

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 3/22/2022  
Agenda Item: 6**

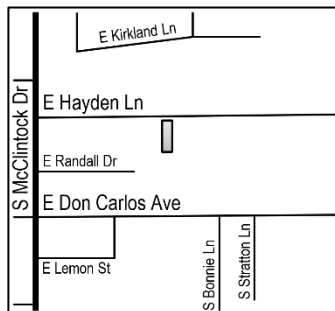
**ACTION:** Request a Use Permit to allow a second story addition to an existing single level single-family residence for THE HALE RESIDENCE, located at 1849 East Hayden Lane. The applicant is Whitney Hale.

**FISCAL IMPACT:** N/A

**RECOMMENDATION:** Denial, (if an affirmative action is taken, conditions of approval shall apply)

**BACKGROUND INFORMATION:** THE HALE RESIDENCE (PL210353) is a partially constructed two-story single-family residence that was issued a building permit in October of 2018 to construct a single level house, located east of South McClintock Drive on the south side of East Hayden Lane in the R-4, Multi-Family General District. The issued building permit did not include a second story in the scope of work. The applicant applied for a Use Permit in April of 2020 to legitimize the second story but was denied by the Development Review Commission (DRC) on June 11, 2020. The applicant appealed the DRC's decision to the City Council but was denied on August 13, 2020. Pursuant to City of Tempe Zoning and Development Code Section 6-701, Re-Application, if an application is denied, an application that is substantially the same project or request will not be considered for a period of one (1) year from the date the initial application was denied. At this time, THE HALE RESIDENCE is eligible to process the same project and request. The request includes the following:

ZUP210091 Use Permit to allow a second story addition to an existing single level single-family residence.



Property Owner	Whitney M. Hale
Applicant	Whitney M. Hale
Zoning District	R-4
Site Area	8,000 s.f.
Building Area	3,570 s.f.
Lot Coverage	45% (60% max.)
Landscape Coverage	No Standard for Single-Family Residential Uses
Building Height	22'-2" (40' max. allowed)
Building Setbacks	20' front, 10'-4" sides, and 44' rear (20', 10', and 10' min. required)
Vehicle Parking	2 spaces (2 min. required)

**ATTACHMENTS:** Development Project File

**STAFF CONTACT(S):** Lee Jimenez, Senior Planner (480) 350-8486

Department Director: Shelly Seyler, Interim Community Development Director  
Legal review by: N/A  
Prepared by: Lee Jimenez, Senior Planner  
Reviewed by: Steve Abrahamson, Principal Planner

## COMMENTS

According to the Building Safety Division (BSD), THE HALE RESIDENCE submitted a building permit application to construct a new single-family residence with a second story in November of 2017. At the conclusion of the first review, BSD informed the applicant that a Use Permit is required for the second story. In response, the applicant processed a revision to remove the second story from the plans. Eventually, the building permit was issued in October of 2018. A stop work order was issued by BSD on May 27, 2020 for constructing a second story without proper approval.

The floor plan for the proposed second story includes a large bedroom with two (2) separate full bathrooms, a kitchen with laundry facilities, and two (2) exterior doors that lead to a second story deck to the south. The first floor consists of four (4) separate entrances, three (3) kitchens, and two (2) bedrooms, each with a full bathroom. Additionally, the living room, dining room, and great room are each provided with a full-size bathroom. A total of seven (7) bathrooms are proposed inside the house.

## PUBLIC INPUT

Staff has received one (1) public comment in opposition from a resident who lives approximately 45 feet south of THE HALE RESIDENCE. The resident is concerned about the privacy of his yard and home, especially the proposed second story deck at the rear of the building. A copy of the email, which includes photographs, is provided in the attachments section of this report.

## USE PERMIT

The proposed use and design requires a Use Permit to allow a second story addition to an existing single level single-family residence in the R-4 zoning district.

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

1. *Any significant increase in vehicular or pedestrian traffic*; the second-story use is intended for a single-family residence and is not expected to significantly increase vehicular or pedestrian traffic. However, based on the number of rooms (includes bedrooms and common rooms such as living, dining and great rooms) with attached full-bathrooms (6) and the number of kitchens (4) on the floor plan, the house will generate more trips than a typical 3- or 4-bedroom single-family residence.
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 second-story use is not expected to generate emissions that would otherwise cause a nuisance given the nature of single-family residential uses.
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 property owner located 45 feet south of THE HALE RESIDENCE is concerned about the privacy of his property. He states that his privacy will be infringed upon by allowing a second story deck that overlooks into his yard and into his windows. Should the DRC approve this request, staff is recommending a condition of approval to remove all second story decks from the project plans and only allow for clerestory windows on the second story of the south elevation.
4. *Compatibility with existing surrounding structures and uses*; while there are several two- and three-story apartment buildings nearby, there are also single-family homes nearby to the southwest, south, and southeast. The property owner located 45 feet south of THE HALE RESIDENCE is concerned about the second story deck that he believes will hinder the privacy of his yard and home. Should the DRC approve this request, staff is recommending a condition of approval to remove all second story decks from the project plans and only allow for clerestory windows on the second story of the south elevation.
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 second-story use is intended for a single-family residence and is not expected to generate disruptive behavior.

## REASONS FOR DENIAL:

Based on the information provided by the applicant, the public input received, and the above analysis staff cannot support approval of the requested Use Permit. This request does not meet the required criteria and will not 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. The Use Permit is valid only after a Building Permit has 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 additional second bathroom facility on the second story shall be removed from the project plans.**
4. **The second story kitchen facilities and proposed great room kitchen shall be removed from the project plans.**
5. **The east curb cut on Hayden Lane shall be removed and replaced with curb, gutter, and sidewalk.**
6. **All second-story decks and exterior doors shall be removed from the project plans.**
7. **Only clerestory windows shall be allowed on the second story of the south elevation. Second-story egress windows may be provided on the second story of the east and west elevations.**

### 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 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.
- The decision-making body, upon finding that the applicant has not taken corrective actions to resolve issues related to the permit/approval and that a continuation of the permit/approval is not in the interest of the public health, safety and general welfare, can revoke the permit/approval after providing written notice of its intentions to the holder of the permit.
- 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.

### HISTORY & FACTS:

January 15, 1959                      Construction of single-level single-family residence passed final inspection at 709 South Priest Drive within the R-1, One Family Residential District.

July 6, 1961 Zoning Board granted variance to building 6' chain link fence along south side of house to front corner of carport with gates on front of carport.

December 19, 1987 Zoning Ordinance began requiring use permits for single-family residential second story additions or rebuilds.

July 10, 1989 House demolished under City Council Authorization and lot cleared of debris.

June 9, 2020 Development Review Commission denied a Use Permit to allow a second-story addition for the HALE RESIDENCE, located at 1849 East Hayden Lane in the R-4, Multi-Family Residential General District. (PL200064)

August 13, 2020 City Council denied an appeal of the June 9, 2020 Development Review Commission's decision to deny a Use Permit to allow a second-story addition for the HALE RESIDENCE, located at 1849 East Hayden Lane in the R-4, Multi-Family Residential General District. (PL200064)

**ZONING AND DEVELOPMENT CODE REFERENCE:**

[Section 3-102, Permitted Uses in Residential Districts](#)

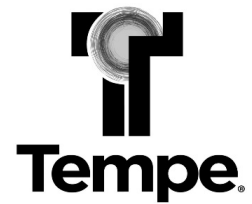
[Section 3-420, Single-Family Residential Second Story Addition or Rebuild](#)

[Section 4-202, Development Standards for Residential Districts](#)

[Section 6-308, Use Permit](#)

[Section 6-701, Re-Application](#)



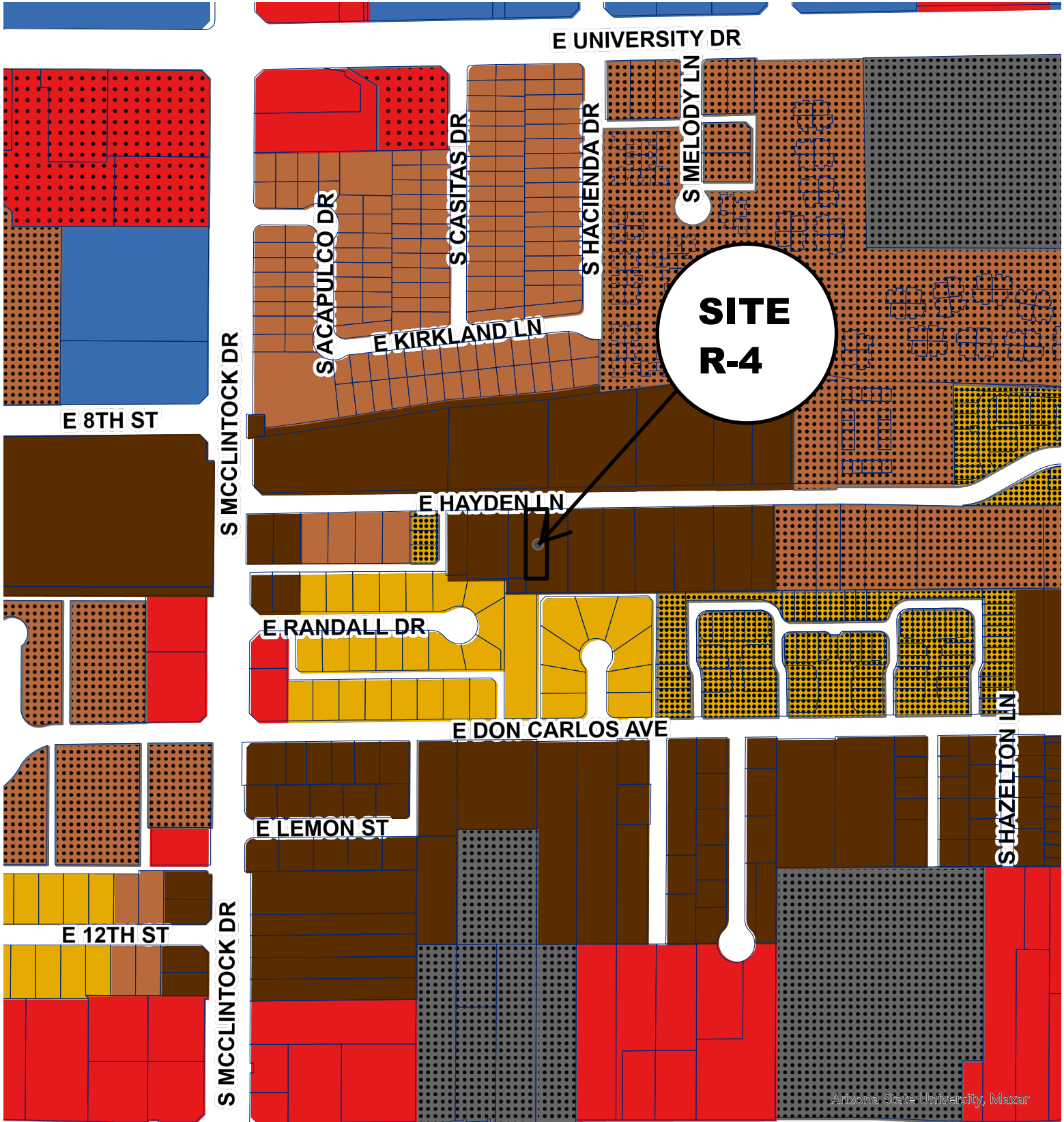


**DEVELOPMENT PROJECT FILE**  
for  
**THE HALE RESIDENCE**  
**(PL210353)**

**ATTACHMENTS:**

1. Location Map
2. Aerial
- 3-4. Letter of Explanation
5. Site Plan
6. Building Elevations
7. Floor Plan
- 8-9. Site Context Photos
- 10-13. Birdseye Imagery of THE HALE RESIDENCE
- 14-19. Public Comment
- 20-32. Applicant's Response to Public Comment

# THE HALE RESIDENCE



- General Industrial District (GID)
- Mixed Use High (MU-4)
- Commercial Shopping and Services (CSS)
- Planned Commercial Center Neighborhood (PCC-1)
- Single-Family Residential (R1-6)
- Single-Family Residential Planned Area Dev (R1-PAD)
- Multi-Family Residential (R-2)

- Multi-Family Residential Limited (R-3)
- Multi-Family Residential General (R-4)

— Override 1

Twelve Point

- ADOT
- ADOT
- Canal
- Canal

ATTACHMENT 1



Arizona State University, Maxar

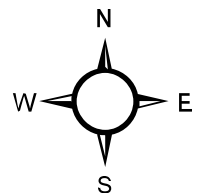


# THE HALE RESIDENCE

PL210353



Aerial Map



To Whom It May Concern:

My name is Whitney Hale. I am the owner of 1849 E. Hayden Ln. Tempe. I am applying for a use permit to allow a full floor above the first as a second story. My property is zoned as a single family residence in the Tempe Zoning Code. Which is what I will be using it as; my personal home.

Nothing I am doing is contrary to Tempe Zoning Code or International Building Code. I am adhering to the written language of both.

In the Tempe Zoning Code and the currently adopted International Building Code a second story is not defined by the building height. Under the zoning code, and as the property is currently zoned, I am allowed to have up to a 35' high structure. My house is designed for 22' height. Well within comparison to any single family home in Tempe.

Hayden Lane is a mix of single level, 2 level, & 3 level living space structures. There are currently 2 & 3 level multi-family buildings directly across the street from my property, and to the rear, not directly behind, but across the street from the lots directly behind mine. Having a 22' high building is not out of character in this neighborhood. The exterior appearance fits well in the neighborhood. There are empty lots on either side of mine.

Under the currently adopted TZC & IBC a second story is defined as complete coverage of the floor below. Currently Tempe zoning & IBC allow to up to 2/3 of the area of the floor below as a mezzanine. There is no contention that my residence can have the exterior massing and elevations currently existing.

What I am seeking is the use of 285 sq. ft. on the interior to add to the mezzanine thus making it a full floor. This added space on the interior does not depreciate or add pressure to the existing neighborhood.

This is my home. I designed it for my family. I have designed and am building this home per all applicable codes. There is nothing in the TZC or IBC that require any changes to the design.

Any consideration should be based on fact, not speculation. I cannot plan based on speculation. I planned this home based on written codes. No part of this design violates any of them.

Please see the attached context photos.

Address all 5 Use Permit Approval Criteria:

In arriving at the above determination, the following factors shall be considered, but not be limited to:

1. Any significant increase in vehicular or pedestrian traffic;

Response: NO, This is a single family residence. I have 4 parking spaces, more than required

- 2.. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;

Response: NO, this is a single family residence.

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;

Response: NO. In fact this house increases the visual appeal of the neighborhood. It will increase the property values as well. It infuses a block of older homes on the same side of the street with new development. It infuses the area with new building and the design provides a transition from the 3 story apartments across the street.

4. Compatibility with existing surrounding structures and uses;

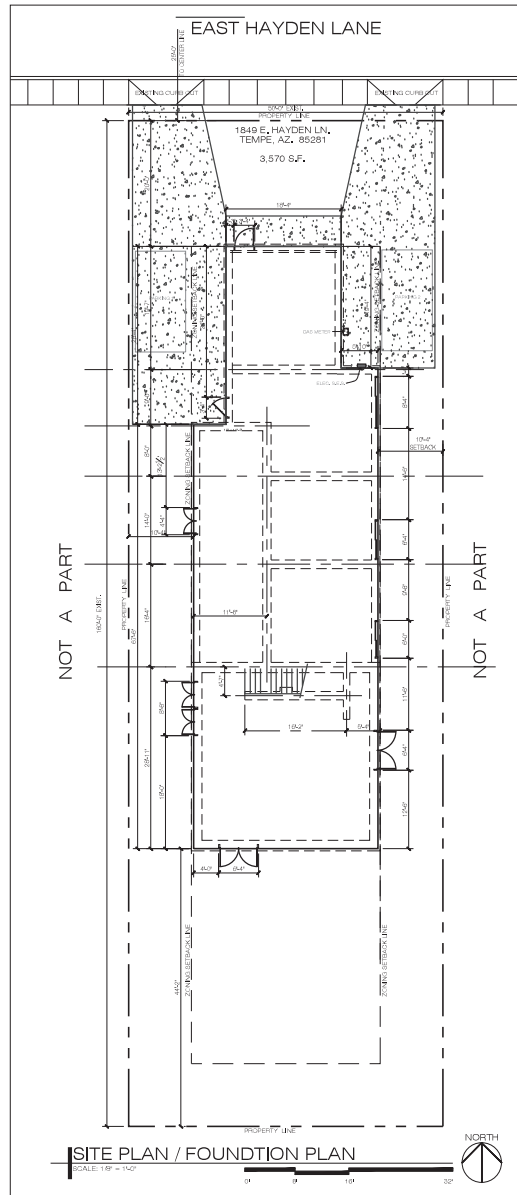
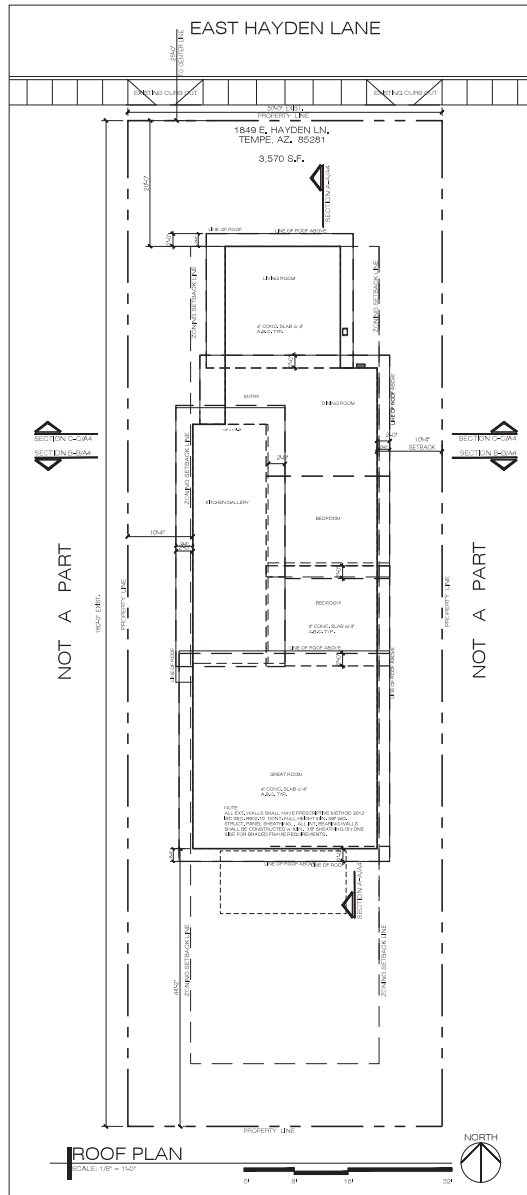
Response: YES, This house increases the visual appeal of the neighborhood. It will increase the property values as well. It infuses a block of older homes on the same side of the street with new development. It infuses the area with new building and the design provides a transition from the 3 story apartments across the street. All properties are zoned for single family or multi-family. There is no conflict of use.

5. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.

Response: This is a single family residence. There in no commercial use.

Whitney Hale



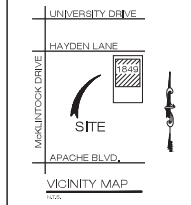


**PROJECT DESCRIPTION:**  
 THE B-1 FRAME OF A PROPERTY DAMAGED BY FIRE TO AN EXTENT THAT THE STRUCTURE HAD TO BE DEMOLISHED. ALL EXISTING UTILITY SERVICE LOCATIONS WILL REMAIN UNCHANGED. THE NEW STRUCTURE WILL BE A SINGLE FAMILY RESIDENCE. ALL RETRACKS MET OR EXCEED MINIMUM REQUIREMENTS. FIRE RATED EXTERIOR WALLS ARE NOT REQUIRED BASED ON RETRACKS. TWO OFF STREET PARKING SPACES ARE PROVIDED BEHIND THE REQUIRED FRONT YARD RETRACK. THE RESIDENCE IS TWO STORES. ALL WORK SHALL BE DESIGNED AND INSTALLED IN COMPLIANCE WITH THE PRESCRIBED REQUIREMENTS OF THE 2012 IBC. THE RESIDENCE WILL BE SPRINKLERED PER CODE ALTHOUGH NOT REQUIRED.

- GENERAL NOTES:**
1. ALL WORK SHALL CONFORM WITH REQUIREMENTS OF THE LOCAL GOVERNING BUILDING CODE, LOCAL ZONING, NATIONAL ELECTRIC CODE (NEC), OSHA AND ALL OTHER CODES, RULES AND REGULATIONS IN THEIR LATEST EDITIONS OF ALL APPLICABLE HAVING JURISDICTION OVER WORK OF THIS TYPE. THE CONTRACTOR SHALL NOTIFY ALL SUBCONTRACTORS TO CONFORM WITH THESE REGULATIONS. NOTHING IN THESE CONSTRUCTION DRAWINGS SHALL BE CONSTRUED TO PERMIT WORK NOT IN COMPLIANCE WITH THESE CODES.
  2. DIMENSIONS NOTED ARE NOMINAL TO CENTERLINE OR FACE OF STRUCTURAL ELEMENT AS INDICATED. DIMENSIONS DO NOT INCLUDE FINISH LINES UNLESS NOTED. LARGER SCALE DRAWINGS GOVERN OVER SMALLER SCALE DRAWINGS. ACTUAL FIELD CONDITIONS MAY VARY. CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO ORDERING MATERIALS AND CONSULT WITH THE ARCHITECT FOR ANY AND ALL DISCREPANCIES BETWEEN THE CONSTRUCTION DRAWINGS AND THE FIELD CONDITIONS. DO NOT SCALE DRAWINGS. VERIFY ALL DIMENSIONS AFTER DEMOLITION AND EXPOSURE OF STRUCTURAL CONDITIONS.
  3. CALL BLUE STAKE FOR FIELD VERIFICATION OF UTILITY LOCATIONS PRIOR TO EXCAVATION.
  4. ALL CHANGES DURING CONSTRUCTION TO BE APPROVED BY THE GOVERNING AUTHORITY PRIOR TO WORK BEING DONE.
  5. PROVIDE BOLLARDS AND ANCHORS AS REQUIRED TO SECURELY MOUNT WALL OR CEILING MOUNTED EQUIPMENT, I.E. FIRE EXTINGUISHERS, TELEPHONE ACCESSORIES, COOP FROM, HARDWARE, ETC.
  6. ALL GLASS WITHIN 10' OF THE FLOOR OR WITHIN 64" FROM THE DOOR JAMB OF THE ACTUAL LEAD OF THE DOOR, OR ANY OTHER WAY SUBJECT TO HUMAN IMPACT SHALL BE TEMPERED GLASS.
  7. PROVIDE IDENTIFICATION MUST BE LEGIBLE FROM THE STREET OR DRIVE.
  8. LOCKING DEVICES, HARDWARE, & OPERATIONAL FORCES ON ALL ENTRY OR EGRESS DOORS SHALL COMPLY W/ ADOPTED GOVERNING CODE REQUIREMENTS.
  9. INVESTIGATE & REPAIR ALL EXISTING BUILDING CONDITIONS FOR STRUCTURAL STABILITY & INTEGRITY, WATER AIRTIGHT INSTALLATION, BUILDING SUPPORT SYSTEMS, DISCREPANCY, AIR QUALITY, BUILDING OPENING SECURITY & INTEGRITY, ADA ACCESSIBILITY, & LIFE SAFETY CONDITIONS WHEN DOES NOT MEET CURRENT SAFETY STANDARDS OR BUILDING ENVELOPE INTEGRITY.
  10. COORDINATE CONSTRUCTION INSPECTION, ETC. WITH CONSTRUCTION INSPECTOR AND BUILDING DEPARTMENT IN AUTHORITY.
  11. ALL WALLS CONTAINING WASTE LINES SHOULD BE CONFINED OR ETC. AS REQUIRED TO ACCOMMODATE PLUMBING LINES.
  12. A COPY OF THE LATEST SET OF CONSTRUCTION DRAWINGS, AS-BUILT AND CITY APPROVED PLANS SHALL BE KEPT AT THE JOB SITE.
  13. MOUNTING HEIGHT FOR TELEPHONE AND ELECTRICAL OUTLETS TO BE 5'-0" UNLESS OTHERWISE NOTED. ELECTRIC/TELEPHONE OUTLET COMBINATIONS TO BE MOUNTED ON OTHER SIDE OF THE SAME SLUG OUTLETS STAGGERED TO PREVENT BACK TO BACK INSTALLATION AT PARTITION WALLS TO INLET TRANSFERS BETWEEN ROOMS.
  14. STUD PARTITIONS TO BE ANCHORED SO AS TO RESIST A LATERAL LOAD OF 20 LBS/FT AS FOLLOWS: BOTTOM PLATE ANCHOR TO SUBFLOOR WITH 1/4" DIA. POWER DRIVEN NAILS @ 24" O.C.

**PROJECT DIRECTORY:**  
 OWNER / ARCHITECT:  
 HALE FAMILY TRUST  
 ARCHITECTURE EDGE  
 208 E. PAPAGO CIRCLE S.W.  
 TEMPE, AZ 85281  
 T 480.787.9174  
 F 480.946.3499  
 ARCHITECTURE EDGE  
 CONTACT: WHITNEY HALE

**PROJECT DATA:**  
**APPLICABLE BUILDING CODES:**  
 CONTRACTOR TO VERIFY COMPLETE AND ABSOLUTE COMPLIANCE WITH ALL LOCAL AND NATIONAL CODES AS SPECIFIED BY THE ARCHITECT HAVING JURISDICTION INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:  
 2012 IBC W/ MUNICIPAL AUTH AMENDMENTS  
 PROJECT ADDRESS: 1849 E. HAYDEN LANE TEMPE, AZ, 85281  
 ZONING: R54  
 LOT AREA: 8,000 S.F.  
 ALLOWABLE LOT COVERAGE AREA: 4,000 S.F. (50% TDS TABLE 4-202.5)  
 ALLOWABLE HEIGHT: 40 FT.  
 OCCUPANCY: GROUP 1-R  
 CONST. TYPE: WOOD-LIGHT FRAME  
 FLOOR AREA: 3,570 S.F. (FOOTPRINT)  
 EXTERIOR WALLS: NON RATED, BASED ON PROXIMITY TO PROP. LINE (TABLE 6-02)  
 OPENINGS: OPENINGS SET BACK 10' MIN.  
 EXIST. CALCULATIONS PER 2012 IBC  
 ROOF COVERING PER 2012 IBC  
 PLUMBING/FUTURE CALCULATION: 2012 IBC  
 ENERGY CODE COMPLIANCE: 2012 IBC



**SHEET INDEX:**

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A4	BUILDING & WALL SECTIONS
M1	MECHANICAL PLAN
M2	MECHANICAL SCHEDULES
M3	MECHANICAL SPECIFICATIONS
P1	PLUMBING PLANS
P2	PLUMBING DETAILS
P3	PLUMBING SCHEDULES
P4	PLUMBING SPECIFICATIONS
E1	ELECTRICAL PLANS
E2	ELECTRICAL NOTES & SCHEDULES

**ARCHITECTURE EDGE**  
 208 EAST PAPAGO CIRCLE SOUTH  
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**HALE RESIDENCE**

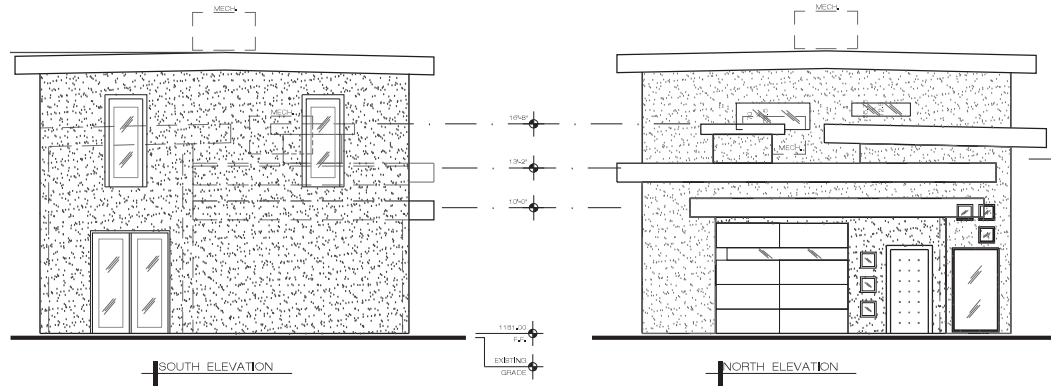
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 TEMPE, ARIZONA 85281  
 HALE FAMILY TRUST

RECORD DATES  
 2017 . NOVEMBER . 13

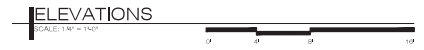
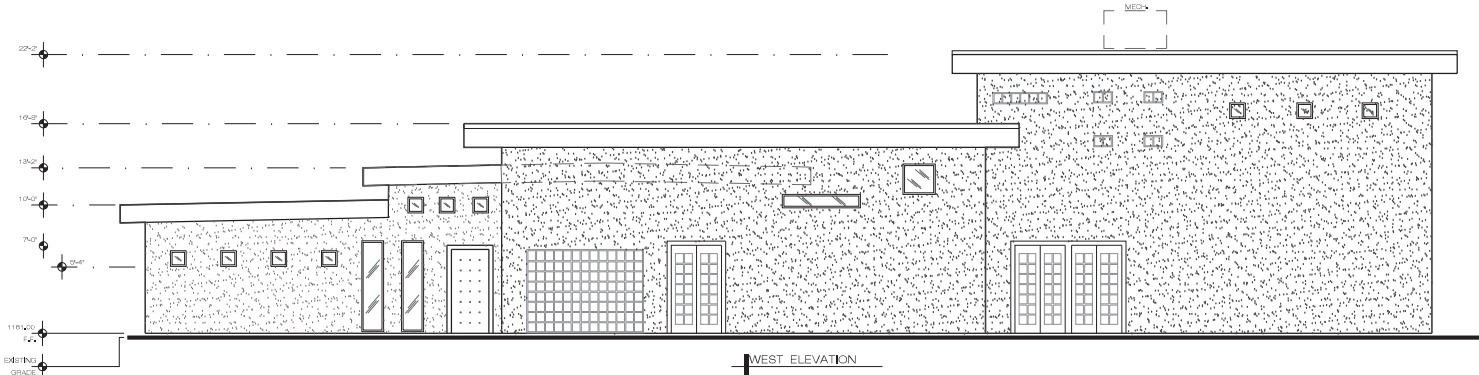
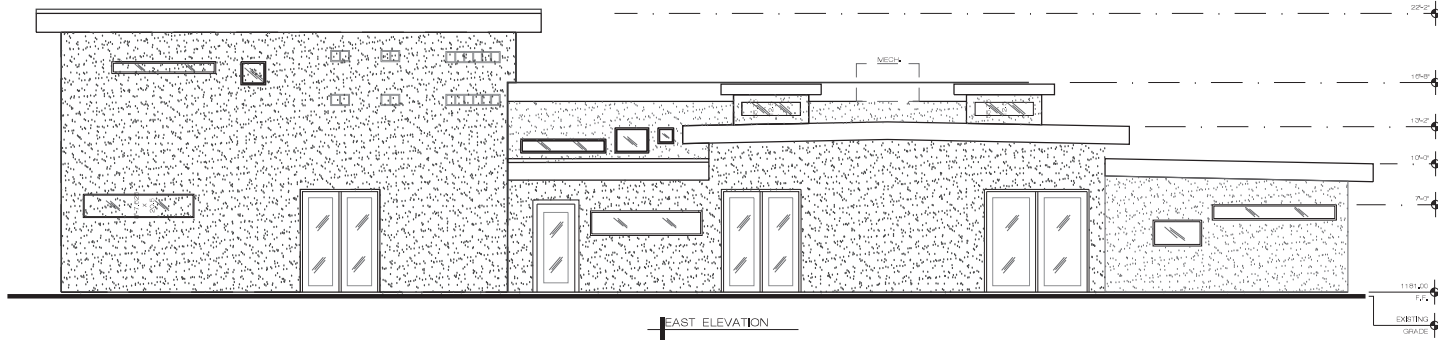
COVER SHEET /  
 SITE PLAN

**A1**

NOTE: DO NOT SCALE DRAWINGS. SOLUTIONS AND THE EXISTING CONDITIONS ARE APPROVED AS SHOWN. THE ARCHITECT ASSUMES NO LIABILITY FOR THE ACCURACY OF ANY INFORMATION PROVIDED. ANY AND ALL REPRESENTATIONS ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE ARCHITECTURAL AGREEMENT.



- GENERAL ELEVATION NOTES**
1. ALL MATERIAL & INSTALLATION REQUIREMENTS SHALL BE AS PRESCRIBED BY ADOPTED BUILDING CODE REFERENCE OR APPROVED BIDD NO.
  2. ALL WINDOWS WITHIN 24" VERTICALLY OF A WALKING SURFACE OR 36" HORIZONTALLY OF A DOOR SHALL BE TEMPERED GLAZING.
  3. ALL DOORS & WINDOWS SHALL BE INSULATED AS PRESCRIBED BY THE CURRENT B.C.



**ARCHITECTURE  
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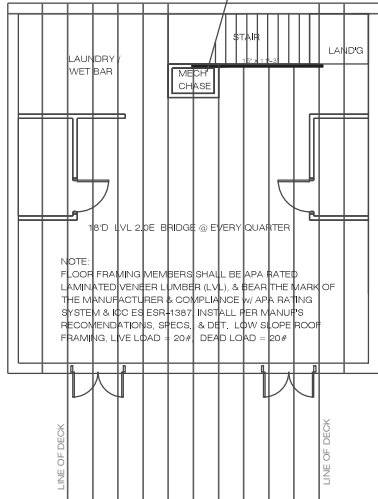
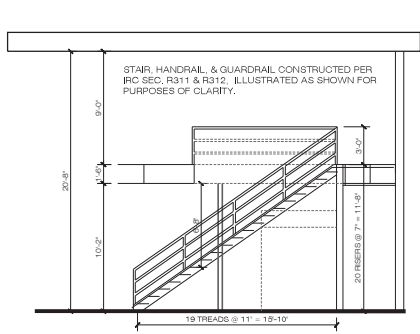
**HALE  
RESIDENCE**

1849 E. HAYDEN LN.  
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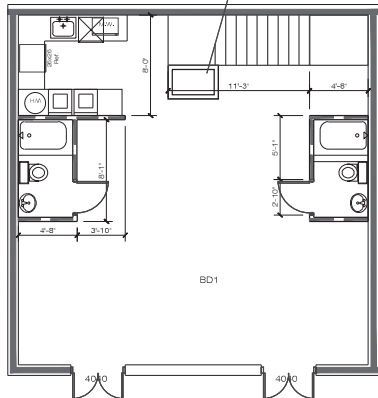
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BUILDING  
ELEVATIONS

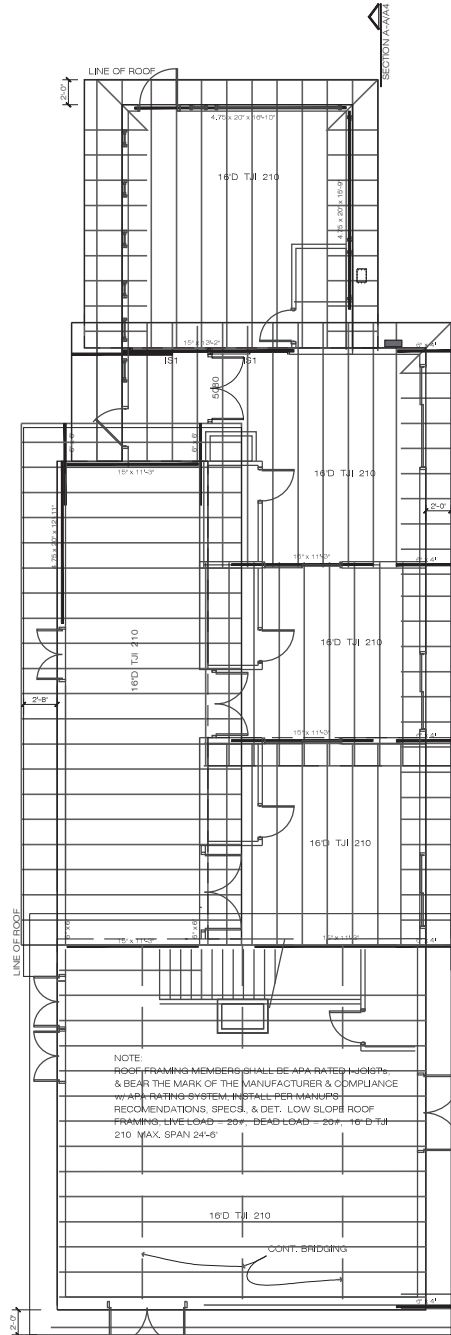
**A3**



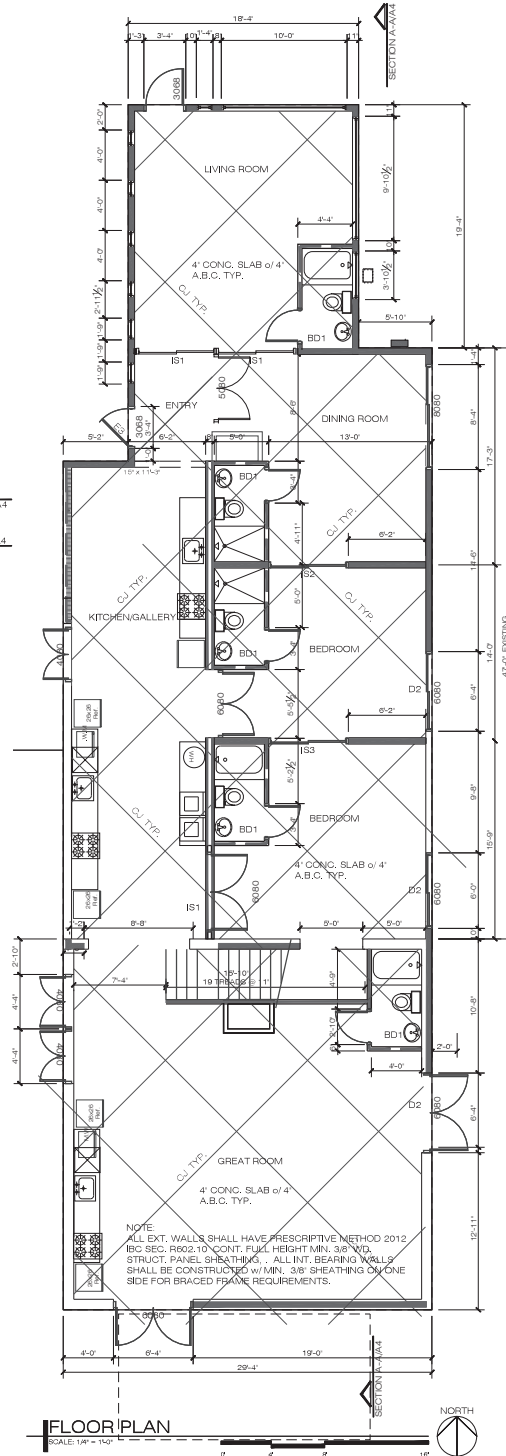
SECOND FLOOR FRAMING PLAN  
SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN  
SCALE: 1/8" = 1'-0"



ROOF FRAMING PLAN  
SCALE: 1/8" = 1'-0"



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

ARCHITECTURE  
**EDGE**  
208 EAST PAPAGO CIRCLE SOUTH  
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(F) 480.946.3499



HALE  
RESIDENCE

1849 E. HAYDEN LN.  
TEMPE, ARIZONA 85281  
HALE FAMILY TRUST

RECORD DATES  
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FLOOR PLAN /  
FRAMING PLAN

A2





Looking Northwest 2 Story Multi Family Apartments



Looking North 2 & 3 Story Multi Family Apartments



Looking Northeast 3 Story Multi Family Apartments



Looking East Vacant Lot 2 Story Apartments in Background





Looking Southeast Vacant Lot & SFR Beyond



Looking South SFR & 3 Story Multi Family Apartments Beyond



Looking Southwest Vacant Lot  
SFR Beyond



Looking West Vacant Lot



# THE HALE RESIDENCE - BIRDSEYE VIEW LOOKING SOUTH





# THE HALE RESIDENCE - BIRDSEYE VIEW LOOKING EAST





# THE HALE RESIDENCE - BIRDSEYE VIEW LOOKING NORTH





# THE HALE RESIDENCE - BIRDSEYE VIEW LOOKING WEST



## Jimenez, Lee

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**From:** Jimmy Bland <jimmybland44@yahoo.com>  
**Sent:** Wednesday, March 9, 2022 6:48 PM  
**To:** Jimenez, Lee  
**Subject:** Hale Residence

Hello Lee,

My name is James Bland.

I am the resident that lives directly behind this house that is being built at 1849 E. Hayden Lane.

Case number PL210353.

The case name is the Hale Residence.

As a person that lives directly behind this house I had not expected a two story to be Built like this And having such an impact on the Privacy of my home.

If I am completely opposed to a two story like this (especially with giant Sliding glass doors that are going to be installed and then most likely a deck that will look right down into my yard ) would you be the person I speak to?

I just recently received the public hearing notice for this issue.

This house seems like a multi family dwelling being built on that property.

I believe when I looked it up it is a single family zoned lot.

If an occupancy permit is given and the second story can be Livable What is to stop it from being turned into an Airbnb in several of the rooms and used for renting to several families at a time?

Me personally I will be sad if this is allowed because it will ruin my quaint tempe feel Of the one story house is that I'm surrounded by allowing for privacy.

Just the thought that people sit up on those tables and chairs now at night if I'm in my backyard with the kids or my bedroom is open it's a straight shot in my yard and bedroom With a view.

I believe he even has cameras mounted up towards the peak looking down to what would potentially be his backyard but what is to stop it from being pointed into my yard if it's not already and how far can it zoom?

Please let me know if my voice matters And if there is anything that I can do or need to do.

I'm not trying to have a secret enemy in this man with my testimony and opinion but I also can't sit here quietly and hope it works out in the way it protects my privacy.

I will be in this house for quite some time and I want it to feel comfortable.

Best Regards,  
James Bland















Sent from my iPhone

Good Evening Mr. Bland,

Please allow me to introduce myself. I am the owner of the property behind you to the North, that you received a notice for a public hearing on a use permit about.

I would like to address your concerns hoping to persuade you to readdress the public comment. I would also like to explain the actual conditions of the zoning and use permit. I'm afraid this may be rather lengthy but please hear me out.

I am happy to lower my security camera for you. I could move it down to 10' if it pleases you. I put this camera up for security purposes because my property has been burglarized several times and at that height it does have a good view of my back yard, but I will simply put two on each side at a much lower height. As you know there are vacant lots on either side of me and actually a small vacant lot between our properties. I have had at least three homeless individuals living on these properties. One was actually living on the lot between our houses. I have also had one drug deal and exchange on the lot to the west. Furthermore, and you may not know this, there were two murders and drug bust on Hayden Lane not more than 100 yards east of my lot appx. 1 year ago. One was actually on the public street and not inside a residence, so I consider these cameras a good crime prevention tool. There is no police presence in this neighborhood as I'm sure you are aware. I can assure you I have no time or desire to invade your privacy. I will do this for you without question and remove it this weekend.

The use permit I am seeking actually has nothing to do with the height of my home. I would like to explain the zoning for my property and a good portion of the lots on the south side of Hayden Lane. I have included information copied from the Tempe Zoning Code for your reference. This is my second time applying for a use permit. I did stop by your home more than a year ago and left my contact information in your mailbox so we could discuss any of your concerns. I never got a response. Perhaps you have recently moved in. I just don't want you to think your concerns are falling on an individual that doesn't care.

On Hayden Lane all the multi-family units to the north are 2 & 3 levels. The properties on the south side of the street are zoned both for multi-family and single family residences. All these properties have a height limitation of 40'. The property to the west of mine, my property, and most of the properties on the south side of Hayden Lane to the east are zoned the same. All these properties can have multi-family use and buildings up to 40' in height per current code without a use permit. My need to obtain a use permit is unjustified as far as I can understand, but it is part of the zoning code because I intend on using my property as a single family residence. The Tempe Zoning Code is very confusing when considering that a multi-family building 40' high can be built on my property without applying for a use permit, but I cannot build my house with a full floor above the ground floor. I know the Tempe Zoning Code makes it even more confusing by the fact that the building height is not the question, but the floor area of the space directly below.

The zoning and building codes are complicated, but I can explain them as I understand them. After having struggled with this issue for more than two years I think I understand them. With the zoning allowing up to 40' height on my property I never thought I would get any resistance from the Tempe planning department. The resistance I'm getting is not about the height, it is about the floor area even though the title is 'Second Story Use Permit.

I bought my property in 1995 knowing that it was zoned for both multi-family and single family use. I once thought of building multi-family, but as my family's lives have changed I will be using it as a single family residence and living there if it ever gets finished. The properties on both sides of me will probably be multi-family and multi-level living. I have been approached to sell.

I tried to design my house as a transition between the north side of Hayden Lane and the single level residences on the north side of Don Carlos. I am not going to lie to you and tell you I am not building a deck there. How much it will be used I cannot answer. Hopefully I will soon retire. I have no interest in what you do in your backyard. I wanted a nice sun deck for myself.

I am not going to contact you directly. If you wish you may call me and we can talk. All the information is attached. I am hoping once you review it and though about my intentions you will write another letter to Lee Jimenez at Tempe Planning readdressing your concerns.

On the next page you will find the newspaper & online articles of the police investigations. Please let me know if after reading them you don't want me to take the camera down.

On the pages after that you will find a more detailed description of my property's zoning and the Tempe zoning information.

Tempe Police made their first arrest in connection with the Jan. 18 murder of 22-year-old Allen Philip Cropper and the assault of two other men on the 1800 block of East Hayden Lane. Police arrested 20-year-old Phoenix resident Blaine Christopher Griffin Jr. Wednesday, according to a Monday Tempe Police press release.

Cropper was shot and killed inside his home at Hayden Lane Apartments. The incident involved two gunmen and three victims.

When the suspect, Griffin, and an unidentified man attempted to purchase marijuana at Cropper's apartment, the transaction turned violent, according to the press release.

Cropper sustained a serious gunshot wound during the confrontation and died on the way to a nearby hospital.

One man was beaten, while the other man sustained a minor gunshot wound.

Police are still searching for the other suspect, described as a 22-year-old black man, weighing approximately 250 pounds with short, shaved hair, about 5-feet-10-inches tall and possibly driving in a dark blue Chevrolet Suburban or Tahoe.

Police are asking the public to report any knowledge they may have regarding the whereabouts of the second suspect. Witnesses should call Tempe Police or Silent Witness at 480-WITNESS.

Reach the reporter at [sraymund@asu.edu](mailto:sraymund@asu.edu)

spree

Multiple agencies worked together to take two teenagers into custody after a crime spree including two murders.

By: Melissa Blasius

Posted at 7:26 PM, Nov 10, 2020

and last updated 10:47 AM, Nov 13, 2020

TEMPE, AZ — Two Valley boys have been indicted for two murders and other violent crimes that occurred since July.

James Faser Quintero and Corbin Myles McNeil, both 16, are charged as adults in a 25-count indictment. They face two murder charges and charges for aggravated assault, armed robbery, kidnapping, car theft, and unlawful discharge of a firearm. McNeil was just 15 years old at the time of the crimes. Over two months they are accused of victimizing at least eight people.

Tempe police arrested both boys in early October after a multi-jurisdictional effort. "It's kind of a combination of modern-day technology and old-school police work," said Tempe Police Det. Greg Bacon.

Bacon said a Tempe police investigator saw a surveillance photo from a Phoenix convenience store robbery and shooting. He thought the young man matched the appearance of the suspect in a July Tempe murder.

Matthew Meisner, 28, was fatally shot in the middle of the night near McClintock Drive and Hayden Lane. The location was near Quintero's apartment, but police say the victim did not know the suspects.

According to the indictment, the second murder occurred in Chandler on September 19. Amber Joy Patton was found dead at her home the next morning and her car had been stolen.

"In a two-month span, these are very violent, violent crimes, and these two individuals need to held accountable for those," Bacon said

Bond for the teens was set at \$1.5 million.

My property is zoned R-4 as evidenced on the attached map. I have indicated in red the applicable portions of the Tempe Zoning Code. You can look these up online. I have only included the pertinent pages.

No matter what you decide to do I can assure you I am a good neighbor. I don't throw parties and I don't do drugs. I plan on living here for a long time as well.

Any new development in our neighborhood is a good thing as the current condition illustrates. People have asked me why I'm building in the Tempe slums. I own that property. It is all that I could afford. I want to make the neighborhood better and increase property values. I have been told that ASU wants to buy the entire south side of Hayden to develop it into student housing. This is just a rumor which I don't put much stock into. They have never approached me, but my neighbors on the east claim this; nonetheless, a developer could certainly do that. If I have a single family residence in the middle it will make it harder. The current design of my house is a Transition from the 3 level multi-family use across on the north side of Hayden Lane and considerably better than what could be build based on the property zoning.

Technically speaking my house and porch could be much closer to my rear lot line per the zoning ordinance. I chose to have the added setback distance because I want a back yard.

The height of my home is not in question nor the back patio balcony. These are all legal per the zoning code. I am allowed to have a vaulted ceiling. What is in question is the square footage of my floor above the ground level. Using common sense, if one considers the building height allowed by zoning for a multi-family building this whole issue is rather silly. I never imagined it would be this difficult to build a second level above the first of the same size. It is an oversight in the zoning code.

The truth is I am seeking to add 275 square feet to my master bedroom. That's what this use permit really amounts to.

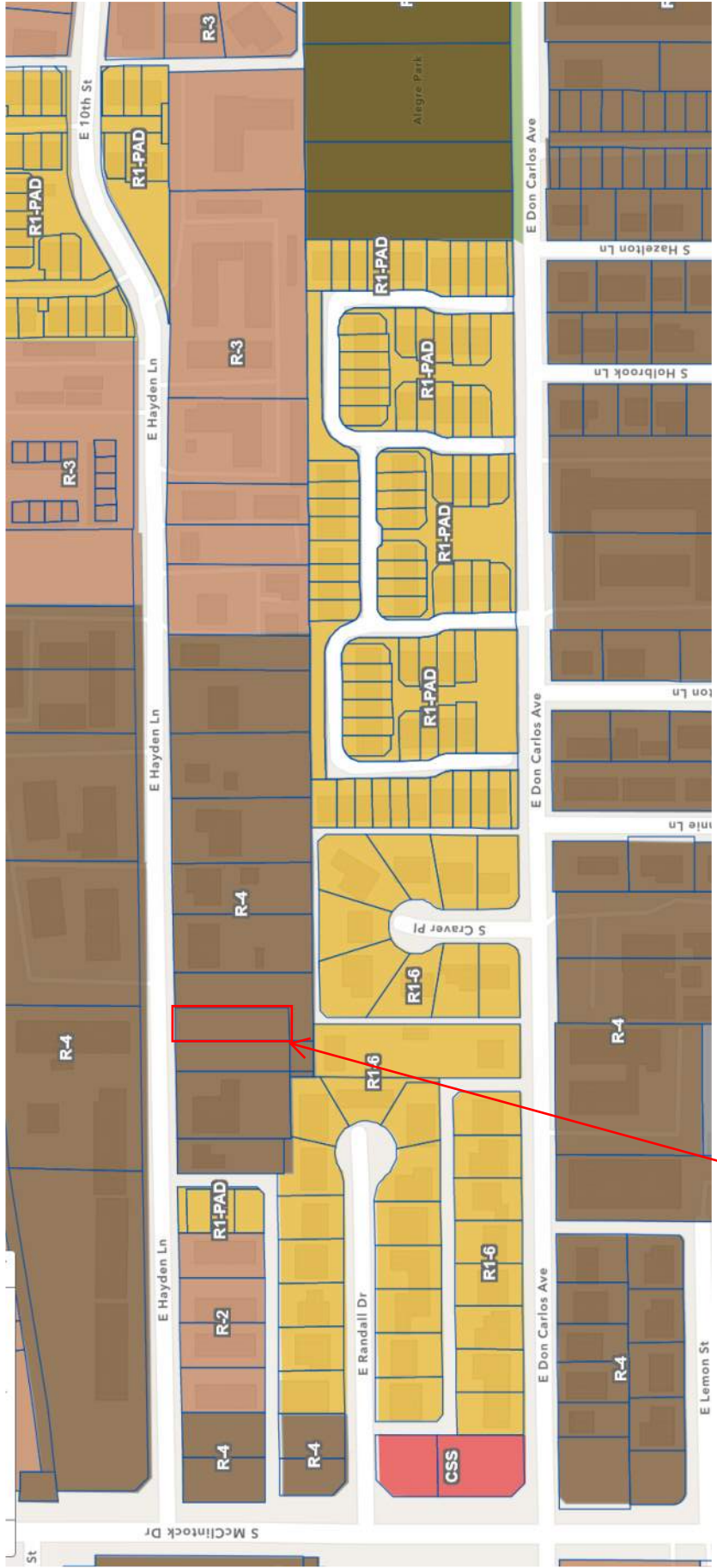
You can see I've copied Mr. Jimenez on this to verify the facts. Please contact me. Please write him if you change your position.

If this doesn't go thru the email I will put it in your mailbox. Be assured I respect your privacy and will not contact you again.

Respectfully,

Whitney Hale 480-797-9174





← NORTH

My Property

**PART 3 — LAND USE**

**CHAPTER 1 — PERMITTED USES IN RESIDENTIAL DISTRICTS**

**Section 3-101 Purpose and Applicability.**

- A. **Purpose.** The residential districts are designed to provide neighborhoods with a range of housing densities. The differences in these housing densities and regulations are intended to support the varying lifestyles of the city's residents. The districts provide for a range of residential habitation including rural-agricultural, single-family, multi-family, *mobile home*, and combinations thereof, together with *home occupations*, *schools*, parks, and public *services* necessary for neighborhood living.
- B. **Applicability.** Residential zoning districts fall under three (3) categories:
  1. Single-Family Residential (AG, R1-15, R1-10, R1-8, R1-7, R1-6, R1-5, R1-4 and R1-PAD);
  2. Multi-Family Residential (R-2, R-3R, R-3, R-4, R-5); and
  3. Mobile Home (RMH, MHS and TP).
- C. **Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the *development* standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any *overlay district* requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. See also, Zoning Administrator Opinions in Appendix H.

**City Code reference**—See TCC § 14A, Historic Preservation Ordinance.

**Section 3-102 Permitted Uses in Residential Districts.**

Table 3-102 identifies land uses according to permit status. See key below the table:

Table 3-102 - Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)				
Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
Accessory Buildings [Section 3-401]	S	S	S	S
Accessory Uses and Structures - except accessory dwelling [Section 3-401]	S	S	S	S
Accessory Dwellings [Section 3-402]	N	N	S	N
Assisted Living Facilities [Section 3-413]	U(S)	N	U(S)	N
Amateur Radio Antennas [Section 3-422]				
35 feet in height or less	S	S	S	S
Over 35 feet in height	U(S)	U(S)	U(S)	U(S)
Animals				
Horses [Section 3-404]				
Keeping of, residential use	S	U(S)	N	N
Stables, commercial use	U(S)	N	N	N

Livestock: Cattle, Sheep, or similar [Section 3-404]	S	N	N	N
Animals on single-family dwelling lots [Section 3-404]				
<i>Small animals</i> and pot-bellied pigs	S	S	S	N
Livestock and additional <i>small animals</i>	U(S)	U(S)	U(S)	N
Apiaries [Section 3-404]	U(S)	N	N	N
Bed and Breakfast [Section 3-405]	U(S)	U(S)	U(S)	N
Boarding Room [Section 3-410]	S	S	P	P
Boutique [Section 3-406]	S	S	S	N
Cemeteries, Mausoleums, Crematoriums	U	N	U	N
Community gardens [Section 3-427]	S	U(S)	U(S)	U(S)
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary - incidental to a construction project only for the duration of such project: not to exceed 24 months	P	P	P	P
Child Care, In-Home				
Not to exceed 6 children [Section 3-407]	S	S	S	N
7 to 10 children [Section 3-407]	U(S)	U(S)	U(S)	N
Childcare Centers: Nursery Schools, Day Care Centers, similar (R-3R, R-3, and R-4 districts only)	N	N	U	N
Country Clubs, Private Clubs, Golf Courses	U	U	U	N
Farming [Section 3-404]	S	N	N	N
Fraternity and Sorority Houses (R-3 and R-4 Districts Only)	N	N	U	N
Group Homes for Adult Care, Persons with Disabilities, and Child Shelter [Section 3-409]	S	S	S	N
Guest Quarters [Section 3-411]	S	S	N	N
Home Occupations [Section 3-412] [See Appendix N.]	S	S	S	S
Hospitals, Sanitariums, Nursing Homes: e.g. Orphanages, Institutions (AG, R-3R, R-3, R-4 only) [Section 3-413]	U(S)	N	U(S)	N
Industrial Hemp Program [Section 3-426]	P	N	N	N
Live-Work [Section 3-414]	N	N	U(S)	N
Mobile Homes [Section 3-416]	N	N	N	S
Multi-Family Dwelling (2 or more dwellings )	N	N	P	N
Parking Facilities for Commercial Uses (off-street and not enclosed in a building) [Section 4-602.D.4]	N	N	U	N
Places of Worship (except tents and other temporary structures or buildings not permitted) including childcare, Sunday school use which are ancillary to main use	P	P	P	P

Created: 2022-01-31 09:26:07 [EST]

(Supp. No. 5, Update 1)

Childcare center, private or charter school not ancillary to main use	U	U	U	U
Processing of Farm Products [Section 3-404]	U(S)	N	N	N
Public Uses				
Civic facilities (e.g., post office, library, city office, customer serving)	U	U	U	N
Municipal facilities (maintenance, repair and storage)	U	U	U	N
Open space, parks, similar uses (See also, Schools)	P	P	P	P
Residential Sales Office, Temporary [Section 3-419]	S	S	S	S
Retailing of Farm Products Produced on Premises	U	N	N	N
School				
Charter (use permit required in a single-family residential district on a lot of less than 1 acre, pursuant to Section 6-308)	S	S	P	P
Instructional	U	U	U	U
Private	U	U	U	U
Public	P	P	P	P
Vocational	N	N	N	N
Similar Uses [Section 6-301]	S	S	S	S
Single-Family Dwelling (See Section 7-107, definition of <i>family</i> )	S	S	P	P
Second Story Addition or Replace Single Story with 2 or More Stories [Section 3-420]	U(S)	U(S)	U(S)	N
Vacation and Short-Term Rentals (Section 3-428)	S	S	S	S
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	U(S)

**Key:**

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

AG = Agriculture districts

SFR = Single-family districts

MF = Multi-family districts

MH = Mobile home district

RMH = Mobile Home Residence

TP = Trailer Park

- 
- b. Propane gas cages that have an existing fire permit issued prior to October 8, 2009, do not require a separate Development Plan Review;
  - c. Shall provide a minimum four (4) foot wide pedestrian *pathway* across any building frontage and to all building entrances and exits; and
  - d. Shall be screened from street view or provide an architecturally compatible design. Water, ice, and propane gas vending are not required to be screened.

(Ord. No. 2009.15, 10-22-2009)

### **Section 3-418 (Repealed.)**

### **Section 3-419 Residential Sales Office, Temporary.**

Temporary residential sales *offices* are permitted for the sale of homes being constructed on the premises and for a period not exceeding twenty-four (24) months. Extension of this time requires approval by the Hearing Officer or Board of Adjustment who shall find that the *office* meets the standards of this section and a hardship exists warranting the extension that is beyond the applicant's control. The residential sales *office* is subject to the following conditions:

- A. **Location.** Temporary residential sales *offices* may be located in a *building* designed as a *dwelling* unit or in a modular *officebuilding* located on the site.
- B. **Temporary Certificate of Occupancy.** Prior to use of the premises as a temporary residential sales *office*, the sales *office* must meet all applicable building codes, and a temporary certificate of occupancy shall be obtained from the Community Development Director, or designee.
- C. **Conversion and Final Approval of Dwelling.** Prior to the sale of any *dwelling* that has been used as a temporary residential sales *office*, the *dwelling* shall be restored to comply with all applicable codes and ordinances, and final approval obtained from the Community Development Department, pursuant to Section 1-207.

### **Section 3-420 Single-Family Residential Second Story Addition or Rebuild.**

A *use permit* is required for any single story, single-family residence to add, expand, or rebuild for a second story. This section shall not apply to replacement *dwellings* where the *dwelling* occupying a *lot* was demolished prior to the effective date of this Code.

### **Section 3-421 Wireless Telecommunication Facilities.**

- A. **Towers.** Wireless telecommunications towers and related equipment facilities shall be allowed upon approval with a *use permit*. Subject to the provisions of subsection C below, co-location on existing towers is subject only to an administrative review.
- B. **Building-Mounted.** Building-mounted telecommunications shall be integrated into the design of the *building* or be fully screened, and in either case must receive *development plan* approval as a *building* modification. Satellite dishes not exceeding two (2) feet in diameter shall be permitted in any zoning district. Building-mounted dishes shall require administrative review, except for residential uses. Building-mounted dishes greater than two (2) feet in diameter are permitted only in commercial, *mixed-use*, and *office/industrial* districts and shall require a *use permit*.

Side (f)	20 ft	15 ft	10 ft	7 ft	7 ft	5 ft (d)	5 ft (d)	5 ft (a)(d)	NS	20%
Rear (f)	35 ft	30 ft	25 ft	20 ft	15 ft	15 ft	15 ft	15 ft	NS	20%
Street Side (b)	25 ft	20 ft	15 ft	10 ft	10 ft	10 ft	10 ft	10 ft	NS	20%

NS = No Standard.

NA = Not Applicable.

(1) An *overlay district* may modify the above standards. See Part 5.

(a) 0 feet for *common wall*.

(b) *Street side yardsetback* for *corner lots* adjacent to *keylots* shall be increased by ten (10) additional feet.

(c) See also, Section 3-401 for *setbacks* applying to *accessory structures* and *buildings*.

(d) Use Permit standard does not apply.

(e) Second story addition or rebuild, See Section 3-420.

(f) If adjacent to a dedicated public *alley*, setback shall be measured from the midpoint of the *alley*.

Standard	R-2	R-3R	R-3	R-4	R-5	Use Permit Standard
Density (DU/acre)	10	15	20	25	30	NA
Minimum Lot Area per Dwelling Unit (square feet)	3,600 sf	2,900 sf	2,180 sf	1,740 sf	1,450 sf	NA
Building Height [Exceptions, see Section 4-205(A)]						
Building Height Maximum (feet)	30 ft	30 ft	30 ft	40 ft	50 ft	10%
Building Height Step-Back Required Adjacent to SF or MF District, [Section 4-404, Building Height Step-Back]	No	No	No	Yes	Yes	NA
Maximum Lot Coverage (% of net site area)	45%	45%	50%	60%	70%	10%
Minimum Landscape Area (% of net site area)	30%	30%	25%	25%	25%	10%
Setbacks (feet) (b): [Setback Exceptions, See Section 4-205(B)]						
Front						
Building	20 ft	20 ft	20 ft	20 ft	20 ft	20%
Open Structures (e.g. porch, or trellis)	15 ft	15 ft	15 ft	15 ft	15 ft	20%
Parking	20 ft	20 ft	20 ft	20 ft	20 ft	20%
Side (d)						
Building Walls	10 ft	10 ft	10 ft	10 ft	10 ft	20%

Porch, or Balcony	5 ft (c)	5 ft (c)	5 ft (c)	5 ft (c)	5 ft (c)	20%
Common Walls	0 ft	0 ft	0 ft	0 ft	0 ft	
Rear (d)						
Building Wall, or Porch, Balcony	15 ft	15 ft	15 ft	10 ft	10 ft	20%
Common Walls	0 ft	0 ft	0 ft	0 ft	0 ft	
Street Side (a)	10 ft	10 ft	10 ft	10 ft	10 ft	20%
Parking	20 ft	20 ft	20 ft	20 ft	20 ft	20%

NS = No Standard.

NA = Not Applicable.

(1) An *overlay district* may modify the above standards. See Part 5.

(a) *Street side yardsetback* for *corner lots* adjacent to *key lots* shall be increased by ten (10) additional feet.

(b) See also, Section 3-401 for *setbacks* applying to *accessory structures* and *buildings*.

(c) *Use Permit* standard does not apply.

(d) If adjacent to a dedicated public *alley*, setback shall be measured from the midpoint of the *alley*.

(e) See also Section 3-420, Single-Family Residential Second Story Addition or Rebuild.

**Table 4-202C - Development Standards in Mobile Home Districts (1)**

Standard	R M H	MHS	T P	Use Permit Standard
Density (DU/Acre)	7	5.5	14	NA
Minimum Net Lot Area (square feet)	Rental Space 3,500 sf	Subdivision Lot 6,000 sf	Rental Space 1,500 sf	NA
Minimum Common Recreation Area per Dwelling (square feet)	400 sf	NS	100 sf	10%
Minimum Space/Lot Width (feet)	50 ft	60 ft	30 ft	10%
Minimum Space/Lot Length (feet)	70 ft	100 ft	55 ft	10%
Maximum Height (feet)	30 ft	15 ft	30 ft	10%
Maximum Lot Coverage per Rental Space or MHS Lot (b)	60%	50%	60%	10%
Minimum Yard Setback (feet)				
Front (a)	5 ft (c)	25 ft	10 ft	20%
Side (a)	5 ft (c)	7 ft	5 ft (c)	20%
Rear (a)	5 ft (c)	15 ft	5 ft (c)	20%
Street Side (a)	20 ft	10 ft	20 ft	20%

NS = No Standard.

NA = Not Applicable.

(1) An *overlay district* may modify the above standards. See Part 5.

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## Section 7-120 "S" Definitions.

*School* means any building, portion of building, or group of buildings which is designed, constructed, or used for education or instruction in any branch of knowledge. See below for varying types of schools. See also "tutoring center."

1. "Charter school" means a school operating under sponsorship of a public school district governing board, the State Board of Education or the State Board for Charter Schools and has been created pursuant to A.R.S. 15-181.
2. "Instructional school" means a public or private school providing domestic, recreational, and other types of instruction such as dance, gymnastics, cooking, music, martial arts (without fitness center equipment), and fine arts.
3. "Private school" means any building, portion of building, or group of buildings used for elementary, secondary or higher education that does not secure the major part of its funding from a governmental agency.
4. "Public school" means any building, portion of building, or group of buildings used for elementary, secondary or higher education that secures the major part of its funding from a governmental agency.
5. "Vocational school" means an institution which teaches trades, business courses, hairdressing and similar skills on a post-secondary level.

*Screening device* means any landscape improvement or structure intended to fully or partially conceal an activity or mechanical element from view, adjacent uses, properties or streets.

*Second story, single-family* means any floor level that is above the ground or main floor of the dwelling, except mezzanines per building code.

*Service* means useful labor that does not produce a tangible commodity.

*Service station* means a place of business having pumps or storage tanks from which liquid fuel or lubricants are dispensed at retail directly into the motor vehicle. Sales and installation of auto accessories, washing, polishing, inspections, and cleaning may be carried on incidental to the sale of such fuel and lubricants. When a convenience store or restaurant is co-located with a service station, the Community Development Director, or designee, may interpret the store or restaurant as another primary use and not incidental to the service station.

*Setback* means the least horizontal distance between a building, structure, or wall, and a property line.



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*Sign package criteria* means a detailed description, including, but not limited to, type, size, color, and location of all signage.

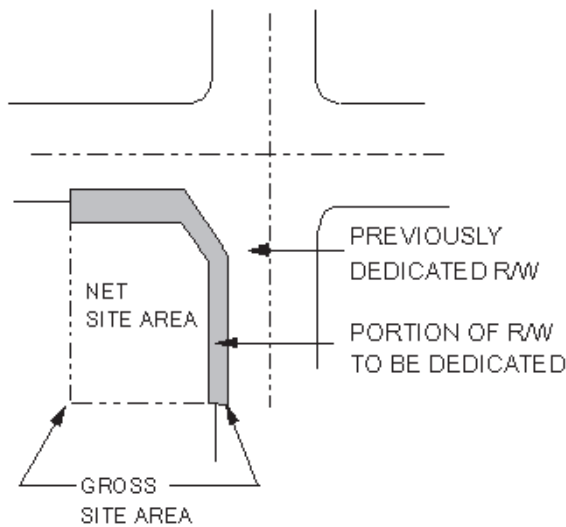
*Single-family dwelling* means a dwelling for one (1) family on an individual lot.

*Single-family dwelling, attached* means two (2) or more single-family dwellings with common walls; except does not include single-family dwellings and accessory dwellings sharing a common wall(s).

*Site area, gross* means the total ground area purchased by the present owner, including any proposed portions to be dedicated for public use such as, streets, alleys, easements or other. The allowable density is based on gross site area.

*Site area, net* means the remaining ground area of the gross site area after deleting all portions for proposed perimeter rights-of-way and alleys.

**Figure 7-120 B.**



*Site plan* means a plan prepared to scale, showing all buildings, site improvements (for example, parking, landscapes, walls, signs, lighting, access and circulation and utilities) and uses proposed for a specific property. A site plan provides a conceptual plan of development prepared to support zoning modification requests and/or requests for use permits. The plan is designed to demonstrate compliance with Zoning and Development Code provisions while expressing the property owner's intent of land use and functional compatibility with contextual conditions.

*Small animal* means *poultry* as defined herein, pot-bellied pigs, rabbits, or other similar small animals.

*Smoking establishment* means any business or location that is dedicated, in whole or in part, to the use of tobacco or other substances emitting smoke, including but not limited to establishments also referred as cigar bars or lounges, hookah bars or lounges, and tobacco clubs or bars.

*Specified anatomical areas* means the human anus, pubic region, male genitals, female genitals, or female breast below the top of the areola that are less than completely and opaquely covered by non-flesh colored fabric; or human genitals in a state of sexual arousal, even if completely and opaquely covered.

*Specified sexual activities* means actual or simulated sexual intercourse, masturbation, oral copulation, sodomy, flagellation, bestiality, fondling or other erotic touching of human genitals, pubic region, buttocks, anus, the female