



**CAMINO REAL REGIONAL UTILITY AUTHORITY  
EXTRA-TERRITORIAL PLANNING & ZONING COMMISSION  
VARIANCE APPLICATION**

**DOÑA ANA COUNTY**

**COMMUNITY DEVELOPMENT DEPARTMENT**

Doña Ana County Government Center • 845 N. Motel Blvd.  
Las Cruces, New Mexico 88007 • Telephone: (575) 647-7350

**MEETING DATE:** April 2, 2018

**CASE NO:** CRV 18-001

**REQUEST:** Variance to rear yard setbacks to build a garage. Applicant is proposing 10' and 12' where 25' is required.

**PROPERTY OWNERS:  
APPLICANT:** Dan McGlade

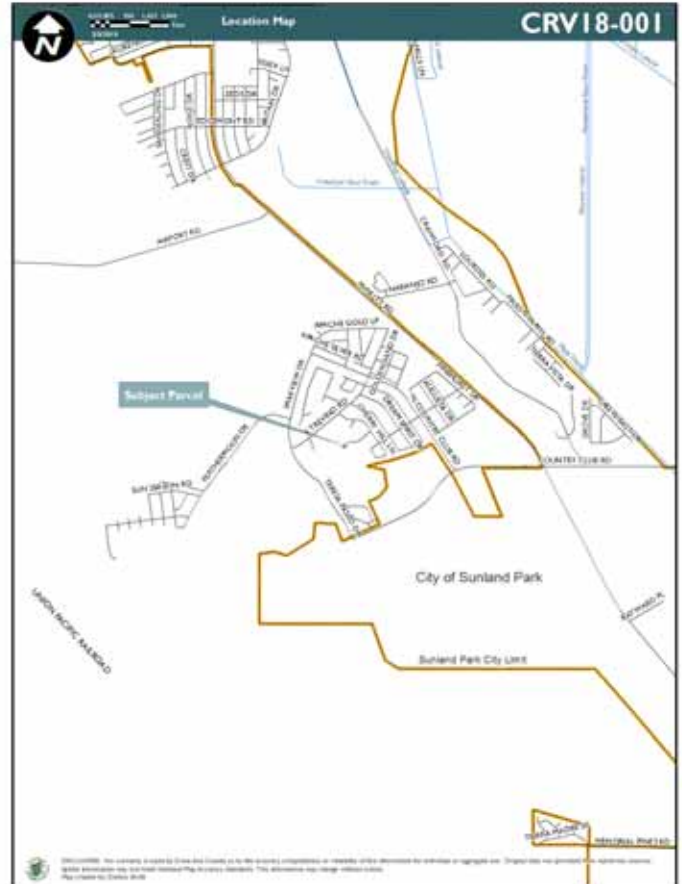
**LOCATION:** 149 Crested Peak Ct.  
Santa Teresa, NM

**EXISTING ZONING:** CR-1 (Community Residential – Single Family Residential)

**AFFECTED PROPERTY SIZE:** 0.30-acres

**RECOMMENDATION:** Approval

**CASE MANAGER:** Albert Casillas,  
Planner



**SUMMARY:** The applicant, Dan McGlade, requests a Variance to rear yard setbacks within the CR-1 (Community Residential: Single-Family Residential) Zone to build a proposed garage of 576 sq. ft.. The applicant is proposing a 10' and 12' rear yard setback where a 25' rear yard setback is required. The 0.30-acre parcel is located at 149 Crested Peak Court, in Santa Teresa, NM, within Township 28 South, Range 3 East, Section 28, recorded on December 27, 2006 under Instrument #0644806, in the Doña Ana County Clerk's office. It can be further identified by Parcel #R1714439.

**REPORT CONTENTS:** (1) Case Analysis and Staff Recommendation. (2) Supporting Documents (3) GIS Information and Maps.

## SURROUNDING ZONING AND LAND USE

<b>SITE</b>	<b>ZONING</b>	<b>LAND USE</b>
North	CR-1	Residential
South	CR-1	Vacant
East	CR-1.	Residential
West	CR-1	Vacant

## BACKGROUND

**The Request:** The applicant, Dan McGlade, requests a Variance to rear yard setbacks within the CR-1 (Community Residential: Single-Family Residential) Zone in order to build a proposed garage. The applicant is proposing a 10' and 12' rear yard setback where a 25' rear yard setback is required (See Pg. 8).

**Existing Conditions & Land Use/Zoning:** The subject property is zoned CR-1 (Community Residential: Single Family Residential) Zone and is within the CRRUA Service Area/ETZ. Per the Assessor's Office, a two (2) story house, 3,056 sq. ft. in size, was built in 1999. The 0.30 acre parcel is assessed as residential. Access to the property is from Crested Peak Court, a paved private road. The parcel is not in a FEMA Special Flood Hazard Area, but rather in Zone "X", the 500-year floodplain. CRRUA is ready, willing and able to provide water and sewer services to the property.

The parcel is identified as Lot 43 of the Sunny Ridge Subdivision, recorded in Book 18 Pages 496-497 in the Office of the County Clerk. It is further identified as being within Township 28 South, Range 3 East, Section 28, recorded on December 27, 2006 under Instrument #0644806, in the Doña Ana County Clerk's office. It can be further identified by Parcel #R1714439.

## Applicant Statement

Applicant states the new garage will be 24'x24' (576 sq. ft.). The proposed construction will add enough space to allow for more than one vehicle to park off street. The applicant will also extend his existing driveway to allow space to turn around before returning down the driveway to Crested Peak Court. The applicant states that the rear of the property is next to the abandoned golf course, rules of the subdivision do not allow for overnight parking on the street, and the Variance will increase public safety and welfare by providing space to park and turn around.

## **NOTICE / NOTIFICATION**

22 letters of notification were sent out on March 16, 2018.

Legal Notification was posted in the Las Cruces Sun-News on Sun, March 18, 2018.

Signs were posted on the property.

Agenda was posted on County Web Site.

No letters in opposition or support were received as of March. 30, 2018.

## **APPLICABLE PLANS, POLICIES AND CRITERIA FOR APPROVAL**

### **DOÑA ANA COUNTY CODE CHAPTER 250: LAND USE AND ZONING**

#### **ARTICLE 2 ADMINISTRATIVE RESPONSIBILITIES**

##### **Section 250-18 Variances**

Any development proposed that does not conform to any of the standards of development in this chapter must obtain a variance. A variance shall not be granted unless the variance is found to meet the requirements of Subsection E. In granting a variance, any reasonable conditions may be imposed to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the County generally.

##### **Section 250-18.A Application**

Applications for variances. An application for a variance shall be submitted to the County by the owner of the property that is the subject of the variance request or by the owner's agent. A completed copy of the application, an appropriate site plan that meets the criteria set forth in this chapter, and a nonrefundable filing fee shall be submitted to the Zoning Administrator.

##### **Section 250-18.D A Denial of Variance**

A denial of a Variance by the Planning and Zoning Commission may be appealed to the Board of County Commissioners.

##### **Section 250-18.E Required Findings**

The following findings are required for approval of any Variance:

1. Granting of the Variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice.
2. Granting of the Variance is justified because there is a physical hardship or extraordinary economic hardship for the applicant resulting from the size, shape, existing structures, or topographical or other physical conditions on the site or in the area of notice.
3. Granting the Variance will uphold the spirit and intent of this Chapter and accomplish substantial justice.

## **AGENCY REVIEW COMMENTS**

### **DAC Engineering Department:**

1. All storm water runoff from all impervious areas must be contained within the lot.
2. Do not place the building on any existing easement or septic system.

### **DAC Flood Commission:**

1. Per FIRM No. 35013C1900 G the subject property is not located within a FEMA Special Flood Hazard Area, and can be found in FEMA designated "Other Areas " Zone "X" (Areas determined to be outside 500-year flood)

### **DAC Fire & Emergency Services:** Approved with the following conditions:

1. Variance approved only.

### **CRRUA:**

1. We have reviewed the Variance and find that there will be no negative effects to CRRUA if it is granted.

### **DAC Building Services:**

1. Addition to residential structure will require a building permit. Permits shall be obtained prior to commencement of construction.

### **DASO Codes:**

1. Approved, no violations observed.

### **County Rural Addressing:**

1. No Comments.

## **STAFF ANALYSIS**

The Planning and Zoning Commission being duly appointed shall receive, hear and make final determination on all Variance applications, subject to the procedures established within the County Code. A variance shall not be granted unless the variance is found to meet the requirements of Article 2 Section 250-18.E of the Code. In granting a variance, any reasonable conditions may be imposed to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the County generally.

The applicant, Dan McGlade, requests a Variance to rear yard setbacks within the CR-1 (Community Residential: Single-Family Residential) Zone in order to build a proposed garage. The applicant is proposing a 10' and 12' rear yard setback where a 25' rear yard setback is required.

The parcel is identified as Lot 43 of the Sunny Ridge Subdivision, recorded in Book 18 Pages 496-497 in the Office of the County Clerk. The plat requires a 25' rear setback from both rear property lines (See Pg. 10).

Per the Assessor's Office, a two (2) story house, 3,056 sq. ft. in size, was built in 1999. The 0.30 acre parcel is assessed as residential. Access to the property is from Crested Peak Court, a paved private road. The parcel is not in a FEMA Special Flood Hazard Area, but rather in Zone "X", the 500-year floodplain. CRRUA is ready, willing and able to provide water and sewer services to the property.

There are no records of other Variance requests for this property or within the area of notification.

Section 250-18.E Findings: **(Staff response in bold)** Applicants responses (Pg. 09)

- The variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the area of notice. **A review of the aerial photography shows nearby properties not meeting the requirement of a 25' rear yard setback. In the early 2,000's, the City of Sunland Park still had zoning jurisdiction in this area. They would provide staff with a zoning verification letter approving the submitted site plan for the new construction including proposed setbacks. The proposed distance will not be detrimental to the health, safety, or welfare to the surrounding properties. As stated by the applicant, the property backs up to an abandoned golf course and are only seeking a 60% deviation from the requirement. If approved the applicant will submit all required permits to Building Services.**
- There is a physical hardship resulting from the size or shape of the parcel; or from existing structures on the parcel; or from topographic or physical conditions on the site or in the area of notice and the hardship is not self-imposed. **An inspection of the property does reveal a physical hardship based on the existing conditions of the site. The topography changes in elevation and due to topography and existing buildings and driveway, limited space is available for construction. Per the applicant, as you drive up the driveway, you rise approximately 20' in elevation.**
- The variance upholds the purpose and intent of this Chapter, public safety and welfare are secured, and substantial justice is done. **Granting of the Variance will uphold the spirit and intent of Chapter 250 because the applicant has followed the required application procedures in order to create orderly, harmonious and economically sound development that would promote the health, safety, and welfare of the community. No negative comments were received from other agencies and no opposition by the public to the variance was expressed. The deviation from the required setback standards will not compromise the health, safety and welfare of the community.**

The proposed Variance request has met the requirements of the Code for public notification. The Variance application went through all the appropriate agency reviews. The applicant has demonstrated a physical hardship resulting from the size, shape, existing structures, or topographical or other physical conditions on the site or in the area of notice that prevents the applicant from meeting the required road standards.

### **FINDINGS:**

1. The request of this application is consistent with the following requirements of the Doña Ana County Land Use Regulations & Zoning Ordinance Section 250-17.C, regarding Applications and Hearing Procedures for Variances.
2. All notification and notice requirements have been met per Section 250-17.C. of the Ordinance.
3. The property is outside of any incorporated municipal zoning authority and is within Doña Ana County.
4. The Doña Ana County Planning & Zoning Commission has jurisdiction to review this application.
5. The Variance request **has met** the following evaluation criteria under Article 2 Section 250-18.E of the Code:
  - Granting the Variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice. *A review of the aerial photography shows nearby properties not meeting the requirement of a 25' rear yard setback. In the early 2,000's, the City of Sunland Park still had zoning jurisdiction in this area. They would provide staff with a zoning verification letter approving the submitted site plan for the new construction including proposed setbacks. The proposed distance will not be detrimental to the health, safety, or welfare to the surrounding properties. As stated by the applicant, the property backs up to an abandoned golf course and are only seeking a 60% deviation from the requirement. If approved the applicant will submit all required permits to Building Services.*
  - Granting the Variance is justified because there is a physical hardship or extraordinary economic hardship for the applicant resulting from the size, shape, existing structures, or topographical or other physical conditions on the site or in the area of notice. *An inspection of the property does reveal a physical hardship based on the existing conditions of the site. The topography changes in elevation and due to topography and existing buildings and driveway, limited space is available for construction. Per the applicant, as you drive up the driveway, you rise approximately 20' in elevation.*
  - Granting the Variance will uphold the spirit and intent of this Ordinance and accomplish substantial justice. *Granting of the Variance will uphold the spirit and intent of Chapter 250 because the applicant has followed the required application procedures in order to create orderly, harmonious and economically sound development that would promote the health, safety, and welfare of the community. No negative comments were received from other agencies and no opposition by the public to the variance was*

*expressed. The deviation from the required setback standards will not compromise the health, safety and welfare of the community.*

**STAFF RECOMMENDATION:**

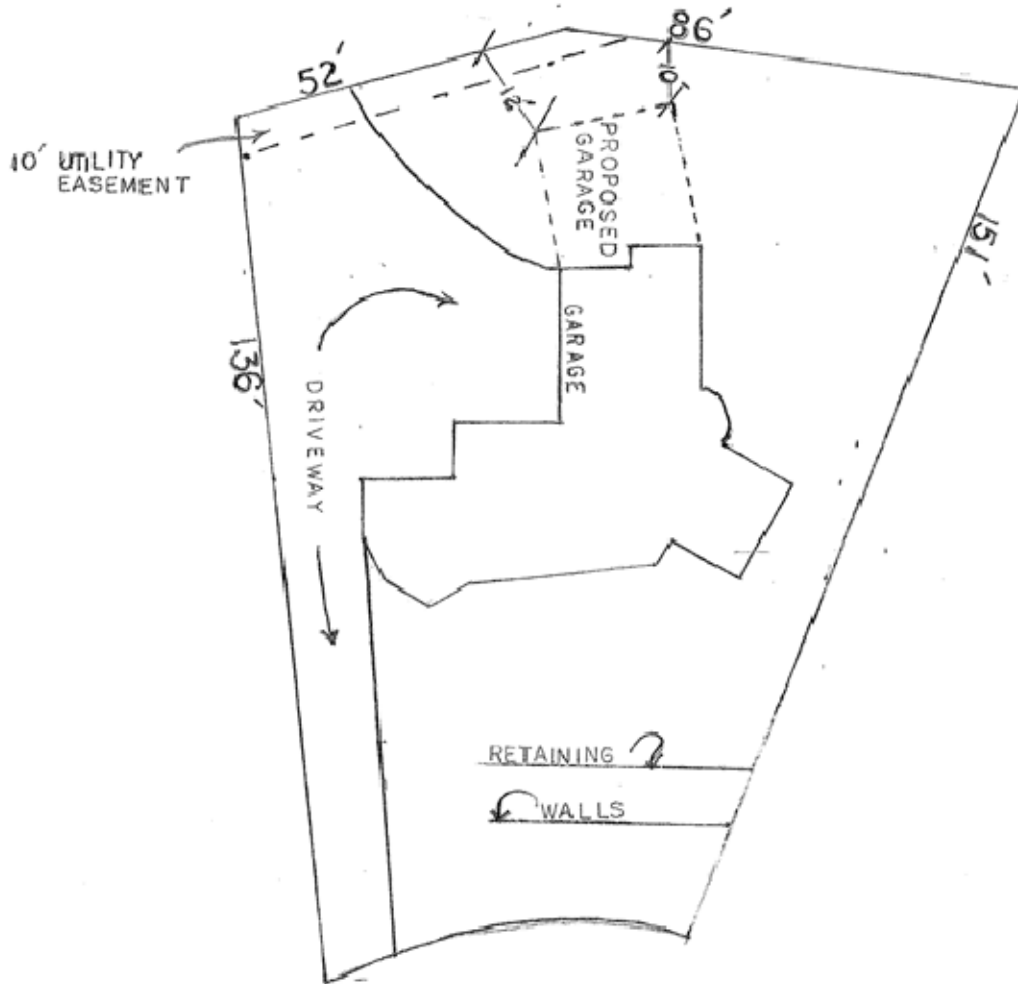
Staff recommends **Approval** of Case #CRV18-001 based on the findings and the evaluation criteria under Article 2 Section 250-18.E of the Code.

**P&Z OPTIONS**

1. The P&Z can approve the request as submitted.
2. The P&Z can deny the request as submitted.
3. The P&Z can approve the request with conditions to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the County generally.

# SITE PLAN

149 Crested Peak Court  
Sunny Ridge  
Santa Teresa N.M.





## Applicant Statement

General description of the proposed construction.

Proposed construction is for an additional garage with an extension to the existing driveway. The proposed garage will be 24' wide by 24' deep. The addition to the driveway will be pie shaped, having 20' on the widest side, down to nothing next to the existing garage.

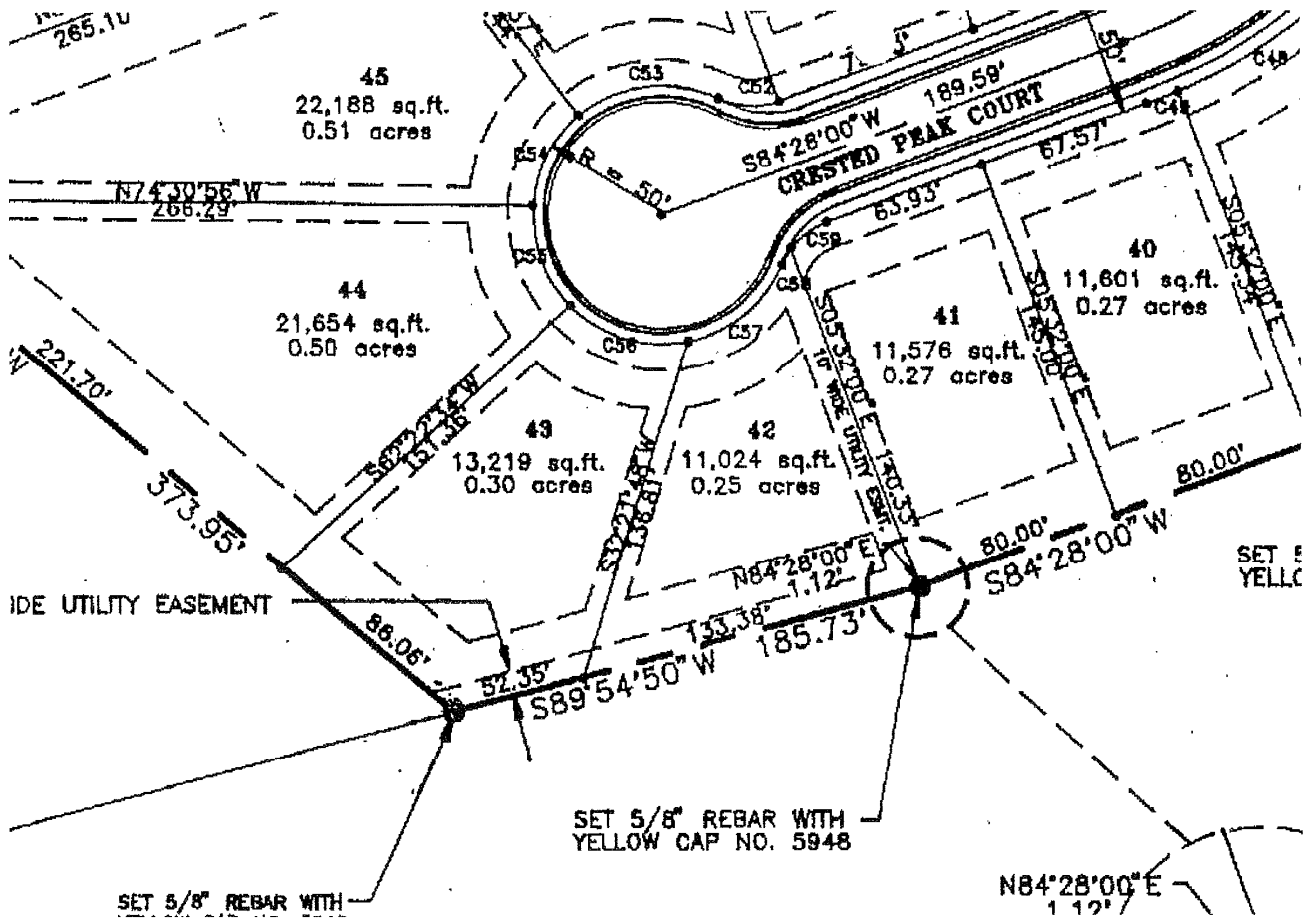
The proposed construction will add enough space to allow for more than one vehicle to park off street, and allow space to turn around before returning down an 8% slope (driveway) to the street.

Criteria for a variance (Section 2.7.2)

- i. Other properties in this area are closer than 25' setback.
- ii. The property backs up to an abandoned/ or unused golf course. We are only asking for an approximate 60% variance.
- iii. As you drive up the driveway from the street towards the garage, you rise 20 ft in elevation. When you reach the garage there is only enough room to park one vehicle, and still be able to turn around to drive down the driveway. ( It is no fun backing down this driveway!) It appears the original design was made for one vehicle. The rules of the subdivision do not allow for overnight parking on the street.
- iv. The variance will increase public safety and welfare by providing space to park and turn around in an originally restricted space.

149 Crested Peak  
Santa Teresa, NM

Lot 43





0 95100 180 270 360  
Feet  
2/9/2018

Land Use Map with  
2014 Aerial Photo

CRV 18-001



Subject Parcel

Sunland Park City Limit

City of Sunland Park



THE CITY OF SUNLAND PARK warrants that the data shown on this map was derived from the best available information and is not guaranteed to be accurate. The City of Sunland Park is not responsible for any errors or omissions in this information. The information is provided for informational purposes only. All information is subject to change without notice. Map created by Green Street.



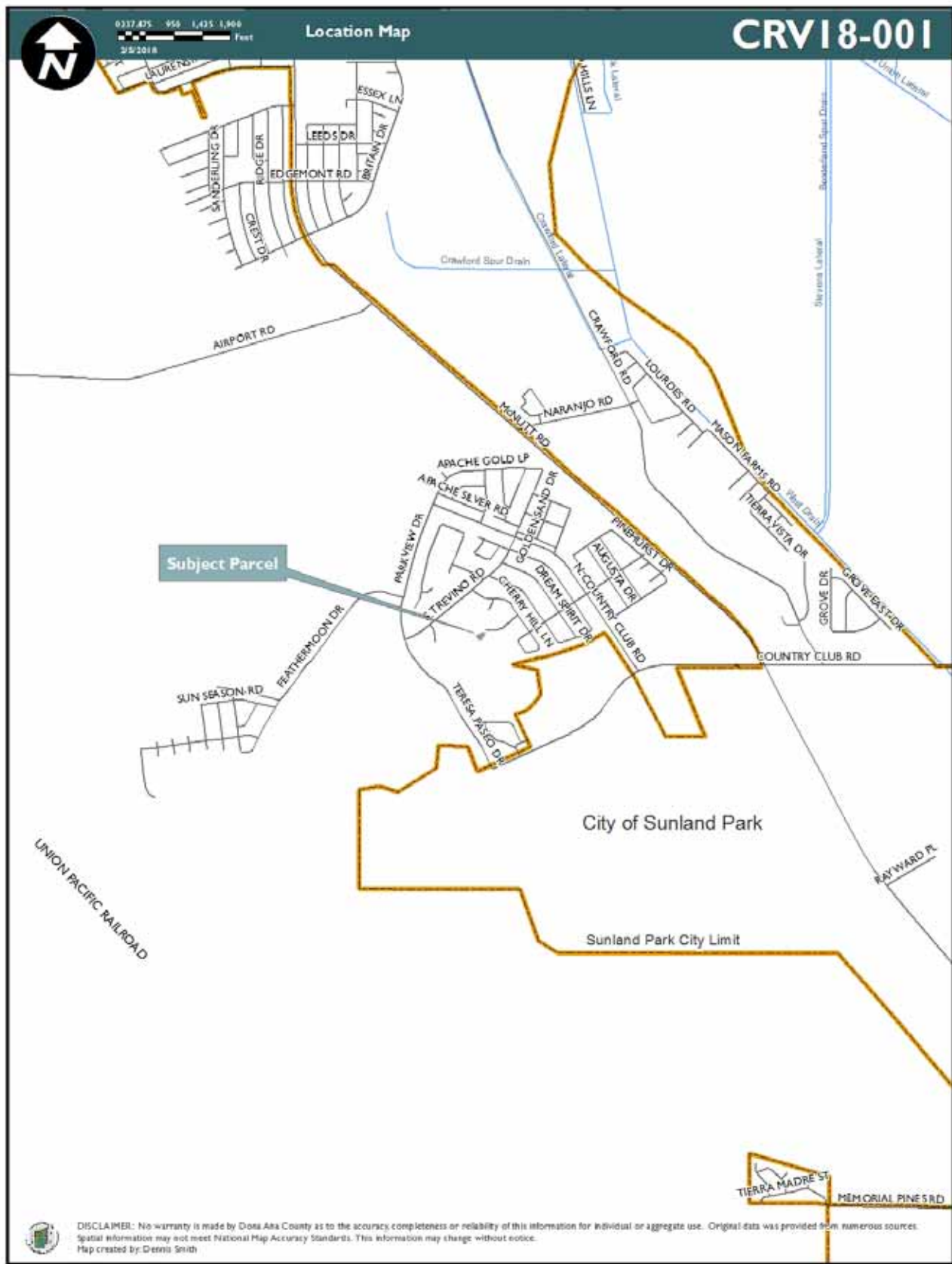
02.28.5 9 11.5 18  
Feet  
3/5/2018

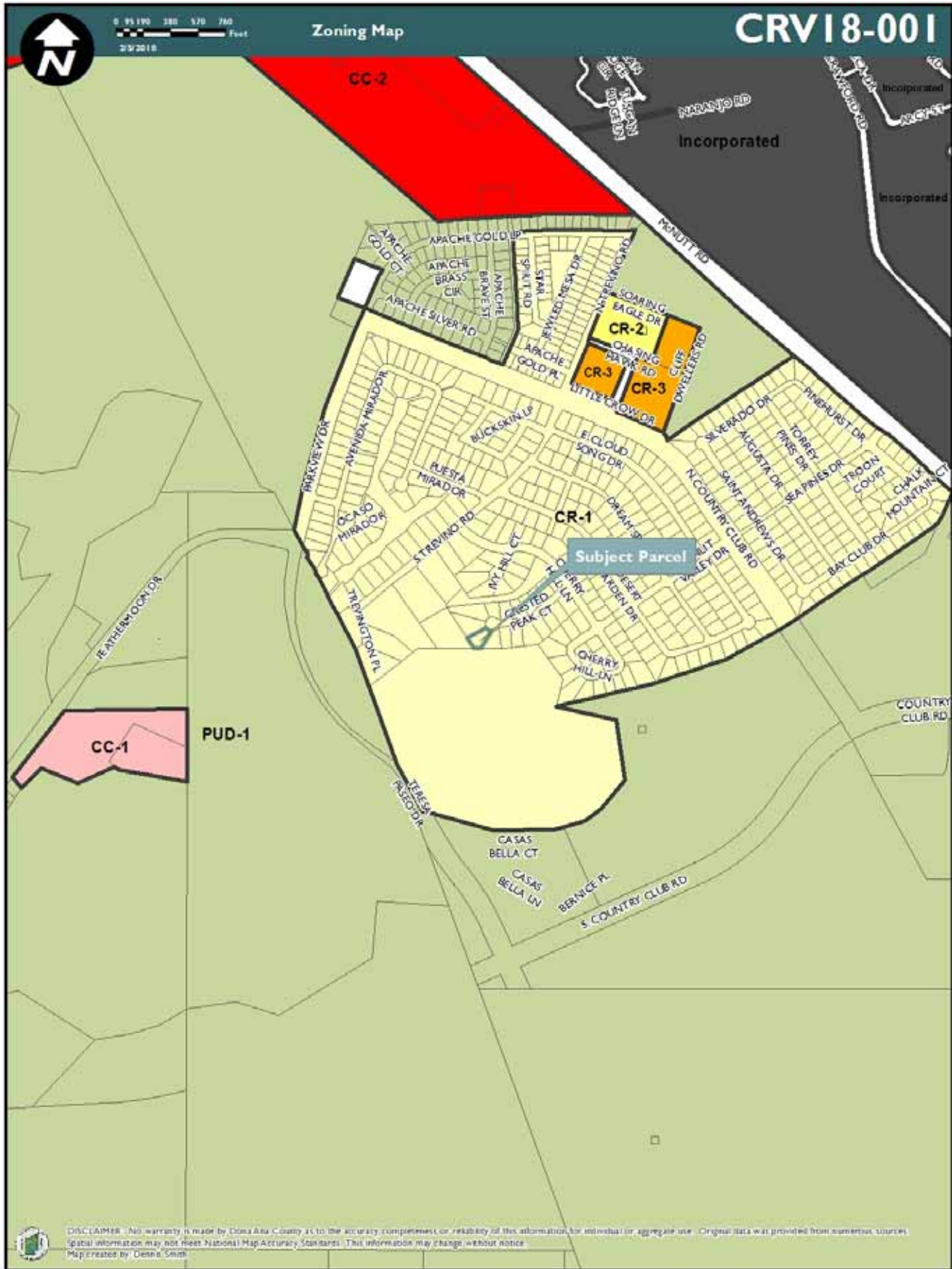
Subject Parcel Close Up  
with 2014 Aerial Photo

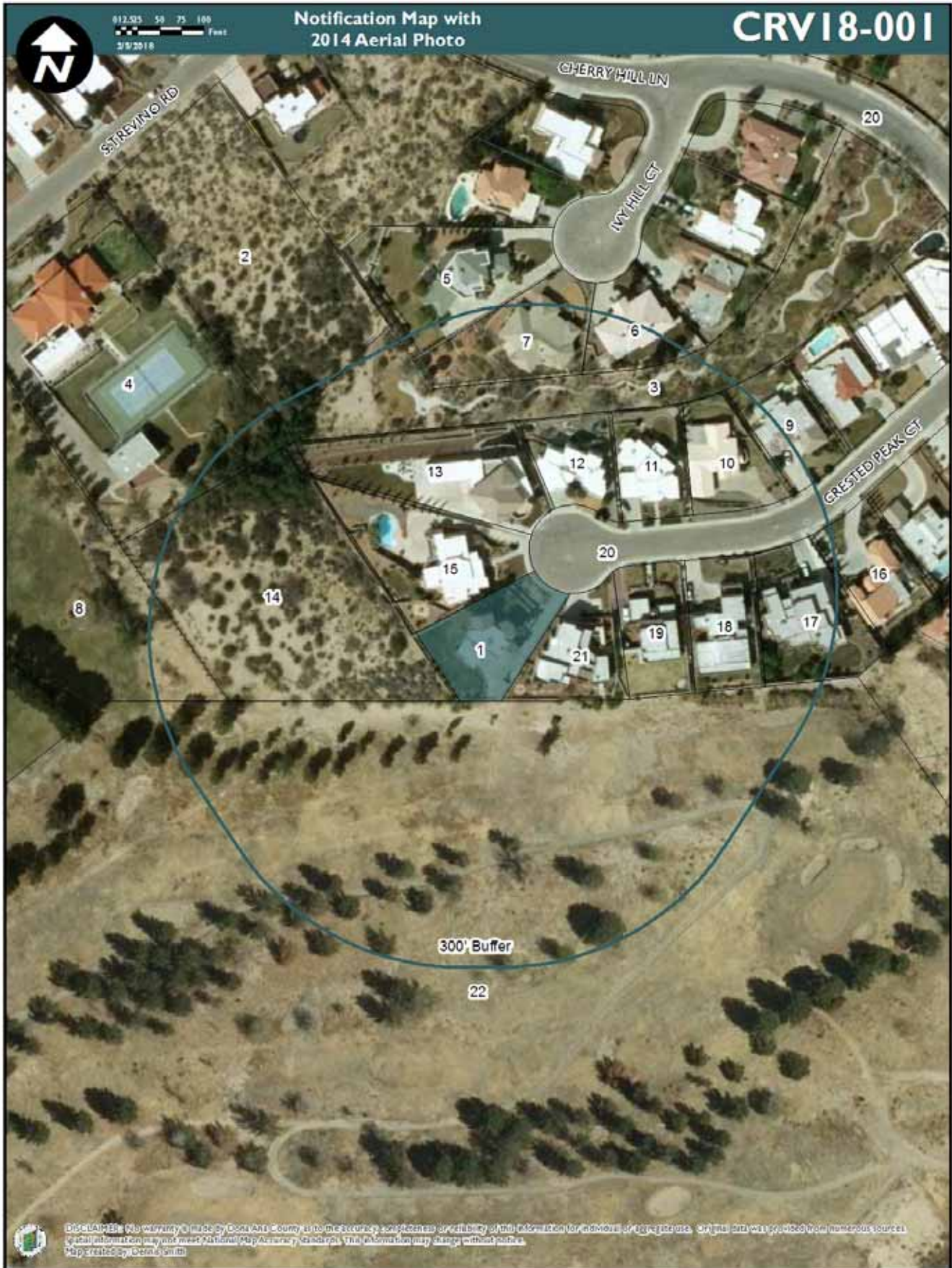
CRV 18-001



DISCLAIMER: We warrant only to the best of our knowledge and belief the accuracy, completeness and reliability of the information provided to you. Original data was provided from numerous sources. We do not warrant the accuracy, completeness or reliability of the information provided to you. This information may change without notice.  
Map created by: [unreadable]





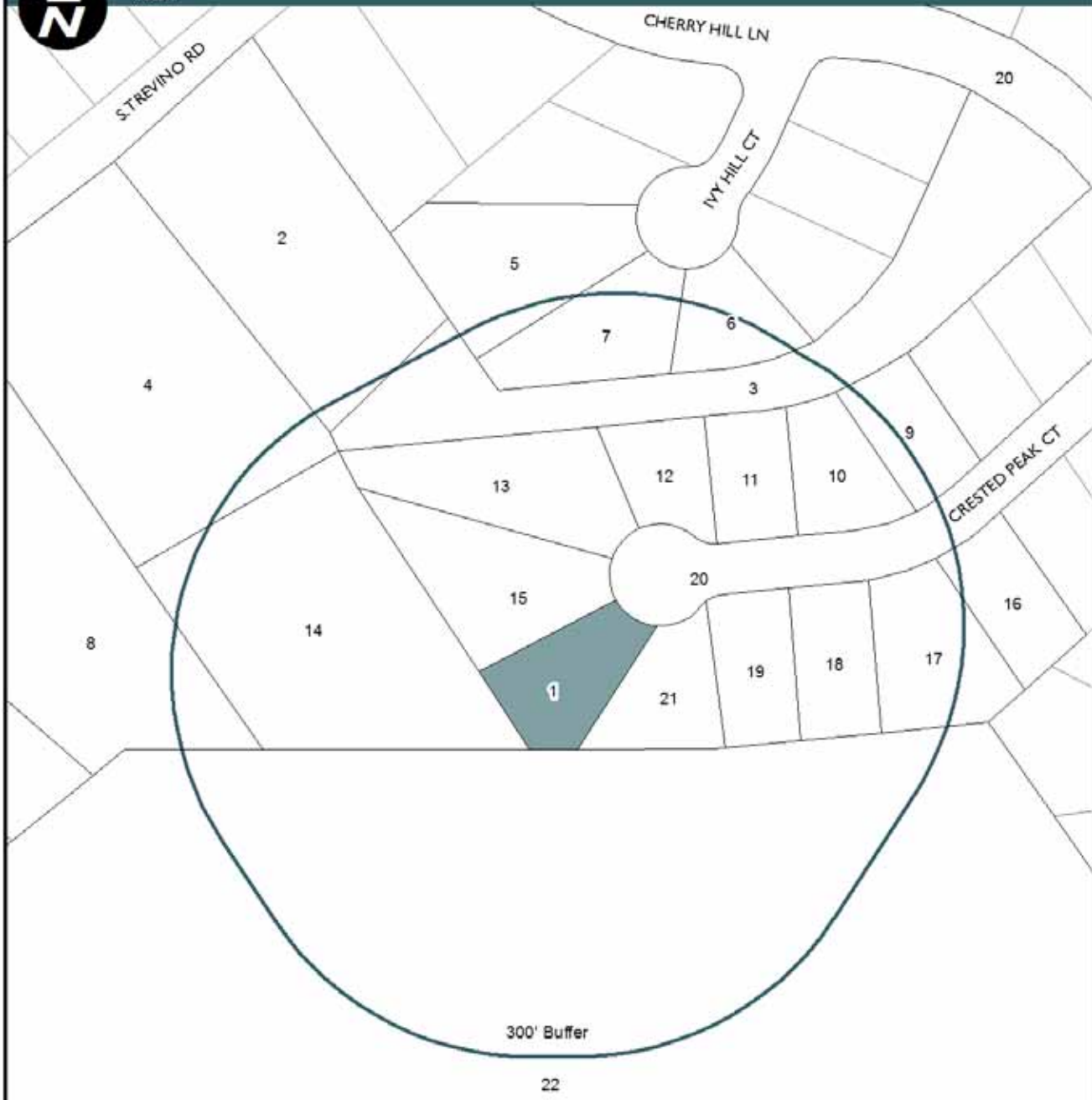




0 12.5 25 50 75 100  
Feet  
2/3/2018

# Notification Map

# CRV18-001



DISCLAIMER: No warranty is made by Dona Ana County as to the accuracy, completeness or reliability of this information for individual or aggregate use. Original data was provided from numerous sources. Spatial information may not meet National Map Accuracy Standards. This information may change without notice. Map created by: Denis Smith



CO	ACCOU	OWNERNAME	MAILADDR1	CITY	ST	ZIP
1	R1714439	MCGLADE DAN	149 CRESTED PEAK CT	SANTA TERESA	NM	88008
2	R1712630	JONES TINA Y	2001 GRANT AVE	EL PASO	TX	79930
3	R1714425	SUNNY RIDGE HOMEOWNERS ASSOC INC	PO BOX 593	SANTA TERESA	NM	88008-1768
4	R1711185	JAMES FRANK T & LINDA	PO BOX 44	SANTA TERESA	NM	88008
5	R1714422	ORTON JOHN M & VICTORIA S	124 IVY MILL CT	SANTA TERESA	NM	88008
6	R1714420	BRIDLER WILLIAM N & CLETA D TILDEN	127 IVY HILL CT	SANTA TERESA	NM	88008-9430
7	R1714421	WOOD RONALD L & SARAH G	128 IVY HILL CT	SANTA TERESA	NM	88008
8	R1705002	HAHN VALENTINE & THE ESTATE OF LARRY O HAHN	PO BOX 9	SANTA TERESA	NM	88008-0009
9	R1714413	MELVIN CHARLENE BOURLAND	126 CRESTED PEAK CT	SANTA TERESA	NM	88008
10	R1714412	CROWLEY TONIA C	130 CRESTED PEAK	SANTA TERESA	NM	88008
11	R1714411	MCCOOL GERALD B & MARIA S	PO BOX 355	SANTA TERESA	NM	88008-0355
12	R1714410	WAGES LARRY B & YOLANDA	1631 BONNER LAKE RD	MOYIE SPRINGS	ID	83845
13	R1714409	MEIGHEN HUBERT V & POLLY A WALDEN	142 CRESTED PEAK CT	SANTA TERESA	NM	88008
14	R1712631	HAHN VALENTINE	PO BOX 9	SANTA TERESA	NM	88008
15	R1714440	STANFIELD JOHNNY L & VICKIE L	146 CRESTED PEAK CT	SANTA TERESA	NM	88008-9423
16	R1714434	BOURLAND ALTON L & LEDA J	PO BOX 811	SANTA TERESA	NM	88008
17	R1714435	COLTHARP TIM & SUSAN M	PO BOX 13095	EL PASO	TX	79913-3095
18	R1714436	PEREZ LUIS G	PO BOX 170	CHAMBERINO	NM	88027
19	R1714437	OLIVER ROBERT & DONNA	139 CRESTED PEAK CT	SANTA TERESA	NM	88008
20	R1718257	SUNNY RIDGE HOMEOWNERS ASSOC INC	PO BOX 593	SANTA TERESA	NM	88008
21	R1714438	HORNE JOHN C & PHYLLIS	143 CRESTED PEAK	SANTA TERESA	NM	88008
22	R1705004	SANTA TERESA COUNTRY CLUB LLC & MESILLA BOLSON F	PO BOX 3	SANTA TERESA	NM	88008