

Staff Summary Report



Hearing Officer Hearing Date: December 15, 2009

Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by the **BRINKERHOFF RESIDENCE (PL090407)** located at 502 East Watson Drive for reconsideration of COA #6.

DOCUMENT NAME: 20091215dssl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request for reconsideration of Condition of Approval No. 6 by the **BRINKERHOFF RESIDENCE (PL090407)** (Lawrence Roos, applicant; Timothy Brinkerhoff, property owner) located at 502 East Watson Drive in the R1-6, Single Family Residential District which reads:

"The carport enclosure shall ~~be compatible with~~ match the main residence in color, form, texture and material."

MODIFIED BY HEARING OFFICER AT NOVEMBER 17, 2009 HEARING

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

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

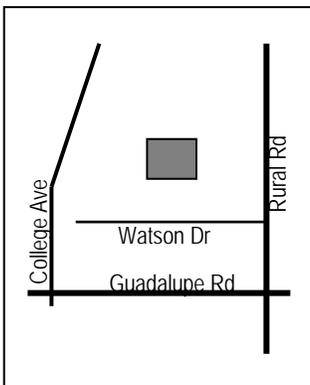
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



The applicant is requesting a reconsideration of a condition of approval modified by the Hearing Officer at the November 17, 2009 meeting. The condition of approval required that the construction of the carport enclosure to livable space be constructed to match the existing residence in color, form and material. The homeowner is willing to complement the existing architecture with compatible materials found on the dwelling such as the wood siding. It is not his intention to match the material of the south elevation i.e. the block. Staff recommends approval of the reconsideration allowing the materials for the future enclosure to "complement" the existing residence.

PAGES:

1. List of Attachments
2. Comments; Justification for Reconsideration; Public Input; Conclusion; Reasons for Approval
3. 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. Current Existing Carport
6. Current Existing Carport – Interior Walls
7. Proposed Electrical & Mechanical
8. West Elevation – Proposed Carport Room Conversion
9. South Elevation – Proposed Carport Room Conversion
10. Staff Photograph
11. Letter of Reconsideration
- 12-13. Letter of Approval
- 14.15. Minutes from Hearing Officer 11/17/09

COMMENTS:

The Brinkerhoff Residence is requesting reconsideration of condition six (6), modified by the Hearing Officer to require that their carport enclosure to livable space match the existing residence in color, form and material. The applicant is converting their two vehicle carport into livable space. They propose to finish the exterior of the enclosure with a composition siding to complement other trim accents on the residence. They are seeking relief from the condition requiring them to "match" the appearance of the residence, especially on the south street side elevation which is primarily brick. The applicant agreed to the conditions at the hearing, but later determined that compliance with condition number six (6) would be unduly burdensome to the progress of their project.

The applicant remains in agreement with conditions one through seven with the exception of condition number 6. They are requesting that the condition read "to be compatible" versus "to match". Pursuant to Section 6-605 and Section 6-312 of the Zoning and Development Code, an applicant may request modification or elimination of a condition of approval if the condition could not be implemented because it is beyond the reasonable control of the applicant and the modification will not require a significant modification of the original decision; or different conditions would better accomplish the purpose of the original condition.

JUSTIFICATION FOR RECONSIDERATION

Staff considers the following based on applicant information:

1. Condition six (6) requires redesign of their building plans to incorporate brick or block in the construction of the enclosure.
2. Other residences within the neighborhood have used siding material for the exterior of their carport enclosure to "complement" the existing building design.
4. Per ZDC 6- 306 (B) Development Plan Review applicability; single family residences are not included in the review requirements and do not need to conform to process or criteria of Development Plan Review.
5. Per ZDC 6-308 (E) Use Permit approval criteria (d):
Compatibility with existing surrounding *structures* and uses is a criterion which warrants approval of a use permit.

PUBLIC INPUT

Staff has received no public input regarding reconsideration of the condition of approval.

CONCLUSION

The applicant has provided a letter requesting reconsideration and modification of condition six (6). Upon review of this information, staff has determined that modifying condition number six (6) to read "to be compatible with" or "complement" will meet the intent of the approval and the criteria for approval of a use permit as identified in the ZDC Section 6-308.

REASONS FOR APPROVAL:

1. The condition imposes further delays and hardships to the applicant.
2. Condition six (6) requires the applicant to make improvements on his property not required by other single family residences within the district.
3. The modification of condition six (6) will not significantly modify the original decision.

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

**CONDITIONS
OF APPROVAL:**

1. The required parking on-site shall be used for single family residential use only.
2. Parking shall take place on impervious surfaces only.
3. Obtain all necessary clearances from the Building Safety Division.
4. All vehicles parked on the premises must be actively registered and in operable condition at all times.
5. One (1) additional tree of a fifteen (15) gallon size shall be planted in the front yard to help screen parking in the front yard setback.
6. The carport enclosure shall be **compatible with** the main residence in color, form, texture, and material.
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 set to re-evaluate the appropriateness of the use permit.

HISTORY & FACTS:

1974 Construction year of a single family home.

November 17, 2009.

The Hearing Officer approved a use permit for the Brinkerhoff Residence to allow the required parking to be located in the front yard setback, subject to conditions.

DESCRIPTION:

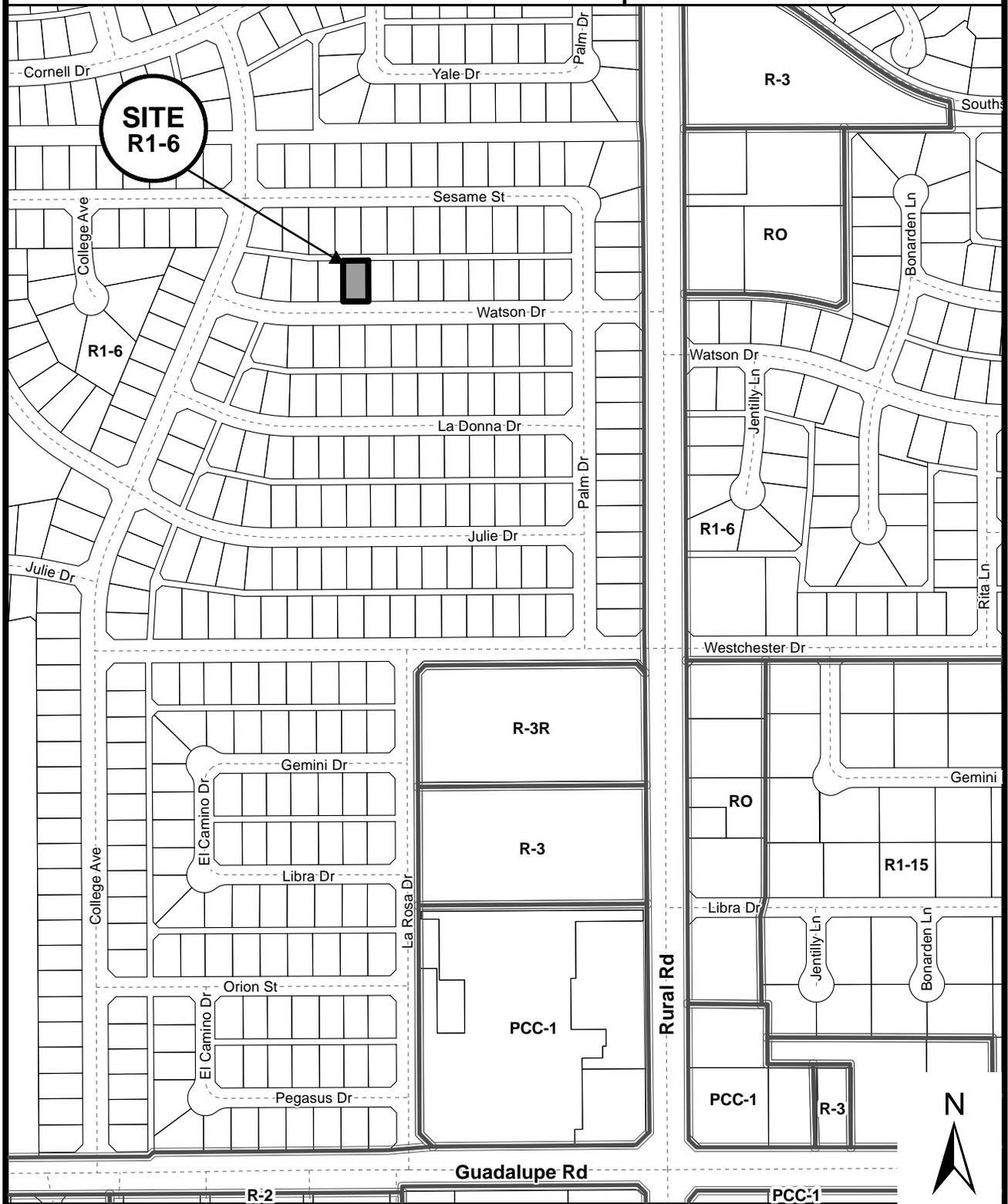
Owner – Timothy Brinkerhoff
Applicant – Lawrence Roos
Existing Zoning – R1-6, Single Family Residential District
Lot Size – 6,661 s.f. / .153 acres

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 4, Chapter 5, Section 4-502 – Motor Vehicle Access and Circulation Standards
Part 4, Chapter 6, Section 4-602 – General Parking Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

BRINKERHOFF RESIDENCE

PL090407



Location Map



BRINKERHOFF RESIDENCE (PL090407)

October 19, 2009

To: Tempe Development Services Department
31 E. 5th Street
Tempe, Az 85281

Subject: Use and Building Permit

To Whom It May Concern:

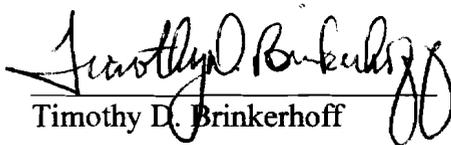
My name is Timothy D. Brinkerhoff. My family and I have called 502 E. Watson Drive, Tempe, Az 85283, our home since March 29, 1988, Legal description: University Royal Unit 2 Lot 500, Parcel 301-81-158.

I am applying for a Use and Building Permit to convert my two-car carport into a living area. Due to the current size and layout of our home we are a little cramped and are in need of more living space. By granting this permit it will allow our family to use the extra living space as a family room, game room and playroom and sometimes for extra sleeping room when our grandkids and family come to visit us. This room will be especially useful during the summer months when the weather is too hot to play outside.

The enclosure of the carport will not compromise the parking space in our driveway.

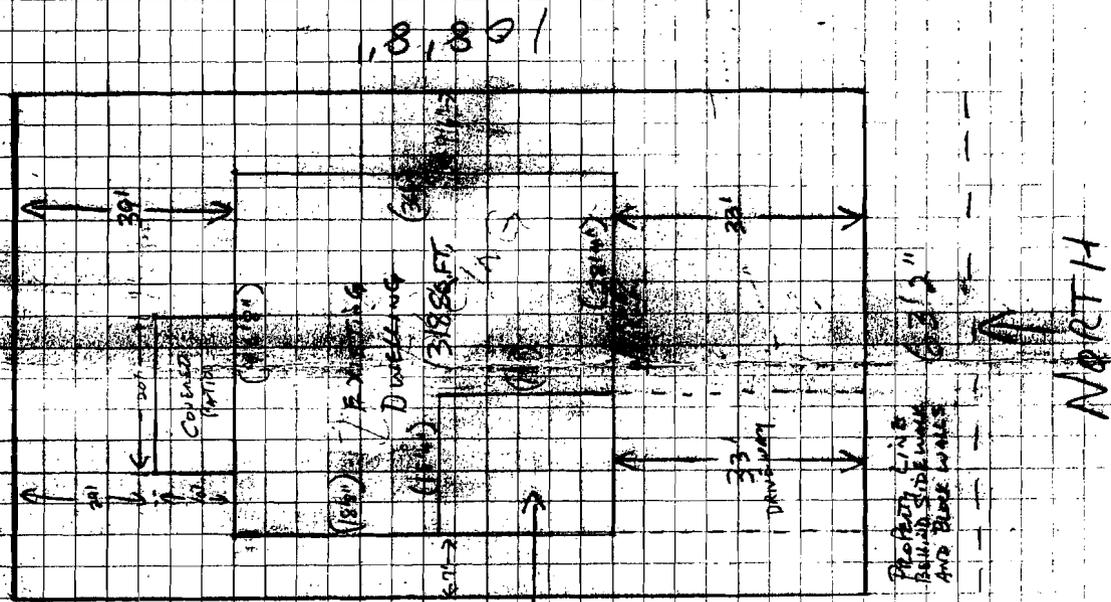
Thank you for your consideration in my request for the Use and Building Permit.

Respectfully,


Timothy D. Brinkerhoff

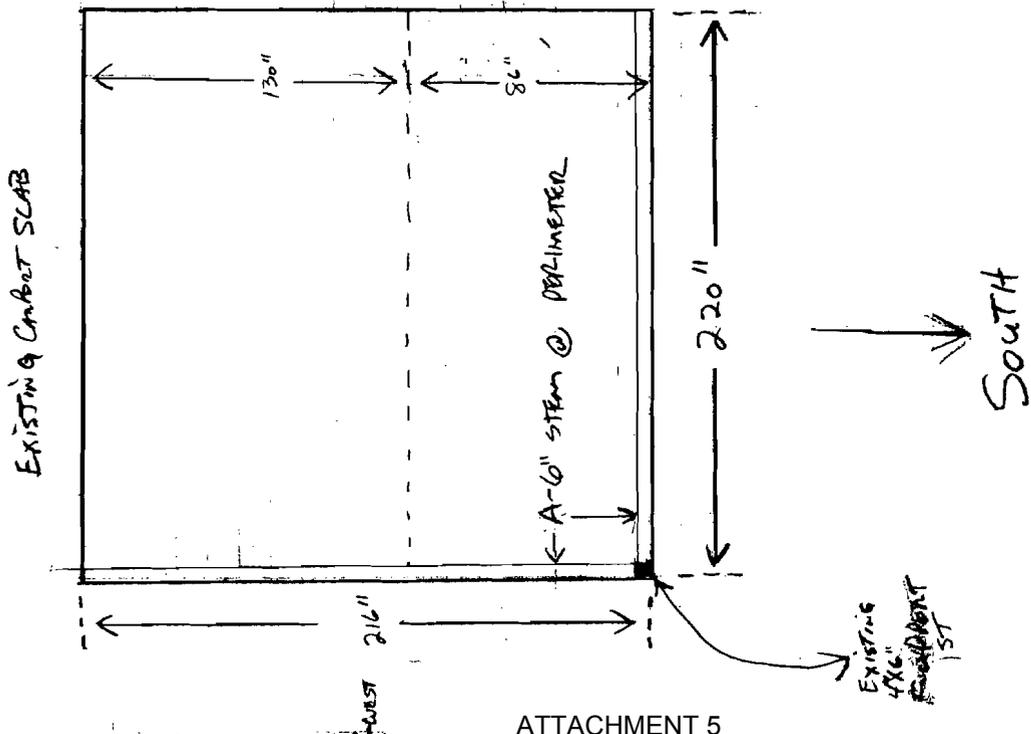
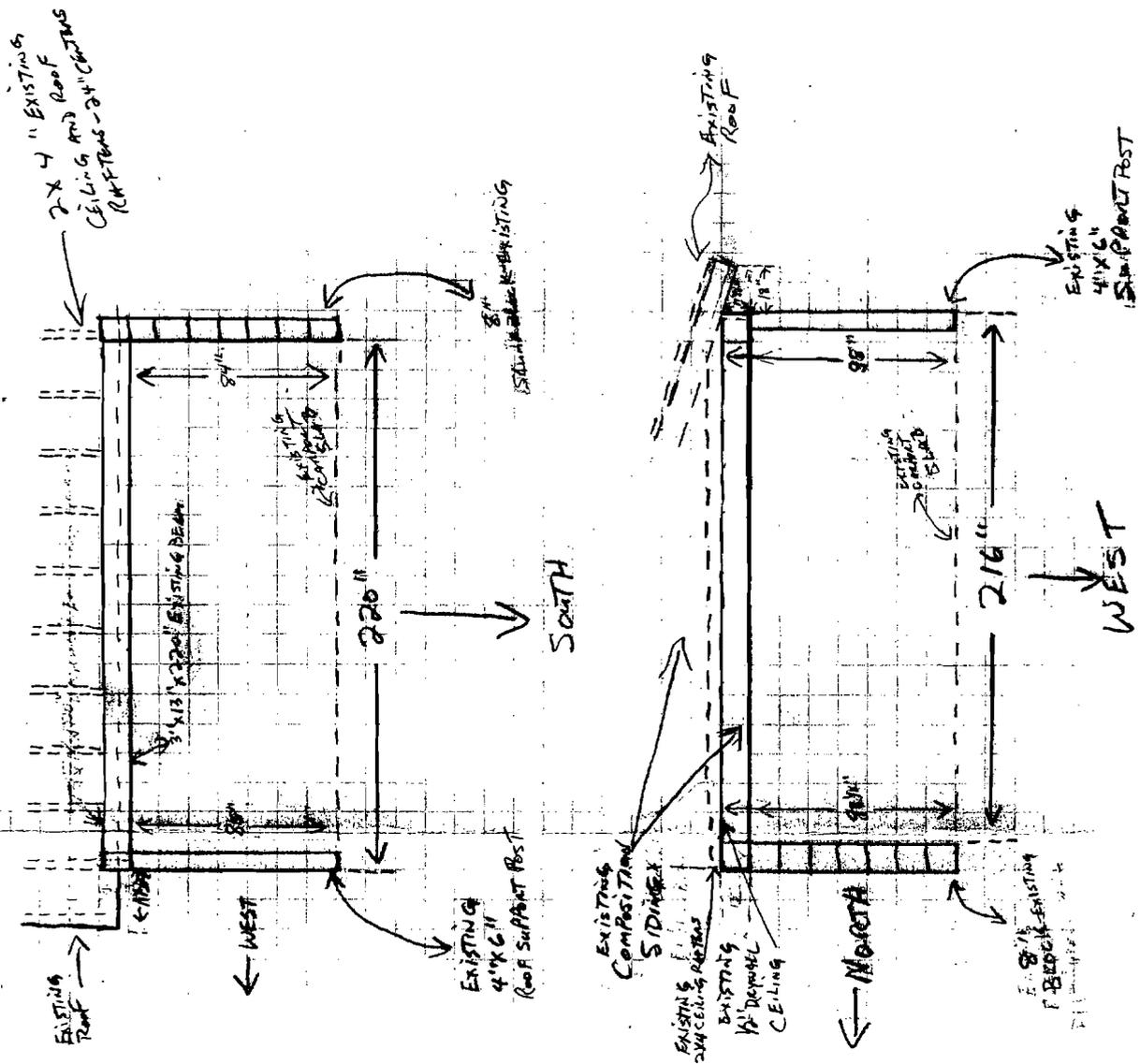
TIMOTHY BRINKERHOFF (OWNER)
 502 E. WATSON DRIVE
 TEMPE AZ 85283
 PHONE 480-588-8223 HR
 480-466-1516 HR
 ASSESSOR: 301-81-158
 LEGAL: LOT 500 UNIVERSITY POINT UNIT TWO

SITE PLAN



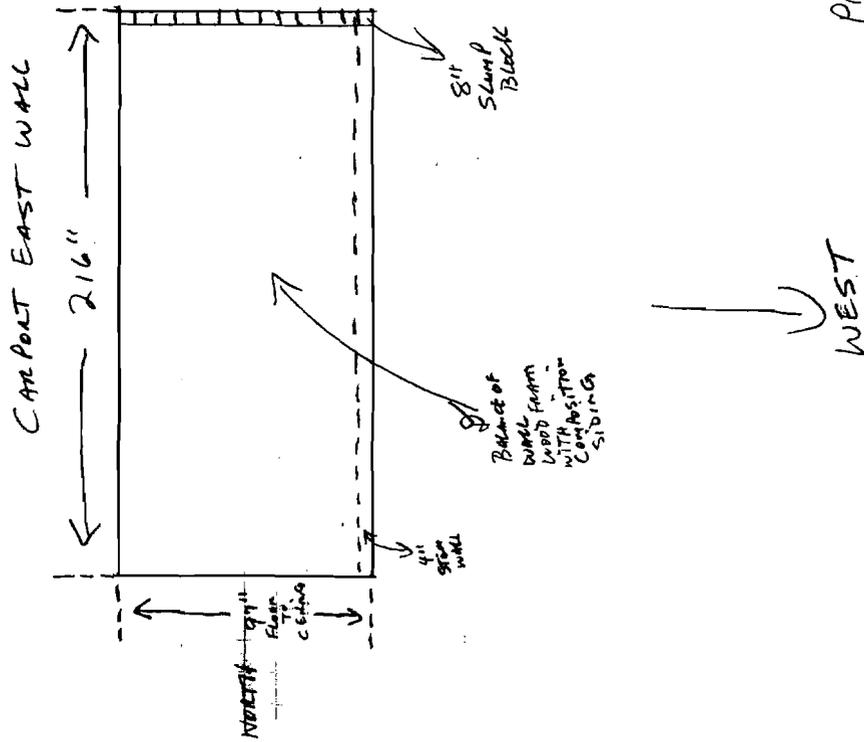
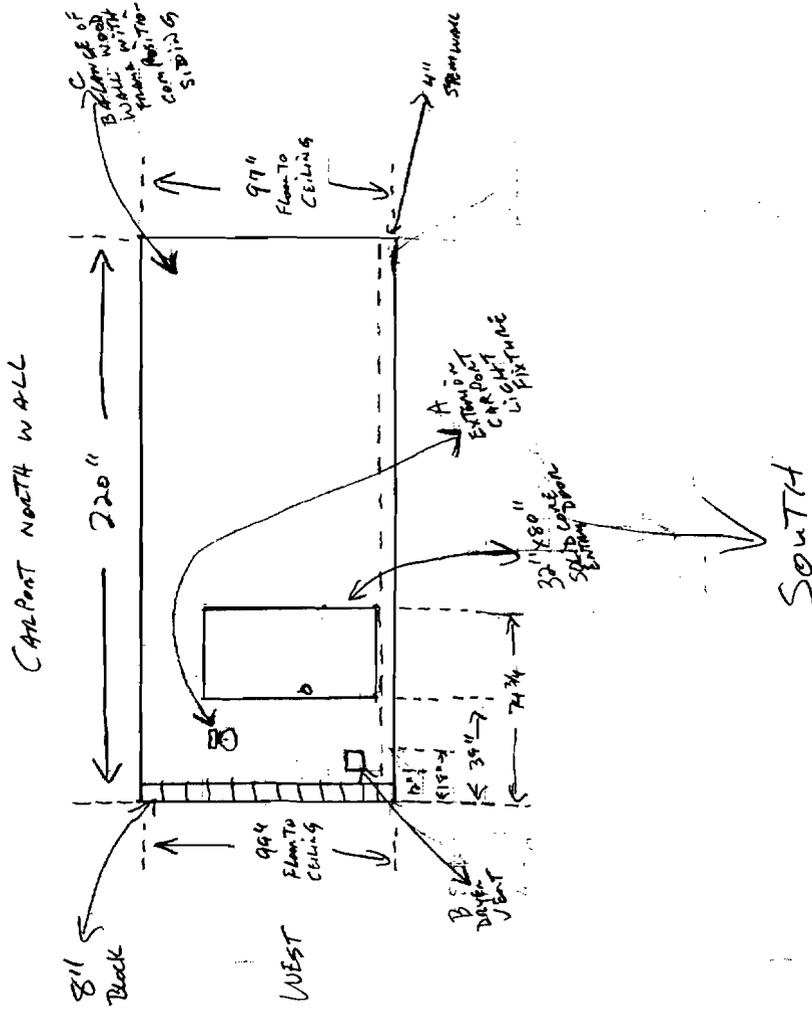
EXISTING
 CHICAGO
 CARPENTRY
 PROPOSED
 GARAGE WITH
 ENCLOSURE
 FOR LIVABLE AREA

CURRENT EXISTING CARPORT



- PROPOSED**
- A - 6" STEM AT PERIMETER
 - B - RESEAL EXISTING PERIMETER OR REMOVE 4X6 SUPPORT POST ON N.E. AND 6" STEM AT PERIMETER

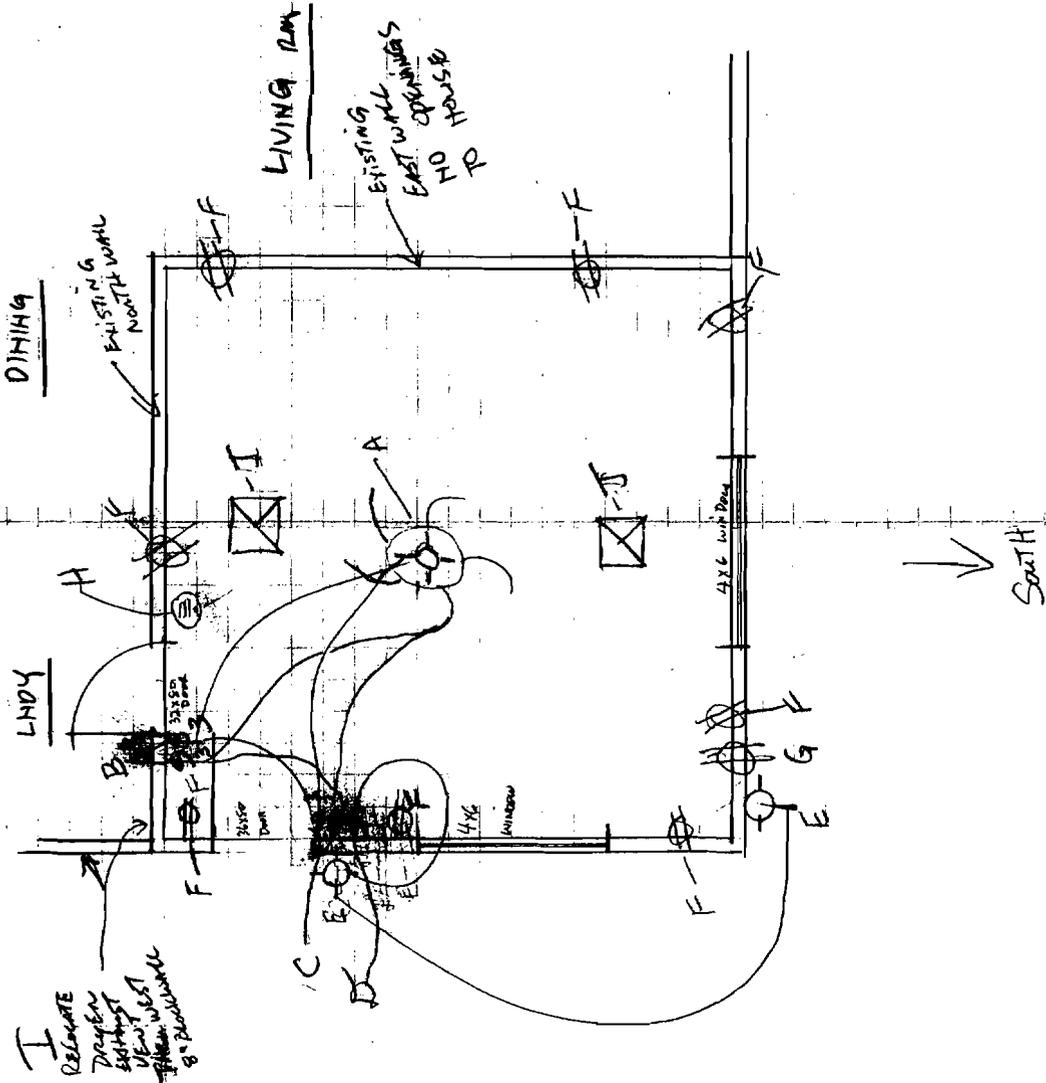
CURRENT EXISTING CARPORT INTERIOR WALLS



- PROPOSED CHANGES
- A - RELOCATE EXTERIOR LIGHT TO WEST WALL
 - B - RELOCATE DAYLIGHT VENT FROM WEST 8" BLOCK WALL
 - C - OPTION - LEAVE SIDING AS IS OR REMOVE AND INSTALL 1/2" DRYWALL

PROPOSED CHANGES
 OPTION - LEAVE SIDING AS IS OR REMOVE AND INSTALL 1/2" DRYWALL

PROPOSED ELECTRICAL & MECHANICAL FOR CARPORT ROOM CONVERSION



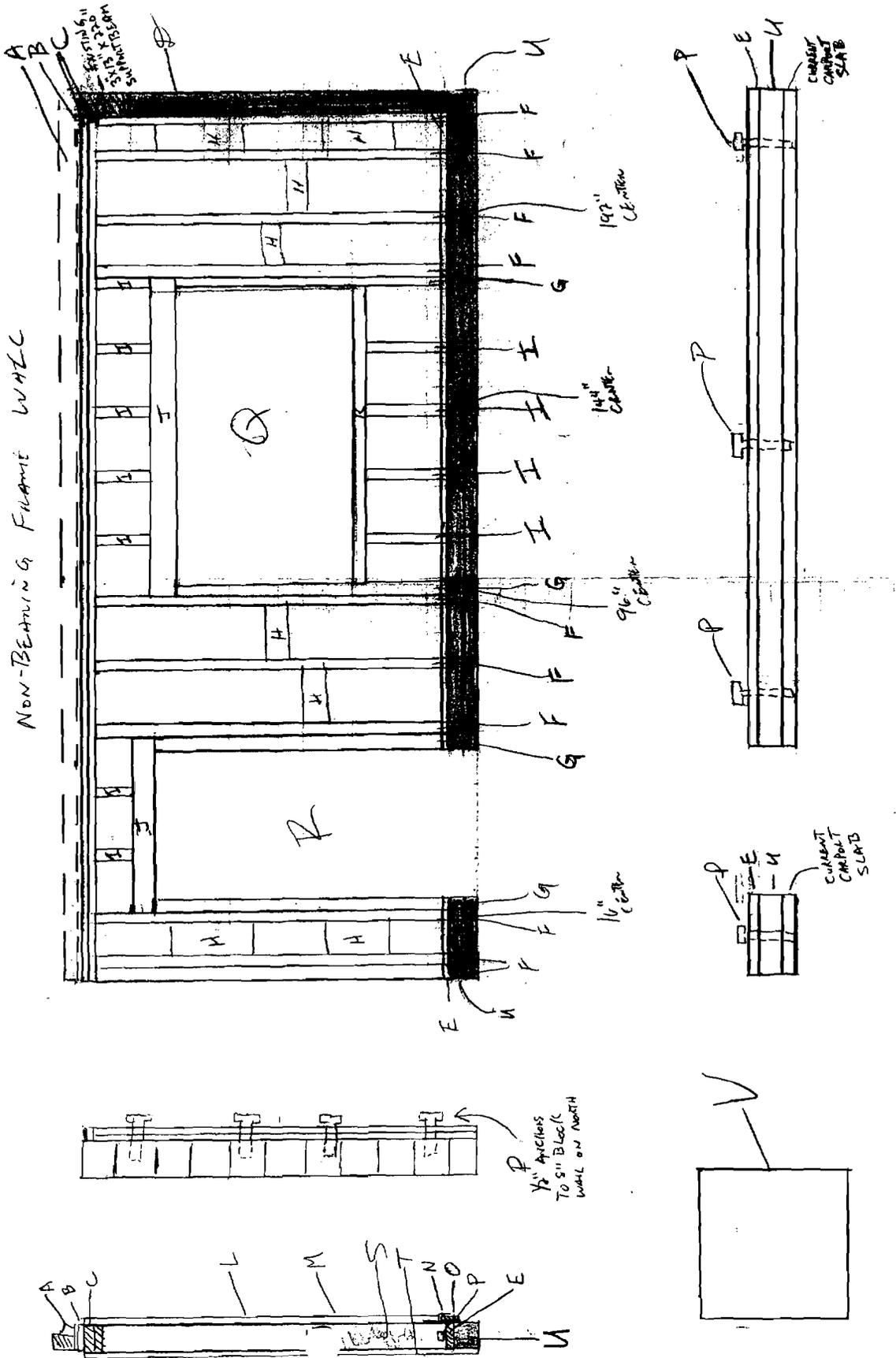
PROPOSED

- A - Ceiling Fan/Light
- B - Existing wall switch control to 3 way for ceiling fan/light
- C - Wall switch tie to B for 3 way for ceiling fan/light
- D - Outdoor light switch
- E - Outdoor lights
- F - Wall outlet extension & foil outlet
- G - Smoke detector
- H - Relocate down vent thru west extension on block wall
- I - Relocate Existing Ductwork for Heating/cooling
- J - Relocate Down Vent thru west extension on block wall
- K - Relocate Down Vent thru west extension on block wall

NOTE: Run New Electrical Service Panel From Electrical Breaker & Service Panel

PROPOSED CARPORT ROOM CONVERSION

WEST
NON-BEARING FILAMITE WALL



- A - Existing Ceiling
- B - Shim Space
- C - 2x4x8 Rafters @ 24" OC
- D - 1/2" x 8" BLOCK WITH WOOD STUDS ATTACHED INTO SLAB
- E - 2x4x8 PRESSURE TREATED OR REDWOOD SILL PLATE WITH STEM
- F - 2x4x8 STUDS
- G - 2x4x8 Window Sills AND DOOR THRESHOLDS
- H - 2x4x8 Window Brackets
- I - 2x4x8 Window Sill Brackets
- J - 2x4x8 Door Header
- K - 2x4x8 Window Sill
- L - SIDE VIEW OF EXTENSION WALL
- M - 1/2" MASONRY SIDING
- N - FLASHING
- O - 1/2" x 8" BLOCK WITH WOOD STUDS ATTACHED INTO SLAB
- P - ANCHORS
- Q - 41" x 61" Insulated window
- R - 36" x 80" Insulated Exterior Door AND SECURITY DOOR
- S - INSULATION R13 TO MAX
- T - 1/2" Dry wall
- U - 6" STEM AT PERIMETER
- V - 3' x 3' EXTERIOR LANDING AT DOOR

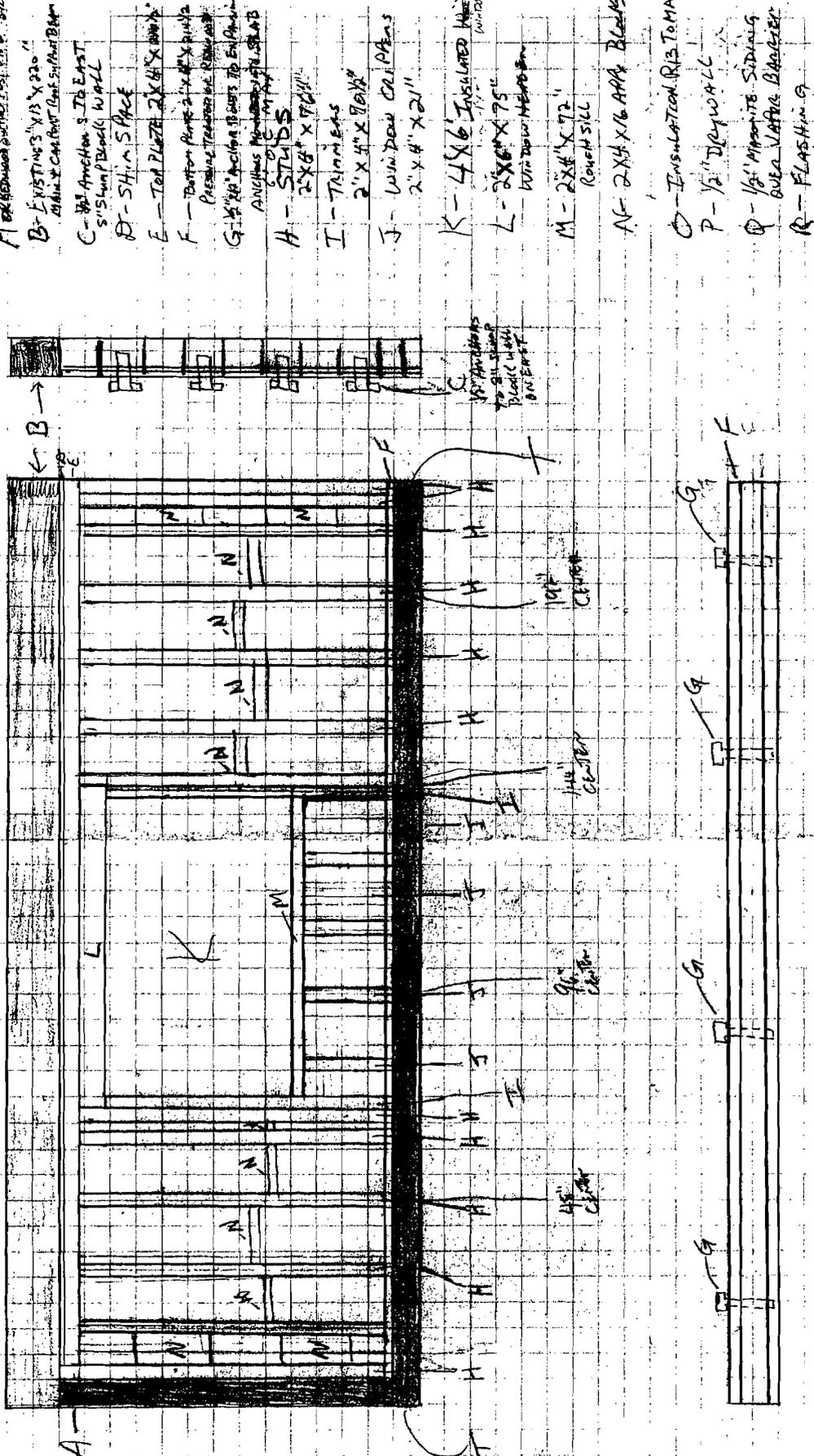
NOTE: 2" x 6" OPTION INSTEAD OF 2" x 4"

PROPOSED CARPORT ROOM CONVERSION

SOUTH

NON-BEARING FRAME WALL

SEE VIEW



- A - 4x6" X 75' PRESSURE TREATED BRUSHWOOD SHEATHING ON 6" SIZ
- B - EXISTING 2x4 X 20"
- C - 8" ANCHOR 3 TO EAST 5" SHIM BACK WALL
- D - SHIM SPACE
- E - TOP PLATE 2x6 X 20"
- F - BOTTOM PLATE 2x4 X 20" PRESSURE TREATED BRUSHWOOD
- G - 2x4 JOIST SETS TO END OF ANCHORS
- H - STUDS 2x4 X 20"
- I - TRIMMERS 2x4 X 20"
- J - WINDOW CASINGS 2x4 X 20"
- K - 4x6 INSULATED WINDOW
- L - 2x6 X 75" WITH DOWN HEADS
- M - 2x4 X 72" ROUGH SILL
- N - 2x4 X 6 APA BRACKETS
- O - INSULATION R13 TO MA
- P - 1/2" DRYWALL
- Q - 1/2" APPOSITE SIDING OVER WATER BARRIER
- R - FLASHING G
- S - 1/2" ANCHOR 3 TO EAST 5" SHIM
- T - 6" SIBA AT PERIMETER

NOTE: 2x6" OPTED IN LIEU OF 3x4"



BRINKERHOFF RESIDENCE

502 EAST WATSON DRIVE

PL090407

FRONT OF RESIDENCE



November 18, 2009

City of Tempe
Development Services Department
Planning Division
31 East 5th Street
Tempe, AZ 85281

To Whom It May Concern:

I wish to have the decision of the Hearing Officer regarding the request for a use permit at the Brinkerhoff Residence – 502 East Watson Drive, to be reconsidered at the December 15, 2009 Hearing Officer Meeting.

Specifically, the change the Hearing Officer made to condition #6 calling for the carport enclosure to “match” the existing structure rather than “to be compatible with”.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "LW Roos". The signature is written in a cursive, flowing style.

Lawrence Roos

City of Tempe
P. O. Box 5002
31 East Fifth Street
Tempe, AZ 85280
www.tempe.gov



Development Services
Planning

(480) 350-8331

November 25, 2009

Mr. Lawrence W. Roos
1208 East Fairmont Drive
Tempe, Arizona 85282
LWRoos@cox.net

**RE: BRINKERHOFF RESIDENCE
PL090407 / ZUP09141**

Dear Mr. Roos:

You are hereby advised that at the hearing held November 17, 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:

Approved the request by the **BRINKERHOFF RESIDENCE (PL090407)** (Lawrence Roos, applicant; Timothy Brinkerhoff, property owner) located at 502 East Watson Drive in the R1-6, Single Family Residential District for:

ZUP09141 Use permit to allow the required parking to be located in the front yard setback.

Approved subject to the following conditions:

1. The required parking on-site shall be used for single family residential use only.
2. Parking shall take place on impervious surfaces only.
3. Obtain all necessary clearances from the Building Safety Division.
4. All vehicles parking on the premises must be actively registered and in operable condition at all times.
5. One (1) additional tree of a fifteen (15) gallon size shall be planted in the front yard to help screen parking in the front yard setback.
6. The carport enclosure shall ~~be compatible~~ match with the main residence in color, form, texture and material. **MODIFIED BY HEARING OFFICER**
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.

Your request for reconsideration of the modified condition(s) of approval #6 has been received and will be heard at the Hearing Officer hearing scheduled for **December 15, 2009**.

BRINKERHOFF RESIDENCE PL090407
ZUP09141
November 25, 2009

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Approvals are specifically conditioned upon the applicant proceeding with the proposed use(s) and/or variance(s) within twelve (12) months of the date of the approval by the Hearing Officer and required by the Zoning and Development Code.

In addition to proceeding with the approvals granted, it is understood that any and all conditions as stipulated by the Hearing Officer as indicated above, shall be fully complied with. If the action of the Hearing Officer was required for the purposes of rectifying any violations of the Zoning and Development Code, the violations shall be the responsibility of the applicant/owner to fully correct and achieve conformance.

In sign-related violations, corrections shall be made within five (5) days of Hearing Officer action; in all other matters, corrections shall be made within fifteen (15) days of Hearing Officer action, unless specifically conditioned otherwise by the Hearing Officer. You are further advised that the above does not waive the requirements for obtaining building permits and other clearances as may be necessary.

If you have any questions please contact me at (480) 350-8690.

Sincerely,

A handwritten signature in black ink that reads "Nicholas J. Graves". The signature is written in a cursive style with a large initial "N".

Nick Graves
Planning Intern

NG:dm

cc: Tim & Irene Brinkerhoff (tbrinkerhoff@spencerstv.com; ibrinkerhoff@yahoo.com)
File

4. Request by the **KING PLAZA – H B TOBACCO - HUBBLY BUBBLY CAFE - (PL090403)** (Anis Ben Harzallah, applicant; King Plaza LLC, property owner) located at 1400 South McClintock Drive, Suite Nos. 3 & 4, in the CSS, Commercial Shopping and Services and TOD, Transportation Overlay Districts for:

ZUP09143 Use permit to allow live entertainment including D.J.'s, belly dancers and karaoke.

Mr. Anis Ben Harzallah and Mr. Ernie Kurschat were 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 confirmed, in response to a question from Mr. Williams, that the V.I.P. Lunge is a separate establishment and that there would be no outdoor speakers. He stated that there have been no complaints regarding the actual business itself, although there have been issues such as signage.

The Conditions of Approval were discussed. Mr. Harzallah and Mr. Kurschat stated that they understood them. Mr. Kurschat noted that he felt that the increase in pedestrian traffic due to the development of this request would be a positive thing.

Mr. Williams agreed that an increase in pedestrian traffic in the light rail area was advantageous as they supported the local businesses. He concurred with staff's recommendation for approval.

Mr. Harzallah and Mr. Kurschat returned to the podium and addressed the Conditions of Approval. Following discussion, Mr. Williams modified the Conditions as noted below.

DECISION:

Mr. Williams approved PL090403/ZUP09143 subject to the following conditions of approval:

1. The use permit is valid for Hubbly Bubbly Cafe and may be transferable 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. **If any** All permits and clearances ~~required~~ **are needed** by the Building Safety Division **they** shall be obtained prior to the use permit becoming effective. **MODIFIED BY HEARING OFFICER**
4. Music generated from this 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 in the patio area **other than a single billiard table**. **MODIFIED BY HEARING OFFICER**
6. No outdoor speakers will be allowed.
7. ~~Remove The outdoor pool table from outdoor patio to~~ shall comply with (A.D.A.) Americans with Disabilities Act requirements. **MODIFIED BY HEARING OFFICER**
8. 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.
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/update a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6027.

5. Request by the **BRINKERHOFF RESIDENCE (PL090407)** (Lawrence Roos, applicant; Timothy Brinkerhoff, property owner) located at 502 East Watson Drive in the R1-6, Single Family Residential District for:

ZUP09141 Use permit to allow the required parking to be located in the front yard setback.

Mr. Lawrence Roos 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. One e-mail of inquiry had been received on this case.

Mr. Williams noted, with staff confirmation, that there was no parking on the lawn allowed per the Tempe City Code. The issue of adequate parking space and the required footage was discussed. Mr. Roos stated that there were currently three (3) cars parked at this location every night. Mr. Williams noted that if this request was approved there would only be two (2) parking spaces in the driveway and that no parking on the lawn or blocking the sidewalk was allowed. Mr. Roos noted his understanding of those requirements and also the Conditions of Approval.

DECISION:

Mr. Williams approved PL090407/ZUP09141 subject to the following conditions of approval:

1. The required parking on-site shall be used for single family residential use only.
2. Parking shall take place on impervious surfaces only.
3. Obtain all necessary clearances from the Building Safety Division.
4. All vehicles parking on the premises must be actively registered and in operable condition at all times.
5. One (1) additional tree of a fifteen (15) gallon size shall be planted in the front yard to help screen parking in the front yard setback.
6. The carport enclosure shall be compatible match with the main residence in color, form, texture and material. **MODIFIED BY HEARING OFFICER**
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.

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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 **MECRAY AND SCHENDEL PROPERTY (PL090392/ABT09034)** (Mecray & Schendel Appraisal Group LLC, property owner) Complaint CE084920 located at 1123 West 9th Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Don Alexander, Neighborhood Enhancement Inspector, stated that condition of the green pool still exists.

DECISION:

Mr. Williams approved abatement proceedings for PL090392/ABT09034.

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7. 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 (PL090401/ABT09035)** (Thomas Stefaniak, property owner) Complaint CE095290 located at 1849 East Harvard Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Don Alexander, Neighborhood Enhancement Inspector, stated that this property has chronic violations.