PER "MARICOPA COUNTY GEODETIC DENSIFICATION AND CADASTRAL", RECORDS OF MARICOPA COUNTY, ARIZONA.
- THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, AND IS SUBJECT TO ALL EASEMENTS OF RECORD.
- THE SURVEYOR HAS NOT OBTAINED ANY INFORMATION RELATING TO, AND HAS NO KNOWLEDGE OF ANY PROPOSED RIGHT OF WAYS, EASEMENTS, OR DEDICATIONS THAT ANY MUNICIPALITY, INDIVIDUAL OR GOVERNMENTAL AGENCY MAY REQUIRE.
- USE OF THE INFORMATION CONTAINED IN THIS INSTRUMENT FOR OTHER THAN THE SPECIFIC PURPOSE FOR WHICH IT WAS INTENDED IS FORBIDDEN UNLESS EXPRESSLY PERMITTED IN WRITING IN ADVANCE BY SUPERIOR SURVEYING SERVICES, INC. SUPERIOR SURVEYING SERVICES, INC. SHALL HAVE NO LIABILITY FOR ANY SUCH UNAUTHORIZED USE OF THIS INFORMATION WITHOUT THEIR WRITTEN CONSENT.

### REFERENCES

GENERAL LAND OFFICE RECORDS ON FILE WITH THE U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

FINAL PLAT FOR "VALLEY VIEW ESTATES" RECORDED IN BOOK 1651, PAGE 38, MARICOPA COUNTY RECORDS

LAND ASSEMBLY PLAT OF "MCREYNOLDS - GRANPAZONA LOTS" RECORDED IN BOOK 1513, PAGE 22, MARICOPA COUNTY RECORDS

SUBDIVISION OF "DEL PRADO" RECORDED IN BOOK 208, PAGE 28, MARICOPA COUNTY RECORDS

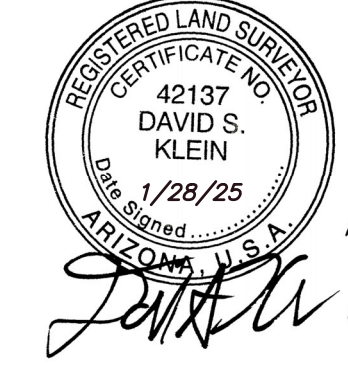
SPECIAL WARRANTY DEED IN 2019-0070842, MARICOPA COUNTY RECORDS

RECORD OF SURVEY IN BOOK 734, PAGE 10, MARICOPA COUNTY RECORDS

### CERTIFICATION

I, DAVID S. KLEIN, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA AND THAT THE SURVEY SHOWN HEREON WAS COMPLETED UNDER MY DIRECT SUPERVISION DURING THE MONTH OF JANUARY, 2025, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THE MONUMENTS SHOWN ACTUALLY EXIST.

DAVID S. KLEIN  
R.L.S. #42137



BOUNDARY SURVEY  
SCOTTSDALE, AZ 85250  
5680 N. 74TH PLACE

2122 W. Lone Cactus Drive, Suite 11  
Phoenix, AZ 85027  
623-869-0223 (office) 623-869-0726 (fax)  
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info@superiorsurveying.com



DWN: CR CHK: DB  
SHEET 1 OF 1  
DATE: 1/28/2025  
JOB: 202501067