

Staff Summary Report



Development Review Commission: May 22, 2007

Agenda Item Number: 6

SUBJECT: Hold a public hearing for an appeal of a previously denied use permit for the **MESSER RESIDENCE (PL070084)** located at 1929 East Meadow Drive.

DOCUMENT NAME: DRCr_MesserRes_052207

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Request by Barbara Messer (applicant) for an appeal of a previously denied use permit for the **MESSER RESIDENCE (PL070084)** (Barbara Messer, property owners) located at 1929 East Meadow Drive in the R1-6, Single Family Residential District, including the following:

UPA07002 – Appeal of a Use Permit to park an RV/Boat in the front yard setback (ZUP07028) denied by the Hearing Officer on April 3, 2007.

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

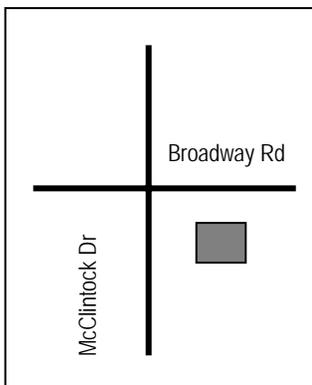
REVIEWED BY:

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval of appeal (approval of use permit) 1-4.

ADDITIONAL INFO: The applicant is appealing a Hearing Officer Decision to deny a use permit to park an RV/Boat in the front yard setback. The Hearing Officer denied this use permit directing staff to consider a code text amendment to allow these types of requests to be administratively approved so that public hearings would be unnecessary. If there is neighborhood support or other criteria, staff should be able to approve (see attached minutes). Mr. Williams (Hearing Officer) denied PL070084/ZUP07028 noting that as Hearing Officer he cannot support this request, and although there was neighborhood support, his decision goes toward a larger picture of the City.



Staff previously recommended approval of the use permit; the factors considered for recommending approval included the appearance of the property which is substantially landscaped with mature mesquite trees; the condition and appearance of the boat; the opinion of those most impacted by the use (the surrounding property owners); the safety, welfare and accessibility of the general public. It was concluded that this use met the tests for approval of a use permit as described within the Zoning and Development Code. The applicant provided a petition of support signed by a majority of the residents on Meadow Drive and surrounding area. Two letters of support were received from neighbors regarding this appeal. From the public notice of the appeal one (1) phone call was received in opposition; the caller stated that he purchased the home located on Loma Vista Drive (one block south of Meadow Drive) for his daughter while she attends ASU and does not support the precedent of RV's on driveways.

ATTACHMENTS:

- 1 List of Attachments
 2. Comments; Reason for Approval/Conditions of Approval; History & Facts/Description Zoning & Development Code Reference
-
- A. Location Map(s)
 - B. Aerial Photo(s)
 - C. Letter of Intent
 - D. Site plan
 - E. Staff Photograph(s)
 - F. Letter of Support from Hearing Officer Meeting
 - G. Petition of Support and Map
 - H. Letters of Support for Appeal
 - I. Hearing Officer Minutes 4/03/2007
 - J. Applicant Photographs

COMMENTS:

The Messer Residence is requesting a use permit to allow a recreational vehicle (boat) to be parked in the front yard setback. The applicant uses the boat frequently on Tempe Town Lake and by locating the boat on her driveway she has the ability to conveniently charge the electric motor and keep it clean and accessible for use on the Tempe Town Lake. The boat is shaded by very mature mesquite trees and is located six feet behind the city sidewalk. She states in her letter that her boat does not contribute to the deterioration of the neighborhood, such as a disabled or junk car would have on the neighborhood and on the contrary is in line with goals and objectives of the City of Tempe- encouraging the use of Tempe Town Lake.

Public Input

The applicant provided a petition of support signed by nineteen (19) of the twenty-two residents on Meadow Drive, as well as residents within the surrounding area and citywide. Two letters of support were received from neighbors regarding this appeal (see attached). From the public notice of the appeal one (1) phone call was received in opposition; the caller stated that he purchased the home located on Loma Vista Drive (one block south of Meadow Drive) for his daughter while she attends ASU and does not support the precedent of RV's on driveways.

Use Permit

The Zoning and Development Code allows recreational vehicles over twenty-one (21) in length to be parked in the front yard setback subject to a use permit. If this boat and trailer were less than twenty-one (21) feet in length no use permit would be required. The criteria for granting the use permit is based upon a finding that the use covered by the permit, the manner of its conduct, will not be detrimental to persons residing or working in the vicinity, adjacent to the property, to the neighborhood, or the public welfare in general. Other factors include whether or not the use permit would contribute to the deterioration of the neighborhood or to the downgrading of property values or the boat, trailer or RV would be compatible with existing surrounding structures or uses.

The parking of recreational vehicles over twenty-one feet in length in the front or street side yard setback has been a highly discussed and controversial issue for the City. In 1992, the City Council amended Zoning Ordinance 808 to allow the parking of RV's (that exceed 21 feet) in the front or street side yard subject to a use permit; this requirement carried forward with the adoption of the Zoning and Development Code. Prior to the February 14, 1992 Zoning Ordinance 808 amendment; the parking of a RV in the front or street side yard setback could only be obtained by the granting of a variance. The modification to the ordinance occurred after several public hearings and a City Council subcommittee hearing with citizen RV owners, neighborhood representatives, staff and National Recreational Vehicle Owner Organization representation. The subcommittee discussed the issue that if no provision was created for review of RV parking in the front yard or street yard setback; that some citizens would just play the "game" of moving the vehicle from the driveway to the street at interim periods to avoid citation and create a greater nuisance or potential hazard for the surrounding area. It was agreed by consensus and later ratified by City Council that the allowance of an RV parking in driveways is more of a "location of parking" compatibility issue rather than a permanent site improvement issue such as setback variances which requires a test of hardship and the proving of special circumstances. The "key" tests identified for reviewing the use permits is the compatibility of the use and maintenance of property values; findings to be considered were the following:

- a. the parking area is constructed of appropriate materials that conform to city regulations
- b. the vehicle is currently licensed and registered as required by law.
- c. the vehicle does not overhang the sidewalk or curb and does not interfere with normal pedestrian and vehicular traffic.
- d. the vehicle is kept in a safe and presentable manner and in a usable condition.
- e. the vehicle is parked in a manner to not obstruct or pose a hazard to persons having rightful access to the property.
- f. any vehicle equipped with liquefied gas appliances and storage tanks, must meet federal

- standards for such appliances.
- g. vehicles do not project into the 33' visibility triangle on corner lots.

It was conveyed by staff that the use permits would be evaluated on a case by case basis with strong regard for public input and that time limits could be imposed on the use permits to re-evaluate the condition of the RV parking and garner public input.

Staff findings for approval of this request are that it meets the tests for approval of the use permit for this fact situation only, which as stated previously is case by case review. The applicant's yard is landscaped with very mature trees to help mitigate the appearance of the boat; there is an abundance of support from those most impacted by the use permit and it meets the intent for why the use permit process was adopted; to allow an RV to be parked in the front yard setback where key criteria are met. The boat's appearance is clean, covered and kept away from the City sidewalk.

Conclusion

Staff recommends approval of the use permit request; the boat is stored in manner as to not create a nuisance or detriment to the surrounding area.

REASON(S) FOR APPROVAL:

1. Use Permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. The use permit is valid for the fact situation as presented in this application and does not cover any other recreational vehicle stored on the property and becomes void with permanent removal of the RV (boat).
2. The boat shall be parked, at all times, on paved driveway; clear of public sidewalk.
3. The recreation vehicle shall be operable; maintained in clean presentable manner and have current registration.
4. The use permit shall be re-evaluated in two years by the Development Review Commission (**May 22, 2009**); to ascertain condition of the boat and garner neighborhood input on compliance with conditions.

HISTORY & FACTS:

- 1951. Zoning Ordinance 209 provided the restriction of on-site parking in front yard driveways.
- 1967. Tempe City Code was amended to prohibit overnight parking of large vehicles on Public Street.
- 1970. Tempe City code was amended to allow parking of all vehicles for a maximum of 120 consecutive hours on public streets.
- June 1, 1970 Council adopted Ordinance 405 which precluded any required parking or RV, Boat or

Trailer parking from being provided in the front yard of any residential district without obtaining a variance to do so.

September 2, 1976.

Council adopted Ordinance 808 which required a variance to park RV's, boats, trailers, or provide required parking in the front yard or street side yard setbacks.

September 24, 1991

The Planning and Zoning Commission after hearing public opinion regarding the ordinance amendment to require use permit for RV parking for vehicles over 21' and change the definition for RV and trailer and require use permit for all other parking in the front or street side yard setback continued the case for further study.

October 22, 1991

The Planning and Zoning Commission recommended approval of the ordinance amendment to require use permit for RV parking for vehicles over 21' and change the definition for RV and trailer and require use permit for all other parking in the front or street side yard setback.

January 7, 1992.

The City Council held a subcommittee meeting with RV owners, neighborhood representatives and staff to discuss ordinance and city code amendments regarding RV parking for front, street side yard and on street parking; provisions for loading and unloading vehicles and visitor on street parking.

February 14, 1992.

The City Council approved amendment to Ordinance 808 to modify the definitions for recreational vehicle and trailer; section 6 regarding off-street parking to require a use permit for Recreation Vehicles over 21 feet in length and vehicles in single family residence districts to obtain a use permit. They amended the City Code to allow 48 hours period for loading, unloading and cleaning for RV's without use permit.

January 20, 2005.

The City Council approved the adoption of the Zoning and Development Code carrying forward the provision to allow RV's which exceed 21 feet in length to be parked in front or street side yard subject to a use permit.

April 3, 2007.

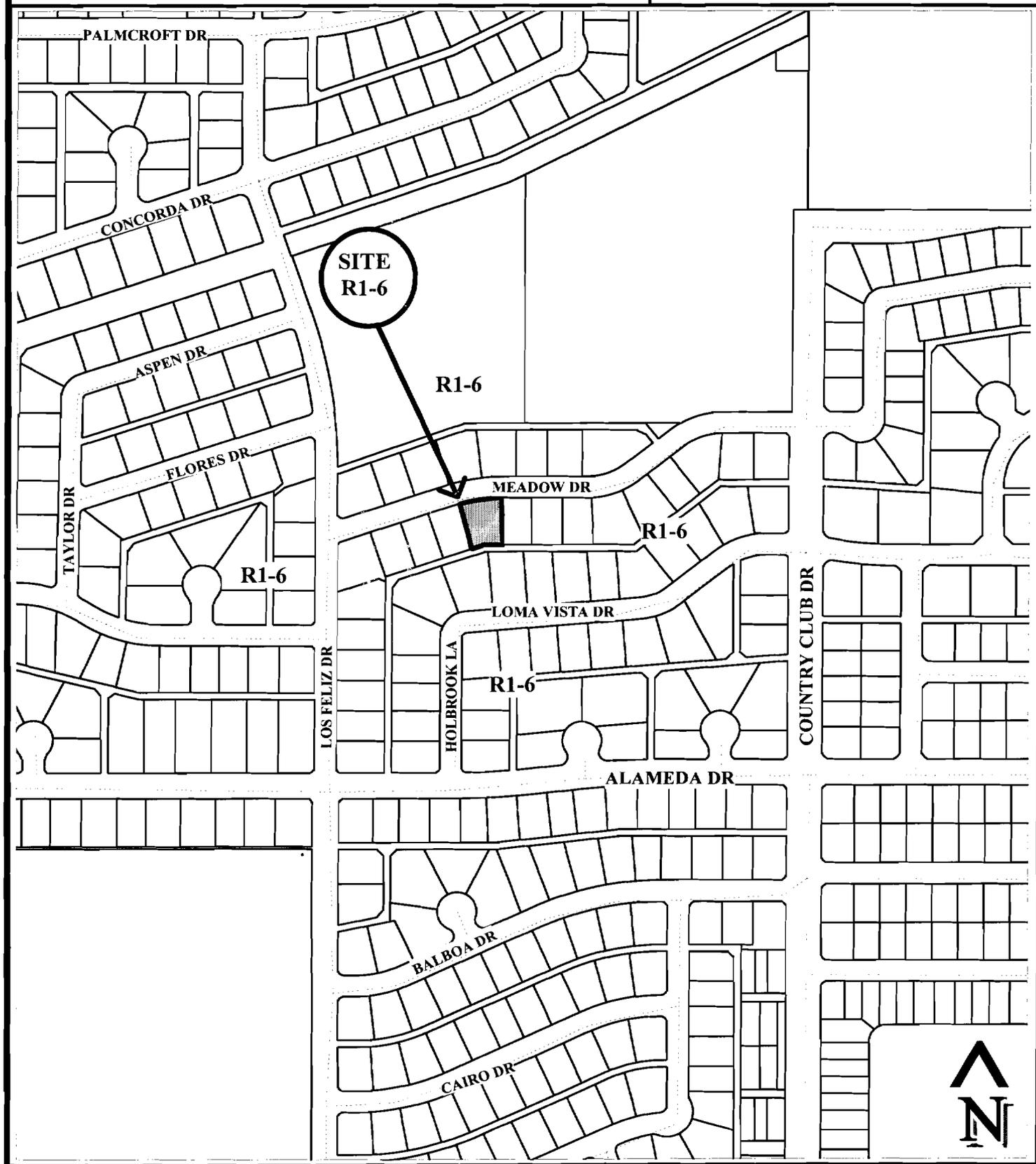
The Hearing Officer denied the use permit request by the Messer Residence noting that as Hearing Officer he cannot support this request, and although there was neighborhood support, his decision goes toward a larger picture of the City.

DESCRIPTION:

Owner – Barbara Messer
Applicant – Barbara Messer
Existing zoning – R1-6, Single Family Residential District

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Zoning and Development Code, Part 6, Section 6-308
Zoning and Development Code, Chapter 6, Section 4-602- B - 7

MESSER RESIDENCE**PL070084****Location Map**



MESSER RESIDENCE (PL070084)

1929 East Meadow Dr
Tempe Arizona 85282
February 17, 2007

Hearing Officer for Board of Adjustment
31 East 5th Street
Tempe, Arizona 85281

Gentlemen:

With reference to the letter of January 8, 2007 which I received from Brett Barnes regarding the boat in the driveway of my home at 1929 East Meadow Drive, please consider this my request for a use permit.

I purchased this boat as soon as Tempe Town Lake was filled with water, for the sole purpose of my children, grandchildren and myself to spend recreational time enjoying ourselves in an activity that heretofore was completely unheard of in Tempe, while at the same time supporting the City of Tempe and their innovative plans for making Tempe a place to be very proud of. The first few years I stored my boat at a boat shop nearby the lake. They went out of business here, and I had to find another place to store it. When such facilities were not available, I parked it at my home. I discussed it with my neighbors at the time, and they were in full agreement, saying it wouldn't bother them in any way.

This appeared to be a perfect solution. My boat was now where I could keep an eye on it at all times; I could keep it clean; it was accessible seven days a week; I could plug it into an electrical outlet at any time and have it ready to go; it was in the shade, which is a huge asset, especially in our very hot summers. All of these are features which I wasn't receiving when the boat was stored at a storage lot. When you compare these advantages/ disadvantages, it has a large affect on the pleasure and convenience of boating on Tempe Town Lake.

I am a native Arizonan, and have been a law-abiding resident of Tempe since 1968. I would not live anywhere else. I love Tempe – its beauty, cleanliness, foresight, safety, creativity, management, and the way it provides so much for its residents. I realize that all of these highlights are possible because of rules and laws, and I definitely don't want to be in violation of any of them. I understand the reasoning, wanting to keep our city attractive, but sometimes other factors play into the situation. My boat in my driveway isn't hurting

anyone. It isn't an eyesore; I keep it very neat and clean. It isn't drawing flies, mosquitoes or roof rats. It doesn't smell bad. These are disgusting rule violations, which it would be unpleasant to live around. I don't feel that my boat falls into this category.

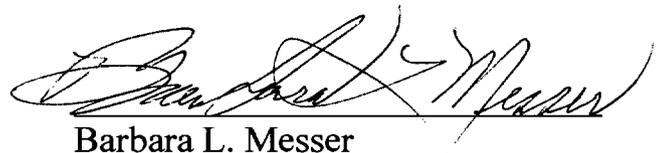
Responding to your Letter of Explanation, I offer the following, in addition to everything I have already covered in this letter:

- a. The boat is more than six feet back from the street, and does not impede any pedestrian traffic.
- b. There is absolutely no odor, dust, gas, noise, vibration, smoke, heat or glare produced by my boat.
- c. I don't see how this boat would contribute to the deterioration of the neighborhood, such as disabled or junk cars parked in the driveway or yard do. On the contrary, I feel that my boat in the driveway is a symbol of the goals and objectives of the City of Tempe – encouraging the use of Tempe Town Lake.
- d. I feel it is compatible with existing surrounding structures; it is not gaudy or unsightly, and does not detract from my front yard landscaping.
- e. The boat does not result in any disruptive behavior. There is never anyone in or on it except when loading and unloading.

So that my family can conveniently, and on the spur of the moment, enjoy our boat on Tempe Town Lake, I would very much appreciate your positive consideration of my application for a use permit.

Thank you very much, and I look forward to your approval.

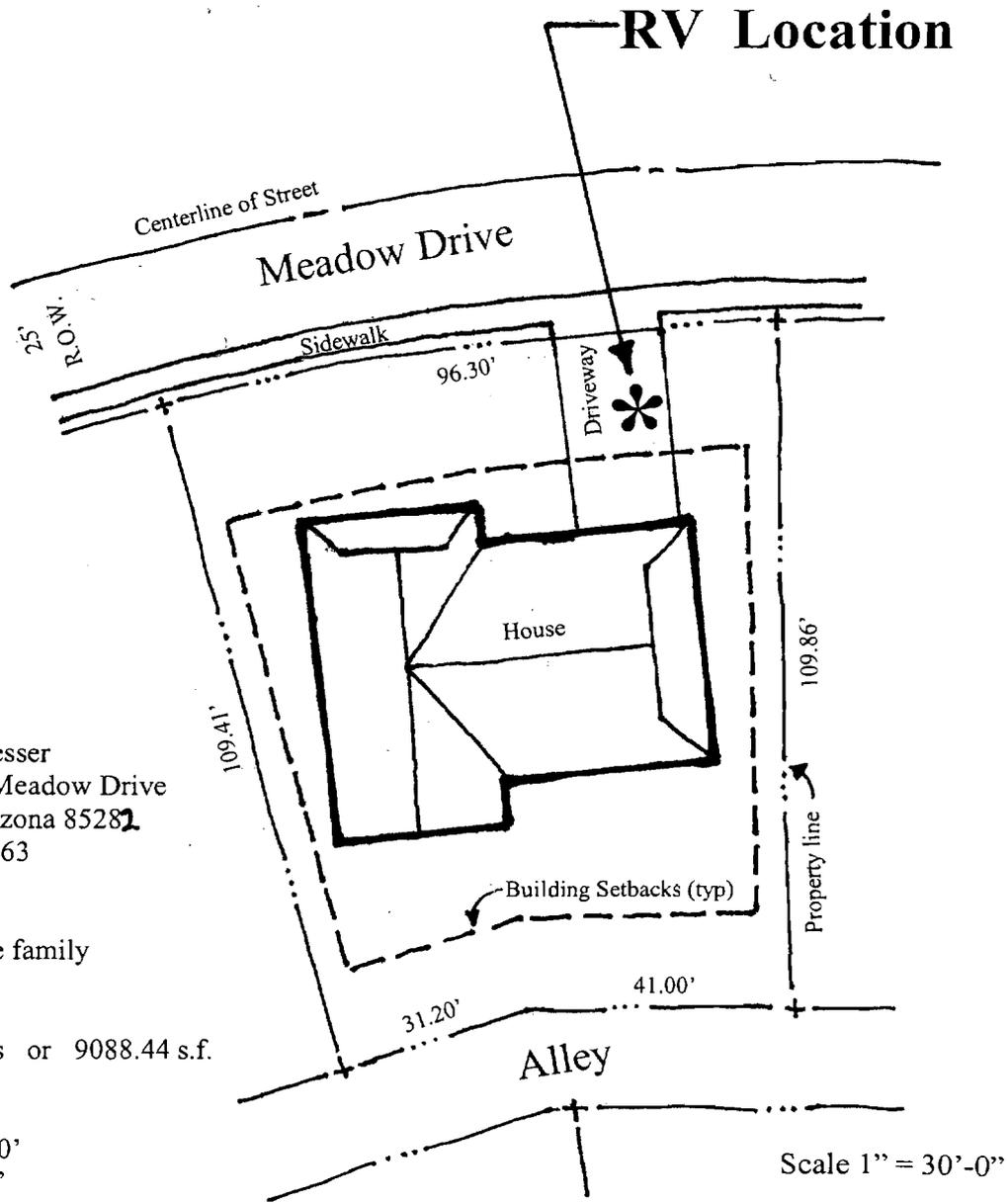
Yours very truly,



Barbara L. Messer

Site Plan

Request: Use Permit to allow an RV to be parked in the Front Yard Setback



Site Data

Submitted by:

Barbara Messer
1929 East Meadow Drive
Tempe, Arizona 85281
480-966-7363

Zoning:

R1-6 Single family

Parcel size:

0.209 Acres or 9088.44 s.f.

Setbacks

Front 20'
Rear 5'
Sides 15'

Legal Description

Lot 91 of ALAMEDA MEADOWS UNIT TWO, according to
Book 118 of Maps, Page 26, records of Maricopa County, Arizona.



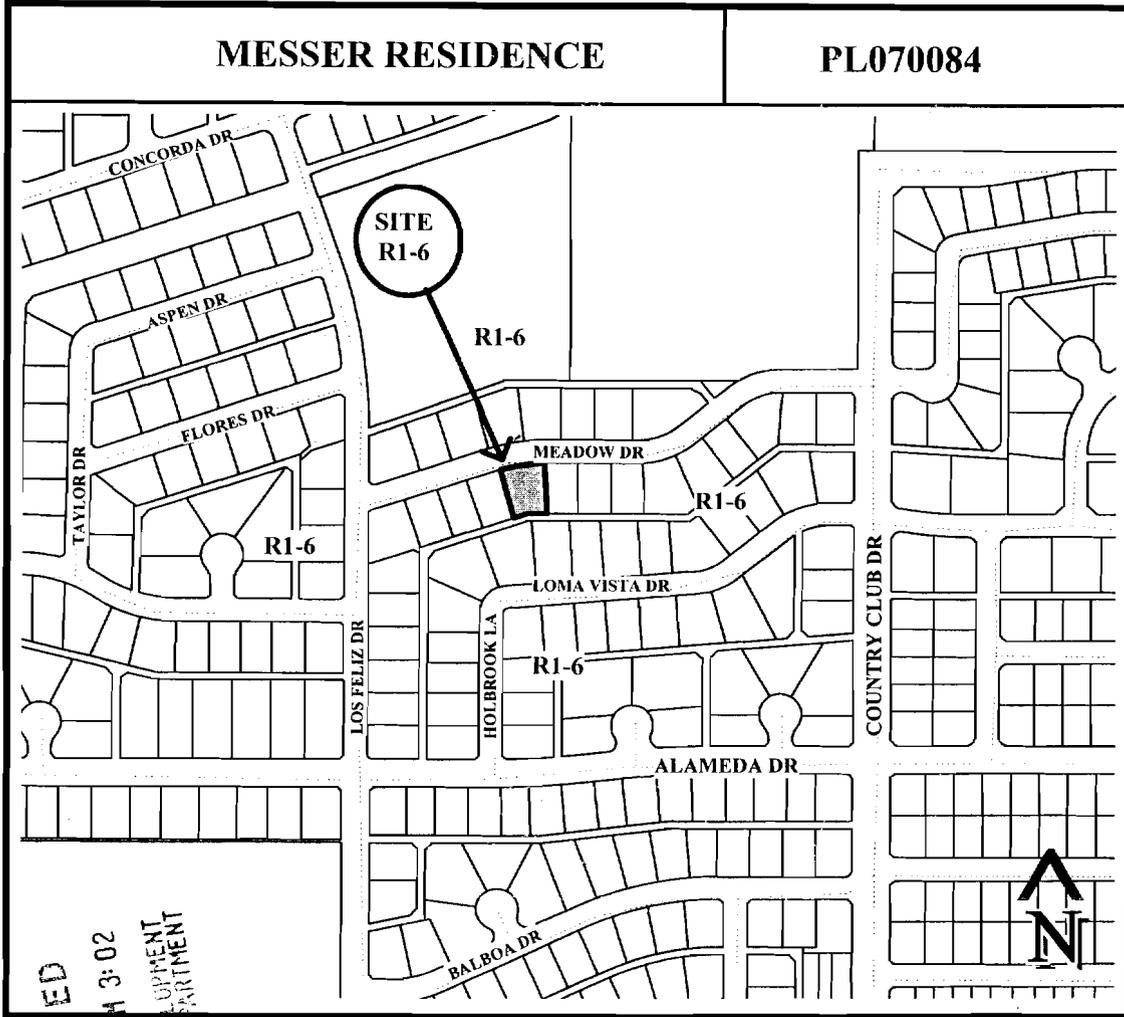


MESSER RESIDENCE

1929 E. MEADOW DR.

PL070084

FRONT OF HOME: VIEW TO SOUTH



RECEIVED
07 MAR 23 PM 3:02
TEMPERLEY DEVELOPMENT
SERVICES DEPARTMENT

PUBLIC HEARING NOTICE

FILE COPY

This is a notice for a public hearing for the **MESSER RESIDENCE (PL070084)** (Barbara Messer, applicant/property owner) located at 1929 East Meadow Drive in the R1-6, Single Family Residential District for:

ZUP07028 Use permit to allow a RV/boat to be parked in the front yard setback.

If you are interested you may attend a public hearing of the Hearing Officer at **1:30 p.m. TUESDAY, APRIL 3, 2007** at the Council Chambers, 31 East Fifth Street. This will be a public hearing and you may present your views in person at the hearing. Or you may respond in writing to the Hearing Officer, P.O. Box 5002, Tempe, AZ 85280-5002.

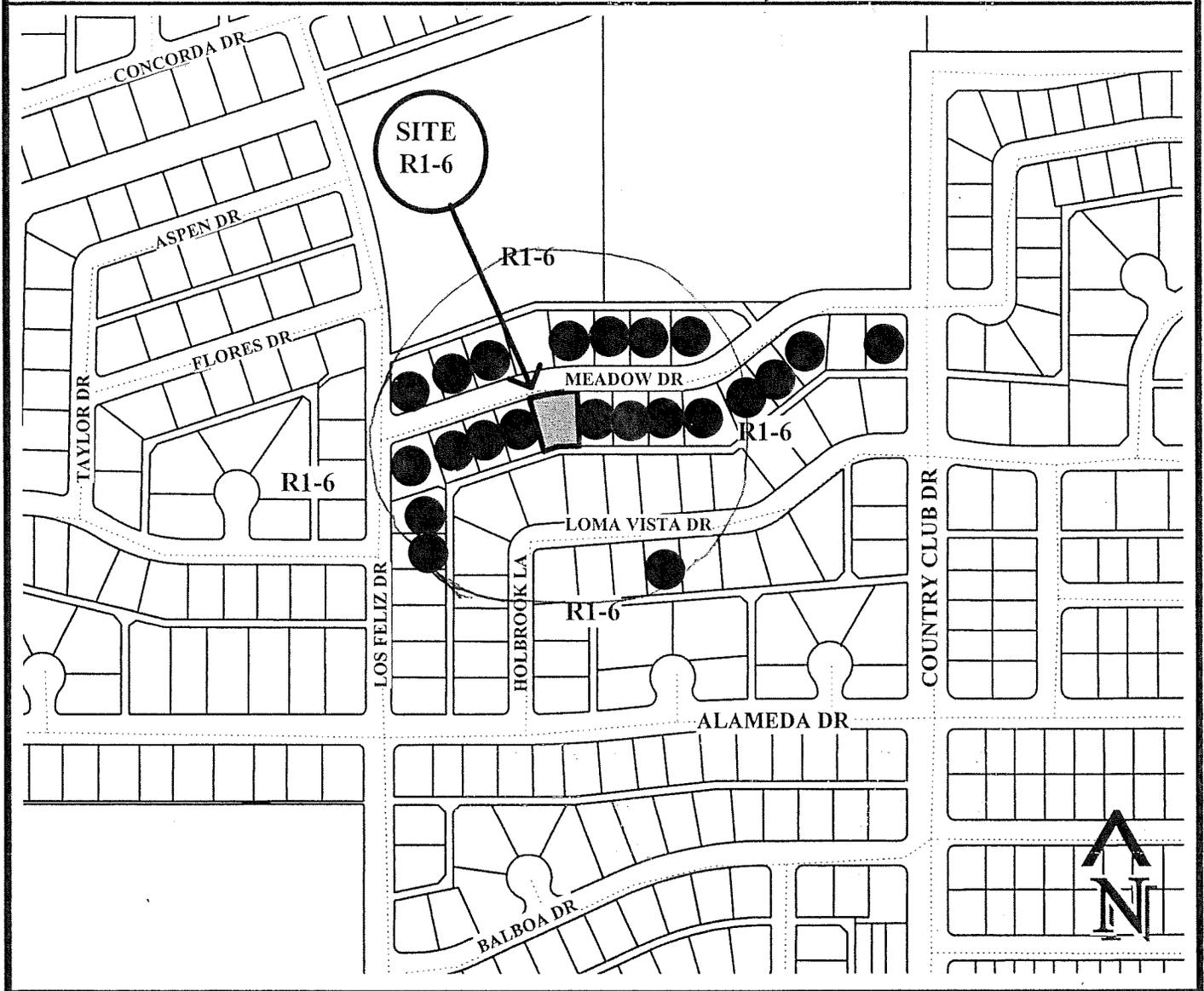
If you have any questions or wish to view additional material including artist's renderings and elevations which are on file you may contact the Development Services Department at (480) 350-8331 or come in to the office at 31 East Fifth Street. Procedures for the public hearing may be picked up at the office or at the public hearing itself.

The City of Tempe endeavors to make all public meetings accessible to persons with disabilities. With 48 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call (480) 350-8331 (voice) or (480) 350-8400 (TDD) to request an accommodation to participate in the Hearing Officer meeting.

To Whom it May Concern:
We think it is fine for Barbara Messer to park her boat in the front yard set back at 1929 E. Meadow Dr.
Meytle R. Weiser
David A. Weiser
1944 E Meadow Dr
Tempe AZ
85280

MESSER RESIDENCE

PL070084



- = Homes that supported my request for a use permit & signed my petition.
- = Vacant / For Rent

Page 1 + 2 + 3
 Meadow Dr. Residents
 4 - 5 Tempe Residents
 G1

I, THE UNDERSIGNED, HAVE NO OBJECTIONS TO BARBARA MESSER'S BOAT IN THE DRIVEWAY OF HER HOME AT 1929 EAST MEADOW DRIVE IN TEMPE.

Date	Signature	Address	Tempe	Phone
3/12/07	Barthymigillo	1932 east meadow Drive	85282	253-686-5134
3/12/07	Stacia Hamilton	1932 E. Meadow Dr.	85282	753-988-1846
3/12/07	Lee Klapper	1944 E. Meadow Dr.	85282	480-967-3998
3/12/07	Shelley A. ^{2000 + WE-100} 2011	1454 E. Meadow Dr.	85282	910-562-2191
3-11-07	Amanda Cannon	1947 E. Meadow Dr.	85282	480-736-8370
3-11-07	Paul Francis	1953 E. Meadow Dr.	85282	480-894-7737
3-11-07	Subira James	1953 E. Meadow Dr.	85282	180-894-2737
3-11-07	Earline A. Foster	1959 E. Meadow Dr.	85282	480-966-4149
3-11-07	Mel K Foster	1959 E. Meadow Dr.	85282	480-966-4149
3-11-07	Mikhael	1956 E. Meadow Dr.	85282	602-377-5892
3/11-07	Wendy	1956 E. Meadow Dr.	85282	607-331-3180
3-11-07	Annex Jill	1935 E. Meadow Dr.	85282	480-829-1820
3-11-07	Dorothy Hill	1935 E. Meadow Dr.	85282	480-829-1820
3-18-07	Cheri Sorell	1921 E. Meadow Drive	85282	480-966-5575
3-18-07	Rachel Howell	1921 E. Meadow Drive	85282	480-966-5515
3-18-07	Nancy Christensen	1907 E. Meadow Dr.	85282	480-966-0990
3-18-07	Barbara L. Johnson	1966 E. Meadow Dr.	85282	480-969-5568
3-18-07	Dorothy	138 F Meadow Dr.	85282	480-894-8552
3/25/07	Barbara Foster	1920 E. Meadow Dr.	85282	480-829-9670
3/25/07	Cheryl Foster	1920 E. Meadow Dr.	85282	480-829-9670

I, THE UNDERSIGNED, HAVE NO OBJECTIONS TO BARBARA MESSER'S BOAT IN THE DRIVEWAY OF HER HOME AT 1929 EAST MEADOW DRIVE IN TEMPE.

Date	Signature	Address	Tempe	Phone
3/25/07	Joe Hicks	1912 E Meadow Dr	85282	966-592
"	Beverly Lentz	1971 E. Meadow Dr.	"	966-7694
"	Cassidi Beard	1983 E. Meadow Dr	85282	480 921 9660
"	Shelli Pontel	1965 E Meadow	85282	480 752 0432
	Lissa Janssen	1909 E. Meadow	85282	480 968 1831

I, THE UNDERSIGNED, HAVE NO OBJECTIONS TO BARBARA MESSER'S BOAT IN THE DRIVEWAY OF HER HOME AT 1929 EAST MEADOW DRIVE IN TEMPE.

Date	Signature	Address	Tempe	Phone
3-23-07	Eugenia Zaralita	1945 E. Loma Vista	85282	480 966-8002
3-23-07	Christina Zaralita	1945 E. Loma Vista Dr.	85282	(480) 966-8002
3/25/07	James R. R.	2607 S. San Felipe Dr.	85282	480-706-6565
3/25/07	Charles R. R.	2607 S. Los Feliz Dr.	85282	(480) 706-6565
3/25/07	Tom R.	2613 S. Los Feliz Dr.	85282	(480) 656-1047
3/25/07	Amy S. Beeman	2613 S. Los Feliz Dr.	85282	480 656-1047

I, THE UNDERSIGNED, HAVE NO OBJECTIONS TO BARBARA MESSER'S BOAT IN THE DRIVEWAY OF HER HOME AT 1929 EAST MEADOW DRIVE IN TEMPE.

Date	Signature	Address	Tempe	Phone
2/2/07	Lou & Hill	2068 E Hemlock	Tempe	480 839 5891
5-8-07	Richard E. Smith	338 E Aspen Dr	Tempe	480 907-4903
3/11/07	Bi Lutzal	1255 University Dr	Tempe	203 572-1917
2/11/07	Jamie Foss	5512 S. College Ave.	Tempe	753-504-2810
3/11/07	Thomas Kouski	5512 S. College Ave	Tempe	571-243-8111
3-11-07	STEPANIO SANBAGH	5512 S. College Ave	Tempe	480-544-3452
3/11/07	Sh. Lutz	1255 E University Dr #707	Tempe	630 675 6917
3/11/07	Donald R. DeChico III	1255 E University Dr 197	Tempe	732 740-5517
3/11/07	[Signature]	2017 E Arnold Dr.	Tempe	480-718-6269
5/18/07	Donald DeLo	1915 E. McDougal St.	Tempe	480-968-1560
3/20/07	Barbara Messer	112 E Palmcroft Dr	Tempe	480-628-5553
3/20/07	Scott Z. LeVoy	3613 S Westfall	Tempe	480 239 0570
3/20/07	L. Blaine Mann	2078 E. Carson St.	Tempe	480-839-9557
3/20/07	Della C. Day	2078 E. Carson Dr	Tempe	480 839 9557
3/28/07	Z. Blaine	9013 W 12th Pl	Tempe	480-600-7636
3/3/07	[Signature]	304 E 15th St	Tempe	968-4636

Copy

1945 E. Loma Vista
Tempe, AZ 85282
May 8, 2007

TO WHOM IT MAY CONCERN:

We are writing in support of the request of Barbara Messer to keep her boat in her yard at 1929 East Meadow Drive, Tempe, 85282.

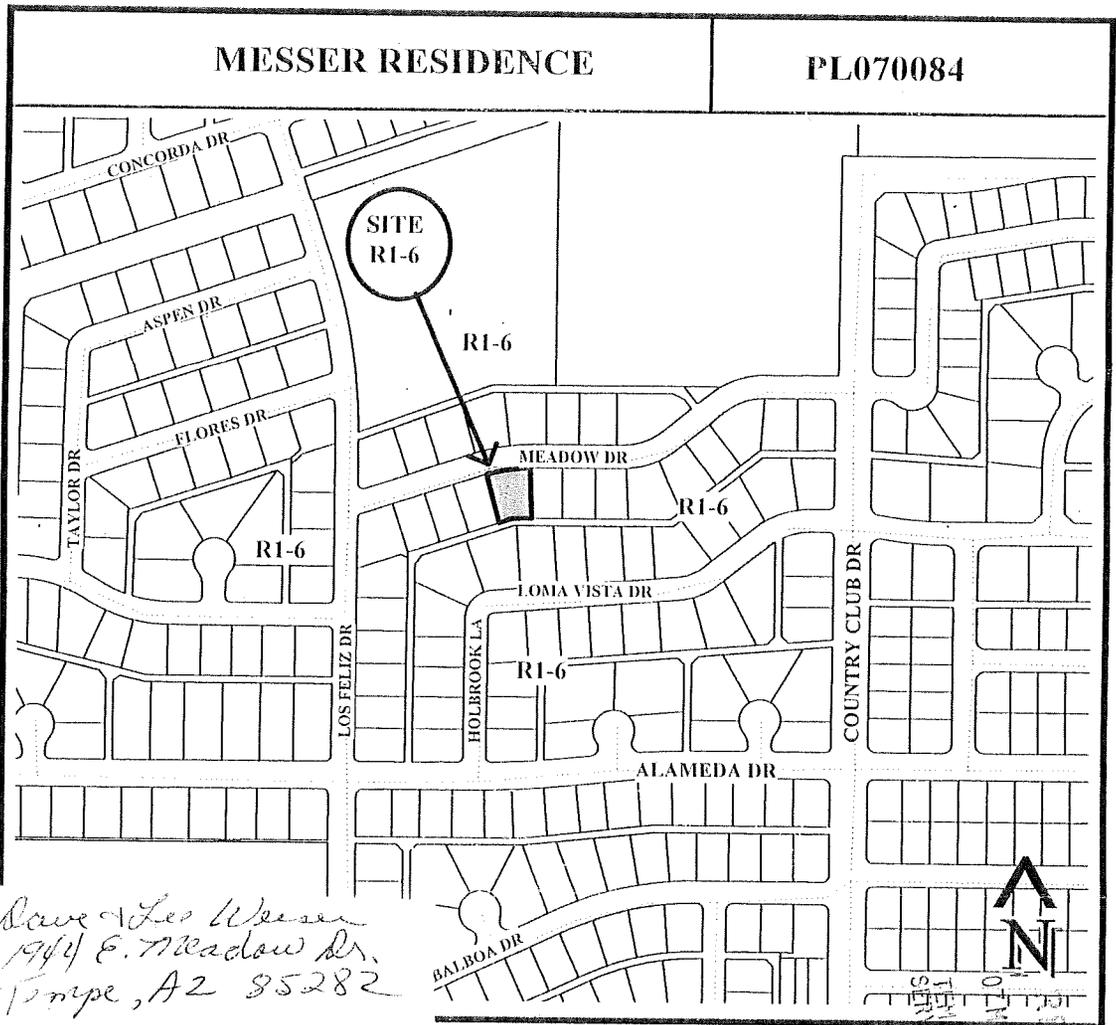
It certainly creates no problems and does not add to the congestion in any way. It is far less noticeable than houses with several cars parked in the driveways and on the streets. This is an old neighborhood where we all try to accommodate the needs of one another.

We do not understand why this boat is a problem. It is a nice, clean boat.

Please count us among those who support Barbara Messer's request.

Sincerely,

Hector + Eugenia Zavaleta
Hector and Eugenia Zavaleta



PUBLIC HEARING NOTICE

Request by Barbara Messer (applicant) for an appeal of a previously denied use permit for the **MESSER RESIDENCE (PL070084)** (Barbara Messer, property owners) located at 1929 East Meadow Drive in the R1-6, Single Family Residential District, including the following:

UPA07002 – Appeal of a Use Permit to park an RV/Boat in the front yard setback (ZUP07028) denied by the Hearing Officer on April 3, 2007.

If interested, you may attend a Development Review Commission meeting at **7:00 p.m. Tuesday, May 22, 2007** at the **Council Chambers, 31 East Fifth Street**. This will be a public hearing and you may present your views in person at the hearing. Or you may respond in writing to the Development Review Commission, P. O. Box 5002, Tempe, AZ. 85280-5002.

If you have any questions or wish to view additional material including artist renderings and elevations which are on file you may contact the Planning Staff at 480-350-8331 or come in to the Development Services office at 31 East Fifth Street.

The City of Tempe endeavors to make all public meetings accessible to persons with disabilities. With 48 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 480-350-8331 (voice) or 480-350-8400 (TDD) to request an accommodation to participate in the Commission meeting.

To Whom It May Concern:
 We see no reason why Barbara Messer may not park her boat in her drive way, it is almost obscured by trees and is always neat. If you do not live on Meadow Dr. why are you protesting the boat parking. It is none of your business, we do not have an POA and only residents of Meadow Dr. should ~~have~~ ^{have} any say so. The boat should be allowed.
 Lee and Dave Weiser 1944 E. Meadow Dr.

RECEIVED
 MAY 10 AM 10:11
 DEVELOPMENT
 SERVICES DEPARTMENT

