

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
PC 08-10-05 Item:

File Number
CP05-024

Application Type
Conditional Use Permit

Council District
6

Planning Area
West Valley

Assessor's Parcel Number(s)
274-29-033

STAFF REPORT

PROJECT DESCRIPTION

Completed by: David Tynn

Location: Northwest corner of Heatherdale Avenue and North Bascom Avenue (1305 N. Bascom Avenue, Suite J)

Gross Acreage: 0.54

Net Acreage: 0.54

Net Density: n/a

Existing Zoning: CP Commercial
Pedestrian

Existing Use: Commercial

Proposed Zoning: No Change

Proposed Use: Adult Daycare Facility

GENERAL PLAN

Completed by: DT

Land Use/Transportation Diagram Designation
General Commercial

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: DT

North: Retail Commercial

CP Commercial Pedestrian

East: Single and Multi-Family Residential

CP Commercial Pedestrian and R-1-8 Residence

South: Two-Family Residential

R-2 Residence

West: Single-Family Residential

R-2 Residence

ENVIRONMENTAL STATUS

Completed by: DT

Environmental Impact Report found complete
 Negative Declaration circulated on
 Negative Declaration adopted on

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: DT

Annexation Title: Kaiser Comm. Homes No. 2

Date: 12/1/69

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date:

Approved by: _____
 Action
 Recommendation

OWNER

APPLICANT/DEVELOPER

D&M Associates
888 N. 1st Street, Suite 301
San Jose, CA 95112

Great Endeavors
Attn: Beebe Tupaz
3015 Union Avenue
San Jose, CA 95124

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: DT

Department of Public Works

None.

Other Departments and Agencies

None

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Great Endeavors, is requesting a Conditional Use Permit to allow the use of an existing vacant 4,000 square-foot commercial tenant space for an adult daycare facility on a 0.54 gross acre site in the CP Commercial Zoning District. The proposed use requires a Conditional Use Permit in the CP Commercial Zoning District. The Conditional Use Permit will also serve as a Site Development Permit for minor modifications to the building and site.

Adjacent uses include a mix of commercial uses including a restaurant, beauty salon, and a drycleaners to the north, multi-family attached residential and single-family residential to the east, single-family residential to the west and duplexes to the south. The neighborhood is generally characterized by a mix of residential and neighborhood commercial uses.

The existing building on the site contains various businesses including a fast food restaurant, a medical office, a liquor store and an insurance office, as well as a vacant tenant space proposed to be occupied by the applicant.

Project Description

The adult daycare will provide rehabilitative therapies, nursing and personal care services, medical social services, recreation activities and nutrition services for up to 60 developmentally disabled individuals over the age of 18 who have physical or mental impairment that handicaps activities of normal daily living but not so serious as to require 24 hour institutional care. Participants in this program will be transported to and from the center in vans or paratransit vehicles that carry up to 12 passengers each. The existing loading area is proposed to be modified to provide an accessible entrance to the daycare facility. Daycare services are proposed to be provided Monday through Friday, 8:30 am to 4:00 pm by a staff of 12. The daycare program does not include on-site outdoor recreation; however, weekly van trips are proposed to such destinations as the zoo, public library, and shopping malls. The project also includes minor modifications to the building and the site, including changes to windows and doors, construction of a handicap ramp, and designation of a loading area for van delivery of daycare participants.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt pursuant to the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project involves an infill site of less than five acres; is consistent with the General Plan; will not result in any new significant environmental effects relating to traffic, noise, air quality, or water quality; and is adequately served by all required utilities and public services.

GENERAL PLAN CONFORMANCE

The proposed project is consistent with the site's San José 2020 General Plan Land Use/Transportation Diagram designation of General Commercial. The proposal furthers General Plan policy which encourages the distribution of commercial services within existing commercial centers and not in isolated spot commercial developments.

COMMUNITY OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested members of the public. A copy of the staff report for this project has been posted on the City of San José web site to facilitate public review of the proposal.

ANALYSIS

The primary issues for this project are land use compatibility and conformance with Title 20 parking requirements.

Land Use Compatibility

The proposed daycare facility is compatible with existing uses and facilities on the site and in the surrounding area. The facility is anticipated to be similar in intensity to a commercial use of similar size. There will be no outdoor activities other than the van loading and unloading at the side of the building. Daycare participants will be transported to the facility at specific staggered times throughout the day to ensure that the use does not overflow the site's loading facilities.

Conformance with Title 20 Parking Requirements

The parking requirement for daycare is 1 space per 6 persons, up to 5 spaces, and thereafter, 1 space per 10 persons (includes employee parking). The applicant is proposing 60 daycare participants, resulting in a requirement of 8 spaces. The project plans indicate 12 parking spaces are available to serve the proposed use. Based on a parking analysis for the entire site, Title 20 requires 66 parking spaces for the combined uses proposed for the site. The project provides a total of 71 spaces in conformance with this requirement.

Conclusion

Based on the above analysis, staff concludes that the proposed project is consistent with the requirements of the Zoning Code and compatible with the characteristics of the existing site and surrounding neighborhood.

RECOMMENDATION

The 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 site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the CP Commercial Pedestrian Zoning District.
3. The site was annexed to the City in 1969.
4. Uses adjacent to the site include a mix of commercial uses such as a restaurant, beauty salon, and a dry cleaner to the north, multi-family attached residential and single-family residential to the east, single-family residential to the west and duplexes to the south. The neighborhood is generally characterized by a mix of residential and neighborhood commercial uses.
5. The 0.54-acre project site contains an existing approximately 11,000 square-foot building.
6. The adult daycare will occupy approximately 4,000 square feet of the existing building, providing rehabilitative therapies, nursing and personal care services, medical social services, recreation activities and nutrition services for up to 60 developmentally disabled individuals over the age of 18 who have physical or mental impairment that handicaps activities of normal daily living but not so serious as to require 24 hour institutional care. Participants in this program will be transported to and from the center using vans or paratransit vehicles that carry up to 12 passengers each. The existing loading area is proposed to be modified to provide an accessible entrance to the daycare facility. Daycare services will be provided Monday through Friday, 8:30 am to 4:00 p.m. and will employ a staff of 12 people.
7. The project was found to be exempt from further environmental review under the provisions of Section 15332 of CEQA.
8. For daycare uses, Title 20 of the San Jose Municipal Code requires 1 space per first 6 clients (up to 5 spaces) and thereafter 1 per 10 clients. The applicant is proposing 60-day care participants, resulting in a requirement of 8 spaces for the daycare facility. The applicant is providing 12 parking spaces, one for each employee. Based on a parking analysis for the entire site, Title 20 requires 66 parking spaces for the combined uses proposed for the site. The project provides a total of 71 spaces in conformance with this requirement.

9. No on-site outdoor recreation is included in the proposed daycare program.
10. Daycare participants will be transported to the facility at specific staggered times throughout the day.
11. This permit serves as a Site Development Permit for minor modifications to the site and building.

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 Land Use/Transportation Diagram of the City of San José.
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 project is compatible with surrounding uses.

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 should be submitted to the Director of Planning within 30 days of approval of this permit, but must be submitted prior to issuance of a Building Permit. **Submittal of the recording fee less than one week prior to issuance of a Building Permit will delay the Building Permit issuance** for up to one week to allow for recordation of the permit with the County Recorder. This Permit shall be effective at such time when recordation with the County of Santa Clara occurs.
2. **Acceptance.** After the appeal period has expired and a qualified appellant has filed no appeal, this Special Use Permit shall be deemed final if the applicant fails to file a timely and valid appeal of the Special Use Permit within the applicable appeal period. Such inaction by the applicant shall be deemed to constitute the following on behalf of the applicant:
 - a. Acceptance of the Permit or approval 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 the Special Use 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. **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.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Great Endeavors," dated June 16, 2005, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).

3. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **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.
5. **Maximum Number of Clients.** The adult daycare facility shall be limited to a maximum of 60 adult clients.
6. **Daycare Schedule.** Daycare services shall be provided in conformance with the schedule provided on the project plans. This schedule provides staggered 5-hour daycare shifts for 4 daycare groups of 15 clients each, with the four shifts arriving at half hour intervals beginning at 8:30 a.m. and departing at half hour intervals beginning at 1:30 p.m.
7. **Loading.** The facility shall be managed so that the loading and unloading of clients does not interfere with on-site circulation.
8. **Tree Removal on Private Property.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
9. **Noise Limits.** Noise generated by the proposed use shall not exceed 55 dB DNL at any property used for residential purposes.
10. **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.
11. **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, CP 05-024 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
12. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
13. **Fire Flow.** Fire flow of 4,500 gallons per minute shall be provided to the satisfaction of the Fire Chief.
14. **Fire Hydrants.** Fire hydrants shall be provided to the satisfaction of the Fire Chief.

15. **Fire Sprinklers.** Buildings shall be provided with automatic fire extinguishing systems to the satisfaction of the Fire Chief. Systems serving more than 100 sprinklers shall be supervised by a remote alarm system.
16. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
17. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
18. **Signs.** No new signs are approved at this time.
19. **Building Code.** The applicant shall obtain building permits for interior improvements and shall conform to the requirements of the Building Code.

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.

cc: Beebe Tupaz, 3015 Union Avenue, San Jose CA 95124
D&M Associates, 888 N. 1st Street #301, San Jose CA 95112