



# City of Sunnyvale

## Meeting Minutes Zoning Administrator Hearing

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Wednesday, November 28, 2018

3:00 PM

West Conference Room, City Hall, 456 W.  
Olive Ave., Sunnyvale, CA 94086

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### CALL TO ORDER

Gerri Caruso, Zoning Administrator, called the meeting to order at 3:00 p.m.

### PUBLIC HEARINGS

**File #:** 2018-7376

**Location:** 755 S. Bernardo Ave. (APN: 198-16-006)

**Applicant / Owner:** JY International Group, Inc. (applicant) / Atul S. Sheth (owner)

**Proposed Project:**

**SPECIAL DEVELOPMENT PERMIT:** To allow for the operation of a 6,920 square foot child care center within an existing one-story office building and associated site improvements, including a new 6 to 8-foot-tall fence on a 0.87-acre parcel.

**VARIANCE:** to exceed the maximum 60 dBA daytime noise level associated with proposed outdoor play area. The increased noise levels occur at the second and third floor residential balconies located on the adjacent property.

**Reason for Permit:** A Special Development Permit is required for child care facility with occupancy of 31 or more children.

**Project Planner:** Cindy Hom, (408) 730-7411, chom@sunnyvale.ca.gov

**Issues:** Traffic, Noise

**Recommendation:** Approve with conditions.

Ms. Caruso inquired with Cindy Hom, project planner, had any comments or changes to the staff report.

Ms. Hom stated there was one minor correction on page two of the staff report. The masonry wall should be along the west and north of the property instead of on the east and north.

Ms. Caruso opened the hearing to the applicant.

Marek Stoklosa, project architect, stated he has read the staff reports and conditions of approval. He stated he has worked with staff to meet the standards and requirements in regards to the accessibility parking and playground size. The applicant has worked with the acoustical engineer to mitigate the noise impact.

Ms. Caruso inquired if the other applicants have read the conditions of approval. Upon being notified that the applicants did not get a chance to read the conditions, staff provided the applicants the staff report and time to read the information.

Tony Spitaleri, applicant, inquired where the wall would be required.

Ms. Hom showed Mr. Spitaleri the wall to be built on the north side and west along a neighboring apartment complex.

Mr. Spitaleri was under the impression that city would not require the applicant to build the wall.

Ms. Hom stated the height of the wall is prescribed by the noise study. This would be to maintain the allowable decibels at the property line. The wall height is staggered.

Mr. Spitaleri asked for confirmation about the noise level at the ground level.

Ms. Hom stated the decibel level is measured at 60 dbs at the ground level with the wall. The noise level does not meet the acceptable noise level on the west side of the property above the wall.

Atul Sheth, applicant, inquired about the noise difference children playing versus the noise from trucks on the road at at the neighboring Safeway.

Ms. Caruso stated the noise study indicates an existing noise condition regarding trucks. With the addition of the children, the noise level is increased for the people living at the neighboring apartment complex. An addition of the noise wall would mitigate the noise level at ground level during times when the children would be outside. The study evaluated what affect the wall would have. Ms. Hom processed a variance for this application because the wall does not entirely meet the noise standard for those at the upper levels of the apartment complex along the north and west property lines. The requirements for the wall are based on the current and projected noise conditions as indicated in the noise report.

Mr. Sheth stated the noise from trucks passing the street all day long in addition to loading and unloading at Safeway. He stated he is doing what he can to mitigate the noise.

Ms. Caruso stated the noise consultant used the city's General Plan standards and formulated noise mitigation remedies.

Mr. Spitaleri inquired if the wall would be sufficient to reduce the noise.

Ms. Caruso stated the study indicated the wall would only reduce the noise level at ground level and not at any level above that. The current noise is calculated in addition to potential noise from the daycare.

Seeing no members of the public in attendance, Ms. Caruso closed the hearing.

After reviewing the study, Ms. Caruso stated she was not sure a variance would be the right process to utilize when applying for the project. Ms. Caruso stated the noise study as described exceeded the city and the California Environmental Quality Act (CEQA) requirements. Since she had limited time before the hearing, Ms. Hom spoke with the city attorney and provided the Zoning Administrator with several options. Ms. Caruso stated she would need to confer with the city attorney herself before coming to a conclusion about the process and will take the item under advisement until Friday, November 30, 2018.

What could potentially happen is the project be denied. The other alternative is to revisit the study or do another type of environmental review which would be time consuming and delay the applicant's project. Based on the information provided to her, Ms. Caruso believes the process for the project is not correct but will not make any decision until conferring with the city attorney.

Mr. Spitaleri inquired if information for CEQA was not available for staff to know about the noise levels.

Ms. Caruso stated it was apparent to staff after the study was completed and had to have the noise consultant conduct the study and clarify the results several times.

Ms. Hom stated the Zoning Administrator needs to confer with the city attorney to see if the categorical exemption is an adequate protection for the project since the

report stated there is a CEQA impact. Staff wants to check with the city attorney to make sure there is no conflict.

ACTION: DENIED as the proposed project was found not to satisfy the requirements of a Class 1 Categorical Exemption under the California Environmental Quality Act (CEQA). Additional environmental review is required.

**ADJOURNMENT**

Ms. Caruso adjourned the hearing at 3:27 p.m.