

PLANNING COMMISSION OF MONTEREY PARK AGENDA

REGULAR MEETING
Monterey Park City Hall Council Chambers
320 West Newmark Avenue

Tuesday
November 12, 2019
7:00 PM

MISSION STATEMENT

**The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.**

Documents related to an Agenda item are available to the public in the Community and Economic Development Department – Planning Division located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at www.montereypark.ca.gov.

PUBLIC COMMENTS ON AGENDA ITEMS

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Board Chair and Board Members may change the amount of time allowed for speakers.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER

Chairperson

FLAG SALUTE

Chairperson

ROLL CALL

Delario Robinson, Eric Brossy De Dios, Theresa Amador, Ricky Choi
and Antonio Salazar

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS. While all comments are welcome, the Brown Act does not allow the Commission to take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

[1.] PRESENTATIONS – None

[2.] CONSENT CALENDAR – None

[3.] PUBLIC HEARING

3-A. TENTATIVE MAP NO. 82850 (TM-19-05) TO ALLOW THE SUBDIVISION OF AIR-RIGHTS TO ESTABLISH AND MAINTAIN A TWO-UNIT CONDOMINIUM PROJECT IN THE R-2 (MEDIUM DENSITY RESIDENTIAL) ZONE – 520 FLORENCE AVENUE

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the Resolution approving the requested Tentative Map No. 82850 (TM-19-05), subject to conditions of approval contained therein; and
- (5) Taking such additional, related, action that may be desirable.

California Environmental Quality Act (CEQA):

The proposed project is categorically exempt from the provision of the California Environmental Quality Act (CEQA) per CEQA Guidelines § 15315 (Class 15 – Minor Land Divisions), because the Project is the subdivision of air rights for a residential two-unit condominium project. The residential units currently exist, and no new construction is proposed as part of the Project.

3-B. CONDITIONAL USE PERMIT (CU-19-07) ALLOWING OPERATION OF A CHILD DAYCARE CENTER WITHIN AN EXISTING ASSEMBLY-USE BUILDING – 2303 FINDLAY AVENUE

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the Resolution approving Conditional Use Permit (CU-19-07), subject to conditions of approval contained therein; and
- (5) Taking such additional, related, action that may be desirable.

California Environmental Quality Act (CEQA):

The proposed project is categorically exempt from additional environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines § 15301 (Class 1 – Existing Facilities) because the Project involves no expansion of an existing or former use. The Project consists of a conditional use permit for operating a daycare center within an existing assembly building; no physical improvements to the site, or any physical changes to the existing building, are proposed. Furthermore, it can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment.

[4.] OLD BUSINESS - None

[5.] NEW BUSINESS - None

[6.] COMMISSION COMMUNICATIONS AND MATTERS

[7.] STAFF COMMUNICATIONS AND MATTERS

ADJOURN

Next regular scheduled meeting on December 10, 2019.

APPROVED BY:

MARK A. MCAVOY	
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Planning Commission Staff Report

DATE: November 12, 2019

AGENDA ITEM NO: 3-A

TO: The Planning Commission
FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner
SUBJECT: A Public Hearing to consider Tentative Map No. 82850 (TM-19-05) to subdivide air-rights for a two-unit residential condominium project – 520 Florence Avenue.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the Resolution approving Tentative Map No. 82850 (TM-19-04), subject to conditions of approval; and
- (5) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from the provision of the California Environmental Quality Act (CEQA) per CEQA Guidelines § 15315 (Class 15 – Minor Land Divisions), because the Project is the subdivision of air rights for a residential two-unit condominium project. The residential units currently exist, and no new construction is proposed as part of the Project.

EXECUTIVE SUMMARY:

The Applicant seeks a tentative map to subdivide air rights to establish and maintain a two-unit condominium project at 520 Florence Avenue (the "Project"). Florence Avenue, between East Emerson Avenue and Hershey Avenue, is designated R-2 and is currently developed with a mixture of one and two-story detached and attached multi-family residential buildings and single-family dwelling units.

The R-2 (Medium Density Residential) zone allows for a density of up to two units and two units are currently constructed on the property. (The existing two detached residential dwelling units on the subject property are currently under construction and nearing completion.) Under California law, a tentative map is required to subdivide air space for separate ownership of each of the units. The existing units meet the zoning regulations and development standards.

TYPE OF ACTION (QUASI-JUDICIAL)

The recommended action is to adopt a Resolution approving a tentative map. In considering such actions, the Planning Commission acts in a quasi-judicial role. When doing so, the Planning Commission acts like a court: it applies facts gathered during a public hearing to existing law. Just like a court, the Planning Commission can only consider facts that are relevant to the case. A party appearing before the legislative body is entitled to

- Notice of the proposed action;
- Reasons for the action;
- A copy of the evidence on which the action is based; and
- The right to respond before a reasonably impartial, noninvolved reviewer.

The Planning Commission must base its decisions upon substantial evidence within the record. "Substantial evidence" generally means enough relevant information and reasonable inferences from information gathered during a public hearing that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts does not constitute substantial evidence. Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. If the Planning Commission asks irrelevant questions and bases its decision-making on such questions, a court may overturn the Planning Commission's decision and potentially hold the City liable for violating the applicant's constitutionally protected due process rights.

To approve the tentative map, the Planning Commission must find that:

- The proposed map is consistent with applicable general and specific plans;
- The design or improvement of the proposed subdivision is consistent with applicable general and specific plans;
- The site is physically suitable for the type of development and the proposed density of the development;
- The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- The design of the subdivision or type of improvements is not likely to cause serious public health problems; and

- The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

These findings are included in the draft Resolution.

BACKGROUND:

The Applicant, Jeany Hsieh, seeks a tentative map to subdivide air rights to establish and maintain a two-unit condominium project at 520 Florence Avenue, in the R-2 zone. The R-2 zone provides for moderate density housing either as attached or detached units at a density range of 0 to 16 units per acre. Properties located to the north, south, east, and west of the property are R-2 zoned lots.

The subject property is 70 feet wide and 158 feet deep, totaling 11,060 square feet in area. The property will remain as one lot. The front unit is 2,970 square feet in size and has four bedrooms; the rear unit is 3,270 square feet and has four bedrooms. The units are two stories, at a maximum height of 25 feet 5 inches. The units meet the required front and rear setback of 25 feet, 5-foot side setback for the first floor, and 10-foot side setback for the second floor.

Pursuant to Monterey Park Municipal Code (MPMC) § 21.22.050, condominium units with four bedrooms require two enclosed garage spaces plus one guest parking space per unit. Each unit has a two-car garage and two guest parking spaces are provided between the front and rear units – meeting the off-street parking requirement. The driveway onto the subject property has a width of 18 feet.

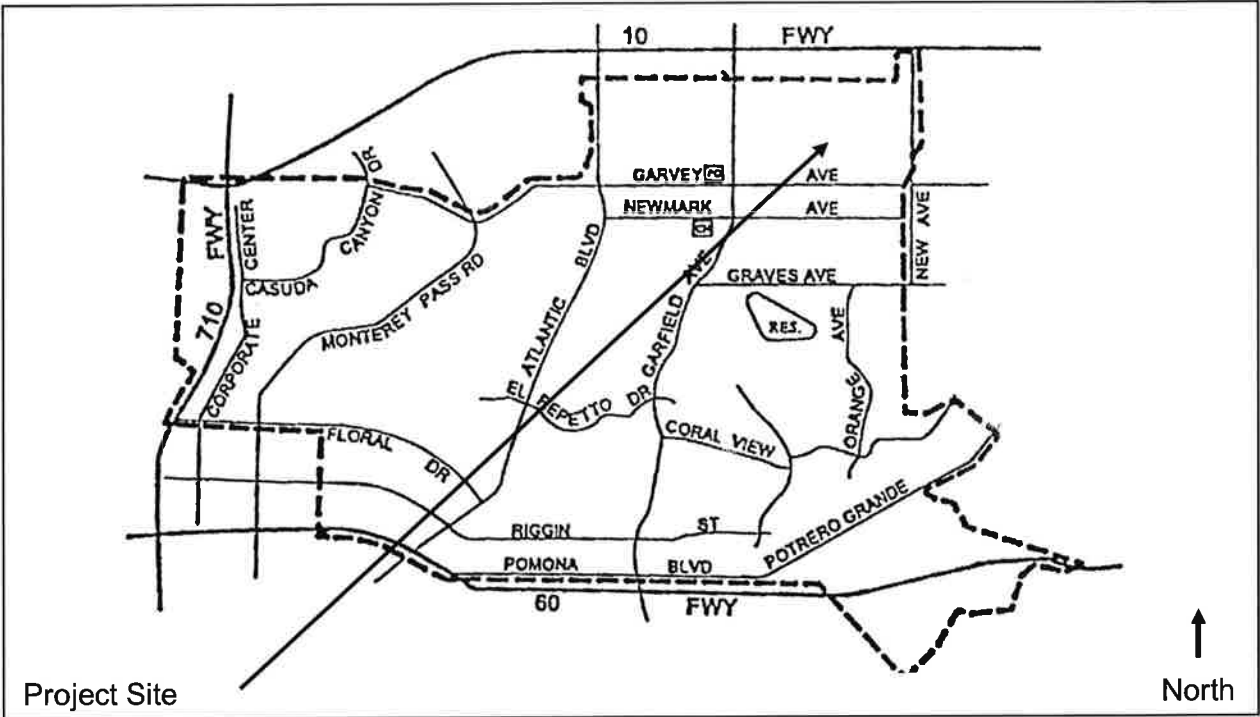
Per MPMC § 21.08.080 (Table 21.08(E)), a minimum of 400 square feet of common open space and a minimum of 250 square feet of private open space per unit is required. According to the site plan, each unit will provide at least 253 square feet of private open space adjacent to the units. The common open space area will be at least 410 square feet and will be regulated by CC&Rs and maintained by a Homeowner's Association.

The Project is in compliance with R-2 development standards. The Project design was reviewed by the Design Review Board on November 14, 2017. In accordance with MPMC Title 20 and the Subdivision Map Act (Government Code §§ 66410, *et seq.*), the Project is in compliance with map requirements; the tentative map expires at the end of 24 months (November 12, 2021).

Legal Notification

The legal notice of this hearing was posted at the subject site, City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **November 4, 2019** and published in the Wave on **November 4, 2019**, with affidavits of posting on file. The legal notice of this hearing was mailed to **74** property owners within a 300 feet radius and current tenants of the property concerned on **November 4, 2019**.

Vicinity Map



Street Map



FISCAL IMPACT:

There may be an increase in sales tax revenue and business license tax revenue. Calculations of the exact amount would be speculative.

Respectfully submitted,



Mark A. McAvoy
Director of Public
Works/City Engineer/City
Planner

Prepared by:



Samantha Tewasart
Senior Planner

Reviewed by:



Natalie C. Karpeles
Deputy City Attorney

Attachments:

- Attachment 1: Draft Resolution
- Attachment 2: Tentative Map No. 82850

ATTACHMENT 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION APPROVING TENTATIVE MAP NO. 82850 (TM-19-05) TO SUBDIVIDE AIR RIGHTS FOR A TWO-UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT AT 520 FLORENCE AVENUE.

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. On September 18, 2019, Jeany Hsieh, submitted an application pursuant to Title 20 of the Monterey Park Municipal Code ("MPMC") requesting approval of Tentative Map No. 82850 (TM-19-05) to subdivide air rights to establish and maintain a two-unit condominium project at 520 Florence Avenue ("Project");
- B. The proposed Project was reviewed by the City Planner for, in part, consistency with the General Plan and conformity with the MPMC;
- C. In addition, the City reviewed the Project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines");
- D. The City Planner completed review and scheduled a public hearing regarding the proposed Project, before the Planning Commission for November 12, 2019. Notice of the public hearing on the proposed Project was posted and mailed as required by the MPMC;
- E. On November 12, 2019, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed Project including, without limitation, information provided to the Planning Commission by City staff and public testimony, and representatives of the Applicant; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its November 12, 2019 hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds that the following facts exist and makes the following conclusions:

- A. The Applicant seeks to subdivide the air rights for a two-unit residential condominium project. There are no public easements for access within the proposed subdivision;
- B. 520 Florence Avenue is zoned R-2 (Medium Density Residential) and designated Medium Density Residential in the General Plan. The Residential Land Use category allows for traditional single-family homes as well as moderate density housing, and religious, educational, and care facilities;

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- C. The Project property is located on the east side of Florence Avenue, at the terminus of the cul-de-sac. Properties to the north, south, east, and west of the property are R-2 zoned, residentially developed lots. There are no rare plants, wild animals or cultural, historical or scenic aspects within the surrounding area; and
- D. The Project property is 11,060 square feet (0.25 acres) in area and is currently developed with two detached residential dwelling units; no new construction is proposed as part of the Project. The Project design was reviewed by the Design Review Board on November 14, 2016.

SECTION 3: *Environmental Assessment.* Because of the facts identified in Section 2 of this Resolution, the Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15315 as a Class 15 categorical exemption (Minor Land Divisions) because the Project is the subdivision of air rights for a residential two-unit condominium project. The residential units currently exist, and no new construction is proposed as part of the Project.

SECTION 4: *Tentative Map Findings.* The Commission finds as follows pursuant to Government Code § 66474 and MPMC Title 20:

- A. The proposed tentative map is consistent with applicable general and specific plans as required by Government Code § 66473.5. The tentative map for this project would result in two condominium units on the site; this is less than the maximum density of 16 dwelling units per acre for this site. Consequently, the Project complies with the General Plan. The property is located on Florence Avenue, a local street with a 50-foot right-of-way, which is adequate in size and capacity to accommodate the anticipated traffic that will be generated by the proposed development. There is no specific plan adopted for this area.
- B. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans. The design of the proposed subdivision is consistent with the General Plan in that the project is a two-unit condominium project, which is compatible with the medium density housing either attached or detached allowed in the medium density residential category. The Project design was reviewed by the Design Review Board on November 14, 2016. There is no specific plan adopted for this area.
- C. The site is physically suitable for the type of development and the proposed density of the development. The size of the property is 11,060 square feet (0.25 acres) and adequate in size to accommodate a two-unit condominium project as the R-2 Zone allows one dwelling unit for every 4,356 square feet of lot area on lots of 9,000 square feet or more (per MPMC § 21.08.080).
- D. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or

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wildlife or their habitat. The Project is bordered by residentially developed lots to the north, south, east and west. There are no rare plants, wild animals or cultural, historical or scenic aspects within the surrounding area.

- E. The design of the subdivision or the type of improvements is not likely to cause serious public health problems. The proposed Project is the subdivision of air rights for a residential two-unit condominium conversion project. The residential units currently exist, and no new construction is proposed as part of the Project.
- F. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within proposed subdivision. There are no public easements for access within the proposed subdivision.

SECTION 5: Approval. Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the Planning Commission approves Tentative Map No. 82850 (TM-19-05).

SECTION 6: Reliance on Record. Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 7: Limitations. The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 8: Summaries of Information. All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 9: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 10: A copy of this Resolution will be mailed to the Applicant, Jeany Hsieh, and to any other person requesting a copy.

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SECTION 11: This Resolution may be appealed within 10 calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

SECTION 12: Except as provided in Section 11, this Resolution is the Planning Commission's final decision and will become effective immediately upon adoption.

ADOPTED AND APPROVED this 12th day of November 2019.

Chairperson Eric Brossy de Dios

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 12th day of November 2019, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mark A. McAvoy, Secretary

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By:



Natalie C. Karpeles,
Deputy City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

520 FLORENCE AVENUE

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), Jeany Hsieh (the "Applicant") agrees to comply with the following conditions for approval of Tentative Map No. 82850 (TM-19-05) ("Project Conditions").

PLANNING:

1. The Applicant agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of TM-19-05 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of TM-19-05, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.
2. This approval is for the project as shown on the plans reviewed and approved by the Planning Commission and on file. Before the City issues a building permit, the Applicant must submit plans, showing that the project substantially complies with the plans and conditions of approval on file with the Planning and Building and Safety Division. Any subsequent modification must be referred to the City Planner for a determination regarding the need for Planning Commission review and approval of the proposed modification.
3. Tentative Map No. 82850 (TM-19-05) expires twenty-four months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of three, one year, extensions may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the City Planner at least 30 days before the expiration date.
4. The real property subject to TM-19-05 must remain well-maintained and free of graffiti.
5. Building permits are required for any interior tenant improvements.
6. Landscaping/irrigation must be maintained in good condition at all times.

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7. All enclosed garage spaces must be used for off-street parking only. There cannot be any personal storage or conversion of this space that would prevent the parking of vehicles in the enclosed garage. This condition must be included in the conditions, covenants and restrictions ("CC&Rs") recorded for this property.

ENGINEERING:

8. The applicant must record the Final Map after the City approves the final map in accordance with the MPMC and accepts any applicable bonds or agreements. A refundable \$191 cash deposit must be submitted to guarantee that developer will provide the City with one (1) transparent 4 mil thick mylar tracing, one (1) electronic file of approved final map tracings transferable to City's AutoCAD and GIS systems and two (2) blueprints of the recorded map which must be filed with the City Engineer within three (3) months of recordation. If recorded copy is not submitted by the end of the three-month time period, developer will forfeit the \$191 cash deposit.
9. The applicant/property owner must provide written proof that there are no liens against the subdivision for unpaid taxes or special assessments and submit Los Angeles County tax bill, tax payment receipt, and copy of cancelled check before filing a Final Map with the City for approval.
10. Applicant agrees to pay City any development impact fees ("DIFs") that may be applicable to the Project. Applicant takes notice pursuant to Government Code § 66020(d) that City is imposing the DIFs upon the Project in accordance with the Mitigation Fee Act (Government Code § 66000, *et seq.*). Applicant is informed that it may protest DIFs in accordance with Government Code § 66020.
11. A homeowner's association must be established.
12. Covenants Conditions & Restrictions must be prepared and filed with the City to obtain City Attorney and the City Engineer approval. Developer/owner is responsible for securing the CC&R guidelines from the Office of the City Engineer. A copy of the recorded CC&Rs must be submitted before final inspection and clearance of the building permit. The applicant must pay for the City's costs associated with reviewing the CC&Rs including, without limitation, legal costs.
13. All improvement plans, including grading and public improvement plans must be based upon City approved criteria. Benchmark references to be obtained from the Engineering Division.
14. The applicant must provide survey monuments denoting the new property boundaries and lot lines to the satisfaction of the City Engineer. All maps must be prepared from a field survey. Compiled maps are not permitted unless prior approval is granted by the City Engineer. Whenever possible, lot lines must be

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located to coincide with the top of all man-made slopes. Any deviation from this requirement must be approved by the City Engineer.

15. The developer/owner must comply with all requirements of Grading Permit #929, PW17-000342, and construct all public works improvements noted on the approved grading plan. The final grading verification form should be signed by the supervising grading engineer and submitted to the Engineering Division prior to obtaining the certificate of occupancy.

POLICE:

16. Adequate exterior lighting must be provided so that the units are visible from the street during the hours of darkness.
17. The shrubbery on the property must be installed and maintained in such condition to permit good visibility of the units from the streets. Any shrubbery surrounding the complex and in the courtyard areas must be planted and maintained where the height of the greenery would not easily conceal persons.
18. The driveway leading into the complex must be constructed and maintained in such a condition that traffic is easily visible to those entering or leaving the location.
19. Any outside ladders leading to the roof top must be secured to prevent unauthorized access to the roof.
20. Address number must be illuminated during hours of darkness and positioned as to be readily readable from the street.
21. Each distinct unit within the building must have its address displayed on or directly above both the front and rear doors.
22. All common open areas must be well lit during the hours of darkness.
23. Signs must be posted at the guest parking areas and in the driveway leading into the complex.
24. A thoroughfare for residents, guests, and any necessary emergency vehicles and/or personnel must be maintained at all times. The Monterey Park Police Department Traffic Bureau must be contacted for sign verbiage and posting locations. The Traffic Bureau Sergeant can be reached at (626) 307-1481.

By signing this document, Jeany Hsieh, certifies that the Applicant read, understood, and agrees to the Project Conditions listed in this document.

Jeany Hsieh, Applicant

ATTACHMENT 2

Tentative Map No. 82850



Planning Commission Staff Report

DATE: November 12, 2019

AGENDA ITEM NO: 3-B

TO: The Planning Commission
FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner
SUBJECT: A Public Hearing to consider a Conditional Use Permit (CU-19-07) for the operation of a child daycare center within an existing assembly use building in the R-2 (Medium Density Residential) zone – 2303 Findlay Avenue.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the Resolution approving the requested Conditional Use Permit (CU-19-07), subject to conditions of approval; and
- (5) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from additional environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines § 15301 (Class 1 – Existing Facilities) because the Project involves no expansion of an existing or former use. The Project consists of a conditional use permit for operating a daycare center within an existing assembly building; no physical improvements to the site, or any physical changes to the existing building, are proposed. Furthermore, it can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment.

EXECUTIVE SUMMARY:

The Applicant is requesting approval of a conditional use permit for the operation of a child daycare center within an existing assembly use building at 2303 Findlay Avenue. Based upon the application, it appears that the conditional use permit ("CUP") is consistent with the Monterey Park Municipal Code ("MPMC") and the General Plan.

TYPE OF ACTION (QUASI-JUDICIAL)

The recommended action is to adopt a CUP. In considering such actions, the Planning Commission acts in a quasi-judicial role. When doing so, the Planning Commission acts

like a court: it applies facts gathered during a public hearing to existing law. Just like a court, the Planning Commission can only consider facts that are relevant to the case. A party appearing before the legislative body is entitled to

- Notice of the proposed action;
- Reasons for the action;
- A copy of the evidence on which the action is based; and
- The right to respond before a reasonably impartial, noninvolved reviewer.

The Planning Commission must base its decisions upon substantial evidence within the record. "Substantial evidence" generally means enough relevant information and reasonable inferences from information gathered during a public hearing that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts does not constitute substantial evidence. Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. If the Planning Commission asks irrelevant questions and bases its decision-making on such questions, a court may overturn the Planning Commission's decision and potentially hold the City liable for violating the applicant's constitutionally protected due process rights.

To approve the CUP (per MPMC §§ 21.32.020), the Planning Commission must find that:

- The site is adequate in size, shape and topography for the proposed use including without limitation, any required yards, walls, fences, parking and loading facilities, landscaping, setbacks, and other development standards prescribed in the MPMC;
- The site has sufficient access to streets and highways, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use;
- The proposed use is consistent with the General Plan and any applicable specific plan;
- The proposed use will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other permitted uses in the City;
- The proposed use will not have an adverse effect on the public health, safety and general welfare; and
- The use applied for at the location set forth in the application is properly one authorized by conditional use permit pursuant to the MPMC.

These findings are included in the draft Resolution.

BACKGROUND AND DISCUSSION:

Applicant, The RCH Group, on behalf of the business operator, Bright Children Montessori Academy, is requesting approval of a conditional use permit to operate a child daycare center within an existing assembly use building at 2303 Findlay Avenue. The existing assembly use building is zoned R-2 (Medium Density Residential) and designated Medium Density Residential (MDR) in the General Plan. Child-care centers are permitted in the R-2 zone subject to the approval of a CUP (MPMC § 21.08.030).

The project site is located at the southwest corner of West Riggan Avenue and Findlay Avenue and is 25,380 square feet in size (0.58 acres) (excluding the Southern California Edison (SCE) easement). The Project site is comprised of three parcels: 1) A corner parcel, which is developed with a two-story assembly building constructed in 1951¹; 2) a parcel immediately south, which is the existing parking lot for the assembly use; and 3) a portion of an SCE easement area to the west. Properties located to the south are R-1 zoned lots, and north, west, and east are R-2 zoned lots. The properties located to the north include another assembly use and multi-unit residential, and to the east, west and south are multi-unit residences and Bella Vista Elementary School.

The existing assembly building is laid out in a U-shape configuration with an open courtyard between the front portions of the building. The proposed child daycare will occupy six existing rooms on the second floor of the assembly building; this floor also includes storage rooms and two restrooms (the first floor includes a dining/kitchen area, three rooms, a bookstore, an office, a sanctuary area and two restrooms.) The child daycare use anticipates serving up to 52 children between the ages of two and five. The hours proposed for the child-care use will be from 6:00 a.m. to 6:00 p.m., Monday through Friday; and the child-care center will be closed on Saturdays and Sundays. No new construction is proposed as part of this project.

The property provides 37 existing parking spaces on-site, plus 9 additional existing spaces within the SCE easement. The parking area is accessible from Findlay Avenue. According to the Applicant, pick-up and drop-off requires parents to park and sign-in or check-out the student each day, which helps to minimize traffic circulation issues. According to MPMC § 21.22120, a child daycare center requires one space per employee (minimum three spaces) plus one space per 10 children. The required number of parking spaces for this project is a minimum of 10 spaces. Because there are 46 existing parking spaces, and the assembly use only occurs on Sunday (which is when the daycare center will be closed), the existing parking spaces will be adequate for the proposed use.

To address security and alarm requirements, the Police Department included condition numbers 21 through 25 in the Resolution.

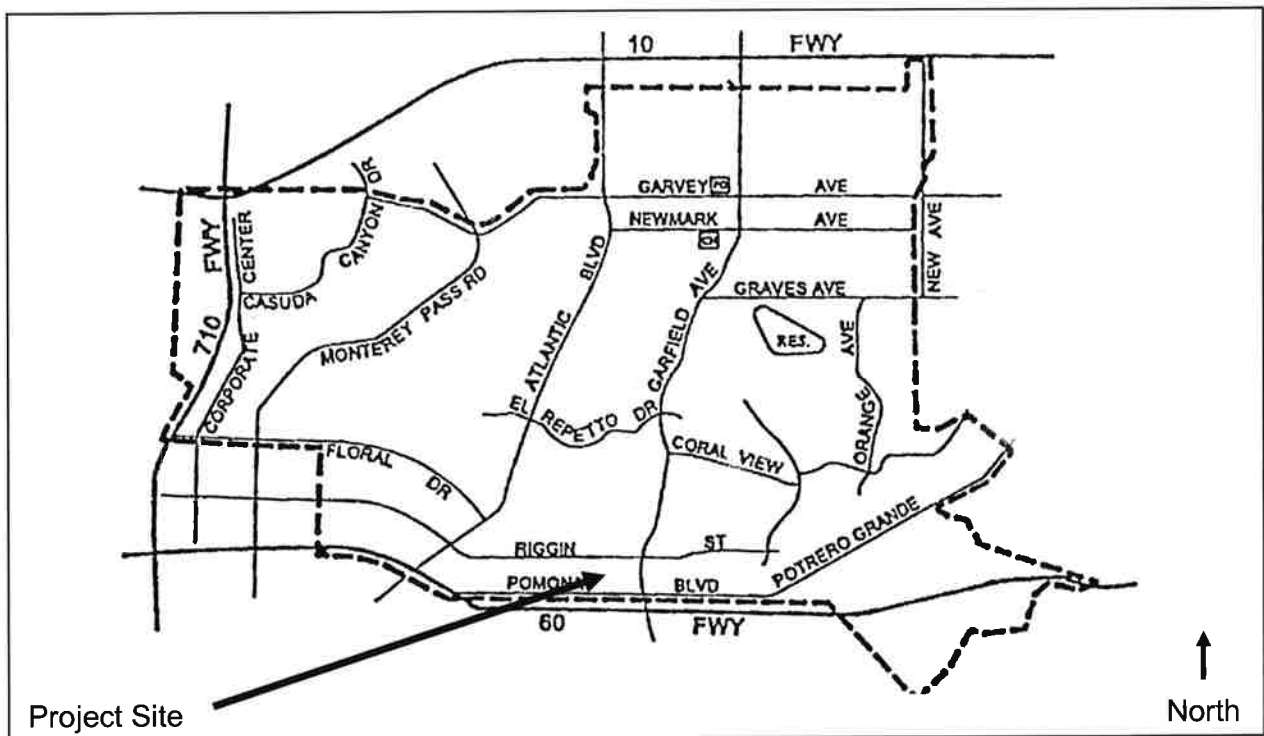
¹ In 1981, the Planning Commission adopted Resolution Nos. 55-81 and 57-81 granting a variance and CUP to allow for the construction of an approximate 2,500 square foot second story addition to an existing assembly building with a six-foot rear yard and zero side yard and with 37 off-street parking spaces. The CUP also allowed the use of 65 off-site parking spaces to serve the assembly use and allowed the SCE right-of-way area to the west to be paved and utilized as a playground area.

OTHER ITEMS:

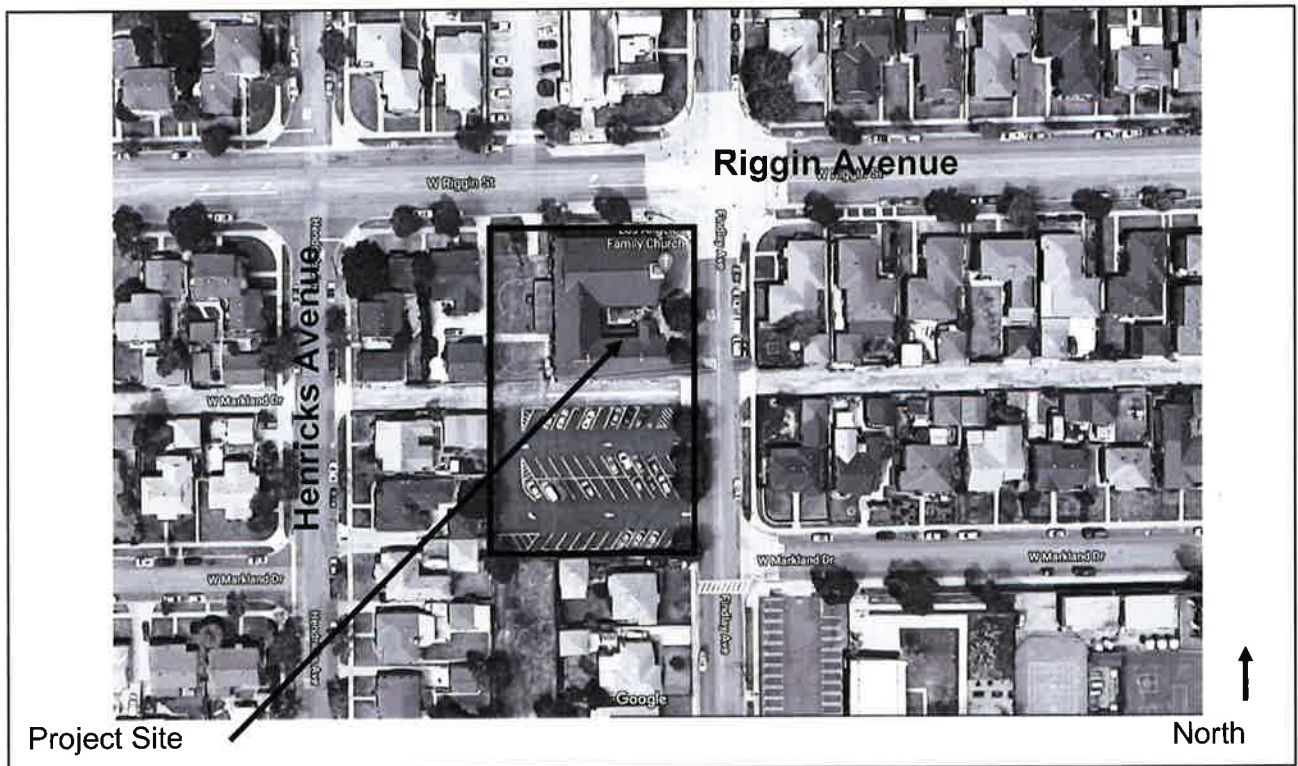
Legal Notification

The legal notice of this hearing was posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **October 29, 2019**, with affidavits of posting on file. The legal notice of this hearing was mailed to **54** property owners within a 300 foot radius and current tenants of the property concerned on **October 29, 2019**.

Vicinity Map



Aerial Map



FISCAL IMPACT:

There may be an increase in sales tax revenue and business license tax revenue, however calculations as to the exact amount would be speculative.

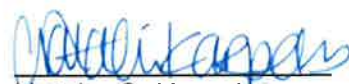
Respectfully submitted,


Mark A. McAvoy
Public Works Director/City
Engineer/City Planner

Prepared by:


Samantha Tewasart
Senior Planner

Reviewed by:


Natalie C. Karpeles
Deputy City Attorney

ATTACHMENTS:

- Attachment 1: Draft Resolution
- Attachment 2: Site and floor plans
- Attachment 3: Operation Description

ATTACHMENT 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION APPROVING CONDITIONAL USE PERMIT (CUP-19-07) ALLOWING OPERATION OF A CHILD DAYCARE CENTER WITHIN AN EXISTING ASSEMBLY-USE BUILDING AT 2303 FINDLAY AVENUE.

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. On August 19, 2019, The RCH Group, on behalf of the business owner, Bright Children Montessori Academy, submitted an application pursuant to Monterey Park Municipal Code ("MPMC") §§ 21.08.030 and 21.32.020, requesting approval of Conditional Use Permit (CU-19-07) to permit the operation of a child daycare center within an existing assembly-use building at 2303 Findlay Avenue ("Project");
- B. The proposed Project was reviewed by the City Planner for, in part, consistency with the General Plan and conformity with the MPMC;
- C. In addition, the City reviewed the Project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines");
- D. The City Planner completed review and scheduled a public hearing regarding the Project before the Planning Commission for November 12, 2019. Notice of the public hearing was posted and mailed as required by the MPMC;
- E. On November 12, 2019, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed Project, including, without limitation, information provided to the Planning Commission by City staff and public testimony, and representatives of the Applicant; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its November 12, 2019 hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds that the following facts exist and makes the following conclusions:

- A. The Applicant seeks approval to operate a child daycare center, subject to a conditional use permit. The child daycare center will occupy the second floor (approximately 2,414 square feet) of an existing two-story, 9,962 square foot assembly building. No new construction or additional square footage is proposed to either the building or the parking areas;
- B. The existing assembly-use building is zoned R-2 (Medium Density Residential) and designated Medium Density Residential in the General Plan; there is no specific plan adopted for this area. The Residential Land Use category allows for traditional

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 2 OF 5**

single-family homes as well as moderate density housing, and religious, educational and care facilities. Properties located to the south are R-1 zoned lots, and north, west, and east are R-2 zoned lots. The properties located to the north include another assembly use and multi-unit residential, and to the east, west and south are multi-unit residences and Bella Vista Elementary School;

- C. The project site is located at the southwest corner of West Riggins Avenue and Findlay Avenue. The Project site is comprised of three parcels: 1) a corner parcel, which is developed with an assembly building constructed in 1951; 2) a parcel immediately south, which is the existing parking lot for the assembly use; and 3) a portion of a Southern California Edison (SCE) easement area to the west. The total project area is 25,380 square feet (0.58 acres), excluding the SCE easement area. The property provides 46 existing parking spaces, accessible from Findlay Avenue. The required number of parking spaces for this Project is a minimum of 10 spaces;
- D. In 1981, the Planning Commission adopted Resolution Nos. 55-81 and 57-81 granting a variance and CUP to allow for the construction of an approximate 2,500 square foot second story addition to an existing assembly building with a six-foot rear yard and zero side yard and with 37 off-street parking spaces. The CUP also allowed the use of 65 off-site parking spaces to serve the assembly use and allowed the SCE right-of-way area to the west to be paved and utilized as a playground area; and
- E. The proposed child daycare will occupy six existing rooms on the second floor of the assembly building. The child daycare use will serve up to 52 children between the ages of two and five. The hours proposed for the child-care use will be from 6:00 a.m. to 6:00 p.m., Monday through Friday; and the child-care center will be closed on Saturdays and Sundays. According to the Applicant, pick-up and drop-off will require parents to park and sign-in or check-out the student each day.

SECTION 3: *Environmental Assessment.* Based upon the factual findings in Section 2, the Project is categorically exempt from CEQA per CEQA Guidelines § 15301 (Class 1 – Existing Facilities) because the Project involves no expansion of an existing or former use. The Project consists of a conditional use permit for the operation of a child daycare center within an existing assembly building; no physical improvements to the site, or any physical changes to the existing building, are proposed. Furthermore, it can be seen with certainty that no special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment.

SECTION 4: *Conditional Use Permit – Planning Commission Findings.* Based upon the findings in Section 2, the Planning Commission finds as follows pursuant to MPMC § 21.32.020:

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PAGE 3 OF 5**

- A. The site will be adequate in size, shape and topography for the proposed child daycare facility. The lot is 28,380 square feet (0.58 acres) in area, rectangular shaped, and relatively flat. The property is developed with an existing two-story 9,962 square foot assembly building, and the second story of the building is approximately 2,414 square feet. The property provides 37 existing on-site parking spaces, plus 9 additional existing parking spaces within the SCE easement area, accessible from Findlay Avenue (for a total of 46 parking spaces). The required number of parking spaces for this Project is a minimum of 10 spaces.
- B. The site has sufficient access to streets and highways and is adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed child daycare center. The property provides 37 existing on-site parking spaces, plus 9 additional existing parking spaces within the SCE easement area, accessible from Findlay Avenue. There are 46 existing parking spaces and the required number of parking spaces for this Project is a minimum of 10 spaces. The assembly use only occurs on Sunday, which is when the daycare center will be closed. Adequate parking is provided on the property and the Project does not include new construction or additional square footage. No changes are proposed to the building or parking area.
- C. The proposed use is consistent with the General Plan and any applicable specific plan. The subject property is designated Medium Density Residential in the General Plan Land Use Element, and the Residential Land Use category allows for traditional single-family homes as well as moderate density housing, and religious, educational, and care facilities. There is no specific plan adopted for this area.
- D. The proposed use will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other permitted uses in the City. Properties located to the south are R-1 zoned lots, and north, west, and east are R-2 zoned lots. The properties located to the north include another assembly use and multi-unit residential, and to the east, west and south are multi-unit residences and Bella Vista Elementary School. Pick-up and drop-off will require parents to park and sign-in or check-out the student each day, which helps to minimize traffic circulation issues.
- E. The proposed child daycare will occupy the second floor of an existing assembly building. No new construction or addition of square footage is proposed. The Police Department has included conditions numbers 21 through 25 in the Resolution to address security and alarm requirements. The proposed child-care use will not have an adverse effect on the public health, safety and general welfare.
- F. MPMC § 21.08.030 allows a child daycare within an existing assembly use building in the R-2 zone, subject to a conditional use permit. The use applied for at the

**PLANNING COMMISSION
RESOLUTION NO.
PAGE 4 OF 5**

location set forth in the application is properly one authorized by conditional use permit pursuant to the zoning regulations in the MPMC.

SECTION 5: *Approval.* Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the Planning Commission approves Conditional Use Permit (CU-19-07).

SECTION 6: *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 7: *Limitations.* The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 8: *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 9: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 10: A copy of this Resolution will be mailed to The RCH Group and to any other person requesting a copy.

SECTION 11: This Resolution may be appealed within 10 calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

SECTION 12: Except as provided in Section 11, this Resolution is the Planning Commission's final decision and will become effective immediately upon adoption.

ADOPTED AND APPROVED this 12th day of November 2019.

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RESOLUTION NO.
PAGE 5 OF 5**

Chairperson Eric Brossy de Dios

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 12th day of November 2019, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mark A. McAvoy, Secretary

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By:



Natalie C. Karpeles,
Deputy City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

2303 FINDLAY AVENUE

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), The RCH Group, will comply with the following conditions of approval for Conditional Use Permit (CU-19-07) ("Project Conditions").

PLANNING:

1. The RCH Group (the "Applicant") agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of CU-19-07 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of CU-19-07, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.
2. The conditional use permit expires 12 months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of a year extension may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the City Planner, or designee.
3. The Project is approved, and must be developed and/or used in substantial conformity with, the plans on file with the City as of the date of this Resolution and as subsequently approved by the City's Building official, unless revisions and/or additional conditions are specifically required by these Conditions.
4. The Applicant is responsible for maintaining the area adjacent to the business location and the site in general, including any parkways and alleys.
5. The property must remain well maintained and free of graffiti. Failure of the Applicant to remove graffiti within 24 hours written notice by the City will cause the City to abate the graffiti at the cost of the Applicant.
6. A copy of the Conditions of Approval for Conditional Use Permit (CU-19-07) must be kept on the premises of the establishment and presented to any authorized City official upon request.

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FIRE:

7. All conditions identified by the Fire Department must be subject to review and approval by the Fire Chief, or designee, for determination of applicability and extend to which any condition may be required.
8. Kindergarteners through 2nd grade students are not allowed on the second floor of the building unless a fire sprinkler system is provided for the second floor and all means of egress, per California Building Code (CBC) § 452.1.4, as adopted by MPMC Title 16.
9. West exit stair must be fully enclosed and have a minimum one-hour rating. Doors leading into stairwell must have a minimum one-hour rating per CBC § 1023.1, as adopted by MPMC Title 16.
10. The first-floor east stairwell exit door must swing in the direction of travel per CBC § 1010.1.2.1, as adopted by MPMC Title 16.
11. All exit hardware must be either lever or panic type per CBC § 1010.9.3, as adopted by MPMC Title 16.
12. Illuminated exit signage and lower level exit signage must be provided for egress corridors and stairwells per CBC §§ 1013.1 and 1013.7, as adopted by MPMC Title 16.
13. Emergency lighting must be provided along egress corridors and stairwells per CBC § 1008.3, as adopted by MPMC Title 16.
14. A safe dispersal area must be provided at a minimum 50-foot distance from the structure. The area must be based on three square feet per person per CBC § 452.13, as adopted by MPMC Title 16.
15. Fire alarm notification appliances must be provided throughout all areas of the E occupancy per California Fire Code (CFC) § 907.2.3.8, as adopted by MPMC Title 17.
16. Smoke detectors interconnected to the fire alarm system must be installed in all rooms used for napping per CFC § 907.2.3.9.2, as adopted by MPMC Title 17.
17. Carbon monoxide alarms must be installed in all corridors per CFC § 915.1.4, as adopted by MPMC Title 17.
18. An approved suite number must be provided in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers must be a minimum of six-inch high by ½ inch stroke and be a contrasting background per CFC § 505.1, as adopted by MPMC Title 17.

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RESOLUTION NO.**

19. Portable fire extinguishers must be installed per CFC § 906.1, as adopted by MPMC Title 17.
20. If revised plans are required, additional fees will be due for the review of the drawings.

POLICE:

21. The business must be equipped with an alarm system that covers break-ins and robberies. The alarm must be monitored by an alarm-monitoring company who will notify the Monterey Park Police Department of any break-ins or robberies. Employees must have access to a hidden button that will trigger a silent alarm, notifying the alarm-monitoring company that a robbery or break-in is taking place. The manager/owner will obtain an alarm permit from the Monterey Park Police Department. The permit may be obtained by calling the Monterey Park Police Community Services Bureau at (626) 307-1215.
22. A video surveillance camera must cover the outer perimeter of the building, all areas of the parking lot, and the main entry door to the building. The video surveillance cameras must be on and recording at all times. The video surveillance cameras must record onto a recording medium/device and such recordings must be kept for a minimum of 30 days. All recordings must be made immediately available to any law enforcement officer if requested for official purposes. Nothing in this condition will require the business owner or responsible party from violating privacy laws, as it pertains to video surveillance cameras.
23. The business owner/manager must submit a Site Security/Safety Plan to the Chief of Police. The Security/Safety Plan will outline the measures taken to protect the safety and wellbeing of the children. Items to be covered must include, without limitation:
- Means to prevent children from walking away from the school/business unattended.
 - Means to prevent unauthorized persons from entering the school/business.
 - Means to prevent child abduction from the school/business.

The business owner/manager must be required to submit and receive approval of the Safety/Security Plan from the Chief of Police, prior to opening for business.

24. The Montessori School will comply with and maintain adherence to all local, state and federal laws governing schools including, without limitation, center licensing requirements, childcare licensing requirements, and requirements regarding the hiring and training of employees.

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25. The manager/owner must be responsible for maintaining the property free of litter and graffiti.

By signing this document, The RCH Group, certifies that it has read, understood, and agrees to the Project Conditions listed in this document.

The RCH Group

ATTACHMENT 2

Site, floor, elevation plans

ATTACHMENT 3

Operation Description

Bright Children Montessori Academy
Project Description

INTRODUCTION

Bright Children Montessori Academy proposes to operate a preschool facility with the school building of an existing church located at 2301 Findlay Avenue. This would be their second location, they currently operate a preschool in Alhambra. They would be utilizing the facility when the church is not in service.

The preschool proposes to serve up to 52 children between ages of 2 – 5 years old.

PROJECT SITE AND CONSTRAINTS

The proposed preschool site is located on the west side of Findlay Avenue, between West Riggins Street and West Markland Drive. The preschool will occupy 6 classrooms. Classroom 201 – 751 square feet; Classroom 202 – 334 square feet; Classroom 203 – 469 square feet; Classroom 204 – 200 square feet; Classroom 205 – 104 square feet; and Classroom 206 – 250 square feet.

There are 4 bathrooms onsite. There will be one bathroom on first floor designated only for staff.

The dining area will be utilized for morning snack (8:30 am), lunch (11:00 – 12:30 pm) and afternoon snack (4:00 pm). The kitchen will be used between 11:00 – 12:30 pm to heat up meals.

An outdoor play space will be located on the asphalt area behind the church's school building, which will include a play structure. The play area will be completely secured by adding a new fence along West Riggins Avenue and extending the masonry wall to a height of 6 feet. The play structure will be anchored to the ground when in use but will be moveable if needed.

DAILY OPERATIONS

The preschool will be open from 6:00 am – 6:00 pm. Drop offs times will occur at 6:00 am, 8:30 am, and 9:00 am. Pick up times will occur 12:30 pm, 3:00 pm, and 6:00 pm. At full capacity, the school will operate with 1 director, 5 teachers, 3 teacher aides.