



MEMORANDUM

PUBLIC WORKS - DEVELOPMENT SERVICES

DATE: May 7, 2014

TO: BOARD OF ADJUSTMENT District #4

FROM: Tom Drzazgowski – Deputy Chief Zoning Inspector

SUBJECT: **Co10(4)14-03 RICHOUX – NORTH FENNIMORE AV.**
Scheduled for public hearing on May 13, 2014.

LOCATION:

The subject site is located in eastern Pima County. The property is located on the southeast corner of Fort Lowell Rd. and Fennimore Av. The property is approximately .80 acres and the zoning on the property is CR-1 (Single Residence).

SURROUNDING ZONING / LAND USES:

North -	SR	Rural
West -	CR-1	Residential
South -	CR-1	Residential
East -	CR-1	Residential

PUBLIC COMMENT:

This case was originally started as an MSR. It appears that as part of the MSR process a protest was received. The property owner then submitted a variance. Staff considers the property owner who protested during the MSR process to be the owner most affected by this request. The protest came from the property owner who is immediately east of the guest house.

PREVIOUS CASES ON PROPERTY:

There is one existing code violation on the property from this year. It appears the complaint was submitted by the same property owners who object to the variance request. Code Enforcement Staff visited the property and viewed the location of the guest house and where property lines may exist. It was determined that this violation would be a civil matter and not enforced by Pima County staff and the case was closed.

REQUEST:

The applicant requests the following variances:

1. **To reduce the side yard setback for an existing guest house to 18 feet from 20 feet.**
2. **To reduce the side yard setback for an existing guest house to 10 feet from 20 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 guest house which is the subject to the variance request was approved by Development Services and permitted. The guest house was constructed and the permit was finalized in April of 2014. All required inspections occurred. The guest house was approved at the minimum setbacks permitted of 20 feet from the side and rear property line. It appears that the guest house was constructed closer to the east property line than permitted. The property owner attempted to resolve this by submitting an MSR. As part of the MSR process a protest was received. The property owner decided to submit the request as a variance which is permitted by the Pima County Zoning Code.

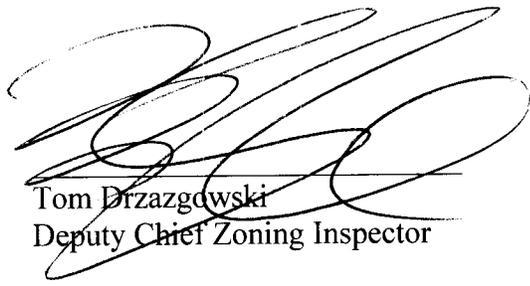
RECOMMENDATION:

Staff recommends **APPROVAL** of variance request #1 and **DENIAL** of variance request #2. Staff believes denying the first request to allow the guest house to encroach 2 feet into the setback results in a hardship. In addition, staff would not proceed to court or other action to have the guest house partially removed. Should the Board be inclined to approve the request it may want to consider further screening to assist in mitigation to the neighboring property owner to the east. Staff believes that request #2 should be denied. There is no justification to allow a further increase into the setback. There are other locations on the guest house to add a porch and this location will impact neighbors. The property owner who is most affected by the request has objected and further negatively impacting this neighbor should be avoided.

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.

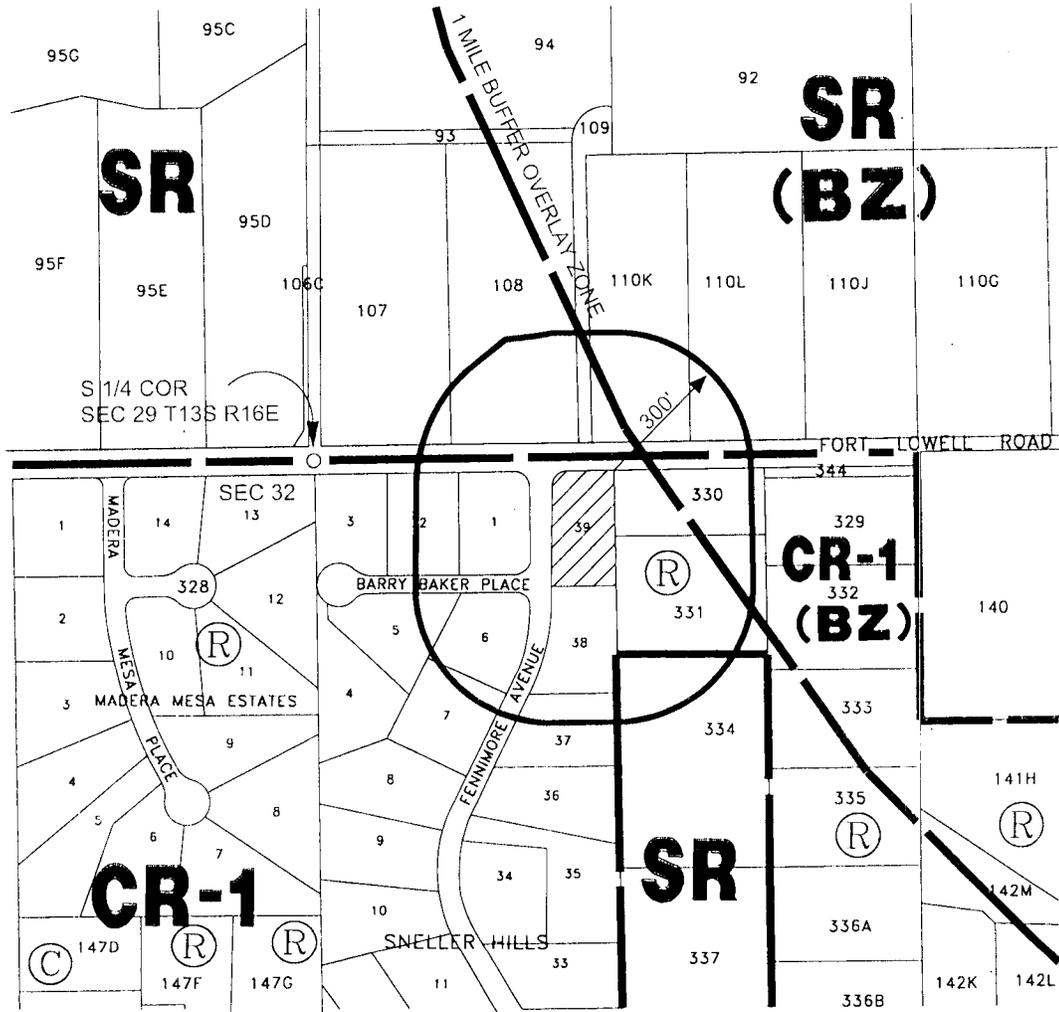
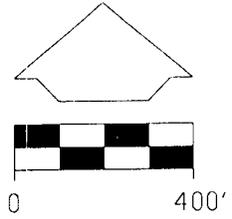
Respectfully submitted,



Tom Drzazgdowski
Deputy Chief Zoning Inspector

Co10(4)14-03 RICHOUX – NORTH FENNIMORE AV. James Richie, for the property owners, John & Diane Richouz, on the property located at **3178 N. Fennimore Av.**, in the **CR-1 zone**, requests the following variances;

- 1. To reduce the side yard setback for an existing guest house to 18 feet from 20 feet.** Section 18.09.020G of the Pima County Zoning Code requires a guest house be a minimum of 20 feet from a side or rear property line.
- 2. To reduce the side yard setback for an existing guest house to 10 feet from 20 feet.** Section 18.09.020G of the Pima County Zoning Code requires a guest house be a minimum of 20 feet from a side or rear property line.



Petition area 
 Notification area 

BASE MAP 126

Notes RE: CO280414-05

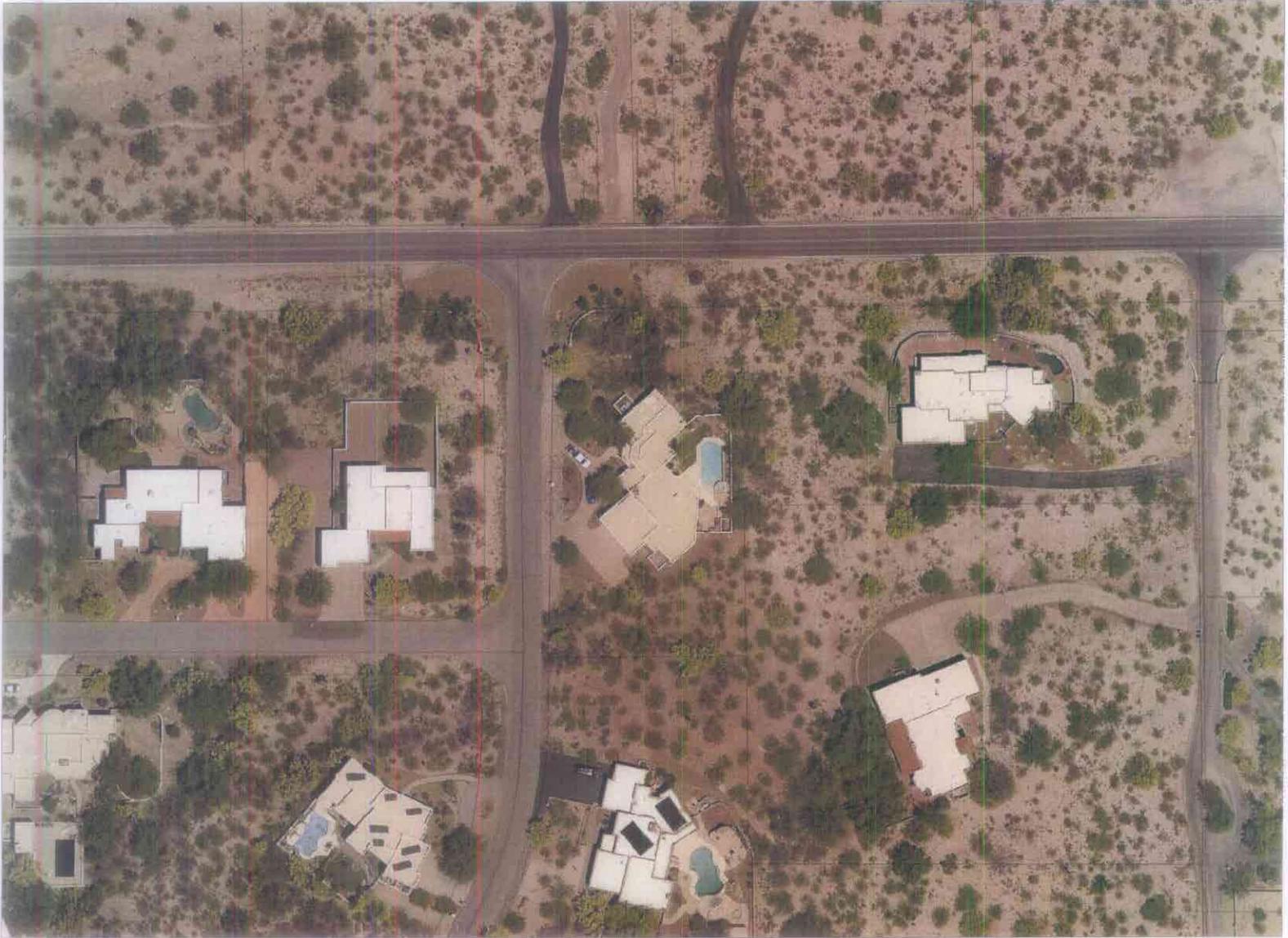
Tax codes 203-38-3130

Date 04/14/14
 Drafter DS

File no. CO100414-03
 RICHOUX
 NORTH FENIMORE AVENUE

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION

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N





PIMA COUNTY
DEVELOPMENT SERVICES

Variance Application

Revised 12/2013

(Please print or type) **NO PENCIL**

Property Owner: JOHN & DIANE Richoux Phone: 520-289-4401

Owner's Mailing Address: 3178 N Fennimore Ave City: TUCSON Zip: 85749

Authorized Representative: James Ritchie Phone: 358-5224

Rep's Mailing Address: 101 E Oracle Blvd City: TUCSON Zip: 85710

Property Address: 3178 N Fennimore Ave City: TUCSON Zip: 85749

Tax Code Number(s): 205-38-3130 Zone: CR1 ✓

Does the subject parcel have an active building or zoning code violation? YES

Owner or Applicant's Email Address: jrichoux@mindspring.com

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: [Signature] Date: 3/27/14

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

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

Case Title: Richoux - 3178 N. Fennimore Ave Co10(4)14 - 03
OWNER'S NAME - STREET NAME (EX. JONES- E. SPEEDWAY BOULEVARD)

requests a variance(s) to Section(s) 18 07 050 C 1. of the Pima County Zoning Code which requires roof eaves, or overhangs, shade structures, and roofed porches must not project more than three (3) ft. into any minimum frontside, or rear yard main structures, main buildings, and guest houses...

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY _____ DATE ____/____/____.

Request letter for Board of Adjustment

Reference rejected request for Modification of Setback (Co28(4)14-05 Richoux- N. Fennimore Ave.

Item 1 Reduce rear setback from 20' to 18'.

We are requesting a variance of the rear setback because the northeast corner of the newly constructed guest house (under Pima County permit number P13CP03714) is about 18" closer to the lot line than it should be. We believe this is a very reasonable request considering the affected neighbors are at least 100 feet away from that lot line (see Google Earth overview marked Exhibit 1) and the placement of the guesthouse does not alter the view from those neighbors except in a barely perceptible way. No landmark, natural feature or view of a park is obstructed by the current placement any more than it would have been if it had been at the stipulated 20'. The 2' change would not affect the privacy enjoyed by the neighbors. The placement does not change the natural drainage of the property.

Item 2 Reduce rear setback from 20' to 10' to allow construction of a rear porch and cover.

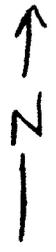
We are requesting a variance be granted to the rear setback so we may construct a porch and porch cover on the back of the house measuring about 9', 8" out from the house and 14' long and 12' tall. We would obtain the necessary building permit for approved construction. The location of the porch is within an existing masonry wall that is between 5 and 6 feet tall so only the upper portion of the porch would be visible. (See attached drawing marked Exhibit 2). The new porch structure would not block any more view than is already obstructed by the existing guesthouse because it is not as tall as the existing exterior walls. The completed porch would still be over 100' from the closest neighbors home. The privacy enjoyed by the neighbors would not change because the area proposed

Page 2

for the porch is already a part of the yard. There is ample vegetation between the proposed location and the nearest neighbor. (see photos marked Exhibit 3) The neighbor to the southeast of us requested that we purchase and plant 3 mesquite trees on his property (in locations he designates) to block the view of the new guesthouse. We are agreeable to this provided he assumes care for them thereafter. This would include watering them after planting and paying for the water. There would be no further obligation on our part if the trees needed to be replaced in the future. Planting these trees would further block the view of the new porch.

FT. LOWELL RD.

14.00'



SIDE

LOT 30
205-38-5190
'CR-T ZONE

EXISTING
MASONRY
WALL

205-38-3300
'CR-T ZONE

EXISTING
MAIN
RESIDENCE

258.07'

N. FENNIMORE AVENUE

FRONT

DRIVEWAY

REAR

*CHANGE
REAR SET-
BACK FROM
20' TO 10'

284.73'

GUESTHOUSE
15' 18" 6" FROM
PROPERTY LINE

205-38-3310
'CR-T ZONE

DRIVEWAY

61' FRONT YARD

PROPOSED
BACK
PORCH
9' 9" X 14'
12' TALL

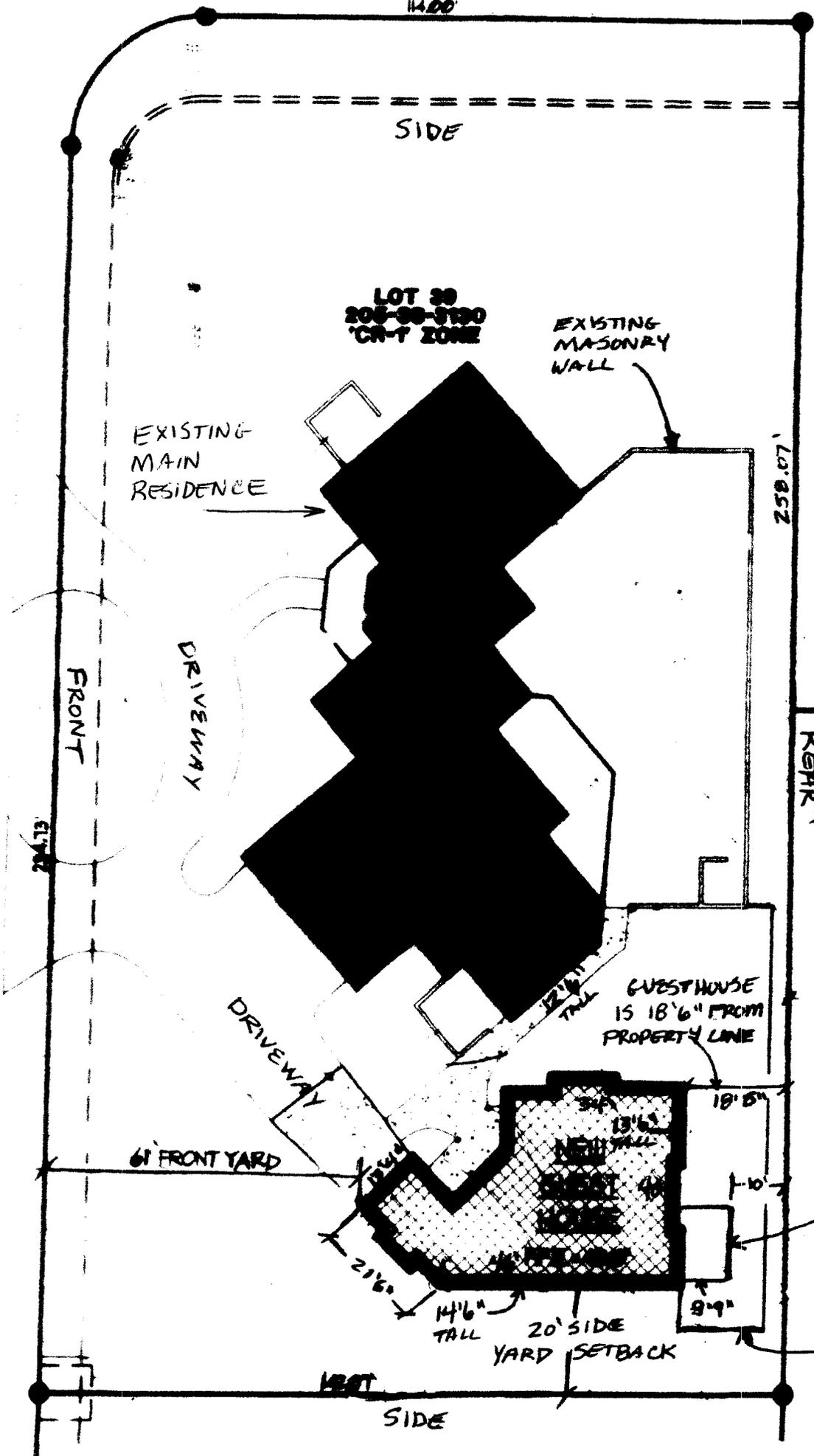
14' 6" TALL
20' SIDE
YARD SETBACK

NEW 5' 10"
MASONRY
WALL

WEST

SIDE

E





Google earth

feet
meters

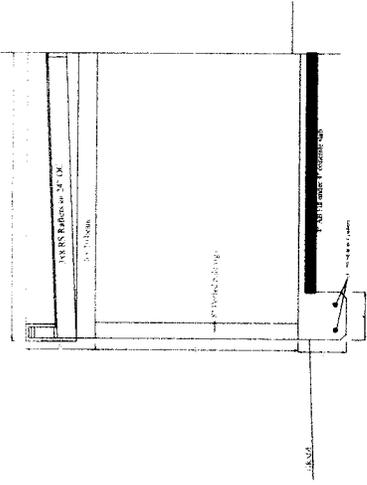


Red line indicates shortest distance between new guest house and closest neighbor. Red line distance is 117' +.

* indicates corner of guesthouse that is 18" too close to lot line.

EXHIBIT 2

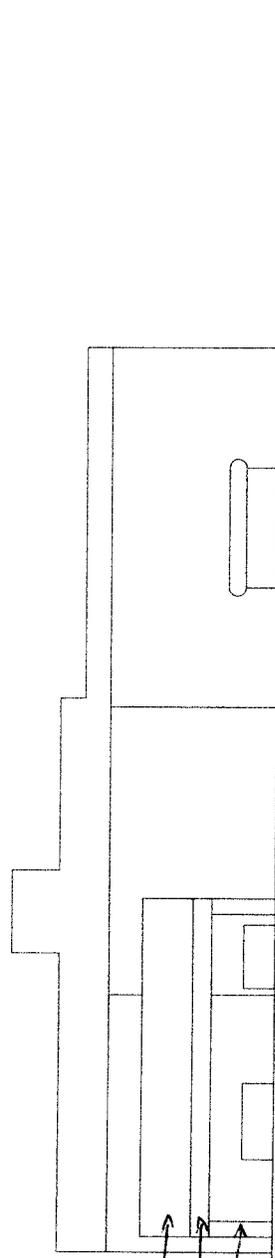
Porch detail



STUCCO
BEAM
ROUND POLE

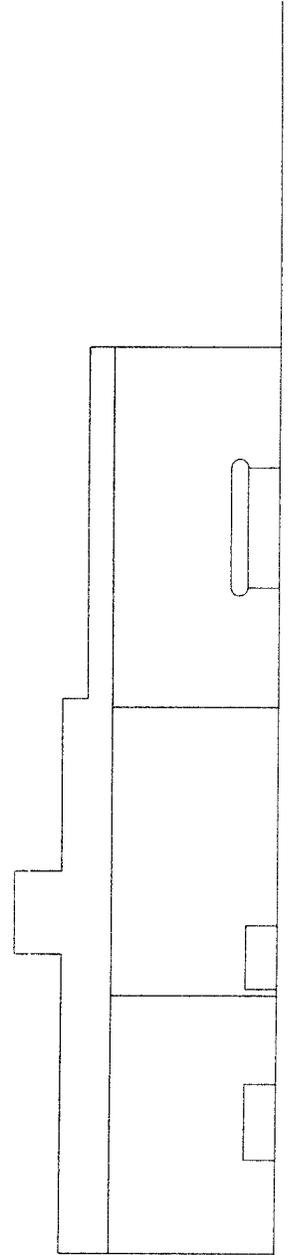
EXISTING MASONRY WALL

REAR VIEW w/ PORCH COVER



REAR VIEW without porch cover

EXISTING MASONRY WALL



VIEW FROM NORTHEAST HOUSE CORNER
TOWARD NEIGHBORS ON NORTHEAST



VIEW FROM ~~THE~~ SOUTHEAST HOUSE CORNER
TOWARD NEIGHBOR TO SOUTHEAST



Exhibit 3



AREA WHERE PROPOSED PORCH WOULD
BE BUILT



VIEW FROM TOP OF MASONRY WALL @ CORNER
TOWARD NEIGHBOR TO SOUTHEAST



PIMA COUNTY
DEVELOPMENT SERVICES

March 17, 2014

John & Diane Richoux
3178 N. Fennimore Ave.
Tucson, AZ 85749

Re: **Co28(4)14-05 RICHOUX – N. FENNIMORE AVENUE**

Dear Applicant:

We have received a letter of opposition from noticed property owners regarding your request for Modification of Setback Requirements (lot coverage increase) for the property located at **3178 North Fennimore Avenue**. Receiving a letter of protest closes the Modification of Setback Requirements process.

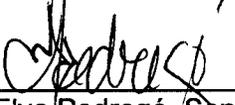
According to the Pima County Zoning Code, if a protest to a setback modification or lot coverage limits is submitted by an owner of an affected property (as defined in Section 18.07.070C), the zoning inspector may refer the application to the Board of Adjustment as a variance request. An additional fee 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, April 4, 2014** to meet the next deadline. 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 1 hearing to be held on **Tuesday, May 13, 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

Via email: jrichoux@mindspring.com

Dave & Terry Theurer
3145 N Spirit Dancer Trail
Tucson AZ 85749
520-749-4997

March 15, 2014

To Whom This May Concern:

Regarding: CASE NO. Co28(4)14-05 Richoux - N Fennimore Avenue

We do object to this setback reduction. This "guest house" is already too close. They did not meet the setbacks for the house it self. We built on this lot because of the separation it offered from other residences and with this house we have lost that. It has significantly reduced our view of the north end of the Catalina's and the windows look right in our back yard.

This house is not a "guest house". It is a full residence with a business that has its own private entrance and bathroom. From the day it is completed there will be a full time tenant.

This owner has already gone beyond the required set backs for this additional structure so we surely do not want an existing set back to be reduced to 10 feet. We are afraid of what else the owner may put there if this is approved. It seems they have pushed the limits on everything about this project. This house should have been moved forward. They have 61 feet to the street. In addition there was no reason to raise the grade to the extent they did. The end result of this placement and raising the grade is a huge eye sore in our back yard. Why did they choose to encroach on our property rights and not follow the required set back rules for Pima County????.

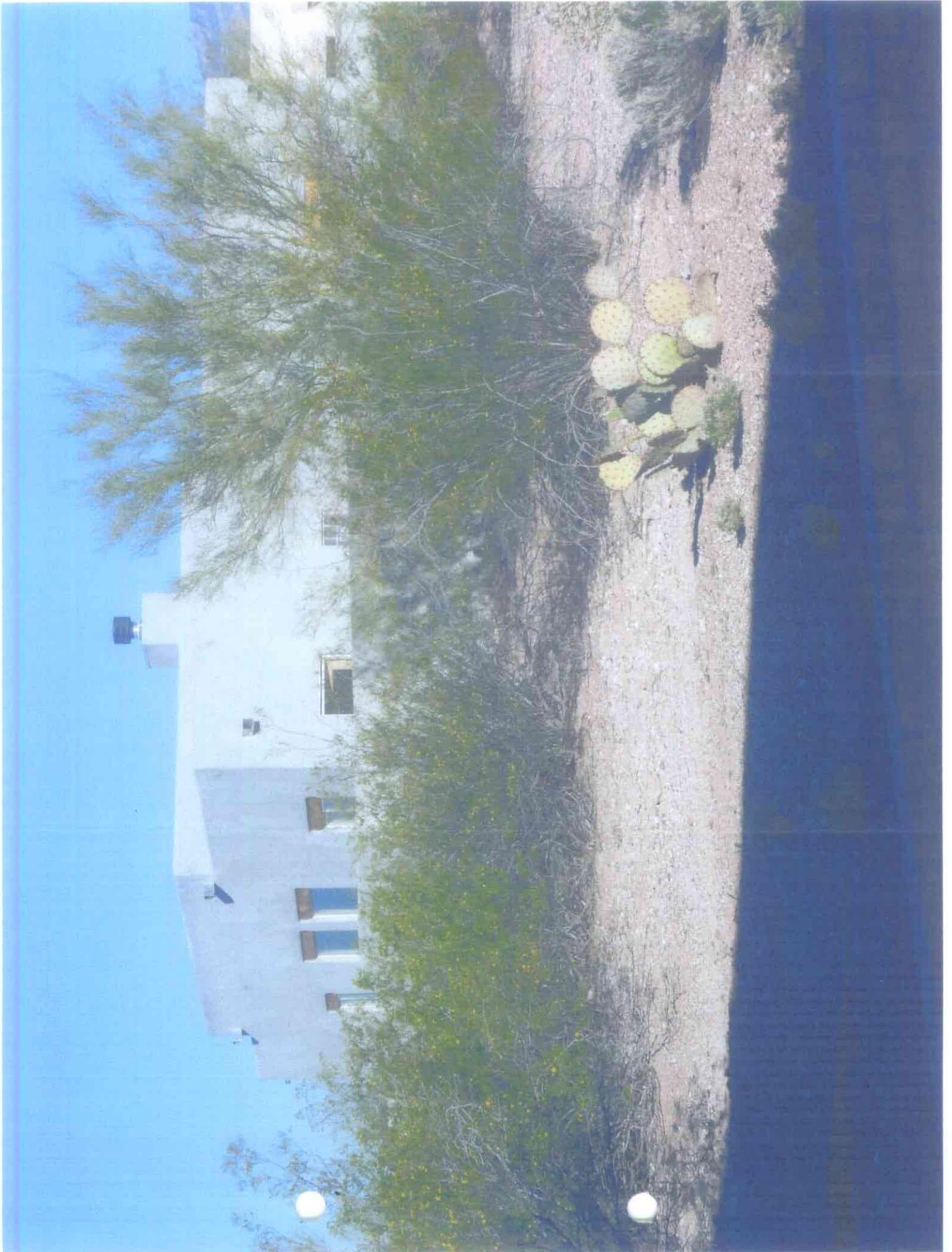
We are enclosing photos to show our point of view.

They should have placed the house closer to the front line and followed the requirements by Pima County and then they would have their patio area..

Respectfully Submitted,

Dave & Terry Theurer

MAR 19 2014





APPLICATION FOR MODIFICATION OF SETBACK REQUIREMENTS

Please print (no pencil) or type

Property Owner: John + Diane Richoux Phone: 520 289 4401
Owner's Mailing Address: 3178 N Fennimore Ave City: Tucson Zip: 85749
Authorized Representative: Contractor - James Richie Phone: 358-5224 — *can call for questions*
Rep's Mailing Address: _____ City: _____ Zip: _____
Property Address: 3178 N Fennimore Ave City: Tucson Zip: 85749
Tax Code: 205-38-3130 Zone: CR-T ✓

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

Reduce rear setback on guesthouse from 20' to 10' for the construction of a 10' x 14' patio cover.

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 2/27/14

Email Address of Owner or Representative grichoux@midspring.com

The following documents are attached:

NO PENCIL

- Sketch plan [size 8½" 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 \$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(4) 14- 5 Richoux - N. Fennimore Ave

(Last name - Direction, Street Name)

Date Received: 2/28/14 Received by: JR/AS (planner's initials)

Affected section of code(s): 18.09.020 G4b reduce rear setback to 10'



March 4, 2014

Case No. **Co28(4)14-05 RICHOUX – N. FENNIMORE AVENUE**

NOTICE

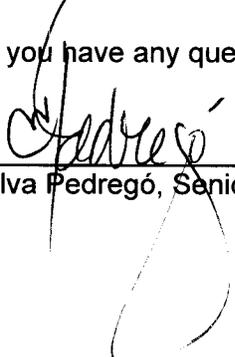
This is to notify you that **John M. and Diane E. Richoux** have submitted an application for a Modification of Setback Requirements (MSR) for property located at **3178 North Fennimore Avenue** in the **CR-1** zone. The applicant requests a modification to **reduce the rear yard setback for a guest house (under construction) to ten feet (10')**, as shown on the attached site plan. The Pima County Zoning Code Chapter 18.09.020G4b requires a twenty foot (20') minimum setback.

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 **Wednesday, March 19, 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.

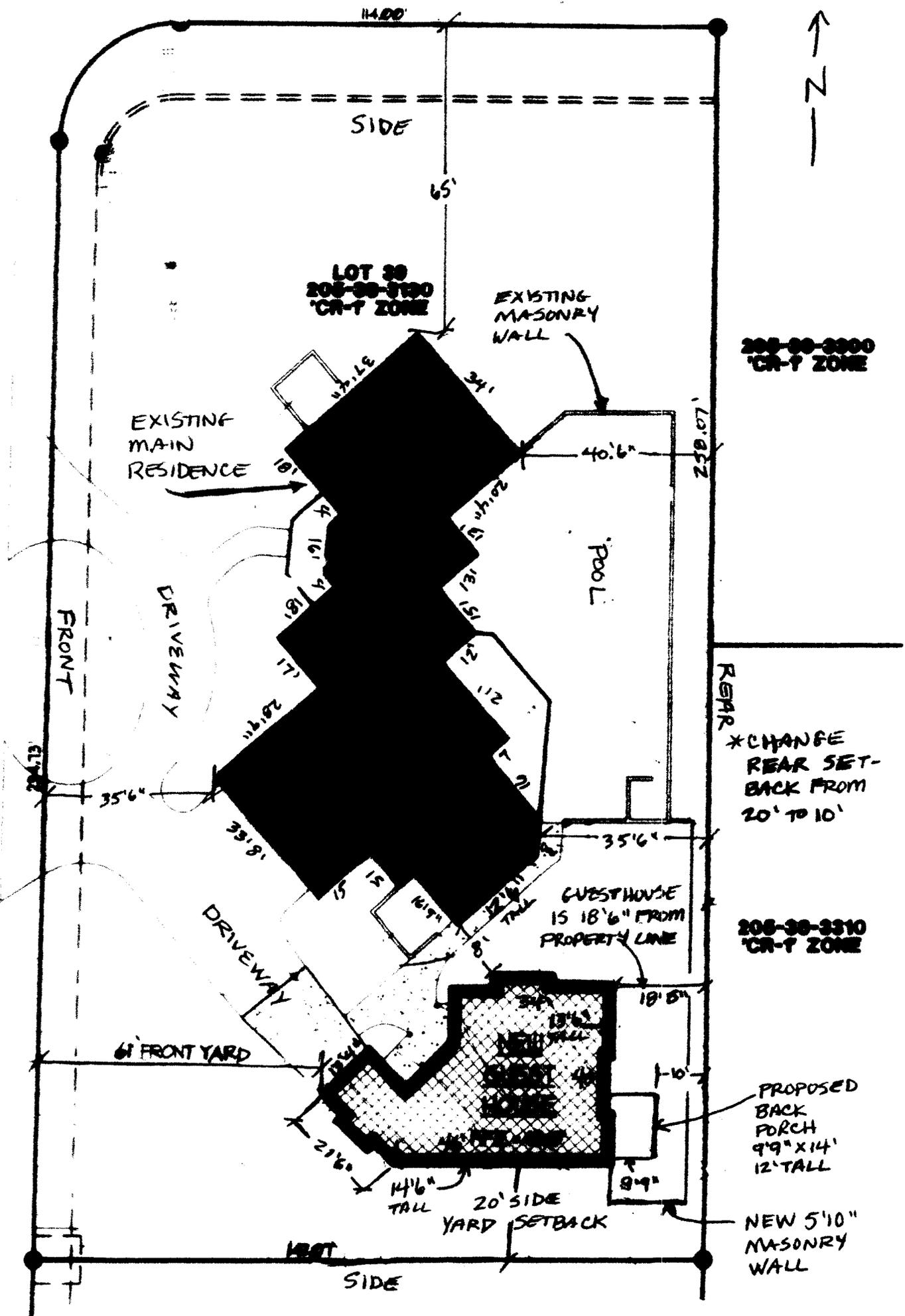
If you have any questions concerning the application, please call Elva Pedregó at 724-9000.



Elva Pedregó, Senior Planner

FT. LOWELL RD.

N. FENNIMORE AVENUE



**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.**

SEE ATTACHED SHEET

1. Describe how the proposed setback affects the amount of privacy that would be enjoyed by nearby residences.

Privacy would not be diminished for adjacent neighbors. The house being 20" closer to the lot line is not significant considering the neighbor's homes are over 100 feet away. The rear setback being reduced from 20' to 10' for the back porch does not diminish existing privacy because the patio is already going to be used, we are just adding a porch cover.

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

Only 3 neighbors (two on the east and 1 to the south) will be able to see the proposed porch cover. The view in that direction is already blocked by the existing main residence. The porch cover will not extend beyond the already blocked view in any way.

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

The setback request is for the east side of the structure opposite the side of the structure adjacent to the street. Therefore the setback will have no affect on visibility on the street.

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

Drainage would not be affected. The addition of a 10' x 14' porch cover would not increase water run off. The space being covered already has natural drainage away from the structure following the natural fall of the ground to an adjacent arroyo. The water coming from the roof of the porch would be directed to join the existing run off into that arroyo.

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

The guest house is a 2 bedroom and 2 bathroom, single family residence. It contains an in home office to run a small business allowed in this zoning designation and designated on the plans approved by both Pima County and the Homeowners association. The covered porch would be for casual entertaining for the resident only.

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. No noise or odors of any kind will affect the adjacent properties. The questhouse will be occupied as a typical single-family residence. No activities related to the use of the structure will significantly affect noise or odor levels.