

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 02/28/2023
Agenda Item: 6**

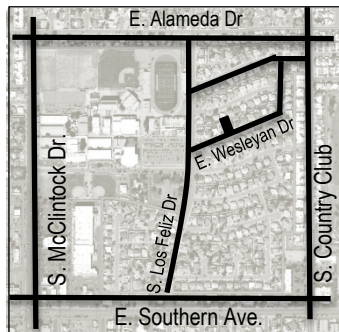
ACTION: Request a Use Permit to allow up to ten (10) chickens for GANS RESIDENCE, located at 1924 East Wesleyan Drive. The applicant is Rickey Lynn Gans.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: GANS RESIDENCE (PL230033) is located in the McClintock Neighborhood Association and is requesting a use permit to increase their flock of hens from 5 to 10 at their home. Roosters are not permitted in the R1-6 single-family zoning district and are not proposed with this request.

ZUP230004 Use Permit to allow up to ten (10) chickens in the R1-6 Single Family Residential District.



Property Owner	Rickey Lynn Gans
Applicant	Rickey Lynn Gans
Zoning District	R1-6, Single Family Residential District
Site Area	.1697 acres, 7,396 s.f.
Building Area	1,572 s.f residence, 140 s.f. chicken yard with 23 s.f. coop
Number of Chickens	5 current, 5 requested new

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Diana Kaminski, Senior Planner (480) 858-2391

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Diana Kaminski, Senior Planner

Reviewed by: Suparna Dasgupta, Principal Planner

COMMENTS

The site is located north of Southern Avenue, south of Alameda Drive, east of McClintock Drive and west of Country Club Way in the Knoell Tempe Subdivision and the McClintock Neighborhood Association. The applicant currently has 2 cats and 2 dogs and 5 chickens. The request is for the addition of 5 more chickens for a total of 10 hens. The letter of explanation provides details regarding the site conditions and applicant's intent.

PUBLIC INPUT

Upon completion of this report staff has received one email of concern and support: the concern was to assure there were no roosters allowed and that the total number of birds would be limited, once this was clarified (no roosters allowed, no more than 10 chickens), an email in support of the request was submitted and is included in the attachments.

USE PERMIT The proposed use requires a Use Permit to allow up to ten (10) chickens in the R1-6 single family district.

Section 6-308(E) Approval criteria for Use Permit (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic;* The property is a single-family residence with five existing chickens. The request to add 5 additional chickens will not impact traffic to or from the house beyond normal guest and occupant travel. The applicant has indicated a neighborhood relationship that encourages pedestrian traffic in visiting the chickens, this is consistent with the general traffic of a single-family residential community.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions;* The property is approximately 500 feet from McClintock High School football and track field where school events occur. The property is also .7 miles west of the 101 freeway, which contributes to an ambient noise level. The site has had no history of complaints regarding the existing chickens and no roosters are allowed. The chickens have a night house for sleeping, and are self-regulated by the sun, sleeping when it is dark. The cleanliness of the pen is evidenced in the photos presented by the applicant and the detailed description of plans for maintenance of the chicken yard. All waste is composted and then reused in gardens on site, promoting a healthy sustainable ecosystem with food production to feed the chickens. There will be no nuisances in excess of the surrounding ambient conditions.
3. *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 General Plan encourages food stability in Land Use Objective LU2. Promote Land Use patterns that encourage long-term sustainability. "5. Support city-wide location of sustainable local food systems including...urban agriculture...." The addition of 5 chickens supports sustainable and healthy living and as part of urban agriculture reduces the demand for driving for groceries. References to sharing with neighbors contributes to building community and a strong network within the neighborhood, attributing to a higher quality of life for residents.
4. *Compatibility with existing surrounding structures and uses;* the proposed addition of 5 chickens for a total of 10 small animals on the property. The 10'x14' enclosure is located in the back yard of the residence, similar to a dog run used by some homeowners. The top of the chicken yard is protected by a chain link roof to allow ventilation and natural light while protecting the birds from predators. The chicken coop is about 5 feet deep, 4.5 feet wide and 3.5 feet high providing shelter from sun with fans for ventilation shelter from rain and added warmth in the winter. The enclosure is about 6 feet high at the peak and has a full height entry door. The yard is fully fenced with a 6-foot block wall. The chicken yard is smaller than some yard sheds and is compatible with the surrounding structures and uses.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public;* the chickens are contained within a 140 square foot yard with a night coop that is approximately 23 square feet. For laying hens urban poultry are recommended to have a minimum of 3 square feet/hen indoor and 10 square feet/hen outdoor is recommended. The total area is large enough to accommodate the birds and is secured with gate and roof to prevent escape or predator entry. The applicant has indicated the coop also has video surveillance for security of the chickens. The applicant has provided a detailed outline of management practices for rearing chickens in an urban environment, demonstrating knowledge of laws and requirements and best practices.

REASONS FOR APPROVAL:

Based on the information provided by the applicant, the public input received and the above analysis staff supports the approval of the requested Use Permit. This request meets the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

CONDITION(S) OF APPROVAL: (Non-standard conditions are identified in bold)

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. If Building Permits are required, this Use Permit is valid after Building Permits have been obtained, the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
3. The Use Permit is valid for no more than 10 hens and no roosters.

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

USE PERMIT:

- The Use Permit is valid for GANS RESIDENCE and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- Any modifications to the site or landscape or building elevations requires planning entitlement approval through the Development Plan Review process.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body.
- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through <http://www.tempe.gov/zoning> or purchase from Development Services.
- Any intensification or expansion of use shall require a new Use Permit.
- All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.

Section 3-404 Agricultural Uses

I. Small Animals. Small animals, as defined herein, and pot-bellied pigs are permitted in all residential districts which have a single-family dwelling, subject to the following:

- 1.No more than five (5) small animals collectively are allowed on an individual lot;
- 2.No more than two (2) pot-bellied pigs are allowed on an individual lot and shall be counted in the total allotment for small animals;
- 3.The keeping of roosters or peafowl is prohibited, except in the AG district;
- 4.The keeping of household pets, and all dogs and cats pursuant to the Tempe City Code, Chapter 6, are allowed in all residential districts and do not count towards the number of small animals;

5. The keeping of small animals and pot-bellied pigs that exceed the maximum allowed quantity in subsection (1) and (2) above and the keeping of livestock, as defined in Section 3-404(B), may be allowed subject to review and approval through a Use Permit application, pursuant to Section 6-308. In addition to the approval criteria, the request must demonstrate adequate area for the animal(s) and control of living quarters;6. It shall be unlawful to keep small animals and livestock in a manner that constitutes a nuisance.

HISTORY & FACTS:

- 1940s-1970s Historic aerials show this site used for agricultural purposes

- 1970s-2005 Historic aerials show this site used for an industrial office use with one large building on site. The building was demolished in 2006 and the site redeveloped.

- September 6, 2007 City Council approved a Subdivision Plat for THE ENCLAVE ON PRIEST for one lot.

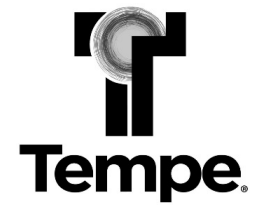
- 2008 The redevelopment included eight smaller office buildings in a business complex.

- August 20, 2009 City Council approved a Condominium Plat for The Enclave on Priest SBD09005 for 50 suites in 8 buildings.

- September 22, 2011 City Council approved a Lot Line Adjustment for THE ENCLAVE ON PRIEST (Priestly Properties Inc., owner and Hunter Engineering, Inc., applicant) located at 1602 South Priest Drive in the GID, General Industrial District. **SBD11010** – Lot Line Adjustment for two (2) condominium units consisting of 5,092 square feet. The adjusted lot line will increase the size of Unit 102 to 3,055 square feet and decrease the size of Unit 103 to 1,018 square feet.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 3-102, Permitted Land Uses in Single-Family Residential
Section 6-308, Use Permit



DEVELOPMENT PROJECT FILE

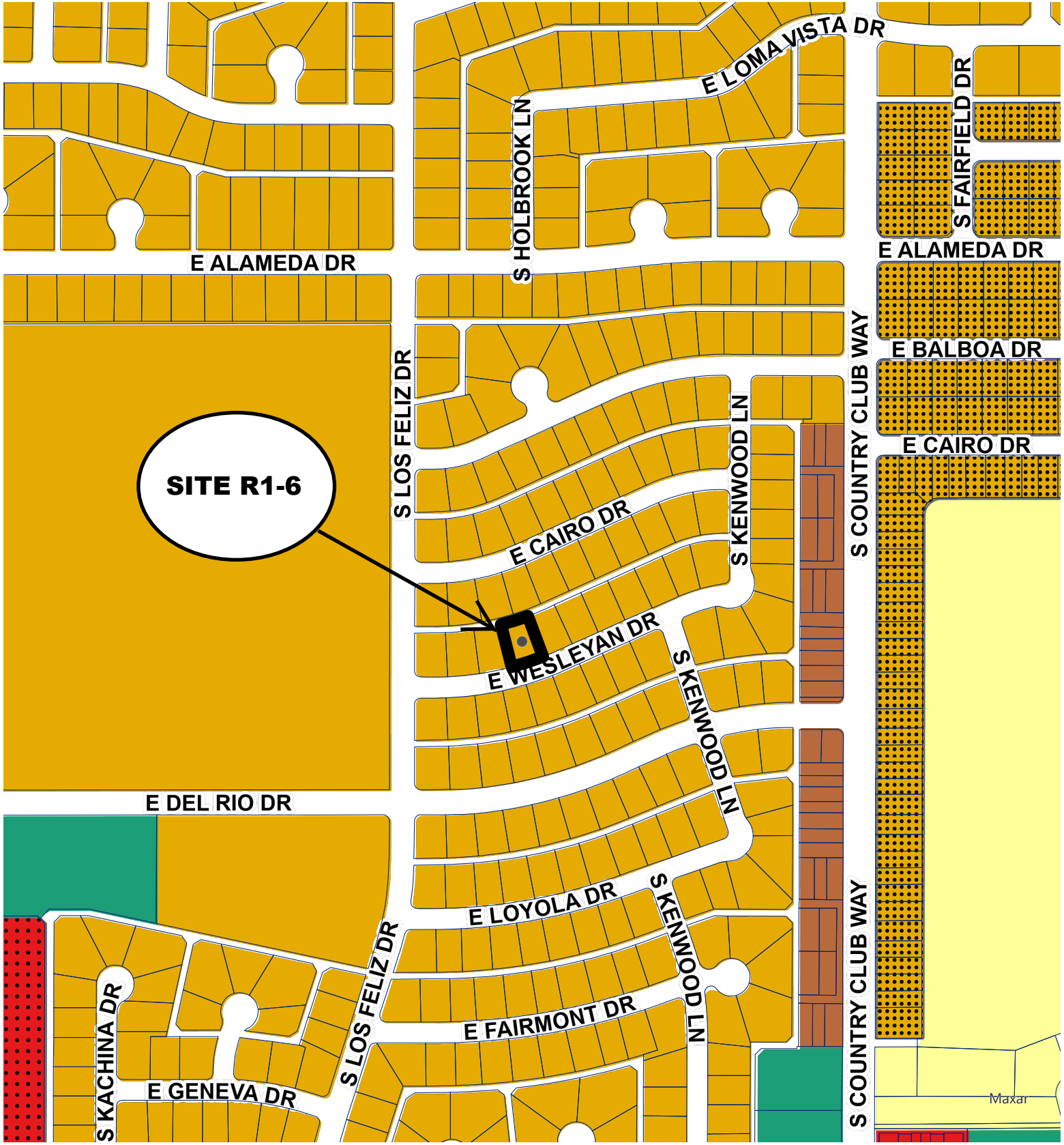
for

GANS RESIDENCE

(PL230033)

ATTACHMENTS:

- 1-8. Site Context (Location Map, Aerial, Site Aerial showing location of coop, Front house elevation, Site Photos of Chicken coop)
- 9-10. Applicant's Letter of Explanation
- 11. Public Comments



- Commercial Shopping and Services (CSS)
- Planned Commercial Center Neighborhood (PCC-1)
- Residential/Office (RO)
- Agricultural (AG)
- Single-Family Residential (R1-6)
- Single-Family Residential (R1-4)
- Multi-Family Residential (R-2)

- Parcels
- Twelve Point**
- CenterlineSubType**
- ADOT
- Canal
- Monument

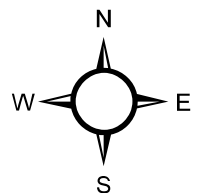
- Private
- Railroad
- Street
- <all other values>
- Zoning District**
- Light Industrial District (LID)
- General Industrial District (GID)

ATTACHMENT 1

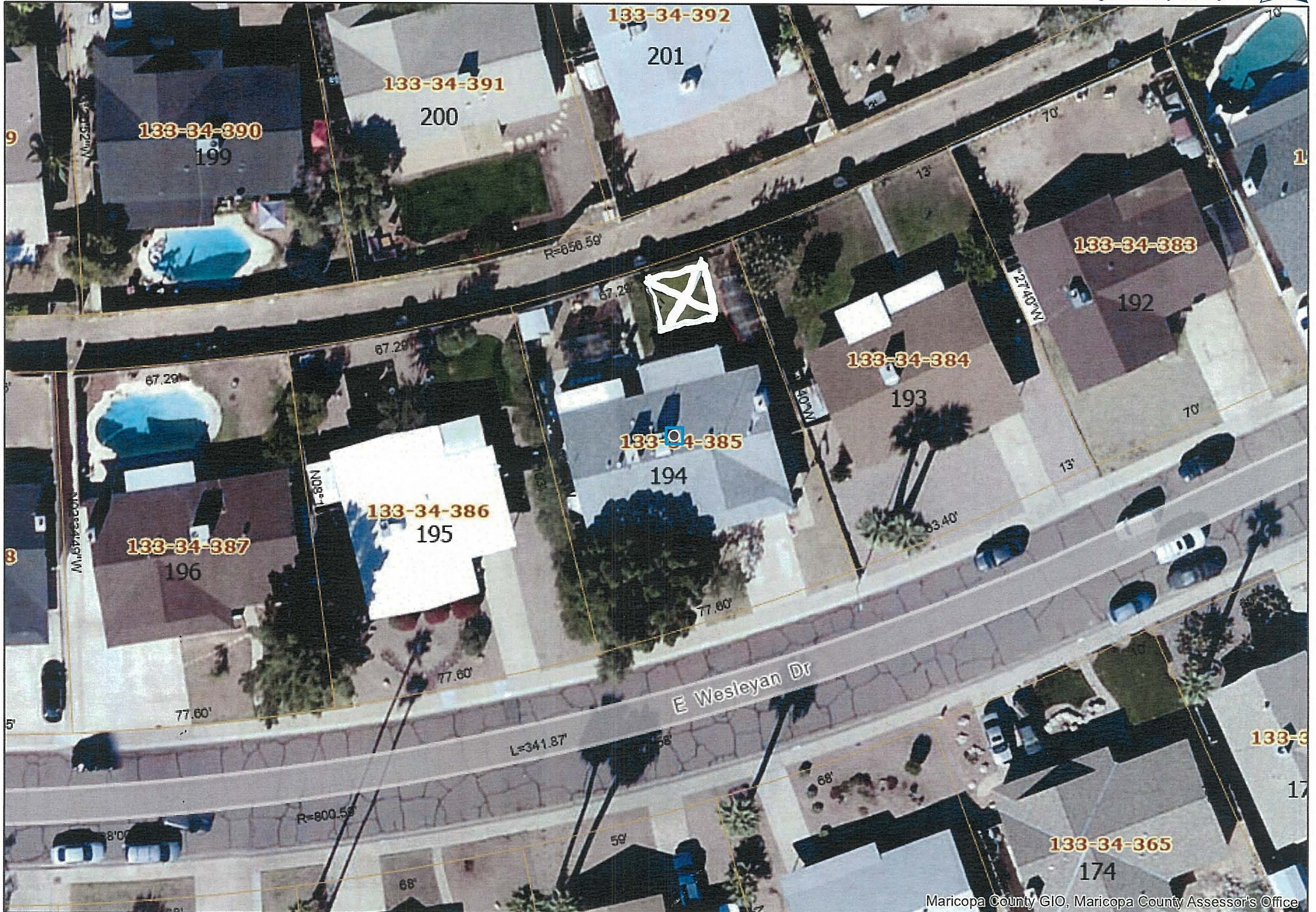




Aerial Map



1924 East Wesleyan Drive X Marks Chicken Area











KEEP GATE CLOSED

No Matter
What The
Chickens Say



BEWARE



CHICKEN SHIT
EVERYWHERE

BEWARE

OF
THE TINY
RAPTORS

uffy

OTTEN EGG



USE PERMIT REQUIRED LETTER OF EXPLANATION

The applicant is requesting a use permit to have a maximum of 10 chickens on the property instead of the allowed 5.

- Chickens are a social and gregarious group and as such have a need to pair up. Under current rules which allow a maximum of 5 chickens, to keep them content and happy requires that no more than 4 be kept together as the odd one will have no partner.
- Located on the property currently is a 10 by 14 foot enclosure to ensure that chickens are not permitted to roam freely nor can be food for other animals which are found in the neighborhood including a fox which freely roams among the houses.
- The enclosure includes a fully lockable chicken coop which is cleaned and sanitized weekly.
- Our neighbors on each side have had no complaints and are eagerly awaiting eggs from our chickens which, when available, will be freely shared.
- Children in the neighborhood have visited the chickens and have been offered the opportunity to interact with them.
- The chickens bring no additional traffic to the area at this time and it is anticipated that they will not bring additional traffic in the future.
- No odors, dust, or other noxious hazards result from the chickens and the addition of additional chickens will pose no more problems.
- The chickens do not pose any deterioration to the neighborhood and in reality, are in better living quarters than most other chickens in the city..
- 5 chickens are currently permitted under City of Tempe ordinances and with the size of the enclosure that is on the property would still be compatible with the area if increased to 10.
- The chickens do not pose any disruptive behavior to the area, are relatively quiet compared to the barking of dogs in the area and put themselves to bed with the setting sun as is their instinct.
- The premises have been certified as water efficient by the City of Tempe as such, requires little or no city water for the chickens.
- This enclosure and the chickens in it have been discussed with Suzette dePersio, MS, DVM
- Assistant State Veterinarian, FADD
- Emergency Coordinator / NPIP Coordinator
- Animal Services Division
- Arizona Department of Agriculture (AZDA)
- 1110 W. Washington St., Suite #450
- Phoenix, AZ 85007
- It is our hope in working with Doctor dePersio that our flock will eventually be certified as NPIP (National Poultry Improvement Plan of Arizona) , which would then mean that our chickens are certified to be totally pathogen free and well taken care of. This will involve

inspection of the facility and chickens by the state veterinarian on a regular basis for cleanliness and being disease free.

- During the annual inspection, an AZDA agent will look at the sanitation of:
- Poultry Houses and Coops
- Feed Storage and Watering Systems
- Hand Sanitation Areas
- Other things the AZDA agent will observe are:
- Rodent Control
- Coops Structurally Sound
- Water And Feed Availability
- Bio-security Plan In Place
- Backup Systems In Place

At no time will any roosters be allowed on the property. These are egg laying chickens and will not be used for meat production. As such, there will be no regular culling of the flock.

Annual Records Audit:

An AZDA agent will conduct an audit of records as follows:

Birds purchased in the past year.

You only purchase birds from NPIP flocks.

All documentation of bird sales and movement.

Records of all P-T testing through the calendar year.

Bio-Security written plan.

As one can see, we are not undertaking this lightly and are prepared to spend what it takes to have a quality flock of birds.

Although many people have flocks of chickens in the City of Tempe that exceed 5 chickens, because I sit on the Board of Adjustment I feel that it is important that I follow the letter of the law and set an example of what should be done.

Respectfully submitted:

Rickey Lynn Gans

From: Elizabeth Walker <eac7f@aim.com>
Sent: Wednesday, February 15, 2023 9:07 AM
To: Kaminski, Diana <Diana_Kaminski@tempe.gov>
Subject: Gans Residence Use Permit

Good morning,

I received a notice that Rickey Lynn Gans is seeking approval for ten chickens in the district. As a neighbor, I am fine with a limited number of chickens (maybe 4-6), but want to express my strong disapproval for any roosters. Roosters are loud and obnoxious and would seriously interfere with the peaceful nature of the neighborhood. Having a few backyard chickens for eggs is fine. But having 10 chickens seems a lot more like raising chickens as a side business which could impact the residential nature of the area and would also lead to a rooster. So long as the request is limited to chickens, and preferably something closer to 4-6, and no roosters, I support the use permit.

Thanks very much for your time.

Best,
Elizabeth Walker

From: Kaminski, Diana <Diana_Kaminski@tempe.gov>
To: Elizabeth Walker <eac7f@aim.com>
Sent: Wed, Feb 15, 2023 9:57 am
Subject: RE: Gans Residence Use Permit

Good Morning Elizabeth,
Thank you for taking the time to write. I will include your email in the public comments for the commission hearing. I did want to clarify that the homeowner currently has 5 chickens and is asking for 5 more. Our code prohibits roosters or peacocks due to the noise they generate. The use permit is restricted to no more than 10 hens, and no roosters. The report will be linked to the agenda next Tuesday if you wish to see the application and staff report. Please let me know if you have any other concerns.
Thank you,



Diana Kaminski
Senior Planner
Community Development, Planning Division
31 E. 5th St., Tempe, AZ 85281
480.858.2391 diana_kaminski@tempe.gov
tempe.gov/planning

From: Elizabeth Walker <eac7f@aim.com>
Sent: Wednesday, February 15, 2023 10:54 AM
To: Kaminski, Diana <Diana_Kaminski@tempe.gov>
Subject: Re: Gans Residence Use Permit

Got it, thanks very much for the prompt response. If it's only an increase in the number of chickens, then I support the use permit. I hope they enjoy their additional eggs :)