### **Staff Summary Report**



**Development Review Commission: 05/08/2012** Agenda Item Number: 5

> SUBJECT: Hold a public hearing for an appeal of the previously approved Use Permits for CASA DE

> > **SMITH** located at 1703 South Ventura Drive.

**DOCUMENT NAME:** DRCr CasaDeSmith 050812 PLANNED DEVELOPMENT (0406)

Request an appeal of CASA DE SMITH (PL120053) (W. Brent Armstrong, ISOS Architecture, **COMMENTS:** 

Dave Smith, property owner) located at 1724 S. Ventura Drive in the R1-6, Single Family

Residential District for:

**UPA12021 (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). UPA12007 (ZUP12022) - Use Permit to allow a second story addition

**UPA12008 (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:** 

Lisa Collins, Interim Community Development Department Director (480-350-8989)

N/A **LEGAL REVIEW BY:** 

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

RECOMMENDATION: Staff has no recommendation

ADDITIONAL INFO:

Broadway Rd

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.

The Daley Park Neighborhood Association et al is requesting an appeal of the March 20, 2012 Hearing Officer Decision to approve three (3) use permits for the Casa De Smith. The Hearing Officer reviewed the application and approved the requests with the finding that the use permit requests met the ZDC criteria for approval of a Use Permit.

PAGES: 1. Lis

- 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)
- 3-6. Letter of Appeal
- 7-10. Petition of Appeal
- 11. Letter of Intent
- 12. Site plan-SP1
- 13. East Elevation
- 14. North Elevation
- 15. West Elevation
- 16. South Elevation
- 17. Northeast/Southeast View
- 18. Basement floor plan
- 19. First floor plan
- 20. Second floor plan
- 21. Sundeck plan

### **COMMENTS:**

The appellants are before the Development Review Commission to appeal the decision by the Hearing Officer to approve three (3) use permits for Casa De Smith. The requests were made to facilitate an addition/remodel of their residence. The Use Permits were 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'. The home owner proposed an alley accessible garage with a second story addition above. In addition, a roof deck was proposed above the second floor roof. The Hearing Officer, by condition, eliminated the roof deck from the proposal. The third use permit requested an increase of the allowable wall height 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 provide a screen for an area currently used as additional parking surface.

### **Public Input**

The Daley Park Neighborhood Association et al has provided a letter identifying their reasons for appeal of the March 20, 2012 Hearing Officer Decision.

### The Evaluation of Use Permit, Reasons for Approval and Conditions reviewed and modified by the Hearing Officer included the following:

### **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. The proposed additions are a substantial enough improvement to warrant a formal subdivision plat is 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.

### **CONDITIONS OF APPROVAL**

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

### **ZUP11116 CONDITIONS OF APPROVAL**

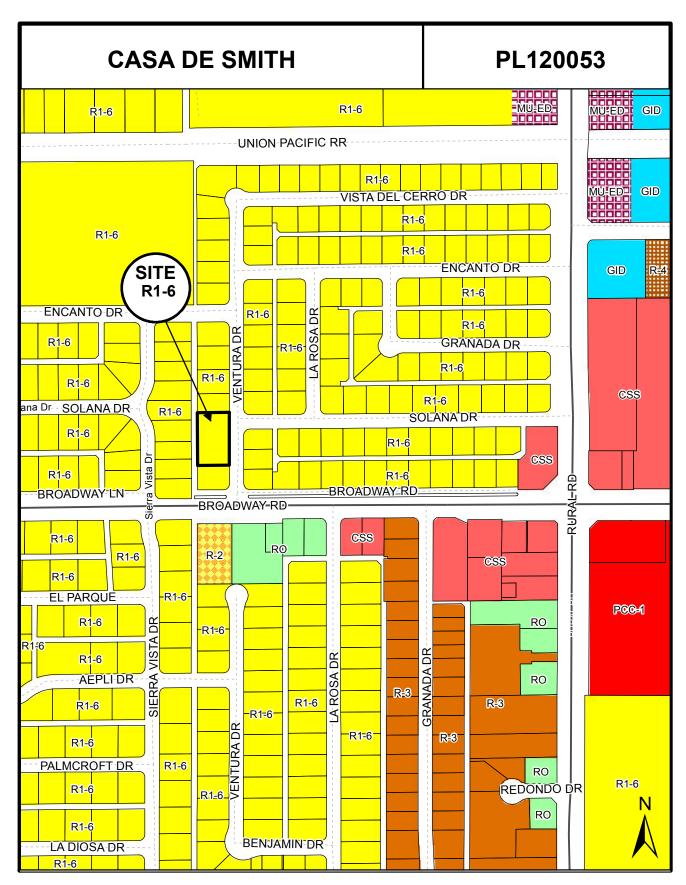
- 1. Obtain all necessary clearances from the Building Safety Division.
- 2. Building addition to match existing residence in color, form and material.
- 3. Reorient the second story balcony to either the north or east elevation. (deleted by Hearing Officer).
- 4. Provide landscape between the wall and 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
- 7. Remove sundeck and revise elevation to a pitched roof not to exceed 30'. (added by Hearing Officer).
- 8. Remove or opaque windows on the second story west elevation. (added by Hearing Officer).

### **HISTORY & FACTS:**

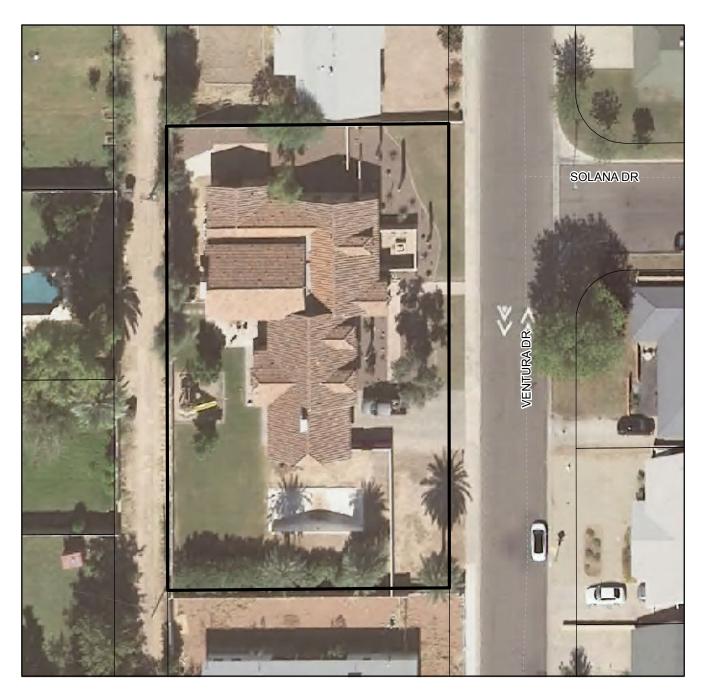
March 20, 2012 – The Hearing Officer approved the request by Casa De Smith for three (3) Use Permits including a reduction of the rear yard setback, a second story addition and a wall to exceed four (4) feet in height in the front yard, subject to conditions.

### **ZONING AND DEVELOPMENT CODE REFERENCE:**

Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts Part 6, Chapter 3, Section 6-308 – Use Permits



**Location Map** 



CASA DE SMITH (PL120053)

Date: March 27, 2012

To:

City of Tempe

**Board of Adjustment** 

**Development Review Commission** 

Regarding:

Appeal of Public Hearing held Tuesday March 20, 2012 @ 1:30 pm:

Casa de Smith

1724 S. Ventura Dr.

Case Number PL120053

Petitioners:

Daley Park Neighborhood Association et al

Present Chairman Daley Park Neighborhood Association and Property Owner:

Ruben Valenzuela 618 E Solana Dr., Tempe, 85281

Signature\_

Past Daley Park Neighborhood Association Chairman and Property Owner:

Ernest Nickels 322 E Broadway Ln, Tempe, AZ 85282

Signature Count

Property Owner: Sara Ahern 1749 S Sierra Vista Dr, Tempe, AZ 85281

Signature<sup>2</sup>

Grounds for Appeal:

The Public Hearing held Tuesday March 20, 2012 @ 1:30 pm did not fairly air the concerns of the neighborhood as a whole. Rules of protocol regarding the opportunities for rebuttal were not upheld in this conference. The neighbors were only allowed their initial statements while Mr. Smith was allowed continued comments and rebuttal without such favor granted to others with previous statements. Comments made by the hearing officer such as "it's a great house" and the admission of touring the house with the previous owner showed lack of understanding for the gravity of the situation and hinted towards bias.

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In evaluating the Use Permit, the proposal does not pass the Use Permit test listed below:

a) Any significant increase in vehicular or pedestrian traffic in adjacent areas;

There will be significant increase in vehicular and pedestrian traffic in adjacent areas. This property is one lot north of Broadway Road effecting the existing egress plans to the Broadway Road Improvement plans already in existence. The planned garage facility will cause undue wear, erosion and maintenance issues on the shared alleyway causing dust and noise to adjacent properties. Extensive use of said alleyway and individual entitled use will jeopardize the safety of neighbors due to the constant traffic from the additional individual use and possible blockage of emergency access.

b) Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;

This will create a nuisance from emission of odor, dust, gas, noise, vibration, smoke, and glare to neighboring properties.

 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 contribute to neighborhood deterioration and downgrade property values. This Use Permit request is not consistent with the General Plan 2030's Land Use Element.

### Section 6-302 General plan Amendment

A. Purpose. The General Plan is an evolving document that is designed to change based on community needs. The purpose of a General Plan amendment is to facilitate reasonable changes in effort to maintain a livable and sustainable urban environment that is sensitive to issues that impact where people live, learn, work and play.

This lot already contains a single level structure 2 to 3 times the size of such structures in the surrounding community, as such; expanding the structure to a proportional 4 to 5 times the overall size would be a blight on the character of the neighborhood and be a detriment to surrounding property values and quality of neighborhood.

This is a private single family neighborhood, an asset to the city of Tempe because of its character and its historic value. These are 192 single family homes built in the 1950's with an average size of 1,000 to *extensively remodeled* 3,000 square foot homes. Each home is for an individual private family residence. A quiet urban oasis epitomizing the marketed dream of the hometown charm of Tempe.

d) Compatibility with existing surrounding structures and uses;

The proposed use is incompatible with surrounding uses. The private owner has stated the reasons for the massive expansion is to accommodate hosting events associated with his affiliation to ASU and extreme extended family housing.

The second story addition is not similar to other second story additions previously approved in the neighborhood. The addition of the party deck creates a nuisance and lack of privacy for all the surrounding neighbors.

The owner enclosed (not expanded) an existing multi car garage in order to expand on the 5,000 plus square footage of the standing residence. Thus removing the on site enclosed parking accommodations. The variances requested to the property are for reasons self-imposed by the property owner.

Mr. Smith stated that the enclosed parking area requested would also be used for entertaining space. The variance for the front enclosed parking lot and additional parking reinforces the questionable use of said property.

Mr. Smith admitted that the basement addition would also be used for sleeping quarters thus increasing the overall occupancy.

The use of windows proposed in the second story expansion directly overlooking the property to the west destroys any privacy for the neighboring homeowner. This will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.

Records do not indicate any formal lot ties or subdivision plat to create the lot within the subdivision.

e) Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;

Through the owners statements regarding the use of the property for extended large family events and events via his association with ASU the property, he has already defined is a disruptive influence on the neighborhood peace and traffic

Page 3 of 4

flow. The traffic issues will not be resolved by accommodating parking for 9 cars (said property has improved parking for 7 as it stands). The additional parking garage is an extention of ulterior use of the property.

This residence has been a destination for the ASU Fraternity Rush Schedule of the Lambda Chi Alpha chapter. Due to the extreme over flow of party goers, their guests have been directed to use Daley Park parking lot. This also increases noise and trash generated from parties held at this residence.

The addition of structures to enclose noise and nuisance to the surrounding area is not an answer.

If allowed, this will cause the deterioration of a 192 home neighborhood creating a viral impact destroying one of the few truly family oriented neighborhood areas of the city that Tempe is so proud of.

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PL 120053, approved March 20, 2012 by the Hearing Officer. Approving the Casa De Smith project will have the following negative impacts on the We, the undersigned neighbors request that the City of Tempe Development Review Commission overtum the Use Permit for Casa de Smith Daley Park single-family R1-6 neighborhood of 192 homes.

- 1. The hearing officer stated unprofessional and biased opinions in favor of the applicant.
- 2. The use of this house for fraternity activities is incompatible with the existing single-family Daley Park Neighborhood, as per the 2020/2030 General Plan.
- 3. There will be a significant increase in neighborhood vehicular traffic.
- 4. The resulting dust, traffic and noise will be an intolerable nuisance to the neighbors.
- 5. The use of this house for fraternity activities will contribute to the deterioration of the neighborhood and will decrease property values.
- 6. Inadequate supervision of disruptive behavior involving alcohol will create a nuisance on and off the premises of trash and impaired drivers in the neighborhood.
  - 7. Increasing this house from 4000 SF (4 bedroom/4 bath) to 7000 SF (6 bedroom/7 bath) will compound the problems of noise, traffic, trash, etc.

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

Letter of Explanation Use Permit

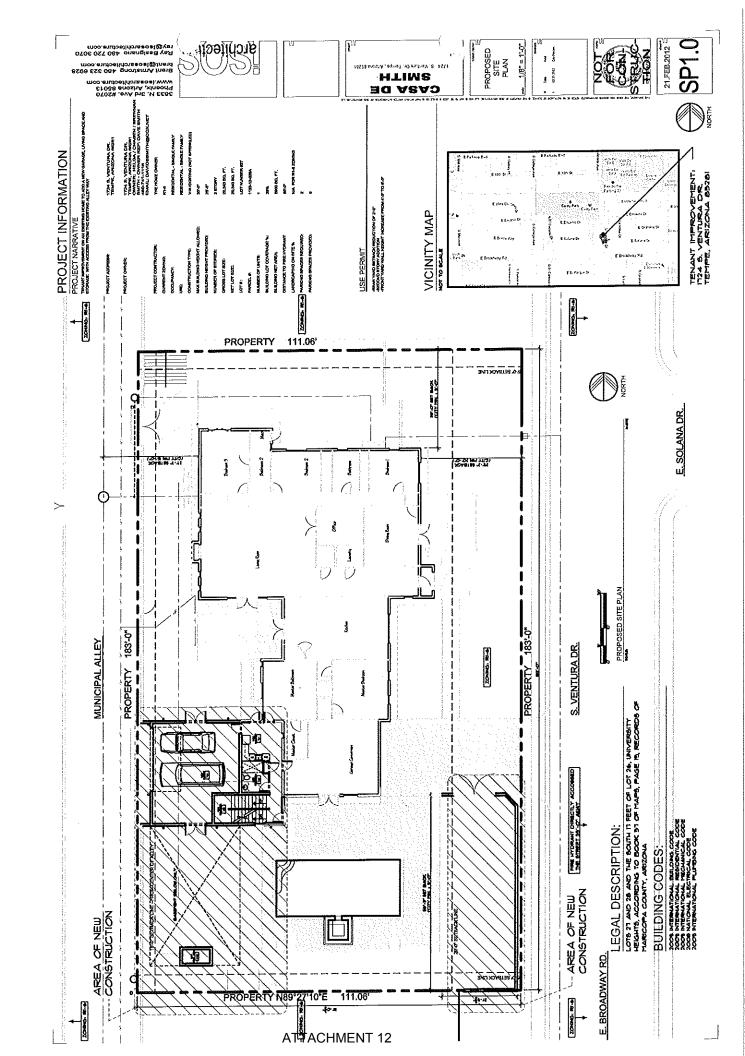
We are requesting three (3) use permits for the property located at 1724 S. Ventura Drive, in Tempe, Arizona, a single family detached residence.

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



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1824 S. Ventura Dr. Tempe , Arizona 85261 HTIMS

EXTERIOR ELEVATION 1/16" =1'-0"

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architecture CVSV DE

Ray Besignano 480 720 3070 ray@lsosarchilecture com

Brent Mmstrong 480 323 6928 brent@leosarchitecture.com

3633 N. 3rd Ave. #2070 Phoenix, Arizona 85013 www.lsosarchitecturo.com

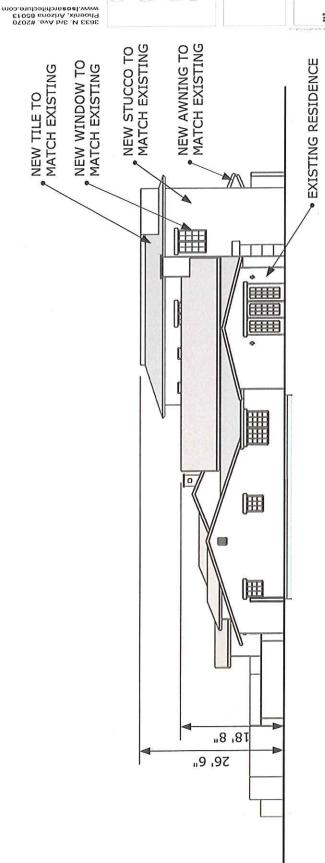
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ATTACHMENT 13

EAST ELEVATION- STREET

HLIMS CASA DE EXTERIOR ELEVATION

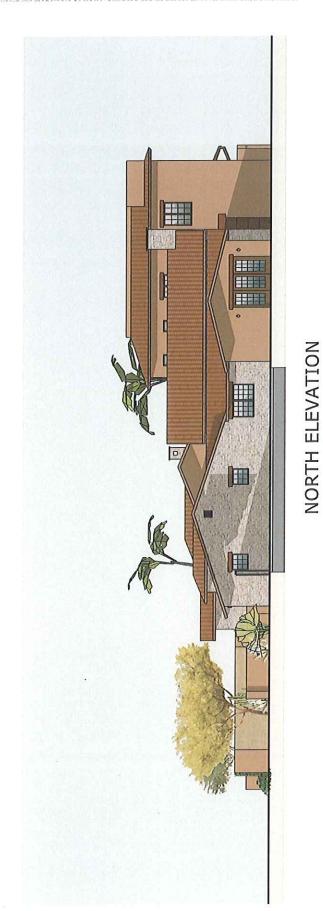
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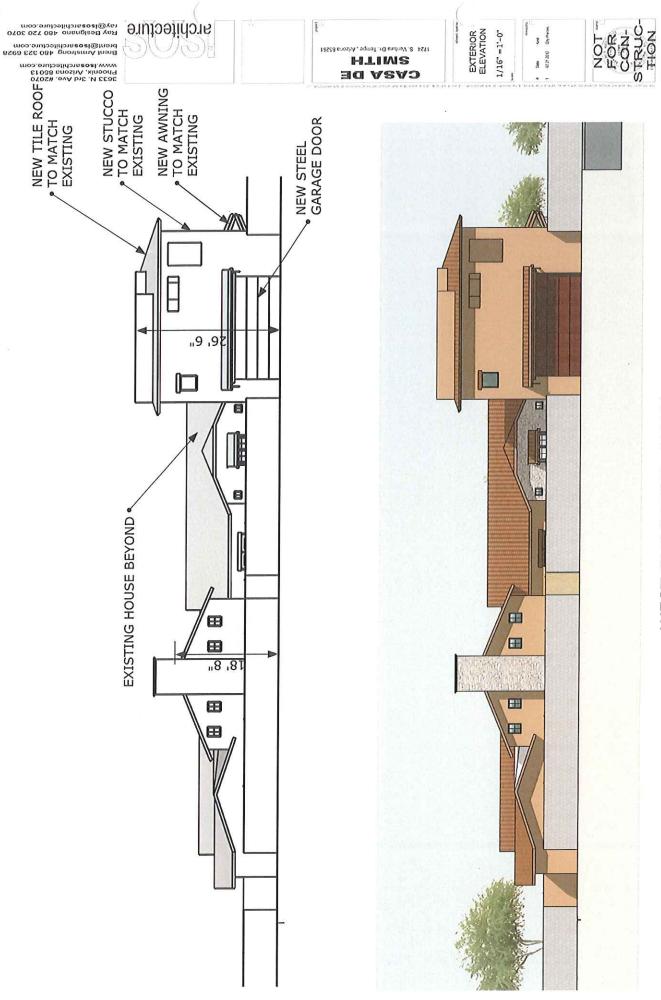
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Ray Besignano 480 720 3070 mo.com

Brent Mmstrong 480 323 6928 moo.enuloelitoseael@trend



**ATTACHMENT 14** 



WEST ELEVATION- ALLEY

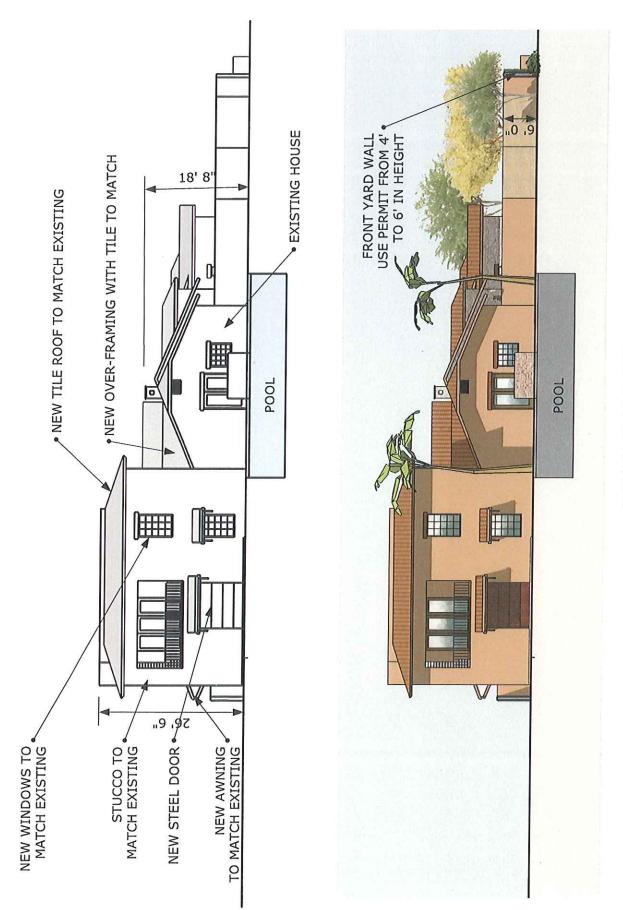
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EXTERIOR ELEVATION 1/16" =1'-0"

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HTIMS CASA DE

architecture, 8583 ESC 084 gnorlem**r/ I**norB mco.enufethorangel@hrord



SOUTH ELEVATION

Ray Besignano 480 720 3070 ray@lsosnoron

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3633 N. 3rd Ave. #2070 Phoenix, Arizona 85013 www.lsosarchitecture.com architecture

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NOTE, ALL SCREENED ELEMENTS INDICATE EXISTING CONSTRUCTION TO REMAIN,

21.FEB,2012

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EXISTING EXTERIOR WALL CONSTRUCTION TO REMAIN EXISTING INTERIOR WALL CONSTRUCTION TO REHAIN EXISTING GLAZING SYSTEM TO REMAIN

WALL LEGEND

NORTH

BASEMENT FLOOR PLAN

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SYMBOLS LEGEND: 101

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