



## Legislation Details (With Text)

**File #:** 18-1213      **Version:** 1      **Name:**  
**Type:** Consent Calendar      **Status:** Agenda Ready  
**File created:** 8/28/2018      **In control:** Planning Commission  
**On agenda:** 9/26/2018      **Final action:**  
**Title:** Action on Use Permit to Allow Outdoor Play Area for a New Child Day Care Facility at 1190 Benton Street

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Resolution Approving the Use Permit, 2. Project Data Sheet, 3. Conditions of Approval, 4. Development Plans

Date	Ver.	Action By	Action	Result
9/26/2018	1	Planning Commission	Approved	Pass
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## REPORT TO PLANNING COMMISSION

### SUBJECT

Action on Use Permit to Allow Outdoor Play Area for a New Child Day Care Facility at 1190 Benton Street

### BACKGROUND

The applicant is requesting a Use Permit to allow outdoor activity for a new child day care facility on two contiguous parcels zoned Downton Commercial (CD). The outdoor activity is proposed to occur at the rear of the combined 0.5 acre project site and would total approximately 3,500 square feet of outdoor recreation area. The project involves conversion of eight parking spaces at the southeast corner of the existing surface parking lot to a padded playground and use of the rear yard building setback to provide outdoor assembly and recreation area for use by children attending the daycare facility.

While child daycare is a permitted use in the CD zoning district, a Use Permit is required to allow outdoor activity as an ancillary use per Santa Clara City Code (SCCC) sections 18.40.040(a) and 18.38.040(c).

The project site is developed with an 8,435 square foot commercial building that was formerly occupied by KM2A Martial Arts and is now leased to Shalom Christian Academy LLC for use as a child daycare facility. The facility proposes to operate Monday through Friday from 8:00 a.m. to 6:00 p.m. with 14 staff members and would provide state-licensed child care for up to 75 toddlers and pre-school aged children.

The proposed project would maintain the classroom layout of the previous martial arts use and does not include changes to the building interior. Other than replacement signage, the project does not include exterior alterations to the building. A wrought iron fence with retractable gate was recently

installed to separate and protect the proposed playground area at the rear of the site from the parking field and driveway in the surface lot. The gate entry is required to allow emergency access to the rear of the property if warranted.

### **Surrounding Land Uses**

The project site is a commercial property located at the southeast corner of Benton Street and Jackson Street in the City's Old Quad/Downtown neighborhood. Properties surrounding the project site include one and two-story single family homes across Benton Street to the north; a three-story multi-family apartment complex to the east; a two-story commercial/office development with one-story parking structure to the south; and Franklin Square, a one-story general commercial center to the west across Jackson Street.

### **DISCUSSION**

The primary issues for the project are consistency with the City's General Plan and Zoning Code.

#### **Consistency with the General Plan**

The General Plan land use designation for the project is Community Mixed Use. This classification is intended to encourage a mix of residential and commercial streets. The proposed project is consistent with the following General Plan policies:

- P.3.1-P22, Encourage conveniently located child care and other family support services in the community except in areas designated for Light or Heavy Industrial Uses, in that the proposed project is located in the Old Quad/Downtown neighborhood, is designated Community Mixed Use, and is surrounded and accessed from an arterial street.
- 5.3.3P1, Provide a mix of retail and commercial uses to meet the needs of local customers and draw patrons from the greater region, in that the proposed project provides a child daycare service to support residents and commercial business in the local community and region.

#### **Zoning Conformance**

The zoning designation for the project site is Downtown Commercial (CD). This designation is intended to encourage the development of a large concentration of commercial and office uses in the central business area of the City. While this designation allows child care facilities that operate within an enclosed building as a permitted use, outdoor activities associated with the permitted use are required to obtain a Use Permit as specified in SCCC Sections 18.40.040(a) and 18.36.040(e). Per SCCC Chapter 18.110, the Planning Commission cannot grant a Use Permit without first making specific findings related to the effect of the project on the health, safety, peace, comfort and general welfare, based upon substantial evidence in the record.

#### **Use Permit Findings**

The applicant is requesting a Use Permit to allow outdoor activity as an ancillary use to a proposed child daycare facility. Use Permit findings are prepared and presented in the attached Planning Commission Resolution.

#### **Circulation and Parking**

The project site is accessed from a single two-way driveway on the Benton Street frontage of the property and provides 29 parking spaces in the existing surface parking lot adjacent to the commercial building on the project site. The project would convert eight of the 29 parking spaces to playground use and retain 20 parking spaces on-site for shared use by employees and visitors for pick-up and drop off of children attending the facility. The parking requirement for nurseries and

preschools is one space per classroom or office per SCCC 18.74 (n)(1). As illustrated on the attached Development Plans, the daycare facility would have seven classrooms and two offices for a parking requirement of nine spaces.

### Conclusion

The proposed project is consistent with the General Plan land use designation for the project site. As the project would develop a full-time day care facility, which necessitates the provision of outdoor playground area for children under State licensing requirements, approval of the requested conditional Use Permit is required by the City to allow the applicant to operate. There is sufficient parking on-site to accommodate both employee and visitor parking.

### ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15303, Class 3 New Construction or Conversion of Small Structures, in that the proposed use consists of construction of new, small structures where only minor modifications are made in the exterior of the structure.

### FISCAL IMPACT

There is no cost to the City other than administrative staff time and expense which are offset by permit application fees.

### COORDINATION

This report has been coordinated with the City Attorney's Office.

### PUBLIC CONTACT

Public notice was posted within 300 feet of the project site and mailed to property owners within 300 feet of the project site. At the time of this staff report there has been no public input submitted in support or opposition to the proposed project.

### RECOMMENDATION

Adopt a Resolution approving the Use Permit to allow outdoor play area for a new child day care facility at 1190 Benton Street.

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Approved by: Reena Brilliot, Planning Manager

### ATTACHMENTS

1. Resolution Approving the Use Permit
2. Project Data Sheet
3. Conditions of Approval
4. Development Plans