

**Agenda Item #1**

**OC DEVELOPMENT SERVICES REPORT**

**DATE:** December 13, 2023

**TO:** Orange County Planning Commission

**FROM:** OC Development Services / Planning Division

**SUBJECT:** Planning Application PA23-0052 for a Use Permit

**PROPOSAL:** The applicant is requesting a Use Permit to: allow for the Fairmont Private School, located at 12421 Newport Avenue, to expand their operation into the adjacent property, which Fairmont Schools recently acquired, located at 12381 Newport Avenue, and establish “Educational Institution” as the principal land use for both properties; increase the enrollment capacity to 420 students from 320; install a 6’ high perimeter fence around both properties; approve a reduction in the required parking for the new use; and make interior and exterior modifications to the existing school and church buildings. The two parcels will be merged under single ownership and no new buildings are proposed.

**ZONING:** S North Tustin - “North Tustin Specific Plan, Public/Quasi-Public District Regulations (PQP)”

**GENERAL PLAN:** 4 Public Facilities

**LOCATION:** The project is located at 12421 Newport Ave (APN: 401-191-02) and 12381 Newport Ave (APN: 401-191-25) in unincorporated Tustin within the Second (2nd) Supervisorial District

**APPLICANT:** Jackson, Chad, President of Fairmont Schools  
Jackson, David R. and Stacey, Property Owners

**STAFF CONTACT:** Arturo Cervantes, Senior Planner  
Phone: (714) 667-8898  
E-mail: Arturo.Cervantes@ocpw.ocgov.com

**RECOMMENDED ACTION(S):**

OC Development Services/Planning recommends the Planning Commission:

1. Receive the staff report and public testimony as appropriate;
2. Find that the proposed project is exempt from CEQA per CEQA Guidelines Section 15302 Class 2 (Replacement and Reconstruction) for the replacement or reconstruction of existing structures

and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced; and

3. Approve Planning Application PA23-0052 for a Use Permit, subject to the Findings and Conditions of Approval provided as Attachments 1 and 2 to this report.

## **BACKGROUND AND EXISTING CONDITIONS:**

The subject site consists of two parcels in a triangular configuration, located at 12421 Newport Ave (APN: 401-191-02) and 12381 Newport Ave (APN: 401-191-25), which are approximately 1.6 and 1.46 acres in size, respectively. The parcels are situated on the northwest corner of Newport Avenue and Vanderlip Avenue.

The facility located at 12421 Newport Avenue has been continuously used as a private school since 1971 and is currently operated by Fairmont Private Schools. The school campus is developed with approximately 10,254 square feet of grade-specific instructional classrooms; 4,226 square feet of shared instructional space (large multi-purpose room, art, science, and library); 1,104 square feet of storage/utility space; 1,577 square feet of restrooms; 1,654 square feet of administrative/office space; and 596 square feet devoted to food preparation and service. The campus provides an outdoor covered lunch area and separate playgrounds for pre-school/kindergarten and older-aged children. The campus is accessible from two driveways along Newport Avenue. The site has 27 on-site parking spaces, including 2 spaces designated as ADA-accessible parking.

Fairmont Private Schools has been operating at this location since acquiring the Edgewood School facilities in March of 1998. At the time of the original acquisition of the school facilities, Fairmont also assumed a parking license agreement with the adjacent First Church of Christ Scientist for the use of a portion of the church parking lot during weekdays. Over the years since, the school has undergone changes that have modified the physical facilities to incrementally increase student enrollment capacity to meet the demand for private schooling in the area. The changes have varied from simple site improvements, such as the addition of a new over-height wall, to more complex improvements, such as an increase to the school building's footprint.

The property at 12381 Newport Avenue, which abuts the school campus on the north side, operated as a church facility and is currently developed with two buildings connected by a roofed breezeway. The larger building is 4,700 square feet and comprised of the sanctuary and stage with a seating capacity for 200 people, a lobby, classrooms, and offices. The second building is used as a classroom for Sunday school and has additional office and storage areas. The church site has a parking lot striped to accommodate a total of 68 vehicles. Ingress and egress to the property is provided by two driveways, one along Vanderlip Avenue and another at Newport Avenue. The church facility, which has ceased operations, was acquired by Fairmont Private Schools with the objective to expand their use and student capacity. The expansion will enable Fairmont to utilize the church buildings and parking area for educational purposes, thereby eliminating the need for a shared parking agreement.

Photos of both facilities are provided as Attachment 3.

## **PROPOSED PROJECT**

The applicant is requesting a Use Permit in order to expand their private school operation and establish Educational Institution as the principal land use for both properties under the regulatory provisions of the County of Orange Zoning Code and the North Tustin Specific Plan, Public/Quasi-Public (PQP) District Regulations.

The request, if granted, will allow the school to modify and utilize the buildings located at both 12421 and 12381 Newport Avenue as a private school, increase student enrollment from the existing 320 to 420 Pre-school through Eighth Grade students, and make additional onsite improvements to the properties. Improvements will include the conversion of the multi-purpose room (Allison Hall) on the school campus and the Sunday School room on the church property in order to create six (6) new classrooms, resulting in a total of twenty-three (23) classrooms across both facilities. The current church sanctuary will be converted into a performing arts venue for use exclusively by the school, with an enhanced stage and seating capacity of 200 (the seating capacity is not proposed to change from the present use).

The Use Permit will also allow for a reduction in required parking for the new use and the installation of a six foot (6') high, open perimeter fence, with automatic driveway gates, to surround the two properties. Additional site improvements will include updated landscape and hardscapes, enhanced ADA access, and updated signage. A site plan showing the existing conditions, and the proposed improvements to both parcels described above, is included as Attachment 4 to this report.

The applicant has initiated a separate process to merge both properties into one parcel under single ownership through a Lot Line Adjustment application (LL 2023-009). Since the sites have varying grade levels and are separated by a landscaped berm, the Applicant will make improvements to both sites in order to enhance pedestrian access between the facilities. The facilities will retain exclusive vehicle ingress and egress to their respective parking areas (i.e., the two parking areas will not be connected).

#### **SURROUNDING LAND USES:**

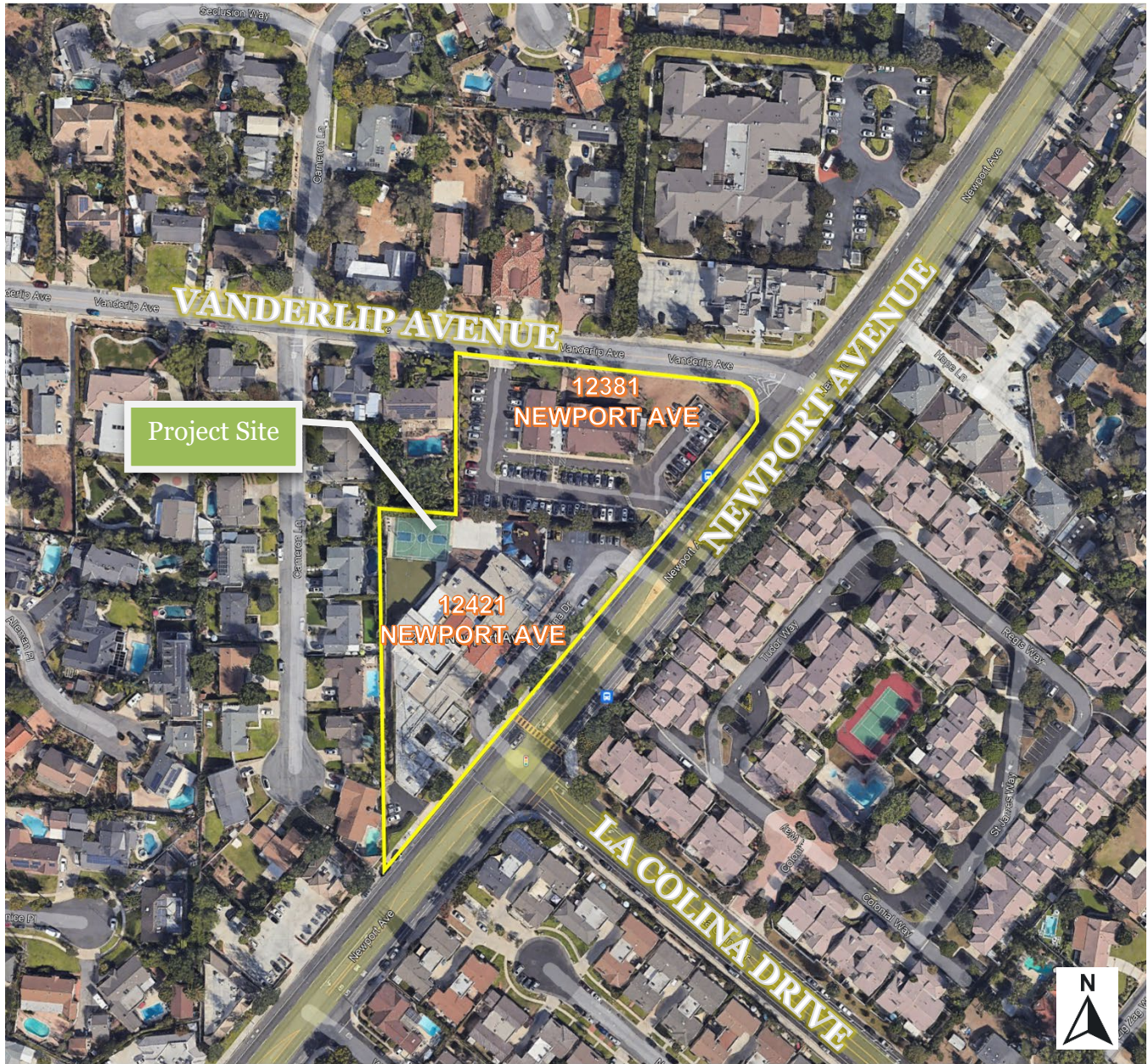
Zoning and existing land uses for the project site, and for the surrounding properties abutting the project, are listed below.

DIRECTION	ZONING DISTRICT	EXISTING LAND USE
Project Site	S North Tustin Public/ Quasi Public	Private School (Pre-K to 8 <sup>th</sup> Grade) and Church Use
North	S North Tustin	Single Family Dwellings and Offices
South	S North Tustin	Single Family Dwelling and Residential Multi-Family (Condos)
East	S North Tustin	Single Family Dwelling
West	S North Tustin	Single Family Dwelling



## AERIAL OF PROJECT SITE

An aerial photograph of the Project Site and the surrounding properties within Orange County's unincorporated North Tustin area is provided below.

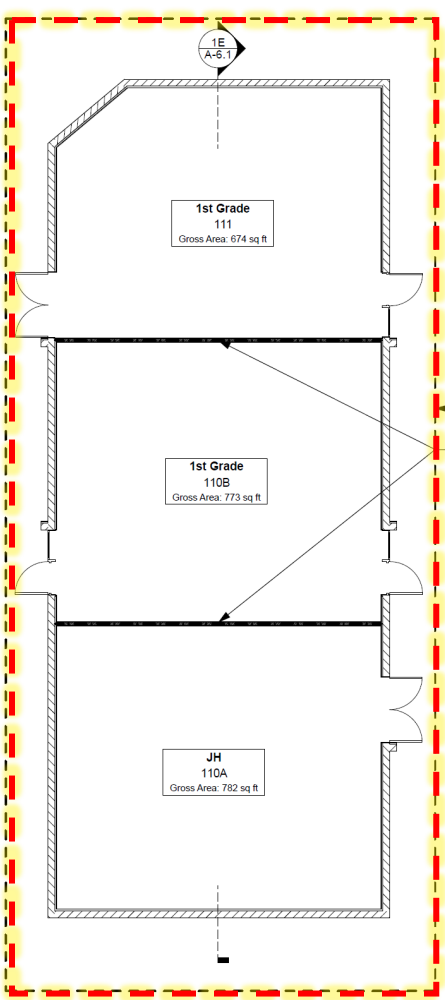




SITE PLAN

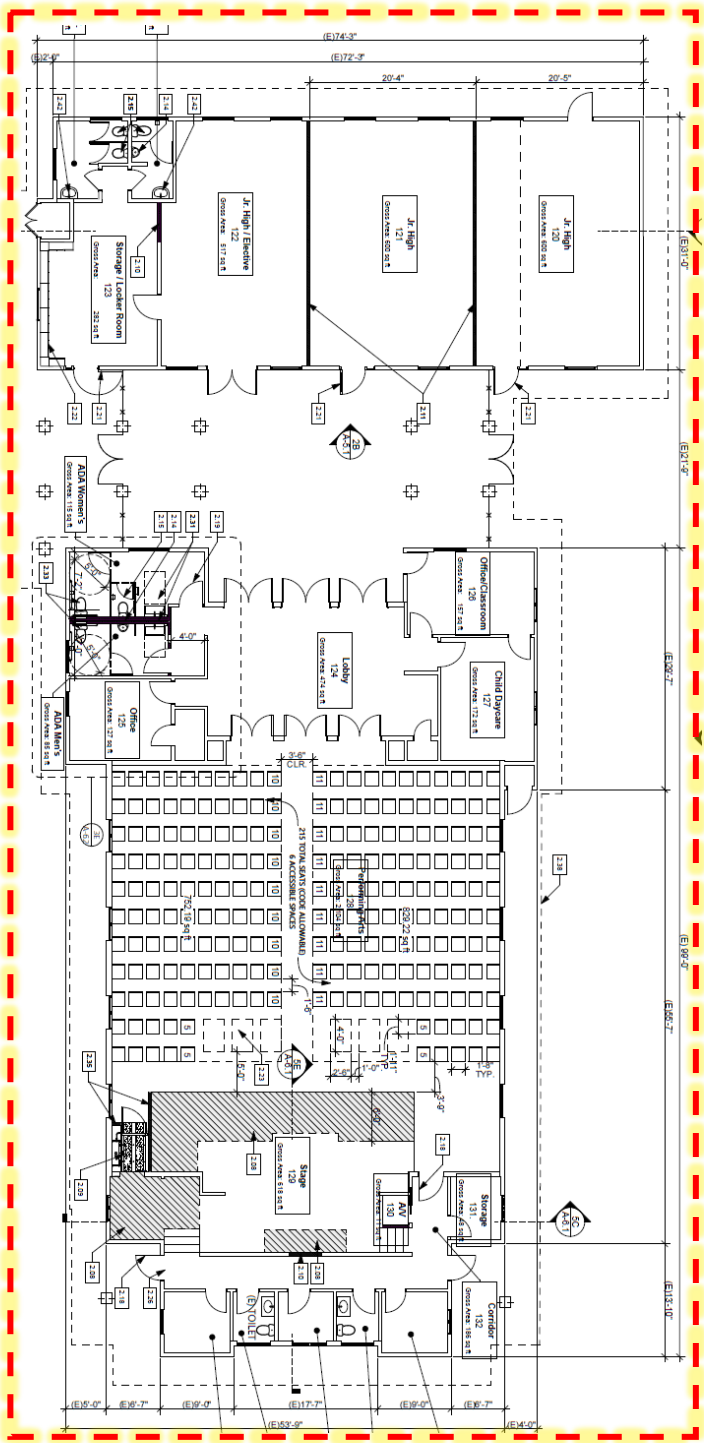


PROPOSED FLOOR PLANS  
SCHOOL AND CHURCH



**Proposed Floor Plan Legend**

- EXISTING WALLS
- NEW WALLS
- WINDOWS
- DOORS



**DISCUSSION/ANALYSIS:**

Below is a table comparing the development standards for properties in the Public/Quasi-Public (PQP) Districts within the North Tustin Specific Plan and the Applicant's site conditions for both parcels. It should be noted that the applicant is not proposing any changes to the footprint of the school or church buildings, and any Tenant Improvement work to repurpose the existing space will take place primarily within the interior of the existing buildings. Additionally, the applicant is in the process of obtaining a Lot Line Adjustment to merge both parcels into one parcel under single ownership.

<b>STANDARD</b>	<b>PERMITTED</b>	<b>PROPOSED</b>
Building Site Area	10,000 Sq. Ft. minimum	School 80,073 Sq. Ft. (Existing) Church 63,583 Sq. Ft. (Existing)
Front Setback (Along Newport Ave)	20' minimum	School 20' (Existing) Church 81' (Existing)
Rear Setback	25' minimum	School 125' (Existing) Church 90' (Existing)
Side Setback	10' minimum	School 15' (Existing) Church 26.5' (Existing Street Side)
Building Site Width	100' minimum	School 391' (Existing) Church 178' (Existing)
Building Height Maximum	28' maximum	School 25' (Existing) Church 25' (Existing)
Parking Required	113 stalls	90 stalls *
Perimeter Fence (Open Type Fence)	5'-0"	6'-0" *

\* Indicates deviation from Site Development Standards.

The applicant is seeking approval of a Use Permit to expand their private school operation into the adjacent church facility, which they recently purchased. The request will establish Educational Institution as the principal land use for both properties under the regulatory provisions of the County of Orange Zoning Code and the North Tustin Specific Plan, PQP – Public/Quasi-Public District Regulations. Educational Institution is a principally permitted use within the PQP District, subject to a Use Permit approved by the Planning Commission.

As mentioned, the proposed project will entail converting the existing church sanctuary into a performing arts venue, remodeling the interior of existing buildings on both sites to create six (6) additional

classrooms, increasing enrollment capacity by 100 students, equivalent to a 31% increase in enrollment, resulting in a maximum of 420 students across both facilities, installing a six (6) foot high open fence along the perimeter of the properties, and approving a deviation from the standard parking requirement to allow for a decreased amount of parking across both sites.

## **PERIMETER FENCE**

A part of the site improvements, the applicant proposes to install a six (6) foot high, open style perimeter fence around both properties. Open fences within a required front yard setback are limited to five (5) feet in height. Modifications to the height of a fence can be approved through a Use Permit provided the height and location of the fence will not result in or create a traffic hazard and the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.

The installation of a six (6) foot high, open style, wrought iron fence will not result in a traffic hazard because the fence will be only one (1) foot taller than what is currently allowed, constructed on private property adjacent to the sidewalk, and located approximately five (5) feet from the road. Additionally, the open style fence will be constructed of wrought iron material spaced apart, allowing drivers exiting the subject site to see vehicles traveling down the adjacent road.

The location, size and design of the fence is consistent with similar improvements throughout the area and will not be objectionable, detrimental or incompatible with other permitted uses in the vicinity. The proposed open fence is compatible with the surrounding residential and office uses, will not significantly block or obstruct view lines, and will be constructed utilizing the most recent building code standards.

## **TRAFFIC AND PARKING**

The applicant retained the services of RK Engineering Group, Inc. (RKE) to prepare a Traffic Impact Analysis, dated October 3, 2023, included as Attachment 5. An Executive Summary, included as Attachment 6, was also provided to explain the scope and summarize results of the Traffic Impact Analysis.

The purpose of the Traffic Impact Analysis (Analysis) was to evaluate and assess the proposed expansion of the Fairmont Private School from a traffic and circulation perspective. Based on the Analysis, the proposed enrollment expansion of 100 students is forecasted to generate approximately 394 additional weekday daily trips. This includes nearly 138 weekday drop-off trips during the morning peak hours of 7:00 a.m. to 9:00 a.m., and 107 weekday pick-up trips during the afternoon peak hours for pick-up of 2:00 p.m. to 4:00 p.m., with the remaining trips occurring during non-peak times.

As described in the County of Orange's Transportation Implementation Manual, "Small Projects" that generate 500 or fewer average daily trips (ADT) may be presumed to have a less than significant impact on vehicle miles traveled (VMT). Because the proposed project is forecasted to generate less than 500 daily trips (approximately 394 daily trips attributed to the increased enrollment), the project meets the "Small Project" screening criterion and is presumed to have a less than significant impact to VMT and no further VMT analysis would be required.

RKE also prepared a separate Parking Analysis to assess whether the proposed project can provide sufficient onsite parking. Utilizing the County's parking code requirements for private schools, the Parking Analysis found that the proposed project would be required to provide 113 parking spaces. The applicant has submitted a layout that includes a total of 90 parking spaces across both facilities, resulting



in a parking deficiency of 23 parking spaces, based on the standard required parking. As such, the applicant has requested a reduction in the required parking.

RKE evaluated the schools' operational hours, gathered data on current parking utilization onsite, and used that information to attain a projected parking demand from the proposed expansion project. The information collected indicates that the existing peak parking demand is 65 parking spaces, which is composed primarily of staff vehicle parking and student drop-offs. The Parking Analysis utilized the information gathered to calculate and forecast the peak parking demand to be 85 parking spaces after the expansion and increase in student enrollment. The results of the analysis indicate that the onsite parking supply of 90 parking spaces would be sufficient to meet the projected peak parking demands of the project, based on the fact that the peak parking demand is generated during peak pick-up and drop-off times and parents' vehicles do not remain parked for long periods of time.

As required by the County's parking code, a reduction in required parking, or an alternative to off-street parking requirements, can be approved provided certain findings can be made. Staff has included the findings in Attachment 1 and concluded that the project will adequately be served by the proposed reduced parking, as determined and supported in the Parking Analysis which was prepared by an independent, professional traffic engineering firm approved by the County.

A copy of the Parking Analysis, dated June 6, 2023, is included as Attachment 7.

#### **REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A copy of the planning application summary and the proposed site plan were distributed for review and comment to appropriate County divisions. Staff has reviewed all comments received, and where appropriate, has addressed the comments through recommended Conditions of Approval, which are provided as Attachment 2. Public notices were mailed to all owners of record within 300 feet of the subject property, posted in front of the project site, in a local newspaper, and in the lobby at the County Administration North building located at 400 W Civic Center Dr, Santa Ana, CA 92701, at least ten days prior to this public hearing, as required by public hearing posting procedures. As of the writing of this staff report, no comments raising issues with the project have been received.

Additionally, copies of the site plan and a description of the proposed project was distributed to the North Tustin Advisory Committee (NTAC) for review and comment. On September 20, 2023, the Committee reviewed the documents provided, held a public hearing, and moved to continue the item in order to review the completed Traffic Impact Analysis. On October 18, 2023, NTAC reviewed and discussed the project, held a public hearing, and three of the four Committee members present approved a motion to recommend approval of the project with suggested Conditions of Approval, which are incorporated into Attachment 2.

#### **CEQA COMPLIANCE:**

The proposed project is exempt (Class 2 - Replacement and Reconstruction) from the provisions of CEQA, pursuant to CEQA Guidelines Section 15302 because the project involves the interior reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Church and educational uses are substantially similar. The unusual circumstances exception (CEQA Guidelines Section 15300.2(c)) to the exemption does not apply here because there are no unusual circumstances present on these already fully developed sites.

## CONCLUSION:

Staff has reviewed the applicant's request for a Use Permit and found it to be compatible with adjacent uses and development. Staff recommends that the Planning Commission approve Planning Application PA23-0052 for a Use Permit, subject to the attached Findings and Conditions of Approval.

Submitted by:

*Cervantes, Arturo*

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Arturo Cervantes, Senior Planner  
OC Development Services/Planning

Concurred by:

*Justin Kirk*

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Justin Kirk, Deputy Director  
OC Public Works/Development Services

## ATTACHMENTS:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Site Photos
4. Architectural Plans
5. Traffic Impact Analysis
6. Traffic Impact Analysis Executive Summary
7. Parking Analysis

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Planning Commission on this permit to the OC Board of Supervisors within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$500 filed at the County Service Center, 601 N. Ross Street, Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services/Planning Division.



**ATTACHMENT 1**  
**FINDINGS PA23-0052**

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1	<b>GENERAL PLAN</b>	<b>PA23-0052</b>
<p>That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.</p>		

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2	<b>ZONING</b>	<b>PA23-0052</b>
<p>That the Use Permit is consistent with the objectives, policies and general land uses and programs specified in the Specific Plan for the Project area, which was adopted pursuant to the State Planning and Zoning Law</p>		

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3	<b>COMPATIBILITY</b>	<b>PA23-0052</b>
<p>That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity</p>		

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4	<b>GENERAL WELFARE</b>	<b>PA23-0052</b>
<p>That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.</p>		

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5	<b>PUBLIC FACILITIES</b>	<b>PA23-0052</b>
<p>That the approval of the permit application complies with Codified Ordinance Section 7- 9-711 regarding public facilities.</p>		

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6	<b>CEQA</b>	<b>PA23-0052</b>
<p>The proposed project is exempt (Class 2 - Replacement and Reconstruction) from the provisions of CEQA, pursuant to CEQA Guidelines Section 15302 because the exemption allows for the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.</p>		

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7	<b>OVER-HEIGHT WALL</b>	<b>PA23-0052</b>
<p>That the over-height wall is approved, in that:</p> <ol style="list-style-type: none"><li>1. The height and location of the fence or wall as proposed will not result in or create a traffic hazard; and</li><li>2. The location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.</li></ol>		

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**ALTERNATIVE TO OFF-STREET PARKING  
REGULATIONS**

**PA23-0052**

That the alternative to off-street parking regulations is approved, in that:

1. The use will adequately be served by the proposed parking demand requirement as determined in the parking study; and
  2. A parking study, prepared by an independent traffic engineering professional, approved by the County, supports the proposed reduction.
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## **Attachment 2 Conditions of Approval PA23-0052**

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### **BASIC/APPEAL EXACTIONS - - Z06**

**SC**

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

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### **BASIC/COMPLIANCE - - Z04**

**SC**

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

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### **BASIC/LAND USE PLAN - - Z03**

**SC**

Except as otherwise provided herein, this permit is approved as a land use plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, OC Development Services, for approval. If the Director, OC Development Services, determines that the proposed change complies with the provisions and the spirit and intent of the original approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

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### **CONSTRUCTION NOISE**

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Permit Services, that:

- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.
  - (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
  - (3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.
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B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans, will be considered as adequate evidence of compliance with this condition.

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**BASIC/ZONING REGULATIONS - BASIC/ZONING REGULATIONS - Z01      BASIC**

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance or approval of the project regarding any other applicable ordinance, regulation or requirement.

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**INDEMNIFICATION - Z05**

**SC**

Applicant shall, at its own expense, defend, indemnify and hold harmless the County of Orange, its officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission, Zoning Administrator, Subdivision Committee, Director of OC Public Works, or Deputy Director of OC Development Services concerning this application. The County may, at its sole discretion, participate in the defense of any action, at the applicant's expense, but such participation shall not relieve applicant of his/her obligations under this condition. Applicant shall reimburse the County for any court costs and attorney's fees that the County may be required to pay as a result of such action. If litigation is filed challenging the Project, the County may, at its sole discretion, require the Applicant to post a bond, enter into an escrow agreement, obtain an irrevocable letter of credit from a qualified financial institution, or provide other security, to the satisfaction of the County, in anticipation of litigation and possible attorney's fee awards. The County shall promptly notify the applicant of any such claim, action or proceeding.

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**BASIC/TIME LIMIT - - Z02**

**SC**

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

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## TRAFFIC

Applicant to update the Traffic Impact Analysis (Analysis) for this project one (1) year after the enrollment capacity is met in order to evaluate traffic conditions following the expansion. The updated Analysis will be provided to the Planning Commission for review and comment at a regularly scheduled meeting. Property owners within a 300' radius of the site will be notified of the meeting.

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Applicant will provide an updated Traffic Impact Analysis (Analysis) for the project site one (1) year after the effective approval date. The updated Analysis will be provided to the Planning Commission for review and comment at a regularly scheduled meeting. Property owners within a 300' radius of the site will be notified of the meeting.

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The applicant will prepare a Traffic and Parking Management Plan for special events, or similar after-school or evening activities, for the County Traffic Engineer to review and approve. The parking management plan will identify anticipated events and how the school will mitigate traffic and parking during these events. Mitigation measures can include valet parking, contracting with nearby off-site facilities for after-hours parking, and holding events for different class grades across multiple days.

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The applicant will prepare a Traffic Control Plan that identifies the current systems in place that are being utilized to maintain a steady flow of traffic at the facility. The Traffic Control Plan should include the traffic methods used, such as individual traffic monitors, communication devices, traffic signs, and staggered drop-offs/pick-ups per grade level. The applicant will be required to submit the Traffic Control Plan, and any future modifications, to the County's Traffic Engineer for review and approval.

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## **ORANGE COUNTY FIRE AUTHORITY**

The applicant shall be responsible with complying with all Orange County Fire Authority (OCFA) requirements and guidelines.

Prior to obtaining building permits for the proposed project, the applicant will provide to OCFA for review and clearance: Fire Master Plan; Architectural Plans; Emergency Radio System Design; underground piping for a private hydrant and fire sprinkler system; underground piping if private hydrants installed/modified or a fire sprinkler system is required by code or installed voluntarily; and fire sprinkler system and alarm system (prior to concealing interior construction).

**Temporary/Final Occupancy Inspections:** Prior to issuance of temporary or final certificate of occupancy, all OCF A inspections shall be completed to the satisfaction of the OCFA inspector and be in substantial compliance with codes and standards applicable to the project and commensurate with the type of occupancy (temporary or final) requested. Inspections shall be scheduled at least five days in advance by calling OCFA Inspection Scheduling at 714-573-6150.

**Emergency Access Easements:** Irrevocable reciprocal access easements for emergency access purposes to the benefit of the city/County shall be recorded concurrently with the final map or, where no final map is required, prior to approval of the fire master plan.

**Lumber-drop Inspection:** After installation of required fire access roadways and hydrants, the applicant shall receive clearance from the OCFA prior to bringing combustible building materials on-site. Call OCFA Inspection Scheduling at 714-573-6150 with the Service Request number of the approved fire master plan at least five days in advance to schedule the lumber drop inspection.

**Special/Custom Conditions:** Provide any unique or customized conditions that may be applicable.

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