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MEMO: Approval of Site Plan Review May Violate The Religious Land Use and Institutionalized Persons Act of 2000. (RLUIPA)

TO: City Council of Long Beach

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RE: City Failure to Comply with LB Muni Code Section 21.52.213 may violate the Religious Land Use and Institutionalized Persons Act of 2000

1. Long Beach Code 21.52.213 on Churches and other places for religious worship allows relief from "tandem or joint use parking" and "relief from the distance and guaranteed permanence requirements as set forth in Section 21.41.222(A) and 21.41.222(B)" for Churches.
2. Section 21.52.213 allows reasonable relief "PROVIDED THE ZONING ADMINISTRATOR FINDS THAT STRICT COMPLIANCE WITH CHAPTER 21.41 WOULD IMPOSE A SUBSTANTIAL BURDEN UPON THE RELIGIOUS EXERCISE OF A PERSON OR ASSEMBLY.
3. There has been NO such finding of a substantial burden.
4. The finding is important because:
 - a) There is NO FINDING regarding the size of the expansion as to a SUBSTANTIAL BURDEN. A smaller expansion may not impose such a SUBSTANTIAL BURDEN
 - b) Pacific Baptist Church plans many activities at the expanded site, including schools, a college, basketball and volleyball. There is NO FINDING that these are part of the RELIGIOUS EXERCISE OF A PERSON OR ASSEMBLY.
 - c) This is an important question under RLUIPA. (See, e.g. 24 Yale Law & Policy Review 205 (2006))
5. Without the finding, the City of Long Beach may be treating Pacific Baptist Church as an ordinary institution and MAY BE IN VIOLATION OF Section (b)(1) of RLUIPA that requires treatment on "equal terms."