

History of San Jose Conditional Use Permit Renewal

Summer of 1995

In June, 1995 there were a few complaints to Code Enforcement from neighbors about excessive noise from amplified music. On 6/22/95, an officer of San Jose Department of Neighborhood Services, Code Enforcement Division visited the Club to investigate the complaints. He discovered that our membership roster was in violation of the 1968 Conditional Use Permit (E-68-11-27), which allowed use of WCC's facility only by residents of homes in "Westgate Manor Units 1 through 7", aka the Mardel tract. (Less than 10% of our membership lived in these homes). Compliance Order #ZO-95-0749-00 was issued by the City of San Jose, requiring WCC to apply for an updated CU Permit at a cost of \$1602.50, which included notification to neighbors and public hearings. Most neighbors in opposition complained about constant parking* in front of their homes and some complained about the noise of having 2 swim meets every summer at our pool. As a result, home swim meets with another team attending were no longer allowed, and the team has been renting high school pools since 1996.

Moreland School District and Baker Elementary School had to submit letters of approval to use the Baker school parking spaces. In the absence of these letters, WCC's membership is required to be limited to those who live within 0.5 mile, as outlined in the attached map. The operating hours are defined as 4pm to 8pm(April, Sept, Oct) or 4pm to 9pm(May, June) on the days that school is in session, except for the Baker school end of year party, so as to not adversely affect school operation and parking.

The grueling application process started in summer 1995 and the CU Permit was adopted by the City of San Jose on May 29, 1996. Barry Smith took a number of days off work to meet with members of the planning commission, city council, and Moreland District and around 80 hours in compiling documentation needed for the application process and performing follow-through communications with the City. Other members of the board helped with gathering letters of support from Cabana members seeking to keep the facility open to those who lived outside the original Westgate Manor (Mardel tract).

**Parking in front of homes is allowed for a public facility such as a school or residents, but is not allowed for a "private" facility such as a Cabana Club.*



CITY OF SAN JOSÉ, CALIFORNIA

DEPARTMENT OF CITY PLANNING AND BUILDING
801 NORTH FIRST STREET
SAN JOSE, CA 95110-1795

GARY J. SCHOENNAUER
DIRECTOR OF PLANNING

RETURN TO CITY PLANNING

PERMIT ACCEPTANCE, AGREEMENT AND CONSENT

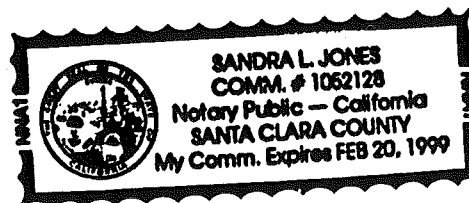
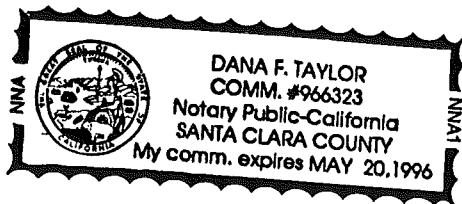
The undersigned, being the owner(s) of the property hereby accept(s) the herein Permit issued by the Planning Commission of the City of San José (File No. CP 95-11-068) and agree(s) to comply with, be bound by, and do all things required of the Petitioner by each and all of the conditions, terms and provisions of said Permit and of the provisions of Title 20 of the San José Municipal Code applicable to such Permits; understand(s) that judicial review of this decision may be had pursuant to Section 1094.5 of the California Code of Civil Procedures and Section 1.16.010 of Title 1 of Chapter 16 of the San José Municipal Code only if the petition for Writ of Mandate is filed not later than the 90th day following the date on which this decision becomes final; and agree(s) and consent(s) to the recordation of the Notice of Granting of the Permit in the Office of the Santa Clara County Recorder and agree(s) to pay the cost of such recordation.

EXECUTED THIS 23rd DAY OF April, 1996.

Rene R. Intson
NOTARIZED SIGNATURE
For the Moreland School District

Gary J. Schoennauer
NOTARIZED SIGNATURE
For Westgate Cabana Club

(The above notarized signature must be the signature of the person who signed the Permit Application as the property owner or the signature of a person with notarized Power of Attorney.)



RESOLUTION NO. 96-14

Resolution of the Planning Commission of the City of San José granting a Conditional Use Permit, subject to conditions, to use certain real property described herein for the purpose of allowing a neighborhood swimming recreation facility to expand the area of membership and allow off-site parking.

FILE NO. CP 95-11-068

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to the provisions of Part 3 of Chapter 20.44 of Title 20 of the San José Municipal Code, on November 21, 1995, Conditional Use Application No. CP 95-11-068 was filed for a Conditional Use Permit for the purpose of allowing a neighborhood swimming recreation facility to expand the area of membership and allow off-site parking, on that certain real property (hereinafter referred to as "subject property"), situate in the R-1 Residence Zoning District, located at the southeast corner of Bucknall Road and Maroel Drive, San José, and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Part 3 of Chapter 20.44 of Title 20 of the San José Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, this Planning Commission received and considered the reports and recommendation of the Director of Planning; and

WHEREAS, at said hearing, this Planning Commission received in evidence a development plan for the subject property entitled, "The Westgate Cabana Club, CP 95-11-068," dated March 13, 1995. Said plan is on file in the Department of Planning and is available for inspection by anyone interested therein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this Planning Commission;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Density Residential 8 DU/AC on the adopted San José 2020 General Plan Land Use/Transportation Diagram.

2. The project site is located in the R-1 Residence Zoning District.
3. Under the provisions of Section 15061 (b) (3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The Westgate Cabana Club facility currently exists and no physical expansion or alteration is proposed.
5. The project includes the use of 31 off-site parking spaces located in the Baker Elementary School across Bucknall Road.
6. The applicant will enter into a parking agreement with the Moreland Elementary School District securing the right to continue to use 31 off-site parking spaces.
7. The off-site parking is directly adjacent to the subject site across Bucknall Road.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter and Chapters 20.20 through 20.36 of this Title.
5. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use; and
6. The parking facility is reasonable convenient and accessible to the buildings or uses to be served.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Submittals Prior to Recordation/Release.** The following items must be submitted for review and approval by the Director of Planning prior to the recordation of this Permit by the County Recorder and/or prior to the release of this permit to Public Works or the Building Division. *If these items are not submitted within 60 days of the adoption of this Resolution, membership shall be limited to 220 families and within the boundaries of the attached map as outlined in Condition #4 on page 4.*
 - a. The Moreland Elementary School District shall sign the application for Conditional Use Permit and provide a legal description for the Baker Elementary School boundaries or for the subject parking area.
 - b. The Moreland Elementary School District and the applicant shall enter into a parking agreement that allows alternating parking as specified by the permit. A copy of said agreement shall be submitted to the Director of Planning.
3. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the Applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall cause this permit to automatically expire.
 - a. The applicant shall submit a re-drawn site plan and, if applicable, include the location and number of off-site parking spaces that are to be included in the project. The plans should also include new street trees on Bucknall Road.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** The facilities shall conform to approved development plans entitled, "Westgate Cabana Club," dated march 13, 1996, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Membership.** Membership and use of this facility shall be limited dependent on available parking.
 - If parking is available per the requirements of this permit, then membership shall be limited to a total of 220 families and open to the general public.
 - If parking is not available per the requirements of this permit, then membership shall be limited to a total of 220 families. Membership boundaries shall be limited to the area designated on the attached map with the exception that up to 20 percent of the families may be from outside the designated area.
5. **Membership Roster.** The swim club shall maintain and make available records that clearly show current numbers of family memberships issued and their location with regard to the applicable designated area restrictions as outlined in the above condition.
6. **Non-profit.** No one shall be permitted to conduct any operation on or use said recreational facilities for profit except fees may be charged to defray the cost of classes held on the site.
7. **Hours.** Outdoor activities are restricted as follows:
 - April: 9 a.m. to 9 p.m. weekends and school holidays
4 p.m. to 8 p.m. when school is in session
 - May: 9 a.m. to 9 p.m. weekends and school holidays
4 p.m. to 9 p.m. when school is in session
 - June: 6:30 a.m. to 9 p.m. weekends & school holidays (6:30 a.m. to 9 a.m. QUIET LAP SWIM)
4 p.m. to 9 p.m. when school is in session
 - Jul/Aug: 6:30 a.m. to 9 p.m. (6:30 a.m. to 9 a.m. QUIET LAP SWIM)

Sept: 9 a.m. to 9 p.m. weekends and school holidays
4 p.m. to 8 p.m. when school is in session

Oct 1-15: 9 a.m. to 8 p.m. weekends and school holidays
4 p.m. to 8 p.m. when school is in session

Note: School children from Baker Elementary School are permitted to use the facility for special events from 9 a.m. to 4 p.m. during the months that school is in session.

8. **Outdoor Activities.** No outdoor sports, other than swimming, shuffleboard and ping-pong are permitted.
9. **Parking.** The subject property shall maintain an agreement with the Baker Elementary School which will allow the continued use of 31 off-site parking spaces located across the street from the subject swim facility. Parking shall be available to swim facility members during the hours outlined in Condition #7. If said parking is not available, membership to the facility shall be limited to the residents from within a 0.25-mile radius of the facility as outlined in Condition #4.
10. **Parking Restrictions.** Swim club users/members are prohibited from parking on public streets in front of any adjacent residences. The swim club facility is required to notify all facility users of said parking restrictions. The swim club facility shall also be responsible to enforce these restrictions.
11. **Amplified Sound.** Amplified sound is not permitted, with an exception for one event dinner per year for the hours of 6:00 to 8:30 p.m. Amplified music or the use of personal radios or tape players with external speakers is not permitted.
12. **Alcohol.** No alcoholic beverages may be sold on the premises.
13. **Operation of Facility.** The use of said facilities shall be conducted in such a way that no unreasonable noise or disturbance shall emanate there from so as to disturb adjoining residents in the area.
14. **Revocation and Further Review.** The City Planning Commission shall have the right to modify the above conditions at any time, or to impose new conditions at any time to preserve the residential character of the neighborhood and may, if it deems necessary to do so, to preserve said character, revoke this Conditional Use Permit.
15. **General Provisions.** Said recreational facilities shall be used in accordance with all of the applicable laws, ordinances, rules or regulations which may now be in effect or which may hereafter be enacted or promulgated by any public board, agency, authority, city, county, state or the Federal Government having jurisdiction over the use of said hereinabove described parcel or real property as a community recreational facility.
16. **Landscaping.** Existing planting and irrigation are to be maintained, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
17. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall not exceed 12 feet above grade.

18. **Street Trees.** Street trees as shown on approved plans shall be planted on the street frontage to the satisfaction of the Director of the Department of Streets and Traffic. A permit for this is required from the Department of Streets and Traffic, (408) 277-4373.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

ADOPTED and issued this 27th day of March, 1996, by the following vote:

AYES: Garcia, Grayson, Lezotte, Tanner and Williams

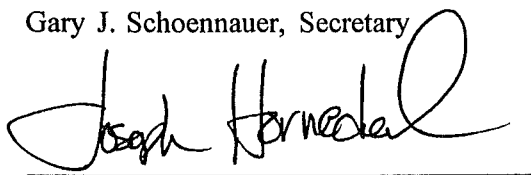
NOES:

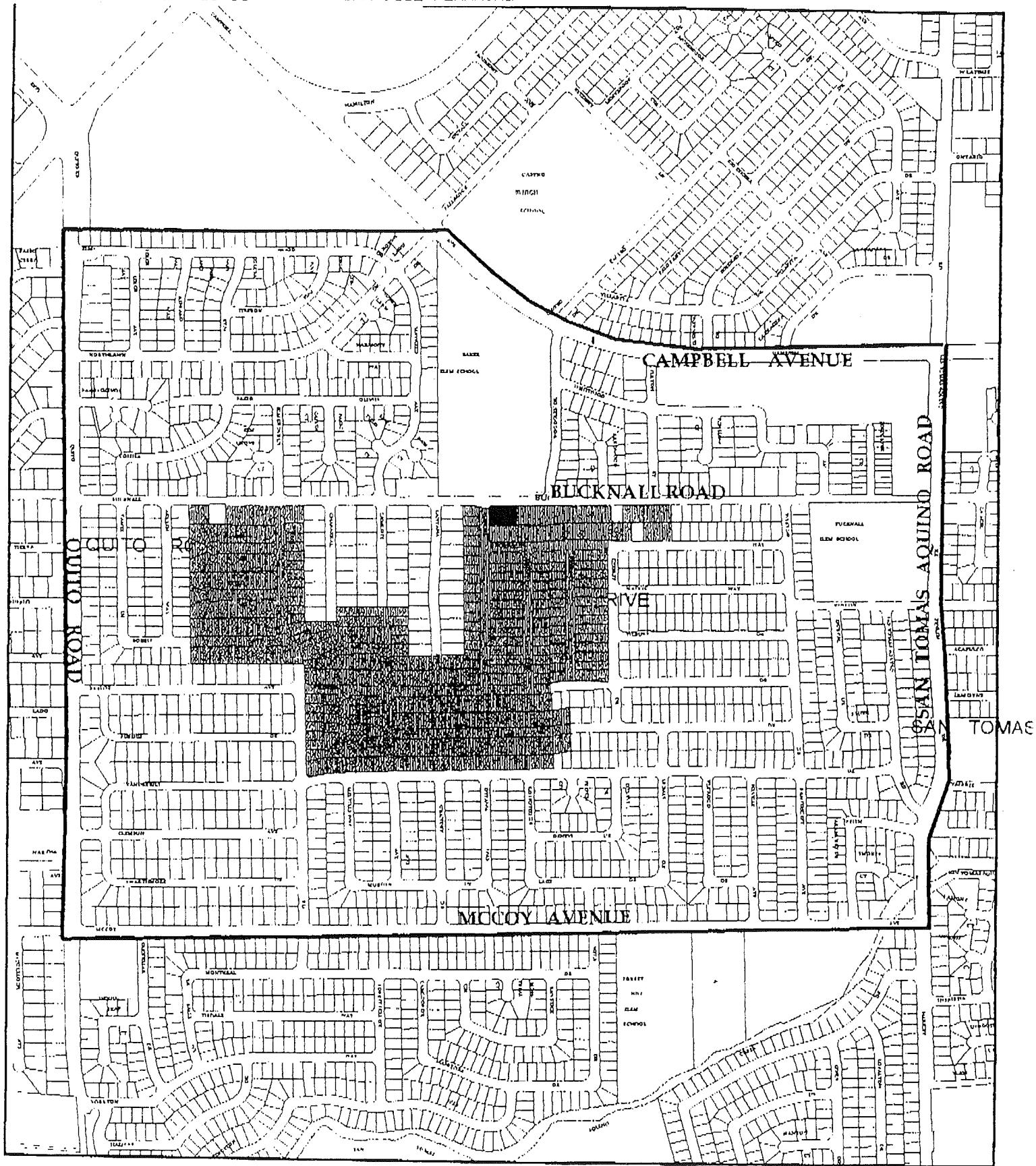
ABSENT: Chun Hoo, Madrid

Forrest W. Williams
Chairperson

ATTEST:

Gary J. Schoennauer, Secretary


Deputy



CP95-11-068

SE/C BUCKNALL ROAD & MARDEL DRIVE

MEMBERSHIP AREA AS OUTLINED IN CONDITION #4 IF OFFSITE
PARKING IS NOT INCLUDED WITH THE PROJECT

EXHIBIT A

Legal Description of Subject Property

That real property in the City of San Jose, County of Santa Clara, State of California:

BEGINNING at a point on the Southerly line of Bucknall Road, distant thereon South $88^{\circ} 50' 30''$ West 2.00 feet from the Northwesternly corner of Lot 70, as said Road and Lot are shown upon that certain Map entitled, "Tract No. 2458 Westgate Manor Unit No. 1", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on August 9, 1962 in Book 150 of Maps, at page 51; thence from said point of beginning South $88^{\circ} 50' 30''$ West along said Southerly line of Bucknall Road 143.02 feet; thence Southwesterly along the arc of a curve to the left, tangent to the preceding course with a radius of 20.00 feet through a central angle of $90^{\circ} 01'$, for an arc distance of 31.42 feet to a point on the Easterly line of Marcel Drive, as said Drive is shown upon the Map above referred to; thence South $1^{\circ} 10' 30''$ East along said Easterly line of Marcel Drive 94.99 feet to the Northwesternly corner of Lot 48 of said Tract No. 2458; thence North $88^{\circ} 50' 30''$ East along the Northerly line of said Lot 48 and its Easterly prolongation 163.00 feet to a point on a line which is parallel with and distant Westerly 2.00 feet at right angles from the Westerly line of said Lot 70 above referred to; thence North $1^{\circ} 09' 30''$ West along said parallel line 115.00 feet to the point of beginning.

EXHIBIT A1

Legal Description of Property Containing Baker Elementary School and its Two Parking Lots (as printed in grant deeds)

All those certain parcels of land situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL NO. 1: Beginning at a railroad spike found at the Southwest corner of that certain 14.67 acre tract of land conveyed by Edward W. Bucknall, et ux, to Elizabeth A. White and F. Grace Bucknall by Deed dated January 20, 1950 and recorded in Volume 1912 of Official Records at page 51, Santa Clara County Records, said railroad spike being South 1° 13' 40" East 22.00 feet from the North line of Bucknall Road; thence along the South line of said 14.67 acre tract of land and parallel with the Northerly line of Bucknall Road North 88° 47' 46" East 264.07 feet to a nail found in said Southerly line; thence parallel with the Westerly line of said 14.67 acre tract of land North 1° 13' 40" West 917.54 feet to the Northerly line of said 14.67 acre tract; thence parallel with the Northerly line of Bucknall Road South 88° 47' 46" West to the Northwestern corner of said 14.67 acre tract and an iron pipe set in the Easterly boundary of Tract No. 2011, a map of said Tract being recorded in Book 88 of Maps at pages 12 and 13, Santa Clara County Records; thence along the Easterly boundary of said Tract and the Westerly line of said 14.67 acre parcel South 1° 13' 40" East 917.54 feet to the railroad spike at the point of beginning, containing 5.562 acres situated in the Quito Rancho.

PARCEL NO. 2:

BEGINNING at a railroad spike found at the Southwesterly corner of that certain 14.67 acre tract of land conveyed by Edward W. Bucknall, et ux, to Elizabeth A. White, et al, by Deed dated January 20, 1950 and recorded in Book 1912 of Official Records, page 151, Santa Clara County Records, said railroad spike being South 1° 13' 40" East 22.00 feet from the Northerly line of Bucknall Road; thence along the Southerly line of said 14.67 acre tract and parallel with the Northerly line of Bucknall Road North 88° 47' 46" East 264.07 feet to a nail found, said nail being the true point of beginning of this description; thence parallel with the Westerly line of said 14.67 acre tract of land North 1° 13' 40" West 857.54 feet to a point distant South 1° 13' 40" East 60.00 feet from the Northerly line of the herein abovementioned 14.67 acre tract; thence parallel to said Northerly line North 88° 47' 46" East 219.80 feet; thence South 1° 13' 40" East 203.90 feet to an iron pipe found in the Northerly line of that certain parcel conveyed by Elizabeth A. White and F. Grace Bucknall to George Nishimatsu, et ux, by Deed recorded in Book 2776 at page 606, Santa Clara County Official Records; thence along the Northerly line of said tract conveyed to Nishimatsu South 87° 18' 17" West 199.87 feet to an iron pipe found; thence South 1° 13' 40" East 648.44 feet to a nail found in the Southerly line of said 14.67 acre tract; thence along said Southerly line South 88° 47' 46" West 20.00 feet to the true point of beginning of this description, containing 1.341 acres and being a portion of said 14.67 acre tract situated in the Quito Rancho.

PARCEL NO. 3: Beginning at a nail driven in the Southerly line of that certain 14.67 acre tract of land conveyed by Edward W. Bucknall, et ux, to Elizabeth A. White, et al, by Deed dated January 20, 1950 and recorded in volume 1912 of Official Records, at page 151, distant thereon N. 88° 29' E. 284.02 feet from the Southwest corner of said 14.67 acre tract of land, said nail being S. 1° 33' 30" E. 22.00 feet from the Northerly line of Bucknall Road; thence running N. 1° 33' 30" W. 648.44 feet to a 3/4 inch pipe; thence N. 86° 59' 30" E. 199.86 feet to a 3/4 inch pipe; thence continuing N. 86° 59' 30" E. 199.86 feet, more or less, to a point in the Easterly boundary line of said 14.67 acre parcel of land; thence running along said Easterly boundary line, S. 1° 33' 30" E. a distance of 659.30 feet, more or less, to the Southeasterly corner of said 14.67 acre tract which lies within the bounds of Bucknall Road; thence along the Southerly line of said 14.67 acre tract, S. 88° 29' W. a distance of 417.16 feet to the point of beginning, and being a portion of said 14.67 acre tract situated in the Quito Rancho.

AGREEMENT - PARKING
BETWEEN THE MORELAND SCHOOL DISTRICT
AND WESTGATE CABANA CLUB

Consisting of the following documents:

- 1) Letter dated August 8, 1995 from Mr. Ron Fortson, Business Manager - Moreland School District.

- 2) Letter dated March 12, 1996 from Ms. Bitsey Stark, Principal - Baker Elementary School.



California's Oldest Known Rural School District

4710 Campbell Avenue
San Jose, California 95130
(408) 379-1370

Ron Fortson
Business Manager

August 8, 1995

San Jose Planning Commission
601 N 1st St.
San Jose, CA 95110

**Re: Parking by Westgate Cabana Club in Baker
School Parking Lot**

Dear San Jose Planning Commission:

Westgate Cabana Club, a non-profit corporation, has been using the parking lots at Baker Elementary School ever since they opened 31 years ago.

The Westgate Cabana's busiest days are Memorial Day, 4th of July and Labor Day, when school is not in session. They also have weekend usage. Their summer schedule for lessons and lap swimming is always coordinated with the school schedule.

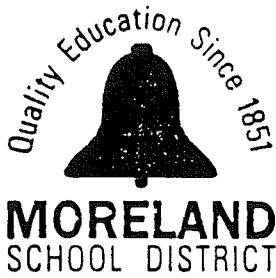
The Westgate Cabana has provided school field trips to our district schools free of charge, except for the cost of lifeguards.

The Westgate Cabana has our permission to continue to use the Baker School parking lots whenever school is not in session, or whenever it is not needed by the district for any special events.

Sincerely,

Ron Fortson
Business Manager

RF:jb



California's Oldest Known Rural School District

*Gussie M. Baker School
4845 Bucknall Rd.
San Jose, CA 95130
(408) 379-2101*

Bitsey Stark
Principal

March 12, 1996

City of San Jose, California
Department of Planning, Building, and
Code Enforcement
801 North First Street, Room 400
San Jose, California 95110-1795

Attn: Mr. Dave Tymn

Dear Mr. Tymn:

It has come to my attention that there is currently an effort to expand the membership area in the Westgate Cabana Club to include all of our Baker students, in an effort to maintain financial solvency. It is my intent, with this letter, to address the impact of the club on the Baker School property and its effect on the community at large.

I became the principal of Baker last summer. Prior to that time, I was a teacher here for six years (1989-1995). During that time, each Spring was met with excitement by many of the Baker children. The Cabana Club serves an important role in providing after school and weekend recreation for many of our students.

The hours of operation, as stated in File No. CP 95-11-068, are after school hours. Therefore, the parking of cabana members in the Baker parking lots does not adversely effect school operation. Outdoor activities, as presented, are:

April	9 am-9 pm	Weekends and school holidays
	4 pm-8 pm	When school is in session
May	9 am-9 pm	Weekends and school holidays
	4 pm-9 pm	When school is in session
June	6:30 am-9 pm	Weekends and school holidays
	4 pm-9 pm	When school is in session
July/August	6:30 am-9 pm	
Sept.	9 am-9 pm	Weekends and school holidays
	4 pm-8 pm	When school is in session
Oct. 1-15	9 am-8 pm	Weekends and school holidays
	4 pm-8 pm	When school is in session

The above hours are compatible with school hours.

The Cabana Club is a valuable service to the Baker community and is enjoyed by many families in the area. It is important that this recreational facility maintains an appropriate membership for it's continued operation.

If you have any questions or would like to discuss this matter, please call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bitsey Stark". The signature is written in black ink and is positioned above the printed name and title.

Bitsey Stark
Principal

cc. Ron Fortson



CITY OF SAN JOSÉ, CALIFORNIA

DEPARTMENT OF CITY PLANNING AND BUILDING
801 NORTH FIRST STREET
SAN JOSE, CA 95110-1795

GARY J. SCHOENNAUER
DIRECTOR OF PLANNING

April 19, 1996

Mr. Barry Smith
ILC Technology
399 Java Drive
Sunnyvale, CA 94089

Re: WESTGATE CABANA CLUB (FILE NO. CP95-11-068)

Dear Barry:

Staff has received two letters from you asking for some clarification of conditions included in your approved Conditional Use Permit.

Condition #9 has a typographical error. The reference to the 0.25-mile radius should be disregarded. The boundary restrictions are correctly stated in Condition #4.

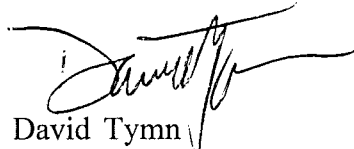
Condition #17, regarding outdoor lighting, pertains to any new lighting installed at the site subsequent to the approval of this Conditional Use Permit. This is a standard condition that is part of all discretionary permits. The existing on-site lighting need not comply with this condition.

A copy of this letter will be placed in the project file should there be any question regarding these issues in the future. Due to the fact that this Conditional Use Permit has gone to a public hearing and has been signed, permit conditions cannot be modified without processing a formal amendment application and a public hearing before the Planning Commission. Typographical errors can be clarified with a letter such as this, rather than paying fees for an amendment.

Let me also remind you that permit acceptance, the outstanding signatures, parking agreement from the school district and four sets of the plan submitted to me before the hearing are due to our office prior to May 29, 1996. After that date, the permit is void and would require a new application.

I apologize for any inconvenience this may have caused. If you have any further questions, please contact me at 277-4576.

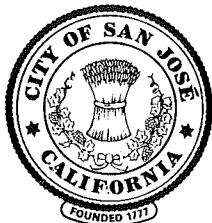
Sincerely,

A handwritten signature in black ink, appearing to read 'David Tymn', with a stylized flourish extending to the right.

David Tymn
Project Manager

c: Darryl Boyd
Planning Department

CP95-068.LTR.DT:pv/63g/207-10



CITY OF SAN JOSÉ, CALIFORNIA

DEPARTMENT OF CITY PLANNING AND BUILDING
801 NORTH FIRST STREET
SAN JOSE, CA 95110-1795

GARY J. SCHOENNAUER
DIRECTOR OF PLANNING

March 29, 1996

Westgate Cabana Club
Barry Smith
4750 Bucknall Road
San José, CA 95130

Dear Mr. Smith:

RE: Conditional Use Permit, File No. CP 95-11-068, located on the southeast corner of Bucknall Road and Maroel Drive.

The enclosed is your copy of the Planning Commission's action on the application for a Conditional Use Permit. To accept the permit and conditions, the following requirements must be fulfilled.

- **Have your signature notarized on the Acceptance Form (attached) and return the form before 5:00 p.m., May 29, 1996.** Failure to return the Acceptance Form, properly signed, to the Department of Planning, Building and Code Enforcement by this deadline will cause this permit to automatically expire regardless of any other expiration date contained in this permit.
- **Enclose a check or money order for \$10, payable to the Santa Clara Recorder, with your Acceptance Form.** For the permit to be effective, Section 20.44.220 of the City of San José's Zoning Ordinance requires that a Certificate of Permit be recorded with the County Recorder's Office.

The Planning Commission's action taken on this permit or any of the conditions of this permit may be appealed by the applicant to the City Council by filing a Notice of Appeal and a \$50 fee. The appeal must be submitted in person and presented on the Notice of Appeal form available from the Department of Planning, Building and Code Enforcement on or before 5:00 p.m., April 8, 1996.

If you have any questions, please feel free to contact David Tymn your Project Manager.

Sincerely,

Deputy

Enclosure

CP95-68.CVR:DT:mt/63d/207-10



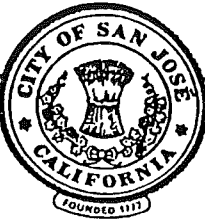
City of San Jose

Department of City Planning, Building and Code Enforcement

DEVELOPMENT APPLICATION CHECK SHEET

NOTICE TO APPLICANT: Do not complete this form. Present at time of application. Your application will be accepted only if all items are included in correct form and numbers. Please be advised, however, that the items on this check sheet do not necessarily constitute a complete application. Additional items may be required to complete the review of your project.

FILE NUMBER CP95-11-068		STAFF F. N. J. M.	DATE RECEIVED 21 NOV 95
REQUIRED COPIES	DOCUMENTS		
1	APPLICATION FORM correctly filled out ☒ Applicant(s) - listed as owner(s) or qualified tenants of subject property ☒ Signature(s) of owner(s) listed above ☒ Contact Person identified ☐ Architects, Engineers and Developers identified ☒ Affidavit Page signed by owner(s)		
1	LEGAL DESCRIPTION ☒ Single metes and bounds description of entire property or ☐ Lot and tract number from recorded subdivision map, and copy of said tract map ☐ Plot map of delineating the Permit Area (8 1/2" x 11")		
1	☒ COUNTY ASSESSOR'S MAP		
1	NOTICING THE NEIGHBORHOOD (Public Noticing) ☒ List of assessor parcel numbers and names and addresses of property owners within 300 of the subject property, as shown on the last equalized assessment roll of the County of Santa Clara, on the form provided.		
1	☒ Set of business-size stamped envelopes without return addresses, addressed to each owners and each occupant within 300 feet of the subject property. No metered envelopes can be accepted. <i>11-27-95 N</i>		
~~7 sets~~ 17 ~~10 extra~~ 1 extra	DEVELOPMENT PLAN (consult application instructions for specific requirements) ☐ Attached in sets in correct order FEES: - \$ 1,150.00 BBSE ☐ Title Sheet PHOTOS 275.00 ENV. REVIEW ☒ Site Plan (IN LIEU OF PLAN SET) 27.50 R.R. ☐ Grading and drainage ☐ Floor plans 1,402.50 PLANNING ☐ Building Elevations 200.00 P.W. ☐ Landscape plan 1,602.50 TOTAL. ☐ Details		
5 1	ENVIRONMENTAL REVIEW ☐ Draft EIR or ☐ Completed Application for Environmental Clearance which includes: Property owners lists, adjacent properties Photographs Vicinity and location maps Signed disclosure forms Set of business-size stamped envelopes addressed to property owners within 300 feet of the subject property with no return address and no metered envelopes or ☒ Request for <u>Environmental Exemption</u> or ☐ Some evidence that environmental review has been completed		
FEES ☐ Application Fees ☐ Surcharges ☐ Environmental Fees			



City of San Jose

Department of City Planning and Building

801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576

FILE NUMBER <u>CP45-11-068</u>	COUNCIL DISTRICT <u>01</u>	PLANNING AREA <u>WV</u>
FILING DATE <u>21 NOV 1995</u>	PROJECT COORDINATOR	TECH <u>FN</u>
ENVIRONMENTAL STATUS	ENVIRONMENTAL APPROVAL DATE	
ANNEXATION DATE & NAME <u>31 JUL 1957 SAN TOMAS #1</u>	PREVIOUS FILES	
PROJECT DESCRIPTION <u>OFF-SITE PARKING</u>		
LOCATION <u>SE/C BUCKNOLL ROAD AND MARCEL DRIVE</u>		
NAME OF OWNER <u>WESTGATE CARBONA CLUBS</u>		
ASSESSOR'S PARCEL NUMBER <u>403-03-188</u>	CENSUS TRACT NUMBER <u>5066.04</u>	
EXISTING USE <u>CARBONA CLUBS</u>	LAND USE CODE <u>70</u>	
PROPOSED USE <u>CARBONA CLUBS</u>	LAND USE CODE <u>70</u>	
SPECIFIC CODE USE <u>9501</u>	ZONING MAP NUMBER <u>112</u>	
EXISTING ZONING <u>R-1</u>	PROPOSED ZONING <u>R-1</u>	
G.P. DESIGNATION <u>MDR</u>	G.P. CODE <u>8U/A</u>	G.P. CONFORMANCE YES ☐ NO ☐
GROSS ACRES <u>0.434</u>	NET ACRES <u>0.434</u>	
GROSS FLOOR AREA	NO. OF STORIES	NO. OF BUILDINGS
NO. OF UNITS	TYPE OF UNIT	
NO. OF EXISTING LOTS <u>ONE</u>	NO. OF PROPOSED LOTS <u>ONE</u>	
PARKING SPACES REQUIRED	PARKING SPACES PROPOSED	
ESTIMATED OCCUPANCY DATE		
ELEMENTARY SCHOOL DISTRICT <u>MORELAND</u>	HIGH SCHOOL DISTRICT <u>CAMPBELL UNION</u>	
SPECIAL DISTRICTS	REDEVELOPMENT AREA	
ENVIRONMENTAL CHECKLIST:		
☐ HISTORIC		
☐ ARCHAEOLOGY ZONE		
☐ OTHER:		
☐ NOISE 60 db		
☐ OTHER: <u>RTS/PIN MAP/L.MAP</u>		

PROJECT APPLICATION SUMMARY



City of San Jose

Department of City Planning

801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576

CONDITIONAL USE PERMIT/AMENDMENT APPLICATION

TO BE COMPLETED BY DEPARTMENT OF CITY PLANNING STAFF

FILE NUMBER CP 95-11-068	COUNCIL DISTRICT 01	RECEIPT #: A577998
PROJECT LOCATION SEC BUCKNALL ROAD & MARDEL DRIVE		AMOUNT: 1,177.50
ZONING R-1		DATE: 21 NOV 95
		BY: F N J M

TO BE COMPLETED BY THE APPLICANT (PLEASE PRINT OR TYPE)

Pursuant to the Provisions of Part 2 of Chapter 20.44 of the San Jose Municipal Code, application is made to request a:

CHECK ONE BOX

☒ CONDITIONAL USE PERMIT

☐ AMENDMENT TO A CONDITIONAL USE PERMIT

PREVIOUS CUP FILE NUMBER **CP** _____

FOR THE PROPERTY LOCATED AT:

4750 Bucknall Road, San Jose, CA. 95130

ASSESSOR'S PARCEL NUMBER(S) (APN) 403 03 188	GROSS ACREAGE 0.434	NET ACREAGE 0.434
--	-------------------------------	-----------------------------

EXISTING USE OF PROPERTY Non-profit Recreational Facility - See Preliminary Review	ESTIMATED DATE OF OCCUPANCY (month/year) 6/65
--	---

PROPOSED USE OF PROPERTY OR SUBJECT OF AMENDMENT

See preliminary Review ?

IF PROPOSAL IS RESIDENTIAL - NUMBER OF UNITS N/A	IF PROPOSAL IS NON-RESIDENTIAL - NEW GROSS BUILDING SQUARE FOOTAGE —
---	--

THE FOLLOWING EXHIBITS ARE ATTACHED HERETO AND MADE A PART THEREOF BY REFERENCE.

- ☒ A LEGAL DESCRIPTION OF SUBJECT PROPERTY - EXHIBIT A
- ☐ THE COMPLETE DEVELOPMENT PLAN SET FOR THE SUBJECT PROPERTY, ENTITLED _____

DATED / / AND LAST REVISED / /
CONSISTING OF _____ SHEETS

NOTICE: THIS APPLICATION IS ACCEPTED BY APPOINTMENT ONLY. CALL 294-PLAN (7526).

AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT THE FOLLOWING IS TRUE AND CORRECT:

1. The undersigned are all the owners of all the property described in Exhibit A - Legal Description of Subject Property, or tenants of the entire subject site with a recorded lease and a term remaining of at least five years.
2. The development plans a part of this application show the exact location, size, and use of all easements on the subject site and all easement on surrounding properties benefiting the subject property.
3. If there are any existing active or deactivated water wells on your property, they must be shown on your plans.
The property which is the subject of this application:
_____ does contain existing active or deactivated water wells and they are shown on the plans accompanying this application
☒ does not contain existing active or deactivated water wells.
4. In conformance with Section 65962.5 of the California Government Code, and as owner(s) of the property referenced below, I(we) hereby certify that I(we) have reviewed the list of Hazardous Waste and Substance Sites within the City of San Jose, as compiled by the State Office of Planning and Research.
The property which is the subject of the above-referenced application is _____ is not ☒ included on said list.
If included on the List, the listed item reads as follows:

THE UNDERSIGNED HEREBY DECLARE THAT THEY UNDERSTAND THE FOLLOWING APPLIES TO THEIR PROJECT:

5. **Notice to Applicants regarding effect of Wastewater treatment capacity on land development approvals.** Part 2.75 of Chapter 15.12 of the San Jose Municipal Codes requires that an applicant acknowledge the effect of Wastewater treatment capacity on Land development approvals at the time of application. As owner (s) of the property subject to this development application, I(we) hereby acknowledge the requirements of the Municipal Code, as stated below, and understand that these requirements will apply to the development permit for which I(we) am(are) applying.

Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

PRINT NAME OF PROPERTY OWNER <i>Westgate Cabana Club, a non-profit corporation</i>		DAYTIME TELEPHONE # <i>(408) 866-1405 (Barry Smith)</i>	
ADDRESS <i>4750 Bucknall Road</i>	CITY <i>San Jose</i>	STATE <i>CA</i>	ZIP CODE <i>95130</i>
NAME OF FIRM, IF APPLICABLE <i>Westgate Cabana Club / School District</i>		TITLE OR OTHER OFFICIAL CAPACITY* <i>Barry Smith, Director / Ron Fortson, Manager</i>	
SIGNATURE <i>X Barry Smith / Ron R. Fortson</i>		DATE <i>11/16/95</i>	
* PLEASE STATE IF YOU ARE A PARTNER, PRESIDENT, VICE-PRESIDENT, ETC...			
IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE USE THE FOLLOWING PAGE TO PROVIDE THE ABOVE INFORMATION.			

**CONDITIONAL USE
PERMIT/AMENDMENT****CONTACT PERSON**

That for the purpose of processing and coordination of this application, the following person is my (our) designated representative/contact person:

PRINT NAME <i>Barry Smith</i>		DAYTIME TELEPHONE # <i>(408) 866-1405</i>	
ADDRESS <i>4035 Sadie Court</i>	CITY <i>Campbell</i>	STATE <i>CA</i>	ZIP CODE <i>95008</i>
NAME OF FIRM, IF APPLICABLE <i>Westgate Cabana Club</i>			

PROJECT DEVELOPER

PRINT NAME OF PROJECT DEVELOPER (IF DIFFERENT THAN OWNER)		DAYTIME TELEPHONE # ()	
ADDRESS	CITY	STATE	ZIP CODE
NAME OF FIRM, IF APPLICABLE			

ARCHITECT and ENGINEER

PRINT NAME OF ARCHITECT		DAYTIME TELEPHONE # ()	
ADDRESS	CITY	STATE	ZIP CODE
NAME OF FIRM, IF APPLICABLE			
PRINT NAME OF ENGINEER		DAYTIME TELEPHONE # ()	
ADDRESS	CITY	STATE	ZIP CODE
NAME OF FIRM, IF APPLICABLE			