

RESOLUTION NO. 2009-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES ADOPTING A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR CASE NO. ZON2007-00492 (CONDITIONAL USE PERMIT #96 – REVISION “D”, GRADING PERMIT, MINOR EXCEPTION PERMIT, SIGN PERMIT, AND ENVIRONMENTAL ASSESSMENT), FOR PROPERTY AT 5448 CREST ROAD LOCATED AT THE SOUTHEAST CORNER OF CREST ROAD AND HAWTHORNE BOULEVARD.

WHEREAS, on October 5, 2007, Hyndman and Hyndman, representing St. John Fisher Church and School, submitted Case No. ZON2007-00492, applications for a Conditional Use Permit #96 – Revision “D”, Grading Permit, Minor Exception Permit, Sign Permit and Environmental Assessment, for the subject property at 5448 Crest Road (referred to collectively as “the Project”); and,

WHEREAS, on October 29, 2007, the Project was deemed incomplete by Staff pending the submittal of additional information on the project plans and review and approval from the Fire Department, City Traffic Consultant, City Geologist and City’s National Pollution Discharge Elimination System (NPDES) Consultant; and,

WHEREAS, on April 29, 2008, upon submittal of all required information, the Project was deemed complete by Staff; and,

WHEREAS, pursuant to the provisions of the California Environmental Quality Act, Public Resources Code Sections 21000 *et. seq.* (“CEQA”), the State’s CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 *et. seq.*, the City’s Local CEQA Guidelines, and Government Code Section 65962.5(f) (Hazardous Waste and Substances Statement), the City of Rancho Palos Verdes prepared an Initial Study and determined that, with appropriate mitigation, there is no substantial evidence that the Project would result in a significant adverse effect upon the environment and, therefore, a Mitigated Negative Declaration has been prepared and notice of same was given in the manner required by law; and,

WHEREAS, after notice was issued pursuant to the requirements of the Rancho Palos Verdes Development Code, the Planning Commission held a duly noticed public hearing on June 24, 2008, at which time all interested parties were given an opportunity to be heard and present evidence; and,

WHEREAS, on June 24, 2008, the Planning Commission continued the public hearing to the July 22, 2008 Planning Commission meeting to allow time for the applicant to address concerns about the height of the proposed sanctuary steeple and provide clarification on the methodology used to determine the number of parking spaces that will be provided on site; and,

WHEREAS, on July 2, 2008, the applicant submitted modified plans and updated information to Staff which included the following modifications: 1) a reduction in height of the proposed steeple by 14'-0", 2) an overall reduction in height of the main sanctuary building by up to 6'-0", 3) elimination of the stepped roof lines along the south side of the sanctuary, 4) a reduction in the footprint of the sanctuary by 1,400 square feet, 5) the addition of a 900 square foot basement beneath the sanctuary to accommodate mechanical equipment, 6) an increase in the sanctuary street side yard setbacks by 14'-0" along Crest Road, 7) an increase in the sanctuary street side yard setback by 17'-0" along Crenshaw Boulevard and 8) a reduction in the footprint of the administrative building by 1,480 square feet; and,

WHEREAS, the Planning Commission held a duly noticed public hearing on July 22, 2008, at which time all interested parties were given an opportunity to be heard and present evidence; and,

WHEREAS, on July 22, 2008, the Planning Commission continued the public hearing to the September 23, 2008 Planning Commission meeting to allow time for the applicant to consider providing a sound study to determine if any significant impacts would result from the proposed bells, a shadow study to determine if the height and/or scale of the sanctuary and steeple would create any significant impacts to surrounding properties, a copy of St. John Fisher's recent parking counts, further clarification of the applicant's parking analysis and whether the applicant is willing to provide additional parking on days when the demand for parking is the greatest due to activities at the site; and,

WHEREAS, on September 23, 2008, the Planning Commission held a duly noticed public hearing, at which time all interested parties were given an opportunity to be heard and present evidence; and,

WHEREAS, on September 23, 2008, the Planning Commission conceptually approved the Project and directed Staff to bring back the appropriate resolutions with Conditions of Approval; and,

WHEREAS, on October 14, 2008, the Planning Commission adopted PC Resolution No. 2008-34, adopting a Mitigated Negative Declaration and adopting a Mitigation Monitoring Program and PC Resolution No. 2008-35, approving the St. John Fisher Master Plan, as conditioned; and,

WHEREAS, on October 29, 2008, Case No. ZON2007-00492 was appealed to the City Council, including issues with the Environmental Assessment and CUP findings, a request to analyze Neighborhood Compatibility, impacts due to the size of the sanctuary, inadequate parking, noise impacts due to the use of a gymnasium and the ringing of the proposed electronic bells, the lighting of the sanctuary tower and steeple, concerns with removal of certain mature trees and to require additional setbacks around the sanctuary (collectively referred to as the "Appeal"); and,

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WHEREAS, On November 1, 2008, a Notice of the public hearing on the Appeal was published in the Peninsula News; the City also sent notice of the Appeal hearing to the property owners who reside within 500 feet of the subject property, to all persons listed on the City's Interested Parties List, and to all St. John Fisher list-serve subscribers; and,

WHEREAS, on November 16, 2008, the City Council opened the public hearing on the Appeal, and after hearing the public testimony and considering the information presented in the Staff Report, the City Council adjourned the public hearing to a site visit at the St. John Fisher property to be held on November 22, 2008, to allow the City Council to walk throughout the subject property and surrounding neighborhood to assess the project and its potential impacts; and,

WHEREAS, on November 22, 2008, the City Council conducted the continued public hearing, which was a site visit at the St. John Fisher property, and at the conclusion of the site visit, the City Council continued the public hearing to December 16, 2008; and,

WHEREAS, on December 16, 2008, the City Council conducted the continued public hearing on the Appeal and heard and considered all of the additional materials that have been submitted after the first public hearing and all of the additional testimony that was presented;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

Section 1: The City Council has independently reviewed and considered the proposed Mitigated Negative Declaration ("MND"), all of the public comments, both written and oral, about the proposed MND, and all of the other evidence that was presented to the City Council, including the staff reports prepared for the City Council and the Planning Commission. For the reasons discussed below, the City Council finds that the MND was prepared in the manner required by law and that there is no substantial evidence in the record of proceedings that, with the imposition of the proposed mitigation measures, the approval of the Project would result in a significant adverse effect upon the environment that would require the preparation of an environmental impact report ("EIR").

A. The proposed Project primarily consists of the construction of new structures and the remodel of some existing structures that are present on the site, to accommodate a church, school, pre-school and related administrative activities. The site was developed with a church, school, parking lot, and other related uses prior to the incorporation of the City. The only proposed new use on the site is a two-room pre-school. A new 17,000 square foot sanctuary is proposed, and the existing sanctuary will be converted into a gymnasium and multi-purpose room to accommodate school and church-related activities. The new sanctuary will be located on the portion of the site that abuts Crest Road to the north and Crenshaw Boulevard to the west, which is approximately seventy feet wide

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including public sidewalks on both sides of the street. The closest residences to the proposed new sanctuary are located in the Island View subdivision, which is on the opposite side of Crenshaw Boulevard.

B. Staff prepared an Initial Study for the proposed project pursuant to CEQA. The results of the Initial Study determined that the proposed Project on this developed site will not result in or create any significant adverse environmental impacts, and will have a less than significant impact to Agricultural Resources, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, Transportation and/or Traffic, and Utilities and Service Systems. However, the Initial Study for the Project identified potentially significant impacts to Aesthetics, Air Quality, Geology and Soils, Hydrology and Water Quality, and Noise. After preparing the Initial Study, Staff determined that all of the potentially significant impacts could be mitigated to a less than significant level with the imposition of the mitigation measures identified in the MND. As such, Staff determined that a mitigated negative declaration was the appropriate CEQA document for analyzing and disclosing the proposed Project's potential significant environmental impacts. The City Council has independently reviewed and considered Staff's determination and the Planning Commission's decision, which confirmed Staff's findings, and has reached the same conclusion.

C. Public Resources Code § 21080(c) states that an EIR is not required if the initial study demonstrates that no significant impacts will occur as a result of a proposed project, which cannot be mitigated to an insignificant level by the imposition of mitigation measures. As stated in Public Resources Code § 21064.5, a Mitigated Negative Declaration: "means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment."

D. An EIR must be prepared if a lead agency is presented with a fair argument, based on substantial evidence, that the project may have a significant environmental impact (CEQA Guidelines § 15064.f.1). Substantial evidence is defined as: "(a)...enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence, [and] (b) Substantial evidence shall include facts, reasonable

assumptions predicated upon facts, and expert opinion supported by facts” (CEQA Guidelines § 15384). Additionally, according to Public Resources Code § 21082.2(b): “the existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.”

E. Several residents have testified that it is their opinion that the proposed sanctuary, which was reduced in height, size, scale and setback farther from the property line by the Planning Commission, will cause a significant impact due to its bulk and mass. In response to those concerns, a professional consultant conducted a study to ascertain if the proposed sanctuary and steeple will cast shadows upon adjacent residential properties. The shadow study concluded that no portion of the proposed sanctuary building would create shadows that affect any residential properties. The City Council finds that the distance between the proposed sanctuary and the nearest residences in the Island View tract, with Crenshaw Boulevard located in between, along with the study that was conducted, negates the opinions of the residents, which are not supported by substantial evidence, that a significant environmental impact will be caused by the new structure. Although opinions have been expressed by some residents that the proposed sanctuary will be visible from surrounding areas thus causing an aesthetic impact, the City Council finds that mere visibility from off-site locations does not constitute a significant environmental impact related to aesthetics. Further, there is not substantial evidence in the record to support the opinion and argument of the residents regarding alleged aesthetic impacts. Accordingly, the City Council finds that the Initial Study and Mitigated Negative Declaration have correctly concluded that the bulk and mass of the proposed sanctuary and steeple will not cause a significant environmental impact that requires the preparation of an EIR, because any environmental impacts from the proposed sanctuary have been mitigated to an insignificant level by the imposition of mitigation measures limiting the height of the proposed structure and requiring it to be located 14'-0" feet from the Crest Road, north street side property line and 17'-0" from the Crenshaw Boulevard, west street side property line.

F. The MND is based upon a Traffic Study and a Parking Analysis, which were prepared by professional consultants, and both of which conclude that there would be no significant adverse traffic or parking impacts as a result of the proposed Project.

1. Parking.

The St. John Fisher Master Plan will have two main operating functions: 1) an elementary school that operates Monday through Friday and, 2) a sanctuary with multiple masses conducted primarily on Saturdays and Sundays and intermittent small masses throughout the week. In addition to the two primary operating functions of the St. John Fisher property, groups utilize the St. John Fisher facilities after primary school hours to conduct meetings or religious education classes. Due to the fact St. John Fisher is a multi-

use property, Section 17.50.030(B) of the City's Development Code is applicable to the proposed project. This required the applicant to provide a detailed parking analysis that examined the parking demands for each component of the entire St. John Fisher Master Plan so that adequate parking is provided on-site and that there will be no significant impacts upon surrounding residential areas.

The primary daytime uses of the St. John Fisher property that were analyzed in the parking study are the operation of an elementary school, new preschool, administration building and the new gymnasium between Monday and Friday and the operation of a church and religious education classes on Saturdays and Sundays. In addition to these primary uses, Staff identified additional ancillary uses within the St. John Fisher property that were also included in the parking analysis. These ancillary uses include the rectory (single-family residence), new library and the assembly spaces within the Barrett Hall, Fireside Room and Multi-purpose room. Staff required that the Applicant include these uses in a parking analysis to ensure that adequate on-site parking will be provided at all times.

The Applicant proposed to provide 331 parking spaces along the southern portion of the subject property to meet the "worst-case" parking demand scenario that was identified by the detailed analysis that was prepared by the Applicant, which was reviewed and approved by the City's Traffic Consultant. The parking analysis determined that, in the worst-case scenario (regular Sundays between 10 AM and Noon) and based on the proposed operation of the St. John Fisher facilities, there was a demand for 331 parking spaces every Sunday between 10 AM and Noon. This worst-case scenario assumed the new sanctuary is filled to capacity (870 persons) and used in conjunction with religious education classes and the rectory.

The primary weekday use(s) of the St. John Fisher facilities that are occupied by children enrolled in the school or persons working for the school during regular school hours, Monday through Friday, will be the elementary school, the preschool and the administrative offices. Because the St. John Fisher School is a member of the Catholic Youth Organization and participates in various sport leagues available to the children who are enrolled in the school and the youth organization, Staff also determined that the gymnasium was a primary daytime use Monday through Friday, during school hours. The Development Code requires the following parking for these primary daytime uses:

·	Elementary School	=	18 spaces
·	Preschool	=	8 spaces
·	Administrative Offices	=	37 spaces
·	Gymnasium	=	121 spaces
<u>TOTAL</u>		=	<u>184 spaces</u>

The Applicant is proposing 331 parking spaces on site, leaving a surplus of 147 additional parking spaces along the southern portion of the subject property for use during regular school hours. Based upon the parking analysis that was prepared by the Applicant

and reviewed by the City's Traffic Consultant, in conjunction with the specifically designated classroom uses for religious education, the Applicant meets the requirements of Section 17.50.030 of the Development Code for joint-use and common parking facilities for both weekday and weekend uses. Thus, the Applicant's parking analysis demonstrated that the parking needs for all of the uses that would be conducted concurrently were being satisfied by the Applicant's parking plan. In addition, the City Council incorporated the requirement imposed by the Planning Commission that the applicant enter into an agreement with the owner of the adjacent Daughter's of Mary and Joseph property to allow St. John Fisher to use 50% of the parking (45 spaces) at Daughter's of Mary and Joseph site for overflow parking on Christmas, Easter Sunday and during the construction period. In addition, the 23 surplus seasonal/peak parking spaces located south of Barrett Hall will be provided for overflow parking. Accordingly, with ample parking being provided on-site, pursuant to the mitigation measures and conditions of approval, there will be no significant adverse impact on the environment arising from parking related to activities conducted on the site that cannot be mitigated to a level of insignificance. Accordingly, the preparation of an EIR is not required to address this issue.

2. Traffic.

The Applicant had a licensed traffic engineer prepare an analysis of the impacts on traffic that would be generated by the proposed project. The traffic study, which was reviewed and approved by the City's Traffic Engineer, concluded that the addition of structures on the property, which would accommodate existing uses, plus the addition of the new two-room pre-school, would not cause any significant impacts upon traffic. In addition, the consultant also reviewed the proposed Project along with other projects in the vicinity to determine if there would be any cumulative impacts upon traffic in the area, when other projects are considered, and again determined that the Project would not contribute to cumulative significant environmental impacts upon traffic in the area. The City's traffic consultant reviewed a supplemental cumulative traffic study and agreed with these conclusions. Accordingly, there is no substantial evidence in the record that the Project will cause a significant adverse impact on the environment due to individual or cumulative impacts on traffic.

G. The initial study contained a Staff analysis, which concluded that any potential impacts to aesthetics, air quality, geology, hydrology, noise, and water quality could be mitigated to a less than significant level with the incorporation of appropriate mitigation measures into the project. During the MND's formal comment period, as well as throughout the entire public hearing process before the Planning Commission and City Council, there was no substantial evidence submitted to suggest that the proposed Project, as mitigated, would have a significant adverse effect on the environment. On the contrary, additional evidence was submitted to affirm the MND's conclusions that, as conditioned, the proposed Project would not have a significant effect on the environment. Specifically, a sound study, which was prepared by a professional consultant, concluded that noise impacts from the proposed carillon bell would not be significant because the bells would not exceed 50 db,

when measured at the property lines, which is well below the ambient noise level that occurs from constant daily traffic at the north and west property lines, adjacent to Crest Road and Crenshaw Boulevard. In addition, mitigation measures have been imposed that will regulate the times, duration and loudness of the proposed bells. Thus, the addition of the carillon bells will not create noise that will have a significant environmental impact. Accordingly, the City Council finds that an EIR also is not required to address this issue.

H. Lighting

Under the “aesthetics” section of the Initial Study, the Project was identified to potentially result in an aesthetic impact with regard to the creation of a new source of substantial light or glare, which could adversely affect day or nighttime views in the area. The Initial Study identified components of the photometric site lighting plan to include new light standards within the new parking lot and exterior light fixtures around the new sanctuary. Based on the initial study, mitigation measures were incorporated into the Project to reduce the lighting impacts by requiring shields on lighting fixtures, requiring an inspection to insure no spillover onto adjacent properties and providing a trial period of six months to assess all lighting impacts. The six-month review period allows the City to require additional screening, reduction in intensity of any light or the incorporation of time-restrictions for exterior lighting that is determined to be excessively bright after installation. In addition, conditions of approval also have been imposed to regulate the brightness of, and limit the hours when, the lights that will illuminate the steeple and cross can be turned on. The City Council has reviewed this issue and determined that incorporation of these mitigation measures will result in less than significant impacts from the proposed lights.

Section 2: There are no sensitive natural habitat areas on the subject site, which is currently developed and being used as a church and school. Therefore, the Project will have no individual or cumulative adverse impacts upon resources, as defined in Section 711.2 of the State Fish and Game Code.

Section 3: Based on the foregoing, the City Council finds, based upon its independent judgment and analysis of the proposed Mitigated Negative Declaration and the record of this matter, that with the imposition of the mitigation measures that have been proposed, which address the potential significant impacts of the project upon Aesthetics, Air Quality, Geology and Soils, Hydrology and Water and Noise, and reduce them to an insignificant level, the Project will not have a significant adverse effect on the environment. The City Council further finds that after examining the whole record before the Planning Commission and City Council, including the testimony and studies that have been prepared and presented, the opponents to the Project have not presented a fair argument supported by substantial evidence in the record, that the Project will have a significant adverse effect on the environment that would require that an EIR be prepared.

