

**Council Meeting: April 6, 2010****SUBJECT: 2009-0756: Appeal by the applicant of the decision by the Planning Commission to deny the Use Permit for a child care center for up to 24 children at 260 S. Mary Avenue****REPORT IN BRIEF****Existing Site Conditions** Large Family Day Care (up to 14 children) in a Single-Family Home**Surrounding Land Uses**

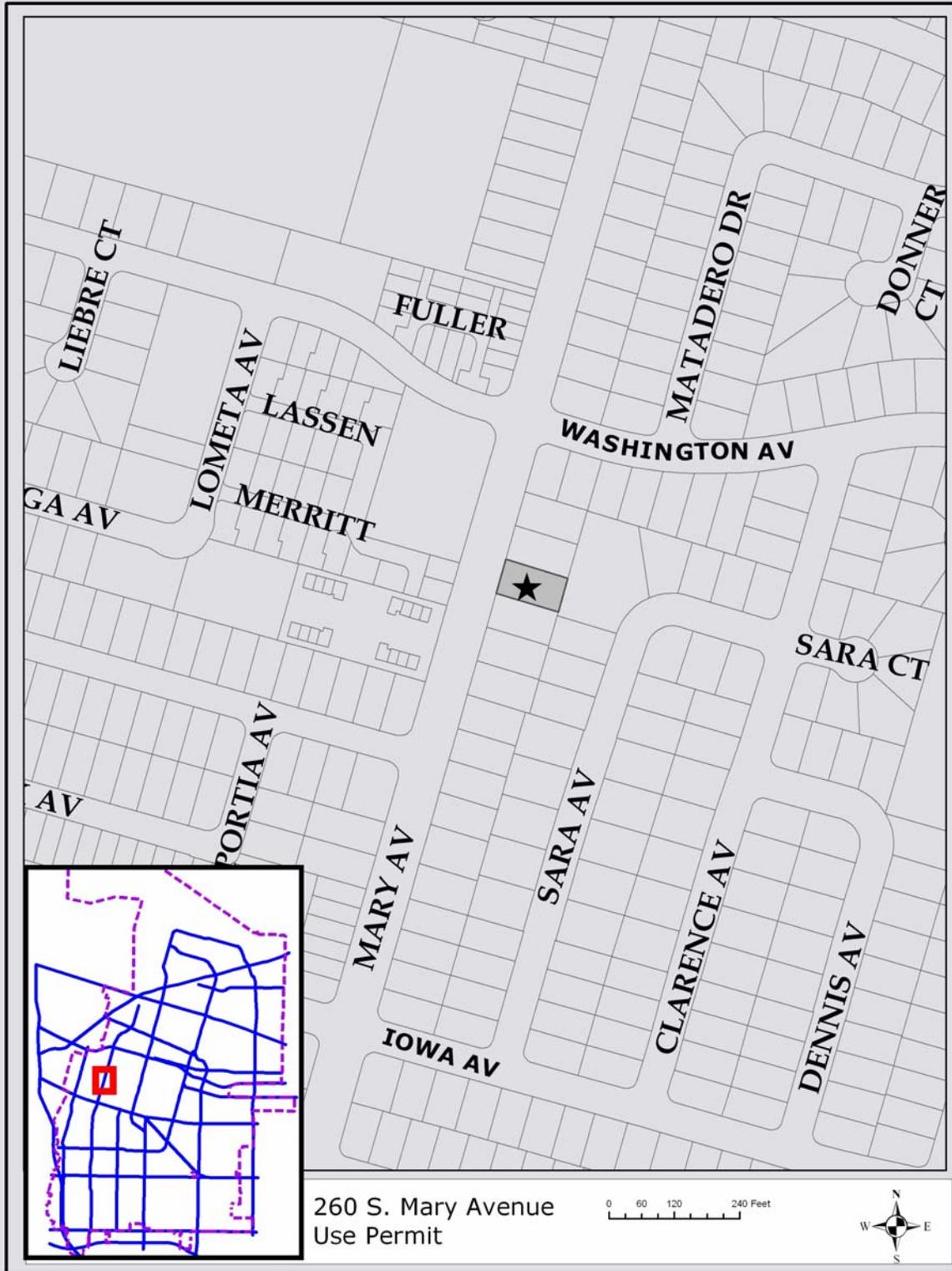
North Single-Family Residential

South Single-Family Residential

East Single-Family Residential

West Single-Family Residential & Commercial (across Mary Avenue)

Issues Neighborhood Compatibility**Environmental Status** A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.**Administrative Hearing Officer Action** Denied the Use Permit.**Planning Commission Action on Appeal** Did not grant the appeal**Staff Recommendation** Grant the appeal and approve the Use Permit for 18 children for a period of one year.



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	---
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	7,217	Same	6,000 min.
Gross Floor Area (s.f.)	2,217	Same	No max
Parking	4	4	4 min.

BACKGROUND

There are no previous planning applications associated with the project site. An Administrative Hearing was held for the proposed project on December 16, 2009. The project was taken under advisement for two days and denied on December 18, 2009. More discussion of the Administrative Hearing is noted on page 6 of this report

A Planning Commission public hearing was held for this project on February 8, 2010. The decision by the Administrative Hearing Officer was upheld through a 3-3 vote. In order for a decision to be overturned, a majority vote is required. More discussion of the Planning Commission Hearing and appeal are noted on page 6 and 7 of this report.

Description of Proposed Project

The proposed use is to convert a single-family home into a commercial day care center with a maximum capacity of 24 children. Currently, the single-family home is occupied by a residence and a large family day care which has up to 14 children, as permitted by Sunnyvale Municipal Code. No residential use of the site would be maintained as a result of this project.

As noted by the applicant, the State of California requires 35 square feet of indoor and 75 square feet of outdoor space per child. The applicant has provided information within the plan and project description to support that this requirement has been met. All other state requirements and licenses are required to be met as restated in “Standard Requirements” listed in Attachment B.

Use Permit

Hours of Operation: The day care operation is from 8 a.m. to 6 p.m. Monday through Friday. Drop off and pick up occur the first and last two hours during business operation.

Expected Students / Customers: A maximum of 24 children would occupy the site, as proposed by the applicant. The children would range from one and a half to six years old. Two teachers would be present at the site during business operation.

Floor Plan: The existing floor plan of the home consists of three bedrooms and additional rooms designated for activities, learning and staff. A two-car garage, two bathrooms and a kitchen are also provided. The proposed layout of the commercial day care would include extensive interior modifications that include removing various walls for larger open areas and area for hallways. A bathroom will be enlarged as well. Many of these changes are necessitated by the required accessibility regulations per Building Code requirements for commercial daycare centers. Existing and proposed floor plans are provided in Attachment C.

An existing shed is located near the property line at the northeast corner of the property. It is unclear whether the shed meets setback requirements. More information regarding the size and height of the shed shall be provided with the building permit plans if approved. If the structure is determined to not meet setback requirements, the structure is required to be removed or relocated as specified by Condition of Approval #5B.

Exterior Changes: The most significant exterior change proposed would be along the front (west) elevation to accommodate the installation of a handicap ramp to meet accessibility requirements. Along each of the side (north and south) elevations, one door and window are proposed to be removed. One door (hallway) will be replaced by a window at the back of the home. These proposed modifications are more clearly shown in the floor plans and elevations in Attachment C.

Another proposed modification includes raising the floor level of a previously permitted sunroom (constructed in 2006) by approximately one foot. This modification is also necessitated by accessibility regulations and would not be visible from the front elevation due to the roof pitch of the sunroom. If approved, a possible future exterior change would be the placement of signage on the property, as it would be occupied by a commercial use. A separate application is required for proposed signage.

Parking & Circulation: Sunnyvale Municipal Code requires one space per employee during a maximum shift plus one space per 14 students. The proposed day care center would consist of two employees and 24 children, which would require a total of four spaces. In addition to this total space requirement, one space must be van loading accessible, per Building Code requirements. This space, however; is not required to be utilized exclusively as a handicap accessible space.

The current single-family home requires four spaces as well; however, the required two uncovered spaces can be parked in tandem behind the garage to meet this standard. In the case of a commercial day care center, this configuration is not permissible. All four spaces require direct access. The proposed layout would comply with parking requirements as designed and shown in page 1 of Attachment C. The applicant notes the available parking along the street in front of the home. On-street parking spaces cannot be factored in consideration of Municipal Code requirements. Such spaces are available to the public and may not be always be available for the proposed use.

The parking requirements necessitate the installation of new paving area outside of the access area for the garage. In order to comply with the Municipal Code requirement for a maximum paved surface allowance of 50% for a front yard, a portion of the front yard surface would be composed of a "grasscrete" surface. According to the provided calculations, the front yard would be approximately 43% paved.

If approved, staff has included Condition of Approval #6A which requires that the garage spaces be restricted to employee parking. Also required, is Condition of Approval #6B which requires that the paved area and "grasscrete" surface in front of the home remain open unless used for parking and drop-off of children.

The Transportation Division has reviewed an earlier designed layout and had some initial concerns with circulation and access to the designated parking spaces. The most recent plan which indicates parking parallel to the street and in front of the home has addressed earlier concerns with a plan that indicated back-up area directly into the public right-of way. Previous designs considered an alternate location for this accessible space; however, the added area required for this space would limit access options to other spaces. Although drop-off and pick-up area on-site has increased with the most recent plan, staff is still concerned that this area is limited and would occur at curb-side adjacent to Mary Avenue. As stated previously, this area may not always be available to patrons of the site. At a minimum, additional markings located adjacent to parking spaces should delineate spaces and help maintain

separation. If approved, staff has included Condition of Approval #6C to further consult with staff to determine appropriate measures to ensure adequate separation for needed driveway access and parking spaces. Such measures may include reflectors or other techniques as deemed appropriate.

The proposed site plan includes a 30-inch retaining wall to screen the new parking area located in front of the garage. The increased parking area results in the loss of a 30-inch circumference pine tree located in the front yard. This tree does not meet the definition of a significant tree (38 inches or greater in circumference, measured four and one-half feet above ground). The previous plan would allow retention of this tree, but less area for drop-off and parking is provided as shown on page two of in Attachment C.

Administrative Hearing

The project was reviewed at the Administrative Hearing of December 16, 2009. At the hearing three members of the public, who are parents of children that attend the daycare, spoke in support of the proposed expansion. The Administrative Hearing Minutes are included in Attachment G. The issue of noise generated due to the increased amount of children playing outside was discussed. Possible ways to reduce or manage activities outside the facility (rear yard) to lessen possible disturbance to neighboring properties were discussed including limiting the number of children outside at a given time. After taking the project under advisement for two days for further consideration, the Administrative Hearing Officer could not make the required findings. Ultimately, the Administrative Hearing Officer denied the proposal as it was determined that it would be difficult to impose such conditions that would be consistently monitored over the lifetime of the permit. The Administrative Hearing Officer further stated that a project site was inappropriate based on its location on a busy street, near a busy intersection, with only one point of street access and limited opportunity for off-street parking.

Planning Commission

The project was reviewed by the Planning Commission of February 8, 2010. Eight members of the public, who are parents of children that attend the daycare, spoke in support of the conversion of the home into a commercial daycare facility. The Planning Commission Minutes are included in Attachment H. The public hearing discussion included issues of traffic, noise and land use compatibility. Three Commissioners voted in support of the motion to deny the appeal while three members of the Commission supported the appeal. One member of the Planning Commission recused himself due to the proximity of his home to the subject application. A majority vote is required in order for an appeal to be granted. Those in favor of the appeal stated that a commercial daycare was compatible to nearby uses along Mary Avenue and issues of traffic

and noise could be managed. The Commissioners that voted in support of decision to deny the Use Permit noted concerns with land use compatibility for the conversion to a commercial use and consistent monitoring of future daycare facilities.

Applicant's Appeal

The applicant has submitted a letter, which is included in Attachment F. Additional email letters of support are included in this attachment. The applicant states that the day care facility would be compatible with the neighborhood as only minor exterior modifications to the home are proposed. The applicant also states that varying drop-off and pick up times along with many parents walking their children to the facility will lessen parking and traffic conflicts. The applicant further states that noise issues that might be caused by children playing outside for an extended period of time could be addressed through scheduling fewer children to play outside at a particular time (three groups of eight) or by having all children playing outside at once for a shorter duration. The applicant further offers to plant landscaping in the form of vines along the rear yard fence to help reduce sound.

Staff Discussion and Comment on Appeal

The proposal introduces a commercial day care center to a residential block of Mary Avenue. Properties that have been developed originally as single family homes are considered difficult opportunities for commercial day care facilities due to compatibility issues with neighboring residential uses and needed physical modifications (site layout and structural) to meet Code requirements. Staff notes that commercial day cares have been approved at corners in residential neighborhood with an additional access point and increased area for drop off activity. A corner property may also impact fewer residential properties in terms of noise. Staff recommended against the appeal to the Planning Commission as it was felt that a mid-block location for a commercial daycare center was not considered ideal for a day care use.

Since the split 3-3 vote and feedback provided by the Planning Commission, staff has explored an alternative solution with the applicant. Staff has explored supporting a smaller increase of children of up to 18 instead of 24 for a temporary period. After a period of one year, an Administrative Hearing public hearing would be held to review the operation of the childcare center for a permanent approval and to consider an increase of children to 24 children. This alternative allows for a possible phased increase with a review of parking, traffic and noise concerns. Therefore based on the feedback from the Commission and alternative explored with the applicant, staff has changed its recommendation to support the project as it is felt that a smaller increase on a temporary basis could be supported. Staff's concerns regarding land use compatibility can be monitored and concerns regarding traffic circulation are

alleviated. If Council can make the Findings to grant the appeal and approve the Use Permit, staff has added Alternative 3 that includes Condition of Approval #4a, which enables the facility for a 1 year period and 18 children. The City Council can also approve the permit as proposed by the applicant (24 children) by approving Alternative 2. The applicant has responded to the additional alternative favorably and would like both options to be considered.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

ENVIRONMENTAL REVIEW

A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

FISCAL IMPACT

No fiscal impacts other than normal fees and taxes are expected.

PUBLIC CONTACT

32 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. Notices were also sent to those interested parties that attended the public hearings. The applicant has provided letters of recommendation from neighboring residents. Staff has also received a letter from an adjacent resident noting concerns with the proposed day care center and associated traffic, parking, noise, and size of the property. These letters are included in Attachment E.

ALTERNATIVES

1. Deny the appeal and uphold the denial of the Use Permit.
2. Grant the appeal and approve the Use Permit subject to the conditions in Attachment B including the following condition replacing #4a:
The maximum capacity for the day care center shall be limited to 24 children and two employees. Any proposed expansion of the use requires approval by an Administrative Hearing.
3. Grant the appeal and approve the Use Permit subject to the conditions in Attachment B including Condition of Approval 4a limiting the maximum capacity to 18 children and requiring a 1-year public review of the facility operation, with allowance to consider an increase to 24 children at that time.
4. Grant the appeal and approve the Use Permit with modified conditions.

5. Refer the proposal back to the Planning Commission for consideration of Condition of Approval 4a.

RECOMMENDATION

Staff recommends Alternative 3 to the City Council. Grant the appeal and approve the Use Permit subject to the conditions in Attachment B including Condition of Approval 4a limiting the maximum capacity to 18 children and requiring a 1-year public review of the facility operation, with allowance to consider an increase to 24 children at that time.

Reviewed by:

Hanson Hom, Director, Community Development Department

Reviewed by: Trudi Ryan, Planning Officer

Prepared by: Ryan M. Kuchenig, Associate Planner

Approved by:

Gary M. Luebbbers

City Manager

Attachments

- A. Recommended Findings
- B. Standard Requirements and Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter and Justifications from the Applicant
- E. Letters from the Neighborhood
- F. Appeal Letter Submitted by the Applicant
- G. Minutes from the Administrative Hearing, dated December 16, 2009
- H. Minutes of the Planning Commission Hearing on February 8, 2010

Recommended Findings – Use Permit

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)*

Land Use and Transportation Element

Policy N1.1 – *Protect the integrity of the City’s neighborhoods; whether residential, industrial or commercial.*

Action Statement N1.1.1 - *Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

Housing and Community Revitalization Sub-Element – Policy C.6.a

Continue to implement the home occupation regulations that allow businesses that do not affect the primary residential character of the neighborhood and that do not involve retail sales, large inventories, hazardous materials, or traffic or parking problems.

The proposed day care center meets development standards including parking. Generally, a location a corner property at the edge of residential neighborhood is more preferable; however, staff finds that, as conditioned, a smaller capacity could be supported. Staff will review the operation of the daycare after one year to consider possible impacts including noise, adequate circulation and compatibility to neighboring properties. **Staff was able to make the findings as the project, as conditioned, meets the guidelines described above.**

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 conversion of the home to a commercial day care center will maintain a single family appearance from the street. The physical changes to the home are not considered significant from a visual standpoint; however staff finds that the proposed increased capacity could negatively impact the adjacent residential development through increased traffic and noise. The project is located at mid-block along a busy traffic corridor and surrounded by residential properties on three sides. As conditioned, with a smaller capacity of 18 children, staff can review the operation after one year and determine if increased traffic and noise has occurred. Although staff notes that a location on a corner with a secondary access point may be a more appropriate location for a larger day care, conditions of Approval will

ensure that impacts are minimized and monitored. **As conditioned, staff is able to make the finding that the project does not impair neighboring properties.**

Standard Requirements

The following is a list of standard requirements. This list is intended to assist the applicant and public in understanding basic related requirements, and is not intended as an exhaustive list. These requirements cannot be waived or modified.

1. **Permit Expiration:** The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
2. **Permit Lapse if not Exercised (Ordinance 2895-09):** The Use Permit shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094). Extensions of time may be considered, for a maximum of two one year extensions, if applied for and approved prior to the expiration of the permit approval. If the approval is not exercised within this time frame, the permit is null and void.
3. **Building Permits:** Obtain Building Permits.
4. **Signs:** All new signs shall be in conformance with Sunnyvale Municipal Code and any existing Master Sign Program.
5. **Clean Site:** All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
6. **State Licenses:** Comply with all requirements for childcare centers and obtain necessary licenses as applicable by the State Department of Social Services.

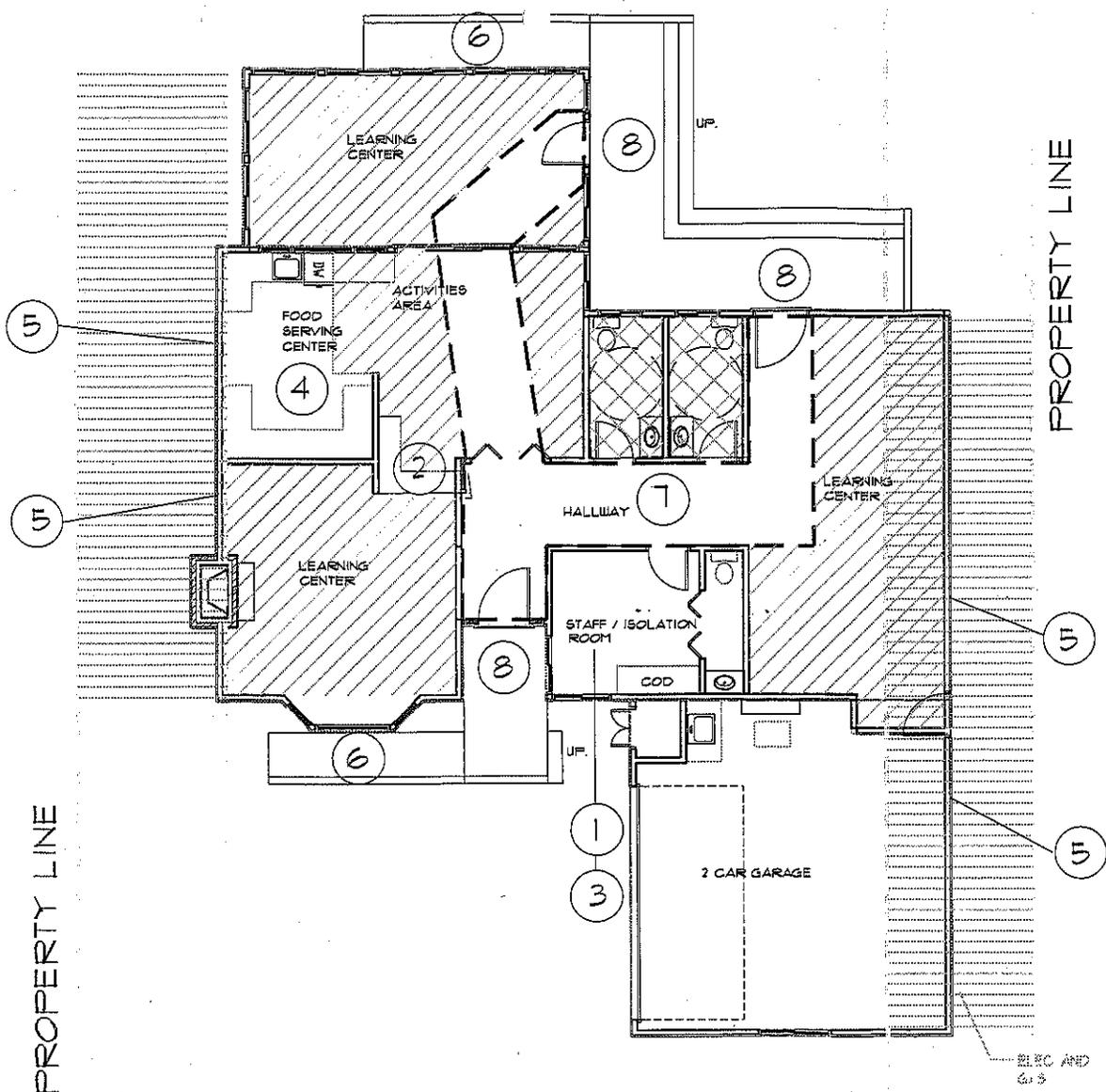
Recommended Conditions of Approval

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 of this Permit:

1. **Execute Permit Document:** Execute a Use Permit document prior to issuance of the building permit.
2. **Project Conformance:** Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.

3. **Conditions of Approval on Plans:** The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
4. **Capacity:**
 - a. The maximum capacity for the day care center shall be limited to 18 children and two employees. After one-year of facility operation, consideration to allow 24 children may be considered upon review at an Administrative Hearing.
5. **Landscape Plans:** A landscape plan shall be submitted and subject to review and approval by the Director of Community Development prior to issuance of a Building Permit. Landscaping shall be installed prior to occupancy. The landscape plan shall include the following elements:
 - a. Specifications regarding the proposed “grasscrete” surface shall be provided which indicate compliance to a maximum 50% coverage area.
 - b. Information shall be provided regarding the shed located at the northeast corner. The shed may be required to be removed or relocated based on size and height.
 - c. Screening vegetation shall be planted in front of the proposed retaining wall in the front yard. Such planting shall be maintained to not exceed height of the 30-inch wall.
 - d. All landscaping shall be installed prior to final or occupancy.
6. **Parking Maintenance & Circulation:** A Parking Management Plan must be submitted and subject to review and approval by the Director of Community Development prior to issuance of a building permit. The Parking Management Plan shall include the following:
 - a. The required two employee parking spaces shall be limited to the garage.
 - b. Employees using the two garage spaces shall be provided access to such spaces. This shall be addressed through the installation of an automatic garage door with an opener given to employees to access during their employment.
 - c. Guest parking and drop off area shall remain available and unobstructed during business hours.
 - d. Further consultation with the Transportation and Planning Divisions shall be required to provide adequate separation for access and parking spaces. Additional measures such as reflectors or reflective tape may be appropriate.

7. **Recycling and Solid Waste Plan:** Submit a detailed recycling and solid waste disposal plan subject to review and approval by the Director of Community Development for approval.
-



LEGEND:
PROPOSED FLOOR DIAGRAM

-  REQUIRED SPACE FOR CHILDREN:
24 CHILDREN X 355F = 840 SF
(WE HAVE DESIGNATED 879 SF)
-  BATHROOMS
-  EGRESS
-  FIRE PROTECTION AREA

- ① ISOLATION AREA USED BY ILL. STAFF, EMERGENCY. (ONE SINK, TOILET AND, BED OR COD.)
- ② STORAGE SPACE, FOR EACH KID.
- ③ TEACHERS AREA (SEPARATED?)
- ④ FOOD PREPARATION
- ⑤ REMOVED DOOR, WINDOW (FIRE PROTECT. ZONE)
- ⑥ ADA ACCESS, RAMPS LOCATION
- ⑦ ADA ACCESS - BATHROOMS (1 MALE, 1 FEMALE, NO STAFF BATH.)
- ⑧ EGRESS DOOR.
- ⑨ ACCORDION WALL, AREA SEPARATION.

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CHECKED BY: []

DATE: []

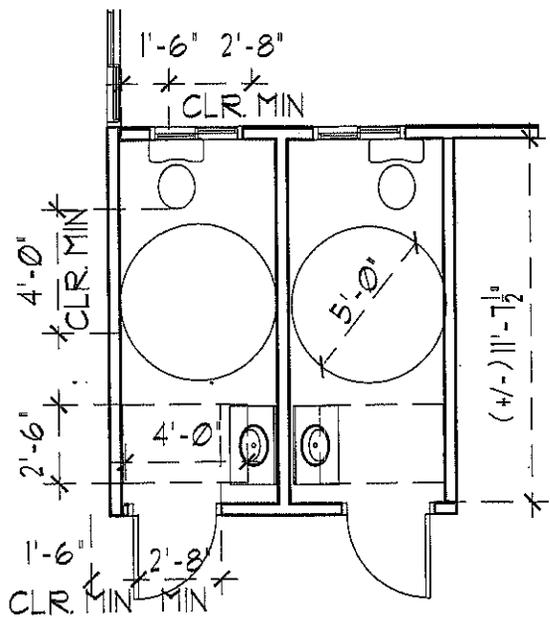
SCALE: []

SHEET: A2-02

ATTACHMENT 5 of 8

SAINI DAYCARE
260 S MARY AV.
SUNNYVALE, CALIFORNIA 94087

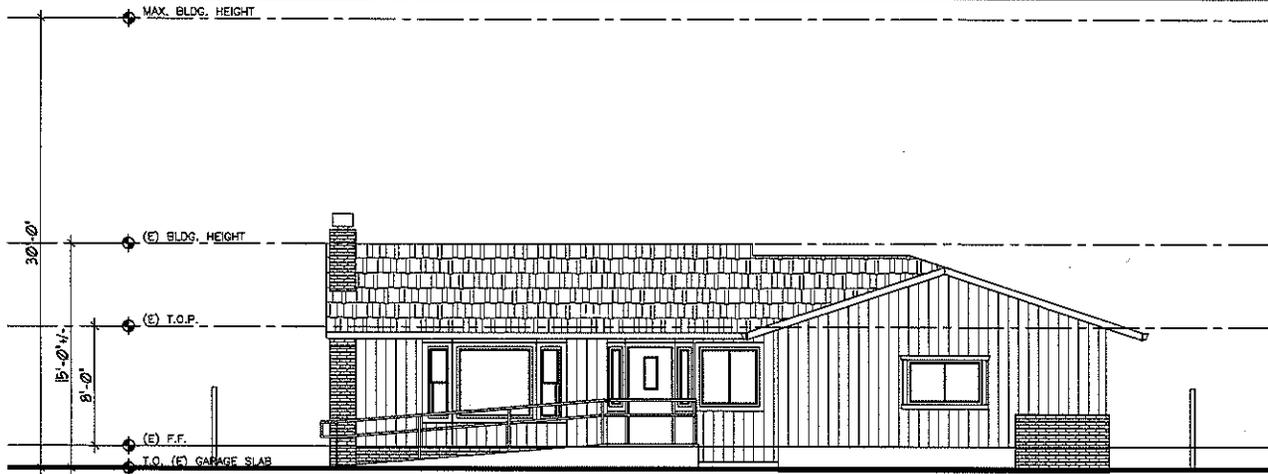
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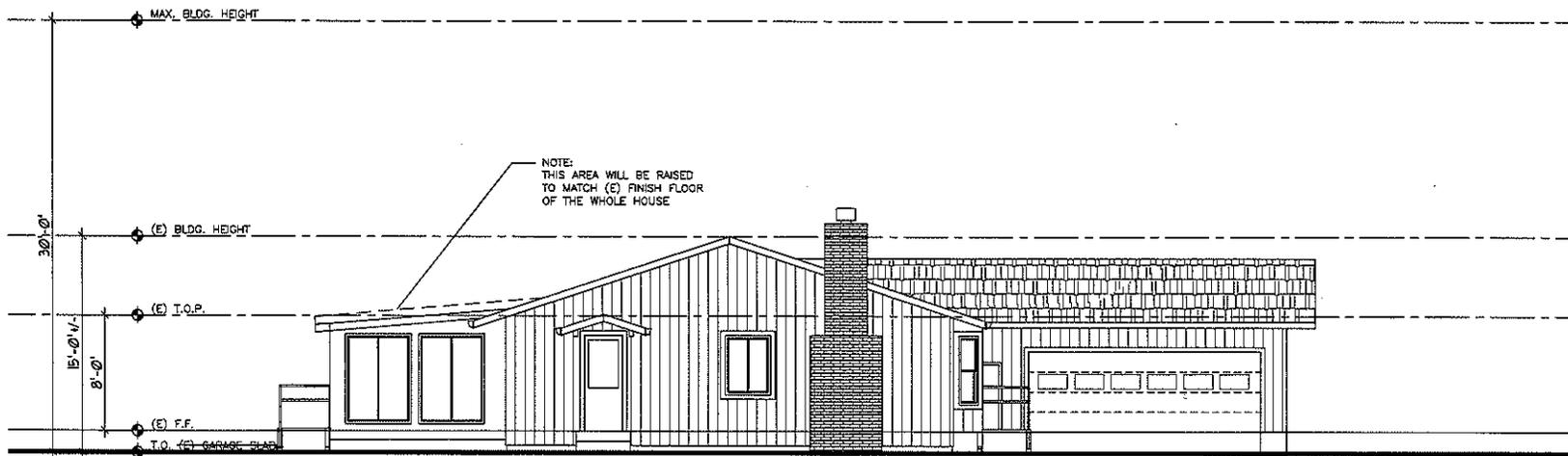
ENLARGED BATHROOMS PLAN

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<p>DATE: 11/15/06 SCALE: AS SHOWN DRAWN BY: J. SAINI CHECKED BY: J. SAINI PROJECT NO.: 06-001</p>	<p>280A BATHROOM PLAN Page 6 of 8</p>

ATTACHMENT C



3 WEST ELEVATION
1/4"=1'-0"



4 NORTH ELEVATION
1/4"=1'-0"

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REVISION	27
 William Mastos ARCHITECT ASSOCIATES 284 Gates Street Sunnyvale, CA 94087 (408) 298-2700 www.williammastos.com	
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SAINI DAYCARE 260 S MARY AV. SUNNYVALE, CALIFORNIA 94087	
ELEVATIONS	
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SHEET	A5.02
OF	5

ATTACHMENT C
 Page 7 of 5

September 21, 2009

Planning Department
City of Sunnyvale
456 W. Olive Ave
Sunnyvale, CA 94086

Re: Use Permit Application for (APN: 165-090-14): 260 S Mary Ave, Sunnyvale, CA 94086

Dear City Planning Department,

The current property at South 260 Mary Avenue is operating an existing child day care business, Windsor Academy. This facility has already been permitted by the City of Sunnyvale to operate as a large child day care facility (up to 14 children).

The daycare at this property is operational and yielding excellent results.

Windsor Academy has developed a plan for the facility.

While the size of existing facility is remaining the same the proposed expansion of the program is based on meeting the local community needs which is to include preschool age children, and an educational aspect of this program is beyond residential daycare. We are submitting the following Use Permit Application for it.

1. Who We are

Windsor Academy has been providing high quality school age day care for over a year. Our clients/families are from the local community and this has helped our program earn a high reputation from the community. At Windsor, we aim to provide quality childcare and preschool education in a homely environment where children feel safe, happy, and are able to learn and make new friends.

2. Student age and Number of Teachers

The expansion will allow us to provide preschool and care service to 24 students.
Students' age range: 1.5 – 6 yrs old
Teachers: - 2

3. Subject Property Basic Building Information

a. Building Basics

There was no full Site Survey ordered by Civil Engineer, but on site measurements were used to prepare this submittal set (taken by a professional architectural company, William Maston Architects & Associates).

- i. Building Size: 2,217sf (see sheet A2.01)
- ii. Lot Size: 7,217sf (see sheet A1.01)
- iii. Outdoor Play Area: 2,853sf (see sheet A1.01)

- iv. Current / proposed parking
- street directly in front of house 3 (three)
 - driveway 2 (two uncovered, one ADA)
 - Garage 2 (two covered)

4. Legal enrollment number based on regulation indoor space requirement
- a. Regulation indoor space requirement: 35 sq ft / child – Based on regulation indoor standard (after excluding the kitchen, hallway and bathroom area) our maximum enrollment number could be: 29 full time preschool age students (1025 sq ft / 35 sq ft per child = 29 children). Because of ADA and parking requirements we are limiting to 24 children = 35 x 24 = designated 879 sf. See sheet A2.02 for calculations and graphical interpretation).
- b. For outdoor space requirement is 75sf/child. Proposed outdoor space is 2,465 sf. Required 75 sf x 24 = 1,800 sf.

5. Space Utilization

Indoor usage:

- The space will be kept mainly open to flow from room to room. Furniture will be strategically placed to divide the rooms into learning, dramatic play, science, library, art, crafts, blocks, kitchen, and other creative play centers.
- Front entrance area will be used for cubbies and “welcome” area.

Outdoor usage:

- Medium sized age-appropriate play structures.
- A tricycle path is present for wagons and bike riding.
- Small sand and water play area is setup.
- Bench and chairs are setup for picnics.
- Canopies are setup for sun protection.
- Small garden/grass area is setup for hands-on gardening activities.



Front of Building Usage:

- Parking, drop off, pick up
- Approved signage display

6. Why we need a Preschool Day Care Center in Sunnyvale?

- a. Sunnyvale is the center of Silicon Valley. There are currently multiple housing development projects taking place in the downtown Sunnyvale area (within 1 mile from the subject property). Hundreds of new families will be moving into our community, a community which is already stressing the current care offerings. Many of these new families will be young couples who will demand preschool and care service. Expanding our current care operation will be a fantastic opportunity for the city of Sunnyvale to invest in the long term needs of the community.
- b. Our preschool offers a bilingual language skills program. Preschool aged children are much better equipped to expand their capacity and love of language through learning the necessary skills to excel at multiple.

7. Program Hours

Operation Hours (year round):

Monday - Friday:	8:00 AM – 6:00 PM
Drop Off Time:	8:00 AM – 10:00 AM
Pick Up Time:	4:00 PM – 6:00 PM

Daily Schedule: (please see attached)

8. Other General Conditions

a. Facility modifications and remodeling

We will be advised of the building's necessary indoor/outdoor modifications by a professional architecture company, William Maston Architects & Associates, according to preschool and day care standards.

9. Environmental Impact Analysis

- a. Traffic Consideration – Because of parents' varying work schedules and our large drop-off and pick-up time windows, parents usually arrive at well spaced intervals and we haven't had issues with congestion in the past. We feel that this will scale well with an expansion due to our many care schedule options for full days, part days, core days, and different days of the week. These all work together to better spread out the times when students are picked up or dropped off at our center. It should be noted that nearly ½ of our current student population walks or "wagon" to school on a daily bases, which is dramatically reduces daily car count.
- b. Drop-off Escort – If there are any drop-off events, such a field trips or community activities, they will be handled by a parent car pool

- solution. Students arriving by car pool will be under the escort of a parent in the driveway to assure safety for the students.
- c. Meals – Windsor Preschool Academy will provide students with warm lunch and dinner meals, as well as a morning snack. No food preparation will be done at facility. No oil or grease will be used in the kitchen.

Justifications

The proposed use will not be detrimental or injurious to property or improvements in the vicinity as there will be no change to the property or its structure.

The proposed use will not be detrimental to public health, safety, general welfare or convenience. We will continue to provide safety and comfort for the students.

The proposed use will not generate traffic for public roads. Our program will not have any negative impact to the neighborhood either.

The proposed use will be located and conducted in a manner in accordance with the City of Sunnyvale Comprehensive Plan, and the purpose of the Zoning Ordinance. The structure of the existing building will not be changed in any manner. The building will retain the character of the local neighborhood.

The proposed use will provide parents a safe place for their children while they are at work.

- This will allow the parents to concentrate on their work and contribute to society fully.
- By offering child care either close to parents' homes or work places, families needn't move away from Sunnyvale nor look for work elsewhere.
- This will help local businesses attract employees.
- This will contribute to the local economy's growth and keep the real estate market stable.

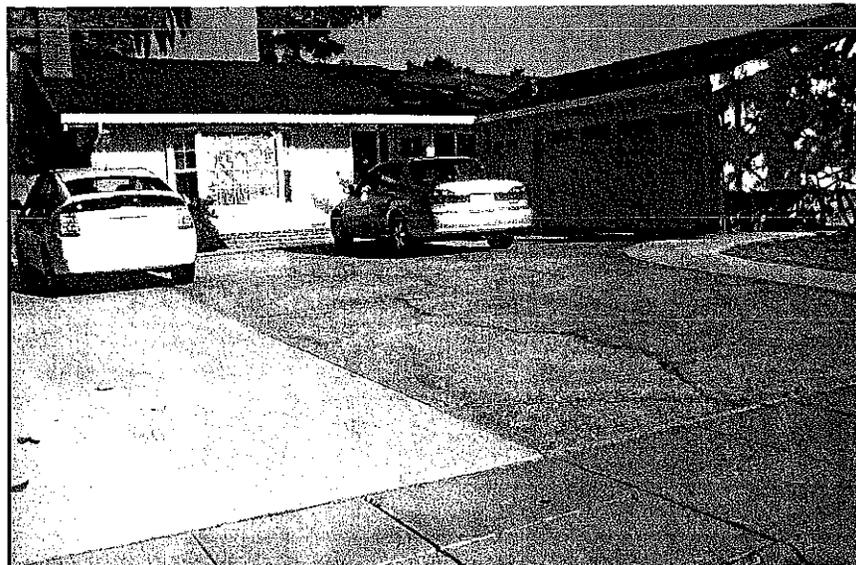
The proposed use will provide high quality preschool programs relating to:

- Reading, writing, and math skills.
- Physical, emotional, and social fortitude.

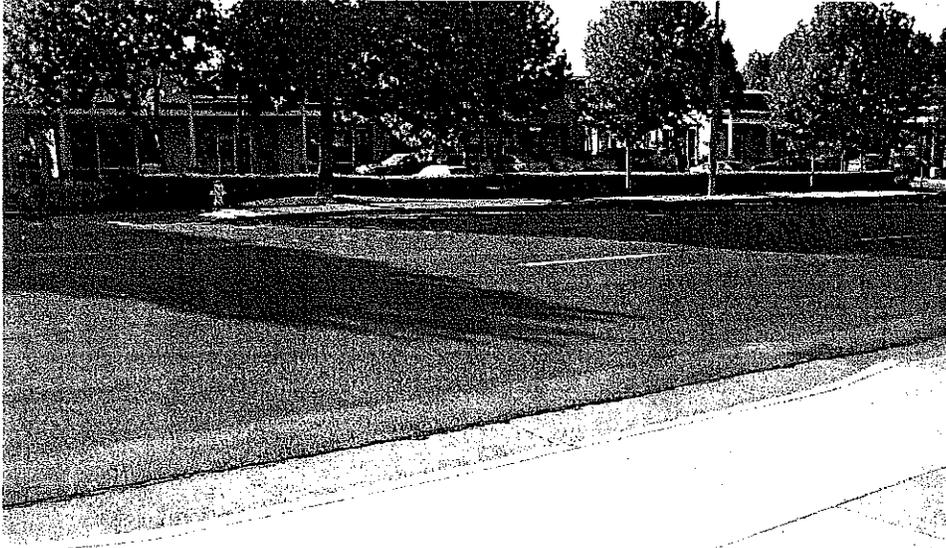
Our center is conveniently located which makes drop-off and pick-up easier for parents. This is because the center is located in a residential neighborhood and across the road from businesses. This provides families with the possibility of including multiple errands as a part of picking up or dropping off their child. This, in turn, limits future trips, congestion, and environmental impact of the additional transportation.



- Traffic: This property is located on a main street (at S. Mary Ave. near Washington Ave.). This property is already operating a large day care with 14 children addition of another 10 children will not have any noticeable additional traffic. As mentioned earlier that nearly ½ of our current student population walks or “wagon” to school on a daily bases, which is dramatically reduces daily car count.
- Parking: At present, there are 2 covered garage parking, 2 open driveways parking and about 3 street parking in front of facility. The facility has a spacious front and driveway.
 As shown, there is enough space for parking:



- Shopping Complex: This facility is situated opposite to a shopping complex.



- Average Parking Use: Parents drop off their children at different times between 8-11 AM or 1:30-3:00 PM and they pick up their children at different times between 1:30-3 PM and 4-6 PM, so there will not be any time when all the parking spots are filled. It is observed that it takes 3-5 minutes to drop off or pick up a child. This will not introduce any noticeable traffic.

It is assured that the use of the property as a preschool will not result in any change to the appearance of the building structure and will not impair the general plan of Sunnyvale. Consequently, the preschool will have minimal, if any, negative impact to the neighborhood.

The preschool will be open to all students without any discrimination based on religion, race, gender or national or ethnic origin. Our preschool will fulfill the community need for a comfortable, home-like space for children to celebrate their diversity and cultural roots while developing a joy for learning science and math.

Given Sunnyvale's appreciation of multiculturalism, history of scientific and technological innovations, and its commitment to excellence in education, I anticipate favorable consideration in granting permission to convert this daycare to a preschool that will meet the current and pressing needs of our community.

As a small business, your continued support and assistance are needed for our project. Any assistance from the City of Sunnyvale will be highly appreciated through this process.

With Regards

Harmesh K. Sawh



**WINDSOR
PRESCHOOL
ACADEMY**

Windsor Academy Sample Schedule

8:00-8:45

Table Activities

- ✓ Teachers offer one-on-one assistance to students
- ✓ Students pick activity of their choice
- ✓ Perceptual motor skills

8:45-9:00

Healthy Snack

9:00-9:15

Table Activities (continued)

9:15-9:20

Housekeeping

- ✓ Teachers assist students with clean-up (putting toys away)

9:20-9:35

Teacher-Directed Imaginative Play Time

- ✓ Fine Motor Skills
- ✓ Developing social/verbal skills

9:35-9:50

Opening Activities

- ✓ Taking Roll
- ✓ Pledge of Allegiance
- ✓ Day of the Week

9:50-10:05

Literacy

- ✓ Vocabulary
- ✓ Pre-reading Skills
- ✓ Phonics
- ✓ Letter Recognition – Uppercase/Lowercase
- ✓ Sound/symbol Correspondence
- ✓ Blending Skills
- ✓ Printing

10:05-10:20

Mathematics

- ✓ Number Recognition
- ✓ Counting
- ✓ Addition, Subtraction
- ✓ Shape Recognition
- ✓ Geometry and Spatial Awareness
- ✓ Size Relationships

3:55-4:10

Baby Yoga

4:10-4:40

Free Play

4:40-5:10

Personalized Workshops and Computer

- ✓ Work on individual monthly goals
- ✓ Basic operation – Mouse
- ✓ Typing ABC's
- ✓ Games reinforcing Literacy and Math

5:10-5:40

Physical Education and Recess

5:40-6:00

Music and Movement

- ✓ Singing
- ✓ Dancing
- ✓ Rhythmic Instructions
- ✓ Music Styles – Classical, Jazz, Rock, etc.
- ✓ Instrument Recognition

ATTACHMENT

D

Page

8

of

10



ATTACHMENT 2
Page 9 of 10



2605 MARY AVE
SUNNYVALE, CA 94087

PHOTO 1 of 2



MARY AVE (SUNNYVALE)
(OPPOSITE VIEW FROM 260S MARY AVE)

ATTACHMENT
Page 10 of 10

Brent Harrison and Jennifer Ayre
1023 Lassen Terrace
Sunnyvale, CA 94086

23 September 2009

Dear City of Sunnyvale:

We are writing in support of Windsor Preschool Academy's plan to apply for a preschool license.

Our son, Carter, has attended Windsor Academy for the past year.

Carter loves his time at school. We know that the residential, homey aspect (which is accomplished through the use of home-like space) of the school is perfect for Carter. Windsor's program is small, personal, and provides plenty of one-on-one interaction between teachers and students. This is a great fit for Carter's personality.

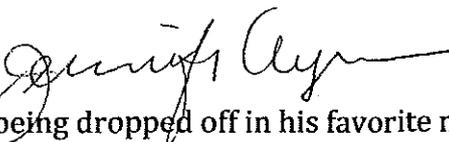
The convenience of Windsor doesn't just stop at a well-qualified staff that is always flexible and able to work specifically with my family. The location is also extremely convenient. We used to drive out of Sunnyvale, all the way to Redwood City for care. Now, we're able to walk from our house to Windsor in less than five minutes each day. This is fantastic as it keeps us out of traffic and this commute doesn't use a drop of fuel or emit any pollution into the atmosphere. It truly does seem like a win-win for Sunnyvale. More business stays in the city and it doesn't even add much to traffic congestion since so many families live nearby.

Due to Windsor's current license restrictions, we had to wait for months before Carter could be moved from the afternoon half-day time slot to the morning time slot. This was especially difficult during the time that we were opening a small local business. We now see other families in a similar situation and know that Sunnyvale would be well served by granting Windsor a preschool license.

The owners and teachers of Windsor are truly passionate about early childhood education and are responsible, caring citizens. On behalf of all families at Windsor, we thank you in advance for favorable consideration of Windsor's childcare center license proposal.

Sincerely,

Jennifer Ayre and Brent Harrison



Enclosure: Photograph of Carter being dropped off in his favorite mode of transportation: his red wagon.



Dear City of Sunnyvale,

I am writing in support of Windsor Preschool Academy's application for a preschool license.

I live right next door to this daycare and wanted to share with you some of the traits I had noticed about the way it is run and how the aspects that are most visible to me are conducted.

I am very happy that there is little to no noise coming from Windsor Preschool that bothers me. I've noticed that the students are taken outdoors in small groups at playtime so as to ensure that no one group is too noisy.

Also, there are no traffic concerns with Windsor Preschool. The drop-off and pick-up times are long enough that there are never traffic back-ups with parents backed up into the street going into or out of the driveway.

Further, I've seen that a good number of the families walk to school. This also ensures that traffic concerns are nonexistent.

Finally, the daycare's owners have always and continue to make a serious effort to seek out our preferences with street parking spots and communicate these with the staff members and parents.

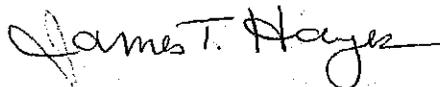
Having a school next-door gives the neighborhood such a great feeling. There is something very heart warming about seeing happy families walking past the house each morning on their way to school at Windsor.

The owners are extremely cooperative, responsive, and respectful with all neighbors. They do a great job of communicating with myself and the other neighbors: They come by in-person periodically just to check in with us. We have had treats brought to us from the students of the school. We were also invited to holiday events that were held at the school (see enclosed photograph). These sorts of events give neighbors a great opportunity to build a true sense of community. We interact with parents and teachers of students, most of which also live nearby.

Please consider my recommendation that Windsor Preschool Academy be granted a childcare center license.

Sincerely,

James T. Hayes
250 S. Mary Ave., Sunnyvale



Charlie Zhu and Jun Min
280 S. Mary Ave

Dear City of Sunnyvale,

We have sent our son, Bryan, to Windsor Academy for about 6 months. Bryan has loved his time going to school at Windsor.

Windsor is only 2 houses away from our home. Our commute cannot be beat as it is a 30 second walk from our front door to Windsor Academy's. In fact, that is the reason Bryan was selected for Windsor's program.

Before being admitted, Bryan was placed on a very long waitlist due to the license limits that Windsor has in place. We waited for many months for an enrollment slot to open. Windsor gave us preference on the waiting list due to their eco-friendly policy of keeping traffic at a minimum. Their "neighborhood family" policy includes the stipulation that local families who agree to commute to Windsor by foot will be given a preference during the enrollment process. This encourages families in the neighborhood to be a part of Windsor. Now we are one of those families and no longer need to commute to Mountain View for quality care.

Our son Bryan would not have made the same progress at a large childcare center, even if he had been admitted from their waitlist. He is a child with a strong personality who requires a lot of attention and guidance. Windsor is homey, small, and secure which is a good match for Bryan and our family.

Now we see other families in the same boat; families that are waiting to send their child because of the current license limits. For these families—and also for us, with plans for a second child soon—it would be a very positive thing if Sunnyvale were to approve Windsor's proposal for a preschool license.

Thank you, in advance, for a positive consideration of Windsor's childcare center license proposal.

Sincerely,



Charlie Zhu and Jun Min

ATTACHED: Picture of Bryan and Jun on their 30 second walk to school.



Ryan Kuchenig - Fw: File Number: 2009-0756 Use Permit to allow a child care center up to 24 children

From: "Arthur Kawai"
To: <rkuchenig@ci.sunnyvale.ca.us>
Date: Tuesday, November 17, 2009 5:27 PM
Subject: Fw: File Number: 2009-0756 Use Permit to allow a child care center up to 24 children
CC: <planning@ci.sunnyvale.ca.us>

From: Arthur Kawai
Sent: Tuesday, November 17, 2009 4:54 PM
To: rkuchenig@ci.sunnyvale.ca
Subject: File Number: 2009-0756 Use Permit to allow a child care center up to 24 children

Carolee and I live at 270 S. Mary Avenue, adjacent to the child care center at 260 S. Mary Ave. Carolee is a retired teacher and I am a retired electrical engineer. We have watched the care center grow from no student to the max. allowed under the current permit of 14. The success of the care center can be attributed to its excellent program, but the request to raise the child population to 24 children we believe is inappropriate for the residential building the child care center is currently occupying. I would like to present the reasons we feel the increase in child care population would be inappropriate for the property.

1. Increased Traffic. The chaotic traffic pattern exists when parents drop their children off and pick them up. The children go to the center at the same time and are picked up about the same time. The traffic pattern into and out of the tiny driveway of 260 S. Mary get crazy at 9:00 am when parents are trying to hang left into the driveway heading south on Mary and parents turning right into the driveway heading north on Mary. The narrow driveway is not designed to accommodate two cars for exit and entry for dropping off children. The madness gets worse when the parents who dropped off their children want to get out of the driveway and turn left or right on Mary with the incoming parents. A similar situation occurs in the afternoon, but the traffic is not as congested heading north on Mary but the chaos is still present. If the traffic is bad with 14 children in attendance, the traffic with 24 children would be pandemonium. The driveway at 260 South Mary is not designed for commercial traffic of 24 parents in a hurry to get to work. It poses as a danger to the drivers on Mary and the nearby residents.

2. Inadequate Parking. There are two type of parking problems at the child care center. The long term parking problem involves workers and residents of 260 South Mary. The number is anywhere from three to six parking spots each day plus any parents who may want to visit their children during sessions or early pickup. Street parking is available, but with those numbers required, it becomes a problem especially during garbage days, once a week, and street cleaning days, once a month. The short term parking is really where the problems arise. This happens in the morning and afternoon, every day during drop off and pick up of the children. With the increased student population parking demand will be a premium. With 14 children being delivered by their parents blocking the sidewalk with their cars as they dash in and out of the house as they deliver their child, can we imagine what it would be like with 24 children.

3. Size of Residential Property. The house and the backyard is really inadequate for caring for 24 children. With the teachers and support staff adding another six to eight adults, I would think that conditions would be very crowded. There is inadequate space in the back yard for 24 children to be running around and riding their tricycles at 260 South Mary without posing as a danger to other children. I have experienced enough crying and screaming of children wanting the tricycle to know that 10 additional children will be more of a problem.

4. Noise. I love to hear the sound of children laughing and singing, but I do not appreciate children crying in distress for lengthy periods of time. This is the type of crying that can be heard by neighbors even with the doors and windows shut tight. There was one child whom I remember who screamed in distress for more than an hour non-stop and this continued for months on end. The probability of having another screamer is very high with 10 additional children.

The request to increase the class size to 24 at 260 S. Mary should be rejected. Our residential neighborhood was not designed for the commercial care of large numbers of children. We have tolerated the first permit to allow 14 children at the child care facility, but know from the experience of the past that 24 children would make the facility dangerous as well as a great nuisance.

Sincerely,
Arthur Kawai
270 South Mary Avenue
Sunnyvale, CA 94086

January 26, 2010

Planning Commission
City of Sunnyvale
456 W. Olive Ave
Sunnyvale, CA 94086

Re: Use Permit Application for (APN: 165-090-14): 260 S Mary Ave,
Sunnyvale, CA 94086

Project Number: 2009-0756

Appeal of Planning Staff Recommendation

Dear City Planning Commission,

Needless to say, after working with planning staff and public works over the last year we were disappointed in the Planning Department's decision to deny our project. We believe we have adequately mitigated any concerns raised by planning staff and feel that the modification of our existing Use Permit for a day care on this property should be approved.

Existing Location and Proposed Modified Use

The property at S. 260 Mary Avenue is operating a large home child day care, Windsor Academy. This site has already been permitted by the City of Sunnyvale to operate as a large child day care facility (up to 14 children). The daycare at this property is operational and yielding excellent results.

The plan for the facility is to expand the care program to include preschool age children and an educational aspect that is beyond residential daycare. We are submitting the following modification of our existing Use Permit Application to increase the capacity up to 24 children from 14 with minimal impact to the site and a wonderful impact on the community. The site is currently meeting the State legal Requirement for indoor and outdoor space to accommodate 29 children.

A slight increase in the capacity will enable us to hire more qualified teachers. Our clients/families are from the local community and this has helped our program earn a high reputation from the community. At Windsor, we aim to provide quality childcare and preschool education in a homey environment where children feel safe, happy, and are able to learn and make new friends.

Neighborhood Compatibility

The exterior architecture of the existing building will undergo minor changes to accommodate for handicapped accessibility, landscape, and parking updates.

The building will retain the character of the local neighborhood. In regard to the compatibility of the property, the proposed use will not be detrimental or injurious to the property or improvements in the vicinity as there will be very minimal change to the property or its structure. The project location is at the edge of an existing residential neighborhood which allows for easy access for our clients as the majority of the children that we care for are from the surrounding residential neighborhood, resulting in a compatible "Green" location and use.

The proposed use will not be adverse to public health, safety, or general welfare of the surrounding neighborhood, and will have a negligible effect on the traffic. We believe our program will instead provide multiple benefits.

Parking & Traffic Consideration

At present there are 14 children with two parkings while with 24 children we are providing 4 parkings with one designated handicap, ADA, parking.

Parents who attended the "Administrative Hearing" on 16th Dec. 2009, mentioned that they have never had any problem parking. Because of parents' varying work schedules and our large drop-off (8-10 AM) and pick-up (3-6 PM) windows, parents usually arrive at well spaced intervals and we haven't had issues with congestion in the past. We feel that this will scale well with an expansion up to 24 children option, due to our many care schedule options for full days, part days, core days, and different days of the week. These all work together to better spread out the times when students are picked up or dropped off at our center.

It is worth mentioning that about half of the children walk or trolley to Windsor with their parents.

Windsor Academy is conveniently located which makes drop-off and pick-up easier for parents. Windsor is located in a residential neighborhood and across the road from many businesses. This provides families with the possibility of including multiple errands as a part of picking up or dropping off their child. This, in turn, limits future trips, congestion, and environmental impact of the additional transportation at the facilities' location on Mary Ave.

Noise

As discussed at Administrative Hearing on 16th Dec. the applicant is willing to work with the City to resolve any noise issues. Primarily, those noises are created by children playing in the back yard for 20 to 30 minutes two to three times a day. It was suggested at the hearing that perhaps only a small number of children would be allowed to play outside at a time. For example, if there are 24 children they could be divided into three groups of 8 each which could reduce the

volume of noise during outside time. Another option would be to encourage all of the children to play outside at the same time so that the duration of children's play would be reduced. We are amenable to both solutions. We have also offered to add additional landscaping (wall ivy) at the property line fence which will also reduce onsite noise. Keep in mind that the noises we are speaking of are young children laughing and playing, not industrial machinery or other unpleasant noises.

Who We Are

The owner of this property has Ph.D. in science and his wife has extensive experience in successfully running and operating a large day care. Their daughter graduated from UC Berkeley with a major in psychology and an emphasis in child development and biology. His son is graduating with Business and Early Child Development as major from San Jose State Univ. Combining the experience of all family members we have developed a curriculum that will make a strong foundation for our pre-schoolers in both science and math. To fulfill this objective we require the support of Sunnyvale City and permission to use this facility as a pre-school.

The preschool will be open to all students without any discrimination based on religion, race, gender or national or ethnic origin. Our preschool will fulfill the community need for a comfortable, home-like space for children to celebrate their diversity and cultural roots while developing a joy for learning science and math.

Given Sunnyvale's appreciation of multiculturalism, history of scientific and technological innovations, and its commitment to excellence in education, I anticipate favorable consideration in granting permission to increase the capacity from 14 to 24 children and convert this daycare into a preschool that will meet the current and pressing needs of our community.

Please reevaluate your decision and thank you in anticipation for your favorable considerations.

Harmesh K Saini
(Owner of Property)

Here are attached some of the emails that Windsor Academy received from present clients.

From: **Emily Johnson** [REDACTED]
Date: Mon, May 4, 2009 at 9:43 AM
Subject: Re: Windsor School
To: Gaurav Verma [REDACTED] >

Hi Gaurav,

I am happy to share my thoughts about Windsor. I absolutely love it! My daughter Ellie loves the going to school, she often cannot wait to get there in the morning, "Mommy drive faster". To explain a little more why Ellie and I have had such a great experience with Windsor, let me give you a bit of background. Ellie had a nanny her first two years. Her nanny was spectacular, very attentive, loving and obviously provided that one on one attention that is so valuable. I was so nervous to move Ellie into a different care environment. I looked at so many daycare facilities. When I found WPA, I was still nervous, but it seemed like a good fit for us. Of course all the thoughts of whether this was a good move for Ellie ran through my head: Is she going to get the attention she needs? Is she going to fit in? Is she going to learn enough? Is she going to play enough? Is she going to get the care she needs and is used to? Am I making a horrible mistake and will my daughter be scarred for life??

I am SO HAPPY with my choice. Ellie has grown so much developmentally. She still is my loving, nurturing child but she can play more independently now. She has a greater curiosity for the world around her. Her social skills have matured and developed in the best possible way. I trust the school and staff implicitly.

The staff at Windsor have be wonderful. I really feel so lucky to have found this place. The children get to explore on their own, and at the same time get just enough structure for everything to make sense. Every time I observe the interaction with the staff and all of the children I am amazed at how they are able to give each child the attention they need, meet them at their own developmental stage and provide a loving learning environment at the same time. Ellie has so many friends now, we talk about all the children at night.

I have spoken to other parents about their experience, thinking maybe I am deluding myself thinking that WPA is so wonderful. In the conversations that I've had with them, the other parents have shared my enthusiasm.

When I look back at the seemingly daunting decision I faced when trying the find the "right" environment for Ellie, and think about all the concerns and fears I had about committing to a school, I just breath a huge sigh of relief that I found WPA. Ellie is doing better than I could have ever imagined and likes it more than I could have wished for.

If you have any more questions or concerns please feel free to contact me. I am happy to give a ringing endorsement for Shanam and Windsor.

Thanks,
Emily

Forwarded message -----

From: Ashwini Borkar [REDACTED]
Date: Sat, Mar 14, 2009 at 12:28 AM
Subject: THANK YOU!!
To: Shanam Saini <windsorparents@gmail.com>

Hi Shanam,

First of all let me thank you for such a nicely written card and the efforts you take for Nishita's development!

We, myself and Mayuresh are very satisfied with the way Nishita is adapted to the environment in Windsor preschool academy for which the credit surely goes to You, Miss Annie, Ms. Connie and of course, Naani! The way you interact with the kids is really appreciable. The way you bring out the natural creativity and imaginative skills out of the kids is quite credible. Those things which even I observe at home, amazes me a lot. Like for example, the way she tries to put on the jacket on her own or dances to various tunes with specific steps (which she says are taught by Gaurika and Ms. Shanam...), or saying some poems like "Reach to the sky,this is the way we do it!.." etc. Also, we enjoyed the Valentine's day celebration which was very nicely arranged by you and Ms. Annie.

The way you make kids have their own ways of reacting to the situations works out very well. That is something we are really impressed with. The ways you use for kids to make many small things are very thoughtful, like, the paperweight idea for ladybug, making cake for Ms. Annie with the help of kids, making pasta necklaces...)
We feel contented that our daughter enjoys her stay at Windsor and always looks forward to go to school and doesn't want to avoid it.
Most of all, we really appreciate the suggestions coming from you, the details which you send in all your mails for the activities that were conducted during the week. We kind of imagine and relate to the things Nishita does at home...).

We appreciate all your efforts and look forward to work and co-operate in all ways to bring the best out of Nishita.
Thanks again!

And I am really happy that Madhvi enrolled Ira at Bright Stars.

Convey my regards to Ms. Annie and Naani!

-Ashwini Bakshi

Forwarded message -----

From: **Naina Balupari** [REDACTED]
Date: Tue, Sep 29, 2009 at 11:11 AM
Subject: Thank You Shanam
To: Windsor Academy <windsorparents@gmail.com>
Cc: Ravi Balupari [REDACTED] >

Hi Shanam,

I am writing this email to express my gratitude for the little little things you and your staff have been doing to bring up a confident Laasya. Today morning I read all the notes you made about Laasya's activities and I was overwhelmed at her growth as described. I thought I would take time to read all of it in the evening when I am more relaxed but I couldn't hold myself. As I was reading I had tears in my eyes to learn such good things about her.

As such, Ravi and I totally believe in bringing up a self-confident kid with high self-image but we don't know few things until we are exposed to environments where the attributes are tested. You recognized her areas of strength and scope of improvement and we appreciate all the effort.

Thank you again,
Naina.



CITY OF SUNNYVALE ATTACHMENT 6
ADMINISTRATIVE HEARING Page 1 of 2

MINUTES
Wednesday, December 16, 2009

2009-0756: Harmesh K. Saini [Applicant] **Harmesh and Rashmi Saini** [Owner] Use Permit to allow a child care center up to 24 children located at **260 S. Mary Avenue**. (APN: 165-09-014) RK

In attendance: Shanam Saini and Sami Saini, Applicant/Owner; Bill Maston, Architect; Emily Johnson, Parent; Matilda Hughes, Parent; Jennifer Ayre, Parent; Gerri Caruso, Administrative Hearing Officer; Ryan Kuchenig, Project Planner; Luis Uribe, Staff Office Assistant.

Ms. Gerri Caruso, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Caruso announced the subject application.

Ryan Kuchenig, Project Planner, presented the item. Staff did not have any additional comments and clarified the parking set-up by using the site plans located in attachment B of the staff report. Staff was unable to make the findings as the design was incompatible with the neighborhood.

Ms. Caruso opened the public hearing.

Bill Maston, Architect, received and reviewed a copy of the staff report. Mr. Maston Stated that the garage is currently being used as a teaching area and with that parking space being unavailable, there has never been an issue with parking. They also have a designated space for handicap parking. He also stated that since the location of the business is located on a main street, he feels it is more capable of dealing with the parking issues. Mr. Maston did mention that there was a minor issue raised by a neighbor in regards to noise and that the applicant is willing to work with the City to resolve the issue if it becomes an ongoing problem. Ms. Caruso asked if they would be open to the idea of a condition that would limit the amount of children allowed at a time. Mr. Maston stated that they would like to have the option to have up to 24 kids and is willing to make changes to their daily operation in order to do so.

Sami Saini, Applicant, stated that they have been very responsive to the neighbors and that they take the kids out in groups in order to reduce the outside noise level. She also mentioned that she is not opposed to any operational conditions. Ms. Saini gave another option of taking the children out for two breaks a day at shorter intervals.

Emily Johnson, Parent, stated that parking has never been a problem and that she is only there for a few minutes. She also mentioned that the business is great and loves it for her children.

Matilda Hughs, Parent, stated that she loves the day care due to its location and that her children love it and are benefiting from their style of teaching.

Jennifer Ayre, Parent, stated that she only has her children at day care for half days and that she really enjoys that it is close to her home.

Bill Matson, reiterated his initial statement asking the Hearing Officer for approval.

Ms. Caruso closed the public hearing.

The Administrative Hearing Officer took this item under advisement to consider if some operational conditions of approval could be incorporated into the project that would make it acceptable. After considering modified conditions, the Hearing Office denied the project on Friday, December 18, 2009. There were no new conditions in her opinion that could be added and monitored consistently over the lifetime of the permit. The project site was inappropriate in that it was located on a busy street, near a busy intersection, with only one point of street access and limited opportunity for off-street parking. The proposal for a 24-child day care center would be too intensive in the proposed residential location.

Ms. Caruso stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at Time p.m.

Minutes approved by:

Gerri Caruso, Principal Planner

PLANNING COMMISSION MINUTES OF FEBRUARY 8, 2010

2009-0756: Appeal of a decision of the Administrative Hearing Officer denying a Use Permit to allow a child care center for up to 24 children for a site located at **260 S. Mary Avenue** (APN: 165-09-014) RK

Trudi Ryan, Planning Officer, presented the staff report. She said that staff recommends the Commission deny the appeal and uphold the denial of the Use Permit.

Comm. Hungerford clarified with staff that this site is zoned residential, yet the residential use can be abandoned to become a day care if approved by a Use Permit. Ms. Ryan said that the Use Permit process allows opportunity for review to determine if the findings can be made that the use is compatible with the neighborhood.

Comm. Rowe said there is a lot of concrete on this site and asked staff about landscaping and concrete requirements and allowances. Ms. Ryan said in a single family neighborhood there are no landscaping requirements; however no more than 50% of the front yard can be covered in concrete, with no concrete maximums in the rear yard. Ms. Ryan said that the planner looked at the site and with the calculations provided by the applicant determined there was less than 50% concrete in the front yard. Ms. Ryan said there is a proposed addition to the parking and the applicant would be using other materials that can be parked or driven on yet still allow grass to grow through. Comm. Rowe discussed with staff the proposed ramp.

Chair Chang opened the public hearing.

Architect **Bill Maston** and applicant **Saini Rashmi**, addressed the Commissioners' questions. Mr. Maston confirmed that the front yard does not exceed the concrete allowance and said the ramp would be placed where there is already concrete with no reduction of the landscaped area. Mr. Maston said discussed the reasons for the appeal. He discussed the success of the applicant's program, said they have worked with staff on the technical issues, with the remaining issue being compatibility with the neighborhood including noise. He said the noise of children playing outside is compatible and any excessive noise would be regulated. He said one neighbor expressed concern about possible parking problems. Mr. Maston discussed the advantages of this site, including that he thinks the mid-block location rather than at a corner, is less risky. He said this day care responds to the needs of the local neighborhood and that Mary Avenue should be able to support the few extra cars if the student number increase is approved. He said drop off and pick up times of students is

staggered and the two car garage is proposed to be used for employee parking which increases the available on site parking. Mr. Maston said he hopes the Commission will grant the appeal subject to the conditions in Attachment B.

Comm. Klein discussed with the applicant the regulating of the arrival and departure times of parents with Ms. Rashmi and Mr. Maston explaining the different schedules.

Comm. Hungerford said it is dramatic to change a house into a day care and asked if the applicant had looked for a different location nearby. Ms. Rashmi said they did look for a different location, however part of their philosophy is for the day care to be a homey and comfortable environment and they are a neighborhood school.

Emily Johnson, a parent of a student in the day care, spoke in support of approving the increase in students. She said she drives her daughter to day care and has never had a problem with traffic or parking and that the day care is a gem and an asset to the neighborhood.

Comm. Hungerford discussed with Ms. Johnson whether she has had any difficulty with traffic on Mary Avenue, with Ms. Johnson stating that the traffic is not difficult and that the driveway allows room to turn around safely.

Comm. Sulser discussed with Ms. Johnson her drop off and pick up times.

Jennifer Ayre, a parent of a student in the day care, said Ms. Rashmi and the staff have worked to regulate the schedules. She said she walks her child to day care and occasionally drives and has had no problems parking or with traffic. She said nothing bad would come of allowing more students.

Erica McClure, a parent of a student in the day care, said she agrees with the other parents and has never had an issue with drop off or pick up. She said Ms. Rashmi works with families' schedules, and her daughter has grown academically while attending the day care. Ms. McClure said she supports the day care increasing the number of students.

Comm. Sulser asked Ms. McClure if she has noted any excessive noise. She said the noise is not a problem and explained that the day care is very compatible with the neighborhood, and that the provider reaches out to the neighbors and works with helping the child transition from home to school.

Sandeep Tamhankar, a parent of a student in the day care, spoke about his child's academic growth since attending the day care. He said that the teachers are well trained and praised the values of the school. He said over 50% of the parents of the day care are in attendance this evening in support of expanding the allowed number of students at the school.

Vice Chair Travis recused himself as he said his residence is within 500 feet of the proposed site. He left the Council Chambers.

Vaibhavi Gala, a parent of a student in the day care, spoke in support of expanding the day care student numbers. She said it is hard to find good day care and that she wanted a home based day care. She said the staff has a passion and dedication to child development and Ms. Rashmi has hired high caliber, well rounded staff.

Ketan Banjara, a parent of a student in the day care, said he is very impressed with the way the school is run. He said he likes the family environment, multi generational teachers, healthy food, and cleanliness. He said he has never had a problem with parking or traffic.

Anisa Rangwala, a parent of a student in the day care, spoke in support of allowing the day care to increase in numbers. She said her daughter has easily transitioned into this day care, and that the day care has helped her daughter's language adjustment, social skills, and that the environment is loving and caring. She said she has never had a problem with traffic or parking.

Charlie Zhu, a parent of a student in the day care, said he lives two doors down from the site. He spoke in support of allowing the student numbers to increase. He said he works from home sometimes and can hear them playing, but not excessive noise.

Mr. Maston said that it is obvious this is a high quality school. He said there remains a question of compatibility. He said the parents have attested to the location being a benefit, that the nearby traffic light helps parents get in and out safely from the site, and that the mid-block location seems to be a benefit rather than a problem. He said he hopes the information presented tonight is adequate to change the previous decision by the Administrative Hearing Officer.

Comm. Sulser discussed with the applicant her methods for managing noise levels. Ms. Rashmi said they have a 1 to 7 ratio of teachers to children and groups can be staggered in their activities. She said they are very responsive to the neighbors. Comm. Sulser discussed with Ms. Rashmi the different schedules for students that help prevent drop off and pick up congestion.

Chair Chang closed the public hearing.

Comm. Rowe moved to deny the appeal and uphold the denial of the Use Permit. Comm. McKenna seconded the motion.

Comm. Rowe said there are some wonderful day cares in Sunnyvale, however that is not the issue. She said the issue is compatibility of the use with the neighborhood. She said she has concerns about the need for consistent monitoring of the school as once the Commission grants a permit like this, the site becomes a commercial piece of property. She said she thinks this is a busy street with fast traffic, and she is concerned with the affects of increasing the number of students and with entering and exiting the roadway. She said in the future Mary Avenue is expected to experience heavier traffic. Comm. Rowe said she cannot make the findings. She discussed a letter from a neighbor who agrees this is a good day care, but opposes the increase in numbers due to possible affects on the traffic, parking, and noise. Comm. Rowe said it is exciting that Ms. Rashmi is a good teacher and has a good program, she wishes her continued success, however, she is concerned about this site becoming commercial in a residential area.

Comm. McKenna said this is not an issue about the program or quality of the teaching. She said the question is should the Commission allow this site to go commercial and double the day care in size. She said that this is a question of land use and she does not see a commercial facility with 24 children sandwiched between all residential as a compatible use. She said the decision is a matter of protecting the neighborhood.

Comm. Sulser said he would not be supporting the motion. He said he is concerned about the noise, however the use is allowed, he can make the findings, and he would have granted the appeal.

Comm. Hungerford said he would not be supporting motion. He said he finds that the use is compatible with the neighborhood. He said this is a mixed use area along Mary Avenue and he can make the findings.

Comm. Klein said he would be supporting the motion. He said there is no question about the day care's high quality, however this is a land use issue. He said he is concerned about the affects on neighbors, parking and noise. He said once this site is approved for commercial it could be misused by a future facility in the same location. He said he could not make the findings to make this land use change as it could negatively affect the surrounding neighbors in a large way.

Chair Chang said this is a land management issue. He said he was able to make the findings, and that drop off, pick up and noise would need to be managed. He said he would not be supporting the motion.

ACTION: Comm. Rowe made a motion on 2009-0756 to deny the appeal and uphold the denial of the Use Permit. Comm. McKenna seconded. Motion failed, 3-3, with Chair Chang, Comm. Hungerford and Comm. Sulser dissenting, and Vice Chair Travis recusing himself.

APPEAL OPTIONS: With a 3-3 vote, the Planning Commission did not grant the appeal and therefore the decision of the Administrative Hearing Officer stands. This action is final unless appealed to City Council no later than February 23, 2010.

Vice Chair Travis returned to the Council Chambers.