

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. 6/22/2005 Item: 4.a

File Number:
CP04-007

Application Type:
Conditional Use Permit

Council District: 1

Planning Area: West Valley

Assessor's Parcel Numbers:
381-16-005, 104, 105, 136, 137, 141

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Rebekah Lynn Ross

Location: The eastern and western side, and southern terminus of Pinewood Drive south of Williams Road, approximately 167 feet east of Maraschino Drive

Gross Acreage: 2.25

Net Acreage: 2.25

Net Density: N/A

Existing Zoning: R-1-8 Single Family Residential

Existing Use: Religious Assembly

Proposed Zoning: No change

Proposed Use: Expansion of an existing religious assembly use through the conversion of five single-family detached residences.

GENERAL PLAN

Completed by: RLR

Land Use/Transportation Diagram Designation:
Medium Low Density Residential (8.00 DU/AC)

Project Conformance: [] Yes [] No
[X] See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: RLR

North: Single-Family Detached

R-1-8 Single-Family Residential

East: Single-Family Detached

R-1-8 Single-Family Residential

South: Single-Family Detached

R-1-8 Single-Family Residential

West: Single-Family Detached

R-1-8 Single-Family Residential

ENVIRONMENTAL STATUS

Completed by: RLR

Environmental Impact Report found complete

Exempt

Negative Declaration circulated on

Environmental Review Incomplete

Negative Declaration adopted on

FILE HISTORY

Completed by: RLR

Annexation Title: Moreland Park No. 24

Date: 01/18/1963

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Date: _____

Approved by: _____

Approval with Conditions

Action

Denial

Recommendation

Uphold Director's Decision

APPLICANT/OWNER	CONTACT
Korean Baptist Church of San Jose 1056 Pinewood Drive San Jose, CA 95129-3325	Gerry De Young Ruth & Going, Inc. 2216 The Alameda Santa Clara, CA 95050

PUBLIC AGENCY COMMENTS RECEIVED Completed by: RLR

Department of Public Works: See attached.

Other Departments and Agencies: See attached.

GENERAL CORRESPONDENCE See attached.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The Korean Baptist Church is seeking approval of a Conditional Use Permit Application to allow the expansion of their current facility located at the terminus of Pinewood Drive (1056 Pinewood Drive) through the acquisition and use of five adjacent single-family houses. Four of the five houses are located on Pinewood Drive while the fifth is located Williams Road. The church has already purchased these houses and is currently using these for religious assembly purposes without benefit of permit.

The original church was constructed in 1968 under a Use Exception Permit. In 1974 and 1978, the City approved subsequent Use Exceptions to allow expansions of the primary church structure. The Use Exception file E78-04-015, approved on July 24, 1978, allowed expansion of the church provided that the expansion would be used as the main assembly area, and that sufficient landscaping and parking be provided. The original church building was to be used as a Sunday school meeting area. Members of the surrounding community were not in support of the Use Exception. At that time, the community was not in opposition to the expansion of the church for purposes of Sunday worship, but was in opposition to the church's use of the property for purposes other than Sunday morning church services and activities.

In 1996, the applicant filed for Conditional Use permit CP96-05-037 requesting the demolition of the original building constructed in 1968 and the construction of a two-story 24,210 square foot building adjacent to the 11,540 square foot building constructed as the expansion in 1974. The permit request was withdrawn on November 11, 1996 due to significant community concern. The applicant's withdrawal letter stated that it was the church's intent to submit an alternative plan that would meet the approval of the neighbors and the City in the future.

On September 30, 2002, the applicant filed for a preliminary review to request staffs feedback on how to legalize the conversion of five single-family detached residences that had been purchased and used for church purposes associated with the main facility. Staff directed the applicant that a Conditional Use permit was required for the expansion of the church use including the conversion of the residential structures. The exact date when the five single-family residences were purchased and converted to nonresidential uses is unknown.

The Code Enforcement Division of the Department of Planning, Building and Code Enforcement issued a Compliance Order to the applicant on October 1, 2003 related to the illegal conversion of five single-family detached houses along Pinewood Drive and Williams Rd. indicating the

need to secure a Conditional Use Permit to cover both the conversion of a residential structure for nonresidential use, and use of the residences for religious assembly uses. On January 28, 2004 the applicant filed for Conditional Use permit CP04-007.

The surrounding uses to the site are single-family detached residences that front Maraschino Drive to the west, Williams Road to the north, Leo Drive to the east and Moran Drive and Grunwell Place to the south.

Project Description

The subject site includes four of the five single-family detached residences on Pinewood Drive south of Williams Road, and the single-family detached residence on Williams Rd. adjacent to the parcel at the southeast corner of Williams Rd. and Pinewood Drive. The only lot on Pinewood Drive not included in the project is located on the southwest corner of Williams Rd. and Pinewood Drive. The main church facility associated with this application is located at the southern terminus of Pinewood Drive. Considering all six lots (five residential and one church) the subject site is 2.25 gross acres in size. The applicant does not propose any physical changes/improvements to the site at this time nor does the plan set reflect any proposals for new construction.

The applicant has requested that the proposed uses for the five single-family detached residences be considered separately from the main church activities (i.e separate Conditional Use Permit not directly affiliated with the primary CUP from the existing religious assembly use). The applicant reasons that the five houses are to be used “ostensibly for Sunday School activities and other religious studies” and “not provide for church expansion...”. Regardless of what the applicant suggests, it is clear that the use of the residential structures is a physical extension of the existing church use such that considering them separately would suggest this is not the case; therefore, staff requested the applicant modify the project to include the main facility in the application. The applicant has not agreed to this modified project description. In the discussion of the proposed project, staff will refer to the project as including the main facility.

ENVIRONMENTAL REVIEW

This project has been found to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15332. Under this section, infill projects are exempt when the following four criteria are met:

1. *The project is consistent with the applicable General Plan policies as well as with the applicable zoning designation and regulations. The subject site has a General Plan Designation of Medium Low Density Residential (8 DU/AC's). In this case, the subject site has a Zoning Designation of R-1-8 Residence District. The General Plan identifies churches as appropriate uses on sites with residential land use designations if the design is compatible with surrounding land uses. A church is consistent with the Zoning Ordinance upon the approval of a Conditional Use permit.*
2. *The proposed development occurs within city limits on a project site of no more than five acres surrounding by urban uses. The subject site as a whole is 2.25 gross acres in the City of San Jose.*

3. *Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.* An in-house review of the traffic impacts for this project was conducted by the Department of Public Works. It was concluded that traffic associated with this use will occur primarily on weekends or evenings, and would thereby have minimal or negligible impacts to signalized intersection during the standard morning and evening commute hours. For this reason, the project is deemed to conform to the City's Traffic Level of Service (LOS) Policy which establishes the threshold of significance as it related to traffic issues.
4. *The site can be adequately served by all required utilities and public services.* There are adequate utilities and services already in place that were constructed as part of the original church and housing tract.

GENERAL PLAN CONFORMANCE

The General Plan Designation for this site is Medium Low Density Residential (8 DU/AC's). The General Plan identifies churches as appropriate uses on sites with residential land use designations if the design is compatible with surrounding land uses. The proposal furthers the General Plan policy to enhance neighborhood identity in the sense that neighborhoods should include places for interaction among residents such as churches and other gathering points. Conversely, churches are considered to be inappropriate in residential areas with land use designation exceeding 12 DU/AC since such uses could inhibit the production of infill housing opportunities.

ANALYSIS

The analysis of this proposal focuses on the conformance of the proposed conversions and use of such structures with Council Policy No. 6-11, "Design Criteria for Conversion of Residential Structures to Non-Residential Uses," and the broader issues of neighborhood compatibility, parking and circulation, and site design. The Council policy on Conversion of Residential Structures to Non-Residential Uses includes within it issues of neighborhood compatibility, parking and circulation, and site design issues including landscaping and architecture.

Appropriateness of Conversion of Residential Structures to Nonresidential Uses

Although the City has a larger goal to preserve the City's existing housing stock and discourage the conversion of residential structures to nonresidential uses, in cases where conversion can be supported through the logical expansion of a use, the purpose of City Council Policy 6-11 is to provide guidance in the area of design to promote orderly development of individual properties and better control the transition of residential structures to nonresidential uses.

When first presented with the question of whether the expansion of the church use into the Pinewood Drive residences could be supported, staff, understanding that all but one property on Pinewood Drive were owned by a single property owner, recognized the opportunity to develop a master plan for the church site and reorient the use to the more major street of Williams Road rather than Maraschino Drive. The possibility of a street vacation of Pinewood Drive just south

of the independently owned parcel at the southwest corner of Pinewood Dr. and Williams Rd was also suggested to support a master plan approach.

The direction to master plan the site was presented to the applicant at the time of a preliminary review. As is evident by the subject application, the applicant chose not to proceed with a master plan. Absent a master plan for the church, the proposed project with the conversion of five of six houses on a single block was still worthy of consideration of conversion of the residential structures to allow expansion of the church use subject to conditions that will ensure compatibility with surrounding residences and restrictions on future expansion without a full master plan.

Use Compatibility/Occupancy

The Council policy on the conversion of residential structures states that the use proposed for such structures must conform to both the Zoning Ordinance and the General Plan, as well as being a use compatible with the residential structure and one that would not pose a nuisance with nearby residential uses. Low intensity commercial uses, including but not limited to office or neighborhood services would use types considered compatible with a residential structure. Hours of operation are encouraged to be limited to normal daytime business hours.

The type of uses proposed to occupy the residential structures are those more ancillary to the primary church use such as prayer sessions, meetings, choir practice, and Sunday School. With proper oversight, these proposed uses should not propose a nuisance in the area of noise impacts or traffic. Sunday School is for the minor children of parishioners, and the other uses would be limited to small gatherings given the size of the area offered in the structures for assembly.

The subject proposal does not include any exterior or interior alterations to the existing residential structures thus supporting a limited occupancy at any given time for each structure. The use of the structures will be limited to those uses outlined above thus eliminating the need for additional signage beyond the main signage for the Church, and additional parking beyond what can be accommodated in the garages and driveway aprons. The structures are set back from adjacent residential uses typically 20 to 25 feet and any nonresidential uses within said structures can be contained in a manner as to not create a noise impact or nuisance.

The use of the residential structures for Sunday School for the minor children would typically include a children's play area. Understanding that the proximity of a children's play area to the adjacent residences rear yards could pose an issue of noise and disturbance to the residents, staff has identified an area that could be nestled between three of the converted residential structures thus capturing any impact from the children's activities. Please see attached sketch for recommended location.

Parking and Circulation

Parking

City Council Policy 6-11 states that all vehicular circulation must take place on site and that backing into the street is not allowed. Most house conversion proposals are typically located on busy streets which could result in potentially unsafe back-up maneuvers. At no time should

parking be allowed in the front 15-foot setback and no more than 50% of the front setback shall be used for parking. This proposal is somewhat unique in that the property ownership on Pinewood Drive south of Williams Rd. is predominantly under single ownership (Korean Baptist Church). All of the traffic on Pinewood Drive with the exception of that associated with the property on the southwest corner of Williams Rd. and Pinewood Drive can be assumed to be associated with the church facility.

Given the new pattern of ownership along Pinewood Drive by the church, the direction of eliminating vehicles backing into the street by placing it to the rear of the structures is not warranted. Placing parking in the rear of these structures would create a greater impact on the surrounding residential uses and is better kept in the existing garages and on driveway aprons. To ensure minimal backing into the street, staff proposes to limit the parking available at the converted residences to church personnel. Additionally, to maintain a landscaped street frontage, no more than 50% of the front setbacks of the residential lot shall be paved. Staff recommends that where landscaping has not already been restored to 50% of the front setback, it be done, including the restoration of planting in the parkstrips adjacent to the street.

The larger issue of parking for the whole site, including the main church facility is subject to conformance with the Zoning Ordinance requirement and general site design guidelines. The overall use of the site will be limited to the availability of parking on site, including parking on the properties with “residential structures” as limited, and the availability of off-site parking through any subsequent Use Permit approved by the City.

The Zoning Ordinance off-street parking requirement for religious assembly is one (1) parking space per every four fixed seats, or one parking space per every six linear feet of seating provided, or one (1) parking space per 30 square feet of area designed for assembly in buildings used together or separately for worship. What this means is that whenever any of the facility is used for worship or other church related assembly activities by parishioners over 18 years of age, that area is used in the calculation for required parking. Those areas used at the same time as worship or other related activities by parishioners under the age of 18, it is assumed they are not driving separately and need not be included in the parking calculation.

Staff has been unable to determine the amount of seating area at the existing facility and opportunities for seating in proposed areas in the structures due to insufficient information. However; the submitted plan set shows 71 off-street parking spaces, so, based on the type and amount of seating, the limitation on occupancy for the facility would be limited to the 71 spaces, unless and when, an off-site parking arrangement is approved by the City through a subsequent Special Use Permit. If one were to assume that generally one parking space is required per four attendees, approximately 284 persons (adults) could be on site worshipping or participating in a related activity. Beyond the 284, the need for additional parking would be required.

To minimize the impact of parking in the neighborhood, the church currently uses a number of parking spaces at another church, which has an alternate worship schedule, off of Cera Drive located to the north of the Korean Baptist Church. This arrangement to date is informal would need an approved Special Use Permit from the City to formally authorize the use of parking at this site. Two vans are used to provide shuttle service that transport visitors from the Church of Later Day Saints on Cera Drive to the Korean Baptist Church site on Sundays.

On Sundays shuttle services from the off-site parking operate from 9:30 am until 10:15 am. Additionally, from 9:00 am until 10:20 am, parking ‘supervisors’ are on duty to encourage visitors to the church to park in the alternate site parking lot. Temporary “No Church Parking” signs are posted in English and Korean at the intersection of Maraschino Drive and Williams Road to discourage members from parking in those portions of the public streets. Signs to the offsite parking lot are posted along Maraschino Drive and Williams Road and all signs are only posted from 9:00 am until 1:00 pm on Sundays.

Circulation

Recognizing the ability of the church, with the acquired properties on Pinewood Drive, to reorient the main access to their facility away from Maraschino Drive and onto Pinewood Drive, staff is recommending that a new access driveway be constructed off Pinewood Drive along with some minor parking lot modification to facilitate the access and enhance the landscaping within the lot. Additionally, staff is recommending that the vehicular and pedestrian access off Maraschino Drive be eliminated. The unused driveway should be closed and restored with landscaped that includes the construction of a low profile 4 foot tall masonry wall with an additional 2 feet of wrought iron fence above to discourage parking on Maraschino Drive altogether.

Reconfiguring the existing parking lot could minimize traffic impacts to the surrounding area because Pinewood Drive would now be used almost exclusively for traffic related to the existing church. If the two existing driveways along Maraschino Drive were permanently closed, and the area properly landscaped, it would discourage parishioners from parking along the public residential street and direct all traffic to the main parking lot at the end of Pinewood Drive and/or encourage the visitors to take advantage of a possible alternate parking site. Currently only one small parking area to the rear of the main church is accessed off Pinewood Drive.

Neighborhood Concerns

Expansion of the church use at this site has been controversial over the years since 1978. The nature of the controversy stems from the proximity of the church to immediately surrounding single-family residences. The surrounding community has consistently protested any expansion of the site due to 1) the impacts of vehicles parking along the surrounding residential public streets (primarily on Sundays), 2) noise generated from the site from church activities, 3) impacts from the close proximity of children’s play areas to residential rear yards, including the lack of supervision, 4) visual blight, and most recently 5) the conversion of the single-family homes to non-residential uses without the benefits of permits.

In addition to attending a neighborhood meeting, staff has received petitions and letters of protest and correspondences that reflect the sentiments of the community. Staff acknowledges the community’s feedback and has recommended specific conditions to address many of the impacts identified.

One of the most noise sensitive areas identified to staff is the former children’s play area located in the rear southern portion of the site that is adjacent to the southern neighbors private rear yards. With the relocation of the children’s play area as discussed earlier, the former play area could be landscaped to create a passive outdoor garden area that is accessed from the rear doors

of the existing facilities. No formal gatherings would be allowed in this area. To address additional issues of noise, staff recommends trees with heavy canopy foliage be planted along the outside perimeters of the entire site and a masonry wall (except next to Maraschino Drive) be constructed. The wall along with the trees would help to buffer the noises from the site.

Many of the issues related to noise and parking and have been discussed earlier and recommendations made that staff is confident would reduce existing and minimize future impacts to adjacent residents. Reconfiguration of the parking access, formalization of an off-site parking arrangement, and the continuation of a parking program would address most if not all of the issues with parking in the neighborhood and over use of the site with insufficient parking.

The applicant has presented a schedule of use for the facility including all buildings (see attached spreadsheet). The distribution of uses within the various buildings spans the time frame of 5:30 a.m. to 9:30 p.m. with the uses in the residential structures occurring no earlier than 9:00 a.m. Staff is supportive of these hours and would suggest that to accommodate a redistribution of uses throughout the buildings over time, all noise emanating from such buildings be contained within, which may require the installation of mechanical cooling and/or ventilation systems. Staff recommends that the hours of operation of the main church facility including the annex building be from 5:30 am until 10:00 pm Monday through Sunday, and that the hours of operation of the former single-family homes be from 7:00 am until 10:00 pm Monday through Sunday.

Staff would like to acknowledge the efforts of the congregation in the recent past to be respectful of the surrounding neighborhood and their quality of life. The church should continue its current program of providing a Community Relations Liaison available to the neighborhood who can work with the residents to address the concerns that may arise from time to time.

CONCLUSION

This project has brought to the City's attention long standing issues that the surrounding neighborhood has experienced related to the close proximity of the existing church use to the residential uses. Recognizing an opportunity to redesign how the larger use can exist within the context of a residential neighborhood, staff is supportive of a project that includes several conditions that when implemented would minimize the impact of the church use on the adjacent neighborhood.

It is clear that the existing facility needs an expanded area to facilitate the needs of its congregation. The alternative to expanding on the existing church site with more intense development is to support the expansion of the more ancillary uses of the church into the existing low profile residential structures currently under the ownership of the congregation. By requiring the inclusion of the main facility into the project approval, the appropriate conditions can be placed over the entire site to address the many issues and concerns presented when expanding within a residential area.

As discussed in this report and set forth in the attached conditions, staff is confident the conversion of the residential structures to allow the expansion of the church use would not present a situation where the use would be a nuisance, but rather remedy some of the

deteriorating conditions present within the existing facility site and utilize the new area to better accommodate an expanding congregation.

COMMUNITY OUTREACH

A neighborhood meeting was held on Thursday, April 1, 2004. Approximately 20 people from the neighborhood attended. The attendees' sentiments regarding the church were overwhelmingly negative (in general and with regard to the expansion in particular). Specific complaints pertained to noise, outdoor activity, overcrowding of the site, and on-street parking impacts. There was a high level of negative feelings relating to the fact that the church bought and started using the buildings, and only came in for a Planning permit when "forced" to do so because of Code Enforcement action.

Additionally, notices of the public hearing for this project were sent to all property owners within 1,000 feet of the subject property. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with members of the public.

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 Single-Family Zoning District.
3. Under the provisions of Section 15332, In-Fill Development of Projects, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project has been found to be exempt from environmental review
4. The project consists of two existing buildings used for religious assembly usage and five single-family detached structures.
5. The subject site, including the main church facility, is approximately 2.25 gross acres.
6. Single-family residential uses surround the church on all sides.
7. There are 71 off-street parking spaces are provided on the site.
8. Up to 284 persons can occupy the site at one time given the parking provided on the premises. .

9. Use of the five former single-family structures will be restricted to operate to times when the main assembly building/area is not in use, with an exception being that the buildings can be used at the same time if they are only used for the use of education purposes for minors.
10. Within 30 days of the approval of this permit, the applicant will submit a Special Use permit application to apply for an "Off-site Parking Arrangement" or utilize the facility in a manner that does not violate the off-street parking provisions of Title 20 of the San Jose Municipal Code.
11. Within 30 days of the approval of this permit, the applicant shall submit a complete Permit Adjustment application and complete plan set to implant the conditions listed in this permit.
12. A compliance hearing will be held within one year's date of the approval of this permit to verify compliance with all permit conditions.

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.

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. **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. **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.
3. **Permit Adjustment.** The applicant shall secure and agree to implement a Permit Adjustment with 30 days of the issuance of this permit that address the following items noted below to the satisfaction of the Director of Planning. Failure to comply will render the subject Conditional Use Permit null and void.
 - a. ***Parking Lot Improvements/Access Restrictions.*** The existing driveways accessed off of Maraschino Drive shall be closed off and secured by a low masonry/wrought iron fence (6 feet tall total). The only access to the facilities shall be from Pinewood Drive. To increase the circulation into the main assembly area, a second driveway shall be installed at the western edge of the existing cul-de-sac on Pinewood Drive. To the greatest extent possible, all existing and mature landscaping shall be preserved and protected.
 - b. ***Perimeter Masonry Wall.*** A masonry wall shall be constructed along all outside boundaries of the subject site (except next to streets). Tall trees with thick canopies shall be planted along the edge of this wall to further buffer the noise emanating from the site as well as add to the aesthetics of the site.
 - c. ***Children's Play Areas.*** 1004 Pinewood Drive shall be the designated Children's

Building. All playground equipment shall be placed in the center junction of the former rear yards of 1008, 1004 Pinewood Drive and 4488 Williams Road. Appropriate fencing that complies with the Zoning Ordinance shall be constructed along the perimeters of the play area. At no point shall the play area be within ten feet of an adjacent private residential rear yard. No parking is allowed in the 1008 Pinewood Drive driveway and garages. All child drop-off shall occur at the bulb of the cul-de-sac on Pinewood Drive. No child drop off shall occur on Williams Road.

- d. ***Street Parking Restrictions.*** A comprehensive management program to discourage on street parking on adjacent or nearby residential streets.
- e. ***Landscaping Improvements.*** Landscaping improvements shall be provided within the primary church parking area, front yards of former single-family houses and parkstrips along Pinewood Drive and as required by other conditions of this 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 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 Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
2. **Compliance Review.** A Compliance Review Hearing is to be held with the Director of Planning one year after the issuance of this permit. The purpose of the hearing will be to provide the public with a forum to express any concerns related to the conditionally approved use. The Director of Planning will be given the opportunity to suspend, modify, or revoke this permit based on the public input up until that date.
3. **Maximum Occupancy.** The overall project (all buildings) shall have a simultaneous maximum occupancy of no more than 284 adults unless otherwise allowed under condition #4 below.
4. **Alternate Parking Arrangement Permitted.** This Conditional Use Permit shall allow the consideration of an alternative parking arrangement to facilitate an increase in the overall simultaneous occupancy of this facility in excess of that described under condition #3 of this permit upon the issuance of a Special Use Permit and full compliance with all other conditions noted in this permit. In no case shall occupancy be allowed to increase more than 25% of that which would otherwise be allowed based on the parking available on the subject premises.

5. **Residential Uses.** No residential uses are permitted within any of the subject buildings upon the approval of this Conditional Use permit. Any consideration of future conversion to residential uses requires a Conditional Use Permit Amendment.
6. **Single-family Detached Residences.** The single-family detached structures shall not be altered either on the interior or exterior without the approval of the Director of Planning through a Permit Adjustment for exterior alteration and an Amendment for interior alterations to the floor plan.
7. **Neighborhood Relations.** The Korean Baptist Church shall work with any organized neighborhood group(s) or individual neighbors in an effort to address any impacts the facility may have on the neighboring community. A Community Relations Liaison will be identified to work with all members of the public to resolve outstanding issues. An 8.5 x 11 inch window sign that is visible from the public side of the main building shall be provided with appropriate contact information.
8. **Amplified Sound/Noise.** All amplified sound shall be contained within the buildings and the buildings shall be adequately insulated to prevent sound from emanating outside. During services and activities all doors and windows that are adjacent to private residences shall remain closed. Maximum noise levels emanating from the interior any of the facilities shall not exceed 50 average day/night noise levels in decibels (DNL) and shall be subject to the General Plan noise policies.
9. **Parking Management Program.** The church shall employ a system on Sundays to direct traffic from the existing parking lot to the alternative parking sites when the on-site parking lot is full on Sundays. In lieu of temporary signage, flagmen shall stand along the Williams Road and Maraschino Drive as necessary to discourage church parking in the residential areas.
10. **Public Street Signage.** The applicant shall work with the Department of Transportation (DOT) to install permanent new signage along Maraschino Drive, Williams Road and Leo Drive to encourage parking in the off-site locations. The new signage shall be designed and installed to the satisfaction of the Director of the Department of Transportation.
11. **Congregation Parking Information and Education.** A map of all appropriate parking locations and services shall be printed in English as well as Korean on any programs distributed prior to all services. Near the doorway of each entrance, an enlarged version of this map and information shall be permanently posted and be printed in English as well as Korean. All available public transportation services and stop locations shall be included with the above-mentioned information.
12. **Residential Driveway Parking.** Only employees of the church may park in garages and driveways of the single-family detached houses to be used for church purposes. A discrete one square foot sign that reads "Employees Only" shall be printed in English and Korean and be posted near the driveways. No parking is allowed in the side or rear setbacks of these houses or on any landscaped areas.

13. **Use Restrictions for Outdoor Areas Adjacent to Existing Residences.** The former play area, and the rear yards of the five converted houses shall be landscaped with trees, shrubbery, grass and pedestrian benches. These areas shall be used as a garden for passive outdoor activities only and shall exclude any/all assembly activities.
14. **Hours of Operation.** The hours of operation for the primary existing church buildings shall be from 5:30 a.m. until 10:00 p.m. Monday through Sunday. The hours of operation for the former single-family detached structures shall be from 7:00 a.m. until 10:00 p.m. Mondays through Sundays.
15. **Front Yard Paving.** No more than 50% of the required front setback for any lot containing a converted single-family dwelling shall be paved. All existing front setbacks shall be appropriately landscaped as approved by the Director of Planning.
16. **Landscaping.** Planting and irrigation are to be provided, as indicated on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
17. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San Jose Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
18. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
19. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with the San José, Municipal Code.
20. **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.

21. **Draining/Flooding and Water Quality.** The project proponent shall obtain and comply with the NPDES General Construction Activity Storm Water Permit administered by the RWQCB. Prior to construction grading, the applicant shall file a Notice of Intent (NOI) in accordance with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) to minimize pre- and post-construction runoff. The SWPPP shall be submitted to the San Jose Environmental Services Division and Public Works Department.
22. **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.
23. **Lighting.** On-site lighting shall use low-pressure sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property.
24. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
25. **Roof Equipment.** All roof equipment shall be screened from view.
26. **Utilities.** All new on-site telephone, electrical and other overhead service facilities shall be placed underground.
27. **Outside Storage.** No outside storage is permitted except in areas designated on the approved plan set.
28. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning. A subsequent Adjustment permit will be required for all future signage.
29. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
30. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16688) to the satisfaction of the Director of Public Works:
 - 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.

- b. *Storm Water Runoff Pollution Control Measures.* This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and storm water treatment controls to minimize storm water pollutant discharges.
- c. *Future Uses.* Based on a traffic study performed by the Department of Public Works, the proposed use of the annexed buildings will not generate any significant traffic during the AM and PM peak hours based on the weekly use of the church buildings as provided by the applicant as supplied by the applicant. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3). Therefore, a determination for a negative declaration can be made with respect to traffic impacts. However, the project will be required to adhere to the schedule provided by the applicant. Any change or increase in the land use will be subject to the approval of the Director of Planning.
- d. *Construction Agreement.* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- e. *Minor Improvement Permit.* The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
- f. *Undergrounding.* The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Williams Road prior to issuance of a Public Works clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)
- g. *Street Trees.* Street trees are to be planted to the satisfaction of the Director of the Department of Streets and Traffic. A permit for this is required from the Department of Streets and Traffic, (408) 277-4373.
- h. *Street Improvements:*
 - i. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - ii. Close unused driveway cut(s).
 - iii. Install handicap ramps at the corners of William Road and Pinewood Court.
- i. *Electrical:* Installation and/or relocation of electroliers may be required.

28. **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.* The permit file number, CP04-007, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
 - c. *Mechanical Ventilation.* Each of the five converted houses shall be equipped with a central mechanical ventilation system (i.e. air conditioning) so that windows may remain shut in order to minimize the noise impacts from assembly activities to adjacent residential uses.
31. **Fire Department Review.** This project has not been reviewed for code compliance for fire apparatus access and fire flow requirements, since all the buildings are existing (no new construction). The owner/tenant is responsible to insure that the Certificate of Occupancy matches the use of the space as defined in Chapter 3 and Table 3A of the 2001 California Building Code. The owner/tenant is responsible to post the Certificate of Occupancy in a conspicuous place in accordance with California Building Code 109.5.
32. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
33. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
34. **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.

35. **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.