AGENDA ITEM: 8-A

STAFF REPORT
SAN CLEMENTE PLANNING COMMISSION

Meeting Date: November 6, 2013

PLANNER: Sean Nicholas, Associate Planner SN

SUBJECT: **Conditional Use Permit (CUP) 13-190, Chabad Jewish Center, School/Tutoring, and Shared Parking Agreement,** a request to consider to allow a religious facility and ancillary religious school and a secular non-religious school/tutoring facility and associated shared parking agreement within the Neighborhood Commercial (NC 2) zoning designation located at 1306 North El Camino Real.

REQUIRED FINDINGS

Prior to approval of the proposed project, the following findings shall be made. The draft Resolution, provided as Attachment 1, and analysis section of this report provide an assessment of the project's compliance with these findings.

Conditional Use Permit, Section 17.16.060

a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
b. The site is suitable for the type and intensity of use that is proposed.
c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
d. The proposed use will not negatively impact surrounding land uses.

BACKGROUND

The applicant proposes to operate a religious facility primarily at this location. A religious school is proposed as an ancillary use to the primary religious facility. Separate from the religious facility and ancillary religious school, operating on-site without approvals for the past several years, is an educational program operated by the County of Orange Department of Education. As a component of this Conditional Use Permit, the applicant is requesting approval of the secular non-religious school to allow the educational classes to continue. Additionally, to ensure parking for each use, the applicant is proposing a shared parking agreement based on the hours the non-religious use will operate versus the religious facility and ancillary activities.

Site

The subject property is a 13,486 square foot lot with a 5,181 square foot two-story building which was approved for office use in 1997. The site has three two-car garages as well as seven additional outdoor spaces, for a total of 13 on-site parking spaces. The facility has been utilized, without the required approvals, as a secular non-religious school facility for several years without complaint.

DMT

The City's Development Management Team (DMT) reviewed the project on June 6, 2013 and September 26, 2013, and supports the use request, subject to the proposed conditions of approval.

Noticing

Public notification was completed in accordance with State Law and Municipal Code regulations. To date, staff has received no input from the public on this request.

PROJECT DESCRIPTION

The proposed primary use is for a new religious facility and ancillary religious school use. The site has been fully developed and the applicant is not requesting any exterior modifications. The applicant is proposing to have religious services at the site on a weekly basis and on Jewish holidays. As an associated use to the religious facility, the applicant is proposing to have a religious school operate in the evenings, ending by 8:00 pm. The Rabbi, the applicant, is envisioning about 15 students at a time.

Separate from the religious facility and ancillary religious school, operating on-site without approvals for the past several years, is an educational program operated by the County of Orange Department of Education. Operating Monday through Friday 8:30 am to 12:30 pm, the program is primarily a one-on-one tutoring type program. There is only 10 students at a time. The applicant is requesting a Conditional Use Permit to permit this activity onsite and to allow it to continue.

The applicant is proposing to utilize the left side of the first floor (noted as Area B on sheet A4 of the plans) for the religious use and the right side (noted as Area A on sheet A4 of the plans) as the Monday through Friday secular non-religious school use. The applicant is proposing to maintain the garages and office space as they exist (for use by the Rabbi and administrators/teachers, not for additional leasable area).

Table 1 shows a breakdown of the parking requirements pursuant to Municipal code Section 17.64.050:

Table 1: Parking by Use

Use	Parking Requirement	Number of parking spaces onsite	Occupancy
Religious facility/ancillary religious school	4 seats per parking space	13	Potential for 52 people
School (high school)	3 students per parking space	13	Potential for 39 students

The use of the building will only be allowed to have a building occupancy of 49, until such time the applicant provides plans to the Building Division that are approved which shows the necessary exiting, fire protection, and plumbing fixture accommodations to exceed 49 people onsite. With the necessary building permits and improvements, the maximum allowed occupancy is 52 (for the religious use) based on the off-street parking. The only way for the applicant to exceed that total is to acquire off-site parking agreements with other property owners within 300 feet of the project site. All increases of occupancy would have to be approved by both Planning and Building Divisions.

The applicant will also develop a shared parking agreement to address the education use to occur Monday through Friday in the mornings to early afternoons, and the religious use primarily operating in the evenings and weekends. The rare occasions where there will be overlap is during certain Jewish holidays that may land during the week. During those times, use of the building will be based on maximum occupancy, in that at no time can more people be allowed to utilize the building above the posted occupancy. With the shared parking agreement, the project has sufficient parking for the proposed uses.

PROJECT ANALYSIS

Conditional Use Permit

The proposed uses require a Conditional Use Permit. The approval of the religious facility and ancillary school would allow the establishment of the first Jewish religious facility within the City of San Clemente. The Rabbi has been working with his congregation for a number of years to find a location to purchase and establish a facility. The congregation as a whole is excited about establishing their presence and becoming a permanent member of the community.

For the school use proposed for the site, while it has been operating there without permits for a number of years, there is no record of complaint or issue. With the maximum occupancy allowed, and the number of off-street parking onsite, there should not be any issue with the continuation of the secular non-religious school with the appropriate approvals in place. With the shared parking agreement, there will be no issue associated with providing parking for all uses onsite.

GENERAL PLAN CONSISTENCY

The proposed use is consistent with the Land Use Element of the City's General Plan. General Plan Policy 1.0(IV)(A)(1) which states, "*To accommodate a range of land uses which provide for the basic needs of existing and future residents, including housing, commercial services, employment, entertainment, recreation, personal services, and similar uses.*" The proposed religious facility will be the first Jewish religious facility in San Clemente, and will provide religious facilities for an underserviced portion of the residents, thus it is consistent with the General Plan. The religious and secular school uses will also provide for various youth and adult educational opportunities within the community as well.

ENVIRONMENTAL REVIEW

The Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has determined the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project consists of the conversion of an existing structure from one use to another.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and approve CUP 13-190.
   This action would allow the Rabbi to operate the Chabad Jewish Center out of the site, and allow the School use to be legalized onsite.
2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed project or conditions.
   The Planning Commission can require additional conditions addressing potential concerns regarding the use, parking, or noise concerns onsite.
3. The Planning Commission can deny CUP 13-190.
   This action would not allow the applicant to establish the Chabad Jewish Center and School facility and could result in the applicant filing an appeal with the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve CUP 13-190, Chabad Jewish Center and School, a request to establish a religious facility with ancillary school facility and a separate secular non-religious school, subject to the attached Resolution and Conditions of Approval.

Attachments:

1. Resolution
2. Location Map
3. Plans