

## **Zoning Adjustment Case Narrative**

**Address:** 5204 E. San Juan Avenue, Paradise Valley, Arizona 85253

**Parcel:** 172-47-032

**Zoning;** R-43

**Lot size:** 47,020 square feet

**Subdivision:** Stone Canyon, Lot 32

**Request:** Building setback encroachment:

Allow portions of proposed residence to encroach over the north setback line.

**Property Narrative:**

Mary Jo and Larry Cuculic have lived in Stone Canyon, Paradise Valley, Arizona, for over 5 years. As petitioners, they are respectfully requesting reasonable variances to build a new home at 5204 E. San Juan Avenue.

By way of background, originally, having graduated from the United States Military Academy, West Point, Larry served in the U.S. Army for 20 years. After retiring from the military, Mary Jo and Larry moved back to Indiana, both having grown up in Indiana and Larry having graduated from Notre Dame Law School.

Upon Larry being offered a General Counsel position in Phoenix, Mary Jo and Larry moved to the area – eventually settling in their home in Paradise Valley.

As a result military service, they have moved fourteen times. Although each place holds exceptional memories, Paradise Valley is where they wish to stay.

The home on the building site was built in the 1950's. Although they love the house, it has its physical and mechanical challenges. The home they wish to build would improve not just this home site, but also the neighborhood and the surrounding homes.

Again, they respectfully request reasonable variances to build a home that they will love and enjoy for years to come. (*ref. diagram #1*)

**Subdivision / lot background:**

The Stone Canyon subdivision, platted in 1955, consists of 43 lots. Lot 32 is an irregular shaped lot located in the western area of the subdivision. (*ref. diagram #2*) It is zoned R-43 (Hillside), has an area of 47,020 square feet and there is an existing residence, carport, patios and driveway on the lot. (*ref. diagram #3*)

When Stone Canyon was originally subdivided, in 1955, it was recorded in Maricopa County. The setbacks at that time were less than the current requirements. Also, there was no Hillside Ordinance in effect at that time. On May 24<sup>th</sup>, 1961 the subdivision was annexed into the Town of Paradise Valley. There have been numerous Hillside Ordinances in effect since that time.

### Site Analysis:

The natural topography of Lot 32 flows in two washes. One from the east 52<sup>nd</sup> Place (high point) to the north 52<sup>nd</sup> Place (low point) and the other from the west San Juan Avenue (high point) to 52<sup>nd</sup> Place (low point). There is an existing building pad and driveway that was created when the existing residence was built in 1956. (*ref. diagram #3*) See Grading and Drainage plans and Drainage Narrative for further site drainage information.

The primary views are in a panoramic perspective from northeast to the west. Also, views from the south east to the southwest capture spectacular Camelback Mountain. (*ref. diagram #4*)

Numerous natural beautiful rock croppings occur throughout the lot that will be preserved. (*ref. diagram #5*)

Lot 32 is unusual since there are 3 streets around the periphery of the property. The narrow “hour glass” configuration of the lot creates great challenges for a feasible building footprint. The current setbacks are 40 feet on the three street sides and 20 feet on the west side. (*ref. diagram #6*)

The site section (*ref. diagram #7*) shows the location of the typical site cross section at the midpoint of the building area. The one story structure is substantially under the maximum height allow by the Hillside ordinance. (*ref. diagram # 7a*)

### Building Design Philosophy:

The overall design philosophy is to create a residence that maximizes the views and minimizes the disturbance of the site.

The existing residence, which is 2,174 s.f. livable, the 624 s.f. carport, adjoining storage structures, site walls, septic system and landscaped areas will be completely removed from the site. The existing building pad will remain.

The new proposed residence, adjoining patios, garage, driveway, landscaped areas, septic system and drywell will occur on the existing building pad. The proposed residence is 3,300 s.f. livable, 660 s.f. garage and storage. The proposed one story structure is under the allowable maximum height allowed. (*ref. Diagram #7a*)

In order to attempt restoration of the site to natural state, the existing walkway on the south side of the side of the property and the existing patio area to the west will be restored to natural state. The area where the septic system and drywell is proposed will be restored to natural state. (*ref. diagram #8*) The existing driveway configuration will remain and pavers are proposed.

The site drainage is a combination of a guttered roof drain system tying into a site catch basin system that flows into a drywell. The septic system is a dual tank tying into a drip leach system. The area of the drip leach system will be restored to natural state. (*see Preliminary Grading and Drainage Plan for information on the drainage and septic system*)

Reason for the Variance:

There are three primary hardships that Lot 32 imposes:

1. The lot has “three streets sides”. Each street side requires a 40 foot setback. A typical R-43 lot on today's standard would have 40 foot front and rear setbacks and 20 foot side yard setbacks. At the minimum width of the space between north and south setbacks, there is only 27 feet of building envelope available. This is a difference of 58 feet of existing lot building envelope width deficiency compared to the typical R-43 width. (85 feet-27 feet) (*ref. diagram #9*)
2. Due to the narrow “hour glass” configuration of the lot and the required 40 foot setbacks, it is nearly impossible to build a residence within the north and south setbacks. The minimum lot dimension from the north property to the south property line is 118 feet. The current minimum lot width, based on the Zoning Ordinance Table 1001-A1, is 165 feet. This is a difference of 47 feet of existing lot width deficiency. (*ref. diagram #9*)

The existing residence footprint does not conform with the current setbacks and encroaches 12 feet in to the north setback and 1 foot into the south setback. The proposed residence encroaches 21 feet into the north setback at the greatest dimension and does not encroach into the south, east or west setbacks. The proposed residence footprint is completely within the existing building pad and does not encroach into any undisturbed area. The closet part of the proposed residence 20 feet from the north property line. (*ref. diagram #9a*)

The square footage of encroachment over the north setback of the existing residence is 638 s.f. The square footage of the encroachment proposed for the new residence is 1,261 s.f. (*ref. diagram #9a*)

3. Because of the “three street sides” and the “hour glass” lot configuration, the “buildable area” is substantially less than the current R-43 standards. The current standards would allow 23,000 square feet of “buildable area”. (*ref. diagram #6*) Lot 32 has only 12,050 square feet of “building area”. This results in substantially less potential “building area”. (*ref. diagram #9a*)

Variance request is the minimum amount needed to cure property hardship because:

- a. As per staff recommendation, the northernmost corner of the proposed residence has been modified to be 20 feet from the north property line. This is an attempt to conform with a normal 20 foot side yard setback. *(ref. diagram # 9a)*
- b. In attempt to reduce the proposed setback encroachment into the north setback, the proposed residence would have to extend into the northwest setback area and push the septic system further to the northwest. This concept would lengthen the linear design and create a “railroad car” design that certainly would be difficult to create a feasible floor plan. This extension to the northwest would cause the patio area to span the west wash and cause the septic system to encroach into the northwest undisturbed area, potentially into the rock cropping area.
- c. A normal R-43 lot has a “buildable area” of 23,000 square feet. Lot 32 “buildable area” is 12,721 square feet. This is a deficiency of 10,279 square feet of “buildable area”. *(ref. diagram 6)*

#### Variance Process:

During the variance process we have been working with the Town of Paradise Valley staff to create an appropriate design and a reasonable variance request.

We have proposed a linear configured, one story structure residence that conforms to the existing building pad, creates no new site disturbance and maximizes views. *(ref. diagram #10 and 10a)*

It is always our intent to work with current ordinance, however, this site has proven hardships. The irregular shaped lot, with the 40 foot setbacks on three street sides and limited building area are hardships that grants the need for the requested variance.

#### **Variance Criteria:**

1. ***“such variance ....will serve not merely as a convenience to the applicant, but (is) necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variance under the circumstance.” [Town Code section 2-5-3(c)2].***

Variance request:

This lot suffers from pre-existing conditions that create hardships under the current Zoning Ordinance.

A. Three street sides:

Lot 32 was platted with “three street sides”. The greater north and south setbacks result in a smaller buildable area width.

B. Irregular lot shape:

The “hour glass” shape of the lot substantially reduces the buildable area.

C. Smaller buildable area:

Because of the three street sides and the irregular lot shape, the allowable buildable area is reduced. The reduced amount of buildable area is 10,279 square feet. (*ref. diagram 6*)

The lot suffers from existing conditions that make it nearly impossible to build a house that meets the current required setbacks. We are proposing a new structure that is completely on the existing building pad. There are no new disturbed areas and there are existing disturbed areas that are being return to natural state. There are no encroachments into the maximum height requirement of the Hillside Code.

**2. *The “special circumstances, hardship, or difficult (do not) arise out of misunderstanding or mistake...” [Town Code section 2-5-3(c)4(b)].***

This lot suffers from pre-existing conditions that create hardships under the current Zoning Ordinance. As a result of the property platted in 1955, the size, shape and topography has created the three property hardships:

.

A. Three street sides:

Lot 32 was platted with “three street sides”. The greater north and south setbacks result in a smaller buildable area.

B. Irregular lot shape:

The “hour glass” shape of the lot substantially reduces the buildable area.

C. Smaller buildable area:

Because of the three street sides and the irregular lot shape, the allowable buildable area is reduced.

These conditions are pre-existing and do not arise out of a misunderstanding or mistake.

**3. “Such variance from.... the strict application of the terms of (the zoning ordinance)...are in harmony with its general purposes and intents....” [Town Code section 2-5-3(c)2].**

This lot suffers from pre-existing conditions that create hardships under the current Zoning Ordinance.

A. Three street sides:

Lot 32 was platted with “three street sides”. The greater north and south setbacks result in a smaller buildable area.

B. Irregular lot shape:

The “hour glass” shape of the lot substantially reduces the buildable area.

C. Smaller buildable area:

Because of the three street sides and the irregular lot shape, the allowable buildable area is reduced.

In attempt to reduce the proposed setback encroachment into the north setback, the proposed residence would have to extend into the northwest setback area and push the septic system further to the northwest. This concept would lengthen the linear design and create a “railroad car” design that certainly would be difficult to create a feasible floor plan. This extension to the northwest would cause the patio area to span the west wash and cause the septic system to encroach into the northwest undisturbed area, potentially into the rock cropping area. Also, the option of a two story home is undesirable to the owners and would be difficult due to the maximum allowable height. This explains the logic of the proposed encroachment into the north setback. The proposed encroachment occurs on the existing building pad and creates no new disturbance of the site.

Because of the substantially reduced “building area” and the lot configuration, the allowable size of the residence is reduced. The proposed residence livable square footage is 3,300 s.f. which is much less than the normal 8,000 s.f. livable residence in Paradise Valley. Also, the “building area” allows only a two car garage.

**4. “The special circumstances, hardship or difficulty applicable to the property are (not) self-imposed by the property owner, or predecessor.....[Town Code section 2-5-3(c)4]**

This lot suffers from pre-existing conditions that create hardships under the current Zoning Ordinance. As a result of the property platted in 1955, the size, shape and topography has created the three property hardships:

- A. Three street sides:  
Lot 32 was platted with “three street sides”. The greater north and south setbacks result in a smaller buildable area.
- B. Irregular lot shape:  
The “hour glass” shape of the lot substantially reduces the buildable area.
- C. Smaller buildable area:  
Because of the three street sides and the irregular lot shape, the allowable buildable area is reduced.

These conditions are pre-existing and are not self-imposed by the current property owner or the predecessor.

**5. *“Because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.” [Arizona revised statutes 9-462.06 (g)(2)].***

As a result of the property platted in 1955, the size, shape and topography has created the three property hardships:

- A. Three street sides:  
Lot 32 was platted with “three street sides”. The greater north and south setbacks results in a smaller buildable area.
- B. Irregular lot shape:  
The “hour glass” shape of the lot substantially reduces the buildable area.
- C. Smaller buildable area:  
Because of the three street sides and the irregular lot shape, the allowable buildable area is reduced.

The lot suffers from existing conditions that make it nearly impossible to build a house that meets the current required setbacks. We are proposing a new structure that is completely on the existing building pad. There are no new disturbed areas and there are existing disturbed areas that are being return to natural state. There are no encroachments into the maximum height requirement of the Hillside Code.

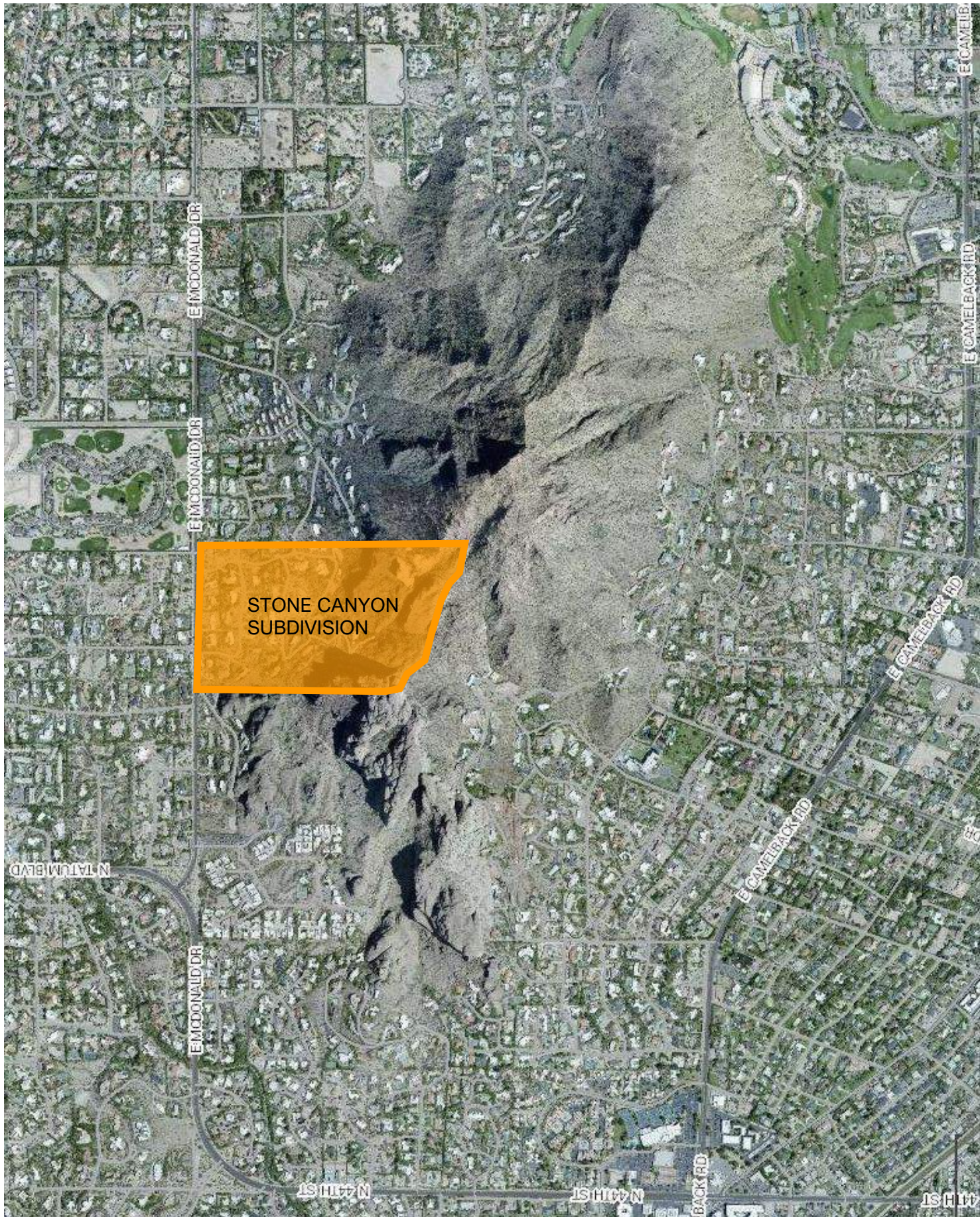


**6. The variance would not “constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.” [Arizona revised statutes 9-462.06 (g)(2)].**

The lot suffers from pre-existing conditions that make it nearly impossible to build a house that shares the same privileges enjoyed by adjacent neighboring properties of the same zoning classification. There are 6 neighboring lots with different encroachments occurring. 5 have front yard encroachments, 2 with side yard encroachments and 2 with carport encroachments. (ref. diagram #11-11I) The residence on lot # 40 is 5.4 feet from the north property line. (ref. diagram # 11I)

The variance request does not constitute a grant of special privilege but allows this property to share the similar privileges with adjacent properties.





STONE CANYON  
SUBDIVISION

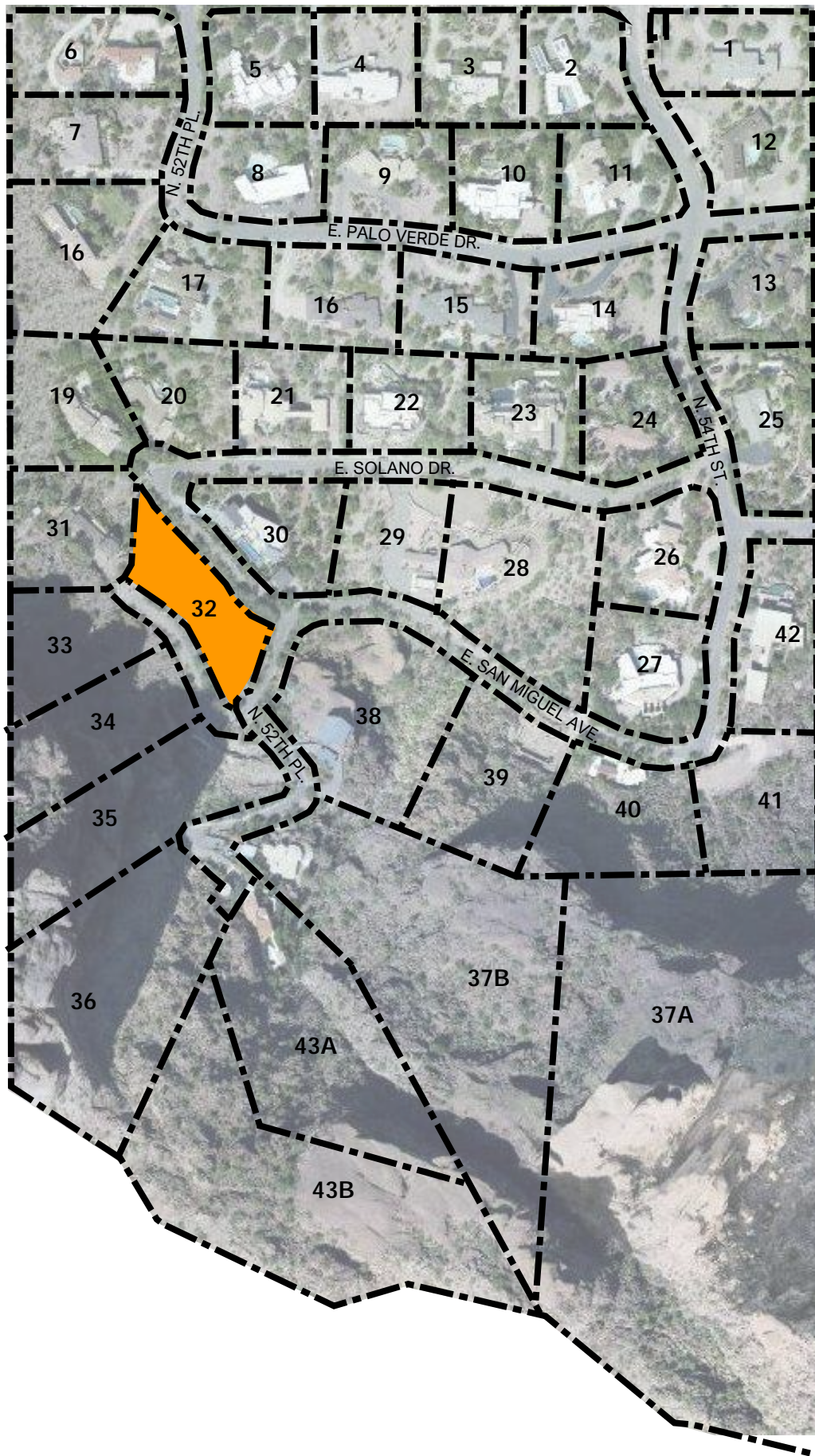


NORTH

**DIAGRAM 1**  
CAMELBACK MOUNTAIN AERIAL  
CONTEXT MAP



E. MCDONALD DR.



NORTH

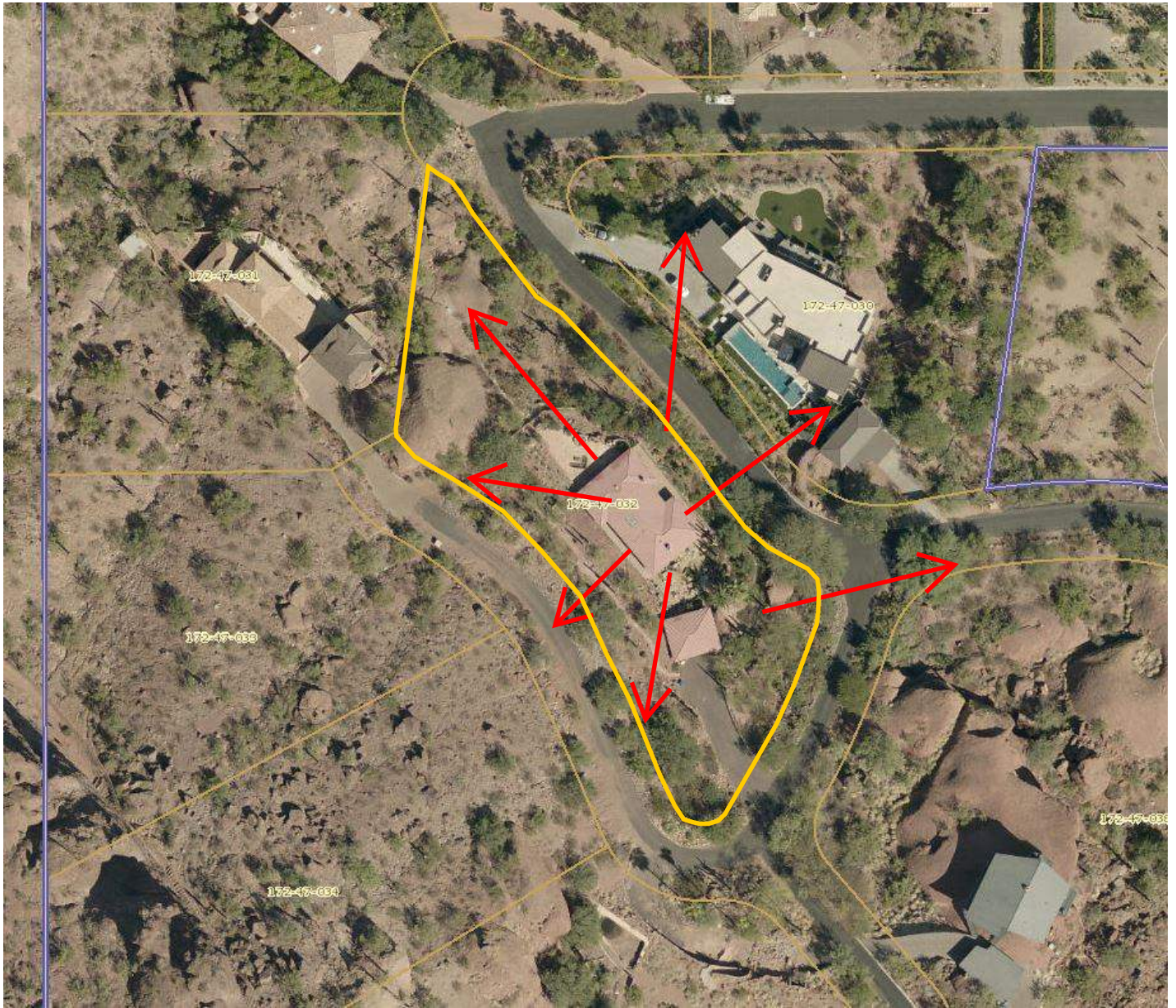
## DIAGRAM 2

STONE CANYON SUBDIVISION





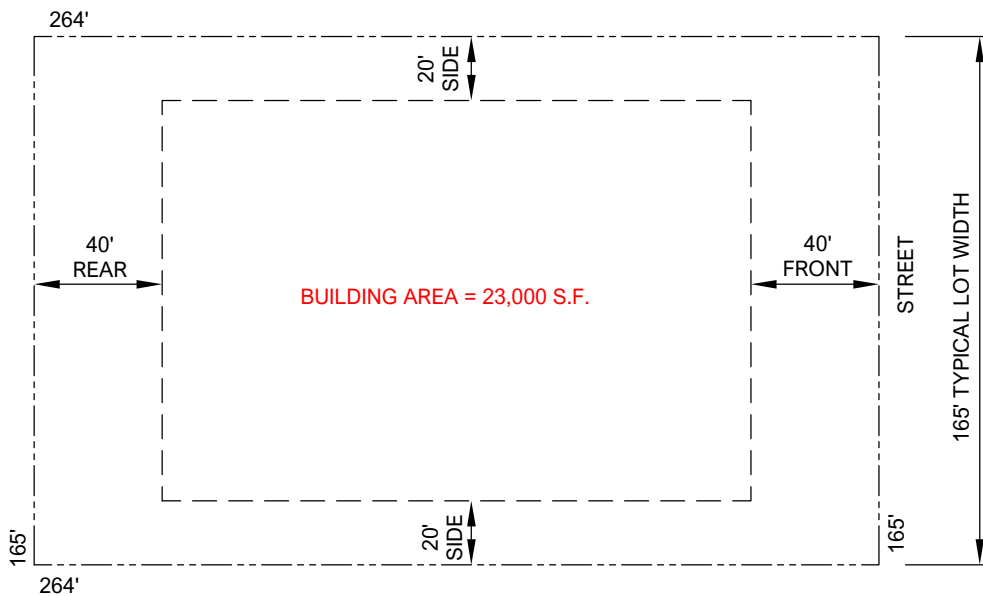
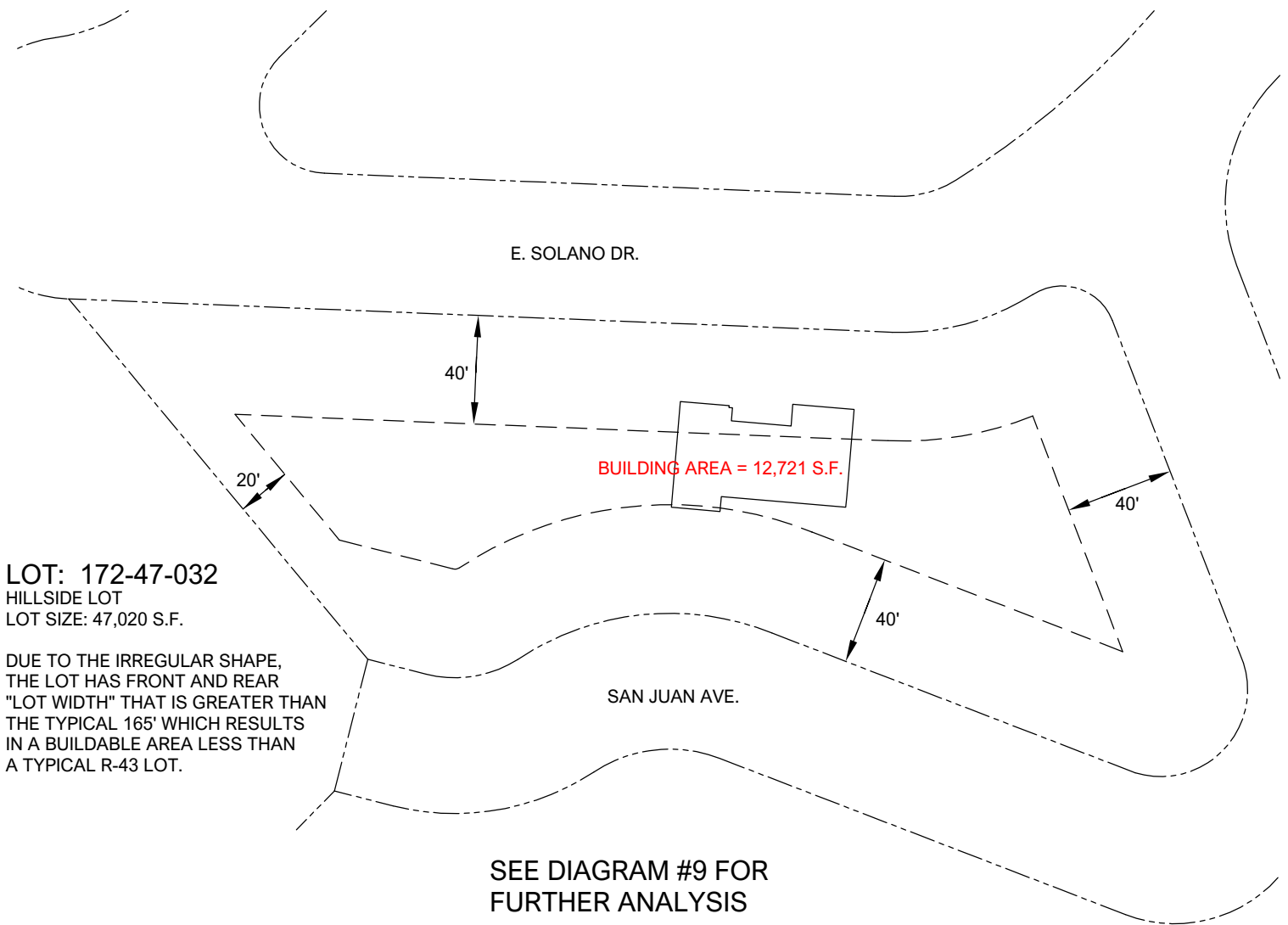




**DIAGRAM 4**  
VIEW CORRIDOR







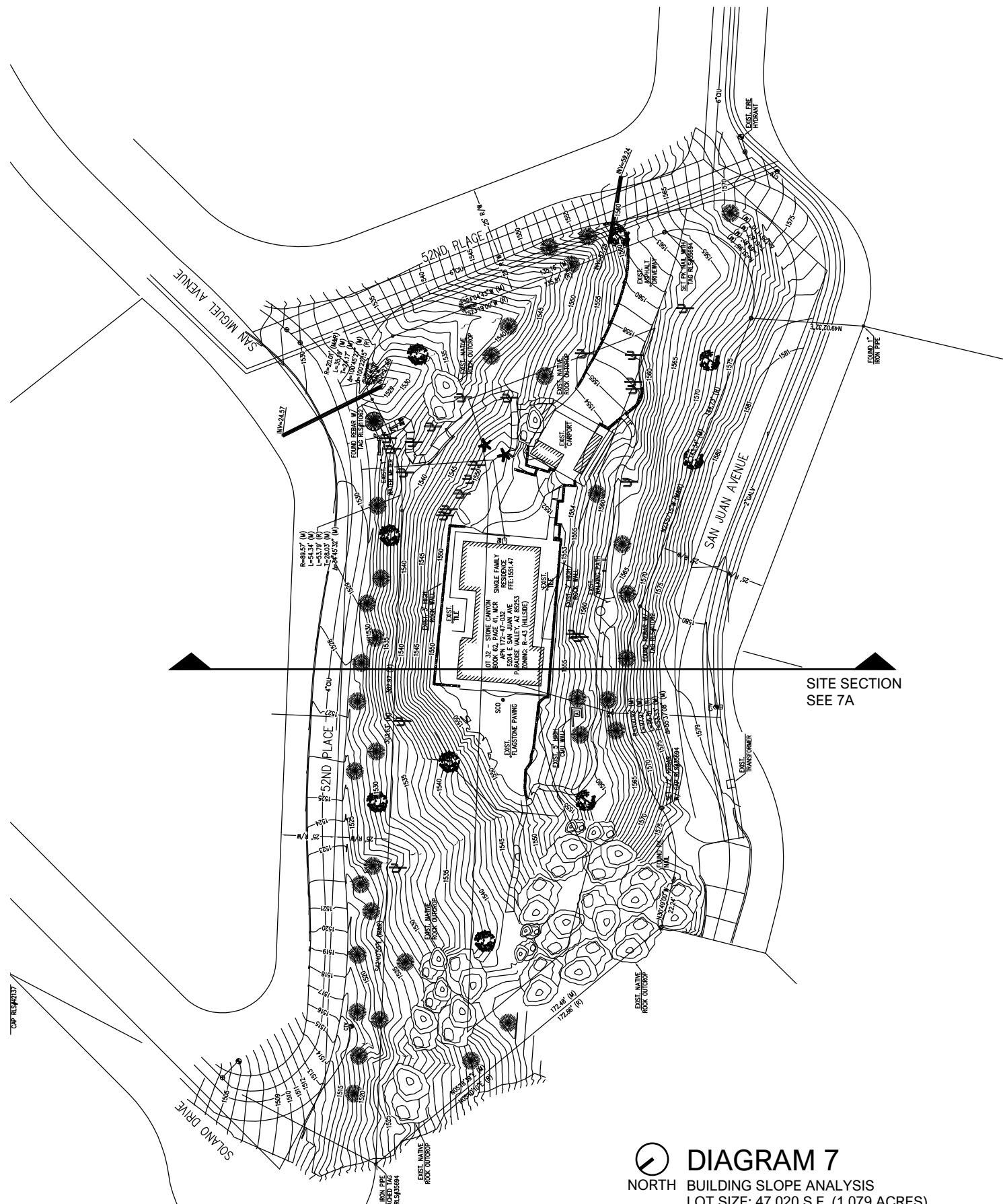
BUILDING AREA REDUCTION  
 DUE TO SHAPE OF LOT AND  
 MULTIPLE R.O.W.

NORMAL R-43 LOT: 23,000 S.F.  
 LOT 32: 12,721 S.F.  
 DIFFERENCE: 10,279 S.F.

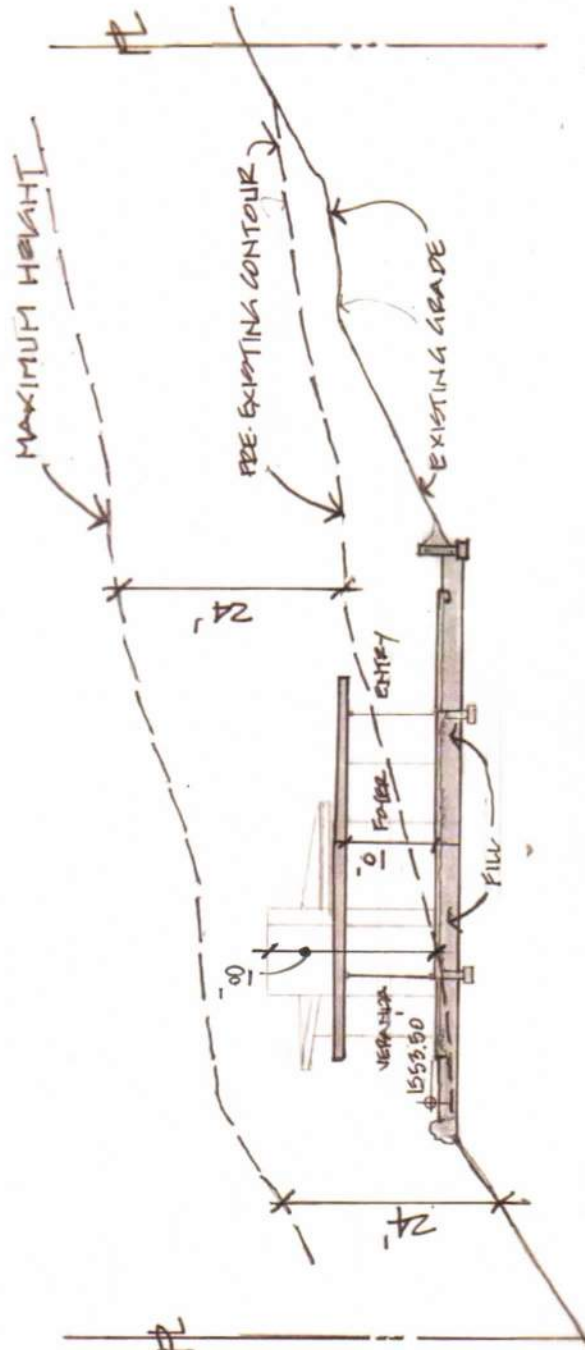
**TYPICAL R-43 LOT**  
 FLAT LOT  
 MINIMUM LOT SIZE: 43,560 SF  
 MINIMUM LOT WIDTH: 165 FT

**DIAGRAM 6**  
 R-43 LOT ANALYSIS PER  
 ZONING ORDINANCE









SITE SECTION SCALE: 1"=20.0'

DIAGRAM 7a  
SITE SECTION

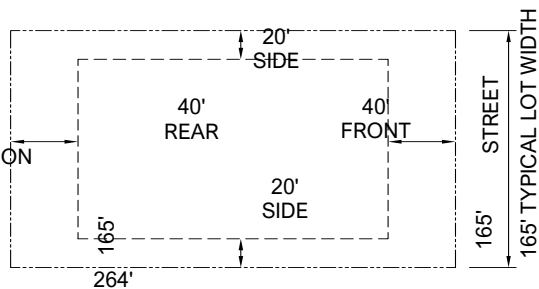


### LOT WIDTH DEFICIENCY CALCULATION

TYPICAL R-43 WIDTH: 165'

LOT 32 WIDTH: 118'

DEFICIENCY	47'
------------	-----



TYPICAL R-43 LOT

FLAT LOT

MINIMUM LOT SIZE: 43,560 SF

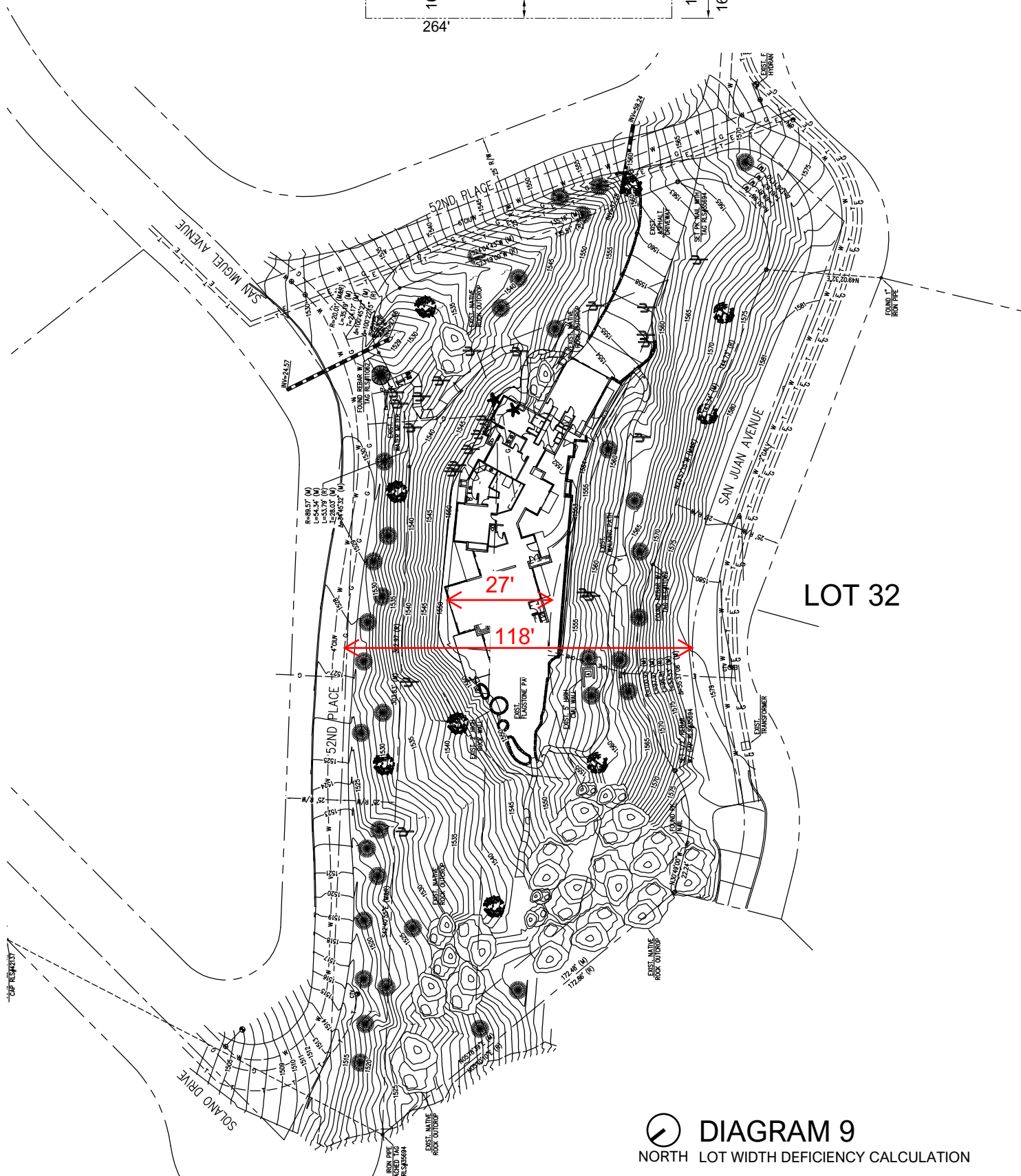
MINIMUM LOT WIDTH: 165 FT

## BUILDING ENVELOPE DEFICIENCY CALCULATION

TYPICAL R-43 WIDTH: 85'

LOT 32 WIDTH: 27'

DEFICIENCY	58'
------------	-----

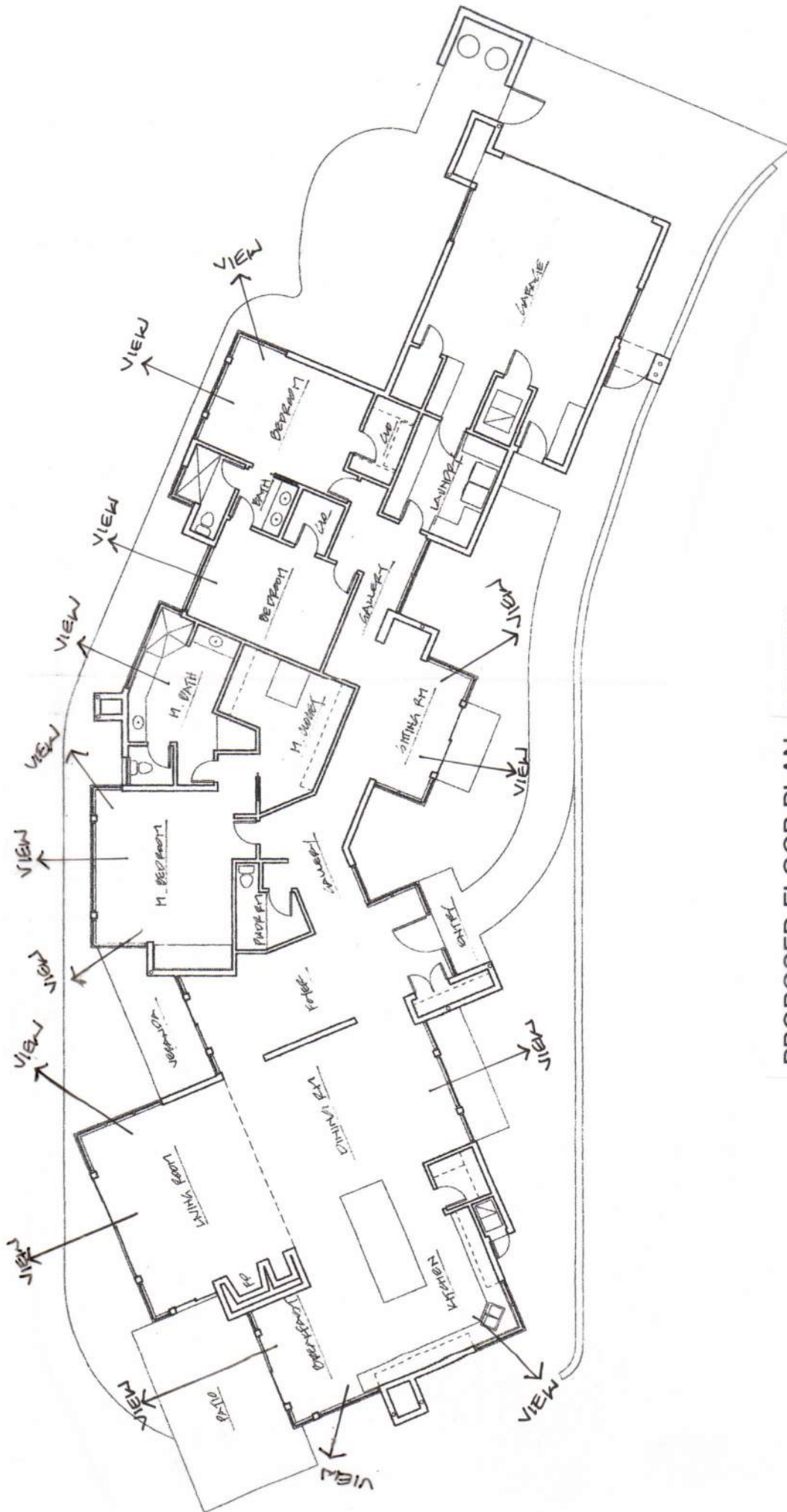


LOT 32

 **DIAGRAM 9**  
NORTH LOT WIDTH DEFICIENCY CALCULATION

SCALE: 1"=60'



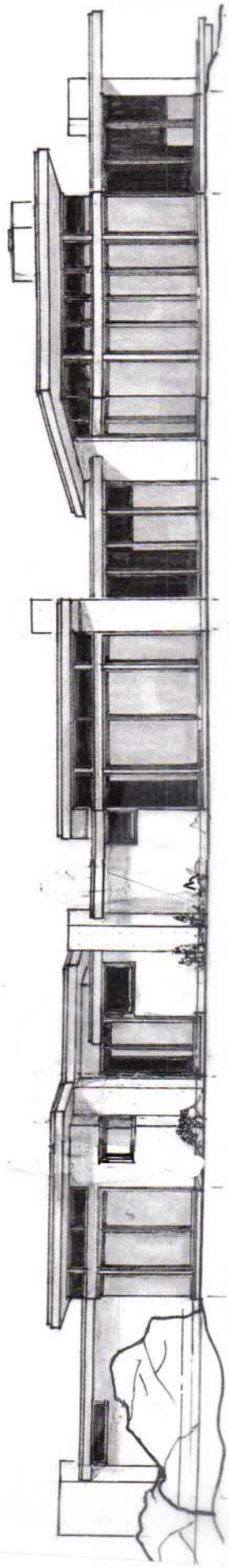
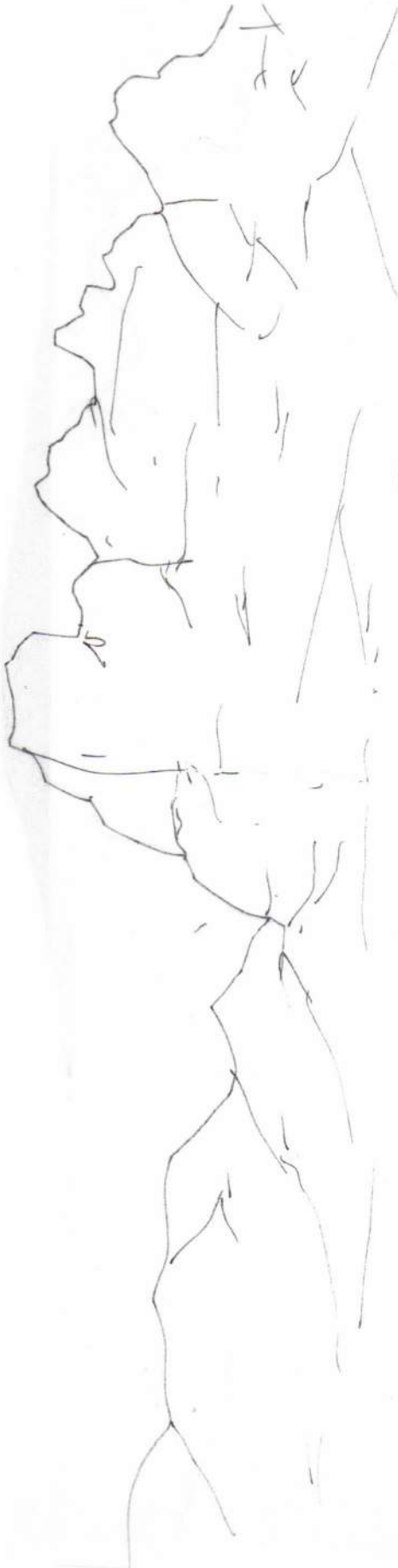


PROPOSED FLOOR PLAN NO SCALE

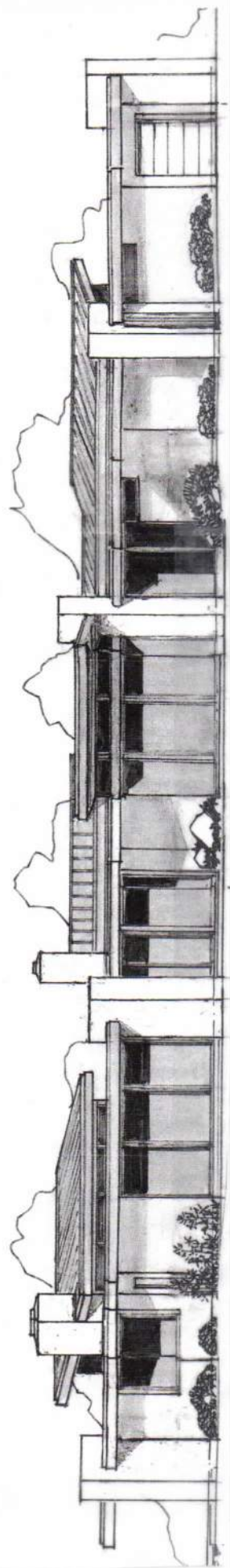
DIAGRAM 10

PROPOSED FLOOR PLAN





REAR ELEVATION

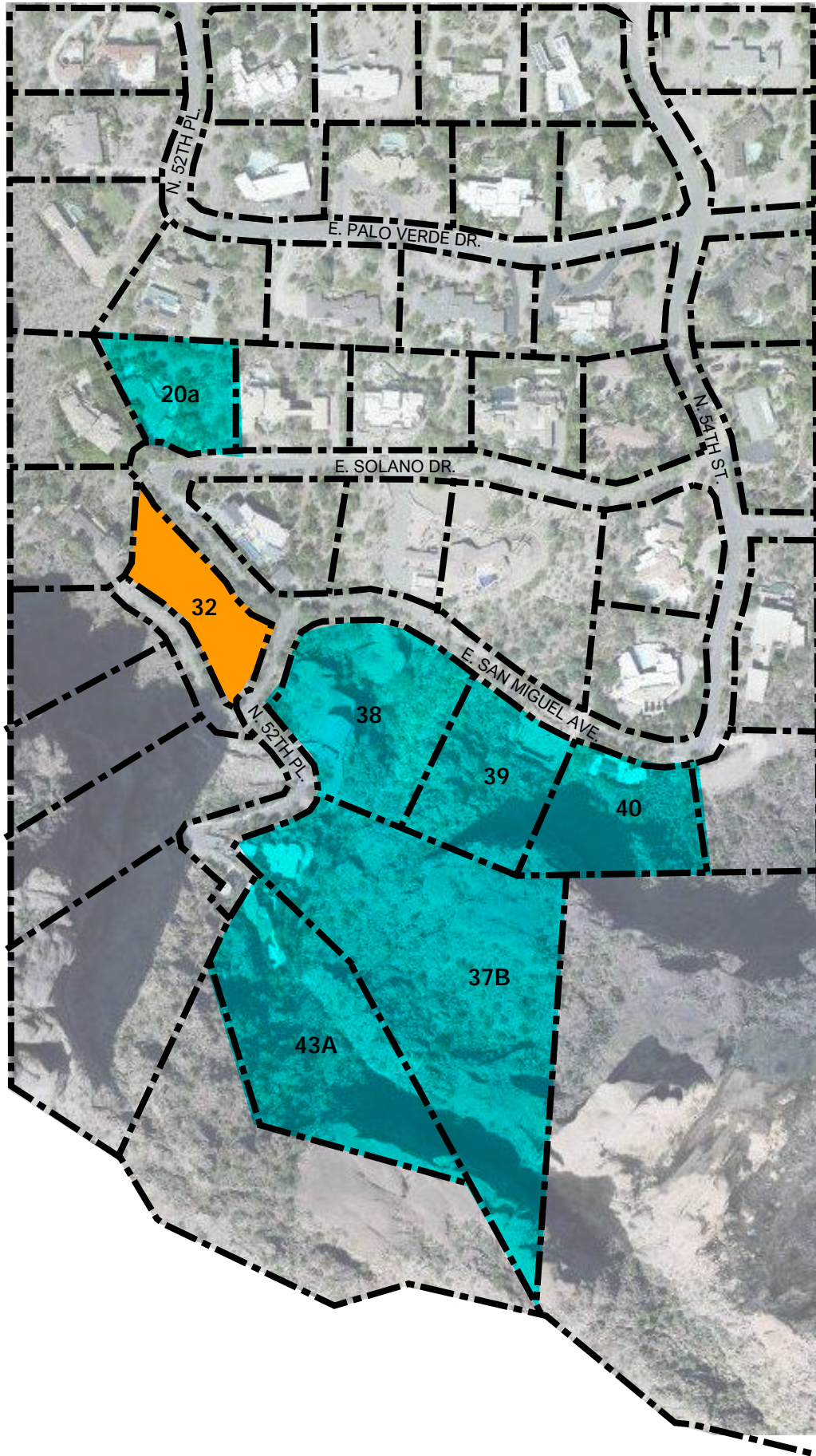


FRONT ELEVATION

DIAGRAM 10a

EXTERIOR ELEVATIONS

E. MCDONALD DR.



NORTH

## DIAGRAM 11

NEIGHBORING PROPERTIES WITH  
SETBACK ENCROACHMENTS



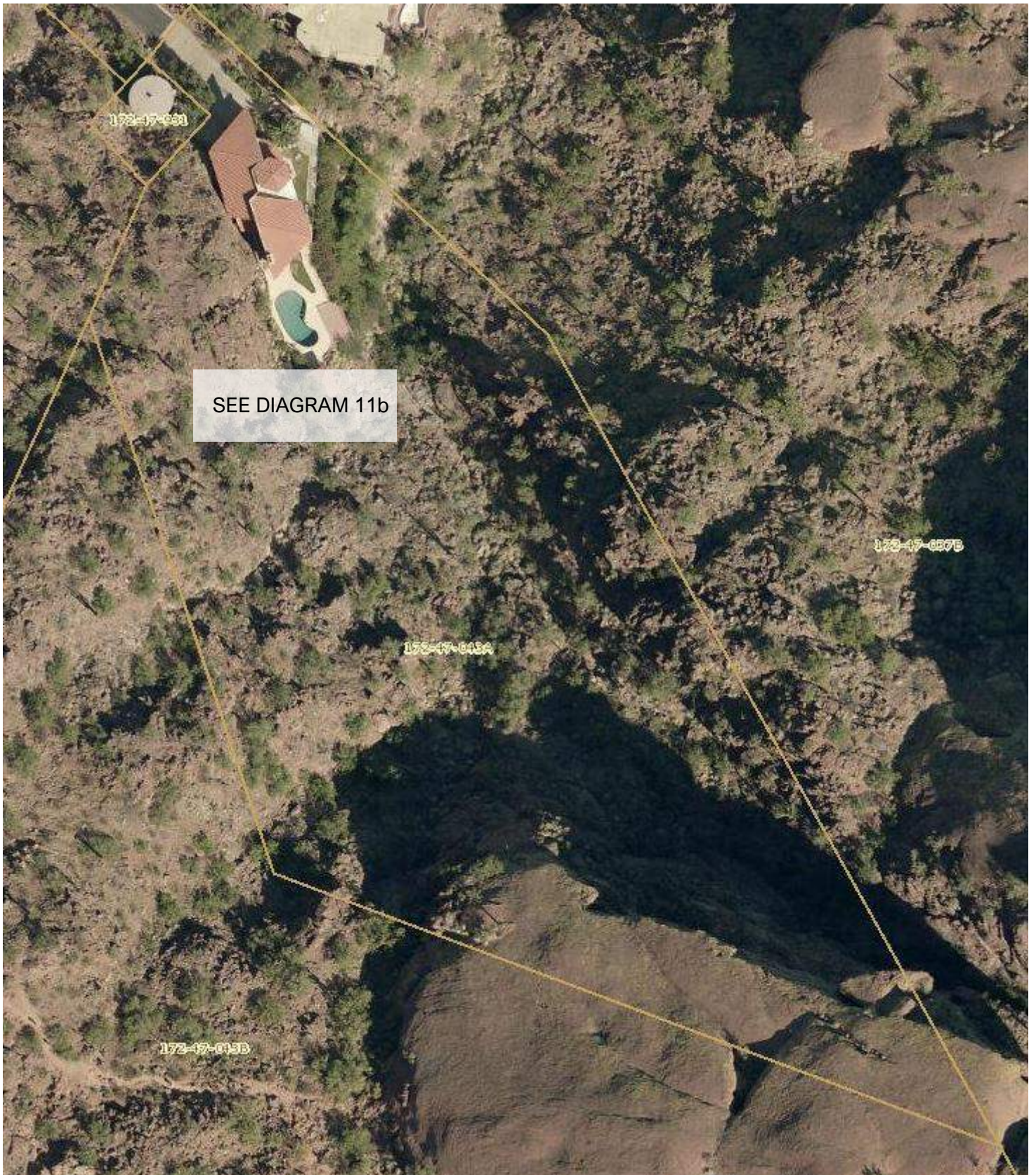


DIAGRAM 11a  
LOT 43A



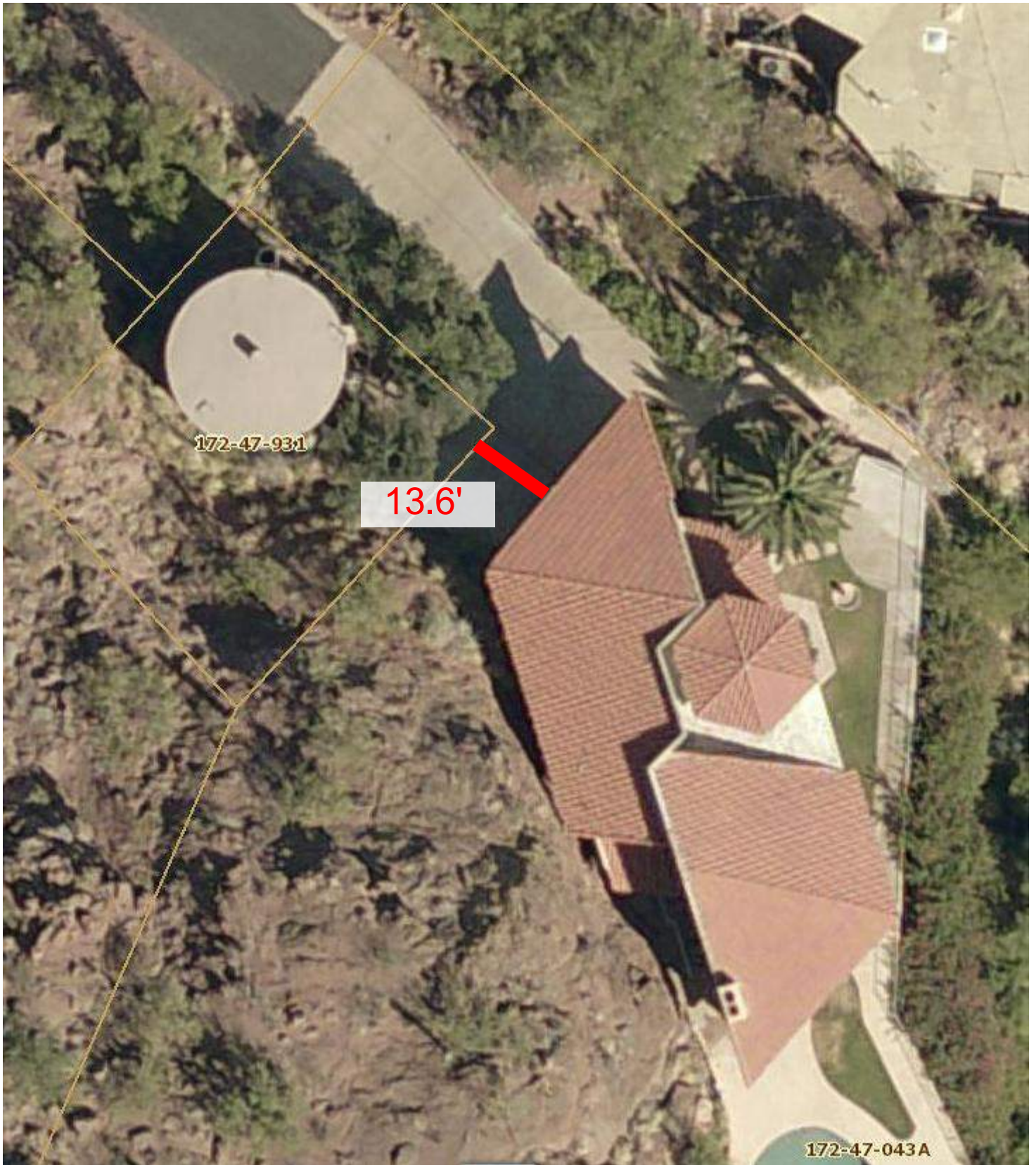


DIAGRAM 11b  
FRONT YARD ENCROACHMENT





DIAGRAM 11c  
LOT 37B





**DIAGRAM 11d**  
FRONT YARD ENCROACHMENT  
ACCESSORY STRUCTURE ENCROACHMENT



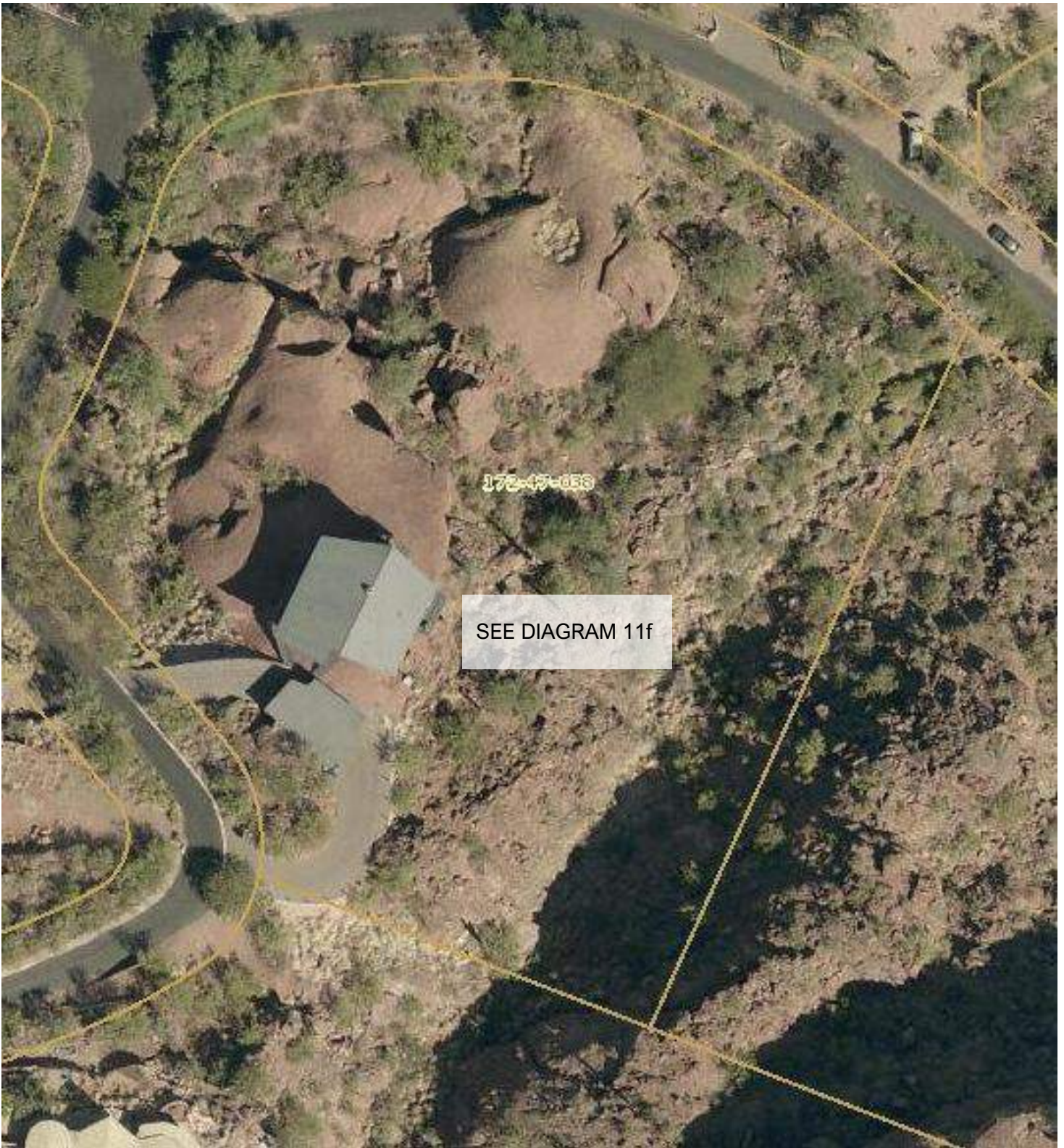


DIAGRAM 11e  
LOT 38





**DIAGRAM 11f**  
ACCESSORY STRUCTURE ENCROACHMENT





DIAGRAM 11g  
LOT 20a





**DIAGRAM 11h**  
FRONT YARD ENCROACHMENT  
SIDE YARD ENCROACHMENT



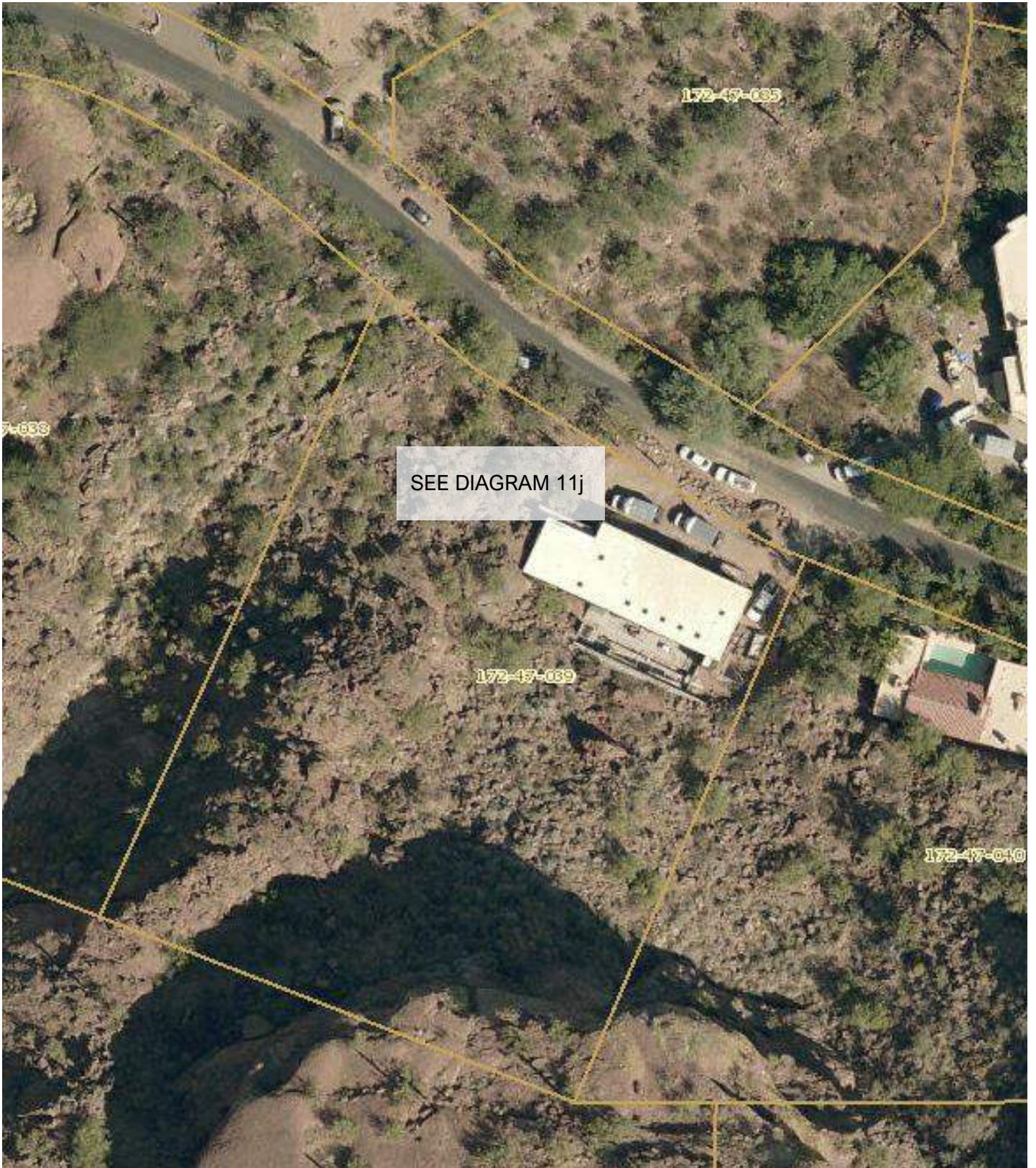


DIAGRAM 11i  
LOT 39





**DIAGRAM 11i**  
FRONT YARD ENCROACHMENT  
SIDE YARD ENCROACHMENT



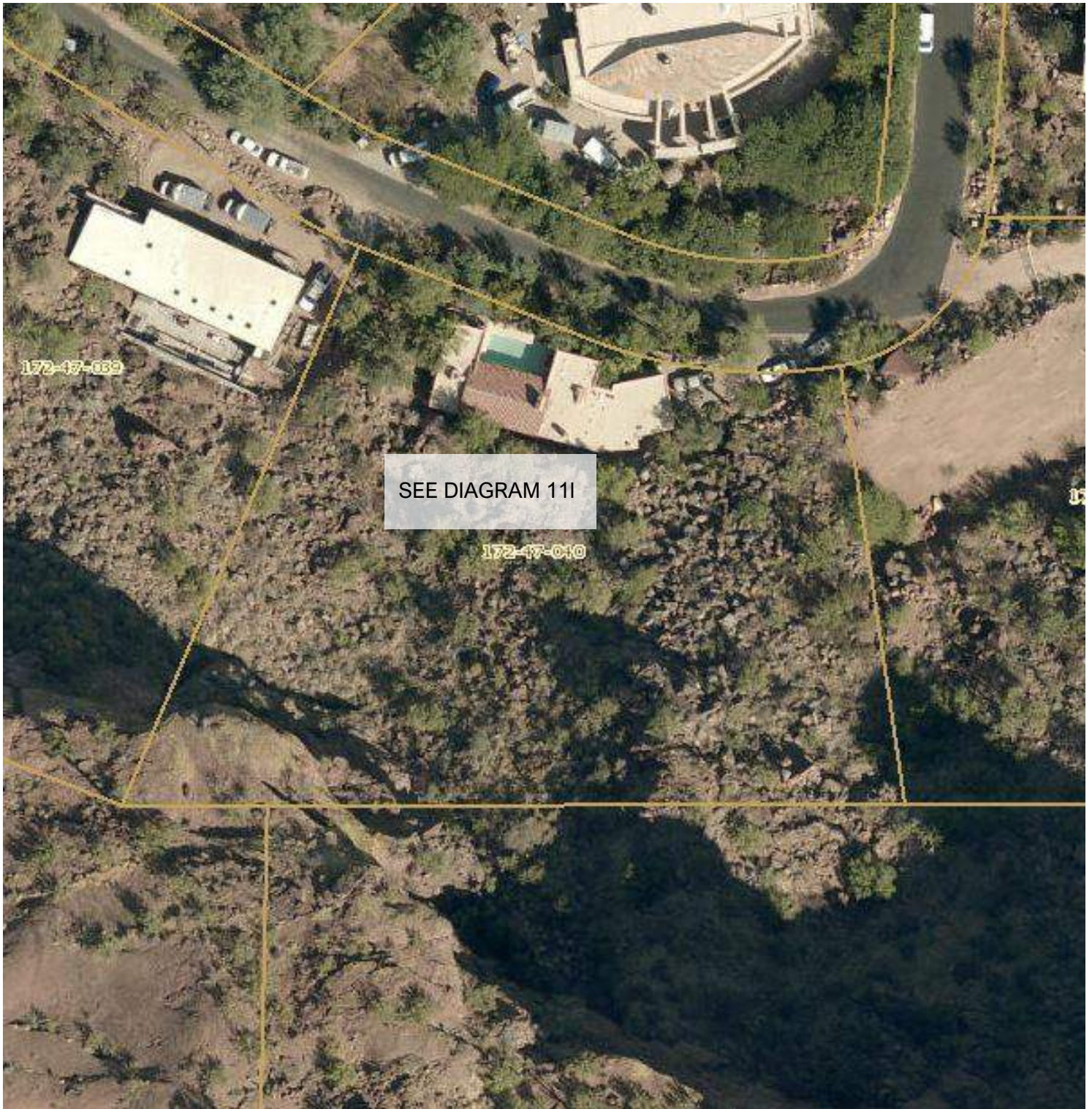


DIAGRAM 11k  
LOT 40



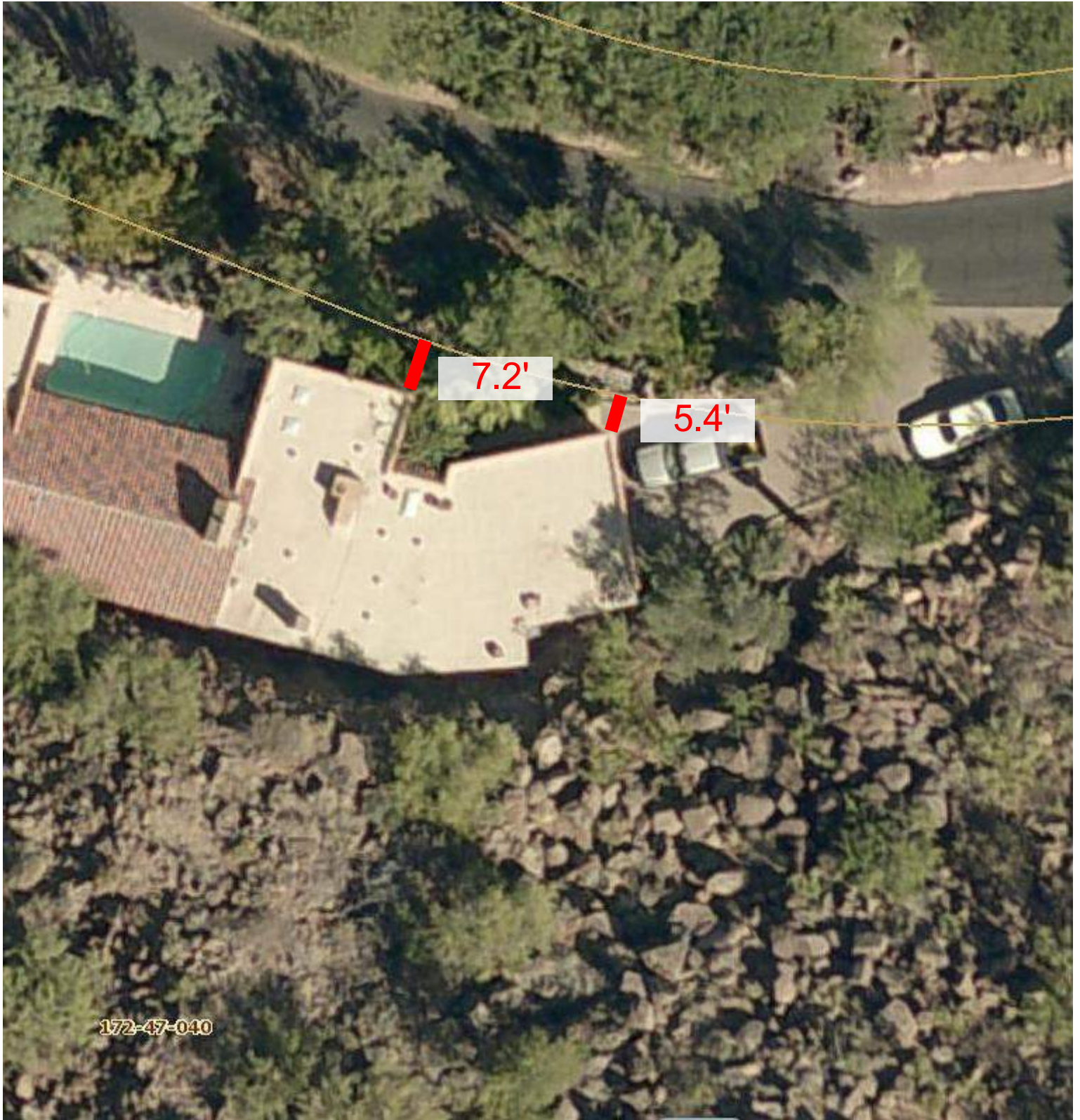


DIAGRAM 111  
FRONT YARD ENCROACHMENT