



STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: 145 Rock Hill Road; File #11001; Amendment to a Conditional Use Permit to Modify the Hours of Operation at a Nursery School; Community Congregational Church, Owner; Hawthorne Nursery School, Applicant; Assessor’s Parcel No. 039-111-21
Reviewed By: _____

PROJECT DATA

Address: 145 Rock Hill Road
Assessor Parcel Number: 039-111-21
File Number: 11001
Lot Size: 4.87 acres
General Plan: M (Medium Density Residential)
Zoning: RO-2 (Single-Family Residential - Open)
Current Use: Religious Facility/Nursery School
Owner: Community Congregational Church
Applicant: Hawthorne Nursery School

SUMMARY

Community Congregational Church currently occupies the property located at 145 Rock Hill Road. A tenant nursery school (Hawthorne Nursery School, applicant) currently operates a pre-school serving 38 children on this property, operating from 9:00 a.m. to 12:30 p.m. on Mondays, Wednesdays and Fridays and from 9:00 to 3:00 p.m. on Tuesdays and Thursdays. The applicant wishes to amend the conditional use permit for the nursery school to begin at 8:30 a.m. each day. The nursery school does not propose any other expansion of its existing operations at this time.

BACKGROUND/PERMIT HISTORY

The County of Marin approved a conditional use permit (File #16104) in 1961 for the establishment of a church, Sunday school and related facilities on the site. Community Congregational Church (CCC) has operated at the site ever since.

In 1968, CCC requested a conditional use permit (File #16801) to operate a nursery school on the premises. On March 18, 1968, the Tiburon Board of Adjustment and Review adopted Resolution No. 15 (**Exhibit 3**) approving this use permit. A condition of approval of the permit limited the

total number of children for the nursery school to a maximum of 20 children. The hours of operation were included in the permit application but were not specified in the resolution.

In 2009, the operators of the Hawthorne Nursery School, which currently operates a nursery school on the site, indicated to the Town that for the last 25 years, the school has had an enrollment of approximately 38 children. The school applied for a conditional use permit (File # 10811) to modify the original use permit to reflect the increased enrollment. On May 13, 2009, the Planning Commission adopted Resolution No. 2009-03 (**Exhibit 4**) approving this request. The resolution also established hours of operation for the nursery school, limited to 9:00 a.m. to 12:30 p.m. on Mondays, Wednesdays and Fridays and from 9:00 to 3:00 p.m. on Tuesdays and Thursdays.

ANALYSIS

Traffic

The Hawthorne Nursery School recently conducted a survey of its parents, who indicated a preference for an earlier starting time for the school to better align with the starting times of other schools in the community. Other schools on the Tiburon Peninsula start at the following times:

Bel Aire School	8:05 a.m.
Del Mar School	8:10 a.m.
Reed School	8:20 a.m.
St. Hilary School	8:00 a.m.

The requested 8:30 start time would allow parents dropping off children to the Hawthorne Nursery School to better coordinate drop-offs of other children at these schools.

The requested amendment would not generate any increase in traffic beyond the existing conditions on the site, but would simply shift the time when parents drop off children in the morning. The half hour separation between the starting times of the Hawthorne Nursery School and St. Hilary School should help avoid undue traffic congestion at the Rock Hill Road/Tiburon Boulevard.

General Plan/Zoning Ordinance Consistency

Nursery schools and daycare centers are uses that are typically found in residential neighborhoods. Section 16-4.4.2 of the Zoning Ordinance (Conditional Use Permits - Purposes) states that one purpose for the review of a conditional use permit application is to “determine whether the Town is adequately served by similar uses presently existing or recently approved by the Town.” During the review of the conditional use permit application for this property in 2009, the Planning Commission reiterated the need for such uses in the community.

Church-Related Issues

The Town has received periodic complaints over the years regarding other events and activities on the CCC site. Most of these complaints have centered on parking and noise impacts from

events that exceed the capacity of the church parking lot and/or occur during evening hours. The Town has met with church representatives over the years to attempt to address these issues.

As noted above, the church operates under a conditional use permit approved by the County of Marin in 1961 and the nursery school is regulated by a separate use permit. Issues related to church events and activities that are not directly related to the nursery school cannot be addressed as part of the subject request to amend the nursery school conditional use permit.

ENVIRONMENTAL REVIEW

Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15301.

PUBLIC COMMENT

As of the date of this report, no comment letters have been received regarding the proposal.

CONCLUSION

The Hawthorne Nursery School has operated at this location for over 25 years with few complaints about their operation in the midst of a single-family residential neighborhood. The requested use permit amendment would not substantially expand the longstanding operations of the nursery school nor change the relationship of this community-oriented use to the surrounding neighborhood. Any issues that residents in the vicinity have with other events and activities on this site are not germane to the discussion of the subject application.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing on this item and hear and consider all testimony, and
2. Adopt the draft resolution (**Exhibit 1**) approving the amendment to the conditional use permit to reflect the current nursery school enrollment.

EXHIBITS

1. Draft resolution
2. Application and supplemental materials
3. Board of Adjustment Resolution No. 15
4. Planning Commission Resolution No. 2009-03

Prepared By: Daniel M. Watrous, Planning Manager



STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: 5 Stevens Court; File #31002; Request to Amend the Fraige Precise Plan (PD #31) to Extend the Existing Building Envelope and Create a New Landscape Envelope; Thomas and Susan Gallagher, Owners; Jeff Gustafson, Applicant; Assessor's Parcel No. 058-111-26

Reviewed By: _____

PROJECT DATA

Address: 5 Stevens Court
Assessor's Parcel Number: 058-111-26
File Number: 31002
Lot Size: 33,459 square feet
Zoning: RPD (Residential Planned Development)
Precise Plan: Fraige Precise Plan (PD #31)
General Plan: ML (Medium Low Density Residential)
Current Use: Single-Family Residential
Owners: Thomas and Susan Gallagher
Applicant: Jeff Gustafson

PROPOSAL

The applicants propose to amend the Fraige Precise Plan for property located at 5 Stevens Court. The amendment seeks to expand the existing building envelope and create a new landscape envelope beyond the existing building envelope on the site. The applicants have requested this amendment to construct two new decks to the rear of the existing house and to legalize the location of two existing decks that have been constructed outside of the approved building envelope. A new arbor would also be added to the existing entry gate on the site.

BACKGROUND

The Fraige Precise Plan (also sometimes referred to as the Kuhns Precise Plan) was originally approved in 1980, then expired and was reapproved without any changes in 1984. The precise plan includes three parcels accessed by Stevens Court, a private street. Town Council Resolution No. 3121 (**Exhibit 2**), which currently governs this precise plan, established building envelopes

for each of the three lots. Condition of approval No. 2 states that “no structures shall be permitted outside the approved building envelope for each parcel except driveways, retaining walls associated with driveways, and fencing.”

In 1995, an amendment to the Fraige Precise Plan (File #39502) adjusted the building envelope for the property at 5 Stevens Court and modified the height limitations for all three parcels. Another amendment for the subject property (File #39904) was approved in 1999 to increase the allowable floor area for this lot.

ANALYSIS

Project Design

The house at 5 Stevens Court is well screened from the neighboring homes at 1 & 9 Stevens Court and other properties in the vicinity. The rear of the subject site is heavily wooded, creating almost total privacy for the rear of this residence.

The applicants proposed to construct a new deck (Deck C) at the rear of the upper level of the house and a deck extending off the lower level of the dwelling. The proposed lower level deck (Deck D) would project above grade, with a staircase leading down to the rear yard area. One multi-trunk oak tree that has been heavily pruned would be removed to accommodate this new deck and stairway. Neither deck would be visible from the adjacent homes at 1 & 9 Stevens Court.

The existing upper level deck A at the southwest corner of the house is not visible from the adjacent residence at 9 Stevens Court. Existing upper level deck B is somewhat visible from the home at 1 Stevens Court, but is screened by vegetation between the homes. Decks A & B were both inadvertently constructed outside the building envelope at the time the house was built on this site.

Compliance with the Fraige Precise Plan

The building envelopes established by the Fraige Precise Plan were designed to allow adequate space for the development of each parcel, while creating a more open visual appearance between properties. The requested building envelope amendment and new landscape envelope would allow the applicants to develop more deck space to enjoy their property without compromising the existing separation between the three homes in this subdivision.

General Plan Consistency

The proposed project has been reviewed for consistency with the Tiburon General Plan and with the requirements of the Tiburon Zoning Ordinance regarding precise plan amendments. Land Use Element Policy LU-13 states that “Neighborhood character, which is defined by the predominant architectural styles, type of buildings, building heights, mass, setbacks, landscaping, and natural characteristics, shall be of material consideration and preserved in all construction projects, including remodels and additions, to the maximum extent feasible.” As noted previously, the proposed amended building envelope and new landscape envelope would appear

to be consistent with the intent of the Fraige Precise Plan to retain the open visual appearance of the site.

ENVIRONMENTAL REVIEW

Staff has preliminarily determined that the subject application is categorically exempt from the requirements of CEQA per Section 15301 of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, one letter has been received from the owner of 9 Stevens Court supporting the subject application.

FUTURE ACTIONS REQUIRED

The Planning Commission's action on this project would be in the form of a recommendation of approval to the Town Council or a denial by the Commission. If the precise plan amendment is approved, future decks and stairways would require Site Plan and Architectural Review approval and Building Permits.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing on this item and hear and consider all testimony, and
2. If the Commission agrees with Staff's conclusions, the Commission should adopt the draft resolution (**Exhibit 1**) recommending conditional approval of the amendment to the Town Council.

EXHIBITS

1. Draft Resolution
2. Application form and supplemental materials
3. Town Council Resolution No. 3121
4. Letter from Timothy Poulin, dated February 15, 2010
5. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

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