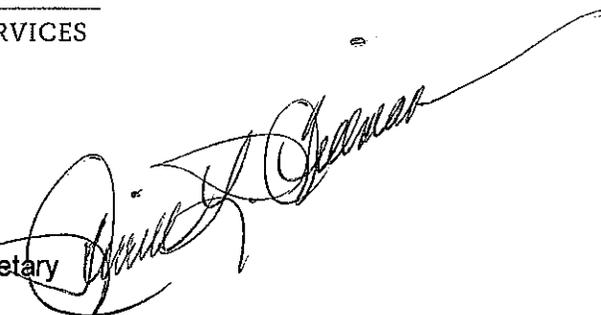




**PIMA COUNTY**  
DEVELOPMENT SERVICES

DATE: May 26, 2015  
TO: BOARD OF ADJUSTMENT District 1  
FROM: Terrill L. Tillman, Assistant Executive Secretary   
SUBJECT: **Co10(1)15-04 BARNETT – NORTH EQUESTRIAN TRAIL**  
Scheduled for public hearing on June 1, 2015

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**LOCATION:**

The subject parcel is located approximately nine hundred feet south of Cloud Nine Road and three hundred feet west of North Equestrian Trail. The property is zoned CR-1 (Single Family Residence).

**SURROUNDING ZONING / LAND USES:**

North	CR-1	Developed Residential
East	CR-1	Developed Residential
South	CR-1	Developed Residential
West	GR-1	Developed Residential

**PREVIOUS CASES ON PROPERTY:**

The property is the subject of a current violation case P13CV00350 for grading without a permit. The property owner has brought the grading violation into compliance with the Pima County Zoning Code and has adequately stabilized the slope conditions created on site. Permitting the barn structure, animal shade structure, and corrals is necessary to finalize/close the current violation.

A Modification of Setback Requirements was applied for by case Co28(1)15-12 so that permits for the structures could be obtained. The legal notification was sent on April 2, 2015. A letter of protest was received within the 15 day protest period to the granting of the MSR, hence, this case is heard as a variance request.

**PUBLIC COMMENT:**

One letter of opposition to Modification of Setback Requirements (MSR) case Co28(1)15-12 was received citing that the location of the barn and the slope conditions without slope stabilization cause water runoff onto the adjacent property to the west. The adjacent property to the west is abutting the rear yard of the subject property. In addition, the MSR will impose objectionable flies and/or odors to the adjoining property.

**REQUEST:**

The applicant requests a variance to reduce the side yard setback to 26 feet for an existing stable. **Section 18.21.040C2b requires a 50 foot minimum side yard setback.**



**TRANSPORTATION AND FLOOD CONTROL REPORT:**

No comment but will review at the time of permitting.

**BACKGROUND:**

The 1.50 acre subject property is located approximately three fourths of a mile east of Lago Del Oro Parkway and 300 feet west North Equestrian Trail. Permit records indicate that the property was developed with a single family residence in 2004. Subsequent permits were issued and finalized for a patio wall in 2005 and a pool and fence in 2007. A violation case P06ZV00448 was opened for grading too close to the property line and no violation was found. All above listed permit activity was by a previous owner.

The new owners of the subject property have applied for permits to for the barn/shade structure and corrals to remedy the current code violation found on the property. The owners have worked with Development Services in obtaining a native plant preservation plan to ameliorate the effects of the non-permitted grading on site and to provide slope stabilization. An application P14CP07563 has been submitted for the unpermitted structures on site. The permit application is on hold pending the required variance approval or relocation of the barn/shade structure to meet the required 50 foot side yard setback.

The site is topographically sloping from the east to the west and located within the Hillside Development Zone (HDZ). The HDZ (slopes greater than 15%) portion of the lot does not contain any of the unpermitted structures. The existing water flow patterns have not significantly changed because of the development of the unpermitted structures. The owners have removed a fill area adjacent to the west property boundary and installed a built-up berm area to contain any additional water flow from the subject property to the effected property to the north and have installed rip-rap for erosion prevention.

**RECOMMENDATION:**

Staff recommends **APPROVAL** of the variance request. The strict application of the code would work an unnecessary hardship and the hardship arises from a physical condition of the property. The variance is the minimum to afford relief.

\*\*\*\*\*

**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;



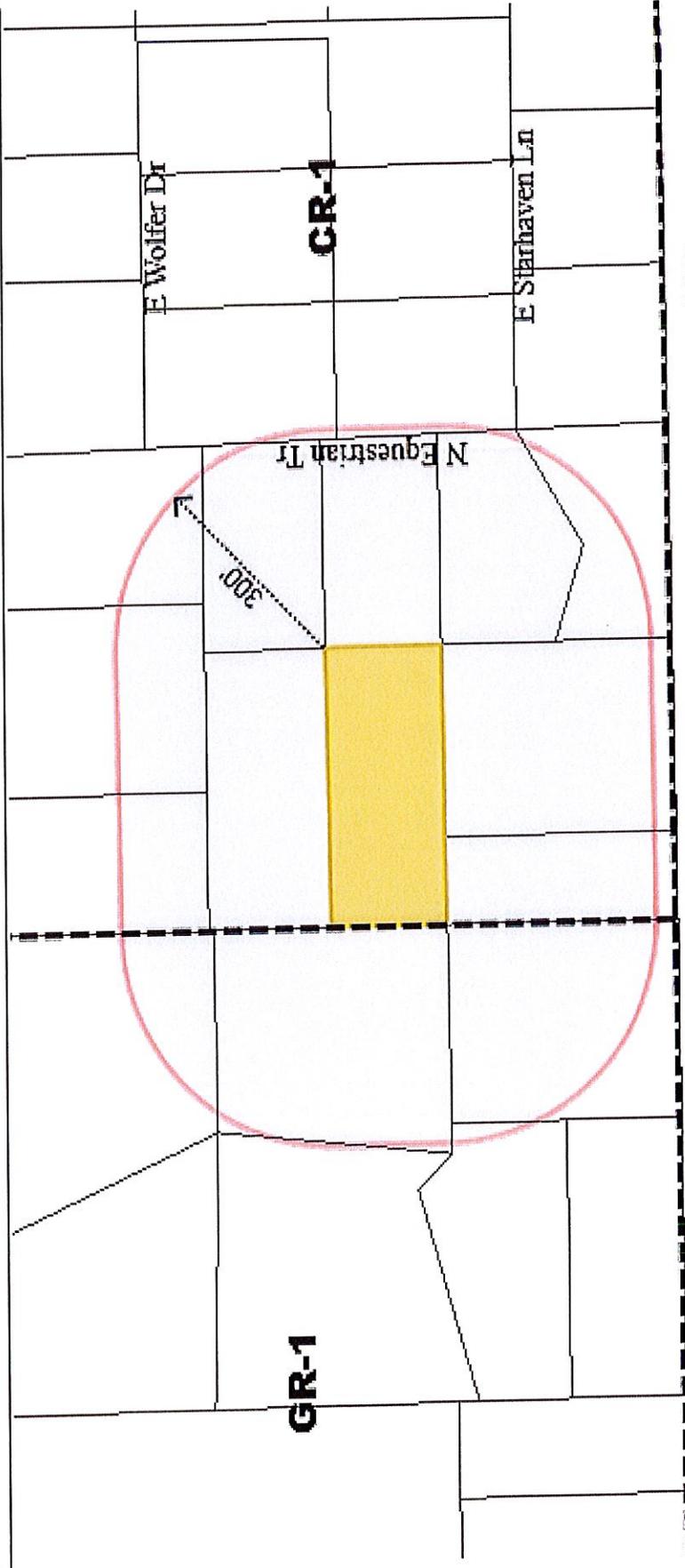
## PIMA COUNTY

### DEVELOPMENT SERVICES

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.

# NOTIFICATION MAP

BARNETT — N. EQUESTRIAN TRAIL



**LEGEND**

- Petition Area
- Notification Area

**NOTES**

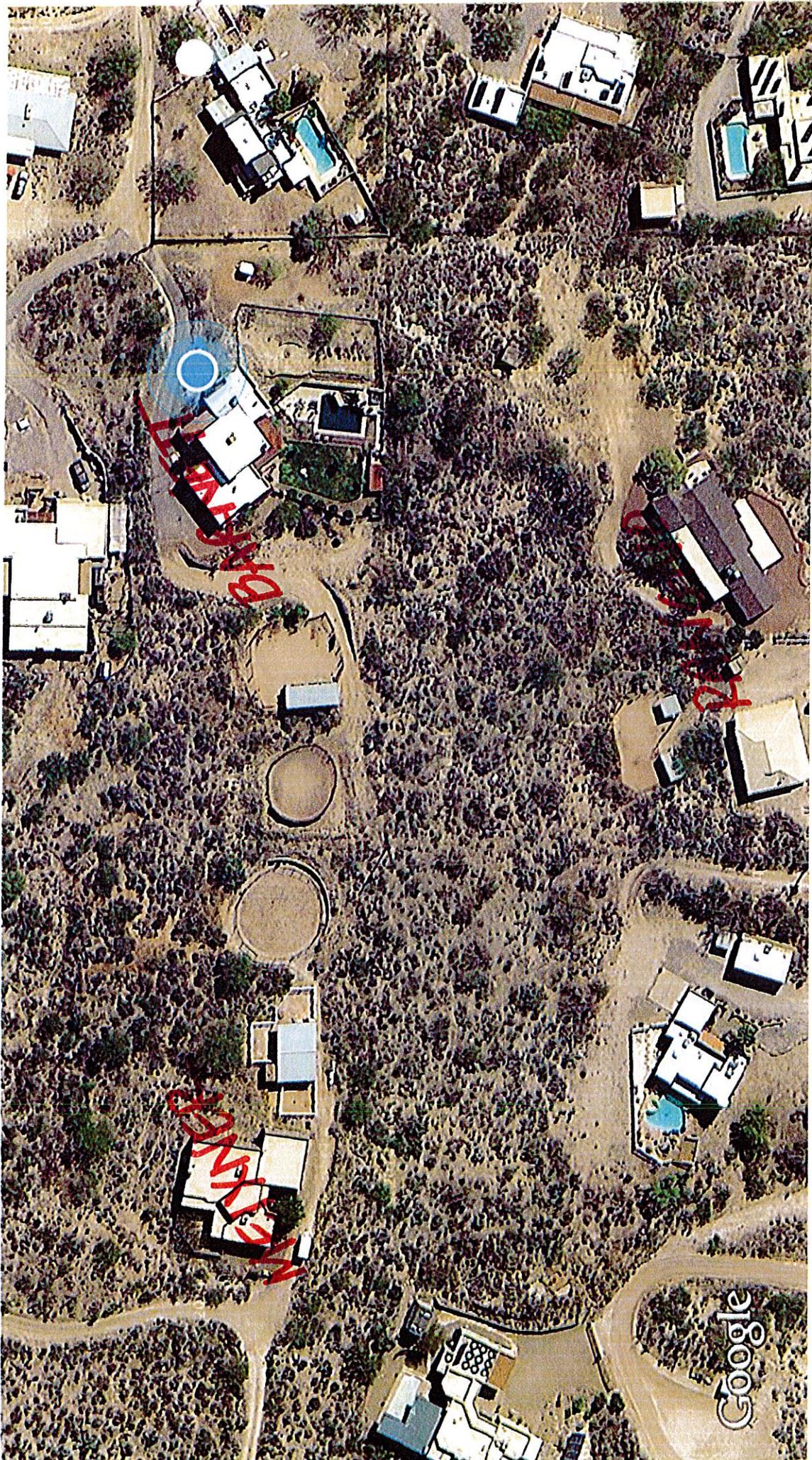
<b>File no.:</b>	Co10(1)15-04	<b>Tax Code(s):</b>	222-33-061D
<b>Application:</b>	Variance	<b>Base Map:</b>	433
		<b>Drafter:</b>	A.H.



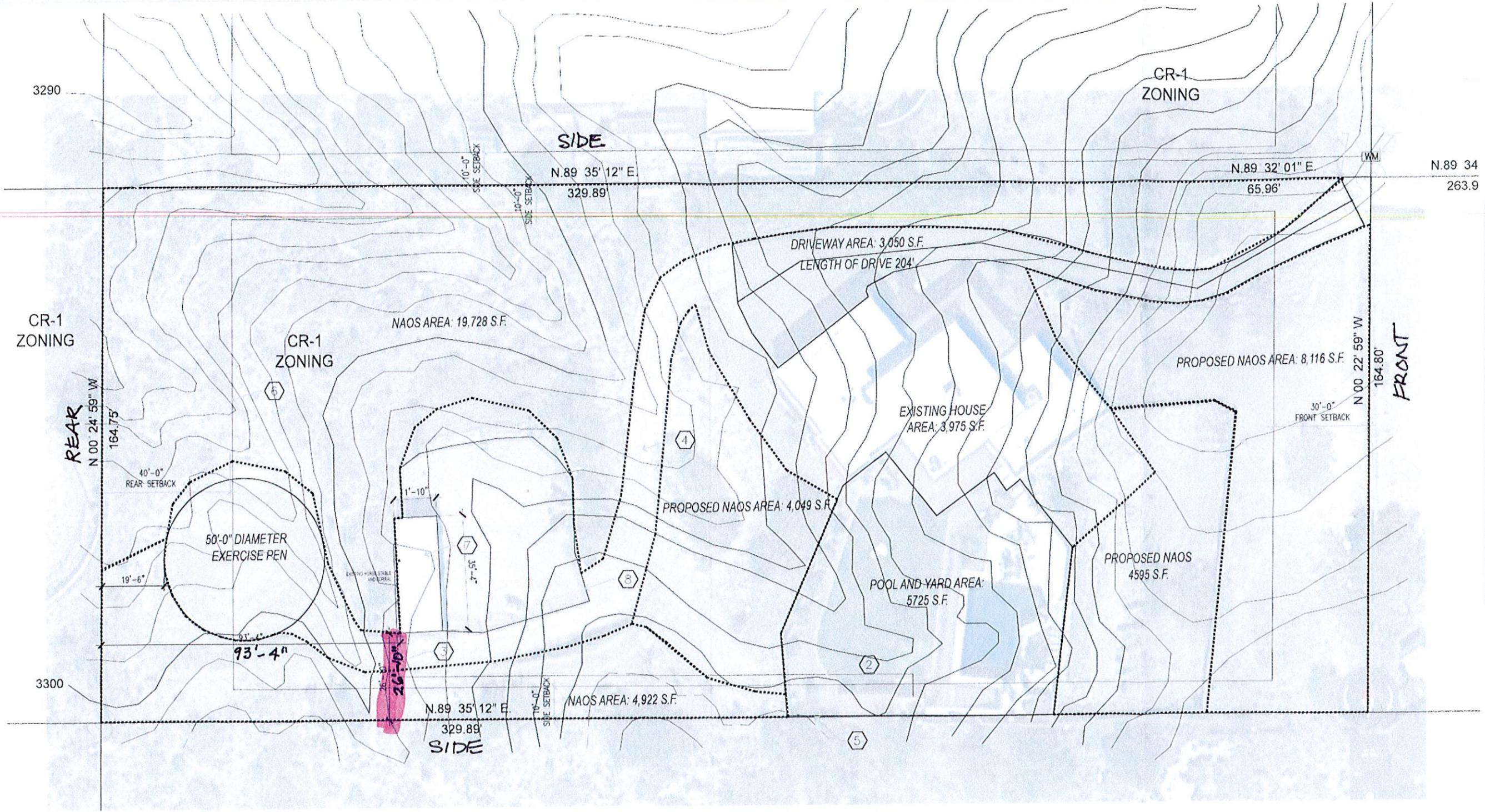
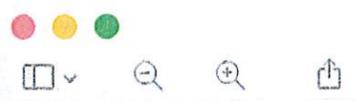
5/1/2015

NORTH ↑

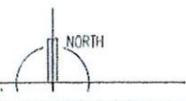
↓ SOUTH



Google



1 SITE PLAN





PIMA COUNTY  
DEVELOPMENT SERVICES

**Variance Application**

Revised 12/2013

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

Property Owner: STACEY AND KRISTI BARNETT Phone: (702) 525-4845

Owner's Mailing Address: 15675 N. EQUESTRIAN TR. City: TUCSON Zip: 85739

Authorized Representative: KURT BROWN Phone: (520) 977-2264

Rep's Mailing Address: 15681 N. EQUESTRIAN TR. City: TUCSON Zip: 85739

Property Address: 15675 N. EQUESTRIAN TR. City: TUCSON Zip: 85739

Tax Code Number(s): \_\_\_\_\_ Zone: CR-1

Does the subject parcel have an active building or zoning code violation? P13CV00350

Owner or Applicant's Email Address: studio4492@gmail.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: 04.22.2015

**INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED**

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

Case Title: Barnett - N. Equestrian Tr Co10(b)15 04  
OWNER'S NAME - STREET NAME (EX. JONES, E. SPEEDWAY BOULEVARD)

requests a variance(s) to Section(s) 16.21.040C2b of the Pima County Zoning Code which requires a 50' minimum side yard setback

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY [Signature] DATE 4/24/15

P15BA00039

Dear Members of the Board,

We purchased our home in January of 2013. The owners we purchased it from built the existing barn and corral in 2010 and unbeknownst to us, failed to obtain the proper permits, although they represented in the Sellers Disclosure form that all structures on the property were in compliance with the code. We purchased the property because it was horse property and already had the existing barn and corral. It wasn't until after July 2014, that our neighbors, the Meixners, filed a complaint with Pima County that the barn and corral were not properly permitted. It is interesting to note that the Meixners did not file a complaint against the previous owner or the builder even though the conditions about which they now complain must have existed for some time prior to our purchase of the property.

The Meixners were the only ones of four adjoining neighbors to object to the MSR application we filed. Our application requests that the side-property setback be reduced from 50 feet to 26 feet in order to prevent us from having to either attempt to move the barn and corral or tear it down and rebuild it. Our neighbors, the Rangos, own the property situated to the south (the direction in which the setback modification would take place) and are the ones who would be most affected by the granting of the MSR, however, have no objection and have even provided letters as such (see letter). The closest building on their property is located at least 234 feet and uphill from the current location of the barn.

**Granting the variance would not:**

1. Substantially reduce the amount of privacy that would be enjoyed by nearby neighbors because the barn and corral face to the west, looking uphill to our home and yard. Additionally, the barn is situated a minimum of 183 feet from the nearest neighbor's residence so privacy is not substantially reduced, especially considering how little time is spent there on a daily basis.
2. Obstruct significant views of prominent land forms, unusual stands of vegetation, or parks from nearby properties. Our property sits on a hill at nearly the base of the west side of Mt. Lemon. No other prominent land forms can be viewed from ours or the adjacent properties. Because the barn and corral sit lower down the hill than our home and yard its existence does not further obstruct the view for any adjoining properties.
3. Adversely affect traffic visibility on adjoining streets because there are no streets adjoining our property.

4. Adversely affect adjoining properties and public rights of way as a result of drainage from the barn. There are no public rights of way adjoining our property. Run off from the roof of the barn falls along the back side where we place left over hay to help slow the flow of water. We have also installed rip rap just below the barn that slows water flow from the barn. Furthermore, the structure itself slows down the flow of water down the hill towards the Meixner's property during heavy rains. And lastly, relocating the barn 24 feet to the north would not decrease the amount of water draining from the barn and moving it would potentially cause increased water flow onto the Meixner's property.
5. Interfere with the optimum air temperature/solar radiation orientation of buildings on adjoining properties because it is located far enough away from all other surrounding buildings and there is no solar being utilized on any of the adjoining properties.
6. Impose objectionable noise levels or odors on adjoining properties. Our home is located in a rural area and all adjoining properties are horse property. The Meixners, located to the west, have two horses and the Rangnos to the south have two as well. Our neighbors to the north have an assortment of animals, including goats. Our two horses in the barn, situated at least 183 feet from all buildings on adjoining properties do not contribute to any more noise level or odors than our surrounding neighbors.

The Meixners, being the only neighbor to file an objection to the location of the barn, stated that they had two main objections to the MSR application. And although they actually stated many more than just two, none of their objections pertain to the location of the barn.

In their first objection, they are referring to the exercise pen located below the barn and to the west, which is not being considered in the MSR application. They are objecting to the slopes/cuts and stabilization surrounding the exercise pen that have been thoroughly inspected, on more than one occasion, by Jane Hutchins from the Code Enforcement Division. We installed several ton of rock in the form of rip rap, at a cost of nearly \$3000 to stabilize that area and slow potential water flow onto the Meixner's property. Ms. Hutchins inspected the area after the heavy storms we had in the fall and found that the area was stable and not causing increased water flow onto the Meixner's property. In fact, we contend that with the amount of rock installed, there is less water flow onto their property than previously.

In their second objection, they complain that the barn is “sightly”. It’s possible that they meant unsightly. Nevertheless, the architectural beauty of the barn is not subject to the MSR application. They also object to it not being a “proper barn structure. Stable”. Again, this is not the the subject of the MSR. However, we have hired an engineer and structural engineer to draft plans for the barn and once the permit is issued, we will do any necessary modifications required by the Building Safety Division.

They also claim that we “merely pitches manure out of the stable openings located on our side of property”. To clarify, the barn is located approximately 278 feet from the Meixner’s home, 200 feet from their own barn and 87 feet from the property line dividing our properties. So, anything along the backside of the barn is no where near their property and we do not cause manure to be “pitched” onto their property. It is possible that when we clean the barn stalls, they are mistaking the dirt, uneaten hay and debris we put along the backside of the barn to help slow water flow, as manure.

Lastly, they contend that “this condition causes major issues with flies and odors.” But, there has been no other complaint from any other neighbor, even those who are closer than the Meixers, in regards to odor or flies. In fact, our neighbor to the north has stated that the flies seem to have decreased since the previous owners of our home moved out and we moved in. Furthermore, it would be interesting to learn how the Meixners are differentiating between the flies and odors generated by our two horses and theirs.

As shown here, and through the additional information provided, we should be granted the variance because the current location of the barn does not substantially impact any of the adjoining neighbors. We therefore ask that you grant our application.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacy and Kristi Barnett". The signature is fluid and cursive, with the first letters of the names being capitalized and prominent.

Stacy and Kristi Barnett  
15675 N. Equestrian Trail  
Tucson, AZ 85739  
Pima County

\*CASE NOTICE ATTACHED\*

PIMA COUNTY DEVELOPMENT SERVICE

PREPARED BY

DATE 04.12.2015

(A) RE: CASE NO. C028(1) 15-12 BARNETT - N. EQUESTRIAN TRAIL

(B) FROM: MICHAEL & TAMMY MEIXNER, 15715 N. EQUESTRIAN TRAIL

(C) DEAR ELVA PEDREGO,

RECEIVED  
APR 15 2015

WE ARE IN RECEIPT OF NOTICE REGARDING MODIFICATION OF SET BACK REQUIREMENT (MSR) MENTIONED ABOVE.

WE HAVE TWO MAIN OBJECTIONS TO THIS REQUEST

(1) THE SIDE LOT REDUCTION FROM 50' HAS CAUSED SPACE FOR RUNOFF TO NARROW AND SLOPE CUTS STEEP AT BARN. TO DATE NO SLOPE STABILIZATION HAS BEEN COMPLETED. IF YOU CHECK AT THE NORTHWEST CORNER OF EXERCISE PEN WILL FIND WHERE RAIN HAS WASHED RIP RAP AWAY. THIS NARROW SPACE CREATES A VALLEY QUATER FOR WATER TO RACE ONTO OUR PROPERTY.

(2) THE BARN LOCATION IS SIGHTLY, NOT A PROPER BARN STRUCTURE. "STABLE". IN ADDITION THE OWNER MERELY PITCHES MANURE OUT OF STABLE OPENINGS LOCATED ON OUR SIDE OF PROPERTY. THE PILES GET HIGHER AND MORE UNSIGHTLY. WE CONTEND THIS CONDITION CAUSES MAJOR ISSUES WITH FLIES AND ODORS.

THANKYOU FOR TIME

FROM: MICHAEL & TAMMY MEIXNER

SINCERELY,

*MA Meixner*

(520) 668-3365

15715 N. EQUESTRIAN TRAIL



**PIMA COUNTY**  
DEVELOPMENT SERVICES

April 16, 2015

Stacey Lane Barnett  
15675 N. Equestrian Tr.  
Tucson, AZ 85739

Re: **Co28(1)15-12 BARNETT – N. EQUESTRIAN TRAIL**

Dear Applicant:

We have received a letter of opposition from noticed property owners regarding your request for Modification of Setback Requirements for the property located at **15675 North Equestrian Trail**. Receiving a letter of protest closes the Modification of Setback Requirement 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 \$774 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 a 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 24, 2015** 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 **Monday, June 1, 2015** in the basement of the Public Works building in conference room C at 1:00 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: [studio44qz@gmail.com](mailto:studio44qz@gmail.com)



## Notice of Application Denial

Please view permit application process and requirements at [www.dsd.pima.gov](http://www.dsd.pima.gov).

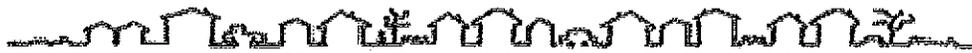
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**Activity Number: P15BA00030**

If you have any questions please call 520-724-9000 to discuss this denial.

**Zoning Code due process:** Disputes about the interpretation of the Zoning Code may be appealed to a Pima County Board of Adjustment under A.R.S. § 11-816 and P.C.C. § 18.93.060.

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### Denial Comments

**Opposition by an affected property owner to the requested Modification of Setback Requirements request (Co28(I)15-12) was received within the 15-day notice period.**

Elva Pedrego

Date: 04/16/2015



April 2, 2015

Case No. **Co28(1)15-12 BARNETT – N. EQUESTRIAN TRAIL**

**NOTICE**

This is to notify you that **Stacey Barnett** has submitted an application for a Modification of Setback Requirements (MSR) for property located at **15675 North Equestrian Trail** in the **CR-1** zone. The applicant requests a modification to **reduce the side yard setback to twenty-six feet (26')** for an existing stable, as shown on the attached site plan. The Pima County Zoning Code Section 18.21.040C2b requires a fifty foot (50') minimum side yard 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 **Thursday, April 16, 2015**. 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