

Office of the City Manager

COUNCIL ACTION

July 15, 2003

To: Honorable Mayor and
Members of the City Council

From: Weldon Rucker, City Manager

Subject: 2514 Benvenue Avenue, Consideration of the Use Permits approved by the Zoning
Adjustments Board

RECOMMENDATION

Continue the consideration of the project and environmental action until January 20, 2004 at the request of the applicant after hearing 3 minutes each of testimony from the applicant and appellants confined to the issue of whether environmental review should be delayed.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

On April 8, the Council requested that an Environmental Impact Report (EIR) be prepared for this project and continued the public hearing to an unspecified date. Staff prepared a scope of work and released a request for proposals (RFP) for preparation of an EIR that was under consideration by several environmental firms at the time of the applicant's request to continue. Upon receipt of the applicant's request for a continuance to 2004, the RFP was cancelled and this matter was re-noticed for a continued public hearing since the last Council action on April 1, 2003 on this matter was to continue the public hearing.

BACKGROUND

At the meeting of April 1, 2003, the Council closed the public hearing for purposes of hearing public testimony and left the record open for the limited purposes of allowing the Council to elicit additional information via questions to the staff or public. Also at this meeting the Council directed staff to return with findings on April 8, 2003 to approve the projects at 2500 and 2508 Benvenue Avenue.

At the meeting of April 8, 2003, the Council approved the related projects at 2500 and 2508 Benvenue Avenue. The Council also continued the public hearing on the proposed project for 2514 and 2516 Benvenue for the preparation of an EIR to analyze the project's potential impacts on traffic, historical resources and other matters as appropriate. The Council directed that "with respect to the buildings at 2514 and 2516 Benvenue, the EIR should authoritatively address whether those buildings are historical resources for purposes of CEQA". The Council did not continue the hearing from April 8, 2003 to a specific date, which required a new public notice.

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On May 16, 2003, the City received a request from David Levy, agent for the property owner, that requested a continuance to 2004 (letter attached). The public hearing was re-noticed for July 15. Staff recommends that the Council allow 3 minutes each of testimony on the proposed continuance from representatives of the applicant and appellant, which should be confined to the issues of whether any environmental review should be delayed, as the applicant has requested, and then grant the applicant's request.

RATIONALE FOR RECOMMENDATION

The applicant indicates that ABSW wishes to focus their efforts on the seismic upgrades that were approved by the Council for 2500 and 2508 Benvenue Avenue. It is not possible to proceed with the CEQA document without the applicant's participation because they provide the funds for the City's preparation of the EIR. The Zoning Ordinance does not set a time limit for the Council's consideration of an appeal where the public hearing remains open, as is the case with this project. Therefore, the continuance requested by the applicant will not pose any procedural limitations on the Council's consideration of this request.

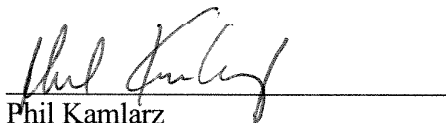
ALTERNATIVE ACTIONS CONSIDERED

The Council could choose not to continue the project. If the Council chooses not to continue the project, and the applicant is not willing to proceed with the CEQA document, then the Council would need to deny the project based on the lack of environmental information.

CONTACT PERSON:

Mark Rhoades, Current Planning Manager, 981-7410

Approved:



Phil Kamlarz
Interim Director
Planning and Development Department

Attachment:

May 16, 2003 letter from David C. Levy

MORRISON & FOERSTER LLP

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May 16, 2003

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Via E-Mail


Mr. Mark Rhoades
City of Berkeley, Planning and Community Development Department
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Re: American Baptist Seminary of the West — Request for Continuance

Dear Mr. Rhoades:

I write to request a continuance of the processing schedule that the City Council requested upon requiring the staff to prepare an EIR for the Morgan Hall portion of the American Baptist Seminary of the West project. My understanding was that the Council asked to have the EIR completed and the matter back before them late this year. Currently, the Seminary would like to focus on proceeding with the approved renovations to 2500 and 2508 Benvenue and to take a break from the voluminous proceedings surrounding Morgan Hall. The Seminary anticipates taking that project up again next year. Please let me know if you see a problem with this proposal. Thank you.

Very truly yours,



David C. Levy

cc: Zachary D. Cowan, Esq.
Mr. Gary Black
Sharon Hudson