
**RECOMMENDED
CONDITIONS OF APPROVAL
OCTOBER 28, 2020**

Planning Application 2020-7239
1160 Kern Avenue (APN: 205-24-002)

USE PERMIT

to allow a change of use from industrial to place of assembly – community serving (Sunnyvale Community Services.)

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with “Mitigation Measure” and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

<p>GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.</p>

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved Use Permit shall expire if the use is discontinued for a period of one year or more. [SDR] [PLANNING]

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- GC-3. ENTITLEMENTS – EXERCISE AND EXPIRATION:
The approved entitlements shall be null and void two years from the date of approval by the final review authority if the approval is not exercised, unless a written request for an extension is received prior to the expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]
- GC-4. ENTITELMENTS – DISCONTINUANCE AND EXPIRATION:
The entitlements shall expire if discontinued for a period of one year or more. [SDR] [PLANNING]
- GC-5. SIGNS:
Any proposed signage requires separate approval by the City prior to installation. [SDR] [PLANNING]
- GC-6. INDEMNITY:
The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]
- GC-7. NOTICE OF FEES PROTEST:
As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the city as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city impact fee schedule. [SDR] [PLANNING/OCA]
- GC-8. NOISE:
The approved use shall comply with the requirements of the City's Noise Ordinance (SMC 19.42.030) at all times. [SDR] [PLANNING]
- GC-9. ENCROACHMENT PERMIT:
Prior to any work in the public right-of-way, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on

Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Department of Public Works. [COA] [PUBLIC WORKS]

BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

- BP-1. BUILDING PERMITS:
Obtain any required building permits for tenant improvements including installation of tools and equipment. [SDR] [PLANNING]
- BP-2. CONDITIONS OF APPROVAL:
Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]
- BP-3. NOTICE OF CONDITIONS OF APPROVAL:
A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record. For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]
- BP-4. BLUEPRINT FOR A CLEAN BAY:
The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]
- BP-5. BEST MANAGEMENT PRACTICES – STORMWATER
The project shall comply with the following source control measures as outlined in the BMP Guide Manual and SMC 12.60.200. Best management practices shall be identified on the building permit set of plans and shall be subject to review and approval by the Director of Public Works:
- a) Storm drain stenciling: The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408)730-7260.

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- b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.
 - c) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas.
 - d) Covered trash, food waste, and compactor enclosures.
 - e) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - i. Discharges from indoor floor mat / equipment / hood filter wash racks or covered outdoor wash racks for restaurants.
 - ii. Dumpster drips from covered trash and food compactor enclosures.
 - iii. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - iv. Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
 - v. Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]
- BP-6. SITE SAFETY PLAN:
The applicant shall develop a site safety plan addressing the risks presented to employees and patrons. [COA] [PLANNING]
- BP-7. DEMOLITION/CONSTRUCTION/RECYCLING WASTE REPORT FORM:
To mitigate the impacts of large projects on local waste disposal and recycling levels, demolition waste weights/volumes, construction weights/volumes, and recycling weights/volumes are to be reported to the City using Sunnyvale.wastetracking.com hosted by Green Halo. As part of the project's construction specifications, the developer shall track the type, quantity, and disposition of materials generated, and submit these records through the website both periodically and at project completion [COA][ENVIRONMENTAL SERVICES]
- BP-8. CONSTRUCTION MATERIALS AND STAGING:
All construction related materials, equipment and construction workers parking need to be managed on-site and not located in any public right-of-ways or public easements. [COA] [PUBLIC WORKS]
- BP-9. SOLID WASTE DISPOSAL AND RECYCLING DESIGN PLAN:
A detailed solid waste disposal and recycling design plan shall be submitted for review and approval by the Director of Community Development prior to issuance of building permit. The solid waste disposal plan and building permit plans shall demonstrate compliance

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- with current City requirements and guidelines for non-residential projects. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-10. **SOLID WASTE AND RECYCLING ENCLOSURE:**
The building permit plans shall include details for the installation of recycling and solid waste enclosures that are consistent with SMC 19.38.030. The solid waste disposal and recycling facilities within the enclosure area or within buildings shall be designed with adequate size, space and clearance based upon City's latest guidelines. The required enclosures shall:
- a) Match the design, materials and color of the main building;
 - b) Be of masonry construction;
 - c) Be screened from view;
 - d) All gates, lids and doors shall be closed at all times;
 - e) Shall not conflict with delivery/receiving areas;
 - f) Shall be consistent with the approved Solid Waste and Recycling Management Plan;
 - g) Solid waste and recycling diversion systems shall be incorporated into the facilities and tenant improvements. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-11. **SOLID WASTE SERVICES:**
Waste and recycling services shall be maintained under one account for each of the public domestic water meters that serve an occupied building held by the applicant, owner or landlord, unless otherwise approved by the City. The account holder is responsible for ensuring adequate services and that all locations, private sidewalks and streets are kept free of litter and stains. Requirements shall be specified in the approved documents and be submitted for approval by the City. [COA] [FINANCE/ENVIRONMENTAL SERVICES]
- BP-12. **CITY SPORTS DRIVE AISLE STRIPING:**
Developer shall provide diligent efforts to coordinate with the owner(s) of the neighboring City Sports property (1165 E Arques Ave.) to install one-way directional striped arrows along the drive aisle that provides vehicle egress from the City Sports property to Kern Ave. [COA] [PUBLIC WORKS]
- BP-13. **FENCING:**
The final design of the perimeter fence and gates shall be approved by the Community Development Director. This shall be specified on the Building Permit plans and completed prior to occupancy. [COA] [PLANNING]
- BP-14. **NOISE (LUTE EIR MITIGATION MEASURE 3.6.3):**
New developments shall employ site-specific noise attenuation measures during construction to reduce the generation of construction

noise and vibration. These measures shall be included in a Noise Control Plan that shall be submitted for review and approval by the City. Measures specified in the Noise Control Plan and implemented during construction shall include, at a minimum, the following noise control strategies:

- a) Equipment and trucks used for construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds);
- b) Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools;
- c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or include other measures; and,
- d) Noise and vibration reducing pile-driving techniques shall be employed during construction and will be monitored to ensure no damage to nearby structures occurs (i.e., vibrations above peak particle velocity (PPVs) of 0.25 inches per second at nearby structures). These techniques shall include:
 - i. Installing intake and exhaust mufflers on pile-driving equipment;
 - ii. Vibrating piles into place when feasible, and installing shrouds around the pile-driving hammer where feasible;
 - iii. Implementing “quiet” pile-driving technology (such as pre-drilling of piles and the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
 - iv. Using cushion blocks to dampen impact noise, if feasible based on soil conditions. Cushion blocks are blocks of material that are used with impact hammer pile drivers. They consist of blocks of material placed atop a piling during installation to minimize noise generated when driving the pile. Materials typically used for cushion blocks include wood, nylon and micarta (a composite material); and,
 - v. At least 48 hours prior to pile-driving activities, notifying building owners and occupants within 600 feet of the project area of the dates, hours, and expected duration of such activities.

EP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.

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- EP-1. EXISTING UTILITY ABANDONMENT/RELOCATION:
Developer is responsible for research on all existing utility lines to ensure that there are no conflicts with the project. All existing utility lines (public or private) and/or their appurtenances not serving the project and/or have conflicts with the project, shall be capped, abandoned, removed, relocated and/or disposed of to the satisfaction of the City. Existing public facilities within the street right-of-way shall be abandoned per City's Abandonment Notes and procedures, including abandonment by other utility owners. [COA] [PUBLIC WORKS]
- EP-2. MODIFICATIONS TO EXISTING PUBLIC UTILITIES:
Developer is required to pay for all changes or modifications to existing City utilities, streets and other public utilities within or adjacent to the project site, including but not limited to utility facilities/conduits/vaults relocation due to grade change in the sidewalk area, caused by the development. [COA] [PUBLIC WORKS]
- EP-3. WET UTILITIES:
All wet utilities (water, sanitary sewer, storm drain) on private property shall be privately owned and maintained. The fire and domestic water systems shall be privately owned and maintained beyond the meter. [COA] [PUBLIC WORKS]
- EP-4. RE-USE OF EXISTING CITY UTILITY SERVICE LINES:
Re-use of existing City sanitary sewer and storm drain service lines and appurtenances is subject to City's review and approval. Developer's contractor shall expose the existing facilities during construction for City's evaluation or provide video footage of the existing pipe condition. Developer's contractor shall replace any deficient facilities as deemed necessary by Public Works Department. The site development plan with sheets C1.0 to C3.1 dated 7/29/20 is subject to change during the plan check process. [COA] [PUBLIC WORKS]
- EP-5. SEPARATE DOMESTIC/FIRE PROTECTION SERVICE LINE:
Provide separate fire and domestic service lines to each building. Provide separate fire service tap(s) to the street main for on-site fire hydrants. Install reduced pressure backflow prevention devices (RPBP) behind the street right-of-way for the domestic service line and a reduced pressure detector assembly (RPDA) and 5/8" water meter behind the street right-of-way for the fire service line. Backflows must adhere to City's Cross-Connection Program. Backflow inspection permit and tags are required for all backflow devices. [COA] [PUBLIC WORKS/PUBLIC SAFETY-FIRE PREVENTION]

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- EP-6. SANITARY SEWER AND STORM DRAIN TRIBUTARY PATTERN:
This project is required to follow the existing sanitary sewer and storm drain tributary pattern. Any deviations would require additional analysis and be subject to approval by the Department of Public Works as part of the off-site improvement plan review process. This project shall not cause any negative impact on the drainage pattern for adjacent properties. [COA] [PUBLIC WORKS]
- EP-7. CATCH BASIN TRASH CAPTURE DEVICES AND STENCILING:
Pursuant to SMC 12.60.130, install full trash capture devices on the project site, prior to connecting to the City's storm drain collection system. The developer shall be responsible for perpetual maintenance of those trash capture devices. All storm drain inlet facilities located in the public right-of-way shall be stenciled that read "NO DUMPING". Stencils may be borrowed and returned by coordinating with the Environmental Services Department by calling 408-730-7738. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- EP-8. UTILITY METER/VAULT:
No existing or new utility meters or vaults shall be located within the new driveway approach areas. All existing or new utility vaults serving the project site shall be located on-site and not within the public utility easement, if any. [COA] [PUBLIC WORKS]
- EP-9. DRIVEWAY SIGNAGE:
Install signage on both sides of the western Kern Avenue driveway approach indicating that the driveway approach shall be exit-only for both the 1160 Kern Avenue property as well as the neighboring drive aisle that provides egress access from the City Sports property to Kern Avenue. [COA] [PUBLIC WORKS]
- EP-10. PROTECTION OF EXISTING TREES:
No utility trench shall be allowed within 15' radius of an existing mature tree. Boring, air spade or other excavation method as approved by the City Arborist shall be considered to protect existing mature tree. Consult with the City Arborist prior to adjusting locations of utility lines. [SDR] [PUBLIC WORKS]
- EP-11. DAMAGE TO EXISTING PUBLIC IMPROVEMENTS:
Developer shall be responsible to rectify any damage to the existing public improvements fronting and adjacent to the project site as a result of project construction, to City's satisfaction by the Public Works Department. All existing streetlight conduits, streetlight wires, and streetlight pull boxes shall be protected in place during construction. Any damaged streetlight conduits, streetlight wires, or streetlight pull boxes shall be replaced within 7 days at the expense of the developer. [COA] [PUBLIC WORKS]

EP-12. RESERVATION/ABANDONMENT OF EASEMENTS:

Reservation of new and/or abandonment of existing public/private utility easement(s), ingress/egress easement(s) necessary for the project site shall be recorded with a separate instrument, unless otherwise approved by the Department of Public Works. Quitclaim deed is required for abandonment of private easements. All easements shall be kept open and free from buildings and structures of any kind except those appurtenances associated with the defined easements. [COA] [PUBLIC WORKS]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. HOURS OF OPERATION:

The use permitted as part of this application shall comply with the following hours of operation (as proposed by applicant) at all times:

Monday – Friday 9:00 A.M. to 4:00 P.M.
Food Distribution Days 8:00 A.M. to 5:00 P.M.

Designated food pickup days are Produce Mondays and the Monthly Food Program (1st and 3rd Wednesdays). Seasonal events such as Backpack Distribution and holiday gift and meal distributions will be similar hours with most client families reserving a time for pickup.

Changes to the hours will require an amendment to the approved permit. [COA] [PLANNING]

AT-2. DELIVERY HOURS:

Delivery hours for the approved use shall comply with SMC 19.42.030:

- a) Delivery hours are limited to daytime (period from 7:00 a.m. to 10:00 p.m. daily) only.
- b) Nighttime delivery (period from 10 p.m. to 7:00 a.m. daily) is prohibited. [SDR] [PLANNING]

AT-3. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-4. LOUDSPEAKERS PROHIBITED:

Out-of-door loudspeakers shall be prohibited at all times except for emergency notification use. [COA] [PLANNING]

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- AT-5. UNENCLOSED STORAGE (PROHIBITED):
All unenclosed storage of any kind shall be prohibited on the premises. All unenclosed materials, equipment, and/or supplies of any kind shall be maintained within approved enclosure areas. Any stacked or stored items shall not exceed the heights of the enclosure. [COA] [PLANNING]
- AT-6. COMPLAINTS:
The business (owners or employees) shall be responsible for addressing and correcting any complaints received. [COA] [PLANNING]
- AT-7. FUTURE EVENTS:
Any events that may impact parking or any conditions set forth through this Use Permit shall be reviewed and require approval by of the Director of Community Development through a Miscellaneous Plan Permit. [COA] [PLANNING]
- AT-8. LANDSCAPE MAINTENANCE:
All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped.) Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]
- AT-9. PARKING LOT MAINTENANCE:
The parking lot shall be maintained in accordance with the approved plans and as follows:
- a) Clearly mark all employee, customer, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
 - b) Repaint all parking lot striping and marking.
 - c) Assure that adequate lighting is available in parking lots to keep them safe and desirable for the use.
 - d) Require signs to direct vehicles to additional parking spaces on-site, as needed. [COA] [PLANNING]

END OF CONDITIONS