

RESOLUTION NO. 2021-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, DENYING AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF A REQUEST TO MODIFY AN EXISTING CONDITIONAL USE PERMIT TO ADD A WEEKDAY DAYTIME PRIVATE SCHOOL USE AT AN EXISTING RELIGIOUS INSTITUTION ON PROPERTY ZONED R-1-20, LOCATED AT 1600 NORTH ACACIA AVENUE

ZON-2020-0067 / ZON-2021-0061

APPLICANT: SAGE BEHAVIOR SERVICES
PROPERTY OWNER: TEMPLE BETH TIKVAH

RECITALS

WHEREAS an application was filed to modify a Conditional Use Permit to add a weekday daytime private school use at an existing religious institution, more specifically described as Orange County Assessor's Parcel No. 283-021-02.

WHEREAS the City of Fullerton Planning Commission held a duly noticed public hearing for ZON-2020-0067 in compliance with the noticing requirements of Fullerton Municipal Code (FMC) Chapter 15.76.

WHEREAS the Planning Commission denied the request for the CUP modification.

WHEREAS, The applicant filed an appeal of the decision by the Planning Commission to City Council Pursuant to FMC Section 15.76.170.

WHEREAS, City Council heard the appeal of the Planning Commission action (ZON-2021-0061) during a duly noticed public hearing pursuant to FMC Section 15.70.060.B.

WHEREAS FMC Section 15.17.020.C provides the Community and Economic Development Director to determine an activity not specifically listed in the permitted uses table as consistent with a listed permitted use if consistent with the zone's purpose, subject to the approval of a Conditional Use Permit.

WHEREAS FMC Section 15.70 establishes the criteria to consider in evaluating a Conditional Use Permit request and authorizes City Council to approve a project when in can make applicable findings.

RESOLUTION

NOW, THEREFORE, the City Council of the City of Fullerton hereby resolves, as follows:

1. In all respects as set forth in the Recitals of the Resolution.
2. The City Council, pursuant to Fullerton Municipal Code Section 15.70.040.D, finds as follows:

- a. Finding: That the proposed use is conditionally permitted in the zone and complies with all applicable zoning standards.

Fact: In accordance with FMC Section 15.17.020.C, the Community and Economic Development Director can determine an activity not specifically listed in the permitted uses table as consistent with a listed permitted use if it is consistent with the zone's purpose. Sage Behavior Services provides individualized services to meet the needs of children eligible for special education either in a one-on-one or small group setting including working on improving functional communication, self-help skills, play skills, safety skills and overall independence. However, these services are not like those of a private school and/or child-care center or any other use listed in the permitted uses table and as such are not permissible in a residential zone with a CUP.

- b. Finding: That the proposed use is consistent with the goals and policies of the General Plan of the City or any specific plan applicable to the area of the proposed use.

Fact: The subject property has a General Plan land use designation of Religious Use and zoning designation of R-1-20 (Single-Family Residential, 20,000 square foot minimum lot size). The use is not consistent with the conditionally permitted uses in the in the residential zone and is not incidental in nature to the primary use of the property as a religious institution. Additionally, the use would not be compatible with the land use designation, the purpose of which is to provide opportunities for religious gathering, worship and related educational and community service activities.

- c. Finding: That the proposed use as conditioned will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity.

Fact: A private school is conditionally permitted in the R-1-20 zone subject to the approval of a CUP. The existing CUP for Temple Beth Tikvah included approval for a private school and child-care center. However, the proposed operational changes to the CUP to allow Sage Behavior Services to operate are not consistent with a private school use. The addition of the proposed operational changes with the continued operation of the religious institution would be detrimental to the health, safety or general welfare of the persons residing or working in the vicinity.

- d. Finding: That the project or use demonstrates compliance with the Design Criteria specified in Section 15.47.060 of Chapter 15.47.

Fact: The proposed CUP modification does not include site improvements or additions to the existing facilities onsite and therefore the property continues to comply with the relevant standards which have not changed since the entitlement of the administration / classroom building in 2005 and as modified in 2008.

ADOPTED BY THE FULLERTON CITY COUNCIL ON JUNE 15, 2021.

Bruce Whitaker
Mayor

Lucinda Williams, MMC
City Clerk

Date