

RESOLUTION NO. 2023-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA DENYING CONDITIONAL USE PERMIT NO. 2023-18 AS CONDITIONED TO ALLOW ANCHOR STONE CHRISTIAN CHURCH TO OPERATE AT 2938 SOUTH DAIMLER STREET

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines, and declares as follows:

- A. Property Owner Anchor Stone Christian Church (“Applicant”) is requesting approval of Conditional Use Permit (CUP) No. 2023-18 to allow a church to operate at an existing office space located at 2938 South Daimler Street.
- B. Pursuant to Section 41-313.5(n) of the Santa Ana Municipal Code (SAMC), churches located in the P zoning district require approval of a CUP.
- C. Pursuant to SAMC Section 41-638(a)(1), the Planning Commission shall grant approval of a CUP only if all five of the specified findings of fact contained therein are satisfied.
- D. On January 23, 2023, the Applicant submitted a development project application to the City for the change of use from office to a church. Following a thorough analyses during the Development Project Review (DP) process, the Development Review Committee (DRC) identified that the proposed use was not consistent and furthered conflicts negatively impacting enjoyment and uses of the property within the Industrial/Flex-Medium (Flex-3) General Plan land use designation.
- E. Based on the project’s General Plan inconsistency, staff is unable to recommend approval of the Applicant’s request due to the inability to satisfy all five findings of fact required by the SAMC, among which includes the subject property’s General Plan land use designation of Industrial/Flex-Medium (Flex-3) that does not allow community assembly uses such as the subject church.
- F. Requiring consistency of a CUP with a local jurisdiction’s general plan is well established by California case law. The California Supreme Court and Court of Appeal have consistently found that the discretionary approval of a CUP must be consistent with a general plan (*Neighborhood Action Group v. County of Calaveras*, 156 Cal. App. 3d 1176, 1185 (1984)), and that the general plan is atop the hierarchy of local government land use law, acting as a constitution for all future developments. (*DeVita v. Cty. of Napa*, 9 Cal. 4th 763, 773 (1995); citing *Neighborhood Action Group*, 156 Cal.App.3d at 1183.)

- G. On February 21, 2023, staff and the Applicant met to discuss the project, during which staff informed the Applicant of the identified inconsistencies between the proposed use and the General Plan. As a result, the Applicant was given the option to withdraw the DP application or move forward with the CUP application without the supporting findings necessary in the approval of a CUP and denial recommendation.
- H. On May 2, 2023, the Applicant indicated intent to proceed with the CUP application.
- I. On July 24, 2023, the Applicant submitted the CUP application proposing to convert an existing office space into a church.
- J. On September 11, 2023, the Planning Commission held a duly noticed public hearing for Conditional Use Permit No. 2023-18.
- K. The Planning Commission determines that the following findings, which must be established in order to grant this CUP pursuant to SAMC Section 41-638, have not been established. Specifically, Conditional Use Permit Finding 5 of Section 41-638, as it relates to the proposed use adversely affecting the general plan of the city or any specific plan applicable to the area of the proposed use, is not met. Therefore, the finding for denial of CUP 2023-18 is adopted as follows:
 - 1. That the proposed use will adversely affect the general plan of the city or any specific plan applicable to the area of the proposed use.

The subject site has a General Plan land use designation of Industrial/Flex-Medium (Flex-3), which is intended to provide context-appropriate development in areas with existing industrial uses. Industrial/Flex allows for clean industrial uses that do not produce significant air pollutants, noise, or other nuisances typically associated with industrial uses, including office-industrial flex spaces, small-scale clean manufacturing, research and development and multilevel corporate offices, commercial retail, artist galleries, craft maker spaces, and live-work units. Based on the land use designation, development policies and allowable uses within the Flex-3 designation, the subject site is not suitable for the operation of community assembly, nor does it list community assembly-type uses as permissible under the land use designation. Conversely, land use designations such as General Commercial (GC) and its accompanying zoning districts allow for “retail and service establishments; recreational, cultural, and entertainment uses; business and professional offices; and vocational schools,” among which “recreational, cultural, and entertainment uses” provide for community assembly such as religious facilities.

In addition, the subject site is part of one of the five Focus Areas adopted by the General Plan also known as 55 Freeway and Dyer Road Focus Area. The various land use designations within each Focus Area work together to ensure consistency and diversity of land uses achieving development policies to balance developing goals and land use consistencies within the City. The five Focus Areas were identified by the General Plan Advisory Committee and refined through a seven-year community engagement process as the areas of the City most suitable for new development. The five Focus Areas are geographically distributed throughout the City, and each allows the City to meet its diverse needs. The purpose and intent, specific objectives, and custom land uses for each focus area were defined to facilitate new types of urban development and further embody the City's core values.

Furthermore, the 55 Freeway and Dyer Road Focus Area is intended to transition from an area that exclusively focused on professional office to an area that supports a range of commercial, and industrial/flex development. Moreover, the overall scale and experience of the focus area along the freeway and city boundary are intended to reflect an urban intensity and design, with inspiring building forms and public spaces. The industrial/flex land use designation is meant to promote large-scale office-industrial flex spaces, multilevel corporate offices, and research and development in creative buildings and spaces.

Additionally, the subject project will not be consistent with the goals and policies of the General Plan, including those from the Land Use Element (LU) and the Economic Prosperity Element (EP). Specifically, policies 1.1 and 4.1 of the Land Use Element (LU) and policies 1.9 and 2.3 of the Economic Prosperity Element (EP).

Policy 1.1 of the LU encourages compatibility between land uses to enhance livability and promote healthy lifestyles. The introduction of a community assembly use and a Bible school to the existing office complex will generate noise, traffic and queuing, solid waste generation and circulation. Moreover, it will introduce assembly uses with youth services in close proximity to existing industrial uses in the area, counter to this General Plan policy. Additionally, the Flex-3 land use designation allows future developments with clean industrial and office uses in accordance with Table LU-A-2, which specifies interim industrial flex uses. Community assembly such as churches is not permitted. Irreconcilable land use conflicts between a sensitive receptor such as the proposed church and its school operations will be generated if the CUP application were approved with future industrial uses taking place in the land use designation of the

Focus Area. The purpose of the land use plan of the Land Use Element is to prevent these irreconcilable land use conflicts from occurring in the future between sensitive receptors and surrounding industrial uses. In addition, the Flex-3 land use designation allows primarily office, industrial, clean manufacturing, research and development, and similarly-natured industrial/production-oriented land uses and does not allow community assembly such as churches. This land use principle of preventing inconsistent land uses from locating in the same areas is currently codified in the City's Light and Heavy industrial (M1 and M2) zoning districts. The Flex-3 General Plan use designation points to the M1 land uses in Table LU-A-2 as examples of clean industrial uses commensurate with the General Plan land use designation, reaffirming this principle of not locating sensitive receptors such as community assembly uses within or in proximity to industrial areas of the City.

Policy 4.1 of the LU supports complete neighborhoods by encouraging a mix of complimentary uses, community services, and people places within a walkable area. The site is surrounded by professional and industrial uses, and the nearest residential community is approximately 0.3 miles away. As such, the introduction of a religious institution in this site would not be compatible with the surrounded uses and will not encourage development of place-making within a walkable area. Moreover, as detailed above, the purpose of the land use plan of the Land Use Element is to prevent irreconcilable land use conflicts from occurring in the future between sensitive receptors and surrounding industrial uses. However, irreconcilable land use conflicts between a sensitive receptor such as the proposed church and its school operations will be generated if the CUP application were approved with future industrial uses taking place in the land use designation of the Focus Area.

Policy 1.9 of the EP seeks to avoid potential land use conflicts by prohibiting the location of sensitive receptors and noxious land uses in close proximity. Establishing uses such as community assembly, coupled with youth services and Bible school, would introduce sensitive receptors into an area that is mostly comprised of industrial and office uses and that is intended to transition to industrial uses over time, through implementation of the General Plan. The purpose of the land use plan in the Land Use Element is to prevent these land use conflicts from taking place through goals, policies, and zoning practices designed to create "a physical environment that encourages healthy lifestyles, a planning process that ensures that health impacts are considered, and a community that actively pursues policies and practices that improve the health of our residents," as listed as

an adopted Core Value of the Land Use Element. Approval of the CUP application would be contrary to the Land Use Element and this adopted Core Value.

Policy 2.5 of the EP encourages the development of mutually beneficial and complementary business clusters within the community. As promulgated by the adopted General Plan Land Use Element, introducing community assembly does not support the development of mutually beneficial and complementary business clusters at the subject site. To the contrary, it will create irreconcilable conflicts by introducing a sensitive receptor within an area that is presently and continuing to transition to industrial uses. Approval of the requested application would lead to present and future land use conflicts stemming from noise, traffic, vibrations, queuing, solid waste generation, and circulation. Moreover, community assembly uses are not listed as permissible within the subject site's General Plan land use designation, as the use is not considered among those that foster development of mutually beneficial and complementary business clusters within the community. The land use would be incompatible with surrounding uses and approval of the CUP would be contrary to the General Plan.

Section 2. In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, this project is exempt from further review under Section 15061(b)(4) of the CEQA Guidelines, as the Planning Commission has denied Conditional Use Permit No. 2023-18.

Section 3. The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City's defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

Section 4. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby denies Conditional Use Permit No. 2023-18 for the proposed church at 2938 South Daimler Street. The denial shall prohibit the church use at the subject site but leaves in effect the permitted office uses, allowed by right under SAMC Section 41-313, subject to all applicable standards and regulations set forth in Chapter 41 of the Santa Ana Municipal Code. This decision is based upon the evidence submitted at the above-referenced hearing, including but not limited to: The Request for Planning Commission Action dated September 11, 2023, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 11th day of September 2023 by the following vote.

AYES: Commissioners: Carl Benninger, Manuel J. Escamilla, Christopher Leo, Jennifer Oliva, Bao Pham, Alan Woo (6)

NOES: Commissioners: Isuri Ramos (1)

ABSENT: Commissioners: (0)

ABSTENTIONS: Commissioners: (0)



Bao Pham
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: 

Jose Montoya
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Nuvia Ocampo, Planning Commission Secretary, do hereby attest to and certify the attached Resolution No. 2023-21 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on September 11, 2023.

Date: 9/11/2023

Nuvia Ocampo
Nuvia Ocampo
Planning Commission Secretary