



DATE: March 4, 2014  
TO: BOARD OF ADJUSTMENT District #5  
FROM: Elva Pedregó, Assistant Executive Secretary  
SUBJECT: **Co10(5)14-01 FIDELITY NATIONAL TITLE TR 60296 – WEST CALLE DON MIGUEL**  
Scheduled for public hearing on March 13, 2014

**LOCATION:**

The subject parcels are located less than half a mile south of Ajo Highway, a quarter of a mile east of Camino de Oeste, on the southeast corner of Calle Don Miguel and Avenida Paisano

**SURROUNDING ZONING / LAND USES:**

North	CR-1	Developed
West	CR-3	Developed
South	SR	Developed (school and church)
East	SR	Developed/Vacant

**PUBLIC COMMENT:**

None to date.

**PREVIOUS CASES ON PROPERTY:**

None

**REQUEST:**

The applicant requests a variance to reduce the minimum lot size to 7,700 square feet for Lots 80 thru 86; to 7,658 for Lot 79 and to 7,676 for Lot 87 in the Westview Point Subdivision. Section 18.25.030A of the Pima County Zoning Code requires a minimum lot size of 8,000 square feet.

**TRANSPORTATION AND FLOOD CONTROL REPORT:**

No comment.

**BACKGROUND:**

The lots subject to the variance request are within the Westview Pointe subdivision, located south and west of the Tucson Mountain Park's southern boundary and was platted and recorded in May of 2006. The site was graded shortly after the recording of the plat and has remained undeveloped.

The applicant states "During the grading design, it became apparent that the topographic conditions were such that a significant elevation difference was going to be required between the rear yards of lots 79-87 and 88-96. The lot line on the site improvement plans was shifted from where it was

located on the tentative plat to allow the full graded slope to sit on the lower of the two lots. It was not recognized at the time that the square footage of the upper tier lots was reduced to 7,700 square feet. It did not get caught by EEC during the final design or platting.” As noted on the copy of the recorded subdivision, these lots show an area of 8,050 square feet, even though the dimensions only measure 7,700 square feet.

The subdivision has now been acquired by Red Point Development and they would like to start developing the subdivision but must rectify the undersized lots before they begin the permit process.

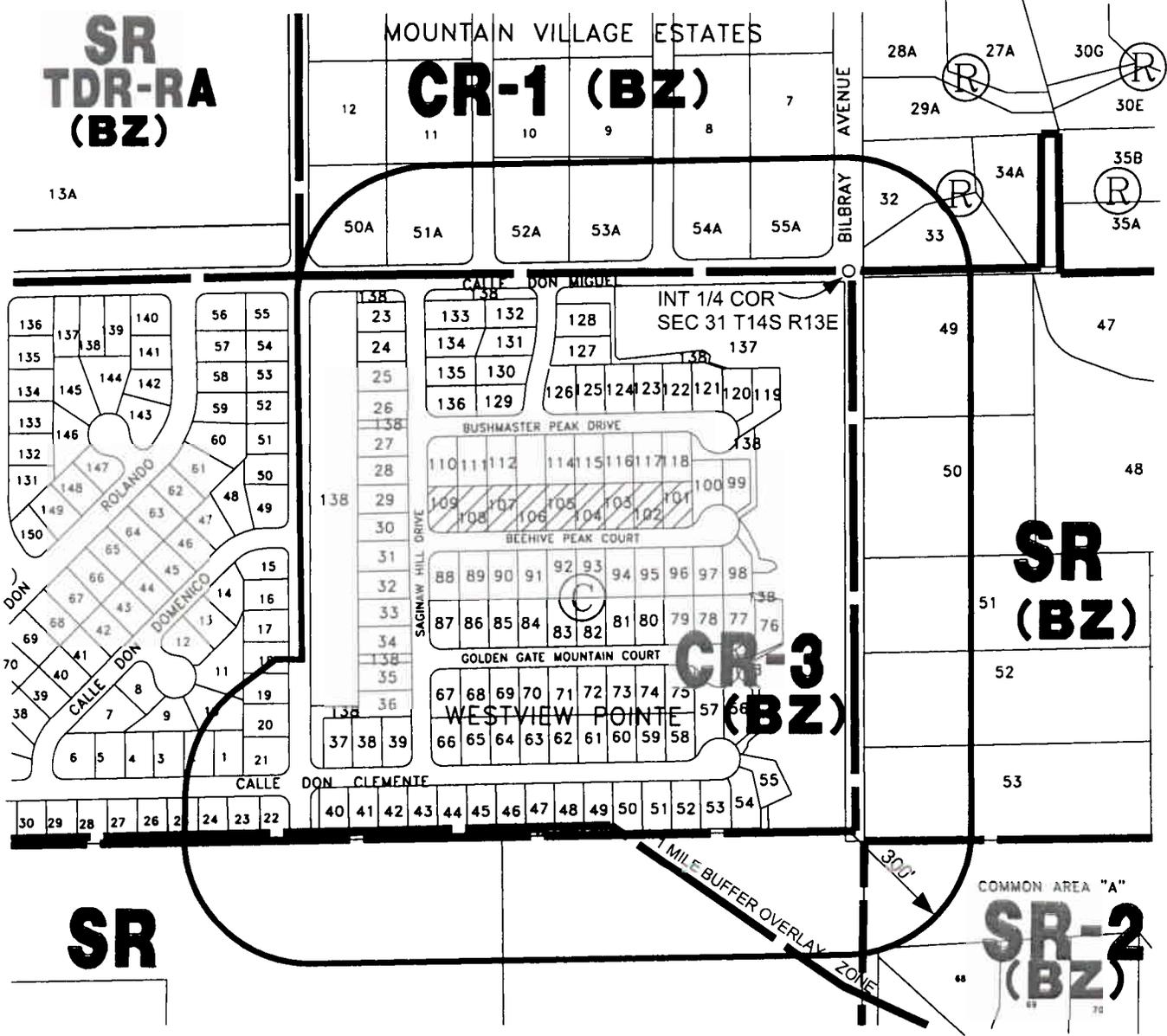
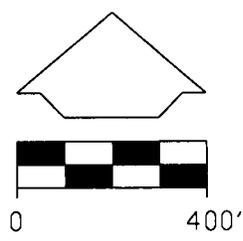
**RECOMMENDATION:**

Staff has recommended **APPROVAL** of the variance request. The subject lots are internal and the 300 to 350 reduction will not be noticeable by any future homeowners. This and given the lack of neighborhood protest, it appears the variance will not adversely affect the rights of surrounding property owners. The current owner is not the original developer and the condition was created by the design engineer at the time; the hardship is not self-imposed. Because the overall lots average over 8,000 square feet; the variance is in harmony with the general intent and purpose of the code. Staff believes the variance is the minimum to afford relief.

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**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.



Petition area

Notification area

BASE MAP 17

Notes Ref: C09-63-89

Tax codes 119-45-1010  
thru 119-45-1090

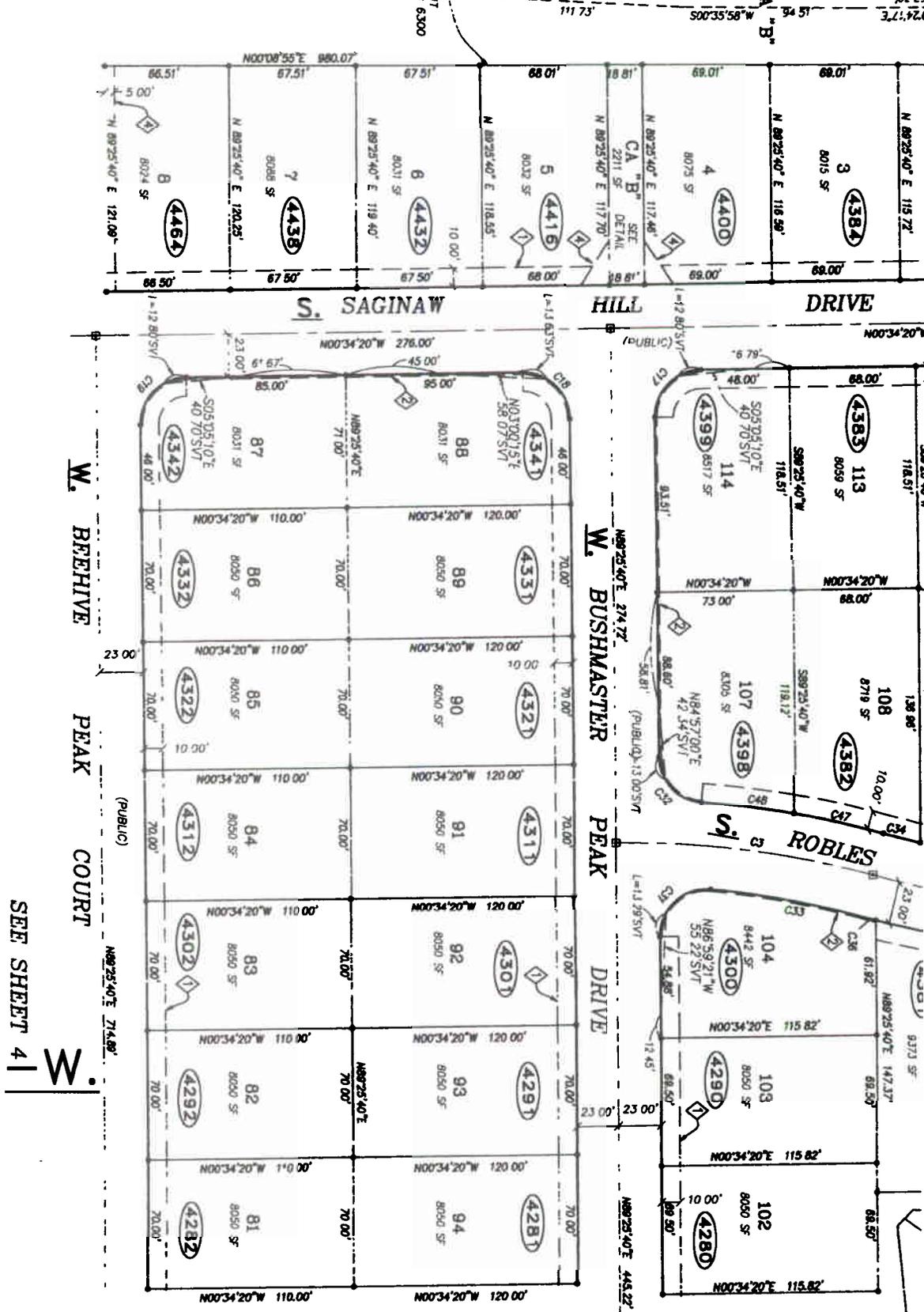
Date 02/11/14  
Drafter DS

File no. C010(5)14-01  
FIDELITY NATIONAL TITLE TR 60296  
WEST BEEHIVE PEAK COURT

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT  
PLANNING DIVISION





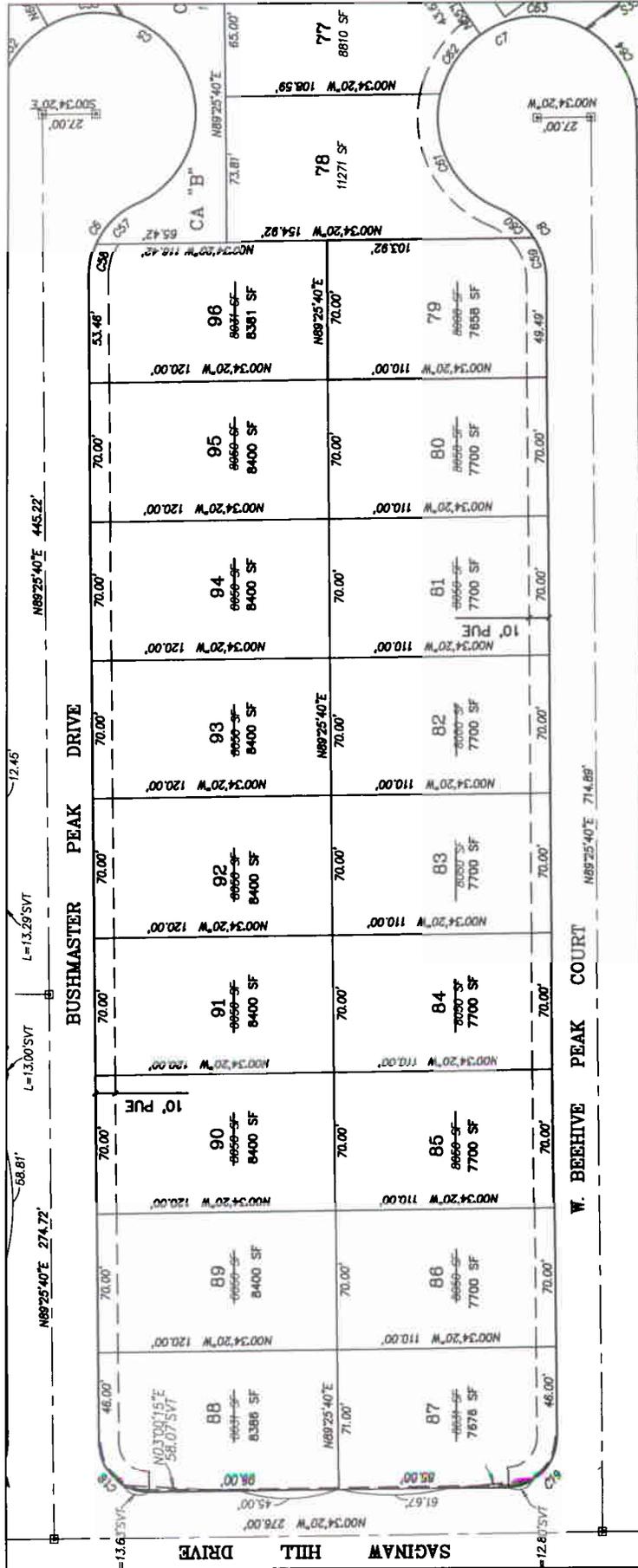
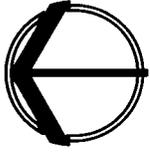


4400-S.

SEE SHEET 3

10/ (N)







Variance Application

Revised 12/2013

(Please print or type) NO PENCIL

Property Owner: Red Point Development Inc Phone: (520) 408-2300

Owner's Mailing Address: 8710 N. Thornydale Road, Suite 120; Tucson City: Zip: 85742

Authorized Representative: William Carroll Phone: (520) 321-4625

Rep's Mailing Address: 4625 East Fort Lowell Road; Tucson City: Zip: 85712

Property Address: Westview Point Subdivision (see attached list) City: Zip: 85746

Tax Code Number(s): see att'd list Zone: CR-3

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

Owner or Applicant's Email Address: bcarroll@eectuc.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: February 7, 2014

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

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

Case Title: FIDELITY TITLE TR 602916 - W CALVE DON MIGUEL Co10(5)A - 01

requests a variance(s) to Section(s) 18.25.030A of the Pima County Zoning Code which requires a minimum lot area of 8,000 square feet

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY [Signature] DATE 2/7/14

FIDELITY NATIONAL TITLE AGENCY, INC.  
6245 E. BROADWAY, SUITE 200  
TUCSON, ARIZONA 85711  
PHONE NUMBER (520)-751-2970  
FAX NUMBER (520)-290-2392  
E-MAIL ADDRESS [mhill@fnf.com](mailto:mhill@fnf.com)

February 6, 2014

Pima County Development Services  
201 N. Stone, 2nd Floor  
Tucson, Arizona 85701

Re: Letter of Authorization/Westview Pointe

Dear To Whom It May Concern:

Fidelity National Title Agency, Inc., as Trustee under Trust Number 60,296 as owner of the subdivision known as Westview Pointe , does hereby authorize Bill Carroll of Engineering and Environmental Consultants, Inc.. to represent us as the applicant and/or agent for a variance for the property.

Attached is a copy of the recorded Declaration of Trust that states the name of the beneficiary of the trust.

Please let me know if you need anything further.

Sincerely,



Martha L. Hill  
Senior Trust Officer for  
Fidelity National Title Agency, Inc. Trust 60,296



February 7, 2014

RE: Request for Variance – Westview Pointe  
EEC Project Number 201099.08

Board of Adjustment District 5 Board Members:

I am writing to request a variance to reduce the minimum lot size in nine lots in the platted but not fully developed Westview Pointe Subdivision (Bk/Pg 61 031). The Plat was recorded in 2006 and the lots were graded shortly thereafter.

The variance is for lots 79 – 87 of this subdivision. During the grading design, it became apparent that the topographic conditions were such that a significant elevation difference was going to be required between the rear yards of lots 79 – 87 and 88 – 96 (see attached sketch). The lot line on the site improvement plans was shifted from where it was located on the Tentative Plat to allow the full graded slope to sit on the lower of the two lots. It was not recognized at the time that the square footage of the upper tier of lots was reduced to 7700 s.f. It did not get caught by EEC during the final design or platting. In fact, the final plat shows the area of those lots as 8050 s.f. in spite of the fact that the lot dimensions reflect that the lot size is actually only 7700 s.f.

Following the recording of the plat, the development was completely graded and building pads and roadways have been created. To further complicate the matter the current owner of the property, Red Point Development, was not involved in either the design phase or the grading construction. In addition, while EEC was the firm that designed the development, none of the registrants that were involved in this project are still EEC employees.

In preparing this request, we have carefully reviewed the 12 guidelines which you must consider in your decision and we believe that this request is consistent with those guidelines.

1. The strict application of the provision would work an unnecessary hardship.  
*The owner of the property purchased the land on the assumption that they were purchasing 114 fully graded zoning-compliant lots. In order to increase the lot size we would have to replat the subdivision, which in-turn would shift the slope between the rear yards requiring structural methods such as retaining walls.*
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.  
*There is an elevation difference of up to five feet between some of the lots in this portion of the development. This condition does not occur anywhere else in the subdivision.*

[www.eec-info.com](http://www.eec-info.com)

Environmental Services | Flood Control & Drainage | Land Development  
Land Surveying | Transportation | Water & Wastewater

Tucson • Phoenix

3. The unnecessary hardship does not arise from a condition created by an action of the owner of the property.  
*The condition was created by the design engineer not by the previous owner or the current owner. EEC is requesting the variance to attempt to provide a reasonable resolution to this problem.*
4. The variance is the minimum necessary to afford relief.  
*There will be no additional requests to allow the lots in question to be developed as they were platted.*
5. The variance does not allow a use which is not permitted in the zone by the code.  
*The variance is only for lot size. The use of the land will remain single family residential and all building setbacks will be maintained.*
6. The variance is not granted solely to increase economic return from the property.  
*There will be no economic benefit whatsoever. The number of lots does not change. The square footage that these 9 lots lost has just been put into the lots to the north. The 18 lots still average 8050 s.f. In addition, 7.8 acres of this project was platted as natural open space so the overall development density was not even maximized.*
7. The variance will not cause injury to or adversely affect the rights of surrounding property owners and residents.  
*Since the lots in question are internal to the subdivision, there will be no impact to future developments in the surrounding area. In addition, the entire development is still under single ownership of Red Point Development so there are no "next-door" neighbors to be impacted. Since homes on these lots will still maintain required building setbacks, the future neighbors will not be impacted.*
8. The variance is in harmony with the general intent and purposes of the code and the provision from which the variance is requested.  
*The subdivision was developed within the CR-3 zoning classification. The platted lots still have an average of over 8,000 s.f. so this request does not in any way undermine the intent and purpose of the code.*
9. The variance does not violate state law or other provisions of Pima County ordinances.  
*This is true.*
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;  
*The change in lot size was created to accommodate steep slopes between the rear yards and maintain useable lot pad sizes. As stated previously, the current owner had no involvement in the original design or platting process. This variance would just allow them to build homes on the upper tier of lots.*
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;  
*This is not for sign or advertising structure.*

February 7, 2014

Board of Adjustment District 5 Board Members

RE: Request for Variance – Westview Pointe - 201099.08

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12. If the variance is from a height limitation, no reasonable use of the property can be made unless the variance is granted.

*This request does not include any changes in allowable building height*

Thank you for your time and consideration.

Sincerely,

**ENGINEERING AND ENVIRONMENTAL CONSULTANTS, INC.**

A handwritten signature in black ink, appearing to read "W. B. Carroll". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

William B. Carroll, P.E.  
Senior Vice President