

## MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director  
Gene Poveromo, Development Manager  
Kumar Neppalli, Engineering Services Manager  
Phil Mason, Principal Planner

SUBJECT: Episcopal Church of the Advocate at 8410 Merin Road–Special Use Permit Application

DATE: June 21, 2010

## INTRODUCTION

Tonight the Town Council continues the public hearing for the proposed development from [April 19, 2010](#). Adoption of the attached Revised Resolution A would approve a Special Use Permit to allow construction of a place of worship campus with 44,300 square feet of floor area and 141 parking spaces. The site is identified as Orange County Parcel Identifier Number 9870-82-7443.

## DISCUSSION

At the April 19, 2010 public hearing, the following issues were raised and are discussed below.

1. **Future Traffic Impacts:** A Council member inquired if there is a way to mitigate future traffic impacts given that the preliminary recommendation was for a 14-year construction completion time limit, as proposed by the applicant.

*Staff Response:* We have reviewed the request for a 14-year build out and do not recommend adjusting the construction completion deadline associated with this approval. The traffic impact assessment for this application includes the entire 14-year phased buildout period, proposed to end in 2014. Existing traffic on Merin Road is light during all periods of the day and is not expected to change significantly over the course of the development of the Church of the Advocate. Furthermore, we have traditionally allowed Places of Worship, and other non-profit uses, longer construction deadlines in permit approvals because of special considerations with fund raising.

Alternatively, the Council may choose to reduce the construction completion deadline to a shorter time period. In that case, if the applicant needed to extend a reduced construction completion date, the Land Use Management Ordinance allows the Town Manager a one time (one-year extension), and the Council may approve subsequent extensions (time periods determined by the Council).

2. **Non-Sunday Church Activities:** A Council member inquired about the scale of non-Sunday Church activities because of the effect that it could have on Homestead Road traffic. Attached to this memorandum (part of attachment 3) is additional information from the applicant about projected non-Sunday Church activities.

*Staff Response:* We do not expect that the impact of these customary weekday uses, incidental to the principal use, to be significant.

In the initial development of the scope of transportation assessment of the proposed Church of the Advocate, we based the study timeframes for analysis on the assumption that weekday peak hour traffic generation at the proposed site would be minimal. There was no specific information available on the projected intensity of activity for educational/church-related activities beyond Sunday (or Saturday evening) worship services. There also is little information available from standard Institute of Transportation Engineers (ITE) data sources or research on quantifying vehicular activity specific to weekday church-related functions.

Typically, if these activities are focused on pre-school classes, evening adult classes/bible study or youth group events, or any other social event during a typical weekday period, it is very difficult to quantitatively assess how many trips would be made on a "typical" day and how the timing of such events would fall into a peak hour (primarily the PM peak hour). In most circumstances, "after school" activities may involve trip-making prior to the PM peak hour of adjacent street traffic, and many of the other social/religious study activities are after the PM peak hour of adjacent street traffic.

Existing traffic on Merin Road is light during all periods of the day and is not expected to change significantly over the course of the development of the Church of the Advocate. Based on these assumptions, site traffic impacts during the PM peak hour along Homestead Road are not expected to be significant.

After the April 19, 2010 public hearing, the following issues were raised by staff and are discussed below.

1. **Revise Site Plan Boundaries:** Following the Public Hearing, Town staff determined that there were some issues regarding the site boundaries along Merin Road.

*Staff Response:* The applicant has revised the site plan, dated May 25, 2010, which now properly accommodates the Merin Road right-of-way, the proposed dedication of the northern part of Merin Road, the proposed sidewalk and associated easement, and the proposed landscape buffer along Homestead and Merin Road.

2. **Sewer Easement on Adjacent Town property:** The applicant is proposing to extend a sewer main located off-site on the adjacent Town property to the east.

*Staff Response:* The applicant will be required to obtain a separate utility easement from the Town prior to the issuance of a Zoning Compliance Permit. There is a separate agenda item before the Council tonight that would authorize the required utility easement on Town property.

## PROCESS

We anticipate that further evidence may be presented for the Council's consideration as part of the continued public hearing process.

The Land Use Management Ordinance requires the Town Manager to conduct an evaluation of this Special Use Permit application, to present a report to the Planning Board, and to present a report and recommendation to the Town Council. We have reviewed the application and evaluated it against Town standards; we have presented a report to the Planning Board; and tonight we submit our report and recommendation to the Council.

The standard for review and approval of a Special Use Permit application involves consideration of four findings (description of the findings follows below). Additional evidence will be presented tonight. If, after consideration of the evidence, the Council decides that it can make each of the four findings, the Land Use Management Ordinance directs that the Special Use Permit shall then be approved. If the Council decides that the evidence does not support making one or more of the findings, then the application cannot be approved and, accordingly, should be denied by the Council.

## EVALUATION OF THE APPLICATION

Tonight, based on the evidence in the record thus far, we provide the following evaluation of this application based on the four findings of fact that the Council must consider for granting a Special Use Permit. We believe the evidence in the record to date can be summarized as follows:

**Finding #1:** *That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;*

Evidence in support of this finding includes the following point from the applicant's Statement of Justification:

- *Applicant's Statement:* "This development will bring OWASA public waterlines and public sewer lines into the Merin Road/Billabong neighborhood; this neighborhood has previously been served by wells and individual septic systems. Likewise, a public sidewalk will be extended. The proposed use as a Place of Worship is a permitted use in the R-1 district, with frontage on an arterial street, Homestead Road. In all aspects, by extending public utilities and sidewalks, and by providing sufficient on-site parking and access points, the development will promote public health, safety and welfare."

Evidence in opposition: No evidence has been offered in opposition to Finding #1.

**Finding #2:** *That the use or development would comply with all required regulations and standards of the Land Use Management Ordinance;*

Evidence in support of this finding includes the following points from the applicant's Statement of Justification:

*Applicant's Statement:* "The applicant believes the development complies with all regulations and standards.

With regard to Section 6.17, a place of worship must (a) front on an arterial or collector street with (b) a lot width exceeding the minimum in 3.8-1:

- a. The subject parcel fronts onto Homestead Road, an arterial public street.
- b. 3.8-1 requires a minimum lot width (measured at the 28 foot setback line) of 80 feet. The subject parcel has a lot width of 138.58 feet, which exceeds the minimum required width by 58.58 feet.

After the Concept Plan review, the design team agreed to preserve a notable group of landmark trees we believe were associated with the original homestead on the site circa the 1940's."

Evidence in opposition: No evidence has been offered in opposition to Finding #2.

**Finding #3:** *That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity;*

Evidence in support of this finding includes the following points from the applicant's Statement of Justification:

- *Applicant's Statement:* "As a Place of Worship, it will provide a beneficial transition from higher density residential/railroad uses. The development will preserve the rural viewscape along Homestead Road. The use as a Place of Worship will provide needed public utilities and sidewalks, but will not burden schools or roadways, nor cause additional weekday congestion or the need for new extensive public services."

Evidence in opposition: No evidence has been offered in opposition to Finding #3.

**Finding #4:** *That the use or development conforms to the general plans for the physical development of the Town as embodied in the Land Use Management Ordinance and in the Comprehensive Plan.*

Evidence in support of this finding includes the following points from the applicant's Statement of Justification:

*Applicant's Statement:* "Places of Worship are permitted in this zoning district, adjacent to an arterial road.

The use will provide a beneficial transition to help protect the Merin/Billabong neighborhood.

The "orchard" viewscape along Homestead Road will be preserved. Public Utilities and sidewalks will be extended into the neighborhood.

The development will have virtually no impact on schools, weekday traffic or public services. The proposed use is contemplated by the Comprehensive Plan and is aligned with the themes of the Plan, and will be compatible with existing development and will be compatible with all surrounding properties.”

*Staff Comment:* A place of worship is a use customarily allowed in residential zoning districts subject to particular standards.

Evidence in opposition: No evidence has been offered in opposition to Finding #4.

We anticipate that further evidence may be presented for the Council’s consideration as part of the continued public hearing process. Please see the applicant’s Statement of Justification for additional evidence in support of the four findings.

### **SUMMARY**

We have attached Revised Resolution A that includes standard conditions of approval as well as special conditions that we recommend for this application. With these conditions, we believe that the Council could make the four required findings necessary to approve the application. Our recommendation, Revised Resolution A, incorporates input from all Town departments involved in review of the application.

### **RECOMMENDATION**

Revised Staff Recommendation: We recommend that the Council approve the Special Use Permit application with the adoption of Revised Resolution A, which includes the following revised conditions following the April 19, 2010 public hearing:

- Revise Site Plan Boundaries: The revised the site plan, dated June 3, 2010, accommodates the Merin Road right-of-way, the proposed dedication of the Northern part of Merin Road, the proposed sidewalk and associated easement, and the proposed landscape buffer along Homestead and Merin Road and is referenced in Revised Resolution A.
- Homestead Road Right-Of-Way Dedication: Include stipulation that was inadvertently not included in the preliminary recommendation, Resolution A.
- Dedication of Merin Road Public Right-Of-Way: Revise stipulation that 1) more accurately describes the dedication of Merin Road Right-of-Way on the southern part, and 2) requires that the applicant dedicate ½ of a 50-foot Public Right-of-Way on the northern part, rather than reserving the right-of-way.

Resolution B would deny the application.

A matrix comparing the differences between staff and advisory board recommendations is included at the end of this memorandum.

#### **ATTACHMENTS**

1. Applicant's Materials, Revised Site Plan, Dated June 3, 2010, Revised Project Fact Sheet, and Description of Non-Sunday Church Activities (p. 20).

**Church of the Advocate Special Use Permit**  
*DIFFERENCES AMONG RECOMMENDATIONS*

<b>ISSUES</b>	<b>Staff's Revised Recommendation</b>	<b>Planning Board</b>	<b>Community Design Commission</b>	<b>Bicycle &amp; Pedestrian Adv Board</b>	<b>Transportation Board</b>	<b>Greenways Commission</b>
Delete Redundant Stipulation: Lighting Plan	Yes	Yes	*	*	*	*
Delete Redundant Stipulation: Fire Hydrant & FDC Locations	Yes	Yes	*	*	*	*
Consider Using Permeable Pavers in the Parking Lots	No	*	Yes	*	*	*
Expand Reserved Transit Corridor Easement to Include A Multi-Use Greenway Trail	Yes	*	*	Yes	*	Yes
Revise Site Plan Boundaries to Better Accommodate, Right-Of-Way, Sidewalks, and Landscape Buffer	Yes	*	*	*	*	*
Add Homestead Road Right-Of-Way Dedication Stipulation	Yes	*	*	*	*	*
Dedicate, Rather Than Reserve, Merin Road Right-Of-Way	Yes	*	*	*	*	*

\*Not discussed

Matrix Revised June 11, 2010