



# SAN FRANCISCO PLANNING DEPARTMENT

*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. 18539

HEARING DATE: FEBRUARY 9, 2012

*Date:* February 2, 2012  
*Case No.:* **2011.1434C**  
*Project Address:* **1050 SOUTH VAN NESS AVENUE**  
*Zoning:* Residential, Transit Oriented, Mission Neighborhood (RTO-M)  
50-X Height and Bulk District  
*Block/Lot:* 3615/053  
*Project Sponsor:* Christina Marchiel  
41 Hill Street #1  
San Francisco, CA 94110  
*Staff Contact:* Diego R Sánchez – (415) 575-9082  
[diego.sanchez@sfgov.org](mailto:diego.sanchez@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 178, 209.3(f) AND 303 OF THE PLANNING CODE TO EXPAND AN EXISTING CHILD CARE FACILITY (D.B.A. MISSION KIDS DAY CARE) PROVIDING LESS THAN 24 HOUR CARE FOR 13 OR MORE CHILDREN BY 825 SQUARE FEET TO SERVICE UP TO 33 CHILDREN WITHIN THE RTO-M (RESIDENTIAL, TRANSIT ORIENTED, MISSION NEIGHBORHOOD) DISTRICT AND A 50-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On December 22, 2011 Christina Marchiel (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 178, 209.3(f) and 303 to expand an existing child care facility (d.b.a. Mission Kids Day Care) providing less than 24 hour care for 13 or more children by 825 square feet to service up to 33 children in total within the RTO-M (Residential, Transit Oriented, Mission Neighborhood) District and a 50-X Height and Bulk District.

On February 9, 2012, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.1434C.

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

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. 2011.1434C, 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 west side of South Van Ness Avenue, between 21st and 22nd Streets. The expanded child care facility is proposed to be located within an adjunct building of the St. Mary and St. Martha Lutheran Church. The space is currently used as a child care facility and was entitled under Case 2009.0834C to provide child care to 13 or more children. The facility currently serves up to 20 children. The site provides off-street parking for its congregation at the opposite side of the lot from where the child care facility is proposed.
3. **Surrounding Properties and Neighborhood.** The properties that surround the project along South Van Ness Avenue are generally three- and four-story multi-family residences, with instances of two- and five-story buildings as well. This pattern also holds along the opposite side of South Van Ness. The zoning districts that surround the site are Residential, Mixed Moderate Density (RM-2), Residential, Transit Oriented, Mission Neighborhood (RTO-M) and Neighborhood Commercial Cluster (NC-1).

The Mission District neighborhood is a relatively densely populated area with higher levels of pedestrian traffic than many other San Francisco neighborhoods. This is also an area of vibrant commercial activity, being two blocks from Mission Street. Individuals tend to either walk or ride public transit to the area.

4. **Project Description.** The Project proposes to expand an existing child care facility (d.b.a. Mission Kids Day Care) providing less than 24 hour care for 13 or more children by 825 square feet to service up to 33 children in total. Currently the child care facility serves up to 20 children. The total proposed floor area is 1,820 square feet.

The expansion will allow the inclusion of a new classroom, food preparation area, a restroom and an isolation area. The outdoor courtyard will be improved by adding new fences, guardrails and handrails for accessibility reasons.

5. **Public Comment.** The Department received one letter of support for 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 Sections 209.3(f) requires Conditional Use authorization for child care facilities providing less than 24 hour care for 13 or more children by licensed personnel and meeting the open space and other requirements of the State of California within the Residential, Transit Oriented, Mission Neighborhood (RTO-M) District.

*The Project Sponsor intends to expand a child care facility providing less than 24 hour care for more than 13 children within the Residential, Transit Oriented, Mission Neighborhood (RTO-M) District and is seeking Conditional Use authorization.*

- B. **Parking.** Planning Code Section 151.1 allows up to one off-street parking space for each 25 children to be accommodated at any one time and does not require a minimum amount.

*Although the use is not required to provide off-street parking, there exist off-street parking spaces on the site. The existing Lutheran Church provides in excess of 20 parking spaces for its congregational members. The hours of operation of the proposed child care facility will not conflict with the peak use hours of the existing parking facility on the part of the congregational members.*

- C. **Conditional Uses: Enlargements or Alterations.** Planning Code Section 178 states that a permitted Conditional Use may not be significantly altered, enlarged, or intensified, except upon approval of a new Conditional Use application.

*The Project proposes to add approximately 825 square feet to an existing 995 square foot child care facility. This represents an 83 percent increase in the existing use, constitutes an enlargement of a permitted Conditional Use and requires a new Conditional Use authorization. The Project Sponsor is seeking Conditional Use authorization for this enlargement.*

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 proposed Project will be desirable and compatible with the surrounding neighborhood as the Project intends to use an existing facility to expand and provide a service that is needed within the neighborhood. The Project will not expand the existing building envelope and will not create any further physical impacts upon light, air or midblock open space. The use is desirable for any neighborhood as child care is generally a service in demand.*

- 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 proposed project is not detrimental to the area as there is no physical expansion of the building and the use is one that is socially beneficial and without significant physical impacts upon the surrounding area.*

- 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;

*While the Planning Code does not require that the proposed project provide off-street parking, the existing Lutheran Church does have an ample amount of off-street parking which can be used in the operation of the proposed project.*

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

*The proposed use is inherently free of noxious or offensive emissions.*

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

*Ample space for passenger loading will be maintained on site. There is no landscaping, lighting or signage as a part of this proposal.*

- 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:

## **COMMERCE AND INDUSTRY ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

#### **Policy 1:**

Encourage development, which provides substantial net benefits and minimizes undesirable consequences. Discourage development, which 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. Additionally, the project would comply with State licensing requirements for child care facilities, 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 1:**

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

#### **Policy 3:**

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

*The proposed project complements important commercial activity the City should seek to attract. Furthermore, the provision of this service is key to maintaining and attracting businesses and workers to the City as it enhances the social and cultural climate. The provision of child care is an integral component to the quality of life and location decisions of businesses and their employees.*

## **COMMUNITY FACILITIES**

### **Objectives and Policies**

#### **OBJECTIVE 3:**

ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES.

**Policy 4:**

Locate neighborhood centers so they are easily accessible and near the natural center of activity.

**Policy 7:**

Program the centers to fill gaps in needed services, and provide adequate facilities for ill-housed existing services.

*The proposed project is on the grounds of an existing church, which is a natural center of activity within both the spiritual and physical community. The site is accessible by public transit as it is two blocks from Mission Street and is also accessible by foot, given its urban location. Child care is in demand within the neighborhood and this project would help fill the gap in needed services.*

## **MISSION AREA PLAN**

### **Objectives and Policies**

**OBJECTIVE 7.1:**

PROVIDE ESSENTIAL COMMUNITY SERVICES AND FACILITIES.

**Policy 7.1.2:**

Recognize the value of existing facilities, including recreational and cultural facilities, and support their expansion and continued use.

**Policy 7.1.3:**

Ensure childcare services are located where they will best serve neighborhood workers and residents.

*The proposed Project will expand an existing childcare facility so that it may better serve the current users of the facility as well as to increase the number of community members served by the facility. The Project is located in an area that is both residential and near commercial activity, thereby reducing the time spent by parents going to and from daycare.*

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 and the proposed project can serve as a place of employment for area residents.*

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

*Because there is no physical expansion of any facilities, housing and neighborhood character will not be adversely affected. Furthermore, the addition of child care facilities further enhances the family oriented character of the surrounding area.*

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

*The project would have no adverse impact on affordable housing in the vicinity.*

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

*Due to the nature of the project there are no anticipated adverse effects upon MUNI service or on neighborhood parking.*

- 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 would cause no displacement of industrial and service sector activity and in fact has the potential to enhance the service sector by providing a service needed by workers of that sector.*

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

*Compliance with applicable structural safety and seismic safety requirements would be considered during the building permit application review process.*

- G. That landmarks and historic buildings be preserved.

*No landmarks or historic buildings would be affected by the project.*

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

*The Project will have no adverse impact on parks or open space, or their access to sunlight or vistas.*

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. 2011.1434C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 8, 2011, 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. 18539. 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.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 9, 2012.

Linda D. Avery  
Commission Secretary

AYES: Commissioners Sugaya, Fong, Antonini, Borden, Moore, and Migue

NAYES: None

ABSENT: None

ADOPTED: February 9, 2012

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow the expansion of an existing child care facility d.b.a. Mission Kids Day Care) located at 1050 South Van Ness Avenue, Lot 53 in Assessor's Block 3615 pursuant to Planning Code Section(s) 178, 209.3(f) and 303 within the RTO-M (Residential, Transit Oriented, Mission Neighborhood) Zoning District and a 50-X Height and Bulk District; in general conformance with plans, dated August 8, 2011, and stamped "EXHIBIT B" included in the docket for Case No.2011.1434C and subject to conditions of approval reviewed and approved by the Commission on February 9, 2012 under Motion No **18539**. 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 February 9, 2012 under Motion No **18539**.

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

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18539** 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

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)*

## OPERATION

4. **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)*

5. **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>*