THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: September 11, 2008 **REPORT NO. PC-08-076**

ATTENTION: **Planning Commission, Agenda of September 18, 2008**

SUBJECT: CHABAD EDUCATIONAL CAMPUS SUBSTANTIAL CONFORMANCE REVIEW - PROJECT NO. 123607 PROCESS FIVE

REFERENCE: City Council Resolution Number R-284501, Adopted August 8, 1994 (Attachment 10)

Manager's Report to Mayor and City Council, dated August 3, 1994, Report No. 94-225

Report to the Planning Commission, dated January 6, 1995, Report No. P-95-012 (Attachment 11)

OWNER/ APPLICANT: Friends of Chabad Lubavich San Diego, Owner (Attachment 22)/ MW Steele Group, Inc. and Ron Buckley Consulting, Applicants

SUMMARY

Issue(s): 1. Should the Planning Commission recommend to City Council that the proposed Chabad Educational Campus is in substantial conformance with Conditional Use Permit (CUP) Number 133–PC Amendment?

2. Should the Planning Commission recommend that the City Council approve a waiver from the General Inclusionary Affordable Housing Requirements for this project?

Staff Recommendations:

1. Recommend that the City Council determine whether the Chabad Educational Campus is or is not in substantial conformance with Conditional Use Permit Number 133-PC as amended; and

DIVERSITY

2. Recommend that the City Council approve the waiver from the provisions of the General Inclusionary Affordable Housing Requirements if the applicant's findings can be substantiated.

Community Planning Group Recommendation: On June 5, 2008, the Scripps Ranch Planning Group voted 10-3-0 to approve the project with two conditions (Attachment 21).

Environmental Review: This project is exempt from the California Environmental Quality Act (CEQA) pursuant to statutory exemption Article 18, Section 15261(b), Ongoing Project.

Fiscal Impact Statement: None with this action.

Code Enforcement Impact: None with this action.

Housing Impact Statement: The proposed project includes on-campus housing (280 dwelling units) for the sole use of full-time enrolled students, married students and faculty. The City's Inclusionary Housing Ordinance does not specifically exempt student housing; therefore, the applicant has requested a waiver from the Inclusionary Housing requirements pursuant to Municipal Code Section 142.1305.

BACKGROUND

The 26.98 acre site is located at 10785 Pomerado Road, south of Pomerado Road and west of Avenida Magnifica, in the Scripps Miramar Ranch Community (Attachments 1& 3). The Scripps Miramar Ranch Community Plan designates this site for Open Space (Attachment 2). The property is zoned RS-1-8 (Single Family Residential). The Chabad Hebrew Academy is adjacent to Alliant International University to the west, single-family residential development to the east, Pomerado Road to the north, and Regents of the University of California property to the south (Attachment 1). The property is subject to Conditional Use Permit (CUP) Number 133-PC, as amended, granted to United States International University (USIU). The original CUP No. 133-PC was granted in 1967 (Attachment 7) and amended in 1972 (Attachment 8).

In 1972, Planning Commission reviewed and approved CUP No. 133-PC Amendment (Attachment 8) to shift the east and west campus boundary, expand the academic area, decrease the residence hall area, and Phase Plan approval for Phases 12, 13, 14, 15, and 18 as required by permit condition number three of the original CUP No. 133-PC.

In 1978, the Planning Commission reviewed and approved CUP No. 133-PC Amendment No. 2 to remove approximately 200 easterly acres from the USIU campus as depicted in Attachment 9, and is currently developed with low density single family homes.

On August 8, 1994, the City Council determined by Council Resolution Number R-284501 (Attachment 10) that Chabad's "proposed facilities, i.e., a kindergarten through twelfth grade private school plus 'Yeshiva' (rabbinical seminary) accommodating a maximum of 800 full time equivalent students …is in fact substantively the same as the university use approved by the City

[under USIU conditional use permit] and that therefore no new conditional use permit or amended conditional use permit will be required for such proposed development and use."

In 1995, the Planning Commission determined Chabad's submitted "plot plan" for an 800 student K-12 school development was in substantial conformance with the 1972 Planning Commission approved Phase Plan for USIU (Attachment 11). The Chabad property is located within Phases 14, 15 and 18 of the Planning Commission's 1972 USIU Phase Plan approval (Attachment 8). Consistent with City Council's determination that the Chabad property is vested and entitled to develop under the USIU Conditional Use Permit and with the Planning Commission's plot plan approval in 1995, the Friends of Chabad Lubavich applied and obtained engineering and building permits from the City of San Diego to construct the educational campus of the Chabad Hebrew Academy of San Diego.

In 2003, the Hearing Officer approved a preschool/daycare facility with Conditional Use Permit No. 11245 (Attachment 12). Currently the Chabad Campus is developed with an administrative building; a cafeteria and multi-purpose building; athletic areas; preschool facility; surface parking and two classroom buildings (Attachment 5). The Chabad Hebrew Academy of San Diego is currently operating a preschool through eighth grade educational facility.

DISCUSSION

Project Description:

The Chabad Educational Campus proposes to expand their existing campus for a high school, college, and campus housing. The development would include 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. The project also requests a waiver and provides findings (Attachment 13) from the Inclusionary Affordable Housing requirements pursuant to San Diego Municipal Code Section 142.1305. The waiver from the Inclusionary Affordable Housing requirements is a process five, City Council decision.

Pursuant to the existing approved CUP, the issue before the Planning Commission is whether or not the proposed Chabad Educational Campus Exhibit "A" plot plan (Attachment 6) is in substantial conformance with CUP No. 133-PC Amendment as outlined in permit condition number four of the permit. Specifically, condition number four states that "Prior to issuance of any building permit on any phase of development as shown by number on approved Exhibit 'A', a plot plan for the entire phase shall be submitted to the Planning Commission for approval." This condition translates to a substantial conformance review process. Pursuant to the San Diego Municipal Code §113.0102, "substantial conformance means that a revision to a development that was approved through a permit or tentative map complies with the objectives, standards, guidelines, and conditions for that permit or tentative map."

Substantial Conformance Review

The proposed Chabad Educational Campus development is within the graded footprint and developable area boundaries of the approved 1972 Planning Commission approved Phase Plan for USIU (Attachment 8, 14, 15 & 16). The 1972 Phase Plan development had 4.02 acres of undisturbed land (Attachment 14) and the proposed Chabad Campus would have 9.98 acres of undisturbed land (Attachment 16).

The CUP No. 133-PC Amendment requires buildings to cover no more than 15 percent of the total area of the property. Chabad's total property area is 1,175,254 square feet (26.98 acres). The maximum 15 percent building coverage area of the property is 176,288 square feet (4.05 acres). The total proposed and existing building coverage of the Chabad Campus is 176,066 (4.04 acres) square feet (Attachment 17 & 18).

In accordance with the approved CUP, the Chabad expansion proposes no buildings within 50-feet of any property line. In addition, the project proposes no buildings or structures in the 100-foot setback adjacent to Pomerado Road. The project does not propose any parking area, playfield or other facility or structure within 20 feet of any property line, except for proposed retaining walls, an existing access road, existing utilities, and existing entrance gates to be relocated. The proposed retaining wall does not exceed six feet in height along or within 20 feet of any property line. There is only one existing access road, Chabad Center Drive, from Pomerado Road serving the property. The existing entrance gates are proposed to be relocated further south on the roadway beyond the campus housing buildings.

The parking required by CUP No. 133-PC Amendment for the proposed project is 671 parking spaces. The expansion project proposes below grade parking structures within the residential buildings and retains a majority of the existing surface parking. The proposed plans indicate 684 parking spaces to provide flexibility in the design, including bicycle and motorcycle spaces.

The project proposes a total of 280 residential units consisting of 185 units to accommodate 350 students, 75 units for married students with their families, and 20 faculty housing units to accommodate staff and their family. A combination of two, three and four-story on-campus housing buildings with below grade parking structures are proposed in the northern portion of the property.

The Fire Department requires a secondary fire access road for properties constructing 100 units or more to ensure public health and safety is provided. The project proposes, as shown on the fire site plan and sheet two of the preliminary grading plan, a secondary fire access road from Chabad Center Drive through the adjacent property to the west, the Alliant International University property, utilizing a planned road from the 1972 USIU Phase Plan approval. The City will not issue any construction permits for the proposed on-campus housing or new buildings until the fire access road is constructed and accepted.

The proposed landscaping plan will provide screening of the new buildings with trees and slope plantings along the perimeter of the project and as viewed from Pomerado Road. Brush Management Plans are also included to reduce fire hazards around structures by providing a fire

break between structures and contiguous areas of native or naturalized vegetation (Attachment 18).

The proposed project is located within the Airport Influence Area (AIA) for the Marine Corps Air Station (MCAS) Miramar Airport Land Use Compatibility Plan (ALUCP). On October 4, 2007, a consistency determination was made by the San Diego County Regional Airport Authority (SDCRAA), who acts in capacity as the San Diego Land Use Commission (ALUC). The ALUC approved the project (Attachment 19).

The proposed project is located within the Federal Aviation Administration (FAA) Part 77 for MCAS Miramar and requires notification to the FAA for the proposed project. The FAA conducted an Obstruction Evaluation and Airport Airspace Analysis as required by Title 14 Code of Federal Regulations, Part 77. On August 16, 2007, the FAA issued "Determination of No Hazard to Air Navigation" letters (Attachment 20).

Community Planning Group Recommendation

On June 5, 2008 the Scripps Ranch Planning Group voted 10-3-0 to approve the project with the following two specific conditions (Attachment 21).

1. The applicant be required to pay the Multi-Family FBA fees as per the May 2007 email from City Facilities Finance Staff.

Staff's response: The project is subject to Development Impact Fees at the time of building permit issuance based on the number of units and use. A deed restriction that the on-campus housing shall only be available to and for the sole use of full-time, enrolled students, married students and faculty of Chabad is also required before the first housing building permit can be issued.

2(a). The SRPG send a member to the Planning Commission hearing, with authority to clarify SRPG's position.

2(b). To recommend an SRPG appeal process without requiring a special meeting should the approval not encompass item number one and/or spirit of the Rabbi's 27 bullet-point agreement.

Staff's response: See staff's response to item one above. The private agreement between Scripps Ranch Planning Group and Chabad is not required by CUP No. 133-PC Amendment or the Municipal Code. The City does not regulate and is not a party to this agreement. Furthermore, the City has no ability to enforce this private agreement.

CONCLUSION

The Chabad Educational Campus proposes a university building, two institutional use buildings, a sports complex building, various sport facilities, and 280 campus housing units with below grade parking structures for students and faculty of the Chabad Hebrew Academy of San Diego. The project proposal also includes a waiver from the Requirements of the Inclusionary Housing

Ordinance. The Chabad Campus property is vested, entitled, and has developed under the United States International University Conditional Use Permit No. 133-PC Amendment as determined and approved by City Council Resolution No. R-284501, adopted August 8, 1994.

Respectfully submitted,

Mike Westlake
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Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Chabad Hebrew Academy of San Diego Aerial Photograph
6. Chabad Educational Campus Exhibit "A" Site Plan (Sheet A1.00)
7. Conditional Use Permit Number 133-PC (1967)
8. Conditional Use Permit Number 133–PC Amendment (1972)
9. Conditional Use Permit Number 133-PC Amendment No. 2 (1978)
10. City Council Resolution Number R-284501, Adopted August 8, 1994
11. Report to Planning Commission, dated January 6, 1995
12. Conditional Use Permit No. 11245 for the Chabad Hebrew Academy Preschool/Daycare (2003)
13. Draft Waiver Resolution from the Requirements of the Inclusionary Housing Ordinance
14. Enlarged 1972 CUP 133-PC Amendment Approved Phase Plan development and undisturbed land of the Chabad property
15. Current developed and graded areas of the Chabad Property
16. 1972 CUP 133-PC Amendment undisturbed land overlay with proposed undisturbed land of the Chabad development
17. Chabad Building Coverage
18. Project Plans
19. Airport Land Use Commission Minutes of October 4, 2007
20. Federal Aviation Administration Letters
21. Community Planning Group Recommendation
22. Ownership Disclosure Statement
23. Project Chronology