



**Gardner
Neighborhood
Association**

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September 29, 2020

Honorable Mayor Sam Liccardo and City Council
City of San Jose
200 E Santa Clara St.
San Jose, Ca 95113

RE: C20-013 and SP20-027 (Council Item - OPPOSE)

Dear Mayor Liccardo and City Council,

On behalf of the Gardner Neighborhood Association and the 1,544 residents it represents, we are writing to formally oppose the project and proposed land-use designation change from Two-Family Residence District (R2) to Commercial Pedestrian (CP) at 796 Delmas Ave, the former Dawn Market.

Dawn Market provided this tight-knit, working-class community with much needed groceries nearby, particularly valuable for our senior community who could walk there. In fact, because it was a small community market, additional traffic and parking was never an issue - an important fact due to the age of our neighborhood and the state of our city streets. Unfortunately, the site has sat vacant for nearly a decade now and the community has missed out on this benefit.

Now, we have an application before us for a use that does not serve this community, which will increase both traffic in this area, as well as take up the already scarce parking in the neighborhood - across the street from a successful swim school that the neighborhood fought hard to preserve. In fact, it has become the opposite of a community benefit, as the property owner has not kept it maintained, with overgrown weeds, has left the large windows papered over creating an attractive nuisance and undoing decades of neighborhood improvement done by the community and the City of San Jose.

While we understand that the city may think this is a good use of this space, we respectfully disagree and are opposed, based on the negative impact the additional traffic and parking will have on our community. Further, in the midst of a housing crisis, and in the middle of a residential neighborhood, it feels wrong to change this land designation to allow for a business rather than housing to better serve the community.

For these reasons, we ask that you vote no on this project and its request for land use redesignation.

Sincerely,

Gardner Neighborhood Association

File Nos. C20-013 and SP20-027

Response to Community Neighborhood Letter for 796 Delmas Avenue dated 9/18/2020:

Objection: We have an application before us for a use that does not serve this community, which will increase both traffic in this area, as well as take up the already scarce parking in the neighborhood - across the street from a successful swim school that the neighborhood fought hard to preserve.

Response: Yoga/meditation studio did not require detailed traffic analysis per Public Works Memo dated 6/5/20, as it would generate less than significant amount of traffic and VMT impacts. See attached PW Memo.

Objection: In fact, it has become the opposite of a community benefit, as the property owner has not kept it maintained, with overgrown weeds, has left the large windows papered over creating an attractive nuisance and undoing decades of neighborhood improvement done by the community and the City of San Jose.

Response: The property owners have proposed new landscaping and maintenance once their project is approved by Council- see attached plans and SUP conditions.

Objection: While we understand that the city may think this is a good use of this space, we respectfully disagree and are opposed, based on the negative impact the additional traffic and parking will have on our community. Further, in the midst of a housing crisis, and in the middle of a residential neighborhood, it feels wrong to change this land designation to allow for a business rather than housing to better serve the community.

Response: Rezoning the site from R-2 Two-Family Residence to CP Commercial Pedestrian Zoning District will be consistent with the current General Plan land use designation of Neighborhood/Community Commercial and will conform to following General Plan Policies:

- a. Commercial Design Policy CD-1.6: Promote vibrant, publicly accessible spaces that encourage gathering and other active uses that may be either spontaneous or programmed.
- b. Commercial Design Policy CD-2.9: Encourage adaptable space that can be used for community meeting and assembly uses accommodated in a single space.

The existing commercial building will be adaptively reused for a Yoga/meditation studio. This use will not generate more parking than it would have as a market. The use is limited to 10-15 people per class and up to 400 square feet of the interior building space. See parking calculations under Zoning Section of the staff report and the Operations Plan submitted by the applicant.

[REDACTED]
San Jose, CA 95125-1512
September 23, 2020

Rina Shah, Project Manager, P.B. & C.E.
Honorable Mayor Sam Liccardo
City Council

RE: Conforming Rezoning File No. C20-013
Special Use Permit SP20-027

Rina, Sam, and Members of San Jose City Council,

As a twenty year homeowner at the above address, active participant during the City's SNI process, member of the Station Area Advisory Group (SAAG) and the Diridon Area Neighborhood Group (DANG), I am surprised you are recommending this project for approval.

First, let's address the rezoning issue. During a time when San Jose and the surrounding area is suffering from a lack of affordable housing, leaving this as R-2 housing would be an excellent opportunity to do some infill housing, with either two single family, two duplex, or even two fourplex units. It has also been pointed out to me that 796-798 Delmas Avenue could be sub-divided into three parcels, if one placed a duplex on each parcel, an ADU for each unit, plus a junior ADU per parcel, we could add **fifteen** units of housing with relatively little bureaucracy. City Staff has tried to portray DANG as being anti-housing within the Diridon Station Area, which we are not, and yet here we have an excellent opportunity to add much needed and valuable housing stock to an existing neighborhood, which we would welcome and is entirely appropriate.

The request for a zoning change to Commercial Pedestrian (CP), as a "Yoga Studio" is inappropriate for this neighborhood, and has served no direct community service or benefit to the immediate Gardner neighborhood thus far. We have never been invited in, nor felt welcomed by the owner's, if their intent was to really and actually run a yoga exercise studio. We would welcome and encourage a yoga exercise studio at the under-utilized Gardner Community Center, freeing up these lots for much preferred infill housing, thus creating a win-win situation.

In the past year, Bodhi Light International has bought the properties at 796-798 Delmas Avenue (the old Dawn Market) and the property just north of those lots, at 790 Delmas Avenue, which is a single family home. Almost immediately, they installed a six to seven foot tall fence at the property line, next to the sidewalk, which is illegal. A neighbor filed a complaint with Code Enforcement, it was given a case number last Fall (prior to the COVID-19 crisis), and since that time, two sections of the fence have been lowered. The owners have put paper in the windows of the store and bright lights on the roof, none of which has added to the attractiveness of the building, in fact it has turned it into a blighted attractive nuisance within the Gardner neighborhood. Similarly, at 790 Delmas Avenue, Bodhi Light International has put black plastic bags in the windows of the house, giving it an appearance of being abandoned, even though it was being occupied by a number of individuals. These individuals have been hard to communicate with or be able to develop a typical "neighbor relationship". In the Spring, the parking strips were not maintained and became overgrown with weeds. Without knowing any better, I thought the old market and house were being used for some form of human-trafficking enterprise. Bodhi Light International has been secretive, deceptive and has not been a good neighbor within the Gardner Community.

Second, the Special Use Permit (SP20-027) is for a religious assembly. If one goes to Bodhi Light International's website (<https://www.chanpureland.org>), they have listed 796 Delmas Avenue, as a Branch Temple, not a Yoga Studio, so we know what are their true intentions, **this is merely a bait and switch maneuver**. Once approved, the "Yoga Studio" concept will be eliminated and they will operate as a religious assembly. The monks living next door in the single family home have already helped establish this fact. Please visit their website and imagine this in view of their other two BLI Branch Temples and the activities they have at each site.

Once it is a Branch Temple, and not a "Yoga Studio", parking will be out of control, as your previous analysis on parking was for the wrong purpose. Imagine the Buddhist Temple in Japantown having this level of parking! It would be an undue burden on the neighborhood, considering we have Biebrach Park and a successful Swim Program, Ant Swim School (which we fought hard to keep), at the Pool kitty-corner to this potential Branch Temple.

The neighborhood wants this particular application rejected and the City needs to analyze the property for a 24/7 religious assembly project.

This is also a tax dodge, if Bodhi Light International wants to operate a yoga studio, then do that and stop the religious assembly aspect of this project. Again, we would welcome a yoga exercise studio at the Gardner Community Center.

Also, where has the City of San Jose been supportive of converting local markets into religious assembly areas?

With all the past indignities thrust upon Gardner (Highways 280 and 87 cutting through our neighborhood, CA High Speed Rail going through our neighborhood and subsequent loss of homes, and cell phone towers being placed in our neighborhood without any mitigations for appearance or reduction in quality of life), please do not place any additional burdens on our neighborhood further reducing the very reason we all moved here in the first place. From a social justice standpoint, Gardner is saying "enough".

Please pull this item from the Consent Calendar, so that we may engage in a dialogue with public input from the Gardner neighborhood and surrounding communities.

Stay safe through these truly strange times, and thank you for your thoughtful consideration on this project.

Sincerely,

Kevin L. Christman

Former Greater Gardner Coalition Chairman (2002-2006)
Diridon Good Neighbor Committee, Gardner Representative
Visual Design Guidelines Committee, CA High Speed Rail
CA High Speed Rail Working Group Member
Station Area Advisory Group (SAAG), Gardner Representative
Diridon Area Neighborhood Group (DANG), Gardner Representative

From: Catherine Houdek <[REDACTED]>
Sent: Saturday, September 12, 2020 2:56 PM
To: Shah, Rina <Rina.Shah@sanjoseca.gov>
Subject: 796 Delmas Ave - File Nos. C20-013 & SP20-027

[External Email]

Hi Rina

I live in the neighborhood of 796 Delmas Ave and was sent a card regarding the Hearing Notice. I am unable to attend the Hearing, however I wanted to write a quick note, to say that I am in support of this change. While I suspect any religious services will create more traffic (and less parking spaces), I welcome a yoga/meditation space within our neighborhood and I would FAR rather that the building was occupied than remain empty as it has for YEARS.

Best wishes,

Catherine Houdek

September 24, 2020

Councilmember Raul Perez

Cc: Rinah Shah, Project Manager

Re: Land Use Consent Agenda Item 10.1, File No. 20-1130, City Council Meeting September 29, 2020

Dear Councilmember Perez:

We respectfully request that you pull Item 10.1 from the Land Use Consent Agenda for the City Council Meeting on September 29, 2020 out of the consent calendar to allow community input regarding this item.

As leaders of the Delmas Park neighborhood, we support our neighbors in the Gardner neighborhood in opposing rezoning ordinance number C20-013 and special use permit number SP20-027 for the property at 796 Delmas Avenue. This property is in a residential neighborhood adjacent an elementary school, a City park, and a City swimming pool. The proposed use for the property is as a religious facility. We believe that allowing this rezoning and permit would not be compatible with the existing neighborhood, and at a time of extreme housing shortage, an excellent location for infill housing would be permanently removed. Leaving this zoned as R-2 would allow for at least five dwelling units to be erected on the site, more if the adjacent parcels are consolidated. This ordinance and permit send the message that the city only pretends to be serious about addressing the housing crisis, especially in an affordable neighborhood. This is highly irresponsible.

Sincerely,

Bert Weaver
Sarah Springer
Kathy Sutherland

Delmas Park

September 24, 2020

Rina Shah, Project Manager, City of San Jose Department of Planning, Building, and Code Enforcement
Honorable Mayor Sam Liccardo
City Council

RE: Conforming Rezoning File No. C20-013 and SP20-027

Rina, Mayor Liccardo, and Members of San Jose City Council,

Although I am not a resident of the Gardner Neighborhood, these applications were recently brought to my attention and I was concerned enough to be compelled to voice my concerns. I am a 35-year resident of a nearby neighborhood, St. Leo's, which has a similar land use and demographic which has also struggled with the problems that can accompany non-residential uses granted permits to operate in a low-density residential neighborhood.

The rezoning from R-2 to CP with a Special Use Permit for religious assembly seems completely nonsensical in this time of a housing crisis. As a member of the Station Area Advisory Group, Planning Staff went out of their way to be critical of a group members who have requested shifting some of the extreme concept heights from adjacent existing neighborhoods to other areas within the Diridon Station Area by stating how many residential units would potentially be 'lost' if this were to occur. Additionally, the July and August General Plan Update Task Force meetings focusing on Opportunity Housing had task force members dismissive of residents of neighborhoods that could potentially be converted to Opportunity Housing areas who expressed concerns about the concept.

However, the Gardner Neighborhood would welcome much-needed housing on this site, especially given its location near the Virginia Street. light rail station, Gardner Academy Elementary School, Biebrach Park with a community pool and swim school, the Gardner Community Center, and within walking distance to both Downtown San Jose and Willow Glen. In fact, the two parcels currently owned by the Bodhi Light International are large enough to be reconfigured into three parcels of 5,446 square feet each. With the current R-2 zoning, each parcel could be potentially redeveloped with a duplex, two Accessory Dwelling Units, and one Junior Accessory Dwelling Unit for a potential total of *fifteen* dwelling units. It seems unwise to rezone two parcels in an established residential neighborhood for commercial and religious assembly purposes when such a large number of infill units could be built. Could the Temple not work with the underutilized Gardner Community Center with its ample parking lot to offer yoga instruction?

As part of the review for the Special Use Permit, neighborhood impacts must be considered. It seems fairly obvious that the true intention of the applicant is not to operate a yoga studio, but to operate a Branch Temple, as their website clearly states. In light of this, any impacts reviewed by staff need to be re-evaluated assuming the entire use will be religious assembly. This assembly use will be unlikely to draw predominantly from the Gardner Neighborhood and parking impacts will be widespread, especially with a city park across the street.

Please consider pulling this agenda item from the Consent Calendar so appropriate concerns may be discussed; I feel now, more than ever, residential zoning must be preserved, especially in R-2 and RM zoning, which provides such a bonus for additional units.

Sincerely,

Laura Winter


From:Mary Pizzo <[REDACTED]>
Sent:Friday, September 25, 2020 8:41 AM
To:District3 <district3@sanjoseca.gov>; Shah, Rina <Rina.Shah@sanjoseca.gov>
Cc:District 6 <district6@sanjoseca.gov>; [REDACTED];
[REDACTED]
Subject:Please withdraw Land Use Consent Agenda Item 10.1, File No. 20-1130

Mary Pizzo
[REDACTED] San Jose, CA 95125

Dear Councilmember Raul Peralez and Rina Shah

Regarding Land Use Consent Agenda Item 10.1, File No. 20-1130, City Council Meeting September 29, 2020

Please withdraw the land consent item 10.1 from the September 20, 2020 calendar because it deserves closer scrutiny by the Planning department to better meet the needs and goals for San Jose.

Raul, Gardner neighborhood needs housing on that corner. The proposal to change the zoning of 796 Delmas Ave from R2 to accommodate a religious facility is not in keeping with San Jose's commitment to provide affordable housing and would potential lose property tax revenue if allowed to be developed as a facility for a non-profit, religious organization.

Rina, Planning could work with the organization to secure a more suitable site for a religious facility / branch temple / yoga center. In that same neighborhood, the organization could be directed to lease space in the under-utilized Gardner Community Center. The community center would accommodate off-street parking and provide facilities such as restrooms and a commercial kitchen, which is suited for large gatherings. It would be a welcoming facility that could increase local interest in the organization and their work.

I appreciate your consideration of this request and look forward to hearing from the Planning department in their efforts to find a more suitable location (hopefully, in the Gardner Community Center) for this use.

Sincerely yours,

Mary Pizzo
Cc: Kevin Christman, Bill Rankin, Councilmember Dev Davis

FW: C20-013 and SP20-027 - Conforming Rezoning and Special Use Permit on Certain Real Property Located at 796 Delmas Avenue."

City Clerk <city.clerk@sanjoseca.gov>

Fri 9/25/2020 2:29 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

From: Veronica Douat [REDACTED]

Sent: Friday, September 25, 2020 10:31 AM

To: City Clerk <city.clerk@sanjoseca.gov>

Subject: C20-013 and SP20-027 - Conforming Rezoning and Special Use Permit on Certain Real Property Located at 796 Delmas Avenue."

[External Email]

Dear City Council,

I have seen the vehement opposition of the GNA neighborhood association and as a lifelong member of this community I am writing to say that GNA does not speak for the entire community.

I grew up in this neighborhood, my parents still own their home on Minor Ave. After college and law school my husband and I bought our home in this same neighborhood. I was a young kid back when Dawn Market was operational. It was a nice quaint little store that made it easy to get a treat after going swimming in the neighborhood pool. But it has not been operational now for at least 15 years if not longer. For a while another family tried to run it as a small grocery store, but that went under fairly quickly. For well over a decade it has been an eye sore, neglected, with trash dumped constantly on the lot.

Since the new owners purchased the property in 2019, they quickly built a very nice looking fence to keep transient trespassers and illegal dumpers out. They have painted over the graffiti that was all over the building and I've seen great improvements in the aesthetics of the neighborhood as a result of their efforts.

GNA's letter highlights 3 points they claim to speak for the neighborhood. They make a claim that by not reaching out to the neighborhood association and doing work on the property without permits has been detrimental to the neighborhood and proves some how beyond a reasonable doubt, that these folks are "bad neighbors." It seems to me to be an extremely conclusory statement to make. When my husband and I bought our home in the neighborhood in 2014, we did not introduce ourselves to neighbors within 6 months we had, with permits, removed a tree, built a fence, and began an extensive remodel of our property. I still don't know my neighbors by name although we politely waive to each other in recognition and mutual respect. Perhaps, we too are bad neighbors.

The second issue is regards to zoning. Although technically zoned as residential, this property has not, in my lifetime, and I am in my mid to late thirties and have lived in or frequently visited the neighborhood weekly, before my husband and I bought our home here in 2014, and I have NEVER seen that property used as a residential space. It was semi abandoned if not abandoned for well over a decade, no developer

or investor came in to turn it into a residential property despite the housing shortage and the housing market prices, so why not allow this modified use?

The third reason, why not utilize the GNA community center for the yoga studio? I just am not sure where to begin with that. Why buy when you can rent? It seems illogical to me that if they can afford to buy this property, they would choose instead to use shared community space. I don't own my home for public benefit, I didn't remodel my home for public benefit. Those are secondary effects, neighbors began painting their homes, the slum lord who owned the apartments on West William St. next to our home sold and young investors updated the building and built new fencing cleaning up the pedestrian pathway there (if only momentarily). Those "public benefits" come from private investment for private benefit.

I'm certain that all of these permit requests were underway before the current national emergency and health crisis began. The proposed use as a yoga/ meditation studio sounds great, if it is still economically feasible.

My law office is located about two blocks from St. Leo's Church on Race Street in San Jose. We had a yoga studio go in around the corner on Park Avenue. Having it available within walking distance meant that my staff and I were able to take weekly trips over for a long lunch hour and get some exercise in the middle of the day. Unfortunately as a result of the COVID-19 pandemic it closed and will not be reopening. If this facility will be used as a public or private yoga studio, religious center, temple, it would still be a better use than the eye sore that has been there for well over a decade, during a time when we had a housing shortage but no one purchased this property and converted it to a residential property use. The public benefits, whether doors are open for yoga and meditation or whether the plan is to have some sort of a temple. It is a very small building, if the yoga studio is not open to the public or if at some point after the pandemic life resumes and they are able to operate their temple and worship as they please, there is no way that is going to affect traffic as much as folks claim. you can't fit in hundreds of people the way you can at the Japantown Buddhist temple, so the analogy to that facility is rather transparent and ill fitting.

<https://www.chanpureland.org>

Bodhi Light International is a Buddhist organization with religious temples in Rosemead, CA. I FEAR that the vehement opposition from a neighborhood association that claims to speak for the neighborhood has more to do with this fact than any other. I HOPE that I am wrong. I hope that I live in a tolerant neighborhood with tolerant neighbors who are not judging this request based on the religious affiliations of the requestors or their racial or ethnic composition.

I write because I do not believe GNA speaks for me on this issue and I feel that it is important that all voices be heard.

I've spent a career advocating for the marginalized in our society. I have yet to see a good reason why anyone should be so "vehemently" opposed to this organization being part of the diverse neighborhood fabric that comprises Gardner Neighborhood. Therefore, I am compelled to speak up on their behalf.

Sincerely,

Veronica Douat, ESQ.