



DATE: May 26, 2015
TO: BOARD OF ADJUSTMENT District 1
FROM: Terrill L. Tillman, Assistant Executive Secretary *Terrill L. Tillman*
SUBJECT: **Co10(1)15-05 ALTA VISTA COMMUNITIES SABINO-RIVER WEST LLC – NORTH SABINO CANYON ROAD**
Scheduled for public hearing on June 1, 2015

LOCATION:

The subject parcel is located at the southwest corner of River Rd and Sabino Canyon Road. The property is zoned CR-4 (Mixed Dwelling Type Zone).

SURROUNDING ZONING / LAND USES:

North	CR-4	Developed Residential
East	CR-4	Under Construction/Residential Avilla-East
South	CR-5	Developed Residential Townhomes
West	CR-4	Developed Residential Townhomes

PREVIOUS CASES ON PROPERTY:

There have been no previous Board of Adjustment cases.

PUBLIC COMMENT:

No public comment has been received.

REQUEST:

The applicant requests a variance to **reduce the Major Street and Routes setback to 26 feet** for existing porches on units 10, 23, 32, and 33. **Section 18.77.030B requires a 30 feet setback in addition to half of the required right-of-way width on all Major Streets and Routes.**

TRANSPORTATION AND FLOOD CONTROL REPORT:

The Department of Transportation (DOT) has no objection. The planned future right-of-way for this segment of Sabino Canyon Road is 150' and the existing right-of-way is 150'. DOT has no plan for future expansion of this segment of Sabino Canyon Road.

BACKGROUND:

The 5.62 acre subject property was rezoned from SR (Suburban Ranch) zone to CR-4 (Mixed Dwelling Type) zone by case Co9-13-06 approved in May of 2014 and currently is being developed as a multi-family development under an approved site construction development plan (P13SI00011) for Avilla Sabino West, 1-53. The site is close to completion and the porches were constructed in accordance with the development on the east side of Sabino Canyon Road called Avilla Sabino East. The applicant states that "these porches were constructed in error."



The applicant further states that "During the rezoning process for the same project on the East side of Sabino Canyon Road, supervisor Carrol requested and the Developer agreed to construct a few porches on the rear of the homes facing Sabino Canyon Road. The idea is that the porches would offer additional architectural interest, variability in the offset and view as well as provide a nice amenity for the tenant. While the development on the West side of Sabino Canyon Road was under construction, the housing manager thought the same logic should apply and constructed four porches facing Sabino Canyon Road (a fifth was started but was stopped prior to completion of construction and the framing has been removed). While the porches offer the aesthetic benefits to the development, the West side was not designed to allow for the porches."

Sabino Canyon Road is designated as a Major Street and Scenic Route (MSSR) per the Major Streets and Routes (MSR) Plan with a planned right-of-way of 150 feet. The Department of Transportation has reported that the full right-of-way width exists and there are no plans for expansion.

The setback encroachment into the MSR is 3.5 feet. It is staff's opinion that since the planned right-of-way exists and no expansion is planned, the more restrictive MSR setback works an unnecessary hardship. The required front yard setback in a CR-4 zone is 20 feet which the project is compliant with at 26 feet. In addition, a bufferyard between 10 to 20 feet wide is planned and will be installed along the Sabino Canyon Road frontage to lessen the impact of the adjacent development to the MSSR.

RECOMMENDATION:

Staff recommends **APPROVAL** of the variance request. The strict application of the code would work an unnecessary hardship and is not granted solely to increase the economic return from the property but rather to enhance the development aesthetic value.

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

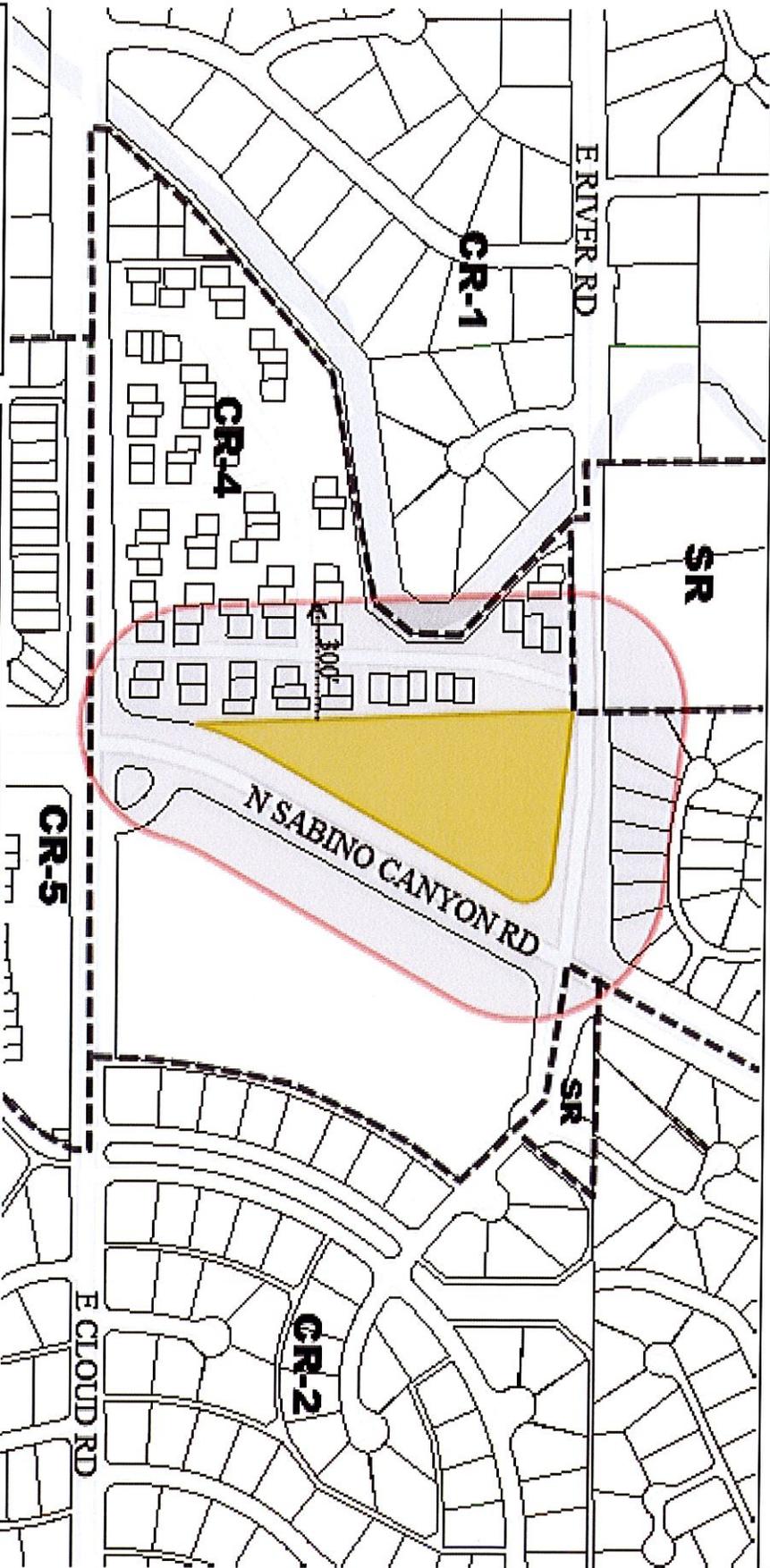
1. The strict application of the provision would work an unnecessary hardship;
2. The unnecessary hardship arises from a physical condition that is unusual or peculiar to the property and is not generally caused to other properties in the zone;
3. The unnecessary hardship does not arise from a condition 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.

NOTIFICATION MAP

ALTA VISTA COMMUNITIES SABINO-RIVER WEST LLC—N. SABINO CANYON ROAD



LEGEND

- Petition Area
- Notification Area

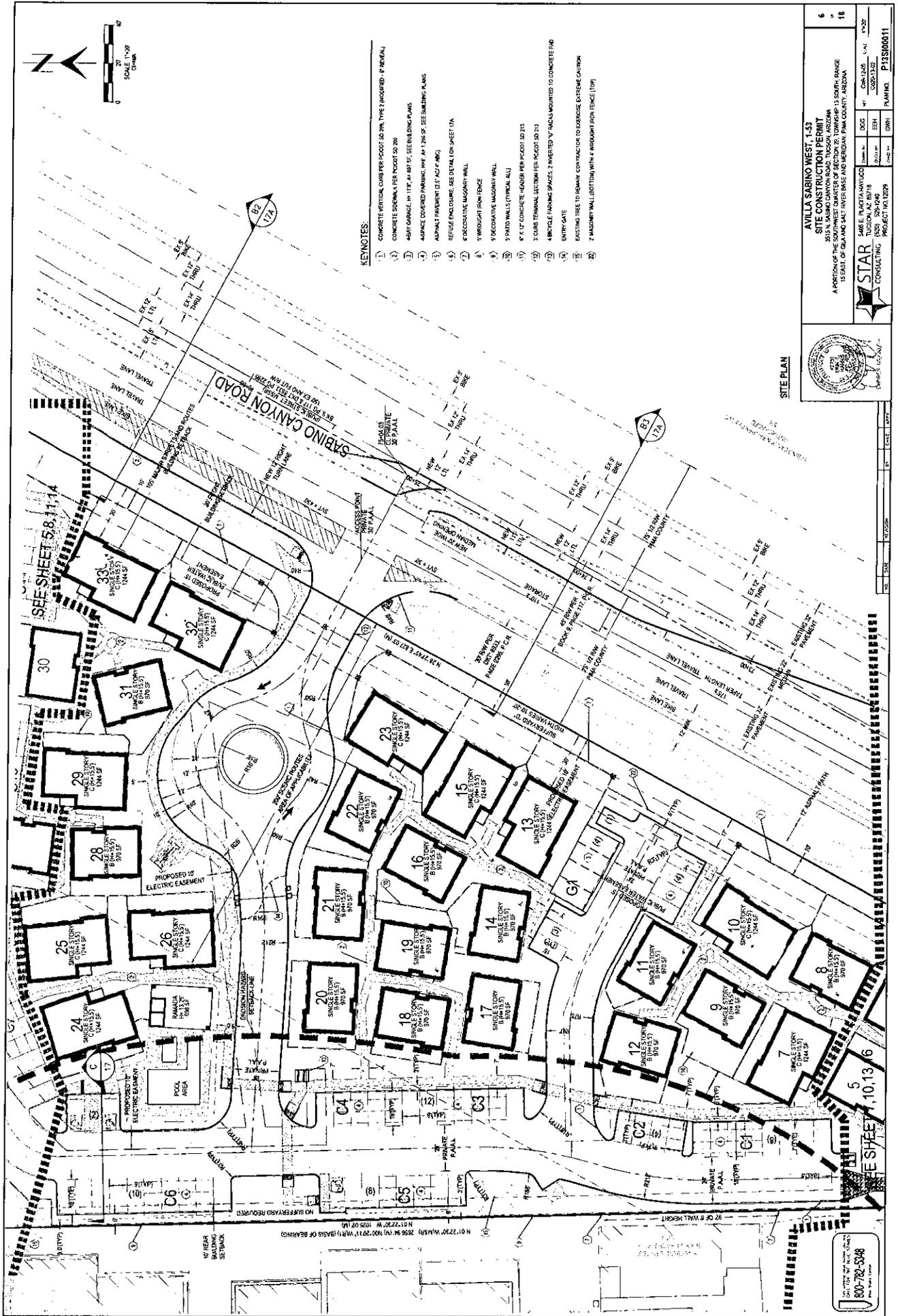
NOTES

File no.:	Co10(1)15-05	Tax Code(s):	114-33-002E
Application:	Variance	Base Map:	26
		Drafter:	A.H.

PIMA COUNTY
DEVELOPMENT SERVICES

5/1/2015

Variance Request for Units 10, 23, 32, and 33





Variance Application

Revised 12/2013

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

Property Owner: Alta Vista Communities Sabino River Phone: 709-1651

Owner's Mailing Address: 700 E Broadway Ste 200 West, LLC City: Tucson Zip: 85701

Authorized Representative: STAR Consulting Phone: 425-3795

Rep's Mailing Address: 33 S. 5th City: Tucson Zip: 85701

Property Address: 3515 N Sabino Canyon Rd City: Tucson Zip: 85750

Tax Code Number(s): 114-33-002E Zone: CR-4

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

Owner or Applicant's Email Address: erin@starconsultingaz.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: [Handwritten Signature] Date: 04/24/15

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

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

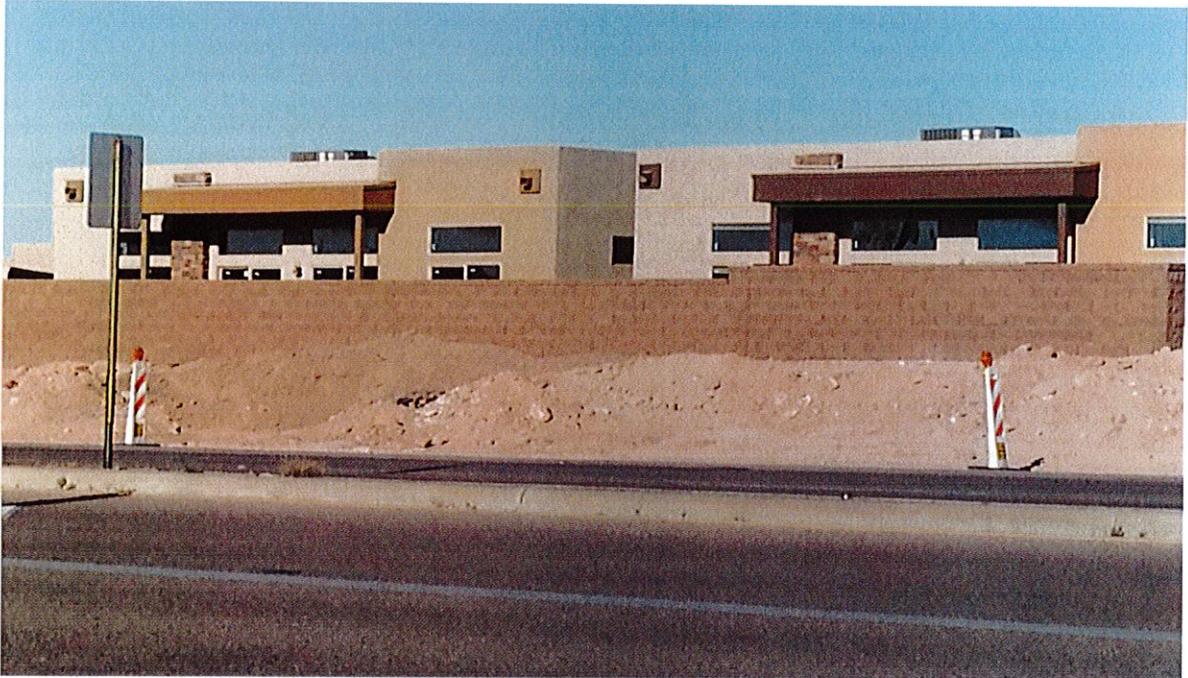
Case Title: Alta Vista Communities - N Sabino Canyon Rd. Co10(i) 15-05
OWNER'S NAME - STREET NAME (EX. JONES- E. SPEEDWAY BOULEVARD)

requests a variance(s) to Section(s) _____ of the Pima County Zoning Code which requires MSSR setback - var.

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY M-H DATE 4/27/2015

In addition, a reduced copy of the Approved Site Construction Plan (excerpt) has been provided with the units in questions highlighted for reference and overall context on the site.

The following photos show the current state of the porches in question:



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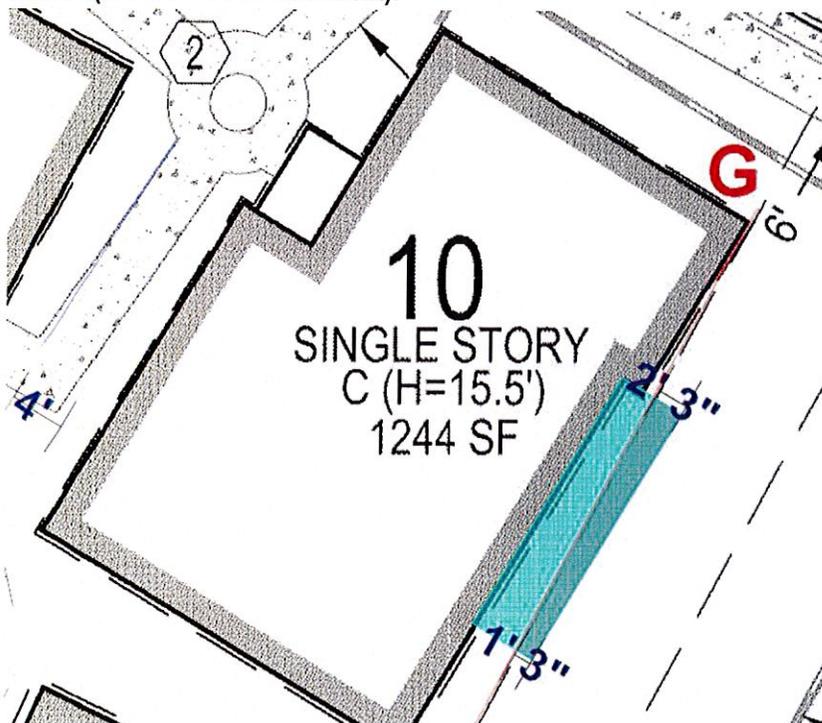
33 S. Fifth Street Tucson, AZ 85701

Direct: (520) 425-3795 Email: erin@starconsultingaz.com



The following construction sketches show the detailed location of the porches where extending into the setback:

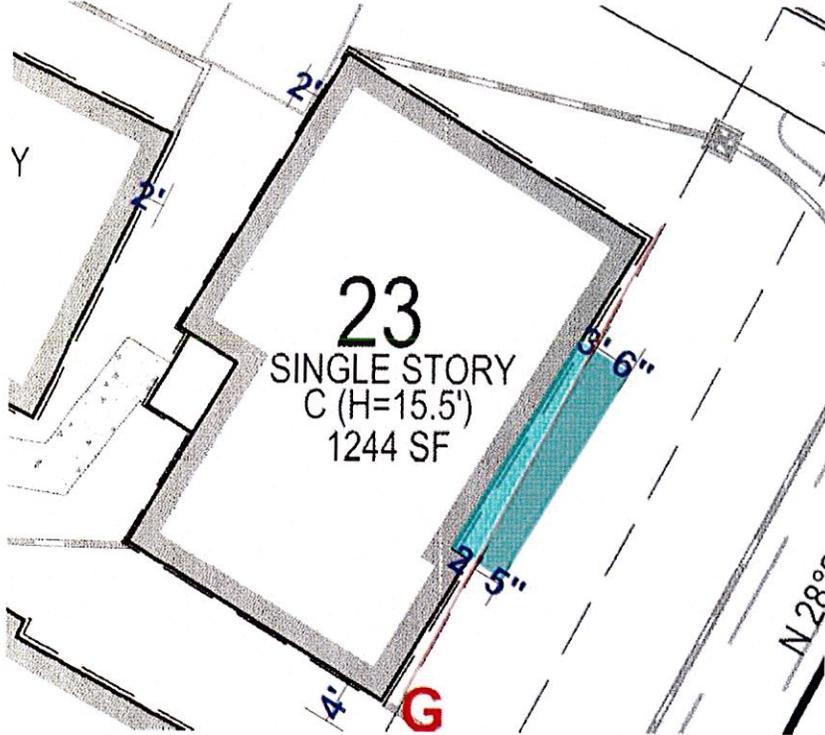
Unit 10 (2'3" to 1'3" encroachment):



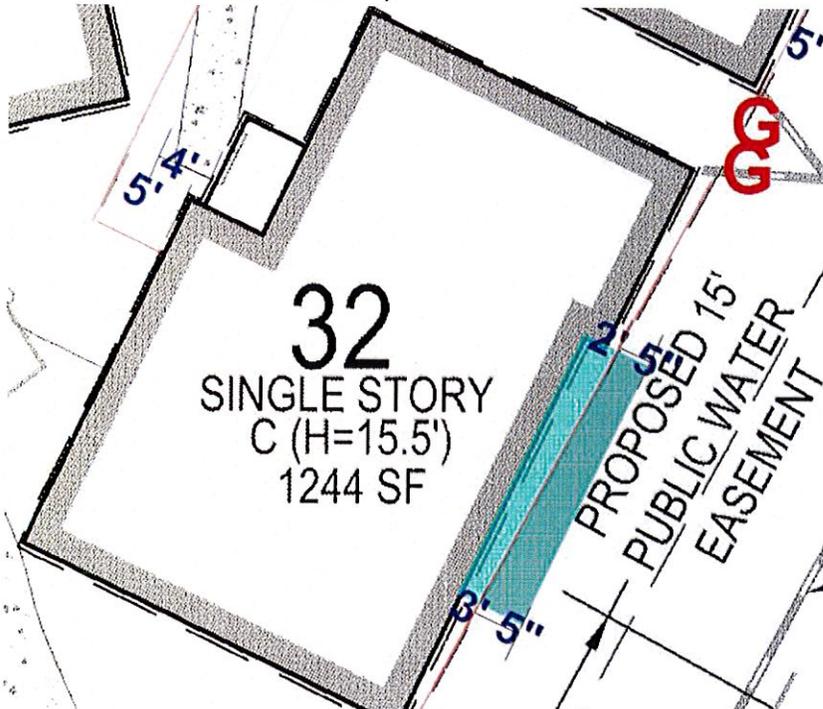
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Unit 23 (2'5" to 3'6" encroachment):



Unit 32 (2'5" to 3'5" encroachment):

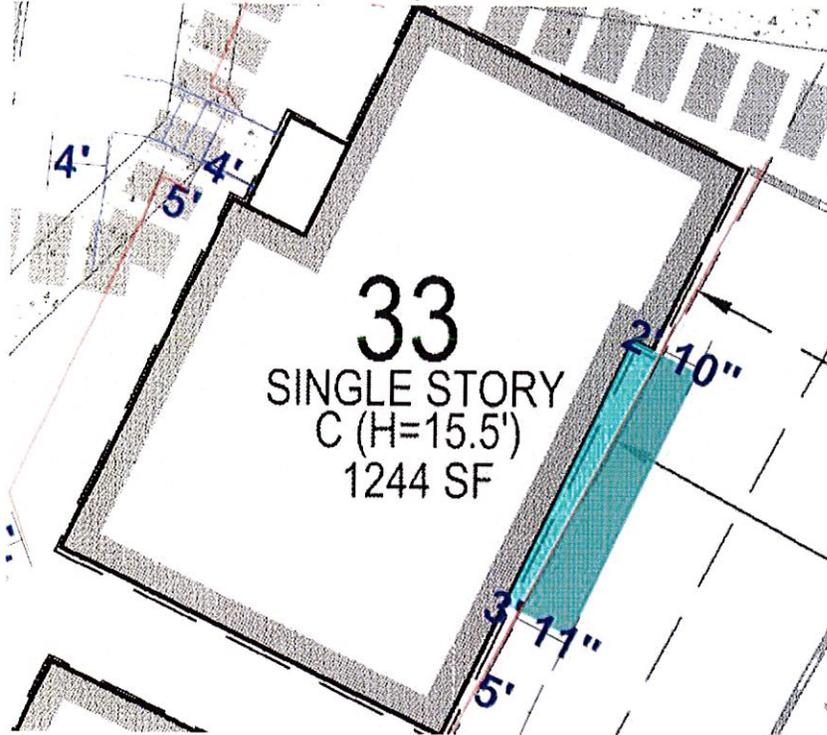


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Unit 33 (2'10" to 3'11" encroachment):



Variance Standards:

- The strict application of the provision would work an unnecessary hardship;*
Removing the porches at this time would not only detract from the aesthetics of the project, but it would also be extremely difficult. They have been finished and the other improvements have been constructed around them. Getting equipment to the porches would likely require the removal of sections of the perimeter block wall.
- 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;*
The subject property is unique in that it is triangular in shape. The two "long sides" are along the existing residential area west of the property and Sabino Canyon Road. The west property line is impacted by floodplain. This leaves only Sabino Canyon Road for the placement of homes in the density appropriate for this use. Also because of this geometry, the homes were rotated slightly from the setback but generally abutting the setback line as closely as possible. This is unlike the more rectangular property to the East of Sabino Canyon Road. This development was able to employ larger setbacks from Sabino Canyon Road while maintaining density toward the center of the property.
- The unnecessary hardship does not arise from a condition created by an action of the owner of the property;*
The vertical construction manager (housing manager) for Preferred Apartment Builders, general contractor, made the decision to build the porches in error. Alta Vista, the Owner, was not aware of the issue at the time of the decision and was only made aware when I noticed the porches at a weekly field meeting and brought it their attention. At that time, Alta Vista directed the contractor to stop construction on the fifth porch.

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4. *The variance is the minimum necessary to afford relief;*
The porches are constructed and field measurements are provided on the sketches. This is the minimum necessary to afford relief of the existing structures.
5. *The variance does not allow a use which is not permitted in the zone by the code;*
The existence of the porches does not change the proposed use permitted in the zone or proposed and approved for construction by the County. The porches were in fact recommended and are planned for the same use in the same zone on the East side of Sabino Canyon Road.
6. *The variance is not granted solely to increase economic return from the property;*
No economic return is expected from the porches. Unit premiums are charged based on the size of the rear yard or views. Unit premiums are not expected or budgeted for the units along Sabino Canyon Road.
7. *The variance will not cause injury to or adversely affect the rights of surrounding property owners and residents;*
The porches will not cause injury or adversely affect the rights of the surrounding property owners and residents. The porches are still far enough away from the perimeter wall as to not impact the use of the adjacent right-of-way. We believe the porches are a good idea (for both sides of the road), will benefit the surrounding residents in that way and prefer the idea of the additional articulation and architectural interest. We also prefer the effect of having the development match from the west side to the east side of Sabino Canyon Road.
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 setback along Sabino Canyon Road will remain as outlined in the code for the remainder of the 827' frontage. The requested variance is limited to the four existing porches. No additional encroachments are expected.
9. *The variance does not violate state law or other provisions of Pima County ordinances;*
The requested variance violates only the MS&R setback requirement along the front yard or Sabino Canyon right-of-way and does not violate state law.
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;*
As discussed in Item 2 above, the subject property is unique in that it is triangular in shape. The two "long sides" are along the existing residential area west of the property and Sabino Canyon Road. The west property line is impacted by floodplain. This leaves only Sabino Canyon Road for the placement of homes in the density appropriate for this use.
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;*
The requested variance is not for a sign or advertising structure area limitation.

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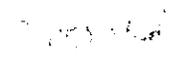


12. *If the variance is from a height limitation, no reasonable use of the property can be made unless the variance is granted.*

The requested variance is not for a height limitation.

We understand from email correspondence on March 24th, 2015 that staff offers no objection to the setback variance to allow for the four existing porches. I copy of staff correspondence is included for your reference.

I, Roger Karber, designated signatory for Alta Vista Communities Sabino-River West, being the Owner of record for the subject property, have read and understand this Variance Request. I give authorization for STAR Consulting of AZ, Inc. to act on my behalf as my agent in this application.


04/24/2015

Roger Karber

Date

If you have any questions regarding this Request, please feel free to contact me. My direct line is 425-3795.

Thank you for your time and consideration.

Sincerely,



Erin E. Harris, PE

Enclosures: Application Form
 Owner Authorization Letter
 APIQ
 Fee
 Site Plan
 Email from Staff

STAR Consulting

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Direct: (520) 425-3795 Email: erin@starconsultingaz.com



April 24, 2015



Pima County Development Services Department
Planning Division
201 N. Stone, 2nd Floor
Tucson, AZ 85701

RE: Board of Adjustment Variance Request for
Avilla Homes at River and Sabino West
STAR Consulting Project# 12029

Dear Board of Adjustment Members,

We request a variance to reduce the MS&R setback for units 10, 23, 32 and 33 from 105' to 101' as measured from the centerline (or from 30' to 26' as measured from the property line) to allow the rear yard porches. The MS&R setback is more restrictive than the front yard setback. The front yard setback is 20' from the property line. The porches do not encroach into this setback. The porches were built during the construction of the development and exist and are finished at this time. A building or zoning code violation has not been issued. We are attempting to resolve this prior to issuance of final acceptance and closeout on the project.

These porches were constructed in error. During the rezoning process for the same project on the EAST side of Sabino Canyon Road, Supervisor Carrol requested and the Developer agreed to construct a few porches on the rear of the homes facing Sabino Canyon Road. The idea is that the porches would offer additional architectural interest, variability in the offset and view as well as provide a nice amenity for the tenant. While the development on the WEST side of Sabino Canyon Road was under construction, the housing manager thought the same logic should apply and constructed four porches facing Sabino Canyon Road (a fifth was started but was stopped prior to completion of construction and the framing has been removed). While the porches do offer the aesthetic benefits to the development, the West side was not designed to allow for the porches. Due to the unusual triangular shape of the parcel and the floodplain along the western property line, the homes on the West side are placed such that the rear of the home abuts the setback line of Sabino Canyon Road. As a result, the porches are located almost entirely within the setback. This setback is not only a front yard setback, but also a MS&R setback. The four porches extend in the setback by approximately 3.5' for the length of the 20' porch.

The housing manager has volunteered to demo the porches if that is what he needs to do. He understands that while well intentioned, the field change was not approved by the County. We are requesting the variance because we believe the porches are a good idea (for both sides) and prefer the idea of the additional articulation and architectural interest. We also prefer the effect of having the development match from the west side to the east side of Sabino Canyon Road.

Photos and detailed construction sketches are provided on the following pages of this letter to show exactly the dimensions of the variance request and the character of the porches. (Please note when looking at the photos that bufferyard landscaping and right-of-way improvements have not yet been completed – the photos are of an active construction site.)

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