

Justification/Compatibility Statement

**Larry Pew Residence
1564 E. Lehi Road
Mesa, Arizona 85203
January 4, 2023**

A. Request

Pew and Lake, PLC ("Applicant"), on behalf of Larry Pew ("Owner"), respectfully requests a Special Use Permit amendment for a detached accessory building (a garage/storage building) at the property located at 1564 E. Lehi Road in Mesa, which is known as Assessor Parcel Number APN 136-05-001Q ("Property"). The Property is approximately 234,748 square feet in size (5.4 acres). This request seeks to amend or replace the existing SUP to approve a garage/storage building that results in the accessory structures exceeding 100% of the area of the primary residence on an oversized lot in the RS-43 zone. The proposed garage/storage building is in the same location and has the same building height as the previous application. But proposed is a slightly smaller floorplan with only garage and storage space. The site aerial is illustrated below.

Figure 1 – Site Aerial



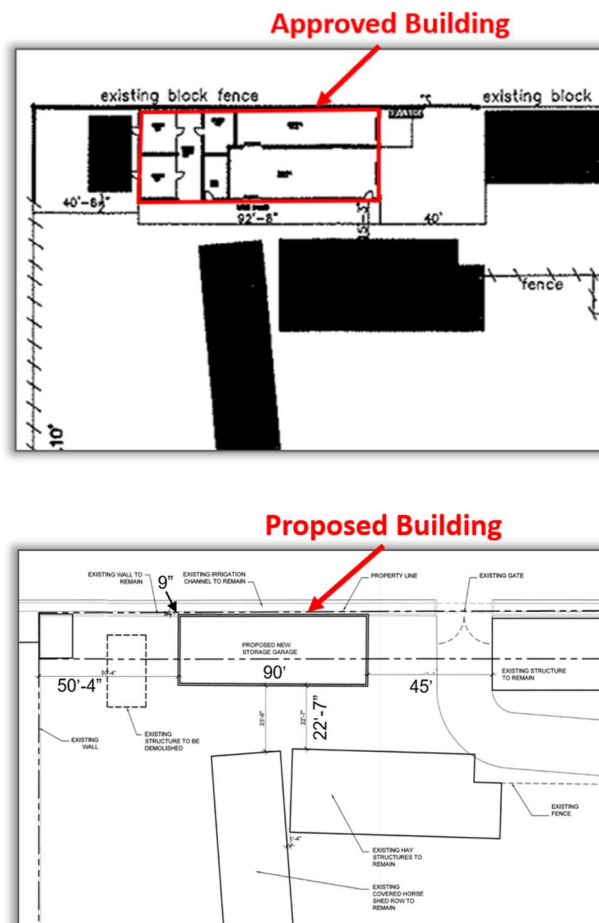
B. Previous Approvals for a garage at this location

In 2009, a Special Use Permit ("SUP") was approved in case no. ZA-09-038. No expiration date was added to the SUP approval, which means the SUP is still valid today.

The SUP approved a proposed 3,522 square foot garage building at the same location and shape as proposed in this case. The proposed garage was designed replace a deteriorating shed that had been in existence for decades. The SUP case also included an existing onsite casita/mother-in-law residence that had also been there for decades and is still present today. The purpose of the 2009 SUP was to allow the square footage of the accessory structures to exceed 100% of the house in RS-43 zoning (It was R1-43 at the time). The proposed garage building and existing casita in that request were combined with the other existing approved accessory structures located onsite. The zoning ordinance update in 2010 and current zoning ordinance do not have expirations for SUPs unless added as a condition of approval, and there is no such condition of approval with the 2009 case. Therefore, the existing casita and plans for the garage building are still valid.

The approved a garage in the SUP was 3,522 square feet. The proposed building in this request is 58 square feet smaller at 3,464 square feet, as shown in Figure 2 below.

Figure 2 – Approved Garage SUP and Proposed Garage



As evidenced above, the proposed garage building in this case is similar in size and location as the original approval. It has the same 15-foot maximum building height. Therefore, the proposed building could be submitted and approved in the permitting process if deemed substantially consistent with the original SUP. The applicant requests permitting the applicant to proceed with this plan without an SUP or public hearing. But if necessary, this SUP application has been submitted to review and consider the updated building plan.

As another piece of background, a variance was also approved in case no. ZA09-030 for both a garage and the existing casita because of the previous code, which has since changed. The size of both of these buildings and the 15-foot height based on the code at the in 2009 required a variance where shorter buildings were required. Now, the zoning standards allow by right a 15-foot accessory buildings in the rear setback if they are outside the side setback, as summarized in the next section of this narrative. Like the SUP, the proposed casita approved in the variance is still present and the proposed garage was never built. These were the same buildings proposed for the above-mentioned 2009 SUP. It is noted that a variance is no longer needed based on the current regulations. The zoning ordinance, which has been updated in 2010 and again in 2019, only requires a Special Use Permit to approve accessory buildings with an area that exceeds 100% of the residence, and the 15-foot height is allowed by right.

C. Applicable Zoning and Use Permit Requirements

Table 11-5-2 of the City of Mesa Zoning Ordinance ("Zoning Ordinance") permits accessory uses such as garages in the Property's zoning district and a total lot coverage of 40%. Section 11-30-17 provides additional standards for detached accessory buildings and states that detached accessory buildings:

"In the AG, RS-90, and RS-43 districts, shall not have an aggregate area of all such detached buildings greater than 100 percent of the roof area of the dwelling, unless a larger aggregate roof area is approved by Special Use Permit." (11-30-17-B-8)

"May be located in the required rear yard but outside of the required side yard provided that they do not exceed 15 feet in height." (Subsection 11-30-17-B-2)

Building height is defined as the average slope for buildings with sloped roofs (Chapter 87, Definitions for building height: "The mean height between the plate line and the ridge of mansard, gable, hip, shed, or similar roof, excluding embellishment."

The subject Property is zoned RS-43 and therefore can have detached accessory buildings equal to the roof area of the primary dwelling on the property. The roof area of the dwelling unit is 8,157 square feet (including the main house and attached garage area).

The total roof area of the existing detached accessory buildings is 9,744 square feet. The current proposal is to remove and replace two existing garage/barn/storage structures of approximately 2,090 square feet with a single garage building that 3,464 square feet. The original approval approved a garage that was 3,522 square feet, so this amended plan has a smaller

footprint than the original approval. *(It is noted that this proposed addition will replace an existing, dilapidated barn/storage that was built in the 1960s and whose square foot calculation is not included on the proposed site plan or in this narrative, since it is proposed to be replaced with a new 3,464 square foot garage/barn/storage. The total building area mentioned includes all existing and proposed buildings and structures on the site).*

Special Use Permit Requirements:

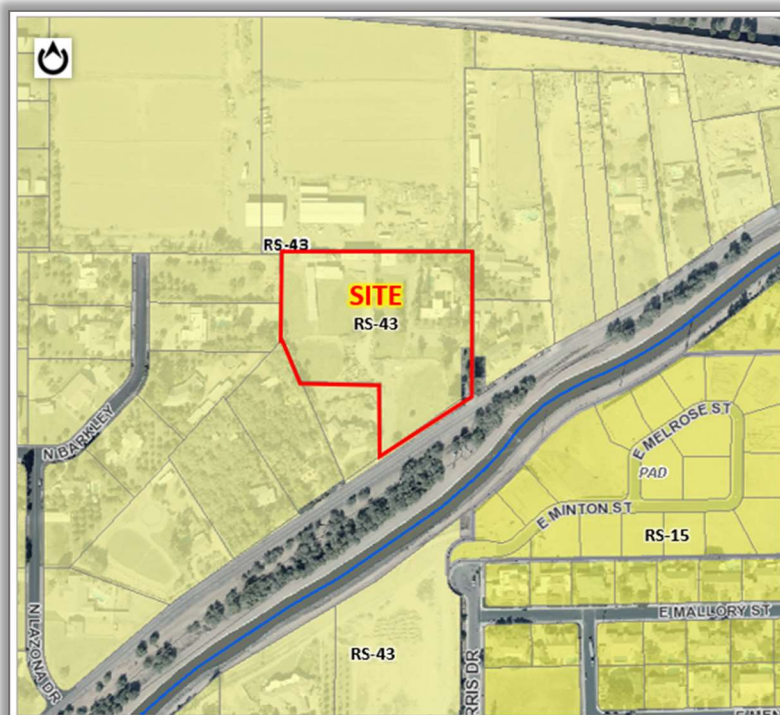
The Zoning Ordinance provides the following criteria for Special Use Permits in §11-70-5:

- Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;
- The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;
- The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and
- Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

D. General Plan and Zoning Designations

In the Mesa General Plan, the Property's Character Area designation is Neighborhood, and the Property is zoned RS-43 (See Figure 2 below). Existing improvements are consistent with these residential designations.

Figure 3 – Zoning Map



E. Existing Detached Accessory Buildings

As previously stated, the property currently has approximately 9,744 square feet (4.1% lot coverage) of existing detached accessory buildings or structures. Some of these include a casita/mother-in-law suite, a covered carport, and multiple shade structures for horses and feed.

The existing storage shed building is believed to be built sometime in the 1960s when the property was still a part of unincorporated Maricopa County. Some of the shade structures that cover hay and horse bins were built approximately 20 years ago.

F. Description of Proposed Garage/Storage Building

Proposed is an approximately 3,464 square foot garage and storage building where an existing storage structure is proposed to be demolished. An adjacent structure is also proposed to be removed to remove the horse stable features. Designed with a sloped roof with gable ends, the proposed garage/storage building will be of comparable length as the existing structure and composed of brick form durable exterior materials. It is the same 90 ft. in length and 15 ft. in height. Siding and vent details are located on both gable ends. Windows and garage doors are proposed on the associated elevations of the building. The proposed square footage of site buildings and structures are summarized on the site plan and recapped below:

***Table 1 –Area Summary of Buildings
and Accessory Structures***

Item	Area	Lot Coverage
Residence	8,157 SF	3.5%
Accessory Structures	9,744 SF	4.1%
Total	17,901 SF	7.6%
Proposed addition	3,464 SF	1.5%
Total	21,365 SF	9.1%

Table 1 above notes that 9.1% total lot coverage is proposed, which is much lower than the allowed 40% in RS-43 development. The large size of the Property that exceeds the minimum one-acre lot requirement explains how the proposed roof area is much lower that would be expected to be developed on a site like this one on East Lehi Road. The location of the garage/building complies with standards to be 35 ft. from the western side boundary outside the side setback and on the rear property line. This allows the height to be limited to 15 feet, as measured from the average of the slope. The proposed height complies at 15 feet.

G. Justification and Compatibility

Compliance with Special Use Permit Criteria

- 1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies.**

Answer: The proposed use complies with the General Plan Goals for the neighborhood character area for Large Lot/Rural properties. The Large Lot policies specifically note that “out buildings are common on these properties.” such as this proposed out building on the back of the Property. The proposed accessory building is consistent with the residential nature of the primary RS-43 zoning district on the Property. In the General Plan, accessory agricultural uses, such as the detached garage/storage building, is mentioned as a primary land use in the Large Lot/Rural subtype.

Additionally, building form and layout address the General Plan’s recommendations for limitations to 1-2 story uses and buildings being setback from the street. Given that the proposed building is located as far as possible from Lehi Road and behind other buildings, the building will be negligibly noticeable from the public street.

The General Plan supports the implementation of the Lehi Sub-Area Plan, of which this Property lies within the original boundary. Consistent with the Sub-Area’s policies, the proposed garage is consistent with the predominant RS-43 zoning and the low intensity character long Lehi Road. The Plan notes that the Lehi area is limited in size, and this request supports the policies that favor redevelopment and improvements on existing properties to maintain the quality and character of the area.

2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies.

Answer: As noted above, the proposed garage/storage building is consistent with the rural nature of the Lehi area and provides for neighborhood quality. RS-43 zoning requirements have a maximum allowed residential density of 1 unit per acre, and this request maintains and supports the density and rural character that the zoning district is designed to implement.

3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City.

Answer: The proposed accessory building will complement the characteristics of surrounding properties because its nature is harmonious with the area and is located nearby other accessory buildings that will help screen it from view. Large spaces separate the various residences in the surrounding area causing the proposed building to have negligible visibility and impact on adjacent properties. Given that the proposed building is located in a similar location as the existing accessory structure and has been designed consistent with the prior SUP, this request will not prove detrimental to the area but provide an enhanced situation that flows well with the rural style of the Lehi Sub-Area.

The proposed building is located 9 inches south of the wall on the northern boundary. The other side of that wall has an irrigation ditch and then an easement that prevents construction

of buildings directly adjacent to this structure to the north. The irrigation and easement facilities will prevent clustering of buildings adjacent to each other on both sides of the property line, which further mitigates any impact on the adjacent property.

4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

Answer: The small scale of the project provides such that there are adequate facilities and infrastructure to support its construction. Access to the accessory building will be similar to the existing building and connect to the driveways to the east. No change is proposed to the project's access to Lehi Road and the primary residence's connections to utilities.

Other Factors in support of the SUP:

- **The oversized lot size and unique location justify the proposed garage.**

Specific unique circumstances exist on the Property, including its oversized nature. Also, it is in a unique location in the Lehi Sub-Area near the terminus of a dead end street and surrounded by lots that are also oversized. The larger sized Property has an irregular configuration with less space in the front and more space in the back adjacent to accessory that have been in place for decades. The Zoning Ordinance discourages accessory buildings to be located in the front setback, therefore, the shape of the size is such that the existing location of the garage/storage building is well suited to the site's unique, oversized configuration.

The Property is zoned RS-43, a single residence zoning district that requires lots be a minimum of 43,560 square feet in size and the lot layout is designed to maintain semi-rural residential and agricultural uses without conflict from other commercial, industrial or higher-density residential development.

As previously stated, the subject property is approximately 234,748 square feet in size, or 5.4 acres. One special circumstance that exists to justify this SUP is the fact that this is an oversized lot in a rural zoning district and neighborhood. The majority of the lots in the area, are also oversized lots for their RS-43 zoning designation. This is a rural neighborhood with vast open spaces between properties and buildings. The proposed addition of the garage/storage building will not be noticeable to surrounding property owners on the east, south and west sides because it is a comparable location and size and located great distances from the adjacent homes. Additionally, the property to the north is a large (approximately 382,805 square foot, or 8.7 acres), mostly vacant lot with a couple of large buildings located toward the southern end of the property, adjacent to the location of the proposed addition in this request, making the proposed location for the barn addition even more compatible with the area.

Furthermore, the proposed garage/storage building will be located on the Property near other existing detached accessory buildings. This location for the proposed addition is convenient because it will blend in with other existing detached accessory buildings and as such, the other

property owners the area, including adjacent neighbors, will not feel the impact of an additional detached accessory building on the Property

- **The unique location and property constraints are a pre-existing condition.**

The Property's unique configuration and oversized lot size were not created by the property owner. The Owner purchased the Property in its current configuration of approximately 5.4 acres with other adjacent lots that are also oversized. The lot size, configuration, and surrounding oversized lots are pre-existing, have been in place for many years, and these conditions were not created by the Owner.

The Proposed building is of comparable location and length as the existing structure that has been in place for more than 50 years, long before the Property was purchased by the Owner. Also, the existing structure was in place before the north property line was created that divided this Property from the lot to the north. Stated in other words, the existing structure predated the creation of the lot to the north. This circumstance has created an awareness and expectation for continued use of that space for an accessory building that predates the current ownership.

- **Approval of this request is needed to treat this property owner fairly compared to other properties in the same zoning district without the unique constraints.**

Zoning Ordinance Table 11-5-3 allows for a maximum roof area of 40% in the RS-43 zoning district. However, Section 11-30-17(8) limits the aggregate area of detached accessory buildings in the RS-43 zoning district to 100% of the roof area of the dwelling. There are irreconcilable differences between these two sections of the Zoning Ordinance. The purpose of the maximum roof area provision of the Zoning Ordinance is to maintain proper balance and intensity of use on any lot in a given zoning district. On lots that are typical in size for their respective zoning districts, these sections of the Zoning Ordinance are more reconcilable and justified; however, for lots, such as the Property that is oversized for its zoning district by more than 5-fold, the maximum roof area section of the Zoning Ordinance should prevail.

For example, a typical lot in the RS-9 zoning district might be 10,000 square feet with a 2,500 square foot house. The RS-9 zoning district allows for maximum lot coverage of 40%. In this example, the owner of the lot in the RS-9 district could have detached accessory buildings that total 1,250 square feet and still fit within the Zoning Ordinance requirements by giving the property a lot coverage of almost 38%, still below the maximum of 40%. In this situation, the lot coverage and accessory structure limitation have balance with respect to the lot size.

As an example of an oversized lot, a property in the RS-43 or RS-90 zoning district could be 5 acres in size and have an old farm house of approximately 2,000 square feet, with plenty of room for horses or other farm animals. But in this example, the property owner would be limited to 2,000 square feet of detached accessory buildings, which would only be 2% lot coverage. This limitation on lot coverage is a significant imbalance and severe restriction with respect to the lot size.

The imbalance in the above example occurs on the subject Property that is approximately 5 acres in size. Its unique location and large size cause restrictions on this Property that are not applicable to other lots in the same zoning district that comply with the one-acre requirement. Therefore, the unique conditions deprive the property of rights otherwise available in the RS-43 district.

Specifically, the subject Property is zoned RS-43 and is 234,748 square feet (5.4 acres). The residence is approximately 8,157 square feet, or 3.5% lot coverage. The entire roof area on the Property with the existing accessory buildings and the proposed garage addition would be approximately 21,632 square feet, or 9.1% lot coverage. This proposed coverage is still well below the maximum lot coverage permitted in the RS-43 zoning district and consistent with the lot coverage and intensity of uses in the surrounding area.

- **Approval of this request is not a special privilege inconsistent with the Property's limitations and the character of the area.**

This narrative notes that the property is oversized for the RS-43 zoning district and is surrounded, primarily, by oversized lots as well. Other properties in the RS-43 zoning with lot sizes comparable to the one-acre size would be granted lot coverage comparable to the zoning allowance. Because the proposed lot coverage in this request is far below the maximum allowance, no special privilege is requested.

The Applicant and Owner believes that this Property should be afforded the same rights for detached accessory buildings as might other uniquely oversized properties in the surrounding area because they, too, are on oversized lots in the RS-43 zoning district. Approval of this detached accessory building will not have a noticeable impact on the overall roof area of the Property and surrounding land use fabric and therefore, the SUP request is not considered a special privilege.

H. Conclusion

This request seeks an amended special use permit for a garage/storage building on the Property. Given the garage/storage building is comparable to the location and length of an existing storage/barn structure of more than 50 years, this request seeks to redevelop an aging structure with a new building with enhanced quality. Proposed are improvements to the site that are justified by the Property's unique configuration and oversized lot status. Located in a unique part of the Lehi Sub-Area with adjacent lots that are also oversized, the proposed use will be harmonious with the rural nature of the area and will pose no unreasonable effects on surrounding properties.