

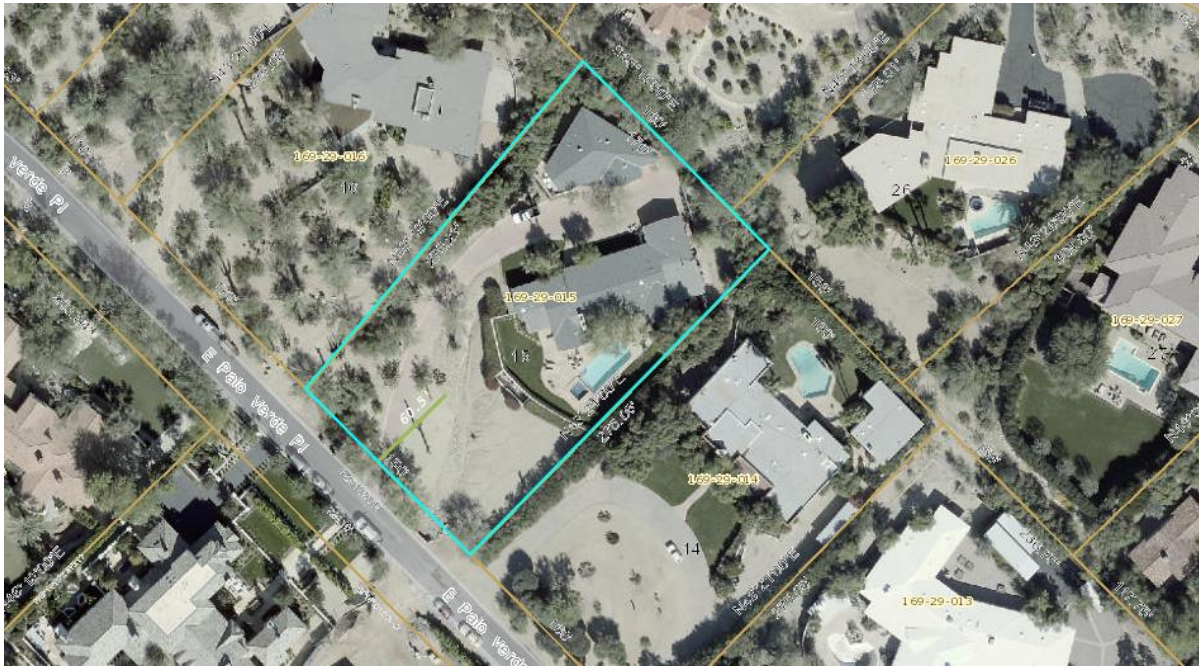
**Rauch Variance for Reduced Setbacks**

5230 E Palo Verde Place  
Paradise Valley, Arizona 85253

APN: 169-29-015

April, 2020

Revised July, 2020

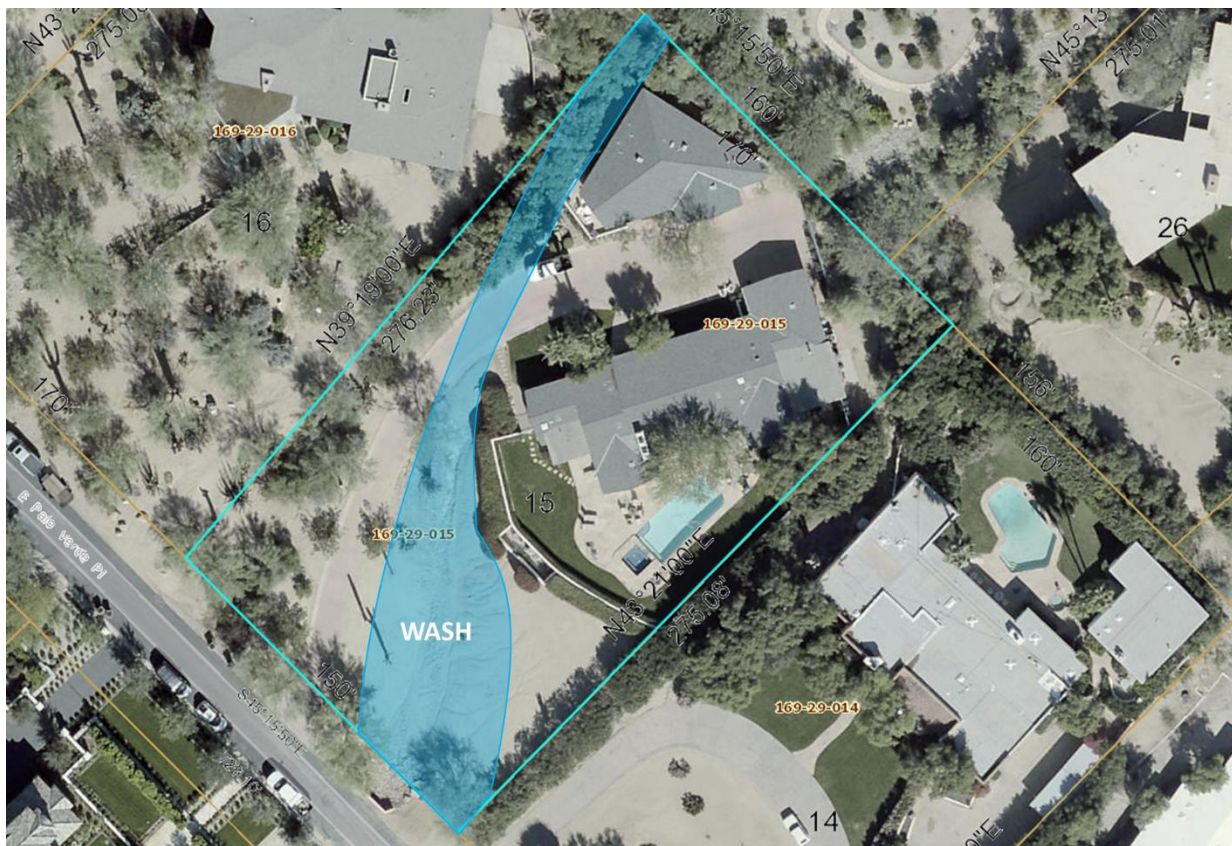


**Prepared by:**

Rose Law Group  
7144 E Stetson Drive, Suite 300  
Scottsdale, AZ 85255  
480.240.5640  
Jordan Rose  
Nick Labadie

David and Julie Rauch ("Applicants") are purchasing the property at 5230 E Palo Verde Place (the "Property") in the Town of Paradise Valley (the "Town"), see **Exhibit A, Vicinity Map**, with an existing home that appears to have been built around 1959 according to Maricopa County's online mapping tools (see **Exhibit B, Historical Photo**). The Rauchs' intent is to update this older home throughout while maintaining its appropriateness for the natural surroundings and the neighborhood. The substantial remodel and improvements will be primarily internal, maintain the footprint of the home, and be conducted in a way such that the only noticeable changes will be rejuvenating the Property. There are no new structures proposed, no additions proposed, and no increase to any of the current setback deviations - which have not changed in well over half a century.

The Property is zoned R-43, is approximately 45,231 square feet and is generally trapezoidal in shape with the front property line being 20 feet narrower than the rear. There is also a massive wash that runs from the northern corner to the southern corner where it spreads out over a large area as shown in the photo below (also see **Exhibit E, Wash Plan**).



Approximate location of wash and affected area of lot.

This wash posed a significant challenge to the location of the home on the Property during its original construction, forcing it to the rear of the lot and shifting it to one side and poses a similar challenge today. The home and guest house were constructed to avoid this wash, which placed each partially within what

would become the setback areas after annexation into the Town. The exact deviations are shown on **Exhibit C, Site Plan and Elevations** and **Exhibit D, Context Plan**. Both structures are currently within the required setbacks but are legally nonconforming and therefore do not need variances. However, while the proposed improvements will not change the footprint, it is anticipated that the interior changes in combination with replacement of windows and doors will certainly exceed the 50% allowed by the Town's Zoning Ordinance (the "Ordinance") triggering the need for variances to be granted for the deviations into the setback areas for the primary residence. There are no changes proposed to the guest house or pool, which are both legally non-conforming uses. It is understood that should changes be proposed to either of these in the future, they would need to either conform to the development standards or go through the variance process.

## REQUEST

The purpose of this application is to request variances from Article X, Section 1001, Table 1001-A1 of the Ordinance to allow for the mostly internal remodel of more than 50% of the existing home that has been encroaching into the setback for many years. In other words, this request is to allow the Rauch Family to remodel the primary residence as it sits without any additional setback encroachments. Table A, below, specifies each deviation requested. There are no other deviations requested at this time.

Table A – Requested Deviations

Requested deviations from Article X, Sec. 1001, Table 1001-A1 Primary Building Area, Width, Story, and Setback Limitations		
	Required	Requested
Rear Setback	40'	28.14'
Side Setback	20'	14.99'

The existing height of the home is 12.24 feet and the accessory structure is 15.53 feet. The height of the primary residence is proposed to increase (maintaining roof shape and design) by 2 feet and will not encroach into the required Open Space per Sec. 1001 (see **Exhibit C, Site Plan**). There is no change proposed to the guest house. The side setback for the pool is also existing non-conforming, but no changes are proposed to the pool. The home is not connected to sewer and therefore makes use of a septic system (located on Exhibit C, Site Plan). The wash does not currently have a drainage easement established, but the applicant will comply with the Town Code Sec. 5-10-7(C) requiring a drainage easement be created benefiting the Town prior to any permit or certificate of occupancy being issued, if it is determined that the wash in the front yard, or anywhere else on the Property, meets the definition of a watercourse.

The Applicants are in the process of purchasing the Property and pursuing this application to facilitate that purchase, which would close upon approval of this application. Because they do not yet own the Property, they have not prepared full plans for the remodel. However, they are conducting sufficient due diligence to know that the remodeling of the primary residence they will conduct post-purchase will

indeed surpass the 50 percent threshold of the existing square footage per Article XXIII, Section 2307. The requested deviations are known with certainty as it is an existing structure whose setbacks will not be altered as a part of the remodeling.

Section 2-5-3(C)(2)(a) of the Town Code of Paradise Valley authorizes the Board of Adjustment to permit “such variances from and exceptions to the strict application of the terms of this section” that it finds are in harmony with the general purposes and intents of the Town Code and they meet the requirements below. We believe that the existing home, which is not proposed to change as would affect the setbacks, is in harmony with the purposes and intent of the Town Code, which is demonstrated in part by the Town annexing this property with the existing home and setback deviations. The specific variance criteria are discussed below.

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 circumstances”***

This request is not being made to build a larger home, move structures, or in any other way increase the setbacks that have existed on the site since the home’s original construction. Instead, this request officially permits a condition that has existed on the Property since it was made a part of the Town so that the home itself can be updated and improved to today’s standards, which is a benefit to the Town and the community. There are three small additions proposed to the Primary Structure to 1) construct a covered entry (96 SF), 2) fill in an odd cutout in the southern corner of the home in the kitchen (201 SF), and 3) enlarge the master bedroom to accommodate a closet and bring it up to modern standards (190 SF). Only the master bedroom addition is partially within the existing setbacks (148 SF) but does not increase the overall deviation that has been in place since the construction of the home (see Exhibit C, Site Plan). It should be noted that, at 4,402 SF (5,302) including the guest house, the home, even with the proposed additions, is far below the typical home in Paradise Valley and what would likely be constructed on this parcel if the existing home were demolished and a new one built.

The Property is burdened by a massive wash that greatly reduces the developable area of the parcel (8,720 SF and 2.8 foot depth) and forced the existing structures into the rear corners of the Property. The trapezoidal shape of the Property further reduces the buildable area in the front of the lot and pushes the buildable area even farther to the rear corners. The result is the original structure being constructed in the northeast corner and the guest house being built in the northern corner. The majority of the front of the Property is covered by the wash, which spreads out across the south corner.

Even if the guest house could have been built in the front of the Property, that is a far less desirable location from the perspective of the neighborhood and the Town, which encourages guest houses to



be pushed farther from the front property line by having a larger front setback (60 feet) for accessory structures than for primary structures (40 feet).

The development standards in Tables 1001-A1 allow similarly zoned properties in the Town more than enough buildable area to construct a similarly sized primary residence and guest house without encroaching on the setbacks; however, due to the large wash and shape of the Property, the buildable area is greatly reduced, forcing the structures to need the requested minor deviations.

**2. *“The ‘special circumstances, hardship, or difficult [do not] arise out of misunderstanding or mistake...”***

The hardship of the wash and non-rectangular lot shape are not the result of misunderstanding or mistake. The wash existed in this location long before the lot was created and the shape of the lot provides some variation within the subdivision, which is a desirable condition. The result happens to create a situation where the buildable area is not entirely outside of the required setback, which were not likely in place at the time of construction as the home was built prior to being annexed.

Had the home been able to be constructed any closer to the front of the Property, it most likely would have been to provide a larger rear yard. The existing location does provide good views but does not allow for a private rear yard at all. A balance between the two would have been preferable but not possible given the lot’s unique challenges.

**3. *“such variance from...the strict application of the terms of [the Zoning Ordinance]...are in harmony with its general purposes and intents...”***

The requested variances are completely in harmony with the general purposes and intents of the Ordinance. There is significant open space between the homes in the neighborhood, there have never been any complaints about the location of either structure, and the home has been a beneficial part of the Town for several decades. As a result of the unique hardships, the home and guest house are both set farther back from the street than they would otherwise, which creates a large open feel to the street, which is a goal of the Town.

Article I, Section 101 of the Ordinance states its purpose to be “securing adequate light, pure air, and safety from fire and other dangers; conserving the values of land and buildings through the Town of Paradise Valley; lessening or avoiding congestion in the public streets; and promoting the public health, safety, comfort, morals and welfare of the citizens of the Town of Paradise Valley.”

Article 23 of the Ordinance regarding Non-conforming Uses does not specify its intent; however, it can be inferred that the intent is to allow existing non-conforming uses to be maintained but

encourage their gradual conversion to conforming over time. Section 2313 very clearly states that nothing in Article 23 shall prohibit property owners from applying to the Board of Adjustment for a variance where the strict application of the terms of that Article would cause an undue hardship, as described above.

It could not be argued that this request is anything but entirely in harmony with that purpose. It covers much less of the Property than many similarly zoned homes in the Town do, providing adequate light and pure air. The still substantial separation from surrounding structures adds to fire safety, and the improvement of the Property without expanding the footprint will conserve and even increase the value of the land on this Property and the surrounding. Allowing for responsible improvement of residential stock within the Town promotes the overall public health, safety, and comfort of the citizens of the Town. Prioritization and preservation of the private property rights of its residents is also certainly in line with the morals of the citizens of the Town.

In evidence of the fact that the request is in harmony with the intents and purposes of the Ordinance, several of the surrounding neighbors have submitted letters of support (see Exhibit F, Support Letters) indicating their belief that approval of this request will be a benefit to the community and Town.

**4. *“The special circumstances, hardship or difficulty applicable to the property are [not] self-imposed by the property owner, or predecessor...”***

For the same reasons that the hardship and unique circumstances on the Property were not created by mistake or misunderstanding, neither were they created by the applicant. For any owner of this home, the options are only to do nothing to improve the Property and let the home slowly deteriorate until condemned, improve the Property only cosmetically which would not preserve the value of the land as its interior design fell farther and farther behind the market and trends, or improve the Property in such a way that would trigger the need for the requested variance. That could be done as the applicant is requesting, which is in harmony with the neighborhood, natural surroundings, and purpose of the Ordinance by not increasing the historical setback encroachment, or it could be done by demolishing the existing home and constructing one that would take up much more of the parcel, be two-stories, and be a nuisance to its neighbors by necessarily maximizing the square footage against the cost of the land and construction. The applicant is choosing the former and thereby ensuring their improvements will have only positive impacts on the Property, neighbors, and Town.

**5. *“Because of the 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.”***

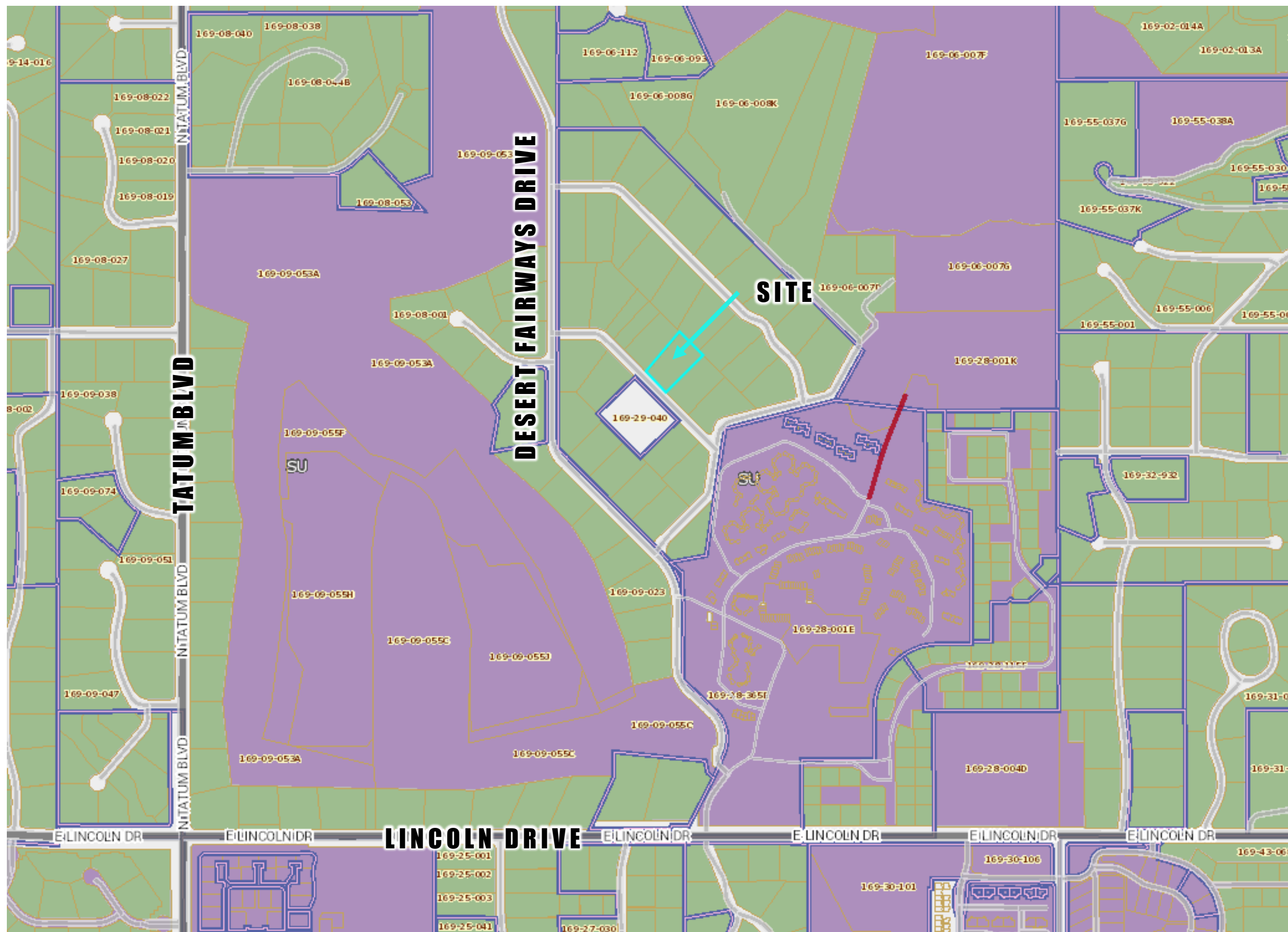
Because of the large wash and trapezoidal shape, the strict application of the Ordinance would deprive the applicant of a large amount of developable area as compared to similarly zoned land. On a square R-43 lot that is 43,560 square feet (1 acre), the front side and rear setbacks cover 21,845.34 square feet or 50.1% of the total lot area leaving a property owner the opportunity to choose from a little less than half (49.9%) of the parcel as buildable area. Unfortunately, in this case, the large wash and front property line that is 20 feet narrower than the rear, the Property has significantly less than 49.9% available as buildable area. In fact, reducing the setbacks to the requested distance still provides them with less than similarly zoned lots. Given dimensions of the Property and setbacks, this property begins with only 48.2% buildable area. The wash further reduces the buildable area by 8,720 square feet for a total of just 30%, far below what is buildable on a similarly zoned parcel.

**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 the property is located'".***

Granting this variance will not grant any kind of special privilege to the applicant. It merely permits the structures that have been in place for many decades. As you can see in Exhibit B, Historical Photo, this home was one of the first to be built in the subdivision and was in the same location and footprint it is today. The requested variances are the absolute minimum necessary to preserve the applicant's property rights. It permits the existing structures as they are and still does not create as much buildable area on the Property as similarly zoned properties in this subdivision and within the Town. Therefore, granting this request could not possibly be considered a special privilege.

## Exhibit A





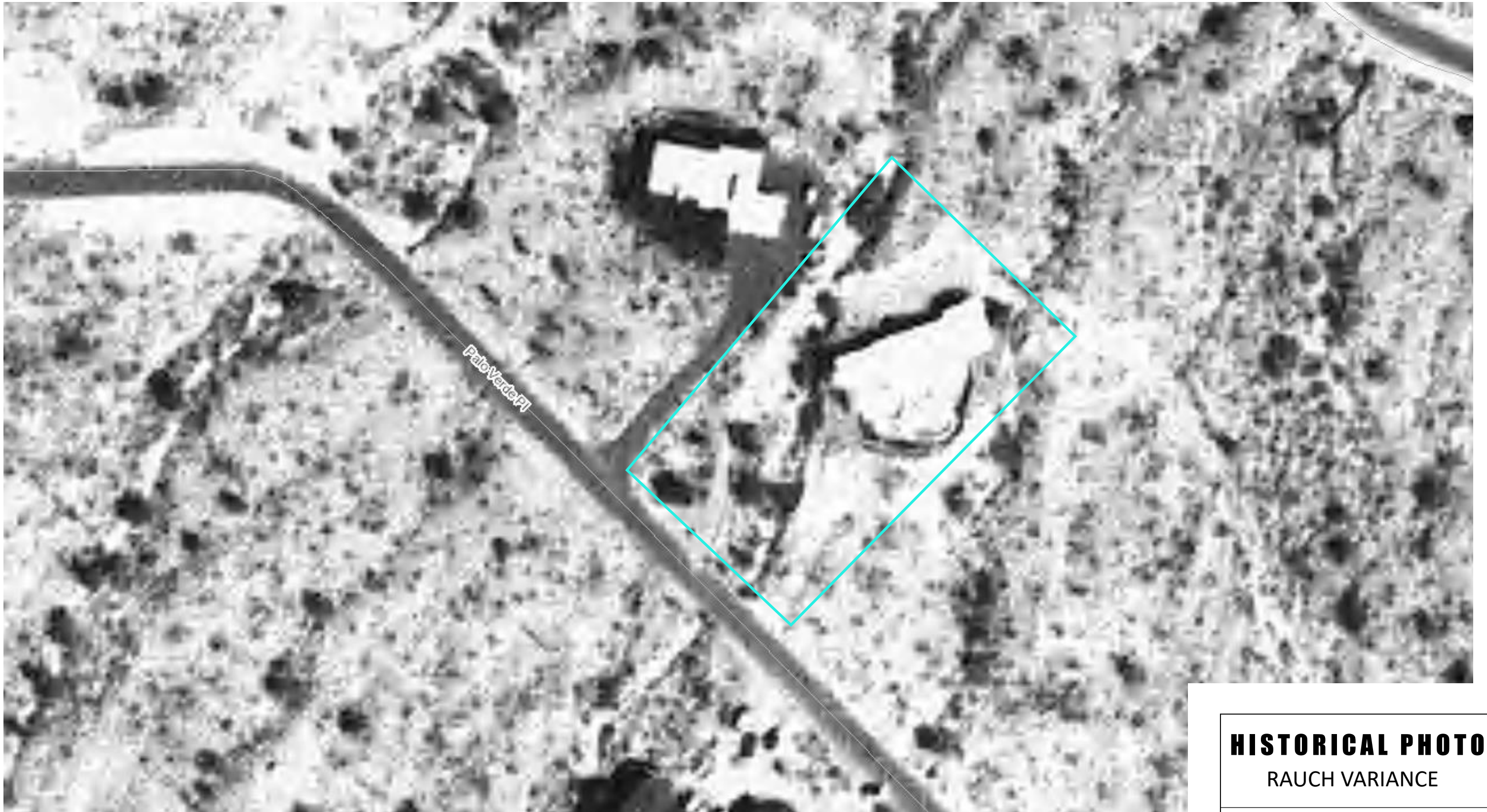
# VICINITY MAP

## RAUCH VARIANCE

Request for reduced rear and side setbacks  
5203 E Palo Verde Place  
APN: 169-29-015



## Exhibit B



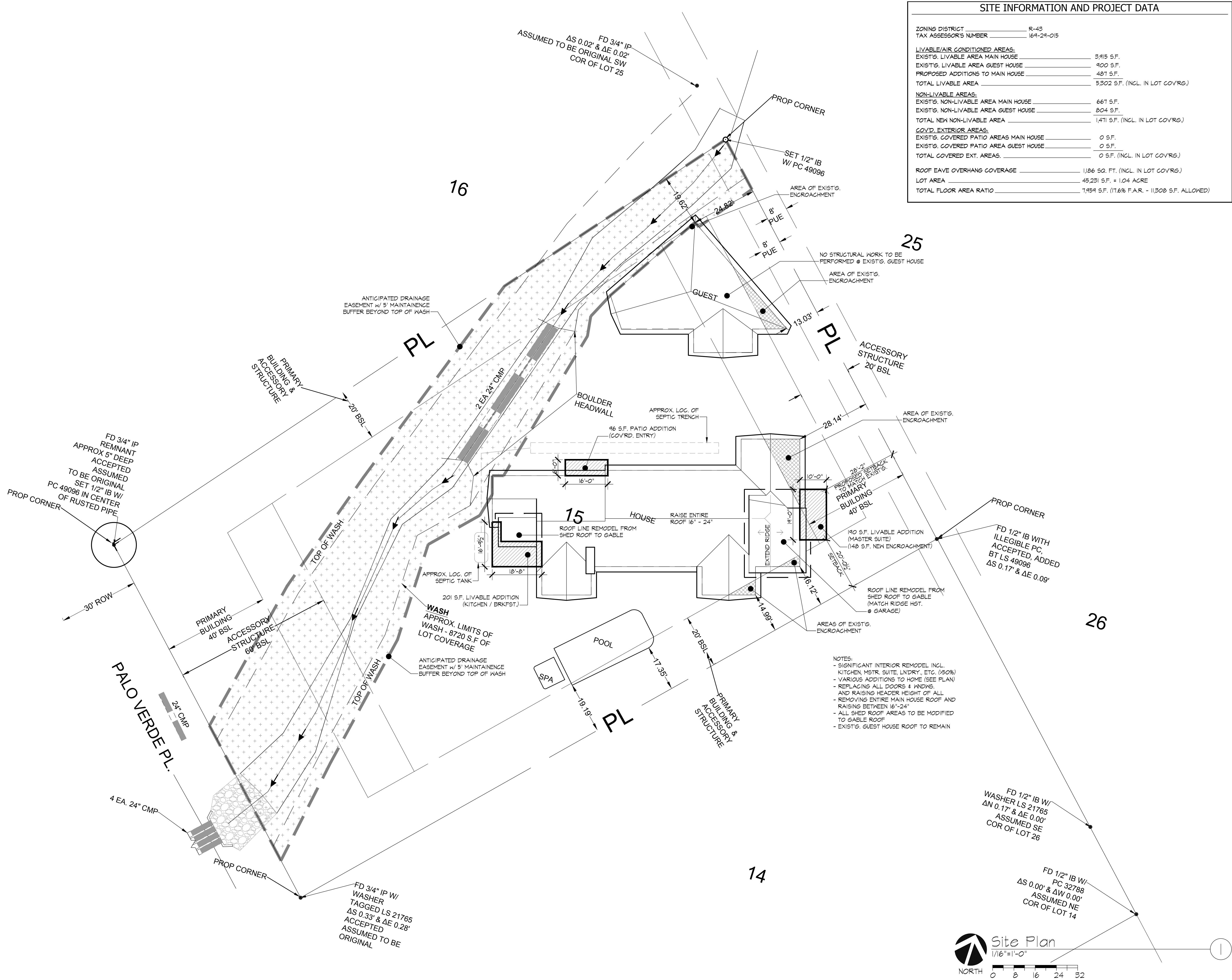
**HISTORICAL PHOTO**  
RAUCH VARIANCE

Request for reduced rear and side setbacks  
5203 E Palo Verde Place  
APN: 169-29-015



## Exhibit C





SITE INFORMATION AND PROJECT DATA	
ZONING DISTRICT	R-43
TAX ASSESSOR'S NUMBER	164-24-015
LIVABLE/AIR CONDITIONED AREAS:	
EXIST'G. LIVABLE AREA MAIN HOUSE	5,415 S.F.
EXIST'G. LIVABLE AREA GUEST HOUSE	900 S.F.
PROPOSED ADDITIONS TO MAIN HOUSE	487 S.F.
TOTAL LIVABLE AREA	5,302 S.F. (INCL. IN LOT COVRG.)
NON-LIVABLE AREAS:	
EXIST'G. NON-LIVABLE AREA MAIN HOUSE	667 S.F.
EXIST'G. NON-LIVABLE AREA GUEST HOUSE	804 S.F.
TOTAL NEW NON-LIVABLE AREA	1,471 S.F. (INCL. IN LOT COVRG.)
COVD. EXTERIOR AREAS:	
EXIST'G. COVERED PATIO AREAS MAIN HOUSE	0 S.F.
EXIST'G. COVERED PATIO AREA GUEST HOUSE	0 S.F.
TOTAL COVERED EXT. AREAS	0 S.F. (INCL. IN LOT COVRG.)
ROOF EAVE OVERHANG COVERAGE	1,186 SQ. FT. (INCL. IN LOT COVRG.)
LOT AREA	45,231 S.F. = 1.04 ACRE
TOTAL FLOOR AREA RATIO	7,454 S.F. (17.6% F.A.R. - 11,308 S.F. ALLOWED)

mta

MATTHEW THOMAS ARCHITECTURE

LLC

PHOENIX, ARIZONA

A REMODEL & ADDITION FOR THE:

Rauch Family

5203 E. Palo Verde Place  
Paradise Valley, AZ 85253

2021

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07.09.20

03

Revision

Date

02

Revision

Date

01

Revision

Date

Drawn By: m.t.

Scale: 1/16" = 1'-0"

Drawing:

Site Plan

Sheet:

A1.1

© Copyright 2020

Site Plan

1/16"=1'-0"

0 8 16 24 32

02

Drawn By: m.t.

Scale:  $1/4" = 1'-0"$

**Drawing:**

Ext. Elevs.

Sheet:

## A2.1

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## Exhibit D





## CONTEXT PLAN

### RAUCH VARIANCE

Request for reduced rear and side setbacks  
5203 E Palo Verde Place  
APN: 169-29-015  
1 OF 2







**CONTEXT PLAN**  
RAUCH VARIANCE

Request for reduced rear and side setbacks  
5203 E Palo Verde Place  
APN: 169-29-015  
2 OF 2







I



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## CONTEXT PLAN

### RAUCH VARIANCE

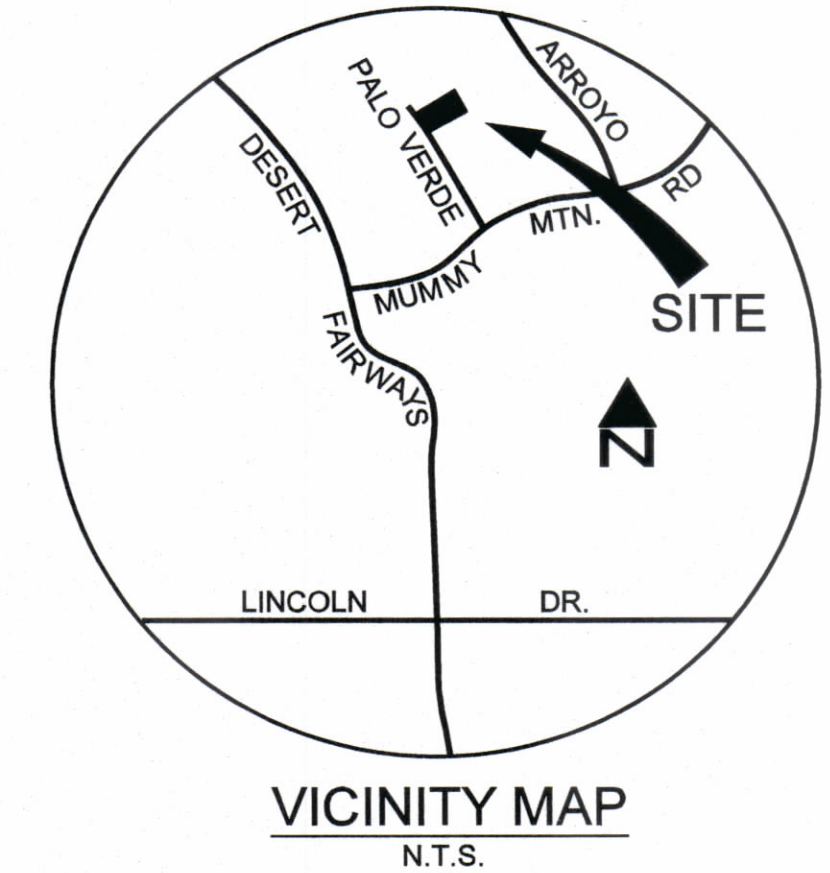
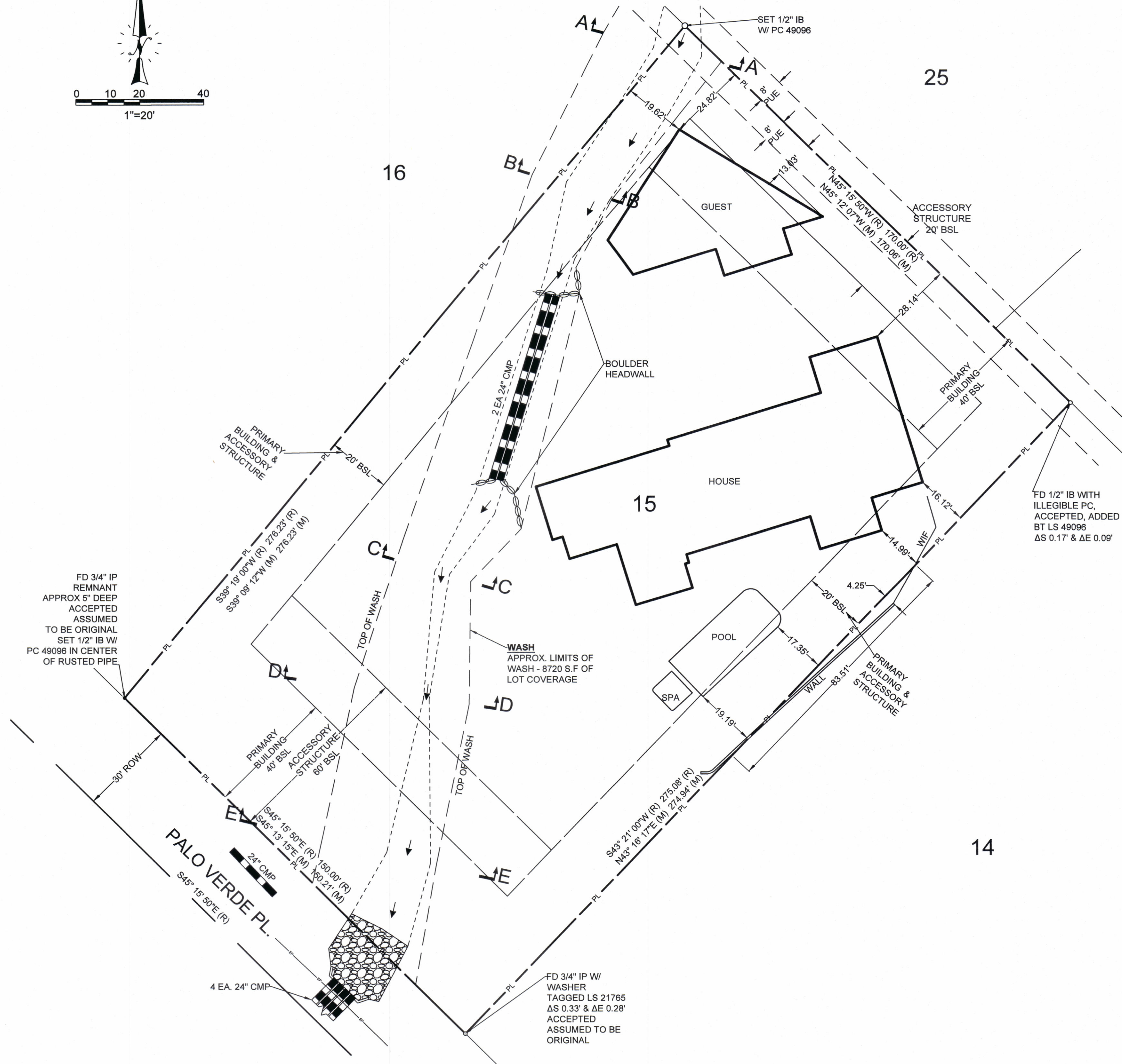
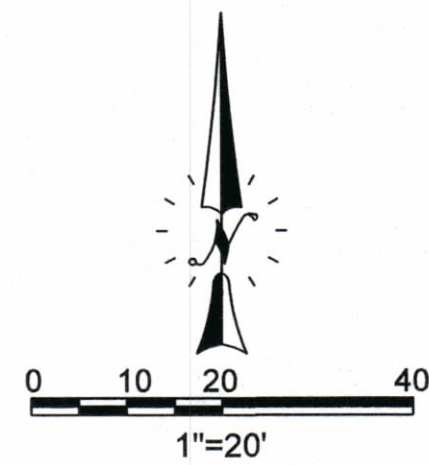
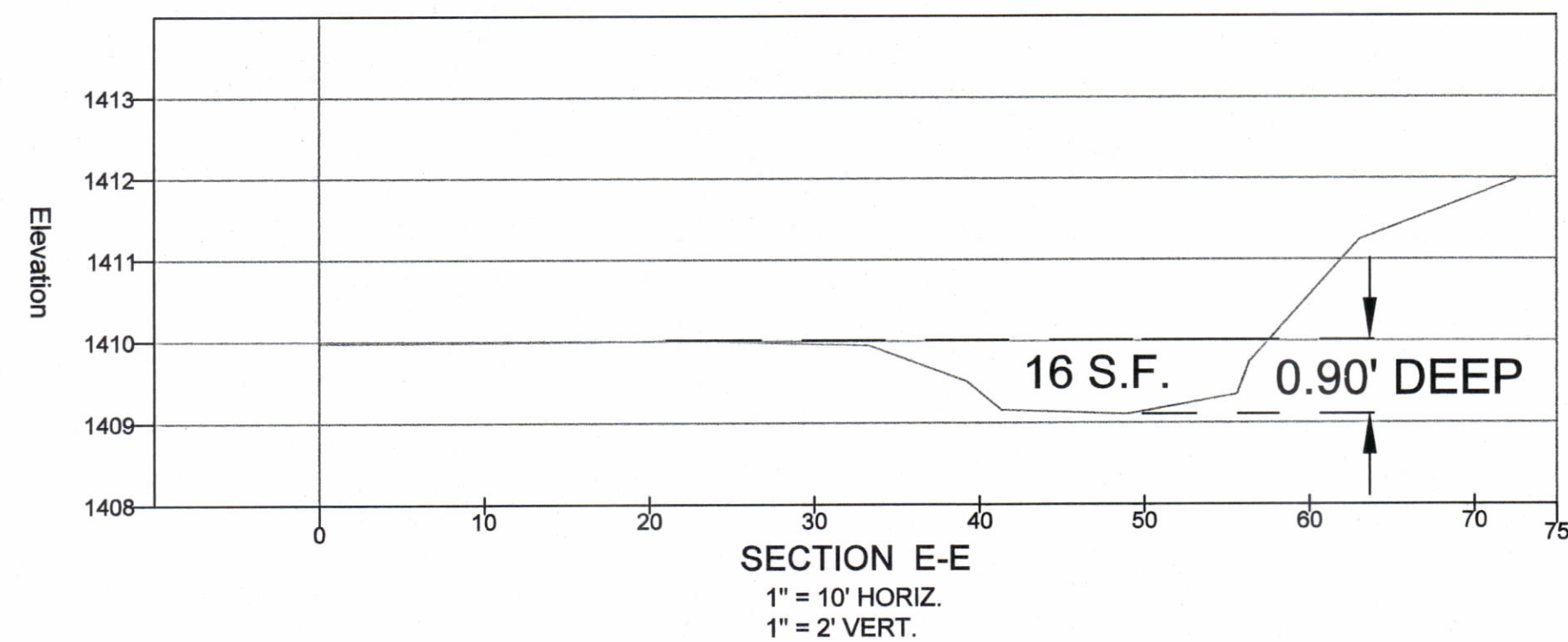
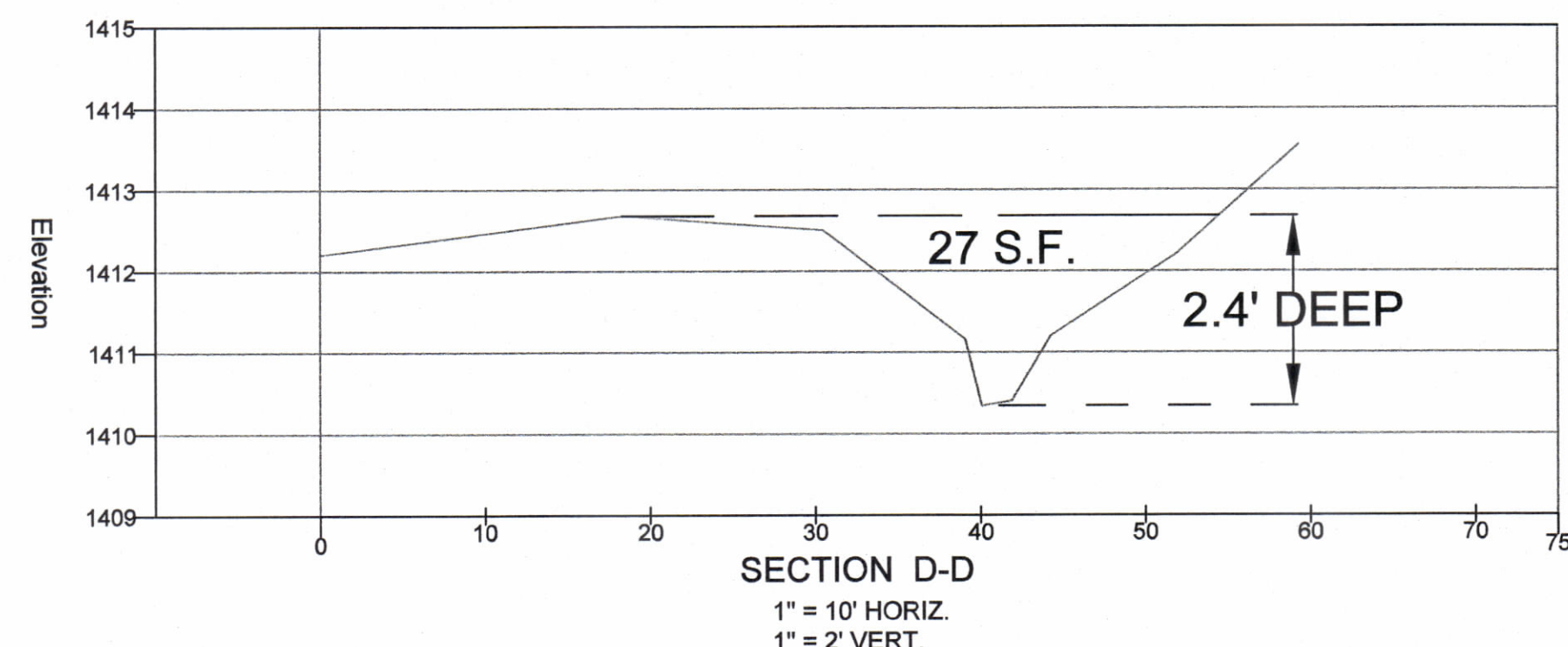
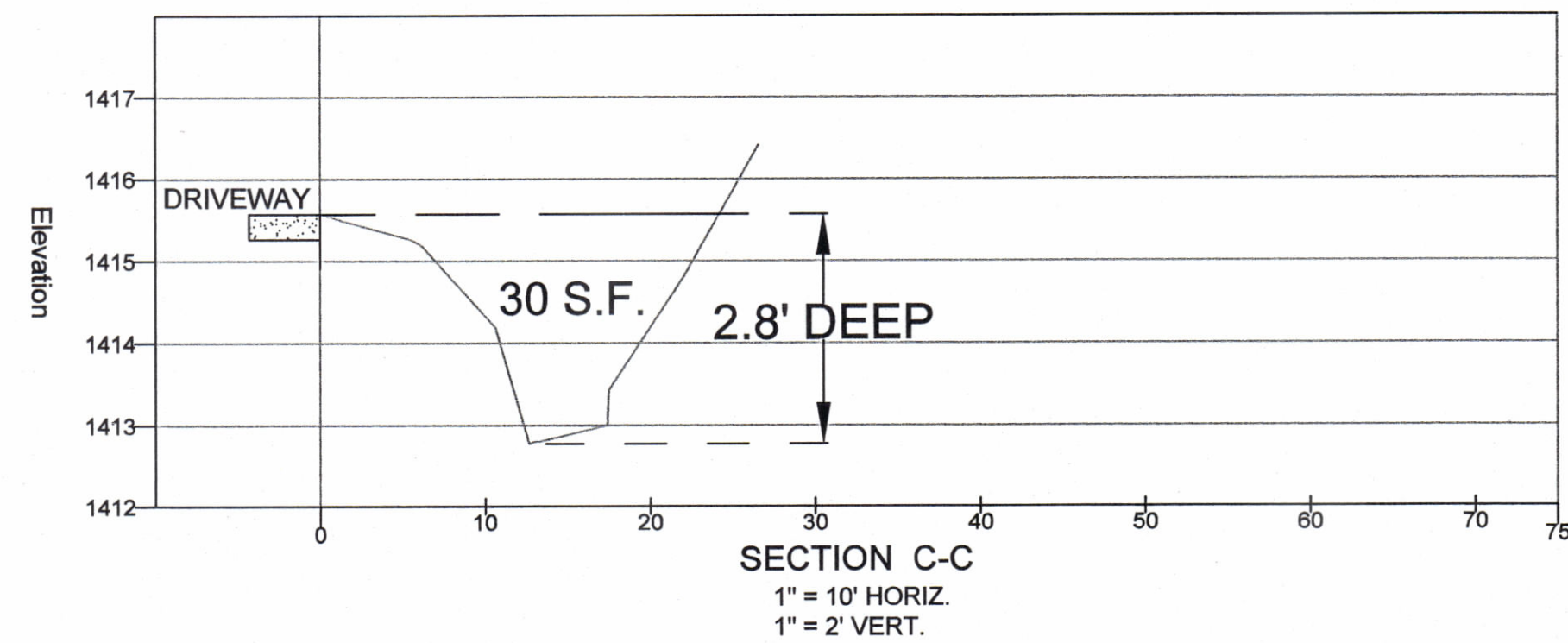
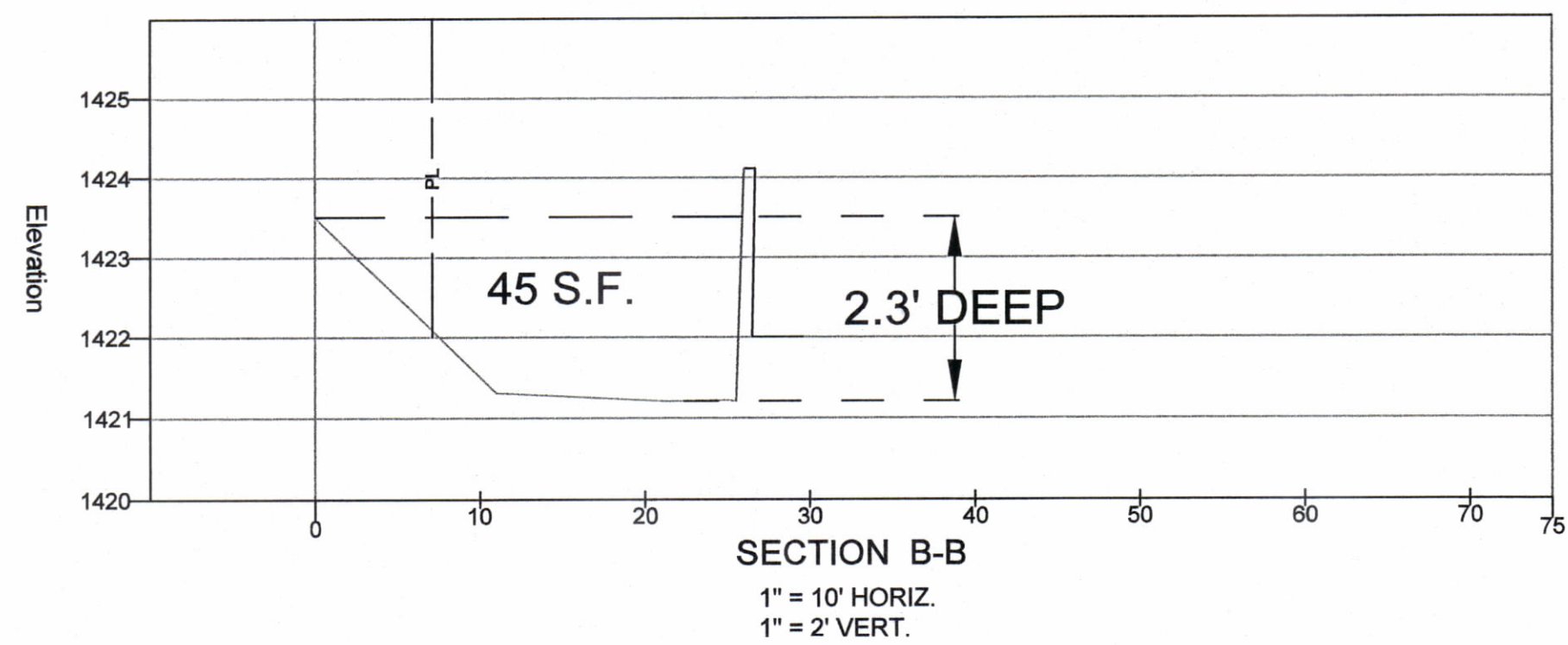
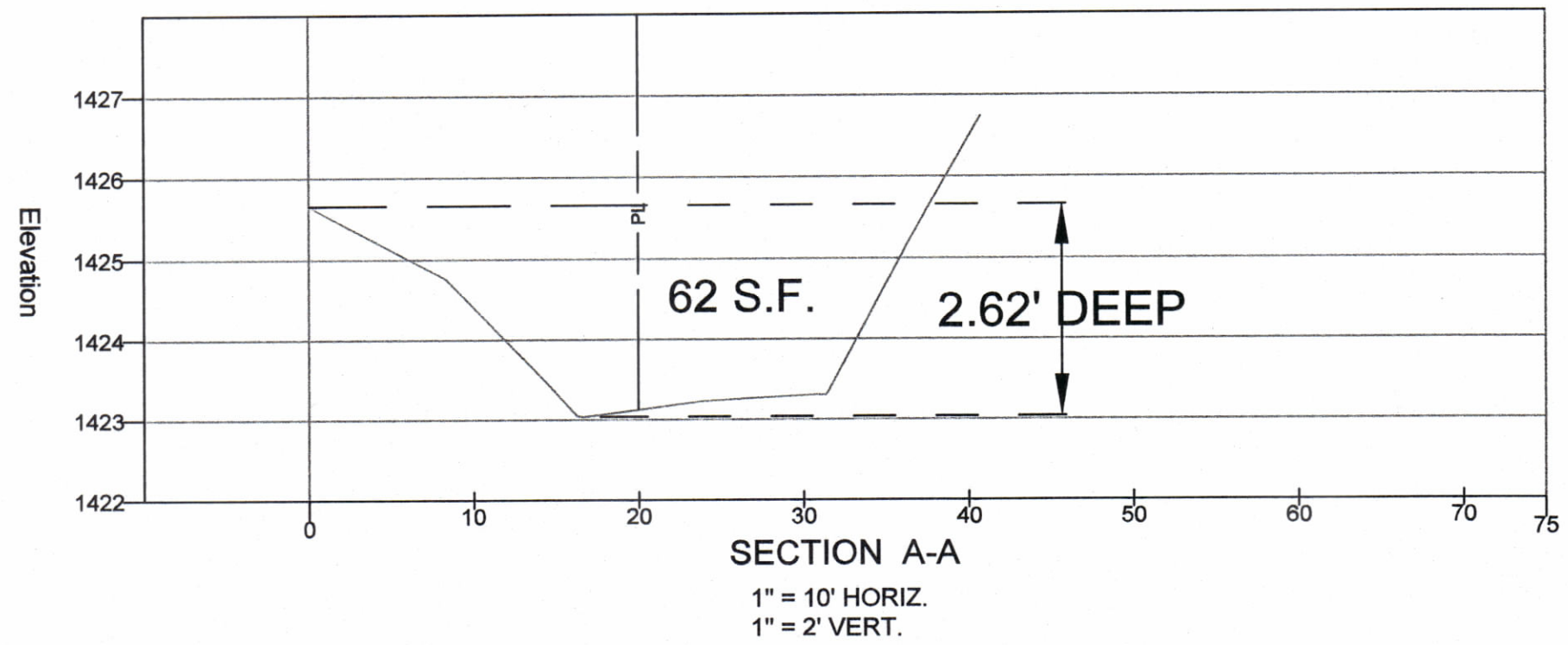
Request for reduced rear and side setbacks  
 5203 E Palo Verde Place  
 APN: 169-29-015  
 2 OF 2





## Exhibit E





**OWNER**  
SUSAN W FRENCH SURVIVORS TRUST  
5234 E PALO VERDE PL.  
PARADISE VALLEY, ARIZONA 85253

**SITE ADDRESS**  
5230 E PALO VERDE PLACE  
PARADISE VALLEY, ARIZONA 85253

**LEGAL DESCRIPTION**  
LOT 15, PARADISE VALLEY ESTATE, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 61 OF MAPS, PAGE 4.

**AREA**  
45,231 SQ. FT.

**ZONING**  
R-43

**A.P.N.**  
169-29-015

**BASIS OF BEARING**  
THE COMMON LINE BETWEEN LOTS 25 AND 26 AND LOTS 14 AND 15 FROM THE MOST EASTERLY CORNER OF LOT 14 TO THE MOST WESTERLY CORNER OF LOT 25 WITH THE BEARING OF N45°15'50"W AS SHOWN ON THE PARADISE VALLEY ESTATES PLAT RECORDED IN BOOK 61, PAGE 4 MARICOPA COUNTY RECORDS.

Two working days before you dig  
CALL FOR THE BLUE STAKES  
Within Maricopa County  
**602-263-1100**  
Within Maricopa County  
1-800-782-5348  
BLUE STAKE CENTER



Q.S. 22-40

SITE PLAN		
5230 E. PALO VERDE PLACE PARADISE VALLEY, ARIZONA 85253		
Scale 1"=20'	SHEET 1 of 1 SHEETS JOB NO. 2621	
Date 07/02/2020		
Rev		
Designed SC		
Drawn AJ	<b>GOOKIN ENGINEERS</b> ENGINEERS • HYDROLOGISTS • PLANNERS • SURVEYORS 4203 NORTH BROWN AVENUE SCOTTSDALE, ARIZONA 85251 480-947-3741 Civil@Gookin.biz	



## Exhibit F

Mr. Jeremy Knapp  
*Community Development Director*  
Town of Paradise Valley  
6401 East Lincoln Drive  
Paradise Valley, AZ 85253

**Re: Variance application for 5230 East Palo Verde Place**

Mr. Knapp:

I live at 5234 East Palo Verde Place, which is immediately adjacent to the east of the subject property. The applicant is currently under contract to buy this property from our family and we are pleased to hear that they have plans to keep the original home layout. I support their plans and a setback variance that allows them to keep the existing structures in place. I am also aware that the lot is encumbered by a large wash, which I hope will be taken into consideration during your evaluation of the variance request.

Regards,  
Susan W. French  
Home address:  
5234 East Palo Verde Place  
Paradise Valley, AZ 85253



**From:** [Phil Schneider](#)  
**To:** [George Burton](#)  
**Subject:** Fwd: Variance Application for 5230 East Palo Verde Place, Paradise Paradise Valley, AZ  
**Date:** Friday, March 27, 2020 3:04:40 PM

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**EXTERNAL**

Mr. George Burton  
Senior Planner  
Town of Paradise Valley

Dear Mr. Burton,

We have been residents of the home at 5245 E. Arroyo Rd. since the early 1970's. The southwest corner of our lot touches the northeast corner of the 5230 East Palo Verde Place for which the variance is sought, and our home looks generally to the south over that lot toward the Valley.

We are pleased that the applicant intends to keep the current home footprint. Assuming the maximum height of the house is not to be increased, we support the variance requested in the application that would allow the existing structure to stay in place while taking into account the presence of the substantial wash on the property. We believe the variance requested provides a beneficial solution.

Respectfully,

Nancy and Phil Schneider

March 27, 2020

**From:** [Bill Jury](#)  
**To:** [George Burton](#)  
**Subject:** RE: Variance Application for 5230 East Palo Verde Place, Paradise, Valley, Az. 85253  
**Date:** Monday, March 30, 2020 2:41:18 PM

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**EXTERNAL**

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**From:** Bill Jury [mailto:bill.jury@ymail.com]  
**Sent:** Monday, March 30, 2020 12:19 PM  
**To:** 'gburton@paradisevalleyaz.gov'  
**Subject:** Variance Application for 5230 East Palo Verde Place, Paradise, Valley, Az. 85253

Mr. George Burton  
Senior Planner  
Town of Paradise Valley

Dear Mr. Burton,

We have owned and resided in the house located at 5251 E. Arroyo Road, Paradise Valley, AZ. 85253 (Lot 27, Paradise Valley Estates) since 2008. While our Lot does not touch or abut the property located at 5230 East Palo Verde Place, AZ. 85253 (Lot 15, Paradise Valley Estates), it is located very close thereto as noted in one of the photographs in the application. Part of the view from our Lot is to the South/Southwest over Lot 15 towards the Valley.

We are pleased that the applicant intends to keep the current house footprint. Provided the maximum height of the existing house is not increased, we support the application that would allow the existing structure to stay in place while taking into account the presence of the substantial wash on the property. We believe the variance requested provides a beneficial solution.

Yours truly,

Marilyn and Bill Jury  
March 30, 2020

**From:** [Andy Kroot](#)  
**To:** [George Burton](#); [Jeremy Knapp](#)  
**Subject:** 5230 East Palo Verde Drive  
**Date:** Friday, May 29, 2020 9:55:24 AM

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EXTERNAL

Dear George & Jeremy-

My name is Andy Kroot and I am a Paradise Valley resident living at 7541 N. Shadow Mountain Rd. I fully support the French's & Rauch's plan for their renovation and variance. This will be a great improvement to the neighborhood.

Thanks.

Andy

Andy Kroot  
Partner  
Kroot & Associates  
4102 East Indian School Road  
Phoenix, AZ 85018  
(602) 430-8580 Cell  
andy@andykroot.com  
www.andykroot.com

From: [William Metzler](#)  
To: [George Burton](#); [Jeremy Knapp](#)  
Subject: Rauch Property  
Date: Sunday, May 31, 2020 12:00:30 PM

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**EXTERNAL**

**George and Jeremy:**

**I am writing to express my strong support for the Rauch/French variance application related to 5230 E. Palo Verde Place. My home is at 6811 N. Desert Fairways Drive, a few hundred yards away. I have reviewed the drawings and elevations that were submitted and I am thrilled that someone would make an effort to retain the existing structures with only minor exterior changes (raising the roof a bit and adding a total of a few hundred square feet, spread among a few strategic locations). If allowed, the house would retain the original Paradise Valley feel – both somewhat smaller and with a lower roofline than most of what is being built today. Basically the same feel it had when annexed into the town, and which is has maintained for decades. Only, perhaps a little bit better!**

**This approach is a significant positive for the neighborhood, and I believe it meets both the letter and the spirit of the approval criteria. I sincerely hope the variance is approved.**

**Regards,**

**Bill**

***William R. Metzler***

**wmetzler@westcoastcap.com**

**West Coast Capital Partners, LLC**

**P: 480-425-9400 | C: 310-614-1918 |**

**From:** [George Getz](#)  
**To:** [George Burton](#)  
**Cc:** [Jeremy Knapp](#)  
**Subject:** Rauch variance request  
**Date:** Monday, June 1, 2020 11:58:55 AM

---

**EXTERNAL**

My name is George Getz. I live at 5223 E. Palo Verde Place, Paradise Valley, Az. 85253. (Right across the street from the proposed variance requested home)

I am writing you in support of the above referenced based upon:

The French's and Rauch's variance request and believe it meets the approval criteria.  
The request is for a very minor variance to permit the remodel of the existing home, raise the roof two feet, and add a total of 400 SF spread across three areas.  
I do not believe that approval of this request will have any negative impact on any surrounding properties.  
The request for a single story with max height 10' below limit is a far better alternative than what is allowed by right in this zoning district.  
The request maintains the required open space.  
The changes to the home are almost entirely internal.  
No new structures are proposed.  
This is the best option for the neighborhood as it maintains the feel of the property but still modernizes to avoid eventual demo and rebuild.  
The home was originally built with these setbacks long before being annexed into the Town.  
The applicants are not increasing any of the setback deviations that were established originally with the construction of the home.

I would hate to see this variance get denied and a new, larger (push the envelope) house get built. The character of this home fits our neighborhood.

Thank you for your consideration

George Getz  
5223 E. Palo Verde Place  
Paradise Valley, Az. 85253  
602-524-0664

June 3, 2020

Town of Paradise Valley  
Mr. George Burton (by email)  
Mr. Jeremy Knapp (by email)

Re: Application for variance – 5203 E Palo Verde Place - Rauch

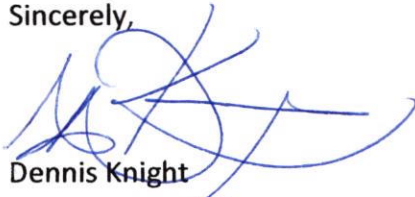
Gentlemen.

We are residents of 5248 E Arroyo Road, Paradise Valley. Mr. & Mrs. Rauch have given us a copy of a site plan and building elevations relating to the above application.

As we understand it, the application would permit the renovation of the home including a height increase of only two feet and an addition of 400 square feet of floor area split between three parts of the home. We also understand the home, as currently constructed, violates current Town of Paradise Valley setback requirements and that the applicant wishes to make the renovation using the existing setbacks.

We are pleased with the application and heartily support it. We are happy that the home is not being razed and replaced with a large and much more intrusive two-story home. The addition of the two feet of height and the 400 sq. ft. of floor space should not have a negative impact on anyone and the renovation should be an improvement for the neighborhood.

Sincerely,

A handwritten signature in blue ink, appearing to read "DK", with a large, sweeping flourish extending to the right.

Dennis Knight

A handwritten signature in blue ink, appearing to read "Margot Knight", with a large, sweeping flourish extending to the right.

Margot Knight

5248 E Arroyo Road  
Paradise Valley, AZ 85253