



MILPITAS PLANNING COMMISSION STAFF REPORT

April 23, 2014

APPLICATION: **GOOD SHEPHERD CUP TIME EXTENSION - 467 Sinclair Frontage Road - TE14-0001** - A request for a time extension for a previously approved Conditional Use Permit Amendment No. P-UA11-0012 modifying the existing floor plan to accommodate new programming at an existing church use in the Heavy Industrial Zoning District.

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 14-016 approving Time Extension for a previously approved Conditional Use Permit Amendment No. P-UA11-0012 modifying the existing floor plan to accommodate new programming at an existing church use in the Heavy Industrial Zoning District**

LOCATION:
Address/APN: 467 Sinclair Frontage Road (APN 86-44-001, 003, and 004)
Area of City: Sinclair Industrial Park

PEOPLE:
Project Applicant: Good Shepherd Community Church
Property/Business Owner: Good Shepherd Community Church
Project Planner: Marge Sung, Assistant Planner

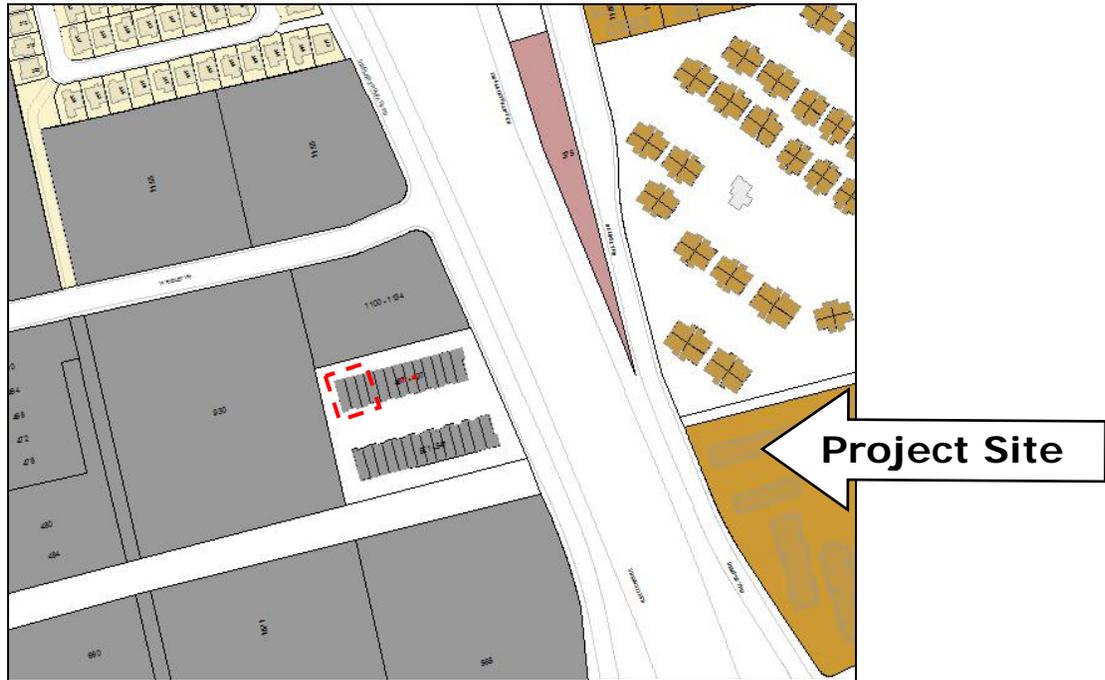
LAND USE:
General Plan Designation: Manufacturing and Warehousing (MW)
Zoning District: Heavy Industrial (M2)
Overlay District: Site and Architectural Overlay (-S)

ENVIRONMENTAL: Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY

Good Shepherd Community Church is requesting an 18-month time extension for a previously approved Conditional Use Permit Amendment No. P-UA11-0012 modifying the existing floor plan to accommodate new programming at an existing church use in the Heavy Industrial Zoning District. Milpitas Municipal Code allows a one-time time extension up to 18-months for Conditional Use Permits.

Map 1
Project Location



Map 2
Project Site



BACKGROUND

History

On June 14, 1995, the Planning Commission approved Conditional Use Permit No. UP1264-A to allow for the operations of church and shared parking facilities within the Sinclair Industrial Park, which is an industrial condominium complex consisting of 27 condominium units and one common area lot. On April 21, 2009, the City Council adopted an ordinance amendment that eliminated places of assembly use categories from the industrial districts that are not associated with business or industrial uses. With the amendment of the Zoning Code, most assembly uses are now prohibited in the industrial zones. As such, the church facility became a legal, nonconforming use.

On December 14, 2011, Pastor Fernando Virgil of the Good Shepherd Community Church submitted a Conditional Use Permit Amendment application, UA11-0012, for interior modifications to the existing floor to allow for the re-programming of the space and to permit shared parking facilities. The application was submitted pursuant Milpitas Municipal Code XI-10-53.07 (Joint Parking) and XI-10-57.04 (Conditional Use Permits) which requires Planning Commission approval for modifications to nonconforming uses and shared parking facilities. As conditioned, the project would need to secure shared parking for the 10 parking spaces in perpetuity.

On April 11, 2012, the Planning Commission approved the Conditional Use Permit Amendment, UA11-0012, for interior modifications to the existing floor to allow for the re-programming of the space and to permit shared parking facilities. The applicant was informed on the Approval Letter that unless the approval was used or exercised, it would expire two years after the date of approval, or by April 11, 2014. The approval of the Conditional Use Permit Amendment has not been used nor exercised since then.

The Application

On March 31, 2014, Herminio Cantos representing Good Shepherd Community Church submitted an application pursuant to Section 64 of the Milpitas Zoning Ordinance for a Time Extension, TE14-0001. The following is a summary of the applicant's request:

- *Time Extension:* To allow Good Shepherd Community Church an 18-month time extension for a previously approved Conditional Use Permit Amendment No. P-UA11-0012 to modify the existing floor plan to accommodate new programming of church operations for an existing church use, in the Heavy Industrial Zoning District.

PROJECT DESCRIPTION

Overview

Good Shepherd Community Church is requesting an 18-month time extension for a previously approved Conditional Use Permit Amendment No. P-UA11-0012 to modify the existing floor plan to accommodate new programming of church operations for an existing church use, in the

Heavy Industrial Zoning District. According to the applicant's description, the Church is in the negotiation stage with a contractor and hoping to have a contract in place in the next few weeks to request building permit and commence construction.

PROJECT ANALYSIS

General Plan and Zoning Conformance

The project previously approved is consistent with the Milpitas General Plan in that the religious facility offers a place of worship and community services for both the local community and the region and because pre-existing uses prior to land use changes may remain as such until the use is discontinued for one or more years.

The project previously approved is consistent with the Milpitas Zoning Ordinance in that the non-conforming use of the buildings and structures requires, and in this case received, Planning Commission's approval through a Conditional Use Permit. The City Council adopted the ordinance amendment that eliminating places of assembly use categories from the industrial districts that are not associated with business or industrial uses. The existing church facility became a legal, nonconforming use. Per City's Zoning Code, non-conforming use of the buildings and structures requires a Conditional Use Permit approved by the Planning Commission.

The project previously approved includes modification of the existing floor plan to accommodate new programming of church operations for an existing church use, in the Heavy Industrial Zoning District. The project is consistent with the Zoning Ordinance in that the proposed modifications to a legal non-conforming use are permitted with the approval of a conditional use permit. The proposed time extension also complies with the Milpitas Zoning Ordinance provisions in that for a one-time, 18-month time extension may be granted per Section XI-10-64.07(E) of the Municipal Code.

FINDINGS FOR APPROVAL

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

Time Extension (Section XI-10-64-07(D)) for Conditional Use Permit (Section XI-10-57-04(F))

- 1. The project is consistent with the Milpitas Zoning Ordinance.*

The project complies with the Milpitas Zoning Ordinance in that the legal non-conforming use of the church facility requires a conditional use permit to allow the modification of the non-conforming use of the buildings and structures due to Council adopted the zoning amendment that eliminated places of assembly use categories from the industrial districts; and, the applicant received this approval in December 2011, as part of UA11-0012. Further, conditions of approval are in place to ensure that the project will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare. The project is

also consistent with the City's parking regulations in that the 10 shared parking spaces will be secured in perpetuity due to the modification of the new floor plan.

The request of the Time Extension is consistent with the Milpitas Zoning Ordinance in that a written statement with reasons of the extension was submitted prior to the approval expiration date. Pursuant to Section 64 of the Milpitas Zoning Ordinance, the length of the extension shall be granted a single time extension within the time period specified in the approval or for eighteen (18) months if no time is specified. The Conditional Use Permit Amendment P-UA11-0012 was approved on April 11, 2012. The Time Extension application TE14-0001 was submitted on March 31, 2014 prior to the CUP Amendment expired. The time extension will expire on October, 23, 2015.

2. The project is consistent with the Milpitas General Plan.

The project is consistent with this finding because the project will not have negative impact on public health, safety, and general welfare. The project meets the General Plan specifically for the following policy:

- Policy 2.d-G-2 Develop adequate civic, recreational, and cultural centers in locations for the best service to the community and in ways which will protect and promote community beauty and growth.

The Good Shepherd Community Church offers a place of worship and community services for both the local community and the region given its location and proximity to residential land uses and Interstate 680 and has been operating in this location since 1995 per the original Conditional Use Permit UP1264-A and as amended under Conditional Use Permit Amendment UA11-0012.

ENVIRONMENTAL REVIEW

The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from further CEQA review under Section 15301 of the CEQA Guidelines, Existing Facilities because the use is located in an existing facility and no new floor area is being added.

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on April 11, 2014. In addition, 704 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CONCLUSION

Good Shepherd Community Church is requesting an 18-month time extension for a previously approved Conditional Use Permit Amendment No. P-UA11-0012 to modify the existing floor

plan to accommodate new programming of church operations for an existing church use, in the Heavy Industrial Zoning District. The time extension will expire on October, 23, 2015.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Conduct Public Hearing; and,
2. Adopt Resolution No 14-016 approving Time Extension, TE14-0001, to allow a one-time 18-month extension for a previously approved Conditional Use Permit Amendment No. P-UA11-0012 to modify the existing floor plan to accommodate new programming of church operations for an existing church use, in the Heavy Industrial Zoning District.

ATTACHMENTS

- A: Resolution No. 14-016
- B: P-UA11-0012 Staff Report – Informational
- C: P-UA11-0012 Resolution – Informational
- D: Applicant’s statement – Informational