



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: February 26, 2014 REPORT NO. HO 14-010

ATTENTION: Hearing Officer

SUBJECT: AFGHAN COMMUNITY CENTER
PTS PROJECT NUMBER: 297548

LOCATION: 3333 Sandrock Road

APPLICANT: Afghan Community Islamic Center, Inc.

SUMMARY

Issue – Should the Hearing Officer approve a Conditional Use Permit (CUP) amending an existing CUP to allow the continued operation of a 7,187-square-foot religious assembly facility located at 3333 Sandrock Road, in the Serra Mesa Community Plan area?

Staff Recommendation – APPROVE Conditional Use Permit No. 1048314, amending Conditional Use Permit No. 331621.

Community Planning Group Recommendation – On October 17, 2013, the Serra Mesa Community Planning Group voted 10-1-0 to recommend approval of the project, including recommendations in support of a 20-year CUP expiration period and removal of previously approved hours of assembly restrictions, as described in their Meeting Agenda and email dated October 18, 2013 (Attachment 10).

Environmental Review - The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301, "Existing Facilities". This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on August 6, 2013. A Notice of Right to Appeal Environmental Determination (NORA) was distributed on August 9, 2013, and the opportunity to appeal that determination ended August 23, 2013.

BACKGROUND

The 0.79-acre project site is located at 3333 Sandrock Road and is bordered by Sandrock Road to the west, Grammercy Drive to the south, and an alley to the east (Attachment 3). The site is zoned CN-1-2, which is a commercial-neighborhood zone intended to provide limited retail and personal use services. The Serra Mesa Community Plan also designates the site for neighborhood commercial uses (Attachment 2).

The project site is developed with a 7,187-square-foot, single-story commercial structure that was built in 1960 and was previously utilized as a credit union. A total of 55 surface parking spaces are provided onsite in two separate lots located immediately south and north of the structure. Surrounding uses include retail/commercial development to the west and north and single-family residential development to the east and south.

On May 5, 2006, the applicant submitted an application for a CUP to allow religious assembly at the project site. On August 22, 2007, the Hearing Officer approved CUP No. 331621. The Hearing Officer approval was appealed to the Planning Commission, who denied the appeal and upheld the Hearing Officer's decision on October 18, 2007. The CUP was approved by the Planning Commission with an expiration date of October 18, 2012 (Attachment 9).

DISCUSSION

On October 1, 2012, the applicant submitted an application to amend CUP No. 331621, in order to extend the expiration date. As described in Commercial Land Use Table 131-05B, located in Section 131.0522 of the Municipal Code, churches and places of religious assembly may be allowed in the CN-1-2 Zone with the approval of a CUP. The applicant is requesting a 20-year CUP expiration date, which is supported by City staff and the Serra Mesa Community Planning Group.

The facility would continue to function as an Islamic mosque and would be utilized for religious ceremonies, special events, funerals, community outreach and educational programs and other related activities. The project has been conditioned such that no day care or child care functions are permitted onsite. No expansion of the existing building footprint is included with the proposed amendment. The interior of the structure would remain configured with a 1,800-square-foot assembly hall/worship area and 448 square feet of office space, with the remainder of the building consisting of bathrooms, storage areas and hallways.


The existing site continues to provide the 55 parking spaces required for the use. Section 142.0530, Table 142-05G of the Municipal Code requires one parking space for each 1,000 square feet of assembly area where no fixed seating is provided. Therefore, the 1,800-square-foot assembly hall/worship area requires the provision of 54 parking spaces. Office areas require 3.3 parking spaces per 1,000 square feet. Therefore, the 448-square-foot office area requires one parking space. A project condition has been included that all functions/events/services requiring the need of more than 55 parking spaces shall provide a change a venue that can adequately accommodate the greater space and parking need.

The original project included a Transit Demand Management (TDM) plan and permit conditions related to hours of operation and occupancy that were above and beyond the Municipal Code requirements. These conditions were agreed to by the applicant in response to Community Planning Group and appellant issues raised during the original approval process. There have been no code enforcement issues or complaints related to the operation of the facility since the original approval date and the Serra Mesa Community Planning Group has recommended approval of the project without the extra conditions. Therefore, this Conditional Use Permit does not include a TDM plan, hours of operation, or occupancy conditions that are above and beyond current code requirements.

ALTERNATIVES

1. Approve Conditional Use Permit No. 1048314, amending Conditional Use Permit No. 331621, Project No. 297548, with modifications.
2. Deny Conditional Use Permit No. 1048314, amending Conditional Use Permit No. 331621, Project No. 297548, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Paul Godwin, Development Project Manager

Attachments:

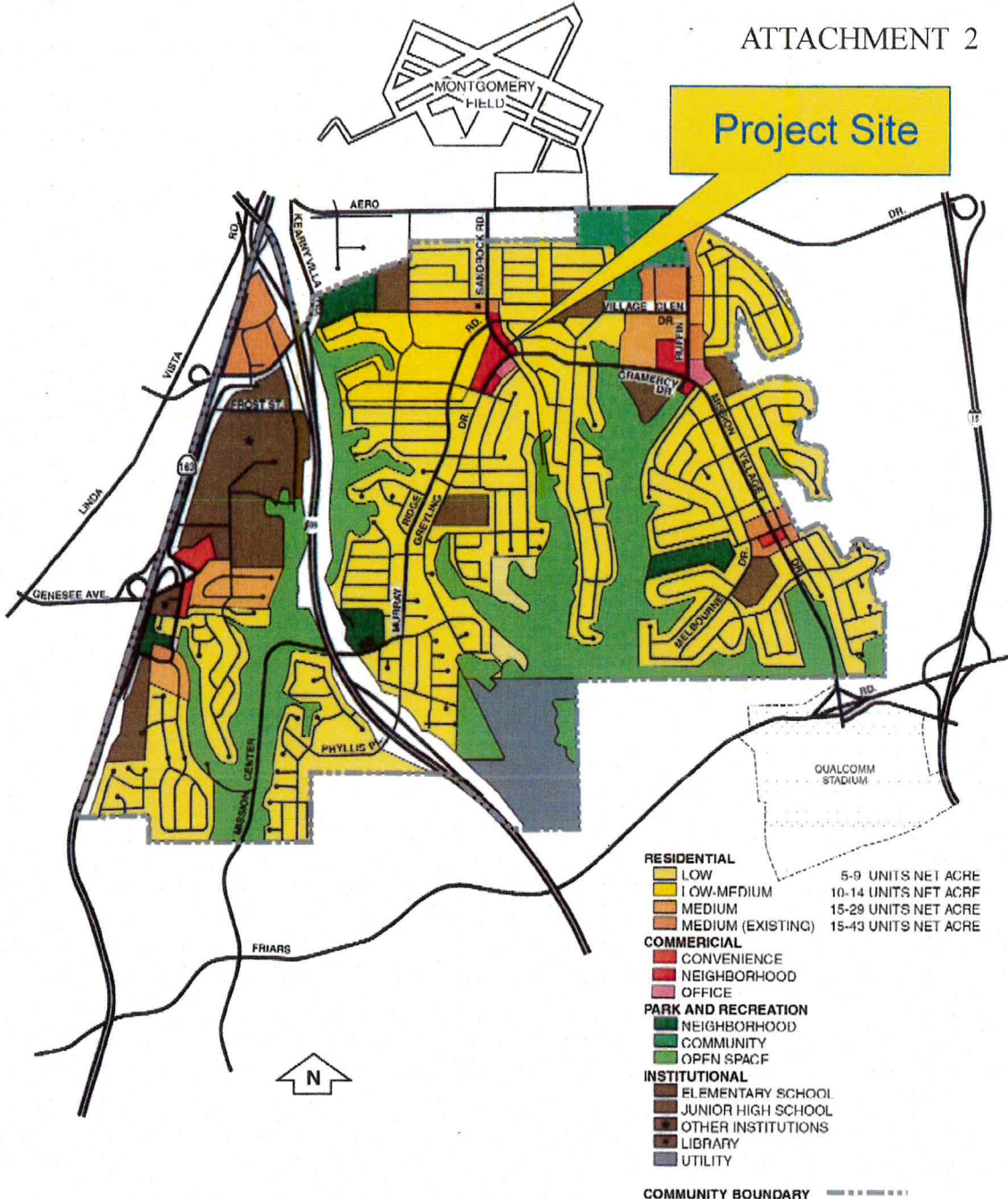
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Environmental Exemption
8. Project Plans
9. Original Conditional Use Permit No. 331621
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement



Location Aerial Photo

Afghan Community Center – 3333 Sandrock Road
PROJECT NO. 297548





SERRA MESA

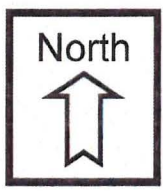
FIGURE 17

COMMUNITY PLAN LAND USE (1990)



Land Use Map

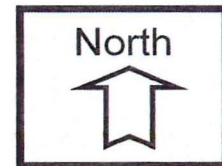
Afghan Community Center – 3333 Sandrock Road
PROJECT NO. 297548





Project Location Map

Afghan Community Center – 3333 Sandrock Road
PROJECT NO. 297548



PROJECT DATA SHEET		
PROJECT NAME:	Afghan Community Center	
PROJECT DESCRIPTION:	Extend the Conditional Use Permit expiration date for an existing religious assembly facility.	
COMMUNITY PLAN AREA:	Serra Mesa	
DISCRETIONARY ACTIONS:	Conditional Use Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Neighborhood Commercial	
<u>ZONING INFORMATION:</u>		
ZONE: CN-1-2, commercial HEIGHT LIMIT: 30-Foot maximum height limit LOT SIZE: 5,000 square-foot minimum lot size FLOOR AREA RATIO: 1.0 maximum FRONT SETBACK: None SIDE SETBACK: 0 or 10 feet STREETSIDE SETBACK: 0 feet REAR SETBACK: 15 feet PARKING: 55 parking spaces required		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Commercial; CN-1-2	Commercial
SOUTH:	Residential; RS-1-7	Single-Family Residential
EAST:	Residential; RS-1-7	Single-Family Residential
WEST:	Commercial; CC-1-3	Commercial
DEVIATIONS OR VARIANCES REQUESTED:	None.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On October 17, 2013, the Serra Mesa Community Planning Board voted (10-1-0) to approve this project.	

HEARING OFFICER
RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 1048314
AMENDING CONDITIONAL USE PERMIT NO. 331621
AFGHAN COMMUNITY CENTER, PROJECT NO. 297548

WHEREAS, Afghan Community Islamic Center, Inc., Owner/Permittee, filed an application with the City of San Diego for a permit to allow the continued utilization of an existing commercial structure for religious assembly uses (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 1048314, on portions of a 0.79-acre site;

WHEREAS, the project site is located at 3333 Sandrock Road, in the CN-1-2 Zone of the Serra Mesa Community Plan;

WHEREAS, the project site is legally described as that portion of Lot 5 of Cabrillo Heights Business Center, Unit No. 2, Map No. 3608;

WHEREAS, on February 26, 2014, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1048314, amending Conditional Use Permit No. 331621, pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on August 6, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 *et seq.*) under CEQA Guideline Section 15301 and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated February 26, 2014.

Conditional Use Permit – Municipal Code Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

The 0.79-acre site located at 3333 Sandrock Road, in the CN-1-2 Zone of the Serra Mesa Community Plan, is developed with an existing 7,187-square-foot commercial structure and 55 surface parking spaces. On October 18, 2007, the Planning Commission approved a Conditional Use Permit to allow religious assembly on the site for a period of five years. This Conditional Use Permit would amend the previous permit to allow the continued use of the site for religious assembly for a period of 20 years.

Both the CN-1-2 Zone designation and the Serra Mesa Community Plan designate the site for neighborhood commercial development and uses. The properties located west and north of the project site are also designated by the Serra Mesa Community Plan for commercial uses and are developed as such. The properties located east and south of the project site are designated for residential development by the Community Plan and are also developed as such.

Staff has determined that continued use of the site for religious assembly is compatible with the surrounding commercial and residential development. Project conditions have been included within the Conditional Use Permit to address potential impacts related to parking and allowed onsite uses. No additional development is proposed with this permit. Therefore, the project as conditioned would not adversely affect the Serra Mesa Land Use Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The 0.79-acre site located at 3333 Sandrock Road, in the CN-1-2 Zone of the Serra Mesa Community Plan, is developed with an existing 7,187-square-foot commercial structure and 55 surface parking spaces. On October 18, 2007, the Planning Commission approved a Conditional Use Permit to allow religious assembly on the site for a period of five years. This Conditional Use Permit would amend the previous permit to allow the continued use of the site for religious assembly for a period of 20 years.

Project conditions have been included within the Conditional Use Permit to address potential impacts related to parking and allowed onsite uses. No additional development is proposed with this permit. The proposed project was determined to be exempt from the California Environmental Quality Act (CEQA), and no environmental mitigation is required. The project would be required to comply with all building, health, safety, fire and occupancy codes applicable to this site and project. Therefore, the project as conditioned would not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code; and

The 0.79-acre site located at 3333 Sandrock Road, in the CN-1-2 Zone of the Serra Mesa Community Plan, is developed with an existing 7,187-square-foot commercial structure and 55 surface parking spaces. On October 18, 2007, the Planning Commission approved a Conditional Use Permit to allow religious assembly on the site for a period of five years. This Conditional Use Permit would amend the previous permit to allow the continued use of the site for religious assembly for a period of 20 years.

Religious assembly uses are allowed in commercial zones with the approval of a Conditional Use Permit and staff can make the required findings for this permit. There are no deviation or variance requests included with this permit application and the parking requirement of 55 spaces has been met. No additional development is proposed with this permit. The project would be required to comply with all building, health, safety, fire and occupancy codes applicable to this site and project. Therefore, the proposed project would comply with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The 0.79-acre site located at 3333 Sandrock Road, in the CN-1-2 Zone of the Serra Mesa Community Plan, is developed with an existing 7,187-square-foot commercial structure and 55 surface parking spaces. On October 18, 2007, the Planning Commission approved a Conditional Use Permit to allow religious assembly on the site for a period of five years. This Conditional Use Permit would amend the previous permit to allow the continued use of the site for religious assembly for a period of 20 years.

Both the CN-1-2 Zone designation and the Serra Mesa Community Plan designate the site for neighborhood commercial development and uses. The properties located west and north of the project site are designated by the Serra Mesa Community Plan for commercial uses and are developed as such. The properties located east and south of the project site are designated for residential development by the Community Plan and are also developed as such. Staff has determined that continued use of the site for religious assembly is compatible with the surrounding commercial and residential development. Project conditions have been included within the Conditional Use Permit to address potential impacts related to parking and allowed onsite uses. No additional development is proposed with this permit. Therefore, the project as conditioned is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1048314, amending Conditional Use Permit No. 331621, is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1048314, a copy of which is attached hereto and made a part hereof.

Paul Godwin
Development Project Manager
Development Services

Adopted on: February 26, 2014

Job Order No. 24003288

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24003288

CONDITIONAL USE PERMIT NO. 1048314
AFGHAN COMMUNITY CENTER - PROJECT NO. 297548
AMENDMENT TO CONDITIONAL USE PERMIT NO. 331621
HEARING OFFICER

This Conditional Use Permit No. 1048314, amending Conditional Use Permit No. 331621, is granted by the Hearing Officer of the City of San Diego to the Afghan Community Islamic Center, Inc., Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0303. The 0.79-acre site is located at 3333 Sandrock Road, in the CN-1-2 zone of the Serra Mesa Community Plan. The project site is legally described as that portion of Lot 5 of Cabrillo Heights Business Center, Unit No. 2, according to Map No. 3608.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to allow the continued utilization of an existing commercial structure for religious assembly uses, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 26, 2014, on file in the Development Services Department.

The project shall include:

- a. Continued utilization of an existing 7,187-square-foot, single-story commercial structure, including an 1,800-square-foot assembly/worship hall, offices, restrooms and storage areas, for religious assembly uses.
- b. Provision of 55 off-street parking spaces;
- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by March 13, 2017.
2. This permit and corresponding use of this site shall expire 20 years from the date of approval of the Conditional Use Permit on February 26, 2014, unless an amendment to the Permit has been approved granting additional time. Upon expiration of this permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

PLANNING/DESIGN REQUIREMENTS:

12. Owner/Permittee shall maintain a minimum of 55 off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

13. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

14. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specified regulation(s) is approved or granted as a condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations.

15. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

16. All signs associated with this development shall be consistent with the sign criteria established by citywide sign regulations.

17. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

TRANSPORTATION REQUIREMENTS

18. No fewer than 55 automobile parking spaces (including three accessible spaces, one of which must be van accessible), two motorcycle spaces, and two bicycle spaces with racks shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's SDMC and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

19. No day care/child care functions shall be permitted on the site.

20. Any functions/events/services requiring the need of more than 55 automobile parking spaces shall provide a change of venue that can adequately accommodate the greater space and parking need. Functions/events/services requiring the need for more than 55 parking spaces are not allowed onsite.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on February 26, 2014, and [Approved Resolution Number].

Permit Type/PTS Approval No.: CUP No. 1048314

Date of Approval: February 26, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Paul Godwin
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Afghan Community Islamic Center, Inc.
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**