#### **Minutes**

Planning Commission June 1, 2009 City of Orange Monday–7:00 p.m.

PRESENT: Commissioners Cunningham, Imboden, Merino, Steiner and Whitaker

ABSENT: None

STAFF

PRESENT: Ed Knight, Assistant Community Development Director

Gary Sheatz, Assistant City Attorney Robert Garcia, Associate Planner Sonal Thakur, Assistant Planner Sandi Dimick, Recording Secretary

### **ADMINISTRATIVE SESSION:**

Chair Steiner opened the Administrative Session @ 6:52 p.m. with a review of the Agenda.

Item No. 1, Approval of the minutes from the regular Planning Commission Meeting on May 4, 2009. No changes or corrections were noted. All Commissioners would vote on the item.

Assistant Community Development Director, Ed Knight stated there had been public contact with Staff on both Items #2 and #3.

Item No. 2, CUP, Tandoor Cuisine of India. Commissioner Whitaker stated he would have questions on the item. Chair Steiner stated there were 2 components to the item. Assistant Planner, Sonal Thakur stated there were actually 3 components to the item:

- 1. the modification to the existing CUP to add the additional square footage to the CUP,
- 2. the request to add the accessory dance floor
- 3. a voluntary surrender of a CUP that involved old entitlements

Chair Steiner asked about the public contact that Staff had received. Ms. Thakur stated she had spoken with a resident that claimed to have made over 20 calls to complain about noise issues. Ms. Thakur referred to a memo she had received from the Orange Police Department that stated the calls for service to the applicant's location during the last 3-½ years had been 4. She had contacted the Police Department to gain further information and had not yet heard back from them. Chair Steiner stated they could discuss that further during the public session.

Item No. 3, CUP's, MNSP, DRC, Coptic Orthodox Church. Commissioner Whitaker stated due to a conflict of interest he would be recusing himself from the item presentation. Chair Steiner stated he would consider moving the order of the items heard to have item #3 heard last. Commissioners Merino and Cunningham stated they would

have questions. Ms. Thakur stated Staff had received public contact regarding parking concerns.

Item No. 4, CUP, Kaman Industrial Technologies. Associate Planner, Robert Garcia, stated the item was a relatively minor issue for a CUP for additional office space in an industrial zone.

There was no further discussion.

Administrative Session closed at 7:00 p.m.

# **REGULAR SESSION**:

# **PUBLIC PARTICIPATION: None**

# **CONSENT CALENDAR:**

# (1) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF MAY 4, 2009

Commissioner Merino made a motion to approve the minutes from the regular Planning Commission Meeting of May 4, 2009 as written.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None ABSENT: None

MOTION CARRIED

## **NEW HEARINGS:**

# (2) CONDITIONAL USE PERMIT NOS. 2656-07 AND 2657-07 – TANDOOR CUISINE OF INDIA

A proposal to modify CUP 1786-89 for an existing Alcohol Beverage Control (ABC) License in order to include the sum of the restaurant's unlicensed ABC square footage under the permitted area where alcohol can be served. CUP 2657-07 is being requested to permit an accessory dance floor in the subject restaurant.

As four previous CUPs are associated with the subject tenant space and are outdated, the property owner is also volunteering to surrender all entitlements associated with CUP Nos. 1110-81, 1156-81, 1287-83 and 1786-83 in their entirety.

LOCATION: 1132 E. Katella, Suites A-3 and A-4

NOTE: The proposed project is categorically exempt from the provisions

of the California Environmental Quality Act (CEQA) per State

CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project proposes to modify an existing ABC license and permit an accessory dance floor within the footprint of the existing restaurant building.

### RECOMMENDED ACTION:

Adopt Planning Commission Resolution 15-09 to include the 1,560 square foot dining area as an additional area where alcohol (ABC Type 47) may be served and to permit an accessory dance floor.

Assistant Planner, Sonal Thakur presented a project overview consistent with the Staff Report.

Chair Steiner opened the hearing for any questions to Staff.

Commissioner Whitaker stated he noticed that the application was approved by a Staff Review Committee in June of 2007 and now two years later they had the item before them. He asked what circumstances had changed?

Ms. Thakur stated the application had been inactive due to the submittal of certain requirements with the site plan, as well as the completion of the Alcohol Management Plan. The application required reactivation.

Commissioner Whitaker stated as he had read through all of the conditions, there was a lot of narrative in the Staff Report that noted the proposed dance floor would be used during catered events such as birthday parties and other events. He had not noticed a condition with respect to that throughout. He had read the conditions and the way it appeared was that the applicant could have the restaurant open to the general public and as long as they met the other conditions such as no advertising, there could be dancing during regular business hours and not necessarily just for special events. He understood that had not been the intent of the narrative and he asked if he had missed something in reading the conditions?

Ms. Thakur stated Condition No. 24 read that the dance floor area was limited to a specific size and could only be used during catered events and if the Commission felt it would be beneficial to add additional language to the condition Staff could do that.

Commissioner Whitaker stated he would think about that.

Commissioner Merino mentioned there was not a member of the Orange Police Department present and he assumed that Staff had discussed the project with them. For the record, it appeared that in the Police Department's memorandum, they felt and quoted "where as concerns for regular banquets with a D.J. or band may create a nuisance with the residents to the south, the applicant's unblemished ABC history and good business practices were more indicative in allowing those modifications to the existing CUP; would not affect the quality of life for the community or become a burden on Police Services." Commissioner Merino asked, based on what Staff knew and discussions with

the Police Department, was the memo the Police Department's conclusion and were they in favor of allowing the location to continue operating with a dance floor?

Ms. Thakur stated providing that the Conditions of Approval were met.

Chair Steiner invited the applicant to address the Commission.

Applicant, Balbir Singh, address on file, stated they wanted to add a dance floor, a small area. On one side of the restaurant they would have dining and on the other side banquet space. There would not be outside catering, just inside for events such as baby showers and special occasions.

Commission Whitaker stated Condition No. 23 stated that a D.J. or band could not contain more than 3 members and he asked the applicant if he was o.k. with that.

Mr. Singh stated yes.

Commissioner Whitaker stated the dance floor was limited to a space of 15' x 18' and could only be used by catered events. He asked the applicant if he would have a problem if they combined Conditions No. 23 and 24, so that the D.J., band and dance floor were all contained in one condition.

Mr. Singh stated they would not have live music and there would be no band. Once in a while they had a D.J., 80% of the time they would only have speakers.

Commissioner Whitaker asked if the intent of using a D.J. or band would be only during special events and not during regular dinner service.

Mr. Singh stated that was correct.

Commissioner Whitaker asked if the condition read that the D.J. or band could only be used during catered events would the applicant be agreeable to that.

Mr. Singh stated yes.

Commissioner Merino stated there had been community concerns with locations that had been approached by outside promoters that would seek a location with a dance floor and he asked would that be something that the applicant would be amenable to?

Mr. Singh stated they would not allow an outside vendor in.

Commissioner Merino reiterated the dance floor would be for their internal use and the applicant would not allow an outside vendor to approach them for any type of financial gain.

Chair Steiner opened the hearing for Public Comment.

Bill Hodson, address on file, stated his bedroom window was 104' from the dance floor and anything that would lend itself to more noise and more disturbances he was 100% against and he would do whatever it took to fight against any expansion. One thing he had not heard was that there was not a limit and the applicant could hold a banquet every night of the week. If they were calling it a banquet and a special event, how many events would it be limited to. There would be an increase in noise and traffic, and he wasn't sure what else he could say only that he was against anything else that went along with the noise. He presented photos that showed big bags of charcoal out in the back and stated the dark shots were of the spotlights that shown into his backyard. There were bins and he was not certain what was in those bins. There was also a shot of the wall with ivy on the wall with beer bottles thrown in there. They had stuff thrown in their yard. His neighbor had contacted the Police Department quite often. He was curious about the Police Report as he felt there had been more calls logged. He had made calls and the restaurant owner had been pretty good about shutting the back door. Generally the back door was open when they were doing the dishes and they heard dishes clanging. They kept their doors open during the summer and it was not only the noise of the music, it was also the thumping of the bass at 104' from his back door. Even with the windows shut they could still feel the thumping that rattled his windows.

Commissioner Whitaker asked Staff if there had been catered events with a D.J. and dancing at a catered event prior to the permits being issued.

Ms. Thakur stated she had not been made aware of any of those types of events. When the applicant had been asked about those types of events he had stated they had not occurred.

Commissioner Merino asked if there was any type of barrier between the restaurant and the neighbors?

Ms. Thakur stated she recalled there was an alley way.

Commissioner Merino asked what was between the alley way and the edge of the neighbors?

Chair Steiner stated he had a photo that depicted the property.

The Commissioners reviewed the photos.

Chair Steiner stated, with respect to the public comment regarding the number of banquets, the applicant could have, under the current application, and what was Staff's position on that and was there anything that would prevent the applicant from having a catered event every night?

Ms. Thakur stated there was not a condition to limit that. In the past, from Staff's memory, she believed there had never been a condition that would impose a limit. Based on what she had heard from the resident's concerns, Staff could possibly condition a limit on the number of catered events, such as only on Friday and Saturday.

Chair Steiner asked if the restaurant currently had a dance floor.

Ms. Thakur stated she had not seen a dance floor. She asked the applicant if they had held any events at the restaurant.

Chair Steiner asked the applicant to return to the podium and asked him if there was a dance floor currently located in the restaurant?

Mr. Singh stated there was not a dance floor, only wooden floors.

Chair Steiner asked if dancing currently took place in the restaurant.

Mr. Singh stated no. Sometimes they had banquet night.

Chair Steiner asked if on a banquet night, would there be music playing?

Mr. Singh stated not now as they only had dining.

Commissioner Merino commented one of the conditions in the application stated the special events could go until 12:00 a.m. He asked the applicant if there was a condition that limited the events to 10:00 p.m. would that present a problem for the applicant.

Mr. Singh stated they were requesting that the events go to midnight.

Commissioner Merino stated he was asking if it was conditioned that the events end at 10:00 p.m., in consideration of the applicant's neighbors, would that be something the applicant would not prefer or would it be something the applicant would find acceptable.

Mr. Singh stated it would be o.k. if they could go to 11:00 p.m., and midnight was fine or 11:30. Most banquets have dinner until 10:00 p.m. and then after, an hour or so of dancing.

Commissioner Merino stated certain events such as a baby shower would not need to go until midnight.

Mr. Singh stated yes, certain events would have no dancing.

Commissioner Merino stated he felt it would only affect a few of their events. He stated they were attempting to reach a happy medium with the neighbors to allow them to find the application somewhat acceptable and taking in their concerns and to provide the applicant what he wanted. He asked the applicant if the condition was modified in regard to the time could the applicant be successful at his location.

Mr. Singh stated if they went to 11:00 p.m.

Commissioner Whitaker stated the current restaurant hours were 11:00 a.m. to 3:00 p.m. for lunch, 5:00 to 10:00 for dinner and on Friday and Saturday the restaurant was open for an extra hour. In the proposed conditions, the hours would allow the restaurant to

remain open either until 11:00 or midnight, and he asked the applicant if the Commission were to propose a change in those hours of operation to closing at 10:00 p.m. Monday through Thursday, with 11:00 p.m. on Friday and Saturday would that be acceptable to the applicant?

Mr. Singh stated in response to the neighbors, he would keep the door closed and the D.J. low if they could stay open until midnight and they would shut down at 11:45 p.m. Some people take dinner at 7:00, or appetizers and they speak with each other with dancing after that. 80% of the events would have dancing too.

Chair Steiner stated he noticed another person had entered the chambers and he asked her if she had filled out a card and if she had wanted to speak? He re-opened the public comment portion of the hearing.

Cherlynne Ramos, address on file, stated she had lived at that location for 10 years and she had a challenge with the applicant since day one. She called them at least 3 times a week and she lived directly behind the restaurant. When the doors in the back were open, her husband was a Fire Fighter and he woke up at 5:00 a.m. to go to work at the L.A. Fire Department. He had gone to the restaurant at 11:45 p.m. last night and walked through the back door and through the kitchen to look for the manager; they had not answered their phone. The music was still booming at 11:45 p.m. last night. On Saturday they had gone into the restaurant at 9:45 p.m. and there were multiple people on the floor singing and there was a lot of loud noise, she was not certain if there was dancing at that point. It was always noisy with noise coming from the back. She lived in a two-story residence and all the noise came up. She contacted Tandoor on 5/27 and the kitchen had been open again and there was music coming through the kitchen. It was very frustrating. They would call at 11:00, 12:00 and 1:00 a.m., first they called the restaurant and when they would not turn the music down she would call the police. She was attempting to be a courteous neighbor and she was tired.

Chair Steiner stated he assumed she was opposed to a dance floor?

Ms. Ramos stated yes.

Chair Steiner asked if there were any further questions for Staff.

Commissioner Cunningham asked with the number of calls to the Police Department why was there not a representative from the Police Department present?

Ms. Thakur stated she could not answer to that. The Police Department was aware of the Planning Commission hearing. Based on the memo that had been issued in January 2009 that cited during the last 3-1/2 years with the current owner there had been 4 calls for service for noise, one of which had been due to the back door being open.

Chair Steiner stated in the event that there had been noise issues that had gone unreported to the Police Department that there would be no record of those issues.

Ms. Thakur stated that was correct.

Commissioner Merino stated he understood from the comments made by the residents that they had made phone calls to the applicant. If a phone call was made and a complaint filed with the Police Department would that not automatically generate a call for the record? If the residents had called as many times as they had stated he would have thought that there would be a longer string of calls which could be reviewed. The Staff Report noted that there had only been calls at the applicant's location.

Chair Steiner asked Ms. Thakur how current was the information that had been received from the Police Department?

Ms. Thakur stated she believed it was from January 2009.

Chair Steiner stated that during the administrative session, Staff had indicated that input had been received from neighbors and that a call had been placed to the Police Department, however, a call back had not been received. He assumed if there had been a call to the Police Department by a resident that it would have been recorded.

Ms. Thakur stated she was not certain whether all the calls were made to the Police Department or to the restaurant directly.

Commissioner Cunningham, speaking to Ms. Ramos, stated that he got the impression that there had been more calls to the Police Department regarding noise issues with the restaurant; he was concerned that the information that was provided was not reflective of the impact on the neighbors.

Chair Steiner asked Ms. Ramos to come forward and stated that generally the public was not engaged in their discussion, however, would she respond to Commissioner Cunningham's comment.

Ms. Ramos stated she had Tandoor on her speed dial and she could get her cell phone and they could count how many times she had contacted them.

Chair Steiner stated that would not be necessary.

Commissioner Cunningham asked how many times had Ms. Ramos contacted the Police Department.

Ms. Ramos stated this year she had contact them 4 to 6 times, she had the Police Department's phone number on speed dial.

Chair Steiner closed the public comment portion of the hearing and brought the item back to the Commission for further discussion.

Commissioner Whitaker stated he felt there had been too much conflicting testimony with regard to the dance floor. He was not comfortable moving forward on the dance floor without having Police Department input and understanding what their record was with respect to noise violations at that location. The first part of the CUP was just to clean up a discrepancy from 2004 to add the expansion space under the ABC license. He

felt comfortable with moving forward on that portion; whereas the entire serving area would be covered under the ABC license. He would feel comfortable continuing the section on the dance floor; or if the applicant wanted to move forward there was just too much conflicting information and he would not support the application.

Commissioner Merino stated he echoed Commissioner Whitaker's comments. The area had been listed as being over concentrated and in a high crime area and it was important that they not exacerbate the problem that may already exist. Not to say that the owner was not a fine restaurant purveyor. He had not wanted to create another Quans issue and it would behoove them to have the Police Department present.

Commissioner Imboden stated he had the same feelings as his colleagues and they were not looking at a majority for approval and he recommended that they ask the applicant if he was agreeable to a continuation.

Chair Steiner stated the Commissioners looked as if they would not be approving the dance floor and asked the applicant if he understood?

Ms. Singh stated yes, he understood.

Chair Steiner stated the applicant had two choices:

- 1. the Commissioners could cast their vote and it appeared, with that, the dance floor would be denied and the applicant had a right to appeal that decision.
- 2. the other option was that the applicant could return at a later date with the Police Department present in order to hear their comments.

He asked the applicant what was his preference?

Mr. Singh stated he would go to another meeting.

Chair Steiner stated with respect to the initial CUP; and with Commissioner Merino's concerns with over concentration what was Commissioner Whitaker's suggestion?

Commissioner Whitaker stated the conditions of both CUPs were interrelated and he thought that the entire application would need to be continued.

Commissioner Imboden stated the item was also associated with the surrendering of existing entitlements.

Commissioner Whitaker made a motion to continue, Conditional Use Permit Nos. 2656-07 and 2657-07, Tandoor Cuisine of India, to a date uncertain.

Chair Steiner stated to the two members of the public that had comments, in continuing to a date uncertain meant the application would be continued to another date and they would be notified by the City of that date. It appeared as if they would be continuing the item.

Commissioner Merino stated to the applicant, he wanted him to take with him some of the comments that had been shared by the applicant's neighbors. The applicant was a neighbor and it would behoove him to consider some of the concerns that had been raised.

Chair Steiner verified that address information had been obtained on the two residents who had spoken during the public comment session of the meeting and he assured them that they would be contacted with the date of the next hearing.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None ABSENT: None

**MOTION CARRIED** 

# (3) CONDITIONAL USE PERMIT NO. 2741-08; CONDITIONAL USE PERMIT NO. 2753-09; MINOR SITE PLAN REVIEW NO. 0502-07; AND DESIGN REVIEW COMMITTEE NO. 4205-07 – COPTIC ORTHODOX CHURCH

A proposal to make improvements to an existing church building and the associated site. Specifically, 1,950 square feet will be added to the west of the existing sanctuary (first floor) to accommodate the relocation of the altar so that the altar may face east. The expansion will also accommodate a narthex/lobby area and cry and baptism rooms. A 65 square foot addition onto an existing restroom is proposed on the northeast corner of the building, a 23 square foot addition onto an existing storage room on the southeast corner of the building and 3,951 square feet on the second floor to provide a new office and classrooms.

In addition, the applicant seeks to remodel the exterior design of the modified building and make various site improvements which include the addition of new parking, landscape and lighting.

LOCATION: 491 N. Hewes

NOTE: The proposed project is categorically exempt from the provisions

of the California Environmental Quality Act (CEQA) per State CEOA Guidelines 15303 (Class 3 – New Construction or

Conversion of Small Structures) because the project consists of a

façade remodel and minor additions.

### RECOMMENDED ACTION:

Adopt Planning Commission Resolution 23-09 approving a 1,950 square foot expansion of a sanctuary, 3,951 square foot addition to the second floor, associated site improvements and exterior remodel.

Commissioner Whitaker was recused from the presentation as his law firm represented the Diocese of Orange and their parish, La Purisima, was within the conflict area.

Assistant Planner, Sonal Thakur presented a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions to Staff.

Commissioner Merino stated the biggest issue from his perspective was parking. If there was an impact it would be to the neighborhood with overflow from the site. From the Staff Report, there was a parking analysis prepared by Michael C. Adams Associates. After his review of that, he was not certain if it had been prepared by a licensed traffic engineer. He contacted the phone number on the letter from that firm and they answered as SAS Development, not any type of an engineering or planning firm. He asked if Staff was aware if the person who had prepared the report had the professional experience to prepare a parking study.

Ms. Thakur stated she was aware that they had a planning background. On the parking analysis that was completed, specifically with reviewing what parking spaces would be required per code and the events that would occur at the site. It was not completed as a traffic analysis where someone had remained at the site counting cars.

Commissioner Merino stated that had made it more critical for him, as if a full traffic study had not been prepared they would not have a basis for the study. The assumption in the table on page 6 of the parking analysis, was one of the key elements had a calculation based on pews (seats) with a ratio of 4. That was not a common number in reviewing the Institute of Transportation Engineers parking generation factors or the Urban Land Institutes Shared Parking Standards and he asked why the number 4 was used?

Ms. Thakur stated that was directly from the Orange Municipal Code.

Commissioner Merino commented that was from the Orange Municipal Code and it was specific to that type of application.

Ms. Thakur stated that was correct. She referred to the table contained in page 7 of the Staff Report. In the middle column the standards from the code were listed and that was where the number came from.

Commissioner Merino asked if Staff supported that 4 was the correct number used to calculate the parking needs.

Ms. Thakur stated yes, Staff agreed with the requirement of 1 space for 4 seats and it was specifically from the code.

Commissioner Cunningham commented on Conditions 9, 10 and 11; on 9 where the applicant was required to submit any changes to scheduled church activities to the Planning Commission for approval, he asked if any other church organization in the City

had been required to do that?

Ms. Thakur stated she was not aware of any other situation of that type. Staff was asking for the requirement that in the event there was tutoring or fellowship activities, that would occur at the same time as the liturgy, which was the highest demand for use of parking, Staff could discuss with the church that it would not be allowed as the parking analysis would then go against what might or might not have been approved.

Commissioner Cunningham stated he understood from the report that the Coptic Church would not allow any other activity to occur while church service was occurring and that was as a matter of their faith.

Ms. Thakur stated that was what she understood and details of that nature should be directed to the applicant.

Commissioner Cunningham stated on Condition No. 10, it stated no other church activity and he asked Staff what constituted a church activity.

Ms. Thakur stated Staff interpreted church activities such as those activities associated with the church such as fellowship, tutoring, anything in the social hall, and anything associated with the church, with the exception of the Preschool which would be limited to the conditions of their CUP.

Assistant Community Development Director, Ed Knight stated the City had processed several CUPs for changes to church activities, for school or other associated activities. Condition No. 9 was not unusual and in some instances they were a little more specific, the manner in which the Condition was written gave the applicant more flexibility to change activities without the need to return to the Planning Commission.

Chair Steiner stated on Condition No. 10, Commissioner Cunningham brought up a very good point and he was a little uneasy with a Governmental body stating that an organization could limit church activities.

Mr. Knight stated that was in reference to the parking study and the limitation to the parking. There was a need, based on their shared parking, only a certain number of activities could occur at a specific time at the site.

Chair Steiner stated he accepted that more specific explanation and asked the Assistant City Attorney, Gary Sheatz if he was correct in feeling concerned about the language in Condition No. 10?

Mr. Sheatz stated it would be most helpful to have the language in Condition No. 10 be more specific. There had been conditions similar to number 10 imposed on other applicants. The Lutheran Church that had come through had multiple activities that occurred and those specific activities were fashioned into the condition. Being more specific would be better.

Commissioner Imboden stated he would feel more comfortable if the language would

read "no other church activity may occur which would result in a change in parking needs."

He would rather have that condition be directly linked to parking needs, rather than addressing activities or limiting activities.

Commissioner Merino stated he had not understood, on pages 4 and 5 which contained the development standards and read that the development standards and parking requirement for the location why would it be 167? The project provided 136, which was less than the required number and if they were utilizing the proper calculation how had they arrived at that number?

Ms. Thakur stated the way the code was written for the sanctuary was that 84 parking spaces were needed and with calculating all the other uses, such as office space and classrooms, the total number would be 167 required. There was the provision that for churches specifically, in a staggered activity schedule with no overlap, the CUP for shared parking applied. 167 parking spaces would take into account that every single room and every single use would be occurring simultaneously.

Chair Steiner asked if the parking calculation was consistent with the OMC.

Ms. Thakur stated that was correct.

Commissioner Merino stated that within the project itself and amongst the uses itself there would be no overflow.

Ms. Thakur stated the shared parking was within the site, not shared with another location.

Commissioner Merino stated essentially it was a promissory note that stated the applicant would maintain set hours of operation to comply with the conditions and only requiring the 136 parking spots. It begged the question, according to the report, on Wednesday and Friday there was a 250 person liturgy service and the assumption was in looking at only a 250 person service and the amount of traffic generated by that, he would assume that 4 was a sufficient standard. In taking 250 and dividing it by 2.5, which was the transportation standard, they would have ended up with a much larger number. He was concerned, and he was leaning toward the fact that the neighborhood might be impacted more than anticipated, due to the information in the report and traffic study that had not taken into account the actual amount of people attending services vs. just the size and capacity of the pews.

Ms. Thakur stated from a Staff standpoint, they could only implement what was within the code.

Commissioner Merino stated if the applicant had stated that there would be 500 people at a service and there would only be a specific number of pews provided, it would not matter as the standard would be based on the number of pews and not what the applicant would state as the number of people attending the service.

Ms. Thakur stated that was what they had to work with.

Chair Steiner invited the applicant to address the Commission.

Georgette Farag, address on file, had been volunteering at the church for many years. She wanted to explain why they needed to move the altar to the east. In the liturgy when the lord resurrected, it was from the east and they always prayed to the east waiting for the second coming of the lord. In their liturgy books it directed members of the church to pray toward the east; for the congregation to be praying to the west was hypocritical and that was the reason for the changes to the church to accommodate their beliefs. With regard to other activities on the site, according to their faith it was mandated that no other activity shall occur while a liturgy or prayer service was occurring in the church. During times of those services, there would not be any other activities allowed as it went against their faith. During a service everyone needed to be in the sanctuary. Commissioner Merino stated that 250 people would be present on Wednesday and Friday and she was not certain where that number had come from, generally they had approximately 20 to 25 people on those days. She attempted to locate that information in the Staff Report but could not find that reference.

Chair Steiner asked Commissioner Merino where he had found that information.

Commissioner Merino stated it was documented in the letter from the applicant's consultant, Michael C. Adams, on page 4 at the top of the page which addressed specifically liturgy services. He asked if the consultant was present.

Ms. Farag stated no he was not. Currently on some given Sundays there was spill over to the street from their parking lot which was approximately 10 vehicles between Hewes and Walnut and that was the reason they would be adding more spaces. There were some Sunday services that had a higher attendance than others. There were other Coptic Churches within a half an hours drive from their church. There was one in south county, Santa Ana and Anaheim and there were members that attended different church services and it was not a set number of attendees.

Regarding the liturgy, if there were back to back liturgies they would be required to allow 30 minutes in between to allow parking to clear. The Coptic Church would not do that as the alter required a 9 hour fasting between services, if there was a service Sunday morning the next service would occur 9 hours later.

Chair Steiner stated in the letter from the applicant's consultant it stated that on Wednesday and Friday that there were approximately 15 people in attendance and approximately 250 people on Sunday; and in theory the expert the applicant hired had obtained that number from them and was the 250 accurate for Sunday attendance?

Ms. Farag stated that was correct.

Commissioner Merino stated in addition to citing the 250, the basic seating that they calculated was between the existing 240 seats and the 96 that were being added with a potential for 336 people to attend a service, and he asked if that could happen?

Ms. Thakur stated yes, if more people joined the church.

Commissioner Merino stated that Ms. Thakur could understand his concern for the potential of spill over into the adjacent neighborhood and although he was in support of the expansion of the church, the Planning Commission was also responsible for dealing with the impacts of that growth.

Ms. Farag stated they were very sensitive to their neighbors and whenever a spill over situation occurred they made sure their church goers were very orderly. Currently with the 240 seats that were available there was a spill over onto the street of approximately 10 cars. In adding 45 parking spaces she felt that would accommodate the additional people that would be attending church services.

Commissioner Cunningham stated when people came to attend Sunday liturgy he asked if it was primarily families coming and it was not individuals in 250 cars?

Ms. Farag stated that was correct. It was big families.

Commissioner Cunningham stated in his experience there were multiple people that went together in one car. He asked if there were any funerals held at the church during the week.

Ms. Farag stated in 8 years they had only a few.

Commissioner Cunningham stated it was a question he posed as in reading over the conditions it might be a question that came up. He asked the applicant what her feeling was on Conditions 9, 10 and 11 where the City was asking the church to submit any change in their schedule of activities two weeks prior to those activities occurring?

Ms. Farag stated she had no problem with that and their activities were fairly consistent. Prior to a change they would study that closely.

Commissioner Cunningham asked if she was comfortable with Condition No. 10 that read no other church activity shall occur during a liturgy service.

Ms. Farag stated that was o.k. as their faith would not allow any other activity to occur during that time.

Chair Steiner stated relating to Condition No. 8 that involved the lighting. It was his opinion that the City's lighting standards were abysmally inadequate; he was a victim of a lighting situation and he was a bit biased. He stated light standards were required with shielding from the neighbors and he wanted to ensure the applicant was clear on that requirement.

Ms. Farag stated they were clear on that and between their property and the neighboring property they proposed to plant trees along the bordering property to assist with screening.

Chair Steiner asked the applicant if she understood that they were required to block the light from shining directly on the neighbors.

Ms. Farag stated she understood.

Chair Steiner opened the hearing for Public Comment.

Sandy Rickard, address on file, stated she lived between the two churches and she was quite concerned at the impact of the change and parking. She had contacted Ms. Thakur and asked if anyone had been to the location when the parking was at its peak, she had mentioned that she had been at the site, however, not during a time when there was an activity happening. Ms. Rickard stated she had told Ms. Thakur that she should have been at the church last night, she had not had a chance to take photos as the meeting was very last minute to her, there was approximately more than a 20 car spill over. There were two churches there and the other church was not supposed to have spill over and there was supposed to be shared parking between the two churches, the other church was completely fenced in and they had not shared their parking. There had been promises made about the spill over and the parking which seemed to change. The road was one lane in both directions and she understood the church wanted to add another driveway. When there was spill over her driveway was blocked and they had to be very cautious when pulling out of her driveway. They backed into their driveway for safety when pulling out and she was very concerned about the impact of the addition and parking. She wanted to know if the Coptic Church would hold alcohol and drug abuse classes like the other church as people would come over to their street and smoke cigarettes.

Mr. Rickard, address on file, stated Sandy had been raised on that street and they had seen the growth. He had nothing against the church and they were good neighbors, they were not too loud and the activities had not gone on at all hours. The parking situation was out of whack already and just adding some parking spaces would just be a break even situation. The church had services with over 300 people already with parking out along Walnut and the church hosted big to dos several times a year. The parking was bad and getting in and out was bad, when there was an expansion more people would show up. Just adding 40 spots right now the site would be at just a little bit better than break even.

On the lighting, since the church added the basketball court, the lighting had affected them and it had shone in through their bedroom window. Noise sometimes carried on past 10:00 p.m. and the church had activities with well over 300 people already. He had lived on that street for over 20 years and he had nothing against the church growing. Everything that the Commission had brought up was right on, and not having enough parking, 167 vs. the 137, would not be enough. He had not wanted the parking out on the street. They had only found out about the meeting last night and if there had been more notice, there would have been more neighbors there. The Commission had raised some excellent concerns and knowing when churches grew they added more people.

Father Gregory Bishay, address on file, stated he was a servant of the church and he wanted to address the funeral issue. With weddings they would have a notice as it happened well in advance, however, with funerals those happened immediately and there

was the need to have them occur very quickly. They were very infrequent. On Condition No. 9 with changes in services and activities, with funerals it would be very hard to meet that requirement with regard to notification to the City. With funerals there was not much time, they were a small church and had not anticipated a large number. For the neighbors, they spoke about excessive attendance, there were occasions such as Palm Sunday and the Resurrection Feast that attracted more participants; however, if they took that number of 300 divided by 4 they would only require 75 parking spots and they would have an adequate amount for that. He hoped that even when people parked in front of the homes that the additional parking spaces would address that issue.

Michael Morcos, address on file, stated he represented the parking firm and he wanted to speak to parking. The extension in parking would accommodate the additional seats. Per the OMC they were required to have 84 spaces and during mass there would be no concurrent activity and the 136 parking spaces would cover those people attending mass. The code required only 84. If they took the potential 336 people that could attend service divided by 2.5 persons, not the code requirement of 4, they would have adequate parking. The other spaces would be used for the community hall, offices and the preschool was closed on Sunday. He believed they had adequate parking to accommodate their needs.

Chair Steiner invited the applicant to return to the podium and he stated they had heard the public comment and he asked if she could return to comment on the parking spill over issue. Regardless of the formula they were using, there still was a spill over problem.

Ms. Farag stated there was a spill over problem and the additional parking spaces would take care of that, to alleviate the spill over. She wanted to address the lighting.

Chair Steiner stated hold on, he understood they were adding 45 parking spaces to deal with the spill over problem, however, they were adding to the capacity to hold more people.

Ms. Farag stated they had 300 people that attended now.

Chair Steiner stated was it her belief that the 300 in attendance was rare?

Ms. Farag stated that was correct it was not on a regular basis, and not every Sunday. She appreciated the comments from their neighbors and their concerns. Last night there was not a service at their church and the spill over must have been from the neighboring church, Spirit of Truth Church and she was aware that Spirit of Truth Church had a drug rehab program on their site. Coptic Church had no such program and they were not licensed to hold one. She stated that as congregations grew and continued to grow it was the philosophy of their bishop and the Diocese of Southern California and Hawaii that if a church over grew their capacity the Bishop would form another church and that was how the Orange church was started. The Anaheim and south county church population had grown and from that growth their church in Orange was created. When they got to a certain point and they could only serve a number of community members they would expand to another location. The Bishop would secure another site in Orange County to accommodate that growth.

Commissioner Imboden stated there had been a comment made by one of the speakers regarding the agreement of a shared parking agreement between Coptic Church and the neighboring church.

Ms. Farag stated there was not a shared agreement between churches and she believed there was a shared agreement when Spirit of Truth obtained their CUP and Coptic was not yet at that location. They may have had an agreement that she was not aware of. Spirit of Truth had contacted them to use their parking and it had been allowed when Coptic had no activities occurring. She was not aware of such an agreement.

Commissioner Merino stated there had been a lot of reference to parking being added and he wanted to piggy back on what the Chair had stated, the parking they were adding was only taking care of the deficit that they had, as they were currently behind by that many spots as they would be adding people and it appeared that they would only be catching up. The assumption was that they would fill the entire amount for what their capacity would be in terms of the pews provided which were potentially 336 seats. The other questions he had was there a time when during a service people would stand because they could not find a seat?

Ms. Farag stated that happened on occasion they had two major feasts at their church at Easter and Christmas and there would be people standing.

Commissioner Merino asked if it was a significant amount of people that needed to stand along the perimeter of the sanctuary.

Ms. Farag stated on occasion there would be 30 to 40 with their current capacity of 240 seats.

Commissioner Merino stated potentially even with the additional seats they could grow to an over capacity limit and there would still be the need for people to stand.

Ms. Farag stated if that occurred they would approach the Bishop to start another church due to the growth.

Commissioner Merino stated there would still be an impact on the neighborhood during that time.

Ms. Farag stated she supposed that could happen.

Chair Steiner closed the public hearing and brought the item back to the Commission for further discussion.

Chair Steiner stated from his perspective the issue was whether or not the application was compliant with the OMC. There were some very good points presented and the adequacy of parking, however, if there was a perception that the parking was inadequate then one had to ask the question if the code was allowing enough parking per seat. That issue was beyond the Planning Commission's job description. If there was an impression that the code would not adequately address the number of parking spaces needed, then the code

would need a change. Whether or not the application before the Commission was compliant with the code was what they had to review. He wanted to note that he felt that was the crux of the issue.

Commissioner Merino stated he had to disagree a little bit because part of what they had, and they had those discussions previously, was that the Planning Commission exercised discretion in looking at planning issues in the community and the larger impact those projects may or may not have. In discussions with the City Attorney, the Planning Commission had that authority to review those issues in a larger context.

The other issue was that the OMC was barely satisfactory and that the applicant had an existing shared parking agreement within themselves and if that agreement was not in place, the site would be significantly under parked. He believed what was happening was that the shared parking agreement provided an out and in understanding what was really necessary and the impact on the neighborhood was that it was not working. He would be much more likely to support the project if there had been a parking study prepared by someone that he could feel more comfortable with who had completed an analysis on a day when the worst case condition had taken place in order for the impact to be analyzed. There was another church not far from the applicant's location that could create a huge disastrous situation for the neighborhood, literally a safety issue for the neighborhood. While he tended to agree that the OMC provided some wiggle room for CUPs when applications had come forward on prior occasions, however, he believed they had reached a threshold where it was not satisfactory anymore with spill over into the neighborhood. Barring an analysis by a licensed traffic engineer, someone who could provide more data and give him assurance that the neighborhood would not be so impacted, he was not comfortable in making a favorable decision for the applicant.

Commissioner Imboden stated he could not necessarily state that he agreed with some of the comments. He had not needed an engineer to fill out a spreadsheet with the amount of use and the amount of cars that use would generate as traffic was different than parking. He was comfortable with the numbers presented in terms of addressing what was there. There would be times and it was reasonable to expect, that a church, on occasion, would have overflow parking. There would be seasonal activities and that would happen. He felt they all expected that and understood as they encountered that in their own daily lives when a party was given at a residence and there would be parking in front of neighbors' homes. It was a part of life. One thing he would like to clarify with Staff would be the comment made on the shared parking agreement, if it was an agreement made with a prior parish at that location that would need to be taken into account. He asked Staff if they were aware of a shared parking agreement.

Ms. Thakur stated she was not aware of any shared parking agreement. If that had been approved, it would have been approved through a resolution and there had been nothing of that nature found. There had been informal discussion between the two churches, however, nothing documented.

Commissioner Cunningham stated the design of the church was beautiful and it would be a wonderful addition to the City and it was nice to have such an ancient faith present in the City. As to the parking, he agreed and echoed the comments of Commissioner

Imboden. He was satisfied that the applicant had complied with the OMC. Name him a church that had sufficient parking on Easter or Christmas. He had a difficult time finding parking at his own church and it was a part of life as Commissioner Imboden had pointed out. He wanted to add to the record that he was not comfortable with Conditions 9, 10 and 11. He was in support of the resolution even with those conditions as the applicant had accepted them. He felt it was dangerous for the City to be in the business of approving church schedules and he wished that they were not present in the application. They were premised on the chance that any future property would belong to another church, which, according to the Coptic faith, was an impossibility. He questioned their necessity. Those conditions were essentially being conditioned for a church that would not exist at the site. Dealing with scheduled church activities that would not exist; and if it was something that would come to pass they conflicted with those conditions. If the applicant was willing to accept the conditions he would accept them as well.

Chair Steiner stated he was inclined to accept the applicant's acceptance of Conditions 9 and 11. Condition No. 10 was one of those conditions that acceptance was predicated on their belief that the condition would never be used. Including language that no other church activity could occur at the same time as any liturgy or worship service was the fact that had not impacted the applicant – which he was glad to hear – even given that he felt it should be stricken entirely or he was inclined to agree with Commissioner Imboden's assessment of Condition No. 10 to link it to parking. He asked Commissioner Imboden for the language that he had suggested for Condition No. 10?

Commissioner Imboden stated what he had stated previously was that no other church activity could occur that changed the parking needs and he would be comfortable with eliminating the word activity from the condition. Essentially it would be better to condition a use that would affect parking.

Commissioner Merino stated the key to the parking being satisfactory was with the applicants own internal shared used agreement was that some of those activities could not take place at the same time or it would abrogate the purpose of the agreement which was to adjust the parking ratio to an acceptable level for the OMC. It was a catch 22 situation. If some of those activities would occur simultaneously it might push the parking in excess of what was agreed to.

Chair Steiner stated he was accepting the Coptic Churches representation that simultaneous activity would not occur as dictated by the faith. He was willing to accept that.

Mr. Sheatz stated the problem was that it might work for the Coptic Church and in their application, however, for another applicant that the CUP could still be in place for it might not work for their situation; it might not be workable for another organization that might locate to that property as the CUP ran with the land. They were stuck with what they had and applying the conditions and principals to the Coptic Church and to those that might follow.

Chair Steiner stated it was a possibility that it could occur and that made him unwilling to support the language in Condition No. 10.

Commissioner Cunningham stated the conditions were superfluous to the Coptic Church given the beliefs of their faith and how they practice their faith. The conditions could only apply in theory to a church that might later locate to that property. If it was a Catholic church, and he was Catholic, if a group wanted to hold a rosary after mass it would prohibit them from that as it was a worship service and they would be required to wait 30 minutes. Any manner of prayer could be defined as an activity and they were approaching dangerous grounds in defining what was a service, a worship, a liturgy and imposing those types of conditions on an unforeseen future. He would be in support of stripping those conditions out. As he felt they had not applied to the applicant and had no bearing on how they operated.

Commissioner Merino stated if they enforced the standard parking requirement and they had no other shared parking agreement which overlapped things and made the parking ratios work, they would not be there as they would be required to comply with the parking regulations as they would currently be under parked according to the Staff Report by approximately 40 spaces. They were in a situation where they were attempting to make it work for the applicant.

Commissioner Cunningham stated he understood what Commissioner Merino was stating, however, he felt that the applicant had complied in satisfaction of the OMC.

Commissioner Merino stated if there was not a shared parking agreement, they would be required to have 167 spots and not 136.

Mr. Knight stated the OMC under church, chapels and religious facilities had a last sentence that stated shared parking conditions would reflect the staggered occurrence of activities and required approval of a CUP which was why they were reviewing the application. If there was a lot of concern about Condition No. 10 and other church activities, perhaps they could change the condition to note that the church service would take up all available parking during that time, essentially all they would get.

Chair Steiner stated that was a good work around. It would be the only scenario wherein maximum use of the parking space could occur would be during church service. There would not be a maximum space use as a result of the other ancillary or peripheral activities and it would only be during the scenario that Mr. Knight had stated.

Mr. Sheatz stated Commissioner Cunningham raised an excellent issue from a legal standpoint in attempting to define what some of the words toward the later half of the sentence might mean, such as liturgy, and if those activities could be tied to the main worship hall or sanctuary using Mr. Knight's approach and tying it to that building would be more specific and he would be more comfortable with that. Thinking back to the Lutheran Church they had tied the uses to a specific building and not a specific activity.

Chair Steiner stated that tying a specific use to a building was more within the purview of proper City activities and he would be willing to entertain a motion with the anticipation that it would include striking Conditions 9, 10 and 11 and including language along the lines of what Mr. Knight had described.

Commissioner Merino asked if that meant that Staff would be returning with language that the Commission would review and vote on, or would Mr. Knight craft language on the spot, or the application brought back to a date certain, what was the intent?

Chair Steiner stated he would not want to put Mr. Knight on the spot to craft language from the dais.

Mr. Knight stated he would craft language that would essentially state that the available parking spaces which would be a total number of parking spaces at the time and the premise would be to advise the applicant of what they could do and not what they could not do. He was reluctant to place a specific condition on the applicant, however, a condition could be drafted by Staff taking in account what the applicant could do with their maximum number of parking spaces, such as utilized during Sunday service and that would be along the lines of how it could read. He was certain they could craft language and in signing the resolution the language could be reviewed at that time. It would be up to the Commissioners to make the determination of whether they wanted to review that language at a later date.

Chair Steiner stated he felt the intent had been made abundantly clear to Staff of what they wanted through substitute language for Conditions 9, 10 and 11 and he would be comfortable to entertain a motion understanding how that would occur.

Commissioner Merino stated he understood that Mr. Knight was stating that the maximum activity that would take place in the sanctuary would be limited to the parking available on site for that particular service and he clarified that was the intent?

Mr. Knight stated essentially ves, and the language would be crafted along those lines.

Commissioner Merino stated he would agree with that and it would relieve his concerns regarding parking. He felt the applicant should also be in agreement to that change.

Chair Steiner invited the applicant to come forward and asked her if she was o.k. with Conditions 9, 10, and 11 and they wanted to ensure that she understood that the number of people at a regular service would be limited to the number of parking spaces they had on the site.

Ms. Farag stated she had no problem with that on a regular Sunday; however, she was wondering what would happen on a special event or holiday? It would not be limited to the number of parking spaces on those occasions.

Chair Steiner stated he could not offer legal advice and what occurred would occur and if they had Christmas day parking issues they could deal with that as it happened. The change that they were entertaining would be to change the language and he wanted to be certain the applicant was o.k. with that change.

Ms. Farag stated she was o.k. with it.

Commissioner Imboden stated let us hope that those problems are the biggest problems they will have to face.

Commissioner Cunningham made a motion to adopt Resolution PC 23-09, approving CUP No. 2741-08, CUP No.2753-09, MNSR No. 0502-07, and DRC No. 4205-07-Coptic Orthodox Church subject to the conditions contained in the Staff Report and with Conditions No. 9, 10, and 11 removed and with language suggested by Mr. Knight tying the use in the parking lot to the use in the main sanctuary; noting the item was categorically exempt from CEOA.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None ABSENT: None RECUSED: Whitaker

**MOTION CARRIED** 

# (4) CONDITIONAL USE PERMIT NO. 2749-09 – KAMAN INDUSTRIAL TECHNOLOGIES

A proposal to approve an administrative office in excess of the 25% allowed in an industrial zone.

LOCATION: 1440 N. Batavia

NOTE: The proposed project is categorically exempt from the

provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facility) because the project is for the interior

improvement of an existing structure.

### RECOMMENDED ACTION:

Adopt Planning Commission Resolution 24-09 for approval of an administrative office in excess of the 25%

allowed in an industrial zone.

Associate Planner, Robert Garcia, presented a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions to Staff.

Commissioner Merino stated just for clarification that the project had been the second project that had been proposed which was not a 25% addition to the entire complex; but just for one of the units for the complex and if another tenant were to request a similar addition they would be judged as a single project. Other tenants would not be

grandfathered in.

Mr. Garcia stated that was correct. The proposal was for a specific applicant at a specific location.

Steve Sheldon, address on file, stated he appreciated working with the Planner, Robert Garcia, and he wanted the Commission to be in support of the project.

Commissioner Whitaker stated he had met with the applicant and the addition was for an industrial type tenant that proposed to add office space.

Chair Steiner stated he had met with the applicant and the Staff Report should be corrected to state the proposed use would not be 45%.

Mr. Garcia stated the proposed use was 38% and the Staff Report would be amended to reflect that.

Commissioner Cunningham stated he had met with the applicant.

Chair Steiner brought the item back to the Commissioner for further discussion.

Commissioner Whitaker made a motion to adopt Resolution PC 24-09, approving CUP 2749-09 Kaman Industrial Technologies, subject to the conditions contained in the Staff Report and noting the item was categorically exempt from CEQA.

SECOND: Commissioner Merino

AYES: Commissioners Cunningham, Imboden, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None ABSENT: None

### **MOTION CARRIED**

## (4) ADJOURNMENT

Chair Steiner made a motion to adjourn to the next regular meeting of the Planning Commission on Monday, June 15, 2009.

SECOND: Commissioner Merino

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

## **MOTION CARRIED**

# MEETING ADJOURNED @ 8:40 P.M.