



# SAN FRANCISCO PLANNING DEPARTMENT

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Subject to: (Select only if applicable)

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| <input type="checkbox"/> Affordable Housing (Sec. 415)           | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)            | <input type="checkbox"/> Other                             |

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## Planning Commission Motion No. 19224

HEARING DATE: AUGUST 14, 2014

*Date:* August 29, 2014  
*Case No.:* 2013.0385C  
*Project Address:* 1566 32<sup>nd</sup> Avenue  
*Zoning:* RH-1 (Residential, One-Family) District  
40-X Height and Bulk District  
*Block/Lot:* 1877/034  
*Project Sponsor:* Steven and Isabell Klein  
1566 32<sup>nd</sup> Avenue  
San Francisco, CA 94122  
*Staff Contact:* Jessica Look – (415) 531-2911  
[jessica.look@sfgov.org](mailto:jessica.look@sfgov.org)  
*Recommendation:* **Approval with Conditions**

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 209.3(f) AND 303 OF THE PLANNING CODE TO ALLOW A CHILD CARE FACILITY FOR 15 OR MORE CHILDREN (D.B.A. SAN FRANCISCO MONTESSORI ACADEMY) WITHIN AN RH-1 (RESIDENTIAL, ONE-FAMILY) DISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On March 29, 2014, Marsha Klein filed on behalf of property owners Steven and Isabell Klein (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 209.3(f) and 303 of the Planning Code to allow a child care facility for 15 or more children (d.b.a. San Francisco Montessori Academy) within an RH-1 (Residential, One-family), and a 40-X Height and Bulk District.

On August 14, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0385C.

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. 2013.0385C, 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 is located on the east side of 32<sup>nd</sup> Street, between Kirkham and Lawton Street, Block 1877, Lot 034. The subject property is located within the RH-1 (Residential-House, One Family) District and the 40-X Height and Bulk District. The property contains a single-family dwelling unit and also operates as a child care facility (d.b.a. San Francisco Montessori Academy) with a state license to serve up to 14 children.
3. **Surrounding Properties and Neighborhood.** The area surrounding the project site is residential in character. The neighborhood is occupied almost entirely by single family houses on lots 25 feet in width. 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. The surrounding properties are located within the RH-1 (Residential House, One-Family). Lawton Elementary School is one block away on 31<sup>st</sup> Avenue.
4. **Project Description.** The project sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 209.3(f) and 303 to convert a single family dwelling unit into a child care facility (d.b.a. San Francisco Montessori Academy) providing less than 24 hour care for 15 or more children. The proposed facility would be located within an existing single family dwelling unit which is currently owned and occupied by the project sponsors. The project sponsors currently operate the San Francisco Montessori Academy at the project site; however the project sponsors wish to expand from its current capacity of serving 12-14 children to up to 36 children. The age range of the children is 2 years to 5 ½ years.

The proposed facility will consist of play area, kitchen, etc. etc. occupying a total area of approximately 2,040 square feet. Additionally, the proposed facility will have access to an outdoor play area on the subject property. The estimate hours of the proposed facility would be Monday through Friday, from about 7:30 AM to 6:00 PM. The children would be dropped off in the morning between 8 AM and 9AM and would be pick-up is between the hours 4:00 PM and

5:30 PM. In the future it is planned to have four full time teachers and one full time director, one part time cook and one part time cleaner. All food would be prepared on site and would be organic.

The project sponsor has expressed the intention to apply for a part time passenger loading zone curb along 32<sup>nd</sup> Ave in front of the entrance of the proposed facility. According to the project sponsor, currently of the 12 children who attend the Academy, 6 are walked to the center, 1 is taken on bicycle and 5 are driven to the site. The operator will also be required to obtain a State issued license to operate the proposed child-care facility and adhere to the Child Care Center General Licensing Requirements of the State of California.

5. **Public Comment.** To date, the Department has received several phone calls and letters from adjacent neighbors with concerns of increased traffic, parking, noise, property values being lowered due to the proposed project, overall concern of conversion to a commercial use in a residential neighborhood, as well as the proximity of other child care centers. Letters of support have included the the need for additional childcare in San Francisco and in the Sunset. Finally, the Outer Sunset Merchant and Professional Association has submitted a letter in support of the 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 – Child Care Facility.** Planning Code Section 209.3(f) requires Conditional Use authorization for child care facilities 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 within the RH-1 District.

*The project sponsor seeks Conditional Use Authorization to establish a child care facility providing less than 24 hour care for more than 15 children within an RH-1(D) District.*

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 plans to provide child care for up to 36 children, which requires one off-street parking spaces per Planning Code Section 151. Subsequently the hearing, the project was modified to comply with Planning Code Section 150(e),which allows for one off-street parking space to be replaced by one Class One bicycle parking. As such, the variance request was withdrawn.*

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 new uses 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 project is compatible with the surrounding neighborhood as the proposed child care facility will occupy an existing single family residential dwelling unit that currently operates during the day as a childcare facility. The project will not expand the existing building envelope, however a rear stair will be added to the site. The use is desirable as it will provide a vital service for the residents of the neighborhood and to the City.*

- 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 project is not detrimental to the area since it does not involve any physical expansion to the existing building.*

- 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 site is located within an established residential neighborhood that is well served by public transit with five MUNI lines within approximately a ¼ mile of the site: N, 29, 16X, 71, and 71L. Additionally, the proposed child care facility is intended to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips citywide. The project sponsor also intends to apply for a part time loading zone curb in front of the child care facility's entrance facing 32<sup>nd</sup> Avenue.*

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

*The project will not create any noxious or offensive emissions, such as glare, dust, or odor.*

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

*The project does not propose any change to the existing, landscaping or lighting. Any proposed signage will be subject to the review and approval of the Planning Department.*

- 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. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## NEIGHBORHOOD COMMERCE

### Objectives and Policies

#### **OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### **Policy 1.1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

*The project would enhance the city living and working environment by providing needed child care services for residents and workers within the City. The project would also need to comply with State licensing requirements for child care facilities further minimizing possible undesirable consequences from such an operation.*

#### **OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### **Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

#### **Policy 3:**

Maintain a favorable social cultural climate in the city in order to enhance its attractiveness as a firm location.

*The project will enhance the diverse economic base of the City.*

**OBJECTIVE 3:**

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

**Policy 3.1:**

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

*The project will provide additional employment opportunities for San Francisco residents.*

**GOVERNMENT, HEALTH AND EDUCATION SERVICES**

**Objectives and Policies**

**OBJECTIVE 7:**

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENT, HEALTH, AND EDUCATIONAL SERVICES.

**Policy 7.2:**

Encourage the extension of needed health and educational services, but manage expansion to avoid or minimize disruption of adjacent residential areas.

*The proposed child care center will provide educational services for the children of San Francisco residents. No major physical expansion is proposed to the existing building and a majority of the proposed child care facility's activities will take place indoors, hence the adjacent residential uses will not be disrupted.*

9. **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.

*No neighborhood-serving retail use would be displaced by the project.*

- 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 does not involve any major physical alteration or expansion to the project site and thus will not adversely affect existing housing or character of the neighborhood.*

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

*While owner occupied housing will be removed from the housing stock, the project sponsor will provide a much needed use for the residential neighborhood. The project sponsor has also expressed the intention to maintain the residential character of the property as well as having the property be designed to allow for an easy conversion back to a single family home should the San Francisco Montessori Academy relocate or eventually close.*

- D. That commuter traffic not impedes MUNI transit service or overburdens our streets or neighborhood parking.

*The site is well served by transit. It is presumable that the employees would commute by transit thereby mitigating possible effects on street parking. In addition, the site is well served by public transit with five MUNI lines within approximately a ¼ mile of the site: N, 29, 16X, 71, and 71L.*

- 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 will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.*

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

*The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the Project site.*

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

*The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on 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.

### **SECTION 317: RESIDENTIAL CONVERSATION CRITERIA**

1. Whether the conversion of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed were owner occupied;

***Project Meets Criteria***

*The project has been owner occupied by the current owners since 1995 and presumably since 1931 when the property was built. The property has always been a single family owner occupied unit.*

2. Whether the Residential Conversion would provide desirable new non-residential use(s) appropriate for the neighborhood and adjoining district(s);

***Project Meets Criteria***

*The conversion will provide much needed day care in a family neighborhood and in a city that strives to maintain family oriented services.*

3. Whether the conversion of the unit(s) will be detrimental to the City's housing stock;

***Criteria Not Applicable to Project***

*Only one unit of owner occupied housing will be removed. The housing is not permanently affordable nor is it supportive housing.*

4. Whether conversion of the unit(s) is necessary to eliminate design, functional, or habitability deficiencies that cannot otherwise be corrected;

***Project Meets Criteria***

*The property will function better as a day care center one the dwelling unit is removed as it will allow for more space and classrooms for the children.*

5. Whether the Residential Conversion will remove Affordable Housing, or units subject to the Rent Stabilization and Arbitration Ordinance.

***Criteria Not Applicable to Project***

*The existing unit is currently owner occupied and thus not rental housing.*

**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. 2013.0385C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 14, 2014, 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. 19224. 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 August 14, 2014.

Jonas P. Ionin  
Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: August 14, 2014

**Motion No. 19224  
August 14, 2014**

**CASE NO. 2013.0385C  
1566 32<sup>nd</sup> Avenue**

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a child care facility (d.b.a. San Francisco Montessori Academy) located at 1566 32<sup>nd</sup> Avenue, 1877/034 pursuant to Planning Code Section(s) 209.3 (f) and 303 within the **RH-1** (Residential, One-Family District), and a 40-X Height and Bulk District; in general conformance with plans, dated **September 2013** and stamped "EXHIBIT B" included in the docket for Case No. **2013.0385C** and subject to conditions of approval reviewed and approved by the Commission on **August 14, 2014** under Motion No. **19224**. 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 **August 14, 2014** under Motion No. **19224**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19224** 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](http://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](http://www.sf-planning.org).*

### MONITORING - AFTER ENTITLEMENT

3. **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](http://www.sf-planning.org)*

4. **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.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## **OPERATION**

5. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement 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](http://www.sf-planning.org)*

6. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*