

Family Community Church

478 Piercy Road | San Jose, CA 95138 | (408) 365-0313 | Fax (408) 365-3539 | www.FCCchurch.com

Proposed General Plan Update Goals, Policies, and Implementation Actions

Land Use – Private Community Gathering
Facilities



Concern for Consideration by Family Community Church, San Jose, CA

TO: **Lee Butler**, AICP, LEED AP

Planner II, Envision San Jose 2040 General Plan Update
City of San Jose Dept. of Planning, Building, & Code Enforcement
200 E. Santa Clara St., 3rd Floor, San Jose, California, 95113-1905

FM: Pastor Bill Buchholz
Family Community Church
478 Piercy Road
San Jose, CA 95138

History:

1. Family Community Church (FCC) began in 1983 as a small neighborhood church.
2. FCC now has more than 5,500 attendees.
3. FCC has been located in the Edenvale Redevelopment Area since 1988 (an Industrial Park area) in 3 different Industrial Park sites.
4. During the past 22 years, FCC obtained 6 conditional use permits and a general plan change and a special use permit from the City of San Jose.
5. FCC's business neighbors have always stated that our church is a compatible and desired neighbor.
6. FCC's current location at 478 Piercy Road is near the Bio Center and IDT (Silver Creek Valley Road and U.S. 101). Our campus includes 128,600 SF in 2 large buildings with 6 auditoriums, classrooms, and offices... on 8.9 acres plus additional parking rights to 7.5 acres on our neighbor's property (codified in an Off Site Alternate Parking Agreement, various recorded/deed restricted Reciprocal Easements, a Special Use Permit, General Plan, and Conditional Use Permit). It requires 900+ parking spaces for our operation.
7. Because FCC has always been a compatible neighbor to businesses in the Edenvale Redevelopment Area, FCC was promised in writing by Planning

Director Gary Schoennauer that FCC could relocate anywhere within the Edenvale Redevelopment Area (which is an Industrial Park area). Accordingly, City officials have worked with FCC on multiple permits and zoning applications to accommodate our church so that we can provide much needed services to the residents of San Jose.

8. FCC provides for the assembly needs of many community groups:
 - A. San Jose Police Department Academy graduations
 - B. San Jose Police Department training operations
 - C. Evergreen College Police Academy graduations
 - D. Oak Grove School District Hispanic Student Achievement Award assemblies
 - E. Polling Station for the Santa Clara County Registrar of Voters
 - F. Meeting facility for Supervisor Don Gates
 - G. Training facility for U.S. Census Bureau
 - H. Mayor Chuck Reed community outreach meetings
 - I. San Jose Department of Transportation community meetings

FCC's suggestion: add 4 words to the proposed policy language of Policy PC-1.4

Policy PC-1.4 Recognize that Private Community Facilities can inherently involve large groups of people, including people who are susceptible to environmental hazards, such as children or the elderly. Carefully consider existing and potential future proximate land uses when locating Private Community Facilities to avoid health and safety risks and minimize incompatible land uses. Do not locate Private Community Facilities in ~~or near~~ Industrial Park, Light Industrial or Heavy Industrial areas or near these areas if the Private Community Gathering Facility will have adverse impacts on the viability of the industrial area.

This proposed Policy states that the reason for limiting location of Private Community Facilities in Industrial Park, Light Industrial or Heavy Industrial areas is because large groups of people and children may be exposed to environmental hazards. The Bay Area Air Quality Management District stipulates that if a sensitive receptor population (specifically, a K-12 school) is located within 1,000 feet of a manufacturing facility that uses hazardous chemicals, then operational restrictions or haz mat incident response procedures and expenses could be imposed on companies located nearby. Therefore, if a Private Community Facility conducts activities (specifically, a K-12 school) that exposes a sensitive receptor population (K-12 children in a school setting) to environmental hazards then disallowing a location of such a facility makes sense.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
RULES AND REGULATIONS
MARCH 4, 2009

REGULATION 2
PERMITS
RULE 1
GENERAL REQUIREMENTS

INDEX

- 2-1-412 **Public Notice, Schools:** Prior to approving an application for an authority to construct or permit to operate for a new or modified source located within 1000 feet of the outer boundary of a K-12 schoolsite and which results in the increase in emissions of any substance into the ambient air which has been identified by the California Air Resources Board or the APCO as a toxic air contaminant or a hazardous air contaminant or which is on the list required to be prepared pursuant to subdivision (a) of Section 25532 or Section 44321 subsections (a) to (f) inclusive of the Health and Safety Code, the APCO shall:
- 412.1 Prepare a public notice in which the proposed new or modified source, and the proposed emissions, are fully described.
 - 412.2 Distribute the notice, prepared in accordance with subsection 2-1-412.1 at the expense of the applicant, to the parents or guardians of children enrolled in any school within one-quarter mile of the source and to each address within a radius of 1000 feet of the source. This notice shall be distributed at least 30 days prior to the date final action on the application is to be taken by the APCO. The APCO shall review and consider all comments received during the 30 days after the notice is distributed, and shall include written responses to the comments in the permit application file prior to taking final action on the application.
 - 412.3 Failure of any person to receive the notice shall not affect the validity of the authority to construct or permit to operate issued by the APCO, if the APCO or applicant responsible for giving the notice has made a good faith effort to follow the procedures for giving the notice prescribed by law.

(Adopted 11/1/89; Amended 10/7/98; 5/17/00)

- A. By definition, sensitive receptor populations include K-12 school uses and hospitals **but not churches.**
- B. K-12 schools have 20 to 30 kids for each adult/teacher present (30:1 ratio).
- C. Hospitals have many patients (many who are non-ambulatory) and a few professionals who must assist the elderly or infirmed in environmental hazards.
- D. Churches have 4 adults for each child during worship services (1:4 ratio).
- E. By definition of the BAAQMD, **churches are not sensitive receptor populations** and are not susceptible to environmental hazards **so long as they do not conduct a K-12 school or day care operation.**
- F. Churches typically conduct their worship services at times that most manufacturing operations are not at work (evenings and weekends), further emphasizing the reality that churches do not inherently expose their congregations to exceptional or unreasonable environmental hazards by locating in an Industrial Park, Light Industrial or Heavy Industrial area.

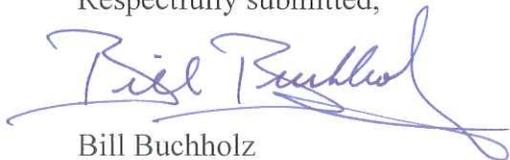
My concern is that the words in the proposed Policy PC-1.4, “...and minimize incompatible land uses.....” stipulates that Private Community Facilities will not be allowed in industrial areas if (A) they are deemed to create environmental hazards for their invitees or neighbors AND (B) if a planning director or other City staff official subjectively decides that such a use is “not compatible.” If Planning Staff wrongly concludes that (A) a church is a sensitive receptor population when it does not operate a school or daycare, or, (B) if Planning Staff subjectively purports that a proposed church site in an industrial area would be incompatible when the preponderance of evidence shows otherwise, then the federally protected rights and abilities of local congregations to serve San Jose residents would be impaired.

It is the stated and laudable goal of Planning Staff and this Committee to locate churches in residential and commercial areas. However, larger churches cannot locate in residential or commercial areas because it is impossible to meet the parking requirements needed for operations (FCC requires more than 900 parking spaces). This has been proven multiple times to City Planning staff, Redevelopment Agency staff, City Council members, Mayors, and Planning Commissioners. Therefore, if the only San Jose sites capable of providing worship facilities for larger churches are in industrial areas where potential hazardous environmental issues are mitigated, it is essential that such options are available to San Jose’s congregations that have demonstrated due diligence.

The spirit of the proposed policy is filled with goodwill and much forethought. I thank each of the Committee members for their many hours of work. I believe that City Staff and this Committee intends to provide for the worship and other public meeting needs of its people. To that end and in that spirit of cooperation, my suggestion is to change the proposed/amended Policy PC-1.4 by adding four (4) words to the end of the proposed statement so that the last sentence reads:

“.....Do not locate Private Community Facilities in ~~or near~~ Industrial Park, Light Industrial or Heavy Industrial areas or near these areas if the Private Community Gathering Facility will have adverse impacts on the viability of the industrial area **due to environmental hazards.**”

Respectfully submitted,



Bill Buchholz
Senior Pastor