



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO THE ZONING ADMINISTRATOR

File #: 2018-7519

Location: 1025 The Dalles (APN: 320-11-010)

Applicant / Owner: Sunny Chinese Learning Center (applicant) / St Luke Lutheran Church Of Sunnyvale Ca (owner)

Proposed Project:

USE PERMIT to allow modification to a previously approved Use Permit (2012-7479 - Condition of Approval AT-1 and AT-7) to allow extended hours of operation (11:30 AM - 6:30 PM during school days and 8:30 AM-6:30 PM when students are on break) and outdoor play areas for the after-school educational enrichment facility, which now is considered a daycare use.

Reason for Permit: A Use Permit is required to amend a condition of approval (that is considered a major change) of an approved educational enrichment/daycare use in a PF (Public Facility) zoning district.

Project Planner: Shétal Divatia, Planner, (408) 730-7637, sdivatia@sunnyvale.ca.gov

Issues: Neighborhood Impact

Recommendation: Approve with conditions (Conditions of Approval in Attachment 2)

PROJECT DESCRIPTION

Zoning District:	PF	Subject Tenant s.f.	1,920 s.f. (2 trailer bldgs)
Site Area	191,537 s.f.	Proposed	10,675 s.f. of outdoor play area (Areas a, b, c, d, e, f, g)

Previous Planning Projects related to Subject Application: Several permit applications in the last 10 years as listed below: 2016 - 7157, Use Permit for meeting room/area on an elevated platform around a tree - Approved 2012-7479, Use Permit for two new portable classrooms (1920 s.f.) for after-school learning center - Approved 2010-7678, Tree Removal Permit - Approved 2010-7049, UP for Telecom Facility on church tower - Withdrawn 2004-0841, Tree Removal Permit - Denied 2004-0705, Use Permit for installation of 6- foot telecom tower - Denied 2002-0671, Use Permit to construct a wall for columbarium - Approved 2002-0044- MPP for Ground Sign for Pre-school - Approved	Yes
Neighborhood Preservation Complaint: Non-compliant operations regarding outdoor play areas and business hours. This application has been made as a result of this complaint.	Yes

Deviations from Standard Zoning Requirements	No
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The applicant is proposing amendment of two conditions of approval for the approved Use Permit for the Sunny Chinese Learning Center to allow:

- Extended hours of operation

Currently allowed: 3:30 -7 PM on weekdays to be extended to: 11:30 AM - 6:30 PM during school days and 8:30 AM-6:30 PM when students are on break.

- Allow outdoor play areas where none are currently allowed.

The proposed outdoor play areas can be categorized into two main areas as shown in the Site Plan (Attachment 8):

- the fenced-in area around the two trailers that is approximately 2,875 square feet in size; and
- the areas outside of the fenced area located around the north side of the church buildings that is about 7,800 square feet in size.

The applicant has provided a Noise Assessment Study to address the potential noise from the proposed outdoor play areas.

Background

The Sunny Chinese Learning Center is located within a church site located at the corner of The Dalles Avenue and Wright Avenue. The center is located on the northwest portion of the site. This center, for a maximum of 84 children, located in two new portable trailers, which was approved as an educational enrichment use with a Use Permit in August 2012, and subject to conditions of approval (File No. 2012-7479) (Attachment 3- Staff report and Final Conditions of the Approval). This after-school center has been in operation for several years. The residential neighbors contacted the City's Neighborhood Preservation Division regarding the center's non-conforming business hours and outdoor play areas. . The center was directed to bring their operation into conformance with the approved Use Permit or request modification to their approved Use Permit for consideration. Planning staff reviewed the requested modifications and considers these changes to be a major modification to the approved Use Permit that requires approval from the Zoning Administrator.

The church site has several other tenants and activities that occur outdoors during weekdays and weekends. which include:

- Saint Luke Youth Program (about 20 students) near and around the outpost and tree from 10:45 a.m. to Noon, Fridays (one a month) from 5-7 p.m.
- Vacation Bible School (about 60 students) in the lawn area and outpost area for a week in July/August from 9 a.m. to Noon;
- Amazing Creations Preschool (48-36 students) outdoor play area by The Dalles Ave portion of the site from 9:45 a.m. to 5:30 p.m.
- Boy Scouts (about 10 students) near the outpost and tree area on Mondays from 7 p.m. to 9 p.m.

Use

Based on the center's program and hours of operation proposed in 2012, the use was considered as an education enrichment use. Due to the proposed extended hours, it can no longer be considered an educational enrichment use, but would be considered a child care center, as defined in the Sunnyvale Municipal Code Chapter 19.12:

- Education-Recreation and Enrichment means a facility which is used primarily for teaching learned skills to children or adults for purposes of recreation, amusement or enrichment. It includes uses such as karate studios, music and dance studios, arts and crafts studios, and tutoring centers. It does not include licensed day care centers and pre-schools, facilities for primary and high school education, and institutions of higher learning. It also does not include retail uses such as music stores, and recreational and athletic facilities such as fitness centers, bowling alleys, and ice skating rinks, where scheduled classes may be offered, but such classes are ancillary to the primary use.
- Child care center means a building or portion thereof in which nonresident children under eighteen years of age receive care and supervision for less than a twenty-four-hour period. "Child care center" includes infant centers, preschools, centers for mentally ill children and extended day care of school-age children but does not include "family child care homes."

Based on the above definitions, the Sunny Chinese Learning Center with the proposed extended hours can no longer be considered an education enrichment use, since this use applies to specific activities with shorter time frames; and would be considered a childcare use instead, as it allows care of children over an extended period. A childcare use in the subject site's PF zoning district requires a Use Permit. Staff notes, that the California Department of Education (CDE) has categorized this center as a Heritage School and does not classify it as childcare, which does not require a childcare license from the State (Attachment4 - Information from CDE).

Hours of Operation: The approved hours of operation for the after-school program in 2012, were between 3:30 to 7 p.m. The applicant is proposing an extension to these approved times. The proposal hours of operation are Monday through Friday from 11:30 AM - 6:30 PM during school days and 8:30 AM - 6:30 PM when students are on break.

The outdoor play would occur in four 30-minute periods for a total of 2 hours per day, typically between 3:30 to 5:30 p.m.

Staff notes that the proposed modifications further intensify the outdoor uses that already occur at this site as noted in the Background section of this report. The proposed extended hours of operation (8:30 AM to 6:30 PM) during non-school days indicates a full day day-care/camps for which students will have individual drop-off and pickup, as compared to school days where most of the children travel to the center from their school in the center's van. With the proposed intensity of use, staff believes that a new eight-foot high masonry at the north property line shared with the six single-family homes would reduce noise and visual impact on these neighbors.

Outdoor Play Areas: The approved Use Permit did not allow any outdoor play areas to specifically address neighbor concerns regarding noise noted at the Zoning Administrator hearing. However, the center has conducted outdoor play activities that occur primarily in the fenced area around the trailers that is marked as areas a, b and c (Attachment 8 - Site Plan and Photographs). This area includes

play structures, covered play areas and turf. This unpermitted play area and play activity has been reported as a complaint to the Planning and Neighborhood Preservation Divisions. Planning and Neighborhood Preservation staff visited the site several times and found this non-compliant area and activity and brought it to the center's attention.

The applicant is proposing outdoor play areas that will occur in four 30-minute periods (total of 2 hours/day). Each group will contain 12 children that will be supervised by at least one teacher. The areas proposed for this outdoor play can be categorized into two main areas (Attachment 8 - Aerial Site Plan and Photographs):

- Fenced area (areas a, b and c) around the two trailers/center that is about 2,875 square feet in size;
- Unfenced areas around the north side of the church buildings (enclosed and unenclosed areas) that is about 7,800 square feet in size (areas d, e, f and g).

The unfenced areas include areas d (corridor area), e (concrete area around a tree), f (concrete area near the sanctuary) and g (the lawn area between the parking lot and the church building). The primary concern about the outdoor play areas is its impact on the residential neighbors and so a noise study was required from the applicant.

Noise Study: The applicant has provided a noise study to assess the potential noise impact of the proposed outdoor play areas. The study was done by Stanton Shelly, Acoustical Consultant with Environmental Consulting Services (Attachment 5 - Noise Impact and Mitigation Study). The study provides noise levels recorded at three locations near the residential fences during afternoon periods with children playing in the outdoor areas. The noise levels range from 49 to 52 dBA (includes ambient noise plus children playing). It states that traffic is the dominant noise source near the project site (includes noise from 85 Freeway) and that noise levels reach 55 to 65 dBA due to sporadic cars using the church parking lot. Noise expected from children playing would be from sporadic voices of K-6 age children that create intermittent brief noise ranging from 50 to 60 dBA at distance of 50-75 feet. The closest adjacent residential fence is approximately 75 to 100 feet away from the play areas (fenced play area is at 75 feet away, and unfenced play areas are about 100 feet or greater). This distance and existing barriers (fences) are expected to reduce the noise by 10-12 dBA that will result in a maximum of 45-48 dBA at the property line/residential yards where a maximum of 60dBA is acceptable, per Sunnyvale Noise Standards. The study concludes that the ambient noise levels in the immediate neighborhood is primarily from the freeway traffic noise and noise from children playing would be intermittent and reduced at the adjacent properties/yards due to their distance and barriers and would not create a significant noise impact.

Although the noise study notes that there will be minimal noise increase at the north property line shared with residential neighbors, staff believes that outdoor play areas be limited to the area(s) that are fenced as compared to the unfenced areas as that additional fence would provide a second barrier that helps reduce noise levels. The fenced outdoor play area is approximately 2,875 square feet in size and is adequate for the center. Additionally, this area is in close proximity to the center to ensure better supervision of the children to help reduce noise. Staff has included a condition of approval to limit the outdoor play area to the fenced areas (area a, b, and c) and not include the unfenced areas (areas d, e, f, and g) - Condition of Approval PS-1.

Parking: The site is served by two parking lots; one along the north property line with access from Wright Avenue (North Parking Lot) and the second parking lot is located south of the church building and has access from The Dalles. Per Sunnyvale Municipal Code (SMC 19. 46.050), the site with the existing uses (church use, meeting hall and tree deck, and preschool) and the Sunny Chinese Learning Center requires a total of 156 parking spaces where 158 are provided. Most of the uses do not occur at the same time. The church's religious uses occur during weekends while the other uses such as the childcare and preschool occur during weekdays. The site is adequately parked even if all the uses were to occur at the same time. The proposed modifications do not result in a change of the parking requirements for the site.

Staff notes that portions of the North Parking Lot that serves the center needs resurfacing and restriping as the parking lot has uneven surface and the current striping has faded an (Condition of Approval No. PS-1(c)). If the site lacks bicycle parking; Condition of Approval No. PS-1(d) requires provision of eight bicycle parking be provided in the parking lot or near the center.

Neighborhood Compatibility: The day care center (Sunny Chinese Learning Center) is within a church campus, which also includes other uses/tenants (preschool and meeting areas used by a variety of community groups). The campus is surrounded by single family residential uses on its north and west side. The site has adequate parking for these uses. The landscaped area at this property line was required to be planted with shrubs to provide a 6-foot tall hedge in 2012. The planting did not occur and instead this area includes a few 2 to 3-foot tall shrubs and some ground cover. The proposed modifications further intensify the use of the site that can impact the residential neighbors on the north. The proposed modifications could increase noise levels from the outdoor play areas and cars in the parking lot.

The proposed outdoor play areas for the day care center includes areas that are fenced and unfenced and are at least 75 feet away from the residential neighbors to the north. The neighbors are separated by 6 -7 feet tall wooden fences typically found in residential areas (except one single family home which has a six-foot tall masonry wall). Staff believes that limiting the outdoor play area to the fenced area will provide additional noise barriers for the residential neighbors on the north side. Additionally, the applicant is required to plant the 6-foot tall hedge (as previously required for the Use Permit) to help minimize noise impact.

The proposal also includes extension of operations that will further intensify the use at this site that would result in additional cars associated with drop-off during school breaks. Staff believes that the additional car trips and associated noise impact can be minimized with an eight-foot tall masonry wall that can be constructed along the north property line. An eight-foot tall wall is commonly required barrier between residential and non-residential zones/uses in the city. Staff has included a Condition of Approval (PS-1) that requires this wall be built on the north property line to address the extended business hours when children are on school break.

Staff believes that the limitation on the outdoor play areas to the fenced area only and the addition of a masonry wall on the north property line will adequately address the proposed changes and minimize its impact on the neighboring residential properties.

Public Contact: 94 notices were sent to surrounding property owners and residents adjacent to the subject site in addition to standard noticing practices, including advertisement in the Sunnyvale Sun Newspaper and on-site posting. Two letters were received from the public by staff - one letter supports the proposal and the second letter does not (Attachment 7 - Public Comments Received).

Environmental Determination: A Categorical Exemption Class 1 (minor alterations to existing structure) relieves this project from CEQA provisions.

FINDINGS

In order to approve the Use 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 - **Finding Met.**

General Plan - Land Use and Transportation Element o

***LT-5.2b:** Support a full spectrum of conveniently located commercial, public, and quasi-public uses that support and enhance the livability of residential neighborhoods.*

The proposed use will provide a day care/after-school service to the residential neighborhood that will enhance the livability of the neighborhood. The proposed use, as conditioned, is compatible with adjacent residential uses with minimal negative impacts on surrounding uses are anticipated.

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 the orderly development of, or the existing uses being made of, adjacent properties - **Finding Met.**

The proposed use, as conditioned, is compatible with existing uses on-site and residential uses in the neighborhood. The condition that outdoor play area be limited to the fenced area around the center and that an 8-foot tall masonry wall be installed will reduce the noise and visual impact of the increased activity at this facility. There is adequate on-site parking for the uses on the site.

ALTERNATIVES

1. Approve the Use Permit with recommended Conditions in Attachment 2.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

RECOMMENDATION

Alternative 1. Approve the Use Permit with recommended Conditions in Attachment 2.

Prepared by: Shétal Divatia, Senior Planner

Approved by: Ryan, Kuchenig, Senior Planner

ATTACHMENTS

1. Vicinity and Noticing Maps
2. Standard Requirements and Recommended Conditions of Approval
3. Previously Approved Use Permit (#2012-7479 - Staff report and Final Conditions of Approval)
4. Information on Heritage Schools - California State Department of Education
5. Noise Impact and Mitigation Study
6. Letter from the Applicant
7. Public Comments Received
8. Site plan and Photographs