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RESOLUTION NO. PC 13-041

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 13-190, CHABAD JEWISH CENTER AND SCHOOL, A REQUEST TO ALLOW FOR A NEW RELIGIOUS FACILITY, NON-RELIGIOUS SCHOOL, AND SHARED PARKING AGREEMENT LOCATED AT 1306 NORTH EL CAMINO REAL

WHEREAS, on May 14, 2013 an application was submitted, and on October 3, 2013 completed, by Rabbi Mendel Slavin, 1306 North El Camino Real, San Clemente, CA, 92672, to a religious facility, ancillary religious school, non-religious school, and shared parking in the Neighborhood Commercial (NC2) zoning designation at 1306 North El Camino Real, the legal description being Lot 8, of Block 8, of Tract 793, Assessor's Parcel Number 692-381-57; and

WHEREAS, on June 6, 2013 and September 26, 2013, the City's Development Management Team reviewed the application for compliance with the General Plan, Zoning Ordinance, and other applicable requirements, and provided conditions of approval for the project; and

WHEREAS, 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 recommended the Planning Commission determine that the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the conversion of an existing structure from one use to another.; and

WHEREAS, on November 6, 2013, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: The Planning Commission finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the conversion of an existing structure from one use to another.

Section 2: With respect to Conditional Use Permit 13-190, the Planning Commission finds as follows:

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, in that the establishment of the Jewish religious facility will be the first in San Clemente and provide a religious opportunity for an underserved portion of the community, as well as education opportunities associated with the religious use. Additionally, the Orange County Department of Education is proposing to continue to conduct tutoring and other one on one education and teaching services onsite. The shared parking agreement will ensure that sufficient parking is available for all uses onsite.

B. The site is suitable for the type and intensity of use that is proposed, in that with the shared parking agreement, all parking for all uses will be provided onsite, and all activities onsite will be conducted indoors.
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, in that sufficient parking exists onsite to service the facility and proposed uses, the facility already exists, and all activities will occur indoors.
D. The proposed use will not negatively impact surrounding land uses, in that sufficient parking exists onsite to service the facility and proposed uses, the facility already exists, and all activities will occur indoors.

Section 3: The Planning Commission hereby approves Conditional Use Permit 13-190, Chabad Jewish Center and School, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on November 6, 2013.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on November 6, 2013, and carried by the following roll call vote:

AYES: COMMISSIONERS: Brown, Kaupp, Darden, Ruehlin, Ward, Eggleston
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS: Crandell

Secretary of the Planning Commission

EXHIBIT 1

CONDITIONS OF APPROVAL*
Conditional Use Permit 13-190
Chabad Jewish Center and School

GENERAL CONDITIONS

Planning Division

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive]* (Plng.)_____

2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (Plng.)_____

3. Conditional Use Permit 13-190 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. The use

shall be deemed to have commenced on the date the use becomes legally operational, including issuance of a Certificate of Occupancy from the City of San Clemente. *[Citation - Section 17.12.150.A.1 of the SCMC]* (Plng.)____

A use shall be deemed to have lapsed, and Conditional Use Permit 13-190 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (Plng.)____

4. The owner or designee shall have the right to request an extension of Conditional Use Permit 13-190 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (Plng.)____

5. Prior to the issuance of building permits, the owner or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation – City Quality Insurance Program]* (Plng.)_____(Bldg.)_____

6. Prior to the issuance of a certificate of occupancy, the project shall be developed in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Planning Commission on November 5, 2013, subject to the Conditions of Approval.

   Any deviation from the approved site plan, floor plans, elevations, details, or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator. *[Citation - Section 17.12.180 of the SCMC]* (Plng.)____

7. All religious and school functions shall occur indoors. ■■ (Plng.) _____

8. In the event that noise impacts neighboring properties, the tenant must use best management practices as determined by the City Planner, to eliminate the problem and comply with the City's noise ordinances.

   ■■ (Plng.) _____

9. The hours of operation and maximum occupancy for the school shall be limited to the following:
   A. Monday through Friday 8:00 am to 1:00 pm and 39 people associated with the school use. During that time, between the religious facility function and school/tutoring activities, the building occupancy cannot be exceeded.

   B. The applicant shall record a shared parking agreement prior to issuance of permits for internal improvements. The parking agreement shall address hours of operation and maximum occupancy for each use within the facility. The agreement shall be reviewed and approved by staff and the City Attorney.

   ■■ (Plng.) _____

Building Division

10. A separate Building Permit is required. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process.

    (Bldg.)_____

    [S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]

11. Prior to the issuance of building permits, the owner or designee shall submit plans that identify the intended use of each building or portion of building and obtain approval of the Building Official. (Bldg.)_____
    [S.C.M.C – Title 15 – Chapter 15.08]

12. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes. (Bldg.)_____
    [S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]

13. Plans submitted for Building Permit application must include information indicating compliance with the California Codes including but not limited to, type of construction, location on property, proposed building area within allowable area limits, proposed building height and number of stories within allowable height limits, proposed occupancy/use for building and/or portions of building, occupant loads in each portion of the building, exiting system, accessible path of travel leading up to and throughout the structure.

    (Bldg.)_____

[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]

14. Plans submitted for Building Permit application shall have detailed information to verify compliance with required plumbing fixture counts per California Plumbing Code (CPC) requirements. Plans must include plumbing fixture count analysis thereon showing compliance with CPC requirements.

(Bldg.)_____

[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]

15. A Certificate of Occupancy is required to be issued prior to occupying the building. Certificate of Occupancy will be issued upon the building being inspected by the Building Division and no violations of the code provisions or other laws enforced by the department found.

(Bldg.)_____

[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]

16. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction, transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. (Bldg.)_____

[S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]

17. The garages shall only be used for onsite parking and anything that prevents the use of the garages as such shall be removed.

■■ (Plng.) _____

* All Conditions of Approval are standard, unless indicated as follows:

■ Denotes modified standard Condition of Approval

■■ Denotes project specific Condition of Approval