

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. 12/12/01 Item 4.f

File Number
CP01-09-079

Application Type
Conditional Use Permit

Council District
7

Planning Area
South San Jose

Assessor's Parcel Number(s)
497-27-012

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Bill Scott

Location: South side of Lewis Road approximately 175 feet westerly of Senter Road (551 Lewis Road).

Gross Acreage: 0.51

Net Acreage: 0.44

Net Density: n/a

Existing Zoning: R-M Residence

Existing Use: Residential Care facility for up to 6 mentally disabled seniors

Proposed Zoning: No Change

Proposed Use: Residential Care facility for up to 21 mentally disabled seniors and one staff person

GENERAL PLAN

Completed by: BS

Land Use/Transportation Diagram Designation
Medium Density Residential (8.0 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: BS

North: Commercial

CG Commercial

East: Commercial

LI Industrial and CP Commercial

South: Single-family detached residential

R-1-8 Residence

West: Multi-family attached residential

R-M Residence

ENVIRONMENTAL STATUS

Completed by: BS

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

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: BS

Annexation Title: Franklin No. 8

Date: 9/28/1959

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: _____

Approved by: _____
 Action
 Recommendation

APPLICANT

Arthur Mendez
551 Lewis Road
San Jose, CA
95121

DEVELOPER/OWNER

Roberta Espinoza
P.O. Box 53617
San Jose, CA 95153

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: BS

Department of Public Works

See attached memorandum.

Other Departments and Agencies

See attached memorandum from the Fire Department.

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The applicant, Isabel Rodriguez, is requesting a Conditional Use Permit to allow expansion of an existing residential service facility for mentally disabled seniors from six residents and one live-in staff member to 21 residents and one-live staff member in an existing single-family detached residence. Two additional staff members are present during daytime hours between the hours of 8:00 a.m and 5:00 p.m. The facility provides care for disabled seniors who can no longer live by themselves but do not need extensive nursing home care. The project site is located in the RM Residence Zoning District. The Zoning Code requires a Conditional Use Permit for a residential care facility for seven or more persons in the R-M Residence District. The facility is currently State licensed for six senior client residents and is proposed to be licensed for 21.

Two applications for a residential care facility have been previously approved on the property. In 1985 a Conditional Use Permit (File No. CP85-01-032) was approved to allow a 20 bed Residential Care Facility. In 1991 a Conditional Use Permit (File No. CP91-07-027) was approved to allow a 32 bed Residential Care Facility. Both of those Conditional Use Permits expired when they were not implemented within two years.

The 0.44-acre site is developed with a 5,550 square foot single-family house. There have been several additions made to the residence. The Building Division has indicated that the additions were legally permitted in conformance with a series of Building Permits issued between 1975 and 1995. The applicant has indicated that the additions were made in anticipation of future approval of a Conditional Use Permit to allow expansion of the facility. The house now has a total of 11 bedrooms, each to house one to two persons, for a total of 22 persons including one live-in staff member. The site is surrounded by commercial uses to the north and east, multi-family attached residential uses to the west and single-family detached residential uses to the south.

PUBLIC OUTREACH

A notice of the Planning Commission public hearing was mailed to all owners and tenants of property within a 300-foot radius of the project site. Staff has been available to discuss the project with members of the public.

ENVIRONMENTAL REVIEW

The Director of Planning, Building and Code Enforcement has determined that the project is exempt from further environmental review under the provisions Section 15303 of the California Environmental Quality Act. Under the provisions of Section 15303 small facilities or structures and the conversions of existing small facilities from one use to another, including small residential projects or commercial uses less than 10,000 square-feet on urbanized parcels are exempt when only minor modifications, if any are made to the exterior of the structure, the site is zoned for the proposed use and the use does not involve significant amounts of hazardous materials. The proposed 22-bed residential service facility is within an existing building less than 10,000 square feet in size, on a 0.44-acre infill site in an urbanized area. The site is Zoned RM Residence District, which allows the proposed use with a Conditional Use Permit. Staff has concluded that the proposed project meets the criteria under Section 15303 and will not have a significant effect on the environment.

GENERAL PLAN CONFORMANCE

The site has a General Plan Land Use Transportation Diagram designation of Medium Low Density Residential (8.0 DU/AC). General Plan Policy specifies that uses of this type should be located in residential designations that allow eight or more dwelling units per acre. The Population-Dwelling Unit Equivalency provisions of the General Plan Discretionary Alternate Use Policies provide a density range for non-traditional housing that is based on population rather than the number of dwelling units. Application of this Alternate Use Policy is appropriate for residential developments, such as independent-living establishments for handicapped persons, which have lesser traffic impacts and demands for City services than would be expected for conventional dwelling units. The population dwelling unit equivalency is calculated by multiplying the General Plan Density range by the acreage and the average household size. Assuming an average persons per household of 3.08, this formula allows an on-site population of 11 persons.

Under the Two-Acre Rule infill parcels of two acres or less with a residential land use designation may be developed at the next higher or lower density range provided that the project is compatible with existing and planned uses on adjacent properties and exceeds the minimum requirements of the Zoning Ordinance. The next higher density range, Medium Density Residential (8-16 DU/AC), would allow a population of 22 residents on this 0.51-gross acre site. Staff has determined that the proposed project is compatible with surrounding uses and that it meets or exceeds all requirements of the Zoning Code (see Analysis section below). Based on this analysis, staff concludes that the use is consistent with the General Plan under the Two Acre Rule.

General Plan Policy also specifies that residential service facilities should not be concentrated in a few areas, but should be equitably distributed throughout the City. Based upon the City's database of licensed care facilities, this area does not currently have an over-concentration of residential service facilities. The project supports General Plan policies to distribute residential care/service facilities equitably throughout the City.

ANALYSIS

The primary issues for the proposed project are (1) neighborhood compatibility (2) Housing Code conformance; and, (3) Zoning Code Conformance.

Neighborhood Compatibility.

The Residential Care facility provides 24-hour care and supervision for high functioning mentally disabled seniors. The facility is currently licensed by the State for six individuals and is proposed to be licensed for 21 residents. Contact with residents of the surrounding neighborhood is expected to be very limited since the majority of the resident's basic needs are provided by the facility. Scheduled meals, programs, treatment and laundry services are provided within the house. A 3,534 square-foot outdoor area, including a deck, lawn areas and a 576 square-foot enclosed resident patio are provided for residents behind the house. None of the residents drive and the facility provides transportation. Residents are permitted to leave the premises, as some will take occasional walks. A 10:00 p.m. curfew is enforced by the facility. The installation of curb, gutter and sidewalk in front of the facility will improve the appearance and function of the site and the surrounding neighborhood.

The applicant has provided a management plan (see attached) outlining the proposed operation of the facility and house rules for residents. Conditions have been added to the permit requiring compliance with California Licensing requirements, identification of a contact person, limitations on outdoor activities, and visitation.

Housing Code Conformance.

The City of San Jose Housing Code and State of California Uniform Housing Code provide specifications for the number of persons per bedroom and exiting requirements for residents on the second floor. The applicant's proposal for a residency of 22 people complies with these specifications. Prior to occupancy, additional Building Permit approval will be required to change the occupancy classification from a single-family to a multi-family occupancy. Staff has conditioned this permit to require the applicant to obtain all necessary Building Permits prior to occupancy.

Zoning Code Conformance.

Setbacks. The project meets the height and setback requirements of the RM Residence District and provides adequate separation from adjacent uses. The building has setbacks of 25 feet to the rear property line, 5 feet to westerly property line, and over 20 feet to the easterly property line in conformance with the R-M Residence District. In addition, a 7 foot-high solid wood fence and 10 feet of landscaping are provided next to the adjacent single-family residential uses to the south.

Noise. A recent amendment to Title 20 establishes noise performance standards in residential zoning districts. Table 20-85 of the Zoning Code specifies that the maximum noise levels generated by any use or combination of uses shall not exceed 55dB at the adjacent residential property line except upon issuance and in compliance with a Conditional Use Permit (CUP). This provision allows an alternative standard to be established through a CUP for those land uses which are generally considered compatible with adjacent residential uses but which may not realistically meet the Title 20 performance standards (such as schools, churches, public parks, parking lots and residential care facilities). The current proposal is expected to exceed these very restrictive maximum noise standards, as would the existing six bed residential care facility. The General Plan's residential standard of 55 dB DNL (day night average level) would be a more appropriate standard for the proposed use and staff is recommending that this standard be incorporated into the Permit. Based on the nature of this use, staff believes that this facility can operate without undue disturbance to adjacent residential uses.

Parking. The facility contains one driveway from Lewis Road leading to seven parking spaces provided in conformance with the Zoning Code requirement for Residential Care Facilities. Parking will be used by employees, visiting professionals or guests of the residents.

Conclusion

Based on the above analysis staff concludes that the proposed project is consistent with the General Plan, compatible with the surrounding neighborhood and in conformance with the Zoning code.

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 Medium Low Density Residential (8.0 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the RM Residence Zoning District.

3. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San Jose Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The applicant, Isabel Rodriguez, is requesting a Conditional Use Permit to allow expansion of an existing residential service facility for mentally disabled seniors from six residents and one live-in staff member to 21 residents and one-live staff member in an existing single-family detached residence.
5. The project site is located in the RM Residence Zoning District. The Zoning Code requires a Conditional Use Permit for a residential care facility for seven or more persons in the R-M Residence District.
6. Two applications for a residential care facility have been previously approved on the property. In 1985 a Conditional Use Permit (File No. CP85-01-032) was approved to allow a 20 bed Residential Care Facility. In 1991 a Conditional Use Permit (File No. CP91-07-027) was approved to 32 bed Residential Care Facility. Both of those Conditional Use Permits expired when they were not implemented within two years.
7. The 0.44-acre site is developed with a 5,550 square foot single-family house. There have been several additions made to the residence. The applicant has indicated that the facility has been expanded incrementally through several separate Building Permits. The house has a total of 11 bedrooms, each to house one to two persons, for a total of 22 persons including one live-in staff member.
8. The site is surrounded by commercial use to the north and east, multi-family attached residential uses to the west and single-family detached residential use to the south.
9. Contact with residents of the surrounding neighborhood is expected to be very limited since the majority of the resident's basic needs are provided by the facility. Scheduled meals, programs, treatment and laundry services are provided within the house. A 3,534 square-foot outdoor area, including a deck, lawn areas and a 576 square-foot enclosed resident patio are provided for residents behind the house. None of the residents drive. The facility provides transportation for residents.
10. The City of San Jose housing Code and State of California Uniform Housing Code provide specifications for the number of persons per bedroom and exiting requirements for residents on the second floor. Based on these requirements, the applicant can provide residency for 22 people in compliance with the code. The Building Division has indicated that all of the additions have been legally constructed in conformance with approved Building Permits for a single-family residential occupancy. Prior to occupancy, additional Building Permit approval will be required to change the occupancy classification from as single-family to a multi-family occupancy. Staff has condition this permit to require the applicant to obtain all necessary Building Permits prior to occupancy.

11. The project meets the height and setbacks of the RM Residence District and provides adequate separation from adjacent uses. The building is single story and has setbacks of 25 feet to the rear property line, 5 feet to westerly property line, and is over 20 feet from the easterly property line in conformance with the R-M Residence District.
12. In addition, a 7 foot-high solid wood fence and 10 feet of landscaping are provided next to the adjacent single-family residential uses to the south.
13. Traffic generation will be limited because residents will be transported to and from the facility. Parking is provided at the rear of the property. Seven parking spaces are provided in conformance with the Zoning Code requirement for Residential Care facilities. Parking will primarily be necessary for employees, visiting professionals or residents family and friends.
14. Installation of curb gutter and sidewalk in front of the facility will improve the appearance and function of the site and the surrounding neighborhood.
15. A recent amendment to Title 20 provides noise performance standards for residential zoning districts. Table 20-85 of the Zoning Code specifies that the maximum noise levels generated by any use or combination of uses shall not exceed 55dB at the adjacent residential property line except upon issuance and in compliance with a Conditional Use Permit (CUP). This provision allows an alternative standard to be established through a CUP for those land uses which are generally considered compatible with adjacent residential uses but which may not realistically meet the Title 20 performance standards (such as schools, churches, public parks, parking lots and residential care facilities). The current proposal is expected to exceed these very restrictive maximum noise standards, as would the existing six bed residential care facility. The General Plan's residential standard of 55 dB DNL (day night average level) is a more appropriate standard for the proposed use and a condition has been included in this Permit specifying this standard.

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

1. The site has a General Plan Land Use Transportation Diagram designation of Medium Low Density Residential (8.0 DU/AC). General Plan Policy specifies that uses of this type should be located in residential designations that allow eight or more dwelling units per acre. The Population-Dwelling Unit Equivalency provisions of the General Plan Discretionary Alternate Use Policies provide a density range for non-traditional housing that is based on population rather than the number of dwelling units. Application of this Alternate Use Policy is appropriate for residential developments, such as independent-living establishments for handicapped persons, which have lesser traffic impacts and demands for City services than would be expected for conventional dwelling units. The population dwelling unit equivalency is calculated by multiplying the General Plan Density range by the acreage and the average household size. Assuming an average persons per household of 3.08, this formula allows an on-site population of 11 persons. Under the Two-Acre Rule infill parcels of two acres or less with a residential land use designation may be developed at the next higher or lower density

range provided that the project is compatible with existing and planned uses on adjacent properties and exceeds the minimum requirements of the Zoning Ordinance. The next higher density range Medium Density Residential (8-16 DU/AC) would allow a population of 22 residents on this 0.51-gross acre site. The proposed project is compatible with surrounding uses, meets or exceeds all requirements of the Zoning Code and is deemed to be in conformance with the General Plan based on the Two Acre Rule.

General Plan Policy also specifies that residential service facilities should not be concentrated in a few areas, but should be equitably distributed throughout the City. Based upon the City's database of licensed care facilities, this area does not currently have an over-concentration of residential service facilities. The project supports General Plan policies to distribute residential care/service facilities equitably throughout the City.

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 project is compatible with the 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. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

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, "Mission Gardens Residential Care Facility for Adults," dated June 20, 2000 on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Bed Limitation.** The facility shall be limited to a maximum of 21 client beds and one resident employee bed for a total of 22 beds.

4. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
5. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
6. **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.
7. **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. Electroliers shall not exceed 8 feet above grade.
8. **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.
9. **Roof Equipment.** All roof equipment shall be screened from view.
10. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground to the satisfaction of the Director of Planning.
11. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
12. **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 (3-10113) to the satisfaction of the Director of Public Works:
 - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
 - b. *Storm Water Stenciling.* All drain inlets shall be labeled “No dumping—Flows to Bay.” Please contact the City of San Jose, Department of Public Works, at (408) 2775161 to obtain free stencils.
 - c. *Street Improvements.* Applicant shall, at no cost to the City, construct half street improvements on the Lewis Road frontage including curb, gutter, detached sidewalk, pavement, streetlights and street trees to the satisfaction of the Director of Public Works.

- d. *Utility Undergrounding Fee.* The developer shall pay a fee of 100 percent of the amount identified in the City's adopted Fee Ordinance for the street frontage for that portion of the site adjacent to Union Avenue to be used in accordance with Section 15.26 of the San Jose Municipal Code, Utility Undergrounding Fees.
 - e. *Electrical.* The developer shall locate replace two luminaires on the Lewis Road frontage to the satisfaction of the Director of Public Works.
 - f. *Street Trees.* Street trees shall be planted in the public right-of-way along the entire street frontage to the satisfaction of the Director of the Department of Transportation. Trees shall be installed in cut outs per City standards. A permit for this planting is required from the Department of Transportation.
 - g. *Construction Agreement.* Prior to issuance of a Building Permit a Public Works Clearance will be required. The clearance will 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.
13. **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, CP01-09-079, 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.
 - c. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
 - d. *Park Impact Fees.* The applicant shall provide evidence to the Chief Building Official that the applicable Park Impact Fees, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San Jose Municipal Code,) have been paid to the satisfaction of the Director of Public Works.
14. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
15. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.

16. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
17. **Fire Extinguisher System.** Building(s) shall be provided with an automatic fire extinguisher system. Systems serving more than 100 heads shall be supervised by a remote alarm system to the satisfaction of the Fire Chief.
18. **Smoke Detectors .** All sleeping rooms shall be provided with a hard-wire smoke detector to the satisfaction of the Fire Chief.
19. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
20. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
21. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
22. **State License.** The project shall comply with the applicable State of California License requirements for Residential Care Facilities.
23. **Certificate of Occupancy.** The applicant shall obtain a Certificate of Occupancy from the Building Division prior to implementation of the use.
24. **Residential Occupancy Permit.** The applicant shall obtain a Residential Occupancy Permit from the Code Enforcement Division prior to occupancy.
25. **Implementation of Use.** The applicant shall provide written notice to the Director of Planning indicating the date the use is implemented.
26. **Contact Person.** The applicant shall provide the Director of Planning in writing on an annual basis, the name of a designated contact/complaint person, an alternate and staff manager. The initial designated contact/complaint person shall be provided to the Director of Planning prior to recordation of the permit.
27. **Noise Limits.** Noise generated by residential care facility use shall not be subject to the Title 20 noise performance standards. Noise generated by the school shall not exceed 55 dB DNL at the adjacent residential properties.
28. **Amplified Sound.** This permit does not permit nor include any approval for exterior/outdoor amplified sound.

29. **Visiting Requirements.** Visitation hours for residents shall be established and posted on-site and shall not extend beyond the hours of 7:00 a.m. to 10:00 p.m. Employee staff meetings, which include more than the normal staffing levels, shall not occur during established visiting hours. No persons other than residents or staff normally scheduled for the operations of the facility shall be allowed on-site between 10:00 p.m. and 7:00 a.m. except for emergency situations. All such emergency situations shall be documented for review of City staff.
30. **On-site Events.** On-site events shall be limited to resident functions only.
31. **Transportation Off-Site.** The applicant/owner shall provide transportation for all off-site visits by residents, such as counseling visits and shopping trips.
32. **Residents Violations.** Any resident found to be under the influence of alcohol or controlled substances shall be subject to immediate eviction from the subject facility.
33. **Management Plan.** The proposed facility shall be operated in conformance with the Management Plan, which includes the Program Description dated August 9, 2000, on file at the Department of Planning. The Director of planning retains the right of discretionary review over changes to the Management Plan.

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.
3. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five years from the date of this permit.
 4. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning, Building and Code Enforcement. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.
 5. **Compliance Review.** A Compliance Review is required in response to written complaints filed with the Director of Planning.

c: Applicant, Owner, Developer
Building Division (2)
Engineering Services

207-10/BS:yt