

CITY COUNCIL REPORT



Meeting Date: August 25, 2015
 General Plan Element: *Land Use*
 General Plan Goal: *Transition land uses with regional transportation networks*

ACTION

Francis Residence
 1-HE-2015

Request to consider the following:

1. Adopt Resolution No. 10218 for a Hardship Exemption from the current ESL requirements pertaining to wall setbacks on a 51,245 +/- square foot property located at 12684 E. Turquoise Avenue with Single-Family Residential District, Environmentally Sensitive Lands (R1-43 ESL) zoning.

OWNER

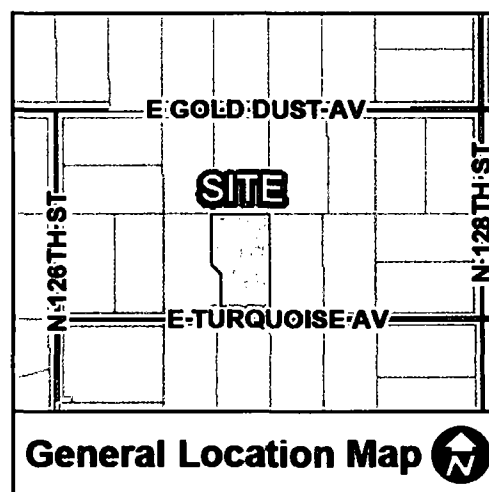
Daniel M Francis
 480-695-4404

APPLICANT CONTACT

Daniel M Francis
 480-695-4404

LOCATION

12684 E Turquoise Av



BACKGROUND

Zoning

The site is zoned Single-Family Residential District, Environmentally Sensitive Lands (R1-43 ESL). The R1-43 ESL zoning district allows for single-family dwellings, religious and educational facilities are also permitted uses in the single-family residential zoning districts. The Environmentally Sensitive Lands zoning overlay provides additional requirements to protect the natural desert environment.

General Plan

The General Plan Land Use Element designates the property as Rural Neighborhoods. This category includes areas of relatively large lot single-family neighborhoods. Densities in Rural Neighborhoods are usually one house per one acre (or more) of land. The designation and use will remain unchanged by this request.

Character Area Plan

This site is located within the East Shea character area. The Shea Area Plan contains policies and guidelines that strive to preserve neighborhoods and character in the Shea Boulevard area. This application is consistent with the goals of the Shea character area.

Context

The subject property is located along the North side of E. Turquoise Avenue, between N. 126th Street and N. 128th Street. This property is directly surrounded by vacant single-family residential parcels to its north and south with existing single-family residential homes to its east and west and within the surrounding neighborhood.

This area was annexed into the City of Scottsdale in 1975 and applied the R1-43 zoning designation. The Environmentally Sensitive Lands Ordinance was adopted and applied to this area in 1991. In 2004 the Environmentally Sensitive Lands Ordinance was amended requiring a fifteen (15) foot setback from the side and rear property lines for properties 35,000 square feet and larger, unless the parcel is adjacent to Natural Area Open Space (NAOS) or Conservation Area (CA) within a separate tract as a part of a master planned development or subdivision.

The single-family residence on the subject property was approved and permitted in May of 2015. Due to a large natural wash running through the eastern portion of the subject property, the home placement and associated site improvements were shifted to the north and west of the site to accommodate the preservation of the wash corridor. The proposed site walls were not identified within the scope of that approval.

Adjacent Uses and Zoning

- North Existing single-family residential properties zoned R1-43 ESL; un-subdivided.
- South Existing single-family residential properties zoned R1-43 ESL; un-subdivided.
- East Existing single-family residential properties zoned R1-43 ESL; un-subdivided.
- West Existing single-family residential properties zoned R1-43 ESL; un-subdivided.

Key Items for Consideration

- Existing house and site improvements approved/permitted in May of 2015.
- Large natural wash occupies the eastern portion of the property.

APPLICANTS PROPOSAL

Goal/Purpose of Request

The applicant's request is for a hardship exemption from the current requirement of the 2004 update to the ESL overlay, which imposes a fifteen (15) foot wall setback from the side and rear property lines. The applicant would instead prefer to follow the previous ESL requirements, which

did not include wall setback restrictions, which would allow them to apply for permits to construct site walls on portions of the rear and side property lines with the intention of gaining more functional rear yard area and offset the placement of the home with regards to the wash corridor through the site.

IMPACT ANALYSIS

Land Use

ESL Hardship Exemption Findings

Zoning Ordinance Section 6.1022.D allows the City Council to permit a property to develop under a previously adopted requirement of ESL, upon findings that the application of an ESL amendment causes hardship:

1. Demonstrated substantial hardship that would reduce the ability to use the parcel(s):

The applicant states that due to the placement of the home being shifted to the northwest portion of the site to preserve the natural wash corridor running through the eastern side of the property, adhering to the required fifteen (15) foot wall setback would further reduce the usable area in the rear of the property.

2. The requested exemption is consistent with the intent and purpose of the ESL Ordinance:

The applicant identifies that the neighboring parcel to the west already has dedicated NAOS with a width in excess of the minimum thirty (30) foot wide intended corridor adjacent to the proposed site wall location on the subject property. That the neighboring parcel to the east already has constructed a site wall on the shared property line with the subject property in the area of the proposed site wall location on the subject property, so there would not be the opportunity to have the fifteen (15) foot setback provided by both properties to achieve the thirty (30) foot corridor. And that the proposed wall locations would not affect the preservation of the wash or the NAOS areas dedicated on the subject property.

3. The application of the new ESLO standards does not achieve significant benefit for protection of the environment and community:

The applicant identifies that the existing dedicated Natural Area Open Space and Drainage Easements, located over the natural wash along the east side of the subject property, sufficiently provide the thirty (30) foot wide corridor intended by the current ESL wall setback requirement.

Community Involvement

Surrounding property owners within 750 feet have been notified by the city and the site has been posted with a notification sign. Staff has received no comments as of the writing of this report.

Community Impact

The requested exemption is in conformance with a previously adopted version of the ESL Ordinance. The previous version of the ESL ordinance did not include a setback requirement for

walls in the side and rear yards. A large amount of the existing development in the area was done under the previous version of the ESL ordinance. The Drainage Easement and Natural Area Open Space easement area dedicated over the natural wash along the east side of the property significantly accomplish the preservation of open corridors intended by the current wall setback requirement.

STAFF RECOMMENDATION

Recommended Approach:

1. Adopt Resolution No. 10218 for a Hardship Exemption from the current ESL requirements pertaining to wall setbacks on a 51,245 +/- square foot property located at 12684 E. Turquoise Avenue with Single-Family Residential District, Environmentally Sensitive Lands (R1-43 ESL) zoning.

RESPONSIBLE DEPARTMENT

Planning, Neighborhood and Transportation

Current Planning Services

STAFF CONTACTS


Jeff Barnes

Planner

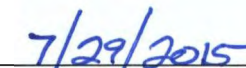
480-312-2376

E-mail: jbarnes@ScottsdaleAZ.gov

APPROVED BY



Jeff Barnes, Report Author



Date




Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov



Date



Randy Grant, Administrator
Planning, Neighborhood and Transportation
480-312-2664, rgrant@scottsdaleaz.gov



Date

ATTACHMENTS

1. Resolution No. 10218
Exhibit 1. Aerial Close-up
Exhibit 2. Site Plan
2. Applicant's Narrative
3. Context Aerial
4. City Notification Map

RESOLUTION NO. 10218

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ALLOWING A HARDSHIP EXEMPTION FROM THE CURRENT ESLO REQUIREMENTS PERTAINING TO WALL SETBACKS ON A 51,245 +/- SQUARE FOOT PROPERTY LOCATED AT 12684 E. TURQUOISE AVENUE, WITH SINGLE-FAMILY RESIDENTIAL DISTRICT, ENVIRONMENTALLY SENSITIVE LANDS OVERLAY (R1-43 ESL) ZONING.

WHEREAS, Sec.6.1022(D) of the Zoning Ordinance permits a property owner to submit an application demonstrating that the application of an ESL amendment causes hardship, and the City Council, upon consideration of the application, may allow the property to develop under a previously adopted requirement of ESL, upon findings that:

1. A substantial hardship is demonstrated that would significantly reduce the ability to use a parcel(s);
2. The exception will be consistent with the intent and purpose of the Environmentally Sensitive Lands Ordinance; and
3. The application of the new ESL standards would not achieve significant benefit for the protection of the environment and the community.

WHEREAS, the City Council held a public hearing on August 25, 2015 to determine whether the above criteria have been met and an application for hardship exemption should be granted.

NOW, THEREFORE, LET IT BE RESOLVED, by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the required findings in Sec. 6.1022(D) of the Zoning Ordinance have been made.

Section 2. That the application for a hardship exemption for property located at 12684 E. Turquoise Avenue as depicted on Exhibit "1" attached hereto, allowing for a Hardship Exemption from the current ESLO requirements pertaining to wall setbacks on a 51,245 +/- square foot property, as described in Case No. 1-HE-2015 as shown on Exhibit "2" attached hereto, is hereby granted.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 25th day of August, 2015.


ATTEST:

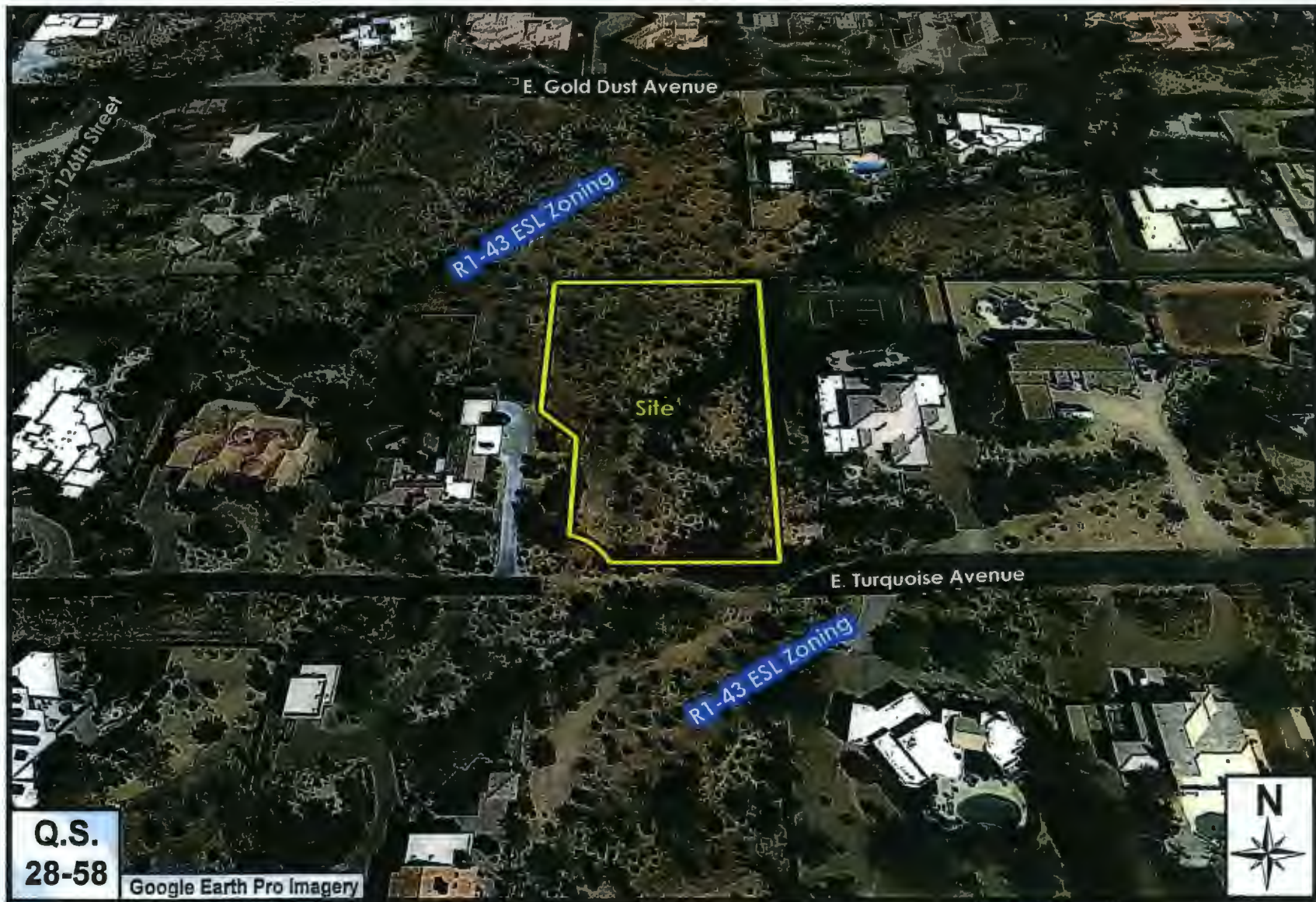
CITY OF SCOTTSDALE, an Arizona
municipal corporation

By: _____
Carolyn Jagger, City Clerk

By: _____
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By:  _____
Bruce Washburn, City Attorney
By: Joe Padilla, Senior Assistant City Attorney



Close-Up Aerial

Exhibit 1
Resolution No. 10218

1-HE-2015



Site Plan

**Exhibit 2
Resolution No. 10218**

1-HE-2015

Request of a hardship exemption from the current ESLO requirements for a residence located at 12684 E. Turquoise Ave, Scottsdale, AZ 85259 to permit the location of the rear yard perimeter block wall/fences to be constructed on the property lines.

A substantial hardship is demonstrated because the lot is very unique to the area in that it has a very large natural wash running through about half of its area. The initial challenge was to fit a home on this parcel. The residence had to be specifically designed and set back towards the rear of the property leaving very little rear yard area. With sustaining the ESL perimeter setbacks, this would further reduce the use of the rear yard and create a use hardship and monetary hardship when reselling the property.

Additionally, because the neighboring parcel across the wash to the East installed an improper drainage piping system at the NW corner of their property, the City of Scottsdale required this parcel to provide retention area at the NE corner of the rear yard to allow for overflow from 100 year storm waters further reducing the use of the rear yard.

The ESL exception will be consistent with the intent and purpose of the Environmentally Sensitive Lands Ordinance in that:

- 1) The neighboring west parcel already has a 30+ designated NAOS area so a 30' area will be maintained between fences.
- 2) Constructing the rear wall on the north property line will be consistent with neighboring parcels which were constructed prior to the establishment of the ESL standards and have rear fences constructed on property lines.
- 3) The side fence to the east of the property is existing and was constructed by the neighboring parcel and connecting to this existing fence causes little to no impact to the ESL ordinance when taking into consideration the amount of area already designated as NAOS and drainage easements.

The application of the new ESL standards would not achieve significant benefit for the protection of the environment and community since the amount of land already designated as NAOS and to drainage easements substantially exceeds all new ESL required standards even when taking into consideration the requested change.

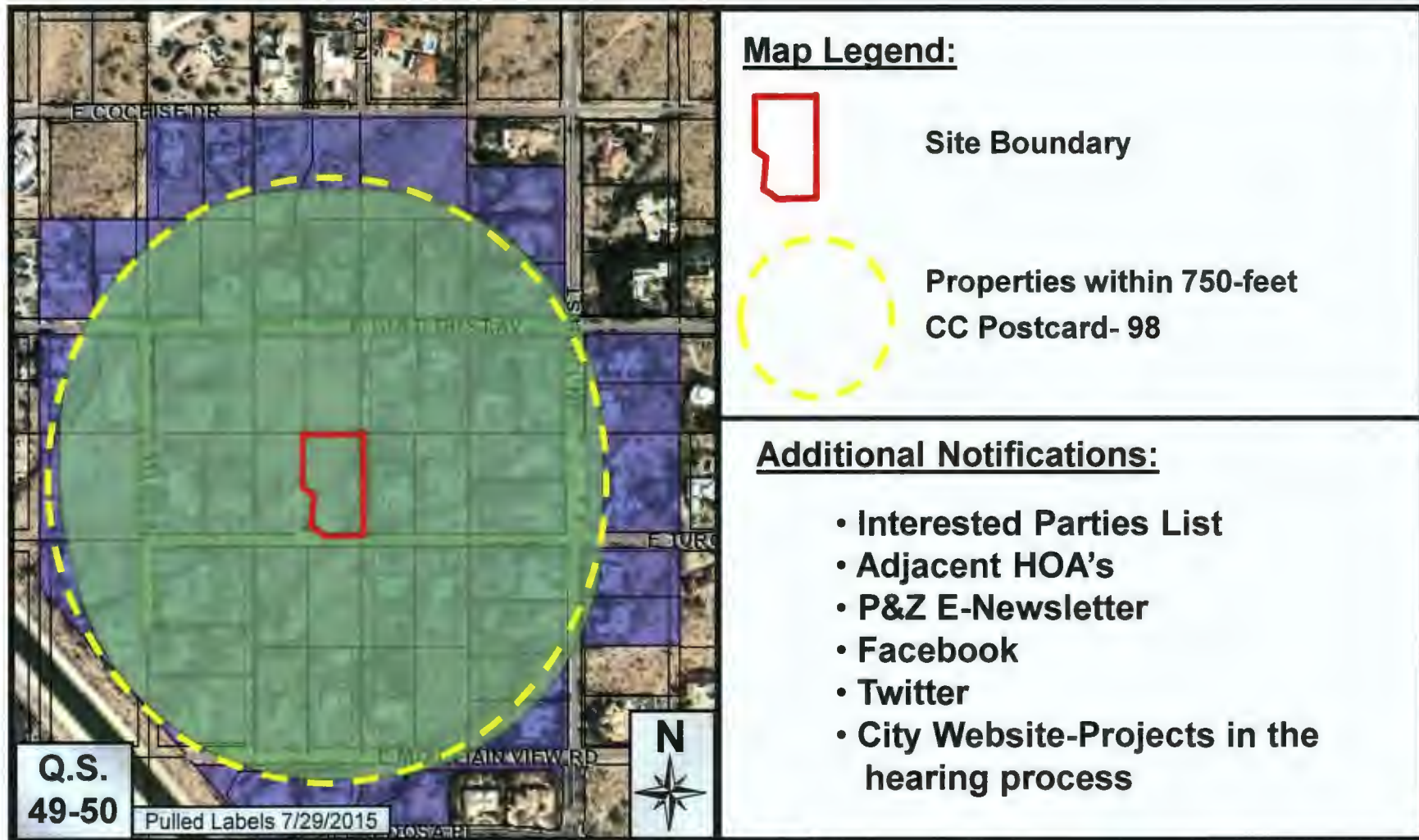


Context Aerial

1-HE-2015

ATTACHMENT #3

City Notifications – Mailing List Selection Map



Francis Residence

1-HE-2015

Wyant, Erica

From: Jagger, Carolyn
Sent: Friday, August 21, 2015 12:50 PM
To: Klapp, Suzanne; Korte, Virginia; Lane, Jim; Littlefield, Kathy; Milhaven, Linda; Phillips, Guy; Smith, David N
Cc: Biesemeyer, Brian K; Washburn, Bruce; Walker, Sharron; Nichols, Jeff; Grant, Randy; 'kentlall@pdx.edu'; Barnes, Jeff
Subject: FW: 1-HE-2015

Your Honor and Members of the City Council,

Below is a comment regarding Item No. 20, *Francis Residence Hardship Exemption*, on the August 25, 2015 Council Meeting Agenda.

Best regards,

Carolyn

From: B Kent Lall [<mailto:lallb@pdx.edu>]
Sent: Wednesday, August 19, 2015 4:33 PM
To: Projectinput
Subject: 1-HE-2015

This is regarding Case Number 1-HE-2015.
 Site Location: 12684 E Turquoise Ave; Francis Residence.

We received the project under construction information regarding this "Hardship Exemption" on August 14, 2015 through a postcard in the mail. Even though it was dated 8/6/2015, it was bulk-mailed and thus took much longer to arrive. The developer/builder/homeowner has not communicated with us over this issue at all and we are hearing about it for the first time from the city. Over the weekend, we looked for information on the website and we could not find/determine any details or specifics. I called the city contact, namely Jeff Barnes on Monday, August 17 and left a message. Jeff Barnes returned the message yesterday afternoon (August 18), and did admit that a link at the website was missing or was incorrectly inserted. He said he had fixed it and we could go the website then. Now that we know some details and specifics, we realize that we need to do considerable research for investigation, and develop the case for opposing the exemption. We are the next door neighbors (and only neighbor affected). The hardship exemption sought creates as big or bigger hardship for us and the case is extremely important to us.

We would therefore like to request a postponement of this hearing (from the August 25 hearing date) to give us more time to examine the details.

Thank you for your accommodation in this matter.

Kent

B Kent Lall
 Valana L Wells
 12652 E Turquoise Ave
 Scottsdale, AZ 85259
 Email: kentlall@pdx.edu

Wyant, Erica

From: Jagger, Carolyn
Sent: Tuesday, August 25, 2015 3:27 PM
To: Wyant, Erica
Subject: FW: 1-HE-2015 Francis Residence @ 12684 E. Turquoise Ave.
Attachments: Scan0097.pdf

From: Dina Francis [<mailto:ddfran2424@gmail.com>]
Sent: Tuesday, August 25, 2015 1:22 PM
To: Barnes, Jeff
Cc: 'Dina Francis'
Subject: 1-HE-2015 Francis Residence @ 12684 E. Turquoise Ave.

Hi Jeff, we were able to meet with the west neighbor yesterday evening and get approval to build our fences on the property lines. He was the neighbor that had raised issue with the fence. Turns out they just did not want a 6' wall to go all the way down the west side of the property to the 40' front setback line. We never planned on that so a non-issue for us. We agreed that we would get their approval for any add'l fencing along the west property line if any type of fencing or low wall is proposed beyond the diagram agreed to and attached.

We also have the approval of the neighbor to the south (across the street) but he had a last minute business appointment or trip and could not meet. Hoping to have something from him signed or emailed to you before our meeting.

Thx,

Dina DeAcetis-Francis

"Building Arizona Since 1992"

DeAcetis-Francis Custom Homes, Inc.

(480) 221-2400 Dina Cell

(480) 695-4404 Dan Cell

(480) 451-8890 office

(480) 451-8818 fax

Dina@dfcustomhomes.com

DFCustomHomes.com

Dated: August 24, 2015

TO: City of Scottsdale City Council

RE: Francis Residence 1-HE-2015

PROPERTY: 12684 E. Turquoise Ave, Scottsdale, AZ 85259

The adjacent property owners, Valana Wells and Kent Lall, whose property & NAOS directly borders the west property line of the subject property, hereby approve the construction of the side block wall and rear block wall to be built on the property line, so long as it follows the locations marked on the attached diagram and does not exceed the minimum pool code requirement of 6'.

Subject property owners, Daniel Francis & Dina DeAcetis-Francis, agree that no additional fencing or walls shall be constructed along the west side property line without the approval of Valana Wells and Kent Lall.

ACCEPTED & APPROVED:

Valana Wells
VALANA WELLS

Kent Lall
KENT LALL

Daniel Francis
DANIEL FRANCIS

Dina DeAcetis Francis
DINA DEACETIS FRANCIS

