

RECOMMENDED FINDINGS

Special Development Permit

FINDINGS

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

1. 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.

2. 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 proposed outdoor play area will include a 6-8 foot tall masonry fence that will help minimize noise impacts. Therefore, the proposed use would not be detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity.

Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. [Finding met]

A hardship finding can be made due the following unique circumstances:

- a. Limitations of the project site – the project proposes to re-purpose the existing building as a child care center. As such, the location of the building is fixed and limits viable areas for the outdoor play area that will not conflict with site circulation, remove required parking, and provides a safe play environment. Although the applicant studied an alternative location, the noise reduction is still not enough to meet the 60 dBA threshold.
- b. Infeasibility of noise barriers to shield the upper floor balconies – It is infeasible to build a sound wall to mitigate balconies that are on 2nd and 3rd floors. A tall wall would not be desirable or aesthetic and would not meet the City’s design guidelines for neighborhood compatibility.
- c. There are no noise mitigation measures available to reduce the noise excesses at the balconies.

The outdoor play area will be utilized twice a day between the hours of 9:00AM to 11:00AM and again in the afternoon between the hours of 3:00 PM to 5:00PM. The outdoor play times are limited to 30-minute sessions consisting of group of 30 kids at any given time. The outdoor play times are consistent with the City’s child care center guidelines in that it limits the outdoor play time to hours when neighbors are least likely to be disturbed (after 9:00 AM and before 5:00 PM).

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. [Finding met]

The granting of the variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. The noise disturbance would be limited to certain hours of the day during the weekdays and only affect the second and third story balconies that are adjacent to the proposed outdoor play area.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

The granting of the variance would not constitute a special privilege not enjoyed by other surrounding property owners within the same zoning district since there are no other precedence for a variance to exceed operational noise standards in

the C-1 District or for other child care facilities to exceed the operational noise levels.

There are multiple child care sites that abut residential. The Tulip Daycare at 1279 Lawrence Station Rd. is located within a Mixed Use Residential development. The outdoor play is directly below balconies of residential units. As such, the siting of the outdoor play area would not be dissimilar to other approved child care facilities.

Furthermore, the General Plan encourages community serving uses such as child care center. The project is consistent with the City's Guidelines for Commercial Child Care Center and meets the following:

- a. Appropriately zoned.
- b. Adequately accommodates requirements for parking, site circulation and outdoor activity space.
- c. Located adjacent to residential areas on major collector and arterial streets.

Tentative Map

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. Staff finds that the Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Staff was not able to make any of the findings (B.1-8), and recommends approval of the Tentative Map.

Council Policy Manual: Telecommunications (7.2.16)

The City of Sunnyvale's Council Policy Manual (CPM) is a compendium of policies established by City Council resolution or motion which provide guidelines for current or future City action. Such policies, when implemented, assist in achieving General Plan goals.

- **Policy Statement 1.A.5** - Support retention of local zoning authority for cellular towers, satellite dish antennas, and other telecommunications equipment, facilities and structures.
- **Policy Statement 2** - Promote universal access to telecommunications services for all Sunnyvale residents.