



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Project Number: 3010240
Applicant: Young Tran, for Cao Dai Temple
Address of Proposal: 4833 South Orchard Street

SUMMARY OF PROPOSAL

Land Use Application to allow an 832 square foot expansion of an institution (religious facility), which includes a 425 square foot covered deck, in a single family zone. (Project includes a 1,174 square foot expansion permitted in a neighborhood commercial portion of the property.)*

The following approvals are required:

Variance – to allow a first and second floor addition to extend into the required rear yard (SMC23.44.022D.2)

Variance – to allow expansion of a nonconforming structure (SMC23.42.112A)

Administrative Conditional Use – to allow expansion of an institution (religious facility) (SMC23.44.022)

*After publication of the notice, a 162 square foot first floor addition located in the single family zone was identified. This addition is located in the rear yard and expands the nonconforming portion of the structure, and therefore requires a variance. The addition is also considered an expansion of an institution and requires an Administrative Conditional Use. A portion of a covered deck is located in the single-family zone. The covered deck meets development standards, but is considered an expansion and requires an Administrative Conditional Use. The project description has been updated to reflect the additions. An existing 952 square foot basement contains storage space. The basement is considered part of the original institutional use.

SITE AND VICINITY

Site Location: The Cao Dai Temple is located on the south side of S. Orchard Street, west of the intersection of S. Orchard Street and Rainier Avenue South.

Zoning: The property is split zoned. The western portion of the property is zoned Single Family 5000 and the eastern portion of the site is zoned Neighborhood Commercial 3 with a 40 foot height limit.

Parcel Size: The parcel size is approximately 7,335 square feet.

Existing Use: The existing use on site is a religious institution, Cao Dai Temple. In March 1995 an ACU permit (9304804) was issued changing the use of the existing structure from a single family residence to the Cao Dai Temple. Under SMC 23.44.022G the original change of use was granted maintaining the existing 2.5 foot rear yard. Numerous conditions were placed on the permit and will be carried forth as part of this Conditional Use Permit.

Public Comment: The public comment period ended on January 13, 2011. No public comments were received.

ANALYSIS – VARIANCE (SMC 23.40.020)

As provided in SMC 23.40.020, variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

Because of unusual conditions subject to the property, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone. The subject site is split zoned with the western half located in a single family zone and the east half located in a neighborhood commercial zone. The existing structure on site straddles this zone line with separate development standards applying to each half of the structure. The existing structure is located 2.5 feet from the rear lot line which makes it nonconforming in the single family portion of the site, but conforming in the commercial portion of the site.

Single family development and use standards are much more restrictive than commercial development standards. Specifically, institutional uses require an ACU in a single-family zone but are permitted outright in commercial zones. A 20 foot rear yard is required in the single family zone and no setback is required for the portion of the structure located in the commercial zone. The site is unique in that it is split zoned. Only one other site developed with a structure is split zoned in the vicinity. Single family residences located in the single family zone are permitted to expand as long as they meet the development standards of the underlying zone. The

majority of structures in the vicinity are not burdened with split zones or nonconformities to rear yards. Due to the unique zoning of the property, its use as an institution and the location of the existing structure on the lot the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.

- 2. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

The second story addition is located within the existing foot print of the structure however more floor area will be achieved by expanding the roof and reorienting the roof ridge from east/west to north/south, thus gaining more floor area. The new ridge will be no higher than the existing roof ridge. The expanding rear façade, roof and floor area will not encroach any further into the rear yard, but does increase the bulk of the structure within the rear yard. The first floor addition is considered minor and will not encroach any further into the rear yard than the existing structure. The variance to allow additional floor area on the first and second floor does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

- 3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity. The proposed expansion will not encroach any further into the rear lot line than the existing structure. The existing use on site is conditioned to not have any windows along the rear facing façade and requires a six foot high sight obscuring fence along the rear lot line. The new roof will be constructed with peak and ridge similar to residential roofs in the area.

- 4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;***

The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code will not allow the applicant to reasonably construct modifications to the existing structure.

- 5. The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.***

The Land Use Code provides for a variance process for relief from unusual conditions and situations that the rules of the Code could not anticipate. At the same time, the spirit and intent of the Land Use Code and Land Use regulations is to provide development compatible with land development patterns and existing neighborhood character.

The proposed additions are consistent with the spirit and purpose of the Land Use Code and adopted Land Use Comprehensive Policies as applicable.

DECISION - VARIANCE

Based on the above findings and analysis all of the facts and conditions stated in the numbered criteria of SMC 23.40.020, *Variances*, are found to exist. The requested variances are **Granted**, without conditions.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE (SMC 23.44.022)

The Land Use Code allows the expansion of existing institutions in residential zones through the administrative conditional use process. This proposal is to allow an existing religious facility to expand a portion of its second floor by 245 square feet; construct a 162 square foot first floor addition; and construct a portion (425 square feet) of a covered deck in a single family zone. To accommodate the additional floor area, the ridge of the existing roof will be reconstructed to run north/south instead of east/west. Changing the roof ridge will result in additional bulk on the second floor. The first floor addition extends the rear wall of the building by six feet. The structure will be no closer than 2.5 to the rear property line as originally approved under permit 9304804. The covered deck is located on the north side of the building and is not located in any required yards. Although the covered deck is not considered floor area, an administrative conditional use is required for this portion of the proposal because it goes beyond what is considered minor structural work.

Expansion of a religious facility is allowed in a single family zone through an administrative conditional use approval. The DPD Director has the authority to approve, condition or deny a conditional use application. This decision shall be based on whether the proposed use will be materially detrimental to the public welfare or injurious to property. The applicable criteria used for evaluating and or conditioning the applicants' proposal are discussed below.

D. General Provisions

New or expanding institutions in single family zones shall meet the development standards for uses permitted outright in Section 23.44.008 through 23.44.016 unless modified elsewhere in this subsection or in a Major Institution Master Plan.

The plans submitted for the addition meet applicable development standards detailed in Section 23.44.008 through 23.44.016, except for the portion of the expanding structure located in the rear yard. SMC23.44.014D.4.b, allows additions to extend into required yards if the existing structure is already nonconforming with respect to the yard, as in this instance. The code allows the addition to a rear wall to be continued but in no case closer than 20 feet from the rear lot line. In this case, the new portion of the rear wall and roof will extend vertically 2.5 feet from the rear property line and will require a variance.

E. Dispersion

The lot line of any proposed new or expanding institution, other than child care centers locating in legally established institutions, shall be located six hundred feet (600') or more from any lot line of any other institution in a residential zone, with certain exceptions.

The existing institutional boundaries are not expanding with this proposal; therefore, this criterion is not applicable.

F. Demolition of Residential Structures

No residential structure shall be demolished nor shall its use be changed to provide for parking.

Demolition of residential structures is not proposed; therefore, this criterion is not applicable.

G. Reuse of Existing Structures

Existing structures may be converted to institution use if the yard requirements for institutions are met.

The proposal does not include the conversion of existing structures to institutional use; therefore, this criterion is not applicable.

H. Noise and Odors

For the purpose of reducing potential noise and odor impacts, the Director shall consider the location on the lot of the proposed institution, on-site parking, outdoor recreational area, trash and refuse storage areas, ventilating mechanisms, sport facilities, and other noise generating and odor-generating equipment, fixtures or facilities. The institution shall be designed and operated in compliance with the Noise Ordinance, Chapter 25.08.

On site activities will not change as a result of this proposal. No windows will be located on the first and second story additions located adjacent to the rear lot line. ACU permit (9304804) conditioned the original proposal to remove any windows allowing views over the fence on the rear yard elevation. The current proposal meets this condition. The first floor addition on the west façade measures approximately 6 feet by 27 feet. This addition measure 8.5 feet in height and contains restroom facilities. Two exterior doors provide access to the restrooms, but no windows are located on either the rear or side facades. The covered deck is in the same location as the existing exterior patio.

ACU permit (9304804) conditioned the original proposal to limit outdoor functions to daytime hours, between 10:00am to 8:00pm on week days and 10:00am to 10:00 pm on weekends in order to reduce impacts from amplified sound outdoors. The current proposal will be required to meet this original condition.

I. Landscaping

Landscaping shall be required to integrate the institution with adjacent areas, reduce the potential for erosion or extensive stormwater runoff, screen parking from adjacent residentially zoned lots or streets or to reduce the appearance of bulk of the institution.

Landscaping required under the original ACU (9304804) is still required and landscape areas are shown on the site plan. The first story addition located within the single family zone will not impact the required landscape area that measures 10 feet in width and for a distance of 16 feet from the southwest property corner. The covered deck is not located within any required landscaped area. A six foot wide landscape strip is located along the west property line and adequately mitigates the new bulk of the covered deck. No further landscaping will be required.

J. Light and Glare

Exterior lighting shall be shielded or directed away from adjacent residentially zoned lots.

Any lighting is required to be shielded and directed away from residentially zoned lots. No light and glare impacts on adjacent residentially zoned lots are anticipated to occur.

K. Bulk and Siting

1. *Lot Area. If the proposed site is more than one (1) acre in size, the Director may require the following and similar development standards:*
 - a. *For lots with unusual configuration or uneven boundaries, the proposed principal structures be located so that changes in potential and existing development patterns on the block or blocks within which the institution is located are kept to a minimum.*

The lot is less than one acre in size.

- b. *For lots with large street frontage in relationship to their size, the proposed institution reflect design and architectural features associated with adjacent residentially zoned block faces in order to provide continuity of the block front and to integrate the proposed structures with residential structures and uses in the immediate area.*

The existing lot has only one street front and is not considered a large street front.

2. *Yards. Yards of institutions shall be as required for uses permitted outright in Section 23.44.008, provided that no such structure other than freestanding walls fences, bulkheads or similar structures shall be closer than ten feet (10') to the side lot line. The Director may permit side yards less than ten feet (10') but not less than five feet (5') after finding that the reduced setback will not significantly increase impacts, including but not limited to noise, odor and comparative scale, to adjacent lots zoned residential and there will be a demonstrable public benefit.*

The proposal meets yard requirements, except for the rear yard. A variance from yard development standards has been requested.

3. *Height Limit. A religious symbol and that portion of the roof supporting it, including but not limited to a belfry or spire, may be extended an additional twenty-five feet (25') above the height limit.*

This provision is not applicable as no religious symbols are proposed.

4. *Facade Scale. If any facade of a new or expanding institution exceeds thirty feet (30') in length, the Director may require that facades adjacent to the street or a residentially zoned lot be developed with design features intended to minimize the appearance of the bulk. Design features which may be required include, but are not limited to, modulation, architectural features, landscaping or increased yards.*

The south façade within the single family zone does not exceed 30 feet in length.

L. Parking and Loading Berth Requirements

SMC 23.44.022.L provides that the Director may modify the parking and loading requirements of Section 23.54.15, required parking, and the requirements of Section 23.44.016, parking location and access, on a case by case basis using the information contained in the transportation plan prepared pursuant to Subsection M of this section.

No parking or loading berth modifications are requested.

M. Transportation Plan

A transportation plan shall be required for proposed new institutions and for those institutions proposing expansions which are larger than four thousand (4,000) square feet of the structure area and/or required to provide twenty (20) or more spaces.

A transportation plan was required with the original ACU and is still in effect. The current proposal does not require a new or modified Transportation Plan.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Director has determined that the use will not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located. The conditional use application is **Conditionally Granted**. Conditions from the original ACU have not been modified and are still applicable. No new conditions have been required: Conditions required under ACU 9304804 are as follows:

The owners and or responsible party(s) shall:

1. Maintain fences, waste receptacles, south façade, lighting and landscaping per approved plan. Any dead or dying plant material shall be replaced. Waste receptacles may be relocated, but no closer than 16-feet from the west property line or 10 feet from the east and south property lines. (Condition ACU #9304804)

