

CITY OF PASADENA

MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Michele Beal Bagneris, City Attorney

RE: Agenda Item 6D-Continued Public Hearing Regarding Conditional Use Permit No. 4212 To Allow the Expansion of a Non-Conforming Use (GEM Transitional Care), 716 South Fair Oaks Avenue

DATE: May 10, 2004

BACKGROUND

At its meeting of April 12, 2004, the City Council referred this matter to the City Attorney to consult with the lawyer for the applicant, GEM Transitional Care Facility (GEM), to explore the basis for possible approval of the requested expansion. After discussions and further review and research, our office has concluded that, should the Council concur, it would be appropriate for the City Council to approve the Conditional Use Permit (CUP) for the requested expansion, subject to completion of a lot line adjustment to combine the adjacent parcel currently used for parking with the lot on which the transitional care building is located, based on findings to be approved by the Council.

ANALYSIS

GEM is a nonconforming use. GEM has applied for a Conditional Use Permit to expand its facility onto an adjacent lot which it owns. PMC Section 17.76.030 prohibits the "expansion of a nonconforming use onto an additional lot, adjacent or otherwise." GEM has provided information to the City which, if accepted by the City Council, would allow the Council to find that the adjacent lot has been used by GEM for parking since before the zone change in 1985 which made the use nonconforming. Said "Finding of Fact" is attached hereto as Attachment A. Based upon that information, the Council could find that the use at the time GEM became nonconforming should have included the adjacent parking lot. Making the approval of the CUP subject to the completion of a lot line adjustment acknowledges, based upon such findings, that the use was in fact in existence on the adjacent lot and that the lot line adjustment is necessary to remove the statutory impediment to the approval of the CUP for the expansion of the use.

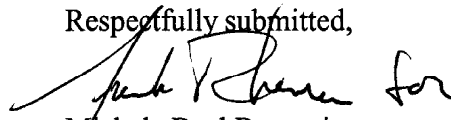
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May 10, 2004

The question has been raised whether the City could approve the lot line adjustment in this case since the proposed use is nonconforming. Government Code Section 66412 limits the approval process to determining whether the parcel resulting from the lot line adjustment will conform to local zoning and building ordinances. It is important to note that it is the *parcel* which must be conforming and not the *use*. In this case it would appear that the resulting parcel would comply with zoning and building codes in that the adjusted parcels have the same zoning designation and the resulting parcel would meet minimum lot size requirements.

CONCLUSION


Should the Council accept the information and findings provided by the applicant, the Council can make the required findings to approve the CUP subject to the condition that GEM first apply for and be approved for a lot line adjustment in accordance with Section 16.40.030 of the PMC. The CUP if so approved would also require findings and conditions of approval as prepared by staff. These findings and conditions of approval are attached hereto as Attachments B, C, and D.

Respectfully submitted,



Michele Beal Bagneris
City Attorney

Concurrence:



Cynthia Kurtz
City Manager

FINDINGS OF FACT FOR CONDITIONAL USE PERMIT NO. 4212

Conditional Use Permit for Expansion\
of a Non-Conforming Use

1. *The proposed 5,500 square-foot expansion of the GEM Transitional Care Center to add 24 skilled nursing beds constitutes the enlargement of a non-conforming use authorized pursuant to Pasadena Municipal Code Section 17.76.030* in that the property has been operated as an integrated convalescent care facility use on four contiguous lots for more than twenty years and such use of the property as a whole pre-dated the 1985 change in the zoning designation from CM to IG and the subsequent adoption of the SP-2 overlay designation.
2. *The convalescent care facility parking area lot upon which the expansion is proposed to extend does not constitute an "additional" lot under Pasadena Municipal Code Section 17.76.030A* in that the lot lines for the lots on which the facility has been operating will be adjusted such that the expansion will be on the same lot as the building where the expansion is occurring.
3. Together with the three abutting lots, the facility parking lot area has been operated as an integrated and consolidated convalescent care facility use for more than twenty years and has been treated as part of the same lot as established by the following facts:
 - (a) The lot upon which the expansion is proposed to extend has constituted convalescent care facility parking (for physicians, nurses, patients and employees as well as emergency medical vehicles) and has been integrated and consolidated with the convalescent care facility use for more than twenty years;
 - (b) The convalescent care facility use was legally established on the four lots, including the convalescent care facility parking area lot, under the previous CM zoning designation;
 - (c) The actual exclusive use of the convalescent care facility parking area lot prior to the zone change to the IG designation and adoption of the SP-2 overlay designation was convalescent care facility parking;
 - (d) At all times, the zoning of the four lots, including the convalescent care facility parking area lot, has been identical (including the previous CM zoning designation and the current IG-SP-2 zoning and overlay designation);
 - (e) At all times since 1988, the ownership of the four lots has been unified;
 - (f) The convalescent care facility improvements and the convalescent care facility parking area were owned as a unit by the Huntington Hospital Trust (from 1988) and were sold as a unit to GEM;

(g) GEM has voluntarily agreed to adjust the lot lines of the subject parcels as a condition precedent to obtaining any rights under a C.U.P. authorizing expansion of the facility;

(h) Prior to the zone change to the IG designation, a formal lease hold interest in the convalescent care facility parking area lot was established to provide Code-required parking for the convalescent care facility in fulfillment of a condition of approval to a 1985 Conditional Use Permit to expand the convalescent care facility, and a certificate of occupancy for the expansion was issued based upon that parking lease;

(i) The size, dimensions, configuration and location of the convalescent care facility parking area lot (surrounded by streets and alleys on three sides and the convalescent care facility improvements on the fourth side) render it infeasible for development as a stand-alone lot separate from the convalescent care facility use;

(j) The convalescent care facility parking area lot has never been used or occupied as a stand-alone lot.

4. *The proposed expansion of the convalescent care facility use complies with all other performance standards and applicable additional land use regulations of the IG-SP-2 district in which the property is located* in that the proposed expansion meets all applicable setback, height, parking and similar development standards.

5. *The location of the non-conforming convalescent care facility is in accordance with the special purposes of Title 17 of the Pasadena Municipal Code and the purposes of the IG-SP-2 district in which the proposed project is located* in that the property upon which the proposed expansion of the non-conforming use would occur consists of lots which have been operated as an integrated convalescent care facility use for more than twenty years, the convalescent care facility use was established legally under the previous CM designation which allowed convalescent facility use and, since then, the convalescent care facility use has been continuous and uninterrupted.

6. *The expansion of the non-conforming convalescent care facility use will promote the public health, safety and welfare of the City of Pasadena and the surrounding community* in that there is a severe shortage of skilled nursing beds and of facilities for post-surgical care in the City of Pasadena, and the proposed expansion of the GEM Transitional Care Center to add 24 beds providing skilled nursing care in close proximity to Huntington Hospital is vital to accommodate the existing unmet demand for skilled nursing and transitional care of hospital patients and to improve and expand the existing facilities for post-surgical care of patients in the City of Pasadena.

7. *The expansion of the non-conforming convalescent care facility use as authorized by this conditional use permit is consistent with the general plan* in that it constitutes an allowed expansion of a legal existing non-conforming use pursuant to Pasadena Municipal Code Section 17.76.030.

ATTACHMENT B
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #4212

Conditional Use Permit – Expansion of a Non-Conforming Use.

1. *The location of the minor conditional use is in accord with the special purposes of Title 17 of the Pasadena Municipal Code and the purposes of the IG-SP-2 (Industry, General, South Fair Oaks Specific Plan Overlay) district in which the proposed project is located. Section 17.76.030(A) allows for the expansion of existing uses that conflict with the allowed uses for the zoning district in which they are located. These non-conforming uses may be enlarged with the approval of a conditional use permit. Specifically, the expansion must comply with the development standards with the zoning district in which they are located. In this case the proposed expansion meets the development standards of the IG-SP-2 zoning district such as setback, height, and parking. Additionally, as conditioned, the use will be operated in a manner that will minimize impacts on the surrounding properties and businesses.*
2. *The location of the conditional use and the conditions under which it would be operated or maintained will be consistent with the General Plan. Objective 13 (Adequate Services) of the General Plan Land Use Element is to provide support for institutions, such as hospitals and clinics, that serve the needs of Pasadena's residents. The proposed expansion of the convalescent facility addresses this objective. Further, one of the intents of the South Fair Oaks Specific Plan is to support the retention and enhancement of local businesses.*
3. *The conditional use will not be detrimental to the public health, safety, or welfare of persons residing, or working in or adjacent to the neighborhood of such use, or injurious to properties or improvements in the vicinity. The proposed expansion meets the development standards of the IG-SP-2 zoning district such as setback, height, and parking. As the subject site is surrounded predominately by commercial, industrial and other medical uses, it is not anticipated that there will be any detrimental affect to the public health, safety and welfare in large. Additionally, the expansion will be conditioned to further ensure that there are no impacts on the surrounding properties and businesses. The facility will operate as is has since its inception.*
4. *The minor conditional use will comply with the provisions of Title 17, including any specific conditions required for the district in which it would be located. Noncompliance with any of the conditions of approval or any of the provisions of Title 17 would suspend issuance of permits to construct the proposed residence.*

ATTACHMENT C
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #4212

The applicant or successor in interest shall meet the following conditions:

1. The site plan, floor plan, and building elevations, submitted for building permits shall substantially conform to the plans submitted with this application, except as modified herein.
2. A Lot Line Adjustment to consolidate the two subject properties (5720-002-023 and 5720-002-018) shall be approved prior to the issuance of building permits.
3. Design Review is required prior to the issuance of building permits for this project due to its location on South Fair Oaks Avenue, a 'Major Corridor'.
4. Because the convalescent facility is a non-conforming use, any future expansion of the facility shall require the approval of a Conditional Use Permit.
5. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
6. The proposed project, Case No. **PLN2003-00123** shall comply with all conditions of approval, subject to the Condition and Mitigation Monitoring Program by the City. A Final Zoning Inspection is required for your project prior to the issuance of a Certificate of Occupancy. Contact the Code Compliance Staff at (626) 744-6433 to schedule an inspection appointment time.

ATTACHMENT D

**MEMORANDUM - CITY OF PASADENA
DEPARTMENT OF PUBLIC WORKS**

DATE: June 25, 2003

TO: Denver Miller, Zoning Administrator
Planning and Development Department

FROM: City Engineer
Department of Public Works

RE: Conditional Use Permit No. 4212
716 South Fair Oaks Avenue

The Department of Public Works and the Department of Transportation have reviewed the application for Conditional Use Permit No. 4212 at 716 South Fair Oaks Avenue. The applicant is proposing to expand a non-conforming use. Specifically, the existing Nursing Home is classified as a Convalescent Facility and was made non-conforming when the City zoned the property as IG (Industry, General) in 1985. The applicant is proposing to add two single-story additions totaling 5,500 square feet to the existing 10,100 square feet facility. If the conditional use permit is approved, the following conditions are recommended:

Department of Public Works Conditions:

1. In order to provide for intersection improvements, the applicant shall dedicate to the City the land necessary to provide a 15-foot radius property line corner rounding at the northeast corner of Fair Oaks Avenue and Fillmore Street.
2. In order to provide for better traffic movement, the applicant shall construct improvements consisting of concrete curb, gutter, sidewalk and other work necessary to construct a standard 25-foot radius curb at the northeast corner of Fair Oaks Avenue and Fillmore Street. Improvements shall include the relocation and upgrading of affected street lights, signals and other utilities.
3. Edmondson Alley was reconstructed in October 1998. If the street is excavated for utility connections prior to October 2003, extensive repaving of the street will be required.
4. Excavations for utility connections in the street shall be as close as possible to each other and the pavement shall be restored contiguously between extreme excavations and must extend to the nearest pavement joint.

5. The project falls within the South Fair Oaks Specific Plan. Decorative crosswalk shall be installed only on Fillmore Street at Fair Oaks Avenue.
6. The applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk and shall repair any existing or newly damaged curb, gutter and sidewalk, avoiding any damage to existing street trees and using the City's Tree Protection Standards available from the Parks and Natural Resources Division (744-4514), along the subject frontage prior to the issuance of a Certificate of Occupancy.
7. The applicant shall construct a new drive approach a minimum of 12 feet in width and in accordance with Standard Drawing No. S-403.
8. If the proposed improvement drains to the driveway, the applicant shall construct a non-sump grate drain in the driveway at the back of the sidewalk. The drain shall discharge to the street in a curb outlet at an angle approved by the Department of Public Works.
9. The project shall comply with the Tree Protection Ordinance (TPO) that provides protection for specific types of trees on private property as well as all trees on public property.
10. If street tree vacancies exist, the applicant shall plant and maintain, for a period of three years, the officially designated street trees per the City approved master street tree plan on the subject frontage and install an irrigation system for those trees. Locations will be finalized in the field by Department of Public Works. Trees must meet the City's tree stock standards and be planted according to the detail provided by the Parks and Natural Resources Division. The trees shall be approved by the Forestry Supervisor prior to the issuance of a Certificate of Occupancy. Plans for irrigation system shall be prepared by a landscape architect registered in the State of California and submitted to the Department for review and approval.
11. Plans must be submitted to the Department of Public Works for approval showing any structures, irrigation, footings grading or plantings that impact City street trees. The plans must conform to the Tree Protection Standards which specifically require showing the locations of all existing trees, their diameters and actual canopies as well as any trees to be planted with their canopy at mature size.

12. If drainage patterns are altered, the applicant shall provide an approved method of controlling storm water runoff. Approval shall be made by the Planning and Development Department and the Department of Public Works prior to issuance of a grading or building permit for this site.
13. The project is subject to the requirements of the City's Storm Water and Urban Runoff Control Regulation Ordinance which implements the requirements of the Regional Water Quality Control Board's Standard Urban Storm Water Mitigation Plan (SUSMP). Prior to the issuance of any demolition, grading or construction permits for this project, the developer shall submit a detailed plan indicating the method of SUSMP compliance.
14. The existing street lighting system on Fillmore Street consists of utilitarian lights (mounted on wood power poles) and therefore, does not meet present design standards. In order to improve pedestrian and traffic safety, the applicant shall install a maximum of one (1) new street light on or near the frontage of the property, including conduits, conductors, electrical service (if necessary), pull boxes, and miscellaneous appurtenant work. The type and hardware shall conform to current policies approved by the City Council, and the location shall be as approved by the Department of Public Works.
15. Unless otherwise arranged, the applicant is responsible for design, preparation of plans and specifications, and construction of all required public improvements. Plans for the above improvements shall be prepared by an engineer registered in the State of California. Upon submission of improvement plans to the Department of Public Works, the applicant will be required to place a deposit with the Department to cover the cost of plan checking and construction inspection of the improvements.
16. If the existing street lighting system along the project frontage is in conflict with the proposed development/driveway, it is the responsibility of the applicant to relocate the affected street lights, including conduits, conductors, electrical services, pull boxes, and miscellaneous appurtenant work in a manner that complies with the requirements and receives the approval of the Department of Public Works.

17. A sewer flow analysis, prepared by a civil engineer registered in the State of California, shall be submitted to the Department of Public Works for review and approval. The sewage flow analysis shall include calculations for the quantities of sewage flow for the pre-development and post-development conditions and how sewage flow will be handled. The applicant will be required to mitigate any potential sewer capacity deficiency by a method approved by the Department. The applicant shall also be responsible for all costs required in mitigating the potential sewer capacity deficiency, including upgrading existing sewer mains and/or replacing the existing sewer mains with larger mains in the streets fronting the development reaches further downstream of the proposed development.
18. The proposed development shall be connected to the public sewer by a method approved by the Department of Public Works. The sewer connection shall be 6-inch diameter vitrified flay or cast iron pipe with a minimum slope of 2 percent.
19. The applicant shall submit the following plan and form which are obtainable from the Recycling Coordinator, (626) 744-4721, of the Department of Public Works for approval:
 - a. C & D Recycling & Waste Assessment Plan – Submit plan prior to issuance of the grading permit. A list of Construction and Demolition Recyclers can be obtained from the Recycling Coordinator.
 - b. Monthly reports must be submitted throughout the duration of the project.
 - c. Summary Report with documentation must be submitted prior to final inspection.
20. The applicant shall advertise the availability of salvage materials. A listing can be made at no charge in the CALMAX Quarterly Catalog at www.ciwmb.ca.gov/CALMAX or through LACOMAX at www.dpw.co.la.ca.us/epd/lacomax or through preservation groups or web or newspaper advertising.

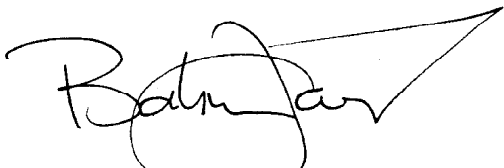
21. The project shall be subject to the use of deconstruction techniques. A deconstruction manual is available free of charge by downloading it from www.ciwmb.ca.gov/publications or by requesting a copy from the Recycling Coordinator, (626) 744-4721, of the Department of Public Works.
22. Past experience has indicated that projects such as this tend to damage the abutting street improvements with the heavy equipment and truck traffic that is necessary during construction. Additionally, the City has had difficulty in requiring developers to maintain a clean and safe site during the construction phase of development. Accordingly, the applicant shall place a \$10,000 deposit with the Department of Public Works prior to the issuance of a building or grading permit. This deposit is subject to refund or an additional billing, and is a guarantee that the applicant will keep the site clean and safe, and will make permanent repairs to the abutting street improvements that are damaged, either directly or indirectly, by the construction on this site.
23. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging Plan to the Department of Public Works and the Department of Transportation for review and approval. This plan shall show the impact of the various construction stages on the public right-of-way including any street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site.
24. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in affect at the time these conditions are met.

Department of Transportation Conditions:


1. The parking, trash and recycling enclosure areas shall conform to the requirements of the Zoning Ordinance and a plan showing all pertinent dimensions for these areas shall be submitted to the Department of Public Works and the Department of Transportation for review and approval prior to the issuance of a building permit.

Denver Miller, Zoning Administrator
Conditional Use Permit No. 4212
June 25, 2003
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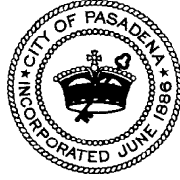
2. The proposed project will add a significant number of beds to the existing facility, and given many senior citizens need to have special transportation accommodations, the following shall apply:
- A preliminary traffic circulation analysis shall be prepared to address parking, loading/unloading of special vehicles and site access based on the increase in use. Contact Eric Shen, Transportation Planning and Development Manager, at (626) 744-7208 for details.
 - All passenger loading/unloading shall occur on-site, including special vehicles or vans.
 - Field observation has revealed that the existing yellow curb on Fair Oaks Avenue (east side), just north of Fillmore Street, may create operational issues. The Department of Transportation will conduct a detailed investigation to determine whether this yellow zone should be removed or retained.
 - Parking is prohibited on the north side of Fillmore Street between Raymond Avenue and Fair Oaks Avenue due to its narrow street width. The circulation analysis shall ensure no loading activities take place on the north side of Fillmore Street due to safety concerns.



BAHMAN JANKA
Transportation Administrator
Department of Transportation



For DANIEL A. RIX
City Engineer
Department of Public Works



OFFICE OF THE CITY MANAGER

MEMORANDUM

To: City Council
From: City Manager
Date: April 12, 2004
RE: **Specific Plan Amendment Process**

At the March 15, 2004 Public Hearing concerning the Call for Review for Conditional Use Permit #4212 at 716 South Fair Oaks Avenue the City Council requested information about the process to amend the South Fair Oaks Specific Plan and the implications of amending the Plan.

Currently, the Zoning Code does not allow Convalescent Facilities on properties zoned IG (Industry, General). The South Fair Oaks Specific Plan overlay (SP-2) does allow the use, but only in the area located west of South Fair Oaks Avenue and south of Hurlbut Street. The Specific Plan can have its text amended to allow Convalescent Facilities in other areas of the Specific Plan. By amending the Specific Plan, the text of the SP-2 zoning overlay would also be amended accordingly. The Zoning Code amendment process would be integrated into the Specific Plan amendment process and occur concurrently.

The process to amend a Specific Plan can be initiated by either the City Council or Planning Commission. The Planning Division is responsible for managing the amendment process.

The process is as follows:

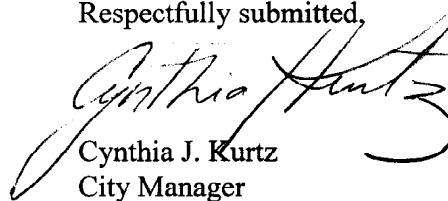
- City Council or Planning Commission vote to initiate an amendment process.
- Cost of amendment process as well as schedule and work program impacts are identified and reported to Planning Commission and City Council.
- City Council authorizes budget.
- Staff holds Community Meeting(s) to receive input on possible amendments.
- Amendments are identified through staff and community input.
- Initial Environmental Study is begun.
 - Environmental Impact Report is required if amendment(s) are deemed to have a "Potentially Significant Impact".
- Staff holds Community Meeting(s) to present proposed amendments.

- Staff recommendation presented to Planning Commission for their recommendation.
- Staff and Planning Commission recommendations presented to City Council.
- If approved, the City Council directs City Attorney to prepare ordinance.
- City Council holds ordinance reading.

There are several options when amending the Specific Plan for this use. The text of the Plan could be amended to allow the Convalescent Use only on the subject properties, to allow it throughout the entire Specific Plan area, or to describe a portion of the Specific Plan area where the use is allowed (such as east of South Fair Oaks Avenue, north of Fillmore Street, and south of Pico Street.) Calling out the subject properties raises the issue of 'spot zoning', where only one or two properties are rezoned. Expanding the use throughout the Plan area may allow land use that is inconsistent with the intent of the Plan. A limited expansion of the Convalescent Use is the most balanced approach. Specific boundaries for the possible expansion would be developed through the Plan amendment process including input from staff, the community and the commission.

Technical changes evolving from Huntington Hospital and Art Center property acquisitions are expected to prompt specific plan changes within the next year. Although this has not been initiated yet, it is anticipated that these reviews will involve textual modifications and updates rather than a large-scale re-visits of the Plans. As the plan has been adopted for more than five years, it may be appropriate timing for a plan review. Potential changes to the Convalescent Use could be combined with these other potential changes in a single Plan revision. Staff is considering an efficient method to address these upcoming projects.

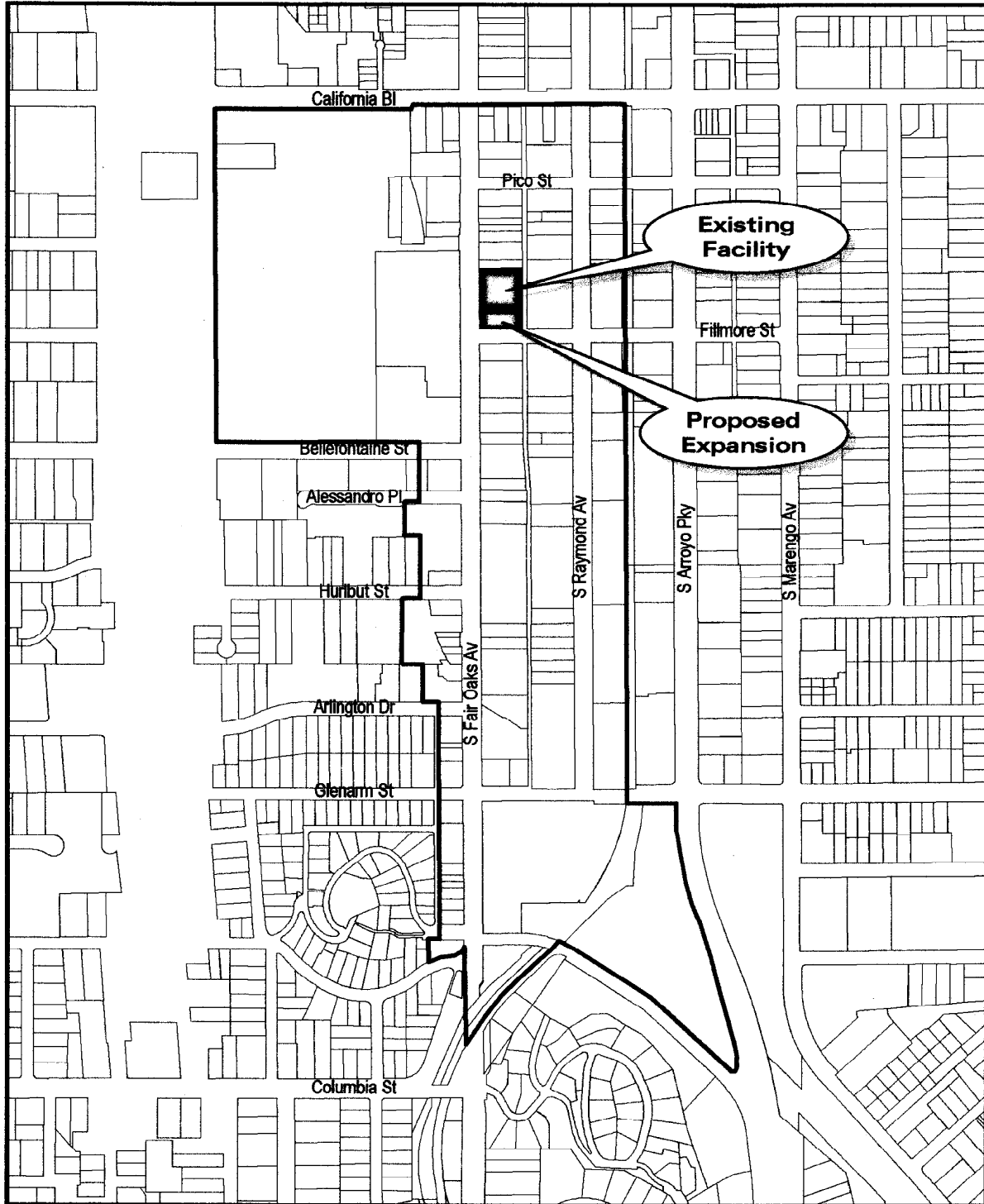
Respectfully submitted,

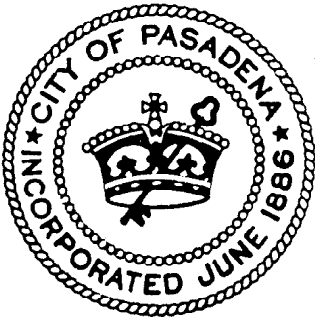


Cynthia J. Kurtz
City Manager



SOUTH FAIR OAKS SPECIFIC PLAN





Agenda Report

TO: CITY COUNCIL

DATE: MARCH 15, 2004

FROM: CITY MANAGER

SUBJECT: CALL FOR REVIEW OF CONDITIONAL USE PERMIT #4212 TO ALLOW THE EXPANSION OF A NON-CONFORMING USE (GEM TRANSITIONAL CARE), 716 SOUTH FAIR OAKS AVENUE.

CITY MANAGER'S RECOMMENDATION:

1. It is recommended that, the City Council acknowledge that this action is categorically exempt from CEQA; and
2. Uphold the decision of the Board of Zoning Appeals to deny the conditional use permit application to allow the addition of 5,500 square feet to the existing convalescent facility at 716 South Fair Oaks Avenue.

EXECUTIVE SUMMARY:

On April 22, 2003 an application was submitted for a Conditional Use Permit to allow the construction of two additions totaling 5,500 square feet to an existing 20,100 square foot convalescent facility at 716 S. Fair Oaks Ave. The case was heard on November 19, 2003 by the Zoning Hearing Officer. The Zoning Hearing Officer denied the application because the Zoning Code prohibits the expansion of non-conforming uses onto additional properties, adjacent or otherwise and because the proposal is not consistent with the General Plan and South Fair Oaks Specific Plan.

The applicant appealed the Zoning Hearing Officer's decision to the Board of Zoning Appeals. The appeal was heard at the January 21, 2004 hearing. The Zoning Hearing Officer's decision to deny the application was upheld by the Board, by a 3-1 vote. Those who voted in favor of upholding the Zoning Hearing Officer's decision determined that the project was an expansion of a nonconforming use onto an adjacent lot. There were no speakers from the public.

BACKGROUND:

GEM Transitional Care Center is located on the east side of South Fair Oaks Avenue, just north of Fillmore Street. The one-story, 20,100 square foot facility currently accommodates 75 beds. The facility is classified as a 'Convalescent Facility' by the Zoning Code because it provides 24-hour care for persons requiring medical attention, but does not include surgical or emergency medical services.

The applicant proposes to construct two additions of approximately 300 and 5,200 square feet on an adjacent property to the south that is currently used as parking for the facility. According to the applicant, the facility operates inefficiently because of state staffing regulations and nursing station locations. It is the applicant's belief that the construction of a new laundry room and adding 26 beds (while losing two

because of the expansion) will allow the facility to operate more efficiently. Upon the expansion, the convalescent facility would increase its capacity to 99 beds.

The facility is currently a non-conforming use, as convalescent care facilities are not permitted by the IG (Industry, General) zoning district in which the facility is located. It was made non-conforming when the property was re-zoned as IG in 1985. Section 17.76 of the Municipal Code, Nonconforming Uses and Structures, requires the approval of a Conditional Use Permit in order to expand a non-conforming use. However, Section 17.76.030A states, "There shall be no expansion of a nonconforming use onto an additional lot, adjacent or otherwise".

It is the applicant's position that because the southern property is used as parking for the facility, the convalescent use is already established on the property and therefore the use is not expanding onto an additional lot.

The applicant has referenced Use Permit #1501, approved by the Board of Zoning Appeals in April of 1985. This Use Permit included the approval to enlarge the facility within the boundaries of its site, a Variance to provide 24 on-site parking spaces and a minimum of seven off-site parking spaces where 38 are required, a Variance to allow to elimination of a driveway that connected two one-site parking areas, and a Variance to provide one loading zone where two were required.

In the Conditions of Approval for UP#1501, the requirement for the seven off-site parking spaces makes no mention of a specific location that was to be used to satisfy this requirement. It states, "A minimum of seven parking stalls shall be provided off site within a radius equal to the distance between the parking garage serving 50 Allesandro Place and the subject property." The appellant's written appeal asserts that because the adjacent property was utilized to satisfy this requirement and was used as additional parking for the facility prior to the approval of UP#1501, the convalescent use is therefore tied to the parking lot.

However, in the application file for UP#1501, the parking lot is not included as a part of the convalescent use. The site plan does not show it, the legal description does not include it, and the notification radius map does not include it as a part of the subject site. Additionally, there is nothing in the file or minutes that gives any indication as to where the parking requirement would be satisfied. The documents show that the applicant would obtain parking off-site within certain distance parameters. The application was never amended or modified to include this parking lot. If the parking lot to the south were part of the site and the 1985 application, then there would have been no need for the variance to have parking "off-site" since the parking would have been "on-site" and meet the requirements of the code.

The argument made by the appellant is that the approval of the expansion in 1985 approved the convalescent facility on this lot because this is where the required off-site parking was located. However, it is not unusual for projects in Pasadena to have parking off-site by a lease or rental agreement. The current code has provisions for off-site parking spaces. Additionally, in various parts of the City there are Parking overlay (PK) districts that allow commercial parking to be located in residential districts. Allowing parking on a different site does not mean that the use can be established on the parking lot.

Therefore, staff has determined, and both the Zoning Hearing Officer and the Board of Zoning Appeals have upheld, that the proposed expansion is not permitted under Section 17.76.030A of the Zoning Code that prohibits the expansion of a non-conforming use onto an additional property.

GENERAL PLAN CONSISTENCY:

The proposed project is not consistent with the land use policies of the City's General Plan. Specifically, the project is not consistent with Policy 10.5 (Industrial Businesses), which promotes the protection of industrial districts and restricts IG zoning districts to industrial businesses and ancillary retail and service activities.

SOUTH FAIR OAKS SPECIFIC PLAN CONSISTENCY:

The South Fair Oaks Specific Plan Area encompasses the light industrial zone along Fair Oaks and Raymond Avenues. The primary intent of the specific plan is to encourage commercial activities with a particular emphasis on technology based enterprises. Residential land uses were intentionally directed away from the core area and toward the perimeter of the zone along existing residential neighborhoods. Although the convalescent facility is technically an institutional use, it does have residential character and is treated as a residential use for the purposes of the Specific Plan. Further, convalescent facilities, although not permitted through the Specific Plan area, were identified as an allowed use on the west side of South Fair Oaks Avenue, and south of Hurlbut Street.

Allowing for the expansion of this non-conforming convalescent land use on this site would be inconsistent with the Specific Plan. The interests in keeping the area near a convalescent facility quiet, and the active light industrial vision of the Specific Plan are at odds.

At the Board of Zoning Appeals hearing, it was recognized that in the time since the Specific Plan was adopted, St. Luke's Hospital has closed. Given the resulting need for more medical beds, this area may be an appropriate location for this type of use given its close proximity to Huntington Hospital. However, it was pointed out that in order to allow this use the Specific Plan would have to be amended. By amending the Specific Plan, the Zoning Code implementation of the Specific Plan (SP-2) would therefore be similarly altered to allow the 'Convalescent Facility' use. This text amendment could allow the use either throughout, or in a specific portion of the Specific Plan area.

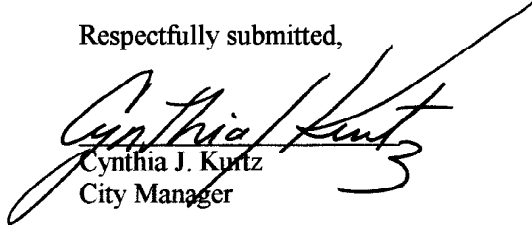
ENVIRONMENTAL DETERMINATION:

This project has been determined to be Categorically Exempt (Class 1) from environmental review pursuant to the guidelines of the California Environmental Quality Act, CEQA Guidelines, Section 15301, Existing Facilities.

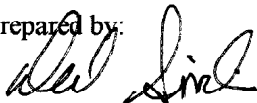
FISCAL IMPACT:

Because the property to the south is currently used for parking, the approval of this application and subsequent development of the property would result in an incremental property tax increase.

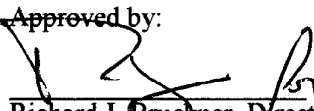
Respectfully submitted,


Cynthia J. Kurtz
City Manager

Prepared by:


David Sinclair
Assistant Planner

Approved by:

JRP 
Richard J. Bruekner, Director
Planning and Development Department

Attachments:

- A. Proposed Plans for Expansion
- B. Appeal Application, Board of Zoning Appeals
- C. Decision Letter and Findings of Fact, Board of Zoning Appeals