



**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 7/28/2020
Agenda Item: 7**

ACTION: Request a Use Permit Standard to reduce the side yard setback for a fifteen-foot high accessory building from nine (9) feet to the district standard of five (5) feet for the **MENDIVIL GARAGE**, located at 507 West Manhattan Drive. The applicant is Rita Mendivil. **(PL200102)**

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

BACKGROUND INFORMATION: MENDIVIL GARAGE (PL200102) is proposing to reduce the side yard setback for a fifteen-foot high accessory building from nine (9) feet to the district standard of five (5) feet on Lot 7 of the Hermosa Tracts Lots 7 & 8 subdivision located in the R1-6, Single-Family Residential District. The request is a result of a Code Violation (CE202158). The request includes the following:

ZUP200021 Use Permit Standard to reduce the side yard setback for a fifteen-foot high accessory building from nine (9) feet to the district standard of five (5) feet



Property Owner	David M. Mendivil / Rita D Mendivil
Applicant	Rita Mendivil
Code Compliance Inspector	Ashley Nichols, Code Inspector
Zoning District(s)	R1-6
Site Area	18,012 s.f.
Building Area	2,565 s.f
Lot Coverage	14% (45% max.)
Required Building Setbacks	20' front, 5'side, 15' rear, 15' front (open structure)
Vehicle Parking	2 spaces (2 min. required)

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Robbie Aaron, (480) 350-8096

Department Director: Chad Weaver, Community Development Director
Legal review by: N/A
Prepared by: Robbie Aaron, Planner II
Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

The proposed accessory building will be for an RV garage and some workshop/storage space, as well as a small pool bathhouse on the outside of the building to allow access when swimming.

PUBLIC INPUT

To date, staff has received one phone call in support and one comment in opposition of the proposal.

USE PERMIT

The proposal requires a Use Permit Standard to reduce the side yard setback for a fifteen-foot high accessory building from nine (9) feet to the district standard of five (5) feet for a single-family residence within the R1-6, Single-Family Residential district.

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

1. *Any significant increase in vehicular or pedestrian traffic*; the proposal will not increase vehicular or pedestrian traffic more than what is expected from a single-family owner-occupied use.
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 proposal will not generate emissions greater than ambient conditions that would otherwise cause a nuisance to the neighborhood.
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 proposal will not contribute to the deterioration of the neighborhood or to the downgrading of property values and will not be in conflict with the goals, objectives or policies of the City's adopted General Plan.
4. *Compatibility with existing surrounding structures and uses*; Upon a visual survey of the neighborhood staff noted several accessory structures and buildings of various heights and setbacks throughout the area. This home will continue to be a single-family home.
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 proposal is intended for a single-family owner-occupied use and is not expected to cause any disruptive behavior.

REASONS FOR APPROVAL:

Based on the information provided by the applicant, the public input received, and the above analysis staff supports 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:

1. 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.

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.

- 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.

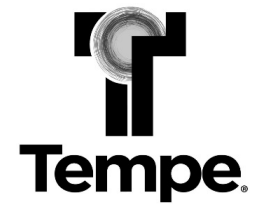
HISTORY & FACTS:

1973 Building Permit issued for a single-family residence.

March 03, 2020 Violation issued for unpermitted Accessory Building in backyard (CE202158)

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 3-102 Permitted Uses in Residential Districts
Section 4-706 Screens, Walls and Access Control Landscapes
Section 6-308 Use Permit



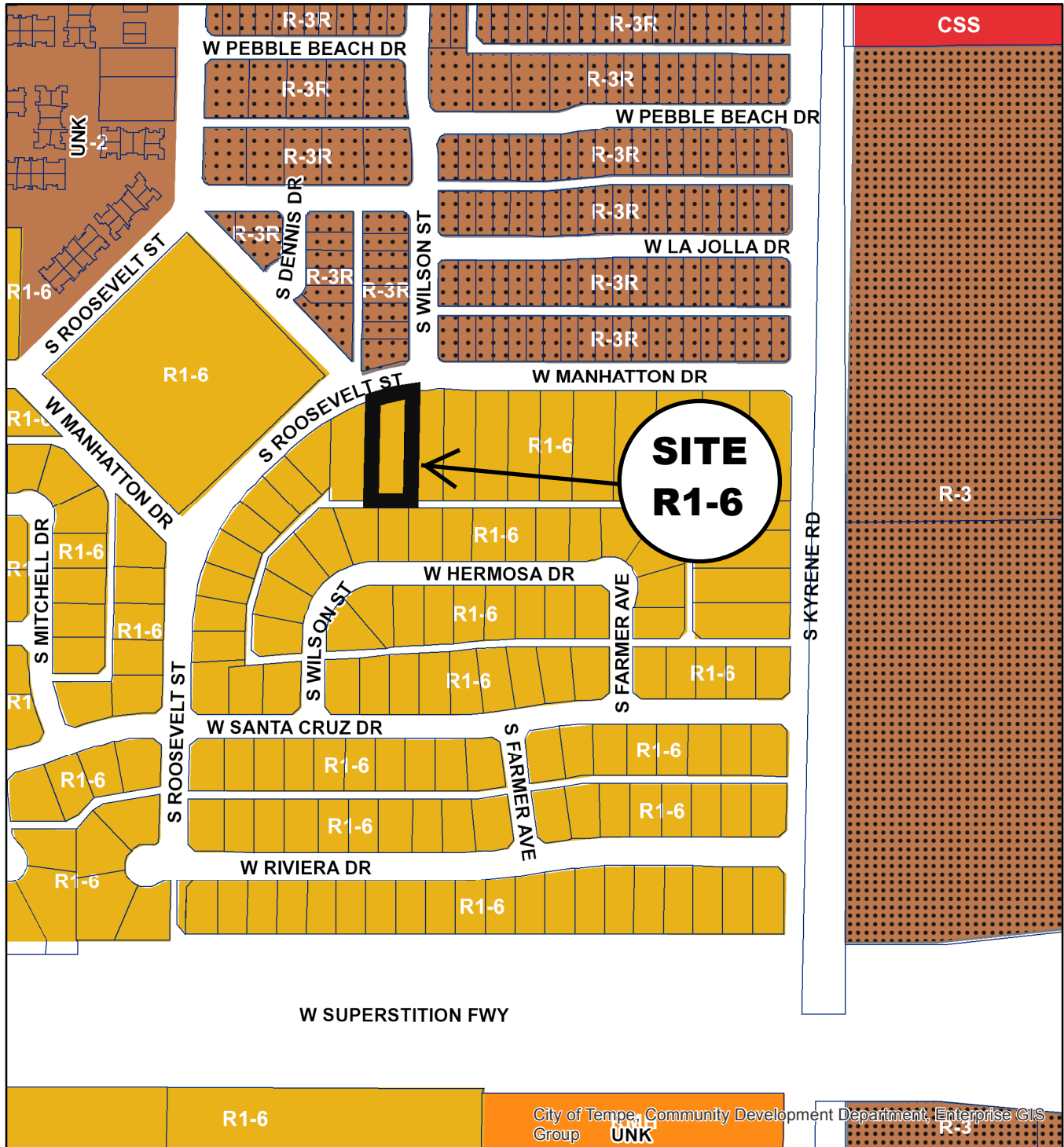
REVISED
DEVELOPMENT PROJECT FILE
for
MENDIVIL GARAGE
(PL200102)



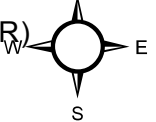




ATTACHMENTS:

1. Location Map
2. Aerial
3. Letter of Explanation
4. Site Plan
5. Elevations & Floor Plan
- 6-15. Site Context Photos
- 16-17. Public Comments received as of July 24, 2020

MENDIVIL GARAGE

PL200102



- | | | | | |
|---|--|---|--|---|
|  | Commercial Shopping and Services (CSS) |  | Multi-Family Residential Restricted (R-3R) |  |
|  | Single-Family Residential (R1-6) |  | Multi-Family Residential Limited (R-3) | |
|  | Multi-Family Residential (R-2) |  | Mobile Home Residence (RMH) | |
| | | | | |

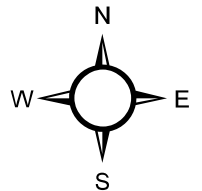
MENDIVIL GARAGE

PL200102



City of Tempe

Aerial Map



May 14, 2020

City of Tempe

Building/Planning/Zoning

Dear Sirs:

Our names our David and Rita Mendivil.

We are the owners and reside at 507 W. Manhattan Dr. Tempe, AZ 85282.

We are seeking a use permit to allow construction of a freestanding garage in the back yard.

The building will be for an RV garage and some workshop/storage space. We are also are building a small pool bathhouse on the outside of the building to allow access when swimming.

Proposed site of garage requires allowance for setback of 6 feet on the East side of the building/yard and 1 foot higher use permit from the main residence.

There will not be any potential impacts to adjacent properties. The building will not be detrimental to persons residing or working in the vicinity, to adjacent properties to the neighborhood or the public welfare in general and will conform to the following standards/zoning and development code criteria.

A. There will not be any significant vehicular or pedestrian traffic in adjacent areas.

B. There will not be any nuisance arising from the emission of odor, dust, gas, noise vibration, smoke heat or glare at a level exceeding that of ambient conditions.

C. The building will not contribute to the deterioration of the neighborhood or to the downgrading of property values. The building will not be in conflict with the goals, objectives or policies of the City's adopted plans for General Plan.

D. The building will be compatible with existing surrounding structures and uses.

E. There will be adequate control of/and no disruptive behavior both inside and outside the premises that would create a nuisance to the surrounding area or General Public.

Thank you for your consideration in this matter.

Sincerely,

David and Rita Mendivil
507 W. Manhattan Dr
Tempe, AZ 85282
480-250-2827
mendivil5@cox.net

MENDIVIL RESIDENCE

507 W. MANHATTAN DR, TEMPE, AZ 85282

SDDS
SANTIAGO DESIGN DR. & ARCH. SERVICE
CUSTOM - REMODEL - ADDITIONS
P. O. Box 58 • Avondale, Arizona 85339
T. 623.255.7337 • 818.813.7337
Cell 626.994.4105 • E-mail: rsm@sdgsd-arch.com

MENDIVIL RESIDENCE
507 W. MANHATTAN DR, TEMPE, AZ 85282
APN #123-46-001N LOT 1,
SUBDIVISION: HERKOSA TRACTS LOTS 7 & 8

RITA D. MENDIVIL
507 W. MANHATTAN DR
TEMPE, AZ 85282
Description:
SITE PLAN PROJECT INFORMATION
Revisions:
A - 00-00-00-00
Submitted Date: 00-00-00
Scale: REF. DR#066
Project No.: 2022-0909
Sheet No.: A-0

PROJECT DATA

CODE	USBD:	2018
LEGAL DESCRIPTION:	TEMPLE BUILDING SAFETY ADMINISTRATIVE	2018
ZONE:	INTERNATIONAL ELECTRIC CODE (IEC)	2011
OCCUPANCY GROUP:	RENOVATION - SINGLE FAMILY	R-6
CONSTRUCTION TYPE:	TYPE V, NON-RATED	
LOT SIZE:	4,264.08 S.F.	

TEAM:

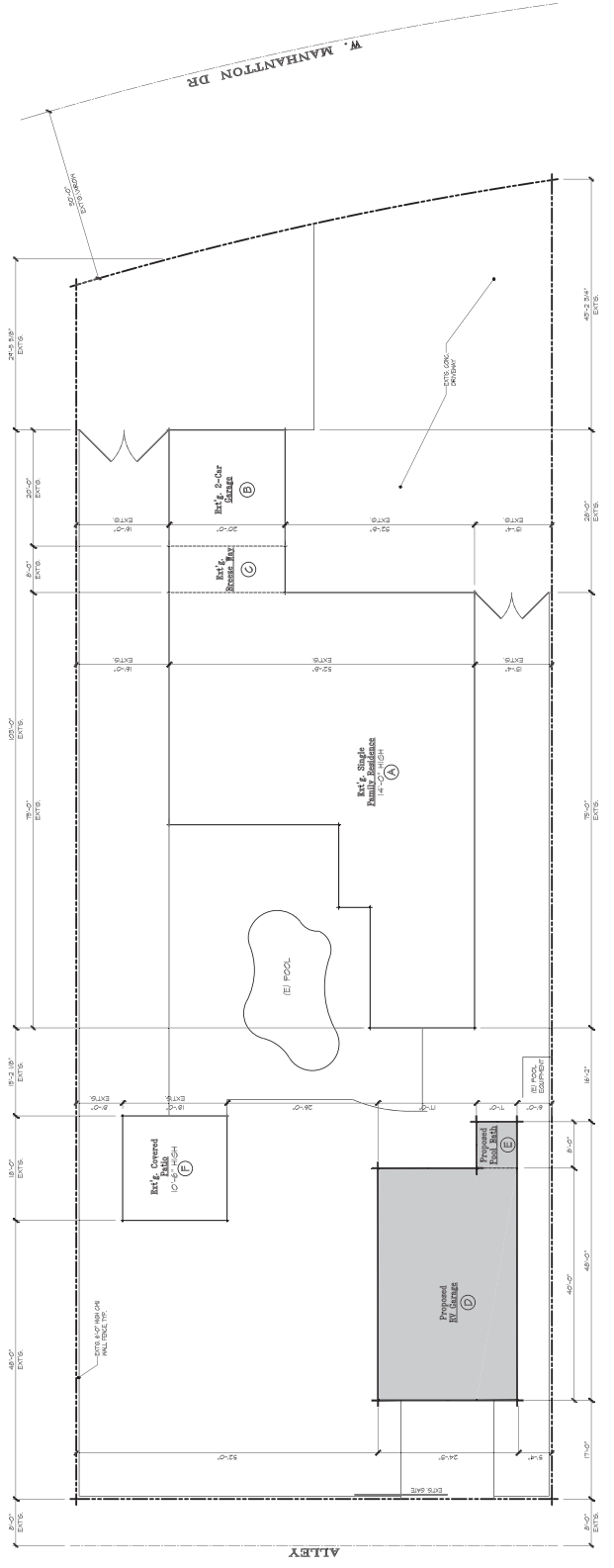
OWNER:
DAVID & RITA MENDIVIL
507 W. MANHATTAN DR
TEMPE, AZ 85282

DESIGNER:
SDDS
LAVAKH R.S.
818.813.7337
CELL: 626.994.4105
rsm@sdgsd-arch.com

SHEET INDEX

A-0 SHEET INDEX WITH 2024 DATA REFERENCE
A-1 SINGLE CONSULTANT'S SHEET INDEX
A-1 FLOOR PLAN AND ELEVATIONS

FLOOR AREA:		UNUSABLE
	CL. CHANGE	AREA
	S.F.	S.F.
(A) EXTS MAIN FLOOR LIVING AREA	2,845 S.F.	2,845 S.F.
(B) EXTS GARAGE	400 S.F.	400 S.F.
(C) EXTS BREKZE HWY	860 S.F.	860 S.F.
(D) NEARBY GARAGE	960 S.F.	960 S.F.
(E) POOL BATH	54 S.F.	54 S.F.
(F) EXISTING COVERED PATIO	524 S.F.	524 S.F.
(G) COVERED PATIO	2,845 S.F.	4,445 S.F.
BUILDING UNDER EXIST. AREA		241 S.F.
LOT SIZE	4,445 (1,800)	4,264 (28% ALLOC. 428)
LOT COVERAGE		28% (ALLOC. 428)



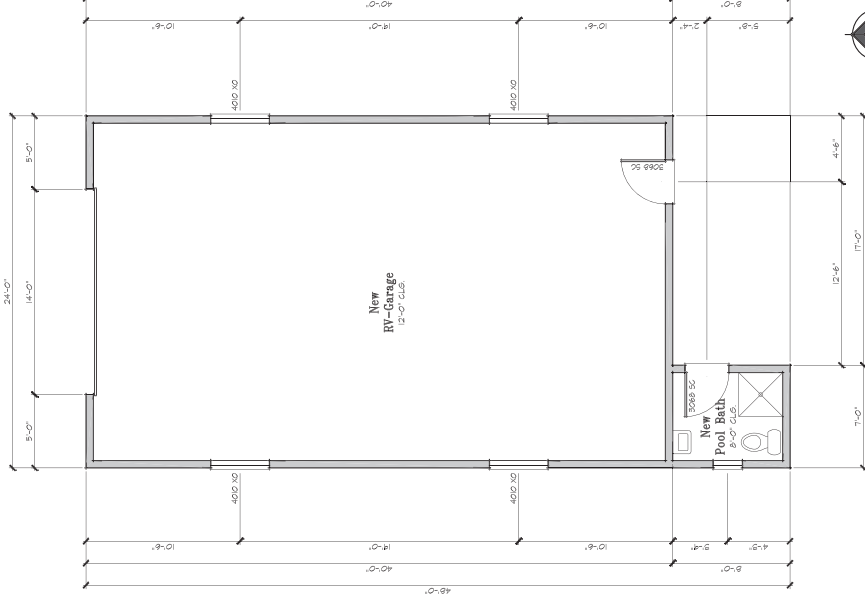
SITE PLAN

SCALE: 1/8" = 1'-0"



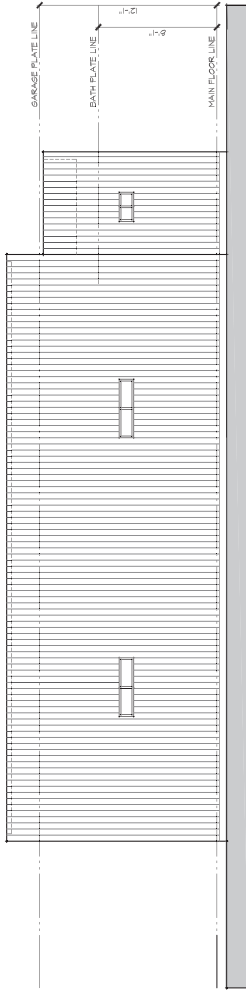
EXISTING RESIDENCE REAR ELEVATION

SCALE: 1/8" = 1'-0"



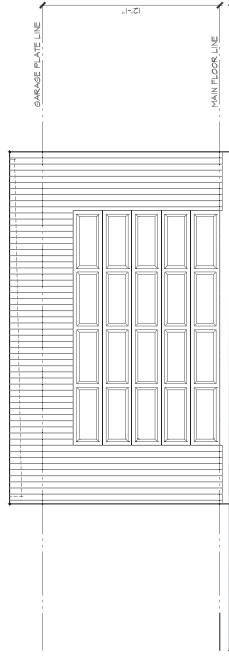
PROPOSED FLOOR PLAN

SCALE: 1/4" = 1'-0"



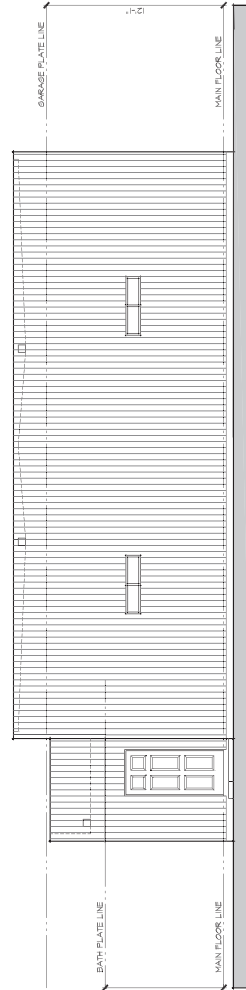
WEST (LEFT ELEVATION)

SCALE: 1/4" = 1'-0"



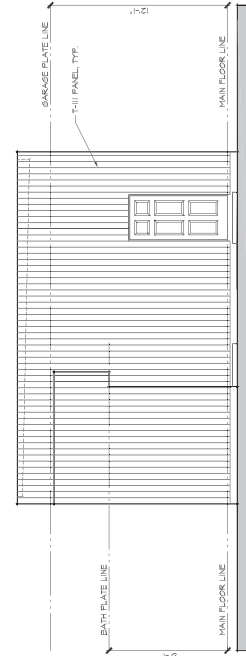
SOUTH (REAR ELEVATION)

SCALE: 1/4" = 1'-0"



EAST (RIGHT ELEVATION)

SCALE: 1/4" = 1'-0"



NORTH (FRONT ELEVATION)

SCALE: 1/4" = 1'-0"

MENDIVIL RESIDENCE

507 W. MANHANTTON DR, TEMPE, AZ 85282

APN 123-46-001N

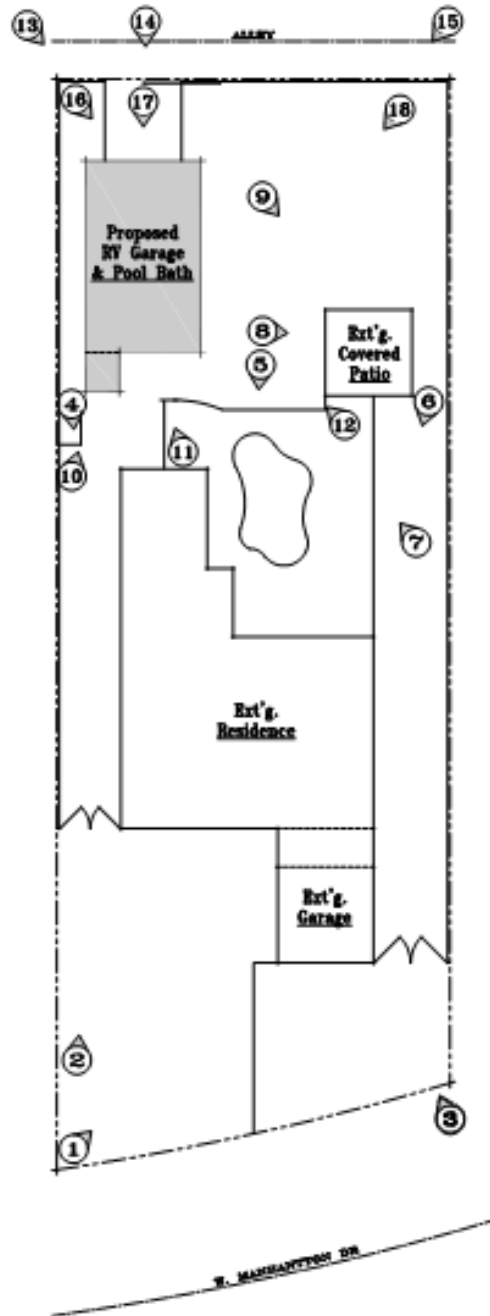




PHOTO 1



PHOTO 2



PHOTO 3



PHOTO 4



PHOTO 5



PHOTO 6



PHOTO 7



PHOTO 8



PHOTO 9



PHOTO 10



PHOTO 11

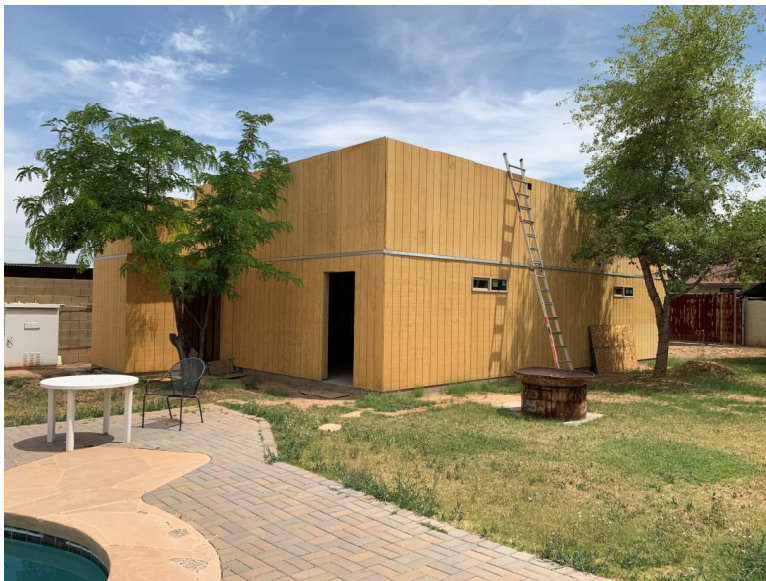


PHOTO 12



PHOTO 13



PHOTO 14



PHOTO 15



PHOTO 16



PHOTO 17



PHOTO 18

From: [Mariam Ephraim](#)
To: [Aron, Robbie](#)
Subject: Re: DRC meeting 7/28/20 507 W. Manhattan Drive, Tempe.
Date: Thursday, July 23, 2020 8:01:50 PM
Attachments: [image005.png](#)
[image006.png](#)
[image002.png](#)

Hi: Please note that I am against having this "garage" built though it already stands and was originally built without permits, without drawings and only got those after neighbors realized what was happening.

We have had many folks build additional structures/rooms without permits in the past for additional income property. These structures detract from our residential neighborhood to one that becomes destabilized with renters, students that throw wild parties, and overages in garbage, water usage, and parking. We continue to deal with such structures already built and causing problems for decades (3721 S. Dennis as our worst example).

I understand now the structure at 507 W. Manhattan also has a bathroom, shower, and toilet and that this is "strictly for their guests at their pool". Well, strictly or not, changing it to become income property after this is installed isn't a big leap and we just don't need more problems in our residential community. Happens all the time here in this neighborhood.

This property already has a garage. Thus the additional garage could be anything from income rental property to a personal business? This is a residential area and we would like to keep it that way.

Building this structure over the legal limit to the alley way should not be allowed either. If he had gotten permits and drawings as is required in the city of Tempe, he would have known that instead of asking for a variance now. Shows total disregard for our city, for our code guidelines to keep chaos to a minimum, safety to a maximum, and to our community.

Mariam B. Ephraim, M.Div.

[REDACTED]

"Good character is more to be praised than outstanding talent. Most talents are to some extent a gift. Good character, by contrast, is not given to us. We have to build it piece by piece by thought, choice, courage and determination." —John Luther

From: Aaron, Robbie <Robbie_Aaron@tempe.gov>
Sent: Monday, July 20, 2020 8:01 AM
To: Mariam Ephraim [REDACTED]
Subject: RE: DRC meeting 7/28/20 507 W. Manhattan Drive, Tempe.

Good Morning Mariam –

The agenda packet with links will be uploaded to the website later this week.

Thank you,

Robbie



ROBBIE AARON, AICP
Planner
Community Development, Planning Division
31 E. 5th St., Tempe, AZ 85281
480.350.8096 robbie_aaron@tempe.gov
tempe.gov/planning

From: Mariam Ephraim [REDACTED]
Sent: Saturday, July 18, 2020 2:23 PM
To: Kajfez, Laura <Laura_Kajfez@tempe.gov>; Aaron, Robbie <Robbie_Aaron@tempe.gov>
Subject: DRC meeting 7/28/20 507 W. Manhattan Drive, Tempe.

7. Request a Use Permit to reduce the side yard setback for a fifteen-foot high accessory building from nine (9) feet to the district standard of five (5) feet for the MENDIVIL GARAGE, located at 507 West Manhattan Drive. The applicant is Rita Mendivil. (PL200102) Project Planner: Robbie_Aaron@Tempe.gov or (480)