

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR SPECIAL COUNCIL MEETING OF
FRIDAY, DECEMBER 5, 2008, AT 10:00 A.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS– 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101

CHRONOLOGY OF THE MEETING:

The special meeting was called to order by Council President Peters at 10:14 a.m. with all Council Members present. The special meeting was adjourned by Council President Peters at 10:55 a.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present via teleconference
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc)

FILE LOCATION: MINUTES

ITEM-600: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present via teleconference
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

ITEM-601: Two actions related to North University City Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2009. Resolution of Designation for the FBA in North University City; Approve the setting of Development Impact Fees consistent with the FBA in North University City for those developments which have never been assessed or otherwise agreed to pay a FBA; and Authorize the City Auditor and Comptroller to modify individual Capital Improvement Project Program budgets to reflect this plan. (North University City Community Plan Area. District 1.)

(See Report to the City Council No. 08-160; North University City Public Facilities Financing Plan and Facilities Benefit Assessment DRAFT Fiscal Year 2009, November 2008.)

(First Public Meeting was held on November 10, 2008, Item 204.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-538) ADOPTED AS RESOLUTION R-304535

Resolution of the Council of the City of San Diego designating an area of benefit in North University City and the boundaries thereof, confirming the description of

public facilities projects, the Community Financing Plan and Capital Improvement program with respect to Public Facilities Projects, the method for apportioning the costs of the public facilities projects among the parcels within the area of benefit and the amount of the facilities benefit assessments charged to each such parcel, the basis and methodology for assessing and levying discretionary automatic annual increases in facilities benefit assessments, and proceedings thereto, and ordering of proposed public facilities project in the matter of one facilities benefit assessment area;

Authorizing the City Planning & Community Investment Department to prepare a map of the boundaries of the area of benefit based on this Resolution and to file the map with the City Clerk in accordance with the provisions of Section 61.2209(a) of the Ordinance. The City Clerk is authorized and directed to record the map in the office of the County Recorder of the County of San Diego;

Authorizing and directing the City Clerk to execute and record a Notice of Assessment in the office of the County Recorder of the County of San Diego in accordance with the provisions of Section 61.2209(b) of the Ordinance.

Subitem-B: (R-2009-539) ADOPTED AS RESOLUTION R-304536

Resolution of the Council of the City of San Diego approving the development impact fee schedule for properties within North University City.

OTHER RECOMMENDATIONS:

The North University City Planning Group (UCPG) on March 11, 2008, voted (12-1-1) in support of the April 2008 version of the financing plan with qualifications.

REQUESTED ACTION:

1) Approve the North University City Public Facilities Financing Plan – Fiscal Year 2009; 2) Adopt a Resolution of Intention to designate an area of benefit for a Facilities Benefit Assessment (FBA) in North University City; 3) Adopt a Resolution of Designation for the FBA in North University City; 4) Approve the setting of Development Impact Fees (DIF) consistent with the FBA in North University City for those developments which have never been assessed or otherwise agreed to pay an FBA; and 5) Authorize the City Auditor and Comptroller to modify individual Capital Improvement Project Program budgets to reflect this plan.

STAFF SUPPORTING INFORMATION

STAFF RECOMMENDATION:

Approve the North University City Public Facilities Financing Plan - Fiscal Year 2009; rescind the existing Facilities Benefit Assessments and Development Impact Fees (Attachment #2) and establish new Facilities Benefit Assessment and Development Impact Fees for the North University Community.

EXECUTIVE SUMMARY:

The proposed FY 2009 PFFP (Attachment #1) details the public facilities that will be needed through the ultimate development of North University City at full community development, currently estimated to be the year 2015. This plan includes the Westfield University Town Centre (UTC) Development project approved by Council on July 29, 2008.

The proposed financing plan includes the addition of approximately \$28 million in FBA funding as a result of construction and material cost increases, project delays, and the addition of new projects. New projects include an expanded transit center at UTC, a joint use park at University City High School, and two new fire stations, only one of which is funded with FBA at this time. City Staff and the UCPG FBA subcommittee's review of the development schedule resulted in a decrease in anticipated development (ADTs), primarily due to the removal of parcels that have no further development rights. The combination of increasing project costs, additional projects, reduction of anticipated ADTs, and reduced revenue due to the downturn in the economy has necessitated an increase of 5% in the assessment rate. Changes that offset potential increases to the fee include replacing FBA funding with Transnet and deferring construction timing assumptions of some facilities.

The following changes are proposed for the assessments of FY 2009:

Land Use	FY 2009 Assessment	Proposed FY 2009 Assessment
Single Family Unit	\$18,581	\$19,510
Multi-Family Unit	\$13,007	\$13,658
Commercial ADTs	\$1,251	\$1,314

FISCAL CONSIDERATIONS:

Adoption of the designated area of benefit will continue to provide a funding source for the public facilities identified in the North University City Public Facilities Financing Plan FY 2009.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The September 2008 version of the plan incorporating the Westfield/UTC expansion was presented to the UCPG at their September 9, 2008 meeting (please refer to Attachment #4 for more detail). The UCPG approved the April 2008 version of the PFFP by a vote of 12-1-1, with the following caveats (please refer to Attachment #3 for staff response to the motions):

1. The \$7.7 million appropriation for the Regents Road Bridge project for FY 2009 must be moved to FY 2010.
2. The Limited Roadway Changes (included in Project NUC-18B in financing plan) should not be fully funded with FBA funds.
3. The \$4 million for improvements in Rose Canyon should be separated from NUC-18.
4. Construction of the new fire station should be moved from FY 2013-2014 to FY 2010.
5. In conformance with the community plan amendment, a second fire station should be added to the financing plan and should be funded no later than FY 2012.

This current version of the plan, dated November 2008, will be provided to the group prior to the Council hearing scheduled on November 10, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All property owners with remaining new development are listed on the draft North University City Assessment Roll, beginning on page 163. These property owners will be mailed a notice of the public hearing and a copy of the financing plan. The owners will have liens placed upon their property and will be required to pay an FBA upon any building permit issuance. Redevelopment that increases the intensity of existing uses may be subject to an impact fee.

Anderson/Gabriel

NOTE: This plan is a financing measure and is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3) and Section 15378(b)(4).

Staff: Cheryl M. Robinson – (619) 533-3679
Jana Garmo– Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:24 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S700: Hillel of San Diego Student Center, Project No. 149437. An application for a Site Development Permit, Easement Acquisition, and Public Right-of-Way Vacation (portion of La Jolla Scenic Drive North between Torrey Pines Road and La Jolla Scenic Way) for a two-phased development. (La Jolla Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for a Site Development Permit, Easement Acquisition, and Public Right-of-Way Vacation (portion of La Jolla Scenic Drive North between Torrey Pines Road and La Jolla Scenic Way) for a two-phased development to continue the use of an existing single-family dwelling for religious offices and related purposes as a Phase I entitlement; and to develop a triangular shaped parcel on the south side of La Jolla Village Drive between Torrey Pines Road and La Jolla Scenic Way with a 12,100 square-foot religious student center with a lower level garage of 17,000 square-feet of area as a Phase II entitlement. Phase I involves the continued use of a 1,792 square-foot single-family residence and garage/storage structure for religious offices and related use until such time as the proposed Phase II is developed and approved for occupancy. Phase II involves the development of a two-level religious student center consisting of an upper level main floor use area of 12,100 square-feet and a lower subterranean garage of 17,000 square-feet for the parking of 68 vehicles, trash enclosures and elevators.

(See Report to the City Council No. 08-175.)

(Continued from the meeting of December 2, 2008, Item 343 at the request of Councilmember Madaffer for further review.)

NOTE: Hearing open. No testimony taken.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in Subitems A, B, and C:

Subitem-A: (R-2009-659) RETURNED TO MAYOR

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 149437, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California

Public Resources Code Section 21000 et seq.), as amended and the State guidelines thereto, (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Site Development Permit, Public Right-of-Way Vacation and Easement Acquisition for Hillel of San Diego Student Center (Project);

Certifying that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving the Mitigated Negative Declaration, a copy of which is on file in the Office of the City Clerk and incorporated by reference;

Certifying that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-660 Cor. Copy) RETURNED TO MAYOR

Adoption of a Resolution certifying findings with respect to Site Development Permit (SDP) No. 527861, supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Sustaining the recommendation of the Planning Commission denying SDP No. 527861 to Robert Marshall, Trustee, Owner, and Hillel of San Diego, a California Nonprofit Corporation, (Phase I), and Hillel of San Diego, a California Nonprofit Corporation, Owner and Permittee (Phase II), under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-C: (R-2009-661) RETURNED TO MAYOR

Adoption of a Resolution certifying findings that:

- a) there is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated; and
- b) the public will benefit from the action through improved utilization of land made available by the vacation; and
- c) the vacation does not adversely affect any applicable land use plan or; and
- d) the public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation; as follows:

Declaring that the Council of the City finds that:

- 1. That the public right-of-way easement located within La Jolla Community Plan Area in connection with Site Development Permit (SDP) No. 527861, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 00116-C, marked as Exhibit "B," and on file in the Office of the City Clerk, which is by this reference incorporated herein and made a part hereof, is vacated;
- 2. That said public right-of-way vacation is conditioned on the following, satisfactory to the City Engineer. In the event these conditions are not completed within the three years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.
 - a. Prior to recordation of the public right-of-way vacation, the Applicant shall cut, plug and abandon the existing public 12-inch water facilities within the La Jolla Scenic Drive North right-of-way to be vacated, in a manner satisfactory to the Water Department Director and the City Engineer.

- b. Prior to the recordation of the public right-of-way vacation, the Applicant shall assure, by permit and bond, the design and construction of new public 16-inch water facilities and the cut, plug and abandonment of the existing public 8-inch water facilities within the La Jolla Scenic Drive North right-of-way and appropriate water easement, from La Jolla Scenic Way to Torrey Pines Road, in a manner satisfactory to the Water Department Director and the City Engineer.
- c. Prior to recordation of the public right-of-way vacation, the Applicant shall assure, by permit and bond, the installation/replacement of fire hydrants at locations and in a manner satisfactory to the Fire Marshall, the Water Department Director and the City Engineer.
- d. Prior to the recordation of the public right-of-way vacation, Applicant shall assure, by permit and bond, the reconnection of all existing water services still in use to the new 16-inch facilities adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
- e. The Applicant shall retain an acceptable water easement over the 16-inch water facilities within the vacated La Jolla Scenic Drive North right-of-way, from Cliffridge Avenue to Torrey Pines Road, for exclusive use of public water mains with no appurtenances, in a manner satisfactory to the Water Department Director and the City Engineer. The minimum easement width shall be 15-feet wide.
- f. The Applicant agrees to design and construct all required public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.
- g. Prior to the recordation of the public right-of-way vacation, Applicant shall assure, by permit and bond, the design and construction of the realignment of the existing 8" public sewer main at the intersection of La Jolla Scenic Drive North and Cliffridge Avenue, satisfactory to the Director of Public Utilities.

- h. Prior to the recordation of the public right-of-way vacation the Applicant agrees to relocate all San Diego Gas and Electric Facilities into a general utilities easement to be reserved from the portion of La Jolla Scenic Drive North to be vacated.
 - i. Prior to the recordation of the public right-of-way vacation the Applicant agrees to relocate all Time-Warner Facilities into a general utilities easement to be reserved from the portion of La Jolla Scenic Drive North to be vacated
 - j. A public access easement to the satisfaction of the City Engineer linking La Jolla Scenic Drive North and Torrey Pines Road shall be retained in perpetuity for public pedestrian and bicycle access. The area shall not be gated or otherwise obstructed to prevent free movement and public access. In addition, the project shall incorporate signage which identifies this area as public access to the satisfaction of the Development Services Director.
- 3. That the Development Services Department shall cause a certified copy of this resolution, with attached exhibits, to be recorded in the Office of the County Recorder.
 - 4. The City Engineer shall advise the City Clerk of the completion of the conditions listed in number 2 above. After completion of the conditions, the City Clerk shall cause a certified copy of this resolution, with attached legal description marked as Exhibit "A" and as shown on Drawing No. 00116-C, marked as Exhibit "B", attested by the City Engineer under seal to be recorded in the Office of the County Recorder.

OTHER RECOMMENDATIONS:

Planning Commission on November 6, 2008, voted 4-1-2 to deny this project.

Ayes: Naslund, Golba, Schultz, Griswold
Nays: Otsuji
Recusing: Ontai
Not present: Smiley

The La Jolla Community Planning Association and the La Jolla Shores Planned District Advisory Board have recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a two-phased development, with Phase I to retain the existing use of a single-family residence and garage/storage structure for religious offices and related uses; and Phase II the development of a 12,100 square-foot religious student center over a subterranean garage on a vacant 0.77-acre site on the south side of La Jolla Village Drive between Torrey Pines Road and La Jolla Scenic Way within the La Jolla Community Plan.

STAFF RECOMMENDATION:

Certify the Mitigated Negative Declaration No. 149437, and **adopt** the Mitigation Monitoring and Reporting Program; **approve** Site Development Permit No. 527861; **approve** Public Right-of-Way Vacation No. 527860; and **approve** Easement Acquisition No. 584509.

EXECUTIVE SUMMARY:

The project site is located in the Single Family Zone of the La Jolla Shores Planned District within the La Jolla Community Planning Area, Coastal Height Limit Overlay Zone, and the Campus Parking Impact Overlay Zone. Properties to the south and east are designated for residential uses (5-9 dwelling units/acre) and are currently developed with single-family homes. Properties to the north and west are designated for Public Facilities/Institutional uses, with the property to the north developed with the University of California San Diego facilities, and the property to the west, beyond Torrey Pines Road, being currently vacant.

On March 3, 2005, an almost identical project was recommended for denial by the Planning Commission by a vote of 5-0. The project was approved by City Council on May 9, 2006 by a vote of 6-2, with the addition of numerous conditions regarding parking and traffic.

The approval was challenged in court, and a judge ordered the City to set aside the Mitigated Negative Declaration and the associated project approvals, other than the resolution which authorized the sale of the site from the City of San Diego to Hillel of San Diego. The judge found that the Mitigated Negative Declaration failed to adequately evaluate the pedestrians crossing La Jolla Village Drive, and the possibility of on-site raptors. The judge sent back the approvals and the Mitigated Negative Declaration to the City of San Diego, to be reconsidered in compliance with the California Environmental Quality Act.

The judge's order was challenged by both the applicant and a group of project opponents. Given the pending status of the previous approvals, it was determined that the applicant would be allowed to resubmit a new application addressing the judge's concerns, and process it through the City's review process.

The applicant submitted the current Hillel Student Center Project on June 12, 2008. The project scope is generally the same, with the addition of 28 on-site parking spaces supplied by parking lifts, and the incorporation of a roof-mounted photovoltaic system consisting of solar panels and the installation of a fuel cell sufficient to generate at least 30 percent of the project's projected energy consumption, meeting the requirements of City Council Policy 900-14. Each of the project's technical studies was redone, and the two areas of concern raised by the judge's order were addressed in the new traffic and biology studies.

On November 6, 2006, the Planning Commission heard a staff presentation and public testimony in favor and opposition during a noticed public hearing. After considering the information presented and associated discussion, the Planning Commission voted 4:1:2 to deny the project.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

See the Report to City Council No. 08-175.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 4, 2008, the La Jolla Community Planning Association (LJCPA) passed two motions; one taking action to recommend denial of the project by a vote of 14-0-0, and the other providing direction to the President of the LJCPA regarding the project's environmental document. On September 16, 2008 the La Jolla Shores Planned District Advisory Board (LJSPDAB) voted 4-0 to deny the project. Please see the Discussion section of Attachment 1, the Report to City Council, for more detail.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The Owners are Robert Marshall (Phase I) and Hillel of San Diego (Phase II), and the Applicant is Hillel of San Diego for both Phases.

Broughton/Anderson/DS

LEGAL DESCRIPTION:

The project site is located within the Single Family Zone of the La Jolla Shores Planned District, Coastal Height Limit Overlay Zone, Campus Parking Impact Overlay Zone and the La Jolla Community Planning Area. Legal Description: Lot 67 of La Jolla Highlands Unit No. 3, in the City of San Diego, County of San Diego, Parcel Map No. 3528 and Portion of Lot 1299, Miscellaneous Map 36, Pueblo Lands, in the City of San Diego, County of San Diego.

Staff: Dan Stricker – (619) 446-5251
Marianne Greene – Deputy City Attorney

NOTE: This item is not subject to the Mayor’s veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:24 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S701: Hillel of San Diego Student Center, Project No. 149437. An application for a Public Right-of-Way Vacation (portion of La Jolla Scenic Drive North between Torrey Pines Road and La Jolla Scenic Way.) (La Jolla Community Plan Area. District 1.)

(See Report to the City Council No. 08-175.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-661) RETURNED TO MAYOR

Adoption of a Resolution certifying findings that:

- e) there is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated; and
- f) the public will benefit from the action through improved utilization of land made available by the vacation; and
- g) the vacation does not adversely affect any applicable land use plan or; and

- h) the public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation; as follows:

Declaring that the Council of the City finds that:

1. That the public right-of-way easement located within La Jolla Community Plan Area in connection with Site Development Permit (SDP) No. 527861, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 00116-C, marked as Exhibit "B," and on file in the Office of the City Clerk, which is by this reference incorporated herein and made a part hereof, is vacated;
2. That said public right-of-way vacation is conditioned on the following, satisfactory to the City Engineer. In the event these conditions are not completed within the three years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.
 - k. Prior to recordation of the public right-of-way vacation, the Applicant shall cut, plug and abandon the existing public 12-inch water facilities within the La Jolla Scenic Drive North right-of-way to be vacated, in a manner satisfactory to the Water Department Director and the City Engineer.
 - l. Prior to the recordation of the public right-of-way vacation, the Applicant shall assure, by permit and bond, the design and construction of new public 16-inch water facilities and the cut, plug and abandonment of the existing public 8-inch water facilities within the La Jolla Scenic Drive North right-of-way and appropriate water easement, from La Jolla Scenic Way to Torrey Pines Road, in a manner satisfactory to the Water Department Director and the City Engineer.
 - m. Prior to recordation of the public right-of-way vacation, the Applicant shall assure, by permit and bond, the installation/replacement of fire hydrants at locations and in a manner satisfactory to the Fire Marshall, the Water Department Director and the City Engineer.

- n. Prior to the recordation of the public right-of-way vacation, Applicant shall assure, by permit and bond, the reconnection of all existing water services still in use to the new 16-inch facilities adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
- o. The Applicant shall retain an acceptable water easement over the 16-inch water facilities within the vacated La Jolla Scenic Drive North right-of-way, from Cliffridge Avenue to Torrey Pines Road, for exclusive use of public water mains with no appurtenances, in a manner satisfactory to the Water Department Director and the City Engineer. The minimum easement width shall be 15-feet wide.
- p. The Applicant agrees to design and construct all required public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.
- q. Prior to the recordation of the public right-of-way vacation, Applicant shall assure, by permit and bond, the design and construction of the realignment of the existing 8" public sewer main at the intersection of La Jolla Scenic Drive North and Cliffridge Avenue, satisfactory to the Director of Public Utilities.
- r. Prior to the recordation of the public right-of-way vacation the Applicant agrees to relocate all San Diego Gas and Electric Facilities into a general utilities easement to be reserved from the portion of La Jolla Scenic Drive North to be vacated.
- s. Prior to the recordation of the public right-of-way vacation the Applicant agrees to relocate all Time-Warner Facilities into a general utilities easement to be reserved from the portion of La Jolla Scenic Drive North to be vacated
- t. A public access easement to the satisfaction of the City Engineer linking La Jolla Scenic Drive North and Torrey Pines Road shall be retained in perpetuity for public pedestrian and

bicycle access. The area shall not be gated or otherwise obstructed to prevent free movement and public access. In addition, the project shall incorporate signage which identifies this area as public access to the satisfaction of the Development Services Director.

3. That the Development Services Department shall cause a certified copy of this resolution, with attached exhibits, to be recorded in the Office of the County Recorder.

4. The City Engineer shall advise the City Clerk of the completion of the conditions listed in number 2 above. After completion of the conditions, the City Clerk shall cause a certified copy of this resolution, with attached legal description marked as Exhibit "A" and as shown on Drawing No. 00116-C, marked as Exhibit "B", attested by the City Engineer under seal to be recorded in the Office of the County Recorder.

OTHER RECOMMENDATIONS:

Planning Commission on November 6, 2008, voted 4-1-2 to deny this project.

Ayes: Naslund, Golba, Schultz, Griswold
Nays: Otsuji
Recusing: Ontai
Not present: Smiley

The La Jolla Community Planning Association and the La Jolla Shores Planned District Advisory Board have recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a two-phased development, with Phase I to retain the existing use of a single-family residence and garage/storage structure for religious offices and related uses; and Phase II the development of a 12,100 square-foot religious student center over a subterranean garage on a vacant 0.77-acre site on the south side of La Jolla Village Drive between Torrey Pines Road and La Jolla Scenic Way within the La Jolla Community Plan.

STAFF RECOMMENDATION:

Certify the Mitigated Negative Declaration No. 149437, and **adopt** the Mitigation Monitoring and Reporting Program; **approve** Site Development Permit No. 527861; **approve** Public Right-of-Way Vacation No. 527860; and **approve** Easement Acquisition No. 584509.

EXECUTIVE SUMMARY:

The project site is located in the Single Family Zone of the La Jolla Shores Planned District within the La Jolla Community Planning Area, Coastal Height Limit Overlay Zone, and the Campus Parking Impact Overlay Zone. Properties to the south and east are designated for residential uses (5-9 dwelling units/acre) and are currently developed with single-family homes.

Properties to the north and west are designated for Public Facilities/Institutional uses, with the property to the north developed with the University of California San Diego facilities, and the property to the west, beyond Torrey Pines Road, being currently vacant.

On March 3, 2005, an almost identical project was recommended for denial by the Planning Commission by a vote of 5-0. The project was approved by City Council on May 9, 2006 by a vote of 6-2, with the addition of numerous conditions regarding parking and traffic. The approval was challenged in court, and a judge ordered the City to set aside the Mitigated Negative Declaration and the associated project approvals, other than the resolution which authorized the sale of the site from the City of San Diego to Hillel of San Diego. The judge found that the Mitigated Negative Declaration failed to adequately evaluate the pedestrians crossing La Jolla Village Drive, and the possibility of on-site raptors. The judge sent back the approvals and the Mitigated Negative Declaration to the City of San Diego, to be reconsidered in compliance with the California Environmental Quality Act.

The judge's order was challenged by both the applicant and a group of project opponents. Given the pending status of the previous approvals, it was determined that the applicant would be allowed to resubmit a new application addressing the judge's concerns, and process it through the City's review process.

The applicant submitted the current Hillel Student Center Project on June 12, 2008. The project scope is generally the same, with the addition of 28 on-site parking spaces supplied by parking lifts, and the incorporation of a roof-mounted photovoltaic system consisting of solar panels and the installation of a fuel cell sufficient to generate at least 30 percent of the project's projected energy consumption, meeting the requirements of City Council Policy 900-14. Each of the project's technical studies was redone, and the two areas of concern raised by the judge's order were addressed in the new traffic and biology studies.

On November 6, 2006, the Planning Commission heard a staff presentation and public testimony in favor and opposition during a noticed public hearing. After considering the information presented and associated discussion, the Planning Commission voted 4:1:2 to deny the project.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

See the Report to City Council No. 08-175.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 4, 2008, the La Jolla Community Planning Association (LJCPA) passed two motions; one taking action to recommend denial of the project by a vote of 14-0-0, and the other providing direction to the President of the LJCPA regarding the project's environmental document. On September 16, 2008 the La Jolla Shores Planned District Advisory Board (LJSPDAB) voted 4-0 to deny the project. Please see the Discussion section of Attachment 1, the Report to City Council, for more detail.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The Owners are Robert Marshall (Phase I) and Hillel of San Diego (Phase II), and the Applicant is Hillel of San Diego for both Phases.

Broughton/Anderson/DS

Staff: Dan Stricker – (619) 446-5251
Marianne Greene – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:27 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S702: Reconsideration of City Council Resolution regarding Amending the Fiscal Year 2009 Budget, which was vetoed by the Mayor on December 3, 2008. (Citywide.)

(See Veto Memorandum from Mayor Sanders dated December 3, 2008.)

Pursuant to San Diego Charter Section 285, the Council shall reconsider Resolution R-2009-630, which was adopted with direction and passed by City Council on November 24, 2008, Item 601, with the following vote: Waive Mission Bay Fund Failed: 1,3-yea; 2,4,5,6,7-nay; 8-not present. Defer Closing of Community Centers: Failed: 2,4,5,6-yea; 1,3,7-nay; 8-not present. IBA's Recommendation with Direction 1,2,3,4,5,6-yea; 7-nay, 8-not present.

This item was vetoed by the Mayor on December 3, 2008. Pursuant to Charter section 290(b)(2)(B) the Council has five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the vote of at least five members of the Council. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.

STAFF'S RECOMMENDATION:

Reconsider the following resolution as vetoed by the Mayor:

(R-2009-630) OVERRIDE MAYOR'S VETO
ADOPTED AS RESOLUTION R-304447

Approving the amendments to the Fiscal Year 2009 Budget as detailed in Exhibit A;

Directing the City Attorney to work with Financial Management to prepare an amendment to the Fiscal Year 2009 Appropriation Ordinance.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:34 a.m.)

MOTION BY COUNCIL MEMBER YOUNG TO OVERRIDE THE MAYOR'S VETO.
Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S703: Amending the Fiscal Year 2009 Appropriations Ordinance. (Citywide.)

STAFF'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2009-82 Cor. Copy) RETURNED TO MAYOR

Introduction and adoption of an Ordinance amending Ordinance No. O-19774 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2009 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year," authorizing amendments to the Fiscal Year 2009 Annual Budget;

Adopting the budget adjustments detailed in Resolution No. R-304447;

Waiving the provision of San Diego Municipal Code Section 35.0128(a) restricting the Transient Occupancy Tax Fund, solely for the purpose of promoting the City for Fiscal Year 2009 to the extent necessary to implement Resolution No. R-304447;

Authorizing the City Comptroller to make transfers from the Infrastructure Improvement Fund (10529) and/or the individual Council District budget, as directed by the Councilmember, necessary to meet the \$49,500 per District reduction contemplated in Resolution No. R-304447;

Authorizing the City Comptroller to make all reimbursements, transfers, and adjustments necessary to implement Resolution No. R-304447.

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 10:55 a.m. in honor of the memory of:

William Foster as requested by Council President Pro Tem Madaffer and;
Ernesto Alonso Jurado Salazar as requested by Council Member Hueso.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:55 a.m.)

Elizabeth S. Maland, City Clerk
City of San Diego