

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

STAFF REPORT

Hearing Date/Agenda Number
P.C. 06/26/02 Item: 3.d.

File Number
CPA96-043-01

Application Type
Conditional Use Permit

Council District
6

Planning Area
South San Jose

Assessor's Parcel Number(s)
455-32-005

PROJECT DESCRIPTION:

Completed by: **Anastazia Aziz**

Location: **West side Canoas Garden Avenue between Curtner Avenue and Masonic Drive**

Gross Acreage: **13.37**

Net Acreage: **13.37**

Net Density: **N/A**

Existing Zoning: **R-1-8(PD)**

Existing Use: **Religious Assembly**

Proposed Zoning: **No Change**

Proposed Use: **Religious Assembly**

GENERAL PLAN

Completed by: **AA**

Land Use/Transportation Diagram Designation
Public/Quasi-Public

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: **AA**

North: **Residential & Industrial**

A(PD) Planned Development & I Industrial

East: **Transit Station**

R-1 Residential and C Commercial

South: **Residential and Meeting Hall**

R-1-8 (PD) Residential

West: **Food Bank**

A(PD) Planned Development

Completed by: **AA**

Environmental Impact Report found complete
 Negative Declaration circulated on
 Reuse of Negative Declaration adopted on 09-03-96

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: **AA**

Annexation Title: **Canoas No. 3-A**

Date: **April 20, 1973**

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: _____

Approved by: _____
 Action
 Recommendation

APPLICANT/OWNER/DEVELOPER

Kurt Foreman
Cathedral of Faith
2315 Canoas Garden Avenue
San Jose, CA 95125

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: AA

Department of Public Works

See attached memorandum

Other Departments and Agencies

See attached memorandum from Fire Department

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The Cathedral of Faith is requesting a Conditional Use Permit Amendment for modifications to a previously approved church theater/auditorium (referenced as Phase II in the approved Permit) including a reduction of the proposed height from 54 feet to 41 feet and a reduction of maximum occupancy from 550 to 453. Other minor modifications include relocation of doors, windows, and interior walls. The theater/auditorium will be used for a variety of events including concerts, children's theater and youth ministry meetings. The theater will close at 8pm on Sunday and by 11pm Monday through Saturday.

The proposed building will be finished with white plaster and framed with a masonry veneer painted brown. The mansard roof will be finished with red-brown asphalt shingles. All construction materials and colors will be compatible with the existing architecture on the site.

The site is bordered by a single-room-occupancy (SRO) living unit facility and a truck rental facility to the north, a light rail transit station to the east, a mobile home park and the Scottish Rite Temple to the south, and a food bank to the west.

Permit History

The religious assembly facility was developed in 1976 under the base R-1-8 Residence Zoning District with a Use Exception Permit (File No. E75-12-039) which allowed a 2,500 seat, 63 foot tall sanctuary/chapel at the west end of the site facing Curtner Avenue. A 44,120 square-foot, two-story school/administrative building was approved in 1982 (File No. E 82-05-092) between the sanctuary and the family center. In 1990, a Development Exception (File No. V89-07-022) was approved for the addition of a 93-foot steeple to the sanctuary building, but the steeple was never constructed. In 1991, a permanent food distribution building was approved (File No. CP 91-09-039) to the west of the proposed family center. In 1996, a two-story, multi-purpose building including gymnasium and office referred to as the Family Center (Phase I), and a 550 seat theater/auditorium (Phase II) and an increase in the maximum height to 54 feet was approved with a Conditional Use Permit (CP96-05-043) and a Variance (V 96-07-027). Phase I was constructed and is in use, and Phase II is the subject of the proposed Conditional Use Permit Amendment.

ENVIRONMENTAL REVIEW

The proposal reuses the Initial Study and Negative Declaration adopted on September 3, 1996 in support of CP96-05-043 & V 96-07-027. The Negative Declaration found the original project did not result in significant environmental impacts. The proposed project is smaller in scale in that the number of seats and height is reduced and will not result in any significant environmental impacts.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of *Public/Quasi-Public*. The *Public/Quasi-Public* designation permits public land uses, including schools, colleges, auditoriums, and churches. The existing church and related uses, including the theater/auditorium are appropriate for this designation.

COMMUNITY OUTREACH

A public hearing notice for the project was mailed to all property owners and tenants of properties located within 500 feet of the subject site. Staff has received no communication about the project.

ANALYSIS

The proposed height and seating capacity reduction are reduced from the previously approved building, and are compatible with the existing buildings on the site.

The applicant has redesigned and scaled down the proposed theater/auditorium. An elaborate stage system was originally proposed which required a height of 54 feet for storage of stage sets. The applicant has subsequently simplified the stage design and lowered the proposed height of the building to 41 feet because the extra height and bulk of the building is no longer required.

Likewise, the applicant has downsized the seating capacity of the building and proposed to reduce the overall capacity by 97 seats. The existing 850 parking spaces on site will remain and the project does not propose to reduce the number of parking spaces in response to the smaller theater. The theater/auditorium will not be used concurrently with the sanctuary except as follows: Sundays from 9:00 am to 1:00 pm and from 6:00 pm to 8:00pm when the family center and theater/auditorium are used for children and youth activities, and on Wednesday from 7:30 pm to 9:00 pm when up to 150 adults will attend classes in the sanctuary while the theater/auditorium and offices in the Family Center are in use for children and youth classes and activities. Adequate parking is available to accommodate a theater with seating for 453 in combination with the other on site uses with these time restrictions.

Interior changes affect the elevations through the relocation of stage loading doors, main entry doors, and window placements. The revised elevations remain complementary to the existing on-site buildings.

Conclusion

The proposed changes conform to the existing zoning and height variance and are complementary with the existing campus environment.

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 site has a designation of Public/Quasi-Public on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 (PD) Residence Zoning District.
3. The project reuses the Negative Declaration prepared for CP96-05-043/V96-07-027. The subject project is smaller in scale than the original project and will not result in any significant environmental impacts.
4. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
5. The proposed project consists of modifications to a previously approved church theater/auditorium including a reduction of the proposed height from 54 feet to 41 feet and a reduction of maximum occupancy from 550 to 453. Other minor modifications include relocation of doors, windows, and interior walls. The theater/auditorium will be used for a variety of events including concerts, children's theater and youth ministry meetings. The theater will close at 8pm on Sunday and by 11pm Monday through Saturday.
6. The site is bordered by a single room occupancy (SRO) facility and various industrial uses to the north, a light rail transit station to the east, a meeting hall and single-family residences to the south and a food bank to the west.
7. Proposed architecture and landscaping are compatible with the existing buildings and landscaping.
8. The existing temporary modular buildings will be removed as a condition of this permit.

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

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public.

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 number of off-street parking spaces provided adequately meets the parking requirements of the individual buildings and uses as specified in Chapter 20.90 of this Title.

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.
2. **Site Development Permit.** This permit fulfills the requirement for a Site Development 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. **Implementation.** This Conditional Use Permit Amendment can only be implemented in conjunction with the full and complete implementation of the previously approved Conditional Use Permit Amendment, File No. CP96-07-027/V96-07-027.
2. **Previous Conditions.** All of the conditions of the previously approved Conditional Use Permit, File No. CP96-07-027/V96-07-027, shall remain unchanged and in full force and effect unless such conditions are specifically modified or deleted by this Amendment.
3. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. 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.
4. **Modular Building.** Prior to occupancy of the theater/auditorium, the existing modular building which is to be replaced by the theater/auditorium building shall be removed from the site.
5. **Concurrent Use.** The theater/auditorium and existing family center building shall not be used concurrently with the sanctuary except as follows: Sundays from 9:00 am to 1:00 pm and from 6:00 pm to 8:00 pm when the family center and theater/auditorium are used for children and youth activities, and on Wednesdays from 7:30 to 9:00 pm when up to 150 adults will attend classes in the sanctuary while the theater/auditorium and offices in the Family Center are in use for children and youth classes and activities.
6. **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 (3-0376) 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. Geology. A grading permit is required prior to the issuance of a Public Works Clearance.
 - i. If the project proposed to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 277-4303 for more information concerning the requirements for obtaining this permit.
 - ii. Because this project involves a land disturbance of more than five acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - iii. The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the Project Engineer and/or City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Spec. Publ. 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- c. Flood: Zone AH, Elevation 128.00' 1929 National Geodetic Vertical Datum (NGVD).
 - i. An Elevation Certificate for each proposed structure, based on construction drawings, is required prior to the issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction, is required prior to issuance of an occupancy permit.
 - ii. Elevate the lowest finished floor to 128.00' 929 N.G.V.D. or floodproof to the same elevation.

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 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.

c: Building Division (2)
Engineering Services
Vince Vincent, Dennis Kobza & Associates Inc. 2083 Old Middlefield Way, Mountain View, CA
94043