



BOARD OF ADJUSTMENT AGENDA

BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, MARCH 19, 2009
9:00 AM

COUNCIL CHAMBERS / CITY HALL
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207

The following Agenda will be considered by the **BOARD OF ADJUSTMENT** at its **PUBLIC HEARING** to be held on **March 19, 2009**, in **COUNCIL CHAMBERS**, in **CITY HALL**, located at **201 S. CORTEZ STREET**. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

MEMBERS

Michael Klein, Chairman
Duane Famas, Vice Chairman
E. Calvin Fuchs
Johnnie Forquer

Tom Kayn
Ken Mabarak
Bill Warren

III. REGULAR AGENDA

1. **Approved the minutes** of the January 15, 2009 minutes.
2. **V09-001, 460 Isabelle Lane.** APN: 105-03-314 and totaling ± 9,592 square feet. *Land Development Code* Section 3.4.3.D. Zoning is Single-Family 18 (SF-18). Request is for a variance to increase lot coverage to 44% maximum where 35% is allowed per code. Owner is Sherman Family Trust. Agent is Jeffery Adams. Community Planner is Mike Bacon, (928) 777-1360.

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. WITH 48 HOURS ADVANCE NOTICE, SPECIAL ASSISTANCE CAN BE PROVIDED FOR SIGHT AND/OR HEARING IMPAIRED PERSONS AT

PUBLIC MEETINGS. PLEASE CALL 777-1272 OR 777-1100 (TDD) TO REQUEST AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING.

IV. SUMMARY OF CURRENT OR RECENT EVENTS

V. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on **March 13, 2009, at 3:00 PM** in accordance with the statement filed with the City Clerk's Office.



Kelly Sammeli
Boards and Commissions Administrative Specialist
Community Development Department

**BOARD OF ADJUSTMENT
PUBLIC HEARING
JANUARY 15, 2009
PRESCOTT, ARIZONA**

MINUTES OF THE **PUBLIC HEARING** OF THE **BOARD OF ADJUSTMENT** held on **JANUARY 15, 2009** in **COUNCIL CHAMBERS, CITY HALL** located at **201 S. CORTEZ STREET**, Prescott, Arizona.

I. CALL TO ORDER

Chairman Klein called the public hearing to order at 9:00 AM.

II. ATTENDANCE

MEMBERS PRESENT Michael Klein, Chairman Duane Famas, Vice-Chairman E. Calvin Fuchs Johnnie Forquer Ken Mabarak Bill Warren	OTHERS PRESENT Tom Guice, Community Development Director George Worley, Assistant Community Development Director Matt Podracky, Senior Assistant City Attorney Ryan Smith, Community Planner Kelly Sammeli, Recording Secretary
MEMBERS ABSENT Tom Kayn	COUNCIL MEMBERS PRESENT Bob Luzius

III. REGULAR AGENDA

1. **Approve the minutes** of the September 18, 2008 public hearing.

Mr. Fuchs, **MOTION: to approve the minutes** of the September 18, 2008 meeting.
Mr. Mabarak, 2nd. **Vote: 6-0.**

2. **Election of Chairman** for the 2009 calendar year.

Mr. Fuchs indicated that based on the outstanding job that Mr. Kline has done over the past year, he would **MOTION: to nominate Mr. Kline for a second term as Chairman.**

Mr. Warren noted that based on the fact that Chairman Kline kept his fellow board members time and concerns in mind, he would **2nd** that nomination.

Chairman Kline called for further nominations. Hearing none, closed the nomination process and called for a vote. **VOTE: 5-0-1** (abstention Kline).

3. **Election of Vice Chairman** for the 2009 calendar year.

Chairman Kline called for nominations for Vice Chairman.

Mr. Warren **MOTION: to nominated Duane Famas for Vice Chairman.**
Ms. Forquer, 2nd.

Chairman Kline called for other nominations. Hearing none, closed the nomination process and called for a vote. **VOTE: 5-0-1** (abstention Famas).

Chairman Kline announced at that Mr. Tom Kayne and Mr. Ken Mabarak were both reappointed to the Board of Adjustment earlier in the month and offered his congratulations.

4. Review of recently adopted amendments to the LDC.

Mr. Smith, Community Planner noted to the Board members that he was going to briefly review the recently adopted, amendments to the *Land Development Code*, that affect Section 6.4.3, Section 6.4.7, Table 6.12.5C, Section 6.2.9, Table 6.2.9 and Section 6.11.3.

Mr. Smith reported that the first item was regarding Sections 6.4.3 and 6.4.7 of the *LDC*, permit requirements for fences and walls. Mr. Smith noted that there was a conflict with the language between the *Land Development Code* and the Building Code with fences over 4 feet in height. Mr. Smith noted that The Building Code contains requirements for permitting fences or walls 6 feet or more in height. The language in the *Land Development Code* required a site plan review for **all** fences and permits for any request over 4 feet in height. The Planning and Zoning Commission recommended deleting a portion of the language of Section 6.3.4 in the Land Development Code to eliminate the conflict. This would allow for staff to have flexibility to apply the site plan review, and /or permit as appropriate to the situation. Mr. Smith also noted there was a portion of the language for electric or barbed wire fencing that has been stricken out of the language as it is becoming a common use for protection in screening fences for commercial uses.

Mr. Smith noted that the second change was in Table 6.12.5C and the requirement for a \$100 deposit for Temporary Signs or Banners. Mr. Smith reported that the requirement to collect and administer the deposit had been a challenge for accounting reasons. The Planning and Zoning Commission recommended the deletion of the language in Table 6.12.5C relating to the required deposit requirements however, the remaining provisions related to Special Events signs and Banners are to remain.

Mr. Smith reported that the third item related to the vehicle stacking requirements associated with drive-through services. Mr. Smith noted that staff had found it was better to reverse the stacking and to allow for more cars between the order box and the pick-up window. The Planning and Zoning Commission recommended that the *Land Development Code Table 6.2.9* be amended to require 6 minimum stacking spaces for the order window instead of four, and that 4 stacking spaces from the order box to the pick up window be required instead of 6.

Mr. Smith noted that the last item that was amended in the *Land Development Code* was in Section 6.11.3. Mr. Smith reported that Section 6.11.3A.1.b applies to security lighting on single-family and duplex properties. Mr. Smith also noted that through a neighborhood dispute it was brought to staff's attention that the language specifically exempts lighting activated by a motion sensor that is not directed beyond a property line. However, it would allow for the "security light" to be pointed into the neighbor's property line providing, that the motion sensor was not pointed across the property line. Mr. Smith reported that the Planning and Zoning Commission voted to add language to the Land Development Code to prohibit both the motion sensor and the security lighting from being directed beyond the property line.

Chairman Kline called for questions from the Board. Hearing none, moved to the next agenda item.

IV. REVIEW ITEMS

None.

IV. SUMMARY OF CURRENT OR RECENT EVENTS

Mr. Smith, Community Planner reported that staff is in the process of amending the Airport Master Plan, indicated that the purpose for the update is to change out the “crossed area” that currently indicates flight zones to the six zones that relate to areas that are influenced by aircraft impact; over flight operations and the adjacent land uses. Mr. Smith noted that this led to a major General Plan Amendment for the area west of the airport. There will be amendments forthcoming to the *Land Development Code* and the Airport Specific Area Plan so that both plans will agree.

Mr. Mabarak inquired about Zone 3.

Mr. Smith responded that area 3 is where the planes take off and noted that there will be no residential allowed in zones 1, 2, or 3.

Mr. Mabarak also inquired about area 6.

Mr. Smith noted that area 6 is the largest area and that it has controlled uses by the FAA.

Mr. Warren inquired where the residential areas are located within the Airport Master Plan.

Mr. Smith indicated that currently the area includes Pinon Oaks, Antelope Village and Golf Links.

Chairman Klein called for any other questions or other current events.

Mr. Fuchs **MOTION**: to adjourn. Mr. Warren, 2nd.

VI. ADJOURNMENT

Chairman Klein adjourned the meeting at 9:13 AM.

Michael Klein, Chairman

Kelly Sammeli
Recording Secretary

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
STAFF REPORT
Meeting Date: 3/19/09

TO: Board of Adjustment Members
FROM: Tom Guice, Community Development Director
George Worley, Assistant Director
Mike Bacon, Community Planner
DATE: 3/12/09

Location: 460 Isabelle Lane **Zoning:** SF-18 **Parcel Number:** 105-03-314
Applicant/Agent: Jeffrey Adams, Adams and Mull, PLLC, 211 E. Sheldon St, Prescott
Owner: Steven Sherman Family Trust, 1155 Northridge Drive, Prescott 86301

REQUEST: This variance request is for an increase in the maximum lot coverage allowed from 35% to 42.2% to allow a single-family home to be built in the Bloominghill Estates Subdivision--a Planned Area Development which has 20% open space. (See the attached analysis and photos prepared by the property owner). The property owner was notified of his non-compliance during the Building Permit application process.

STAFF ANALYSIS

Lot Size: ±9,952 sq. ft.

Land Development Code Requirement: Section 3.4.3.D

Compliance with Zoning Code and ARS 9-462.06: Yes

Land Uses

Direction	Zoning	Use
East	SF-18	Vacant
West	SF-18	Open Space
North	SF-18	Single-Family
South	SF-18	Vacant

Neighborhood Resident's Concerns. As of this date, no objections have been received by Staff; but a signed petition (attached) of support by 18 persons (other than the applicant) has been received. In addition, a phone call was received from the adjoining property owner in another subdivision directly to the north of the subject property. This owner indicated he had no objection to the requested variance.

Variance Criteria (LDC Section 9.13)

The Board of Adjustment shall consider the following specific criteria (*italicized* text indicates staff comments).

1. Extraordinary Conditions.

There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the code will deprive the applicant of the reasonable use of his land. *See attached letter from the applicant. Staff agrees that oversights have occurred in the review process, with many building permits in this newer subdivision being issued in 2005.*

2. Substantial Detriment.

Granting the Variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the area, or to the City in administering this Code. *There are no known detriments. No additional adverse impacts could be expected by increasing the lot coverage when there are similar properties in this neighborhood which have also exceeded the maximum lot coverage (See attached Table 1).*

3. Special Privileges

Granting a Variance shall be subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located. *No other similar variances have been applied for in the surrounding neighborhood area. The applicant has submitted a detailed analysis (see attached letter and maps) which reveals 18 other lots have homes which exceed the maximum lot coverage percentage of 35%. This analysis is a significant finding for Staff in recommending approval of this request, along with the attached support from 18 other property owners in this neighborhood whose properties would be most impacted by this request. Two Conditions of Approval are also recommended by Staff (see below) which will help insure that this oversight does not occur again.*

4. Self-Induced Hardship

The hardship is not the result of the applicant's own actions. *The applicant has submitted his house plans with the understanding that he could build a similar-sized house as others have built in the same neighborhood. It is an understandable oversight--when seen in the context that some of these other homes have exceeded permitted lot coverage by Staff.*

5. General Plan

Granting of the Variance would be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

General Plan Consistency. *The project area is designated as "Low-Medium Density Residential (1-7 DU/Acre)" on the 2003 General Plan Land Use Map. Applicable 2003 Prescott General Plan Polices include:*

- "Goal 1. Maintain the integrity and character of existing neighborhoods." (p36).*
- "Goal 6. Encourage more compact development..."(p39).*

Single-family home uses which exceed the maximum lot coverage requirement primarily surround the property site. The request is considered to be in compliance with the General Plan.

6. Utilization

Because of special circumstances applicable to the property, including size, shape topography, location or surroundings, the strict application of the ordinance will deprive such property of privileges enjoyed by other property of the same zoning district.

There are other properties which have similar privileges in exceeding the maximum lot coverage requirement (See applicant's attached analysis). The applicant would be denied a privilege enjoyed by other property owners

Historic Preservation. The property is *not* located within a National Historic District.

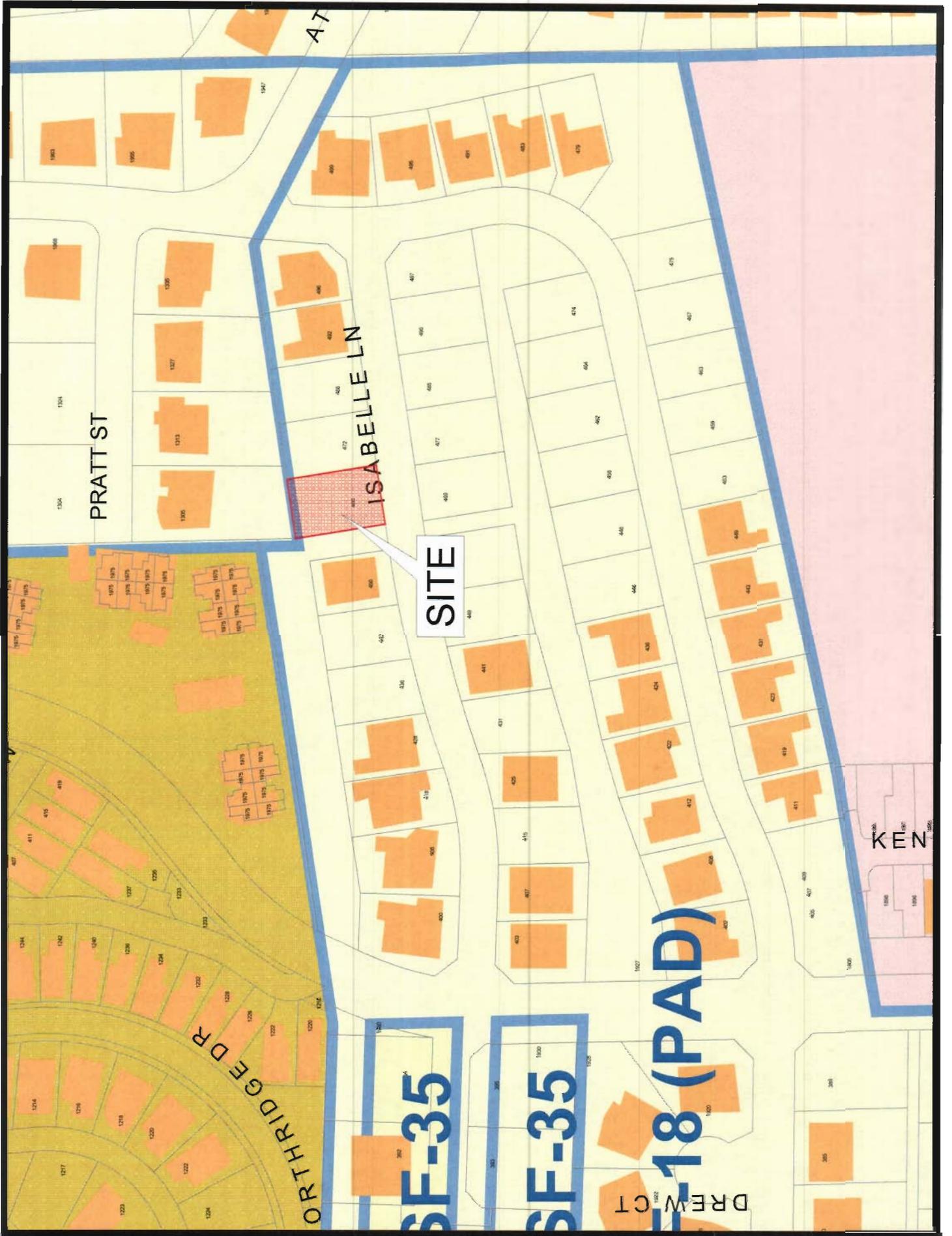
Conditions of Approval

The below two Conditions of Approval are recommended in order to give notice to all future home builders of the maximum lot coverage requirement. This notice will help insure that future variances of exceeding the maximum lot coverage will probably not have a sound basis for a future variance request.

SUGGESTED MOTION

Move to Approve Variance 09-001 for 42.2% lot coverage in accordance with substantial compliance with Exhibit A dated March 19 with the following Conditions of Approval:

1. The Bloominghill Estate CCR's will be modified to include the requirement that lot coverage shall not exceed 35% lot coverage for homes.
2. The above amended CCR's shall be recorded with the Yavapai County Recorder within 60 days and a copy of the CCR's given to the Community Development Department for Confirmation prior to the final building inspection for 460 Isabelle Lane.



PRATT ST

AT

ISABELLE LN

SITE

ORTH RIDGE DR

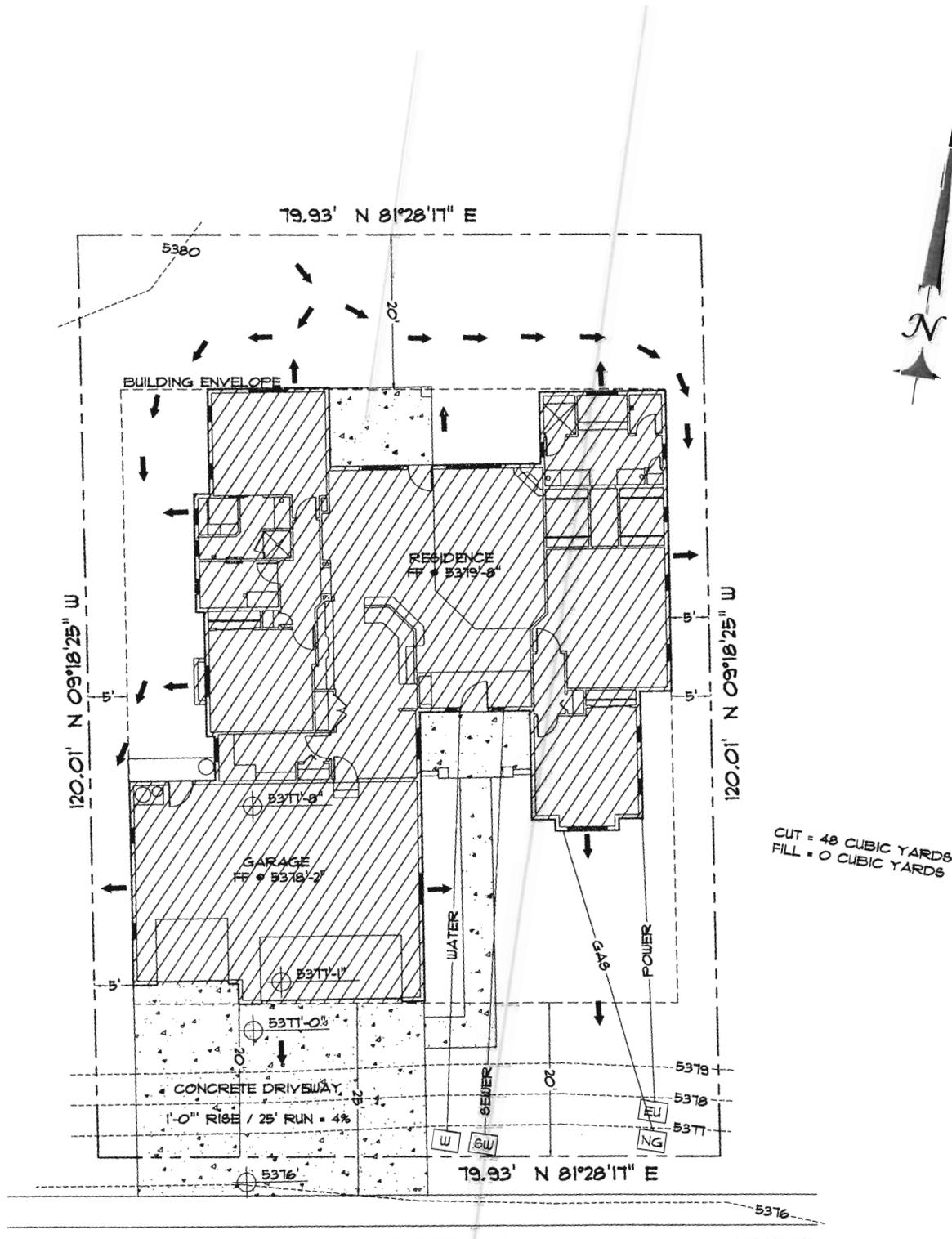
SF-35

SF-35

SF-18 (PAD)

DREW CT

KEN



CUT = 48 CUBIC YARDS
 FILL = 0 CUBIC YARDS

ISABELLE LANE

EXHIBIT 'A'
 MARCH 19, 2009

February 12, 2009

File No. 245.01

TRANSMITTED VIA HAND-DELIVERY

Mike Bacon
Planner
City of Prescott
Community Development Department
201 South Cortez Street
Prescott, Arizona 86302

RECEIVED

MAR 06 2009

CITY OF PRESCOTT
COMMUNITY DEVELOPMENT

Re: Project Number: V09-001
Address: 460 Isabelle Lane, Prescott, Arizona
Parcel Number: 105-03-314
Description: Application for variance to build in excess of 35 percent lot coverage ("**Application**")

Dear Mike:

As you know, this Firm represents the Applicant in connection with the above-referenced Project and Application. This letter shall constitute our formal responses to the questionnaire that must be addressed in connection with the Application. Each question is addressed and referenced in the order delineated on the questionnaire.

1. Describe the special or unique conditions and circumstances...

This lot, designated as Lot 68 and highlighted in pink on the map included in Exhibit "1" attached hereto, is located at 460 Isabelle Lane in Blooming Hills Estates phase 1 and is bordered on one side by common area Tract F with approximately 34 feet separating its boundary with the lot immediately to the west. This separation affords approximately 59 feet from the purposed structure to the existing home at 450 Isabelle lane. The rear or northern boundary is adjacent to Lot 19 of Prescott Estates, 1305 Pratt Street. That lot is more than 200 feet in length affording more than 120 feet of open space between the existing home on that lot and the purposed structure at 460 Isabelle lane. See attached maps.

2. Indicate how the literal interpretation...

Blooming Hills Estates phase 1 contains 18 homes in the subdivision exceeding the maximum 35 percent lot coverage. Those properties are identified on the list attached hereto as Exhibit "1" which reflects the specific lot coverage indicated. Those lots in the subdivision that have homes built thereon in excess of 35 percent lot coverage also are highlighted in yellow on the parcel map attached hereto. The proposed home to be built on the subject lot will be consistent with the overall development within the subdivision. Further, while slightly in excess of the 35 percent limitation, given the lot's proximity to a common area where no home will be built and its substantial distance from the home built in the neighboring subdivision, the subject home will not

Mike Bacon
Planner
City of Prescott
Community Development Department
February 12, 2009
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be any closer to neighboring homes than those homes few homes in the subdivision that occupy less than 35 percent of their lots. Accordingly, the purpose behind the 35 percent requirement, which is to ensure liveable distances from neighboring lots, is met.

3. Describe how the alleged hardships caused by...

We have reviewed the preliminary plat for this subdivision as well as that for the neighboring subdivision and have conducted substantial discussions with neighboring property owners to assess the impact on the surrounding properties. As stated above, the proposed home is consistent in architectural style and size to the majority of the homes in the subdivision as well as the neighboring subdivision. Further, as evidenced by the Petition attached hereto as Exhibit "2", a survey of property owners in the subdivision has revealed very strong support for the proposed home and its size given the dimensions of the lot. If the home is not able to built as proposed, the owners of the lot will be forced to reduce the home's size significantly and it will, thereafter, no longer be of the same size or dimensions that already exist in this subdivision. More importantly, failure to grant the variance will deny the Applicant the privilege enjoyed by 18 other property owners in the very same subdivision.

Further, it should be noted that to mitigate the impact of a decision to approve the Application, the Applicant, who is the declarant of the CC&Rs governing the subdivision and who currently maintains declarant control, has agreed to amend the CC&Rs to preclude any further building on lots in the subdivision in excess of the 35 percent requirement. This change will be completed as a condition of approving the Application and will be recorded in the Public Records of Yavapai County, which will bind every future buyer of any lot in the subdivision.

4. Indicate why granting the requested variance...

As indicated above, 18 homes in the subdivision currently exceed the 35 percent maximum lot coverage requirement. With the extra room to the west and north of the purposed building site, the home as proposed will not impede or impair the use and enjoyment of the surrounding properties. And again, as a condition of Approval, the declarant under the CC&Rs will amend the CC&Rs for the subdivision to ensure that future development of the lots is limited to 35 percent lot coverage. This amendment will serve to keep any home in the subdivision from setting a precedent.

Mike Bacon
Planner
City of Prescott
Community Development Department
February 12, 2009
Page 3

5. Indicate why granting the variance will not interfere...

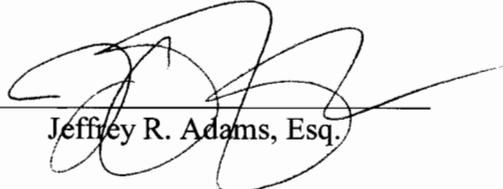
This home will be constructed with approximately 59 feet from the home to the west and more than 120 feet from the home to the north. Accordingly, this home will not interfere or impede the use and enjoyment of the surrounding homes. As a matter of fact, while slightly in excess of the 35 percent lot coverage maximum, the proposed home will actually be further away from neighboring homes than several other homes in the subdivision that are built within the 35 percent lot coverage limitation are from neighboring homes because of its proximity to the open space and drainage basin. And as noted above, given the location of the lot and its proximity to the common area, drainage basin and the neighboring subdivision, the proposed home and its proximity to neighboring homes will allow for significant distances between it and the home's neighbors. In other words, the proposed home will not change overall height of structures; nor will it change distances to property lines and will not cause any view issues to arise. Again, the proposed home is consistent with the current development of the subdivision and its neighboring subdivisions and will be built consistent with the architecture and size of structures in the balance of the community and will present a cohesive design that is in line with the neighboring properties. The proposed home likewise will have no impact on drainage or other topographical issues. Of further note, while the proposed home will occupy slightly more than 35 percent of the lot, it will not be the largest home in the subdivision.

Should you, the members of the Board of Adjustments or members of the City Council have any questions, comments or concerns, feel free to call at your convenience.

Sincerely,

ADAMS & MULL, PLLC

By


Jeffrey R. Adams, Esq.

cc: client

TABLE 1

<u>Address</u>	<u>Lot Number</u>	<u>% Of Coverage</u>
422 Bloomingdale Drive	39	41%
424 Bloomingdale Drive	40	36.32%
436 Bloomingdale Drive	41	36.56%
441 Isabelle Lane	55	38.23%
425 Isabelle Lane	57	36.12%
407 Isabelle Lane	59	42.96%
418 Isabelle Lane	63	38%
428 Isabelle Lane	64	36%
450 Isabelle Lane	67	39.73%
492 Isabelle Lane	71	39%
495 Bloomingdale Drive	74	38.23%
491 Bloomingdale Drive	75	38.85%
483 Bloomingdale Drive	76	35.3%
449 Bloomingdale Drive	83	37.45%
443 Bloomingdale Drive	84	37.45%
431 Bloomingdale Drive	85	37.45%
423 Bloomingdale Drive	86	37.45%
419 Bloomingdale Drive	87	37.53%

PHASE 2
PHASE 1

TRACT F
OPEN SPACE
(ORANGE)
381,002 SF

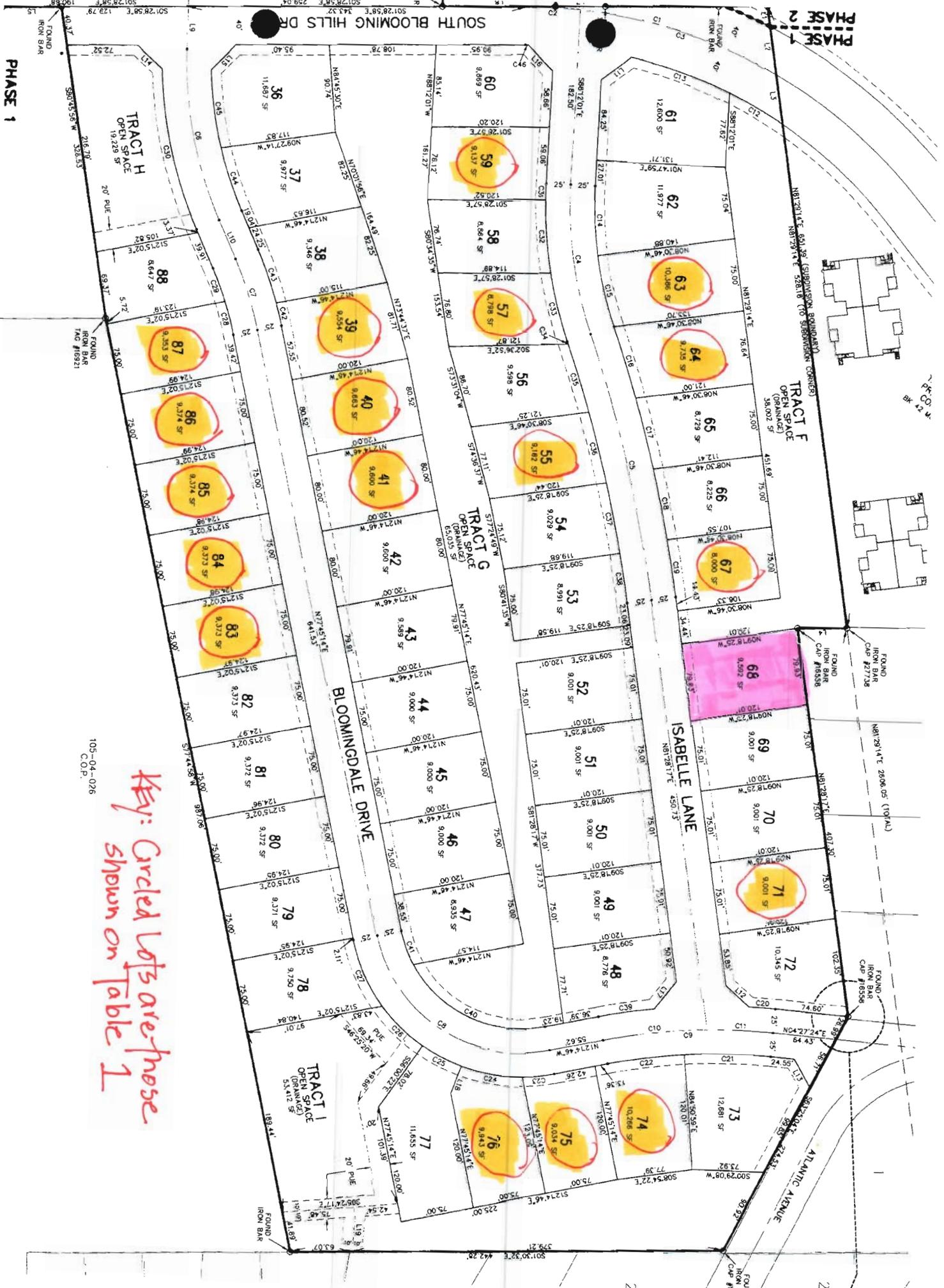
TRACT G
OPEN SPACE
(ORANGE)
63,033 SF

TRACT H
OPEN SPACE
(ORANGE)
19,229 SF

105-04-026
C.O.P.

Key: Circled lots are those shown on Table 1

PHASE 1



Petition

Notice to Blooming Hills Estates Phase 1 Homeowners

The owner(s) of 460 Isabelle Lane (lot 68) propose to construct a one story single family home with a square footage exceeding the 35% lot usage allowed by the city of Prescott. If you have no objections, please agree by signing your name below.

AARON W. NEWTON III 415 ISABELLE Aaron W. Newton III 2/28/09
Print Name Address Signature Date

AARON W. NEWTON III 450 ISABELLE Aaron W. Newton III 2/28/09
Print Name Address Signature Date

STEVE SHERMAN 496 ISABELLE LN Steve Sherman 2-28-09
Print Name Address Signature Date

Amanda Sherman 400 Isabelle Lane Amanda Sherman 2/28/09
Print Name Address Signature Date

Cheri Silva 423 Bloomingdale Dr Cheri Silva 2/28/09
Print Name Address Signature Date

Scott DeJoseph 431 Bloomingdale Dr Scott DeJoseph 2/28/09
Print Name Address Signature Date

ANGELO PRAIO 419 BLOOMINGDALE DR Angelo Praio 3/1/09
Print Name Address Signature Date

LINDA SHERMAN 492 ISABELLE Linda Sherman 2/28/09
Print Name Address Signature Date

ARLENE MCCARTHY 483 BLOOMINGDALE Arlene McCarthy 2/28/09
Print Name Address Signature Date

Petition

Notice to Blooming Hills Estates Phase 1 Homeowners

The owner(s) of 460 Isabelle Lane (lot 68) propose to construct a one story single family home with a square footage exceeding the 35% lot usage allowed by the city of Prescott. If you have no objections, please agree by signing your name below.

Norma L. Phillips 418 Isabelle Ln. 3/1/09
Print Name Address Signature Date

Karen Duffy 407 Isabelle Ln. Karen Duffy 3/1/09
Print Name Address Signature Date

LUIGI CHARELLO 443 BLOOMINGDALE DR. Luigi Charello 3/1/09
Print Name Address Signature Date

Bobbi and Jim Gray 436 Bloomingdale Dr. Bobbi Gray Jim Gray 3-1-09
Print Name Address Signature Date

W.A. DENN 499 BLOOMINGDALE W.A. DENN 3/1/09
Print Name Address Signature Date

Steve Krzyzyski Terri Krzyzyski 412 Bloomingdale Dr. Terri Krzyzyski 3-1-09
Print Name Address Signature Date

BOB AND AILEEN Siegel 424 Bloomingdale Dr. Robert Siegel 3-1-09
Print Name Address Signature Date

PAUL KLEIN 418 ISABELLE Paul Klein 3-2-09
Print Name Address Signature Date

Dorothy Thompson 408 Isabelle Lane Dorothy Thompson 3/2/09
Print Name Address Signature Date

