

Staff Summary Report



Hearing Officer Hearing Date: 10/04/11

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by the **MCMANUS RESIDENCE** located at 1428 South Oakley Place for one (1) use permit.

DOCUMENT NAME: 20111004cdkko01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **MCMANUS RESIDENCE (PL110313)** (Judith McManus, applicant/property owner) located at 1428 South Oakley Place in the R1-6, Single Family Residential District and the CRA, Cultural Resource Area for:

ZUP11084 Use permit to increase the maximum allowable height of a wall in the front yard setback from 4 ft. to 6 ft. as measured from the highest adjacent grade within 20 ft. of the fence.

PREPARED BY: Kevin O'Melia, Senior Planner (480-350-8432)

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

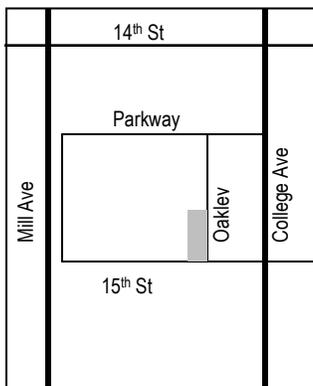
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is requesting a Use Permit to allow the increase from four (4) ft. to six (6) ft. of maximum allowable height for a freestanding fence-wall located in the front yard setback. The subject is a recently re-constructed wooden fence atop a concrete unit masonry wall. This fence-wall has replaced a wooden fence that was briefly removed but previously had existed for twenty-five (25) years at approximately this height and in approximately this location. The re-constructed fence-wall is the subject of a citizen complaint (CE112153) that is currently being processed by the Code Compliance Section. Planning staff has reviewed the application documents, has made site review and finds the re-constructed fence-wall meets Zoning and Development Code criteria for approval of a Use Permit.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-4. Applicant's Letter of Explanation
5. Neighbor Support List – Keep the Fence in its Current Location and Height
6. Before (top) and After (bottom) Photographs of the Fence and Residence from 15th Street
7. Designer's Site Plan, dated 05/11/2011 - Fence Layout and Sissoo Tree Layout Depicted
8. Staff Vignette Sketch of Fence-Wall with Reference to Highest Adjacent Grade, dated 09/14/2011
- 9-10. Reference Document: Tempe Historic Property Inventory Form: 1428 S. Oakley Place

COMMENTS:

The applicant is requesting a Use Permit to allow the maximum height for a fence-wall in the front yard setback to be increased from four (4) ft. to six (6) ft. A wooden fence has existed on the south of this property for approximately twenty-five (25) years. The fence recently was taken down and re-constructed to include a base of concrete unit masonry. The location of the fence-wall was changed slightly to place the fence-wall entirely on the subject property. Previously, the southern portion of the fence-wall adjacent to 15th Street was located in the public right of way. The materials of the fence-wall include a base of concrete unit masonry and a fence of vertical-slat weathered wood construction. The weathered wood is part of the original fence. The purpose of masonry base is to keep the wood above the level of flood irrigation in the lawn basin. The fence-wall as re-constructed is the subject of a citizen complaint (CE112153) received by the Code Compliance Section.

For the purpose of the Use Permit request, the height of the fence-wall as re-constructed "...shall be measured from the highest adjacent finished surface of the ground, paving or sidewalk within twenty (20) feet..." of the fence-wall. This is in accordance with Zoning and Development Code (ZDC) Section 4-706A. The location of the highest adjacent surface is the exterior concrete pavement at the southeast corner of the residence. The height of the fence is a nominal six (6) ft. above this pavement, as field measured by planning staff on September 14, 2011. There is an approximate one (1) inch variation in the top of fence-wall based on variations in length of the weathered wood vertical slats, but the top of fence-wall is essentially level from the southeast corner of the residence to the southwest corner of the property.

Portions of the fence measured adjacent to finish grade in the flood irrigation basin of the yard reach to a maximum of approximately seven (7) ft. six (6) inch in height. This reflects an eighteen (18) inch drop between the pavement grade at the southeast corner of the residence and the prevailing grade in the flood irrigation basin of the lawn. In keeping with ZDC Section 4-706(A), the measurement is taken from the paving at the southeast corner of the residence (the highest adjacent grade) and not from the flood irrigation basin (the lowest adjacent grade).

Like its predecessor, the purpose of the re-constructed fence-wall is to create a private yard to the south of the residence. Staff is in support of this design concept as indicated by the following analysis of approval criteria for Use Permit.

Use Permit

The subject site is a corner lot as defined by Zoning and Development Code (ZDC) Section 7-113(C.1.a.). This definition also establishes the front lot line as the shorter of the two lines adjacent to the streets. ZDC Section 4-706(A) requires a Use Permit to increase the maximum allowable height of a fence-wall in the front yard setback from four (4) ft. to six (6) ft.

ZDC Section 6-308 (E.2) Approval Criteria for Use Permits

- a. *Any significant increase in vehicular or pedestrian traffic.* The position and height of the fence-wall has no bearing on volume of vehicular or pedestrian traffic in the neighborhood.
- b. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.* Relocation of the fence wall to within the property line so it is away from the sidewalk edge reduces the potential of wood splinters for passerby, improves visibility to the intersection of 15th and Oakley, and removes the earlier conflict caused by a private structure within the public right of way.
- 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 reconstructed fence-wall in conjunction with the design renovation of Sissoo tree installation in the front yard (15th) and street side yard (Oakley) of this property at the same time is an enhancement to the neighborhood and benefits the property owner in the maintenance of personal privacy. The reuse of existing fence wood in the reconstruction of the fence-wall is a demonstration of conservation of materials.
- d. *Compatibility with existing surrounding structures and uses.* The design of the fence-wall and ordered rows of Sissoo trees in the front and street side yards are in character with the design of landscapes bordering both sides of 15th Street between Mill and College Avenues.
- e. *Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the*

surrounding area or general public. There is nothing either explicit or implicit within the proposal to maintain a private yard which by its description will create a nuisance to the surrounding area or general public.

Conclusion

Staff recommends approval of the Use Permit subject to one (1) condition of approval.

REASONS FOR APPROVAL:

1. The fence reconstruction was preceded by another fence of the same height in approximately the same location. The previous fence was located here, in the applicant's estimation, for approximately twenty-five (25) years.
2. The front lot line by definition faces 15th Street in accordance with ZDC Sec. 7-113 (C.1.a.). However, the front of the residence including the front door and driveway face Oakley Place. The yard between the residence and 15th Street naturally functions as a side yard.
3. The Tempe Historic Property Inventory Form (December, 2006) including the photo of the residence contained in the Form also indicates the east elevation (facing Oakley Place) as the front of the residence. The preservation of the residence and the east (entrance) elevation in close to its original form is the main reason the property contributes to the national register status for the University Park Addition subdivision.
4. As an enhancement to personal and neighborhood security, the private yard contained by the fence-wall shields south-facing bedroom windows from 15th street.

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

CONDITION OF APPROVAL:

1. Complete one of the two following processes no later than October 04, 2012, which is one (1) year from date of approval, or the Use Permit will expire.
 - a. Prepare structural detail and structural calculation of fence-wall construction, sealed by a registered structural engineer, and submit the detail and calculation along with the site plan of the fence-wall layout to the Building Safety Division. Obtain Building Permit from Building Safety Division for fence-wall construction in excess of six (6) ft. height. For the Building Safety application, height is as measured from lowest adjacent grade in flood irrigation basin to top of fence-wall, which is in accordance with Building Safety criteria for measurement of height of structures. Complete structural modifications (if any) to existing fence-wall in accordance with documents that have been approved by the Building Safety Division.
 - b. Remove the top of the fence-wall so the fence-wall, as measured from the lowest adjacent grade in the flood irrigation basin, is no greater than six (6) ft. in height. A building permit is not needed for a structure of this height.

HISTORY & FACTS:

- 1945: Subdivision plat for the University Park Addition and annexation of this area into the City of Tempe.
- c: 1954: Construction of a one-story residence at 1428 South Oakley Place.
- 2008: Addition of University Park Historic District to the National Register of Historic Places. This District is bounded on the north by 13th Street to the west of Forest Avenue, is bounded on the north by the alley between 13th Street and 14th Street to the east of Forest Avenue, is bounded on the east by McAlister Avenue, is bounded on the south by the Union Pacific Railroad right of way, and is bounded on the west by Mill Avenue.
Note: University Park Addition is designated by General Plan 2030 as a Cultural Resource Area. However, the University Park Historic District is not on the Tempe Register of Historic Places and is not part of a Historic Overlay District within the City.
Note: 1428 South Oakley Place contains one of the original houses of the University Park Addition and is designated a contributing property to the National Historic Register status for the University Park

Addition subdivision.

June 22, 2011:

Anonymous complaint filed (CE112153) concerning 1428 South Oakley Place for Deteriorated Landscape and Over height Grass/Weeds (City Code 21-3.b.8) and over height wall in front yard setback (Zoning and Development Code Sec. 4-706). Deteriorated landscape and over height grass and weeds have been resolved. Over height wall in front yard setback is the subject of this Use Permit request.

DESCRIPTION:

Owner and Applicant – Judith McManus

Assessor's Parcel Number – 133-17-014

Existing Zoning – R1-6, Single Family Residential District

Historic Designation – National Register of Historic Places – University Park Historic District. The subject site is Lot 2 of Oakley Place, a re-plat of a portion of the University Park Addition Subdivision.

GP 2030 Projected Land Use – Residential

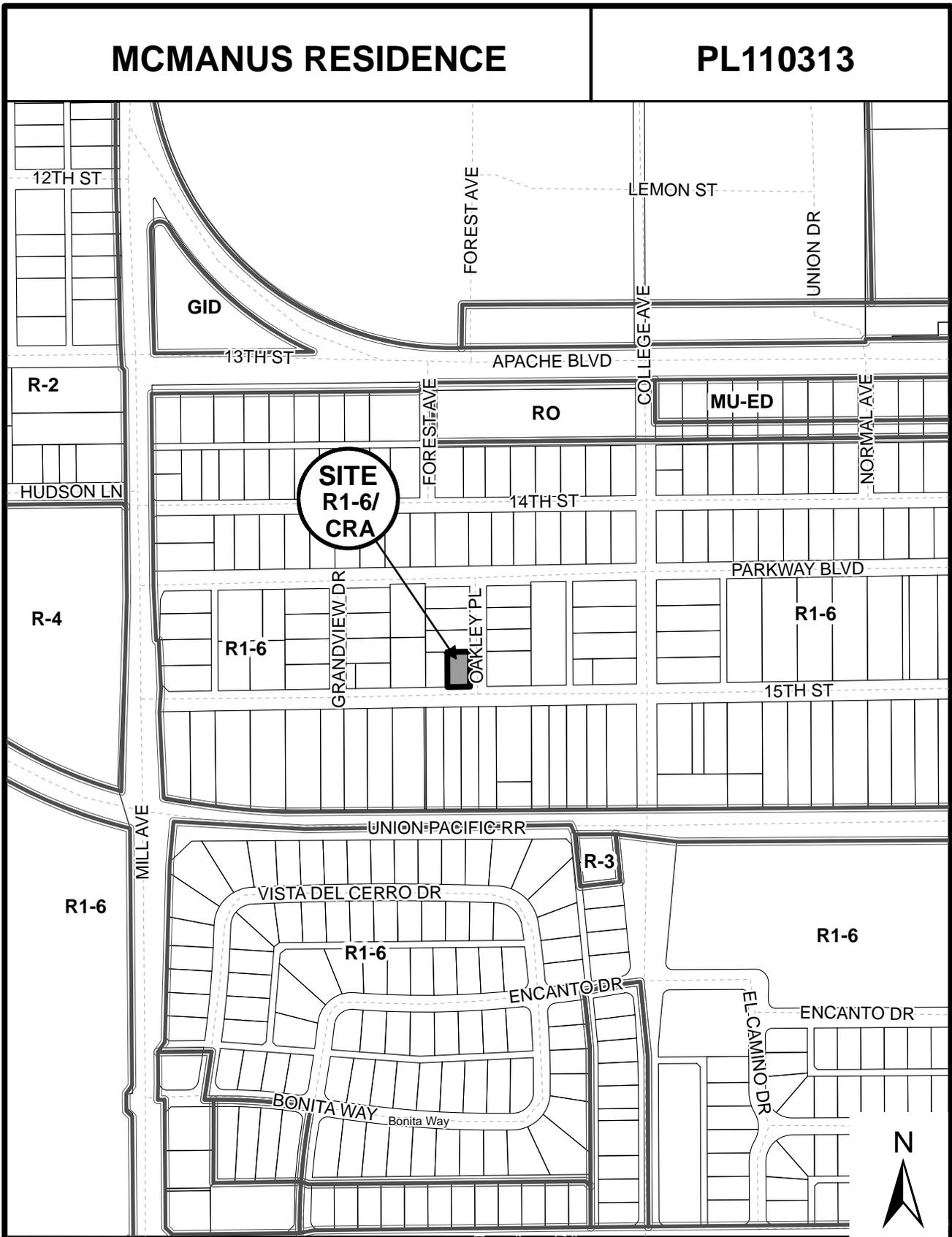
GP 2030 Projected Residential Density – CRA, Cultural Resource Area (4 dwelling units / acre)

**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

Part 4, Chapter 7, Section 4-706(A) – General Fence and Wall Height Standards

Part 6, Chapter 3, Section 6-308 – Use Permit



Location Map



MCMANUS RESIDENCE (PL110313)

August 20, 2011

Shawn Daffara
Code Inspector II
City of Tempe
Tempe, AZ

RE: Correction Notice Case # CE 112153

Dear Shawn,

I am responding to Correction Notice CASE #CE112153 regarding the location and height of my current fence located at 1428 South Oakley Place, Tempe, AZ 85281. I think that the fence should remain in its current location and height for the following reasons.

1. When I purchased my home in May 2011, my real estate agent and a representative of Wells Fargo (seller of property) stated that the front yard of my home faced east. My front door, house numbers, and front walkway face east. Moreover, my address is 1428 South Oakley Place. Therefore, the fence that faces 15th street does not surround my front yard and should not be subject to codes for a 4 foot height and 20 foot set-back.
2. When I purchased my home (and for about twenty-five years prior to my home purchase), there was a wooden fence that was about two feet closer to 15th street than my fence is now. Bill Tonnesen, my landscape architect, created a set-back in his design that would correspond to Tempe code requirements. I realized that I would lose backyard space, but I thought that I was adhering to the City of Tempe requirements.
3. When I first looked at my home in January 2011, the wooden fence was falling down, there were beer bottles between the fence and the sidewalk on 15th street, bottle trees were in the public lines, and the tree roots were surrounding the water, sewer, and gas lines. The lawn was transformed into

a beautiful area with trees, grass, and a structurally sturdy fence. I love the University Park neighborhood and I am proud that my landscape is an addition to the beautification of this area. In essence, where there were once beer bottles, mounds of bottle tree leaves, and a dilapidated fence, there are now Indian Rosewood trees and green grass against an attractive piece of organic architecture.

4. In June during a one hour period when no one was home, a bike was stolen from my carport. I filed a report with the Tempe police and have had a security check conducted in my home. If my fence was reduced in height, someone would be able to see into my bedrooms. This is a security risk and I strongly urge you not to force me to lower the height of my fence.
5. The fence is not obstructing any view of traffic on Oakley Place or 15th Street.
6. I went to sixteen homes in the University Park area today, requesting signatures of support for my request. All sixteen neighbors signed in agreement with my request (see attached support document with signatures).

Thank you for your consideration in this matter.



Judith McManus
1428 South Oakley Place
Tempe, AZ 85281

Aug. 20, 2011

I support the Project Submittal Application submitted by Judith McManus to keep the fence at 1428 South Oakley Place, Tempe, AZ 85281 in its current location and height.

NAME ADDRESS SIGNATURE

JOHN SCHAMPER

102 E 15TH TEMPE

JEFF BERTES

46 E 15TH TEMPE

George Orzul
Charles Allen

388 15th Tempe
22 E, 15TH ST

DEB GOFF

1433 S. Mill
Ave.

Brian Taylor

7 E 15 ST

CHIFF JONES

15 E. 15TH ST

Alana Wiesing

101 E. 15th St.

Bill & Pilar Tonnesen

105 E 15th St

Tom Lewis

107 E 15th St.

Ed Garnero

111 E. 15 ST

(Ed Garnero)

117 E 15th

Blaine Palmer

Blaine Palmer

Pam Newhart

111 E 15th St.

HEATHER CIZZERON
(NISSEN)

126 E 15TH ST

REBECCA HESCHER

122 E 15th St

CHAD KERLEY

1420 S. OAKLEY PL

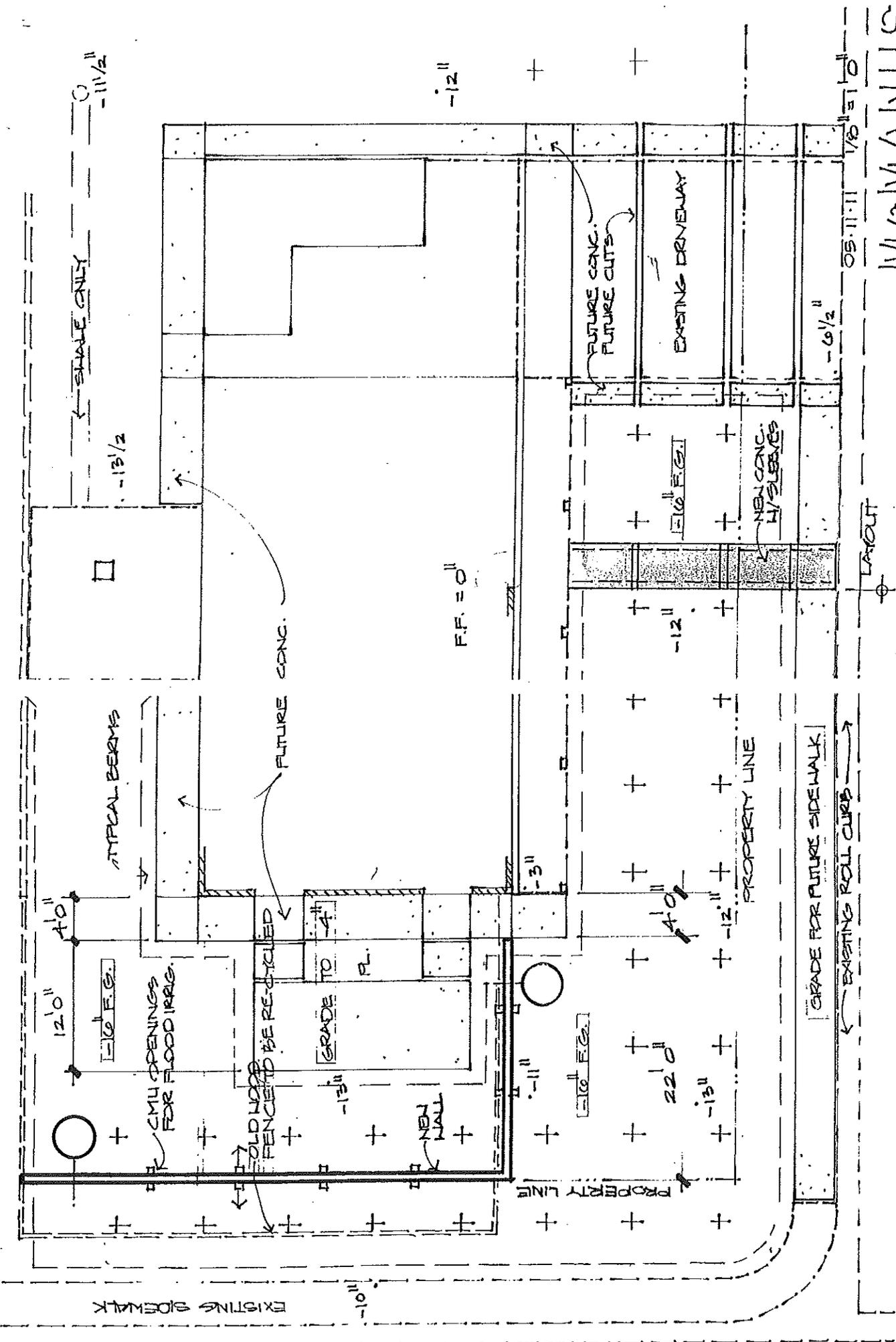
YORGI SPANOS

1420 S. OAKLEY

MIKE TAM

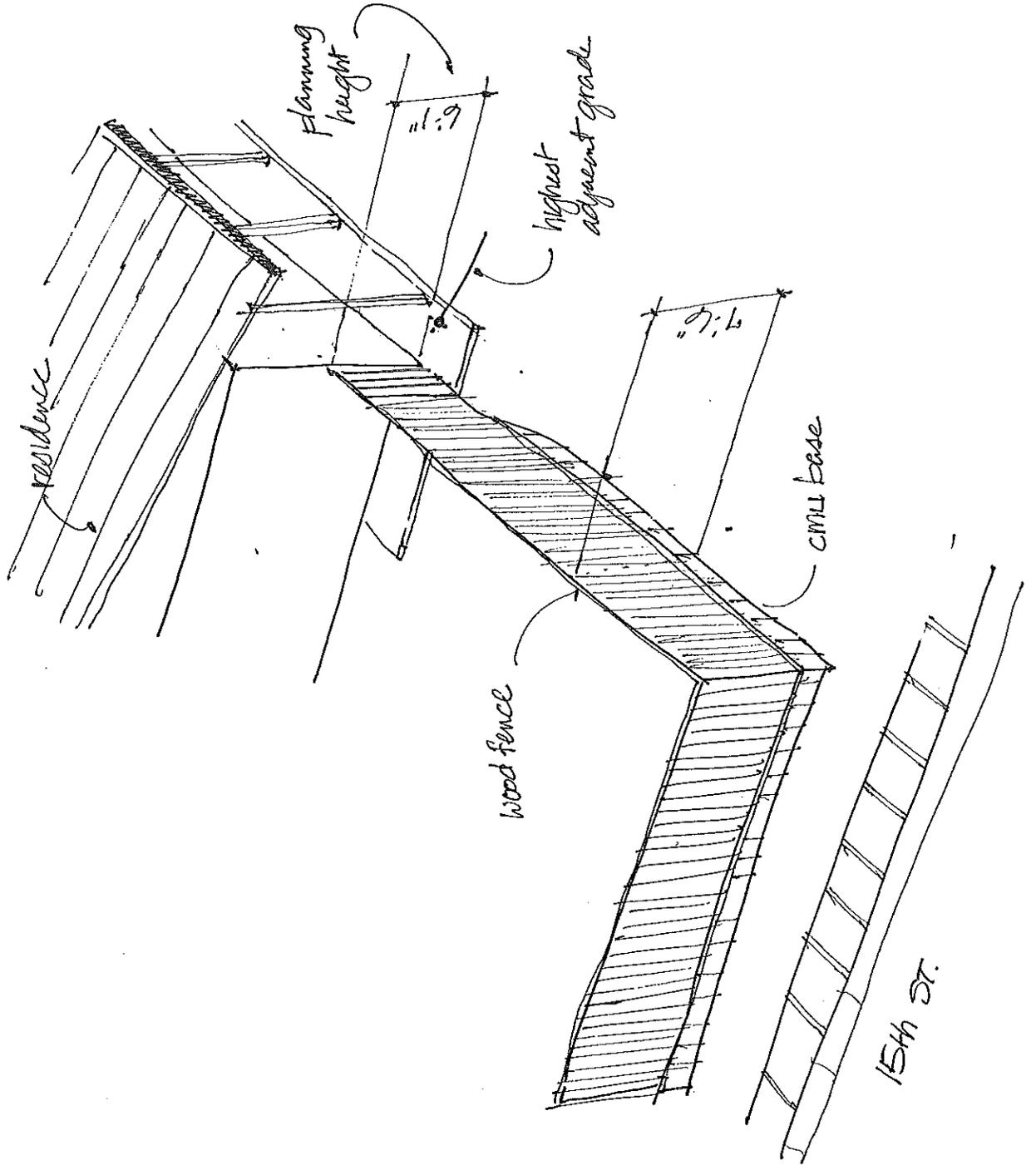
1420 S. OAKLEY





WCMANUS

9.14.11



Tempe Historic Property Inventory Form

Historic Preservation Office
Development Services
Department
132 E. Sixth Street, #101
Tempe, Arizona 85281

SURVEY NUMBER: UP-156
COUNTY: Maricopa
PROPERTY NAME: P. L. Mahr House (1958)
SURVEY AREA: Oakley Place

IDENTIFICATION

ADDRESS: 1428 S. Oakley Place

CITY: Tempe

PARCEL NO.: 133-17-014

LOT: 2

BLOCK: n.a.

PLAT: Oakley Place

TOWNSHIP: 1N

RANGE: 4E

SECTION: 22

QUARTER:

USGS QUAD: Tempe

UTM REFERENCE: Zone 12 Easting 412961.90456 Northing 3697179.4816 ACREAGE

PROPERTY TYPE

Residential

HISTORIC USES

1. Residential
- 2.

PRESENT USE: Residential

STYLE: Ranch

CONSTRUCTION DATE: 1954

SOURCE OF DATE

Maricopa County Assessor

ARCHITECT/BUILDER/CRAFTSMAN

unknown

STRUCTURAL CONDITION

good

INTEGRITY

fair

possible carport extension



Negative Number

1. DCP 382
- 2.

Date of Photo

1. 5/18/04
- 2.

View

1. NW
- 2.

Photographer or Source

C. Schmidt

Additional Photos Attached



ARCHITECTURAL DESCRIPTION

STORIES	1	APPLIED EXTERIOR ORNAMENT
FOUNDATION	concrete	
STRUCTURAL MATERIALS	unknown	
WALL CLADDING	brick	INTERIOR
ROOF TYPE	side gable	Not Accessible
ROOFING	composition	ENVIRONMENT/LANDSCAPING
OUTBUILDINGS	unknown	flood irrigation, older ash?
WINDOWS	steel sash	
ENTRY	side at carport	ALTERATIONS/DATES OF ALTERATIONS
PORCHES	full width veranda	possible conversion of 1-car carport to 2-car carport at right (north) end; partial infill of back half of right bay of carport

STATEMENT OF SIGNIFICANCE

1. Theme/Context

Residential Development in Tempe, Arizona, 1945-1960

2. Historical Association

This house is one of the original buildings in the University Park Addition, which was developed in 1945 on 80 acres of agricultural land located immediately south of Arizona State College (now Arizona State University) by E. W. Hudson and Kenneth Clark. It was one of three Tempe subdivisions platted at the end of the Second World War that were incorporated into the city—the first annexations to take place outside the original townsite. The Urban Development Company of Phoenix (headed by E. H. Shumway and Renz J. Jennings) marketed the subdivision to buyers as vacant lots, with purchasers and contractors responsible for construction, and it gradually filled with houses between 1945 and 1957, when the subdivision was effectively built out (some lots were not developed until the 1960s). In 1948 an underground irrigation system—a common feature of Tempe residential areas at the time—was built, and its continued operation to the present has given University Park an unusually lush informal landscape of well-watered lawns, large trees, and verdant gardens.

3. Architectural Association

The postwar Ranch house is distinguished from earlier styles, such as Minimal Traditional, by its horizontal or rambling appearance, deep eaves, low-pitch roof, and incorporation of a garage or carport into the house itself, either on the facade elevation or on a wing placed at right angles to the facade. Simplicity in design is another hallmark of the early Ranch house, which might consist of little more than plain block walls, casement windows, and a roof. In University Park, this tendency toward plainness is moderated somewhat by subtle details and the use of exterior building materials such as red brick, pumice block, and slump block. Although Ranch houses typically do not have porches, they often have broad overhanging eaves, with or without posts, over the entry.

BIBLIOGRAPHY / SOURCES

Tempe Historical Museum; University Park Neighborhood Association; 1997 Tempe, The past, the present, the future; 1997 Ryden survey; 2001 Solliday survey; 2001 Post World War II Subdivisions, Tempe, Arizona: 1945-1960

NATIONAL REGISTER STATUS

Contributing

REFERENCE FILES / REPORTS

SURVEYOR: J. Steely/C. Schmidt

SURVEY DATE: June 2004

FORM DATE: December 2006
