

RESOLUTION NO. 6882

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDLANDS AFFIRMING THE REDLANDS PLANNING COMMISSION'S REVOCATION OF CONDITIONAL USE PERMIT NO. 617 FOR THAT CERTAIN REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CALIFORNIA STREET AND LUGONIA AVENUE IN REDLANDS, CALIFORNIA

WHEREAS, Redlands Municipal Code Chapter 18.192 authorizes the City of Redlands' Planning Commission ("Planning Commission") to grant conditional use permits for the purpose of allowing certain uses that contribute to the orderly growth and development of the City and to be properly integrated into the overall community pattern and zone where located; and

WHEREAS, pursuant to California Constitution Article XI, § 7, the state Zoning and Planning Law (Government Code sections 65800-65907), and Chapter 18.192 of the Redlands Municipal Code, the City of Redlands ("City"), through the Planning Commission, is authorized to hear, approve, deny or revoke conditional use permits that the City has previously granted; and

WHEREAS, on August 25, 1994, Aladdin Entertainment Group LLP ("Aladdin"), with the required consent of the Frank J. Mistretta Family Trust (the "Mistretta Trust"), filed an application with the City for a conditional use permit to allow the development of a family-oriented theme park (the "Theme Park") on approximately 16.88 acres of real property located at the southwest corner of California Street and Lugonia Avenue in the City of Redlands (the "Property"), and which is also identified by its street address of 1101 California Street in Redlands; and

WHEREAS, The California Gateway, LP ("Gateway") is the present owner in fee of the Property and, on or about December 1, 1994, Gateway entered into a long-term ground lease with Aladdin for the Property; and

WHEREAS, on November 29, 1994, the Planning Commission granted Conditional Use Permit No. 617 ("CUP") to Aladdin for the Theme Park; and

WHEREAS, in August, 1995, Revision No. 1 to the CUP was approved by the Planning Commission to refine elements of the approved design of the Theme Park, including landscape plans, additional support structures for storage and maintenance, the relocation of parking stalls, and to provide for a reduction in floor area of the principal building on the Property; and

WHEREAS, in April, 1996, Revision No. 2 to the CUP was approved by the Planning Commission to again refine elements of the approved design of the Theme Park, including identification of the location of public lockers and storage areas for inner-tubes, in addition of an "endless wave" component to the proposed water features, a volleyball area, and a support building for the proposed train ride feature; and

WHEREAS, later in 1996, an application for Revision No. 3 to the CUP was submitted by Aladdin, but was subsequently withdrawn by Aladdin, without action thereon by the Planning Commission; and

WHEREAS, in April, 1997, Revision No. 4 to the CUP was approved by the Planning Commission in connection with a request by Aladdin to address areas within the Theme Park the locations where alcohol beverages might be permitted to be sold; and

WHEREAS, in or around September, 1998, the Planning Commission, on its own initiative, commenced proceedings in accordance with Redlands Municipal Code Section 18.192.100 to revoke the CUP because of Aladdin's failure to comply with the conditions of approval imposed on the CUP and for conducting activities on the Property which were not permitted by the CUP; and

WHEREAS, in or around April, 1999, the Planning Commission, as a consequence of the proposed revocation of the CUP and to protect the public health, safety and welfare, imposed additional conditions upon the uses permitted by the CUP; and

WHEREAS, in January, 2000, Revision No. 5 to the CUP was approved by the Planning Commission to rescind a condition of approval of the CUP that was previously imposed relating to water service to the Theme Park; and

WHEREAS, in January, 2002, Revision No. 6 to the CUP was approved by the Planning Commission to specify the temporary special events which might be conducted at the Theme Park including, car shows, new and used auto sales, holiday events and charitable events, with such events being limited to: (1) occurring between the months of October through April; (2) being held for a maximum of three consecutive days, and no more than one event per month; and (3) being held within the 150 parking spaces except that if the remainder of the park was closed, then the event could be held within a larger area subject to requirements of the East Valley Corridor Specific Plan; and

WHEREAS, Shahvand Aryana, Aryana Management Group, and Pharaoh's Water and Theme Park Inc. (collectively "Aryana") have represented themselves to the City as having an interest in the Property and as acting as the managers and/or operators of the Theme Park; and

WHEREAS, in 2009, Aryana promoted, organized, allowed, permitted and/or caused public all-night dance events to occur at the Property, with each successive event growing in size, intensity and the amount of illegal activity occurring, on January 17 and 18, 2009, February 14 and 15, 2009, February 28 and 29, 2009, March 14 and 15, 2009 and April 18 and 19, 2009; and

WHEREAS, in addition to the drug arrests that have occurred at each of these public all-night dance events, there have been numerous loud music complaints from residents who live in proximity to the Property, and complaints of event attendees parking on surrounding properties without permission and complaints of excessive trash left on streets after the events have concluded; and

WHEREAS, although Aryana contracted with the City Police Department to staff each of the events held in 2009 (except the June 13 and 14th event described below), because of the increasing amount of illegal activity taking place at each successive event, more officers and support personnel

have been assigned to each successive event; and

WHEREAS, nonetheless, even with an increased number of police personnel, illegal drug sales and use have intensified; and

WHEREAS, drug related arrests were limited only by the number of police personnel present who are devoted to such duties (as opposed to maintaining the peace in a group of nearly 11,000 people), the amount of time it takes for an undercover officer to negotiate for drugs and direct arrest teams through the mass of people present at the event to successfully arrest the sellers, and the amount of time it takes to process suspects; and

WHEREAS, the staff of the City's Police Department has informed and advised the Planning Commission and the City Council of the City of Redlands ("this City Council") that although the Department is comprised of a total of 80 sworn peace officers, the City cannot continue to assign significant numbers of its police personnel to the public all-night dance events without impacting safety; and

WHEREAS, California law (e.g. Bauer v. City of San Diego (1999) 75 Cal. App. 4th 1281) and Redlands Municipal Code section 18.192.100 authorize the Planning Commission, and this City Council, on appeal, to revoke a conditional use permit for a permittee's failure to comply with any of the permit's terms or conditions, for the reason that the type of activities occurring on the property subject to the conditional use permit constitutes a nuisance; and

WHEREAS, in connection with any proposed proceeding to revoke a conditional use permit, Redlands Municipal Code section 18.192.100 requires that (i) the Planning Commission hold a public hearing to determine whether there are grounds to revoke permit; (ii) the City mail written notice of the public hearing to the record owner of the property for which the conditional use permit was granted at least twenty (20) days prior to such public hearing; and (iii) the City provide published notice of the public hearing; and

WHEREAS, on April 10, 2009, this City Council directed staff to initiate administrative proceedings for the possible revocation of the CUP issued to Aladdin for the operation of the Theme Park; and

WHEREAS, Aladdin, Gateway and Aryana were sent written notification of a public hearing to be held on May 26, 2009 to determine whether the Planning Commission should revoke the CUP, and a copy of the notice is attached hereto as Exhibit "A;" and

WHEREAS, on May 26, 2009, the Planning Commission conducted a public hearing to determine whether the Planning Commission should revoke the CUP, and Aladdin, Gateway and Aryana, along with other interested members of the public, were afforded the opportunity to provide verbal and written evidence during such hearing regarding the possible revocation of the CUP; and

WHEREAS, on May 26, 2009, the Planning Commission, by unanimous vote, continued the public hearing on the proposed revocation of the CUP to June 23, 2009, and directed that a resolution be

prepared, with findings and supporting facts, providing for the revocation of the CUP; and

WHEREAS, between the dates of May 26th and June 11th, the City's Municipal Utilities and Engineering Department Staff became aware that the required payment for the City's provision of domestic water services to the Property was delinquent and, as a consequence thereof, the City sent a final written notice to the water service account holder for the Theme Park that unless payment was made by June 8th, domestic water service to the Theme Park would be terminated; and

WHEREAS, on June 9, 2009, domestic water service to the Theme Park, except for water service for fire flow protection, was terminated by the City because of the water service account holder's failure to make the required payment; and

WHEREAS, in the late afternoon of June 11, 2009, the City's Public Information Officer, Carl Baker, was informed by a local newspaper reporter that another public all-night dance event was then just announced and was proposed to be held at the Theme Park on June 13, 2009; and

WHEREAS, the inquiry from the local newspaper reporter was the first notice the City received that another all-night dance event was being proposed for June 13, 2009; and

WHEREAS, City staff's review of the website regarding the promotional information relating to the June 13, 2009 all-night dance event contained the statement by the promoter of the event that the Redlands Police Department was intentionally kept unaware of the proposed June 13th dance event; and

WHEREAS, on June 23, 2009, at the continued public hearing regarding whether the Planning Commission should revoke the CUP, Aladdin, Gateway and Aryana, along with other interested members of the public, were again afforded the opportunity to provide verbal and written evidence during such hearing regarding the possible revocation of the CUP; and

WHEREAS, on June 23, 2009, the Planning Commission closed the public hearing and, by unanimous vote, approved Planning Commission Resolution No. 1188 to revoke the CUP; and

WHEREAS, Section 1.06.050 of the Redlands Municipal Code provides that "A person aggrieved by an administrative action taken by an officer or employee under this code may appeal from the action to the City Council, unless the procedure for appeal is otherwise specifically provided. The time and manner of appeal is prescribed by section 1.06.070 of this chapter;" and

WHEREAS, Section 1.06.060 of the Redlands Municipal Code provides that "When this code provides that a decision or order may be appealed and the procedure for taking the appeal is not specifically provided for, the person in [sic] appeal shall file a written notice of appeal with the City Council within ten (10) days of the action appealed from;" and

WHEREAS, on June 29, 2009, within ten days of the Planning Commission's decision, the City received a written request from "Aryana companies & individual" for an appeal to the City Council of the Planning Commission's decision to revoke the CUP; and

WHEREAS, on July 2, 2009, within ten days of the Planning Commission's decision, the City received a written request from Aladdin for an appeal to the City Council of the Planning Commission's decision to revoke the CUP; and

WHEREAS, on July 6, 2009, more than ten days from the Planning Commission's decision, the City received a written request from Pharaoh's Water and Theme Park, Inc. for an appeal of the Planning Commission's decision to revoke the CUP; and

WHEREAS, in accordance with Chapter 1.06 of the Redlands Municipal Code, this City Council on July 21, 2009, by unanimous vote, set a public hearing to consider the appeals of the Planning Commission's decision to revoke the CUP, as amended, for September 1, 2009, at 7:00 pm in the Council Chambers; and

WHEREAS, subsequent to the noticing of the hearing for the appeals of the revocation of the CUP and, prior to holding the hearing, the City received a copy of a judgment, issued by the Honorable Christopher J. Warner, Judge of the Superior Court, for San Bernardino Superior Court Case No. UDDS 902163, in which Judgment was entered as follows: "Plaintiffs, ALADDIN ENTERTAINMENT GROUP, LLC, JAMES BRASWELL, DELBERT A. BRASWELL, are entitled to, and now have judgment against Defendants SHAHVAND ARYANA and ARYANA MANAGEMNT GROUP, LLC. Plaintiffs are now entitled to possession of the premises located at 1101 N. California Street, Redlands, CA 92374;" and

WHEREAS, on September 1, 2009, this City Council held a duly noticed public hearing to consider the appeals of the Planning Commission's decision to revoke the CUP; and

WHEREAS, at the written requests of Aladdin and Pharaoh's Water and Theme Park, Inc., the City Council continued the public hearing on the appeals to 7:00 p.m. on October 6, 2009; and

WHEREAS, on September 3, 2009, the Honorable Frank Gafkowski, Jr., Judge of the San Bernardino Superior Court, granted the City's request for a preliminary injunction (the "Injunction") in the matter of City of Redlands, et al. v. The California Gateway, et al, San Bernardino Superior Court Case No. CIVDS 906028 which Injunction, in part, prohibits all "public music and/or dance events" for occurring on the Property to the extent an event "constitutes the principal use of the Property during the times the activity is being conducted;" and

WHEREAS, on September 10, 2009, prior to holding the hearing, the City was informed that the Honorable Christopher J. Warner, Judge of the Superior Court, from San Bernardino Superior Court, in Case No. UDDS 902163 issued another ruling that neither Pharaoh's Water and Theme Park, Inc. or Pacific West Coast Development LLC had any valid right of possession of the premises located at 1101 N. California Street, Redlands, California 92374 (the Property comprising the Theme Park); and

WHEREAS, on September 29, 2009, Aladdin delivered a letter to the City withdrawing its appeal of the Planning Commission's decision to revoke the CUP; and

WHEREAS, on October 6, 2009, this City Council held a duly noticed public hearing to consider the appeals filed by “Aryana Companies & Individual” and “Pharaoh’s Water and Theme Park Inc.” of the Planning Commission’s decision to revoke the CUP;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF REDLANDS AS FOLLOWS:

SECTION 1. The Recitals set forth above are true and correct and are incorporated herein by this reference.

SECTION 2. Based on the entire record before the City Council and all written and verbal evidence presented at public hearings before the City Council, the City Council makes the following determinations and findings with respect to the CUP:

- A. The amusement park activities have ceased and the Theme Park’s approved improvements (i.e. go-karts rides, water slides, arcade games, etc) for such uses have been abandoned. The Property is no longer used for its conditionally permitted use-- a family-oriented entertainment theme park and no special events such as the public all-night dance events are to be held at the Theme Park; as stated, in part, by the City’s Community Development Director, Oscar Orci, at the Planning Commission’s public hearing¹:

“As I've indicated in the Staff report, the CUP was approved for a family theme park. It's been operating as a family theme park until roughly 2006. That use is now abandoned.

As you've indicated in the site plan -- this is the site. This is California, Lugonia. You've got the parking lot here. This is the approved master plan for the theme park. You have the go-cart racing, bumper cart area, the miniature golf course, the arcade, restaurant area, the amphitheater area, the water park, the amusement ride area, the kiddy rides, if you will, as identified in the exhibit, a lounge area, further water park areas, et cetera.

As I've indicated in the Staff report, this family theme park is no longer in operation. It's been abandoned, as you see it by the pictures here, as well as the pictures that I have supplied with the Staff report, as an example, illustrates that the bumper boat cars, the area's been drained and the little rides, if you will, have just been left in the pool.”

As a result, and based in part on the foregoing testimony, the Planning Commission hereby finds that the all-night dance events violate Condition No. 1 imposed by the City in connection with the CUP revision that occurred in April, 1999.

- B. The parking lot is being used for other non-permitted uses, including, but not limited to, ticket line, employee parking, temporary trailers, etc. (CUP Revision No. 6, Condition No. 1). The public all-night dance events being held at the Theme Park are in violation of the CUP and, as a result of the improper activities and illegal conduct occurring at such events,

¹ Note that the transcript of the testimony provided by staff and others at the Planning Commission hearing has been provided to this City Council and has been incorporated into the City Council’s hearings on this matter.

constitute a public nuisance; as stated, in part, by the City's Police Commander, Tom Fitzmaurice, at the Planning Commission's public hearing:

"Chairman Foster, members of the Commission, good afternoon. My name is Tom Fitzmaurice. I work for the police department. I've been asked to make a few comments, give you some information on our involvement with the Pharaoh's issue.

As you've been told, Pharaoh's opened up late in 1994. We first became involved when the business was looking for an ABC license. At that time there was some agreements made that, depending on the number of people that were there, a certain number of police officers would be contracted through the city to provide police services. We weren't used very often for many, many years. And then, in 2006, Mr. Aryana, who is currently on site, running the business, started having regular music and dance events at the facility.

At that time, again, we arranged for him to contract with the City of Redlands for police services to provide security during these events.

There was a restaurant at one point that was running there, and that's where a lot of the events were held, multiple events during the week, usually two to five officers, depending on the size of the event. And many times, events would be canceled.

Then, in January of 2009, the all-night dance events began. At that time, we already had this arrangement in place for contracting for officers. The first event, January 17th to the morning of the 18th, we estimate 2500 people attended. Then, on February 14th and 15th, another one of the all-night dance events, there were about 5,000 people, we estimate, that attended. Then, on February 28th/29th, 5,000 again. On March 14th and 15th, about 6400. And then the last event, on April 18th to 19th, there were about 11,000 people that went to the event. And that doesn't include the number of people that were turned away outside. We believe that 11,000 are the people that participated.

I've already told you previously what our estimated staffing was at these events. They contracted for five officers at the January 17th and 18th event. But based on the number of people and the type of activity that we witnessed there -- for the February 14th and 15th event, they contracted for 13 police officers and one civilian member of our department. On the February 28th and 29th event, they contracted for 18 police officers and two civilians. For the March 14th and 15th event, they contracted for 22 police officers and three civilians. During the last event, on April 18th and 19th, they contracted for 42 Redlands police officers. And that's how many officers it took to sustain the number of officers we had to have there at any given time. Five members of the probation department joined us. They were uniformed officers. Six members of the San Bernardino County Sheriff's Department assisted us. And we had six civilians there.

So you could see the significant increase in personnel that's been needed to address the activities at these events as the number of people attending has increased.

I just want to say a few words of some of the impacts on the area. Probably one of the largest

is on parking and the commercial businesses in the area. It's fairly clear that there is no physical way that the Pharaoh's location can support and keep all of the cars on their property for the people that attend these events. Their lot is always full. And there will be some photographs up here that will show you. They fill their lot. Then the vehicles start looking for somewhere to park out on the surface streets.

During the first three events, Kaiser had their lot open, and upwards of 500 cars were able to park there. And then we still had vehicles parked in every direction. They would park all along Lugonia Avenue, California, Almond, Orange Tree, all the way nearly to Alabama, south on California, and many vehicles in the Food 4 Less parking lot. So, basically, every single available parking area on the surface streets is filled.

This caused some problems for us. There was a number of hazards I'll comment on. They also parked in commercial lots without permission of the business owners. Subsequently, when we got down to the second to last in the last event, there was a noticeable increase in businesses that were placing security in their lots to keep vehicles out.

There's a dirt lot at the corner of Lugonia and California, which we received a letter from the owner requesting that we tow any vehicles that were parked on that property, because there had been vehicles parked there during some of the earlier all-night events. So parking definitely is a major issue.

One of the most significant issues is on Lugonia Avenue -- I guess you could bring up that photograph. Lugonia Avenue, as you go west from Pharaoh's, is a very narrow street on the south side which, literally, the cars were parked from Pharaoh's, all the way down to Research, and they took up the entire eastbound lane, leaving a foot.

We towed, I believe, 13 cars at the March 14th and 15th event, and we towed 25 cars on the April 18th and 19th because they were a hazard. They took up the entire lane. And you actually had to go into the median area to be able to go anywhere eastbound on Lugonia.

We cited vehicles for parking in front of fire hydrants, and we have cited vehicles for parking in handicapped zones during these events.

The parking also -- and this is a photograph -- I'm sorry -- a video that I don't know if you can see it very well. But it depicts the March 14th and 15th event. The vehicles that are parked against that south curb line of Lugonia -- and you might be able to see as it swerves -- the camera moves to the north, that there's literally -- if you can see right there, there's just feet for another car to go through, just a couple feet. It was really a significant hazard. And we wouldn't have towed all these cars if we didn't have to.

As I said, Kaiser had to get security to close their lot down for those last two. And parking at those two events really became desperate. I mean, literally, desperate. People were parking anywhere they could so they could walk the least distance to their -- to Pharaoh's.

The parking situation put a lot of people walking great distances out on those very dark roads. The parking lot in front of Food 4 Less was literally full. As you know, Food 4 Less is open until about 2:00 o'clock in the morning, I think.

The parking situation here -- I arrived on scene at the last event at about 3:00 o'clock in the afternoon. Streets were starting to fill. I drove the streets a number of times during the event and just totally impacted -- if you wanted to shop at Food 4 Less, you were having to have to park somewhere else other than their lot.

Again, there's -- some of that area, there are no sidewalks and, you know, people were parking where they could and were walking in the dark, in the street or dirt fields, to get to the location.

Some of the safety issues that we observed during these events -- it appeared to us that the facility really wasn't planned or built to handle an event of this size. It's very chaotic in the parking lots and the streets around it. The line to get in -- we have a photograph here. I don't know if you'll be able to see this. The line goes in on the south side of Pharaoh's, which would be the southeast corner, and a line stretches north, all the way along the edge of the playground area where there's a fence, where it used to be all of the playground equipment, the arcade -- not the arcade, but the children area that's now one of the dance areas. And it continues north, all the way to the north end of the property, and then curves to the east and circles around the parking lot. So you've got people standing out in this parking lot waiting to get into the line to get into the event.

The parking lot is used the entire event. So you've got cars moving in there the same time you've got a lot of people standing out in that parking lot.

The main line, which is along the west side of the parking lot there, is an area that's enclosed by two fences to keep you from getting into the event without going through the entrance and to keep people from cutting into line.

That line was probably four, five, six people deep, just crammed in there. If there had been a problem in that line, there was no safe way to get out of that line in any kind of a -- in a hurry.

All night long, there were people standing on the outside of the fence, talking to people inside of the fence. And there were also some bathrooms located in the parking lot area there. So you had large groups of people in the parking lot where cars were moving the whole night. Just didn't seem to be planned well or a safe way to get people in and out of such a large event.

There was a VIP line, and you could pay extra money, when you were out in the parking lot, to get into a shorter line to get in quickly. So there would be someone out in the parking lot with a sign trying to gather people together. Again, you're in the parking lot, the cars are moving, trying to get people together so then you could sell them a way to get in quicker, and

then that line was right in the parking lot, waiting to get in on the outside of the fence, waiting to get in a little bit quicker. Again, not really a safe way of conducting business to get in and out of an event of this size.

It just appeared that there were lots of temporary measures in order to make this happen. I think Chief Frazier will talk about fences being taken down, bushes and landscaping that had to be tore out immediately before the event started in order to have a way to get in and out of this venue in an emergency that met the code.

It just, kind of, matched the way that the lines and other things were being done here, obviously, in a temporary fashion, just to get people in and out of the facility.

Once you're inside an event, I think most of you are aware there's a main building, and the front door faces east. On the west side, there is an entrance that goes out to the original amphitheater. And then there is another stage area that's on the north side where -- again, where the toys and things for the kids used to be, the amusement area.

Many, many people all night are trying to get in and out of that door at the back of the facility. It is like a river meeting the ocean and butting heads and which is going to win.

A number of times during the night I tried to get in and out of there, absolutely unsafe. People just crowding each other to try to get in and out.

There's a large part of the music and dance activity is inside the building. So you have a constant flow of people trying to get from one stage area to the other or to get to staircases that go upstairs where they have additional music.

At one time, when I was walking through, I had a guy challenge me, threaten me, if you will, that, you know, I'd better not push him. I don't think he could see who I was at the time. And we finally came to a mutual agreement of we were both going to go our separate ways. But that was how it is all night. I mean, you're just in each other's face. I can't tell you. Maybe take three, four, five minutes just to get through that doorway area. That's a long time when you're standing there in a sea of people.

There was a lack of consistency in the way people are checked into this event. We had asked the management group there if they would limit it to 18 and older for attendance. There was an area set up to search people, to check identification. Very, very common for the private security people, employees of the event to let people through that came to officers' attention as they got through the line and we would ask that they be reinspected. And, come to find out, they didn't have any identification. They shouldn't be going into the event, based on the rules of the management people that were running it. So quite a bit of inconsistency there on who was being let in and who wasn't being let in.

Again, just very chaotic. There were people telling me it was taking four hours plus to get into the event from the parking lot area. You could imagine the demeanor, the behavior of people when they've been in a line for four-plus hours waiting to get into this event when

they could see other people in there having fun, enjoying the music, doing their thing.

So, again, just appeared to be not well set up to get people in--in a timely manner.

Really, those are the things that come to mind that, you know, issues with the facility and the way it was being run.”

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events being held at the Theme Park violate Condition Nos. 16, 17 and 22 of the CUP as well as Condition No. 30 of the CUP Revision No. 1 and constitute a nuisance under applicable provisions of State law (including, but not limited to Civil Code Sections 3479 and 3480, Code of Civil Procedures Section 731 and Health and Safety Code Section 11570 et seq) and the City’s Municipal Code.

- C. A mechanism to ensure that parking does not spill over onto surrounding properties was never prepared nor approved by the City and the parking program required to be prepared by Aladdin has not been submitted to the City for annual review; as stated, in part, by the City’s Assistant Community Development Director, Robert Dalquest, at the Planning Commission’s public hearing,

“Parking for the facility and the possibility of spill-over parking on surrounding property and the streets was a concern from the beginning by Staff. Staff relied on a maximum attendance projections analysis that was provided by the applicant and contained in the administrative record at the time, which is provided in your Staff report. This analysis calculated the peak attendance based on the park venues and the time of year. The analysis calculated a maximum of 2,753 visitors during the summer months that would be the maximum of guests in the park at any one time. And you have that as an attachment to your Staff report, that parking analysis -- or the attendance analysis. Based on this number, Staff calculated the required parking to be 493 spaces, based on using a parking ratio of one space per four guests, basically four per car, which would represent a family, an average family size, eight bus spaces at 50 guests each, 15 percent of the total attendance were 413 guests were assumed to be drop-off or walk-up traffic. Also, in addition to that, 35 spaces was provided for employee parking.

Temporary special events are deemed to be those events conducted beyond the normal operations of the venue of the amusement park during operating hours. And then another condition was under no circumstances shall the amusement park utilize off-site parking for the operations of the park, except as provided in accordance with the municipal code.”

As further stated, in part, by the City’s Community Development Assistant Planner, Chris Boatman, at the Planning Commission’s public hearing:

“I was on site on the evening of the April 18th and 19th to observe all activities taking place on site and off site. And I will make now a brief summary of my observations in regards to the off-site parking that was observed.

This is a brief overview of the larger area that I observed, off-street parking. You could see Alabama at the farthest point east and Mountain View at the farthest point west. There was also parking taking place on the south side. I noted parking as far down as Nevada and Redlands Boulevard. There were further observations on behalf of the police department of -- as Commander Fitzmaurice noted of parking taking place at Food 4 Less and the Wal-Mart shopping center.

In addition to these areas, I observed parking on the following streets -- and when I refer to 'parking,' I mean, literally, bumper-to-bumper parking on both sides of the streets. In other words, you were fortunate to find opportunities to parallel park -- Orange Street, Plum Lane, Idaho, Nevada, Lugonia, Bryn Mawr, Research and Almond.

As you can see highlighted in the turquoise color, these are the streets that had the highest level of congestion. Again, they were parking on both sides of the street. There were also numerous spaces there were located off the right-of-way in private parking areas, particularly around -- I noted parking around Research and Plum Lane. There's, obviously, numerous business, private business complexes in there. Every single space was literally filled up in each of these complexes. There was also parking I noted after hours in the JC Penney shopping center located to the north.

I'm also going to now show you a brief video. While looking around at the whole area, I took about 15 to 20 minutes of video, just to show a comprehensive overview of the parking. I'm just going to show you just a couple brief clips so you have an idea of the parking situation. See if this works for me.

This is driving up, I believe, off of Plum Lane, the street just south of Plum Lane. You could see, again, parking on both sides. On your right is one of the offices off of Nevada. Here, panning to, again, some of the private areas, see there's quite a bit of cars. And this is about close to 1:00 in the morning, between 12:30 and 1:00 a.m. So there obviously wouldn't be any parking for the tenants at that time.

It's difficult to see in this picture, but again, the cars are literally back to front, all along both sides of the street. So this gives you a picture of what I observed, again, in all those areas that were turquoise. That, basically, concludes my presentation. If you have any questions, I'd be happy to answer them at this time."

As a result, and based in part on the foregoing testimony, the City Council finds that the public all-night dance events are in violation of Conditions No. 22 and 25 of the CUP.

- D. Portions of the required parking lot landscaping and perimeter wrought iron fencing have been removed without the permission of the City and contrary to the conditions of the CUP; as stated, in part, by the City's Community Development Director, Oscar Orci, at the Planning Commission's public hearing:

“Starting out with the parking lot, they’ve removed part of the landscape area, and they’ve actually put some holes there to maintain this as the que’ing or line area for folks waiting to get in during these all-night events.”

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Conditions Nos. 1 and 16 of the CUP.

- E. Landscaping throughout the park has not been maintained, contrary to the provisions of the CUP; as stated, in part, by the City’s Community Development Director, Oscar Orci at the Planning Commission’s public hearing:

“This is an exhibit illustrating a kid's playground. You see, by the exhibit, they haven't maintained that. It's full of weeds and it's not kept in a very good manner. The water slide area, they've obviously drained the water. They've -- see there. They've threw things, looks like some sort of post there, chairs and whatnot. Clearly not a use that's operating.”

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Conditions Nos. 14 and 16 of the CUP.

- F. Automobiles are parked/stored on the race track contrary to the conditions of the CUP; as stated, in part, by the City’s Community Development Director, Oscar Orci at the Planning Commission’s public hearing:

“This exhibit shows the kiddy area. As you can see, you have no more amusement rides here. This is the area here that I showed you in the site plan. Those, in fact, have been removed. All these demonstrate that the family theme park is no longer in operation. It's abandoned.”

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Conditions Nos. 1, 6 and 16 of the CUP.

- G. Storage containers have been placed on the premises and debris has been improperly stored and/or accumulated on the Site contrary to the conditions of the CUP; as stated, in part, by the City’s Fire Chief, Jeff Frazier, at the Planning Commission’s public hearing:

“And, finally, No. 3, debris. As the facility has been in various states of utilization, considerable debris and other materials are stored in and around the venue. While considerable effort was focused on ensuring the building and surrounding areas were clear of such materials, on multiple occasions, material was found to be inappropriately discarded or stored in exit stairways or exit corridors.”

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Conditions Nos. 1, 9 and 16 of the CUP.

- H. Illegal taps in the electrical panels and illegal connections into the electric sub-panels exist along with open floor junction boxes; as stated, in part, by the City's Fire Chief, Jeff Frazier at the Planning Commission's public hearing:

"No. 2, electrical systems. As the facility was not initially designed for temporary accommodation of such large events with multiple stages, several nonapproved temporary or ad hoc electrical systems were installed and utilized throughout the event. We have some slides here to indicate just a few of those. These were installed and put into place sometimes in the very minutes before the gates were opened. Without a detailed and approved electrical architectural plan, this situation will likely repeat itself during future events if they're held there."

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Condition No. 11 under Building and Safety of the CUP.

- I. Violations of the City's noise ordinance (Redlands Municipal Code Chapter 8.06) exist as a result of operation of the all-night dance events at the Site; as stated, in part, by the City's Quality of Life Director, Gary Van Dorst, at the Planning Commission's public hearing:

"The quality of life department employed the services of the Chambers Group on April 18th, 2009, to conduct noise monitoring of the dance event at Pharaoh's Kingdom. Noise measurements were taken on all four sides of the property between 10:45 p.m. and 2:45 a.m.

The results are as follows: On the north side of the property, I quote, 'The noise level does exceed the standard plus 5 for a cumulative period of more than 15 minutes in any hour,' unquote. On the east side, in summary, I quote, 'The noise level does exceed the standard plus 5 for a cumulative period of more than 15 minutes in any hour.' On the south side of the property, the noise level -- quote, 'The noise level exceeds the noise standard for a cumulative period of more than 30 minutes in any hour and the noise level standard plus 5 for a cumulative period of more than 15 minutes in any hour.' Finally, on the west side of the property, I quote, 'The noise level does exceed the standard plus 5 for a cumulative period of more than 15 minutes in any hour and the noise standard plus 10 decibels for a cumulative period of more than 5 minutes in any hour.' In conclusion, the professional noise monitoring at the April 18, 2009, dance event documents noncompliance with the city's noise ordinance."

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Chapter 8.06 of the Redlands Municipal Code.

- J. The project is not in compliance with the provisions of Concept Plan No. 3, including, but not limited to: (a) Section 3.5(D), which requires all lighting, except pedestrian-oriented accent lights, to be concealed light source fixtures, and that all lighting shall not cause glare or excessive light spillage on neighboring sites; and (b) Section 3.5(E), which requires all trash and refuse areas to be within an enclosed area consisting of a six (6) foot masonry wall (CUP, Condition No. 1).
- K. Massage business/technicians were operating at the all-night dance events without a City permit, as required by Redlands Municipal Code, Chapter 5.28.
- L. The approved site plan for the Theme Park does not illustrate the all night dance hall activity, as required by Condition of Approval No. 16 for the CUP's Revision 1.
- M. The Theme Park site contains unsafe conditions, as defined in Section 110.1.1 of the 2007 California Fire Code, because of inadequate means of egress; as stated, in part, by the City's Fire Chief, Jeff Frazier, at the Planning Commission's public hearing:

“Thus, because of these three areas, three primary categories of fire and life-safety code violations provide for additional fuel loading in the building, additional sources of ignition within the structure and, finally, a less-than-optimal exiting design such a fire occur, this combination of factors could lead to a most critical negative outcome.

As the start time of the event approached, it became increasingly clear that the attempted adaptive use of the previously designated amusement park was contributing to a marginal situation. The numerous temporary or make-due solutions each presented additional challenges to safe occupancy.

The following main categories of fire and life-safety code violations were observed and continued to develop throughout the event: One, exiting. The planning and protection of the number, configuration and size of the exits required for an event of this type is both time-consuming and complex. Despite our best efforts to work with the occupant, a more formal plan developed and refined by a suitable architect is essential to the safety of any event's attendees.

In closing, the Redlands Fire Department currently lacks the staff and resources to consistently ensure public safety for such large, ad hoc, or temporary events. Without careful facility design and long-term compliance efforts, I can foresee ongoing fire and life-safety code enforcement issues in this venue.”

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Section 110.1.1 of the 2007 California Fire Code; and in violation of Condition No. 2 of Revision No. 4 of the CUP.

- N. The all night dance event resulting in allowing guests in the park that are under the influence of illegal drugs or alcohol is contrary to the Park's “Policy, Procedures & Descriptions for Alcohol Beverage Sales for Special Group Events.”

- O. Portable restrooms have been brought into the Theme Park, contrary to the conditions of the CUP, to accommodate the large number of persons participating in the public all-night dance event; as stated, in part, by the City's Community Development Director, Oscar Orci, at the Planning Commission's public hearing:

"They've located portable rest rooms along this area, along one of the dance floor areas. Again, they've had to bring these improvements into the park. They've also erected vendor booths, including a massage vendor booth. All of these didn't have business licenses but were granted. All these improvements have not been approved by the City or anyone for the family theme park operation."

As a result, and based in part on the foregoing testimony, the City Council hereby finds that the all-night dance events are in violation of Condition No. 16 of the CUP.

SECTION 3. The written request for an appeal of the City of Redlands' Planning Commission's decision to revoke CUP No. 617 filed by Pharaoh's Water and Theme Park, Inc., was not filed in a timely manner as required by Chapter 1.06 of the Redlands Municipal Code.

SECTION 4. The City Council hereby enters the transcript (and testimony contained therein) of the testimony presented at the Planning Commission's May 26, 2009 meeting regarding the proceedings for the possible revocation of CUP No. 617 into the City's record of proceedings, and is made part of the public hearing, for this City Council's consideration of the appeal of the Planning Commission's decision to revoke CUP No. 617.

SECTION 5. Based on the entire record before the City Council and all written and verbal evidence presented, parts of which are summarized in the quoted portions of this Resolution in support of the City Council findings, and the determinations and findings, themselves, made by the City Council in this Resolution, the City Council hereby affirms the City of Redlands' Planning Commission's decision to revoke the CUP.

SECTION 6. This Resolution shall take effect immediately upon its adoption.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED, SIGNED AND APPROVED this 6th day of October, 2009.

Jon Harrison, Mayor
City of Redlands

ATTEST:

Lorrie Poyzer, City Clerk
City of Redlands

I, Lorrie Poyzer, City Clerk, hereby certifies that the foregoing resolution was duly adopted by the City Council, at a regular meeting thereof, held on the 6th day of October, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Lorrie Poyzer, City Clerk
City of Redlands

EXHIBIT "A"

NOTICE OF ABATEMENT