



CITY COUNCIL AGENDA REPORT

MEETING DATE: JUNE 21, 2004

ITEM NUMBER:

SUBJECT: APPEAL OF CONDITIONAL USE PERMIT PA-04-08 AND MINOR CONDITIONAL USE PERMIT ZA-04-07
1964 ORANGE AVENUE – ST. JOACHIM CATHOLIC CHURCH

DATE: JUNE 10, 2004

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: MEL LEE, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER
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RECOMMENDATION:

Conduct a public hearing and either uphold, reverse, or modify Planning Commission's decision.

BACKGROUND:

The applicant is requesting a conditional use permit to demolish several buildings on the site, including the parish hall, administration building, and several classroom buildings, to accommodate the new classroom building and gymnasium/multi-purpose building. The number of parking spaces required by code is based on the number of fixed seats for the main sanctuary (211 parking spaces). The site currently provides 278 on-site spaces, 67 spaces in excess of code, which includes the athletic field, used as an overflow parking area, and approved under a prior CUP (PA-90-01).

The applicant is also requesting a minor conditional use permit to accommodate 7 temporary trailers on a portion of the athletic field to house the classroom facilities while the new buildings are being constructed. The on-site parking and open space would be temporarily reduced to accommodate the trailers during construction of the new buildings (189 parking spaces and 38% open space, respectively). When construction is completed and the trailers are removed, the open space and number of parking spaces (278 spaces and 41% open space, respectively) will exceed code requirements. The applicant anticipates completion of the project by September, 2005.

On May 24, 2004, Planning Commission, on a 5-0 vote, approved the requests. On June 1, 2004, Council Member Steel appealed Planning Commission's approval on behalf of "concerned area residents."

ANALYSIS:

In the appeal, the appellant has identified numerous issues; these issues and staff's responses are discussed below.

REASONS FOR APPEAL:

Appellant's Issue #1

The final revised architectural plan for the property was not available to Planning staff, Commissioners, or public until the May 24th Commission meeting.

Staff Response

The revised plans submitted for the May 24th Commission meeting incorporated minor changes to remove the trash enclosure and loading area south of the proposed gymnasium/multi-purpose building, to address concerns raised by the owner of the abutting residential property at 220-222 Walnut Street. Additional modifications included installation of landscape planters on the south side of the building to provide a buffer for the abutting property, and the addition of pedestrian gates to limit access to this area. Again, these modifications were in response to concerns raised by the abutting property owner.

Appellant's Issue #2

The Planning staff's additional conditions were not published or otherwise made available to the public prior to the May 24th Commission meeting.

Staff Response

Staff's additional recommended conditions of approval (conditions 20 through 25) were drafted to address concerns raised by the owner of the abutting residential property at 220-222 Walnut Street. The conditions were drafted the day of the Commission hearing, copies of the conditions were presented to the applicant and the interested neighbor prior to the hearing, and were discussed during the hearing. The Commission added condition of approval number 26 during the hearing.

Appellant's Issue #3

The notice signage and information noticing the Planning Commission meeting were faulty.

Staff Response

The public notice incorrectly identified the square footage of the proposed 2-story classroom building as 11,084 square feet (the actual square footage of the proposed building is 19,127 square feet), which was due to the building square footage being incorrectly identified on the submitted plans.

Staff determined that the project scope was substantially the same, and the erroneous square footage would not prejudice the hearing. Also, only one on-site notice was posted (one notice should have been posted on each of the four street frontages). Both problems were corrected in the notice for the Council appeal hearing. Notices were also sent via postcards to all property owners within 500 feet of the subject property and notices were published in the newspaper for both hearings.

Appellant's Issue #4

The school presently has 227 (sic) students. The application for the project, Planning staff considerations and report, and all written and verbal communication about the project to the City and the public stated there would be 272 students and no increased impact by the project. At the May 24th Commission meeting the Commission approved 350 students, which would be 29% more than now enrolled, without notice that the issue was even to be considered.

Staff Response

According to information submitted by the applicant, the current enrollment for the school is 272 students which is the enrollment cited in the Planning Commission staff report. During the hearing, the Commission raised questions as to the maximum allowable student enrollment. The conditional use permit previously approved for a 1990 expansion (PA-90-01) did not contain a condition of approval limiting student enrollment. However, that staff report indicated the facilities could accommodate a maximum of 335 students.

Condition number 24 for PA-04-08 originally limited student enrollment to 272 students. However, when the applicant indicated that the current enrollment was below capacity, the Commission agreed to allow a maximum capacity of 350, since this would not represent a significant increase (only 15 students more) above what could be accommodated by the existing facilities.

Appellant's Issue #5

The square footage of the new buildings is a dramatic increase in space, which will be available for church and private functions in addition to school use.

Staff Response

Although the proposed expansion would result in a 33 percent increase in building area for the site (approximately 13,000, square feet), the size of the church sanctuary and number of classrooms will remain unchanged, although the student capacity will be increased slightly, as previously noted. The purpose of the expansion is to upgrade the existing facilities.

Therefore, substantial impacts as a result of the proposed expansion are not anticipated since there is no significant increase in operation of the church, school, or related facilities.

Appellant's Issue #6

The May 24th Commission meeting notice indicates the open space requirement is not met.

Staff Response

The reduction in open space (as well as parking) was addressed through the minor conditional use permit, rather than through a variance, because both reductions are temporary in nature (to accommodate the construction of the proposed buildings); the site will be restored to code compliance once construction is completed.

Appellant's Issue #7

Representations by the church's architect to affected residence at 220 Walnut between the study session and the Commission meeting were not finalized or confirmed in writing prior to the May 24th Commission meeting.

Staff Response

At the hearing, the abutting owner at 220-222 Walnut Street stated he had met with the applicant to discuss his concerns; however, City staff was not a party to this meeting or witness to any discussions between the applicant and the abutting property owner.

Appellant's Issue #8

The Commission was conflicted about how to solve the neighborhood street parking, excessive noise and litter (including filled diapers left on neighbors lawns) problem.

Staff Response

To address the parking issues raised at the meeting, the Commission added a condition of approval (condition number 26) requiring the applicant prepare a parking and traffic management plan to be reviewed by staff. In addition, the operational conditions approved as part of PA-90-01 (condition number 6), which included parking provisions during various church functions, were incorporated into the new CUP to ensure the original conditions continue to be complied with. Also, condition number 9 requires the applicant to make whatever operations modifications are necessary if parking problems occur.

With regard to noise and litter problems, staff advised the Commission that those types of problems would be code related issues, although the City's Code Enforcement Division has no record of complaints related to such incidences.

In any event, church related noise and litter would not be legitimate candidates for conditions of approval for the proposed expansion of the school and multi-purpose building facilities.

Appellant's Issue #9

The Council has established "guidelines" regarding the institution of resident street permit parking but the Commission was not clear on its responsibility to address parking issues in the Conditional Use Permit and did not act.

Staff Response

During the hearing, the Commission was advised that the Transportation Services Division, and ultimately the City Council, could address resident-only street parking. The Commission was further advised that they could make a recommendation to Council on this issue, but chose not to do so. Resident permit parking can only be approved in accordance with City Council guidelines which require: (1) a majority support of residents in the area by petition; (2) parking intrusion by non-resident vehicles must exceed 50% of available parking; and, (3) approval by City Council. A petition has been submitted to the City's Transportation Services Division, which is in the process of conducting a survey of the affected area.

Appellant's Issue #10

The Commission did not act on important issues regarding parking, traffic circulation, trash, creation of new pedestrian traffic near private residences, and other matters.

Staff Response

As indicated earlier, the purpose of the proposed expansion is not to increase the size, number, or frequency of church activities, but rather to upgrade the existing school and multi-purpose facilities. As such, the Commission determined that the proposed project would not worsen the issues raised by the appellant, and adopted conditions of approval to specifically deal with concerns related to parking and traffic circulation issues of the proposed expansion.

Appellant's Issue #11

Representations by the school at the May 24th Commission meeting need to be reduced to writing and become part of the file and the conditional use permit requirements.

Staff Response

The testimony provided by the applicant during the hearing is part of the public record and reflected in the minutes attached to this report. During the hearing, the applicant presented a color exhibit for the gymnasium/multi-purpose building, and proposed additional landscaping on the south side of the building in response to concerns raised by the abutting property owner.

Although these were discussed at the hearing, they were not incorporated into conditions. Council may wish to add a condition specifying compliance with the materials/color board presented by the applicant.

Appellant's Issue #12

The Council may want to review the height and mass of the buildings.

Staff Response

As noted during the hearing, the edge of the gymnasium/multi-purpose building roof line is 29 feet in height, is set back approximately 30 feet from the rear property line of the abutting property, and 70 feet from the existing structures on the abutting property. There are no windows on the elevation facing toward the abutting property, therefore, privacy impacts are not anticipated. The applicant removed the trash enclosure and loading area on the south side of the building and agreed to provide decorative landscaping to screen and soften the side of the building facing toward the abutting property. A revised plan showing these modifications was presented during the hearing.

Appellant's Issue #13

Public testimony requested undergrounding of utilities.

Staff Response

Code Section 13-70 (General Site Improvement Standards) requires undergrounding of overhead utility services to new buildings, which the applicant is required to comply with, but it is beyond the scope of the proposed project to require the property owner to underground all existing overhead lines, some of which serve other properties.

NEEDED NEW CONDITIONS:

27. *The area between the multipurpose building and Walnut residence property shall not be used for pedestrian traffic, parking, trash collection, or storage, and shall be gated or otherwise obstructed to permit only emergency and maintenance access, but not other use.*

Staff Response

As indicated earlier, the revised plans submitted for the May 24th Commission meeting incorporated minor changes to clarify removal of trash enclosure and loading area south of the proposed gymnasium/multi-purpose building. The revised plan shows a handicap parking space and a "pedestrian only" gate in this area. This area, which is currently not gated, is used by pedestrians walking between parking areas to the east and the church and school buildings to the west. Council may impose additional restrictions on the use of the area between properties if it is deemed necessary.

28. *There shall be no amplified sound used outside.*

Staff Response

This issue is generally addressed in condition number 8. However, Council may modify this condition to specify that no outside amplified sound is permitted except for the school operation during daytime hours (i.e., recess announcements or other public address announcements and events with valid special event permits).

28. *The church shall install a curbside sidewalk between the Walnut Street parking lot and the sanctuary parcel subject to permission from the neighbor.*

Staff Response

This issue was discussed during the Commission hearing. The Commission determined that it was not appropriate to require the church to construct new sidewalks since there is no correlation between the current church operation, and the proposed expansion of the school and multi-purpose building facilities.

29. *There shall be no use of auxiliary buildings after 10 P.M.*

Staff Response

The conditional use permit approved for the 1990 expansion (PA-90-01) did not contain a condition with an hours limitation, and no such condition was imposed for the proposed expansion.

30. *There shall be a phone number published to the neighbors, police and City, answered by a live person during all hours of activities on the school/church/residence property. The person shall have authority to take immediate action to correct any problem.*

Staff Response

This issue is partially addressed in condition number 9. The applicant is willing to provide a phone number and contact person if future problems occur.

32. *Deliveries, trash collection, trash storage, loading and unloading of goods shall be maintained in areas as used prior to this permit and may not be extended to the Walnut Street parking lot or ingress or egress there from.*

Staff Response

This condition appears to relate to the appellant's concern with the proposed trash enclosure location in the parking area facing Walnut Street, and its proximity to the abutting property owner. Since all other properties surrounding the church/school are residential, any impacts (such as trash facilities, loading and unloading areas, etc.) that are relocated, will be moved closer to someone else's property.

In addition, the property is served by 2 trash bins, which will increase to 4 when the expansion is completed, which will also reduce the number of trash pickups to the site from 3 times a week to 2 times a week. The trash pickups all occur in the late afternoon.

31. The church shall establish a lot-line adjustment to conform the use and ownership of property between the rear property line of the 220 Walnut parcel and block wall, subject to the neighbor's approval.

Staff Response

This issue is related to the property line location between the church property and the abutting residential property at 220-222 Walnut Street. Issues regarding location of lot lines are typically handled between property owners and not through conditions of approval. In this instance, there is no issue related to the proposed expansion that would require imposition of a lot line adjustment condition of approval.

32. Trash and trash storage enclosures shall not be easily in view of or accessible to the public. Trash pickup shall be maintained curbside or by truck on routes to the inner campus as handled prior to this permit.

Staff Response

Refer to staff's response to proposed condition number 32.

33. All utilities on the site shall be undergrounded.

Staff Response

As indicated earlier, Code Section 13-70 (General Site Improvement Standards) requires undergrounding of overhead utility services to new buildings, but it is beyond the scope of the proposed project to require the property owner to underground existing overhead lines, some of which serve other properties.

34. The church shall install a curbside sidewalk from the Walnut Street parking lot to Westminster Avenue subject to property owners' approvals. They shall install a curb and sidewalk along their property on Westminster Avenue.

Staff Response

Refer to staff's response to proposed condition number 29.

35. All representations of the church made to the Commission or Council meetings shall be reduced to writing and become conditions of this conditional use permit.

Staff Response

As indicated earlier, the testimony provided by the applicant during the hearings is part of the public record and reflected in the minutes.

OTHER COUNCIL ACTION NEEDED:

While the Council has established certain "guidelines" in the establishment of Resident Permit Parking, it recognized the presently severe neighborhood street parking and nuisance situation, which will only be increased by temporary reduction in parking spaces onsite during construction of St. Joachim school buildings. Council is mindful of the public testimony, neighborhood petition, and personal knowledge of the situation.

Therefore, Council directs immediate establishment of English and Spanish Language Resident Permit Parking in the 200 block of Walnut Street. The Transportation Manager is further authorized to immediately institute such additional Resident Permit Parking in the area as shall be needed to alleviate the present and anticipated parking and nuisance problems. The church is advised that it may have to reduce activities at the site or provide for shuttle, or other transportation services as are used by other churches in the City.

Staff Response

As indicated earlier, resident permit parking can only be approved in accordance with City Council guidelines which require: (1) a majority support of residents in the area by petition; (2) parking intrusion by non-resident vehicles must exceed 50% of available parking; and, (3) approval by City Council. A petition has been submitted to the City's Transportation Services Division which is in the process of conducting a survey of the affected area.

ALTERNATIVES CONSIDERED:

City Council may consider the following alternatives:

- (1) Uphold Planning Commission's decision to approve the project;
- (2) Uphold Planning Commission's decision to approve the project with modifications to either the project or conditions of approval; or,
- (3) Reverse Planning Commission's decision and deny the project. If the City Council wishes to deny the project, modifications to the findings will need to be made.

FISCAL REVIEW:

Fiscal review is not necessary.

LEGAL REVIEW:

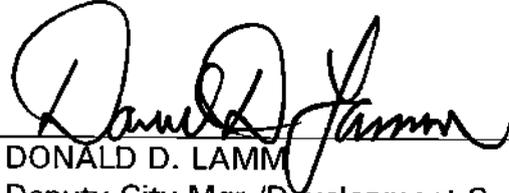
Legal review is not necessary.

CONCLUSION:

The Planning Commission approved the proposed church project since it complies with all applicable development standards, and recommended conditions of approval will ensure that the operation is compatible with surrounding residential properties. Most of the issues raised by area residents during the public hearing dealt with on-going operations of the church, which will not be changed by this application.



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ATTACHMENTS:

1. Location Map
2. Plans and Photos
3. Draft City Council Resolution
4. Exhibit "A" Draft Findings
5. Exhibit "B" Conditions of Approval
6. Minutes from Planning Commission Meeting of May 24, 2004
7. Planning Staff Report
8. Planning Commission Resolution
9. Correspondence Received from Public



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DEVELOPMENT SERVICES DEPARTMENT

**If you wish to read the remainder of this report,
please contact the Planning Division at
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