

City of Burlingame

Conditional Use Permit and Parking Variance

Address: 859 Cowan Road

Meeting Date: February 10, 2020

Request: Application for Conditional Use Permit and Parking Variance for a church use in an existing building.

Applicant: Andrew Chiu

APN: 024-401-510

Property Owner: The Church in Burlingame

Lot Area: 21,000 SF (120' x 175')

General Plan: Innovation/Industrial

Zoning: IB

Environmental Review Status: The project is Categorically Exempt from review pursuant to the California Environmental Quality Act (CEQA), per Section 15301 - Existing facilities, Class 1(a) of the CEQA Guidelines, which states that interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances are exempt from environmental review.

Site History: A complaint was received regarding an assembly use (church) and cars blocking the parking lot driveway aisle at 859 Cowan Road on December 17, 2018. The Building Division inspected the property on January 8, 2019 and noted no building code violations and observed no indications of recent construction. A Notice of Violation was issued on January 10, 2019 related to the church use on the property because assembly uses require approval of a Conditional Use Permit in the IB (Inner Bayshore) zoning district. A Conditional Use Permit and Parking Variance application for the church use was received by the Planning Division on June 4, 2019.

Project Description: The Church in Burlingame (The Church) has submitted applications for a Conditional Use Permit and Parking Variance for approval of a church use in an existing office building at 859 Cowan Road, zoned IB (Inner Bayshore). While church uses are not explicitly listed as a permitted or conditional use in the IB zoning district, Code Section 25.30.030 (i) states that the following are conditional uses in the IB zone: *Any use similar in nature to one which is permitted or for which a permit is required in this district at a density determined not to exceed the trip generation for the planned use of the lot using the adopted Bayfront traffic analyzer.* A church use has been determined to be similar in nature and performance characteristics to a convention and exhibition facility, which is a conditional use in the IB district per C.S. 25.30.030 (e).

A church is defined in Code Section 25.08.183 as "any building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body or organization to sustain public worship." Because a convention and exhibition facility is considered an assembly use and is allowed in the IB zone with approval of a Conditional Use Permit, a church use is considered to be a use similar to a convention and exhibition facility and is therefore also allowed with approval of a Conditional Use Permit.

The subject property at 859 Cowan Road is an interior lot with a three-story building and 31 on-site parking spaces along the left side and rear of the property. The building contains approximately 8,400 SF of office space, 3,500 SF of warehouse space and 1,320 SF of assembly space. There are currently three tenants using the building:

- 1st floor – CDSCA Inc. - credit card and ATM processing service - office use
- 1st floor – Ranker AMG - glazing contractor/architectural cladding - warehouse use
- 2nd floor – Ranker AMG - office use
- 3rd floor – Church in Burlingame - office & assembly use

Project Operations: The Church is requesting approval to use the first floor and third floor meeting rooms for assembly (church use). The first floor meeting room measures 382 SF and can accommodate a maximum of 26 people. The third floor meeting space measures 938 SF and can accommodate a maximum of 63 people. The Church is also using the entire office space 1,939 SF located on the third floor.

The church use is primarily occurring on Sunday mornings, with services held at 9:30 a.m., 10:15 a.m. and 11:00 a.m. The office space on the third floor is used exclusively by The Church. While there are no permanent full time employees, the office space is used periodically in the evenings and weekends by church volunteers. There are no plans for interior or exterior alterations to the building.

Parking: The applicant has provided an estimate of the overall attendance and parking demand for each service. The data below was collected on site by the applicant.

| Event | Estimated Number of Vehicles | Estimated Number of People |
|---------------------------|------------------------------|----------------------------|
| 9:30 a.m. Sunday service | 21 | 39 |
| 10:15 a.m. Sunday service | 15 | 38 |
| 11:00 a.m. Sunday service | 8 | 18 |

The site is currently nonconforming in parking, with 31 on-site parking spaces provided where a total of 36 spaces are required based on the legal uses that were previously occupying the site. Intensification of the previous 1,320 SF of office use (1:300 SF parking ratio) to a church use (1:60 SF parking ratio)) increases the parking requirement by an additional 18 spaces and changes the overall parking demand on the site to 54 spaces, where 31 spaces are provided. Therefore, the applicant is seeking a Parking Variance for 23 spaces.

The two other businesses that occupy the building, Ranker AMG and CDSCA, Inc., operate weekdays from 7:00 a.m. to 6:00 p.m. Ranker AMG has up to 15 employees and CDSCA, Inc. has five employees. Ranker AMG has a six year lease and CDSCA, Inc. has a long term lease, with no changes expected in the next five years. In their application materials, the applicant notes that the highest intensity of use on the property by The Church occurs when the other two business on site are not in operation. Therefore, no anticipated overlap between the office/warehouse uses and church use is expected.

Given the current church attendance and the on-site parking available, it appears that most of the church's parking demand can be met on-site. During times when the on-site parking is occupied, The Church is proposing to have staff monitor the on-site parking, and when it is full, they were hoping to offer valet parking for up to 10 vehicles off-site. The proposal originally included a plan to park six vehicles on-site within the 20'-6" drive aisle that surrounds the building, resulting in a 12-foot drive aisle when the six cars are valeted on the site. However, the Fire Marshal has stated that they cannot utilize this space for valet parking as it would block a required fire access lane to the rear of the building. The plans have been revised to eliminate the six valet spaces shown on the site plan.

The applicant has coordinated with the adjacent property owner at 1818 Gilbreth to use 10 parking spaces on Sundays, when most of the office businesses on that site are closed. However, because 1818 Gilbreth Road received a Parking Variance for a 49-space deficiency in 2018, we cannot count these 10 spaces because the calculations do not support 1818 Gilbreth Road having a surplus to provide parking to any other site given their deficiency.

The applicant is requesting the following applications:

- Conditional Use Permit to operate a church use in an existing building (similar in nature to convention and exhibition facilities) (C.S. 25.26.030 (e) and (i)); and
- Parking Variance for a 23 space parking deficiency for a church use (C.S. 25.70.038).

859 Cowan Road
 Lot Area: 21,000 SF

Plans date stamped: October 24, 2019

| | EXISTING | PROPOSED | ALLOWED/REQUIRED |
|-----------------|---|--|--|
| Use: | Office/Warehouse | Church use in portion of building (in addition to existing office/warehouse) | Conditional Use Permit for a use similar to a permitted or conditional use in the IB zone (C.S. 25.43.030) - convention and exhibition facilities are a conditional use and a church is similar to this use ¹ |
| Parking: | <p>Office 9,719 SF/300 SF = 32.3</p> <p>Warehouse <u>3,529 SF/1,000 SF = 3.5</u></p> <p>36 spaces required 31 spaces provided *</p> | <p>Office 8,399 SF/300 SF = 27.99</p> <p>Warehouse 3,529 SF/1,000 SF = 3.5</p> <p>Assembly <u>1,320 SF/60 SF = 3.5</u></p> <p>54 spaces required 31 spaces provided ² (off-site spaces proposed do not count)</p> | <p>36 total required spaces for existing offices / warehouse</p> <p>-----</p> <p>54 total required spaces for offices/warehouse/assembly</p> |

* Existing nonconforming

¹ Conditional Use Permit required for church use in an existing building (CS 25.26.030 (e) and (i)).

² Parking Variance for a deficit of 23 spaces (31 spaces existing/provided where 54 spaces are required based on intensification of use from office to church use).

Staff Comments: See attached.

Study Meeting: At the Planning Commission study meeting on January 13, 2020, the Commission provided comments and suggestions regarding this project and voted to place this item on the regular action calendar when all information has been submitted and reviewed by the Planning Division (see attached January 13, 2020 Planning Commission Minutes).

The applicant submitted a response letter dated January 21, 2020 and revised plans date stamped January 27, 2020 to address the Planning Commission's questions and comments. In summary, the plans have been revised to show the AT&T facility located at the rear of the building and the tandem parking eliminated within the drive aisle. A revised Parking Variance application has been submitted.

Findings for a Conditional Use Permit: In order to grant a Conditional Use Permit, the Planning Commission must find that the following conditions exist on the property (Code Section 25.52.020, a-c):

- (a) The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience;

- (b) The proposed use will be located and conducted in a manner in accord with the Burlingame general plan and the purposes of this title;
- (c) The planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of this title and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses on adjoining properties in the general vicinity.

Suggested Conditional Use Permit Findings: That the proposed use will be contained on the subject property and will not be detrimental or injurious to property or improvements in the vicinity; and that with the imposed conditions of approval for operation of the church, including a maximum occupants for assembly, the proposed use will be compatible with the surrounding office and industrial uses and with the General Plan designation. For these reasons the project may be found to be compatible with the requirements of the City's Conditional Use Permit criteria.

Required Findings for Variance: In order to grant a Variance the Planning Commission must find that the following conditions exist on the property (Code Section 25.54.020 a-d):

- (a) there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the same district;
- (b) the granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship;
- (c) the granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience; and
- (d) that the use of the property will be compatible with the aesthetics, mass, bulk and character of existing and potential uses of properties in the general vicinity.

Suggested Variance Findings: That the proposed church use will primarily be in operation at times (nights and weekends) when the other uses on site are not fully operational, and therefore will not be detrimental or injurious to property or improvements in the vicinity; that the proposed church use will operate within the existing office building and will therefore be compatible with the aesthetics, mass, bulk and character of existing and potential uses of properties in the general vicinity; and that with the conditions of approval that limit the maximum usage of the site given the limited parking availability, the use would not be detrimental to other nearby properties. For these reasons the project may be found to be compatible with the requirements of the City's Variance criteria.

Planning Commission Action:

The Planning Commission should conduct a public hearing on the application, and consider public testimony and the analysis contained within the staff report. Action should include specific findings supporting the Planning Commission's decision, and should be affirmed by resolution of the Planning Commission. The reasons for any action should be stated clearly for the record. At the public hearing the following conditions should be considered:

1. that the church use at 859 Cowan Road shall be limited to a total of 1,320 SF of assembly area with 382 SF on the first floor (meeting room) and 938 SF on the third floor (meeting room) as shown on the plans submitted to the Planning Division and date stamped January 27, 2020;
2. that any expansion of the assembly use beyond 1,320 SF within the building at 859 Cowan Road, as shown on the plans submitted to the Planning Division and date stamped January 27, 2020, shall require that the applicant first apply for an amendment to the existing Conditional Use Permit;

3. that the 31 on-site parking spaces as shown on the plans date stamped January 27, 2020 shall be utilized to meet the parking demand of the church use prior to utilizing on-street; sheet A-1 on the plans date stamped January 27, 2020, note that 10 additional parking spaces may be provided off-site on a separate nearby property, however this agreement is not recognized by the City of Burlingame and these 10 spaces are not counted toward meeting the parking requirement;
4. that the Conditional Use Permit shall apply only to a church use and shall become void if the church use is replaced by a permitted use, or is ever demolished or destroyed by catastrophe or natural disaster or for replacement;
5. that all activities associated with the church use shall occur indoors only and that no portion of the on-site parking areas shall be used for activities other than parking;
6. that any changes to the floor area, use, or hours of operation, maximum occupancy, or number of vehicles generated which exceeds the maximums as stated in the application materials and conditions shall require an amendment to this Conditional Use Permit;
7. that the project shall meet all the requirements of the California Building and Uniform Fire Codes, in effect at the time of building permit submittal, as amended by the City of Burlingame;
8. that all signage shall require a separate permit from the Planning, Public Works and Building Divisions; and
9. that the conditions of the Building Division's October 28, 2019 memo, the Fire Division's June 22, 2019 memo, and the Public Works Division's October 29, 2019 memo shall be met.

Catherine Keylon
Senior Planner

- c. Andrew Chiu, applicant
David Fung, architect

Attachments:

January 13, 2020 Planning Commission Minutes
Applicant Response Letter, dated January 21, 2020
Application to the Planning Commission
Conditional Use Permit Application
Parking Variance Application (revised, date stamped January 27, 2020)
Commercial Application
Staff Comments
Planning Commission Resolution (Proposed)
Notice of Public Hearing – Mailed January 31, 2020
Area Map