

Staff Summary Report



Hearing Officer Hearing Date: July 21, 2009

Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by the **CONDER RESIDENCE (PL090224)** located at 2022 East Malibu Drive for one (1) use permit.

DOCUMENT NAME: 20090721dsdp01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: 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 standard to reduce the front yard setback by twenty percent (20%) from twenty (20) feet to sixteen (16) feet.

PREPARED BY: Derek Partridge, Planner I (480-350-8867)

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

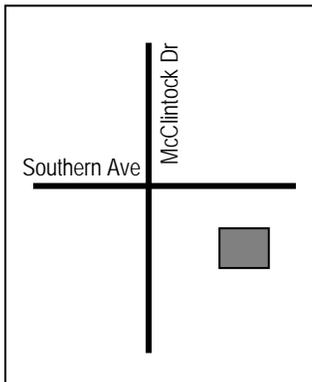
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



The applicant is requesting a use permit standard to reduce the front yard setback for purposes of an additional bedroom. The applicant has provided detailed plans and elevations for the proposed addition. The proposed addition will match the design and construction of the residence. To date, two letters of concern have been received 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
5. Floor plan/Elevations
- 6-8. Letters of concern
9. Staff Photograph(s)

COMMENTS:

The Conder Residence is proposing a 423 s.f. bedroom and closet addition. The addition is for the south side of the existing house and is proposed to encroach into the front yard setback by approximately two (2) feet; reducing the required setback from twenty (20) feet to eighteen (18) feet. The proposed design and color is consistent with the existing home. Since the home was built at a different time than many of the surrounding homes, the basic architecture of the residences differs from many of the surrounding styles.

To date, two (2) letters of concern have been received on this request. Concerns of neighboring residents primarily deal with the location of the A/C unit in the front yard, the design of the addition and the removal of mature landscaping.

Use Permit

The Zoning and Development Code requires a use permit for any setback reduction less than 20%. This use permit request meets all applicable tests in the following manner:

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.
- 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 proposed garage addition will be an attribute to the neighborhood; there should be no 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 proposal 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.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses; several other properties in this neighborhood also have three (3) stall garages.

Conclusion

Staff recommends approval of the request subject to conditions.

REASON(S) FOR APPROVAL:

1. The use appears to be compatible with the building, site and adjacent property.
2. There appears to be a demonstrated need for this use at the proposed location.

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 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 of the home or (2) behind the masonry wall in the side yard of the residence.
4. The front yard setback use permit standard to be modified to eighteen (18) foot minimum.

HISTORY & FACTS:

December 26, 2007 BP0702253: Building permit to enclose carport into garage

DESCRIPTION:

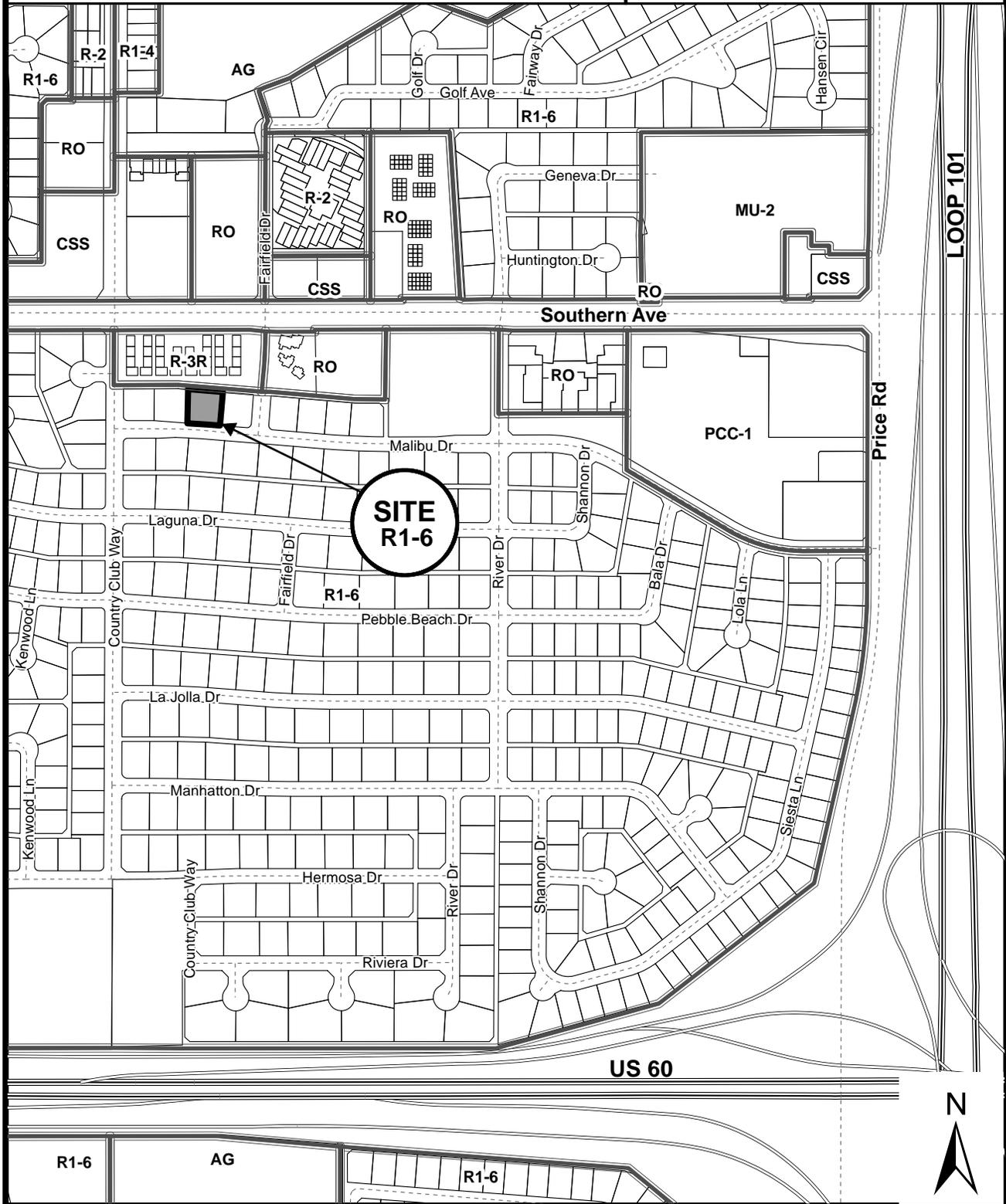
Owner – Michael Conder
Applicant – Michael Conder
Existing Zoning – R1-6, Single Family Residential District
Front yard setback required – 20 feet
Proposed front yard setback – 16 feet min.
Existing Lot Coverage – 26.5%
Proposed Lot Coverage – 30.3%
Lot Coverage Allowed – 45%

**ZONING AND
DEVELOPMENT**

CODE REFERENCE: Part 4, Chapter 2, Section 4-201 – Purpose and Applicability
Part 4, Chapter 2, Section 4-202 – Development Standards for Residential Districts
Part 6, Chapter 3, Section 6-308 – Use Permit

CONDER RESIDENCE

PL090224



Location Map



Malibu Dr

CONDER RESIDENCE (PL090224)

Conder home addition

2022 E. Malibu Drive, Tempe, AZ 85282

This letter is to request a Use Permit to allow me to build an addition to my house that will encroach into the front yard set back. The required setback is 20'-0". I am requesting to be allowed to build within 4'-0" (20%) of the setback, leaving 16'-0" to the right of way line.

Because of our expanding family we feel that we need to add one bedroom to our house. We are also going to add on a larger Master Closet. Functionally, it works best to add on to the front of the house because we are constrained by the swimming pool at the back of the house. We also want to keep all of the bedrooms grouped together because of our young children.

This addition will not add vehicular or pedestrian traffic in adjacent areas. It will not cause a nuisance of odor, dust, gas, noise, vibration, smoke, heat or glare. It will not contribute to the deterioration of the neighborhood or be in conflict with the goals, objectives and policies of the city. It will be compatible with the existing surround house and not result in any disruptive behavior which may create a nuisance to the surrounding area or general public.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Mike Conder", with a long horizontal flourish extending to the right.

Mike Conder

2022 E. Malibu Drive, Tempe, AZ 85282



CONDER ADDITION
 2022 E. MALIBU DRIVE, TEMPE, AZ 85282

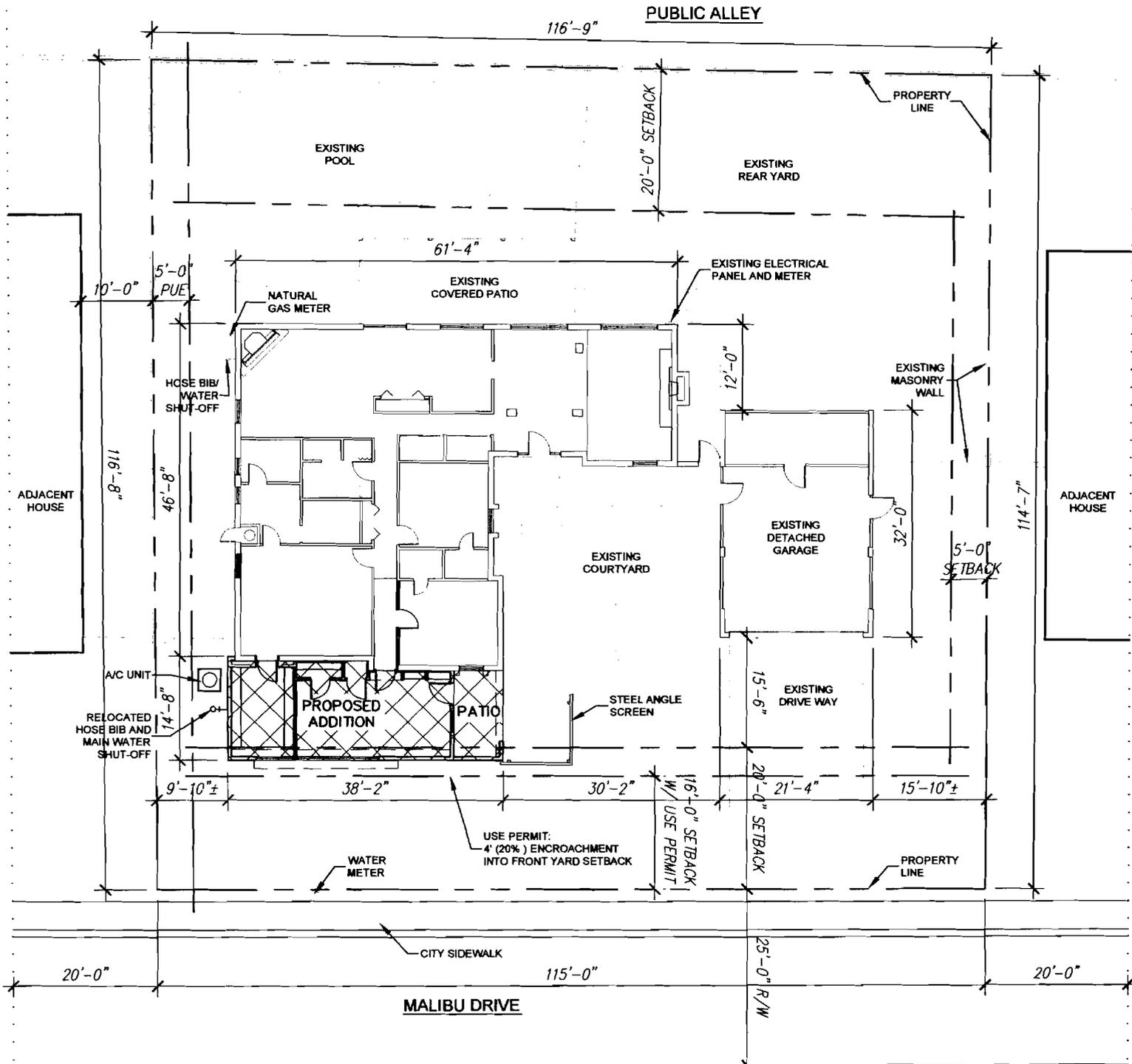
SITE DATA:
 ZONING: R1-6
 PARCEL NUMBER: 133-36-009
 LEGAL DESCRIPTION: BRADLEY ESTATES 1; LOT #5

LOT AREA: 13,255 SF

EXISTING HOUSE AREA UNDER ROOF: 3,512 SF
 PROPOSED ADDITION: 423 SF LIVABLE AND 86 SF PATIO
 PROPOSED TOTAL: 3,935 SF

STREET RIGHT OF WAY: 25'
 ALLEY WIDTH: 16'

REQUIRED SETBACKS: 20' FRONT AND BACK; 5' SIDE
 REQUESTED SETBACK: 16' FRONT

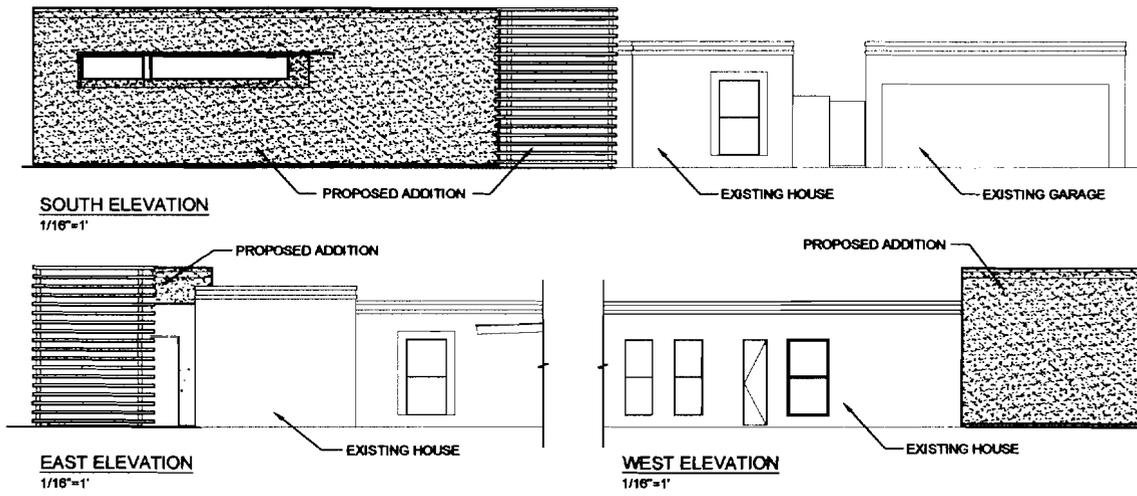


SITE PLAN

SCALE: 1" = 20'



CONDER ADDITION
2022 E. MALIBU DRIVE,
TEMPE, AZ 85282

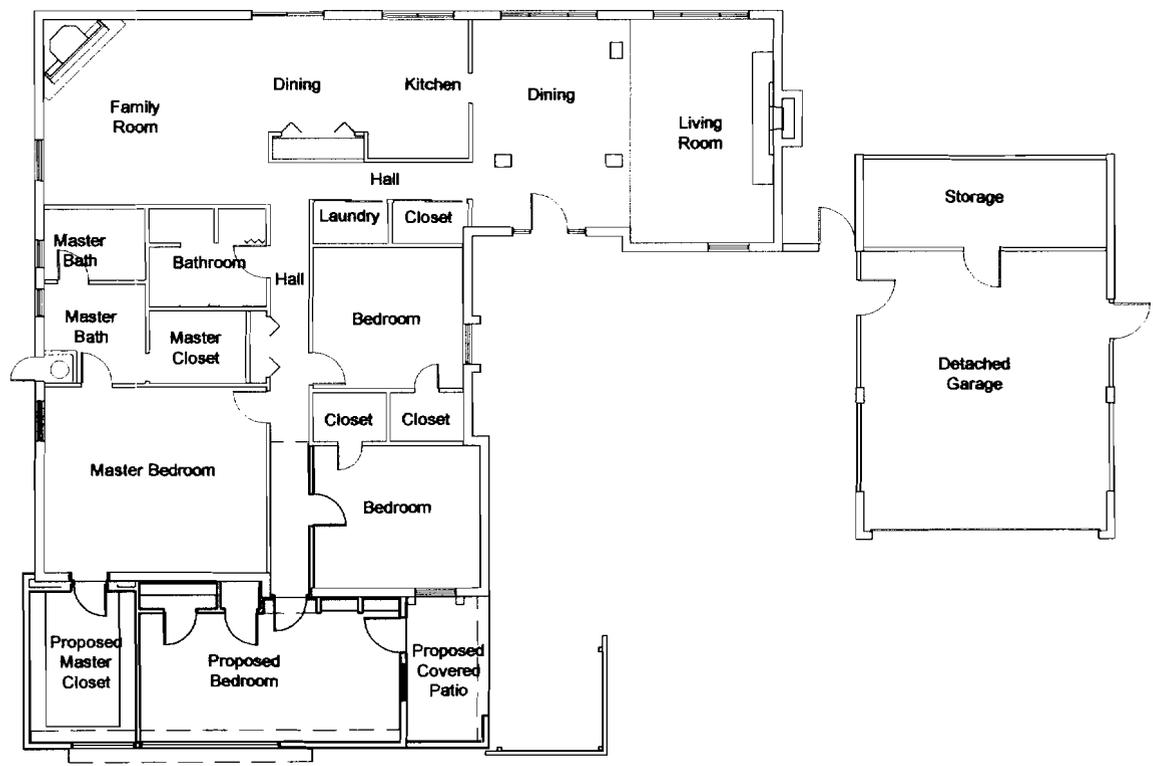


SOUTH ELEVATION
1/16"=1'

EAST ELEVATION
1/16"=1'

WEST ELEVATION
1/16"=1'

Covered Patio



FLOOR PLAN
SCALE: 1/16" = 1' 

Dear Mr. Partridge,

I am writing about the Conder addition at 2022 E. Malibu Dr. I live across the street at 2015 E. Malibu Dr.

I have looked over the hearing notice and I would like to make some comments.

I have seen documents prepared by the applicant.

I see that this addition is indicated as a bedroom, however the inclusion of a door accessible from the front yard makes me believe that the use of this space will be for a "home occupation". I do not object to the concept of operating a small business from this residence, but the modification of the residence to accommodate this use is inappropriate. Section 3-412 of the Zoning and Development Code requires that the appearance of the residence shall not be modified to present the outward appearance of a business. I feel that the addition of the second door to the street leading to this addition violates this section. Further, I feel that projecting an addition into the setback also is in contrast to this notion.

The CCR's for Bradley Estates (DKT 6479 page 107, section 405(C)(2)) state: " There shall be a front yard having a depth of not less than 25 feet."

This neighborhood is graced with large setbacks, mature trees and shrubbery. This addition removes the possibility of these features. It appears that one or two trees will need to be removed to allow this addition. The proposed addition presents a street front which is out of character with the majority of the homes in this Bradley subdivision, which is valued for its low rooflines and picture windows facing the street. I do not understand the need for this addition to have a parapet wall at the street front which is taller than the existing facade, but this feature, along with the reduced setback will significantly alter the appearance of the house and be in contrast to the neighborhood.

I have noticed that the carport has been converted to a garage, which placed a large door facing the street. Most of the homes on Malibu Drive have side entry garages. This already presents a more massive, and unfriendly, appearance to the street. I fear that the addition, as presented, with its close proximity, tall wall and high window above the line of sight, will make the appearance more commercial, and less residential, in character.

I also request that if this Use permit is granted, that you place a requirement that the A/C condensing unit be placed behind the side-yard wall, rather than visible from the street.

Thank you for your assistance.
JoAnn Kersbergen
2015
E. Malibu Dr.
Tempe, AZ. 85282



July 13, 2009

2014 E. Malibu Drive,
Tempe AZ 85282

Mr. Derek Partridge
Planner I
Planning Division
City of Tempe
31 East Fifth Street,
Tempe, AZ 85281

Re: Use Permit for Proposed Conder House Addition, 2022 East Malibu Drive.

Dear Derek;

We have seen the proposal for a house addition that our neighbor has recently submitted to the City of Tempe for use permit and we submit our comments to you for consideration. We live adjacent and west of the Conders at 2014 E. Malibu Drive. We would like to express our concerns directly to you and the planning department, as we do not want to jeopardize our relationship with them.

We believe that our neighbor's proposal deviates from the established character and charm of this neighborhood of sweeping ranch homes with large living windows overlooking the street. We moved to Bradley Estates for this reason and welcomed the spacious lots and attractive landscaped front yards. The homes here have many windows facing the street to keep an eye on the activity in the neighborhood for security. The openness of this shared community is an attractive asset; we feel that the proposal does not promote these values by turning its back to the street.

The proposed addition is not neighborly as it places a substantial addition to the front of the house which is far closer to the sidewalk than any other house on the block, and further so with the use permit application. The original CCR for the Bradley Estates stipulated 25 yard setbacks, and our neighbor is proposing to reduce this. The city recently changed the setbacks on the front yard to encourage building features such as porches to create a friendlier, pedestrian oriented community; the proposed addition is a large tall unarticulated box with solid walls and high slits for windows on the street side, which does not contribute to the city's aim of creating neighborly spaces. The front patio on the plan is screened by the same tall walls of the addition – and is an absolute private space. The tall scale of this proposed addition is not moderated by any setbacks in form, or with roof eaves to reduce the substantial bulk that is in the public eye.

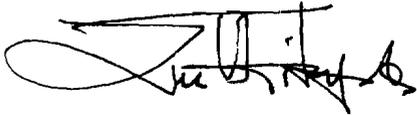
There is no proposal for landscaping such as shrubs or trees to fit this mass into the neighborhood – we believe at least two of the Conder trees will be removed to leave the front yard bare of any landscaping, which is undesirable.

Our neighbor's last residence was a zero lot line development at Santa Tomas (north of the Shalimar Estates about Alameda and Country Club Way), with tall solid fence and building walls built out to the property lines. It appears that the proposed design carries an influence of zero lot line development and proposes to transplant those neighborhood elements into Bradley Estates. We do not desire this kind of development in this neighborhood.

To add to our issues with the use permit application is the proposed location of an air conditioning unit on their front yard which is adjacent our daughter's bedroom. My parents had

a horrible experience at their house caused by a pair of air conditioning units serving their neighbor's house and installed on the blind side of the neighbor's house which reflected all the noise into my parent's back yard. They regret that they didn't object at the time of installation of the units which is now practically grandfathered to the property. It is unreasonable that the proposed location of the air conditioner unit will effect on our daughter's bedroom wall more than their master bedroom walls. We request to the city require the applicant to move the air conditioner behind their side yard fence.

Regards,



Zaharenia Tsikopoulos



Brad Schultz



CONDER RESIDENCE

2022 EAST MALIBU DRIVE

PL090224

FRONT OF RESIDENCE

