

To the Huntington Beach Planning Commissioners
From David Treiman, resident of Shipley Street
August 27, 2007

Comments Regarding Negative Declaration 06-008 and Conditional Use Permit 06-035

I have been reviewing proposals and plans of the church and the city's evaluations and responses since the first comment period in May. Although I have submitted three sets of comments, one for each comment period, I am frustrated by the inadequate responses and failure to follow the law.

There is no point to reiterating all the matters raised in my three sets of comments – they are part of the record and I hope you have time to consider them along with the comments submitted by my neighbors. However, I believe most of our comments have either been ignored, misconstrued, or dismissed with erroneous or misleading answers. We have so little time between the publication of these responses (Wednesday, August 22) and the Planning Commission meeting on August 28. And unlike the staff, most of you and most of the members of the community have other jobs and cannot devote full time to the planning process.

I want you to have my comments in time to consider them in advance of the meeting of August 28, but there is not sufficient time for me to write or for you to read all the things that need to be said. Therefore, in this document I am going to stress in general terms a few key points and attempt to provide you with information you might not have. I will not elaborate on most of these items at this time, but would be happy to elaborate later if helpful to you. I intend to submit more information, for the record, before the meeting on August 28, but it will be too late for you to read unless this matter is put over for a vote at a later meeting.

- I. More Problems With Process. In addition to all the problems with this process noted in my earlier comments, I wish to raise the following:
 - A. According to the Staff Report, page 12, legal notices of the Planning Commission meeting scheduled for August 28 were sent to property owners of record within a 500-foot radius of the project. **This is not true.** I have spoken with several neighbors and none of us have received notice.
 - B. I also believe that notice should have been sent to the Huntington Beach City School District because of the proximity of the project to Smith Elementary School. To date I have been unable to determine whether the school district received this notice.
 - C. The public has never been told that your vote on this conditional use permit will supersede all prior conditional use permits issued to the church, along with the conditions previously imposed. Ron Santos told me this would be the consequence of your approval of permit #06-035. I raised this at the Commission meeting of August 14, and urged that you be given this information. In the staff response to my written comments, Mr. Santo's statement is confirmed. See Staff Report attachment 5.82, DT45. If the city previously found that restrictions were appropriate, those restrictions should not be rescinded without realization of what is being rescinded. I hope staff has provided you with this information even

- though it was never provided to the public.
- D. The staff response to the public comments frequently seems to make to faulty assumptions regarding the negative declaration:
1. That the citizen bears the burden of showing that some aspect of the project creates a potentially significant impact, rather than the burden being on the proponent of the project to show that there is no potentially significant impact.
 2. Treating the question of whether the activity violates an ordinance as equivalent to the question of whether it has a potentially significant impact. Even legal activity can have a potentially significant impact.
 3. Acting as if a negative declaration is routine rather than a deviation from the presumption in favor of having an Environmental Impact Report
 4. Treating construction as having no potentially significant impact on noise, traffic, or air quality while seeming to apply very different standards to the Senior Center and Newland Residential projects.
 5. Making questionable decisions regarding the zoning ordinances to allow a full service café and bookstore open to the public to be classified as permissible accessory uses.
 6. Not requiring relocation of the refuse collection site even though its present location violates HB Zoning Code 230.78 [see attachment to this document].
- E. Failure to explain, as required by law, how current limits on the church in the negative declaration will be enforced.
- F. An attachment to my comments of August 8 was not included in the report. It is an article from the Los Angeles Times regarding recent action by the California Air Resources Board to mitigate the effects of diesel construction equipment. There is much more information at the ARB's Website.

II. Conditional Use Permit distinguished from Negative Declaration

Even if you approve the negative declaration and find no additional mitigation is required to avoid an Environmental Impact Report, mitigation can appropriately be imposed as a condition of granting the conditional use permit. The harm to the community and the neighbors, including impacts on health and property values, needs to be balanced against the property rights of the church. That is your decision to make – whether the benefit to the community of the substantial expansion of the church (slightly less than 50% increase in square footage and a dramatic increase in the types of activities) outweighs the harm by dramatically changing the appearance and nature of the neighborhood and causing noise, traffic, and drop in property values. My neighbors will discuss many of these issues. I will focus on one: noise generated by outdoor activities.

III. Outdoor Activities Cumulatively Creating Potentially Significant Noise Impact.

- A. The staff's responses rely almost exclusively on the church's noise report. The responses say the report did not note any noise requiring mitigation other than the two play areas on Loma. While recognizing noise from the play areas required mitigation to avoid violating the city's noise ordinance (a seven-foot sound wall), the noise study did not discuss the following:

1. The Little Squirt's play area
2. The amphitheater
3. The noise of outdoor dining (it did find that a proposed speaker system would not violate the noise ordinance)
4. Other special activities occurring in the Tidal Court and other areas of the campus.
5. Deliveries
6. Increased trash collection

In fact, the only mention of any of these areas relates to the impact street traffic will have on these areas, rather than the impact these areas will have on neighbors. Therefore, there is no basis in the record to conclude there is no potential impact. I will submit photos and videos in evidence to show that, contrary to staff's responses, these noises can be and are heard across Adams Avenue and cumulatively impact the rights of neighboring property owners.

B. Attempted Mitigation. I appreciate very much the attempt by staff to impose some mitigation, Staff Report attachment 1.4 item 5. However, distinctions have been drawn in the past to evade limits and I fear that can happen again. The distinctions between regular activities, scheduled activities, and special activities are very obscure, and unless specifically addresses, they can defeat the purpose of these limits.

1. Item 5.a. Only uses described in the project narrative shall be permitted. But the narrative speaks of special events with no details or explanation. Is this an open-ended approval of anything the church calls a special event?
2. Item 5.f. Church services, weddings, funerals, fairs, and other similar activities shall be prohibited outdoors unless approved via a Temporary Use Permit or Conditional Use Permit as a noticed public hearing. *Thank you!* However, as I teach in my law school classes, the term "and other similar activities" creates a problem. Are barbecues, Polynesian feasts, athletic games and contests, and inflatable fun houses "similar activities"? These have all occurred in the past. I am not objecting to any of these in particular, at least if there is no outdoor sound system, but they can still be noisy. Perhaps the limit needs to be broader or at least clearer.

C. Additional Mitigation. Items not addressed by staff.

1. Amphitheater. I request that the amphitheater be eliminated from the plans. Staff states that it will not be used as an amphitheater. But there is no way to prevent people from using it as an amphitheater. Curved tiered rows of seating are not designed for informal gatherings. If it will not be used as an amphitheater, there is no need for this design. The church has repeatedly told us there will be no amphitheater — then please make them keep their promise and have them eliminate the physical amphitheater — not just the label on a diagram.
2. Outdoor dining. This is in the Tidal Court open to Adams Avenue. This is inappropriate in an area facing homes. It needs to be eliminated or perhaps enclosed by sound walls (though currently sounds behind walls carry across Adams Ave.). At a minimum outdoor dining should not be

allowed before 9 a.m. and after 5 p.m. Bruce Templeton suggested that the tables might be brought inside at times outdoor dining is prohibited. But this will be difficult to enforce, so enclosing or eliminating the outdoor dining would be better.

3. Play Areas in the Tidal Court. Please require the same mitigation for the Little Squirt's play area that is required for the other two play areas – a sound wall – or eliminate it. Norm Dyson, project manager for the church, said it would only be used Sunday morning. At least limit its use to Sunday morning after 9 a.m. The noise study of the two play areas on Loma said it assumed a “worst case scenario” of play for a full hour. The church has recently used the area of campus in what will be the Tidal Court for play activities running from morning to night – at least eight times the “worst case scenario” (see videos to be provided on CD). In addition, why does staff assume that noise from the playground on Loma that borders the Tidal Court won't have any impact to the north? According to the noise study, this noise violates the city noise ordinance unless mitigated by a seven-foot sound wall to the south. Even if the noise to the north is within the limits of the ordinance, it can still have a negative impact and I saw nothing in the noise study to the contrary. Unless proved to have no significant impact, there should be further mitigation for this play area as well.
4. Deliveries and buses. Please move the area for deliveries and buses further from homes or limit hours of deliveries and bus transportation to daytime hours unless a permit is obtained for special activities such as transportation to camp. At least enforce state law prohibiting idling of diesel trucks and buses to no more than 10 minutes. On August 19, 2007, four large diesel buses idled across the street from my house for more than an hour and a half, despite my request that the engines be turned off until the passengers were ready to board.
5. Noisy departures from evening activities. Please make the church responsible for asking members to respect the neighbors and leave the campus quietly when they finish evening activities.
6. Construction hours. At the meeting with neighbors on June 18, representatives of the church said they had no intention of having construction evenings and weekends. Please write this in the conditions. Orange County has greater restrictions on construction and Huntington Beach has used these more restrictive conditions on the six-week Edinger bridge project. The county restricts construction to the period 7 a.m. to 5 p.m., Monday through Friday. I would appeal for an 8 a.m. start time given that the church has evening activities until 10 p.m. Even if not required by law, it is reasonable mitigation considering the 2.5 year duration of construction so near homes.
7. Trash collection. Relocate the refuse collection area to comply with city law. Contrary to the staff response to a comment on trash collection, Staff Report attachment 5.70 RA6, Rainbow is still collecting trash before 8:00 a.m. on a regular basis. I have been informed by the City Public Works

Department and by Mr. Templeton that they have no ability to control when Rainbow collects trash as long as it is after 7:00 a.m.

8. Leaf Blowers. Gardeners use leaf blowers every Friday from around 9:30 a.m. to 2:30 or 3:00 p.m., with occasional breaks. This violates the two-hour limit imposed by Municipal Code section 8.40.095(c)(3). I have complained to the church but nothing has changed. I am not asking for mitigation – this is already illegal. But this noise source is another factor in the total noise picture.

IV. The Future

Anyone viewing Bruce Templeton's Next Wave video presentation on the Church's Website knows this is not a simple remodeling project. It is the start of the Church's vision for expansion for the next fifty years. The vision is inspiring, though it might be a bit too large for the present location, just as the previous locations for the Church were too small and eventually were replaced. But my point here is merely to ask the Planning Commission to plan wisely by recognizing the long term impact of a project like this. It will fundamentally alter a residential neighborhood of Huntington Beach near the midpoint of the three-mile length of Main Street.

Even if the traffic report is correct that there will be no immediate impact on traffic, the noise study, Staff Report attachment 7.9 estimates a 1% annual growth rate of traffic, relying on a conversation with the city's transportation manager. This project is designed for the next 50 years. Even according to this conservative traffic growth estimate, in thirty years the traffic will be a third more than it is now. There will be much more traffic flowing on Adams and 17th near the church and the schools. However, there will be no way to widen those streets around the church without requiring demolition of structures and paying just compensation. Under the law, government can require a property owner to dedicate land for road widening to the government as a condition of improving property if the improvements will increase traffic now or in the future. Just as developers are required to dedicate land for schools and parks, you can require the Church to grant an easement along Adams and 17th, free of buildings, for use in the future when the projected increase in traffic makes it obvious that these streets are too narrow to handle to the traffic.

If you are inclined to allow this potential transformation of our neighborhood, please also plan to avoid future gridlock. New traffic lights alone will not solve the problem.

Attachment to David Treiman's August 27, 2007, letter to the Planning Commission
TRASH COLLECTION

MITIGATION - Relocate trash receptacle to comply with the city ordinance and to mitigate noise of trash pickup. An increase in activities including the café and bookstore will obviously increase the amount of trash to be collected.

HB Zoning Code 230.78: Refuse Storage Areas

- A. Refuse storage area screened on three sides by a 6-foot masonry wall and equipped with a gate, or located within a building, shall be provided prior to occupancy for all multi-family residential, commercial, industrial, and public/semipublic uses. Locations, horizontal dimensions, and general design parameter of refuse storage areas shall be as prescribed by the Director, subject to appeal to the Planning Commission. **The trash area shall not face a street** or be located in a required setback. The design and materials used in such trash enclosures shall harmonize with the main structure. [Emphasis added]

Below: View through the entry doorway of our home across Adams Ave. of the church's trash enclosure.





RECEIVED AUG 27 2007

Ron Santos
Scott Hess
Planning Department
Planning Commission

Referring to conditions set forth in Suggested Conditions of Approval – Conditional Use Permit 06-0351/Variance No. 07-001

Item 5 Section d - "Youth Breakout Room" be removed from the conditions. The Youth Breakout Room is designed for junior high students whose parents are attending worship services. Presently there are approximately 40 students each service.

Item 5 Section e & f - Historically we have held outdoor events within the context of our property that are critical to the performance of our ministry. We submit these events to be included in this CUP in deference to e and f:

Summer Season Kickoff Events

These events provide an outreach for pre-school/elementary aged children and families within our community to come and celebrate the beginning of summer. They can feature games, bounce houses, creative art stations, face painting and similar activities.

- usually June - 9am-12pm or 1pm-4pm
- non-parking lot event – tidal court adjacent to multipurpose/chapel
- one day activity for preschool age
- one day activity for elementary age
- sound system required for spoken word and games/activity background music

Summer Preschool Event

This event is also known as our pre-school Vacation Bible School. Throughout the week kids take part in a half-day program learning about God in creative and relevant ways. We offer bounce houses and outdoor games within the tidal court area as activities for the children.

- usually July - 9am-12pm – 5 day activity
- non-parking lot event - tidal court adjacent to multipurpose/chapel
- 150-200 preschoolers, 3-5yrs. Old, with outdoor activities (games, bounce houses)
- sound system required for spoken word and games/activity background music

Summer Elementary Event

This event is also known as our elementary Vacation Bible School. Throughout the week kids take part in a half-day program learning about God in creative and relevant ways. We offer bounce houses and outdoor games within the tidal court area as activities for the children.

- usually late July/early August - 9am-12pm – 5 day activity
- non-parking lot event - tidal court adjacent to multipurpose/chapel
- 500 elementary age children, K-5th; outdoor activities (games, bounce houses)
- sound system required for spoken word and games/activity background music

Fall Carnival – Community Trick or Treat Alternative

This is our annual fall community event that offers an alternative to Trick or Treating. We feature carnival style games, bounce houses, and similar carnival style attractions.

- end of October - 5pm-9pm – 1 day activity
- non-parking lot event - tidal court adjacent to multipurpose/chapel
- 500 children, preschool and elementary age; outdoor activities (games, bounce houses)
- sound system required for spoken word, games and background music

1207 Main Street Huntington Beach, CA 92648 *For meeting 8-28-07*
Tel: 714.536.2589 FAX: 714.

LATE COMMUNICATION B-1

Drive-Thru Nativity

This is our annual Christmas outreach event, now in it's 39th year. The Drive-Thru Nativity tells the story of Christ's birth and the events leading up to it through small dramatic vignettes. These vignettes are viewed from vehicles, as well as those who wish to walk through, who are then strategically guided through our parking lot.

- 3 nights each December - 6:30pm – 10pm
- parking lot event
- 700 cars per night
- sound systems for dramatic spoken/spoken words and Christmas background music in our last scene

Annual Church-wide Celebration Event

These events vary in theme and purpose, but require the use of our property to facilitate our congregation. We typically offer bounce house and activities for the kids, food service and beverage services for our adults, and some form of live entertainment on our campus

- Sunday afternoon, once per year - 12pm – 4pm
- 800 people
- non-parking lot event – multipurpose building/tidal court adjacent to multipurpose/chapel
- sound system required for music and live entertainment

Also, we would request that weddings and funerals be removed from the conditions of Section f to allow flexibility in the planning of weddings and funerals.

Respectfully Submitted,

Bruce Templeton
Senior Pastor
First Christian Church Huntington Beach