



REPORT TO THE HEARING OFFICER

HEARING DATE: November 24, 2004 REPORT NO. HO-04-200

ATTENTION: Hearing Officer

SUBJECT: THOMAS JEFFERSON SCHOOL OF LAW
CUP NO. 98-0453

LOCATION: 2121 San Diego Avenue

APPLICANT: City Of San Diego, Development Services Department, Land
Development Review Division

SUMMARY

Action - Should the Hearing Officer revoke CUP No. 98-0453?

Staff Recommendation - Continue this matter for a period of 60 days (January 26, 2005) to allow staff to review the parking study and other applications recently received for on and off site work in connection with the conditions on the permit.

Environmental Review – This revocation is categorically exempt from environmental review pursuant to CEQA Section 15321(a).

BACKGROUND

The approximate one acre site is located at 2120 and 2121 San Diego Avenue; on the east and west sides of San Diego Avenue, north of its intersection with Bandini Street. The site is presently zoned CL-6 in the Mid-City Planned District Ordinance and is in the Uptown Community Plan area.

In 1983 the Thomas Jefferson School of Law located to 2121 San Diego Avenue when that property was zoned C-1 (west side of San Diego Avenue). That zone allowed schools as a by right use. In 1989, the property on which the school was located on that date became previously conforming when the Mid-City Communities Planned District was adopted and the property was rezoned to CL-6. In December, 1997 the law school requested to expand it's facility into a

building (2120 San Diego Avenue) across the street. Pursuant to the Municipal Code in place at that time, educational institutions were required to obtain a Conditional Use Permit.

The 1998 permit proposed the addition of a building located at 2120 San Diego Avenue into the campus. That building totaled 33,400 square feet and has two floors over parking. The original building, located at 2121 San Diego Avenue, is three stories over below grade parking totaling 108,135 square feet. One hundred and seventy-nine parking spaces were to be provided on site. At the time the Conditional Use Permit was approved, the school population consisted of 74 faculty and staff and a student enrollment of 563 students (Fall of 1998).

On February 10, 1999, the Hearing Officer, acting on behalf of the City Manager, approved the Conditional Use Permit (CUP). As part of that action, 31 conditions were applied to the use (Attachment 6). In February, 2004, a letter was directed to the Dean of the school notifying him of complaints the City had received from adjacent neighbors relating to parking on adjacent residential streets and that several of the conditions (3,11,12,13,16 and 29) of the CUP had not been fulfilled. The City also noted that a parking lot located north of the surface lot north of 2120 San Diego Avenue was being used by the school. Since that lot was not part of the CUP, the City noted that this area needed to be incorporated into the CUP. (Attachment 3). In that letter, the Dean of the school was informed that necessary permits to satisfy the conditions of the CUP needed to be submitted within 60 days of the date of that letter and that work associated with those permits needed to be completed within 180 days. On September 20, 2004, a second letter was directed to the Dean of the school informing him that because the conditions of the permit had still not been satisfied, the City was scheduling the project for public hearing to consider whether there was sufficient evidence to schedule the CUP for revocation (Attachment 4). On November 3, 2004, the Hearing Officer determined that there was sufficient evidence to justify the scheduling of the CUP for the purpose of determining whether the permit should be revoked (Attachment 5).

DISCUSSION

The school has been diligently proceeding with obtaining the necessary approvals to satisfy the conditions of the permit since receiving the September, 2004 letter. The school has done the following things:

Condition 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”.

Staff identified the non-compliance with this condition because the operator was using a surface parking lot which was not included as part of the CUP for student parking (parking lot south of Olinda’s Restaurant). A shared parking agreement has been submitted to the City for the use of that parking area. That agreement is presently being reviewed by staff. The school has additionally submitted a conceptual landscape plan for that parking area and the school surface parking lot north of 2120 San Diego Avenue.

Condition 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/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required”.

The school initially secured buildings permits for the structure located at 2121 San Diego Avenue on January 26, 1999 (Plan File no. A107883-98; Permit No. B200338-99). Work on the improvements to that building progressed however, no final inspection of the improvements occurred and that permit expired on January 20, 2000. When the school was informed that the work conducted in conjunction with the original building permit had not received final inspections, they applied for another permit (Final Only Permit; No. 32853) on March 12, 2004. The final inspection of the improvements was completed on September 9, 2004.

Condition 11 – “The applicant shall assure by permit and bond, the installation of sidewalk and the replacement of damaged curb on San Diego Avenue satisfactory to the City Engineer”.

Condition 12 – “The applicant shall assure by permit and bond, the replacement of damaged sidewalk on Bandini Street satisfactory to the City Engineer “.

Improvements to San Diego Avenue have been completed (Permit No. W-51623).The school’s engineer and a representative of the City Engineer met on the property on November 5, 2004 to determine the exact improvements needed for Bandini Street. It is expected that the plans reflecting those improvements will be submitted to the City for review within the next 60 days.

Condition 13 – “The applicant shall obtain an encroachment removal agreement from the City Engineer for landscaping, irrigation and enhanced paving in the City right-of-way.”

The school applied for an encroachment removal agreement for this work on November 12, 2004. This application is being processed.

Condition 16 – “ No fewer than 179 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits “A”, dated February 10, 1999, on file in the Office of Development Services. Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager”.

This condition was cited by the City because the parking lot north of 2120 San Diego Avenue had not been re-stripped or landscaped and the school operators were using the parking north of this lot (south of Olindas Restaurant) for parking. The school has submitted a plan to re-stripe and landscape this parking lot as well as an encroachment removal agreement to install street trees adjacent to this parking lot. As noted in the response to Condition 3, the school has also

submitted a Shared Parking Agreement to use the parking to the north of this location (south of Olindas Restaurant). This agreement is presently under review.

Condition 29 – “Prior to the issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.”

The school has submitted a conceptual landscape plan for both the surface parking lot north of 2120 San Diego Avenue and the parking area located north. This plan shows the proposed location of street trees. Once reviewed, the necessary permits can be issued.

The most significant issue raised during testimony received at the November 3rd meeting were parking impacts on adjacent surface streets. Condition 18 of the permit requires the school to submit a parking monitoring report to the City for a period of three years. At the direction of staff in February, the school was requested to submit this study later in the year so that staff could analyze the impacts during the fall semester. The school submitted this study on November 16, 2004 and it is presently being reviewed.

ALTERNATIVES

1. Determine that the school has had sufficient time to comply with the conditions of the CUP and revoke Conditional Use Permit No. 98-0453.
2. Determine that no violation of the conditions of Conditional Use Permit No. 98-0453 exist and that the operation is in full compliance.
3. Continue the matter for 180 days and request that the school employ an independent mediator to meet with adjacent neighbors and school representatives and attempt to resolve on-street parking concerns.

Respectfully submitted,

B. Didion

Attachments:

1. Vicinity Map
2. Area Map
3. 2/18/04 Letter

4. 9/20/04 Letter
5. Resolution No. D-4841
6. Copy of Approved CUP Permit No. 98-0453