



SAN FRANCISCO PLANNING DEPARTMENT

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Planning Commission Motion No. 19162

HEARING DATE: JUNE 5, 2014

Date: May 29, 2014
Case No.: **2014.0489C**
Project Address: **1011 Garfield Street**
Zoning: RH-1 (Residential, House, One-Family) District
40-X Height and Bulk District
Block/Lot: 7000/001
Project Sponsor: Gary Cockrell
YMCA of San Francisco
63 Funston Ave.
San Francisco, California 94129
Staff Contact: Tina Chang – (415) 575-9197
tina.chang@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 204.2, 209.3 AND 303, TO LEGALIZE AN EXISTING CHILD CARE FACILITY PROVIDING LESS THAN 24-HOUR CARE FOR 15 OR MORE CHILDREN, LOCATED AT 1011 GARFIELD STREET WITHIN AN RH-1 (RESIDENTIAL, HOUSE, ONE-FAMILY) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 3, 2014, Gary Cockrell (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 209.3 and 303 to legalize an existing child care facility providing less than 24-hour care for 15 or more children by licensed personnel and meeting the open-space and other requirements of the State of California and other authorities. The subject child care facility is located at 1011 Garfield Street, within an RH-1 (Residential, House, One-Family) District and a 40-X Height and Bulk District. No net increase in square footage will result from the proposed project.

On June 5, 2014 the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0489C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption under CEQA.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2014.0489C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site is a one / two-story church named Lutheran Church of Our Savior located on Garfield Street at Beverly Street that also houses the subject child care facility for 37 children within 4 classrooms on the ground floor. Restrooms and outdoor play areas have been allocated for use by the child care facility.

While a child care facility has been intermittently operating out of the church since the 1980s, a conditional use authorization had never been attained to do so. This project legalizes the use.

3. **Surrounding Properties and Neighborhood.** The project site is located within an RH-1 (Residential, House, One-Family) District within the Ocean View Neighborhood, which is characterized by a mostly single-family houses on lots 25 feet in width, without side yards. Floor sizes and building styles vary, but tend to be uniform within tracts developed in distinct time periods. Though built on separate lots, the structures have the appearance of small-scale row housing, rarely exceeding 35 feet in height. Front setbacks are common, and ground level open space is generous. In most cases the single-family character of these districts has been maintained for a considerable time.
4. **Project Description.** While a child care facility has operated out of the Lutheran Church of Our Savior intermittently since the 1980's, the appropriate entitlement had never been attained. Since a child care facility providing less than 24hour care for more than 15 children is conditionally permitted in an RH-1 zoning district, the project applicant is attaining the Conditional Use Authorization to legalize the use.
5. **Public Comment.** The Department has not received any public comment regarding this project.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Institutions.** Planning Code Section 209.3 conditionally permits a child care facility.

The principal use of the subject site is a church and has been operating as such since 1946 when the building was constructed. Although a church is now conditionally permitted in an RH-1 zoning district, the use was established while a church was permitted as-of-right. However, a child care facility at the subject property was established much later without attaining the appropriate entitlements. Pursuant Planning Code Section 209.3, a conditional use authorization is required for the legalization of the existing child care facility.

- B. **Parking.** Planning Code Section 151 of the Planning Code requires one parking space for each 25 children to be accommodated at any one time, where the number of such children exceeds 24.

The proposed child care facility will provide care for a maximum of 37 children, which requires one off-street parking space per Planning Code Section 151. However, the child care is an accessory use within existing classrooms of a church that was constructed in 1946, before off-street parking requirements existed. The church possesses a legal deficiency of parking spaces. Section 150(c) of the Planning Code states that for any structure or use lawfully existing, off-street parking and loading spaces need to be provided only in the case of a major addition to such structure or use and only in the quantity required for the major addition itself. As this project does not include any addition of square footage, no new off-street parking spaces are required.

- B. **Accessory Use.** Section 204.2 of the Planning Code states that accessory uses for uses other than dwelling units in residential districts shall not:

1. Occupy more than one-fourth of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory of off-street parking and loading;

At 1,285 square feet, the child care facility does not occupy more than ¼ of the 6,177 square-foot church.

2. Use show windows or window displays or advertising to attract customers or clients, except for an identifying sign and regulated in Article 6 of the Planning Code; or

The child care will not use show windows or window displays or advertising to attract customers or clients, except for an identifying sign and regulated in Article 6 of the Planning Code.

3. Participate in the conduct of any activity of a profit-making or commercial nature, except as an integral part of the permitted principle or conditional use where such activity is expressly permitted by Sections 209.1 through 209.9 of the Planning Code; or

The child care facility will not participate in the conduct of any activity of a profit-making or commercial nature, except as an integral part of the permitted child care facility as permitted by the relevant sections of the Planning Code.

4. Operate a Medical Cannabis Dispensary as defined in Section 209.3(k) and 217(k) of the Code.

The child care facility will not operate a Medical Cannabis Dispensary as defined in Sections 209.3 and 217 of the Planning Code.

- C. **Permitted Conditional Use.** Pursuant to Planning Code Section 178, a permitted conditional use may not be significantly altered, enlarged, or intensified, except upon approval of a new conditional use application.
- D. **Modifying Conditions.** Pursuant to Planning Code Section 303 (e), authorization of a change in any condition previously imposed in the authorization of a conditional use shall be subject to the same procedures as a new conditional use.

This Conditional Use Authorization is seeking to modify the conditions of approval in Planning Commission Motion 10755, Case No. 1986.153C, specifically item 1.) under "Land use and Density" which states that an off-street parking garage for at least 78 vehicles will be provided with the subject Planned Unit Development.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:
 - A. The proposed use and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The proposed YMCA managed child care facility will replace a child care facility that did not possess the appropriate licenses or entitlements. The project will legalize the use with the subject Conditional Use Authorization while also bringing the area to be occupied by the child care facility up to Building Code. The child care facility is housed within an existing church and will not increase the building envelope. Child care is a highly-sought after service within the Ocean View neighborhood and thus considered to be necessary, desirable and compatible with the surrounding community.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The child care will operate in several existing rooms within an existing church. There are no proposed physical expansions or alterations and thus will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The project is located within an established residential district where at least 50% of the enrolled children reside and will likely access the facility by foot. Those dropped off by vehicle will do so on at the entrance on Garfield Street where they will be assisted by YMCA staff at the curb. There are plans to apply for a loading zone at this entrance to further facility loading / off-loading of children.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed child care facility will not create noxious or offensive emissions. Furthermore, outdoor play activity will be supervised and take place during the afternoon hours in areas shielded from the majority of neighboring residents so as not to disrupt the neighbors with excessive noise.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

There are no proposed changes to existing landscaping, screening, lighting or signs.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

8. Compliance with Specific General Plan Elements

Commerce and Industry Element.

- a. Objective 1 Policy 1.1 The State licensed child care facility operated as proposed will enhance the total City living and working environment by helping to address a high demand for child care services by working families and especially those within the Stonestown/Lake Merced neighborhoods. Furthermore, by operating from within the existing church building, and at the boundary of this well-established residential district and near Junipero Serra Blvd., the project minimizes any potential undesirable consequences such as traffic congestion, parking conflicts, or noise.

- b. Objective 2, P 2.1: The establishment of the subject child care facility allows families the freedom to work outside the household, and generate an income while providing early childhood education. Thus the project will both maintain and enhance a sound and diverse economic base and fiscal structure for San Francisco.
- c. Objective 3, P 3.1: The YMCA of San Francisco operates the child care facility under a State license. The YMCA provides employment opportunities for residents of San Francisco.

Government, Health & Education Services Element

- a. Objective 7, P 7.2: The proposed child care facility will provide early childhood education for 37 children of San Francisco. Also, the project requires no expansion of the existing church buildings. Outdoor activity will take place in areas of the property which are screened and separated from the majority of the surrounding residential uses.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The Project has not impact on existing neighborhood serving retail uses. The child care facility will be operated by YMCA of San Francisco, which offers employment opportunities to San Francisco residents.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The Project operates in an existing church; no alteration or expansion is required. Therefore, the project does not impact the affect the existing neighborhood character.

- C. That the City's supply of affordable housing be preserved and enhanced,

No housing will be removed for this Project.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project will not impede MUNI transit service or overburden City streets or neighborhood parking. Nearby residential parking on Beverly Street will not be overburdened because the drop off zone for children will be restricted to the Garfield Street frontage at the facility entrance. There is one residential property along this portion of Garfield.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project adds to the local economic base while not displacing other important commercial or industrial tenants.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Plans to remodel the classrooms were filed in 2013 and approved in February 2014. The State's Department of Education safety requirements have also been met.

- G. That landmarks and historic buildings be preserved.

The project does not affect any landmarks or historic buildings.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project does not include any changes to the existing building envelope and will have no negative impact on existing parks and open spaces.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014.0489C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 22, 2013, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19162. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on June 5, 2014.

Jonas Ionin
Commission Secretary

AYES: Commissioners Antonini, Sugaya, Borden, Moore, and Wu

NAYES: None

ABSENT: Commissioners Hillis, Fong

ADOPTED: June 5, 2014

EXHIBIT A

AUTHORIZATION

This authorization is to legalize an existing child care, conditionally permitted within an RH-1 (Residential, House, One-Family) District and a 40-X Height and Bulk District pursuant to Planning Code Sections 204.2, 209.3, and 303, and subject to conditions of approval reviewed and approved by the Commission on June 5, 2014 under **Motion No. 19162**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on June 5, 2014 under **Motion No. 19162**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19162** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued

as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN

3. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code applying to nonconforming uses.

MONITORING

4. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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OPERATION

6. **Community Liaison.** Prior to the implementation of the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org