

PURSUANT TO A.R.S. §38-431.01, THE GILA COUNTY BOARD OF SUPERVISORS WILL HOLD A MEETING AT THE GILA COUNTY COURTHOUSE, BOARD OF SUPERVISORS' HEARING ROOM, 1400 EAST ASH STREET, GLOBE, ARIZONA. ONE OR MORE BOARD MEMBERS MAY PARTICIPATE IN THE MEETING BY TELEPHONE CONFERENCE CALL OR BY INTERACTIVE TELEVISION VIDEO (ITV). THE MEETING IS ALSO TELEVIEWED TO THE GILA COUNTY COMPLEX, BOARD OF SUPERVISORS' CONFERENCE ROOM, 610 E. HIGHWAY 260, PAYSON, ARIZONA.

NOTE: Per the most recent guidelines from the federal government regarding COVID-19 and to protect citizens, no citizens will be allowed in the Board of Supervisors' hearing room at the Globe Courthouse or at the County Complex, Board of Supervisors' conference room in Payson.

Citizens may watch the Board meeting live-streamed at:

<https://www.youtube.com/channel/UckCHWVqrI5AmJKbvYbO-k2A/live>

Citizens may submit comments related to the July 28, 2020 Regular Meeting agenda by no later than 5 p.m. on Monday, July 27, by emailing to the Clerk of the Board at msheppard@gilacountyaz.gov or calling 928-402-8757. Please include the meeting date and agenda item number in the email.

THE AGENDA IS AS FOLLOWS::

REGULAR MEETING - TUESDAY, JULY 28, 2020 - 10:00 A.M.

1. **CALL TO ORDER - PLEDGE OF ALLEGIANCE**
2. **PUBLIC HEARINGS:**
 - A. Information/Discussion/Action to approve, deny, or modify Conditional Use Permit application number CUP-20-01 submitted by Michael Luster to allow a 3-story, 34 foot tall building height for a 3 bedroom, 2 bath single family residence with a garage in a Residential 1L Use District of the Whispering Pines subdivision. **(Scott Buzan)**
3. **REGULAR AGENDA ITEMS:**
 - A. Information/Discussion regarding funding options for the Public Safety Personnel Retirement System (PSPRS) unfunded liability. **(Mary Springer)**

4. At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the County Manager may present a brief summary of current events. No action may be taken on information presented.

IF SPECIAL ACCOMMODATIONS ARE NEEDED, PLEASE CONTACT THE RECEPTIONIST AT (928) 425-3231 AS EARLY AS POSSIBLE TO ARRANGE THE ACCOMMODATIONS. FOR TTY, PLEASE DIAL 7-1-1 TO REACH THE ARIZONA RELAY SERVICE AND ASK THE OPERATOR TO CONNECT YOU TO (928) 425-3231.

THE BOARD MAY VOTE TO HOLD AN EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE FROM THE BOARD'S ATTORNEY ON ANY MATTER LISTED ON THE AGENDA PURSUANT TO A.R.S. §38-431.03(A)(3).

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING.

ARF-6148

2. A.

Regular Meeting

Meeting Date: 07/28/2020

Submitted For: Scott Buzan, Community Development Director

Submitted By: Scott Buzan, Community Development Director

Department: Community Development Division: Planning and Zoning

Information

Request/Subject

Request for the Board of Supervisors to approve, deny, or modify Conditional Use Permit application number CUP-20-01 submitted by Michael Luster to allow a 3-story, 34 foot tall building height for a 3 bedroom, 2 bath single family residence with a garage in a Residential 1L Use District in Whispering Pines.

Background Information

The property has an approved septic system permitted in 1989 and verified by a commercial septic contractor in 2019.

In 2018, an Administrative Variance application was approved to allow a reduced front setback for a single family residence from 20' to 10' due to the hardships of a significant portion of the property being in the floodway, the location of the existing septic system, and destruction of vegetation. No appeals were received.

The Floodplain Division issued an Floodplain Use Permit in 2019 requiring a base flood elevation to meet FEMA regulations. This height was calculated to be 6' to bottom of finished floor by the owner's surveyor.

The Building Safety Division issued a building permit in 2019 for a 3 bedroom, 2 bath, single family residence consisting of a garage with two habitable floors above.

In November of 2019, the first inspection of the foundation was performed. The building is currently being framed.

In April 2020, a complaint was received about the building's height and proximity to the road. Investigation by staff determined that the building was 10' from the front property line as allowed by Administrative Variance and the structure was 3 stories and 34' feet in height. The R1L Use District requires a Conditional Use Permit (CUP) for any building

exceeding 2 stories or 30' above ground level. It was further determined that Community Development staff failed to verify the building's height and number of stories met zoning requirements at the time of building plan submittal.

After being informed of the height and story issue, Michael Luster, on behalf of owner Levi Luster, submitted an application for a Conditional Use Permit in April 2020.

To fulfill the requirement of the Gila County Zoning Ordinance, the applicant held a neighborhood meeting in May 2020 using Zoom Meeting to discuss the CUP application.

The Planning and Zoning Commission held public hearings on May 21, 2020 and June 18, 2020. Both meetings were noticed per the requirement of A.R.S. § 11-813 and the Gila County Zoning Ordinance.

The Planning and Zoning Commission on June 18, 2020, voted 5 to 2 with one Commissioner abstaining and one absent, to recommend to the Board of Supervisors denial of the CUP application and that the residence must conform with the Gila County Zoning Ordinance.

The public hearing notice for the July 28, 2020 Board of Supervisors' meeting was published in the Payson Roundup on July 6, 2020 and posted on the property July 9, 2020.

Evaluation

The building must comply with the height and story requirements of the Gila County Zoning Ordinance. Building heights above 30 feet and more than 2 stories are allowed with a Conditional Use Permit. The Ordinance further defines a conditional use as a use which, although not specifically permitted in a zoning district, would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions

These sections from the Gila County Zoning Ordinance shall apply:

104.2.A.2.e: A Conditional Use Permit shall be required for any building exceeding two (2) *stories* or thirty (30) feet above ground level.

101.3 C: Conditional Use Permits shall be issued setting forth all qualifying conditions subject to the procedures for rezoning found in the section of this Zoning Ordinance entitled "Amendment Procedures."

101.3.B.2.a: The applicant shall invite and meet with his neighbors, being the property owners in the notification area, at a specific time and place, convenient for assembly and often the subject site, to discuss his

proposed request.

101.2 B.8: The Planning and Zoning Commission will hear, review, determine compatibility requirements and make the decision regarding all Conditional Use Permit applications.

105.3 The Planning and Zoning Commission shall report to the Board of Supervisors.

105.4 Upon receipt of the Planning and Zoning Commission's recommendation, the Board may take appropriate action after holding at least one public hearing.

The residence is being constructed in the Whispering Pines subdivision, approximately 10 miles north of Payson. The subdivision consists of one- and two-story residences. On the road where the property is located, there are 12 single and 17 two-story residences. On the roads, Neal Drive and Neal Spur, that provide access to Scott Drive, there are 9 single and 25 two-story residences.

Property owners within the subdivision have attended all three meetings and have expressed their concerns regarding the existing septic system, the proximity of the building to the road, the building's height and number of stories, and the CUP would set a precedent to allow more 3-story residences in the subdivision. Due to the cooperation of the property owners, a stop work order has not been issued by the Building Safety Division.

The building's height is 4' above the allowed 30' without a CUP. The building is one story greater than the allowable two stories without a CUP. The first story is a garage with no access to the second story from inside. The second story is two bedrooms, bath, kitchen, laundry, and family room. The third story has a bedroom, bath, and game room.

The applicant stated they chose to build multiple stories because of the limited buildable area due to a significant portion of the property being in the floodway, the location of the existing septic system, and vegetation consisting of mature apple trees. The applicant stated he was not made aware of any height and story restrictions in the R1L use district.

The Planning and Zoning Commission voted at its June 18, 2020 meeting to recommend that the Board of Supervisors deny the CUP application with a vote of 5 to 2 with 1 abstention.

Conclusion

The property owner has complied so far with the requirements set forth by Gila County Planning and Zoning, Wastewater, Floodplain, Grading and Drainage, and Building Safety Divisions. An Administrative Variance to allow a reduction in the front setback of 10' was approved in 2018 with no appeals received. The 34' building height measured from grade level to the mean height between eaves and ridge for gable roofs is 4' above the allowed 30'. The 3rd story resulted from the owner changing the crawlspace to a garage for better utilization of the space due to FEMA requiring a base flood elevation which the owner's surveyor calculated to be at least 6' above grade to bottom of finished floor. The applicant stated at the neighborhood meeting the building could have been designed with an exposed pier foundation but it was felt a crawlspace or garage would more compatible with other existing residences in the neighborhood. The single family residence is a 3 bedroom, 2 bath, with a garage. Community Development staff made an error at the time of plan submittal by not noticing and not notifying the applicant of the height and story zoning limitations.

Recommendation

This Conditional Use Permit application is being presented to the Board of Supervisors for a decision. Staff considers the following facts to be most germane:

- 1) The septic system was permitted and approved in 1989 and is assumed to have met all County and state requirements at that time and in 2019, a Wastewater Clearance Letter was issued after the septic system was located and inspected by a commercial contractor.
- 2) In 2018, an Administrative Variance was approved for a 10' reduction in the front setback to allow for an increased building area due to special circumstances applicable to the property.
- 3) Floodplain and Grading and Drainage do not foresee any significant drainage issues with the current location of the building.
- 4) The Floodplain Use Permit requires a minimum base flood elevation, waterproof materials, and flow through vents to meet FEMA requirements.
- 5) The applicant has stated they will use premium materials on the exterior of the building and install landscaping that will complement the building and the property.
- 6) The residence is located on a road that has more two-story residences than single-story.
- 7) The property has a limited building area due to a significant portion of the property being in the floodway, the location of the existing septic, and mature apple trees.
- 8) The residence is a 3 bedroom, 2 bath with garage.
- 9) The applicant has stated that staff did not inform him of the height and

story restrictions in the R1L Use District.

10) With a CUP, the Gila County Zoning Ordinance will allow the residence to be 3 stories and 34' in height.

11) The Planning and Zoning Commission voted 5-2 with one abstention to recommend to the Board, denial of the CUP.

Suggested Motion

Information/Discussion/Action to approve, deny, or modify Conditional Use Permit application number CUP-20-01 submitted by Michael Luster to allow a 3-story, 34 foot tall building height for a 3 bedroom, 2 bath single family residence with a garage in a Residential 1L Use District of the Whispering Pines subdivision. **(Scott Buzan)**

Attachments

Staff report to BOS

Application documents

Floor plans

Staff report to P&Z Commission

P&Z meeting minutes 5-21-20

Citizen Participation

Administrative Variance AV-18-11

Affidavit of Posting

Comments from Michael Harper, legal counsel to Robert Newman, re: CUP-20-01



STAFF REPORT
TO THE
BOARD OF SUPERVISORS
GILA COUNTY CASE NUMBER CUP-20-01

**REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW A THREE-STORY, 34' TALL
BUILDING HEIGHT FOR A SINGLE-FAMILY RESIDENCE**



**Public Hearing
July 28, 2020**

**610 East Highway 260
Payson, Arizona**

and

**1400 Ash Street
Globe, Arizona**

Case Details

Gila County Case Number:

CUP-20-01

Request:

Conditional Use Permit

Purpose of Request:

To allow a three-story, 34-foot in height building for a new single-family residence

Applicant:

Michael Luster

Owner:

Levi Luster

Staff Members:

Michelle Dahlke, Senior Planner

Scott Buzan, Community Development Director

Property Details

Assessor Parcel Number:

302-16-138A

Property Address:

645 West Scott Drive

Property Location:

Lot 44, Whispering Pines Plat #6

Project Area:

0.37

Current Zoning Designation:

R1L-D70

Current Comprehensive Plan Designation:

Residential (2-3.5 dwelling units per acre)

Current Land Use:

Single-Family Residence under construction

Surrounding Zoning and Land Uses*:

North – R1L – D70

East – R1L – D18

South – R1L – D18

West – R1L-D70

*Please refer to the zoning maps on pages 3 and 4 of this report.

Planning and Zoning Commission Recommendation

At their June 18, 2020 meeting, the Planning and Zoning Commission recommended 5 to 2, with one Commissioner abstaining and one Commissioner absent, to deny the Conditional Use Permit application and that the residence must conform with the Gila County Zoning Ordinance.



Figure 1: Aerial of Subject Property and Surrounding Area

SECTION 24
T11 1/2N R10E

WHISPERING PINES

Gila County Recorded Plat 142

TONTO NATIONAL FOREST

SEE MAP 302-16 1 of 10

SEE MAP 302-16 2 of 10

302-16
3 of 10
CODE 107
ISSUED 8-26-11

SEE MAP 302-16 2 of 10

RIL-D10

WHISPERING PINES PLAT SIX
Gila County Recorded
Plat 275

RIL-D18

WHISPERING PINES PLAT EIGHT
Gila County Recorded Plat 422

SEE MAP 302-16 4 of 10



SCALE - 1" = 80'
(C) = CALCULATED
(R) = RECORDED

"FOR INFORMATION ONLY, NO LIABILITY ASSUMED."

GILA COUNTY ASSESSOR

Figure 2: Zoning Map of the Subject Property and Surrounding Area to the North

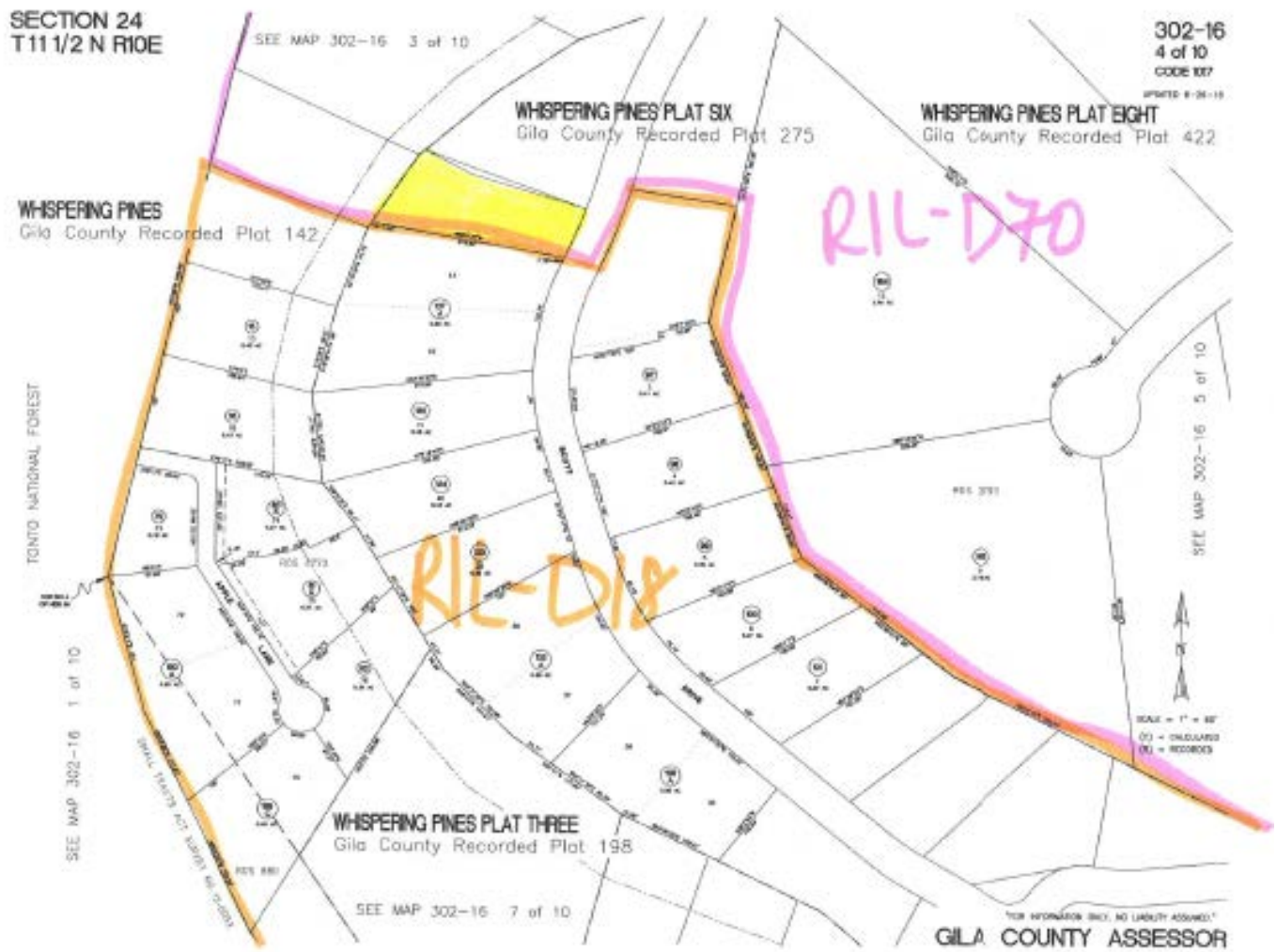


Figure 3: Zoning Map of Subject Property and Surrounding Area to the South

Property Background

- June 14, 1989: Septic tank and leachfield permit issued.
- July 5, 1989: Septic tank and leachfield permit finalized.
- June 6, 2018: The applicant submitted a request for an Administrative Variance for a 10' front setback for a single-family residence where 20' is required.
- August 3, 2018: The Administrative Variance (AV-18-11) was approved by the Gila County Planning and Zoning Division after sending notice of the decision to adjoining property owners and no appeals were filed during the 15-day appeal period.
- June 5, 2019: A Plan Development Information Form (PDI) was submitted by the applicant to the Gila County Community Development Department as required prior to an application being filed for a building permit.
- June 6, 2019: The Gila County Floodplain Division returned the PDI indicating a Floodplain Use Permit was required; the Gila County Grading & Drainage Division returned the PDI indicating that no grading permit would be required.
- June 10, 2019 to August 27, 2019: The applicant submitted a building permit request for a two-story home to the Gila County Floodplain Division related to the Floodplain Use Permit. When the applicant was informed that the Gila County Floodplain Division was requiring them to raise the house for elevation purposes to meet FEMA floodplain requirements, the applicant decided to change what was to be a crawlspace to a garage.
- August 27, 2019: The Gila County Floodplain Division issued a Floodplain Use Permit.
- August 29, 2019: The applicant submitted building plans to the Gila County Building Safety Division where a permit technician accepted the plans and routed them for review.
- October 17, 2019: The building plans were approved by the Gila County Building Safety Division.
- October 18, 2019: The Gila County Building Safety Division issued a building permit for a 3 bedroom, 2 bath, with garage single family residence to the applicant.
- November 1, 2019: The Gila County Building Safety Division conducted the first inspection on the foundation of the house.
- April 8, 2020: A complaint was received about the building's height and proximity to the road. Community Development Department staff confirmed that the building height portion of the complaint was valid. It was determined that the permit technician failed to verify the building's height met zoning requirements at the time of plan submittal and when the height was questioned by the plan reviewer, was mistakenly approved. In addition, it was discovered that the building is 3 stories due to the change from crawlspace to garage.
- April 21, 2020: After being informed that a Conditional Use Permit (CUP) would be required for the third story and 34' height, the applicant submitted an application for a CUP.
- May 16, 2020: The applicant held a neighborhood meeting using Zoom Meeting to discuss the CUP application with neighbors.
- May 21, 2020: The CUP application was on the agenda for the Planning and Zoning Commission hearing but was requested and approved to be continued to the June 18, 2020 hearing to meet the Zoning Ordinance requirement of allowing 30 days for comments to be submitted after a neighborhood meeting is held. Because it was noticed as a public hearing, the public were provided the opportunity to speak.

- June 18, 2020: The Planning and Zoning Commission held a public hearing and recommended denial of the CUP application to the Board of Supervisors.

Project Description

The applicant contends that due to FEMA floodplain requirements, they were required to design the home with a FEMA base flood elevation of 6' above grade as depicted on the building plans. Rather than construct the home with an exposed pier system or a 6' tall crawlspace, the applicant proposed to utilize the space under the home as a garage. This resulted in the home having a height of 34' and 3 stories due to the garage being considered a story according to the definition of a story in the Gila County Zoning Ordinance. The Gila County Floodplain map for the subject property is located on page 7 of this report and it identifies a significant portion of the property to be located within the floodway. Because the buildable area of the property is limited due to the floodway, the location of the existing septic system, and vegetation consisting of mature apple trees, the owners applied for and received an Administrative Variance in 2018 to reduce the front setback from 20' to 10'.

A copy of the site plan provided by the applicant is located on page 8 of this report.

The applicant is proposing to complete construction of a three bedroom, two bath, with garage, single family residence. The first story is a garage with no interior access to the second story. The second story is two bedrooms, bath, kitchen, laundry, and family room. The third story has a bedroom, bath, and game room. The structure is three-stories and 34' tall measured from grade level to the mean height between eaves and ridge for gable roofs. The Gila County Zoning Ordinance states that in the R1L Use District, a Conditional Use Permit shall be required for any building exceeding two stories or 30 feet above ground level.

The property owner's have stated they will use premium materials on the exterior of the building and install landscaping that will compliment the building and the property.

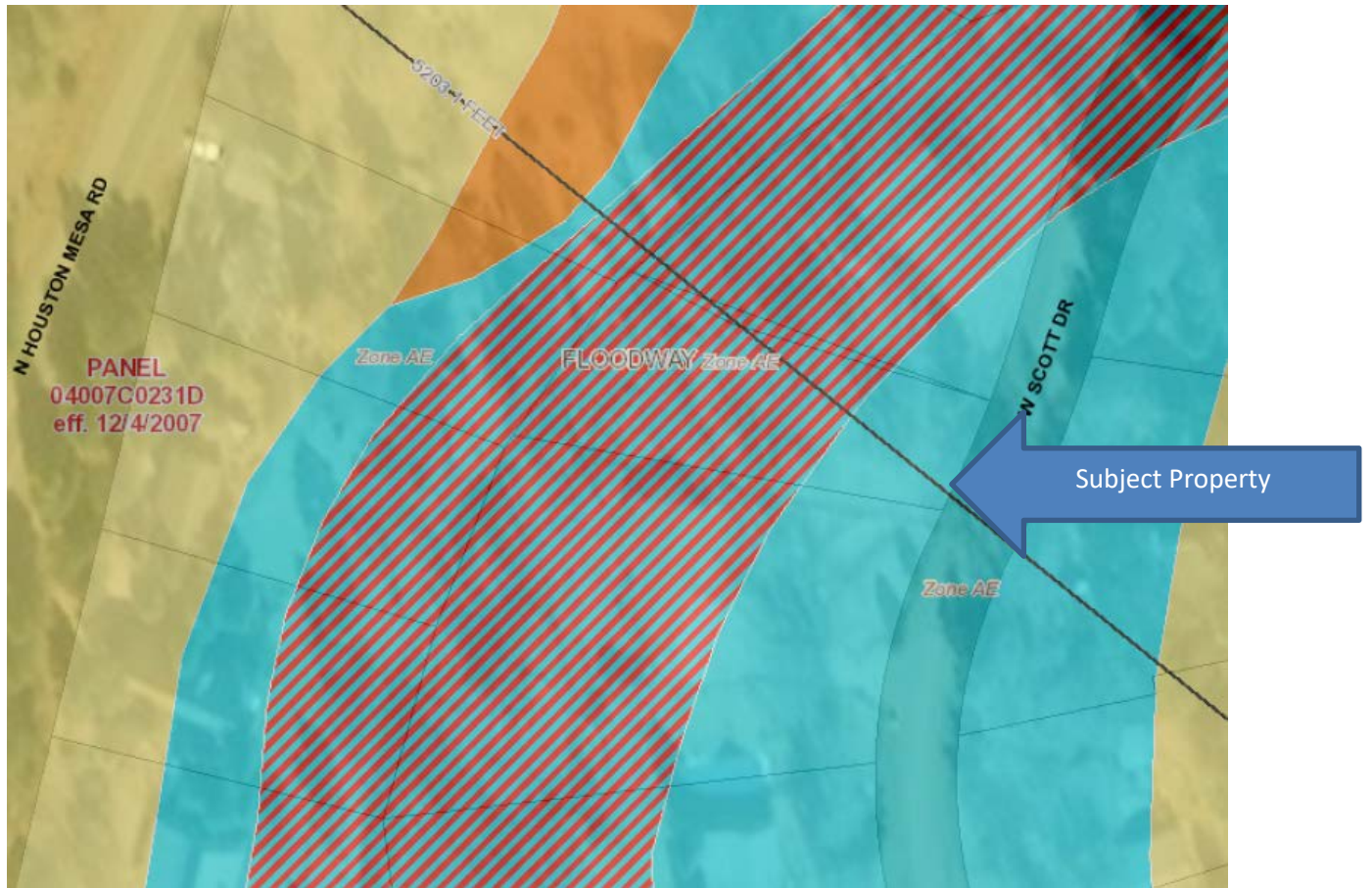


Figure 4: Gila County Floodplain Map

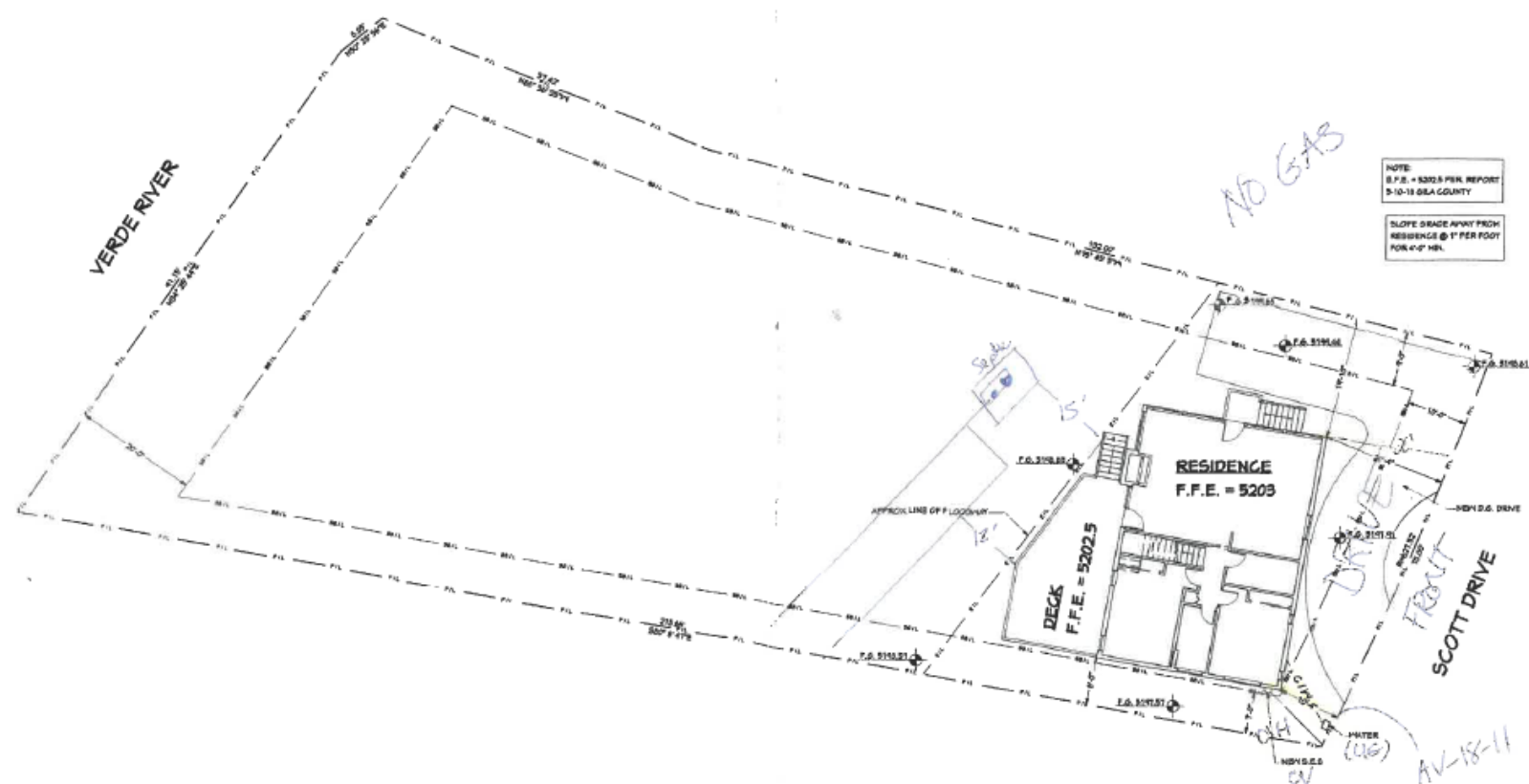


Figure 5: Overall Site Plan

The building elevations submitted to the Gila County Floodplain Division in June of 2019 depicted a two-story residence with a 30'-5 3/16" building height measured from the top of subfloor - 1st floor to the highest ridge of the roof.

The building plans submitted to the Gila County Building Safety Division in August of 2019 reflected a three-story structure with a building height of 30'- 5 3/16" measured from the top of subfloor floor to the top of the ridge. Renderings and north elevations of the Floodplain Division and Building Safety Division are provided on pages 11 through 14 of this report.

LUSTER RESIDENCE

645 SCOTT DR
PAYSON, AZ. 85541
302-16-138A

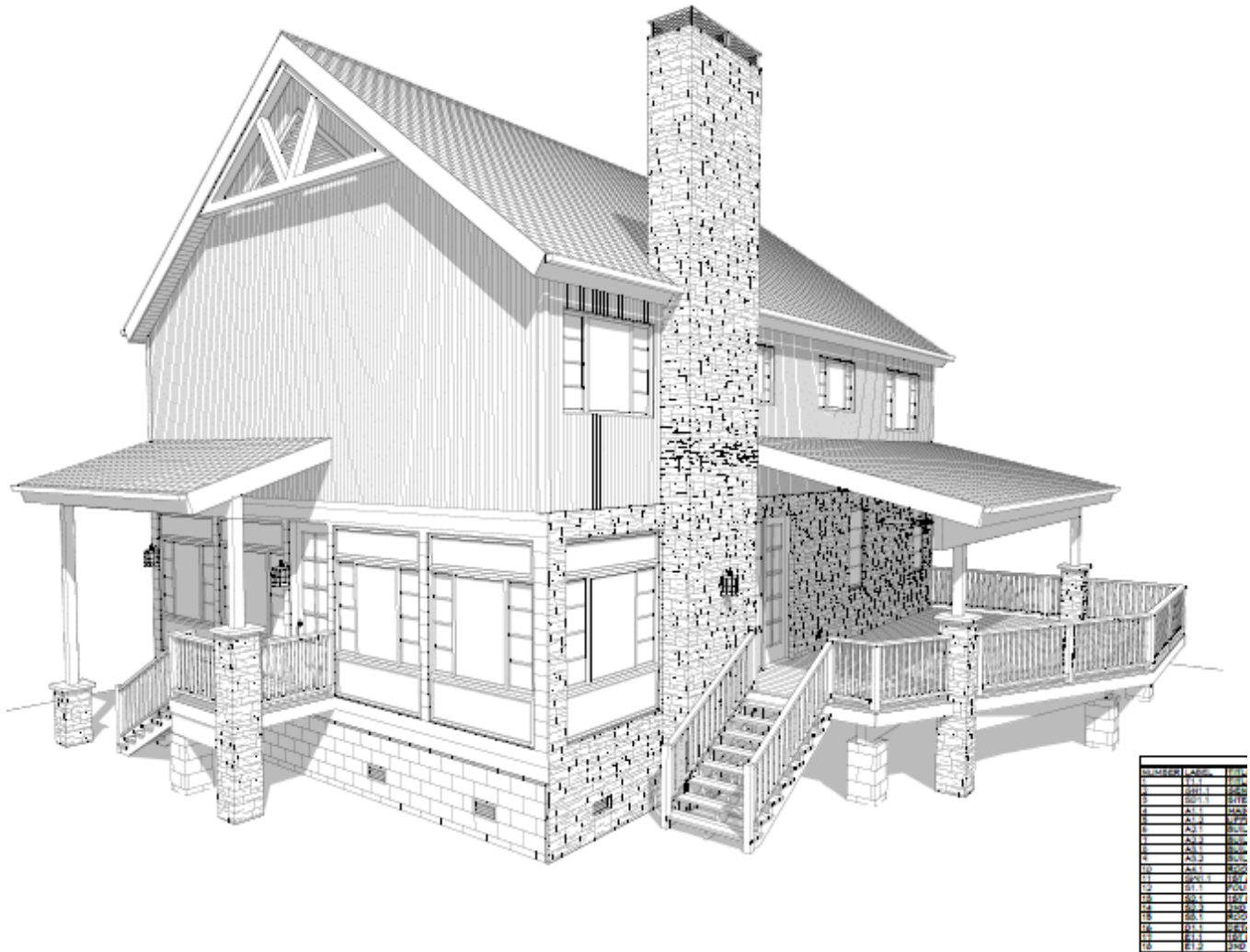


Figure 7: Rendering of Luster Home with Floodplain Submittal

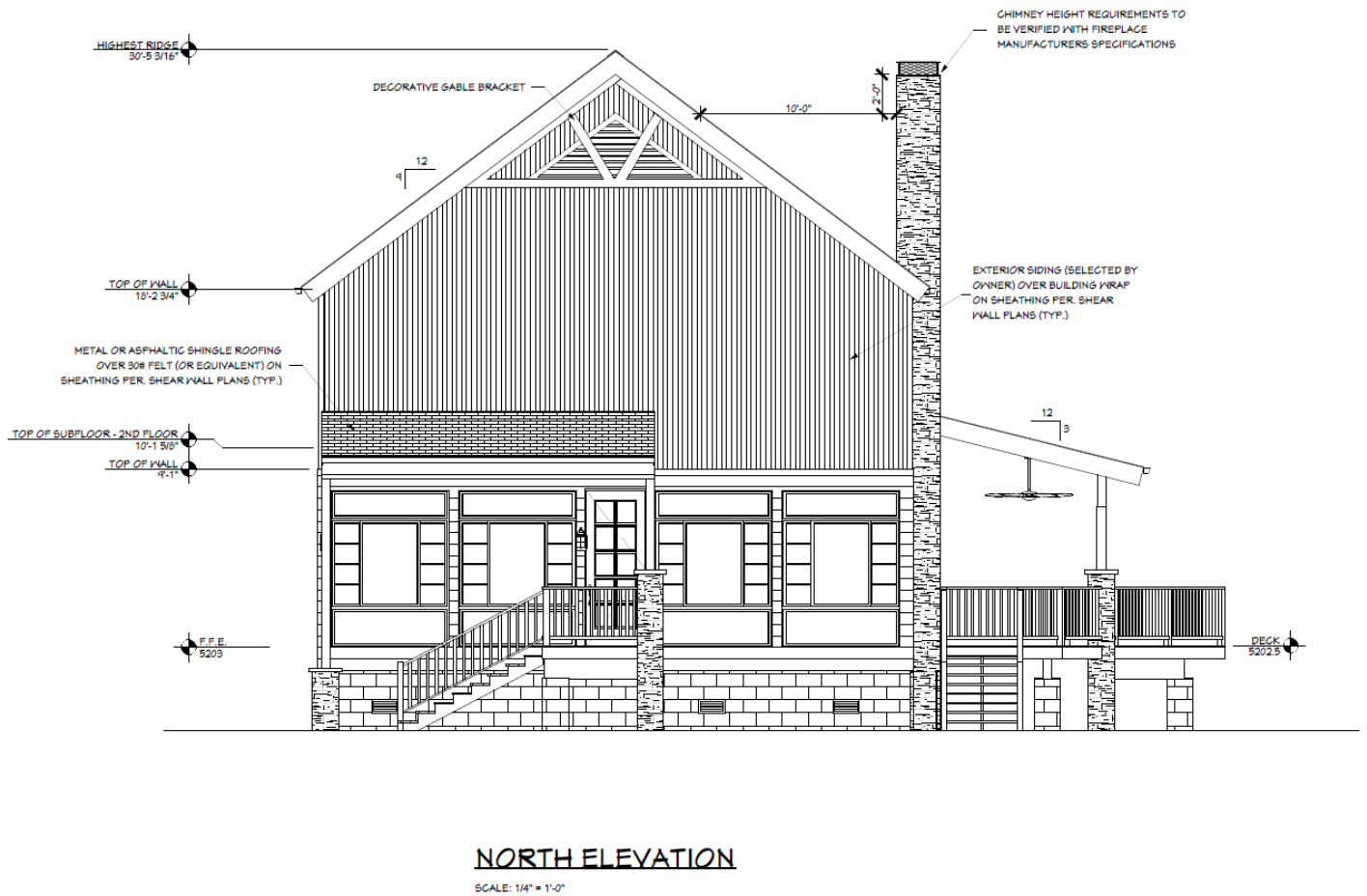


Figure 8: North Elevation of Luster Home with Floodplain Submittal

LUSTER RESIDENCE

645 SCOTT DR
PAYSON, AZ. 85541
302-16-138A

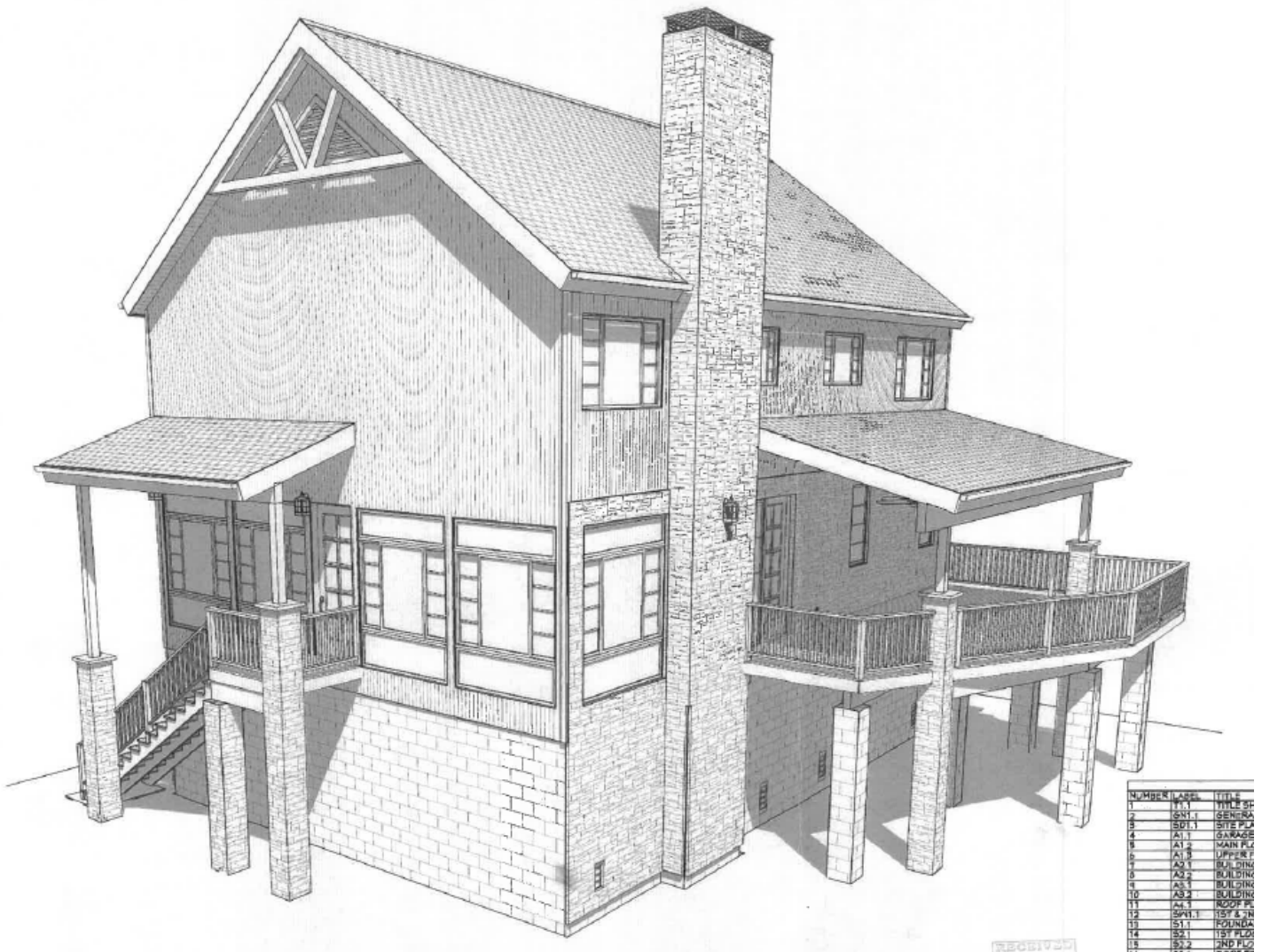


Figure 9: Rendering of the Luster Home Provided with Building Permit Submittal

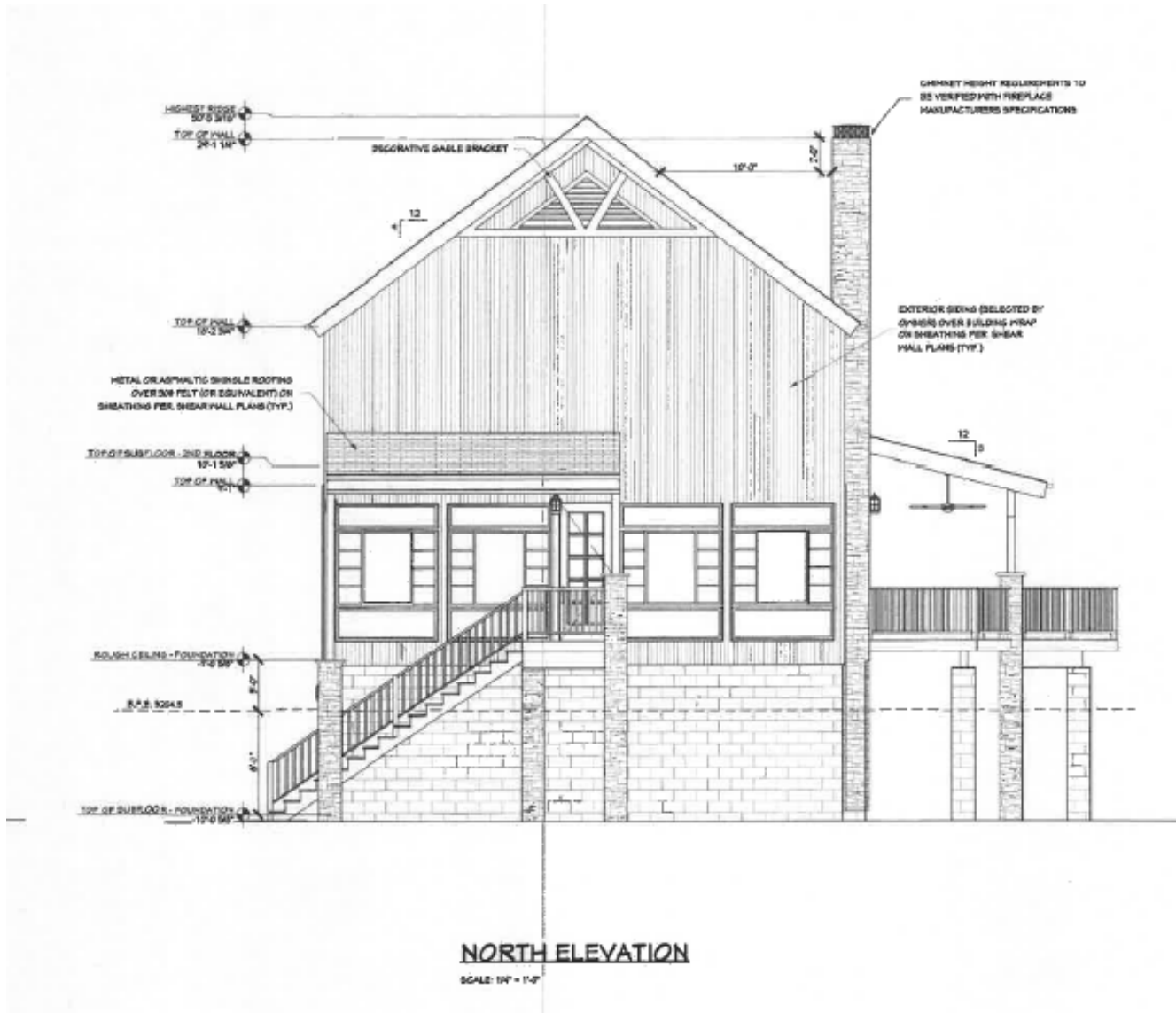


Figure 10: North Elevation of the Luster Home Provided with the Building Permit Submittal

Citizen Participation

As required by the Gila County Zoning Ordinance, a neighborhood meeting was held on May 16, 2020 via the Zoom Meeting format to provide neighbors the opportunity to learn more about the application for the CUP and to ask questions of the applicant and Community Development Department staff. A total of 19 people were in attendance including Mr. and Mrs. Luster (applicant) and 3 staff members from the Community Development Department. Detailed minutes of the neighborhood meeting are attached to the BOS agenda item. In summary, neighbors expressed concern with the building height and number of stories, the septic system approved for the property, and the 10' front yard setback that was approved with Administrative Variance case AV-18-11.

Neighbors also had the opportunity to ask questions and express concerns regarding the application at the May 21, 2020 and June 18, 2020 Planning and Zoning Commission meetings during the public hearing portion of those meetings. A copy of the approved minutes from the May 21, 2020 Planning and Zoning Commission meeting is attached to the BOS agenda item. The June 18th minutes have not yet been transcribed.

Staff Review and Analysis

Community Development Department staff made an error at the time of plan submittal by not noticing the building's height and number of stories exceeded the allowances of the R1L use district without a CUP, and for not bringing it to the attention of the applicant.

Community Development Department staff conducted a site visit of the subject property and surrounding area. The site map on the page 16 identifies the location where each photo was taken in relation to the subject property and the related photographs are provided in this staff report. The parcels with residences on both sides of Scott Drive, the road on which the applicant's residence is being constructed, consist of 12 single and 17 two story homes. On the roads Neal Drive and Neal Spur that provide access to Scott Drive, there are 9 single and 25 two story residences.

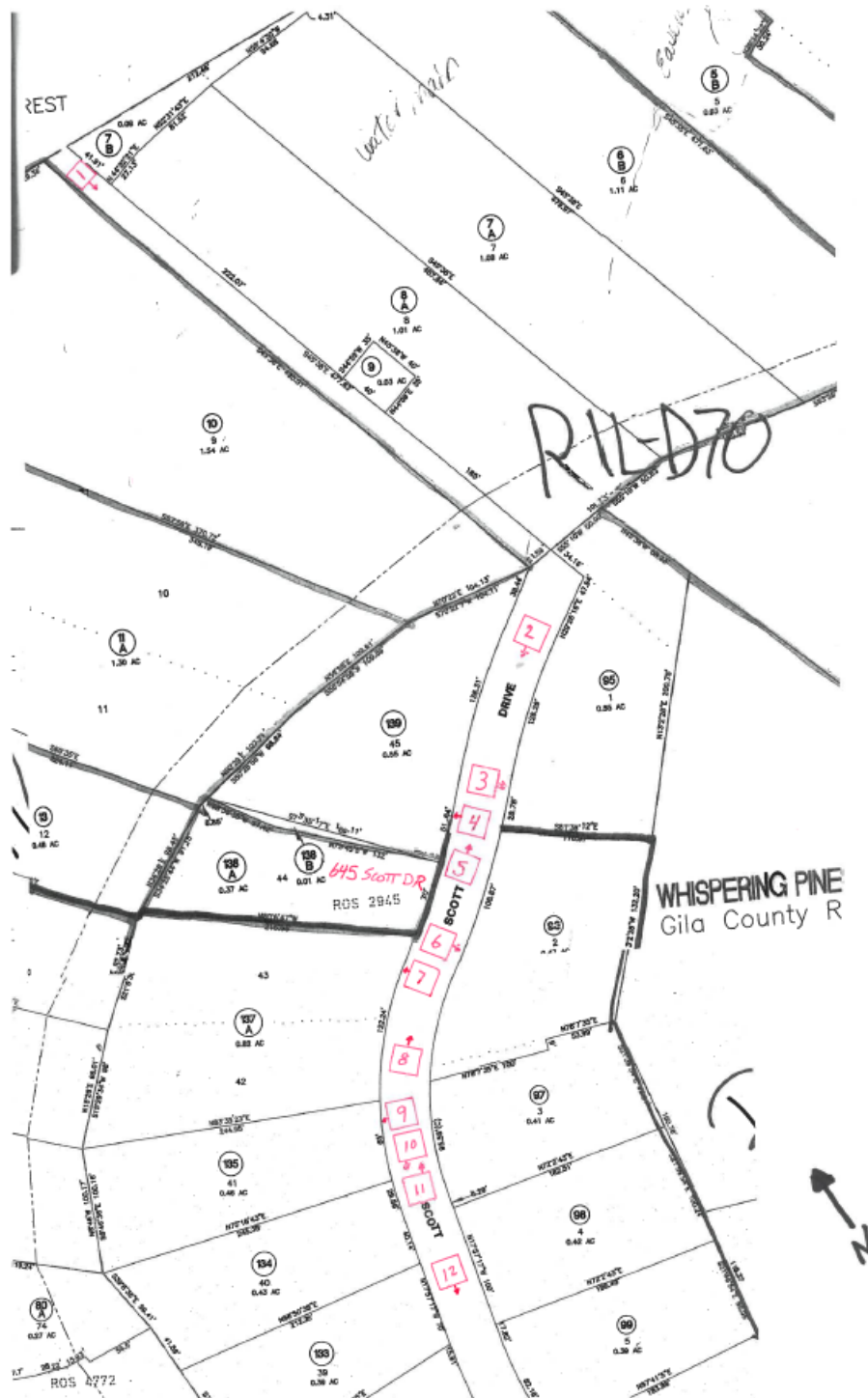


Figure 11: Site Map for Photos of the Subject Area and Surrounding Area



Figure 12: Photo # 1



Figure 13: Photo # 2



Figure 14: Photo # 3



Figure 15: Photo # 4



Figure 16: Photo # 5



Figure 17: Photo # 6



Figure 18: Photo # 7



Figure 19: Photo # 8



Figure 20: Photo # 9



Figure 21: Photo # 10



Figure 22: Photo # 11



Figure 23: Photo # 12

As soon as it was determined that Gila County made an error in issuing a building permit for the three-story home with a 34' building height, the applicant was contacted, and the error was explained. Additionally, it was explained that a CUP is the only permit offered in the Gila County Zoning Ordinance to request an increase in building height over 30' and over two stories in a R1L Use District. The applicant submitted an application for the CUP and because of their cooperation, no stop work order has been issued by the Building Safety Division. The property owner has complied with the requirements set forth by Gila County Planning and Zoning, Wastewater, Floodplain, Grading and Drainage, and Building Safety Divisions. The owner has installed both wall and roof sheathing after the CUP application was submitted. In an effort mitigate damage to the existing construction, the County has allowed the owner to "dry in" the roof and walls in anticipation of seasonal monsoon rains coming

Staff Comments:

This Conditional Use Permit application is brought before you for a decision. Staff considers the following facts to be most germane:

- 1) The septic system was permitted and approved in 1989 and it is assumed to have met all County and State requirements at that time and in 2019, a Wastewater Clearance Letter was issued after the septic system was located and inspected by a commercial contractor.
- 2) In 2018, an Administrative Variance was approved for a 10' reduction in the front setback to allow for an increased building area due to special circumstances applicable to the property.
- 3) Floodplain and Grading and Drainage do not foresee any significant drainage issues with the current location of the building.
- 4) The Floodplain Use Permit requires waterproof materials and flow through vents to meet FEMA requirements.
- 5) The applicant has stated they will use premium materials on the exterior of the building and install landscaping that will complement the building and the property.
- 6) The residence is located on a road that has more two story residences than single story.
- 7) The property has a limited building area due to a significant portion of the property being in the floodway, the location of the existing septic, and mature apple trees.
- 8) The residence is a typical 3 bedroom, 2 bath, with garage single family residence.
- 9) The applicant has stated that staff did not inform him of the height and story restrictions in the R1L Use District.
- 10) With a CUP, the Gila County Zoning Ordinance will allow the residence to be 3 stories and 34' in height.
- 11) The Planning and Zoning Commission voted 5-2 with one abstention to recommend to the Board, denial of the CUP.



Application Materials



**Gila County Community Development Department
Planning & Zoning Division**

745 N. Rose Mofford Way
Globe, AZ 85501
(928) 402-8512
FAX: (928) 425-0829

608 E. Highway 260
Payson, AZ 85541
(928) 474-9276
FAX: 928-474-0802

**CONDITIONAL USE PERMIT
APPLICATION**

Date: 4/21/2020

Address of Property Associated with Request: 445 Scott Dr Whispering Pines

Applicant Name: Michael Luskin Phone No.: 602-803-0867

Mailing Address: 5715 W Arrowhead Lakes Dr Glendale 85308

Signature: [Signature]

Email Address: mikdeb74@hotmail.com

If the applicant is not the owner, please provide the owner's name below and complete the Authorized Agent form attached to this application form.

Owner's Name: Levi Luskin 602-820-7469

If the subject property is part of a homeowner association (HOA)*:

Name of HOA: _____ Phone No.: _____

Contact Person at HOA: _____

Mailing Address: _____

Email Address: _____

*Please note that Gila County notifies an HOA as a courtesy only and does not enforce any HOA-related documents (i.e. CC&Rs, deed restrictions, etc.).

FOR OFFICE USE ONLY

Case File No. CUP-20-01 Permit # P2004024 ing of Property RL-D70 APN # 302-16-138A

waived \$350 Fee Paid Check No.: _____ Credit: _____ Cash: _____ Date: 4-21-20

Authorized Agent Form Received (if applicable): X Approved: X Denied: _____

Date notices mailed to Applicant and Adjacent Property Owners: _____ Appeal Form Received (if applicable) _____

Date of PZC Meeting: 6/18/2020 Decision of PZC: _____

Appeal Due Date: _____ Appealed By: _____ On (date): _____

BOS Hearing Date (for appeal): _____ BOS Decision (for appeal): _____

Account: R019999

Location

Parcel Number 30216138A

Tax Area 1017 - District 1017

Situs Address

Legal Summary Section: 24 Township:
11.5N Range: 10E LOT 44,
WHISPERING PINES PLAT #6, PLAT
275, EXC BEG NW COR LOT 44; TH
S73D35'17"E, (RECORD N70D12'55"W)
189.11'; TH N75D45'05"W, 132.0'; TH
N68D36'35"W, 57.42' TO POB SEC 24
T111/2N R10E = 0.37 AC

Owner Information

Owner Name LUSTER LEVI

Owner Address 16437 N 61ST AVE
GLENDALE, AZ 85306

Assessment History (2020)

Full Cash Value (FCV) \$29,038

Limited Property Value (LPV) \$29,038

Primary Assessed \$4,356

Secondary Assessed \$4,356

Tax Area: 1017 **Primary Rate:** 0.094496

Secondary Rate: 0.0549150

Legal Class	FCV	LPV	Primary Assessed	Secondary Assessed
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02.R	\$29,038	\$29,038	\$4,356	\$4,356
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Transfers

Sale Date

[06/22/1988](#)

[12/16/2004](#)

[09/27/2013](#)

[08/01/2013](#)

Sale Price

[\\$40,000](#)

[\\$55,000](#)

[\\$0](#)

[\\$60,000](#)

Doc Description

[JOINT TENANTS](#)

[WARRANTY DEED](#)

[DEATH CERTIFICATE](#)

[WARRANTY DEED](#)

Images

- [GIS](#)



302-16-138A

Permit #: P1908-096

Owner: Levi Luster / POA: (Father) Michael Luster

Address: 645 Scott Drive Whispering Pines

Zoning: R1L-D70

I am applying for a conditional use permit for the allowance to build a 3-story home that has a height of approx. 40' to the peak and 34' to the means of the roof. This includes a lower level garage; the build has already begun.

We were unaware of the issue with the height or the story's until 4/9/20 when Gila County contacted us with this news. We have approved plans we are building to.

We have a floodplain / floodway issue on the rear of our property which stops us from building in that area that is why we applied and received an administrative variance for the reduction of our front property setback to 10'.

We chose to add the garage level when Gila County Flood Division required us to build to lowest floor joist to the FEMA Base flood elevation which is 6' above grade. This meant use the space for a garage or engineer plans for a major exposed pier system.

We were wanting a better look to our home than to set the home up in the air on large unattractive piers.

Michael Luster 4-10-20



**Gila County Community Development Department
Planning & Zoning Division**

**CONDITIONAL USE PERMIT
SUBMITTAL CHECKLIST**

- ☒ Non-refundable fee of \$365.00
- ☒ Completed application form
- ☒ Proof of ownership or completed Owner Authorization Form
- ☐ Evidence of a completed pre-application meeting *waived*
- ☒ Site Plan
- ☒ Written description and justification of request
- ☐ Citizen Participation Plan (not required for a Conditional Use Permit associated with a single family residence)
- ☒ Other optional items (i.e. photographs, aerial photographs, etc.)

AUTHORIZED AGENT FORM

PROPERTY ADDRESS: 645 Scott Dr, Payson AZ 85541
ASSESSOR PARCEL NUMBER: 30216138A

The undersigned, registered property owner(s) of the above-referenced property, do hereby authorize

Mike Luster of _____

to act on my/our behalf and take all actions necessary for the processing, issuance and acceptance of this request for a Conditional Use Permit submitted to the Gila County Community Development Department.

We hereby certify the above information submitted in this application is true and accurate to the best of our knowledge.

[Signature] _____

Authorized Signature

6-4-20

Authorized Signature

Date

Date

STATE OF Arizona

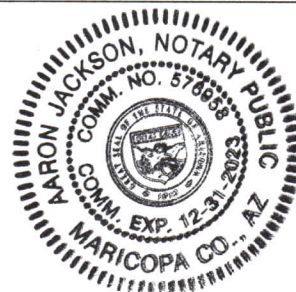
COUNTY OF Maricopa

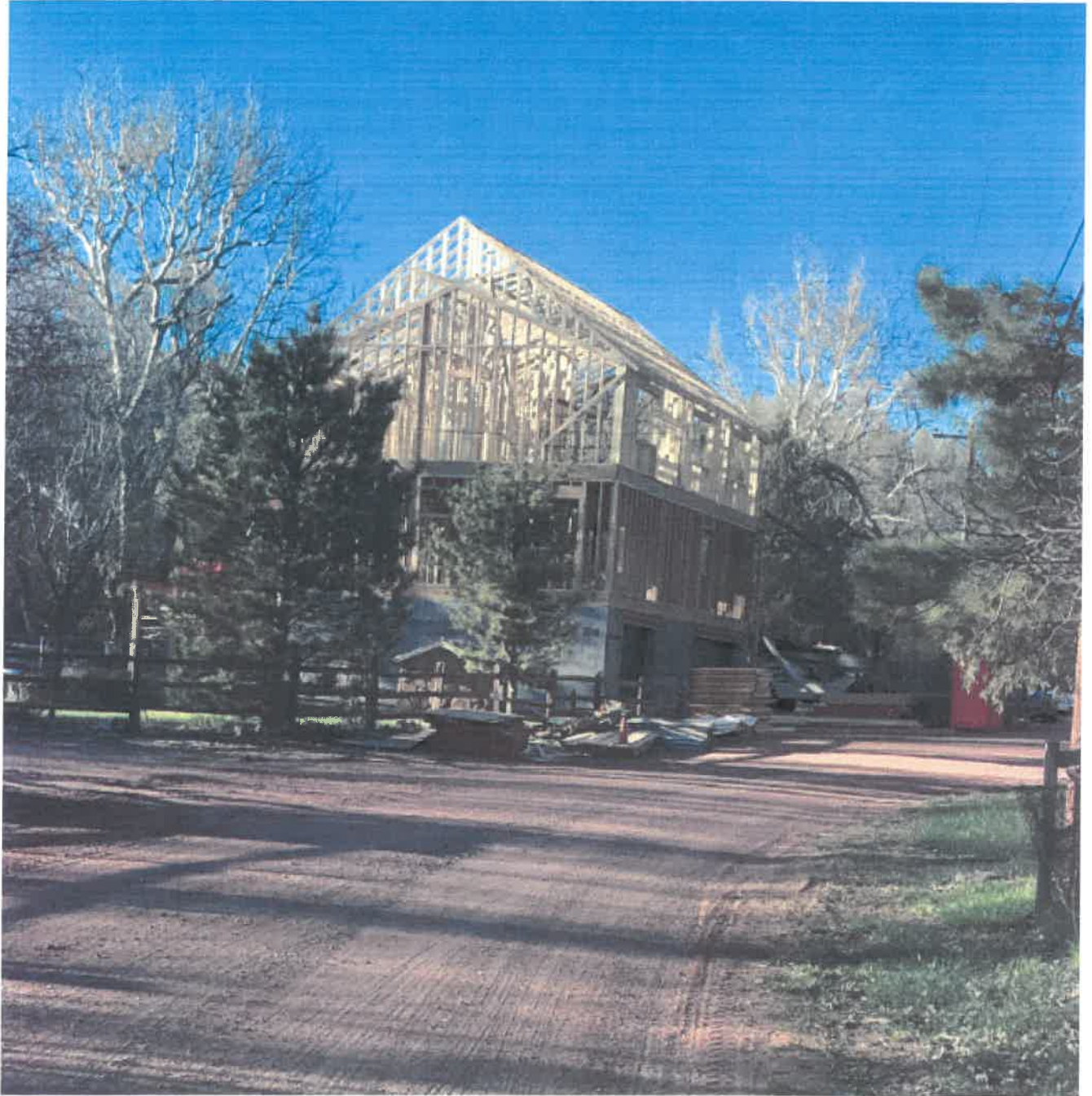
The foregoing instrument was acknowledged before me this 4th day of June,

2020 by Mike Lynn Luster

Notary Signature [Signature]

Serial Number _____





645 W SCOTT DRIVE

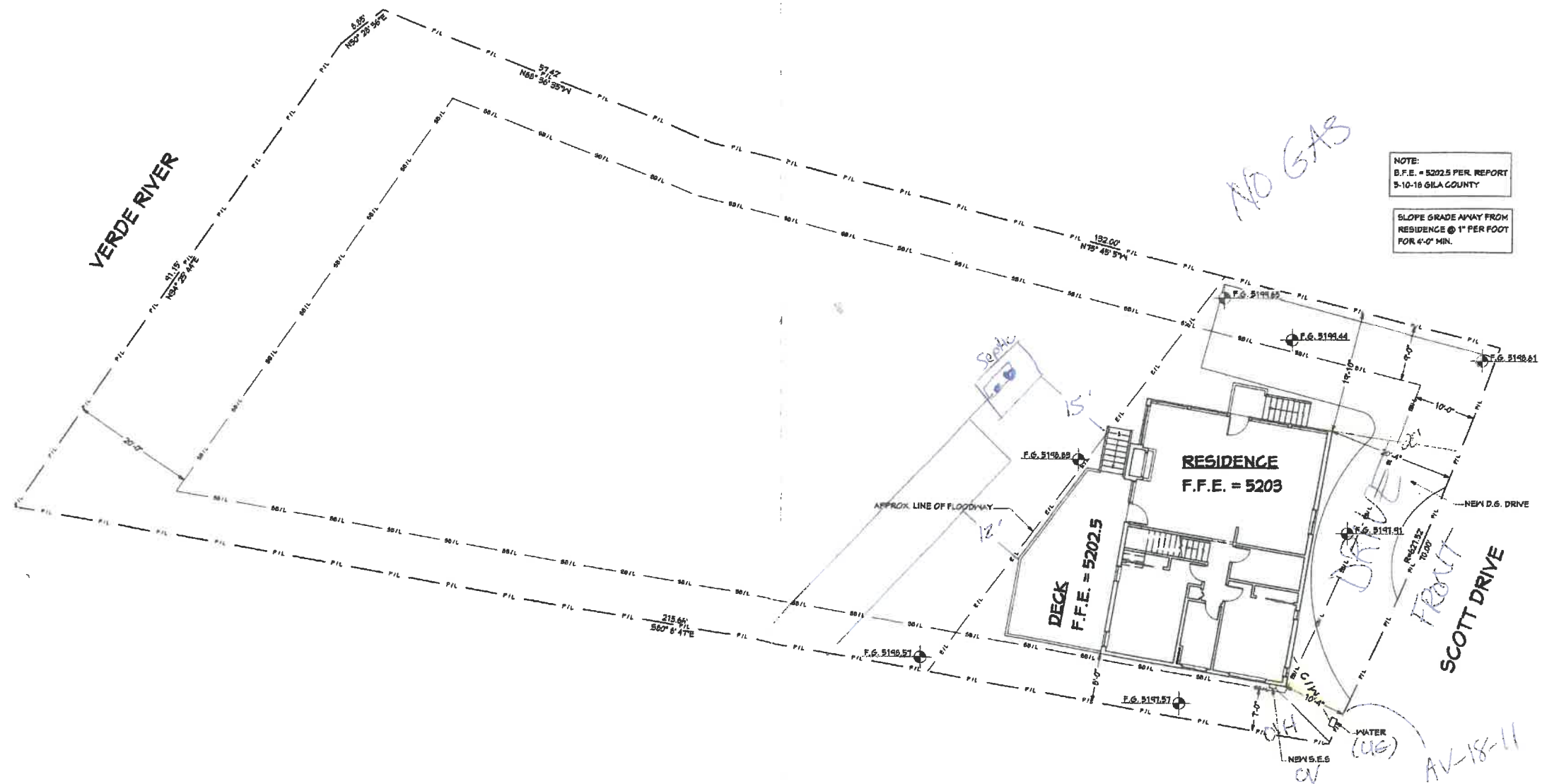
P1908-096 parcel
302-16-138A

4/10/20



LUSTER RESIDENCE

645 SCOTT DR
PAYSON, AZ. 85541
302-16-138A



LONG

LUSTER RESIDENCE
645 SCOTT DR

PARCEL NUMBER - 302-16-138A
PAYSON - ARIZONA - 85541

- GARAGE NOTES**
1. DO NOT SCALE DRAWINGS. SEE PLANS FOR DIMENSIONS.
 2. SEE GENERAL NOTES.
 3. CEILING DRYWALL SHALL BE 5/8" GAB-RESISTANT GYPSUM BOARD.

- FLOOD WATER OPENINGS**
- A. 8" R-1000'S
 - B. THE BOTTOM OF ALL OPENINGS SHALL BE NO HIGHER THAN ONE FOOT ABOVE GRADE.

- C. OPENINGS MAY BE EQUIPPED WITH SCREENS, LOUVERS, VALVES OR OTHER COVERING DEVICES, PROVIDED THAT THEY PREVENT AUTOMATIC ENTRY AND EXIT OF FLOOD WATERS.

- D. THE PORTION OF THE BUILDING BELOW THE REGULATORY FLOOD ELEVATION MUST BE CONSTRUCTED ENTIRELY OF FLOOD-RESISTANT MATERIALS, AS APPROVED BY FEMA FOR BUILDINGS LOCATED IN SPECIAL FLOOD HAZARD AREAS.

- E. ELECTRICAL AND MECHANICAL EQUIPMENT, AND APPLIANCES, MUST ALSO BE ELEVATED TO OR ABOVE THE REGULATORY FLOOD ELEVATION.

1,176 S.F. GARAGE / 101,176 S.F. (5.2 S.F.)
 PROVIDE (3) 24" X 24" FULL SCREEN VENTS (ONE)
 AT 8.58 S.F. EACH + 4.4 S.F. VENTING
 PROVIDE (1) GARAGE DOOR SCREEN VENTS
 AT 0.55 S.F. EACH + 4.4 S.F. VENTING

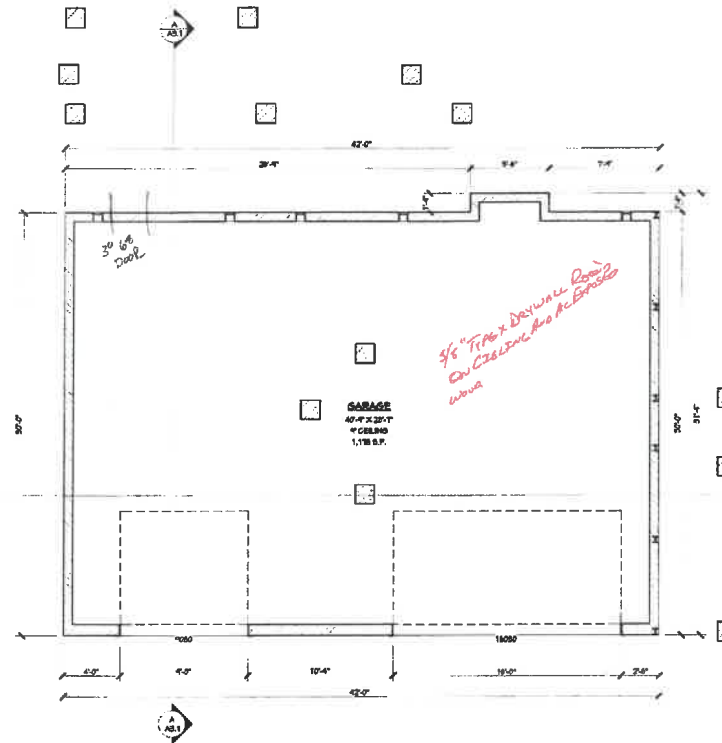
WALL LEGEND

TYPICAL EXTERIOR STUD WALL:
 2x4 KDF STUDS @ 16" O.C.
 EXTERIOR SIDING PER OWNER
 ON BUILDING WRAP & WEATHERING
 PER BRANDED WALL PAPER IN
 INSULATION & 1/2" GYP. BD. INTERIOR

4" EXTERIOR STUD WALL:
 2x4 KDF STUDS @ 16" O.C. 1/4"
 1/2" GYP. BD. ON BOTH SIDES

4" EXTERIOR STUD WALL:
 2x4 KDF STUDS @ 16" O.C. 1/4"
 1/2" GYP. BD. ON BOTH SIDES

8" EXTERIOR STUD WALL:
 2x4 KDF STUDS @ 16" O.C. 1/4"
 1/2" GYP. BD. ON BOTH SIDES



GARAGE FLOOR PLAN
 SCALE: 1/4" = 1'-0"

LONG DESIGN ASSOCIATES LLC
 ARCHITECTS & DESIGNERS
 800 E. EXTENSION 200 - SUITE 4
 DESIGNSOCIATES.COM
 PHONE: 855-888-8888
 WWW.LONGDESIGNASSOCIATES.COM

LUSTER RESIDENCE
 646 SCOTT DR
 PARCEL NUMBER - 905-14-130A
 PAVENY, ARIZONA - 85641

REVISIONS:
 1. 10/10/2018
 2. 10/10/2018
 3. 10/10/2018

DESIGN BY: BEN
CLIENT: LUSTER
DATE: 02/2019
JOB NUMBER: 16-015

GARAGE PLAN
A1.1

RECEIVED
 AUG 26 2019

STAIR & RAILING NOTES:

STAIRWAYS SHALL HAVE A MIN. WIDTH OF 36". HAND RAILS MAY ENCRoACH A MAX. OF 3 1/2" INTO THE REQUIRED WIDTH. PER IRC SECTION R311.7.

TREADS SHALL HAVE A MIN. WIDTH OF 10" MEASURED NOSE TO NOSE. RISERS SHALL HAVE A MAX. HEIGHT OF 4". STAIR TREADS & RISERS MUST BE UNIFORM AND CAN NOT VARY FROM THE LARGEST TO THE SMALLEST BY MORE THAN 3/8". PER IRC SECTION R311.7.

STAIRWAYS SHALL HAVE MIN. 6" OF HEADROOM AT THE NOSE OF THE STAIR. PER IRC SECTION R311.7.2.

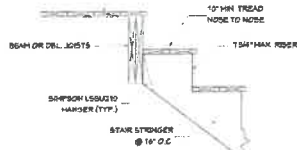
STAIRWAYS SHALL HAVE AT LEAST ONE HANDRAIL LOCATED 34" TO 38" ABOVE THE NOSSING OF TREADS AND LANDING. THE HAND GRIP PORTION OF HANDRAILS SHALL NOT BE LESS THAN 1 1/2" OR GREATER THAN 2" IN CROSS-SECTIONAL DIMENSION. EXTEND HANDRAIL TO A POINT DIRECTLY ABOVE THE TOP RISE AND BOTTOM RISE IN A FLIGHT OF STAIRS. PER IRC SECTION R311.7.3.

36" MIN. HEIGHT FINISH SURFACE GUARDRAILS SHALL BE PROVIDED FOR AT PORCHES, DECKS, BALCONIES, STAIRWAYS AND LANDINGS WHERE THE ADJACENT SURFACE IS GREATER THAN 34" BELOW. PER IRC SECTION R312.1.2.

GUARDRAILS SHALL NOT HAVE OPENINGS WHICH WILL ALLOW A SPHERE OF 4" IN DIAMETER TO PASS THROUGH. PER IRC SECTION R312.1.3.
EXCEPTIONS: THE TRANSIAR OPENINGS FORMED BY THE RISER, TREAD, AND BOTTOM OF GUARDRAIL SHALL NOT ALLOW A 4" DIAMETER SPHERE TO PASS THROUGH. PER IRC SECTION R312.1.3.

EXCEPTION: GUARDS ON THE OPEN SIDE OF STAIRS SHALL NOT HAVE AN OPENING WHICH WILL ALLOW PASSAGE OF A 4 1/2" SPHERE. PER IRC SECTION R312.1.3.
HINDER TREADS SHALL HAVE A MINIMUM TREAD DEPTH OF 12" MEASURED BETWEEN THE VERTICAL PLANES OF THE FURTHMOST PROJECTION OF THE ADJACENT TREAD AT THE INTERSECTION WITH THE PALE LINE (IRC R311.7.4) IS LOCATED 12" FROM THE SIDE WHERE THE HINDER ARE NARROWER. HINDER TREAD SHALL HAVE A MINIMUM DEPTH OF 8" AT ANY POINT WITHIN THE CLEAR WIDTH OF THE STAIRS. PER IRC SECTION R311.7.2.1.

FLOOR BREAKTHRU OR DECKING



NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	CEILING	1	SQ. FT.	1.00	1.00
2	FLOOR	1	SQ. FT.	1.00	1.00
3	WALL	1	SQ. FT.	1.00	1.00
4	DOOR	1	EA.	1.00	1.00
5	WINDOW	1	EA.	1.00	1.00
6	STAIR	1	EA.	1.00	1.00
7	RAMP	1	EA.	1.00	1.00
8	LANDING	1	SQ. FT.	1.00	1.00
9	BATH	1	SQ. FT.	1.00	1.00
10	KITCHEN	1	SQ. FT.	1.00	1.00
11	BEDROOM	1	SQ. FT.	1.00	1.00
12	HALL	1	SQ. FT.	1.00	1.00
13	CLOSET	1	SQ. FT.	1.00	1.00
14	PORCH	1	SQ. FT.	1.00	1.00
15	DECK	1	SQ. FT.	1.00	1.00
16	SCREENED PORCH	1	SQ. FT.	1.00	1.00
17	PERGOLA	1	SQ. FT.	1.00	1.00
18	PAVING	1	SQ. FT.	1.00	1.00
19	LANDSCAPING	1	SQ. FT.	1.00	1.00
20	POOL	1	SQ. FT.	1.00	1.00
21	SPACED	1	SQ. FT.	1.00	1.00
22	CONCRETE	1	SQ. FT.	1.00	1.00
23	BRICK	1	SQ. FT.	1.00	1.00
24	STONE	1	SQ. FT.	1.00	1.00
25	WOOD	1	SQ. FT.	1.00	1.00
26	ROOF	1	SQ. FT.	1.00	1.00
27	FOUNDATION	1	SQ. FT.	1.00	1.00
28	DRIVEWAY	1	SQ. FT.	1.00	1.00
29	PARKING	1	SQ. FT.	1.00	1.00
30	WATER	1	SQ. FT.	1.00	1.00
31	SEWER	1	SQ. FT.	1.00	1.00
32	MECHANICAL	1	SQ. FT.	1.00	1.00
33	ELECTRICAL	1	SQ. FT.	1.00	1.00
34	PLUMBING	1	SQ. FT.	1.00	1.00
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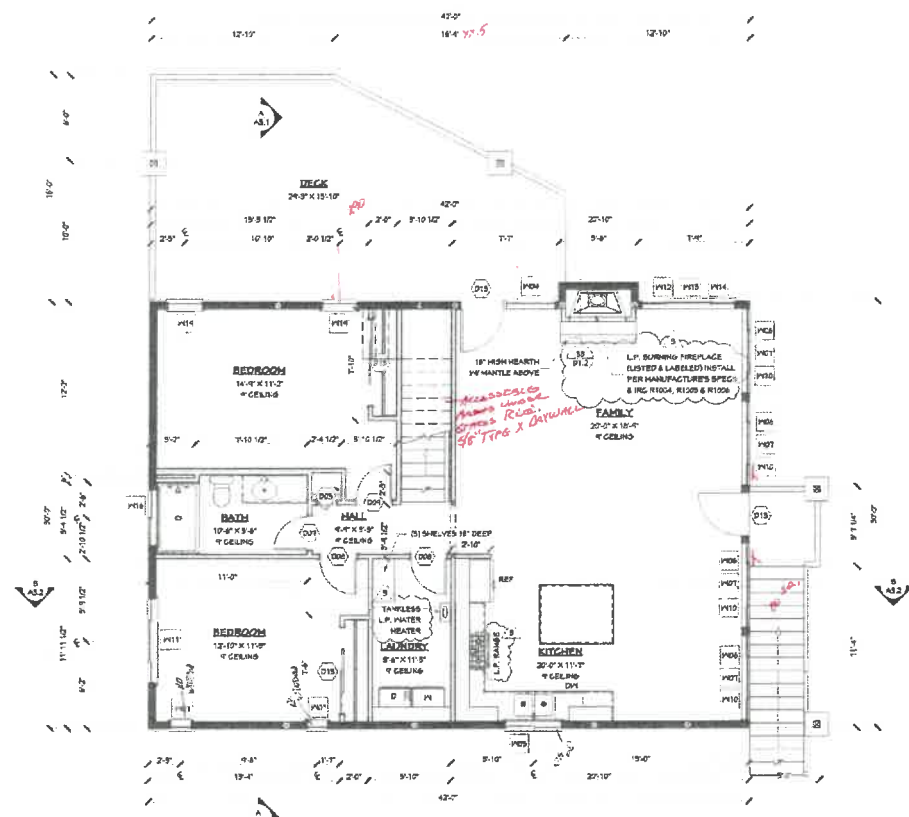
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99	FOUNDATION	1	SQ. FT.	1.00	1.00
100	DRIVEWAY	1	SQ. FT.	1.00	1.00

FLOOR PLAN NOTES:

- DO NOT SCALE DRAWINGS. SEE PLANS FOR DIMENSIONS.
- SEE GENERAL NOTES
- ALL DRYWALL TO BE APPLIED PER I.C. SECTION 902.5.5
- PROVIDE 1/2" DRYWALL THROUGHOUT U.O. - INSTALL PER I.C. TABLE 902.5.5.
- CEILING DRYWALL SHALL BE 5/8" OR 1/2" SAS-RESISTANT GYPSUM BOARD
- ALL BEDROOMS ARE REQUIRED TO HAVE (1) BEDROOM WITH A MINIMUM 5.5 F. NET OPENABLE AREA. 65% OF BEDROOM OPENINGS SHALL BE 20" MIN. WIDTH, 24" MIN. HEIGHT & 44" MAX. BAIL HEIGHT.
- PROVIDE TEMPERED GLASS WITHIN 24" OF EITHER VERTICAL EDGE OR DOORS & IN STAIRWELL BATHROOMS AND OTHER NET AREAS
- PROVIDE CONTINUOUS AIR BARRIER AT ALL AIR CONDITIONED SPACES.
- PROVIDE BACKER BOARD OR OTHER APPROVED MATERIAL BEHIND TUB AND SHOWER ENCLOSURES

WALL LEGEND:

- TYPICAL EXTERIOR STUD WALL:
3/4" X 1/2" STUDS @ 16" O.C.
EXTERIOR SIDING PER OWNER
ON RUL DRAIN WRAP & SHEATHING
PER BRIDGEWALL PLANNING
INSULATION & 1/2" O.P.F. RS. INTERIOR
- 6" INTERIOR STUD WALL:
2x6 CMV STUDS @ 16" O.C. 1/2" O.P.F. RS. ON BOTH SIDES
- 8" INTERIOR STUD WALL:
2x8 CMV STUDS @ 16" O.C. 1/2" O.P.F. RS. ON BOTH SIDES
- 6" X 12" INTERIOR STUD WALL:
2x6 CMV STUDS @ 16" O.C. 1/2" O.P.F. RS. ON BOTH SIDES



MAIN F

STAIR & RAILING NOTES:

STAIRWAYS SHALL HAVE A MIN. PITCH OF 36". HAND RAILS MAY ENCRUSCH A MAX. OF 5 1/2" INTO THE REQUIRED WIDTH. PER IRC SECTION R311.7

TREADS SHALL HAVE A MIN. PITCH OF 10" MEASURED NOSE TO NOSE. RISERS SHALL HAVE A MAX. HEIGHT OF 13 1/4". STAIR TREADS & RISERS MUST BE UNIFORM AND CAN NOT VARY FROM THE LARGEST TO THE SMALLEST BY MORE THAN 3/8". PER IRC SECTION R311.1.1

STAIRWAYS SHALL HAVE MIN. 8" OF HEADROOM AT THE NOSE OF THE STAIR. PER IRC SECTION R311.7.2

STAIRWAYS SHALL HAVE AT LEAST ONE HANDRAIL LOCATED 34" TO 38" ABOVE THE NOSING OF TREADS AND LANDINGS. THE HAND RAIL PORTION OF HANDRAILS SHALL NOT BE LESS THAN 1 1/2" OR GREATER THAN 2" IN CROSS-SECTIONAL THICKNESS, EXTENDING VERTICAL TO A POINT DIRECTLY ABOVE THE TOP RISE AND BOTTOM RISE IN A FLIGHT OF STAIRS PER IRC SECTION R311.7.3

36" MIN. HEIGHT (FROM FINISHED SURFACE) GUARDRAILS SHALL BE PROVIDED FOR AT PORCHES, DECKS, BALCONIES, STAIRWAYS AND LANDINGS WHERE THE ADJACENT SURFACE IS GREATER THAN 24" BELOW. PER IRC SECTION R312.1.2

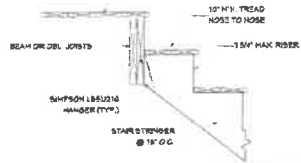
GUARDRAILS SHALL NOT HAVE OPENINGS WHICH WILL ALLOW A SPHERE OF 4" IN DIAMETER TO PASS THROUGH. PER IRC SECTION R312.1.3

EXCEPTION: IN THE TRIANGULAR OPENINGS FORMED BY THE RISER, TREAD, AND BOTTOM OF GUARDRAIL, SHALL NOT ALLOW A 6" DIAMETER SPHERE TO PASS THROUGH. PER IRC SECTION R312.1.3

EXCEPTION: IF GUARDS ON THE OPEN SIDE OF STAIRS SHALL NOT HAVE AN OPENING WHICH WILL ALLOW PASSAGE OF A 36" SPHERE. PER IRC SECTION R312.1.3

WINDER TREADS SHALL HAVE A MINIMUM TREAD DEPTH OF 10" MEASURED BETWEEN THE VERTICAL PLANES OF THE FOREMOST PROJECTION OF THE ADJACENT TREAD AT THE INTERSECTION WITH THE WALK LINE (IRC R311.7.4) BE LOCATED 12" FROM THE SIDE WHERE THE WINDER AND TREADS MEET. WINDER TREADS SHALL HAVE A MINIMUM DEPTH OF 8" AT ANY POINT WITHIN THE CLEAR WIDTH OF THE STAIRS. PER IRC R311.7.5.2.1

1. "FLOOR SHEATHING OR DECKING"



NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	1" x 1/2"				

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	1" x 1/2" x 1				

FLOOR PLAN NOTES:

1. DO NOT SCALE DRAWINGS. SEE PLANS FOR DIMENSIONS.

2. SEE GENERAL NOTES.

3. ALL RESIDENCE TO GARAGE DOORS SHALL BE 30 MIN. FIRE RATED, SOLID WOOD, SELF-CLOSING & SELF-LATCHING, NOT LESS THAN 1 5/8" THICK. (REFER TO PLAN FOR SIZES) (I.R.C. SECTION 503.5.1)

4. ALL DRIVEWAYS TO BE APPLIED PER I.R.C. SECTION 102.5.5.

5. PROVIDE 1/2" DRYWALL THROUGHOUT U.N.O. - 1" INSTALL PER I.R.C. TABLE 102.5.5.

6. CEILING DRYWALL SHALL BE 5/8" OR 1/2" GAB REEMANT 8'X12' PLATE BOARD.

7. ALL BEDROOMS ARE REQUIRED TO HAVE (1) EXCESS WITH A MINIMUM 5'1 1/2" NET OPERABLE AREA. EXCESS PERSON OPENINGS SHALL BE 20" MIN. WIDTH, 34" MIN. HEIGHT & 44" MAX. SILL HEIGHT.

8. PROVIDE TINTED GLASS WITHIN 24" OF OTHER VERTICAL GLASS OR DOORS & IN STAIRWELL, BATHROOMS, AND OTHER "NET" AREAS.

9. PROVIDE CONTINUOUS AIR BARrier AT ALL AIR CONDITIONED SPACES.

10. PROVIDE BACKER BOARD OR OTHER APPROVED MATERIAL BEHIND TUB AND SHOWER ENCLOSURES.

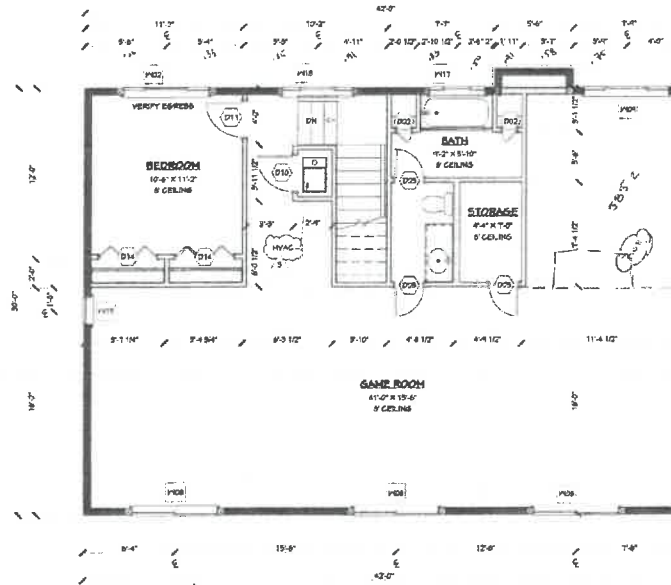
WALL LEGEND

VERTICAL EXTERIOR SOLID WALL:
2x6 KDF STUDS @ 16" O.C.
EXTERIOR SIDING PER OWNER
ON BUILDING WEEP & SHEATHING
PER GRADED WALL PLAN PW 8.14
INSULATION & 1/2" GYP. BD. INTERIOR

3\"/>

4\"/>

4\"/>



UPPER FLOOR PLAN

SCALE: 1/4" = 1'-0"



LONG DESIGN ASSOCIATES LLC
ARCHITECTS & DESIGNERS

10111 N. 10TH AVENUE, SUITE 100
DENVER, COLORADO 80231
TEL: 303.733.1111
WWW.LONGDESIGNASSOCIATES.COM

LUSTER RESIDENCE
646 SCOTT DR.

PARCEL NUMBER: 302-56-008A
PAVISON - ARIZONA - 63541

REVISIONS:

1. TO PAVISON 10/11/19
2. OWNER 10/11/19
3. TO PAVISON 10/11/19

DESIGN BY: BEN
CLIENT: LUSTER

DATE: 10/17/2019
JOB NUMBER: 18-010

UPPER FLOOR PLAN

A1.3





Staff Report



STAFF REPORT
TO THE
PLANNING AND ZONING COMMISSION
GILA COUNTY CASE NUMBER CUP-20-01

**REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW A THREE-STORY, 34' TALL
BUILDING HEIGHT FOR A SINGLE-FAMILY RESIDENCE**



**Public Hearing
June 18, 2020**

**610 East Highway 260
Payson, Arizona**

and

**1400 Ash Street
Globe, Arizona**

Case Details

Gila County Case Number:

CUP-20-01

Request:

Conditional Use Permit

Purpose of Request:

To allow a three-story, 34-foot in height building for a new single-family residence

Applicant:

Michael Luster

Owner:

Levi Luster

Staff Members:

Michelle Dahlke, Senior Planner

Scott Buzan, Community Development Director

Property Details

Assessor Parcel Number:

302-16-138A

Property Address:

645 West Scott Drive

Property Location:

Lot 44, Whispering Pines Plat #6

Project Area:

0.37

Current Zoning Designation:

R1L-D70

Current Comprehensive Plan Designation:

Residential (2-3.5 dwelling units per acre)

Current Land Use:

Single-Family Residence under construction

Surrounding Zoning and Land Uses*:

North – R1L – D70

East – R1L – D18

South – R1L – D18

West – R1L-D70

*Please refer to the zoning maps on pages 3 and 4 of this report.



Figure 1: Aerial of Subject Property and Surrounding Area

SECTION 24
T11 1/2N R10E

WHISPERING PINES

Gila County Recorded Plat 142

TONTON NATIONAL FOREST

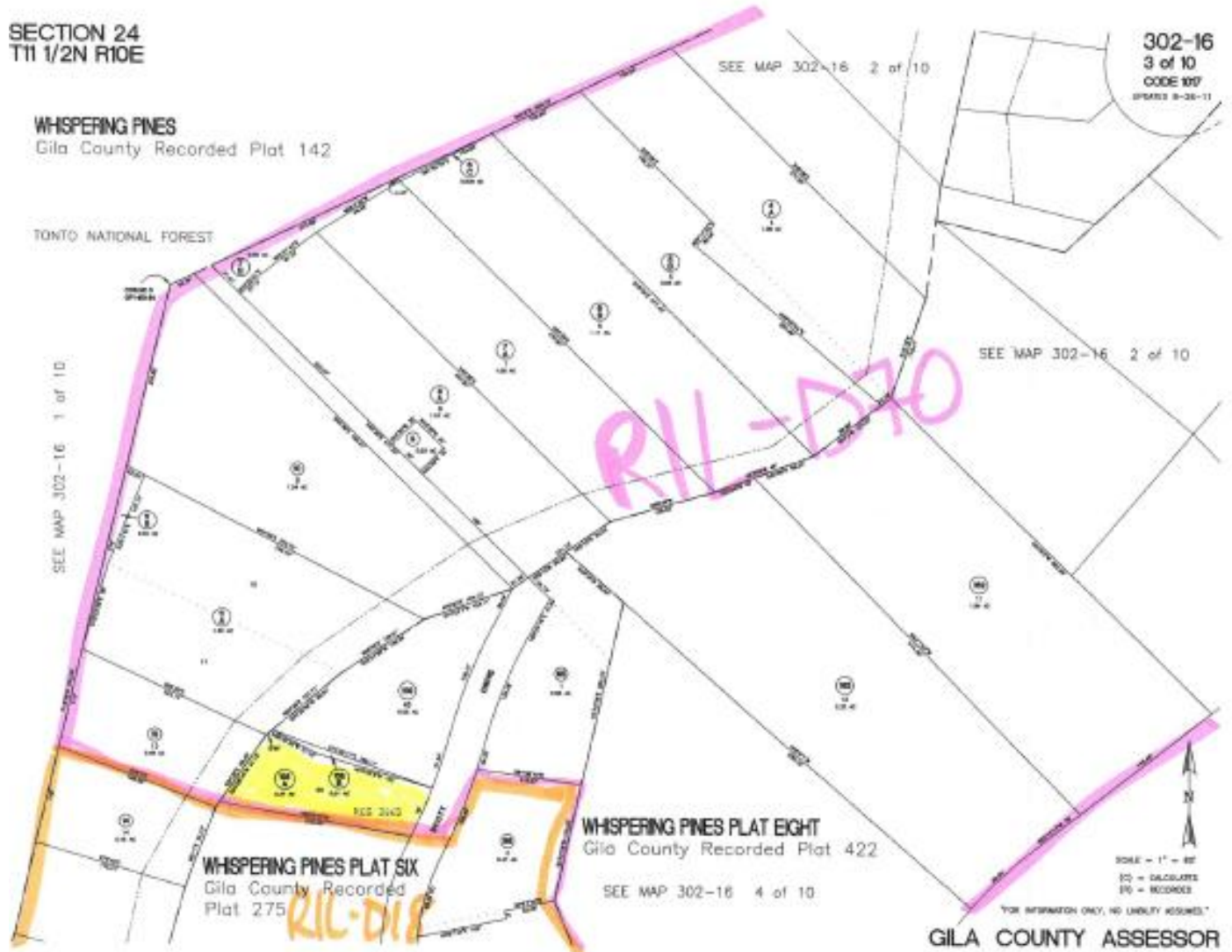


Figure 2: Zoning Map of the Subject Property and Surrounding Area to the North

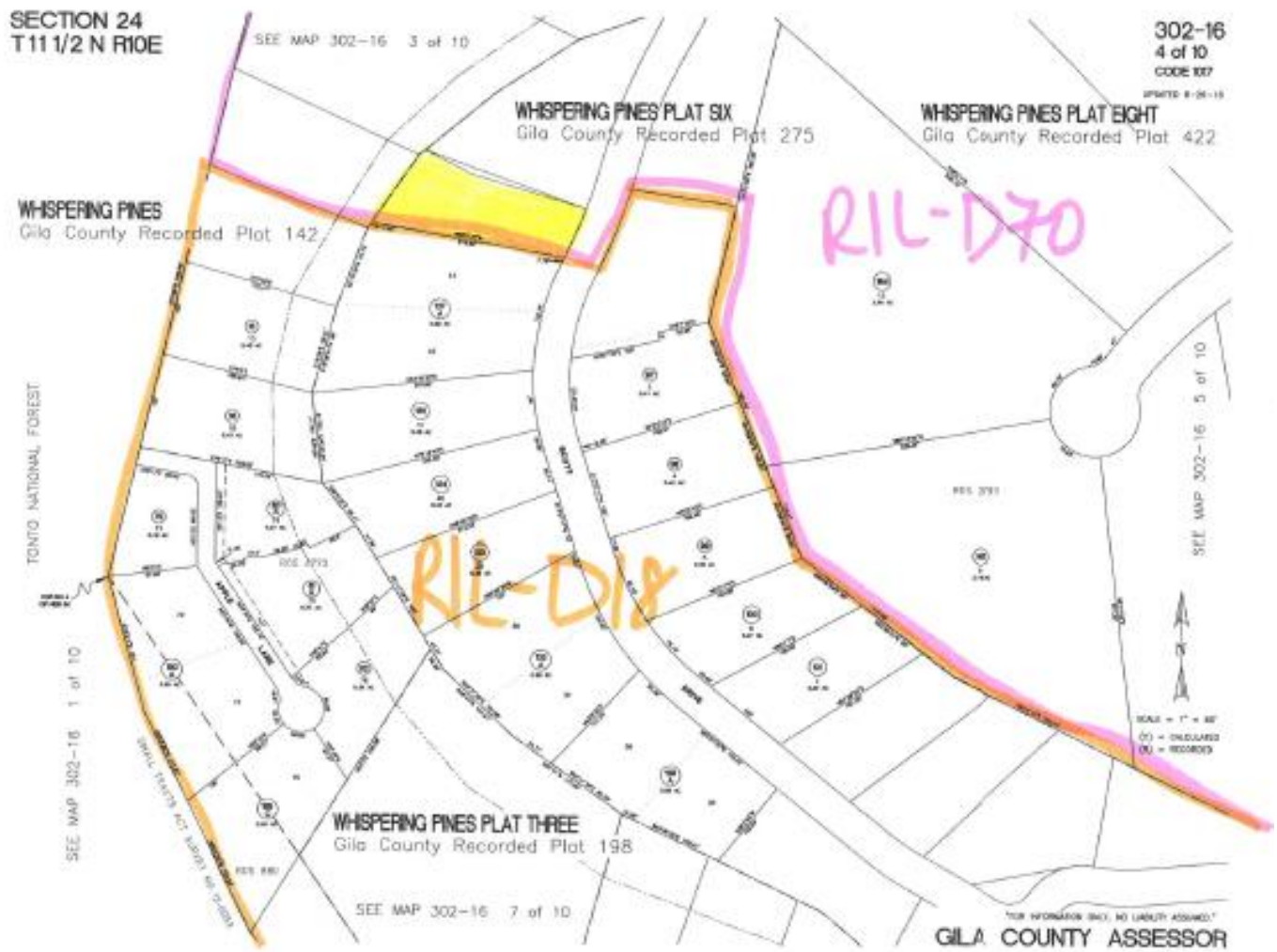


Figure 3: Zoning Map of Subject Property and Surrounding Area to the South

Property Background

- June 6, 2018: The applicant submitted a request for an Administrative Variance (AV-18-11) for a 10' front setback for a single-family residence where 20' is required.
- August 3, 2018: Case AV-18-11 was approved by the Planning and Zoning Division after sending notice of the decision to adjoining property owners and no appeals were filed during the 15-day appeal period.
- June 5, 2019: A Plan Development Information Form (PDI) was submitted by the applicant to the Community Development Department as required prior to an application being filed for a building permit.
- June 6, 2019: The Floodplain Division returned the PDI indicating a Floodplain Use Permit (FUP) was required; the Grading & Drainage Division returned the PDI indicating that no grading permit would be required.
- June 10, 2019 to August 27, 2019: The applicant submitted a building permit request for a two-story home to the Floodplain Division related to the FUP. When the applicant was informed that the Floodplain Division was requiring them to raise the house for elevation purposes to meet FEMA floodplain requirements, the applicant decided to change what was to be a crawlspace to a garage.
- August 27, 2019: The Floodplain Division issued an FUP.
- August 29, 2019: The applicant submitted building plans to the Building Safety Division where a permit technician accepted the plans and routed them for review.
- October 17, 2019: The building plans were approved by the Building Safety Division.
- October 18, 2019: The Building Safety Division issued the building permit to the applicant.
- November 11, 2019: The Building Safety Division conducted the first inspection on the foundation of the house.
- April 8, 2020: A complaint was received about the building's height and proximity to the road. Community Development Department staff confirmed that the building height portion of the complaint was valid. It was determined that the permit technician failed to verify the building's height met zoning requirements at the time of plan submittal and when the height was questioned by the plan reviewer, it was mistakenly approved. In addition, it was discovered that the building is 3 stories due to the change from crawlspace to garage.
- April 21, 2020: The applicant submitted a request for a Conditional Use Permit (CUP).
- May 16, 2020: The applicant held a neighborhood meeting using Zoom Meeting to discuss the CUP application with neighbors.
- May 21, 2020: The CUP application was on the agenda for Planning and Zoning Commission hearing but was requested and approved to be continued to the June 18, 2020 hearing to meet the Zoning Ordinance requirement of allowing 30 days for comments to be submitted after a neighborhood meeting is held. Because it was noticed as a public hearing, the public were provided the opportunity to speak.

Project Description

The applicant is proposing to complete construction of a three-story, 34' tall (measured from grade level to the mean height between eaves and ridge for gable or gambrel or hip roofs) single-family residence. The Gila County Zoning Ordinance states that in the R1L Use District, a CUP shall be required for any building exceeding two stories or 30 feet above ground level.

A copy of the site plan provided by the applicant is located on page 7 of this staff report. The applicant contends that due to FEMA floodplain requirements, they were required to design the home with a FEMA base flood elevation of 6' above grade as depicted on the Luster building plans. Rather than construct the home with an exposed pier system under the home, the applicant proposed to utilize the extra space under the home as a garage, which resulted in the home becoming a three-story structure, 34' in height. A copy of the Gila County Floodplain map for the subject property is located below, identifying a significant portion being located within the floodway.

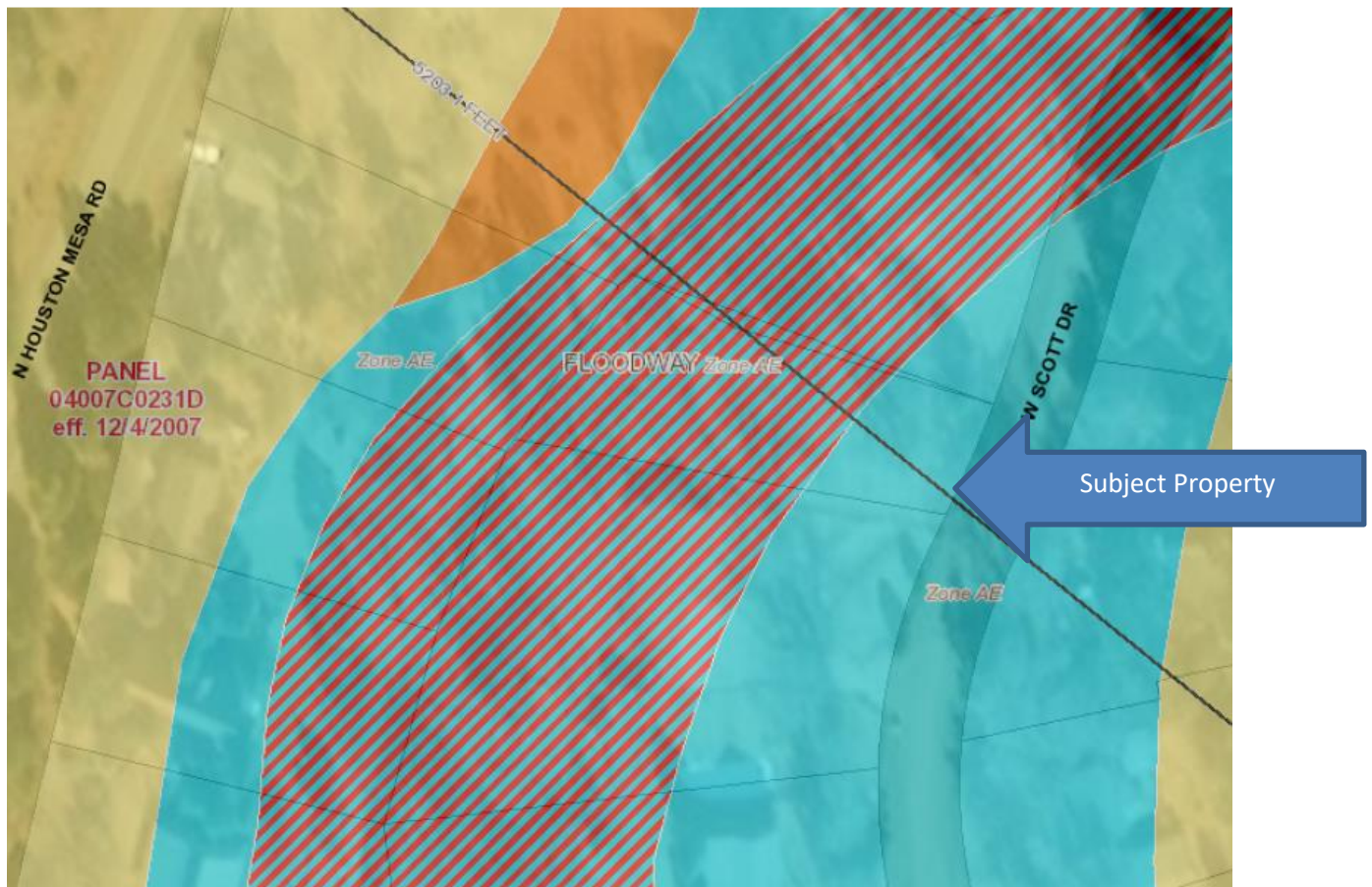


Figure 4: Gila County Floodplain Map

The building elevations submitted to the Floodplain Division in June of 2019 depicted a two-story residence with a 30'-5 3/16" building height measured from the top of subfloor - 1st floor to the highest ridge of the roof.

The building plans submitted to the Building Safety Division in August of 2019 reflected a three-story structure with a building height of 30' - 5 3/16" measured from the top of subfloor floor to the top of the ridge. Renderings and north elevations of the Floodplain Division and Building Safety Division are provided on pages 12 through 14 of this report.

LUSTER RESIDENCE

645 SCOTT DR
PAYSON, AZ. 85541
302-16-138A

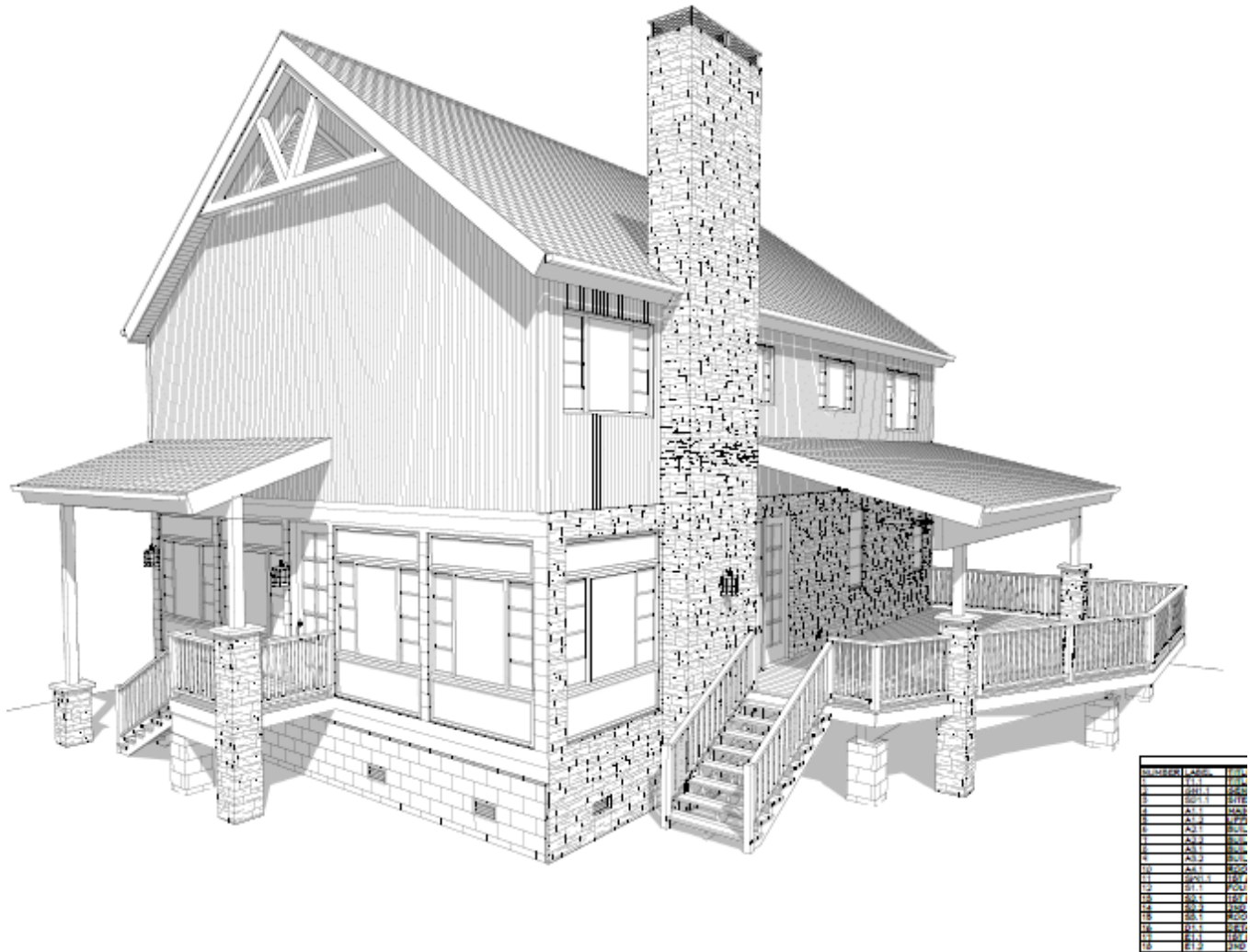


Figure 7: Rendering of Luster Home with Floodplain Submittal

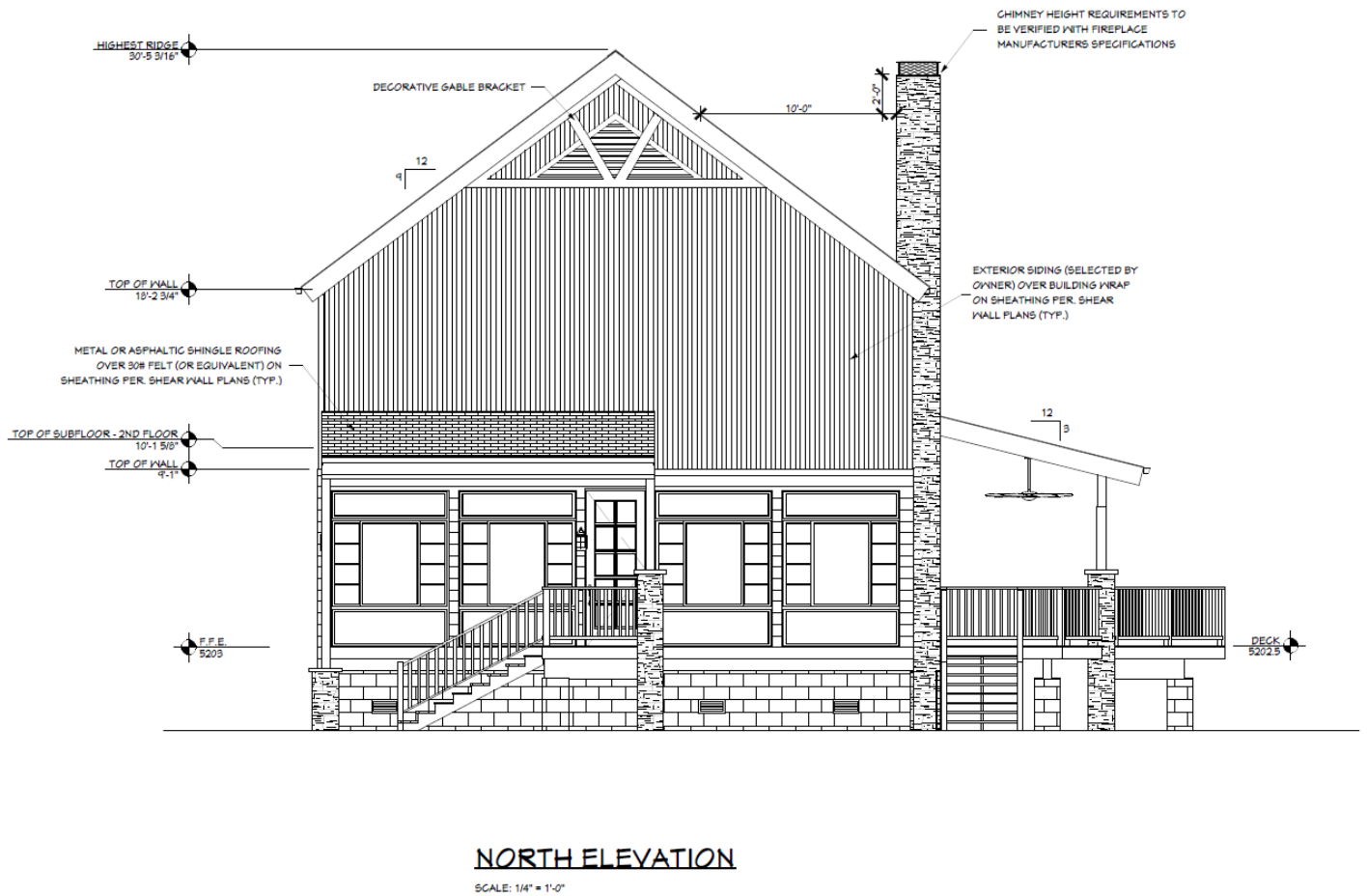


Figure 8: North Elevation of Luster Home with Floodplain Submittal

LUSTER RESIDENCE

645 SCOTT DR
PAYSON, AZ. 85541
302-16-138A



Figure 9: Rendering of the Luster Home Provided with Building Permit Submittal

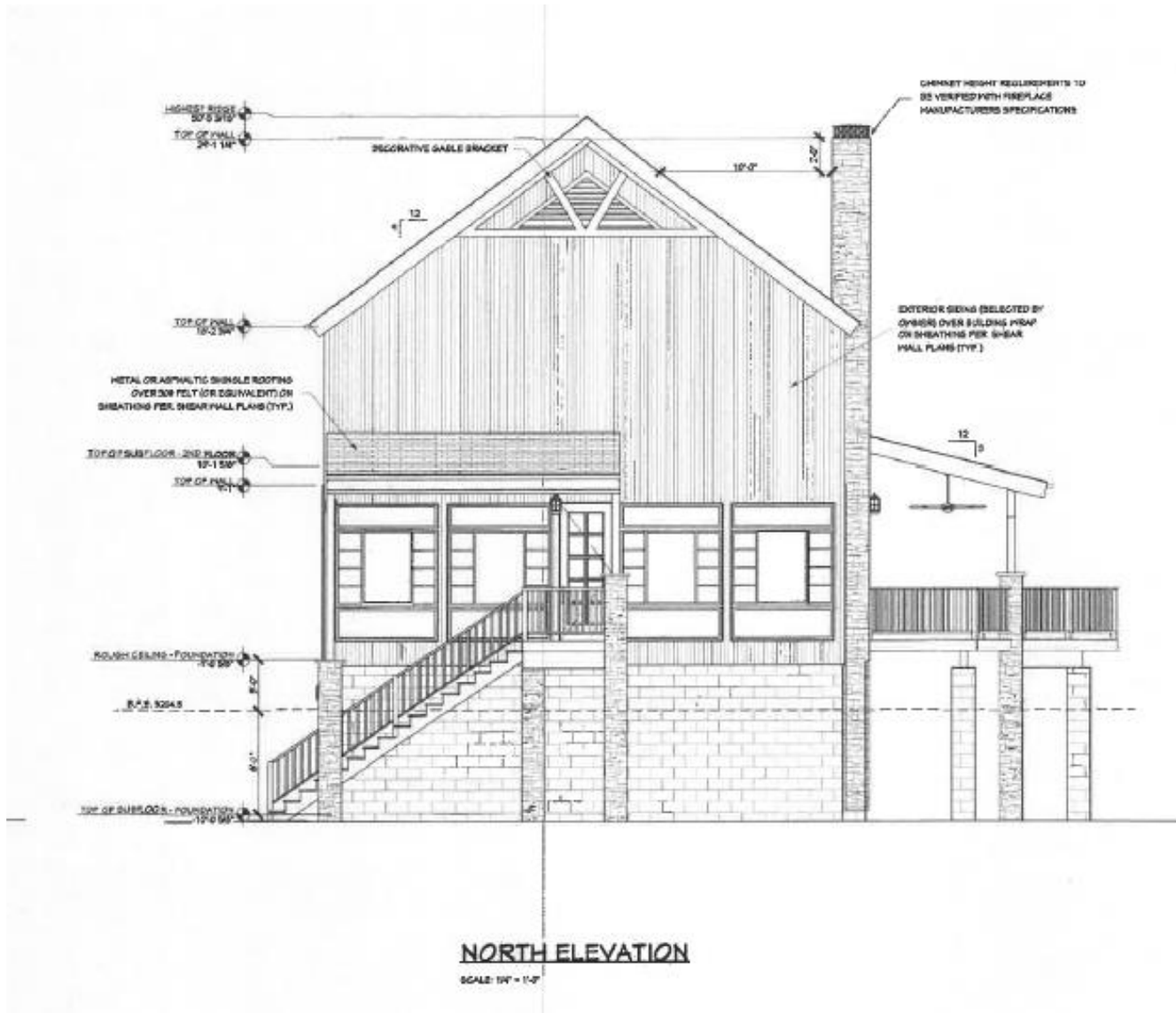


Figure 10: North Elevation of the Luster Home Provided with the Building Permit Submittal

Citizen Participation

A neighborhood meeting was held on May 16, 2020 via the Zoom Meeting format to provide neighbors the opportunity to learn more about the application for the CUP and to ask questions of the applicant and Community Development Department staff. A total of 19 people were in attendance including Mr. and Mrs. Luster (applicant) and 3 staff members from the Community Development Department. Detailed minutes of the neighborhood meeting are located in the enclosures section of this report. In summary, neighbors expressed concern with the building height and number of stories, the septic system approved for the property, and the 10' front yard setback that was approved with Administrative Variance case AV-18-11.

Neighbors also had the opportunity to ask questions and express concerns regarding the application at the May 21, 2020 Planning and Zoning Commission meeting during the public hearing portion of the meeting. A copy of the minutes associated with this meeting is included in the staff packet for approval by the Planning and Zoning Commission at June 18, 2020 meeting.

Staff Review and Analysis

Community Development Department staff conducted a site visit of the subject property and surrounding area. The site map on the following page identifies the location where each photo was taken in relation to the subject property and the related photographs are provided throughout this staff report. The parcels with residences on both sides of Scott Drive, the road on which the applicant's residence is being constructed, consist of 12 single and 17 two story homes. On the roads Neal Drive and Neal Spur that provide access to Scott Drive, there are 9 single and 25 two story residences.

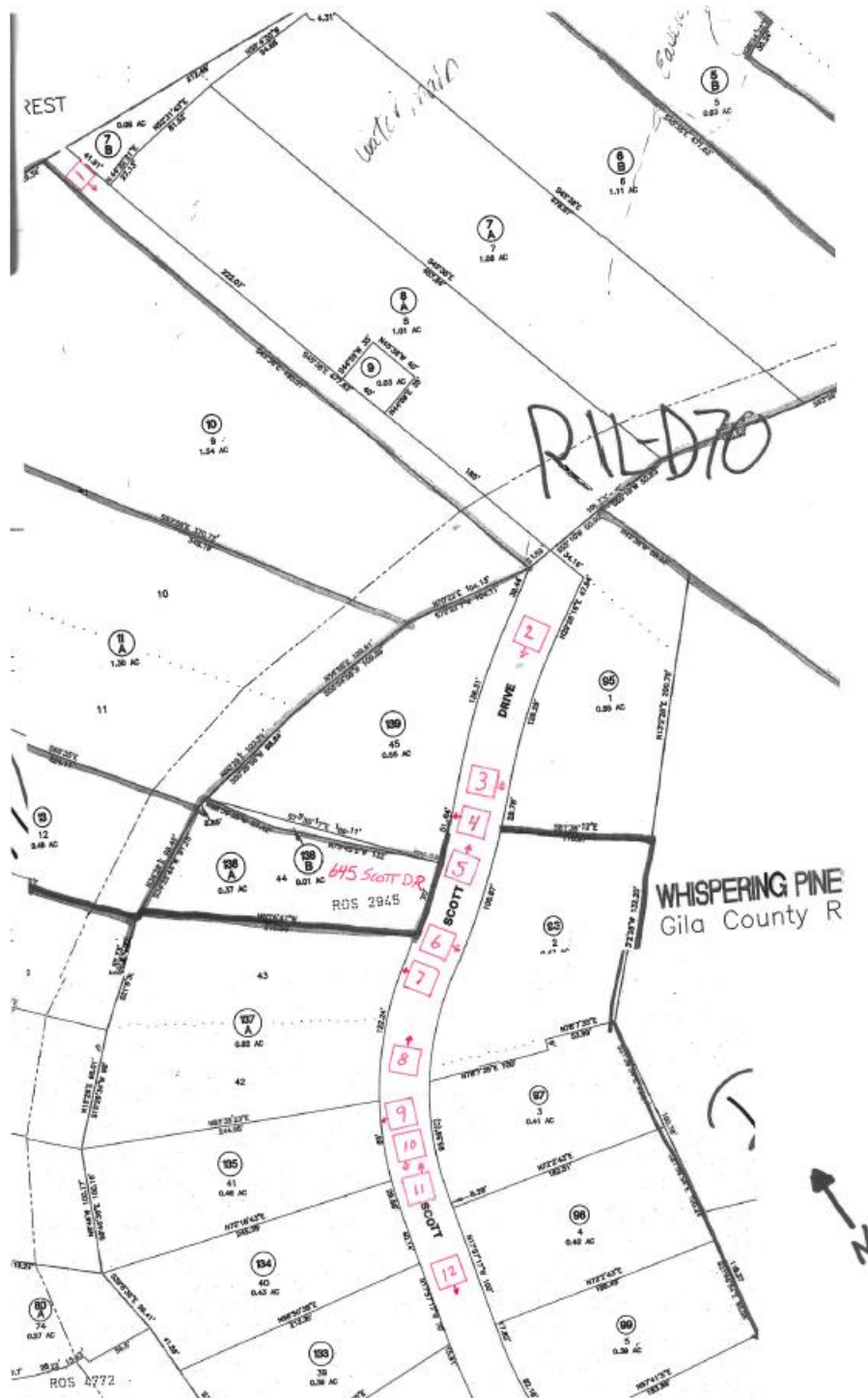


Figure 11: Site Map for Photos of the Subject Area and Surrounding Area



Figure 12: Photo # 1



Figure 13: Photo # 2



Figure 14: Photo # 3



Figure 15: Photo # 4



Figure 16: Photo # 5



Figure 17: Photo # 6



Figure 18: Photo # 7



Figure 19: Photo # 8



Figure 20: Photo # 9



Figure 21: Photo # 10



Figure 22: Photo # 11



Figure 23: Photo # 12

As soon as it was determined that Gila County made an error in issuing a building permit for the three-story home with a 34' building height, the applicant was contacted, and the error was explained. Additionally, it was explained that a CUP is the only permit offered in the Gila County Zoning Ordinance to request an increase in building height over 30' and over two stories in a R1L Use District. The applicant submitted an application for the CUP and because of their cooperation, a stop work order was not issued. Wall and roof sheathing has been installed after the submittal of the CUP application, but Gila County has not performed any building inspections due to a change made in the truss design that resulted in the need for an engineer's approval of the wall sheathing. In light of the fact that the error was made in the issuance of the building permit, the Planning and Zoning Division is not offering a recommendation regarding this CUP request.



GILA COUNTY PLANNING & ZONING COMMISSION

MINUTES
May 21, 2020



**MINUTES OF THE GILA COUNTY
PLANNING AND ZONING COMMISSION**

Thursday, May 21, 2020

**In order to decrease COVID-19 exposure, the members of
the Board of Adjustment will conduct their public
hearing via a telephonic conferencing platform.**

10:00 A.M.

REGULAR MEETING

1. The meeting was called to order at 10:00 A.M. by Chairman Mickie Nye.
2. Pledge of Allegiance was led by Travis Holder.
3. Roll Call: Shealene Loya called the roll; Chairman Mickie Nye (Present), Travis Holder (Present), Lori Brown (Present), Brian Goslin (Absent), Terry Otts (Present), Randy Slapnicka (Absent), Mary Lou Myers (Present), Jim Muhr (Present) and Pamela Griffin (Present). A quorum was present.

Community Development Staff Members Present: Scott Buzan-Director, Michelle Dahlke-Senior Planner and Shealene Loya-Administrative Assistant.

4. Review and Approval of the Planning and Zoning Minutes on February 20, 2020 (26:55 on meeting recording). Chairman Nye asked if there were any changes needed to the minutes. No changes were suggested. Mrs. Brown motioned that the minutes be approved as is and Mr. Holder seconded the motion. The motion was unanimously approved.
5. **Director/Planner Communication:** At any time during this meeting of the Planning and Zoning Commission, the Director and/or Planner of Community Development may present a brief summary of current events. No action may be taken.

Community Development Department Director Scott Buzan thanked everyone for their cooperation and willingness to participate in the Zoom meeting and stated that he was hopeful that with the way things are going with the relaxation of COVID-19 restrictions, that the next meeting will be in person. He noted that Mr. Jeff Dalton, Deputy County Attorney and Mr. Homer Vela, Deputy County Manager, were on the Zoom meeting. He stated that staff would give an update on past agenda items for the Planning and Zoning Commission ("Commission") at the next meeting.

Information/Discussion/Action:

Public Hearing:

6. **CUP-20-01 LEVI LUSTER (OWNER) / MICHAEL LUSTER (APPLICANT)**- A request to allow a three-story, 34 foot tall building height (measured from the grade level to the mean height between the eaves and ridge for gable and hip roofs per the Gila County Zoning Ordinance) for a new single-family residence where the maximum building height permitted is two stories and 30 feet. The property is located at 645 West Scott Drive (Lot 44 Whispering Pines Plat # 6) (APN 302-16-138A).

Chairman Nye indicated that the item on the agenda, CUP-20-01 to permit a three-story, 34' tall single-family residence, will be continued until the June 18, 2020 meeting. Chairman Nye stated that the Commission will listen to public testimony at this meeting and asked staff to clarify if the Commission can ask questions. Mr. Buzan stated that the Commission can ask questions but not take action on the item.

(Review and Approval of Minutes) Chairman Nye asked if everyone had the chance to review the minutes of the Commission hearing on February 20, 2020 and asked for a motion to approve the minutes. Commissioner Brown made a motion to approve the minutes and Commissioner Holder seconded the motion. The motion was unanimously approved.

Chairman Nye introduced item CUP-20-01.

Mr. Buzan stated that he asked that this item be continued until the June 18th meeting and that the Gila County Zoning Ordinance states that a neighborhood meeting must be held as part of the Conditional Use Permit ("CUP") process and that it also states 30 days prior to the Commission meeting comments from the neighborhood meeting must be provided to staff and that information is then made part of the staff report to the Commission. He stated that the neighborhood meeting was held this past Saturday and that staff is currently in the process of compiling all the comments made at that meeting and that they will be including them in the staff report that will be submitted in the staff packet prior to the June meeting. He stated that staff will also make this report available to the public upon request, and because this meeting was noticed as a public meeting, the public has the opportunity to speak.

Chairman Nye opened the meeting up to the public.

Mr. Ted Schmidt (642 West Scott Drive): Mr. Schmidt stated that the structure is a total abomination, is out of place, and ugly. He stated that everyone should go look at the property to get an idea of its proportions and size in relation to everything else. He said the house does not fit the area and is against the whole community's look and feel and that is it too close to the road and is going to create a parking problem.

Heidi Swatty (289 W. Roundup Way): Ms. Swatty asked if there will be any time constraint as far as people who want to speak at the June 18th meeting.

Chairman Nye indicated there will be not be a time limit, but he does not want comments to be redundant.

Ms. Swatty asked that if someone could not be there in person, could they call in? Mr. Buzan responded that comments can also be emailed, mailed in or dropped off at the Community Development Department prior to the Commission meeting. Mr. Buzan stated that if anyone wanted to call in to the meeting, he could provide his cell phone number and then put a caller on speaker at the meeting.

Debra Luster asked if the issue on the table was just the height issue or if the number of stories was also an issue. Chairman Nye and Mr. Buzan confirmed it was both.

Mrs. Luster stated that she was confused as they were told the house is two stories, not three and that there is a 9' stem wall that has massive grates for the water to flow through and that it is a two-story house. She stated that the home was approved through County Floodplain and that it was their requirement to have the 9' stem wall. She indicated they have gone through every single thing that the County has required and that at no time has this ever been called a three-story residence. She indicated that Mr. Buzan said it was a three-story building in the community meeting, but that no one ever has spoken to them regarding any other issue other than it being 4' feet over the height requirement.

Mr. Buzan stated that per the Zoning Ordinance any wall above grade greater than four foot, six inches is counted as a story and that it does not matter if it is a garage or a crawl space or habitable space. He stated if it's not partially buried, or is only partially buried, but four foot six inches above grade is exposed, it still counts as a story.

Mrs. Luster stated that they had never been told this and asked if the County has made a more massive error in approving the plans than just the height.

Mr. Buzan stated that from the beginning the County has said that there were two errors, one dealing with the number of stories and one with the height.

Mrs. Luster stated that at the community meeting it was not clear that the issue had to do with height and stories and that they have never had a phone call or anything about that. She indicated that they have walked through every step, according to what Floodplain and the County required, and have been given green tags and been through eight inspections with approvals. She said that they have zero responsibility in this situation. Mrs. Luster also stated that at the community meeting the County told everyone that the Lusters were not responding to phone calls and that has created more hostility toward them from the community and implied or insinuated that they are being antagonistic and not cooperating when that is not true that they have been avoiding calls. She stated that they only have records of two calls coming in 15 minutes apart and that they cannot take calls during work and cannot always respond that quickly. She stated that the County could have done a lot to reduce the hostility that occurred in the community meeting. She stated that plans were already approved, and it has taken six business days to try to talk to an inspector to somebody about why there was an inspection done when they didn't call for an inspection.

Mrs. Luster stated that the community has been told more information than the Lusters about why the inspections have stopped. She stated that now they are looking at at least a minimum of a two-month delay and that they are being penalized for something they had absolutely zero responsibility for. She stated that when Scott Buzan asked for a compromise

to take four feet of the roof that it felt like they were being harassed or blackmailed because they were being asked to spend another \$30,000 to \$40,000 to pay for the labor to tear off all of the trusses.

Mrs. Luster stated that what the County is asking for is extensive and that the County is asking them to take full financial responsibility for the County's mistake. She stated that they are confused that the County has not tried to work with them on this project and that they are not getting the kind of communication that they give the community. She stated that they need to know on what ordinance or legal grounds the County has to stop all of their building based on the County's errors.

Mr. Buzan stated that in a conversation he had with a neighbor, he had been asked if he had spoken to the Lusters and at that time, he had left multiple messages and had not spoken with them and that is all he said. He said he had just mentioned that he'd had a couple messages in and had not heard back from them. He indicated he did not have any intention to say that the Lusters weren't cooperating. He stated the Chief Building Official Randy Plumier had left multiple messages to explain to the Lusters about the reason that the County was not proceeding with any inspections and that the reason for that is that the trusses have changed. He stated that the Lusters changed the truss design and truss manufacturer that the County did not approve at the time of plan review and in doing so the Lusters have changed the end wall and the trusses and that is a violation because the stud height is too tall for prescriptive code and the wall bracing changed. He stated that there is an inspector's report out there that states the Lusters are going to need engineering and that the County cannot approve a wall brace, the wall sheeting and the roof nail because the County has not approved the trusses. Per the Building Code, they cannot proceed until they have everything they need and that includes engineering for the wall bracing and the new truss calcs, which they now do have in the office showing that the Lusters have gone with a vaulted truss or scissor truss, versus common trusses, and from a different truss company. He indicated he placed a call to the Lusters earlier in the week to discuss options and that he never mentioned financial hardship or liability. He stated that he wanted to discuss various options that might be available and get a dialogue going.

Mrs. Luster stated that that option that the County has put out has massive financial implications for them and zero implications for the County and that the County has shut their job down and that they have big concerns about what is really happening.

Chairman Nye stated that he suspects part of what's going on is that the County can't move forward without direction from the Commission and that the Commission has two issues to make a decision about. One is the height of the home and the fact that according to the definition they have been given, the house is three stories. He stated that he can't speak to the inspections, but he believes the County can't really move forward until the Commission makes some decisions and asked Michelle Dahlke for clarification.

Michelle Dahlke, Senior Planner, stated that from the zoning perspective, the zoning ordinance has the 30-foot height, two-story maximum requirement unless a CUP is approved and that those two issues are what the Commission has to address and made a decision about at their next meeting.

Mr. Buzan stated that in the application for the CUP, it states that the Lusters are applying for a CUP to allow a three-story home with a height of approximately 40 feet to the peak and the application is dated April.

Mrs. Luster stated that they did not fill that out, the County filled it out and asked them to sign.

Mr. Buzan stated that there is typed statement signed by Mr. Luster.

Mrs. Luster said she would like a copy of that statement.

Mrs. Luster stated that the house does not fit in and that most of the houses in the area are 40 to 50 years old and that this is a new build. She said she does not know how long there's been a home that's been built on the creek, but per FEMA and County flood control, there is

only the small area to build on the property which was not their choice. She stated she did not have any concerns about parking.

Mrs. Luster stated that this will be the second nicest house in this entire community. She said they have had neighbors who have looked at their house plans and that when neighbors refer to the house as an ugly abomination, monstrous, and an eyesore, there are properties there that look like they have had absolutely not had any maintenance for 50 years and some have not been cared for. She stated that one of the comps that they were given stated that the value of this house when finished would be \$450,000 to \$550,000 and that will add value to the homes in the area. Mrs. Luster said the neighbors are harassing their workers and themselves.

Chairman Nye stated that they do not have to make a decision until the third Thursday of next month.

Commissioner Brown asked for clarification from Mr. Buzan about the floodplain requirements related to the house and asked that if the plans that went through the County show a stem wall or garage.

Mr. Buzan stated that the plans were approved as a garage and that when the plans were originally submitted to floodplain, it had a shorter stem wall and that after discussions with the floodplain administrator, that is when the Lusters had to raise it and that he had heard that the Lusters didn't like the look of the house on piers so they went with a stem wall and decided that instead of a crawl space, it would be a more usable space as a garage.

Commissioner Brown asked for clarification on what is considered the third story of the house.

Mr. Buzan stated that the trusses had a 9/12 pitch to them which is a fairly steep pitch. He stated that he wanted to bring to the Luster's attention that if they reduced that pitch to a

5/12, it would reduce the mean height by almost five feet which would bring the home into compliance with the 30 foot high requirement because the County measures to the means of the roof and not the peak of the roof but that there would still be a third floor.

Commissioner Brown stated that she has a problem with the County conducting eight inspections when they knew the home was three stories and that she has a problem with that for the owners and asked who is going to pay for the expense of taking the trusses off to meet the 30' height requirement. She also stated that she is not happy about this situation because the Lusters are being held up, they have a lot of money invested in the house and that the Commission has to make some decisions very quickly and try to come up with a compromise since the neighbors are upset.

Mr. Buzan responded that the County has conducted some inspections, but he did not know the number of them. He said the issue came to light when the County received a complaint in April after it was framed but that the first step is to go through this CUP process and depending on how the Commission rules and Board of Supervisors rule, then talks can take place regarding fixing the problem. Mr. Buzan clarified that the County had approved the plans in error.

Commissioner Brown stated that she has a real problem that the County approved the plans and now the owners are having to wait until July to get an answer on the CUP.

Heidi Swatty clarified three main neighbor concerns; the height of the house, the stories of the house and the septic system on the property. She stated that the Commissioners may want to drive by the house to see it in person versus relying only on photos and was concerned the Commissioners may make a decision without visiting the property.

Commissioner Brown stated she would visit the property and had not made up her mind and attended the meeting today to get all of the background information.

Chairman Nye stated that the Commissioners are under an obligation to hear testimony from everybody and that he did not think that anyone had made a decision with regards to the item one way or another. He stated that the Commissioners would review the packet carefully and will contact staff with any questions.

Mr. Buzan clarified that the Commission will receive a full packet which will encompass all of the comments at the neighborhood meeting and that the staff report will be available to anyone who wants to review it.

Heidi Swatty suggested that when issues arise like this, that it may be important to do a full audit of the County's processes from start to finish because there's a lot of concern in the community that maybe there are more errors that have been made relating to the floodplain and the height of houses.

Mr. Buzan stated that he would speak to County Management about conducting an audit and would get back to the Commission.

Heidi Swatty said that would relieve a lot of the concerns that neighborhoods have. She indicated that she was sad to hear the Lusters feel they are not welcome because that is not what their community was about but that it was not personal. She was concerned about setting a precedence in the area for three story homes.

Ted Schmidt stated concerns with the septic system on the property and that he believed the information being presented was incorrect about when the septic tank was installed on the property.

Mr. Buzan stated that County records show that a septic system was approved in 1989 and that the records do not show the size of the system, the size of the tank or the leach field size and when that happens, the County requires a clearance letter be submitted. He said the owner has to hire a septic company to come out size the tank, do a water test, locate the tank and the leach field and determine how many lines are in the leach field and then certify that the system is in good shape and can be used. The clearance letter indicted that the tank for

the home was a thousand-gallon tank, which allows it to qualify for a three-bedroom, 21 fixture residence.

Ted Schmidt stated that he was told there are two wells on the property that are within 60 feet of that septic system and they should be at least 100' away.

Mr. Buzan stated that there is an ADWR rule that there has to be 100 feet between a well and a septic system.

Ted Schmidt stated that somebody had said at the last meeting that there were two wells within 60 feet.

Mr. Buzan stated that once the septic system was approved back in 1989, it's in a sense grandfathered at its location. He does not know if the well was existing at that time the septic tank was installed.

Chairman Nye stated that he wanted to make sure that everyone on the call who wants to come in person can come to the June 18th meeting.

Mr. Buzan stated that the County will repost the property, notice it in the newspaper and that anyone can contact the County about the meeting details.

Teresa Richardson (3261 N. Neal Drive): Asked for clarification as to the issue between a 6' and 9' stem wall and if that requirement came directly from Floodplain and why they wanted a 9' wall instead of a 6' wall.

Mr. Buzan stated that was a FEMA requirement and what the County saw on the plans submitted was that the draftsman had put the six foot to bottom of finished floor to grade and that Mr. Luster had said that he was under the impression that the Floodplain Use Permit required 9' and Mr. Buzan said he needs to still clarify which it is.

Teresa Richardson asked if Mr. Buzan could have that prior to the next meeting and Mr. Buzan indicated that he would.

Teresa Richardson asked if there was an issue with the trusses and if the trusses changed between approval and construction.

Mr. Buzan stated that during the review process, the plans showed what are known as common trusses, which have a flat ceiling, still the same 9/12 pitch and pretty much the same height. He said he believes there is a two-inch difference in the overall height of the new trusses from the previously trusses. When the complaint was received in April and staff went out to take pictures, he said they noticed that the truss design had changed, and the truss company also changed. So now there is still a 9/12 pitch, but they have a vaulted ceiling or what is called a "scissor trust" and staff had not approved that design.

Teresa Richardson asked for clarification if the new trusses changed the height and Mr. Buzan stated that he believed it lowered the height by about 2 inches.

Teresa Richardson stated that she feels bad for the Lusters that their plans were approved and they went on with construction but she feels that they have some culpability and that when you build a home, you know what your zoning code is, what your height restrictions are, what your story limitations are. She said that the County's online site is very user friendly and she was clearly able to see that a for a building, four-foot six-inches is a story. She stated that the Lusters were told in April what the issue was and they continued with construction and they were told that they would have to come in and get a CUP and they were responsible for some of these financial implications of going ahead with construction when they knew they needed a CUP.

Commissioner Griffin asked if the Commission was going to go into executive session before the June meeting.

Chairman Nye stated that it would not be possible at this meeting because the meeting has not been posted that way but that they could make that happen before the next meeting.

Ann Brannigan (642 West Scott Drive): Indicated she lives across the street from the Lusters home. She asked if the Commission was provided with what was said at the neighborhood meeting. She stated she was concerned that she thought the Lusters brought in laborers to try to get as much work done as they could on the house before the neighborhood meeting and Commission meeting and that the workers were loud every day for two weeks. She said the Lusters have shown no regard for the neighbors or the neighborhood. She stated that she wanted to respond to the Luster's comment that it does not look like some of the homes in the neighborhood have been cared for in 50 years and that she was almost 80 years old and has been in the area for 25 years and that she worked like crazy to have her property look good but due to her age, she is unable to take care of it anymore.

Mrs. Luster asked to respond and said she does not understand why facts don't matter. She said that the workers had been scheduled for over two weeks to come and a very large crew was hired. She said there was nothing the County said that indicated they needed to stop. She said there were no ulterior motives and that they never thought this was ever going to be an issue on them because they have followed every single request and had a green light from the County.

Mrs. Luster stated that she does not know how they have been disgraced by the community so badly by building the only thing that flood control would allow them to build in this spot at this height. She said she understands that this may not be what the neighbors want because this property has been like a park for them, that they have been able to have access to the creek and that it is a huge loss for the community but she does not think they should have to pay or be thought of as arrogant and disrespectful when all they have done is follow the rules and have done what has been told of them by the County. She stated that they wanted to let the Commission to know that the workers were scheduled and they did not get the call from Randy to tell them that they could not put the skin on the roof until the skin was already on and that there is was no motive or ill intent.

Chairman Nye stated that he understood.

Chairman Nye asked for additional comments and then asked for a motion. Commissioner Brown made a motion to continue the item to the June 18 Commission meeting. Commissioner Muir asked when there would be an executive session and Mr. Buzan stated it would be on June 18th. Commissioner Muir seconded the motion to continue the item to the June 18th Commission meeting. Commissioner Brown asked if staff would get the packet to the Commission early and Mr. Buzan indicated they would. The motion passed unanimously.

Chairman Nye stated that they will have to figure out when to hold the executive session since there will be a Board of Adjustment meeting prior to the Commission meeting and asked what would be placed on the executive agenda.

Commissioner Griffin stated that in the executive session she wants to discuss policies and procedures for the future.

Chairman Nye asked Deputy County Attorney Dalton how the Commission can go about scheduling an executive session and what would be on the agenda.

Mr. Dalton stated that an executive session can be set up during a Planning and Zoning meeting by the first posting public notice advising the public of the Commission meeting, advising the public that the Commission may go into executive session and that during the meeting, the Chairman can move, or someone else can move, for an executive session, and that motion be seconded and approved by the Commission and then the Commission can go into an executive session, or, the Commission can have an independent executive session outside of a regular meeting by posting it and giving the public notice along with the general purpose of the meeting.

Chairman Nye asked what items are allowed to be reviewed in executive session.

Mr. Dalton replied that there are State Statutes that list what can be reviewed but that generally, executive sessions are to receive legal advice from the Commission's attorney or to discuss pending or threatened litigation and settlement discussions regarding litigation.

Commissioner Griffin stated that what she wants to discuss may be confidential because of people's privacy and not this situation in particular but others as well.

Chairman Nye stated that the executive session would happen but that they just need to coordinate it around the Board of Adjustment and Commission meetings.

7. **Adjournment.** Mrs. Brown made a motion to adjourn the meeting and Mr. Holder second the motion. The motion to adjourn was unanimously approved at 11:34 A.M.



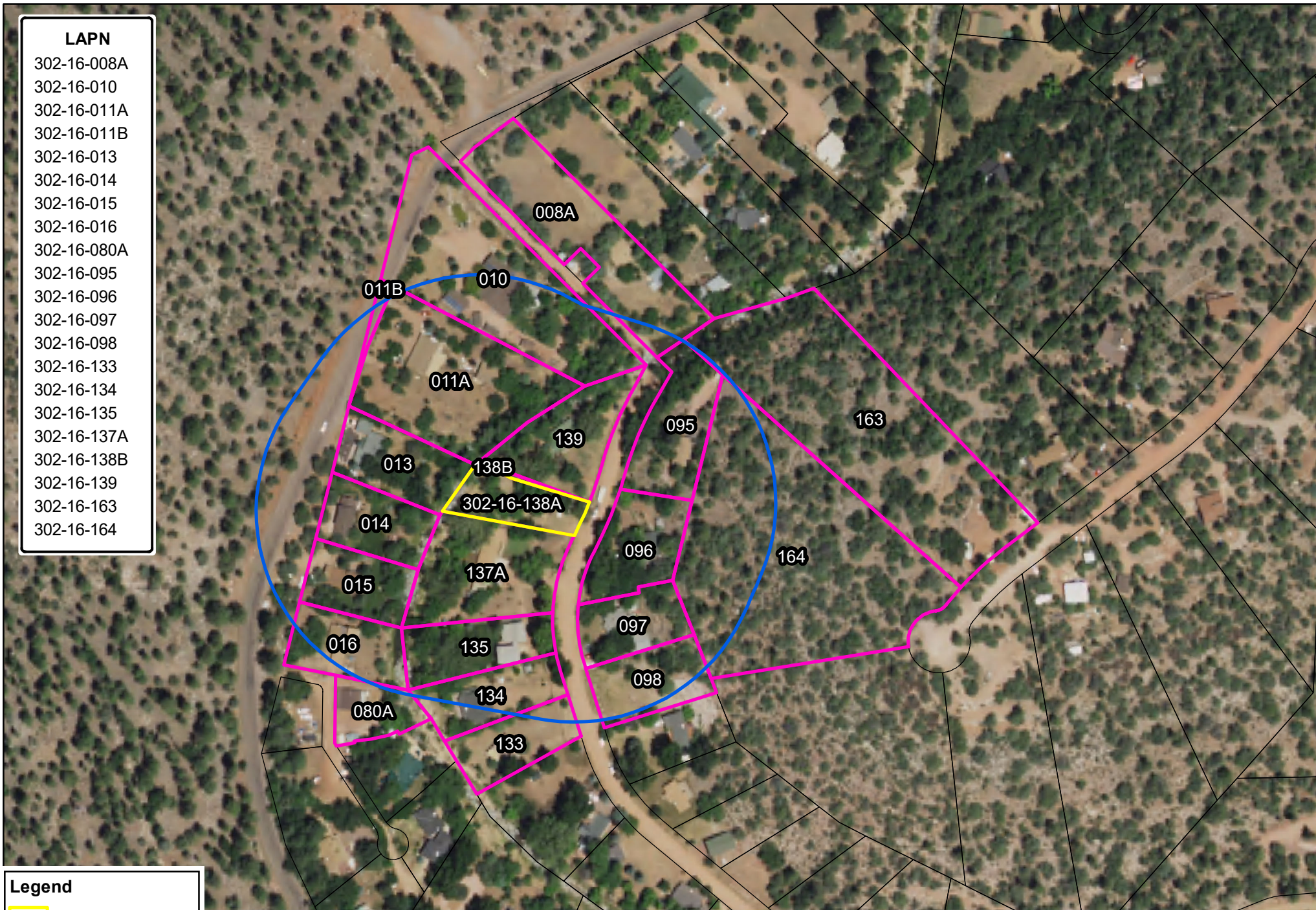
Neighborhood Meeting Letter, Materials & Minutes

LAPN

302-16-008A
302-16-010
302-16-011A
302-16-011B
302-16-013
302-16-014
302-16-015
302-16-016
302-16-080A
302-16-095
302-16-096
302-16-097
302-16-098
302-16-133
302-16-134
302-16-135
302-16-137A
302-16-138B
302-16-139
302-16-163
302-16-164

Legend

- APN 302-16-138A
- 300ft Buffer
- Selected Parcels
- Other Parcels



3002-16-138A 300ft Buffer

1 inch = 200 feet

0 150 300 600 Feet

Created 4/23/2020
Gila County GIS
Imagery Date: Sep 2019



NEIGHBORHOOD MEETING INVITATION

Date: May 8, 2020

Name of Project: Luster Conditional Use Permit Application

Reason for permit application: To allow a 3 story, 34 foot tall single family residence in an R1L zoned use district where 2 story and a maximum height of 30 feet is allowed without a Conditional Use Permit

Address Associated with Project: 645 West Scott Drive (Lot 44 Whispering Pines Plat # 6)

Gila County Case Number: CUP-20-01

Applicant Name: Michael Luster

Owner Name: Levi Luster

Applicant Phone Number: (602) 803-0861

Applicant Email Address: mikdeb74@hotmail.com

Dear Neighbor,

This letter is to invite you to a neighborhood meeting to discuss my request for a Conditional Use Permit filed with the Gila County Community Development Department on April 21, 2020. The neighborhood meeting will be held on Saturday May 16, 2020 at 10:00 a.m. In order to decrease COVID-19 exposure, the meeting will be conducted via Zoom Meeting. You can attend this meeting by computer by entering the web address or by phone using one of the toll-free numbers listed on the page accompanying this letter. If you are interested in this project, please attend the Zoom meeting to ask questions or voice your concerns. If you are unable to attend, please complete the accompanying comment form and send it to the above-referenced email address. You may also email or mail comments to the Gila County Community Development Department in care of Shealene Loya at sloya@gilacountyaz.gov or 745 N. Rose Mofford Way, Globe AZ 85501. All comments received will be provided to the Gila County Planning and Zoning Commission.

Thank you,

Michael Luster

Luster Neighborhood Meeting (Zoom Format)

Meeting Minutes

Saturday May 16, 2020 at 10:00 a.m.

Gila County Staff Attendees: Homer Vela (Deputy County Manager)*, Scott Buzan (Community Development Department Director), Michelle Dahlke (Senior Planner) and Shealene Loya (Administrative Assistant)

**Note that at the beginning of the meeting, it was stated that Mr. Vela would be in attendance, but he was unable to attend the meeting.*

Scott Buzan, Community Development Director, welcomed attendees to the meeting and stated that he would be the Zoom host for the meeting since it was his Zoom account but that the meeting was the Luster neighborhood meeting to provide information about a Conditional Use Permit (“CUP”) filed with Gila County. Mr. Buzan indicated that he would provide some background information and then turn the meeting over to Mr. Luster. He further explained that the neighborhood meeting was a requirement of the Gila County Zoning Ordinance to allow interested parties to receive information about the Luster’s CUP application. He confirmed that all comments received at the meeting, and those received via email or U.S. mail, would be provided to the Gila County Planning and Zoning Commission (the “Commission”).

Mr. Buzan explained the Zoom meeting format was being used due to COVID-19 and explained the meeting protocol. He explained that all comments received at the meeting would be submitted to the Commission and that the meeting would be recorded. Mr. Buzan stated that there were 19 total people in attendance on the Zoom meeting.

Mr. Buzan provided background regarding the Luster property including an Administrative Variance which was approved to allow a 10’ front yard setback for a proposed single-family residence where 20’ is required. He explained that several conditions existed on the property which warranted the Administrative Variance such as the fact that a majority of the property is located within a floodway, to retain 100-year old apple trees and that the septic system was already in place. Mr. Buzan explained that the Administrative Variance was approved in July of 2018 and became effective in August of 2018 after no appeals were received.

Mr. Buzan explained that in August of 2019, building plans were submitted to the Community Development Department and a permit was issued in October of 2019 for a 2-story, three-bedroom, two bath single family residence with an attached garage and open and covered decks.

Mr. Buzan stated that it was discovered in April of this year that the structure exceeded 30’ and is 3 stories. He clarified that the Gila County Zoning Ordinance permits 30’ in height and 2 stories unless approved through the CUP process.

Mr. Buzan explained that the building setbacks were confirmed and approved during the footing inspection conducted on November 7, 2019 and that the property lines were strung which was a requirement. Mr. Buzan confirmed that the building height and number of stories was missed in the review of the building plans. He stated that staff has been re-trained on how to measure building heights and additional measures have been taken to make sure this type of thing does not happen again.

Mr. Buzan further explained that the Lusters were contacted about the issue and were told that a CUP would be needed to permit the proposed building height and number of stories. He stated that Mr. Luster agreed to submit a request for a CUP and that no stop work order was issued due to the Lusters cooperation. He further stated that the Community Development Department has not conducted any inspections on the framing.

Mr. Buzan stated that the Commission hears CUP requests and can approve the CUP, deny it, refer it back to staff or approve it with conditions. It then goes to the Gila County Board of Supervisors for final approval. Mr. Buzan stated that at both the Planning and Zoning Commission and Board of Supervisor meetings, neighbors will have the chance to speak.

Mr. Buzan stated that he will be asking the Commission at their May 21, 2020 meeting to continue the CUP request to the June 18, 2020 meeting to allow time to provide the results of this neighborhood meeting in the staff report. Since the item was noticed as a public hearing, public comments will be heard at the May 21, 2020 meeting. The June meeting will be held in person.

Mr. Buzan asked meeting attendees to ask questions.

John Adamczyk (590 W Scott Drive): Asked if there any other inspections until now, before it was discovered that the building did not meet height requirements? Mr. Buzan stated that staff has conducted several inspections and there were approved plans onsite showing the building height, but the inspector who inspected the home inspected what he was there to inspect. Mr. Adamczyk indicated concern that a septic tank was approved for the property that is too close to the river. Mr. Buzan explained that the septic permit on file indicates it was issued in 1989 and per ADEQ, the septic does not have to meet current requirements. The septic tank was inspected by a septic company and they signed off on the septic.

Patrice Abbot (461 Scott Drive): Asked for clarification if there were any appeals submitted regarding the 10' Administrative Variance setback and asked how people could have appealed this if no one knew about it and asked how neighbors were notified. Mr. Buzan explained that letters went out to 7 adjoining property owners per the Zoning Ordinance requirements. Ms. Abbott said no one was notified and asked how the County knows if the letters were received if they were not sent certified. Mr. Buzan explained that the Zoning Ordinance does not require that letters be sent via Certified Mail but that the County has copies of the letters that were sent.

Ted Schmitt (642 W Scott Drive): Stated that he never received any notification regarding the Administrative Variance.

Teresa Richardson (3261 N Neal Dr): Asked if the County knew the house would be 34' and 3 stories at the time of the Administrative Variance and if not, that maybe the County should look at its processes. Mr. Buzan indicated that all that is required for an Administrative Variance is a site plan and that no building elevations were required. The County knew the setback variance was for a single-family residence. If the County would have known about the height at that time, they would have informed the applicant that a CUP would be required.

Mike Hatfield (631 W Scott Dr): Indicated he did not receive anything related to the Administrative Variance or about the height or stories CUP, but he did get a letter regarding the neighborhood meeting. Mr. Buzan stated that if he was not an adjoining property owner, he would not have received notice about the Administrative Variance and that for the CUP, all properties within 300' were notified using the latest

County Assessor owner information. Mr. Hatfield said he did not get a letter and asked if no one received the letter, how could the house proceed with construction.

Note: The following speaker did not identify themselves: Who sent the letters out for the Administrative Variance. The County or homeowner? Mr. Buzan indicated it was the County.

Dan Abbott (461 Scott Drive): Asked Mr. Buzan how he would know if anyone received the letter and asked if the County had verification that anyone received that letter? Mr. Buzan said he would have to check the County records to see if there is confirmation that the letters were received but that he had copies of the letters that went out.

Patrice Abbott (461 Scott Drive): Indicated she consulted with an engineer after a culvert was taken away from under the Luster house and he told her that the way the house is designed, that it should work in terms of the house being in the floodway but there was no guarantee that the construction would not affect the topography in the area regarding drainage. She said that had the neighbors (the Lusters) received a letter regarding the 10' Administrative Variance setback, all of the neighbors would have brought up all of their concerns about the house at that time.

Mike Gibbons (623 Scott Drive): Asked if the County looked at the property in terms of the floodplain or floodway? Mr. Buzan stated that the house was required to go through a floodplain review and obtain a floodplain use permit which required a 6' bottom of finished floor above grade and ventilations in the garage.

Paul Haas (613 Scott Drive): Stated that it does not seem that the County decision to approve the location of the house is correct and asked if the County told the owner to build up? Mr. Buzan stated that the County did not tell the Lusters to build up. He said the majority of the property is located within a floodway and where the house is being constructed is in the floodplain. To build a house within a floodway would require substantial engineering and most people choose not to build in a floodway.

Note: A person who did not identify themselves asked who administers the flood plain at the County? Mr. Buzan replied that it was Darde De Roulhac. The same person asked if the Lusters rotated the house and stated that it seemed like the way they constructed the house will not work and that the County does not understand floodplain administration. Mr. Buzan stated that he cannot answer the question regarding the orientation of the home and that floodplain administration is not under his purview – it is under the purview of the Public Works Department. The same person stated that maybe the neighbors should file a complaint with the Arizona Department of Water Resources about the County's floodplain management.

A person who did not identify himself stated that he still had a question as to why the house was built so close to the road. Mr. Buzan stated that an Administrative Variance was approved for the house to sit 10' from the road due to the floodway, location of the existing septic tank and due to the existing apple trees. The same person commented that this was approved all because of an apple tree that will one day die.

Another person who did not identify himself stated that the Lusters harmed a tree at the front of the house and that that should show people how much the Lusters care about the trees in the area.

Mr. Buzan asked if there were any more questions of him or if he could turn the meeting over to the Lusters.

Ted Schmitt: Asked for clarification of when the septic permit was issued. Mr. Buzan stated that a permit was taken out for the septic tank in 1989 but that it was inspected in 2019 by a septic company. Mr. Schmidt indicated that the septic has been there at least 25 years and that there has been no work on that septic tank for 25 years.

Heidi Swatty (289 W Roundup Way): Asked Mr. Buzan the name of the septic company that inspected the property in 2018. Mr. Buzan said the name of the company was Small Beginnings, LLC and that they provided a report regarding their inspection of the septic tank in May of 2018. She also asked for clarification on whether there will be a Planning and Zoning Commission in June. Mr. Buzan stated that there will be a meeting in June but that he will be requesting that it be continued to the July meeting. He stated that the Chair of the Commission will open the meeting up for public comment but that no decision will be made until the June meeting. He further stated that the Commission will not have a staff report at the June meeting because he wanted to be able to include the results of this neighborhood meeting in the report.

Dan Abbott: Is construction going to be allowed to continue up to the Commission meetings? Mr. Buzan stated that the County will not be doing any inspections of the property but have not issued a stop work order.

Patrice Abbott: Stated that not issuing a stop work order is concerning since the results of the Commission meeting could change the height of the house. She said she understood the Lusters only had permission to skin up to the 2nd floor with no work on the roof and that the County confirmed this but that the Lusters have skinned up to the roof. She stated that she is worried that construction is being allowed to continue even though the Commission meetings have not taken place.

Mike Hatfield (631 W Scott Dr): Asked that since there is no stop work order and the house will probably be mostly done by the time the Commission meetings take place, what is going to happen and asked if it would not cost more in the long run to have the Lusters take down the house? Mr. Buzan stated that the County is not doing any other inspections so construction cannot take place without County approval. Mr. Hatfield asked whether the concerns of the neighbors even matter now that the construction is virtually complete. Mr. Buzan stated that the Commission will hear all neighbor comments and make a decision and will be told that the Lusters continued construction at their own risk.

Jason Richardson (3261 N Neal Dr): Asked why the County did not issue a stop work order? Mr. Buzan stated that a stop work order was not issued because the Lusters were cooperating with the County.

A person who did not identify himself stated that it seems like the Lusters are not cooperating because they have not stopped construction. Mr. Buzan suggested that the neighbors ask the Lusters some of these questions.

Ted Schmitt: Asked why the County did not stop construction of the house when they saw a 3rd story go up? Mr. Buzan stated that because the Lusters submitted their CUP request, any construction would be done at their own risk. Mr. Schmidt asked how the Lusters were cooperating? Mr. Buzan answered that they were cooperating because the Lusters submitted their request for a CUP.

Dan Abbott: Asked why the house was not red tagged when that has been the process for every project in the area. Mr. Buzan stated that he cannot answer the County reg tagged the house or not because he

did not have that information in front of him but that the County has been in contact with the Luster and explained that the County will not perform any more inspections at this point.

Ted Schmitt: Stated that the perception is that the County is helping to push this project through on behalf of Mr. Luster. Mr. Buzan stated that he apologized for that perception because that is not the case. He stated that the County is just trying to help get all of the neighbors a chance to speak and get that information to the Commission so the Commissioners can take all of this into advisement.

Teresa Richardson (3261 N Neal Dr.): Asked if the County waived the CUP fee? Mr. Buzan stated that he went before the Board of Supervisors to request they waive the CUP fee because this was a County error regarding the building permit and that the County did not make the Lusters aware of the CUP requirement at the time the height issue was discovered. Ms. Richardson stated that her concern is that the architect and owner bear some responsibility knowing what the requirements area and asked if in the first submittal, did the Lusters show the height as 3 stories and 34' tall? Mr. Buzan stated that yes, the house was shown as 3 stories but that the plans did not show the height to be 34'. The draftsman drew the height from the bottom of finished floor and not from grade. After the County became aware of it, they measured from grade and found that it was 34'.

Mrs. Luster stated that they started with a single-story structure but due to the limited building envelope and Federal requirements, they had to go higher. She stated that they put their plans through to the County for a permit. They originally wanted to build the house closer to the back and at ground level. She said they are willing to work with the County to find a solution.

Elizabeth Brannigan (642 W Scott Dr): Complained about laborers trying to get in as much construction as they could prior to this neighborhood meeting with no concern for the neighbors or the environment.

Patrice Abbott: Stated concern about the staging of construction materials in the road and that they must be moved. Mr. Luster asked what the question was and Dan Abbott asked if the construction materials were going to be moved out of the road. Mr. Luster explained that he will make sure the materials are moved and that because of the work being stopped, they are not able to use any of the building materials.

Sherry Hatfield (631 W Scott Dr): Stated that Mr. Luster was not supposed to have been working on anything over the 2nd floor but construction had continued so she contacted the County who indicated that Mr. Luster was not being cooperative with staff and had been hard to get a hold of. Mr. Luster said he was not trying to avoid staff and that the roof was not finished due to no inspections being conducted. He said he already had a crew scheduled and when they arrived, they got work done fast. He said he did not know anything about not being able to work on the roof until it had been partially done. The roof has not been completely nailed off because of no inspections being done.

Ted Schmitt: Stated that Mr. Luster has demonstrated a certain attitude of total disregard for everyone, the forest and the river.

Elizabeth Flanagan: Referred to the house as a monstrosity and asked what it will do to her property values. Mr. Luster stated that her property values will be increased.

Ted Schmitt: Asked on what basis Mr. Luster can claim that his house will increase property values in the area.

Mrs. Luster: Stated that they did not want a 3-story home for their retirement home. There is only a small place to build due to Federal flood plain requirements. The 9' pier requirement would have looked like an eye sore, so they decided to enclose it for a garage. She said they told floodplain that this was not the house they wanted and that it would not fit the community and they were told these are Federal FEMA regulations and that they had to abide by them.

Patrice Abbott: Asked if the Lusters considered that maybe they were not meant to build on this lot.

Ted Schmitt: Stated that the Lusters and their architect were very well versed on that they could and could not do and that sometimes architects mislead with their plans. Mrs. Luster stated there was no intension of misleading anyone and that they paid 3 different bids for the architect for 3 different plans because of the Federal requirements. FEMA changed the maps and regulations. At first it could be 4' off the ground with a crawl space. Floodplain denied it saying that they had to be 9' instead of 4'. She stated that they have never meant to mislead and that they love this property and have been trying to make the best of the hand they have been dealt.

Ted Schmitt: Stated that if they are trying to go by the law then they need to reduce the top floor. Mrs. Luster stated that they have already put \$100,000 into the property and that the County had approved their plans. Mr. Schmidt responded that it does not sound like the Lusters want to follow the law or rules if they continue with the 3 stories.

Patrice Abbott: Stated that the house needs to come down 4 feet. She stated that she was sorry the Lusters had put so much money into the house and that was her concern for them that they continued to construct the house and were also concerned that the Lusters would claim that they had so much money into the house that they cannot tear down the house now.

Elizabeth Brannigan: Stated that that is why the Lusters wanted to build the house so quickly. Mrs. Luster said that some of the contractors resigned so they hired new contractors who were scheduled, and they had no idea this was coming. They had materials that would start warping but that they had no ill intent at all. She stated that they have been very sincere and did not get the call to not put the skin on until it was already done.

A person who did not identify himself stated that it was harsh to throw stones at the owner when the County is the one who approved everything. He stated that the County knew what the Lusters were going to build so why did they not stop them.

Teresa Richardson: Stated that the owners and the architects had full knowledge of the zoning requirements and for the Lusters to continue construction after they knew about the height and stories issue was not neighborly at all and that the owners are arrogant. She also asked what the Lusters planned on doing at this stage. Mrs. Luster stated that they will follow Mr. Buzan's instructions every step of the way.

A person who did not identify himself asked if the Lusters will stop construction. Mrs. Luster replied that they cannot commence with construction without inspections. She further stated that there should not have been a red tag issued because they have done nothing wrong because they got a building permit from the County.

Teresa Richardson: Responded that the Lusters knew back in April about the height issue and that just because the County made a mistake, it does not mean the Lusters should have continued construction and that the Lusters should have done everything in their power to mitigate damages but have not.

Ted Schmitt: Stated their architect knew full well what the requirements were and that if they wanted to follow Mr. Buzan's direction, then they should lower the height of the house.

Dan Abbott: Stated that exceeding the height is an abuse of what the neighborhood has allowed regarding height and that all the neighbors in the area have also invested a substantial amount of money into their homes. He stated that he feels for the Lusters in terms of how much money they have invested but they should have known the requirements and then done something to stop construction after they found out they were in violation. He said they should have gotten back to the County and that the neighbors have not had a problem communicating with the County. He further stated that they should lower the height and if they feel they must go after the County that is fine.

Ted Schmitt: Stated that not only the height should be lowered but that it needs to be lowered to 2 stories.

Teresa Richardson: Stated that she is going to recommend that the Commission require the house to be brought to 2 stories and 30' in height.

Patrice Abbott: Stated that had they gotten the notice for the Administrative Variance that none of this would have happened and that they may not even have a house and that the Lusters should bring the house down to 2 stories and 30'.

Ted Schmitt: Stated that the house should be brought into compliance and whoever pays for it should be between the Lusters and the County.

Mr. Luster: Stated that he really cannot answer those questions and asked Mr. Buzan to make a comment. Mr. Buzan stated that the first step in the process is the CUP application because the County zoning ordinance has the CUP process as a tool for a homeowner to request an increased height and building stories. He stated that if Commission denies the application, they will go to Plan B, but he was not able to say at this time what Plan B would be.

Ted Schmitt: Asked if the County is recommending approval or denial of the CUP. Mr. Buzan responded that his department is not going to make a recommendation to the Commission because they made the error and he said the County did not think it would be right to make a recommendation. Mr. Buzan further stated that the neighbors can attend the Commission meeting and publicly make their concerns known, submit comments via email or letters and that all comments, along with a transcript of the neighborhood meeting, would become part of the staff report. Mr. Buzan stated that the Commission will hold a meeting on Thursday, May 21st at 10 a.m. which will be a Zoom meeting and that the meeting information will be posted in 2 places and on the property. The public hearing portion of the meeting will take place, but he will be asking the Commission to continue the request in order to provide input regarding the neighborhood meeting. He stated that the meeting will be June 18th where staff will present the staff report.

A person who did not identify herself asked if the property will be re-posted. Mr. Buzan stated that the County will re-post it as a public hearing and will place a legal ad in the paper in both Globe and Payson. We will also re-post the property.

A person who did not identify himself asked if everyone at the neighborhood meeting should call into the Commission meeting. Mr. Buzan stated that anyone interested should attend the May meeting but that he will be asking a continuance to the June meeting. The same person asked if the Commission will continue the meeting and Mr. Buzan stated that he had already spoken to the Chairman of the Planning Commission about the continuance and that the request will not be considered for approval at the May meeting.

Patrice Abbott: Asked Mr. Buzan why they were not told about the FEMA requirements when they first spoke to Mr. Buzan about the garage. Mr. Buzan responded that he told them at the time that the bottom floor would have to be built up with a stem wall or piers and that originally they were going to do a crawl space but thought a garage would be more feasible and that the Lusters did not want the look of the house to be on piers so they went with a block wall and enclosed it as a garage. Mr. Luster responded that the base floor elevation is around 6'. The floodplain manager said it would have to be 3' above that. He stated that they were going with the requirements, not that they decided to go 3' higher. Mr. Buzan said he stood corrected.

Someone who did not identify herself responded that the Lusters did not have to go 2 stories above that.

Mr. Luster stated that the height above the base floor elevation came from Gila County.

Ted Schmitt: Stated that he thought the Lusters were stating the requirements incorrectly.

Mr. Luster: Stated that floodplain issued a floodplain use permit for this structure.

Someone who did not identify herself asked that shouldn't the Lusters have lowered the stories when they knew the floodplain requirements.

Someone who did not identify himself stated that in looking at the building plans, it looks like the Lusters could redesign the house and lower the stories by reducing the size of the cathedral ceiling on the 2nd floor and that the height has to come down, unless the entire house comes down, which does not seem feasible.

Mr. Buzan stated that the maximum height is 30' to the mean and the number of stories is 2. He asked that if they got the height down to the 30' maximum, would the neighbors be OK with the 3 stories because the 1st story is a garage which would not be habitable.

Teresa Richardson: Stated that the house should be 2 stories.

Ted Schmitt: Stated the house should be 2 stories and that the County should enforce the zoning and building code. Mr. Buzan stated that the County is following the zoning ordinance by having the Lusters go through the CUP process and that he was just asking the neighbors the prior question about would they be OK with 3 stories if the building height came down to 30' in case the Commission asked if that was an option. Mr. Schmidt responded that it seemed the entire group agrees the building should have 2 stories only. Mr. Buzan thanked everyone for their input.

A person who did not identify himself asked what the call-in information was for the May Commission meeting. Michelle Dahlke, Senior Planner, provided the Zoom meeting call in information to the group.

Ted Schmitt: Asked if photographic information be provided to the Commission to give them an idea on how the house fits into the neighborhood and that someone needs to come out to the property. Mr. Buzan responded that the Commissioners will receive photos and a rendering provided by Mr. Luster. Mr. Buzan stated that he took pictures himself of the home and the surrounding area and located the photos on a site plan so when the Commissioners look at them, they will know which way they are looking and how far away it is from the Luster property.

Teresa Richardson: Requested that the photos be updated with current photos of the current stage of construction. Mr. Buzan stated that he did not think that was necessary since the wall sheathing was on and part of the roof done at the time the photos were taken. He indicated that the neighbors could also provide photos to the Commission.

Mr. Buzan asked if there were any other questions or comments.

Patrice Abbott: Stated that there is no parking on Scott Drive and where are people going to park when they come visit. Mr. Luster stated that people can park in the garage which is large and the same footprint as the house.

Ted Schmitt: Stated that he would call the sheriff immediately if there is any parking on Scott Drive.

A person who did not identify herself stated that anyone who rides ATVs on Scott Drive needs to be licensed since it is a public road.

Teresa Richardson: Asked the Lusters what their side setbacks are. Mr. Luster stated that he thinks it is 8'.

Heidi Swatty: Asked if the septic inspection report be available for review? She stated that the septic tank is within 80' of two wells on Scott Drive and are in close proximity to the river. Mr. Buzan stated that records are open to the public. They can be viewed at the counter but if someone needs a copy, a public records request must be completed and there may be a charge based on the number of copies requested. Heidi asked what the size of the tank is listed on the permit. Mr. Buzan stated that the document the County has does not list the size of the tank which is why the County required a letter from the septic company who verified the size of the tank and the location of the leach field.

Ted Schmitt: Stated that he spoke to Jake Garrett, Wastewater Manager, and that he was told by Mr. Garrett that if there was an issue with the septic tank than he would have known about it and that in order to get something done at the County, you have to know someone at the County.

Mr. Buzan: Stated that the County requires a septic company to inspect a system for which there are not records regarding the size of a septic system.

Mr. Buzan asked if Mr. Luster had anything else to add. Mr. Luster stated that he did not.

Mr. Buzan thanked everyone for their attendance and participation in the process. He confirmed that the meeting had been recorded and that the Commission would be provided with minutes of the meeting.

A person who did not identify himself asked if the staff report would be made available so neighbors could make sure all of their thoughts were properly registered. Mr. Buzan stated that anyone who wants a copy of the staff report may request one.

Mr. Buzan concluded the meeting.



Administrative Variance Application

AV-18-11

Gila County Community Development Division
Planning & Zoning Department
745 N Rose Mofford Way, Globe, AZ 85501
(928) 402-8512
FAX: (928) 425-0829

or
608 E Highway 260, Payson, AZ 85541
(928) 474-9276
FAX: 928-474-0802

ADMINISTRATIVE VARIANCE APPLICATION

Date: 5/16/18

Case File No.: AV-18-11

Applicant Name: Mike Luster Phone No.: 602 8030861
Mailing Address: 5715 W. Arrowhead Lakes Glendale 85308
Signature: Mike Luster

Owner's Name: Levi Luster Phone No.:
Mailing Address: 5715 W. Arrowhead Lakes Glendale 85308
Signature: Levi Luster
(If the applicant is not the owner of the subject property, the owner must sign the application authorizing the applicant to apply.)

Property Address: 645 Scott Dr, Payson AZ 85541
Property Parcel No.: 302-16-138A Legal Description:
Zoning of Property: Residential B1-D70
Applicant's Description of Administrative Variance Request: To change the requirement of 20ft from the road to 10ft to the road.

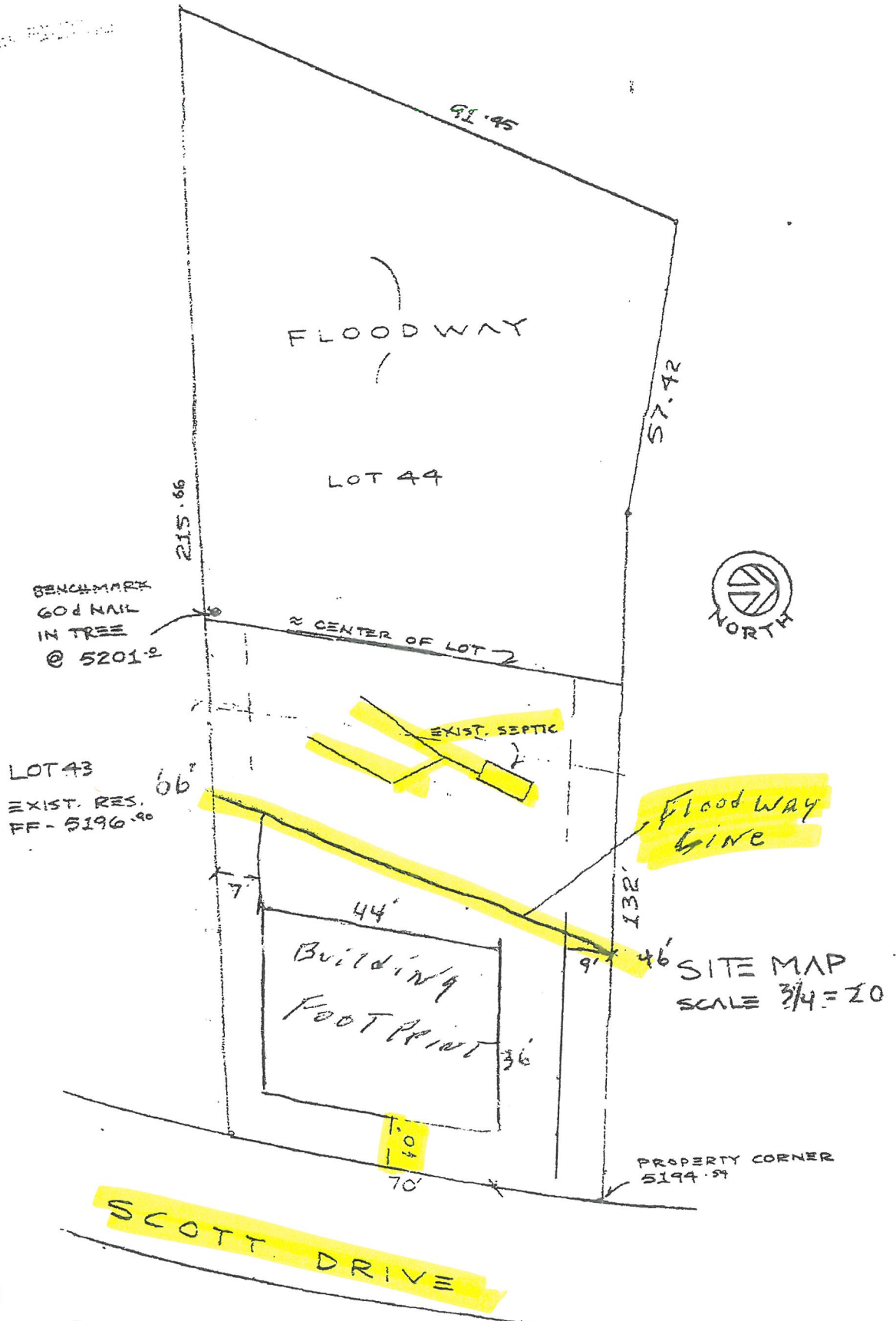
Applicant's Justification for an Administrative Variance: Majority of the property is in the front yard and needs more space to build and it would also save the hundred year old apple trees.

Attach a reproducible 8 1/2" x 11" site plan showing: scale; north arrow; all lot dimensions; adjacent streets and names; all existing and proposed buildings and structures, driveways, alleys, easements, water and utility services, septic tanks and leach fields, fences, and drainage ditches; significant trees and vegetation; and, extreme topographical conditions. Show all dimensions of existing and proposed buildings and structures, and distances between buildings. Label property lines (i.e. front, rear, side) and show the dimensions of the setbacks. Show the proposed feature which is the subject of the variance request.

FOR OFFICE USE ONLY

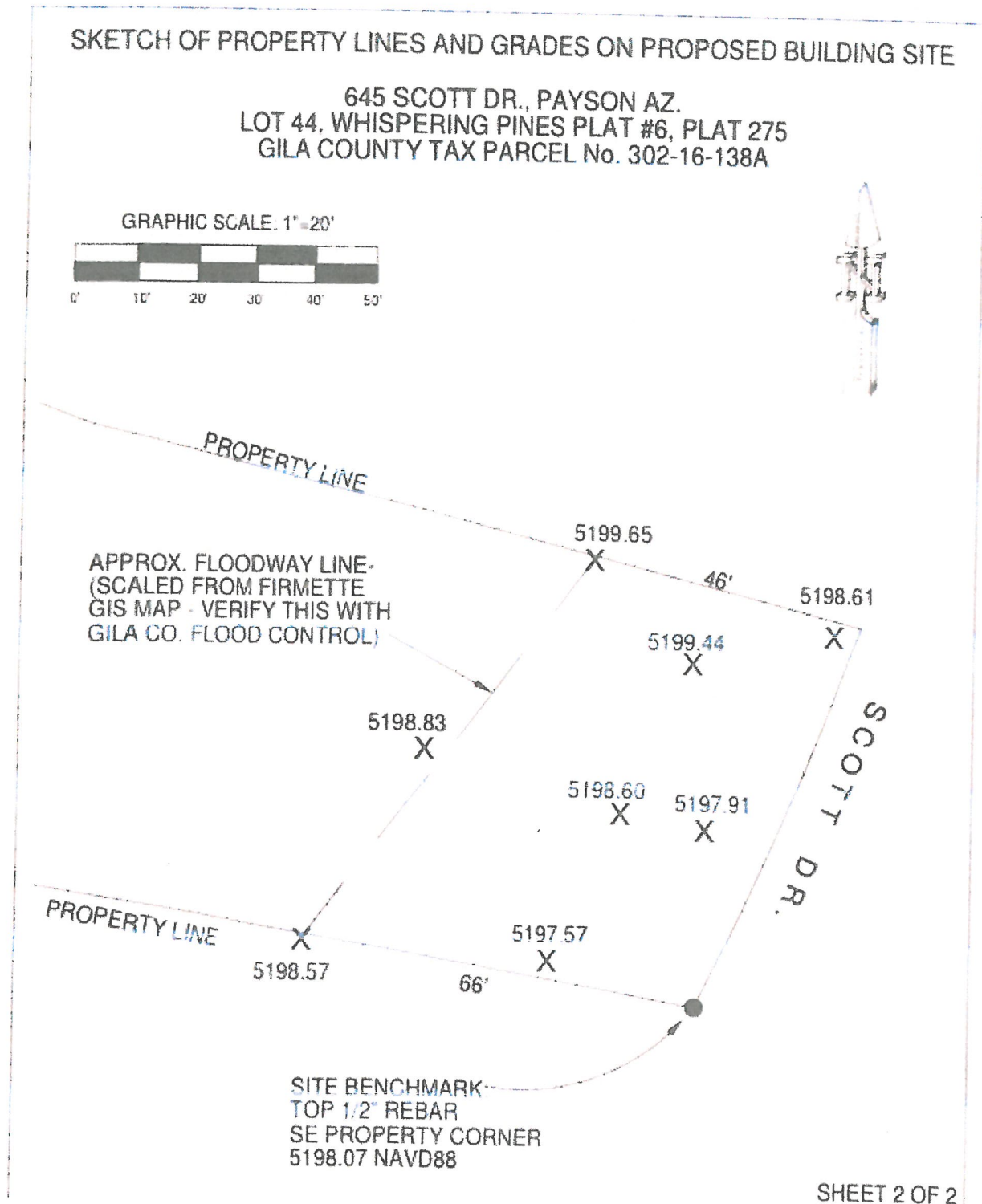
\$75 Fee Paid _____ Check No.: _____ Cash: _____ Date: _____
Inspector's Report and Pictures Done: _____
Approved: _____ Denied: _____
Directors Signature: _____
Date: _____
Date notices mailed to Applicant & Adjacent Property Owners: _____
Appeal Due Date: _____ Appealed: _____

LOT 44 - WHISPERING PINES
GILA COUNTY - AZ



mike luster
302-16-138A
645 Scott Dr., Payson AZ

Mike, Please substitute this page - thanks!
Mike Stoll, Registered Land Surveyor
TerraPoint Land Surveys, LLC
928-978-4516



Gila County Property Report

Wednesday, June 06, 2018

Account # : R000021186

Parcel # : 302-16-138A

Appraisal Year : 2018

Acct Type : Vacant

Tax District : 1017

Map # : 16

Parcel Size : 0.37 acres

Owner Name and Address :

LUSTER LEVI
16437 N 61ST AVE
GLENDALE AZ 85306

Property Location :

645 SCOTT DRR	No #
PAYSON AZ 85541-0000	MH Space

Business/Complex :**Property Sales History**

Sale Date	Doc Date	Book	Page	Type	Amount	Grantor	Grantee
6/22/1988	6/22/1988	-	563886	JT	\$40,000.00	-	-
12/16/2004	12/16/2004	-	19659	WD	\$55,000.00	DOUGLAS & VANETTE DUNN	CONSTANCE M MYCK
9/27/2013	9/27/2013	-	-	DC	\$0.00	STATE OF ARIZONA	MYCK CONSTANCE M
8/1/2013	9/27/2013	-	-	WD	\$60,000.00	MYCK CONSTANCE M TRUSTEE MYCK TRUST	LUSTER LEVI

Legal Description :

LOT 44, WHISPERING PINES PLAT #6, PLAT 275, EXC BEG NW COR LOT 44; TH S73D35'17"E, (RECORD N70D12'55"W) 189.11'; TH N75D45'05"W, 132.0'; TH N68D36'35"W, 57.42' TO POB SEC 24 T111/2N R10E = 0.37 AC

Building Count :

No Records Returned

Valuation:

Value Method:	Market	Full Cash Value (FCV):	\$55,428.00	Use Code:	0013
		Limited Value (LPV):	\$55,428.00	Property Use:	0013-VL-RES-RURAL-SUBDIVIDED
Assessment Ratio:	15.00 %	Assessed FCV:	\$8,314.00		
		Assessed LPV:	\$8,314.00		

Disclaimer:

The Assessor's Office has compiled information on this website that it uses to identify, classify, and value real and personal property. This website is not updated in 'real time.' The Assessor does not guarantee that any information provided on this website is accurate, complete, or current. The information provided on this site is not equivalent of a title report or a real estate survey. Users should independently research, investigate, and verify all information before relying on it or in the preparation of legal documents. Please contact (928) 402-8714 if you believe any information is incomplete, out of date, or incorrect so that the appropriate correction can be addressed. Please note that a statutory process is available to correct errors pursuant to Arizona Revised Statutes 42-16254





GILA COUNTY DEVELOPMENT

RECEIPT

Received From:	MIKE LUSTER (FATHER)	Date	6/6/2018
Owner Name	LUSTER, LEVI 16437 N 61ST AVE GLENDALE, AZ 85306	Permit Number	P1806-016
Site Address	645 SCOTT DRIVE PAYSON (WHISPERING PINES 6), AZ	Receipt Number	050304
		Check Number	491
		Site APN	30216138A

Fee Item or Description	Amount
ZONING PLANNING	\$ 75.00

Receipt Total **\$ 75.00**

****A plan check fee is to begin the plan review process. This
does not indicate plan approval
and is not the building permit, nor does it authorize
construction to begin.**

745 N Rose Mofford Way, Globe, AZ 85501
ph: 928-425-3231, fax 928-425-0829
608 E Highway 260, Payson, AZ 85541
ph: 928-474-9276, fax 928-474-0802

AAPN: **302-16-138A**

GILA COUNTY, AZ

STANDARD FLOOD HAZARD DETERMINATION

Vicinity Whispering Pines

A. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) JURISDICTION

1. NFIP Community Name Gila County	2. County Gila	3. State AZ	4. NFIP Community No. 040028
---------------------------------------	-------------------	----------------	---------------------------------

B. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) DATA AFFECTING BUILDING / MOBILE HOME

1. FIRM Panel 04007C 04007C0231D	2. FIRM Effective Date 12/4/2007	3. LOMA/LOMR	4. Flood Zone AE
-------------------------------------	-------------------------------------	--------------	---------------------

C. FEDERAL FLOOD INSURANCE AVAILABILITY (Check all that apply)1. ☒ Federal Flood Insurance is available (Community is in NFIP) ☒ Regular Program**D. DETERMINATION**

1. In SFHA?	Y
1a. In Floodway?	Y
1b. BFE (for insurance)	5205.3 feet (NAVD 1988 datum)
1c. RFE (lowest floor elevation)	5206.3 feet (NAVD 1988 datum)
2. Regulated Grading/Drainage?	N
2a. RFE for Grading/Drainage	<Not Available> feet (above flowline of adjacent watercourse)
2b. Erosion Setback	If Straight Channel: <Not Available> feet from nearest top of bank
	If On Outside of Bend: <Not Available> feet from nearest top of bank

E. COMMENTS:

<Not Available> means that the particular information has not been entered into the database from which this report was printed. Such information may be available elsewhere. This information is provided as preliminary information for purposes of planning building projects, and is not intended for other purposes. This is the best available information at the time of the determination. Data is subject to change over time. No guarantee is expressed or implied regarding the accuracy of this data or its suitability for a particular purpose. Official floodplain information is obtained only from the Federal Emergency Management Agency publications.

Bradway, Deborah

From: Darde de Roulhac [dderoulhac@gilacountyaz.us]
Sent: Wednesday, May 29, 2013 11:40 AM
To: Tom Miller
Cc: Bradway, Deborah; Paige, Caryn
Subject: Re: FW: Comments from Payson Building Division Website
Attachments: ~OT2D77I001F.PDF

Mr. Miller,

Attached is a flood hazard determination form with a map, and a wastewater information form for the property at parcel number 302-16-138A in Whispering Pines.

This parcel is located entirely within the regulatory floodplain, indicated by the solid blue line on the map. Within the floodplain is an area known as the floodway, which is inside of the blue dashed line on the map. I do not have a plan showing where you are proposing to build or the proposed construction type, so I can only give general requirements at this time.

For construction in all parts of the floodplain, the lowest floor elevation is required to be at least one foot above the 100-year flood elevation, which is shown as "BFE" on the map. This elevation will vary slightly depending on the location of the building on the parcel. If the construction is a manufactured home, the "lowest floor elevation" is considered to be the bottom of the frame, rather than the top of the lowest floor. Utility connections, mechanical equipment (A/C, etc), and appliances are also required to be placed at least one foot above the BFE. To determine how high the 100-year flood level is above the ground at your lot, you would need to retain a land surveyor to set a benchmark on your site and mark the elevation. Gila County does not have topography for your parcel of sufficient accuracy to determine the height.

In addition, if any part of the proposed building is within the floodway, it is required that engineering be submitted which analyzes the effect of the proposed building on the floodplain, and defines construction techniques so that the building would not cause any rise in the 100-year flood elevation as a result of its construction in the floodway.

In all cases, drainage must not be diverted, concentrated or impounded to the detriment of neighboring properties.

More details on the requirements may be found in the Gila County Floodplain Management Ordinance, which may be downloaded from the Gila County website at http://www.gilacountyaz.gov/government/public_works/docs/Floodplain_Ordinance_2010.pdf. The official FEMA flood maps are also available for download from the County web site.

For wastewater questions, I will refer you to Mr. Jake Garrett at Gila County Community Development, who may be reached at (928) 474-7177.

If you have further questions, please feel free to call me at (928) 474-7116.

Sincerely,

-Darde G. de Roulhac, P.E., CFM
Chief Engineer / Floodplain Administrator

Berumen, Therese C

From: Bradway, Deborah
Sent: Wednesday, June 06, 2018 9:13 AM
To: Berumen, Therese C
Subject: FW: Message from KMBT_C552DS
Attachments: SKMBT_C552D18060608580.pdf

He is wanting to stay out of Floodway

Debby Bradway

**Senior Building Safety Assistant
Gila County Community Development
608 E. Hwy 260
Payson AZ 85541
928-474-7110**

From: scanner@gilacountyaz.gov [mailto:scanner@gilacountyaz.gov]
Sent: Wednesday, June 06, 2018 8:59 AM
To: Bradway, Deborah <dbradway@gilacountyaz.gov>
Subject: Message from KMBT_C552DS



Administrative Variance Preliminary Decision Letters

AV-18-11

SECTION 24
T11 1/2N R10E

302-16-138A Luster Applicant
Adjoining property owners

WHISPERING PINES

Gila County Recorded Plat 142

TONTON NATIONAL FOREST

SEE MAP 302-16 1 of 10

SEE MAP 302-16 2 of 10

302-16
3 of 10
CODE 107
UPDATED 8-26-11

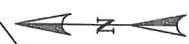
SEE MAP 302-16 2 of 10

WHISPERING PINES PLAT EIGHT
Gila County Recorded Plat 422

SEE MAP 302-16 4 of 10

WHISPERING PINES PLAT SIX
Gila County Recorded
Plat 275

137A



SCALE = 1" = 60'
(C) = CALCULATED
(R) = RECORDED
FOR INFORMATION ONLY, NO LIABILITY ASSUMED.

GILA COUNTY ASSESSOR



Final Approval Letter

AV-18-11

SECTION 24
T111/2 N R10E

SEE MAP 302-16 3 of 10

302-16-138A Luster Applicant

Adjoining property owners

302-16
4 of 10
CODE 1017

UPDATED 6-26-18

WHISPERING PINES PLAT EIGHT
Gila County Recorded Plat 422

WHISPERING PINES PLAT SIX
Gila County Recorded Plat 275

WHISPERING PINES
Gila County Recorded Plat 142

WHISPERING PINES PLAT THREE
Gila County Recorded Plat 198

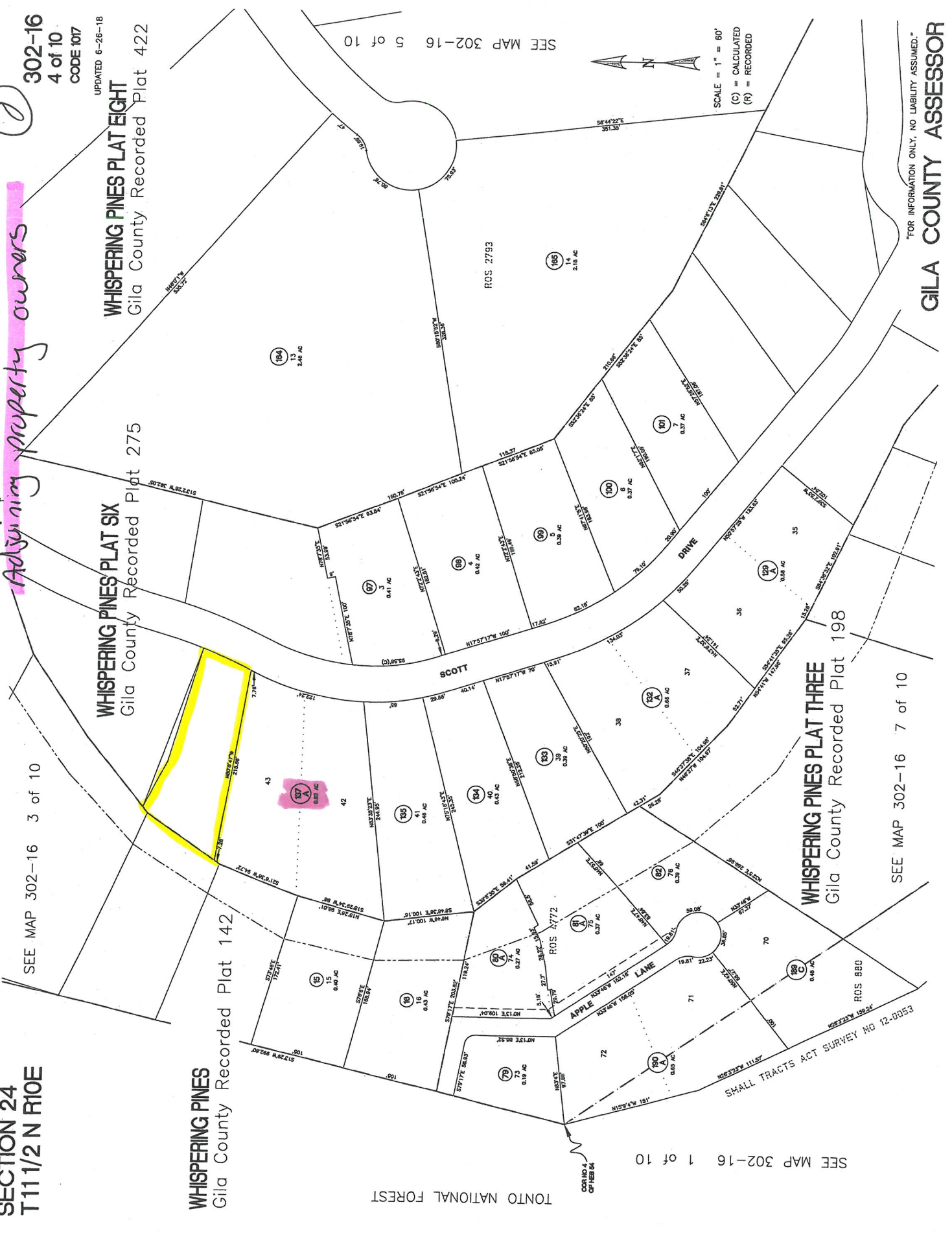
SEE MAP 302-16 7 of 10

"FOR INFORMATION ONLY, NO LIABILITY ASSUMED."

GILA COUNTY ASSESSOR

TONTO NATIONAL FOREST

SEE MAP 302-16 1 of 10



SCALE = 1" = 60'
(C) = CALCULATED
(R) = RECORDED

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

Mike Luster
5715 West Arrowhead Lakes
Glendale, Arizona 85308

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for primary structure

Dear Mr. Luster,

Your application for an Administrative Variance to permit a 10' front yard setback for a primary structure has been approved due to special circumstances applicable to your property. Most notably is the fact that a significant portion of your property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement.

This approval will become effective August 3, 2018 which is 15 working days from the date of this letter. Notice of this approval will be sent by U.S. mail to adjoining property owners, who will have the opportunity to appeal this decision. If no appeals are received, you will be able to submit for the required building permit on August 3, 2018. If any appeal is received, you will be notified by U.S. mail and provided with the date of the appeal hearing. Per Gila County Zoning Ordinance Section 101.3 A (5) all appeals are to be heard by the Gila County Board of Adjustment.

Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

Kevin Wengert
9198 W. Robin Lane
Peoria, AZ 85383

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for a primary structure

Dear Mr. Wengert,

Mike Luster submitted an application for an Administrative Variance to our office. This application was a request to allow a 10' front yard setback for a primary structure, instead of the required 20-foot, located at 645 Scott Drive, Payson, AZ. This Administrative Variance has been approved by our department due to special circumstances applicable to his property. Most notably is the fact that a significant portion of his property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement. Section 101.3 (A)(1) of the Gila County Zoning Ordinance Z 15-03 allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. This approval will become effective on August 3, 2018.

You are receiving this letter because your property is adjacent to 645 Scott Drive. You have the right to appeal this decision and have until August 2, 2018, to file a written request of appeal. All appeals must be received in our office by close of business on August 2, 2018. If an appeal is received from you, we will notify you by U.S. mail the date of the appeal hearing. Per Gila County Zoning Ordinance Z 15-03, Section 101.3 (A)(5) appeals will be heard by the Gila County Board of Adjustment.

Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke
Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

Merritt & Elizabeth Pittman
107 W. Wade Lane, #6
Payson, AZ 85541

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for a primary structure

Dear Mr. and Mrs. Pittman,

Mike Luster submitted an application for an Administrative Variance to our office. This application was a request to allow a 10' front yard setback for a primary structure, instead of the required 20-foot, located at 645 Scott Drive, Payson, AZ. This Administrative Variance has been approved by our department due to special circumstances applicable to his property. Most notably is the fact that a significant portion of his property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement. Section 101.3 (A)(1) of the Gila County Zoning Ordinance Z 15-03 allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. This approval will become effective on August 3, 2018.

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Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

Sharon Waterbury
27210 N. 64th Way
Scottsdale, AZ 85266

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for a primary structure

Dear Ms. Waterbury,

Mike Luster submitted an application for an Administrative Variance to our office. This application was a request to allow a 10' front yard setback for a primary structure, instead of the required 20-foot, located at 645 Scott Drive, Payson, AZ. This Administrative Variance has been approved by our department due to special circumstances applicable to his property. Most notably is the fact that a significant portion of his property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement. Section 101.3 (A)(1) of the Gila County Zoning Ordinance Z 15-03 allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. This approval will become effective on August 3, 2018.

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Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

Robert Newman
802 S. 23rd Ave.
Phoenix, AZ 85009

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for a primary structure

Dear Mr. Newman,

Mike Luster submitted an application for an Administrative Variance to our office. This application was a request to allow a 10' front yard setback for a primary structure, instead of the required 20-foot, located at 645 Scott Drive, Payson, AZ. This Administrative Variance has been approved by our department due to special circumstances applicable to his property. Most notably is the fact that a significant portion of his property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement. Section 101.3 (A)(1) of the Gila County Zoning Ordinance Z 15-03 allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. This approval will become effective on August 3, 2018.

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Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

Stephen & Judith Fuller
13609 S. 33rd St.
Phoenix, AZ 85044

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for a primary structure

Dear Mr. and Mrs. Fuller,

Mike Luster submitted an application for an Administrative Variance to our office. This application was a request to allow a 10' front yard setback for a primary structure, instead of the required 20-foot, located at 645 Scott Drive, Payson, AZ. This Administrative Variance has been approved by our department due to special circumstances applicable to his property. Most notably is the fact that a significant portion of his property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement. Section 101.3 (A)(1) of the Gila County Zoning Ordinance Z 15-03 allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. This approval will become effective on August 3, 2018.

You are receiving this letter because your property is adjacent to 645 Scott Drive. You have the right to appeal this decision and have until August 2, 2018, to file a written request of appeal. All appeals must be received in our office by close of business on August 2, 2018. If an appeal is received from you, we will notify you by U.S. mail the date of the appeal hearing. Per Gila County Zoning Ordinance Z 15-03, Section 101.3 (A)(5) appeals will be heard by the Gila County Board of Adjustment.

Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

James McCracken
641 W. Scott Dr.
Payson, AZ 85541

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for a primary structure

Dear Mr. McCracken,

Mike Luster submitted an application for an Administrative Variance to our office. This application was a request to allow a 10' front yard setback for a primary structure, instead of the required 20-foot, located at 645 Scott Drive, Payson, AZ. This Administrative Variance has been approved by our department due to special circumstances applicable to his property. Most notably is the fact that a significant portion of his property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement. Section 101.3 (A)(1) of the Gila County Zoning Ordinance Z 15-03 allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. This approval will become effective on August 3, 2018.

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Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

July 12, 2018

Theodore Schmitt and Elizabeth Branagan
642 W. Scott Dr.
Payson, AZ 85541

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for a primary structure

Dear Mr. Schmitt and Ms. Branagan,

Mike Luster submitted an application for an Administrative Variance to our office. This application was a request to allow a 10' front yard setback for a primary structure, instead of the required 20-foot, located at 645 Scott Drive, Payson, AZ. This Administrative Variance has been approved by our department due to special circumstances applicable to his property. Most notably is the fact that a significant portion of his property lies within Floodway Zone AE. Secondly, the location of an existing septic tank and abundant vegetation on the property would make it very difficult to construct a primary residence and still meet the required 20' front yard setback requirement. Section 101.3 (A)(1) of the Gila County Zoning Ordinance Z 15-03 allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. This approval will become effective on August 3, 2018.

You are receiving this letter because your property is adjacent to 645 Scott Drive. You have the right to appeal this decision and have until August 2, 2018, to file a written request of appeal. All appeals must be received in our office by close of business on August 2, 2018. If an appeal is received from you, we will notify you by U.S. mail the date of the appeal hearing. Per Gila County Zoning Ordinance Z 15-03, Section 101.3 (A)(5) appeals will be heard by the Gila County Board of Adjustment.

Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Senior Planner

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

August 3, 2018

Mike Luster
5715 West Arrowhead Lakes
Glendale, Arizona 85308

Re: Administrative Variance (AV-18-11)
APN: 302-16-138A
Existing Zoning: R1L-D70
Location: 645 Scott Drive, Payson, Arizona 85541
Request: To allow a 10' front yard setback for primary structure

Dear Mr. Luster,

The 15-day appeal period has expired (August 2, 2018) with no appeals filed in response to your request for an Administrative Variance. You may proceed with applying for all applicable permits. Please keep in mind, this approval does not allow deviations from any other zoning regulations or other regulations of Gila County that may be applicable to your permit process, such as wastewater, building and floodplain.

The following setbacks are therefore applicable:

1. A 10-foot front property line setback for a primary structure located at 645 Scott Dr. in Payson, AZ.

Should you have any questions or concerns regarding this matter, please feel free to contact me at (480) 228-2150 or by email at mdahlke@gilacountyaz.gov.

Sincerely,

Michelle Dahlke
Senior Planner

AFFIDAVIT of PUBLICATION

PAYSON ROUNDUP

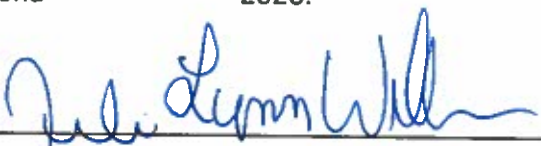
STATE OF ARIZONA 10102246

COUNTY OF GILA 07/07/2020

I, Susan LaBonte', do solemnly swear that I am Assistant Bookkeeper of the Payson Roundup, that the same is a newspaper printed, in whole or in part, and published in the COUNTY OF GILA, State of Arizona, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said COUNTY OF GILA for a period of more than fifty-two weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Arizona. That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said daily newspaper for the period of 1 insertions; and that the first publication of said notice was in the issue of said newspaper dated July 07, A.D., 2020, and that the last publication of said of said notice was in the issue of said newspaper dated July 07, A.D., 2020. In witness whereof I have hereunto set my hand this July 07, AD, 2020.


Susan LaBonte'

Subscribed and sworn to before me, A Notary Public in and for the COUNTY OF GILA, State of Arizona 2020.


Julie Lynn Williams, Notary Public



17820 7/7/2020

LEGAL NOTICE
GILA COUNTY
BOARD OF SUPERVISORS
PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Gila County Board of Supervisors will hold a public hearing on Tuesday, July 28, 2020 at 10:00 a.m. for Case No. CUP-20-01. Levi Luster (Owner)/ Michael Luster (Applicant), located at 645 West Scott Drive (Lot 44 Whispering Pines Plat # 6) (APN# 302-16-138A). The property is

zoned R1L-D70 (Residence One Limited District- Density District 70). The applicant is requesting to allow a three-story, 34 foot in height building (measured from the grade level to the mean height between the eaves and ridge for gable and hip roofs per the Gila County Zoning Ordinance) for a new single-family residence. In the R1L Use District, a Conditional Use Permit shall be required for any building exceeding two stories or thirty feet above ground level (measured from the grade level to the mean height between the eaves and ridge for gable and hip roofs per the Gila County Zoning Ordinance).

The hearing will take place in the Gila County Board of Supervisors' Conference Room located at 610 East Highway 250 in Payson, Arizona and will be simultaneously telecast to the Gila County Board of Supervisors' Conference Room located at 1400 East Ash Street in Globe, AZ.

Case No. CUP-20-01 is available for review at the offices of Gila County Community Development located at 745 North Rose Mofford Way in Globe, Arizona or 608 East Highway 250 in Payson, Arizona between 8:00 a.m. and 5:00 p.m.

/s/ Michelle Dahlke
Gila County Community Development.



HARPER LAW OFFICES, PC

Michael J. Harper
Direct Dial
Payson (928) 472-3836
Mesa (480) 644-8991
mjh@harperazlaw.com

July 23, 2020

Via e-mail

The Gila County Board of Supervisors
1400 E. Ash Street
Globe, AZ 85501

Re: Whispering Pines

Dear Supervisors:

This office is legal counsel to Robert Newman. Mr. Newman owns the real property located at 649 Scott Road in Whispering Pines. Mr. Newman's property is located immediately to the north of the property owned by the Lusters and which is the subject of their request for a conditional use permit which would allow them to blatantly violate Gila County's zoning ordinance in two important respects. First, the request would allow the Lusters to proceed with the construction of a three-story building in an area where no three story structures exist and only two story residences are allowed. Second, the request would allow the Lusters to exceed the County's maximum height restriction by building a structure thirty-four feet in height (measured as the distance from ground level to the mean height of the roof) when Gila County Code permits a structure only thirty feet in height. This decision would adversely impact my client's property value (as well as the property values of the neighbors) and also significantly diminish the level of privacy the property now enjoys. For all the reasons described below, we submit that the requested conditional use permit should not be granted.

When the Lusters first submitted building plans in August of 2019, those plans depicted a two-story structure. However, a subsequent set of plans depicting a taller, three story structure was subsequently submitted and mistakenly approved. All

Mesa:

3514 North Power Road
Building 1, Suite 103
Mesa, AZ 85215

☎ 480.500.5700
☎ 480.718.7728

Payson:

111 West Cedar Lane
Suite C
Payson, AZ 85541

☎ 928.474.9230
☎ 928.492.1888

Online:

www.harperazlaw.com
info@harperazlaw.com

of the plans were prepared by the Lusters' architect. The plans mistakenly approved included a height elevation for the structure describing that height as approximately thirty feet. However, that figure related to the height from the first floor level, as opposed to the ground level. It appears that the plan reviewer simply accepted that figure as representing the full height of the building. The County, after being notified of the error, advised the Lusters that the structure was in violation and that a conditional use permit would be required should they still wish to build at the proposed height. The Lusters subsequently applied for a conditional use permit. *Regardless of the inherent uncertainty as to whether the permit would be granted, the Lusters proceeded forward with the construction – including construction work on the third level. They did so at their own risk, with full knowledge that it violated County code, and after having been advised that the only way the construction would be allowed was to obtain (and not simply apply for) a conditional use permit.* Local residents advised the Planning and Zoning Commission that it appeared that the construction process actually accelerated during this time. Any argument that the County's mistaken approval should allow this construction to stand should be rejected.

From the beginning the Lusters knew that the construction of their home in this location would bring challenges. Given the location of the lot in a floodway, it was clear that the house would essentially need to be built on stilts to allow the floor level to rise approximately six feet above ground level. The Lusters did not "like the look" of the house on piers and made the decision to utilize the lower level as a garage. This decision brought the design to the prohibited level of three stories, and the Lusters constructed the lower level stem wall to nine feet in height so as to utilize the lower level as a garage. This was the Lusters' decision, not the County's. Regardless of this known limitation, the Lusters decided to attempt to construct a nearly 3000 square foot residence. The only way to accomplish this, on a lot this size, was to build up in violation of Gila County Zoning Code floor and height restrictions. This should not be allowed. The small size of this lot and its location in the floodway were characteristics certainly known to the Lusters when they acquired the property. They now seek to solve these challenges not by living with the construction size restrictions imposed by the characteristics of the lot, but by violating building codes to the detriment of their neighbors.¹

As referenced above, the plans relating to the Lusters' residence were prepared by a certified architect, Long Design Associates, LLC. All architects can be reasonably expected to be familiar with building codes and the height restrictions they

¹ In addition to the issues relating to the height of the building, a Complaint was recently filed by a local resident regarding the construction of the residence in the Floodplain and the removal of a culvert designed to control flood water. (See Exhibit 1.)

impose. Regardless of any mistake made by Gila County in interpreting those plans, the Lusters and their retained professionals are independently required to be aware of, and comply with, the applicable building codes. Long Design was certainly in a position to know that the proposed structure was non-compliant with Gila County Code. In fact, it appears that the architects were quite aware of this compliance.

During the hearing before the Planning and Zoning Commission, Commissioner Randy Slapnicka stepped out of the meeting and called Long Design directly. He reportedly was told that the architects were aware that the building exceeded allowable height. The following is a transcript of the subsequent conversation before the Commission:

RS: Actually I do, Mr. Chairman, Randy Slapnika. I just stepped out and made a call to Long Design
Luster: Uh huh
RS: to talk to Sharon who did your drawings,
Luster: sure
RS: he said they knew you were over the height limit
Luster: uh they never told me that
[Unk.]: Wow
RS: they said, they acknowledged right there on the phone that they were over the height limit of your building
[Unintelligible]
RS: so that's kind of disconcerting to me that the architect would know that he is over the height limit and still try to push it through the county
Luster: well he never communicated to me
[laughter]
RS: well that's his job, that's between you and him
Luster: right
RS: but he knew he was over the height limit for the county he just admitted it
[Unk.]: so your problem is with him, not the county
RS: his problem is with him
[Unk.]: not the county, that's what I'm saying
[Unk.]: The owner has the ultimate responsibility. Period

The notion that a licensed architect would not communicate to his client that the home he designed exceeded County height restrictions is difficult to accept. Regardless, this exchange illustrates that this problem was created within the relationship between the Lusters and their architect. The local homeowners should

not be made to pay for these problems by allowing the Lusters to proceed with *what was a known code violation regarding the height of the building*.

Moreover, it does not appear that the Lusters are not inexperienced with the process of home construction. However, the applicant, Mike Luster, indicated to the Planning and Zoning Commission that he had no such experience:

[Unk]: How long have you been in the business ... of building things.
Luster: I've never been in the business.
[Unk]: You don't have a construction company?
Luster: No
[Unk]: His family does.
[Unk]: Oh your family does.
Luster: My son does. I don't have, have never been
[Unk]: Oh son does, okay, I thought that you were in the business
Luster: I am not, no.

The business, Luster Custom Homes, is located in Scottsdale, Arizona. (See Exhibit 2.) It is owned by Tanner Cody Luster, Michael Luster's son. (See Exhibit 3.) Apparently, Tanner Luster is the son of Mike Luster, the individual who presented the application to the Board of Supervisors. Tanner Luster is a licensed contractor and certainly experienced in the business of home construction. (See Exhibit 4.) It is unclear why Tanner Luster's father presented this application on the property owner's behalf, but certainly there seems to be little question that this family has resources and experience in home construction that most do not. Despite Mr. Luster's statement that he has "never been in the business", attached as Exhibit 5 is an e-mail from Mr. Luster to Scott Buzan which states *exactly the opposite*:

"I and my family *have been in construction for generations* and have not had a tag on a truss change its a common change . . ."

The structure in its current form is out of place for the community. Mrs. Luster has admitted as much. In the public comment meeting, Mrs. Luster stated that "the 9' pier requirement"² would have looked like an eye sore, so they decided to enclose it for a garage. She said they "told floodplain that this was not the house they wanted and that it would not fit the community . . ."³ (See Exhibit 6.) Homero Vela,

² As described above, there was no "9' pier requirement." The County only required six feet of clearance above grade. The decision to raise the structure nine feet was made by the Lusters.

³ Notably, Mr. Newman was not notified of the public comment meeting by Gila County even though he owns the residence immediately next door to the property at issue and Gila County was clearly aware of his address. Nor did he receive notice of the hearing before the Planning and Zoning Commission.

an assistant to the Gila County Manager, has also stated as much: "In my opinion the building height is not in proportion to the rest of [the]residences on the street." (See Exhibit 7.)

The consequence of this non-conformance is very real for the other local residents. During the hearing before the Planning and Zoning Commission, Mike Porter, an appraiser, explained that due to its height the proposed residence would need to be classified "non-conforming" and designated as an "adverse condition" for the neighboring properties, including that of Mr. Newman. He explained that this required classification will necessarily lower the property values for the adjoining residences and, over time, for other homes in the area.

Moreover, the impact upon Mr. Newman is particularly significant because the proposed residence is located immediately next door and literally towers above his one-story structure. The privacy that he has previously enjoyed is destroyed, particularly by the windows on the third story which would allow occupants of the Luster structure to literally look down upon his property from roughly thirty-five feet in the air. (See photograph taken from the Newman property attached as Exhibit 8.) Gila County's height restrictions exist, in part, to preserve exactly these sorts of privacy interests.

In communications within the County, it has been acknowledged that even the County's mistake should not stop the enforcement of the zoning ordinance. (See Exhibit 9 – "We made a mistake but should not necessarily stop us from enforcing the zoning ordinance".) The assistant County Manager, Homero Velo, has expressed his opinion that a mistake only "is not reason enough" to grant a CUP – there must be "no harm to community." Clearly, that would not be the case if this conditional use permit is granted.

If there was an error made in connection with this process, it was either by the Lusters or their architect. It certainly was not made by my client or all of the local homeowners who have done nothing wrong but yet will be damaged by a decision to allow the non-compliant structure to stand. Any result which shifts the financial consequences of these errors to the local residents by lowering their property values and which simply forces them to live with an admittedly out of place structure would be wrong. That is exactly what a vote granting this conditional use permit would do. Mr. Newman respectfully urges the Board to deny the requested permit.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael J. Harper", is written over the printed name.

Michael J. Harper

EXHIBIT 1

delivered to:
6/15/20



GILA COUNTY
COMMUNITY DEVELOPMENT
DEPARTMENT

TERRI MORRELL-STANCH
Permit Technician

July 14, 2020

SUBJECT: FLOODPLAIN CONSTRUCTION
645 W Scott Drive

608 E. Highway 260
Payson, Arizona 86051

terri-morrell-stanch@chicagocounty.gov

Ph: (930) 414-2279
Fax: (930) 414-0000

1-800-323-4452 Ext. 7111

This letter serves as a formal Code Enforcement complaint pursuant to Gila County A.R.S. 48-3601 through 3628 (Unauthorized Development with the Floodplain). The subject property is located in Gila County. The property owner on record is Levi Luster.

Complaint 1:

The structure is being built in a floodplain that will negatively effect neighboring properties. The Gila County Floodplain map does not accurately reflect the girth of the floodplain to include Scott Drive (see attachment 1). The topography has changed due to frequent flooding. The actual floodplain extends to include Scott Drive (see attachment 2). This attachment verifies flooding that occurred in January of 1993 causing severe damage to Scott Drive directly in front of the Luster structure proving the inaccuracy of the map used by FEMA to make the determination to move the structure.

A review of the "dam-like" effect the Luster structure will have on adjacent properties WHEN flooding occurs again must be done to protect long existing homes that are now in harms way, and action must be taken to make those critical corrections immediately.

Complaint 2:

The Lustars removed the culvert which was designed to control flood water (see attachments 3,4&5). This pipe was located under what is now the garage and was removed without knowledge of the engineer who designed the plan for water removal as he was questioning why it was removed in a conversation I had with him after a visit to the site.

Please refer to attached pictures of Scott Drive taken in August of 2017 (attachments 6&7) by the owner of the adjacent property to the Luster's structure (649 Scott Drive). These pictures provide further proof of extensive flooding that occurs on Scott Drive contrary to the Gila County Floodplain map FEMA must have used compounding the problem for us.

Due to the mishandling by the County of the issuance of a C.U.P. granted to the Lustars to accommodate moving the structure to within 10' of Scott Drive as required by FEMA with no input from the community due to inadequate notice of a variance meeting to address this issue this culvert MUST be replaced, and all existing drainage along Scott Drive must be maintained by the county AS REQUIRED. A mistake by the County can have no negative impact on tax-paying citizens who depend on our government officials to solve problems, not create them. Scott Drive has been compromised and immediate corrective action must be taken to protect existing properties.

Sincerely,

Terri Morrell-Stanch

EXHIBIT 2



Luster Custom Homes & Remodeling

4.9 ★★★★★ 33 Reviews [Review Me >](#)

Scottsdale, AZ

[Contact Me](#)[Click to Call](#) [Website](#)[About Us](#)[Projects](#)[Reviews](#)[Ideabooks](#)

9 Houzz Awards

Luster Custom Homes is an award-winning, Scottsdale-based luxury residential remodeling and custom home build firm. We are focused on creating exceptional living environments that enhance our clients' lifestyles.

We work closely with clients to help turn their vision into a reality whether it's a kitchen or bathroom remodel, home addition or

[Read More >](#)

39 Projects for Luster Custom Homes & Remodeling

4 Affiliations



4 Houzz Badges

Contact Info:

Tanner Luster
48901 N. Thompson Peak
Parkway Suite 240
Scottsdale, AZ 85255

Category:

General Contractors

License Number:

246296

[Save](#)[Share](#)

 Follow

420
Followers

71
Following



📍 Scottsdale, AZ

Silverleaf Contemporary Bathroom Remodel

9 photos



📍 Paradise Valley, AZ

Paradise Valley Hillside Full Home Remodel

29 photos



📍 Scottsdale, AZ

Modern Farmhouse Remodel & Guest House Addition

36 photos



📍 Scottsdale, AZ

Silverleaf Transitional - Siesta

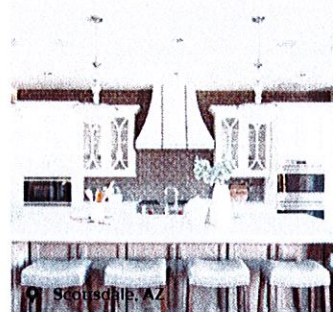
38 photos



📍 Phoenix, AZ

Cherokee Home Remodel

49 photos



📍 Scottsdale, AZ

North Scottsdale Transitional Traditional Custom Home

38 photos

EXHIBIT 3

ENTITY INFORMATION

Search Date and Time: 7/22/2020 3:48:46 PM

Entity Details**Entity Name:**

LUSTER CUSTOM HOMES LLC

Entity ID:

L14236526

Entity Type:

Domestic LLC

Entity Status:

Active

Formation Date:

1/23/2008

Reason for Status:

In Good Standing

Approval Date:

1/25/2008

Status Date:**Original Incorporation Date:**

1/23/2008

Life Period:

Perpetual

Business Type:**Last Annual Report Filed:****Domicile State:**

Arizona

Annual Report Due Date:

Privacy Policy (<http://azcc.gov/privacy-policy>) | Contact Us (<http://azcc.gov/corporations/corporate-contacts>)

Original Publish Date:

2/15/2008

Statutory Agent Information

Name:

TANNER LUSTER

Appointed Status:

Active

Attention:

Address:

2020 E MYRNA LANE , TEMPE, AZ 85284, USA

Agent Last Updated:

1/17/2017

E-mail:

Attention:

Mailing Address:

2020 E MYRNA LANE , TEMPE, AZ 85284, USA

County:

Principal Information

Title	Name	Attention	Address	Date of Taking Office	Last Updated
Manager	TANNER LUSTER		14850 N SCOTTSDALE RD STE 295, SCOTTSDALE, AZ, 85254, USA	1/23/2008	2/3/2011
Member	TESS LEAVITT		14850 N SCOTTSDALE RD STE 295, SCOTTSDALE, AZ, 85254, USA	1/23/2008	2/3/2011
Member	TANNER LUSTER		14850 N SCOTTSDALE RD STE 295, SCOTTSDALE, AZ, 85254, USA	1/23/2008	2/3/2011

Address 

Attention:

Address: 18801 N THOMPSON PEAK PARKWAY STE 240, SCOTTSDALE, AZ, 85255, USA

County: Maricopa

Last Updated:

Entity Principal Office Address

Attention:

Address:

County:

Last Updated:

Back

Return to Search

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Document History

Name/Restructuring History

Pending Documents

Microfilm History

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EXHIBIT 4

AZCensus2020 (<https://azcensus2020.gov/>)

Visit OpenBooks (<https://openbooks.az.gov>)

Ombudsman-Citizens Aide (<https://www.azoca.gov>)

Get the facts on COVID-19 (<https://azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/index.php#novel-coronavirus-home>)

AZ.Gov (<https://az.gov/search/>)



(<https://az.gov>)

DISCLAIMER

The data supplied below is based on your specific request(s) and is correct to the best of our knowledge as of the date and time it was extracted from our data files. The information is provided without personal research or analysis. The data is subject to change on a daily basis. You may obtain additional public records related to any licensee, including dismissed complaints and nondisciplinary actions and orders, by contacting the ROC directly. If this information is required for legal purposes, you may request an affidavit or certified copies for a fee as specified in A.R.S. 32-1104A3 (<https://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/32/01104.htm>). Please read our Standard Terms of Use at roc.az.gov/terms (/terms)

Please note: The company or individuals listed on this license may hold other Arizona contracting licenses. To view information, status and complaint history for the past two years on other licenses held, go to the License Inquiry page and do a "Company Name and Personnel" search by entering the name of the company or individuals listed on the license.

DETAILS FOR LUSTER CUSTOM HOMES LLC LICENSE NUMBER ROC 246296

WEDNESDAY JULY 22, 2020 03:07:44 PM

CONTRACTOR

LICENSE

NAME / ADDRESS / PHONE

Luster Custom Homes LLC

18801 N Thompson Peak Pkwy Ste 240

Scottsdale, AZ 85255-6348

Phone: (480) 304-5525

STATUS / ACTION

Active

CLASS & DESCRIPTION

**General Dual KB-2 Dual Residential and
Small Commercial**

ENTITY TYPE

LLC

ISSUED / RENEWAL

First Issued: 2008-07-22

Renewed Through: 2022-07-31

QUALIFYING PARTY & PERSONNEL

The Qualifying Party listed below is associated with this license. All other persons named, if any, are associated with the company. They are not all necessarily associated with this license.

Name: Tanner Cody Luster

Position: Qualifying Party

Other Positions: MEMBER

Name: Tess Joann Leavitt

Position: Member

COMPLAINT INFORMATION

EXHIBIT 5

38

Subject: Stop work order

CAUTION: Please VERIFY the actual email address matches sender name to avoid phishing attempts. Since this email originated from outside of Gila County, please be careful when deciding to click links or open attachments.

Scott thanks for sending copy of the application. I have requested over the phone transcripts of community meeting and now adding commission meeting also.

We need clarification on Debs question she asked in the commission meeting as to your statement in the community meeting that the county will not do any inspections until after the commission meeting in June (which is a stop work order just using different words). Deb was very confused by your response and appeared to contradict your community statement.

So asking her question again "on what ordinance or legal grounds is the county refusing to do inspections or allow us to move forward?"

She understood your response as, its due to the change in trusses and truss company(didn't change truss company so not sure what that is based on). You called for an inspection and it was done 6/21/20. Since 6/21/20. I have been asking you and Randy many times and its clear you refuse to disclose any info regarding this. I and my family have been in construction for generations and have not had a tag on a truss change its a common change, let alone take this long. Its why the draftsman said just change your trusses when you order them. It has now been 5 weeks that I am being told your engineer hasn't had time to look at them still. Is that timeline the same for every property the county is dealing with?

Thanks Mike

Sent from my iPhone

EXHIBIT 6

Mrs. Luster: Stated that they did not want a 3-story home for their retirement home. There is only a small place to build due to Federal flood plain requirements. The 9' pier requirement would have looked like an eye sore, so they decided to enclose it for a garage. She said they told floodplain that this was not the house they wanted and that it would not fit the community and they were told these are Federal FEMA regulations and that they had to abide by them.

Patrice Abbott: Asked if the Lusters considered that maybe they were not meant to build on this lot.

Ted Schmitt: Stated that the Lusters and their architect were very well versed on that they could and could not do and that sometimes architects mislead with their plans. Mrs. Luster stated there was no intension of misleading anyone and that they paid 3 different bids for the architect for 3 different plans because of the Federal requirements. FEMA changed the maps and regulations. At first it could be 4' off the ground with a crawl space. Floodplain denied it saying that they had to be 9' instead of 4'. She stated that they have never meant to mislead and that they love this property and have been trying to make the best of the hand they have been dealt.

Ted Schmitt: Stated that if they are trying to go by the law then they need to reduce the top floor. Mrs. Luster stated that they have already put \$100,000 into the property and that the County had approved their plans. Mr. Schmidt responded that it does not sound like the Lusters want to follow the law or rules if they continue with the 3 stories.

Patrice Abbott: Stated that the house needs to come down 4 feet. She stated that she was sorry the Lusters had put so much money into the house and that was her concern for them that they continued to construct the house and were also concerned that the Lusters would claim that they had so much money into the house that they cannot tear down the house now.

Elizabeth Brannigan: Stated that that is why the Lusters wanted to build the house so quickly. Mrs. Luster said that some of the contractors resigned so they hired new contractors who were scheduled, and they had no idea this was coming. They had materials that would start warping but that they had no ill intent at all. She stated that they have been very sincere and did not get the call to not put the skin on until it was already done.

A person who did not identify himself stated that it was harsh to throw stones at the owner when the County is the one who approved everything. He stated that the County knew what the Lusters were going to build so why did they not stop them.

Teresa Richardson: Stated that the owners and the architects had full knowledge of the zoning requirements and for the Lusters to continue construction after they knew about the height and stories issue was not neighborly at all and that the owners are arrogant. She also asked what the Lusters planned on doing at this stage. Mrs. Luster stated that they will follow Mr. Buzan's instructions every step of the way.

A person who did not identify himself asked if the Lusters will stop construction. Mrs. Luster replied that they cannot commence with construction without inspections. She further stated that there should not have been a red tag issued because they have done nothing wrong because they got a building permit from the County.

EXHIBIT 7

To: Vela, Homero <hvela@gilacountyaz.gov>

Cc: Buzan, Scott <sbuzan@gilacountyaz.gov>

Subject: RE: Zoning error made

Thanks for your input. The design with the crawlspace only was submitted to Floodplain and not to us. According to Deb, the owner says the finished floor height that Darde said FEMA required would have resulted in a very tall crawlspace or he would have to build the residence on tall piers. He said piers would have look terrible so instead of a useless crawlspace, he decided it should be a garage. This decision created another story and raised the height above 30'.

Mark determined that the building was greater than 30' in height from grade. The plan reviewer is supposed to verify the accuracy of the plans in regards to the building height and bring it to the draftsman or architect's attention if there is a discrepancy and to a Permit Tech if it results in a zoning violation.

I will check with Clayton on Monday about the drainage.

I will contact Jeff.

In my opinion the building height is not in proportion to the rest of residences on that street. But, because FEMA required a 6' B.F.E, raising the height by 3' to make a useful garage would be grounds to apply for a CUP. Building in on 6' piers would definitely not have blended in with the neighborhood. Additionally, the lot is 70' in width at the front and less the minimum 14' total side setbacks required by zoning leaves 56' of buildable width and a shallow lot depth due to the floodway location. These factors could be considered as well for the CUP.

SCOTT BUZAN

Director

Gila County Community Development

608 E. Highway 260

Payson, AZ 85541

928-474-7199

From: Vela, Homero <hvela@gilacountyaz.gov>

Sent: Friday, April 10, 2020 3:54 PM

To: Buzan, Scott <sbuzan@gilacountyaz.gov>

Subject: RE: Zoning error made

Scott – We made a mistake but should not necessarily stop us from enforcing the zoning ordinance. See attached for examples. Would you have supported a CUP during the plan review? What was the building height on the plan submitted in Aug 2019- Crawlspace. Confused about plan reviewer asking if building height complaint – is that because he could not determine adjacent grade elevation. Has the drainage been resolved. Suggest we have Jeff take a look at your proposed

EXHIBIT 8



EXHIBIT 9

Cc: Buzan, Scott <sbuzan@gilacountyaz.gov>

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neighborhood.

Granting a CUP just because we made a mistake is not reason enough – in my opinion - granting a CUP should pass a minimal standard – no harm to community.

Homero

From: Buzan, Scott <sbuzan@gilacountyaz.gov>

Sent: Friday, April 10, 2020 1:36 PM

To: Vela, Homero <hvela@gilacountyaz.gov>

Cc: Pluimer, Randall <rpluimer@gilacountyaz.gov>; Buzan, Scott <sbuzan@gilacountyaz.gov>

Subject: Zoning error made

H-

Unfortunately I need to make you aware of a zoning error made in regards to the number of stories of a permitted SFR and the structure's height. I have included in the attached document all pertinent information as well as a proposed course of action.

I am working from home today so you can reach me on my cell.

SCOTT BUZAN

Director

Gila County Community Development

608 E. Highway 260

Payson, AZ 85541

928-474-7199

ARF-6138

3. A.

Regular Meeting

Meeting Date: 07/28/2020

Submitted For: Mary Springer, Finance Director

Submitted By: Maryn Belling, Budget Manager

Department: Finance

Information

Request/Subject

Follow-up Discussion on Options to Address the Public Safety Personnel Retirement System (PSPRS) Unfunded Liability

Background Information

On June 18, 2019, the Gila County Board of Supervisors adopted Policy No. BOS-FIN-116 - *Public Safety Retirement System Funding* in compliance with: The State of Arizona House of Representatives at the Fifty-third Legislature second regular session in 2018 passed House Bill 2097 which amended Title 38, Chapter 5, Article 4, Arizona Revised Statutes, by adding section 38-863.01 -*Pension funding policies; employers*, which relates to the Public Safety Personnel Retirement System (PSPRS).

A.R.S. § 38-863.01 requires the Board of Supervisors to adopt and post a pension funding policy annually beginning on or before July 1, 2019.

Beginning on or before July 1, 2019, each governing body of an employer shall annually:

Adopt a pension funding policy for the system for employees who were hired before July 1, 2017. The pension funding policy shall include funding objectives that address at least the following:

1. How to maintain the stability of the governing body's contributions to the system.
2. How and when the governing body's funding requirements of the system will be met.
3. Defining the governing body's funded ratio target under the system and the timeline for reaching the targeted funded ratio.
4. Formally accept the employer's share of the assets and liabilities

under the system based on the system's actuarial valuation report.

The governing body shall post the pension funding policy on the governing body's website.

On June 23, 2020, Mark Reader from Stifel, Nicolaus & Company, Incorporated and Mike Townsend from PSPRS provided a presentation to the Board of Supervisors during a Work Session to introduce and discuss options for funding the UAAL (Unfunded Actuarially Accrued Liability), the associated risks and other attributes.

Evaluation

Per the Board's request, this item is being placed on this agenda as a follow-up to the Board's previous Work Session discussion to discuss previously presented information, analyze options and provide direction to staff.

Conclusion

Not applicable. Ongoing work-session discussion item.

Recommendation

Information/discussion only.

Suggested Motion

Information/Discussion regarding funding options for the Public Safety Personnel Retirement System (PSPRS) unfunded liability. **(Mary Springer)**

Attachments

Stifel's Presentation Re: PSPRS

Policy No. BOS-FIN-116

CSA Presentation Re: Pension Debt Funding 7-28-20



Gila County (AZ)

Pension Liability Management

20 May 2020

Status Quo:

How do we compare to our peers?

- Key Decision Points:**
- What's the cost of doing nothing?
 - What are feasible alternatives?

STIFEL

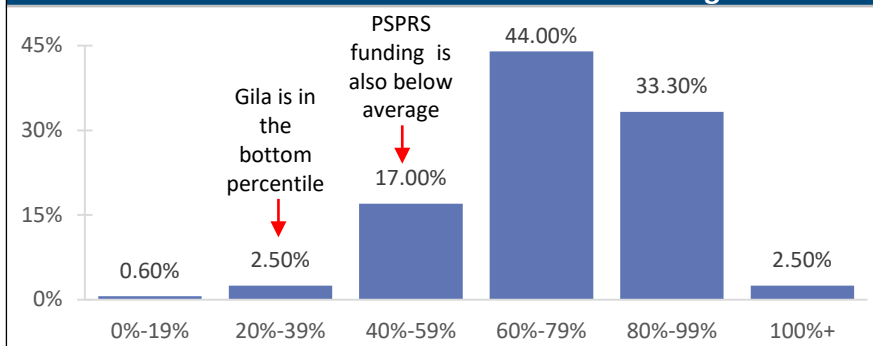
Accruing at 7.30%, Gila's pension payments are among the fastest escalating costs on the County's budget

- Gila County participates in Arizona PSPRS for its Sherriff employees and retirees
- The plan is funded below 40% as of the 2019 valuation
- The liability is accruing at an assumed rate of 7.30%, well above what the County might pay on its debt (3% to 5%)
 - The actuarial rate was revised from 7.40% to 7.30% in the 2019 valuation, causing the UAAL to increase

Overview of Key Terms.

- **Actuarially Accrued Liability ("AAL").** The present value of all future benefit payments payable to current and future retirees
- **Actuarial Value of Assets ("AVA").** The current value of all assets held/invested by PSPRS to generate returns and make benefit payments to retirees
- **Funded Ratio.** The ratio of AVA to AAL; 100% funding implies Assets = Liabilities
- **Unfunded Actuarially Accrued Liability ("UAAL").** The difference between the AAL and AVA

Public Pensions: National Distribution of Funding Levels²



Gila County Sherriffs' Plan Statistics (as of 6/30/2019)¹

AAL	\$20,643,301
AVA	\$8,062,877
UAAL	\$12,580,424
Actuarial Rate	7.30%
Funded Ratio	39.1%

Arizona PSPRS¹

AAL	\$17,393,828,992
AVA	\$8,079,039,739
UAAL	\$9,325,730,005
Actuarial Rate	7.30%
Funded Ratio	46.4%

Recommendation:

- **Refinance pension liability using other debt instruments to:**
 - ✓ Achieve 100% funding levels (top 2.5% nationally); greater assets will also allow the pension funds to improve investment efficiency and liquidity for paying benefits
 - ✓ Lower borrowing rate on \$12 million UAAL from 7.30% to approximately 4% or lower (depending on market conditions)³
 - ✓ Generate budgetary stability and savings to address other needs and prevent crowding out of other priorities by escalating pension expenses

1. Source: Arizona Public Safety Personnel Retirement System Actuarial Valuation as of June 30, 2019.

2. Center for Retirement Research at Boston College, "The Funding of State and Local Pensions: 2015-2020." Alicia H. Munnell and Jean-Pierre Aubry.

3. Due to the current market dislocation caused by COVID-19, the interest rates assumed herein are estimated and provided for discussion purposes only and not indicative of available market execution.

Status Quo:

What are we currently paying?

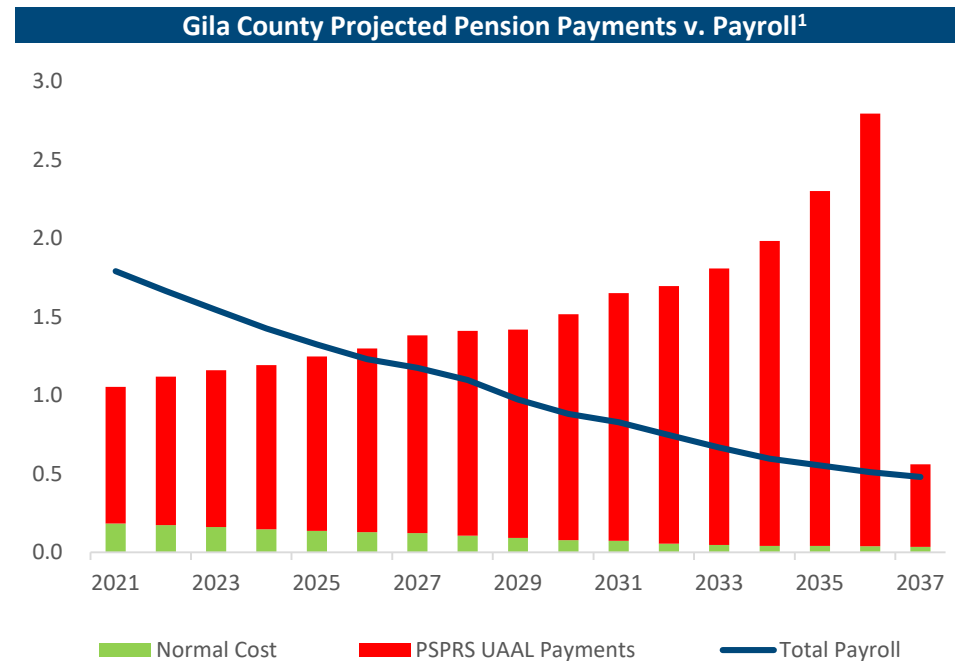
- Key Decision Points:**
- What's the cost of doing nothing?
 - What are feasible alternatives?

STIFEL

The County is essentially borrowing from PSPRS to support its pension plans and this cost continues growing as plan assumptions evolve

- *If the County does nothing, it will continue to be exposed to the risk of increased future costs and liabilities due to changes in assumptions or investment return volatility*
- UAAL amortization payments will continue escalating well above total employee payroll

FY	Total Payroll	Normal Cost	% of Payroll	UAAL	% of Payroll
2021	1,791,717	184,009	10.27%	869,766	48.54%
2022	1,665,239	173,851	10.44%	946,610	56.85%
2023	1,544,941	161,446	10.45%	999,416	64.69%
2024	1,426,364	147,201	10.32%	1,046,802	73.39%
2025	1,325,322	137,701	10.39%	1,110,582	83.80%
2026	1,231,086	129,387	10.51%	1,170,814	95.10%
2027	1,175,998	122,069	10.38%	1,262,000	107.31%
2028	1,098,615	106,456	9.69%	1,306,276	118.90%
2029	974,783	91,045	9.34%	1,327,844	136.22%
2030	882,485	78,629	8.91%	1,438,635	163.02%
2031	828,790	73,348	8.85%	1,578,519	190.46%
2032	748,539	55,542	7.42%	1,640,945	219.22%
2033	668,781	46,079	6.89%	1,763,007	263.61%
2034	597,261	41,151	6.89%	1,942,770	325.28%
2035	553,370	40,507	7.32%	2,262,991	408.95%
2036	511,030	38,021	7.44%	2,759,085	539.91%
2037	479,966	34,078	7.10%	526,978	109.79%



Recommendation:

- The County can utilize a pension obligation bond issuance to refinance this liability, reduce ongoing annual payments to create more level annual payment structure and increase its funded ratio

1. Source: Arizona Public Safety Personnel Retirement System Actuarial Valuation as of June 30, 2019.

2. Due to the current market dislocation caused by COVID-19, the interest rates assumed herein are estimated and provided for discussion purposes only and not indicative of available market execution.

Pension Bonds: Impact on Annual Payments^{1,2}

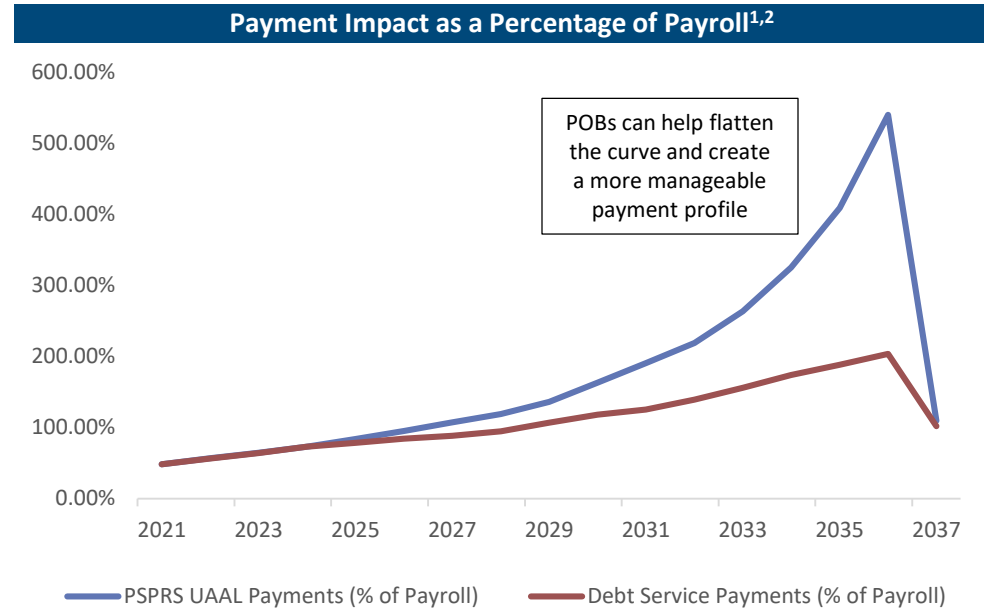
Key Decision Points:
• How can the County address its escalating UAAL payments?

STIFEL

Issuing pensions bonds to fully fund the existing unfunded liability could allow the County to generate significant ongoing savings while leveling out year-over-year payments

- POBs provide an opportunity for the County to reduce annual costs while also creating a more stable and balanced long-term expense profile
- We recommend that the County approximate \$1 million of annual level debt service on the bonds to mitigate the rapid escalation of UAAL payments relative to payroll, while also ensuring that debt service costs in any given year do **not** exceed the current PSPRS UAAL payment projections
- Finally, the County can utilize existing cash balances to establish Contingency Reserve Funds for its pension liability management; this paired reform would be a significant credit positive from a rating and investor perspective and will best position the County for managing future movements in plan projections and experience

Summary Statistics ^{1,2}	
Dated Date	7/1/2020
Final Maturity Date	1/1/2037
All-In TIC	3.89%
Average Life	9.00 years
Bond Par Amount	\$12,805,000
Pension Fund Deposit	\$12,409,826
Cost Savings (UAAL – Debt Service)	\$7,128,029
Total NPV Benefit	\$4,361,339
Total NPV Benefit (as % of Bond Proceeds)	34.05%
Actuarial Funding Status after Pension Bonds	100.00%



1. Market conditions as of April 24, 2020. Spreads based on comparable recent transactions. Stifel does not guarantee to underwrite at these levels. All NPV values are discounted to July 1, 2020 (assumed transaction closing date) at a discount rate of 3.89%. Please refer to Stifel's risk disclaimers in this presentation. 2021 UAAL amount was computed by Stifel using prior assumptions from the 2019 Actuarial Report

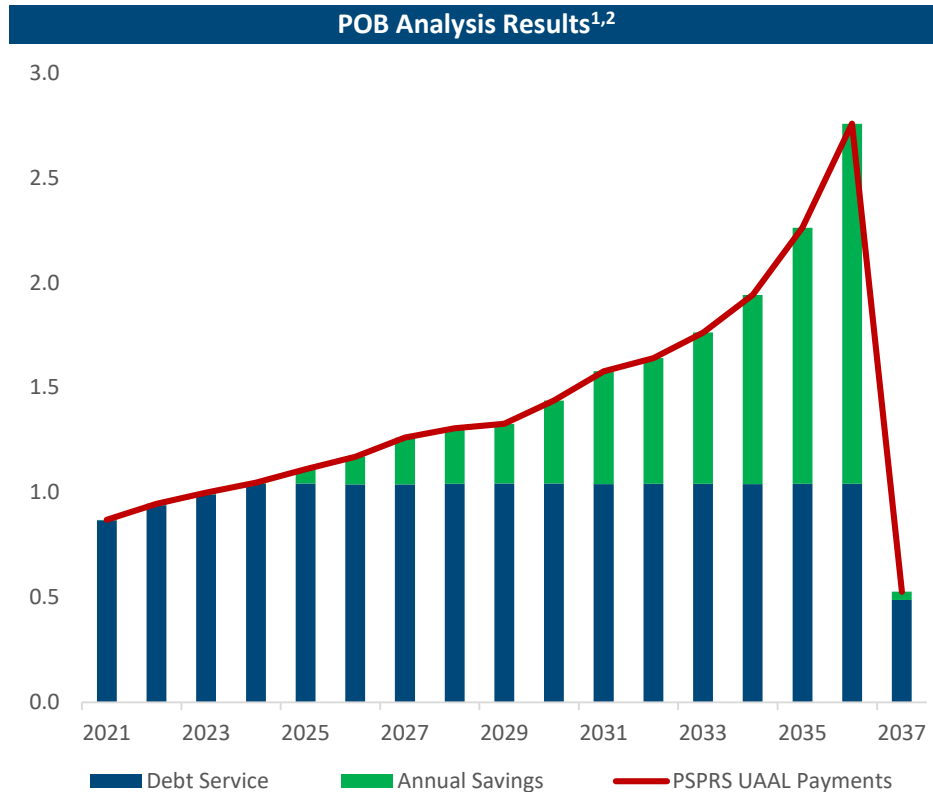
2. Due to the current market dislocation caused by COVID-19, the interest rates assumed herein are estimated and provided for discussion purposes only and should not be considered indicative of available market execution.

Pension Bonds: POB Analysis Results^{1,2}

Key Decision Points:
•What level of savings can the County expect from a pension bonding?

STIFEL

FY	Budgeted UAAL Payments	Debt Service	Annual Savings	PV Benefit @ 3.89%
	[A]	[B]	[C] = [A]-[B]	[D]=PV[C]
2021	869,766	868,034	1,732	1,667
2022	946,610	940,096	6,514	6,035
2023	999,416	991,758	7,658	6,830
2024	1,046,802	1,041,270	5,532	4,749
2025	1,110,582	1,043,113	67,469	55,751
2026	1,170,814	1,039,069	131,745	104,787
2027	1,262,000	1,038,201	223,799	171,341
2028	1,306,276	1,041,379	264,898	195,213
2029	1,327,844	1,042,754	285,091	202,229
2030	1,438,635	1,042,566	396,069	270,434
2031	1,578,519	1,040,766	537,753	353,428
2032	1,640,945	1,042,304	598,642	378,717
2033	1,763,007	1,041,951	721,056	439,082
2034	1,942,770	1,040,091	902,679	529,101
2035	2,262,991	1,041,694	1,221,298	689,058
2036	2,759,085	1,041,544	1,717,542	932,762
2037	526,978	488,424	38,554	20,154
Total	23,953,040	16,825,012	7,128,029	4,361,339

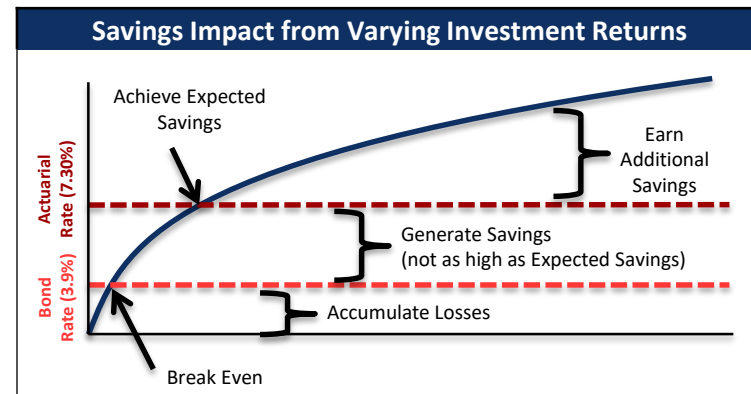


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2. Due to the current market dislocation caused by COVID-19, the interest rates assumed herein are estimated and provided for discussion purposes only and should not be considered indicative of available market execution.

Pension Bonds: Risks

- Pension bonds carry three distinct types of risks: i) actuarial risk, ii) market risk, and iii) other risks
- Actuarial Risk.** Any retirement system's independent actuaries calculate projections for plan assets and liabilities, and these projections are premised on a variety of assumptions such as investment returns, payroll increase, COLA, mortality, early retirement, and benefit payments
 - Annual employer contributions are calculated based on these assumptions
 - Any revision or variance from these assumptions will alter projections and required contributions, regardless of the issuance of pension bonds
 - Actuarial risk is inherent to all pension funds, and all projections of future contributions and payouts
- Market Risk.** The primary risk associated with pension bonds is long-term investment return performance
 - The bond rate is impacted by market risk at the time the bonds are sold, but is locked in after that
- Other Risks.** Pension funding bonds have numerous risks including, but not limited to, variance from the anticipated investment return, payroll increase, COLA, mortality, early retirement, covered payroll and other assumptions contained in the actuarial reports, CAFR and other documents
 - All references to expected savings are for potential savings and are based on achieving rates assumed in actuarial reports, CAFR and other documents
 - Issuing pension bonds could result in savings that are greater or less than stated in the analysis, or could result in a loss
 - Potential savings vary from year to year; Actual savings or losses and the success of the pension bond transaction cannot be known until the amortization of the final pension bond maturity
- Additional risks may also exist



Mitigating Risks: Contingency Reserve Fund

Key Decision Points:

- How can the County help mitigate risks associated with POBs?

STIFEL

The County can utilize existing cash balances to create a Contingency Reserve Fund that helps manage market and actuarial risks associated with POBs

- **What?** Helps mitigate risks associated with year-over-year volatility in investment earnings as well as changes in actuarial assumptions, such as assumed rate of return, COLA, mortality
- **How?** Use a portion of existing cash to establish an initial balance in CRF
 - Apply a defined portion of ongoing year-over-year budgetary savings from the pension bond (difference between what UAAL payments would have been versus debt service costs) to continue funding CRF
- **Why?** In years where investment returns do not meet defined/established benchmarks, and/or changes in actuarial assumptions cause a significant change in projected annual payments, the County can draw on the MCR to smooth the budgetary impact of funding additional contributions for the newly created UAAL
- **Why not?** While cash funding eliminates any negative carry of issuing additional debt to fund an upfront deposit, the County may have an opportunity cost of funding other capital or operating needs

Rules for Investment of Proceeds. This is akin to permitted investment guidelines for reserve/escrow funds

- Proceeds should only be invested in liquid and/or short-term products to ensure prompt availability of funds

Rules for CRF Draws. While there may be greater flexibility to accord broader rules for draws on an CRF absent bond proceeds, in practice, permitting draws for any/every possible increase in payments could deplete the balance too soon

- The County may consider establishing a minimum fund balance threshold before which draws on the balance of the CRF could occur
- Draws may also be restricted to draws of investment income only, while the balance is untouched
- Establish periodic funded ratio thresholds, where CRF balance above a pre-defined level is drawn to supplement ARC

Rules for Contingency Replenishment. Could use ongoing pension bond savings or use *sell the float* on other County held funds for periodic inflows

- The County must also consider mechanisms to build up and/or maintain the CRFs balance by securing a stream of steady cash flow beyond the initial deposit
- This entails defining the revenue and investment sources for fiscal transparency, and redirecting investment returns in excess of an established benchmark to the Contingency Reserve Fund

Mitigating Risks:

Contingency Reserve Fund Sample Term Sheet

Key Decision Points:
 • How can the County help mitigate risks associated with POBs?

STIFEL

The County can utilize existing cash balances to create a Contingency Reserve Fund that helps manage market and actuarial risks associated with POBs

Purpose	<ul style="list-style-type: none"> To mitigate the impact of 1) investment return volatility and 2) changes in select actuarial assumptions (as defined herein) on bond proceeds deposited with PSPRS against Gila County's Sheriff's pension liability
Initial Deposit	<ul style="list-style-type: none"> Use a portion of existing cash balances to create a CRF for managing risks associated with the Sheriff's pension liability
Rules for Investment	<ul style="list-style-type: none"> Principal protected Gross funded Liquid within 90 days Proceeds should only be invested in liquid and/or short-term products to ensure prompt availability of funds County may have opportunity to utilize Act 151 Trusts to help PSPRS manage investment of proceeds; alternatively, could serve as a tool for supporting a local bank as trustee
Rules for Draws	<ul style="list-style-type: none"> Market. Draw when investment return is below a defined threshold, for example 5%, or the Bond Rate Actuarial. Draw when changes to COLA, revisions to mortality assumptions, and/or revision of the investment return assumptions occur and cause an impact on AAL in excess of a defined threshold The County may consider establishing a minimum fund balance threshold before which draws on the balance of the CRF could occur Draws may also be restricted to draws of investment income only, while the balance is untouched Establish periodic funded ratio thresholds, where CRF balance above a pre-defined level is drawn to supplement ARC
Rules for Replenishment	<ul style="list-style-type: none"> Could use ongoing pension bond savings or use sell the float on other County held funds for periodic inflows The County must also consider mechanisms to build up and/or maintain the CRF balance by securing a stream of steady cash flow beyond the initial deposit Amortize replenishment from General Fund over 7 years on a level basis This entails defining the revenue and investment sources for fiscal transparency, and redirecting investment returns in excess of an established benchmark to the Contingency Reserve Fund
Sizing	<ul style="list-style-type: none"> Size initial deposit to manage "worst case" scenario of all permitted draw events (market volatility and actuarial changes) occurring in one valuation Market. \$958,940; size initial deposit to manage up to 3 years of new UAAL payments that would be created if PSPRS experienced 30% investment loss in year 1 of issuing pension bonds Actuarial. \$1,000,000; size initial deposit to manage up to 3 years of new UAAL payments that would be created if the actuarial rate was revised to 7%, COLA increased by 1% and PSPRS adopted a new mortality table
Rules for Extinguishment	<ul style="list-style-type: none"> Upon the repayment of the final debt service payment, the County could redirect the reserve to apply to fund OPEB or other retiree benefits, or General Fund

Pension Risk Disclaimer and Engaged Underwriter Disclosure

Pension Obligation Bonds (“POBs”) are a source of financing for unfunded actuarial liabilities of pension funds and can serve a valuable function. However, the success of a POB financing is dependent on a number of assumptions proving to be accurate, and the failure of any of these assumptions is a risk that a government issuing POBs should consider.

Among the assumptions that are important to a POB financing, and the risks associated with those assumptions providing to be inaccurate, are the following:

- **Assumption:** The investment yield on the POB proceeds once deposited in the pension fund will equal or exceed the yield on the POBs. **Risk:** If the investment yield on the POB proceeds is less than the yield on the POBs, and the decline is not offset by positive changes in other assumptions, the issuance of the POBs may actually increase the unfunded actuarial liability.
- **Assumption:** Payroll increases during the term of the POBs will be as anticipated when the unfunded actuarial liability was estimated at POB issuance. **Risk:** If payroll increases during the term of the POBs exceed expectations, and the increases are not offset by positive changes in other assumptions, the POB proceeds will not suffice to cover the unfunded actuarial liability.
- **Assumption:** Cost of living adjustments (“COLAs”) will be as anticipated when the unfunded actuarial liability was estimated at POB issuance. **Risk:** If COLAs exceed expectations during the term of the POBs, and the increases are not offset by positive changes in other assumptions, the POB proceeds will not suffice to cover the unfunded actuarial liability.
- **Assumption:** Various assumptions used in calculating the unfunded actuarial liability -- such as mortality rates, early retirement incentives, types of payrolls covered by the pension fund -- will be as anticipated at the time of POB issuance. **Risk:** If there are reductions in mortality rates, increases in early retirement incentives, expansions of the payrolls covered by the pension plan during the term of the POBs, and these changes are not offset by positive changes to other assumptions, the POB proceeds will not suffice to cover the unfunded actuarial liability.

In addition to analyzing potential benefits that are based on achieving assumptions made in estimating the unfunded actuarial liability, we will also analyze potential budgetary benefits or losses based on various prospective levels of the pension systems’ earnings to assist you in gauging the likelihood of success of a POB transaction. It should be noted that potential budgetary benefits vary from year to year. Actual benefits or losses and the success of the POB financing cannot be known until the POBs have been paid in full.

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Gila County Policy - Finance	Policy Number: BOS-FIN-116	Page
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1. PURPOSE

To establish a pension funding policy, in accordance with A.R.S. §§38-863.01, that identifies the Board of Supervisors' funding objectives and strategies for maintaining stability of the County's Annual Required Contribution (ARC) and addressing the County's Unfunded Actuarial Accrued Liability (UAAL).

2. DEFINITIONS

- A. Unfunded Actuarial Accrued Liability (UAAL) - Is the difference between trust assets and the estimated future cost of pensions earned by employees.
- B. Annual Required Contribution (ARC) - Is the annual amount required to pay into the pension funds, as determined through annual actuarial valuations. It is comprised of two primary components: normal pension cost - which is the estimated cost of pension benefits earned by employees in the current year; and, amortization of UAAL - which is the cost needed to cover the unfunded portion of pensions earned by employees in previous years. The UAAL is collected over a period of time referred to as the amortization period. The ARC is a percentage of the current payroll.
- C. Funded Ratio - Is a ratio of fund assets to actuarial accrued liability.

3. COUNTY SHARE OF ASSETS AND LIABILITIES

The Board formally accepts the assets, liabilities, and current funding ratio of the County's Public Safety Personnel Retirement System (PSPRS) trust funds as reported by PSPRS, the plan administrator from their June 30, 2017 actuarial valuation, which are detailed below.

Trust Fund	Assets	Accrued Liability	Unfunded Actuarial Accrued Liability	Funded Ratio
Sheriff's Office	\$7,183,052	\$19,707,313	\$12,524,261	36.4%
Adult Detention	\$5,117,096	\$6,771,272	\$1,654,176	75.6%
Dispatchers	\$1,407,642	\$2,128,888	\$ 721,246	66.1%
Totals	\$13,707,790	\$28,607,473	\$14,899,683	N/A

Gila County Policy - Finance Public Safety Personnel Retirement System Funding	Policy Number: BOS-FIN-116	Page
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Consistent with the PSPRS Actuarial Funding Policy, the Board's PSPRS funding ratio goal is 100% (fully funded) over a period of 20 years.*

The plan to achieve this goal requires full ARC payments (normal cost and UAAL amortization) from operating funds over the entire amortization period of 20 years.* The estimated ARC for FY19 is \$1,632,113.

**Note: The plan to amortize the UAAL over an extended period of time is conditional on the accuracy of the actuarial assumptions. These assumptions are updated on an annual basis and the ARC as well as the amortization period may be adjusted.*

SIGNATURE:



CHAIRMAN, BOARD OF SUPERVISORS

7-14-20
DATE



Brandon Nee, County Supervisors Association

Pension Debt Financing



$$\text{B} = \text{I} + \text{C}$$

BENEFITS *INVESTMENTS* *CONTRIBUTIONS*

Can these be reduced?

How do we control growth?

Should we use a higher or lower rate?

What happens when we're wrong?

What's the right funded status?

Does timing matter?



What can be addressed independently?

PSPRS

Tiers I & II - Legacy Debt

39.1% funded

Tier III - DB Risk Pool

116.9% funded

CORP

Tiers I & II - Legacy Debt

71.4% funded

New corrections officers have DC only option.

EORP

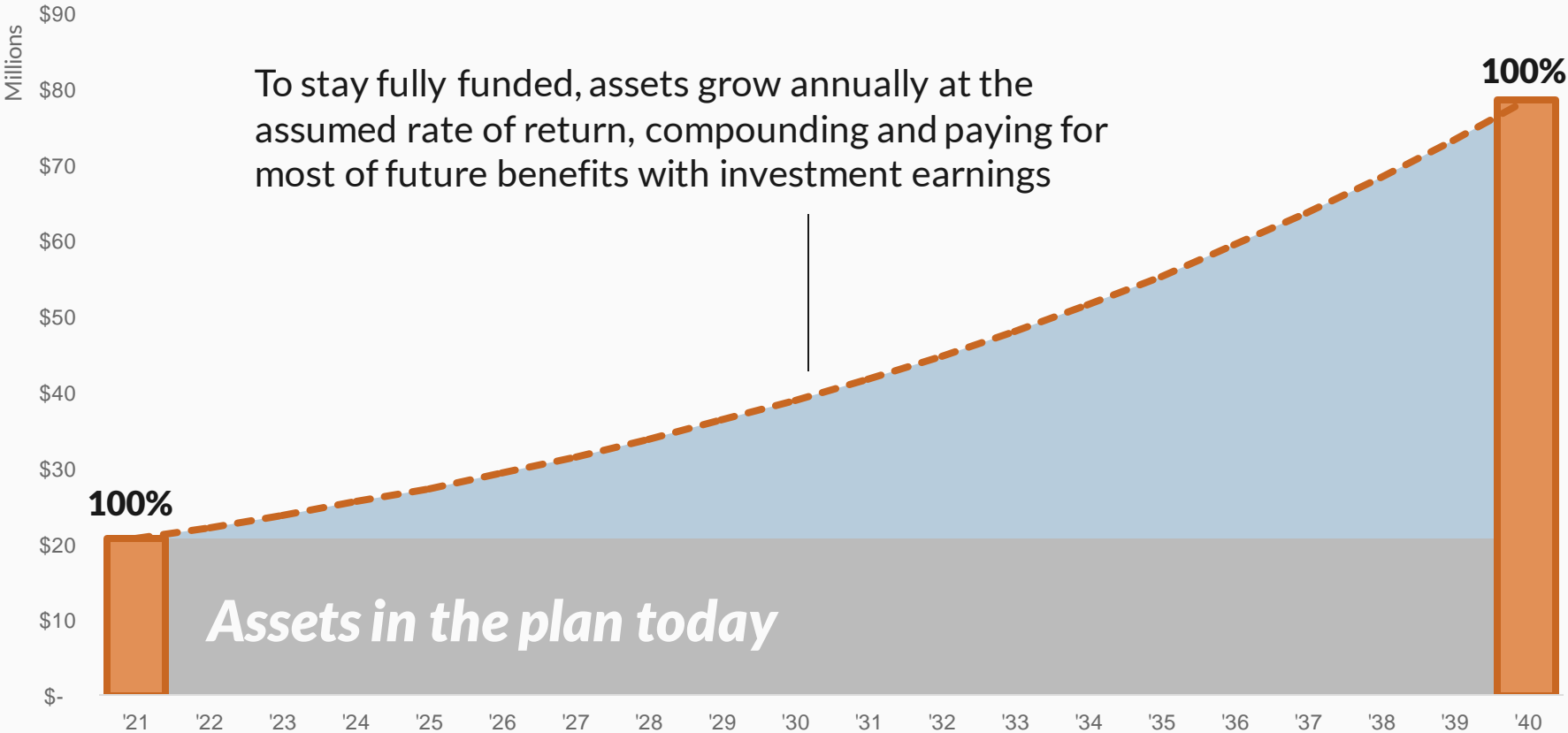
Tiers I & II - Pooled Legacy Debt

31.5% funded

New elected officials/judges have DC only option.

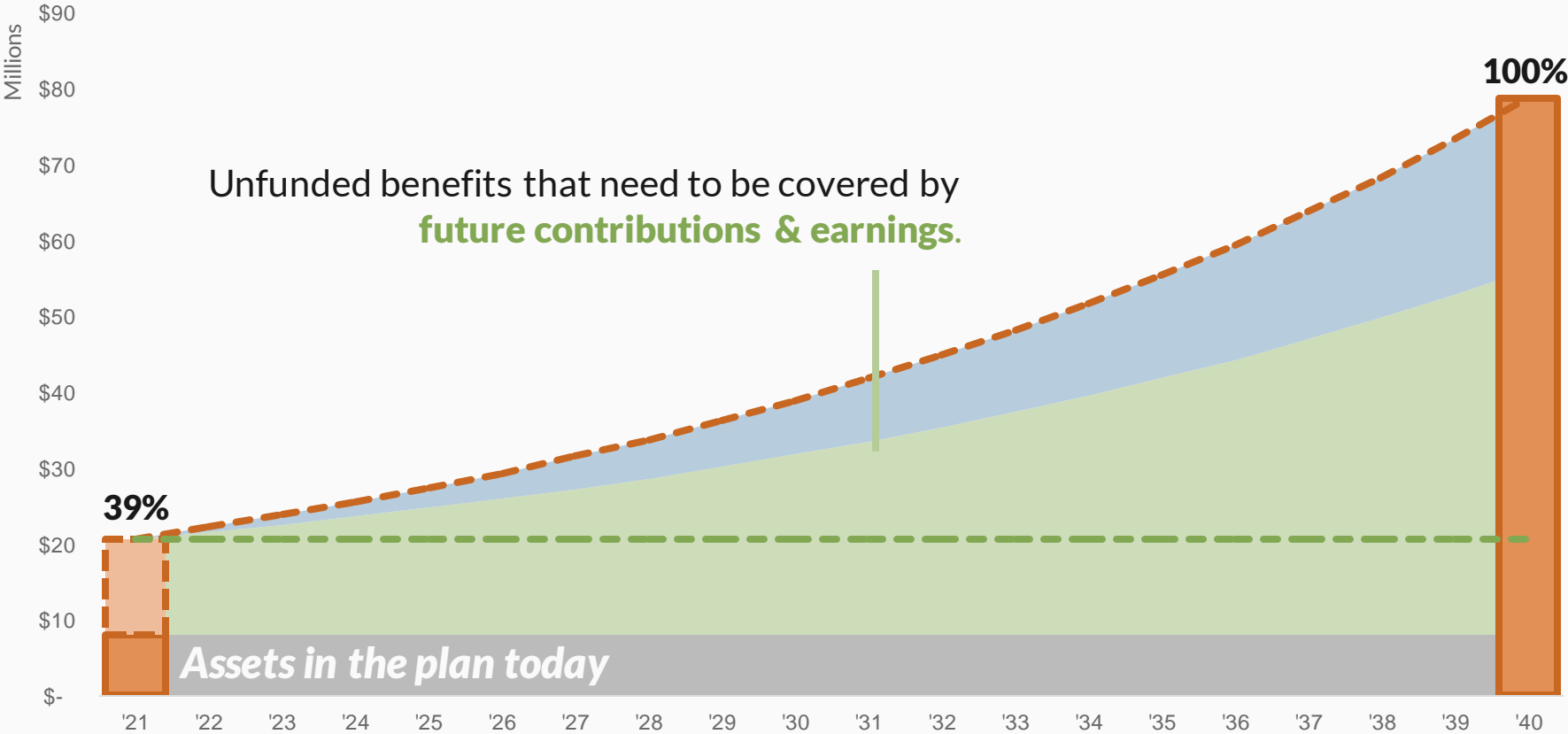


Total Plan *Value of Benefits* vs. *Assets & Investment Earnings* Fully Funded Plan





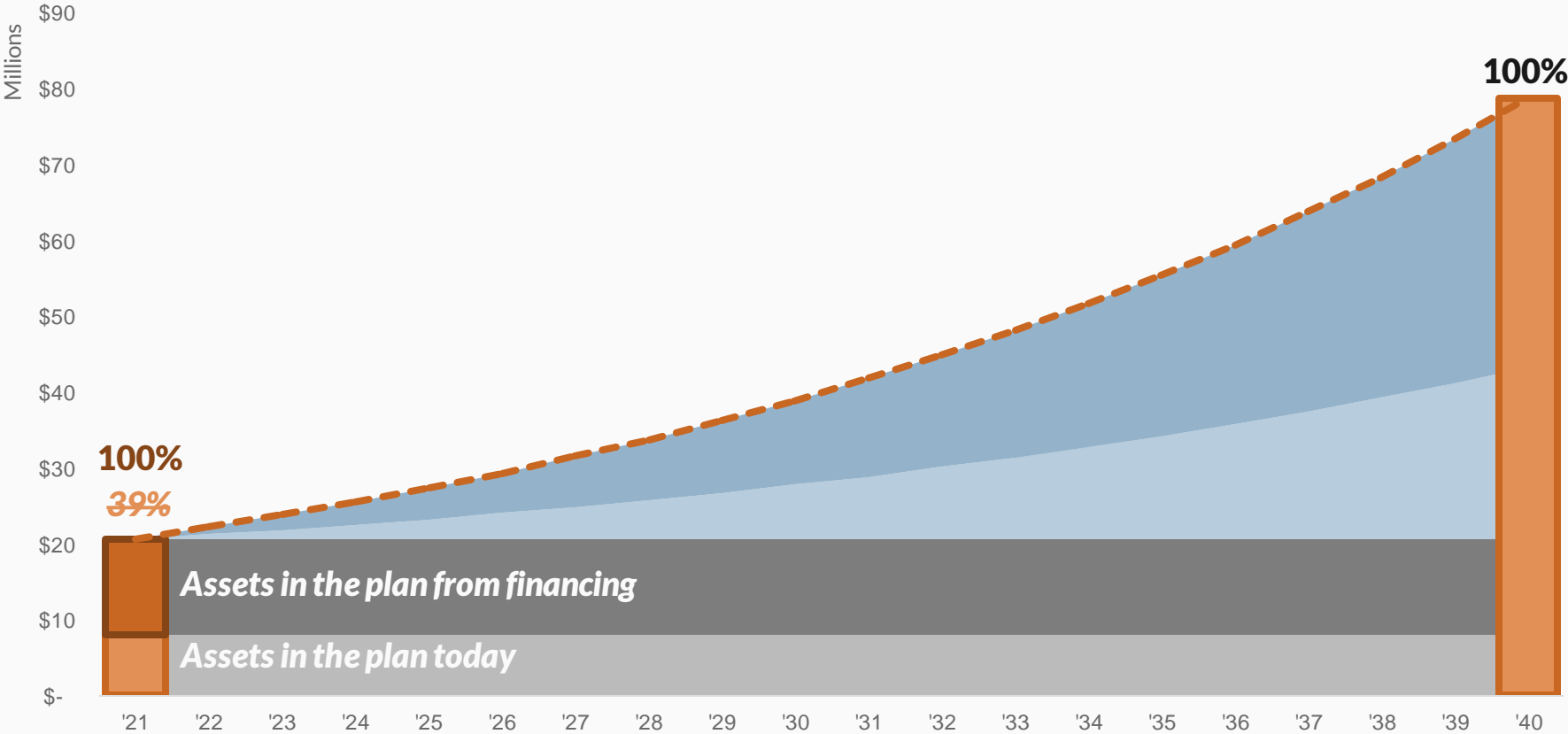
Total Plan *Value of Benefits* vs. *Assets & Investment Earnings* Gila County Sheriff Dept. Plan





Total Plan *Value of Benefits* vs. *Assets & Investment Earnings*

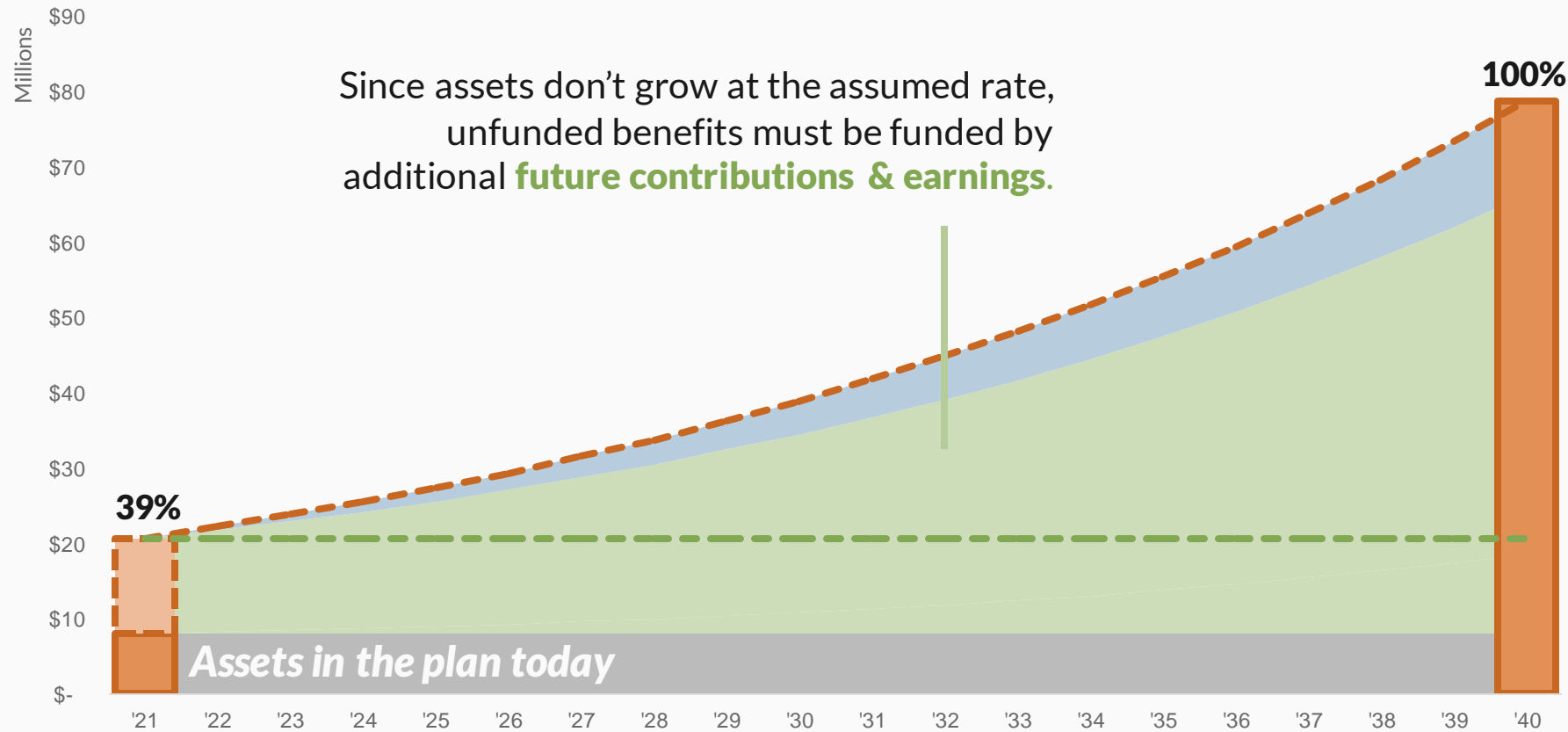
Gila County Sheriff Dept. Plan





What happens if we're wrong?

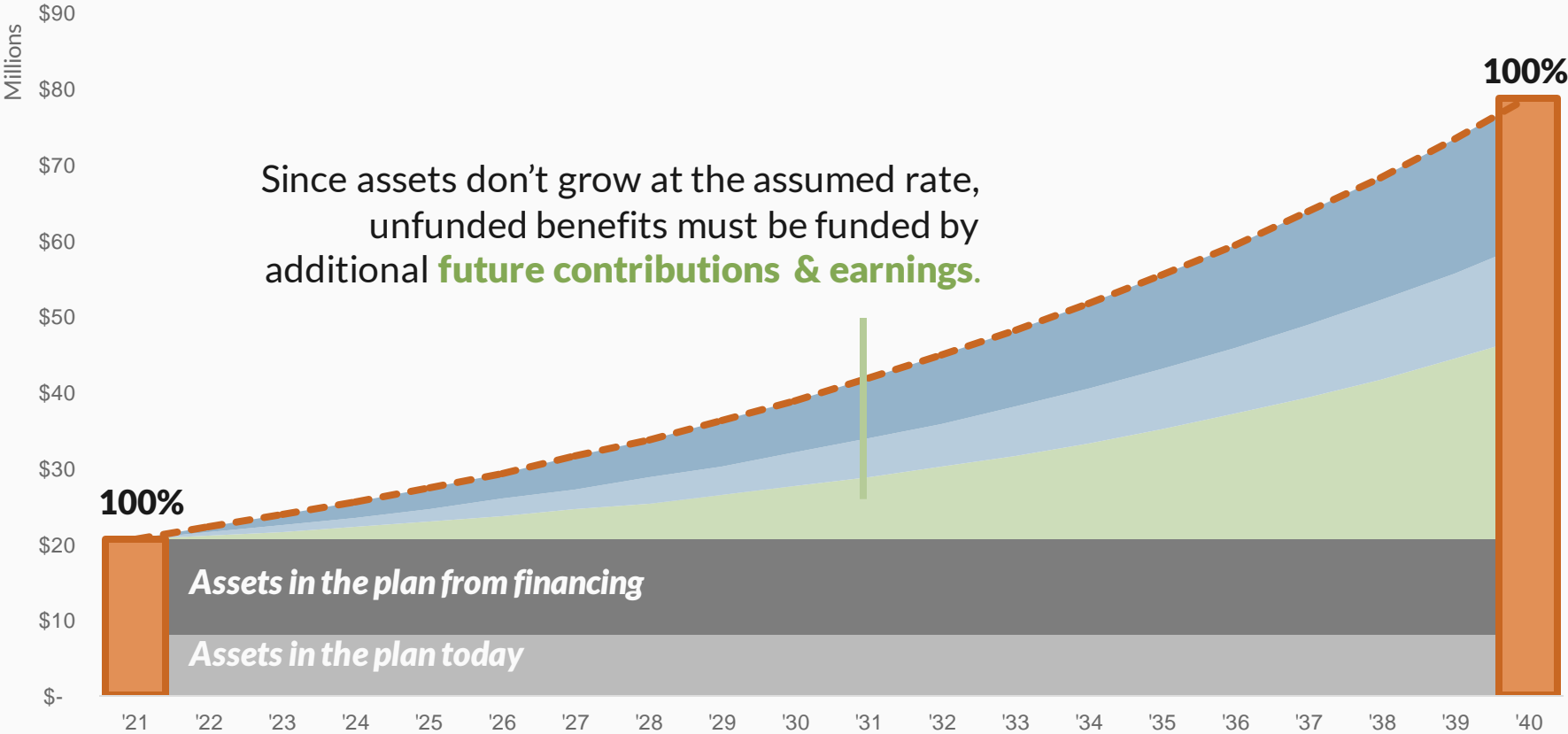
Total Plan Value of Benefits vs. Assets & Investment Earnings
Gila County Sheriff Dept. Plan - Plan only performs at 5.0%





What happens if we're wrong?

Total Plan Value of Benefits vs. Assets & Investment Earnings
Gila County Sheriff Dept. Plan - Plan only performs at 5.0%





Benefits & Risks of Debt Financing

Benefits

- Likely cheaper in short & long term
- Control policy & budget goals
- Contingency reserve helps deal with volatility in the plan

Risks

- If long term ROI is less than borrowing rate it is more expensive