

Staff Summary Report



Hearing Officer Hearing Date: 3/15/11

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by **REDDEN BOWERS PROPERTY** located at 1217 South Wilson Street for one (1) use permit.

DOCUMENT NAME: 20110315cdsl04 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **REDDEN BOWERS PROPERTY (PL110032)** (Brian Johnson/Patton Johnson Inc., applicant; Judy Bowers, property owner) located at 1217 South Wilson Street in the R-2, Multi-Family Residential District for:

ZUP11014 Use permit to expand a non-conforming use/building up to twenty-five percent (25%). (Note: This use permit will bring into compliance a previous expansion of the structure (carport) along the north property line at the non-conforming setback of 0 ft.)

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

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

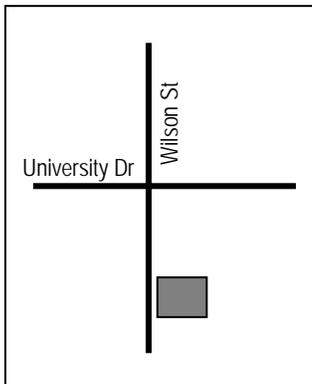
LEGAL REVIEW BY: N/A

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

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

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

ADDITIONAL INFO: The Redden Bowers Residence is requesting a use permit to expand their dwelling up to 25% use area at the legal non-conforming setback of 0' from the north property line. Staff supports approval of this request with the finding that it meets the criteria for approval of use permit. To date, no public input has been received.



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)
- 3-4. Letter of Intent
4. Site plan
5. Staff Photograph(s)

COMMENTS:

The Redden Bowers Residence is requesting a use permit to expand their dwelling to the legal non-conforming setback of 0' from the north property line. The applicant is the trustee for the estate and trying to legalize existing structures on the property for the estate. The original structure was built in the 1940's with a main dwelling and detached garage. According to Maricopa County Flood Control District aeriels the garage was built at the zero (0) setback thus making it legal but non-conforming to current code. Over the years, the garage was converted to livable and connected to the dwelling. In 1992 a carport was added to the existing structure at the same setback from the north property as the garage (0').

PUBLIC INPUT:

To date, staff has received no public input regarding this request.

Use Permit

The Zoning and Development Code allows non-conforming uses and developments (structures) to be expanded up to 25% subject to a use permit. The existing structure building area is 1941 s.f. of which the 200 s.f carport encroaches into the legal non-conforming setback at zero (0'). The expansion does not exceed the 25% building area threshold.

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 will not be any nuisance arising from the emission of odor, dust, gas, noise, vibration, and smoke as the driveway is paved and all parking is to occur on impervious surfaces.
- 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.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use permit allows for a reasonable expansion of a structure at non-conforming setback; consistent with other dwellings in the area.
- e. 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 should not pose any nuisance to the surrounding area.

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.

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 and does not include any other expansions or additions at the non-conforming setback.
- 2. All structure to meet building code requirements, with valid building permits and inspections. All work to be approved and finalized by **03/15/2012** or use permit will become invalid.

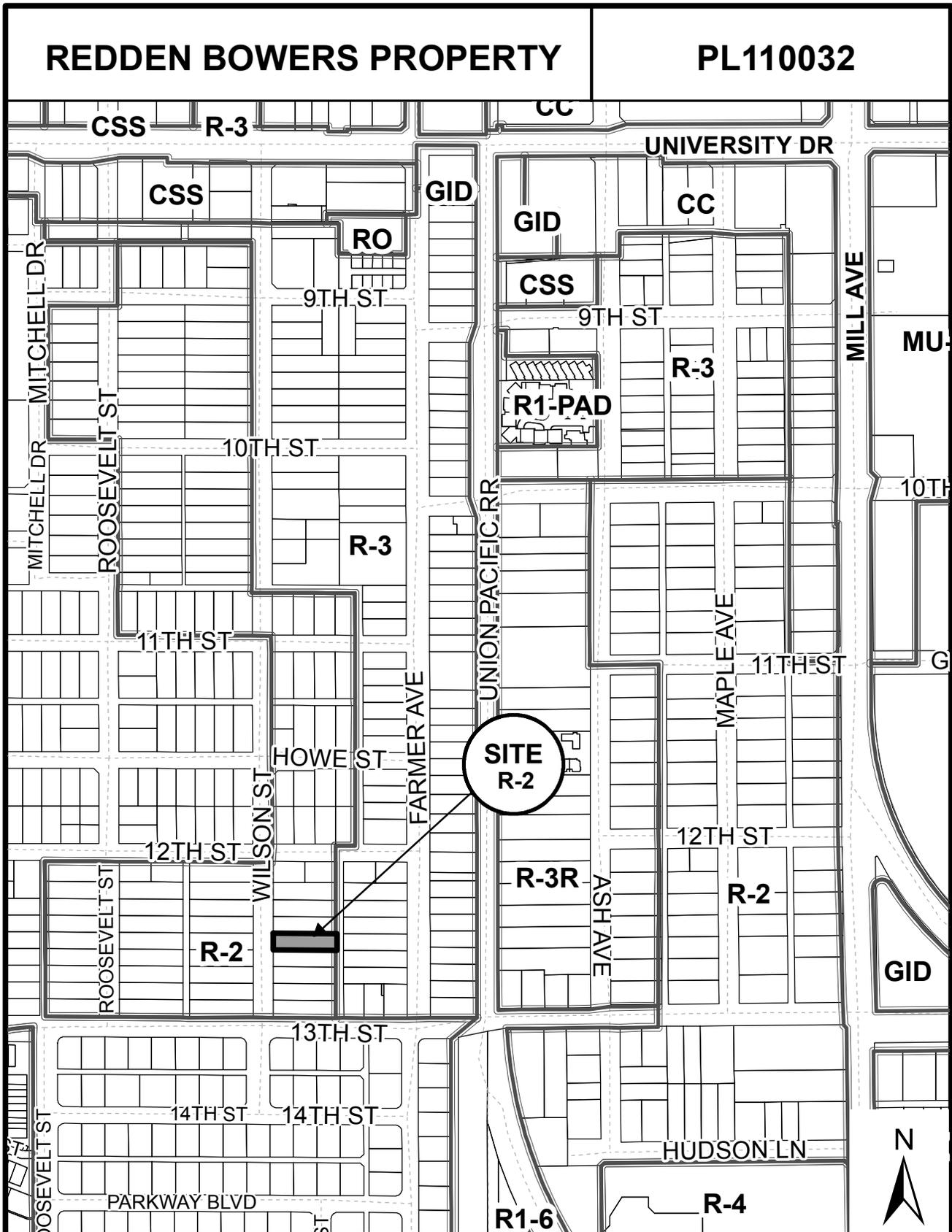
HISTORY & FACTS: None pertinent to this case.

DESCRIPTION:

Owner –	Judy Bowers
Applicant –	Brian Johnson/Patton Johnson Inc.
Existing Zoning –	R-2, Multi-Family Residential District
Year Built-	1940's
Lot Size-	9500 s.f.
Building Area	1941 s.f
Lot Coverage	20.4 %
Side yard required -	10 feet
Side yard provided-	7 feet (south); 0 feet (north)

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 3, Chapter 5, Section 3-504- Non-conforming Use or Development
Part 4, Chapter 2, Section 4-202 – Development Standards for Residential Districts
Part 6, Chapter 3, Section 6-308 – Use Permit



Location Map



REDDEN BOWERS PROPERTY (PL110032)

PATTON JOHNSON CONTRACTORS INC.

**CUSTOM REMODELING * HISTORIC HOMES * COMPLETE RENOVATION CONTRACTOR
GENERAL CONTRACTORS SINCE 1963
AZ. ROC. LIC. KB-01-159608**

February 01, 2011

City of Tempe Planning Dept.
Hearing Officer
31 East 5th Street, Garden Level
Tempe, Arizona 85281

Letter of Explanation
For Use Permit
1217 So. Wilson Street
Tempe, Arizona 85281

I am requesting a use permit to allow an existing, originally constructed storage room/area that was constructed on the north property line of the residence located at 1217 So. Wilson Street, in Tempe. The building was originally constructed along the north property line limit in 1945, prior to the property being annexed into the City of Tempe in the late 40's/early 50's. The storage area appears on Maricopa County Flood Control District aerial photos taken in 1949, which are the earliest photos that are available. The storage area also appears on a photo taken by the City of Tempe in 1970.

Although, the construction is original to the property, the current owner would prefer more recent acknowledgment of the legal status of the storage area by means of a present day use permit.

It should be noted that many other similar residences/buildings in the close proximity to this parcel have similar situations where certain elements of the residence are constructed either on the property line (such as subject parcel) or within a few inches or feet of the property line. This was the design of the day/area (1940's rural Tempe area)

104 EAST CONCORDA DRIVE
TEMPE, ARIZONA 85282
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MOBIL/CELL CONTACT NO. 480.332.6766
PHONES: OFFICE 480.967.0123 FAX. 480.968.9781

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This residence and the storage room/area with it's proximity to the property line has stood the test of time. It has been in place for over 60 years with no adverse affect on the neighborhood and the surrounding residences. There have been no known complaints or neighborhood issues concerning this property.

The owner intends on bringing the north wall of the storage room/area to current code requirements as it relates to fire rated construction (in regards to boundary proximity) once the use permit is granted. This will be accomplished within the requirements of the City of Tempe Building Safety Department.

The carport which is in front of the storage area was constructed in 1992, and aligns with the original storage area. The owner would like to incorporate the carport as part of the use permit. It is an open structure, and will also be improved to Building Safety Dept. requirements.

I appreciate your consideration of our request. Please let me know if you need any additional information.

Thank you,



Stan Patton

Patton Johnson Inc.

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TEMPE, ARIZONA 85282
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REDDEN BOWERS PROPERTY

1217 SOUTH WILSON STREET

PL110032

FRONT OF RESIDENCE

