



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: March 23, 2009

Approved

Date

3/25/09

COUNCIL DISTRICT: 8
SNI AREA: N/A

SUBJECT:

Issuance of a State of California, Department of Social Services, Community Care License for a proposed children's group home at 3083 Remington Way that does not meet separation requirements.

RECOMMENDATION

Recommend to the California Department of Social Services approval of the issuance of a community care license for a residential care facility for six (6) or fewer children (group home) at 3083 Remington Way.

OUTCOME

Direct Administration to inform the California Department of Social Services that the City does not object to the issuance of a license for a residential care facility for six (6) or fewer children (group home) at 3083 Remington Way.

BACKGROUND

At the request of the State of California, Department of Social Services, on May 2, 2008, Planning Staff recommended that a license not be issued for a proposed children's residential care facility (group home) for six children at 3083 Remington Way, the subject site. (See attached letter) The proposed facility was recommended for denial because it is located within 300 feet of another similar facility, thereby causing overconcentration, per the State of California Health and Safety Code definition.

The State of California Health and Safety Code Section 1520.5 (California Community Care Facilities Act), declares that to prevent overconcentration of residential care facilities that impair the integrity of residential neighborhoods, the Director of Social Services shall deny an

application for a new residential care facility license if the Director of Social Services determines that the location is in a proximity to an existing residential care facility that would result in overconcentration. As used, "overconcentration" means that if a new license is issued, there will be residential care facilities that are separated by a distance of 300 feet or less.

Historically, the City has recommend denial of any residential care facility that is not at least 300 feet from any other residential care facility in accordance with the California Health and Safety Code. The California Health and Safety Code allows for the Director of Social Services to approve a separation distance of less than 300 feet if the city in which the proposed facility will be located grants approval to the applicant based on special local needs and conditions.

The applicant, Lumen Samarita of Good Samaritan Children's Group Home for developmentally disabled, has requested that the City, recommend to the State of California, Department of Social Services, approval of the proposed residential care facility, which is located in such a manor that approval would cause the are to be over concentrated as defined by state law. (See attached letter) The applicant has stated in her application that there is a special local need and condition in that there is a higher proportion of autistic children than the national average in Evergreen and that the closing of Agnews Development Center in San José, which is a center that provides care and services to persons with developmental disabilities, has created a demand for such facilities. This is the first time that an applicant has requested the City to reconsider their recommendation in favor of an approval based on special local needs and conditions.

ANALYSIS

The applicant has requested a Community Care License for a residential care facility for six children from the California Department of Social Services. Per the State of California Health and Safety Code, prior to approving any application for a new residential care facility, the Director of Social Services is required to notify the planning agency of the city that the proposed facility is to be located. Any city or county may request denial of the license applied for on the basis of overconcentration of residential care facilities. Planning Staff recommended denial of the proposed facility because it is located within 300 feet of another like facility, thereby causing overconcentration, as defined by state law. However, Planning Staff has no land use issues with the proposed residential care facility for six persons.

The subject site has a zoning designation of R-1-8 Single-Family Residence. A Residential Care Facility for six or fewer persons is a permitted use in the R-1-8 Zoning District. The zoning ordinance does not have any regulation for overconcentration or distance separation between residential care facilities for six or fewer persons. Therefore, the requested use is allowed by right under the Zoning Ordinance.

General Plan Conformance

The San José 2020 General Plan, Residential Land Use Policy #8 specifies that residential social service programs should not be concentrated in a few areas, but should be distributed throughout the City. Within a 1,000 foot radius of the subject site, there are six state licensed residential care facilities, of which one is the Star I-Remington children's residential care facility located approximately 140 feet from the proposed facility on Remington Way.

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The proposed residential care facility is in conformance with the General Plan in that, one additional residential care facility would not create a concentration, which by the City's definition means an excessive accumulation, of residential care facilities. Specifically, the City of San José currently has 487 state "licensed" residential care facilities (this number does not include adult and child daycare centers or home facilities or unlicensed facilities). Of the 487 total state licensed residential care facilities, 34 of them are residential care facilities for children, of which seven of them are located in Council District 8.

Conclusion

The proposed residential care facility would cause an overconcentration of residential care homes per the State's definition. However, because the use is allowed by right under the Zoning Ordinance, there are no land use issues with the proposed residential care facility for six persons. Therefore, the issue becomes whether or not there is a social service need for this type of facility. The applicant has stated that she believes that there is a special need with the closing of Agnews Development Center. In addition, Planning Staff contacted the County of Santa Clara Social Services Agency - Department of Family and Child Services to inquire whether or not they have a need for the type of proposed facility. The County stated that there is a need for specialized programs such as the proposed group home for autistic children within Santa Clara County.

EVALUATION AND FOLLOW-UP

No additional follow-up action with the Council is expected at this time.

POLICY ALTERNATIVES

Alternative #1: Determine that the area is over concentrated, but that there is a special local need for this type of residential care facility and recommend to the California Department of Social Services approval of a new community care license at 3083 Remington Way.

Pros: The proposed facility would serve a special local need.

Cons: The proposed facility is located within 300 feet of another like facility, thereby resulting in an overconcentration, as defined by state law.

Alternative #2: Determine that the area is over concentrated and recommend to the California Department of Social Services denial of a new community care license at 3083 Remington Way.

Pros: The neighborhood will not be over concentrated with residential care facilities.

Cons: There is a need in Santa Clara County for specialized programs such as the proposed group home and denial of this facility will not alleviate that local need.

Reason for not recommending: The use is allowed by right under the Zoning Ordinance; there are no land use issues with the proposed residential care facility for six persons.

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PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet any of the above criteria, as it is not a land use development permit and the use, a residential care facility for six or fewer persons, is otherwise allowed by right under the Zoning Ordinance.

COORDINATION

This project was coordinated with the City Attorney, County of Santa Clara Social Services Agency, and the State of California, Department of Social Services.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

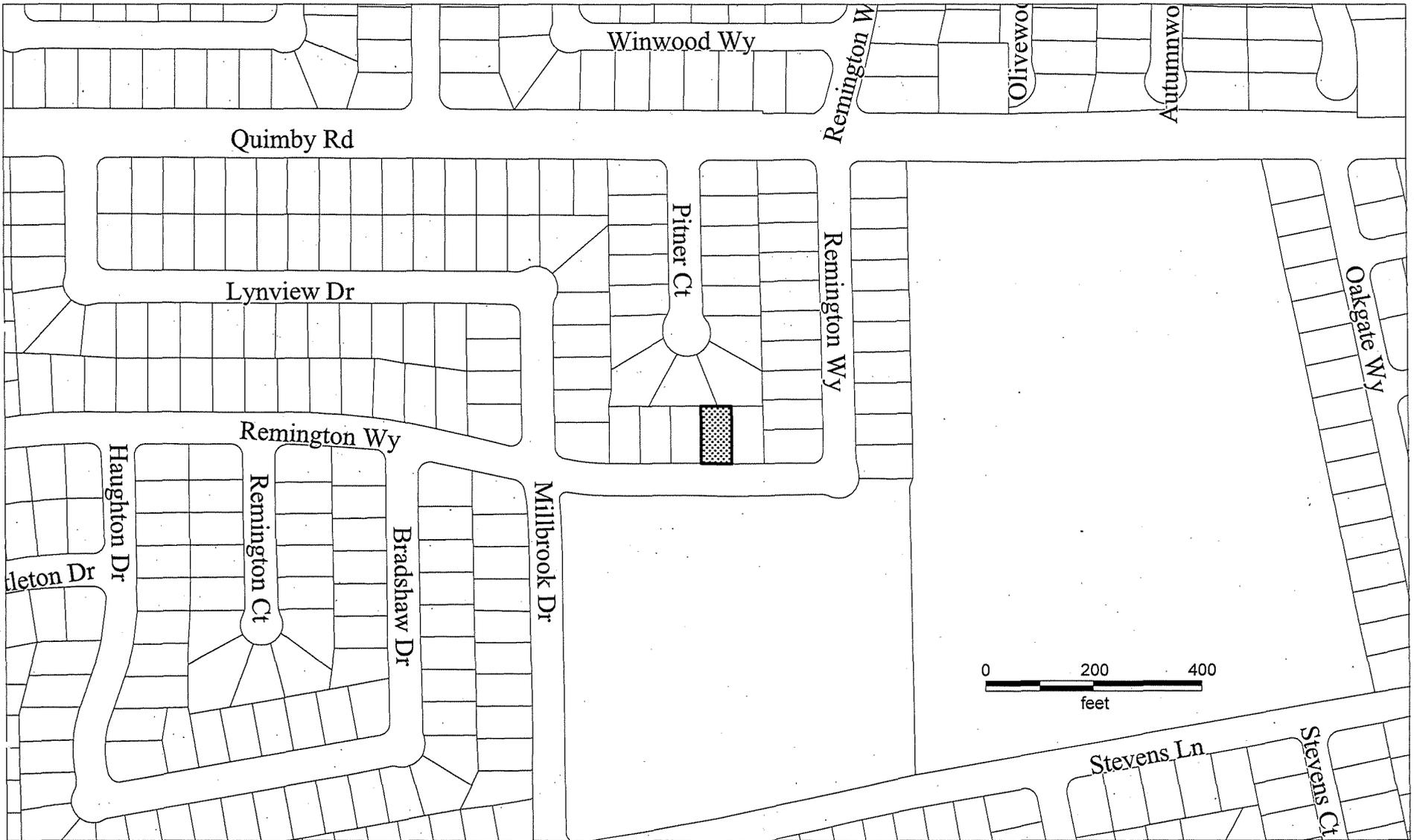
Not applicable.

CEQA

CEQA: Exempt


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Darryl Boyd, at 408-535-7800.



Location Map

File Num: CCL08-001

District: 8

Quad: 85

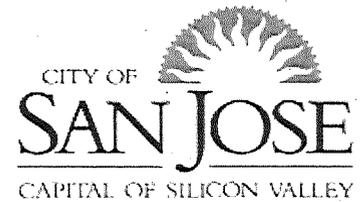


Map Created On:
12/2/2008

Prepared by the Department of Planning, Building, and Code Enforcement
City of San Jose, California

Noticing Radius: 500 Ft

Joseph Horwedel, Director



To the Director of Planning Department
City of San Jose California

Dear Sir/Madame,

Hi, my name is Lumen Samarita applying for license of a Group Home at 3083 Remington Way, San Jose, CA. 95148. I would like to get a waiver letter from your good office, which Office of the Licensing required me to have one, for the issuance of my License to open a Group Home Facility for developmental disabilities for childrens of 6 clients, ages 6 to 17 years old. We will be providing a 24 hours residential care training and supervision to ambulatory childrens, who have been diagnosed with Developmental Disabilities.

Our main goal and objectives is the intent of Good Samaritan Children's Group Home is to provide structured training, support, and supervision in a Community based setting to children with Developmental Disabilities and severe challenging behaviors such as self injury, physical agression, property destruction, and socially unacceptable behaviors.

The program designed to serve individuals whocannot live safely in a facility that does not have rich staffing ratio and structured behavioral programming required for staff is to six clients of a level 4-I facility. The program will support participants in achieving their highest level of independence in the least restricting living arrangement by teaching adoptive, socially, acceptable replacement skills to address skill deficits and challenging behaviors. An additional purpose of the program is to empower residents to exercise choice and self-determination and engage in a pattern of everyday living similar to that of their non-disabled peers. A major goal of the program isto ameliorate behavior managment and skills training needs, acheive mental heath stability, enhance quality of life, and enable participants to eventually be served in a less restrictive setting, ex: a setting with less intensive staffing, structure, and formal programming.

The Good Samaritan Children's GroupHome is a non-profit organization as well.

The number of on site parking spaces (covered and non-covered is four) The address of the residential care facility within 300ft or less is located at 3127 Remington Way San Jose, CA. 95148.

Thank you very much and more power to you.

Respectfully yours,



Lumen Samarita

Additional information for 3083 Remington Way – Good Samaritan Children's Group Home.

Maximum number of people living on-site?

Maximum of clients: 6

Maximum of staff: Depending on a case by case basis. Needed from 4 to 6 staff members.

Minimum and maximum number of staff providing care?

Minimum: 4

Maximum: 6

Addresses/locations of any residential care facilities within 300 feet or less?

The only one is located at 3127 Remington Way, San Jose, CA 95148

Sincerely,


Lumen Samarita

August 19, 2008

Mr. Ben Corrales
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
3rd Floor Tower
San Jose, CA 95113

RE: Facility No. 435201893 – 3083 Remington Way
APN: 659-20-029

Dear Mr. Corrales:

I received your letter of May 2, 2008 which was sent to the Department of Social Services in which you recommend that a license not be issued for the property because our proposed facility is within 300 feet of another group home.

However you are also able to grant a waiver for the license application under the terms of HSC 1520.5. The specific language of this part of the Code allows a waiver if a city or county official determines that special local needs and conditions exist even if the distance is less than 300 feet.

I am therefore petitioning you with the information showing this to be a prudent waiver due to the special local needs and conditions. This proposed facility is designed for special needs children. The other facility which is less than 300 feet away serves an entirely different population. They serve at risk children who are victims of abuse or abandonment. Our facility will only have six children and it will be specific to special needs.

The proximity of this facility to Quimby Oak Middle School also makes this special. There are a number of students at the school who may benefit from our facility. In addition the proximity to both Quimby Oak and Millbrook Elementary will make transportation easier. One of the advantages we have is that my husband Samual Samarita has been working with local schools and their special education needs so there is communication and collaboration between the schools and our facility. See attached letters

In addition the City of San Jose maintains a community center at Millbrook. This will provide opportunities for our residents to participate in activities at this facility. In addition the City of San Jose offers many good programs. In the future we might collaborate and suggest additional programs which could benefit special needs children in conjunction with the City of San Jose.

One of the unique features of the Evergreen Community is the diversity of its population. One of the other features (as evidenced by the attached articles) is that there is a significantly higher proportion of autistic children than the national average in Evergreen. Finally another situation which demands a quick waiver is due to the closure last year of

Agnews. Since last June Agnews has transferred all of its special needs population to transitional centers until they can be permanently placed in facilities such as ours. The demand and need is great. We can absorb six of these needy children as soon as our license is issued.

Please approve the waiver so we can open our doors and serve!

Sincerely,

A handwritten signature in cursive script, appearing to read "Lumen Samarita".

Lumen Samarita

Cc: Assemblywoman Anna Caballero
Vice Mayor David Cortese

May 2, 2008

Department of Social Services
ATTN: Ms. Carol Marcroft
Community Care Licensing
2580 North First Street, Suite 350
San Jose, CA 95131

**RE: Facility No. 435201893 – 3083 Remington Way
Assessor's Parcel Number 659-20-029**

Dear Ms. Marcroft:

In response to your letter dated April 21, 2008, regarding the proposed Good Samaritan Children's Group Home for six (6) children at the above referenced property, the following information is being provided:

Planning staff has determined that the proposed facility is within 300 feet of another licensed residential home of like type. Therefore, planning staff would recommend that a license NOT be issued for the subject property. Copies of the analysis used in our determination have been enclosed.

Planning staff has determined that the proposed facility is not within 300 feet of another licensed residential home of like type. Therefore, planning staff would recommend that a license be issued for the subject property.

Planning staff has no specific compliance information involving the project sites, as we lack the necessary inspection resources to acquire such information. Information regarding the site's compliance history, however, may be obtained by contacting the Code Enforcement Division of this Department at (408) 277-4528. Also, questions regarding the issuance of building permits and certificates of occupancy should be directed to the Building Division at (408) 535-3555.

Should you have any further questions regarding the above matter, please feel free to contact me at (408) 535-7868 or by e-mail at ben.corrales@sanjoseca.gov.

Sincerely,

Ben Corrales
Planner II