

2020030592

Planning, Building and Code Enforcement

ROSALYNN HUGHEY, DIRECTOR

# NOTICE OF EXEMPTION

To: County Clerk County of Santa Clara County 70 West Hedding Street, East Wing San José, California 95110 (408) 299-2481

From: Kara Hawkins, Planner I Environmental Review Team PBCE, Planning Division 200 East Santa Clara Street, T-3 San José, CA 95113 (408) 535-7852

Project File Number and Project Title: CP17-053, Williams Road Daycare Project

Applicant, Address: Okavango Child Care (Attn: Maria Fomina), 1257 Avis Drive, San Jose, CA 95126, (408) 439-5283

**Project Location:** South side of Williams Road approximately 170 feet of westerly Keltner Avenue. Located at 3754 Williams Road in San Jose.

**Description of Nature, Purpose, and Beneficiaries of Project:** Conditional Use Permit to allow the conversion of a single-family residence to child day care for up to 40 children on an approximately 0.42-gross acre site

Name of Public Agency Approving Project: City of San José

## Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: 15303(c) New Construction or Conversion of Small Structure
- Statutory Exemptions. State code number:

**Reasons why project is exempt:** The project would result in a physical change to the existing building as it would convert the existing 2,157-square foot single-family residence to a daycare center with associated play area and parking. The total building floor area would be 2,265 square feet, which is less than the 10,000 square foot threshold. The daycare would not involve the use of significant amounts of hazardous substances. The project would not result in a significant impact to applicable resources such as transportation, noise, and biological resources.

Lead Agency Contact Person: Kara Hawkins

Telephone: (408) 535-7852

## If filed by applicant:

1. Attach certified document of exemption finding.

Signature: Koca Hunhn	Date: 3/16/20	Title: Planner	1
Signed by Lead Agency 🗍 Signed by App	licant		

# Date Received for filing at OPR: \_

Authority cited: Sections 21083 and 21110, Public Resources Code. Reference: Sections 21108, 21152, and 21152, Public resources Research Code.

MAR 17 2020 STATE CLEARINGHOUSE



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# STATEMENT OF EXEMPTION

## FILE NO. LOCATION OF PROPERTY

PROJECT DESCRIPTION

## CP17-053

South side of Williams Road, approximately 170 feet westerly of Keltner Avenue (3754 Williams Road).

Conditional Use Permit to allow the demolition of a detached garage and shed structure, the removal of four trees, and the conversion of an existing 2,157-square foot, one-story single-family residence to a daycare center to accommodate up to 40 children and 5 staff with and one outdoor play area on a 0.42-gross acre site. The western, southern, and eastern property lines would include an 6-foot noise control barrier.

### ASSESSOR'S PARCEL NUMBER

299-19-020

### CERTIFICATION

Under the provisions of Section 15303(c) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

## 15303. New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The number of structures described in this section are the maximum allowable on any legal parcel.

(c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and surrounding areas is not environmentally sensitive.

## ENVIRONMENTAL SETTING

The project site is located on the South side of Williams Road, approximately 170 feet westerly of Keltner Avenue (3754 Williams Road). The project site is rectangular in shape, consistent with the neighboring lots (Figure 1).

The approximately 0.42-gross acre subject site is currently developed with a one-story single-family residence with a combined total of 3,259 square feet of floor area, including a detached garage and a shed. Vehicle access is provided by a semi-circular driveway to the front of the home, and a straight driveway back to the detached garage, with entry and exit from Williams Road. The site currently consists of the primary and accessary structures, landscaping in the front and back yards, and paved driveways. The site was annexed into the City in 1957 and has not changed use since that time.

The site is bounded by single-family residences to the west, south, and east, and Williams Road to the north with commercial and retail uses to the north across Williams Road.

The project site currently has landscaping consisting of shrubbery, trees and lawn in the front and rear yards. The site has 29 non-native trees located predominately around the perimeter of the property line, consisting of Cypress, Lemon, Orange, and Grapefruit trees. Of the 29 existing trees, four are proposed to be removed to accommodate the required driveway expansion as well as the new play area. The trees to be removed are three Cypress trees and one Grapefruit tree. All three Cypress trees to be removed are 20 feet in height and have a diameter of six inches. The Grapefruit tree to be removed is 20 feet in height and has a diameter of eight inches.



Figure 1. Project Site

#### PROPOSED PROJECT

The project would demolish the existing detached garage and accessory shed structure and convert the existing 2,157-square foot, one-story single-family residence to a daycare center with associated play area and onsite parking for up to 40 children and 5 staff on a 0.42-gross acre site.

The proposed play area is located on the southeastern corner of the project site to the rear of the primary structure with an area of 2,954 square feet for toddlers and preschoolers. The Operational Plan (Attachment A) details that outside play on the play area is scheduled for two shifts in a morning and two shifts in an afternoon, consisting of the toddler's group from 10:15am-11:15am and 4:30pm-5:15pm, and the preschooler's group from 11:15am-12:15pm and 5:15pm-6:30pm. The largest group size utilizing the play area at any time would be 20 children. As designed, the project would have a 6-foot noise control barrier with stucco finish around the western, southern, and eastern property lines of the outdoor play area. A chain link fence also runs the western perimeter of the play area to separate the space from the adjacent parking stalls and driveway.

Based on the Operations Plan (refer to Attachment A), the hours of operation for the center are Monday through

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Friday from 7:45 AM to 6:30 PM and closed on weekends. Daycare is provided for up to a maximum of 40 children ranging from toddlers (two years old) to preschoolers (entering first grade), and with a maximum of five employees on site. The existing semi-circular driveway will serve as the drop-off zone, which accommodates three to four cars at a time. Six parking spots are also included in the rear of the property to accommodate additional cars for drop off and pick up. Drop off times are staggered by separate time slots for families and run from 7:45 AM to 8:45 AM. Pick up times are also staggered by family and run from 5:30 PM to 6:30 PM. Staff will arrive prior to 7:45 AM in order to assist with drop off.

The project would also result in the removal of four trees, consisting of three Cypress trees and one Grapefruit tree, to accommodate the widened drive aisle for parking and the proposed play area. Refer to Figure 2 for the proposed site plan.



Figure 2. Site Plan

## ANALYSIS Construction

The site currently contains a single-family residence, a detached garage, an accessory shed structure, and associated landscaping and driveways. The construction would involve demolition of the garage and shed structure and interior remodeling from single family residence to classrooms. The construction period would also include new construction of the play area and minor exterior improvements. Pile driving is not part of the proposal and the permit shall not permit pile driving without additional analysis. As the construction phase is only temporary and expected to last less than 12 months, the project would conform and comply with City's existing standard permit conditions for construction protocols during construction periods.

#### Operation

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#### **Transportation**

The project has completed a review until City Council Policy 5-3 at the time of project submittal in 2017 and it was determined that the project would have less than significant impacts in regard to transportation and traffic, with the incorporation of recommended conditions that have been included in the project design (Attachment B). Since the submittal of the proposed project and the review of the Traffic Impact Analysis, Council Policy 5-3, which utilized Level of Service (LOS) was replaced with Council Policy 5-3, which utilizes Vehicle Miles Traveled (VMT) as the threshold for determining significant transportation impacts. Due to the nature of the proposed use, new daycare facilities typically redistribute existing trips instead of creating new ones and can shorten vehicle trips and reduce overall Vehicle Miles Traveled (VMT) by diverting existing trips from established daycares to the new local daycare without measurable increasing trips outside of the local area. Therefore, the project qualifies for the screening criteria for local-serving retail and does not required additional VMT analysis under 5-1.

Based on the review of the transportation characteristics of the site and immediate area, the proposed project was concluded to not have significant effects on operations as it is proposed (refer to Attachment B).

#### **Biological Resources**

The project would result in removal of four trees on site. The three Cypress trees are located near the entryway to the existing driveway and would be removed to accommodate adequate vehicle access according to City Public Works standards. This driveway cannot be relocated due to the orientation of the existing and proposed structures relative to the size of the site. The Grapefruit tree is located within the rear yard of the existing single-family lot and would be removed to accommodate the proposed play area. The proposed project will be consistent with the City's Tree Replacement ratios. Since four trees onsite would be removed, three trees would be replaced at a 1:1 ratio, and one tree would be replaced at a 2:1 ratio. As mentioned previously, there are no native trees on-site. The total number of replacement trees required to be planted on site would be five trees, or payment of in-lieu fees in the circumstance that the site does not have adequate room. The project applicant proposes on replacing the trees to be removed with Samuel Sommers Magnolias and Ann Magnolias.

#### Noise

A Noise Assessment for the project was prepared by H. Stanton Shelley on February 6, 2020. The results of the Noise Assessment were evaluated against the Noise Element of the City of San José General Plan, which utilizes the Day-Night Level (DNL) 24-hour noise descriptor. Noise standards established in the General Plan serve as the City's noise thresholds for determining significant impacts under CEQA. Based on the Noise Assessment, the City's acceptable exterior noise level objective is 60 dBA DNL (General Plan EC-1.1 and EC-1.2), EC-1.3 requires noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential land uses.

To determine the existing ambient noise condition, noise measurements were taken on site at three locations. The measurement and the results of the calculations indicate that the exterior noise exposure at the project frontage is up to 62 dBA DNL. Based on this existing ambient noise condition, the project will not result in significant impact under CEQA if the project-generated noise does not exceed 65 dBA DNL, which takes into consideration the threshold of an increase of 3 dBA DNL or more when noise levels exceed "Normally Acceptable".

At the southeastern corner of the site adjacent to existing single-family residential development, the noise exposure is 54 dBA DNL. The noise exposure near the western property line is up to 58 dBA DNL. Based on these existing ambient noise conditions, the project will not result in a significant impact under CEQA if the project-generated noise results in a total noise generation that would be 63 dBA DNL or below at the southeastern and western property line, under General Plan Policy EC-1.2.



Figure 3. Ambient Noise Measurement Locations

Based on the results of the existing ambient noise condition, taken the highest exposure of 62 dBA DNL level at the frontage, the existing project site is currently categorized as "conditionally acceptable" (EC-1.1 of the General Plan).

#### Mechanical and Transportation Noise

The new trips generated by the proposed project, with a capacity of 40 students, are estimated to be in the range of 60 to 80 new trips per day (perhaps a maximum of one additional trip per minute), Because of moderate continuous traffic volumes on Williams Road, in the range of 10,000-15,000 trips per day, project trips would produce a negligible change in traffic noise on Williams Road (much less than 1 dBA). Due to the size of the project and expected low traffic volumes as compared to the existing conditions, project traffic is expected not to add significantly to the existing noise exposures and would comply with General Plan EC-1.1 and 1.2.

The noise exposures were calculated assuming that all air-conditioners will operate simultaneously and continuously from 7:45 AM to 6:30 PM. The noise exposures will be between 45 to 55 dBA DNL at the most impacted residential property line, with the incorporation of the 6-foot noise barrier. Thus, the noise exposures will be within the 55 dB DNL of the City of San Jose General Plan Goals and Policies Policy EC-1.3 for the adjacent residences.

#### Playgrounds Noise

Noise calculated were then modeled with information of number of kids, hours of outdoor areas, and distances from noise sensitive receptors to determine compliance with the General Plan and Municipal Code.

As previously stated, play area is located to the south of the primary structure (facing the eastern and southern property lines and the adjacent single-family homes) and in the rear of the site with an area of 2,954 square

feet for toddlers and preschoolers. The project proposes a 6-foot noise control barrier around the southern, wester, and eastern property lines, which encompasses the entirety of the play area location

The Noise Assessment include the analysis of the short-term noise levels generated by the children in the proposed play area. Adjustments were made to account for sound attenuation features such walls, buildings, and distances.

The hourly average and noise exposure analysis were focused on areas and time periods that the playground would likely affect. There would be up to 20 toddlers 18 months to 2 years playing outside for one hour in the morning and 45 minutes in the afternoon. At different times there would be up to 20 preschoolers 3 to 5 years old playing outside for one hour in the morning and 45 minutes in the afternoon. The kids' outdoor activities include climbing on the play structures in the center of the play area, playing with balls, riding tricycles on a paved perimeter track, organized group activities and other typical outdoor play for young children. Noise measurements taken during play periods of other similar preschool play areas have indicated that under worst-case conditions kids create noise levels in the range of 50-60 dBA at 25 feet. With 6-foot masonry walls on each of the shared property lines near the backyard play area, adjacent sensitive receptor yard noise levels could be intermittently in the 45-55 dBA range. With the incorporation of the proposed 6-foot sound wall, outdoor play activities would not exceed City of San Jose's General Plan Policy EC-1.3 threshold.

Consequently, there would be no changes to the long-term average DNL levels in any of the nearby sensitive receptors -- within the same range of 45-55 dBA, meeting Noise Element criteria, and also meeting Policy EC-1.2 GP noise impact criteria (an increase of less than 3 dBA). Additionally, the multi-family residences across Williams Road to the west would have little audible project noise because of high levels of Williams Road traffic noise, the significant distance to the preschool play area, and also building obstruction.

## CONCLUSION

The project site is within an urbanized area with existing conditions to sewer, water, and electricity service. The project site is not within close proximity to any rivers or waterways. The project would result in a physical change to the existing building as it would convert the existing 2,157-square foot single-family residence to a daycare center with associated play area and parking. The total building floor area would be 2,265 square feet, which is less than the 10,000 square foot threshold. The daycare would not involve the use of significant amounts of hazardous substances. As discussed above, the project would not result in significant impact to applicable resources such as transportation, noise, and biological resources. As the project would result in a change of use with physical changes under a total of 10,000 square foot, the project qualifies for Section 15303(c) of the CEQA Guidelines.

### EXCEPTIONS

CEQA Guidelines Section 15300.2 provides exceptions to the use of Categorical Exemptions where the use of a Categorical Exemption is prohibited under certain circumstances. The City has considered the project's applicability to all of the exceptions under Section 15300.2. An analysis of each of these exceptions in reference to this specific project is provided below.

- (a) Location. Class 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located. Section 15300.2(a) states that a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. The site is located in an urbanized area, fully developed with an existing single-family residence and associated accessary structures. The project would convert the use to a daycare, physically change the interior layout to accommodate the new use and add an outdoor play area. For the reasons mentioned in the Analysis above, the project would not be considered to be a sensitive environmental site.
- (b) <u>Cumulative Impact</u>. Based on the above analysis, there is no evidence of a potential significant cumulative impact on the environment from the proposed project. The project proposes the conversion of

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an existing single-family residence to a daycare center. Based on the assessment, the project would result in temporary construction effects and a Noise Assessment was completed to evaluate noise effects of the full operations. Therefore, these modifications would not incrementally contribute to any other environmental resource such as traffic, noise, or biological resources.

- (c) <u>Significant Effect.</u> The site is developed with an existing single-family residence. The site and proposed structure are consistent with the surrounding neighborhood. Based on the analysis above, the construction and operation of the site would not result in significant effects under City policies. The project would not result in any significant effects on the environment due to unusual circumstances. The proposed project does not have any unusual circumstances that would negatively impact the environment.
- (d) <u>Scenic Highways.</u> The site is not visible or located near designated State scenic highways and would not result in damage to scenic resources.
- (e) <u>Hazardous Waste Sites</u>. The project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) <u>Historical Resources.</u> The proposed project is not a historical resource and is not located in a historical conservation area. Therefore, the project would not adversely change the significance of a historical resource.

Rosalynn Hughey, Director Planning, Building and Code Enforcement

2/21/2020

Deputy

Kara Hawkins Environmental Project Manager

Attachments:

A) Operational Plan

- B) Public Works Traffic Memo
- C) Noise Assessment

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