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# MEMORANDUM

## PUBLIC WORKS - DEVELOPMENT SERVICES

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DATE: October 30, 2015

TO: BOARD OF ADJUSTMENT District 2

FROM: Miguel A. Velez, Assistant Executive Secretary *MAV*

SUBJECT: **P15VA00027 ASARCO Inc. – East Pima Mine Road**  
Scheduled for public hearing on November 10, 2015

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**LOCATION:**

The subject site is approximately 1/3 mile west of the intersections of South Nogales Highway and East Lumber Street. The property is zoned RH and GR-1 (Rural Homestead and Rural Residential).

**SURROUNDING ZONING / LAND USES:**

North	GR-1/CI-2	Vacant/Residential/South Nogales Highway
South	RH	Vacant
East	GR-1/RH/TH	Vacant/Residential/South Nogales Highway
West	Tohono O Odham	Vacant

**PUBLIC COMMENT:**

To date, no public comments have been received.

**PREVIOUS CASES ON PROPERTY:**

There have been no previous Board of Adjustment cases on this property.

**REQUEST:**

The applicant requests the following variances:

- 1. To allow the use of barbed wire fencing on a property zoned RH/GR-1.**  
Section 18.07.030B1 of the Pima County Zoning Code restricts the use of barbed wire fencing to the CB-2, MU, CI-1, CI-2, and CI-3 zones.

**TRANSPORTATION AND FLOOD CONTROL REPORT:**

This request does not require transportation review.

**BACKGROUND:**

The subject property is approximately 377 acres in size and zoned RH (62%) and GR-1 (38%). The first recorded permit on site was in 2011, to demolish an existing dwelling unit and accessory structures. There is no record of any dwelling unit or accessory structures being formally permitted on site. Whatever structure was present was built prior to 1970, when ASARCO purchased the property.

There is a recently issued permit in P15BS00006 for single-axis tracker photovoltaic arrays, referenced in submittals as the Avalon II Solar Farm. This is the second phase of construction of solar arrays on the property. The solar arrays will be providing power to the Tucson Electric Power grid.

The parcel is located in an area primarily zoned RH and GR-1, with a few TH zoned parcels. To the west is vacant land belonging to the Tohono O Odham Nation. To the south is vacant land owned entirely by ASARCO. To the immediate north the property is vacant land owned by ASARCO, with a strip of residential parcels beyond and then South Nogales Highway. To the immediate east the land is also owned by ASARCO and beyond these parcels is a strip of residential parcels and then South Nogales Highway.

The variance requests an exception from the Pima County Sign Code to allow the use of barbed wire fencing on top of six-foot high security fencing around the solar arrays and support infrastructure. Pima County Zoning Code restricts the use of barbed wire to the CB-2, MU, CI-2 and CI-3 zones.

The intent of the restriction of barbed wire to certain commercial zones is to minimize the potential hazards and visual eyesore in residential environments. While the underlying zoning of this parcel requires the variance for the use of barbed wire fence, the use on the property is industrial in nature with high value infrastructure and equipment on site which requires safeguarding. The applicant indicates a variance from the strict application of the Code is necessary as Avalon II is a high voltage power facility and in order to protect the general public, a barbed wire fence is the best option to prevent accidents or unwanted trespassing.

A recent site inspection of the property indicates the potential impact to any residential property is minimal. The permit application calls out a set aside of open space on the north and east of the property. This buffer will make the arrays less accessible to any casual encounter and reduce their visual impact. Due to the combination of parcel open space set aside and the ownership of all parcels adjacent to this site there will be a minimum of approximately 900 feet of open space from any nearby residential lot.

*Analysis: Staff supports the variance. The justification for variance support is the strict application of the provision would work an unnecessary hardship and the variance will not cause injury to or adversely affect the rights of surrounding property owners and residents, as evidenced by the industrial use of the property, the open space buffer from adjacent residential properties and the lack of objections submitted by affected residents for the proposed variance.*

**RECOMMENDATION:**

Staff recommends **APPROVAL** of the variance.

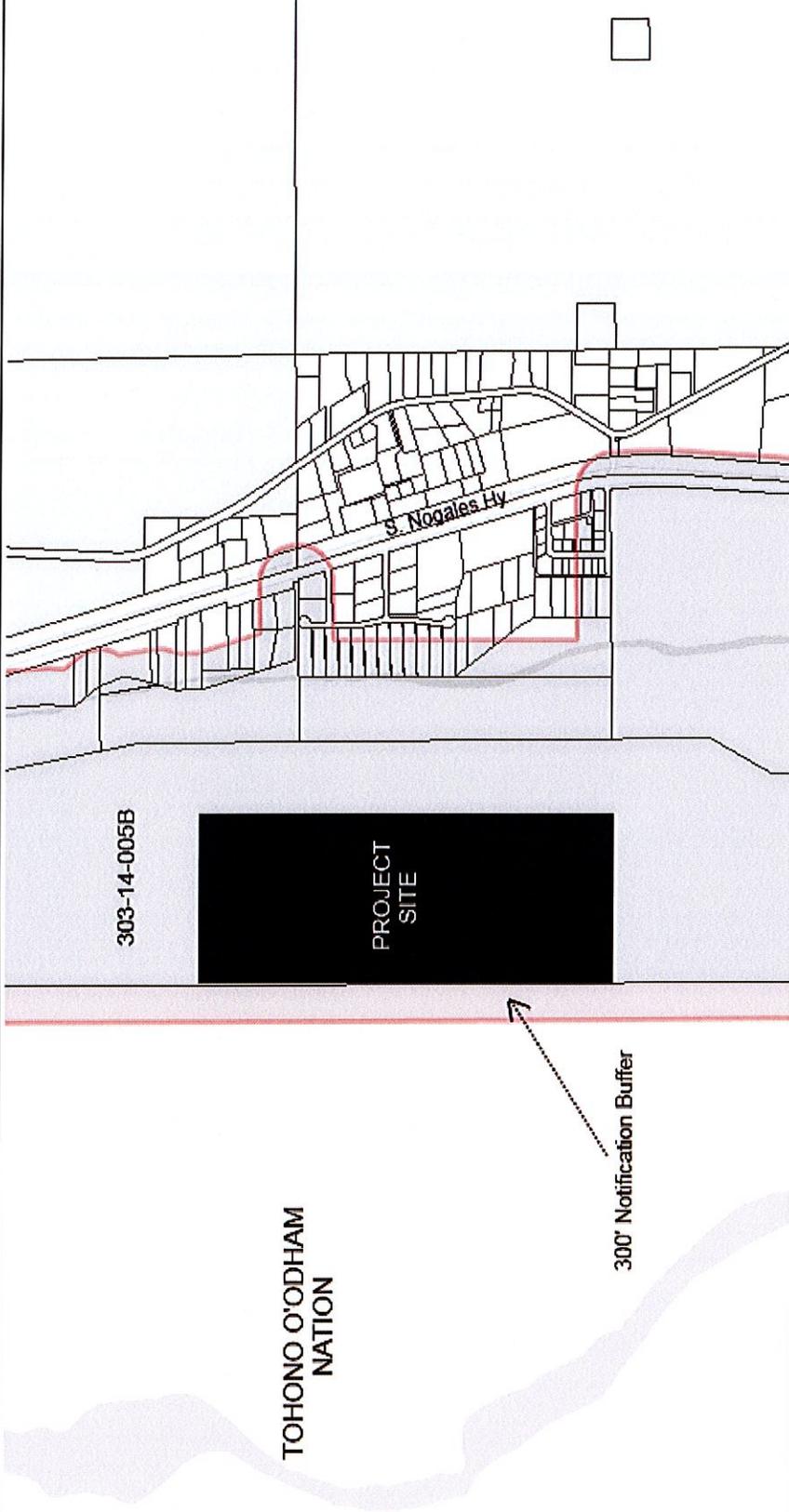
**Standards that must be considered by a board of adjustment when considering a variance request include:**

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

ASARCO INC.—E. PIMA MINE ROAD

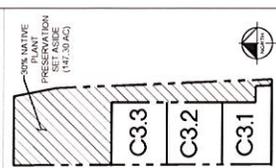


## LEGEND

- Project Site
- Notification Area

## NOTES

<b>File no.:</b>	P15VA00027	<b>Tax Code(s):</b>	303-14-005B
<b>Application:</b>	Variance	<b>Base Map:</b>	189, 190
		<b>Drafter:</b>	A.H.



**AVALON SOLAR LLC**  
PHASE 2  
SINGLE-AXIS TRACKER  
PHOTOVOLTAIC ARRAYS  
168MW AC  
PIMA COUNTY, AZ

**EROSION CONTROL PLAN - OVERALL**

**LEGEND:**

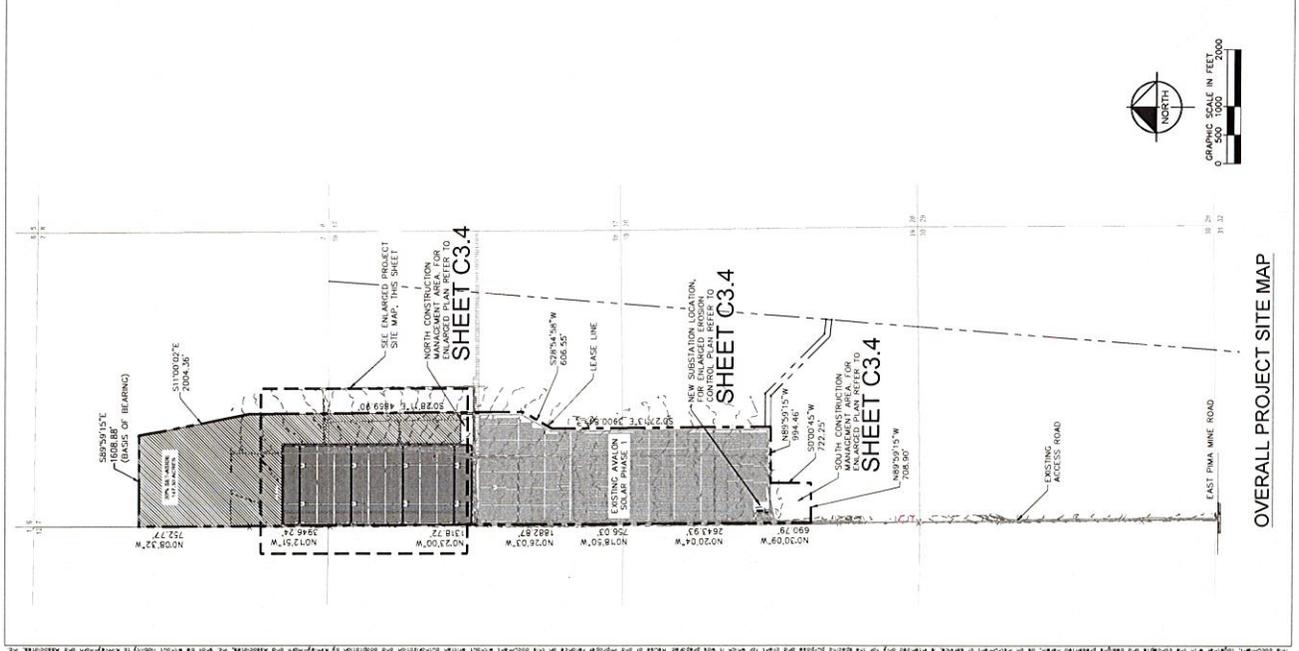
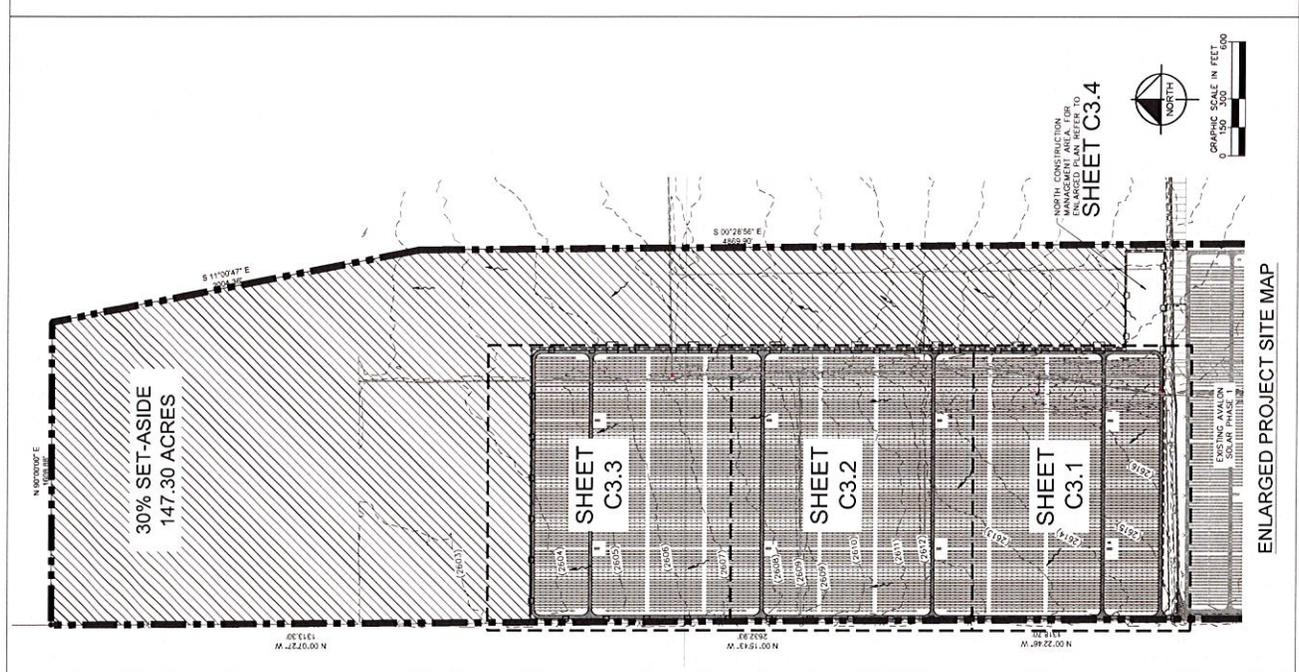
- LEASE LINE
- - - CIVIL LIMIT OF WORK LINE
- EARTH DIKE
- DIRECTION OF FLOW

**SEQUENCE OF CONSTRUCTION**

FROM IMPLEMENTATION AND INSTALLATION OF THE FOLLOWING AREAS: TRAILER, MATERIAL STORAGE CONTAINERS, SOLID WASTE CONTAINERS, ETC., IMMEDIATELY AND CONTINUOUSLY THROUGHOUT THE CONSTRUCTION PROCESS.

**PHASE 1:**

1. CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE (1) AND INSTALL EARTH DIKE.
2. CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE (2) AND INSTALL EARTH DIKE.
3. PREPARE CLEARING AND GRUBBING OF THE SITE OF SELECTED AREAS, WHERE APPLICABLE.
4. PERFORM MASS GRADING ROUGH GRADE TO ESTABLISH PROPOSED DRAINAGE PATTERNS.
5. TEMPORARILY SEED WITH PURE LIVE SEED THROUGHOUT CONSTRUCTION.
6. TEMPORARILY SEED WITH PURE LIVE SEED THROUGHOUT CONSTRUCTION, WHERE REQUIRED BY CHAINING POINT.





**PIMA COUNTY**  
DEVELOPMENT SERVICES

**Variance Application**

Revised 12/2013

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

Property Owner: Mike Gallego (from Clenera) Phone: (480) 980-0091

Owner's Mailing Address: 923 S. Bridge Way Place, Ste.260 City: Eagle Zip: 83616

Authorized Representative: Donny Gallagher Phone: (916) 205-7220

Rep's Mailing Address: 15 Business Park Way, Suite 101 City: Sacramento Zip: 95828

Property Address: 909 E Pima Mine Rd. City: Sahuarita Zip: 85543

Tax Code Number(s): 30314005B Zone: \_\_\_\_\_

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

Owner or Applicant's Email Address: dgallagher@swinerton.com (applicant)

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: 9-24-15

**INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED**

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

Case Title: Asarco Inc - East Pima Mine Road Co10( ) PIEVA00027  
OWNER'S NAME - STREET NAME (EX. JONES- E. SPEEDWAY BOULEVARD)

requests a variance(s) to Section(s) 10.07.030B1 of the Pima County Zoning Code which requires restricts the use of barbed wire fencing to the CR-2, MU, CI-1, CI-2 + CI-3 zones

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY [Signature] DATE 10, 02, 15