



June 26, 2008

Via facsimile: (310) 454-5567

Rabbi Zushe Cunin
Chabad of Pacific Palisades
15207-A Sunset Boulevard
Pacific Palisades, California 90272

Re: Early Childhood Development Program at Temescal Canyon

Dear Rabbi Cunin,

Governor Schwarzenegger asked me to personally respond to your request related to Chabad's Early Childhood Development Program, which has been located on land leased from the Santa Monica Mountains Conservancy (SMMC). I hope that we can help resolve this matter in a way that makes sense for Chabad, its neighbors, and the SMMC.

I understand that Chabad has agreed to abide by the conditions listed in the attached document, and I will contact SMMC as soon as I receive the signed document indicating your commitment to adhere to these stipulations.

I have taken the liberty of attaching what I hope are helpful guidelines for proceeding with the SMMC Board. I understand you have worked with the Coastal Commission and that you do not need instructions for appealing to it.

I bid you continued success with Chabad's Early Childhood Development Center and wish you the best of luck in your future endeavors.

Sincerely,

Mike Chrisman
Secretary

cc: Ms. Ruth Coleman
Mr. Dan Dunmoyer
Mr. Joe Edmiston
Mr. Herb Schultz

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>



bcc: Ms. Billie Greer
Mr. Daniel Ketchell
Ms. Kris Lannin Liang

By signing below, Chabad of Pacific Palisades agrees to the terms and conditions stated below with regard to the third extension of their non-extendable lease at Temescal Canyon:

- Chabad agrees to abide by the terms of the previous lease, which permits use Monday-Friday only; Chabad must clean facilities, to park standards, daily.
- Chabad staff and clients agree to use the Center's designated parking lot, and pay for parking for the entire nine month extended period.
- Chabad agrees to release its restrictions, and permit the public full use of the meadow surrounding the Center.
- Chabad agrees to abide by all park rules, and will instruct their clients to do the same.
- Chabad agrees to instruct their staff, specifically to Barbara Leibovic, to treat park staff with courtesy and respect.
- Chabad will refrain from making improvements within the park without prior permission.
- Chabad agrees to discontinue all communication related to the Center's lease with SMMC staff, their associates and families.
- Chabad agrees to pay for the entire term of extension (if granted) from June 23, 2008, until January 31, 2009.
- Chabad agrees to secure a bond in the amount of \$250,000 to guaranty their departure from the premises before January 31, 2009.

Rabbi Zushe Cunin

Rabbi Borush Shlomo Cunin

Santa Monica Mountains Conservancy

Step (1) Formal Application.

Chabad must make a specific and formal request pursuant to Sec. 33206 of the Public Resources Code. It should be addressed to the Conservancy to Joe Edmiston's attention at 5750 Ramirez Canyon Road, Malibu, California 90265.

Sec. 33206 provides that: "The conservancy may lease lands acquired in accordance with and for purposes consistent with this division [Santa Monica Mountains Conservancy Act]."

Therefore, the Chabad request must articulate specific reasons why the requested action is consistent with the Conservancy Act, together with sufficient project information to be able to make a preliminary determination of completeness pursuant to 14 Cal.Code Regs.15060(a).

A determination of completeness is made by the Executive Director, as is the decision pursuant to subdivision (b) of Sec.15060 that the project is, or is not, subject to CEQA.

Step (2) Review for CEQA Exemption.

Sec. 15061 requires a review for exemptions.

Step (3) Preparation of Initial Study.

Sec.15063 governs preparation of the initial study. This is a checklist procedure that relies on "expert opinion supported by facts, technical studies or other substantial evidence to document its findings." Sec.15603(a)(3).

Step (4) Determination of Significance.

Depending on what is found, based on "substantial evidence, in light of the whole record" Sec.15064(a)(1), then either an EIR, focused EIR, mitigated negative declaration, or negative declaration is prepared. This decision is made by the Executive Director, subject to appeal by the applicant to the Conservancy Board.

If the project is determined not to have significance within the meaning of CEQA, then the process skips to Step 8.

Step (5) Determination of Environmental Document.

What is understood about the proposal would lead to concerns about traffic, parking, noise, aesthetics, displacement of other park uses, and cumulative impacts. It seems likely the decision would be between a focused EIR and a mitigated negative declaration.

Step (6) Contract for Preparation of Environmental Document.

SMMC as a state agency is subject to the State Contracts Manual. The procedure for bidding an environmental document is as follows:

(a) The project description, together with the initial study, are packaged into a RFP that is advertised in the State Contracts Register (SCM 5.75). Each proposed contractor submits a proposal and a cost envelope (SCM 5.20(B)).

(b) After each proposal is evaluated, then the cost envelopes are opened and the lowest cost proposal is awarded. If the cost is \$50,000 or less, then the contract may be awarded by SMMC (SCM 4.04(5)(b)), otherwise it must be submitted to the Department of General Services. A contract of this kind shouldn't exceed the \$50,000 delegation amount.

Important caveat: As a state agency, neither the SMMC nor any officer or employee thereof may enter into a contract without budgetary authorization. Until the Budget Act of 2008 is signed, there is no contract authority.

Step (7) Circulation of Environmental Document.

Upon completion of the draft document, there is a minimum 30-day circulation period for an EIR (Sec.15105(a) and 20 days for a negative declaration (Sec.15105(b)). No hearing is required by CEQA, but since the Open Meetings Act requires a noticed public comment period, this constitutes a *de facto* hearing requirement.

If it is a negative declaration or mitigated negative declaration, the total time period for approval is 180 days (Sec. 15107) and for an EIR it is one year (Sec 15108).

Step (8) Consideration by Conservancy Advisory Committee and Board.

The Conservancy is required to respond to comments. Then it certifies (or doesn't) the environmental document. Then the matter in chief is properly before it for vote.

Section 33200 of the Public Resources Code provides for an unusual process for approvals by the Conservancy. If a project is outside the Coastal Zone, then there are nine (9) voting members, however for a project within the Coastal Zone, then the ex officio member representing the California Coastal Commission, gets to vote as well, making the board for coastal purposes 10 members. See Pub. Res. Code Sec. 33200(b)(2). Temescal Canyon is within the Coastal Zone, so it is a six (6) vote item.

Step (9), Approval by Director of General Services.

There is a disagreement between the Conservancy and the Department of General Services over whether or not leases of Conservancy property require DIGS approval. In general, state leases must be approved by General Services (Government Code Sec. 11005.2), although Sec. 33206 of the Conservancy Act provides that the "conservancy" may lease. In any event SMMC approval is necessary (Pub. Res. Code Sec. 33203) whether or not it is sufficient.

Step (10) If Approved by SMMC (and DGS if necessary), Chabad files application with Coastal Commission.