

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 5/02/2005 Item: 4.c.

STAFF REPORT

File Number:
CP04-100

Application Type:
Conditional Use Permit

Council District: 6

Planning Area: Central

Assessor's Parcel Number(s)
230-44-053

PROJECT DESCRIPTION

Completed by: Carol Hamilton

Location: Northeast corner of Davis Street and Chapman Street

Gross Acreage: 2.6

Net Acreage: 2.6

Net Density: N/A

Existing Zoning: R-1-8 Residence

Existing Use: Church

Proposed Zoning: No change

Proposed Use: Annual Three-day Church Festival

GENERAL PLAN

Completed by: CH

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: CH

North: Single-family residential

R-1-8 Residence District

East: Single-family residential

R-1-8 Residence District

South: Single-family residential

R-1-8 Residence District

West: Interstate 880

R-1-8 Residence District

ENVIRONMENTAL STATUS

Completed by: CH

Environmental Impact Report found complete

Exempt

Negative Declaration circulated on

Environmental Review Incomplete

Negative Declaration adopted on

FILE HISTORY

Completed by: CH

Annexation Title: College Park/Burbank

Date: 12/08/1925

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Date: _____

Approved by: _____

Approval with Conditions

Action

Denial

Recommendation

Uphold Director's Decision

APPLICANT/OWNER

St. Nicholas Greek Orthodox
Church
986 Chapman Avenue
San Jose, CA 95126
Attention: Achilleas Veziris

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: CH

Public Works: None received.

Other Departments and Agencies: See attached memorandum from the Fire Department, dated October 21, 2004

GENERAL CORRESPONDENCE See letter and attachments from Achilleas Veziris, St. Nicholas Greek Orthodox Church, dated April 13, 2005 and electronic communication from Patrick Spooner, dated February 16, 2005

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

This is a Conditional Use Permit to allow an annual three-day church festival at the existing St. Nicholas Greek Orthodox Church site. A Conditional Use Permit was approved for the festival by the Planning Commission on November 16, 1994 with a five-year time limit. The Permit expired in November of 1999. Staff became aware of the lack of a valid Permit when investigating a citizen complaint that the church was using a residential property located immediately adjacent to the site for storage of festival equipment and materials. Staff notified the church of the permit expiration and the church submitted the current application on October 10, 2005.

Permit History

On December 17, 1996, the City Council approved a Conditional Use Permit (File No. CP95-03-018), on appeal, providing a 10-Year Master Plan for expansion of the church campus onto a 1.2 acre site with frontage on Chapman Avenue located immediately adjacent to the church facility. The master plan allowed the demolition of the existing houses and the construction of a gymnasium/social hall building and church office at the corner of Chapman and Davis Streets, but specified as a prerequisite, that two new single-family residences be constructed along the Chapman frontage that were not to be used for church activities. The master plan included a parking lot to be constructed behind the new residences and allowed expansion of the festival into this parking lot area. On February 24, 1999, the Planning Commission approved an Amendment to the Conditional Use Permit (File No. CPA95-01-018) providing detailed plans for the construction of the gym/social hall, office, parking and residences. The residences and church office have been constructed and construction is to begin soon on the gymnasium building and parking lot. The Conditional Use Permit specifies that the parking lot must be constructed before the gymnasium.

Proposed Festival

The festival is proposed to occur annually in the late Spring; this year, the dates include Friday, June 3, through Sunday, June 5, 2005. The festival operates from 5:00 p.m. to 10:00 p.m. on Friday, from 11:00 a.m. to 10:00 p.m. on Saturday and from 11:00 a.m. to 9:00 p.m. on Sunday.

Set up begins five days prior to the festival. Approximately 15,000 people are expected to participate in the festival over the three-day period.

During the festival, security personnel will close traffic access leading from The Alameda and Hedding into Davis, Chapman and McKendrie Streets, except for residents, their guests, festival workers and emergency vehicles. Remote parking lots are provided along The Alameda, and a shuttle service ferries festival-goers between these parking lots and the church site at 20 to 30 minute intervals. The church hires off-duty police officers to control traffic and monitor the festival crowd. A partial site plan and legend provided by the church (see attached Appendix A – Site Plan, and Appendix B – Site Plan Legend), show the proposed locations of festival activities and facilities. Although the plan is lacking in contextual information, it appears that the entrance to the festival (1. Entrance) is from Davis Street. The site plan indicates an outside eating area located off the diagram to the east, which appears to be the area of the anticipated new parking lot.

The festival program includes food concessions, children's games, a raffle, general store, coffee house, photo exhibit, book store, indoor and outdoor dining, and dancing and entertainment. Alcohol is proposed to be served.

Site Conditions and Surrounding Uses

The existing church complex is oriented to Davis Street from which the site takes access via driveways located on either side of the church facility. The buildings are surrounded by paved parking and circulation areas. An area of the site that extends behind the new residences facing Chapman Street is currently undeveloped and unpaved. A chain-link fence with redwood slats and barbed wire lies along the perimeter of the site, adjacent to the original church property. A construction trailer for the construction of the gymnasium and parking lot is located adjacent to the rear of the church building. Festival equipment and material appear to be stored at two locations within the parking areas located at the rear of the site.

The site is surrounded on the north, east and south by single-family residences, the rear yards of which abut the church site. Interstate 880 is located to the west of the project site, immediately adjacent to Davis Street.

ENVIRONMENTAL REVIEW

This project has been found to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15323 in that this proposal consists of the normal operation of an existing facility for public gatherings where there is a past history (at least three years) of the facility being used for the same or similar purpose and there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility.

GENERAL PLAN CONFORMANCE

The site is designated Medium Low Density Residential (8 DU/AC) on the City's Land Use/Transportation Diagram. The existing church and the annual church festival are consistent with this designation in that public and quasi/public facilities may be found to be consistent with

any General Plan land use designation.

PUBLIC OUTREACH

An early notification post card and notices of the Planning Commission hearing were mailed to all property owners and tenants of property with 1000 feet of the project site. Staff has been available to discuss the project with interested members of the public.

A community meeting was held on February 15, 2005, at St. Nicholas Church, to discuss the festival with surrounding residents. Most community members who spoke indicated that although there were problems associated with the festival, overall, it was a positive event for the community. Specific concerns regarding the festival included the following: the need for better coordination with the Police Department; the need for clear requirements for street closure and placement of security personnel; the need for security until the crowd is gone; concern that illegally-parked cars in the no-parking zone on Morse and Davis Streets may restrict emergency vehicle access during the festival; concern regarding barbeque smoke impacting residential properties; concern that food waste disposal has occurred over the fence onto residential properties; use of a pallet jack to load festival equipment for storage on adjacent residential property; concern regarding the location of an electrical box adjacent to the residential neighborhood; need for better management of on-street parking for workers and residents; concern that the festival obtain permits from the County Health Department; concern regarding hard liquor sales and sales of alcohol to minors; concern that dumpsters be removed regularly; the need to provide the neighborhood with a church contact person; and the need for a community meeting/conformance review with the neighborhood following each festival.

ANALYSIS

The primary issues for this proposal include festival equipment storage, neighborhood concerns/logistics and project plans:

Equipment Storage

In May of 2003, Code Enforcement staff received a complaint regarding the storage of festival equipment and materials on an adjacent residential property accessed via an unpermitted gate between the two properties that has been ongoing since that time. In the long term, the approved plans for the gymnasium/social hall building provide a solution to the festival materials storage problem in the form of a full basement intended to accommodate the festival equipment and materials. The church has indicated that construction of the new building is anticipated to be complete in 2006. At the present time, storage of festival equipment is occurring on an adjacent residential property with frontage on McKendrie Street, and on the church site. The church has indicated its intention to remove the storage from the residential property and to work with staff to provide appropriate on-site solutions for temporary storage until such time as the new basement storage facility is available. Staff has included a condition in the Draft Permit requiring that the applicant obtain approval of a Permit Adjustment for temporary storage on the church site within 60 days of the approval of this Permit.

Neighborhood Concerns/Logistics

Following is a brief discussion of measures that have been incorporated into the draft permit conditions to address community concerns regarding the festival.

Street Closure, Parking, and Circulation. One of the issues raised during the community meeting was the need for clear requirements for the street closure and the placement of security personnel. Neighbors indicated concern that residents of the closed streets and their guests experienced difficulty in obtaining access to their homes during the festival, and that although residents were provided with parking permits, most available on-street spaces were taken by festival workers. Residents further expressed concern that parking in the no parking zones along Davis and Morse Streets that occurs during the festival may hinder access by emergency vehicles.

The church has responded to these concerns by offering to limit the parking on Davis, Chapman and McKendrie, which staff understands to mean a limitation on the use of this parking by festival workers. Staff has included a condition in the Draft Permit specifying that festival workers be precluded from parking on the closed public street in front of any residence and that resident parking permits be provided to residents of the closed streets to ensure that they, and a limited number of guests, can access the closed public streets and have access to on-street parking along the residential frontages. The draft conditions also require that the church provide a copy of the approved Conditional Use Permit to all security personnel so that they can clearly understand the provisions for resident/guest access and parking.

Staff believes that the Permit should also include a clear plan for the street closure, the off-site parking lots and the shuttle service and associated security personnel. Although the church has been implementing these provisions for some time, the locations of the off-site parking lots, the operation of the shuttle service and the precise provisions for street closure are not included in the application materials. Staff has included a condition in the Draft Permit requiring submittal of a Draft Street Closure, Parking, and Circulation Plan within 90 days of approval of this Permit and approval of a Final Plan through a Major Permit Adjustment within 150 days. Staff believes that the conditions included in the Permit are a step towards addressing the issues raised by the community and that the subsequent plan will provide a clear presentation of the festival's parking and circulation program that can be adjusted as needed in the future.

Security and Police Department Coordination.

Area residents expressed concern that in prior years the Police Department had not always been aware of the festival when responding to citizen calls for service and that security personnel needed to be on the site until the crowd has completely dispersed. Concern was also expressed regarding the sale of alcohol to minors. This comment indicated that residents had observed adults at the festival buying alcohol and passing it back to minors waiting in the crowd. No direct sales to minors were reported.

Police Department staff have clarified that a copy of the street closure permit for the festival will be provided to the Watch Commander and the sergeant in charge of the Police Beat so that they are aware of the upcoming festival. The applicant has agreed to keep security personnel on the

site until the festival crowd is completely gone. Staff has included this as a requirement of the Draft Permit. Staff suggests that the applicant alert the on-site security officers to the concern regarding provision of alcohol to minors so that they can keep an eye out for this behavior.

Neighborhood Interface

Concerns were expressed by residents of the site immediately adjacent to the food concessions regarding waste water thrown onto a residential property, barbeque smoke filling the residential area continuously for three days straight, and the location of an electrical box serving the food uses located at the residential property line. Concern was also expressed that garbage be removed from the site promptly following the close of the festival.

The location of the food-grilling booths and the associated electrical box adjacent to the residential property line is unfortunate, particularly in light of the open fencing that separates the church from the adjacent residences at this location. Staff believes that these food uses should be relocated away from the property line, or that at a minimum, a solid barrier should be placed along the fence line to provide some improved buffering between the properties. Solid plastic sheeting could be affixed to the existing fence to provide a temporary barrier along this property interface. Staff has included a condition in the Draft Permit requiring that the church move the food booths away from the property line or install a temporary barrier. A condition has also been included requiring that the barbed wire be removed from the fence within 90 days. Barbed wire is not allowed as a fencing material within the R-1-8 Residence Zoning District. A condition has also been include in the Permit requiring festival garbage/refuse to removed from the site within 24 hours or to be moved 100 feet from any residential property line. Staff suggests that the church consider future installation of a wood fence or masonry wall along the residential property to provide a more attractive and permanent separation between the church and its residential neighbors.

Subsequent Permits

The proposed festival operation requires subsequent permits or other approvals from the following agencies and City Departments: Bureau of Alcohol Beverage Control (ABC), County Health Department, and the City of San Jose Fire and Police Departments. Staff has included a condition in the Draft Permit requiring that the applicant obtain all required permits prior to the festival and that verification of these permits be provided to City staff upon request.

Neighborhood Outreach

Comments from the community meeting included a request that the church identify a contact person for neighborhood residents and that a community meeting be held subsequent to each festival to allow the church and community to discuss together how things worked and how the festival might be improved. Staff has included a condition requiring such a community meeting within 30 days of each festival event. The church is also proposing to continue to provide advance notice of the festival to area residents; a practice which staff has included as a requirement in the Draft Permit. Staff is not recommending that this permit be time-conditioned, but will bring the project back before the Commission for a compliance review if serious or persistent compliance issues arise.

Conclusion

Based on the neighborhood response to the current proposal, staff believes that the proposed festival has become a valued community event that, nevertheless, continues to require refinement to minimize impacts on those who live close by. Staff believes that the permit, as conditioned, provides reasonable guidelines for the festival operation as well as appropriate opportunities for continued communication between the church and its neighbors regarding this annual event.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This project site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. The existing church complex is oriented to Davis Street from which the site takes access via driveways located on either side of the church facility. The buildings are surrounded by paved parking and circulation areas. An area of the site that extends behind the new residences facing Chapman Street is currently undeveloped and unpaved. A chain-link fence with redwood slats and barbed wire lies along the perimeter of the site, adjacent to the original church property. A construction trailer for the construction of the gymnasium and parking lot is located adjacent to the rear of the church building. Festival equipment and material appear to be stored at two locations within the parking areas located at the rear of the site.
4. The site is surrounded on the north, east and south by single-family residences, the rear yards of which abut the church site. Interstate 880 is located to the west of the project site, immediately adjacent to Davis Street.
5. This project has been found to be exempt pursuant to the California Environmental Quality Act (CEQA), under the provisions of Section 15323 of the CEQA Guidelines in that this proposal consists of the normal operation of an existing facility for public gatherings where there is a past history (at least three years) of the facility being used for the same or similar purpose and there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility.
6. The proposed festival operation requires subsequent permits or other approvals from the following agencies and City Departments: Bureau of Alcohol Beverage Control (ABC), County Health Department, and the City of San Jose Fire and Police Departments.
7. The festival is proposed to occur annually in the late Spring. The festival operates from 5:00 p.m. to 10:00 p.m. on Friday, from 11:00 a.m. to 10:00 p.m. on Saturday and from

11:00 a.m. to 9:00 p.m. on Sunday. Set up begins five days prior to the festival. Approximately 15,000 people are expected to participate in the festival over the three-day period.

8. During the festival, the security personnel will close access for traffic leading from The Alameda and Hedding onto Davis, Chapman and McKendrie Streets, except for residents, their guests, festival workers and emergency vehicles. Remote parking lots are provided along The Alameda, and a shuttle service ferries festival-goers between these parking lots and the church site at 20 to 30 minute intervals. The church hires off-duty police officers to control traffic and monitor the festival crowd. The festival program includes food concessions, children's games, a raffle, general store, coffee house, photo exhibit, book store, indoor and outdoor dining, and dancing and entertainment. Alcohol is proposed to be served.
9. A community meeting was held on February 15, 2005, at St. Nicholas Church to discuss the festival with surrounding residents. Most community members who spoke indicated that, although there were problems associated with the festival, overall, it was a positive event for the community. Specific concerns regarding the festival included the following: the need for better coordination with the Police Department; the need for clear requirements for street closure and placement of security personnel; the need for security until the crowd is gone; concern that illegally parked cars in the no-parking zone on Morse and Davis Streets may restrict emergency vehicle access during the festival; concern regarding barbeque smoke impacting residential properties; concern that food waste disposal has occurred over the fence onto residential properties; use of a pallet jack to load festival equipment for storage on adjacent residential property; concern regarding the location of an electrical box adjacent to the residential neighborhood; need for better management of on-street parking for workers and residents; concern that the festival obtain permits from the County Health Department; concern regarding hard liquor sales and sales of alcohol to minors; concern that dumpsters be removed regularly; the need to provide the neighborhood with a church contact person; and the need for a community meeting/conformance review with the neighborhood following each festival.
10. A condition has been included in the this Permit specifying that festival workers be precluded from parking on the closed public street in front of any residence and that resident parking permits be provided to residents of the closed streets to ensure they and a limited number of guests can access the closed public streets and have access to on-street parking along the residential frontages. The Permit conditions also require that the church provide a copy of the approved Conditional Use Permit to all security personnel so that they can clearly understand the provisions for resident/guest access and parking.
11. A condition has been in the this Permit requiring submittal of a Draft Street Closure, Parking, and Circulation Plan within 90 days of approval of this Permit and approval of a Final Plan through a Major Permit Adjustment within 150 days.
12. Police Department staff have clarified that a copy of the street closure permit for the festival will be provided to the Watch Commander and the sergeant in charge of the Police Beat so that they are aware of the upcoming festival. The applicant has agreed to keep security personnel on the site until the festival crowd is completely gone.

13. The Permit has been conditioned to require the church to move the food booths away from the property line or install a temporary barrier and that the barbed wire be removed from the fence within 90 days. Barbed wire is not allowed as a fencing material within the R-1-8 Residence Zoning District.
14. The Permit has been conditioned to require the church to hold a community meeting within 30 days of each festival event. The church is also proposing to continue to provide prior notice of the festival to area residents; a practice which has been included as a requirement of this Permit.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is exempt from review in accordance with the California Environmental Quality Act.
4. The proposed three-day festival, as conditioned, is compatible with the site and surrounding neighborhood.

Finally, based upon 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 PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **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.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **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, or implementation of the use contemplated by 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.
2. **Annual Festival.** This permit allows an annual church festival for a maximum of three days.
3. **Alcohol Sales.** This permit allows the sale of alcohol during the three-day festival in conformance with the requirements of the ABC Permit.
4. **Days/Hours of Operation.** The festival shall be limited to Friday, Saturday and Sunday. Operation on Friday shall be limited to between the hours of 5:00 p.m. and 10:00 p.m.; operation on Saturday shall be limited to between the hours of 11:00 a.m. and 10:00 p.m.; and on Sunday shall be limited to between the hours of 11:00 a.m. and 9:00 p.m. Festival setup shall begin no more than 5 days prior to the first day of the festival.

5. **Refuse.** Garbage and refuse shall be maintained in a manner that does not create a nuisance for adjacent residences. Festival garbage shall be removed from the site within 24 hours of the close of the festival, except that garbage can be retained on the site for up to 48 hours if it is located 100 feet from any residentially used property line, is entirely contained within a bin and does not produce off-site odors.
6. **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 represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of 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 Quality 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.
7. **Conformance with Plans.** Construction and development shall conform to approved festival plans entitled, "Saint Nicholas Greek Orthodox Church, Appendix A – Site Plan and Appendix B – Site Plan Legend", dated April 13, 2005, as revise in Condition No. 19 below, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
8. **Festival Permits.** The applicant shall obtain all necessary permits prior to implementation of the festival including Permits from the following Public Agencies and City Departments: 1) Bureau of Alcohol Beverage Control (ABC); 2) County Health Department; 3) City of San Jose Fire Department; 4) City of San Jose Police Department. The applicant shall provide copies of the required permits to City staff upon request.
9. **Festival Notice.** A minimum of 60 days prior to the scheduled festival, the applicant shall provide a written notice of the festival, including information regarding dates, hours of operation and the street closure, to the Director of Planning and all tenants and owners of property located on the east side of Interstate 880 within 1000 feet of the project site. The notice shall include the file number of this Permit (City File No. CP04-071). The notice shall identify the name and phone number of a church contact person who is available to answer questions and hear suggestions or complaints.
10. **Annual Community Meeting.** The applicant shall coordinate with the Council District 6 Office and staff to schedule a community meeting each year following the annual festival. The community meeting shall be held at the project site within 30 days of the completion of the festival. Written notice of the meeting shall be provided to the Director of Planning and all owners and tenants of property located east of Interstate 880 within 1000 feet of the church site. The project file number (File No. CP04-100) shall be placed on the community meeting notice. The purpose of this meeting is to allow the church and interested residents of the area to discuss the festival operation, both in terms of what went well and what could be improved to minimize

impacts of the festival on surrounding residents. The applicant shall work with staff to consider neighborhood input and modify the operation as necessary to ensure compliance with the requirements of this Permit.

11. **Compliance Review.** A compliance review before the Planning Commission will be scheduled if the Director of Planning determines that such a review is necessary.
12. **Access and On-Street Parking.** During the festival, festival workers and church members shall not park on the closed public streets in front of any residentially used property. Within the street closure area, on street parking in front of all residentially used properties shall be reserved exclusively for residents and their guests. Parking and access permits shall be provided to households affected by the street closure. Such permits shall be structured to provide residents and a reasonable number of guests access to the closed streets and exclusive access to the on-street parking in front of residentially used properties.
13. **Security Officer Briefing.** The applicant shall provide a copy of this Conditional Use Permit to each security officer hired to assist with the festival and shall ensure that the security personnel understand procedures for admitting residents and their guests to the closed public streets. Other security concerns identified by the church or neighborhood should be communicated to the security personnel as needed.
14. **Duration of Security.** Security personnel shall be retained on the site until the crowd has completely left the festival area.
15. **No Parking Zones.** During the festival, the applicant shall notify festival workers that parking is not allowed in posted “no parking” zones.
16. **Neighborhood Interface.** The applicant shall move all food booths a minimum of 25 feet from the residential property line or install a solid barrier along the property line. Such barrier may consist of temporary solid plastic sheeting affixed to the existing fence. Any such temporary barrier must be removed during the festival clean up.
17. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. The City must abate any such nuisance immediately upon notice.
18. **Outside Storage.** No outside storage is permitted except in areas designated on the approved plan set.
19. **Revised Site Plan.** Within 30 days of approval of this permit and prior to implementation of the 2005 festival, the applicant shall submit a revised festival site plan that is drawn to scale, includes a north arrow, identifies adjacent streets and land uses, and accurately shows site features. Within 60 days of approval of this Permit, the applicant shall obtain a Permit Adjustment for approval of the site plan to the satisfaction of the Director of Planning.
20. **Street Closure, Parking and Circulation Plan.** Within 90 days of approval of this Permit the applicant shall submit a plan for the closure of the street and for the provision of off-site parking, a shuttle service, and associated security personnel. The plan shall provide a diagram indicating the affected streets and the points at which they will be closed and a map showing the location of

the off-site parking lots, the shuttle bus route and stops. The plan shall also provide an overview of the temporary directional signage program. Within 150 days of approval of this Permit, the applicant shall obtain a Major Permit Adjustment for approval of the plan to the satisfaction of the Director of Planning. Future changes to the Plan shall be made through the Permit Adjustment process to the satisfaction of the Director of Planning.

21. **Temporary Festival Storage.** Within 60 days of approval of the Permit, the applicant shall obtain approval of a Permit Adjustment for a temporary on-site storage solution or shall remove the existing outdoor storage from the site.
22. **Barbed Wire.** All barbed wire shall be removed from the site within 90 days of approval of this permit.
23. **Noise.** Noise at the property line associated with the daily operation of the use shall not exceed 55 db DNL. Noise associated with the three-day festival shall not result in a public nuisance.
24. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

CONDITIONS SUBSEQUENT

1. **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 or the construction of buildings 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. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **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.