



**OFFICE OF COMMUNITY DEVELOPMENT
PLANNING DIVISION**

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ADMINISTRATIVE HEARING STAFF REPORT

Agenda Item No. _____

Agenda Date: February 23, 2017

SUBJECT

Amendment to an existing Use Permit (6-U-86 and M-2009-05) to consider allowing a private school/daycare center to operate where an afterschool care is currently allowed and a Director's Minor Modification to allow installation of an outdoor play structure. (Application No. (s): U-2016-02 and DIR-2016-34; Applicant(s): Diane Hsu (Christian Light and Salt Foundation); Location: 940 S. Stelling Road; APN: 359-25-041)

RECOMMENDED ACTION

Staff recommends that the Hearing Office approve the Use Permit Amendment (U-2016-02) and the Director's Minor Modification (DIR-2016-34) per the draft resolution (Attachment 1 and 2).

DISCUSSION:

Application Summary:

1. Amendment to an existing Use Permit (M-2009-05 and 6-U-86) to allow for private school/daycare center to increase their hours of operation to 7:00 am to 6:30 pm with a total of 70 students, and
2. Director's Minor Modification to allow for an outdoor play structure.

3. Project Data:

General Plan Designation:	Quasi-Public	
General Plan Neighborhood:	Jollyman	
Zoning Designation:	BQ (Quasi-Public Building)	
Lot Area:	67,114	
Acreage:	1.49 acres	
Building SF:	Existing	Proposed
Building A:	1,985 square feet	No Change
Building B:	1,894 square feet	
Building C:	2,091 square feet	
Parking Stalls	Required	Proposed

Vehicular Parking	57 stalls	No Change
Project Consistency with:		
General Plan:	Yes	
Zoning:	Yes	
Environmental Assessment:	Categorically Exempt	

Analysis:

Background

The project site is zoned Quasi-Public Building (BQ). The BQ zone is designed to accommodate religious, community service, child care, residential care, or recreational facilities in the City.

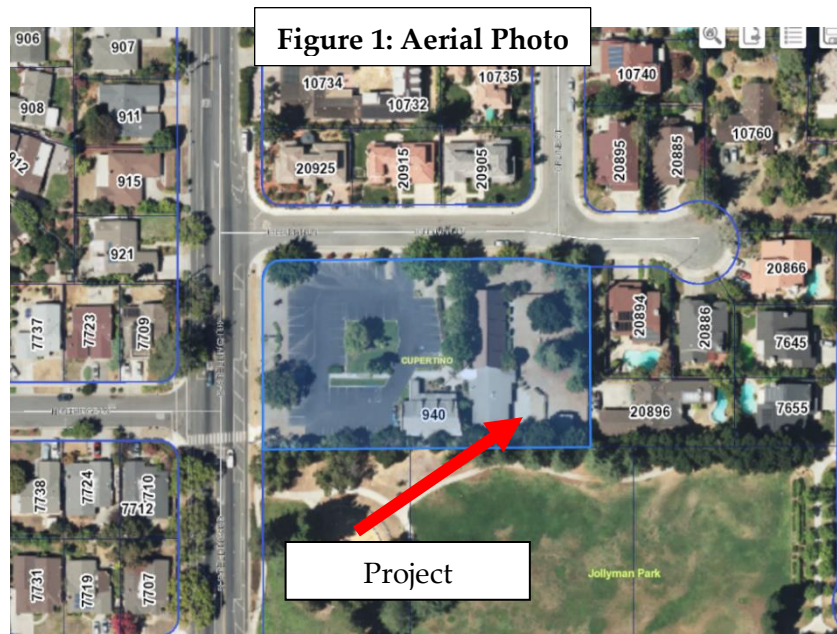
In 1986, the Planning Commission approved a Use Permit (6-U-86) to allow the existing church with approximately 180 attendees, ancillary church-sponsored activities and incidental community service functions. The BQ zoning district allows child care uses, including afterschool care uses and daycare facilities, with a Conditional Use Permit. In 2009, the Planning Commission approved modifications (M-2009-05) to allow an afterschool program for up to 90 children to operate between 12:00 p.m. and 6:30 p.m. from Monday through Friday. The afterschool program operated between 2009 and June 2016.

Applicant Requests

The applicant, Diane Hsu, representing the property owner, Christian Light and Salt Foundation, is proposing to operate an all-day pre-school/daycare use and install a new play yard and play structure.

Site Location:

The project site is located at the southeast corner of South Stelling Road and Jollyman Lane. It is bounded by single-family residences to north, east, and west. Jollyman Park abuts the property to the south.



Modification to Use:

The proposed daycare/private school use would have a maximum of 70 students and eight (8) staff members at any given time. The program is designed for children between the ages of two and six years old. Children will be signed in and out by their parents/guardians. The proposed use is consistent with the uses allowed with the previous use permit for the site. The operation of the pre-school will be reviewed by the California State Department of Licensing, and must comply with Building and Fire Department requirements prior to final occupancy. No changes are proposed to the other uses on the site. If the proposed modification to the use is not approved or a different afterschool operator does not commence operations by July 1, 2017, the use permit for this use will expire and a new use permit will have to be obtained.

Parking and Traffic:

The pre-school needs a maximum of eleven (11) parking spaces (1 space for every 6.5 students per Municipal Code). With the proposed project, there will be 57 parking spaces on site. The applicant has indicated that no additional uses, besides church office uses, will run concurrent with the pre-school operations. Therefore, there is adequate parking at the site to accommodate the proposed use. In addition, the applicant has indicated that as part of their traffic management strategy (that parents are required to adhere to) they will notify their patrons to park in the parking lot during pick-up and drop-off. The proposed expansion of the hours of operation would not impact operations at the site or the neighborhood.

The City's Traffic Engineer has determined that the amount of traffic added during the morning or afternoon peak commute hour with the existing and modified project is minimal. Furthermore, the proposed project reduces the number of students that would be allowed from 90 to 70. Therefore, the proposed use would not create a significant impact on traffic requiring additional mitigation.

Site Improvements

Outdoor Play Structure and Improvements:

A new six (6) foot redwood fence and gate will be located approximately 32' from the northern property line to enclose the area adjacent to the church building. The church proposes to further enclose approximately 1,350 square feet around the proposed play structure with a secondary fence for a play yard. This area will be paved with a Poured in Place (PIP) rubber material.

The play structure measures approximately 14 feet in height and is proposed to be setback approximately 55 feet from the closest residential property (located to the east). The location of the play structure is in compliance with Chapter 19.100 (Accessory Structures/Buildings) of the Municipal Code.

As is required with uses that have the potential to cause noise impacts, a Noise Impact and Mitigation Study was prepared by Environmental Consulting Services, the City's acoustical

consultant (Attachment 3). The noise study indicated that the nearest sensitive receptors were two single-family dwelling along the eastern property line. Homes located along Jollyman Lane are not considered significant receptors because they would be located approximately 300 feet from the play yard with the new six (6) foot solid board fence acting as an additional buffer.

Activities from the proposed use could create intermittent noise of 50 to 60 dBA at a distance of 30-40 feet with the play yard. This is expected to be 12 to 13 dBA lower in the yards at each of the two residences due to the wooden fence at the shared property line. Therefore, the noise study concluded that the proposal would not create any noticeable noise impact on nearby properties.

NOTICING AND COMMUNITY OUTREACH

The following table is a brief summary of the noticing for this project:

Notice of Public Meeting & Site Signage	Agenda
<ul style="list-style-type: none"> ▪ Posted on the site (<i>10 days prior to hearing</i>) ▪ 48 notices mailed to property owners adjacent to the project site (<i>10 days prior to hearing</i>) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (<i>one week prior to hearing</i>) ▪ Posted on the City of Cupertino's Web site (<i>one week prior to hearing</i>)

In addition, the Applicant conducted two public meetings on February 10th, 2017 at 10:00 a.m. and 4:00 p.m. to help the neighbors understand the particulars of the project and receive feedback. The meeting was attended by four (4) neighbors.

Public Comments:

Staff received comments which are summarized below. Staff responses follow in *italics*:

1. Questions about the permitted uses.
See "Background" above.
2. Questions about the expiration of the existing afterschool use allowed on the site.
See "Background" and "Modification to Use" sections above.
3. Questions about the details of the proposed project
See project description above.
4. Concerns about parking and traffic impacts
See discussion in "Modification to Use" and "Site Improvements" section re: parking and traffic impacts.

Parking on public streets (unless restricted with permit parking) is available to the general public for a period of 72 hours. If it is perceived that a violation has occurred with respect to parking, the Code Enforcement Division should be notified. Furthermore, if desired, an application for a permit parking zone could be made by the residents to further limit public parking.
5. Concerns about noise impacts

See "Site Improvements" discussion above.

6. Safety Concerns

The Sheriff's Department has communicated that the neighborhood has not been the subject of extra-ordinary security issues due to the church's location and activities.

7. Concerns about commercial uses (day care uses) being allowed in neighborhoods

See discussion in "Background" section re: allowed uses in BQ zones.

PERMIT STREAMLINING ACT

This matter is adjudicatory and is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

Project Received: July 29, 2016;

Deemed Incomplete: September 1, 2016;

Project Resubmitted: December 12, 2016;

Deemed Incomplete: December 21, 2016

Project Resubmitted: January 5, 2017;

Deemed Complete: January 20, 2017

The City has 60 days (until March 21, 2017) to make a decision on the project.

ENVIRONMENTAL REVIEW

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA, Section 15301, Class 1, existing facilities).

CONCLUSION

Staff recommends approval of the Use Permit Modification and Director's Minor Modification, since the plans and conditions of approval address all concerns to the proposed project. Additionally, all of the findings for approval of the proposed project, consistent with Chapter 19.156 and Chapter 19.164 of the Cupertino Municipal Code, may be made as reflected in the draft resolutions.

NEXT STEPS

Should the project be approved, the Hearing Officer's decision on this project is final unless an appeal is filed within 14 calendar days of the date of the mailing of the decision. All approvals granted by the Hearing Officer shall go into effect after 14 days.

Upon project approval, the applicant will be able to submit building permit drawings to enable construction to commence. These approvals expire on February 9, 2018, at which time the applicant may apply for a one-year extension.

Prepared by: Erick Serrano, Associate Planner

Reviewed and Submitted by: Piu Ghosh, Principal Planner

ATTACHMENTS

- 1- Draft Resolution (Use Permit Amendment)
- 2- Draft Resolution (Director's Minor Modification)
- 3- Applicant Project Description
- 4- Noise Study
- 5- Plan Set