



THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** October 11, 2007 **REPORT NO. PC-07-153**

**ATTENTION:** Planning Commission, Agenda of October 18, 2007

**SUBJECT:** AFGHAN COMMUNITY ISLAMIC CENTER - PROJECT NO. 100999  
PROCESS THREE APPEAL

**REFERENCE:** Hearing Officer Report No. HO-07-159 and attachments, August 15, 2007

**OWNER/  
APPLICANT:** Afghan Community Islamic Center, Inc/  
Davey Architecture, Applicant

### SUMMARY

**Issue(s):** Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to approve a Conditional Use Permit to allow religious assembly in an existing commercial structure?

**Staff Recommendation:** DENY the appeal and uphold the Hearing Officer's decision to APPROVE Conditional Use Permit No. 331621.

**Community Planning Group Recommendation:** On May 17, 2007, the Serra Mesa Community Planning Group voted 11-0-0 to recommend approval of the project, with recommended conditions (Attachment 10).

**Environmental Review:** This project was deemed to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301, on July 25, 2007, and the opportunity to appeal this determination ended August 15, 2007.

**Fiscal Impact Statement:** None with this action. All cost associated with the processing of this project are paid by the applicant.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** None with this action. The site is designated for commercial development by the Serra Mesa Community Plan (Attachment 2) and is zoned CN-1-2, which also allows for commercial development. The site is currently developed with a commercial structure that was most recently used as a credit union. No housing units would be removed or created with approval of this project.

## **BACKGROUND**

On August 22, 2007, the Hearing Officer approved the applicant's request for a Conditional Use Permit to allow religious assembly within an existing 7,187-square-foot commercial structure located at 3333 Sandrock Road (Attachment 3), in the CN-1 Zone, within the Serra Mesa Community Plan area.

The Report to the Hearing Officer dated August 15, 2007, that was prepared for this project is included as Attachment 6. For brevity, this Report to the Planning Commission addresses only the issues raised in the Development Permit Appeal Application that was filed by the appellant (Attachment 9). Although the significant project issues are summarized in this report, please refer to the attached Hearing Officer Report for more detailed project background information and staff's original analysis.

## **DISCUSSION**

### **Project Appeal Discussion:**

On September 6, 2007, the appellant submitted a Development Permit Appeal Application (Attachment 9) in response to the Hearing Officer's August 22, 2007, decision to approve this project. Below is a summary statement of each appeal issue raised by the appellant and City staff's response. Please see the attached Development Permit Appeal Application for the entire text of the appellant's grounds for appeal.

1. *"The city did not give the community proper notice and did not give the community enough time to request an alternative format for persons with disabilities, according to the city's own rules and regulations"*

The Notices of Public Hearing for the Hearing Officer hearing on August 22, 2007, were prepared and distributed in accordance with Sections 112.0301(c) and 112.0302 of the Municipal Code, which describe the noticing regulations. Section 112.0301(c)(2) states that the City shall "...mail the Notice of Public Hearing to the persons described in Section 112.0302(b) (all property owners and occupants within a 300-foot radius of the project site), at least 10 business days before the date of the public hearing." The Notices of Public Hearing were postmarked August 8, 2007 (Attachment 13), thereby providing the 10 required business days notice required by the Code." With regard to the availability of alternative agenda formats and/or sign language or oral interpreters for the public meeting, the hearing noticed prepared by the City indicated that such a request must be made at least five business days prior to the meeting. Therefore, any request for alternative format would have had to be received by August 16, 2007. City staff did not receive any requests for alternative formats either before or after the published deadline.

With regard to the Notice of Right to Appeal the Environmental Determination, there is no requirement that this notice be mailed to those individuals included within the required 300-foot project noticing area radius. In compliance with the California Environmental Quality Act (CEQA) and City of San Diego policy, all Notices of Right to Appeal the Environmental Determination are posted on the City's website and a hard copy is posted in the Third Floor lobby of the Development Services Center at 1222 1<sup>st</sup> Avenue. Both of these actions were completed for this notice and no requests to appeal the environmental determination were received either before or after the published deadline.

2. *"The parking lot is too small"*

As described in the Hearing Officer Staff Report (Attachment 6) and Conditional Use Permit No. 331621 (Attachment 7) dated August 22, 2007, the maximum occupancy of the building has been restricted based on the number of parking spaces provided. Section 142.0530, Table 142-05F of the Municipal Code requires one parking space for every three seats or 30 parking spaces 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, which does not have fixed seating, would require the provision of 54 parking spaces ( $1,800/1000 = 1.8 \times 30 = 54$ ). The project as designed and conditioned would provide 55 parking spaces.

The project has been conditioned that no more than 165 people may occupy the facility during weekend events to ensure that the parking provided does not exceed three persons per onsite parking space (3 persons x 55 spaces = 165 person max. occupancy). Therefore, the 55 surface parking spaces provided would accommodate the maximum allowed weekend facility attendance of 165 persons. During weekdays, the project has been conditioned that no more than 40 persons may utilize the site at one time, which is easily accommodated by the 55 onsite parking spaces. Also, the project has been conditioned that the office areas and religious assembly areas may not be used concurrently to prevent parking conflicts between these two uses.

During weekend events, a maximum of 190 persons could occupy the site with the utilization of the Transportation Demand Management (TDM) Plan that was approved by the Hearing Officer on August 22, 2007. The TDM is explained in detail in the original attached Hearing Officer Report and would include such provisions as vans for carpooling and the segmenting of ceremonies to minimize parking impacts. All necessary occupancy restrictions, parking requirements and transportation improvements have been included as permit conditions (Attachment 7).

3. *"There appears to be no traffic impact study/report done at this busy intersection"*

No traffic studies were prepared because the project, as conditioned, does not meet the required thresholds for report preparation. As described on page 3 of the City of San Diego Traffic Impact Study Manual (<http://www.sandiego.gov/development-services/industry/pdf/trafficimpact.pdf>), a traffic study is required for projects that conform with the community plan but exceed 1,000 average daily (ADT) trips.

Since this project generates fewer than 1,000 ADT and conforms to the community plan, a traffic study was not required. In addition, per page 4 of the San Diego Traffic Engineers' Council/Institute of Traffic Engineers (SANTEC/ITE) *Guidelines for Traffic Impact Studies in the San Diego Region*, locations where a project adds over 50 directional peak-hour trips should be analyzed. Because the project conditions limit the number of facility attendees to 40 during any hour during the weekday, no surrounding intersection needs to be studied.

4. *“Person or persons listed as the applicant on the permit is an entity other than the Afghan community”*

As with many other discretionary projects, the Afghan Islamic Community Center, Inc. has chosen to utilize a consultant to represent them and process the discretionary permit request, as permitted by Municipal Code Section 113.0103, “Definition of Applicant”. Therefore, Enrique Rodriguez with Eric Davey Architects is listed as their point of contact. An Ownership Disclosure Statement listing the Afghan Community Islamic Center, Inc. as the owner of the property has been on file since the project was submitted and was included with the Hearing Officer Report dated August 22, 2007, and is also included as Attachment 11 to this report.

5. *“The city did not give any notice to the community as to what the “conditions” are for the conditional use permit”*

The Serra Mesa Community Planning Group was provided with copies of each Assessment Letter and Cycle Issues Report during the review process, which included all draft and final project conditions. In addition to the Assessment Letters and Cycle Issues Reports, numerous emails were exchanged with the group clarifying the project and conditions. All parties who requested the Assessment Letters, Hearing Officer Staff Report and associated Conditional Use Permit with conditions were provided with a copy.

6. *“Potential growth and expansion concerns”*

If the applicant wishes to accommodate more people than this permit allows or to change the scope of the proposed use, it would be necessary to amend the Conditional Use Permit and comply with all relevant Municipal Code regulations in effect at the time of the amendment, including parking regulations.

7. *“Code violations”*

City staff has confirmed with Neighborhood Code Enforcement that there are no outstanding code violations or active code enforcement activities associated with this property.

## 8. "Safety issues"

The issues raised under this heading are beyond the scope of the Municipal Code and the required findings for a Conditional Use Permit. Staff can not make a correlation between this appeal point and the current regulations, guidelines and policies under which the Conditional Use Permit was reviewed.

**Community Planning Group Recommendation:** At the Hearing Officer hearing on August 22, 2007, Cindy Moore, a member of the Serra Mesa Community Planning Group, spoke in favor of the project but expressed the group's desire that their proposed conditions of approval be included. Below is a brief explanation of their recommendations as they relate to the Hearing Officer's approval of the project:

1. *Give the CUP a three-year expiration date:* After discussion with City staff, the applicant and the Planning Group representative, the Hearing Officer approved a five-year CUP expiration date, which is consistent with other similar uses in commercial zones.

2. *Allow no more than 40 people per hour to use the facility during weekdays:* The project has been conditioned to allow no more than 40 people at one time in the facility during weekdays (Condition No. 26).

3. *Allow no more than 100 people per hour to use the facility during weekends:* After discussion with City staff, the applicant and the Planning Group representative, the Hearing Officer approved the staff recommended maximum occupancy conditions. Utilizing the Municipal Code requirements, a maximum of 165 people may utilize the site at one time during weekend functions. With the approval of the Transportation Demand Management plan, a maximum of 190 people may utilize the site during weekends and the project has been conditioned as such to comply with the Municipal Code (Condition No. 26).

4. *Do not require that the applicant close the median break on Sandrock Road:* The Planning Group provided a survey of the adjacent businesses who have requested that this median break remain open and expressed their desire that this break remain open. After discussion with City staff, the applicant and the Planning Group representative, the Hearing Officer decided to remove the condition requiring the closure of the median.

**Community Plan Analysis:** The Conditional Use Permit request was reviewed by Long-Range Planning staff which determined that the proposed project would implement the Serra Mesa Community Plan. The Commercial Element discusses that the existing commercial areas tend to serve only commercial functions and are rarely used for other community activities. Therefore, one of the goals of the Serra Mesa Community Plan is to encourage commercial districts which provide a wide variety of goods and services to Serra Mesa but also enhances the community environment. Long Range Planning has determined that this activity would broaden the scope of the commercial area within Serra Mesa.

**Conclusion:** Staff has reviewed, considered and responded to each of the issues raised by the appellant and continues to recommend approval of the project. Staff has determined that the project, as conditioned, would comply with all applicable sections of the Municipal Code and that the required findings can be made to support the project.

**ALTERNATIVES**

1. **Approve** the Appeal and deny Conditional Use Permit No. 331621 that was previously approved by the Hearing Officer; or
2. **Deny** the Appeal and uphold the Hearing Officer's decision to approve Conditional Use Permit No. 331621, with modifications.

Respectfully submitted,



Mike Westlake  
Program Manager  
Development Services Department



Paul Godwin  
Project Manager  
Development Services Department

WESTLAKE/PBG

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Hearing Officer Report of August 22, 2007
7. Draft Permit with Conditions
8. Draft Resolution with Findings
9. Copy of Appeal Application
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Project Chronology
13. Hearing Officer Notice dated August 7, 2007