



DATE: March 3, 2014
TO: BOARD OF ADJUSTMENT District #4
FROM: Tom Drzazgowski – Deputy Chief Zoning Inspector
SUBJECT: **Co10(4)14-01 STOLL – NORTH FREEMAN RD.**
Scheduled for public hearing on March 11, 2014.

LOCATION:

The subject site is located in eastern Pima County in an area known as Tanque Verde Valley. The property is located north of Speedway Bl. The property is located approximately 1300 feet north of the intersection of Freeman Rd. and Speedway Bl. The property is approximately 6.60 acres and the zoning on the property is SR (Suburban Ranch).

SURROUNDING ZONING / LAND USES:

North -	SR	Rural
West -	SR	Rural
South -	SR	Rural
East -	SR	Rural

PUBLIC COMMENT:

Staff has not received public comment on this case since the variance application was submitted.

PREVIOUS CASES ON PROPERTY:

There is an existing Modification of Setbacks (MSR) application on this property for the same request. An MSR was submitted in December of 2013 for the request to increase the accessory structure coverage. As part of the MSR request notices are sent to adjacent property owners. During the protest period two letters of protest were received by Staff. Since a protest was received the MSR cannot be approved. The property owner is permitted to submit a variance request to the Board of Adjustments.

REQUEST:

The applicant requests the following variance:

1. To increase the accessory structure lot coverage from 1500 square feet to 4031 square feet.

TRANSPORTATION AND FLOOD CONTROL REPORT:

The Department of Transportation will not review this project. The Flood Control District will review this project as needed during the permit process.

BACKGROUND:

The subject site is a residential property in SR zoning. Properties in the area are located on lots that can be classified as low density. While the minimum lot size in SR zoning is 144,000 square feet (3.31 acres), most of the properties in the area are on lots that are five acres or more. The property that is the subject of the request is covered with many trees. In addition, properties to the north and east are also covered with substantial tree cover. According to the applicant the unpermitted structures that are the subject of the request have been on the property for 17 years without a complaint. Staff checked the Pima County records and find no record of a complaint on this property.

RECOMMENDATION:

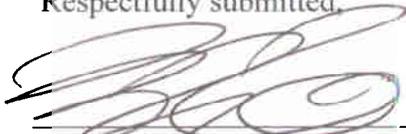
Staff recommends **APPROVAL** of the variance request. It appears that some of the standards listed below are being met. These structures have existed on the property for many years and now that the property owner is attempting to bring the structures into compliance so that the property may be sold in the future. In addition the distance from most of the structures to the closest residence on a neighboring property is over 300 feet. The one structure that is located closer is the garage which is well within the setbacks and approximately 70 feet from the property line. There is also a substantial amount of vegetation on the property that screens the structures from the neighboring properties. Staff has included the protest letters that were received as part of the MSR request. Some of concerns the letters protest appear to address are issues of privacy/enjoyment of property, concerns with drainage being affected and setting precedence for other requests. It should be noted that variance approvals do not set precedence and are reviewed and approved on a case by case basis. Since all the structures are existing, it does not appear that drainage shall be affected on the property. Staff has included a current aerial photo and an aerial photo from 1998, which appear to show the structures on the property.

Standards that must be considered by a board of adjustment when considering a variance request include:

1. The strict application of the provision would work an unnecessary hardship;
2. The unnecessary hardship arises from a physical condition that is unusual or peculiar to the property and is not generally caused to other properties in the zone;
3. The unnecessary hardship does not arise from a condition created by an action of the owner of the property;
4. The variance is the minimum necessary to afford relief;
5. The variance does not allow a use which is not permitted in the zone by the Code;
6. The variance is not granted solely to increase economic return from the property;

7. The variance will not cause injury to or adversely affect the rights of surrounding property owners and residents;
8. The variance is in harmony with the general intent and purposes of the Code and the provision from which the variance is requested;
9. The variance does not violate State law or other provisions of Pima County ordinances;
10. The hardship must relate to some characteristic of the land for which the variance is requested, and must not be solely based on the needs of the owner;
11. If the variance is from a sign or advertising structure area limitation, no reasonable use of the property can be made unless the variance is granted;
12. If the variance is from a height limitation, no reasonable use of the property can be made unless the variance is granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tom Drzazgowski', written over a horizontal line.

Tom Drzazgowski
Deputy Chief Zoning Inspector

Co10(4)14-01 STOLL - NORTH FREEMAN RD. Bobby Abril, for the property owners, William and Kathleen Stoll, on the property located at 1450 N. Freeman Rd., in the SR zone, requests a variance to increase the accessory structure lot coverage from 1500 square feet to 4031 square feet. Section 18.17.050A of the Pima County Zoning Code limits accessory structures to 1500 square feet or 70% the size of the largest main building.

2012 Photo

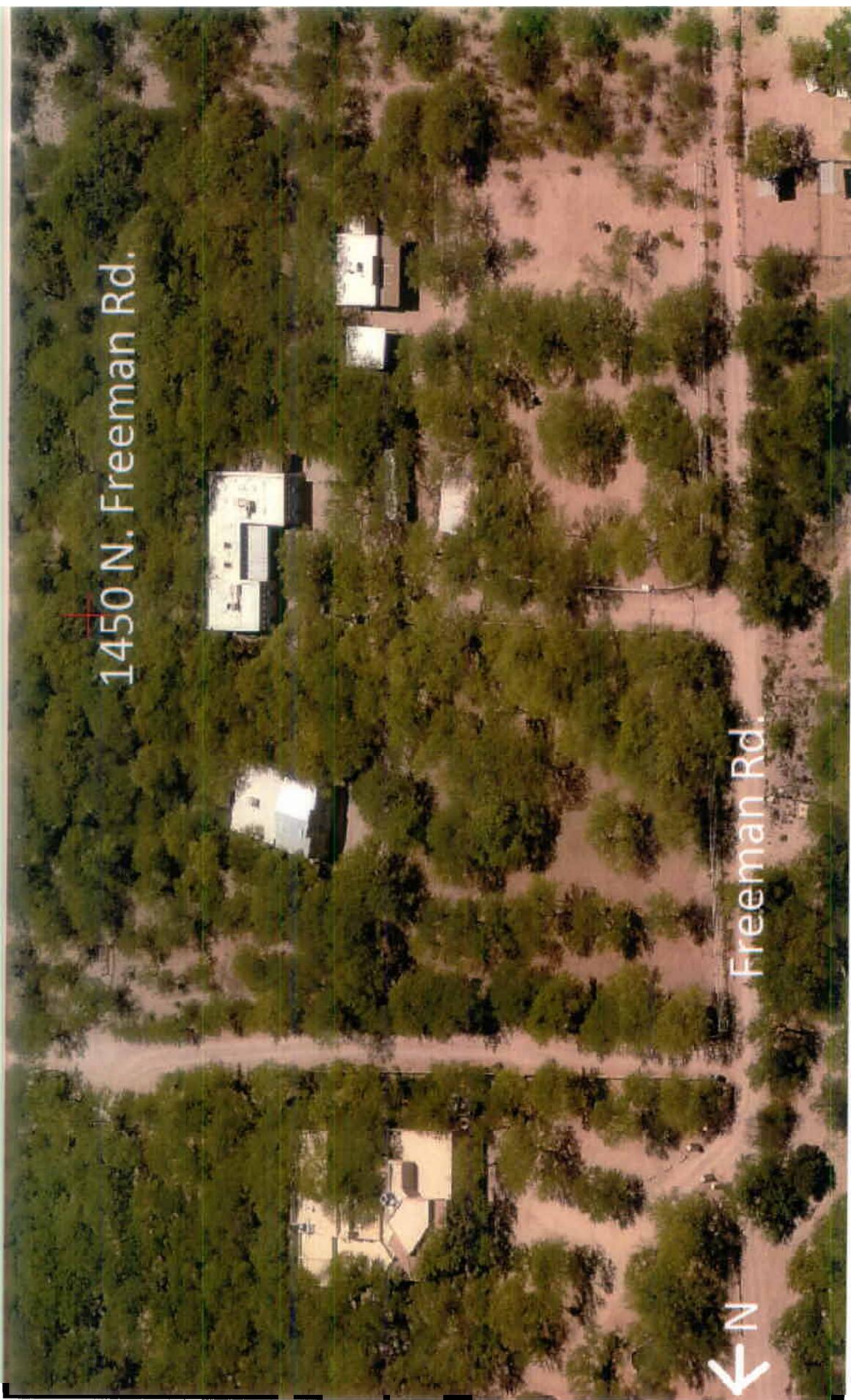


1998 Photo



1450 N. Freeman Rd.

Freeman Rd.





Pima County Development Services – Planning Division

Variance Application

Revised 11/2007

(Please print or type) NO PENCIL

Property Owner: KATHLEEN E STOLL & BILL Phone: 296-0034

Owner's Mailing Address: 1450 N. FREEMAN Rd. City: TUCSON

Zip: 85749

Authorized Representative: BOBBI ABTEL Phone: (520) 405-1527 *

Rep's Mailing Address: 5426 E. 8th ST. City: TUCSON Zip: 85711

Property Address: 1450 N. FREEMAN Rd. City: TUCSON Zip: 85749

Tax Code Number(s): 205 - 47 - 012D Zone: SRI

Does the subject parcel have an active building or zoning code violation? No *TRY FIRST

Owner or Applicant's Email Address: NONE EMAS11@COX.NET

I, the undersigned, swear that all the facts in this application are true to the best of my knowledge, that I will appear in person at public hearing to present the request, that I have read and understood the board of adjustment guidelines and procedure for granting a variance, and that I am able and intend to apply for all necessary county permits for construction and use of the property within nine months of receiving an approval of my variance request. Signature: Kathleen E. Stoll Date: 1-22-2014

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

*****FOR OFFICE USE ONLY*****

PROTESTED MSR 1028(A) 13-22

Case Title: STOLL - N FREEMAN RD Co10(d) 14 - 01

requests a variance(s) to Section(s) 18.17.050A of the Pima County Zoning Code which requires limits lot coverage by accessory structures to 1500 sq ft or 70% of main dwelling (increase to 4,031 sq ft)

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY [Signature] DATE 2/6/2014

William R. Stoll
Kathleen E. Stoll
1450 North Freeman Road
Tucson, Arizona 85749

January 22, 2014

Pima County Development Services Department
Board of Adjustment
Public Works Building
201 N. Stone Ave.
2nd Floor - Planning Division
Tucson, AZ 85701

Re: Application for Variance

To Whom It May Concern:

I hereby request a variance to increase the permitted coverage under Section 18.17.050 from 1,500 feet, or 70% of the area of the largest main building on site, to 4,031 square feet, as shown on the attached site plan. This variance does not offend any of the standards considered when approving or denying a variance request. Let me explain why.

The site plan attached hereto as **Exhibit A** shows the structures that currently exist at the property located at 1450 N. Freeman Road, Tucson, Arizona 85749 ("Property"). William R. and Kathleen E. Stoll purchased this property in 1981. At the time of purchase, the property was vacant land. Mr. Stoll is 73 years old. Mr. Stoll is currently in Hospice, suffering from dementia. Mrs. Stoll is 70 years old and currently resides at the Property.

Mr. Stoll, with the help of licensed general contractors, constructed the house, guest house, and portion of the garage which is depicted on **Exhibit A** on the Property. Mr. Stoll, with the help of friends, constructed the open-sided hay storage, the two carports, and a portion of the garage. Attached hereto as **Exhibit B** are photographs of the Property and the structures as they exist today.

The house, the guest house, and half of the garage are permitted. The other structures on the Property are not. However, the unpermitted structures have been in existence on the Property for at least the last 17 years. No one, in the last 17 years, has ever complained about any of the structures on the Property.

Attached hereto as the exhibits set forth below, are photographs of surrounding properties:

1. **Exhibit C** - 1500 N. Soldier Trail
2. **Exhibit D** - 1560 N. Soldier Trail
3. **Exhibit E** - 11868 E. Speedway

As you can see by the attached photographs, the subject Property, in terms of physical appearance,

Pima County Development Services Department

January 22, 2014

Page 2

looks no different than any other property in the surrounding area. Every property pictured has similar types of structures on the property, with similar alignment and spacing.

Section 18.17.040 also regulates this Property. This particular section would allow, pursuant to Section 8, maximum lot coverage by structures of 30%. Thirty percent lot coverage on the Property would allow building construction of 4,200 square feet. At the present time, the largest structure on the Property is the house, which is a total of 2,588 square feet. Certainly, the amount of construction at the Property is minimal. Given the size of the house, the maximum amount allowed for accessory buildings and accessory structures is 1,811 square feet. The difference being requested is between the 1,811 square feet and what is currently existing of 4,031 square feet, for a total difference of 2,220.

By this request, I am not asking for additional square footage so that additional structures can be built on the Property. What I am asking for is approval of the existing structures so that I may sell the Property in the near future without incident, and without having to remove structures that have existed for almost the last two decades.

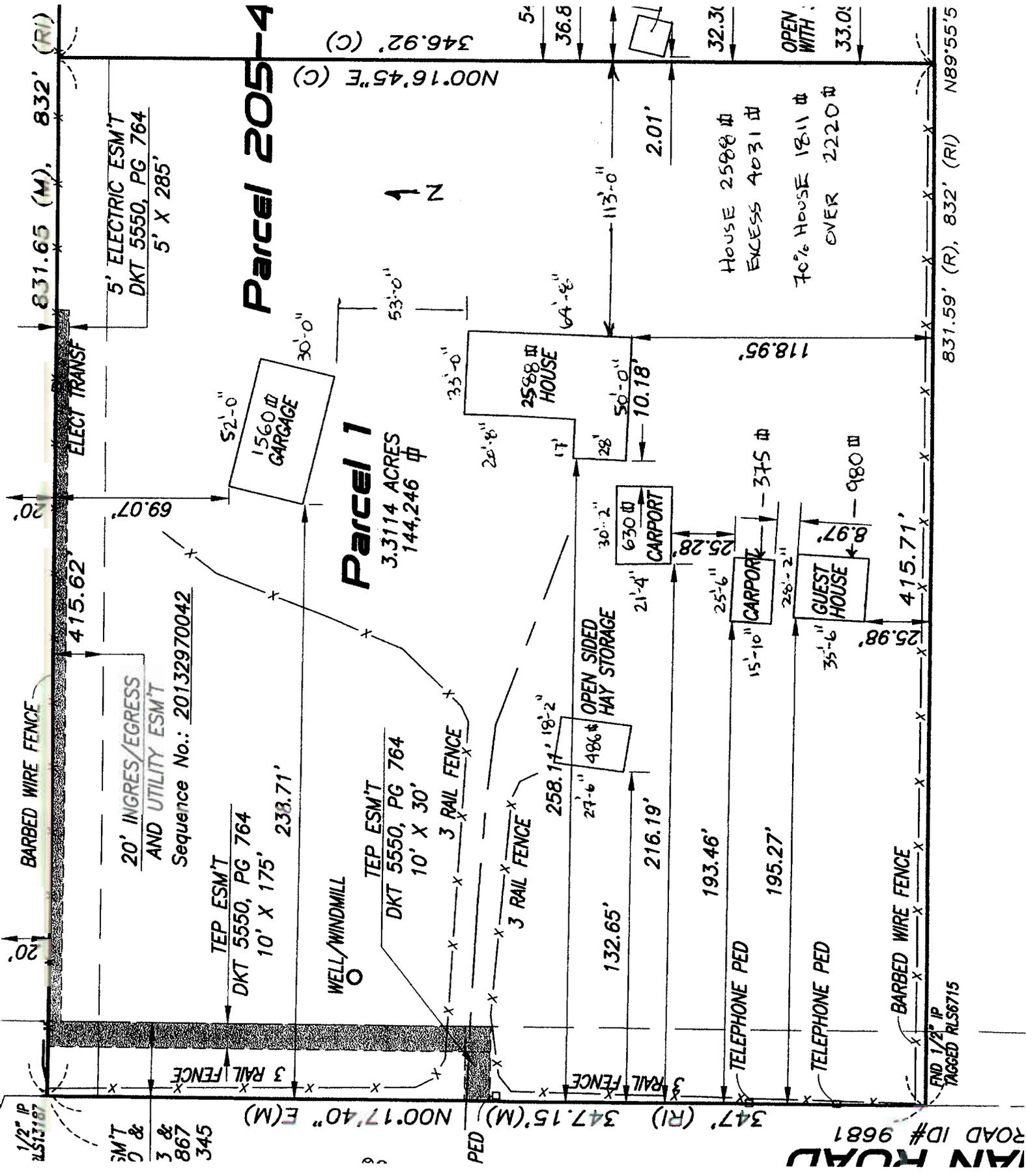
Currently, my stepson, Bobby Abril, has been working on this matter. I hereby designate Mr. Abril to appear before the Board of Adjustment in any future proceedings, if that should become necessary.

Sincerely,

Kathleen E. Stoll

William R. Stoll (Kathleen E. Stoll P.O.A.)

Exhibit A



Parcel 205-4

Parcel 1
3.3114 ACRES
144,246 sq ft

5' ELECTRIC ESM'T
DKT 5550, PG 764
5' X 285'

20' INGRES/EGRESS
AND UTILITY ESM'T
Sequence No.: 20132970042

TEP ESM'T
DKT 5550, PG 764
10' X 175'

TEP ESM'T
DKT 5550, PG 764
10' X 30'

OPEN SIDED
HAY STORAGE
486 sq ft

2588 sq ft
HOUSE

1560 sq ft
GARAGE

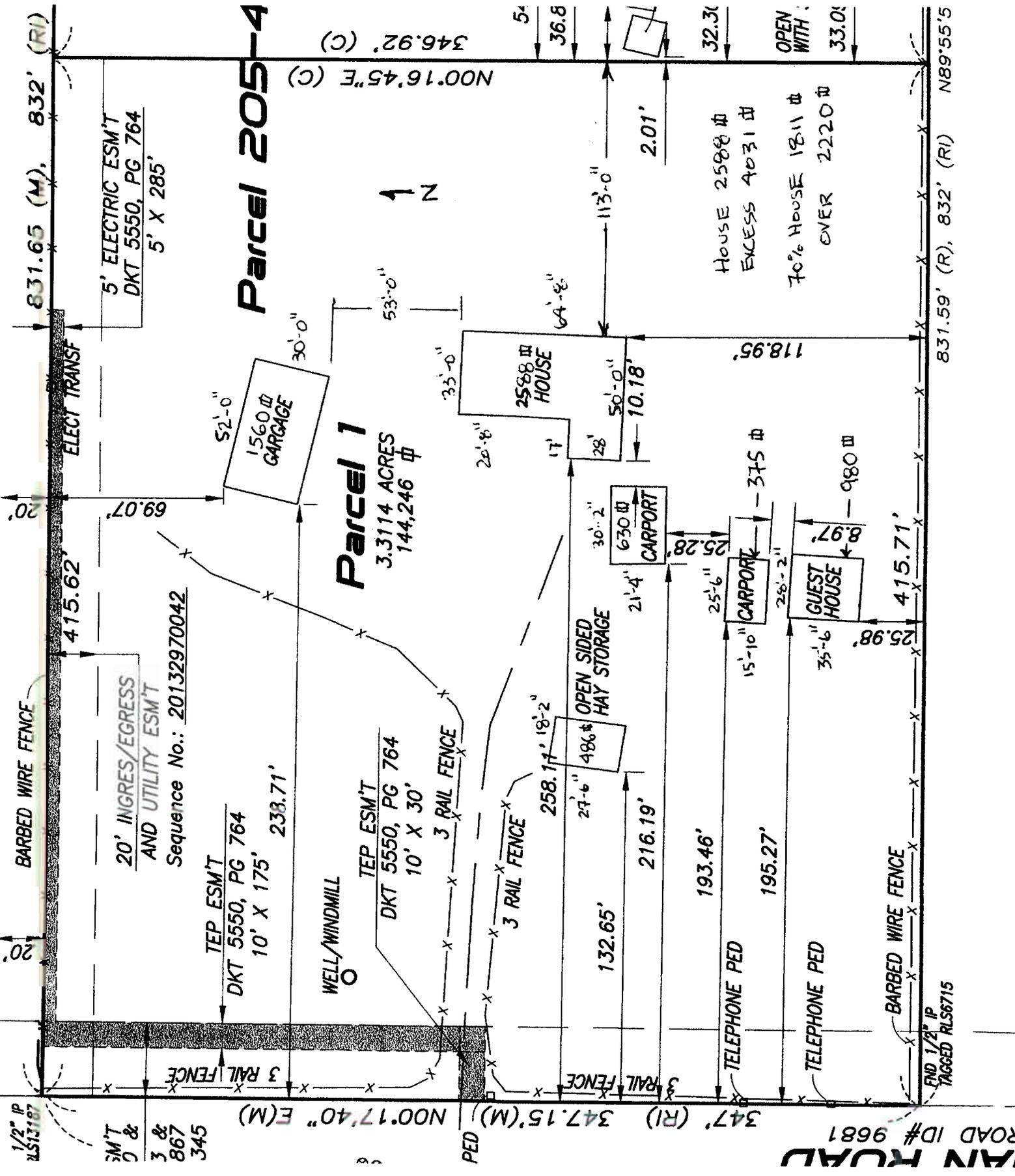
GUEST
HOUSE
980 sq ft

630 sq ft
CARPORT

15'-10" CARPORT

50'-0" CARPORT

HOUSE 2588 sq ft
EXCESS 4031 sq ft
70% HOUSE 1811 sq ft
OVER 2220 sq ft



NOO'17'40" E(M)

NOO'16'45" E (C)

346.92' (C)

831.65 (M), 832' (RI)

ROAD ID# 9681

END 1/2" IP
TAGGED RLS6715

831.59' (R), 832' (RI) N89°55'5



Exhibit B

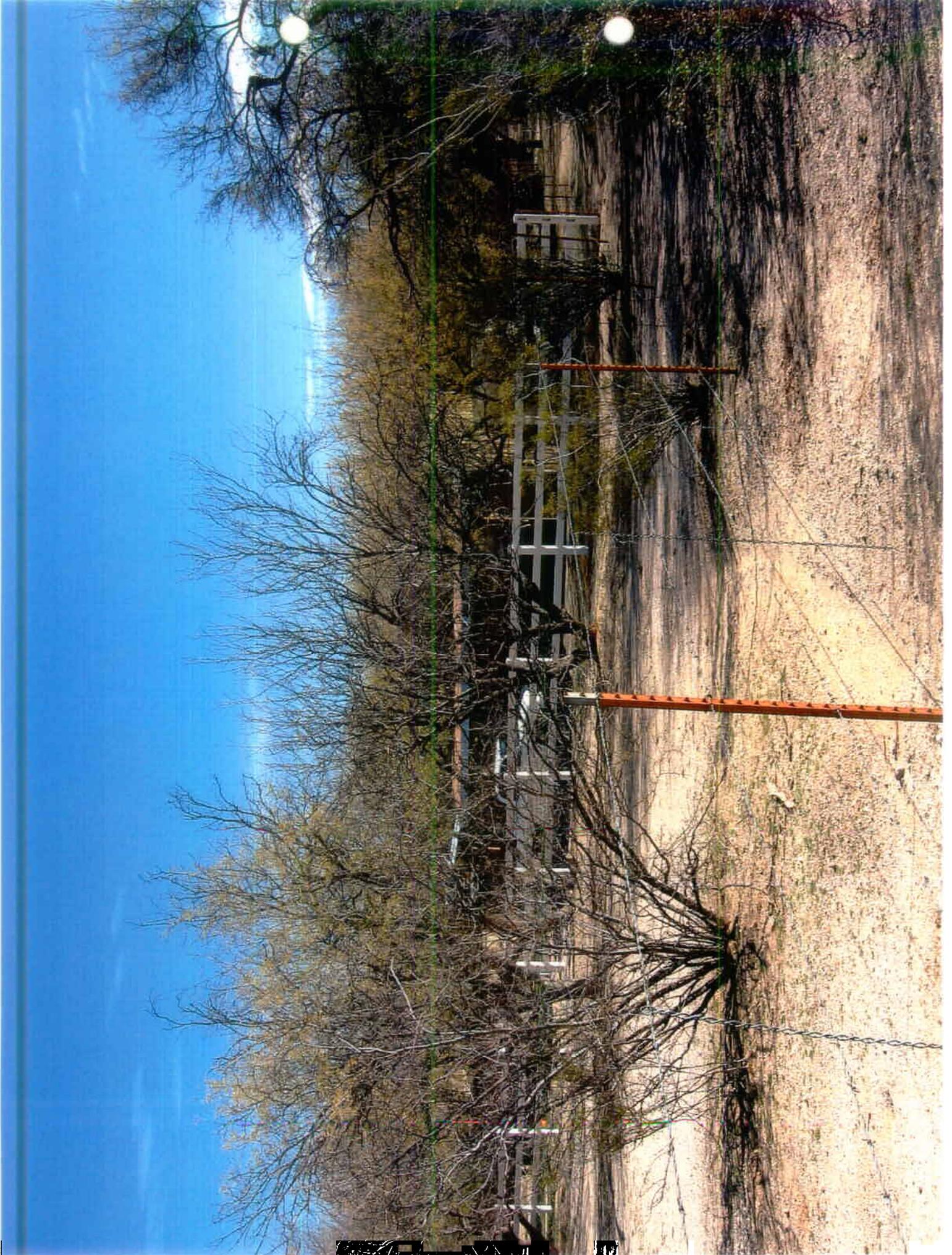




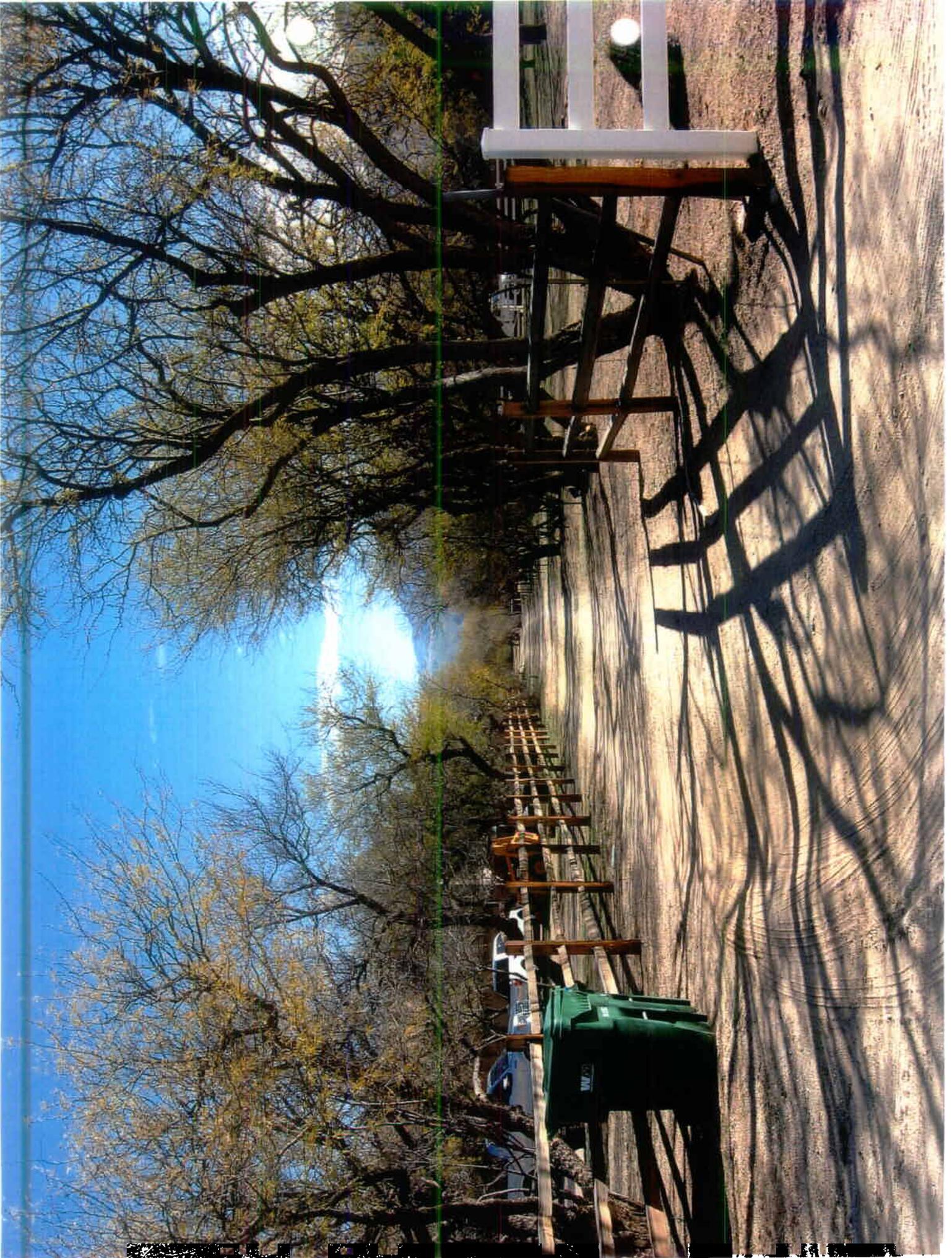














FREEMAN RD.



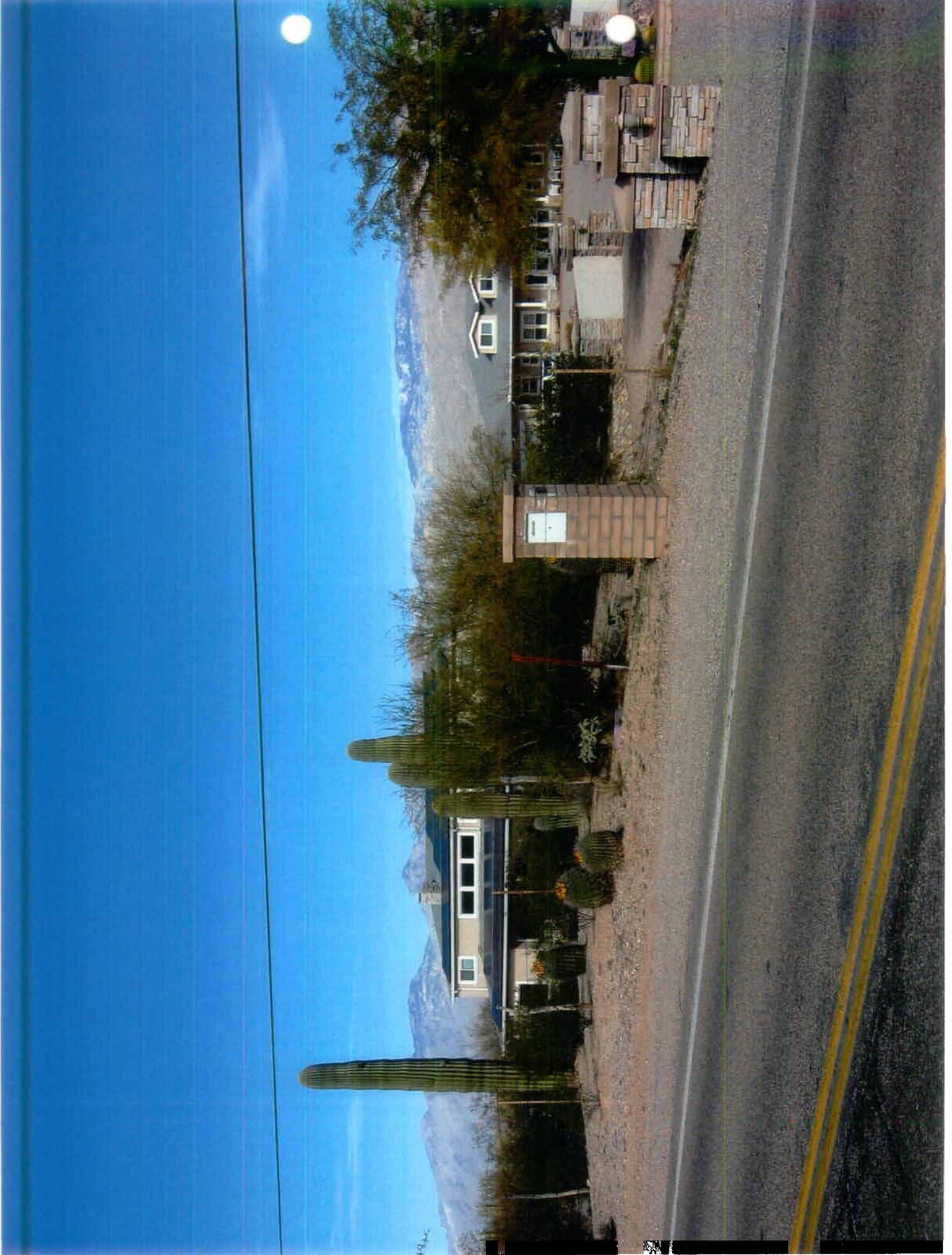


Exhibit C

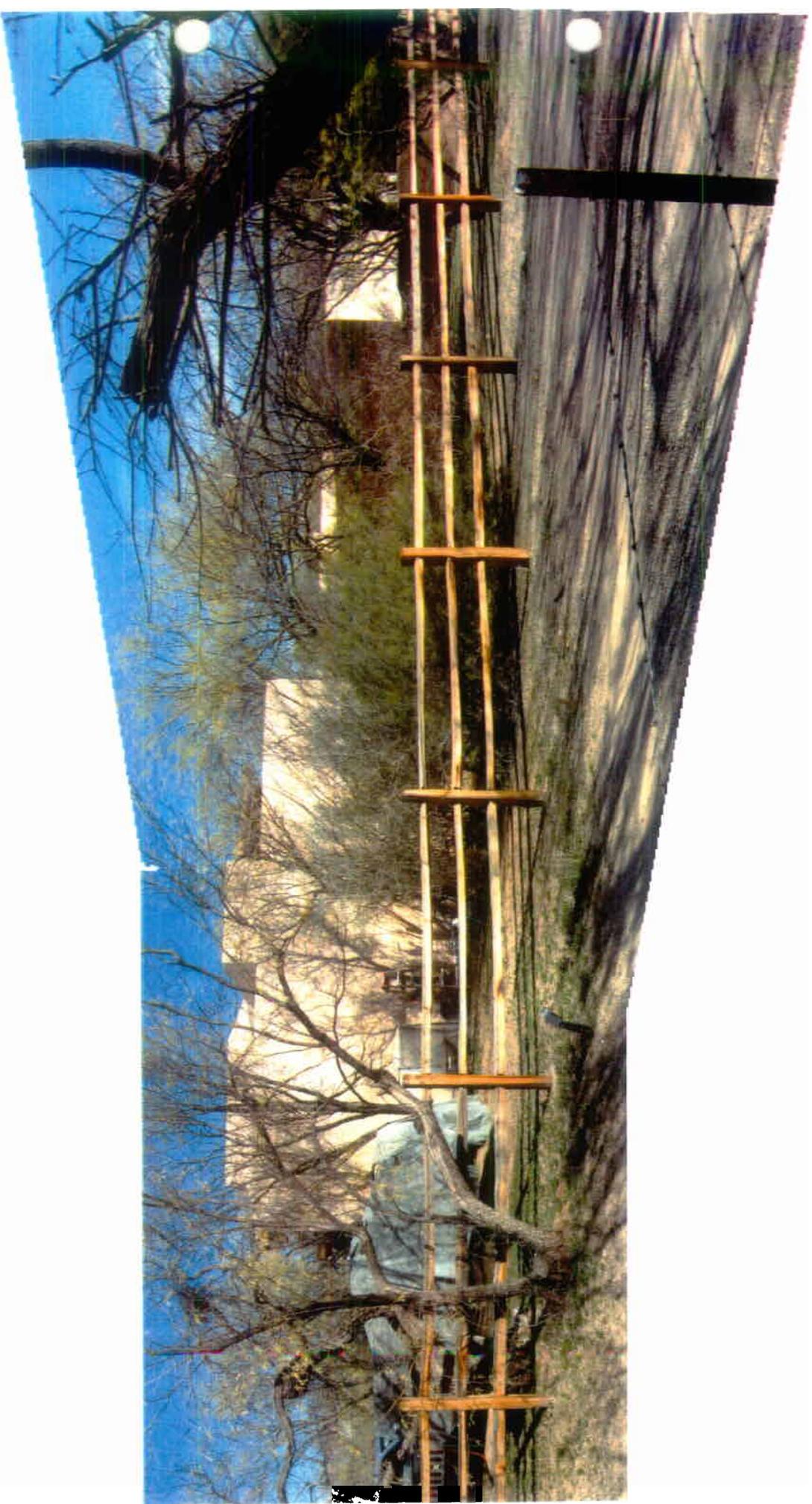




Exhibit D



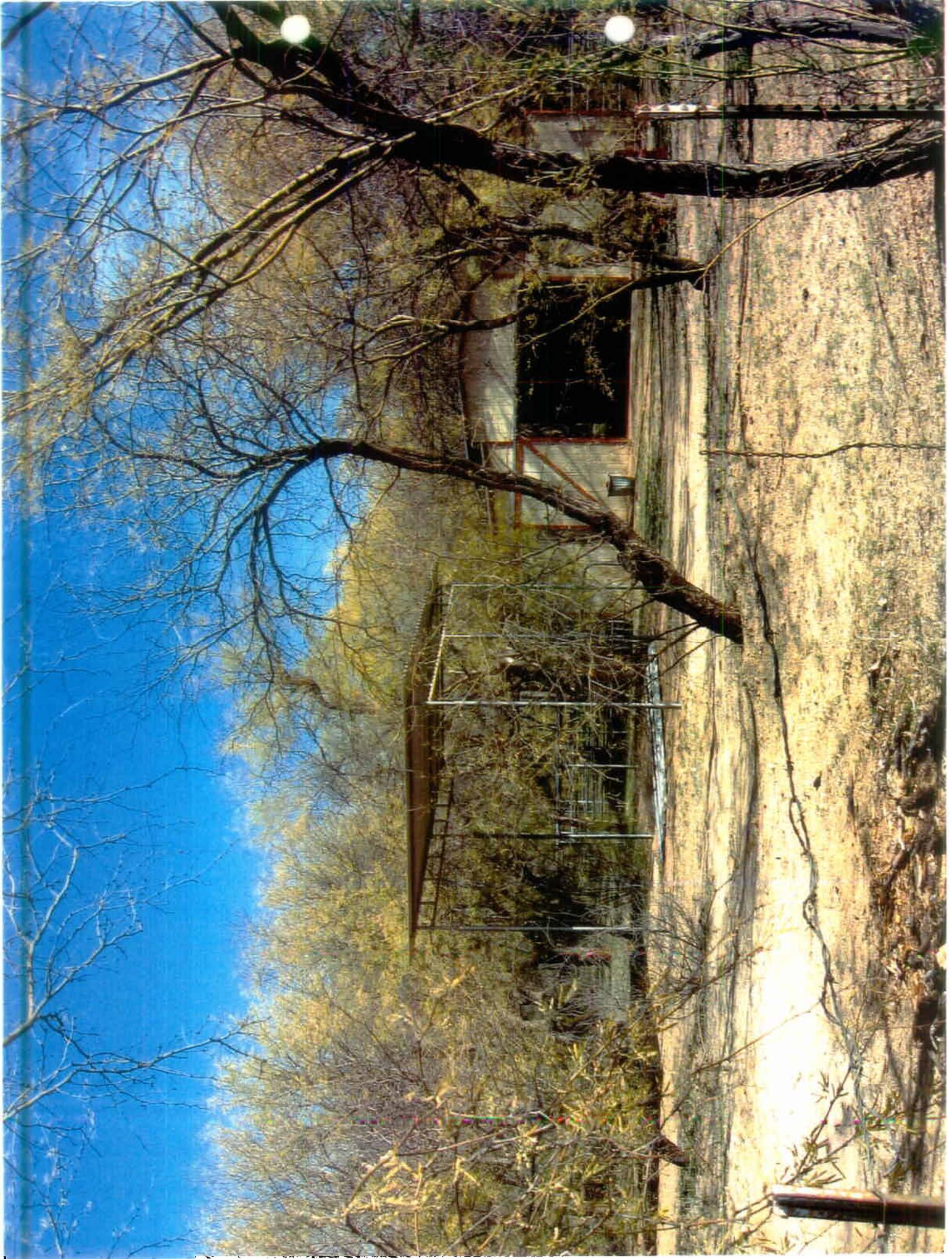


Exhibit E



Phase 1 of 2021



January 2, 2014

William R. Stoll
Kathleen E. Stoll
1450 North Freeman Road
Tucson, Arizona 85749

Re: **Co28(4)13-22 STOLL – N. FREEMAN ROAD**

Dear Applicant:

We have received a letter of opposition from a noticed property owner regarding your request for Modification of Setback Requirements, for the property located at **1450 North Freeman Road**. Receiving a letter of protest closes the Modification of Setback Requirements process.

According to the Pima County Zoning Code, if a protest to a setback modification or lot coverage limits is submitted by an owner of an affected property (as defined in Section 18.07.070C), the zoning inspector may refer the application to the Board of Adjustment as a variance request. An additional fee of \$759 is required should you wish to proceed with this request as a variance before the Board of Adjustment.

NOTE: It is to your advantage to submit the required letter of explanation and the enclosed variance application form. Your letter should be more detailed, and explain the reasons for requesting your variance. If you wish to proceed to the Board of Adjustment, please submit the completed information to our office by **Friday, January 3, 2014 or Friday January 31, 2014** to meet the next two deadlines. No other materials need be submitted since they were already submitted with your MSR application, unless you wish to submit a new map, or supplemental information.

The variance process includes a public hearing before the Board of Adjustment for your particular district. Your variance request would be scheduled for the next available District 4 hearing to be held on **Tuesday, February 11, 2014 or Tuesday, March 11, 2014** in the basement of the Public Works building in conference room C at 1:30 p.m.

If you elect not to proceed to the Board of Adjustment with a variance, please provide this office with a letter stating your decision to withdraw the application.

If you have any questions concerning the application, please call me at 724-9000.



Elva Pedregó, Senior Planner

Enclosure



December 23, 2013

Case No. **Co28(4)13-22 STOLL – NORTH FREEMAN ROAD**

NOTICE

This is to notify you that **William R. and Kathleen E. Stoll** have submitted an application for a modification of lot coverage limits (MSR) for property located at **1450 North Freeman Road** in the **SR** zone. The applicant requests a modification to **increase the maximum lot coverage allowed by multiple existing accessory structures (garage, carports, guest house and hay storage) to 4,031 square feet**, as shown on the attached site plan. The Pima County Zoning Code Section 18.17.050A restricts the lot coverage by accessory structures to 1,500 square feet or 70% of the area of the largest main building on the lot.

The modification of setback requirements must meet the following standards:

1. The lot coverage increase will not substantially reduce the amount of privacy that would be enjoyed by nearby residences.
2. Significant views of prominent land forms, unusual stands of vegetation, or parks from nearby properties will not be obstructed any more than would occur if the setback was not modified.
3. Traffic visibility on adjoining streets will not be adversely affected.
4. Drainage from proposed buildings and structures will not adversely affect adjoining properties and public rights of way.
5. The location of proposed buildings and structures will not interfere with the optimum air temperature/solar radiation orientation of buildings on adjoining properties.
6. The location of proposed buildings and structures, and the activities to be conducted therein, will not impose objectionable noise levels or odors on adjoining properties.

If you have an objection to the granting of the modification of setback requirements, your written protest must be received by Pima County Development Services - Planning Division, Attention: Elva Pedregó, 201 N. Stone Avenue, Second Floor, Tucson, Arizona 85701 on or before **Monday, January 6, 2014**. A written protest must include the name and address of the person submitting the protest, the case number, and the reasons why the application does not meet the above listed standards.

If you have any questions concerning the application, please call Elva Pedregó at 724-9000.



Elva Pedregó, Senior Planner

APPLICATION FOR MODIFICATION OF SETBACK REQUIREMENTS

Please print (no pencil) or type

Property Owner: KATHLEEN + BILL STOLL Phone: (520) 296-0034
Owner's Mailing Address: 1450 N. FREEMAN RD City: TUCSON Zip: 85749
Authorized Representative: ROBERT ABRIEL Phone: (520) 405-1527
Rep's Mailing Address: 5426 E. 8th City: TUCSON Zip: 85711
Property Address: 1450 N. FREEMAN RD. City: TUCSON Zip: 85749
Tax Code: 205-47-012D Zone: 9R

Specify the setback modification request (identify structure and the proposed setback in feet):

I, the undersigned represent that all the facts in this application are true to the best of my knowledge. I am aware that application for building permits must be made within nine months of approval of the Modification of Setback Requirements and that failure to apply for building permits within that time renders the modification approval null and void. I have read and understood the Modification of Setback Requirements guidelines and standards.

Signature of Owner or Representative [Signature] Date 12/4/13

Email Address of Owner or Representative EMA571@COX.NET

The following documents are attached:

NO PENCIL

- Sketch plan [size 8 1/2" x 11" preferred, maximum 11" x 17"];
- County Assessor's map showing the boundaries of the subject property;
- APIQ print out (County Assessor's print out showing current owner of property);
- Letter of authorization for Representative to apply (original signature of owner is required);
- Appropriate fee ~~\$258.00~~ \$263.00
- Standards Evaluation Form;
- Original signatures of owner or representative (two signatures).

If the Owner or Applicant is submitting signatures of neighboring property owners, please check the appropriate box that best describes the signatures that are provided;

- Applicant is submitting neighbor's signatures and believes all applicable property owners have signed.
- Applicant is submitting neighbor's signatures for some of the required property owners. The applicant understands that property owners whose signature has not been provided will be noticed by Pima County and provided 15 days to protest the MSR.

OFFICE USE ONLY	
Co28 (<u>4</u>) <u>B 22</u> <u>Stoll - N Freeman</u>	(Last name - Direction, Street Name)
Date Received: <u>12-20-13</u>	Received by: <u>[Signature]</u> (planner's initials)
Affected section of code(s): <u>9R 18.17.050A</u>	

INCREASE OF LOT COVERAGE
MODIFICATION OF SETBACK REQUIREMENTS
STANDARDS EVALUATION

In the spaces provided below, please explain how the proposed setback modification meets each of the six standards listed in Chapter 18.07.070D of the Pima County Zoning Code. The application cannot be processed without this information. Answer each question using full sentences. You may attach a separate sheet if necessary. **DO NOT USE PENCIL.**

1. Describe how the proposed ^{increase of lot coverage} reduction of setback affects the amount of privacy that would be enjoyed by nearby residences:

NONE WHAT SO EVER - CLOSEST STRUCTURE
MORE THAN 100' + TO NEARBY RESIDENCES

2. Explain how significant views from nearby properties of prominent landforms, unusual stands of vegetation, or parks would not be affected by this request:

ABUNDANCE OF 30' MESQUITE TREES
PROHIBIT MANY VIEWS

3. Explain how traffic visibility on adjoining streets will not be affected by this request:

FROM FREEMAN RD. CLOSEST OPEN STRUCTURE
IS OVER 130' VISIBILITY OVER 200'

4. Describe how drainage from proposed buildings and structures affects adjoining properties and public rights-of-way:

PROPERTY SOMEWHAT LEVEL - NATURAL WATER
DRAINS TOWARDS IRRIGAL VERDE WASH

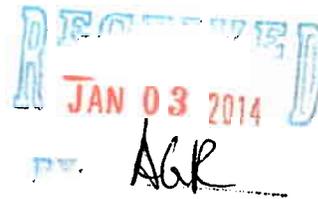
5. Describe in detail the use of structures involved in this request:

GARAGE USED TO STORE STREET CAIRS AND PERFORM
MAINTENANCE AROUND AREAS - GUEST HOUSE USED
FOR COMPANY WITH CARPORTS - HAY STORAGE USED TO
USE TO PROTECT FROM ELEMENTS

6. Explain how the location of proposed buildings and structures, and the activities to be conducted therein, will not impose objectionable noise levels or odors on adjacent properties:

PRIVATE RESIDENCE WITH ALOT OF UNUSED
SQ. FOOTAGE FOR CERTAINLY PEACE + QUIET.

NANCY S. ANTHONY
88 BROAD STREET, 2ND FLOOR
BOSTON, MA 02110



December 31, 2013

Pima County Development Services
Planning Division
201 N. Stone Avenue
Second Floor
Tucson, AZ 85701

Attention: Elva Pedrego'

RE: case No. Co28(4)13-22 STOLL-NORTH FREEMAN ROAD

Dear Ms. Pedrego'

It has come to my attention that the modification proposal for the property located at 1450 North Freeman Road is objected to by the residents and owners of 1520 N. Solder Trail (also North Freeman Road) and thus I write as Trustee of The Trust that holds said property to register our formal opposition.

The residents have lived at 1520 North Freeman since they purchased the property in 2000, enjoying the privacy, the natural mesquite bosque and the open space all of which would be negatively affected by the modifications proposed. In addition *the residents are concerned* that drainage and natural watershed across their property would be adversely affected by this proposal and thus support enforcement of the Pima County Zoning Code lot restrictions without modification.

Thank you for your kind attention to this matter.

Sincerely,

Nancy S. Anthony
Trustee
The Swensrud Irrevocable Residential Trust
Owner of 1520 N. Soldier Trail
Tucson, AZ

Raymond F. Birch
1500 Soldier Trail
Tucson, Arizona 85749

30 December 2013

Pima County Development Services
Planning Division
201 North Stone Avenue
Second Floor
Tucson, AZ 85701
Attention: Elva Pedrego

Re: Case No.: Co28(4)13-22 STOLL - NORTH FREEMAN ROAD

Dear Ms Pedrego,

My wife and I are the owners and long time residents of the property immediately to the north of and contiguous with the captioned property.

We oppose the modification described in your letter of December 23, 2013 and request that the Pima County Zoning Code lot restrictions set forth in your letter be enforced.

We believe the current use does not comply with the Zoning Code. Moreover, the proposed lot coverage increase reduces our privacy and could set a precedence for similar zoning changes to be granted to neighboring parcels.

We have owned our home which is close to the captioned property for more than 35 years and settled there for the privacy, quiet and ambiance provided by this neighborhood. Changes of the sort requested would irrevocably adversely affect this.

Very truly yours,

Raymond F. Birch
Sheela M. Birch

RECEIVED
DEC 31 2013