

JUSTIFICATION DETAIL DISCUSSION

Property

The property address is 6047 and 4051 Fulton Avenue. The property is a level, rectangular-shaped, interior two parcels of land, totaling approximate 18,148 square feet, with a 110-foot frontage along Fulton Avenue to the east and a depth of 165 feet. The property and block has a 15-foot Building Line.

The property is in the Van Nuys-North Sherman Oaks Planning Area with Zone Classifications of R3-1 and R1-1.

Existing Use

The entire site is used as a day care center for a maximum of 82 children on-site at any one time, approved pursuant to Case Nos. ZA 2006-7192(CU)(YV) and ZA 2006-7192(CU)(YV)(PA1).

The day care center consists of two converted single-family dwellings, a rear recreation room, a rear yard play area, and an attached two-car garage at the 6051 Fulton dwelling (north parcel). The front of the property is paved and used for parking with four surface parking spaces (includes one handicap space). There are two open driveways, one at the north end of the property for entry only, and one at the south end for exit only. A 6-foot combination block wall and wrought iron fence (pursuant to Case No. 2010-0720(F)) is located along the property frontage between the two driveway openings. The outdoor play area is located at the rear of the property separated from adjoining properties a 5-foot high concrete block wall and landscape.

Streets

Fulton Avenue, adjoining the property to the east, is a Secondary Highway with a variable width of 85 to 87 feet and improved with curb, gutter, and sidewalk. Street dedication and improvement were completed as conditioned in Case No. ZA 2006-7192(CU)(YV).

Prior Discretionary Actions

Case No. ZA 2006-7192(CU)(YV)(PA1) – On March 9, 2011, the Office of Zoning Administration authorized an amendment to Case No. ZA 2006-7192(CU)(YV) by increasing enrollment from 75 to 82 children for the existing Exploring Minds Montessori Pre-School.

Case No. ZA 2010-0720(F) - On March 9, 2011, a Zoning Administrator's Determination granted the construction, use and maintenance of a 6-foot high combination block wall and wrought iron fence with two 6-foot high iron gates in the front yard setback area of an existing preschool in lieu of the 3 feet 6 inches otherwise allowed.

Certificate of Occupancy -Issued February 10, 2010, for a change of use from a single- family dwelling with attached garage (6051 Fulton) to a childcare facility with 12 parking spaces required with 6 provided on site and 6 provided off-site.

Certificate of Occupancy -Issued February 10, 2010, to update permit and C of O from 20 children to 30 children at 6047 Fulton with 13 parking spaces required for the with 3 provided on site and 6 provided off site.

Case No. ZA 2006-7192(CU)(YV) - On August 30, 2007, the Office of Zoning Administration approved 'the expansion of an existing child care center in the R3 and R1 Zones (i.e., school purchased north adjoining parcel - 6051 Fulton) and a variance from Section 12.21-C, I (g) of the Code to permit more than 50 percent of the front yard to be paved, a variance from Section 12.21 -C, 1 (g) of the Code to permit 11 percent of the front yard to be landscaped in lieu of the required minimum of 50 percent and a variance from Section 12.21- C, I(g) of the Code to permit automobile parking in the front yard in lieu of the prohibition of such use. The grant superseded the previous grant from Case No. ZA 2004-5923(PAD) and included 32 conditions. The grant was conditioned to expire on September 1, 2017.

Case No. ZA 2004-5923(PAD) - On February 18, 2005, the office Zoning Administration approved plans authorizing an increase in capacity from 20 to 30 children in an existing 1,800 square-foot childcare facility. The approval included 15 conditions, including all loading and unloading of children on-site, all employee parking on site, and a plan approval review in five years to show compliance with conditions.

Zoning and Planning Code Background

Prior to July 1, 2000, the Office of Zoning Administration had authority over childcare facilities, pursuant to Section 12.24-C, 6 of the Los Angeles Municipal Code. After Charter Reform, the authority was transferred to the City Planning Commission, pursuant to Section 12.24-U, 4 of the Los Angeles Municipal Code. In this process, an Associate Zoning Administrator was assigned to conduct the public hearing and advise the City Planning Commission on the matter. The decision of the Commission was appealable to City Council.

Subsequently, the Planning and Zoning Code was amended (Ordinance No. 176,545) in June 2, 2005 returning authority to the Office of Zoning Administration. Robert Janovici, Chief Zoning Administrator, explained the reason for the change in an October 21, 2004 letter to the City Attorney. He stated, “[o]n September 13, 2002, the City Planning Commission issued its written approval of a draft ordinance to make technical corrections, clarify the use allowed in urban parks, and reassigns the decision makers for childcare facility determinations: This reassignment is intended to provide more convenient local hearings on applications and to direct appeals to the local Area Planning Commission (APC). Reassigning the decision makers will reinforce the prescribed roles of the various tiers of authority defined in the City Charter, in addition to expediting project reviews. These amendments were derived from the ongoing review of the status of Charter revisions and APC operations. This attached ordinance would require reviews of these detailed neighborhood-oriented issues with the Zoning Administrator (ZA) and appeals to the local APC.”

Request

Condition No. 30 of Case No. ZA 2006-7192(CU)(YV) authorized the childcare until September 1, 2017. The current request, pursuant to Memo No. 122, is to renew the Conditional Use Permit

for a maximum of 82 children and to modify the prior approval to reflect compliance with conditions.

Justification

- 1. That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region.**

When California passed the Welfare-to-Work Act in 1997, officials realized that welfare recipients added to the workforce would place an added burden on the already tight availability of day care. In response, officials included a child-care component to help address the anticipated need.

As part of the program, the Los Angeles County Department of Public Social Services in 1998 setup a child-care training institute and provided funds to existing centers for supplies. The County also provided the local Community Care Licensing Division of the state Department of Social Services money to expedite the opening of child-care facilities in the neediest communities.

Using a study that identified 102 zip codes — representing most of the city of L.A. along with portions of Pomona, Compton, Pasadena, Long Beach, the Antelope Valley and other areas as those most in need of the services — a special section of the licensing division was set up to recruit day-care operators and speed up the processing of their licensing applications.

By July 2000, about 1,000 new day-care centers were opened annually statewide since the CalWorks program began in 1998. The L.A. region alone succeeded in helping to open 1,269 new facilities in the targeted zip codes, creating 12,583 new day-care slots for children since then. (Los Angeles Time article “New Day care Centers Going Bust” Shelly Garcia, June 26, 2000)

In 2013, California Child Care Resource & Referral Network (“Network”) estimated a shortfall of 106 family childcare spaces and 237 center spaces for children 0 to 3 years in zip code 91401, where the applicant’s facility is located. For children 3 to 5, they estimated surplus spaces in the same zip code. The Network explained that some zip codes have a surplus because: 1) there are few resident children, but service capacity may address children in adjacent zip codes; 2) the services are on a college campus or a business site where there are no resident children; 3) over a period of time, service capacity has grown, but the population of children has changed; or 4) there is a mismatch between market rate spaces and children needing subsidized care. Notwithstanding, Exploring Minds Montessori Pre-School experiences an ongoing wait list for desired placements.

The benefit of childcare was well stated by Linda Asato, Executive Director of the California Child Care Resource & Referral Network (“Network”) in a November 2015 news release (*20 Years Later: Child Care Remains Out of Reach for Working Families in California*). She said, “Preparing California for a prosperous future begins with

recognition that our youngest children must get what they need today to become the adults who will strengthen our communities and build our economy. ... California needs to care about having an adequate supply of affordable and subsidized access to child care, and to ensure that young children and their families are supported when a child's development matters most."

As demonstrated in the list of authorizations, the property has been used for childcare since approval of Case No. ZA 2004-5923(PAD) on February 18, 2005. Findings were made in the prior approvals that the use is beneficial to the community. Nothing has changed to disprove the affirmative Findings previously made by Zoning Administrators.

2. **The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.**

In justifying approval of Case No. ZA 2006-7192(CU)(YV), the Zoning Administrator found that "[t]he location and expansion of the existing use is proper based upon several criteria: There is no zone in the area which permits child care by right where sufficient land is available to conduct the requested use. It is preferable to accommodate childcare use within underutilized institutional settings, such as schools and religious facilities, rather than in single-family dwellings. The applicant's location satisfies this criterion.

A good location is one which has some distance between it and any sensitive adjoining uses. In this instance, the site is adjacent to apartment buildings, a Secondary Highway, and abuts the rear yards of single-family dwellings. None of the abutting property owners expressed any opposition to the request. Outdoor noise, in particular, was not raised as an issue through any correspondence or oral testimony. Approximately 6,400 square feet of outdoor play space is on the 6047 Fulton Avenue lot which was previously approved by the Zoning Administrator for child care use, and 2,200 square feet of outdoor play space is proposed on the 6051 Fulton Avenue lot. Three R1 lots touch the 6051 Fulton Avenue lot at their respective rear lot lines and all three of these R1 lots have very limited physical contact. Two of the lots have approximately 26 feet of a common rear property line with the applicant's property and the third lot has a common point of contact - perhaps no more than one inch.

A third criterion is the ability to provide adequate parking so as to preclude spillover problems impacting other properties. Single-family dwellings which are converted to child care use often provide not more than the one or two parking spaces that served the single-family use and rely upon street parking for teachers and parents. This type of operation requires the use of the public street to conduct drop-off and pick-up activities which, on a Secondary Highway, would be both unsafe and disruptive. In the instant case, the applicant has seven parking spaces on-site which will be reserved for parents, nannies, and visitors, and will provide parking one block southeast of the site at the college for faculty and administrators. While consistent testimony of parents and the applicant indicate there has been no spillover parking, the additional enrollment is likely to cause more congestion on site, making the added off-site parking location an important asset. -This applicant has operated the existing facility without any complaints having been registered with this Office, suggesting that the track record is favorable for considering an

increase in enrollment with accommodations on site that will maintain a safe haven for the children.”

Thus, Findings were made in the prior approvals that the use would not adversely affect the community. As constructed and operated, the use has not impacted the community as indicated by the absence of complaints in the administrative record and the use of InfoPost for public outreach.^{1/} Nothing has changed to disprove the affirmative Findings previously made by Zoning Administrators.

3. That the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

The Van Nuys-North Sherman Oaks Plan designates the property for Medium Residential density. The Community Plan Map Community Plan does not specifically address childcare nor does any Plan directly regulate land use. Generally, the goal of the General Plan is to provide for the location of services to address the needs of the existing and future population.

In Case No. ZA 2006-7192(CU)(YV), the Zoning Administrator explained that “[i]n such instances, the Zoning Administrator must interpret the intent of the Plan. In 2004, the Zoning Administrator determined that half of the present ownership was appropriately suited for 30 children. In effect, the instant request proposes an increase from 30 children to 37 children on the 6047 Fulton Avenue lot, and the same privileges on the abutting lot on the 6051 Fulton Avenue lot. The physical characteristics of both lots are very similar. The major physical difference is that the northerly of the two lots has a rear building. Alternatively, the R3 Zone allows multiple density residential use on each lot. With approximately 18,150 square feet (after dedications) the ownership could accommodate 22 apartments or condominiums. A project of that size would cover virtually all of the buildable area of the lots. Therefore, in comparison to the by-right development of apartments or discretionary approval of condominiums on this property, the proposed child care use is less impacting on parking, and would remove one-story buildings and replace them with a three- or four-story building. The proposed expansion of the previous grant is consistent with the Plan as the need for child care is no less important now than it was three years ago. In addition, the project will result in the widening of Fulton Avenue which will implement the Transportation Element of the General Plan and improve traffic flow and safety for thousands of travelers daily.”

Thus, Findings were made in the prior approvals and nothing has changed to disprove the affirmative Findings previously made by Zoning Administrators.

¹ Informational Posting (**InfoPosting**) is a more informative way to comply with legal noticing requirements. It enhances public outreach and communication and reduces uncertainty in what may occur during public hearings. InfoPosting enables applicants to be proactive in preparing for a public hearing and seeks to encourage balanced communication aided by readers’ understanding of the project, entitlement request, and justification. At the time of submittal of the application, there were 42 page views and zero (0) comments.

**MODIFIED CONDITIONS TO REFLECT COMPLIANCE WITH
Case No. ZA 2006-7192(CU)(YV)**

1. ~~Utilization of this grant supersedes and renders null and void the grant approved under Case No. ZA 2004-5923(CU) issued on February 18, 2005.~~
2. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
3. The use and development of the property shall be in substantial conformance with the plot plan Submitted with the application and marked "A -plot plan, and Exhibit "B", except as may be revised as a result of this action.
4. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
5. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
6. ~~A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Fire Department, Bureau of Engineering, Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.~~
7. The maximum of children permitted on the site at any time is 82. (Pursuant to ZA Case No. 2006-7192(CU)(YV)(PA1))
8. Enrollment shall be limited to children from six weeks of age through their 6th birthday.
9. Hours of operation shall not exceed 7:30 a.m. through 5:30 p.m., Monday through Friday. In no event, shall there be any overnight lodging of children.
10. The business operator shall maintain and distribute a parent's handbook to all parents and guardians of enrolled children instructing them of the appropriate manner in which to deliver and pick-up their children. The handbook shall instruct parents to pull forward for drop-off where faculty and/or administrators will open the car door and assist the child out of the vehicle while the parent or guardian remains in the driver's seat. The handbook shall also instruct parents that for pick- up, they may park, their car in any of the on-site parking spaces and pick up their child children but not linger more than a few minutes so that other parents will have the opportunity to do the same.

11. The facility shall be appropriately licensed by the State of California. A copy of such license shall be provided by the applicant to the Zoning Administrator upon its issuance.
12. No loudspeaker or public address system shall be installed or operated. Any recorded music shall be sufficiently modulated so as to not be disturbing or detrimental to persons residing in the immediate vicinity.
13. ~~A solid masonry fence 6 feet in height shall be constructed along the north, east and west property lines if no such fence exists. Any new or replacement fence shall have a top cap and shall be stucco on the side of the abutting lot(s).~~
14. The parents' handbook shall instruct parents and guardians to park on the school property and not on the street or on other private property.
15. A current copy of the handbook shall be provided to the Zoning Administrator prior to the sign-off of building plans.
16. There shall be no school buses involved in transporting children to and from the school other than for occasional field trips.
17. Outside play equipment and climbing apparatus shall be located so as to minimize the opportunity for children to throw objects onto abutting properties.
18. A minimum of ~~seven~~ six parking spaces shall be retained on the property for parents and other visitors and shall be discreetly indicated as such. At least six parking passes shall be obtained for staff and faculty to park at Valley College. A copy of an agreement between the applicant and the College shall be provided to the Zoning Administrator prior to the sign-off of building plans by the Zoning Administrator. Staff and faculty shall be instructed to park at the off-site location.
19. All drop-off and pick-up of children shall occur on the property and not on the street.
20. Any proposed outside sign shall first be submitted to the Zoning Administrator for approval. Sign size shall be as set forth in Section 12.21-A,7 of the Municipal Code.
21. ~~No over-in-height fences or walls are authorized herein as none were requested. The fence in the front yard appears to exceed 3 feet 6 inches in height and needs to be made conforming prior to the sign-off of building plans by the Zoning Administrator.~~
22. All lighting shall be shielded and directed onto the site.
23. ~~The applicant shall submit a landscape and irrigation plan to the satisfaction of the Zoning Administrator providing for landscaping in the front yard. The selected plants, other than trees, shall be among those whose natural growth pattern does not exceed 42 inches in height and which are drought tolerant.~~

24. ~~The applicant shall obtain the stamped approval of the Fire Department and Bureau of Engineering on a common set of building plans to be submitted to the Zoning Administrator for his sign-off on the building plans.~~
25. The subject ownership (Fr. Lot 4, Arb. 3 and 4, of Tract 201 14) shall be held as one for the duration of the approved use.
26. ~~The applicant shall provide evidence to the Zoning Administrator prior to his sign-off of building plans showing that all required street dedication has been made to the satisfaction of the Bureau of Engineering.~~
27. ~~The applicant shall obtain an assurance bond promising to perform all required public improvements of Fulton Avenue to the satisfaction of the Land Development Unit of the Bureau of Engineering within 18 months of the effective date of this grant.~~
28. The applicant shall annually review the results of the Register of California's Convicted Sex Offenders Database for the zip code of the subject site and submit a letter to the Zoning Administrator so verifying.
29. The use shall be subject to any and all applicable regulations of the State Department of Social Welfare.
30. ~~This grant shall expire on September 1, 2017.~~
31. Environmental Conditions
 - a. Aesthetics (Landscaping):

All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect to the satisfaction of the decision maker.
 - b. ~~Aesthetics (Surface Parking):~~
 - 1) ~~A minimum of one 24-inch box tree (minimum trunk diameter of 2 inches and a height of 8 feet at the time of planting) shall be planted for every four parking spaces.~~
 - 2) ~~The trees shall be dispersed within the parking area so as to shade the surface parking area and shall be protected by a minimum 6-inch high curb, and landscape. Automatic irrigation plan shall be approved by the Zoning Administrator.~~ 3) ~~Palm trees shall not be considered in meeting this requirement.~~
 - c. ~~Aesthetics (Graffiti):~~
 - 1) ~~Every building, structure, or portion thereof, shall be maintained in a safe and sanitary condition and good repair, and ,free from graffiti, debris, rubbish, garbage,~~

~~trash, overgrown vegetation or other similar material, pursuant to Municipal Code Section 91.81.04.~~

- ~~2) The exterior of all buildings and fences shall be free from graffiti when such graffiti is visible from a public street or alley, pursuant Municipal Code Section 91.8104.15.~~

~~d. Aesthetics (Signage):~~

- ~~1) On-site signs are limited to the maximum allowable under the Code.~~
- ~~2) Multiple temporary signs in the windows and along the building walls are not permitted. Comment: In compliance. No signs are to found on the property.~~

~~e. Aesthetics (Landscape Buffer):~~

- ~~1) A minimum 5-foot wide landscape buffer shall be planted adjacent to residential uses. Comment: In compliance.~~
- ~~2) A landscape plan shall be prepared by a licensed Landscape Architect to be submitted and approved by the Zoning Administrator. Comment: Plans in the Plan Approval file show compliance with this requirement.~~

~~f. Aesthetics (Light):~~

~~Outdoor lighting shall be designed and installed with shielding so that the light source cannot be seen from residential properties.~~

~~g. Air Pollution (Stationary):~~

~~Commercial/Institutional: The applicant shall install air filters capable of achieving a Minimum Efficiency Rating Value (MERV) of at least 11 or better in order to reduce the diminished air quality effects on occupants of the project.~~

~~h. Air Quality Objectionable Odors:~~

~~The trash receptacle(s) shall be located at least 50 feet front the property line of any adjacent residential property.~~

~~i. Tree Removal (Non-Protected Trees):~~

- ~~1) Prior to the issuance of a grading permit or building permit, a plot plan prepared by a reputable tree expert, indicating the location, size, type, and condition of all existing trees on the site shall be submitted for approval by the decision maker and the Urban Forestry Division of the Bureau of Street Services. All trees in the public right-of-way shall be provided per the current Urban Forestry Division standards.~~

~~2) The plan shall contain measures recommended by the tree expert for the preservation of as many trees as possible. Mitigation measures such as replacement by a minimum of 24-inch box trees in the parkway and on the site, on a 1:1 basis, shall be required for the unavoidable loss of desirable trees on the site, and to the satisfaction of the Urban Forestry Division of the Bureau of Street Maintenance and the decision maker.~~

~~3) The genus or genera of the tree(s) shall provide a minimum crown of 30 to 50 feet. Please refer to City of Los Angeles Landscape Ordinance (Ord. No. 170,978), Guidelines K - Vehicular Use Areas.~~

~~Note: Removal of all trees in the Public right-of-way shall require approval of the Board of Public Works. Contact: Urban Forestry Division at (213) 485-5675.~~

~~j. Explosion/Release (Asbestos Containing Materials) Prior to the issuance of the demolition permit, the applicant shall provide a letter to the Department of Building and Safety from a qualified asbestos abatement consultant that no ACM are present in the building. If ACM are found to be present, it will need to be abated in compliance with the South Coast Air Quality Management District's Rule 1403 as well as all other state and federal rules and regulations.~~

k. Flooding Tidal Waves:

~~The project shall comply with the requirements of the Flood Hazard Management Specific Plan, Ordinance No. 172,081 effective 7/3/98.~~

32. Within 30 days of the effective date of this determination, the property owner shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.