

Staff Summary Report



Hearing Officer Hearing Date: August 5, 2008

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by the **DEVLIN RESIDENCE (PL080245)** located at 1229 East Secretariat Drive for one (1) use permit and one (1) variance.

DOCUMENT NAME: 20080805dsng01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **DEVLIN RESIDENCE (PL080245)** (Ted & Julia Devlin, applicants/property owners) located at 1229 East Secretariat Drive in the AG, Agricultural District for:

ZUP08110 Use permit to allow an accessory building (horse ramada).

VAR08017 Variance to reduce the east side yard setback from fifteen (15) feet to twelve (12) feet.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

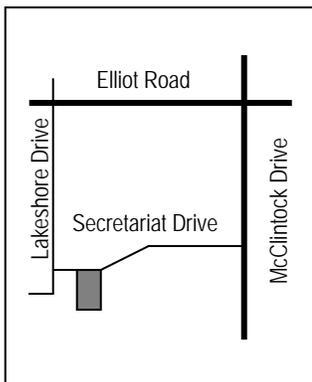
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions 1-2

ADDITIONAL INFO: The applicant is requesting a use permit for a detached accessory building (horse ramada) and a variance to reduce the east side yard setback from fifteen (15) feet to twelve (12) feet. Staff recommends approval of the use permit for a detached accessory building (horse ramada); it is compatible with the existing residence and complies with the approval criteria for a use permit. Staff also recommends approval of the variance to reduce the east side yard; special circumstances exist relevant to the lot. In accordance with the Zoning and Development Code, the applicant held a neighborhood meeting on July 22, 2008, with the one (1) person in attendance being in support of the request, and has submitted two (2) letters of support. To date, staff has received no opposition to this request.



- PAGES:**
1. List of Attachments
 2. Comments; Reasons for Approval
 3. Conditions of Approval
 - 3-4. History & Facts
 4. Description; Zoning & Development Code Reference

- ATTACHMENTS:**
1. Location Map
 2. Aerial Photo
 3. Letter of Explanation for Use Permit
 - 4-5. Letter of Explanation for Variance
 6. Variance Exhibit 1
 7. Variance Exhibit 2
 8. Variance Exhibit 3
 9. Variance Exhibit 4
 10. Site Plan / Floor Plan
 11. Front and Side Elevations
 12. Ramada Sample Picture 1
 13. Ramada Sample Picture 2
 14. Neighborhood Meeting Notification
 15. Neighborhood Meeting Minutes
 16. Neighborhood Meeting Attendance Sign-in Sheet
 17. Letter of Support
 18. Letter of Support
 19. Subdivision Plat / PAD
 - 20-21. Staff Photographs

COMMENTS:

The Devlin Residence is proposing to construct a freestanding 2,448 s.f. horse ramada in the center of the lot; along the east property line. According to the site plan, the proposed location of the accessory building appears to provide adequate separation from the main residence. The applicant also shows that the accessory building will be at least 130' from the nearest house. The variance for the accessory building side yard setback is needed for preservation and enjoyment of property rights; the authorizing of the variance will not be materially detrimental to surrounding properties. The location of the structure is planned to continue the use of existing gates that are on the property to allow full access to the arena and pasture areas.

In 1973 the Tempe City Council approved a subdivision plat and a Planned Area Development (PAD) for Sunburst Farms Tempe, which defined building setback requirements for the entire subdivision. Side yard setbacks were set at fifteen (15) feet.

On August 22, 2005, a Zoning Administrator's Opinion was signed regarding how to interpret Development Standards for residential PAD properties on an individual lot. The ZA Opinion reads, "If a single family dwelling unit on an individual lot requests to deviate from the PAD standards approved, and is not consistent with the ZDC standards, the customer shall obtain a variance."

The Zoning and Development Code currently offers a use permit standard to allow a change to general development standards. For side yard setbacks, a twenty percent (20%) reduction is allowed. If this were applied to the current 15' set by the PAD in 1973 it would allow the Devlins to reduce their side yard setback to 12' with just a use permit, similar to what is being requested by this variance.

Use Permit

The Zoning and Development Code requires a use permit for a detached accessory building that exceeds eight (8) feet in height and/or two hundred (200) square feet in area. The applicant is proposing to construct a 2,448 sf. structure with a height of thirteen (13) feet at the ridge. The structure will be compatible with the existing residence and complies with the approval criteria for a use permit.

Variance

The Zoning and Development Code Development Standards requires the setback for accessory buildings, in the AG, Agricultural District, to be located twenty (20) feet from a side yard property line. The PAD that was approved in 1973 required the building setback to be fifteen (15) feet from the side yard property line. Staff recommends approval of the east side yard setback variance to twelve (12) feet. This variance, if approved, would have the same effect as a use permit standard reduction by 20%. There is adequate space to meet the objective for separation from neighboring structures due to the large lot sizes.

Conclusion

Staff recommends approval of the use permit and variance to reduce the east side yard setback; special circumstances exist relevant to lot location in a subdivision with a PAD overlay. The applicant held a neighborhood meeting in accordance with the Zoning and Development Code. Two (2) letters of support were submitted; including a signature of approval from the neighbor who attended the meeting.

REASONS FOR APPROVAL:

1. Special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITIONS
OF APPROVAL:

1. Obtain all necessary clearances from the building safety division.
2. Detached structure to be compatible in design with main dwelling; colors to match or be compatible to the existing dwelling.
3. The use permit and variance are valid for the plans as submitted to and approved by the Hearing Officer/Board of Adjustment.

HISTORY & FACTS:

- September 13, 1973 Tempe City Council approved a subdivision plat and PAD defining building setback requirements, including side yard setbacks to be 15' from property lines.
- June 15, 1978 Final inspection for a single family home.
- December 26, 1984 A-84-12.7 – The Board of Adjustment approved a variance request to reduce the required side yard setback from 15' to 12' to accommodate a garage addition at 1311 E Citation Ln.
- July 24, 1991 BA910104 – The Board of Adjustment approved a variance request to reduce the required side yard setback from 20' to 11' to allow an attached garage addition at 1701 E Secretariat Dr.
- May 17, 1994 BA940115 – The Hearing Officer approved two variance requests at 1410 E Citation Ln for the following:
 - a. Variance to allow a 10' x 12' detached storage shed to encroach into the front one-half of the lot
 - b. Variance to reduce the west side yard setback for a proposed 10' x 12' storage shed from 20' to 11'
- May 17, 1994 BA940117 – The Hearing Officer approved two variance requests at 1333 E Secretariat Dr. for the following:
 - a. Variance to reduce the required side yard setback from 20' to 3' to allow encroachment of a 20' x 10' detached storage building
 - b. Variance to reduce the maximum roof eave setback from the property line from 3' to 2' to allow the construction of a 20' x 10' accessory building
- June 15, 1999 BA990121 – The Hearing Officer approved several variance requests at 1418 E Citation Ln for the following:
 - a. Variance to reduce the required east side yard setback for an approximate 18' x 32' storage shed from 20' to 5'
 - b. Variance to reduce the eave setback from the east property line for the proposed storage shed from 3' to 2'
 - c. Variance to reduce the north rear yard setback for the proposed storage shed from 20' to 16'

- September 19, 2000 BA000254 – The Hearing Officer approved a variance request to reduce the required west side yard setback from 20' to 12' (corner of building encroachment only) to allow a garage with additional kitchen space at 1325 E Secretariat Dr.
- January 23, 2002 BA010330 – The Board of Adjustment approved two variance requests at 1710 E Secretariat Dr for the following:
- a. Variance to reduce the required front yard setback from 40' to 31' to allow a covered patio and garage addition
 - b. Variance to reduce the east side yard setback from 20' to 12' to allow for a covered porch addition
- August 16, 2005 BA050121 – The Hearing Officer approved the following requests at 1309 East Secretariat Dr.:
- a. Use permit for an accessory building
 - b. Variance to reduce the northeast side yard setback from 20' to 10' for an accessory building
- August 15, 2006 VAR06001 – The Hearing Officer approved a variance request to reduce the west side yard setback from 20' to 7'-6" at 1408 E Secretariat Dr.
- August 7, 2007 ZUP07090 – The Hearing Officer approved a use permit standard request to reduce the east side yard setback by twenty percent (20%) from fifteen feet (15') (subdivision standard) to twelve feet (12') at 1619 E Citation Ln.

DESCRIPTION:

Owner – Ted & Julia Devlin
 Applicant – Ted & Julia Devlin
 Existing Zoning – AG, Agricultural District
 Existing Lot Area – 71,465 s.f. / 1.64 acres
 Existing Residence Area – 3,190 s.f.
 Proposed Accessory Building Area – 2,448 s.f.
 Proposed Accessory Building Height – 13'
 Total building area – 5,638 s.f.
 Allowed Lot Coverage – 25%
 Proposed Lot Coverage – 7.9%
 Required East Side Yard Setback – 15'
 Proposed East Side Yard Setback – 12'

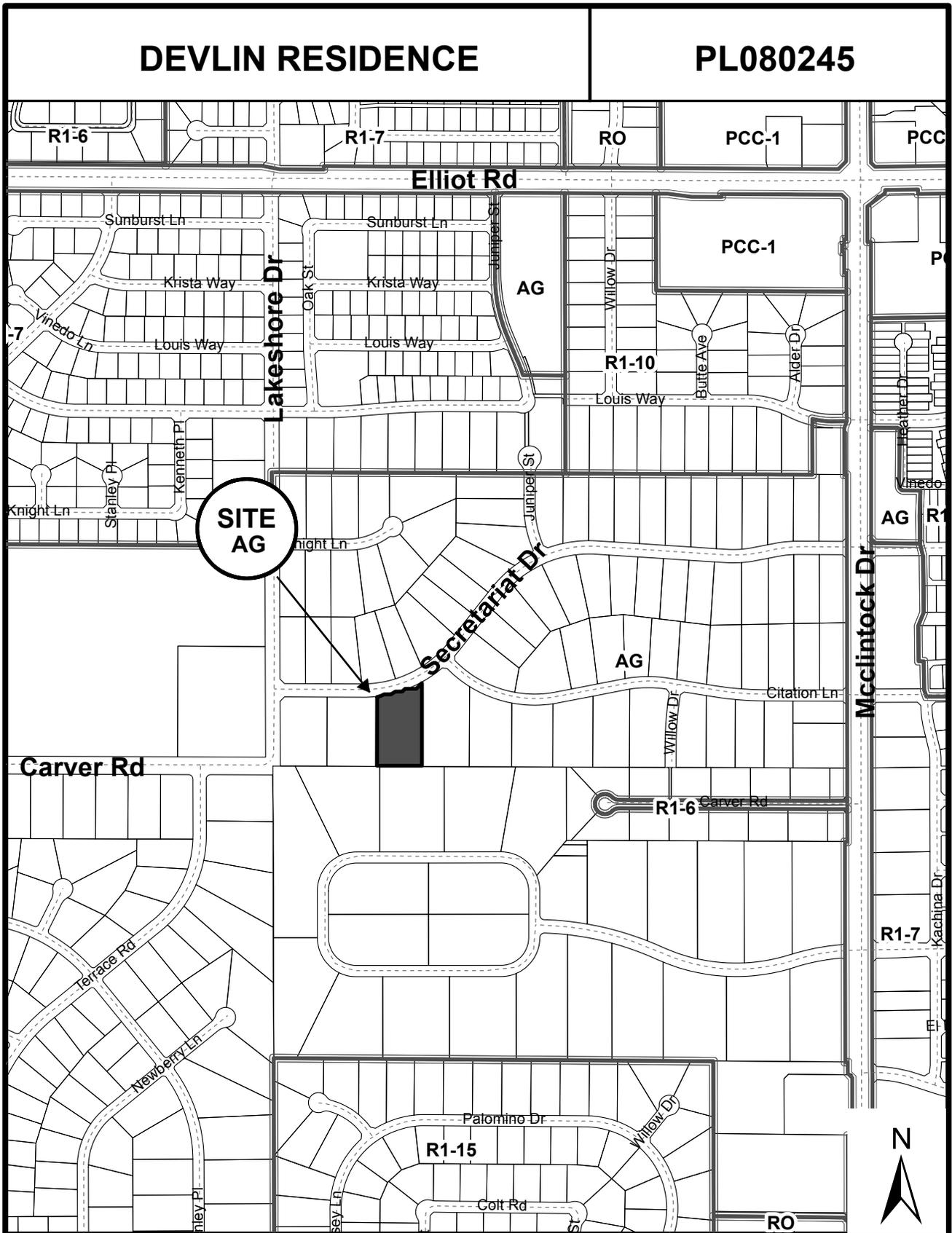
ZONING AND DEVELOPMENT

CODE REFERENCE:

Part 3, Chapter 4, Section 3-401 – Accessory Buildings, Uses and Structures
 Part 4, Chapter 2, Section 4-202 – Development Standards for Residential Districts
 Part 6, Chapter 3, Section 6-308 – Use Permit
 Part 6, Chapter 3, Section 6-309 – Variances

DEVLIN RESIDENCE

PL080245



Location Map



DEVLIN RESIDENCE (PL080245)

Use Permit Letter of Explanation
Ted and Julie Devlin
1229 E. Secretariat Dr.
Tempe, Az. 85284
(480) 961-3507

July 8, 2008

We would like to erect a 48' X 51' shade structure for the purpose of providing shade for horses and for providing a covered area for keeping supplies used for the horses, such as hay and grain. At some point we may put fencing within the ramada to create paddock or stalls for the horses. The ramada will provide needed shade to protect the horses from our extreme summer heat and will provide shelter in rain and thunder storms.

The ramada will be located in our backyard 180' from the nearest street. Thus, the ramada will have no impact on vehicular or pedestrian traffic in the area. The ramada will cause no nuisances such as odor, dust, noise, vibration, smoke, heat or glare, ect.

A new ramada will enhance our property and the neighborhood. After moving into the property in October of 2007 we have removed two decrepit 30 year old barns from the property. The barns were structurally unsound and it was disclosed to us when we purchased the property that they were in violation of city code. We also removed two ramadas from the property that were both eye sores and dangerous to both animals and people. The new ramada will be compatible with our agriculturally zoned neighborhood and will not result in any disruptive behavior that would create a nuisance to the surrounding area or general public.

Thank you for reviewing our use permit request.

Sincerely,

Ted and Julie Devlin

Variance Letter of Explanation
Ted and Julie Devlin
1229 E. Secretariat Dr.
Tempe, Az. 85284
(480) 961-3507

July 8, 2008

We would like to erect a 48' X 51' shade structure for the purpose of providing shade for horses and for providing a covered area for keeping supplies used for the horses, such as hay and grain. Our property is zoned as agricultural and has a side property setback of 20 feet. We are requesting a variance that will allow us to place the ramada 12 feet from the side property line.

Below are the special conditions that lead us to request the variance.

- Placing the ramada 12' from the property line will allow us to use existing gates to drive to the back of the property.
- Previously a barn and ramada were placed on the property line, 12 feet closer than we are requesting.
- At 12' from the property line the ramada will still be 130 feet from the nearest house.
- The size of our property and the properties around us is unique to the neighborhood and results in the requested variance not adversely impacting neighbors.
- Nearly every house in our area has a structure that is within the 20 foot side setback. Denying our request would unfairly restrict our ability to fully use our property in the same manner as our neighbors.

The site plan shows that vehicles can enter the backyard from the driveway and continue safely straight to the back of the property through existing gates. It is important that the trucks, trailers and tractors can get to arena and pastures throughout the property to care for both animals and the land. The site plan shows that if the ramada is set 12 feet from the property line vehicles can continue to use existing gates and can drive under the ramada's porch overhang. If the ramada is placed 20 feet from the side property line the gates would be near the center of the ramada. Storage of equipment and horses in the ramada would prevent driving through the center of the ramada. We would have to spend significant time and money redesigning the fences and gates and it would result in a less efficient use of the land. It would require tractors, trailers and trucks to serpentine through the property creating a more dangerous environment.

When we moved into the property in October of 2007 the property include two barns and two ramadas. The barns were structurally unsound and it was disclosed to us when we purchased the property that they were in violation of city code. The ramadas were both eye sores and dangerous to both animals and people. Exhibit 1 shows that one barn and one ramada were actually on the side property line. We have removed both barns and both ramadas from the property.

Exhibit 2 shows that the requested placement of the new ramada is 12 feet further from the property line than the previous structures and would be at least 130 feet from the nearest house. Additionally, unlike a barn a ramada is open and does not obstruct the view as much.

Exhibit 3 shows that our property and the properties to our side and back are significantly larger than the average property in our neighborhood. The average ¾ acre property often has houses only 10 feet from the side property line. Frequently two homes are only 20 feet apart. Whether our ramada is 12 feet or 20 feet from the property line it will be at least 130 feet from the nearest house.

Exhibit 4 shows that several properties south of Secretariat have large structures that are within 20 feet of the property line. In fact 8 of the 10 Sunburst Farms properties shown south of Secretariat have a structure under the 20 foot setback. This allows the owners to maximize their land and does not adversely affect neighbors. Frequently the structures are within 10 feet of the property line but none of the structures are close to a house or structure on a neighbor's property. Horse properties require large ramadas or barns to maintain the animals. If those structures are forced to toward the center of the property the land is less useable and value of the horse property will be diminished.

A strict application of the setback code would result in significant cost to redesign fences and gates and provide a riskier path to travel through the property. It would also force the ramada toward the center of the property which would limit how we could train and exercise our horses. A strict application of the setback code would not protect the neighborhood. The ramada would be over 130 feet from any house and is an open structure that would minimally obstruct any view.

Allowing this variance would not change the use and density permitted in any zoning classification. It will also not rectify any circumstance that was self-imposed and will not allow relief from an item expressly prohibited by code. It would save us significant money and time and allow us to more fully enjoy our property and train our horses and help maintain the value of neighborhood.

Thank you for reviewing our request for variance.

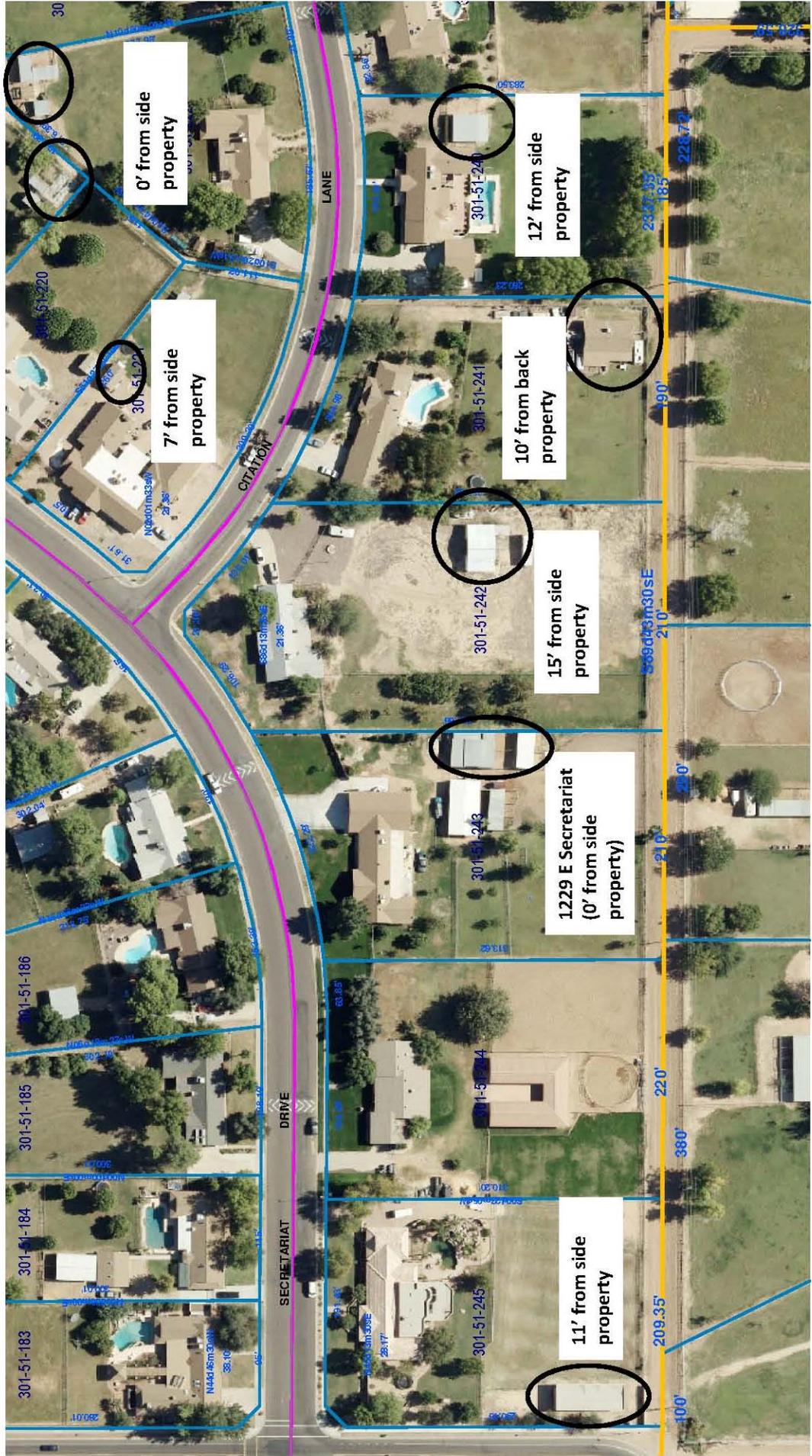
Sincerely,

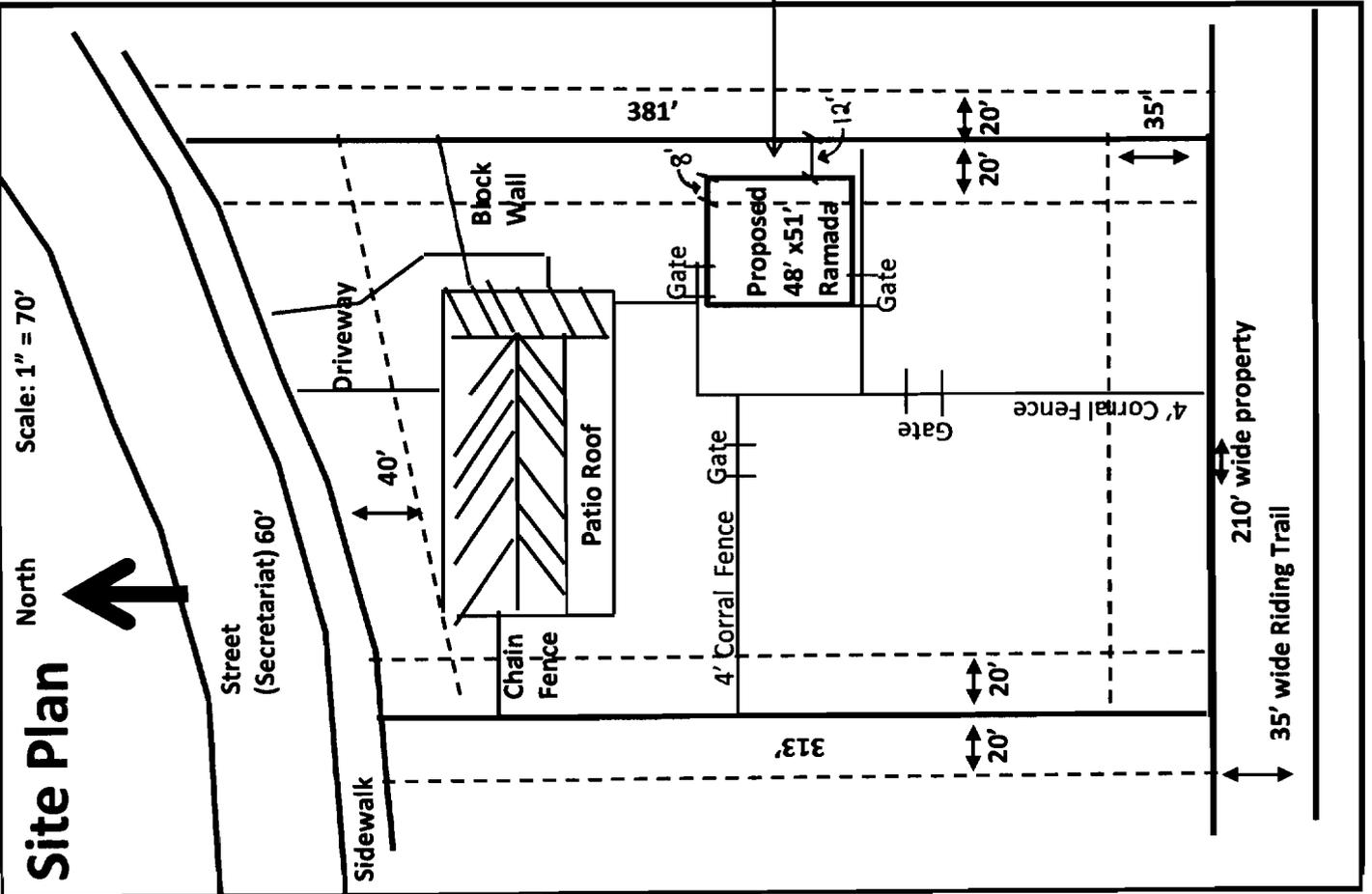
Ted and Julie Devlin

Exhibit 4: Structures Within 20' of Property Line

Almost every property on along the South side of Secretariat has a large structure within 20' of the property line. These are the larger properties which do not encroach on neighbors houses by placing such structures close to the property line. Such location is critical to horse properties. This land is very expensive and horses require significant land for grazing and training. Being forced to place structures so far from property lines forces the structures to the center of the property and greatly reduces the available land for grazing and training. This harms the property owner.

Note: Properties throughout Sunburst Farms have a high incidence of large structures within 20' or property lines, not just in the area shown below.





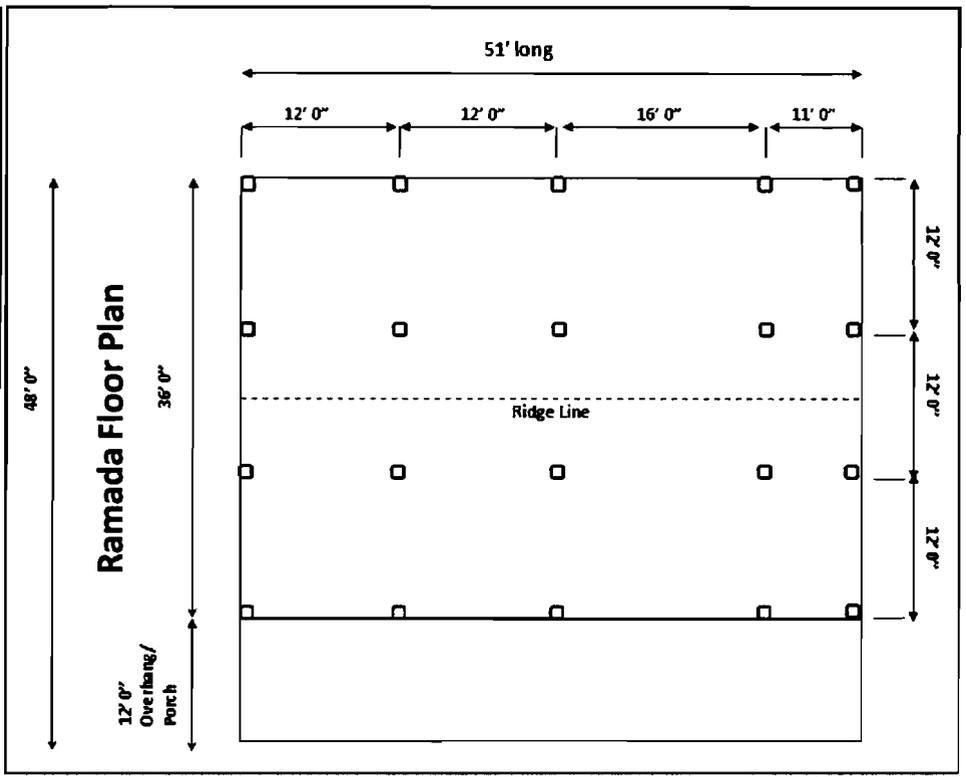
Ted and Julie Devlin
 1229 E. Secretariat Drive
 Tempe, Az. 85284
 (480) 961-3507

Requesting a 48' x 51' ramada
 With a 12' side setback (8'
 into the 20' setback).

The ramada will be
 approximately 13' high and
 made of galvanized steel 4"
 x4" posts with a 26 gauge tan
 metal roof. (See photos for
 more detail.)

REQUIRED INFORMATION:

SITE DATA
 Zoning AG
 Lot Area 71,465 sq.ft.
 Existing House Area 3,190 sq.ft.
 Proposed Addition 2,448 sq.ft. ramada
 Street R/W 60'
 Alley/Riding Trail Width 20'
 Setback Required : 20' side yard
 40' front yard
 35' rear yard
 Setback Requested 12' side yard



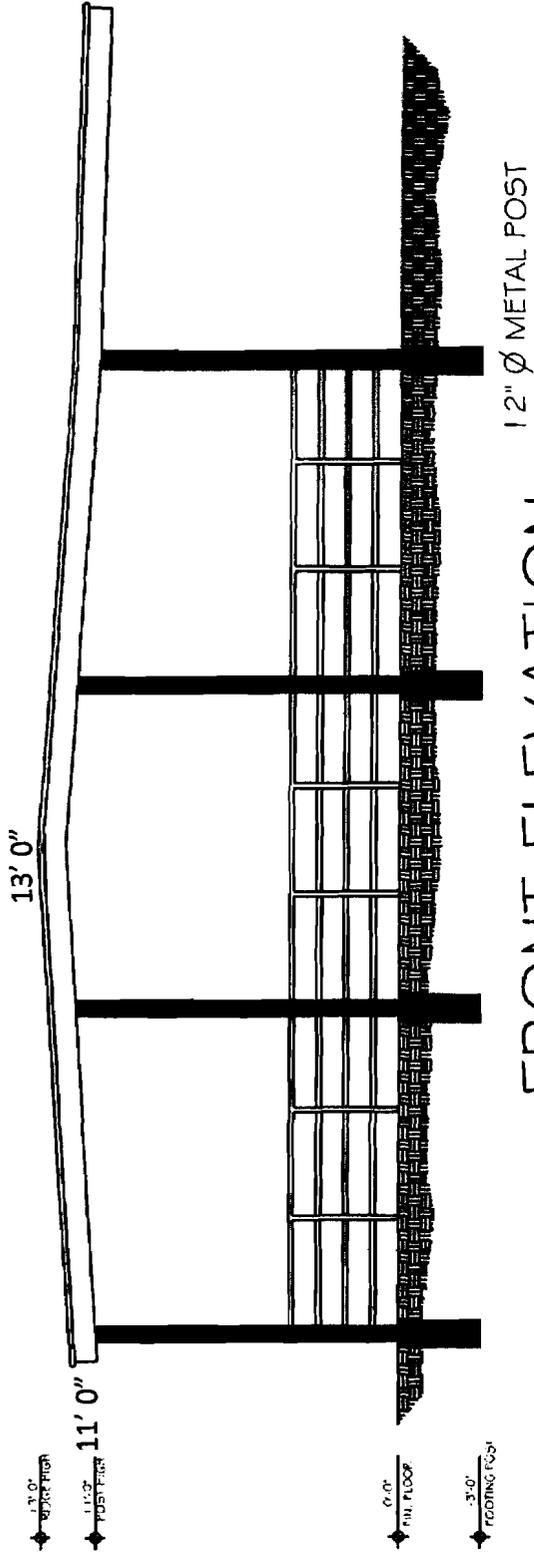
Variance encroaching 8' into side setback.

There are no buildings within 20' of the property. Closest house or building is 130' from proposed ramada.

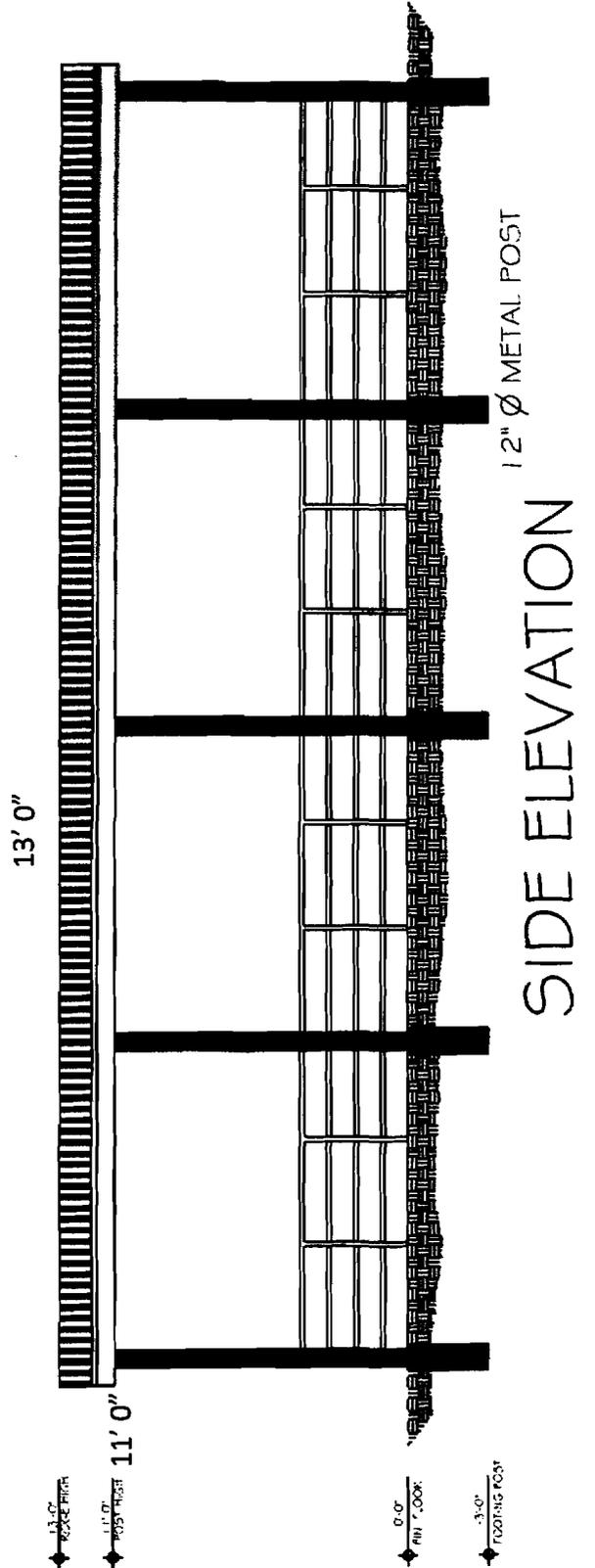
The 3,190 SF house is 4.4% of the 71,465 SF property. The 2,448 SF ramada will be 3.4% of the lot. Combined will be 7.9% of the property.

Ted and Julie Devlin
1229 E. Secretariat Dr.
Tempe, Az. 85284
(480) 961-3507

Ramada Elevation



FRONT ELEVATION

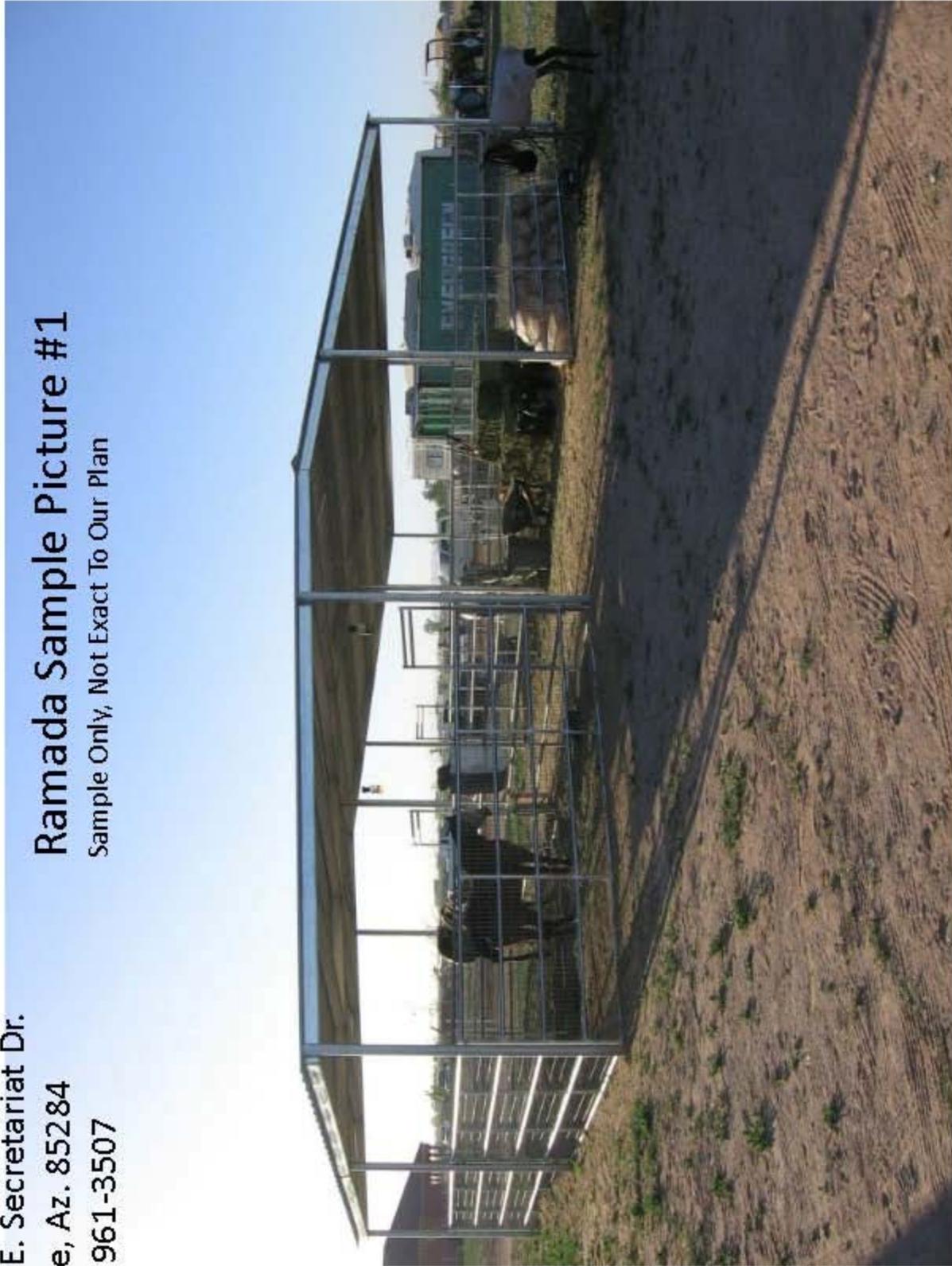


SIDE ELEVATION

Ted and Julie Devlin
1229 E. Secretariat Dr.
Tempe, Az. 85284
(480) 961-3507

Ramada Sample Picture #1

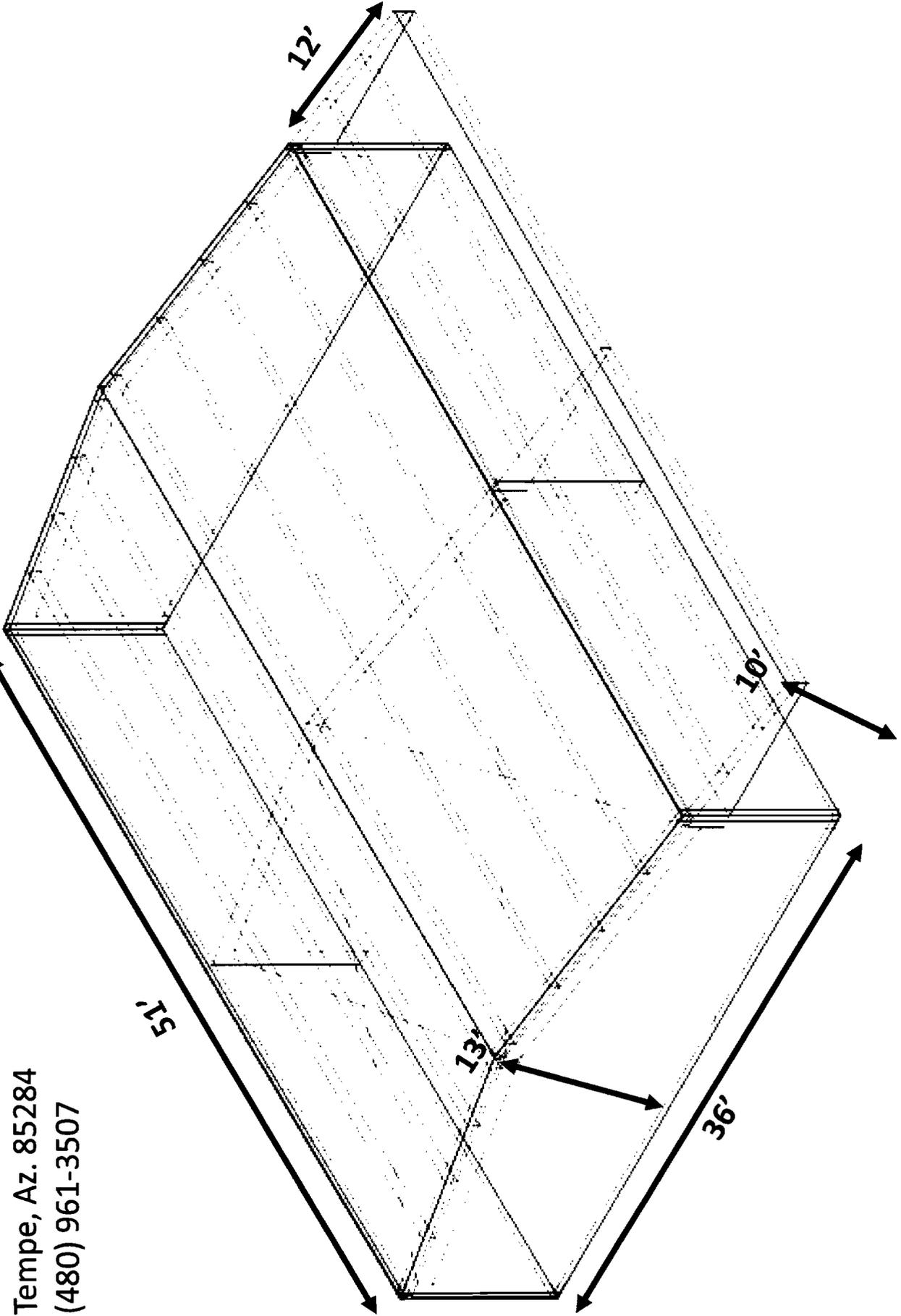
Sample Only, Not Exact To Our Plan



Ted and Julie Devlin
1229 E. Secretariat Dr.
Tempe, Az. 85284
(480) 961-3507

Ramada Sample Picture #2

Sample Only, Not Exact To Our Plan



51' x 36' open structure ramada with a 13' overhang.

Ted & Julie Devlin
1229 E. Secretariat Dr.
Tempe, AZ 85284

July 8, 2008

Mr. Paul Barnard and Ms. Sherry Bartlett
1424 E. Calle de Caballos
Tempe, AZ 85284

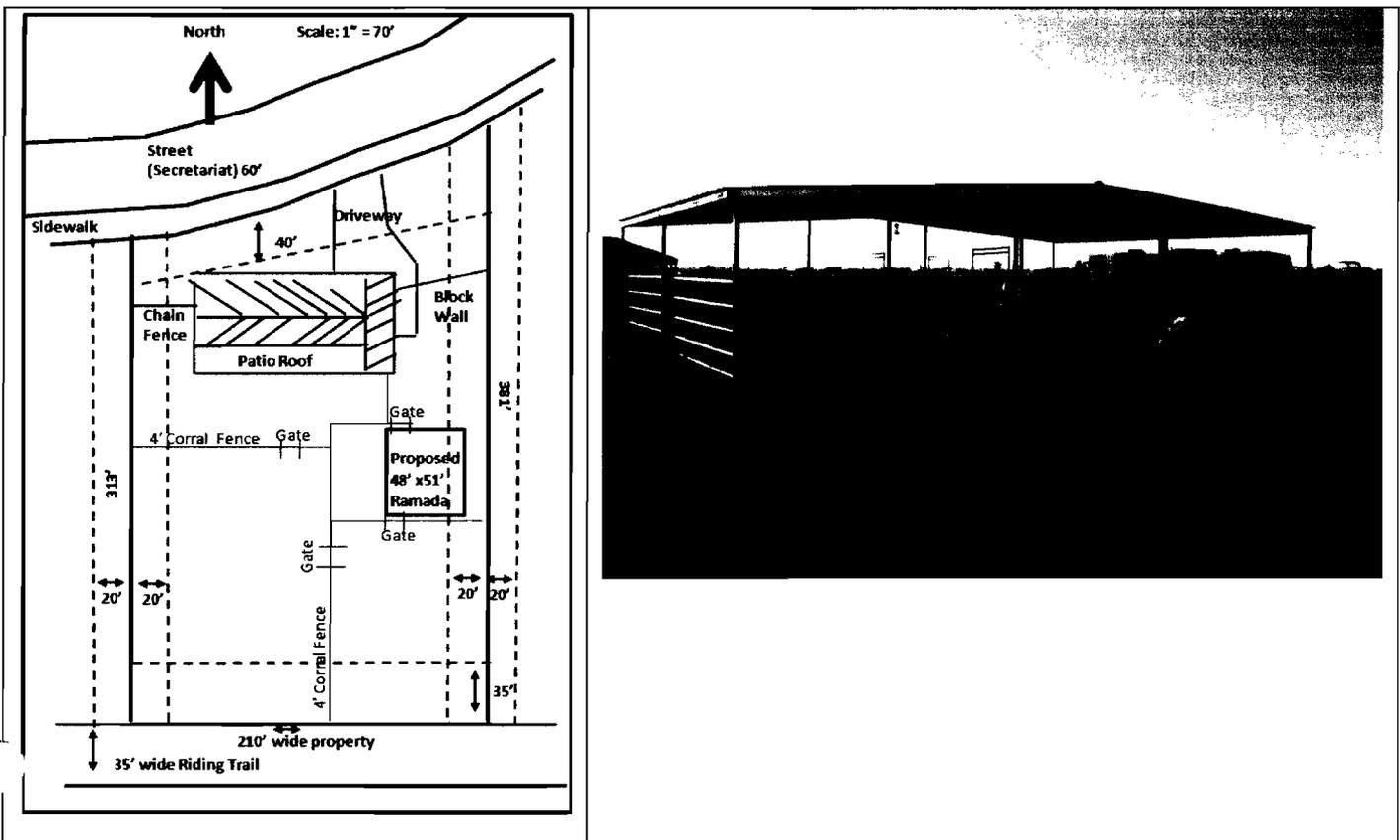
Dear Mr. Barnard and Ms. Bartlett:

As required by the City of Tempe, we are writing to notify you regarding a neighborhood meeting set for Tuesday, July 22, 2008 at 5:00 PM at 1229 E. Secretariat Drive in Tempe. You are welcome but not required to attend. The purpose of this meeting is to discuss a permit requested by the property owners of 1229 E. Secretariat Drive to erect a ramada shade structure which would provide weather protection for horses.

The proposed ramada would be in the backyard, 165 feet from the street. It would be 12' from the east property line and 134 feet from the back of the property. Enclosed are a site map of the property showing the proposed location of the ramada as well as a photo of a ramada that resembles the one we are building.

Sincerely,

Ted and Julie Devlin



Summary of Neighborhood Meeting

Devlin Residence – 1229 E. Secretariat Dr.

June 22, 2008

One person attended the meeting, Mr. Bill Owens of 1309 E. Secretariat Dr. He had no opposition to the proposed building structure. He had recently gone through the variance process with his home and just wanted to share his experience on re-modeling his home as well as meet his new neighbors, the Devlins.

The Castellis of 1228 E. Secretariat, who live across the street to the north, were not able to attend as they were out of town. However, they did stop by the week before the meeting to introduce themselves and also indicated no opposition to the variance. We also spoke with Grace Gee of 1440 E. Calle de Caballos who lives directly south of our property and she was fine with the proposed structure and placement.

(Signed letters from the adjacent neighbors on both the east and west sides of the Devlins are included.)

RECEIVED
08 JUL 25 AM 10:34
TERRACON COMMUNITY
SERVICES DEPARTMENT

Ms. Billie Jeanne Keene
1301 E. Citation Lane
Tempe, AZ 85284

RE: Ramada at 1229 E. Secretariat Dr., Tempe, AZ 85284

To City of Tempe:

I am agreeable to having the Devlin ramada 12' from my property line and have no objections.

Signed this 15th day of July, 2008.

Billie Jeanne Keene
Billie Jeanne Keene

RECORDS DEPARTMENT
08 JUL 25 AM 10:38
CITY OF TEMPE

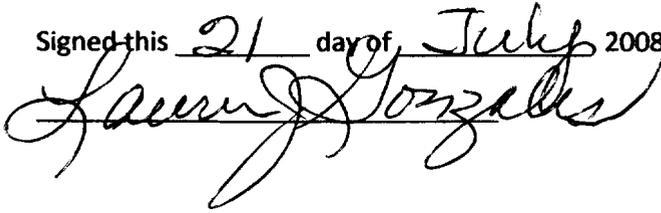
Mr. and Mrs. Steve Gonzales
1221 E. Secretariat Dr.
Tempe, AZ 85284

RE: Ramada at 1229 E. Secretariat Dr., Tempe, AZ 85284

To City of Tempe:

I am agreeable to having the Devlin ramada 12' from the east property line and have no objections.

Signed this 21 day of July 2008.

A handwritten signature in black ink, appearing to read "Steven J. Gonzales". The signature is written in a cursive style and is positioned below the typed name and date.

TEMPERATURE DEPARTMENT
08 JUL 25 AM 10:35
08 JUL 25 AM 10:35



DEVLIN RESIDENCE

1229 EAST SECRETARIAT DRIVE

PL080245

FRONT OF RESIDENCE



DEVLIN RESIDENCE

1229 EAST SECRETARIAT DRIVE

PL080245

EAST SIDE YARD – VIEW TO SOUTH