Tempe

CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION

Meeting Date: 04/12/2016
Agenda Item: 5

Q.J.

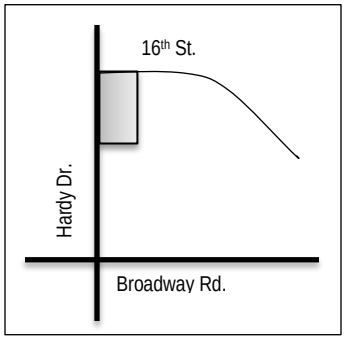
ACTION: Hold a public hearing for an appeal of the Hearing Officer decision to approve a Use Permit to allow a wall or fence over four (4) feet in height within the required front yard building setback for CHURCH IN PHOENIX (PL150387), located 1619 South Hardy Drive. The appellant is Kelly Woodson.

FISCAL IMPACT: N/A

RECOMMENDATION: Not applicable.

BACKGROUND INFORMATION: CHURCH IN PHOENIX (PL150387) is an existing church occupying the building at the southeast corner of Hardy Drive and 16th Street. Since acquiring the property in 2013, the church and has experienced trespassing, theft, and dumping. The applicant requests the installation of a six-foot high fence around the perimeter of the site to deter these behaviors in the future. On March 1, 2016, the Hearing Officer heard and approved a Use Permit to allow a fence over four (4) feet in height within the required front yard building setbacks. The appellant lives in the Parkside Manor 6 subdivision to the southwest of the site, and has appealed this decision. *NOTE: THIS ITEM IS A QUASI-JUDICISL MATTER. PRE-MEETING CONTACT WITH THE COMMISSION ON QUASI-JUDICIAL MATTERS IS PROHIBITED. ANY MATERIALS OR CONVERSATION CONCERNING THE ITEM SHALL ONLY BE PRESENTED TO THE COMMISSION AT THE SCHEDULED PUBLIC HEARING. The request includes the following:

1. Appeal Hearing Officer decision to approve a Use Permit to allow a wall or fence over four (4) feet in height within the required front yard building setback.



Appellant	Kelly Woodson
Property Owner	The Church in Phoenix, Inc.
Project Applicant	Mario Estrada, Estrada's Ornamental Iron Inc.
Zoning District	R1-6 (Single-Family Residential)
Site Area	2.38 acres
Building Area	4,864 s.f. total, 800 s.f. sanctuary
Vehicle Parking	40 spaces (8 min. required)

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Karen Stovall, Senior Planner (480) 350-8432

Department Director: Dave Nakagawara, Community Development Director
Legal review by: N/A
Prepared by: Karen Stovall, Senior Planner
Reviewed by: Suparna Dasgupta, Principal Planner

COMMENTS

The Church in Phoenix has been operating on the property since 2013. Since that time, the church has experienced burglary (reported to the Police Department in November 2015), vandalism, trespassing, dumping, and unauthorized parking of vehicles. The church also has concerns with the safety and liability of use of the children's playground and volleyball court south of the building. To address these issues, the church would like to install a six-foot high fence and combination wall and fence around the perimeter of the property. The request would be adding onto the existing iron view fence that runs along the south half of the property, adjacent to Hardy Drive. Where a three-foot high block wall exists along the north property line, the church proposes to add three feet of iron view fencing on top of the block wall.

Concurrent with this Use Permit request, the applicant has submitted a Development Plan Review (DPR) application. Approval of the DPR will include the addition of perimeter landscaping to update the appearance of the site.

PUBLIC INPUT

Staff received one phone call regarding this request. The caller wanted to know the proposed design of the wall along Hardy Drive, as she had concerns with the sound reflection that could be caused by a solid block wall. Staff informed her that the wall along Hardy was going to be a 6' high wrought iron fence. The call had no further concerns with the request.

USE PERMIT

The proposed use requires a Use Permit to allow a wall or fence over four (4) feet in height within the required front yard building setback within the R1-6 zoning district.

Section 6-308 E Approval criteria for Use Permit (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic.*
   The addition of a perimeter fence and a fence over four feet in height in the front yard along 16th Street will not cause a significant increase in vehicular or pedestrian traffic. The fence may actually reduce the amount of traffic by deterring individuals from accessing the property for unauthorized activities.

2. *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 fence in the front yard will not create a nuisance.

3. C*ontribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not 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 use will not contribute to the deterioration of the neighborhood or downgrading of property values, nor is it in conflict with the goals or objectives of the General Plan. The addition of the proposed fence and gates will deter individuals from accessing the property without owner authorization, which will assist the owner in upkeep and security of the site.

4. *Compatibility with existing surrounding structures and uses*.
   Other properties in the immediate area do not have walls over four feet in height in the required front yard setback; however, the two feet of additional height proposed by this applicant is not excessive. The applicant proposes to add three feet of view fencing on top of the existing three-foot high wall, which will allow visibility into and from the property.

5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.*
   The proposed fence will not generate disruptive behavior and may, instead, deter it.

Conclusion

Based on the information provided by the applicant, the public input received and the above analysis staff

recommends approval of the requested Use Permit. This request meets the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

CONDITIONS OF APPROVAL:

1. The Use Permit is valid for the plans as submitted within this application, dated September 14, 2015 and received January 25, 2016.

2. Any intensification or expansion of use shall require a new Use Permit.

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

- Specific requirements of the Zoning and Development Code (ZDC) are not listed as a condition of approval, but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through www.tempe.gov/planning/documents.htm or purchase from Development Services.

- All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8435.

- Any intensification or expansion of use, including shall require a new Use Permit.

HISTORY & FACTS:

May 11, 1960	Certificate of Occupancy issued for Tempe American Baptist Church, located at 1619 S. Hardy Drive.
June 4, 2002	Hearing Officer approved a Use Permit (BA020099) to allow a 4,064 s.f. Montessori school for pre-school and kindergarten for Living Hope Baptist Church – Suriya Montessori Education Center, located at 1619 S. Hardy Drive.
September 17, 2009	Development Plan Review staff of the Development Services Department approved a request for Tempe Salvation Army Corps Community Youth Center to adaptively reuse an existing church with extensive ground improvements, located at 1619 S. Hardy Drive.

ZONING AND DEVELOPMENT CODE REFERENCE:
Section 6-308 Use Permit

DEVELOPMENT PROJECT FILE
for
CHURCH IN PHOENIX
APPEAL
(PL150387)

ATTACHMENTS:

1-6. Letter of Appeal

7-9. Staff Report for Tempe Dogs 24/7 Hearing Officer Hearing March 1, 2016

10. Location Map

11. Aerial

12. Letter of Explanation

13. Site Plan

14-15. Hearing Officer Minutes of March 1, 2016

https://www.tempe.gov/Home/ShowDocument?id=39382 - copy of plan submitted does not include the gate fence

I would like to submit a formal appeal to the decision of the hearing officer made on March 1st, 2016. The hearing officer made the decision to approve the purposed plan in case PL150387.

Before I can begin to address the merit of appeal for the approval criteria for this use permit. I would like to point out some flaws in the presentation of necessary facts that have not been properly communicated in the use permit application and/or the CITY OF TEMPE HEARING OFFICER, MEETING DATE 03/01/2016, agenda item 3, also found at -
https://www.tempe.gov/Home/ShowDocument?id=39382

On page 1 of 8, under "ACTION" it says "Request approval for a use permit to allow a wall or fence over four (4) feet in height within the required front yard setback for CHURCH IN PHOENIX, located 1619 south hardy drive.

Pertinent information missing due the fact that the plan shows SIX (6) foot high closing parking lot gates on page 8 of 8 on this packet, Gates are not a fence or a wall, this should have been disclosed to make the public aware of the plan in its totality and failure to do so is a failure serving the public service communications of it full intent as this will create the appearance of a prison in our neighborhood.

On page 1 of 8, under "BACKGROUND INFORMATION", it says "Since acquiring the property in 2013, the church and has experienced trespassing, theft, and dumping. The applicant requests the installation of a six-foot high fence around the perimeter of the site to deter these behaviors in the future. The request includes the following: 1. Use permit to allow a wall or fence over four (4) feet in height within the required front yard set back."

Pertinent information missing due the fact that the plan shows SIX (6) foot high closing parking lot gates on page 8 of 8 on this packet, Gates are not a fence or a wall, this should have been disclosed to make the public aware of the plan in its totality and failure to do so is not serving the public service communications of it full intent as this will create the appearance of a prison in our neighborhood.

On page 2 of 8, under "COMMENTS" there is a summary of the reported crime on the property and that this proposed fence/wall combination.

Pertinent information missing due the fact that the plan shows SIX (6) foot high closing parking lot gates on page 8 of 8 on this packet, Gates are not a fence or a wall, this should have been disclosed to make the public aware of the plan in its totality and failure to do so is not serving the public service communications of it full intent as this will create the appearance of a prison in our neighborhood.

I would like to appeal this proposal based # 3 and #4 listed under Section 6 -308 E Approval criteria for use permit

#3 - Contribution to the deterioration of the neighborhood or to the down grading of property values, the proposed use is not conflict with the goals objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plan.

(Planner's response) The use will not contribute to the deterioration of the neighborhood or downgrading of property values, nor is it in conflict with the goals or objectives of the general plan. The addition of the proposed fence and GATES will deter individuals from accessing the property without owner authorization, which will assist the owner in upkeep and security of the sight.

This is the first time the word "GATE" has been communicated in this 8-page packet and has been selectively missing in prior sections and is very pertinent information to be neglected because of the profound visual and ascetic that it adds to the proposed plan. This proposed plan for a six foot high perimeter fence/ wall and selective mention of the total project including the "GATE" will contribute to the deterioration of the neighborhood by because the neighborhood will not be perceived as being a safe place and that the area requires perimeter fencing and security gates to be safe and that is just not true and not the image we want to have as a family community.

The city has made great improvements to become the #1 bicycle friendly city in Arizona. The city and tax payers have invested heavily in multi-million dollar projects to improve Hardy Drive between Broadway and University, which project has widened sidewalks and added bicycle lanes making our Hardy Drive a visual paradise on a highly commuted road. Having a fenced up building that will give the impression of a high security facility with 6 foot high perimeter fencing and locked gates will deteriorate the community image that we have worked hard to obtain and spent millions of dollars to do. As a member of the community expressed at the hearing, which was ignored by the hearing officer, this fence/wall/GATE will in fact down grade property values and is in direct conflict with the goals objectives of our community. The hearing officer failed to acknowledge public comment made about this and dismissed it as 'subjective'. This is not subjective but is objective and can be proven by assessing real estate values of other neighborhoods where a similar prison like facility was permitted in a family community.

The property values will be down graded because this property will no longer meet the principal of conformity nor does it comply with the land use code that the city and its residents works so hard to maintain. Compliance with the land use code creates conformity, maintains values, and ensures harmony between family homes and the surroundings. This fence/wall/GATE will directly counteract the conformity we have going in the neighborhood and thus lower overall home values and contribute to the deterioration of the neighborhood. Building a

fence/wall/GATE is a temporary cure for one property owner pushing their problem of vandalism to the surrounding community. The city cannot be complicit in allowing this to occur.

#4 - Compatibility with existing surrounding structures and uses

(Planer's response) Other properties in the immediate area do not have walls over four feet in height in the required front yard set back; however the two feet of additional height proposed by this applicant is not excessive. The applicant proposes to add three feet of view fencing on top of the existing three-foot high wall, which will allow visibility into and from the property.

The proposed plan is not compatible with the surrounding area, as there are no other properties in more than a 1-mile radius in a residential neighborhood with a six-foot fence/wall/GATE. The city has proper set backs and height limitations within the setback area's in accordance with the city's master plan, that is the reason why this use permit is required and why every home owner in our residential neighborhood does not build six-foot high fences/walls/gates within the front yard set backs. No homeowner or business ever wants to be a victim of property crime and we want to do everything we can prevent crime from happening, however the prevention methods of use need be considered in a logical, fair, and non-discriminatory way.

If every residential home owner who was a victim theft, or other property crimes was permitted to put up a six-foot fence/wall/GATE around the perimeter of their property including the front yard set backs thus, turning their residential property into something that mirroring the image and giving the public the perception of a compound or high security facility, that family friendly neighborhood image of our beloved TEMPE would be demised to look like a crime ridden neighborhood where citizens hide behind their fence/wall/GATE and that is NOT the TEMPE I live in nor that the councilmembers we elect to serve us want.

The proposals to this property will no longer meet the principal of conformity that is the value created when property is in harmony with its surroundings. This fence/wall/GATE will directly counteract the conformity we have going in the neighborhood and is unmatched by any other property of similar use. For example there are several properties in the area that are used for similar reasons/purposes listed below and they have been in the neighborhood for many years and can respect the harmony of our neighborhoods and don't need a fence/wall/GATE of six-foot height to serve their patrons and purpose and that is a very important subject to bring into consideration, consider the properties listed below, with the first listed also on Hardy Drive and only five blocks north from this proposed use permit site

Address: 1101 S Hardy Dr, Tempe, AZ 85281, New Beginnings in Christ - NO 6 FT FENCE REQUESTS

Address: 1735 S College Ave,Tempe, AZ 85281, St Augustines Episcopal Parish - NO 6 FT FENCE REQUESTS

Address: 41 E 13th St,Tempe, AZ 85281, Tempe Seventh-Day Adventist - NO 6 FT FENCE REQUESTS

Address: 1000 S Mcallister Ave,Tempe, AZ 85281, The Church of Jesus Christ of Latter-Day Saints - NO 6 FT FENCE REQUESTS

Address: 215 E University Dr,Tempe, AZ 85281, Tempe First United Methodist Church - NO 6 FT FENCE REQUESTS

Address: 711 W University Dr, Tempe, AZ 85281, City of the Lord Church - NO 6 FT FENCE REQUESTS

Address: 101 E 6th St, Tempe, AZ 85281, First Congregational Church - NO 6 FT FENCE REQUESTS

SUMMARY: There are no justifications for an approval of this "use permit application" It does not match the overall master plan of the City of Tempe. No other properties of simular use have sought the need of what this "Church in Phoenix" case PL150387 is requesting, this request being approved will be detrimental to the surrounding area by NOT CONFOMRMING or being UNIFORM with its surrounding residential settings which will down grade property values. Why is it that this property owner feels the need to request such an atheistic eye sore, proposal? Based on the 8 page proposal plan the fact that they have been a victim of crime is communicated on page 1 under "BACKGROUND INFORMATION", on page 2 under "COMMENTS", on page 2 under "APPROVAL CRITERIA FOR USE PERMIT #3 - (planner comments) WHICH WILL ASSIST THE OWNER IN UPKEEP AND SECURTIY OF THE SIGHT, and on page 7 (letter) "TO WHOM IT MAY CONCERN"

While the "approval criteria" does not mention the justification of the request, it is important to discuss the whole story and why the justification of being a "victim of crime" is not reason enough to deteriorate the surroundings. If it were not important it would have not been brought into this document on 4 separate occasions. The truth of the matter is that since the property owners took ownership of this property in 2013 it has done nothing but deteriorate from neglect and deferred matanience. The parking lot lights have not been operational and when they have been recently been repaired they have not been programmed to comply with code staying lit from dusk till dawn, nor do they meet requirements of the lighting requirements listed below from the City Zoning and Development Code. The property has not been properly managed in regards to landscape and watering trees (please see water consumption of this property with city water department). The property owners can take steps to prevent crime and achieve their over goal without the approval of this 6 foot perimeter fence/wall/GATE, by simply taking

care of the land, comply with code and show pride in ownership. The question must be asked why this property owner is experiencing vandalism but not all the other nearby religious facilities – is it because the property looks abandoned and therefore squatters go to sleep over night?

If their desire is to prevent vehicles from driving into their parking lot they can install a swing gate or rolling gate under four feet and it will not require a use permit.

If their desire is to prevent people from having access to the playground, simply put a lock on the entry gates to the playground area, a fence with access gates already exists and can be locked.

If their desire is to prevent persons from entering the "back yard" area where the volleyball area is they can simple install a gate from the North East corner of their building eastward to the wall the common block wall.

There is never a guarantee of stopping crime from happening we can only take steps to help prevent it and the neglect or lack of doing so by the property owners does not merit a "nuclear option" of adding a six-foot perimeter fence/wall/gate when they have not even taken the proper steps to help prevent crime in the first place. We should not have to suffer the negative effects to our community for their lack of attention and negligence.

PLEASE DO NOT APPROVE THIS USE PERMIT, and if it is not denied I would like an extension to collect signatures supporting the DENIAL of this proposal based on the fact that the "PUBLIC HEARING NOTICE" mailer failed to communicate the information about the 6 foot GATE and it was also omitted in multiple sections of the proposal as outlined above.

Section 4-801, Purpose and Applicability.
A. Purpose.
It is intended to ensure appropriate lighting levels that support way-finding and Crime prevention, assist people with visual impairments, allow flexibility in architectural
Design, minimize undesirable light and glare into adjoining properties and minimize light Pollution into the nighttime sky.

Section 4-803 Lighting Standards.
D. Specific Areas to be illuminated. The following areas on a building or development shall be illuminated to the minimum-security lighting levels shown below:

9. Parking lots, aisles and refuse areas shall be illuminated from dusk to dawn as follows:
a. Parking spaces for motor vehicles and bicycles shall be illuminated with two (2) foot-candles;
b. Parking lot drive aisles shall be illuminated with one (1) foot-candle;
c. Refuse areas shall be illuminated to two (2) foot-candles, with gates five (5) foot-candles;
10. All building entrances and vehicular gates at operator or locking mechanism shall be illuminated with five (5) foot-candles at the entrance and two (2) foot-candles within a fifteen (15) foot radius from the center point of the entrance; and
11. Secondary lighting may be required to supplement the primary security lighting Due to design elements and landscape conflicts, in order to meet the minimum lighting criteria.

CITY OF TEMPE
HEARING OFFICER

Meeting Date: 03/01/2016
Agenda Item: 3

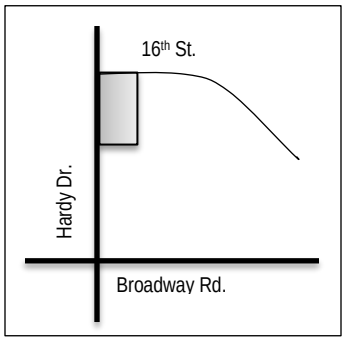
ACTION: Request approval for a Use Permit to allow a wall or fence over four (4) feet in height within the required front yard building setback for CHURCH IN PHOENIX, located 1619 South Hardy Drive. The applicant is Estrada's Ornamental Iron Inc.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

BACKGROUND INFORMATION: CHURCH IN PHOENIX (PL150387) is an existing church occupying the building at the southeast corner of Hardy Drive and 16th Street. Since acquiring the property in 2013, the church and has experienced trespassing, theft, and dumping. The applicant requests the installation of a six-foot high fence around the perimeter of the site to deter these behaviors in the future. The request includes the following:

1. Use Permit to allow a wall or fence over four (4) feet in height within the required front yard building setback.



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STAFF CONTACT(S): Karen Stovall, Senior Planner (480) 350-8432

Department Director: Dave Nakagawara, Community Development Director
Legal review by: N/A
Prepared by: Karen Stovall, Senior Planner
Reviewed by: Steve Abrahamson, Planning & Zoning Coordinator

COMMENTS

The Church in Phoenix has been operating on the property since 2013. Since that time, the church has experienced burglary (reported to the Police Department in November 2015), vandalism, trespassing, dumping, and unauthorized parking of vehicles. The church also has concerns with the safety and liability of use of the children's playground and volleyball court south of the building. To address these issues, the church would like to install a six-foot high fence and combination wall and fence around the perimeter of the property. The request would be adding onto the existing iron view fence that runs along the south half of the property, adjacent to Hardy Drive. Where a three-foot high block wall exists along the north property line, the church proposes to add three feet of iron view fencing on top of the block wall.

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Based on the information provided by the applicant, the public input received and the above analysis staff

recommends approval of the requested Use Permit. This request meets the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

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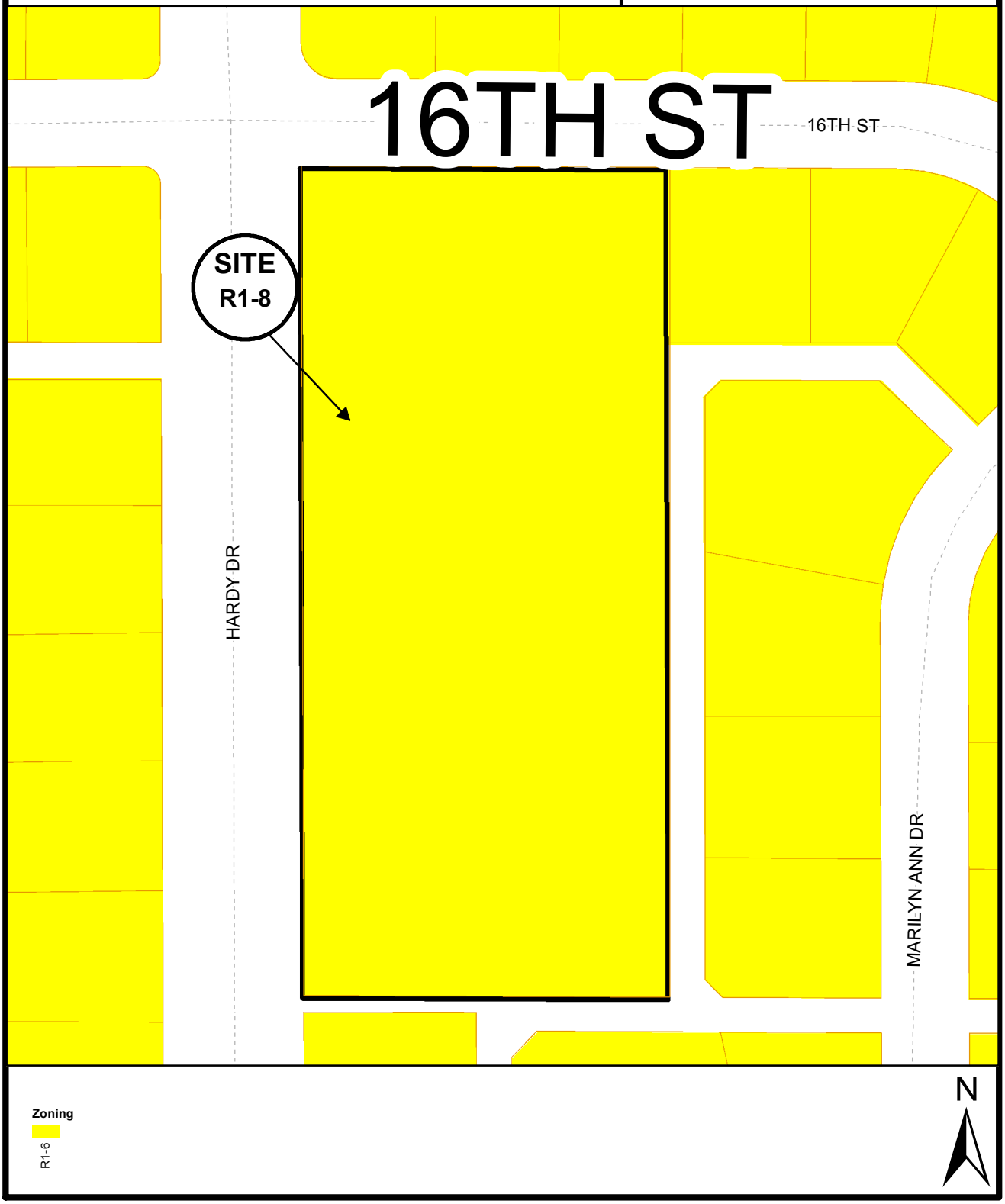
ZONING AND DEVELOPMENT CODE REFERENCE:
Section 6-308 Use Permit

Tempe

CHURCH IN PHOENIX	PL150387



Location Map

Tempe

CHURCH IN PHOENIX	PL150387

Aerial Map

December 8, 2015

To Whom It May Concern

This notice is a Letter of Explanation to set forth the goals and objectives of the proposed project to construct a 6 ft. fence at the Church in Phoenix, Inc property located at **1619 S Hardy Drive, Tempe, AZ 85281**.

Since acquiring the property in 2013 we have had several acts of trespassing (including individuals staying overnight and unauthorized vehicle parking), theft of one of our A/C unit, a break into the irrigation control panel and illegal trash dumping.

Since we last approached city of Tempe regarding this project, our property was burglarized with over $2,000 worth of equipment having been stolen from inside the premises on 11/28/2015 (Tempe Police Report: **15-146749**).

In addition to the above security needs, we have also been concerned about public safety and liability issues arising from the use of the children's playground and the volleyball court at the property.

In order to address the current situation, we believe that increasing the height of the fence to 6 feet around the front and side entrance area together with installing lockable gates would help restrict unauthorized access to the grounds.

We ask for your favorable consideration of our request in the near future.

Please, do not hesitate to contact me regarding this project, should you need any additional information.

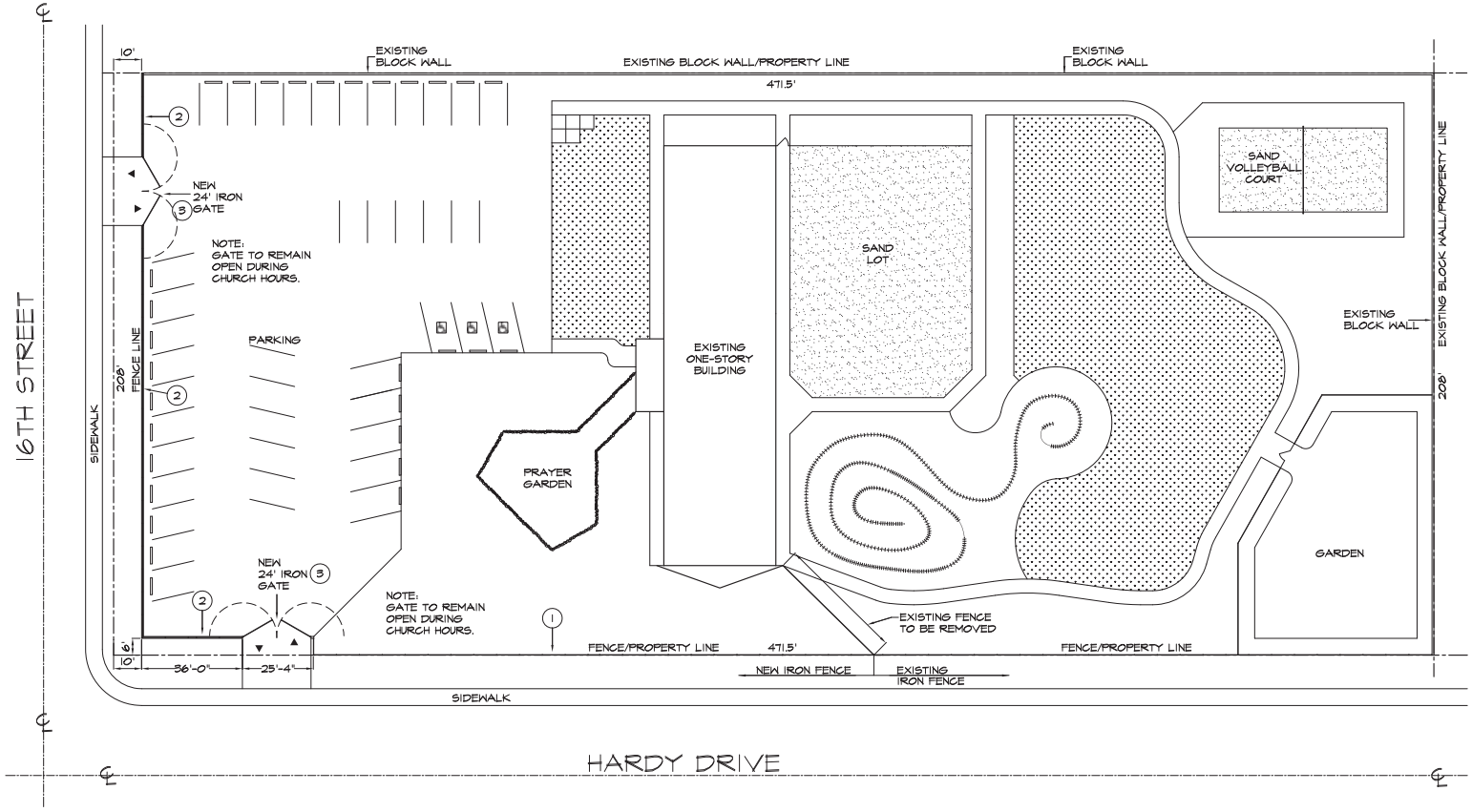
Yours sincerely

Min-Yi Hsu

Secretary, Church in Phoenix, Inc.

CHURCH IN PHOENIX

APN 124-66-299A



SITE DATA

CONTACT
CHURCH IN PHOENIX INCORPORATED

SITE
1849 S. HARDY DR. APN 124-66-299A
TEMPE, AZ 85281

LOT SIZE
104,023 SQUARE FEET

ALL CONSTRUCTION SHALL COMPLY WITH THE FOLLOWING CODES AND ORDINANCES AS THEY APPLY DURING CONSTRUCTION:

2012 International Building Code
2012 International Residential Code
2012 International Mechanical Code
2012 International Fire Code
2012 International Plumbing Code
2012 International Existing Building Code
2012 International Energy Code
2012 International Fuel Gas Code
Current Zoning Ordinances
2011 National Electrical Code

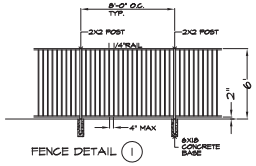
BUILDING CODES:

VICINITY MAP

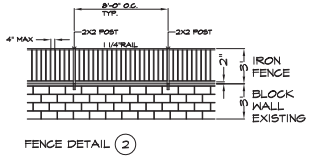
PROJECT DATA

NORTH

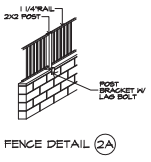
0 5' 10' 20'
SCALE : 1" = 20'



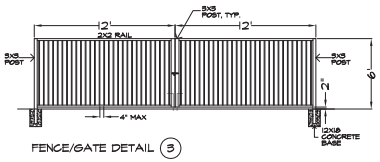
FENCE DETAIL (1)



FENCE DETAIL (2)



FENCE DETAIL (2A)



FENCE/GATE DETAIL (3)

NOTE:
-BLOCK WALL AT FENCE DETAIL "2" IS EXISTING.
-NEW FENCE WILL BE PAINTED TO MATCH EXISTING FENCE.

Call at least two full working days before you begin excavation.
ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
In Maricopa County: (602) 263-1100

Casa Drafting, LLC
residential floor plans (480)703-2379

CHURCH IN PHOENIX
TEMPE, AZ

DATE: 9-14-2015
SCALE: AS NOTED
DRAWN: JH
JOB: 2015-17

SHEET
S1

from the months of September to December and shall be limited to eight truck trips per day. **No complaints from this use.**

5. Prior to commencement of the use, the developer shall install a 16-foot high masonry wall on the north side of the truck court. The location of this wall is noted as site plan key note 32. This wall shall be maintained until such time a building is constructed in phase two that will serve as a buffer in place of the wall. **Completed.**

6. All trucks accessing the truck court before 6:00 a.m. and after 10:00 p.m. shall be directed to do so via Elliot Road and the internal loop road. Shutterfly Way shall not be used for delivery trucks. **No complaints from this use.**

7. No Delivery Access" signs shall be installed along Shutterfly Way. Specific sign language and locations shall be submitted and approved prior to installation and before Certificate of Occupancy. **Completed.**

8. The applicant shall return to the Hearing Officer for review of compliance with the conditions of approval by ~~June 30, 2016~~ **MARCH 2017. MODIFIED BY HEARING OFFICER ON 3/1/16.**

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3. Request approval of a use permit to allow a wall or fence over four (4) feet) in height within the required front yard building setback for **CHURCH IN PHOENIX (PL150487)** located at 1619 South Hardy Drive. The applicant is Estrada's Ornamental Iron Inc.

   Karen Stovall, Senior Planner, gave an overview of this case, and, using a site plan, showed where the proposed fence installation would occur. She noted that the Church in Phoenix has been operating on the property since 2013. Since that time, the church has experienced burglary, vandalism, trespassing, dumping and unauthorized parking of vehicles. The church also has concerns with the safety and liability of use of the children's playground and volleyball court south of the building. The church would like to install a 6 ft. high fence and combination wall around the perimeter of the property. It would be adding onto the existing iron view fence that runs along the south half of the property, adjacent to Hardy Drive. Where a 3 ft. high black wall exists along the north property line, the church proposes to add 3 ft. of iron view fencing on top of the block wall.

   Ms. Stovall stated that staff had received two (2) phone calls regarding this request, and that one phone call concerned how the property had not been kept up. The other caller wanted to know the proposed design of the wall along Hardy Drive as she had concerns with the sound reflection that could be caused by a solid block wall. That caller had no concerns with the proposed wrought iron fence.

   Ms. MacDonald stated that, for the benefit of the audience, the applicant's request involved a 2 ft. increase in fence height. She asked Ms. Stovall where the boundaries of the proposed installation would occur.

   Ms. Stovall indicated those boundaries on a copy of the site plan, and noted that the applicant would be going thru the Development Plan Review process prior to installation.

   Ms. MacDonald acknowledged speaker cards from members of the audience who wished to speak on this case as follows:

- Kelly Woodson, Tempe resident, spoke in opposition to this request. He stated that a 6 ft. fence creates a perception of a compound and that a residential neighborhood should not have 6 ft. high fences. He questioned the purpose of this establishment (i.e. church) and whether it was a profit or non-profit entity. He indicated that this church used to be occupied by the Salvation Army but that the building has looked completely empty and abandoned for 2 or 3 years. Mr. Woodson indicated that it is important to consider the perception of this location and how it fits into the surrounding community. He noted that he is concerned that the gates will be closed the majority of the time making it appear as if there are security issues. He questioned the issue of vehicle parking on the site. This type of situation does not speak to the Hardy Drive improvements.

  Ms. MacDonald responded that the issue of whether this church is a profit or nonprofit is not the issue for tonight's public hearing and it is not appropriate to address that subject at tonight hearing.

- Mr. Min-Yi Hsu noted his presence at tonight's hearing and that that he was affiliated with the church.

- Natalie Joshi, Tempe resident, stated that she supports this request and feels that it will improve the appearance of the property.

- Tom Cooney, Tempe resident, stated that he is in support of this request. He explained that the church has installed lights in the parking lot which shined light into his home. He noted that he had addressed the issue with church personnel, had a good conversation with them and that they adjusted the lights.

- Ken Casebolt, spoke on behalf of the church. Ms. Stovall gave him a copy of the Staff Summary Report including the assigned Conditions of Approval which were read to him for his information. He stated that he understood the conditions and had no issues with their compliance. He addressed the comment(s) regarding the property not being kept up by explaining that the property was labor intensive due to the size of the parcel, and that weeds and landscape issues had been actively pursued for resolution. He stated that the objective of the fence was to provide public safety as well as restricting unauthorized access to the grounds by extending the existing fence around the perimeter and including lockable gates.

  Mr. Casebolt stated that the church's mission was to represent approximately 104 countries and to assist with whatever they need. They hold prayer meetings on Tuesday evenings and act as an outreach to ASU students. He noted that they do not intend to be poor neighbors and will be updating the landscaping design and maintaining the property.

Ms. MacDonald stated that tonight's hearing is not about the landscaping and that it sounded like the applicant is actively working to resolve any property related issues.

Ms. MacDonald noted that this request meets the criteria for a use permit:
1. There will be no significant increase in vehicular or pedestrian traffic.
2. The proposed fence in the front yard will not create a nuisance.
3. The use will not contribute to the deterioration of the neighborhood or downgrading of property values. The addition of the fence and gates will assist the owner in upkeep and security of the site.
4. The use is compatible with the existing surrounding structures and uses.
5. The proposed fence will not generate disruptive behavior and may, instead, deter it.

DECISION:

Ms. MacDonald approved the use permit for PL150387 subject to the following Conditions of Approval:
1. The use permit is valid for the plans as submitted within the application, dated September 14, 2015 and received January 25, 2016.
2. Any intensification or expansion of use shall require a new use permit.