

RESOLUTION NO. 6522

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA DENYING CONDITIONAL USE PERMIT #3-20 TO ALLOW A CHURCH IN THE HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL ZONE (R-4)

(APN # 6113-002-018)

WHEREAS, on November 5, 2020, the applicant, Happiness Garden represented by Susumu Anoda and Brent Fraser, submitted an application for a conditional use permit to allow a church use in a legal nonconforming building located at 15640 S. Normandie Avenue (APN: 6113-002-018);

WHEREAS, the General Plan land use designation is High Residential, and the zoning is High Density Multiple-Family Residential (R-4);

WHEREAS, the subject property is bounded by an office building to the north, multiple-family residential uses to the east and south, and residential uses to the west across Normandie Avenue;

WHEREAS, on May 18, 2021, the Planning and Environmental Quality Commission held a duly noticed public hearing at which time it considered all material and evidence, whether written or oral, and at the conclusion of the meeting, adopted Resolution No. PC 6-21 approving Conditional Use Permit #3-20;

WHEREAS, on May 25, 2021, Mayor Pro Tem Tanaka called the item for review by the City Council; and

WHEREAS, on June 22, 2021, the City Council of the City of Gardena held a duly noticed public hearing on the Project and considered all material and evidence, whether written or oral. At the conclusion, City Council closed the public hearing and directed staff to prepare a resolution reflecting its decision.

WHEREAS, on July 13, 2021, the City Council considered the resolution herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Gardena does hereby find that Conditional Use Permit #3-20 to allow a church use in the R-4 zone is denied for the following reasons:

- 1. That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this chapter;**

The property is zoned R-4 and contains a nonresidential building developed and previously used as an office. Although a church use is permissible with approval of a conditional use permit pursuant to Section 18.12.030 of the GMC, the existing building was not designed to accommodate a church use in that parking is legal nonconforming with respect to access and maneuverability, and natural growth of the membership size and/or church attendance will not be able to be properly accommodated by the existing nonconforming parking.

2. **That such use is necessary or desirable for the development of the community and is compatible with the surrounding uses, is in harmony with the general plan, is not detrimental to the surrounding properties, existing uses, or to uses specifically permitted in the zone in which the proposed use is to be located, and will not be detrimental to the public health, safety, or welfare;**

As an assembly use and gathering space, a church use is not compatible with the surrounding area which is predominantly multiple-family residential. The building was built as an office which typically receives minimal traffic during the day. A change in use to a church would increase traffic above the intended use for the building and nonconforming parking lot. Although enough parking is provided based on the parking standards in the Gardena Municipal Code, the parking lot is nonconforming with respect to aisle width and maneuverability, and a change in use would further intensify the nonconformity.

Additionally, the proposed church plans on having services every day from 10 a.m. to 7:30 p.m. This suggests movement of people coming and leaving the church constantly throughout the day, seven days a week. There is not enough time in between services to avoid an overlap of people on the property, and it is in the nature of people to loiter and socialize on and around the property before and after a service, which would impact the surrounding area due to noise and traffic. Although the applicant states that there is expected to be a maximum of 8 to 9 individuals attending services at one time, the applicant also states that the church is not yet operating and the membership is not known at this time. Thus, actual attendance and membership is unknown, and although parking needs are assessed based on the sanctuary space, that space within the proposed use is very small, and there are other areas of the church that may also accommodate services to members or the public beyond merely the sanctuary space, including the member sacrament counseling room (113), the member healing consultation room (111), the private spiritual counseling room (110) and the stewards meeting/conference room (106), which all total an approximately 568 additional square feet of space. Because the proposed use does not have any set meeting or services schedule and the number of members or attendees is not known, there is a serious question whether the ordinary calculation of parking needs based only on sanctuary space is proper for this particular use, particularly given the site's existing nonconforming parking lot and the above-referenced site plan space that

appears able to accommodate more services and individuals than only the sanctuary seating capacity. Adequate parking for the current proposed use thus does not currently exist, and there has been no showing by the applicant that parking, support facilities or infrastructure for parking for potential expansion exist on site or are otherwise available for the use.

There are also concerns with onsite security of stored and distributed cannabis, supervision of minors who may participate in cannabis sacraments, and persons that may tithe for the purpose of receiving cannabis. The applicant admits that cannabis will be stored and distributed on-site, and security measures details for such storage and dispensing were not and could not be provided to the City Council. The applicant also was not able to state the approximate quantity of cannabis that would be expected to be regularly stored on the premises for regular use. There was also no information provided to the City about how cannabis would be transported to the church, which may also be a violation of the City's Municipal Code relating to Cannabis Prohibitions. The applicant further admits that minors and children will be allowed on the premises, and may engage in the use of cannabis; although such use may be with parental consent or the applicant assured that identification would be checked for those under 18, these assurances were not supported by any specific protocol or procedures relating to such activities. State law prohibits even the transfer of cannabis to those under 18 or 21 (Cal. B & P Code § 26140). Further, the need for on-site storage and distribution of cannabis by the proposed use was questionable. The applicant admits that members, or the public, attending services could bring or use their own cannabis, without the storage or distribution of cannabis by the church on the premises, and that attendees could participate in church or other services without cannabis. The applicant acknowledges that cannabis does not have to be used for the spiritual services proposed to be provided by the church. In addition, the applicant also admits that many services are anticipated to be provided on-line, with no procedures for the provision of cannabis in connection with those services. This is also detailed in Attachment 3.

The proposed use is also located approximately 360 feet (to the east) from Sellery Elementary School. Although the City prohibits the distribution of cannabis throughout the City, State law prohibits licensed cannabis facilities from "locat[ing] within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12." (Cal. B & P Code § 26054) Even though the City's overall prohibition is operative and paramount, no legal dispensing or storage of cannabis at the premises would be permitted in any event, due to the close proximity of the school. In addition, there are many youth in the neighboring area, due to adjacent residential uses.

Furthermore, the proposed church use will not be consistent with the following General Plan land use policies:

- *LU 1.1: Promote sound housing and attractive and safe residential neighborhoods.*

The property is zoned R-4 and could potential have three or more housing units. The church use would preclude housing from being developed on the property in the foreseeable future. It would also be incompatible with the predominantly residential character of the neighborhood.

- *LU 1.2: Protect existing sound residential neighborhoods from incompatible uses and development.*

As the property is zoned R-4, the property is best suited for housing development. Further, the church use is considered incompatible to the existing and proposed development for the area due to its proposed activities in direct opposition to the public health, welfare and safety, as detailed herein, including the storage and dispensing of cannabis in close proximity to an elementary school and in direct violation of the Gardena Municipal Code, detailed below.

For these reasons, the proposed use would be detrimental to the surrounding properties and incompatible with the predominantly residential area.

3. **That the site for the intended use is adequate in size and shape to accommodate such use and all of the yards, setbacks, walls, fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses on land in the neighborhood;**

The subject property is located at the corner of Normandie and Magnolia Avenues. There is an existing 2,096-square-foot building on the property which was built in 1955. The nonresidential building is legal nonconforming to the R-4 zone. Historically, it has been used as an office. The Applicant's request to change the use of the building to a church requires certain interior tenant improvements, exterior changes, signage, landscaping, and parking lot improvements. Many of these improvements have already been completed by the applicant without the benefit of a City permit and not in good faith upon the same. The change in use to a church would further intensify nonconformities within the parking lot which would be detrimental to the neighborhood.

4. **That the site for the proposed use relates to streets and highways properly designed and improved so as to carry the type of quantity of traffic generated or to be generated by the proposed use;**

Pedestrian access to the subject property is provided by sidewalks along Normandie Avenue and Magnolia Avenue. Vehicle access to the subject property is provided via an alley in the rear that connects to Magnolia Avenue. No vehicular access is provided directly onto Normandie Avenue. The change in use from an office to a church could intensify traffic and exacerbate the already nonconforming aisle width and maneuverability in the parking lot.

5. That the conditions stated in the decisions are deemed necessary to protect the public health, safety, and general welfare.

[NOT APPLICABLE – CONDITIONS NOT NEEDED FOR DENIAL]

SECTION 2. The City makes the following findings:

A. The City finds the above facts to be true based upon the application, testimony at the public hearing, and other evidence available to it as part of its consideration of the application for Conditional Use Permit #3-20.

B. Further, the City Council finds additional conditions on the proposed use would either not effectively alleviate the identified concerns or violations of law, or would not ensure compatibility of the proposed use with other land uses in a manner that would permit the granting of the application. In particular, the City Council finds that, based on the evidence presented, there is insufficient parking for a proposed use. Further, the proposed regular use, storage and distribution of cannabis would be detrimental to the public health, safety and welfare, detrimental to neighboring uses, and in violation of State and local law, especially due to the City's prohibition on the storage and dispensing of cannabis and the close proximity of an elementary school.

C. Denial of the applicant's conditional use permit application will neither prevent the applicant from using the property nor prevent the applicant from exercising its first amendment rights. The applicant's property may be used as of right for a number of residential uses as provided in the City's municipal code.

D. The Council's findings are specifically based solely on the fact that the proposed use is an assembly use proposed for fixed seating for up to 15 persons, but the use has the potential for accommodation of an unknown total number persons, as well as the existence of other indicators that service times and attendance will not be limited to the fixed seating, as well as the fact that the proposed use will include the regular storage, possession, use and distribution of cannabis on the premises; and that the City Council's findings and decision are expressly without regard to the fact that the proposed use is religious in nature and without regard to the particular religious tenants or practices of the applicant or its members.

E. Based on the above, the applicant has failed to show, as required by Gardena Municipal Code § 18.46.040 (E)(5) that the requested use will not be materially detrimental to the property of other persons located in the vicinity, or that it will not detrimentally impact the public health, safety, and welfare, and has failed to demonstrate that reasonable restrictions or conditions to permit the proposed use will prevent the detriment or impact as indicated.

NOW THEREFORE, and based upon the foregoing, and the entirety of the evidence and information presented to it, the City Council hereby resolves as follows:

The applicant's application for Conditional Use Permit #3-20 to allow the proposed church use in the R-4 zone is denied based on the specific facts presented.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 4. Certification. The City Clerk shall certify the passage of this resolution.

SECTION 5. Effective Date. This Resolution shall be effective immediately.

Passed, approved, and adopted this 13th day of July, 2021.


TASHA CERDA, Mayor

ATTEST:


for MINA SEMENZA, City Clerk

APPROVED AS TO FORM:


CARMEN VASQUEZ, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF GARDENA)

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Resolution, being **Resolution No. 6522** duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a regular meeting of said City Council held on the **13th day of July, 2021**, and that the same was so passed and adopted by the following roll call vote:

AYES: MAYOR PRO TEM TANAKA, COUNCIL MEMBERS KASKANIAN, HENDERSON,
 FRANCIS, AND MAYOR CERDA

NOES: NONE

ABSENT: NONE

Bucky Romero
for _____
City Clerk of the City of Gardena, California



