

Staff Summary Report



Hearing Officer Hearing Date: July 6, 2010

Agenda Item Number: 2

SUBJECT: This is a public hearing for a review for compliance of Conditions of Approval Nos. 2 & 3 by the CHURCH OF CHRIST located at 1967 East Palmcroft Drive.

DOCUMENT NAME: 20100706dssl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by CHURCH OF CHRIST (PL080474) (Abed Danganan, applicant; Church of Christ, property owner) located at 1967 East Palmcroft Drive in the R1-6, Single Family Residential District for:

ZUP09001 Use permit to increase the allowable maximum fence in the front yard setback from four (4) feet to six (6) feet.

Review of compliance with Condition of Approval Nos. 2 & 3, assigned by the Hearing Officer at the February 17, 2009 HO, which read:

COA No. 2: Install a lock on the gate that allows for fire personnel access during non-business hours; contact Jim Walker, Tempe Fire Inspector at (480) 350-8341.

COA No. 3: Obtain Development Plan approval for expansion of the parking area with paving, striping, lighting and landscape. All approvals and installations to be completed within one year (February 17, 2010).

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

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

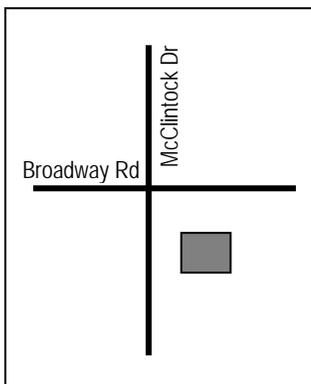
DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff –Approval, subject to conditions

ADDITIONAL INFO:

On February 17, 2009, the Hearing Officer approved a use permit to allow an increase in the fence height in the front yard setback subject to conditions. To date, there are outstanding issues regarding the conditions of approval to be addressed by the applicant. Staff has scheduled this public hearing for an opportunity to discuss the progress on the conditions with the applicant. Additionally, some on the record modifications, clarifications or additional conditions may be required.



PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts/Description
4. Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Site plan
- 4-5. COT letter of approval from 2/17/09 HO hearing
- 6-7. 2/17/09 HO Minutes
- 8-9. Staff Photograph(s)

COMMENTS:

The case heard by Hearing Officer on February 17, 2009 was for a fence that was installed for the church by a contractor; without benefit of planning clearances and permits. The contractor neglected to obtain all necessary approvals, so the congregation applied for approval of the fence after installation. The fence was installed to provide security to the site when the church is not occupied. The original intent behind a maximum four (4) foot wall in the front yard setback was to allow visual surveillance between the street and the front yard. The church building orientation faces the side street and the fence is to provide a security barrier; the visual surveillance between the street and the church will be maintained since the barrier is not a solid surface.

Public Input

To date, staff has received numerous inquires from the surrounding area regarding the progress on compliance with the conditions of approval.

Use Permit

The Zoning and Development Code requires a use permit for a wall/fence greater than four (4) feet in height for walls/fences located in the front yard setback, in the R1-6, Single Family Residential District

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
There will not be significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
The proposed use should not create any nuisances.
- c. 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 area is in compliance with the General Plan and neighborhood intent.
- d. Compatibility with existing surrounding structures and uses;
The proposed wall is intended to provide a security barrier for the church and will not create a nuisance for the surrounding area.
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.
Visual surveillance will remain available in the front yard of the property.

Conclusion

Staff recommends approval of the use permit.

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.
5. Approval of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or 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. Approval is valid for the plans as submitted within this application.
 - 2. Install a lock on the gate that allows for fire personnel access during non-business hours; contact Jim Walker, Tempe Fire Inspector at (480) 350-8341.
 - 3. Development Plan approval for expansion of the parking area with paving, striping, lighting and landscape. All approvals and installations to be completed within one year (February 17, 2010).
- ADDED BY STAFF

HISTORY & FACTS:

February 17, 2009. The Hearing Officer approved a use permit for the Church of Christ located at 1967 East Palmcroft Drive in the R1-6, Single Family Residential District for:

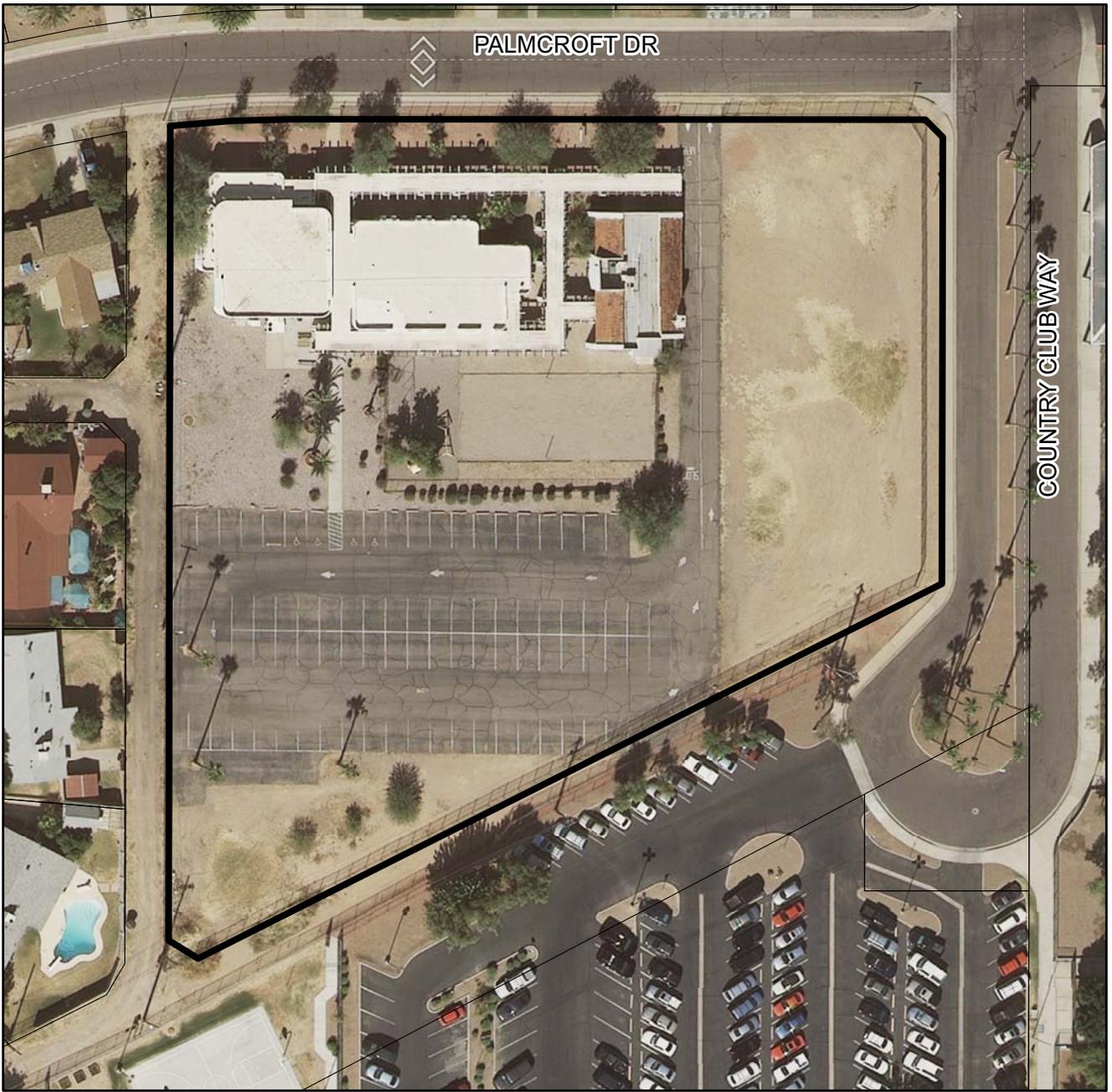
ZUP09001 Use permit to increase the allowable maximum fence in the front yard setback from four (4) feet to six (6) feet.

DESCRIPTION:

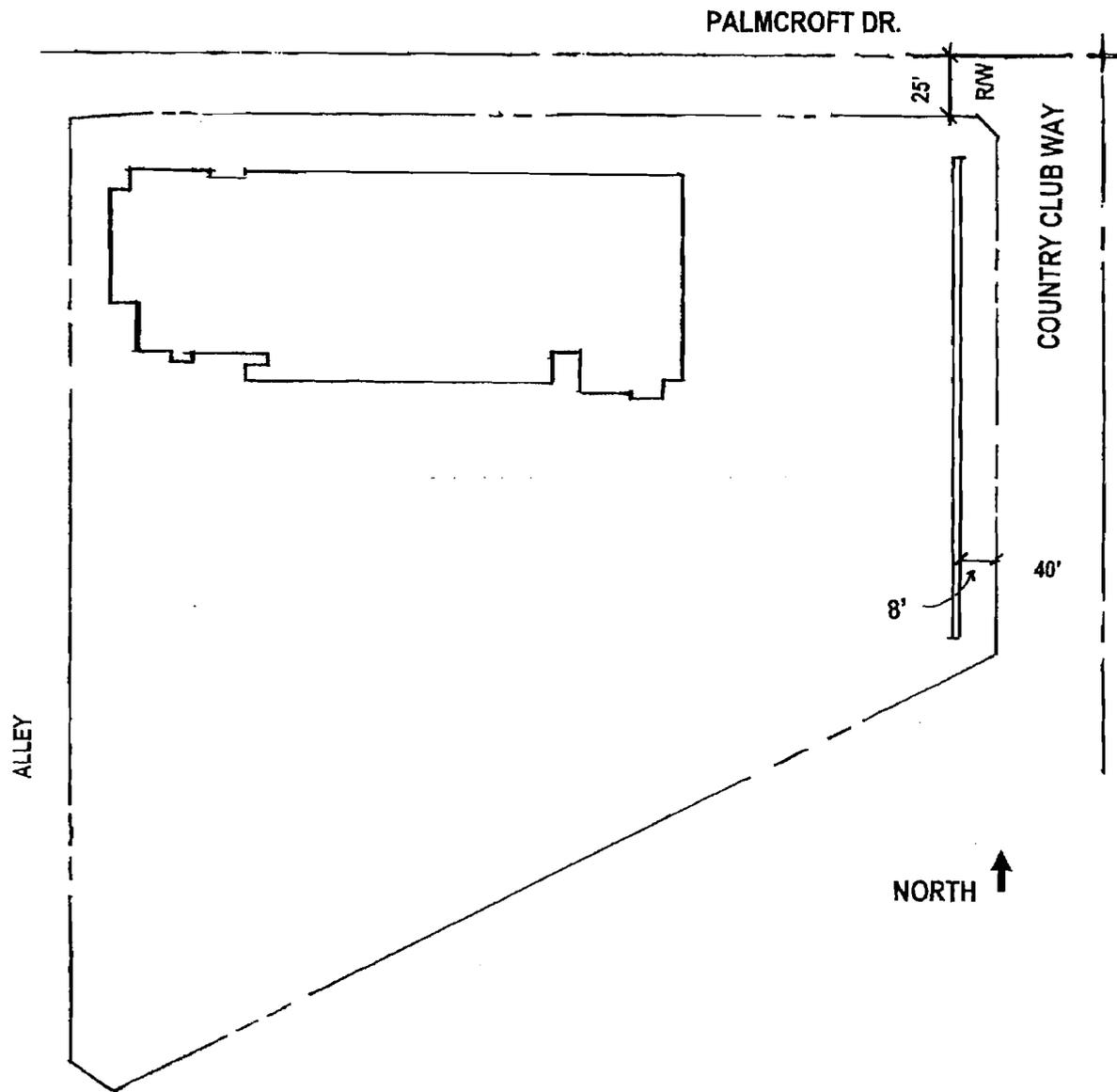
Owner – Church of Christ
Applicant – Abed Danganan
Existing Zoning – R1-6, Single Family Residential District

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 4, Chapter 7, Section 4-706 – General Fence and Wall Height Standards
Part 6, Chapter 3, Section 6-308 – Use Permit



CHURCH OF CHRIST (PL080474)



Development Services
Department

(480) 350-8331 (Phone)

February 27, 2009

Mr. Abed Danganan
Church of Christ
1967 East Palmcroft Drive
Tempe, Arizona 85282

**RE: CHURCH OF CHRIST
PL080474 / ZUP09001**

Dear Mr. Danganan:

You are hereby advised that at the hearing held February 17, 2009, the Hearing Officer of the City of Tempe, acting in accordance with Section 1-305, Paragraphs C and D, of the Zoning and Development Code:

Approved the request by the **CHURCH OF CHRIST (PL080474)** (Abed Danganan, applicant; Church of Christ, property owner) located at 1967 East Palmcroft Drive in the R1-6, Single Family Residential District for:

ZUP09001 Use permit to increase the allowable maximum fence height in the front yard setback from four (4) feet to six (6) feet.

Approved subject to the following conditions:

1. Approval is valid for the plans as submitted within this application.
2. Install a lock on the gate that allows for fire personnel access during non-business hours; contact Jim Walker, Tempe Fire Inspector at (480) 350-8341.
3. **Obtain Development Plan approval for expansion of the parking area with paving, striping, lighting and landscape. All approvals and installations to be completed within one year (February 17, 2010). ADDED BY STAFF**

Approvals are specifically conditioned upon the applicant proceeding with the proposed use(s) and/or variance(s) within twelve (12) months of the date of the approval by the Hearing Officer and required by the Zoning and Development Code.

In addition to proceeding with the approvals granted, it is understood that any and all conditions as stipulated by the Hearing Officer as indicated above, shall be fully complied with. If the action of the Hearing Officer was required for the purposes of rectifying any violations of the Zoning and Development Code, the violations shall be the responsibility of the applicant/owner to fully correct and achieve conformance.

CHURCH OF CHRIST PL080474
ZUP09001
February 27, 2009

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In sign-related violations, corrections shall be made within five (5) days of Hearing Officer action; in all other matters, corrections shall be made within fifteen (15) days of Hearing Officer action, unless specifically conditioned otherwise by the Hearing Officer. You are further advised that the above does not waive the requirements for obtaining building permits and other clearances as may be necessary.

Sincerely,

A handwritten signature in cursive script that reads "Sherri Lesser".

Sherri Lesser
Senior Planner

SL/dm

cc: File

**Minutes
HEARING OFFICER
FEBRUARY 17, 2009**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

David Williams, Hearing Officer
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II
Derek Partridge, Planner I
Steve Abrahamson, Planning & Zoning Coordinator

Number of Interested Citizens Present: 10

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by March 3, 2009 at 3:00 PM to the Development Services Department.

1. Mr. Williams approved the Hearing Officer Minutes for February 3, 2009.

2. Request by the **CHURCH OF CHRIST (PL080474)** (Abed Danganan, applicant; Church of Christ, property owner) located at 1967 East Palmcroft Drive in the R1-6, Single Family Residential District for:

ZUP09001 Use permit to increase the allowable maximum fence height in the front yard setback from four (4) feet to six (6) feet.

Mr. Abed Danganan was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no additional public input information had been received since the staff report had been issued. The applicant submitted this request after the fact of the fence installation. The major area of concern is that the fence be modified so that emergency personnel can access the area when needed when no one was present at the church. This concern has been addressed with the Condition of Approval No. 2.

Mr. Williams noted that his review of this property revealed that there are no visibility issues due to this wrought iron fence.

Bruce Bishop, City of Tempe resident, stated that he was opposed to the fence along Palmcroft Drive as he was concerned about fire access. He stated that he had resided at his present address since 1974 and found that it was blatant that the fence was erected without approval from the City. The fence is located right up against the sidewalk and, in order for church personnel to open the gate, they have to park in the street. There is no sidewalk along Palmcroft Drive. The church is using a large part of the unpaved dirt lot for parking and he feels that this issue should be addressed as part of this process. Mr. Bishop noted that there are school children who travel this area to a nearby school where there is no existing sidewalk and that this is a safety hazard. He asked if a sidewalk could be required.

Ms. Lesser stated that if they are parking in the unpaved area, a condition of approval should be added that DRP approval is required for parking lot modification.

Mr. Williams questioned whether this fence meets all other City requirements other than the height restrictions. Ms. Lesser confirmed that it does.

Mr. Donovan Rhodes spoke and noted that he had been a member of the church when the fence was originally erected in 1999. The fence contractor had informed church personnel at that time that all necessary permits had been obtained.

Regarding the lack of sidewalk, Ms. Lesser stated that she would have to confirm with Public Works if that portion of land is in the City right-of-way. During the Development Plan approval process, staff will work with the applicant to resolve the sidewalk issue and some sort of determination will be made at that time.

It was requested by the Head Deacon (Leo Jussica) that they be allowed to use the unpaved parking lot until the Development Plan approval is obtained as the regular parking lot is not large enough for everyone. If they do not park on the unpaved parking area, the overflow will then be required to park in the street.

Mr. Williams responded that he could not agree with this request, as what the parking in the unpaved area amounts to is a nuisance situation. He suggested that the overflow parking utilize the school parking lot to the south as the school is closed on the weekends until such time that Development Plan approval is obtained and improvements made.

DECISION:

Mr. Williams approved PL080474/ZUP09001 subject to the following conditions:

1. Approval is valid for the plans as submitted within this application.
2. Install a lock on the gate that allows for fire personnel access during non-business hours; contact Jim Walker, Tempe Fire Inspector at (480) 350-8341.
3. **Obtain Development Plan approval for expansion of the parking area with paving, striping, lighting and landscape. All approvals and installations to be completed within one year (February 17, 2010).**

ADDED BY STAFF

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3. Request by the **SINGH RESIDENCE (PL080475)** (Aish Singh, applicant/property owner) located at 820 West Tulane Drive in the R1-6, Single Family Residential District for:

ZUP09004 Use permit to allow parking in the front yard setback.

Mr. Aish Singh was present to represent this case.

Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input information had been received since the staff report had been issued. He stated that the site had been cleaned up to the City's satisfaction since the February 3, 2008 Hearing Officer hearing.



CHURCH OF CHRIST

1967 EAST PALMCROFT DRIVE

PL080474

FRONT OF CHURCH





CHURCH OF CHRIST

1967 EAST PALMCROFT DRIVE

PL080474

VACANT LOT TO THE EAST

