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A Majority Of The Ridgecrest City Council / Redevelopment  
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October 7, 2009 Agenda Packet

Add Addendum to Appeal of Planning Commissions' Denial of the  
Application for Conditional Use Permit to Public Hearing Agenda  
Item No. 1

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City Council Agendas

**CITY OF RIDGECREST  
PLANNING DEPARTMENT**

**ADDENDUM TO APPEAL OF  
PLANNING COMMISSIONS' DENIAL OF  
THE APPLICATION FOR CONDITIONAL USE PERMIT**

DATE: SEPTEMBER 29, 2009

APPELLANT: ADVANCED IMAGING CENTER  
900 E HERITAGE RD BLD B  
RIDGECREST, CA 93555  
760-446-1999

APPEALED TO: CITY OF RIDGECREST – CITY COUNCIL

REASONS FOR APPEAL:

Pursuant to receipt of an unexecuted copy of the Planning Commission Resolution 09-14 after the filing of the Notice of Appeal dated September 14, 2009 and the City's express acquiescence to file an addendum to the foregoing Notice, the Appellant hereby submits this Addendum to set forth additional reasons for appeal. To date, no officially executed copy of the foregoing Resolution has been received by the Appellant.

1) **The Planning Commission's findings are erroneous and/or constitute an abuse of discretion as set forth below.** Written "findings of fact" are required in order to support the decision of the hearing body to approve or deny a conditional use permit (*Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 C.3d 506). If the decision is challenged, a court will examine the evidence supporting the findings to determine whether the hearing body abused its discretion when acting on a conditional

use permit. Such an abuse of discretion is to be found when ... (3) the agency's findings are not supported by evidence in the administrative record.

A. The location and the standards of the maintenance of the Mobile Healthcare Units are consistent with public health, safety and welfare and harmonious with improvements in the vicinity.

The Mobile Healthcare Units are housing state of art and self-sustaining MRI and CT equipment and are positioned within the parking spaces allocated to Advanced Imaging Center, Inc. The Property has a reciprocal parking agreement with an adjacent property which allows the subject property to utilize their parking facility in addition to the available 220 parking spaces. The Mobile Healthcare Units are situated within a commercial complex housing numerous other medical tenants. The Mobile Healthcare Units are operated by electricity on a temporary basis until the orderly process of preparing of Building B for their housing is completed. There are no emissions emanating from this medical equipment. They are used to render vital medical services scarce in Ridgecrest and not only designed to protect the health of the community in Ridgecrest but could potentially save lives due to their instantaneous response. As such and in light of the temporary nature of the application, they cannot as a matter of law be “detrimental to the public health, safety or welfare”. They cannot be injurious or inharmonious with adjacent properties as they are located within a commercial complex with other medical tenants. The only difference is the fact that they are located outside the complex and not within.

B. The decision deprives the Appellant of the reasonable use of its property rights when others similarly situated are entitled to make such use of their property.

There are circumstances that warrant the granting of the conditional use permit for temporary use of Mobile Healthcare Units. In essence, the Appellant has commenced an orderly process through which it seeks to house its MRI and CT systems within Building “B” of the Heritage Complex. In light of the lengthy process to accomplish that goal and given the essential nature of the medical services rendered by the Appellant primarily through the foregoing systems, it is indeed necessary to allow the Appellant to deploy on a temporary basis the foregoing equipment within its property. As indicated before, the Mobile Healthcare Units are stationed within the allocated parking spaces to the Appellant by the complex which are part of the rights acquired by the Appellant in accordance with its lease agreement. There are a substantial number of medical tenants within the Heritage complex and within the affected area that render medical services. The deprivation of the Appellant to utilize the said systems on a temporary basis will in effect deprive it of rendering any services at all and thus impair its rights.

C. The proposed location of the Mobile Healthcare Units fall within the objectives of the General Plan, the commercial land use designation and the zoning chapter and the purposes of the General Commercial zoning district in which the site is located.

The General Plan of the City of Ridgecrest states, inter alia, that “in order to become a more self-sufficient community, Ridgecrest must seek greater economic independence from NAWS. The benefits of such a pursuit include provision of a broader range of services for residents, enhanced employment opportunities, economic stability and independence from fluctuations in NAWS activities...”

Further, although use permits are not explicitly made subject to a general plan meeting the requirement of state law, that condition is necessarily to be implied from the

hierarchical relationship of land use laws. Thus, use permits are struck from the mold of the zoning law, the zoning law must comply with the adopted general plan, and the adopted general plan must conform with state law; the validity of the permit process derives from compliance with this hierarchy of planning laws (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176).

Herein both the General Plan of the City of Ridgecrest, the General Commercial purposes and the state law – all clearly allow for new enterprises within the city that provide essential services to the residents, provide enhanced employment opportunities and economic stability and independence to the city. A conditional use permit that would allow the deployment of Mobile Healthcare Units which allow the Appellant to render services locally in a **commercially-zoned area** to Ridgecrest residents rather than in a remote location, will allow employment of local residents by the Appellant and result in economic prosperity and welfare to its residents. There cannot be any contradiction, as a matter of law with any of the objectives of the General Plan, applicable zoning law or the state law. Furthermore, the state law recognizes the importance of Mobile Healthcare units and it may preempt local ordinances as they pertain to their deployment.

D. The Mobile Healthcare Units require electrical power source that is available and permitted by the City and thus is appropriate.

The Appellant has already applied for an electrical permit, complied with rigorous requirements and obtained an electrical permit for the Mobile Healthcare Units. The permit granted by the City per se makes the electrical power source appropriate.

2) **The standard used by the Planning Commission in denying the application is overly rigorous and inconsistent with the public welfare.** "The general welfare

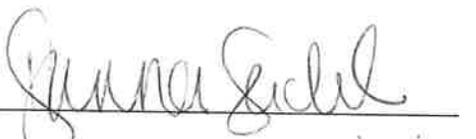
standard is sufficient in granting a conditional use permit. The establishment, maintenance or conducting of the use for which a use permit is sought will not, under the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood." (*Hawkins v. County of Marin* (1976) 54 Cal.App.3d 586) " (*Hawkins v. County of Marin* (1976) 54 Cal.App.3d 586).

The established law in California allows for a conditional use permit solely by examining the public welfare. For reasons elaborated above, allowing a temporary permit for a period not to exceed six months to operate a medical system within a commercially zoned area to render effective and vital medical services to the community of Ridgecrest cannot be conceived as anything but to promote the public welfare.

APPELLANT:

ADVANCED IMAGING CENTER, INC.

BY:

  
Danna Siedel, administrator

Date: September 29, 2009