

Staff Summary Report



Development Review Commission Date: August 11, 2009

Agenda Item Number: _

SUBJECT: Hold a public hearing for SMITHERAN RESIDENCE (PL090189) for an appeal of the Hearing Officer's decision to deny a Use Permit to allow required parking in the front yard setback at 335 East Loma Vista Drive.

DOCUMENT NAME: DRCr_SmithieranResAppeal_081109 PLANNED DEVELOPMENT (0406)

COMMENTS: Request an appeal of the July 7, 2009 Hearing Officer decision to deny a Use Permit for SMITHERAN RESIDENCE (PL090189) (Eric Stadtmiller, applicant; John Smithieran, property owner) located at 335 East Loma Vista Drive in the R1-6, Single Family Residential District. The request includes the following:

UPA09002 - Appeal of the denial of (ZUP09091) Use Permit to allow required parking in the front yard setback.

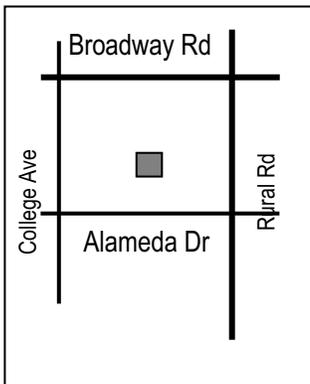
PREPARED BY: Grace Del Monte Kelly, Planner II (480-350-8369)

REVIEWED BY: Lisa Collins, Deputy Development Services Manager (480-350-8989) 

LEGAL REVIEW BY: N/A

RECOMMENDATION: Staff – Recommended approval of Use Permit to Hearing Officer on July 7, 2009.
Hearing Officer-Denied Use Permit
Approval of this appeal would overturn the Hearing Officer's decision.

ADDITIONAL INFO:



The applicant is requesting an appeal of a July 7, 2009 Hearing Officer denial of a Use Permit to allow parking in the front yard setback. The single family residence was originally built in 1962 with a two (2) car carport. In his letter requesting the appeal, Mr. Smithieran stated that he wishes to renovate his carport to make the living quarters more appealing for the caretakers that reside at his residence. Their care allows him to live independent of the help of family and friends, and is an essential to him. He has owned his home for 15 years and takes pride in both his community and appearance of his home. The proposed enclosure would maintain the integrity of the existing home and the surrounding neighborhood. The materials and colors for the remodel would be in keeping with the existing architecture. He stated he has considered alternate parking locations on-site and that the current plan meets the accessibility requirements that his wheelchair requires. One neighbor was present at the hearing officer meeting and requested information, but was not opposed to the request. Staff has received no letters or comments from neighbors on this request to date.

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
2. Aerial Photo
3. Letter of Intent
4. Site plan
- 5-6 Staff Photographs

COMMENTS:

The applicant is requesting an appeal of a July 7, 2009 Hearing Officer denial of a Use Permit to allow parking in the front yard setback. The single family residence was originally built in 1962 with a two (2) car carport. The homeowner wishes to convert the carport into livable space for his caretaker. In his letter requesting the appeal, Mr. Smitheran stated that he wishes to renovate his carport to make the living quarters more appealing for the caretakers that reside at his residence. Their care allows him to live independent of the help of family and friends, and is an essential to him. He has owned his home for 15 years and takes pride in both his community and appearance of his home. The proposed enclosure would maintain the integrity of the existing home and the surrounding neighborhood. The materials and colors for the remodel would be in keeping with the existing architecture. He stated he has considered alternate parking locations on-site and that the current plan meets the accessibility requirements that his wheelchair requires. One neighbor was present at the hearing officer meeting and requested information, but was not opposed to the request. Staff has received no letters or comments from neighbors on this request to date.

Use Permit

The Zoning and Development Code requires a Use Permit for required parking in the front yard setback in the R1-6 Single Family Residential District.

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. Parking in the front yard setback would take vehicles off of the street.
- 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. The Use Permit to park in the front yard setback would allow for vehicles to be parked on private property.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed Use Permit to park in the front yard setback is compatible with other residences with carports that have been converted into living space for a single-family house.
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;
 - There will be no disruptive behavior as a result of parking in the front yard setback.

Conclusion

Staff recommends approval of the appeal, subject to conditions.

REASONS FOR APPROVAL OF THE APPEAL:

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 DEVELOPMENT REVIEW COMMISSION 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. All vehicles parked on the premises must be actively registered and in operable condition at all times.
- 4. 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:

1962	Construction Year
July 7, 2009	Hearing Officer denies the request for a Use Permit to park in a required front yard setback.

DESCRIPTION:

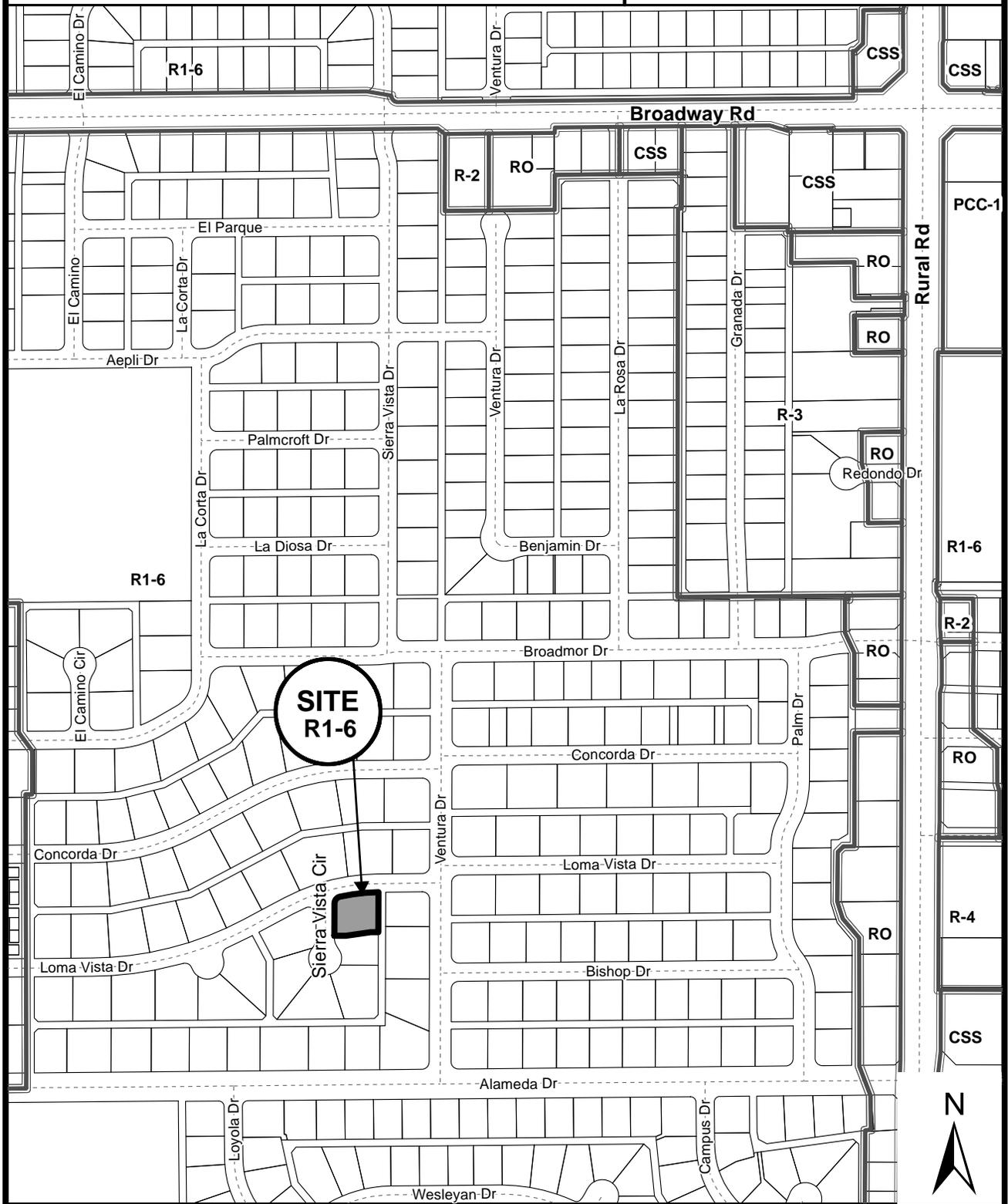
Owner – John Smitheran
Applicant – Eric Stadmiller
Existing Zoning – R1-6, Single Family Residential District

ZONING AND DEVELOPMENT CODE REFERENCE:

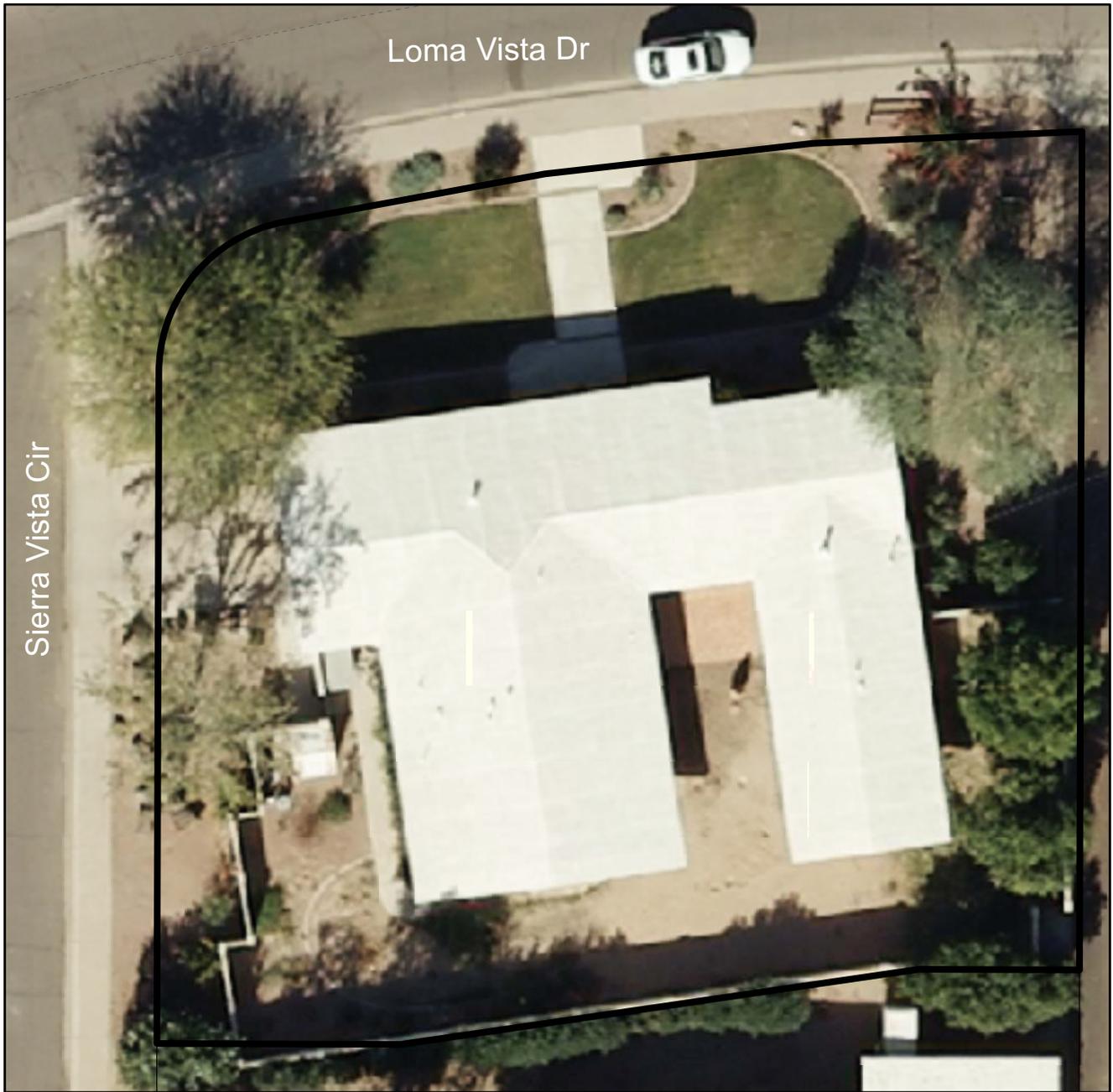
Part 4, Chapter 2, Section 4-202 – Development Standards for Residential Districts
Part 6, Chapter 3, Section 6-308 – Use Permit

SMITHERAN RESIDENCE

PL090189



Location Map



SMITHERAN RESIDENCE (PL090189)

July 17, 2009

City of Tempe
Development Services Department
31 E. 5th Street
Tempe, AZ

Request for appeal re: Use Permit for Smitheran Residence (PL090184)

Committee Members,

The proposed carport renovation at my residence is being done in an effort to make the living quarters more appealing for the caregivers that reside at my residence. Their care allows me to live independent of family and friends help and are an essential part of my day to day existence. This renovation will not only help attract future caregivers, but keep the current ones I have.

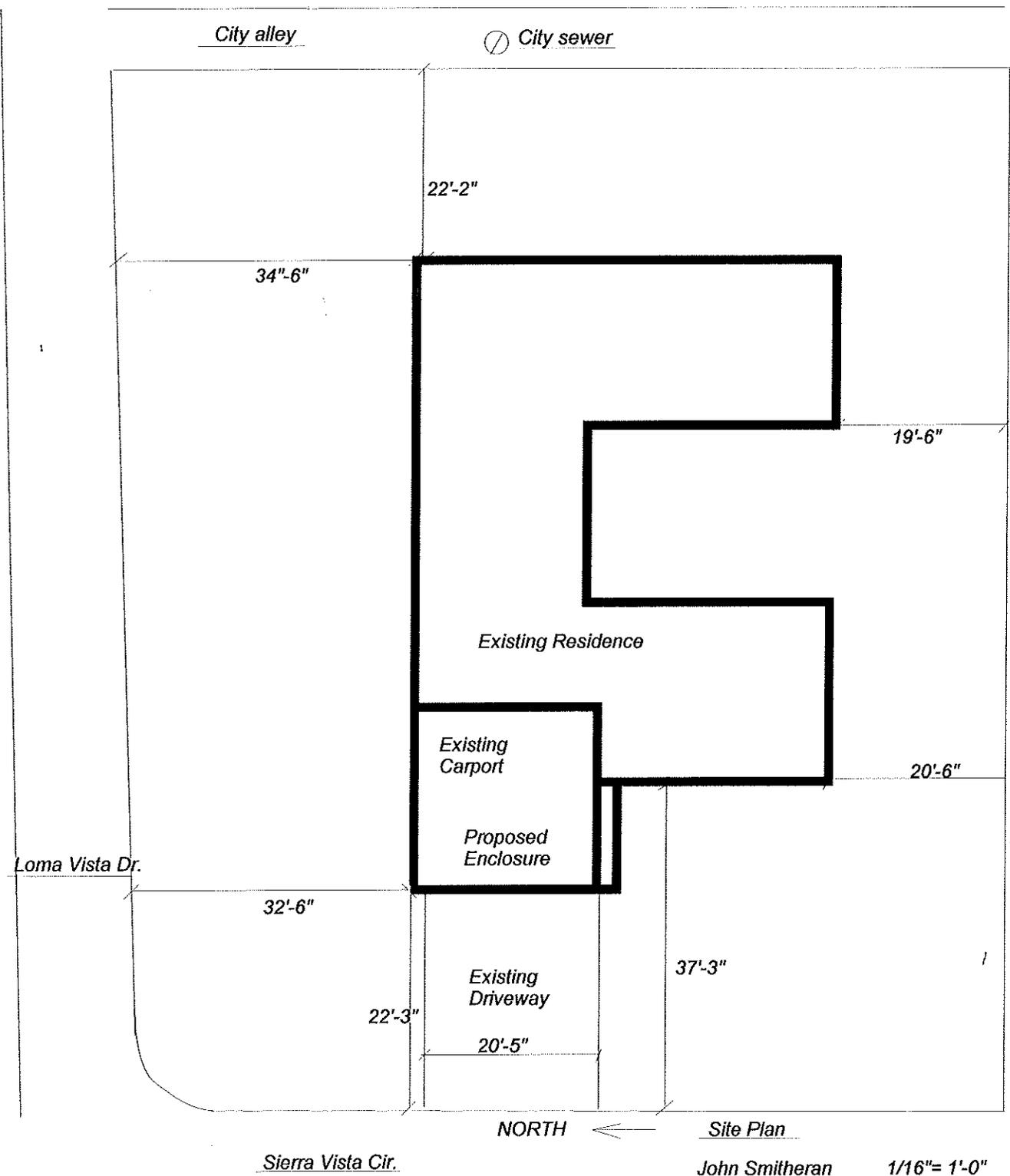
I am a long time resident of Tempe (15 years) and take great pride in my community and the appearance of my house. The proposed enclosure will maintain the integrity of the existing structure and the surrounding neighborhood. All materials and colors will be in keeping with the existing architecture.

In regards to street parking by myself and my caregivers, considerations have been given to alternate parking locations. These locations have been considered as minimally invasive to the existing trees, shrubs and grass areas. I will submit these alternate plans at the hearing in which my situation will be reviewed. In short these alternate parking locations will allow all three residents of my house to have their own parking off of the street. This plan will meet the accessibility requirements that my current wheelchair demands, and keep with the existing architecture and layout of my home. If you need more information on these plans prior to my review please let me know.

Given my circumstances and needs, as well as the adjustments I have made I ask that you grant this request to enclose the carport. Every effort will be made so that this addition is not offensive to the neighborhood or the city.

Thank you for your time and consideration.

John Smitheran, property owner
Eric Stadmiller, applicant/contactor





SMITHERAN RESIDENCE

335 EAST LOMA VISTA DRIVE

PL090189

FRONT OF RESIDENCE





SMITHERAN RESIDENCE

335 EAST LOMA VISTA DRIVE

PL090189

**WEST SIDE OF RESIDENCE – PROPOSED
CARPORT TO BE ENCLOSED**

