



REPORT

DATE ISSUED: October 17, 2003

ITEM 102

REPORT NO.: HCR03-091
For the Agenda of October 24, 2003

SUBJECT: Request by Diocese of San Diego for a Variance From Payment of Housing Trust Fund Impact Fees (Council District 1)

SUMMARY

Issue: Should the Housing Commission grant a request from the Diocese of San Diego for a Low Employee Density Variance?

Recommendation: It is recommended that the Housing Commission: 1) deny the low employee density variance request, and 2) reassess the Housing Impact Fee for this project resulting in a partial refund in the amount of \$32,577.

Fiscal Impact – The Housing Impact Fees collected for this component of the development were \$47,951. Approval of this action will result in the refunding of \$32,577 in Housing Impact Fees.

BACKGROUND

The Housing Commission is responsible for administering the Housing Trust Fund as provided in Municipal Code Sections 98.0501 through 98.0618 and in Housing Commission Policy No. 300.501. The San Diego Municipal Code provides guidance regarding projects that are responsible for payment of Housing Impact Fees, the uses that are exempt from Housing Impact Fees, determination of the fee, land or air rights in lieu of payment of the fee, and variance from the provisions of the Ordinance.

Municipal Code Sections 98.0614 through 98.0617 provide the standards for granting variances which include development projects that consist of construction built for and suitable solely for a specific use involving few or no employees.



The Housing Commission has granted fifty variance requests since 1990, waiving over \$700,000 in Housing Impact Fees while collecting over \$38 million. The most recent variance request granted was in December 2000. The number of variance requests received has fluctuated between two and ten variance requests annually. The most common application for variance has been for specific uses that involve few employees, such as church sanctuary space or Sunday school classrooms (most "staff" are volunteers or part-time employees). Another fairly common circumstance is the upgrading of educational or recreational space that expands capacity with little or no impact on staffing.

DISCUSSION

The Diocese of San Diego is constructing Cathedral High School as a private high school on 54.6 acres in the Pacific Highlands Ranch subarea of the North City Planned Urbanizing Area at the southwest intersection of Del Mar Heights Road and Carmel Valley Road. The total development consists of four classroom buildings, an administration building, a student support building, a maintenance building, a library, a fine arts building/auditorium, a chapel together with a multi-purpose stadium, pool, athletic fields and courts, and a gymnasium. The projected enrollment is 2,000 students. A copy of the Catholic Diocese's Low Employee Density Variance application is attached (Attachment 1).

The new high school will replace the existing University of San Diego High School (USDHS) campus currently located on Linda Vista Road just south of the University of San Diego. The gymnasium component of the development is a three-story, 56,939 square foot full-scale sports facility. The gymnasium will include a centralized basketball/volleyball court, bleacher seating, locker rooms, coaches offices and meeting room, game officials room, athletic trainer room, weight room, wrestling room, box office/concessions, restrooms, and maintenance and storage rooms. The space will be used to conduct physical education classes and for conducting interscholastic basketball, volleyball, badminton, wrestling practices, and games/meets.

The Diocese of San Diego expects that employees associated with the above activities will include physical education faculty and team coaches, medical trainers, and janitorial staff. In addition, interscholastic contests may also include concessions staff, box office staff, scorers, and announcers. During non-interscholastic athletic events, the Diocese estimates that approximately ten employees will be employed at the gymnasium on a full-time basis, the same number currently employed at USDHS.

While Municipal Code Section 98.0616 speaks to "few or no employees," it does not set out a formula for what would constitute "low density" employment, or employees per square foot of building area. The Housing Commission Board has interpreted "few or no employees" to mean no more than two full-time employees for the requirement for fee waiver. The gymnasium is estimated to have ten employees. The applicant acknowledges that this is an estimate because the educational program for the new high school is under development. In addition, the applicant states that "A high school campus is a fluid environment, and the curricular and extra-curricular

activities that will utilize the gymnasium will constantly vary.” Thus, the gymnasium component of the project does not meet the “few or no employees” threshold.

The Diocese of the San Diego contends that since they are closing USDHS, replacing it with Cathedral High School, and transitioning existing staff to the new site, the “facts” for a determination of the Housing Impact Fee should focus on the marginal increase in employee base instead of the total number of employees. However, in relocating, the Diocese is developing new non-residential space. The Housing Impact Fee is site specific and relates to the planned usage of each individual site as it is developed. The Housing Commission Board previously rejected the “transfer” rationale because the former non-residential site remains as a potential employment site (ref: HCR 00-067 Congregation Beth Israel).

The Housing Trust Fund Impact Fee structure includes five categories of usage and corresponding fee rates that take into account the differences in employee densities and wage levels inherent in different types of business activities. The economic nexus analysis prepared for the Housing Trust Fund Task Force in July 1989 estimated the following employee densities:

- Research & Development: 263 employees per 100,000 square feet
- Retail & Manufacturing: 131 employees per 100,000 square feet
- Warehouse: 33 employees per 100,000 square feet

As part of the high school complex, the City’s Facilities Financing department categorized the gymnasium as research and development (R&D) space and assessed \$47,951 in Housing Impact Fees at the rate of \$0.80 per square foot. However, the gymnasium’s estimated number of direct employees is ten (approximately 17.5 direct employees per 100,000 square feet), well below the nexus study estimate for R&D (263) and also for Retail/ Manufacturing (131).

The Housing Trust Fund provides that a variance may specify a reduced fee; there are two previous cases where the warehouse rate was applied to school gymnasiums (Francis Parker school and United States International University).

Reducing the fee to the warehouse rate of \$0.27 per square foot would result in a Housing Impact Fee assessment of \$15,373 and the refunding of \$32,577 in Housing Impact Fees already paid.

ALTERNATIVE

1. Deny the entire request.
2. Reduce the Housing Impact Fee to \$0.64 per square foot. Had the project not been affiliated with a school, Facilities Financing would have applied the rate of \$0.64/square foot based on the retail/manufacturing category. This alternative would result in a refund of \$11,510.

Respectfully submitted,

Approved by,

Signature on File with Original Document

Jack D. Farris
Manager, Housing Finance & Development

Elizabeth C. Morris
Chief Executive Officer

Attachments: 1) Application For Variance

Kern: 578-7582 HTF/variance Oct 2003 HC.doc (10/24/03)