



DATE: February 1, 2012

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department/Planning Division

SUBJECT: **CALL FOR REVIEW AND APPEAL OF PLANNING COMMISSION RESOLUTION NO. 2011-P34 APPROVING THE ESTABLISHMENT OF A 9<sup>TH</sup>-12<sup>TH</sup> GRADE RESOURCE CENTER/CHARTER SCHOOL AT 320 NORTH HORNE STREET, WITHIN THE TOWNSITE NEIGHBORHOOD – DIEGO HILLS CHARTER SCHOOL – APPLICANT: JIM KORNACKI**

**SYNOPSIS**

The item under consideration is an appeal filed via a petition of twenty-five residents of Oceanside and a Call for Review by Mayor Wood and Deputy Mayor Sanchez of Planning Commission Resolution No. 2011-P34, which, in a 4-3 vote approved the establishment of a 9<sup>th</sup>-12<sup>th</sup> grade resource center/charter school at 320 North Home Street. Pursuant to OZO 4605(c), the City Council shall only consider the issues that were raised in the appeal.

Staff is recommending that following the review, the City Council confirm the Planning Commission's decision to approve the project based on the findings contained in the attached City Council resolution.

Staff is also recommending that the City Council confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities".

**BACKGROUND**

On October 24, 2011, the Planning Commission approved Conditional Use Permit (CUP10-00030) by a split 4-3 vote. Following the Planning Commission hearing and prior to the end of the appeal period, a Call for Review and an Appeal via Petition of the Planning Commission's action to approve the subject project was received by the City Clerk. This report identifies and addresses the issues raised by the Call for Review by Mayor Wood and Deputy Mayor Sanchez, as well as, the Appeal via Petition filed by twenty-five residents of Oceanside. Attached to this report are the Call for Review and Appeal Petition documents that outline the specific issues and concerns related to the project.

The site is located east of Home Street and south of Civic Center Drive, within the northern portion of the Mission Square Shopping Center. The center is comprised of one large inline-type tenant building and five smaller freestanding single-tenant perimeter buildings. The single, large inline tenant building is situated in a manner that provides for a dual-frontage layout for the tenants. The primary shopping center frontage and anchor tenant, Staples, is oriented toward Mission Avenue, with the secondary frontage oriented toward North Home Street and Civic Center Drive. Diego Hills Charter School would occupy the northern portion of the single, large inline tenant building oriented toward North Home Street and would allocate interior space in a manner that allows for a phased buildout to accommodate a total of thirteen classrooms, five administrative offices, one computer lab/library, eight tutoring rooms, and several ancillary utility and storage rooms.

The 19,553-square-foot tenant space to be used for the establishment of the resource center/charter school is currently unoccupied and was last occupied by a 9<sup>th</sup> -12<sup>th</sup> grade public charter school known as the School of Business and Technology. No exterior modifications to the existing storefront are proposed as part of this application, and all circulation and parking would be the same as the previous charter school that occupied the space.

The property is zoned CS-HO (Special Commercial – Highway Oriented), and is designated Special Commercial (SC) on the General Plan Land Use Map. The establishment of public or private schools within a Special Commercial zoned retail center requires discretionary review and approval of a Conditional Use Permit.

Surrounding land uses adjacent to the Mission Square Shopping Center include Interstate 5 (I-5) to the east, Oceanside High School to the south, Commercial Retail to the west, and Multi-Family Residential to the North.

Planning Commissioners who opposed the proposal at the October 24, 2011 public hearing cited that the proposed resource center/charter school would provide similar services already available through Oceanside Unified School District (OUSD) and would not add any value, that the proposed use would further remove commercial space to allow a non-commercial, non-tax-generating use within a retail space, and that the building is situated in an area that could create safety issues for those attending the facility.

**Project Description:** The project application is comprised of the following required entitlement:

**Conditional Use Permit (CUP10-00030)** represents a request for the following:

- (a) To permit the establishment of a Charter School Operation within a 19,553-square-foot commercial retail suite of a CS-HO (Special Commercial – Highway Oriented) zoned Shopping Center located at 320 North Home Street.

The proposed school would initially establish in two phases, with Phase 1 capping the maximum enrollment at two hundred students with a maximum occupancy not to exceed forty-two people (students/faculty) on-site at any one time. In Phase 2, the maximum enrollment would increase to five hundred students and approximately twenty-five staff persons (i.e., teachers, administrators, and tutors). The maximum occupancy of the 19,553-square-foot retail space in Phase 2 would not exceed one hundred and five people on-site at any one time. In order to ensure that intensification of the site does not occur beyond what has been studied, the charter school would be restricted from allowing enrollment increases beyond a maximum of five hundred students at the end of Phase 2 operations, and will limit the number of students and faculty to be on-site at any one time.

The school would operate as an independent study school, where students 9<sup>th</sup>-12<sup>th</sup> grade participate in a one-on-one activity, one hour a day, one day per week, with scheduled tutoring occurring based on an individual student's needs. Student's schedules would vary based on students' required courses and schedules. A drop-off area would be located along the west elevation of the large tenant building immediately adjacent to Civic Center Drive, and would provide parking within one hundred and two allocated spaces located throughout the north and west portions of the site. Students will be supervised while on campus and strict operational management during the course of the day will be monitored by school staff. A draft Operational Management Plan that details the day-to-day operations and management of the school has been attached for review.

The project is subject to the following Ordinances and City policies:

- 1) Zoning Ordinance
- 2) General Plan Land Use Element
- 3) California Environmental Quality Act (CEQA)

In accordance with Article 41, Section 4105, the approving body must make the following findings in order to approve the subject Conditional Use Permit:

- i) That the proposed location of the use is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.
- ii) That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.
- iii) That the proposed conditional use will comply with the provisions of the Zoning Ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.

Pursuant to Article 46, Section 4605(c), the City Council shall only consider same application, plans, and related project materials that were the subject of the original decision and only the issue(s) raised by the appeal or the call for review.

## **ANALYSIS**

Pursuant to OZO 4605(c), the City Council shall only consider the issues that were raised in the appeal. Appellant's stated grounds for appeal and Mayor Wood and Deputy Mayor Sanchez's stated grounds for calling the action up for review are the same and are as follows:

1. *Mission Square Shopping Center is a busy commercial area, sitting on prime commercial land just west of interstate I-5. Allowing a school use in perpetuity represents future loss of jobs, sales tax and economic development of this site, with the potential loss of businesses currently operating there, including Office Depot, 99 cent Store, etc. The charter school will severely restrict future businesses from locating in the shopping center, as well as foreclose the potential viability of the shopping center for higher end restaurants, etc.*

Staff acknowledges that the general location of the commercial shopping center is prime commercial. However, no evidence has been submitted for the record that demonstrates that the presence of the proposed charter school could result in job, sales tax, and existing and future business loss. According to the property owner, the subject suite is very unattractive to commercial tenants due to its location behind the in-line shops and well below grade along the Civic Center Drive frontage. Furthermore, according to the Business License Division, the subject suite has generated no sales tax revenue since the early 1970s. For these reasons, staff recommends that the City Council find that issue number one does not warrant the overturning of the Planning Commission action to approve the project.

2. *The charter school proposes to establish a duplicate program that already exists as Oceanside Unified School District (OUSD) – the Academic Recovery Center (ARC) – at Oceanside High School, El Camino High School, Claire Burgener Academy, and Ocean Shores. Allowing a duplicate program will mean a loss of jobs and funding for existing programs and an economic net loss of jobs to our City and our region.*

Assessment and regulation of charter schools as to duplication of services is a function of the State of California, and no evidence has been submitted to substantiate that the proposed charter school would result in existing or future job loss. Therefore, staff recommends that the City Council find that issue number two is not a valid reason to overturn the Planning Commission action to approve the project.

3. *Diego Hills Public Charter, which has suffered failures in other parts of the state, will have no local review or control. The lack of review means an unproven/unsupervised curriculum will be allowed to take funding for up to 500 students from existing well-performing public and charter schools, without demonstrating positive academic achievement to the local community and the development of a well-educated*

*workforce. The “one hour, one day a week” program will attract students from already successful programs. Local parents will not be able to travel to Lancaster or Sacramento to voice their concerns about the school, forcing parents to add a critical situation by pulling their child out of school in the middle of the school year.*

*4. While a previous charter school, the School of Business and Technology, had a 2 year conditional use permit, the school was supervised by OUSD, offered a program that did not exist and was not duplicative, and was intended to be at the shopping center for a short period of time while the school looked for a permanent site.*

Regarding issues three and four, aside from evaluation of whether local findings can be met relative to land use decisions, regulation of charter schools is a function of the State of California. Because the points raised above do not speak to the findings set forth in the Zoning Ordinance, staff’s position is that these arguments are irrelevant and do not warrant the overturning of the Planning Commission’s decision.

*5. This is not a safe location for a school for our kids. There is a delicate balance between the Eastside and Crown Heights communities. Gang violence has erupted at the shopping center, recently with 3 attempted murders. A school will negatively impact police services and other resources.*

The Oceanside Police Department has considered this proposed land use application, reviewed its records, and has determined that the proposed use would not create additional safety concerns or impacts to police services. According to the Police Department, the attempted murder incidents cited in the Appeal and Call for Review were determined to be a fight that began on the campus of Oceanside High School and transitioned to the Mission Square Shopping Center. Based upon these things, staff’s position is that this point does not present any evidence to warrant the overturning the Planning Commission’s decision to approve the project.

In summary, staff has comprehensively reviewed the issues raised by the appellants and in the Call for Review and maintains its position that the issues raised do not provide a sufficient basis, in light of the required findings set forth in the Zoning Ordinance, to overturn the Planning Commission’s decision. Furthermore, the subject retail suite has been constructed and operated as a Public/Semi-Public Land Use for most of the previous forty years. Therefore, it is staff’s recommendation that the City Council adopt the attached resolution denying the appeal and affirming the Planning Commission’s action approving Conditional Use Permit (CUP10-00030).

## **FISCAL IMPACT**

Due to its location behind the in-line shops and well below Civic Center Drive, the subject location has not operated as a tax-generating commercial establishment for the last forty-one years. Approval of the proposed use would not reduce sales tax revenue to the City. Therefore, there is no fiscal impact associated with this proposed use.

**COMMISSION OR COMMITTEE REPORT**

The Planning Commission reviewed the project on October 24, 2011. After hearing public testimony from eleven members of the public, as well as the Applicant, the Commission approved the project by a 4-3 vote.

**CITY ATTORNEY'S ANALYSIS**

The City Attorney's Office has reviewed the proposed resolution and approved it as to form.

In accordance with Section 4605 of the Zoning Ordinance, the City Council shall consider the same application, plans, and related project materials that were the subject of the original decision approving the project by the Planning Commission.

The City Council shall review the record of the decision and hear testimony from staff, the applicant, and/or any interested parties.

After the public hearing the City Council shall affirm or reverse the Planning Commission's decision to approve the subject project. If a decision is reversed, the City Council shall state the specific reasons for the reversal.

**ENVIRONMENTAL DETERMINATION**

Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA), 1970. Based on that review, staff finds that the proposed project constitutes operations within existing facilities that will not involve expansion beyond what exist on-site at this time, and the project is categorically exempt, Class 1, "Existing Facilities" (Section 15301).

**RECOMMENDATION**

Staff recommends that the City Council adopt the attached resolution denying the appeal and affirming the Planning Commission's action to approve Conditional Use Permit CUP10-00030.

PREPARED BY:



Richard Greenbauer  
Senior Planner

SUBMITTED BY:



Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager  
George Buell, Development Services Director  
Jerry Hittleman, City Planner



**Attachments:**

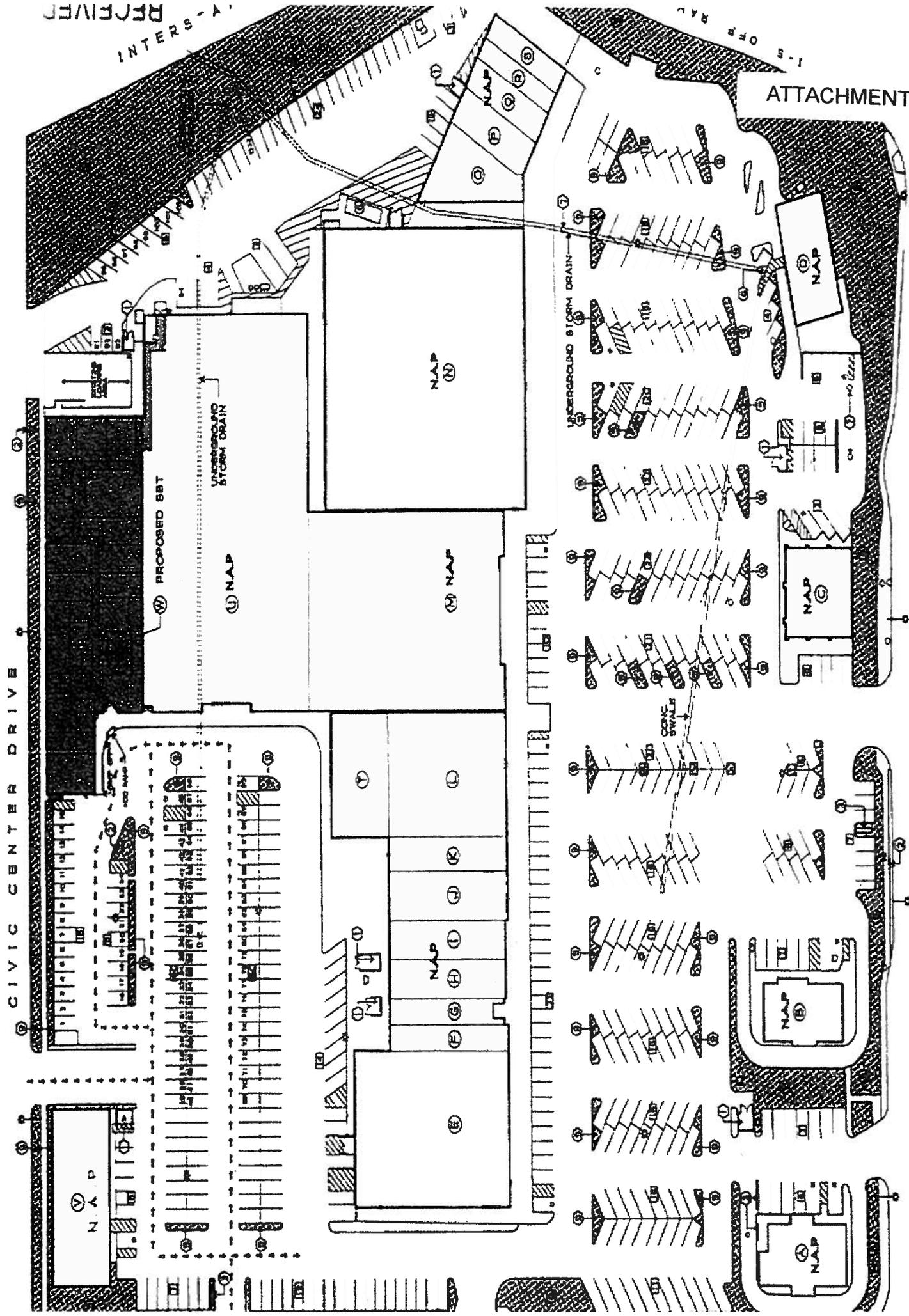
1. Floor/Site Plans
2. Existing Conditions Site Photo
3. City Council Resolution
4. Planning Commission Resolution No. 2011-P34
5. Planning Commission Staff Report dated October 24, 2011
6. Draft Diego Hills Charter School Management Plan
7. Call For Review
8. Appeal Filed Via-Petition
9. "Cal Ed Facts" of Charter Schools from the California Department of Education

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INTERSECT

1-5 OFF RAIL



# ATTACHMENT 1



MISSION AVENUE

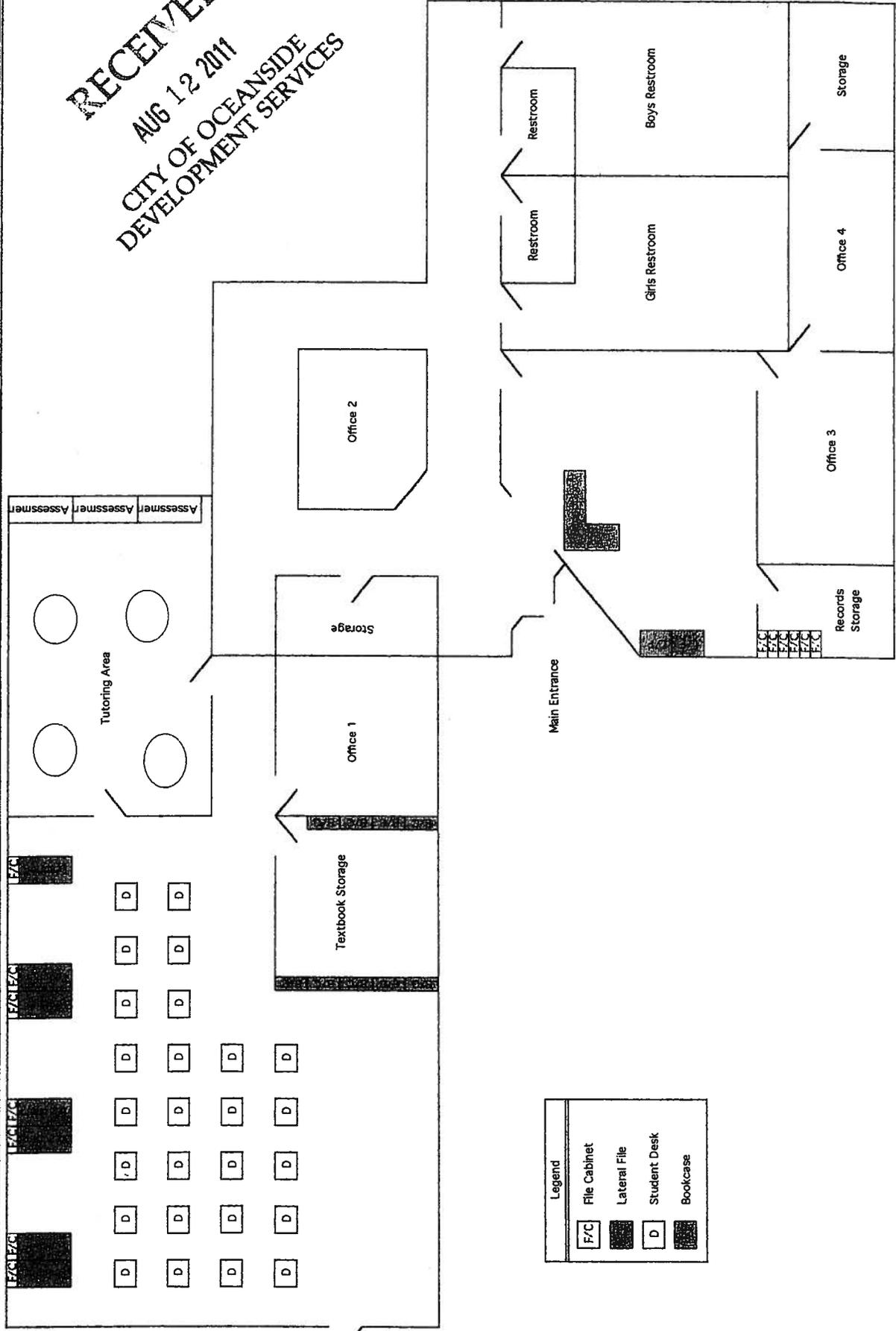


CUP10-00030

Diego Hills Public Charter - Updated 8/11/2011

320 North Home Street, Oceanside, CA 92054

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CITY OF OCEANSIDE  
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**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE UPHOLDING PLANNING COMMISSION RESOLUTION NO.2011-P34 APPROVING CONDITIONAL USE PERMIT (CUP10-00030) AND ALLOWING THE ESTABLISHMENT OF A 9TH-12TH GRADE RESOURCE CENTER/CHARTER SCHOOL OPERATION WITHIN AN EXISTING 19,553-SQUARE-FOOT COMMERCIAL RETAIL SUITE AT 320 NORTH HORNE STREET**

**(Diego Hills Charter School, Jim Kornacki, Applicant)**

WHEREAS, a Call for Review and Appeal via Petition was filed on the Planning Commission approval of Conditional Use Permit (CUP10-00030) for the establishment of a 9<sup>th</sup> – 12<sup>th</sup> grade Resource Center/Charter School Operation within an existing 19,553-square-foot commercial retail suite at 320 North Horne Street on certain real property more particularly described in Exhibit "A", attached hereto and incorporated herein by reference;

WHEREAS, the Planning Commission, after giving the required notice, did on the 24th day of October, 2011, conduct a duly-advertised public hearing as prescribed by law to consider said application and after holding the public hearing took action to adopt Resolution No. 2011-P34, approving said Conditional Use Permit (CUP10-00030);

WHEREAS, on February 1, 2012, the City Council of the City of Oceanside held a duly-noticed public hearing and heard and considered evidence and testimony by all interested parties concerning the review of the Planning Commission approval on the above identified Conditional Use Permit; and

WHEREAS, based on such evidence, testimony and staff reports, this Council makes the findings of fact as set forth in Planning Commission Resolution No. 2011-P34 as attached hereto as Exhibit "B", and incorporates them by reference as if fully set forth herein;

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project is exempt from environmental review;

WHEREAS, based on such evidence and testimony, including but not limited to the reports of the Planning Division Staff and records of the Planning Commission hearing, this Council finds that the decisions of the Planning Commission properly address the concerns raised by the Appellants and the Call for Review by Mayor Wood and Deputy Mayor Sanchez.

1 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

2 1. The Council supports the Planning Commission action of October 24, 2011.

3 2. The decision of the Planning Commission is affirmed.

4 (a) The proposed location of the use is in accord with the objectives of the Zoning  
5 Ordinance and the purposes of the district in which the site is located because Schools;  
6 Public or Private are permitted within the CS-HO (Special Commercial – Highway  
7 Oriented) zone district, subject to approval of a Conditional Use Permit.

8 (b) The proposed location of the conditional use and the proposed conditions under  
9 which it would be operated or maintained will be consistent with the General Plan; will not  
10 be detrimental to the public health, safety or welfare of persons residing or working in or  
11 adjacent to the neighborhood of such use; and will not be detrimental to properties or  
12 improvements in the vicinity or to the general welfare of the City because subject to  
13 approval of a Conditional Use Permit, a school public or private is allowed. The request to  
14 establish the school in two phases with a maximum allowable student enrollment of 500  
15 would not physically change or alter the commercial retail shopping center and would  
16 create additional pedestrian flow to the retail center for all businesses to benefit from.  
17 Furthermore, the project has been conditioned to implement both a Circulation and  
18 Operational Management Plan in order to ensure that public safety and health is not an  
19 issue, and would provide a balanced distribution of land uses in accordance with General  
20 Plan Section 1.11, "Balanced Land Use" Policy B by providing a significant benefit in the  
21 form of an alternative learning environment for the surrounding communities.

22 (c) The proposed conditional use will comply with the provisions of the Zoning  
23 Ordinance, including any specific condition required for the proposed conditional use in  
24 the district in which it would be located, and subject to operational specific conditions will  
25 allow for an alternative learning facility to benefit the general public.

26 (d) The charter school activities will not interfere with the primary commercial retail  
27 uses in the vicinity, and there will be no public health and safety issues related to the  
28 location of the school use because the school operations are restricted to the northern  
29 portion of the Mission Square Shopping Center, and are subject to an operations  
management plan and circulation management plan that establishes strict guidelines on

1 pedestrian and vehicle movements within the commercial retail center. Based upon the  
2 current internal circulation system layout and the location of the proposed school, no  
3 interference with retail uses in close proximity would occur.

4 (e) The building will meet the requirements imposed by the Uniform Building Code  
5 for assembly occupancy and the request to establish the school in two phases with a  
6 maximum allowable student enrollment of 500 students and limiting the number of  
7 persons to be on-site at any one time would not physically change or alter the commercial  
8 retail center assembly occupancies beyond what has been previously constructed and  
9 approved.

10 3. The application for a Conditional Use Permit (CUP10-00030) and Planning Commission  
11 Resolution 2011-P34 are hereby approved, subject to all of the conditions imposed by Planning  
12 Commission Resolution No. 2011-P34, and the addition of a one condition putting a 5-year  
13 expiration upon CUP10-00030, and requiring that the CUP be renewed.

14 4. Pursuant to CCP Section 1094.6 (f), notice is hereby given that the time within which  
15 judicial review must be sought on this decision is governed by CCP Section 1094.6 as set forth in  
16 Oceanside City Code Section 1.10.

17 PASSED and ADOPTED by the City Council of the City of Oceanside, California this 1<sup>st</sup>  
18 day of February, 2012, by the following vote:

19 AYES:

20 NAYS:

21 ABSENT:

22 ABSTAIN:

23 \_\_\_\_\_  
Mayor of the City of Oceanside

24 ATTEST:

25 APPROVED AS TO FORM:

26 OFFICE OF THE CITY ATTORNEY

27   
City Attorney

28 \_\_\_\_\_  
City Clerk

29 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE UPHOLDING PLANNING COMMISSION  
RESOLUTION NO.2011-P34 APPROVING CONDITIONAL USE PERMIT (CUP10-00030) AND ALLOWING THE  
ESTABLISHMENT OF A 9TH-12TH GRADE RESOURCE CENTER/CHARTER SCHOOL OPERATION WITHIN AN  
EXISTING 19,553-SQUARE-FOOT COMMERCIAL RETAIL SUITE AT 320 NORTH HORNE STREET

1 PLANNING COMMISSION  
2 RESOLUTION NO. 2011-P34

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE  
4 CITY OF OCEANSIDE, CALIFORNIA APPROVING A  
5 CONDITIONAL USE PERMIT ON CERTAIN REAL  
6 PROPERTY IN THE CITY OF OCEANSIDE

6 APPLICATION NO: CUP10-00030  
7 APPLICANT: Diego Hills Resource Center/Charter School  
8 LOCATION: 320 North Horne Street

9 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
10 RESOLVE AS FOLLOWS:

11 WHEREAS, there was filed with this Commission a verified petition on the forms  
12 prescribed by the Commission requesting a Conditional Use Permit under the provisions of  
13 Articles 11, and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

14 establishment of a 9<sup>th</sup> -12<sup>th</sup> grade Resource Center/Charter School Operation within an  
15 existing 19,553-square foot commercial retail suite at 320 North Horne Street;  
16 on certain real property described in the project description.

17 WHEREAS, the Planning Commission, after giving the required notice, did on the 24th  
18 day of October, 2011 conduct a duly advertised public hearing as prescribed by law to consider  
19 said application;

20 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State  
21 Guidelines thereto; this project is exempt from environmental review;

22 WHEREAS, there is hereby imposed on the subject development project certain fees,  
23 dedications, reservations and other exactions pursuant to state law and city ordinance;

24 WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS FURTHER GIVEN that  
25 the 90-day period to protest the imposition of any fee, dedication, reservation, or other exaction  
26 described in this resolution begins on the effective date of this resolution and any such protest must  
27 be in a manner that complies with Section 66020;

28 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes  
29 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

1           WHEREAS, studies and investigations made by this Commission and in its behalf reveal  
2 the following facts:

3 FINDINGS:

4 For the Conditional Use Permit:

- 5 1.       That the proposed location of the use is in accord with the objectives of the Zoning  
6 Ordinance and the purposes of the district in which the site is located.
- 7       •       Schools, Public or Private are permitted within the CS-HO (Special Commercial  
8           – Highway Oriented) zone district, subject to approval of a Conditional Use  
9           Permit.
- 10 2.       That the proposed location of the conditional use and the proposed conditions under  
11 which it would be operated or maintained will be consistent with the General Plan; will  
12 not be detrimental to the public health, safety or welfare of persons residing or working  
13 in or adjacent to the neighborhood of such use; and will not be detrimental to properties  
14 or improvements in the vicinity or to the general welfare of the City.
- 15       •       Subject to approval of a Conditional Use Permit, a school public or private is  
16           allowed. The request to establish the school in two phase with a maximum  
17           allowable student enrollment of 500 would not physically change or alter the  
18           commercial retail shopping center.
  - 19       •       The project has been conditioned to implement both a Circulation and  
20           Operational Management Plan in order to ensure that public safety and health is  
21           not an issue, and would provide a balanced distribution of land uses in  
22           accordance with General Plan Section 1.11, "Balanced Land Use" Policy B by  
23           providing a significant benefit in the form of an alternative learning environment  
24           for the surrounding communities.
- 25 3.       That the proposed conditional use will comply with the provisions of the Zoning  
26 Ordinance, including any specific condition required for the proposed conditional use in  
27 the district in which it would be located.
- 28       •       The proposed use is consistent with the Oceanside Zoning Ordinance for  
29           conditional uses, and subject to operational specific conditions will allow for an  
          alternative learning facility to benefit the general public.

1 4. That the charter school activities will not interfere with the primary commercial retail  
2 uses in the vicinity, and there will be no public health and safety issues related to the  
3 location of the school use.

- 4 • The school operations are restricted to the northern portion of the Mission Square  
5 Shopping Center, and are subject to an operations management plan and  
6 circulation management plan that establishes strict guidelines on pedestrian and  
7 vehicle movements within the commercial retail center.

8 5. That the buildings will meet the requirements imposed by the Uniform Building Code  
9 for assembly occupancy.

- 10 • The request to establish the school in two phases with a maximum allowable  
11 student enrollment of 500 students and limiting the number of persons to be on  
12 site at any one time would not physically change or alter the commercial retail  
13 center assembly occupancies beyond what has been previously constructed and  
14 approved.

15 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
16 approve Conditional Use Permit (CUP10-00030) subject to the following conditions:

17 **Fire:**

- 18 1. F002 Fire Department requirements shall be placed on plans in the notes section.
- 19 2. F007 All proposed and existing fire hydrants within 400 feet of the project shall be  
20 shown on the site plan.
- 21 3. F024 Fire extinguishers are required and shall be included on the plans submitted for  
22 plan check.
- 23 4. F027 Fire sprinkler system based on area and occupancy classification may be required.
- 24 5. F030 Fire alarm system required for E occupancy.
- 25 6. F032 Approved addresses shall be placed on the structure in such a position as to be  
26 plainly visible and legible from the street or roadway fronting the property. Numbers  
27 shall be contrasting with their background and meet the current City of Oceanside size  
28 and design standard.
- 29

1 7. F036 Due to change in occupancy proposed, plans shall be submitted to the Fire  
2 Prevention Bureau for plan check review and approval prior to the issuance of building  
3 permits.

4 **Planning:**

5 8. This Conditional Use Permit and Development Plan Revision shall expire on October 24,  
6 2013 unless implemented as required by the Zoning Ordinance.

7 9. This Conditional Use Permit approves only a 9<sup>th</sup> -12<sup>th</sup> charter public school with a  
8 maximum enrollment of 500 students at the end of phase II operations within one retail  
9 suite totaling approximately 19,553 square feet, and located within the Mission Square  
10 Shopping Center as shown on the plans and exhibits presented to the Planning  
11 Commission for review and approval. No deviation from these approved plans and  
12 exhibits shall occur without the Planning Division approval. Substantial deviations shall  
13 require a revision to the Conditional Use Permit or a new Conditional Use Permit.

14 10. No additional increase in useable floor area or intensification of uses within the building  
15 located at 320 North Horne Street shall be permitted as part of this application for  
16 discretionary approval.

17 11. The school shall be limited to a maximum enrollment of 500 students. Annually in  
18 October, the applicant shall submit to the City a copy of the executed school affidavit  
19 that has been submitted to the State of California Department of Education (CDE) and  
20 the Oceanside Unified School District reflecting the actual number of students that are  
21 enrolled at the resource center/school, and shall not exceed the maximum enrollment  
22 established by this approval.

23 12. A licensed day care facility is not authorized as part of this discretionary approval.

24 13. No special event functions/activities (i.e. graduations, plays, activities that require over  
25 one quarter of the maximum student body (125) to be on-site at any one time) shall be  
26 permitted on-site without prior submittal and approval of a special event permit from the  
27 City's Park and Recreation Division, and shall be subject to review and approval by the  
28 City Planner and City Engineer or their designees.  
29

- 1 14. All student pick-up and drop-off shall be via the approved Circulation Management Plan  
2 submitted as part of this projects submittal. The front of the facility shall be maintained  
3 and managed to prevent traffic congestion for students and the public frequenting the retail  
4 center.
- 5 15. Any proposed new signs shall be in conformance with the Mission Square Shopping  
6 Center Comprehensive Sign Program and shall be submitted to the Planning Division for  
7 review and approval by the City Planner or their Designee.
- 8 16. After six months of operation, the Diego Hills Resource Center/Charter School shall in  
9 conjunction with the City, review student drop off, parking, and circulation  
10 (vehicle/pedestrian) to ensure that no conflicts with the school operations and the general  
11 retail businesses are occurring. A written Circulation Management Plan shall be submitted  
12 to the City Planning Division and shall be reviewed on an annual basis as enrollments  
13 increase. Should conflicts with enrollment numbers and overall operations within the  
14 center be identified by City Staff, the Conditional Use Permit shall be called for review by  
15 the Planning Commission.
- 16 17. A covenant or other recordable document approved by the City Attorney shall be prepared  
17 by the applicant and recorded prior to the issuance of building permits. The covenant shall  
18 provide that the property is subject to this resolution, and shall generally list the conditions  
19 of approval.
- 20 18. Prior to issuance of any building permits for the project, a Final Diego Hills Resource  
21 Center/Charter School Operation Management Plan shall be submitted to the City  
22 Planner for review, and prior to issuance of any certificate of occupancy the City Planner  
23 shall approve the final version of the Diego Hills Resource Center/Charter School  
24 Operation Management Plan.
- 25 19. Prior to issuance of building permits, compliance with the applicable provisions of the  
26 City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed  
27 and approved by the Planning Division. These requirements, including the obligation to  
28 remove or cover with matching paint all graffiti within 24 hours shall recorded in the form  
29 of a covenant affecting the subject property.

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- 20. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and or operator. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.
- 21. Failure to meet any conditions of approval for this development shall constitute a violation of the Conditional Use Permit.
- 22. Unless expressly waived, all current zoning standards and City ordinances and policies in effect at the time building permits are issued are required to be met by this project. The approval of this project constitutes the applicant's agreement with all statements in the Description and Justification, Operations Management Plan, and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.
- 23. Applicant shall secure and maintain a charter authorizing its operations in accordance with all applicable California statutes and regulations during the time period covered by this CUP. Failure to secure and maintain a charter in accordance with all applicable statutes and regulations shall be a basis for revocation of this CUP.

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24. This Conditional Use Permit shall be called for review by the Planning Commission if complaints are filed and verified as valid by the Code Enforcement Office concerning the violation of any of the approved conditions or assumptions made by the application.

PASSED AND ADOPTED Resolution No. 2011-P34 on October 24, 2011 by the following vote, to wit:

AYES: Balma, Neal, Troisi and Ross

NAYS: Rosales, Martinek, Scrivener

ABSENT: None

ABSTAIN: None

  
\_\_\_\_\_  
Tom Rosales, Chairperson  
Oceanside Planning Commission

ATTEST:

  
\_\_\_\_\_  
Jerry Hittleman, Secretary

I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2011-P34.

Dated: October 24, 2011

Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may be required as stated herein:

\_\_\_\_\_  
Applicant/Representative

\_\_\_\_\_  
Date

**PLANNING COMMISSION****STAFF REPORT**

DATE: October 24, 2011

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A CONDITIONAL USE PERMIT (CUP10-00030) FOR A 9<sup>TH</sup>-12<sup>TH</sup> GRADE RESOURCE CENTER/CHARTER SCHOOL AT 320 NORTH HORNE STREET, WITHIN THE TOWNSITE NEIGHBORHOOD – DIEGO HILLS CHARTER SCHOOL – APPLICANT: JIM KORNACKI**

**RECOMMENDATION**

Staff recommends that the Planning Commission by motion:

- (1) Approve Conditional Use Permit (C10-00030) by Adopting Planning Commission Resolution No. 2011-P34 with findings and conditions of approval attached herein.
- (2) Confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities".

**PROJECT DESCRIPTION AND BACKGROUND**

**Site Review:** The site is located east of Horne Street and south of Civic Center Drive, within the northern portion of the Mission Square Shopping Center. The center is comprised of one large inline type tenant building and five smaller freestanding single tenant perimeter buildings. The single large inline tenant building is situated in a manner that provides for a dual frontage layout for the inline tenants with one frontage oriented toward North Horne Street and Civic Center Drive, and one frontage oriented toward Mission Avenue. Diego Hills Charter School would occupy the northern portion of the single large inline tenant building oriented toward North Horne Street and would allocate interior space in a manner that allows for a phased build out to accommodate a total of 13 classrooms, 5 administrative offices, one computer lab/library, 8 tutoring rooms, and several ancillary utility and storage rooms. The 19,553-square foot tenant space to be used for the establishment of the resource center/charter school is currently unoccupied and was last occupied by a 9<sup>th</sup>-12<sup>th</sup> grades Public Charter School known as the School of Business and Technology. No exterior modifications to the existing storefront are proposed as part of this application, and all circulation and parking would be the same as the previous Charter School that occupied the space.

The property is CS-HO (Special Commercial – Highway Oriented) on the City of Oceanside Zoning Map, and is designated Special Commercial (SC) on the General Plan Land Use Map. The establishment of public or private schools within a Special Commercial zoned retail center requires discretionary review and approval of a Conditional Use Permit.

Surrounding land uses adjacent to the Mission Square Shopping Center include the 5 Freeway to the east, Oceanside High School to the south across Mission Avenue, Commercial Retail to the west across N. Horne St., and Multi-Family Residential to the North across Civic Center Dr.

**Project Description:** The project application is comprised of the following required entitlements:

Conditional Use Permit (CUP10-00030) represents a request for the following:

- (a) To permit the establishment of a Charter School Operation within a 19,553-square foot commercial retail suite of a CS-HO (Special Commercial – Highway Oriented) zoned Shopping Center located at 320 North Horne Street.

The proposed school would initially establish in two phases with phase 1 capping the maximum enrollment at 200 students with a maximum occupancy not to exceed 42 persons (students/faculty) on-site at any one time. In phase two the maximum enrollment would increase to 500 students and approximately 25 staff persons (i.e. teachers, administrators, and tutors). The maximum occupancy of the 19,553-square foot retail space in phase two would not exceed 105 persons on-site at any one time. In order to ensure that intensification of the site does not occur beyond what has been studied, the Charter School would be restricted from allowing enrollment increases beyond a maximum of 500 students at the end of Phase 2 operations and will limit the number of students and faculty to be on-site at any one time.

The school would operate as an independent study school, where students 9<sup>th</sup> - 12<sup>th</sup> participate in a one-on-one activity, one hour a day, one day per week, with scheduled tutoring occurring based on an individual students needs. Student's schedules would vary based on students' required courses and schedules. Drop-off would be located along the west elevation of the large tenant building immediately adjacent to Civic Center Drive and would provide parking within 102 allocated spaces located throughout the north and west portions of the site. Students are supervised while on campus and strict operational management during the course of the day is monitored by school staff. A draft Operational Management Plan that details the day to day operations and management of the school has been attached for review.

The applicant has stated, "That due to the nature of the charter school to not provide classroom instruction for 80 percent or more of the student's instructional time, the subject facility is defined as a "Resource Center" rather than a school site by the state educational code." While defined as a "Resource Center", the applicant is Diego Hills Public Charter and Section 47605 of the California Educational Code will require that the

applicant petition the school district where they are proposed to establish. The applicant has opted to proceed through the discretionary process without petitioning the OUSD school district and based upon conversations with the Assistant Superintendent whom stated that they did not need to approve the resource center/ charter school. Staff has conditioned the project accordingly to obtain all necessary OUSD approvals prior to issuance of any building permits.

The project is subject to the following Ordinances and City policies:

1. Zoning Ordinance
2. General Plan Land Use Element
3. California Environmental Quality Act (CEQA)

## **ANALYSIS**

### **KEY PLANNING ISSUES**

#### **1. General Plan conformance**

The General Plan Land Use Map designation for the subject property is Special Commercial (SC). The proposed project is consistent with this designation and the goals and objectives of the City's General Plan as follows:

##### **A. Land Use Element**

###### **Goal 1.11: Balanced Land Use**

**Objective:** To develop and use lands for the long-term provision of balanced, self-sufficient and efficient community.

**Policy A:** The City shall establish and enforce a balanced distribution of land uses to organize the City in a hierarchy of activity centers and land use so as to foster a sense of neighborhood, community, and regional identity.

Surrounding land uses include a combination of personal service/office type uses, commercial retail facilities, and densely populated residential areas. The total area dedicated to school type uses within the Mission Square Shopping Center been calculated at approximately 19,553 square feet or approximately 12 percent of the entire center, with the remainder consisting of restaurants, retail tenants, and personal improvement type uses. Establishment and operation of the charter school use has been determined by staff to provide an overall balance of goods and services in close proximity to the residential areas of the North Townsite and Capistrano neighborhoods, and with an end result of providing a sense of community to the residents in close proximity to the area, while providing an alternative method of education for the children of Oceanside and the surrounding Southern California region.

Policy C: The City shall continuously monitor the impact and intensity of land use and land use distribution to ensure that the City's circulation system is not overburdened beyond design capacity.

The proposed use is similar to the previous charter school use that occupied the tenant space and no known traffic impacts and/or parking deficiencies were noted in the course of the schools operation; therefore, staff has determined that establishment of the new school in the proposed location would not create any traffic related impacts in the area. Furthermore, it should be noted that the proposed location is in close proximity to public transportation nodes. According to student demographic data for similar operations, approximately 80 percent of the students would use public transportation to get to and from the school. The majority of trip generation for the subject use has been determined by staff to be consistent with the overall intensity of development of the site, and does not warrant further review. In order to further ensure that the use does not intensify in a manner that could contribute to an impact on the City's circulation system, appropriate conditions of approval have been placed upon conditional use permit (C10-00030).

**2. Zoning Compliance**

This project site is located within the North Townsite neighborhood on a CS-HO (Special Commercial – Highway Oriented) zoned parcel, and subject to approval of a conditional use permit is consistent with the requirements of the zone district pertinent to public/private school uses. While the subject resource center/charter school use would be allowed subject to a use permit, typically eliminating tax based businesses is not in the best interest of the city. It is noted that the subject tenant suite to be used for the school was last leased to another public charter school and has remained vacant with limited interest in the space from businesses due to its location. Allowing the suite to re-establish as a resource center/charter school will provide increased flow of persons to the site, thus allowing surrounding retail businesses and eating establishments to benefit from persons needing other goods and services beyond educational needs.

It should be further noted, that implementation of a Circulation Management Plan and Operations Management Plan would ensure that no conflicts to parking, circulation, or traffic would occur as a result of establishing a Resource Center/Charter School within a Commercial Shopping Center.

**3. Land Use Compatibility with surrounding developments**

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	Special Commercial (SC)	CS-HO (Special Commercial – Highway Oriented)	Commercial/ Retail
North of Subject Property	Redevelopment Area	Redevelopment Area	Multi-Family Residential
East of Subject Property:	Single Family Detached –	RS (Single Family)	5 Freeway/ Single Family

	Residential (SFD-R)	Residential)	Residential Beyond
South of Subject Property:	Civic-Institutional (CI)	PS (Public & Semi-Public)	Public High School
West of Subject Property:	Redevelopment Area	Redevelopment Area	Commercial/Retail

**DISCUSSION**

**Issue: Project Compatibility with the Existing Commercial Retail Uses within the Mission Square Shopping Center**

The primary issue of compatibility of a resource center/charter school in a commercial retail center is derived from the fact that according to SANDAG Traffic Generation Rates typical Community Shopping Centers (125,000-400,000 sq. ft.) generate 80 trips per 1000 sq. ft. during the weekday, and education facilities for High School aged persons generate 15 trips per 1,000 sq. ft. The significantly lower trip rates associated with the educational use would generate less daily trips based on the day-to-day operations and due to the location of the suite on the northern most portion of the site would further reduce traffic impacts onto and off of the site. Strict adherence to an Operational Management Plan and Circulation Plan, both of which are required to be approved as part of the projects overall discretionary action, would ensure compatibility with the surrounding land uses, while providing for a mix of land uses that would not be detrimental to the health, safety, or welfare of persons frequenting the Mission Square Shopping Center. The subject project would assist in providing for a balanced distribution of land uses necessary to sustain and benefit the local neighborhood and surrounding communities as a whole, and that is consistent with the City's General Plan.

**Recommendation:** Staff concludes that the establishment of the resource center/charter school facility within the commercial retail center area will not negatively impact existing uses within the center, or significantly alter the nature of the commercial land use development and supports the applicant's request.

**ENVIRONMENTAL DETERMINATION**

Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA), 1970. Based on that review, staff finds that the proposed project constitutes operations within existing facilities that will not involve expansion beyond what exist on-site at this time, and the project is categorically exempt, Class 1, "Existing Facilities" (Section 15301).

**PUBLIC NOTIFICATION**

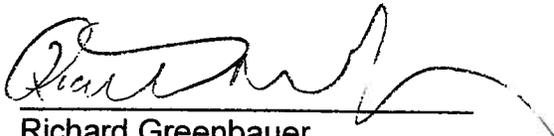
Pursuant to Article 41 of the Oceanside Zoning Ordinance, Legal notice was published in the North County Times and notices were sent to property owners of record/and occupants within a 1500-foot radius of the subject property, to individuals/organizations requesting notification, and to the applicant. Copies of this agenda item have been mailed to the applicant and their representative.

**SUMMARY**

The request for approval of a Conditional Use Permit to allow the establishment and operation of a 9<sup>th</sup> -12<sup>th</sup> grades Charter School use is consistent with the requirements of the Zoning Ordinance and the land use policies of the General Plan. The project meets all applicable development standards and will not impact existing land uses in the immediate area. As such, staff recommends that the Planning Commission approve the project based on the findings and subject to the conditions contained in the attached resolution. Staff recommends that the Planning Commission:

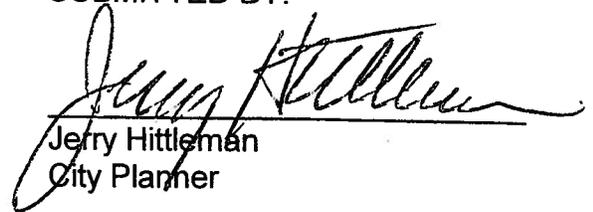
- Move to approve Conditional Use Permit (C10-00030) by adopting Planning Commission Resolution No. 2011-P34 as attached.

PREPARED BY:



Richard Greenbauer  
Senior Planner

SUBMITTED BY:



Jerry Hittleman  
City Planner

JH/RG/fil

Attachments:

1. Planning Commission Resolution No. 2011-P34
2. Interior Layout Plans (Phases I and II) /Site Plans
3. Draft Diego Hills Public Charter School Operations Management Plan
4. E-Mail Communication Dated February 10, 2011 Regarding OUSD Petition

CUP10-00030

**OPERATIONS MANAGEMENT PLAN:**  
*1054 Mission Blvd. Oceanside CA*

- Our objective is to operate a Resource Center/Charter School for non-seat time based academic program.
- Monday thru Friday from 8:00 A.M.-6:00 P.M.
- Closed weekends and all recognized Holidays.
- Diego Hills Public Charter is an Independent Study Program where students come to our facility by appointment approximately one to two hours a week.
- Students waiting for their appointment time to begin will sit at a designated table/desk in a classroom.
- During that time the student will turn in homework completed during the prior week from their own home, and test (on site) on that material.
- This process will occur on a year round schedule.
- Students are only seen once per week for one hour for one-on-one teaching. They may also go to scheduled tutoring based on their need. All time on site is by appointment.
- Our student base on average is at-risk or low-income adolescents between the ages of 14-22.
- We offer general education; a diploma recognized by the State of California, and an opportunity for youths that otherwise wouldn't attend a traditional High School due to economic, personal or medical hardship.
- Our goal is to have a maximum enrollment of 200 students in phase one and a maximum enrollment of 500 students in phase two. Please see charts below to better understand the occupancy as it relates to our enrollment\*:

People on site at one time.			
Student Enrollment	Staff (Teachers, Tutors, Front Office)	Students	Total
100	3	8	11
200	5	16	21

300	14	48	62
400	19	64	83
500	25	80	105

- *More detailed explanation with a room by room breakout is available in the Description and Justification.*
- Due to our demographics; on average 80% of our student base take public transportation as a means to reaching the school.
- Occupancy in Phase One will be no more than 50 people on campus at a time. In Phase Two the total occupancy will not exceed 200 people at one time.
- Students will arrive by bus (80%) or be dropped off/drive themselves and proceed to the entrance of our site. At this point they will work with their teacher and then leave by the same transportation that they arrived.
- Students will arrive at the facility and be greeted in the administrative office. They will then be asked to wait in front of their teacher's desk at a student desk until their teacher is ready to see them.
- If a student/parent must wait outside of the main classroom, chairs are available in the administrative office/reception area.

DESCRIPTION AND JUSTIFICATION: ATTACHMENT 24

Planning Department

Date: September 29, 2011

City of Oceanside

From: Diego Hills Public Charter, Inc.

42455 10<sup>th</sup> St., Suite 105

Lancaster, CA 93534

RE: Determination letter for Mission Square Shopping Center

Our unique charter concept is a not for profit organization that offers a personalized education program for students who need an independent studies approach in meeting their academic needs. Our program offers the flexibility demanded by students who are seeking an alternative to the tradition school structure. We provide students with a non-traditional setting which; includes teachers accredited by the State of California, curriculum mandated by the State of California, appropriate material to accompany curriculum, and a facility referred to as a "Resource Center" which students attend to fulfill their educational responsibilities.

Since the Resource Center does not provide classroom instruction for 80% or more of the student's instructional time, it cannot be classified as a school site as indicated in educational code 47605. Therefore the personalized learning program that is described above is by definition a Resource Center and not subject to the stringent regulations that the Field Act applies to a classroom-based school.

Our program takes great pride in providing students a Resource Center that has the look and feel of a friendly business office. Students are treated with the same professionalism they notice in the appearance of the facility they attend. It is in the Resource Center that students have a predetermined appointment, every week, with their designated teacher to submit and discuss previous assignment, have assignments evaluated, receive new assignments and participate in assessments. These weekly meetings between teacher and student are designed to last approximately one hour. The assignments themselves (and therefore a large majority of the student's work) are completed at the student's home.

Our projected enrollment for the first year of operation is 100- 200 with a long-term plan to reach 500 students. Please refer to the chart below, as well as the classroom breakout to understand how the students would be accommodated.

People on site at one time.			
Student Enrollment	Staff (Teachers, Tutors, Front Office)	Students	Total
100	3	8	11
200	5	16	21
300	14	48	62
400	19	64	83
500	25	80	105

*All numbers below represent the maximum capacity for the specified phase. Numbers are approximate as some flexibility is required for computer time, tutoring and one on one time with teachers.*

ROOM	STAFF		STUDENT		TOTAL	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Main Entry	1	2	0	0	1	2
Computers Library	4	2	8	4	12	6
Tutoring 1-3	2	2	6	4	8	6
Classroom 1	0	1	0	5	0	6
Tutoring 4-7	0	1 per room	0	3 per room	0	16
Classroom 2	0	1	0	4	0	5
Classroom 3	0	1	0	4	0	5
Classroom 4	0	1	0	4	0	5
Classroom 5	0	1	0	4	0	5
Classroom 6	0	1	0	4	0	5

Classroom 7	0	1	0	4	0	5
Classroom 8	0	1	0	4	0	5
Classroom 9	0	1	0	4	0	5
Classroom 10	0	1	0	5	0	6
Classroom 11	0	1	0	4	0	5
Classroom 12	0	1	0	4	0	5
Classroom 13	0	1	0	4	0	5
<b>Appx. TOTAL</b>					21	97

**Richard Greenbauer**

**From:** Jerry Hittleman  
**Sent:** Thursday, November 03, 2011 1:15 PM  
**To:** Richard Greenbauer  
**Subject:** FW: Call for Review of Planning Commission Item

Here's #2....

**From:** Valerie Carpenter **On Behalf Of** Jim Wood  
**Sent:** Thursday, November 03, 2011 12:04 PM  
**To:** Esther Sanchez; Peter Weiss; John Mullen; Jerry Hittleman; Barbara Riegel Wayne  
**Cc:** Jim Wood  
**Subject:** RE: Call for Review of Planning Commission Item

Yes, I support this "Call for Review" with further discussion on the issue.

JIM WOOD  
 Mayor

Thank you,  
 Valerie Carpenter  
 Aide to Mayor Jim Wood  
 City of Oceanside  
 300 North Coast Highway  
 Oceanside, CA 92054  
 Telephone: 760.435.3060  
 Fax: 760.435.6013

**From:** Esther Sanchez  
**Sent:** Thursday, November 03, 2011 6:03 AM  
**To:** Peter Weiss; John Mullen; Jerry Hittleman; Barbara Riegel Wayne  
**Cc:** Jim Wood  
**Subject:** Call for Review of Planning Commission Item

**CALL FOR REVIEW OF SPLIT PLANNING COMMISSION DECISION**

**CUP10-00030; PLANNING COMMISSION RESOLUTION NO. 2011-P34**

I call for review the October 24, 2011 split decision (4-3) of the Planning Commission, CUP10-00030/PCRN 2011-P34, which allows the establishment and operation of a charter school with up to 500 students at Mission Square Shopping Center, 320 N. Home Street, by Diego Hills Public Charter, Inc. of Lancaster, California via a conditional use permit in perpetuity.

**I call the conditional use permit for review on the following grounds, among others:**

1. Mission Square Shopping Center is a busy commercial area, sitting on prime coastal commercial land just west of interstate I-5. Allowing a school use in perpetuity represents future **loss of jobs, sales tax and economic development** of this site, with the potential loss of businesses currently operating there, including Office Depot, 99 Cent Store, etc. The charter school will severely restrict future businesses from locating in the shopping center, as well as foreclose the potential viability of the shopping center for higher end restaurants, etc.
2. The charter school proposes to establish a duplicate program that already exists at Oceanside Unified School District (OUSD) – the Academic Recovery Center (ARC) -- at Oceanside High School, El Camino High School, Claire Burgener Academy, and Ocean Shores. **Allowing a duplicate program will mean a loss of jobs and funding for existing programs and an economic net loss of jobs to our city and our region.**
3. Diego Hills Public Charter, which has suffered failures in other parts of the state, will have **no local review or control**. The lack of review means an unproven/unsupervised curriculum will be allowed to take funding for up to 500 students from existing well-performing public and charter schools, without

demonstrating positive academic achievement to the local community and the development of a well-educated workforce. The "one hour, one day a week" program will attract students from already successful programs. Local parents will not be able to travel to Lancaster or Sacramento to voice their concerns about the school, forcing parents to add to a critical situation by pulling their child out of school in the middle of the school year.

4. While a previous charter school, the **School of Business and Technology**, had a **2 year conditional use permit**, the school was **supervised by OUSD**, **offered a program that did not exist and was not duplicative, and was intended to be at the shopping center for a short period of time** while the school looked for a permanent site.

5. This is **not a safe location for a school for our kids**. There is a delicate balance between the Eastside and Crown Heights communities. Gang violence has erupted at the shopping center, recently with 3 attempt murders. A school will **negatively impact police services and other resources**.

The community has a positive relationship with and supports our current successful programs and teachers. This unproven charter school which will have a negative impact on the city's programs, jobs and sales tax.

## Richard Greenbauer

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**From:** Jerry Hittleman  
**Sent:** Thursday, November 03, 2011 11:10 AM  
**To:** Richard Greenbauer  
**Cc:** Lupe Walker  
**Subject:** FW: Call for Review of Planning Commission Item

fyi

**From:** Esther Sanchez  
**Sent:** Thursday, November 03, 2011 6:03 AM  
**To:** Peter Weiss; John Mullen; Jerry Hittleman; Barbara Riegel Wayne  
**Cc:** Jim Wood  
**Subject:** Call for Review of Planning Commission Item

### CALL FOR REVIEW OF SPLIT PLANNING COMMISSION DECISION

#### CUP10-00030; PLANNING COMMISSION RESOLUTION NO. 2011-P34

I call for review the October 24, 2011 split decision (4-3) of the Planning Commission, CUP10-00030/PCRN 2011-P34, which allows the establishment and operation of a charter school with up to 500 students at Mission Square Shopping Center, 320 N. Home Street, by Diego Hills Public Charter, Inc. of Lancaster, California via a conditional use permit in perpetuity.

**I call the conditional use permit for review on the following grounds, among others:**

1. Mission Square Shopping Center is a busy commercial area, sitting on prime coastal commercial land just west of interstate I-5. Allowing a school use in perpetuity represents future **loss of jobs, sales tax and economic development** of this site, with the potential loss of businesses currently operating there, including Office Depot, 99 Cent Store, etc. The charter school will severely restrict future businesses from locating in the shopping center, as well as foreclose the potential viability of the shopping center for higher end restaurants, etc.
2. The charter school proposes to establish a duplicate program that already exists at Oceanside Unified School District (OUSD) – the Academic Recovery Cent (ARC) -- at Oceanside High School, El Camino High School, Claire Burgener Academy, and Ocean Shores. **Allowing a duplicate program will mean a loss of jobs and funding for existing programs and an economic net loss of jobs to our city and our region.**
3. Diego Hills Public Charter, which has suffered failures in other parts of the state, will have **no local review or control**. The lack of review means an unproven/unsupervised curriculum will be allowed to take funding for up to 500 students from existing well-performing public and charter schools, without demonstrating positive academic achievement to the local community and the development of a well-educated workforce. The "one hour, one day a week" program will attract students from already successful programs. Local parents will not be able to travel to Lancaster or Sacramento to voice their concerns about the school, forcing parents to add to a critical situation by pulling their child out of school in the middle of the school year.
4. While a previous charter school, the **School of Business and Technology**, had a **2 year conditional use permit**, the school was **supervised by OUSD, offered a program that did not exist and was not duplicative, and was intended to be at the shopping center for a short period of time** while the school looked for a permanent site.
5. This is **not a safe location for a school for our kids**. There is a delicate balance between the Eastside and Crown Heights communities. Gang violence has erupted at the shopping center, recently with 3 attempt murders. A school will **negatively impact police services and other resources**.

The community has a positive relationship with and supports our current successful programs and teachers. This unproven charter school which will have a negative impact on the city's programs, jobs and sales tax.

ATTACHMENT 8

Appeal

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Received by: Holly  
Via: Peter Weiss via Esther  
Copy to: George, Jerry, Clerk  
and staff

---

Jerry,

Peter Weiss just brought this petition down to our office. It appeals the Planning Commission decision regarding 2011-P34, regarding a charter school at Mission Square Shopping Center.

Deputy Mayor Sanchez sent a call for review on this item on November 3, and Mayor Wood sent an email in support of that call for review.

Staff has indicated that a woman dropped off an envelope addressed to Deputy Mayor Sanchez and asked that we put it in her mailbox. We date stamped a sticky note with Nov. 3 and placed it on the outside of the envelope, which we put in the interoffice mailbox on that date, not knowing what was in the envelope. The woman did not want to bother Esther during the Coastal Commission meeting.

Peter indicated that Maria Russell followed up on this. So I assume she is the contact person? **Esther wanted to make sure the appeal came forward both as a Council call for review and a citizen appeal.**

Thanks,

Holly

cc: George

**RECEIVED**

NOV 03 2011

OCEANSIDE CITY CLERK

Dropped off  
in envelope addressed  
to Esther - asked us to  
put in mailbox for her -  
did not want to disturb  
her during Coastal Comm.

**APPEAL OF SPLIT PLANNING COMMISSION DECISION  
CUP10-00030; PLANNING COMMISSION RESOLUTION NO. 2011-P34**

TO: MAYOR JIM WOOD AND CITY COUNCIL MEMBERS JACK FELLER, JERRY KERN, GARY FELIEN, AND ESTHER SANCHEZ

WE, residents and taxpayers of the City of Oceanside, hereby appeal the October 24, 2011 split decision (4-3) of the Planning Commission, CUP10-00030/PCRN 2011-P34, which allows the establishment and operation of a charter school with up to 500 students at Mission Square Shopping Center, 320 N. Home Street, by Diego Hills Public Charter, Inc. of Lancaster, California via a conditional use permit in perpetuity.

We respectfully request that the Oceanside City Council DENY the conditional use permit on the following grounds:

1. Mission Square Shopping Center is a busy commercial area, sitting on prime coastal commercial land just west of interstate I-5. Allowing a school use in perpetuity represents future loss of jobs, sales tax and economic development of this site, with the potential loss of businesses currently operating there, including Office Depot, 99 Cent Store, etc. The charter school will severely restrict future businesses from locating in the shopping center, as well as foreclose the potential viability of the shopping center for higher end restaurants, etc.
2. The charter school proposes to establish a duplicate program that already exists at Oceanside Unified School District (OUSD) – the Academic Recovery Center (ARC) – at Oceanside High School, El Camino High School, Claire Burgener Academy, and Ocean Shores. Allowing a duplicate program will mean a loss of jobs and funding for existing programs and an economic net loss of jobs to our city and our region.
3. Diego Hills Public Charter, which has suffered failures in other parts of the state, will have no local review or control. The lack of review means an unproven/unsupervised curriculum will be allowed to take funding for up to 500 students from existing well-performing public and charter schools, without demonstrating positive academic achievement to the local community and the development of a well-educated workforce. The “one hour, one day a week” program will attract students from already successful programs. Local parents will not be able to travel to Lancaster or Sacramento to voice their concerns about the school, forcing parents to add to a critical situation by pulling their child out of school in the middle of the school year.
4. While a previous charter school, the School of Business and Technology, had a 2 year conditional use permit, the school was supervised by OUSD, offered a program that did not exist and was not duplicative, and was intended to be at the shopping center for a short period of time while the school looked for a permanent site.
5. This is not a safe location for a school for our kids. There is a delicate balance between the Eastside and Crown Heights communities. Gang violence has erupted at the shopping center, recently with 3 attempt murders. A school will negatively impact police services and other resources.

The community has a positive relationship with and supports our current successful programs and teachers. Please DENY this unproven charter school which will have a negative impact on the city’s programs, jobs and sales tax. Thank you.

NAME

ADDRESS

- |     |                   |   |
|-----|-------------------|---|
| 1.  | Maria Garcia      | 807 Langford St APTS oceanside CA 92058               |
| 2.  | YESSENIA GOMEZ    | 1511 PULS ST OCEANSIDE CA 92058                       |
| 3.  | Romelia Perez     | 1515 1/2 PULS ST Oceanside 9205                       |
| 4.  | Maria Cruz        | 1310 Breze ST oceanside CA 92058                      |
| 5.  | Madaly Tomas      | 1435 dubuque st <sup>APT # 2</sup> oceanside CA 92058 |
| 6.  | Adriana Arredondo | 1513 PULS st Oside CA 92058                           |
| 7.  | Claudia Garcia    | 1d13 Division st #4 oceanside CA 92054                |
| 8.  | Concha H. Greene  | 1323 Puls St Oside, CA 92058                          |
| 9.  | Fran Rubedony     | 1333 PULS Oside, CA 92058                             |
| 10. | Maria Garcia      | 1309 Higgins ST oceanside CA 92058                    |

**APPEAL OF SPLIT PLANNING COMMISSION DECISION  
CUP10-00030; PLANNING COMMISSION RESOLUTION NO. 2011-P34**

*Lemon St.*

TO: MAYOR JIM WOOD AND CITY COUNCIL MEMBERS JACK FELLER, JERRY KERN, GARY FELIEN, AND ESTHER SANCHEZ

WE, residents and taxpayers of the City of Oceanside, hereby appeal the October 24, 2011 split decision (4-3) of the Planning Commission, CUP10-00030/PCRN 2011-P34, which allows the establishment and operation of a charter school with up to 500 students at Mission Square Shopping Center, 320 N. Horne Street, by Diego Hills Public Charter, Inc. of Lancaster, California via a conditional use permit in perpetuity.

**We respectfully request that the Oceanside City Council DENY the conditional use permit on the following grounds:**

1. Mission Square Shopping Center is a busy commercial area, sitting on prime coastal commercial land just west of interstate 1-5. Allowing a school use in perpetuity represents future loss of jobs, sales tax and economic development of this site, with the potential loss of businesses currently operating there, including Office Depot, 99 Cent Store, etc. The charter school will severely restrict future businesses from locating in the shopping center, as well as foreclose the potential viability of the shopping center for higher end restaurants, etc.
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4. While a previous charter school, the School of Business and Technology, had a 2 year conditional use permit, the school was supervised by OUSD, offered a program that did not exist and was not duplicative, and was intended to be at the shopping center for a short period of time while the school looked for a permanent site.
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NAME	ADDRESS
1. MARIA RUSSELL <i>Maria Russell</i>	1323 LEMON STREET
2. MAICK MAJESS <i>Maick Majess</i>	1325 LEMON STREET
3. AGUSTINA O. SANCHEZ <i>A.O. Sanchez</i>	1329 LEMON STREET
4. EDITH SANCHEZ	1318 LEMON ST
5. DAVID HERNANDEZ <i>David Hernandez</i>	1440 LEMON ST O'SIDE CA.
6. Lindsay Podumek <i>Lindsay Podumek</i>	13310 Lemon St 92058
7. Sandra Carmona <i>Sandra Carmona</i>	1326 Lemon St 92058
8. <del>_____</del>	1322 LEMON ST 92058
9. George Hernandez	1507 Dubuque 92058
10. MARIA ROSA	1424 MARGUERITE ST. apt 18 O'SIDE, CALIF 9205

**APPEAL OF SPLIT PLANNING COMMISSION DECISION  
CUP10-00030; PLANNING COMMISSION RESOLUTION NO. 2011-P34**

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**We respectfully request that the Oceanside City Council DENY the conditional use permit on the following grounds:**

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NAME

ADDRESS

- |     |                         |   |
|-----|-------------------------|---|
| 1.  | <u>Olga Jarama</u>      | <u>1417 HIGGINS ST Oceanside ca.</u>      |
| 2.  | <u>Artemia Martinez</u> | <u>1422 Higgins ST Oceanside CA 92058</u> |
| 3.  | <u>Amjad Chaur</u>      | <u>1325 Pils ST Oceanside 92058</u>       |
| 4.  | <u>Allen Soto</u>       | <u>516 SANTA BARBARA Oceanside 92058</u>  |
| 5.  | <u>Aaron Blid</u>       | <u>1414 Leman St Oceanside 92058</u>      |
| 6.  | _____                   | _____                                     |
| 7.  | _____                   | _____                                     |
| 8.  | _____                   | _____                                     |
| 9.  | _____                   | _____                                     |
| 10. | _____                   | _____                                     |

California Department of Education (<http://www.cde.ca.gov/sp/cs/re/cefcharterschools.asp>)  
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## Charter Schools *CalEdFacts* - *CalEdFacts*

This content is part of California Department of Education's information and media guide about education in the State of California. For similar information on other topics, visit the full [CalEdFacts](#).

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A charter school is a public school that may provide instruction in any combination of grades (kindergarten through grade twelve). Parents, teachers, or community members may initiate a charter petition, which is typically presented to and approved by a local school district governing board. The law grants chartering authority to county boards of education and the State Board of Education under certain circumstances, such as the appeal of a petition's denial by a school district governing board or the direct approval of countywide benefit or statewide benefit charter schools.

The specific goals and operating procedures for a charter school are detailed in the agreement (the charter) between the authorizing entity and the school's organizers. Charter status frees the school from many of the state statutes and regulations that apply to school districts. It is the intent of the California Legislature under state law that charter schools operate independently from the existing school district structure as a method to accomplish all of the following:

- Improve pupil learning.
- Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.
- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the schoolsite.
- Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.
- Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

Charter schools are subject to the following conditions:

- An existing private school may not be converted to a charter school.
- A charter school must be nonsectarian.
- A charter school may not discriminate, nor can it charge tuition.
- No pupil can be required to attend a charter school, nor can teachers be required to work in a charter school.
- A charter school must have highly qualified, credentialed teachers in all core subjects.
- Charter schools must admit all students who wish to attend the school; however, if the number of students exceeds the school's capacity, attendance shall be determined by a public random drawing. Certain attendance preferences are available under state law.

In 1992, California became the second state in the nation to adopt public charter school legislation. Currently, about 982 active charter schools and eight all-charter districts are operating in California. Of the individual active charter schools:

- Approximately 85 percent are start-up schools, and the remainder are conversions of pre-existing public schools.
- Approximately 77 percent are classroom- or site-based, and the remainder are either partially or exclusively nonclassroom-based (independent study).
- Approximately 71 percent are directly funded (i.e., have a separate account in the county treasury), and the remainder are locally funded (i.e., are included in the budget of the chartering authority).

Charter schools are located throughout the state in 50 of California's 58 counties and in rural, suburban, and urban areas. Student populations are diverse and tend to reflect the student populations of the districts in which the charter schools are located. The number of students enrolled in charter schools is approximately 370,000, or approximately six percent of the public school student population in California.

Innovative charter schools provide programs that offer everything from an emphasis on foreign languages to performing and fine arts. Some charter schools develop partnerships with other public agencies (such as the California Conservation Corps, county government agencies, and local community colleges), and some provide specialized programs (such as a program to place students in work experience settings or a program of comprehensive family services). Although most charter school students attend site-based programs with the look and feel of a traditional classroom, other students participate in programs with research-based alternative learning modalities (such as the Montessori method) or programs that are tailored to the needs of the individual student (such as nonclassroom-based or independent study and virtual programs). In some cases, charter schools focus on dropout recovery, providing a second chance to students who wish to pursue a high school diploma but who have not been successful in other settings.

All charter schools must participate in the Standardized Testing and Reporting (STAR) program and other state assessments. Charter schools receive an Academic Performance Index like all other public schools. An interactive Web-based map, which affords the public easy access to specific information on charter schools, is available on the [CDE Charter Schools in California Counties Web page](http://www.cde.ca.gov/ds/si/cs/index.asp) [http://www.cde.ca.gov/ds/si/cs/index.asp].

For more information regarding charter schools, contact the Charter Schools Division at 916-322-6029, or by e-mail at [charters@cde.ca.gov](mailto:charters@cde.ca.gov). Additional information is available on the [CDE Charter Schools Web page](http://www.cde.ca.gov/sp/cs/index.asp) [http://www.cde.ca.gov/sp/cs/index.asp] and the [U.S. Charter Schools Web site](http://www.uscharterschools.org/pub/uscs_docs/index.htm) [http://www.uscharterschools.org/pub/uscs\_docs/index.htm] (Outside Source).

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#### Related Content

- [Charter School Revolving Loan Fund Information](#) - General Information regarding the Charter School Revolving Loan Program.
- [Charter School Facility Grant Program](#) - The Charter School Facility Grant Program provides assistance with facilities rent and lease expenditures for charter schools that meet specific eligibility criteria.
- [Nonclassroom-Based Instruction and Senate Bill 740](#) - Information for nonclassroom-based instruction schools on how to apply for a funding determination.
- [Frequently Asked Questions about Charter Schools](#) - Questions commonly asked about charter schools.
- [Public Charter Schools Grant Program](#) - Information on the current cycle of the Public Charter Schools Grant Program (PCSGP).

Questions: Charter Schools Division | [charters@cde.ca.gov](mailto:charters@cde.ca.gov) | 916-322-6029

Last Reviewed: Thursday, November 03, 2011