

Staff Summary Report



Development Review Commission: 3/24/09

Agenda Item Number: _____

SUBJECT: Hold a public hearing for an appeal of a previously denied use permit for the **COREY RESIDENCE (PL080446)** located at 1425 East Bell De Mar Drive.

DOCUMENT NAME: DRCr_CoreyRes_032409

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Request by Tom Corey (applicant) for an appeal of a previously denied use permit for the **COREY RESIDENCE (PL080446)** (Tom Corey, property owners) located at 1425 East Bell De Mar Drive in the R1-6, Single Family Residential District, including the following:

UPA09001 – Appeal of a Use Permit to park an RV in the front yard setback (ZUP08183) denied by the Hearing Officer on January 20, 2009.

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

REVIEWED BY: Steve Abrahamson, Planning and Zoning Coordinator
Lisa Collins, Planning Director *LC*

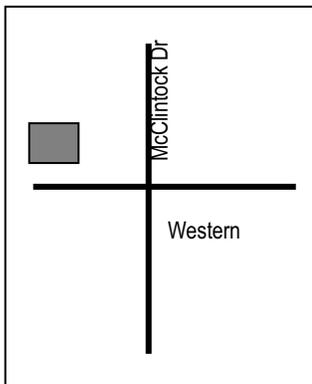
LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial of appeal, thus upholding Hearing Officer Denial.

ADDITIONAL INFO: The applicant is appealing a Hearing Officer Decision to deny a use permit to park an RV in the front yard setback. Mr. Williams (Hearing Officer) denied PL080446/ZUP08183 noting that as Hearing Officer he cannot support this request because it is in conflict with the General Plan and doesn't promote neighborhood preservation and enhancement and although there was neighborhood support, his decision goes toward a larger picture of the City.

The applicant, Mr. Corey believes the RV doesn't negatively impact neighborhood preservation and enhancement, so it would not be in conflict with the General Plan, thus he appealed the Hearing Officer's decision to deny the use permit.



ATTACHMENTS:

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

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent from Hearing Officer Meeting
4. Applicant's Letter for Appeal
5. Site plan
6. Code Enforcement Notice CE087816 (11/13/08)
- 7-8. General Plan 2030: Neighborhoods
- 9-10. Staff Photograph(s)
11. Letter of Support from Hearing Officer Meeting
- 12-14. Applicant Petition of Support
15. Hearing Officer Denial Letter (1/26/09)
16. Hearing Officer Minutes (1/20/2009)
17. Applicant Photographs

COMMENTS:

The applicant is before the Development Review Commission to appeal the decision by the Hearing Officer to deny a request for a use permit to allow an RV to be parked within the required front yard setback. The subject property is located on the south side of the street, mid-block at 1425 East Bell De Mar Drive in the R1-6, single-family residential district.

The Hearing Officer denied the use permit on January 20, 2009. Mr. Williams' (Hearing Officer) rationale to deny the use permit request was because it was in conflict with the General Plan and doesn't promote neighborhood preservation and enhancement. He further indicated that although there was neighborhood support, his decision goes toward a larger picture of the City. The applicant states in his letter of explanation that they use the RV (trailer) as often as possible, it is convenient having the trailer available in their driveway. Moreover he doesn't believe the RV has caused a deterioration of the neighborhood, or a decline in property values.

The parking of boats, trailers and large R.V.'s in the front yard setback requires a use permit because each request must be considered based on the specific property and the ability to preserve or maintain the integrity of the neighborhood through the introduction of the use or by physical improvements that would mitigate any negative impacts associated with the use being proposed. Otherwise, the use could be considered out of context with the City of Tempe's General Plan 2030. The promotion of neighborhood preservation and enhancement is one of the General Plan's objectives and this request maybe contrary to that end.

From the perspective of maintaining neighborhood character, aesthetics and crime prevention this vehicle may be viewed as an attractive nuisance. Staff recommends denial of the appeal (denial of the use permit). Further, the applicant has an option to store the RV within the backyard (the property has alley access to its rear yard) or off-site at a storage facility.

Public Input

The applicant provided a petition of support signed by twenty (20) residents from the neighborhood and one (1) letter of support was received from the neighbor across the street. Staff has not received any new public input for the appeal.

Use Permit

The Zoning and Development Code allows recreational vehicles over twenty-one (21) in length to be parked in the front yard setback subject to a use permit. If the RV trailer were less than twenty-one (21) feet in length no use permit would be required. The criteria for granting the use permit is based upon a finding that the use covered by the permit, the manner of its conduct, will not be detrimental to persons residing or working in the vicinity, adjacent to the property, to the neighborhood, or the public welfare in general. Other factors include whether or not the use permit would contribute to the deterioration of the neighborhood or to the downgrading of property values or the boat, trailer or RV would be compatible with existing surrounding structures or uses.

Conclusion

Staff recommends denial of the use permit request; the RV is stored in manner that may create a nuisance or detriment to the surrounding area.

REASON(S) FOR DENIAL:

1. Use Permit will be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

2. An RV in the front yard setback is in conflict with the goals and objectives of General Plan 2030.
3. Neighborhood Enhancement had received a complaint on the RV.
4. The rear yard has adequate maneuvering room for the RV.

SHOULD THE DEVELOPMENT REVIEW COMMISSION ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. The use permit is valid for the fact situation as presented in this application and does not cover any other recreational vehicle stored on the property and becomes void with permanent removal of the RV (boat).
2. The boat shall be parked, at all times, on paved driveway; clear of public sidewalk.
3. The recreation vehicle shall be operable; maintained in clean presentable manner and have current registration.

HISTORY & FACTS:

1951. Zoning Ordinance 209 provided the restriction of on-site parking in front yard driveways.
1967. Tempe City Code was amended to prohibit overnight parking of large vehicles on Public Street.
1970. Tempe City code was amended to allow parking of all vehicles for a maximum of 120 consecutive hours on public streets.
- June 1, 1970 Council adopted Ordinance 405 which precluded any required parking or RV, Boat or Trailer parking from being provided in the front yard of any residential district without obtaining a variance to do so.
- September 2, 1976. Council adopted Ordinance 808 which required a variance to park RV's, boats, trailers, or provide required parking in the front yard or street side yard setbacks.
- September 24, 1991 The Planning and Zoning Commission after hearing public opinion regarding the ordinance amendment to require use permit for RV parking for vehicles over 21' and change the definition for RV and trailer and require use permit for all other parking in the front or street side yard setback continued the case for further study.
- October 22, 1991 The Planning and Zoning Commission recommended approval of the ordinance amendment to require use permit for RV parking for vehicles over 21' and change the definition for RV and trailer and require use permit for all other parking in the front or street side yard setback.

January 7, 1992.

The City Council held a subcommittee meeting with RV owners, neighborhood representatives and staff to discuss ordinance and city code amendments regarding RV parking for front, street side yard and on street parking; provisions for loading and unloading vehicles and visitor on street parking.

February 14, 1992.

The City Council approved amendment to Ordinance 808 to modify the definitions for recreational vehicle and trailer; section 6 regarding off-street parking to require a use permit for Recreation Vehicles over 21 feet in length and vehicles in single family residence districts to obtain a use permit. They amended the City Code to allow 48 hours period for loading, unloading and cleaning for RV's without use permit.

January 20, 2005.

The City Council approved the adoption of the Zoning and Development Code carrying forward the provision to allow RV's which exceed 21 feet in length to be parked in front or street side yard subject to a use permit.

November 10, 2008

Neighborhood Enhancement received a complaint about the RV in the driveway, front yard setback. (CE087816)

January 20, 2009.

The Hearing Officer denied the use permit request by the Corey Residence noting that as Hearing Officer he cannot support this request, and although there was neighborhood support, his decision goes toward a larger picture of the City.

DESCRIPTION:

Owner – Tom Corey
Applicant – Tom Corey
Existing zoning – R1-6, Single Family Residential District
RV Trailer Length – 22'- 5"

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Zoning and Development Code, Part 6, Section 6-308
Zoning and Development Code, Chapter 6, Section 4-602- B - 7

COREY RESIDENCE

PL080446



Location Map



COREY RESIDENCE (PL080446)

Development Services Planning

City of Tempe
Development Services
31 East Fifth Street
Tempe, AZ 85280-5002
480-350-8331 TDD 480-350-8400

LETTER OF EXPLANATION for USE PERMIT

December 1, 2008

This letter is to request a Use Permit for the ability to park a 2001 Trail Lite Travel Trailer in the front driveway of our residence located at 1425 E. Bell de Mar Drive, Tempe, Az. The overall length is 22' 5". It is located on a concrete paved driveway. The trailer will be visible to vehicular & pedestrian traffic.

The above trailer will be parked 24 hours per day in the driveway unless we are using it for offsite recreation.

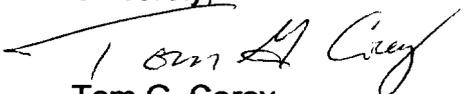
It does not extend into any public sidewalk or street area. The end of the tongue at the hitch as it is parked now is 43" behind the edge of the sidewalk.

There are no anticipated nuisance's expected (odor, dust, gas, noise, vibration, smoke, heat or glare, etc.) exceeding that of ambient conditions

It will not contribute to the deterioration of the neighborhood or conflict with the city goals because it is in like new condition. Our property has some of the nicest landscaping on our street. We have kept our property in the best possible condition by installing a new roof and garage door. We maintain the curb appeal by keeping it freshly painted. We have received numerous compliments from passersby about how nice everything looks. Our automobiles are all 2005 or newer.

All consideration in this matter will be greatly appreciated.

Sincerely,



Tom G. Corey
1425 E. Bell De Mar Dr.
Tempe, Az. 85283

Development Services Planning

City of Tempe
Development Services
31 East Fifth Street
Tempe, AZ 85280-5002
480-350-8331 TDD 480-350-8400

Request to Appeal ZUP08183

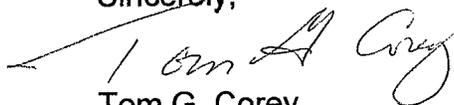
January 30, 2009

This letter is to request an Appeal Hearing of Case # ZUP08183 where our Conditional Use Permit Application was denied.

We are appealing the decision because of the following reasons:

1. Specific explanations or reasons or accumulated data was not provided as to how our Camping Trailer causes property values to decline.
2. Specific explanations or reasons were not provided as to how it goes against the intent of the 2030 Plan.
3. Support from surrounding residences did not seem to be considered.
4. It was not explained why precedence from previous case approvals would not apply.

Sincerely,



Tom G. Corey
1425 E. Bell De Mar Dr.
Tempe, Az. 85283

County Parcels 2008 Aerial View

APPLICANT SITE PLAN

Travel Trailer Location in
Driveway in place of smaller
trailer



CASE # CE08781



CODE INSPECTOR DONALD ALEXANDER
480-350-8077
E-MAIL: donald_alexander@tempe.gov
Date Posted: 11/13/08

NOTICE TO COMPLY

City of Tempe Code Enforcement Division Notice to Comply: Zoning and Development Code

This notice to comply is to inform you that on 11/13/08, 1425 E BELL DE MAR DR was inspected and found to be in violation of the following subsection(s) of the Zoning and Development Code of the Tempe City Code. A re-inspection will be conducted on 12/2/08 or after the date indicated to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

4-602 General Parking Standards.

B. Parking Standards Applicable in All Zoning Districts.

Please take the following corrective action by:

Required Correction(s):

- PLEASE REMOVE THE CAMPER/TRAILER PARKED WITHIN THE FRONT YARD SETBACK, I.E., FRONT DRIVEWAY BY 12/2/08 TO AVOID A \$120.00 CITATION/FINE. OBTAIN A USE PERMIT BY CONTACTING A DEVELOPMENT PLANNER AT (480) 350-8331.
- PARKING THE CAMPER/TRAILER WITHIN THE REAR YARD AREA WOULD TO BRING THE PROPERTY INTO COMPLIANCE WITH THIS ORDINANCE.

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation or criminal charges against the property owner or responsible party.

Civil and Criminal Penalties

Section 1-201A: 1st occurrence \$120 dollars per violation, 2nd occurrence \$320 dollars per violation, 3rd occurrence \$770 dollars per violation.

Default Amounts: 1st occurrence \$170 dollars per violation, 2nd occurrence \$420 dollars per violation, 3rd occurrence \$820 dollars per violation.

The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this code.

Tempe understands the importance of healthy, sustainable neighborhoods and the need for public involvement in the planning process. Neighborhood/homeowner associations are one way to bring people together for problem solving and information gathering. As of 2003, Tempe had 68 voluntary neighborhood associations, 99 homeowner associations (legal entities with CC&R's), five affiliate associations and one property owners association registered with the city. These groups or any property owner, resident or business owner may participate in planning projects within a specified area of Tempe. Anyone proposing development within one of these areas is encouraged to contact the association during the planning process. The Neighborhood Element identifies strategies that community members may use to participate in land use planning, to ensure efficient and cost-effective service delivery and to maintain and improve neighborhoods.

The goal of the Neighborhood Element is to provide a participatory planning process to guide planning and to promote programs that enhance neighborhoods and encourage a sense of community.

Objectives

- Educate and involve the public in city processes
- Allow for public comment through all stages of a clearly defined planning process
- Ensure that the planning process is open to all residents and businesses of the community
- Allow for honest expressions of opinion, even if they differ from those of the majority
- Attain the best neighborhood maintenance and management
- Promote neighborhood preservation and enhancement
- Promote a safe neighborhood environment
- Minimize traffic impacts
- Develop walkable communities
- Promote alternative modes of transportation

Strategies

- Retain the Neighborhood Advisory Commission
- Implement an effective communication process that informs the public of their role in the planning process and encourages them to participate in the process
- Develop participation standards that include ongoing communication with neighborhood organizations, residents, property owners, businesses and stakeholders
- Develop and implement a Planning and Public Involvement Policies and Procedures Manual that describes the specific planning and public engagement processes for all city planning tools
- Utilize multi-lingual communication methods to reach a diverse community
- Inform neighborhoods of land use plans and provide a forum for them to comment, as well as a mechanism for providing feedback that ensures the neighbors that their input has been considered
- Encourage reinvestment, infill, land re-use and redevelopment and preservation appropriate to each neighborhood by involving the neighborhood in the land use planning process
- Stabilize neighborhoods by encouraging residents to maintain and improve their properties, becoming active in their neighborhood to lend support to city service organizations
- Consider regional, state and federal funding sources to implement programs that benefit neighborhoods
- Identify significant historic neighborhoods for historic designation and offer incentives for rehabilitation
- Encourage affordable housing that meets the needs of a diverse population
- Allow flexibility in housing location, type and density, encouraging resident input to help develop and implement area guidelines
- Create guidelines that support compatible relationships between new and old buildings, paying special attention to the attributes that make the neighborhood desirable
- Support new development that is consistent in character and scale with established housing and commercial development

- Continue plans and programs that benefit neighborhoods including the Historic Preservation Plan, the Housing and Redevelopment Consolidated Plan, the Nuisance and Rental Housing ordinances and the Neighborhood Traffic Management Plan.
- Establish districts as necessary to provide improvements or enhancements, protect historic assets or encourage new development
- Redevelop blighted, distressed and underutilized properties
- Encourage mixed-use development that provides local services and a residential component appropriate to the neighborhood
- Utilize the appropriate planning tools as defined in the *Land Use Element*:
 - Building Code and Amendments
 - City of Tempe Zoning Ordinance
 - Community Plan
 - Comprehensive Multi-modal Transportation Plan
 - Housing Reinvestment Program
 - Neighborhood Vision Plan
 - Parks and Recreation Masterplan
 - Redevelopment Plan
 - Redevelopment Study Area
 - Specific Plan
 - Zoning Overlay District



COREY RESIDENCE

1425 EAST BELL DE MAR DRIVE

PL080446

VIEW: LOOKING SOUTHWEST



COREY RESIDENCE

1425 EAST BELL DE MAR DRIVE

PL080446

FRONT OF RESIDENCE



Holly L. Einspahr
1422 E. Bell de Mar Drive
Tempe, AZ 85283
(602) 509-6836
January 19, 2009

Shawn Daffara, Planner II
City of Tempe
31 E. 5th Street
Tempe, AZ

Re: Corey Residence
Case No. PL080446

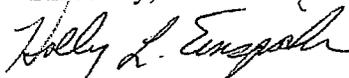
This letter is written in support of the City issuing a Use Permit to Tom Corey. My home is located across the street from Tom Corey's home.

Our immediate neighborhood is fairly unique in that the homeowners spend an inordinate amount of time socializing in our front yards and driveways. We all take great pride in the appearance of our homes and yards. The small travel trailer parked in the setback of Tom's home does not diminish the aesthetic appeal of the neighborhood in any way and causes no harm to the property values. As I sit in my living room, I can see directly into Tom's front yard and his camper does not bother me to any extent.

I would much prefer that the City send its inspectors to check on the homes and yards on the block of Bell de Mar between McClintock and Watson, which are dire need of repair, have yards overgrown with weeds, and junk cars & trucks sitting in the driveways or on the street. Tom's house is well-maintained and the yard is beautifully landscaped. The travel trailer is clean and in perfect condition.

Tom Corey and his wife should be granted a Use Permit and allowed to continue parking their travel trailer off to the side of the house where it is not in the way of pedestrians or traffic and is virtually unnoticeable. Thank you.

Sincerely,



Holly L. Einspahr

Copy to:

Mayor Hugh Hallman
City Council Members

RE: Case # CE087816

By signing below we acknowledge that we live in the immediate area and have been made aware that Tom G. Corey of 1425 E. Bell De Mar Dr. Tempe, Az. has a Travel Trailer parked in his driveway which exceeds the zoning requirements as defined in the City of Tempe Zoning & Development Code. Reference Chapter 6, Section 4-602.B.7 which states that trailers over 21' not be parked at the front or side of a residence. This trailer is 22'5" long. We do not in any way find that the above mentioned trailer being parked in this location causes any nuisance or property deterioration. We recommend that The Corey's be granted a use permit to allow continued parking of this trailer at this location.

Print Name:	Signature:	Address:	Date:
<u>MIKE EINSPAHR</u>	<u>Mike Einspahr</u>	<u>1422 E. BELL DEMAR</u>	<u>11/23/08</u>
<u>Holly Einspahr</u>	<u>Holly L. Einspahr</u>	<u>1422 E. Bell de Mar</u>	<u>11/23/08</u>
<u>RICHARD J. SKALITZKY</u>	<u>Richard J. Skalitzy</u>	<u>6818 S. Lakeshore</u>	<u>11/23/08</u>
<u>Russ Shuey</u>	<u>Russell Shuey</u>	<u>1414 E BELL DEMAR</u>	<u>11/23/08</u>
<u>Shelly Johnston</u>	<u>Shelly Johnston</u>	<u>1419 E. Bell de Mar</u>	<u>11/23/08</u>
<u>Kim Shuey</u>	<u>Kim Shuey</u>	<u>1414 E. BELL DEMAR</u>	<u>11/23/08</u>
<u>JERRY BUENA</u>	<u>Jerry Buena</u>	<u>1401 E BELL DEMAR</u>	<u>11/13.08</u>
<u>Carl Wood</u>	<u>CARL WOODS</u>	<u>6800 S. WILLOW</u>	<u>11/23/08</u>

RE: Case # CE087816

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Print Name:

Signature:

Address:

Date:

Terrance Paine Terrance Paine 6806 S. Willow Dr. 11-22-08

Bethany Pierce Bethany L. Pierce 1430 E. Bell De Mar Dr 11-22-08

MARY Donohue Mary Donohue 1426 E Bell De Mar 11/22/08

DEAN McNEIL Dean McNeil 1413 E. Bell De Mar 11/28/08

Lisa McNeil Lisa McNeil 1413 E. Bell De Mar 11/28/08

JEFF JOHNSON Jeff Johnson 1109 E. REDFIELD 11-28-08

GAYLON JOHNSON Gaylon Johnson 1109 E. Redfield Dr 11-28-08

Jennie Caher Jennie Caher 1407 E. Bell De Mar 11/29/08

RE: Case # CE087816

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Print Name:

Signature:

Address:

Date:

William Johnson

[Signature]

1419 E Bell De Mar

11/29/08

Brian KRAFT

[Signature]

6855 S Willow Dr

11/29/08

Sheryl D. Corey

Sheryl D. Corey

1425 E. Bell de Mar

12/1/08

Tom G. Corey

Tom G. Corey

1425 E. Bell de Mar

12/1/08

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(480) 350-8331 (Phone)

January 26, 2009

Mr. Tom Corey
1425 East Bell De Mar Drive
Tempe, Arizona 85283

RE: COREY RESIDENCE PL080446 / ZUP08183

Dear Mr. Corey:

You are hereby advised that at the hearing held January 20, 2009, the Hearing Officer of the City of Tempe, acting in accordance with Section 1-305, Paragraphs C and D, of the Zoning and Development Code:

Denied the 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.

Any appeal of the Hearing Officer's decision on a use permit must be made within fourteen (14) days of the hearing. You have until **February 3, 2009** to file a formal appeal **in writing** to the Development Review Commission if you so desire. Should you decide to submit this written appeal, the appropriate fee must be paid.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shawn Daffara', with a long horizontal flourish extending to the right.

Shawn Daffara
Planner II

SD:dm

cc: File

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.

