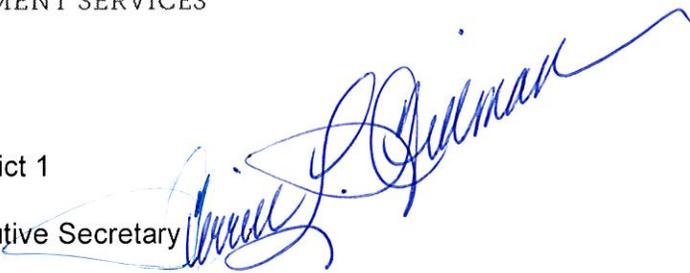




PIMA COUNTY
DEVELOPMENT SERVICES

DATE: September 16, 2015
TO: BOARD OF ADJUSTMENT District 1
FROM: Terrill L. Tillman, Assistant Executive Secretary 
SUBJECT: **P15VA00017 VILES/AMONSON – WEST BOUNTIFUL LANE**
Scheduled for public hearing on October 5, 2015

LOCATION:

The subject property is located approximately ½ mile east of Shannon Road and three hundred feet north of Oasis Drive on West Bountiful Lane. The property is zoned SR (Suburban Ranch).

SURROUNDING ZONING / LAND USES:

| | | |
|-------|----|-------------------------|
| North | SR | Developed Residential |
| South | SR | Undeveloped Residential |
| East | SR | Undeveloped Residential |
| West | SR | Developed Residential |

PUBLIC COMMENT:

To date, two written public comments have been received in support of the request from the adjacent property owners to the north and east of the subject property.

PREVIOUS CASES ON PROPERTY:

There have been no previous Board of Adjustment cases on this property. There was one Conditional Use (CU) application for a Bed and Breakfast that was submitted on November 13, 2006. The CU did not go to public hearing as required.

A rezoning case Co9-78-176 was approved for rezoning approximately 10 acres from the SR to the CR-1 zone (minimum site size of 36,000 sq. ft.) on June 19, 1979. Two, two-year time extensions were approved until June 19, 1985. The case was closed due to inactivity July 18, 1985.

REQUEST:

The applicant requests a variance to reduce the minimum lot size and site area in the SR zone to 2.94 acres. Section 18.17.040 of the Pima County Zoning Code requires a minimum lot size and site area of one hundred forty-four thousand square feet or 3.31 acres. The applicant is proposing to build a porch and install a pool with a wrought iron fence.

TRANSPORTATION AND FLOOD CONTROL REPORT:

No Transportation review is necessary with this request. Flood Control District has reviewed and issued a flood control permit for the rear porch and pool/fence.



BACKGROUND:

The subject property is approximately 2.94 acres, zoned SR (Suburban Ranch) and is not part of a recorded subdivision. The property was undersized by approximately one-third of an acre as a result of lot splits from an approximate 10 acre property into 3 parcels of land in 1998. The adjacent properties to the east and north were a part of the original 10 (+/-) acres parcel and both contain the required 3.3 acres. The subject property is the remaining 2.94 acres remnant resulting from the lot splits. The approximate 10 acres property was the subject of a rezoning (case Co9-78-176) in which the owners applied for and obtained an approved rezoning from the SR to the CR-1 zone (minimum site size of 36,000 sq. ft.) on June 19, 1979. Two, two-year time extensions were approved until June 19, 1985. The case was closed due to inactivity July 18, 1985. The rezoning would effectively allow for ten to eleven lots under the CR-1 zoning designation.

The subject property was developed with permits in 1978 with a single family residence prior to the lot splits. A permit for a bed and breakfast was submitted in 2006 and it appears no review of the subject property was completed because no public hearing was held. The current property owners purchased the property in 2010 and were not aware that the parcel was undersized until they applied for a porch addition to the rear of the house (P15CP01922) and a pool with a wrought iron fence (P15CP01591). The property owners have completed a flood control district review and approval (P15FC00326) which required a mitigation plan for prior encroachment into the riparian habitat. The mitigation plan requires an additional 17 trees and 27 shrubs along with seed mix to be planted on site and have agreed to install and preserve and protect the mitigated area. The subject property has remained the same 2.94 acres of land since the original division of the approximate 10 acres into three parcels.

This variance request addresses the current undersized parcel of 2.94 acres created over 17 years ago. The surrounding neighborhood contains mostly CR-1 zoned or equivalent properties meeting the required .83 acre lot size with the exception of parcels located further south which are a higher density CR-4 subdivision which have lot sizes of 7,000 square feet and slightly above.

Staff supports this variance request to allow an undersized parcel because this parcel was not created by an action of the owners. The property owners have approached a neighbor requesting to purchase the land necessary to create a conforming SR parcel to remedy the current undersized lot, but to no avail. Because the adjacent property owners to both the north and east have given their support, it is reasonable for staff to support this request. Staff has suggested that the owners may rezone the property to meet the required lot size. The process of rezoning requires two public hearings and two notifications allowing additional time for public comment and is the process to obtain the appropriate lot size in a particular zone. In this case, however, the variance request to remedy the undersized parcel may have the most favorable outcome for the adjacent property owners and the neighborhood based upon the subject property LIU-1.2 (Low Intensity Urban) comprehensive plan land use designation. The comprehensive plan designation of LIU-1.2 allows for a density in this case equivalent to two home sites on the property. In addition, the subject property contains riparian areas and is



lushly vegetated with limited areas of disturbance, has planned mitigation, which provides existing and future neighbors with increased buffering.

RECOMMENDATION:

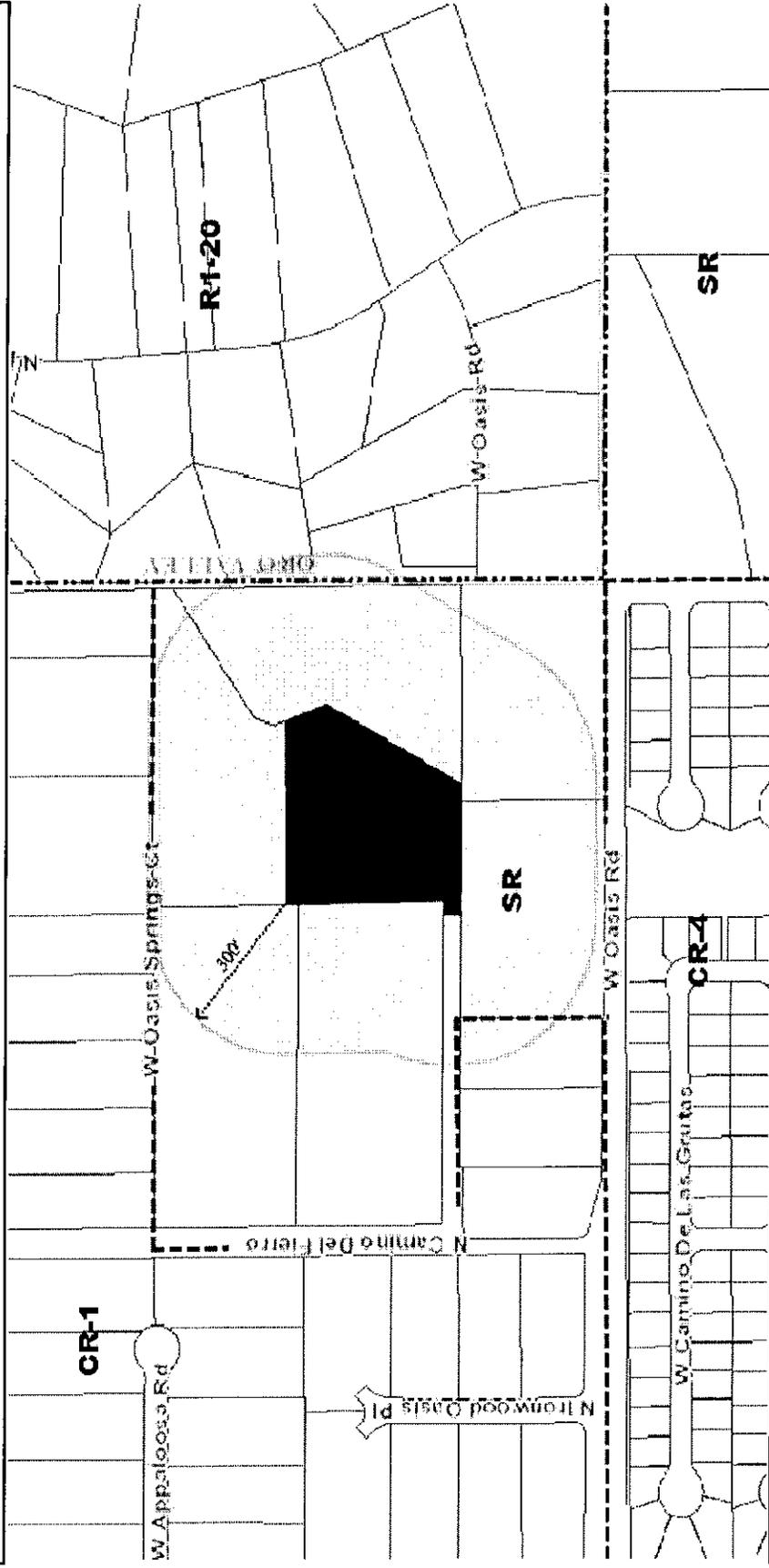
Staff recommends **APPROVAL** of this variance requests. The variance is the minimum to afford relief, the unnecessary hardship does not arise from a condition created by an action of the owner, and does not appear to cause injury or adversely affect the rights of surrounding property owners and residence as evidenced by the lack of neighborhood concern.

Standards that must be considered by a board of adjustment when considering a variance request include:

1. The strict application of the provision would work an unnecessary hardship;
2. The unnecessary hardship arises from a physical condition that is unusual or peculiar to the property and is not generally caused to other properties in the zone;
3. The unnecessary hardship does not arise from a condition created by an action of the owner of the property;
4. The variance is the minimum necessary to afford relief;
5. The variance does not allow a use which is not permitted in the zone by the Code;
6. The variance is not granted solely to increase economic return from the property;
7. The variance will not cause injury to or adversely affect the rights of surrounding property owners and residents;
8. The variance is in harmony with the general intent and purposes of the Code and the provision from which the variance is requested;
9. The variance does not violate State law or other provisions of Pima County ordinances;
10. The hardship must relate to some characteristic of the land for which the variance is requested, and must not be solely based on the needs of the owner;
11. If the variance is from a sign or advertising structure area limitation, no reasonable use of the property can be made unless the variance is granted;
12. If the variance is from a height limitation, no reasonable use of the property can be made unless the variance is granted.

NOTIFICATION MAP

VILES LOUISA J & AMONSON TERRI JT/RS—W. BOUNTIFUL LANE

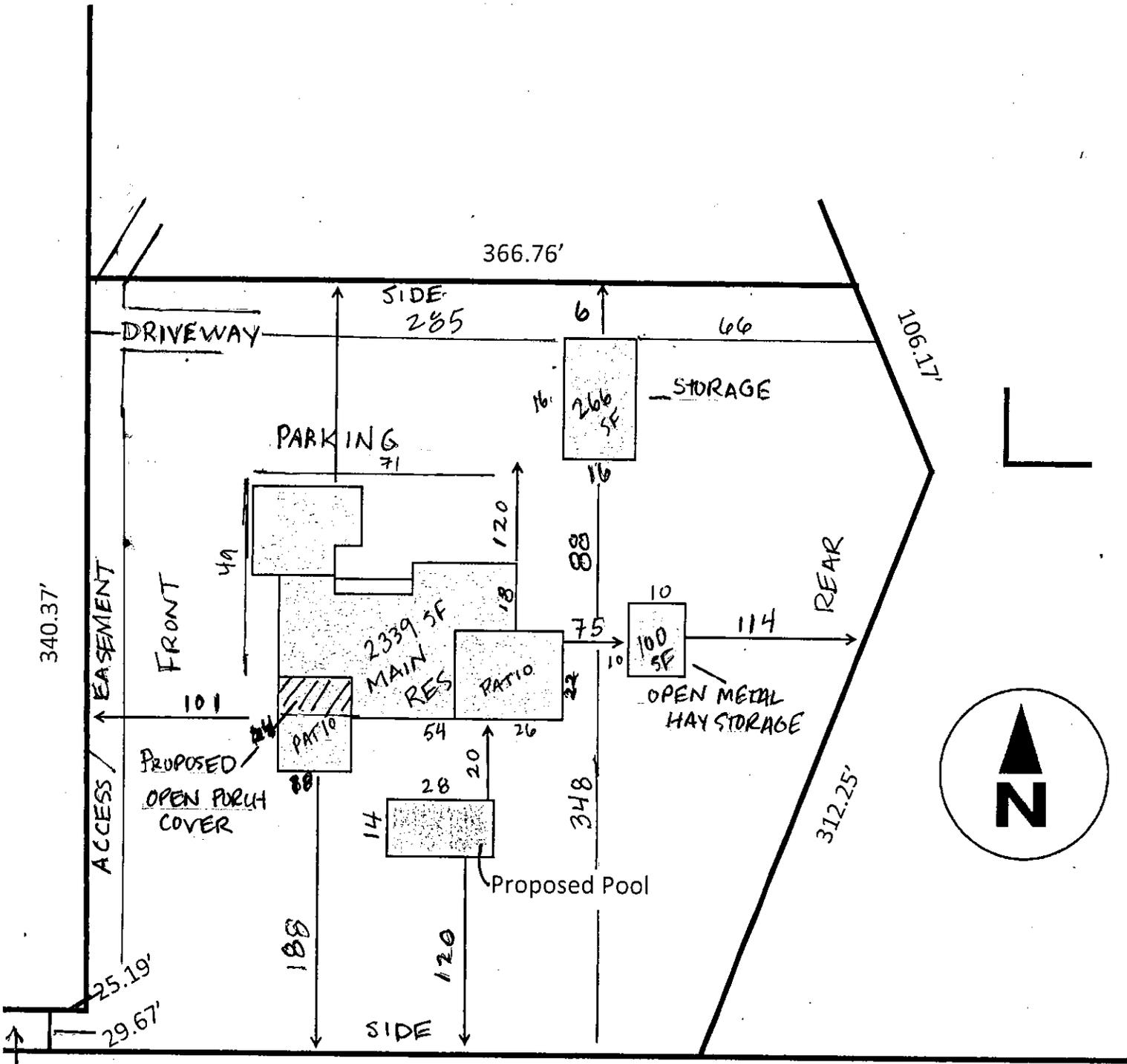


| LEGEND | |
|---|-------------------|
|  | Petition Area |
|  | Notification Area |

| NOTES | | | |
|---|------------|---------------------|-------------|
| File no.: | P15VA00017 | Tax Code(s): | 224-42-004K |
| Application: | VARIANCE | Base Map: | 162 |
|  | | Drafter: | A.H. |
| | 0 300' | | |



9/09/2015



W. BOUNTIFUL LANE

276.65'

2610 W BOUNTIFUL LANE
 22442 004K
 VILES / AMONSON

Terri Tillman

From: Angelo Colletti <acolletti1@yahoo.com>
Sent: Wednesday, September 09, 2015 8:53 AM
To: Terri Tillman
Subject: Variance: on 2610 W Bountiful lane,85742

I have the 3 acre lot joining this property
of 2610 W Bountiful lane Tuc AZ 85742
on the East side, My Name is Angelo P. Colletti
My family has owned this property since 1978.
I have no problem with pima county to a issue. spcial variance
so the current property owners can build a pool.
please issue them a variance.there is plenty of room
its about 3 acres,

Angelo P Colletti

9/9/2015

Terri Tillman

From: Nafi13@aol.com
Sent: Saturday, September 05, 2015 7:01 PM
To: Terri Tillman
Subject: Property Variance

Pima County Board of Adjustment
201 N Stone Ave
Tucson AZ 85701
September 5 2015

Att: Terri Tillman- Senior Planner for District 1

We have spoken to our neighbors, Terri Amonson and Louisa Viles regarding their request for Variance on their property address, 2610 W. Bountiful Lane, Tucson AZ 85742.

We are writing this notification to support them to gain a Variance and support their request to keep an SR Zoning. We have no objections.

We respectfully request that they are granted a Variance and SR Zoning for their property listed above.

Sincerely,
Linda and Arthur W. Jackson Jr.



Variance Application

Revised 12/2013

(Please print or type) **NO PENCIL**

Property Owner: Terri Amonson, Louisa Viles Phone: 541-815-6763

Owner's Mailing Address: Po Box 89307 City: Tucson Zip: 85752

Authorized Representative: N/A Phone: _____

Rep's Mailing Address: N/A City: _____ Zip: _____

Property Address: 2610 W Bountiful Lane City: Tucson Zip: 85742

Tax Code Number(s): 224-42-004K Zone: SR

Does the subject parcel have an active building or zoning code violation? NO

Owner or Applicant's Email Address: vileslou@aol.com

I, the undersigned, swear that all the facts in this application are true to the best of my knowledge, that I will appear in person at public hearing to present the request, that I have read and understood the board of adjustment guidelines and procedure for granting a variance, and that I am able and intend to apply for all necessary county permits for construction and use of the property within nine months of receiving an approval of my variance request.
Signature: Terri Amonson Louisa Viles Date: 8/27/2015

P15VA00017

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

*****FOR OFFICE USE ONLY*****

Case Title: Viles, Louisa & Amonson Terri - Bountiful Lane OWNER'S NAME - STREET NAME (EX. JONES- E. SPEEDWAY BOULEVARD) *P15BA00017*

requests a variance(s) to Section(s) 18.17.040a+b of the Pima County Zoning Code which requires a minimum site & lot size of 3.3 acres.
The applicant requests to reduce the site/lot size to 2.94 acres!

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY th DATE 8.28.15.

8/28/2015

Pima County Board of Adjustment

District 1

201 N. Stone Avenue

Tucson, AZ 85701

Dear Supervisor Miller and Members of the Board:

The purpose of this letter is to request a variance to reduce the minimum lot size and dwelling site area in the SR zone, .

In March of 2015 we applied to Pima County Development for permits for a pool and open porch. Our permits were referred to Flood Plain and from Flood Plain to Riparian Mitigation. Over the next 5 months we worked to obtain a Riparian Habitat Mitigation plan which was approved August 3, 2015. Our Flood Plain Use permit (P15FC00326) was approved August 13, 2015. On August 18, 2015 Development Services was about to issue our permits when they informed us that they had just realized that our existing 2.94 acre lot is undersized and does not conform to the established zoning. They indicated permit approval for the proposed pool and porch would require a variance.

Through this process, we have now learned that the parcel was the result of a series of land split that occurred in 1998. In the splits our parcel was the only one, perplexingly, left slightly undersized. We are the third owners of the 2.94 acre parcel in the 17 years since the land split. Our home is the existing single family residence built in 1978. We purchased the property in 2010 as a foreclosure. No deficiency was identified by the seller at closing in the Disclosure Statements. There was no indication of any building or zoning violation at the time of our purchase. After being notified on 8/18/2015 by Development Services of the parcel being undersized, we spoke with the Title Company who handled the transaction five years ago. They indicated that had there been an existing violation, they would have been required to disclose the issue.

In 2007 the prior owners submitted an application to Pima County Development for a Conditional Use Permit to operate a Bed and Breakfast. The application was accepted for review and hearing. The Board proceedings reference the property zoning as SR at the initial meeting and approved the permit. An understandable appeal by our neighbors was upheld and ultimately the permit was denied. Had the permit review process identified the existing deficiency, that the property did not meet the SR requirements, the owners would presumably have had to rectify the issue. If the owners had not addressed the deficiency before the property was sold, we likely would have had some disclosure when we sought to purchase. We may not have purchased the property with existing zoning issues, or would have asked for a seller remedy to address the zoning prior to closing.

After working with the county to obtain the appropriate flood plain and mitigation permits, the notification that our property is slightly undersized has been devastating and immensely stressful to us.

As we have already done with the home, we are committed to maintaining the property in keeping with the requirements of the approved use and characteristics of the adjacent properties. We have spent thousands of dollars for an engineer to complete the Riparian Mitigation Plan and have projected the cost of implementing and maintaining the plan to be several thousand more. We are not seeking any economic gain in our request, but rather to limit further hardship. If the zoning provision is applied to our parcel, it will add another hardship. We do not believe that a variance would cause any injury or adversely affect the rights or continued enjoyment of our quiet, rural Northwest neighborhood but may in fact help to preserve these attributes.

We have asked the adjacent property owners (Mr. and Mrs. Hahn and Mr. and Mrs. Gurvine) with available land about the possibility of purchasing land to increase our square footage and they have indicated they do not wish to sell a portion of their property. At the time of our application we have communicated in writing with the affected adjacent property owners and have spoken with a number of our immediate neighbors, including the Jacksons, Mr. Colletti, the Hahns, the Luckows and the Gurvines, and they have all indicated full support of our situation and variance request.

We thank the Board for its time and consideration of our request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Louisa Viles & Terri Amonson".

Louisa Viles & Terri Amonson