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DOC # 2003-1418425

NOV 26, 2003 11:46 AM

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT

OFFICIAL RECORDS ATTACHMENT 1
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 31.00

WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501



SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-1449

CONDITIONAL USE PERMIT NO. 11245
CHABAD HEBREW ACADEMY PRESCHOOL/DAYCARE
HEARING OFFICER

This Conditional Use Permit No. 11245 is granted by the Hearing Officer of the City of San Diego to Friends of Chabad Lubavitch San Diego, Inc., Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0301. The 26.98 acre site is located at 10785 Pomerado Road in the RS-1-8 zone of the Scripps Miramar Ranch community plan area. The project site is legally described as Parcel 2 of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to utilize and operate a 6,053 square-foot preschool and daycare facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated September 10, 2003, on file in the Development Services Department. The exhibits are identified as follows:

- A-1: Title Sheet
- A-2: Site Plan
- A-3: Topographic Survey
- A-4: Slope Analysis
- A-5: Roof/Building Plans
- A-6: Elevations and Sections
- A-7: Site Sections

The project or facility shall include:

- a. Preschool and Daycare No. 1; 4,153 square-foot single story facility of which contains four classrooms, three teacher offices, two bathrooms and storage rooms. Preschool and Daycare No. 2; 1,900 square-foot area with four classrooms, one office room and

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one bathroom, located within an existing two-story classroom building. Two playground areas enclosed with chainlink fencing for each Preschool and Daycare;

- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities; and
- d. 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. Operation and utilization of the preschool and daycare facility must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months 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 effect 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 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 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 utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

- Page 2 of 6-

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6. Issuance of this Permit by the City of San Diego does not authorize the 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 applicant 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.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A-1 through A-7. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. 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.

10. This permit and corresponding use of this site shall expire on September 10, 2008. Should an appeal be processed, then the 5-year horizon shall begin following all appeals.

11. Prior to the expiration date of this permit, the Owner/Permittee may submit a new permit application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time.

PLANNING/DESIGN REQUIREMENTS:

12. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

13. The maximum number of preschool and daycare participants shall be 250 students. The allowable preschool and daycare enrollment number shall be deducted from the overall 800 student allotment granted to Chabad by the recorded United States International University (USIU) CUP 133-PC, leaving 550 students maximum for other school programs.

14. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

15. 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 Permittee.

16. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

17. The Permittee shall ensure that the provisions identified in the SDMC Section 141.0606, Separately Regulated Uses, Child Care Facilities are in effect and enforced at all times.

18. The Preschool and Daycare facility shall only operate during the specified hours as shown on approved Exhibit A-1, dated September 10, 2003, on file in the Development Services Department.

19. Only Daycare and Preschool uses identified as pursuant to the approved and stamped Exhibits A-1 through A-7 shall be permitted with the approval of this permit. No development and/or building vesting rights shall be approved with the recordation of this permit.

20. All signs associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.

21. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

WASTEWATER REQUIREMENTS:

22. Prior to the issuance of any certificate of occupancy, the developer shall privatize all on-site public sewer mains, satisfactory to the Metropolitan Wastewater Department Director or the developer shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights-of-way, satisfactory to the Metropolitan Wastewater Department Director.

23. Prior to the issuance of any certificate of occupancy, the owner shall obtain an Encroachment Maintenance and Removal Agreement for all private sewer facilities in or over any public right of way.

24. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

25. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide. Proposed facilities that do not meet the current standards shall be re-designed.

WATER REQUIREMENTS:

26. Prior to the issuance of any certificate of occupancy, the owner must provide evidence of the completion and "As-Built" of public improvement drawing number 27827-D. Those public improvements provide water service to the development. If the improvements have not been completed and "As-Built", then the owner/applicant must complete those improvements, satisfactory to the Water Department Director.

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 Hearing Officer of the City of San Diego on September 10, 2003, Resolution No. D-4459.

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ALL-PURPOSE CERTIFICATE

42-1449/6691

Type/Approval Number CUP No. 11245

Date of Approval 9/10/03

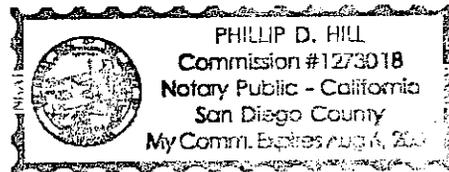
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Timothy P. Daly
Timothy P. Daly, Development Project Manager

On Oct. 30, 2003 before me, Phillip D. Hill, (Notary Public), personally appeared **Timothy P. Daly**, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature Phillip D. Hill
Phillip D. Hill



ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

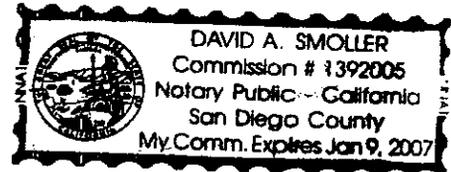
Signed [Signature] Signed YONAH FRADKIN
Typed Name Friends of Chabad Typed Name
Lubavitch San Diego, Inc.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On Nov 5, 2003 before me, DAVID A. SMOLLER (Name of Notary Public) personally appeared YONAH FRADKIN, personally known to me (or ~~proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature David A. Smoller



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HEARING OFFICER RESOLUTION NO. D-4459
CONDITIONAL USE PERMIT NO. 11245
CHABAD HEBREW ACADEMY PRESCHOOL/DAYCARE

WHEREAS, FRIENDS OF CHABAD LUBAVITCH, Owner/Permittee, filed an application with the City of San Diego for a permit to utilize and operate a 6,053 square-foot preschool and daycare facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 11245), on portions of a 26.98 acre site;

WHEREAS, the project site is located at 10785 Pomerado Road in the RS-1-8 zone of the Scripps Miramar Ranch community plan area;

WHEREAS, the project site is legally described as Parcel 2 of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978;

WHEREAS, on September 10, 2003, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 11245 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated September 10, 2003.

FINDINGS:

Conditional Use Permit - San Diego Municipal Code Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

The existing Chabad Hebrew Academy, a private religious and school facility located in Scripps Miramar Ranch, proposes to operate a preschool and daycare facility, an accessory use to the existing Chabad School. The adopted Scripps Miramar Ranch Community Plans' Social Needs Element for churches, page 61, states that "church facilities are encouraged to offer meeting rooms, develop child care programs, set up youth and teen recreational activities, and provide supportive care for individual community members." This land use plan element also indicates that churches provide sufficient quantity of parking spaces to handle full capacity service as well as accessory uses such as daycare and children's classes. The addition of Chabad's preschool and daycare facility accomplishes the objectives for the adopted land use plan by providing for child care programs and the existing school with 158 parking spaces provides a sufficient amount of parking area. Therefore, the proposed preschool and daycare facility will not adversely affect the Scripps Miramar Ranch Community Plan or the General Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The permit prepared for this project includes various conditions and exhibits of approval relevant to achieving compliance with the regulations of the Land Development Code in effect for the project site; and such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety, and general welfare of the persons residing, working, or attending in the area. These conditions include standards which pertain to number of students, operational hours, and completion of public improvements. Furthermore, the City's Environmental Analysis Section has reviewed the proposed use of the existing facility and has determined this action is exempt from California Environmental Quality Act. The Chabad Hebrew Academy's proposed preschool and daycare facility would not have a significant impact on public health, safety, and welfare.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

The project is consistent with the applicable ordinance provisions of the San Diego Municipal Code's (SDMC) Land Development Code (LDC) and no deviation from the development regulations are required for the project implementation. Also, pursuant to the LDC, the preschool/daycare use, considered a child care center, may be permitted under the RS base zone designation with issuance of a Conditional Use Permit. The Chabad Hebrew Academy's child care center would also be subject to LDC provisions for Separately Regulated Uses, Child Care Facilities. Chabad's existing child care facility, being located away from hazardous business areas, adjacent public roadways, and residential areas, and the construction features, including playground fencing, meets the requirements for Separately Regulated Uses. The Conditional Use Permit prepared for this project includes various conditions and exhibits of approval relevant to achieving compliance with the regulations of the LDC.

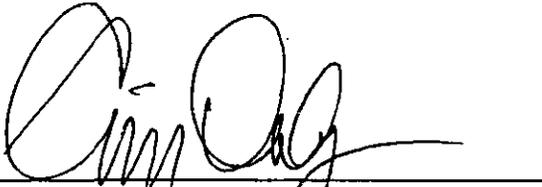
4. The proposed use is appropriate at the proposed location.

The proposed 6,053 square-foot Chabad Hebrew Academy preschool/daycare facility, an accessory use to the existing 26.98 acre Chabad Hebrew Academy campus area located south of Pomerado Road and west of Avenida Magnifica in the Scripps Miramar Ranch community, would be established within portions of the nearly completed six-building school campus area. Two buildings, Preschool/Daycare No. 1 and 2, within the school complex would house the preschool and daycare operations. Preschool/Daycare No. 1 is a single-story building with a total area of 4,153 square-feet and would contain four classrooms, three teacher offices, two bathrooms, and storage rooms. Preschool/Daycare No. 2, encompassing approximately 1,900 square-feet, is located on the ground floor of an existing two-story elementary school classroom building and would consist of four classrooms, one office, and a bathroom. Each preschool/daycare facility would have

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direct access to separate playground areas enclosed by a chainlink fence. The hours of operation for the preschool and daycare facility would be 6:00 A.M. to 8:00 P.M. The enrollment of preschool/daycare participants will be limited to 250. The project does comply with all the Land Development Regulations and the proposal is consistent with the RS-1-8 zone designation. The preschool and daycare facility use is appropriate within the confines of the existing Chabad Hebrew Academy campus location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 11245 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 11245, a copy of which is attached hereto and made a part hereof.



TIM DALY
Development Project Manager
Development Services

Adopted on: September 10, 2003

Job Order No. 42-1449

(R-INSERT)

RESOLUTION NUMBER R- _____

ADOPTED ON _____

**WAIVER
 FROM THE
 REQUIREMENTS OF THE INCLUSIONARY HOUSING ORDINANCE
 Chabad Educational Campus – Project No. 123607**

WHEREAS, Friends of Chabad Lubavich San Diego, Owner/Permittee, filed an application with the City of San Diego for a Waiver from the requirements of the Inclusionary Housing Ordinance in association with the Chabad Educational Campus, Project No. 123607, located at 10785 Pomerado Road, and legally described as Parcel 2 of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978, in the Scripps Miramar Ranch Community Plan area, in the RS-1-8 Zone; and

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego considered the Waiver from the requirements of the Inclusionary Housing Ordinance for the Chabad Educational Campus, Project No. 123607, and pursuant to Resolution No. _____ - PC voted to recommend City Council approval; and

WHEREAS, the matter was set for public hearing on (date to be filled), testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to the Waiver from the requirements of the Inclusionary Housing Ordinance for the Chabad Educational Campus, Project No. 123607:

FINDINGS FOR A WAIVER FROM THE REQUIREMENTS OF THE INCLUSIONARY HOUSING ORDINANCE:

1. No waiver, adjustment, or reduction shall be issued to an applicant unless there is an absence of any reasonable relationship or nexus between the impact of the development and either the amount of the in lieu fee charged or the inclusionary requirement.

Pursuant to Municipal Code Section 142.1305(e), Friends of Chabad Lubavitch San Diego, Inc. requests a waiver from the application of the Inclusionary Affordable Housing Regulations to its proposal to construct 280 units of on-campus housing for students, married students and faculty in support of the build-out and completion of its educational campus consistent with City Council Resolution Number 284501 and Conditional Use Permit Number 133-PC. There is no reasonable relationship between Chabad's proposal to build this on-campus housing and the stated application of the Inclusionary Affordable Housing Regulations to residential developments.

The application of the Inclusionary Affordable Housing Regulations is not written in a manner or form that reflects the legal intent for on-campus housing of private, non-profit educational institutions. Municipal Code Section 142.1302 states that Inclusionary Affordable Housing Regulations applies to all residential development except as provided in Section 142.1303.

The term "residential development" is not defined in the Municipal Code or otherwise clarified in the ordinance. However, for purposes of regulating uses and their development, the Municipal Code establishes a number of use categories and subcategories. The residential use

category includes: group living accommodations; mobile home parks; multiple dwelling units and single dwelling units. Regarding Land Development Code Section 131.0111 (c), Grouping of Use Categories states that any use within the residential use category is considered a residential use or residential development.

The use and development regulations for schools, colleges and universities are found under the Institutional Use category of the Municipal Code, which would imply that associated on-campus housing is institutional, not residential development. In fact Land Development Code Section 131.0111 (d), Grouping of Use Categories states that any use within the institutional, retail sales, commercial services, offices, vehicle and vehicular equipment sales and services categories is considered a commercial use or commercial development.

Additionally Section 142.1306 General Inclusionary Affordable Housing Requirements requires that 10 percent of the total dwelling units in the proposed development shall be affordable to targeted rental households or targeted ownership households in accordance with Section 142.1309, and it stipulates how the requirement can be met for residential development and condominium conversions. Chabad's and most other on-campus housing are not for rent and not for sale and not subject to condominium conversion. The costs and fees one pays for taking classes and going to school pays for the on-campus housing.

The General Inclusionary Affordable Housing Regulations do not clearly state the applicability to on-campus housing. The General Inclusionary Affordable Housing Regulations do not provide instruction on how development that is neither intended for rent or for sale is supposed to be able to comply.

The General Inclusionary Affordable Housing Regulations does not clearly state that on-campus housing is to be considered residential development for purposes of applying the ordinance. Additionally in the Inclusionary Affordable Housing Implementation and Monitoring

Procedures Manual which establishes submittal requirements, review procedures and standards and guidelines for the program, there is no information relative to how on-campus housing of an educational institution is required to comply. The document indicates that the Program requirements can be fulfilled through the provisions of [affordable] rental or for-sale housing. The Chabad Campus on-campus housing is not for rent or for sale.

Chabad does not believe that on-campus housing is residential development and subject to the provisions of the Inclusionary Affordable Housing Regulations. Per the Land Development Code categorization of uses, the institutional development of Chabad or any other non-profit, educational campus is considered commercial development.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and the Waiver from the requirements of the Inclusionary Housing Ordinance for the Chabad Educational Campus, Project No. 123607, is granted to Friends of Chabad Lubavich San Diego, Owner/Permittee, under the terms and conditions set forth in the Waiver attached hereto and made a part hereof.

APPROVED: MICHAEL AGUIRRE, City Attorney

By

NAME

Deputy City Attorney

ATTY/SEC. INITIALS

DATE

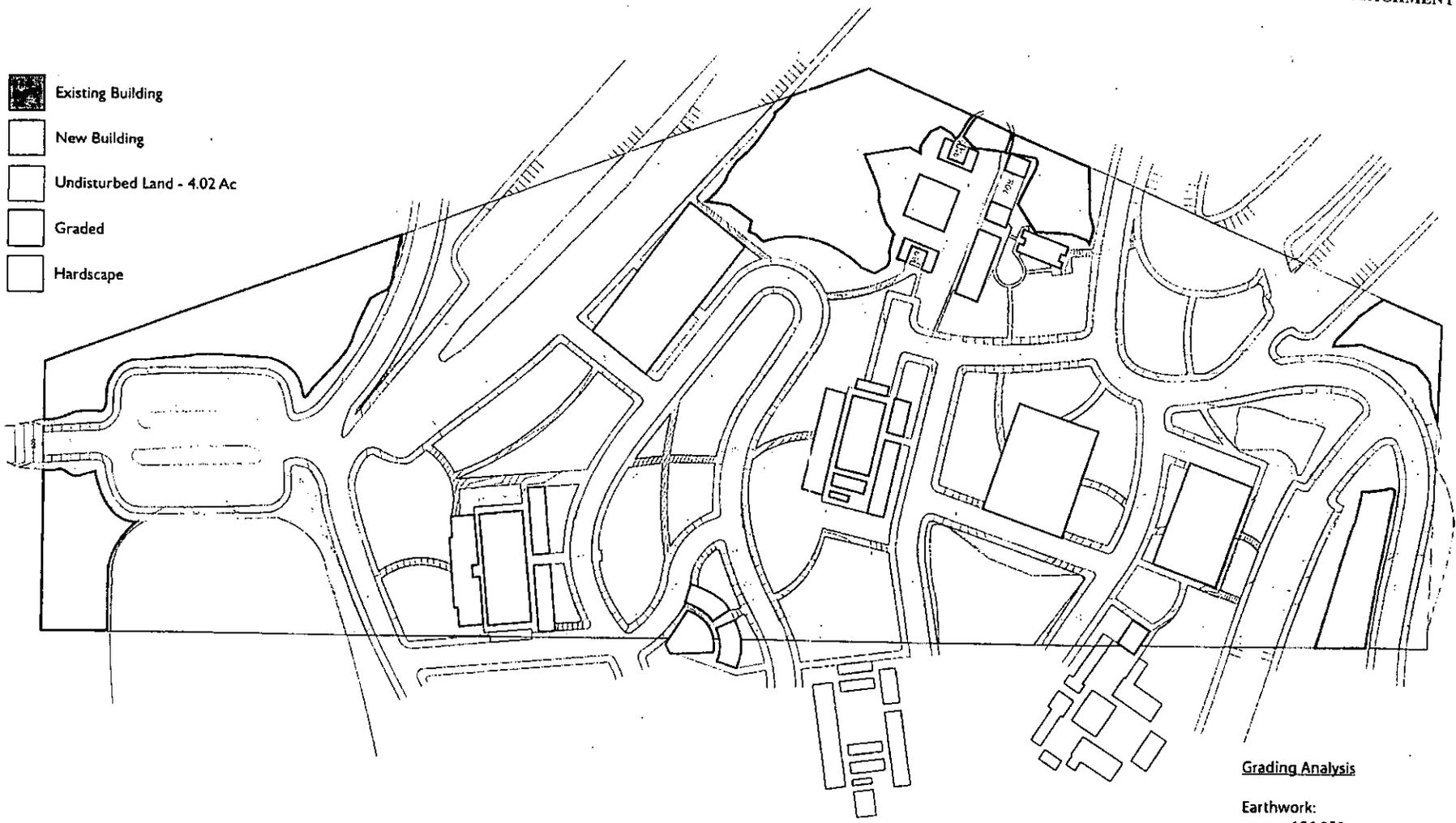
Or.Dept:Clerk

R-INSERT

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Reviewed by Cherlyn Cac

-  Existing Building
-  New Building
-  Undisturbed Land - 4.02 Ac
-  Graded
-  Hardscape



Grading Study #1 - 1972 USIU-CUP
Chabad Educational Campus

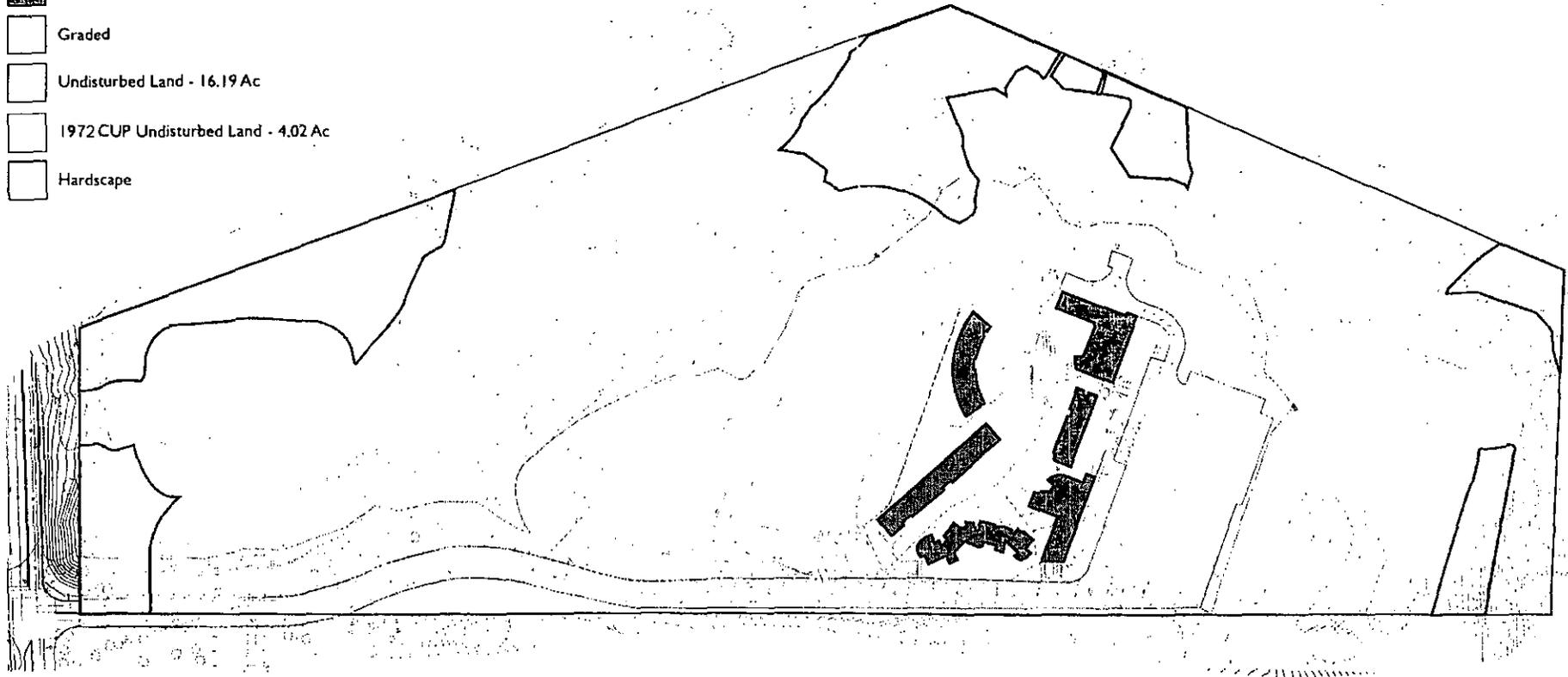
Grading Analysis

Earthwork:	
156,050 c.y. cut	
113,002 c.y. fill	
43,048 c.y. export	
Site acreage:	
26.98 acres	
Portion of site undisturbed by grading:	
4.02 acres	

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ATTACHMENT 15

-  Existing Building
-  Graded
-  Undisturbed Land - 16.19 Ac
-  1972 CUP Undisturbed Land - 4.02 Ac
-  Hardscape



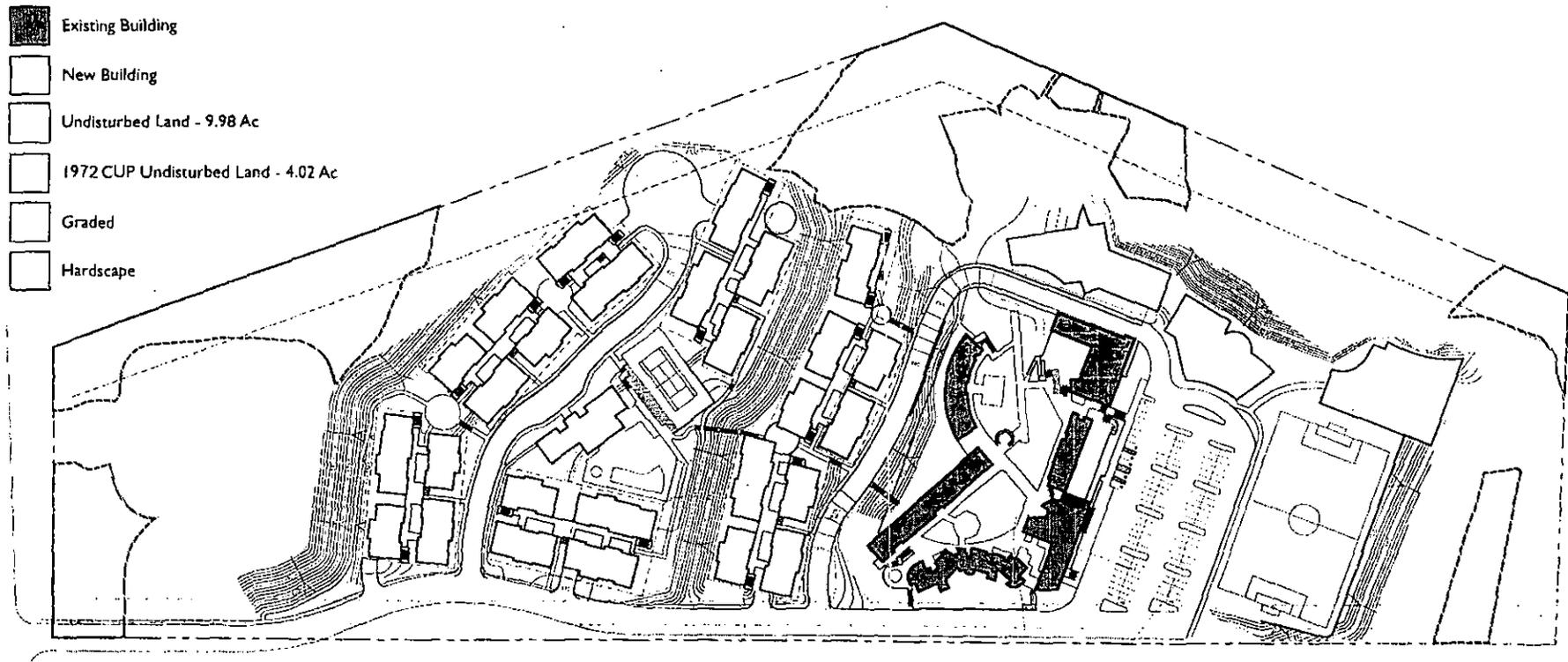
Grading Study #2 - Existing: Currently Disturbed
Chabad Educational Campus

Grading Analysis

Site acreage:
26.98 acres
Portion of site undisturbed by existing
grading:
16.19 acres

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ATTACHMENT 16



Grading Analysis

Earthwork:
129,500 c.y. cut
81,500 c.y. fill
48,000 c.y. export

Site acreage:

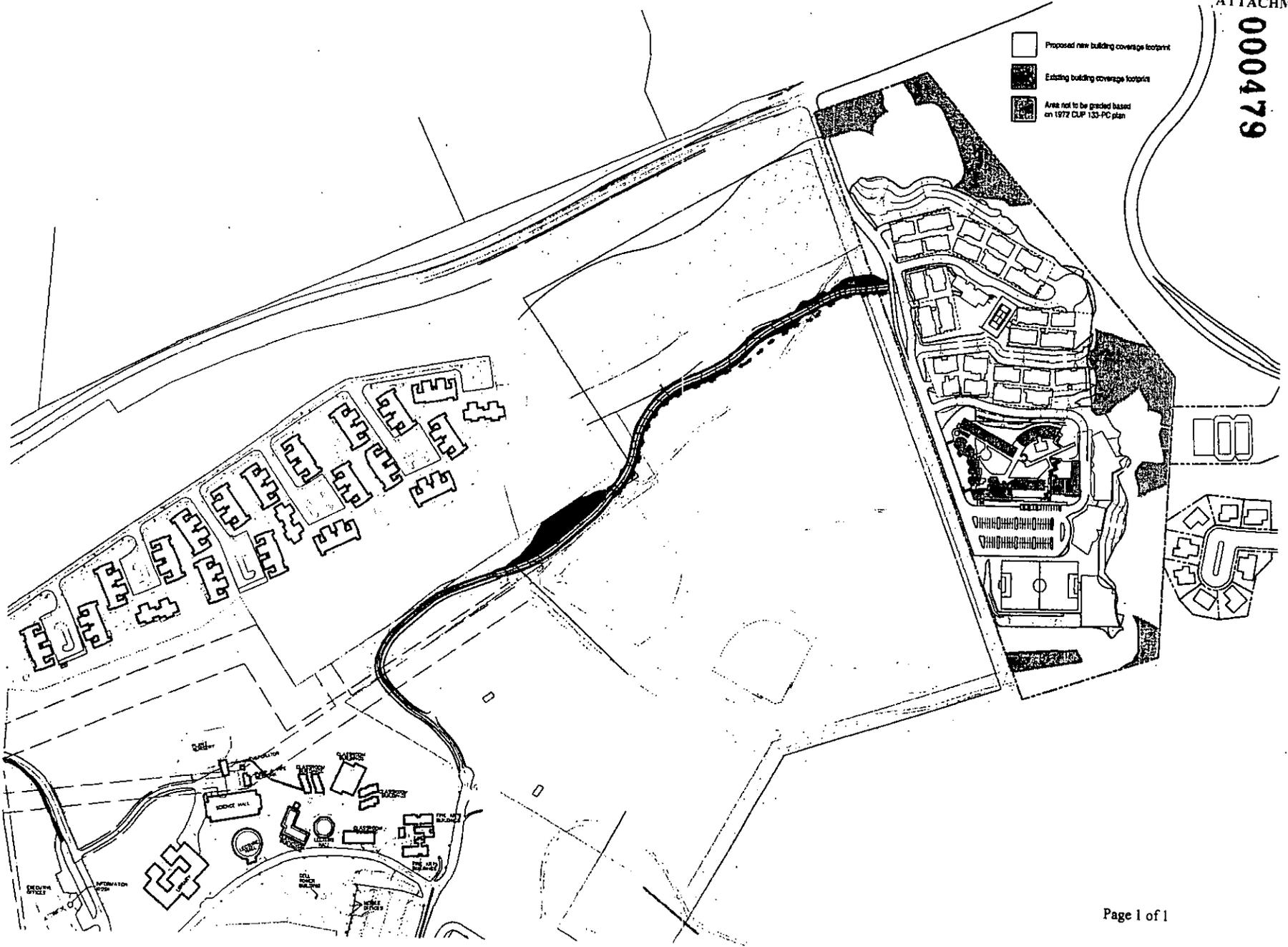
26.98 acres

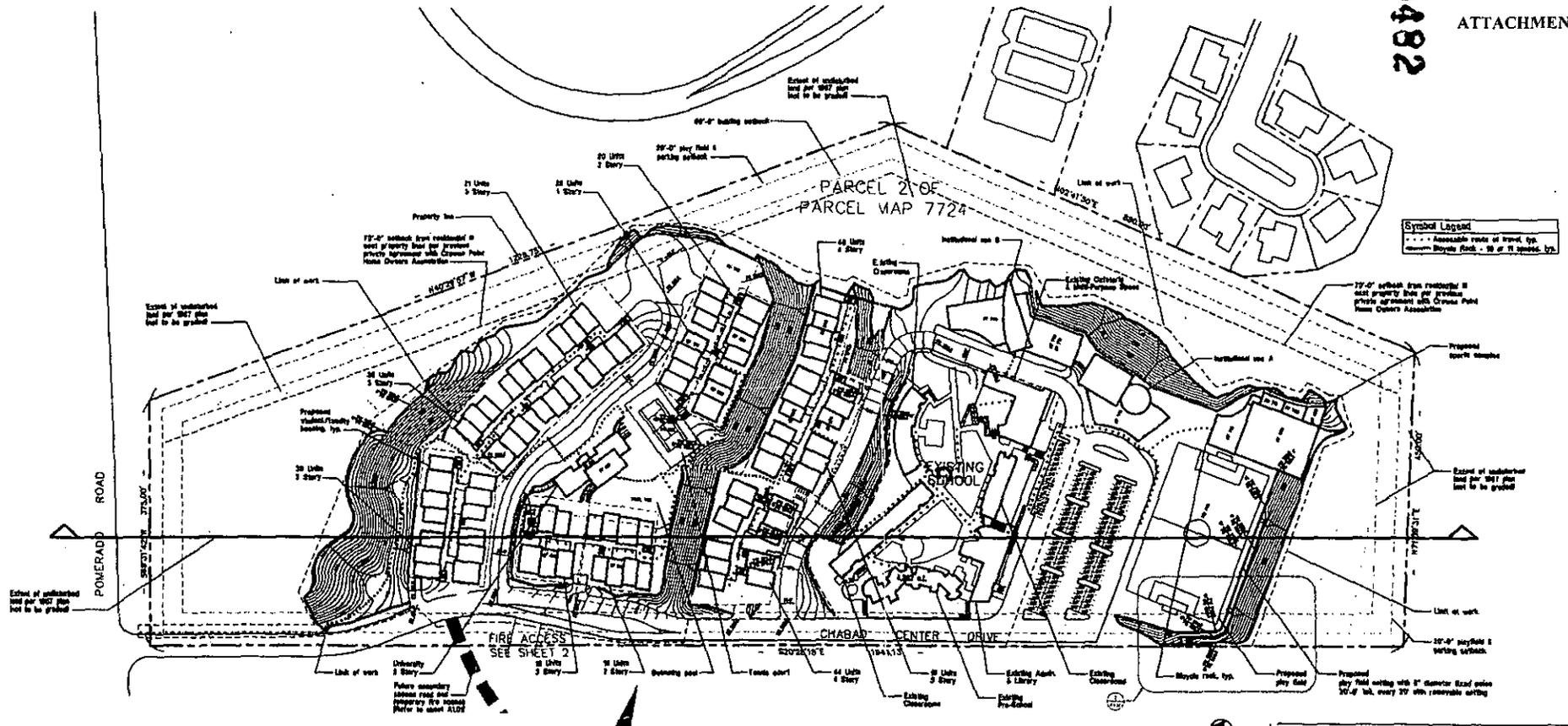
Portion of site undisturbed by grading:

9.98 acres

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- Proposed new building coverage footprint
- Existing building coverage footprint
- Area not to be graded based on 1977 CLP 133-PC plan





Symbol Legend

- - - - - Accessible route of travel, typ.
- Bicycle Rack - 30" x 11 spaced, typ.

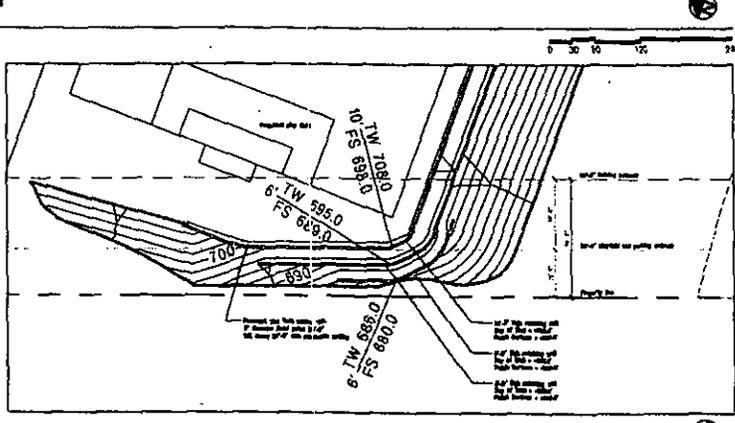
1 Proposed Site Plan
Scale: 1" = 50'-0"

General Note: For site building coverage and unit mix calculations, refer to project data and calculations on sheet A0.00

Issue no construction permits for new buildings shown on these plans until the fire access road is constructed.

Project Description

The site consists of approximately 10 acres of undeveloped land located at the intersection of Powerad Road and Chabad Center Drive. The site is currently zoned for residential use. The proposed development consists of several multi-story residential buildings, a playground, and a parking lot. The site is bounded by Powerad Road to the west, Chabad Center Drive to the south, and an existing residential development to the east. The site is shown on Parcel Map 7724.



2 Enlarged Site Plan
Scale: 1" = 20'-0"

M.W. STEELE GROUP, INC.
155 FICKENSON STREET
SAN DIEGO, CA 92108
TELEPHONE 619 236 8324
FACSIMILE 619 236 8333
WWW.MWSTEELE.COM
ARCHITECTURE/PLANNING

Chabad Educational Campus
10785 Powerad Road
SAN DIEGO, CA 92131

Phase Plan Approval

Project No.	111
Date	1/16/2007
Scale	1/2"
Sheet	11

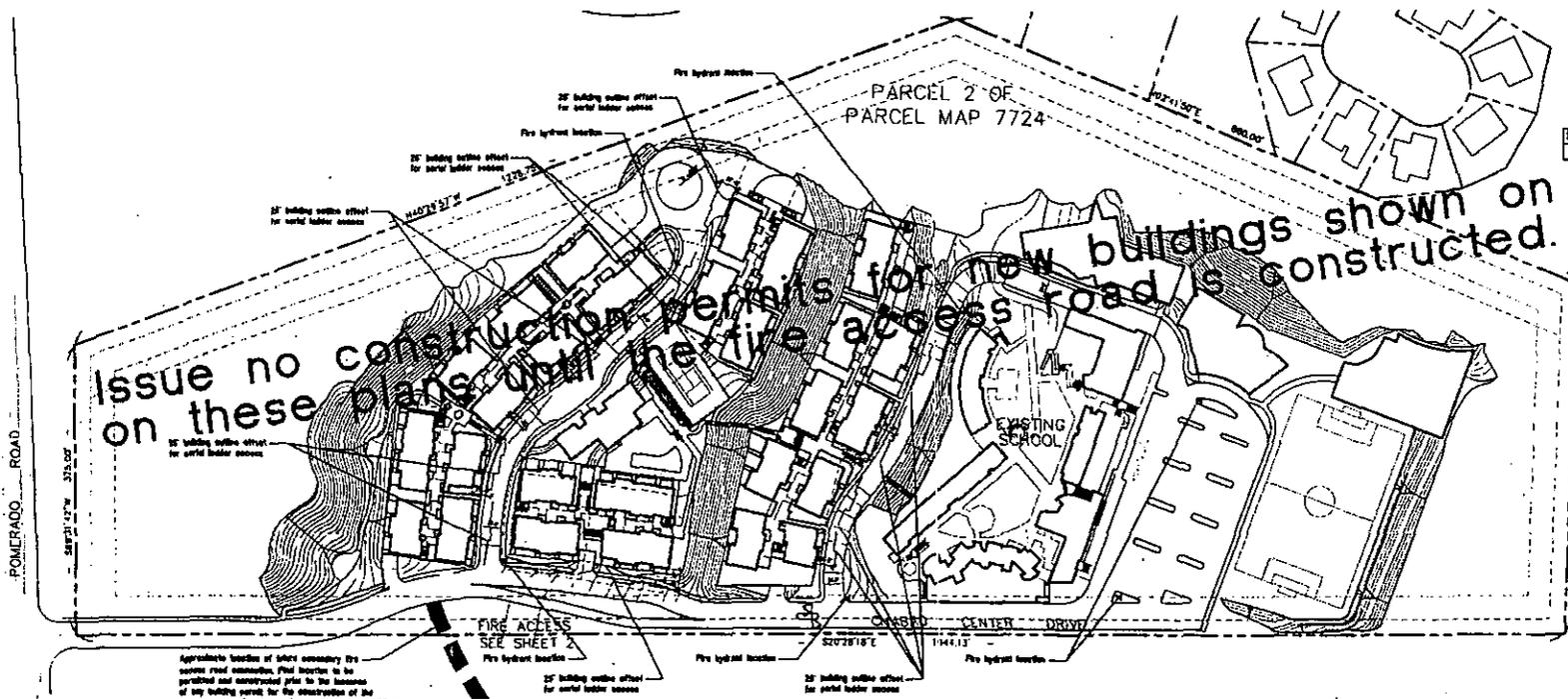
NOT FOR CONSTRUCTION
SHOWN ONLY AS A REFERENCE
DO NOT SCALE, QUOTE

See Plan

Page 2 of 11

A1.00

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Symbol Legend

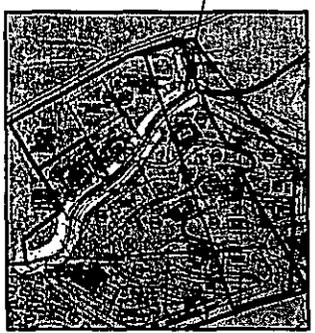
■	Fire hydrant location
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3 Fire Information Site Plan
Scale: 1" = 500'-0"

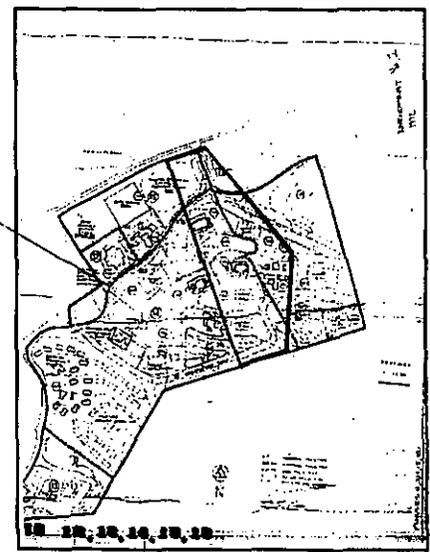
Approximate location of where necessary fire access road connection. Fire hydrant to be specified and constructed prior to the issuance of any building permit for the construction of the new institutional buildings. Fire hydrant to be specified and constructed prior to the issuance of any building permit for the construction of the new institutional buildings.

1 Secondary Fire Access Plan
Scale: 1" = 500'-0"

Planned road from 1972 CUP plan



2 1972 CUP Plan Road Location
Scale: 1" = 500'-0"



NOTE: SECONDARY FIRE ACCESS ROAD TO BE PERMITTED AND CONSTRUCTED PRIOR TO THE ISSUANCE OF ANY BUILDING PERMIT FOR THE CONSTRUCTION OF THE NEW ON CAMPUS HOUSING OR THE NEW INSTITUTIONAL BUILDINGS

M.W. STEELE GROUP, INC.
225 ARCADE STREET
SAN DIEGO, CA 92101
TELEPHONE: 619 278 2125
FACSIMILE: 619 278 2125
WWW.MWSTEELE.COM
ARCHITECTURE | PLANNING

Phase Plan Approval

Chabad Educational Campus
1055 Pomerado Road
San Diego, CA 92131

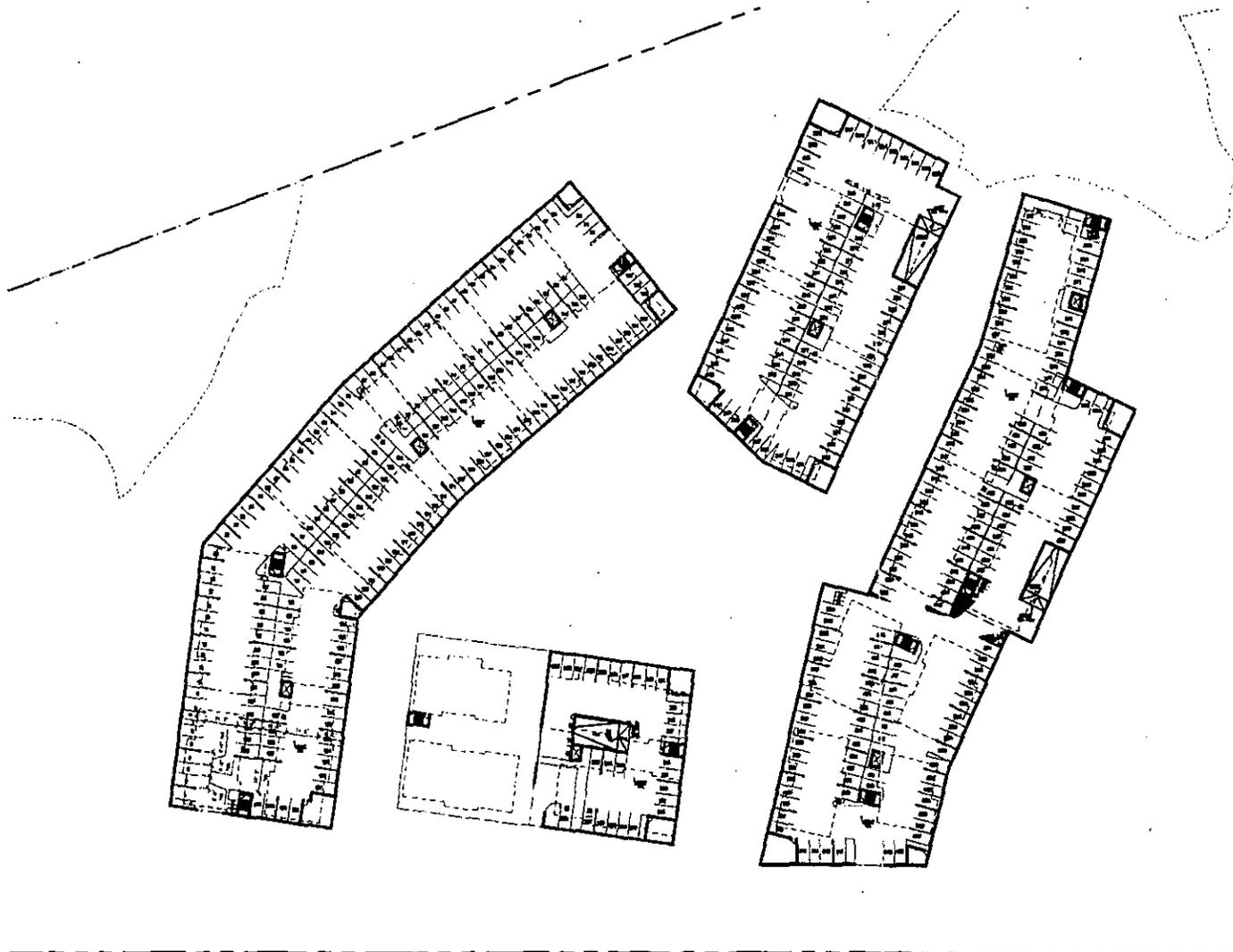
Prepared by:	REI
Checked by:	CA
Approved by:	CA
Date:	05/11/2011
Project No.:	11011
Sheet No.:	11 of 11

Fire Information

ATTACHMENT 18

General Note: For parking reticulation calculations, refer to project data and calculations on sheet A0.00.
For numbered vehicle parking locations, refer to site plan on sheet A1.00.

000484



M.W. STEELE GROUP, INC.
 225 HILLCREST LANE
 SAN DIEGO, CA 92108
 TELEPHONE 619 512 8724
 FACSIMILE 619 550 5555
 WWW.MWSTEELGROUP.COM
 ARCHITECTURE | PLANNING

Chabad Educational Campus
 1200 Ferocis Road
 San Diego, CA 92113

Phase Plan Approval

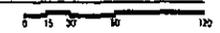
Project Name	0651
Approval	20 August 2007
Date	2/8
Drawn	2/8

NOT FOR CONSTRUCTION
 EXCEPT AS SHOWN ON THIS PLAN

Garage Plan - Level 1

A1.02

1 Proposed Garage Plans - Level One

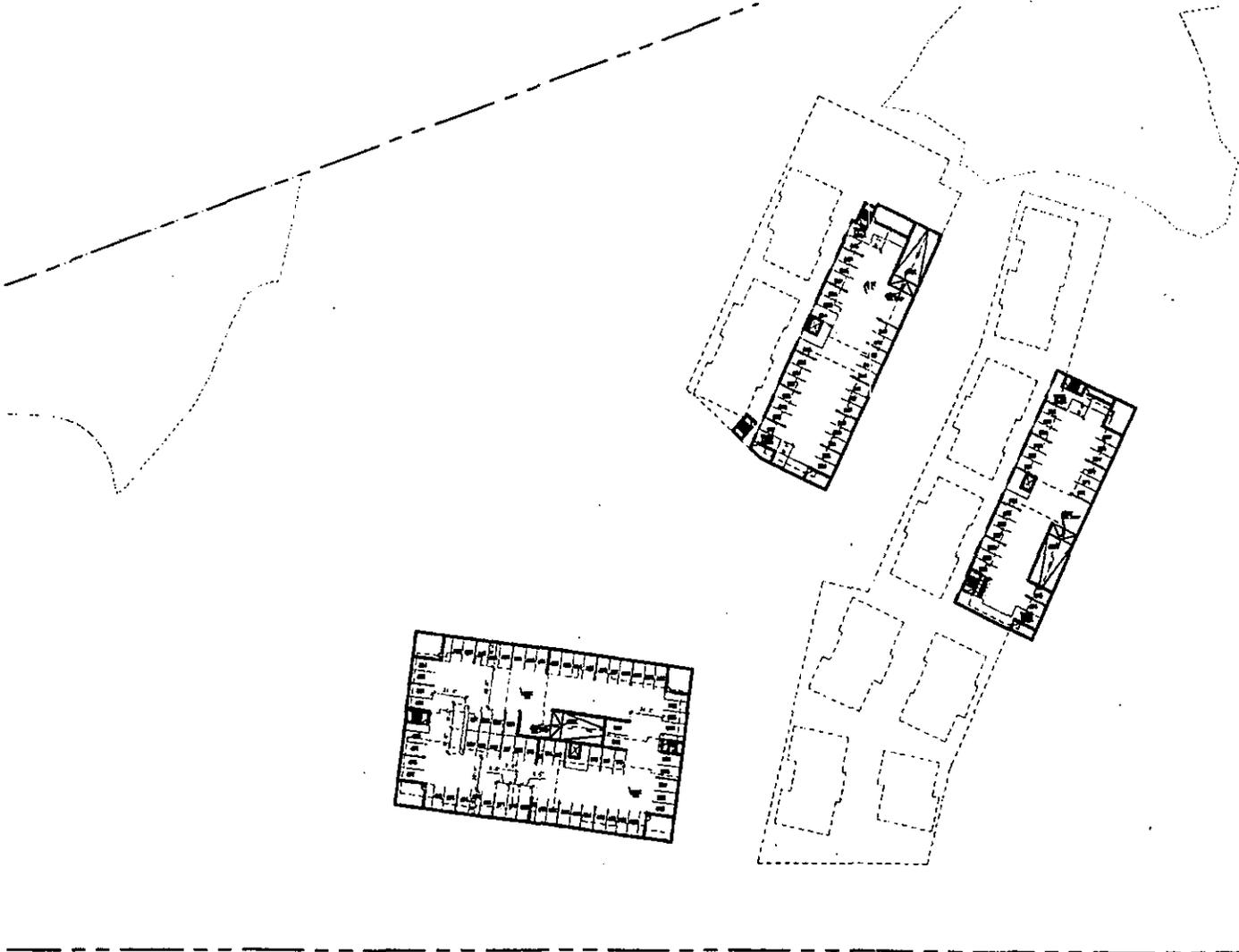


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ATTACHMENT 18

General Note: For parking requirement calculations, refer to project site and calculations on sheet A0.00.
For hatched vehicle parking locations, refer to site plan on sheet A1.00.

000485



M.W. STEELE GROUP, INC.
325 FIFTEENTH STREET
SAN DIEGO, CA 92101
TELEPHONE 619 236 6300
FACSIMILE 619 236 6301
WWW.MWSTEELGROUP.COM
ARCHITECTURAL PLANNING

Phase
Plan
Approval

Author	MS
Checker	MS
Designer	MS
Engineer	MS
Architect	MS
Interior Designer	MS
Structural Engineer	MS
MEP Engineer	MS
Other	MS

Chabad Educational
Campus
10743 Poinciana Road
San Diego CA 92131

DATE: 11/17/07
DRAWN BY: MS
CHECKED BY: MS
APPROVED BY: MS

NOT FOR CONSTRUCTION
SHEET 500 OF 507
DO NOT SCALE DRAWINGS

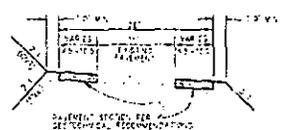
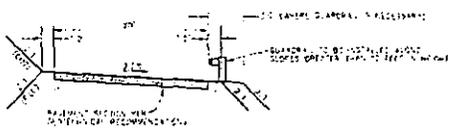
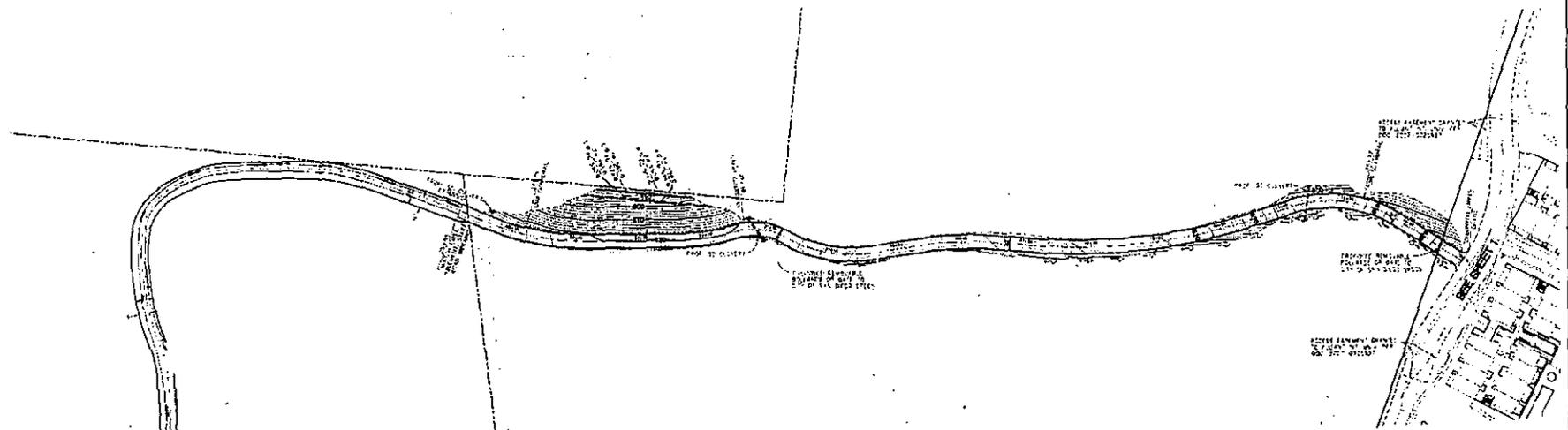
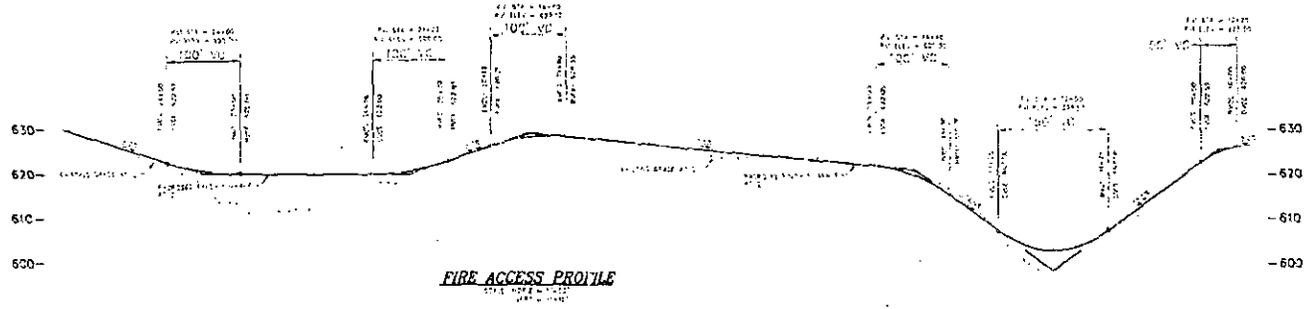
Garage Plan - Level 2

A1.03

1 Proposed Garage Plans - Level Two



000498



- NOTES:**
1. ALL OTHER NOTES SHALL BE APPLICABLE UNLESS INDICATED BY THE LANDSCAPE ARCHITECTURE CONTRACTOR AND THE DESIGN CONTRACTOR AND THE LOW BIDDER CONTRACTOR.
 2. THE LANDSCAPE ARCHITECTURE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND THE LOW BIDDER CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND THE LOW BIDDER CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES.
 3. PROTECTION OF ALL EXISTING UTILITIES AND THE LOW BIDDER CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND THE LOW BIDDER CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND THE LOW BIDDER CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES.

PLAN APPROVAL

DESIGNED BY: _____ DATE: _____

APPROVED BY: _____ DATE: _____

M.W. STEELE GROUP, LLC
 175 E. GREEN STREET
 SAN DIEGO, CA 92101
 TELEPHONE: 619 594 9333
 FAX: 619 594 9334
 WWW.MWSTEELEGROUP.COM
 ARCHITECTURE / PLANNING

Chicago Educational Gardens
 10385 Pennsylvania Road
 San Diego, CA 92131

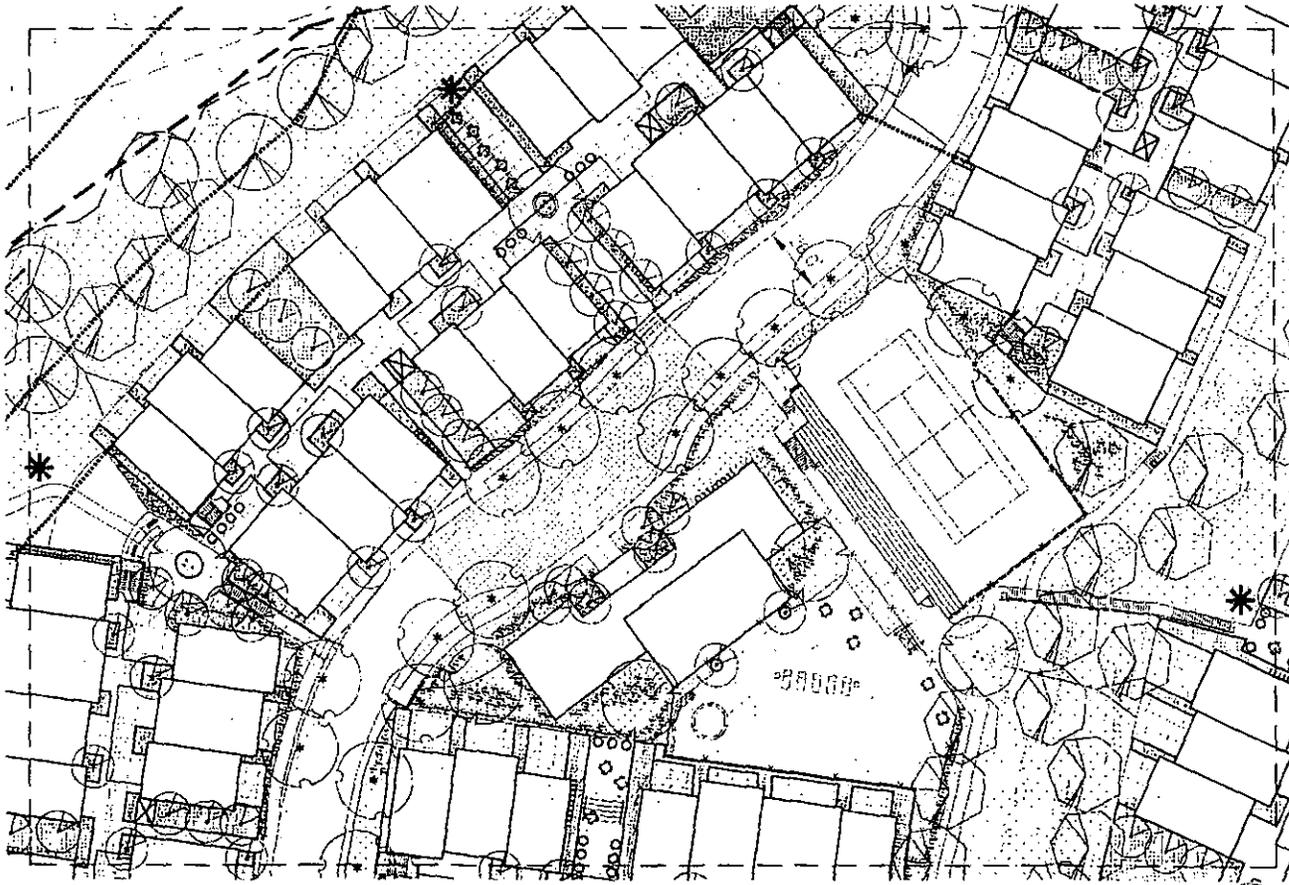
Phase Plan Resubmitted

NOT FOR CONSTRUCTION
 SHEET NO. 2 OF 2
 DATE: 08/14/2003

PRELIMINARY GRADING PLAN

HALE ENGINEERING
 INC. ENGINEERING ARCHITECT AND PLANNING
 1000 15th Street
 San Diego, CA 92101
 TEL: 619 594 9333
 FAX: 619 594 9334

000490



EDUCATIONAL CENTER AND GARDEN NODE ENLARGEMENT
SCALE: 1" = 20'-0"



PLANTING LEGEND-ENLARGEMENT

(SEE SHEET 110 FOR NOTES)

PLANTING	SYMBOL	PLANTING	SYMBOL	PLANTING	SYMBOL
SPREADS & OVERHANGS					
PERMANENT PLANTINGS					
1	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	6" x 6" SPREADS	ORNAMENTAL	DRUMMECKER
2	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
3	[Symbol]	ARISA SPIDERS / ARISA	8" x 8"	FLORERING SHRUB	SHRUB
4	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
5	[Symbol]	CLAW BUTTA / HAZEL LEE	8" x 8"	FLORERING SHRUB	ACCENT
6	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
7	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
8	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
9	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
10	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
11	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
12	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
13	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
14	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
15	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
16	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
17	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
18	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
19	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
20	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
21	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
22	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
23	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
24	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
25	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
26	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
27	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
28	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
29	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
30	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
31	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
32	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
33	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
34	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
35	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
36	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
37	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
38	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
39	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
40	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
41	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
42	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
43	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
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45	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
46	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
47	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
48	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT
49	[Symbol]	TRACHELOSPERMAN JASPERWOODS / STUR JASPER	4" x 4" SPREADS	ORNAMENTAL	DRUMMECKER
50	[Symbol]	WONDERBERRY ROSEMS / LITMUS	8" x 8"	FLORERING SHRUB	ACCENT

M TLE GROUP, INC.
ARCHITECTURE / URBAN DESIGN
325 FIFTEENTH STREET
SAN DIEGO, CA 92101
TELEPHONE: 619 238 0331
FACSIMILE: 619 238 9333
WEBSITE: www.mtle.com

Phase Plan Resubmittal

Project Name: 000490
Sheet No: 18 May 2007
Scale: 1/8" = 1'-0"
Date: 05/08/07

Plan Plan Approval: 1/26/07
Phase Plan Resubmittal: 2/12/07
Phase Plan Resubmittal: 3/20/07
Phase Plan Resubmittal: 4/25/07
Phase Plan Resubmittal: 5/17/07

Chabad Educational Campus
10785 Pomarado Road
San Diego, CA 92131

NOT FOR CONSTRUCTION
SHEET SIZE: 11" x 17"
DO NOT SCALE DRAWINGS

Landscape Concept Enlargement

SCHMIDT DESIGN GROUP, INC.
1333 North Harbor Drive, Suite 400
San Diego, CA 92101
Tel: 619 594 1100
Fax: 619 594 1101
www.schmidt-design.com

L1.1

000491

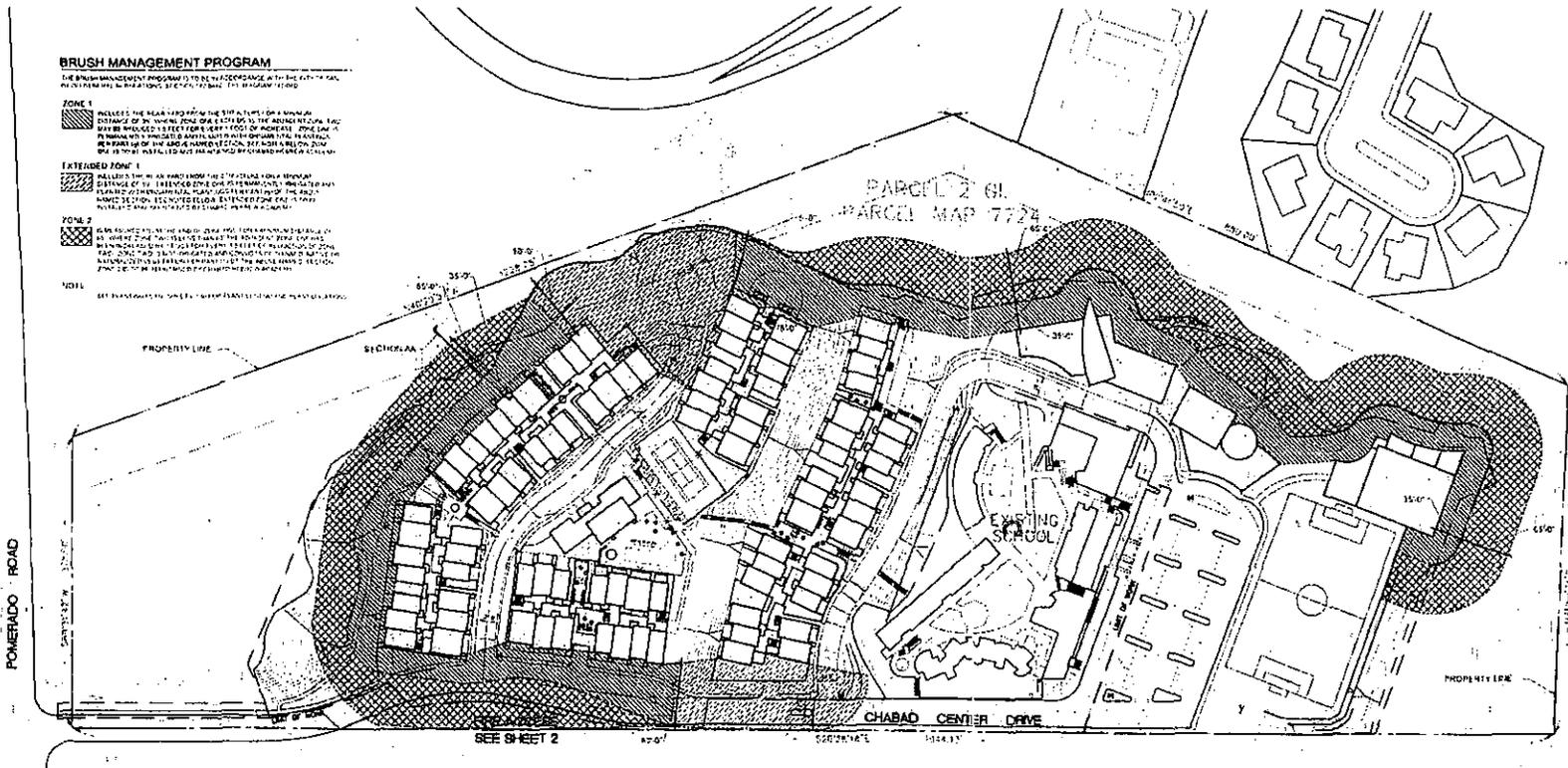
BRUSH MANAGEMENT PROGRAM
 THE BRUSH MANAGEMENT PROGRAM IS TO BE IN ACCORDANCE WITH THE CITY OF SAN DIEGO
 REGULATIONS, SECTION 182.0412.

ZONE 1
 INCLUDES THE REAR YARD OF THE SITE ALTERNATE TO A MINIMUM
 DISTANCE OF 20 FEET FROM THE ADJACENT ZONE. THIS
 ZONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH
 PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE
 IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH
 PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.

EXTENDED ZONE 1
 INCLUDES THE REAR YARD OF THE SITE ALTERNATE TO A MINIMUM
 DISTANCE OF 10 FEET FROM THE ADJACENT ZONE. THIS
 ZONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH
 PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE
 IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH
 PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.

ZONE 2
 SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH
 PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE
 IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH
 PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.

NOTE:
 SEE BRUSH MANAGEMENT PROGRAM FOR FURTHER INFORMATION.

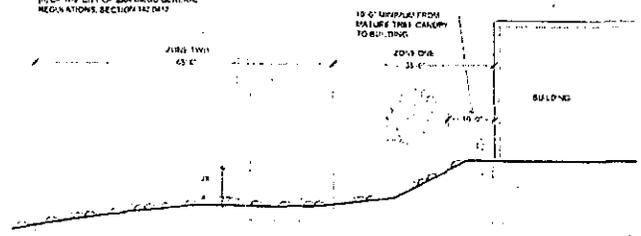


BRUSH MANAGEMENT NOTES

1. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
2. ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
3. PLANTS WITHIN ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
4. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
5. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
6. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
7. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
8. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
9. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.
10. THE REQUIRED ZONE ONE SHALL BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET. THIS ZONE IS TO BE MAINTAINED AS A YARD OF MODERATE TO HIGH PLANTING WITH A MINIMUM HEIGHT OF 6 FEET.

ZONE ONE
 IS PERMANENT, UNIRRIGATED AND IRRIGATED WITH
 ORNAMENTAL PLANTINGS PER PART 182.0412 OF THE
 CITY OF SAN DIEGO ORDINANCE REGULATIONS,
 SECTION 182.0412.

ZONE TWO
 IS NOT IRRIGATED AND CONSISTS OF THICK
 NATIVE OR NATURALIZED VEGETATION PER PART
 182.0412 OF THE CITY OF SAN DIEGO
 ORDINANCE REGULATIONS, SECTION 182.0412.



SECTION AA

M. W. STEELE GROUP, INC.
 ARCHITECTURAL DESIGN GROUP
 123 WEST BROAD STREET
 SAN DIEGO, CA 92101
 TELEPHONE: 619 238 8325
 FACSIMILE: 619 238 3333
 WEBSITE: WWW.MWSTEELE.COM

Phase Plan Resubmittal

Project Name: CHOBAD
 Date: 16 May 2007
 Scale: 1/8" = 1'-0"
 Drawn by: MSL, MM
 Checked by: GS, MGL

Phase Plan Issued: 1/24/07
 Phase Plan Resubmitted: 5/16/07
 Phase Plan Resubmitted: 5/22/07
 Phase Plan Resubmitted: 5/22/07
 Phase Plan Resubmitted: 5/22/07

Chobad Educational Campus
 10785 Pomerado Road
 San Diego, CA 92131

NOT FOR CONSTRUCTION
 SHEET 002: 4" x 30"
 DO NOT SCALE. BUSINESS

Brush Management Plan

Schmidt Design Group, Inc.
 10785 Pomerado Road
 San Diego, CA 92131
 Telephone: 619 455 1111
 Fax: 619 455 1112
 Website: www.schmidtgroup.com

L2.0

**AIRPORT LAND USE COMMISSION
MINUTES
THURSDAY, OCTOBER 4, 2007
WRIGHT CONFERENCE ROOM**

CALL TO ORDER

Chairperson Bersin called the regular meeting of the Airport Land Use Commission to order at 9:00 a.m., Thursday, October 4, 2007, in the Wright Conference Room at the San Diego International Airport, Commuter Terminal, 3225 N. Harbor Drive, San Diego, CA 92101.

PLEDGE OF ALLEGIANCE Thella F. Bowens, President/CEO led the Pledge of allegiance

ROLL CALL

Present: Board Members: Bersin, Boland, Desmond, Finnila, Miller, Panknin, Watkins, Young, Zettel

Absent: Board Members: None

Also Present: Thella F. Bowens, President/CEO; Breton K. Lobner, General Counsel; Tony Russell, Director, Corporate Services/Authority Clerk; Maritza C. Steele, Deputy Authority Clerk

Board Member Young arrived during the course of the meeting.

PUBLIC COMMENT: None

CONSENT AGENDA:

Board Member Finnila requested that Item 13 be pulled from the Consent Agenda for discussion.

ACTION: Moved by Board Member Watkins and seconded by Board Member Miller to approve the Consent Agenda as amended. Motion carried unanimously noting Board Member Young as ABSENT.

1. APPROVAL OF MINUTES:

RECOMMENDATION: Approve the minutes of the September 6, 2007 meeting.

- 2. CONSISTENCY DETERMINATION – MARINE CORPS AIR STATION MIRAMAR - AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF A RESEARCH & DEVELOPMENT OFFICE BUILDING AND CENTRAL PLANT, 10302 CAMPUS POINT DRIVE, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0068 ALUC, making a determination that the proposed project: Construction of a Research & Development Office Building and Central Plant, 10302 Campus Point Drive, City of San Diego, is consistent with the adopted Marine Corps Air Station Miramar Airport Land Use Compatibility Plan.
- 3. CONSISTENCY DETERMINATION – MARINE CORPS AIR STATION MIRAMAR - AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF A THREE-STORY RESEARCH & DEVELOPMENT BUILDING IN THE SORRENTO GATEWAY CORPORATE RESEARCH PARK, 4930 DIRECTORS PLACE, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0069 ALUC, making a determination that the proposed project: Construction of a Three-Story Research & Development Building in the Sorrento Gateway Corporate Research Park, 4930 Directors Place, City of San Diego, is consistent, with the adopted Marine Corps Air Station Miramar Airport Land Use Compatibility Plan.
- 4. CONSISTENCY DETERMINATION – OCEANSIDE MUNICIPAL AIRPORT - AIRPORT LAND USE COMPATIBILITY PLAN – EIGHT-LOT RESIDENTIAL SUBDIVISION, CAPISTRANO DRIVE AT SAN LUIS REY RIVER, CITY OF OCEANSIDE:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0070 ALUC, making a determination that the proposed project: Eight-Lot Residential Subdivision, Capistrano Drive at San Luis Rey River, City of Oceanside, is consistent with the adopted Oceanside Municipal Airport Land Use Compatibility Plan .

- 5. CONSISTENCY DETERMINATION – MARINE CORPS AIR STATION MIRAMAR - AIRPORT LAND USE COMPATIBILITY PLAN – THREE LOT RESIDENTIAL SUBDIVISION, CAMINITO STELLA NEAR DEL VINO COURT (SHAW RIDGE ROAD), CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0071 ALUC, making a determination that the proposed project: Three Lot Residential Subdivision, Caminito Stella near Del Vino Court (Shaw Ridge Road), City of San Diego, is conditionally consistent with the adopted Marine Corps Air Station Miramar Airport Land Use Compatibility Plan.
- 6. CONSISTENCY DETERMINATION – MCCLELLAN-PALOMAR AIRPORT - AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF A MEDICAL OFFICE BUILDING AT TOWN GARDEN ROAD AND EL CAMINO REAL, CITY OF CARLSBAD:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0072 ALUC, making a determination that the proposed project: Construction of a Medical Office Building at Town Garden Road and El Camino Real, City of Carlsbad, is consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan.
- 7. CONSISTENCY DETERMINATION – BROWN FIELD - AIRPORT LAND USE COMPATIBILITY PLAN – THIRTEEN LOT INDUSTRIAL SUBDIVISION AT PIPER RANCH ROAD AND OTAY MESA ROAD, COUNTY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0073 ALUC, making a determination that the proposed project: Thirteen Lot Industrial Subdivision at Piper Ranch Road and Otay Mesa Road, County of San Diego, is conditionally consistent with the adopted Brown Field Airport Land Use Compatibility Plan.
- 8. CONSISTENCY DETERMINATION – BROWN FIELD - AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF 53 COMMERCIAL CONDOMINIUM UNITS AT OTAY MESA ROAD AND PIPER RANCH ROAD, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0074 ALUC, making a determination that the proposed project: Construction of 53 Commercial Condominium Units at Otay Mesa Road and Piper Ranch Road, City of San Diego, is consistent with the adopted Brown Field Airport Land Use Compatibility Plan.

9. **CONSISTENCY DETERMINATION – GILLESPIE FIELD - AIRPORT LAND USE COMPATIBILITY PLAN – MUNICIPAL CODE AMENDMENTS REGARDING (1) GROUP CARE FACILITIES, BOARDING HOUSES, TRANSITIONAL HOUSING AND CONGREGATE CARE FACILITIES; (2) REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES; AND (3) DENSITY BONUSES FOR AFFORDABLE AND SENIOR HOUSING, CITY OF SANTEE:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0075 ALUC, making a determination that the proposed project: Municipal Code Amendments Regarding (1) Group Care Facilities, Boarding Houses, Transitional Housing and Congregate Care Facilities; (2) Reasonable Accommodation for Persons with Disabilities; and (3) Density Bonuses for Affordable and Senior Housing, City of Santee, is consistent with the adopted Gillespie Field Airport Land Use Compatibility Plan.
10. **CONSISTENCY DETERMINATION – SAN DIEGO INTERNATIONAL AIRPORT – AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF A NEW RESIDENTIAL UNIT, 4873 DEL MONTE AVENUE, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0076 ALUC, making a determination that the proposed project: Construction of a New Residential Unit, 4873 Del Monte Avenue, City of San Diego, is conditionally consistent with the adopted San Diego International Airport, Airport Land Use Compatibility Plan.
11. **CONSISTENCY DETERMINATION – SAN DIEGO INTERNATIONAL AIRPORT- AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF TWO NEW RESIDENTIAL UNITS AT 726 ENSENADA COURT, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0077 ALUC, making a determination that the proposed project: Construction of Two New Residential Units at 726 Ensenada Court, City of San Diego, is conditionally consistent with the adopted San Diego International Airport, Airport Land Use Compatibility Plan.

- 12. CONSISTENCY DETERMINATION SAN DIEGO INTERNATIONAL AIRPORT – AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF AN 84-UNIT SENIOR ASSISTED LIVING FACILITY, 2567 SECOND AVENUE, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0078 ALUC, making a determination that the proposed project: Construction of an 84-unit Senior Assisted Living Facility, 2567 Second Avenue, City of San Diego, is conditionally consistent with the adopted San Diego International Airport, Airport Land Use Compatibility Plan.
- 13. CONSISTENCY DETERMINATION – SAN DIEGO INTERNATIONAL AIRPORT – AIRPORT LAND USE COMPATIBILITY PLAN – CONVERSION OF A PORTION OF AN EXISTING PARKING STRUCTURE TO A CHILDREN’S PLAY AREA, 120 ELM STREET, CITY OF SAN DIEGO:**
ACTION: This item was pulled from the Consent Agenda for discussion.
- 14. CONSISTENCY DETERMINATION – SAN DIEGO INTERNATIONAL AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF A NEW RESIDENTIAL UNIT, 4742 CAPE MAY AVENUE, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0080 ALUC, making a determination that the proposed project: Construction of a New Residential Unit, 4742 Cape May Avenue, City of San Diego, is conditionally consistent with the adopted San Diego International Airport, Airport Land Use Compatibility Plan.
- 15. CONSISTENCY DETERMINATION – MARINE CORPS AIR STATION MIRAMAR - AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF NEW STRUCTURES FOR RESEARCH AND RELATED ACTIVITIES, CHILDCARE FACILITIES, AND HOUSING AT THE SALK INSTITUTE, 10010 NORTH TORREY PINES ROAD, CITY OF SAN DIEGO:**
RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0081 ALUC, making a determination that the proposed project: Construction of New Structures for Research and Related Activities, Childcare Facilities, and Housing at the Salk Institute, 10010 North Torrey Pines Road, City of San Diego, is consistent with the adopted Marine Corps Air Station Miramar Airport Land Use Compatibility Plan.

000498

Airport Land Use Commission Minutes
 Thursday, October 4, 2007
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16. **CONSISTENCY DETERMINATION – MARINE CORPS AIR STATION MIRAMAR - AIRPORT LAND USE COMPATIBILITY PLAN – CONSTRUCTION OF 280 NEW RESIDENTIAL UNITS AND THREE EDUCATION STRUCTURES AT 10785 POMERADO ROAD, CITY OF SAN DIEGO:**

RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0082 ALUC, making a determination that the proposed project: Construction of 280 New Residential Units and Three Education Structures at 10785 Pomerado Road, City of San Diego, is conditionally consistent with the adopted Marine Corps Air Station Miramar Airport Land Use Compatibility Plan.

ITEM PULLED FROM THE CONSENT AGENDA FOR DISCUSSION:

13. **CONSISTENCY DETERMINATION – SAN DIEGO INTERNATIONAL AIRPORT – AIRPORT LAND USE COMPATIBILITY PLAN – CONVERSION OF A PORTION OF AN EXISTING PARKING STRUCTURE TO A CHILDREN'S PLAY AREA, 120 ELM STREET, CITY OF SAN DIEGO:**

Board Member Finnila expressed concern that exposing children to high levels of noise everyday can have harmful effects. She requested that Authority concerns with projects be highlighted for jurisdictions.

Angela Shafer Payne, Vice President, Strategic Planning, confirmed that the project is an outside playground for the San Diego Rescue Mission. She stated that some language could be added to the letter to the jurisdictions that talks about the Authority's concerns.

RECOMMENDATION: Staff recommends that the Board, acting in its capacity as the Airport Land Use Commission for the County of San Diego, adopt Resolution No. 2007-0079 ALUC, making a determination that the proposed project: Conversion of a Portion of an Existing Parking Structure to a Children's Play Area, 120 Elm Street, City of San Diego, is consistent with the adopted San Diego International Airport, Airport Land Use Compatibility Plan.

ACTION: Moved by Board Member Finnila and seconded by Board Member Watkins to approve staff's recommendation. Motion carried unanimously noting Board Member Young as ABSENT.

In reference to Item 13 on Page 5 of the September 6 Minutes, Chairperson Bersin requested an update on when the military plans would be updated. Board Member Boland reported that there was no update at this time.

PUBLIC HEARINGS: None

OLD BUSINESS:

17. STATUS UPDATE ON THE PREPARATION OF AIRPORT LAND USE COMPATIBILITY PLANS FOR BROWN FIELD, GILLESPIE FIELD, MCCLELLAN-PALOMAR AIRPORT, MONTGOMERY FIELD, OCEANSIDE MUNICIPAL AIRPORT, FOUR MILITARY AIRPORTS, AND SAN DIEGO INTERNATIONAL AIRPORT:

Keith Wilschetz, Director, Airport System Planning, provided an update on the meetings and discussions held regarding the plans.

Chairperson Bersin requested a projected schedule for the completion of the plans to measure progress. He also requested that staff include the specific issues of concern.

RECOMMENDATION: Receive the report.

ACTION: No action taken.

NEW BUSINESS:

Board Member Young arrived at the meeting.

18. STATUS REPORT ON THE PLANNING AND DEVELOPMENT PARTNERSHIP BETWEEN THE CITY OF SAN DIEGO AND SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY:

Ted Sexton, Vice President, Regional Airports Business Relations and Services, provided a presentation on key elements of the Authority's partnership with the City of San Diego. He provided information on the Authority's major objectives; plans for improved facility operations; facility development and service improvement opportunities; coordination of aviation plans; relevant City and Authority aviation plans status; public input and participation; City and Authority action plan; City and Authority planning collaboration; and public and stakeholder communication.

LAURIE BLACK, COMMISSIONER, SAN DIEGO UNIFIED PORT DISTRICT, expressed interest in collaborating with the Authority to develop an intermodal system that will serve the entire region.

Board Member Finnila suggested that the presentation be sent to the members of the San Diego City Council.

In response to Board Member Boland regarding proposals for Brown Field, Mr. Sexton stated that the 65 acres on the south side of Brown Field are not solely for a fixed based operator. He stated that use of the property is currently being considered by the San Diego City Council.

In response to Board Member Watkins regarding comments about the Airport Authority managing Brown Field and Montgomery Field, and if there is some way to assist the City of San Diego in the operation of these facilities, Thella F. Bowens, President/CEO, stated that last year the Authority was contacted by the Mayor's office in regards to providing assistance to the City with the management of these airports. She stated that the City is no longer interested in pursuing assistance from the Authority.

Board Member Desmond stated that he would like to see a regional airport strategy.

Ms. Bowens stated that Senate Bill 10 requires that the Authority create a Regional Aviation Strategic Plan by 2011. She stated that the bill also requires that the Authority set aside resources toward that goal. She stated that whether or not the bill is signed by the Governor, it would be a good idea for the Authority to look at all airports in the region to determine their potential to meet future aviation demands. She stated that Mr. Sexton's new role is to lead this process.

In response to Board Member Zettel regarding whether the Business Plan included efficiency, increased operations, and stakeholders, Mr. Sexton stated that the stakeholders included community groups, and that they were involved with looking at improving operations and efficiencies.

Board Member Young suggested that this item be presented to the Land Use and Housing Committee and the San Diego City Council.

Chairperson Bersin suggested that the Authority be prepared to make this presentation to other agencies.

RECOMMENDATION: Receive the Report.

ACTION: No action taken

COMMISSION MEMBER COMMENT:

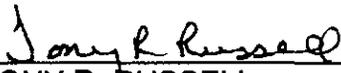
ADJOURNMENT

The meeting adjourned at 10:00 a.m. The next regular meeting will be held on Thursday, November 1, 2007 at 9:00 a.m. in the Wright Brothers Conference Room at the San Diego International Airport, Commuter Terminal, 3225 N. Harbor Drive, San Diego, CA 92101.

000501

Airport Land Use Commission Minutes
Thursday, October 4, 2007
Page 9 of 9

APPROVED BY A MOTION OF THE AIRPORT LAND USE COMMISSION THIS
1st DAY OF NOVEMBER, 2007.



TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:



BRETON K. LOBNER
GENERAL COUNSEL



Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Issued Date: 08/16/2007

Chabad House Lubavitch
Rabbi Yonah Fradkin
10785 Pomerado Rd.
San Diego, CA 92131

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Building Chabad - Corner 1
Location:	San Diego, CA
Latitude:	32-54-8.11 N NAD 83
Longitude:	117-5-16.38 W
Heights:	39 feet above ground level (AGL) 661 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

While the structure does not constitute a hazard to air navigation, it would be located within or near a military training area and/or route.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 02/16/2009 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

000504

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (310) 725-6557. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2007-AWP-4045-OE.

Signature Control No: 527475-100606597

(DNE)

Karen McDonald
Specialist

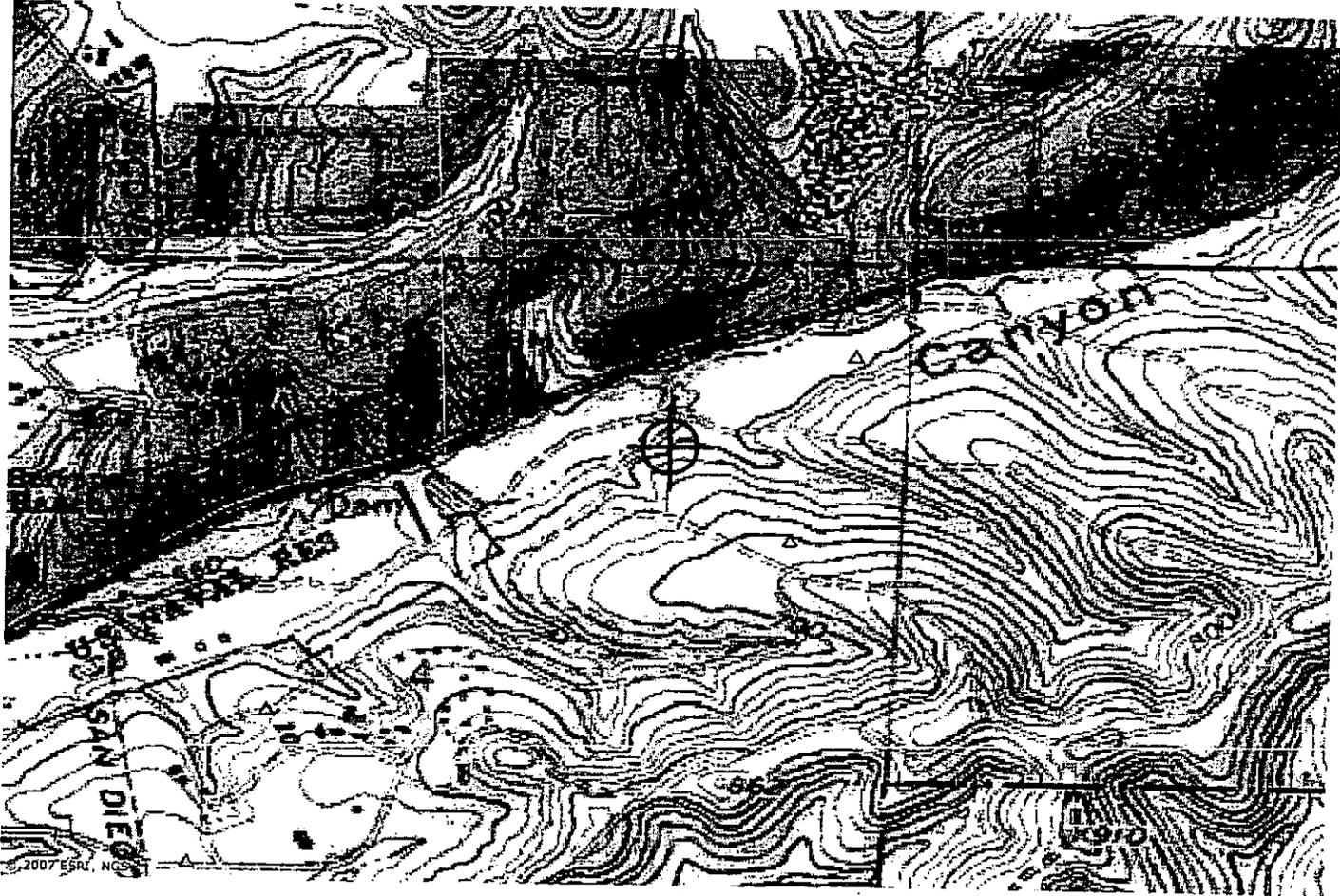
Attachment(s)
Case Description
Map(s)

Case Description for ASN 2007-AWP-4045-OE

Private K-12 School and University Student and Faculty Housing

000505

000506





Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2007-AWP-4047-OE

000507

Issued Date: 08/16/2007

Chabad House Lubavitch
Rabbi Yonah Fradkin
10785 Pomerado Rd.
San Diego, CA 92131

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Building Chabad - Corner 2
Location:	San Diego, CA
Latitude:	32-54-7.81 N NAD 83
Longitude:	117-5-11.29 W
Heights:	39 feet above ground level (AGL) 651 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

While the structure does not constitute a hazard to air navigation, it would be located within or near a military training area and/or route.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 02/16/2009 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

~~000508~~ This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (310) 725-6557. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2007-AWP-4047-OE.

Signature Control No: 527478-100606598

(DNE)

Karen McDonald
Specialist

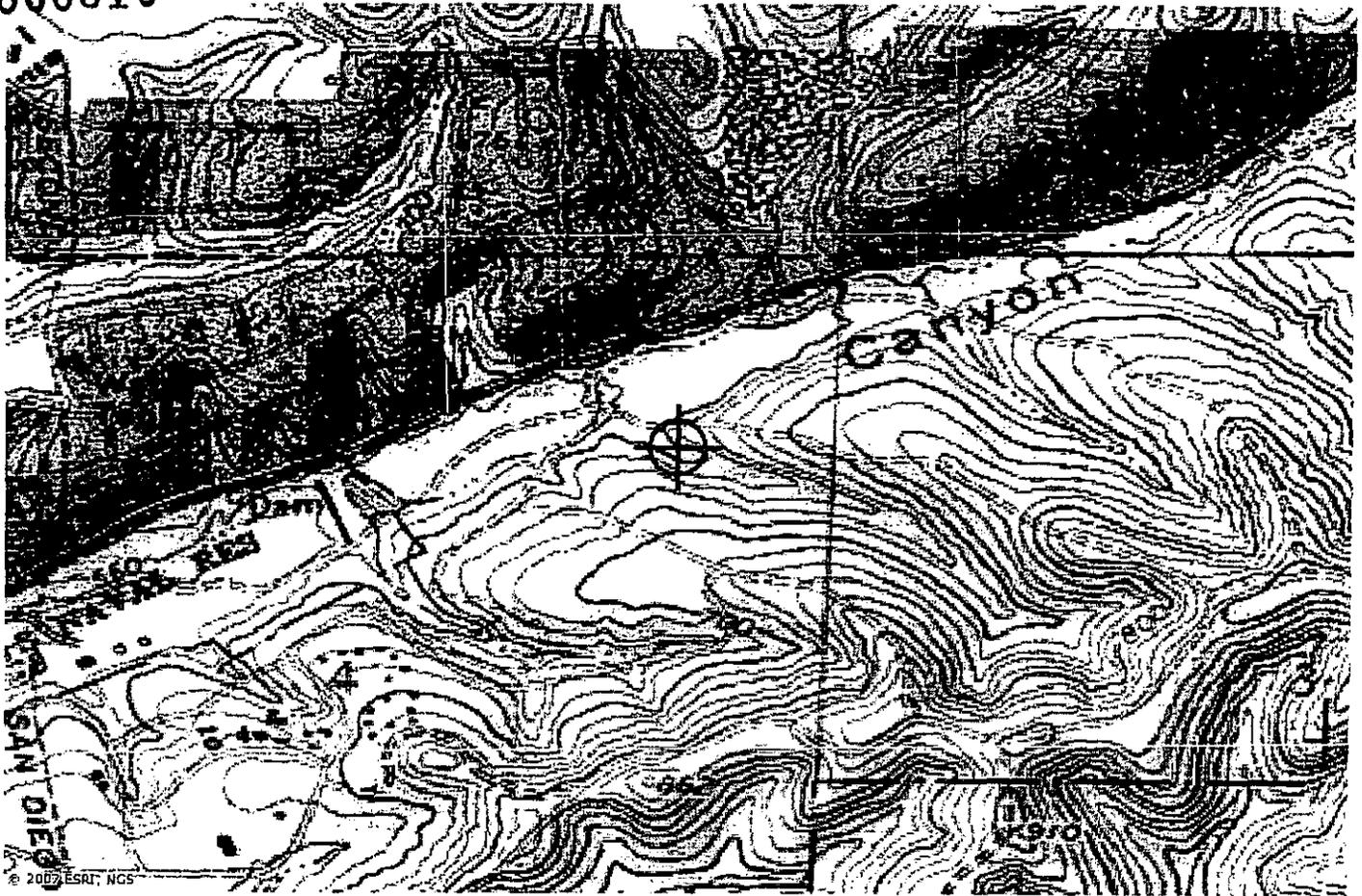
Attachment(s)
Case Description
Map(s)

Private K-12 School and University Student and Faculty Housing

000509

Verified Map for ASN 2007-AWP-4047-OE

000510





Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2007-AWP-4048-OE

000511

Issued Date: 08/16/2007

Chabad House Lubavitch
Rabbi Yonah Fradkin
10785 Pomerado Rd.
San Diego, CA 92131

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Building Chadab - Corner 3
Location:	San Diego, CA
Latitude:	32-54-3.88 N NAD 83
Longitude:	117-5-14.50 W
Heights:	49 feet above ground level (AGL) 709 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

While the structure does not constitute a hazard to air navigation, it would be located within or near a military training area and/or route.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 02/16/2009 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

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000512

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (310) 725-6557. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2007-AWP-4048-OE.

Signature Control No: 527479-100606599

(DNE)

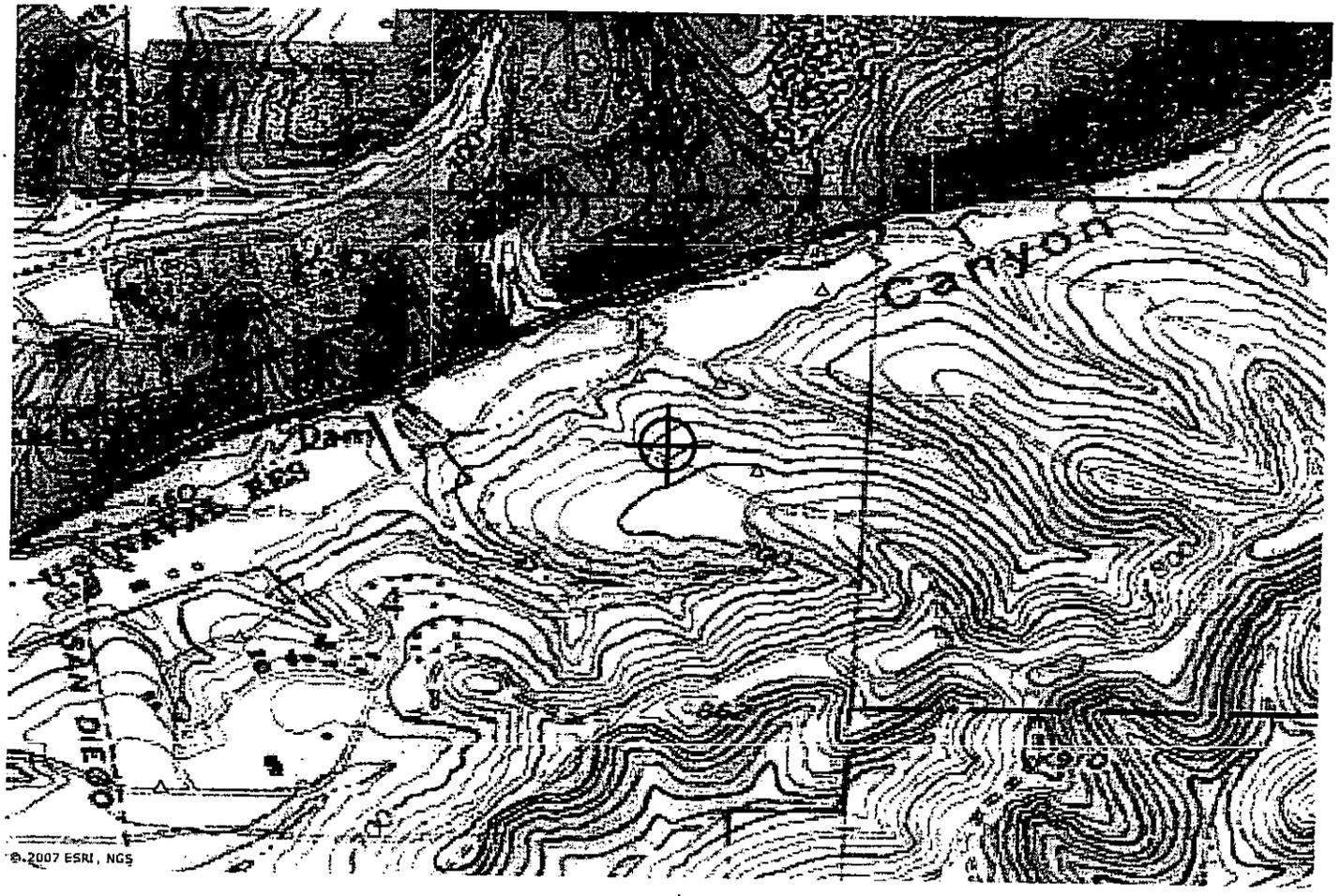
Karen McDonald
Specialist

Attachment(s)
Case Description
Map(s)

Private K-12 School and University Student and Faculty Housing

000513

000514





Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

000515

Issued Date: 08/16/2007

Chabad House Lubavitch
Rabbi Yonah Fradkin
10785 Pomerado Rd.
San Diego, CA 92131

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Building Chabad - Corner 4
Location:	San Diego, CA
Latitude:	32-53-57.42 N NAD 83
Longitude:	117-5-8.77 W
Heights:	55 feet above ground level (AGL) 735 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

While the structure does not constitute a hazard to air navigation, it would be located within or near a military training area and/or route.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 02/16/2009 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

000516

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (310) 725-6557. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2007-AWP-4049-OE.

Signature Control No: 527481-100606600

(DNE)

Karen McDonald
Specialist

Attachment(s)
Case Description
Map(s)

Private K-12 School and University Student and Faculty Housing

000517

000518



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000519

Scripps Ranch Planning Group

MEETING MINUTES

Thursday, June 5, 2008 at 7:00 p.m.

Scripps Ranch Community Library - Community Room
 10301 Scripps Lake Drive, San Diego, CA 92131
 (858) 538-8158

From Hwy 15 exit Mira Mesa Blvd (east), turn right on Scripps Ranch Blvd, turn left on Scripps Lake Drive, Library on right side
 approximately 0.25 miles - parking provided but may be limited)

I. Welcome!

a. Call to order 7:15

b. Roll Call: Tamar Silverstein, D. Todd Philips, Mark Brody, Gordon Boerner, John Lyons, Marina Sragovicz, Bob Petering, Mike Page, Jim Paterniti, Natalia Moorhead, Mike Butcher, Bob Ilko, Karen Ringel, Paul Vaughan, John Gardner, Marc Sorensen,
 Excused Absent: Julie Ellis,
 Absent: Mike Asaro

c. Modifications to Agenda: Chabad requested an action item is added to agenda.

II. Public Comment

Community member informed SRPG of the success with CalTrans building a soundwall along the highway 15 next to town-homes in Scripps Ranch.

III. Approval of Minutes postponed until next meeting.

IV. Announcements

a. Councilman Brian Maienschein (Megan Ekard) Absent sent email see handout

b. Miramar Ranch North Planning Committee (Bill Crooks - Jan Kane)

i. Manager of Community Service Center will post NO PARKING signs beginning in July08. Both HOAs will be notified of these changes.

ii. New two new Office towers on July08 Ground Broken Scripps Poway Parkway and 15 in the SouthEast corner around 5-6 stories tall.

iii. Funds were found to close the gates at Overlook Park, landscapers will open it in the morning.

V. Chairperson's Report

a. Marshall Middle School Bus Program 2008-9

Looking for more students to sign-up for bus program. Go to website for applications.
 Cost will go up from \$550.00 to \$585.00

b. Horizon Church CUP update

At Carroll Canyon and I-15, the land is up for sale. Estimated 800 people in attendance, Sunday, Wednesday and Friday nights. A new church may want this property. No changes to landscaping proposed, only to the inside of the building.

c. Opus West update Lots 3-4 and 7-8

Owns parcel by library with 160K sq ft of R&D. Last week OW signed a lease with Lockheed Martin, bringing 600+ employees to the area in the SR Business Park. Want to expedite to break ground in January 2008. No changes to the community plan, due to lots are being kept industrial. Lot 7-8 are located at the intersection of Scripps Ranch Blvd. and Scripps Ranch

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Blvd. Looking for joint use community parking arrangements for Library. Lot 3-4 a historic designation on the .25 percent of lot for Lot3 and Lot14. The deed has been recorded and its official.

Note: Natalia and Todd attended the transportation meeting in May08 and the Transportation board decided to discontinue the MTS DART service 13Jun08. DART riders may be eligible for MTS Access Services which provides transportation to transit riders with disabilities that prevent them from using regular bus or trolley services. Board was considering cut backs on existing lines and the DART program. The final vote is unknown at this time. Several community members were also present. The committee will continue to meet every four months and come up with the long term solutions.

- d. Meanley Wall Historic Designation status
- e. July 10, 2008 SRPG meeting – *tentative agenda item(s)*
 - Scripps Cypress Pointe EIR
 - HG Fenton Erma Road Fenton Project

VI. Presentations, Discussion, Liaison, Reports, and/or Action Items

- a. Community Forestry Board Living with Wildfire presentation (C. Jones)
SR is a tree community and it's a hallmark of the ranch. Urged us all to maintain trees and plant new trees. Chair of Board Vicki Estrada spoke of ways to improve public right of ways and private property. Why plant trees? Clean Air, Combat pollution, save energy costs, raise property values and clean water, cool pavement, protect wildlife, build safe communities, live well, calm traffic, invest in the future. Showed various pictures of ways trees improve the look and feel of a community, pictures were shown with trees and without trees. From 1985 to 2002 there has been a reduction of 27% of tree canopy areas in SD county. SR is district 5 and only 17% is covered in a tree canopy. In the City's General Plan one of the goals is to conserve, develop and restore community forest in San Diego. Gave statistics of savings trees provide on a yearly basis. California Center for Sustainable Energy website will inform you how to get free trees for public property.
- b. 2nd Fire Station CP amendment changes – Action
Motion: 1st Tamar S. and Motion 2nd Marina S.
Yes=14 No= 0 Abstention=0
The July SRPG meeting will be moved to Tuesday 8Jul08, due to the first Thursday of the month is 3Jul08.
- c. Chabad Substantial Conformance Review:
Allan Green introduced the Rabbeum. Rabbi Yonah Fradkin introduced the project, reviewed the history of the property, reviewed its mission. Introduced a letter with 27 commitments seeking SRPG project submittal approval. Rabbi Josef Fradkin introduced the educational component of the project. Bret Hulitt of the Steel Group, presented a PowerPoint of ~ 37 slides including a history of the CUP. See handout.

Chabad is set back from Crown Point by 127+ ft. approximately double the amount allowed by the CUP. Set back from Pomerado Road = 460 feet. An outstanding issue to address with the City is to get agreement from AIU and CHA for a fire access road. The Rabbi will consult with the SRPG on lighting item #11.”

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000521

Hired Project Consultant/Lobbyist Ron Buckley presented a history of the project from the time he still worked for the city (as Project Mgr for this project) to the current status.

City Planning Staff Dan Monroe explained the process and why city staff chose not to make a recommendation on this project. The SCR decision will be made by directly by the Planning Commission. Per Dan, the City will send a letter stating that they "believe this development conforms with the previously approved phase plans." Dan explained that the appeal process would require either an appeal request at Planning Commission or that a letter be sent within 10 business days, which would trigger an appeal to the SD City Council.

SRPG again reviewed the May 2007 email where City Facilities Financing staff had evaluated Developer Fees due on this project, concluding that if kitchen/sink and bathroom/sink combos were included, then fees would be equal to the Community Plan's FBA for Multi-Family units, yielding \$5.16MM. While the City hasn't received final submittal, City Staff confirmed that the Project Mgr has reconfirmed the previous public statements by both the Project Architect and the Project Mgr that both bathrooms and kitchens with sinks would be included in each unit. However, Project Consultant Ron Buckley, previously the City of SD Project Mgr, indicated that he had contacted Charlene Gabriel of City FF Staff in an attempt to lobby for reversing the May 2007 finding regarding the fees, and that the Rabbi/Chabad were not willing to agree to pay the Multi-Family FBA, as they hope to convince the City to reverse their prior decision.

Motion: 1st Tamar Silverstein and Motion 2nd Todd Phillips

"SRPG agrees to accept Rabbi Fradkin's letter dated 5Jun08 addressed to the SRPG, and give a favorable recommendation to the Planning Commission, specifically conditioned on two items: 1) that the applicant be required to pay the Multi-Family FBA fees as per the May 2007 email from City Facilities Finance Staff, and (2a) that the SRPG send a member to the Planning Commission hearing, with authority to clarify SRPG's position and (2b) to recommend an SRPG appeal process without requiring a special meeting should the approval not encompass item #1 and/or the spirit of the Rabbi's 27 bullet-point agreement.

The Library Fire Alarm went off prior to the vote, requiring an approximately 30 minute delay.

VOTE: Yes =10 No =3 Abstention = 0 Total Present=13

d SRPG Executive Board elections - Action

Dan Monroe stated that the new policy interpretation disallows occupancy of the same Officer Position for 8 consecutive years, which applies to both SRPG Chair Bob Ilko and SRPG Vice-Chair Gordon Boerner. Todd Phillips thereby agreed to move up to Chair, Bob Ilko will step down to Vice Chair, Gordon Boerner will step down from Vice Chair to regular elected member status, and Tamar Silverstein will remain as Secretary, thereby bringing SRPG into compliance Consensus vote result = 13 Yes and 0 No with no abstentions.

e. SR LMD-MAD (M. Sorensen) – Update

Lakeview park is being locked up at night. Need to come up with a fee increase for MAD. We need to start talking about how much MAD fees we need to assess. Our budget is thin and Marc isn't sure that people would vote for this increase in light of the current economic picture. We need to put the information out to the community about the need for a MAD fee increase. Marc will email Gordon and Bob to discuss this issue further.

DRAFT

DRAFT

DRAFT

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f. MCAS Miramar (J. Paterniti) - Update

The Horse Stables are closing 01Jul08. Old Missile Sites have had a lot of trespassers lately due to an article in the newsletter.

g. CPC (T Silverstein) - Update No update given.

Todd Phillips is the new CPC Rep along with Bob Ilko.

VII. Adjournment: 11:30pm

**Note time specific items.*

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B"H

To: Scripps Ranch Planning Group
From: Rabbi Yonah Fradkin, Friends of Chabad Lubavitch
Subject: Review of the Chabad Educational Center-Phase/Plot Plan Submittal
Date: June 5, 2008

The Friends of Chabad Lubavitch – San Diego (“Chabad”) and the Scripps Ranch Planning Group (“SRPG”) have worked diligently together over an extended period of time in good faith and neighborly spirit. This proposed memorandum of understanding (“agreement”) discusses a multitude of issues that have been raised by the SRPG over the course of many years and represents a good faith attempt to set forth the relative positions of parties hereto and the best efforts that will be implemented to the extent feasible in the future to work together in the spirit of attempting to satisfy to concerns of the parties as good neighbors.

In exchange for the approval and “Yes” recommendation of the Chabad Educational Center Master Plan Phase/Plot Plan submittal by the Scripps Ranch Planning Group, Rabbi Yonah Fradkin on behalf of Friends of Chabad Lubavitch (“Chabad”) agrees to use their best efforts to implement the items listed below to the extent that the implementation is economically feasible and in keeping with the approved plan. This Memorandum of Understanding shall be submitted to the City Planning Commission, as part of the record of the Master Plan submittal, by the Scripps Ranch Planning Group and Chabad. It is understood that if this project is not ultimately approved, this agreement is null and void.

To the extent that this agreement does not harm Chabad's ability to complete the project nor take away Chabad's currently existing underlying property rights – this is a goodwill memorandum between Chabad and the Scripps Ranch Planning Group. Chabad will in keeping with the forgoing make a good faith effort to comply to the extent that is feasible with the following:

1. The proposed residential units are only for school faculty, staff, students and their immediate family. To be considered a student one must take at least 8 credits each semester. If the students fail to maintain the required credits, Chabad would seek to have them vacate the residence or correct the deficiency as part of future enrollment.
2. Residential units will be available for rent to students, faculty and staff only.
3. During the construction process Chabad will make a reasonable effort to ensure that only the actual land needed to complete each phase is graded with no large areas left not vegetated and/ or landscaped.

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4. Each phase of construction will have its landscape completed along with completion of the phase.
5. The landscape will be such that within a reasonable period of time after planting the landscaping will attempt to maximize the screening of each new phase and the present structures from view from Pomerado Road, Avenida Magnifica and Crown Pointe homes. Chabad will plant 10 – 15 gallon trees or larger.
6. Prior to construction of signage along Pomerado Road or of any phase, the design, colors and layout of the intended structures in the phase will be presented to the SRPG to get an opinion as to whether the proposed construction is consistent with the residential/institutional/educational style of the surrounding region.
7. Chabad agrees that the aesthetic design of the buildings in Chabad's master plan may not be consistent with the existing campus structures. Attention and focus on design will be made to better integrate the project into the wooded, Scripps Ranch environment.
8. The roofs of any new buildings (e.g. gymnasium, future educational buildings and university/high school) constructed south of the present structures will be below the horizontal sightline of existing homes in Crown Pointe.
9. Any athletic facilities (e.g. tennis courts, gymnasium) and fields will only be for the use of Chabad staff, faculty, students and their guests, and Scripps Ranch residents with written permission.
10. When Chabad completes construction of this master plan, no further significant changes will be made to the master plan without voluntary submittal of a Conditional Use Permit to the city in advance of any construction. (Note: In the event that the current master plan is not completed, it may be altered via substantial conformance.)
11. All Chabad athletic field lights and amplified sound will be turned off no later than 9:30pm.
12. Chabad will evaluate the feasibility of bringing reclaimed water onto its property for irrigation purposes.
13. Chabad agrees to pay applicable development impact fees for the project as required by City of San Diego regulations.
14. Chabad agrees to the maximum 800-student capacity, including the additional Pre-School Conditional Use Permit, which would not take the student capacity above 800.

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15. Chabad will enforce the parking space requirement of the existing Conditional Use Permit or the City of San Diego Municipal Code, whichever is greater.
16. Chabad will evaluate the feasibility of access and sharing construction of a loop road to the new middle school from the Chabad Road.
17. Chabad will plant Eucalyptus trees along the Pomerado Road frontage, to keep consistency of Pomerado Road based upon city approval. If city code does not permit Eucalyptus trees on Pomerado Road, Chabad will work together with SRPG to find appropriate trees/plants that the City of San Diego permits.
18. Chabad agrees to no mass grading. Grading will occur in phases as applicable - based on grading contractor recommendation. If additional grading is needed for a particular phase, the undeveloped portion of grading will be landscaped so as not to leave an unfinished look.
19. When grading permits are submitted and prior to being issued by the City of San Diego, Chabad will meet with the SRPG regarding Chabad's traffic control plan for recommendations subject to city approval.
20. Chabad will enforce student Code Compliance living arrangements to the extent applicable to Chabad's students.
21. Rabbi Fradkin who is executing this agreement on behalf of Chabad warrants he is authorized to do so.
22. Chabad executes this agreement without any duress or undue influence.
23. No breach of any provision of this agreement can be waived unless it is in writing. Waiver of any one breach of any provision of this agreement is not a waiver of any other breach of the same or any other provision of this agreement. Amendment may be made only by written agreement signed by Chabad and SRPG.
24. Chabad and SRPG agree to operate one to the other with good faith and cooperation in the interpretation and implementation of this agreement.
25. Chabad agrees to include this agreement and its terms as voluntary conditions agreed to by Chabad in its request for the City of San Diego to approve the Phase/Plot Plan. Chabad will explicitly inform the City of San Diego Planning Commission and City of San Diego City Council of this agreement at any hearing regarding the Phase/Plot Plan.

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26. Chabad agrees to request the City of San Diego Planning Commission specifically include in the Planning Commission's resolution approving the Phase/Plot Plan this agreement and its terms as conditions of the Planning Commission's approval of the Phase/Plot Plan. Chabad agrees to include this agreement as an amendment to Chabad's Phase/Plot Plan application as voluntary provisions, terms, and/or stipulations purposefully to be included in the Planning Commission's resolution approving the Phase/Plot Plan.

It is understood that many of these 26 items are not required by the City of San Diego. Chabad is committing as set forth herein to these items voluntarily in the spirit of good faith and neighborly attitude.

Rabbi Yonah Fradkin

Date

Scripps Ranch Planning Group

Date



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other

Project Title: CHABAD Educational SCR Project No. For City Use Only: 123607
Project Address: 10785 POMERADO RO. SAN DIEGO, CA. 92131

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address: 10785 POMERADO RO.
City/State/Zip: SAN DIEGO CA 92131
Phone No: 619 597 0076 Fax No: 619 597 3787
Signature: [Signature] Date: 12/18/07

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: Fax No:
Signature: Date:

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: Fax No:
Signature: Date:

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: Fax No:
Signature: Date:

Project Title: Chabad Educational SCR Project No. (For City Use Only) 123607

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? CA Corporate Identification No. C1357395
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached Yes No

Corporate/Partnership Name (type or print):
FRIENDS OF CHABAD Lubavitch
 Owner Tenant/Lessee SAN DIEGO
10785 POMERANCI RD
Street Address:
SAN DIEGO CA 92131
City/State/Zip:
858-547-0076 858-645-3787
Phone No: Fax No:
MOISHE LEIDER
Name of Corporate Officer/Partner (type or print):
CHIEF FINANCIAL OFFICER
Title (type or print):
(Signature) Date: 9.1.08

Corporate/Partnership Name (type or print):

 Owner Tenant/Lessee
Street Address:
City/State/Zip:
Phone No: Fax No:
Name of Corporate Officer/Partner (type or print):
Title (type or print):
Signature : Date:

Corporate/Partnership Name (type or print):
FRIENDS OF CHABAD Lubavitch
 Owner Tenant/Lessee SAN DIEGO
10785 POMERANCI RD
Street Address:
SAN DIEGO CA 92131
City/State/Zip:
858-547-0076 858-645-3787
Phone No: Fax No:
DAVID SMILER
Name of Corporate Officer/Partner (type or print):
SECRETARY
Title (type or print):
(Signature) Date: 9.1.08

Corporate/Partnership Name (type or print):

 Owner Tenant/Lessee
Street Address:
City/State/Zip:
Phone No: Fax No:
Name of Corporate Officer/Partner (type or print):
Title (type or print):
Signature : Date:

Corporate/Partnership Name (type or print):
FRIENDS OF CHABAD Lubavitch
 Owner Tenant/Lessee SAN DIEGO
10785 POMERANCI RD
Street Address:
SAN DIEGO CA 92131
City/State/Zip:
858-547-0076 858-645-3787
Phone No: Fax No:
YONAH FRADKIN
Name of Corporate Officer/Partner (type or print):
CHIEF FINANCIAL OFFICER
Title (type or print):
(Signature) Date: 9.1.08

Corporate/Partnership Name (type or print):

 Owner Tenant/Lessee
Street Address:
City/State/Zip:
Phone No: Fax No:
Name of Corporate Officer/Partner (type or print):
Title (type or print):
Signature : Date:

DEVELOPMENT SERVICES
Project Chronology
 CHABAD EDUCATIONAL CAMPUS SCR - PROJECT NO. 123607

Date	Action	Description	City Review Time	Applicant Response
2/16/07	First Submittal	Project Deemed Complete		
3/27/07	First Assessment Letter		26 days	
5/15/07	Second Submittal			34 days
7/17/07	Second Review Complete		43 days	
11/20/07	Third Submittal			88 days
12/20/07	Third Review Complete		21 days	
2/22/08	Fourth Submittal			43 days
3/28/08	Fourth Review Complete		25 days	
3/28/08	Landscape, Fire & Transportation Review Submittal			
4/21/08	Landscape, Fire & Transportation Review Complete		16 days	
5/5/08	Fifth Submittal			10 days
5/19/08	Fifth Review Complete		10 days	
7/8/08	Sixth Submittal			34 days
7/31/08	Sixth Review Complete		17 days	
8/20/08	Meeting with applicant	Discuss Secondary Fire Access Road, Facilities Financing & Inclusionary Housing		
9/2/08	All issues resolved		22 days	
9/18/08	Public Hearing	Planning Commission	12 days	
TOTAL STAFF TIME		Averaged at 30 days per month	6 months, 12 days	
TOTAL APPLICANT TIME		Averaged at 30 days per month		6 months, 29 days
TOTAL PROJECT RUNNING TIME		From Deemed Complete to Hearing	1 year, 1 month, 11 days	

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RONALD L. BUCKLEY CONSULTING
PLANNING/DEVELOPMENT/GOVERNMENTAL RELATIONS
4714 PANORAMA DRIVE
SAN DIEGO, CA 92116
(619) 298-1880
buckleyconsulting@cox.net

October 2, 2008

Honorable Mayor and Members of the City Council
202 C Street
San Diego, CA 92101

RE: Chabad Educational Campus
Request for Waiver from the Inclusionary Affordable Housing Regulations

Pursuant to Municipal Code Section 142.1305(e), Friends of Chabad Lubavitch San Diego, Inc. submits this request for a waiver from the application of the Inclusionary Affordable Housing Regulations to its proposal to construct 280 units of on-campus housing for students, married students and faculty, in support of the build-out and completion of its educational campus consistent with City Council Resolution 284501 and Conditional Use Permit 133-PC. The ordinance states that: "No waiver, adjustment, or reduction shall be issued to an applicant unless there is an absence of any reasonable relationship or nexus between the impact of the development and either the amount of the in-lieu fee charged or the inclusionary requirement." It is our contention that there is no reasonable relationship between the impact of Chabad providing on-campus housing and the inclusionary housing requirement.

On-campus housing is not considered residential development per the Municipal Code and by its very nature, on-campus housing is intended to be more affordable than off-campus housing. In addition, it is not a tenable position for the City to hold that the ordinance applies to on-campus student/faculty housing when there is no guidance provided in the ordinance or the Implementation and Monitoring Procedures Manual on how to meet the provisions of the ordinance and provide or calculate affordable on-campus housing units.

Simply wanting the ordinance to apply to on-campus housing doesn't work if there is nothing relevant about the subject in the ordinance or its' procedure manual and the City has never considered or had procedures developed for how on-campus housing or a range of other residential uses could be made to comply (see pages 6 and 7 of the Housing Commission Report to the Land Use and Housing Committee-Report No: 2UH08-03, attached). This failure conclusively shows that the ordinance does not apply, thus there is no nexus/relationship, to on-campus student/faculty housing and the requested waiver should be granted by the City Council.

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Land Development Code Clarification

If it was the City's intent to see that the Inclusionary Affordable Housing Regulations were to apply to on-campus housing of private, non-profit educational institutions then it is not written in a manner or form that reflects this legal intent. Land Development Code Section 142.01302 states that the Inclusionary Affordable Housing Regulations apply "to all residential development except as provided in Section 142.1303 (exemptions from the regulations)."

The exemptions to the ordinance are obviously for residential development of a character that the City decided the ordinance would not apply to. The City believes that Chabad's on-campus housing is residential development and thus subject to the provisions of the ordinance because it is not dormitories but apartment style development.

Unfortunately, the term "residential development" is not defined in the Code or otherwise clarified in the ordinance. However, for purposes of regulating uses and their development, the Code does establish a number of use categories and subcategories. The residential use category includes; group living accommodations; mobile home parks; multiple dwelling units and single dwelling units. Regarding the grouping of use categories, LDC Section 131.0111(c) states that "any use within the residential use category is considered a residential use or residential development." (emphasis added)

However, the use and development regulations for schools, colleges and universities are found under the Institutional Use category of the Code which would reasonably imply that associated on-campus housing is institutional, not residential development. In fact, LDC Section 131.0111(d) states that "Any use within the institutional, retail sales commercial services . . . categories is considered a commercial use or commercial development." (emphasis added)

Not For Rent/Not For Sale

Land Development Code Section 142.1306 General Inclusionary Affordable Housing Requirements – requires that "10 percent of the total dwelling units in the proposed development shall be affordable to targeted rental households or targeted ownership households . . .", and it stipulates how the requirement can be met for residential development and condominium conversions. Chabad's and most other on-campus student housing is not for rent and not for sale and certainly not subject to condominium conversion. The costs and fees one pays for taking classes and going to school pays for the on-campus housing. Again, colleges and universities provide on-campus housing for their students as a means of making attendance and the associated cost of housing more affordable than what market rate apartments in the community may be.

If the ordinance was intended to apply to on-campus housing, besides clearly stating that it was intended to do so, it should provide clear instruction on how development that is neither intended for rent or for sale is supposed to be able to comply. Courts look at what

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the obvious intent of an ordinance is as evidenced by both its' stated intent and whether or not it provides direction/instruction on how the ordinance is to be applied to anomalous examples of what is to be regulated. Based on the Housing Commission Report, it is apparent that the ordinance did not address or clarify whether or how it was supposed to apply to a whole range of residential development which led Commission staff to recommend that twelve types of residential development should be exempt from the ordinance.

Unfortunately, members of the LU&H Committee disagreed with Housing Commission staff regarding student housing. In spite of staff's explanation of the administrative difficulties of applying the ordinance to student housing (incredibly understated in my view), the Committee directed staff not to exempt student housing from the ordinance. However, no direction was given to staff nor did any discussion take place regarding how staff was to grapple with applying the regulations to student housing. To date, there is still no staff clarification on how an affordable on-campus housing scheme should be developed by a campus.

When asked, neither Development Services Department nor Housing Commission staff could produce any legal opinions or reports to City Council from when the ordinance was adopted that make it clear that on-campus housing is to be considered residential development for purposes of applying the ordinance. It certainly appears that none of the City's non-profit, educational institutions were consulted or apprised of the intent to have this ordinance apply to any future student housing they might build.

Additionally, in the Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual which establishes submittal requirements, review procedures and standards and guidelines for the program, there is no information relative to how on-campus housing of an educational institution is to be made to comply. The document indicates that the "Program requirements can be fulfilled through the provision of [affordable] rental or for-sale housing." Again, if on-campus housing is not for rent or for sale, how can it be claimed that the regulations apply?

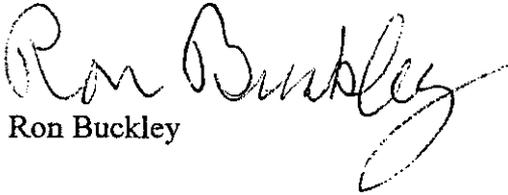
Chabad does not believe that on-campus housing is subject to the provisions of the Inclusionary Affordable Housing Regulations. Per the City's own categorization of uses in the Code, the institutional development of Chabad or any other non-profit, educational campus is considered "commercial development" and per the ordinance should not then be subject to the provisions of the ordinance which are intended to only apply to residential development. Additionally, neither the ordinance nor the Procedures Manual address how on-campus, student housing is supposed to be made to comply with the regulations. The calculation of which is a proverbial administrative nightmare.

Chabad does agree with the Housing Commission's June 18, 2008 recommendation to the LU&H Committee that student housing should be exempted from the provisions of the Inclusionary Affordable Housing Regulations subject to deed restrictions dictating that the units shall only be inhabited by students (and in Chabad's proposal – also by

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faculty). Since the ordinance has not been amended to resolve the issues identified in the Housing Commission's report and no substantive direction was given to City staff by the Committee, granting the requested waiver is both called for and appropriate and Chabad agrees with the concept of the imposition of a deed restriction. City staff have already proposed that a deed restriction be placed on the Chabad property that would require additional facilities benefit fees to be paid to the City if the on-campus housing is ever converted to multi-family housing. Including a similar restriction regarding compliance with the inclusionary housing regulations if the units ever become anything other than student housing seems to be the most appropriate way to deal with the issue.

Sincerely,

A handwritten signature in cursive script that reads "Ron Buckley". The signature is written in black ink and is positioned to the right of the typed name.

Ron Buckley



000535

LAND USE & HOUSING REPORT

DATE ISSUED: May 28, 2008 REPORT NO: LUH08-03

ATTENTION: Chair and Members of the Land Use and Housing Committee
For the Agenda of June 18, 2008

SUBJECT: Inclusionary Housing

REQUESTED ACTION:

That the Land Use and Housing Committee consider the information contained herein and respond to the affordable housing related issues raised by the Affordable Housing Task Force (AHTF), City Council, and other interested parties by recommending to the City Council adoption of the proposed amendments to the Inclusionary Housing Ordinance as summarized in the following section.

STAFF RECOMMENDATION:

Amend San Diego Municipal Code (SDMC) Chapter 14, Article 2, Division 13 as follows:

1. Exempt from the Inclusionary Housing Ordinance certain residential uses detailed in Staff Recommendation Number 1 on pages 7 of this Report.
2. Raise the income limit qualification criteria and for-sale pricing limit on for-sale affordable units.
3. Add language to Section 142.1302 codifying California's Redevelopment Law's preeminence on projects with for-sale units that are funded by the Redevelopment Agency.

Maintain the following provisions in the Municipal Code:

1. Maintain the three methods of compliance (on site construction, off site construction or in-lieu fee) as set forth in the Inclusionary Housing Ordinance, regardless of project size.
2. Maintain the requirement for off-site building within same Community Planning Zone.
3. Maintain Inclusionary Housing Ordinance exemption for projects of two dwelling units or less.
4. Maintain the Moderately Affordable Housing exemption at 150% AMI.

The following items have already been addressed and need no further action:

1. Extend the application of the self-certification provision for all Moderately Priced Housing projects. The Housing Commission will allow this through its implementation powers granted by SDMC Sections 142.1307 and 142.1311.

The following item cannot be addressed at this time but could be docketed for discussion after September 3, 2008:

1. Abide by the terms of the settlement with the Building Industry Association (BIA) and retain the in-lieu fee as an option of alternative compliance to the Inclusionary Housing Ordinance thus maintaining the three methods of compliance (on site construction, off site construction or in-lieu fee) as set forth in the Inclusionary Housing Ordinance, regardless of project size.

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SUMMARY:

In August 2002, the San Diego City Council adopted a framework for an inclusionary housing program for the City of San Diego. The San Diego Housing Commission and City of San Diego formed a team to craft implementation documents in consultation with various interested parties. On May 20, 2003 the City Council adopted the Inclusionary Housing Ordinance which took effect citywide on July 3, 2003.

The basic requirements of the Inclusionary Housing Ordinance are:

- 10 % of the units in a residential development are to be set-aside at 65% AMI for rental units and at 100% AMI for for-sale units.
- At the developer's discretion, inclusionary units could be constructed on the original development site or off the site but within the same community planning area as the original site.
- The obligation applies to any residential development of more than two units.
- Rents are restricted for 55 years. Individual purchasers are allowed to resell, with financial recapture provisions.
- As an alternative to constructing the affordable housing, a developer can choose to pay an in-lieu fee. The fee amount was phased in to provide time for the market to adjust to the new fee structure. Currently, the fee is \$6.31 per sq. ft. and is scheduled to change again in July 2008. This figure is based upon a formula that takes into consideration the median priced home in San Diego and the median income of a family of four. Fees for projects of less than 10 units will be half of the in-lieu fee amounts for projects of 10 or more units.
- Modestly priced units which are sold to and affordable for families earning up to 150% of area median income (\$104,100 for a family of four) are exempt from the inclusionary housing provisions.

In June 2003, the Affordable Housing Task Force issued their housing recommendations to the Land Use & Housing Committee (LU&H) of the City Council. Included in their report were specific recommendations concerning the Inclusionary Housing Ordinance. The recommendations were reviewed at the September and October 2003 LU&H meetings. Although the Committee did take a position on many of the AHTF recommendations, little discussion was specifically devoted to the inclusionary ordinance recommendations.

When the ordinance was adopted by the City Council it was indicated that, rather than immediately acting upon the inclusionary-specific recommendations put forth by the AHTF, the ordinance should be reviewed after at least one year of implementation. Following are some statistics based upon the performance of the Inclusionary Housing Ordinance as of July 2007:

- All residential development projects of two or more units, including condominium conversions, are subject to the Inclusionary Housing Ordinance;
- The Inclusionary Housing Ordinance has been applied to 1,070 projects (25,284 units);

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- 326 projects (7,208 units) have been exempted from the ordinance;
- 81 projects (1,609 units) have built or plan to build their affordable housing requirement;
- 982 of the projects (92%) have elected to pay the in-lieu fee that is expected to generate approximately \$40,858,825; of that amount, \$20,374,310 has already been collected with another \$20,484,515 anticipated;
- 6 projects have been built with Inclusionary in-lieu fees which represents 591 affordable units;
- As approved in the Affordable Housing Fund Annual Plan, \$890,000 of Inclusionary Housing Funds was made available in FY05, FY06, and FY07 for a Condominium Conversion Purchase Assistance Program. The Condo Conversion Program was not taken advantage of, thus the funds were re-directed into Housing Commission first-time homebuyer programs to assist families purchase affordability-restricted units. All of the \$890,000 has been expended and the Housing Commission allocated \$1.39M in Inclusionary Funding in FY08 and FY09 toward similar programming.

A number of the proposed amendments to the current Inclusionary Housing Ordinance are the result of suggested amendments put forth by the AHTF as well as the City Council and center around significant policy changes. Other recommendations have arisen from the four years of experience with the implementation of the Ordinance itself.

The Housing Commission considered a version of these recommendations on October 29, 2004 (HCR 04-078). However, as time has passed, several recommendations have either changed or have been rendered moot due to changing circumstances. Therefore, prior to moving forward to LU&H and ultimately City Council, staff felt it appropriate to resubmit these revised recommendations to the Commission Board for consideration.

AHTF Recommended Changes:

1. *Large-Scale Development* – Initial AHTF discussions identified larger scale development projects as having more flexibility in physical attributes and may have greater financial ability to build the required affordable units and it was therefore discussed whether larger scale developments should be precluded from the in-lieu fee option.

The AHTF subsequently took the position that “large-scale developments” should continue to be treated the same as any other development types under the inclusionary housing program, and should be offered all three methods of compliance contained in the Inclusionary Housing Ordinance. These options include: construction of the affordable units on-site; construction of the units off-site; or paying the in-lieu fee.

One of the leading difficulties the AHTF recognized was the current lack of a definition for “large scale” projects. If larger projects are to be treated differently, then a definition should include both a number of dwelling units as well as a minimum acreage in order for a development project to qualify as “large scale.” Any working definition should also take into account downtown high-rise condominium projects

Inclusionary Housing

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where a requirement to build affordable housing within such developments is not considered to be financially practical.

Discussions amongst representatives from the Housing Commission, Centre City Development Corporation (CCDC), the City's Planning and Development Services Departments resulted in a consensus to not preclude "large scale" projects from the in-lieu fee for a variety of reasons. Primarily, there were not any foreseeable areas within suburban San Diego that were thought to yield the number of housing units contemplated in a large scale project (e.g. in excess of 250 units). However, the onset of a Community Plan Amendment in the Otay Mesa community has changed the landscape on this issue since consensus was reached. The re-zoning and Community Plan Amendment process in Otay Mesa presents the City with another opportunity that the North City Future Urbanizing Area (NCFUA) once presented: an inclusionary requirement higher than the citywide 10% could be placed on any future residential development in that community as it is being developed. The NCFUA has a 20% requirement and Otay Mesa could follow that same model. Otherwise, a lack of vast residentially zoned parcels in other parts of the City would preclude the use of an empty definition.

Secondly, most housing developments which would result in at least 250 units or more will likely occur in downtown high-rise condominium projects. Both the cost of land downtown in addition to the cost of construction materials necessitates the need for alternative forms of inclusionary ordinance compliance. Additionally, Homeowner Association fees in these types of buildings tend to absorb most of the "buying power" of median income homeowners, leaving very little income to pledge towards even a modest mortgage. CCDC officials have argued that a project of 450 or more units is not considered a large scale project by CCDC standards. A requirement of 45+ affordable units would likely place many projects in jeopardy of securing adequate financing to carry the costs associated with downtown construction. Furthermore, if the definition of "large scale" takes into consideration the issue of minimum acreage then many of the downtown residential projects would fail to qualify.

Recommendation: Staff's recommendation reflects the Task Force's original position: continue applying the inclusionary housing ordinance to development projects regardless of size, allowing for all developments to take advantage of the three methods of compliance. However, when a Plan Amendment and rezone of Otay Mesa occurs, future decisions would be needed to insure future development of affordable housing at higher percentages than the rest of the City.

2. Offsite Affordable Housing and Use of In-Lieu Fees – The AHTF voted to recommend modification of the geographic areas for offsite construction of inclusionary housing units to allow offsite units to be constructed within a 4-mile radius of the primary project rather than only in locations within the same community planning area as the primary project as is now required. Although a developer may currently build the offsite units outside of the community planning in which the market rate project is located, it does however require further approval by the decision makers.

Previously, LU&H concluded that this policy might create unintended consequences if a primary project were located on the border between two community plan areas. Under this proposed methodology, differing community planning areas could impact a neighboring planning area over which they have no land use recommendation jurisdiction. Additionally, the primary community planning area could unduly shift their affordable housing requirement and balanced community allotment to other planning areas.

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As with any development requirement, Housing Commission staff will remain open to consideration of exceptions to this policy. Where data and circumstances dictate more flexibility, Housing Commission will join with the development team to present reasons why deviation from the policy should be considered by both Planning Commission and City Council. However, as a rule the development community should be required to explore and exhaust all off-site development opportunities within the primary Community Planning Area before looking outside of the planning area.

Recommendation: Based upon the potential shifting of affordable housing requirements between communities, staff does not recommend adoption of the AHTF proposal to expand the area in which off-site units could be constructed.

3. *Shared Equity Provisions* – The AHTF recommended and LU&H previously agreed that the structure of the shared-equity provision for the for-sale inclusionary housing units should be changed from a 15-year buy-in period to a 30-year, straight-line amortization of the share in equity. Attachment 1 illustrates the original 15-year shared equity timetable and the previously recommended 30-year timetable.

In addition to extending the shared equity timeframe, the Task Force voted to recommend three percent simple interest be applied to the “price differential” between the initial purchase price and the appraised value at the time of purchase. Housing Commission General Counsel recommends against adding an interest payment to the shared equity provision due to State of California prohibitions. To require an additional interest payment in conjunction with taking a shared interest in the equity of the property could be viewed by the courts as being usurious to the homeowner.

Additionally, many land use programs on the state level utilize a shared appreciation provision rather than a shared equity provision when entering into agreements for affordability terms. Shared appreciation would give the administering jurisdiction a return of the original investment (subsidy) and a proportional share of the appreciation realized on any affordable unit for 30 years or whenever the first sale of the unit occurs. For example, if the administering jurisdiction were to provide 25% of the funding used to acquire the unit, then the jurisdiction would realize the original investment and 25% of the overall appreciation that accrues over time upon the sale of the unit.

It was thought by making this change and extending the affordability requirements it would enable the jurisdiction to take advantage of changing market forces and to in turn leverage the realized appreciation into more affordable housing opportunities. Additionally, it would provide consistency among the various programs that utilize shared appreciation and enable builders of inclusionary housing to use other programs such as density bonuses, and eases the burden of calculating competing program requirements.

Upon further consideration of this issue, staff has revised its original recommendation. After lengthy discussions with representative from the development industry and Housing Commission staff alike, extension of the 15-year shared equity provision to a 30-year timeframe may create a disincentive for homeowners to maintain their property and/or make allowable upgrades. By realizing a lesser equity percentage each year the home is occupied, a family would have to wait much longer than the typical homeowner to realize any significant return on their investment. Additionally, a longer 30-year period is not widely thought to dissuade homeowners from selling property on the open market. Other factors are often at work in such a decision (e.g. loss of job, need to move nearer to employment or family, etc.).

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Recommendation: Staff recommends to maintain the shared equity 15-year provision.

4. *Threshold Project Size for Application of Ordinance* – The AHTF recommended that the threshold of exempted projects be set at four units or less. Currently, the ordinance exemption applies to projects of two units or less. In September 2003 LU&H agreed that the threshold should be raised to four units, but little discussion was devoted to this proposed amendment.

Upon further analysis, it was discovered that since the inception of the Inclusionary Housing Ordinance, approximately 477 projects have been submitted that are of 4 units or less. Approximately 225 of those 477 are projects of two units or less. Approximately \$1,342,000 has been collected as in-lieu fees for those non-exempt projects with another \$944,000 still anticipated. Additionally, roughly 56% of the projects consisting of two to four units are located in high cost areas in town (e.g. La Jolla, Uptown, the beachside communities area).

It should be noted that the in-lieu fees for smaller projects (fewer than ten units) are half of the amount of the established fee for projects of ten units or more. Staff does not find that the discounted fee is detrimental to development. Finally, in December 2004, LU&H voted to maintain the exemption at two or fewer units.

Recommendation: Staff recommends that the number of units exempted from the ordinance remain at two units or less.

5. *Self-Certification* – The final AHTF recommendation was to allow for developers who build units qualifying for the exemption under the modestly priced home provision of the ordinance (units in a project that are offered to families earning 150% AMI or less) to self-certify prospective buyers. Self-certification was included in the inclusionary provisions applicable to condominium conversion projects. Currently, the Housing Commission requires buyers, not developers, to self-certify their income. This methodology places the burden on the party with access to the best information and the most to gain from qualifying. Due to the difficulty inherent in allowing for self-certification of income (fraud, accurate data gathering, etc.) the Housing Commission is not in favor of self-certification in general, but defers to the forces of the marketplace to make the transaction more fluid in an ever changing housing market.

Recommendation: Through its implementation powers granted by SDMC 142.1307 and 142.1311, the Housing Commission will allow purchasers of moderately priced housing units to self-certify their income.

Staff Recommended Changes:

1. *Exemptions from the Ordinance* – Currently, the Inclusionary Housing Ordinance applies to all residential uses. One of the goals of the inclusionary housing policy is to create a balance in the neighborhoods of San Diego between multi-family and single family homes as well as a balance of affordability. Many existing residential land uses appear inappropriate for application of the ordinance, for example: requiring affordable units to be built as part of a fraternity or sorority house does not comport with the original intent of the ordinance.

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The City of San Diego's Redevelopment Agency (Agency) submitted a memo dated May 13, 2008 (Attachment 4) detailing concerns over the exemption of Student Housing in particular. The Agency's concern is in Redevelopment Project Areas, such as the San Diego State University project area, the exemption of student housing from the Inclusionary Housing Ordinance would "place the Agency behind in meeting its California Community Redevelopment Law (CRL) inclusionary production requirements." In short, the Agency is under a state mandate to provide a total percentage of affordable housing within their Redevelopment Project Areas. By exempting student housing the requirement to produce the affordable units shifts from the developer to the Agency itself.

Housing Commission staff has discussed this topic with the Agency's staff and still maintains the exemption is reasonable. Given the difficulties in both tracking the tenancies typical of an ever-moving student body as well as trying to determine what constitutes a "family" per HUD guidelines, the administrative difficulties of administering the program to this type of construction are substantial. Student populations move either every semester (every four months) or every eight to nine months as the academic year dictates. Additionally, HUD guidelines do not recognize unrelated students who choose to co-habitate with one another as a "family" for purposes of determining a family's income and eligibility for low income units. If Commission staff is not to look to the current inhabitants of a restricted unit as a family unit, then it is imperative to look to the parents of the students which also complicates the administration of the ordinance.

The Agency's memo offers an option to limit the affordable units to graduate students and/or university staff and to market them as "family units." This option may limit the number of unrelated persons co-habiting with one another and may provide more stability in the tenant turnover on a yearly basis. However, if this option is chosen the Commission would want to place similar deed restrictions on those affordable "family" units that would limit the types of tenants allowed to reside in the units to actual families who are related to one another.

Recommendation: Staff suggests that the following residential uses be exempted:

- Boarder and Lodging Accommodations
- Companion Units
- Fraternity/Sorority Housing subject to deed restrictions dictating the units shall only be inhabited by students
- Student Dormitories
- Student Housing subject to deed restrictions dictating the units shall only be inhabited by students
- Group Living Accommodations
- Guest Quarters
- Residential Care Facilities
- Transitional Housing Facilities
- Time Shares
- Developments subject to a Vesting Tentative Map deemed complete prior to June 3, 2003
- Development Agreements approved prior to June 3, 2003

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2. *Moderately Priced Housing Exemption* – The adopted Inclusionary Housing Ordinance includes a provision to exempt housing units from the inclusionary requirement if the units are offered for-sale at prices affordable to families earning 150% AMI or less. This exemption was intended as an incentive for developers. Under this provision, developers would agree to sell units in a development at the 150% AMI affordability level, thus assisting a segment of the population that has few programs designed to assist in the procurement of affordable housing. Additionally, each purchaser would agree under penalty of perjury to certify that they meets all requirements under the inclusionary housing program.

This item was discussed at Council in August of 2004. Testimony was presented suggesting that few, if any, homes are being built for the 150% AMI affordability range, thus making this exemption an empty one. Council requested staff to look at other levels and the ramifications of raising the AMI level of the moderately priced housing exemption. The table below as well as Attachment 2 both illustrate a comparison of the options available to a family of four at the 150% and 200% AMI level. Within these two income levels exist a range of choices from which decision makers can choose the appropriate level of housing debt the median family could bear:

150% AMI: \$104,100/year

Monthly Income: \$8,675

Housing Debt (as % of Income)	30%	35%	40%	45%	50%
Amt. Avail. For Housing per Month	\$2,603	\$3,036	\$3,470	\$3,904	\$4,338
Max. Sales Price	\$319,671	\$381,228	\$442,785	\$504,342	\$565,899

200% AMI: \$138,800/year

Monthly Income: \$11,567

Housing Debt (as % of Income)	30%	35%	40%	45%	50%
Amt. Avail. For Housing per Month	\$3,470	\$4,048	\$4,627	\$5,205	\$5,784
Max. Sales Price	\$442,785	\$524,861	\$606,937	\$689,013	\$771,089

With the median priced home costing approximately \$395,000, there are still many homes for sale that are not within reach of a family falling in the 150% AMI level. A family of four at the 150% AMI level would need to spend between 35% and 40% of their monthly income to afford the median priced home. Alternatively, a family of four at the 200% AMI level can be served by the housing market and comfortably afford the median priced home, spending less than 30% of their monthly income. Therefore, the exemption provided to developers to sell their units at the 150% AMI income bracket creates an incentive for the development of modestly priced housing that the market might not otherwise provide. It creates the additional benefit of empowering families in 150% AMI income bracket to devote a lower percentage of their monthly income to the purchase of their home.

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Recommendation: Staff recommends keeping the exemption at the 150% AMI level.

3. *Raise the income qualification limits for affordable for-sale units* – After four years of experience with the Inclusionary Housing program, staff has encountered difficulty with finding qualified buyers for the for-sale affordable units. The reason for the difficulty is in the way the ordinance was written and adopted. All for-sale units are sold at prices that a family at 100% AMI can afford. The problem with this measure is that developers will sell the units at the uppermost limit of the 100% AMI level range and the family that can qualify cannot make more than 100% AMI. If the family should have a car loan, credit card debt or some lingering unpaid medical bills, their purchasing power is adversely affected such that they are routinely unable to qualify for the home. This presents the situation where the developer is forced in taking only the “perfect” buyer who has no bad credit history, and no other monthly debt service.

By contrast, State Community Redevelopment Law (CRL) allows jurisdictions to allow buyers at higher AMI levels to qualify for the lower purchase price. For example under state redevelopment law, a family that would fall in the 120% AMI level can qualify for a unit that is sold at 110% AMI. This creates a wider array of qualified buyers and opens the window of eligibility to create affordable housing opportunities for families that would have normally been excluded from the prospect of home ownership because their income is too high for the program. This practice also provides the developer with a pool of candidates that cannot only afford the units, but will not be one catastrophe away from being forced out of the unit.

Recommendation: Staff recommends raising the income limit qualification criteria for for-sale affordable units to 120% AMI and raising the for-sale pricing limit to 110% AMI. This change should create more qualified buyers able to afford units at the 110% AMI sales level and to bring the local ordinance into compliance with other state laws (CRL and Density Bonus).

4. *Insert language into Section 142.1302 and 142.1303 specifying California's Redevelopment Law's preeminence on projects with for-sale units that are funded by the Redevelopment Agency* – The Housing Commission has recently worked on a number of projects with for-sale affordable housing units that have been partially funded by the Redevelopment Agency (Agency). Currently, these affordable for-sale units are subject to both the Inclusionary Ordinance and CRL. The Inclusionary Ordinance allows the affordable for-sale units to be resold at market rates with a recapture of the initial subsidy and equity sharing, while CRL calls for affordable units to be resold at restricted prices to eligible households for a minimum of 45 years.

Section 142.1302 of the Ordinance states that the Inclusionary requirements shall not be cumulative to other state and local affordable housing requirements and further, to the extent that restrictions overlap, the more restrictive of the two shall apply. Based upon guidance from the City Attorney's Office, it has been determined that the resale restrictions of CRL are more restrictive than those of the Inclusionary Ordinance. As a result, the Housing Commission has previously agreed to use CRL's resale restrictions for affordable for-sale units that are funded by the Agency. Staff recommends codifying this practice by adding language to the Inclusionary Ordinance documenting this practice in order to avoid confusion in the future. Finally, the Agency's memo (Attachment 4) details an addition to Section 142.1303 that would exempt these types of developments from the Inclusionary Housing Ordinance's requirements entirely. Commission staff agrees with the Agency with respect to this addition.

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Recommendation: Add language to Section 142.1302 and 142.1303 codifying CRL's preeminence on projects with for-sale units that are funded by the Redevelopment Agency and exempting developments in the Redevelopment Project Areas from the recordation requirements of Inclusionary Housing.

Other Inclusionary Housing Topics:

1. *Elimination of the In-Lieu Fee* – Members of the City Council have noted that most developers opt to pay the in-lieu fee rather than build the affordable housing, and have asked whether policy changes could alter that trend. The fee amount was phased in to allow for the market to adjust to the new fee structure and to avoid undue burden on pipeline projects. Therefore, it was to be expected that payment of the fee would be chosen over building the affordable units because it is better business sense to do so.

LU&H asked for a legal analysis on eliminating the in-lieu fee. In the City Attorney's analysis (Attachment 4) it is clear that it is not illegal on its face to eliminate the fee. However, in September of 2006 the City Council entered into a settlement with the BIA which stipulated the City would not alter or attempt to eliminate the in-lieu fee option for two years from the date of the settlement (September 3, 2008).

Recommendation: Abide by the terms of the settlement with the Building Industry Association (BIA) and retain the in-lieu fee as an option of alternative compliance to the Inclusionary Housing Ordinance thus maintaining the three methods of compliance (on site construction, off site construction or in-lieu fee) as set forth in the Inclusionary Housing Ordinance, regardless of project size.

2. *Relationship of Inclusionary Housing Ordinance to Density Bonus Programs* – At the August 2, 2004 Affordable Housing Day, it was suggested that Council consider a ten percent on-site building bonus to the Inclusionary Housing Ordinance. In the fall of 2004 SB 1818 was signed into law. Subsequent discussions with City Staff and the City Attorney's office indicate that significant changes to the City's Density Bonus program are needed to comply with state law. These efforts were addressed during the City Council hearing on Density Bonus on November 6, 2007 and need no further action at this time.

FISCAL CONSIDERATIONS:

In the event that the recommended actions are approved, there will be nominal financial costs associated with the administration of future actions which would be absorbed by the Housing Commission as well as the City's City Planning and Community Investment and Development Services Departments.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Land Use and Housing Committee considered this Report on December 1, 2004. The Committee's actions regarding the proposed recommendations are included as Attachment 3.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The San Diego Housing Commission considered the first iteration of this Report on October 29, 2004 (HCR 04-078). The Planning Commission considered the first iteration of this Report on April 7, 2005. These two bodies' recommendations are also included in Attachment 4 to this report. The San Diego Housing Commission will consider this iteration of the Report on May 16, 2008. Furthermore, many of the recommendations put forth in this report are the result of a widely inclusive stakeholder group known as the Affordable Housing Task Force (AHTF).

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The development community, as represented by the BIA, opposes inclusionary housing in concept, but through numerous discussions with staff they have indicated no opposition to the proposed recommendations set forth in this report. Affordable housing advocates have indicated their opposition to staff's recommendation to keep the in-lieu fee option available to developers and have expressed their desire to eliminate the in-lieu fee altogether thus requiring developers to build the affordable units.

ENVIRONMENTAL REVIEW:

This activity is not a "project" and is therefore not subject to the California Environmental Qualities Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The development community, a host of affordable housing advocates and the low income individuals and families of San Diego are all key stakeholders in this item. The numerous recommendations listed in this report would have minimal impact on the current program.

These recommendations seek to balance financial hardship on the development community with the potential of exacerbating the affordable housing crisis in San Diego by perpetuating unbalanced communities.

Respectfully submitted,

Approved by,

D. Todd Philips
Director, Policy and Public Affairs

Carrol M. Vaughan
Interim President & Chief Executive Officer

1. Shared Equity Tables
2. AMI Level Affordability Index
3. San Diego Housing Commission, LU&H and Planning Commission Recommendations
4. City of San Diego Redevelopment Agency Memo dated May 13, 2008

Distribution of these attachments may be limited. Copies available for review during business hours at the Housing Commission offices at 1122 Broadway, Ste. 300.

Attachment 1

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Current Table 142-13B

Length of Ownership at the Time of Resale, Refinance, or Transfer	Share of Equity to Household
Months 0-12	15%
Year 2	21
Year 3	27
Year 4	33
Year 5	39
Year 6	45
Year 7	51
Year 8	57
Year 9	63
Year 10	69
Year 11	75
Year 12	81
Year 13	87
Year 14	93
Year 15 or after	100%

Proposed Table 142-13B

Length of Ownership at the Time of Resale, Refinance, or Transfer	Share of Equity to Household
Months 0-12	15%
Year 2	18
Year 3	21
Year 4	24
Year 5	27
Year 6	30
Year 7	33
Year 8	36
Year 9	39
Year 10	42
Year 11	45
Year 12	48
Year 13	51
Year 14	54
Year 15	57
Year 16	60
Year 17	63
Year 18	66
Year 19	69
Year 20	72
Year 21	75
Year 22	78
Year 23	81
Year 24	84
Year 25	87
Year 26	90
Year 27	93
Year 28	96
Year 29	99
Year 30 or after	100%

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ATTACHMENT 2

Family Size	4	4	4	4	4
150% AMI - Annual	\$ 104,100	\$ 104,100	\$ 104,100	\$ 104,100	\$ 104,100
Monthly	\$ 8,675	\$ 8,675	\$ 8,675	\$ 8,675	\$ 8,675
Housing Debt	30%	35%	40%	45%	50%
Amount Available for Housing	\$ 2,603	\$ 3,036	\$ 3,470	\$ 3,904	\$ 4,338
Less HOA	\$ (350)	\$ (350)	\$ (350)	\$ (350)	\$ (350)
Less Taxes@ 1.25%	\$ (333)	\$ (397)	\$ (461)	\$ (525)	\$ 589
	\$ (683)	\$ (747)	\$ (811)	\$ (875)	\$ (939)
Amount Available for 1st Trust Deed	\$ 1,920	\$ 2,289	\$ 2,659	\$ 3,029	\$ 3,399
1st TD*	\$ 303,687	\$ 362,167	\$ 420,646	\$ 479,125	\$ 537,604
5% Down	\$ 15,984	\$ 19,061	22,139	25,217	28,295
Maximum Sales Price	\$ 319,671	\$ 381,228	442,785	504,342	565,899

Family Size	4	4	4	4	4
200% AMI - Annual	\$ 138,800	\$ 138,800	\$ 138,800	\$ 138,800	\$ 138,800
Monthly	\$ 11,567	\$ 11,567	\$ 11,567	\$ 11,567	\$ 11,567
Housing Debt	30%	35%	40%	45%	50%
Amount Available for Housing	\$ 3,470	\$ 4,048	\$ 4,627	\$ 5,205	\$ 5,783
Less Hoa	\$ (350)	\$ (350)	\$ (350)	\$ (350)	\$ (350)
Less Taxes@ 1.25%	\$ (461)	\$ (547)	\$ (632)	\$ (718)	\$ (803)
	\$ (811)	\$ (897)	\$ (982)	\$ (1,068)	\$ (1,153)
Amount Available for 1st Trust Deed	\$ 2,659	\$ 3,151	\$ 3,645	\$ 4,137	\$ 4,630
1st TD*	\$ 420,646	\$ 498,618	\$ 576,590	\$ 654,562	\$ 732,534
5% Down	\$ 22,139	\$ 26,243	\$ 30,347	\$ 34,451	\$ 38,555
Maximum Sales Price	\$ 442,785	\$ 524,861	\$ 606,937	\$ 689,013	\$ 771,089

* Assumes an interest rate of 6.50% based on 30-year fixed

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Attachment 3

OTHER RECOMMENDATIONS

On October 29, 2004 this Report was presented to the San Diego Housing Commission. On December 1, 2004 this Report was presented to the Land Use and Housing Committee. And on April 7, 2005 this Report was presented to the Planning Commission. Each of those reviewing bodies voted on each of Staff's recommendations as follows:

1. Maintain in-lieu fee payment option for Large-Scale Developments.
SDHC: Approved.
LU&H: Forwarded to City Staff to develop a definition for "Large-Scale Development."
PC: Voted 6-0 to phase out In-Lieu fees altogether.
2. Maintain off-site building to within same Community Planning Zone.
SDHC: Approved.
LU&H: Approved.
PC: Approved.
3. Extend the shared equity provisions for for-sale affordable units from 15-years to 30-years.
SDHC: Approved.
LU&H: Approved.
PC: Approved.
4. Maintain Inclusionary Housing Ordinance exemption for projects of 2 dwelling units or less.
SDHC: Failed on a vote of 3-3. Offered no other recommendation.
LU&H: Approved.
PC: Approved.
5. Extend the application of the self-certification provision for Moderately Priced Housing projects.
SDHC: Approved.
LU&H: Approved.
PC: Approved.
6. Exempt from the Inclusionary Housing Ordinance certain above-referenced residential uses detailed in Number 1 on pages 5-6 of this Report.
SDHC: Approved.
LU&H: Approved.
PC: Approved.

Attachment 3

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7. Maintain the Moderately Affordable Housing exemption at 150% AML.
SDHC: Approved.
LU&H: Approved.
PC: Approved.

8. Maintain the in-lieu fee payment phase-in schedule.
SDHC: Approved.
LU&H: Forwarded to City Attorney to conduct a legal analysis on the elimination
of the in-lieu fee (see Attachment 5).
PC: Approved.



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THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: May 13, 2008

TO: San Diego Housing Commission, Chair and Members of the Board

FROM: Janice Weinrick, Deputy Executive Director, Redevelopment Agency
Nancy Graham, President, Centre City Development Corporation
Carolyn Smith, President, Southeastern Economic Development Corporation

SUBJECT: Proposed Revisions to the Inclusionary Housing Ordinance
San Diego Municipal Code Chapter 14, Article 2, Division 13
May 16, 2008 Agenda - Item #105 / HCR08-036

As you may be aware, the Housing Commission participates in the Affordable Housing Collaborative with the City of San Diego's Redevelopment Agency (Centre City Development Corporation, Southeastern Economic Development Corporation and the Redevelopment Division of the City Planning & Community Investment Department). Our Collaborative members have participated in several constructive discussions regarding proposed revisions to the Inclusionary Affordable Housing Regulations.

As part of this ongoing discussion, we have been made aware of the changes to the Inclusionary Affordable Housing Regulations proposed in HCR 08-036 to be considered by your board at its meeting on May 16, 2008. This memorandum is provided to offer counter-suggestions to two (2) of the proposals contained in the referenced report.

Student Housing Exemptions

HCR 08-036 includes a recommended list of residential uses to be exempted from the Inclusionary Affordable Housing Regulations. We are in support of those recommended exemptions, except for "student housing subject to deed restrictions dictating the units shall only be inhabited by students." We do not support an exemption from the Municipal Code requirements for this residential use.

A deed restriction requiring habitation by students does not guarantee housing affordability and, in some cases, can result in a "unit" rent (leased by bedroom) in excess of a similarly-sized market rate unit.

Student housing is a lucrative development option in this economic environment. The demand for private student housing is expected to remain strong for several years. College enrollments have

Redevelopment Agency

1200 Third Avenue, Suite 1400, MS 560 • San Diego, CA 92101-4110

Tel (619) 236-6700 Fax (619) 533-3219

City Planning & Community Investment



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been on the rise as the baby boomer's children come of age. Investors can anticipate steady rent increases regardless of economic conditions or the interest rate climate. The success of these investments is tied to college enrollment, not to external economic factors like job creation.¹ For example, there have been two recent projects proposed in the College Community Redevelopment Project Area which would not require Agency financial assistance. An exemption to the Inclusionary Affordable Housing Regulations for these projects would place the Agency behind in meeting its California Community Redevelopment Law (CRL) inclusionary production requirements.

We acknowledge Housing Commission staff's concern that monitoring the long-term affordability restrictions on a "student unit" would be complex. However, wouldn't monitoring to ensure compliance with the "habitation by student deed restriction" be equally burdensome? How would the term "student" be defined – full-time, part-time, a particular course load? When a student graduates, would he/she be evicted within 30 days?

As one option, we would suggest the "affordable units" in a student development be designed as "family" units – marketed to graduate students, university staff, etc. This may also help ease the management-intensive nature of student housing projects, which can experience turnover approaching 100 percent, with lease-up periods of a short window of time.

Offering an across-the-board exemption to the Municipal Code, also eliminates the opportunity for the Housing Commission to collect an in lieu fee for such projects. In general, an exemption to the Inclusionary Affordable Housing Regulations for "student housing subject to deed restrictions dictating the units shall only be inhabited by students" is a missed opportunity to create affordable housing units for the City of San Diego.

Redevelopment Project Exemptions

With regard to Housing Commission staff's third recommendation in HCR08-036, we appreciate the effort to accommodate comments made at your board meeting on March 14, 2008 by Agency staff. The recommendation to add language to section 142.1302 codifying the preeminence of CRL on projects with for-sale units that are funded by the Redevelopment Agency would address only the units' resale restrictions and does not seem to address the other requirements of the ordinance, such as the recordation of Declaration of Covenants, Conditions and Restrictions described in Section 142.1311. The preeminence of the CRL would apply to not only the resale restrictions on for-sale units, but the duplicative process of recording affordability restrictions for both "Inclusionary" and "CRL" requirements on for-sale and rental developments.

The Redevelopment Agency, with input from the Housing Commission, and after receiving feedback from the development community, has been taking steps to streamline our approval and regulatory procedures and eliminate redundancies. For example, the Agency has established clear underwriting guidelines for development proposals that will reduce predevelopment costs

¹ Source: "College-Town Real Estate: The Next Big Niche?" The New York Times. August 20, 2006

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May 13, 2008

and decrease redundancy among the three branches of the Agency. These guidelines will be presented to the Agency board with our budget on May 20, 2008.

Please see the enclosed copy of a notated version of the existing Inclusionary Affordable Housing Regulations – demonstrating that the regulations seemed to anticipate a duplicative process in the CRL requirements and attempted to reduce this redundancy.

To further clarify, it is our recommendation that either:

- (1) The recommendation of Housing Commission staff for new language to Section 142.1302 be expanded so that it is clear the inclusionary ordinance is not cumulative, or in other words, is not “in addition to” state housing requirements *and affordability restrictions that would be recorded against the property by the state agency*. Redevelopment Agency assisted projects are subject to California Community Redevelopment Law (H&SC Sections 33000 *et seq.*) and, therefore, the Inclusionary Affordable Housing Regulations would not apply, OR
- (2) Add the following language to the Inclusionary Affordable Housing Regulations:

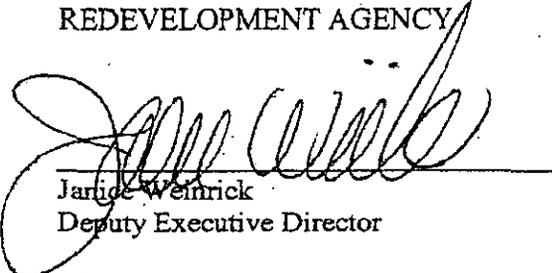
§142.1303 Exemptions From the Affordable Housing Inclusionary Regulations

(e) A development located within an adopted redevelopment project area and subject to a San Diego Redevelopment Agency Agreement, upon an express finding that the development is fulfilling a stated significant objective(s) of the Redevelopment Agency’s approved Five Year Redevelopment Plan for the Redevelopment Project Area and the purpose of the Inclusionary Affordable Housing Regulations.

In either case, the standard language used by the Development Services Department on site development/building permits would need to be revised to allow for Redevelopment Agency agreements to satisfy the housing affordability line items.

We appreciate your consideration. If you have any questions, please do not hesitate to contact Michele St. Bernard, Affordable Housing Project Manager directly at (619) 236-6531 or via email at MStBernard@sandiego.gov.

REDEVELOPMENT AGENCY

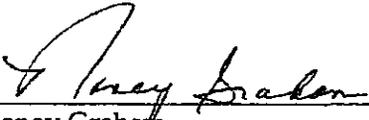


Janice Weinrick
Deputy Executive Director

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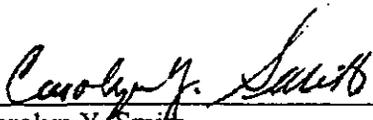
Page 4 of 4
San Diego Housing Commission, Chair and Members of the Board
May 13, 2008

CENTRE CITY DEVELOPMENT
CORPORATION



Nancy Graham
President

SOUTHEASTERN ECONOMIC
DEVELOPMENT CORPORATION



Carolyn Y. Smith
President

Enclosure: Notated Inclusionary Ordinance

cc: Carrol M. Vaughn, Interim President & Chief Executive Officer, Housing Commission
D. Todd Phillips, Director, Policy and Public Affairs, Housing Commission
Sherry Brooks, Project Manager, Southeastern Economic Development Corporation
Eri Kameyama, Associate Project Manager, Centre City Development Corporation
James Davies, Community Development Coordinator, Redevelopment Agency
Michele St. Bernard, Affordable Housing Project Manager, Redevelopment Agency
Kelly Broughton, Director, Development Services Department, City of San Diego

000554

San Diego Municipal Code
(9-2006)

Chapter 14: General Regulations

- (4) No alternative means of compliance are available which would be more effective in attaining the purposes of this Division than the relief requested.
- (e) No variance, adjustment, or reduction shall be issued to an applicant unless there is an absence of any reasonable relationship or nexus between the impact of the *development* and either the amount of the in lieu fee charged or the inclusionary requirement.
- (f) A project that proposes to provide affordable housing on a site different from the proposed project site and outside the community planning area may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 142.1304(d):
- (1) The portion of the proposed *development* outside of the community planning area will assist in meeting the goal of providing economically balanced communities; and
 - (2) The portion of the proposed *development* outside of the community planning area will assist in meeting the goal of providing transit oriented development.

*(Added 6-3-2003 by O-19189 N.S.)**(Amended 8-15-2006 by O-19530 N.S.; effective 9-14-2006.)*

§ 142.1305 Waiver Rules for Inclusionary Affordable Housing Regulations

- (a) Except as provided in Section 142.1305(c), a waiver, adjustment, or reduction from the provisions of Section 142.1306 may be requested and decided in accordance with Process Five and shall require either that the findings in Section 142.1305(d) or in Section 142.1305(e) be made.
- (b) An application for a waiver, adjustment, or reduction shall be filed in accordance with Section 112.0102 and shall include financial and other information that the City Manager determines is necessary to perform an independent evaluation of the *applicant's* rationale for the waiver, adjustment, or reduction and shall be a matter of public record.
- (c) A *development* located within an adopted redevelopment project area and subject to a San Diego Redevelopment Agency Agreement may seek a waiver, adjustment, or reduction from the requirements of this Division, upon an express finding that the *development* is fulfilling a stated significant objective(s) of the Redevelopment Agency's approved Five Year Redevelopment Plan for the Redevelopment Project Area. The waiver, adjustment, or reduction shall be in accordance with Process Five.

Move to
§ 142.1303 *

Ch.	Art.	Div.
14	2	13

000555

San Diego Municipal Code
(9-2006)

Chapter 14: General Regulations

- (d) No waiver, adjustment, or reduction shall be issued to an *applicant* unless:
- (1) Special circumstances, unique to that *development* justify the grant of the waiver, adjustment, or reduction;
 - (2) The *development* would not be feasible without the waiver, adjustment, or reduction;
 - (3) A specific and substantial financial hardship would occur if the waiver, adjustment, or reduction were not granted; and
 - (4) No alternative means of compliance are available which would be more effective in attaining the purposes of this Division than the relief requested.
- (e) No waiver, adjustment, or reduction shall be issued to an *applicant* unless there is an absence of any reasonable relationship or nexus between the impact of the *development* and either the amount of the in lieu fee charged or the inclusionary requirement.

*(Added 6-3-2003 by O-19189 N.S.)**(Amended 8-15-2006 by O-19530 N.S.; effective 9-14-2006.)***§ 142.1306 General Inclusionary Affordable Housing Requirements**

- (a) At least ten percent (10%) of the total *dwelling units* in the proposed *development* shall be affordable to *targeted rental households* or *targeted ownership households* in accordance with Section 142.1309. For any partial unit calculated, the applicant shall pay a prorated amount of the in lieu fee in accordance with Section 142.1310 or provide an additional affordable unit. *Condominium conversion* units affordable to and sold to households earning less than 150 percent (150%) of the *area median income* pursuant to an agreement entered into with the San Diego Housing Commission shall not be included in the *dwelling units* total for purposes of applying the ten percent inclusionary housing requirement.
- (b) With the exception of condominium conversions of twenty or more dwelling units the requirement to provide *dwelling units* affordable to and occupied by *targeted rental households* or *targeted ownership households*, can be met in any of the following ways:
- (1) On the same site as the proposed project site;
 - (2) On a site different from the proposed project site, but within the same community planning area. Nothing in this Division shall preclude an

Ch.	Art.	Div.
14	2	13

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(R-INSERT)

RESOLUTION NUMBER R-_____

ADOPTED ON _____

WAIVER
FROM THE REQUIREMENTS OF THE INCLUSIONARY AFFORDABLE HOUSING
REGULATIONS ORDINANCE
Chabad Educational Campus – Project No. 123607

WHEREAS, Friends of Chabad Lubavich San Diego, Inc., Owner/Permittee, filed an application with the City of San Diego for a Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance related to the Chabad Educational Campus, Project No. 123607, located at 10785 Pomerado Road, and legally described as Parcel 2 of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978, in the Scripps Miramar Ranch Community Plan area, in the RS-1-8 Zone; and

WHEREAS, pursuant to Municipal Code Section 142.1305(e), Friends of Chabad Lubavitch San Diego, Inc. requests a Wavier from the application of the Inclusionary Affordable Housing Regulations Ordinance to its proposal to construct 280 units of on-campus housing for students, married students and faculty, in support of the build-out and completion of its educational campus consistent with City Council Resolution Number 284501 and Conditional Use Permit 133-PC; and

WHEREAS, Friends of Chabad Lubavitch San Diego, Inc. contend that there is no reasonable relationship between the impact of Chabad's proposal to build this on-campus

housing and the stated inclusionary requirement of the Inclusionary Affordable Housing Regulations Ordinance; and

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego considered Friends of Chabad Lubavitch San Diego, Inc. request for Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance for the Chabad Educational Campus, Project No. 123607, and pursuant to Resolution No. 4415-PC voted to recommend City Council denial of the Waiver; and

WHEREAS, the matter was set for public hearing on (date to be filled), testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it agrees with following conclusions with respect to the Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance and finds that there is no reasonable relationship between the impact of the Chabad development and the inclusionary requirement of the Ordinance:

FINDINGS FOR A WAIVER FROM THE REQUIREMENTS OF THE INCLUSIONARY HOUSING ORDINANCE:

1. The Inclusionary Affordable Housing Regulations Ordinance is intended to apply to residential development, however, the use and the development regulations for schools, colleges and universities are found under the Institutional Use category of the Municipal Code and Section 131.0111(d) of the Code states that any use within the institutional, retail sales, commercial services, offices, vehicle and vehicular equipment sales and services categories is considered a commercial use or commercial development.

2. Section 142.1306 General Inclusionary Affordable Housing Requirements requires that 10 percent of the total dwelling units in the proposed development shall be affordable to targeted rental households or targeted ownership households in accordance with Section 142.1309, and it stipulates how the requirement can be met for residential development and condominium conversions. Chabad's and most other on-campus student housing is not for rent and not for sale and not subject to condominium conversion. The costs and fees one pays for taking classes and going to school pays for the on-campus housing.

3. The General Inclusionary Affordable Housing Regulations Ordinance does not clearly state the applicability to on-campus housing or provide direction on how development that is neither intended for rent or for sale is supposed to be able to comply.

4. The Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual which establishes submittal requirements, review procedures and standards and guidelines for the program does not provide any information relative to how on-campus housing of an educational institution is supposed to comply. The document indicates that the Program requirements can be fulfilled through the provision of [affordable] rental or for-sale housing, however, the Chabad on-campus housing is not for rent or for sale.

5. Housing Commission staff have acknowledged that there is considerable complexity and substantial administrative difficulty in attempting to administer the affordable housing requirements for on-campus student housing and there is not currently any guidance or direction available on how to implement such a program.

6. Friends of Chabad Lubavitch San Diego, Inc. has agreed to the placement of a deed restriction on the Chabad property that would require compliance with the Inclusionary

Affordable Housing Regulations Ordinance if the on-campus student housing is ever converted to anything other than student housing by Chabad or any successor in interest.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is not sustained, and the Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance for the Chabad Educational Campus, Project No. 123607, is granted to Friends of Chabad Lubavich San Diego, Inc., Owner/Permittee, under the terms and conditions set forth in the Waiver attached hereto and made a part hereof.

APPROVED: MICHAEL AGUIRRE, City Attorney

By _____
NAME
Deputy City Attorney

ATTY/SEC. INITIALS
DATE
Or.Dept:Clerk
R-INSERT
Form=permitr.frm(61203wct)
Reviewed by Cherlyn Cac

000561

CHABAD INFO SHEET

Scripps Ranch FBA/DIF Fees: SF - \$29,911/unit
 MF - \$20,937/unit
 Commercial - \$117,069/acre
 Institutional - \$40,387/acre

RTCIP - \$1,865/unit

HTF - \$0.80/s.f.

Project Details

- 280 apartment units (1-3 bedrooms) - 99,580 s.f.
- 49,866 s.f. of classroom, gym, commons
- Total housing and institutional - 149,446 s.f.

Potential Fees

	Full MF FBA	Discounted FBA (4/6 x MF rate)	RTCIP	HTF
Housing - 280 units	\$5,862,360	\$3,927,781	\$522,200	\$0
Classrooms/Commons - 49,866 s.f.	\$46,445	\$46,445	\$0	\$39,893
Totals	\$5,908,805	\$3,974,226	\$522,200	\$39,893

Notes

The housing component of this project is not the typical dorm-style student housing. The housing will be fully equipped apartments to be used as primary residences by college students and faculty. We did not consider the housing to be institutional development as far as impact fee assessment. However, we did consider that having students and faculty living on-site would result in a reduced number of ADTs, and after consulting with the City traffic engineer, we concluded that the impact of this housing approximates the impact of senior housing. Senior housing generates 4 trips per unit according to the City's Trip Generation Manual. Therefore, as long as we are sure that the housing will be used strictly for college students and faculty, we intend to assess an FBA fee equal to 4/6 of the multi-family FBA rate. This modified fee is based on the 6 trips per unit generated by multi-family residential. This modified fee is dependent on the applicant clearly stating on the site plan that the housing is to be used only by college faculty and students taking a minimum of 8 college-level units per semester. In addition, the City will be recording a deed restriction on the property to insure that, if there is a change of use in the future, the balance of the multi-family FBA fee (2/6) will be captured. Should the use change without paying the 2/6 fee, this development will be in violation of the permit and code compliance will take the necessary actions.

10/2/08

000563

B”H

To: Scripps Ranch Planning Group
From: Rabbi Yonah Fradkin, Friends of Chabad Lubavitch
Subject: Review of the Chabad Educational Center-Phase/Plot Plan Submittal
Date: June 5, 2008

The Friends of Chabad Lubavitch – San Diego (“Chabad”) and the Scripps Ranch Planning Group (“SRPG”) have worked diligently together over an extended period of time in good faith and neighborly spirit. This proposed memorandum of understanding (“agreement”) discusses a multitude of issues that have been raised by the SRPG over the course of many years and represents a good faith attempt to set forth the relative positions of parties hereto and the best efforts that will be implemented to the extent feasible in the future to work together in the spirit of attempting to satisfy to concerns of the parties as good neighbors.

In exchange for the approval and “Yes” recommendation of the Chabad Educational Center Master Plan Phase/Plot Plan submittal by the Scripps Ranch Planning Group, Rabbi Yonah Fradkin on behalf of Friends of Chabad Lubavitch (“Chabad”) agrees to use their best efforts to implement the items listed below to the extent that the implementation is economically feasible and in keeping with the approved plan. This Memorandum of Understanding shall be submitted to the City Planning Commission, as part of the record of the Master Plan submittal, by the Scripps Ranch Planning Group and Chabad. It is understood that if this project is not ultimately approved, this agreement is null and void.

To the extent that this agreement does not harm Chabad's ability to complete the project nor take away Chabad’s currently existing underlying property rights – this is a goodwill memorandum between Chabad and the Scripps Ranch Planning Group. Chabad will in keeping with the forgoing make a good faith effort to comply to the extent that is feasible with the following:

1. The proposed residential units are only for school faculty, staff, students and their immediate family. To be considered a student one must take at least 8 credits each semester. If the students fail to maintain the required credits, Chabad would seek to have them vacate the residence or correct the deficiency as part of future enrollment.
2. Residential units will be available for rent to students, faculty and staff only.
3. During the construction process Chabad will make a reasonable effort to ensure that only the actual land needed to complete each phase is graded with no large areas left not vegetated and/ or landscaped.

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4. Each phase of construction will have its landscape completed along with completion of the phase.
5. The landscape will be such that within a reasonable period of time after planting the landscaping will attempt to maximize the screening of each new phase and the present structures from view from Pomerado Road, Avenida Magnifica and Crown Pointe homes. Chabad will plant 10 – 15 gallon trees or larger.
6. Prior to construction of signage along Pomerado Road or of any phase, the design, colors and layout of the intended structures in the phase will be presented to the SRPG to get an opinion as to whether the proposed construction is consistent with the residential/institutional/educational style of the surrounding region.
7. Chabad agrees that the aesthetic design of the buildings in Chabad's master plan may not be consistent with the existing campus structures. Attention and focus on design will be made to better integrate the project into the wooded, Scripps Ranch environment.
8. The roofs of any new buildings (e.g. gymnasium, future educational buildings and university/high school) constructed south of the present structures will be below the horizontal sightline of existing homes in Crown Pointe.
9. Any athletic facilities (e.g. tennis courts, gymnasium) and fields will only be for the use of Chabad staff, faculty, students and their guests, and Scripps Ranch residents with written permission.
10. When Chabad completes construction of this master plan, no further significant changes will be made to the master plan without voluntary submittal of a Conditional Use Permit to the city in advance of any construction. (Note: In the event that the current master plan is not completed, it may be altered via substantial conformance.)
11. All Chabad athletic field lights and amplified sound will be turned off no later than 9:30pm.
12. Chabad will evaluate the feasibility of bringing reclaimed water onto its property for irrigation purposes.
13. Chabad agrees to pay applicable development impact fees for the project as required by City of San Diego regulations.
14. Chabad agrees to the maximum 800-student capacity, including the additional Pre-School Conditional Use Permit, which would not take the student capacity above 800.

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15. Chabad will enforce the parking space requirement of the existing Conditional Use Permit or the City of San Diego Municipal Code, whichever is greater.
16. Chabad will evaluate the feasibility of access and sharing construction of a loop road to the new middle school from the Chabad Road.
17. Chabad will plant Eucalyptus trees along the Pomerado Road frontage, to keep consistency of Pomerado Road based upon city approval. If city code does not permit Eucalyptus trees on Pomerado Road, Chabad will work together with SRPG to find appropriate trees/plants that the City of San Diego permits.
18. Chabad agrees to no mass grading. Grading will occur in phases as applicable - based on grading contractor recommendation. If additional grading is needed for a particular phase, the undeveloped portion of grading will be landscaped so as not to leave an unfinished look.
19. When grading permits are submitted and prior to being issued by the City of San Diego, Chabad will meet with the SRPG regarding Chabad's traffic control plan for recommendations subject to city approval.
20. Chabad will enforce student Code Compliance living arrangements to the extent applicable to Chabad's students.
21. Rabbi Fradkin who is executing this agreement on behalf of Chabad warrants he is authorized to do so.
22. Chabad executes this agreement without any duress or undue influence.
23. No breach of any provision of this agreement can be waived unless it is in writing. Waiver of any one breach of any provision of this agreement is not a waiver of any other breach of the same or any other provision of this agreement. Amendment may be made only by written agreement signed by Chabad and SRPG.
24. Chabad and SRPG agree to operate one to the other with good faith and cooperation in the interpretation and implementation of this agreement.
25. Chabad agrees to include this agreement and its terms as voluntary conditions agreed to by Chabad in its request for the City of San Diego to approve the Phase/Plot Plan. Chabad will explicitly inform the City of San Diego Planning Commission and City of San Diego City Council of this agreement at any hearing regarding the Phase/Plot Plan.

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26. Chabad agrees to request the City of San Diego Planning Commission specifically include in the Planning Commission's resolution approving the Phase/Plot Plan this agreement and its terms as conditions of the Planning Commission's approval of the Phase/Plot Plan. Chabad agrees to include this agreement as an amendment to Chabad's Phase/Plot Plan application as voluntary provisions, terms, and/or stipulations purposefully to be included in the Planning Commission's resolution approving the Phase/Plot Plan.

It is understood that many of these 26 items are not required by the City of San Diego. Chabad is committing as set forth herein to these items voluntarily in the spirit of good faith and neighborly attitude.

Rabbi Yonah Fradkin

Date

Scripps Ranch Planning Group

Date

000567

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION STATING THAT THE CHABAD EDUCATIONAL CAMPUS IS IN SUBSTANTIAL CONFORMANCE WITH CONDITIONAL USE PERMIT NO. 133-PC.

WHEREAS, Friends of the Chabad Lubavitch San Diego, Inc., Owner/Permittee, filed an application with the City of San Diego for a substantial conformance review to expand and develop Chabad's existing campus with a high school, college, sport facilities, and 280 on-campus housing units on an approximately 27-acre site known as the Chabad Educational Campus Substantial Conformance Review project, located at 10785 Pomerado Road, and legally described as Parcel 2, of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978, in the Scripps Miramar Ranch Community Plan area; and

WHEREAS, an approximately 27-acre portion of the Conditional Use Permit [CUP] area is in separate ownership from United States International University [USIU] and Friends of the Chabad Lubavitch San Diego, Inc. has indicated its intent to expand the existing Chabad Campus to develop and operate a high school, college, sport facilities, and on-campus housing units consisting of two institutional use buildings, a two-story university building, a sports complex building, sports field, tennis court, swimming pool/spa, and 280 housing units with below grade parking structures for students and faculty of Chabad; and

WHEREAS, Friends of the Chabad Lubavitch San Diego, Inc., has indicated that it plans to construct within the same development footprint in substantially same manner as was approved for the USIU facilities on the approximately 27 acre parcel; and

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WHEREAS, the USIU facilities approved for the parcel included academic facilities, housing for students and faculty, off-street parking, physical educational playing fields and related outdoor facilities, and other incidental accessory uses; and

WHEREAS, Conditional Use Permit No. 133-PC Amendment requires Planning Commission to approve a plot plan for the entire phase prior to issuance of any building permit; and

WHEREAS, on August 8, 1994, the Council of The City of San Diego, determined Chabad's kindergarten through twelfth grade plus 'Yeshiva' (rabbinical seminary) accommodating a maximum of 800 full time students is in fact substantively the same university as approved under the USIU Conditional Use Permit and therefore, the Chabad Educational Campus, an approximately 27-acre site at 10785 Pomerado Road, is vested under USIU Conditional Use Permit No. 133-PC Amendment; and

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego considered the substantial conformance of the proposed Chabad Educational Campus with Conditional Use Permit No. 133-PC as amended, and pursuant to Resolution No. 4451-PC voted to recommend City Council approval of the substantial conformance; and

WHEREAS, under Charter Section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires 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; and

000569

WHEREAS, the matter was set for public hearing on _____,
testimony having been heard, evidence having been submitted, and the City Council having fully
considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT FURTHER RESOLVED, that the proposed Chabad Educational Campus is in
substantial conformance with Conditional Use Permit No. 133-PC as amended.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

//Submitted without signature//

By _____
Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev
10/10/08
Or.Dept:DSD
R-2009-459
MMS #6893

000571

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION APPROVING WAIVER FROM THE REQUIREMENTS OF THE INCLUSIONARY AFFORDABLE HOUSING REGULATIONS ORDINANCE - CHABAD EDUCATIONAL CAMPUS - PROJECT NO. 123607.

WHEREAS, Friends of Chabad Lubavich San Diego, Inc., Owner/Permittee, filed an application with the City of San Diego for a Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance related to the Chabad Educational Campus, Project No. 123607, located at 10785 Pomerado Road, and legally described as Parcel 2 of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978, in the Scripps Miramar Ranch Community Plan area, in the RS-1-8 zone; and

WHEREAS, pursuant to San Diego Municipal Code Section 142.1305(e), Friends of Chabad Lubavitch San Diego, Inc. requests a Wavier from the application of the Inclusionary Affordable Housing Regulations Ordinance for its proposal to construct 280 units of on-campus housing for students, married students and faculty, in support of the build-out and completion of its educational campus consistent with City Council Resolution Number 284501 and Conditional Use Permit No. 133-PC; and

WHEREAS, Friends of Chabad Lubavitch San Diego, Inc. contend that there is no reasonable relationship between the impact of Chabad's proposal to build this on-campus

000572

housing and the stated inclusionary requirement of the Inclusionary Affordable Housing Regulations Ordinance; and

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego considered Friends of Chabad Lubavitch San Diego, Inc. request for Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance for the Chabad Educational Campus, Project No. 123607, and pursuant to Resolution No. 4415-PC voted to recommend City Council denial of the Waiver; and

WHEREAS, under Charter Section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires 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; and

WHEREAS, the matter was set for public hearing on _____, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it agrees with following conclusions with respect to the Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance and finds that there is no reasonable relationship between the impact of the Chabad development and the inclusionary requirement of the Ordinance:

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A. FINDINGS FOR A WAIVER FROM THE REQUIREMENTS OF THE INCLUSIONARY HOUSING ORDINANCE:

1. The Inclusionary Affordable Housing Regulations Ordinance is intended to apply to residential development, however, the use and the development regulations for schools, colleges and universities are found under the Institutional Use category of the Municipal Code and Section 131.0111(d) of the Code states that any use within the institutional, retail sales, commercial services, offices, vehicle and vehicular equipment sales and services categories is considered a commercial use or commercial development.

2. San Diego Municipal Code Section 142.1306 General Inclusionary Affordable Housing Requirements requires that 10 percent of the total dwelling units in the proposed development shall be affordable to targeted rental households or targeted ownership households in accordance with Section 142.1309, and it stipulates how the requirement can be met for residential development and condominium conversions. Chabad's and most other on-campus student housing is not for rent and not for sale and not subject to condominium conversion. The costs and fees one pays for taking classes and going to school pays for the on-campus housing.

3. The General Inclusionary Affordable Housing Regulations Ordinance does not clearly state the applicability to on-campus housing or provide direction on how development that is neither intended for rent or for sale is supposed to be able to comply.

4. The Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual which establishes submittal requirements, review procedures and standards and guidelines for the program does not provide any information relative to how on-campus housing of an educational institution is supposed to comply. The document indicates that the Program requirements can be fulfilled through the provision of [affordable] rental or for-sale housing, however, the Chabad on-campus housing is not for rent or for sale.

5. Housing Commission staff have acknowledged that there is considerable complexity and substantial administrative difficulty in attempting to administer the affordable housing requirements for on-campus student housing and there is not currently any guidance or direction available on how to implement such a program.

6. Friends of Chabad Lubavitch San Diego, Inc. has agreed to the placement of a deed restriction on the Chabad property that would require compliance with the Inclusionary Affordable Housing Regulations Ordinance if the on-campus student housing is ever converted to anything other than student housing by Chabad or any successor in interest.

BE IT FURTHER RESOLVED, that the Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance for the Chabad Educational Campus,

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Project No. 123607, is granted to Friends of Chabad Lubavich San Diego, Inc., Owner/Permittee, under the terms and conditions set forth in the Waiver incorporated herein by reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

//Submitted without signature//

By

Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev
10/10/08
Or.Dept:DSD
R-2009-451
MMS #6893

(R-_____)

RESOLUTION NUMBER R-_____

ADOPTED ON _____

WHEREAS, Friends of the Chabad Lubavitch, Owner/Permittee, filed an application with the City of San Diego for a substantial conformance review to expand and construct Chabad's existing campus for a high school, college, sport facilities, and 280 on-campus housing units on an approximately 27 acre site known as the Chabad Educational Campus Substantial Conformance Review project, located at 10785 Pomerado Road, and legally described as Parcel 2, of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978, in the Scripps Miramar Ranch Community Plan area; and

WHEREAS, an approximately 27 acre portion of the CUP area is in separate ownership from UISU and Friends of the Chabad Lubavitch has indicated its intent to expand the existing Chabad Campus to develop and operate a high school, college, sport facilities, and on-campus housing units consisting of two institutional use buildings, a two-story university building, a sports complex building, relocated sports field, tennis court, swimming pool/spa, and 280 housing units with below grade parking structures for students and faculty of Chabad; and

WHEREAS, Chabad has indicated that it plans to construct within the same development footprint in substantially same manner as was approved for the USIU facilities on the approximately 27 acre parcel; and

WHEREAS, the USIU facilities approved for the parcel included academic facilities, housing for students and faculty, off-street parking, physical educational playing fields and related outdoor facilities, and other incidental accessory uses; and

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WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego considered the substantial conformance of the proposed Chabad Educational Campus with Conditional Use Permit No. 133-PC as amended, and pursuant to Resolution No. 4451-PC voted to recommend City Council approval of the substantial conformance; and

WHEREAS, the matter was set for public hearing on DATE, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and the proposed Chabad Educational Campus is in substantial conformance with Conditional Use Permit Number 133-PC as amended is granted to Friends of the Chabad Lubavitch, Owner/Permittee, as the university use approved by the City and that therefore no new conditional use permit or amended conditional use permit will be required for such proposed development and use.

APPROVED: MICHAEL AGUIRRE, City Attorney

By

NAME

Deputy City Attorney

ATTY/SEC. INITIALS

DATE

Or.Dept:Clerk

R-INSERT

Form=permitr.frm(61203wct)

Reviewed by Cherlyn Cac

(R-INSERT)

RESOLUTION NUMBER R-_____

ADOPTED ON _____

WAIVER
FROM THE
REQUIREMENTS OF THE INCLUSIONARY HOUSING ORDINANCE
Chabad Educational Campus – Project No. 123607

WHEREAS, Friends of Chabad Lubavich San Diego, Owner/Permittee, filed an application with the City of San Diego for a Waiver from the requirements of the Inclusionary Housing Ordinance in association with the Chabad Educational Campus, Project No. 123607, located at 10785 Pomerado Road, and legally described as Parcel 2 of Parcel Map No. 7724, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, August 18, 1978, in the Scripps Miramar Ranch Community Plan area, in the RS-1-8 Zone; and

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego considered the Waiver from the requirements of the Inclusionary Housing Ordinance for the Chabad Educational Campus, Project No. 123607, and pursuant to Resolution No. _____ - PC voted to recommend City Council approval; and

WHEREAS, the matter was set for public hearing on (date to be filled), testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to the Waiver from the requirements of the Inclusionary Housing Ordinance for the Chabad Educational Campus, Project No. 123607:

FINDINGS FOR A WAIVER FROM THE REQUIREMENTS OF THE INCLUSIONARY HOUSING ORDINANCE:

1. No waiver, adjustment, or reduction shall be issued to an applicant unless there is an absence of any reasonable relationship or nexus between the impact of the development and either the amount of the in lieu fee charged or the inclusionary requirement.

Pursuant to Municipal Code Section 142.1305(e), Friends of Chabad Lubavitch San Diego, Inc. requests a wavier form the application of the Inclusionary Affordable Housing Regulations to its proposal to construct 280 units of on-campus housing for students, married students and faculty in support of the build-out and completion of its educational campus consistent with City Council Resolution Number 284501 and Conditional Use Permit Number 133-PC. There is no reasonable relationship between Chabad's proposal to build this on-campus housing and the stated application of the Inclusionary Affordable Housing Regulations to residential developments.

The application of the Inclusionary Affordable Housing Regulations is not written in a manner or form that reflects the legal intent for on-campus housing of private, non-profit educational institutions. Municipal Code Section 142.1302 states that Inclusionary Affordable Housing Regulations applies to all residential development except as provided in Section 142.1303.

The term "residential development" is not defined in the Municipal Code or otherwise clarified in the ordinance. However, for purposes of regulating uses and their development, the Municipal Code establishes a number of use categories and subcategories. The residential use

category includes: group living accommodations; mobile home parks; multiple dwelling units and single dwelling units. Regarding Land Development Code Section 131.0111 (c), Grouping of Use Categories states that any use within the residential use category is considered a residential use or residential development.

The use and development regulations for schools, colleges and universities are found under the Institutional Use category of the Municipal Code, which would imply that associated on-campus housing is institutional, not residential development. In fact Land Development Code Section 131.0111 (d), Grouping of Use Categories states that any use within the institutional, retail sales, commercial services, offices, vehicle and vehicular equipment sales and services categories is considered a commercial use or commercial development.

Additionally Section 142.1306 General Inclusionary Affordable Housing Requirements requires that 10 percent of the total dwelling units in the proposed development shall be affordable to targeted rental households or targeted ownership households in accordance with Section 142.1309, and it stipulates how the requirement can be met for residential development and condominium conversions. Chabad's and most other on-campus housing are not for rent and not for sale and not subject to condominium conversion. The costs and fees one pays for taking classes and going to school pays for the on-campus housing.

The General Inclusionary Affordable Housing Regulations do not clearly state the applicability to on-campus housing. The General Inclusionary Affordable Housing Regulations do not provide instruction on how development that is neither intended for rent or for sale is supposed to be able to comply.

The General Inclusionary Affordable Housing Regulations does not clearly state that on-campus housing is to be considered residential development for purposes of applying the ordinance. Additionally in the Inclusionary Affordable Housing Implementation and Monitoring

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Procedures Manual which establishes submittal requirements, review procedures and standards and guidelines for the program, there is no information relative to how on-campus housing of an educational institution is required to comply. The document indicates that the Program requirements can be fulfilled through the provisions of [affordable] rental or for-sale housing. The Chabad Campus on-campus housing is not for rent or for sale.

Chabad does not believe that on-campus housing is residential development and subject to the provisions of the Inclusionary Affordable Housing Regulations. Per the Land Development Code categorization of uses, the institutional development of Chabad or any other non-profit, educational campus is considered commercial development.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and the Waiver from the requirements of the Inclusionary Housing Ordinance for the Chabad Educational Campus, Project No. 123607, is granted to Friends of Chabad Lubavich San Diego, Owner/Permittee, under the terms and conditions set forth in the Waiver attached hereto and made a part hereof.

APPROVED: MICHAEL AGUIRRE, City Attorney

By _____
NAME
Deputy City Attorney

ATTY/SEC. INITIALS
DATE
Or.Dept:Clerk
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Reviewed by Cherlyn Cac

PLANNING COMMISSION RESOLUTION NO. 4451-PC

RECOMMENDING TO THE CITY COUNCIL THAT THE CHABAD EDUCATIONAL CAMPUS IS IN SUBSTANTIAL CONFORMANCE WITH CONDITIONAL USE PERMIT NO. 133-PC AMENDMENT; AND RECOMMENDING TO CITY COUNCIL DENIAL OF THE WAIVER FROM THE INCLUSIONARY AFFORDABLE HOUSING REQUIREMENTS
CHABAD EDUCATIONAL CAMPUS SCR - PROJECT NO. 123607

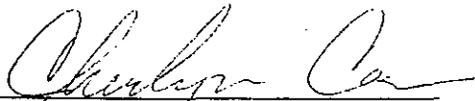
WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending to the Council of The City of San Diego whether or not the Chabad Educational Campus is in substantial conformance with Conditional Use Permit Number 133-PC as amended; and a request for a Waiver from the General Inclusionary Affordable Housing Requirements; and

WHEREAS, Friends of Chabad Lubavitch, Owner/Permittee, requested a substantial conformance determination with Conditional Use Permit Number 133-PC Amendment, and a waiver request from the General Inclusionary Affordable Housing Requirements to expand and develop Chabad's existing campus for a high school, college, sport facilities and 280 on-campus housing units on an approximately 27 acre site; and

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW
THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby recommends to the Council of the City of San Diego approval and adoption that the Chabad Educational Campus is in substantial conformance with Conditional Use Permit Number 133-PC as amended; and denial of the Waiver from the General Inclusionary Affordable Housing Requirements because the findings cannot be made.

BE IT FURTHER RESOLVED, that the Planning Commission recommended to the City Council that the Chabad Educational Campus is in substantial conformance; and that the voluntary agreement between Chabad and Scripps Community Planning Group is part of the approved documentation; and that prior to City Council, the FBA fees be available both for the applicant and the community.



Cherlyn Cac
Development Project Manager
Development Services

Dated September 18, 2008
By a vote of: 4:0:3

PLANNING COMMISSION RESOLUTION NO. 4451-PC

RECOMMENDING TO THE CITY COUNCIL APPROVAL OF THE CHABAD EDUCATIONAL CAMPUS IS IN SUBSTANTIAL CONFORMANCE WITH CONDITIONAL USE PERMIT NO. 133-PC AMENDMENT; AND RECOMMENDING TO CITY COUNCIL DENIAL OF THE WAIVER FROM THE INCLUSIONARY AFFORDABLE HOUSING REQUIREMENTS

CHABAD EDUCATIONAL CAMPUS SCR - PROJECT NO. 123607

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending to the Council of The City of San Diego approval and adoption that the Chabad Educational Campus is in substantial conformance with Conditional Use Permit Number 133-PC as amended; and denial of the Waiver from the General Inclusionary Affordable Housing Requirements; and

WHEREAS, Friends of Chabad Lubavitch, Owner/Permittee, requested the proposed project is in substantial conformance with Conditional Use Permit Number 133-PC Amendment and waiver request from the General Inclusionary Affordable Housing Requirements for the purpose to expand and develop Chabad's existing campus for a high school, college, sport facilities and 280 on-campus housing units on a 27 acre site; and

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby recommends to the Council of the City of San Diego approval and adoption that the Chabad Educational Campus is in substantial conformance with Conditional Use Permit Number 133-PC as amended; and denial of the Waiver from the General Inclusionary Affordable Housing Requirements because the findings cannot be made, and incorporate all other listed actions with conditions described below:

1. Recommended to the City Council that the Chabad Educational Campus is in substantial conformance with the voluntary agreement from the applicant to incorporate the 26 points that was in the agreement between Chabad and Scripps Community Planning Group as part of their documentation; and prior to City Council, that the FBA Assessment be available both for the applicant and the community to assess whether they are in support or not; and

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2. Recommended that the Housing Commission and everyone be at City Council hearing to make the findings on the waiver.

Cherlyn Cac
Development Project Manager
Development Services

Dated September 18, 2008
By a vote of: 4:0:3

PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
SEPTEMBER 18, 2008
IN CITY COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING

CHRONOLOGY OF THE MEETING:

Chairperson Schultz called the meeting to order at 9:11 a.m. Chairperson Schultz adjourned the meeting 8:39 p.m.

ATTENDANCE DURING THE MEETING:

Chairperson Barry Schultz – present
Vice-Chairperson - Eric Naslund –present (arrived @ 11:39)
Commissioner Robert Griswold – present (left @ 11:31)
Commissioner Gil Ontai –present (left @ 3:45)
Commissioner Dennis Otsuji – present (arrived @ 11:39)
Commissioner Mike Smiley – not present
Commissioner Tim Golba - present

Staff

Shirley Edwards, City Attorney - present
Mary Wright, Planning Department – present
Mike Westlake, Development Services Department - present
Elisa Contreras, Recorder – present

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ITEM-7:

*** ACADEMY OF OUR LADY OF PEACE – PROJECT NO. 130619**

City Council District: 3; Plan Area: Greater North Park

Staff: Michelle Sokolowski

Speaker slips submitted in favor of project by Trish Butler, Haeyoung Won, Kate Googins, Julia Lyons, Lindsay Borg, Sylvia Mendoza, Sara Gosschalk, Eddy Gosschalk, Nora Faine-Sykes, Gaby Strickland, Michael Guerrero, Audrey Pierik, Linda Kiendra, Evelyn Witherby, Kay VanTassell, Paola Avila, Carlos Acuna, Barbara Hinek, Mary Sloper, Cindy Teal, Sr. Breege Boyle, Tim Martin, Sarah Martin, Beth Connelly, Emma Connelly, Kirsten Hadzicki, Rita Bonnell, Lynn O'Shaughnessy, Randall Gutafson, Gabriela Matinez, Eve Ryan, Jeanette Handekman, Eliane, D. Jenkins, Chip Palid Ed Hearn, Stephen Nishimuta, Diana Marjip-Chuh, Dan Keays, Ann Scott, Tessie Theodorelos, Linda Caballero-Sotelo, Manal Naoom, Ginger Hoy Kossy, Nancy P. Ryan, Anna Gerhart, Cynthia Sapper, Judi Pertichetli, Roberto Ortiz, Eileen Van Tassell, Cindy Dale, Nestor Castano, Alicia Cook, Maria Greeley, Alex Kelly, Laura Impastate, Mary Kathleen Lindgren, David Glassner, Suzanne Ghosn, Margarette Borg, Claudia Lucero, John Coughlin, Maria Gabriela Valverde, Tom Bonnell, Kenneth Van Tassell, Jane A. Hopper, Ian Cook, Palma Linn Acuna, Guadalupe Camarena, Eduardo Fimbres, Marty Schmidt, Beth Fee, Ursula Uribe De Herrera, Bonnie Curtis, Mary Lovejoy, Greg Wood, Manuel Elizonde, Teresita Vidrio, Enedina Rangel, Kathryn M.S. Catherwood, Diane Gordon, Lauren Naoom.

Speaker Slips submitted opposed to project by Steve Silverman, Dianne Carlson, Judith O' Boyle, Bruce Coons, Mary Lou Ruane, Barbara Dodd, Sydney Sullivan, Becky Dodd-Sullivan, Satoe Tuner, Cyilde Turner, Tom Mac Donald, Mark Ballam, Ross Lopez, Glen Carlson, Martin Green, Robert Dean, Roxanne Govan, Jacqueline Thompson, Rob Steppke, Dan Sullivan, Joy Dougherty, Ben Saltzer, Jackie Nevelow, Sue Fogle, Terrell Cook, Mahin Mofazeli, Mahin, Roxanne Govari, Chris Delong, Stephen Whitburn, David Dodd, Martin Chevalier, Ray Ramage, Eurika Otto, Linda Colwell, Cecilia MacDonald, Ernestine Bonn.

COMMISSION ACTION:

MOTION BY COMMISSIONER NASULND TO CONTINUED TO DATE CERTAIN OF OCTOBER 9, 2008. Second by Commissioner Otsuji. Passed by a vote of 4-0-3 with Commissioner's Griswold, Ontai and Smiley

RECOMMENDATION

Commissioner Schultz the applicant go back and brief us on alternative reuse of the buildings.

Report No. PC-08-098

ITEM-8:

CHABAD EDUCATIONAL CAMPUS SUBSTANTIAL CONFORMANCE REVIEW – PROJECT NO. 123607

City Council District: 5; Plan Area: Scripps Miramar Ranch

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Staff: Cherlyn Cac

Speaker slips submitted in favor of project by Lawrence Barnes, Diane Gordon, Bendjan Chalom, Michael S. Rassler, Menashe Bacher, Nechama Carlebach, Yosef Tiefenbrun, Geoffrey Bers, James Swartz, Shmuel Eber, Irene Pritsker, Eli Fradkin, Jacob Polichenco, Tzvi Sharcebi, Jack Family, Laura Amsellem, Jenn Won, Julia Lyons, Sara Gosschalk, Ken Walker, Daniel Srugo, Diane Gordon, Ira Fefferman, Robert Wiggins, Jerry Goldstein, Maureen Pollack, Leah Fradkin, Lynn Oshaughnessy, Chana Grunvald, Roberto Grunvald Tumi Silver, Boudstan Mairan, Zelda Hazan, Jacob Naghsolpi, Estheil Ezabri, Jonathan Shiff, Tzvi Hirsch Pierargvi, Savey Sheinvein, Devorah Popaek Fradki, Daniel Polk, Rochie Tiefenbrun, Elena Namahj, Max Amsellem, Mechana Polichenco, Jorge Bross, Motte Fradkin, Puttinber, M & M Zemen, M & M Yeddson, M & M Levi, Yonah Fradkin, Rabbi Josef Fradkin, Ron Buckley, Mark Steele, Mark Henning, Jim Milch, Alan Green, Bonnie Cordvan, Marci Germain, Stephen L. Gordon, Thorm Bantel, Mark Perlmutter, Adam Srogoniz, Tamar Silverstein, Merle Brodie, Mitchell Brodis, Rudy Weiss, Dr. Libe Weiss, Hershy Silver, Richard Gabriel, Harvey Rogoff, David Rutkoff, Zalman Carlebach, Ian Harris, Rita Bonnell, Beth Connelly, David Smoller, Yisael Dinmar, Diana Wishimuk, Stephen Siverstein.

Speaker slips submitted oppose to project by Massoum Montakhab, Bob Ilko, Gordon Boerner, Lisa Jacobs, Robert Gilberg, Becky Carlquist, Sue Fewster, Yvette Casali, Jackie Reavey, Gail Harriss, Paula West, Dr. Robert Goehl, Gary Reed/Lois Reed, Victor Landa, Janine Brown, Elizabeth Hinkle, Stephne Hinkle, Sandra Hoyt, David Driggers, Summer Frost, Teri Dittrich, Mary Overcash, Louis B. Tishler, Jr., Kenneth Heying.

COMMISSION ACTION:

MOTION BY COMMISSIONER NASLUND TO RECOMMEND THE CITY COUNCIL FIND THAT THE PROPOSED CHABAD EDUCATIONAL CAMPUS IS IN SUBSTANTIAL CONFORMANCE WITH CONDITIONAL USE PERMIT NO. 133-PC AS AMENDED; AND TO INCORPORATE THE 26 POINT PRIVATE AGREEMENT BETWEEN CHABAD AND SCRIPPS COMMUNITY PLANNING GROUP AS PART OF THE MAP AND AS PART OF THEIR PROJECT PLAN DOCUMENTATION; AND

PRIOR TO ARRIVING AT THE CITY COUNCIL, THAT THE FBA ASSESSEMENT BE AVAILABLE BOTH FOR THE APPLICANT AND THE COMMUNITY TO ASSESS WHETHER THEY ARE IN SUPPORT OR NOT. Second by Commissioner by Golba. Passed by a vote of 4-0-3 with Commissioner's Griswold, Ontai and Smiley not present.

MOTION BY GOLBA TO RECOMMEND THAT THE CITY COUNCIL DENY THE WAVIER FROM THE GENERAL INCLUSIONARY AFFORDABLE HOUSING REQUIREMENTS BECAUSE THE FINDINGS CANNOT BE MADE. Second by Commissioner Naslund. Passed by a vote of 4-0-3 with Commissioner's Griswold, Ontai and Smiley not present.