

BOARD OF ADJUSTMENTS
AND
PLANNING COMMISSION
MEETING AGENDA
501 Main Street, Fairplay

BOARD OF ADJUSTMENT

- .1. APPROVAL OF AGENDA
- .2. APPROVAL OF MINUTES FROM NOVEMBER 8, 2016
- .3. PUBLIC HEARINGS
- .3.1. VARIANCE CASE #16SET-07:

VARIANCE CASE #16SET-07: Property is Indian Mountain Lot 103 Filing 25 Unit 2 addressed as 144 Red Cloud Drive, Como. Applicant is requesting a 15 foot variance from the side setback requirement in order to construct a garage.

APPLICANT: Arthur & Rose Lowitzer

CONTINUED FROM NOVEMBER 8, 2016

Documents:

[16SET_07_APP.pdf](#)

[16SET_07_Lowitzner_BOAStaffReport2.pdf](#)

[Referral Responses.pdf](#)

PLANNING COMMISSION

- .1. APPROVAL OF AGENDA
- .2. APPROVAL OF MINUTES FROM NOVEMBER 8, 2016
- .3. PUBLIC HEARINGS
- .3.1. COMMON PLAT AMENDMENT CASE #16AMN-04:

Property is lots 1-29, tract 171, lots 1-4, tract 159, Wandcrest Park 3rd Filing, and an adjacent 5 acre metes-and-bounds parcel, addressed as 15674 South Pitkin Lane, Pine. Applicant is requesting to remove the platted lots from the Wandcrest Park subdivision and to consolidate them with the metes-and-bounds parcel.

APPLICANT: Rocky Guerrero

- .3.2. REZONING CASE #16ZON-14:

Property is New Lot 19, Badger Creek Ranch No. 1, addressed as 353 McMurry Road, Hartsel. Applicant is requesting to rezone the lot from the Residential zone district to the Residential Estate zone district.

APPLICANT: Erik and Michele Wayland

- .3.3. PUD AMENDMENT CASE #16PUD-02:

Property is known as Unit 49 Moore Dale Ranch Resort, addressed as 57920

Highway 285. Applicant is requesting an amendment to the PUD changing the use of the existing Event Center/Club House to single family residence.

APPLICANT: Moore Dale Ranch Resort Homeowners Association

Any further information can be obtained at:
Park County Planning Department, 1246 Co Rd 16
P.O. Box 1598 Fairplay, CO. 80440
(719) 836-4254
pcpd@parkco.us

**PARK COUNTY APPLICATION FOR
VARIANCE
NON-REFUNDABLE APPLICATION FEE: \$1060**

All applicants must submit one complete application and attend a pre-application conference with the Park County Planning Department Staff seven (7) to ten (10) working days prior to the application submittal deadline. Following the acceptance of the complete application the applicant must submit **twenty-five (25) collated copies, or CD media as requested** to the Park County Planning Department on or before the application submittal date.

If you have questions regarding this form please contact the Planning Department by phone at (719) 836-4254, or e-mail pcpd@parkco.us, fax (719) 836-4351, or write to us at P.O. Box 1598 Fairplay, CO 80440.

A. APPLICANT AND OWNERSHIP INFORMATION

Applicant's Name: ARTHUR C. + ROSE LOWITZER

Mailing Address: 915 CREST WAY, EMMANUS, PA 18049

City: EMMANUS State: PA Zip: 18049

Telephone

(work) 215-290-1700 (home) 215-290-1700 (fax) _____

Owner's Name: ARTHUR C. + ROSE LOWITZER

Mailing Address: 915 CREST WAY, EMMANUS, PA 18049

Telephone No.: 215-290-1700

B. PROPERTY INFORMATION

Complete Legal Description of Property Proposed for the Variance (attach additional page, if necessary):

INDIAN MOUNTAIN, FILING 25, UNIT 2, LOT 103

Street Address of Property: 144 RED CLOUD DRIVE

Property's Total Acreage: 5.66

Current Zone District of Property: R

Proposed Zone District of Property: R

| |
|---|
| For County Use Only |
| Planning Department Confirmation of Current |
| Zone District: |
| District: <u>Residential (R)</u> |
| <u>Jillian Falchi</u> |
| Print Full Name |

Requirements for a Variance
Article III, Division 1, Section 3-100

C. APPLICATION REQUIREMENTS

1. Application Fee. An application fee in the amount of \$1060 must be paid at the time of submission of the application. Make the check or money order to the Park County Planning Department. The fee pays for the typical cost to the County to process the application. Any additional costs that may occur are the applicant's responsibility.
2. Tax receipt-showing payment of current taxes. This can be obtained at the Park County Treasurer's office.
3. Proof of ownership in the form of a recorded Warranty Deed. This can be obtained at the Park County Clerk and Records office.
4. A legal description of the property proposed for the Variance prepared by a licensed Colorado land surveyor.
5. A list of names and mailing addresses of all owners of adjacent property to the property subject to the proposed Variance, this information is at Park County Assessor's Office.
6. A vicinity map of where the proposed property is located within Park County.
7. A site plan drafted at a commonly used engineering scale with clear indication how the variance relates to the affected land with the following information:
 - a. Name and address of the owner;
 - b. Date of preparation, map scale, and north arrow;
 - c. Lot dimensions, total acreage, and points of access to the property, internal roads and trails. The map must illustrate how access is obtained from the property subject to variance to the nearest county road or highway;
 - d. Natural features of the property subject to variance including, wetlands, floodplain, riparian areas, water bodies, rock outcroppings, significant vegetation, geological or other hazards, and slopes greater than twenty-five percent (25%);
 - e. Utility systems including existing and proposed water wells, sewer systems, electric services, and natural gas;
 - f. The dimensions, height and setbacks of all existing and proposed structures.
 - g. A clear illustration or description of the proposed variance, using shading, crosshatching, or highlighting, to accurately illustrate the proposal.
8. The property must be clearly identified with the address and posted according to the Park County address requirements (attached).

| For County Use Only: | |
|---|----|
| Initial Receipt of the Required Information | |
| (1.) | JF |
| (2.) | JF |
| (3.) | JF |
| (4.) | JF |
| (5.) | JF |
| (6.) | JF |
| (7.) | JF |
| (7a.) | JF |
| (7b.) | JF |
| (7c.) | JF |
| (7d.) | JF |
| (7e.) | JF |
| (7f.) | JF |
| (7g.) | JF |
| (8.) | JF |

9. Letters of consent to alter or vacate utility easements from all public utilities serving the site, if applicable
10. A written description identifying the specific provision of the Land Use regulations that the owner seeks to vary and the extent to which the provision is proposed to be varied or modified.
11. A written description of the reasons justifying the variance detailing how the standards for approval of the variance provided by Section 3-100(B) are met or satisfied.
12. Any other information that are judged necessary by the Planning staff to ensure compliance with the Standards for Approval.

Note: Refer to Park County Land Use Regulations Article III, Standards for Approval of Variance.

| |
|--|
| For County Use Only: Initial Receipt of the Required Information |
| (9.) <u>JF</u> |
| (10.) <u>JF</u> |
| (11.) <u>JF</u> |
| (12.) <u>JF</u> |

We are asking to forego the 30 foot distance to property line on lot 102 owned by Jim and Rose Linn , PO Box 1351, Fairplay, CO, ph # 719-836-0955.

We are hoping to have a garage built in the area shown on the diagram. This site is on the same side as the electricity, and away from the propane gas tank so the propane company or any emergence vehicle can easily get to house and propane tank. The pathway from the garage door to the front door of our house will be easier. There is a strong slope on the other side other of the property that would make it difficult to try and build a garage. We believe our request meets the County's criteria for a variance as follows:

Criterion 1: The proposed site for location of our garage is best because of the slope of our lot. The North side of the drive, where we propose to build, is much more level than that to the South. Additionally, the North side is closer to the electrical supply point (which is on the North) and further from the propane tank (on the South. To build on the South side may in fact impede access to the propane tank for both the propane company and for emergency purposes.

Criterion 2: As noted above, our propane tank is located on the South side of the drive, and putting a garage on that side may place an obstacle for the propane company and for emergency vehicles/personnel who may need access to the tank. The propane tank was placed by builder and original owners of the cabin in 1996. We purchased the property in March, 2004.

Criterion 3: We have spoken with Mr. Jim Linn, our neighbor, about our desired placement, and he has assured us that he has no objection. Further, it is our belief that our location presents the lease obstruction to viewing the beauty of the area and its surroundings. Placing it on the South side of the drive, would, in our opinion, present such an obstacle.

Criterion 4: We believe that the intent and purpose of the regulation is in fact better served by building in the proposed location. A structure there poses no barrier to our neighbors to the North, and it allows good viewing from the drive to the South.

Thank you for your consideration.

Park County Website | Treasurer Web Site



New Search | Return To Search Results | Print Bill
Real Estate TAX/NOTICE RECEIPT FOR PARK COUNTY

SCHEDULE # R 38238 2015

PROPERTY ADDRESS: RED CLOUD DR 144 COMO

TAXABLE VALUE: \$20,760.00 ACTUAL VALUE: \$260,810.00

TAX DISTRICT: 010

Owners Name

**LOWITZER ARTHUR CHARLES
LOWITZER ROSE
915 CREST WY
EMMAUS PA 18049**

Legal Description

T09 R75 S25 SE4 INDIAN MOUNTAIN
FILING 25 UNIT 2 LOT 103

Select a payment option below.

First Half: Feb 28th
Second Half: June 15th
OR
Full Payment: April 30th

| | |
|------------------------|---------------|
| TAX: | \$1,345.38 |
| INTEREST: | \$0.00 |
| FEE: | \$0.00 |
| TOTAL TAX & ASMTS.: | \$1,345.38 |
| UNPAID BALANCE: | \$0.00 |

Pay Full Amount

Paid

Last Payment: 02/17/2016 Amount : \$1,345.38

[Help Center](#) | [Site Instructions](#) | [Report a problem](#)

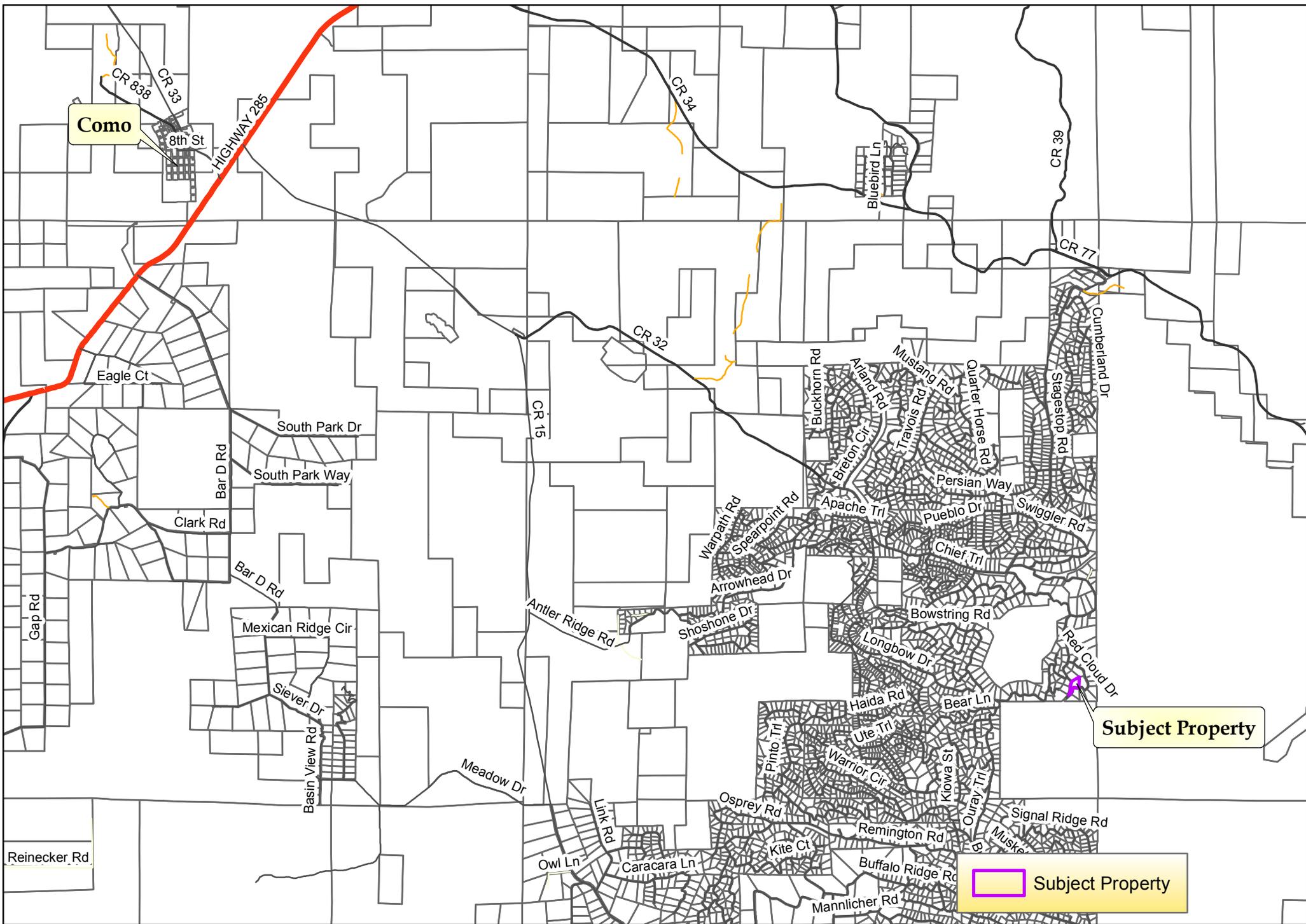


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Names & Mailing Addresses of property owners adjacent to Indian Mountain Filing 25, Unit 2, Lot 103:

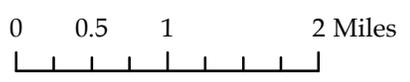
Lot 102: James H. Linn & Rose E. Linn, P.O. Bos 1351, Fairplay, CO 80440

Lot 104: Gerald J. Maly & Carolyn A. Maly, 7750 County Line Rd., Meadowlands, MN55765



Date: 9/26/2016

VICINITY MAP



Parcel data should not be considered survey quality.
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 misinterpretation of this data. © Park County GIS 2014



Longbow Dr

Red Cloud Dr

Subject Property

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Date: 9/26/2016

Aerial Map

1 in = 150 feet



Parcel data should not be considered survey quality. Park County will not be held liable for misuse or misinterpretation of this data. © Park County GIS 2014

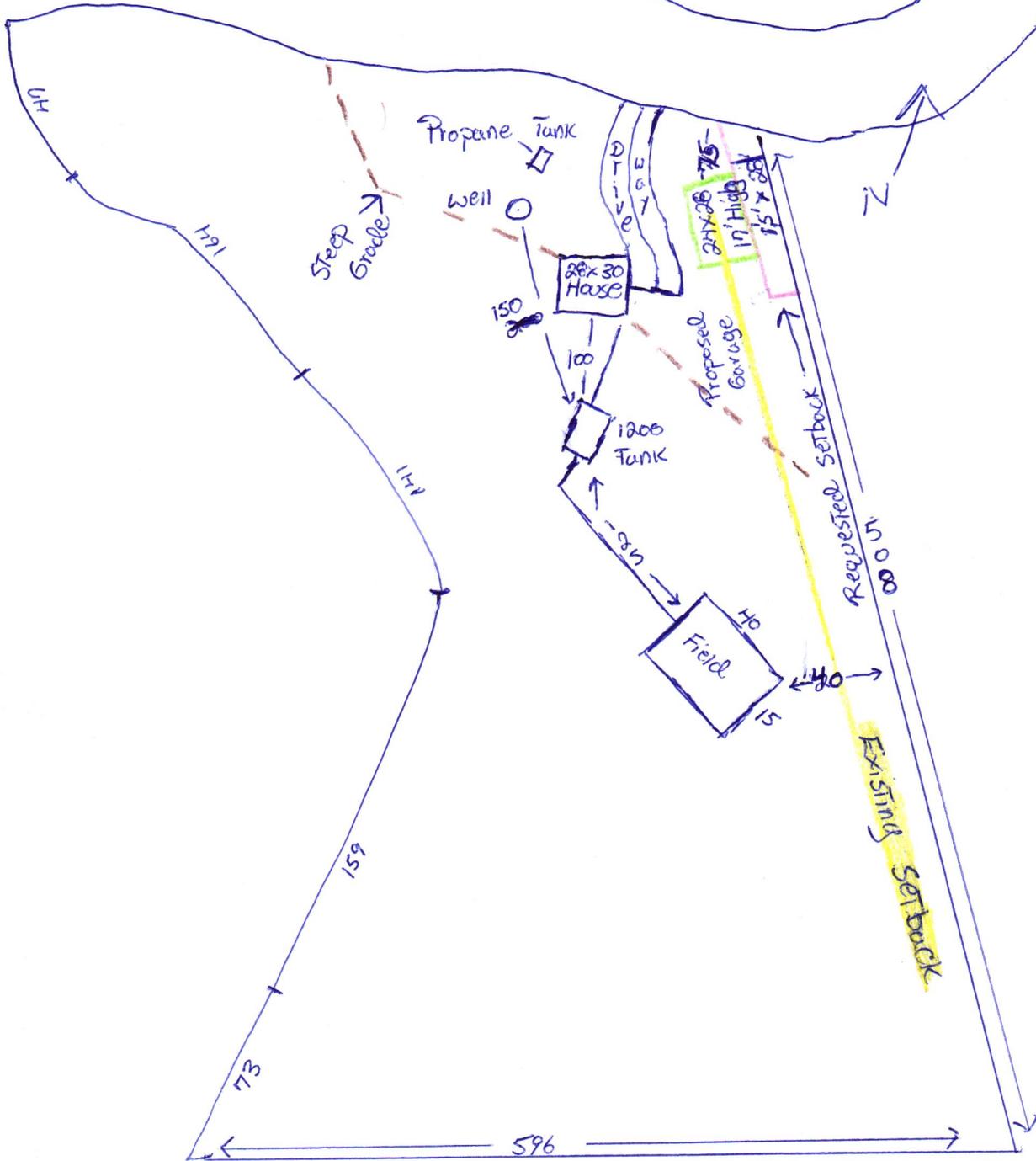
Site Plan

144 Red Cloud

10T 103

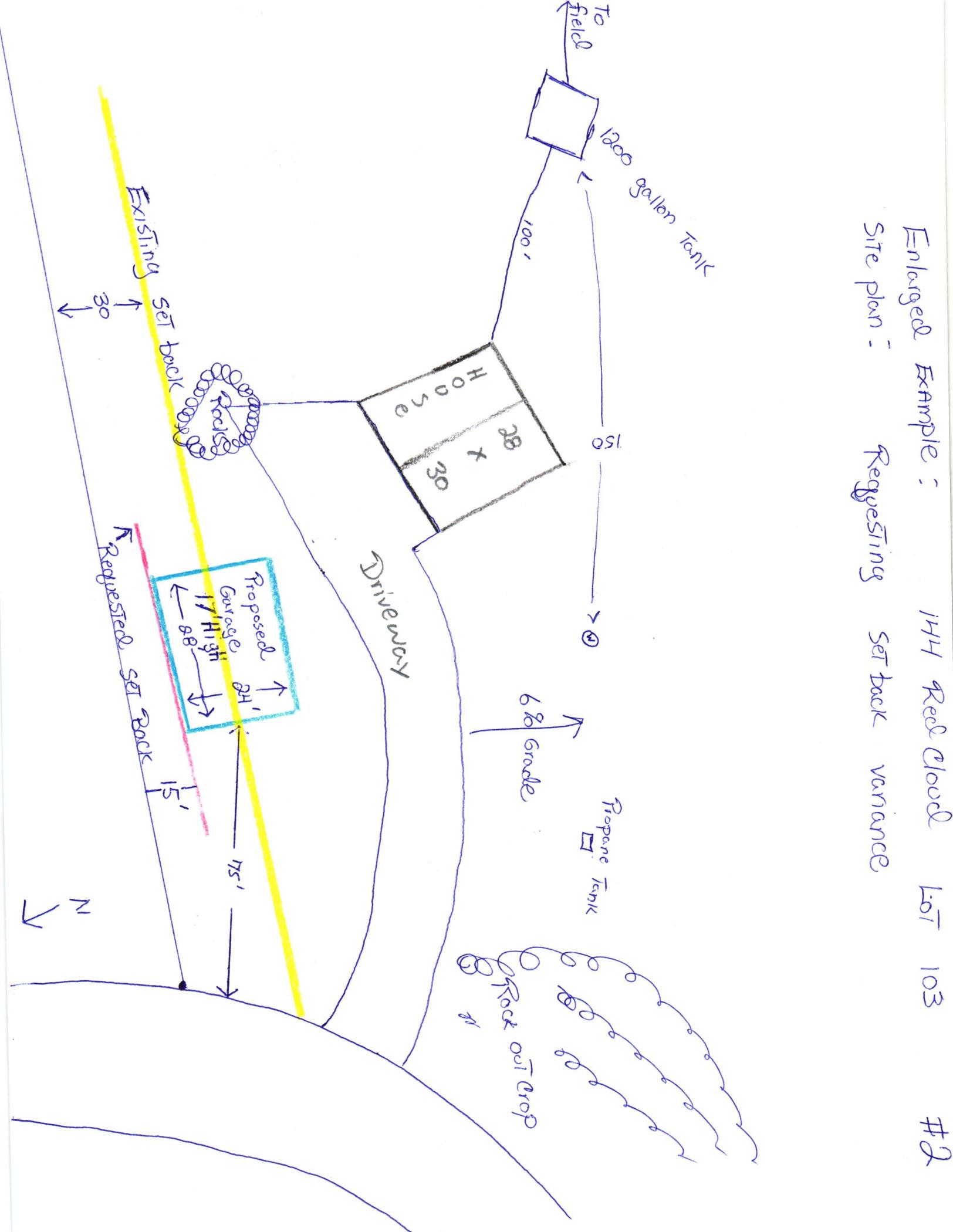
#1

Requesting Set Back variance AT 15'x28'



Enlarged Example: 144 Red Cloud Lot 103 #2

Site plan: Requesting Set back variance





power pole

144 Red Cloud Drive

proposed garage

11Rd

**PARK COUNTY BOARD OF ADJUSTMENTS
PLANNING DEPARTMENT STAFF REPORT**

Board of Adjustments Hearing Date: November 8, 2016

To: Board of Adjustments Members

Date: October 26, 2016

Prepared by: Sheila Cross, Director of Development Services
Jill Falchi, Planning Technician

Case Number: 16SET-07

Subject: Lowitzer Variance

Request: The applicant is requesting a 15-foot variance from the north side property line setback requirement to accommodate a proposed garage.

Application Summary:

| | |
|------------------------|--|
| Applicant/Owner: | Arthur & Rose Lowitzer |
| Location: | Indian Mountain, Filing 25, Unit 2, Lot 103 addressed as 144 Red Cloud Drive |
| Current Zone District: | Residential (R) |
| Surrounding Zoning: | Residential (R) and Conservation Recreation (C/R). See Attachment 1. |
| Lot Size: | 5.66 Acres |
| Existing Use: | Single Family Residential |

Background:

The subject property is located in the western-most portion of the Indian Mountain Subdivision, approximately 1,000 feet from public land. See Attachment 2, Vicinity Map. The applicant is requesting a 15-foot variance from the north side property line setback requirement to accommodate a proposed garage. See applicant's site plan, Attachment 3. Because of the lot's considerable slope, location of propane tank and well head, and desire to protect scenic vistas, the applicant is requesting this variance. See Aerial and Topo Maps, Attachments 4 and 5, respectively. The neighbors to the north have consented to this variance request.

Staff received referral responses from the Assessor and Public Works who had no conflicts and no comments. IREA responded suggesting a condition that the applicant provides a minimum 15' clearance to the proposed garage location and the existing overhead electrical facilities. The applicant's representative and contractor noted that the proposed location of the garage will provide, at a minimum, 20' of clearance.

Land Use Regulations and Strategic Master Plan:

Each of the standards for approval of a variance (Land Use Regulation (LUR) Article III, Division 1, Section 3-100, page 2) is addressed below.

- 1. A strict application of the Resolution causes peculiar and exceptional practical difficulties or exceptional and undue hardship by reason of exceptional narrowness, shallowness, or shape of a specific piece of land or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the land:**

The parcel in question has limited building sites because of the slope of the lot. The only other location for the proposed garage, on the south side of the house, was discounted because of the location of a propane tank and well head. Building a garage in that location would block access to both. In addition, the southern location would require considerable expense to bring power to.

- 2. The applicant provided reasonable and adequate evidence that the variance request is not a self-imposed hardship that can be rectified by means other than relief through a variance:**

The hardship was caused by the previous owners who located the well and propane tank in the only other building site on the lot.

- 3. There exists no substantial detriment to any neighbor or to the public by the granting of the variance:**

Staff discerns no substantial detriment to any neighbor or the public that would be caused by granting the variance. According to the applicant, the property owners to the north support this variance.

- 4. The intent and purpose of the regulation being varied is not substantially impaired or defeated by the granting of the variance.**

Setback regulations exist to provide privacy, light access, and air movement between dwellings. Given that the house immediately to the north is approximately 300 feet away from the proposed building site, the purpose of the regulation would not be substantially impaired by granting the request.

Staff does not find this variance request to be contrary to any of the Guiding Principles of the Strategic Master Plan.

Impact Analysis:

No physical or aesthetic impacts are anticipated.

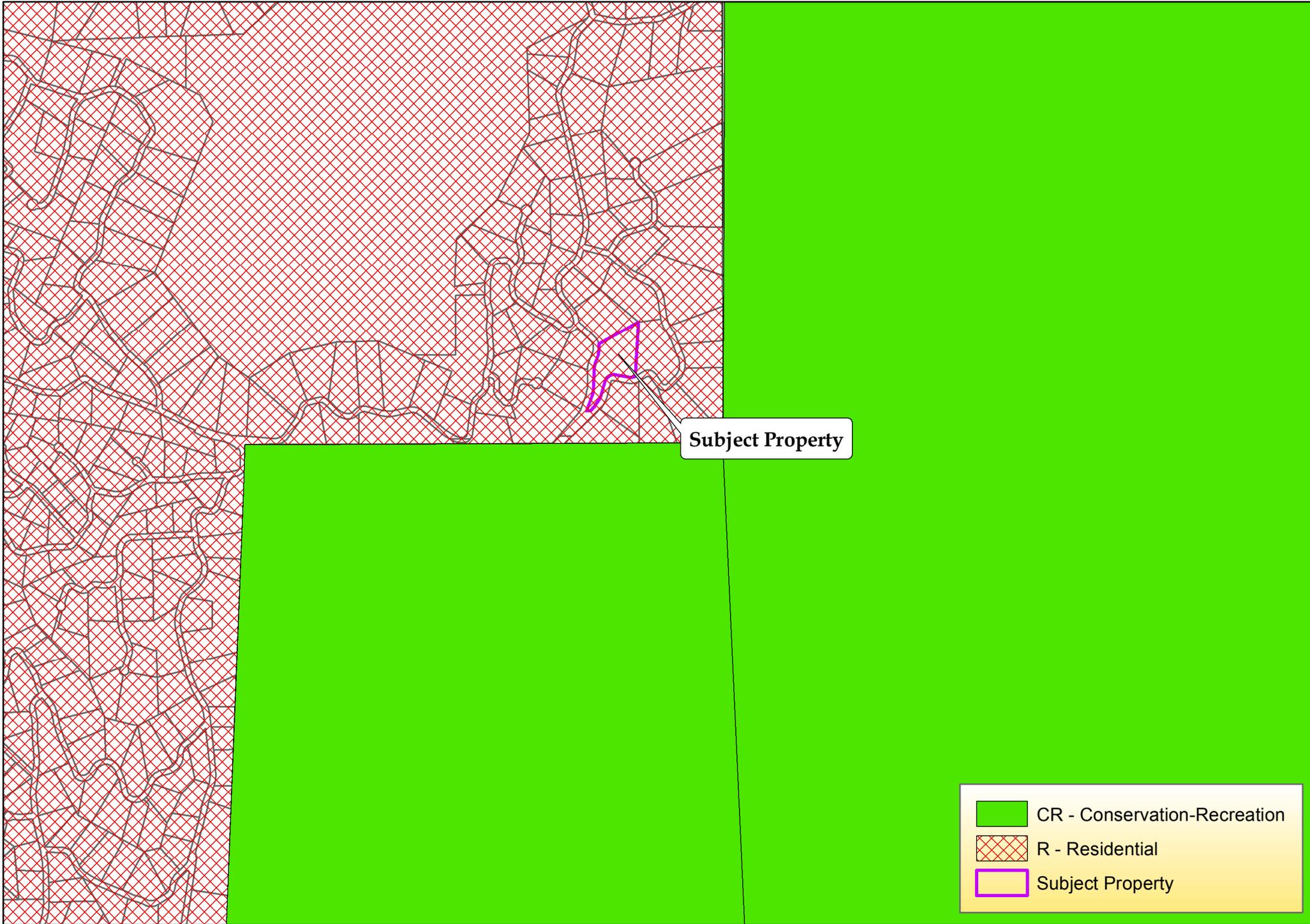
Public Comment:

No public comments on this variance request had been received at the time this report was prepared.

Recommendation:

Staff recommends approval of the application with the following condition:

1. The applicant provides a minimum 15' clearance to the proposed garage location and the existing overhead electrical facilities.



Subject Property

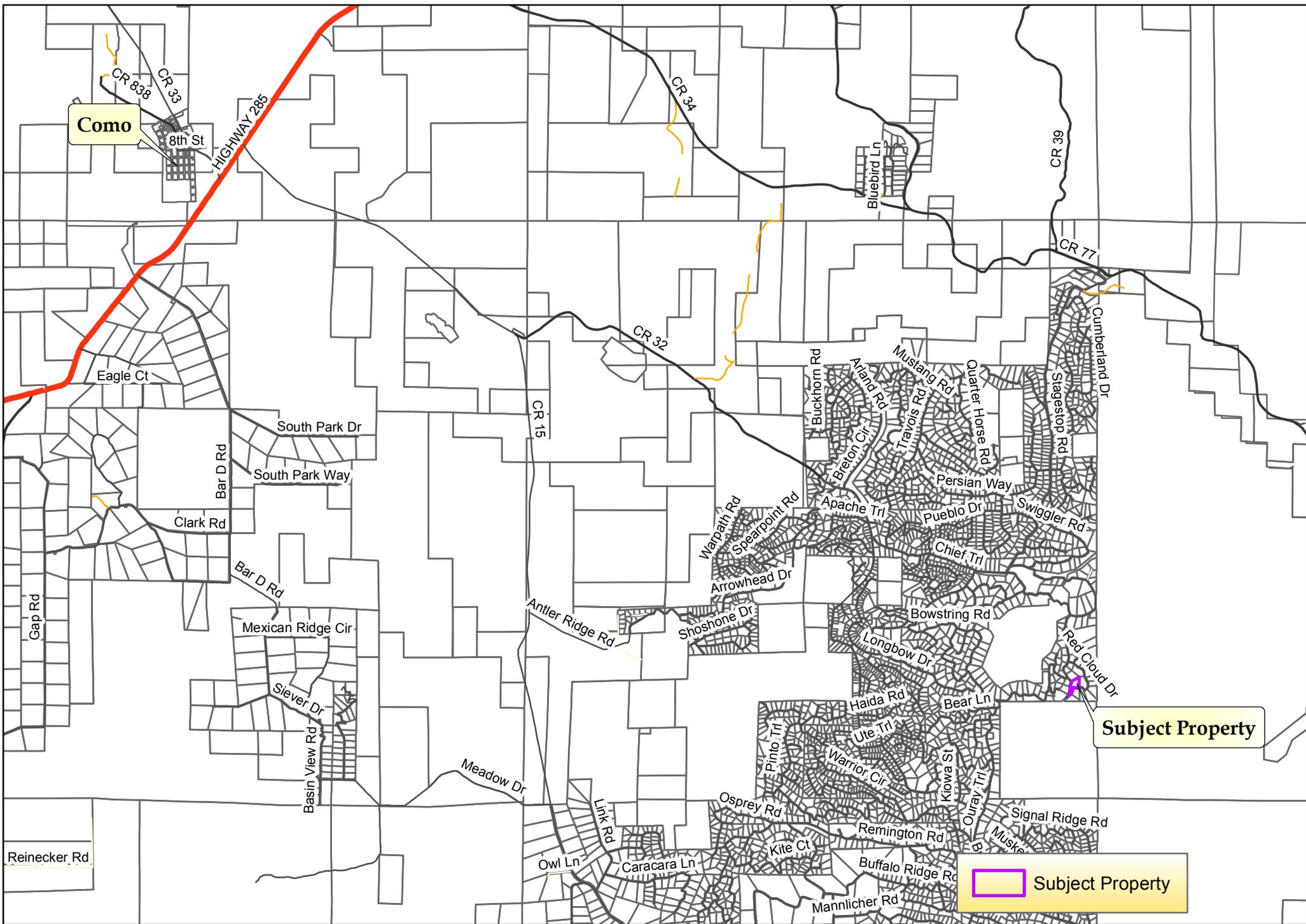
| | |
|---|------------------------------|
|  | CR - Conservation-Recreation |
|  | R - Residential |
|  | Subject Property |

Date: 9/26/2016

Attachment 1: Zoning Map

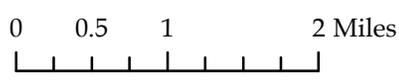


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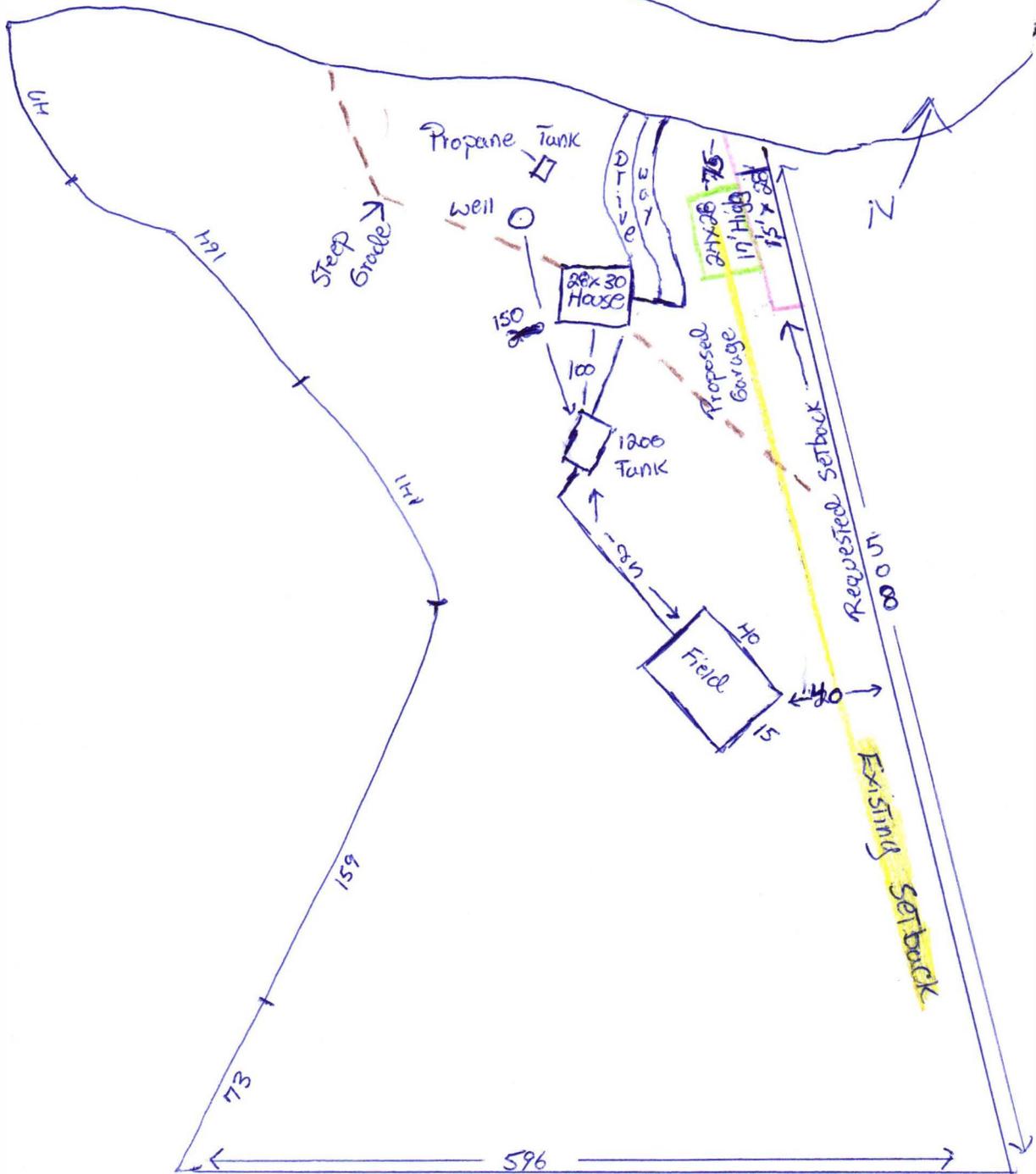
Date: 9/26/2016

Attachment 2: Vicinity Map



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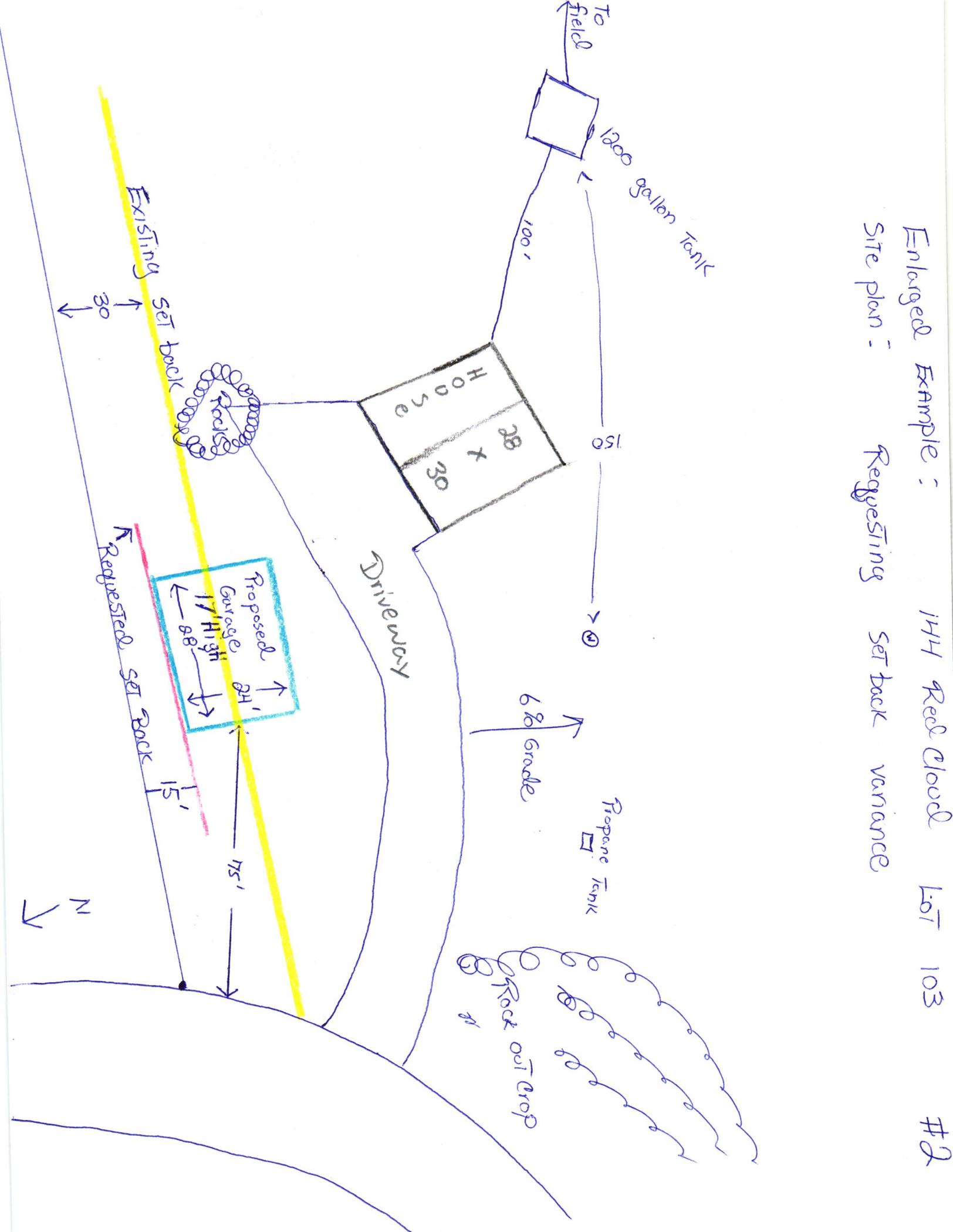
Requesting Set Back variance AT 15'x28'



Attachment 3: Site Plan

Enlarged Example: 144 Red Cloud Lot 103 #2

Site plan: Requesting Set back variance





Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

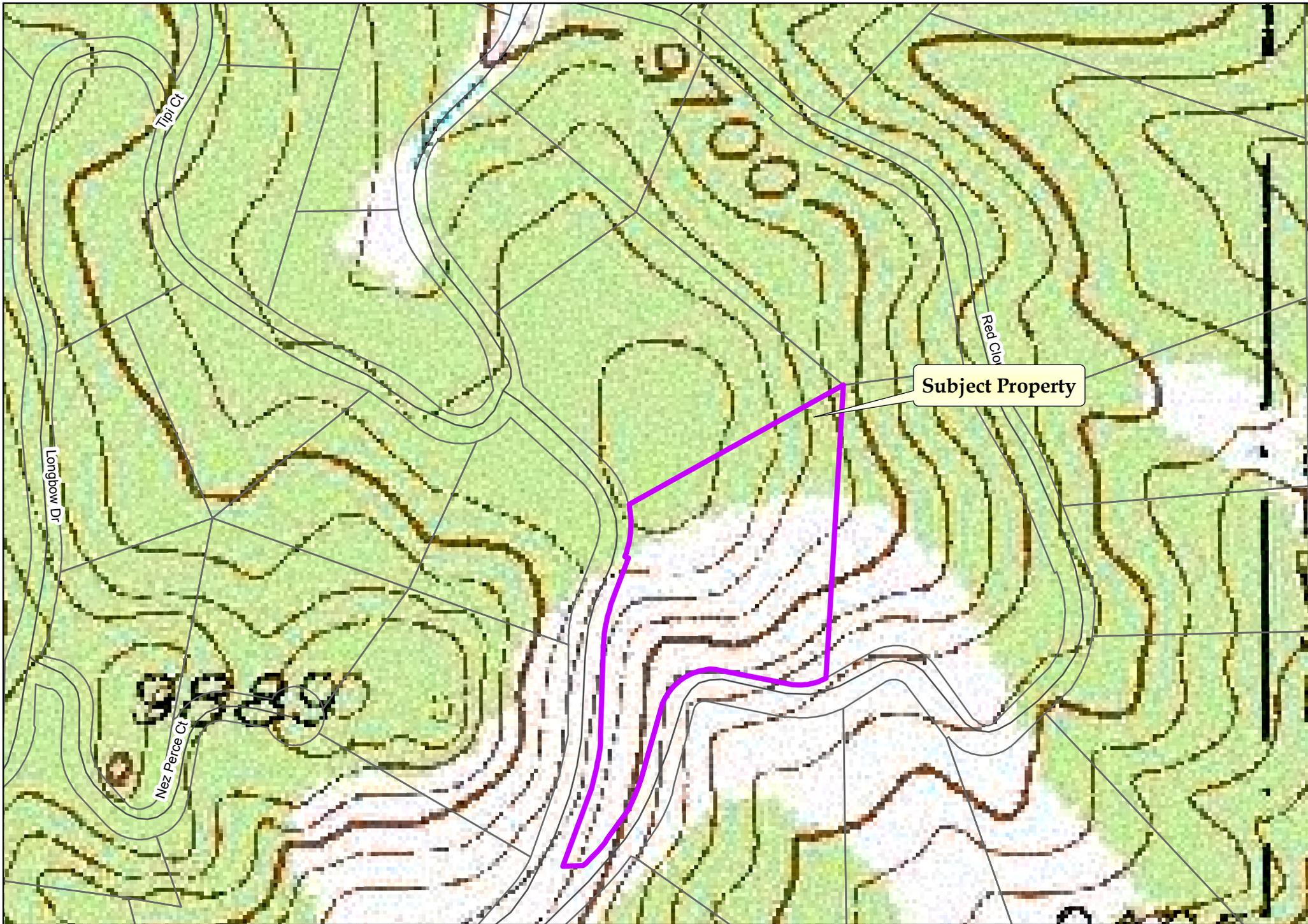
Date: 9/26/2016

Attachment 4: Aerial Map

1 in = 150 feet



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Date: 9/26/2016

Attachment 5: Topo Map

1 in = 250 feet



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misinterpretation of this data. © Park County GIS 2014*

Park County Planning Department

P.O. Box 1598
Fairplay, Colorado 80440

Phone: (719) 836-4258 • Fax: 719-836-4351 • E-mail address: igannon@parkco.us

Referral Response

Comment Deadline Date: October 6, 2016 Submitted Date: September 26, 2016

Case #: 16SET-07 Case Name: Lowitzer Variance

Request: Applicant is requesting a 15 ft. variance from the normally required 30 ft. setback from a proposed garage to a side lot line.

Location/Legal Description: Property is Indian Mountain Lot 103 Filing 25 Unit 2 addressed as 144 Red Cloud Drive, Como.

Date of BOA Hearing: October 11, 2016

_____ We have reviewed this referral and find that it **does** comply with our Strategic Master Plan.

_____ We have reviewed this referral and find that it **does not** comply with our Strategic Master Plan for the following reasons:

✓
_____ We have reviewed this referral and find no conflicts with our interests.

_____ A formal recommendation is under consideration and will be submitted to you prior to _____.

_____ Please refer to the enclosed letter.

_____ We offer the following comments regarding this referral:

Signed: Arlene Samuels

Date: 9/26/16

Title: Admin. Supervisor

Park County Planning Department

P.O. Box 1598
Fairplay, Colorado 80440

Phone: (719) 836-4258 • Fax: 719-836-4351 • E-mail address: jgannon@parkco.us

Referral Response

Comment Deadline Date: October 6, 2016 Submitted Date: September 26, 2016

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_____ We have reviewed this referral and find that it **does** comply with our Strategic Master Plan.

_____ We have reviewed this referral and find that it **does not** comply with our Strategic Master Plan for the following reasons:

X_____ We have reviewed this referral and find no conflicts with our interests.

_____ A formal recommendation is under consideration and will be submitted to you prior to _____.

_____ Please refer to the enclosed letter.

_____ We offer the following comments regarding this referral:

Signed: _____

Date: 9-27-16

Title: ROW Manager Park County Public Works



Brooks Kaufman
Lands and Rights of Way Director

October 3, 2016

Jennifer Gannon
Park County
Planning Department
P.O. Box 1598
Fairplay, Colorado 80440

Re: LOWITZER VARIANCE
Case No.: 16SET-07

Dear Ms Gannon:

The Association has reviewed the contents in the above-referenced referral response packet. We reviewed the project for maintaining our existing facilities, utility easements, electric loading, and service requirements. We are advising you of the following concerns and comments:

The Association has existing overhead electric facilities on the subject property. The Association will maintain these existing utility easements and facilities unless otherwise requested by the applicant to modify them under the Association's current extension policies. The applicant didn't provide the location of the existing overhead electric facilities, therefore the Associations will require as condition for approval, provide a minimum fifteen (15') foot clearance to the proposed garage location and the existing overhead electrical facilities.

Sincerely,

A handwritten signature in black ink, appearing to read "Brooks Kaufman", with a long horizontal flourish extending to the right.

Brooks Kaufman
Lands and Rights-of-Way Director

INTERMOUNTAIN RURAL ELECTRIC ASSOCIATION

5496 N. U.S. Highway 85, P.O. Drawer A / Sedalia, Colorado 80135

Telephone (720)733-5493

bkaufman@irea.coop
