



Planning Commission Staff Report

June 11, 2014
Item 6.a.

- SUBJECT:** P14-0753
- APPLICANT:** Swapnil Anand
- PROPERTY OWNER:** Amador Associates
- PURPOSE:** Application for a Conditional Use Permit to operate a tutorial school for up to 40 students of all ages in an existing tenant space located at 4460 Black Avenue, Suite A.
- LOCATION:** 4460 Black Avenue, Suite A
- ZONING:** Zoning for the property is "O" (Office) District.
- EXHIBITS:**
- A. [Recommended Conditions of Approval](#)
 - B. [Site Plan, Floor Plan, and Details of Operation](#)
 - C. [Aerial Photograph of Site and Surrounding Area](#)
 - D. [Letters in Opposition](#)
 - E. [Location and Notification Map](#)
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I. BACKGROUND

Nurture Kids Learning Center is a tutorial center that established operations at 4466 Black Avenue, Suite A, in April 2014. The applicant currently is limited to a maximum of 20 occupants at any given time. This is the applicant's first tutoring center operation. Tutorial schools with more than 20 students at any one time are conditionally allowed uses in the Office District, the zoning of the 4460 Black Avenue site.

II. SITE DESCRIPTION

The tutorial center is proposed to be located in one of the four multi-tenant office buildings that comprise the Black Avenue Professional Office complex located at 4450, 4456, 4460, and 4466 Black Avenue. The subject office building, 4460 Black Avenue, is located on an approximately one-acre parcel located approximately 270-feet south of Black Avenue (please see the Location Map and Aerial Photograph, Exhibits "C" and "D"). The existing, 11,970-square-foot, one-story building is currently occupied by general and medical office uses,

massage therapists and other tutoring facilities. Two driveways on Black Avenue lead to a 54-space paved parking lot around the building.

Adjacent Properties

The subject property is located immediately south of the 4466 Black Avenue office building. Further north, across Black Avenue, are single-family homes and Amador Valley Community Park containing the Dolores Bengtson Aquatic Center, Cultural Arts Center, Amador Recreation Center, and Gingerbread Preschool. Lynnewood United Methodist Church and two office buildings are located to the east of the subject property. Quarry Lane School operates a private school from the Lynnewood Church property. Amador Valley High School's athletic fields are located to the south of the subject property. Single-family residences are located to the west on Loganberry Way and Gatetree Circle.

III. PROPOSED PROJECT

The applicant is proposing to occupy one tenant space (Suite A) totaling approximately 3,000 square feet. Suite A is located on the south end of the building with the main entrance facing east. The applicant would utilize the existing rooms in the suite. The proposed business would have a reception/waiting area, four classrooms, office, storage, kitchen, and a "Common Hall" that would be used for individual and small group tutoring when needed. A series of common bathrooms are located inside the building that are shared by groupings of the tenants. The applicant would share two unisex bathrooms with massage therapists in the adjacent suites (Suite B & L). Each bathroom contains one toilet and sink. No interior or exterior building modifications are proposed by the applicant.

The proposed tutoring school would offer after school supplementary education and educational assistance to school-age students (kindergarten through 12th grade) in a small group atmosphere, as well as language, reading and writing classes for all ages after 6:00 p.m.. After-school tutoring classes for school-age children include Hindi language, culture, history, creative writing, public speaking, chess, science, theater, abacus, english, math, and science. Hours of operation would be 12:00 p.m. to 8:00 p.m., Monday-Friday and 12:00 p.m. to 4:30 p.m. Saturdays. Typically weekly classes would be reserved for Kindergarten classes from 12:00 p.m. to 3:10 p.m., for K-12 from 3:00 p.m. to 6:00 p.m. and all ages after 6.

There would be a maximum of 40 students, and 2-5 teachers present at one time (at a minimum 8:1 student/teacher ratio). Students would attend 50 to 60-minute long tutoring sessions in small classrooms. Students could attend multiple classes, but would be limited to a maximum of 4 hours per day.

Please see the attached floor plan and written narrative for additional information on the proposed use.

IV. 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.

Land Use

The subject property is zoned Office (O) District. Tutorial schools with more than 20 students at any time are conditionally permitted uses in the Office District. The applicant has applied for a conditional use permit, as required for schools in the O District. Therefore, if the use permit were granted, the tutorial school would be consistent with the applicable land use regulations.

One of the primary concerns in reviewing a conditional use permit application is the effect of a proposed use on surrounding uses. As stated earlier, surrounding uses include single-family residences, offices, a church with private school, high-school athletic fields, and a City park with community facilities. Staff does not expect that the proposed use would create any adverse impacts on the surrounding uses. Similar businesses in the office building have been operating without any apparent adverse impacts on the surrounding businesses or residents since no complaints have been reported to the City. Furthermore, the main entrance would be located on the east side of the building and would be operated entirely indoors, reducing potential noise impacts on the residential uses to the west. Therefore, staff believes that the business' establishment would be appropriate.

Should future problems arise, the City would have the ability to bring the application back to the Planning Commission for mitigation, or possible revocation, if necessary. Based on past experience with similar uses, staff feels that this would be unlikely. In addition, staff has included conditions of approval that will ensure that the surrounding uses are not impacted due to noise, parking, traffic, or other objectionable influences. Therefore, from a land use perspective, staff finds the use to be acceptable on the subject property, as conditioned.

Noise

The Black Avenue Professional Offices complex is adjacent to single-family homes to the west. The subject building is separated from these residences by a sidewalk, a single row of parking spaces, a 25-foot drive aisle, a 10-foot wide planter with landscaping, and a six-foot tall wood fence on the shared property line. The proposed use would be located in a suite on the south end of the building with the main entrance to the east. The suite does maintain an exit door to the west which has been conditioned as an emergency exit only, not to be used for pick up or drop off.

The proposed use would be operated entirely indoors. The applicant has indicated that noise levels should be minimal since the business provides indoor course instruction and doesn't

include indoor or outdoor play or music instruction. The applicant also indicated that the 8:1 teacher to student ratio allows teachers to control the noise levels of students. The applicant would also advise parents to drop-off and pick-up students from the parking spaces on the east side of the building in front of the business.

Based on the applicant's description of the classroom instruction and the separation of the proposed suites from the adjacent residences, staff believes that it is unlikely that the noise generated during class instruction would impact the nearby residences or tenants. Recommended conditions of approval require that the exterior doors remain closed when not being used for ingress/egress purposes and that the applicant inform all students not to loiter or make loud noises outside the building before or after classes. Staff has also included a "standard" use permit condition of approval on the project that allows the City to review the project again to add mitigating conditions should any future complaints regarding noise levels occur. Such conditions could include modifying the hours of operation, installing soundproofing panels in the ceiling and walls of the tenant space, reducing the number of students, etc.

Parking

The 4466 Black Avenue office building has a 54-space parking lot for the 11,970 square foot building (parking ratio of one space per 222 square feet of floor area). A parking agreement was recorded that allows all parking spaces in the four building Black Avenue Professional Office complex to be shared equally. The three other office buildings have a total of 89 parking spaces that could be used by the tutoring facility (54 spaces at 4466 Black Avenue, 21 spaces at 4456 Black Avenue, and 14 spaces at 4450 Black Avenue). A parking agreement was also established which allows the Black Avenue Professional Office tenants and customers to park in the 35-space parking lot at the south end of the Lynnewood United Methodist Church site from 6:00 a.m. to 7:00 p.m., Monday through Saturday. In sum, a total of 178 parking spaces are available for the Black Avenue Professional Office complex.

Based on the parking ratio of one space per 222 square feet of floor area, the subject tenant space would be allotted 14 parking spaces; however, there are no assigned parking spaces in this development. The Municipal Code requires that school uses of this type need to provide one parking space for each employee and one space for each four students in grade 10 or above. The proposed facility would have a maximum of 5 employees and the applicant believes there could be up to 40 students in grade 10 or higher at one time for classes after 6:00 p.m. Thus, a total of 15 parking spaces would be needed for the facility per the Municipal Code (5 parking spaces for the employees and 10 parking spaces for students).

Staff notes that the Municipal Code parking requirement does not directly address parking demand during drop-off/pick-up times, which would be the most impacted time from a parking standpoint. With past instructional uses, staff has recommended and the Planning Commission has required a condition of approval requiring a 10-15 minute break between classes to reduce the possibility of parking problems due to student overlap. For this use, the applicant is proposing a 0-10 minute break between classes. Therefore, staff has conditioned that there be a minimum of 10 minutes between class times. As conditioned, staff believes that there would

be adequate parking for drop-off/pick-up given that arrival and departure of cars is staggered throughout the day and that the parents are only parked in the spaces for a short time. Carpooling of siblings and/or neighbors is common and would further reduce parking demand.

The proposed use would not operate on Sundays and for one hour after 7:00 pm on weekdays, when Lynnewood Church's 35-space parking lot could not be used per the parking agreement. However, most of the other tenants in the office complex would not be open at these times and there should be plenty of parking for the proposed use during these times. To assess the current parking availability, staff conducted parking a survey on Friday, May 29, 2014, from 2:40 p.m. to 3:00 p.m. During the afternoon period, the parking lot at 4460 Black Avenue had between 38 to 40 spaces available and the rear church lot and the three other office building parking lots at 4450, 4456, and 4466 Black Avenue had between 84 to 91 spaces available.

Based on the above parking analysis and parking survey, staff believes that there would be adequate parking to accommodate the proposed tutorial school. However, should parking problems occur in the future, staff has included a "standard" condition of approval that allows the Community Development Director to refer the use permit back to the Planning Commission for possible mitigation measures.

Traffic/Circulation

Access to the site is via Black Avenue, which is easily accessible from Santa Rita Road, a main thoroughfare in the City. Black Avenue is a two-lane neighborhood collector street. Residences and Walnut Grove School front Black Avenue to the west of the subject site. In March 2014, Black Avenue had roughly 6,508 cars a day east of Hopyard Road and roughly 7,036 cars a day west of Santa Rita Road, which is higher than desired for a neighborhood collector street in the City. The higher traffic volume is primarily a result of the traffic generated by the post office, nearby public schools, Amador Valley Community Park, Cedarwood Lane offices, Black Avenue Professional Office complex, and traffic going between Hopyard Road and Santa Rita Road. While the applicant's use would not be responsible for most of the existing traffic on Black Avenue, it would contribute a small share. Also, with a similiar tutorial school use permit within the building at 4460 Black Avenue, a condition of approval required that a handout be regularly distributed to the parents of the school children encouraging them to carpool and to travel to and from the school via Santa Rita Road and not use Black Avenue west of the school site. Since staff believes this condition would be helpful to reduce some of the traffic west of the school where residences front the street, it has been included in the draft conditions of approval for the subject application. As proposed and conditioned, staff believes that the use would not create traffic impacts on the surrounding area.

Additionally, on December 17, 2013, the City Council approved the Black Avenue Traffic Calming Plan. City staff had been working with the residents of the Black Avenue neighborhood to develop solutions to address their traffic concerns along Black Avenue. The City and the Black Avenue residents developed a comprehensive plan that includes traffic calming elements including installation of curb bulb outs, curb ramps, crosswalks, crosswalk signs, a roadway neckdown (in front of the Aquatic Center), 25 MPH pavement

legends, a trial speed lump and pavement striping modifications. Funds were not available to construct the project at the time it was approved by Council. Staff is reviewing the Capital Improvement Program to identify possible funding sources for this project, and anticipates Phase 1 of the project to include Black Avenue/Tanglewood Court bulb out, neckdown and trial speed lump to be included within the Mid-Term Budget Adjustment and completed within nine months.

Business Operation

The Planning Commission has been conditioning similar uses to require parents or supervising adults to escort students 12 years and younger into and out of facilities and to sign these students in and out. This requirement has mitigated the concerns that the Planning Commission has expressed when considering such facility uses that are located in business parks or other areas where there is a high parking and traffic circulation use. Staff has incorporated this condition as a standard condition of approval and it has been included in the draft conditions for the subject project.

The applicant would share two unisex bathrooms with the adjacent tenants in Suite B & L. Since the restroom is shared with other tenants, staff believes that the younger students should be accompanied by an adult school employee to and from the restroom. Staff has recommended that students 12 years and younger be accompanied by an employee to and from the restroom, which is the age threshold established by the Commission for requiring parents to walk their children to and from the facility. A condition of approval has been included to address this item.

State Licensing

According to the State Community Care Licensing Division, the applicant's use is exempt from the requirement to obtain State licensing as long as children under the age of four years and nine months (considered preschool-age children) do not attend sessions that total more than 12 hours per week for each child and are 12 weeks or less in duration (although children may be enrolled in back-to-back sessions as long as they are re-enrolled at the end of a 12 week session). For children over the age of four years and nine months (considered school-age children), the licensing exemption requires that children not attend sessions that total 16 hours or more per week for each child or are 12 weeks or less in duration (although children may be enrolled in back-to-back sessions as long as they are re-enrolled at the end of a 12 week session). Furthermore, the sessions for school-age children cannot occur during normal school hours. The applicant intends to stay within these parameters to remain exempt from obtaining State licensing.

Building Code

Based on the submitted floor plan, the City Building and Safety Division has indicated that the applicant's suite would not require modifications such as new bathrooms, additional exit doors, etc. to change the occupancy from an office space to an educational facility as long as the total occupancy is under 50 and the student/teacher ratio remains at 8:1. The Building Code would

require that a drinking fountain be provided inside the tenant space, which appears could be added to the existing sink located outside of the restrooms (although the applicant could locate the drinking fountain at another location in the tenant space). A condition of approval requires the applicant to comply with all applicable Fire and Building Codes prior to occupancy.

V. PUBLIC NOTICE

Notices regarding the proposed conditional use permit application and related public hearing were mailed to property owners and tenants within 1,000 ft. of the subject property. The location and noticing maps are included as Exhibit E. At the time this report was written, staff had received two emails from the surrounding property owners or tenants with concerns which are included within Exhibit D. Concerns raised include the increase in traffic and children safety along Black Avenue within the residential neighborhood adjacent to the office complex.

VI. FINDINGS

The Commission needs to make the following findings prior to the granting of a use permit:

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

Some of the 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 insure 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 tutoring school would be consistent with these objectives. Similar tutoring school's in the adjacent office building have been compatible with the surrounding neighborhood and staff believes that the proposed tutoring facility with similar operations should also be. The anticipated number of employees and students will not generate any unusual demands on existing parking for the building or the surrounding properties.

The subject property is zoned "O" (Office) District. One purpose of the Office Zoning District is to establish and maintain in portions of the city the high standards of site planning, architecture and landscape design sought by many business and professional offices. Another purpose is to protect offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to certain commercial uses. As proposed, the tutorial school will not alter the exterior of the office building so as to detract from its architectural features. In addition, the tutorial school will not interfere with surrounding uses' ability to operate. The City has allowed similar teaching uses to be located in office areas. Staff is not aware that any of these teaching-oriented businesses have created any impacts on surrounding tenants and staff believes the proposed use will similarly not create impacts on the adjacent uses located within the office building. The applicant can also be required to mitigate future

nuisances as a result of the proposed use. In summary, staff feels 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.

Tutoring schools are a common use in Pleasanton and have generally been “good neighbors” to their surrounding tenants and residences. Sufficient parking, adequate separation from the residential neighborhoods, maintenance of noise levels, and safety and security within the premises have been provided or conditioned. The drive aisles around the building are designed per City standards to provide safe ingress and egress into and out of the site. The applicant would be required to receive all Building and Safety Division permits for any tenant improvements. Conditions have been included that would require the applicant to mitigate any future nuisances as a result of the proposed use. Therefore, staff feels this finding can be made.

C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.

Chapter 18.124 of the Municipal Code states that, because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties. The site’s Office zoning conditionally permits the establishment of tutorial schools. Staff feels that the recommended conditions of approval will help to integrate the proposed use without detrimentally affecting the surrounding properties and the City in general. As with any use permit, this use can be suspended or revoked if the conditions are not met. As conditioned, the tutoring school would comply with all applicable provisions of the Zoning Ordinance. Therefore, staff believes this finding can be made.

VII. ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt (Section 15301, Existing Facilities, Class 1) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

VIII. CONCLUSION

The conditional use permit will allow Nurture Kids Learning Center to expand at their existing location on the subject site. Staff believes that with the recommended conditions of approval of the use at 4460 Black Avenue can be accommodated without creating adverse impacts on the adjacent properties or tenants, and is acceptable. Conditions of approval have been included which will ensure that the safety and general welfare of the surrounding area is maintained.

IX. STAFF RECOMMENDATION

Staff recommends that the Commission approve Case P14-0753 by taking the following actions:

- 1) Make the conditional use findings as listed in the staff report; and
- 2) Approve Case P14-0753 subject to the conditions listed in Exhibit A.

Staff Planner: Jennifer Wallis, (925) 931-5607, jwallis@ci.pleasanton.ca.us

EXHIBIT A

DRAFT CONDITIONS OF APPROVAL P14-0753/ 4460 Black Avenue Suite A Swapnil Anand, Nurture Kids Learning Center

PROJECT SPECIFIC CONDITIONS

Planning Division

1. The location and operation of the proposed use shall conform substantially to Exhibit A (dated "Received" May 27, 2014), on file with the Planning Division, except as modified by these conditions. Minor changes to the approved operation and schedule may be approved by the Community Development Director if determined to be in substantial conformance with the approved use permit.
2. The school capacity shall be limited to a maximum of 40 students present at any one time.
3. If additional hours of operation or activities beyond that proposed in the applicant's written narrative, dated "Received" May 27, 2014, on file with the Planning Division, are desired, prior City review and approval is required. The Community Development Director may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
4. All class times shall be staggered to maintain a minimum of 10 minutes between each class to allow for adequate drop-off and pick-up parking and circulation.
5. If operation of this use results in conflicts pertaining to parking, interior or exterior noise, traffic/circulation, or other factors, at the discretion on the Community Development Director, this conditional use permit may be submitted to the Planning Commission for their subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit. Possible mitigation measures can include, but are not limited to: modifying the hours of operation, reducing the number of students or classes, or other measures deemed necessary by the Planning Commission.
6. Students 12 years and younger shall be escorted into and out of the facility and signed in and out by a parent or supervising adult.
7. Students 12 years and younger shall be escorted to and from the restrooms by an adult staff member of the tutorial school.
8. The west facing exit door shall be used for emergency access only. All doors of the business shall remain closed when not being used for ingress/egress purposes.

9. The applicant shall inform all students not to loiter or make loud noises outside the building before or after classes.
10. In the future, should the Pleasanton School District change the dismissal times for the public schools, the Community Development Director/Planning Manager may modify the dismissal times of the Learning Center to help alleviate nearby traffic congestion.
11. The applicant shall regularly distribute a handout to the parents/guardians of the school children encouraging them to carpool and to travel to and from the school via Santa Rita Road and not use Black Avenue west of the school site.
12. The applicant shall maintain the area surrounding the tenant space in a clean and orderly manner at all times.
13. Unless otherwise approved by the Chief Building Official, a drinking fountain shall be installed inside of the subject tenant space prior to occupancy. The applicant shall obtain a building permit prior to commencement of any work. The applicant shall pay any and all fees to which the proposed application may be subject to prior to issuance of building permits. The type and amount of the fees shall be those in effect at the time the building permit is issued.
14. Prior to occupancy, the applicant shall contact the Building and Safety Division and the Fire Marshall to ensure that the proposed use of the tenant space meets Building and Fire Code requirements. If required, the applicant shall obtain all appropriate City permits prior to commencement of any work.
15. The applicant shall obtain City design review approval prior to the commencement of construction of any modifications to the existing site, landscaping, and/or exterior of the building.
16. At no time shall balloons, banners, pennants, or other attention-getting devices be utilized on the site except as allowed by Section 18.96.060K of the Zoning Ordinance for grand openings.

Building and Safety Division

17. At no time shall portable partitions or improvements within the “common hall” block ingress or egress out of individual classrooms or the tenant space.

STANDARD CONDITIONS

Community Development Department

18. The applicant shall pay an all fees to which the use may be subject to prior to issuance of permits. The type and amount of the fees shall be those in effect at the time the permit is issued.

19. To the extent permitted by law, the project applicant shall defend (with counsel reasonable acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

Planning

20. All conditions of approval for this case shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. At all times these conditions of approval shall be on all construction plans kept on the project site.
21. If the applicant wishes to relocate the use to a new address and/or suite, the applicant shall secure a new conditional use permit prior to occupying the new building or tenant suite.
22. This Conditional Use Permit approval will lapse and shall become void one year following the date on which the use permit became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application, or a certificate of occupancy is issued for the structure which was the subject of the use permit application, or the site is occupied if no building permit or certificate of occupancy is required, or the applicant or his or her successor has filed a request for extension with the zoning administrator pursuant to the provisions of the Pleasanton Municipal Code Section 18.12.030.
23. The applicant, employees and/or volunteer staff shall maintain the area surrounding the tenant space in a clean and orderly manner at all times.
24. This approval does not include approval of any signage. If signs are desired, the applicant shall submit a sign proposal to the City for review and approval prior to sign installation.

Building and Safety Division

25. Tenant improvement plans shall be submitted to the Building and Safety Division for review and approval prior to operation. The applicant shall obtain a building permit prior to commencement of any work. The applicant shall pay any and all fees to which the proposed application may be subject to prior to issuance of building permits. The type and amount of the fees shall be those in effect at the time the building permit is issued.

26. The building permit plan check materials for the proposed tenant improvements will be accepted for submittal only after completion of the 15-day appeal period, measured from the date of approval, unless the applicant submits a signed statement acknowledging that the plan check fees may be forfeited in the event that the approval is overturned on appeal, or that the design and/or operation is significantly changed as a result of the appeal. In no case will a building permit be issued prior to the expiration of the 15-day time-period.