

**EXPANDED AGENDA**  
**Board of Adjustment, District 1**  
**November 17, 2010**  
**Cochise County Service Center,**  
**4001 E. Foothills Drive (in the former Courtroom)**  
**Sierra Vista, Arizona**

---

---

6:00 P.M. Call to Order

Roll Call (Introduce Board members, and explain quorum)

(Also explain procedure for public hearing, i.e., after Planning Director's Report, applicant will be allowed 10 minutes; other persons will each have 5 minutes to speak and applicant can have 5 minutes for rebuttal at end, if appropriate.)

Determination of Quorum

Approval of Previous Minutes

Call to the Public

**NEW BUSINESS**

***Item 1 - Introduce Docket and advise public who the applicants are.***

**Public Hearing, Docket BA1-10-06:** The Applicant requests a Variance to Section 804.06 of the Cochise County Zoning Regulations, which requires non-residential uses in an SM-36 District, adjacent to residentially-zoned properties, to be screened with a 6-foot high solid screen. The Applicant is requesting to allow the existing 6-foot high chain link fence to remain. The subject parcel (Parcel No. 104-13-018E) is located at 4958 E. Bristlecone Lane in Sierra Vista, AZ.

The Applicant is Liberty Water Company.

- Call for PLANNING DIRECTOR'S PRESENTATION
- Declare PUBLIC HEARING OPEN
  - 1) Call for APPLICANT'S STATEMENT
  - 2) Call for COMMENT FROM OTHER PERSONS (either in favor or against)
  - 3) Call for APPLICANT'S REBUTTAL (if appropriate)
- Declare PUBLIC HEARING CLOSED
- Call for BOARD DISCUSSION (may ask questions of applicant)
- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION
- Call for DISCUSSION OF MOTION

- Call for QUESTION
- ANNOUNCE ACTION TAKEN (with Findings of Fact)

---

---

**Call for Planning Director's Report**

**ADJOURNMENT**



## **COMMUNITY DEVELOPMENT DEPARTMENT**

*Planning, Zoning, and Building Safety*  
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

### **DRAFT MINUTES**

TO: Board of Adjustment, District 1  
FROM: Debra Meyer, Secretary  
SUBJECT: Minutes of the Regular Meeting of July 28, 2010  
DATE: September 21, 2010

#### **MEMBERS PRESENT**

Edward Cottingham, Chairman  
Dan Abrams, Vice- Chair Member  
Tom Borer, Member

#### **STAFF PRESENT**

Keith Dennis, Planner

#### **MEMBERS ABSENT**

#### **OTHERS PRESENT:** (See attached sheet)

*These minutes for the BA1 meeting held on July 28, 2010 are complete only when accompanied by the memorandum for that meeting.*

Chair Cottingham called the meeting to order at 6:05 PM at the Cochise County Service Center Conference Room in Sierra Vista, Arizona. Mr. Cottingham followed by calling the roll, establishing that a Quorum of all three Board Members was present.

Chair Cottingham explained the procedures for the meeting, and then asked for a motion to approve the minutes of the June 23, 2010 regular meeting.

Chair Cottingham opened the meeting to the public, being no one wished to speak he closed the meeting to the public.

#### **NEW BUSINESS**

**Docket BA1-10-04:** Mr. Cottingham announced the Docket and asked for the staff presentation. Planner Keith Dennis presented the Planning Department's report on a request a Variance to Section 704.04 of the Cochise County Zoning Regulations, which requires that all structures in a TR-36 District be set back no less than 20 feet from any property line. The Applicant seeks to legitimize a non-conforming garage 10 feet from the Northern property line, as well as an existing home approximately 15 feet from the Northern

property line. The subject parcel (Parcel No. 170-68-210) is located at 5136 S. Santa Aurelia Avenue in Sierra Vista, AZ. Mr. Dennis presented a map showing the location of the property and explained the garage was damaged by the wind. He further stated the Applicant was replacing the existing structure, and did not realize he would need a variance.

The Applicant, William Gorzenski, explained his reasons for replacing the garage.

Mr. Cottingham closed the meeting to the public.

Mr. Dennis explained that staff had not received any letters in support or opposition to the variance. He further stated staff recommends approval of the request.

Dan Abrams made a motion to approve the variance, Tom Borer seconded. Vote 3-0 to approve.

### **PLANNING DIRECTOR'S REPORT**

Motion was made to adjourn by Mr. Abrams at approximately 6:16; Mr. Borer seconded the motion, which passed unanimously (3 – 0).

Board of Adjustment, District 1

Sign in Sheet

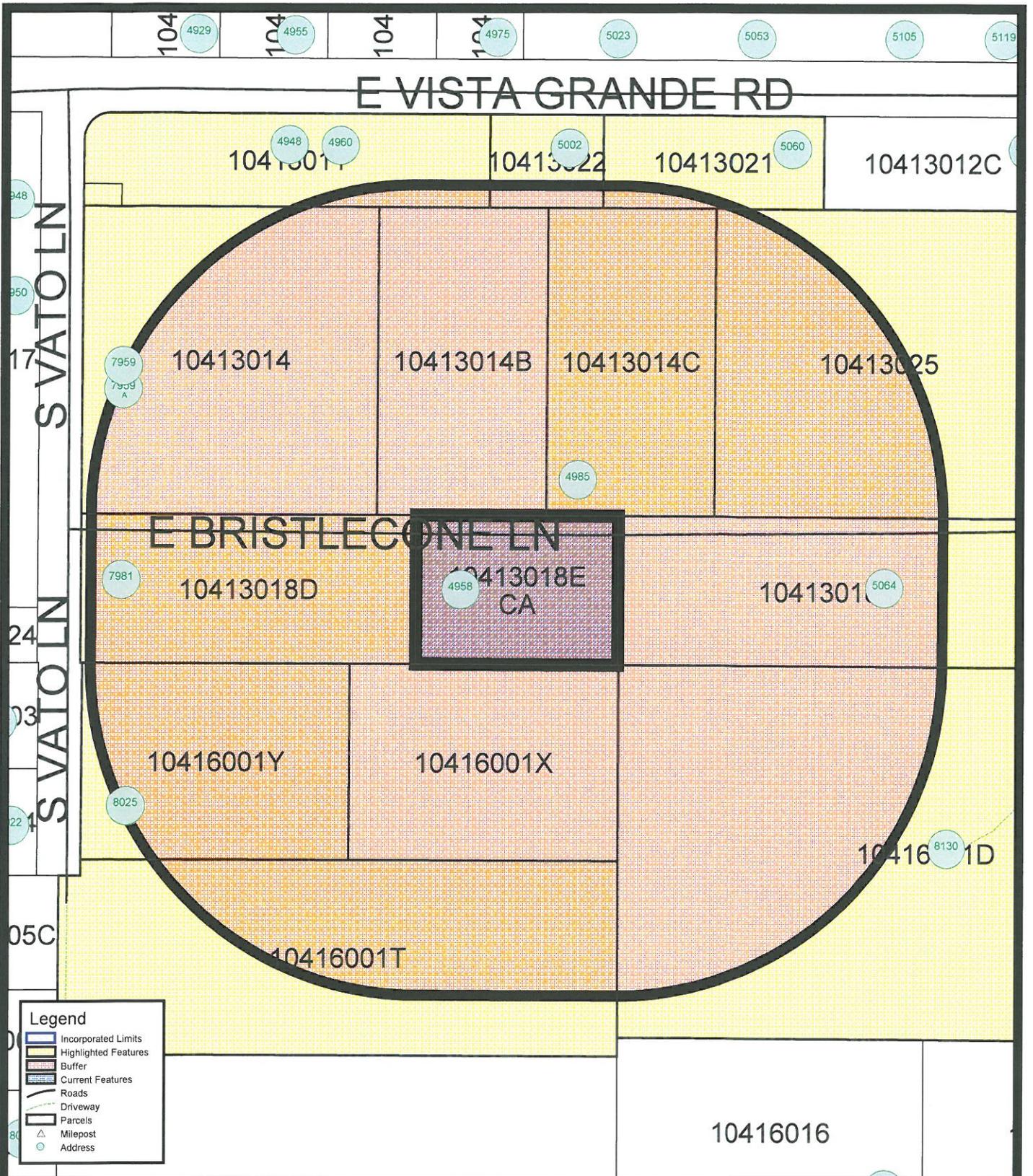
DATE

7/28/2010

PLEASE PRINT

NAME ADDRESS & EMAIL ADDRESS PHONE # ITEM # Wish to SPEAK?

NAME	ADDRESS & EMAIL ADDRESS	PHONE #	ITEM #	Wish to SPEAK?
1. WILLIAM BORJENSK,	5136 SANTA AURELIA	3782173		
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

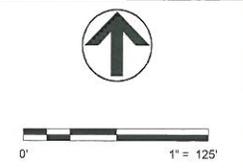


- Legend**
- Incorporated Limits
  - Highlighted Features
  - Buffer
  - Current Features
  - Roads
  - Driveway
  - Parcels
  - Milepost
  - Address



BA1-10-06  
 Liberty Water  
 104-13-018E  
 300' Buffer

This map is a product of the Cochise County GIS





## **COMMUNITY DEVELOPMENT DEPARTMENT**

***Planning, Zoning and Building Safety***

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Carlos De La Torre, P.E., Director

### **MEMORANDUM**

**TO:** Cochise County Board of Adjustment, District 1  
**FROM:** Keith Dennis, Senior Planner  
For: James E. Vlahovich, Planning Director  
**SUBJECT:** Docket BA1-10-06 (Liberty Water Co.)  
**DATE:** November 8, 2010, for the November 17, 2010 Meeting

### **APPLICATION FOR A VARIANCE**

The Applicant requests a Variance to Section 804.06 of the Cochise County Zoning Regulations, which requires non-residential uses in an SM-36 District, adjacent to residentially-zoned properties, to be screened with a 6-foot high solid screen. The Applicant is requesting to allow the existing 6-foot high chain link fence to remain.

The subject parcel (Parcel No. 104-13-018E) is located at 4958 E. Bristlecone Lane in Sierra Vista, AZ. The Applicant is the Liberty Water Company.

### **I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES**

**Parcel Size:** 25,150 square feet  
**Zoning:** SM-36 (1 Dwelling per 36,000 Square Feet)  
**Growth Area:** Growth Category B  
**Plan Designation:** NC – Neighborhood Conservation  
**Area Plan:** None Applicable  
**Existing Uses:** Water Storage Tank with six-foot high perimeter fence  
**Proposed Uses:** Unchanged.

### **Surrounding Zoning**

<b>Relation to Subject Parcel</b>	<b>Zoning District</b>	<b>Use of Property</b>
North	SM-36	Single Family Residence, Undeveloped Land
South	TR-36	Undeveloped Land
East	SM-36	Single Family Residence
West	SM-36	Single Family Residence

## II. PARCEL HISTORY

1993 – Permit issued for 1,680 square foot manufactured home with septic system. Residents installed a six-foot chain link perimeter fence at that time.

2008 – Permit issued for 50,000 gallon water storage tank. The permit issuance letter informed the Applicant of the screening requirements under consideration for this Docket.



*Above: Looking North at the replaced garage.*

## III. PROJECT DESCRIPTION

The Applicant, Liberty Water Company, obtained a permit in November of 2008 to construct a 50,000 gallon water storage facility. The permit issuance letter informed the Applicant of the screening standard at the time, but staff took no further action to ensure compliance with the standard. Due to turnover in the County staff, the permit languished for a time.

More recently, County staff has been attempting to identify and close out open permits, and thereby re-discovered the Liberty Water Company permit. The water tank is at this time operational, but the permit is still open and a Certificate of Occupancy has not been issued. In September, County staff alerted the Applicant to the outstanding issue. The Applicant now requests a Variance to allow the existing chain link fence to remain.

It should be noted that, at 25, 250 square feet, the property does not meet the 36,000 square foot minimum size required under the SM-36 District regulations. Although the use is subject to applicable site development standards, the utility-related land use is exempt from minimum site area requirements per Section 2002.02.B.

## IV. ANALYSIS OF IMPACTS

The County Zoning Regulations include screening requirements and standards in order to protect neighboring residential uses from impacts associated with non-residential permitted and Special uses. The standard in the SM District applies to all non-residential uses. The screening standard is intended to mitigate such off-site impacts as dust, headlight glare, visual or noise impacts.



*Eastward view down Bristlecone Lane towards the water tank site.*

The 20-foot tall water tank in the neighborhood is perhaps the most visible and imposing edifice in the immediate neighborhood; it does present a visual impact to the community. However, it is not the type of impact that a six-foot tall screening device around the perimeter would mitigate. The use on the property does not, by its nature, represent a source of other off-site impacts such as noise, dust, or glare. Staff's position is that the requested screening Variance would not produce, nor exacerbate, any negative off-site impacts.

#### **V. PUBLIC COMMENT**

The Department mailed notices to neighboring property owners within 300 feet. Staff posted the property on October 26, 2010 and published a legal notice in the *San Pedro Valley News-Sun* on October 28, 2010. To date, the Department has received no response to the request.

#### **VI. SUMMARY AND CONCLUSION**

##### **Factors in Favor of Allowing the Variance**

1. Granting the screening Variance would not produce or exacerbate any off-site impacts; the land use on the property is considered by its nature to be a low-impact use.

##### **Factors Against Approval**

None apparent.

#### **VII. RECOMMENDATIONS**

Based on the Factors in Favor of approval as Findings of Fact, Staff recommends **approval** of the Variance request.

#### **VIII. ATTACHMENTS**

Variance Application  
Location Map  
Site Plan



# COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

Susan Buchan, Director

## APPLICATION FOR VARIANCE

DESIRING A VARIANCE FROM THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS:

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT One

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District 1 to grant a variance from the terms of the Cochise County Zoning Regulations as follows:

(Note: Complete all the following items. If necessary, attach additional sheets.)

1. Tax parcel identification number: 104 - 13 - 018E
2. General location of parcel: South of Bristlecone Lane, Sierra Vista, AZ 85635
3. Area of Parcel (to nearest tenth of an acre): 0.58
4. Zoning district classification of parcel: SM-36
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it. see attached

6. Describe all proposed uses or structures, which are to be placed on the property.

see attached

7. State the specific nature of the variance or variances sought, identifying the applicable section or sections of the Cochise County Zoning Regulations.

*see attached*

---

---

---

8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in practical difficulties or unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved. (See Section 2103.02 on variances (attached) Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited in #7 above.

*see attached*

---

---

---

9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

*see attached*

---

---

---

10. List the name and address of all owners of the parcel(s) for which the variance is sought.

<u>PROPERTY OWNER</u>	<u>ADDRESS</u>
<u>Belle Vista Water Co. dba Liberty Water</u>	<u>4055 Campus Dr, Sierra Vista, AZ 85635</u>

The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

<u>SIGNATURE OF PETITIONER</u>	<u>ADDRESS</u>	<u>DATE</u>
<u>Martin Garland</u>	<u>1060 Yavapai Dr. #9</u>	
<u></u>	<u>Rio Rico, AZ 85648</u>	<u>9/29/10</u>
<u>APPLICANT'S PHONE NUMBER</u>	<u>520.281.7000</u>	

Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Planning Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.

\* If the applicant is not the property owner, please attach a signed letter from the property owner authorizing the variance(s) sought.



## Cochise County Application for Variance – Response to Questions 5-9

5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it.

Response: The parcel is for supply of potable water to neighboring residents; structures includes 2 storage tanks (16 foot height), one hydropneumatic tank, booster pumps and electrical controls. Footprints vary from 60 SF to 420 SF.

6. Describe all proposed uses or structures, which are to be placed on the property.

Response: All existing structures are necessary for delivery of potable water to Liberty Water customers in the general vicinity of the property.

7. State the specific nature of the variance or variances sought, identifying the applicable section or sections of the Cochise County Zoning Regulations.

Response: The utility requests a variance from the requirement to install fence screening on a 20 year old existing fence per Section 1805. The parcel is located in zoning classification SM-36 (reference-Article 8, 804.06).

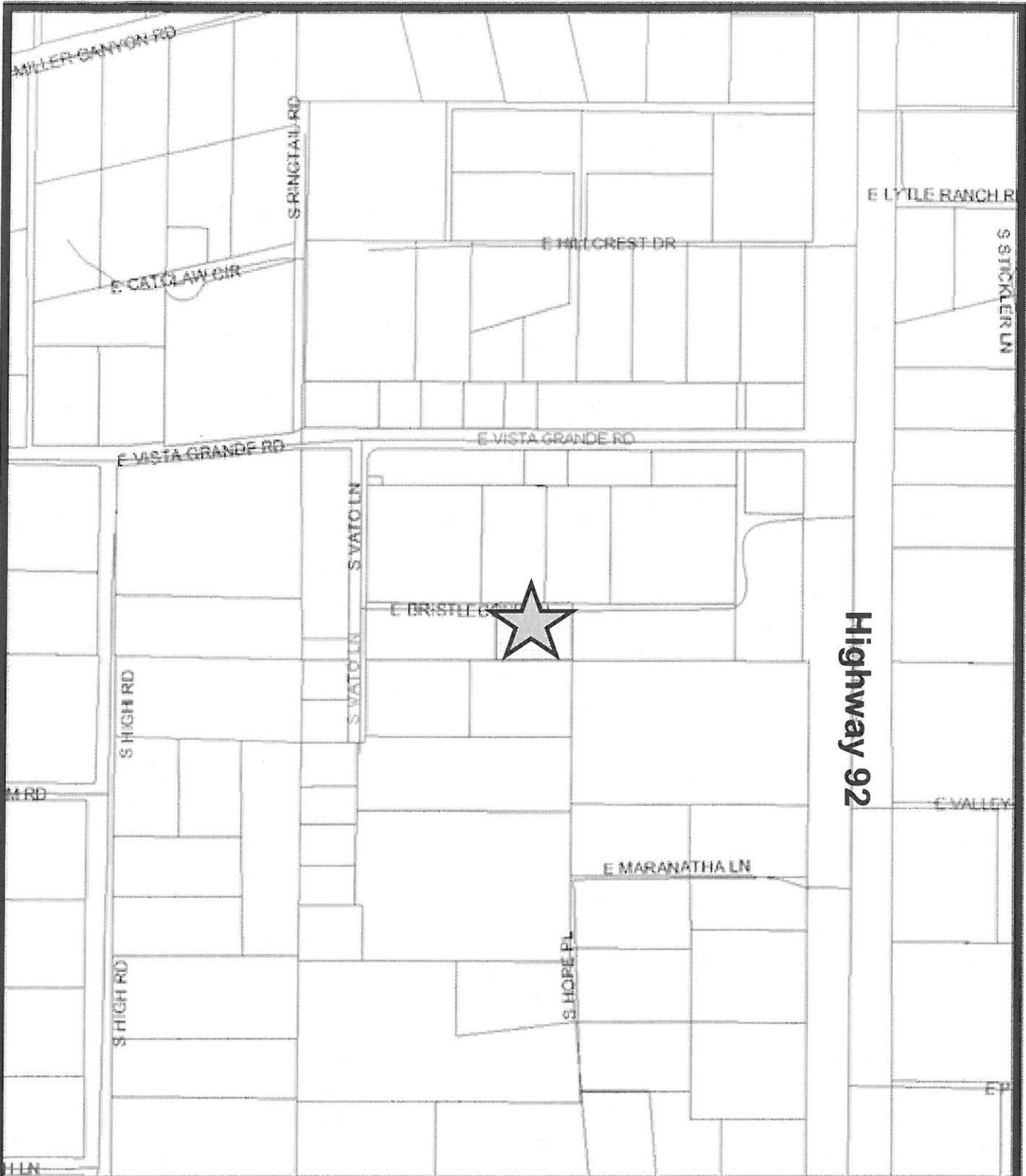
8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in practical difficulties or unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved. (See Section 2103.02 on variances (attached)) Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited in #7 above.

Response: The variance is requested for the following reasons: 1) The fence has been in existence for approximately 20 years; 2) There have been no complaints filed with the utility from adjacent property owners regarding the facility; 3) The estimated \$4,000 in expenses for material and labor will place an additional monetary burden on the rate payers; 4) Article 20, 2001.02 will "allow any use of land or structure to continue as long as it lawfully existed at the time these Zoning Regulations became effective..." ; and 5) Article 20, 2002.02 B. states that essential service structures, i.e., booster stations, water tanks and their appurtenances "are exempt from minimum site area requirements of the applicable zoning district, provided that there is an adequate site area to minimize any adverse impacts of such use".



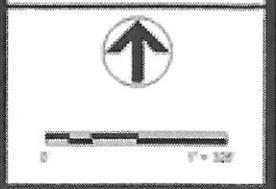
9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

Response: Maintaining the "status quo" with respect to the 20 year old fence is requested since it will not injure or impair the rights of surrounding property owners (no complaints ever received regarding facility aesthetics); and saving the \$4,000 required to screen the fence will actually benefit the residents by reducing the impact of the next rate increase.



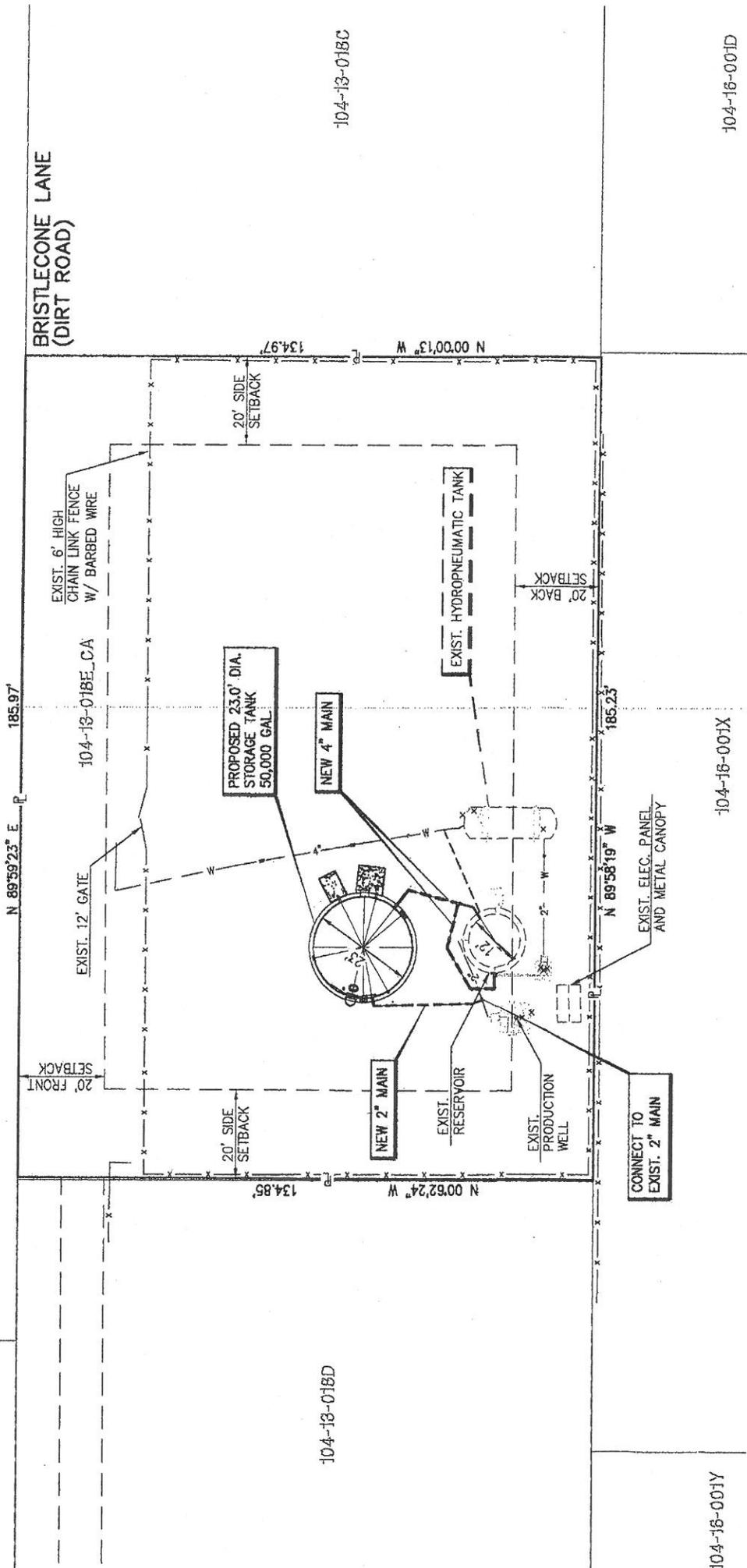
Docket BA1-10-06  
(Liberty Water Co)

This map is a product of the  
Cochise County GIS



104-13-014

104-13-014A



104-13-018D

104-13-018C

104-16-001Y

104-16-001X

104-16-001D