

BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, JANUARY 17, 2013
9:00 AM**

**COUNCIL CHAMBERS
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207**

The following agenda will be considered by the BOARD OF ADJUSTMENT at its PUBLIC HEARING to be held at 9:00 AM on January 17, 2013, in COUNCIL CHAMBERS, CITY HALL, 201 S. CORTEZ STREET, PRESCOTT, ARIZONA. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

Members

Mike Klein, Chairman	Duane Famas
Greg Lazzell, Vice Chairman	Richard Rosa
Johnnie Forquer	George Wiant
James DiRienzo	

III. REGULAR AGENDA / PUBLIC HEARING ITEMS

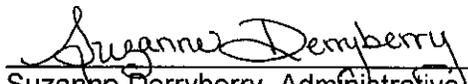
1. Approval of the November 15 and December 20, 2012 minutes.
2. TUP12-011, 1301 Prescott Lakes Parkway. APN: 105-04-002W totaling ±15.45 acre. LDC Sections 2.6.7 and 3.12.1. Zoning is Business General - Planned Area Development (BG PAD). Request an extension to a Temporary Use Permit originally granted in 1998 under a previous Zoning Code to allow a manufactured building as a sales office. Owner/Applicant is Jeff Davis of PL Commercial Partners LLC, 110 E. Gurley Street, Prescott, AZ 86301. Community Planner is Ryan Smith (928) 777-1209.
3. CUP12-003, 2121 Larry Caldwell Drive. APN: 102-06-005H totaling 23.5 acres. LDC Section 9.3. Zoning is Single-Family, Neighborhood Oriented Business, and Residential Office. Request is for an amendment to the existing Conditional Use Permit (CUP02-007) to allow for a fenced storage area. The Owner / Applicant is The Heights Church, 2121 Larry Caldwell Drive, Prescott 86301. Planner is Ruth Hennings (928) 777-1319.

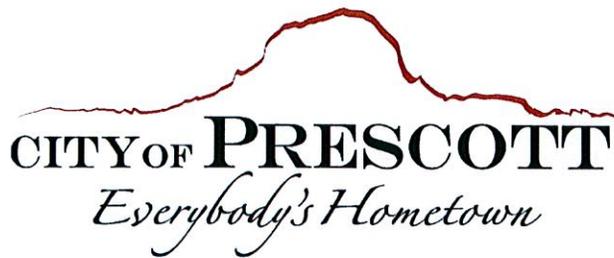
- IV. REVIEW ITEMS
- V. SUMMARY OF CURRENT OR RECENT EVENTS
- VI. ADJOURNMENT

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. WITH 48 HOURS ADVANCE NOTICE, SPECIAL ASSISTANCE CAN BE PROVIDED FOR SIGHT AND/OR HEARING IMPAIRED PERSONS AT PUBLIC MEETINGS. PLEASE CALL 777-1272 OR 777-1100 (TDD) TO REQUEST AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING.

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on January 11, 2013 at 12:00 PM in accordance with the statement filed with the City Clerk's Office.


Suzanne Derryberry, Administrative Specialist
Community Development Department



BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, NOVEMBER 15, 2012
9:00 AM**

**COUNCIL CHAMBERS
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207**

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on November 15, 2012 in Council Chambers, City Hall, located at 201 S. Cortez Street, Prescott, Arizona 86303.

I. CALL TO ORDER

Chairman Klein called the meeting to order at 9:00 a.m.

II. ATTENDANCE

Members

<i>MEMBERS</i>	<i>STAFF PRESENT</i>
Michael Klein, Chairman	George Worley, Planning Manager
George Wiant	Suzanne Derryberry, Administrative Specialist
Duane Famas	Ryan Smith, Community Planner
James Di Rienzo	Matt Podracky, Assistant City Attorney
Dick Rosa	<i>COUNCIL PRESENT</i>
Greg Lazzell, Vice Chairman	Charlie Arnold, Councilman
<i>MEMBERS ABSENT</i>	
Johnnie Forquer	

III. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. **Approve the minutes** of the June 21, 2012 public hearings.

Mr. Rosa, MOTION to approve the minutes. Mr. Di Rienzo, 2nd. VOTE 6-0; passed

2. **V12-007, 420 Aspen Street.** APN: 109-07-046 totaling 0.19 acre. LDC Section 3.6.3.F. Zoning is Single-family, SF-9. Request is for a reduced side yard setback from 7 feet to 4 feet to permit the construction of a garage. The Owner is Robin Burr, 420 Aspen Street, Prescott 86303. Planner is George Worley (928) 777-1287.

Mr. Worley reviewed the staff report and indicated that the request was for a variance to decrease the side yard setback to allow the construction of a detached single-car garage

on the residential property. He indicated that the proposed garage is approximately 360 square feet and would be located adjacent to the existing house.

Mr. Wiant wanted to know if a 4 foot setback is an unusual request for that area. Mr. Worley stated that it is fairly common and is not unusual.

Mr. Klein sought clarification regarding the 4 foot setback.

Ted Hanneman, 416 Aspen St, stated that he owns the neighboring property. He added that he also has a 4 foot setback on his property and indicated that he didn't have any issues with the proposal.

Mr. Famas discussed the sloped driveway. Mr. Hanneman stated that there is an engineered retaining wall on the back side for the garage and also noted that there would be additional drainage added.

Mr. Klein called for any comments from the public; there were none.

Mr. Wiant, MOTION to approve V12-007. Mr. Rosa, 2nd. VOTE 6-0-1

3. **CUP12-002, 501 S. Senator Hwy.** APN: 110-06-002A and C totaling ±6.25 acre. LDC Sections 2.3 and 3.6. Zoning is Single Family - 9000 square feet minimum lot size (SF-9). Request an amendment to the existing church Conditional Use Permit, CU-8801, to allow for the construction of a 30,000 square foot sanctuary and multi use building and a parking lot. Owner is the Prescott Christian Church. Applicant is Michael Taylor Architects, Inc., 118 S. Pleasant St., Prescott, AZ 86303. Community Planner is Ryan Smith (928) 777-1209.

Mr. Smith reviewed the staff report and indicated that he would be discussing both CUP12-002 and V12-008 simultaneously since the applications are related, but they would be voted on separately.

Mr. Smith displayed the site plan on the overhead projector and discussed different aspects of the proposal.

Mr. Smith stated that staff had received one letter of support and two letters of opposition related to the request. Mr. Smith indicated that the letters of opposition were citing traffic issues as their reasoning.

Mr. Smith noted that staff was suggesting approval of the requests with conditions being:

1. The building permit and building process be in conformance with the site plan
2. Any changes outside of the approval could trigger a Traffic Impact Analysis

Mr. Lazzell inquired about egress for parking and vehicle access. Mr. Smith indicated that the Fire Department had reviewed the request and there were no issues noted by that department.

Mr. Klein called for any comments from the public.

Michael Taylor, 544 Whetstine Ave., pointed out that when the original church was built, the way the building height was measured is different from how it is measured today. He continued to discuss building heights.

Jason Price, Lead Pastor, 6350 E. Andover lane Prescott Valley, discussed the traffic element.

Mr. Klein discussed the existing sanctuary and various photos on the overhead projector.

Mr. Taylor stated that the new building would be 48 feet from the ridgeline to the existing building.

Mr. Di Rienzo and Mr. Taylor discussed building heights, including the height of the steeple.

Mr. Famas spoke about requirements between roof lines and steeples. Mr. Smith stated that there are no city codes that deal with steeples or architectural features. Mr. Famas noted that on paper, it would appear that the new building would be 55 feet tall. Mr. Smith stated that was correct, but if the board wanted to they could place a condition stating that the building height would include the height for the steeple and not just the building itself. Mr. Taylor added that while the total height would be 55 feet, it does sit in a hole and the visual impact would be minimal.

Mr. Klein wanted to know the height of just the building itself, without the steeple, from the grade to the peak of the roof. Mr. Taylor stated that it is approximately 47 feet. Mr. Klein noted that the approval could state a building height of 47 feet in addition to 8 feet for just the steeple.

Bill Yates, 9559 American Ranch Rd, discussed building heights and wanted to know the elevation of the top of the steeple from the perspective most people would see. Mr. Taylor stated that from the plaza the steeple would be approximately 38 feet to the peak of the steeple.

Mr. Famas discussed wall height codes. Mr. Smith stated that is an issue which only impacts single family homes. Mr. Lazzell added that if the applicant plans to stick to the conceptual site plan that there wouldn't be any need to add any addition conditions.

Mr. Price stated that there is not a significant rise in the proposed building compared to the current sanctuary that is already there. He also noted that the height of the new building wouldn't be above the grade of senator Hwy.

Mr. Famas discussed concerns with parking. Mr. Smith provided the equation used to calculate proper parking. He also indicated that the applicant did meet the requirements for parking and noted that staff requested the condition to address any sort of change of use in the future.

Ralph Rodarte, 251 S. Mt. Vernon, stated that he is a nearby neighbor of the church and stated that he didn't see a problem with the proposal.

Mr. Smith pointed out that the area from the back of the church is zoned as residential and will someday have homes built in that area. He also mentioned that the application appeared to meet all necessary requirements to meet the Conditional Use Permit. However, in regards to the variance, it is within the board's purview to decide if there are extraordinary conditions that allows the granting of the variance without granting a special privilege. He also discussed a self induced hardship.

Mr. Klein called for any other comments from the public; there were none.

Mr. Wiant, MOTION to approve CUP12-002 with the following conditions:

1. The CUP approval and subsequent construction of a 30,000 square foot sanctuary and parking area shall be in substantial conformance with the site plan dated 9-13-12.
2. Additional activities outside regular Sunday services, Tuesday and Wednesday youth ministry and Monday thru Friday church office hours must be approved by the Community Development staff, which may require infrastructure analysis and/or approval by the Board of Adjustment.

Mr. Rosa, 2nd. VOTE 6-0-1.

3. **V12-008, 501 S. Senator Hwy.** APN: 110-06-002A and C totaling ±6.25 acre. LDC Section 3.6. Zoning is Single Family - 9000 square feet minimum lot size (SF-9). Request a Variance to increase allowed building height from 35' to 50'. Owner is the Prescott Christian Church. Applicant is Michael Taylor Architects, Inc., 118 S. Pleasant St., Prescott, AZ 86303. Community Planner is Ryan Smith (928) 777-1209.

Mr. Wiant, MOTION to approve V12-008 with the following conditions:

1. The new building is not to exceed the roof line of the present sanctuary structure with the exception of the steeple; not to exceed a maximum of 55 feet, including the steeple.

Mr. Rosa, 2nd VOTE 6-0-1

IV. REVIEW ITEMS

None

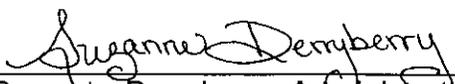
V. SUMMARY OF CURRENT OR RECENT EVENTS

None

VI. ADJOURNMENT

Chairman Klein adjourned the meeting at 9:50a.m.

Mike Klein, Chairman


Suzanne Derryberry, Administrative Specialist
Community Development



BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, DECEMBER 20, 2012
9:00 AM**

**COUNCIL CHAMBERS
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207**

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on December 20, 2012 in Council Chambers, City Hall, located at 201 S. Cortez Street, Prescott, Arizona 86303.

I. CALL TO ORDER

Chairman Klein called the meeting to order at 9:00 a.m.

II. ATTENDANCE

Members

<i>MEMBERS</i>	<i>STAFF PRESENT</i>
Michael Klein, Chairman	George Worley, Planning Manager
George Wiant	Tom Guice, Community Development Dir.
Duane Famas	Ryan Smith, Community Planner
James Di Rienzo	Tom Lloyd, Assistant City Attorney
Dick Rosa	Suzanne Derryberry, Administrative Specialist
Greg Lazzell, Vice Chairman	<i>COUNCIL PRESENT</i>
Johnnie Forquer	Marlin Kuykendall, Mayor

II. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. Approval of the November 15, 2012 minutes.

Minutes were deferred to the next meeting.

2. V12-009, 215 South Marina Street. APN: 109-01-090 totaling 0.11 acre. LDC Section 3.10.3.F. Zoning is Multi-Family High Density. Request is for a reduced side yard setback from 7 feet to 1 foot to permit the construction of a carport. The Owner is Bob Dittberner, 215 South Marina Street, Prescott 86303. Planner is Ryan Smith (928) 777-1209.

Mr. Smith reviewed the staff report and indicated that the request was to reduce the side yard setback from 7 feet to 1 foot so that the applicant could build a carport.

Mr. Smith stated that the request does meet some of the necessary criteria for the variance. He noted that there was a steep slope located to the front of the property which would limit the opportunity to build anything in the front of the house.

Mr. Smith continued by discussing other aspects related to the proposal and stated that staff was recommending approval of the variance.

Mr. Wiant discussed the standing structure which the applicant described as being a "shed", but rather appears to be a garage. Mr. Lazzell stated that he visited the location and noted that the structure did appear to be a garage but due to its small size there would be no way to park a vehicle in it.

Mr. Klein wanted to know the percentage of lot coverage allowable in regards to the carport. Mr. Smith stated that he had not calculated lot coverage but in that particular zoning district, there is an allowable amount of 50% coverage of the lot.

Mr. Lazzell discussed the building material which would be used for the carport. Mr. Worley stated that would be an issue addressed by the building department at the time the permit was submitted.

Mr. Di Rienzo wanted to know if the new carport would be attached to the older structure. Mr. Smith stated that it would not be attached.

Mr. Klein called for any comments from the public; there were none.

Mr. Klein called for any other comments; there were none.

Mr. Klein called for a motion.

Mr. Rosa, MOTION to approve V12-009. Mr. Lazzell, 2nd. VOTE 6-1; passed (Mr. Wiant in opposition)

3. V12-010, 335 South Montezuma Street. APN: 109-03-023 totaling 0.33 acre. LDC Section 4.8.3.F. Zoning is Business Regional. Request is for a reduced front yard setback from 10 feet to 2 feet 4 inches to permit the construction of a frame and fabric roof over an existing handicapped ramp. The Owner is Shed FLP Family Partnership, 2088 Yampa Drive, Prescott 86305. Planner is George Worley (928) 777-1287.

Mr. Worley reviewed the staff report and indicated that the request was for a front yard setback from 10 feet to 2 feet 4 inches to allow the construction of a handicapped ramp. Mr. Worley continued by discussing the various issues related to the request. He noted that the ramp would allow access into the building and that the cover would protect the ramp from the elements. Mr. Worley indicated that both the applicant and the architect were available for questions.

Mr. Worley stated that there are criteria for variances which include a list of checkpoints that the board must review in order to determine whether or not the proposal meets the criteria to meet code and state statute. He noted that the only issue which seems of concern upon review by staff would be the question of whether or not this issue was a self imposed hardship. Therefore, given the current circumstances, staff was recommending denial of the proposal.

Mr. Klein wanted to know why staff was opposed to the request. Mr. Worley stated it was because staff felt that the hardship was self opposed since the existing ramp did not require a cover and was only being used as a tool for maintenance purposes.

Mr. Di Rienzo discussed his concerns of safety and stated that the request for the cover would help ensure the ramp to be protected from the elements.

Various members of the board discussed the deck and the overhead cover with enclosures as well as property lines, right-of-way and setbacks.

Mr. Klein wanted to know if the cover had been integrated into the construction of the ramp, would it have still been brought to the Board of Adjustment. Mr. Worley stated that most likely it would have. Staff typically looks at the specific language in the Land Development Code which says handicap accessibility features, such as the ramp, would be exempt from setbacks. Additional items to either improve the use of, or to improve the appearance of those ramps would not necessarily be integral to the handicap accessible use, therefore, staff would have treated it as a separate request.

Robert Burford, S. Cortez St, discussed the importance of safety regarding the ramp and indicated that the proposed cover would help to protect the ramp. He continued by discussing the specifics of the construction of the ramp cover.

Mr. Lazzell discussed the amount of entrances to the building and wanted to know if the ramp provided the only ADA entrance. Mr. Burford stated that it was not the only ADA entrance since all required exits must be ADA accessible.

William Tracy, 687 W Canyon Dr, discussed removal of the picnic tables from the front area of the property and continued by discussing the handicap ramp and the need to have the ramp protected for safety.

Mr. Di Rienzo discussed the need to accommodate certain businesses when safety issues arise even though it may infringe on the setbacks. He continued by adding that safety should always be the number one priority.

Mr. Lazzell discussed the approval of past variances.

Mr. Wiant discussed the parking arrangement to access the business and the area the handicap parking spots were situated.

Mr. Famas discussed the building changing ownership in the future, if the canvas covering would ever be allowed to be changed to something more permanent. Mr. Worley stated that if the canvas covering were ever to be changed to a permanent fixture it would become an issue with the fire department and would more than likely require sprinkling of the building, including the deck.

Mr. Klein discussed the existing deck which encroaches into the setback and the canvas awning that covers that deck. He was concerned because that request did not go to the Board of Adjustment for review. Mr. Worley stated that the item should have gone to the Board of Adjustment but a previous owner placed the awning without a permit. He continued by noting that in order to not penalize the new owner, they would not make them go through the process to approve the existing awning.

Mr. Klein called for any comments from the public; there were none.

Mr. Lazzell, MOTION to approve V12-010. Mr. Rosa, 2nd. VOTE 7-0; passed.

IV. REVIEW ITEMS

None

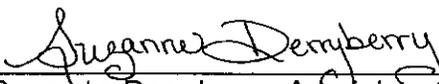
V. SUMMARY OF CURRENT OR RECENT EVENTS

None

VI. ADJOURNMENT

Chairman Klein adjourned the meeting at 9:40a.m.

Mike Klein, Chairman



Suzanne Derryberry, Administrative Specialist
Community Development

TUP12-011 Temporary Use Permit
Prescott Lakes Sales Office Extension
1301 Prescott Lakes Parkway

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION
BOARD OF ADJUSTMENT MEETING FOR **January 17, 2013**

STAFF REPORT

TO: City of Prescott Board of Adjustment (BOA)

FROM: Tom Guice, Community Development Director
George Worley, Planning Manager 
Ryan Smith, Community Planner

DATE: January 10, 2013

APPLICATION: TUP12-011 **ZONING:** Business General - Planned Area Development (BG PAD)

APN: 105-04-002M **AREA:** 1.11 acres

Owner: PL Commercial Partners LLC **Agent:** Jeff Davis, Member
9538 W. Electra Lane PL Commercial Partners LLC
Peoria, AZ 85018 110 E. Gurley Street, #200a
Prescott, AZ 86301

REQUEST:

A 10 year extension of Temporary Use Permit, TUP08-003 allowing for continued use of a manufactured building as a sales and marketing office in a BG PAD zoning district.

BACKGROUND:

A manufactured building is allowed only in a manufactured home district, or with an approved TUP as a temporary subdivision sales office or subdivision construction trailer. The original TUP fell under the previous zoning code, which required that TUP application time extensions must be approved by the BOA. Under that provision of the previous zoning code, the sales office has been in operation at this location since 1998 (15 years). Staff feels that since the original TUP extension required a BOA approval, therefore, subsequent extensions should also require BOA approvals.

PAST BOA ACTIONS:

The original TUP was approved in 1998 for 2 years allowing for the Prescott Lakes Land Sales Office and construction trailer. A request for a 5 year extension was granted by the BOA on May 13, 2000. However, the applicant requested an additional extension just 3 years later (in 2003) which resulted in a new expiration of May 2008. Then owner and operator, M3 Companies, requested TUP08-003 as a 5 year extension for a sales and marketing office. The request was granted by the BOA resulting in the current TUP expiration of May 15, 2013.

STAFF FINDINGS AND RECOMMENDATIONS:

The 2003 Land Development Code allows that a time limit may be specified in the TUP approval. The current LDC, also allows an extension may be granted by the Community Development Director upon written request. However, this use was granted under the previous code and the sales office has been in temporary operation for 15 years, which suggests that a more permanent solution may be preferable.

The current zoning at this location allows for this use, it is the manufactured building that requires the TUP. The applicant has the option to bring the current structure to code by placing it on a permanent foundation. He may also remove the manufactured building and replace it with standard construction. An additional possible option may be to apply for a Manufactured Home Floating District, which must be approved by Council. Therefore, staff is recommending approval of an extension of 5 years with no possibility of extension. The applicant may then seek to permanently continue this use by one of the preceding options.

SUGGESTED MOTION OF APPROVAL WITH CONDITIONS:

Move to approve Conditional Use Permit, TUP12-011 with the following conditions:

1. Conditional Use Permit, TUP12-011 shall be approved for a period of 5 years with an expiration of May 15, 2018 (extending TUP08-003 for 5 years).
2. No further extensions shall be permitted.

Alternate Condition - Scenario 1 allowing for extensions.

1. Future requests for time extensions may be administratively approved by City of Prescott Community Development staff.

Alternate Condition - Scenario 2 allowing permanence.

1. No time limit shall be specified. This TUP may run with the land for the purpose of housing a sales and marketing office. However, should the use be discontinued for a period of 1 year, the TUP shall expire.

Attachments:

Vicinity Map

Applicant Request Letter

PL Commercial Partners, L.L.C.
110 E. Gurley Street, Suite 200a
Prescott, AZ 86301

105-04-002W
TUP12-011
1301 Prescott Lakes P.W.

November 5, 2012

Ryan Smith, Community Planner
City of Prescott
201 South Cortez Street
Prescott, AZ 86303

RE: Temporary Use Permit TUP08-003

Dear Mr. Smith;

As we have discussed the City of Prescott Board of Adjustment approved the above referenced temporary use permit in May 2008 for a five year period which will expire next year, May 2013. As you are aware this facility has been utilized to market the Prescott Lakes Community from its inception and is an integral part to the success of the master planned community. Currently we have Dorn Homes who is actively selling in two subdivisions and as I understand it is closing out both of those subdivisions and moving into two more with over 200 additional units yet to sell. In addition to Dorn Homes we have Falcon Pointe, Saddleback, Predator Ridge and Lakeview subdivisions totaling close to an additional 500 units to be marketed as new home sales. In addition we continue to have a high demand for resale inventory at our community as we have to date completed over 1,000 homes inside the Prescott Lakes master planned community. We have diligently tried to market the highway property which is zoned commercial -general business with the intent to build a permanent real estate office that would in addition house some title services, insurance and possibly banking services however given today's market we have been unsuccessful in completing that. As you know the sales office buildings, although temporary, are ground set with approximately \$500,000 of initial cost including landscaping, parking and patio extensions from the two buildings. The buildings are currently leased by Realty Executives. There are approximately 20 agents that work fulltime from this facility focusing on the Prescott Lakes community as well as the surrounding area and as mentioned these services in our opinion are an integral part of moving real estate product at the Prescott Lakes project.

With this letter we are requesting an extension to the above referenced use permit for ten years. The property will still continue to be aggressively marketed with the hopes of permanent development which would hopefully then eliminate the temporary sales buildings and use permit. However we have no idea whether that can be accomplished within the next three to five years or the next seven to ten years. It is important that we give assurances to the real estate company and the home builders at Prescott Lakes that utilizing the facilities and marketing the Prescott Lake community will be able to

continue to assure everyone, including the City of Prescott success until such time as we can provide permanent facilities.

We would appreciate the city staff support in our request for this extension.

If you have any questions please feel free to give me a call at 928-925-6332.

Sincerely,



PL Commercial Partners, L.L.C

By Jeffrey A. Davis, member

928-925-6332

CUP12-003

Conditional Use Permit

Amendment to existing CUP at Heights Church

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION

BOARD OF ADJUSTMENT MEETING for January 17, 2013

STAFF REPORT

TO: City of Prescott Board of Adjustment

FROM: Tom Guice, Community Development Director *TG*
George Worley, Planning Manager *GW*
Ruth Hennings, Community Planner *RH*

DATE: January 17, 2013

ZONING: Single-Family 9 (SF-9), Neighborhood Oriented Business (NOB), and Residential Office (RO)

LOCATION: 2121 Larry Caldwell Drive

APN: 102-06-005H

AREA: 23.50 acres

OWNER: The Heights Church
2121 Larry Caldwell Drive
Prescott, AZ 86301

AGENT: Headwaters Architecture
1951 Commerce Center, A
Prescott, AZ 86305

REQUEST: The Heights Church requests an amendment to the existing Conditional Use Permit (CUP), which allows for a church within the Single-Family 9 zoning district. Any modification to the previously approved site plan requires a formal amendment to the CUP. The current proposal is to amend the site plan to include a fenced storage area.

The Church proposes to construct an outdoor, fenced storage area along the south property line adjacent to Highway 89A. The fence is 6' high and approximately 350' by 72', totaling 25,200 square feet. Currently stored on site, dispersed throughout the property, are holiday decorations and other maintenance materials. These are the items to be stored within the fenced storage area. There are also several trailers on the property, which are not proposed to be included in the storage area.

Outdoor storage may be permitted as an accessory use and structure in the Single-Family 9 zoning district. It may not be permitted as a primary use in any of the residential zoning districts (LDC Table 2.3). The Land Development Code defines "accessory" as follows:

A building, structure, part of building or structure, or use which is subordinate to, and the use of which is incidental to, that of the main building, structure, or use on the same lot or plat herewith.

An "accessory structure" is:

A structure that: 1) is subordinate to and services a principal building or a principal use legally existing on the same lot; 2) is subordinate in area, extent and purpose to the principal building or principal use; 3) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or use served; and 4) is located on the same lot as the principal structure or principal use served.

PROJECT BACKGROUND: The property located at 2121 Larry Caldwell Drive was purchased by The Heights Church in 2002. That same year, the Church applied for a Rezoning and a Conditional Use Permit. The Board of Adjustment reviewed and approved a Conditional Use Permit for the church in November. The CUP was subject to four conditions: 1) substantial conformance to a conceptual site plan which was to allow a building not to exceed 30,000 square feet on the south side of the property, 2) meeting requirements for a building permit, 3) parking lot lighting that was to turn off one hour after end of event, and 4) landscaping to be doubled along Larry Caldwell Drive.

City Council approved the two rezonings on the Heights Church property in January of 2003: 1) the eastern-most five acres to Neighborhood Oriented Business (NOB) and 2) the western-most two acres to Residential Office (RO). A Development Agreement and an Avigation Easement for the property were also approved at that meeting. The Development Agreement (DA) restricted the allowable uses within the RO and NOB zones and required future development plans for the NOB area to be approved by City Council.

Later in 2003, the Board of Adjustment granted The Heights Church an 18 month extension of the requirement to begin construction. In 2005, The Conditional Use Permit was reviewed by the Board of Adjustment. The Board granted an extension to the Church to complete the landscaping, and it was noted that the lights were not turned off at the appropriate time and that was to be corrected.

Between 2009 and 2011, two applications by The Heights Church were submitted to rezone the the SF-9 portion of the lot to a commercial zoning designation. In both cases, the projects were closed due to deficiencies in the required application submittals. In 2012, an application was submitted by The Heights Church in January for a rezoning of the SF-9 and NOB zoned areas to Business General. After review and recommendation for denial by the Planning and Zoning Commission, the application was withdrawn.

CONDITIONAL USE REVIEW CRITERIA: Conditional uses are uses that are generally compatible or can be made compatible with other uses in the underlying zoning district. The

Board of Adjustment may approve an application for a conditional use (*or an amendment to an existing Conditional Use Permit*) where it reasonably determines that there will be no significant negative impact upon residents or other owners of surrounding property or upon the public. The Board of Adjustment shall consider the following criteria in its review and approval shall be contingent upon compliance with the site plan and any conditions of approval:

- 1) **Effect on the environment:** The storage area will likely be visible from the adjacent street and residential neighborhood in specific locations.
- 2) **Compatible with surrounding area:** The Church has proposed to locate the storage area on the south side of the property, furthest from the adjacent neighborhood and lower in elevation than other areas of the property. The proposal does not indicate specific design details.
- 3) **External impacts minimized:** The location of the storage area is intended to minimize the potential impacts.
- 4) **Infrastructure impacts minimized:** Not applicable.
- 5) **Consistent with General Plan and Code:** The Church use has been allowed in a residential zoning district by approval of a Conditional Use Permit.
- 6) **Parcel size:** Not applicable.
- 7) **Site Plan:** See attached site plan.

NEIGHBORHOOD COMMENTS: An area meeting was held on November 15, 2012. Approximately 20 residents were in attendance. Concerns noted were visibility of the current and proposed storage, finish of the fence, height of the fence, and location of the trailers on the property. Two letters have been received as of the date of this report (see attached). Previous to the application submittal, several complaints were made regarding the storage issues and visibility of the storage from the neighborhood.

STAFF RECOMMENDATION: There are two specific aspects of this application for the Board of Adjustment to review. First, the Board must determine whether the request is an appropriate amendment to the existing Conditional Use Permit and extension of the approved site plan. Second, the Board must determine whether the outdoor storage may be considered an accessory use and structure.

Staff recommends approval with conditions of the amendment to The Heights Church's existing Conditional Use Permit. The proposed fenced storage area will have minimal impacts to the adjacent neighborhood which cannot be considered significant. However, conditions are proposed to ensure that the outdoor storage area remains accessory to the primary use of the property and is only used for the purpose of storage for the church operations.

Staff also recommends a site visit to the property to view the proposed storage area and items to be enclosed.

SUGGESTED MOTION:

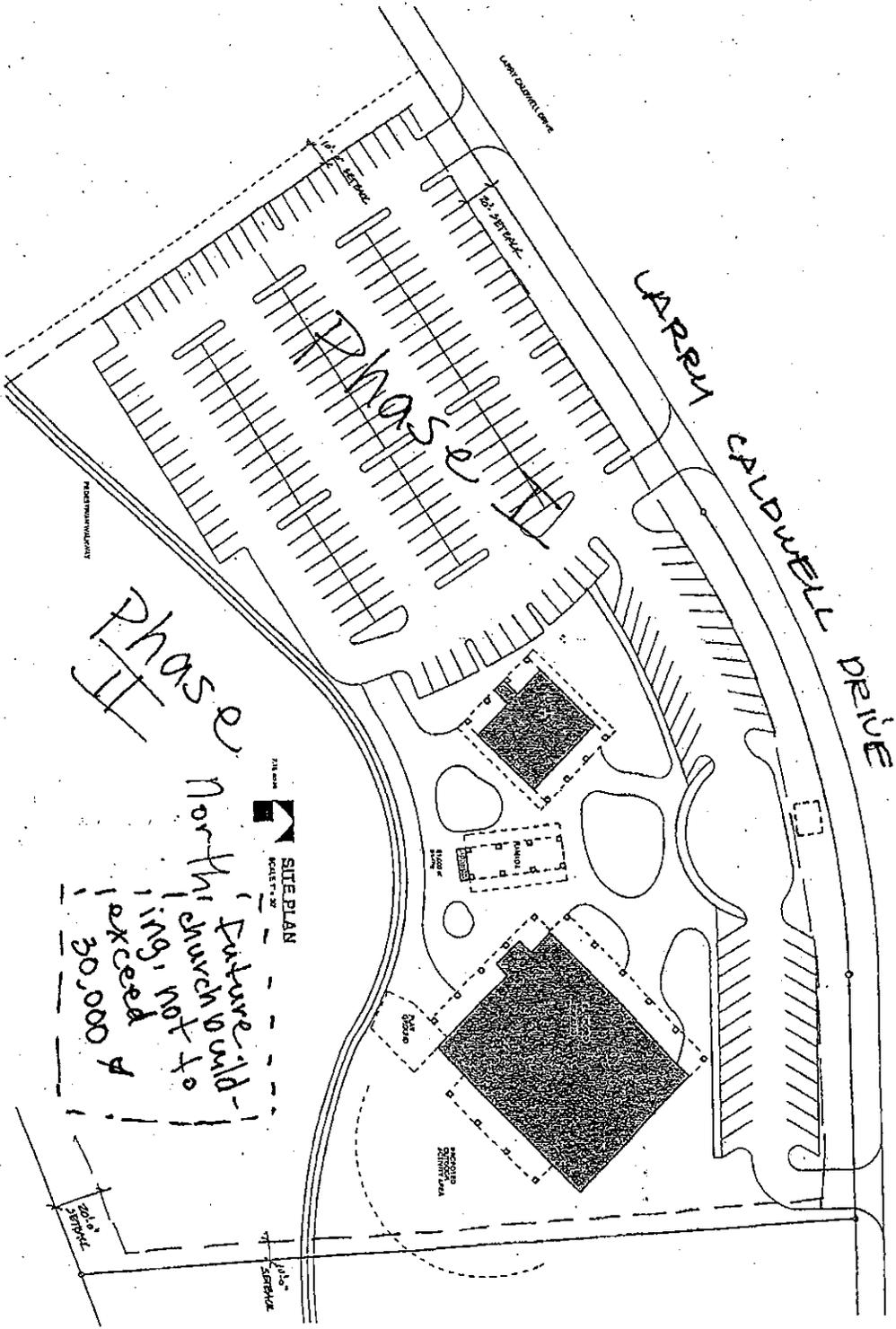
Move To Approve with Conditions CUP12-003, an amendment to CUP02-007. The following conditions may be considered:

1. Storage area must be in substantial conformance to the site plan dated October 17, 2012, not to exceed dimensions shown on same.
2. Storage area must meet the requirements of LDC Section 2.5.2, Accessory Uses and Structures.
3. All items stored in the outdoor storage area must be entirely screened from view.
4. Fence must be painted or stained in an earth tone color to blend in with the landscape.
5. Access must be approved by the Fire Department for the purpose of firefighting operations and the storage area must be a minimum of 10' from the property line.

Attachments:

1. Site Plan, CUP02-007
2. Site Plan, CUP12-003
3. Zoning Map
4. Letters from the public

EXHIBIT 'A' - SITE PLAN



Phase II
Future build-
ing, may not
exceed
30,000

THE
SCALE OF
SITE PLAN

A-1

HEADWATERS
ARCHITECTURE P.C.
360 EAST WILLOW, SUITE B
PRESCOTT, AZ 86301
714-4301



NEW FACILITY FOR
PRESCOTT HEIGHTS CHURCH
LARRY CALDWELL DRIVE
PRESCOTT



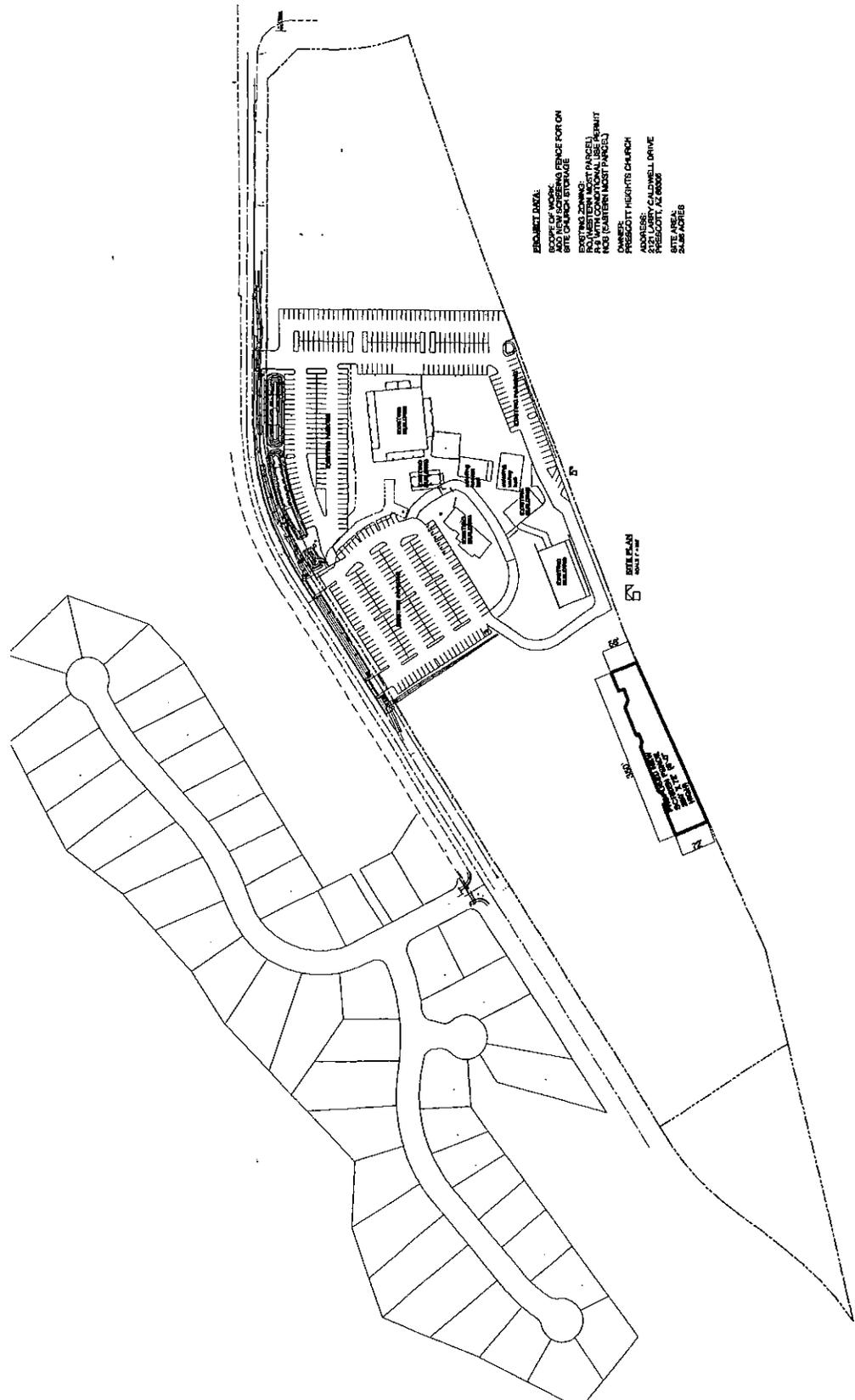
DATE: 10/02
JOB NUMBER:
REVISIONS:



HEADWATERS
ARCHITECTURE P.C.
DATE: 10/17/12
JOB NUMBER: 775-7190
PROJECT: AZ 06305
FIRST COMMERCIAL CENTER SINGLE SITE A



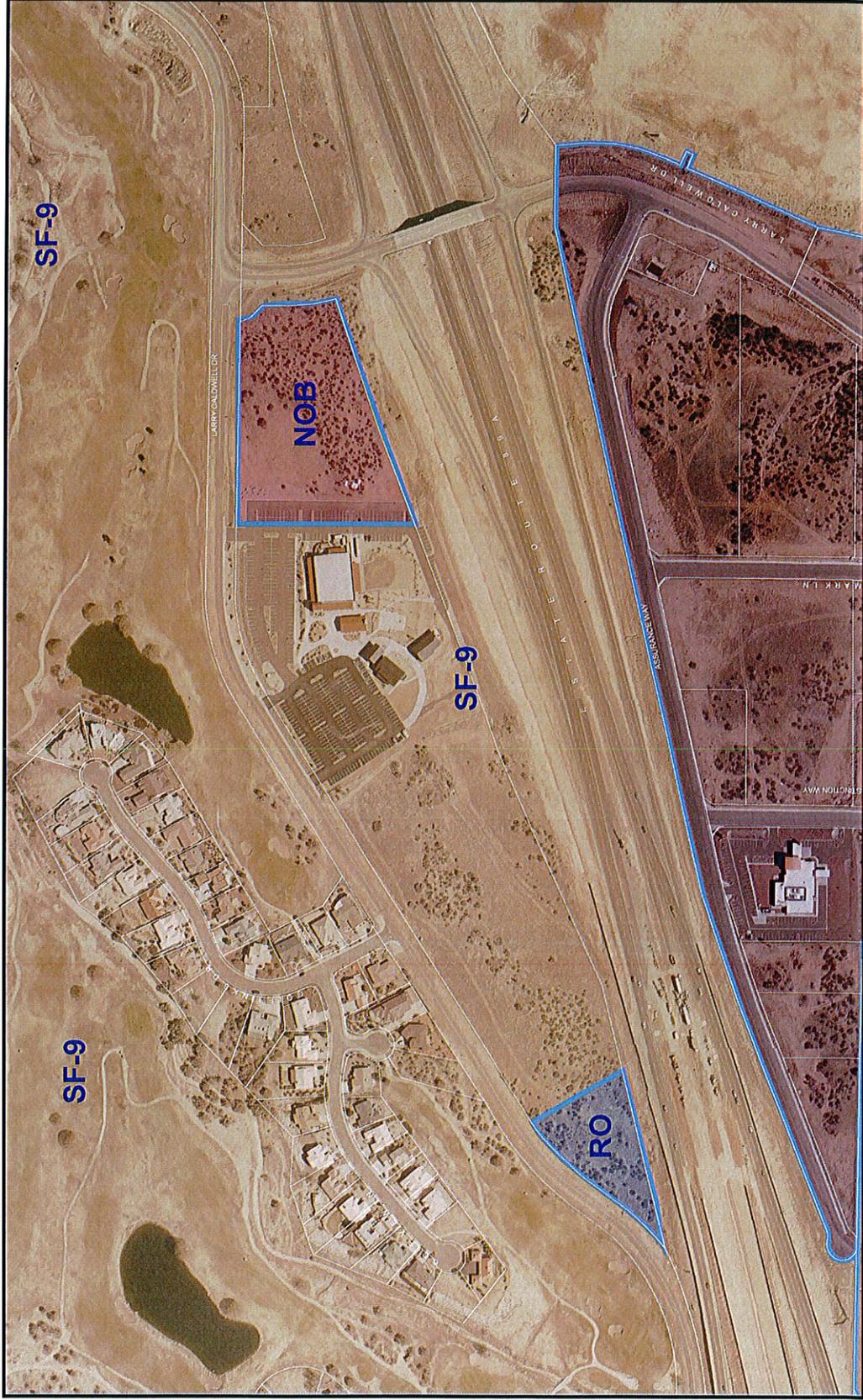
MASTERPLAN FOR
THE HEIGHTS
2121 LARRY CALDWELL DRIVE
PRESCOTT ARIZONA



PROJECT DATA:
SCOPE OF WORK: MASTERPLAN FOR ON
AND OFFICE BUILDING
EXISTING ZONING: POLYMER INDUSTRIAL
PARCEL: 2121 LARRY CALDWELL DRIVE
NO. 14166 (ASST PARCEL)
NO. 14167 (ASST PARCEL)
OWNER: PRESCOTT HEIGHTS CHURCH
ADDRESS: 2121 LARRY CALDWELL DRIVE
PRESCOTT, AZ 86305
SITE AREA: 24.8 ACRES

SITE PLAN
SCALE: 1" = 100'

CURRENT ZONING



January 7, 2013

Board of Adjustment Members'
City of Prescott
201 S. Cortez Street
Prescott, AZ 86303

SUBJECT: Public Hearing CUP12-003
Heights Church, 2121 Larry Caldwell Drive

Dear Members:

Please be advised we are unable to attend the scheduled public hearing on Thursday, January 17, 2013 but would like to submit comments for your consideration.

We own the house and property located at 2099 Golf Links Drive. Our patio elevation is high and overlooks the golf course fairway and directly upon the proposed storage location. It is our understanding from comments we have heard the storage area will basically be hidden from view. However, since our line of sight is high our primary concern for the project is appearance (the Church for the most part is attractive, with the exception of the last building which is white and does not blend well with the other buildings or the environment). We recognize our concern is the aesthetics of the project (color, lighting, landscaping, material and height). **We are proud of our view and would like to maintain it.**

Your thoughtful consideration of our comments would be most appreciated.

Sincerely,

Gary and Trisha Tibbits
2099 Golf Links Drive
Prescott, AZ 86301

Cc: Ruth Hennings, Community Planner

To: The Board of Adjustment
From: Golf Links Subdivision Homeowners
RE: Amendment to the existing Conditional Use Permit (CUP02-007)
Date: January 9, 2013

The enclosed submission is for the Board's review.

1. The clarification of the language and regulations outlined in the original Conditional Use Permit (CUP02-007)
2. The concerns of the homeowners of Golf Links Subdivision regarding the request by the Heights Church for an amendment to the Conditional Use Permit (CUP02-007)
3. Attachment 1 (BOA meeting 1-21-2005)
4. Attachment 2 (Original Church Site Plan)
5. Attachment 3 (Present Church Site)
6. Attachment 4 (Response to Original Meeting)

The clarification of the language and regulations outlined in the original Conditional Use Permit (CUP02-007)

The original Conditional Use Permit (CUP02-007) Granted by the Board of Adjustment (BOA) on 11- 21- 2002 as outlined in the BOA minutes of January 20, 2005 (Attachment 1) stated:

CUP-0207, 2025 Larry Caldwell. Section 4.20B4 CUP for a church. Granted with four conditions.

- 1) Contraction shall be in substantial conformation with Exhibit A, Conceptual Site Plan. Including enhanced landscaping setback as amended to incorporate a future building not to exceed 30,000 SF at the south side of the property.
 - 2) Church project shall meet all City requirements for building permit.
 - 3) Parking lot lighting excluding minimum-security lighting shall be turned off one hour after end of event.
 - 4) Landscaping along Larry Caldwell Drive will be doubled as required by the City to the extent it does not impact visibility
- BOA Granted 11-21-2002.

The Homeowners of the Golf Links Subdivision question the status of the first and third conditions.

- 1) If the original first condition for approval of the CUP was specific that only one future building was permitted, under what parameters a total of 5 building, a Ramada and a fabric tent were constructed without a request for an amendment to permit? (CUP02-007) (Attachments 2) and (Attachment 3)
- 2) The third condition, parking lot lighting excluding minimum-security lighting shall be turned off one hour after end of event to this day has been and is being ignored by the Heights Church.

The Homeowners request the Board of Adjustment to provide guidance to resolve these two issues.

- A. How and where do we obtain the original Conditional Use Permit issued to the Heights Church in 2002 that states what the Board of Adjustments voted to allow the Church to do via this CUP?
- B. What regulations or guidelines state specifically what is allowed in CUP02-007 and how do we get copies?
- C. What entity is responsible to verify that the Conditional Use Permit has been followed as approved

The concerns, questions and suggestions of the homeowners of Golf Links Subdivision regarding the request by the Heights Church for an amendment of the Conditional Use Permit (CUP02-007)

The homeowners of the Golf Links Subdivision have three specific areas of concern regarding the request to amend the current permit (CUP02-007).

What exactly is the Church's requesting in the revision of the permit? (CUP02-007)

- A) How specific is the request?
- B) What timetable is requested for completion of the project?
- C) What additional variances, if any are requested as part of the permit amendment?

If the CUP02-007 is amended, what limitations and regulations will be specified by the BOA in the revised permit.

- A) Will there be specifics for the construction of the fenced storage area in regards to size, height, composition, etc.?
- B) Will there be a specific designated purpose for the fenced storage area?
- C) Will there be specific time hours of operation be?
- D) Will the fenced area have lighting?
- E) Will the entrance to the enclosure be specified?
- F) Will there be height regulations for the fence?
- G) Will there be regulations on what will be permitted to be stored in the enclosure?
- H) Will this enclosure be required to be completely secured in order to prevent theft or other "criminal activity" in our area?
- I) What will the visual appearance be from Rt. 89A and the on-ramp?
- J) For what reasons is the Church requesting a variance to the permit, (CUP02-007) when they already have a 5+ acre parcel to the East zoned NOB?

The homeowners understand the need for a fenced area for the church to store their occasionally used goods. We would feel comfortable with a fenced storage area:

- A) The fence is set so that the storage area is located only on the south side of the fence
- B) Buildings, standing tents, or other constructed structures are not permitted in the fenced storage area
- C) The fence is constructed and stained in natural wood
- D) Has landscaping to screen its visibility
- E) Only has access from their property which is currently asphalted
- F) If the amended permit limits stored item height, so no item is visible from the Larry Caldwell street side

Summary

This is one of the few times the Homeowners of The Golf Links Subdivision have had the opportunity to express our concerns, frustrations and make suggestions since the granting of the Conditional Use Permit (CUP02-007) on November 21, 2002.

As stated in the first section, the Board of Adjustments granted a Conditional Use Permit based on a Site plan submitted by the Heights Church. Prior to the approval, the City Planning Commission scheduled a Neighborhood Meeting between the Heights Church and the homeowners of Golf Links Subdivision. The church outlined its plan for the size and site of the church, the expatiated uses of the 5.24 acre parcel of the Neighborhood Oriented Business and the 2.0 parcel of Residential Office. The neighborhood concern regarding the use of the property west of the church was alleviated when the church indicated their intention was to develop the property into a park containing hiking trails, rest areas, nature trails and possibly a ball field. (Attachment 4)

Since then, no effort has been made by the church to create any of the environment they outlined for this property. Instead the church has tried to change the zoning of that area to general business.

The lighting issue has not been resolved. In the BOA meeting of January 20, 2005, a neighborhood representative complained about the churches disregard for the BOA third condition of the granting of the permit. (Attachment 1)

Since the occupancy of the church building numerous and continues complaints have been and are being made regarding noise, lighting, traffic and other nuances.

If the request for the existing Conditional Use Permit (CUP02-007) is granted, we are requesting the Board of Adjustments to be very specific as to what will be allowed. Vagueness and generality in the past has permitted the Church to skirt around many issues to suit their needs, not the neighborhood's concerns or desires. We feel the Church needs a fenced storage area, but don't agree as to the location as proposed. The parcel east of their current constructed site is zoned to allow a fenced storage area. Therefore, no variance is needed.

As a good neighbor the church should consider utilizing the parcel in question, not for a fenced and storage area, but rather a meditation, park and hiking area as they originally stated.

Chairman Kayn, MOTION: to approve Variance 04-014, subject to the conditions of the staff report. Mr. Warren, 2nd.

Mr. Warren, AMENDED the MOTION: to approve Variance 04-014, subject to the conditions of the staff report, except the east side structure shall be removed.

The preceding motion was withdrawn by Chairman Kayn and Mr. Warren.

Chairman Kayn indicated that the variance needed to be separated into three individual components: 1) side yard setback; 2) parking; and, 3) rear yard setback.

Chairman Kayn, MOTION: to separate the three issues within Variance 04-014 to be voted on separately. Mr. Warren, 2nd. Vote: 6-0.

Mr. Warren, MOTION: the side yard encroachment request is not granted and must be removed. Ms. Farquer, 2nd. Vote: 6-0.

Mr. Warren, MOTION: the parking requirement is reduced to 5 total parking spaces and is applicable only if structure is used for a maximum of 12 residents plus 2 staff members and only used as transitional housing. Mr. Gomez, 2nd. Vote 6-0.

Chairman Kayn, MOTION: to approve the rear yard setback of 5'8". Mr. Warren, 2nd. Vote 4-2 (Fuchs, Klein).

5. Review items:

- a) CU-0207, 2025 Larry Caldwell Drive. Section 4.20B4. CUP for a church. Granted with four conditions: 1) Construction shall be in substantial conformance with Exhibit A, Conceptual Site Plan, including enhanced landscaping setback as amended to incorporate a future building not to exceed 30,000 SF at the south side of the property; 2) Church project shall meet all City requirements for a building permit; 3) Parking lot lighting excluding minimum-security lighting shall be turned off one hour after end of event; 4) Landscaping along Larry Caldwell Drive will be doubled as required by the City to the extent it does not impact visibility. BOA Granted 11-21-2002.

Board of Adjustment
Minutes for January 20, 2003.
Page 6

05-19-03, 6-month extension w/4 conditions

07-17-03, Conditions of 05-19-03 removed, extended 18 months to January, 2005.

Mr. Baker indicated that three additional, required lines have not been installed.

Mr. Bob Fox, 2091 Golf Links Drive, indicated that the lights are not turned down within the 1-hour time limit after a function as required per Code and appear to be on a timer. Mr. Fox also indicated one of the original conditions, i.e., the landscaping to Larry Caldwell, has not been completed. The Board asked Mr. Baker to look into the lighting problem.

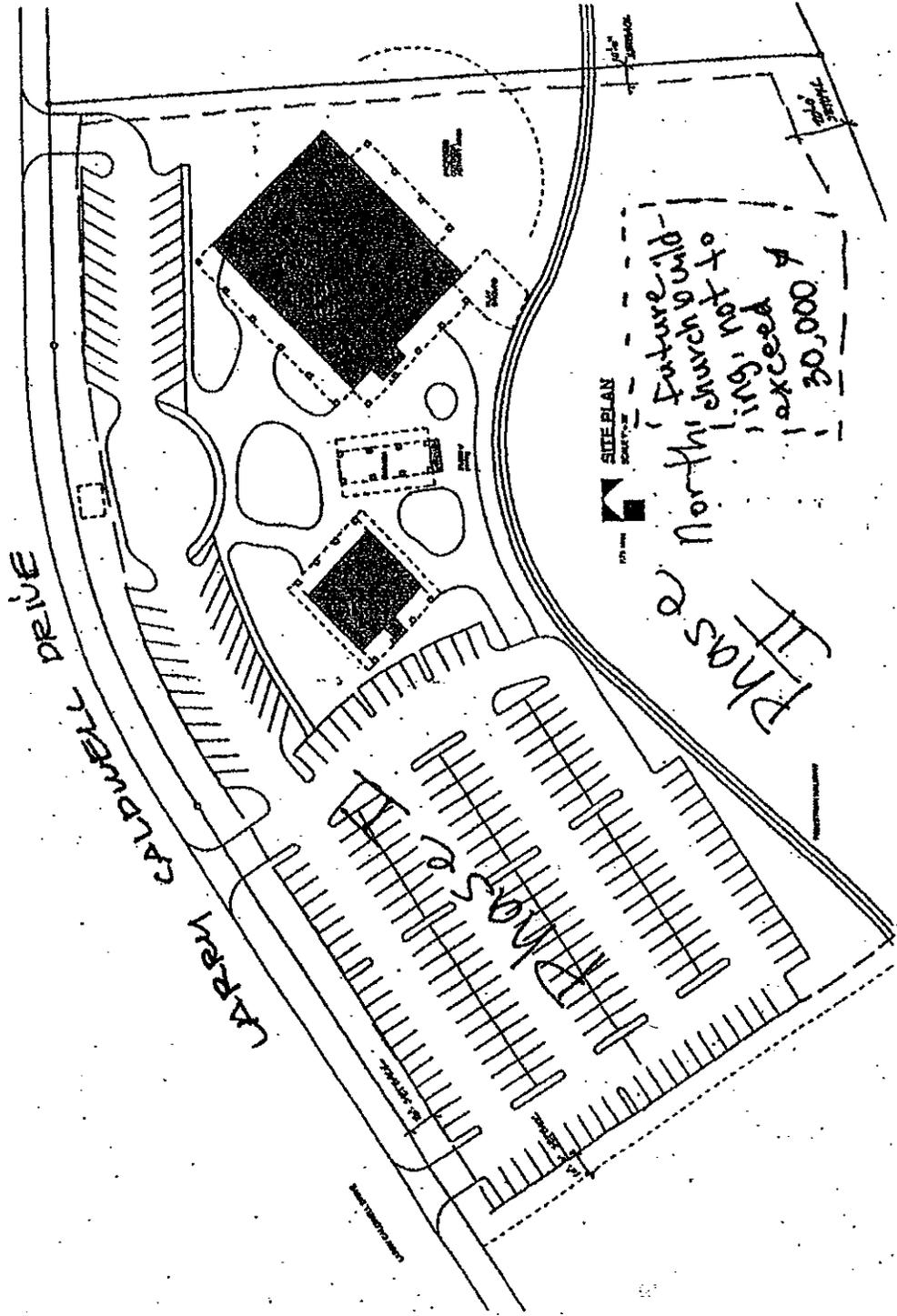
Chairman Kayn, MOTION: to approve the request for an extension to 06-01-05 to plant the three required trees. Mr. Klein, 2nd. Vote: 6-0.

- b) V03-017, 3205, 3207, 3211, 3217, 3225, 3220, 3233, 3237, 3241, 3245, 3249, 3257 Iris Lane. Code Section: 0.06. APNs: 106-20-145A, -160A, -162A, -163A, -164A, -165A, 160A, -167A, -168A, -169A, -170A, -171A, -187A. Zoning is Residential C (RC) in a Planned Area Development (PAD). Application is for a variance to permit a rear screening wall exceeding 6' in height.

BOA Granted 01/15/04 with 1 condition: The wall plans be approved by the Building Department, Public Works Department, and Fire Department.
Finald 02/25/04.

- c) V03-021, 302 S. Virginia Street. Code Section 4.30 E. APN: 110-03-025B. Application for a variance to front yard setback requirement. Zoning is Residential B (RB) ATTACHMENT 1
BOA Granted 01/16/2004.
Finald 02/25/04.

EXHIBIT 'A' - SITE PLAN



NEW FACILITY FOR
PRESBOTT HEIGHTS CHURCH
LARRY CALDWELL DRIVE
PRESBOTT



HEADWATERS
ARCHITECTURE P.C.
1700 N. W. 10TH AVE.
SUITE 200
MIAMI, FL 33136
PH: 781-233-1111
WWW.HEADWATERSARCHITECTURE.COM



A-1

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



Imagery ©2013 Google, Map data ©2013 Google

September 25, 2002

Golf Links Subdivision and Antelope Hills Subdivision Homeowners Response to Prescott Heights Church's Request

BACKGROUND

A meeting was held on September 19, 2002 between representatives of the Prescott Heights Church, Julie Pudzola and the Golf Links Subdivision and Antelope Hills Subdivision Homeowners to discuss the Church's forthcoming request to the planning and zoning commission to rezone the property identified as R7-0218 from RA-9 (Residence A-1) to NOB (Neighborhood Oriented Business). The Church representative described the planned use of the property and presented the building plans for the new Church Facilities and a plan for a Radio Station to be located at the far western end of the 24 acre parcel. The meeting was then opened for discussion. The homeowners expressed great concern for the property not immediately being developed between the Church and the Radio Station. Their concerns were in regard's to using the property for commercial purposes, everyone was opposed to commercial uses of the property. The Church representative indicated that the Church's intention was to develop the property into a park containing hiking trails, rest areas, nature trails and possibly a ball field, eliminating many of the Homeowners concerns regarding the security of the property with the exception of facility and recreational area lighting. Church representatives then indicated that they would like to develop (in the future) the easternmost end of the parcel into a commercial facility such as a convenience store etc.

CHURCH REQUEST

The meeting concluded with the Church's request that the Homeowners review the "NOB Permitted Uses" and provide back to Julie and the Church representative a document outlining the Homeowners thoughts concerning Permitted Uses.

HOMEOWNERS RESPONSE

Refer to City Of Prescott Zoning Code page 51 section 4.43 Paragraph B. The following describes the Homeowners Thoughts;

Our assumption is that the property will be developed as described by the Church's representative, which will eliminate Permitted Uses 1 thru 6.

Permitted Use 7 & 8 are in line with possible Church activities.

Permitted Use 9 thru 12 would not be in the best interest of either the Church or the Homeowners.

The Homeowners are opposed to Permitted Uses 13 thru 18.

Permitted Uses 19 and 20 are in line with the Church's requested property use.