

Staff Summary Report



Hearing Officer Hearing Date: May 1, 2007

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by the **FRENCH RESIDENCE (PL070142)** located at 2168 East Alameda Drive for one (1) use permit.

DOCUMENT NAME: 20070501dssa02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **FRENCH RESIDENCE (PL070142)** (Richard French II, applicant/property owner) located at 2168 East Alameda Drive in the R1-4, Single Family Residential District for:

ZUP07046 Use permit standard to reduce the front yard setback by twenty percent (20%) from ten (10) feet to eight (8) feet.

PREPARED BY: Steve Abrahamson, Senior Planner (480-350-8359)

REVIEWED BY: N/A

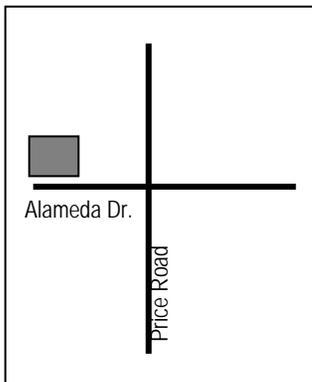
FINAL REVIEW BY: Lisa Collins, Planning Director (480-350-8989) *LC*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions 1-3

ADDITIONAL INFO: The French Residence is seeking a use permit standard to reduce the front yard setback by 20% from ten (10) feet to eight (8) feet. The reduced setback will allow the addition of a six foot (6') masonry wall to increase outdoor living space and privacy. Staff supports the use permit as proposed in this application. To date, staff has received five (5) e-mails of opposition from the public regarding this request.



ATTACHMENTS:

1. List of Attachments
 2. Comments; Reason for Approval, Conditions of Approval; & History
 3. Facts/Description; Zoning & Development Code Reference
-
- A. Location Map(s)
 - B. Aerial Photo(s)
 - C. Letter of Intent
 - D. E-mails of Opposition
 - E. Site plan
 - F. Applicant's Exhibits

COMMENTS:

The French Residence is seeking a use permit standard to reduce the front yard setback by 20% from ten (10) feet to eight (8) feet. The reduced setback will allow the addition of a six foot (6') masonry wall to increase outdoor living space and privacy. The Zoning and Development Code limits walls within the front yard setback to four feet (4') in height.

The wall was constructed without a variance and the property was cited. Further, it was determined the wall was located in a utility easement and has to be razed. The property owner is requesting the use permit standard reduction in the setback so that he may still have a wall. The proposed wall will be compatible with the existing residence in color and materials. To date, staff has received five (5) e-mails of opposition from the public regarding this request.

Use Permit

The Zoning and Development Code provides the use permit standard as a means for deviating from the district setbacks for projects that are a good design and in character with the neighborhood. Staff believes a twenty percent (20%) reduction in the front yard setback to allow for a wall in excess of four feet (4') is supportable.

Conclusion

Staff recommends approval of the use permit request with conditions.

REASON(S) FOR APPROVAL:

1. The use appear to be compatible with the building, site and adjacent properties.
2. There appears to be a demonstrated need for this use at the proposed location.

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

CONDITION(S) OF APPROVAL:

1. Obtain all necessary clearances from the Building Safety Division.
2. The wall shall be compatible with the existing dwelling in color and materials.
3. The wall is limited to six feet (6') in height.

HISTORY & FACTS:

February 20, 1987 Final inspection for a 1,520 s.f. townhome.

DESCRIPTION:

Owner – Richard French II
Applicant – Richard French II
Existing zoning – R1-4, Single Family Residential District
Front Yard Setback – 10 feet
Setback Reduction Request – 20% to 8 feet
Lot Coverage – 47%
Maximum Lot Coverage – No Standard

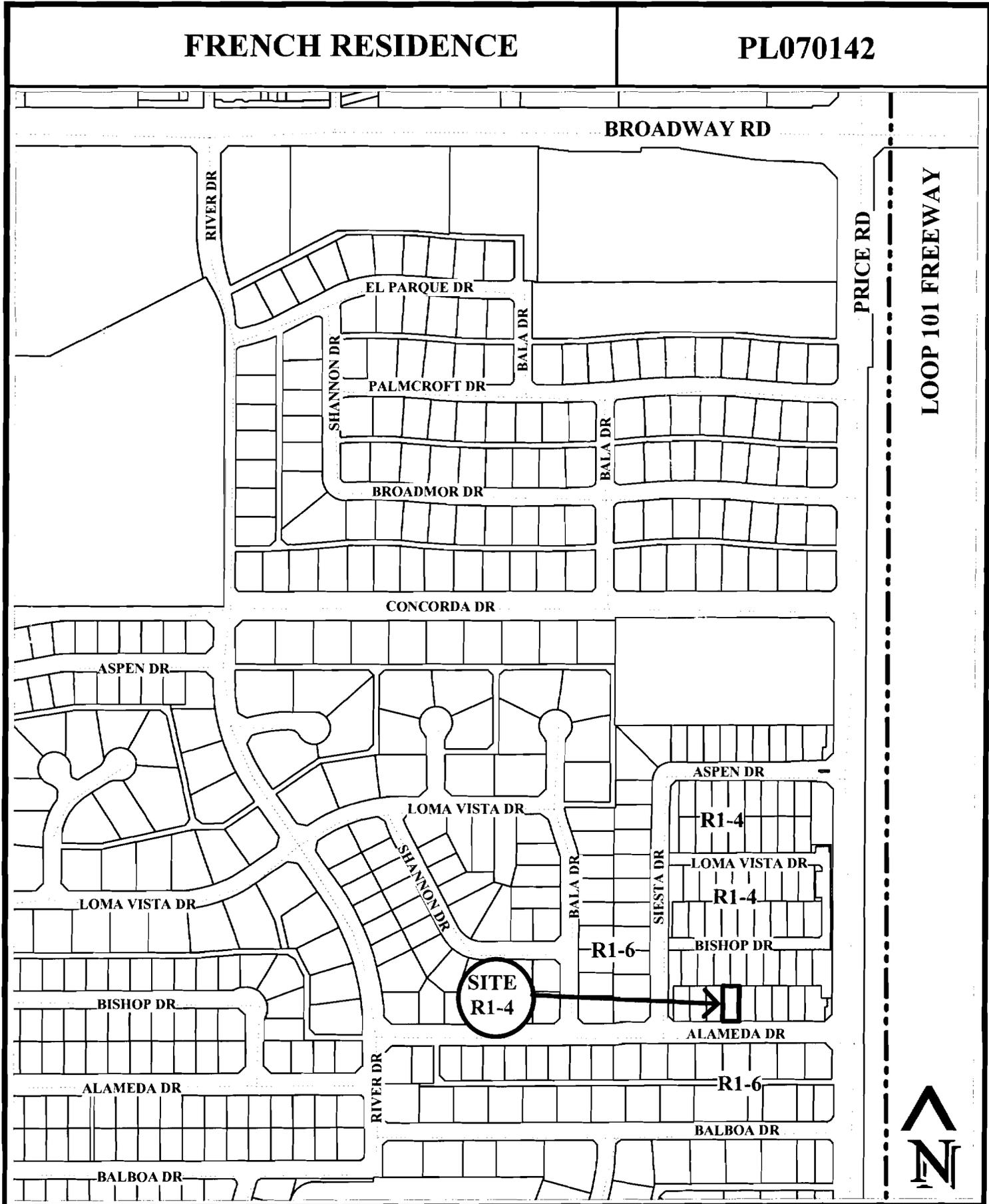
**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

Part 4, Chapter 2, Section 4-202.
Part 6, Chapter 3, Section 6-308

FRENCH RESIDENCE

PL070142



Location Map



FRENCH RESIDENCE (PL070142)



March 19, 2007

City of Tempe
Development Services Department
Building Safety Division
31 E. 5th Street
Tempe, AZ 85281

Bankruptcy 7, 11, 13
Debt Negotiation
Divorce • Paternity • Custody
Restraining Orders
Adoption • Guardianship
Wills • Trusts
Probate • Patent
Trademark Searches
Landlord • Tenant

Arizona Supreme
Court Certified
#80700

Re: NTC#IP070023 Property Address: 2168 E. Alameda Drive, Tempe, AZ

Dear Gentlemen:

Attached please find a Project Submittal Application, a copy of the legal description of the property, a not to scale drawing of the wall and property, and a certified structural evaluation letter from Consulting Engineers Corp. evidencing that the wall is structurally sound and adequate.

In this regard, please note that when I began the new wall project I was wrongfully informed by the contractor that I was allowed to put up the wall, without a permit, as long as it was more than 6' from the inside edge of the sidewalk and the height was not higher than 6'. In this case, the wall is not higher than 6' and is 9'6" from the sidewalk (see pictures Exhibit "A"). I am now informed this is only partially true as I was misinformed in that I need a permit to increase the height of the wall higher than 4' pursuant to Tempe Zoning and Development Code Section 4-706. My mistake for which I will take the necessary steps to correct.

My purpose in constructing a new wall was due to several issues. (As evidence, I am attaching pictures of the wall prior to the new wall being constructed (see pictures Exhibit "B").) The issues of concern are as follows: 1/ I wanted to increase the outdoor living space so as to create more value in the property; 2/ As was before, there was no privacy in this area of the property...now there is; 3/ there is a lot of street noise from the nearby southbound lane of the 101 Loop and normal Alameda Drive traffic...now there is none; 4/ I have a dog that keeps getting loose and jumped over the front wall; and 5/ to increase the security to the property.

In my opinion, the new addition will not cause any nuisance, (odor, gas, dust, noise, vibration, smoke, heat or glare); will not contribute to any deterioration of the neighborhood but will increase the property values due to the added living space and ambiance the wall will afford; will be compatible with other existing and similar homes (see pictures Exhibit # C); and will not result in any



Page 2
Project Submittal Application
2168 E. Alameda Dr., Tempe, AZ

disruptive behavior which may create a nuisance to the surrounding area or general public.

In doing my research as to the viability in putting up a wall of any sorts was verified by visiting my neighbors in the area to get ideas of what might be acceptable to the HOA board and how to cure my concerns. As examples, of other properties in my same community (Village at Shalimar and all constructed as Spanish patio homes with same floor plans as my property) please review pictures of these homes (see pictures Exhibit "C").

In this regard, Exhibit C shows evidence that there are numerous other homes in the Shalimar Village that have higher walls (higher than 6' too) and gate entrances than my wall and entrance (higher than 6'). I submit these so as to show the planning board that when a wall is higher than 4' or higher than 6' there appears to be no cosmetic detraction or safety issue to the property or neighborhood.

As to the construction of the wall, I offer as evidence (see pictures Exhibit "D") that is supported by the structural evaluation report attached hereto. In this regard note from the drawing that the property had an existing wall that completely encompasses the property. The existing wall is 5'6" high and 8" thick. This wall was merely continued from the left side (facing the property) of the property and then increased in height to the now existing wall height of 5'10" and is 9'5" from the inside edge of the city sidewalk.

Lastly, note that once the wall is approved I have a landscape designer ready to plant numerous trees that include Mexican Fan Palms, Pigmy Date Palms, Bamboo and other smaller type plants designed to cosmetically enhance the property. Additionally, there will be a gate between the two columns for added security and privacy.

Therefore, please review and advise if you need any further information regarding the granting of the permit for the wall.

Respectfully submitted,

Rick FRENCH

Bankruptcy 7, 11, 13
Debt Negotiation
Divorce • Paternity • Custody
Restraining Orders
Adoption • Guardianship
Wills • Trusts
Probate • Patent
Trademark Searches
Landlord • Tenant

Arizona Supreme
Court Certified
#80700

Abrahamson, Steve

From: Daffara, Shawn
Sent: Thursday, April 12, 2007 9:42 AM
To: Abrahamson, Steve
Subject: FW: Zoning Variance Request for 2168 E. Alameda

-----Original Message-----

From: Steven Veatch [mailto:Steven.Veatch@hyi-usa.com]
Sent: Thursday, April 12, 2007 9:45 AM
To: Daffara, Shawn
Cc: Thomas Keating; kbiladeau@msn.com; newton55@cox.net; kregal@cox.net; elaineitaly@yahoo.com
Subject: RE: Zoning Variance Request for 2168 E. Alameda

I am in complete agreement with Thomas on the zoning variance and would reiterate his sentiments. I am an acting Board member and have lived in this neighborhood for six years. I would also like to add that one of the reasons that I purchased my house was for the location of it within the Village at Shalimar and for the architectural uniqueness of the patio homes. I feel that the wall that has been constructed is out of place within the style of the patio homes. I would also add that one of the reasons for having a home owner's association (and paying dues for one) is so that property values can be maintained for everyone in the neighborhood. Changing the consistency of the patio homes takes away from their charm and lessens their value. The wall is too high and too close to the sidewalk. Please, do not approve this zoning variance.
Thank you.

Sincerely,
Steven Veatch

-----Original Message-----

From: Thomas Keating [mailto:Thomas.Keating@asu.edu]
Sent: Thursday, April 12, 2007 7:51 AM
To: shawn_daffara@tempe.gov; kbiladeau@msn.com; newton55@cox.net; kregal@cox.net; elaineitaly@yahoo.com; Steven Veatch; thomas.keating@asu.edu
Subject: Zoning Variance Request for 2168 E. Alameda

I am writing to follow up our discussion yesterday. I am strongly opposed to the City of Tempe granting a zoning variance approving of Mr.

French's having build a 6-foot masonry wall in the front of his residence at this address. Mr. French undertook the building of this wall without first requesting a zoning variance from the City, without asking the approval of the utility holding an easement running along the front of his property, and without requesting the approval of the Village of Shalimar Homeowner's Association Board. The Village of Shalimar's C C & Rs require written approval before a homeowner undertakes any exterior modification of their home.

I live at 2178 E. Alameda and serve on the Association Board of Directors. I oppose the application for a zoning variance primarily because the modification Mr. French has undertaken is an eyesore and violates the architectural style of his and adjoining patio homes. In effect, Mr. French has created what may be called a 'walled villa' with the 6-foot masonry wall in the front of his home. His home is in the middle of Alameda Drive in this neighborhood and the wall juts out in a way that detracts from the architectural symmetry and style of the

whole neighborhood. If he wanted to live in a walled villa, he could have bought a house of this style in other neighborhoods in this area.

Further, from the start, Mr. French has shown a complete disregard for the fact that he lives in a city whose approval he must request before he violates its zoning ordinances; for the fact that he may not encroach on easements without the prior approval of the easement holder; for the fact that in buying a home in the Village at Shalimar last year, he was given a copy of our C C & Rs and then turns around and acts in clear violation of these restrictions.

I am copying this email to other members of the Village of Shalimar Board on the chance they may want to state their opinion on whether the City should approve this zoning variance request.

Thank you.

Abrahamson, Steve

From: Daffara, Shawn
Sent: Friday, April 13, 2007 11:52 AM
To: Abrahamson, Steve
Subject: FW:

Another opposing party to French Residence

Shawn Daffara

Planner II

Development Services/ Planning

Phone (480) 858-2284

Fax (480) 858-8872

Shawn_Daffara@Tempe.gov

From: newton [mailto:newton55@cox.net]
Sent: Friday, April 13, 2007 11:48 AM
To: Daffara, Shawn
Subject:

My name is Dick Keith and I am on the Board for the Village at Shalimar Association. My address is 2166 E. Bishop. I am in complete agreement with the other Board Members regarding the illegally built wall at 2168 E. Alameda. The wall is not only too high and too close to the street but the homeowner did not submit any plans for the wall nor did he contact any Board Member as to his intentions.

Abrahamson, Steve

From: Daffara, Shawn
Sent: Thursday, April 12, 2007 7:57 AM
To: Abrahamson, Steve
Subject: FW: Zoning Variance Request for 2168 E. Alameda

Shawn Daffara
Planner II
Development Services/ Planning
Phone (480)858-2284
Fax (480)858-8872
Shawn_Daffara@Tempe.gov

-----Original Message-----

From: Thomas Keating [mailto:Thomas.Keating@asu.edu]
Sent: Thursday, April 12, 2007 7:51 AM
To: Daffara, Shawn; kbiladeau@msn.com; newton55@cox.net; kregal@cox.net; elaineitaly@yahoo.com; Steven Veatch; thomas.keating@asu.edu
Subject: Zoning Variance Request for 2168 E. Alameda

I am writing to follow up our discussion yesterday. I am strongly opposed to the City of Tempe granting a zoning variance approving of Mr.

French's having build a 6-foot masonry wall in the front of his residence at this address. Mr. French undertook the building of this wall without first requesting a zoning variance from the City, without asking the approval of the utility holding an easement running along the front of his property, and without requesting the approval of the Village of Shalimar Homeowner's Association Board. The Village of Shalimar's C C & Rs require written approval before a homeowner undertakes any exterior modification of their home.

I live at 2178 E. Alameda and serve on the Association Board of Directors. I oppose the application for a zoning variance primarily because the modification Mr. French has undertaken is an eyesore and violates the architectural style of his and adjoining patio homes. In effect, Mr. French has created what may be called a 'walled villa' with the 6-foot masonry wall in the front of his home. His home is in the middle of Alameda Drive in this neighborhood and the wall juts out in a way that detracts from the architectural symmetry and style of the whole neighborhood. If he wanted to live in a walled villa, he could have bought a house of this style in other neighborhoods in this area.

Further, from the start, Mr. French has shown a complete disregard for the fact that he lives in a city whose approval he must request before he violates it's zoning ordinances; for the fact that he may not encroach on easements without the prior approval of the easement holder; for the fact that in buying a home in the Village at Shalimar last year, he was given a copy of our C C & Rs and then turns around and acts in clear violation of these restrictions.

I am copying this email to other members of the Village of Shalimar Board on the chance they may want to state their opinion on whether the City should approve this zoning variance request.

Thank you.

Abrahamson, Steve

From: Daffara, Shawn
Sent: Thursday, April 12, 2007 9:29 AM
To: Abrahamson, Steve
Subject: FW: Zoning Variance Request for 2168 E. Alameda

-----Original Message-----

From: Kathy Lindquist [mailto:kregal@cox.net]
Sent: Thursday, April 12, 2007 9:22 AM
To: Daffara, Shawn
Cc: Elaine Neely; Lois Newton; Steven Veatch; Ted Biladeau; Thomas.Keating@asu.edu
Subject: FW: Zoning Variance Request for 2168 E. Alameda

As Village at Shalimar Board Treasurer, I am in complete agreement with the opposition statement as stated below by Thomas Keating. Mr. French has shown a complete disregard for the rules of our Association and if the City of Tempe grants him a variance we might as well dissolve our HOA and let all our members run amuck. We are certainly counting on the City to help us reinforce our CC& R's and discourage homeowners from altering our neighborhood at their whim.

Thank you for whatever assistance you can achieve.

Kathleen R Lindquist CPA
2171 E Aspen Drive
Tempe
602-549-5110

-----Original Message-----

From: Thomas Keating [mailto:Thomas.Keating@asu.edu]
Sent: Thursday, April 12, 2007 7:51 AM
To: shawn_daffara@tempe.gov; kbiladeau@msn.com; newton55@cox.net; kregal@cox.net; elaineitaly@yahoo.com; Steven Veatch; thomas.keating@asu.edu
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I am copying this email to other members of the Village of Shalimar Board on the chance they may want to state their opinion on whether the City should approve this zoning variance request.

Thank you.

Abrahamson, Steve

From: Daffara, Shawn
Sent: Tuesday, April 17, 2007 10:34 AM
To: Abrahamson, Steve
Subject: FW:

FYI...

I already replied to the e-mail...about philosophy of attending the H.O. meeting.

Shawn Daffara

Planner II

Development Services/ Planning

Phone (480) 858-2284

Fax (480) 858-8872

Shawn_Daffara@Tempe.gov

From: newton [mailto:newton55@cox.net]
Sent: Tuesday, April 17, 2007 7:45 AM
To: Daffara, Shawn
Subject:

To: Steve Daffara

From: Lois Newton: Village at Shalimar

We spoke a few days ago and you had received our opposition letters and at that time you said you thought it was not necessary that we be at the Hearing Officer Meeting. I am just checking to see if that is still true as most of our members have jobs and it is getting difficult to find someone to be there at that time, but if you say you need someone there, that will happen.

My E-Mail address is Newton55@cox.net

Abrahamson, Steve

From: Daffara, Shawn
Sent: Friday, April 13, 2007 7:49 AM
To: Abrahamson, Steve
Subject: FW:

Shawn Daffara

Planner II

Development Services/ Planning

Phone (480) 858-2284

Fax (480) 858-8872

Shawn_Daffara@Tempe.gov

From: newton [mailto:newton55@cox.net]

Sent: Friday, April 13, 2007 7:47 AM

To: Daffara, Shawn

Subject:

As Village at Shalimar Board Secretary, I am in complete agreement with the statement of Tomas Keating.

Mr. French, at 2168 E. Alameda, has shown a complete disregard for the rules and regulations of our Association.

We are counting on the City to help us reinforce our rules and regulations and discourage the homeowners from altering our neighborhood whenever they want to make changes.

Thank you for your assistance.

Lois Newton
2164 E. Aspen Drive
Tempe, AZ 85282

480-968-0105

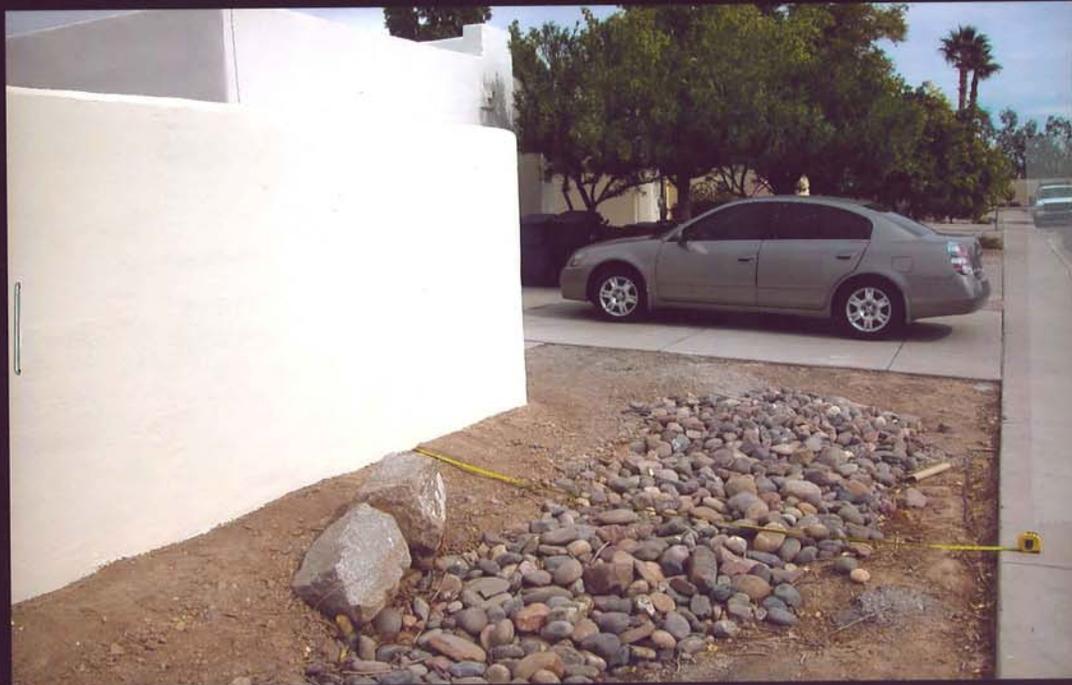
EXHIBIT "A"



Right Side Wall Facing House

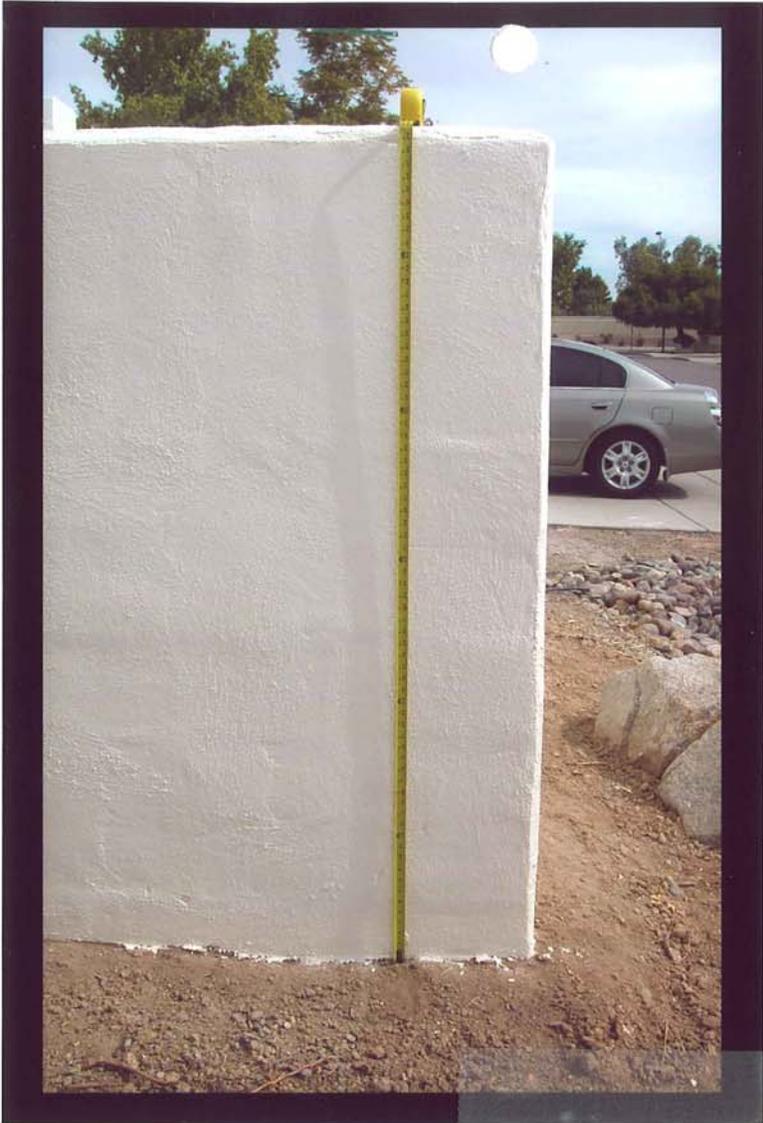


Evidence of height 70" High



Street view of Wall





Evidence that wall is 116" from wall to sidewalk.

Exh F3 ~~116~~ 116

EXHIBIT "B"

Wall before new wall constructed



Street View - Old Wall

Exh. A
F5

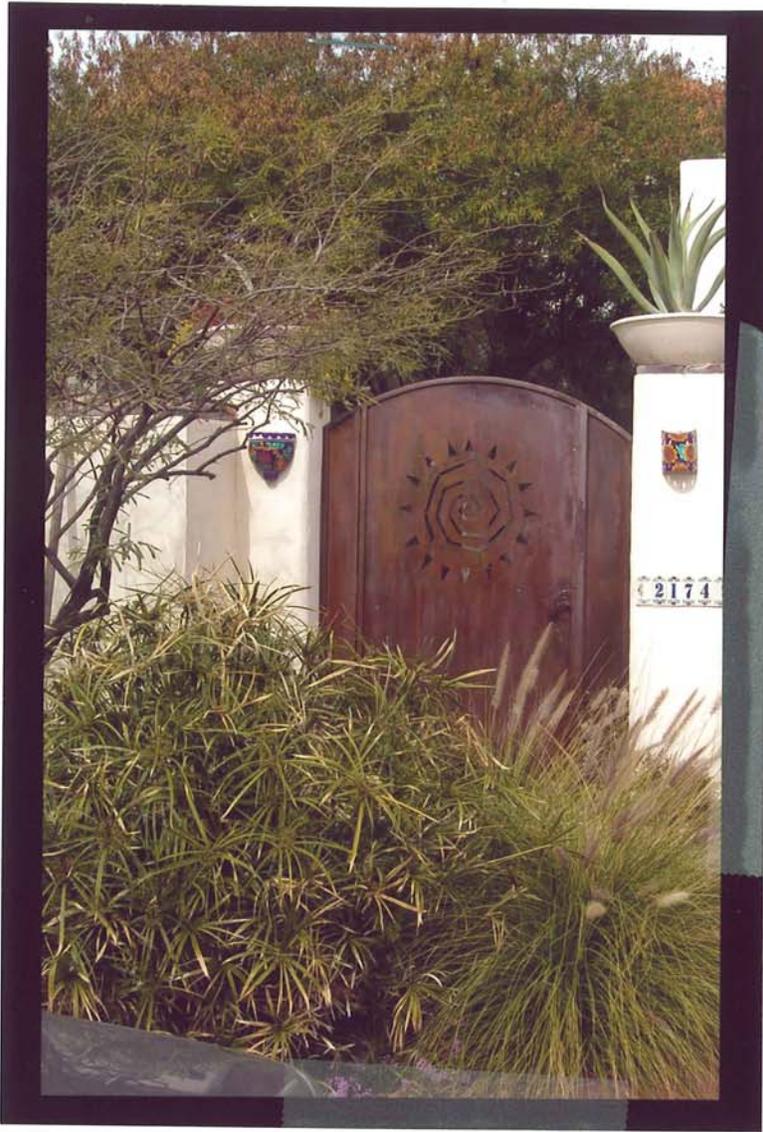


Old wall
Right view
facing house



Exh F6 A-1

EXHIBIT "C"

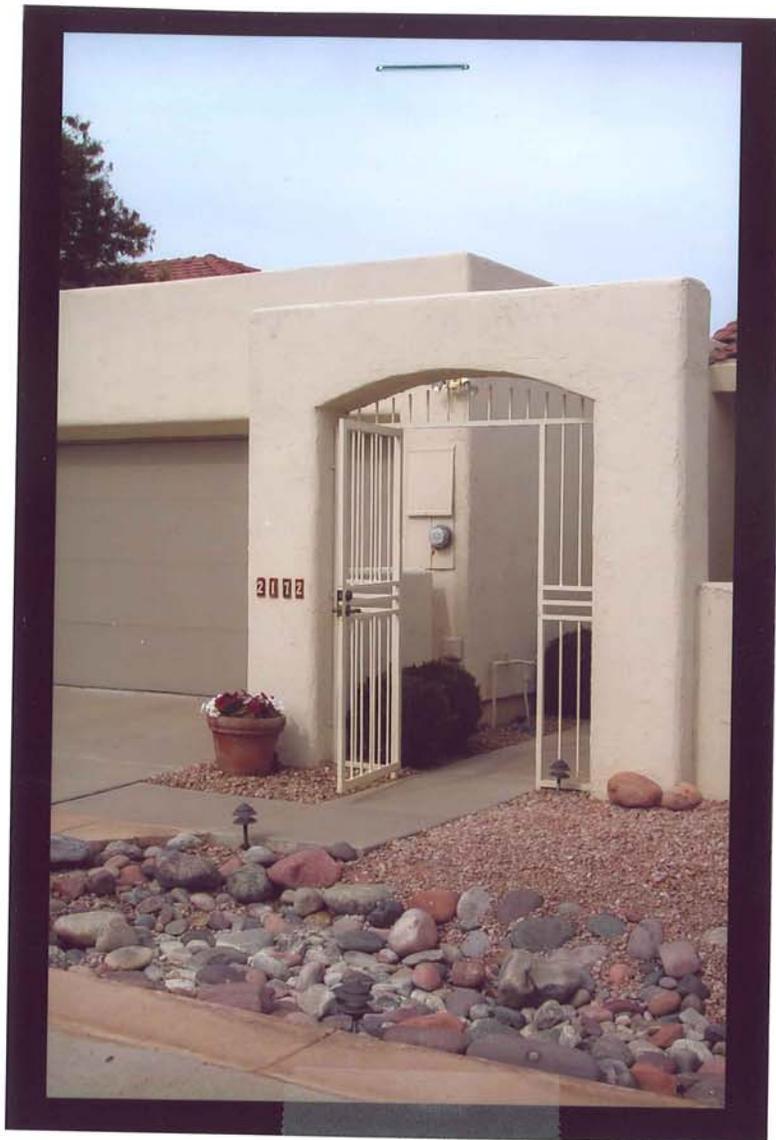


Front View Wall +
Gate



Wall height 6'7"

Property located 2174 Loma Vista Dr
Shalimar Village, Tempe AZ



Property located 2172 Loma Vista Dr
Tempe, Az
Gate Entrance height 8'8"
Wall Height 4'

Exh C-1
F9



Property located 2178 Bishop Dr.
Tempe Az

Wall height is 4' 8"

Gate Entrance height 8'

EXHIBIT "D"



EX D
F12





F14 5x0-2



Ex D-3
F15