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DEC 13 2007

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MEMORANDUM **Planning and Development – CC Memo No. 07-254a**

DATE: NOVEMBER 15, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
DOUG BALLARD, PLANNING & DEVELOPMENT DIRECTOR
JEFF KURTZ, ASSISTANT PLANNING & DEVELOPMENT DIRECTOR
BOB WEWORSKI, PLANNING MANAGER

FROM: BILL DERMODY, CITY PLANNER

SUBJECT: UP07-0008 BEVERLY ANN CARPENTER

Request: Use Permit approval to allow horses to be kept on two lots zoned Agricultural District (AG-1) that are less than 35,000 square feet in size and to allow accessory structures to remain on lots that lack a principal structure

Location: Southeast corner of El Alba Way and the Loop 101 Price Freeway, approximately ¼ mile north of Warner Road

Applicant: Beverly Ann Carpenter/Sandra Carpenter

The case was continued from the October 25, 2007 City Council hearing in order to allow variance proceedings to be conducted relating to the location of structures on the site and to allow Staff to conduct a site inspection. The Board of Adjustment is scheduled to hear the variance request on December 12, 2007. Staff will provide Council with an update of the results on December 13, 2007. The property has a couple of minor site maintenance issues (a patch of high weeds and a stack of metal panels) that the applicant has promised to take care of prior to hearings—Staff will conduct another inspection prior to hearings and provide an update on the situation.

RECOMMENDATION

Planning Commission and Staff, finding consistency with the General Plan, recommend approval subject to conditions.

BACKGROUND

The application requests Use Permit approval to allow horses to be kept on two lots zoned Agricultural District (AG-1) that are less than 35,000 square feet in size and to allow accessory structures to remain on lots that lack a principal structure. The subject parcels are two of several freeway remnants located adjacent to the eastern sound wall along Price Road (Loop 101 Freeway) that were sold by ADOT after freeway construction to neighboring property owners in the unincorporated Caballos Ranchitos subdivision. The surrounding Caballos Ranchitos rural residential subdivision includes several lots with horses or other animals such as chickens.

The subject parcels, which were annexed in 1974, are a combined 25,201 square feet and are adjacent to an approximate 78,277 square foot unincorporated parcel at 2819 W. El Alba Way that includes a single family house. The owner of the adjacent property at 2819 W. El Alba Way bought the subject parcels from ADOT. In turn, she sold the properties to a relative, but continues to lease them for her use. There are generally two (2) and up to six (6) horses on the subject parcels, as well as several shade structures and corral fencing. If this Use Permit request is approved, variances will be required for several of the structures due to their proximity to property lines. City Code allows two (2) horses to be kept on every 35,000 square feet of land zoned AG-1—any amount of land under 35,000 square feet does not allow horses without a Use Permit.

The shade structures and corral fencing are considered to be "accessory structures" as defined by code. One accessory structure is allowed in the AG-1 district only if there is a primary residence on the property. In this case, there is no primary residence on the property. Therefore, Use Permit approval is required for the structures to remain.

Access will be provided to the site from El Alba Way via a small ADOT parcel to the north that blocks direct connection to the street. ADOT has provided permission for their parcel to be crossed in order to access to the remnant parcels.

DISCUSSION

Planning Commission and Staff find the proposed uses to be in keeping with the established rural residential nature of the neighborhood. It is recommended that the number of horses be limited to six (6), which would be the maximum allowed in the AG-1 zoning district if both remnant parcels and the unincorporated 2819 W. El Alba Way were combined into one incorporated, AG-1 parcel. Planning Commission and Staff also recommend that horse boarding or riding lessons be forbidden unless first approved by a separate Use Permit.

PUBLIC/NEIGHBORHOOD NOTIFICATION

- This request was noticed according to the provisions of the City of Chandler Zoning Code.
- A neighborhood meeting was held on September 20, 2007 at 12:00 noon at the Chandler Library Sunset Branch. No citizens attended.
- Staff has received phone calls from three neighbors in opposition. The neighbors complain that a large horse boarding operation was previously (2+ years ago) being run illegally from the subject site and the adjacent residence with negative traffic impacts on the neighborhood. The neighbors fear that any approval will lead to the previous horse boarding being resumed.

PLANNING COMMISSION VOTE REPORT
Motion to approve.
In Favor: 4 Opposed: 0 Absent: 2 (Creedon, Rivers)

Two neighbors spoke in opposition to the Use Permit citing previous horse boarding problems generated from the subject site and the adjacent residence. Echoing earlier phone calls to Staff, the neighbors fear that any approval will lead to the previous horse boarding being resumed.

Planning Commission added Conditions Nos. 4 through 6 in order to assure property maintenance and code compliance, and to allow the situation to be reviewed in one year.

RECOMMENDED ACTION
Planning Commission and Staff, upon finding consistency with the General Plan, recommend approval of UP07-0008 BEVERLY ANN CARPENTER subject to the following conditions:

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.

2. The number of horses kept on the subject properties shall be limited to six (6).

3. There shall be no horse boarding nor riding lessons unless and until first receiving separate Use Permit approval from the City of Chandler.

4. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

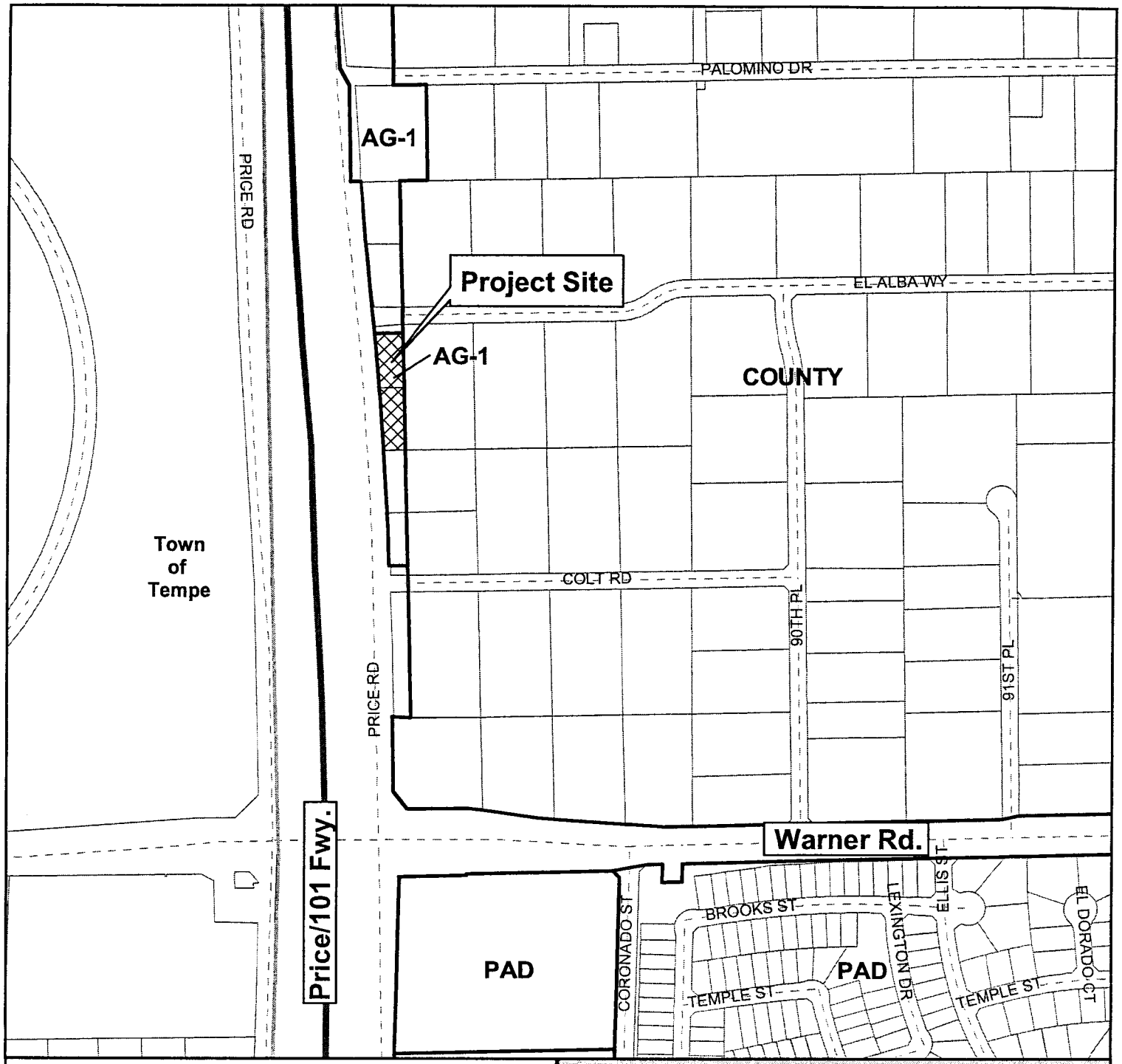
5. The site shall be maintained in a clean and orderly manner.

6. Structures on the site shall acquire any necessary permits.

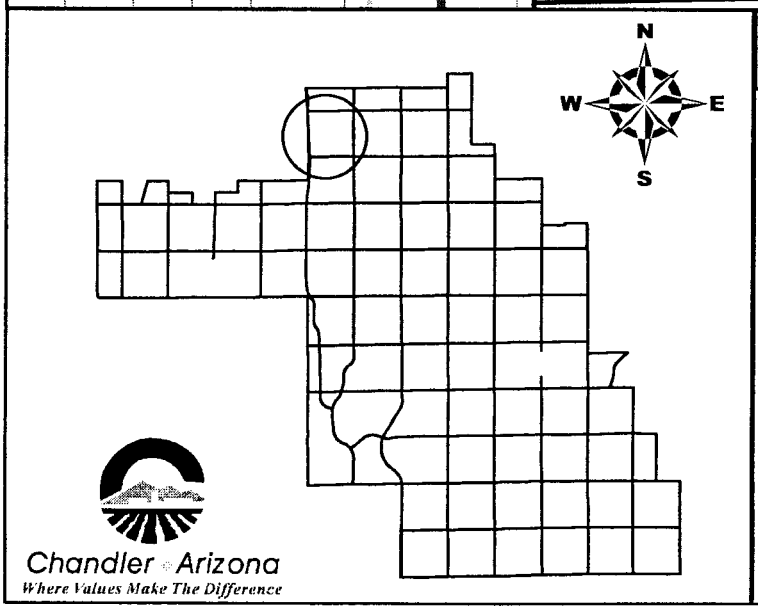
7. If the requested Variance for minimum setback deviation is denied by the Board of Adjustment, the structures on the site shall be modified to meet applicable city codes as verified by city staff prior to the Use Permit going into effect.

PROPOSED MOTION
Move to approve UP07-0008 BEVERLY ANN CARPENTER Use Permit to allow horses to be kept on two lots zoned Agricultural District (AG-1) and to allow accessory structures to remain on lots that lack a principal structure within an Agricultural (AG-1) zoning district subject to the conditions recommended by Planning Commission and Staff.

Attachments
1. Vicinity Map
2. Applicant Narrative
3. Site Plan
4. Applicant Photograph
5. Staff Photograph



Vicinity Map

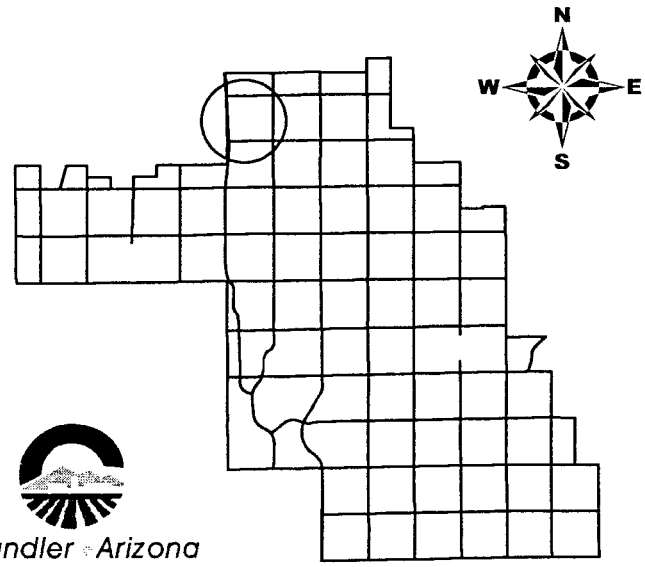


UP07-0008

Beverly Ann Carpenter

CITY OF CHANDLER 2/7/2007

Vicinity Map



UP07-0008

Beverly Ann Carpenter

Chandler Arizona
Where Values Make The Difference

CITY OF CHANDLER 2/7/2007

Written Narrative – Beverly Ann Carpenter

Purpose – Common sense, responsible and personal use of the property including the caring and keeping of livestock, and riding of horses.

The use and structures have been (partially since 1974), are, and will be, set up for the convenience of the adjoining parcels. This includes housing of livestock, including horses, structures and storage, including shelter, equipment and feed to properly care for and manage the animals and the land, and riding and enjoyment of the horses. Simple, modular, fire-proof metal shelter and shades that are clamped and screwed together for the animals' proper care, storage of feed and equipment, and metal fencing that is clamped together and braced to the ground with metal T-posts to properly contain and manage the animals and the land. The location of each structure is for the convenient flow and consistent use with the adjacent property to the east and south.

ADOT states "it is our understanding that this subdivision is under is County jurisdiction and that the State determine that the areas in question should be abandoned, they were to be abandoned to Maricopa County. Most of the individuals who purchased these small remainders also owned the adjoining properties and were under the impression that they would be able to merge their existing properties with these small parcels." ADOT informs me that these remnant properties are Maricopa County Island, Caballos Ranchitos subdivision, zoned R-43. The properties were purchased from ADOT in August, 2001.

Common sense, responsible and personal use of the property including the keeping of livestock, and riding of horses is desired. It is also desired that ministry activity and community service will be provided with as many as 6 people convening at a time, a few days out of the week.

Written Narrative – Beverly Ann Carpenter

First is my action and intent to continue to work with Mr. Bill Demody, City Planner, and Maricopa County, in all aspects to comply with regulations and circumstances, some of which are contradictory. It has been understood all these years that the current structures and use of this property has been and is in compliance with Maricopa County.

If permission would be granted to build a home, of any size on the property, a home would be built. Verbally the building of a home has been denied. City of Chandler is requiring the maintenance of this agricultural property so it is logical that City of Chandler allow the use of the property. Without being able to use the property, the property is worthless. The use and structures will be, and are, consistent with the neighbor's use, and is set up for the convenience of that party since she did own and does lease this property. The use is as zoned rural and agricultural for housing and livestock, including horses, structure and storage, including shelter, equipment and feed to properly care for and manage the animals and the land. This application is being made at the request of City of Chandler in an attempt to verify that all parties concerned are law abiding, cooperative, and honest. Application has been made for a variance at the request of City of Chandler for the same reasons and purposes. ADOT continues to state that this property is Maricopa County Island zoned Rural-43 as ADOT bought it for the Hwy 101 project and then sold the remnant of the project to Sandra Carpenter. ADOT states that ADOT policy does not and did not change the jurisdiction or zoning of this property from the time ADOT purchased it until the time ADOT sold it. The structures and use of the property have remained the same for many years and are in accord with the zoning for Rural-43, Caballos Ranchitos subdivision. Caballos Ranchitos is the county Island

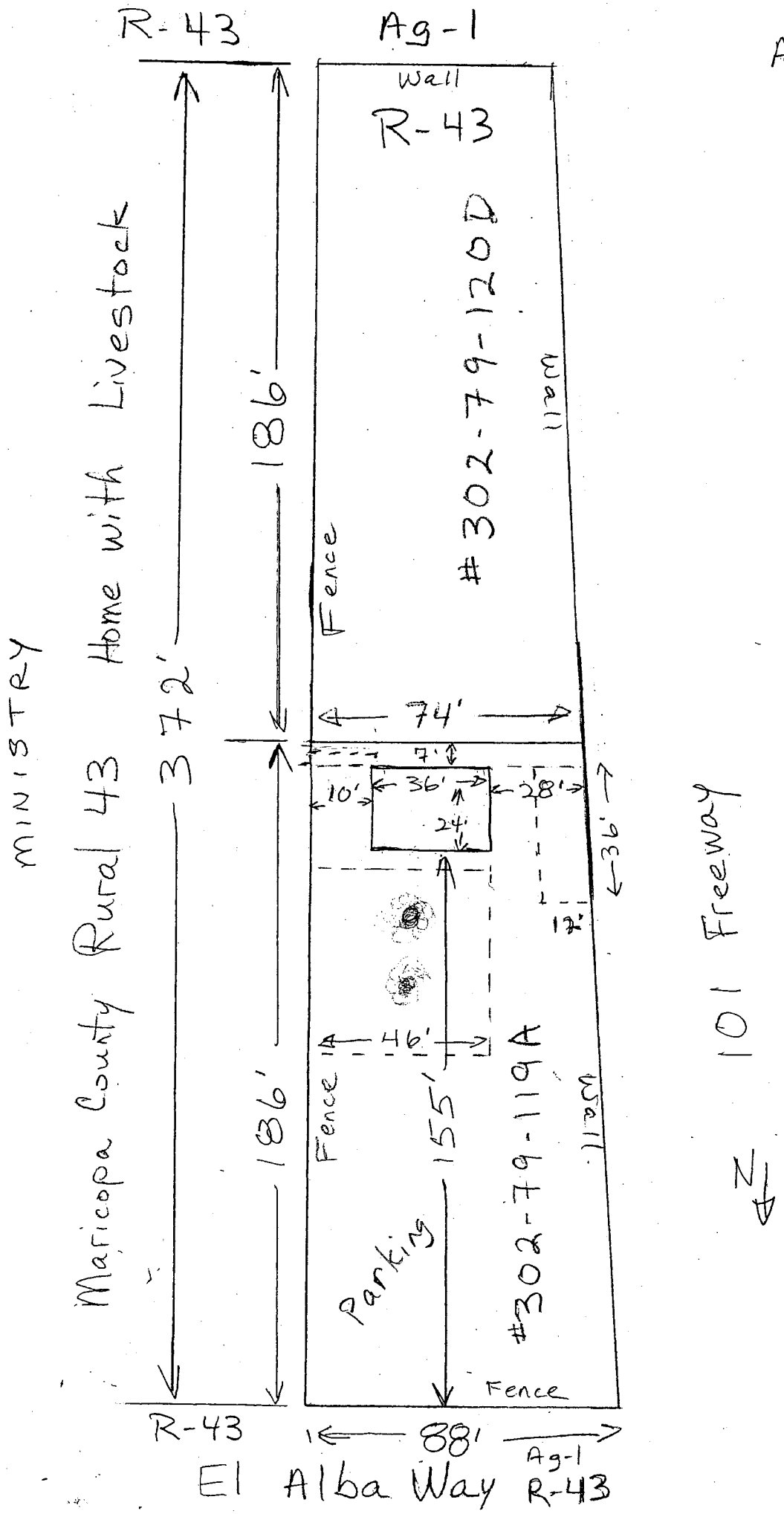
subdivision that this property is in. ADOT further states that the 27.5 feet not sold with parcel #302-79-119A is part of El Alba Way as the hammerhead, instead of a cul-de-sac, so that the public is able to drive down El Alba Way and be able to turn around. ADOT chose not to put a cul-de-sac in because that would have required additional property to be purchased and the neighbors voted that a hammerhead would be preferable. City of Chandler planning and zoning has approved access to the property just south and on/off of Colt Rd with the same access question, for another project, therefore access to this property is verified by City of Chandler. The activities on and surrounding this property will be consistent with the activities on and surrounding it for years. The set up includes simple, modular, fire-proof metal shelter that is clamped and screwed together for the animals' proper care, storage of feed and equipment, and metal fencing that is clamped together and braced to the ground with metal T-posts to properly contain and manage the animals and the land. The location of each structure is for the convenient flow and consistent use with the adjacent property to the east and south. The property is useless and cannot be properly managed without structures and without storage.

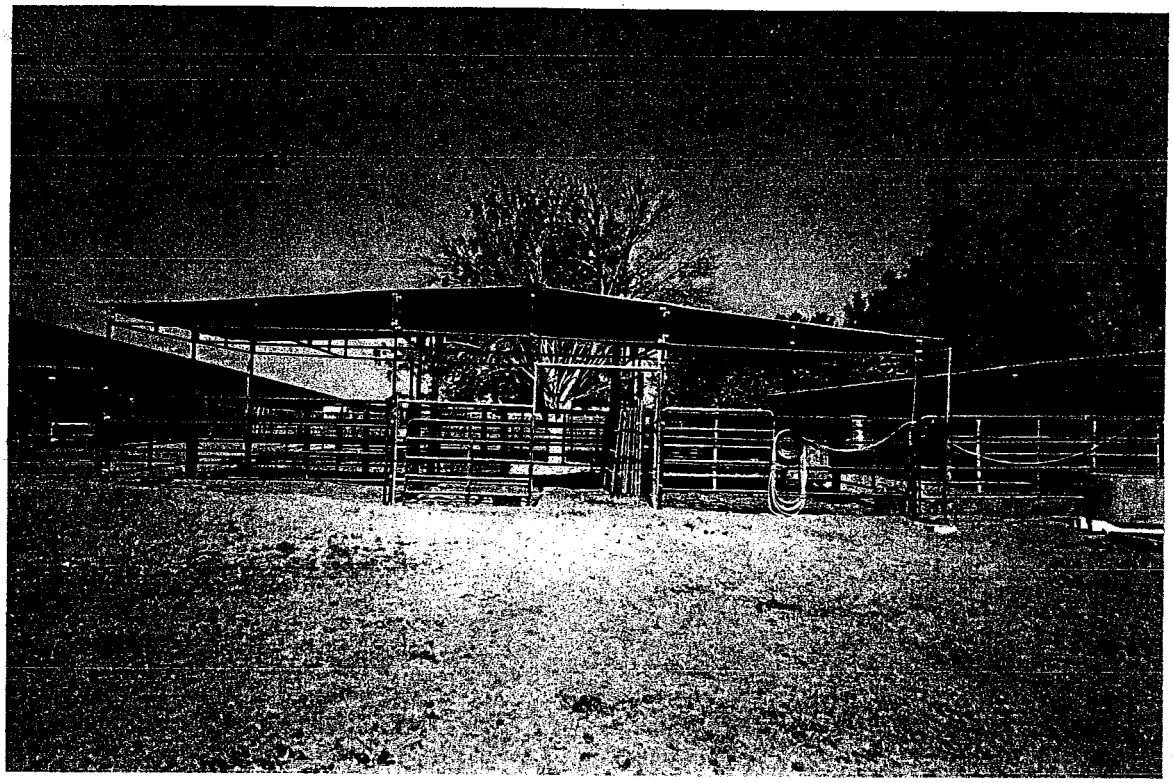
Appendix A / Fig. 1
Existing
All units are in feet
Drawing created by
Sandra Carpenter-Dixon
July 2, 2006

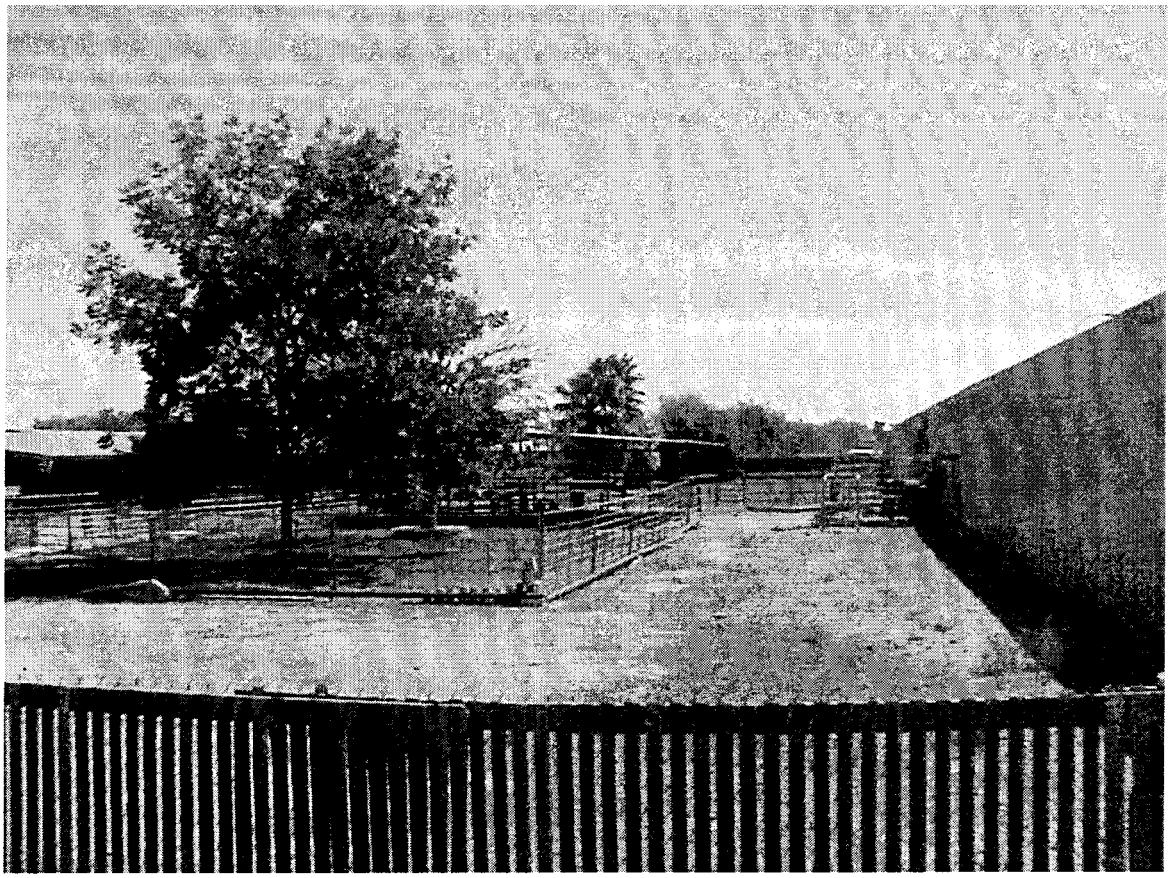
= Tree

--- = Interior Fence

1/4" = 1 Foot







View from El Alba Way toward subject parcels