

From: [emickd@aol.com](mailto:emickd@aol.com)  
To: [eComments\\_PBA](mailto:emickd@aol.com)  
Subject: Re: Conditional Use Permit No. 2022-06 Project Location: 2221 N Heliotrope Drive  
Date: Monday, March 28, 2022 3:55:11 PM

**Proposed Project:** The CUP Applicant is requesting approval of **Conditional Use Permit (CUP) No. 2022-06** to allow the construction of an accessory structure 23' – 4" (**reduced to c. 21 feet**) in height within the rear yard of an existing single-family residence located at **2221 North Heliotrope Drive**. Pursuant to Section 41-232.5 of the Santa Ana Municipal Code (SAMC), accessory buildings more than fifteen feet in height or more than one story require approval of a CUP.

**My Requested Actions:**

- 1) Postpone the hearing, and remand the matter to the Planning Department for additional Findings of Fact to show compliance with standards of SAMC Section 41-638; or
- 2) Deny the resolution approving Conditional Use Permit No. 2022-06 as conditioned due to insufficient evidence to show compliance with standards of SAMC Section 41-638; and
- 3) Refer the matter to the Historic Resources Commission for review as required by the Mills Act;

Greetings Planning Commission,

I respectfully request that the Planning Commission **postpone** making a decision on this matter. You have insufficient accurate information to make an informed decision to grant a conditional use permit (CUP) under the Municipal Code as the **record does not yet establish compliance with Sec. 41-638 (Standards for granting applications)**.

I urge you to **remand** this matter back to the Planning Department with instructions to make complete and accurate findings of fact about the possible adverse effects of the proposed and actual intended use of the oversize pavilion on the surrounding neighborhood of Floral Park and to publish any revised findings of fact to the surrounding neighborhood before the Planning Commission hears this matter. If the Commission goes forward tonight, I would regretfully oppose the CUP because the record seems to be materially incomplete. As a result, there is possibly significantly **inaccurate information in the Planning Department findings, specifically finding no. 5, on which you must base your decision.**

Please note that I am not alleging any deliberate wrongdoing either by the Owner/Applicants or by the Planning Department. I appreciate the request for height has been reduced to just over 21 feet. I have no objection to the immediate construction of a pavilion of 15 feet height.

Here is my objection. The Planning Department has made the following finding:

**"5. The pavilion shall remain a structure for private use and enjoyment by the private property owners, thereby preserving the community character. The pavilion shall not be designed or be intended for public access or members of the general public."**

First, I have heard, but have not verified, that the property owners/applicants now reside primarily in West Floral Park rather than at 2221 North Heliotrope. Further, I have heard, but have not verified, that the 2221 North Heliotrope Drive property will be used primarily as a community resource and cultural center. Finally, there are frequently large numbers of visitors on the property who may be using the pavilion. During past years, the owners have hosted several events inviting large groups of people to the premises just as many neighbors on our street have done.

Of course, even assuming any or all of these things are true, there is absolutely nothing wrong with using the property in this way. Whether or not the owners live on this property and whether or not they use their property as a community gathering place should not be dispositive to their application. The owners can live on or off this property or allow anyone else to live on this property. This is their property to use or not use as they see fit. And the oversize pavilion may be a great idea.

However, if any of these things are true, then the Planning Department is probably wrong when it states in finding 5 that *"the use of the pavilion will be very limited and therefore will preserve the community character."* **(\*\*\*)he pavilion shall remain a structure for private use and enjoyment by the private property owners, thereby preserving the community character. The pavilion shall not be designed or be intended for public access or members of the general public. (\*\*\*)**

Rather, it seems more likely that the use of the pavilion may be very extensive and therefore could have a significant, but as yet unevaluated impact on the "community character." While the extent of likely use of the pavilion may fall short of actual "public access and use," it does appear it could likely have significantly more use by more visitors at 2221 than it would in many other single family residences in the neighborhood. (Again, I don't necessarily have a problem with this or think it is my business.) However, I also don't think that the likely amount of intended use of the oversize pavilion is what a reasonable person would consider simply continued "private quiet enjoyment by the current owners" as presented by the Planning Department. Rather, it's been requested by the current owners, who may no longer reside primarily in this property, for use not only by themselves but also by a multitude of students and/or other visitors to the property as part of the property's possible intended use as a (non)residential community cultural center. Assuming the owners will be inviting many visitors to the property who will be using the pavilion frequently, a large pavilion will be needed. Again, there is nothing inherently wrong with this proposed use. It just does not sound anything like the proposed limited use that the Planning Department has described in its finding of fact 5. In fact, frequent use by many people provides a plausible explanation for why such a large structure was requested...when there is little other information justifying this variance request in the record. Although it is not necessary to justify the request for variance as long as there is no negative impact on the community, in this case, if there is an artistic, religious, spiritual, logistical, or cultural reason for the pavilion to be so large and on apparent stilts, I would encourage this information to be included in the record. Until then, the Planning Commission should remand this matter to the Planning Department for additional accurate supporting evidence on whether the intended use of the pavilion is accurately described and will in fact "preserve the community's character".

I am not necessarily requesting that the CUP be denied when complete and accurate evidence is finally presented for consideration. Rather I am asking that before making the decision the Planning Commission insist that there be present in the record sufficient evidence to make a valid finding and assessment on the frequent use of the large pavilion for such events. Then the Commission can accurately predict the impact of this change on "preserv(ing) the community character." Consider the possible recurring substantial influx of visitors to our neighborhood, and the resulting additional noise, traffic and use of onstreet parking. Please factor in the impact of these matters on the surrounding neighborhood homes as required by the code. Due to the inadequacy in the Planning Department's current findings to justify the proposed size, height, and use of the pavilion, I object to the Planning Department's granting of the CUP until you have determined the actual facts of this application. Please examine more carefully any impact on the neighborhood this actual use will have on "preserv(ing) the community character." Let the neighborhood know in advance what you learn.

In conclusion, I think the present record is critically insufficient, and it is therefore, premature, for the Planning Commission, to grant a conditional use permit (CUP) according to the compliance standards of SAMC Section 41-638. As I have outlined, there is presently just not enough accurate information in the findings or enclosures to determine that the proposed use of the oversize pavilion "will provide a service or facility which will contribute to the general well being of the neighborhood or the community; that the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity; that the proposed use will not adversely affect the present economic stability or future economic development of property in the surrounding area; that the proposed use will comply with the regulations and conditions specified in this chapter for such use;" and that "the proposed use will not adversely affect the general plan of the city or any specific plan applicable to the area of the proposed use."

Finally, I believe that the Planning Department has exceeded its authority and that the matter must be referred to the Historic Resources Commission pursuant to the Mills Act.

I am writing to you as an individual neighbor in Floral Park and resident of the City of Santa Ana, and not as a member or representative of any particular group or organization.

Respectfully Submitted,

Mrs. Ellen Koldewey  
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