



## REPORT TO THE HEARING OFFICER

HEARING DATE: February 23, 2005      REPORT NO. HO-05-034

ATTENTION: Hearing Officer

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

LOCATION: 2120 and 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 – Determine that the project is in compliance with all conditions of Conditional Use Permit No. 98-0453 and determine that the parking study required by Condition 18 is acceptable.

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).

On November 24, 2004, the Hearing Officer conducted a public hearing, took approximately two hours of testimony and continued the matter ninety days to February 23, 2005 in order for staff to complete its review of the parking study.

## 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. At the conclusion of the revocation hearing process, the school has agreed to record this agreement which would set aside this area for student parking for the life of the conditional use permit. This parking area would provide an additional 17 spaces for student use. That agreement has been reviewed is presently being reviewed by staff. The school has completed all on and off site improvements associated with the surface parking area 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 “.

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 obtained encroachment permits (No.s 59470 and 60654) for work in the public rights-of-way for these streets in December, 2004. Improvements to San Diego Avenue and Bandini Street have been completed.

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-striped 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. All necessary permits have been issued and both on and off site work has been completed. 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) and is awaiting resolution of the revocation process to record that document.

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. Plans for these parking areas have been approved and improvements have been completed.

Although not cited in correspondence directed to the school in February and September, 2004, as a condition of which there was non-compliance; the most significant issue raised during the previous two hearings on November 3<sup>rd</sup> and November 24<sup>th</sup> has been parking impacts on adjacent residential surface streets located to the east of the school. Staff was directed by the Hearing Officer at the November 24<sup>th</sup> hearing to complete review of the parking study and indicate whether the parking study was satisfactory. Staff was also directed to provide recommendations if appropriate on whether the school should be requested to amend the permit to deal with neighborhood concerns.

Condition 18 of the permit states:

Condition 18 – “The Owner/Permittee shall submit an annual parking monitoring report to the City Manager for a period of three (3) years. The purpose of this information is for City Staff to ascertain if adequate parking is maintained on-site for the fluctuating levels of law school staff, faculty and students. City Staff may present an informational report to the Hearing Officer within 90 days of the anniversary of this permit and can recommend an amendment be initiated if off-site parking problems and impacts on the surrounding neighborhood are identified”.

In connection with Condition 18, parking studies were submitted on April 18, 2002 and June 23, 2003 to the City in compliance with the requirements of this condition. After evaluation of those documents, no informational reports were prepared for the Hearing Officer identifying the need to initiate an amendment of the Conditional Use Permit since those studies indicated that there were no significant parking deficiencies in the area. At the direction of staff in February, 2004, the school was requested to submit the parking study for 2004 later in the year so that an analysis of impacts of the use on adjacent streets could be evaluated during peak use periods (the fall semester of the school). The school submitted this study on November 16, 2004 and staff was unable to complete its review of that document prior to the November 24<sup>th</sup> hearing. The schools consultant submitted an amended study on December 9, 2004 and a revised study

containing several clarifications to staff questions was received on February 14, 2005 (Attachment 7).

Staff has completed its review of the parking study and has determined that document to be acceptable. That study concludes that there is no overall parking shortage within approximately 1,000 feet of the campus however, that there is a shortage of on street parking available east of Bandini Street between San Diego Avenue and Mergho Impasse. The study indicates that during the observations when the deficiencies were noted, there were enough on-site parking spaces to accommodate those students parking on the "shortage streets". The study recommends that the school increase reminders to students that it is school policy that students park in the school parking facilities as their first choice. The school has agreed to do this.

### ALTERNATIVES

1. Determine that the operators of the school are in full compliance with all conditions contained in Conditional Use Permit No. 98-0453.
2. Determine that additional conditions relating to parking should be added to the permit to address concerns raised by the public.
3. Determine that the school is negatively impacting other uses in the area beyond that anticipated in 1999 when the project was initially approved and revoke Conditional Use Permit No. 98-0453.

Respectfully submitted,

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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
7. 2/14/05 Parking Study