

**City of Culver City, California
Agenda Item Report**

Meeting Date: 9/10/2012		Item Number: <u>PH-2</u>	
CITY COUNCIL AGENDA ITEM: PUBLIC HEARING – Consideration of an Appeal of Planning Commission Denial of Conditional Use Permit Modification (CUP/M 2011-175) to Allow the Addition of 200 Students to The Help Group Private School Facility at 12095-12101 Washington Boulevard.			
Contact Person/Dept.: Thomas Gorham, CDD Joshua Williams, CDD		Phone Number: (310) 253-5710 (310) 253-5706	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☒		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☒ No ☐ Date: 06/20/12			
Public Notification: Notices mailed to all property owners and occupants within a 500-foot radius of the project site (8/20/12); Meetings and Agendas – City Council (9/5/12); Applicant and property owner (8/20/12).			
Department Approval: Sol Blumenfeld: (08/29/12)		City Attorney Approval: Carol Schwab (by H. Baker) (08/29/12)	
Chief Financial Officer Approval: Jeff Muir (09/05/12)		City Manager Approval: John Nachbar (09/05/12)	
<u>RECOMMENDATION:</u> Staff recommends the City Council consider the appeal of the Planning Commission's denial of Conditional Use Permit Modification, CUP/M 2011-175, to allow the addition of 200 students to The Help Group private school facility at 12095-12101 Washington Boulevard and either: 1. Deny the appeal and affirm the Planning Commission's denial of CUP/M 2011-175. OR 2. Grant the appeal and (i) reverse the Planning Commission's denial of CUP/M 2011-175 and (ii) approve CUP/M 2011-175. <u>PROCEDURE:</u> 1. Mayor calls on staff for a brief staff report and the City Council poses questions to staff as desired. 2. Mayor opens the public hearing, providing the applicant the first opportunity to speak, followed by the general public. 3. Mayor seeks a motion to close the public hearing after all testimony has been presented.			

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4. The City Council discusses the matter and arrives at its decision.

BACKGROUND:

Appeal

On June 20, 2012 the Planning Commission adopted Resolution No. P2012-005 (Attachment No. 1) denying a Conditional Use Permit/Modification (CUP/M) request by The Help Group school to increase its enrollment by 200 students. On July 5, 2012, a timely appeal was filed pursuant to Culver City Municipal Code (CCMC) Section 17.640.030 by Jeffer Mangels Butler & Mitchell, LLP (representing The Help Group) regarding the Planning Commission's CUP/M denial.

The basis for the appeal is summarized as follows:

- The Planning Commission's finding (Finding "C") that the project will result in negative impacts related to noise and traffic is unsubstantiated by the evidence in the record including the project noise analysis and traffic study.
- The Planning Commission's finding (Finding "D") that the substantial increase in student enrollment is not compatible with the existing site configuration and means of access is unsubstantiated by evidence in the record including the project's Traffic Management Plan.
- The Planning Commission's finding (Finding "D") that the project will result in noise and traffic impacts that are detrimental to the public interest, health, safety or general welfare is unsubstantiated by the evidence in the record including the project noise analysis and Traffic Management Plan.
- The Planning Commission considered a policy issue related to the presence of non-profit schools in the City that denied The Help Group due consideration of its specific application to increase student enrollment.

A copy of the entire appeal is included as Attachment No. 2 – Appeal Document, dated July 5, 2012.

Project

On December 13, 2011, The Help Group school (the "Applicant"), located at 12095-12101 Washington Boulevard, submitted an application to modify its existing Conditional Use Permit (CUP) in order to add 250 students, thereby increasing student enrollment from 400 students to 650 students. The request has since been modified to add 200 students for a total of 600 students. The Help Group was originally established through the approval of a Conditional Use Permit in 1999 to operate a 400 student private school at the subject location, and all of the buildings

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on the site are approved for school uses. The school operations have not been modified for thirteen years. The Help Group campus is occupied by two separate private school facilities, Summit View School and Village Glen School, both under The Help Group umbrella organization. The Summit View School serves approximately 100 students with specific learning disabilities, from grades 1 through 12. The Village Glen School serves approximately 300 students with social and communicative disabilities, including Asperger's Disorder, high-functioning autism, and nonverbal learning disabilities, from grades Pre-K through 12.

In order to accommodate the 200 student increase, The Help Group proposes to convert the building at 12095 Washington Boulevard from medical offices, a pharmacy and a second hand clothing store operated by the school into classrooms, staff offices, a multi-purpose room, and support facilities (See Attachment No. 3 – Project Plans). The rooftop of the building will also be converted to play area as provided under the prior 1999 CUP approval. The CUP Modification request is only for the additional 200 students.

On April 11, 2012, the Planning Commission held a duly noticed public hearing to consider the applicant's request for Conditional Use Permit Modification (CUP/M) P-2011175 and determined to continue the item to May 9, 2012, with a request that staff and the applicant address the following: 1) identify business tax revenues generated by the uses at 12095 Washington Boulevard between 2000 to the present; 2) clarify the methodology used for the project's traffic study from the City's traffic engineer; 3) provide a letter from the project acoustical engineer identifying potential noise impacts from the proposed rooftop play area; and 4) provide an updated Staff Report and Environmental document clarifying that the analysis includes the overall impacts of 650 students, not just the additional 250 students.

At the continued hearing on May 9, 2012, the Planning Commission considered the supplementary information and voted 3-2 to deny the project and the related Negative Declaration. On May 23, 2012, following receipt of new information from the applicant and prior to adoption of the Resolution denying the application, the Planning Commission, by a vote of 3-2, approved a motion to reconsider its denial of the CUP Modification and disapproval of the related Negative Declaration.

On June 20, 2012, the Planning Commission held a duly noticed public hearing to reconsider the Help Group's application. Prior to the hearing, the applicant revised its application in order to address concerns the Commission presented as reasons for its original denial. Project changes and voluntary conditions of approval included the following:

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- Student Enrollment: In order to address concerns from the Commission regarding potential traffic and circulation impacts, the applicant proposed to reduce the total enrollment increase from 250 students to 200 students. The applicant further explained that the 200 student addition would not occur all at once. An increase in enrollment would occur over at least a three year period, allowing them to modify on-site circulation over time if issues were identified. The reduction in student enrollment would result in a decrease in trips to and from the school each day by bus, taxi vans and parent transportation.
- Noise: In order to address concerns about noise from neighbors and the Commission, the applicant also agreed to build a 14-foot high wall along the shared property line with residential properties located in the City of Los Angeles, which abut the school's central play area. The applicant agreed to work with its neighbors regarding a design for the wall, before seeking approval for the higher wall from the City of Los Angeles (the portion of the school campus where the play area and wall are located is in the jurisdiction of the City of Los Angeles). The applicant's acoustical consultant identified that the increase in wall height will result in a reduction of 10 decibels in noise impacts from pick-up and drop-off activities and playground usage at the school. After construction of the higher wall, noise levels will be a minimum of 15 decibels lower than the allowable noise levels identified in the City's Noise Element of the General Plan.
- Financial Contribution: The Help Group has volunteered to compensate the City for lost revenues due to the conversion of the building at 12095 Washington Boulevard from medical offices and a school operated retail store to school facilities. As part of their proposal to the Planning Commission, The Help Group voluntarily offered to pay an amount of \$14,650 annually to reimburse the City for lost property tax and business tax revenue (\$11,650) from the building that will be converted into classroom use. This figure is based on the amount of annual property tax the City would have received from the property if it was not non-profit exempt and the amount of annual business tax the City is losing by the building no longer being used for medical offices. The additional amount (\$3,000) is to cover cost for emergency services. The Fire Department has reported 96 calls to The Help Group campus since 2002. The Fire Department does charge for transport and at the current billing rates a total of \$34,900 was charged for those calls for an average of \$1,586 per call. The remaining 74 calls out of the 96 total had no charges. The Fire Chief has provided an estimate of what the cost for services for those calls was to the City. The costs are based on the number of units responding and the actual time committed per incident based on an hourly rate. Of the 74 calls, 9 calls were handled by a single unit response

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and 65 were handled by 3 units. Based on the Chief's estimate, the 9 single unit response cost to the City was \$885.37 and the 65 three unit responses cost to the City was \$19,183.09 for a total cost of \$20,068.46 over the 10 year period for an average annual cost for emergency services incurred over a 10 year period of \$2,000. The Help Group has proposed to add an additional \$1,000 to account for the increase of 200 students for a total of \$3,000 per year.

The Help Group has proposed to augment their voluntary financial contribution by \$2,400 per year to account for police calls to the school campus. Since the Police Department does not currently assign a cost to police calls, this number has been extrapolated from the Fire Department's 10-year cost of unreimbursed fire/paramedic calls on a per unit basis for The Help Group (see below).

<u>Calls</u>	<u># of Vehicles</u>	<u>Cost</u>	<u>Cost per Vehicle</u>
9	1	\$885.00	\$98.33
65	3	\$19,183.00	\$98.37

The CCPD reports 164 police calls over the past ten year period. Using a rounded up cost of \$100 per call for the average of 16 calls per year, the estimated cost for emergency service would equate to \$1,600.00. In keeping with The Help Group's voluntary contribution for unreimbursed fire/paramedic calls, an additional 50% (\$800) would be added to reflect the 200 student enrollment increase. With this augmentation, The Help Group proposes a total annual payment of \$17,050.

As noted above, the Help Group has agreed to this voluntarily financial contribution as a Project condition in order to make the City whole.

- Circulation: The project's traffic analysis, reviewed and accepted by the City's traffic engineer, identified that the project will not result in any significant impacts at any of the studied intersections. As part of the traffic analysis, the applicant submitted a Traffic Management Program (TMP) which identified the methods the school will use to conduct an orderly drop-off and pick-up of students from the campus using a combination of buses, contracted taxi-vans and parents' private vehicles. The TMP included a suggestion (provided by the City's traffic engineer) to restrict five metered parking spaces on Washington Boulevard during the morning drop-off and afternoon pick-up periods only if the queuing of vehicles entering the site began to block traffic on Washington Boulevard. The Planning Commission requested the removal

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of this suggestion, citing the potential lost revenue from on-street parking meters.

- Future Development: The Help Group has volunteered a condition of approval to waive its right to file for any future increase in the number of students beyond the requested 600 student enrollment for the properties included in the CUP.

The Planning Commission considered the above information and determined that it could not support the proposed expansion and adopted a motion (3 to 2) to deny the project and the related Negative Declaration, finding that the increase in student enrollment would create noise and traffic impacts. (See Attachment No.1).

Response to Appeal

Traffic Impacts

The project's traffic analysis, reviewed and accepted by the City's traffic engineer, identified that the project will not result in any significant impacts at any of the studied intersections. As part of the traffic analysis, the applicant submitted a Traffic Management Program (TMP) which identified the methods the school will use to conduct an orderly drop-off and pick-up of students from the campus using a combination of buses, contracted taxi-vans, and parents' private vehicles. The TMP implements a staggered drop-off and pick-up of students so that all activities take place on campus. The reduction in the requested student enrollment from 250 students to 200 students reduces the number of busses transporting students from 11 to 9 and the number of cabs transporting students from 47 to 43.

Culver City's traffic study criteria are similar to the traffic study criteria used throughout Los Angeles County, statewide and nationwide. Culver City's traffic study criteria state, "The traffic study shall assess the ability of the transportation system to accommodate additional traffic generated by the related projects and the subject project." All traffic studies consider the incremental increase in traffic caused by the subject development, and the traffic generated by existing school use is included in the traffic counts. The project's traffic study correctly calculated the increase in traffic generated by the project based on 250 additional special education students. There are 400 special education students currently enrolled in the school. The traffic counts were taken on a day when school was in session. Therefore, the traffic counts recorded all the traffic on the highway system, including the traffic generated by the 400 students presently attending the school and the resulting traffic was determined not to result in any significant impacts at any of the studied intersections.

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Noise

As noted above, the applicant has agreed to build a 14-foot high wall along the shared property line with residential properties located in the City of Los Angeles, which abut the school's central play area. The applicant agreed to work with its neighbors regarding a design for the wall, before seeking approval for the higher wall from the City of Los Angeles (the portion of the school campus where the play area and wall are located is in the jurisdiction of the City of Los Angeles). The applicant's acoustical consultant identified that the increase in wall height will result in a reduction of 10 decibels in noise impacts from pick-up and drop-off activities and playground usage at the school. After construction of the higher wall, noise levels will be a minimum of 15 decibels lower than the allowable noise levels identified in the City's Noise Element of the General Plan. Further, the noise at this playground location is not expected to increase from the additional 200 students. The additional 200 students will be located in the 12095 Washington Boulevard building with a playground for those students located on the building's rooftop. The location of the building is not directly adjacent to residential neighbors to the north and is buffered by the adjacent existing 4-story building. Further, the rooftop playground will be enclosed on three sides by a 10-foot high parapet wall. The noise analysis concludes that the noise emanating from this playground will be approximately 15-20 decibels below the current ambient levels.

Special Conditions of Approval

The proposed conditions of approval for the Conditional Use Permit Modification (See Attachment No. 6 – Exhibit A) that mitigate project impacts are as follows:

- The Project shall provide up to a 14-foot high wall along the shared property line between the school's playground and the abutting residential properties (12028 to 12042 Sylvester Street) in the City of Los Angeles. Plans for the wall shall be provided to the Culver City Planning Division and abutting property owners for review and comment prior to submittal to the City of Los Angeles.
- Follow-up review reports on the operation of the Traffic Management Program (TMP) shall be submitted to the Planning Division after six months and after one year of full operation. The Applicant shall enter into a Memorandum of Understanding (MOU) with the City which outlines the scope and content of the reports. If it is determined by the Planning Manager and the City's Traffic Engineer that the goals of the TMP are not achieved, additional requirements may be imposed as determined by the Planning Manager and the City's Traffic Engineer.
- The maximum number of students for the combined Village Glen School and Summit View School shall not exceed 600. A letter verifying the student

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enrollment shall be submitted annually to the Planning Manager no more than 30 days after the commencement of the school year.

- No more than 15 permits shall be issued for students to drive to the Summit View School.
- The maximum number of staff for the combined Village Glen School and Summit View School shall not exceed 177. A list of all staff shall be submitted to the Planning Manager annually 14 days prior to the commencement of the school year.
- Transports dropping-off and picking-up students in the Grand View Boulevard parking lot and drop area (adjacent to the Washington Boulevard and Grand View Boulevard intersection) shall be permitted to exit the area using a left turn or right turn onto Grand View Boulevard.
- Metered street parking shall not be used for a queuing area to the site. No School-operated vehicles shall use the metered street parking at any time.
- The Applicant has voluntarily agreed that it shall waive its right to request any future increase in the number of students beyond the 600 students permitted by this Conditional Use Permit Modification.
- To alleviate the financial impact on City resources due to its non-profit status, and to help ensure the public health, safety and welfare are provided, the Applicant, on behalf of itself and each of its successors and assigns, has voluntarily agreed, for as long as the Applicant and any non-profit successor or assign takes benefit of this Conditional Use Permit, to reimburse the City for lost property tax and business tax revenue, and cost for emergency services, in the amount of \$17,050 annually. Applicant shall make said payment to the City's General Fund on or before June 30 of each year. The payment shall be increased annually based on the Bureau of Labor Statistics Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Metropolitan Area published in June of each year.

Required Findings in Support of the Project Approval

Zoning Code Chapter 17.530 – “Administrative Use Permits and Conditional Use Permits” outlines procedures for reviewing AUP and CUP applications that are intended to allow for specified uses as identified in the various zoning districts, whose effect on surrounding area cannot be determined before being proposed for a particular location.

- A. The proposed use is allowed within the subject zoning district with the approval of an Administrative Use Permit or Conditional Use Permit and complies with all other applicable provisions of this Title and the CCMC.

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- B. The proposed use is consistent with the General Plan and any applicable Specific Plan.
- C. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity of the subject site.
- D. The subject site is physically suitable for the type and intensity of use being proposed, including access, compatibility with adjoining land uses, shape, size, provision of utilities, and the absence of physical constraints.
- E. The establishment, maintenance or operation of the proposed use will not be detrimental to the public interest, health, safety, or general welfare, or injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

The Planning Commission determined that there was insufficient evidence in the record to make findings C, D and E and, therefore, denied the CUP Modification and disapproved the related Negative Declaration.

Environmental Determination:

Pursuant to the California Environmental Quality Act (CEQA) guidelines, a Negative Declaration has been prepared; the project has been determined to have less than significant impacts on the community (Attachment No. 3). If the City Council grants the applicant's appeal and approves the CUP Modification, it must also take action to approve the Negative Declaration.

City Council Review Authority:

The City Council's consideration of the appeal is "de novo." In essence, this means the City Council is holding a new hearing. In that regard, the City Council is not solely limited to considering the record that was before the Planning Commission.

The City Council's review authority for this appeal is governed by CCMC Section 17.640.030.D, which provides that the City Council may consider any issue involving the matter that is the subject of the appeal in addition to the specific grounds that form the basis of the appeal. In its consideration of this matter, the City Council may take the following actions:

- Affirm, affirm in part, or reverse the Planning Commission's decision.

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- Amend or adopt additional conditions of approval that may address issues or concerns regarding the Project (regardless of whether they were raised in the appeal).
- If new or different evidence is presented on appeal, the City Council may, but is not required to, refer the matter back to the Planning Commission for further consideration.

CONCLUSION:

The applicant has attempted to address all of the questions and concerns raised during public testimony received at four public hearings regarding the project. The concerns addressed included: 1.) Noise impacts, addressed by the construction of a 14 foot high wall along the property line abutting residential neighbors to the north; 2.) Traffic impacts, addressed by the reduction of the student enrollment from 250 to 200 thereby reducing bus and cab trips to the campus; 3.) Traffic study accuracy questions, addressed by the City's traffic engineer who concluded that the project's traffic study is accurate and that the 600 student school enrollment will not result in any significant traffic impacts and that the traffic management plan is acceptable and adequate to mitigate any potential traffic impacts from student transport activities. Further, the use is permitted in the zone subject to conditions to mitigate any significant impacts, and special conditions have been prepared to address any potential project impacts.

FISCAL IMPACT:

This is a private venture project with no City funding for the project. If the appeal is denied and the Planning Commission's denial is upheld, then there would be no fiscal impact on the City other than cost for emergency services. If the appeal is approved and the Planning Commission's denial is overturned, then the City would receive an annual payment of \$17,050 that The Help Group has volunteered as a condition of approval to reimburse the City for estimated foregone property and business tax revenue and to compensate the City for emergency service response to the school.

ATTACHMENTS:

1. Resolution No 2012-P005, Denying Approval of the Conditional Use Permit Modification, CUP/M P-2011175, to allow for a 600 student private school for special needs students at 12095-12101 Washington Boulevard in the Commercial General (CG) zone, dated June 20, 2012.

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2. Letter of Appeal for CUP/M P-2011175, dated July 5, 2012
3. Project Plans
4. Written Correspondences
5. Initial Study/Negative Declaration
6. Draft Resolution No. 2012-R___ Denying the Appeal
7. Draft Resolution No. 2012-R___ Granting the Appeal
8. Planning Commission Minutes April 11, May 9, May 23, and June 13, 2012
9. Additional Correspondence

MOTION:

That the Council:

1. Adopt Resolution No. 2012-R___, denying the appeal and affirming the decision of the Planning Commission to deny the Conditional Use Permit Modification for the increase in enrollment of The Help Group school and disapprove the related Negative Declaration.

OR

- 2.A. Adopt a Negative Declaration, in accordance with the California Environmental Quality Act (CEQA), finding the Project will have less than significant impacts on the environment; AND
- 2.B. Adopt Resolution No. 2012-R___, granting the appeal and (i) reversing the Planning Commission's denial of the Conditional Use Permit Modification for the increase in enrollment of The Help Group school and (ii) approving Conditional Use Permit Modification CUP/M 2011-175.