

February 28, 2018

AGENDA ITEM 1.A

REQUEST

PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND DEVELOPMENT REVIEW PERMIT FOR A DAY CARE CENTER TO OCCUPY AN EXISTING STRUCTURE ON THE NORTHEAST CORNER OF W 7TH AND B STREET (89 W 7TH STREET, ASSESSOR'S PARCEL NUMBER 235-065-14) – THE APPLICANTS ARE ARIANNE MISCHÉAUX AND CANDICE EDWARDS; THE PROPERTY OWNER IS BAY AREA INVESTMENT COMPANY INC – APPLICATION NUMBERS CUP17-0005 AND D17-0021

DISCUSSIONProject Description

The proposal is for a day care center to occupy an existing 2,200 square foot commercial building on an approximately six thousand square foot lot. The subject property is located at 89 W 7th Street, on the northeast corner of W 7th and B Streets. Attachment A includes a location map. The building has been vacant for several years. Prior to the vacancy the site was used historically used as church.

Little Investigators Preschool will provide space for up to 45 children from ages 18 months old to 6 years old and up to three staff members. The hours of operation proposed are Monday through Friday from 7:00 a.m. to 6:00 p.m. The applicant has also indicated that there may be several special events outside of the regular day care hours including events such as graduation ceremonies, formal dinners, and open house events.

The proposal does not include any exterior changes to the building, but does include modifying the backyard to accommodate three parking spaces to satisfy the off-street parking requirement for the site, (Attachment C). The off-street parking spaces will have access from Jackson Alley located to the rear of the building. The remaining back yard area will be fully enclosed with a six-foot tall solid wood fence. A shade structure and storage shed are proposed to be incorporated into the backyard area as well as lawn and landscape areas for recreation.

Separate from the City's review of the project, the operator must obtain a Child Care Center License from the State Health and Human Services Agency. The State's review of the permit is focused on health, safety, and operational items such as fence height, indoor area required per child, outdoor area required per child, and number of toilets and sinks required, and training or qualifications of the child care center staff.

Parking and Circulation

The number of parking spaces required by City Zoning Ordinance for the day care center is one space per staff position, or 3 spaces for the anticipated number of employees on the maximum work shift. The existing wood fence that is located along the north property line along the perimeter of the backyard will be relocated toward the

building in order to accommodate the three required parking spaces for staff. This modification will also result in a landscape area located between the parking spaces and sidewalk along B Street. The parking spaces will be accessed through Jackson Alley, to the rear of the site. Both garage and uncovered parking spaces using the alley for access is a common feature in the surrounding neighborhood. The applicant has indicated that the children usually arrive between 7:00 a.m. to 9:00 a.m. and leave between 4:00 p.m. and 6:00 p.m. Since there is no set start time or stop time, children will arrive and depart at various times depending on each family's individual needs. Pick up and drop off of children will occur at the street curb on B and W 7th Streets or as close to the site as practical. Clients of the center may have multiple siblings that attend the center or clients that carpool which will potentially reduce the amount of vehicles traveling to and from the site.

Land-Use Compatibility

The site is zoned Medium Density Residential which allows day care centers as a conditional use. This zone is designed to provide a variety of housing types and supporting uses. The immediate surrounding neighborhood consists of single family homes. Commercial uses and buildings are located approximately 400 feet east on 7th street and approximately 200 feet to the South on B Street. The day care center will provide a service for the surrounding neighborhood and is proposed in a building that was built and used as an assembly use for many decades.

A church, which previously occupied the building, was granted conditional use permit approval by the Planning Commission for a proposed expansion in 1994 (5-94-CUP) and again in 2000 for an additional expansion (1-00-CUP). The proposal in 2000 also included a development review permit (9-00-D). Both those projects have expired as the previous church did not follow through with all the improvements at those times.

One of the recommended conditions of approval (B.8) limits the regular hours of operation are restricted to 7:00 a.m. to 6:00 p.m. from Monday to Friday there by limiting any increase in noise or traffic also will be restricted to those hours. Recommended condition of approval number B.8 also limits the number of special events beyond the regular hours to no more than six per year.

CEQA Documentation

The project is categorically exempt from the California Environmental Quality Act, pursuant to Guidelines Section 15303, New Construction or Conversion of Small Structures which pertains to construction of new facilities or structures not exceeding 10,000 square feet on sites zoned for such use. In accordance with CEQA Guidelines, no further environmental assessment is required.

RECOMMENDATION

Staff recommends the Planning Commission approve the Conditional Use Permit and Development Review Permit for the Little Investigators day care center as indicated in the attached Planning Commission Resolution.

MOTION

Move that the Planning Commission approve the Conditional Use Permit and Development Review Permit for the Little Investigators day care center, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated February 28, 2018.

Prepared by: Genevieve Fernandez, Assistant Planner

Reviewed by: Alan Bell, Senior Planner

Approved by: Bill Dean, Assistant Development Services Director

ATTACHMENTS

Attachment A – Location Map

Attachment B – Images of Existing Structure

Attachment C – Site Plan

Attachment D – Planning Commission Resolution (with recommended conditions of approval)

Site Location



Google Aerial



Zoning Map

Site Images

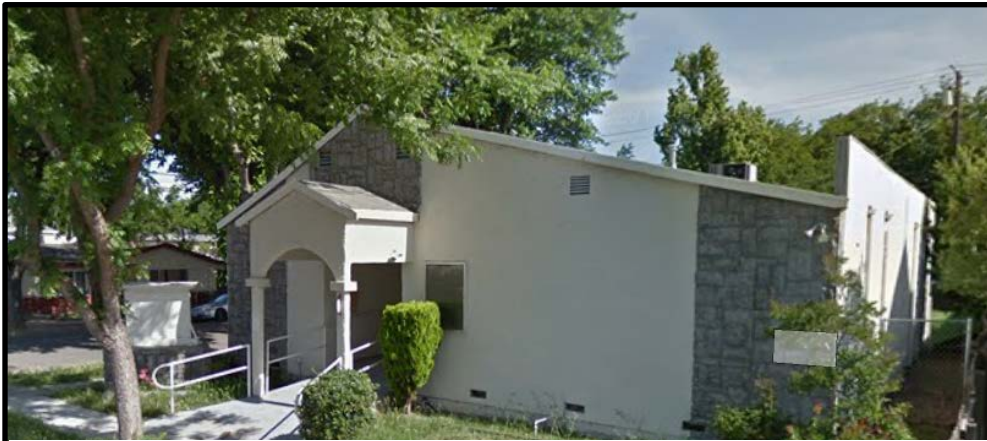


Image 1. South Elevation
The entrance to the building along W 7th street



Image 2. North Elevation
The backyard area, parking will be located off of the alley

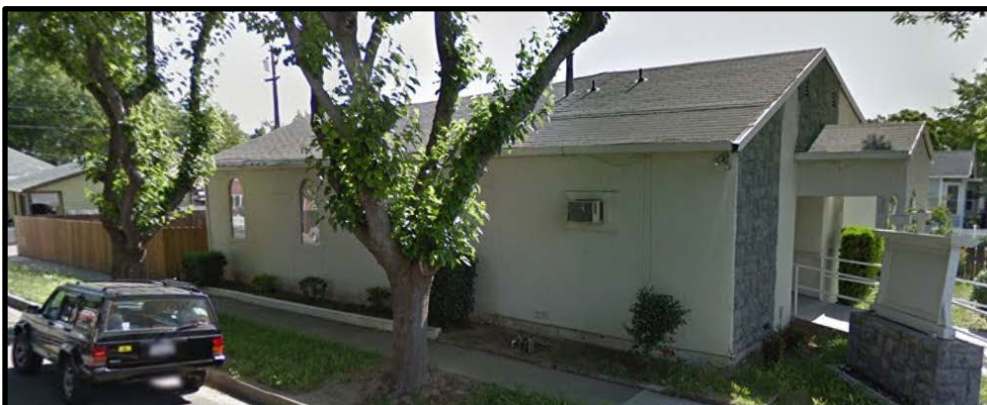


Image 3. West Elevation
The side of the existing building along B Street

RESOLUTION 2018-003

RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT AND DEVELOPMENT REVIEW PERMIT (CUP17-0005 AND D17-0021) FOR LITTLE INVESTIGATORS PRESCHOOL – EXISTING 2,200 SQUARE FOOT STRUCTURE TO BE OCCUPIED WITH A DAY CARE CENTER LOCATED AT 89 W 7TH STREET

WHEREAS, On September 19, 2017, Arianne Mischeaux and Candice Edwards filed an application for a Conditional Use Permit (CUP17-0005) and Development Review Permit (DD17-0021) (the “project”) to establish a 2,200 square foot day care facility at 89 W 7th Street, and

WHEREAS, The subject property is located within the Medium Density Residential Zone, which requires a Conditional Use Permit for day care centers and Development Review Permit for alterations to the land (such as replacing a portion of the backyard with parking spaces and the addition of accessory structures), and

WHEREAS, The project is categorically exempt from CEQA based on Guidelines Section 15303, which applies to new construction or conversation of small structures not exceeding 10,000 square feet on the sites zoned for such use, and

WHEREAS, The Planning Commission conducted a public hearing to consider the project on February 28, 2018;

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission:

(1) Approves the Conditional Use Permit CUP17-0005 subject to the conditions contained in Exhibit 1 and based on the following findings:

- a. There are circumstances or conditions applicable to the land, structure, or use which make the granting of a use permit necessary for the preservation and enjoyment of a substantial property right as the proposal consists of occupying a vacant commercial building with a commercial use and that the size, hours of operation, and land use are compatible with the surrounding land uses.
- b. The proposed location of the conditional use is in accordance with the objectives of the Medium Density Residential Zone as it is consistent with the intent of the zone to provide a variety of housing types and specifically to provide supporting uses for the surrounding residential neighborhood.
- c. That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity as the day care center will occupy an existing building which will be maintained and in return enhance the neighborhood with a land use that is harmonious to the surrounding area.
- d. That the proposed use will comply with each of the applicable provisions related to conditional uses as the specific land use is appropriate for the site at which it is proposed.

(2) Approves the Development Review Permit D17-0021 subject to the conditions contained in Exhibit 1 and based on the following findings:

- a. The proposed improvements increase the quality of the project site, and enhance the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy as the business will occupy an otherwise vacant building allowing them to maintain the site and in addition, the proposed improvements to the site will provide off-street parking for staff members to help mitigate potential impacts to n-street parking.
- b. The project is consistent with the City of Tracy General Plan, in that the site is designated Residential Medium by the General Plan which encourages the integrating commercial uses into residential designations to provide services that are located within a short walk, bike ride, or drive. The project includes design elements consistent with the City Design Goals and Standards, including number and design of parking spaces, site design, fence design, and landscaping. The project is consistent with zoning as the location of the subject property is zoned Medium Density Residential which states that day care centers are a conditionally permitted use. The project is consistent with other City standards in all respects, including, but not limited to siting standards, off-street parking, and landscaping.

The foregoing Resolution 2018-003 was adopted by the Planning Commission on the 28th day of February 2018, by the following vote:

AYES: COMMISSION MEMBERS: HUDSON, KAUR, KROGH, ORCUTT, TANNER
 NOES: COMMISSION MEMBERS: NONE
 ABSENT: COMMISSION MEMBERS: NONE
 ABSTAIN: COMMISSION MEMBERS: NONE


 CHAIR

ATTEST:

 STAFF LIAISON

**Little Investigators
Conditions of Approval
Application Numbers CUP17-0005 and D17-0021
February 28, 2018**

These Conditions of Approval shall apply to the real property described as the Little Investigators Preschool Project, Conditional Use Permit and Development Review Permit (Application Numbers CUP17-0005 and D17-0021). The approximately 6,000 square foot subject property is located at the northeast corner of W 7th Street and B Street, 89 W 7th Street, Tracy; (Assessor's Parcel Number 235-065-14).

A. The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
3. "City Regulations" means all written laws, rules and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design documents (the Streets and Utilities Standard Plans, Design Standards, Parks and Streetscape Standard Plans, Standard Specifications, and Manual of Storm Water Quality Control Standards for New Development and Redevelopment, and Relevant Public Facilities Master Plans).
4. "Conditions of Approval" shall mean the conditions of approval applicable to the real property described as the Little Investigators Preschool at 89 W 7th Street, Conditional Use Permit and Development Review Permit (Application Number D17-0002). The approximately 6,000 square foot subject property is located on the northeast corner of W 7th Street and B Street (Assessor's Parcel Number 235-065-14).
5. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
6. "Project" means the real property consisting of approximately 6,000 square foot proposed for the Little Investigators Preschool at 89 W 7th Street, Conditional Use Permit and Development Review Permit (Application Number D17-0002).
7. "Property" means the real property located at 89 W 7th Street (Assessor's Parcel Number 235-065-14).
8. "Subdivider" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. "Subdivider" also means Developer. The term "Developer" shall include all successors in interest.

B. Conditions of Approval for CUP17-0005 and D17-0021:

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, *et seq.*), the Subdivision Map Act (Government Code sections 66410, *et seq.*), the California Environmental Quality Act (Public Resources Code sections 21000, *et seq.*, "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 15000, *et seq.*, "CEQA Guidelines").
2. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
3. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
4. Except as otherwise modified herein, all construction shall be consistent with the plans received by the Development Services Department (L-1) on December 26, 2017.

C. Conditions of Approval for D17-0021:

5. Prior to the issuance of a building permit, the applicant shall provide a detailed landscape and irrigation plan consistent with City landscape and irrigation standards, including, but not limited to Tracy Municipal Code Section 10.08.3560, the City's Design Goals and Standards, and the applicable Department of Water Resources Model Efficient Landscape Ordinance on private property, and the Parks and Parkways Design Manual for public property, to the satisfaction of the Development Services Director. Newly planted, on-site trees shall be a minimum size of 24-inch box and shrubs shall be a minimum size of five gallons. Landscaping within the new, five-foot-wide planter along the west and south perimeter of the play area shall be planted with evergreen shrubs to substantially match the appearance, spacing, and size at maturity of the existing shrubs along the north side of the play area to achieve a dense, approximately five-foot-tall, visual screen of the play area.
6. Prior to the issuance of a building permit, an Agreement for Maintenance of Landscape and Irrigation Improvements shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements, or \$2.50 per square foot of on-site landscape area.

D. Conditions of Approval for CUP17-0005

7. Prior to the installation of any signs, the applicant shall submit a sign permit application and receive approval from the Development Services Director in accordance with City Regulations. All signs shall be designed and constructed in accordance with the size, height, and other standards of Tracy's Municipal Code.
8. The regular business hours of the day care center shall not start earlier than 7:00am nor end later than 6:00pm. Events beyond the regular business hours such as graduations, formal dinners, and open houses shall be limited to no more than six events per calendar year, but in no instance may operate beyond 10:00pm.
9. Prior to occupancy, applicant shall demonstrate compliance with the California Fire Code to the satisfaction of the Fire Marshal.
10. Prior to occupancy, applicant shall demonstrate to the satisfaction of the Development Service Director that the building has been tested for lead based paint.