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DEC - 9 2009

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MEMORANDUM **Planning and Development – BA Memo No. 09-017**

DATE: NOVEMBER 30, 2009

TO: BOARD OF ADJUSTMENT

THRU: PATRICK MCDERMOTT, ASSISTANT CITY MANAGER
JEFF KURTZ, ACTING PLANNING AND DEVELOPMENT DIRECTOR
KEVIN MAYO, ACTING PLANNING MANAGER KM

FROM: BILL DERMODY, SENIOR CITY PLANNER BD

SUBJECT: VAR09-1005 JONES RESIDENCE

Requests: Variance from the Zoning Ordinance to allow encroachment into the minimum rear yard setback for an accessory structure

Applicant: Andrew Jones

Location: 370 N. Corsica Place, north and west of Chandler Boulevard and the Loop 101 Price Freeway

Existing Use: Single-Family Home

Zoning: Planned Area Development (PAD)

RECOMMENDATION

Staff, upon finding the need for a variance to be self-imposed and the criteria by which all variances are reviewed to not be satisfied, recommends denial of the requested variance.

BACKGROUND

The application requests a variance from the zoning requirements to allow an accessory structure that supports a ground-mounted solar power array to remain. The structure encroaches approximately 18'-6" into the minimum 20' rear yard setback, leaving a 1'-6" setback.

The property, which contains a single family home, is located within the Sunset Cove subdivision, north and west of Chandler Boulevard and the Loop 101 Price Freeway. The lots in this portion of the subdivision are mostly 7,700 to 7,900 square feet, with a couple lots greater than 9,000 square feet in size. The typically sized and shaped rectangular lot of 7,954 square feet is north (across Tyson Street) of a retail shopping center, and is otherwise surrounded by single-

family homes. The 2,181 square foot house on the property was constructed in 1995. The subject site is one of several corner lots in the subdivision. The house on the lot behind the subject site, to its west, is approximately 10' from the shared property line. The subject property's house is located approximately 30' from the rear property line.

The subject house has a roof with an east-west orientation that offers limited southern-facing roof surface area. Of the 17 other single-family homes in this portion of the Sunset Cove subdivision, seven (7) have a similar roof orientation while 10 have a north-south roof orientation more conducive to large rooftop solar arrays.

The approximately 308 square foot solar array structure is mostly constructed with the actual solar panels just added recently. No building permits have been issued for the structure. The applicant reportedly discovered the setback issue upon pursuing an electrical permit associated with the solar power connection. The panels are tilted to face the south and receive maximum sun exposure. The structure height is approximately 9'-10".

CODE REQUIREMENTS

Setbacks in the Sunset Cove subdivision are established through the guidelines established by its approved Planned Area Development (PAD) zoning and associated Preliminary Development Plan:

35-1706. *Description of preliminary* development plan (to accompany a PAD).

> (5) If the City Council approves the PAD zoning designation, the Official Zoning Map shall be so changed by ordinance. The Council may, as necessary, attach conditions to the PAD approval, which may include but are not limited to the following:
>
> > (d) Setback and height of buildings.

According to the development representation and Council approved conditions, the minimum rear yard setback is 20' for accessory buildings.

FINDINGS

Below is a list of the criteria that the Board of Adjustment must use to review each variance request. Following each criterion are Staff's italicized responses. The applicant's written narrative answering the following criteria is included among the memo attachments.

1. **Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.**

   The 7,954 square foot lot is a typical size and shape for the neighborhood. There are no special circumstances that apply to the property which do not apply to other properties in the neighborhood. There are seven (7) other houses in this portion of the subdivision with a similar east-west roof orientation. Staff is of the opinion that this criterion has not been satisfied.

2. **State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.**

   The existing house demonstrates that the property has been allowed to develop and the owner has enjoyed substantial property rights since 1995 on land zoned for single-family homes. It is not a property right to build an accessory structure that violates minimum setbacks. In general, it is not an expected property right to build a solar array on any residential property in the city. However, a smaller solar array could be placed on the rooftop, or the roof orientation could be reconstructed to allow for a larger array. Staff is of the opinion that this criterion has not been satisfied.

3. **Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.**

   The variance would be a detriment to neighboring properties as they do not legally enjoy, nor have been granted approval to construct accessory structures that do not abide by zoning regulations. Staff is of the opinion that this criterion has not been satisfied.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code.

As of this writing, staff is not aware of any opposition to the request.

SUMMARY

Staff does not support this request. There are no special circumstances applicable to this property that do not apply equally to similar properties in the surrounding area. The requirement to meet minimum setbacks for an accessory structure is not a hardship for this property. The property has been substantially developed, with the property owner enjoying development rights since 1995 with the home's original construction.

Granting a variance for this property would, in Staff's opinion, constitute a special privilege inconsistent with the limitations placed upon other similar properties. There are no unique conditions to this location that would support a finding in favor of this application.

RECOMMENDED ACTION

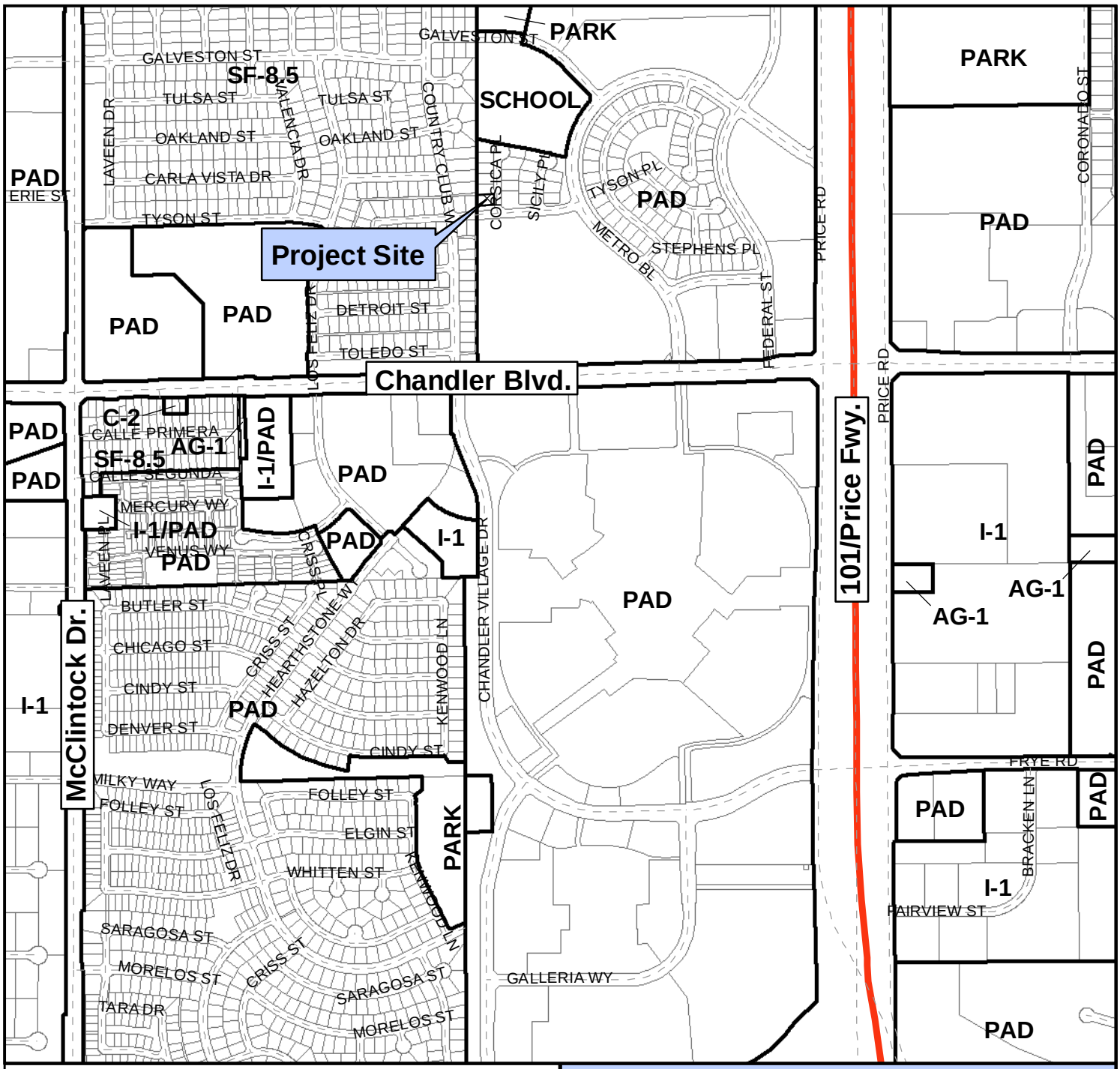
Staff recommends denial of this request.

PROPOSED MOTION

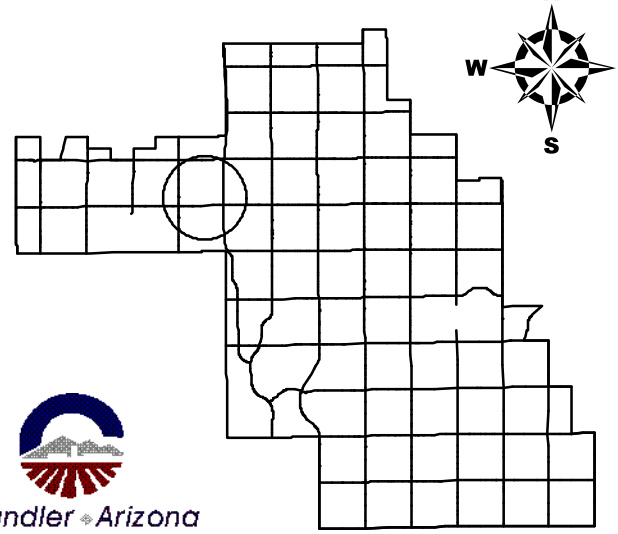
Move to deny variance request VAR09-1005 JONES RESIDENCE, as recommended by Staff.

Attachments

1. Vicinity Map
2. Aerial Close-up
3. Site Plans & Elevations
4. Applicant Photos
5. Staff Photo
6. Application and Narrative
7. Powers and Duties



Vicinity Map



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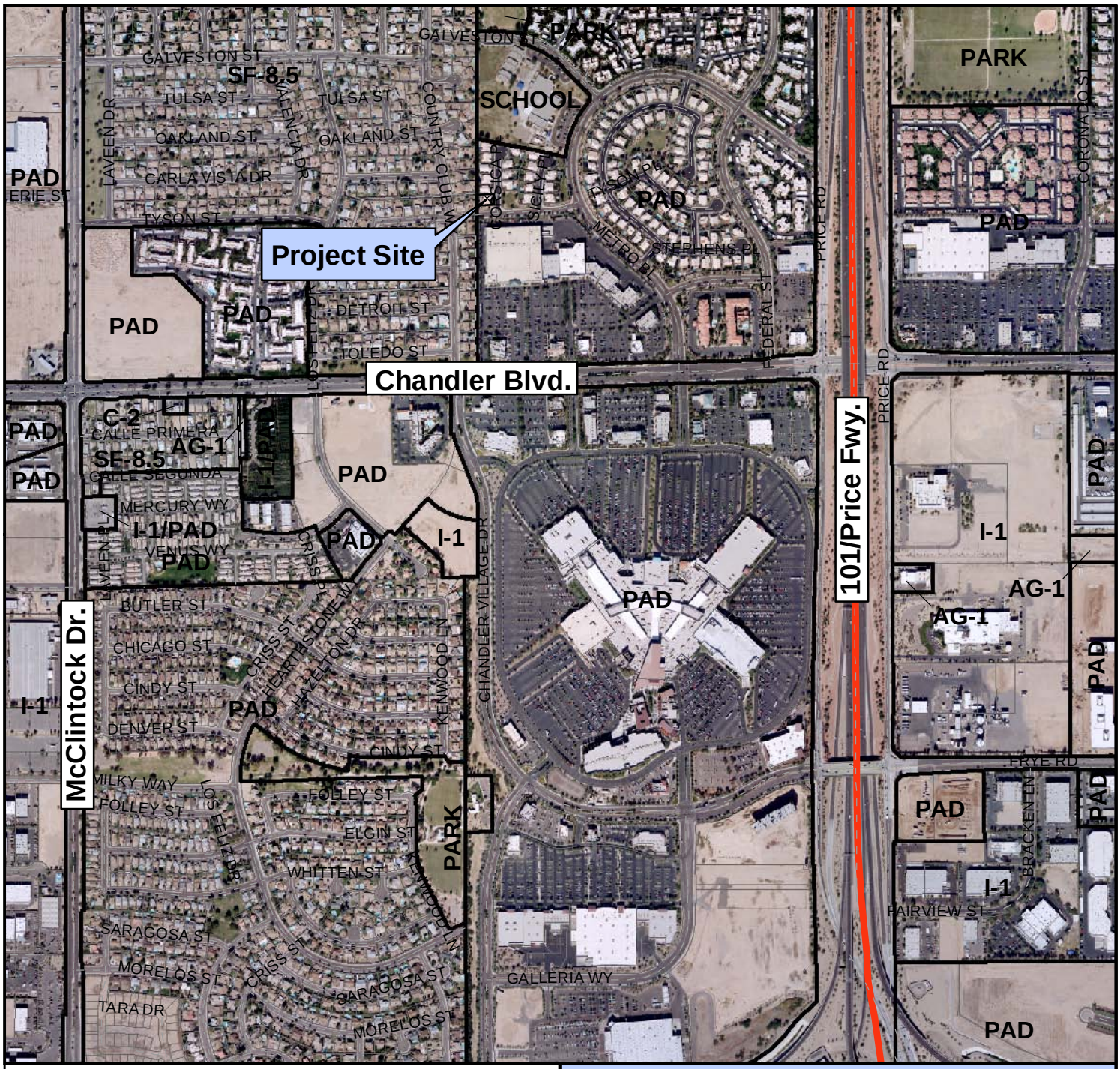
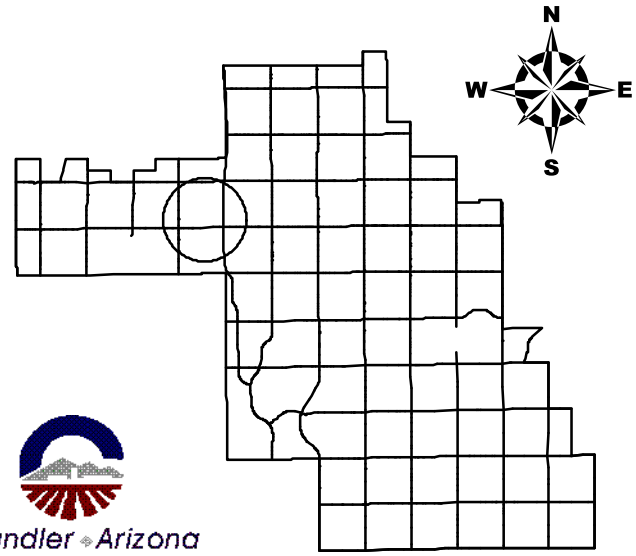
VAR09-1005

Jones Residence
370 N. Corsica Pl.

CITY OF CHANDLER 10/20/2009



Vicinity Map



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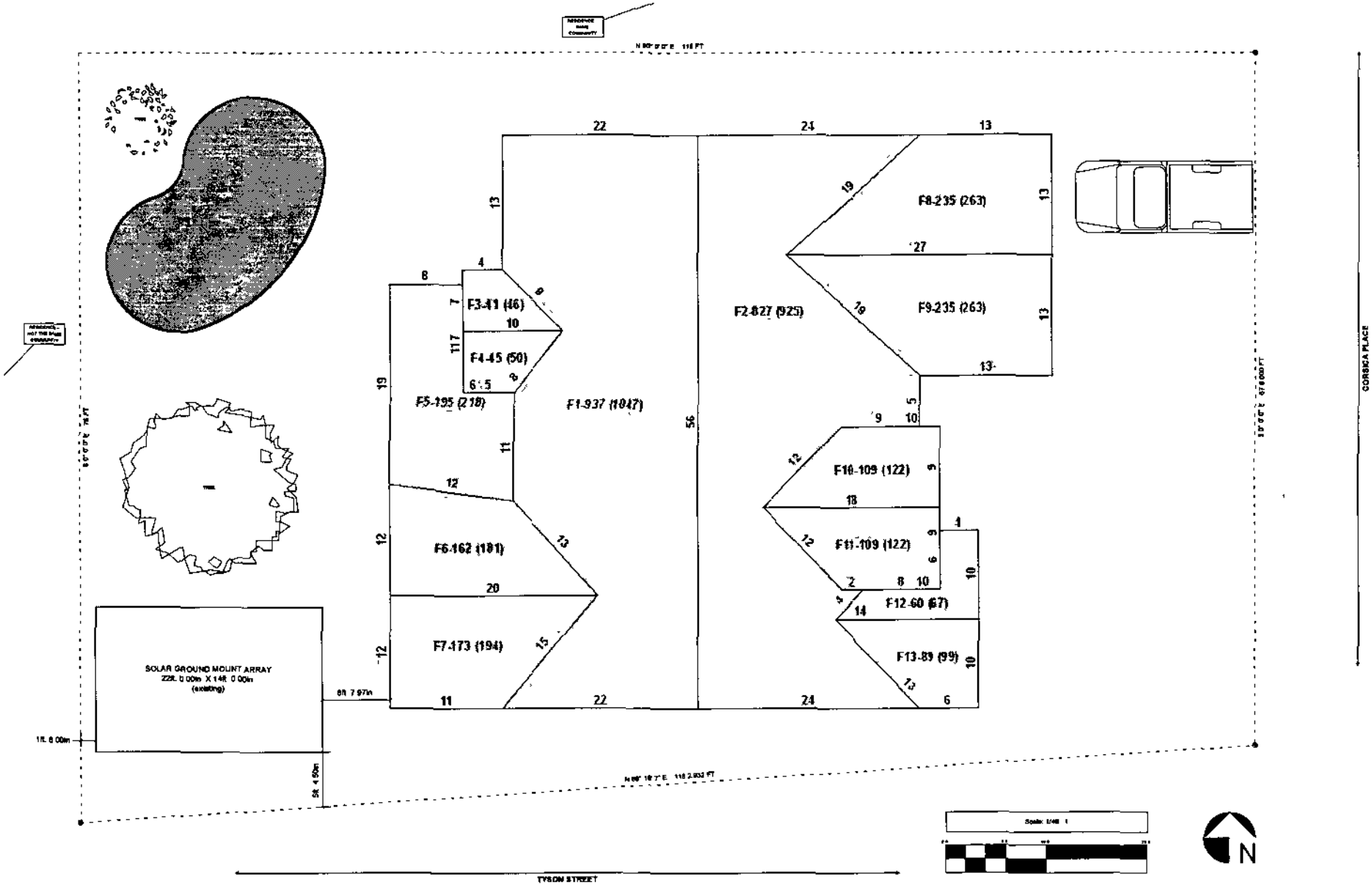
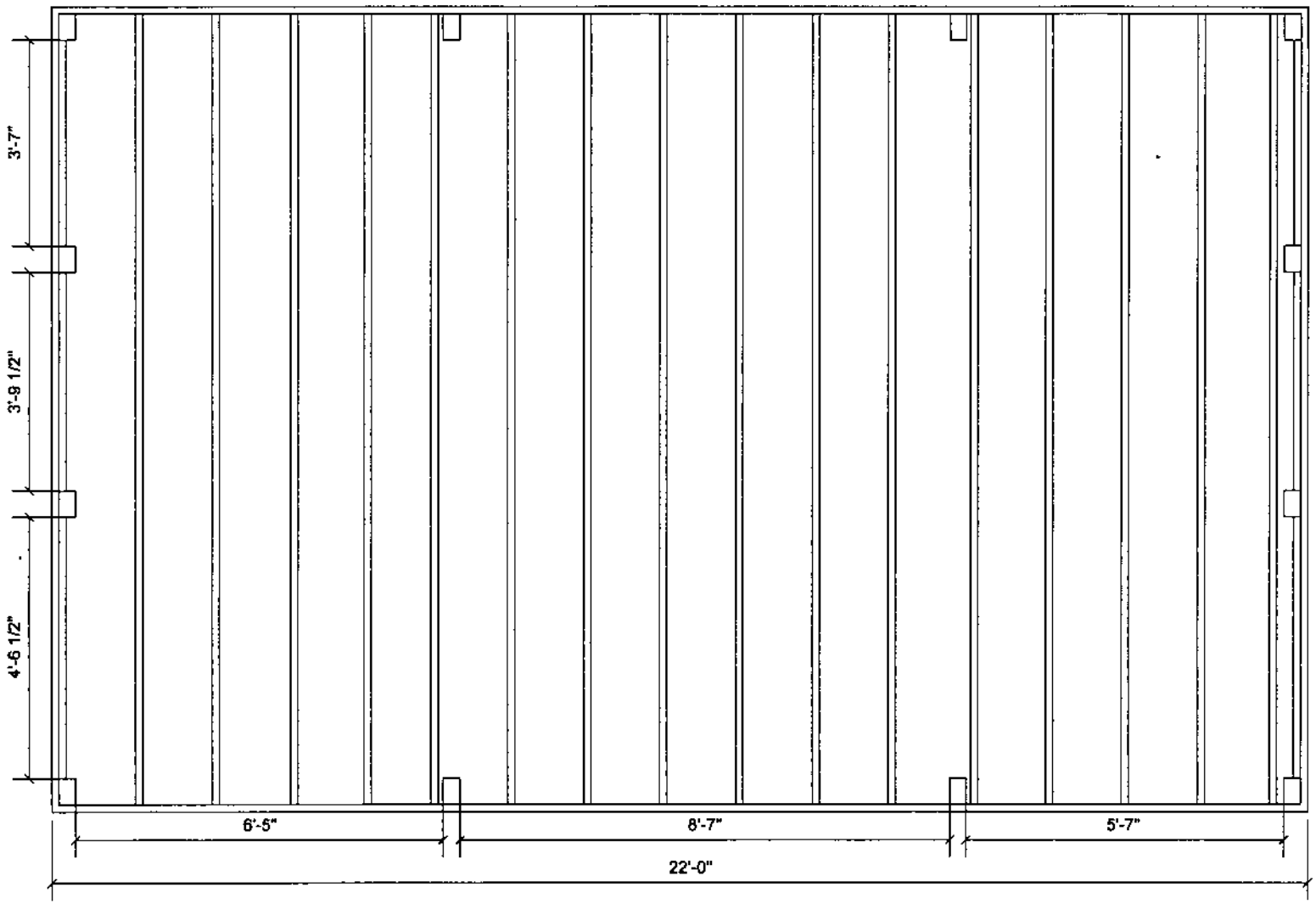
CITY OF CHANDLER 10/20/2009



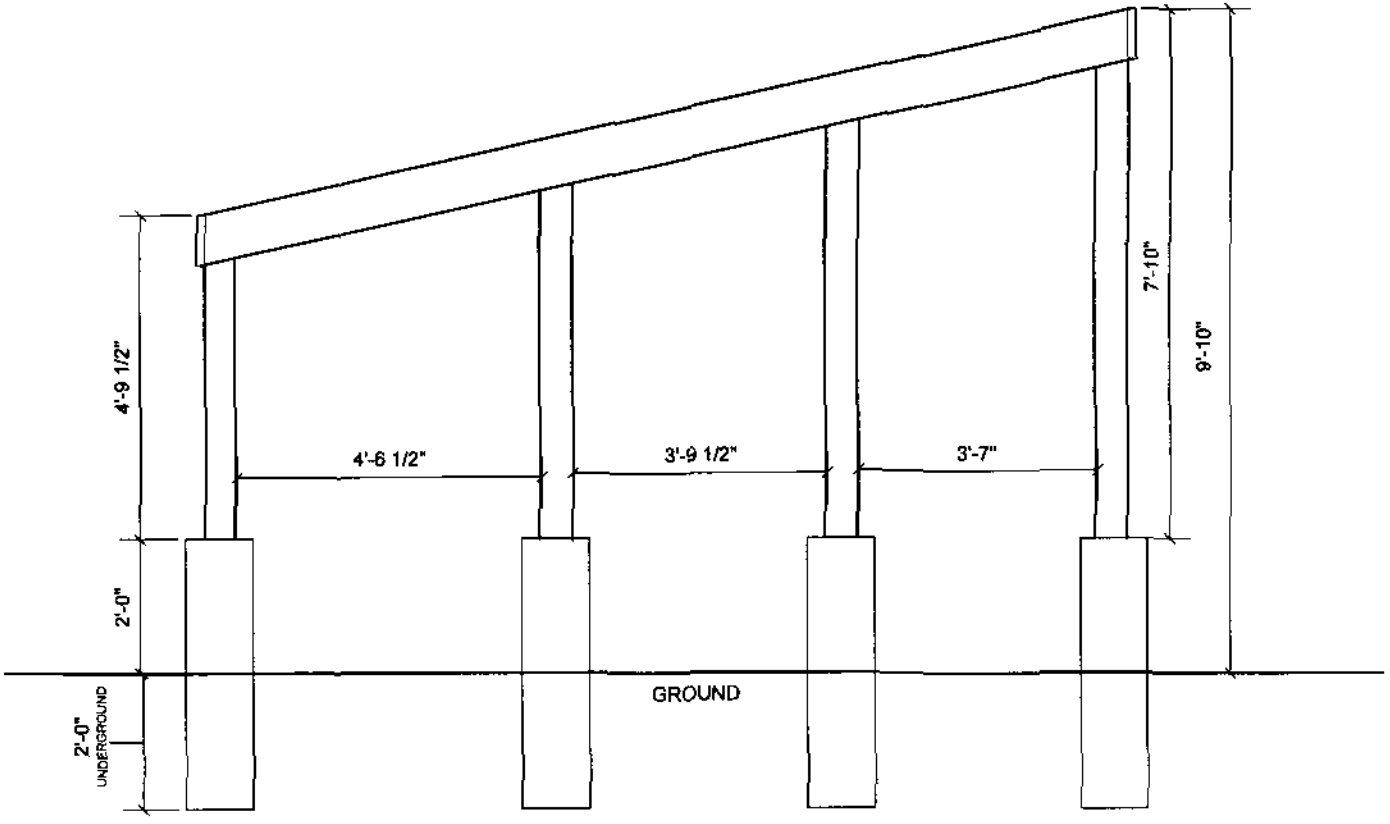
SITE LAYOUT - GROUND MOUNTED PV ARRAY JONES RESIDENCE 370 N CORSICA PLACE CHANDLER, AZ 85226

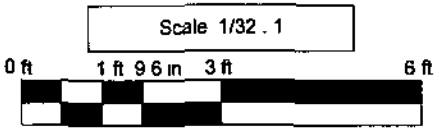


TOP VIEW

Scale 1/32 : 1

0 ft 1 ft 9 6 in 3 ft 6 ft


4'-9 1/2"
2'-0"
2'-0"
UNDERGROUND
4'-6 1/2"
3'-9 1/2"
3'-7"
7'-10"
9'-10"
GROUND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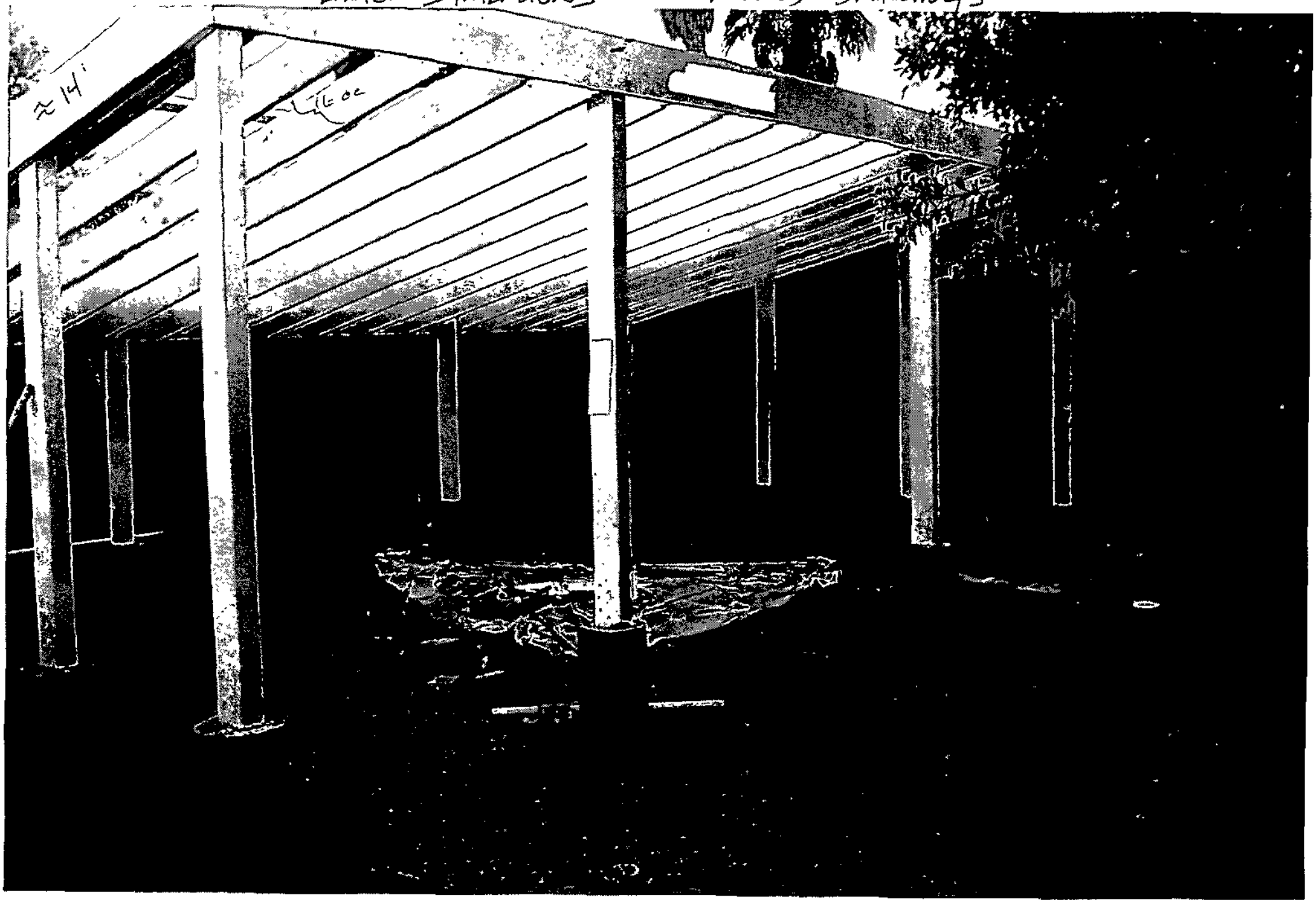
SIDE VIEW

EXACT DIMENSIONS ON ENGINEERED DRAWINGS



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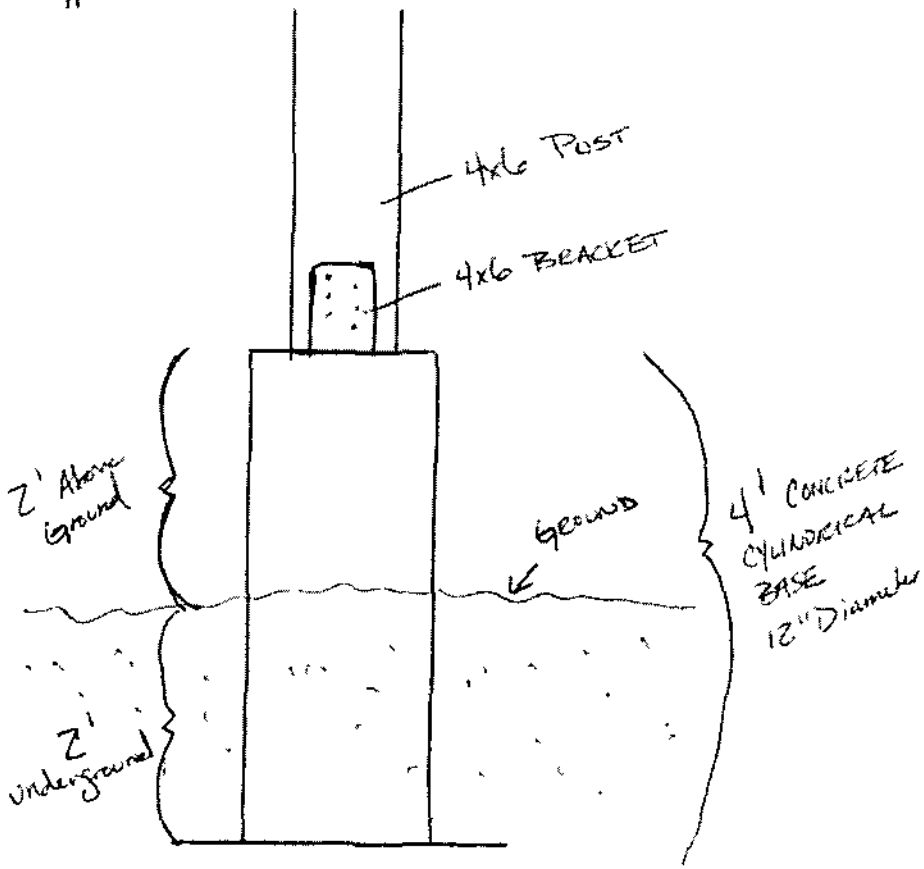

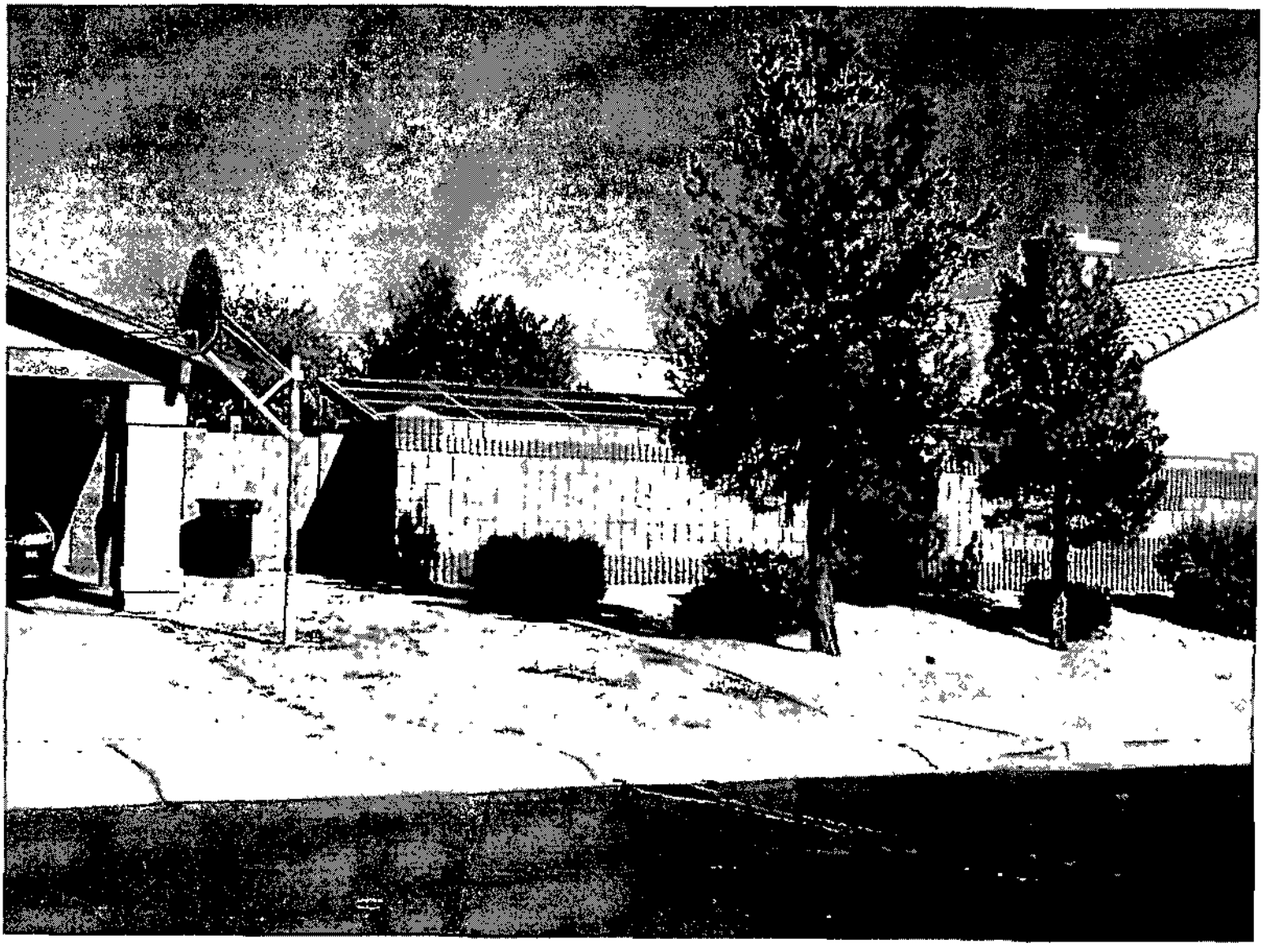

City of Chandler

OCT 19 2009

AM/PM

Development Services

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Variance Request Application

If the property owner is not filing the application, please fill out the attached letter authorizing an applicant or project representative to file the application

Project or Owner Name: ANDREW JONES	
Property Location/Address: 370 N. CORSICA PLACE	City, State, Zip Code: CHANDLER, AZ 85226

Type of Variance (waiver) from the Zoning Code you are requesting:

I AM REQUESTING PERMISSION TO INSTALL MY SOLAR GROUND MOUNT ARRAY CLOSER TO THE REAR SET BACK THAN WHAT IS CURRENTLY PERMISSABLE.

Is this variance for an existing structure (e.g. fence, pool, etc.)? Yes: X No: ____

Has the City issued a Notice of Violation? Yes: ____ No: X If yes, please attach a copy of the notice/letter

Property Owner Name: ANDREW JONES	
Mailing Address: 370 N. CORSICA PL	Phone Number: 602-617-3824
City, State, Zip Code: CHANDLER, AZ 85226	Fax Number: 480-497-9100
Applicant/Representative Name: N/A	
Mailing Address:	Phone Number:
City, State, Zip Code:	Fax Number:
Property Owner or Representative Signature:	Date: 10/19/09

For City Use

Date Filed	Development No.	Case Planner
10/19/09	VA2009-1005	

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Justification for Variance Request

SEE ATTACHED SHEET FOR TYPED ANSWERS

Please answer the following questions fully in order to prove your case to the Board.

1. Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.

2. State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.

Justification for Variance Request (Cont'd)

3. Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.

1. Most people have the opportunity to install solar PV directly on the roof of their residence. In fact my next door neighbor to the north has a perfect south facing pitch with few obstructions to mount a photovoltaic system. My residence however has only small sections of the roof that are south facing (the panels need to tilt toward true south) and those sections are spaced apart and would be shaded by the peak of the house either in the morning hours or the afternoon hours. If any part of the system is shaded, even just one panel, the entire system shuts down and is not producing electricity. As a PV system designer I spent hours studying my roof trying to develop a system that would not have losses due to DC wiring over the scattered panel placement and shading issues from the peak and fireplace. In the end I had to conclude that my residence was not conducive for a PV system and therefore started design in the backyard. The south end of the backyard and away from the residence is the only location on my property conducive for a solar array because it eliminates the shading issues and allows me to tilt the panels due south.
2. If the variance is not granted I will not be able to take advantage of the federal, state, and city initiative to "go green" by installing a solar PV system. In order to comply with the zoning rules it eliminates my backyard for a solar array and therefore my entire property would not be conducive for solar. Not only does this affect my personal enjoyment and financial return on investment (federal and state tax credits / utility rebate program / increase in property value / and of course energy savings), it affects my overall career and therefore the ability to pay the mortgage for my property. One of the first things that customers will ask a PV system designer is "what do you have installed on your own home?" If I am not allowed to own a PV system in good working order I lose credibility with my potential customers and therefore sales. The most powerful selling tool in my career is being able to sign in over the web in front of a customer and show them the monitoring of your own system to see what it is doing for me so they can see what PV will do for them. It is absolutely imperative that I have this tool and the system I am signing into is well designed for maximum output to build this credibility, and therefore, sales.
3. I think that the best answer to this question is the fact that my home owners association has already approved the design, location and aesthetics of this solar array. They have concluded that it falls into the guidelines of how the neighborhood should look. The only neighbor that can actually see the array from their property is to the west and they can not actually see the panels, only a small section of the wood structure that goes above the wall. The panels are not facing anything that would generate a glare for residents or pedestrians (it is also a common misconception that they are very reflective, by nature of design they absorb sunlight not reflect it). Only a small portion of the array is visible from outside the property, most members of the community probably will never notice its existence. In fact, the only perceivable impact I can think of would be positive as it will increase my property value therefore potentially increasing the property value of neighboring homes.

BOARD OF ADJUSTMENT

CHAPTER 35

35-2502. Powers and duties.

The Board of Adjustment shall have the following powers and duties:

(1) Adopt rules of procedure not inconsistent with the provisions of this Code for the conduct of its business and procedure.

(2) Hear and decide all appeals that may be taken by any person or any Officer, Department, Board or Division of the City when there is an alleged error in any such order, requirement or decision made by the Zoning Administrator in the enforcement of the provisions of this Code.

(3) Reverse or affirm in whole or in part or modify the order or decision as ought to be made, and [to] that end shall have the powers of the officer for whom the appeal is taken.

(4) Determine and establish the true location of district boundaries in any disputed case.

(5) Interpret any provision of the Zoning Code as it relates to a specific use of land or structure.

(6) In specific cases, authorize upon request such variances from the provisions of this Code that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary property hardships. A variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is located.

(a) A variance shall not be granted unless the Board of Adjustment shall find upon sufficient evidence:

1. There are special circumstances or conditions applying to the land, building or use referred to in the request;

2. The granting of the variance is necessary for the preservation and enjoyment of substantial property right; and

3. The granting of the variance will not materially be detrimental to persons, property or to the public welfare of the community

(b) The Board of Adjustment may not.

1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning code provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this article.

2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner