

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
C.C.: 04-06-04

File Number
C04-021

Application Type
Conforming Rezoning

Council District
8

Planning Area
Evergreen

Assessor's Parcel Number(s)
659-05-038

STAFF REPORT

PROJECT DESCRIPTION

Completed by: John W. Baty

Location: East side of San Felipe Road 450 feet southerly of Aborn Road (3320 San Felipe Road)

Gross Acreage: 1.7 Net Acreage: 1.7 Net Density: N/A

Existing Zoning: A-Agriculture Existing Use: Child Care Center

Proposed Zoning: R-1-5 Residence Proposed Use: Child Care Center

GENERAL PLAN

Completed by: JWB

Land Use/Transportation Diagram Designation
Low Density Residential (5.0 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: JWB

North: Single-family detached residential A-Agriculture

East: Single-family detached residential A(PD) Planned Development

South: Single-family detached residential A(PD) Planned Development

West: Church A-Agriculture

ENVIRONMENTAL STATUS

Completed by: JWB

Environmental Impact Report found complete August 16, 1994
 Negative Declaration circulated on
 Negative Declaration adopted on

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: JWB

Annexation Title: Evergreen No. 144

Date: 7/27/81

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: _____

Approved by: _____
 Action
 Recommendation

APPLICANT/OWNER/DEVELOPER

KinderCare Learning Centers, Inc.
Attn: Bruce A. Walters, Sr. Vice President and CDO
650 NE Holladay Street, Suite 1400
Portland, OR 97232

PUBLIC AGENCY COMMENTS RECEIVED

Completed by:

Department of Public Works

No Comments

Other Departments and Agencies

No Comments

GENERAL CORRESPONDENCE

None

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, KinderCare Learning Centers, Inc., is requesting to rezone the subject 1.7 gross acre parcel from A-Agriculture Zoning District to R-1-5 Residence Zoning District to allow residential uses and/or other uses enumerated in the subject zoning district.

The subject parcel is currently developed with a childcare center for which the applicant obtained a Conditional Use Permit (File CP95-004). The subject permit included a condition whereby the permit would be valid for only five (5) years unless expiration was otherwise extended through the approval of a subsequent Conditional Use Permit Amendment (CPA). No such amendment was ever filed therefore the original Conditional Use Permit has expired.

Since the approval of the previous Conditional Use Permit, the Zoning Code provisions for the A-Agriculture Zoning District have been modified such that childcare facilities are neither an allowed use or conditional use. Childcare facilities located in the R-1 Residence Zoning Districts may be approved with a Conditional Use Permit, hence the request to rezone the property to a residential zoning district.

The applicant has recently filed a Conditional Use Permit (File CP03-080) to re-approve childcare uses at their existing 11,000 square foot facility. Upon conclusion of the matter of this pending rezoning by the City Council, the Planning Commission will subsequently consider the Conditional Use Permit.

The project site has single-family detached residential uses directly to the north and across Lyter Way and San Felipe Road to the east and south respectively. An existing church is adjacent to the project site to the west.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and findings were adopted by City Council Resolution No. 65459 on August 16, 1994.

GENERAL PLAN CONFORMANCE

The proposed rezoning to the R-1-5 Residence Zoning District is consistent with the site's San José 2020 General Plan Land Use/Transportation Diagram designation of Low Density Residential (5 DU/AC).

ANALYSIS

The proposed zoning district of R-1-5 would allow for a residential density in conformance with the General Plan Land Use/Transportation Diagram designation of Low Density Residential (5 DU/AC), as well as the consideration of all other permitted, special or conditional uses set forth in said zoning district.

This rezoning would facilitate the re-approval of an expired Conditional Use Permit for an existing 11,000 square foot childcare center; however, the criteria for consideration of approval of the subject rezoning should be based solely on the matter of conformance of the R-1-5 Zoning District designation with the General Plan rather than on the merits of the existing childcare facility.

As previously indicated, the Planning Commission will hold a subsequent Conditional Use Permit hearing on the matter of the childcare center should the rezoning be adopted.

Although the existing childcare center has been in operation continuously since opening in 1988, because the previous Conditional Use Permit was allowed to expire, the existing childcare center will be reviewed as a "new" project under Conditional Use Permit, CP03-080 subject to current regulations and the revised City Council Policy 6-14: Guidelines for Child Care.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site as well as published in the San José Post Record.

The City Council Agenda, which is posted on the City of San José website, includes a copy of the staff report and City Council Memo for this project.

This request is being processed as a conforming rezoning, therefore no public hearing was held by the Planning Commission on this item.

RECOMMENDATION

Planning staff recommends approval of the proposed Conforming Rezoning for the following reasons:

1. The proposed rezoning is consistent with the San Jose 2020 General Plan Land Use/Transportation designation of Low Density Residential (5 DU/AC).
2. The proposed rezoning will facilitate consideration of a Conditional Use Permit for an existing childcare center.

Attachments