



Agenda Report

Fullerton City Council

MEETING DATE: JUNE 15, 2021

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: ACTING CITY MANAGER, STEVE DANLEY

PREPARED BY: KELLEEE FRITZAL, ACTING DIRECTOR OF COMMUNITY
AND ECONOMIC DEVELOPMENT
HEATHER ALLEN, PLANNING MANAGER
EDGARDO CALDERA, ASSOCIATE PLANNER

SUBJECT: APPEAL OF CONDITIONAL USE PERMIT DENIAL - 1600
NORTH ACACIA AVENUE

SUMMARY

Request to review and act on appeal of Planning Commission denial to modify an existing Conditional Use Permit to expand private school use at an existing religious institution, private school and childcare center (Temple Beth Tikvah) located at 1600 North Acacia Avenue.

RECOMMENDATION

To approve the appeal, adopt Resolution No. 2021-XX.

RESOLUTION NO. 2021 – XX - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, APPROVING AN APPEAL AND GRANTING A MODIFICATION TO 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

OR

To deny the appeal, adopt Resolution No 2021-XX.

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

FISCAL IMPACT

None.

DISCUSSION

Background

The applicant/appellant, Sage Behavior Services (Sage), requests to modify the existing CUP to add a weekday daytime private school use at a previously approved religious institution, private school and child-care center (Temple Beth Tikvah). The original CUP dates to 1979 when Temple Beth Tikvah moved to the site. The City has approved modifications to the CUP over the years to address changes to onsite operations, the last modification occurring in 2008. Separately, Sage has operated in Fullerton since 2009 as a by-right use at several commercially zoned locations.

In February 2020, a member of the public contacted the City regarding the permissibility of the Sage use on the Temple Beth Tikvah property with a residential zoning classification. While not previously classified as a private school in its former location, staff reviewed the complaint and the operations of the business. According to information provided by the applicant and on the Sage website, Sage provides services to address the individualized needs of children eligible for special education either in a one-on-one or group setting including working on improving functional communication, self-help skills, play skills, safety skills and overall independence. These services are not unlike those of a private school and/or child-care center. The City permits both uses in a residential zone with a CUP and has already approved for the 1600 North Acacia property.

Fullerton Municipal Code (FMC) Section 15.17.020.C provides that the Community and Economic Development Director can determine consistency of an activity not specifically listed in the permitted uses table with a listed permitted use consistent with the zone's purpose. The FMC identifies a private school as a commercial use permissible with the approval of a CUP and in compliance with FMC 15.55.030.D. The City provided Sage/Temple Beth Tikvah the option of modifying the existing CUP through the public hearing process with the Planning Commission. If the Planning Commission had approved the CUP modification, Sage could operate at this location as an additional private school.

The attached Planning Commission staff reports contain a detailed discussion and analysis of Sage's request (Attachments 4 and 5).

Planning Commission

The Planning Commission considered the requested CUP modification April 14, 2021. After holding the Public Hearing, the Planning Commission voted to continue the item to the April 28, 2021 meeting to allow Commissioner Carvalho, who was absent, the opportunity to review the meeting and agenda material and vote on the CUP modification request. The Planning Commission denied the CUP modification request at the April 28, 2021 meeting as the majority of the Planning Commission found that the services

provided by Sage Behavioral Services consistent with a business rather than with a private school. The FMC does not permit businesses in the residential zone. The public can access the Planning Commission meeting video, accompanying agenda material and April 14, and April 28, 2021 minutes www.cityoffullerton.com/agendas.

Sage Appeal

Pursuant to Fullerton Municipal Code Section 15.70.060, Sage Behavior Services has filed an appeal to the City Council (Attachment 6).

As part of the appeal, Sage has amended their original request to expand the private school use during the day from nine children and twelve staff to fifteen children and twenty staff. The Appeal Letter details the basis of this request.

Staff determines the parking required for a private school as well as a religious institution through the Conditional Use Permit process. The FMC does not have a specified number of spaces required. Utilizing the same methodology applied to the existing CUP and the original modification request, daytime private school activities associated with Sage and concurrent operations would generate 47 students and 24 staff for the private schools (27 spaces) and 30 children and 6 staff for the child-care center (8 spaces) requiring a total of 35 parking spaces. The existing 85 parking stalls onsite would adequately support the request.

The CUP specifically dictates the operations of the various uses approved including the number of staff and children permitted to attend the private schools. Should City Council grant the CUP modification and approve the appeal, the resolution would include a Schedule of Operations (Attachment 7). Any modification to increase use of the property beyond that authorized by the CUP would require an application filed and considered at a noticed Public Hearing before the Planning Commission.

Public Comments

Attachment 8 contains all written public comments received related to the Planning Commissions meetings.

Attachments:

- Attachment 1 - PowerPoint Presentation
- Attachment 2 - Resolution No. 2021-XX –Appeal Approval
- Attachment 3 - Resolution No. 2021-XX –Appeal Denial
- Attachment 4 - April 14, 2021, Planning Commission Staff Report
- Attachment 5 - April 28, 2021, Planning Commission Memo
- Attachment 6 - Appeal Letter
- Attachment 7 - Revised Schedule of Operations
- Attachment 8 - Correspondence