

## Planning Commission Staff Report

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October 28, 2015  
Item 5.a.

<b>SUBJECT:</b>	<b>P15-0429 and P15-0501</b>
<b>APPLICANT:</b>	Genius Kids (GK)
<b>PROPERTY OWNER:</b>	Sim & Yoon LLC
<b>PURPOSE:</b>	Application for a Conditional Use Permit (CUP) to operate a preschool and daycare facility and Design Review to construct an outdoor play area
<b>LOCATION:</b>	3550 Bernal Avenue, Suite 100B
<b>GENERAL PLAN:</b>	Retail/Highway/Service Commercial; Business and Professional Offices
<b>ZONING:</b>	PUD-C-N (Planned Unit Development – Commercial - Neighborhood) District
<b>EXHIBITS:</b>	A. <a href="#">Draft Conditions of Approval</a> B. <a href="#">Narrative/Project Plans dated “Received September 18, 2015”</a> C. <a href="#">Location and Notification Map</a>

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### BACKGROUND

On October 22, 2014, the Planning Commission approved a request for a CUP (P14-1022) to operate GK at 5698 Stoneridge Drive. GK, and their most recent franchisee, Amandeep Kang, would now like to open a second location within the City at 3550 Bernal Avenue, Suite 100B.

The subject site is located within Vintage Hills Shopping Center and is zoned PUD-C-N District, which allows those uses that are permitted and conditionally permitted in the C-N (Neighborhood Commercial) zoning district of the Pleasanton Municipal Code (PMC). The C-N zoning district conditionally permits “childcare centers” and, accordingly, the CUP application is before the Planning Commission for review and action.

The applicant has also applied for a Design Review application to construct an outdoor play area at the side and rear of the subject suite. Design Review applications of this nature are typically processed at staff level; however, staff is requesting the Planning Commission to take action on the Design Review request with the CUP.

## **SITE AND AREA DESCRIPTION**

The Vintage Hills Shopping Center is located on a 5.07-acre parcel located on the east side of Bernal Avenue and south of Tawny Drive (see Figure 1 below). Adjacent land uses consist mainly of residential uses, as multi-family townhome developments are located behind the shopping center to the east and south, a multifamily condominium development is located to the west across Bernal Avenue, and a multi-family condominium development and public park are located across Tawny Drive to the north. There is an approximately seven-foot-tall masonry wall between the shopping center and the townhomes to the east and south of the subject site.

The shopping center contains one, single-story, commercial building that is approximately 47,465 square feet in area. The existing businesses in the shopping center include: New Leaf Grocery, Little Flowers Montessori, Platinum Fitness, a hair cutting salon (Cutt Company), a spa (Nirvana Day Spa), a frozen yogurt shop (Blush Yogurt), a laundry and dry cleaning shop (Vintage Hills Cleaners), a bakery (Sugarie Bakery), a jewelry store (Gold N Time Jewelry), a restaurant (Wayen's World), and two vacant suites.

The shopping center driveways are located on Bernal Avenue (one), Tawny Drive (two) and Palomino Drive (one). There are a total of 262 on-site parking spaces located throughout the shopping center both in front and behind the subject building.

GK is proposing to split Suite 100 (one of two vacant suites) into Suites 100 A and 100B, and occupy the latter, which is approximately 4,471 square feet in area and is located at the southern end of the subject building.

## **PROPOSED PROJECT**

### Conditional Use Permit

#### *Program Description*

GK is proposing to operate an accelerated learning preschool and daycare facility. The GK philosophy focuses on an academic curriculum comprising music and movement, yoga, phonics, reading and comprehension, story time and literature, mathematics and critical thinking, science, social studies, art, crafts, public speaking, drama and theatre. The purpose is to introduce these concepts to the younger students and also augment the education provided by local schools to the older students, building and developing their self-confidence.

#### *Operation and Enrollment*

The proposed schedule shown in the attached Exhibit B anticipates attendance of no more than 120 children at any one time, ranging from two to 12 years of age (preschool ages two to six, after school grades kindergarten to sixth). Staff will consist of up to 11 instructors/administrators at any one time.

Figure 1: Aerial Photograph



GK would operate year-round subject to the following hours of operation:

- Daycare/Preschool – Monday through Friday from 7:00 a.m. to 7:00 p.m.
- After School Programs – Monday through Friday from 1:00 p.m. to 6:30 p.m.
- Weekend Enrichment Programs – Saturday and Sunday from 9:00 a.m. to 2:00 p.m.

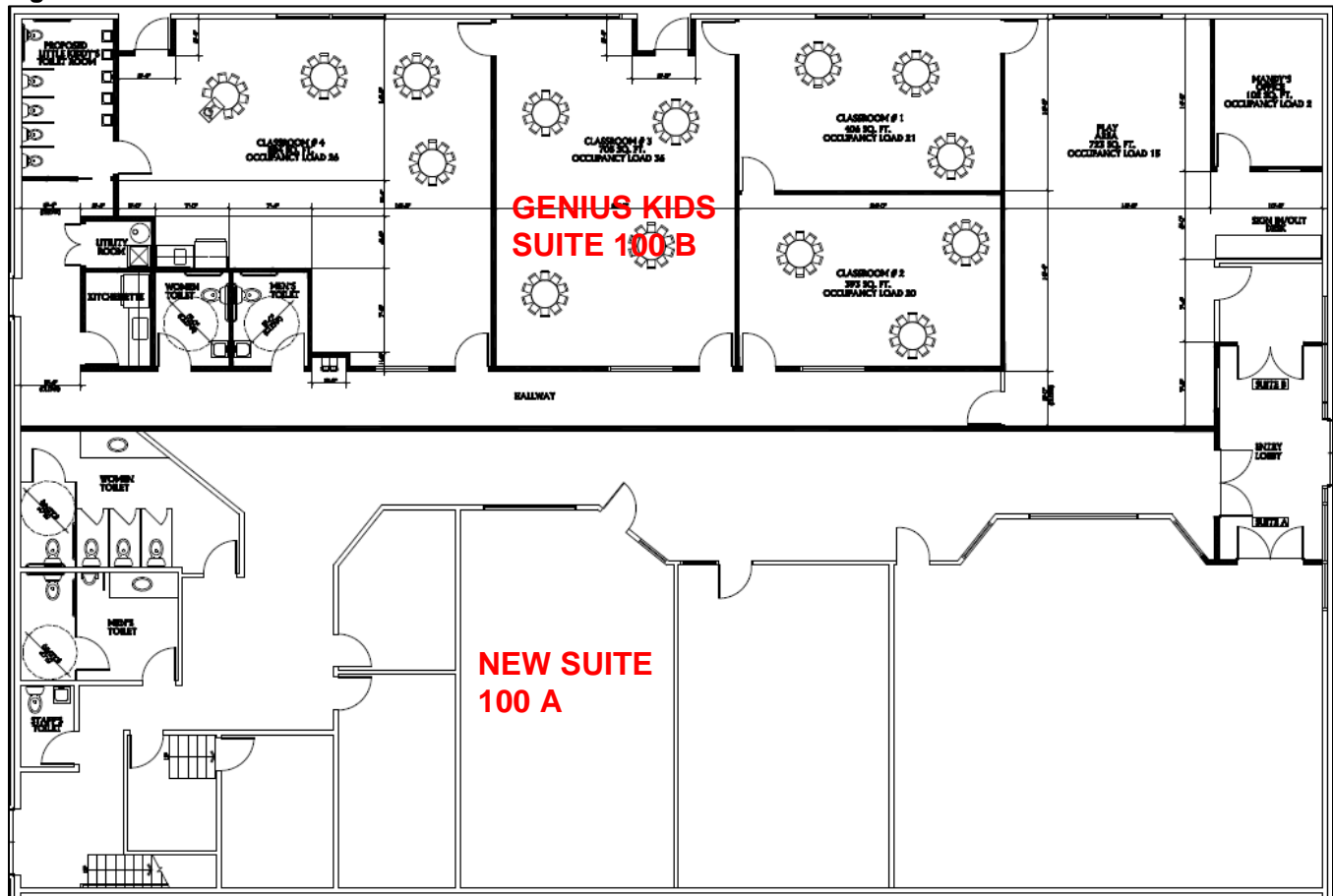
In addition to the parents' morning drop-offs and evening pickups, which are generally staggered between 7:00 a.m. to 10:30 a.m. and 2:00 p.m. to 7:00 p.m., GK would operate two to three vans to pick-up its after school students from the local schools. GK proposes this service as a convenience to parents and to reduce traffic on City streets and within the Vintage Hills Shopping Center. With the exception of drop-offs, the vans would be parked in the parking area behind the subject building and are sized to fit into standard sized parking spaces. The vans would be stored on-site overnight.



*Interior Tenant Improvements/Building Modifications*

GK is proposing to occupy and operate in a newly created Suite 100B at the southern end of the subject building (see Figure 1) and to construct a new outdoor playground area behind and on the south side of the subject suite. The proposed floor plan (see Figure 2 below) consists of four classrooms, an indoor play area, an office, a sign in/out desk, kitchenette, utility room, "little kiddy's" restrooms, and separate men's/women's restrooms. The "little kiddy's" restrooms are designed for students between two and six years of age. Children older than six years of age will use the men's and women's restrooms, respectively, as these restrooms are designed to accommodate both children and adults, similarly to the other GK location in Pleasanton. A new demising wall and interior lobby will also be constructed to separate the proposed Suites 100A and 100B, as well as give each new suite its own individual access points. A single point of entry into the GK facility is proposed from the new interior lobby. Three exterior egress points are also proposed from Suite 100B to the proposed outdoor play areas (see below for more detail design information on this area).

**Figure 2: Floor Plan**



### Design Review

GK would construct an outdoor, fenced-in play area behind (east) and on the south side of the subject suite as shown on the enlarged site plan in Figure 3 below. No parking will be removed as part of these proposed improvements. Parts of the existing paved areas would be replaced with artificial turf and/or rubber padding and various play structures, such as a school bus and clubhouse, and outdoor furniture, including tables and benches. Staff notes that examples of the location and type of playground equipment to be installed can be found in Exhibit B. Additionally, similar to the Little Flowers Montessori outdoor play area within the same shopping center (see Figure 4 below), the outdoor play area for GK would be enclosed with an approximately 18-inch tall concrete curb to separate this area from the adjacent drive aisle, and then landscaping and a seven-foot-tall chain link fence with wood slats would be installed behind the concrete curb to screen the play area from view. The play area would be accessible from three exit doors from within the GK suite and also includes two exterior gates, one on the south side and one on the west side of the outdoor play area. These gates would be locked at all times but would feature panic-hardware in the event of an emergency.

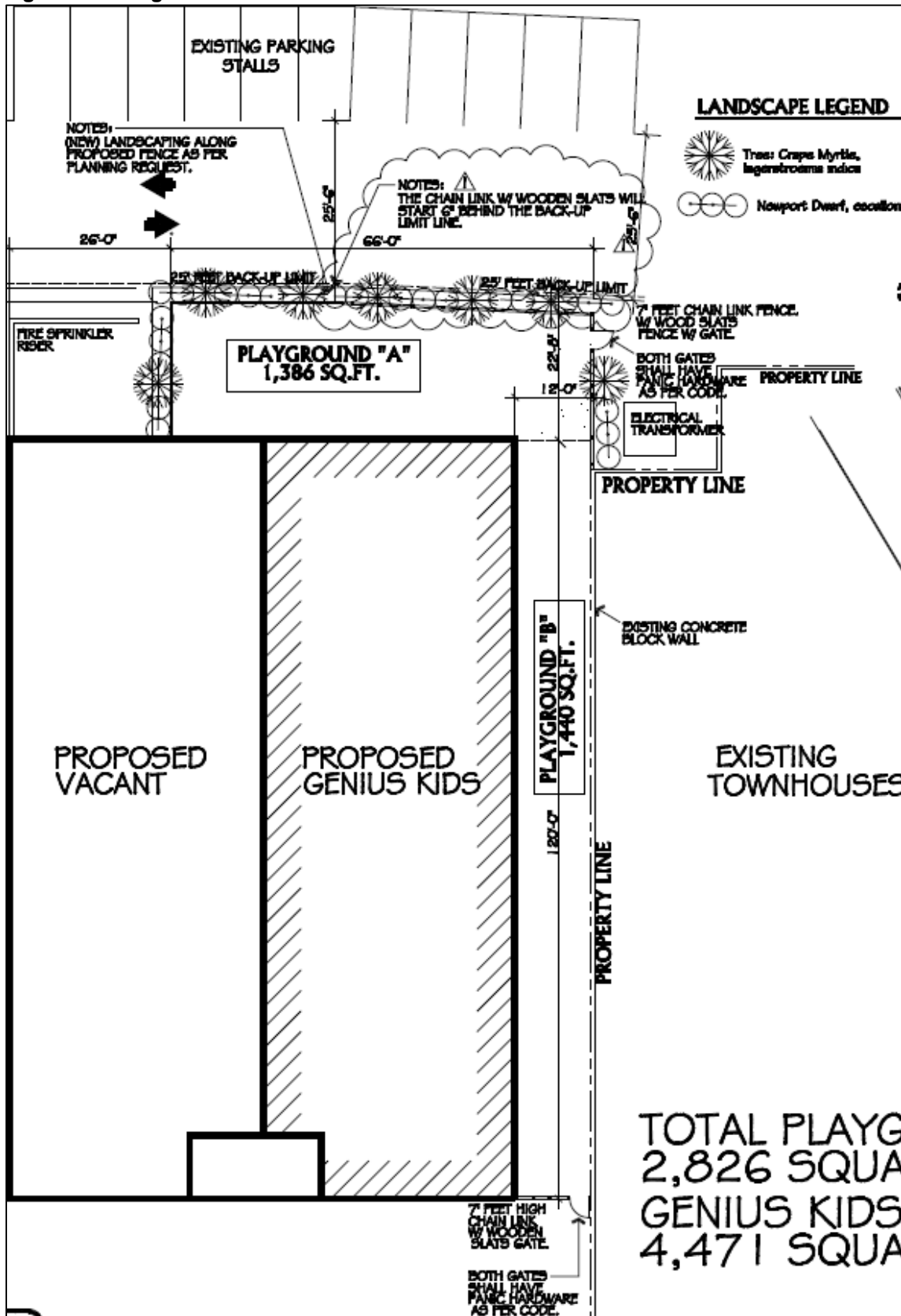
The outdoor play area will be utilized from 9:30 a.m. to 11:00 a.m. and 3:00 p.m. to 5:00 p.m. The outdoor play area will not be utilized on weekday evenings or on weekends. A maximum of 36 students will utilize the outdoor play area at any given time and will be supervised by GK staff at all times.

Please see the attached narrative and project plans (Exhibit B) for additional information on the proposed use.

### Signs

No tenant identification signs are proposed with this application. The sign program for the Vintage Hills Shopping Center would allow (for this tenant space) one wall-mounted sign on the subject building's west elevation facing Bernal Avenue. The sign program also sets forth design criteria for the sign's area, placement on the building facades, and illumination. The applicant would be required to submit a separate sign proposal to the City for review and approval prior to installation.

Figure 3: Enlarged Site Plan



**Figure 4: Little Flowers Montessori Outdoor Play Area**



## **ANALYSIS**

Conditional uses are those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits.

### General Plan

The Land Use Element of the General Plan designates the subject property as Retail/Highway/Service Commercial; Business and Professional Offices land uses; which allows retail, commercial, and educational uses.

GK is a preschool and daycare facility with an academic curriculum and, therefore, is consistent with the General Plan land use designation and with the following General Plan Programs, Policies, and Goals:

- Program 2.2: Encourage the reuse of vacant and underutilized parcels and buildings within existing urban areas.
- Goal 2: Achieve and maintain a complete well-rounded community of desirable neighborhoods, a strong employment base, and a variety of community facilities.
- Policy 7: Encourage and support high quality public and private educational facilities in Pleasanton and facilitate lifelong educational opportunities for all ages.
- Policy 13: Ensure that neighborhood, community, and regional commercial centers provide goods and services needed by residents and businesses of Pleasanton and its market area.

- Policy 22: Facilitate the provision of safe, affordable, high quality child-care facilities and service to families.

### Zoning and Uses

The project site is zoned PUD-Neighborhood Commercial, which permits the uses of the Neighborhood Commercial (C-N) District. Childcare centers are a conditionally permitted use in the C-N District and, therefore, if the Conditional Use Permit is approved, the proposed and similarly classified preschool and daycare facility would be consistent with the zoning district.

Staff believes this use is compatible with the surrounding uses. GK will be located adjacent to existing commercial and residential uses, and shares a commercial site with Little Flowers Montessori. GK is buffered from the adjacent residential uses: (1) to the south by an existing and approximately eight-foot-tall concrete block wall and the proposed outdoor play area is a minimum of 60 feet from the nearest residential townhouse building in that development; and (2) to the east which is separated by the shopping center drive aisle behind the subject building, a row of parking spaces, an existing and approximately six to seven-foot-tall concrete block wall, a drive aisle on the residential side and is a minimum of 100 feet from the nearest residential building in that development from the proposed outdoor play area.

Staff also considers it unlikely that the operation of GK would adversely impact the surrounding businesses within the Vintage Hills Shopping Center or, in turn, be impacted, by these businesses. For example, given the ages of the children that would attend GK, staff considers it unlikely that the children would congregate outside the facility and impact the operation of the other businesses in the shopping center. GK children would be supervised by staff at all times and entrance doors are conditioned to be closed except when being used.

The outdoor play area would be located on the south and east side of the GK suite and its use would be limited to no more than 36 children at any one time for no longer than 15 to 20 minutes; would be supervised by GK staff at all times; and would only be operated from 9:30 a.m. to 11:00 a.m. and from 3:00 p.m. to 5:00 p.m.

In the past, the Planning Commission has granted CUP's for similar facilities in shopping centers. The subject building is on a site that has adequate on-site parking and GK would be operated predominantly indoors and the proposed outdoor play area would be adequately buffered from surrounding uses. Staff believes that the subject location is appropriate and does not expect that the proposed use would impact or be impacted by the existing and future surrounding businesses.

### Traffic and Circulation

The Traffic Engineering Division has reviewed the project narrative and plan that was prepared for GK, and has determined that the number of students and hours of operation for GK would not have a significant impact to existing traffic levels. However, should GK wish to increase its enrollment and/or alter the hours stated in its narrative, review by the City's Traffic Engineer would be required to assess whether a traffic study would be required, and the payment of fees and other mitigation measures.



## Parking

There are 262 parking spaces that are shared with all of the tenants in the shopping center. With a combined floor area of 47,465 square-feet in the existing building, the parking ratio at the subject site is one space for every 181 square-feet of floor area. With the proposed child care center occupying approximately 4,471 square-feet of floor area, 25 parking spaces would, theoretically, be allocated to the proposed use. However, there are no assigned parking spaces in the shopping center.

Per section 18.88.030 (E) of the PMC (Schedule of off-street parking space requirements), one parking space is required for each employee, including teachers and administrators, and one space is required for each four students in grade 10 or above. The student parking requirement, one space for each four students, is not applicable since the children are below grade 10. With 11 employees, including the director, 11 parking spaces would be required for the proposed use per the PMC. As previously described, GK will also be storing up to three vans on site, which would require an additional three parking spaces. Thus, a total of 14 parking spaces total would be required for the proposed use. The Code-required parking demand for this use would be satisfied by the 25 parking spaces "allocated" to these tenant spaces based on the total tenant area.

Staff notes that section 18.88.030 of the PMC does not address parking demand during drop-off/pick-up times, which would be the most impacted time from a parking standpoint. Staff believes that there would be adequate parking for drop-off/pick-up given that arrival and departure of cars is staggered between 7:00 a.m. to 10:30 a.m. (15 to 32 vehicles at any one time during that period) and 2:00 p.m. to 7:00 p.m. (11 to 50 vehicles at any one time during that period) and that guardians would only parked in the spaces for a short period of time. Therefore, based on this parking analysis, staff believes that the parking should be sufficient to accommodate the proposed use. However, should parking problems occur, staff has included a condition of approval which allows the Director of Community Development to refer the use permit back to the Planning Commission for possible mitigation measures (Exhibit A). Possible mitigating conditions could include: reducing the number of students, modifying the arrival/departure times, etc.

## Noise

Staff anticipates that GK would generate interior noise levels comparable to and no different from that of an office or retail use. The proposed sessions would be held indoors, with the doors closed during business hours, or outside in the outdoor play area. As proposed, the applicant would locate the facility's classrooms, office, bathrooms, kitchenette, and utility room along the south side of the subject suite and not along the common wall with the adjacent suite, which would function as a noise barrier. According to the applicant, there would be no loud amplified music generating noise above typical speech levels and there would be no loud musical instruments, such as drums, horns, etc. Based upon the interior floor plan of the proposed facility, in conjunction with operational features of the project, staff does not believe that any special noise mitigation (i.e., double layer of sheetrock on interior walls) will be necessary.

Noise generated from the outdoor play area is not anticipated to exceed 70 A-weighted decibels (dBA), the exterior noise standard allowed by the PMC at the property line. As previously stated, the outdoor play area would be limited to no more than 36 children at any

one time for no longer than 15 to 20 minutes; would be supervised by GK staff at all times; and would only be operated from 9:30 a.m. to 11:00 a.m. and from 3:00 p.m. to 5:00 p.m. Any noise generated by the children in the outdoor play area, would be reduced by the existing subject building or the existing concrete block walls to the south (approximately eight feet tall) and east (approximately six to seven feet tall) and, therefore, would not impact the existing businesses and uses within the Vintage Hills Shopping Center or nearby residents. In addition, because of the relatively short duration of play time and the limits on the number of students outside at any given time, noise from the outdoor play area would not combine with noise from outdoor play at Little Flowers Montessori to exceed the 70 dBA threshold.

### State Licensing

GK will be required to comply with licensing requirements as prescribed in Title 22 of the California Code of Regulations. Should the CUP be approved, the applicant shall be required to secure a child care licensing permit with the State Department of Social Services-Community Care Licensing Division (CCLD). Please refer to Exhibit A.

### Design Review

In order to preserve and enhance the city's aesthetic values and to ensure the preservation of the public health, safety, and general welfare, the Planning Commission is empowered to review and make decisions concerning all outdoor uses, new improvements and structures. As part of this process, the Planning Commission reviews site plans, landscaping plans, building architecture and such other plans and reports (grading plans, EIR/negative declarations, etc.) as may be required.

Pursuant to PMC Section 18.44.090, daycare centers must provide a State-mandated outdoor play areas that: face new or existing landscaping sufficient to buffer the outdoor play area from view, are separated from customer parking areas by a heavy wood fence or comparable barrier, are isolated from loading docks and associated delivery truck circulation areas, and contain landscaping for outdoor children's activities

As previously described, GK would construct an outdoor, fenced-in play area behind (east) and on the south side of the subject suite as shown on the enlarged site plan in Figure 3 above. The outdoor play area to the east is approximately 1,386 square feet in area, while the outdoor play area to the south is approximately 1,440 square feet in area. No parking will be removed as part of these proposed improvements. Parts of the existing paved areas would be replaced with artificial turf and/or rubber padding and various play structures, such as a school bus (approximately five feet in height) and clubhouse (approximately eight to nine feet in height), and outdoor furniture, such as tables and benches.

Given the similarities in design to the Little Flowers Montessori outdoor play area, including safety features such as the raised concrete curb and privacy features such as a chain link fence with wood slats and new landscaping, staff believes the proposed outdoor play area: 1) complies with PMC Section 18.44.090; and 2) is appropriately sized and designed such that the proposed site modifications would not negatively affect the subject shopping center, the existing uses, or the surrounding areas. However, staff is recommending a condition of approval requiring that the tree planting plan be revised prior to the issuance of a building permit, such that additional trees would be planted along the eastern edge of the outdoor play

area to match the spacing of the Little Flowers Montessori outdoor play area (approximately one tree at every five to six feet on center).

#### Comparison with Similar Application for Young Ivy Academy

As the Planning Commission may recall, on November 12, 2014, the Planning Commission considered a similar application for the Young Ivy Academy at 5460 Sunol Boulevard within the Oak Hills Shopping Center. That proposal involved the establishment of a Heritage School and construction of an outdoor play area behind the shopping center, separate from the subject suite. The outdoor play area portion of that proposal was denied by the Planning Commission based on staff's recommendation due to land use incompatibility issues related to: 1) the proposed location of the outdoor play area behind the shopping center; 2) safety concerns given the play area's proximity to a heavily utilized driveway entrance and drive aisle for the shopping center; and 3) functionality and security due to the play area's lack of direct connection with the subject suite. Also, the Planning Commission was concerned about noise impacts on the surrounding residences.

While similar comparisons can be drawn with this application, staff believes the issues identified above have been adequately resolved with respect to the GK application as follows:

- 1) Little Flowers Montessori, which also constructed an outdoor play area behind the shopping center, is already located within the Vintage Hills Shopping Center and has been operating for the past two years without issue or complaints from the surrounding shopping center uses and/or nearby residences;
- 2) While located along a shopping center drive aisle, the use is not adjacent to a driveway entrance, thus the vehicle volume (primarily delivery trucks and employees) passing by the outdoor play area will be significantly reduced in this instance (along with potential safety hazards). Additionally, unlike the Young Ivy application, GK has proposed a raised concrete curb and landscaping, not just a fence to protect the perimeter of the outdoor play area, as well as the children within it; and
- 3) The outdoor play area is directly connected to the subject GK suite and children will not have to exit the building and use a shopping center pathway to enter the outdoor play area; instead children can come and go to and from the outdoor play area without leaving the secure confines of the GK facility.

As noted above, Little Flowers Montessori has operated for the past two years under similar circumstances, and staff has not received any noise complaints. Based on these factors, staff is supportive of the proposed GK application.

#### **FINDINGS**

The Planning Commission must make the following findings prior to granting the use permit:

- A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinances and the purpose of the district in which the site is located.**

Some of the key objectives of the zoning ordinance are to: foster a harmonious, convenient, workable relationship among land uses, protect existing land uses from

inharmonious influences and harmful intrusions, and to ensure that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, staff feels the proposed GK would be consistent with these objectives because it would operate within an existing shopping center with an already approved similar use. The number of children, hours of operation, and staffing levels will not generate substantial noise or substantially compromise the existing parking supply. Additionally, the proposed outdoor play area would be compatible with surrounding uses. In particular, the proposed outdoor play area would not remove and is insulated from existing parking areas, vehicular movements, and delivery vehicles associated with the shopping center.

The PUD-C-N District provides appropriately located areas for retail stores, offices, and personal service establishments patronized primarily by residents of the immediate area, and permits development of neighborhood shopping centers in accordance with standards that minimize adverse impact on adjoining residential uses. The establishment of the proposed GK is consistent with that purpose in that it provides a personal service establishment in the form of an educational facility for students within the immediate vicinity and the City as a whole.

Staff believes the granting of a Conditional Use Permit for the proposed GK is consistent with the objectives of the C-N District and this finding can be made.

**B. That the proposed location of the conditional 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 the properties or improvements in the vicinity.**

Preschool and daycare centers are a common use in Pleasanton and have generally been good neighbors to surrounding occupants. Sufficient parking, adequate separation from the residential neighborhoods, maintenance of noise levels, and safety and security within the premises have been provided or conditioned. Additionally, drop-off and pick-up times by the parents will be staggered which will help alleviate parking and traffic concerns. Furthermore, a recommended condition of approval requires children to be dropped off/picked up in front of the tenant space to reduce noise impacts to the residents to the south and east. The proposed conditions of approval will ensure that the child care center will not operate in a manner that is detrimental to the public health, safety, or welfare or be materially injurious to the properties or improvements in the vicinity. Therefore, staff feels that this finding may be made.

**C. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to Conditional Uses.**

Staff finds that, as conditioned, the proposed use will comply with all provisions and requirements of the City's zoning ordinance. As with any conditional use permit, the use permit may be revoked if the conditions are not met. Therefore, the proposed use will comply with the provisions of the Zoning Ordinance. Staff feels this finding can be made with the proposed conditions of approval.

## **PUBLIC NOTICE**

Notices of this application were sent to surrounding property owners and tenants within a 1,000-foot radius of the site. At the time this report was published, staff had not received any public comments about the project. Staff has provided the location and noticing maps as Exhibit C for reference.

## **ENVIRONMENTAL ASSESSMENT**

This project is categorically exempt (Section 15301, Existing Facilities, Class 1; Section 15303, New Construction or Conversion of Small Structures, Class 3; and Section 15304, Minor Alterations to Land, Class 4) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

## **CONCLUSION**

Based on the analysis of this staff report, staff believes that the required Conditional Use Permit findings for the proposal can be met. Additionally, staff believes that the proposed use, as conditioned, will be compatible with the surrounding uses and properties. Conditions of approval have been recommended which will ensure that the safety and general welfare of the surrounding area is maintained. Staff also believes the proposed outdoor play area complies with the requirements of the PMC and is appropriately sized and designed.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission approve P15-0429 (Conditional Use Permit) and P15-0501 (Design Review) by taking the following actions:

- 1) Make the required conditional use findings as described in the staff report; and
- 2) Approve P15-0429 and P15-0501, subject to the conditions listed in Exhibit A.

**Staff Planner:** Eric Luchini, Associate Planner, 925-931-5612 or [eluchini@cityofpleasantonca.gov](mailto:eluchini@cityofpleasantonca.gov)