



# CITY OF SUNNYVALE REPORT ADMINISTRATIVE HEARING

**December 16, 2009**

**File Number:** 2009-0756

**Permit Type:** Use Permit

**Location:** 260 S. Mary Avenue (near W. Washington Avenue) (165-09-014)

**Applicant/Owner:** Harmesh K. Saini

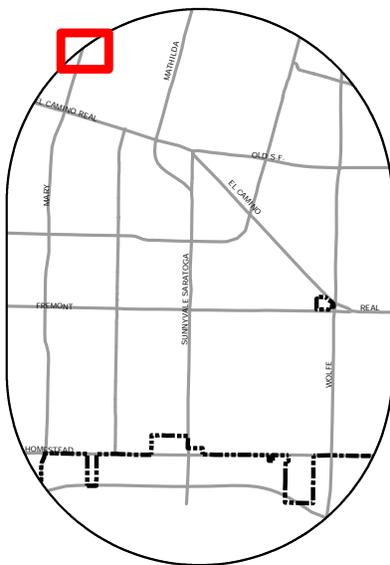
**Staff Contact:** Ryan Kuchenig, Associate Planner, (408) 730-7431

**Project Description:** To allow a child care center up to 24 children.

**Reason for Permit:** A Use Permit is required for commercial day care centers

**Issues:** Parking, Compatibility

**Recommendation:** Denial



500 Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Residential Low Density	Same
Zoning District:	R-0	Same
Lot Size	7,217	Same
Total Sq. Ft. of Home:	2,217	Same
Parking:	4	4

Previous Planning Projects related to Subject Application:  The site was approved as a large family day care (up to 14 children) on July 8, 2008. Prior to this date, a small family day care (up to 8 children), which is exempt from Planning permits, may have occupied the site.	<b>Yes</b>
Neighborhood Preservation Complaints:	<b>No</b>
Deviations from Standard Zoning Requirements:	<b>No</b>

**Use Description:** 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 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 requires 35 s.f. indoor and 75 s.f. outdoor space per child. The applicant has provided information within the plan and project description to support that this requirements has been met.

**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 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 for day care use. 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 B.

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 B.

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 requirements require 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 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 B. 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 Planning and Transportation 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 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 2 of in Attachment B.

**Public Contact:** 26 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. 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 D.

**Environmental Determination:** A Categorical Exemption Class 1 (minor changes in use) 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 Not 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.*

Although the day care center would meet development standards including parking requirements, the conversion of the home to a commercial day care center (with increased capacity) is not considered appropriate at this location. Generally, a location at the edge of residential neighborhood is more preferable; however, this site is located along a busy corridor (Mary Avenue) with minimal available drop-off area on-site. Traffic circulation to the site during drop off times, coupled with frequent traffic to the adjacent commercial center would be increased. The increased traffic and noise as a result of this project could impact adjacent single family residential uses.

**Staff was not able to make the findings as the project does not meet 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 Not 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 the staff finds that increased capacity will have an adverse impact on surrounding properties. The project is located at mid-block along a busy traffic corridor and surrounded by residential properties on three sides. Staff finds that a location on a corner with a secondary access point may be a more appropriate location and impact the neighborhood to a lesser degree. **Staff**

**was not able to make this finding as adjacent properties would likely be negatively impacted.**

**ALTERNATIVES:**

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

**RECOMMENDATION**

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Alternative 3. Deny the Use Permit.

Reviewed by:

Shaunn Mendrin  
Senior Planner

Prepared By: Ryan Kuchenig, Associate Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Letter and Justifications from the Applicant
- D. Letters from the Neighborhood

## **Standard Requirements**

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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.

## **Recommended Conditions of Approval**

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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:** 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.
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.