

RESOLUTION NUMBER R-304704

DATE OF FINAL PASSAGE MARCH 3, 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO MODIFYING THE PLANNING COMMISSION'S DECISION BY DENYING PLANNED DEVELOPMENT PERMIT NO. 450668/SITE DEVELOPMENT PERMIT NO. 450706 AND GRANTING CONDITIONAL USE PERMIT NO. 450705/NEIGHBORHOOD DEVELOPMENT PERMIT NO. 590185 (AMENDMENT TO CONDITIONAL USE PERMIT/ RESOURCE PROTECTION PERMIT NO. 92-0769) FOR THE ACADEMY OF OUR LADY OF PEACE PROJECT NO. 130619.

WHEREAS, the Academy of Our Lady of Peace, a California Non-Profit Corporation, Owner/Permittee, filed an application with the City of San Diego for a planned development permit, site development permit, conditional use permit, and neighborhood development permit to expand and modify the existing Academy of Our Lady of Peace, known as the Academy of Our Lady of Peace project, located at 4860 Oregon Street, and legally described as portions of Villa Lots 31, 32, 33 and 50, and all of Villa Lots 35 thru 49, Map No. 937; portions of Lots 3, 4, 5 and 6, Block R, University Heights Map No. 1064; and all of Lots 1 and 2, Block R, University Heights, according to a Map made by G.A.D'Hemecourt in Block 8, Page 36 et seq of lis pendens; in the Greater North Park Community Plan area, in the RS-1-7 and RS-1-1 zones, the Transit Area Overlay Zone, and the FAA Part 77 Noticing Area; and

WHEREAS, on September 18, 2008, the Planning Commission, after public testimony, posed several questions to the applicant regarding enrollment, adaptive reuse, relocation of existing structures, and traffic issues. The Planning Commission requested that the applicant and Between Heights Neighborhood group work together and return to the Planning Commission on October 9, 2008 to respond to the questions; and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit No. 450668/Site Development Permit No. 450706/Conditional Use Permit No. 450705/Neighborhood Development Permit No. 590185 (Amendment to Conditional Use Permit/Resource Protection Permit No. 92-0769), and pursuant to Resolution No. 4469-PC voted to approve the permits; and

WHEREAS, on October 23, 2008, the Between Heights neighborhood group and the North Park Planning Committee appealed the Planning Commission decision to approve the Project to the Council of the City of San Diego; and

WHEREAS, the issue was set for public hearing to be conducted by the City Council on January 26, 2009, and after presentation of the Staff Report and public testimony relating to the matter, the Council voted unanimously to continue the matter to March 3, 2009; and

WHEREAS, the issue was again set for public hearing on March 3, 2009, and the City Council having fully considered the matter and being fully advised concerning the same voted to modify the Planning Commission decision by denying Planned Development No. 450668 and Site Development Permit No. 450706 and by granting Conditional Use Permit No. 450705 and Neighborhood Development Permit No. 590185 with two additional permit conditions relating to retention of historic buildings; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 450668/Site Development Permit No. 450706:

**A. PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0604**

1. The proposed development will not adversely affect the applicable land use plan. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The Academy of Our Lady of Peace [AOLP] was founded in San Diego in 1883 and has operated continuously at its present location in North Park as an educational institution since 1925. The Housing Element of the Greater North Park Community Plan [GNPCP] designates the approximate 24-acre site for Open Space at Very Low residential density (0 to 5 dwelling units per net residential acre) and Low Residential (5 to 10 dwelling units per net residential acre). The Community Facilities Element of the community plan further identifies the project site as an existing Private Secondary school. The project as originally proposed, consisting mainly of the expansion and construction of school-related facilities would implement the land use designations for the project site.

The school is considered the primary use of the site and continued use of this site as an educational facility is consistent with the land use designation. The project as originally proposed was designed to improve and modernize the school, thereby implementing the objective of the GNPCP to provide educational facilities.

The project implements the GNPCP goal for the provision of a safe and efficient transportation system that maximizes access for residents and visitors to the community. A primary goal of the original project was to ensure a safe, secure campus for the student population by providing additional on-site parking. The project would also provide for safe and efficient access in the neighborhood through continued implementation of traffic calming measures such as a designated, signed drop-off and pick-up zone on Copley Avenue and the use of traffic facilitators during critical drop-off and pick-up congestion periods. The traffic management procedures would still be required with the project alternative that was approved as conditions of the conditional use permit and neighborhood development permit.

The project as originally proposed would implement the GNPCP objective to preserve the remaining undeveloped canyons and hillsides. The original project proposed construction of the two new buildings at existing developed sites. This would avoid impacts to the adjacent canyons, and although minor encroachment would be required, the project conformed with the Environmentally Sensitive Lands regulation's allowable percentage of encroachment into steep slopes.

The GNPCP envisions new buildings that are in character and scale with the neighborhood. The original project proposed that a classroom building and parking structure would be constructed to complement both the existing campus and the surrounding neighborhood. The design for both buildings featured the Spanish Eclectic style consistent with the neighborhood, which included tiled roofs, asymmetrical facades, irregular massing and

shapes, deep arched openings, varying window sizes and shapes, wrought iron accents, and stucco veneers. The building materials (stucco, clay tile, decorative wrought iron) are of the same character as the existing campus buildings and many of the surrounding residences. The classroom building would have incorporated upper story offsets along the Collier Street facade and the west elevation. The upper story offsets along the Collier Street façade would have resulted in single-story massing on either side of the tower, allowing the building to blend into the residential neighborhood.

The parking structure façade enhancements along Copley Avenue, Uvada Place and the north elevation proposed repetitive decorative pilasters matching the existing campus perimeter walls, decorative blue wrought iron inserts and gate matching the campus iron work motifs. Along Copley Avenue and Uvada Place two red clay tile roof corner elements with deep arched openings and decorative chimney features reflecting the architectural character of the neighborhood and campus were proposed. Additionally, the walls would have been screened with enhanced landscaping, including trees, shrubs, and flowers.

Furthermore, the landscape renovation of the streetscape and the street improvements were proposed to match the historical character of the neighborhood and to increase the quality of landscaping in the public right-of-way. The streetscape landscape design utilized plant material palettes and groupings very similar to the existing neighborhood residential yards.

The original project proposal would have implemented the GNPCP goal to maintain a high level of public facilities to meet the needs of the community. The project proposed new water utilities, improving the water pressure for fire protection in the neighborhood.

Although the originally proposed project would implement objectives in the GNPCP for providing high quality educational facilities and preserving open space and hillsides, the proposed project would eliminate two historic buildings located in the immediate neighborhood located at 2544 Collier Avenue and 2756 Copley Avenue. According to the project's Environmental Impact Report [EIR], the proposal to remove two architecturally significant structures conflicts with the community plan's objectives in the Urban Design Element for preserving the architectural variety and residential character of the Greater North Park Community, and preserving and restoring unique or historic structures within the community. The two structures have been characterized and associated with the Spanish Eclectic architectural style and their loss, as proposed by the project, would result in a significant and unmitigable impact as stated in the EIR. Therefore, the project's proposal to remove the architecturally significant structures would adversely impact the GNPCP'S objectives for preserving architectural variety and historic structures within the community, and this finding cannot be made.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. There are no activities in the Academy's past, nor are any proposed, that would generate hazardous materials. The originally proposed project was a master plan to allow the school to address its operational and academic needs as a college preparatory school through the construction of a new classroom, to include science laboratories and library/media center, construction of a new parking structure and landscape renovation of the existing street frontage for the entire campus. The proposal was designed to enhance the

neighborhood streetscape along the campus and enhance school facilities whose appearance and educational opportunities will benefit the community as a whole.

The project as originally proposed would have complied with all applicable Uniform Building, Fire, Plumbing, Electrical, Mechanical Code & City Regulations governing construction and continued operation apply to this project to prevent adverse effects to those persons or properties in the vicinity of the project. Therefore, the proposed development would not have been detrimental to the public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The project site is within the RS-1-1 and RS-1-7 zones, and is subject to those regulations. This zoning allows for development on premises that contain steep slopes with a site development permit. The zoning allows for college preparatory high school use with a conditional use permit. This use is consistent with the Land Development Code and the project design would have met all the development regulations with the exception of deviations allowed through the planned development permit and neighborhood development permit processes for the maximum 30 foot height limit, minimum street yard setbacks and tandem parking requirements. The design of the structures originally proposed for the project incorporate architectural elements that help diminish bulk and blend into the surrounding community.

4. The proposed development, when considered as a whole, will be beneficial to the community. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The original proposed development plan would allow the school to address the operational and academic needs of a college preparatory school and included the following components.

- An annual enrollment of approximately 750 students;
- Construction of an approximately 21,059-square-foot, 2-story classroom building, including modern science laboratories and a state of the art library/media center;
- Construction of a 2-level parking structure to provide a minimum of 104 on-site parking spaces in one structure (ground level above basement level);
- Landscape renovation of the existing street frontage for the entire campus;
- Landscape renovation of the Point and the Meditation Garden, located internally in the northwest section of the campus.

The original proposed development plan would have improved the educational opportunities of residents attending the school and ensure the continued viability of AOLP and continue the school's contributions to the community. The proposed landscape renovation of the campus streetscape would have enhanced the appearance of the neighborhood. The proposed parking structure would have increased on-site parking and with the proposed continued implementation of traffic calming measures would reduce the current traffic impact on the surrounding streets. The development plan would have provided new public water utilities, improving water pressure for fire protection in the neighborhood. The proposed project would

allow conditions and restrictions be placed on the use of the property to ensure that the development remains compatible with the surrounding residential uses. Therefore, the development, when considered as a whole, would have been beneficial to the community.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The original proposal would have included deviations in three general areas. As more fully described below, the proposed deviations are appropriate for this location and would have resulted in a more desirable project than if designed in strict conformance with the RS-1-1 and RS-1-7 zones of the Land Development Code.

Setback Deviation: The deviation to allow an 8-foot setback where 10 feet is required would allow continuity with the existing campus wall along Copley Avenue. The proposed 8-foot setback would be applied consistently across the entire block and would therefore continue the existing street facade/site wall which has previously conforming rights for an 8-foot setback for the majority of the street block. The proposed wall would use building materials and design elements such as wrought iron, decorative tile and stucco similar in character to the campus buildings and the surrounding community that grew up around the school since establishment in 1925. Furthermore, the proposed landscape renovation will enhance the appearance of the streetscape.

Height: The deviation for a maximum structure height for the 2-story classroom of 39'-6" inches where a 30'-0" height limit applies would allow AOLP to provide an instructional space housing a new Library/Media Center, science and art labs and classrooms. The deviation from maximum structure height allows the classroom building to be designed with additional architectural interest, which will conform with the architectural style of the surrounding community. The proposed classroom building's Collier Street frontage, west elevation and east elevation would be consistent with the 30'-0" height limit with the exception of the tower element and two decorative chimneys.

- The classroom building would be 29'-6" in height (elevation 422.5 feet) adjacent to Collier Street (south elevation). However, the proposed 367-square-foot tower architectural feature would be 35'-11" in height (elevation 429 feet). This element represents approximately 3.3 percent of the building footprint.
- Along the west elevation the classroom building would be consistent with the 30'-0" height limit with the exception of two decorative chimney elements, each 64 square feet in size. The chimney feature on the southern end of the west elevation exceeds the height limit by approximately 4'-7" (elevation 429 feet) and represents approximately 0.57 percent of the building footprint.
- The chimney element on the northern end of the west elevation is also 64 square feet in size. It exceeds the height limit by approximately 9'-6" (elevation 429 feet) and represents approximately 0.57 percent of the building footprint.

These three decorative features reflect surrounding neighborhood Spanish Eclectic residential character and provide additional architectural interest, allowing the classroom building to blend in with the campus and surrounding community.

Parking: Tandem parking is permitted through the incorporation of a neighborhood development permit, which is included with this action. Tandem parking is generally restricted to employees in commercial locations. However, this institutional school use, by nature requires students to remain on the closed campus. Accordingly, the deviation to permit students, as well as staff employees, to utilize the tandem spaces is appropriate for this site and is consistent with the purpose and intent of the tandem parking regulations. Further, the incorporation of both tandem and valet parking spaces in the original proposal for this site permit all 104 required onsite parking spaces to be provided onsite, eliminating the need to deviate from the parking regulations, which results in an improved project. Based on the strict application of the RS-1-1 and RS-1-7 zones, these deviations to accommodate the school use were appropriate for this location and would have resulted in a more desirable project than if designed in strict conformance with the development regulations of the applicable zone.

B. SITE DEVELOPMENT PERMIT SDMC SECTION 126.0504

1. Findings for all Site Development Permits SDMC Section 126.0504 (a):

a. The proposed development will not adversely affect the applicable land use plan. The proposed development will not adversely affect the applicable land use plan. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The Academy of Our Lady of Peace [AOLP] was founded in San Diego in 1883 and has operated continuously at its present location in North Park as an educational institution since 1925. The Housing Element of the Greater North Park Community Plan [GNPCP] designates the approximate 24-acre site for Open Space at Very Low residential density (0 to 5 dwelling units per net residential acre) and Low Residential (5 to 10 dwelling units per net residential acre). The Community Facilities Element of the community plan further identifies the project site as an existing Private Secondary school. The project as originally proposed, consisting mainly of the expansion and construction of school-related facilities would implement the land use designations for the project site.

The school is considered the primary use of the site and continued use of this site as an educational facility is consistent with the land use designation. The project as originally proposed was designed to improve and modernize the school, thereby implementing the objective of the GNPCP to provide educational facilities.

The project implements the GNPCP goal for the provision of a safe and efficient transportation system that maximizes access for residents and visitors to the community. A primary goal of the project is to ensure a safe, secure campus for the student population by providing additional on-site parking. The project would also provide for safe and efficient access in the neighborhood through continued implementation of traffic calming measures such as a designated, signed drop-off and pick-up zone on Copley Avenue and the use of traffic facilitators during critical drop-off and pick-up congestion periods. The traffic management

procedures would still be required with the project alternative that was approved as conditions of the conditional use permit and neighborhood development permit.

The project as originally proposed would implement the GNPCP objective to preserve the remaining undeveloped canyons and hillsides. The original project proposed construction of the two new buildings at existing developed sites. This would avoid impacts to the adjacent canyons, and although minor encroachment would be required, the project conforms with the Environmentally Sensitive Lands regulation's allowable percentage of encroachment into steep slopes.

The GNPCP envisions new buildings that are in character and scale with the neighborhood. The original project proposed that a classroom building and parking structure would be constructed to complement both the existing campus and the surrounding neighborhood. The design for both buildings featured the Spanish Eclectic style consistent with the neighborhood, which included tiled roofs, asymmetrical facades, irregular massing and shapes, deep arched openings, varying window sizes and shapes, wrought iron accents, and stucco veneers. The building materials (stucco, clay tile, decorative wrought iron) are of the same character as the existing campus buildings and many of the surrounding residences. The classroom building would have incorporated upper story offsets along the Collier Street facade and the west elevation. The upper story offsets along the Collier Street facade would have resulted in single-story massing on either side of the tower, allowing the building to blend into the residential neighborhood.

The parking structure facade enhancements along Copley Avenue, Uvada Place and the north elevation proposed repetitive decorative pilasters matching the existing campus perimeter walls, decorative blue wrought iron inserts and gate matching the campus iron work motifs. Along Copley Avenue and Uvada Place two red clay tile roof corner elements with deep arched openings and decorative chimney features reflecting the architectural character of the neighborhood and campus were proposed. Additionally, the walls would have been screened with enhanced landscaping, including trees, shrubs, and flowers.

Furthermore, the landscape renovation of the streetscape and the street improvements were proposed to match the historical character of the neighborhood and to increase the quality of landscaping in the public right-of-way. The streetscape landscape design utilized plant material palettes and groupings very similar to the existing neighborhood residential yards.

The original project proposal would have implemented the GNPCP goal to maintain a high level of public facilities to meet the needs of the community. The project proposed new water utilities, improving the water pressure for fire protection in the neighborhood.

Although the originally proposed project would implement objectives in the GNPCP for providing high quality educational facilities and preserving open space and hillsides, the proposed project would eliminate two historic buildings located in the immediate neighborhood located at 2544 Collier Avenue and 2756 Copley Avenue. According to the project's Environmental Impact Report [EIR], the proposal to remove two architecturally significant structures conflicts with the community plan's objectives in the Urban Design Element for preserving the architectural variety and residential character of the Greater North Park Community, and preserving and restoring unique or historic structures within the community. The two structures have been characterized and associated with the Spanish Eclectic architectural

style and their loss, as proposed by the project, would result in a significant and unmitigable impact as stated in the EIR. Therefore, the project's proposal to remove the architecturally significant structures would adversely impact the GNPCP'S objectives for preserving architectural variety and historic structures within the community, and this finding cannot be made.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. There are no activities in the Academy's past, nor are any proposed, that would generate hazardous materials. The originally proposed project was a master plan to allow the school to address its operational and academic needs as a college preparatory school through the construction of a new classroom, to include science laboratories and library/media center, construction of a new parking structure and landscape renovation of the existing street frontage for the entire campus. The proposal was designed to enhance the neighborhood streetscape along the campus and enhance school facilities whose appearance and educational opportunities will benefit the community as a whole.

The project as originally proposed would have complied with all applicable Uniform Building, Fire, Plumbing, Electrical, Mechanical Code & City Regulations governing construction and continued operation apply to this project to prevent adverse effects to those persons or properties in the vicinity of the project. Therefore, the proposed development would not have been detrimental to the public health, safety and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The project site is within the RS-1-1 and RS-1-7 zones, and is subject to those regulations. This zoning allows for development on premises that contain steep slopes with a site development permit. The zoning allows for college preparatory high school use with a conditional use permit. This use is consistent with the Land Development Code and the project design meets or exceeds all the development regulations with the exception of deviations allowed through the planned development permit and neighborhood development permit processes for the maximum 30 foot height limit, minimum street yard setbacks and tandem parking requirements. The design of the structures proposed for the project incorporate architectural elements that help diminish bulk and blend into the surrounding community.

C. Supplemental Findings – Environmentally Sensitive Lands SDMC section 126.0504(b)

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The project site is large and encompasses significant canyon slopes along the northern and western portions above Mission Valley. The flatter portions of the site are located near the fronting streets to the south and east. The site is improved with existing structures in the areas of proposed development. A site development permit would have originally been required due to the presence of environmentally sensitive lands in the form of steep slopes on the project site. The entire project site is located outside the

Multiple Habitat Planning Area [MHPA]. Minimal disturbance of 0.6-acre of Southern Maritime Chaparral, outside the MHPA, will be impacted by the project. The applicant would have mitigated this impact either through an offsite mitigation bank or by paying a fee to the Habitat Acquisition Fund, in accordance with the San Diego Municipal Code and as described within the EIR and MMRP.

Environmentally sensitive lands in the form of steep slopes are present on the project site. Project development would have been focused on flatter portions of the site and encroachment into steep slopes is minimized. The original project proposed construction of two new buildings at existing developed properties to avoid impacts to the adjacent canyons. Although minor encroachment would have been required for building foundations, the project does not exceed the Environmentally Sensitive Lands regulations' allowable percentage of encroachment into steep slopes. The actual property ownership area has a large quantity of sensitive steep slopes of 25 percent or greater (808,473 square feet). The new structures were proposed to encroach a combined total of 944 square feet into these areas.

The original project proposed drainage directed over vegetated swales connecting to existing storm drains so as to direct water away from the canyon, while standard Best Management Practices [BMPs] will ensure no environmental harm results.

The original project would have incorporated mitigation measures to prevent adverse impacts to habitat and sensitive species. Therefore, the site is physically suitable for the design and siting of the proposed development and the development would have resulted in minimum disturbance to environmentally sensitive lands.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The project proposes construction of two new buildings at existing developed sites. The project site is located in a low to moderate geological hazard area with potential risks associated with landsliding. A subsurface/detailed geotechnical investigation has been performed and slope stability recommendations would have been adhered to as part of project structural design and prior to the issuance of a grading permit. Based on this subsurface investigation, the site conditions indicate it has a factor of safety of 1.5 or greater with regards to slope stability. The geotechnical investigation indicates that the project site has a favorable geologic structure and is considered low risk. Proper engineering design and conformance with the mitigation measures in the MMRP would have ensured project compliance.

The original project proposed drainage directed over vegetated swales connecting to existing storm drains so as to direct water away from the canyon, while standard BMPs will ensure no environmental harm results. The proposed project site is not located in a flood zone. The proposed project site would have implemented brush management zone requirements, as conditioned with the permit. Brush management is also a condition of the conditional use permit and neighborhood development permit as approved for the project alternative. The proposed development would have minimized the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The entire project site is located outside the MHPA. Minimal disturbance of 0.6-acre of Southern Maritime Chaparral, outside the MHPA, would have been impacted by the project. The applicant would have mitigated this impact either through an offsite mitigation bank or by paying a fee to the Habitat Acquisition Fund, in accordance with the San Diego Municipal Code and as described within the EIR and MMRP.

Environmentally sensitive lands in the form of steep slopes are present on the project site. Project development would not have encroached into any adjacent environmentally sensitive slopes or other environmentally sensitive lands. All development would have been contained on the project site. The original project proposed construction of the two new buildings at existing developed properties. This would have avoided impacts to the adjacent canyons. Although minor encroachment would be required for building foundations on the project site, the project proposal did not exceed the Environmentally Sensitive Lands regulations' allowable percentage of encroachment into steep slopes.

The original project proposed drainage directed over vegetated swales connecting to existing storm drains so as to direct water away from the canyon, while standard BMPs will ensure no environmental harm results. Therefore, the development proposed with the site development permit and planned development permit would be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The project site is not located in or immediately adjacent to the MSCP Subarea Plan's Multi-Habitat Planning Area. Mitigation measures would have been implemented to offset impacts to the 0.6-acre of Southern Maritime Chaparral that would be impacted by the proposed project. All construction staging areas would have been located within pre-existing disturbed areas. These locations would not alter the landform or cause permanent habitat loss. Preconstruction surveys for sensitive bird species would be conducted prior to construction to ensure no nests are directly impacted and to ensure no indirect noise impacts to nesting birds occur. The proposed project would also incorporate the MSCP Subarea Plan's Land Use Adjacency Requirements. Therefore, the originally proposed development would have been consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. The project site is several miles west of the closest public beach and local shoreline. Standard BMPs would have ensured that no significant indirect hydrological impacts occur. Therefore, the proposed development would not have contributed to the erosion of public beaches or adversely impacted local shoreline sand supply.

f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The project as originally proposed was a request to expand and modify the existing Academy of Our Lady of Peace school. Mitigation measures would have been implemented to offset the impacts to the 0.6-acre of Southern Maritime Chaparral that is located outside the MHPA, but would have been impacted by the project. A subsurface/detailed geotechnical investigation has been performed and slope stability recommendations will be adhered to as part of project structural design and prior to the issuance of a grading permit. Based on this subsurface investigation, the site conditions indicate it has a factor of safety of 1.5 or greater with regards to slope stability. The original project proposed vegetated swales connecting to existing storm drains to direct water away from the canyon, while standard BMPs will ensure no environmental harm results. The nature and extent of mitigation that would have been required as a condition of the site development and planned development permit is reasonably related to, and calculated to alleviate, negative impacts created by the originally proposed development.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego that it adopts the following findings with respect to Conditional Use Permit No. 450705/Neighborhood Development Permit No. 590185 (Amendment to Conditional Use Permit/Resource Protection Permit No. 92-0769):

D. CONDITIONAL USE PERMIT SDMC SECTION 126.0305

1. The proposed development will not adversely affect the applicable land use plan. The project as approved will modify the existing Academy of Our Lady of Peace school to allow the student enrollment to increase to 750 with mitigation required for traffic and parking. The AOLP was founded in San Diego in 1883 and has operated continuously at its present location in North Park as an educational institution since 1925. The project site lies within the GNPCP area and is consistent with the overall goals of the GNPCP. The GNPCP acknowledges AOLP as an educational resource and has designated the project parcels for "School" (in the existing campus core area) with "Single-Family" and "Open Space" use for the remainder of the parcels as shown on the Generalized Community Plan Map (Figure 23) in the GNPCP. The school is considered the primary use of the site and continued use of this site as an educational facility is consistent with the land use designation. The proposed project is designed to improve and modernize the school, thereby implementing the objective of the GNPCP to provide educational facilities.

The project alternative that was approved implements the GNPCP goal for the provision of a safe and efficient transportation system that maximizes access for residents and visitors to the community. A primary goal of the project is to ensure a safe, secure campus for the student population by providing additional on-site and off-site parking. The project would also provide for safe and efficient access in the neighborhood through continued implementation of traffic calming measures such as a designated, signed drop-off and pick-up zone on Copley Avenue and the use of traffic facilitators during critical drop-off and pick-up congestion periods.

The approved project alternative implements the GNPCP objective to preserve the remaining undeveloped canyons and hillsides because no new construction would occur. This would avoid impacts to the adjacent canyons.

The proposed continued high school use is consistent with the GNPCP as allowed through the Conditional Use Permit and Neighborhood Development Permit processes. Therefore, the project would not adversely affect the GNPCP.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project as approved would modify the existing Academy of Our Lady of Peace school to allow the student enrollment to increase to 750 with mitigation for traffic and parking. There are no activities in the Academy's past, nor are any proposed, that would generate hazardous materials.

The project will comply with all applicable Uniform Building, Fire, Plumbing, Electrical, Mechanical Code & City Regulations governing continued operation apply to this project to prevent adverse effects to those persons or properties in the vicinity of the project. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code. The project as approved will modify the existing Academy of Our Lady of Peace school to allow the student enrollment to increase to 750 with mitigation for traffic and parking. The project site is within the RS-1-1 and RS-1-7 zones, and is subject to those regulations. The zoning allows for college preparatory high school use with a Conditional Use Permit. This use is consistent with the Land Development Code and the project design meets or exceeds all the development regulations with the exception of deviations allowed through the Neighborhood Development Permit processes for tandem parking.

4. The proposed use is appropriate at the proposed location. The ALOP has operated continuously on the site since 1925. The use of the site as an educational facility is consistent with the School land use designation of the GNPCP. The use of the site as an educational facility is allowed within the residentially zoned neighborhood with an approved Conditional Use Permit.

The project would provide all 104 required off-street parking spaces through on-site parking, off-site parking agreements, and other permit conditions relating to parking (see conditions 21 through 27). Conditions applied to the project would also provide for safe and efficient access in the neighborhood through continued implementation of traffic calming measures such as a designated, signed drop-off and pick-up zone on Copley Avenue and the use of trained traffic facilitators during critical drop-off and pick-up congestion periods. Therefore, the use is appropriate at this location.

E. NEIGHBORHOOD DEVELOPMENT PERMIT – SDMC SECTION 126.0404

1. The proposed development will not adversely affect the applicable land use plan. The project as approved will modify the existing Academy of Our Lady of Peace school to allow the student enrollment to increase to 750 with mitigation required for traffic and parking. The ALOP was founded in San Diego in 1883 and has operated continuously at its

present location in North Park as an educational institution since 1925. The project site lies within the GNPCP area and is consistent with the overall goals of the GNPCP. The GNPCP acknowledges AOLP as an educational resource and has designated the project parcels for "School" (in the existing campus core area) with "Single-Family" and "Open Space" use for the remainder of the parcels as shown on the Generalized Community Plan Map (Figure 23) in the GNPCP. The school is considered the primary use of the site and continued use of this site as an educational facility is consistent with the land use designation. The proposed project is designed to improve and modernize the school, thereby implementing the objective of the GNPCP to provide educational facilities.

The project alternative that was approved implements the GNPCP goal for the provision of a safe and efficient transportation system that maximizes access for residents and visitors to the community. A primary goal of the project is to ensure a safe, secure campus for the student population by providing additional on-site and off-site parking. The project would also provide for safe and efficient access in the neighborhood through continued implementation of traffic calming measures such as a designated, signed drop-off and pick-up zone on Copley Avenue and the use of traffic facilitators during critical drop-off and pick-up congestion periods.

The approved project alternative implements the GNPCP objective to preserve the remaining undeveloped canyons and hillsides because no new construction would occur. This would avoid impacts to the adjacent canyons.

The proposed continued high school use is consistent with the GNPCP as allowed through the Conditional Use Permit, and Neighborhood Development Permit processes. Therefore, the project would not adversely affect the GNPCP.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project as approved would modify the existing Academy of Our Lady of Peace school to allow the student enrollment to increase to 750 with mitigation for traffic and parking. There are no activities in the Academy's past, nor are any proposed, that would generate hazardous materials.

The project will comply with all applicable Uniform Building, Fire, Plumbing, Electrical, Mechanical Code & City Regulations governing continued operation apply to this project to prevent adverse effects to those persons or properties in the vicinity of the project. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code. The project as approved will modify the existing Academy of Our Lady of Peace school to allow the student enrollment to increase to 750 with mitigation for traffic and parking. The project site is within the RS-1-1 and RS-1-7 zones, and is subject to those regulations. The zoning allows for college preparatory high school use with a Conditional Use Permit. This use is consistent with the Land Development Code and the project design meets or exceeds all the development regulations with the exception of deviations allowed through the Neighborhood Development Permit processes for tandem parking.

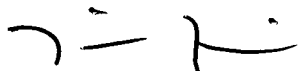
The above findings are supported by the staff report, minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that the appeals of the Between Heights neighborhood group and the North Park Planning Committee are each granted in part and denied in part and the decision of the Planning Commission is modified;

BE IT FURTHER RESOLVED, that Planned Development Permit No. 450668/Site Development Permit No. 450706 is denied and Conditional Use Permit No. 450705/ Neighborhood Use Permit No. 590185 is granted to the Academy of Our Lady of Peace, a California non-profit corporation, Owner/ Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Nina M. Fain
Deputy City Attorney

NMF:pev
04/03/09
Or.Dept:Clerk
R-2009-935
MMS #7171

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 427863

CONDITIONAL USE PERMIT NO. 450705/
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 590185
ACADEMY OF OUR LADY OF PEACE – PROJECT NO. 130619 [MMRP]
(Amendment To Conditional Use Permit/Resource Protection Permit No. 92-0769)
CITY COUNCIL

This Conditional Use Permit/Neighborhood Development Permit (Amendment to Conditional Use Permit/Resource Protection Permit No. 92-0769) is granted by the City Council of the City of San Diego to The Academy of Our Lady of Peace, a California Non-Profit Corporation, Owner/Permittee, pursuant to Chapter 12, Article 6, Divisions 3 and 4 of the San Diego Municipal Code [SDMC]. The 23.28-acre site is located at 4860 Oregon Street in the RS-1-7 and RS-1-1 zones, the Transit Area Overlay Zone, and the FAA Part 77 Noticing Area within the Greater North Park Community Plan area. The project site is legally described as portions of Villa Lots 31, 32, 33 and 50, and all of Villa Lots 35 thru 49, Map No. 937; portions of Lots 3, 4, 5 and 6, Block R, University Heights, Map. No. 1064; and all of Lots 1 and 2, Block R, University Heights, according to Map made by G.A.D'Hemecourt in Block 8, Page 36 et seq. of lis pendens.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to expand and modify the existing Academy of Our Lady of Peace school, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 3, 2009, on file in the Development Services Department.

The project or facility shall include:

- a. The operation of the existing Academy of Our Lady of Peace high school with no more than 750 students;
- b. The following deviations are granted as more fully described in Condition No. 27 of this Permit and as shown on Exhibit "A:"

- i. A deviation to allow the provisions of a maximum of nineteen tandem parking spaces for use by students, in addition to the allowed use by employees;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking facilities; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This Permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this Permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances,

regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required (also refer to Condition No. 30).

8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted (also refer to Condition Nos. 29, 30, and 31).

9. Prior to the issuance of any construction permits, the Owner/Permittee shall provide additional geotechnical information for the review and approval of the City Geologist, satisfactory to the City Geologist and Development Services Department.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this Permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and

costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

12. All relevant conditions of Resource Protection Ordinance/Conditional Use Permit No. 92-0769 shall remain in full effect unless otherwise conditioned in this Permit (Project No. 130619). Condition No. 29 of RPO/CUP 92-0769 regarding the expiration date of that permit is no longer applicable and is rescinded with this Permit.

13. Prior to issuance of any construction permits the applicant shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration [FAA].

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

15. The mitigation measures specified in the MMRP, and outlined in Environmental Impact Report No. 130619 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report No. 130619 satisfactory to the City Manager and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: transportation/circulation/parking.

17. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

18. Within twelve months after the recordation of the conditional use permit, the applicant shall replace the existing curb ramp with City standard curb ramp with truncated domes, at the northwest and northeast corners of Copley Avenue and Uvada Place and at the northwest corner of Collier Avenue and Oregon Street, satisfactory to the City Engineer.

19. Within twelve months after the recordation of the conditional use permit, the applicant shall replace the damaged and uplifted sidewalk, along the project site Collier Avenue, Oregon Street, Copley Avenue and Uvada Place, with the same scoring patterns

City standard sidewalk. The existing contractor's stamp and street name on the existing sidewalk shall be preserved per Standard Drawing SDG-115, satisfactory to the City Engineer.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

20. Within sixty days of permit issuance, Brush Management Construction Documents for the existing residential lots located at 4910 Uvada Place, 2544 Collier Avenue and 2746 Copley Avenue (APN 438-201-03, 438-201-04, and 438-230-11) shall be submitted for approval to the Development Services Department and the Fire Marshal, per the requirements of the City of San Diego Municipal Code regarding brush management. Within thirty days of Brush Management Construction Document approval, the Brush Management Plan for these residential lots shall be implemented and a final inspection conducted.

PLANNING/DESIGN REQUIREMENTS:

21. No fewer than 104 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," consistent with Conditions No. 22 (Shared Parking Conditions), and as clarified in Condition No. 24, "Parking Management Plan." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

22. A shared parking agreement providing a total of eighteen parking spaces at an offsite location, including shuttle service to the school, shall be prepared by the applicant within sixty days of the approval of this Permit, satisfactory to the City Engineer. This number is based on eighty-six off-street parking spaces being provided within the parking areas at the school itself.

23. The Neighborhood Development Permit authorized herein allows the use of tandem parking for this site, as further specified within Condition Nos. 24 and 27.

24. Parking Management Plan: The applicant shall provide and maintain a Parking Management Plan, to the satisfaction of the City Engineer, as follows:

- a. The Owner/Permittee shall provide a parking management report, prepared by a professional traffic consultant, annually for five years after the granting of this Permit (March 3, 2014). This report shall be submitted for review to the Development Services Department Director for the purposes of confirming compliance with the terms of this Permit. The Director may modify the frequency of reporting, based on the results of the periodic monitoring and reporting, and as may be requested by the Owner/Permittee. After March 3, 2104, the Owner/Permittee shall then provide the report every three years;

- b. The Owner/Permittee shall provide sufficient funds to ensure complete review of the parking management report through a deposit account in the Development Services Department;
- c. The Owner/Permittee shall provide off-site parking and a shuttle service for any special event over 258 attendees on site (at rate of one parking space per three attendees). Owner/Permittee shall secure and document the location of this legal and adequate off-site parking spaces and the methodology of transporting these people to and from the project site, at least thirty days prior to the event. The Owner/Permittee shall provide this documentation to the City of San Diego upon request. Graduation for the senior class, occurring once per year, is the only event exempted from this requirement for provision of off-site parking and shuttle service;
- d. The Owner/Permittee shall assign a total of nineteen tandem parking spaces to staff and/or students, as depicted on "On-Site Parking Plan, Exhibit "A," satisfactory to the City Engineer.

25. In addition to the above Parking Management Plan, a minimum of 210 enrolled students shall be precluded from driving to the school at all times, to the satisfaction of the City Engineer.

26. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

27. The following deviation is granted with this Permit, as more fully described on Exhibit "A:"

- a. A deviation to allow the provision of a maximum of nineteen tandem parking spaces for use by students, in addition to the allowed use by employees, satisfactory to the City Engineer.

28. Proposed new solar panels to be placed on the roof of the existing "Holy Family Event Center" building shall be placed so that no part of the panels will exceed the 32-foot height of the crest of the building roof.

29. Within sixty days of approval of this Permit, Exhibit "A" shall be revised to reflect the City Council's action on March 3, 2009, including identifying buildings to remain, to the satisfaction of the Development Services Department.

30. Amendment of this Conditional Use Permit/Neighborhood Development Permit is required prior to issuance of any demolition or relocation permits for any buildings more than 45 years old, located within the boundaries of this project area.

31. Approval of appropriate permits prior to construction modifications to any existing buildings onsite is required in accordance with the City of San Diego Municipal Code.

32. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

33. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located, and in accordance with the applicable regulations in the City of San Diego Municipal Code.

34. All noise from the property, including the use of public address systems, shall not exceed levels authorized by the City of San Diego Municipal Code.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on March 3, 2009, by Resolution No. R-304704.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

ACADEMY OF OUR LADY OF PEACE,
a California Non-Profit Corporation
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PERMIT/OTHER – Permit Shell 11-01-04