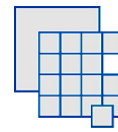


# 840 North 90th Place

## Variance Justification & Compatibility Statement

*Submitted by:*

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Real Estate and Land Use Attorneys

*On behalf of:*

**Mrs. Amanda Williams**

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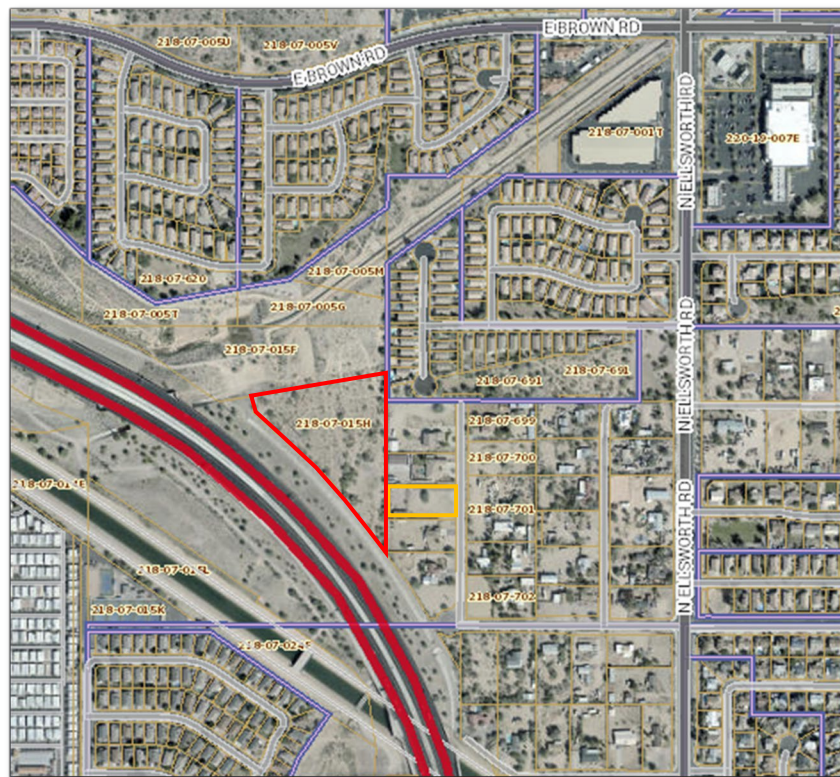
March 22, 2021

## 1. Introduction

Pew & Lake, PLC, on behalf of our client, Amanda Williams, who owns the property located at 840 North 90th Place, Mesa, Arizona 85207 (APNs 218-07-015H and -019Y) (hereinafter, the “Property” or “Properties”) hereby respectfully submit a request for a variance to allow a minor lot line adjustment that will effectuate two (2) developable lots where currently only (1) of the two (2) lots are developable. Specifically, the request for a variance is to allow for a reduction of the widths of the front of the new lots, which request is detailed in this narrative.

The Properties are shown below in Figure 1 with the Larger Parcel outlined in red and the Smaller Parcel outlined in orange:

*Figure 1 – Site Aerial*



## 2. Specific Request(s)

The two (2) Properties are currently zoned RS-43 and located in the in the City of Mesa. The “Larger Parcel” (APN 218-07-015H) is landlocked without street frontage and was sold by ADOT as part of an excess land transaction. Mrs. Williams is one of a very small number of people who could actually purchase and make use of this former ADOT-owned parcel. The Smaller Parcel (APN 218-07-019Y) is approximately 1-acre in size and was recently annexed into the City of Mesa under Case No. ANX20-00665. In simple terms, we are requesting a lot line adjustment to allow the larger parcel to touch 90<sup>th</sup> Street but with a smaller than required lot width. Similarly, the

Smaller Parcel would have slightly smaller lot width than is typically required. The specific requests would be as follows:

1. A proposed minimum lot width for the Smaller Parcel of 125 feet where 130 feet is required; and
2. A proposed minimum lot width for the Larger Parcel of 20 feet where 130 feet is required.

NOTE: If the City of Mesa requires a larger width of 20 feet for the Larger Parcel, we would adjust our request as necessary.

Approving these variance requests and the subsequent lot line adjustment, would have the effect of reconfiguring what is now an approximately 243,971 square foot lot (5.6 acres; Larger Parcel) and a 44,402 square foot lot (1 acre; Smaller Parcel) into two parcels measuring 219,783 square feet and 68,590 square feet respectively. As explained below, the requested variances are justified and satisfy the applicable variance standards due to the very unique nature of this Property.

### **3. Background and History**

The development history of the site is helpful to illustrate the unique challenges which face these Properties. The Larger Parcel was an excess Arizona Department of Transportation Parcel (ADOT) which was conveyed to a friend of Mrs. Williams in 2014 when ADOT determined it was no longer necessary for the expansion of the Loop 202 freeway system (freeway construction being completed around the year 2008). Because of the dual jurisdictions and lack of access to a public street, the friend could not build and transferred the Larger Parcel to Mrs. Williams in 2018. The Larger Parcel was annexed into Mesa in 1998 (A97-007) and the Smaller Parcel was annexed into Mesa in 2021 (ANX20-00665).

### **4. Existing Site Conditions, and Relationship to Surrounding Properties**

The Property is located west of Ellsworth Road and north of Adobe Road in Mesa. The General Plan for the Property and surrounding area is Neighborhood. The site is located within the Desert Uplands Area. Collectively, the two lots total approximately 6.6 acres in size. The topography of the Property is generally unremarkable. However, the Larger Parcel's unique shape and landlocked characteristic, when combined with other factors, makes these variances necessary for reasonable enjoyment of the Properties.

The Larger Parcel is vacant and has an irregular shape with a transmission line easement encumbering the parcel's northern approximately 270 feet. The irregular shape is triangular in its basic form with the parcel width narrowing as it approaches the Smaller Parcel.

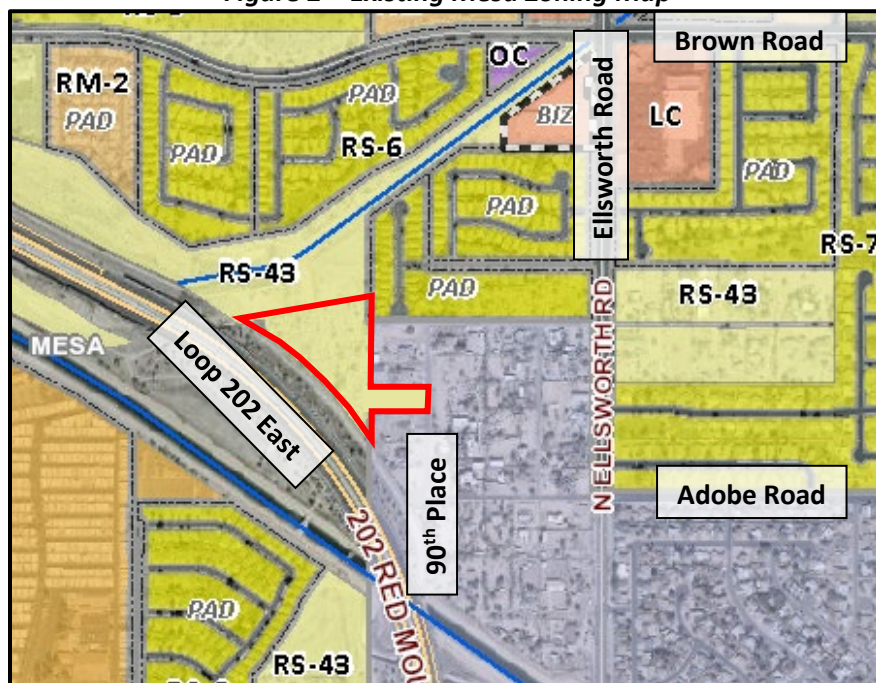
The Smaller Parcel has an existing building constructed in Maricopa County with an adjacent area fenced off on the western portion of the parcel. The balance of the 1-acre lot is vacant. East of the property is 90<sup>th</sup> Place and other Maricopa County rural residential properties. North and south of the property are more rural residential properties located in a County island. West of

the site is the landlocked 5.6-acre Larger Parcel which is currently vacant and located in the City of Mesa. North of the Larger Parcel is the Maricopa County drainage canal system. Table 1 and Figure 2 below summarize the existing and surrounding land uses and zoning designations.

**Table 1 – Existing and Surrounding General Plan, Zoning, and Land Uses**

Direction	General Plan (Mesa)	Existing Zoning	Existing Use
Project Site	Neighborhood	RS-43	Small Building; Vacant; SRP Transmission Lines
North	Neighborhood	RS-43	Maricopa County Flood District Canal; Single-Family Residence
East	Neighborhood	RU-43 (Maricopa County)	Single-Family Residence
South	Neighborhood	RS-43; RU-43 (Maricopa County)	Single-Family Residence; Loop 202 Freeway
West	Neighborhood	RS-43	Loop 202 Freeway

**Figure 2 – Existing Mesa Zoning Map**



## 5. Project Description

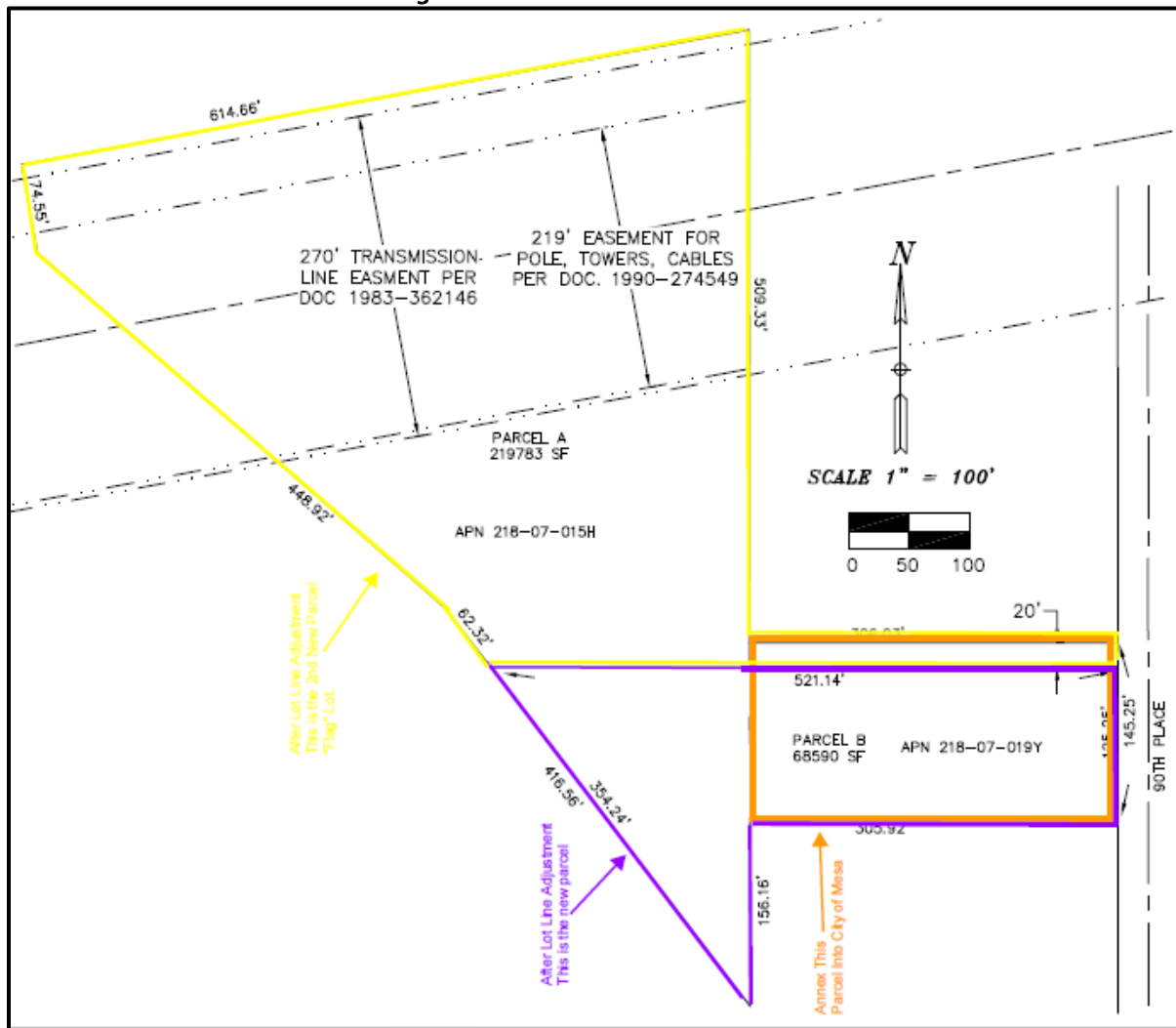
The applicant is proposing to adjust the lot lines of the two (2) existing properties so as to retain two (2) developable lots, which will be commensurate with or much larger than the surrounding 1-acre properties. Specific building plans will be provided in the future but all future construction

will comply with the Mesa Zoning Ordinance and Building Codes, except as altered under this variance request.

The Larger Parcel is buried next to the Loop 202 Freeway with significant electrical transmission line encumbrances on the north, with no legal access to public or private streets, despite its frontage onto the Loop 202 Freeway. With no real practical access, it is nearly impossible to develop anything on the 5.6-acre parcel.

The landowner proposes to adjust the lots lines between the two parcels which will result in both parcels being well over 1-acre in size. This proposed lot line adjustment information is illustrated in Figure 3 with the Larger Parcel (new northern parcel) outlined in yellow and the Smaller Parcel (new southern parcel) shown in purple. The orange line indicates the existing 1 acre parcel that was recently annexed into the City of Mesa.

**Figure 3 – New Parcel Line Exhibit**



The development standards which will be applicable to the future development of these parcels, including requested deviations, are detailed in Table 2 on the next page.



**Table 2 – Summary of Development Standards**

<b>Standard</b>	<b>RU-43 Standard</b>	<b>Proposed Standard</b>
Front Yard Setback	22-feet	22-feet
Rear Yard Setback	30-feet	30-feet
Interior Side Setback	10-feet	10-feet
Maximum Height	30-feet	30-feet
Minimum Lot Area	43,560-sq. ft.	68,590-sq. ft.
Minimum Lot Width - Interior Lot (Larger Parcel)	130-feet	<b>20-feet</b>
Minimum Lot Width - Interior Lot (Smaller Parcel)	130-feet	<b>125-feet</b>
Lot Coverage	40%	40%

Note: Standards indicated in bold do not meet base zoning standards

\*The Legal Non-Conforming features of the Smaller Parcel will not be affected by granting this Variance request

## 6. Justification

We believe the granting of these variance requests are necessary for the landowner to have substantial enjoyment of both Properties. Also, the request has no effect on the rights of adjacent properties and meets the MZO standards for granting a variance as detailed below.

While the special circumstances are primarily tied to the Larger Parcel, remedying the special circumstances can only be accomplished by tying the fate of the Larger and Smaller Parcel's together. There are limited properties in which to connect the Larger Parcel and the existing common ownership of the properties yokes the Larger and Smaller Parcels together.

### ***A. Special Circumstances apply to the Property.***

The Larger Parcel is irregularly shaped with no right angles on the property boundary and multiple curvilinear sides. The generally triangular shape of the Larger Parcel makes for an unusually shaped and narrowing parcel. Further, the approximately 270-foot-wide transmission line easement on the north of the parcel erodes the portion of the lot which is "wider". Last, and most importantly, the Larger Parcel is completely landlocked with no legal or other access to the public street system.

### ***B. The Special Circumstances are Pre-Existing and not Self-Imposed.***

The Larger Parcel gained its shape when ADOT acquired land for the Loop 202 Freeway. The SRP transmission lines serve a governmental purpose and was obtained prior to the current owners purchase of the property. The Special Circumstances are due to the layout of the lot and transmission line encumbrance which are outside the control of the property owner.

### ***C. Strict Compliance with the Zoning Ordinance would deprive the Landowner of development options available to other properties in the zoning district.***

Both the Larger and Smaller Parcels are zoned RS-43 in Mesa. Comparably zoned parcels in Mesa enjoy the rights of building construction and residential use. The Larger Parcel has no legal access to 90<sup>th</sup> Place and as such it enjoys no viable development options. Under City of Mesa rules, access via easement is not sufficient when developing new residential property.

***D. Granting the variance will not grant special privilege or unusual favor to this property.***

Given the special circumstances, and the minimal amount of the request, the request is not a self-imposed hardship and will not grant unusual favor to this owner or these Properties. The property value of these Properties and the surrounding properties would see a boost from the ability to develop both parcels and this increase in property value would in return, positively affect the neighborhood.

**7. Conclusion**

We believe that the granting of these variances will not be contrary to the public interest. Literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary property hardship and an inability to reasonably utilize the Larger Parcel. Finally, the proposed lot sizes are not inconsistent with other properties in the neighborhood.