Tempe

CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION

Meeting Date: 3/12/2013
Agenda Item: 4

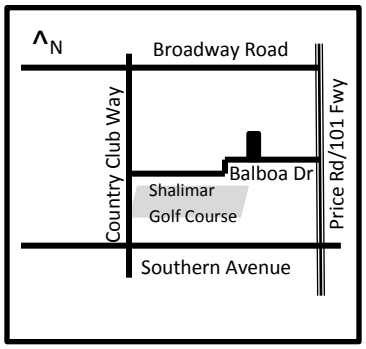
ACTION: Request Appeal the Hearing Officer's decision to allow a Use Permit to increase the wall height in the front yard from 4 feet to 6 feet for the DUBOIS RESIDENCE (PL120421) located at 2122 East Balboa Drive. The appellant is Dawn Sinclair.

FISCAL IMPACT: N/A

RECOMMENDATION: None

BACKGROUND INFORMATION: The site is four properties east of River Drive, on the north side of the street. The property has R1-6 residences to the west, east and south, and R1-4 residences to the north. The property is located within the Shalimar Estates Subdivision. Mr. DuBois requested a Use Permit to build a privacy wall within the front yard setback. On January 2, 2013, the Hearing Officer approved a request for the DUBOIS RESIDENCE (PL120421) for a Use Permit Standard to allow a 6 foot wall within a front yard setback. At the hearing, one resident spoke in favor and five residents spoke in opposition to the request. On January 16th, Dawn Sinclair filed an appeal of the approved Use Permit. The original use permit application materials, staff summary report and attachments from the January 2nd hearing are provided with this report as background information. The appellant provided additional information as part of the appeal. This request includes the following:

UPA13001 Appeal of a Use Permit to increase the wall height in the front yard from 4 feet to 6 feet.



Appellant	Dawn Sinclair
Property Owner	Walter Dubois
Zoning District	R1-6 Single Family Residential
Lot Size	.22 acres
Building Size	2,299 s.f. home

ATTACHMENTS: Supporting Attachments

STAFF CONTACT: Diana Kaminski, Senior Planner (480-858-2391)

Department Director: Lisa Collins, Interim Community Development Director
Legal review by: N/A
Prepared by: Diana Kaminski, Senior Planner
Reviewed by: Steve Abrahamson, Planning & Zoning Coordinator

DEVELOPMENT PROJECT FILE
FOR DUBOIS RESIDENCE APPEAL

Tempe

ATTACHMENTS FROM HEARING OFFICER CASE:

1-4. Report from January 2, 2013 Hearing Officer Hearing for Use Permit
5. Location Map
6. Aerial Photo
7-8. Letter of Explanation
9. Front Elevation of Residence
10. Front Elevation with Wall
11. Site Plan
12. Photos
13. Existing wall across the street
14. Proposed Design
15-18. Minutes from January 2, 1013 Hearing Officer Hearing

ATTACHMENTS FROM APPELLANTS:

19-20. Appellant Letter
21-26. Appellant Analysis Amendment to Letter
27-38. Petition Opposing Use Permit (Attachment 10 Referenced in letter)
39. Map of petition signatures represented (Attachment 10 Referenced in letter)
40-44. Website for Neighborhood Services (Attachment 1 Referenced in letter)
45-62. Transcript of January 2, 2013 Hearing Officer (Attachment 2 Referenced in letter)
63. Aerial of neighborhood (Attachment 3 Referenced in letter)
64-66. Photos of neighborhood (Attachment 4 Referenced in letter)
67-68. Real Estate Advertisement for the Goodwin Home, property across from DuBois Residence (Attachment 5 Referenced in letter)
69-72. Summary list of all Use Permit requests for fences taller than 4' in front yards (Attachment 6 Referenced in letter)
    - 73-95. Richardson Residence – report, application attachments and hearing minutes
    - 96-115. McManus Residence – report, application attachments and hearing minutes
    - 116-130. Youngbull Residence – report, application attachments and hearing minutes
    - 131-148. Casa de Smith – report, application attachments and hearing minutes
    - 149-157. Rukavina Residence – report, application attachments and hearing minutes
    - 158-185. Nanna Paneni Residence – report, application attachments and hearing minutes
    - 186-200. Doering Residence – report, application attachments and hearing minutes
    - 201-219. Cuevas Residence – report, application attachments and hearing minutes
    - 220-239. Weed Residence – report, application attachments and hearing minutes
    - 240-257. Karsten Residence – report, application attachments and hearing minutes
    - 258-272. Brown Residence – report, application attachments and hearing minutes
    - 273-292. Darnell Residence – report, application attachments and hearing minutes
    - 293-313. Rosen Property – report, application attachments and hearing minutes
314. Letter from Beth Backus Roth (Attachment 7 Referenced in letter)
315. Letter from Amy Jones (Attachment 8 Referenced in letter)
316. Letter from Tom Brethauer (Attachment 9 Referenced in letter)
317. Email from Adriana Johnston
318. Email from Carl Streiff
319. Email from Jeff Modares
320. Email from Robert F. Lundin

CITY OF TEMPE
HEARING OFFICER

Meeting Date: 1/02/2013
Agenda Item: 8

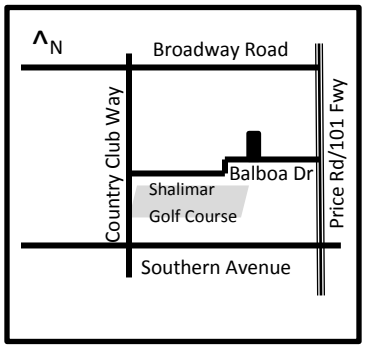
ACTION: Request approval for a Use Permit to increase the wall height in the front yard from 4 feet to 6 feet for the DUBOIS RESIDENCE (PL120421) located at 2122 East Balboa Drive. The applicant is Wouter Dubois.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

BACKGROUND INFORMATION: DUBOIS RESIDENCE (PL120421) is requesting Use Permit Standard to allow a 6 foot wall within a front yard setback. The property is located on the north east corner of Dorsey Lane and Wesleyan Drive. The request includes the following:

ZUP12129	Use Permit to increase the wall height in the front yard from 4 feet to 6 feet.



Property Owner & Applicant	Wouter Dubois
Zoning District	R1-6 Single Family Residential
Lot Size	.22 acres
Building Size	2,299 s.f. home

ATTACHMENTS: Supporting Attachments

STAFF CONTACT: Diana Kaminski, Senior Planner (480-858-2391)

Department Director: Lisa Collins, Interim Community Development Director
Legal review by: N/A
Prepared by: Diana Kaminski, Senior Planner
Reviewed by: Steve Abrahamson, Planning & Zoning Coordinator

COMMENTS:
The site is four properties east of River Drive, on the north side of the street. The property has R1-6 residences to the west, east and south, and R1-4 residences to the north. The property is located within the Shalimar Estates Subdivision. The applicant is requesting to build a privacy wall within the front yard setback at a height of 6'. The Applicant has provided a letter of explanation and series of drawings that demonstrate the location of the wall in relation to the sidewalk, yard and driveway.

PUBLIC INPUT
Staff has received no public input on this request.

USE PERMIT
The proposed front yard wall requires a Use Permit Standard, to allow up to 6 feet in wall height within the front yard within the R1-6 Single Family zoning district.

Section 6-308 E Approval criteria for Use Permit (in *italics*):

1. *Any significant increase in vehicular or pedestrian traffic*.
   The proposed use is a wall. The requested change to the wall height from four feet to six feet will not increase traffic to the property.

2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*. The Applicant is new to the residence, and after recently purchasing the home feels there is excessive traffic noise on Balboa Drive, that impacts his quality of life and enjoyment of his property. He wishes to enjoy a front yard patio with some privacy and buffer from traffic. The wall will not create a nuisance exceeding the level of the surrounding area.

3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan*. The applicant is making an improvement to the property. The proposed wall would have a pedestrian gate to get to the front door. There are no foreseen negative impacts to the surrounding area. Making the property livable for owner-occupied residents to enjoy their private space is supportive of the objectives of the General Plan for sustaining quality of life for neighborhoods.

4. *Compatibility with existing surrounding structures and uses*. The applicant indicated there are other similar front yard walls within the neighborhood. The R1-4 residences to the north have an architectural design that includes a courtyard style front yard as a standard feature. Smaller lot sizes often result in utilization of the front yard for outdoor open space enjoyment. The proposed wall is compatible with the existing architectural context.

5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*. The proposed use is for a personal single family residential use. The design of the wall will not be detrimental or disruptive to the surrounding community.

The manner of conduct and the building for the proposed use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and that the use will be in full conformity to any conditions, requirement or standards prescribed therefore by this code.

Conclusion

Based on the information provided by the applicant, and the above analysis, staff recommends approval of the requested Use Permit Standard. This request meets the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

CONDITION(S)
OF APPROVAL:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.

2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.

3. The materials and colors of the wall shall match or be compatible with the existing structure.

4. Plants planted within the right of way in front of the wall shall not have thorns or spines, and be not encroach onto the sidewalk.

5. Wall must comply with site visibility triangles at corner by driveway to provide safe exiting from drive into public right of way. This may be accomplished by lowering the wall within this portion of the design, or chamfering the design at an angle.

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

- Specific requirements of the Zoning and Development Code (ZDC) are not listed as a condition of approval, but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through www.tempe.gov/planning/documents.htm or purchase from Development Services.

- Any intensification or expansion of use, including shall require a new Use Permit.

HISTORY & FACTS:

August 8, 1972 Shalimar Estates #4, Certificate of Occupancy was issued for this residence. Subsequent to this, a permit for enclosing the patio was issued.

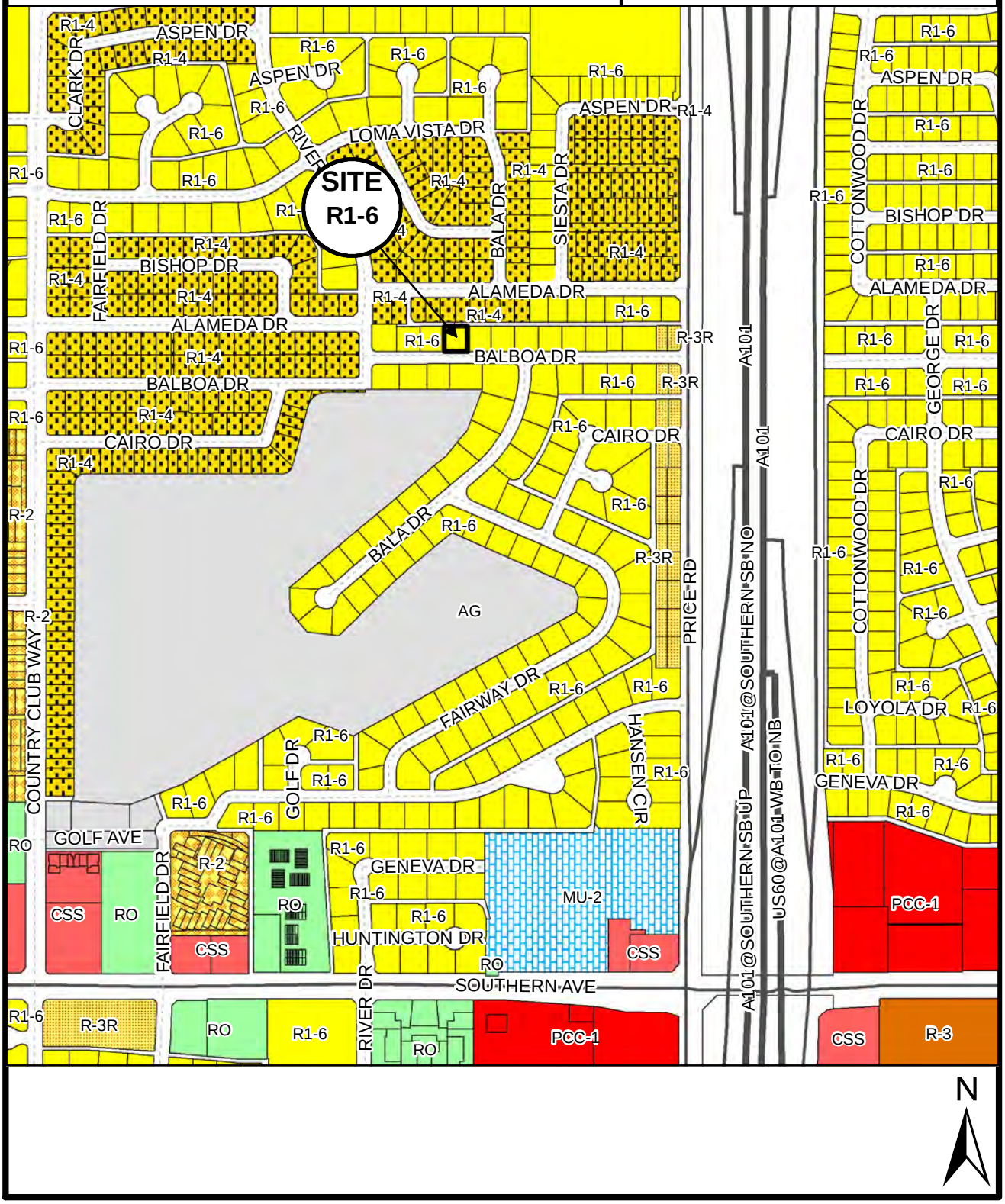
There are no outstanding code violations for this property and no relevant history for this request.

ZONING AND DEVELOPMENT
CODE REFERENCE:
Section 6-308 Use Permit

Tempe

DUBOIS RESIDENCE

PL120421



Location Map

DUBOIS RESIDENCE (PL120421)

Wouter Dubois, P.E.
2122 East Balboa
Tempe, AZ 85282

Planning Hearing Officer
City of Tempe Community Development Department
31 East 5th Street
Tempe, AZ 85271

December 9, 2012

Re: Traffic Noise Barrier for 2122 East Balboa

Dear Hearing Officer:

I am requesting a use permit in order to erect a six (6) foot wall in the front of my residence within the required front yard setback. The wall will be constructed from eight (8) inch concrete block with stucco finish to match the current stucco on the residence, and is intended to reduce the impact of traffic noise to the front of the house.

The proposed use requires a Use Permit as it is planned in excess of four (4) feet high and situated behind the utility easement three and a halve (3.5) feet behind the front property line.

We purchased the residence on October 12, 2012 and are in the process of upgrading. We were excited to live in this Tempe area and looked forward to be able to enjoy the Arizona winter sun on the secluded patio that is located in the front of this house (South side).

We just did not realize that our street is a favorite pathway back and forth to the Price Freeway Southbound Access Road. This translates to **frequent** passing of **rather fast moving** vehicles including motorcycles, and most of times accompanied by **unpleasant excessive noise.**

My request complies with stipulations under Section 6-308 E Approval criteria for Use Permit (in *italics*) as follows:

1. *Not cause any significant vehicular or pedestrian traffic in adjacent areas.*
   The proposed use has no impact to the frequency of vehicular or pedestrian traffic.

2. *Not cause any nuisance (odor, dust, gas, noise, vibration, smoke, heat or glare, etc.) exceeding that of ambient conditions.*
   Area behind the wall is planned for typical family activities that should not generate the identified nuisances.

3. *Contributes to the deterioration of the neighborhood or to the downgrading of property values.*
   The proposed use is not in conflict with the goals objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan. The wall with its planned decorative features will augment and enhance the appearance of the area. It is not an unrealistic assumption that this feature will increase the value of the property.

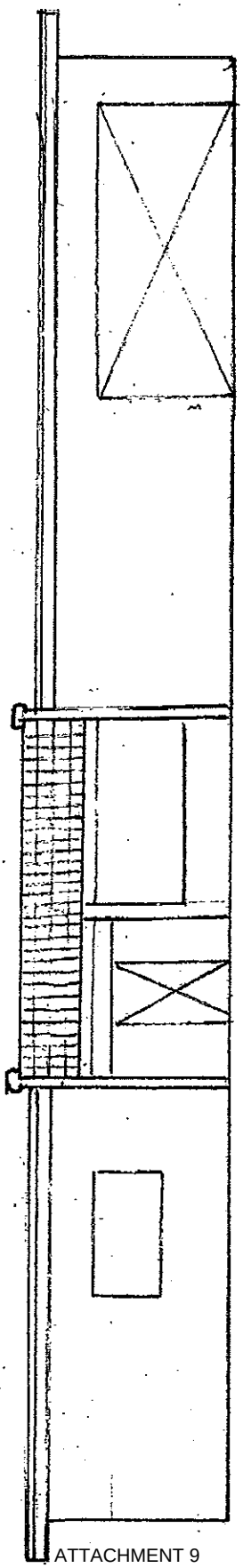
4. *Compatibility with existing surrounding structures and uses.*
   The existing residence is a single-story structure with a flat roof at 12 feet. House across the street from 2122 East Balbao has a blocked wall similar to the wall requested with this Use Permit. In addition, planting of appropriate vegetation and use of decomposed granite in the easement will generate similarity in the appearance of the front of the residences.

5. *Not result in any disruptive behavior which may create a nuisance to the surrounding area or general public.*
   As under (2), standard family activities only planned for area behind wall.

Thank you for considering my request.

Regards,

Wouter Dubois, P. E.

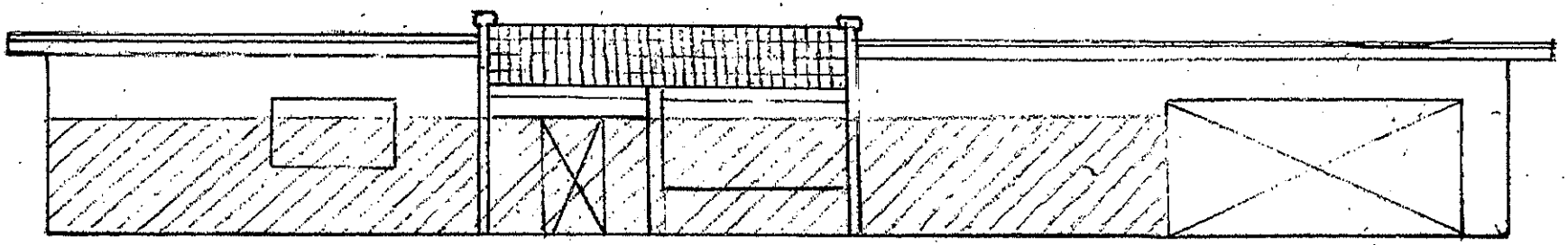


2122 E BALBOA

SOUTH ELEVATION

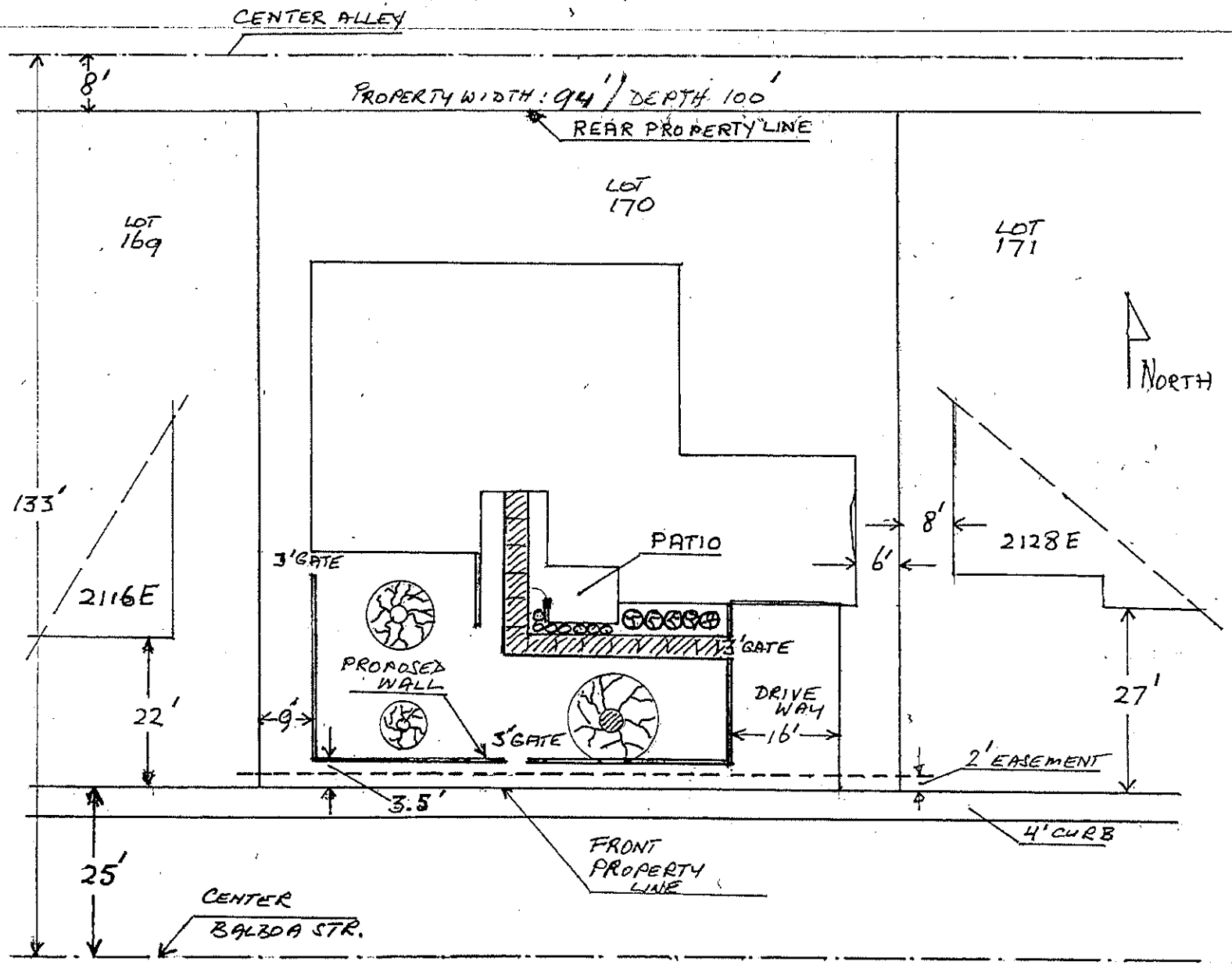
ATTACHMENT 9

ATTACHMENT 10



2122 E. BALBOA

6' WALL PROJECTED ON
SOUTH ELEVATION



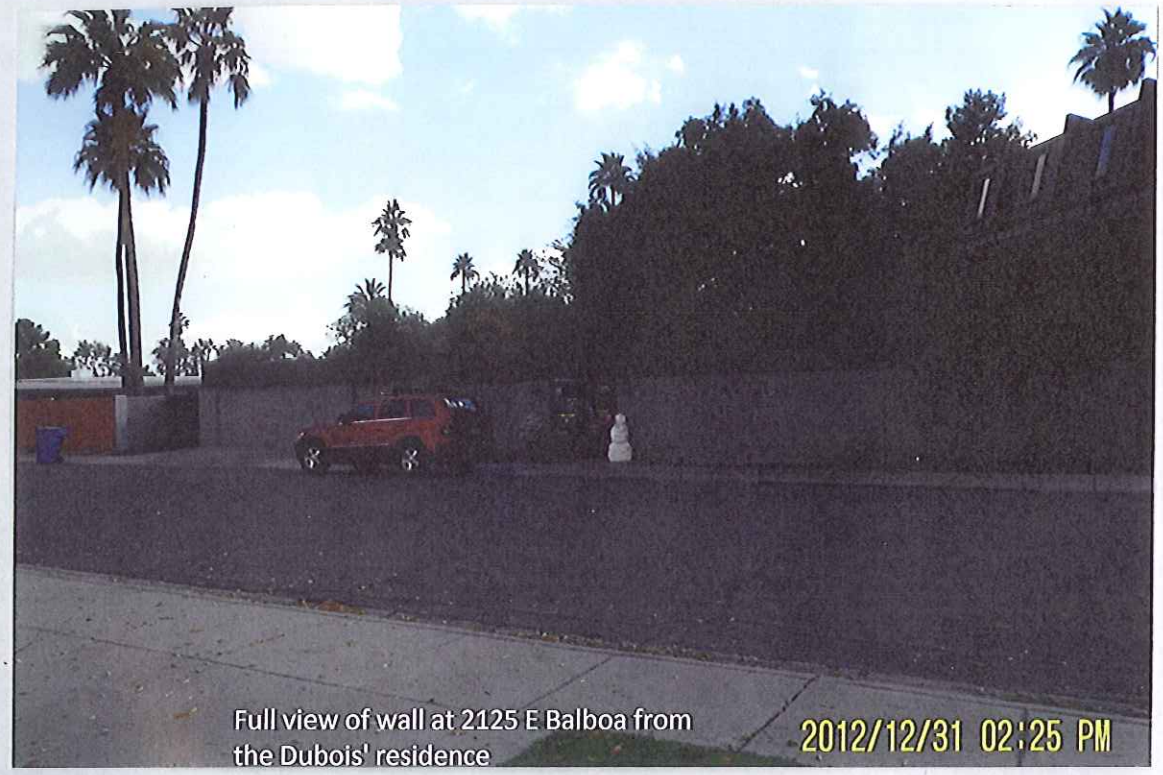
PROPOSED LOCATION 6' WALL, 8" THICK.

SITE PLAN
2122 E. BALBOA

ATTACHMENT 11

SITE PHOTOS FOR: DUBOIS RESIDENCE 2122 E Balboa PL120421

Street view


Full view of wall at 2125 E Balboa from
the Dubois' residence
2012/12/31 02:25 PM


Existing Wall on house across the
street
2012/12/11 12:48 PM


Design for proposed wall


Design for gate in
proposed wall

be submitted for review during building plan check process.
3. The materials and colors of the garage shall match or be compatible with the existing structure.

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7. Request approval for a Use Permit Standard to reduce the front yard setback by 20%, from 15 feet to 12 feet for the LYMAN RESIDENCE (PL120417) located at 1304 East Wesleyan Drive. The applicants are Jim and Karen Lyman.

Jim and Karen Lyman were present to represent this case.

Steve Abrahamson introduced the case. The request is for a Use Permit Standard to allow an open structure carport. The Lyman residence is located on the north east corner of Wesleyan Drive and Dorsey Lane. Open structures such as carports require a 15 foot setback in the R1-6 Single Family Residential District. The applicants are requesting approval of a 20% front yard setback reduction from 15 feet to 12 feet to accommodate a carport structure. Staff has not received any public input regarding this request. Staff recommends approval of the request.

Mrs. Lyman stated they wanted the carport to help reduce the ambient heat. She also presented a letter of support signed by seven neighbors. Mr. and Mrs. Lyman stated the design of the carport would match the house.

Mr. and Mrs. Lyman agreed to the conditions of approval.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit Standard:
1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:
Ms. MacDonald approved PL120417/ZUP12128 subject to the following conditions:
1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. The materials and colors of the carport shall match or be compatible with the existing structure.
4. The existing garage may not be converted into livable space without returning to the Hearing Officer for a Use Permit to allow primary vehicular parking within the front yard setback.

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8. Request approval for a Use Permit to increase the wall height in the front yard from 4 feet to 6 feet for the DUBOIS RESIDENCE (PL120421) located at 2122 East Balboa Drive. The applicant is Wouter Dubois.

Wouter Dubois was present to represent this case.

Steve Abrahamson introduced the case. This is a Use Permit request. Tempe Zoning and Development Code allows for a Use Permit to allow for fences and walls from 4 feet to 6 feet in the R1-6 Single Family Residential

District. The location of this home is on Balboa Drive just north of the Shalimar Golf Course, north of Southern Avenue just west of the Price Road/101 Freeway. The neighborhood is eclectic in style. The request is to allow for a fence in the front yard setback. The applicant is currently allowed to have a 4 foot fence or wall. The applicant would like an increase in height from 4 feet to 6 feet. This request is not uncommon. People like the fence or wall for safety, security and a number of different reasons. Staff is recommending approval based upon the Use Permit criteria. This request meets the requirements for a Use Permit. Several citizens have voiced their opposition to this request.

Ms. MacDonald noted letters of support/opposition for the record:

David and Frances Manning – support

Mark and Alonna Randall – opposition
Linda Akers – opposition
Rennie Rasp, opposition
Tom Brethauer, opposition
Gloria Lowe, opposition

Mr. Dubois stated he and his wife were very fortunate to buy a house in this neighborhood. His wife has over 50 ceramic pots of vegetation, mostly succulents. They would like to have a courtyard in the front yard to incorporate the plants. The house is located on a busy street and he does not believe a 4 foot wall would be high enough. The house across the street has a wall surrounding it. The Zoning Code allows a 6 foot wall with the approval of a Use Permit. Mr. Dubois stated he did not have time to communicate with the neighbors and felt the wall may be problematic.

The design of the 6 foot wall is to create a noise barrier for a more accommodating life style. He realizes he needs vision to the street. He would like to design a wall with openings. He stated the wall would be a Spanish type of design. The wall would blend into the house and the neighborhood. The wall would be stucco and mimic the house. A sandstone paint color would be used for the wall.

Ms. MacDonald stated the Traffic Engineering Department would have to review the plans. The Zoning and Development Code has clear vision requirements that apply to fences and walls. The current plans may need to be modified for safety reasons.

Mr. Abrahamson stated the Planning Division has no purview over the design elements in Single Family Residential Zoning Districts. The design elements include: colors, materials, textures and appearance in general. We need to assure the visibility angles are clear from a traffic standpoint.

Mr. Dubois stated he understood why the fence should be angled near the corner of the driveway for visibility. He stated this would give him an opportunity for additional landscaping outside the wall.

Ms. MacDonald noted condition number three which reads: 3. The materials and colors of the wall shall match or be compatible with the existing structure.

Mr. Dubois presented pictures of wall similar to what he would like to build. He stated there would be about 3.5 to 4 feet between the sidewalk and the wall. He would like to incorporate a variation of pavers, granite and plants between the wall and the sidewalk. The gate would be about 3 foot tall and you would be able to see the front door of the house. Mr. Dubois feels a lot of the opposition may be from the lack details of the wall. This project will complement the neighborhood.

Mr. Dubois agreed to the conditions of approval.

Tom Brethauer stated he is not in favor of the wall. The noise levels are from being located in a vibrant city. A wall in the front yard is not going to stop the noise. The homes in the neighborhood are located in the Shalimar Estates. The house across the street with the wall was built in the early 1960s. It is a very unusual design. The

sides of the house face north and south rather than east and west. The north side of the house is almost out to the street near the west boundary of the lot. The south side of the house is next to the golf course. A detached garage is located on the west. The fence is located between the detached garage and the side of the house near Balboa Drive. This is the only house in the neighborhood with a fenced in front yard. The only exceptions are short 3 foot walls or rod iron fences. A wall in the front yard would look like a misfit in the neighborhood. It would look like something a drug dealer would want so no one could see in the house or something an immigrant smuggler would want to use as a drop house. It is contrary with the neighborhood. Mr. Brethauer lives next door to Mr. Dubois and the wall would drastically block his view from his front window. The wall would also create a safety hazard. His grandson and other kids playing in the front yard will not be able to see cars coming from that direction. If his grandson runs into the street and gets hit by a car he will hold Mr. Dubois and the City responsible if they approve the wall. If Mr. Dubois wanted a fenced in yard he should have bought one of the townhouse villas, they all have fenced in front yards. The wall will also decrease the value of the houses.

Neil Bearce agrees with everything the last speaker stated. He lives on the west side of Mr. Dubois. The wall is absolutely out of context with the neighborhood. It is unfortunate Mr. Dubois did not do his homework before he bought the house. This would be an absolute eye sore and detract from the value of the other homes in the neighborhood. The Shalimar Estates are all custom homes. It seems the primary reason Mr. Dubois wants to build the wall is due to traffic on Balboa Drive. Mr. Bearce visited the Engineering Department in Public Works this morning. Balboa Drive is a residential street. Residential streets have up to 500 cars per 24 hour period, .36 cars per minute. There are no school buses, city buses or large commercial trucks on Balboa Drive. The Sanitation Department runs a garbage truck about three times a week, usually between 8:00-9:00 a.m. Mr. Bearce has lived in his home for 28 years. He works in his garage and is in his front yard about five days a week between 4-5 hours. Between 6:00-9:00 a.m. this morning he counted 47 cars on Balboa Drive, this includes rush hour. Balboa Drive is not a noisy or busy street. The speed limit is 25 miles per hour. Balboa Drive is not a major thoroughfare. There are nine exits between Broadway Road and Southern Avenue on to Price Road. A wall would detract from the neighborhood.

Dawn Sinclair is opposed to the applicant's wall in the front yard. This proposal destroys the architectural integrity of a rather unique neighborhood. The house across the street with the fence was built in the 1960s at a time when the zoning was very different. The zoning regulations were ignored because a well know architect built that home. The architect did a lot of work for the City of Tempe. That house and fence would not be able to be built there today. The neighborhood should not be able to have fence wars. That is not the neighborhood she bought into. The neighborhood has villas near it. The villas are referred to as walled villas. The proposed wall would turn Mr. Dubois home into one of those walled villas. Mr. Dubois should have bought a walled villa if that is what he wanted. The neighborhood is very open and you can see up and down the street. The wall just doesn't fit into the neighborhood. The safety concerns of the neighbor are very well placed. There is not an enormous amount of traffic on Balboa Drive. There is enough traffic that building a wall is going to block the visibility for drivers as well as children playing. The reasons that Mr. Dubois wants to build the wall are things he should have considered before he bought the home. She believes this will decrease her property value. The wall is not compatible with the existing structures and it will downgrade property values.

Mr. Dubois returned to address the issues brought up by neighbors. He understands each person's perspective. At the same time he is trying to achieve something that is available through the Zoning Code. He does not feel the wall would be detrimental to the neighborhood. He is following the process to ask for a Use Permit to heighten the wall from the allowable 4 feet to 6 feet. He is concerned that there would be opposition to a 4 foot wall. He feels his request and submittals have satisfied the requirements and criteria of the Use Permit. He would like to see an approval of his request.

Ms. MacDonald stated these cases are troubling because she can see both sides of this issue. She can understand the neighbors not wanting something they perceive to impact their property. At the same time she understands the applicants desire to improve his property within the constraints of the code.

Ms. MacDonald noted that this request meets four out of the five criteria for a Use Permit:
1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.

3. It won't contribute to the deterioration of the neighborhood. **Property owners believe this will decrease their property values. Mr. Dubois believes it will increase his property value. Ms. MacDonald stated it is all in perception and how you view the function of the wall. She does not believe it will contribute to the deterioration of this neighborhood.**
4. Compatibility with existing surrounding structures and uses. **She does not think it is compatible with existing surrounding structures and uses. The wall is out of character with the neighborhood.**
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:

Ms. MacDonald approved PL120421/ZUP12129 subject to the following conditions:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. The materials and colors of the wall shall match or be compatible with the existing structure.
4. Plants planted within the right of way in front of the wall shall not have thorns or spines, and be not encroach onto the sidewalk.
5. Wall must comply with site visibility triangles at corner by driveway to provide safe exiting from drive into public right of way. This may be accomplished by lowering the wall within this portion of the design, or chamfering the design at an angle.

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9. Request approval for a Use Permit to allow a fitness facility in the General Industrial District for REVOLUTION TRAINING SYSTEMS (PL120422) located at 606 West Southern Avenue, Suite 2. The applicant is Michael Peltz.

Michael Peltz was present to represent this case.

Steve Abrahamson introduced the case. This is a request for a fitness facility in the General Industrial District. The property is located at the north west corner of Southern Avenue and Roosevelt Street. The request is required through the Zoning and Development Code. A fitness facility or a gym in the GID requires a Use Permit because it is a different use than the other uses in the area. The parking ratios are different and generally they have different hours than most of the industrial uses. Staff has not received any input from the public. Staff is recommending approval of the Use Permit.

Ms. MacDonald noted condition number five which reads: 5. All fitness training shall be conducted inside the building, not outside.

Mr. Peltz agreed to the conditions of approval.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:

1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:

Ms. MacDonald approved PL120422/ZUP12130 subject to the following conditions:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may

January 16, 2013

Development Review Commission
City of Tempe
31 E. 5th Street
Tempe, AZ 85282

Re: Appeal of Approval of Use Permit for Dubois Residence at 2122 East Balboa Drive

Dear Chairman and Commission Members:

I am the named applicant for the appeal but I write on behalf of my neighbors as well as myself in requesting that the Commission reconsider and reverse the Hearing Officer's January 2, 2013 decision to grant a permit to erect a six-foot wall, almost to the street, on all three sides of Mr. Dubois' front yard. We respectfully disagree with the Hearing Officer's determinations that the project will not contribute to the deterioration of the neighborhood by decreasing property values and does not pose a risk with respect to disruptive behaviors. Additionally, we urge that although the Hearing Officer found that the proposed wall is not compatible with existing structures and uses, she did not afford that factor sufficient weight in her decision.

Tempe prides itself on being a city of neighborhoods with distinct personalities. It names its neighborhoods. It gives grants to those who wish to better them and awards to those who bave done so. It sponsors events such as Neighborhood Day at the Legislature. The City has a Neighborhood Services Division whose publicly-stated purpose is to improve and preserve neighborhood vitality. That vitality includes a neighborhood's unique character.

The Shalimar neighborhood, the site of the proposed project, was one of the first custom home neighborhoods in Tempe. Over the years, the neighborhood has developed into more than a geographic designation; Shalimar has become a community whose members have social ties to each other and who have worked together over the years to promote the quality of life in our neighborhood, including protecting its uniqueness.

Part of Shalimar's community "feel" and uniqueness derive from the architecture of the neighborhood. Balboa Drive is a wide street lined with custom homes with wide-open front yards. That openness undoubtedly contributed, at least in part, to making Shalimar the community that it is today.

Shalimar's unique character generally and the open feel of Balboa Drive in particular are threatened by the proposed project. The permit would allow the residence and its entire yard, save a few feet, to be surrounded on three sides by a six-foot high wall – a veritable fortress when compared to the surrounding homes. Some homes in Shalimar have shorter walls that enclose front patios or serve decorative purposes. All of those shorter walls are set back substantially from the street. Only one home in Shalimar has a fence as high or extensive as the proposed wall: the home across the street from the proposed project, built by a renowned

architect long before the current zoning regime existed. We believe that other than the Santo Tomas villas – a separate and architecturally distinct neighborhood – no walls surrounding a front yard on all three sides such as that proposed for the Dubois residence exist in the immediately adjacent neighborhoods. Indeed, we understand that few such walls exist anywhere at all in Tempe.

The wall's incompatibility with the surrounding homes and those in adjacent neighborhoods will do more than mar the aesthetic beauty of the Shalimar neighborhood and change its open feel. That incompatibility also will harm property values in Shalimar, particularly on Balboa Drive. Preliminary discussions with realtors who do business in the Shalimar neighborhood indicate that construction of the proposed wall will both decrease the selling price of homes in the area and increase time on the market, which can have a substantial dollars-and-cents impact on a selling homeowner. We anticipate that at least one of those realtors will speak to the Commission at the hearing.

Finally, the proposed project poses safety risks to neighborhood children and grandchildren visiting the neighborhood. Oncoming traffic will not be visible to children playing in the front yards of the houses next to the project site and possibly in the yards of the houses next to those. Although Balboa Drive is not a major thoroughfare and traffic is light, the increased risk of injury to children is a substantial concern for many neighbors. To the extent that the proposed walls create a safety risk, they are disruptive to the neighborhood.

We can discern no need to construct fortress-like walls in an open neighborhood of single family homes, and indeed no need that would justify the negative effects on the neighborhood as a whole. The crime rate in Shalimar is not sky-rocketing, the streets are not heavily-traveled, and what traffic noise occurs is minimal.

My neighbors and I are nearly unanimous in our opposition to the project and hope for the opportunity to share our positions with you at the hearing.

Sincerely,

Dawn R. Sinclair
2110 East Balboa Drive
Tempe, AZ 85282

February 20, 2013

Development Review Commission
City of Tempe
31 E. 5th Street
Tempe, AZ 85282

Re: Appeal of Approval of Use Permit for Dubois Residence at 2122 East Balboa Drive

Dear Chairman and Commission Members:

We would like to take this opportunity to supplement the letter submitted with the appeal application to allow you time to review materials in advance of the hearing.

As discussed in the January 16, 2013 letter, Tempe has very publicly expressed its pride in and concern for its neighborhoods, as shown in the information the City provides on its website. (Attachment 1.) The Neighborhood Services Division page indicates that among the Division's purposes is identifying and resolving neighborhood issues, recognizing that those issues impact the quality of life for Tempe residents. The Neighborhood Advisory Commission is intended to build on neighborhood strengths and prevent the decline of neighborhoods. The City promotes improving its neighborhoods through workshops and awards. The City even hosted a Neighborhood day at the Legislature, where Tempe residents could talk to legislators about their neighborhoods and find out how proposed legislation might impact their communities.

It is our sense of community, our pride in our Shalimar neighborhood, and our concern about the impact of the wall proposed to be built at 2122 East Balboa that motivated me and my neighbors to oppose the project. We ask that this Commission reverse the hearing officer's decision.

We submit that her decision was wrong for a number of reasons. First, the decision should not be based on mere number of factors met and the factors should not be afforded equal weight as doing either renders the approval process a mechanistic, perfunctory ritual that always favors the applicant and would always result in approval. Second, although the hearing officer correctly found that the proposed wall was not compatible with existing architecture, she did not afford that factor sufficient weight. Third, the hearing officer was incorrect that the wall will not adversely impact home values throughout the Shalimar neighborhood. Fourth, the hearing officer did not consider safety issues or neighborhood opposition, the latter omission rendering the public hearing process essentially meaningless. Last, the needs that the applicant indicated warranted the construction of a walled fortress simply do not exist.

Evaluation Criteria

The hearing officer noted that she was required to consider five factors in determining whether to grant a permit. She granted the permit because she believed that four of the five factors fell in favor of the applicant. (Transcript, Attachment 2, at page 16, lines 14-15.)

However, three of those factors arguably do not apply to a request to increase front yard fence height as they likely never would be implicated in such a project. It is difficult to imagine a fence that would increase vehicular or pedestrian traffic, regardless its height. It is almost impossible to imagine that increasing fence height would ever create a nuisance in the form of odor, dust, gas, noise, vibration, heat, smoke, or glare. And it is unlikely that increasing the height of a fence would make it difficult or impossible to control behavior inside or outside of the fence. These criteria may apply to other residential projects and to commercial properties, but they certainly do not apply to increasing the height of a fence.

Because these three factors automatically fall in favor of the applicant for such a project, basing the decision on the number of factors met or affording the irrelevant factors equal weight with the two factors that are relevant – compatibility with existing structures and decrease in property values or other deterioration of the neighborhood – automatically results in approval. It is unlikely that the City intended to stack the deck against those who oppose a fence height increase, but that is the result of a mechanistic application of the factors. The approvals process becomes a numbers game instead of an individualized analysis of a particular application, and there is no need for a hearing if the applicant wins based on three irrelevant factors that those in opposition cannot possibly controvert. Accordingly, this Commission should give very little or no weight to the traffic, nuisance, and disruptive behavior factors and instead focus its decision on the compatibility and anti-deterioration factors.

Compatibility With Existing Structures

Although the hearing officer found that the proposed wall was out of character with the existing neighborhood, she did not afford that factor the weight it deserves. As discussed above, this factor should be given more weight than the traffic, nuisance, and disruptive behavior factors.

As the aerial photo included as Attachment 3 illustrates, Shalimar is an open neighborhood with wide streets and wide-open front yards. Many homeowners have created beautiful private spaces in front of their homes without erecting six-foot walls around the entire perimeter of their front yards. We invite Commission members to drive or walk the streets of Shalimar and see for themselves the extent to which the proposed wall will be out of place. Imagine the short walls shown in Attachment 4 – walls that now run down the property lines between the 2122 Balboa house and its neighbors, extended upwards to 6 feet and across the entire front yard almost to the street. The existence of a walled fortress in Shalimar is more than merely incompatible with the other homes on Balboa – it would be markedly different than any other home in the entire Shalimar neighborhood.

That a single tall fence stands in front of the house across the street from the site of the proposed wall is not relevant to whether Mr. Dubois should be able to construct his wall. The home with the existing fence, currently owned by Andrew Ching and Christine Cirillo-Ching, is a Frank Lloyd Wright-style home designed and built in the mid- to late 1960s by famed architect Michael Goodwin, whose designs include such Tempe landmarks as the City of Tempe Municipal Building, the Mathematics Tower at ASU, the Physics and Geology Facility at ASU, the Advanced Chemistry Building at ASU, Corona Del Sol High School, Marcos De Niza High School, and the Curry Elementary/Connolly Middle School complex near Shalimar. The home,

which has had a front fence since the home was built, is a unique architectural gem with special historical significance for Tempe. (See undated flyer advertising the home for sale and undated photographs, included as Attachment 5.) It should not be the basis of some self-driven competition to build a bigger, higher wall. (Attachment 2 at 4, lines 22-23, wherein applicant states that he wants to give Mr. Ching a run for his money and build a wall "superseding what he has.") Indeed, "outdoing" the architecturally unique fence in front of the Ching/Goodwin residence may well undermine one of the features that give the Ching/Goodwin home its special value to the Tempe community.

That Shalimar is surrounded on two sides by the walled Santo Tomas villas also is not relevant to whether Mr. Dubois should build his wall. The villas are a separate and distinct community, not intended to look like Shalimar. Nor was Shalimar intended to look like the villas. The villas are built in identical fashion, each with a courtyard-style front yard surrounded by tall walls. Shalimar, on the other hand, is a neighborhood of custom homes, each unique and each set on substantially more land than the villas. According to records at the County Assessor's Office, the villas immediately north of the 2122 East Balboa house sit on 5400 to 6200 square feet of land; the 2122 East Balboa residence, by contrast, sits on an approximately 9,400 square foot lot. In short, the need to use almost all of the front yard as a courtyard does not exist for the 2122 Balboa residence as it does for the villas.

Mr. Dubois' request to construct a six-foot wall entirely around his residence is rare not only as it concerns Shalimar, but as to the rest of Tempe as well. According to hearing officer agendas, there have been only 13 requests for front yard fence height increases since January 1, 2008. None are similar in character or placement to the fence requested for the 2122 East Balboa house:

- Eight did not involve a fence in front of the house. Rather, these requests concerned what were actually side yard fences. In most instances, the house was situated on the lot such that the front of the house faced what was designated as a side property line and the side faced what was designated as a front lot line. Accordingly, the owner had to request an increase in front-yard fence height in order to build a side yard fence or a fence enclosing a side yard.
- One request was for the installation of an eight-foot arch in an existing four-foot high wall, not the construction of an entire eight-foot wall.
- One request involved increases in the existing walls enclosing a patio. The wall did not run across the entire front of the house and was set well back from the street.
- One request involved a wall that was not continuous but instead two separate segments, both set back some distance from the sidewalk.
- Homeowners building a residence on Rural Road requested a permit to construct a fence across the entire length of the front yard. City staff noted that the placement of the house facing a major arterial street constituted a "special circumstance," a consideration not found in the Dubois case. Additionally, the fence was set back some eight-and-a-half feet from the street.
- One request involved replacing part of a deteriorating and unsightly chain-link fence with wrought iron, not a solid fence.

- In ten instances, the applications were unopposed by neighbors. In another instance, the hearing was continued to allow the applicant to resolve the neighbor's concerns. (No information concerning neighborhood input was available for two applications.)

(Attachment 6 contains a summary of the 13 applications and the staff reports and minutes concerning each.) All in all, the insertion of a fortress into the middle of a neighborhood would be nothing less than the first of its kind.

Property Values

The impact of the proposed wall on property values is more than a matter of the perceptions of Mr. Dubois, who believes the wall will increase his property value but does not address the value of the other homes in the neighborhood, and those who oppose the wall in part because they believe it will decrease property values throughout the neighborhood. (See Attachment 2 at page 9, lines 18 to 19; page 14, line 27 to page 15, line 1; and page 15, line 27 to page 16, line 3.) It is matter of the professional opinions of at least two, and arguably four, real estate agents familiar with Shalimar.

Two agents who do not live in the Shalimar neighborhood but have represented houses there, and would like to continue doing so, have opined that constructing the wall will negatively impact both the selling price of houses and the time on the market, which also carries a financial impact to owners. A letter from Beth Backus Roth, who represents the seller of a house on Balboa, is included as Attachment 7. A letter from Amy Jones, who represents another seller on Balboa, is included as Attachment 8.

Additionally, two real estate agents who live in the Shalimar neighborhood – Carl Streiff and Joe Brekan – both signed the petition in opposition to the wall. If either had believed that the wall would enhance the value of their own homes or of homes they might represent in the future, they likely would not have signed the petition.

The City's lack of authority to control the appearance of the wall if it is approved also is a concern. There is no guarantee that the applicant will build the wall in the design proposed at the hearing. As the planner reiterated several times, the City has no power to review or disapprove any design element, including color, material, texture, or appearance in general, even with a condition or stipulation in the permit concerning appearance. (Attachment at page 6, line27 to page 7, line 25.) The applicant's lack of a final design, (Attachment 2 at page 8, line 20 to page 9, line 10), coupled with his desire to outdo the Ching/Goodwin residence fence, could result in a wall that endangers property values even more than now envisioned by the real estate professionals.

Safety Considerations

The hearing officer did not consider the safety of children playing in the neighborhood as part of her decision process, instead considering only the five criteria discussed above. (Attachment 2 at page 15, line 16 to page 16, line17.) Safety should be a consideration in any decision involving neighborhoods. Even if minimum visibility standards are met, the wall poses a risk for children,

as expressed in the letter included as Attachment 9, from the neighbor immediately to the east of the proposed wall.

Neighborhood Opposition

The hearing officer similarly did not consider the opposition from neighbors as such opposition is not one of the five criteria set out in the regulations. (Attachment 2 at page 15, line 16 to page 16, line17.) That omission is inexplicable. First, public input – favorable and in opposition – is a matter generally considered by staff and noted in staff's reports. (See Attachment 6.) Second, failure to consider the comments of those who write to the hearing officer or appear at a public hearing renders the public hearing superfluous and essentially meaningless. It cannot be the intent of the City, which requires public hearings and provide notice of those hearings, that the hearing officer adhere to a formalistic analysis that ignores input that the City has solicited.

The homeowners in the Shalimar neighborhood are strongly opposed to the construction of the wall. Of the 96 homeowners we were able to contact (excluding the applicant), 85 signed the petition in opposition to the wall. Only ten expressed approval for the wall or otherwise declined to sign the petition. (The owners of the Ching residence remain neutral due to employment with the City.) The petitions and a map of the Shalimar neighborhood indicating the homeowners in opposition, those who declined to sign, and those we were unable to contact are included as Attachment 10.

No Need For The Wall

Mr. Dubois explained at the hearing that the primary purpose of the wall is to serve as a noise barrier. (Attachment 2 at page 5, line 9.) He claimed that in the few days that he was in his front yard, he was taken aback by "cars speeding excessively, cars overtaking each other" and a "thundering sound" from all of the traffic on Balboa. (Attachment 2 at page 4, lines 8 to 14.) The speakers in opposition, who have lived on Balboa and observed its traffic patterns far longer than Mr. Dubois, respectfully disagreed at the hearing and, with their neighbors who have signed the petition, continue to disagree that Balboa – or any other street in Shalimar – is thunderously loud, dangerous, and filled with speeding cars careening out of control.

Other facts further belie Mr. Dubois' claim about the extent of traffic and accompanying noise on Balboa. The City considers Balboa to be a residential street. Accordingly, the City has set the speed limit at 25 mph and has not seen fit to install traffic calming devices. Those devices would have been installed if traffic was excessive and the neighbors complained, as surely they would if cars were racing up and down the street, overtaking each other. Moreover, Balboa is not long enough to serve as a drag strip and its layout is not conducive to use as a shortcut from Price Road and Loop 101 exit ramp traffic. Head west on Balboa and one deadends at River, a short 12 houses from Price. (See Attachment 10.) Those not familiar with the neighborhood are left to wander among the Santo Tomas villas until they come to Country Club, and then to Southern. The bend in Balboa as it curves slightly south onto River before turning to become Balboa again, serves to slow traffic down. As a rule, only those who live in the neighborhood or are visiting here travel Balboa or the other streets in Shalimar.

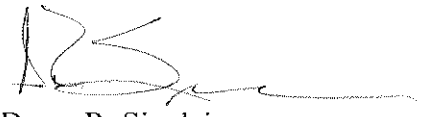
Mr. Dubois also expressed a desire for privacy in his front yard. As mentioned earlier, many Shalimar homeowners have created private spaces without disturbing the character of the neighborhood or home values. Mr. Dubois can do so as well. As some homeowners have, Mr. Dubois could increase the height of the existing patio walls, creating privacy without encroaching on the sidewalk and street and blocking his neighbors' views.

Conclusion

All in all, the wall is contrary to the City's objectives. It does not improve the neighborhood – it deteriorates it. In the past, City staff have recommended approval of fence height increases that create courtyards because those courtyards bring residents closer to the street, foster a greater sense of community, and possibly deter crime by increasing awareness of activity on the street. (See Attachment 6, staff reports for Youngbull and Rosen residences.) That is not Mr. Dubois' intent and will not be the result here. To the contrary, these homeowners wish to wall themselves off from their neighbors, to remove themselves from the community. They will not be closer to the street, the wall will not foster a sense of community, and they will be less able to see activity on the street.

The hearing officer clearly had misgivings about her decision, saying that she wished that the homeowner would not build the wall, (Attachment 2 at page 16, lines 6 to 7), that this case was a close call, and that she was comforted that there is an appeals process whereby the neighbors could take the issue to "a different level," (Attachment 2 at page 17, lines 2 to 5). You are that level. We ask that the Commission reverse the hearing officer's decision and deny the permit for the wall at 2122 East Balboa.

Sincerely,



Dawn R. Sinclair
2110 East Balboa Drive
Tempe, AZ 85282

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Steve & Jackie WARGO	2180 E BALBOA DR	Jackie Wargo
[illegible]	2116 E. BALBOA	NEIL R. BEARCE
Jeff Modares	2102 E. Balboa Dr.	[illegible]
Sandra Cruz	2102 E Balboa Dr.	Paty Cruz
Tom Brethauer	2122 E Balboa Dr.	Tom Brethauer
Cheri Brethauer	2128 E. Balboa Dr.	Cheri Brethauer
John Lowe	2175 E BALBOA DR	John Lowe
Gloria Lowe	2175 E Balboa Dr.	Gloria Lowe
[illegible] SINCLAIR	2110 E. BALBOA	[illegible]
Jim & Carol Denton	2168 E. Balboa Dr.	Carol Denton
[illegible] Moroney	2160 E. BALBOA DR	[illegible]
Peggy Moroney	2160 E BALBOA DR	Peggy Moroney
J. Mark Randall	2174 E. BALBOA DR	[illegible]
Deborah Holen	2110 E Balboa Dr	Deborah Holen
Linda A. Akers	2101 E. Balboa Dr.	Linda A. Akers
Alonna K. Randall	2174 E Balboa Dr	Alonna K. Randall
CANDACE KENT-MEAD	2159 E Balboa Dr	[illegible]
BRIAN MEAD	2159 E. BALBOA DR	[illegible]
Ann Engel	2136 E. Balboa Dr.	[illegible]
Bonnie Bristol	2152 E. Balboa Dr.	Bonnie Bristol

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Kendre Simmons & Douglas Cosart	2183 E. Balboa Dr.	
Lynn Linton	2167 E Balboa Dr.	
Jameson Brent + Lorraine	2144 E Balboa Dr	E-mail from Africa
Irene Neuheisel	2109 E Balboa Dr	

From Brent and Lorraine Jameson: 2144 E. Balboa
Serving as missionaries in Democratic Republic of the Congo
They will return to Tempe in July 2013

We do feel very, very strongly against that kind of a wall around the front of the home. We would be happy to have your represent us in voicing that opinion. It would be a problem for all those reasons and we would hate to see that happen.
If we need to do anything else to add our voice to the rest of the neighbors, please let us know.
Thanks for letting us know.
Lorraine

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
William Kerr	2901 S Bala Dr	William Kerr
Kristen Hermann	2901 S. Bala Dr.	
Scott Caldwell	2847 S. Bala Dr	
John Willis	2909 S Bala Dr	
Richard Fries	2923 S Bala Dr	
Nick Coburn	2911 S Bala Dr	
Dick Jones	2920 S Bala Dr	
Paul Kunze	2932 S. Bala Dr.	
M. Camille Madden	"	
Michael Doyle	2926 S. Bala Dr	
Adriana Johnston	2917 S. Bala Dr.	
MELVIN KESSLER	2818 S. BALA DR	
GAIL FISHER	2818 S. BALA DR.	
Tim Owens	2808 S. Bala DR. Tempe, AZ 85282	
Elizabeth Wentz	2800 S Bala Dr Tempe AZ 85282	
Patrick Valandra	2800 S. Bala dr. Tempe 85282	
Magdalena Lukitu	2805 S. Bala dr Tempe 85282	
June A. Mikkila	2815 S. Bala DR. Tempe	
Jack Hinze	2168 E Cairo Dr Tempe	
Sandi Hutson	2176 E CAIRO DR	

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Van den Broeck Johanna	2155 E Cairo Circle	J. Van den Broeck
Van den Broeck, Herman	2155 E. Cairo Circle	
Daryl Vierra	2906 S. Bala Dr.	
Robert W. Lewis	2148 E Cairo Dr.	
Michelle Bruckner	2839 S. Bala	
WERNER BRUCKNER	2839 S. BALA DR.	
KARLI VIERRA	2906 S. BALA DR.	

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Lauren Dickson	2829 S. Fairway	Lauren Dickson
Joanne Farina	2837 S Fairway Dr.	Joanne Farina
Scott Maxwell	2903 S. Fairway Dr.	Scott Maxwell
Sherman Tingey	2909 S Fairway Dr.	Sherman Tingey
Kathleen Tingey	" "	Kathleen Tingey
Lukerenz	2924 S Fairway Dr.	
Cheryl Allen	2832 S FAIRWAY	Cheryl Allen
Diane Shumway (Didney Shumway)	2845 S. Fairway Dr.	Diane Shumway
Rex Shumway	2845 S. Fairway Dr.	Rex Shumway
JOANN TEAGUE	2908 S. FAIRWAY	Joann Teague
ROBERT TEAGUE	" "	Robert Teague
MANNY BUSTAMANTE	2940 S FAIRWAY DR.	M
Richard Barmore	2941 S Fairway Dr	Richard Barmore
Charlotte Barmore	2941 S. Fairway Dr	Charlotte Barmore
TIM HALL	3000 S. FAIRWAY DR.	Hall
Jill VanBruint	2937 S. Fairway Dr.	
Jeff VanBruint		
Carl Streiff	2945 S. FAIRWAY DR	
Rachel Streiff	2900 S. Fairway Dr.	
DELAINE WILLIAMS	2926 S. FAIRWAY DR.	Delaine Williams

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Mary Lohr	2948 S. Fairway Dr. Tempe AZ 85282	Mary E. Lohr
Mildred Wager	2848 Fairway Dr	Mildred Wager
Pat Bustamante	2940 S. Fairway Dr	Pat Bustamante

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
JIM DALTON	3040 S. FAIRWAY DR	
Treena Kay	3018 S Fairway	
PATRICIA KNUTESEN	3100 S. FAIRWAY DR	
CHARLES KNUTESEN	3100 S. FAIRWAY	
Dale R. Sweetwood	3029. S. Fairway Dr.	
Peggy Tillett	" "	
CHARLOTTE CONNOR-BEARCE	2116 E. Balboa	
Alexandra Daller	3047 S Fairway Dr	
Janeen Pehovit	3013 S. Fairway Dr	
Steven C Cobb	3013 S Fairway Dr	

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Nadine Campbell	3016 S Fairway Dr	NADINE CAMPBELL

ATTACHMENT 35

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
FLORENCE REEVES	3108 S. GOLF DR.	Florence Reeves
Peggy Randolph	3101 S. Golf Dr. Tempe AZ	
Heather McCook	2094 E Golf Ave, Tempe 85282	HeatherMcCook
Avery D. Helm	2069 E. Golf Ave, Tempe 85282	Avery D. Helm
Lynne Nikolay	2077 E. Golf Ave. Tempe 85282	Lynne Nikolay
CARL W Smith	3102 S. GOLF DR TEMPE 85282	Carl W Smith
Joyce Adkins	2101 E. Golf Ave Tempe AZ 85282	
	2091 E. GOLF AVE TEMPE, AZ 85282	

PETITION

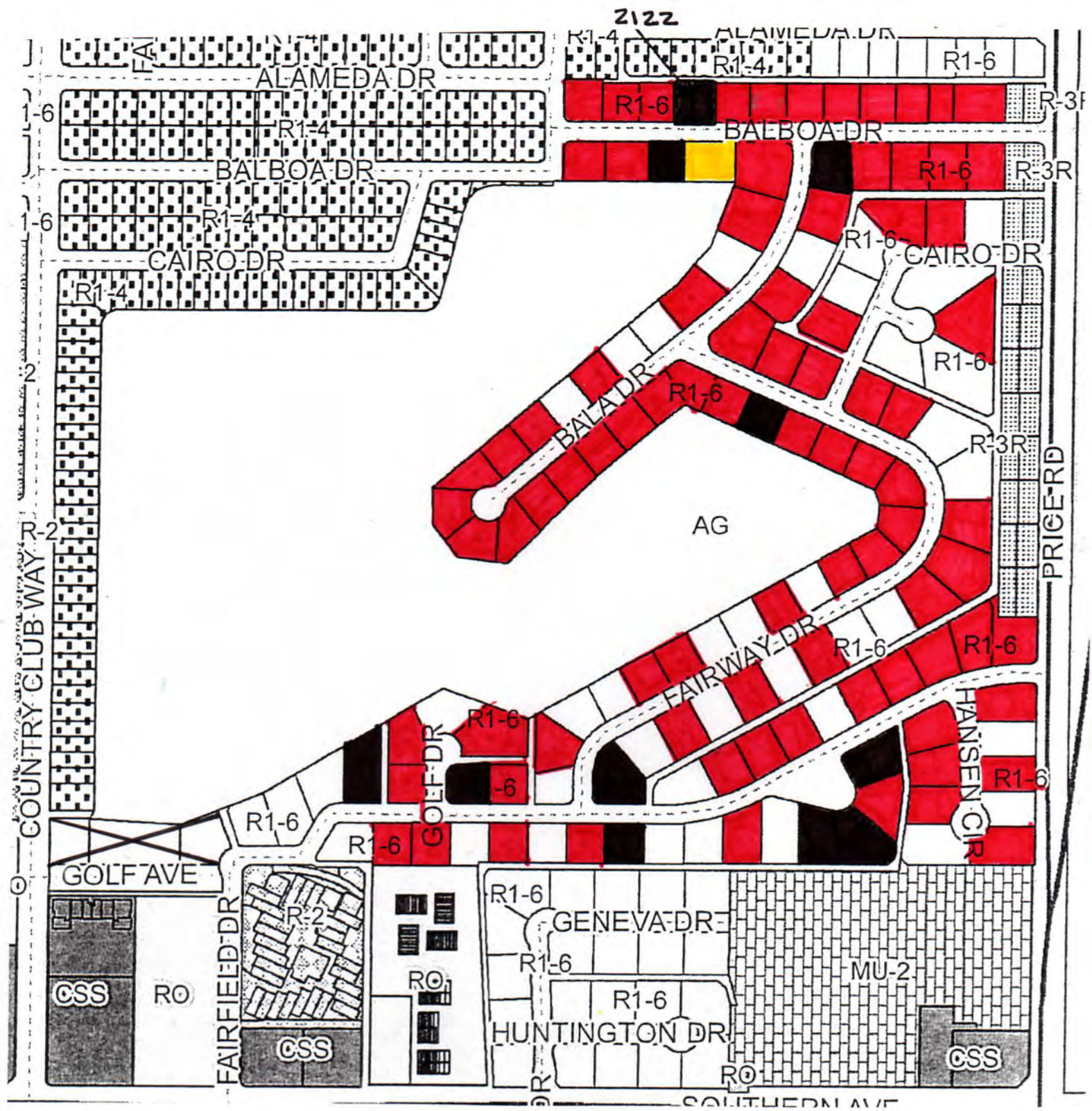
We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Randall B. Schmidt TEMPE, AZ 85282	2166 E. GOLF AVE. #3	
Katie Schmidt	2166 E. GOLF AVE	Katie Schmidt
Debra Clegg	2152 E. Golf Ave	Debra Clegg
Elaine Pallay	2140 E Golf Ave	Elaine Pallay
Lynne S Tolman	2132 E Golf Ave	Lynne S Tolman
Robin Svensson	2133 E Golf Ave	Robin Svensson
Michael L Bunk	2157 E GOLF AVE.	Michael L Bunk
[illegible]	2172 E Golf Ave	[illegible]
Vicki L. Gibbons	2184 E. Golf Ave.	Vicki L. Gibbons
Joe Backman	2178 E Golf Ave	Joe Backman
Sharon Trotter	2190 E. Golf Ave	Sharon Trotter

PETITION

We are homeowners in the Shalimar neighborhood who stand in opposition to the wall proposed to be built around the residence at 2122 East Balboa

Name	Address	Signature
Marina Akins	3109 S. Hansen Cir	
Alan Wells	3122 S. Hansen Circle	Alan Wells
Kevin Harris	3129 S Hansen Cir	
Holly Byram	3117 S. Hansen Cir	
Rebecca Akins	3105 S. Hansen Cir.	Rebecca L. Akins
Gerry Merrill	3116 S. Hansen Cir	



PETITION – LEGEND

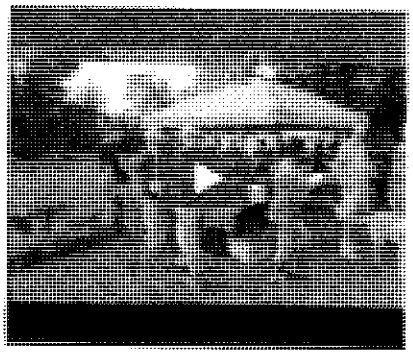
Opposed to wall

Supports wall or declined to sign petition

Rental, vacant, unable to contact owner

Ching residence – Neutral due to employment with City of Tempe

NEIGHBORHOOD SERVICES



Welcome to the Tempe Neighborhood Services Division web site. Created by City Council resolution in 1987, the City of Tempe's Neighborhood Services Division serves to improve and preserve neighborhood vitality by fostering public participation and facilitating interaction between residents and their city government.
The Neighborhood Services Division's key focus is to maintain clear communication lines between neighborhood groups, residents and City Hall. By linking Tempe residents with City officials and staff, the Division helps them identify, address and resolve neighborhood issues and establish future goals and priorities.

The collaborative partnership between City Hall, neighborhood groups and residents continues to strengthen and grow. Every year four to five new neighborhood associations form. In addition, the Division recently expanded to include the new Tempe 311 service, a centralized method to contact City Hall. Most importantly, more and more Tempe residents are finding that one doesn't have to "fight City Hall" but rather work with it to improve and maintain the quality of life in our community.

Upcoming Events and Information

Neighborhood Day at the State Legislature - Monday, Jan. 28, 2013, 10 a.m. - 12 p.m.

Roof Rat Public Meeting - Tuesday, Feb. 12, 2013, 6 - 7:30 p.m.

Neighborhood Awards and Workshop is scheduled for Saturday, April 13, 2013

Functions of the Neighborhood Services Division:

- Coordinate the City's public involvement for outreach efforts to neighborhoods

NEIGHBORHOOD ADVISORY COMMISSION

The Neighborhood Advisory Commission, created in 2000, is comprised of 21 Tempe residents who have resided in the City of Tempe for a minimum of one year. Representation is based on the geographic distribution of population in four zip code areas. Meetings are held the 1st Wednesday of every month, 5:30 p.m. - 7:00 p.m., at City Hall, 31 E. 5th Street, Tempe in the 3rd floor conference room. The Commission is charged with the following duties:

1. to propose and/or make recommendations to the Mayor and City Council and City departments on specific programs that are designed to build upon neighborhood strengths as well as to prevent the decline of neighborhoods;
2. to review projects and concepts developed or proposed by the Neighborhood Services Division staff, the Neighborhood Advisory Commission and by citizens to the Commission; and
3. to assist and advise the Mayor and City Council and City departments on ways in which information on neighborhood topics can be gathered and/or disseminated through surveys, neighborhood recognition programs or forums.

This Commission will not affect the status or autonomy of existing neighborhood and homeowners' associations. These will continue to serve as the voices of their residential areas. This Commission will not limit the right of any individual Tempe resident from approaching the Mayor and Council or City staff on any issue. The Neighborhood Advisory Commission will deal with holistic neighborhood issues – issues that impact the entire community ranging from public notification procedures to the creation of neighborhood leadership programs to the review of some City laws that impact neighborhoods – e.g. the effectiveness of the City's Rental Housing Code.

There is currently one vacancy on the Commission. If you are interested in being on the Commission, please visit the City Clerk's page to fill out an application.

Neighborhood Advisory Commission Members

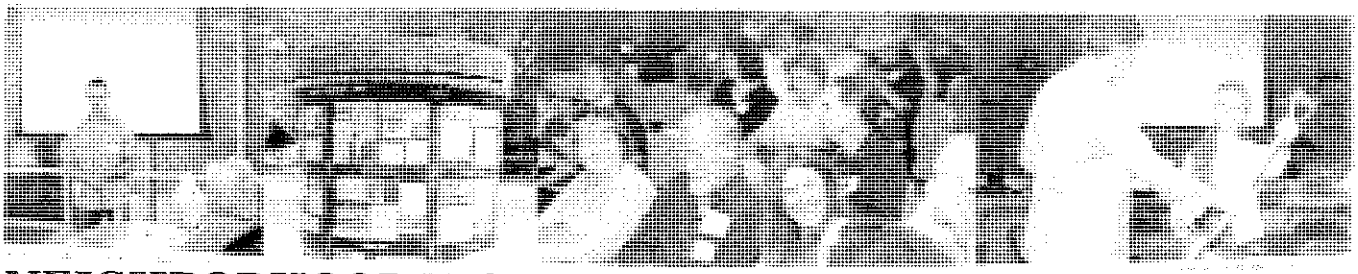
Michael Wasko, Chair	Gary Johnson	Julie Ramsey
JoEllen McNamara, Vice Chair	Joochul Kim	Lisa Roach
Karen Adams	Angela Lopez	John Sanborn
Joseph Agins	Robert Miller	Brittney Scott-Kaufmann
Nancy Buell	Leonard Montenegro	Scott Smas

Pete DeMott Russell Plieseis Bill Wagner

Ann Lynn DiDomenico Joe Pospicil

Neighborhood Advisory Commission Agendas and Minutes

For more information about the Neighborhood Advisory Commission, please contact Neighborhood Services at 480-350-8234 or neighborhoods@tempe.gov.



NEIGHBORHOOD WORKSHOP AND AWARDS

Call for 2013 Neighbor of the Year Award nominations

Tempe is full of residents, civic organizations and businesses that help strengthen the community through neighborhood outreach and involvement. Now is your chance to publicly recognize and thank them. The annual Neighborhood Awards presents the perfect opportunity to honor: residents who put the "neighbor" in our neighborhoods; properties that contribute to neighborhoods through renovations, improvement projects, impeccable maintenance or holiday décor; and residents who recognize alleys behind their homes are their responsibility and keep them neat and tidy.

Nominations must be received by 5 p.m. Dec. 3.

2013 Neighbor of the Year Applications

For more information or to obtain a nomination form, contact the city's Neighborhood Services Division at 480-350-8234 or neighborhoods@tempe.gov.

2013 Neighborhood Workshop and Awards
Saturday, April 13, 2013
Tempe History Museum - 809 E. Southern Ave.
7:30 - 10 a.m.
Save the date and look for additional workshop details in an upcoming issue of Tempe Today.

2012 Neighborhood Award Winners

CITY DEPARTMENT NEWS

Tempe hosts Neighborhood Day at the State Legislature

Posted Date: 1/7/2013

Contact:

Tanya Chavez, City of Tempe
tanya_chavez@tempe.gov 480.858.2215

Tempe, Arizona – Tempe residents are invited to join the Mayor and Council at the State Capitol, 1700 W. Washington St., Monday, Jan. 28 from 9:30 to 11 a.m. to meet their legislators, learn about the city's legislative program and tour the Arizona House of Representatives and State Senate. Residents are encouraged to share the stories of their neighborhoods and find out how the legislature will impact the future of our community.

If you plan on attending Neighborhood Day at the State Legislature, contact the Neighborhood Services Division by Jan. 21 at 480-350-8234 or neighborhoods@tempe.gov. To take public transportation to the event, visit www.valleymetro.org for bus, light-rail and park-and-ride information.

For more information on the state legislature, visit http://www.azleg.gov/.

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More News »

HEARING OFFICER AGENDA NUMBER 8

January 2, 2013

Prepared for:

Dawn Sinclair

Prepared by:

Becky Allen

PRESENT: J Judge
A Steve Abrahamson
W Wouter Dubois
B Tom Brethauer
N Neil Bearce
D Dawn Sinclair
UV Unidentified Voices

J This takes us to Agenda Item 8. This is a request for approval of the use permit, use permit to increase the wall height in the front yard from 4 feet to 6 feet for the Dubois residence located at 2122 East Balboa Drive. The applicant is Wouter Dubois, I'm sure I'll stand corrected on that. And it contains ZUP12129. Mr. Abrahamson?

A Madam Hearing Officer, this is a use permit request. There was a little bit of a misunderstanding that it was use permit standard, but the Tempe Zoning and Development Code allows for a use permit to allow for fences and walls in excess of 4 feet up to 6 feet in height in the R 1 6 single family residential district. The location of this home is on Balboa Drive, R 1 6 zoning, just north of the Shalimar Golf Course, which is north of Southern Avenue and to the west of Loop 101 freeway. The neighborhood is like a, I'll just say it's eclectic in style and also in the placement of some of the homes. The request is to allow for the fence, a fence in the front yard setback, at present you are allowed to have a 4 foot tall fence or wall in the front yard setback.

J And that's without a use permit?

A That's without a use permit…

J Anyone in the city can build a 4 foot fence…

A That's correct.

J Okay.

A That's, that is, that is a right to just build by right a 4 foot wall in your front yard. What the Duboises are asking for is an increase in the height from 4 to 6 feet. We've had several requests for this, this type of fence or wall in the, in the last decade. When I say several? I would say in the, in the neighborhood of 18. They're not uncommon. They do provide for safety, security, people like them for a number of different reasons. Staff is recommending approval based upon the use permit criteria. We have had several citizens that have voiced this opposition to this request. Exact number at this point it time? I would say would probably be 8. However, in the last 2 hours I received a, beg your pardon here, just a second, I received an email from Mark and Alana Randall, who reside at 2174 East Balboa. They are in opposition to this request. As well as Ms. Linda Akers who, I don't know whether she indicates where she resides, but she's in the neighborhood. Ah yes, 2101 East Balboa, she is in, in opposition to the request as are others who have their notes of opposition within the report or you have downloaded them since, as per our discussion earlier. Again, we base our support or our, yeah, our support for the request on use permit criteria only, and it meets the tests for a use permit. Any questions?

J No, I'm sure I'll have some during the case. I just wanted to, for the record, indicate the, just so I could read into the record which emails and stuff that I had already received just in case the neighbors weren't here this afternoon. I received one letter of support from David and Frances Manning and they reside at 2115 East Balboa. And then I also received, I think you mentioned the email from Mark and Alana Randall, they are opposed to the project. I also received an email from a Rennie Rasp, also in opposition to the project. I received one from Tom Brethauer, he's here this afternoon I believe to speak, but that was also in opposition. And then also from a Gloria Lowe, also in opposition to the request. At this point I have only two cards on this case from a Dawn Sinclair and Mr. Brethauer as I mentioned earlier. I just wanted those to be read into the record and

I'll give these letters. Sir, if you want to give the card so they can pass it up to me, that'd be terrific, and I'll let, make sure that these go into the record. Thank you. Is the applicant here this afternoon, Mr. Dubois?

D Wout Dubois.

J Wouter? Okay, come forward please.

W Greetings Madam Hearing Officer and the (inaudible) all the people that are here referring to this case. And I think it's awesome that the process works. Okay, here is a highly civilized procedure going on and we have opposing opinions, perspectives, and by the time it's all said and done, you have the last say so, and it will be based on what they rules of engagement are. So…

J Let me ask a favor of you, if you can step in front of the podium and speak into that microphone…

W Yeah.

J And…

W I'm tempted to, to kind of talk to these people because…

UV Because unfortunately it's recorded…

W Yeah, okay.

J For the minutes and if you try and turn around and talk to the public it's going to interfere with how it's recorded.

W I'm not ignoring you folks, I totally appreciate you being here and I'm going to face the…

UV Okay.

W Lady.

UV Thank you.

W Um? Again, I, I think I'm very fortunate to have been able to buy a house in this neighborhood and we are very much looking forward, I'm still in the process of selling a house up north, and I think I will be personally moving in here shortly and my wife will come later. But when she comes we, we live on an acre,

and I don't want to make this too long, she comes with 50 5-plus gallon ceramic pots that include a lot of different vegetation, mostly succulents and very rare succulents, and they will have to be places in this place. So we incorporated that in our thinking. And part of the plan was 4 foot wall and the front yard would be a courtyard, it would incorporate these plants. It will incorporate, I was looking to build a little pond. Bottom line, that's going to be my playground. And the neighborhood lent itself for it. It, it is mostly a quiet street and that's what I observed when I bought the house, except for then I started prepping the yard for winter lawn and I was spending a lot of time in the front. And it was like every time I was taking aback by cars speeding excessively, cars overtaking each other, and I don't want that, that this is my personal perspective, I don't want that imposed on the people here. But the bottom line is, my thinking was I cannot afford to be in the front yard, 4 foot is not going to be enough because it's that's thundering sound that comes in that is absolutely of impact to you and I saw the wall across the street. So my mind started working and I started checking on the code, and the code indeed allows you with the request for use permit to go 6 feet. So that all went very fast. By the time the idea and I did my first inquiry before I knew it I was doing an application and literally I haven't really had a chance to do a lot of communicating to people. Because by the time I saw the sign go up in front of the house and I read it and I thought to myself, oh this is problematic because they will probably see an alley wall going up on the front and you know what alley walls look like. That is not my intent. I want to actually give my neighbor across the street and a run for his money and build him a wall, or build a wall that is superseding what he has. And I have given you a set of pictures…

UV Yeah, that's (inaudible)…

J Talk about the design for a little bit. Because here's how the process works. You come up and you present your project. We can look at any pictures, exhibits that you have. I know in my packet I have attachment 6, which is a line

drawing of what you intend to do. You can talk about materials and just your vision. Then I call the members of the public who are here to speak on it. Then you get a chance to come back up and speak again.

W All right, I'll do it then.

J So, let's…

W I think…

J Let's talk about the design for a little bit, just to see if that can answer some of the neighbors' questions up front.

W Literally the sign, the 6 foot is to basically create a noise barrier. So the lifestyle becomes more accommodating. I do realize that there has to be vision of the street. And I have incorporated, and I have to do a little bit of an acoustical analysis on how to actually build the wall and still leave openings. The main gate from the front, which is shown in the picture, is literally what my gate will look like and with…

UV Time out for a second?

J Can we put up attachment number 6, which is the line drawing from the staff report? Actually if you can, hand him number 5 and 6 and he can speak to what attachment number 5 represents and then in turn what number 6 represents.

A Attachment number 5.

J Oh, that's essentially the front elevation of your home?

W That's mostly to scale. I tried to work the feet into there.

J And that middle section kind of pops out a little bit?

W The section in the middle is, it's a Spanish-type of design, rectangular, it doesn't have a lot of curves into it, roundings. That is the front patio. That little cross is the entrance door. There is a section in the front where you can be seated and have a cup of coffee. Then the front of the house is just a short stretch of grass. And there is no utilization except for working it frequently and watering it extensively. So I want to change all that, literally. And in the process

there's another exhibit that includes what the fence basically would project on the house, and you probably have that. That is a almost mechanical prints, mechanical prints are not very nice to look at. But by the time I'm said and done that wall will blend into the house and for that matter into the neighborhood because it's not out of context with the rest of the neighborhood.

J On this particular drawing what we see with the diagonal lines…

W Um-hum.

J Going across it, that's the height of the fence and that you intend to be stucco…

W It will be stucco, it will mimic the house, which right now had a rough type of stucco. I will add some additional insulation to the front and then next phase of stucco will be a more smoother and a slightly different color. I will go to a sandstone color rather than this kind of drab yellow that's in place right now. And that will be reflected on the outside wall as well.

J Okay. And then one of the things that would be required should this pass, is that you would have to submit your plans to the city and we were going to come up with some language Steve, not only just give your plans to the city so that our planning department can take a look at them, but also for traffic engineering, there is a requirement currently in the code that it states that clear vision requirements, which is the section of the Zoning and Development Code, apply to fences and walls, and so we would have to have our traffic engineering department take a look at that, possibly tweak your design by clipping the corners possibly on, on both sides, just to allow when you come out of your driveway for you to see you know what's coming behind you. Because currently I believe it would be pretty tight, you know with its current design. So anyways that…

W And I have no problems.

J Okay. So we're going to come up with some language to mod-, either add a new stip number 6 or modify condition number 2. Mr. Abrahamson?

A For the record, I would like the audience and the applicant to know that the Planning Division has no purview over the design elements in the single family residential zoning.

W Um-hum.

A So as far as colors, materials, textures, appearance in general, Planning has no purview so…

W Surely, they look at the…

A I just wanted to (inaudible)…

W Structural integrity of the…

A We also need to assure, just as the hearing officer has indicated, that from a traffic standpoint that the visibility angles are clear.

W Absolutely. No problem. And it had become come plan. When I submitted the application I was kind of hastily putting it together and I can very well see where there should be an angle, not to be on the corner that borders the driveway, and that is not a problem. I'm planning to go back anywhere from 6 to 8 feet on an angle, and then of course the Traffic Department needs to let me know if that's properly done. It gives me more opportunity to do some landscaping outside.

J And Steve I just want to say even though this is not a design review, it's not a development plan review, we don't do that for single family residential, we do have a stip in here that says the materials and colors of the wall shall match or be compatible with, and that is part of my authority, I guess, just to, to say that, to encourage that and to stipulate that.

A That, that's correct, but we will have no review of that…

J Right.

A Once this, if this use permit should be voted in the affirmative.

J Okay. Thank you. So I'm sorry, we kind of got derailed there. Is there anything else that?

W Um? I'm trying to think, I think have shared what I want to share.

Except for showing what I'm going to pursue and we'll get a chance to do that later on. Rebuttal?

UV Well, why don't you do it now?

J Oh, and then…

W Okay.

J I'll call your neighbors up.

W You have this package?

J I? Well let me see? I have…

W No you don't…

J No, I have…

W It's, it's coming your way.

J Oh okay, thank you.

W And the, the first of the 2 pages is mostly for your perusal and now that you have said that you have gone past the neighborhood, you probably already seen that…

J Right, these are…

W Well that was to…

J Conditions…

W That was for me to identify that that is an existing home in the neighborhood right across the street. Beyond that and here we go, and the wall, that is not exactly the color I'm trying to achieve, it's essentially sandstone. It has a little bit more white in it by the time it is all said and done. I plan to add openings in there, mostly likely, my wife has already said, I don't want those metal contraptions in front. She just wants to put her plants in there. So I will probably do something that allows for a ceramic pot to sit in, be secure, and let her plants hang over. The front, in all likelihood, there will be about 3 ½ maybe 4 feet of space between the sidewalk and the wall, will be a variation of pavers, decomposed granite, and some planting meeting the requirements where it is not going to be

having any sharp edges and whatever else I would, it will be just purely decorative and I'll probably have it hug the wall. Beyond that there is the gate, I can see that what we don't want to create is a blank wall that will upset a lot of people and create a lot of questions. So there will be this gate in the middle, which is also shown on my sight plan, it will become, the 2 side pieces will not be in there, but the 3-foot gate that I will be accomplished will be exactly what is there. And let me take that back, exactly I'll, I'll be making it so, it will not be exactly, but it will follow that concept and literally right now what you see there is what people will see when they look past my gate because the door on the background here is similar to my door, so you'll see I'll just create my own courtyard beyond that. So this is the plan and that should be if everything works out with your approval be there by the middle of the year.

J Okay, thank you. Yeah, I appreciate your letting us know what direction that you're going to be headed in with your design.

W Again I will stress a lot of I think maybe the opposition is because I didn't get a chance to explain what I'm trying to do, what I'm (inaudible). This is not going to be an ugly wall that will literally terrorize the neighborhood. I cannot see that. This will something that will complement the neighborhood. I see my property value shoot up just by virtue of the fact that this is a unique arrangement. If I ever have to sell, well, I'm not planning to sell because I plan to die in that place. So whoever is going to be the next owner is going to really find a beautiful place to purchase. That's it.

J And I mentioned before I'm going to call the members of the public up to speak and if they mention anything that you want to address, later you'll be given an opportunity to do so.

W Thank you.

J Thank you.

W Thank you.

J The first card I have is from Tom Brethauer.

B Good afternoon. I'm not in favor of the wall period. I don't care what it looks like. First of all though to talk about the noise, one of the reasons he mentions the wall is the noise. And where we're located, we're in the middle of basically a vibrant city. We've got a freeway one ¼ of a mile west of us. We've got a freeway 1 mile south of us. We've got a freeway 2 miles north of us. We've got a main track railroad line going through there. Airplanes fly over all day. Helicopters, news helicopters fly over it to go to the freeway interchanges. Noise is a fact of life there. And a wall in the front yard is not going to stop that. Now also he talks about the fact that the house across the street has a wall. Our home and his home is located in Shalimar Estates. The house across the street was built in the early '60s. It's a very unusual design. The sides of the house basically almost face north and south, rather than east and west. The north side of the house is almost out to the street and almost to the west boundary of the lot. The south side is next to the golf course, and on the east there's a detached garage on the west. So when they built the house they put a fence in there between the detached garage and the side of the house that's out against Balboa. Now other than that house, in the probably 50, 60 houses in Shalimar Estates, there is no house that has a front yard fenced in, other than maybe a 3 foot fence or I can't think of the name now, the iron pegged fence or…

UV Wrought iron…

B Wrought iron fence, there's no house that has a fence in the front yard. All of the houses have open front yards. If he puts this fence in the front yard, it basically will look like a misfit in the neighborhood. It makes you think of the kind of house that a drug dealer would want so nobody could see in the house. Drugs, immigrant smuggler would want to use as a drop house. It just is totally contrary to anything else in the neighborhood. And I think if all of the people in the neighborhood were aware of what's going to happen, you would have many more

emails that are concerned with it. Because again, it's totally contrary, Wout feels it will increase the value of his house. I don't. I think it will make it the misfit of the neighborhood and no one would be interested in buying it. We have a house right next to it, it will drastically reduce our view from our front window. But also it will create a safety hazard, because this fence will be out there. We have our grandson and his friends play in the front yard periodically. They're not going to be able to see cars coming from the other direction. It's going to block that view. If one of them, if my grandson runs into the street and gets hit by a car because he didn't see it because of that fence, then I will hold Wout responsible and I will hold the city responsible if they approve that fence. I mean if Wout wanted a fenced in yard, he should've went to the west and north of us and bought one of the townhouse villas, they all have fenced front yards, 8 foot high. You'd had have all the privacy you wanted. But that's not where he bought the house. He bought the house in Shalimar Estates, which there are no other houses in Shalimar Estates that have fenced front yards other than the one across the street and I explained the exception to that. And we are totally against him having that fenced front yard next to our house. Because it not only will decrease the value of his house, it will decrease the value of our house because our house will be next to the misfit's house.

J And your house, you keep saying you live next door…

B 2128 East Balboa.

J 2128 and you're directly…

B Directly east of his house.

J Okay. Thank you.

B Okay, thank you.

J The next card I have is from a Neal Bearce?

N I totally agree with everything that the last speaker just said. I live on the other side of Mr. Dubois, on the west at 2216 East Balboa. And this is absolutely out of context with the neighborhood. I guess it's unfortunate that Mr.

Dubois didn't do his homework before he bought the house, but this would be an absolute eyesore and detract from the value of our houses. I would, someone mentioned they were an eclectic neighborhood, they're all custom houses in Shalimar Estates. It seems that the primary reason that he wants to do this, at least that's what he's stated here and in his letter to you originally, has to do with traffic on Balboa Drive. This morning I was over at the Engineering Department of Tempe Public Works and I learned from Mr. Steve Hoslin(sp) that in Tempe there are 3 categories of roads. And this may be not news to you, but it was to me. Those 3 categories are arterial, collector and residential. Balboa is a residential. Arterial would be Southern Avenue, which is south of us. The traffic count there in a 24-hour period is 23,781 or 16. 5 vehicle per minute. A collector street is Country Club Way, which enters our general area from Southern, and that has a count of 4,000 for a 24-hour period or 2.7 per minute. Our street, a residential street has 500 cars per 24-hour period, and that is .36 cars per minute. There are no school buses on that street. There are no city buses on that street. The Sanitation Department runs a garbage truck about 3 times a week between 8:00 and 9:00 in the morning usually. There are no large trucks that come on that street, commercial trucks. Occasionally you'll have a electric company or a gas company truck or something like that. But that's about it. I've lived there for 28 years. I work out of my garage and I'm in the front yard probably 5 days a week between 4 and 5 hours. I was there this morning from 6:00 to 9:00 and I counted 47 cars, that's including rush hour. That's 4.8 minutes between cars. This is not a noisy street. And it's not a busy street. The speed limit is 25 miles an hour. And I know that I and some of my other neighbors when we do see someone abusing that speed limit, we call the cops, and it doesn't happen very often. In his letter to you originally he indicated that this was a major thoroughfare if you're emptying out of all the neighborhoods between Broadway Road, Southern, McClintock and Price, that square mile, it's not. There are 9 exits between Broadway and Southern onto Price, which is a, the road that

goes south along the freeway, the frontage road. So as far as the need? There is none. And as far as it complying with the neighborhood, it detracts from the neighborhood and I would like to add my name to all the others I guess, what is 10 of them now, of my neighbors who say we don't want this. Please don't do it. Thank you.

J The next card I have is from Dawn Sinclair. Ms. Sinclair if you'd like to come up please.

D Thank you, excuse me, thank you and good afternoon. I guess that makes 11 of us in opposition. And I would oppose this even if Mr. Dubois had come over to my house and told me what he wanted to do. This proposal destroys the architectural integrity of a rather unique neighborhood. My understanding of the house across the street, the house with the big fence, is that it was built in the '60s at a time when the zoning was very different. And whatever zoning existed, zoning regulations existed at the time were sort of ignored because of the person who built that particular home. Apparently a well-known architect who did a lot of work for the city of Tempe, that would not happen today. That house probably wouldn't be there, that fence probably wouldn't be there. My neighborhood is not a neighborhood where we should be having what Mr. Dubois referred to as essentially fence wars. I want to give the neighbor across the street a run for his money. That's not the neighborhood that I bought into. The neighborhood that I bought into has villas near it. What we refer to as the walled villas. And what I saw today is going to turn Mr. Dubois' home into one of those villas. If me Mr. Dubois wanted a walled villa, he could have bought a walled villa. I bought into a neighborhood that's very open, that I can see up and down the streets and has a very open feel to it. This house just doesn't fit. And I think that my neighbors' safety concerns are very well placed. There's not an enormous amount of traffic up and down that road, but there is enough traffic that building walls is going to block the ability of not just Mr. Dubois, but his neighbors to see as they pull out of their

driveways. And for children, not this gentlemen's grandchildren, but other children to see what's coming up and down that road. The reasons that Mr. Dubois wants to build that wall are things he should've considered before he bought the home quite frankly. I do believe that this will decrease my property values. I cannot imagine that if I drove through neighborhood today that I would want the house that I bought 8 years ago. I cannot guarantee that I would not want house if the wall is up at Mr. Dubois' house. It is not compatible with existing structures and I think it will downgrade everybody's property values. Thank you.

J That was the last card I had on this case. Was, did you want to speak ma'am or are you here just to observe?

UV No.

J Okay.

UV (Inaudible).

J Okay, thank you. Okay, then Mr. Dubois, if you'd like to come back up you can address some of the issues that were just brought up, but they were fairly unanimous in their , in their one, opposition to your project, and with the idea that it's just incompatible with the neighborhood, and so would you like to address that. I know you've mentioned the house across the street, but your thoughts on how it's compatible with the neighborhood as a whole?

W Very well. I understand each person's perspective, everybody's entitled their perspective and here is a very strong group's perspective, groupthink sometimes you call that. At the same time what we're trying to achieve here is something that is available through the code. And the code identifies, and I think it's in the header of the section that identities the criteria, if there is something that is detrimental to the neighborhood or a set of different factors. Detrimental means damaging. People may express this as being perceived as being damaging. I don't think that from a realistic and a rational perspective that that will hold up. Because this is not damaging the neighborhood. This is not damaging people in the

neighborhood. The perspectives are self-imposed. I even, early on, brought up it is my perspective with respect to the traffic in the street. Somebody else may have a totally different perspective. That is there (inaudible) it is all self-imposed and at the same time I'm following the process. The full process allows me to ask for a use permit to heighten the wall at 4 feet, which is allowed. I'm already very concerned about the fact that there is so much opposition even to a 4-foot wall, and that gives me pause. But at the same time I think it should be understood that this is a process that is stipulated in the Tempe code and I think that I, it was my request and my submittals have satisfied all the requirements, the criteria to the point where I would like to see an approval of my request. And thank you for considering it.

J Thank you. These cases are always troubling because I can see both sides of this issue. I can understand the neighbors not wanting you to do something, which they perceive to impact their property, yet at the same time I can understand your desire to improve your property within the constraints of the code as you see fit for your needs and that of your family. As I've mentioned before with the other cases previously, I do have some criteria that I have to look at when evaluating a use permit. Trust me, if I didn't have this criteria my decision would likely be different, just based on what I believe to be the right thing aesthetically and from a neighborly standpoint, but I'm kind of sharing the same thought that staff, their viewpoint, in that we have to, this code is here for a reason and the criteria are here for a reason. And this is what I have to follow. So I'm going to go through them one-by-one. There are 5 of them. Do I believe that this will create a significant increase in vehicular or pedestrian traffic? I don't believe that to be the case. I don't believe it will actually impact traffic one way or another. Will it create a nuisance arising from the emission of odor, dust, gas, noise, vibrations, smoke, heat or glare? A stationary fence will not create a nuisance of any of those that are outlines in the criteria. Do I believe it will deteriorate or contribute to the deterioration of the neighborhood or downgrade property values? This is a tough

one because I have property owners saying they think it will decrease their property values and Mr. Dubois is saying he believes it will increase his property value, you know it's all in perception and how you view the function of this thing. But overall on balance I don't believe it will contribute to the deterioration of this neighborhood. Is, number 4, is it compatible with existing surroundings, structures, and uses? No, I don't think it is and frankly I wish you weren't building it, because I do believe that it's out of character with the existing neighborhood. And you know it would give me pause, like you said, already at 4 feet you would have opposition, so that should give you some pause already, taking it up to 6 feet just I think is kind of being a little antagonistic to the neighborhood. So for that criteria, I don't believe it's compatible with existing surroundings, structures and uses. The fifth one, is if I believe you'll adequately control behavior both inside and outside the premises? Yes, I do believe that to be the case, in fact if anything it probably gives you more control of what goes on inside your premises. I have 5 criteria and 4 out of the 5 lean towards me approving this application. So therefore, I am going to approve the use permit contained in ZUP12129 to increase the wall height in the front yard from 4 feet to 6 feet for the Dubois residence. As I mentioned beforehand at the start of the hearing, there is an appeals process available to the neighbors. This would be taken to Steve, Board of Adjustment?

A We have, you have 14 days in which to apply for an appeal. It would be taken before the Development Review Commission, which is a 7, 7 member commission, 7 citizen panel, so you have diversity of opinion there.

J What is the process? A single neighbor just writes a letter…

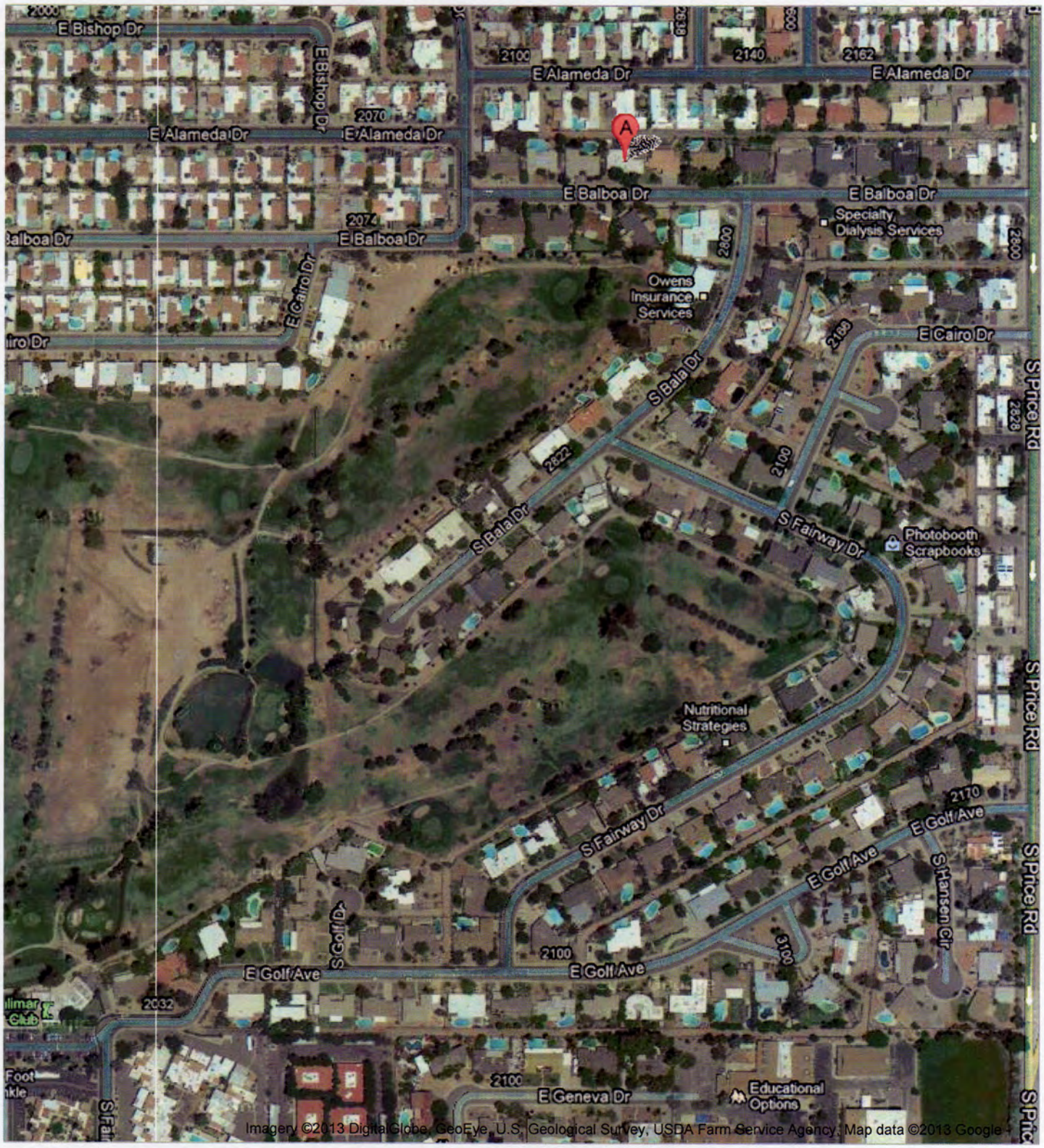
A There, there is an application. There is a fee, it's I believe 104 dollars. It again has to be applied for within 14 days, so you have until the 16th, the close of business. And it went up now, I, I don't know have them here. I'll also provide you with my card, should you have any questions. Thank you.

J So yeah, that is the process. You know though at the beginning of

the hearing you kind of said you have the final say. The fact of the matter is I don't have the final say. There are appeals processes, which is as it should be frankly, you know sometimes you know we have these cases that are very, very close and can go either way. So it actually is of some comfort to me that there is a process by which neighbors can take it to a different level. So I thank you all for participating in this process and wish you good luck as you move forward with the process. So thank you. I'm going to give them just a minute to exchange some information before I call the next case.

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google



ATTACHMENT 63

RAY T. ASHLEY
REALTOR

Tempe Realty Company
SALES - APPRAISALS - RENTALS - PROPERTY MANAGEMENT
1030 MILL AVENUE
TEMPE, ARIZONA 85281

SPECIAL PREVIEW TODAY 'til NOON

Architect's Exclusive Golf Course Residence

2125 E. Balboa, Tempe

The Goodwin Residence was designed and built by Michael Goodwin, an award winning architect and leading member of your community for many years. The 4,730 square foot residence, includes 5 bedrooms, 3½ baths, a 1,001 square foot romantic loft master bedroom suite, two fireplaces, 25' x 30' living room of hardwood floors, numerous patios, open truss ceilings, massive floor-ceiling french doors, and many other amenities. The exclusive Shalimar residence is located on the Shalimar Golf Course, facing south, with balconies facing north & south.

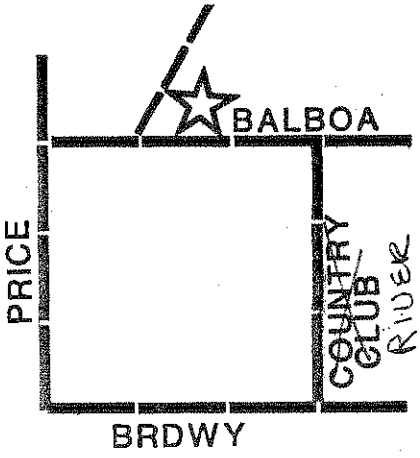
The asking price for this contemporary, open space design home allows for the Goodwin Residence to be purchased at below $50. per sq.', lower cost than any other homes available in the area. Preferred terms are competitive at 25%-30% down, with the balance carried by the owner at 12% interest/25 yrs, with a preferred 5 yr. balloon,

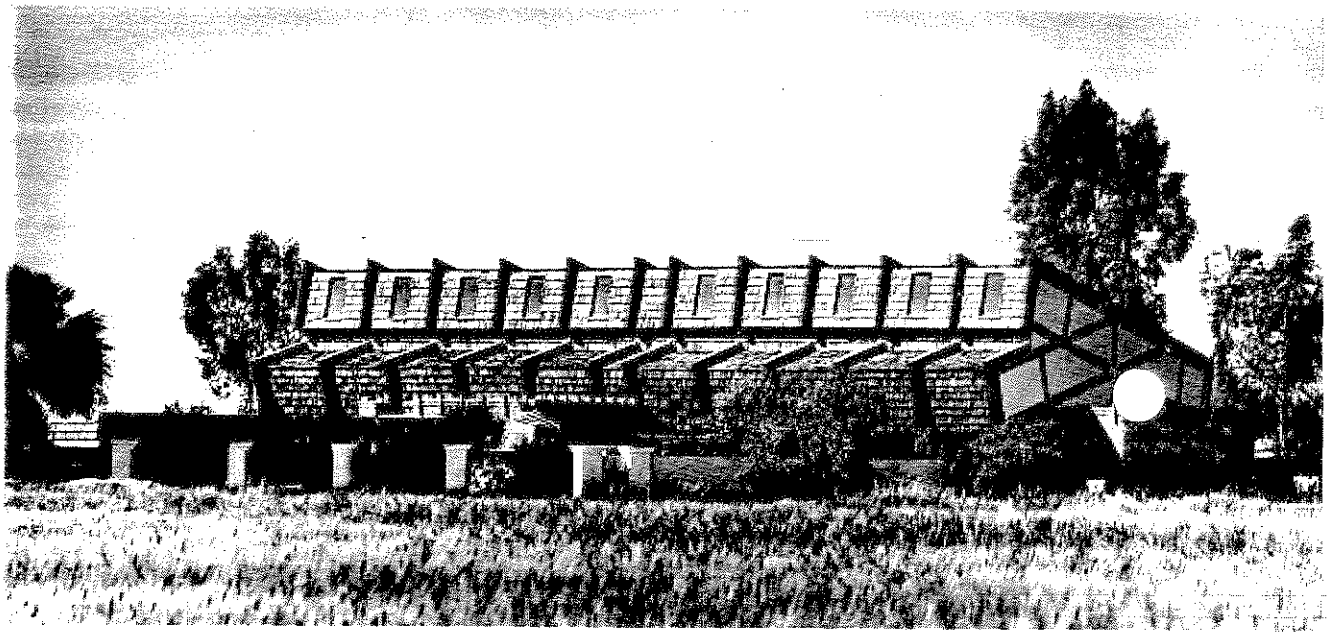
I would appreciate the opportunity to discuss and show the property to anyone interested in purchasing it. You may reach me at my office 967-7568, or at home in the early mornings or evenings 893-1166.

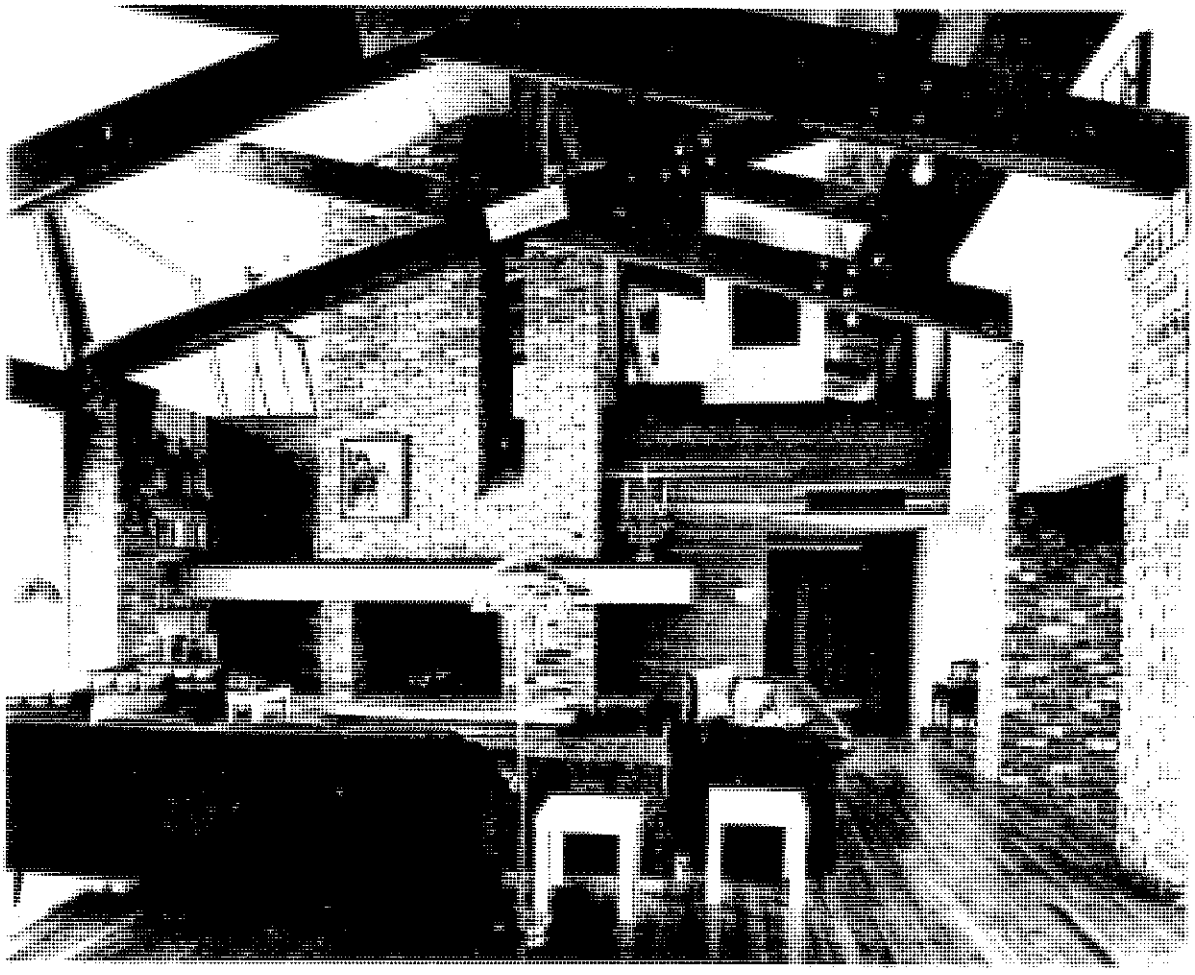
Your Interest Is Appreciated.

Marty Lindley

Marty Lindley, Realtor Associate
Tempe Realty







FENCE HEIGHT APPROVALS
2008-2012

The City has received and approved only 13 fence-height increase requests for residential properties in the past five years. Based on staff reports and minutes of the hearings, none are similar in location or character to the wall proposed for 2122 East Balboa:

Richardson Residence, 2006 South El Camino Drive (PL070545)
Increase height from 4 to 8 feet
Approved February 19, 2008

Wall does not run across front of house. The house faces east. The wall extends from the backyard along the north of the house, which is immediately adjacent to Broadway, into the front yard setback. The wall is intended to block traffic noise on Broadway. The wall is screened by existing oleanders and is not visible from the front of the house. The homeowner held a neighborhood meeting; no opposition from neighbors.

Nannapaneni Residence, 1026 East Knox Road (PL060629)
Increase height from 4 to 6 feet
Approved May 20, 2008

Wall does not run across front of house. The house is on corner lot. The address is on Knox but the house faces Rita Lane. The fence is on Knox, which is designated as the front yard but actually is the side yard. The fence is set back 16 feet from the sidewalk. The homeowner held a neighborhood meeting. One neighbor was in opposition based on reduced visibility from the neighbor's driveway; his concerns were resolved by changing the fence design to allow for greater visibility for the neighbor as he exited his driveway.

Doering Residence, 8102 South College (PL080421)
Increase height from 4 to 6 feet
Aproved December 2, 2008

Wall does not run across front of house and is not new. In conjunction with construction of an addition to the house, the homeowners sought a permit for their existing 6-foot wall, which was built in 1983. The house sits at an angle on the lot so that the front of the house faces what is designated as the street side yard and the side of the house faces what is designated as the front property lot line. Thus the existing perimeter fence wall along the side of the house is in what is officially the front yard setback. There is no fence along the street that the house faces. There was no opposition from neighbors.

Cuevas Residence, 1040 East Knox (PL080469)
Increase height from 4 to 6 feet
Approved January 20, 2009

Wall does not run across front of house. The house is across the street from the Nannapaneni Residence for which a fence-height increase was approved in May 2008. The house is on corner lot. The address is on Knox but the house faces Rita Lane. The fence is on Knox, which is designated as the front yard but actually is the side yard. The fence set back 16 feet from the sidewalk, consistent with the fence at the Nannapaneni Residence and for visibility reasons. No opposition from neighbors.

Weed Residence, 1111 South Ash (PL090170)
Increase height from 4 to 8 feet
Approved June 2, 2009

Application is not for a wall but for installation of an 8-foot arch and a decorative ornamental woven screen gate within the existing 4-foot fence. No opposition from neighbors.

Karsten Residence,5751 South Wilson (PL090232)
Increase height from 4 to 6 feet
Approved July 21, 2009

Wall does not run across front of house and is not a new feature, but a replacement for a 6-foot fence that was on the property previously. The application is for construction of a wall in the front yard of a separate tract of land adjacent to the main property. The separate tract of land forms the side yard of the house. The property originally had a 6-foot wooden fence similar to that on the property directly west of this property and the property across the street. The applicant replaced the original 6-foot wooden fence with a block fence after several sections of the wood fence collapsed and was then cited by the City for having a fence over 4 feet high. Staff received one call of inquiry. No opposition from neighbors.

Brown Residence, 11812 South Rural Road (PL090414)
Increase height from 4 to 8 feet
Approved December 1, 2009

Wall runs across front of house but does not extend to the sidewalk. Unlike the 2122 East Balboa house, the Brown Residence is located on Rural Road, which staff termed "a major arterial" with traffic noice. Staff considered the location on Rural to be a special circumstance based on the traffic volume. The fence is set back 8 ½ feet from the property line, replacing an oleander hedge that already concealed the property from Rural Road. The homeowner held a neighborhood meeting; no opposition from neighbors.

Darnell Residence, 1850 East Carver (PL100299)
Increase height from 4 to 6 feet
Approved November 3, 2010

Wall does not run across the front of the house or extend to the sidewalk. The application is to allow for increases of up to 6 feet for various sections of a wall around a patio area near the entry way, well back from the sidewalk. The majority of the screen wall around the front patio is 4-feet tall and the homeowner estimated that the maximum height of the sections would actually be 5 feet. No opposition from neighbors. Approved maximum height of 5 ½ feet.

Rosen Property, 1229 West 10th Street (PL110305)
Increase height from 4 feet to 6 feet
Approved September 6, 2011

Wall does not run across front of house. The house is turned sideways on the lot such that the front door faces the side of the lot and the side of the house faces the front of the lot. The wall, used to create a courtyard in the side yard, is the same height as the property line block wall. The approved wall is set back 15 feet from the street. There does not appear to have been any opposition from neighbors.

McManus Residence,1428 South Oakley Place (PL110313)
Increase height from 4 feet to 6 feet
Approved October 4, 2011

Wall does not run across front of house and is not a new feature, but a replacement for a 6-foot fence that had been on the property for many years. The house is turned sideways on the lot such that the front of the house faces the side of the lot and the side of the house, where the fence is located, faces the front lot line. The fence replaces a 6-foot wood fence that stood on the site for approximately 25 years and is constructed of the weathered wood from the original fence. The reconstructed fence was the subject of a complaint for excessive height, prompting the request for the use permit. Eighteen neighbors signed a petition in support of the requested permit. One neighbor objected to the materials of which the fence was constructed, not the height.

Youngbull Residence, 117 East Loma Vista Drive (PL120030)
Increase height from 4 feet to 6 feet
Approved February 21, 2012

Wall runs in front of the house but is not continuous, as is the proposed wall at 2122 East Balboa, and does not extend to the sidewalk. One of the two walls used to create a courtyard is a 6-foot curved freestanding wall supporting a berm, not in contact with any other wall. The other wall is 5-feet tall and contains an entry gate. Both walls are set well back from the sidewalk. Neighbors supported the project.

Casa de Smith, 1724 South Ventura Drive (PL120053)
Increase height from 4 feet to 6 feet
Approved March 20, 2012

Wall does not run in front of the house. The neighbor to the south has an existing 4-foot wall along the side yard of a corner lot that becomes this homeowner's front yard. The new wall continues from that existing wall to this homeowner's house, where it turns to return to the house. The wall encloses a side yard where a garage is located and does not run in front of the house. One neighbor opposed the request, but it is unclear if the opposition was to the construction of the garage, the construction of a second story on the garage, or the fence height.

Rukavina Residence, 1140 South Farmer Avenue (PL120058)
Increase height from 4 feet to 6 feet
Approved April 3, 2012

The fence runs in front of the house to the sidewalk or street, but is not a new feature, instead replacing an existing fence, and is not fortress-like in character, as is the proposed wall at 2122 East Balboa. The house is surrounded partly by a 6-foot cinder block fence and partly by a deteriorating 3 ½ foot chainlink fence. The homeowner requested a permit to replace the chain link with a 6-foot wrought iron fence.

RICHARDSON RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: February 19, 2008 Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by the **RICHARDSON RESIDENCE (PL070545)** located at 2006 South El Camino Drive for one (1) variance.

DOCUMENT NAME: 20080219dssd01 **PLANNNED DEVELOPMENT (0406)**

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **RICHARDSON RESIDENCE (PL070545)** (James Richardson, applicant/property owner) located at 2006 South El Camino Drive in the R1-6, Single Family Residential District for:

VAR08001 Variance to increase the wall height to eight feet (8') in the front yard setback.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

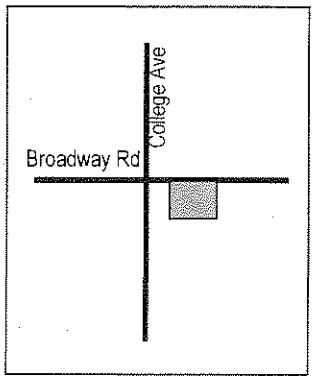
REVIEWED BY: Sherri Lesser, Senior Planner (480-350-8486)

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: **Staff – Approval subject to Conditions 1-2**

ADDITIONAL INFO: The Richardson Residence is before the Hearing Officer to request a variance to increase the wall height in the front yard setback from four (4) feet to eight (8) feet. The applicant had constructed an eight (8) foot high fence in the front side yard setback uninformed that the Zoning and Development Code limits the wall heights to four (4) feet in the front yard setback. To date, we have received one (1) letter of support for this case. Staff recommends approval of the variance do to evidence of hardship, special circumstances or evidence indicating potential loss of substantial property rights.



PAGES:

1. List of Attachments
2. Comments;
3. Reason for Approval; Conditions of Approval; History & Facts/Description Zoning & Development Code Reference.

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Neighborhood Meeting Letter
5. Neighborhood Meeting Minutes
6. Site plan
7. Letter of Support

8-10. Applicant's Photograph(s)

11-12. Staff Photograph(s)

COMMENTS:

The Richardson Residence is before the Hearing Officer to request a variance to increase the wall height in the front yard setback from four (4) feet to eight (8) feet. The property is located 2006 South El Camino Drive in the R1-6, Single Family Residential District. The applicant had constructed an eight (8) foot fence in the front yard setback uninformed that the Zoning and Development Code limits wall heights to four (4) feet in the front yard setback. The owner constructed the wall to assist in reducing traffic noise from Broadway Road. The owners constructed the wall on the north side of the front yard, where the wall would be screened by the existing oleanders. The location of the wall on the north side of the property does not cause any surveillance problems with the street. The main residence has an unobstructed view to the street.

To date, staff has received one letter of support on this case.

Variance

The Zoning and Development Code requires a variance for a wall/fence greater than four (4) feet in height that is located in the front yard setback, in the R1-6 Single Family Residential District.

Evaluating the variance, the proposal appears to meet the criteria for approving the variance:

a. There are special circumstances or conditions applying to the land, building, or use referred to in the application;
   - There does appear to be a special circumstance keeping with the land, building or use. The applicant indicates the special circumstance is that the wall is located in the front setback on the north side of the property, immediately adjacent to Broadway Road.

b. That authorizing the variance is necessary for the preservation and enjoyment of substantial property rights;
   - An eight (8) foot wall may be necessary for enjoyment of substantial property rights by reducing traffic noise from Broadway Road.

c. That authorizing the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to public welfare in general; and, if applicable
   - The property owner has received a letter of support from a neighbor. As it appears, the fence is not located along the front of the residence, the owner placed the wall to the north of the home to reduce noise from Broadway Road and the wall is screened by existing oleanders. The wall is not visible from the El Camino Drive.

Conclusion

Staff recommends approval of the variance.

Neighborhood Meeting

Applicant had a neighborhood meeting on Saturday, February 2, 2008 at 2:00 PM at the Tempe Public Library.

No neighbors showed up to attend the meeting. The property owner did receive a letter from a neighbor who could not attend the neighborhood meeting, but was supportive of the request.

REASON(S) FOR APPROVAL:

1. There may be special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. The variance is granted an eight (8) foot wall along the north portion of the front yard; based on the plans reviewed and approved by the Hearing Officer. The variance is not valid for the remainder of the front yard.
2. Obtain all necessary clearances from the Building Safety Division.

HISTORY & FACTS: Home constructed in 1959

DESCRIPTION:

Owner – James Richardson
Applicant – James Richardson
Existing Zoning – R1-6, Single Family Residential District
Lot Size – 13,527 s.f. / .31 acres
Main Residence Area –1,660 s.f.
Required Fence Height – 4'
Existing Fence Height – 8'
Front yard Setback– 20'

ZONING AND DEVELOPMENT CODE REFERENCE:

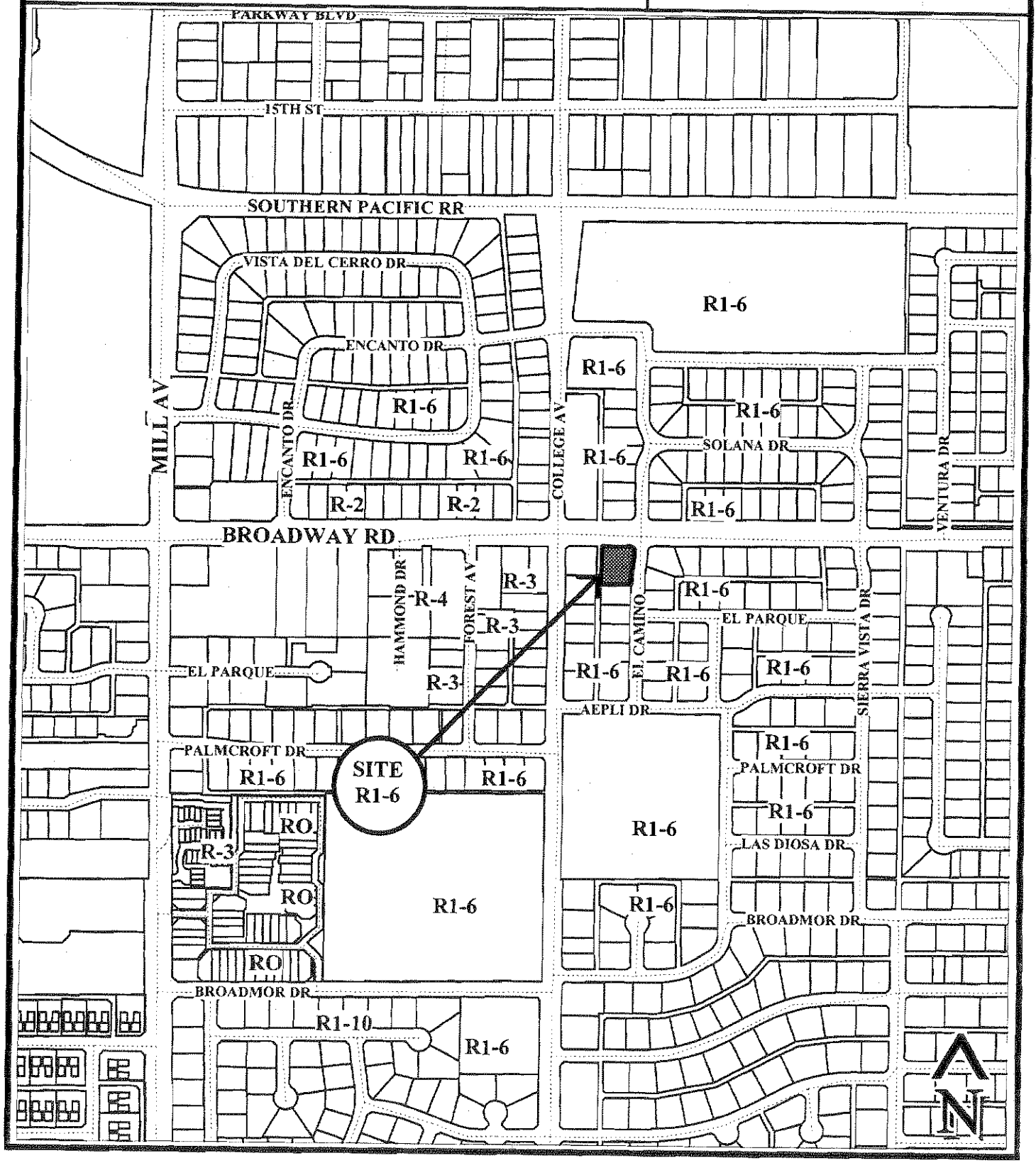
Part 4, Chapter7, Section 4-706: General Fence and Wall Height Standards

Part 6, Chapter 3, Section 6-309: Variances

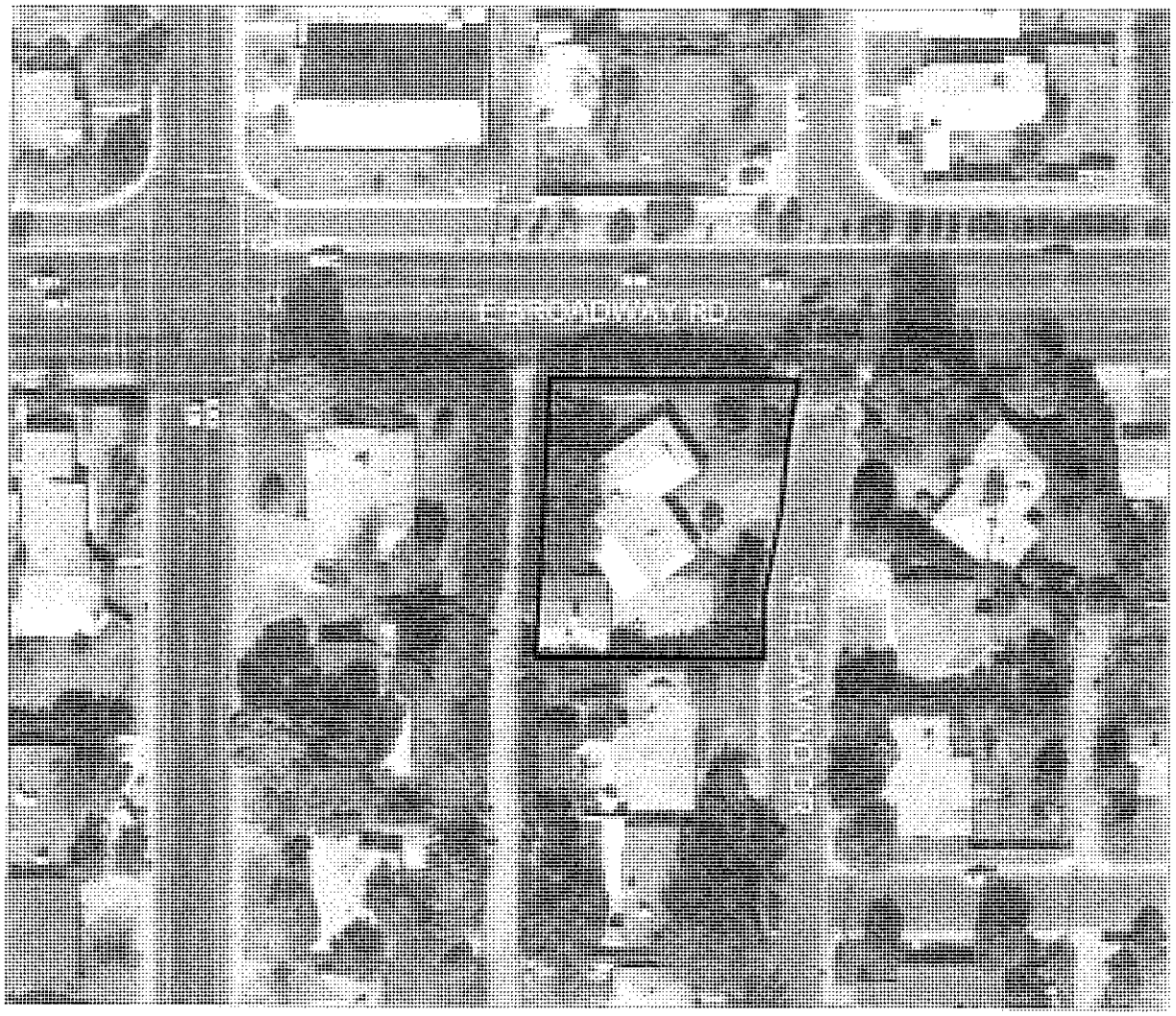
Tempe

RICHARDSON RESIDENCE

PL070545



Location Map



RICHARDSON RESIDENCE (PL070545)

December 19, 2007

James E Richardson III
2006 S. El Camino Dr.
Tempe, AZ 85282
(602) 743-5758
jerichar@post.harvard.edu

Letter of Explanation

Request: To extend an existing 8-foot high block wall from the backyard into the front yard. Therefore, I am requesting an increase in the maximum height of a wall in the front yard from 4-feet to 8-foot, due to hardship.

As a background, my brother and I purchased this property approximately two years ago, our first home buying experience. It was a great property, but its only significant blemish was its close proximity to a noisy road (Broadway Road). Since our bedrooms face towards Broadway Road, the traffic noise would regularly interrupt our sleep. To alleviate this issue, we replaced the original single-pane windows with noise reducing double-pane windows. This certainly helped reduce the noise, but the traffic noise was still bothersome at times. Our backyard featured an 8-foot high block wall that was effective at reducing noise, so it was decided that extending it along the oleanders into the front of the property would be effective. Once the wall was erected, the results were amazing. For the first time, it was actually quiet in our bedrooms! Both my brother and I can sleep peacefully now, thanks to the noise-abating wall.

A. **There are special circumstances or conditions applying to the land, building, or use referred to in the application.**
   The property in question is adjacent to a major, noisy road (Broadway Road).
B. **That the authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.**
   An 8-foot block wall provides a significant noise reduction from Broadway Road, creating a much quieter and restful living experience in my dwelling. A 4-foot wall, unfortunately, would not be as effective. Also, while hopefully a remote occurrence, the wall also provides a safety barrier should a fast-moving vehicle on Broadway Road errantly drive or swerve on to my property.
C. **That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.**
   The wall is located on the side of the property and follows the path of existing shrubbery adjacent to Broadway Road. Nearby properties will have minimal visual impact because of the existing shrubbery (in addition, the wall will be stucco-textured and painted). In fact, the wall may slightly reduce noise for my adjacent neighbors, thus enhancing the enjoyment of their properties too.
D. **Make any changes in the uses and densities permitted in any zoning classification or zoning district.**
   Adding an 8' foot high block wall will not make any changes in uses or densities permitted in this zoning district.
E. **Be for the purpose of rectifying a special circumstance which was self-imposed by the property owner or applicant.**
   The lot lines and property location has been unchanged since 1955, therefore the condition was not self-imposed.
F. **Allow relief from any item expressly prohibited by this Code.**
   Adding an 8-foot block wall in the front yard will not provide relief from anything expressly prohibited by this Code.

Thank you for your kind consideration on this matter,

Jamie Richardson
Tempe resident

December 19, 2007

James Richardson
2006 S. El Camino Dr.
Tempe, AZ 85282
(602) 743-5758
jerichar@post.harvard.edu

Dear Neighbor,

A neighborhood meeting is required for variances when the property is located within 300' of a residential use. The property in question is located at **2006 S. El Camino Dr.**

The variance requested is regarding an 8-foot block wall extending into my front yard. This wall is located on the north side of my property, in between my house and Broadway Road (see diagram below). The maximum height of a wall or fence in the front yard (defined roughly as the first 20' from the sidewalk) is 4', unless a variance is granted. The wall's primary purpose is to reduce the noise experienced from Broadway Road.

I have scheduled a neighborhood meeting in a study room of Tempe Library (lower level in the Computer Access Center). The library is located at 3500 S. Rural Road (southwest corner of Rural and Southern). **The meeting is scheduled for X:XXpm on XXXXX, 2008.** All questions and concerns can be presented at the neighborhood meeting. 2:00pm Feb 2,

Thank you for your consideration.

James Richardson
Tempe resident

February 7, 2008

James Richardson
2006 S. El Camino Dr.
Tempe, AZ 85282
(602) 743-5758
jerichar@post.harvard.edu

Neighborhood Meeting Summary for Saturday, February 2nd, 2008

Attendees

Property owner, James Richardson

Discussion

The meeting was held at the Tempe Library at 2:00pm-3:00pm. No one else attended besides property owner.

One property owner, Robert Jones, sent a letter saying he would be unable to attend. In this letter, he stated his support for the variance. This letter will be made available during the public hearing.

No other feedback has been received.

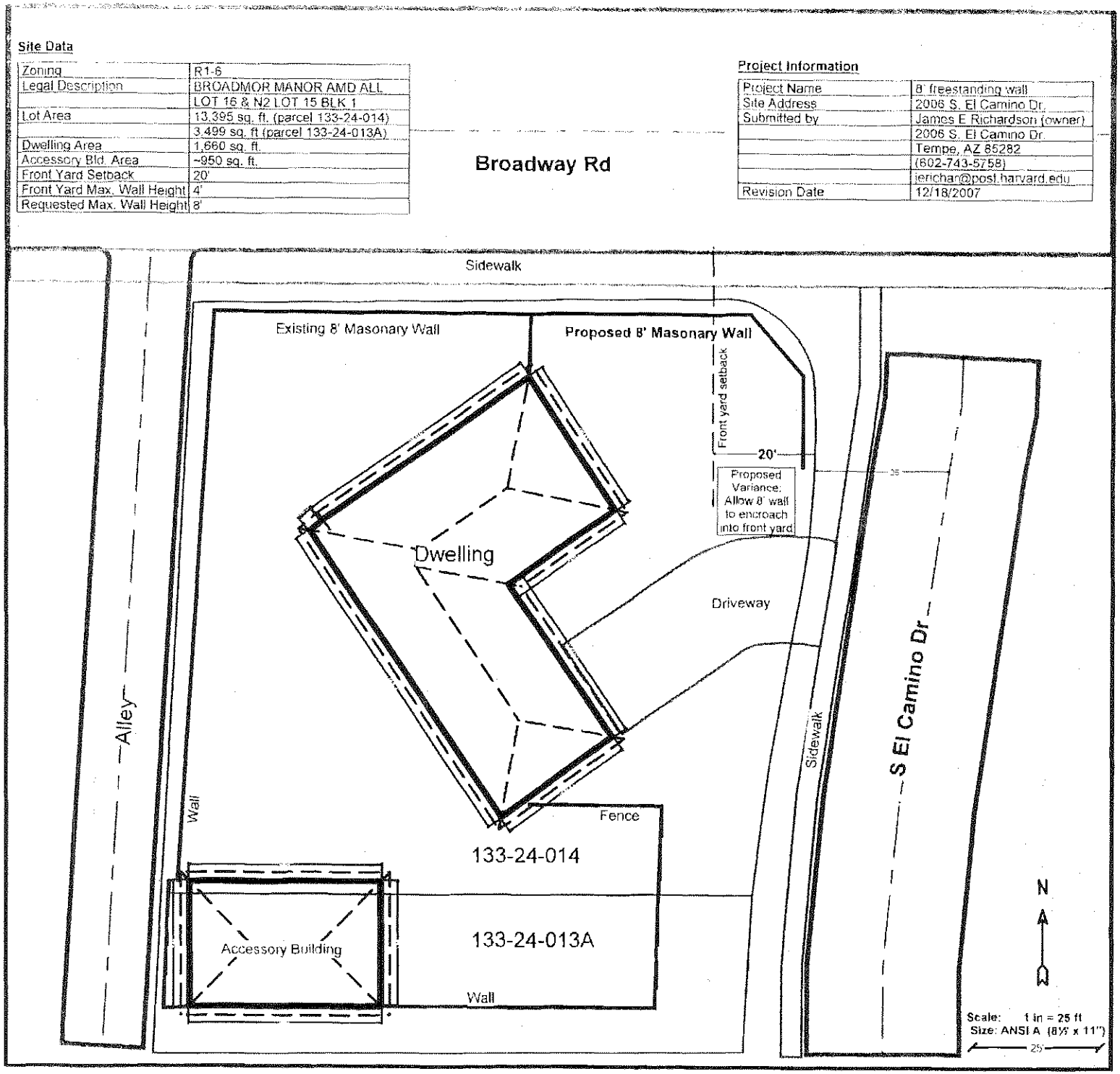
ATTACHMENT 83

Site Data

Zoning	R1-6
Legal Description	BROADMOR MANOR AMD ALL
	LOT 16 & N2 LOT 15 BLK 1
Lot Area	13,395 sq. ft. (parcel 133-24-014)
	3,499 sq. ft (parcel 133-24-013A)
Dwelling Area	1,660 sq. ft.
Accessory Bld. Area	~950 sq. ft.
Front Yard Setback	20'
Front Yard Max. Wall Height	4'
Requested Max. Wall Height	8'

Project Information

Project Name	8' freestanding wall
Site Address	2006 S. El Camino Dr.
Submitted by	James E Richardson (owner)
	2006 S. El Camino Dr.
	Tempe, AZ 85282
	(602-743-5758)
	jerichar@post.harvard.edu
Revision Date	12/18/2007



COPY

American Alliance

MORTGAGE COMPANY

6139 S. Rural Rd., Bldg. #200-104, Tempe, Arizona 85283-2929

Ph: (480) 775-9000 Fax: (480) 345-1579

BK#18077

January 25, 2008

FILE COPY

Mr. James Richardson
2006 S. El Camino Drive
Tempe, Arizona 85282

Dear Neighbor:

I own the home that is directly behind you. My house faces College and borders on Broadway Road, just as yours does. While I can not attend the meeting that you are having on February 2nd, 2008, at the Tempe Library, I completely support your request to obtain a variance to build an eight (8) foot high fence. I would even support a higher fence of 10 to 12 foot.

I have taken several decimal readings on that street over the past several years, and know that these readings are above the acceptable and healthy levels for a residential area. I have information that tells me that within the next couple of years, there will be a "Broadway Road Improvement Project" started that might encompass some kind of noise barrier, but who knows what that might entail or when. I would like to suggest that the City of Tempe pay for your wall or at least a portion of it, due to traffic volume and sound levels that are unhealthy.

The alternative to this problem might be that we suggest the City rezone this portion of the corridor as "Residential/Office". There are only five (5) houses on the south side of Broadway Road from Phoenix to Apache Junction. All others are multi-family (apartments) or commercial.

If I can help in any way further, please don't hesitate to call me

Sincerely,

Robert M. Jones

RECEIVED
08 JAN 29 AM 8:42
TEMPE DEVELOPMENT
SERVICES DEPARTMENT

RMJ/jr

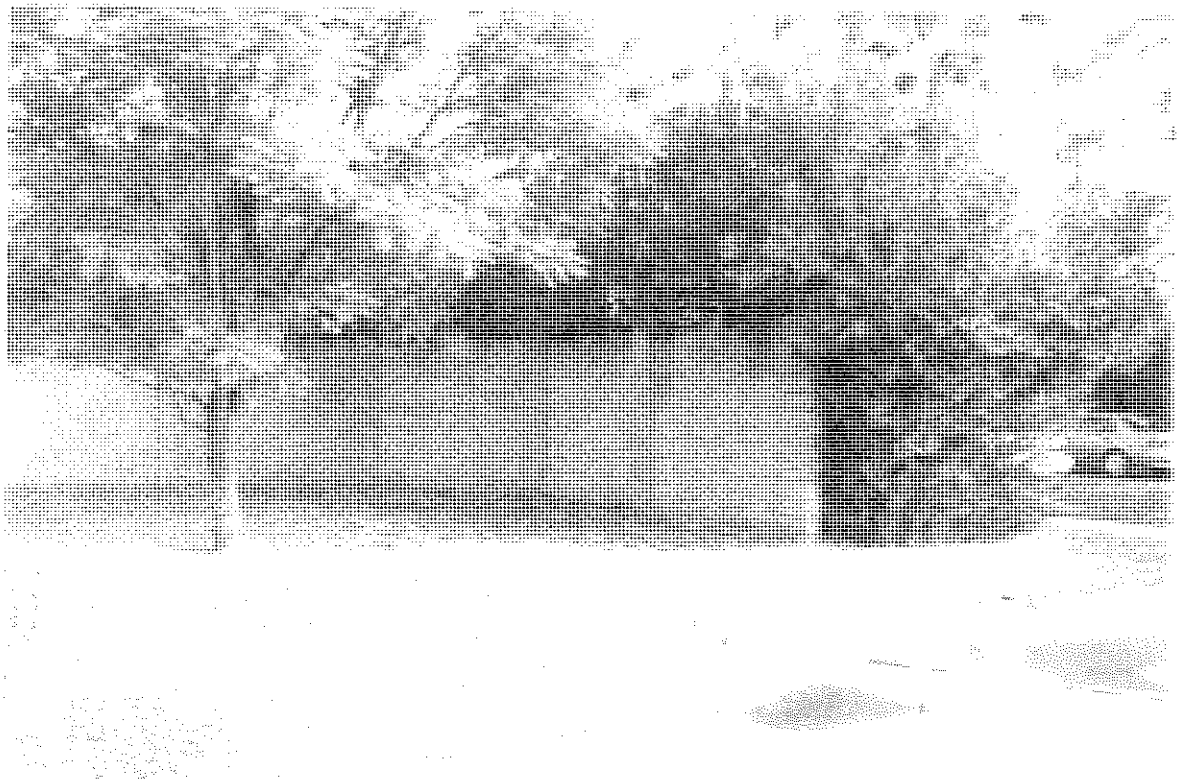
CC: Hearing Officer
P. O. Box 5002
Tempe, Arizona 85280-5002

ATTACHMENT 7

Looking north towards the property (Broadway is on the other side of wall/bushes):

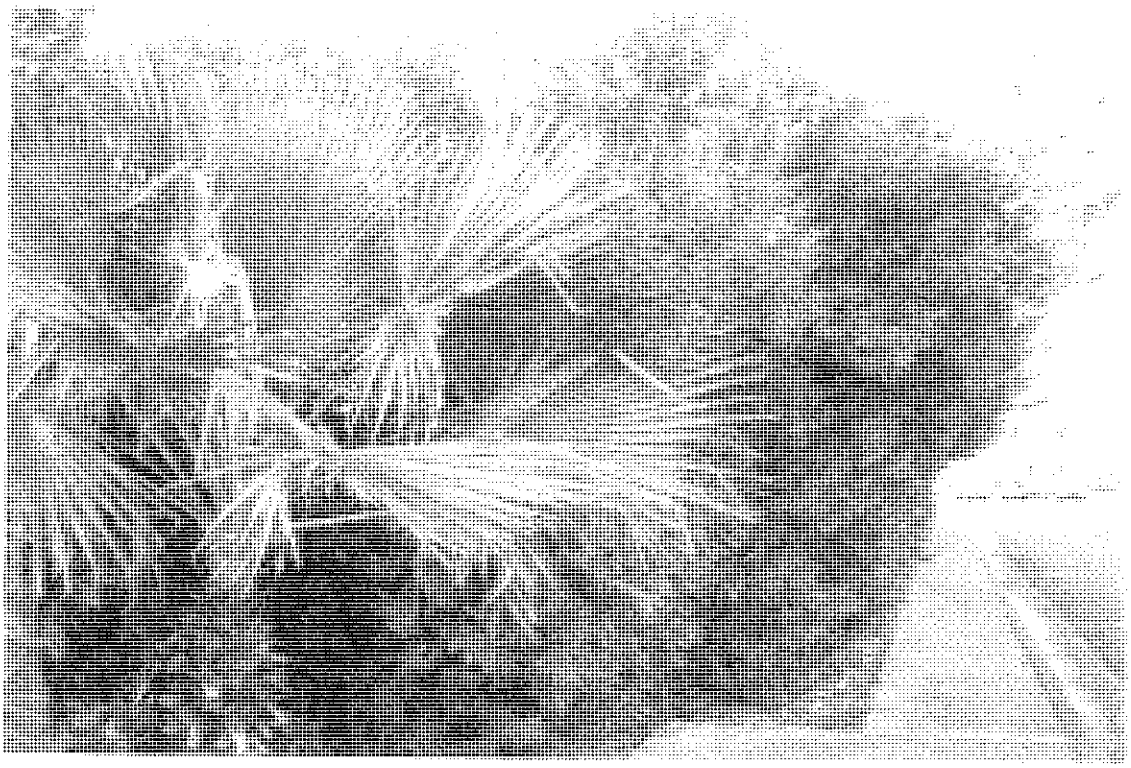
Closer view, looking northwest:

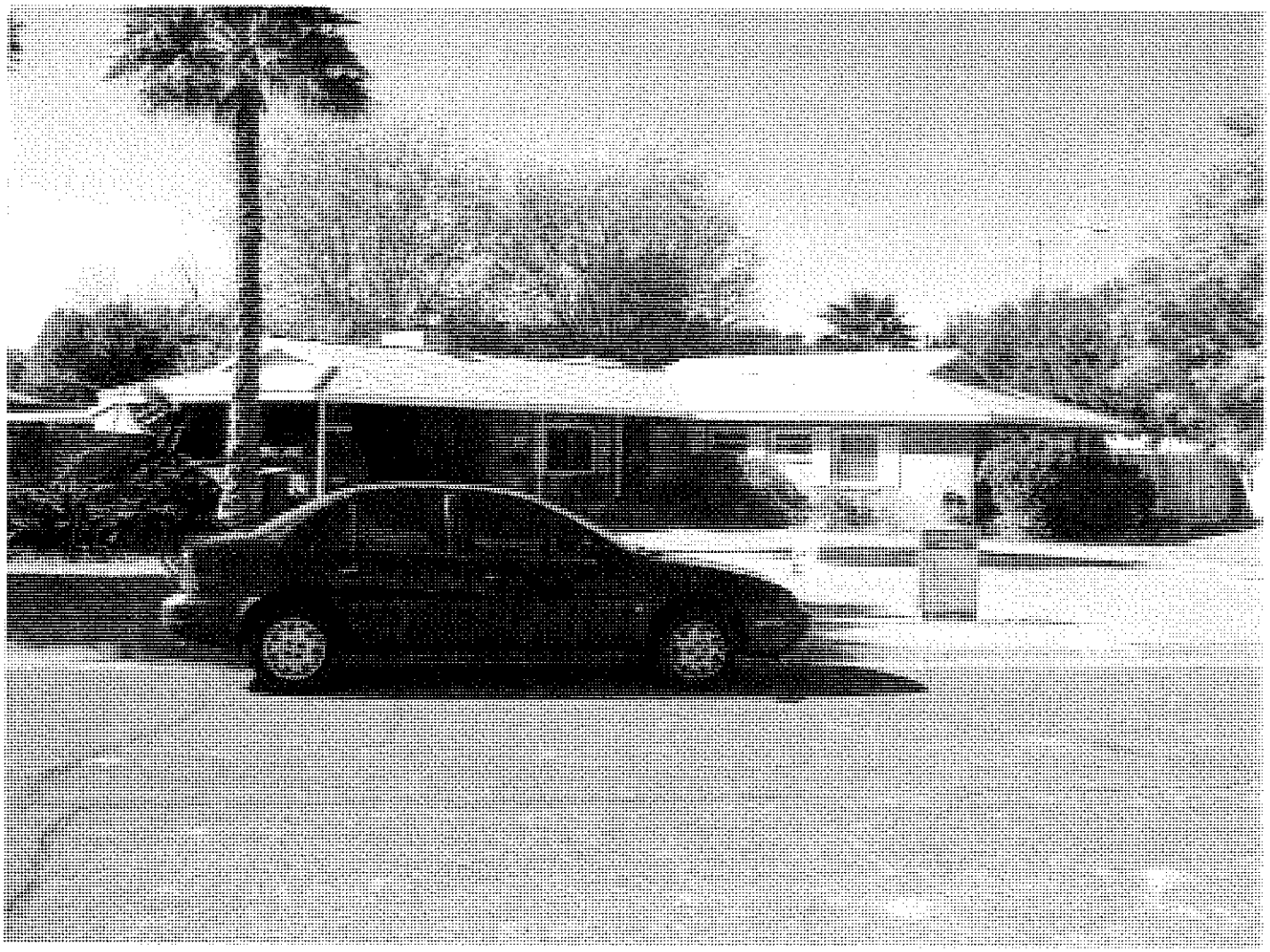
Looking northeast, from my driveway. My plan is stucco and paint the wall so it blends well with the surroundings:



Looking west from property directly across the street. The wall is not visible:

Looking west along Broadway Road. The wall is not visible:



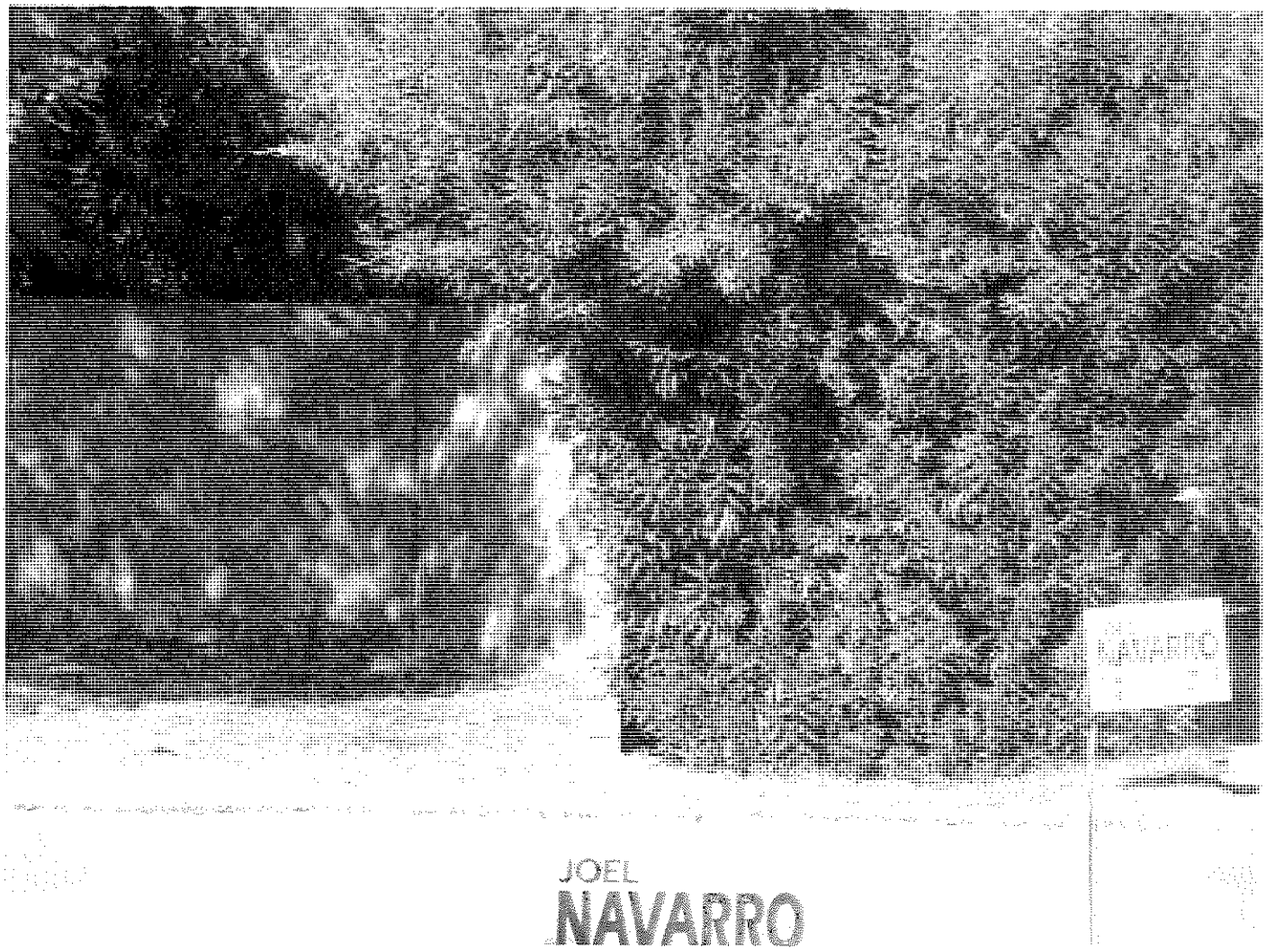


RICHARDSON RESIDENCE

2006 S EL CAMINO DR

PL070545

FRONT OF RESIDENCE



RICHARDSON RESIDENCE

2006 S EL CAMINO DR

PL070545

FRONT OF RESIDENCE: EXISTING WALL IN FRONT SETBACK.

Tempe

Minutes
HEARING OFFICER
FEBRUARY 19, 2008

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
David Williams, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Shawn Daffara, Planner II
Alan Como, Planner II
Nick Graves, Planning Intern

Number of Interested Citizens Present: 12

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by March 4, 2008 at 3:00 PM.

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1. Mr. Williams approved the Hearing Officer Minutes for February 5, 2008.

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2. Hold a public hearing for a request by the **RICHARDSON RESIDENCE (PL070545)** (James Richardson, applicant/property owner) located at 2006 South El Camino Drive in the R1-6, Single Family Residential District for:

   VAR08001 Variance to increase the wall height to eight feet (8') in the front yard setback.

   Mr. James Richardson was present to represent this case.

   Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued. He noted that staff is recommending approval of this request due to special circumstances of the property adjacent to Broadway Road. Wall was built without understanding that walls about four (4) feet need a special variance. The reason for the wall was that property to the north backs up to Broadway Road and the property owner wanted this wall to aid in traffic calming and noise reduction.

   Mr. Williams asked if the actual date of the wall construction was known. Shawn Daffara responded that he did not have this information. Mr. Williams asked if the date that the street was closed was known. Mr. Daffara stated that he did research the records and although the exact date was undetermined, it appeared that it occurred during the 1980's.

   Mr. Williams noted that the installation of the wall was well positioned against the oleanders, which reduced the visibility of the wall and that there was a significant noise factor due to the traffic in that area. He stated that traffic noise and loss of privacy for this family residence constituted special circumstances for this property.

DECISION:

Mr. Williams approved PL070545/VAR08001 subject to the following conditions:

1. The variance is granted an eight (8) foot wall along the north portion of the front yard; based on the plans reviewed and approved by the Hearing Officer. The variance is not valid for the remainder of the front yard.
2. Obtain all necessary clearances from the Building Safety Division.

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3. Hold a public hearing for a request by the **MINGUA RESIDENCE (PL080002)** (Sam Mingua, applicant/property owner) located at 1530 West 5th Place in the R1-6, Single Family Residential District for:

ZUP08005 Use permit to allow an accessory building.
ZUP08006 Use permit standard to reduce the rear yard setback by twenty percent (20%) from fifteen feet (15') to twelve feet (12').
ZUP08011 Use permit to allow parking in the front yard setback.

Mr. Sam Mingua was present to represent this case.

Alan Como, staff planner, stated that no additional public input or information had been received since the staff report had been issued except for one (1) letter of opposition from Mr. Bill Butler, Riverside Sunset Neighborhood Association.

Mr. Williams asked if the Riverside Sunset Neighborhood Association was assigned to the area in which the applicant resided. Mr. Como replied that he was not certain, however he believed that it was a neighborhood that was in close proximity to the applicant's residence. Mr. Abrahamson clarified that the applicant resided within the Lindon Park Neighborhood Association boundaries. The Riverside Sunset Neighborhood Association was about a quarter to a half mile to the east from the applicant's residence.

In response to a question from Mr. Williams, Mr. Como explained that the maximum lot coverage allowed in the R1-6, Single Family Residential District was 45%. The applicant's lot was approximately 7,644 s.f. with the house, gazebo and proposed accessory building totaling about 2,100 s.f. amounting to 27% of lot coverage so the applicant's request would not exceed the standard.

Mr. Williams asked if the rear yard setback was now measured from the center of the back alley and that the proposed garage was to be 2 ft from the property line? Mr. Como responded that in cases where the home has a dedicated alley behind it the setback is permissible to be measured from the center line of the back alley which is what applicable to this request which would be 12 ft. from the center line of the alley. He confirmed that is was a single bay garage which was requested.

Mr. Mingua said that the neighbors didn't know that the twenty feet setback was his front driveway, that he was not parking in his front yard setback. He noted that all of his six (6) vehicles were all licensed. If the driveway was paved, it is double wide and forty feet long. The carport is semi-enclosed and so four (4) cars are parked in the driveway.

Mr. Mingua explained that he was getting close to retirement and would use the workshop to work on some of his old cars. There would not be increased driving back and forth in the alley. It would be used to enter and depart the workshop on a limited basis and some cars would be worked on for six (6) months or whatever it takes.

Mr. Williams noted that during his site visit today he noticed that there was some work going on in the alley pertaining to gas line work and also that there were numerous miscellaneous items in Mr. Mingua's back yard. Mr. Mingua responded that he had a metal storage building that he had taken down and that the miscellaneous items and swamp cooler that Mr. Williams viewed in the back yard were items that would be placed in the proposed garage. The gas line is being relocated for easier access should problems arise in the future and it is being moved so it will be about ten (10) feet away from the structure.

Mr. Williams suggested that Mr. Mingua familiarize himself with the City requirements regarding items kept in yards just so he would be aware of them. He noted that he did have concern about the number of cars being kept at Mr. Mingua's residence.

Mr. Williams noted that he was in support of the detached garage in the back yard and that this would give Mr. Mingua a place to keep some of the vehicles because it seemed like six (6) vehicles was an over-intensification of a normal single family residence and enclosing the carport exacerbates the situation.

Mr. Williams stated that he would approve the use permit to allow an accessory building in the rear yard, and the use permit standard to reduce the rear yard setback by twenty (20) percent to allow maximum utilization of the yard especially for vehicle related uses. He appreciates that Mr. Mingua would be keeping excess items in the garage in order to comply with City codes. Mr. Williams stated that he would not be able to support the request to park in the front yard setback – that it should be clear that this request is actually for two (2) spaces in the front yard in the setback. Mr. Williams noted that he had observed a shade structure in the front yard setback for parking and that this is not in compliance with the City code. This needs to be removed. If Mr. Mingua would like to apply for an attached carport that is structurally compatible with the house that would be something that could be approved. Mr. Mingua responded that he had been told that the shade structure which was erected on a metal frame (12 x 20) and encroaches into the front yard setback approximately three (3) feet was acceptable. Mr. Williams stated that it was not allowed in the front yard setback and would need to be removed – he asked Mr. Abrahamson what the particular code was that applied to this restriction. Mr. Daffara responded that the City code stipulates that whenever there is a detached structure it can be no larger than 200 s.f. or 20 x 10 for example and no taller than eight (8) feet in height – the goal is to have it be compatible with the intent and goals of the General Plan and to be aesthetically pleasing. If the existing shade structure is 12 x 20 it would automatically need a use permit similar to the detached garage.

DECISION:
Mr. Williams denied PL080002/ZUP08011.

Mr. Williams approved PL080002/ZUP08005/ZUP08006 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. The accessory building shall not be converted to livable space. Any such conversion would be determined to be an intensification of the use and would require that the use permit appear before the Hearing Officer for re-evaluation.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.

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4. Hold a public hearing for a request by the **STEWART RESIDENCE (PL080013)** (William & Cinderella Stewart, applicants/property owners) located at 1903 East Citation Lane in the R1-7, Single Family Residential District for:

   ZUP08012 Use permit standard to reduce the west street side yard setback by twenty percent (20%) from ten feet (10') to eight feet (8').

Mr. William Stewart was present to represent this case and noted that they were proposing a garage in which to park their vehicles and protect them from theft.

Alan Como, staff planner, stated that no additional public input or information had been received since the staff report had been issued.

Mr. Williams asked if there was a picture of the front elevation and any drawings that would depict what the structure would look like. Mr. Stewart presented a sketch of the proposed garage and confirmed that they had resided in the home for twenty (20) years since 1987.

Mr. Williams clarified that this is a use permit request not a variance, and that it meets all the criteria for approval.

DECISION:
Mr. Williams approved PL080013/ZUP08012 subject to the following condition:
1. Obtain all necessary clearances from the Building Safety Division.

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5. Hold a public hearing for a request by **T-MOBILE (PL080018)** (Declan Murphy, applicant; Salt River Project (SRP), property owner) located at 988 West Washington Street in the GID, General Industrial District for:

   ZUP08013 Use permit to allow additional antennas on an existing monopole.

   Mr. Declan Murphy was present to represent this case and noted that the additional antennas were needed for T-Mobile to meet its obligations to their customers.

   Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued. Mr. Daffara presented a site plan sketch and indicated that it was top elevation where T-Mobile intended to add the three (3) additional antennas. He noted that co-location is encouraged whenever possible rather than a new monopole installation facility.

   DECISION:
   Mr. Williams approved PL080018/ZUP08013 subject to the following conditions:
   1. Obtain all necessary clearances from the Building Safety Division of the Development Services Department.
   2. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
   3. The proposed antennas shall match the existing antennas on the site.
   4. The wireless device shall be removed within 30 days of discontinuance of use.

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6. Hold a public hearing for a request by the **CARR RESIDENCE (PL080019)** (Brett Carr, applicant/property owner) located at 614 West 11th Street in the R1-6, Single Family Residential District for:

   ZUP08014 Use permit to allow an accessory building (garage).

   Mr. Brett Carr was present to represent this case.

   Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued. He noted that the property is under a major remodel and that this request pertains to vehicle coverage/storage as part of the remodel.

   Mr. Williams noted that the lot was in a bit of an unusual circumstance as it is at the junction of an alley and the street. Mr. Daffara noted that yes the property line was close to a city dedicated alley as well as a street location. Mr. Williams that this building will be very visible from the street so that architectural compatibility is essential. Mr. Daffara stated that was correct and Condition of Approval No. 2 stipulated that the garage match the residence and be compatible.

   Mr. Williams questioned the applicant as to whether the roof of the garage would be a pitched roof and the pitch generally match the home. Mr. Carr stated that was correct. Mr. Williams questioned what type of rear yard treatment was planned, would there be fencing or a wall around the back yard. Mr. Carr stated that there was a large existing tree and the garage had been situated so as to preserve that tree; a fence would be placed in the open boundary area next on the other side of the garage. Mr. Williams asked if there was a wall planned? Mr. Carr responded that there would be a wall to meet the next door neighbor's wall to the east property line.

   DECISION:
   Mr. Williams approved PL080019/ZUP08014 subject to the following conditions:
   1. Obtain all necessary clearances and permits from the Building Safety Division.
   2. Garage to complement the main residence in color, form and material.
   3. The new garage shall have address numbers on north elevation, facing the alley. Address numbers to contrast with the garage color.
   4. The alley shall be maintained in a dust free condition per City Code, Chapter 29-3.

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7. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **ROWE RESIDENCE (PL070487/ABT07029)** (Richard Rowe, property owner) Complaint CE073237 located at 1405 North Rose Street in the R1-6, Single Family Residential District.

   Mr. Rowe was present to represent the property owner. He stated that if Andres Lara had given him a plan of attack to deal with the problem, that the problem would have probably been taken care of a long time ago. Now that he is aware of the three (3) items he has left to take care of, he can deal with it. Mr. Rowe noted that he had met with Jeff Kulaga of the City Manager's office and would take care of one of the items today.

   Jan Koehn, representing the City of Tempe – Neighborhood Enhancement Department stated that Mr. Rowe was 80% in compliance, that he had three (3) items left to take care of, and that the recommendation was to continue this case to the March 18, 2008 Hearing Officer hearing.

Ms. Sandy Ingersol of Apache Junction spoke in support of Mr. Rowe, stating that she had known him for ten (10) years and had been his significant other for eight (8) years. She wanted to bring to their attention that he did not take this abatement problem lightly however he had taken an early retirement due to suffering from chronic fatigue syndrome, that he is concerned about doing what is right and he is making a valiant attempt to bring the property into compliance. She would appreciate any consideration given Mr. Rowe for continuance of this case.

Mr. Williams stated that he would abide with staff's recommendation to continue this case.

DECISION:
Mr. Williams continued abatement proceedings for PL070487/ABT07029 to the March 18, 2008 Hearing Officer.

The next Hearing Officer public hearing will be held on **Tuesday, March 4, 2008.**

There being no further business the public hearing adjourned at 2:20 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm

McMANUS RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: 10/04/11 **Agenda Item Number:** 3

SUBJECT: This is a public hearing for a request by the **MCMANUS RESIDENCE** located at 1428 South Oakley Place for one (1) use permit.

DOCUMENT NAME: 20111004cdkko01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **MCMANUS RESIDENCE (PL110313)** (Judith McManus, applicant/property owner) located at 1428 South Oakley Place in the R1-6, Single Family Residential District and the CRA, Cultural Resource Area for:

ZUP11084 Use permit to increase the maximum allowable height of a wall in the front yard setback from 4 ft. to 6 ft. as measured from the highest adjacent grade within 20 ft. of the fence.

PREPARED BY: Kevin O'Melia, Senior Planner (480-350-8432)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

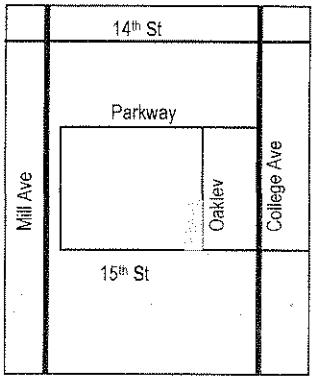
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is requesting a Use Permit to allow the increase from four (4) ft. to six (6) ft. of maximum allowable height for a freestanding fence-wall located in the front yard setback. The subject is a recently re-constructed wooden fence atop a concrete unit masonry wall. This fence-wall has replaced a wooden fence that was briefly removed but previously had existed for twenty-five (25) years at approximately this height and in approximately this location. The re-constructed fence-wall is the subject of a citizen complaint (CE112153) that is currently being processed by the Code Compliance Section. Planning staff has reviewed the application documents, has made site review and finds the re-constructed fence-wall meets Zoning and Development Code criteria for approval of a Use Permit.

PAGES:

1. List of Attachments
2-3. Comments; Reasons for Approval
3. Condition of Approval;
3-4. History & Facts;
4. Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3-4. Applicant's Letter of Explanation
5. Neighbor Support List – Keep the Fence in its Current Location and Height
6. Before (top) and After (bottom) Photographs of the Fence and Residence from 15th Street
7. Designer's Site Plan, dated 05/11/2011 - Fence Layout and Sissoo Tree Layout Depicted
8. Staff Vignette Sketch of Fence-Wall with Reference to Highest Adjacent Grade, dated 09/14/2011

9-10. Reference Document: Tempe Historic Property Inventory Form: 1428 S. Oakley Place

COMMENTS:

The applicant is requesting a Use Permit to allow the maximum height for a fence-wall in the front yard setback to be increased from four (4) ft. to six (6) ft. A wooden fence has existed on the south of this property for approximately twenty-five (25) years. The fence recently was taken down and re-constructed to include a base of concrete unit masonry. The location of the fence-wall was changed slightly to place the fence-wall entirely on the subject property. Previously, the southern portion of the fence-wall adjacent to 15th Street was located in the public right of way. The materials of the fence-wall include a base of concrete unit masonry and a fence of vertical-slat weathered wood construction. The weathered wood is part of the original fence. The purpose of masonry base is to keep the wood above the level of flood irrigation in the lawn basin. The fence-wall as re-constructed is the subject of a citizen complaint (CE112153) received by the Code Compliance Section.

For the purpose of the Use Permit request, the height of the fence-wall as re-constructed "...shall be measured from the highest adjacent finished surface of the ground, paving or sidewalk within twenty (20) feet..." of the fence-wall. This is in accordance with Zoning and Development Code (ZDC) Section 4-706A. The location of the highest adjacent surface is the exterior concrete pavement at the southeast corner of the residence. The height of the fence is a nominal six (6) ft. above this pavement, as field measured by planning staff on September 14, 2011. There is an approximate one (1) inch variation in the top of fence-wall based on variations in length of the weathered wood vertical slats, but the top of fence-wall is essentially level from the southeast corner of the residence to the southwest corner of the property.

Portions of the fence measured adjacent to finish grade in the flood irrigation basin of the yard reach to a maximum of approximately seven (7) ft. six (6) inch in height. This reflects an eighteen (18) inch drop between the pavement grade at the southeast corner of the residence and the prevailing grade in the flood irrigation basin of the lawn. In keeping with ZDC Section 4-706(A), the measurement is taken from the paving at the southeast corner of the residence (the highest adjacent grade) and not from the flood irrigation basin (the lowest adjacent grade).

Like its predecessor, the purpose of the re-constructed fence-wall is to create a private yard to the south of the residence. Staff is in support of this design concept as indicated by the following analysis of approval criteria for Use Permit.

Use Permit

The subject site is a corner lot as defined by Zoning and Development Code (ZDC) Section 7-113(C.1.a.). This definition also establishes the front lot line as the shorter of the two lines adjacent to the streets. ZDC Section 4-706(A) requires a Use Permit to increase the maximum allowable height of a fence-wall in the front yard setback from four (4) ft. to six (6) ft.

ZDC Section 6-308 (E.2) Approval Criteria for Use Permits

a. *Any significant increase in vehicular or pedestrian traffic.* The position and height of the fence-wall has no bearing on volume of vehicular or pedestrian traffic in the neighborhood.
b. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.* Relocation of the fence wall to within the property line so it is away from the sidewalk edge reduces the potential of wood splinters for passerby, improves visibility to the intersection of 15th and Oakley, and removes the earlier conflict caused by a private structure within the public right of way.
c. *Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans or General Plan.* The reconstructed fence-wall in conjunction with the design renovation of Sissoo tree installation in the front yard (15th) and street side yard (Oakley) of this property at the same time is an enhancement to the neighborhood and benefits the property owner in the maintenance of personal privacy. The reuse of existing fence wood in the reconstruction of the fence-wall is a demonstration of conservation of materials.
d. *Compatibility with existing surrounding structures and uses.* The design of the fence-wall and ordered rows of Sissoo trees in the front and street side yards are in character with the design of landscapes bordering both sides of 15th Street between Mill and College Avenues.
e. *Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the*

surrounding area or general public. There is nothing either explicit or implicit within the proposal to maintain a private yard which by its description will create a nuisance to the surrounding area or general public.

Conclusion

Staff recommends approval of the Use Permit subject to one (1) condition of approval.

REASONS FOR APPROVAL:

1. The fence reconstruction was preceded by another fence of the same height in approximately the same location. The previous fence was located here, in the applicant's estimation, for approximately twenty-five (25) years.
2. The front lot line by definition faces 15th Street in accordance with ZDC Sec. 7-113 (C.1.a.). However, the front of the residence including the front door and driveway face Oakley Place. The yard between the residence and 15th Street naturally functions as a side yard.
3. The Tempe Historic Property Inventory Form (December, 2006) including the photo of the residence contained in the Form also indicates the east elevation (facing Oakley Place) as the front of the residence. The preservation of the residence and the east (entrance) elevation in close to its original form is the main reason the property contributes to the national register status for the University Park Addition subdivision.
4. As an enhancement to personal and neighborhood security, the private yard contained by the fence-wall shields south-facing bedroom windows from 15th street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITION OF APPROVAL SHOULD APPLY.

CONDITION OF APPROVAL:

1. Complete one of the two following processes no later than October 04, 2012, which is one (1) year from date of approval, or the Use Permit will expire.
   a. Prepare structural detail and structural calculation of fence-wall construction, sealed by a registered structural engineer, and submit the detail and calculation along with the site plan of the fence-wall layout to the Building Safety Division. Obtain Building Permit from Building Safety Division for fence-wall construction in excess of six (6) ft. height. For the Building Safety application, height is as measured from lowest adjacent grade in flood irrigation basin to top of fence-wall, which is in accordance with Building Safety criteria for measurement of height of structures. Complete structural modifications (if any) to existing fence-wall in accordance with documents that have been approved by the Building Safety Division.
   b. Remove the top of the fence-wall so the fence-wall, as measured from the lowest adjacent grade in the flood irrigation basin, is no greater than six (6) ft. in height. A building permit is not needed for a structure of this height.

HISTORY & FACTS:

1945:	Subdivision plat for the University Park Addition and annexation of this area into the City of Tempe.
c: 1954:	Construction of a one-story residence at 1428 South Oakley Place.
2008:	Addition of University Park Historic District to the National Register of Historic Places. This District is bounded on the north by 13th Street to the west of Forest Avenue, is bounded on the north by the alley between 13th Street and 14th Street to the east of Forest Avenue, is bounded on the east by McAlister Avenue, is bounded on the south by the Union Pacific Railroad right of way, and is bounded on the west by Mill Avenue. Note: University Park Addition is designated by General Plan 2030 as a Cultural Resource Area. However, the University Park Historic District is not on the Tempe Register of Historic Places and is not part of a Historic Overlay District within the City. Note: 1428 South Oakley Place contains one of the original houses of the University Park Addition and is designated a contributing property to the National Historic Register status for the University Park

Addition subdivision.

June 22, 2011: Anonymous complaint filed (CE112153) concerning 1428 South Oakley Place for Deteriorated Landscape and Over height Grass/Weeds (City Code 21-3.b.8) and over height wall in front yard setback (Zoning and Development Code Sec. 4-706). Deteriorated landscape and over height grass and weeds have been resolved. Over height wall in front yard setback is the subject of this Use Permit request.

DESCRIPTION:

Owner and Applicant – Judith McManus

Assessor's Parcel Number – 133-17-014

Existing Zoning – R1-6, Single Family Residential District
Historic Designation – National Register of Historic Places – University Park Historic District. The subject site is Lot 2 of Oakley Place, a re-plat of a portion of the University Park Addition Subdivision.

GP 2030 Projected Land Use – Residential
GP 2030 Projected Residential Density – CRA, Cultural Resource Area (4 dwelling units / acre)

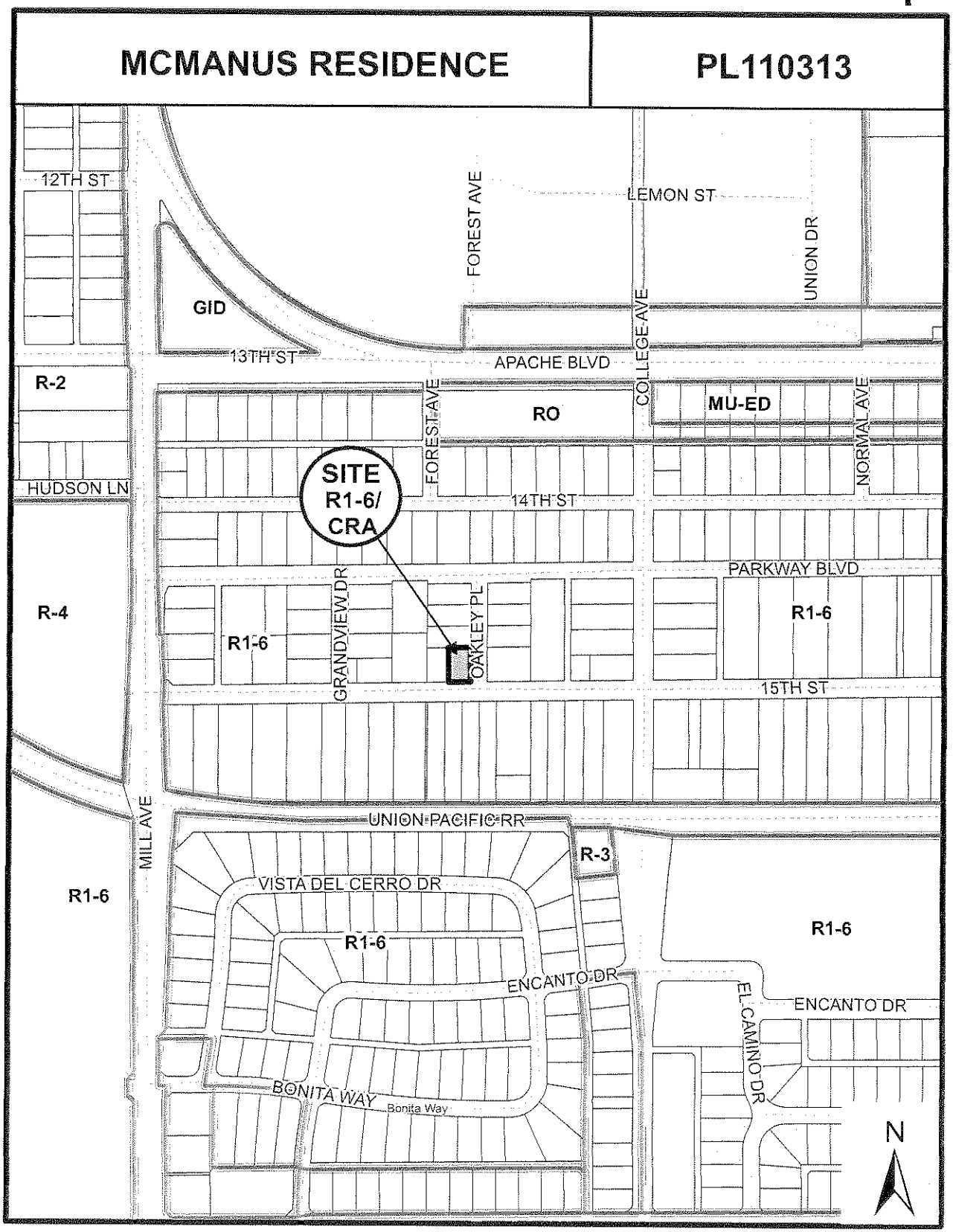
ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 7, Section 4-706(A) – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe

MCMANUS RESIDENCE

PL110313



Location Map

MCMANUS RESIDENCE (PL110313)

August 20, 2011

Shawn Daffara
Code Inspector II
City of Tempe
Tempe, AZ

RE: Correction Notice Case # CE 112153

Dear Shawn,

I am responding to Correction Notice CASE #CE112153 regarding the location and height of my current fence located at 1428 South Oakley Place, Tempe, AZ 85281. I think that the fence should remain in its current location and height for the following reasons.

1. When I purchased my home in May 2011, my real estate agent and a representative of Wells Fargo (seller of property) stated that the front yard of my home faced east. My front door, house numbers, and front walkway face east. Moreover, my address is 1428 South Oakley Place. Therefore, the fence that faces 15th street does not surround my front yard and should not be subject to codes for a 4 foot height and 20 foot set-back.

2. When I purchased my home (and for about twenty-five years prior to my home purchase), there was a wooden fence that was about two feet closer to 15th street than my fence is now. Bill Tonnesen, my landscape architect, created a set-back in his design that would correspond to Tempe code requirements. I realized that I would lose backyard space, but I thought that I was adhering to the City of Tempe requirements.

3. When I first looked at my home in January 2011, the wooden fence was falling down, there were beer bottles between the fence and the sidewalk on 15th street, bottle trees were in the public lines, and the tree roots were surrounding the water, sewer, and gas lines. The lawn was transformed into

a beautiful area with trees, grass, and a structurally sturdy fence. I love the University Park neighborhood and I am proud that my landscape is an addition to the beautification of this area. In essence, where there were once beer bottles, mounds of bottle tree leaves, and a dilapidated fence, there are now Indian Rosewood trees and green grass against an attractive piece of organic architecture.

4. In June during a one hour period when no one was home, a bike was stolen from my carport. I filed a report with the Tempe police and have had a security check conducted in my home. If my fence was reduced in height, someone would be able to see into my bedrooms. This is a security risk and I strongly urge you not to force me to lower the height of my fence.

5. The fence is not obstructing any view of traffic on Oakley Place or 15th Street.

6. I went to sixteen homes in the University Park area today, requesting signatures of support for my request. All sixteen neighbors signed in agreement with my request (see attached support document with signatures).

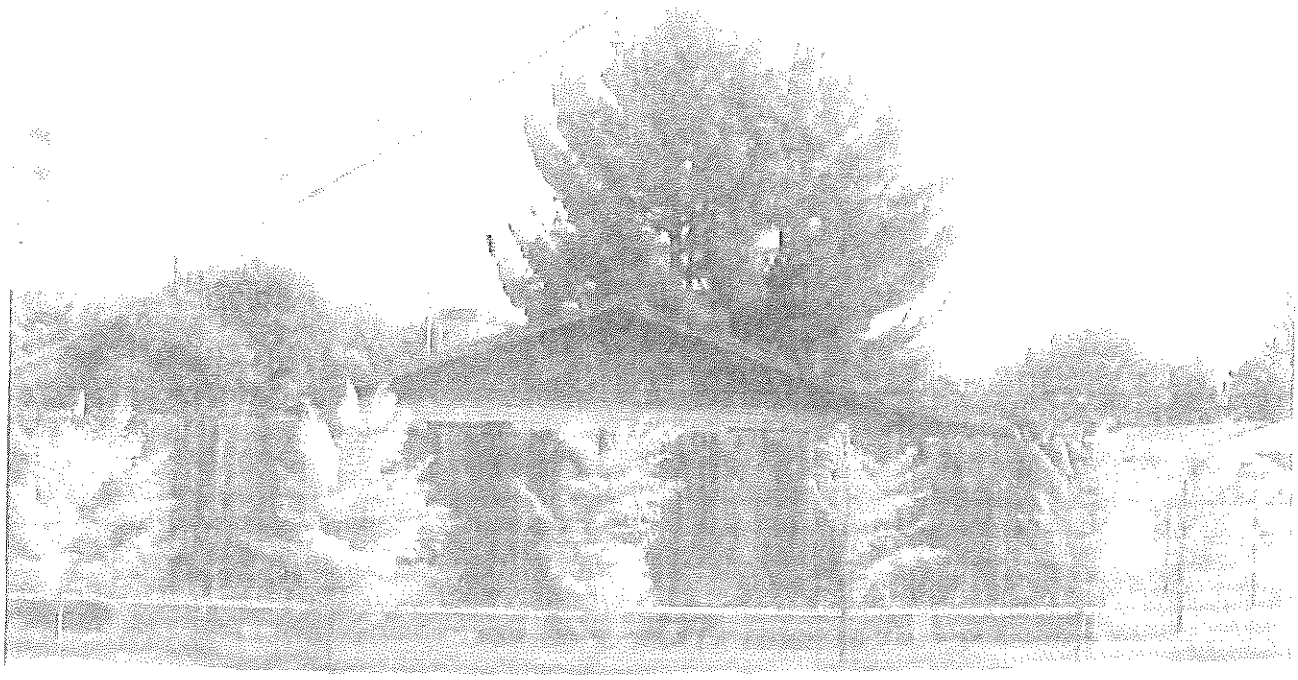
Thank you for your consideration in this matter.

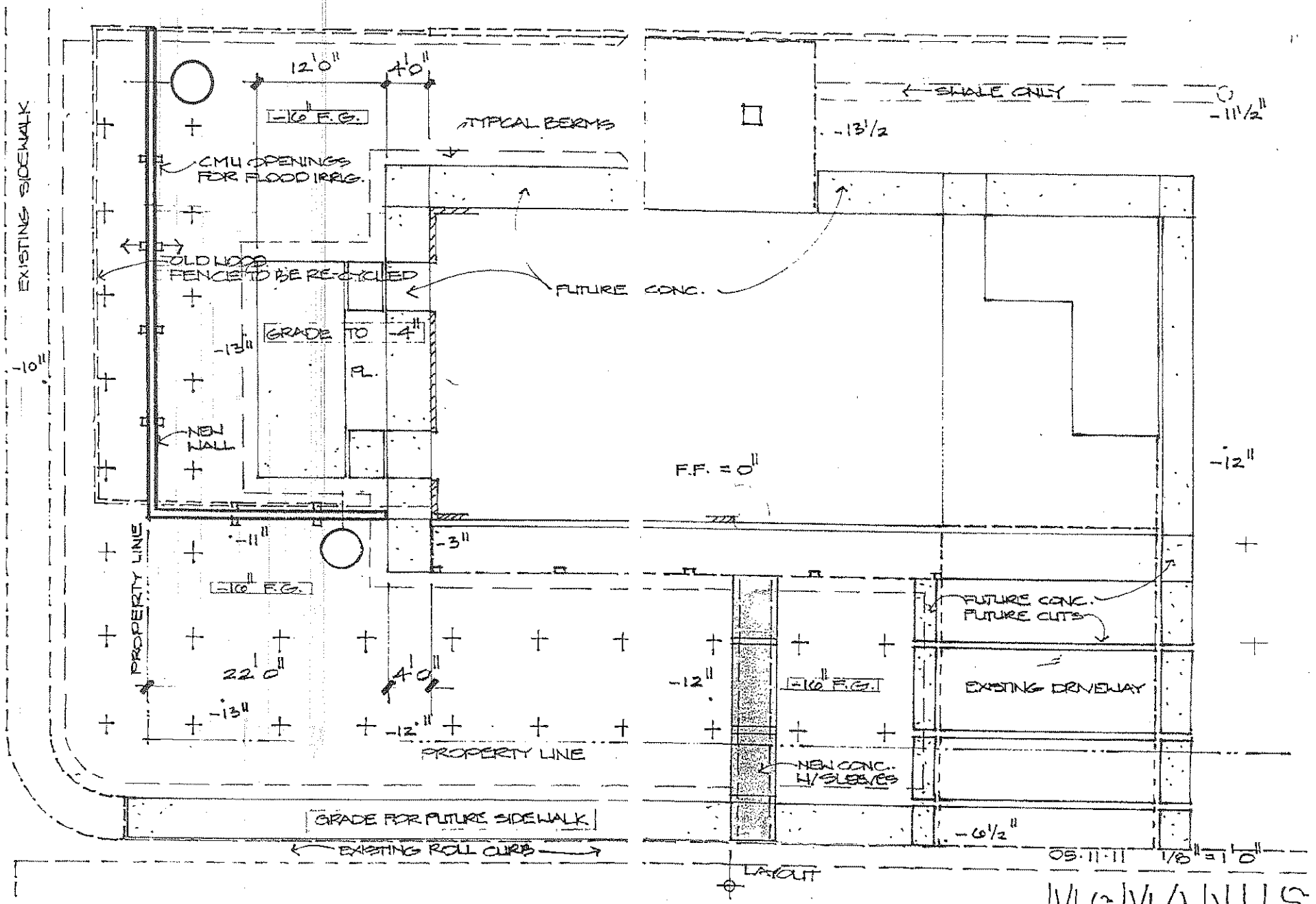
Judith McManus
1428 South Oakley Place
Tempe, AZ 85281

Aug. 20, 201.

I support the Project Submittal Application submitted by Judith McManus to keep the fence at 1428 South Oakley Place, Tempe, AZ 85281 in its current location and height.

NAME	ADDRESS	SIGNATURE
JOHN SCHAMPER	102 E 15TH TEMPE	
JEFF BURKES	46 E 15th TEMPE	
Gamze Ozogul	38 E 15th Tempe	
Charles Allen	22 E, 15TH ST	
DEB GOFF	1433 S. Mill Ave.	Deb Goff
Brian Taylor	7 E 15 St	
CLIFF JONES	15 E. 15TH ST	
Alana Wiesing	101 E. 15th St.	Alana Wiesing
Bill & Pilar Tonnesen	105 E 15th St	
Todd Lewis	107 E 15th St.	
Ed [illegible] (Ed Garnero)	111 E. 15 St	
Diane Palmer	117 E 15th	Diane Palmer
Pam Neuharth	111 E 15th St.	
HEATHER CISZCZON (NISSEN)	126 E 15TH ST	Heather [illegible]
REBECCA HISCHIER	122 E 15th St	
CHAD KERLEY	1420 S. OAKLEY PL	
YORGI SPANOS	1420 S. Oakley	
MIKE TAM	1420 S. OAKLEY	

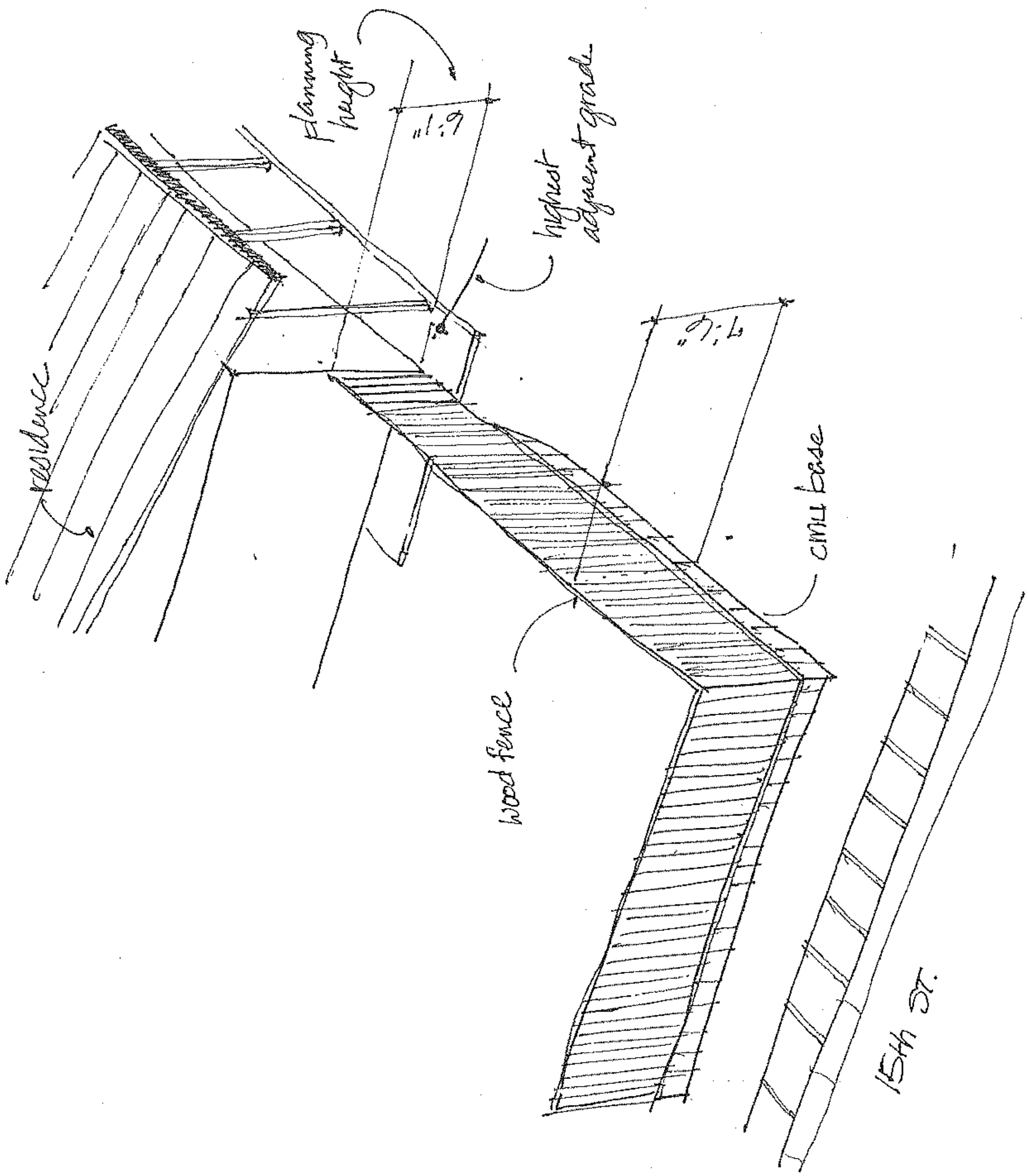




ATTACHMENT 108

McMANUS

9.14.11


Planning height
6'-1"
highest adjacent grade
residence
7'-6"
cmu base
wood fence
15th St.

Tempe Historic Property Inventory Form

Historic Preservation Office
Development Services Department
132 E. Sixth Street, #101
Tempe, Arizona 85281

SURVEY NUMBER: UP-156
COUNTY: Maricopa
PROPERTY NAME: P. L. Mahr House (1958)
SURVEY AREA: Oakley Place

IDENTIFICATION

ADDRESS: 1428 S. Oakley Place

CITY: Tempe PARCEL NO.: 133-17-014

LOT: 2 BLOCK: n.a. PLAT: Oakley Place

TOWNSHIP: 1N RANGE: 4E SECTION: 22 QUARTER: USGS QUAD: Tempe

UTM REFERENCE: Zone 12 Easting 412961.90456 Northing 3697179.4816 ACREAGE

PROPERTY TYPE
Residential

HISTORIC USES
1. Residential
2.

PRESENT USE: Residential

STYLE: Ranch

CONSTRUCTION DATE: 1954

SOURCE OF DATE
Maricopa County Assessor

ARCHITECT/BUILDER/CRAFTSMAN
unknown

STRUCTURAL CONDITION
good

INTEGRITY
fair
possible carport extension

Negative Number
1. DCP 382
2.

Date of Photo
1. 5/18/04
2.

View
1. NW
2.

Photographer or Source
C. Schmidt

Additional Photos Attached ☑

ARCHITECTURAL DESCRIPTION

STORIES	1
FOUNDATION	concrete
STRUCTURAL MATERIALS	unknown
WALL CLADDING	brick
ROOF TYPE	side gable
ROOFING	composition
OUTBUILDINGS	unknown
WINDOWS	steel sash
ENTRY	side at carport
PORCHES	full width veranda

APPLIED EXTERIOR ORNAMENT

INTERIOR
Not Accessible

ENVIRONMENT/LANDSCAPING
flood irrigation, older ash?

ALTERATIONS/DATES OF ALTERATIONS
possible conversion of 1-car carport to 2-car carport at right (north) end; partial infill of back half of right bay of carport

STATEMENT OF SIGNIFICANCE

1. Theme/Context

Residential Development in Tempe, Arizona, 1945-1960

2. Historical Association

This house is one of the original buildings in the University Park Addition, which was developed in 1945 on 80 acres of agricultural land located immediately south of Arizona State College (now Arizona State University) by E. W. Hudson and Kenneth Clark. It was one of three Tempe subdivisions platted at the end of the Second World War that were incorporated into the city—the first annexations to take place outside the original townsite. The Urban Development Company of Phoenix (headed by E. H. Shumway and Renz J. Jennings) marketed the subdivision to buyers as vacant lots, with purchasers and contractors responsible for construction, and it gradually filled with houses between 1945 and 1957, when the subdivision was effectively built out (some lots were not developed until the 1960s). In 1948 an underground irrigation system—a common feature of Tempe residential areas at the time—was built, and its continued operation to the present has given University Park an unusually lush informal landscape of well-watered lawns, large trees, and verdant gardens.

3. Architectural Association

The postwar Ranch house is distinguished from earlier styles, such as Minimal Traditional, by its horizontal or rambling appearance, deep eaves, low-pitch roof, and incorporation of a garage or carport into the house itself, either on the facade elevation or on a wing placed at right angles to the facade. Simplicity in design is another hallmark of the early Ranch house, which might consist of little more than plain block walls, casement windows, and a roof. In University Park, this tendency toward plainness is moderated somewhat by subtle details and the use of exterior building materials such as red brick, pumice block, and slump block. Although Ranch houses typically do not have porches, they often have broad overhanging eaves, with or without posts, over the entry.

BIBLIOGRAPHY / SOURCES

Tempe Historical Museum; University Park Neighborhood Association; 1997 Tempe, The past, the present, the future; 1997 Ryden survey; 2001 Solliday survey; 2001 Post World War II Subdivisions, Tempe, Arizona: 1945-1960

NATIONAL REGISTER STATUS

Contributing

REFERENCE FILES / REPORTS

SURVEYOR: J. Steely/C. Schmidt SURVEY DATE: June 2004 FORM DATE: December 2006

ATTACHMENT 10

Tempe

Minutes
HEARING OFFICER
OCTOBER 4, 2011

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Kevin O'Melia, Senior Planner

Number of Interested Citizens Present: 5

Meeting convened at 1:30 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by October 18, 2011 at 3:00 PM to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for September 6, 2011 had been reviewed and approved.

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2. Ms. MacDonald noted that the following item(s) had been removed from today's agenda:

   - Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **PAOLUCCI PROPERTY (PL110323 /ABT11037 /CE112166)** (Michael Spencer, Inspector; Emma Paolucci, property owner) located at 730 East Cavalier Drive in the R1-6, Single Family Residential District.
     ABATEMENT REQUEST WITHDRAWN BY CODE COMPLIANCE

   - Request by **CRICKET SITE PHX 190 (PL110329)** (Scott Quinn/Quinn United Enterprises, applicant; ADOT, property owner) located at 2055 South Price Road in the AG, Agricultural District for:

     ZUP11086 Use permit to increase the height of an existing monopole from 53 ft. to 59 ft. for the addition of communication antennas.
     CONTINUED TO THE NOVEMBER 2, 2011 HEARING OFFICER AT THE REQUEST OF APPLICANT

---

3. Request by the **MCMANUS RESIDENCE (PL110313)** (Judith McManus, applicant/property owner) located at 1428 South Oakley Place in the R1-6, Single Family Residential District and the CRA, Cultural Resource Area for:

   ZUP11084 Use permit to increase the maximum allowable height of a wall in the front yard setback from 4 ft. to 6 ft. as measured from the highest adjacent grade within 20 ft. of the fence.

   Ms. Judith McManus was present to represent this case.

   Kevin O'Melia, staff planner, gave an overview of this case, noting that a wooden fence has existed on the south side of this property for approximately 25 years. The site is a corner lot. The fence was taken down and re-constructed to include a base of concrete unit masonry and the location of the fence/wall was changed slightly to place the fence entirely on the subject property. Previously the southern portion of the fence/wall adjacent to the 15th Street was located in the public right-of-way. The weathered wood is part of the original fence. The purpose of the masonry base is to keep the wood above the level of the flood irrigation in the lawn basin. Mr. O'Melia noted that the front door faces east. The fence as reconstructed is the subject of a citizen complaint received by the Code Compliance Section. Staff is in support of this request.

   Ms. McManus acknowledged her understanding of the Conditions of Approval. She read her letter of explanation that she had written to Shawn Daffara, Code Inspector, in response to Correction Notice CE112153. She noted that a Petition of Support with 18 signatures from neighbors had been submitted supporting this request. She noted that the fence that faces 15th does not surround her front yard which is located on the east side of the property. Therefore she did not feel that the fence should be subject to codes for a 4 ft. height and a 20 ft. setback.

   Mr. John Ball, spoke in support of this request and stating that this request did not harm the neighborhood in any way. He stated he was sorry that the landscape architect who designed the yard was not present.

   Ms. Jo Johnson, spoke in opposition of this request. She stated that she is a long time resident of this neighborhood, having lived in the Oakley Place area since 1964. She agreed that the property was an eyesore prior to McManus purchasing it. She had discussed this case at length with Mr. O'Melia. In the 47 years she has lived at her current address, she has called the police more in the past month than at any earlier time due to noise, loud music and other issues connected with the rental property at 1420 South Oakley.

   Ms. Johnson stated that the fence materials should match the construction of the house. In her opinion the fence as constructed looks like a do-it-yourself project. She requested a continuance so she could encourage people to understand the impact that this fence construction has on this historic neighborhood. She felt that this was a non-conforming use and should have been processed as a variance to the Zoning and Development Code. She noted that she had researched the property values in this neighborhood and felt that the property changes implemented by Ms. McManus would have an adverse impact.

   Ms. MacDonald noted that this request did not address the aesthetic aspects of the fence, only the height of the fence.

   Ms. Johnson expressed her opinion that the 32 trees which had been planted on Ms. McManus' property and dredged out irrigation basin that was deepened were detrimental to the historical character of the neighborhood.

Ms. Anne McManus-Spitzer stated that she was the daughter and would not feel as safe or secure with a lower fence height.

Ms. McManus noted that after she purchased her home, she discovered that there were cracks on the house from the flooding and irrigation. She was advised to have the cinder block sandblasted to prevent any additional structural damage to her home. She went to every house in the neighborhood and if someone was not there she left a message letting them know what she was doing, what her plans were and when the work would take place. In addition to working 60 hrs. a week, she did a walking tour of Oakley Place to try to keep the residents informed of her plans. She was not trying to avoid people in Oakley Place she noted, as she likes the neighborhood and finds this opposition disheartening.

In response to a question from Ms. MacDonald, Mr. O'Melia explained that postcard notifications containing specifics of this request went to any property owners within 300 ft. of the property 15 days prior to this hearing. The physical site was posted within this 15 day time period also.

Mr. Abrahamson, Planning & Zoning Coordinator, explained that the agenda is also advertised in the legal notification section in the newspaper.

Ms. MacDonald reviewed the criteria for a use permit noting that there were good reasons to approve this request. The fence had been in existence for 25 yrs. Although there was some confusion over what was the front yard and what was the side yard, the fence provides security for this property owner at the height it has been erected. It is compatible with the neighborhood and controls disruptive behavior and allows for safety/security issues. Ms. MacDonald stated that this neighborhood is a gem in Tempe, and this request is consistent with that area.

DECISION:

Ms. MacDonald approved PL110313 / ZUP11084 subject to the following conditions:

1. Complete one of the two following processes no later than October 4, 2012, which is one (1) year from the date of approval, or the Use Permit will expire:
   a. Prepare structural detail and structural calculation of fence-wall construction, sealed by a registered structural engineer, and submit the detail and calculation along with the site plan of the fence-wall layout to the Building Safety Division. Obtain Building Permit from the Building Safety Division for fence-wall construction in excess of six (6) ft. height. For the Building Safety application, height is as measured from the lowest adjacent grade in flood irrigation basin to top of fence-wall, which is in accordance with Building Safety criteria for measurement of height of structures. Complete structural modifications (if any) to existing fence-wall in accordance with documents that have been approved by the Building Safety Division.
   b. Remove the top of the fence-wall so the fence-wall, as measured from the lowest adjacent grade in the flood irrigation basin, is no greater than six (6) ft. in height. A building permit is not needed for a structure of this height.

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4. Request by **CHUNG RESIDENCE (PL110327)** (Samuel Chung, applicant/property owner) located at 1720 East Minton Drive in the R1-6, Single Family Residential District for:

   ZUP11085 Use permit standard to allow a 15 ft. high accessory building (art studio/storage) at the R1-6 Zoning District allowed setback of 5 ft. from the east side yard property line.

   Mr. Wiser was present to represent this case for Mr. Chung.

   Sherri Lesser, staff planner, gave an overview of this case. She noted that the proposed structure, which will be a private artist studio, is 600 s.f. in area with a height of 15 ft. The building placement is 5 ft. from the east side yard property line and 1 ft. from the north rear yard property line (the required 9 ft. rear setback is measured from midpoint of the 16 ft. wide alley). No public input on this case has been received, Ms. Lesser stated.

   Ms. MacDonald stated that this request met all the use permit criteria.

   DECISION:
   Ms. MacDonald approved PL110327 / ZUP11085 subject to the following conditions:
   1. Obtain all necessary clearances from the Building Safety Division.

The next Hearing Officer public hearing will be held on **Wednesday, November 2, 2011.**
The October 18, 2011 Hearing Officer public hearing has been cancelled.

There being no further business the public hearing adjourned at 2:20 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

SA:dm

YOUNGBULL RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: 2/21/12 **Agenda Item Number:** 9

SUBJECT: This is a public hearing for a request by the **YOUNG-BULL RESIDENCE** located at 117 East Loma Vista Drive for one (1) use permit.

DOCUMENT NAME: 20120221cdsl08 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **YOUNGBULL RESIDENCE (PL120030)** (Cody Youngbull, applicant/property owner) located at 117 East Loma Vista Drive in the R1-10, Single Family Residential District for:

ZUP12013 Use permit to allow the increase of the wall height, located in the front yard setback, from 4 ft. to 6 ft.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

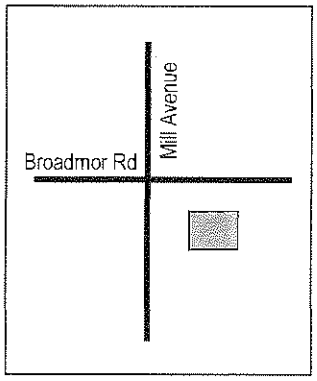
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is requesting a use permit to increase the allowable fence height in the front yard setback from four (4) feet to six (6) feet. The Zoning and Development Code requires all walls or fences located in the front yard to obtain a use permit if they are over four (4) feet in height. The wall or fence height is measured from the highest adjacent surface of the ground, paving, or sidewalk within twenty (20) feet. The applicant is requesting approval of a six (6) foot high decorative wall with 2' cut outs located within the front yard setback. The wall will create a courtyard in the front yard and is part of an overall landscape upgrade to the applicant's front yard. Staff is in support of this use permit request with the finding that it meets the Zoning and Development Code criteria to warrant an approval. To date, staff has received no public input on this request.

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts; Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Landscape site plan
5. Wall elevation

COMMENTS:

The Youngbull Residence is requesting a use permit to allow the maximum height for a wall in the front yard setback to be increased from 4 ft. to 6 ft. The wall will create a courtyard/patio area and is planned as part of an overall landscape upgrade to the front yard. Staff supports a courtyard/patio located in the front of a residence. The front yard is usually a passive inactive area; a courtyard in the front yard brings people closer to the street; fostering a greater sense of community and may serve as a crime deterrent by increasing awareness of activity on the street.

Use Permit

The Zoning and Development Code requires a use permit to increase the maximum allowable height of a wall in the front yard setback from 4' to 6'.

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
- There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
- The proposed use should not create any nuisances.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;
- The area is in compliance with the General Plan and neighborhood intent.

d. Compatibility with existing surrounding structures and uses;
- The proposed wall is intended to provide an aesthetic look and will not create a nuisance for the surrounding area.

e. Adequate control of disruptive behavior both inside and outside the property, which may create a nuisance to the surrounding area or general public.
- People presence at the street will aide in controlling disruptive behavior in the surrounding area.

Conclusion

Staff recommends approval of the use permit, subject to conditions.

REASON(S) FOR APPROVAL:

1 The authorizing of the use permit is necessary for the preservation and enjoyment of substantial property rights.
2. Authorization of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood or to the public welfare in general.
3. The wall in the front yard setback will provide a presence at the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.

HISTORY & FACTS: None pertinent to this case.

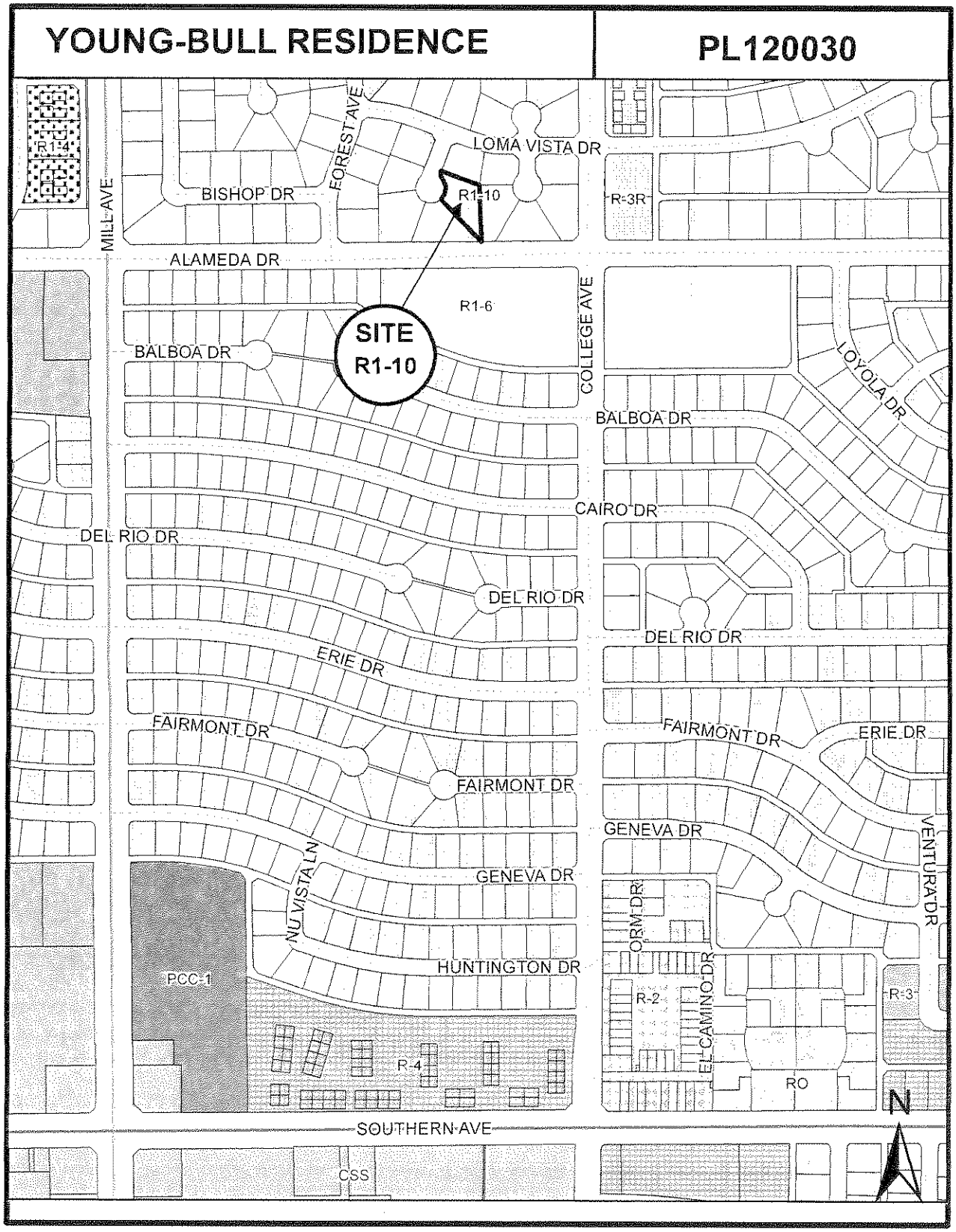
DESCRIPTION:

Owner – Mr. Cody Youngbull
Applicant – Mr. Cody Youngbull
Existing Zoning – R1-10, Single Family Residential District

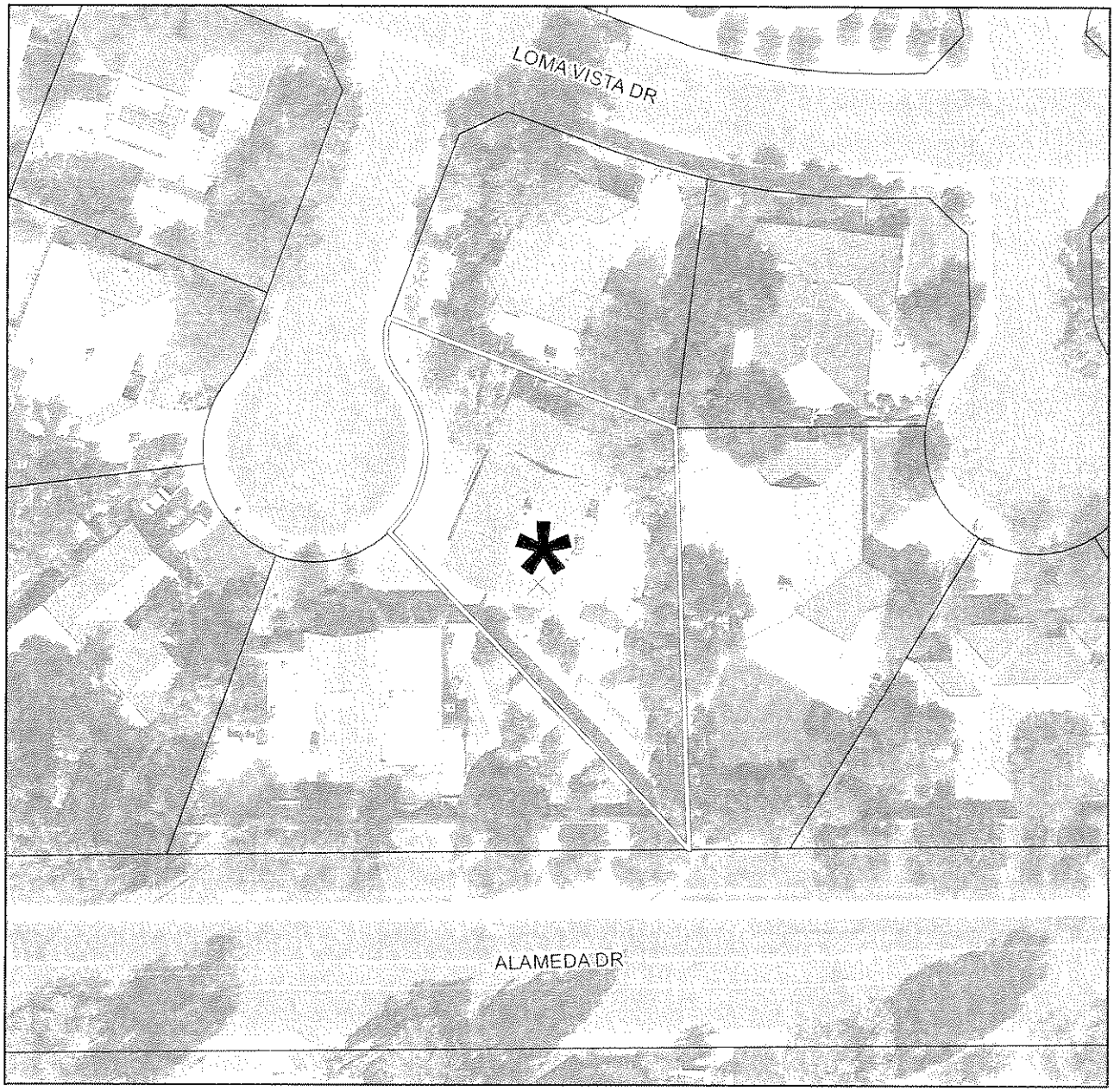
ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 7, Section 4-706A – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe



Location Map

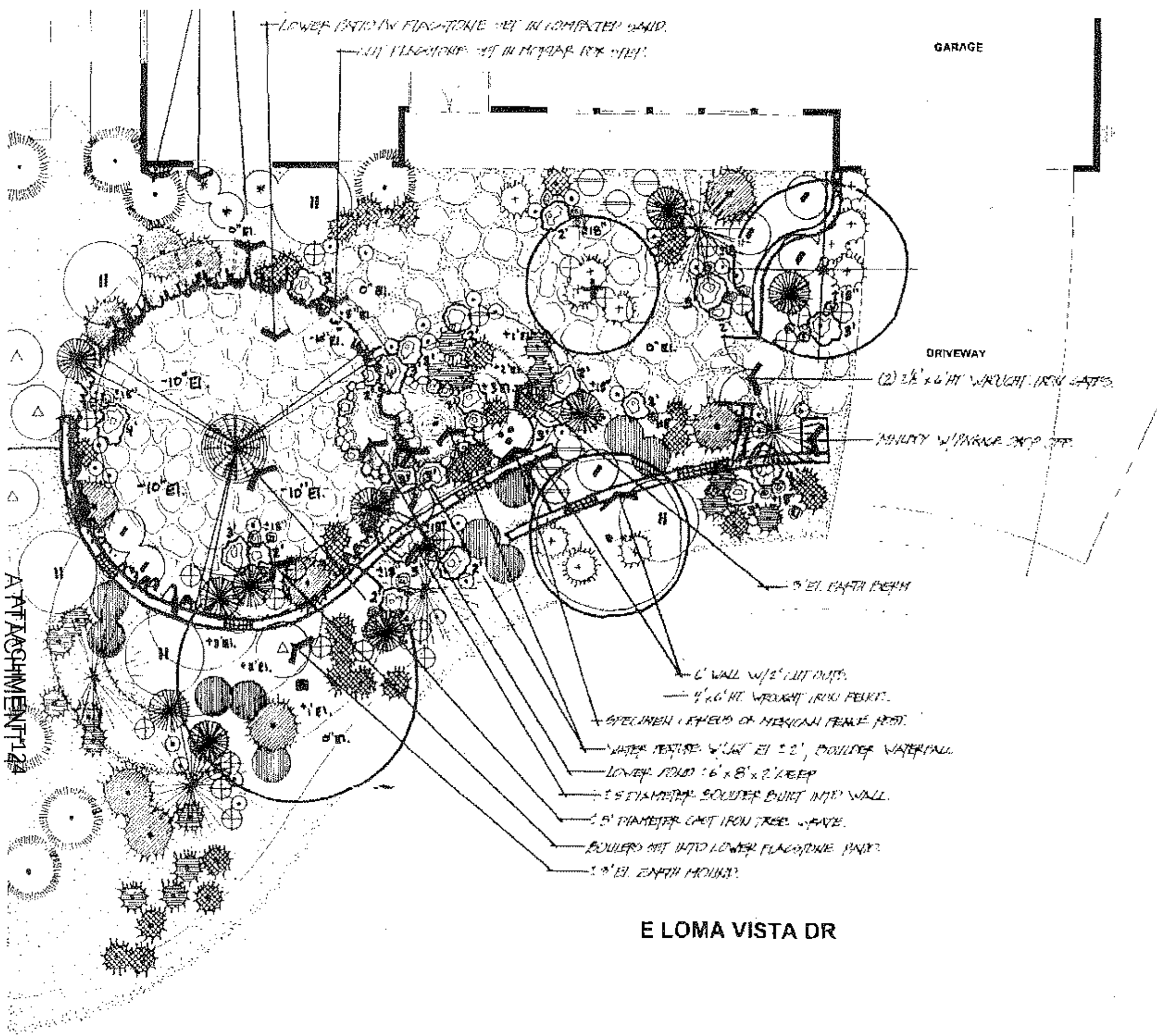


YOUNG-BULL RESIDENCE (PL120030)

Letter of Explanation

Youngbull Residence

We are trying to create a courtyard in the front of our home. The space is meant to be open, welcoming and shade producing and in the same southwestern style fitting the home and other homes in our neighborhood. There are two walls called for in the plan, each at a different height. The tallest wall is meant to be 6' high with windows in it and supports an earthen berm coming to 3' up on the exterior of the wall. This tall curved wall does not contact any other wall or structures and surrounds a circular flat area that is recessed to create a sitting area around a tree planted in the center of the courtyard. The shorter wall is designed to 5' tall and will contain the gate as entry into the front of our home. The walls will be stuccoed and painted. Two large boulders extend through the wall to make the features look natural and preexisting. Up lighting will highlight the trees and boulders surrounding and within the wall. All the plantings are desert hearty and in the long term we would like to include a water feature and apply for certification as a wildlife habitat: "http://www.nwf.org/Get-Outside/Outdoor-Activities/Garden-for-Wildlife/Create-a-Habitat.aspx?campaignid".



ATTACHMENT 124

ATTACHMENT 4

PROPOSED PLANT MATERIALS

Recommended Plants for Desert Songbirds, Desert Turtles, and Wildlife Habitats

SYMBOL	COMMON/BOTANICAL NAME	SIZE	TYPE	QTY	USE
	Cercidium floridum "Crown Jewel" Palo Verde	48" Box	Tree	1	Shelter
	Chilopsis linearis Desert Willow	36" Box	Tree	1	Food
	Pithecellobium flexicaule Texas Ebony	36" Box	Tree	1	Food, Shelter
	Prosopis glandulosa Thornless Texas Honey Mesquite	48" Box	Tree	1	Food, Shelter
	Hyptis emoryi Desert Lavender	1 Gallon	Shrub	1	Shelter
	Larrea tridentata Creosote Bush	5 Gallon	Shrub	6	Shelter
	Sphaeralcea ambigua Globe Mallow	5 Gallon	Shrub	6	Food
	Baileya multiradiata Desert Marigold	1 Gallon	Perennial	24	Food, Shelter
	Zinnia grandiflora Prairie Zinnia	1 Gallon	Perennial	21	Food

Recommended Plants for Hummingbirds and Wildlife Habitats

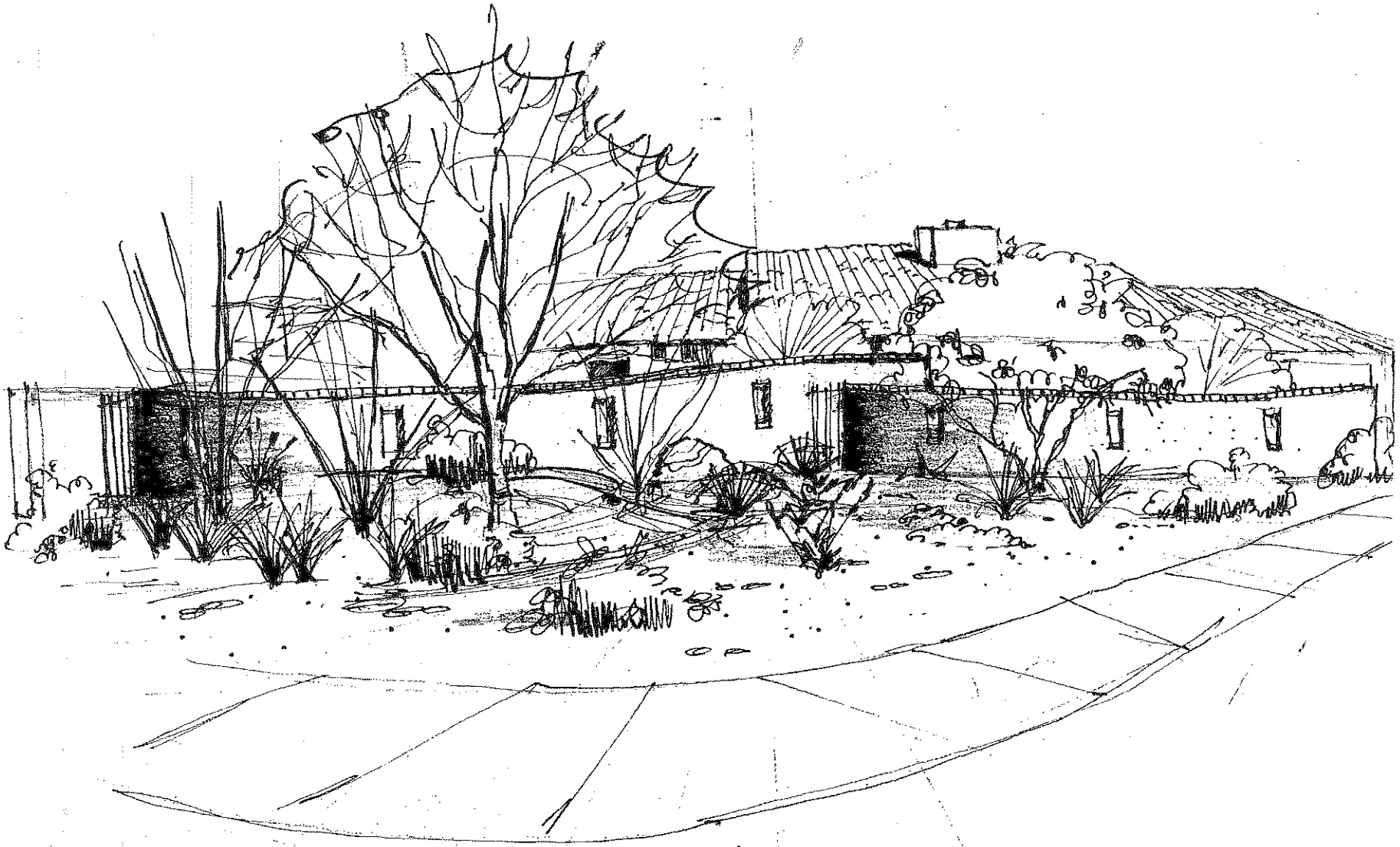
SYMBOL	COMMON/BOTANICAL NAME	SIZE	TYPE	QTY	USE
	Vitex agnus-castus Chaste Tree	36" Box	Tree	1	Food, Shelter
	Calliandra californica Baja Fairy Duster	5 Gallon	Shrub	4	Shelter
	Hamelia patens Firebush	5 Gallon	Shrub	7	Food, Shelter
	Justicia spicigera Mexican Honeysuckle	5 Gallon	Shrub	7	Food, Shelter
	Penstemon barbatus Barbatus Penstemon	1 Gallon	Shrub	15	Food
	Penstemon triflorus Hill Country Penstemon	1 Gallon	Shrub	14	Food
	Lantana montevidensis "Blood Red" Trailing Lantana	1 Gallon	Groundcover	11	Food
	Hesperaloe parviflora Red Aloe	1 Gallon	Succulent	10	Food
	Stenocereus griseus Mexican Organ Pipe	24" Box	Cactus Multiple Trunks	1	Food, Shelter

Recommended Plants for Butterfly, Nectar/Larval Plants and Wildlife Habitats

SYMBOL	COMMON/BOTANICAL NAME	SIZE	TYPE	QTY	USE
	Hamelia patens Firebush	5 Gallon	Shrub	7	
	Muhlenbergia rigens Royal Mist Grass	5 Gallon	Grass	19	Food, Shelter
	Muhlenbergia rigens Gold Autumn Grass	5 Gallon	Grass	9	Food, Shelter
	Muhlenbergia rigens Deer Grass	5 Gallon	Grass	10	Food, Shelter
	Fouquieria splendens Ocotillo	Bare Root	Cactus	5	Food, Shelter

SCALE 1/4" = 1'-0"

NORTH



FRONT WALL/LANDSCAPE

Tempe

Minutes
HEARING OFFICER
FEBRUARY 21, 2012

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner

Number of Interested Citizens Present: 3

Meeting convened at 1:30 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by March 7, 2012 at 3:00 PM, to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for January 17, 2012 had been reviewed and approved.

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2. Ms. MacDonald noted that the following item(s) had been removed from today's agenda:

   Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **MOORE PROPERTY (PL120003 /ABT12001 /CE113834)** (Jack Scofield, Inspector; Saviena Moore, property owner) located at 2021 East Yale Drive in the R1-6, Single Family Residential District.
   WITHDRAWN BY CODE COMPLIANCE

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4. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **PAOLUCCI PROPERTY (PL120013 /ABT12002 /CE114175)** (Michael Spencer, Inspector; Emma Paolucci, property owner) located at 730 East Cavalier Drive in the R1-6, Single Family Residential District.
   WITHDRAWN BY CODE COMPLIANCE

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3. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **FELSINGER PROPERTY (PL120012 /ABT12003 /CE114044)** (Michael Spencer, Inspector; Arthur Felsinger, property owner) located at 1031 East Lilac Drive in the R1-6, Single Family Residential District.

   There was no one present to represent the property owner.

   Michael Spencer, Code Inspector, explained that Mr. Felsinger has had several abatements conducted on his property over the past several years and shows no inclination to maintain the property. Presently there is grass and weeds on the gravel in the front and east side yards as well as palm frond debris on the front yard landscape.

   Ms. MacDonald stated that this property has an abatement history that goes back to 2000 and noted that this request meets the criteria for properties in disrepair.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL120012 /ABT12003 /CE114044 for an open period of 180 days.

---

5. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **WRIGHT PROPERTY (PL120020 /ABT12004 /CE113095)** (Shawn Daffara, Inspector; Robert Wright & Bank of America, property owners) located at 1322 West 10th Place in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

   Shawn Daffara, Code Inspector, explained that a complaint had been received and inspection showed that there is deteriorated landscaping, dead shrubs and a deteriorated roof missing many shingles. The house appears to be vacant and research indicated the property is in foreclosure. Staff requested an open abatement period of 180 days.

   Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL120020 /ABT12004 /CE113095 for an open period of 180 days.

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6. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **LOEW PROPERTY (PL120021 /ABT12005 /CE113418)** (Shawn Daffara, Inspector; William Loew, property owner) located at 1148 West 12th Street in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

   Shawn Daffara, Code Inspector, explained that a complaint had been received on this property. Inspection revealed a yard in a deteriorated state with high weeds and a dead tree in the front and back yards. A white truck under the carport has rotted flat tires, expired plates and is inoperable. There have been repeated complaints on this residence dating back to 2008 and the owner has failed to maintain the property but staff has been working with the owner and some progress has been made.

Ms. MacDonald stated her concern that this property has had issues since 2008 and the bare minimum is done to bring the property into compliance but would like to continue the case to give the property owner additional time.

DECISION:
Ms. MacDonald continued this case to March 20, 2012.

---

7. Request by the **BURNS RESIDENCE (PL120014)** (William Burns, applicant/property owner) located at 2169 East Calle De Arcos in the AG, Agricultural District for:

ZUP12007 Use Permit standard to reduce the east street side yard setback by 20% from 25 ft. to 20 ft. to allow an accessory building (RV/automobile garage).

William Burns was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that property owner is seeking a Use Permit to allow a freestanding RV/automobile garage. The proposed structure is 1490 s.f. with an overall height of 18 ft. The placement of the new structure closer to the east property line will have minimal impact to the neighboring properties. No public input has been received on this request.

Mr. Burns acknowledged his understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the criteria for a Use Permit and is compatible with the surrounding neighborhood. She stated this request will have a minimal impact and will not create a nuisance or contribute to the deterioration of the neighborhood.

DECISION:
Ms. MacDonald approved PL120014/ZUP12007 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. Building addition to match existing residence in color, form and material.

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8. Request by **ASH BUSINESS CENTER - XTREME STUDIOS (PL120016)** (Lara Katler, applicant; Transwestern, property owner) located at 5010 South Ash Avenue, Suite No. 104 in the GID, General Industrial District for:

ZUP12009 Use Permit to allow a fitness facility in the GID, General Industrial District.

Lara Katler was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She stated that this facility will operate by appointment only for personal training for individuals. The space is approximately 2248 s.f. and will start with one (1) trainer (the proprietor) and employ independent contractor(s) for related services. The business hours will be Monday – Thursday 7 Am – 8 Pm; and Friday – Saturday 7 Am – noon; and Sunday 8 Am – noon. No public input has been received from the neighboring tenants or surrounding property owners. Parking is sufficient to support this use, Ms. Lesser noted.

Ms. Katler acknowledged understanding of the assigned Conditions of Approval. Ms. McDonald indicated that she had driven by the business and mentioned to the applicant that sandwich board type signage is not allowed by the Zoning and Development and Code and wanted to point out Condition No. 2 to verify that the applicant was aware of the stipulation.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for Use Permits:
1. There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
2. This is a commercial use, similar to others in this industrial area; there should be no nuisances.
3. The proposed development will not contribute to neighborhood deterioration or downgrade property values.
4. The proposed use appears to be compatible with surrounding structures and uses.
5. The proposed use appears to have adequate control of disruptive behavior.

DECISION:
Ms. MacDonald approved PL120016/ZUP12009 subject to the following conditions:
1. The Use Permit is valid for Xtreme Studios and may be transferable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. All business signs shall be Development Review approved and permits obtained.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit.
4. Obtain all necessary clearances and permits for the occupancy from the Building Safety Division.

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9. Request by the **YOUNGBULL RESIDENCE (PL120030)** (Cody Youngbull, applicant/property owner) located at 117 East Loma Vista Drive in the R1-10, Single Family Residential District for:

ZUP12013 Use Permit to allow the increase of a wall, located in the front yard setback, from 4 ft. to 6 ft.

Cody Youngbull was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that the applicant(s) were requesting a Use Permit to increase the allowable fence height in the front yard setback from 4 ft. to 6 ft. The wall height is measured from the highest adjacent surface of the ground, paving or sidewalk within 20 ft. The applicant is requesting approval of a 6 ft. high decorative wall with 2 ft. cut outs. This wall will create a courtyard/patio area in the front yard and is part of an overall landscape upgrade to the applicant's front yard. To date, staff has received no public input on this request.

Mr. Youngbull indicated that he has been in contact with neighbors and has their support. He also acknowledged understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the criteria for a Use Permit and is compatible with the surrounding neighborhood and will have minimal impact on the neighborhood.

DECISION:

Ms. MacDonald approved PL120030/ZUP12013 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the Use Permit becoming effective.

The next Hearing Officer public hearing will be held on March 6, 2012.

There being no further business the public hearing adjourned at 1:54 PM.

Prepared by: Lisa Novia, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

SA:ln

CASA DE SMITH

Staff Summary Report

Tempe

Hearing Officer Hearing Date: 03/20/2012 **Agenda Item Number:** _

SUBJECT: This is a public hearing for a request by the **CASA DE SMITH** located at 1703 South Ventura Drive for three (3) Use Permits

DOCUMENT NAME: HOr_CasaDeSmith_032012 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **CASA DE SMITH (PL120053)** (W. Brent Armstrong, ISOS Architecture, Dave Smith, property owner) located at 1724 S. Ventura Drive in the R1-6, Single Family Residential District for:

ZUP12021 Use Permit standard to reduce the rear yard setback by twenty percent (20%) from 15 feet to 12 feet (as measured from midpoint of alley).
ZUP12022 Use Permit to allow a second story addition
ZUP12023 Use Permit to increase the allowable wall height within the front yard setback from 4' to 6'

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

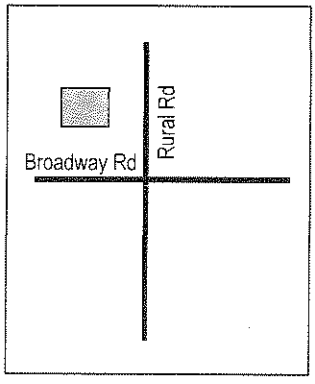
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is seeking three (3) Use Permits to facilitate an addition/remodel of their residence. The Use Permits are to reduce the west rear yard setback by 20% from 15 ft to 12 ft (as measured from the midpoint of the alley); a Use Permit to allow a second story addition and a Use Permit to increase the allowable wall height in the front yard from 4' to 6'. Staff recommends approval of the three Use Permit requests with the finding that they meet the Zoning and Development Code criteria to warrant support of the requests. To date, staff has received many telephone inquiries, one letter in support and one letter in opposition.

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts; Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan-SP1
5. East Elevation
6. North Elevation
7. West Elevation
8. South Elevation
9. Northeast/Southeast View
10. Basement floor plan
11. First floor plan
12. Second floor plan
13. Sundeck plan

COMMENTS:

Casa De Smith is located in the Daley Park Neighborhood on South Ventura Drive, one lot north of Broadway Road. The property owner is seeking three (3) Use Permits to facilitate construction of a garage with a second story addition above the garage, located adjacent to the alley. The proposed second story addition is for a bedroom and will allow access to the roof for a sun deck. All additions to the residence will have integral access to the main residence. They are also seeking a Use Permit to increase the allowable height of a wall in the front yard setback from 4' to 6'. The proposed wall will be located along the front property line on the south portion of their lot. It will be a screen for an area currently used as additional parking surface. It will not block the view of the front entrance.

Public Input

To date, staff has received numerous telephone inquiries regarding their proposal. One email in opposition was received and one email in support.

Use Permit

In the R1-6, Single Family Residence, the Zoning and Development Code allows through the Use Permit process a reduction of the rear yard setback, second story additions and wall to exceed four (4) feet in height in the front yard.

Evaluating the Use Permit, the proposal appears to pass the Use Permit test listed below:

a) Any significant increase in vehicular or pedestrian traffic in adjacent areas;
- There will be no significant increase in vehicular or pedestrian traffic in adjacent areas. This property is one lot north of Broadway Road. Access to the garage should have minimal impact to the surrounding area.

b) Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
- Will not create a nuisance from emission of odor, dust, gas, noise, vibration, smoke, heat or glare.

c) Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
- The proposed development would not contribute to neighborhood deterioration or downgrade property values. This Use Permit request is consistent with the General Plan 2030's Land Use Element. The requested Use Permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- This lot within the subdivision is larger than others within the neighborhood, as such; it can accommodate the proportion of addition without detriment to surrounding property values.

d) Compatibility with existing surrounding structures and uses;
- The proposed use appears to be compatible with surrounding uses. The second story addition is set to the back of the lot, similar to other second story additions previously approved in the neighborhood.

e) Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;
- Not applicable to this residential request.

Conclusion

Staff recommends approval of the Use Permits subject to conditions. To minimize the potential for creating nuisance to surrounding properties; staff will condition that the balcony on the second floor to be reoriented to another elevation not overlooking another property.
If located on the north elevation or east elevation; it would be at a substantial distance to minimize exposure to neighboring

properties. The location of the property line at street front must be verified by survey to ensure non encroachment into right of way. Staff recommends the addition of landscape material planted between the wall and the sidewalk to soften the appearance from the street. Finally, our records do not indicate any formal lot ties or subdivision plat to create the lot within the subdivision. This addition is a substantial improvement to warrant a formal subdivision plat be processed to legalize the lot.

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.
5. Approval of the Use Permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. Obtain all necessary clearances from the Building Safety Division.
2. Building addition to match existing residence in color, form and material.
3. Reoriented the second story balcony to either the north or east elevation.
4. Provide landscape between the wall and sidewalk at street front.
5. Wall to be located per a survey to determine the front property line.
6. Process a legal subdivision plat for this property prior to issuance of building permits

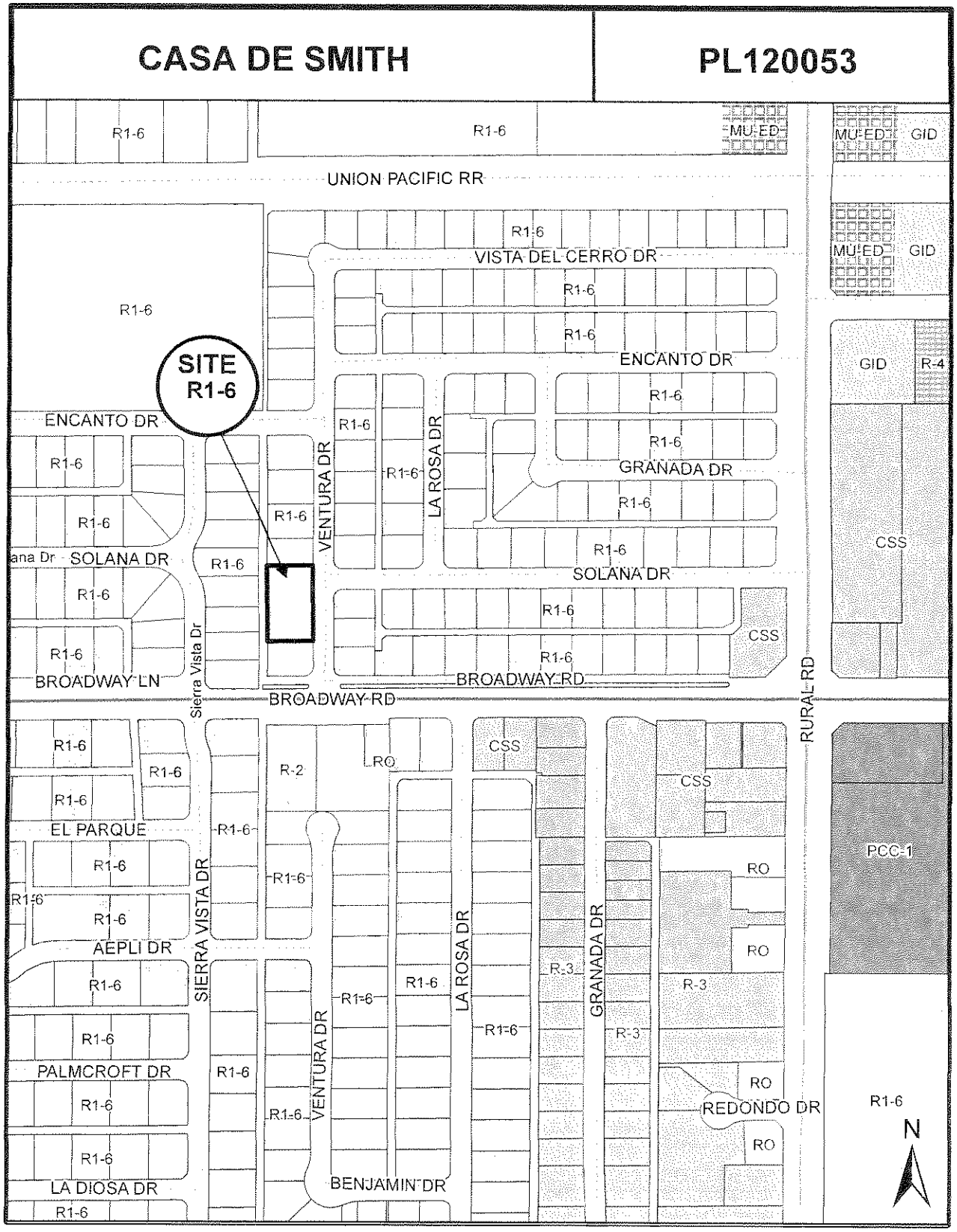
HISTORY & FACTS: None pertinent to this case.

DESCRIPTION:

Owner – Dave Smith
Applicant – W. Brent Armstrong- ISOS Architecture
Existing Zoning – R1-6 Single Family
Lot area-20343
Lot Coverage- 15%
Building Area- 5900 sf.

ZONING AND DEVELOPMENT CODE REFERENCE:

Part3, Chapter 4, Section 3-420.
Part 4, Chapter 2, Section 4-202.
Part 4, Chapter 7, Section 4-706
Part 6, Chapter 3, Section 6-308 – Use Permit



Location Map

CASA DE SMITH (PL120053)

21. Feb. 2012
Casa de Smith
1724 S. Ventura Drive
Tempe, AZ 85281

Letter of Explanation
Use Permit

We are requesting three (3) use permits for the property located at 1724 S. Ventura Drive, in Tempe, Arizona, a single family detached residence.

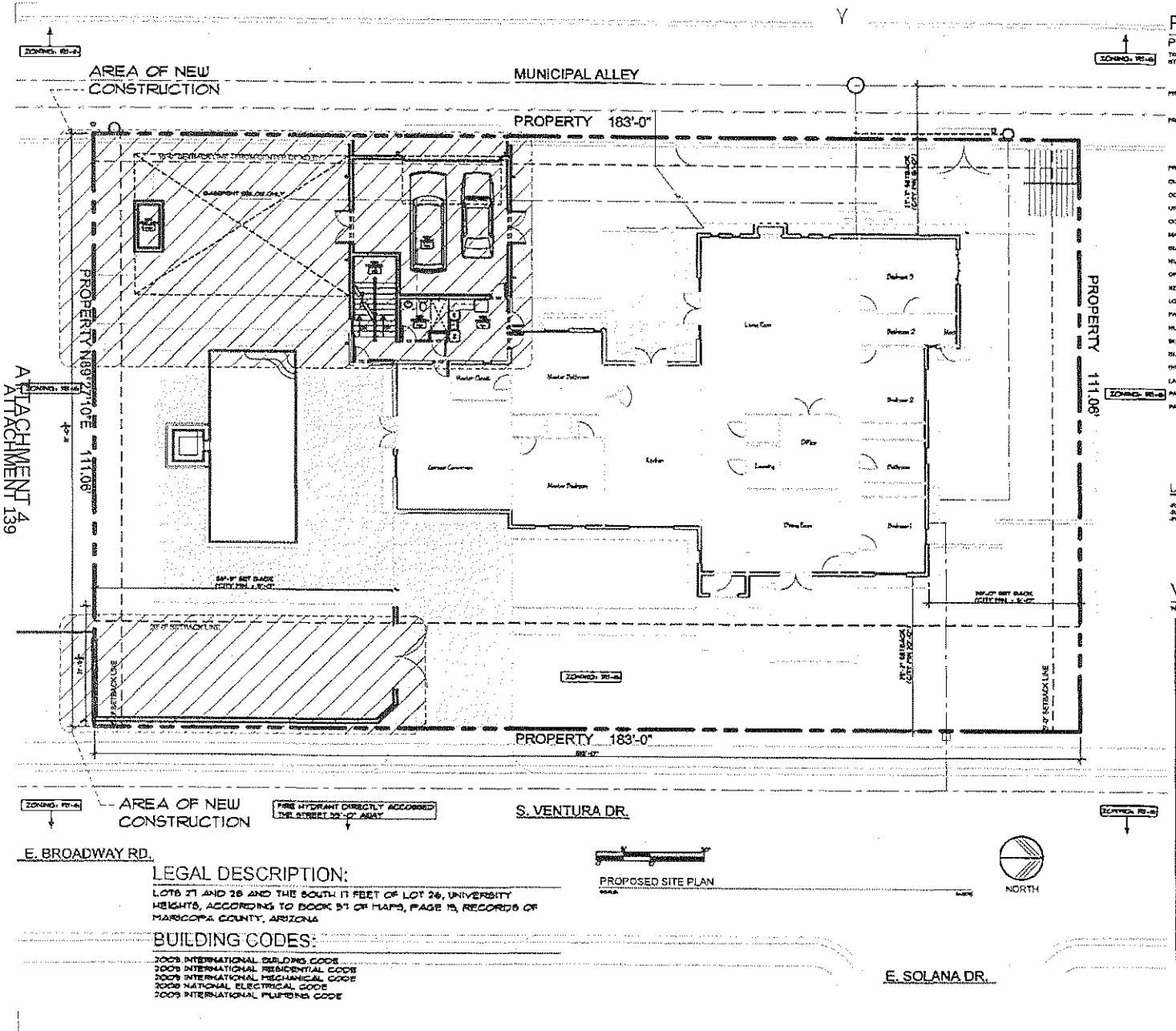
The first use permit is a request to decrease the rear yard setback to thirteen feet (13'0") from the required fifteen feet (15'0"), which is within the Use Permit Standard of twenty percent (20%) reduction per Table 4-202. The ground level addition at the rear setback is for a two-car garage, allowing the owners to park in a garage, which is not currently available on the property alleviating parking in the front yard. The garage is to be built with the same finish details of the main house including stucco and tiled roof with metal and wood accents. The request is similar to a nearby property, allowing access to the garage from the same existing twenty foot (20'0") alley located at 1715 S. Sierra Vista Dr.

The second Use Permit is to allow a second story addition above the new garage mentioned above, for a new master bedroom suite, per Section 3-420. The addition is within the required R1-6 height requirements of thirty feet (30'0"). This addition will also match the existing house details of stucco, stone and tiled roof with steel and wood details. The use is still single family residential, so there is no additional nuisance due to the use permits. The two-story use permit is also similar to the following nearby lots that also have a second story. Like most of these lots, our proposal is to locate the second story in the rear of the property, preserving the lower building elevations near the street. We also plan on placing the second story at the center of the lot, keeping the height as far from neighboring lots as possible. The addition of the second story adds views, live-able square footage, and preserves the lots open space. Additionally, the context of the existing neighborhood is not significantly impacted, as evidence by the following list of similar two story structures:

1715 S. Sierra Vista Dr.
1731 S. Sierra Vista Dr.
502 E. Vista del Cerro Dr.
715 E. Granada Dr.
718 E. Encanto Dr.

The third Use Permit is for the site wall in a front yard setback, requesting an increased height from the allowed four feet (4'0") to six feet (6'0") in height. The area that we are asking for the increased height is actually to the side of the house, not in front of it. The adjacent neighbor at 1736 S. Ventura Dr. has an existing four foot wall on the side yard (of a corner lot) which becomes our front yard. We would continue this wall along the front of our property until it reaches the house, where it will return to the house. We are proposing that we place the wall just inside the front yard setback, which gives us about four feet for planting landscape between the proposed wall and the existing sidewalk. The wall will have a stucco finish to match the house on both sides. The location of this wall will prevent parking in the front yard setback (with the garage parking mentioned above) which will enhance the overall look of the property. The property located at 410 E. Encanto Dr. has a similar six foot wall in the front and side (facing street) yards, also indicating that such examples already exist in the

ATTACHMENT 4
ATTACHMENT 139



PROPOSED SITE PLAN

LEGAL DESCRIPTION:

LOTS 27 AND 28 AND THE SOUTH 11 FEET OF LOT 26, UNIVERSITY HEIGHTS, ACCORDING TO BOOK 31 OF MAPS, PAGE 15, RECORDS OF MARICOPA COUNTY, ARIZONA

BUILDING CODES:

2009 INTERNATIONAL BUILDING CODE
2009 INTERNATIONAL RESIDENTIAL CODE
2009 INTERNATIONAL MECHANICAL CODE
2008 NATIONAL ELECTRICAL CODE
2009 INTERNATIONAL PLUMBING CODE

PROJECT INFORMATION

PROJECT NARRATIVE

TENANT IMPROVEMENT ON AN EXISTING HOME TO ADD A NEW GARAGE, LIVING SPACE AND STORAGE, WITH ACCESS FROM THE EXISTING ALLEY WAY

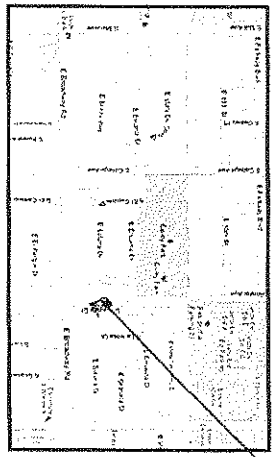
PROJECT ADDRESS:	1724 S. VENTURA DR. TEMPE, ARIZONA 85281
PROJECT OWNER:	1724 S. VENTURA DR. TEMPE, ARIZONA 85281 OWNER: MELISA / SHARON / BRENNAN SMITH - OWNER REP: DAVE SMITH 480-747-1178 EMAIL: DAVIDSMITH@COX.NET
PROJECT CONTRACTOR:	THE HOME OWNER
CURRENT ZONING:	R1-6
OCCUPANCY:	RESIDENTIAL - SINGLE FAMILY
USE:	RESIDENTIAL - SINGLE FAMILY
CONSTRUCTION TYPE:	V-N (EXISTING) (NOT SPRINKLED)
MAX BUILDING HEIGHT ALLOWED:	30'-0"
BUILDING HEIGHT PROVIDED:	25'-0"
NUMBER OF STORIES:	2 STORY
GROSS LOT SIZE:	20,349 SQ. FT.
NET LOT SIZE:	20,349 SQ. FT.
LOT #:	LOT NUMBER 27
PARCEL #:	133-13-028A
NUMBER OF UNITS:	1
BUILDING LOT COVERAGE %:	28%
BUILDING NET AREA:	5900 SQ. FT.
DISTANCE TO FIRE HYDRANT	32'-0"
LANDSCAPING ON SITE %:	N/A FOR R1-6 ZONING
PARKING SPACES REQUIRED:	2
PARKING SPACES PROVIDED:	6

USE PERMIT

-REAR YARD SETBACK REDUCTION OF 3'-0"
-SECOND STORY ADDITION
-FRONT YARD WALL HEIGHT INCREASE FROM 4'-0" TO 6'-0"

VICINITY MAP

NOT TO SCALE



TENANT IMPROVEMENT:
1724 S. VENTURA DR.
TEMPE, ARIZONA 85281

NORTH

3333 N. 3rd Ave, #2070
Phoenix, Arizona 85013
www.lasosarchitecture.com

Brent Armstrong 480 323 9923
brent@lasosarchitecture.com

Ray Basignano 480 720 3070
ray@lasosarchitecture.com

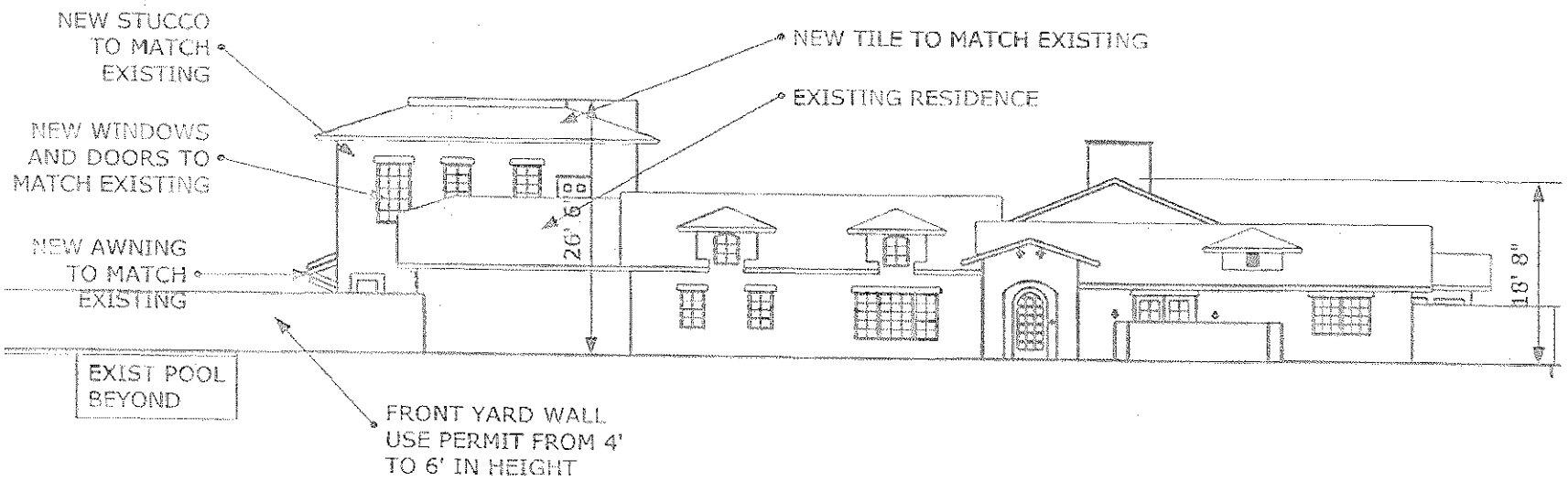
CASA DE SMITH
1724 S. Ventura Dr. Tempe, Arizona 85281

PROPOSED SITE PLAN
1/8" = 1'-0"

NOT FOR CONSTRUCTION

21.FEB.2012

SP1.0



EAST ELEVATION- STREET

3833 N. 3rd Ave. #2078
Phoenix, Arizona 85013
www.lsaarchitecture.com
Brent Armstrong 480 323 6928
brent@lsaarchitecture.com
Ray Bastiano 480 720 3078
ray@lsaarchitecture.com
architecture

CASA DE SMITH

EXTERIOR ELEVATION

1/16" =1'-0"

NOT FOR CONSTRUCTION

21 FEB 2012

A2.0

3533 N. 3rd Ave. #2078
Phoenix, Arizona 85013
www.ibaseartchitecture.com

Brent Armstrong 480 323 6928
brent@ibaseartchitecture.com

Ray Ibaseta-no 480 720 3070
ray@ibaseartchitecture.com

architecture

CASA DE
SMITH
1124 S. Walnut St. Tempe, Arizona 85281

EXTERIOR
ELEVATION

1/16" = 1'-0"

NOT
FOR
CON-
STRUC-
TION

21 FEB 2012

A2.0

NEW TILE TO
MATCH EXISTING

NEW WINDOW TO
MATCH EXISTING

NEW STUCCO TO
MATCH EXISTING

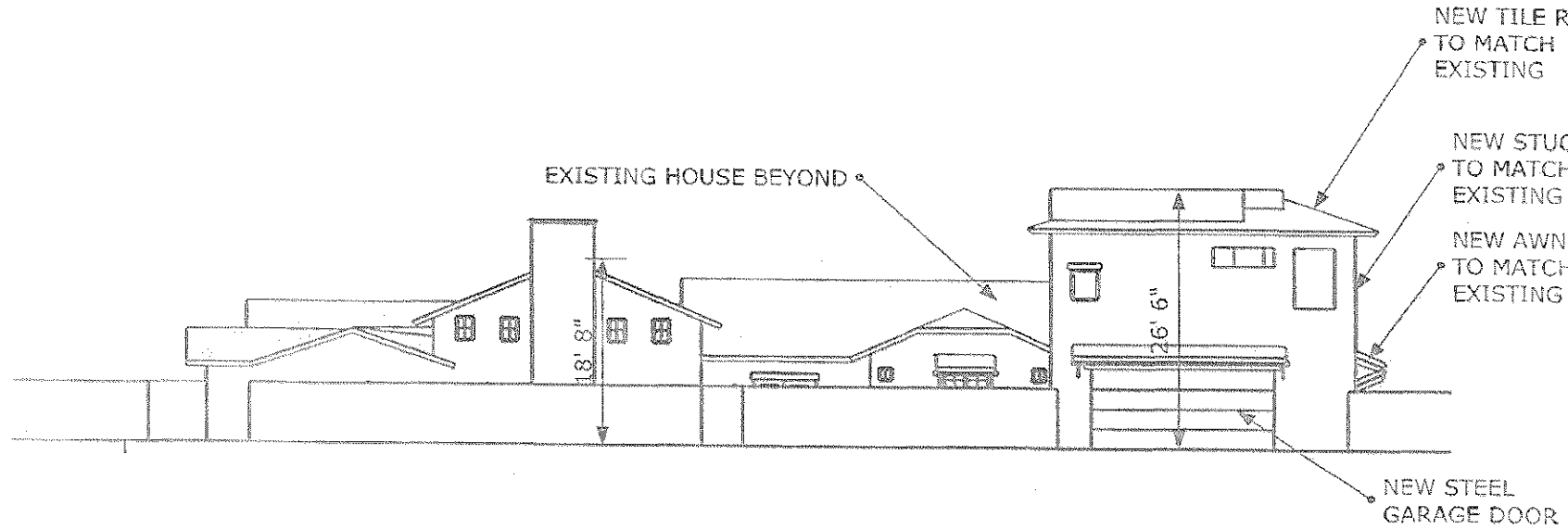
NEW AWNING TO
MATCH EXISTING

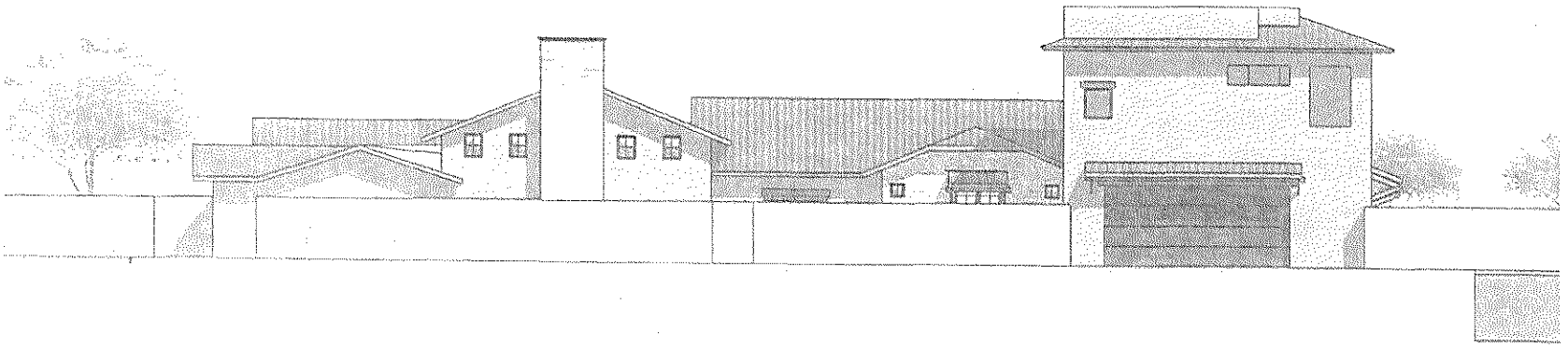
EXISTING RESIDENCE

18' 8"

26' 6"

NORTH ELEVATION





WEST ELEVATION- ALLEY

architecture
3633 N. 3rd Ave. #2070
Phoenix, Arizona 85013
www.leeparchitecture.com
Brent Armstrong 480 323 6928
brent@leeparchitecture.com
Ray Bedgnana 480 720 3070
ray@leeparchitecture.com

CASA DE SMITH

EXTERIOR ELEVATION

1/16" = 1'-0"

NOT FOR CONSTRUCTION

21.FEB.2012

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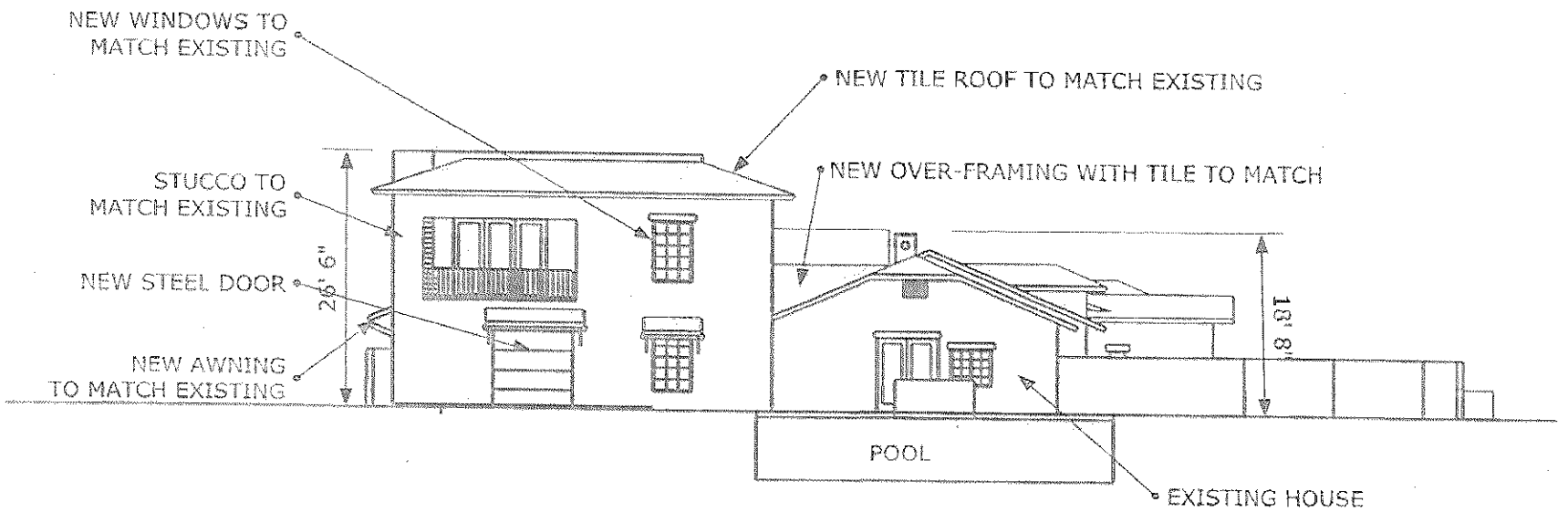

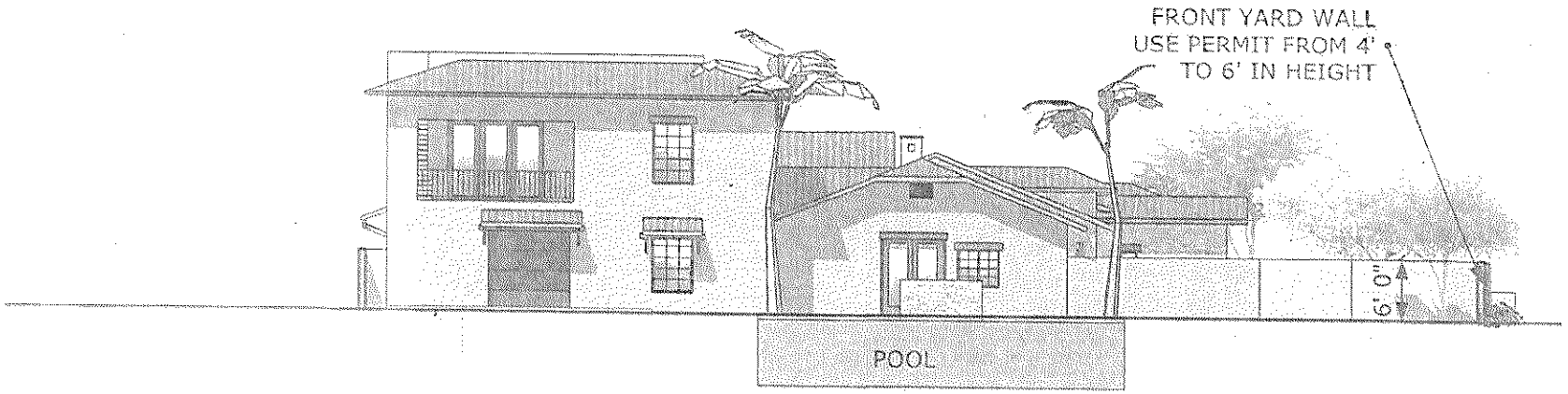

SOUTH ELEVATION

ATTACHMENT 18
ATTACHMENT 18

3033 N. 3rd Ave. #2070
Phoenix, Arizona 85013
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Brent Armstrong 480 323 6928
brent@lesaarchitecture.com
Ray Beslemme 480 720 3070
ray@lesaarchitecture.com

architecture

CASA DE SMITH

174 S. Valle Dr. Tempe, Arizona 85281

EXTERIOR ELEVATION

1/16" =1'-0"

NOT FOR CONSTRUCTION

21.FEB.2012

A:2.0

architecture
3633 N. 3rd Ave. #2070
Phoenix, Arizona 85013
www.lsoarchitecture.com
Brent Armstrong 480 323 6920
brent@lsoarchitecture.com
Ray Bestgnano 480 720 3070
ray@lsoarchitecture.com

CASA DE SMITH

EXTERIOR PERSPECTIVE

NTS

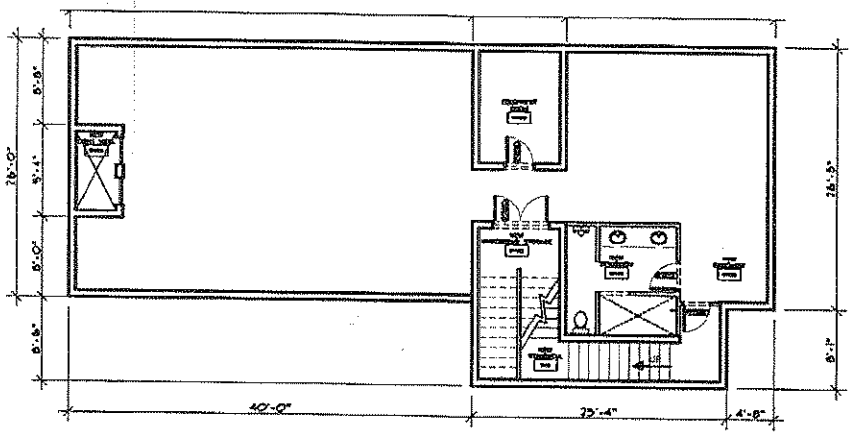
NOT FOR CON- STRUC- TION

21 FEB 2012

A:2.0

ATTACHMENT 18

NOTE:
ALL SCREENED ELEMENTS INDICATE EXISTING CONSTRUCTION TO REMAIN.



BASEMENT FLOOR PLAN
SCALE: 1/8"

NORTH

SYMBOLS LEGEND:

RECEPT. 101 — INDICATES ROOM NAME AND NUMBER

(XXX) — INDICATES DOOR NUMBER

WALL LEGEND

- EXISTING EXTERIOR WALL CONSTRUCTION TO REMAIN
- EXISTING INTERIOR WALL CONSTRUCTION TO REMAIN
- EXISTING GLAZING SYSTEM TO REMAIN
- NEW TYPICAL WOOD STUD WALL WITH 5/8" GYP BD & ACOUSTIC FIBER BATT INSULATION
- NEW CMU EXTERIOR WALL WITH STUCCO FINISH AND PAINT TO MATCH EXISTING BUILDING

3833 N. 3rd Ave. #2070
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Brant Armstrong 480.323.6923
brant@iaosarchitecture.com
Ray Bastgnano 480.720.3070
ray@iaosarchitecture.com

iaos architecture

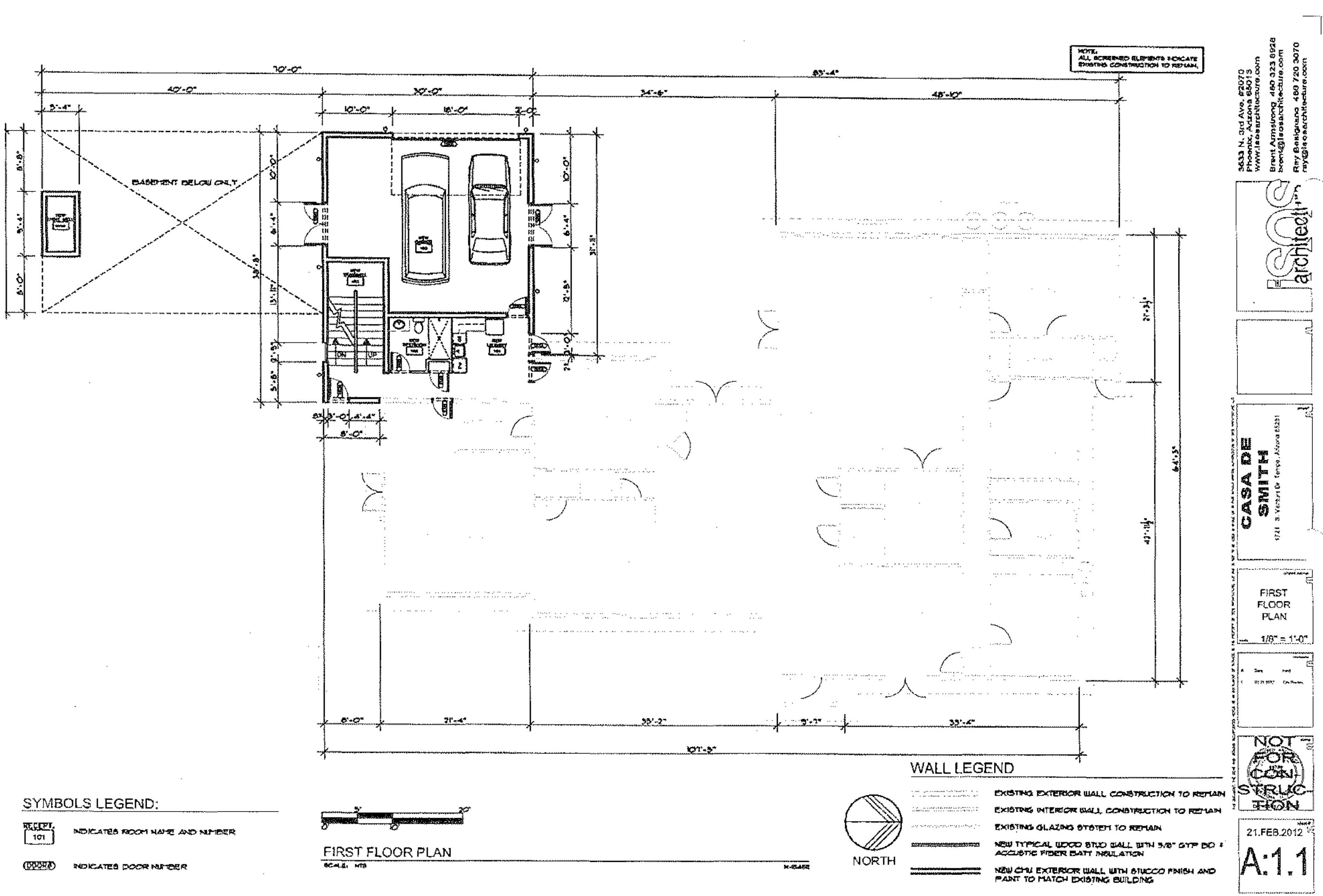
CASA DE SMITH
1121 S. Ventura Dr. Tempe, Arizona 85281

BASEMENT FLOOR PLAN
1/8" = 1'-0"

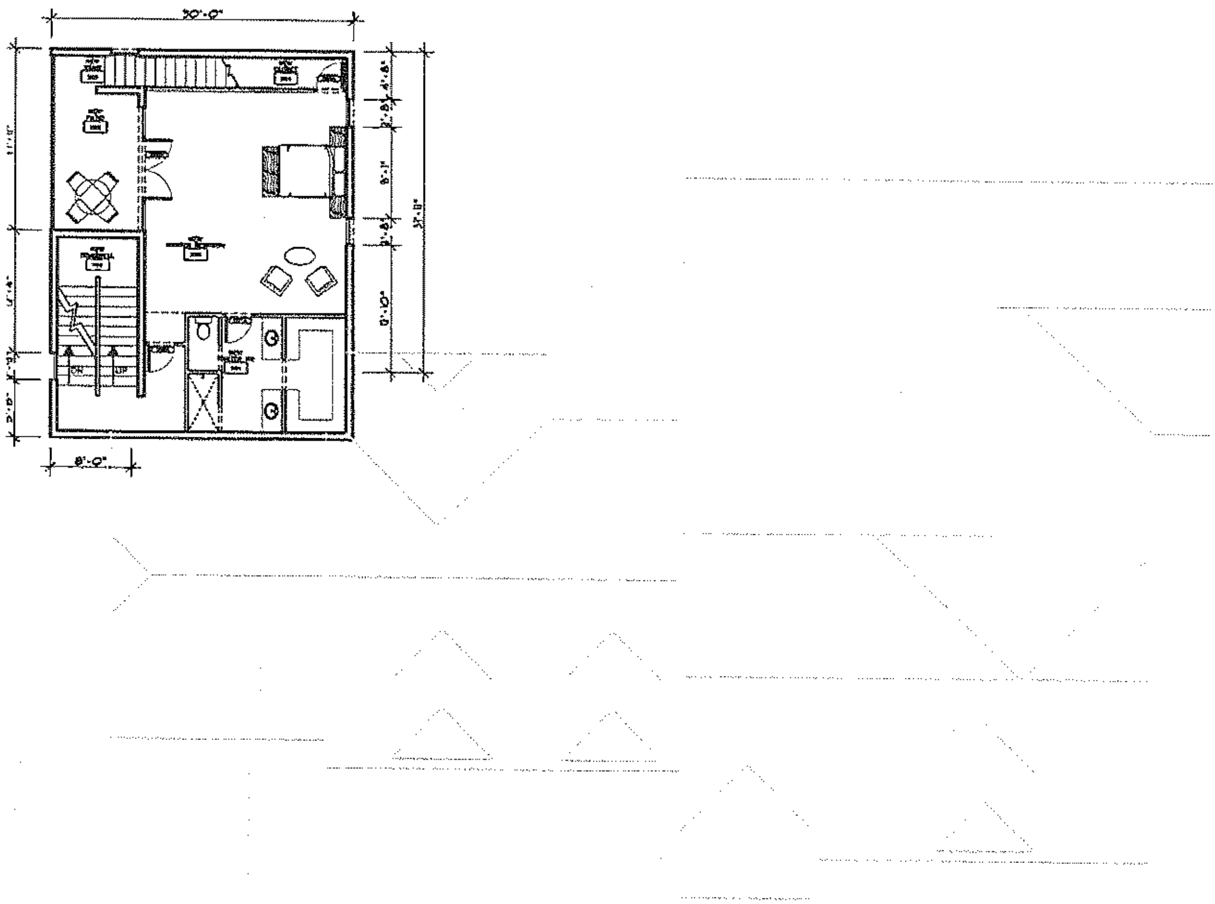
NOT FOR CONSTRUCTION

21.FEB.2012

A:1.0


NOTE:
ALL SCREENED ELEMENTS INDICATE EXISTING CONSTRUCTION TO REMAIN.
3633 N. 3rd Ave. #2070
Phoenix, Arizona 85013
www.lseasarchitecture.com
Brent Armstrong 480 323 6928
brent@lseasarchitecture.com
Ray Basignano 480 720 3070
ray@lseasarchitecture.com
architects
CASA DE
SMITH
FIRST
FLOOR
PLAN
1/8" = 1'-0"
NOT FOR CONSTRUCTION
21.FEB.2012
A:1.1
BASEMENT BELOW ONLY
DN
UP
WALL LEGEND
EXISTING EXTERIOR WALL CONSTRUCTION TO REMAIN
EXISTING INTERIOR WALL CONSTRUCTION TO REMAIN
EXISTING GLAZING SYSTEM TO REMAIN
NEW TYPICAL WOOD STUD WALL WITH 5/8" GYP BD & ACCUSTIC FIBER BATT INSULATION
NEW CMU EXTERIOR WALL WITH STUCCO FINISH AND PAINT TO MATCH EXISTING BUILDING
NORTH
SYMBOLS LEGEND:
101
INDICATES ROOM NAME AND NUMBER
INDICATES DOOR NUMBER
FIRST FLOOR PLAN
SCALE: NTS
70'-0"
40'-0"
30'-0"
85'-4"
34'-6"
48'-10"
10'-0"
16'-0"
2'-0"
5'-4"
8'-8"
6'-0"
31'-8"
6'-4"
12'-5"
21'-3½"
64'-5"
43'-1½"
8'-0"
21'-4"
33'-2"
9'-1"
33'-4"
107'-3"

NOTE:
ALL SCREENED ELEMENTS INDICATE EXISTING CONSTRUCTION TO REMAIN.



SYMBOLS LEGEND:

RECEPT. 101 — INDICATES ROOM NAME AND NUMBER

(DOOR#) — INDICATES DOOR NUMBER

2ND FLOOR PLAN

SCALE:

NORTH

WALL LEGEND

EXISTING EXTERIOR WALL CONSTRUCTION TO REMAIN

EXISTING INTERIOR WALL CONSTRUCTION TO REMAIN

EXISTING GLAZING SYSTEM TO REMAIN

NEW TYPICAL WOOD STUD WALL WITH 5/8" GYP BD & ACCUSTIC FIBER BATT INSULATION

NEW CMU EXTERIOR WALL WITH STUCCO FINISH AND PAINT TO MATCH EXISTING BUILDING

3633 N. 3rd Ave. #2070
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Brent Armstrong 480 323 8928
brent@lsosarchitecture.com
Ray Basignano 480 720 3070
ray@lsosarchitecture.com

lsos architect

CASA DE SMITH

1721 S. Ventura Dr. Tempe, Arizona 85281

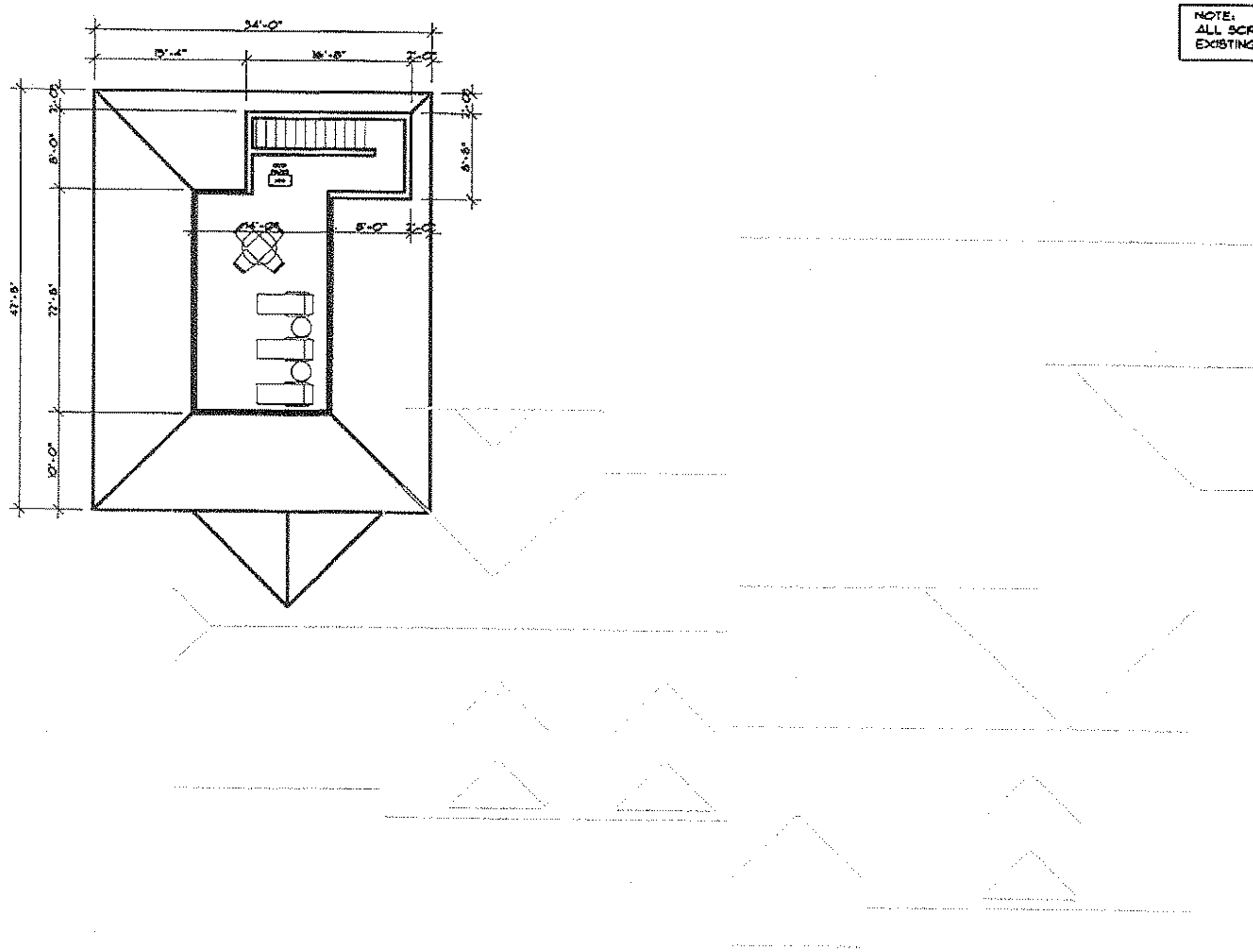
SECOND FLOOR PLAN

1/8" = 1'-0"

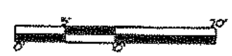
NOT FOR CONSTRUCTION

21.FEB.2012

A:1.2



NOTE:
ALL SCREENED ELEMENTS INDICATE EXISTING CONSTRUCTION TO REMAIN.



NORTH

SYMBOLS LEGEND:

RECEPT. 101 — INDICATES ROOM NAME AND NUMBER

(DOOR#) — INDICATES DOOR NUMBER

ROOF PLAN

SCALE:

WALL LEGEND

EXISTING EXTERIOR WALL CONSTRUCTION TO REMAIN

EXISTING INTERIOR WALL CONSTRUCTION TO REMAIN

EXISTING GLAZING SYSTEM TO REMAIN

NEW TYPICAL WOOD STUD WALL WITH 5/8" GYP BD & ACOUSTIC FIBER BATT INSULATION

NEW CMU EXTERIOR WALL WITH STUCCO FINISH AND PAINT TO MATCH EXISTING BUILDING

3833 N. 3rd Ave, #2070
Phoenix, Arizona 85013
www.lsoarchitecture.com

Brent Armstrong 480 323 8928
brent@lsoarchitecture.com

Ray Bastyanelo 480 720 3070
ray@lsoarchitecture.com

lsos architecture

CASA DE SMITH

1724 S. Ventura Dr. Tempe, Arizona 85281

ROOF PLAN

1/8" = 1'-0"

NOT FOR CONSTRUCTION

21.FEB.2012

A:1.3

RUKAVINA RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: 04/03/12 **Agenda Item Number** 5

SUBJECT: This is a public hearing for a request by the **RUKAVINA RESIDENCE** located at 1140 South Farmer Ave

DOCUMENT NAME: HOr_RukavinaRes_040312 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **RUKAVINA RESIDENCE (PL120058)** (Mark Rukavina, applicant/property owner) located at 1140 South Farmer Ave in the R-3 Multi-Family Residential District for:

ZUP12013 Use Permit to allow the increase of the wall height, located in the front yard setback, from 4 ft. to 6 ft.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

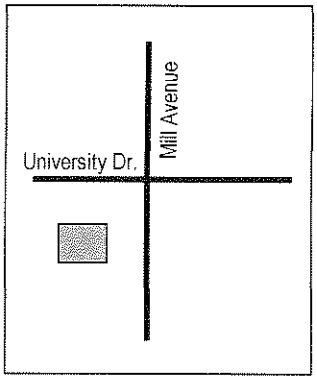
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval**

ADDITIONAL INFO:



The applicant is requesting a Use Permit to increase the allowable fence height in the front yard setback from four (4) feet to six (6) feet. The Zoning and Development Code requires all walls or fences located in the front yard to obtain a Use Permit if they are over four (4) feet in height. The wall or fence height is measured from the highest adjacent surface of the ground, paving, or sidewalk within twenty (20) feet. The applicant is requesting approval of a six (6) foot high decorative wrought iron located within the front yard setback. The wrought iron fence will replace the existing chain link fence surrounding the front yard. Staff is in support of this Use Permit request with the finding that it meets the Zoning and Development Code criteria to warrant an approval. To date, staff has received no public input on this request.

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts; Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan

COMMENTS:

The Rukavina Residence is requesting a Use Permit to allow the maximum height for a wall in the front yard setback to be increased from 4 ft. to 6 ft. The new wrought iron will replace the existing chain link surrounding the front yard. Staff supports walls/fences in from front yard if the allow for visibility to the street or create a courtyard in the front of a residence. The front yard is usually a passive inactive area; a courtyard in the front yard brings people closer to the street; fostering a greater sense of community and may serve as a crime deterrent by increasing awareness of activity on the street.

Use Permit

The Zoning and Development Code requires a Use Permit to increase the maximum allowable height of a wall in the front yard setback from 4' to 6'.

Evaluating the Use Permit, the proposal appears to pass the Use Permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
   - There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
   - The proposed use should not create any nuisances.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;
   - The area is in compliance with the General Plan and neighborhood intent.

d. Compatibility with existing surrounding structures and uses;
   - The proposed wall is intended to provide an aesthetic look and will not create a nuisance for the surrounding area.

e. Adequate control of disruptive behavior both inside and outside the property, which may create a nuisance to the surrounding area or general public.
   - People presence at the street will aide in controlling disruptive behavior in the surrounding area.

Conclusion

Staff recommends approval of the Use Permit, subject to conditions.

REASON(S) FOR APPROVAL:

1. The authorizing of the Use Permit is necessary for the preservation and enjoyment of substantial property rights.
2. Authorization of the Use Permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood or to the public welfare in general.
3. The wall in the front yard setback will provide a presence at the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. The wrought iron fence to complement the residence in color and design.
2. The fence approved in the location of the existing chain link fence.

HISTORY & FACTS: None pertinent to this case.

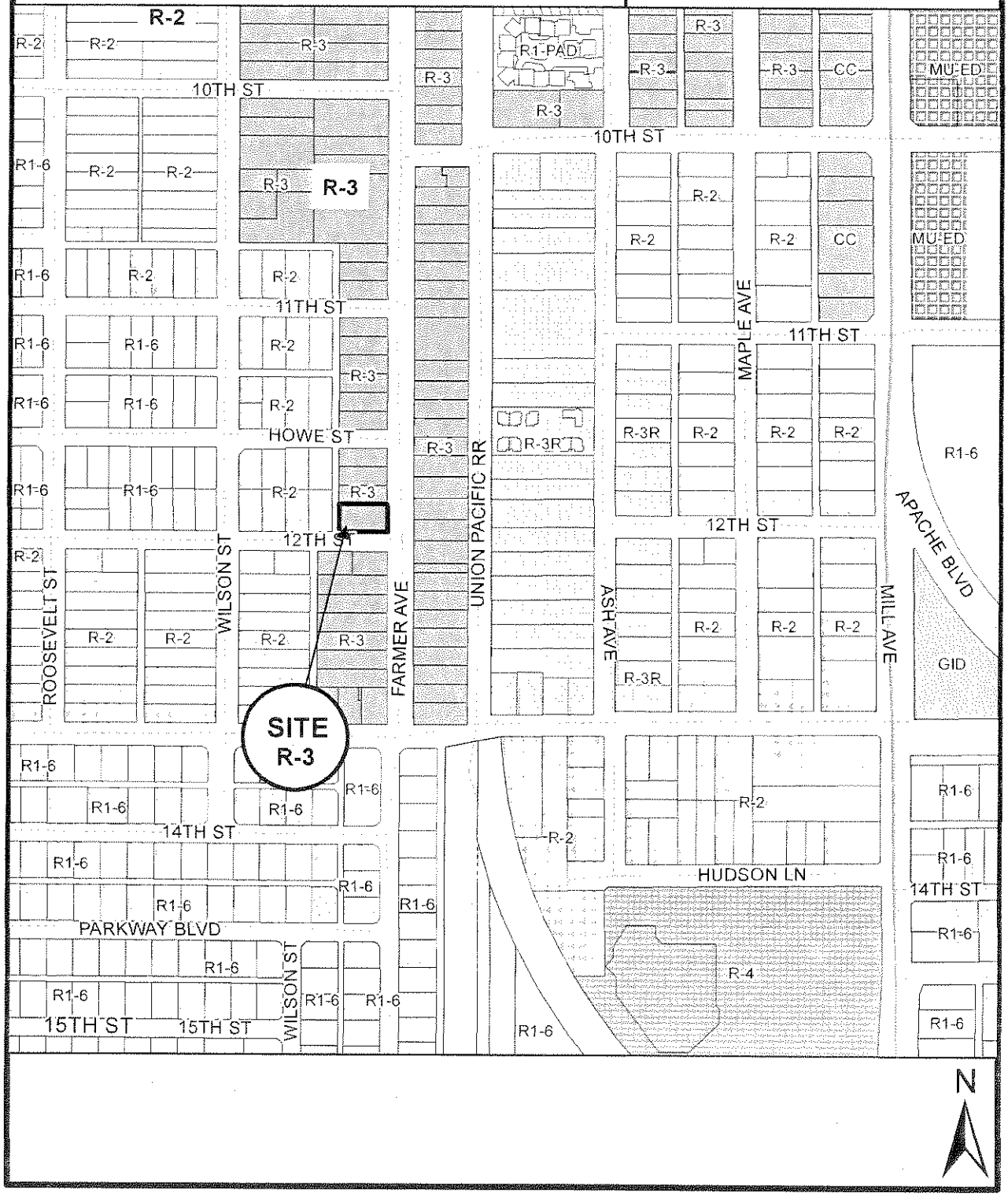
DESCRIPTION:
Owner – Mark Rukavina
Applicant – Mark Rukavina
Existing Zoning – R-3, Multi Family Residential

ZONING AND DEVELOPMENT CODE REFERENCE:
Part 4, Chapter 7, Section 4-706A – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe

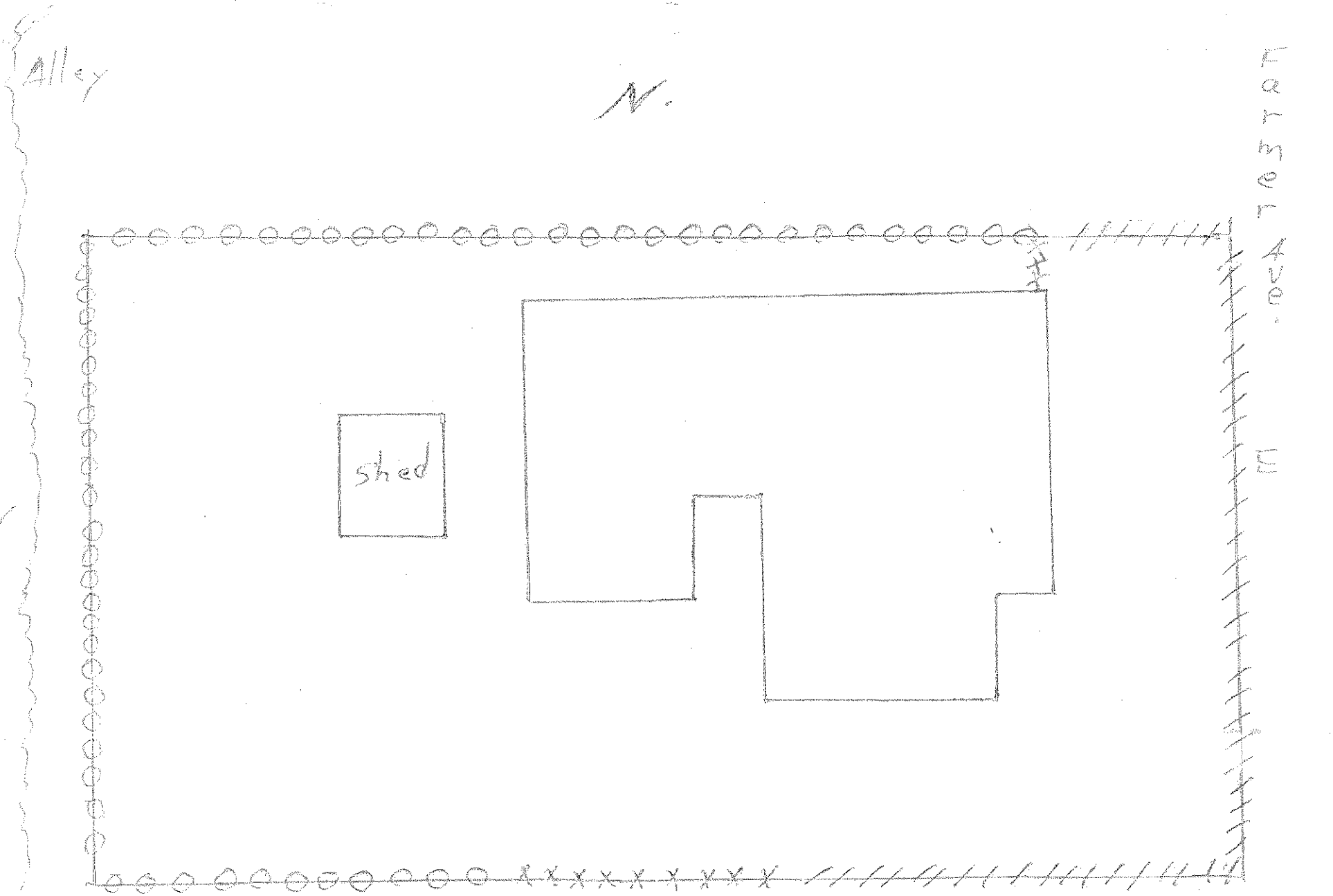
RUKAVINA RESIDENCE

PL120058



Location Map

RUKAVINA RESIDENCE (PL120058)



o 6' cinder Block Fence

X 6' wraught iron gate

/ Existing deteriorating chain link Fence

-- trees breaking down Fence

50.

12th St.

ATTACHMENT 4
ATTACHMENT 156

Dear Planning Commission,

We would like to remove the existing 3-1/2 foot chain link fence which is deteriorating with two trees growing through the links and breaking down the fence.

We would like to replace the fence with a 6ft, see through, wrought iron decorative replacement.

We have already painted the house, trimmed most of the trees, installed a sprinkling system, and added pavers to the driveway. We have already replaced the existing, deteriorating fence in the backyard with a block wall that is within the city's restrictions. We have also installed a 6ft wrought iron gate for the driveway portion of the property.

With the city's permission we would replace the existing fence with a new community enhancing improvement. It would help to beautify the residential community and at the very least help improve existing property values in the area.

We have included 10 different types of fences and hedges which block the views of various corners and could ultimately cause pedestrian and traffic problems. We could have included more pictures, however these should serve as sufficient examples. Also included are the site plans as requested.

Kindest Regards,

Mark Rukavina

NANNAPANENI RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: May 20, 2008 Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by the **NANNAPANENI RESIDENCE (PL060629)** located at 1026 East Knox Road for one (1) variance.

DOCUMENT NAME: 20080520dssd01 **PLANNNED DEVELOPMENT (0406)**

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **NANNAPANENI RESIDENCE (PL060629)** (Ravi Nannapaneni, applicant/property owner) located at 1026 East Knox Road in the AG, Agricultural District for:

VAR08009 Variance to increase wall height in the front yard setback from four (4) feet to six (6) feet.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

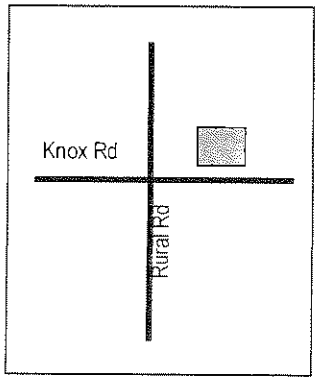
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: **Staff – Approval subject to Conditions 1-3**

ADDITIONAL INFO: The Nannapaneni Residence is requesting a variance to allow for the construction of a six (6) foot tall fence in the front yard setback. The single family home faces east towards Rita Lane, the master bedroom faces south towards Knox Road and the homeowner requests to have a six (6) foot wall to secure his private side yard that continues into the backyard. Staff supports approval of the variance with conditions. To date, one phone call of opposition has been received. The opposition is from the adjacent property owner to the west of the Nannapaneni Residence.



PAGES:

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)

3-4. Letter of Intent

5. Property Site plan
6. Enlarged Site Plan, adjacent to Knox Road
7. Neighborhood Meeting Letter (Feb 5, 2007)

8-9. Staff Photograph(s)

COMMENTS:

The Nannapaneni Residence is requesting a variance to allow for the construction of a six (6) foot tall masonry wall in the front yard setback. The single family home faces east towards Rita Lane, the master bedroom faces south towards Knox Road and the homeowner requests to have a six (6) foot wall to secure his private side yard that continues into his backyard. Mr. Nannapaneni has located his proposed wall sixteen (16) feet behind the sidewalk along Knox Road to alleviate any site vision conflicts with Rita Lane and Knox Road. City of Tempe Traffic Engineering staff have reviewed the proposed wall location and determined the wall will not cause conflict with site vision triangles. Mr. Nannapaneni has meet with the concerned neighbor (Dr. Garza) about the wall location and Mr. Nannapaneni agreed to step back the southwest corner of the wall to alleviate Dr. Garza concerns that his driveway is immediately adjacent to a six (6) foot tall wall. With the wall step backed towards the north; Dr. Garza's has increased his vision to Knox Road.

The original intent behind a maximum four (4) foot wall in the front yard setback was to allow visual surveillance between the street and the home. Given that the home orientation faces east, the new home has no fence between the front of the home and Rita Lane and allows natural surveillance between the street and the residence. The Development Services Planning Division is currently revising the ZDC to allow walls in the front yard setback taller than four (4) feet in height subject to a use permit. The new code provision will go before Development Review Commission and City Council over the next couple months. If adopted, any walls above four (4) feet will require a use permit instead of a variance.

To date, staff has received one phone call of opposition. The opposition is from the adjacent property owner to the west of the Nannapaneni Residence.

Neighborhood Meeting

The applicant held the required neighborhood meeting on Monday February 19, 2007.

Variance

The Zoning and Development Code requires a variance for a wall/fence greater than four (4) feet in height that is located in the front yard setback, in the AG, Agricultural District.

Evaluating the variance, the proposal appears to meet the criteria for approving the variance:

a. There are special circumstances or conditions applying to the land, building, or use referred to in the application;
   - There does appear to be a special circumstance keeping with the land, building or use. Applicant located the front of him home towards the east (Rita Lane). Due to the residence facing east, part of his private backyard extends to the Knox Road frontage.

b. That authorizing the variance is necessary for the preservation and enjoyment of substantial property rights;
   - A six (6'-0") foot wall is necessary for enjoyment of substantial property rights. (Ex: privacy and security)

c. That authorizing the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to public welfare in general.
   - The property owner designed the fence to match the existing residence. The owner also placed the wall sixteen (16) feet behind the sidewalk along Knox Road.
   - City of Tempe Transportation planners have reviewed the fence location and it does not cause conflict with vision triangles for Knox Road.

Conclusion

Staff recommends approval of the variance, subject to the conditions of approval.

REASON(S) FOR APPROVAL:

1. There are special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.
4. City of Tempe Transportation planners have reviewed the proposed fence location and determined it does not conflict with vision triangles for Knox Road.
5. The orientation of the home is east, the east (front) yard has no walls in the front of the home facing Rita Lane, thus meeting the intent of natural surveillance between the home and the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. The variance is granted based on the plans submitted and approved by the Hearing Officer.
2. Obtain all necessary clearances from the Building Safety Division.
3. The wall shall be designed to match the existing residence in color, form and material.

HISTORY & FACTS:

December 19, 2006 — ZUP06069: Use Permits approved for two (2) accessory buildings.

DESCRIPTION:

Owner – Ravi Nannapaneni
Applicant – Ravi Nannapaneni
Existing Zoning – AG, Agricultural District
Lot Area/Acre– 43,915 S.F. / 1.08 ac
New Main Residence: 5,857 S.F.
Proposed Wall Height– 6'

ZONING AND DEVELOPMENT CODE REFERENCE:

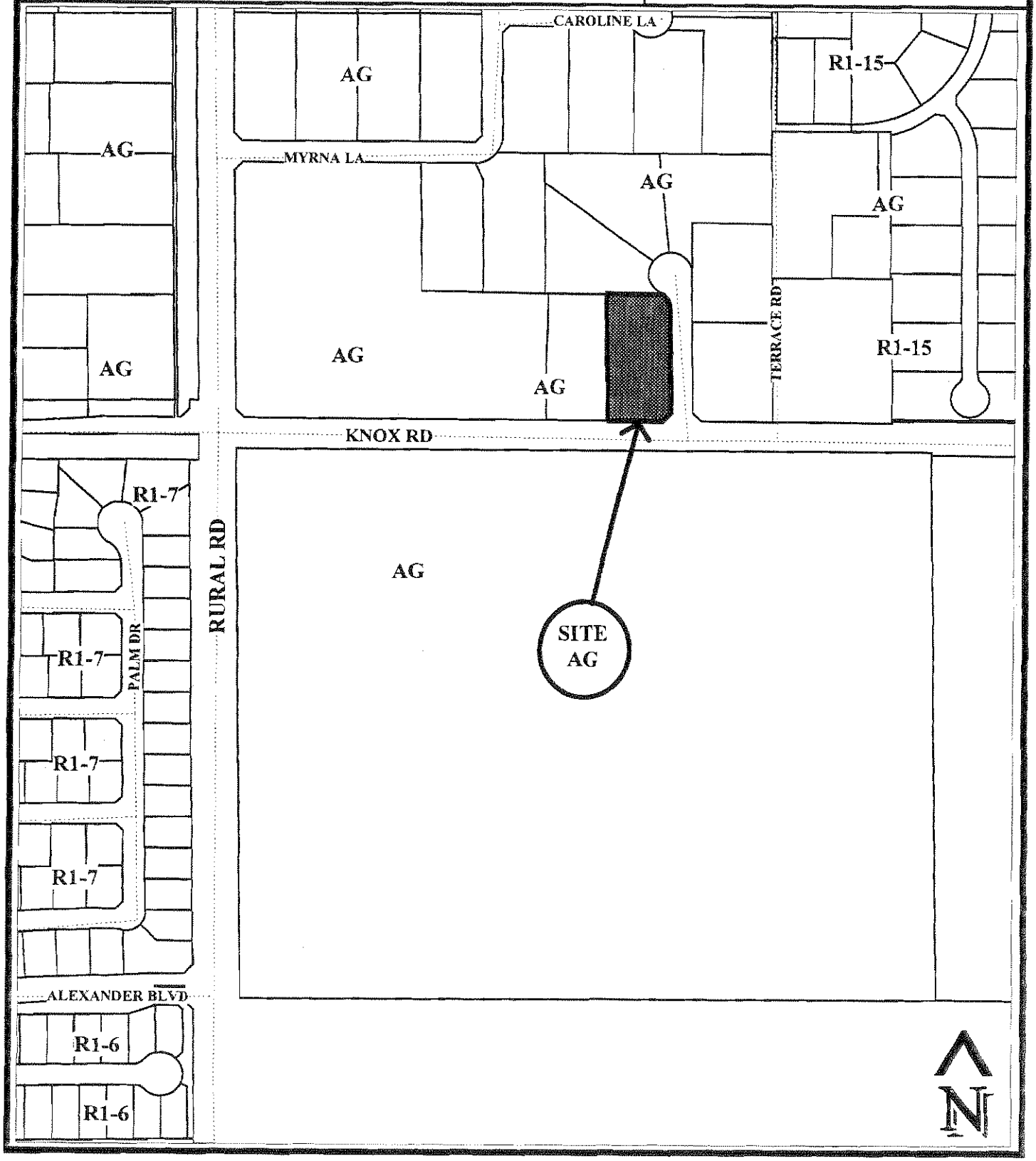
Part 4, Chapter7, Section 4-706: General Fence and Wall Height Standards

Part 6, Chapter 3, Section 6-309: Variances

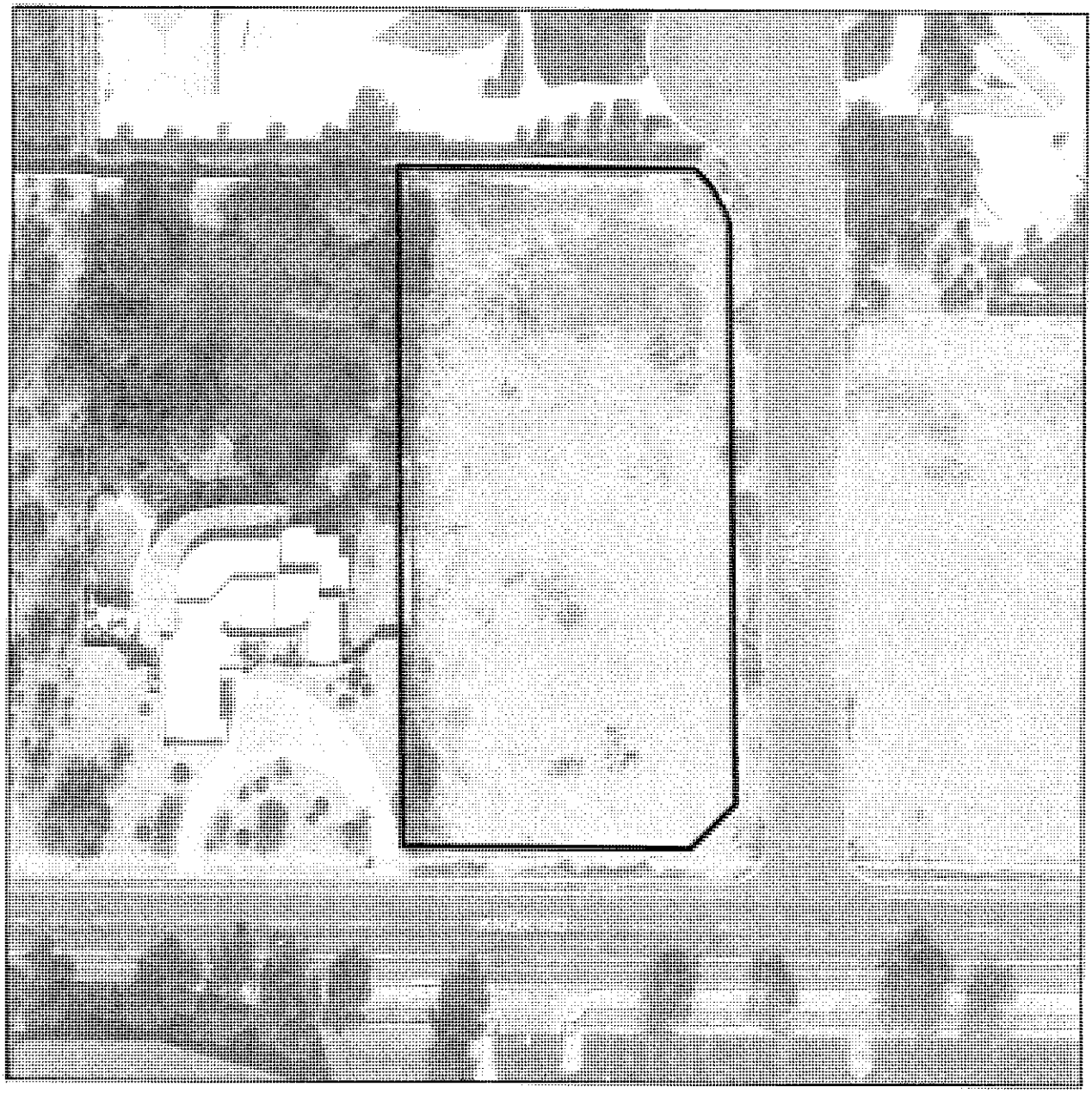
Tempe

NANNAPANENI RSEIDENCE

PL060629



Location Map



NANNAPANENI RESIDENCE (PL060629)

SUBJECT: VARIANCE REQUEST **April 22, 2008**

NANNAPANENI RESIDENCE SCREEN WALL
LOT 19, CORONA ESTATES, TEMPE, ARIZONA

Variance Request:
Variance request to increase the maximum allowable height of a screen wall, located within the front yard, from: 4'-0" height, to: 6'-0".

Screen Wall Description:
The property owner residing in the Corona Estates Subdivision is proposing to construct a new screen wall along the Knox Road street frontage. The proposed screen wall will also include landscape and berming enhancements.

Variance Justification
Shape of Property, Lot 19: Lot 19 is rectangular running north and south, with the long side of the lot opening up to Rita Lane. The longer side of the property at Rita Lane is the natural 'front' orientation of the property. The Knox Road font yard designation, contradicts the logical front yard orientation, and exists at Knox Road only because the Tempe Zoning Ordinance defines the front yard as the shorter side of a corner Lot.

Community Considerations, Corona Estates: Rita Lane cul-de-sac functions as a small cluster of lots within the Corona Estates subdivision. Lot 19 is an integral part of the community cluster of lots formed by the Rita Lane cul-de-sac. Therefore from a design sensitivity perspective, it is the applicant's belief that Lot 19 should be configured with the functioning front entry side of the property facing Rita Lane, not Knox Road.

Traffic and Safety Considerations: Knox Road serves as a feeder to public parking at Corona High School, for staff, visitors, and special events parking. Additionally Knox Road serves as a major drop off location for students who are driven to school by parents. Due to the proximity of Corona High School, traffic at Knox Road is extremely congested. Location of the entry front side of Lot 19 at Knox Road would add to the traffic congestion and the traffic hazard existing at Knox Road currently. Therefore it is logical to locate the entry front side of Lot 19 towards Rita Lane.

The hearing office should also be aware that my son has a special needs challenge, and the increased wall height is an important consideration for his safety.

Zoning Ordinance Revision:
It is my understanding that the zoning ordinance is currently being changed to allow this same request to be considered under Use Permit Submittal. It is understood that this change will go into effect within the next four months. The applicant could have waited for the zoning ordinance change to go into effect but due to the safety concern of my son, we are making this request under the current variance requirement.

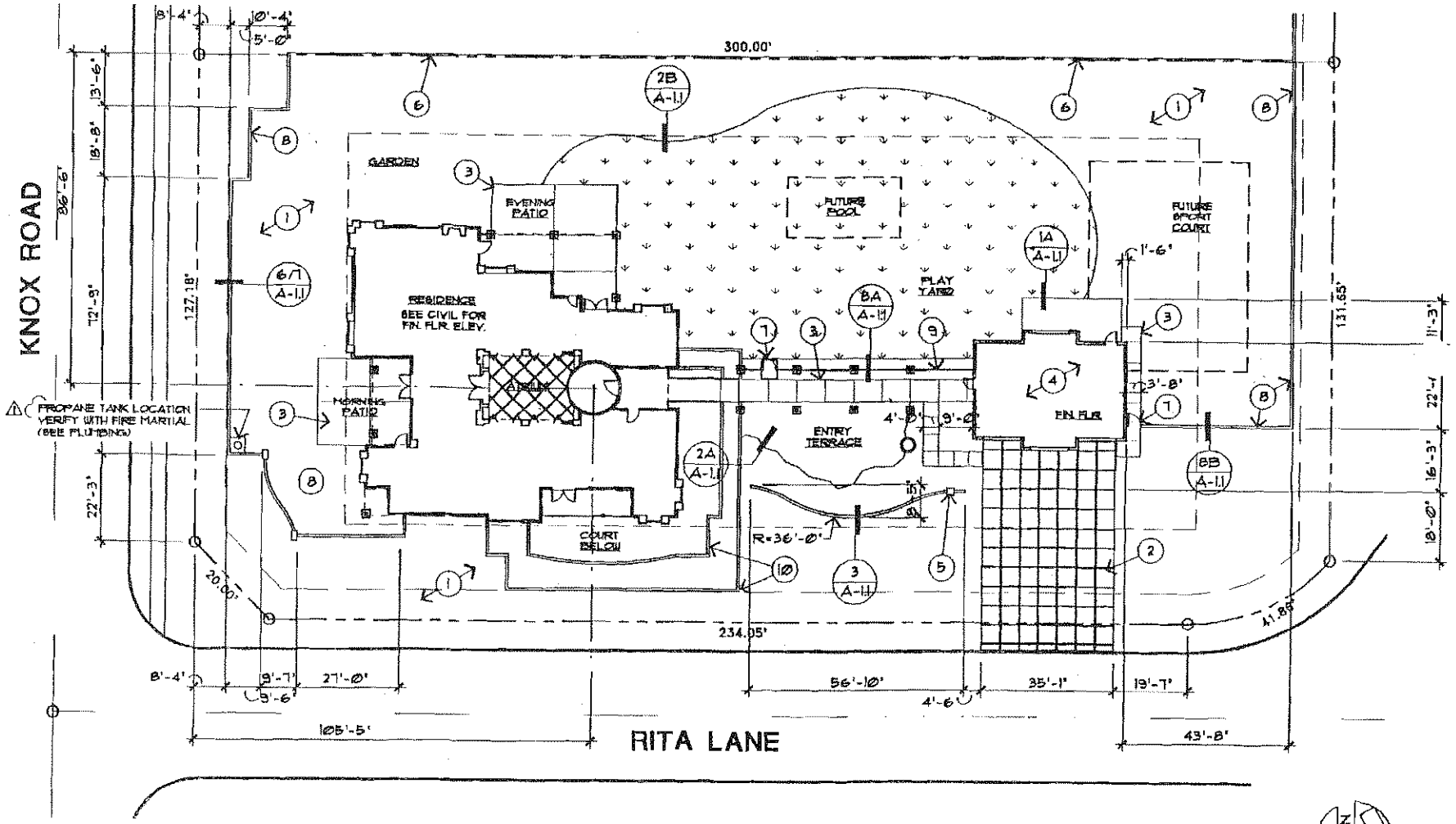
Corona Estates, Lots 19

Conclusion: Approval of the requested Variance will not adversely affect the surrounding property owners or adjacent property users, in any significant way. Approval of the requested variance will allow the property Owner of Lot 19 to enjoy the intended property rights, and property values, of the Corona Estates sub-division community.

Approval of the increased wall height at Knox Road will have the effect of allowing Lot 19 to function with the Knox Road frontage as a street side yard. Further, approval of the requested Variance will serve to reduce traffic hazards and traffic congestion at Knox Road, by the effective conversion of the Knox Road frontage, from a front yard, to a street side yard.

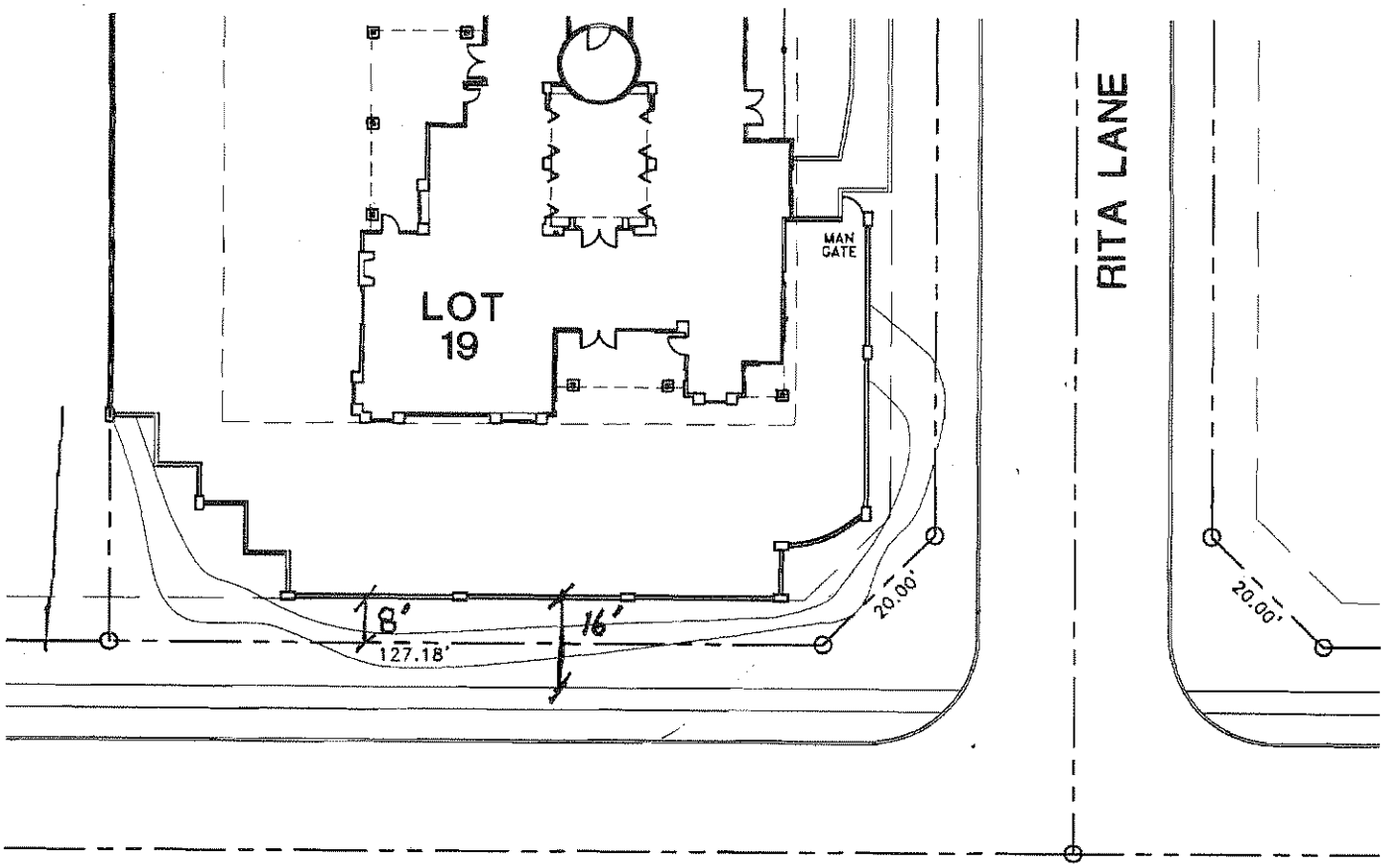
Your consideration of this request is very much appreciated.

Ravi Nannapaneni
Owner of Lot #19



SITE PLAN

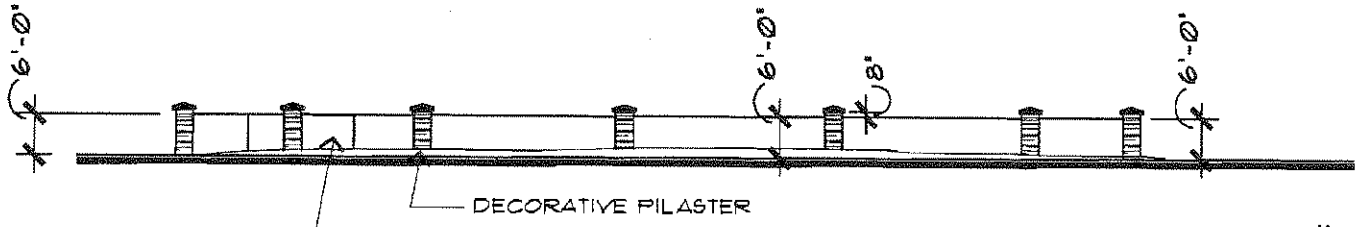
1" = 10'-0"



PARTIAL SITE PLAN

NO SCALE

NORTH



NOTE:
WALL FINISHES TO
MATCH RESIDENCE

SOUTH ELEVATION

NO SCALE

REGISTERED ARCHITECT
CERTIFICATE NO.
17596
MARK E.
ABEL
Date Signed 4/22/08
ARIZONA, U.S.A.
EXPIRES 3/31/11

4/22/08

VARIANCE REQUEST
1026 EAST KNOX ROAD, TEMPE, AZ.

MARK ABEL ARCHITECTS, P.C.
21 EAST SIXTH STREET SUITE 320 TEMPE, ARIZONA 85281 (480) 838-3374 FAX (480) 838-1694

February 5, 2007

Dear Neighbor,
We are sending you this letter to notify you of a street frontage enhancement project, proposed to be constructed in your vicinity. The proposed project will require a public hearing for consideration of a Zoning Variance.

The subject property is located at Lots 19 and 20 of Corona Estates. Both Lots are located at the intersection of Knox Road and Rita Lane. The proposed project will include construction of a screen wall, along with berming and landscape enhancements, to be located within the front yard setback of each Lot, along the Knox Road frontage. The proposed Zoning Variance would allow the maximum height of the proposed screen wall to be increased from 4'-0" to 8'-0". The proposed screen wall design for this project is described on the attached site plan and wall elevation exhibit.

A neighborhood meeting will be held, to discuss this proposal and to answer any questions you may have. The meeting is scheduled for Monday, February 19th, 2007, at 5:30 p.m., at the project site, 1026 E. Knox Road. If the property Owners elect to proceed with the variance request, there will be a future required public hearing before the City of Tempe Hearing Officer. The property will be posted with notification information for the public hearing.

This letter is being sent to you as part of the notification procedure. Should you have any questions or input regarding this matter, you may contact me by telephone or e-mail, (see below). All input received from you will be presented to the City of Tempe, for consideration and discussion at the Variance Hearing. If you have any questions regarding the public hearing, please contact the City of Tempe Planning Department at 480-350-8872.

Sincerely,

Mark Abel
Mark Abel Architects P.C.

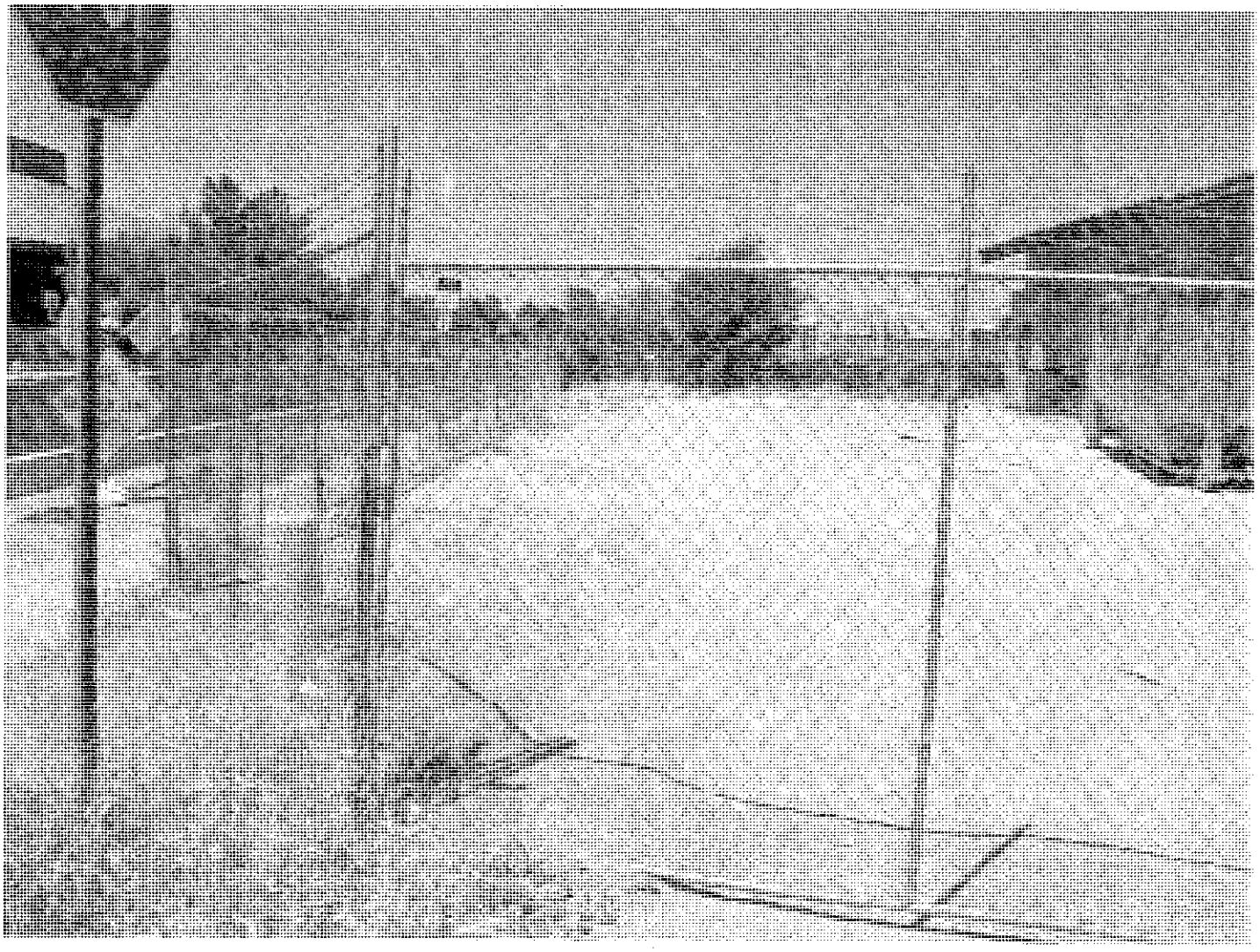
Phone: 480-838-3374
Fax: 480-838-1694
e-mail: MAbelArch@cisaz.com

NANNAPANENI RESIDENCE

1026 EAST KNOX ROAD

PL060629

FRONT OF RESIDENCE- VIEW TO NORTHWEST



NANNAPANENI RESIDENCE

1026 EAST KNOX ROAD

PL060629

FRONT OF RESIDENCE- VIEW TO WEST

Tempe

Minutes
HEARING OFFICER
MAY 20, 2008

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
David Williams, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Shawn Daffara, Planner II
Nick Graves, Planning Intern

Number of Interested Citizens Present: 31

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by June 3, 2008 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for May 6, 2008.

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2. Mr. Williams noted that the following case(s) had been continued:

   - Hold a public hearing for a request by **BROADWAY CENTER – TUMBLEWEED CENTER FOR YOUTH DEVELOPMENT TYRC (PL080139)** (Richard Geasland/Tumbleweed Center for Youth Development, applicant; Saia Family L/P, property owner) located at 1310 East Broadway Road, Suite No. 102, in the CSS, Commercial Shopping and Services District for:

     ZUP08071 Use permit to allow a youth resource center.
     CONTINUED AT THE REQUEST OF STAFF

   - Hold a public hearing for a request by the **KLETT RESIDENCE (PL080144)** (Stan Patton, applicant; Mark & Emily Klett, property owners) located at 1136 South Ash Avenue in the R-3R, Multi-Family Residential Restricted District for:

     ZUP08074 Use permit to allow a second story addition (studio / work shop).

VAR08011 Variance to reduce the north side yard setback from ten (10) feet to three (3) feet ten (10) inches.

CONTINUED AT THE REQUEST OF THE APPLICANT

- Hold a public hearing for a request by **PHOENIX 1 PLAZA – NEXTLINK WIRELESS INC. (PL080147)** (Sonya Okamoto/PlanCom Inc., applicant; Fountainhead Corporation LLC, property owner) located at 2625 South Plaza Drive in the GID, General Industrial District for:

  ZUP08076 Use permit to allow roof top wireless antennas.

  CONTINUED AT THE REQUEST OF THE APPLICANT

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3. Hold a public hearing for a request by the **NANNAPANENI RESIDENCE (PL060629)** (Ravi Nannapaneni, applicant/property owner) located at 1026 East Knox Road in the AG, Agricultural District for:

   VAR08009 Variance to increase wall height in the front yard setback from four (4) feet to six (6) feet.

   Mr. Ravi Nannapaneni was present to represent this case.

   Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. He noted the neighbor to the west is no longer in opposition and that his concerns have been resolved.

   Mr. Williams noted that the purpose of a variance is to provide relief when the Zoning and Development Code is not applied fairly to a property owner. Mr. Nannapaneni's residence is across the street from the parking lot of a high school where there is a lot of activity and the wall will allow privacy.

   DECISION:
   Mr. Williams approved PL060629/VAR08009 subject to the following conditions:
   1. The variance is granted based on the plans submitted and approved by the Hearing Officer.
   2. Obtain all necessary clearances from the Building Safety Division.
   3. The wall shall be designed to match the existing residence in color, form and material.

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4. Hold a public hearing for a request by **WALGREENS PLAZA - H B TOBACCO (PL060676)** (Anis Ben Harzallah, applicant; Mark Stoneman/Stoneman Properties, property owner) located at 53 East Broadway Road in the CSS, Commercial Shopping and Services District for:

   ZUP08068 Use permit to allow a hookah lounge/tobacco retailer.

   Mr. Anis Ben Harzallah was present to represent this case.

   Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. This request is based on the Zoning Administrator's opinion that they were allowed to apply for this use permit.

Mr. Williams questioned Mr. Abrahamson as to whether there had been any applicants that were restricted as to hours designated for smoking vs the business hours they are allowed to sell tobacco products. Mr. Williams noted that there was a Walgreens located next door to this business who also sold tobacco products. Mr. Abrahamson explained that the sale of tobacco products was not the primary source of income for Walgreens and they were not required to have a use permit, whereas Mr. Harzallah would derive over fifty percent (50%) of his income from the sale of tobacco. Mr. Williams cited his concern over high school students in the nearby area and asked if perhaps it would be more beneficial to limit the hours when smoking is allowed to a later time period such as 5 PM. He asked if limiting the hours is an option in this case.

Mr. Harzallah spoke and explained that the normal hours of his business were from 7 PM to 2 AM. Staff confirmed that this applicant's letter of explanation specified these hours of business.

Mr. Steve Stewart, Chairman of Date Palm Manor Homeowners Association, presented Mr. Williams with a specific petition of opposition to this request by his association. He pointed out the location of Tempe High School (northwest corner) and that the association strongly protests this use permit based on health concerns.

Mr. Angel Mendez, of Penasco Place, spoke in support of this request and stated that as a business owner and neighbor, Mr. Harzallah keeps the premises and parking area clean and causes no problems.

Ms. Margaret Christiansen, resident of Tempe, spoke in opposition and stated that as adults in our community we need to protect our youth during a period when they are very vulnerable and experimental against things, such as tobacco, that are harmful at all costs.

Mr. Williams noted that the sale of tobacco products is not what is under advisement today as that use permit had been approved over a year ago. The use permit to allowing smoking on the premises is what is being considered today, and because of the concern over high school students having a place to go and smoke, a use permit was denied a year and a half ago. He went on to state that we are back today to look at that very same question. Further, he indicated that he shared a very strong concern with the community over the close proximity of high school students, and the relation of this business to the location of the high school. Due to the Zoning Administrator's opinion that stated that this use was 'grandfathered', and the fact that the hours of operation were beyond the high school hours, since high school kids are not concentrated at 7 PM at this location, Mr. Williams noted that he was approving this request with an added condition limiting the hours of operation.

DECISION:

Mr. Williams approved PL060676/ZUP08068 subject to the following conditions:

1. The use permit is valid for HB Place and may be transferable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. § 36-601.01.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.

6. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products.
7. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review prior to issuance of building permit.
8. All doors to have illumination to meet five (5) foot candles at the door and two (2) foot candles within a 15' radius. Details to be approved through Building Safety Plan Review.
9. All business signs shall receive a sign permit. Please contact Planning staff at (480) 350-8331.
10. The applicant shall contact City of Tempe Crime Prevention Unit for a Security Plan. Please contact Sergeant Ken Harmon (480-858-6330).
11. **The hours of operation for on premises smoking are limited to 7:00 PM to 2:00 AM. ADDED BY HEARING OFFICER**

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5. Hold a public hearing for a request by the **TEMPE EAST KINGDOM HALL OF JEHOVAH'S WITNESSES (PL070190)** (Lauren Leuning, applicant; Tempe East Kingdom Hall of Jehovah's Witnesses, property owner) located at 4400 South Butte Avenue in the R1-6, Single Family Residential District for:

   ZUP08069 Use permit to exceed 125% of the maximum allowable parking.

   Mr. Lauren Leuning was present to represent this case.

   Nick Graves, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. The applicant is asking for an additional ten (10) parking spaces. Currently the code requires for twelve percent (12%) of the parking area to be landscaped, based on the applicant's site plan fifteen and a half percent (15.5%) of the total parking area would be landscaped.

   Mr. Williams stated that based on the documentation he counted twenty (20) new parking spaces – he asked Mr. Graves how many parking spaces were there. Mr. Graves responded that currently they have seventy-seven (77) spaces on site, and based on this request they would have a total of eighty-seven (87) spaces. Mr. Graves explained that the applicant would be adding more parking near the freeway wall, and reconfiguring the whole parking layout plus adding ten (10) additional parking spaces.

   Mr. Williams asked if this parking lot was developed under an approved site plan or development plan. Mr. Graves explained that staff had given approval to a site plan and noted at that time that ten (10) additional spaces were being added to the parking. That observation led to the request for this use permit by the applicant.

   Mr. Williams asked if the code required a certain number of trees as part of the minimum landscape plan. Mr. Graves responded that while a specific number of trees was not required, there was a requirement for twelve percent (12%) of the area to be landscaped. This applicant is providing fifteen and a half percent (15.5%) landscaping.

   Mr. Leuning noted that the existing parking configuration had been in existence for about twenty-six (26) years. After the new site plan was approved by the City, it was discovered that an additional ten (10) parking spaces were included, and the applicant was requested by the City to obtain a use permit for this additional parking.

   Mr. Williams explained that the purpose of parking space maximums in the code was mainly to counteract the presence of hard surfaces such as asphalt paving, and to discourage the use of paved areas which create additional rain runoff versus landscape areas.

Mr. Williams stated that he was trying to determine how many trees were being shown in the landscape plan, and if there was adequate coverage.

Micki Remos, resident of Tempe, stated that her property was right against the parking lot. She moved into her home thirty-six (36) years ago – although initially concerned about having the church as a neighbor, they have been good neighbors. Although there was never any dialogue from the church as to purposed wall modifications, the wall was modified with paint and stucco and she was able to live with that – the church did plant trees that extend over the wall into her property area and drop leaves and debris into her swimming pool. With the current request, her concern is that there will be not only more parking, but parking of high profile vehicles. When the church has services there are motor homes and campers and a couple of times a week there is parking of huge buses which greatly diminishes the privacy of her yard – there are people coming and going and visiting in the parking area and noise.

Ms. Remos suggested that a solution would be to raise the height of the wall – 3 ft. or 5 ft. - although she does not know what the ordinance allows. This would provide a sound barrier and allow some privacy for her property. Her pool is right up against that wall. If they are going to add the parking spaces, it would be advisable for the church to extend that wall as the neighbors have been very good about their requirements. Mr. Williams asked what the current height of the wall is – Ms. Remos responded that she is not sure – whatever it was when she moved in – perhaps 6 ft. in places – due to the location in a cul-de-sac the wall is different in places such as the front due to the land being higher in the back.

Mr. Williams wondered why the alley was eliminated and questioned staff as to why there is no separation provided by an alley in that area. Mr. Williams appreciated Ms. Remos' concerns and asked staff what the code allowed for wall height. Mr. Abrahamson responded that a maximum height of 8 ft. was allowed, however any wall over 6 ft. required a permit for the additional height.

Mr. Leuning was questioned as to his knowledge about the abandoned alley way. He responded that the alley was abandoned quite a few years ago when the property was first developed.

Mr. Williams asked Mr. Leuning to have the tree limbs trimmed where they overhang Ms. Remos' property.

Mr. Williams stated that he did not have enough information to make a decision on this request today and that he would continue this case to the next hearing on June 3, 2008. He would like to see a full size set of parking lot plans including the landscape plans.

DECISION:
Mr. Williams continued PL070190/ZUP08069 to the June 3, 2008 Hearing Officer hearing.

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6. Hold a public hearing for a request by **PRECISION DIE AND STAMPING (PL070420)** (Sam McGuffin/Cawley Architects, applicant; Precision Die & Stamping, property owner) located at 1744 West 10th Street in the GID, General Industrial District for:

VAR08010 Variance to reduce the street side yard setback from twenty-five (25) feet to twelve (12) feet.

Mr. Gary Brinkly of Cawley Architects was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. The existing building was built in 1975 when the code allowed a twelve (12) foot setback. When the Zoning and Development Code changed, it modified the setback from twelve (12) feet to twenty-five (25) feet. Staff agrees that the ordinance created a hardship for this applicant and that it should be twelve (12) foot setback.

Mr. Williams questioned if the twelve (12) foot setback served any public purpose. Mr. Daffara stated that the surrounding streets and existing landscape would not be impacted or damaged by this request, which would allow a new addition and replace the outdoor storage area.

Mr. Brinkly confirmed, in response to a question from Mr. Williams, that the applicant was concerned over the security of the outdoor storage of materials and also wanted to clean up the yard area.

Mr. Williams noted that this business was built before the code required a larger setback and that this request for a variance was reasonable.

DECISION:
Mr. Williams approved PL070420/VAR08010 subject to the following conditions:
1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
2. All required permits and clearances shall be obtained from the Building Safety Division.
3. The applicant shall submit for Development Plan Review for the new building addition. Site Plan, Landscape Plan and Elevations to be approved prior to Building Permit submittal.

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7. Hold a public hearing for a request by **SPRINT NEXTEL (PL080026)** (Amy Million/Sprint Nextel, applicant; Tempe West Investors LLC, property owner) located at 1403 West Baseline Road in the GID, General Industrial District for:

   ZUP08016 Use permit to allow additional antennas on an existing monopole.

   Ms. Amy Million was present to represent this case.

   Nick Graves, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued.

   DECISION:
   Mr. Williams approved PL080026/ZUP08016 subject to the following conditions:
   1. Obtain all necessary clearances from the Building Safety Division of the Development Services Department.
   2. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
   3. The proposed antennas shall match in color the existing antennas on the site.
   4. The wireless device shall be removed within 30 days of discontinuance of use.

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8. Hold a public hearing for a request by the **TAHILIANI RESIDENCE (PL080121)** (Matt Price/SW Commercial Services Inc., applicant; Harry Tahiliani, property owner) located at 1101 East Warner Road, Estate 151, in the R1-15, Single Family Residential and AG, Agricultural Districts for:

ZUP08056 Use permit to allow an accessory building (ramada).
ZUP08065 Use permit to allow an accessory structure (batting cage).

Mr. Matt Price of SW Commercial Services Inc. was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. The proposed area is north of the existing home.

Mr. Williams questioned, with confirmation from Mr. Daffara that this applicant is combining two parcels into one and is currently going thru the subdivision process for City Council approval.

Mr. Williams asked if these structures are within the allowable building heights. Mr. Daffara confirmed that they were. Mr. Williams asked if they needed to determine that these structures are on a separate lot. Mr. Daffara responded that is the exact reason for the subdivision plat to combine the two lots into one as it will be part of the primary residence.

DECISION:
Mr. Williams approved PL080121/ZUP08056/ZUP08065 subject to the following conditions:
1. Obtain all necessary clearances and permits from the Building Safety Division.
2. A subdivision plat will need to be approved and recorded before Building Permits are Finaled.
3. The accessory structure (shade canopy) shall be located a minimum of twenty-five (25) feet from the west property line. The Agricultural (AG) zoning district requires a twenty-five (25) foot street side yard setback.

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9. Hold a public hearing for a request by the **BUNGER RESIDENCE (PL080135)** (William Bunger, applicant/property owner) located at 1936 East Calle De Arcos in the R1-7, Single Family Residential District for:

ZUP08070 Use permit to allow an accessory building (garage / work shop).

Mr. William Bunger was present to represent this case.

Steve Abrahamson, Planning and Zoning Coordinator, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. The proposed accessory building would be 576 s.f. and located in the northwest corner of the property which was in a cul-de-sac. Lot coverage would be 13% and they are allowed up to 45% lot coverage.

Mr. Bunger stated that no trees would be removed for the construction of this accessory building and that it would match the main residence.

Mr. Williams asked if Mr. Bunger had spoken with his neighbor to the west. Mr. Bunger confirmed that his neighbor supported his request.

Mr. Williams asked about the metal storage building located at the end of the driveway. Mr. Bunger responded that it was useless, and would be removed once the new accessory building is completed.

DECISION:

Mr. Williams approved PL080135/ZUP08070 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Detached structure to be compatible in design with main dwelling; colors to match existing dwelling.
3. The detached accessory building shall not be used as a separate living unit/guest quarters (no cooking facilities).

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10. Hold a public hearing for a request by **DARLA'S PROFESSIONAL THERAPEUTIC MASSAGE (PL080140)** (Darla Walgenbach, applicant; Paul Wenz, property owner) located at 2409 South Rural Road, Suite No. B-1, in the R/O, Residential/Office District for:

ZUP08072 Use permit to allow a massage therapist.

Ms. Darla Walgenbach was present to represent this case.

Steve Abrahamson, Planning and Zoning Coordinator, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. He noted that the area was 722 s.f., hours would be from 8 AM to 7 PM, four (4) days a week (Monday thru Friday) and that the applicant would be the only massage therapist.

Ms. Walgenbach noted that although she would be open four (4) days a week, she would be available to take private appointments at other times if requested. She normally does four (4) clients a day. She asked if weekend work would be a problem.

Mr. Williams noted that this was a residential district and asked for more information on her proposed weekend hours. Ms. Walgenbach responded that every once in a while, if she is in town and someone calls for an appointment, she would do weekend appointments.

Mr. Williams noted to Mr. Abrahamson that there was no condition of approval regarding hours and days of operation, and asked if there would be a problem if there were weekend hours. Mr. Abrahamson replied that there was no problem as long as Mr. Williams indicated that as part of his approval.

Mr. Williams stated that this was probably a low intensity type of use that there was not much concern and traffic concern does not seem to be the case.

Mr. Williams asked if staff was suggesting that the Hearing Officer add a condition regarding days and hours to the Conditions of Approval. Mr. Abrahamson said that reviewing her business plan, it projected four (4) clients a day, not four (4) days a week, so there was no problem.

Ms. Walgenbach asked if there would be a problem if she had an excess of four (4) appointments a day. Mr. Williams clarified this issue with Mr. Abrahamson who noted that her letter of explanation stated that there would be up to four (4) appointments per day. If Mr. Williams wished to, he could add a condition that indicates more would be allowed.

Mr. Williams asked if the applicant could submit an updated letter to staff stating that there may be more than four (4) appointments per day. Mr. Abrahamson stated that would be fine. Ms. Walgenbach was instructed to submit this modified letter to staff.

DECISION:
Mr. Williams approved PL080140/ZUP08072 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. All new signs to receive separate approval and permits, contact Planning Staff at (480) 350-8441.

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11. Hold a public hearing for a request by the **HERNANDEZ RESIDENCE (PL080142)** (Antonio Hernandez, applicant/property owner) located at 5430 South El Camino Drive in the R1-6, Single Family Residential District for:

ZUP08073 Use permit to allow a second story addition.

Mr. Antonio Hernandez was present to represent this case.

Nick Graves, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued.

Mr. Williams stated that he was searching for a foot elevation with the documentation submitted by this applicant. Mr. Graves responded that he did not believe one was submitted.

Mr. Hernandez stated that he had spoken with the neighbors and that they were in support of his request.

Mr. Williams expressed concern if there were any other second story houses in this neighborhood. He also noted that when visiting the property, he did not see the notice that had been posted in the front yard.

Mr. Hernandez responded that the wind had blown the sign down over the weekend, and that he had propped it up against his wall.

When asked if he understood the Conditions of Approval, Mr. Hernandez asked a question regarding Condition No. 3. He noted that his current residence is constructed of block wall and that the addition would be stucco – he asked if the residence could be stucco.

Mr. Williams asked if he was going to upgrade the house to match the addition? Mr. Hernandez stated that he was in terms of the finish and color.

Mr. Williams stated that he had a concern over a second story addition in a single story neighborhood, however the structure was in the back yard so the massing was away from the street which preserves the character of the neighborhood.

DECISION:
Mr. Williams approved PL080142/ZUP08073 subject to the following conditions:
1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
2. All required permits and clearances shall be obtained from the Building Safety Division.
3. The proposed addition and second story shall match existing dwelling in design, color and material.

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12. Hold a public hearing for a request by **COLLEGE PARK SHOPPING CENTER - WHOLE FOODS MARKET (PL080145)** (Rafael Buerba/KDRA Associates, applicant; Whole Foods Market, property owner) located at 5120 South Rural Road in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP08075 Use permit to allow outdoor storage.

Mr. Dave Campbell of Whole Foods Market was present to represent this case.

Steve Abrahamson, Planning and Zoning Coordinator, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. The storage would be to the rear or west side of the building and required to have a screen wall.

Mr. Campbell noted that presently there was a chain link fence for the past ten (10) years which had been determined by the City not to be legal. They have been informed that a concrete block wall is required, but it is there understanding that an alternative can be proposed once the use permit is approved.

Mr. Abrahamson noted that the applicant will have to go thru the Development Plan Review process as indicated in Condition No. 1 and in that review if the applicant has alternative solutions to the screening they will be considered.

Mr. Williams suggested that staff consider the view from the west for a structure that may be 12 or 13 feet high, if there even is a view, when reviewing alternative solutions. Mr. Campbell noted that the screen wall would not be any higher than the existing chain link fence.

DECISION:
Mr. Williams approved PL080145/ZUP08075 subject to the following conditions:
1. Screen wall will require Development Plan Review processing and approval. Plans must be submitted and approved prior to construction.
2. Obtain all necessary clearances from the Building Safety Division.

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13. Hold a public hearing for a request by the **CHAMBERLAIN RESIDENCE (PL080148)** (Tess Jones Odenwald/The Phactory, applicant; Michael & Judy Chamberlain, property owners) located at 2036 East Myrna Lane in the AG, Agricultural District for:

ZUP08077 Use permit standard to reduce the front yard setback by twenty percent (20%) from forty (40) feet to thirty-two (32) feet.

ZUP08078 Use permit standard to reduce the west side yard setback by twenty percent (20%) from twenty (20) feet to sixteen (16) feet.

Ms. Tess Jones Odenwald of The Phactory, and Michael Chamberlain, were present to represent this case.

Nick Graves, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. The request is to allow a home addition as depicted in the documentation. An e-mail had been received from the applicant this morning regarding support of this request.

Ms. Odenwald presented a petition of support from adjacent neighbors including the neighbors from across the street.

Mr. Williams asked about the posting of the property. Mr. Chamberlain responded that the sign was up when he left yesterday morning, however when he returned that evening it was laying down.

DECISION:
Mr. Williams approved PL080148/ZUP08077/ZUP08078 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. The use permit approval is valid for the plans as submitted to and approved by the Hearing Officer.
3. The building additions shall match the existing residence in design, color and materials.

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14. Hold a public hearing for a request by **INFERNO FITNESS LLC (PL080149)** (Matthew Lucas, applicant; BME Land Development & Construction Inc., property owner) located at 2027 East Cedar Street in the GID, General Industrial District for:

ZUP08079 Use permit to allow a personal fitness center in the GID, General Industrial District.

Mr. Matthew Lucas was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. Required parking is 18 spaces; parking provided is 40 spaces – a total of 95 parking spaces are available thru the industrial park for four (4) buildings. A shared parking agreement is in place from when this property was built.

Mr. Lucas noted that the location map indicated the position of his business incorrectly. Mr. Williams asked if staff advertised the correct address for this business. Mr. Daffara responded that it had been advertised correctly but unfortunately, although the industrial park was correctly indicated, the business was not. Staff indicated the advertisement was published with correct information.

Mr. Lucas confirmed, in response to a question from Mr. Williams, that at any given time there may be up to fifteen (15) clients present.

DECISION:
Mr. Williams approved PL080149/ZUP08079 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. All new signs to receive separate approval and permits, contact Planning Staff at (480) 350-8441.

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15. Hold a public hearing for a request by the **CARRAZCO RESIDENCE (PL080150)** (Russ Conway/Classic Stellar Homes Inc., applicant; Francisco & Eva Carrazco, property owners) located at 1534 East Calle de Caballos in the AG, Agricultural District for:

ZUP08080 Use permit to allow the construction of a two (2) story home.

Mr. Russ Conway of Classic Stellar Homes Inc. was present to represent this case.

Steve Abrahamson, Planning and Zoning Coordinator, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. One call of concern had been received asking what was involved with this request. This is a 2 ½ acre lot. Proposed lot coverage is 10%; allowable lot coverage is 25%. The proposed home addition is 11,000 s.f. and other homes in the area have two story additions. Building permits have been applied for, but not issued, and will not be issued unless the use permit is approved.

Mr. Williams questioned the height of the addition as this information was not included in the dimensions and elevations. Mr. Abrahamson stated that the building height does not exceed the maximum for the use permit standards to increase building height by 10%. Mr. Daffara ascertained that the permitted height is 30 ft.

Mr. Russ Conway stated that he believed the building height is 28 feet 4 inches. Soil testing for the septic system is going on today. Building plans have been submitted but the landscape plans are not complete. There will be a front courtyard area set way back from the front of the property.

Mr. Williams asked if a landscape plan is required. Mr. Abrahamson stated that it is not, only the building design is considered.

Mr. Williams noted his concern about the compatibility of this large two story addition of 11,000 s.f. with the single story neighborhood and whether it fits with the scale of the neighborhood. Mr. Conway responded that there was a second story addition next door to this property. Mr. Williams stated that he believed that this was a clerestory rather than a second story addition.

Ms. Sherry Barnard and Ms. Ellen Kirk, residents of Tempe, stated that they were associated with the Calle de Caballos Homeowners Association and lived nearby. Ms. Kirk stated that the home, as presented to them last night, was only 8,000 s.f. and the remainder was a garage. She noted that the house next door was not a two story addition but rather a home with vaulted ceilings – there are two story homes in the neighborhood in the 24 lot historical neighborhood. Ms. Barnard stated that neighbors had observed children on this construction site and safety was a concern. It is their understanding that construction chain link fence will be erected to protect this site.

Ms. Barnard stated that plans were delivered to the five (5) member Board on May 15th at 6 PM and as some of the members have been out of town, and unavailable, there has not been an opportunity to review the proposed addition. Plans as reviewed by the partial Board were beautiful but incomplete. There were no electrical or exterior lighting plans included. The Calle de Caballos Architectural Review Committee is respectfully requesting a thirty (30) day continuance so that final plans can be reviewed and the equestrian elements of the neighborhood can be protected.

Mr. Williams asked if the Board's approval was required before building can begin by the applicant. Ms. Barnard stated that was true. She noted that the CCR's required a thirty (30) day response was required once the complete and final plans are received.

Mr. Williams explained that the City of Tempe cannot act to enforce private restrictions and does not normally condition their approvals based on the Boards or Architectural Committees. While he understands that they received incomplete plans without time to review them, his concern is whether this project is groundbreaking or setting a precedent for the neighborhood. He is not inclined to delay the approval of this request, as the applicant will still require the approval of the Calle de Caballos Board/Committee.

Mr. Conway responded to a question from Mr. Williams that the second story of this addition will consist of only 1,045 s.f.

Mr. Williams stated that the second story was minimal compared to the rest of the structure.

Mr. Williams stated that he was adding two (2) conditions of approval:
3. Submit a front yard landscape plan for review and approval by Development Services staff.
4. Secure the property from trespass during construction.

Mr. Abrahamson questioned what in particular the Hearing Officer was looking for in the landscape plan. Mr. Williams stated the structural and organic elements, plant materials and their treatment. Mr. Abrahamson explained that staff does not review residential landscape plans as it is not part of the Zoning and Development Code.

Mr. Conway stated that they were probably thirty (30) days away from construction and would be erecting a construction fence at that time. Currently the existing wood fence in the front yard area is still there. A full set of plans would be submitted to the Board/Committee when complete.

Mr. Williams questioned Ms. Kirk as to whether their Board/Committee was able to enforce the removal of the wood fence. Ms. Kirk replied that they have tried several times in the past to do so and that their main concern is the risk to children in the area being able to access an area where they may get injured.

Mr. Williams stated that he would approve this request with one added Condition of Approval No. 3 which is to occur at the beginning of construction.

DECISION:
Mr. Williams approved PL080150/ZUP08080 subject to the following conditions:
1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
2. All required permits and clearances shall be obtained from the Building Safety Division.
3. **Remove the existing wood fence and secure the property from trespass during construction. ADDED BY HEARING OFFICER**

---

16. Hold a public hearing for a request by **ALL ABOUT YOU MEDSPA – BECKY ABBOTT – MASSAGE THERAPY (PL080157)** (Becky Abbott, applicant; Amboly, property owner) located at 7517 South McClintock Drive, Suite No. 103 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP08082 Use permit to allow massage therapy.

Ms. Becky Abbott was present to represent this case.

Steve Abrahamson, Planning and Zoning Coordinator, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. The leased space is 108 s.f. , hours are by appt between 9 AM – 6 PM on Mondays, Tuesday, Wednesday and Thursdays.

Mr. Williams noted that the site plan depicted a larger area than 108 s.f. Ms. Abbott responded that it was not to scale and that she had just submitted a general sketch which indicated the whole suite of rooms – she will be located in Room 2 on the sketch.

DECISION:
Mr. Williams approved PL080157/ZUP08082 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. All new signs to receive separate approval and permits, contact Planning Staff at (480) 350-8441.

---

17. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **MARONEY RESIDENCE (PL080137/ABT08007)** (Patrick R. Maroney, property owner) Complaint CE074728 located at 1952 East Concorda Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Brett Barnes, City of Tempe – Neighborhood Enhancement Department, stated that no improvement had been made by the property owner after several notices had been issued for landscape weeds. This property had been abated about a year ago for multiple violations.

Mr. Williams asked if they had been cited for the vehicle in the carport. Mr. Barnes stated that they had not. This case had actually been initiated by one of the part time code inspectors. Due to their limited schedule of hours, this case was then assigned to Mr. Barnes.

Mr. Williams asked since today's proceedings was about the weeds, what would be done about the vehicle. Mr. Barnes responded that there was a standard $100 fee for towing an inoperable vehicle. The violation on the vehicle is that it has one (1) missing tire. Due to the car being within a carport, Mr. Barnes stated, it does not have to have current registration but just needs to be in operable condition – currently it is sitting on a jack and has one tire missing. There are two (2) inoperable vehicles located in the back yard which is permitted within the Tempe City Code.

DECISION:
Mr. Williams approved abatement proceedings for PL080137/ABT08007.

The next Hearing Officer public hearing will be held on **Tuesday, June 3, 2008.**

There being no further business the public hearing adjourned at 3:37 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm

DOERING RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: December 2, 2008 Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by the **DOERING RESIDENCE (PL080421)** located at 8102 South College Avenue for two (2) use permits.

DOCUMENT NAME: 20081202dssd01 **PLANNNED DEVELOPMENT (0406)**

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **DOERING RESIDENCE (PL080421)** (John & Jennie Doering, applicant/property owner) located at 8102 South College Avenue in the R1-10, Single Family Residential District for:

ZUP08172 Use permit standard to reduce the required front yard setback by twenty percent (20%) from thirty (30) feet to twenty-four (24) feet for a guest room addition.

ZUP08173 Use permit to allow an increase in fence height from four (4) feet to six (6) feet in the front yard setback.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

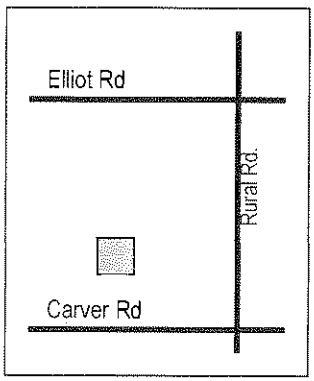
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: **Staff – Approval subject to Conditions**

ADDITIONAL INFO: The Doering residence is requesting two (2) use permits, one to reduce the required front yard setback by twenty percent (20%) from thirty feet (30') to twenty-four feet (24') to allow for an addition to their home and a second use permit to allow an existing wall to exceed four (4) feet in the front yard setback. Staff recommends approval of the use permits as it meets the conditions set forth in the Tempe Zoning and Development Code



PAGES:

1. List of Attachments
2. Comments;
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)

3-4. Letter of Intent

5. Site plan
6. Enlarged Site Plan
7. Floor Plan
8. Elevation(s)

9-10. Staff Photograph(s)

COMMENTS:

The Doering residence is requesting two (2) use permits, one to reduce the required front yard setback by twenty percent (20%) from thirty feet (30') to twenty-four feet (24') to allow for an addition to their home and a second use permit to allow an existing wall to exceed four (4) feet in the front yard setback.

The single family home faces north towards Citation Lane which is the required street side yard of this lot while the front property lot line is along College Avenue, thus the front yard setback would be required along the College Avenue frontage. The front of the Doering's home faces north towards Citation Lane, and the new room addition and the existing six (6) foot perimeter wall is located on the east side of the existing home, adjacent to College Avenue. If, College Avenue was the street side yard the new addition would fit within the R1-10 street side yard setback of fifteen (15) feet. Given that the home orientation faces north, the existing home has no fence between the front of the home and Citation Lane and allows natural surveillance between the street and the residence. The original intent behind a maximum four (4) foot wall in the front yard setback was to allow visual surveillance between the street and the home. Since the six (6) wall has existed since 1983 and the wall is located on the side of the existing residence, staff recommends approval of the use permits as they meet the criteria set forth in the Tempe Zoning and Development Code.

To date, staff has received no public input to this request.

Use Permit

The Zoning and Development Code requires use permits to reduce the front yard setback by twenty percent (20%) and to allow a wall exceeding four (4) feet in the front yard setback, in the R1-10 Single Family district.

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
   - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
   - There is no apparent nuisance involved from this request.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
   - The proposal would not contribute to neighborhood deterioration or downgrade property values. The use permit is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.

d. Compatibility with existing surrounding structures and uses;
   - The proposed use appears to be compatible with surrounding uses.

Conclusion

Staff recommends approval of the use permit subject to conditions

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.
5. Approval of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.
6. The addition is located on the side of the existing home.
7. The perimeter wall has existed since 1983, and is located in the side yard of the residence.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. Obtain all necessary clearances from the Building Safety Division.

2. The new addition shall be compatible with the existing residence in color, form and material.

HISTORY & FACTS:

April 1983 Building Permits issued for a new single family home.

DESCRIPTION:

Owner – John & Jennie Doering
Applicant – John & Jennie Doering
Existing Zoning – R1-10, Single Family Residential District
Lot Area – 18,801 S.F./ .43 acres
Existing Residence S.F. – 2,638 S.F.
New Addition S.F. – 564 S.F.
Required front side yard setback – 30'
Proposed front yard setback – 24'
Maximum Lot Coverage – 45%
Proposed Lot Coverage – 22.6 %

ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 2, Section 4-202, Table 4-202A – Development Standards

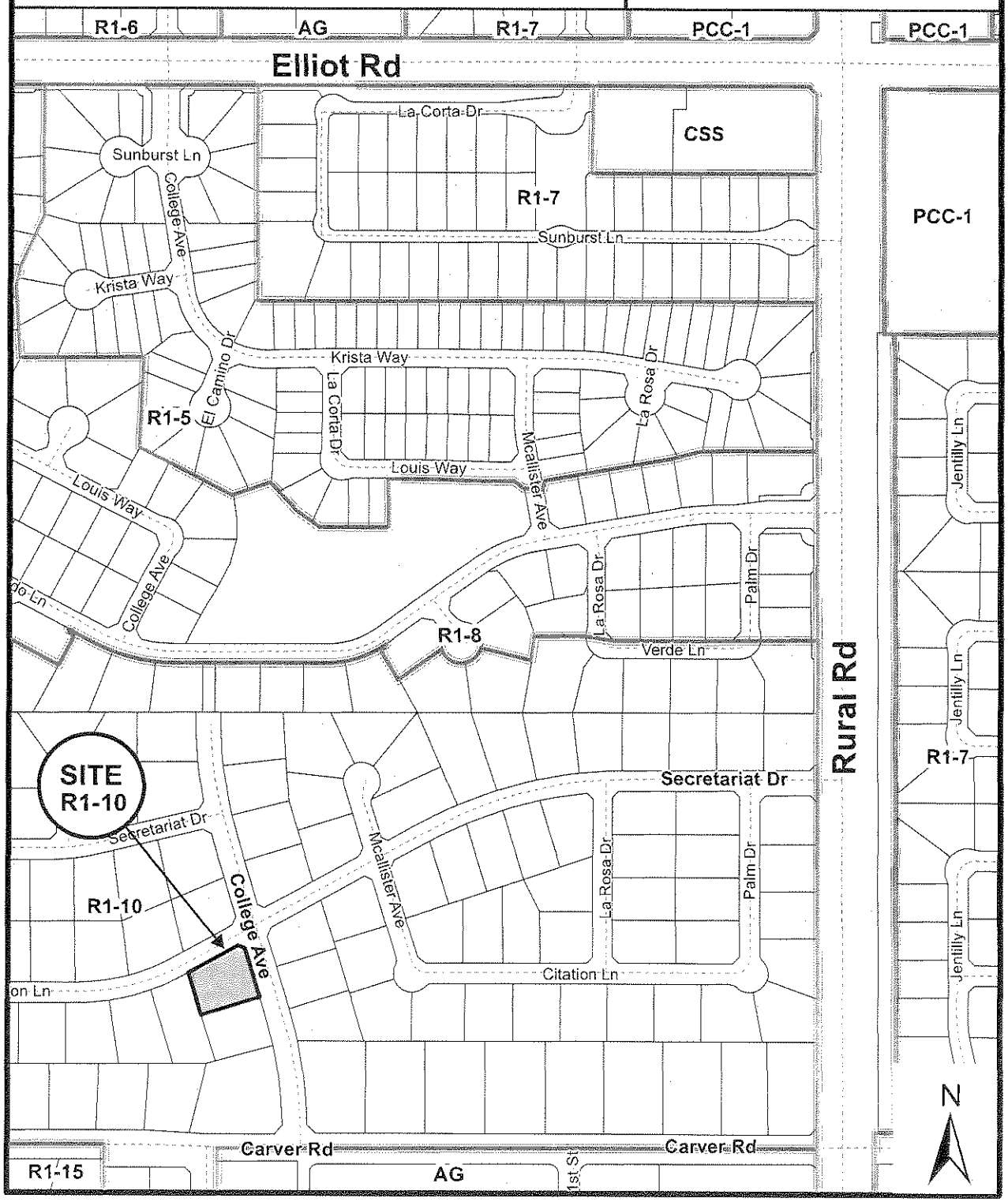
Part 4, Chapter 7, Section 4-706 (A) – General Fence and Wall Height Standards

Part 6, Chapter 3, Section 6-308 – Use permits

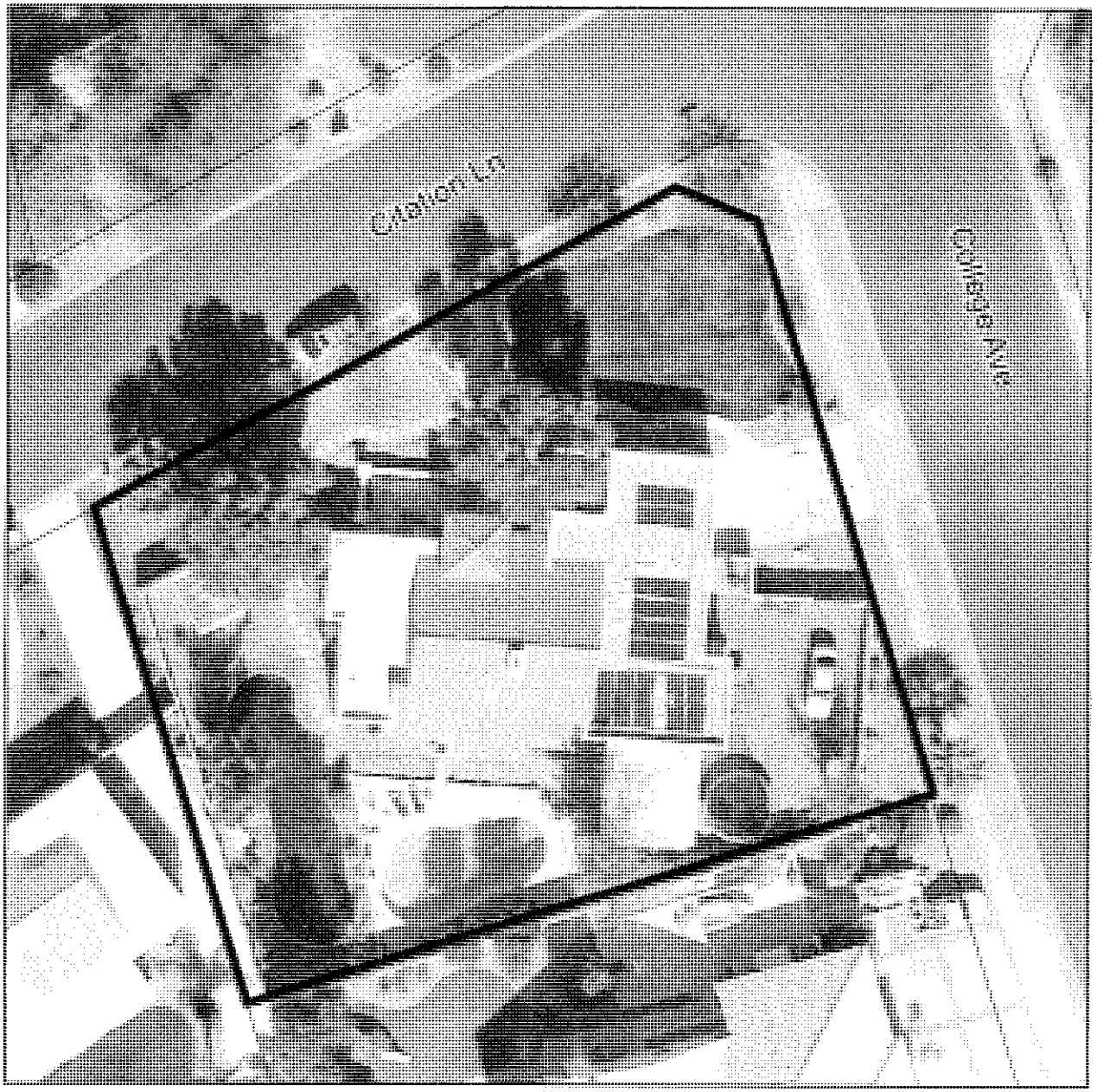
Tempe

DOERING RESIDENCE

PL080421



Location Map



DOERING RESIDENCE (PL080421)

Doering Family
8102 S. College Ave.
Tempe, AZ 85284
(480) 753-5924
jenspraydoe@cox.net

City of Tempe
Development Services
31 E. Fifth St.
Tempe, AZ 85280-5002

Dear City of Tempe Development Services:

Here is the Letter of Explanation regarding our request for a Use Permit.

We are requesting a Use Permit to build a guest bedroom and bathroom on the east side of our house. It will definitely match the existing home and increase the value of our home and the appearance of our neighborhood. The area was used for RV parking by the previous owners and was never particularly developed nor landscaped, so this should be a lovely upgrade.

The Use Permit is needed because our lot is one of a few in the neighborhood which, when built (way before we owned it), had its front door designated the side of the house and the side (with ugly gravel and RV parking area) designated the front. As you can see from the plans, the area designated the 'side' is actually the landscaped front yard, very visible from the streets.

The area where we'd like to build is behind our wall, still removed from the street, and not in any way infringing on the walkways. In fact, we hope to increase the shade in the area when the building is complete.

Since we will be using the space as a bedroom, primarily for guests (visiting Grandmas, especially), it will definitely:

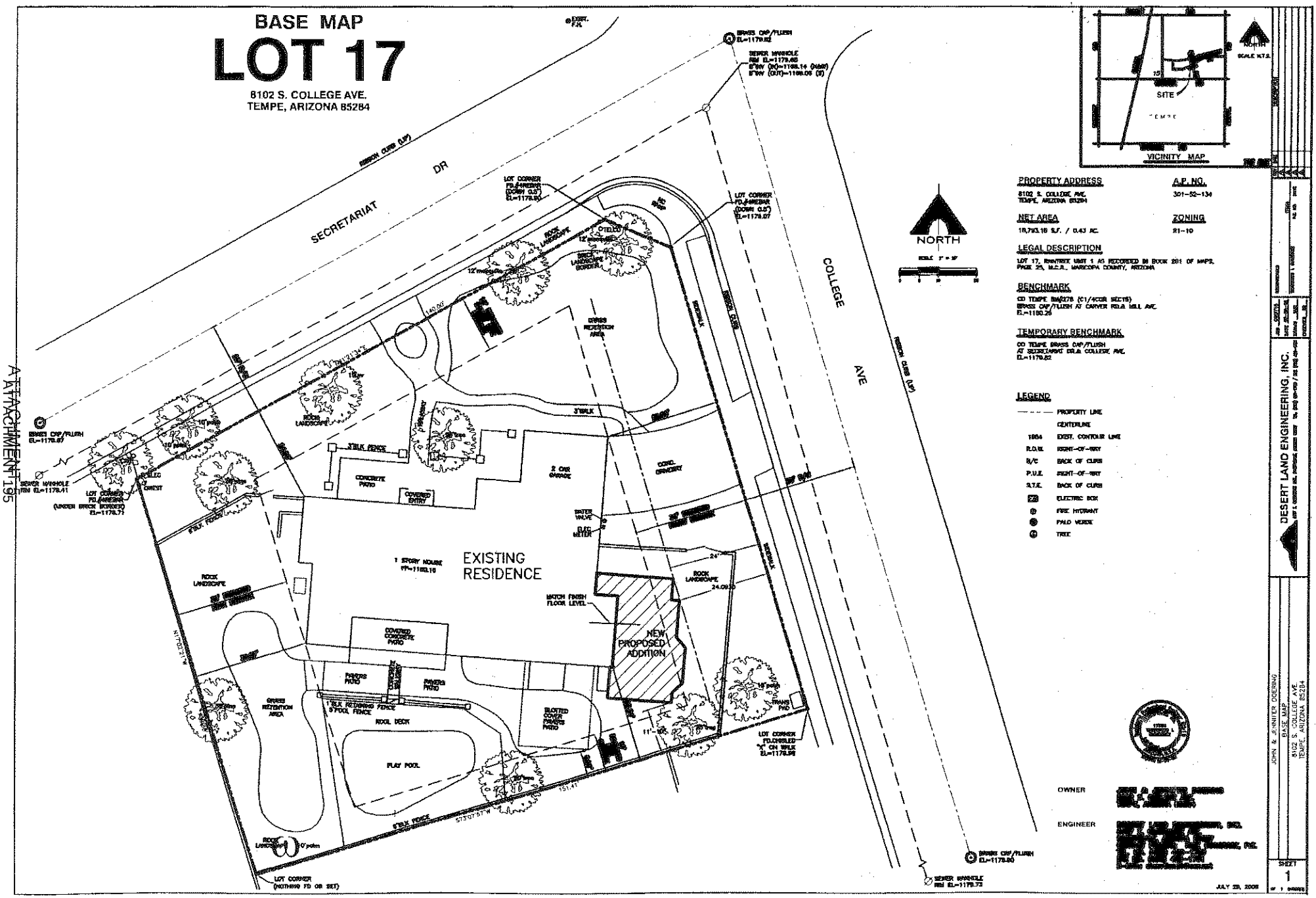
a. **not** cause any significant vehicular or pedestrian traffic in adjacent areas;
b. **not** cause any nuisance exceeding that of ambient conditions (as stated, it should improve ambient conditions when completed);
c. not only **not** contribute to the deterioration of the neighborhood but should **increase** the look of the neighborhood along College and the value of our home by increasing the square footage with attractive, quality construction;
d. include coordinating tile features and matching-style windows to be completely compatible with existing surrounding structures; and
e. in no way result in any disruptive or nuisance behaviors to the surrounding area or general public (unless you've met my Grandma, but that's not really an issue for the Use Permit. . .).

If you have any questions, please don't hesitate to contact us at any of the above addresses. Thank you very much for your time.

John and Jennifer Doering

BASE MAP
LOT 17

8102 S. COLLEGE AVE.
TEMPE, ARIZONA 85284



NORTH
SCALE: 1" = 10'

PROPERTY ADDRESS
8102 S. COLLEGE AVE.
TEMPE, ARIZONA 85284

A.P. NO.
301-52-134

NET AREA
18,793.16 S.F. / 0.43 AC.

ZONING
R1-10

LEGAL DESCRIPTION
LOT 17, RiverTREE UNIT 1 AS RECORDED IN BOOK 201 OF MAPS, PAGE 25, M.C.R., MARICOPA COUNTY, ARIZONA

BENCHMARK
CO TEMPE BM#278 (C1/4COR SEC15)
BRASS CAP/FLUSH AT CARVER RD& MILL AVE.
EL=1180.26

TEMPORARY BENCHMARK
CO TEMPE BRASS CAP/FLUSH
AT SECRETARIAT DR.& COLLEGE AVE.
EL=1179.82

LEGEND

———	PROPERTY LINE
	CENTERLINE
1884	EXIST. CONTOUR LINE
R.O.W.	RIGHT-OF-WAY
B/C	BACK OF CURB
P.U.E.	RIGHT-OF-WAY
S.T.E.	BACK OF CURB
E/B	ELECTRIC BOX
	FIRE HYDRANT
	PALO VERDE
	TREE

OWNER

ENGINEER

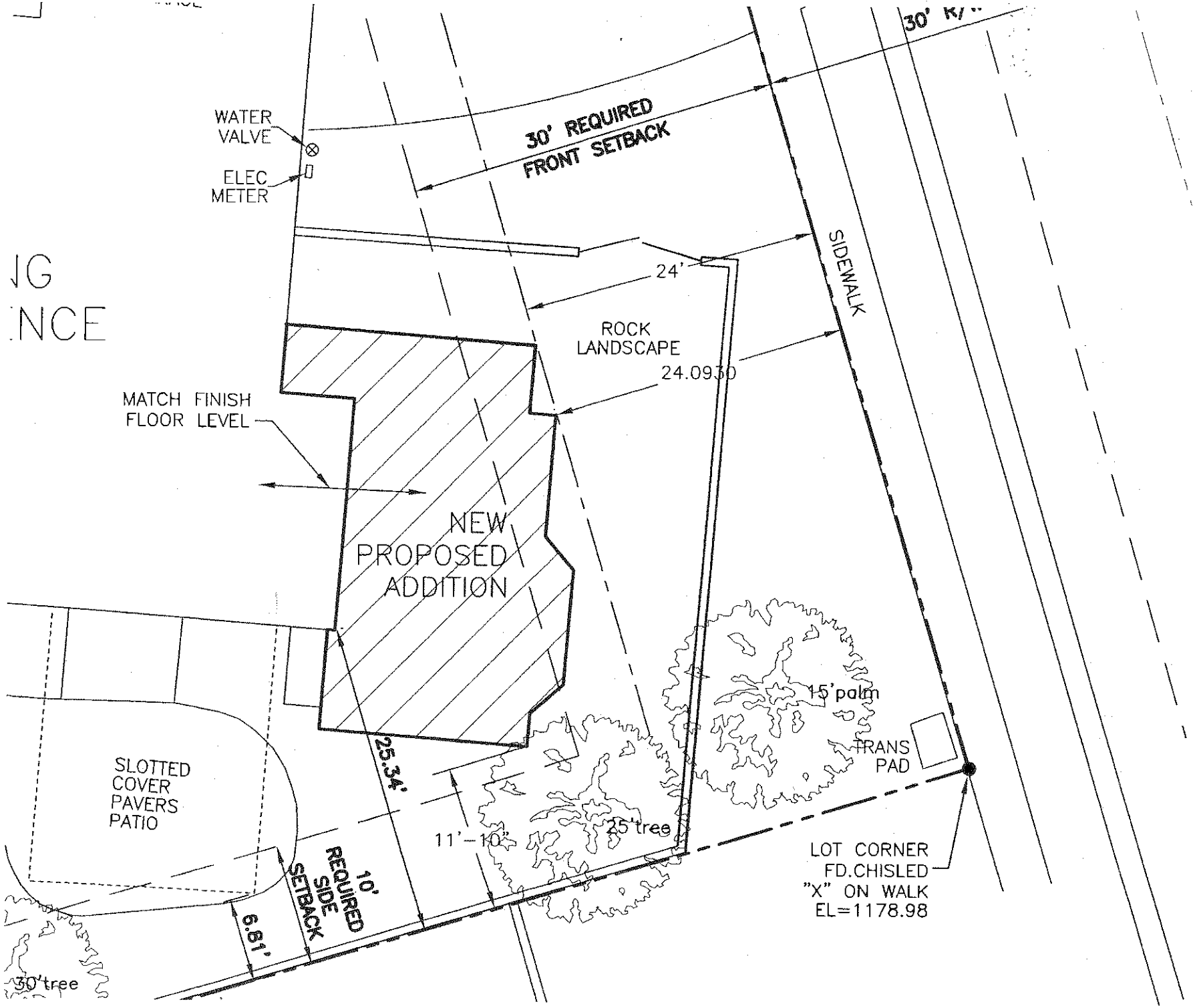
DESERT LAND ENGINEERING, INC.

JOHN & JENNIFER DOERING
BASE MAP
8102 S. COLLEGE AVE.
TEMPE, ARIZONA 85284

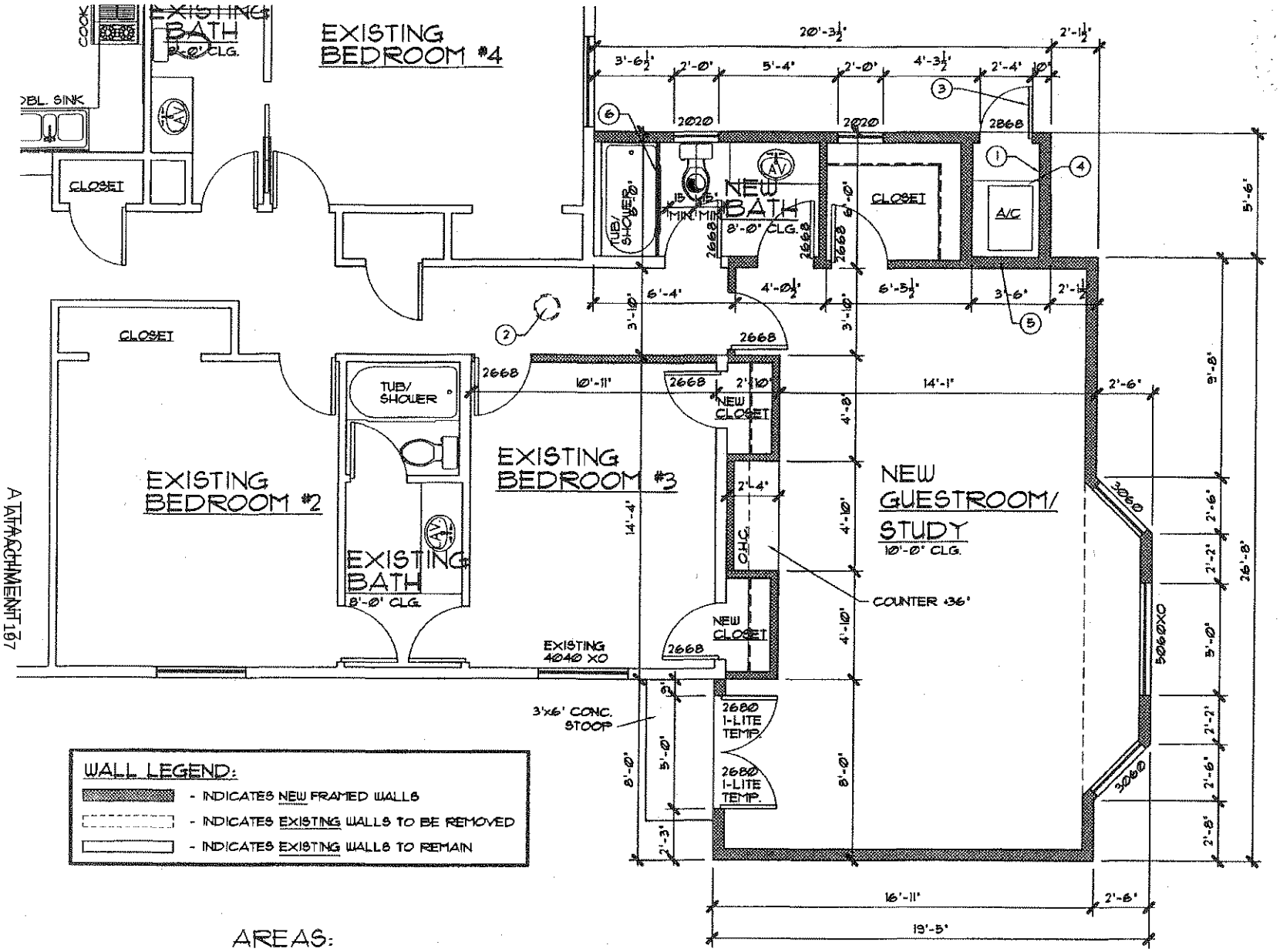
SHEET 1

JULY 23, 2008

ATTACHMENT 195



ATTACHMENT 196



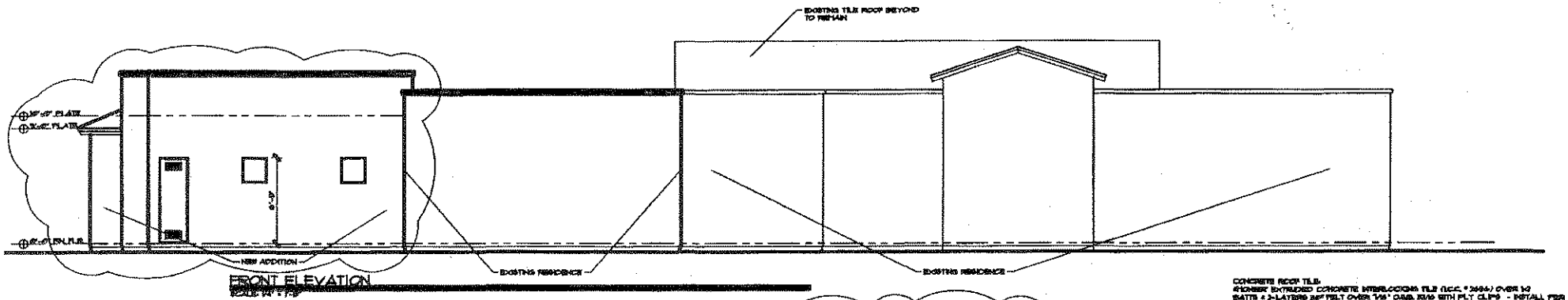
ATTACHMENT 197

AREAS:

EXISTING LIVABLE ADDITION:	2638 SQ. FT.	EXISTING TOTAL UNDER ROOF:	3664 SQ. FT.
NEW LIVABLE ADDITION:	564 SQ. FT.	NEW TOTAL UNDER ROOF:	4248 SQ. FT.
NEW TOTAL LIVABLE:	3202 SQ. FT.	LOT:	18793 SQ. FT.
NEW MECH. STORAGE:	20 SQ. FT.	LOT COVERAGE:	22.6%
REMODELED EXISTING:	44 SQ. FT.		

NEW FLOOR PLAN

SCALE: 1/4" = 1'-0"



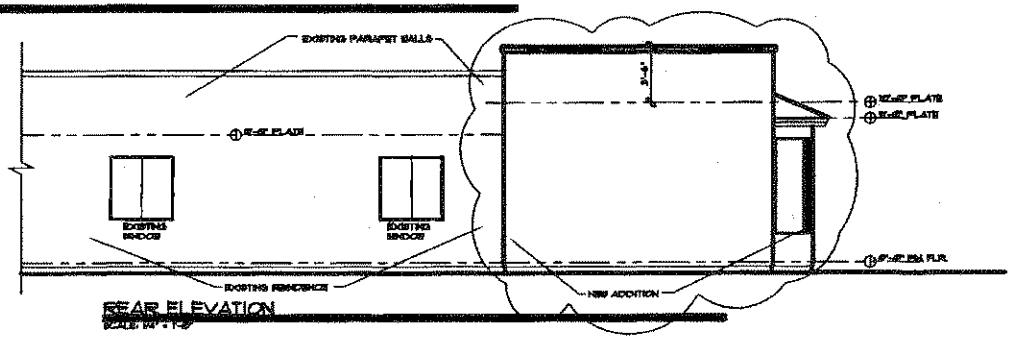
FRONT ELEVATION

CONCRETE ROOF TILE:
ATHERSET EXTRUDED CONCRETE INTERLOCKING TILE (I.C.C. # 3484) OVER 1/2
SEATTE + 2-LAYERS 30# FELT OVER 1/16" GALV. ROOF WITH FLY CLIPS - INSTALL PER
EVALUATION REPORT, AND MANUFACTURERS WRITTEN INSTRUCTIONS.

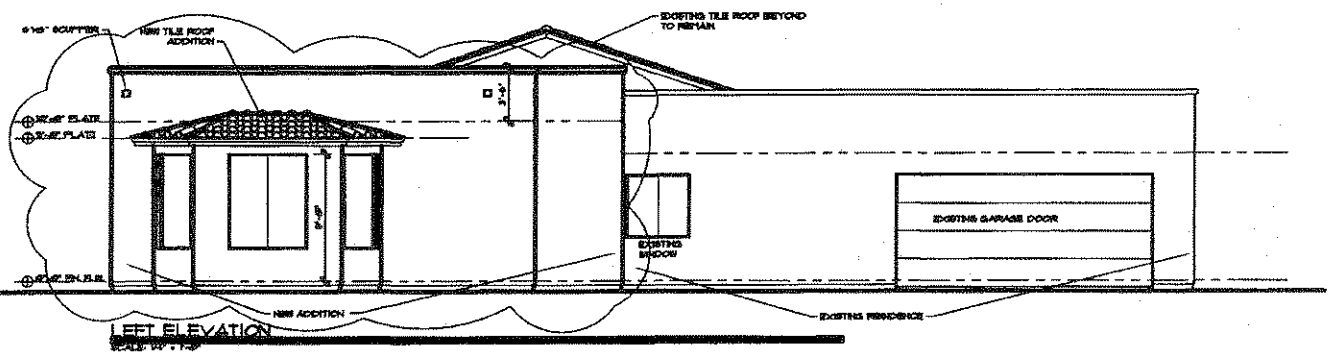
THIN COAT STUCCO SYSTEM:
WESTERN ONE KOTE" STUCCO SYSTEM (I.C.C. ESR 1401) OVER A WEATHER
RESISTIVE BARRIER, CONSISTING OF 2-LAYERS OF BUILDING PAPER
1" THICK 18 P.C.F. DENSITY, TYPE II TONG + GROVE EXPANDED
POLYSTYRENE (EPS) INSULATION BOARD (I.C.C. # 4878) OR
APPROVED TYPE II EQUAL.

FOAM ROOF/FLAT ROOF AREAS:
UNITED COATING "DIATHON" 80 MIL MIN. FOAM ROOF I.C.C. # 929

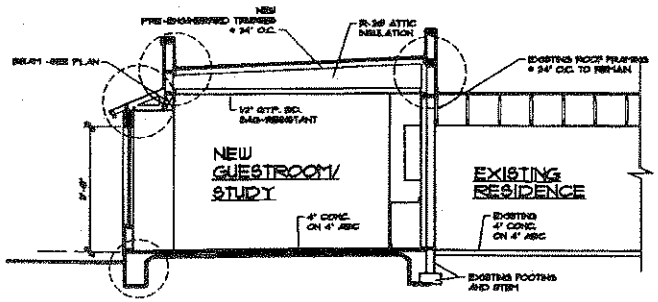
PROVIDE WEATHER FLASHING @ ALL EXTERIOR WALL PENETRATIONS
INCLUDING WINDOWS, DOORS, VENTS PER IRC "R703.7.2



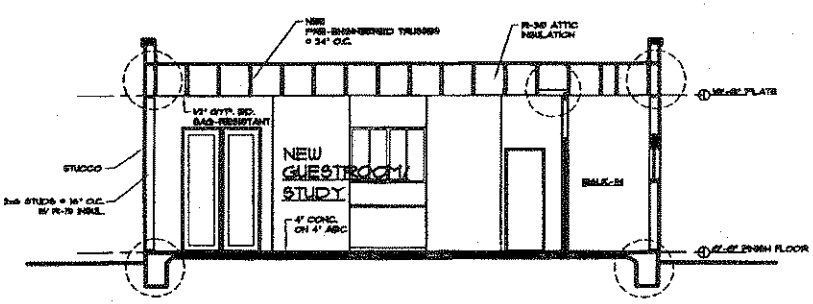
REAR ELEVATION



LEFT ELEVATION



CROSS SECTION B



CROSS SECTION A

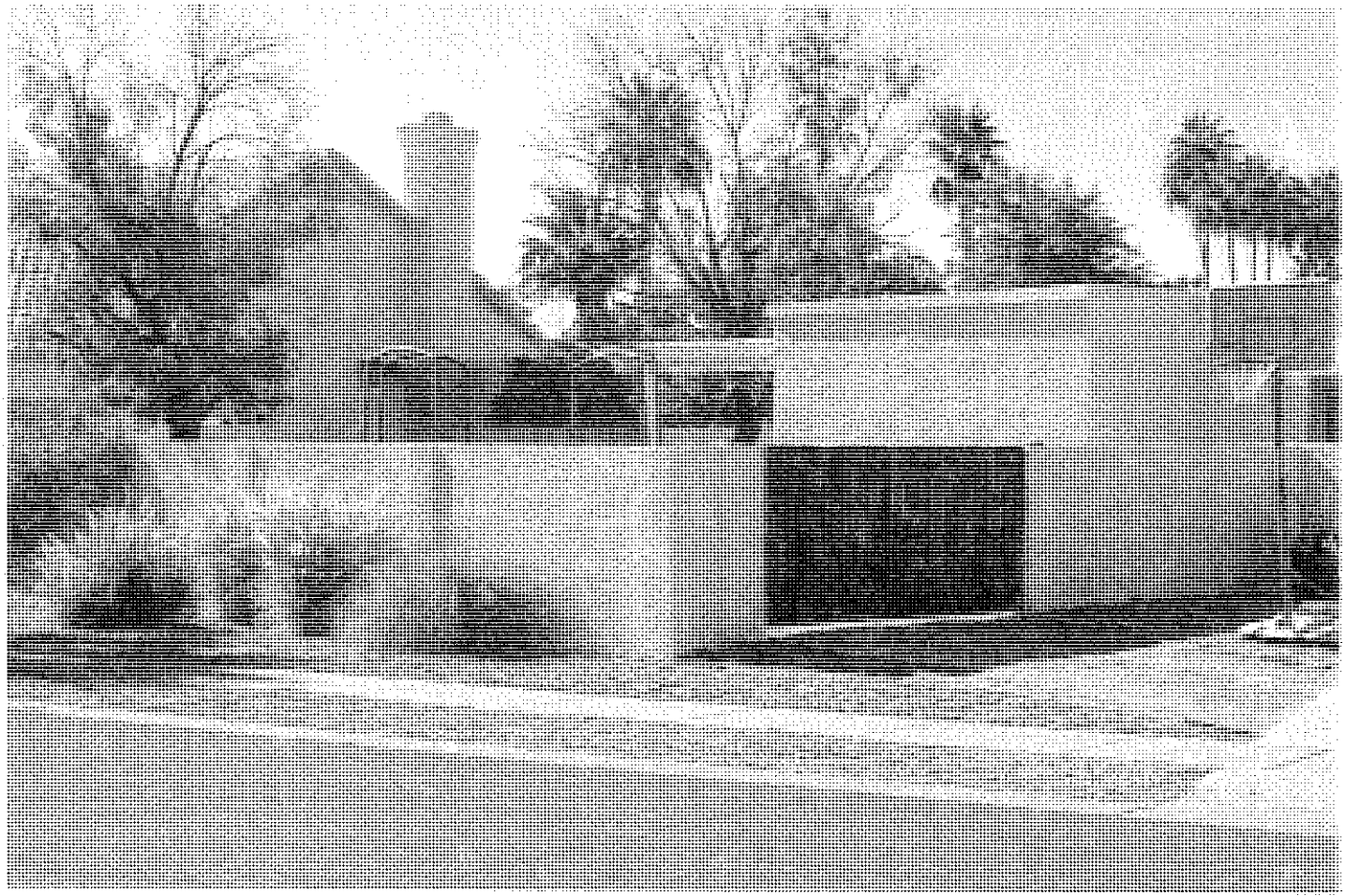
ATTACHMENT 198

DOERING RESIDENCE

8102 S. COLLEGE AVE

PL080421

FRONT OF RESIDENCE



DOERING RESIDENCE

8102 S. COLLEGE AVE

PL080421

SIDE OF RESIDENCE, LOCATION OF NEW ADDITION

CUEVAS RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: January 20, 2009 Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by the **CUEVAS RESIDENCE (PL080469)** located at 1040 East Knox Road for one (1) use permit.

DOCUMENT NAME: 20090120dsdp01 **PLANNNED DEVELOPMENT (0406)**

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **CUEVAS RESIDENCE (PL080469)** (Edgar Cuevas, applicant/ property owner) located at 1040 East Knox Road in the AG, Agricultural District for:

ZUP08191 Use permit to increase the height of the wall in the front yard setback from four (4) feet to six (6) feet.

PREPARED BY: Derek Partridge, Planner I (480-350-8867)

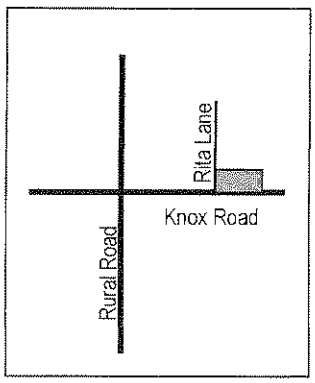
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: **Staff – Approval subject to Conditions**

ADDITIONAL INFO: The applicant is requesting a use permit to increase the wall height in the front yard setback from four (4) feet to six (6) feet. The property is situated on a corner lot located at the northeast corner of Knox Road and Rita Lane; the proposed single family home will face west towards Rita Lane. The applicant is requesting a six (6) foot high masonry wall to secure the required front yard setback along Knox Road. Staff supports approval of the use permit with conditions. To date, staff has received no public input on this request.



PAGES:

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)

3-4. Letter of Intent

5. Site plan
6. Wall Elevation
7. Staff Photograph

COMMENTS:

The Cuevas Residence is requesting a use permit to allow for the construction of a six (6) foot tall masonry wall in the required front yard setback. The property is a corner lot, located at the northeast corner of Knox Road and Rita Lane. The lot is currently vacant with a proposed single family home to face west towards Rita Lane. The wall is proposed in the required front yard setback along the Knox Road frontage (the south side of the proposed single family residence) and will be located sixteen (16) feet from the property line for both consistency with the residence across the street to the west and to meet vision triangle requirements for the intersection of Rita Lane and Knox Road.

The original intent behind a maximum four (4) foot wall in the front yard setback was to allow visual surveillance between the street and the home. Given that the home orientation faces west, the new home will have no wall/fence between the front of the home and Rita Lane and allows natural surveillance between the street and the residence. The Development Services Planning Division recently revised the Zoning and Development Code (ZDC) to allow walls in the front yard setback to be taller than four (4) feet in height subject to a use permit rather than a variance. The new code provision was made effective on November 3, 2008; therefore a use permit is required.

To date, staff has received no public input on this request.

Use Permit

The Zoning and Development Code requires a use permit for a wall/fence greater than four (4) feet in height for walls/fences located in the front yard setback, in the AG, Agricultural District.

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
   - There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
   - The proposed use should not create any nuisances. The purpose of the wall is to provide privacy from Knox Road.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;
   - The area is in compliance with the General Plan and neighborhood intent.

d. Compatibility with existing surrounding structures and uses;
   - The proposed wall is intended to provide a private yard space for the residence, compatible to all other residences in the vicinity.

e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.
   - Visual surveillance will remain in the traditional front yard of the single family residence.

Conclusion

Staff recommends approval of the use permit, subject to the conditions of approval.

REASON(S) FOR APPROVAL:

1. The authorizing of the use permit is necessary for the preservation and enjoyment of substantial property rights.
2. Authorization of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood or to the public welfare in general.
3. The proposed fence location does not conflict with vision triangles for Knox Road.
4. The orientation of the home is west, the west yard has no walls in the front of the home facing Rita Lane, thus meeting the intent of natural surveillance between the home and the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. The use permit is granted based on the plans submitted and approved by the Hearing Officer.
2. Obtain all necessary clearances from the Building Safety Division.
3. The wall shall be designed to match the existing wall at 1026 East Knox Road in color, form and material.

HISTORY & FACTS:

October 11, 2001

BA010274: Approved by Board of Adjustment, Expired October 11, 2002
a. Variance to reduce the street side yard setback from 35' to 25' for a 475 s.f. Porte Cochere.
b. Variance to increase the maximum lot coverage from 20% to 25% for a single family residence.
c. Variance to increase the maximum height of a perimeter wall from 4' to 6' in the required 40' front yard setback.

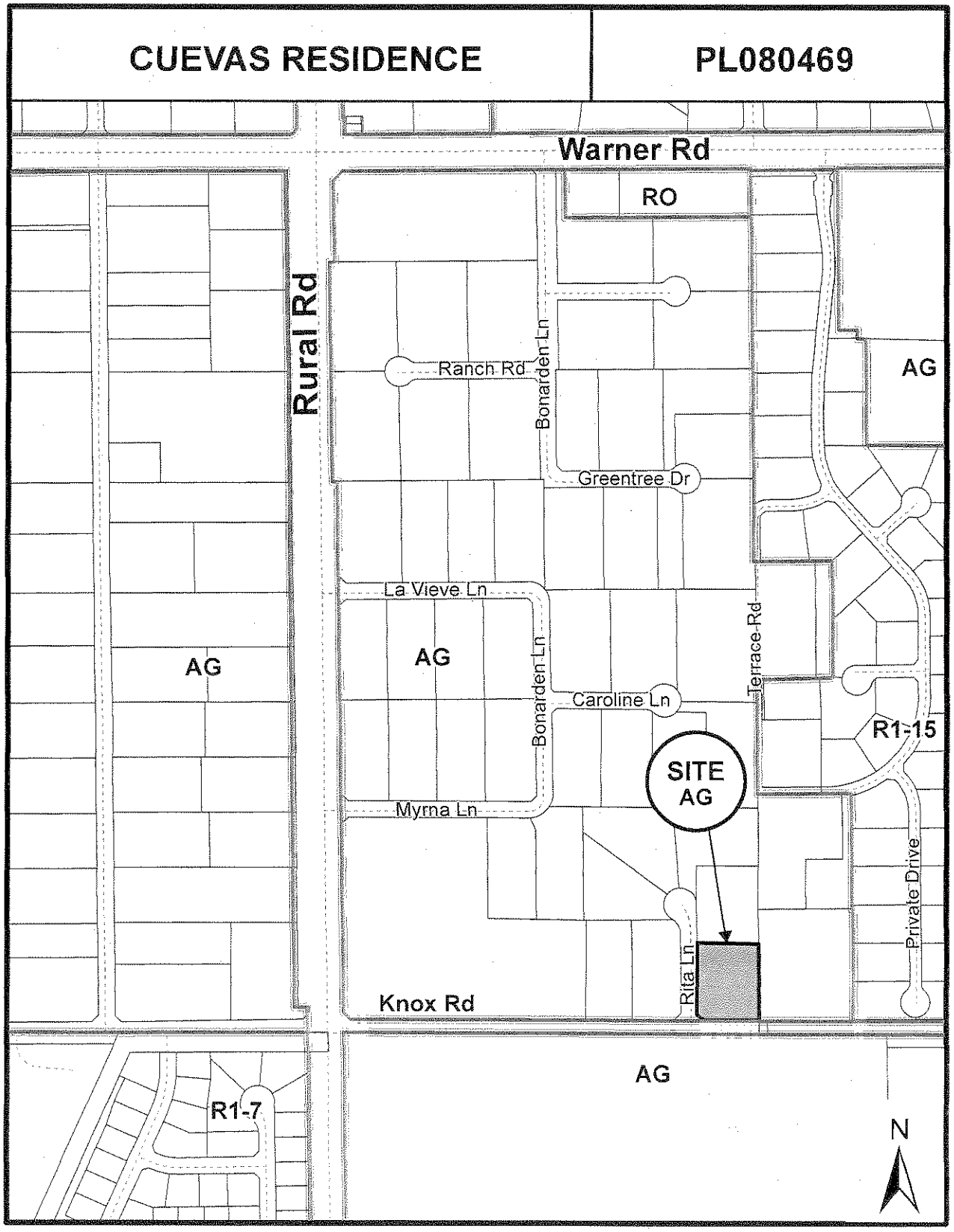
DESCRIPTION:

Owner – Edgar Cuevas
Applicant – Edgar Cuevas
Existing Zoning – AG, Agricultural District
Proposed residence – 5,988 s.f.
Lot size – 43,710 s.f.
Lot coverage allowed – 20%
Lot coverage proposed – 13.7%

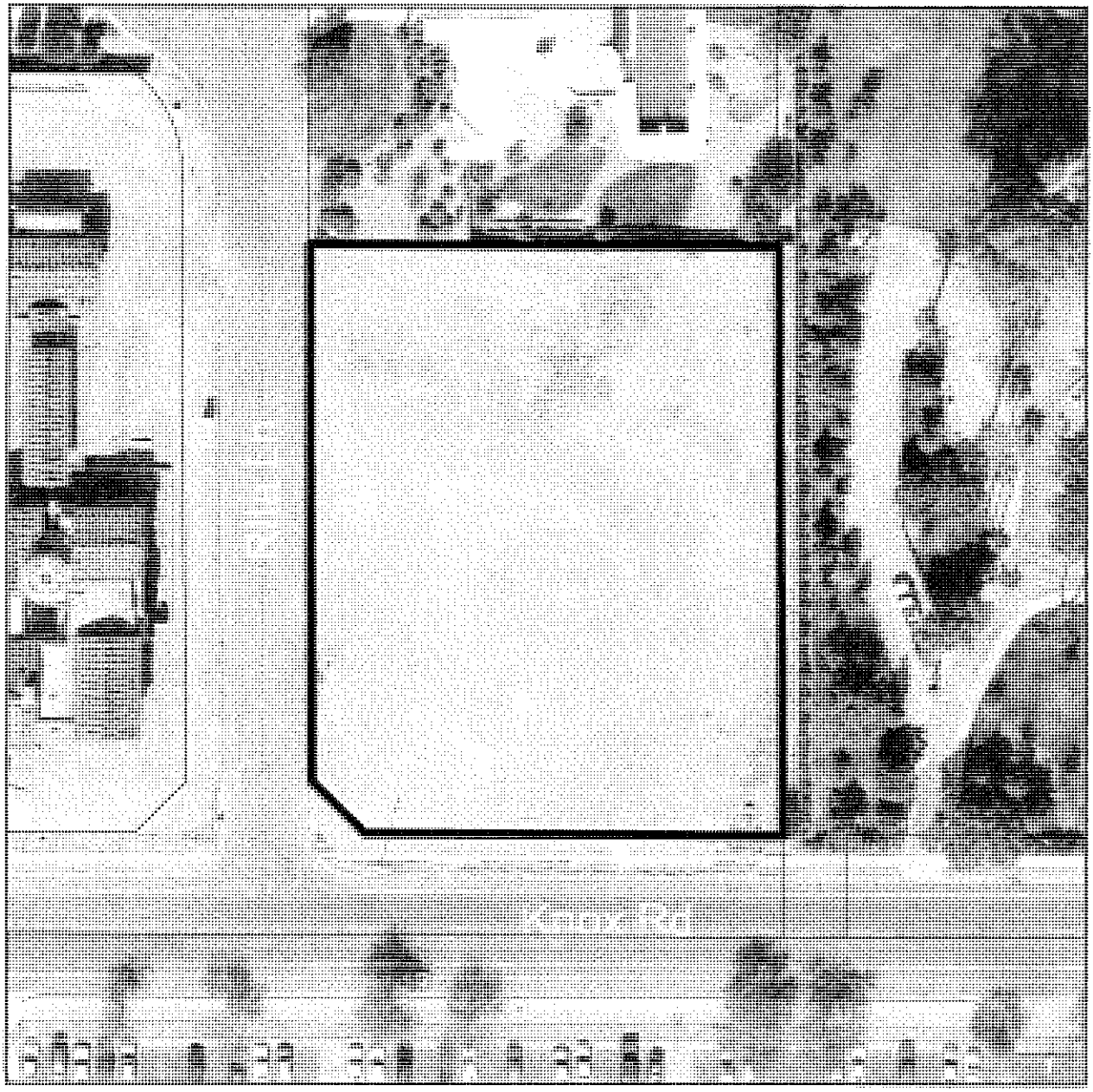
ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 7, Section 4-706 – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe



Location Map



CUEVAS RESIDENCE (PL080469)

12/18/08.

To: Mr. David Williams, hearing officer.

Subject: use permit.

CUEVAS residence, wall distance to the sidewalk.

Use permit request: to increase the maximum allowable height of a screen wall, located within the front yard, from: 4'-0" to 6'-0".

The use permit will have not detrimental impact on the area, no increase of traffic, noise or dust (nuisance) will result in the approval Of this permit, it is our opinion that the new residence will be of benefit to the neighborhood and the scale of the proposed residence is compatible with the surrounding properties.

Thank you in advance for your consideration on this request

Sincerely,

Edgar Cuevas.
1040 E. Knox.
Tempe, AZ. 85284.

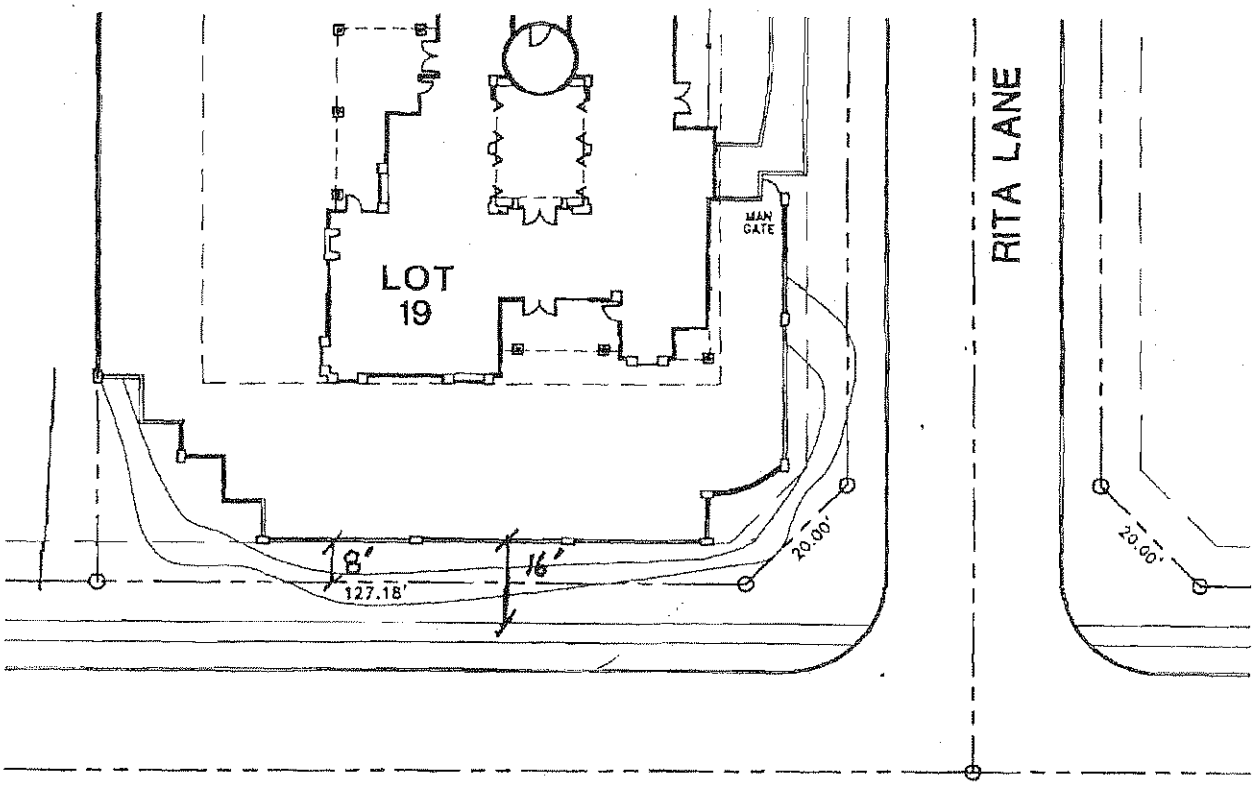
12/18/08.

To: city of Tempe, AZ.

The present is to request that my fence be allow to be placed 16' from the side walk on Knox rd. (mini attach)

Att'n.

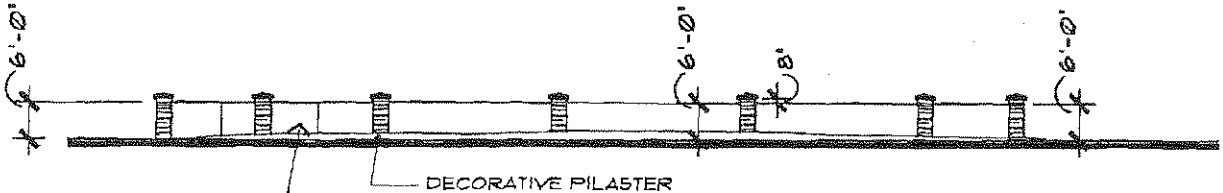
Edgar Cuevas.
1040 e. Knox.
Tempe, AZ. 85284.
Phone:602-471-3155.



PARTIAL SITE PLAN

NO SCALE

NORTH



NOTE:
WALL FINISHES TO
MATCH RESIDENCE

SOUTH ELEVATION

NO SCALE

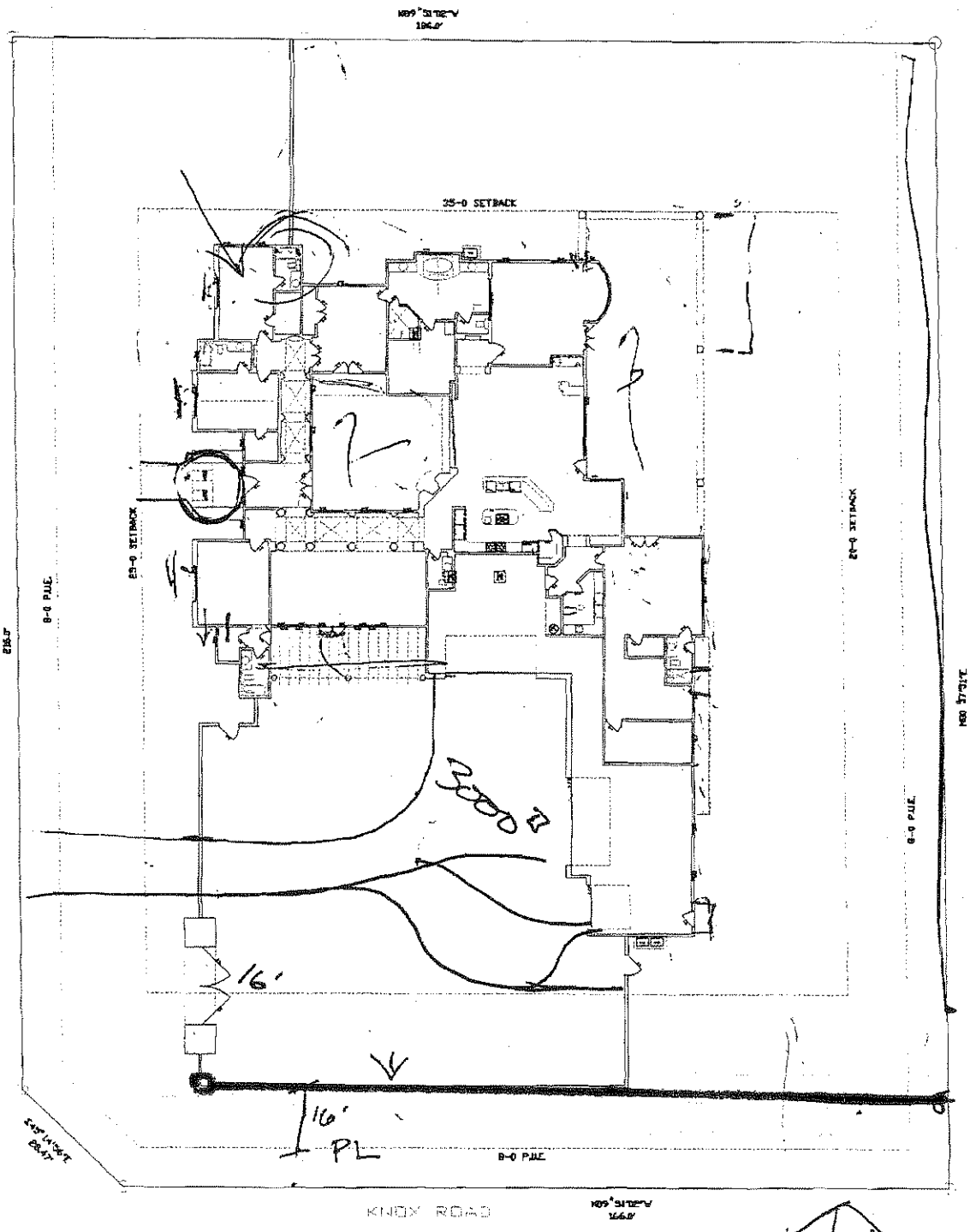
REGISTERED ARCHITECT
CERTIFICATE
17596
MARK E.
ABEL
4/22/08
Date Signed
ARIZONA, U.S.A.
EXPIRES 3/31/11

4/22/08

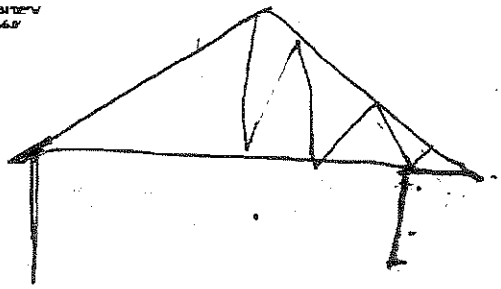
VARIANCE REQUEST
1026 EAST KNOX ROAD, TEMPE, AZ.

MARK ABEL ARCHITECTS, P.C.
21 EAST SIXTH STREET SUITE 320 TEMPE, ARIZONA 85281 (480) 838-3374 FAX (480) 838-1894

ATTACHMENT 6



= Proposed 6' high masonry wall



CUEVAS RESIDENCE

1040 EAST KNOX ROAD

PL080469

SITE PROPERTY – VIEW TO NORTH

Tempe

Minutes
HEARING OFFICER
JANUARY 20, 2009

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
David Williams, Hearing Officer
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II

Number of Interested Citizens Present: 13

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by February 3, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for December 16, 2008 and January 6, 2009.

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2. Request by the **DENGLER RESIDENCE (PL080434)** (Sean Dengler, applicant/property owner) located at 1658 East Del Rio Drive in the R1-6, Single Family Residential District for:

   VAR08025 Variance to reduce the east side yard setback from five (5) feet to zero (0) feet.
   VAR08026 Variance to reduce the west side yard setback from five (5) feet to three (3) feet.

   Mr. Sean Dengler was present to represent this case.

   Shawn Daffara, staff planner, gave an overview of this case and stated that no additional public input information had been received since the staff report had been issued. This relates to an existing covered canopy on the west side and a covered carport on the east side. The house was originally built in 1968.

   Mr. Williams noted that this construction had been completed thirty (30) years ago, and there had been no complaints during that time from adjacent property owners.

   DECISION:
   Mr. Williams approved PL080434/VAR08025/VAR08026 subject to the following conditions:
   1. The variance is valid for the plans as submitted to and approved by the Hearing Officer.
   2. Obtain all necessary clearances from the Building Safety Division.

---

3. Request by the **COREY RESIDENCE (PL080446)** (Tom Corey, applicant/property owner) located at 1425 East Bell De Mar Drive in the R1-6, Single Family Residential District for:

   ZUP08183 Use permit to allow RV parking in the front yard setback.

   Mr. Tom Corey was present to represent this case.

   Shawn Daffara, staff planner, gave an overview of this case and stated that no additional public input information had been received since the staff report had been issued. A notice from the Neighborhood Enhancement Department had been issued to Mr. Corey. A petition of support containing twenty (20) signatures have been submitted by Mr. Corey.

   Mr. Williams noted that there were several homes in the neighborhood who had trailers parked in the driveway – some partially screened, some not.

   Mr. Corey questioned whether the complaint was specifically due to the length of the RV. Mr. Daffara stated that it was not, that the Zoning and Development Code does not allow recreational vehicles over twenty-one (21) feet in length to be parked in the driveway.

   Mr. Corey referenced the staff summary report which indicated that parking of the RV would lead to deterioration of the neighborhood and decreased property values. He asked if there was an evidence to support those statements such as a study. Mr. Daffara explained that the language within the report was based on the terminology used in the General Plan to keep neighborhoods free of boats and RV's parked in the front yard setback.

   Mr. Williams explained the process of the General Plan which was based on public input on neighborhood quality and preservation. He noted for the record that Mr. Corey's front yard was outstanding and well maintained.

   Mr. Corey stated that after reviewing the General Plan 2030 he could not find specific reference to questions pertaining to RV's. Mr. Williams asked if there was a specific reference in the code that staff could provide to Mr. Corey. Mr. Daffara responded that in the Zoning and Development Code, Part 4, deals with the use permit and the language for boats and RV's and that no boat, RV or trailer exceeding twenty-one (21) feet in length may be parked in the front yard setback without obtaining a use permit.

   Mr. Corey stated that he had researched similar cases and that his RV does not overhang the sidewalk or prevent pedestrian access and is kept in a presentable manner and parked on concrete. It is in compliance with all Federal standards and regulations and is not located on a corner lot. He presented several photographic depictions of other boats and trailers parking in nearby neighborhoods which were reviewed by Mr. Daffara with comments as to whether they were in compliance with the City code. He presented an additional letter of support from the neighbor located directly across the street, as well as a location map indicating property owners in support of this request.

   Mr. Russell Shay, City of Tempe residence, spoke in support of this request.

Mr. Williams stated that this is a difficult case with local support for the applicant. He noted that Mr. Corey had presented a well researched presentation, but looking at the larger picture for the entire city, and based on the goals of the General Plan, he was unable to support this request.

DECISION:
Mr. Williams denied PL080446/ZUP08183.

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4. Request by the **TEMPE FARMERS MARKET (PL080462)** (Daryle Brett Dutton, (applicant; Javan LLC, property owner) located at 805 South Farmer Avenue in the GID, General Industrial District for:

   ZUP08192 Use permit to allow a farmers market retail business.

   Mr. Daryle Dutton was present to represent this case. He noted that he had a total of 140 letters of support for this request.

   Sherri Lesser, staff planner, gave an overview of this case and stated that additional public support had been received since the staff report had been issued in the form of sixty-six (66) letters of support.

   Mr. Williams stated that this case had broad public support and was an excellent use for this location.

   DECISION:
   Mr. Williams approved PL080462/ZUP08192 subject to the following conditions:
   1. The use permit is valid for Tempe Farmers Market and may be transferable with approval from the Development Services staff. Should the business be sold, the new owners must contact the Development Services staff for review of the business operation.
   2. Obtain all necessary clearances from the Building Safety Department for tenant improvement plans.
   3. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
   4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
   5. Obtain the necessary clearances from the Maricopa Health Department for the handling and disposal of produce.
   6. Phase 1 portion of the improvements as shown on the site plan/landscape plan which includes installing plant material in the planters next to the building on the north side of the building to be completed by **06/20/2009.**
   7. Phase 2 portion of improvements as shown on the site plan/landscape plan which includes saw cutting asphalt to create street front landscape areas; the planting of shrubs; installation of decomposed granite to be completed by **01/20/2010.**
   8. Phase 3 portion of improvements as shown on the site plan/landscape plan which includes installation of the remainder of the landscape material including planting trees and installation of a refuse enclosure to be completed by **06/20/2010.**
   9. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
   10. Obtain a sales tax license from the City of Tempe Tax and License Division.

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5. A request by the **CUEVAS RESIDENCE (PL080469)** (Edgar Cuevas, applicant/ property owner) located at 1040 East Knox Road in the AG, Agricultural District for:

   ZUP08191 Use permit to increase the height of the wall in the front yard setback from four (4) feet to six (6) feet.

   Mr. Edgar Cuevas was present to represent this case.

   Shawn Daffara, staff planner, gave an overview of this case and stated that no additional public input information had been received since the staff report had been issued.

   Mr. Williams asked if the wall would match the wall of the adjourning Nannapanini Residence in color, design and setback. Mr. Daffara confirmed that it would.

   Discussion between Mr. Cuevas and Mr. Williams confirmed that the new wall would match the Nannapanini wall in all respects. Particular attention was addressed to the setback of Mr. Cuevas' wall – if it would match the setback of the Nannapanini wall or be set back further. Mr. Cuevas stated that the setback would match the Nannapanini wall.

   Mr. Williams noted that due to the loss of privacy issues and the impact of the nearby high school he would support this request.

   DECISION:
   Mr. Williams approved PL080469/ZUP08191 subject to the following conditions:
   1. The use permit is granted based on the plans submitted and approved by the Hearing Officer.
   2. Obtain all necessary clearances from the Building Safety Division.
   3. The wall shall be designed to match the existing wall at 1026 East Knox Road in color, form and material **and shall include the pilasters and illustrations (details) to match. MODIFIED BY HEARING OFFICER**
   4. **The wall footprint to match. ADDED BY HEARING OFFICER**

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6. A request by the **FARLING RESIDENCE (PL080473)** (Brian Farling, applicant/property owner) located at 2046 South College Avenue in the R1-6, Single Family Residential District for:

   ZUP08193 Use permit to allow an accessory building (freestanding garage).

   Mr. Brian Farling was present to represent this case.

   Sherri Lesser, staff planner, gave an overview of this case and stated that no additional public input information had been received since the staff report had been issued.

   Mr. Williams questioned whether this property complied with the restrictions for maximum lot coverage; Ms. Lesser stated that they were within the requirements.

   DECISION:
   Mr. Williams approved PL080473/ZUP08193 subject to the following conditions:
   1. Obtain all necessary clearances and permits from the Building Safety Division.
   2. Accessory building (garage) to complement the main residence in color, form and material.

3. The new garage shall have address numbers on the west elevation, facing the alley. Address numbers to contrast with the garage color.
4. The alley shall be maintained in a dust free condition per City Code, Chapter 29-3.

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7. A request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **KOEN RESIDENCE (PL080465/ABT08042) (**Adrienne Koen, property owner) Complaint CE086895 located at 132 West Balboa Drive in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

   Mr. Jody Benson, City of Tempe – Neighborhood Enhancement Inspector, stated that landscaping issues and that this property has been owned by this person since 1977 and has had numerous complaints. Some of the work had been done. Mr. Benson stated that Ms. Koen has some health issues/problems.

   Mr. Williams noted that since there were no neighbor complaints, this case would be continued to give this property owner additional time to bring it into compliance.

   DECISION:
   Mr. Williams continued abatement proceedings for PL080465/ABT08042 for thirty (30) days until the February 17, 2009 Hearing Officer hearing.

---

8. A request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **STEFANIAK RESIDENCE (PL080466/ABT08043)** (Thomas Stephen Stefaniak, property owner) Complaint CE087639 located at 1849 East Harvard Drive in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

   Mr. Don Alexander, City of Tempe – Neighborhood Enhancement Inspector, stated that no progress had been made by the property owner. He has been a repeat violator and the property continues to be a fire hazard.

   DECISION:
   Mr. Williams approved abatement proceedings for PL080466/ABT08043 for an open period of 180 days.

---

9. A request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **GUTIERREZ RESIDENCE (PL080470/ABT08045)** (Jesus Gutierrez, property owner) Complaint CE088299 located at 1222 West Manhatton Drive in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

Mr. Jody Benson, City of Tempe – Neighborhood Enhancement Inspector, stated that the property has been brought into compliance.

DECISION:
Mr. Williams noted that abatement proceedings for PL080470/ABT08045 have been withdrawn by the Neighborhood Enhancement Department.

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10. A request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **GRAFFIS RESIDENCE (PL080471/ABT08044)** (William Herbert Graffis, Jr., property owner) Complaint CE043321 located at 210 East Vaughn Drive in the R1-6, Single Family Residential District.

Mr. William Graffis was present to represent the property owner. He stated that he was unaware that he was in violation and had not heard anything since Thanksgiving 2004. He stated that he had received the notice to abatement on last Thursday, January 15th. He purchased the house 34 years ago and it had an RV gate at that time. Everything that was on the list issued by Neighborhood Enhancement has been taken care of. He explained that he was dealing with personal and family health issues, and had tried to work with the Neighborhood Enhancement Department personnel to resolve these compliance issues.

It was noted by Shawn Daffara that staff has received five (5) phone calls of support for this abatement from neighbors in close proximity to this address.

Mr. Don Alexander, City of Tempe – Neighborhood Enhancement Inspector, stated that junk and debris exist, as well as the remains/framework of a storage building. Violations have existed over a five (5) year period of time. Mr. Alexander stated that there had been no significant effort to remove debris, although the property owner had covered up some of the items.

Mr. Williams asked Mr. Graffis what was the last time he had contact with the City of Tempe on code violations. Mr. Graffis responded that it was the day before Thanksgiving 2004.

Mr. Alexander presented recent photographs of the property to Mr. Graffis. Mr. Williams explained that under the City code materials of this type were not permitted to be stored in a residential yard; landscape and debris were present on December 20th according the Neighborhood Enhancement photographs. Mr. Graffis stated that he would do whatever necessary to avoid paying fines as he hoped to re-roof his home and remodel to obtain additional storage space.

Mr. Alexander explained that Mr. Graffis has been aware of what needed to be done since 2004 and that he had personally made an effort to obtain funds/assistance for Mr. Graffis' use from the Housing Department. Mr. Graffis was given an opportunity to complete the paperwork to receive these funds/assistance and he refused. Everything possible was extended to Mr. Graffis to bring this property into compliance, and he has had contact with the City since 2004. There is a pending criminal complaint on this property due to the violations.

Mr. Williams noted that the abatement estimate was not included within the report; Mr. Alexander stated that there was approximately $4,000 worth of abatement expenses.

Mr. Bob Stafford, City of Tempe resident, spoke in support of this abatement. He noted that the garage was packed completely with materials and the landscaping debris present a fire hazard. This property has affected the property values in the neighborhood adversely.

Mr. Graffis stated that he did not have a fire hazard or dead trees on his property. He was unable to take advantage at the time the funds/assistance were offered by the City of Tempe as he did not have homeowners insurance which was a requirement. He now has homeowners insurance, and stated that he was ready to take advantage of this assistance. He has spoken with roofing contractors and just needs time to accomplish the roof repairs.

Mr. Graffis stated that if Mr. Williams was to view the property today that he could see that it was not in the state that the photographs indicate. Mr. Williams stated that he had driven by the property and could see that there were cleanup efforts being done. Mr. Williams questioned staff as to whether the property owner had an additional two weeks from the date of today's meeting before abatement proceedings would progress, and, should the property be brought into compliance within that time frame would the abatement be withdrawn.

Mr. Daffara stated that there is a two week time frame before the abatement would actually proceed. Mr. Williams stated that he expected that Mr. Graffis would have all of the violations cleared up except for the roof issue within the next two weeks.

DECISION:
Mr. Williams approved abatement proceedings for PL080471/ABT08044 except for the roof issue which would be continued until it is appropriate to re-address.

The next Hearing Officer public hearing will be held on **Tuesday, February 3, 2009.**

There being no further business the public hearing adjourned at 2:54 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm

WEED RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: June 2, 2009 Agenda Item Number: 8

SUBJECT: This is a public hearing for a request by the **WEED RESIDENCE (PL090170)** located at 1111 South Ash Avenue for one (1) use permit.

DOCUMENT NAME: 20090602dsng02 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **WEED RESIDENCE (PL090170)** (Andrew Weed, applicant/property owner) located at 1111 South Ash Avenue in the R-3R, Multi-Family Residential Restricted District for:

ZUP09076 Use permit to increase the allowable fence height in the front yard setback from four (4) feet to eight (8) feet.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

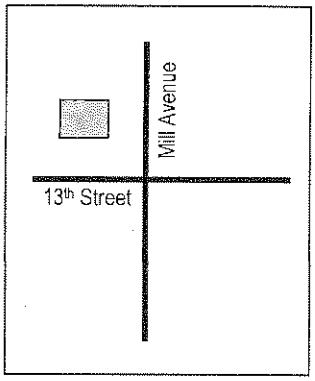
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is requesting a use permit to increase the allowable fence height in the front yard setback from four (4) feet to eight (8) feet. The property is located along Ash Avenue northwest of the intersection of Mill Avenue and 13th Street. All walls or fences located in the front yard must obtain a use permit if they are over four (4) feet in height. The applicant is requesting approval of an eight (8) foot arch and decorative, ornamental, woven screen gate within the existing four (4) foot fence. Staff supports approval of the use permit with conditions. To date, staff has received no public input on this request.

PAGES:

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site plan
5. West Elevation A
6. West Elevation B
7. Staff Photograph

COMMENTS:

The Weed Residence is requesting a use permit to increase the allowable fence height in the front yard setback from four (4) feet to eight (8) feet. The property is located along Ash Avenue northwest of the intersection of Mill Avenue and 13th Street. The majority height of the fence/wall in the front yard setback is four (4) feet. This use permit would allow an eight (8) foot arch and decorative, ornamental, woven screen gate within the existing four (4) foot fence.

The original intent behind a maximum four (4) foot wall in the front yard setback was to allow visual surveillance between the street and the front yard. The house faces the street and the intent of the wall increase is to provide a gate that is exactly the same form that would align with the west entrance on the main building; the visual surveillance between the street and the residence will be maintained since most of the fence will still be four (4) feet.

To date, staff has received no public input on this request.

Use Permit

The Zoning and Development Code requires a use permit for a wall/fence greater than four (4) feet in height for walls/fences located in the front yard setback for single family dwellings, in the R-3R, Multi-Family Residential Restricted District

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;

- There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;

- The proposed use should not create any nuisances.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;

- The area is in compliance with the General Plan and neighborhood intent.

d. Compatibility with existing surrounding structures and uses;

- The proposed wall or arch is intended to provide an aesthetic look and will not create a nuisance for the surrounding area.

e. Adequate control of disruptive behavior both inside and outside the property, which may create a nuisance to the surrounding area or general public.

- Visual surveillance will remain available in the front yard of the property.

Conclusion

Staff recommends approval of the use permit, subject to the conditions of approval.

REASONS FOR APPROVAL:

1. The authorizing of the use permit is necessary for the preservation and enjoyment of substantial property rights.
2. Authorization of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood or to the public welfare in general.
3. The existing wall in the front yard setback will remain at four (4) feet, thus meeting the intent of natural surveillance between the home and the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITIONS OF APPROVAL:

1. Obtain all necessary clearances from the Building Safety Division.
2. Approval is valid for plans as submitted within this application.

HISTORY & FACTS:

1959 Construction of a single family home.

DESCRIPTION:

Owner – Andrew Weed
Applicant – Andrew Weed
Existing Zoning – R-3R, Multi-Family Residential Restricted District
Existing Wall Height – 4'
Proposed Wall Height – 8'

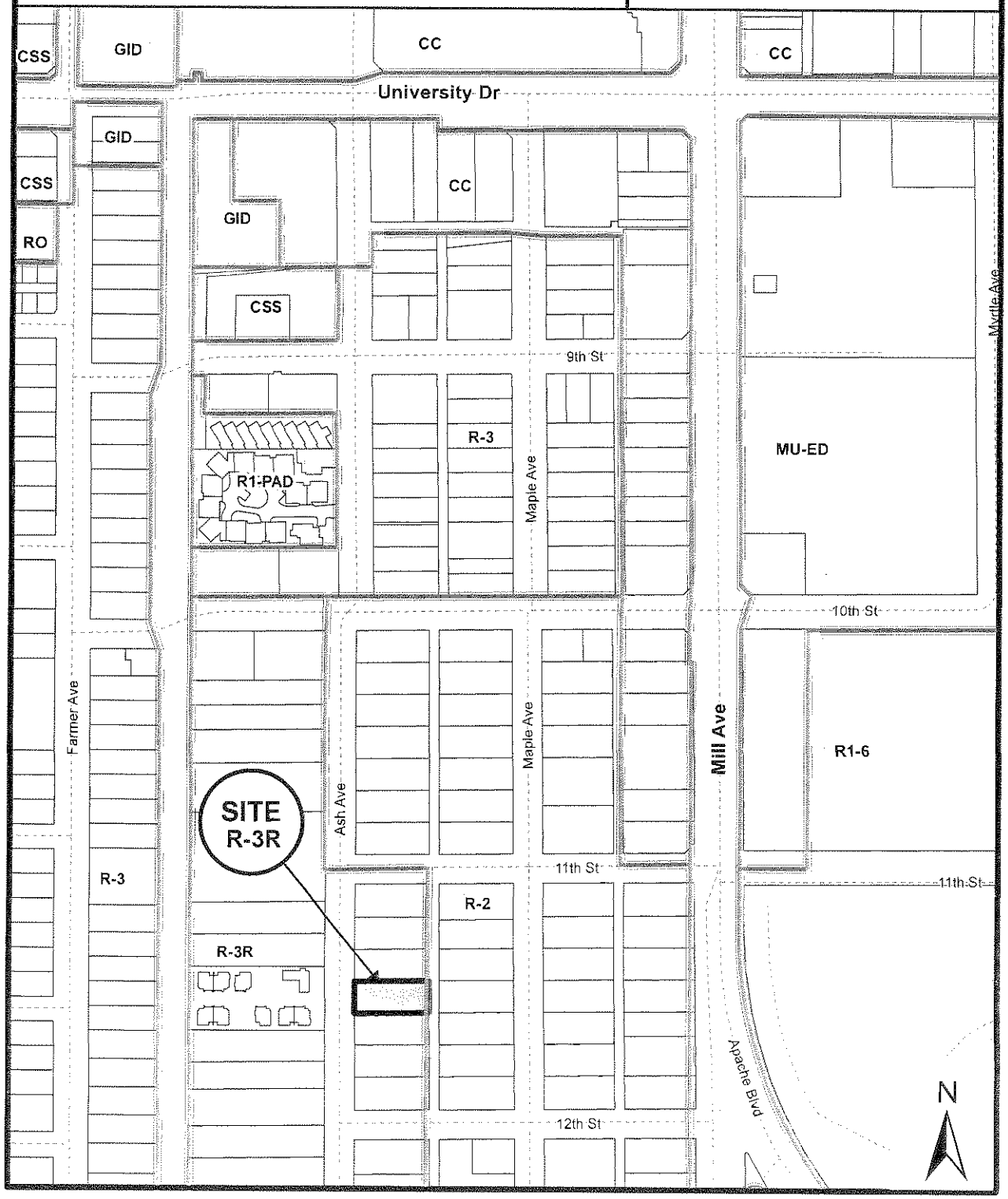
ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 7, Section 4-706A – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe

WEED RESIDENCE

PL090170



Location Map

WEED RESIDENCE (PL090170)

Tempe,
4 May 2009

To:
Mr. David Williams
Hearing Officer

City of Tempe
Development Services Department
31 E 5th Street, Garden Level
Tempe, Arizona

85281

Dear Mr. Williams:

My wife Erin and I would like to be considered for a Use Permit in order to construct an 8' arch and decorative, ornamental, woven screen gate within the existing 4' fence on the front/west property line at our residence.

The purpose for the gate is as follows: It will exist as both security and as an architectural element.

The architectural features have been drawn directly from the existing elements on the property. The arch is exactly the same material and form as the stem walls of the existing main building and fence. The gate is exactly the same form, and aligns with the west entrance on the main building. The woven screen in the gate will keep the same open feeling as the glass on the building entrance.

Please see the attached site plan and elevations. You can let us know when you have any questions at all...

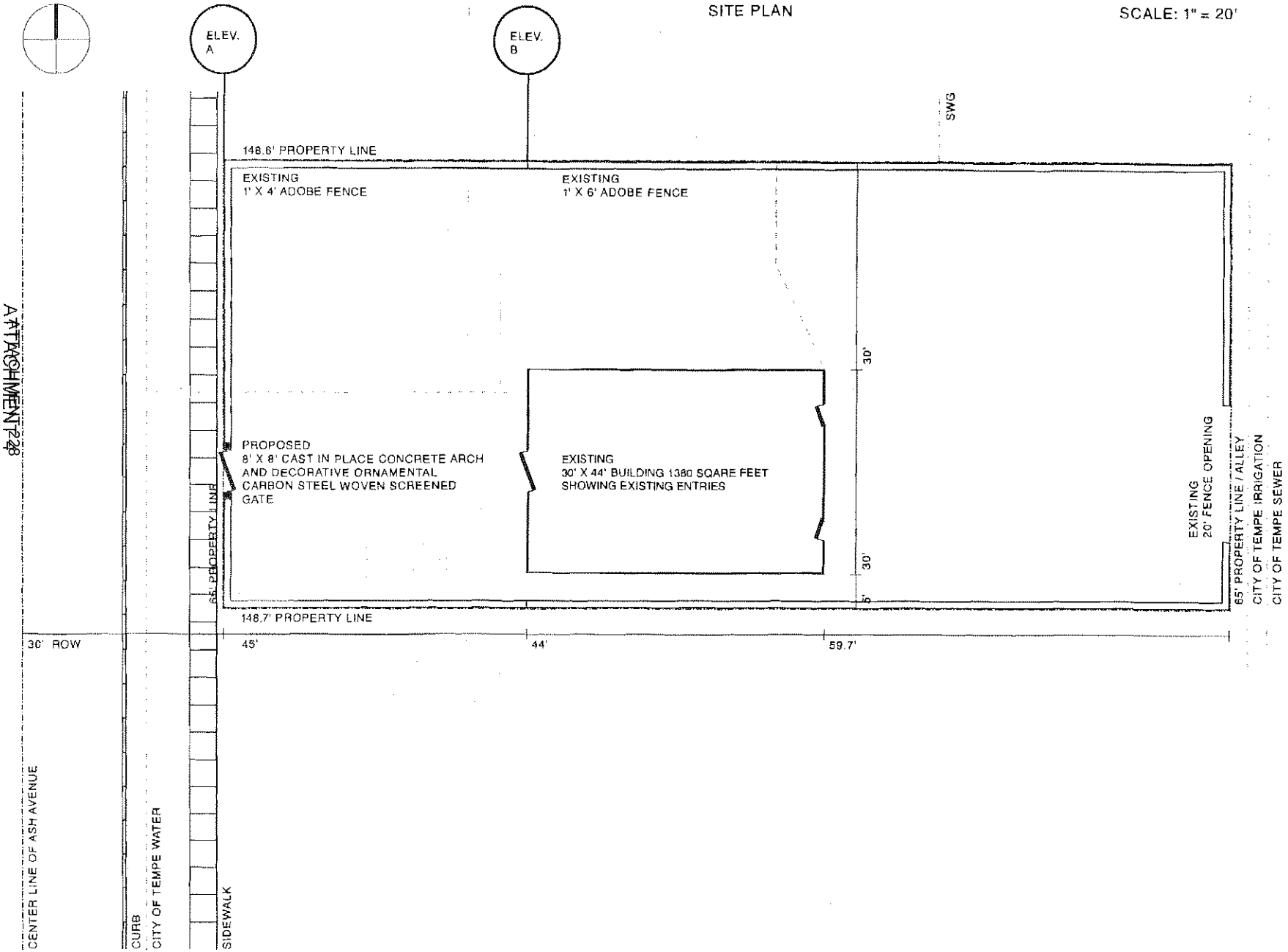
Sincerely yours,

Andrew Weed
1111 S Ash Avenue
Tempe, AZ 85281
E. andrew.weed@asu.edu
T. (480) 927 9720

WEED RESIDENCE	DATE: 4 MAY 2009	LOT NUMBER: 4
		SUBDIVISION: PARK TRACT
	ADRESS: 1111 S ASH AVENUE	ZONING: R-3R
PLANNING USE PERMIT APPLICATION	TEMPE, AZ 85281-5629	MCR NUMBER: 1327
FOR ARCH AND DECORATIVE ORNAMENTAL WOVEN		PARCEL: 132-45-061
SCREENED GATE	DRAWING: 1/3	AREA ACRE: 222

SITE PLAN

SCALE: 1" = 20'



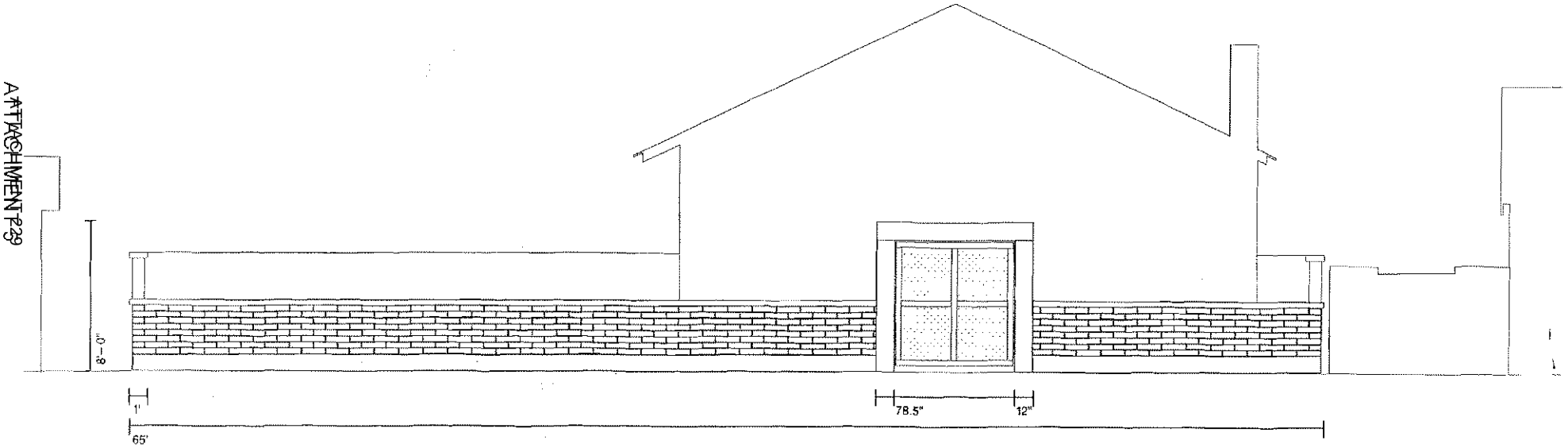
ATTACHMENT 2.8

WEED RESIDENCE	DATE: 4 MAY 2009	LOT NUMBER: 4
		SUBDIVISION: PARK TRACT
	ADRESS: 1111 S ASH AVENUE	ZONING: R-3R
PLANNING USE PERMIT APPLICATION	TEMPE, AZ 85281-5629	MCR NUMBER: 1327
FOR ARCH AND DECORATIVE ORNAMENTAL WOVEN		PARCEL: 132-45-061
SCREENED GATE	DRAWING: 2/3	AREA ACRE: .222

WEST ELEVATION
A

SCALE: .125" = 1'

ATTACHMENT 29



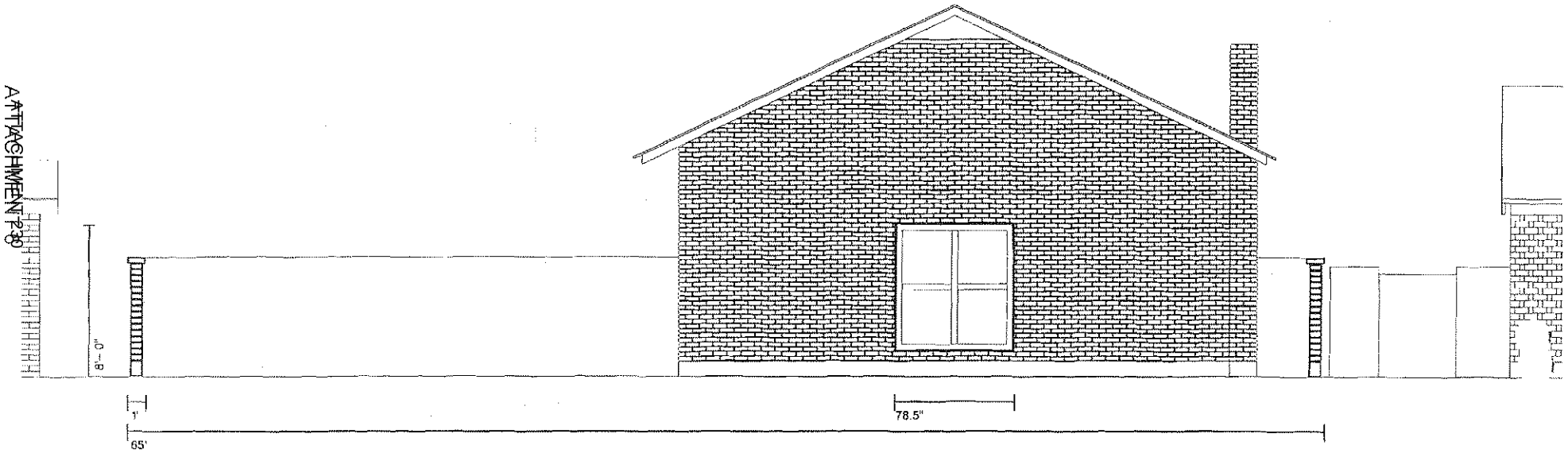
EXISTING	PROPOSED	PROPOSED
1' X 4'-0" FENCE ON PROPERTY LINE.	DECORATIVE ORNAMENTAL WOVEN SCREENED GATE.	ARCH POSTS AND HEADER TO MATCH EXISTING 12" STEM WALLS ON BUILDING AND FENCE.
ADOBE ON CONCRETE STEM CONSTRUCTION	CARBON STEEL CONSTRUCTION	CONCRETE CONSTRUCTION

WEED RESIDENCE	DATE: 4 MAY 2009	LOT NUMBER: 4
		SUBDIVISION: PARK TRACT
	ADRESS: 1111 S ASH AVENUE	ZONING: R-3R
PLANNING USE PERMIT APPLICATION	TEMPE, AZ 85281-5629	MCR NUMBER: 1327
FOR ARCH AND DECORATIVE ORNAMENTAL WOVEN		PARCEL: 132-45-061
SCREENED GATE	DRAWING: 3/3	AREA ACRE: .222

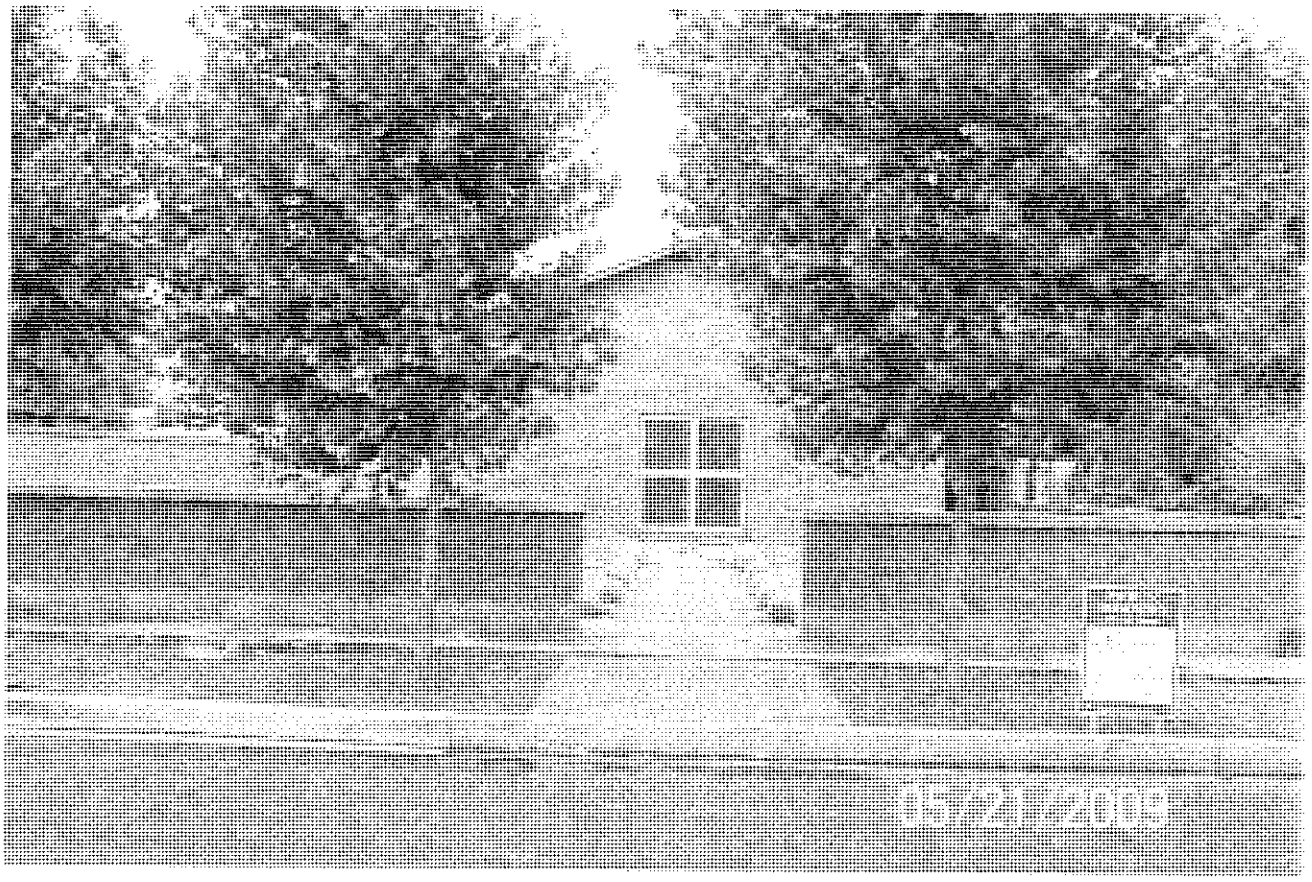
WEST ELEVATION
B

SCALE: .125" = 1'

ATTACHMENT 23



EXISTING	EXISTING	EXISTING
1' X 6'-0" FENCE ON PROPERTY LINE.	30' X 44' MAIN BUILDING 1380 SQARE FEET	WEST ENTRY TO MAIN BUILDING
ADOBE ON CONCRETE STEM CONSTRUCTION	MASONRY ON CONCRETE STEM CONSTRUCTION	WOOD/GLASS CONSTRUCTION



WEED RESIDENCE

1111 SOUTH ASH AVENUE

PL090170

FRONT OF RESIDENCE

Tempe

Minutes
HEARING OFFICER
JUNE 2, 2009

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
David Williams, Hearing Officer
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II
Derek Partridge, Planner I
Nick Graves, Planning Intern
Steve Abrahamson, Planning & Zoning Coordinator

Number of Interested Citizens Present: 25

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by June 16, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for May 19, 2009.

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2. Mr. Williams noted that the following case(s) had been continued:

   Request by the **ALLISON RESIDENCE (PL090157)** (James Allison, applicant/property owner) located at 9338 South Dateland Drive in the R1-15, Single Family Residential District for:

   ZUP09070 Use permit to allow a detached accessory building (garage).
   VAR09004 Variance to reduce the rear yard setback from thirty (30) feet to eight (8) feet.
   CONTINUED TO JULY 7, 2009 HEARING OFFICER

   Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **CROW RESIDENCE (PL090168/ABT09011)** (Jacquelyn Crow, property owner) Complaint 085550 located at 2149 East Minton Drive in the R1-4, Single Family Residential District.
   CONTINUED TO JULY 7, 2009 HEARING OFFICER

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3. Mr. Williams noted that the following case(s) had been withdrawn:

   Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **FRAWLEY RESIDENCE (PL090155/ABT09009)** (Richard Frawley, property owner) Complaint 086331 located at 1103 East Palmcroft Drive in the R1-6, Single Family Residential District.
   WITHDRAWN BY CITY OF TEMPE – NEIGHBORHOOD ENHANCEMENT DEPARTMENT

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4. Request by the **PARKER RESIDENCE (PL090159)** (Lawrence Parker, applicant/property owner) located at 4814 South Calle Los Cerros Drive in the R1-6, Single Family Residential District for:

   ZUP09071 Use permit to allow a detached accessory building (storage).
   ZUP09072 Use permit standard to reduce the east front yard setback by twenty percent (20%) from twenty (20) feet to sixteen (16) feet.
   VAR09005 Variance to reduce the on-site driveway length from twenty (20) feet to sixteen (16) feet.
   VAR09006 Variance to reduce the west rear yard setback from ~~fifteen (15) feet~~ **twelve (12) feet** to three (3) feet. **MODIFIED BY PLANNER**

   Mr. Lawrence Parker was present to represent this case. He stated that these structure(s) had been built last winter.

   Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

   Mr. Williams established, with staff's confirmation, that there was adequate space between the property line, driveway and curb locations. He noted that these are relatively small structure(s) of less than 200 s.f. Mr. Graves explained that the height of the structure(s) were 8 ½ to 9 feet. The Zoning and Development Code does not require anything less than 8 ft to have a use permit.

   Mr. Parker depicted which neighbors had been contacted using the location map, and who was in support of the project.

   DECISION:
   Mr. Williams approved PL090159/ZUP09071/ZUP09072/VAR09005/VAR09006 (as modified) subject to the following conditions of approval:
   1. Obtain all necessary clearances from the Building Safety Division.
   2. The accessory building shall compliment the main residence in color, design and material.

---

5. Request by the **SAINT DOMINIC SAVIO ACADEMY LLC (PL090160)** (Corinna Siegler/St. Dominic Savio Academy LLC, applicant; Desert Palm United Church of Christ, property owner) located at 1230 East Guadalupe Road in the R1-6, Single Family Residential District for:

   ZUP09073 Use permit to allow a elementary school for Grades K-5 ancillary to a church.

   Ms. Corinna Siegler was present to represent this case.

   Shawn Daffara, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

Pastor John Herman of Desert Palm United Church of Christ spoke in support of this request. He stated that there was strong support from the church congregation for this request.

Mr. Williams asked staff if it was necessary to indicate a benchmark number of students for future reference – at this point it is anticipated by the applicant that there will be a total of sixteen (16) or fewer students. Mr. Daffara responded that it was not necessary as this information was contained in the letter of explanation.

DECISION:
Mr. Williams approved PL090160/ZUP09073 subject to the following conditions of approval:

1. The use permit is valid for the St. Dominic Savio Academy and may be transferable upon Development Services staff review.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. Any expansion or intensification of the use shall require a new use permit to be approved.
5. All business signs shall be approved through Development Review and permits obtained.

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6. Request by the **GIPSON RESIDENCE (PL090164)** (Kathy Gipson, applicant/property owner) located at 2002 West Garden Drive in the R1-6, Single Family Residential District for:

VAR09007 Variance to reduce the east street side yard setback from ten (10) feet to six (6) feet.

Ms. Kathy Gipson and Mr. Ruben Galan were present to represent this case.

Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

Mr. Williams noted that there were special circumstances unique to this property relating to corner location and the width of the adjacent public right-of-way.

DECISION:
Mr. Williams approved PL090164/VAR09007 subject to the following conditions of approval:

1. Obtain necessary clearances from the Building Safety Division.
2. Building addition and foundation shall be painted to match the existing residence.

---

7. Request by **FLOOR AND DECOR (PL090166)** (David Miller/Floor & Decor, applicant; Jahan Realty Management Corporation, property owner) located at 7500 South Priest Drive in the PCC-1, Planned Commercial Center Neighborhood and Southwest Overlay Districts for:

ZUP09074 Use permit to allow outdoor retail display.

Mr. David Miller was present to represent this case. He explained that the intention is to only have a couple of small displays and there would be no outside storage of materials.

Shawn Daffara, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

DECISION:
Mr. Williams approved PL090166/ZUP09074 subject to the following conditions of approval:

1. The outdoor display merchandise shall not conflict with pedestrian or vehicular traffic. If any display items are moved into the sidewalk, the business may be cited and/or returned to the Hearing Officer for review, and potential revocation of the use permits. The Zoning and Development Code requires a six (6') foot clear, unobstructed path.
2. The use permit is valid for the plans as submitted to and approved by the Hearing Officer, any expansion of the outdoor use would require a new use permit.
3. The outdoor display of merchandise shall not be located in the public right-of-way, parking spaces and landscape areas.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. Any outdoor signage associated with the display shall be reviewed by the Development Services Department – Planning Division and are limited to three (3) square feet.
6. No sound amplification shall be used for the outdoor display.

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8. Request by **ARIZONA FIGHT CLUB (PL090169)** (Randy Robles, applicant; McClintock Center LLC, property owner) located at 617 South McClintock Drive, Suite No. 3 in the GID, General Industrial District for:

   ZUP09075 Use permit to allow a fitness facility (boxing gym).

   Mr. Randy Robles was present to represent this case.

   Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He asked that Condition of Approval No. 7 be removed as parking at this center had been approved.

   DECISION:
   Mr. Williams approved PL090169/ZUP09075 subject to the following conditions of approval:
   1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
   2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
   3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer.
   4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
   5. All business signs shall be Development Review staff approved and permits obtained.
   6. The applicant shall contact and work with Development Services Development Review staff to upgrade non-compliant lighting at the proposed property (building-mounted fixtures). Further, a 6" x 6" lexan or laminated glass vision panel shall be centered and installed at 63" above finished grade in the north elevation main door. These upgrades shall provide for the safety, security and code compliancy of the proposed business.
   7. ~~An updated tenant list and respective uses shall be provided to the Development Services Department to update the change in required parking within sixty (60) days (August 1, 2009).~~ **DELETED BY PLANNER**

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9. Request by the **WEED RESIDENCE (PL090170)** (Andrew Weed, applicant/property owner) located at 1111 South Ash Avenue in the R-3R, Multi-Family Residential Restricted District for:

   ZUP09076 Use permit to increase the allowable fence height in the front yard setback from four (4) feet to eight (8) feet.

Mr. Andrew Weed was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

DECISION:
Mr. Williams approved PL090170/ZUP09076 subject to the following conditions of approval:
1. Obtain all necessary clearances from the Building Safety Division.
2. Approval is valid for plans as submitted within this application.

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10. Request by **RIO SALADO COURTYARD – ATHENA'S TEMPLE LLC (PL090171)** (Heather Allen, applicant; Rio Salado Center LLC, property owner) located at 1290 North Scottsdale Road, Suite No. 101 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP09077 Use permit to allow a massage therapy establishment.

Ms. Heather Allen was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case and stated one (1) letter of concern had been received from the North Tempe Neighborhood Association since the staff report had been issued.

Mr. Williams questioned the timing required for licenses in relation to the use permit. Mr. Daffara responded that the requirement for a use permit comes first; that a massage license will need to be obtained by the applicant from the City of Tempe Tax and License Department if this use permit is approved. Licenses for this applicant are currently pending.

Staff noted that the hours of operation are indicated by the letter of intent submitted by this applicant and that COA #3 authorizes those hours of operation. Should a change occur the applicant is required to notify staff and adjust the use permit.

Ms. Allen responded to the individual issues raised by the letter of concern submitted by the NTNA.

Mr. Williams asked if licenses were required for the other services other than massage (i.e. hair, etc.). Mr. Daffara stated the City of Tempe does not require licenses for services other than massage.

Ms. Darlene Justus, representing the North Tempe Neighborhood Association, addressed the hours of operation and asked that they be a reasonable time frame. She encouraged the City to do a final inspection of plumbing, wastewater, and other utilities before the license was issued. She questioned whether each individual was required to obtain a massage license or if the license was issued to the establishment as a whole. Mr. Daffara responded that the business would be the one to whom the massage license was issued, the massage therapists would not be required to obtain individual licenses. State and County licensing requirements would also need to be meet. Should a complaint be made to the City regarding inadequate State or County licensing by individuals, that complaint would be forwarded to the licensing body (i.e. State or County) by the City, Mr. Daffara explained. The business has to obtain an overall massage license and the individual therapists that are hired by the business have to get their separate license(s) thru the County and State.

Mr. Lane Caraway, Tempe resident, spoke of his concern over unspecified business hours in the Conditions of Approval as well of the saturation factor in this area of liquor stores, lingerie stores, another massage parlor and the inexperience of this applicant for management of this type of business as well as whether she has the financial stability required.

Mr. Williams explained that the City, as a government agency, does not review the financial aspects of applicants.

Mr. Williams asked the applicant if she had any problem with a Condition of Approval being added to limit/define the hours of operation for her business. She responded that she did not. She added that she is working with Building Safety to comply with all requirements.

DECISION:
Mr. Williams approved PL090171/ZUP09077 subject to the following conditions of approval:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment.
4. Any expansion or intensification of use shall require a new use permit to be approved.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.
6. All required State, County and Municipal permits shall be obtained or the use permit is void.
7. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the use permit becoming effective.
8. All business signs shall require a sign permit.
9. **Hours of operation are limited to Monday thru Saturday, 7 Am to 9 Pm and Sunday 10 Am to 4 Pm. ADDED BY HEARING OFFICER**

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11. Request by the **BARMORE RESIDENCE (PL090177)** (Richard Barmore, applicant/property owner) located at 2941 South Fairway Drive in the R1-6, Single Family Residential District for:

ZUP09079 Use permit to allow a detached accessory building (garage).
~~**VAR09008** Variance to reduce the northeast side yard setback from five (5) feet to three (3) feet.~~
WITHDRAWN BY APPLICANT

Mr. Richard Barmore was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that a couple of calls from neighbors had been received since the staff report had been issued. A neighborhood meeting had been held and a petition of support obtained.

Mr. Bruce Turner, neighboring Tempe resident, spoke of concern over utilizing the property, alley use and the need to match the new construction with the existing home, as well as possible use by the applicant to tinker on cars in the garage. This could generate noise that would degrade property values and enjoyment of nearby property owners, Mr. Turner stated.

Mr. Williams stated that he did not feel that this garage would generate an unusual amount of traffic in the alley.

There was discussion between Mr. Williams and the applicant over the five (5) foot area between the proposed building and the property line/wall and whether this area could support screening shrubbery or if it had to be kept clear for utility lines. Although this is not being made a requirement, Mr. Williams suggested doing so in order to accommodate the neighbor's request for screening.

DECISION:
Mr. Williams approved PL090177/ZUP09079 subject to the following conditions of approval:

1. Provide an updated site plan depicting a five (5) foot minimum setback for the file.
2. Obtain all necessary clearances from the Building Safety Division.

3. **Garage shall match the existing home with regard to roof pitch, colors and materials. ADDED BY HEARING OFFICER**

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12. Request by **SOUTHERN AVENUE GARDEN OFFICES – DAVID LEWIS, DDS (PL090178)** (David Lewis, applicant; Sojourner Investment Group, property owner) located at 408 East Southern Avenue in the R/O, Residential/Office District for:

DSM09024 Minor modification of a previously approved PAD for the Southern Avenue Garden Offices to eliminate or modify Condition of Approval No. 11 of Case Z-79.30 which reads:

11. Medical Offices shall be prohibited.

Mr. David Lewis was present to represent this case. He noted he celebrated twenty-eight (28) years of business yesterday.

Sherri Lesser, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

DECISION:
Mr. Williams approved PL090178/DSM09024 subject to the following condition of approval for all Southern Garden Offices on the site:
1. All future medical uses must provide sufficient parking to support their use.

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13. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **ROE RESIDENCE (PL090167/ABT09010)** (Christopher Roe, property owner) Complaint 087577 located at 2906 South Price Road in the R-3R, Multi- Family Residential Limited District.

No one was present to represent the property owner.

Brett Barnes, City of Tempe – Neighborhood Enhancement Department, stated that there is a vehicle with expired plates (as of February 9, 2009) in the driveway and appears to be inoperable. The pile of dead palm fronds have since been removed.

DECISION:
Mr. Williams approved abatement proceedings for PL090167/ABT09010.

The next Hearing Officer public hearing will be held on **Tuesday, July 7, 2009.**

There being no further business the public hearing adjourned at 3:24 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm

KARSTEN RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: July 21, 2009 **Agenda Item Number:** 7

SUBJECT: This is a public hearing for a request by the **KARSTEN RESIDENCE (PL090232)** located at 5751 South Wilson Street for one (1) use permit.

DOCUMENT NAME: 20090721dsng01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **KARSTEN RESIDENCE (PL090232)** (Ed Karsten, applicant/property owner) located at 5751 South Wilson Street in the R1-6, Single Family Residential District for:

ZUP09103 Use permit to allow a six (6) foot masonry wall within the front yard setback.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

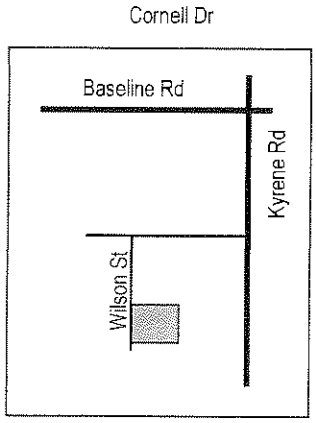
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO: The applicant is requesting a use permit to increase the wall height in the front yard setback from four (4) feet to six (6) feet. The property is located southwest of the intersection of Baseline Road and Kyrene Road, at the corner of Wilson Street and a public alley. The applicant is requesting a six (6) foot high masonry wall to secure the required front yard setback for a separate tract of land that he owns adjacent to his main property. Staff supports approval of the use permit with conditions. To date, staff has received one (1) phone call of inquiry on this request.



PAGES:

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site plan
5. Elevation / Section
6. Applicant Photos
7. Staff Photograph

COMMENTS:

The Karsten Residence is requesting a use permit to allow for the construction of a six (6) foot tall masonry wall in the required front yard setback. The property is located southwest of the intersection of Baseline Road and Kyrene Road, at the corner of Wilson Street and a public alley. Mr. Karsten is requesting a six (6) foot high masonry wall to secure the required front yard setback for a separate tract of land that he owns adjacent to the main property. Originally, this property had a six (6) foot tall wooden fence similar to the like of the property directly west of this property and across the street, which still maintains the original six (6) foot tall wooden fence. After several years the applicant decided to replace it with a more secure enclosing. Upon completion of the wall he was cited by Neighborhood Enhancement for having a wall taller than four (4) feet in the front yard setback.

The original intent behind a maximum four (4) foot wall in the front yard setback was to allow visual surveillance between the street and the home. Given that the wall is on a separate tract of land, there is no home or front yard to provide surveillance for as the tract acts as a side yard to the main property. The property in question also borders a public alley allowing enough distance from disturbing the property to the south.

To date, staff has received one (1) phone call of inquiry on this request.

Use Permit

The Zoning and Development Code requires a use permit for a wall/fence greater than four (4) feet in height for walls/fences located in the front yard setback for single family dwellings, in the R1-6, Single Family Residential District.

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;

- There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;

- The proposed use should not create any nuisances.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;

- The area is in compliance with the General Plan and neighborhood intent.

d. Compatibility with existing surrounding structures and uses;

- The current wall will extend the existing line of block wall along the alley and will not create a nuisance for the surrounding area.

e. Adequate control of disruptive behavior both inside and outside the property, which may create a nuisance to the surrounding area or general public.

- Visual surveillance will remain available in the front yard of the main property.

Conclusion

Staff recommends approval of the use permit, subject to the conditions of approval.

REASONS FOR APPROVAL:

1. The authorizing of the use permit is necessary for the preservation and enjoyment of substantial property rights.
2. Authorization of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood or to the public welfare in general.
3. The current wall is in the front yard setback of a separate tract of land, the main residence has no walls in front of it; thus meeting the intent of natural surveillance between the home and the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITIONS OF APPROVAL:

1. Obtain all necessary clearances from the Building Safety Division.
2. Approval is valid for plans as submitted within this application.

HISTORY & FACTS:

November 28, 1979	Final inspection of a Single Family Residence.
May 12, 2009	Complaint reported by Neighborhood Enhancement for a six (6) foot wall in the front yard setback.

DESCRIPTION:

Owner – Ed Karsten
Applicant – Ed Karsten
Existing Zoning – R1-6, Single Family Residential District
Allowed Wall Height in the Front Yard Setback – 4'
Existing Wall Height in the Front Yard Setback – 6'

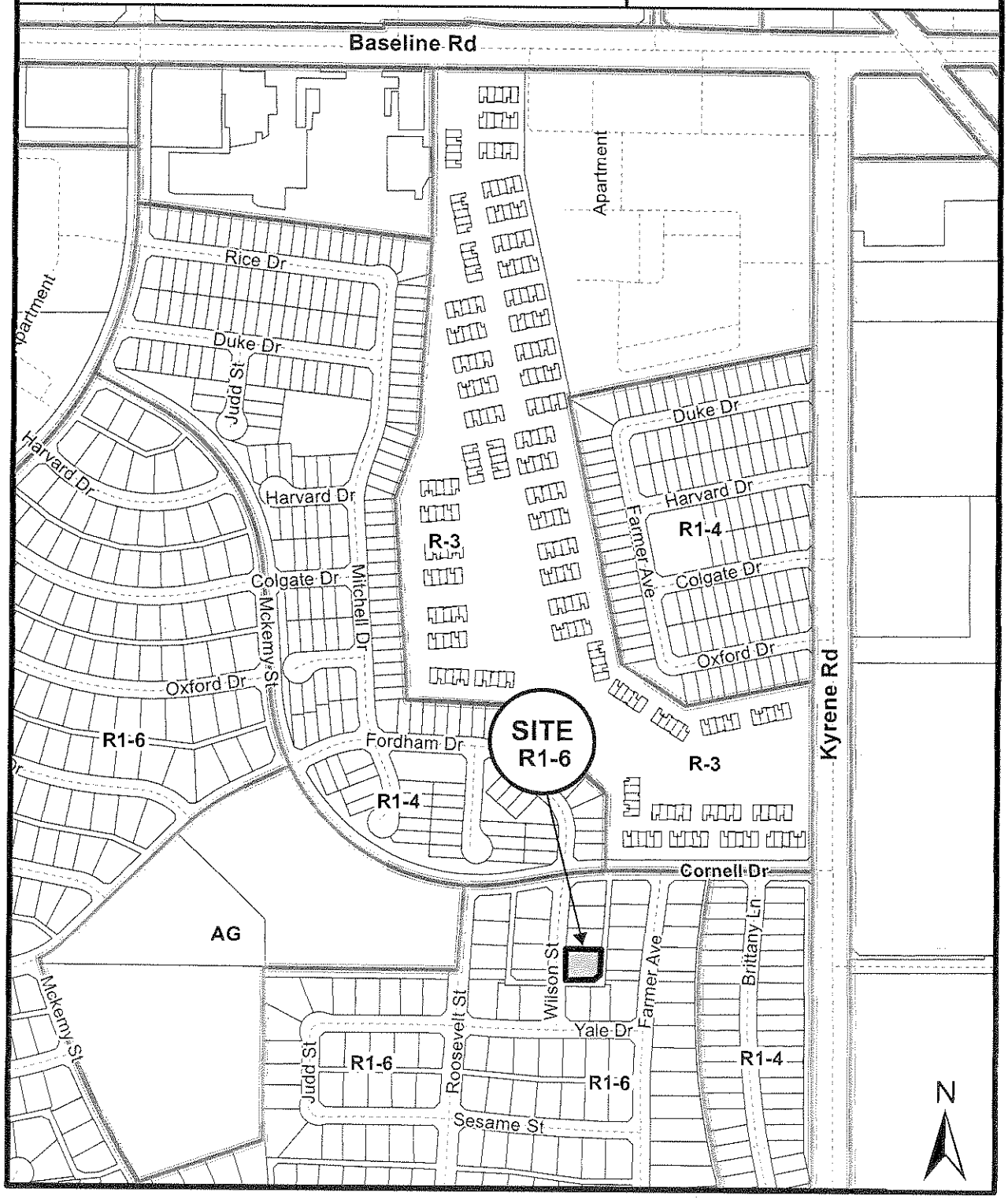
ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 7, Section 4-706A – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe

KARSTEN RESIDENCE

PL090232



Location Map

KARSTEN RESIDENCE (PL090232)

KARSTEN

This Use permit request is being submitted to allow a 6-foot wall along the front yard setback of TRACT C ONLY (see drawing). The 6-foot wall replaces a pre-existing 6-foot wooden fence. This request is the direct result of a "Notice to Comply" issued by a City Inspector (Case #CE093207).

The reason for replacing the wooden fence is that the wooden fence, over the years, has become unsightly and unstable. Some of the fence replaced is original fence from when I took possession of the home in 1984. Wooden fence repairs have taken place nearly every year for the past several years, adding to its unsightliness and instability.

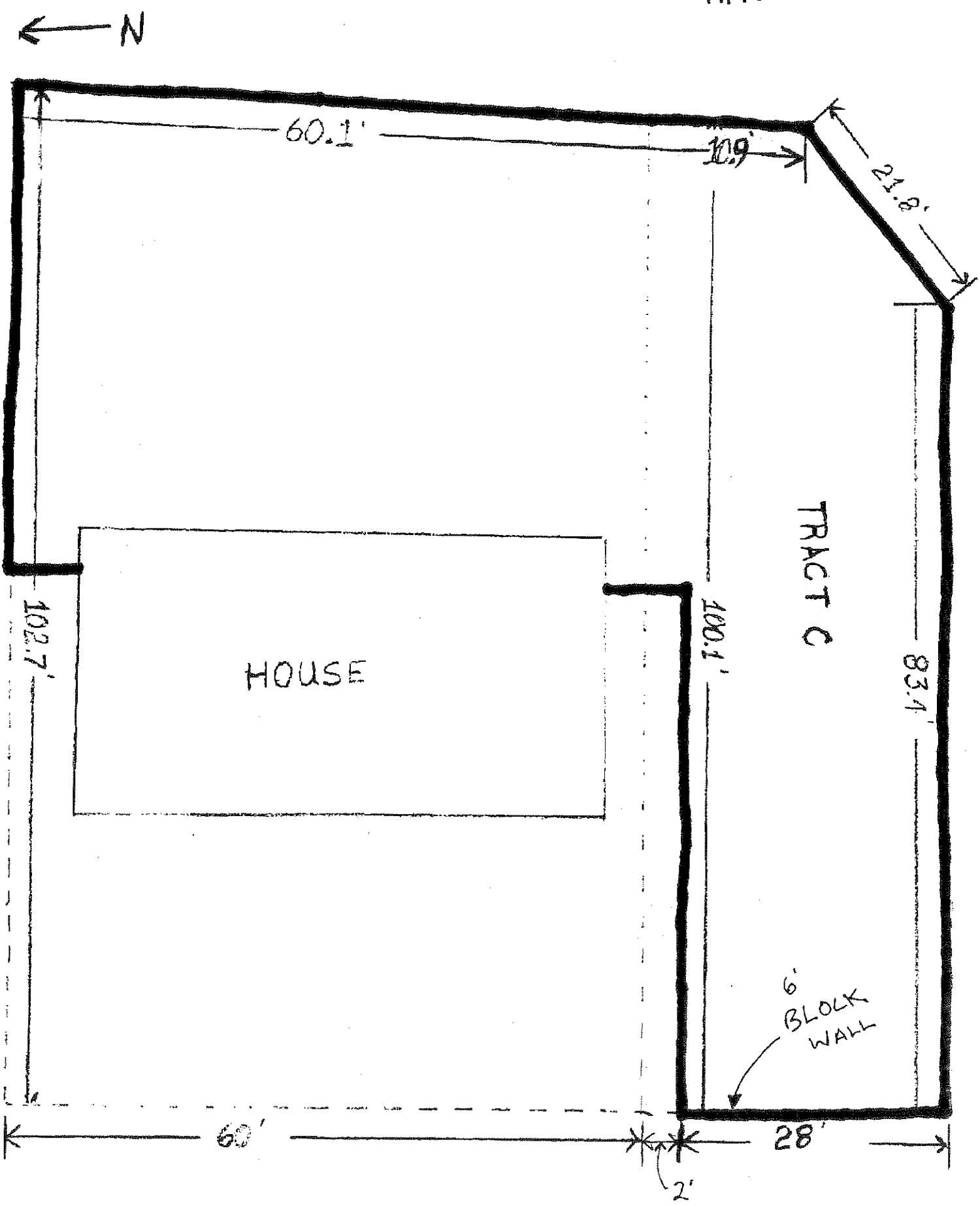
The catalyst for replacing the fence at this time was that two 8-foot sections of fence collapsed in early April. The block wall construction was completed in mid-May. Prior to beginning construction, the fence contractor contacted the City about the need for a permit and was not made aware of the need for a Use permit for a fence over 4-feet along the front property line. Since the fence company has done very little work in Tempe, I am not holding them liable for this oversight.

The block wall has an equal number of access points (gates) as the previous wooden fence and offers a greater margin for security and safety and does not, in any way, impede the natural surveillance to the street from the residence.

The new block wall, which is already in place, is consistent in color and height with an adjacent block wall of the home to north and is lower than the fence of the home to the Southwest (same color). I believe that this block wall not only provides safety and security, but that it is a more aesthetic barrier than the wooden fence.

The drawing shows the location of the block wall along the property line around the north and east side of the main property and then it encloses the bulk of TRACT C property. The solid line in the drawing is the fence. The dashed line indicates a property line with no fence. The property dimensions were obtained from the Maricopa County GIS maps.

KARSTEN



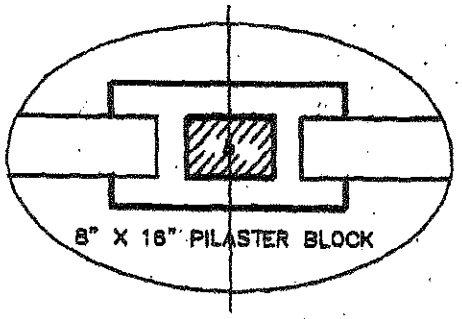
4" MASONRY FENCE

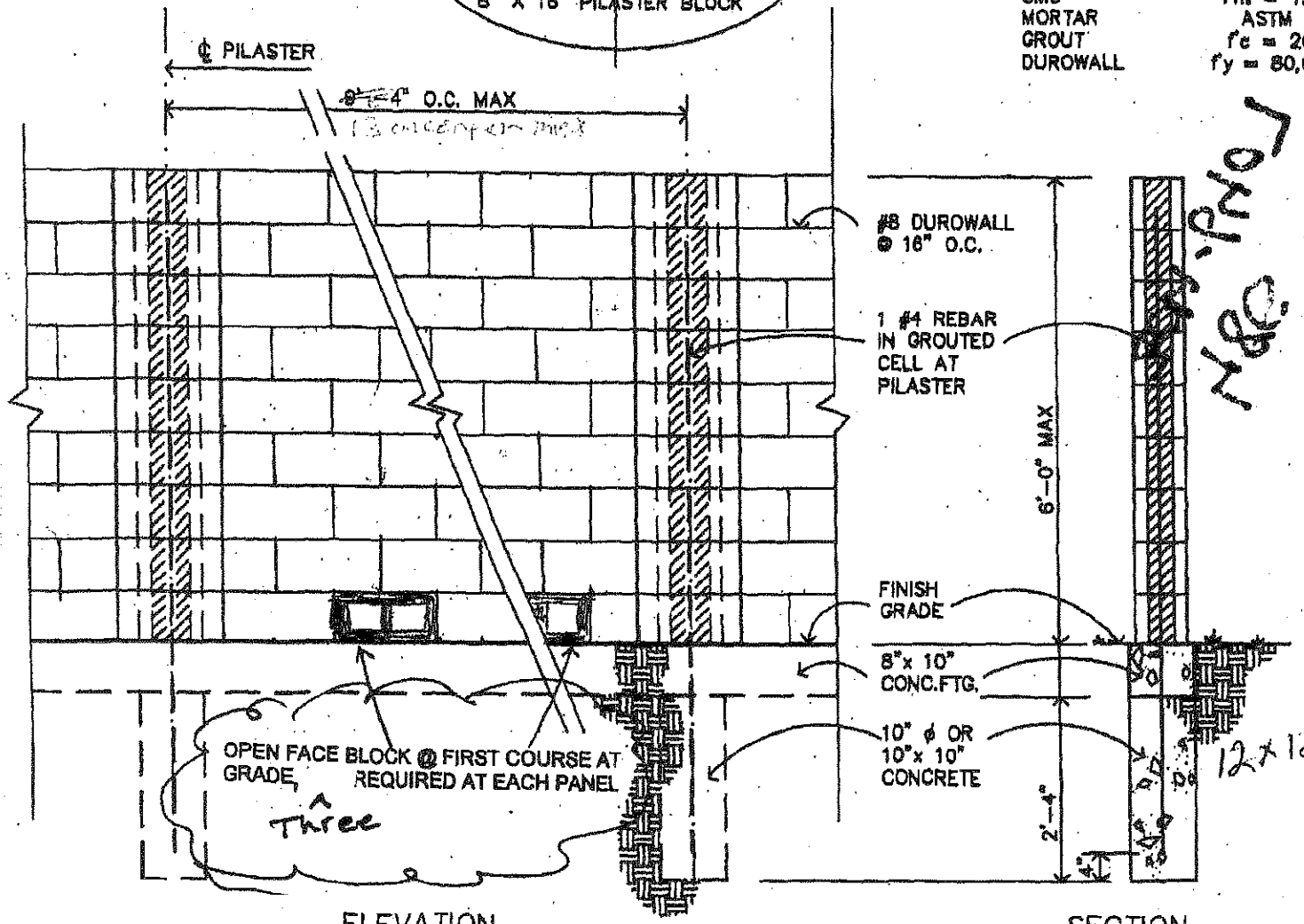
(DOOLEY FENCE)

MATERIALS :

CONCRETE	f'c = 2500 psi
REINFORCING	fy = 40,000psi
CMU	f'm = 1350 psi
MORTAR	ASTM TYPE S
GROUT	f'c = 2000 psi
DUROWALL	fy = 80,000 psi

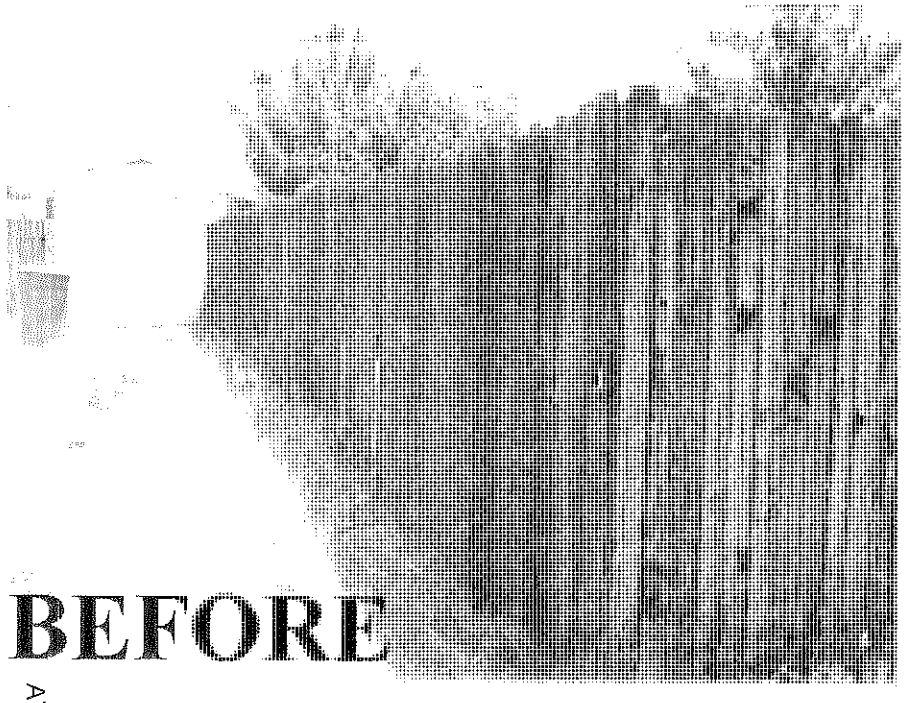
DETAIL AT PILASTER





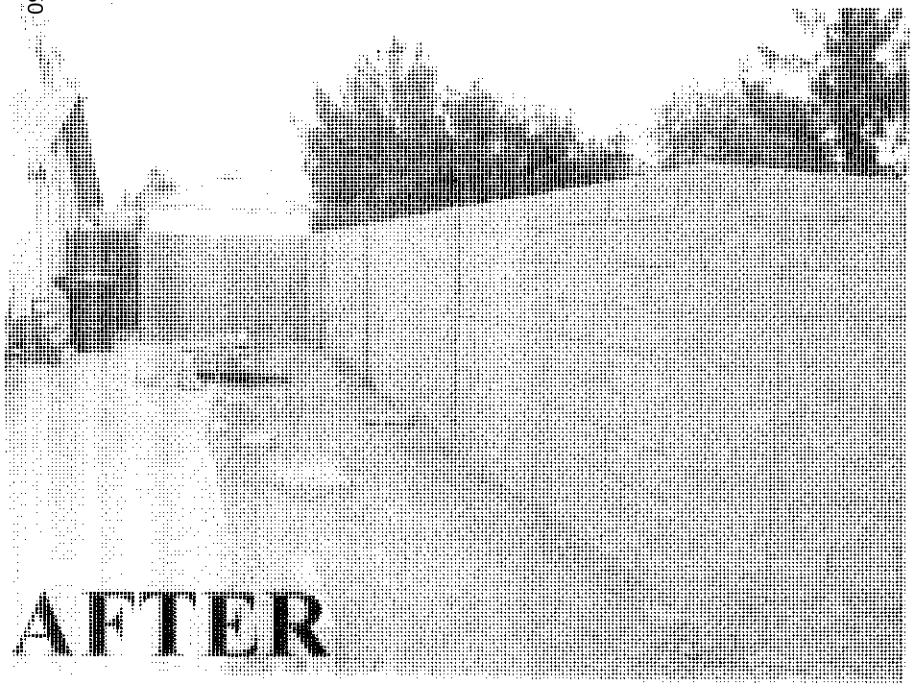
ELEVATION

SECTION



BEFORE

DRIVEWAY



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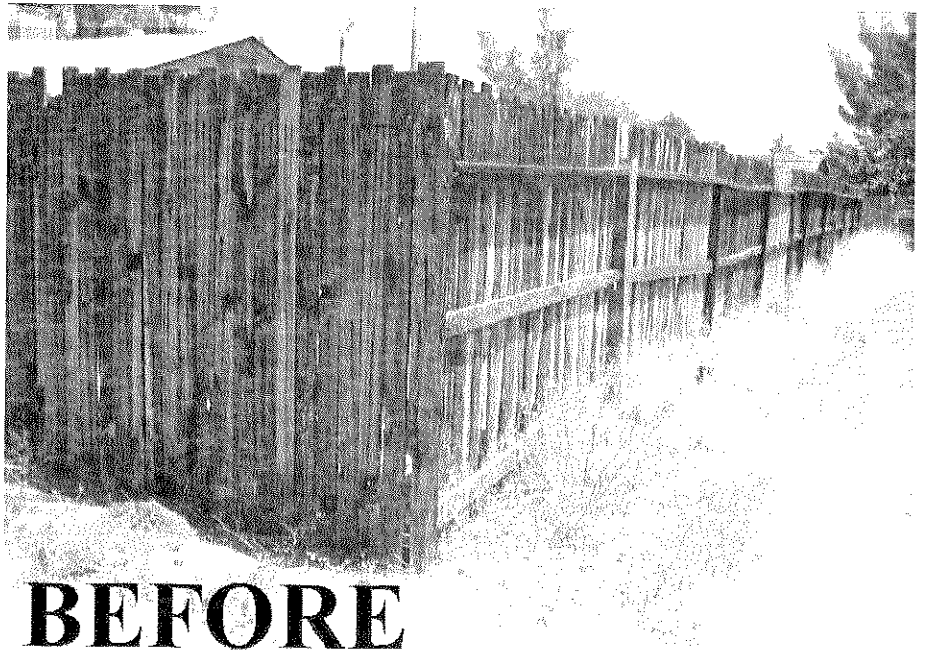

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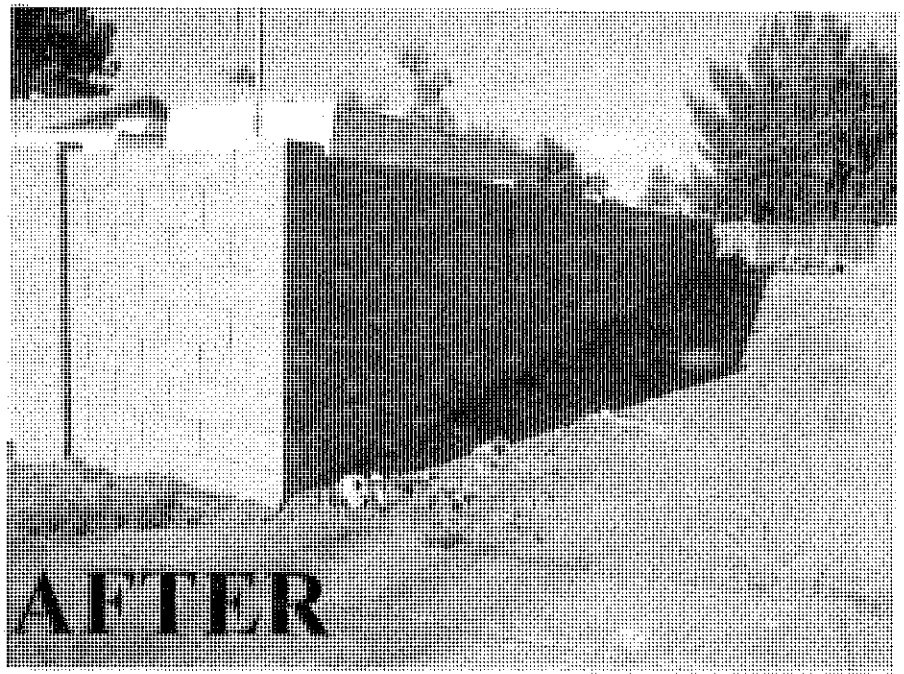
SOUTH ALLEY



AFTER

ATTACHMENT 2

KARSTEN RESIDENCE

5751 SOUTH WILSON STREET

PL090232

FRONT OF RESIDENCE

Tempe

Minutes
HEARING OFFICER
JULY 21, 2009

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
David Williams, Hearing Officer
Sherri Lesser, Senior Planner
Derek Partridge, Planner I
Nick Graves, Planning Intern
Steve Abrahamson, Planning & Zoning Coordinator

Number of Interested Citizens Present: 21

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by August 4, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for July 7, 2009.

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2. Mr. Williams noted that the following case(s) had been withdrawn:

   Request by **GRYPHEN SCHOOLS – TEMPE CENTER (PL090231)** (Todd Lewis/Gryphen Specialty Products & Services, applicant; D'Angelo Family 1911 Trust, property owner) located at 311 South McClintock Drive in the GID, General Industrial District for:

   ZUP09101 Use permit to allow a multi-habitational facility (vocational school).
   APPLICANT WITHDREW

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3. Request by the **CONDER RESIDENCE (PL090224)** (Michael Conder, applicant/property owner) located at 2022 East Malibu Drive in the R1-6, Single Family Residential District for:

   ZUP09096 Use permit to allow standard to reduce the front yard setback by twenty percent (20%) from twenty (20) feet to ~~sixteen (16) feet~~ **eighteen (18) feet. MODIFIED BY HEARING OFFICER**

   Mr. Michael Conder was present to represent this case.

   Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

   Mr. Conder agreed to re-locate the A/C unit away from the west side yard and to modify the front yard setback request to eighteen (18) feet. The two trees will be replaced. He explained the history of the neighborhood and that his home was unique to the area.

   Mr. Williams indicated that the design of the addition does not match the existing home and advised the applicant that the re-design be done so that the rhythm and colors and materials match.

   Mr. William Haas, stated that he is the neighbor to the east and strongly supports this request as it is an improvement to the neighborhood.

   Ms. Joann Kersbergen, stated that she lives across the street, and feels that the doorway metal screening into the bedrooms and higher wall makes the structure look like a commercial/office building. Design changes could be made that could approve the appearance to be more consistent with the neighborhood.

   Ms. Zaharenia Tsikopoulos spoke regarding her ten (10) year old daughter's concern regarding the possible noise generated by the A/C and aesthetic concerns such as not enough windows and the height of the addition could could block the sun. She did not feel that the appearance would be in context with the neighborhood.

   Mr. Abrahamson, in response to a question from Mr. Williams, confirmed that although there was no indication that this request pertained to a home office, a home office was a permitted use in this area if it was operated as a single individual.

   For public information, Mr. Williams explained to those present that although a home office is a permitted use there are restraints. If there were traffic concerns or activities unusual to a residence that are in violation these should be brought to the City's attention.

   Mr. Williams questioned the height of the addition and the parapet wall. Mr. Conder stated that the parapet wall was three (3) different heights and the addition was approximately two (2) feet higher than the existing residence. He would be willing to reduce the height by one (1) foot. Screening would consist of metal materials to match sculptures in the yard.

   DECISION:

   Mr. Williams approved PL090224/ZUP09096 as modified subject to the following conditions of approval:

   1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
   2. All required permits and clearances shall be obtained from the Building Safety Division.
   3. The A/C unit for the proposed addition ~~shall be located either (1) on the roof, or (2) behind the masonry wall~~ **must not be located in the front or west side yard** of the residence. **MODIFIED BY HEARING OFFICER**

4. The front yard setback use permit standard to be modified to eighteen (18) foot minimum.
5. **Materials and colors of the addition to match the existing structure. ADDED BY HEARING OFFICER**
6. **Add two (2) 24" box trees to the front yard. ADDED BY HEARING OFFICER**
7. **Height of the addition limited to one (1) foot of existing structure. ADDED BY HEARING OFFICER**
8. **Fenestration of south elevation to proportionally match existing windows at the south elevation of dwelling. ADDED BY HEARING OFFICER**

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4. Request by **ROYAL PALMS PLAZA - YUPHA'S THAI KITCHEN (PL090225)** (Yupha Dequenne, applicant; Pollack Enterprises LLC , property owner) located at 1805 East Elliot Road, Suite No. 115 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP09097 Use permit to allow live entertainment.

Ms. Yupha Dequenne was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. E-mails and phone calls of concern had been received.

DECISION:
Mr. Williams approved PL090225/ZUP09097 subject to the following conditions of approval:

1. The use permit is valid for Yuppa's Thai Kitchen and may be transferrable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. The entertainment to consist of 1-2 person ensembles and Thai Dancing; all entertainment to cease at 9:00 pm daily.
3. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
4. Noise generated from the use shall conform to the City of Tempe Noise Ordinance requirements for noise control.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
6. The use permit is valid for the plans as submitted within this application.
7. The applicant shall work with the Tempe Police Department to update the Security Plan for the business. Contact the Crime Prevention Department at 480.858.6027.
8. **Back door to business to remain closed during live entertainment. ADDED BY HEARING OFFICER**

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5. Request by **BROADWAY VILLAGE – ALOMDA HOOKAH (PL090227)** (Mahmoud Ahmed, applicant; Caland Management LLC, property owner) located at 818 West Broadway Road, Suite No. 111 in the CSS, Commercial Shopping and Services District for:

ZUP09098 Use permit to allow a hookah lounge.

Mr. Mahmoud Ahmed and Mr. Moataz El-Sheikh were present to represent this case.

Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. One (1) phone call of opposition related to the day care facility's hours of operation had been received. The applicant contacted the day care facility and assuaged their concerns about hours and parking.

Mr. Williams addressed the issue of building code requirements and upgrades and that the HVAC must be installed prior to the start of business operation and inspected due to health issues. Mr. Abrahamson confirmed that all building safety permits must be obtained and finalized before the business operation could begin. Mr. El-Sheikh acknowledged this requirement and asked for additional information about temporary measures to meet building codes. Mr. Williams referred him to the City's Building Safety staff.

DECISION:
Mr. Williams approved PL090227/ZUP09098 subject to the following conditions of approval:

1. The use permit is valid for Al-Omda Hookah and may be transferrable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective. Since smoking will be permitted on the premises, the owner/management is responsible to adhere to the 2003 International Mechanical Code.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products.
6. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
7. The use permit is not valid until all ~~required~~ **final** Building Safety **inspections and** permits have been ~~finalized~~ **completed. MODIFIED BY HEARING OFFICER**
8. **The applicant shall work with the Tempe Police Department to create a Security Plan for the business. Contact the Crime Prevention Department at 480.858.6027. ADDED BY HEARING OFFICER**

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6. Request by the **AUSTIN RESIDENCE (PL090228)** (Tessa Jones/the Phactory, applicant; Jon & Hiroko Austin, property owners) located at 1440 East Secretariat Drive in the AG, Agricultural District for:

ZUP09099 Use permit to allow an accessory building (pool house).

Ms. Tessa Jones of The Factory and Mr. Jon Austin were present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. A petition of support had been received from the neighbors on either side and across the street from the applicant.

Mr. Williams addressed the issue of lot coverage and asked if the large patio areas was considered part of the lot coverage percentage. Ms. Lesser stated that the applicant was within the requirements allowed.

Ms. Jones noted that the ramada accessory building that was requested in the application was not included in the advertisement and the applicant will return at a future Hearing Officer hearing for approval of that request.

The maximum height of the requested structure will not exceed the height of the main structure. The existing storage structure in the back yard will be removed.

Mr. Williams asked where the public posting sign was, as it was missing today. Mr. Austin stated that it blew down in the storm last night.

DECISION:
Mr. Williams approved PL090228/ZUP09099 subject to the following conditions of approval:
1. Obtain all necessary clearances and permits from the Building Safety Division.
2. Accessory building to complement the main residence in color, form and material.
3. Accessory building is not to be used for sleeping or living purposes and shall have no cooking facilities.
4. The accessory building is not to be rented separately from the main residence as an office or accessory unit.
5. Provide a set of plans for the file with site data listing the height of existing dwelling and the proposed accessory building. The height of accessory building not to exceed the height of existing residence.

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7. Request by the **KARSTEN RESIDENCE (PL090232)** (Ed Karsten, applicant/property owner) located at 5751 South Wilson Street in the R1-6, Single Family Residential District for:

ZUP09103 Use permit to allow a six (6) foot masonry wall within the front yard setback.

No one was present to represent this case. Mr. Graves noted that the applicant had notified staff that he was unable to attend today's meeting due to work commitments.

Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He noted that the applicant had a wooden fence which he replaced with this block wall fence. Because of the new code the applicant was required to apply for the use permit as the wooden fence was covered by the code which predated today's restrictions.

DECISION:
Mr. Williams approved PL090232/ZUP09103 subject to the following conditions of approval:
1. Obtain all necessary clearances from the Building Safety Division.
2. Approval is valid for plans as submitted within this application.
3. **No storage in the front yard setback exceeding the height of the wall. ADDED BY HEARING OFFICER**

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8. Request by **GOODWILL OF ARIZONA (PL090233)** (Jason Morris/Withey Morris PLC, applicant; Fortuna Asset Management, property owner) located at 575 West Warner Road in the PCC-2, Planned Commercial Center General and Southwest Overlay Districts for:

ZUP09102 Use permit to allow a resale retailer (second hand store).

Mr. Jason Morris of Withey Morris PLC was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

DECISION:

Mr. Williams approved PL090233/ZUP09102 subject to the following conditions of approval:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is valid for Goodwill of Arizona and may be transferrable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
3. No outdoor storage or inventory or donations will be allowed.
4. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
6. All rear exit doors require a lexan vision panel or 180 degree rotatable viewer. Details to be approved through Building Safety Plan Review prior to issuance of building permit.
7. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.

The next Hearing Officer public hearing will be held on **Tuesday, August 4, 2009.**

There being no further business the public hearing adjourned at 2:45 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm

BROWN RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: December 1, 2009 **Agenda Item Number:** 3

SUBJECT: This is a public hearing for a request by the **BROWN RESIDENCE (PL090414)** located at 11812 South Rural Road for one (1) variance.

DOCUMENT NAME: 20091201dssl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **BROWN RESIDENCE (PL090414)** (Bob Long/Design Profile Inc., applicant; Wes Brown, property owner) located at 11812 South Rural Road in the AG, Agricultural District for:

VAR09014 Variance to increase the wall height in the front yard setback from four feet (4') to eight feet (8').

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

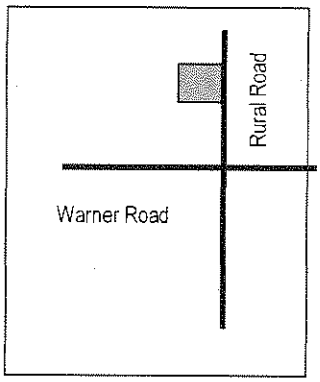
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is requesting a variance to increase the wall height in the front yard setback from 4 feet to 8 feet. The proposed wall will be a combination of sections of solid block and sections of block wall with a stone veneer and ornamental iron. The applicant's property is located along a major arterial, Rural Road. Per the applicant's letter, the wall will provide a buffer from the high volume traffic and provide additional security to the property. Staff supports the variance finding that there are special circumstances related to precedence established by previously granted variances and the proximity of the property to a major arterial. Staff notes that if this property backed to a major arterial (as it existed prior to subdivision) an eight (8) foot high wall would be a requirement per section 4-706 B. The applicant held a neighborhood meeting on November 15, 2009; in accordance with the requirements of the Zoning and Development Code. No neighbors attended the meeting. To date, no other public input has been received.

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval; Conditions of Approval
3. History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)

3-4. Letter of Intent

5. Site Plan
6. Staff Photograph(s)

COMMENTS:

The Brown Residence is seeking a variance to increase the maximum wall height in the front yard setback from four feet (4') to eight feet (8'). The proposed wall will be a combination of sections of solid block and sections of block wall with a stone veneer and ornamental iron. The future wall will be located eight (8) feet behind the front property line along the Rural Road frontage. Currently, an oleander hedge conceals the property from Rural Road. The hedge will be replaced with a more attractive landscape design with the installation of the new wall. According to the applicant's letter, the wall will provide a buffer from the high volume traffic and provide additional security to the property.

Public Input

The applicant held a neighborhood meeting on November 15, 2009 with no one in attendance. To date, no other public input has been received.

Variance

The Zoning and Development Code requires that walls located in the front yard setback to be a maximum of four (4) feet in height. A use permit may be obtained to increase a wall height to six (6) feet and any wall height beyond six (6) feet would require a variance. The applicant is proposing an eight (8) foot wall to be located eight (8) feet behind the front property line within the front yard setback. In review of this request, staff finds that there is justification for support of the variance. The location of the lot, adjacent to a major arterial, is a special circumstance that the intent of the ZDC four (4) foot maximum wall height does not address. A similar single family residence was constructed on a property adjacent to a major arterial in 2003, within the 8500 block of south McClintock Drive. A variance was granted in that case for an increase of the wall height to eight (8) feet due to the proximity of the residence to the major arterial. If this property's frontage was reversed; an eight foot wall would be required per section 4-706 (B) of the Zoning and Development Code. The authorizing of the variance will not be materially detrimental to the adjacent property or the surrounding area.

Conclusion

Staff recommends approval of the variance to increase maximum wall height from four (4) feet to eight (8) within the front yard setback.

REASON(S) FOR APPROVAL:

1. Special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. The variance valid for the plans as approved by the Hearing Officer.
2. Oleander hedge existing at the street front to be removed and replaced with a new landscape design.
3. Obtain all necessary clearances from the Building Safety Division.

HISTORY & FACTS:

February 6, 2003. The Hearing Officer approved a variance to increase the maximum allowable height for a wall, in the 40' front yard setback, from 4' to 8' for the Hamberlin Residence located at 8504 South McClintock in the AG, Agricultural District.

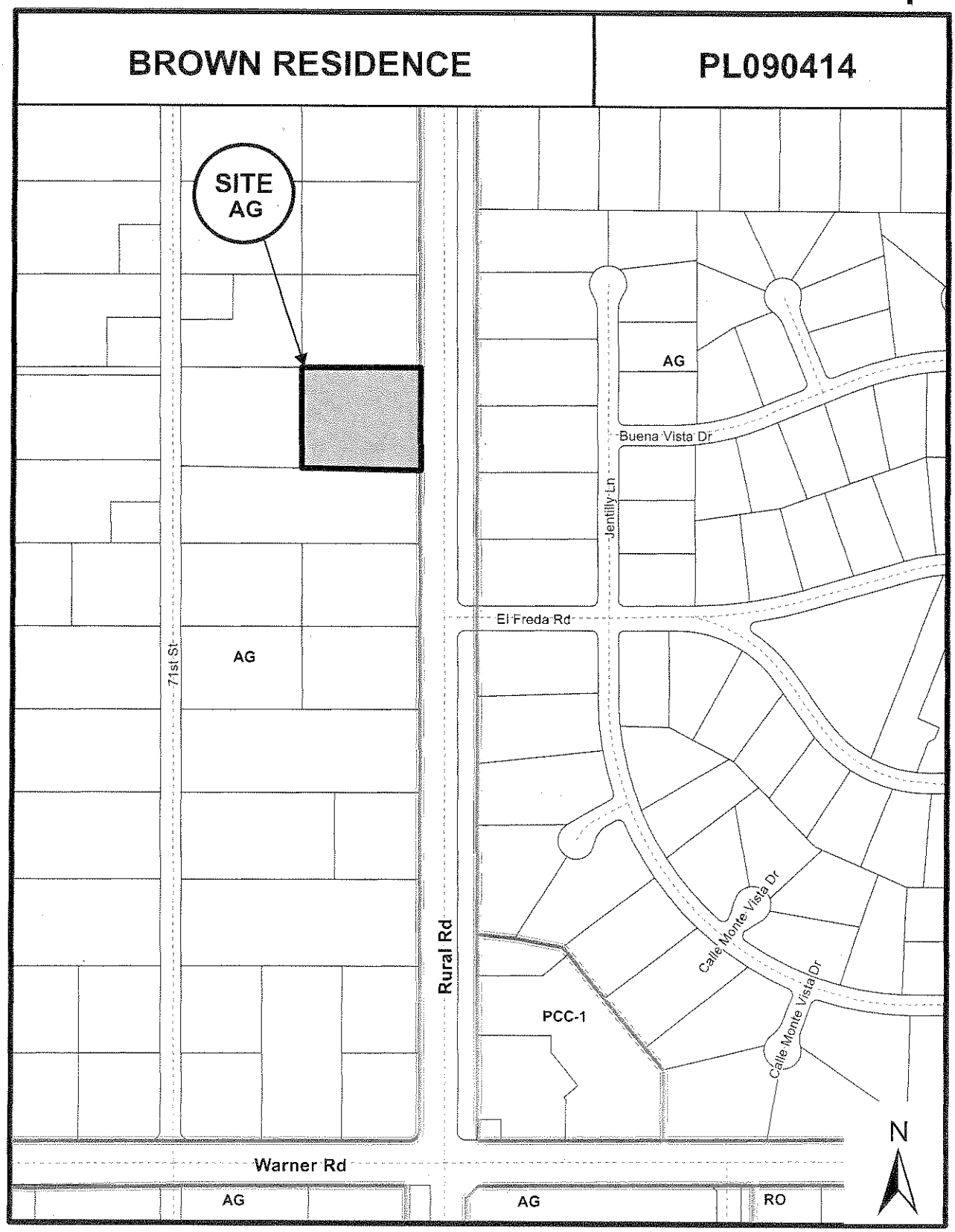
DESCRIPTION:

Owner – Wes Brown
Applicant – Bob Long/Design Profile Inc.
Existing Zoning – AG, Agricultural District

ZONING AND DEVELOPMENT CODE REFERENCE:

Citations of Code Requiring Residential Setbacks & Variance(s):
Zoning & Development Code:
Part 4, Chapter 4, Section 4-706.
Part 6, Chapter 3, Section 6-309

Tempe



Location Map

BROWN RESIDENCE (PL090414)

design profile, inc,

Robert Long

427 West Fifth Street
Mesa, Arizona 85201
480.461.8810 (fax) 480.461.8780
plans@designprofile.com

10.29.09

Request for Variance:

Letter of explanation

To Whom It May Concern:

A request for a variance is hereby submitted for the property located at 11802 S. Rural Rd. It is proposed that an 8' fence wall be placed within the front yard setback of the property. The fence wall would include some solid block sections as well as some 4' solid block sections with 4' ornamental iron view fence above. The fence wall will be approx 8.5' back from the property line, and behind the P.U.E., along the Rural Rd. frontage.

The special circumstances and conditions applying to this parcel are the Size of the right of way (Rural Rd.) as well as the amount of vehicular travel along this road. The Homeowner is making every effort to improve the property behind the sidewalk and easement, in order to do so and block out some of the traffic, and protect his property from the potential of out of control vehicle, it is proposed that this fence wall be permitted for the protection of this property. The height of 8' is also desired as a deterrent to unwelcome trespassers. The approval of this variance and fence/wall will aesthetically improve the street frontage along this portion of Rural Rd., significantly cleaning up and enhancing the random situation that currently exists.

The approval of this variance will allow the property owner to utilize the property to its fullest extent. With frontage to Rural Rd. the drive access is limited and must afford the exit from and entry into traffic. With the fence wall in place as proposed, the property owner will be allowed to provide for the traffic entry and exit procedure, as well as protect his property.

The approval of this fence/wall will be of no detriment to any persons or property in the vicinity. It will in fact improve the streetscape frontage and help adjacent properties to understand the possibilities for their frontage along Rural Rd. There are also tall fence walls north of this property which have been installed for similar reasons.

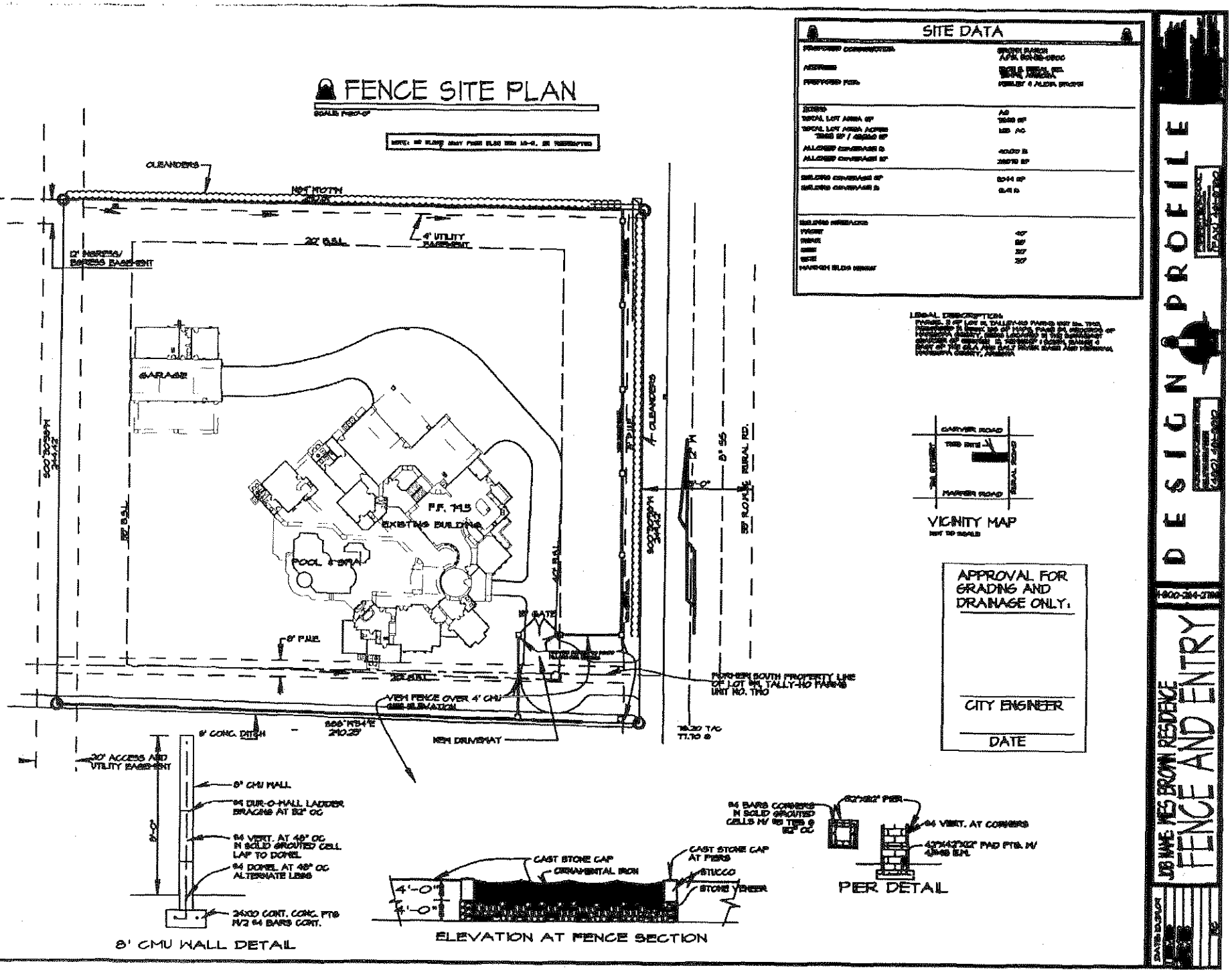
The approval of this variance will not make any change to the zoning classification for the property, increase densities or affect the zoning district in any way.

This variance is requested for relief of a situation that exists with the property, and has not been self-imposed by the property owner. The Rural Rd. frontage has always been the condition for this property, and was in place when property was subdivided. Also the approval of this variance will not allow any condition or item that is expressly prohibited by the code.

Thank you for your consideration on this issue.

Sincerely,

Robert Long.



ATTACHMENT 267

BROWN RESIDENCE

11812 SOUTH RURAL ROAD

PL090414

FRONT OF RESIDENCE

Tempe

Minutes
HEARING OFFICER
DECEMBER 1, 2009

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
David Williams, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Nick Graves, Planning Intern
Sherri Lesser, Senior Planner

Number of Interested Citizens Present: 15

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by December 15, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for November 17, 2009.

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2. Mr. Williams noted that the following case(s) had been withdrawn from today's agenda:

   - Request by **THE FIREHOUSE – LONG WONG'S (PL090404)** (Avi Sadote, applicant/property owner) located at 1639 East Apache Boulevard in the CSS, Commercial Shopping & Services and TOD, Transportation Overlay Districts for:

     ZUP09142 Use permit to allow live entertainment including live bands, D.J.'s, comedy acts and karaoke. **CONTINUED TO DECEMBER 15, 2009 HEARING OFFICER**

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3. Request by the **BROWN RESIDENCE (PL090414)** (Bob Long/Design Profile Inc., applicant; Wes Brown, property owner) located at 11812 South Rural Road in the AG, Agricultural District for:

   VAR09014 Variance to increase the wall height in the front yard setback from four feet (4') to eight feet (8').

   Mr. Bob Long of Design Profile Inc. was present to represent this case.

   Sherri Lesser, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. She noted that special circumstances existed for this property.

   DECISION:
   Mr. Williams approved PL090414/VAR09014 subject to the following conditions of approval:
   1. Variance valid for the plans as approved by the Hearing Officer.
   2. Oleander hedge existing at the street front to be removed and replaced with **drought tolerant** landscape materials. **MODIFIED BY HEARING OFFICER**
   3. Obtain all necessary clearances from the Building Safety Division.

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4. Request by **PERA SUBSTATION - CLEARWIRE (PL090419)** (Brendan Thomson/SRP, applicant; Salt River Project, property owner) located at 2806 North College Avenue in the AG, Agricultural District for:

   ZUP09148 Use permit to allow the addition of an antenna array and height increase of a wireless monopole from seventy-five feet (75') to seventy-seven feet (77').

   Ms. Angie Castellano of SRP was present to represent this case.

   Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He noted that this request relates to co-location on an existing monopole. One phone call of concern had been received.

   Mr. Williams questioned the additional ground equipment relating to this request. Mr. Graves showed the proposed work on the photo simulations and site plan that were submitted by the applicant.

   DECISION:
   Mr. Williams approved PL090419/ZUP09148 subject to the following conditions of approval:
   1. Obtain all necessary clearances from the Building Safety Division.
   2. Any intensification or expansion of use, including co-location of additional antennae, will require a new use permit.
   3. Replace non-compliant light fixtures on existing equipment cabinets with full cut off, dark-sky compliant fixtures.
   4. The wireless devices shall be removed within 30 days of discontinuance of use.
   5. The antennae shall be painted to match the existing monopole.

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5. Request by **GOODWILL OF CENTRAL ARIZONA (PL090423)** (Jason Morris/Withey Morris PLC, applicant; Rio Salado Center LLC, property owner) located at 1290 North Scottsdale Road, Suite Nos. 113 & 114, in the PCC-1, Planned Commercial Center Neighborhood District for:

   ZUP09149 Use permit to allow a resale retailer (Goodwill of Arizona).

   Mr. Jason Morris was present to represent this case.

   Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He noted that conversation with the applicant indicated that additional suite numbers would be included within this business. Landscaping and lighting issues were questioned by Mr. Williams and addressed by Mr. Graves.

   Mr. Morris explained the mission of Goodwill and specific details relating to this particular request.

   DECISION:
   Mr. Williams approved PL090423/ZUP09149 subject to the following conditions of approval:
   1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
   2. The use permit is valid for Goodwill of Arizona and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
   3. No outdoor storage of inventory or donations will be allowed.
   4. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
   5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
   6. A Development Plan Review (DPR) is required for any exterior modifications.
   7. Remove all non-compliant exterior fixtures and replace with full cut off, dark-sky compliant fixtures.
   8. All rear exit doors require a lexan vision panel or a 180 degree rotatable viewer. Details to be reviewed in building permit plan review.
   9. Replace all missing landscape in rear of building.
   10. Remove all graffiti throughout the center.
   11. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
   12. Provide gate/access control to alcove area in rear of building. Details to be reviewed in building permit plan review.
   13. **Collection and storage trailers to be parked at the rear of the shopping center when present. ADDED BY HEARING OFFICER**

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6. Request by City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **GARCIA RESIDENCE (PL090359/ABT09031)** (Sixto Garcia, property owner) Complaint 092925 located at 2052 East Don Carlos Avenue in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

Ms. Michelle Arnieri, Code Compliance Inspector, stated that this property was being foreclosed and asked that it be removed from this agenda. She stated that the partial abatement securing the property was completed last month.

The next Hearing Officer public hearing will be held on **Tuesday, December 15, 2009.**

There being no further business the public hearing adjourned at 2:07 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning & Zoning Coordinator
for David Williams, Hearing Officer

SA:dm

DARNELL RESIDENCE

Staff Summary Report

Tempe

Hearing Officer Hearing Date: November 3, 2010 **Agenda Item Number:** 4

SUBJECT: This is a public hearing for a request by the **DARNELL RESIDENCE** located at 1850 East Carver Road for one (1) use permit.

DOCUMENT NAME: 20101103cdng02 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **DARNELL RESIDENCE (PL100299)** (Lyle Leslie/Leslie Custom Homes, applicant; David Darnell, property owner) located at 1850 East Carver Road in the R1-7, Single Family Residential District for:

ZUP10120 Use permit to allow an increase in the maximum allowable wall height within the front yard setback from 4 ft to 6 ft.

PREPARED BY: Nick Graves, Planner (480-350-8690)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

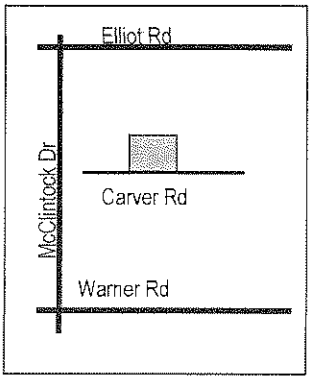
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact on City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO: The applicant is requesting a use permit to allow an increase in the maximum allowable wall height within the front yard setback from four (4) feet to six (6) feet. The property is located along Carver Road, east of McClintock Drive. All walls or fences located in the front yard must obtain a use permit if they are over four (4) feet in height. The applicant is requesting approval of various height increases to six (6) feet within a proposed four (4) foot patio screen wall. Staff supports approval of the use permit with conditions. To date, staff has received no public input on this request.



PAGES:

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site Plan
5. Floor Plan / Elevations
6. Staff Photograph

COMMENTS:

The Darnell Residence is requesting a use permit to allow an increase in the maximum allowable wall height within the front yard setback from four (4) feet to six (6) feet. The property is located along Carver Road, east of McClintock Drive. The majority height of the fence/wall in the front yard setback is four (4) feet. This use permit would allow various height increases up to six (6) feet within a proposed four (4) foot patio screen wall (see elevations for more details). According to the applicant and the elevations submitted, the actual maximum height of the wall will be five (5) feet.

The original intent behind a maximum four (4) foot wall in the front yard setback was to allow visual surveillance between the street and the front yard. The house faces the street and the intent of the wall increase is to provide some privacy for the front patio that will be widened; the visual surveillance between the street and the residence will still be maintained since most of the fence will be four (4) feet.

To date, staff has received no public input on this request.

Use Permit

The Zoning and Development Code requires a use permit for a wall/fence greater than four (4) feet in height for walls/fences located in the front yard setback for single family dwellings, in the R1-7, Single-Family Residential District

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
   - There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
   - The proposed use should not create any nuisances.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;
   - The area is in compliance with the General Plan and neighborhood intent.

d. Compatibility with existing surrounding structures and uses;
   - The proposed wall is intended to provide an aesthetic look and will not create a nuisance for the surrounding area.

e. Adequate control of disruptive behavior both inside and outside the property, which may create a nuisance to the surrounding area or general public.
   - Visual surveillance will remain available in the front yard of the property.

Conclusion

Staff recommends approval of the use permit, subject to the conditions of approval.

REASONS FOR APPROVAL:

1. The authorizing of the use permit is necessary for the preservation and enjoyment of substantial property rights.
2. Authorization of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood or to the public welfare in general.
3. The proposed patio screen wall in the front yard setback will for the main part be at four (4) feet, thus meeting the intent of natural surveillance between the home and the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITIONS OF APPROVAL:

1. Obtain all necessary clearances from the Building Safety Division.
2. Approval is valid for plans as submitted within this application.
3. Obtain all necessary clearances from the Public Works Department for on-site retention and paving. Design patio to conform to Tempe Engineering Standards.

HISTORY & FACTS:

January 31, 1980	Final approval of a single family home
October 19, 2010	PL100299 – Case was continued due to the lack of a Hearing Officer to take action on agenda items.

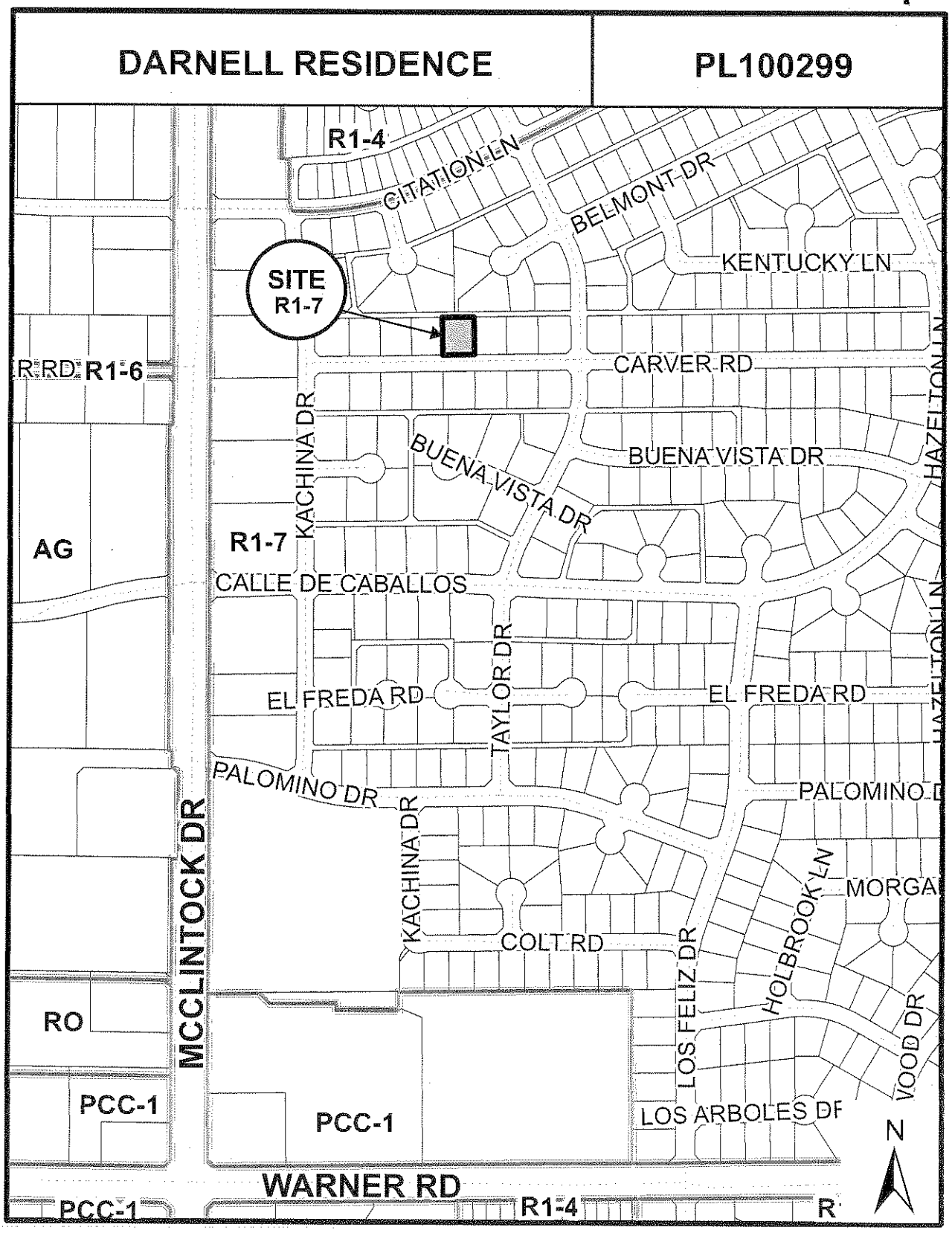
DESCRIPTION:

Owner – David Darnell
Applicant – Lyle Leslie/Leslie Custom Homes
Existing Zoning – R1-7, Single Family Residential District
Existing Wall Height – 4'
Proposed Wall Height – 6'

ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 7, Section 4-706A – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe



Location Map

DARNELL RESIDENCE (PL100299)

October 5, 2010

City of Tempe
Development Services
31 East Fifth Street
Tempe, AZ 85280-5002
480-350-8331 TDD 480-350-8400

Re: Letter of Explanation for Use Permit
1850 E. Carver Dr, Tempe, Arizona 85284
Lot 8, Estate La Colina, MCA Parcel #301-50-014, MCR #20541

Dear Sir or Madame:

I'm writing this letter of explanation in compliance with City of Tempe Use Permit requirements.

The Darnell private residence on Lot 8 at 1850 E. Carver in the Estate La Colina neighborhood is almost 30 years old. The inside of the residence was remodeled and recently upgraded with replacement of appliances, hot water heater, water filtration equipment, air conditioning, lighting fixtures, and major electrical wiring. The roof was recently refinished. The backyard was recently landscaped at considerable expense, and the old outdated pool replaced with a state of the art pool package aimed at energy savings and safety.

This is an application for a Use Permit exception to build a "Wall" in the front yard which exceeds the 4' limit restrictions of neighborhood zoning. The front yard of this residence will be upgraded with desert landscaping to use less water and support a beautiful green environment. The existing patio will be replaced with a slightly wider patio enclosed by the Wall. The Wall will not exceed 6' in height.

1. This upgrade to the front of the Darnell residence will greatly enhance and improve the Estate La Colina neighborhood and likely encourage surrounding neighbors to upgrade their own homes which are also almost 30 years old. Area property values will increase.

2. There will be no vehicular or pedestrian traffic problems as a result of this upgrade.

3. There will be no nuisance in air, smell, vibration, temperature, or glare exceeding ambient conditions in the neighborhood.

4. There will be no conflict with the appearance of other homes throughout the neighborhood.

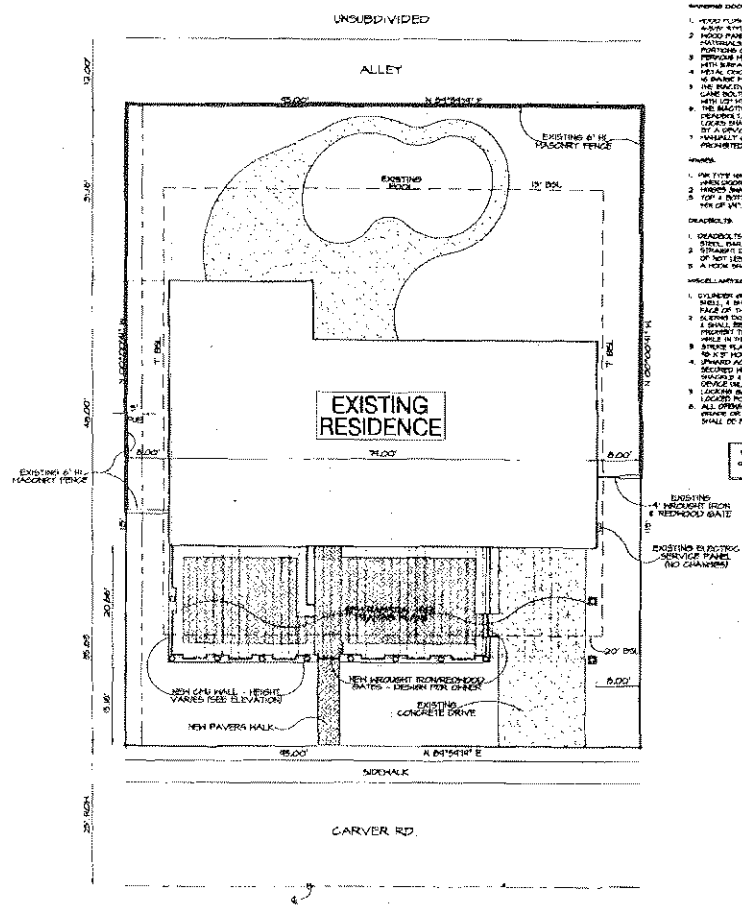
5. Several homes in the area already have walls far exceeding the 4' limit.

6. Quality contractors will be used to upgrade the front yard of this residence.

Thank you for your time and consideration.

Sincerely yours,

David C. Darnell | Home Owner
1850 E. Carver Rd., Tempe, Az. 85284
Phone: 480-897-8479 | Fax: 480-452-1715



SITE PLAN

0 5 10 20

LOT 8
ESTATE LA COLINA
1850 E. CARVER RD.
TEMPE, ARIZONA 85284
MCA PARCEL #301-50-014
MCR #20541
ZONING: R1-7
LOT AREA: 10925 S.F.
LOT COVERAGE PERMITTED: 45% = 4916 S.F.
BUILDING SIZE: EXISTING - 3234 S.F.
RAMADA ADDITION - 1633 S.F.
TOTAL - 4867 S.F.

SHEET INDEX:	
SHEET #	INFORMATION SHOWN
1	SITE PLAN, GENERAL NOTES
2	FLOOR PLAN, ELEVATIONS
3	ROOF FRAMING PLAN, FOUNDATION PLAN
4	SECTION, DETAILS

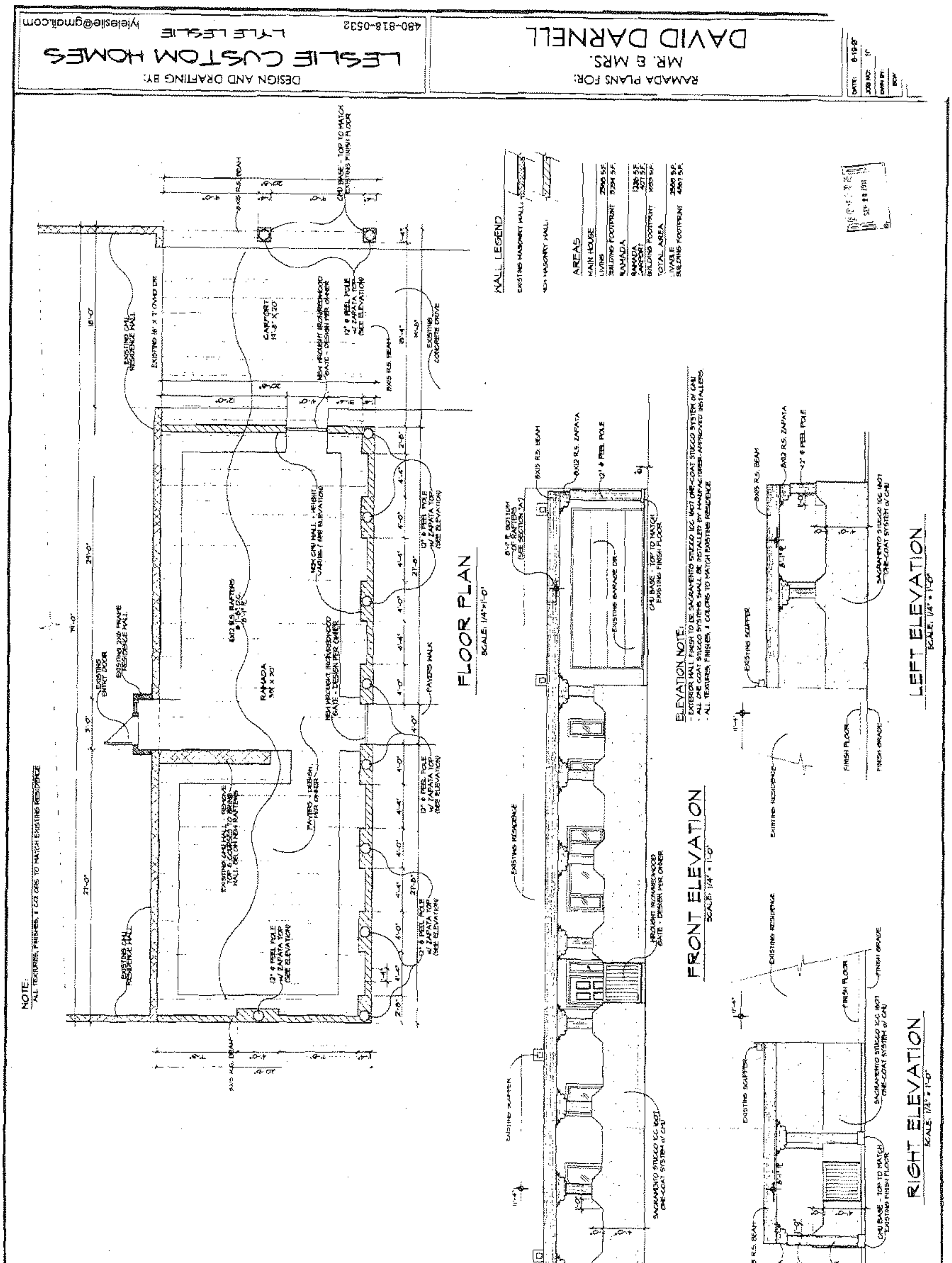
SECURITY SPECIFICATIONS:

GENERAL NOTES:

DESIGN AND DRAFTING BY:
LESLIE CUSTOM HOMES
LYLE LESLIE
480-818-0532
lyleleslie@gmail.com

RAMADA PLANS FOR:
MRS.
DAVID DARNELL

DATE:	8-19-2010
JOB NO.	10-016
DWN BY:	LL
SCALE AS SHOWN	
SHEET	1 OF 4


DESIGN AND DRAFTING BY:
LESLIE CUSTOM HOMES
LYLE LESLIE
480-818-0532
lyleleslie@gmail.com
RAMADA PLANS FOR:
MR. & MRS.
DAVID DARNELL
DATE: 8-19-08
JOB NO: 1
DWN BY:
REV:
WALL LEGEND
EXISTING MASONRY WALL
NEW MASONRY WALL
AREAS
MAIN HOUSE
LIVING 2500 S.F.
BUILDING FOOTPRINT 3394 S.F.
RAMADA
RAMADA 1206 S.F.
CARPORT 407 S.F.
BUILDING FOOTPRINT 1663 S.F.
TOTAL AREA
LIVABLE 2500 S.F.
BUILDING FOOTPRINT 4967 S.F.
NOTE:
ALL TEXTURES, FINISHES, & COLORS TO MATCH EXISTING RESIDENCE
FLOOR PLAN
SCALE: 1/4"=1'-0"
CARPORT 19'-8" X 20'
RAMADA 58' X 20'
EXISTING CMU RESIDENCE WALL
EXISTING 16' X 7' OVHD DR.
EXISTING ENTRY DOOR
EXISTING 2X6 FRAME RESIDENCE WALL
6X12 R.S. RAFTERS @ 1'-6" O.C. 8'-1" R.
NEW CMU WALL - HEIGHT VARIES (SEE ELEVATION)
NEW WROUGHT IRON/REDWOOD GATE - DESIGN PER OWNER
12" Ø PEEL POLE W/ ZAPATA TOP (SEE ELEVATION)
PAVERS - DESIGN PER OWNER
PAVERS WALK
EXISTING CMU WALL - REMOVE TOP 6 COURSES TO BRING WALL, BEL ON NEW RAFTERS
CMU BASE - TOP TO MATCH EXISTING FINISH FLOOR
8X15 R.S. BEAM
EXISTING CONCRETE DRIVE
FRONT ELEVATION
SCALE: 1/4" = 1'-0"
8X15 R.S. BEAM
8X12 R.S. ZAPATA
12" Ø PEEL POLE
8'-1" R. BOTTOM OF RAFTERS (SEE SECTION "A")
EXISTING GARAGE DR.
EXISTING RESIDENCE
EXISTING SCUPPER
WROUGHT IRON/REDWOOD GATE - DESIGN PER OWNER
SACRAMENTO STUCCO ICC 1601 ONE-COAT SYSTEM o/ CMU
FINISH FLOOR
FINISH GRADE
ELEVATION NOTE:
- EXTERIOR WALL FINISH TO BE SACRAMENTO STUCCO ICC 1601 ONE-COAT STUCCO SYSTEM o/ CMU
- ALL ONE COAT STUCCO SYSTEMS SHALL BE INSTALLED BY MANUFACTURER APPROVED INSTALLERS.
- ALL TEXTURES, FINISHES, & COLORS TO MATCH EXISTING RESIDENCE
LEFT ELEVATION
SCALE: 1/4" = 1'-0"
RIGHT ELEVATION
SCALE: 1/4" = 1'-0"

DARNELL RESIDENCE

1850 EAST CARVER ROAD

PL100299

FRONT OF RESIDENCE

Tempe

Minutes
HEARING OFFICER
NOVEMBER 3, 2010

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Kevin O'Melia, Senior Planner
Nick Graves, Planning Intern

Number of Interested Citizens Present: 11

Meeting convened at 1:30 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by November 17, 2010 at 3:00 PM to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for September 21, 2010 had been reviewed and approved.

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2. Ms. MacDonald noted that the following cases have been removed from today's agenda:

   - Request by **DOS GRINGOS – A. T. & T. WIRELESS P456 (PL100321)** (Joe Engbrocks/Bechtel Communications, applicant; Dos Gringos, property owner) located at 8000 South Priest Drive in the GID, General Industrial District for:

     ZUP10122 Use permit to allow a new 65' wireless telecommunication facility (permanent monopalm). (This will replace the existing temporary 65 ft cell tower at this location).
     CONTINUED TO NOVEMBER 16, 2010 HEARING OFFICER

   - Request by the **PAPPANO RESIDENCE (PL100322)** (Michael Pappano, applicant/property owner) located at 207 West Alameda Drive in the R1-6, Single Family Residential District for:

     VAR10010 Variance to reduce the front yard setback from 15 ft to 6 ft for an open structure (carport).
     CONTINUED TO NOVEMBER 16, 2010 HEARING OFFICER

- Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **RANGEL RESIDENCE (PL100316/ABT10030/CE101987)** (Brandy Zedlar, Inspector; Gilbert Rangel, property owner) located at 2612 West Carter Drive in the R1-6, Single Family Residential District.
  WITHDRAWN BY CITY OF TEMPE – CODE COMPLIANCE SECTION

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3. Review of compliance with Condition of Approval No. 18, assigned by the Hearing Officer at the 5/4/10 HO, which reads ' The applicant is to return to the Hearing Officer on November 3, 2010 for review of compliance with these conditions' for the following:

   Request by **RIO SALADO CENTER - TEEN DANCE CLUB (PL100060)** (Thomas George, applicant; Rio Salado Center LLC, property owner) located at 1290 North Scottsdale Road, Suite Nos. 120 – 122 in the PCC-1, Planned Commercial Center Neighborhood District for:

   ZUP10020 Use permit to allow a teen dance hall with live indoor entertainment (live bands, DJ).

   Mr. Thomas George was present to represent this case.

   Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. Two (2) phone calls of inquiry and one (1) phone call of concern were received prior to the report, Mr. Graves noted. Mr. Graves stated that staff would like to add one additional Condition of Approval, COA No. 19, to state that all conditions shall be completed prior to the use permit becoming effective.

   In response to a question from Ms. MacDonald, Mr. Graves confirmed that this business had not yet opened for business.

   Mr. George explained that he would be picking up his building permit today as the red line drawings had been approved. The landlord has begun on the required landscaping improvements. The lighting requirements had been included in the red lined drawings. There will be no exterior sound other than what might occur when the door(s) opens and closes. The security plan will be reviewed on site prior to opening the business. Mr. George noted that the plaza had recently been remodeled and the lighting upgraded. His security personnel will be escorting individuals as they leave and they will be encouraged to exit the premises and not loiter. Clientele would be from the ages of 16 to 20.

   Mr. George confirmed that he understood the added Condition of Approval No. 19 and had no problem(s) with any of the assigned Conditions of Approval.

   Mr. Lane Caraway, of the North Tempe Neighborhood Association, spoke in opposition stating that they did not want this business. He noted that issues with drugs, alcohol and prostitution were present at the Santa Fe Court Apartments. Ms. MacDonald responded that they were not here to discuss the Santa Fe Apartment Complex which had been addressed in the early hearing for this use permit. Mr. Caraway stated that the Complex was only 100 ft away from this venue's location and that he felt it would be conducive to a younger generation being led astray. Nearby liquor stores added to the location problems. He did not feel that the security personnel employed by Mr. George would be able to accommodate the number of people leaving the Dance Club at one time. NTNA will protest this venue until it closes, Mr. Caraway stated.

Mr. George responded to Mr. Caraway's comments stated that the issues had been addressed previously. His concern is his business and not the apartment complex. There will be no drinking at the teen club. He is not there to monitor someone else's children patronizing liquor stores or participating in activities at the apartment complex. He has done his research and complied with all of the City's stipulations.

Ms. MacDonald stated that although Mr. George does not have a track record as yet on which to base a decision, he has made every effort to comply with the City regulations. Condition of Approval No. 18 has been modified to require Mr. George to return to the Hearing Officer for a review in 6 months (May 3, 2011). There is no reason to believe that Mr. George would not be a good neighbor at this location and she would uphold the previous Hearing Officer's decision based on the modified conditions.

DECISION:

Ms. MacDonald re-approved PL100060 / ZUP10020 subject to the following modified conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is valid for Teen Dance Club and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
3. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
4. Music/sound/noise generated from the use shall conform to the City of Tempe code requirements for noise control.
5. The live entertainment use shall take place inside only. No live entertainment will be allowed outside.
6. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
7. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the use permit becoming effective. Applicant must obtain a Teen Dance Hall license per City Code, Chapter 16A-140, prior to this use permit becoming effective.
8. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
9. The use permit is valid for the plans as submitted within this application.
10. The applicant shall work with the Tempe Police Department to implement a Security Plan for the business. Please contact **William Gallauer at 480-350-8749**. This security plan shall specifically addressed issue of parking lot monitoring and staffing, lighting improvements that might be necessary, identification training for employees, review of the parking lot escort plan and screening control at the door of the participants. **MODIFIED BY STAFF**
11. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350- ~~8331~~ **8372**. **MODIFIED BY STAFF**
12. Replace all missing trees along the north landscape area and in the north landscape islands; along with any other missing landscape material.
13. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review.
14. Provide ten inch (10") vinyl suite/address numbers on proper suites.
15. Replace bicycle parking racks per City of Tempe Public Works Department bicycle rack detail T-578 standard.
16. Hours of operation to end no later than 11:30 p.m. on a daily basis.
17. Applicant is responsible for trash pickup in the parking lot adjacent to the club.
18. The applicant is to return to the Hearing Officer on ~~November 3, 2010~~ **May 3, 2011** for review of compliance with these conditions. **MODIFIED BY STAFF**

19. **All conditions shall be completed prior to the use permit becoming effective. ADDED BY STAFF**

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4. Request by **CROWN CASTLE PUBLIC STORAGE – A. T & T. WIRELESS W252-BB (PL100195)** (Grettel Keane/Westower Communications, applicant; Lori Kind, Leasing Agent/Crown Castle Public Storage, property owner) located at 1737 East McKellips Road in the GID, General Industrial and RSOD, Rio Salado Overlay Districts for:

ZUP10084 Use permit to increase the height of an existing monopole from 58 ft to 75 ft to allow the co-location of wireless antennae.

ZUP10085 Use permit standard to allow a 25 percent reverse front yard setback reduction along Larkspur from 25.0 ft to 18.75 ft for placement of an 8 ft tall equipment screen wall.

Ms. Grettel Keane of Westower Communications was present to represent this case.

Kevin O'Melia, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Ms. MacDonald noted that this request meets the criteria for use permit and use permit standards.

DECISION:

Ms. MacDonald approved PL100195 / ZUP10084/ ZUP10085 subject to the following conditions:

1. Obtain all necessary clearances and permits from the Building Safety Division. Protect all existing civil features in place. No drainage clearance is required if project is developed as shown.
2. The use permit for intensification and co-location of an existing monopole is granted based on the presentation made with this request. The features of this request include a maximum 17'-4" monopole height increase and the addition of one antennae array above the two existing antennae decks. Match proposed monopole material and finish to that of the existing monopole.
3. Any intensification or expansion of use beyond that presented, including additional height and/or antennae, will require a new use permit.
4. The use permit standard for reduction of reverse front yard setback in order to insert a mechanical yard between the existing south building elevation and the reverse front yard setback line is granted based on the presentation made with this request.
   a. The building features of this request include the concealment of coaxial cables within the storage facility compound. A surface-applied, tamper-proof chase for the co-axial cable is not proposed that is visible from the exterior of the compound. Remove the outdated note on the site plan that indicates a co-axial cable on the south elevation of the exterior to the compound. Do not locate the co-axial cable bridge near the southwest corner of the compound or the entry ports for the cables into the storage building at a height that is above the height of the storage compound wall.
   b. The landscape features of this request include removal of an existing dead tree and stump on the frontage facing Larkspur and replacement with a thornless mesquite (Prosopis x 'Phoenix') of 24" box size at installation, refurbishment of automatic irrigation system on site, replacement of bare earth in frontage with a 2" application of decomposed granite (Madison Gold, ½" minus size), and the addition of a continuous swallow swale adjacent to Larkspur to prevent decomposed granite runoff into the street.
5. As part of landscape installation on Larkspur, ensure that trees are provided along this frontage in quantity to meet or exceed one tree per 30 lineal feet of frontage. Existing trees may be utilized in this quantity. Additional trees shall be thornless mesquite (Prosopis x 'Phoenix') of 24" box size at installation. Extend existing automatic irrigation system to additional trees.

6. The mechanical yard enclosure wall shall be minimum 8'-0" in height and as much higher as needed to equal or exceed in height the full height of the equipment enclosed including equipment applied to the exterior wall of the lease space. Provide access to the mechanical enclosure yard consisting of a tight metal mesh gate and steel frame or a hollow metal door and frame. Provide gate and (optionally) a masonry lintel over the gate that together match the height of the enclosure wall. The access gate and frame shall be painted to match the existing building wall.
7. The enclosure door as well as the equipment room door entrance to combined space 15 and 16 within the storage facility shall be illuminated by means of a sun-sensitive photo cell from dusk to dawn with minimum 5.0 foot candles of light. Do not expose conduit for the light on the exterior of the compound.
8. The wireless device shall be removed within 30 days of discontinuance of use.

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5. Request by the **DARNELL RESIDENCE (PL100299)** (Lyle Leslie/Leslie Custom Homes, applicant; David Darnell, property owner) located at 1850 East Carver Road in the R1-7, Single Family Residential District for:

   ZUP10120 Use permit to allow an increase in the maximum allowable wall height within the front yard setback from 4 ft. to 6 ft.

   Mr. Gary Snyder was present to represent this case.

   Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. Mr. Graves referred to the elevation drawings and that the majority of the wall will not exceed 4 ft. He stated that staff would like to add a condition stipulating that the height of the wall shall be no greater than 5 feet 6 inches.

   Mr. Snyder noted that he was the General Manager of the project, and that the wall would be between 4 to 5 ½ feet.

   Ms. MacDonald noted that Condition of Approval No. 2 stipulates that the wall needs to meet the depictions on the plans as submitted with this application. Condition of Approval No. 4 limits the wall height to 5 ½ feet. Mr. Snyder stated that he had no problem with this requirement.

   DECISION:
   Ms. MacDonald approved PL100299 / ZUP10120 subject to the following conditions:
   1. Obtain all necessary clearances from the Building Safety Division.
   2. Approval is valid for plans as submitted within this application.
   3. Obtain all necessary clearances from the Public Works Department for on-site retention and paving. Design patio to conform to Tempe Engineering Standards.
   4. **The height of the wall shall be no greater than 5 feet 6 inches. ADDED BY STAFF**

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6. Request by **BROADWAY SQUARE - ROLL YOUR OWN TOBACCO (PL100313)** (Mike Gallagher/ODM Marketing LLC, applicant; Red Mountain Asset Fund I LLC, property owner) located at 1845 East Broadway Road, Suite No. 102 in the CSS, Commercial Shopping & Services District for:

   ZUP10118 Use permit to allow a retail smoke shop offering tobacco and tobacco paraphernalia products.

Mr. Mike Gallagher was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Mr. Gallagher stated that he had read the Conditions of Approval and had no problem with them.

The requirement of adequate ventilation, reference Condition of Approval No. 4, was discussed.

Ms. MacDonald noted that this use was compatible with other neighborhood businesses and meets the use permit criteria.

DECISION:
Ms. MacDonald approved PL100313 / ZUP10118 subject to the following conditions:

1. The use permit is valid for ~~Smoke World~~ **Roll Your Own Tobacco** and may be transferable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation. **CORRECTED BY STAFF**
2. The use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective. Since smoking will be permitted on the premises, the owner/management is responsible to adhere to the 2003 International Mechanical Code.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
6. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
7. The applicant shall submit a security plan to the City of Tempe Crime Prevention Unit. Contact Crime Prevention at 480-858-6330 within 30 days of this approval (December 3, 2010).

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7. Request by **HOUSE OF GLASS PIPES & GIFTS LLC (PL100326)** (Joshua Gault/House of Glass Pipes & Gifts LLC, applicant; 1630 Apache LLC, property owner) located at 1630 East Apache Boulevard, Suite No. 101 in the CSS, Commercial Shopping & Services District for:

ZUP10123 Use permit to allow a retail smoke shop offering tobacco and tobacco paraphernalia products.

Mr. Joshua Gault was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Mr. Chuck Buss, of University Heights Neighborhood Association, spoke in opposition, stating that this was a negative use for this area. The lighting in the parking lot has been a problem for years, he stated. The bus stop which is about a 100 ft away encourages transits in the area.

Mr. Ernest Kurschat, leasing agent & Tempe resident, left comments in support to be read into the record, stating that he had been a Tempe resident for 14 years and that this business will bring vitality to the area.

Mr. Gault returned to explain that the lighting problem was being addressed by the landlord and improvements made. The store will offer high end products for sale. They have worked to make this a presentable, safe environment for the community.

Mr. Buss returned to ask about hours of operation and if a security plan had been provided. Ms. MacDonald read from the staff report which stated the intended hours of operation will be Monday to Thursday from 10:00 a.m. to 9:00 p.m., Friday and Saturday from 10:00 a.m. to 2:00 a.m., and closed on Sundays. Mr. Buss questioned the late hours on the weekend (i.e. Friday and Saturday).

Mr. Gault explained that Long Wongs bar and restaurant kept late hours and their customers would be able to patronize his store during that time period. This is a service which he wanted to provide to those individuals.

Mr. Abrahamson noted for the record that the nearby Harem Nights, which had extended hours, has closed their business.

Ms. MacDonald noted that this business would not add to the existing foot traffic already in existence to the adjacent businesses, nor that it would contribute to the deterioration of the neighborhood, and that it was compatible to the existing structures.

DECISION:

Ms. MacDonald approved PL100326 / ZUP10123 subject to the following conditions:

1. The use permit is valid for House of Glass Pipes and Gifts LLC and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective. Should smoking be permitted on the premises, the owner/management is responsible to adhere to the 2003 International Mechanical Code.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
6. The gross sale of beverage and snack items may not exceed that of tobacco and hookah products.
7. All doors shall have illumination to meet five (5) foot candles at the door and two (2) foot candles within a 15' radius. Details to be approved through Building Safety Plan Review.
8. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8372.
9. The applicant shall contact City of Tempe Crime Prevention Unit for a Security Plan. Contact Crime Prevention at (480) 350-8311 within 30 days of this approval (December 3, 2010).

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8. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **BANK OF AMERICA PROPERTY (PL100273/ABT10028/CE102618)** (Brandy Zedlar, Inspector; Bank of America, property owner) located at 2401 West Vineyard Road in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Brandy Zedlar, Code Compliance Inspector, explained that plants and weeds in excess of 12" in height exist in the front, side and back yard areas and dead landscape bushes in front of the residence exist.

DECISION:
Ms. MacDonald approved abatement proceedings for PL100273 /ABT10028 /CE102618 for an open period of 180 days.

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9. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **LAUX PROPERTY (PL100282/ABT10026/CE101267)** (Jack Scofield, Inspector; Margaret Laux, property owner) located at 1965 East Lodge Drive in the R1-6, Single Family Residential District.)

   No one was present to represent the property owner.

   Jack Scofield, Code Compliance Inspector, explained that trash, litter and landscape debris, including dead plants and grass/weeds in the gravel area of front and side yards exist.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL100282 /ABT10026 /CE101267 for an open period of 180 days.

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10. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **J. P. MORGAN CHASE BANK PROPERTY (PL100283/ABT10029/CE102235)** (Brandy Zedlar, Inspector; J. P. Morgan Chase Bank, property owner) located at 6103 South College Avenue in the R1-6, Single Family Residential District.

    No one was present to represent the property owner.

    Brandy Zedlar, Code Compliance Inspector, explained that over height weeds and grass are present in the front and street side yards, along with debris and grass growing in the side yard.

    DECISION:
    Ms. MacDonald approved abatement proceedings for PL100283 /ABT10029 /CE102235 for an open period of 180 days.

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11. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **GUTIERREZ RESIDENCE (PL100303/ABT10027/CE102786)** (Jack Scofield, Inspector; Luciano & Lisa Gutierrez, property owner) located at 4419 South Alder Drive in the R1-6, Single Family Residential District.

    No one was present to represent the property owner.

    Jack Scofield, Code Compliance Inspector, explained that a dead tree and stump in the front yard needed to be removed or cut to ground level.

DECISION:
Ms. MacDonald approved abatement proceedings for PL100303 /ABT10027 /CE102786.

The next Hearing Officer public hearing will be held on **Tuesday, November 16, 2010.**

There being no further business the public hearing adjourned at 2:40 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

SA:dm

ROSEN PROPERTY

Staff Summary Report

Tempe

Hearing Officer Hearing Date: 9/06/11 **Agenda Item Number:** 12

SUBJECT: This is a public hearing for a request by the **ROSEN PROPERTY** located at 1229 West 10th Street for one (1) use permit.

DOCUMENT NAME: 20110906cdsl012 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **ROSEN PROPERTY (PL110305)** (Robert Rosen, applicant/property owner) located at 1229 West 10th Street in the R1-6, Single Family Residential District for:

ZUP11081 Use permit to increase the maximum allowable height of a wall in the front yard setback from 4 ft. to 6 ft.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

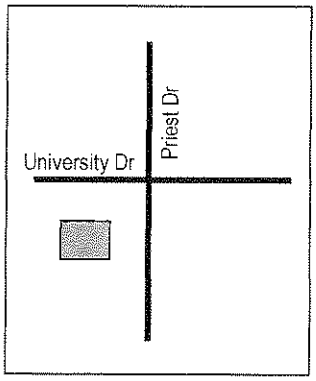
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is requesting approval of a use permit to allow the increase in the maximum allowable height of a wall located in the front yard setback from 4 ft. to 6 ft. The use permit will allow for the creation of a courtyard in the front of the house along the street front. Staff is in support of the use permit request with the finding that they meet the Zoning and Development Code criteria for approval of a use permit

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Staff Site plan
5. Applicant Site Plan
6. Wall Elevation

COMMENTS:

The Rosen Residence is requesting a use permit to allow the maximum height for a wall in the front yard setback to be increased from 4 ft. to 6 ft. (actual height 5 ft. 8 inches). The wall will create a courtyard which located in the front yard but technically serves as a side yard courtyard due to the location of the front door on the side of the dwelling. Staff supports a courtyard at the front of residence. The front yard is usually a passive inactive area; a courtyard will provide a patio bringing people closer to the street; fostering a greater sense of community, bring a presence to the street hopefully to deter crime by increasing awareness of activity on the street.

Use Permit

The Zoning and Development Code requires a use permit to increase the maximum allowable height of a wall in the front yard setback from 4' to 6'.

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
   - There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.

b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
   - The proposed use should not create any nuisances.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;
   - The area is in compliance with the General Plan and neighborhood intent.

d. Compatibility with existing surrounding structures and uses;
   - The proposed wall or arch is intended to provide an aesthetic look and will not create a nuisance for the surrounding area.

e. Adequate control of disruptive behavior both inside and outside the property, which may create a nuisance to the surrounding area or general public.
   - People presence at the street will aide in controlling disruptive behavior in the surrounding area.

Conclusion

Staff recommends approval of the use permit

REASON(S) FOR APPROVAL:

1. The authorizing of the use permit is necessary for the preservation and enjoyment of substantial property rights.
2. Authorization of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent properties, to the neighborhood or to the public welfare in general.
3. The wall in the front yard setback will provide a presence at the street.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. Obtain any necessary clearances from Building Safety Division for wall construction and Public Works Department regarding on site retention.

HISTORY & FACTS:

None pertinent to this case.

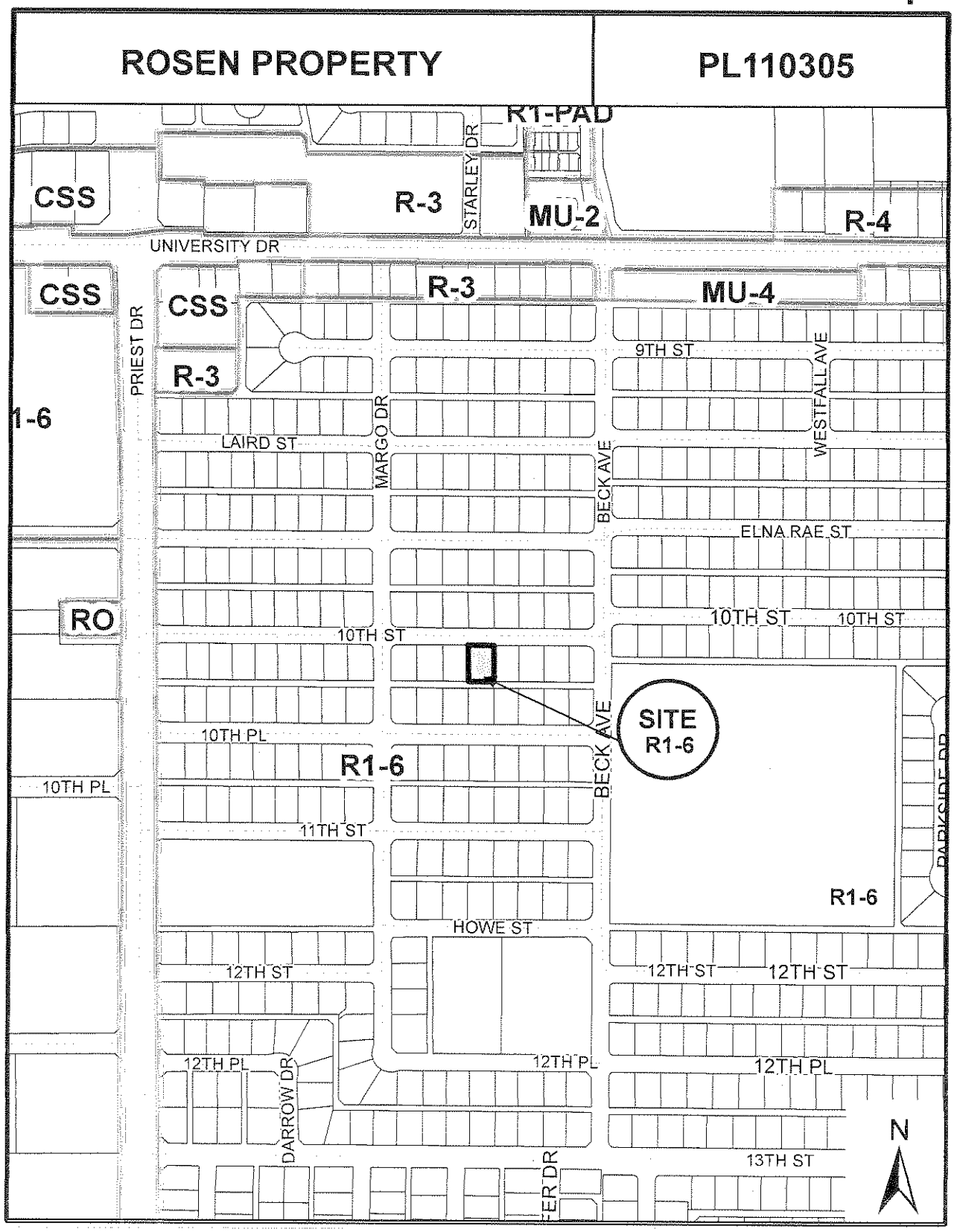
DESCRIPTION:

Owner – Robert Rosen
Applicant – Robert Rosen
Existing Zoning – R1-6, Single Family Residential District

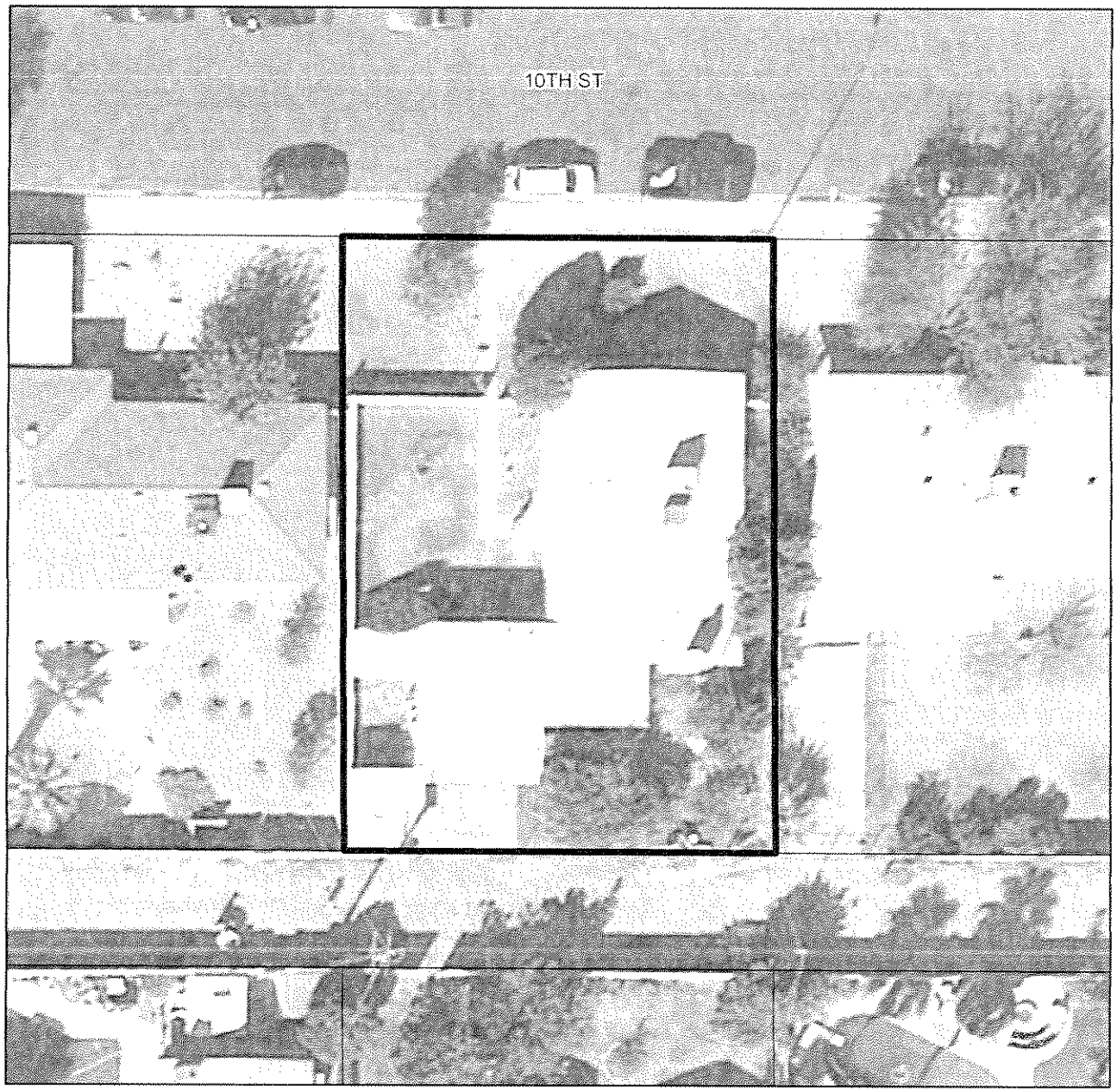
ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 7, Section 4-706A – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

Tempe

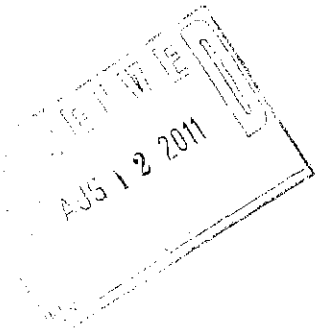


Location Map



ROSEN PROPERTY (PL110305)

Robert Rosen
1229 W 10th St
Tempe, AZ 85281



TO: City of Tempe

LETTER OF EXPLANATION

Request: Use permit for a front yard fence.

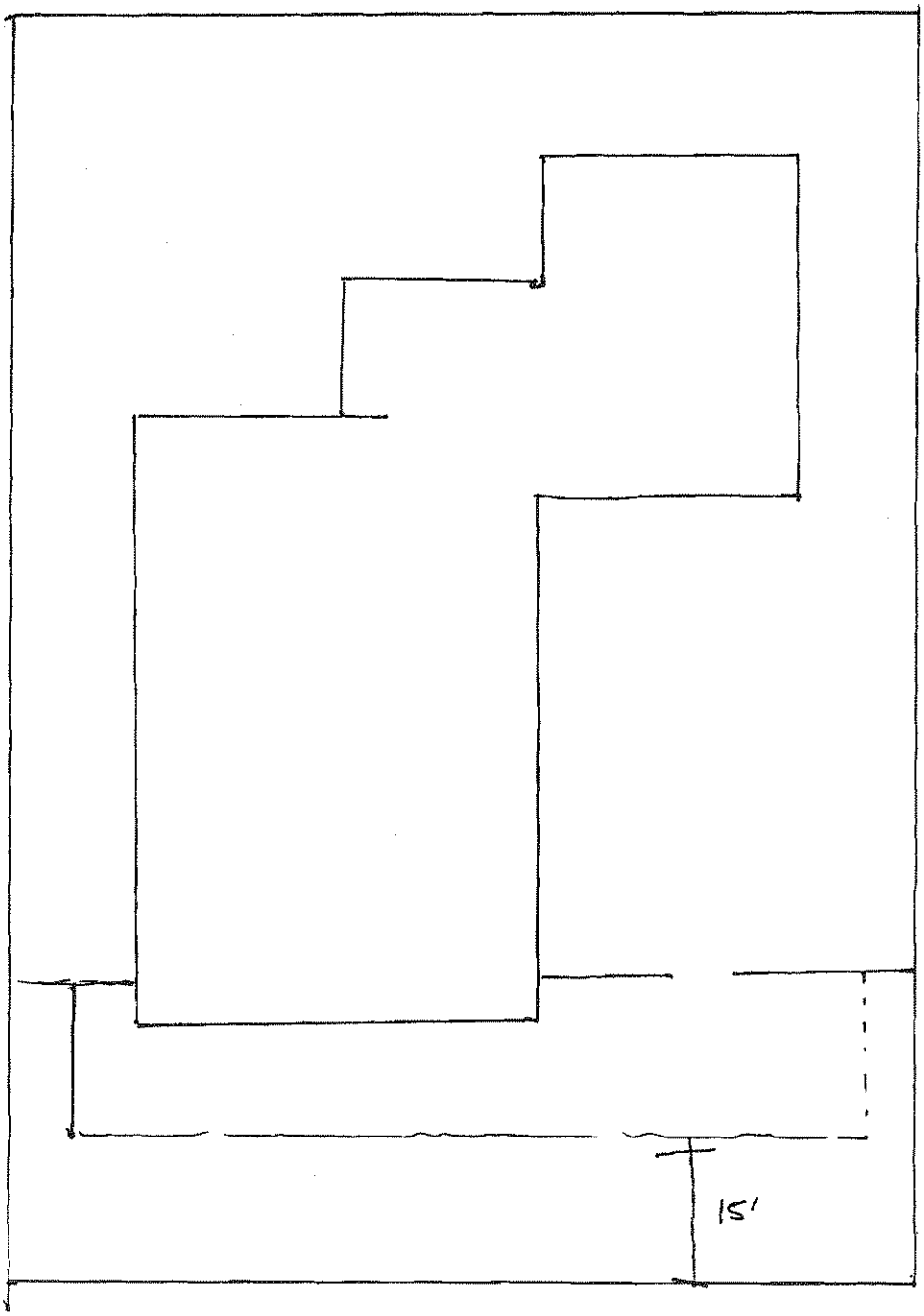
Motivation is to create a private and secure courtyard. The house is unusual in that the front/door faces the side of the lot resulting in a side courtyard. The house is of typical neighborhood design except it is turned sideways on the lot.

The design of the fence would be of the same height as the existing west property line block wall (approx. 5'8"). The posts would be 5" wide flange beams. Wire mesh to be fastened between posts and the resulting narrow gabion would be filled with rock and /or broken block. The gabion to be filled, in such a manner and/or height, to comply with the "Clear Vision Requirements".

Any further questions, please contact me.

Sincerely,

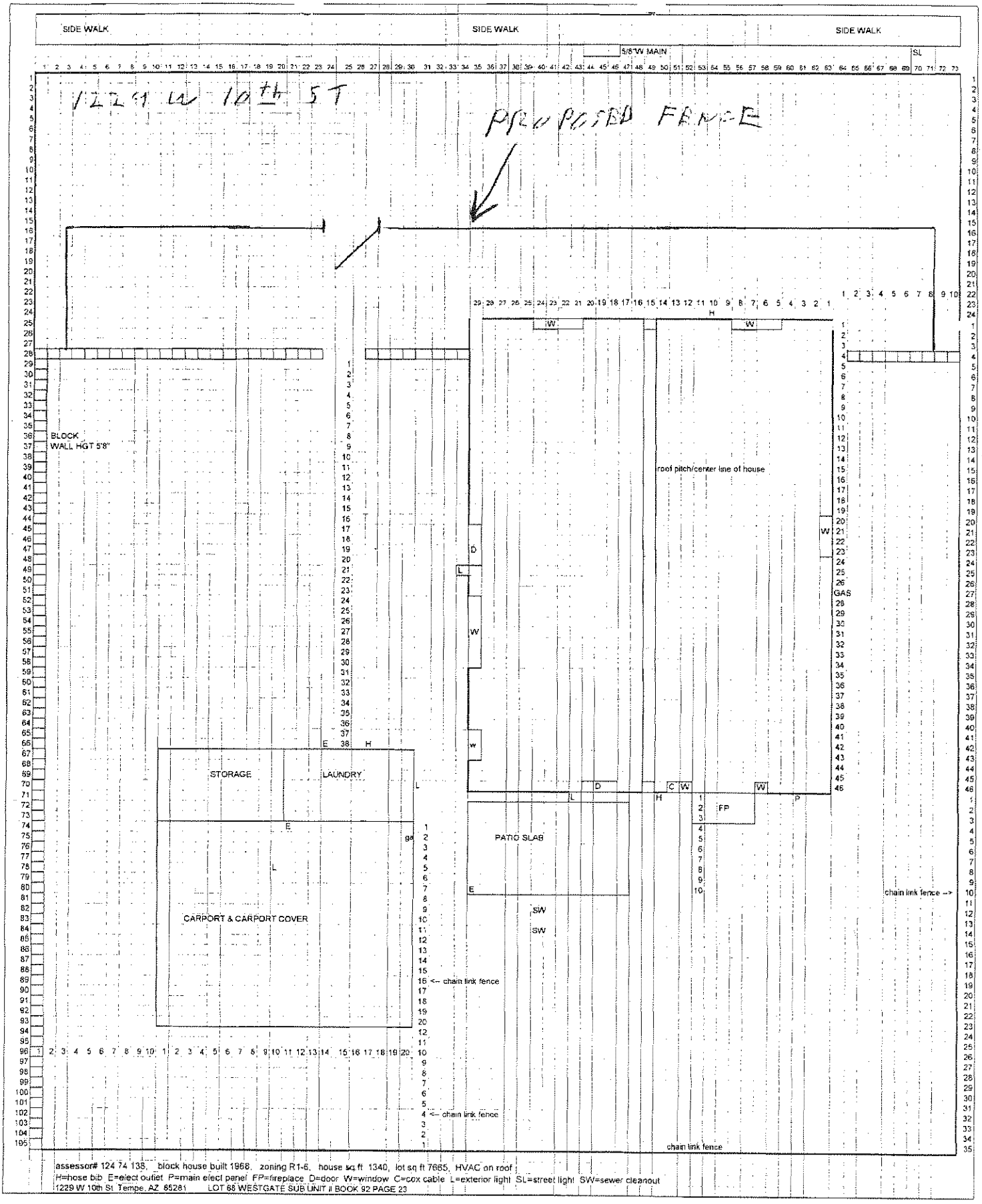
Robert Rosen



ATTACHMENT 3

ATTACHMENT 4

STAFF SITE PLAN



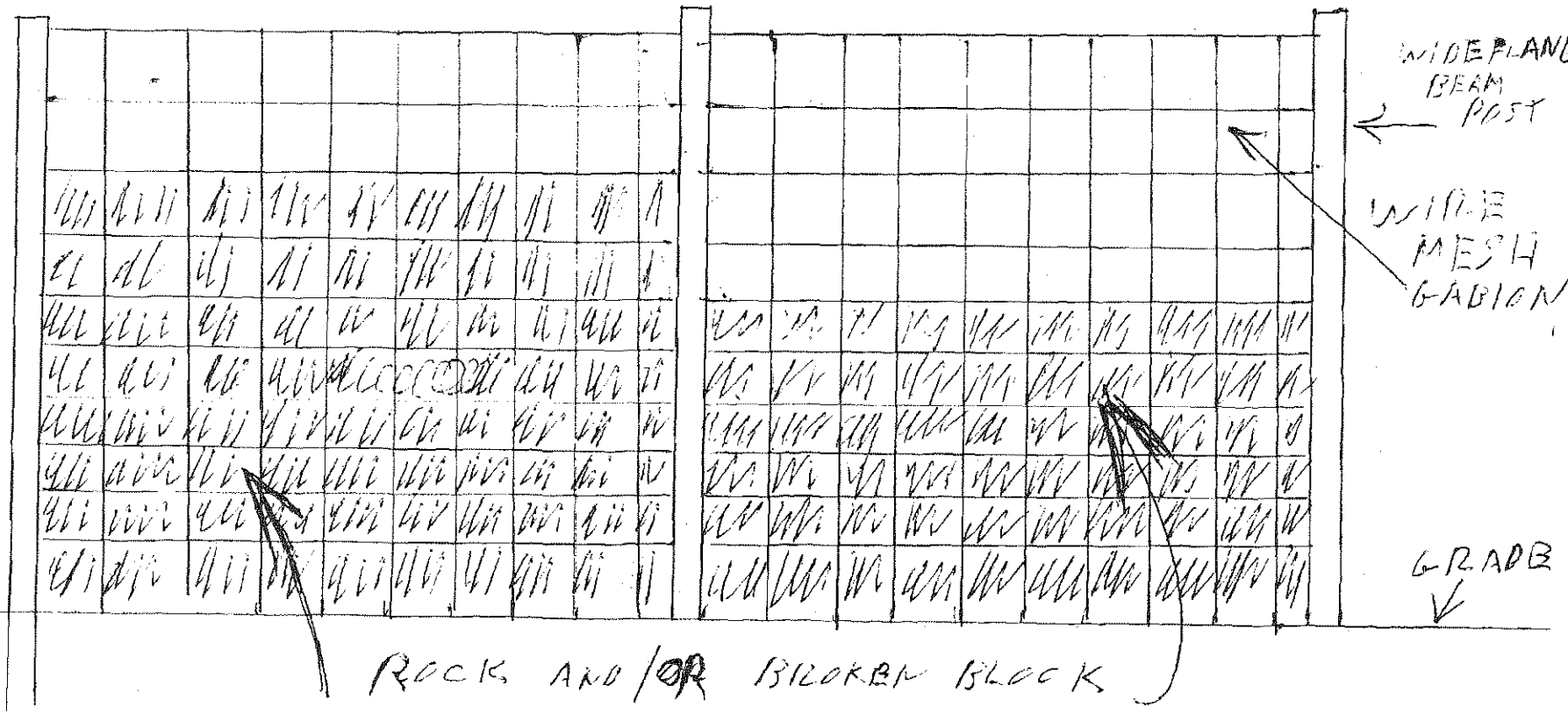
assessor# 124 74 138, block house built 1968, zoning R1-6, house sq ft 1340, lot sq ft 7665, HVAC on roof

H=hose bib E=elect outlet P=main elect panel *FP*=fireplace D=door W=window C=cox cable L=exterior light SL=street light SW=sewer cleanout

1229 W 10th St Tempe, AZ 85281 LOT 68 WESTGATE SUB UNIT II BOOK 92 PAGE 23

ROBERT ROSEN
1229 & 1215

TYPICAL SECTION OF FRONT YARD FENCE



ATTACHMENT 383

Tempe

Minutes
HEARING OFFICER
SEPTEMBER 6, 2011

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:
Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Kevin O'Melia, Senior Planner

Number of Interested Citizens Present: 19

Meeting convened at 1:30 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by September 20, 2011 at 3:00 PM to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for August 16, 2011 had been reviewed and approved.

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2. Ms. MacDonald noted that the following item(s) had been removed from today's agenda:

   - Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **ALPHA SIGMA HOUSING CORPORATION PROPERTY (PL110266 /ABT11031 /CE111791)** (Michael Spencer, Inspector; Alpha Sigma Housing Corporation Inc., property owner) located at 717 East Alpha Drive in the GID, General Industrial District.
     ABATEMENT REQUEST WITHDRAWN BY CODE COMPLIANCE

   - Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **RAINS PROPERTY (PL110296 /ABT11036 /CE111968)** (Jack Scofield, Inspector; Rebecca Rains, property owner) located at 2102 East Radcliffe Drive in the R1-6, Single Family Residential District.
     ABATEMENT REQUEST WITHDRAWN BY CODE COMPLIANCE

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3. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **SPIRAL BROADCASTING COMPANY SBC LLC PROPERTY (PL110293 /ABT11032 /CE110482)** (Marvin White, Inspector; Doug McClure/Spiral Broadcasting Company SBC LLC, property owner) located at 616 West Baseline Road in the CSS, Commercial Shopping and Services District.

   No one was present to represent the property owner.

   Marvin White, Code Inspector, explained that the emergency abatement on this property has been completed. The abatement was for an unsecured building only at a cost of $306.00. The other violations on this property have been completed by the owner. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline.

   Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL110293 /ABT11032 /CE110482 for an open period of 180 days.

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4. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **DONNELLY RESIDENCE (PL110289 /ABT11033 /CE103870)** (Shawn Daffara, Inspector; John Donnelly, property owner) located at 3111 South Clementine Drive in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

   Shawn Daffara, Code Inspector, explained that there is junk and debris in the front and rear yards and an illegal structure/building in the back yard. Due to medical issue(s) (i.e. surgery), Mr. Donnelly was granted a two month time extension(s) until July 2011 and, although some progress was made, the property continues to be non-compliant. A Notice of Trustee sale has been posted to this property. It was noted that complaint history goes back to the year 2000.

   Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL110289 /ABT11033 /CE103870.

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5. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **SIMPSON PROPERTY (PL110295 /ABT11034 /CE111879)** (Shawn Daffara, Inspector; Delores Simpson, property owner) located at 1714 South Parkside Drive in the R1-6, Single Family Residential District.

   No one was present to represent the property owner.

Shawn Daffara, Code Inspector, explained that the property is currently being occupied by a renter, Mr. David Whisler, who has indicated he has resided at this address for the past 12 years. There are three (3) inoperable vehicles in the driveway and carport with flat tires. The back yard has high grass and weeds, dead trees and landscape debris. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline.

Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

DECISION:
Ms. MacDonald approved abatement proceedings for PL110295 /ABT11034 /CE111879 for an open period of 180 days.

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6. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **BAC HOME LOANS SERVICING LP PROPERTY (PL110297 /ABT11035 /CE112275)** (Jack Scofield, Inspector; BAC Home Loans Servicing LP, property owner) located at 4432 South Juniper Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Jack Scofield, Code Inspector, explained that the property has grass and weeds growing in the gravel areas of the front and side yards, trash and debris in the front and rear yards, and a deteriorated pool with green stagnant water. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline. In response to a question from Ms. MacDonald, Mr. Scofield explained that the pool will be drained.

Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

DECISION:
Ms. MacDonald approved abatement proceedings for PL110297 /ABT11035 /CE112275 for an open period of 180 days.

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7. Request by **AGAVE CENTER – CARL'S JR RESTAURANT (PL090412)** (Nick Wood/Snell & Wilmer LLP, applicant; Property Reserve Arizona LLC, property owner) located at 8825 South Jewel Street in the PCC-1, Planned Commercial Center Neighborhood District and SWOD, Southwest Tempe Overlay District for:

VAR11006 Variance to allow a drive-through lane on the street side of the building deviating from Zoning & Development Code Section 3-408, drive-through orientation requirements.

VAR11007 Variance to waive trees in the landscape islands for a portion of the parking area within the El Paso Natural Gas line easement.

Mr. Nick Wood was present to represent this case.

Kevin O'Melia, staff planner, gave an overview of this case, noting that these two (2) variances had been requested and approved previously in January 2010, but that the approvals were allowed to expire for lack of a building safety plan check submittal within the allotted deadline. These variances allow development of this lot for a restaurant with a vehicular drive-through for food pickup. The natural gas easement limits the ability of the

site development with respect to the requirements of the Zoning and Development Code and meets the requirement of a hardship factor. Staff supports both variance(s) subject to the assigned Conditions of Approval.

Mr. Wood gave an overview of the project and confirmed his understanding of the assigned Conditions of Approval.

Ms. MacDonald reviewed the criteria for variance(s) and noted that this request meets those requirements (i.e. special circumstances that apply to this property which is the gas line location).

DECISION:

Ms. MacDonald approved PL090412 / VAR11006/ VAR11007 subject to the following conditions:

1. Development Plan Review approval shall be obtained and construction documents for site development shall be submitted to the Community Development Building Safety Division for building permit by September 6, 2012 or the variance approvals shall be made void. Subsequently, expiration of the building plan check period or issued building permit will result in expiration of the variances.
2. Provide a continuous minimum 3'-0" high screen on the street side of the drive-through. The screen shall consist of a combination of landscape berm and masonry or concrete site wall. The landscape berm may not be less than 50 percent of the entire screen. Provide site wall of materials and finish that architecturally compliments the materials and finish of the building. Details of screen wall and landscape berm layout shall be approved during Development Plan Review process.
3. Modify the existing retention basin on the western edge of Lot 3 to coordinate with the development of Lot 3. The reconfigured basin is required to handle 100 year storm water runoff for Jewel Street (east half) extending from Warner Road south to Ranch Road. The reconfigured retention basin may be divided to include a portion of storm runoff on Lot 4, subject to agreement of adjacent property owner(s) and the C.O.T. Public Works Engineering Division.
4. The exemption of trees applies only to parking landscape islands or other landscape areas that are over the gas line easement. For each required tree that is exempted, install one additional tree (minimum 24" box installation size) on site or in one of the adjacent street frontages that otherwise would not be required by the Zoning and Development Code. Install trees so there is a continuous line of mature tree canopy along the street frontages opposite the drive-through. Details of tree selection and locations shall be approved during Development Plan Review process.
5. Install landscape islands over the gas line easement where planting in islands provides a 100 percent ground cover spread when plants are mature. Details of plant selection and layout shall be approved during Development Plan Review process.
6. Promptly repair damage to paving and landscape caused by periodic heavy maintenance to gas lines contained under the natural gas easement.
7. The site parking layout with dimensions as indicated does not meet the minimum standards of the Zoning and Development Code (ZDC) with respect to fire/refuse lane layout (item d. below) and landscape island size (item e. below). Incorporate the requirements of items a., b. and c. below and make adjustments to the site plan to correct the parking layout.
    a. Minimum standard parking space is 8'-6" wide and 18'-0" long, but 2'-0" of parking space length may overhang adjacent paved walkway or landscape in accordance with ZDC Sec. 4-606(A.1.). At a walkway, provide minimum 4'-0" access width on paving outside of parking space overhang.
    b. Minimum disabled van accessible parking space width is 8'-0" with an 8'-0" side aisle in accordance with COT Engineering Standard Detail T-360.
    c. Maintain minimum 23'-0" wide two-way drive aisle width in accordance with ZDC Tab. 4-606A.

d. On the site plan indicate outline of 20'-0" wide fire and solid waste lane through parking lot in accordance with ZDC Fig. 4-502(G). Locate fire lane entirely in drive aisle. Maintain fire lane entirely clear of landscaped island curbs and parking spaces. Do not provide turn radius that is less than the minimum allowed.
e. Provide landscaped islands of minimum size and area in accordance with ZDC Sec. 7-704(C.2.)

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8. Request by **CAMPUS CELLULAR/42 DEGREES SMOKE SHOP (PL110283)** (Geoffrey Turner/Communicom LLC, applicant; Winter Wren LLC, property owner) located at 946 South Mill Avenue in the CC, City Center District for:

ZUP11075 Use permit to allow a tobacco retailer.

Mr. Geoffrey Turner was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that the business will involve the sale of tobacco-related products, tobacco, cigarettes and smoking related items. The store combines two separate retails uses; a cellular phone store and a smoke shop. The store will be located across from AZ State University. This request meets the criteria for a use permit and the school separation requirement. Six (6) e-mails in opposition and one (1) phone call in opposition have been received on this request.

Mr. Turner noted that he has been operating the store for the past year without the necessary use permit as he was confused about the necessity for one as he was not selling tobacco products.

Mr. Abrahamson questioned Mr. Turner as to whether tobacco products were being sold; Mr. Turner stated that tobacco was not currently being sold. Tobacco related products such as smoking items are being sold.

Ms. MacDonald addressed the issue of bongs and water pipes, which are being sold at the location, and questioned whether tobacco would be smoked utilizing those items. Mr. Turner stated that the items were not typically used to smoke tobacco except hookah.

Ms. MacDonald questioned staff if this vendor was being given approval with this use permit to sell items to be used in smoking illegal substances. Does the Ordinance address this issue, she asked. Mr. Abrahamson referred to the Ordinance and read the related material to smoking related items. If Mr. Turner is stating that these items (i.e. bongs, glass pipes) are being used to smoke tobacco, the Ordinance allows for the sale of tobacco paraphernalia items.

Mr. Steven Tseffos spoke in opposition, stating that Mr. Turner is not vested in the neighborhood and it is business operation(s) of this nature which have caused Tempe to go from funky to seedy. This area is the gateway to the downtown and maintained appropriately. This use (i.e. selling drug paraphernalia) would promote deterioration to this area which is primarily residential. This type of use will encourage crime and does not fit the area.

Ms. Peggy Warner, owner of Vanity on Mill Hair Gallery and Spa, located at 944 South Mill Avenue, spoke in opposition to this request noting her concerns regarding security issues and vagrants. The homeless are a problem especially at night when clients come to the shop. She would like to see something that would be more supportive of the area than this request.

Mr. Rick West, State Farm Insurance agent, spoke in opposition to this request stating that he had recently relocated his business to this area as he wanted a location near downtown Tempe. He agreed with the previously statements voiced by those opposed to this request. He stated that he has children, including a son who is a freshman at ASU, and can't condone the smoke shop items being sold by this establishment. As a community we should do anything possible to divert our children from the use of illegal substances, he stated.

Mr. Jan Scott Glasser, spoke in support of this request. He stated that he is the night manager at Munchies Café and has found Mr. Turner to be a professional and trustworthy individual who sells great cell phones. There are other established smoke shops in Tempe that sell paraphernalia of this type as part of their inventory, he stated.

Ms. MacDonald and Mr. Abrahamson noted for the record that several e-mails of opposition had been received and would be part of the public record for this case.

Mr. Turner returned to the podium to address issues such as security. He noted that his business works with the Tempe Police and robberies can occur anywhere. Many of his cell phone customers buy smoke shop products and vice versa. The tattoo shop and his business have very similar type of customers. His business is not promoting drug use and has no intention of doing so. The number of people opposed to his business form a very small percentage of the population residing in this area. His store is a very small store which meets the requirements for parking and they do not allow transients to congregate around the location. Hours of operation are from 11 Am to 11 Pm. Hookah is one of the most popular activities for young people today and glass pipes are utilized for the smoking of that type of tobacco.

Mr. Abrahamson noted that in the applicant's letter of intent he had indicated that the hours of operation would be from 11 Am to 8 Pm, which is different from his statement, and that smoking in the store would not be allowed.

Mr. Turner responded that his intent is not to have a hookah lounge and that smoking would not be allowed in his establishment, however hookah supplies will be sold.

Ms. MacDonald noted that his application indicated that he would be selling herbal supplements and stimulants. Mr. Turner stated that those substances are legal.

Ms. MacDonald reviewed the criteria for a use permit for a tobacco retailer and noted that while some uses are allowed outright, others are in a different category as they may not be appropriate everywhere. They need to justify why they should be allowed in that particular location.

DECISION:
Ms. MacDonald denied PL110283 / ZUP11075, stating that this use of smoking paraphernalia is not compatible with the residential neighborhood and that it would contribute to the downgrading of property values. A business like this (selling drug paraphernalia, bath salts and spice) operates on the margins of legality, and can contribute to the deterioration of the neighborhood.

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9. Request by **OMNI CENTER - APACHE PAWN OF MESA INC. (PL110300)** (Walter Cheeseman, applicant; Mr. Kim Commons, property owner) located at 2155 East University Drive, Suite No. 107, in the CSS, Commercial Shopping and Services District for:

ZUP11078 Use permit to allow a pawn shop.

Mr. Walter Cheeseman was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that the hours of operation are from 9:30 Am to 6:30 Pm, Monday through Friday, and 10 AM – 6 PM on Saturdays, closed Sundays. They anticipate serving 20 to 30 customers per day and will buy, sell, trade and make secured loans on merchandise. There has been no public input. A parking surplus exists due to the storage aspect of the pawn shop.

Mr. Cheeseman acknowledged his understanding of the Conditions of Approval. It was noted that this business is about 70% storage.

Ms. MacDonald reviewed the criteria for a use permit and noted that this request meets those requirements. She noted that this was a good use for this center.

DECISION:
Ms. MacDonald approved PL110300 / ZUP11078 subject to the following conditions:

1. The use permit is valid for Apache Pawn and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. Any expansion or intensification of the use will require a new use permit.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. All business signs shall receive a Sign Permit. Please contact Dean Miller at (480) 350-8435.
6. A sales tax license from the City of Tempe Tax and License Division shall be obtained prior to the use permit becoming effective.
7. The applicant shall work with the Tempe Police Department to create a security plan. Please contact Bill Gallauer at 480-350-8749.

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10. Request by **MILL TOWNE CENTER – ROLLY SMOKES LLC (PL110301)** (Thomas Schmidt, applicant; Matthews Real Estate LLC, property owner) located at 209 East Baseline Road, Suite 103 in the PCC-1, Planned Commercial Center Neighborhood District for:

    ZUP11079 Use permit to allow a tobacco retailer.

    Mr. Thomas Schmidt was present to represent this case.

    Sherri Lesser, staff planner, gave an overview of this case. No public input has been received. The business will be open 7 days a week from 9 Am to 8 Pm.

    Mr. Schmidt expressed appreciation to City staff, especially Ms. Diana Kaminski, for their help and assistance in processing this submittal. The store will offer antique items such as art work and cigarette cases, etc. as well as cartons of cigarettes, fine cigars and pipe tobacco. The store will not carry any items considered to be drug paraphernalia. Most tenants in the center are restaurants and a mix of various business owners. There will be no smoking on the premises, just retail use.

Ms. Rebecca Green, a business owner in Mill Towne Center, was also present. She spoke in support of this request. She expressed her displeasure with the Medical Marijuana that will be located in this plaza for a separate business owner.

Mr. Abrahamson spoke for the record that the Medical Marijuana dispensary at that location is related to a medical doctor.

Mr. Schmidt acknowledged his understanding of the Conditions of Approval.

Ms. MacDonald reviewed the criteria for a use permit and noted that this request meets those requirements and would enhance the location at that shopping center.

DECISION:
Ms. MacDonald approved PL110301 / ZUP11079 subject to the following conditions:

1. The use permit is valid for Rolly Smokes LLC and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee. Should the business be sold, the new owners must contact the Community Development staff for review of the business operation.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
5. All business signs shall receive a Sign Permit. Please contact Dean Miller at (480) 350-8435.
6. The applicant shall submit a security plan to the City of Tempe Crime Prevention Unit. Please contact William Gallauer at 480-350-8749 within 30 days of this approval (October 6, 2011).

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11. Request by the **ROSEN PROPERTY (PL110305)** (Robert Rosen, applicant/property owner) located at 1229 West 10th Street in the R1-6, Single Family Residential District for:

ZUP11081 Use permit to increase the maximum allowable height of a wall in the front yard setback from 4 ft. to 6 ft.

Mr. Robert Rosen was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that this request is to increase the maximum allowable height of a wall located in the front yard setback from 4 ft. to 6 ft., which will allow for the creation of a courtyard in the front of the house along the street front. The wall will create a courtyard located in the front yard but technically serves as a side yard courtyard due to the location of the front door on the side of the dwelling. Staff supports this request.

Mr. Rosen acknowledged his understanding of the assigned Condition of Approval. He asked for clarification on the requirement for site retention. Ms. Lesser explained that he could contact Building Safety regarding the water retention requirement for this property.

Ms. MacDonald reviewed the criteria for a use permit and noted that this request meets those requirements and was compatible with the surrounding structures in the neighborhood.

DECISION:
Ms. MacDonald approved PL110305 / ZUP11081 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division for wall construction and Public Works Department regarding on site retention.

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12. Request by the **WOOD RESIDENCE (PL110307)** (Ron Wood, applicant/property owner) located at 1527 East Louis Way in the R1-10, Single Family Residential District for:

ZUP11082 Use permit to allow an accessory building (shed/barn) 17 ft. in height.

Mr. Ron Wood was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that this use permit is to allow a freestanding accessory building 17 ft. in height for the purpose of multi-use storage. The proposed structure is 1476 s.f. and 16 ft. 3 inches in height. One (1) telephone inquiry was received today, and she noted that resident is present at the hearing today. No other public input was received.

Mr. Wood acknowledged his understanding of the assigned Condition of Approval.

Ms. MacDonald questioned why the height of the building was needed. Mr. Wood described the building design and that it included an arch. The tallest point of height was a very small area at the highest point of the arch.

Mr. Robert Duffell explained that he lived on the west side of Mr. Wood's property. He noted that he has been working with Mr. Wood to shift the building slightly so Mr. Duffell's garden can receive the morning sun. He thanked Ms. Lesser for her help with this case.

Mr. Wood returned to the podium and acknowledged that the structure would be adjusted slightly to meet Mr. Duffell's needs while accommodating water lines and existing trees on the property.

Ms. MacDonald reviewed the criteria for a use permit and noted that this request meets those requirements and was compatible with the surrounding structures in the neighborhood.

DECISION:
Ms. MacDonald approved PL110307 / ZUP11082 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.

The next Hearing Officer public hearing will be held on **Tuesday, October 4, 2011.**
The September 20, 2011 Hearing Officer public hearing has been cancelled.

There being no further business the public hearing adjourned at 3:26 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

SA:dm

Development Review Commission

February 4, 2013

City of Tempe

To whom it may concern,

It has come to my attention that there is a proposal in front of the commission to have a fortress-style wall erected enclosing the front yard area of the property at 2122 E. Balboa Drive. As a Realtor that will be representing a property for sale on Balboa this spring, I would like to express my concern and dismay of this possibility. I believe that this will adversely affect the value of the homes in the neighborhood.

The passion of the residents that live in Shalimar and fight for their quality of neighborhood is a major selling point for the neighborhood. Although there is a home across the street with a wall, this was a uniquely designed home by a prodigy of Frank Lloyd Wright and it flows with the home to the East of it, given that home actually faces Bala and not Balboa. Conversely, the homes on the North side of the street and to the East and West represent fine family neighborhood homes with a family friendly feel. To enclose the front of the subject property would not only be an eyesore but would be direct contrast to the consistency and flavor of the neighborhood. The residents of the Shalimar community, although not formalized as an "HOA", have spent personal dollars, time and efforts to fight the constant influence of investors that have been trying to change their community into something other than the open, family-oriented, casual golf course, restaurant and meeting center that the designers envisioned.

Shalimar Estates has always been one of Tempe's most desired neighborhoods; the unique customs homes, the planned walled villas and local 9 hole golf course have always been a source of local acclaim and pride. Erecting a tall wall around the yard of the home on Balboa will create a visual barrier that will chop up the look of the neighborhood and give the impression of isolation as opposed to the family friendly atmosphere that is being fostered by the community. The community and family reputation of Shalimar has always been a major selling point from a Realtor's point of view and I would hate to see the community start dividing off yards and secluding the houses behind walls.

If the owners at 2122 E. Balboa Drive are interested in having a walled Villa, that option is available to them in the neighborhood within the Santo Tomas section of Shalimar.

Beth Backus Roth

Realty Executives

Tempe Tower

Dear Chairman & Commission Members,

My name is Amy Jones. I am a Realtor who has been selling real estate full time in the East Valley since 2001. I recently represented a seller in the Shalimar Community and was made aware of the proposed perimeter wall to be built at 2122 E. Balboa Drive. I was asked if, in my opinion, this proposed wall could hurt property values.

No one can predict with certainty what will or will not affect property values in a given area, but it is my professional opinion a 6ft perimeter wall around a home that runs almost to the street in the Shalimar Community is certainly not going to help property values in this community.

The Shalimar community has always been a highly desirable community due to its unique feel that I can only describe as "down-home Americana". A walled compound would do little to enhance this feeling in the neighborhood as a whole, and I would be especially concerned about the impact this wall will have on the values of homes that are near this property. A neighboring wall that runs almost to the street would block the views of the neighboring yards. It would also pose a safety hazard for children playing in the area as well as for neighboring cars pulling out of driveways...a definite liability

I would also ask you...once a precedent has been set with an approval for this wall, what happens when another neighbor decides to do the same? What happens to the house in the middle of 2 walled properties? I personally would not be interested in purchasing such a home, and I imagine I would not be alone in this opinion. Property values for "the home in the middle" can almost be guaranteed to fall in my professional opinion. The precedent set by this new wall could destroy the feeling of this unique neighborhood.

I know of very few communities where a 6ft perimeter wall would be allowed around a home for the reasons I've mentioned. There may be a place for a fortress, but it's certainly not in the middle of a residential community such as Shalimar.

Sincerely,

Amy Jones

Amy Jones, REALTOR
RE/Max Infinity
Chandler, AZ

Development Review Commission
City of Tempe
31 East 5th Street
Tempe, AZ 85282

Re: Appeal of Approval of Use Permit for Dubois Residence at 2122 East Balboa Drive

Dear Chairman and Commission Members:

The visual obstruction from this proposed block wall will create a significant traffic hazard, especially for children. Children playing in front yards east and west of this obstruction will have a restricted view of oncoming traffic. Running to the street after a ball or other toy could result in a serious accident.

Also, there frequently are children running, cycling, or skate boarding down the sidewalk. Suppose the vehicle on the west side of the garage is backing to the street. Simultaneously, three children are running from west to east on the sidewalk. The driver will not be able to see the children and the children will not be able to see the vehicle. The vehicle backs over the three children. We can only imagine the pain and suffering incurred by the three children and their families. Please, do not allow the building of this obstruction. Thank you.

Sincerely,

Tom Brethauer
2128 East Balboa Drive
Tempe, AZ 85282

Kaminski, Diana

From: adrianakj@gmail.com on behalf of Adriana Johnston <ajohnst5@asu.edu>
Sent: Tuesday, January 01, 2013 1:59 PM
To: Kaminski, Diana; Stennerson, Julie; Abrahamson, Steve
Subject: About the case # PL120421 - Dubois Residence at 2122 E Balboa Dr. Tempe, AZ, 85282

To Whom It May Concern:

We would stress that the look of the 6 ft fence will decrease property value to adjoining houses, additionally, it will reduce the safety for my children who play with other children on that street. Usually, Evi (7) and Amelie (6) play and/ride bike on the sidewalk and driveway, if this is approved a car will not be able to see them. Since Balboa Street does not have speed bumps lots of cars go faster then allowed 25 MPH speed. In case of approving the 6 ft fence on this side of the street there would be lower visibility for drivers to see playing children but also for children to see the cars. The last reason why we do not agree with the 6ft fence is that it would destroy the harmony of all the houses on the north side since none of them have a tall fence.

Thank you,

Adriana Johnston

Neighbors at 2917 S Bala Dr, Tempe, AZ. 85282

Kaminski, Diana

From: Carl Streiff <streiff007@yahoo.com>
Sent: Tuesday, February 12, 2013 11:31 AM
To: Kaminski, Diana
Subject: Proposed Shalimar Construction - 2122 East Balboa.

Hello Diana -

I am writing to voice my concern regarding proposed construction of a 6-foot high wall that will follow the perimeter of the front yard at 2122 E. Balboa.

I live in the Shalimar neighborhood and when I first heard of this my initial reaction was "the person will need a zoning variance and there is no way the city of Tempe will allow that in Shalimar". I did not know at the time that the preliminary approval had already taken place. I was extremely shocked. This type of construction is completely out of place for the neighborhood. I understand that there are people who enjoy living in walled complexes or walled villas. There are neighborhoods with this design. Shalimar estates is not of this design and allowing this to occur will take away from the architectural feel and view to the neighborhood. Homes are currently not obstructed from view, which gives a open and inviting look to the neighborhood. I know this is one of the many reasons people are attracted to Shalimar. It also shows off the large yards that are unique and becoming less common in the new, cookie cutter neighborhoods found in new developments.

As a AZDRE licensed Realtor, I can tell you that allowing this type of zoning variance will take away from the neighborhood and will impact values, as perception is a large contributor to how buyers come to their rationalization of value. Walling off yards will not increase value. It will in fact create a situation where the walled villas to the west of Shalimar could become comparable properties. This will have a negative impact on pricing in Shalimar.

Shalimar is unique to Tempe. I have heard it referred to as 'the Arcadia of Tempe', a reference to a high value, uniquely looking neighborhood in Phoenix (and one that is certainly not bad to be compared with). We need the city of Tempe to help us preserve our neighborhood and increase value of our properties, not enable action to close off properties to view, changing the look of the neighborhood and (it my professional opinion), decrease values.

Respectfully submitted.

Carl Streiff
2945 S. Fairway Drive
Tempe, AZ 85282

Kaminski, Diana

From: J. Modares <modares@cox.net>
Sent: Sunday, February 17, 2013 4:22 PM
To: Kaminski, Diana
Subject: High Wall in Neighborhood

Greetings,
I am writing this email to you to express my concern over an attempt to build a 6-foot high wall in a property three houses down the street from my house.

My family and I live at 2102 E. Balboa drive. Recently we became aware of the intention of the new owner of the property at 2122 E. Balboa Dr. and we have become very concern over the danger and other issues that this overly high and over extended wall will be posing on our neighborhood.

I hope you review this situation carefully and take the requests and pleas of the residents of Shalimar neighborhood into consideration before approving the plan. Your support is greatly appreciated.

Best Regards,

Jeff Modares and Family

Kaminski, Diana

From: Bob <rflundin@gmail.com>
Sent: Wednesday, February 20, 2013 10:34 AM
To: Kaminski, Diana
Subject: wall on Balboa

Dear Ms. Kaminski,

I am writing to express my strong objection to the proposed wall at 2122 E. Balboa, Tempe, Arizona. Such a wall will disrupt the architectural integrity of the neighborhood and pose a danger to children who play in the area.

I trust you will do whatever you can to stop the construction of this wall.

Thank you!!

Sincerely,

Robert F. Lundin
2148 E. Cairo Dr.
Tempe, AZ 85282