

October 2, 2013

TO: George Edwardz, appellant  
F. Elliot Goldman, legal counsel for appellant  
Shauna Clark, City Manager, City of La Habra Heights  
Holly Whatley, City Attorney, City of La Habra Heights

SUBJECT: **Draft Hearing Officer Report– Case No. PRJ 2013-56**

The City of La Habra Heights Planning Commission approved a Conditional Use Permit to permit a renovation of the City Hall. I was retained by the City to serve as a Hearing Officer for an appeal of that decision that was filed by interested party George Edwardz.

Following the public hearing which I conducted on Monday, September 30, I have completed a Preliminary Draft Report. This draft report is being provided simultaneously to appellant George Edwardz, F. Elliot Goldman, Shauna Clark and Holly Whatley for their review.

Please examine this report for any factual errors and return your comments to me either as a “marked up” report or by an email or letter. It is my intent to issue a final report on Wednesday, October 9 and need to receive your comments and suggestions prior to that time.

Also I would appreciate your thoughts on the following possible addition to the report:

As discussed on page 13 of the City’s September 30 memorandum, in order to address one of the appellant’s contentions relating to the screening wall, I am hereby exercising the authority permitted to the Hearing Officer to modify the Planning Commission decision by adding an additional condition of approval as follows:

Planning Division Conditions

7. The proposed block wall on the Hacienda Road side shall comply with Code Section 7.18.40L by redesign or by an approved standards modification.

Thank you for your attention to this matter.

Very truly yours,

BOB BRAITMAN

October 2, 2013

TO Distribution List:

FROM: Bob Braitman

SUBJECT: **Hearing Officer Report – Case No. PRJ 2013-56**

The City of La Habra Heights Planning Commission approved a Conditional Use Permit to permit a renovation of the City Hall. This Hearing Officer report concerns an appeal of that decision that was filed by George Edwardz.

Hearing Officer Decision

Having considered all evidence, both written and oral, I am affirming, the decision of the Planning Commission and **denying the appeal** submitted by George Edwardz.

Pertinent to my decision are detailed responses to the appellant’s claims set forth in the “Appeal Report” submitted by the City Attorney and Principal Planner dated September 30. It responds to and factually refutes the reasons set forth in the appeal dated September 12.

Background

The City of La Habra Heights is considering renovating the existing City Hall to allow additional space and improvements by modifying a legal nonconforming structure. The Municipal Code requires that legal nonconforming nonresidential structures obtain a Conditional Use Permit (CUP) when modifications are proposed. CUP PRJ2013-56 was initiated for this purpose.

This matter was considered by the City Planning Commission and on August 27, 2013 the CUP (PRJ 2013-56) was approved allowing for renovation of the facility.

In accordance with the City’s Municipal Code, Mr. George Edwardz on September 12, 2013 filed an application with the City to appeal the Planning Commission decision. The appeal alleges a number of instances where the CUP fails to meet required standards.

Hearing Officer Tour of Facility

At the beginning of the public hearing held on September 30 I disclosed that prior to the hearing that morning I had toured the City Hall and adjacent areas. The tour was led by City Public Works Superintendent Dave Nichols and the appeal was not discussed during the tour.

### Public Hearing

At a public hearing written and oral information was submitted by the appellant and other interested parties. At the hearing testimony was received from the following speakers:

- George Edwardz, appellant
- Holly Whatley, City Attorney
- Stephen Blagden, interested citizen
- Faith Grimm, interested citizen
- Phil Lough, interested citizen
- Pam McVicar, interested citizen
- Norm Zezula, interested citizen
- Betty Kimes, representing the private school adjacent to the City Hall (Family Resource Ministries and Heights Christen School)
- Jim Remington, City Council Member
- Ed Morrow, interested citizen
- Loret Sayler, interested citizen

### Request for Continuance of Hearing

On September 26, 2013, Mr. Goldman, legal counsel to appellant Mt. Edwardz, submitted a request to continue the scheduled appeal hearing. City Attorney Whatley responded that same date providing the reasons the City felt the request should be denied. That day Mr. Goldman responded to the City's letter.

At the beginning of the public hearing I indicated I had received a request to continue the hearing but a decision on that request would not be made until the evidence submitted at the hearing had been considered.

Based upon the facts in this case and the extensive documentation and testimony relevant to the appeal that had been submitted, the requested continuance of the hearing was not granted.

Communications Directed to the Hearing Officer

As Hearing Officer I reviewed a number of documents, which include:

- George Edwardz' appeal and attachments dated September 12
- George Edwardz letter dated September 30 with enclosures
- Memorandum providing arguments for denial of the appeal submitted by City Attorney Holly Whatley and City Principal Planner Katherine Leazer dated September 30.
- Planning Commission agenda packet for its August 27 meeting regarding the CUP including the staff report and attachments and written materials submitted at that hearing
- Planning Commission Resolution No. 2013-02 approving the CUP PRJ 2013-56.
- City Municipal Code Articles 7 and 8
- Memorandum to Planning Commission from Stephen Blagden dated August 24.
- Memorandum to Planning Commission from the City Manager Shauna Clark, City Planning Manager Katherine Leazer, City Attorney Holly O. Whatley and Assistant City Attorney Mathew T. Summers dated August 27.
- Letter to City Council from Stephen Blagden dated September 3.
- Twenty-five Requests for Public Records submitted by George Edwardz dated September 18, and corresponding responses from Deputy City Clerk Sandra Studer dated September 25.
- Written comments submitted at the hearing by Stephen Blagden, along with a large number of documents he provided relating to the City including Facilities Assessment of Municipal Facilities, Municipal Code, Fire Department Study, City staff report on Adoption of Fire Code, City staff report question of fire sprinklers for renovation and related public comments, several reports from CalPERS (California Public Employee's Retirement System) and related papers, City staff report on establishing a budget for renovation of the City Hall and CDD/ Fire Buildings to authorize construction drawings; City staff report on establishing procedures for appeal hearing on CUP PRJ2013-56), colored and black-and-white drawings and photographs illustrating the current conditions and proposed City Hall renovation; flyers or public newsletters from the La Habra Heights Improvement Association

I have received and reviewed several letters and emails addressed directly or tangentially to CUP Appeal Hearing Officer. These include communications from:

- Carolyn Boehringer
- Walter Boehringer
- Stan Carroll, former Mayor
- Brad and Vickie Cooke
- Rafael Fernandez, City Planning Commissioner
- Monica Gunns

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- Faith Grimm
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- Jean Good Lietzau, former Mayor
- Romalyn Litchfield
- Pamela McVicar
- Mark Perumean
- Jim Remington
- Jack and Loret Saylor
- Claire and Paul Spothelfer
- John and Mary Jane van Barneveld
- Ruth Wolfarth

This is not an exclusive list of documents received and reviewed. I have also watched the recording of the February 14 meeting of the City Council

This concludes the report of the Hearing Officer in the matter of the appeal of CUP PRJ 2013.56.

Very truly yours,

BOB BRAITMAN

Distribution List: George Edwardz, appellant  
F. Elliot Goldman, legal counsel for appellant  
Shauna Clark, City Manager, City of La Habra Heights  
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