



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: May 5, 2021

TO: Hearing Officer

SUBJECT: Conditional Use Permit #6848

LOCATION: 35 North Lake Avenue

APPLICANT: Futures Academy

ZONING DESIGNATION: CD-5 (Central District Specific Plan, "Lake Avenue", subdistrict 5)

GENERAL PLAN DESIGNATION: High Commercial

CASE PLANNER: Jennifer Driver

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **disapprove** the application.

PROJECT PROPOSAL: Conditional Use Permit: To allow for the operation of a "Private School" land use within a 5,009 square-foot tenant space on the first floor of an existing nine-story commercial office building. Specifically, the applicant is requesting approval of an existing private school with a maximum enrollment of 60 students in the 6th – 12th grades. The hours of operation would be Monday through Friday from 8:00 a.m. and 8:00 p.m.

Variance: To provide no outdoor play area, where 4,500 square feet of outdoor play area is required.

ENVIRONMENTAL DETERMINATION: This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

BACKGROUND:

Site characteristics: The subject site is a double-frontage lot with frontage on the west side of North Lake Avenue and on the east side of North Hudson Avenue, between Union Street and Market Alley. The site measures approximately 58,431 square feet in area, is relatively flat, and is developed with a 158,785 square-foot, nine-story office building and a five-story parking garage with 481 parking spaces. Vehicular access to the site is from Lake Avenue, Hudson Avenue and Market Alley. The private school would occupy a 5,009 square-foot ground floor suite on the western, interior facing side of the building. There is a dedicated loading zone on Market Alley in close proximity to the tenant suite.

Adjacent Uses:

- North – Commercial (Restaurants, Retail Sales, Personal Services)
- South – Retail
- East – Commercial (Restaurants, Retail Sales, Personal Services)
- West – Multi-Family Residential

Adjacent Zoning:

- North – CD-5 (Central District Specific Plan, “Lake Avenue”, subdistrict 5)
- South – CD-5 (Central District Specific Plan, “Lake Avenue”, subdistrict 5)
- East – PD-10 AD-2 (Planned Development 10, “Colorado/Lake”, Alcohol District Overlay 2)
- West – CD-4 (Central District Specific Plan, “Pasadena Playhouse”, subdistrict 4)

Previous zoning cases on this property: Tentative Parcel Map #14513 – Approved September 2, 1981. Tentative Parcel Map to consolidate five land lots into one land parcel.

Variance #9795 – Approved January 2, 1981. The Variance was a request to deviate from the established height requirement and to permit the construction of a ten-story, 120-foot tall office building with five-level parking structure.

PROJECT DESCRIPTION:

The applicant, Futures Academy, has submitted a Conditional Use Permit (CUP) to request approval of an existing “Private School” land use within an existing 5,009 square-foot tenant space on the first floor of an existing nine-story commercial office building. Futures serves students in grades six through twelve and will have a maximum enrollment of 60 students. According to the applicant, 60 percent of the students will be in the high school grades and 40 percent will be in the middle school grades. The applicant began operating the private school in the current location

in approximately 2017, without the benefit of a City of Pasadena Conditional Use Permit. In addition, the applicant is requesting a Variance to allow no outdoor play area for the Private School in lieu of the required 4,500 square feet. The subject site is located within the CD-5 (Central District Specific Plan, "Lake Avenue", subdistrict 5) and a CUP is required to establish a "Private School" land use, and a Variance is required to deviate from the outdoor play area development standard.

The tenant suite is located on the interior, west facing side of the building, away from Lake Avenue. The school has six classrooms, three flexible study rooms, a flexible science room, administrative offices and a central, open study area/library. Futures' model includes instruction primarily taught one-on-one at one workstation, with two to three workstations per classroom. Instruction is also provided in small groups of five or less students, and the "guided independent study rooms" may include up to 10 students and one teacher. For each hour of instruction students receive at Futures Academy, they participate in one hour of guided independent study in the guided study room, where up to 10 students can receive academic support in all content areas.

Futures provides flexible schedules year-round to both students and staff and offers classes from 8:00 a.m. to 8:00 p.m., Monday through Friday. Futures is open on the weekends by appointment only, mainly for ACT and SAT testing, approximately one weekend per month on average. Students do not attend classes all day, every day, but rather on staggered schedules, with a maximum onsite attendance of 34 students and 16 faculty/staff at any one time. In addition, Futures Academy does provide tutoring and "class-for-credit" for students who are not enrolled. Most tutoring and class-for-credit classes occur after 3:00 pm.

No new construction is proposed to the building as part of this application. However, the applicant will be remodeling the interior of the building through the plan check process in order to accommodate the proposed use.

ANALYSIS:

Conditional Use Permit – To Allow the Operation of a Private School Land Use

Futures Academy is a fully Western Association of Schools and Colleges (WASC) and Cognia accredited school that is registered as a private school with the California Department of Education. Futures Academy offers 170 academic courses that are "common core aligned." Unlike the traditional institutional school model, Futures does not have large classrooms or assembly areas and instead provides one-on-one and small group instruction for middle and high school students. Futures' use of its space is more similar to a tutoring center than a traditional school. There are no sports or music performance classes; music appreciation and instrumental training is taught with laptop and headphones only so there is no audible sound that can disturb other students or adjacent tenants. Futures Academy does provide some limited physical education courses inside the suite in the open study/library area, such as Yoga, Pilates and personal light weight training.

Zoning and Land Use:

The Zoning Code Section 17.80.020 defines the "Schools - Public and Private" land use as elementary, middle, junior high, and high schools serving kindergarten through 12th grade students, including denominational and sectarian, boarding schools, and military academies. Zoning Code Section 17.50.270, "Private School", establishes requirements for all Private

Schools in the City related to minimum space requirements for indoor classrooms and outdoor play areas, in addition to attention to a safe traffic control plan and minimizing noise impacts.

The applicant is requesting approval to operate an accredited Private School, Futures Academy, serving grades sixth through twelve. The applicant began operating the private school in the current location in 2017 without the benefit of a City of Pasadena Conditional Use Permit. In order to receive approval for the as-built use, the applicant has submitted the subject CUP.

The site is located within the CD-5 zoning district in the Central District Specific Plan area. A Private School land use is permitted within this zoning district through the review and approval of a Conditional Use Permit. The Conditional Use Permit process allows the City to review a project to determine if the proposed project would be compatible with the surrounding area and require adherence to specific conditions related to the operation of the proposed use. In order to approve a Conditional Use Permit, six specific findings must be made in the affirmative. These findings relate to a project meeting the intent and purpose of the subject property's Zoning District and the Zoning Code, not having a negative impact on the surrounding properties, and being compatible with surrounding uses among other things.

Indoor Classroom Area:

Per Zoning Code Section 17.50.270.A, Private Schools shall provide 24 square feet of indoor classroom area (exclusive of bathrooms, hallways, kitchens, offices and other nonclassroom space) per child enrolled. With a maximum enrollment of 60 students, 1,440 square feet of classroom area is required. As proposed, 917 square-feet of dedicated classroom space is provided and does not comply with the required 1,440 square feet of classroom area. However, the current floor plan includes three dedicated study rooms, totaling 549 square-feet, which can be used for one-on-one instruction, group instruction, or individual study, and can be considered as flexible classroom space. In order for these areas to be included as classroom area to satisfy this development standard, the study rooms would need to be designated as classroom only space, instead of spaces that can be used for more than one function. In addition, these additional classrooms would need to be included in the parking analysis (see section on *parking* below). If converted to dedicated classroom space, the combined area of the original six dedicated classrooms and the addition of these three classrooms, would total 1,446 square feet and would comply with the minimum indoor classroom area development standard. However, as proposed, the project does not provide sufficient dedicated classroom space and if approved, would be required to modify the floor plan to comply.

Traffic Control Plan:

Zoning Code Section 17.50.270.C requires that the applicant submit a traffic control plan showing how loading and unloading of school children will occur with minimum disruption to traffic. According to the applicant, students are primarily dropped off either in the loading zone on Market Alley near the entrance to the tenant suite or in the parking garage in a designated area. Vehicles can arrive from Lake Avenue by either turning onto Market Alley where students are dropped off in the loading zone by the building's rear entrance on Market Alley, or by turning into the Lake Avenue driveway into the parking garage, with vehicles exiting onto Hudson Avenue. Alternatively, students may be dropped off via the Hudson Avenue driveway to the parking garage, with vehicles exiting onto Lake Avenue. Instructions are provided at an orientation at the beginning of each semester regarding drop-off, pick-up and circulation to prevent back-ups in the parking garage, and to avoid impacts to other tenants. The Department of Transportation

reviewed the traffic control plan and had no comments. Based on the proposed traffic circulation plan, the project meets the requirements to provide a traffic circulation plan minimizing disruption to local traffic.

Parking:

The site is developed with a 158,785 square-foot, nine-story office building, with 481 parking stalls and one loading space in an adjacent five-level parking structure. The parking structure has vehicular access from both Lake Avenue and from Hudson Avenue. Per Zoning Code Section 17.46.040, Table 4-6, a Private School land use has different requirements for middle and high school students and the associated staff. The parking requirement for middle school is 1.5 spaces per classroom, plus one space for every two middle school employees. The requirement for high school is one parking space for every five students and one parking space for every two high school employees.

According to the information submitted with the application, the school has six dedicated classrooms with a maximum of 16 employees and 34 students that could be at the site at one-time during an instructional appointment period, with 40 percent allocated for the middle school use and 60 percent allocated for the high school use. The middle school parking requirement would be calculated using two classrooms and six employees and the high school parking requirement would be calculated using 20 students and 10 employees. As a result, the middle school parking requirement is six spaces, or three spaces for the classroom function and three for the employees; and the high school parking requirement is nine spaces, or four spaces for the students and five spaces for the employees. Furthermore, Zoning Code Section 17.50.340.D.1.b (Transit Oriented Development – Parking Requirements) requires the minimum number of required parking spaces for all nonresidential uses other than office use be reduced by 10 percent. Therefore, a total of 14 parking spaces are required for the proposed private middle and high school.

The existing 158,785 square-foot building currently has 153,776 square-feet of office use, requires three spaces per 1,000 square-feet of floor area and a 25 percent Transit Oriented Development reduction for office use, resulting in a total 346 required parking spaces. The subject site currently provides 481 parking spaces, and the combined parking required for the office uses and the proposed Private School is 360 spaces and does not exceed the number of spaces provided.

As discussed above in the *Indoor Classroom Area* section, if the applicant chooses to convert the flexible study rooms into dedicated classrooms, then there would be nine classrooms instead of six to consider. The number of classrooms only affects the middle school parking requirement and the addition of the three classrooms would allocate four of the classrooms for middle school use since 40 percent are used by middle school students. As a result, if included in the number of classrooms, the adjusted parking requirement for the middle school use would be six parking spaces for the four classrooms in lieu of three for the two classrooms. The resulting total required parking for the proposed private school is 16 spaces instead of 14 spaces. When combined with the 346 spaces required for the office use, the total number of required spaces for the all the uses is 362 spaces and would still not exceed the 481 spaces provided on-site.

Outdoor Play Area:

Zoning Code Section 17.50.250.B.2 requires that Private Schools in nonresidential zoning districts provide a minimum of 75 square feet of outdoor play area for each child enrolled. The applicant proposes zero square feet of outdoor play area and is requesting a Variance to deviate from this development standard (see discussion in the following section). Staff is unable to make the findings for the Variance that shows compliance with the Zoning Code and the General Plan.

Without the approval of this Variance, not all of the findings for the Conditional Use Permit can be made. Therefore, staff is recommending disapproval of the Conditional Use Permit request to operate a Private School.

Variance - To Deviate from the Outdoor Play Area Standard for a Private School Land Use

As stated in the previous discussion, Private Schools in nonresidential zoning districts are required to provide 75 square feet of outdoor play area for each child enrolled, or in this case 4,500 square feet for the 60 students enrolled. The project does not include any outdoor play area and approval of a Variance is required in order to continue to operate.

A Variance application allows the City to review whether a deviation from the Zoning Code dimensional standards or land-use regulations can be granted for a project. It may only be granted when, there are special circumstances applicable to the subject property, the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary and non-self-created hardship or unreasonable regulation, which makes it impractical to require compliance with the applicable development standards. A Variance shall not be granted if the granting of the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.

The applicant indicated that the California Department of Education does not require physical education (PE) to be taught at private schools. PE is also not a part of the Futures model in the other 16 California campuses. Nevertheless, Futures Academy provides some limited physical education courses, such as Yoga, Pilates and personal light weight training, inside the existing suite in the open study/library area. However, this alternative does not meet the minimum size requirements of 4,500 square feet nor it is a dedicated indoor play area.

In staff's evaluation of the request, staff found that there are no exceptional or extraordinary circumstances or conditions related to the site that do not apply generally to sites in the same zoning district. The outdoor play area development standard is a requirement applicable to all Private School land uses in the City of Pasadena and is always based on the number of students enrolled regardless of site conditions. The subject CD-5 zoned site is developed with a nine-story office building, is approximately 58,431 square feet, irregularly shaped, relatively flat, and does not have any features that would merit approval of a variance to deviate from the required outdoor play area. Other sites within the vicinity in the same zoning district are also improved with commercial buildings, of similar shape and size and are relatively flat. As a result, there are no exceptional or extraordinary circumstances or conditions related to the site to warrant approval of a variance.

In addition, staff found that granting the application for no outdoor play area would constitute a special privilege at this site inconsistent with limitations on other properties in the vicinity and in

the same zoning district. Staff found that the lack of outdoor play area was also not in line with the General Plan Land Use Element Policy 2.12 (Health and Wellness) and Policy 17.4 (Long-Range Planning for Private Schools).

Therefore, Staff recommends disapproval of the requested Variance for no outdoor play area and finds that there are no exceptional or extraordinary circumstances or conditions applicable to the development of the site that would support the deviation from this requirement. In addition, granting the Variance would allow for a special privilege inconsistent with limitations on other properties in the vicinity and same zoning district.

GENERAL PLAN CONSISTENCY

The subject property is designated High Commercial in the General Plan Land Use Element (GPLU). The existing Private School land use (Futures Academy) is not consistent with the GPLU Goal 2 (Land Use Diversity) and Goal 17 (Educational System). Specifically, GPLU Policy 17.4 (Long-Range Planning for Private Schools) requires private schools to collaborate with the City on site selection, site design, traffic control, circulation and site acquisition to ensure compatibility with the neighborhoods or districts in which they are located. The applicant did not collaborate with the City on site selection to determine whether the project would comply with the Zoning Code or be in line with the goals of the General Plan. In addition, GPLU Policy 2.12 encourages the connections between access to locally grown foods, nutritional education, the encouragement of physical activity, and an overall commitment to health and wellness of Pasadena's youth, adults, and seniors. Without access to an outdoor play area, the private school is not encouraging physical activity and an overall commitment to health and wellness of Pasadena's youth.

REVIEW BY OTHER CITY DEPARTMENTS:

The Department of Transportation, Fire Department, Department of Public Works, the Health Department, the Building and Safety Division and the Design and Historic Preservation (DHP) Section reviewed the proposal. The Department of Transportation, Fire Department, Department of Public Works, the Health Department, the Building and Safety Division, and the DHP Section had no comments at this time. In the event that the project is approved, the Public Works Department has recommended conditions of approval.

ENVIRONMENTAL DETERMINATION:

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

In the event the Hearing Officer decides to approve the Conditional Use and Variance, the project could qualify for an exemption pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301(e), Class 1, (Existing Facilities), and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Class 1 exemption applies to the operation and permitting of uses in existing structures where only minor modifications are made to the exterior of the structure. The proposal is to allow the establishment of a private school, in an existing commercial building, where minor modifications are made to the interior and exterior of the structure to accommodate the proposed use.

CONCLUSION:

Staff finds that the findings necessary for approving the Conditional Use Permit to allow the requested continued operation of a Private School and Variance to allow no outdoor play area in lieu of the required 4,500 square feet cannot be made. Specific to the Conditional Use Permit findings, the facility does not meet the applicable provisions of the Zoning Code for Private Schools, including the required outdoor play area and sufficient indoor classroom area, and the design of the proposed use is not compatible with goals of the General Plan Land Use Element. Staff finds that there are no exceptional or extraordinary circumstances or conditions applicable to the development of the site that would support the Variance to deviate from the outdoor play area requirement. In addition, the granting of the Variance is not in conformance with the goals, policies, and objectives of the General Plan, and would grant a special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.

Therefore, Staff recommends that the Hearing Officer disapprove the application with the findings in Attachment A.

Attachments:

Attachment A: Recommended Specific Findings

ATTACHMENT A
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #6848

Conditional Use Permit – To Allow the Operation of a Private School Land Use

1. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and does not comply with all applicable provisions of this Zoning Code.* The establishment of a Private School Land Use is permitted with a Conditional Use Permit within the CD-5 zoning district. However, the project does not comply with all the applicable development standards of the Zoning Code. Zoning Code Section 17.50.270.A requires that 1,440 square feet of classroom space be provided for the 60 students enrolled. As proposed, 917 square feet of dedicated classroom space is provided and does not satisfy this requirement. In addition, the project includes a request for a Variance to deviate from the requirement of Section 17.50.270.B.2 and provide no outdoor play area in lieu of the required 4,500 square feet. As a result, the proposed project does not comply with all applicable provisions of the Zoning Code.
2. *The proposed use is not in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* The subject property is designated High Commercial in the General Plan Land Use Element (GPLU). The existing Private School land use (Futures Academy) is not consistent with the GPLU Goal 2 (Land Use Diversity) and Goal 17 (Educational System). Specifically, GPLU Policy 17.4 (Long-Range Planning for Private Schools) requires private schools to collaborate with the City on site selection, site design, traffic control, circulation and site acquisition to ensure compatibility with the neighborhoods or districts in which they are located. The applicant did not collaborate with the City on site selection to determine whether the project would comply with the Zoning Code or be in line with the goals of the General Plan. In addition, GPLU Policy 2.12 encourages the connections between access to locally grown foods, nutritional education, the encouragement of physical activity, and an overall commitment to health and wellness of Pasadena’s youth, adults, and seniors. Without access to an outdoor play area, the private school is not encouraging physical activity and an overall commitment to health and wellness of Pasadena’s youth. In addition, staff found that granting the application for no outdoor play area would constitute a special privilege at this site inconsistent with limitations on other properties in the vicinity and in the same zoning district.

Variance – To Provide No Outdoor Play Area for a Private School Land Use

3. *There are no exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* Staff finds that there are no exceptional or extraordinary circumstances or conditions related to the site that do not apply generally to sites in the same zoning district. The outdoor play area development standard is a requirement applicable to all Private School land uses in the City of Pasadena and is always based on the number of students enrolled regardless of site conditions. The subject CD-5 zoned site is developed with a nine-story office building, is approximately 58,431 square feet, irregularly shaped, relatively flat, and does not have any features that would merit approval of a variance. Other sites within the vicinity in the same zoning district are also improved with commercial buildings, of similar shape and size and are relatively flat. As a result, there are no exceptional or extraordinary circumstances or conditions related to the site to warrant approval of a Variance.
4. *Granting the application is not in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of*

this Zoning Code, and would constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district. The subject property is designated High Commercial in the General Plan Land Use Element (GPLU). The existing Private School land use (Futures Academy) is not consistent with the GPLU Goal 2 (Land Use Diversity) and Goal 17 (Educational System). Specifically, GPLU Policy 17.4 (Long-Range Planning for Private Schools) requires private schools to collaborate with the City on site selection, site design, traffic control, circulation and site acquisition to ensure compatibility with the neighborhoods or districts in which they are located. The applicant did not collaborate with the City on site selection to determine whether the project would comply with the Zoning Code or be in line with the goals of the General Plan. In addition, GPLU Policy 2.12 encourages the connections between access to locally grown foods, nutritional education, the encouragement of physical activity, and an overall commitment to health and wellness of Pasadena's youth, adults, and seniors. Without access to an outdoor play area, the private school is not encouraging physical activity and an overall commitment to health and wellness of Pasadena's youth. In addition, staff found that granting the application for no outdoor play area would constitute a special privilege at this site inconsistent with limitations on other properties in the vicinity and in the same zoning district.