

RECOMMENDED FINDINGS

The project is categorical exempt from further environmental review pursuant to Section 15301, Class 1 (Existing Facilities), Section 15303, Class 3 (New Construction and Conversion of Small Structures) and Section 15332, Class 32 (Infill Development Project) of the California Environmental Quality Act (CEQA):

Class 1 (Existing Facilities) CEQA Guidelines, Section 15301: "Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. ... The key consideration is whether the project involves negligible or no expansion of use."

Staff Analysis

- Based on the environmental assessment, there is no evidence of significant impacts on the environment from the proposed child care use compared to the former medical office. As such, the project can be considered to be no more than a negligible expansion of the former use for purposes of the Class 1 Exemption. .

Class 3 (New Construction or Conversion of Small Structures) CEQA Guidelines, Section 15301: "Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel."

Includes: "(c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive."

Staff Analysis:

- For purposes of the Class 3 Exemption, the project involves conversion of an existing structure that is less than 10,000 square feet in size along with minor exterior and site modifications. The project consists of re-using existing office area and lobby areas for childcare center administration area and converting existing vacant space into classrooms and restroom facilities
- The mere fact that a project could *potentially* have an environmental effect is not sufficient to create "unusual circumstances" that negate reliance on a categorical

exemption under CEQA Guidelines, Section 15300.2(c) (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086).

- The mere fact that a project is located on heavily traveled streets or intersections is not an “unusual circumstance” where the project conforms to zoning requirements and the surrounding traffic volumes are commonplace for the urban area (*Telegraph Hill v. City and County of San Francisco* (2017) 16 Cal.App.5th 261).
- There is no evidence that 755 S. Bernardo has any unusual features compared to other commercial sites, or that the configuration of Bernardo Ave. (including the “curve” in the roadway) or existing traffic volumes on Bernardo Ave. are unusual compared to other arterial streets in Sunnyvale.
- This project falls within the rationale of *Waters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809, where the court held that the Class 3 CEQA exemption applied to construction of a car wash and coffee shop in a commercial zone that abutted residential uses, because the building site was adequate to accommodate the proposed use; the proposed use had adequate street access and would not have a significant impact on traffic; the proposed use would not have an adverse effect on abutting properties; and the noise that will be generated by the car wash blowers and vacuum drops does not exceed the permitted interior and exterior limits; and there was nothing unusual about a car wash and coffee shop compared to other allowed commercial uses.
- The commenter’s additional arguments based on “health and safety problems” with the proposed child care center do not raise CEQA issues.

Class 32 (Infill Development projects) CEQA Guidelines, Section 15332: “Class 32 consist of infill development that is consistent with the applicable General Plan, Zoning Ordinance located within the city limits on a project site of no more than 5 acres that is surrounded by urban uses.”

Staff Analysis:

- The proposed project implements the City of Sunnyvale General Plan by encouraging child care in an area that would be neighborhood serving and compatible with the surrounding residential, quasi-public and commercial uses. The project is consistent with Policy LT-14.12 that recognizes child care and places of assembly as essential services and land uses that support the diverse needs of the community.
- The project is zoned Neighborhood Commercial (C-1) zoning district which allows for neighborhood serving retail and commercial services including child care centers. Child care centers are conditionally permitted with a special

development permit in the C-1 zone.

- The project site is on a 0.83-acre site located within the Sunnyvale city limits. The project site is within an urbanized area surrounded by residential and commercial buildings and uses.
- The site is currently developed with a 6,920-square foot, one-story commercial building, surface parking and landscaping.
- Approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality.

A traffic operation analysis (TOA) was prepared by AECOM, dated September 2018. Based on the TOA, the proposed child care center will not generate over 100 peak hour vehicle trips and is expected to add less than one car to the queues during the peak hours. As such, the project will not negatively impact the level of service of adjacent roadways or generate operational issues with queuing of cars anticipated with the pick-up and drop-off operations. Furthermore, with implementation staff's recommended improvements, there should be minimal impacts related traffic.

A Noise Study was prepared by Edward J. Pack and Associates, dated May 7, 2019. Based on the noise study, the project-generated noise levels and noise exposures will be within the limits of the City of Sunnyvale Noise Ordinance and Noise Element standards and within the allowable noise increases of CEQA policy. The playground noise levels will range from 51 to 60 dBA at the most impacted property line of the Citra Apartments to the west, from 52 to 56 dBA at the Citra Apartments first floor patios and upper floor balconies to the west, from 57 to 60 dBA at the Citra Apartments property line to the north and from 56 to 59 dBA at the Citra Apartments upper floor balconies to the north. Thus, the short-term playground noise levels will be within the 60 dBA daytime standard of the City of Sunnyvale Noise Ordinance at the common property lines and at the exterior living areas of the adjacent apartment complex. Noise from project traffic on the local road network is expected to be negligible due to the small size of the project and low expected traffic volumes, project traffic is expected not to add to the existing noise exposures.

- The project site is already served by all required utilities, such as water, sewer and solid waste. Public services are also adequately provided, such as police and fire. All required utilities and public services will continue to be provided after completion of the proposed project.

Special Development Permit

FINDINGS

In order to approve the Special Development Permit the following findings must be

made:

- The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project. Finding met.

The proposed project implements the City of Sunnyvale General Plan by encouraging child care in an area that would be neighborhood serving and compatible with the surrounding residential, quasi-public and commercial uses. The project is consistent with the below policy:

- Policy LT-14.12 - Recognize child care and places of assembly as essential services and land uses that support the diverse needs of the community. Avoid locating these sensitive uses near hazardous materials, noise, dust, etc.
- The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. Finding met.

The proposed use is a desirable addition to the community, as it provides child care services that is conveniently located to residential and commercial uses. The proposed project provides the required parking as well as safe and adequate pick-up and drop-off circulation. The project minimizes potential noise impacts by locating the play areas away from residential homes. Therefore, the proposed use would not be detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity.