

STAFF REPORT
PLANNING COMMISSION

FILE NO.: CP10-043

Submitted: 07/26/10

PROJECT DESCRIPTION: Conditional Use Permit to convert an existing industrial office building to a social service agency use on a 1.11 gross acre site

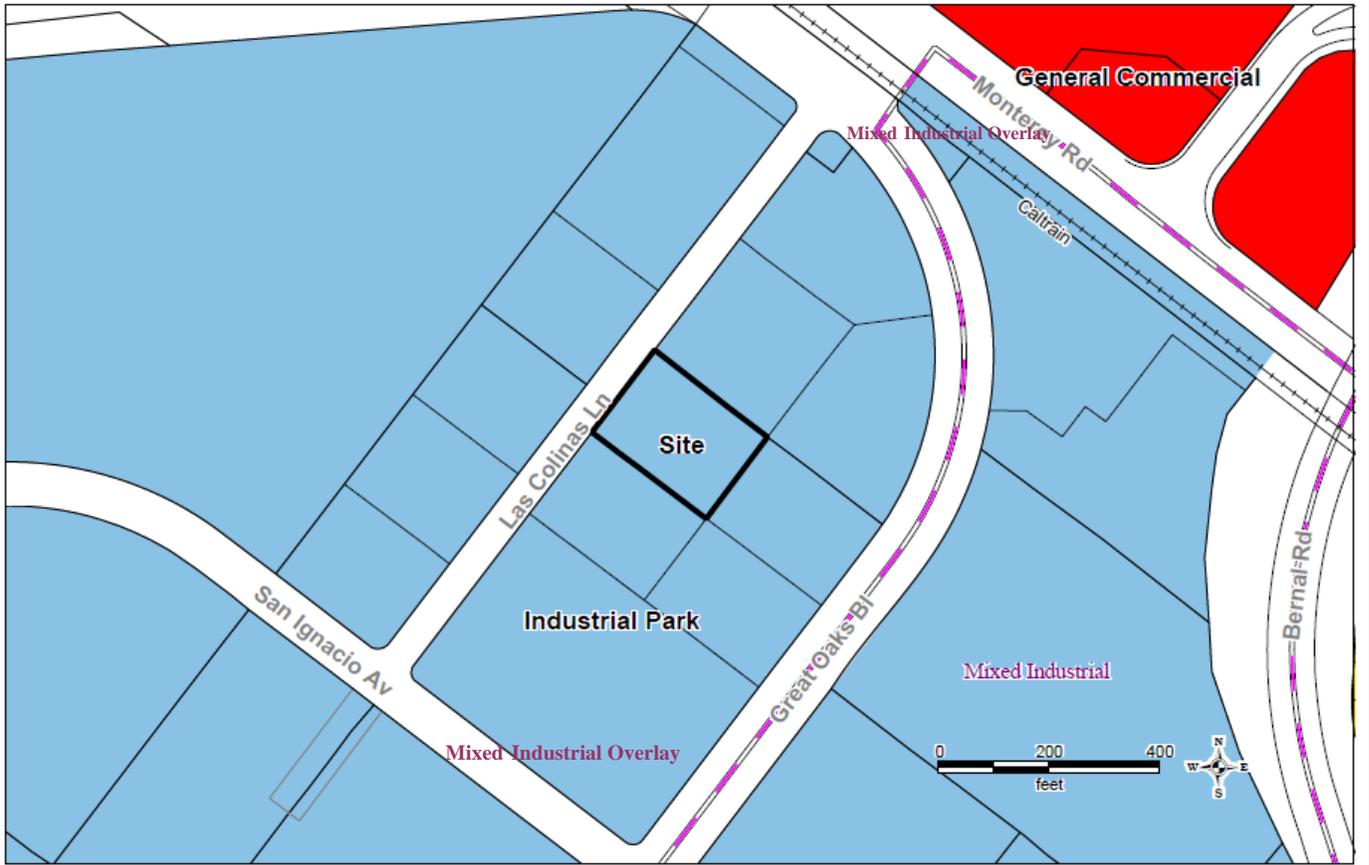
LOCATION: Southeast side of Las Colinas Lane, 650 feet northeasterly of San Ignacio Avenue (50 Las Colinas Lane)

Zoning	IP-Industrial Park
General Plan	Industrial Park
Council District	2
Annexation Date	March 20, 1979
SNI	No
Historic Resource	No
Redevelopment Area	Edenvale
Specific Plan	No

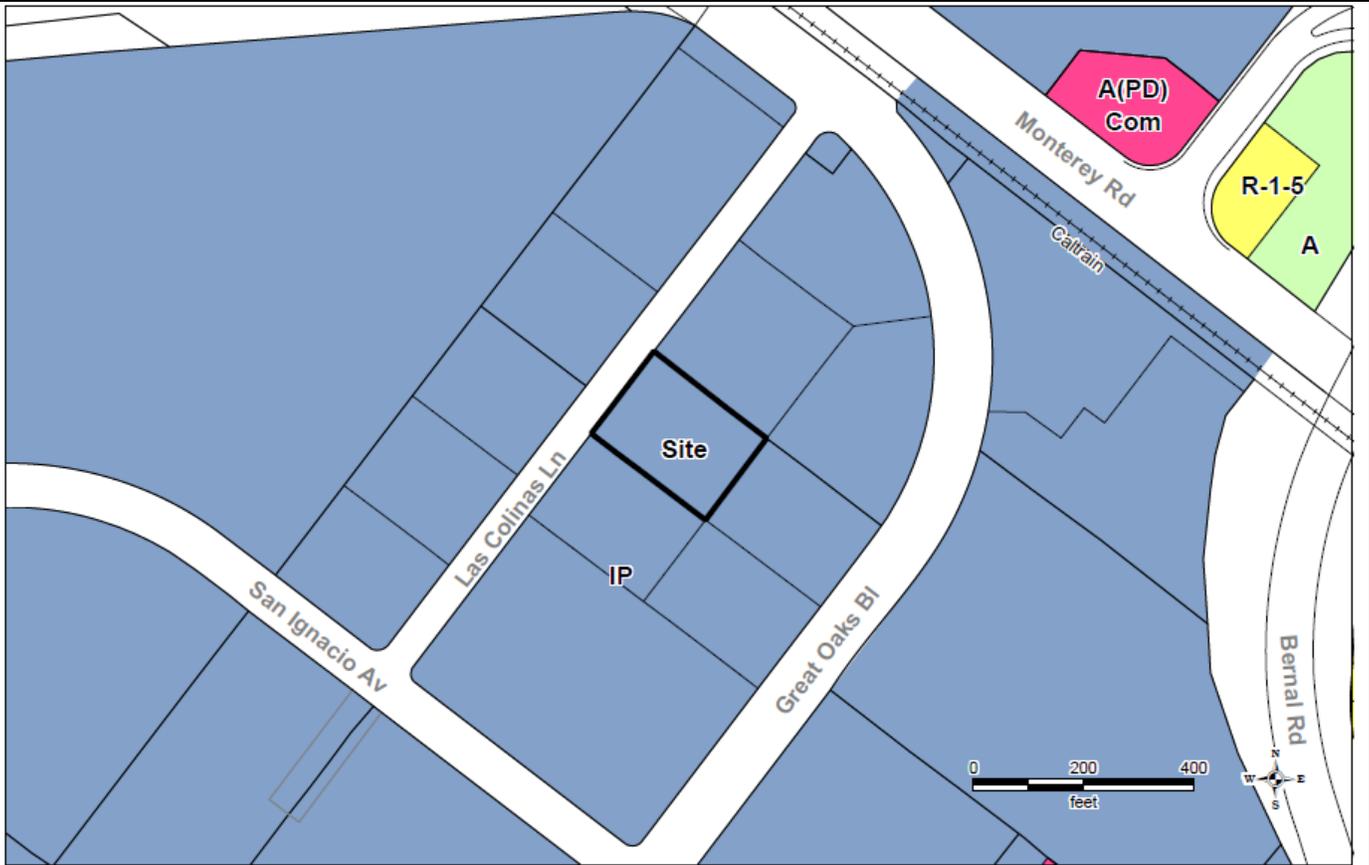
Aerial Photo



General Plan



Zoning



RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit for the following reasons:

1. The proposed project conforms with the San Jose 2020 General Plan as follows:
 - a. The proposed social service agency use is in conformance with the General Plan Land Use/Transportation Diagram designation of Industrial Park, given the building type and the mix of uses proposed for the building, and given the uses within the surrounding area.
 - b. The proposed project furthers the City's General Plan Policies, such as the Balanced Communities Goals and Policies, which encourages the development of social and economic uses in all neighborhoods, and does not compromise the City's Economic Development goals and policies contained in the General Plan.
2. The proposed use conforms to the Zoning Ordinance.
3. The proposed project will provide adequate parking.
4. The proposed use will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, impair the utility or value of a property of other persons located within the vicinity of the site, or be detrimental to public health, safety, or general welfare.

BACKGROUND

On July 21, 2010, Brandon Coker, on behalf of the Mission Bay Inc., filed a Conditional Use Permit to allow a social service agency use to occupy an existing 18,272 square foot single-story building. There is another building of similar size and design that shares a common parking aisle with the subject building. The existing building was built in the late 1990's (File No. H96-046). The building will house "Mission Bay Inc" (MBI), a for-profit organization that provides services to adults with developmental disabilities, and offers training to adults between the ages of 18 to 50 years. The skills acquired at the facility enable them to live and participate in the community and function as independently as possible.

The property is located in the IP-Industrial Park Zoning District. Social service agencies are allowed in the IP-Zoning District with a Conditional Use Permit. A social service agency is defined in the Zoning Ordinance as an agency which provides services or activities that advance the welfare of citizens in need. A social service may include supporting office uses, supporting medical office or clinic uses, supporting vocational or trade training, and supporting personal services and/or a food and goods distribution facility. After reviewing the services proposed to be offered at this location by the applicant, the proposed use conforms to the definition of a social service agency use.

The subject site is surrounded by various uses such as a manufacturing, wholesale, indoor recreation, office uses, and another social service agency located to the northeast of the site.

Project Description

Mission Bay Inc. provides services for adults (18 years and over) with developmental disabilities. The proposal is to provide services for up to 160 clients with a staff of up to 60 employees. No exterior changes to the structure are proposed as part of this Conditional Use Permit. The majority of uses within the facility are anticipated to be Monday - Friday between 8:30 a.m. and 5:30 p.m. However, a typical session

runs from 8:30 a.m. to 2:00 p.m., with most clients arriving by van between 8:30 a.m. and 10:00 a.m. and leaving by van between 2:00 p.m. and 4:00 p.m. All programmed activities will take place indoors.

ANALYSIS

The proposed Conditional Use Permit was analyzed with respect to the following: 1) conformance with the San Jose 2020 General Plan, 2) conformance to the Zoning Code, and 3) compatibility with the surrounding area.

General Plan Conformance

The proposed social service agency use can be found to be consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Industrial Park. The Industrial Park designation is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. In 2001, the City Council when it approved a General Plan Amendment designed to minimize intrusions of non-industrial uses into industrial areas, discussed the need to continue to allow flexibility for locating of social service agencies within San José, and the Zoning Code was amended to allow social service agencies to be located in Industrial Zoning Districts with a Conditional Use Permit. Although social service agencies are not generally considered to be industrial in nature, under the Zoning Code they may be considered on a case-by-case basis. The review process should take into account the possible impacts of the introduction of the non-industrial use on the character of the surrounding industrial area. Staff believes the proposed agency, using an existing underutilized industrial park building, will be compatible with surrounding uses for the reasons stated in the analysis section below.

The proposed use also furthers the City's General Plan Policies, such as the Balanced Communities Goals and Policies, which encourage the development of social and economic uses in all neighborhoods. The City's Economic Development Policies additionally encourage the City's cooperation with educational, industrial and business institutions to provide job-training programs, which will enable the unemployed and underemployed labor force to meet the needs of business and industry. The proposed use is consistent with these General Plan policies in that Mission Bay Works will provide job training programs, supportive employment, counseling, behavioral and responsibility training services to its clients, enabling them to take part in the labor force.

Zoning Code Conformance

No physical changes are proposed to the existing structure, which was built in the 1990's in accordance with the Zoning standards in place at the time. The project proposes to maintain the existing landscaping without any modifications.

The proposal would provide services for up to 160 clients and employ a staff of up to 60 people. The applicant has stated that the majority of the clients and employees will arrive by van or carpool. The subject site has a large, adequate parking lot with drive aisles that circulate around the building to easily accommodate all drop-off and pick-up activities, thus preventing any off-site traffic impacts to the existing street network, including Las Colinas Lane.

The required parking for the proposed social service agency use is one space per 250 square feet of net floor area. The required parking per the Zoning Ordinance for the existing 18,272 gross square foot (15,531 net square feet) building is 63 stalls. Currently, there are 61 parking stalls available, for this site. However, the proposed site plan shows removal of one of the two existing trash enclosures to facilitate two additional parking spaces to ensure conformance to the Zoning Ordinance requirements.

Compatibility of the surrounding area

As previously indicated, there are no exterior changes proposed to the building or site as part of this proposal. The proposed social service agency use is similar in character to a typical office use. The social services agency use will take place completely within an enclosed building. The existing building is set back from Las Colinas Lane, and from other buildings on adjoining properties. The use is proposed in the Edenvale Industrial Redevelopment Area, area of south San Jose where many industrial employers are located. This part of the Redevelopment Area is characterized by a mix of both office and industrial park uses. If the proposed social service use were ever discontinued, the building could readily accommodate a new industrial tenant, consistent with the Zoning Code and General Plan, because there are no changes being proposed to the exterior of the building or site. Staff has concluded that adding a social service agency to an area that contains similar uses within existing industrial buildings will not result in significant land use compatibility issues nor have a detrimental effect on industrial uses in the wider area.

Conclusion

As discussed in the above analysis, the proposed social service agency is consistent with the San Jose 2020 General Plan and furthers the City's Balanced Communities Goals and Policies, which encourage the development of social and economic uses in all neighborhoods. Additionally, the proposed facility is consistent with the Zoning Ordinance and is compatible with the surrounding uses. Given both conformance to the City's General Plan and Zoning Ordinance, Staff is recommending support of the proposed social service agency.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15301(a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Section 15301(a) Existing Facilities involves little or no expansion of use including, interior or exterior alterations.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. This staff report is also posted on the City's website. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

Project Manager: Jodie Clark, AICP **Approved by:**  **Date:** Sept. 14, 2010

Owner/Applicant/Contact:	Attachments:
Brandon Coker Mission Bay, Inc. 980 Rincon Circle San Jose, CA 95131	Resolution Reduced plan set Two comment letters

RESOLUTION NO. _____

Resolution of the Planning Commission of the City of San Jose granting, subject to conditions, a Conditional Use Permit to use certain real property described herein for the purpose of convert an existing industrial office building to a social service agency use with up to 160 clients and up to 60 employees on a 1.11 gross acre site located at 50 Las Colinas Lane.

FILE NO. CP10-043

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE:

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San Jose Municipal Code, on July 21, 2010, an application (File No. CP10-043) was filed for a Conditional Use Permit for the purpose of convert an existing office building to a social service agency, on that certain real property (hereinafter referred to as "subject property"), situate in the IP-Industrial Park Zoning District, located on the southeast side of Las Colinas Lane, 650 feet northeasterly of San Ignacio Avenue (50 Las Colinas Lane), San Jose, and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San Jose Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this Planning Commission received in evidence a development plan for the subject property entitled, "Mission Bay, 60 Las Colinas Lane, San Jose, CA," dated July 19, 2010. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San Jose Municipal Code and the rules of this Planning Commission;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The applicant, Mission Bay Inc., is requesting the subject Conditional Use Permit to allow an adult day care facility for up to 160 clients and up to 60 employees.
2. All activities will be conducted indoors.
3. This site has a designation of Industrial Park on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
4. The project site is located in the IP-Industrial Park Zoning District. Social Services uses are a Conditional Use in the IP-Zoning District. Minimal exterior changes are proposed to the building or site as part of this Conditional Use Permit.
5. The required parking for the proposed social service agency use is one space per 250 square feet of net floor area. The required parking per the Zoning Ordinance for the existing 18,272 gross square foot (15,531 net square feet) building is 63 stalls. Currently, there are 61 parking stalls available, for this site. However, the proposed site plan shows removal of one of the two existing trash enclosures to facilitate two additional parking spaces to ensure conformance to the Zoning Ordinance requirements.
6. The subject site is surrounded by industrial park uses such as a manufacturing, wholesale, indoor recreation, office uses, and a social service agency located to the northeast of the site.
7. The project site is located in the part of the Edenvale Industrial Redevelopment Area that is characterized by a mix of both commercial/office and industrial park uses.
8. Under the provisions of Section 15301, Existing Facilities, of the State Guidelines for Implementation of the California Environmental Quality Act, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended, in that the proposed social service use involves negligible changes to the existing building.

The Planning Commission concludes and finds, based on the analysis of the above facts, that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use Transportation Diagram.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed use is compatible with the surrounding neighborhood.

Finally, based on the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the site;
or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
 3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. The Director of Planning may approve a Permit Adjustment/Amendment extending the permit in accordance with Title 20.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the

San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Mission Bay, 60 Las Colinas Lane, San Jose, CA," dated July 19, 2010, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
6. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
7. **Operational Restrictions.**
 - a. *Clients.* There shall be no more than 160 clients and 60 employees present at the social service agency at any one time.
 - b. *Hours of Operation.* The hours shall be shall be 7:00 a.m. to 7:00 p.m. Monday through Friday.
 - c. *Vanpool.* The operator of this facility shall provide vanpool or carpool opportunities as necessary to ensure that at least half of the clients and/or employees utilize this form of transportation for arriving and departing the facility.
8. **Previous Permits.** Unless otherwise noted in this permit, the proposed facility shall comply with all requirements of the previously issued Site Development Permit (File H96-046).
9. **Other Permits Required.** The applicant shall secure and maintain full compliance with any and all permits or licenses required from the State or County for the subject use.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
11. **Anti Litter.** The site and the adjoining street frontage shall be maintained free of litter, refuse, and debris.
12. **Outdoor Storage.** No outdoor storage is permitted.
13. **Refuse.** All trash shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
14. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage.

15. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
16. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
17. **Landscaping.** Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner.
18. **Sign Approval.** No new signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
19. **Lighting.** No new lighting is approved at this time. Any proposed lighting shall be subject to approval by the Director of Planning.
20. **Tree Removal.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade, shall be removed without a Tree Removal Permit issued by the Director of Planning.
21. **Public Works Clearance for Building Permit:** Prior to the issuance of Building permits the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
 - a. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
22. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP10-043, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans With Disabilities Act:* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
23. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance

In accordance with the findings set forth above, a Conditional Use permit to use the subject property for said purpose specified above is hereby approved.

APPROVED and issued this **29th day of September 2010**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

ATTEST:

Joseph Horwedel, Secretary

Deputy

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

Clark, Jodie

From: Myron Crawford [Mrcrawford@MISSIONWEST.com]
Sent: Monday, September 13, 2010 12:57 PM
To: Clark, Jodie
Subject: CP10-043 50 Las Colinas Lane
Attachments: 706-09-094_1.tif; Aerial 6311 thru 6341 SI and 6320 SI .jpg; 50 Las Colinas Ln .pdf

BERG & BERG ENTERPRISES, INC.

*10050 Bandlely Drive
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mrcrawford@missionwest.com*

9/13/10

Jodi Clark
City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113
Ph 408-535-7800 dir 535-7818 Fax 408-292-6055 Page 1 of 1
jodie.clark@sanjoseca.gov

Reference: Planning Commission September 29th

Subject: CP10-043
50 Las Colinas Lane

Jodi,

Our firm owns industrial property located as shown on apn 706-09-094 and 706-09-023 on 6311 thru 6341 and 6320 San Ignacio.

We would not want to see the permitted uses and conditional and special uses such as the use of hazardous material allowable in the industrial area be diminished in anyway do to a non industrial use in an industrial area being adjacent to our properties.

It is important to protect industrial job producing properties from avoidable restrictions that might be created by a non industrial use being adjacent to industrial properties and users.

A social service agency operation implies potentially an older and younger clientele that might later object to industrial operations adjacent to them or be adding young sensitive receptors. Many industrial users run double shift and 24 hours operations. Please advise us as to how you are addressing this issue.

Please advise.

Thank you,

Myron Crawford

9/17/2010

Clark, Jodie

From: Sharon Daroca [sharon@designmartsv.com]

Sent: Tuesday, September 14, 2010 3:43 PM

To: Clark, Jodie

Subject: CP10-043 50 Las Colinas Ln.

Hi Jodie,

Would you please let me know which social service agency is being considered for this site?

Thank you!

Sharon Daroca



Sharon Daroca
Design Mart Silicon Valley, LLC

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