



CITY COUNCIL AGENDA REPORT

MEETING DATE: NOVEMBER 18, 2008

ITEM NO:

SUBJECT: APPEAL OF ZONING APPLICATION ZA-08-10
TRINITY CHRISTIAN CENTER
3150 BEAR STREET

DATE: NOVEMBER 6, 2008

FROM: DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: DONALD D. LAMM, DIRECTOR
MEL LEE, AICP, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, (714) 754-5611

RECOMMENDATION:

Adopt a resolution upholding, reversing, or modifying Planning Commission's decision to approve Zoning Application ZA-08-10, a minor conditional use permit that allows a maximum of 12 outdoor filming activities per year at Trinity Christian Center, which is referred to as Trinity Broadcast Network (TBN) in the remainder of this report.

BACKGROUND:

Appeal Summary:

The applicant is appealing Planning Commission's inclusion of a condition of approval that requires TBN to install on-site noise monitoring equipment and to provide to the City quarterly noise data reports for a two-year period.

Property Location:

TBN is located on a six-acre property bounded by Bear Street on the west, the I-405 Freeway on the north, and single-family residences on the south and east, as shown on Attachment 1. TBN uses this property for limited television production. The primary activities include special events, such as their annual holiday light displays, as well as meeting and food service facilities for group functions. The 79 single-family home Lifestyles planned development is located to the south and a 62 single-family home residential tract is located to the east.

Project Request:

TBN is requesting permission to conduct a maximum of 12 outdoor filming activities per year in the patio located to the south of their building. The filming sessions will not require amplified sound, since performers will sing or talk into a microphone that transfers

the sound to on-site recording equipment. The sessions will not include audience members or spectators.

In addition to the minor conditional use permit, TBN is also required to obtain a separate film permit for each session from the City Manager's Office (Code Section 9-473). Code does not limit the number of film permits TBN can obtain each year, nor does the Code require public notification. From November 2005 to the date of this report, the City has issued seven film permits to TBN.

Discussion:

On August 21, 2008, the Zoning Administrator approved the minor conditional use permit, subject to conditions of approval to ensure surrounding single-family residences are not disrupted by the outdoor filming activities, including the conditions of approval noted below:

- Condition of approval number 2. Each of the 12 outdoor filming activities shall be limited to a single day.
- Condition of approval number 3. Activities related to outdoor filming, including equipment installation and removal, shall be limited to between 5:30 p.m. and 9:00 p.m. No outdoor filming activities shall occur on Sundays or holidays.
- Condition of approval number 4. Outdoor filming activities shall not occur more than 12 times per year from the effective date of this approval.
- Condition of approval number 5. Audiences, spectators, or noise-generating props (such as live animals) shall not be permitted during any outdoor filming activities.
- Condition of approval number 6. Amplified sound, loudspeakers and/or public address systems shall not be permitted.

On August 25, 2008, an appeal of the Zoning Administrator's approval was filed by Stacy Schofro, a neighboring property owner. In the appeal, she stated that her home, which abuts TBN's property to the south, is under constant noise attack, despite her complaints to Police and Code Enforcement staff. Specifically, she claims that TBN does not comply with the following conditions of approval for limiting the use of lifts, leaf blowers, and tree trimming equipment per their current conditional use permits (Planning Applications PA-96-19 and PA-98-24):

- Condition of approval number 21: Outdoor use of heavy equipment (such as lifts) shall not occur before 9 a.m. or after 5 p.m., Monday through Friday, and shall not be allowed on Saturday, Sunday or federal holidays (emergency activities excluded).
- Condition of approval number 26: Landscape maintenance equipment is prohibited from being started before 8 a.m.

Because in her opinion, TBN continually violates its current conditions of approval, she felt they should not be granted the requested minor conditional use permit.

On October 13, 2008, Commission conducted the appeal hearing, during which Ms. Schofro showed video and audio clips of equipment in use next to her home. Several

other neighbors also stated that TBN does not comply with their conditions of approval to minimize noise.

Code Enforcement staff noted that whenever an officer performed a noise complaint inspection, they observed one of the following:

- No activity occurring on TBN's property;
- The activity being conducted was not generating any noise; or
- The noise generating activity was occurring within the hours allowed under the conditions of approval.

Additionally, Code Enforcement staff noted that they conducted over 70 site visits to TBN over a three-and-a-half year period. These 70+ site visits were in addition to the responses to individual complaints of noise violations. Over that period, Code Enforcement issued two citations for noise violations to TBN.

Commission Action:

Commission upheld the Zoning Administrator's approval of the minor conditional use permit on a 5-0 vote, and added the following condition of approval:

- Condition of approval number 12. At Trinity Christian Center's expense, noise monitoring equipment shall be installed on the applicant's property per the specifications of an independent acoustic consultant and in proximity to the adjacent single-family homes. The equipment shall continuously monitor on-site noise levels 24 hours a day, seven days a week, and the equipment shall be installed and operational no later than four months from the effective date of this approval. The equipment shall be operated and maintained by the acoustic consultant, who will submit a report on the data collected to the Planning Division on a quarterly basis. The Planning Division shall report this information to the Planning Commission on a quarterly basis. The noise monitoring equipment shall remain operational two years from the date of its initial installation.

Commission determined that because TBN conducts frequent landscape maintenance activities to keep the property in a nicely manicured "ready to film" condition, it was reasonable to require 24-hour noise monitoring as a condition for their minor conditional use permit for outdoor filming. Neither of the existing conditional use permits were called up for review by Commission.

On October 20, 2008, the applicant appealed this condition of approval. In the appeal, the applicant states that there is no correlation between their minor conditional use permit request for outdoor filming and the Commission's additional condition for 24-hour noise monitoring over a two year period.

Additional Background Information:

The Planning Staff Report and meeting minutes for ZA-08-10 can be found on the City website at the links below:

Minutes of October 13, 2008 Planning Commission Meeting:
<http://www.ci.costa-mesa.ca.us/council/planning.htm>

Planning Commission Staff Reports for the October 13, 2008, and September 22, 2008
Planning Commission Meetings:
<http://www.ci.costa-mesa.ca.us/council/planning/2008-10-13/101308ZA0810Appeal.pdf>
<http://www.ci.costa-mesa.ca.us/council/planning/2008-09-22/092208ZA0810Notice.pdf>

ALTERNATIVES CONSIDERED:

City Council may consider the following alternatives:

1. Uphold Planning Commission's approval with the added condition for 24-hour noise monitoring for a period of two years. This alternative corresponds to the draft resolution contained in Attachment 5A.
2. Modify Planning Commission's approval by modifying or deleting the condition for 24-hour noise monitoring for a period of two years. The deletion of this condition reflects the applicant's request. This alternative corresponds to the draft resolution contained in Attachment 5B.
3. Reverse the Planning Commission's decision and deny the minor conditional use permit request. If denied, the applicant would not be able to submit a similar request for six months. However, the applicant may continue to obtain film permits for individual outdoor filming events per Code Section 9-473. This alternative corresponds to the draft resolution contained in Attachment 5C.

FISCAL REVIEW:

Fiscal review is not required.

LEGAL REVIEW:

The attached resolutions were reviewed and approved by the City Attorney as to form.

CONCLUSION:

The appellant believes there is no correlation between their minor conditional use permit request for outdoor filming and Commission's added condition for 24-hour noise monitoring over a two-year period. Commission approved the applicant's request with this added condition to ensure that TBN's frequent site maintenance activities, as it relates to their outdoor filming request, is not disruptive to adjacent single-family residential properties.



MEL LEE, AICP
Senior Planner



DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

- Attachments:
1. Aerial Photo/Location Map
 2. Plans
 3. Summary of Previous Planning Applications for TBN
 4. Summary of Current Conditions of Approval for TBN
 5. Draft City Council Resolutions
 6. Appeal Application
 7. Minutes of October 13, 2008 Planning Commission Meeting
 8. Planning Commission Staff Reports for the October 13, 2008, and September 22, 2008 Planning Commission Meetings
 9. Planning Commission Resolution
 10. Zoning Administrator's Letter for ZA-08-10 and Description of Proposed Use Provided by the Applicant
 11. Correspondence Received from the Public (Separately Bound Document)

Distribution:

City Manager
Assistant City Manager
City Attorney
Deputy City Mgr.-Development Svs. Dir.
Public Services Director
City Clerk (2)
Staff (4)
File (2)

Stacy Schofro
3131 Encore Court
Costa Mesa, CA 92626

Sheldon Group
Attn: Vicki Green
901 Dove Street, Suite 140
Newport Beach, CA 92660

John B. Casoria, Esq., General Counsel
Trinity Broadcasting Network – International Headquarters
2442 Michelle Drive
Tustin, CA 92780-7091

Mariann Ross
3147 Canadian Drive
Costa Mesa, CA 92626

Harold Orlando
876 Liard Place
Costa Mesa, CA 92626

Charles W. Chappell
3147 Canadian Drive
Costa Mesa, CA 92626

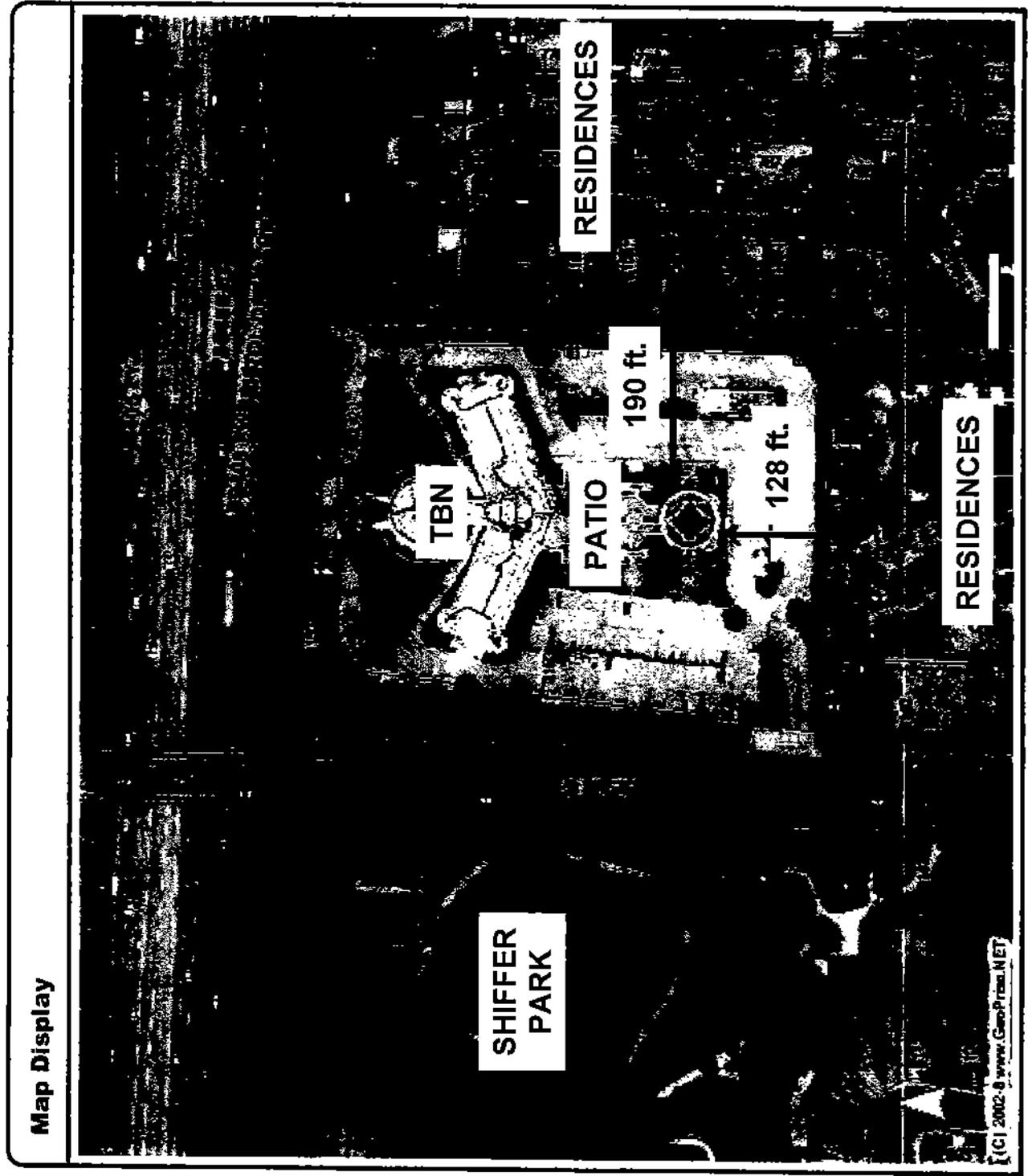
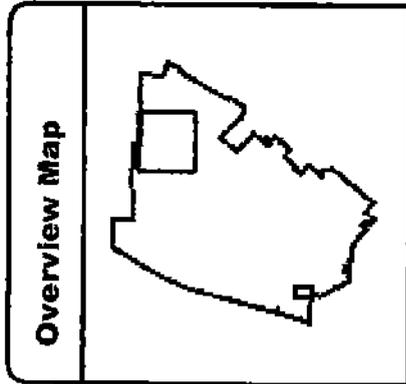
File: 111808ZA0810Appeal	Date: 110608	Time: 3:00 p.m.
--------------------------	--------------	-----------------

ATTACHMENT 1

AERIAL PHOTOS AND LOCATION MAPS

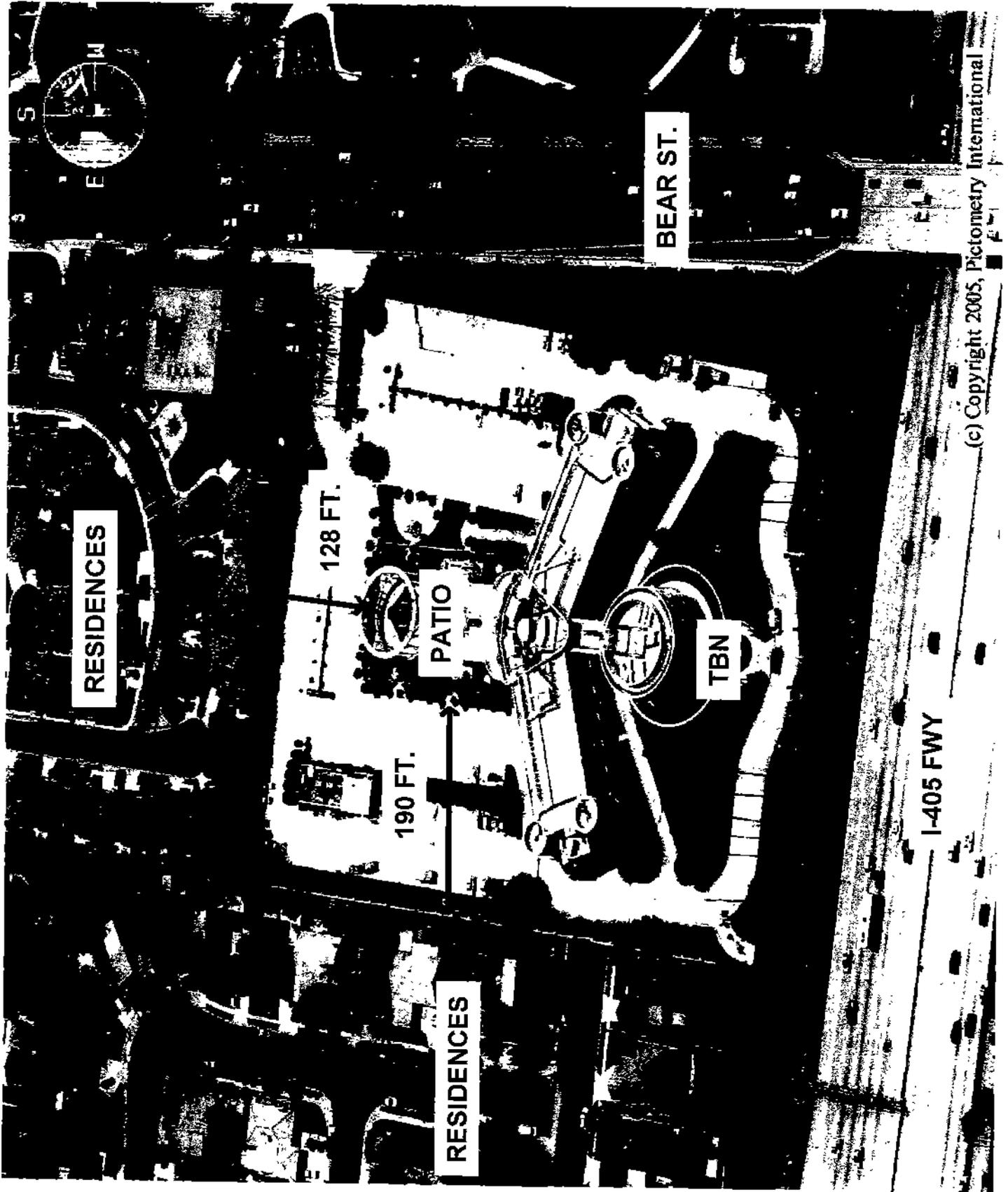
City of Costa Mesa

CITY OF COSTA MESA - [Created: 9/3/2008 12:15:38 PM] [Scale: 222.55] [Page: 8.5 x 11 / Landscape]



Legend

Address Small	Parcels
Address Points	ROW
Street Names	Polygon
Parcel Lines	s
Level 2 Ortho Photo	



(c) Copyright 2005, Pictometry International

ATTACHMENT 2
PLANS

405 FREEWAY

BEAR STREET

RESIDENCES

RESIDENCES

23'-8" TALL METAL TOWERS WITH STAGE LIGHTS (4)

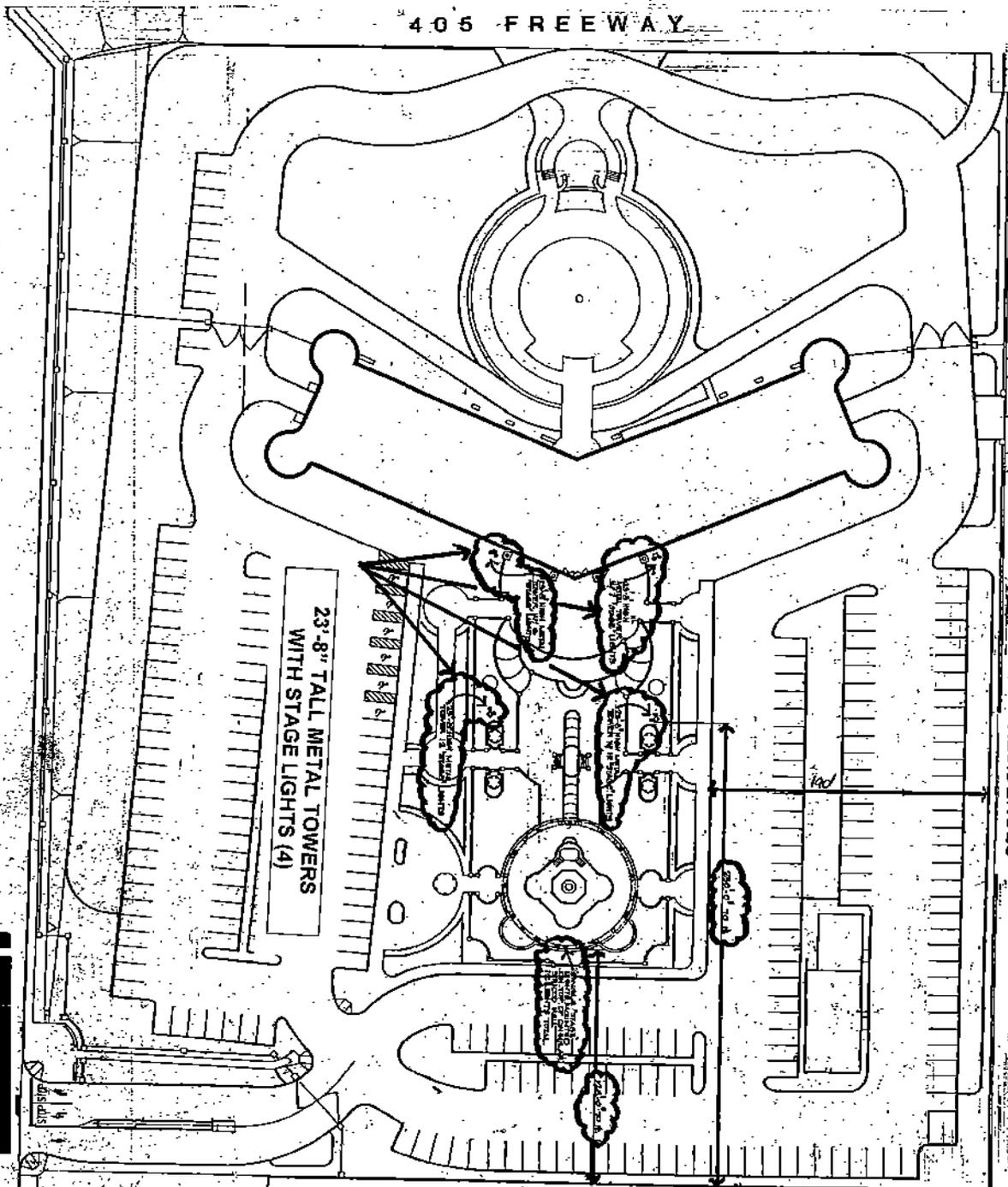
DATE: ZA-08-10

SP

PATIO PLAN

TRINITY BROADCASTING NETWORK

Stoffregen Fuller & Co.



ATTACHMENT 3

SUMMARY OF PREVIOUS PLANNING APPLICATIONS FOR TBN

SUMMARY OF PREVIOUS PLANNING APPLICATIONS FOR TBN

Zoning Application ZA-02-75

Commission's 5-0 decision on March 24, 2003 regarding TBN's request for outdoor filming activities up to 72 times per calendar year with amplified sound and audience participation was appealed by TBN to the City Council, which denied the request on April 21, 2003, by a 4-0 vote.

Planning Application PA-00-19

A variance request to raise the height of the wall separating TBN's property from the single-family residences to the south to 22 feet was denied by the Commission on July 18, 2000 on a 5-0 vote.

Planning Application PA-98-24

A request to amend PA-96-19 (described below) to allow food service to the general public, as well as employees, and to allow an outside food cart for special events, was approved by the Commission on April 13, 1998 on a 4-1 vote.

Planning Application PA-96-19

The original request to operate TBN's facilities at the property, including administrative offices, television production facilities, meeting rooms, and a gift shop, was approved by the Commission on March 25, 1996, on a 4-1 vote.

PA-98-24 and PA-96-19 were called up for review by the Commission on March 24, 2003, and additional conditions of approval limiting the hours of operation of noise-generating equipment were added.

ATTACHMENT 4

SUMMARY OF CURRENT CONDITIONS OF APPROVAL FOR TBN

**Conditions of Approval, Code Requirements, and Special District Requirements for Trinity Christian Center
(PA-96-19 and PA-98-24)**

Conditions of Approval (PA-96-19)

1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the Development Services Director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. Street addresses shall be displayed on the freestanding ground sign or, if there is no freestanding sign, on the fascia or store front adjacent to the main entrance of the building, in a manner visible to the public street. Numerals shall be a minimum 12" in height with not less than 3/4" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than 1/4" stroke and shall contrast sharply with the background.
3. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
4. The conditions of approval and ordinance or code provisions of Planning Action PA-96-19 shall be blueprinted on the face of the site plan.
5. The applicant shall contact the Planning Division to arrange for a "Special Requirements" inspection of the site prior to the release of occupancy. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
6. The use shall be limited to the type of operation described in the staff report. Any change in the operational characteristics will require an amendment to the conditional use permit, subject to Planning Commission approval.
7. The TV studio and its support uses shall not operate at the same time as the administrative offices. Furthermore, other than the offices, no uses shall be conducted after 10 p.m.
8. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
9. Any exterior lighting, either added to the parking lot or to illuminate the building, or for television production, shall be submitted to the Planning Division for review prior to obtaining building permits.
10. Submit required cash deposit or surety bond to guarantee construction of offsite street improvements at time of permit per Costa Mesa Municipal Code Section 15-32, and as approved by City Engineer. Cash deposit or surety bond amount to be determined by the City Engineer.

11.	Obtain a permit from the Engineering Division, at the time of development, and modify P.C.C. driveway approach per City of Costa Mesa standards as shown on the offsite plan to meet A.D.A. requirements.
12.	Dedicate a 3-foot public utility easement behind existing right-of-way line on Bear Street.
13.	Submit legal description for the new area of dedication, plat of new dedication area, both prepared by a civil engineer, and Title Report Update of subject property.
14.	Review trash enclosure location for possible relocation and/or modification of pick-up schedule, under the direction of the Planning Division.
15.	Review gate design and construction for possible improvement of security under the direction of the Planning Division.
16.	Deleted.
17.	Deleted.
18.	Exterior lighting, either for the parking lot, to illuminate the building, or for television production, shall be designed and/or adjusted to prevent spillover light or glare onto adjacent properties. Shielding or other methods necessary to prevent light or glare spillover shall be incorporated.
19.	Holiday-related light displays and driving tours shall not extend beyond 10:00 p.m. in the evening and shall be limited to the period between Thanksgiving and January 15. Holiday-related signage shall be turned off and/or removed no later than January 15. Holiday-related lights shall be prohibited in the trees planted along the residential walls east and south of the Trinity property.
20.	The southerly and easterly boundaries of the site shall be posted with signs prohibiting the parking or staging of buses, RV's maintenance vehicles and any vehicles other than passenger cars along the residential walls. Additionally, buses should be parked as far from residential property as possible (e.g., in the northeast portion of the parking lot and engines shall be turned off when parked.
21.	Outdoor use of heavy equipment (such as lifts) shall not occur before 9 a.m. or after 5 p.m. Monday through Friday, and shall not be allowed on Saturday, Sunday or federal holidays (emergency activities excluded).
22.	Any proposed operational change that increases or intensifies the approved use shall require approval of an amendment to this conditional use permit by the Planning Commission.
23.	The facility shall operate, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood.
24.	Complaints regarding the violation of any of the above operating conditions and restrictions shall be immediately remedied by the applicant.
25.	Applicant shall employ a parking attendant during parking activities to direct traffic and make sure that no one is parking along the back wall in the evenings from 6 p.m. until closing.
26.	Landscaping maintenance equipment is prohibited from being started before 8 a.m.
27.	Applicant shall prepare an operations management plan to coordinate and address the issues related to landscape maintenance operations; holiday operating procedures with regard to traffic, parking, lighting, and sound; maintenance

equipment, etc. The plan shall be approved by staff within 60 days from the date of this hearing (March 24, 2003).

Conditions of Approval (PA-98-24)

1. There shall be no advertising, including signage, of the eating facilities.
2. Deleted.
3. Deleted.
4. Food shall be limited to light snacks. No frying or grilling may occur in the inside kitchen.
5. Any expansion of service times, the size of the vending cart and/or dining room area shall require review by the Planning Commission through the conditional use permit process.
6. The hours of operation for the dining room shall be limited to 10 a.m. to 5:30 p.m.
7. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the Development Services Director or his designee, any of the findings upon which the approval was based are no longer applicable.
8. One vending cart shall be allowed to provide popcorn, bagels, cookies and hot and cold beverages between 10 a.m. and 5 p.m.
9. The general public may use the indoor dining facility with the stipulation that no food shall be cooked on site; that food shall be provided by an outside caterer and warmed up on the premises.
10. The applicant is reminded that all applicable conditions, code requirements, and special district requirements of Planning Applications PA-96-19 (as modified) shall apply.

Code Requirements (PA-96-19)

1. The installation of any antennas shall comply with City requirements, including the processing of a Minor Conditional Use Permit as applicable.
2. The landscaping shall be replanted to satisfy current landscape requirements as regards number of trees and shrubs and types of ground covers.
3. The parking lot shall be repaired, resealed, and restriped consistent with City requirements, under the direction of the Planning and Building Divisions. Parking stalls shall be double-striped in accordance with City standards.
4. All compact parking spaces shall be clearly marked "compact" or "small car only".
5. Approval of the planning application is valid for one (1) year and will expire at the end of that period unless building permits are obtained and business commences, or the applicant applies for and is granted an extension of time.
6. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.

7.	Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
8.	All work shall be conducted under-roof.
9.	Development shall comply with all requirements of Article 16, Chapter II, Title 13 of the Costa Mesa Municipal Code.
10.	Any new on-site utility services shall be installed underground.
11.	Installation of any new utility meters shall be performed in a manner so as to obscure the installation from view from any place on or off the property. The installation shall be in a manner acceptable to the public utility and shall be in the form of a vault, wall cabinet, or wall box under the direction of the Planning Division.
12.	Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
13.	Four (4) sets of detailed landscape and irrigation plans shall be required as part of the project plan check review and approval process. Three (3) sets shall be provided to the representative water agency and one (1) set shall be submitted to the Planning Division for review. Plans shall be approved by the water agency with two (2) approved sets forwarded by the applicant to the Planning Division for final approval prior to issuance of building permits.
14.	Two (2) sets of landscape and irrigation plans, approved by both the water agency and the Planning Division, shall be attached to two of the final building plan sets.
15.	Landscape and irrigation plans shall meet the requirements set forth in Costa Mesa Municipal Code Sections 13-263 through 13-266 as well as irrigation requirements set forth by the water agency. Consult with the representative water agency (Mesa Consolidated Water District).
16.	Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
17.	All landscaped areas shall be separated from paved vehicular areas by 6" high continuous Portland Cement Concrete curbing.
18.	Trash enclosures or other acceptable means of trash disposal shall be provided. Design of trash enclosures shall conform with City standards. Standard drawings are available from the Planning Division.
19.	Comply with the requirements of the Uniform Building Code as to design and construction and CCR Title 24 pertaining to "Disabled Access Regulations".
20.	At the time of development submit for approval an off-site plan to the Engineering Division and grading plan to the Building Division that shows sewer, water, existing parkway improvements and the limits of work on the site, and hydrology calculations, both prepared by a civil engineer or architect. Construction access approval must be obtained prior to building or engineering permits being issued by the City of Costa Mesa. Pay offsite plan check fee to the Engineering Division. An approved offsite plan and fee shall be required prior to engineering/utility permits being issued by the City.
21.	A Fire Department permit for Place of Assembly is required.
22.	Any interior alterations will require appropriate alteration of the automatic fire sprinkler system
Code Requirements (PA-98-24)	

1. The applicant is reminded that all conditions, code requirements, and special district requirements of Planning Application PA-96-19 still apply.
2. Comply with the requirements of the Uniform Building Code as to design and construction and CCR Title 24 pertaining to "Disabled Access Regulations".
3. Comply with Health Department Requirements.
4. A Fire Department Permit for place of assembly is required.
5. Proposal must meet Uniform Building Code requirements for A-3 occupancy per UBC, 1994 Edition. Plans must be approved for change in occupancy classification.
Special District Requirement (PA-96-19)
1. Applicant shall pay all applicable Sanitary District fixture fee charges (754-5307)
Special District Requirement (PA-98-24)
1. Developer shall contact the Costa Mesa Sanitary District at (714) 631-1731 for current district requirements.

ATTACHMENT 5 (A, B, & C)

DRAFT RESOLUTIONS

ATTACHMENT 5A

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA UPHOLDING THE PLANNING
COMMISSION'S APPROVAL OF ZONING APPLICATION ZA-
08-10**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Sheldon Group, authorized agent for Trinity Christian Center, owner of real property located at 3150 Bear Street, requesting approval of a minor conditional use permit allowing a maximum of 12 outdoor filming activities per year at Trinity Christian Center, located at 3150 Bear Street, in an Administrative and Professional (AP) zone; and

WHEREAS, on August 21, 2008, the Zoning Administrator approved Zoning Application ZA-08-10; and

WHEREAS, on August 25, 2008, the Zoning Administrator's approval of Zoning Application ZA-08-10 was appealed to the Planning Commission; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on September 22, 2008, was continued to the meeting of October 13, 2008.

WHEREAS, on October 13, 2008, Planning Commission approved Zoning Application ZA-08-10, subject to conditions of approval; and

WHEREAS, on October 20, 2008, Planning Commission's decision was appealed by the applicant with respect to one of the conditions of approval (Condition Number 12) to the City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on November 18, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **APPROVES** ZA-08-10 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Zoning Application ZA-08-10 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as well as with

compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 18th day of November, 2008.

ATTEST:

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

FINDINGS (APPROVAL)

- A. The use complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The use, as conditioned, is compatible and harmonious with uses that exist in the general neighborhood.
 - The use, as conditioned, complies with applicable performance standards as prescribed in the Zoning Code, specifically, compliance with the City's noise ordinance provisions.
 - The use is consistent with the General Plan, specifically General Plan Goal LU-1F.1, because the recommended conditions of approval will ensure the protection of existing residential neighborhoods from incompatible or disruptive land uses and/or activities.
 - The zoning application is for a project-specific case and does not establish a precedent for future development.
 - The cumulative effects of all planning applications have been considered.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, based upon staff's observation of the outdoor filming activity related to TBN, the sound generated during filming was not audible from adjacent residential properties and no light spillover was observed. The Police Department has no record of complaints related to the outdoor filming events that have taken place at TBN. The applicant will be required to comply with the conditions of approval to ensure that the use is not disruptive to adjacent uses or properties. Because the outdoor filming activities require TBN to conduct regular landscape maintenance to keep the property in a nicely manicured "ready to film" condition, such maintenance have the possibility of exceeding the noise limitations specified in the City's Zoning Code and in the conditions of approval for limiting the use of lifts, leaf blowers, and tree trimming equipment per Planning Applications PA-96-19 and PA-98-24, it is reasonable to require 24-hour noise monitoring for a period of two years as a condition for their minor conditional use permit for outdoor filming.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng. 1. The minor conditional use permit herein approved shall be valid until revoked. The minor conditional use permit may be modified or revoked if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. Each of the 12 outdoor filming activities shall be limited to a single day.
3. Activities related to outdoor filming, including equipment installation and removal, shall be limited to between 5:30 p.m. and 9:00 p.m. No outdoor filming activities shall occur on Sundays or holidays.
4. Outdoor filming activities shall not occur more than 12 times per year from the effective date of this approval.
5. Audiences, spectators, or noise-generating props (such as live animals) shall not be permitted during any outdoor filming activities.
6. Amplified sound, loudspeakers and/or public address systems shall not be permitted.
7. A copy of the conditions of approval for the minor conditional use permit shall be kept on premises and presented to any authorized city official upon request. Trinity Christian Center shall notify new business/property owners of conditions of approval upon transfer of business or ownership of land.
8. Outdoor activities shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. Trinity Christian Center shall institute whatever security and operational measures are necessary to comply with this requirement.
9. All conditions of approval, code requirements, and special district requirements for Planning Applications PA-96-19 and PA-98-24 shall continue to be complied with.
10. Code Enforcement complaints regarding verified noise violations of any of the operating conditions and restrictions shall be immediately remedied by Trinity Christian Center.
11. Exterior lighting, either for the parking lot, to illuminate the building, or for television production, shall be designed and/or adjusted to prevent spillover light or glare onto adjacent properties. Shielding or other methods necessary to prevent light or glare spill-over shall be incorporated.
- Plng.
Comm. 12. At Trinity Christian Center's expense, noise monitoring equipment shall be installed on the applicant's property per the specifications of an independent acoustic consultant and in proximity to the adjacent single-family homes. The equipment shall continuously monitor on-site noise levels 24 hours a day, seven days a week, and the equipment shall be installed and operational no later than four months from the effective date of this approval. The equipment shall be operated and maintained by the acoustic consultant, who will submit a report on the data collected to the Planning Division on a quarterly basis. The Planning Division shall report this information to the Planning Commission on a quarterly basis. The noise monitoring equipment shall remain operational two years from the date of its initial installation.

ATTACHMENT 5B

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA MODIFYING THE PLANNING COMMISSION'S APPROVAL OF ZONING APPLICATION ZA-08-10

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Sheldon Group, authorized agent for Trinity Christian Center, owner of real property located at 3150 Bear Street, requesting approval of a minor conditional use permit allowing a maximum of 12 outdoor filming activities per year at Trinity Christian Center, located at 3150 Bear Street, in an Administrative and Professional (AP) zone; and

WHEREAS, on August 21, 2008, the Zoning Administrator approved Zoning Application ZA-08-10; and

WHEREAS, on August 25, 2008, the Zoning Administrator's approval of Zoning Application ZA-08-10 was appealed to the Planning Commission; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on September 22, 2008, was continued to the meeting of October 13, 2008.

WHEREAS, on October 13, 2008, Planning Commission approved Zoning Application ZA-08-10, subject to conditions of approval; and

WHEREAS, on October 20, 2008, Planning Commission's decision was appealed by the applicant with respect to one of the conditions of approval (Condition Number 12) to the City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on November 18, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **APPROVES AS MODIFIED** ZA-08-10 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Zoning Application ZA-08-10 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review,

modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 18th day of November, 2008.

ATTEST:

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

ATTACHMENT 5C

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA DENYING ZONING APPLICATION ZA-08-10**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Sheldon Group, authorized agent for Trinity Christian Center, owner of real property located at 3150 Bear Street, requesting approval of a minor conditional use permit allowing a maximum of 12 outdoor filming activities per year at Trinity Christian Center, located at 3150 Bear Street, in an Administrative and Professional (AP) zone; and

WHEREAS, on August 21, 2008, the Zoning Administrator approved Zoning Application ZA-08-10; and

WHEREAS, on August 25, 2008, the Zoning Administrator's approval of Zoning Application ZA-08-10 was appealed to the Planning Commission; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on September 22, 2008, was continued to the meeting of October 13, 2008.

WHEREAS, on October 13, 2008, Planning Commission approved Zoning Application ZA-08-10, subject to conditions of approval; and

WHEREAS, on October 20, 2008, Planning Commission's decision was appealed by the applicant with respect to one of the conditions of approval (Condition Number 12) to the City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on November 18, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A, the City Council hereby **DENIES** Zoning Application ZA-08-10 with respect to the property described above.

PASSED AND ADOPTED this 18th day of November, 2008.

ATTEST:

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

FINDINGS (DENIAL)

- A. The use does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
- The use is not compatible and harmonious with uses that exist in the general neighborhood.
 - The use is not consistent with the General Plan.
 - The cumulative effects of all planning applications have been considered.
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area. Granting the minor conditional use permit will be detrimental to the health, safety and general welfare of the public and other properties or improvements within the immediate vicinity.
- C. The Costa Mesa Planning Commission has denied Zoning Application ZA-08-10. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

ATTACHMENT 6
APPEAL APPLICATION



City of Costa Mesa

RECEIVED
CITY CLERK

2008 OCT 20 PM 4: 47

- Appeal of Planning Commission Decision - \$1070.00
- Appeal of Zoning Administrator/Staff Decision - \$670.00

CITY OF COSTA MESA
BY _____

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* Vicki Green - Sheldon Group
 Address 901 Dove Street, Suite 140, Newport Beach, CA 92660
 Phone 949.777.9400 ~~949.777.9400~~ Representing Trinity Broadcasting Network (TBN)

REQUEST FOR: REHEARING APPEAL REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

Appeal of Planning Commission Resolution PC-08-71

Decision by: _____

Reasons for requesting appeal, rehearing, or review:

Condition #12 - "...noise monitoring equipment shall be installed...[and] shall continuously monitor on-site noise levels 24 hours a day, seven days a week...[and] shall remain operational two years from the date of its initial installation."

There is no nexus between our request for 12 non-amplified outdoor tapings per year and the condition requiring 24/7 noise monitoring for two years. Our request is for four hours of taping 12 times a year, which is an annual maximum of 48 hours of activity and we are required to provide noise monitoring for 8,760 hours. Furthermore, there is no history of confirmed noise disturbance on our property related to our tapings.

TBN is more than willing to accept a condition of approval to monitor noise as it relates to the preparation leading up to or during the actual outdoor tapings. However, requiring daily noise monitoring has no direct relationship to our request for a Minor CUP.

Date: 10.20.08

Signature: Vicki E. Green

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
 **Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
 If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:



February 7, 2008

City of Costa Mesa
Planning Department
77 Fair Drive
Costa Mesa, CA 92626

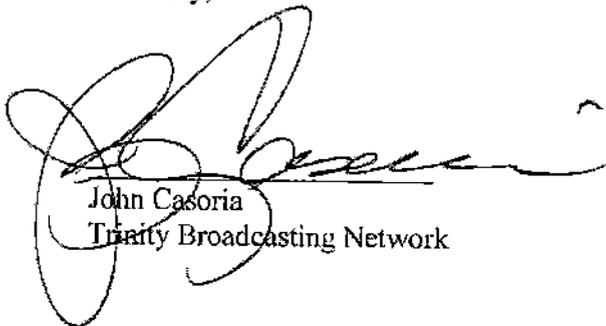
Re: Trinity Broadcasting Network (TBN), 3150 Bear Street, Costa Mesa, CA

To Whom It May Concern:

As owner of record for the land within the project referenced above, we hereby authorize Sheldon Group and its authorized agents to act on our behalf as applicant, agent and property owner's representative to process development application(s) for this property, specifically to obtain a Conditional Use Permit for a permanent outdoor filming permit from the city of Costa Mesa.

Should you have any questions or need additional information regarding this matter, please feel free to call Steve Sheldon at (949) 777-9400.

Sincerely,



John Casoria
Trinity Broadcasting Network

ATTACHMENT 7

**MINUTES OF OCTOBER 13, 2008 PLANNING
COMMISSION MEETING**

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
October 13, 2008**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., October 13, 2008, at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Hall.

I. PLEDGE OF ALLEGIANCE TO THE FLAG.

Commissioner Egan led the Pledge of Allegiance.

**II. ROLL CALL: Chair: Donn Hall
Vice Chair: James Fisler
Commissioners: Sam Clark, Eleanor Egan, and James Righeimer**

Present: Chair Donn Hall
Vice Chair James Fisler
Commissioner Sam Clark
Commissioner Eleanor Egan
Commissioner James Righeimer

Absent: None.

Also Present: Planning Commission Secy. Kimberly Brandt
Deputy City Attorney Tom Duarte
City Engineer Ernesto Munoz
Chief of Code Enforcement Jim Golfos
Senior Planner Mel Lee
Associate Planner Wendy Shih

III. MINUTES: Minutes for the meeting of September 22, 2008

The Chair approved the minutes as distributed.

IV. PUBLIC COMMENTS:

There were no public comments.

V. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

There were no Planning Commissioner comments.

VI. PUBLIC HEARINGS:

- 1. From the meeting of September 22, 2008, Appeal of Zoning Administrator's approval of Zoning Application ZA-08-10, for Vicki Green/Sheldon Group, authorized agent for Trinity Christian Center, for a minor conditional use permit to allow outdoor filming activities, a maximum of 12 times per calendar year, without amplified sound, audiences, and/or spectators at Trinity Christian Center, located at 3150 Bear Street, in an AP zone. Environmental determination: exempt.**

Senior Planner Mel Lee gave an overview of the staff report and highlighted the conditions of approval. He responded to questions from the Commission regarding the outdoor filming event of July 9; possible adverse effects of multiple filming events; the potential of additional landscape work; the observations made from the event of July 9; and the conditions of approval from the original conditional use permit.

Steve Schofro, appellant, stated that they moved into their home before the original conditional use permit was in place. He discussed maintenance noise; non-conformance in all activities; 14 violations by Trinity Christian Center; monthly observations; and the need for compliance through monitoring.

Stacy Schofro, appellant, explained in detail her concerns regarding Trinity Christian Center, specifically the sources of noise, including lifts and blowers, and stated that her requests for a peaceful enjoyment of her home were being ignored.

Steve and Stacy Schofro provided and played an assortment of video and audio segments, including gardeners starting work at 7:00 a.m. and a wood chipper being used in front of their house.

Mr. Schofro mentioned that Trinity Christian Center owns all the surrounding homes; does not control onsite landscape maintenance activities; and would appreciate the Commission solving this problem.

Commissioner Clark noted that he has spent time talking to both the appellants and the applicant.

Vice Chair Fislser stated that he has experienced noise from gardening activities in his residential area. Mr. Schofro responded that Trinity Christian Center has 4 or 5 leaf blowers.

Ms. Schofro proceeded to explain that they were sued by Trinity Christian Center and Mr. Schofro pointed out that quiet, electric lifts could be used.

Commissioner Righeimer also noted that he had met with Ms. Schofro.

Mariann Chappell, Canadian Drive resident, Costa Mesa, stated that Trinity Christian Center has locations in Orlando, Florida and in Texas where filming takes place and the properties are not near residences. She pointed out that their maintenance activities next door to her have disrupted her life. She presented pictures, and the east wall of the property is next to her residence and she has no privacy. She noted the lifts, the bus tours, and mentioned that Trinity Christian Center does not abide by the conditions, and the filming events should be limited with individual permits. She also said she made complaints to Trinity Christian Center and Code Enforcement and listed each call made to the City.

Commissioner Righeimer and Ms. Chappell discussed the calls she placed to the City, during non-working hours.

The Chair called a recess at 7:25 p.m. and resumed the meeting at 7:35 p.m.

Charles Chappell, Canadian Drive resident, suggested testing the lights when it is still daylight. He also said there is no reason to change the zoning.

Pete Evans, Dallas, Texas, said he investigates religious fraud. He stated that three weeks ago while at the Schofro's residence he noticed men using leaf blowers cleaning an area that was already clean and a wood chipper being used. He suggested another location for production facilities. He urged that the request be denied.

Beth Refakes, Costa Mesa, asked that the Commission deny the request. She said that Trinity Christian Center has no intention of being a good neighbor; complaints are ignored; and suggested the existing conditional use permit be reviewed.

Lisa Reedy asked that the request be denied and said Trinity Christian Center needs to show they are being good neighbors.

Mr. Chappell pointed out that the previous Thursday night when Trinity Christian Center was hanging lights and a radio was blaring, shows an indication of not caring.

The Chair called Chief of Code Enforcement Jim Golfos up to the podium to discuss the list of Code Enforcement complaints.

Mr. Golfos replied to Commissioner Righeimer that Code Enforcement responds to each complaint, but noted that Ms. Chappell's name was not on the list of complaints. He explained there is a 24-hour hotline and a complaint form is filled out for each call. Mr. Golfos further explained that Code Enforcement performs regular patrol checks and has

spent a significant amount of time checking out Trinity Christian Center complaints and only two violations in 2004 were found.

In reply to Stacy Schofro and Marianne Chappell's request to respond to Mr. Golfos' comments, the Chair denied their request.

Greg McCafferty of the Sheldon Group, representing Trinity Christian Center, stated that this property requires lots of maintenance and said as evidenced in the report, there is no track record of verified complaints. He pointed out that if there are any concerns regarding one of the gardeners, to please call, instead of wasting Code Enforcement's time with an investigation. Mr. McCafferty gave a brief presentation and noted that some months they will have 3-5 tapings, as an example, in December.

Mr. McCafferty responded to Commissioner Righeimer that previously they had requested 72 filmings a year, but that was denied. He provided pictures on the overhead screen showing the location of the tapings, which is away from the property line, 180 feet to the south.

Mr. McCafferty offered to have independent noise monitoring performed by an acoustical engineer to be paid by Trinity Christian Center.

Vice Chair Fisler and Mr. Lee discussed additional conditions of approval, a film permit, and a minor conditional use permit for outdoor use.

Mr. Lee commented that 7 outdoor film permits were issued between November 2005 and July 2008. Vice Chair Fisler pointed out that a minor conditional use permit allows greater control.

Commissioner Righeimer and Mr. McCafferty discussed the costs of an engineer performing tapings; the number of homes owned by Trinity Christian Center to the south and to the east; opening up the existing conditional use permits; and adding a condition for a noise monitoring device with date and time stamping.

Commissioner Egan and Deputy City Attorney Tom Duarte discussed the proposal of a noise-monitoring device and Deputy City Attorney Duarte agreed this would satisfy legal requirements. Mr. McCafferty also agreed.

The Chair, Commissioner Egan, Commissioner Righeimer, Planning Commission Secretary Kimberly Brandt, and City Engineer Ernesto Munoz discussed the code requirement that the noise level cannot exceed 55 dba's at the property line, between 7:00 a.m. and 11:00 p.m.; and 24-hour noise monitoring for a period of several years to satisfy the conditional use permit. The Chair also commented that the maintenance work could begin in the morning at another area on the property, not near the residences.

Commissioner Clark, Ms. Brandt, and Mr. Lee discussed the zoning of the property; the suggestion of electric lifts; and the number of outdoor film permits issued to Trinity Christian Center recently.

Mr. McCafferty responded to Commissioner Clark that the neighbors have not come by the property.

There was a discussion between the Chair and Commissioner Egan regarding leaf blowers and wood chippers, followed by the Chair suggesting that there be a condition for 24-hour sound monitoring by an acoustical consultant at locations on the property. The monitoring and output recorded would be for a time period of two years and paid for by Trinity Christian Center.

Ms. Schofro supported the 24-hour monitoring.

The Chair made a few comments stating that Trinity Christian Center will be a wonderful neighbor and Mr. McCafferty agreed.

Ms. Schofro made one more comment about speaking with Mr. Lee through the fence on the night of the filming last July.

Commissioner Clark provided his e-mail address and asked to be notified of future filming events.

MOTION: Uphold the Zoning Administrator's approval, by adoption of Planning Commission Resolution PC-08-71, based on the findings contained in Exhibit "A" and subject to the conditions in Exhibit "B", with the revised Condition No. 10 and additional Condition No. 12, adopted as follows:

10. Code Enforcement complaints regarding verified noise violations of any of the operating conditions and restrictions shall be immediately remedied by Trinity Christian Center.

12. At Trinity Christian Center's expense, noise monitoring equipment shall be installed on the applicant's property per the specifications of an independent acoustic consultant and in proximity to the adjacent single-family homes. The equipment shall continuously monitor on-site noise levels 24 hours a day, seven days a week, and the equipment shall be installed and operational no later than four months from the effective date of this approval. The equipment shall be operated and maintained by the acoustic consultant, who will submit a report on the data collected to the Planning Division on a quarterly basis. The Planning Division shall report this information to the Planning Commission on a quarterly basis. The noise monitoring equipment shall remain operational two years from the

date of its initial installation.

Moved by Commissioner Sam Clark, seconded by Vice Chair James Fisler.

During discussion on the motion, the Chair and Vice Chair Fisler discussed revising the wording of Condition No. 10, and Commissioner Clark agreed.

Commissioner Egan inquired as to who would be taking the readings; and the Commissioners and Ms. Brandt discussed modifying Condition No. 12, using an independent acoustical consultant and reporting back quarterly. They also discussed that this device would be used 24 hours a day, 7 days a week and would continually take time stamps, and be operational within four months. In addition, there was a discussion concerning the length of time involved for the noise monitor to be installed.

The maker of the motion and the seconder agreed to the modification to Condition No. 12.

Mr. Munoz, Mr. Duarte, and Ms. Brandt replied to the Chair that the modified conditions were satisfactory.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler, Commissioner Sam Clark,
Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

Planning Application PA-08-22, for Bart Stryker, authorized agent for Page Private School, Inc., for a conditional use permit to allow excess off-site parking on this lot for Page Private School, located at 642 Hamilton Street, in an R2-MD zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and responded to questions from the Commission regarding the effect of the parking spaces on the size of the field; parking space dimensions; additional parking in the field area; the required number of parking spaces; and the curb size in relation to the backup distance.

Bart Stryker, civil engineer and authorized agent for Page School, thanked staff for accommodating their needs and explained his reasoning for compact parking, which is in excess of that required.

Commissioner Clark applauded Mr. Stryker for providing more parking spaces than needed and discussed backup distance and nine-foot wide parking spaces.

ATTACHMENT 8

**STAFF REPORTS FOR THE
OCTOBER 13, 2008
AND
SEPTEMBER 22, 2008
PLANNING COMMISSION MEETINGS**

City of Costa Mesa

Inter Office Memorandum

TO: PLANNING COMMISSION

FROM: MEL LEE, SENIOR PLANNER *MEL*

DATE: OCTOBER 2, 2008

SUBJECT: SUPPLEMENTAL INFORMATION
 APPEAL OF ZONING APPLICATION ZA-08-10
 TRINITY CHRISTIAN CENTER
 PLANNING COMMISSION MEETING OF OCTOBER 13, 2008

On September 22, 2008, Planning Commission continued the appeal of the above item to the meeting of October 13, 2008.

Attached to this memo is the supplemental information presented by the appellant at the September 22, 2008 Planning Commission Study Session. The appellant also submitted a digital file containing video and sound clips, which can be found on the City's website at the below links:

- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN1.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN2.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN3.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN4.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN5.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN6.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN7.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN8.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN9.wmv>
- <http://www.ci.costa-mesa.ca.us/council/planning/video/TBN10.wmv>

Also attached are updated resolutions reflecting the October 13, 2008 Planning Commission hearing date.

The September 22, 2008 Planning Commission staff report can also be viewed on the City's website at the link below:

<http://www.ci.costa-mesa.ca.us/council/planning/2008-09-22/092208ZA0810Notice.pdf>

- Attachments: 1. ~~Supplemental Information Presented by the Appellant at the September 22, 2000 Planning Commission Study Session~~
2. ~~Revised Draft Planning Commission Resolutions~~
~~Exhibit "A" - Draft Findings~~
~~Exhibit "B" - Conditions of Approval~~

cc: Deputy City Manager - Dev. Svs. Director
Deputy City Attorney
Transportation Services Engineer
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Stacy Schofro
3131 Encore Court
Costa Mesa, CA 92626

Sheldon Group
Attn: Vicki Green
901 Dove Street, Suite 140
Newport Beach, CA 92660

Trinity Broadcasting Network – International Headquarters
2442 Michelle Drive
Tustin, CA 92780-7091

Mariann Ross
3147 Canadian Drive
Costa Mesa, CA 92626

Harold Orlando
876 Liard Place
Costa Mesa, CA 92626

Charles W. Chappell
3147 Canadian Drive
Costa Mesa, CA 92626

File: 101308ZA0810Appeal	Date: 092508	Time: 2:00p.m.
--------------------------	--------------	----------------



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: SEPTEMBER 22, 2008

VI.1

ITEM NUMBER:

SUBJECT: ZONING APPLICATION ZA-08-10 (APPEAL)
TRINITY CHRISTIAN CENTER
3150 BEAR STREET

DATE: SEPTEMBER 11, 2008

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611

DESCRIPTION

The request is an appeal of the Zoning Administrator's approval of Zoning Application ZA-08-10, to allow a maximum of 12 outdoor filming activities per year at Trinity Christian Center.

APPELLANT/APPLICANT

The appellant is Stacy Schofro, a neighboring property owner. The original applicant is the Sheldon Group, representing Trinity Christian Center, the property owner.

RECOMMENDATION

Conduct a public hearing and either uphold, reverse, or modify the Zoning Administrator's decision.

MEL LEE, AICP
Senior Planner

KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND INFORMATION – PROPERTY AND SURROUNDING USES

Trinity Christian Center is located on a six-acre property bounded by Bear Street on the west, the I-405 Freeway on the north, and single-family residences on the south and east. The residences to the south of the property were constructed in the mid-to-late 1990's as part of the 79-home single-family residential development called Lifestyles; the single-family residences to the east of the property were constructed in the early 1960's as part of a 62-home residential tract (Tract Number 3500).

BACKGROUND INFORMATION – TRINITY CHRISTIAN CENTER

In 1979, a 65,650 square-foot, three-story building was constructed on the property and used as offices for Full Gospel Businessmen's Fellowship International. In January 1996, the property was acquired by Trinity Christian Center, also known as Trinity Broadcasting Network, referred to as TBN in the remainder of this report.

TBN's primary television production facilities and day-to-day business operations are located in the City of Tustin, while the Costa Mesa location functions as a showcase facility. Although TBN uses this property for limited television production, the primary activities include special events, such as their annual holiday light displays, as well as meeting facilities for group functions. This location also has a gift shop, exhibits and attractions, offices, and food uses per their conditional use permits summarized in the table below. The major dates related to the property since it was acquired by TBN follows.

TBN TIMELINE	
January 1996	Property acquired by TBN.
March 1996	A conditional use permit to operate administrative offices, television production facilities, screening and meeting rooms, incidental retail (gift shop) and meditation areas for TBN is approved by the Commission as Planning Application PA-96-19.
April 1998	An amendment to the conditional use permit to allow food service to the general public, as well as employees, and to allow an outside food cart for special events, is approved by the Commission as Planning Application PA-98-24.
July 2000	Variance to raise the height of the wall separating TBN property from the Lifestyles residences to the south (including the appellant's property) from six feet to 22 feet is denied by the Commission as Planning Application PA-00-19.
April 2001 thru December 2004	In response to a neighbor complaint regarding the removal of a large tree at the entry to the property from Bear Street, TBN plants a row of trees along the southerly boundary of the property (including the appellant's property). Over the next several years, the City and TBN receive complaints from neighbors regarding the trees and noise related to their maintenance, which leads to a civil lawsuit between TBN and the neighbors. A copy of the lawsuit was provided by the appellant and is attached (Attachment 3).

TBN TIMELINE	
March 2003 thru August 2003	A minor conditional use permit to allow outdoor filming with amplified sound and audience members up to 72 times per year (Zoning Application ZA-02-75) is considered by the Commission along with a request to call up Planning Applications PA-96-19 and PA-98-24 for review. As part of the review, the Commission added several conditions of approval for parking control, hours of landscape maintenance, special events such as holiday light displays, and other items to minimize noise and lighting impacts on adjacent residential properties. A copy of the conditions of approval are included as <u>Attachment 7</u> . The Commission deferred taking action to approve or deny ZA-02-75 so that staff could monitor TBN's compliance with the conditions of approval. TBN appealed the Commission's deferral to the City Council. City Council denied ZA-02-75 because they did not believe they had adequate evidence to demonstrate that the outdoor filming would be compatible with adjacent residential properties.
November 2005 Thru July 2008	Although the minor conditional use permit for outdoor filming on a regular basis was denied by City Council, TBN is allowed to obtain a film permit for outdoor filming for a special occasion or event, such as for holiday shows (Municipal Code Section 9-473). Under this code section, notification of surrounding property owners is not required. A total of seven outdoor film permits are issued to TBN during this time period. The July 2008 filming activity was observed by staff and is discussed later in this report.
March 2008	New application for outdoor filming filed (see section below).

ADDITIONAL BACKGROUND INFORMATION

The March 24, 2003 Planning Commission meeting minutes for the review of TBN's conditional use permits and the original request for outdoor filming can be viewed on the City's Web page at the link below:

http://www.ci.costa-mesa.ca.us/council/planning/pm_030324.pdf

The April 21, 2003 City Council meeting minutes for the original request for outdoor filming can be viewed on the City's Web page at the link below:

<http://www.ci.costa-mesa.ca.us/council/minutes/2003-04-21.pdf>

CURRENT OUTDOOR FILMING REQUEST (ZA-08-10)

The current request is to allow outdoor filming activities a maximum of 12 times, instead of the 72 times previously requested, per calendar year. Also, in contrast to the prior request, amplified sound is not proposed or allowed via the conditions of approval; singers and speakers are required to sing or talk into a microphone that transfers the

sound to on-site recording equipment, and no audience members or spectators are proposed.

All outdoor filming will take place entirely on TBN's property, specifically, in the patio south of the building. The filming hours, including set up and take down of the equipment, is from 5:30 p.m. to 9:00 p.m. The outside setup for the filming activities consists of four to five cameras and a small video monitor. Four permanent light stands approximately 20 feet tall presently exist on-site and include shields to prevent light spillage on abutting properties. The production crew will typically consist of a maximum of 20 individuals. The area in the courtyard in which the outdoor filming takes place is setback approximately 180 feet from the residential property line to the south and approximately 190 feet from the residential property line to the east.

On April 30, 2008, the applicant held an open house at TBN in which the surrounding area residents were invited to attend to discuss any concerns with the proposed outdoor activities. Senior Planner Mel Lee also attended the open house. The open house was attended by three residents, none of whom indicated concerns with the proposed use. The appellant did not attend this open house.

Although no concerns were raised by the three residents that attended the open house, the applicant requested that the Zoning Administrator's decision on the minor conditional use permit be delayed for several months so that staff could observe an actual outdoor filming to evaluate any potential lighting or noise impacts to the adjacent residences. A film permit was issued for an outdoor filming event that took place on July 9, 2008, which was attended by Senior Planner Mel Lee and Council Member Wendy Leece. The appellant was also invited to attend this filming, but declined the invitation.

It was staff's opinion that the sound generated during this outdoor filming event was not audible beyond the patio area where the filming was being conducted and, although the filming took place in the evening, no light spillover beyond the patio area was observed. According to the Police Department, no complaints regarding outdoor noise or lighting related to outdoor filming or equipment installation and removal were received on this or any dates the prior outdoor filming events occurred.

Based on this information, the Zoning Administrator approved the applicant's request on August 21, 2008, subject to conditions of approval to ensure surrounding properties are not disrupted by any activities related to the outdoor filming (see Attachment 9), including the conditions noted below:

2. Each of the 12 outdoor filming activities shall be limited to a single day.
3. Activities related to outdoor filming, including equipment installation and removal, shall be limited to between 5:30 p.m. and 9:00 p.m. No outdoor filming activities shall occur on Sundays or holidays.
4. Outdoor filming activities shall not occur more than 12 times per year from the effective date of this approval.
5. Audiences, spectators, or noise-generating props (such as live animals) shall not be permitted during any outdoor filming activities.
6. Amplified sound, loudspeakers and/or public address systems shall not be

permitted.

Also, TBN will be required to apply for a film permit for each of the 12 outdoor events. An appeal of the Zoning Administrator's decision was filed by the appellant on August 25, 2008.

APPEAL

A copy of the appeal is attached to this report as Attachment 2. The appellant states that her home is under constant noise attack that has not been able to be documented by Code Enforcement. The appeal also states Costa Mesa Police Officers are employed by TBN and have said they will not document the complaints or must contact other officers. The appellant also references other documentation, which is attached to this report as Attachment 3.

Existing Noise Issues

As noted in the Background discussion, Planning, Code Enforcement, and Police staff have received numerous complaints regarding noise generated by TBN from the appellant. The majority of these complaints relate to TBN's use of leaf blowers and tree trimming equipment used to maintain the landscaping. One of the conditions of approval Commission added in March 2003 prohibits the operation of leaf blowers, tree trimmers, and other noise-generating equipment before 8:00 a.m. (see condition of approval number 26 in Attachment 7). The appellant claims this condition of approval is routinely violated by TBN.

In response to the appellant's noise complaints, Code Enforcement staff conducted over 70 site visits to TBN over a three-and-a-half year period (between April 2001 and December 2004). These 70+ site visits were in addition to Code Enforcement's response to the appellant's individual complaints of noise violations. Over that period, a total of two citations for noise violations were issued to TBN for the operation of lifts for the installation of the holiday lights after 5:00 p.m. (see condition of approval number 21 in Attachment 7). In the other instances, the Code Enforcement Officer observed either:

- No activity occurring on the property;
- The activity being conducted was not generating any noise; or
- The noise generating activity being conducted (use of leaf blowers, tree trimmers, etc.) was within the hours allowed under the conditions of approval.

For a more recent accounting of noise complaints, staff checked the number of noise complaints received by Code Enforcement from January 2007 to the present. Of the 11 noise complaints received, 10 were found by the Code Enforcement Officer to not be in violation of the conditions of approval. The one complaint that was not investigated by the Code Enforcement Officer was one that occurred on a Saturday, when the officer was unavailable to respond; as a result, this noise complaint was investigated by Police, which the patrol officer determined was also not in violation of the conditions of approval.

Despite the lack of evidence that TBN is routinely violating their conditions of approval as claimed by the appellant, the Director of the Development Services Department, Don Lamm, and Senior Planner Minoo Ashabi met with the appellant at her residence on May 7, 2008, to discuss her concerns regarding TBN's operation. Mr. Lamm prepared a letter to the applicant outlining some of the issues raised by the appellant (Attachment 6), however, this did not appear to alleviate the appellant's concerns. On August 6, 2008, staff was informed by TBN via e-mail that the appellant has allegedly been videotaping activities on TBN's property (see Attachment 5).

Police Issues

TBN previously contracted with the Police Department for special events such as their holiday light displays. This type of Police Department contract is similar to contracts with the Orange County Fair and Event Center, and with other organizations for parades, 5K/10K runs, or similar events that require additional traffic control or security measures. Staff believes there is no basis to the appellant's claim that Police do not respond to complaints because they are working a special event for TBN. Staff notes that the officers that work special events are City employees filling a contracted position. Additionally, the Police responded to 10 noise complaints at TBN from January, 2007 to the present. These complaints are separate from the complaints the appellant has made to Code Enforcement over the same period. Of these 10 noise complaints, none were found to be in violation of the conditions of approval.

GENERAL PLAN CONFORMITY

The property is zoned AP (Administrative and Professional) and has a General Plan Designation of General Commercial. The outdoor filming activity is a permitted use, with a minor conditional use permit, in the AP zone. However, in order to ensure the use is not disruptive to the surrounding neighborhood (Objective LU-1F), the use is must be operated in compliance with the conditions of approval of all City permits.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Uphold the Zoning Administrator's decision to approve a maximum of 12 outdoor filming activities per year per the applicant's request;
2. Modify any of the conditions of approval to minimize any impacts to surrounding residents;
3. Overturn the Zoning Administrator's decision and deny the request for a maximum of 12 outdoor filming activities per year per the appellant's request. If the request is denied, the applicant could not submit substantially the same type of operation for six months. The applicant may continue to obtain film permits for individual outdoor filming events per Municipal Code Section 9-473.

ENVIRONMENTAL DETERMINATION

The use is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

It is the Zoning Administrator's opinion that approval of TBN's request to conduct a maximum of 12 outdoor filming events per year will not adversely impact the surrounding neighbors, provided TBN complies with the proposed conditions of approval.

Staff believes the appellant's premise for the appeal is that TBN continually violates its current conditions of approval, and therefore the City should not grant any additional use permits for the property. However, according to City records from two different time periods (April 2001 to December 2004, and January 2007 to the present) the vast majority of complaints regarding TBN's noise impacts received and investigated by the City were unfounded. Furthermore, staff's ongoing efforts to address the appellant's concerns, including numerous staff visits to the TBN property, meeting with the appellant at her home, and offers for the appellant to meet directly with TBN to discuss concerns, have not resulted in a reduction in complaints. Because staff has found the complaints to be invalid, staff recommends the Zoning Administrator's approval be upheld.

- Attachments:
- ~~1. Draft Planning Commission Resolutions (Approval and Denial)~~
 - ~~Exhibit "A" - Draft Findings~~
 - ~~Exhibit "B" - Conditions of Approval~~
 - 2. Appeal Application
 - ~~3. Additional Exhibits Previously Submitted by Appellant~~
 - ~~4. Correspondence Received From Other Members of The Public~~
 - ~~5. Correspondence from TBN Regarding Appellant's Property~~
 - 6. Letter from Don Lamm to Applicant Regarding Appellant's Concerns
 - ~~7. List of TBN Conditions of Approval~~
 - ~~8. Location Maps and Plans~~
 - ~~9. Zoning Administrator's Letter for ZA 08-10 and Description of Proposed Use Provided By the Applicant~~

- cc:
- Deputy City Manager - Dev. Svs. Director
 - City Attorney
 - Deputy City Attorney
 - City Engineer
 - Fire Protection Analyst
 - Staff (4)
 - File (2)

Stacy Schofro
 3131 Encore Court
 Costa Mesa, CA 92626

Sheldon Group
Attn: Vicki Green
901 Dove Street, Suite 140
Newport Beach, CA 92660

Trinity Broadcasting Network – International Headquarters
2442 Michelle Drive
Tustin, CA 92780-7091

Mariann Ross
3147 Canadian Drive
Costa Mesa, CA 92626

Harold Orlando
876 Liard Place
Costa Mesa, CA 92626

File: 092208ZA0810Appeal	Date: 091108	Time: 3:30 p.m.
--------------------------	--------------	-----------------

ATTACHMENT 2
Appeal Application



City of Costa Mesa

Appeal of Planning Commission Decision
 Appeal of Zoning Administrator/Staff Decision

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* Stacy Ichiro
Address 3131 Encore Court Costa Mesa, CA. 92626
Phone 714 437-3131 Representing _____

REQUEST FOR: REHEARING APPEAL REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

Constant noise attack on our home. Code Enforcement unable to document. Costa Mesa police employed by TBN have said they will not document or have told us we must call separate police, because the 3-4 police employed on lot only there specifically for TBN

please refer to the years of documentation

RECEIVED
CITY OF COSTA MESA
AUG 25 2008

Date: August 25, 2008 Signature: Stacy Ichiro

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
**Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only – do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

22 September 2008

ATTACHMENT 6

**Letter from Don Lamm to Applicant
Regarding Appellant's Concerns**



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

July 2, 2008

Vicki Green
Sheldon Group
901 Dove Street, Suite 140
Newport Beach, CA 92660

Subject: **TRINITY CHRISTIAN CENTER**
3150 BEAR STREET, COSTA MESA

Dear Ms. Green:

Confirming our discussion at City Hall on June 13, 2008, Senior Planner Mino Ashabi and I met with Trinity Broadcasting neighbors Steve and Stacy Schofro, at their home, on May 7, 2008. The purpose of our visit was to discuss a multitude of their complaints/concerns regarding operation of Trinity, and not to discuss your outdoor filming application. Additionally, I did not concur or disagree with the Schofros concerning their allegations of Trinity violating its conditional use permit. I simply wanted to listen, learn, and understand what they are experiencing. However, upon conclusion of that meeting, I offered to open dialogue with Trinity Broadcasting management by presenting a list of simple operational changes which the Schofro's claim would dramatically improve their quality of life. Following that meeting, Steve Schofro sent me his list of requests which included a few items not agreed upon at our meeting. However, the majority of his list was reasonable and reflected our conversation.

Therefore, in an attempt to open dialogue and improve relations between Trinity and the Schofros, I have summarized or expanded upon Mr. Schofro's requests (expanded only where explanation is necessary), where I consider reasonable, regardless of whether Trinity proceeds with their filming permit request. However, I am not including those items which, in my opinion, are either unreasonable or would result in greater problems for the Schofros.

1. Activities by TBN for maintenance on the grounds, that produce noise, shall be limited to Monday through Friday between 9:00 AM to 3:00 PM. Maintenance of the grounds, using noise emitting devices or machinery such as leaf blowers and lifts, shall not exceed 60 minutes of operation per day.
2. Any large equipment used for maintenance shall not be parked within 75 feet of the south and east walls. All parking along the south and east walls shall be restricted to automobiles.

3. All pruning operations will require clippings and branches to be hauled off-premises. No chippers or shredders can be used onsite since they emit loud and intrusive noise which is audible inside neighboring homes.
4. Trucks, hydraulic lift vehicles, etc, may not be equipped with back up buzzers/beepers, unless required by California OSHA, that is more than 60 DBA at a distance of 10 feet. The gasoline/diesel powered lifts may not be used in proximity to the homes, but shall be limited to maintenance activities on the freeway or Bear Street sides of the main building. Only the quiet electric powered lifts may be used in proximity to the homes.. Furthermore, any use of these machines is considered a maintenance and operation task.
5. Trees along the entire south wall shall be maintained no higher than 15 feet from the top of the existing wall. Trimming is required every six months.
6. Trinity shall provide a 24-hour telephone number for residents to call, should they have issues arise such as; a malfunctioning electric gate to Trinity's property; security issues at homes owned by Trinity; and, outdoor noise that disturbs residential neighbors. The Trinity responder shall call back within one hour to confirm receipt of the neighbor's call.

The recommendations in this letter are focused on reducing Trinity's business operation impacts on the Schofro's property. Again, these are simply "recommendations" from the City to facilitate improving relations and trust between the Steve and Stacy Schofro family, and Trinity Broadcasting Network, Costa Mesa.

The City looks forward to any improvement in communication and cooperation between the two property owners. Please call us should you have any questions.

Sincerely,



DONALD D. LAMM, AICP

Deputy City Manager-Development Services Director

cc: Project Manager Mel Lee, Senior Planner

ATTACHMENT 9

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. PC-08- 7/

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA UPHOLDING THE ZONING ADMINISTRATOR'S DECISION TO APPROVE ZONING APPLICATION ZA-08-10

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Sheldon Group, authorized agent for Trinity Christian Center, owner of real property located at 3150 Bear Street, requesting approval of a minor conditional use permit allowing a maximum of 12 outdoor filming activities per year at Trinity Christian Center, located at 3150 Bear Street, in an Administrative and Professional (AP) zone; and

WHEREAS, on August 21, 2008, the Zoning Administrator approved Zoning Application ZA-08-10; and

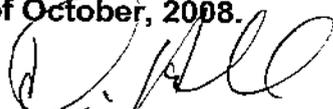
WHEREAS, on August 25, 2008, the Zoning Administrator's approval of Zoning Application ZA-08-10 was appealed to the Planning Commission; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on September 22, 2008, was continued to the meeting of October 13, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," and subject to the conditions of approval contained within Exhibit "B," the Planning Commission hereby **UPHOLDS** the Zoning Administrator's approval of Zoning Application ZA-08-10 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Zoning Application ZA-08-10 and upon applicant's compliance with each and all of the conditions as modified in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 13th day of October, 2008.



Donn Hall Chair,
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS (APPROVAL)

- A. The use complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The use, as conditioned, is compatible and harmonious with uses that exist in the general neighborhood.
 - The use, as conditioned, complies with applicable performance standards as prescribed in the Zoning Code, specifically, compliance with the City's noise ordinance provisions.
 - The use is consistent with the General Plan, specifically General Plan Goal LU-1F.1, because the recommended conditions of approval will ensure the protection of existing residential neighborhoods from incompatible or disruptive land uses and/or activities.
 - The zoning application is for a project-specific case and does not establish a precedent for future development.
 - The cumulative effects of all planning applications have been considered.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, based upon staff's observation of the outdoor filming activity related to TBN, the sound generated during filming was not audible from adjacent residential properties and no light spillover was observed. The Police Department has no record of complaints related to the outdoor filming events that have taken place at TBN. The applicant will be required to comply with the conditions of approval to ensure that the use is not disruptive to adjacent uses or properties.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng. 1. The minor conditional use permit herein approved shall be valid until revoked. The minor conditional use permit may be modified or revoked if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. Each of the 12 outdoor filming activities shall be limited to a single day.
3. Activities related to outdoor filming, including equipment installation and removal, shall be limited to between 5:30 p.m. and 9:00 p.m. No outdoor filming activities shall occur on Sundays or holidays.
4. Outdoor filming activities shall not occur more than 12 times per year from the effective date of this approval.
5. Audiences, spectators, or noise-generating props (such as live animals) shall not be permitted during any outdoor filming activities.
6. Amplified sound, loudspeakers and/or public address systems shall not be permitted.
7. A copy of the conditions of approval for the minor conditional use permit shall be kept on premises and presented to any authorized city official upon request. Trinity Christian Center shall notify new business/property owners of conditions of approval upon transfer of business or ownership of land.
8. Outdoor activities shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. Trinity Christian Center shall institute whatever security and operational measures are necessary to comply with this requirement.
9. All conditions of approval, code requirements, and special district requirements for Planning Applications PA-96-19 and PA-98-24 shall continue to be complied with.
10. Code Enforcement complaints regarding verified noise violations of any of the operating conditions and restrictions shall be immediately remedied by Trinity Christian Center.
11. Exterior lighting, either for the parking lot, to illuminate the building, or for television production, shall be designed and/or adjusted to prevent spillover light or glare onto adjacent properties. Shielding or other methods necessary to prevent light or glare spill-over shall be incorporated.
- Plng.
Comm. 12. At Trinity Christian Center's expense, noise monitoring equipment shall be installed on the applicant's property per the specifications of an independent acoustic consultant and in proximity to the adjacent single-family homes. The equipment shall continuously monitor on-site noise levels 24 hours a day, seven days a week, and the equipment shall be installed and operational no later than four months from the effective date of this approval. The equipment shall be operated and maintained by the acoustic consultant, who will submit a report on the data collected to the Planning Division on a quarterly basis. The Planning Division shall report this information to the Planning Commission on a quarterly basis. The noise monitoring equipment shall remain operational two years from the date of its initial installation.

ATTACHMENT10

**ZONING ADMINISTRATOR DECISION
LETTER AND
DESCRIPTION OF USE BY APPLICANT**



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

August 21, 2008

Sheldon Group
Attn: Vicki Green
901 Dove Street, Suite 140
Newport Beach, CA 92660

**RE: ZONING APPLICATION ZA-08-10
MINOR CONDITIONAL USE PERMIT TO ALLOW OUTDOOR FILMING 12
TIMES PER CALENDAR YEAR AT TRINITY CHRISTIAN CENTER
3150 BEAR STREET, COSTA MESA**

Dear Ms. Green:

Staff's review of your zoning application for the above-referenced use has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval and code requirements (attached). The decision will become final at 5 p.m. on August 28, 2008, unless appealed by an affected party including filing of the necessary application and payment of the appropriate fee or called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Mel Lee, at (714) 754-5611, between 1 p.m. and 5 p.m., Monday through Friday.

Sincerely,

KIMBERLY BRANDT, AICP
Zoning Administrator

Attachments: Background and Project Description
 Findings
 Conditions of Approval, Code Requirements, and Special District
 Requirements
 Project Description submitted by Applicant
 Site Plan Exhibit – Patio Plan
 Site Plan Exhibit – Staging Plan

cc: City Council
Planning Commission
Engineering
Fire Protection Analyst
Building Safety Division

Trinity Broadcasting Network – International Headquarters
2442 Michelle Drive
Tustin, CA 92780-7091

Mariann Ross
3147 Canadian Drive
Costa Mesa, CA 92626

Stacy Schofro
3131 Encore Court
Costa Mesa, CA 92626

Harold Orlando
876 Liard Place
Costa Mesa, CA 92626

BACKGROUND

- Trinity Christian Center (also known as Trinity Broadcasting Network, or TBN) is located on the east side of Bear Street, south of the I-405 Freeway, and is bounded by single-family residences to the south and east.
- In 1996, a conditional use permit was approved for TBN as an administrative office and television production facility with screening and meeting rooms, and incidental retail uses. A second conditional use permit was approved in 1998 allowing the use of an existing kitchen to provide food service to the general public in addition to on-site staff.
- In 2002, TBN submitted a minor conditional use permit (Zoning Application ZA-02-75) to allow outdoor filming on a regular basis, which the Zoning Administrator referred to the Planning Commission. In addition to the minor conditional use permit, Planning Commission also called up TBN's prior conditional use permits for review. As a result of Commission's review, TBN implemented an "Operations Management Plan" to address parking control, landscape maintenance, special events such as their holiday light displays, and other items to minimize noise and lighting impacts on adjacent residential properties.
- The Commission deferred taking action to approve or deny the minor conditional use permit for outdoor filming by continuing it for several months so that TBN's activities under the Operations Management Plan could be monitored and evaluated. TBN appealed Commission's deferral to City Council. City Council denied ZA-02-75 because they did not have adequate evidence that the outdoor filming would be compatible with adjacent residential properties.
- Although outdoor filming on a regular basis via ZA-02-75 was denied by City Council, TBN may obtain a film permit per Municipal Code Section 9-473 to allow outdoor filming for a special occasion or event, such as for holiday shows. A total of 7 film permits were issued to TBN between November 2005 and July 2008. The July 2008 taping was attended by Senior Planner Mel Lee to observe any potential lighting or noise impacts.

PROJECT DESCRIPTION

- The applicant is requesting outdoor filming activities a maximum of 12 times per calendar year. According to the applicant, the filming hours would be from 5:30 p.m. to 9:00 p.m., including set up and take down of the equipment. No amplified sound is proposed; singers and speakers would be singing or talking into a microphone that only transfers the sound to on-site recording equipment.
- All outdoor filming will take place entirely on TBN's property, specifically, in the courtyard on the south side of the building (see Site Plan Exhibit – Staging Plan). The outside setup for the filming activities consists of 4 to 5 cameras, a small video monitor, and four permanent light stands approximately 20 feet tall, which are shielded to prevent light spillage on abutting properties. The production crew consists of a maximum of 20 individuals; no audiences or spectators will be

present during outdoor filming activities. The area in the courtyard in which the outdoor filming will take place is setback approximately 180 feet from the southerly property line and approximately 190 feet from the easterly property line, both of which abut residentially-zoned properties. The other two property lines (north and east) abut the I-405 Freeway and Bear Street, respectively (see Site Plan Exhibit – Patio Plan).

- The July 2008 outdoor filming activity was observed by Senior Planner Mel Lee. The sound generated during filming was not audible from adjacent residential properties and no light spillover was observed. According to the Police Department, no complaints regarding outdoor noise or lighting related to outdoor filming or equipment installation and removal were received on any dates the outdoor filming events occurred. In addition to the minor conditional use permit, TBN is also required to obtain a film permit per Municipal Code Section 9-473.
- On April 30, 2008, the applicant held an open house at TBN in which the surrounding area residents were invited to attend to discuss any concerns with the proposed outdoor activities. Senior Planner Mel Lee also attended the open house. The open house was attended by three residents, none of whom indicated concerns with the proposed use.
- The site is zoned AP (Administrative and Professional District) and has a General Plan designation of General Commercial. The outdoor filming activities are consistent with the City's General Plan, specifically General Plan Goal LU-1F.1, because the recommended conditions of approval will ensure the protection of existing residential neighborhoods from incompatible or disruptive land uses and/or activities.

FINDINGS

- A. The use complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The use, as conditioned, is compatible and harmonious with uses that exist in the general neighborhood.
 - The use, as conditioned, complies with applicable performance standards as prescribed in the Zoning Code, specifically, compliance with the City's noise ordinance provisions.
 - The use is consistent with the General Plan, specifically General Plan Goal LU-1F.1, because the recommended conditions of approval will ensure the protection of existing residential neighborhoods from incompatible or disruptive land uses and/or activities.
 - The zoning application is for a project-specific case and does not establish a precedent for future development.
 - The cumulative effects of all planning applications have been considered.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other

properties or improvements within the immediate vicinity. Specifically, based upon staff's observation of the outdoor filming activity related to TBN, the sound generated during filming was not audible from adjacent residential properties and no light spillover was observed. The Police Department has no record of complaints related to the outdoor filming events that have taken place at TBN. The applicant will be required to comply with the conditions of approval to ensure that the use is not disruptive to adjacent uses or properties.

- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

- Plng.
- 1. The minor conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The minor conditional use permit may be modified or revoked if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 - 2. Each of the 12 outdoor filming activities shall be limited to a single day.
 - 3. Activities related to outdoor filming, including equipment installation and removal, shall be limited to between 5:30 p.m. and 9:00 p.m. No outdoor filming activities shall occur on Sundays or holidays.
 - 4. Outdoor filming activities shall not occur more than 12 times per calendar year.
 - 5. Audiences, spectators, or noise-generating props (such as live animals) shall not be permitted during any outdoor filming activities.
 - 6. Amplified sound, loudspeakers and/or public address systems shall not be permitted.
 - 7. A copy of the conditions of approval for the minor conditional use permit shall be kept on premises and presented to any authorized city official upon request. Trinity Christian Center shall notify new business/property owners of conditions of approval upon transfer of business or ownership of land.
 - 8. Outdoor activities shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. Trinity Christian Center shall institute whatever security and operational measures are necessary to comply with this requirement.
 - 9. All conditions of approval, code requirements, and special district

- requirements for Planning Applications PA-96-19 and PA-98-24 shall continue to be complied with.
10. Complaints regarding noise related to the violation of any of the operating conditions and restrictions shall be immediately remedied by Trinity Christian Center.
 11. Exterior lighting, either for the parking lot, to illuminate the building, or for television production, shall be designed and/or adjusted to prevent spillover light or glare onto adjacent properties. Shielding or other methods necessary to prevent light or glare spill-over shall be incorporated.

CODE REQUIREMENTS

The following list of federal, state, and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- | | |
|-------|---|
| PIng. | 1. Approval of the Zoning Application is valid for one (1) year and will expire at the end of that period unless the activity commences, or the applicant applies for and is granted an extension of time. A written request for an extension of time must be received by Planning staff prior to the expiration of the Zoning Application. |
| Bldg. | 2. Filming activities shall comply with all applicable provisions of Chapter V, Title 9 of the Costa Mesa Municipal Code. |
| | 3. If construction is proposed, comply with the requirements of the 2007 California Building Code (C.B.C.). |

Project Description Addendum

July 2008

- Project Name:** Trinity Broadcasting Network (TBN)
- Project Location:** 3150 Bear Street, Costa Mesa, CA
- APN/
Legal Description:** APN 141-521-48 and 141-152-49
Berry Tract Lot 1, Blk C Portion of Lot Portion Abandoned Street Tr 128
- Applicant/Agent:** Sheldon Group
Contact: Vicki Green, Project Manager
901 Dove Street, Suite 140, Newport Beach, CA 92660
(949) 777-9400
- Property Owner:** Trinity Christian Center of Santa Ana, Inc.
Contact: John Casoria, General Counsel
2442 Michelle Drive, Tustin, CA 92780
(714) 832-2950
- Entitlements
Requested:** A Minor Conditional Use Permit (MCUP) from the City of Costa Mesa is necessary to permit twelve (12) outdoor tapings per calendar year according to the Costa Mesa Municipal Code.
- Existing General
Plan Land Use
Designation:** General Commercial
- Existing Zoning
Classification:** Administrative and Professional (AP)
- Project Description:** Trinity Broadcasting Network is a Christian television network that has provided 24 hours of commercial-free inspirational programming for over 35 years. Although the majority of religious programming at the Costa Mesa location is conducted inside the building, TBN would like the opportunity to film twelve (12) programs per calendar year outside, mostly for holiday specials.
- Property Description:** Located at 3150 Bear Street in Costa Mesa, the property is approximately 6 acres and is improved with a three-story, 261,360 square foot building. Surrounding uses consist of the I-405 freeway to the north, residential uses to the south and east (including the Lifestyles residential development), and a public park (Shiffer Park) to the west, across Bear Street.

Primary access to the property is along Bear Street. The property itself includes 241 total parking spaces, seven (7) of which are designated as disabled parking.

The location of outdoor filming activity would be confined to the courtyard in front of the south entrance to the building. The edge of the courtyard area is approximately 128 feet from the southern property line, although taping will take place approximately 180 feet from the southern property line.

Statement of Filming Operation:

All outdoor tapings would be conducted between the hours of 5:30 p.m. and 9 p.m. Preparation, filming and strike operations would be conducted entirely on TBN property.

The outside filming equipment would be contained within the patio area and would include approximately four (4) cameras and one (1) video monitor. Lighting would consist of four (4) permanent outdoor lighting stands, which are twenty (20) feet in height and contain twelve (12) par can-shielded lights per stand. These lights would produce no glare or light spillage onto adjacent properties.

Outdoor tapings would involve a film production crew of approximately fifteen (15) to twenty (20) individuals, including talent (i.e., hosts, singers, actors, etc.). The actual taped program would include one or two individuals singing or speaking into a microphone. It should be noted that the microphone only transfers the singing to recording equipment. There would be no amplified sound.

Justifications:

To date, TBN has been approved for eight (8) temporary outdoor filming permits, all of which had the same filming conditions as listed above. No complaints were received for those temporary tapings.

TBN previously applied for a minor conditional use permit (MCUP No. 2003-04814); however, the request was denied due to concerns about outdoor filming operations. TBN has since revised their outdoor filming operations to lessen impacts on surrounding neighbors. Key differences between the previous request and the current request include:

	Current Request	Previous Request
Number of tapings	12 per year	72 per year
Filming Hours	5:30 p.m. – 9 p.m.	9 a.m. – 9 p.m.
Frequency	Special occasions (mostly holidays)	Every Thursday
Sound	No amplified sound	Amplified sound