

CITY OF ALAMEDA PLANNING BOARD  
**DRAFT RESOLUTION**

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING USE PERMIT PLN24-0280 TO ALLOW THE ESTABLISHMENT OF AN APPROXIMATELY 2,600-SQUARE-FOOT PRESCHOOL WITH AFTERSCHOOL PROGRAM AND AN OUTDOOR PLAY AREA SURROUNDED BY PERIMETER FENCING LOCATED AT 3100 CENTRAL AVENUE.

WHEREAS, an application was made on June 5, 2024, by Malyka Chop for a Use Permit to allow the establishment of an approximately 2,600-square-foot preschool with afterschool program, and an outdoor play area surrounded by perimeter fencing located within an existing church building at 3100 Central Avenue; and

WHEREAS, the application was deemed complete on August 8, 2024; and

WHEREAS, the subject property is designated as Low Density Residential in the General Plan; and

WHEREAS, the subject property is located in the R-1, Residential Zoning District; and

WHEREAS, the Zoning Administrator held a duly noticed public hearing for the project on August 19, 2024 and examined pertinent maps, drawings, and documents, and approved Use Permit Application No. PLN24-0280; and

WHEREAS, on August 27, 2024, Councilmember Herrera Spencer filed a Call for Review of the Zoning Administrator's decision to approve the Use Permit; and

WHEREAS, after giving due notice to the applicant, all interested parties, and the public, the Call for Review was considered by the Planning Board at a public hearing on September 23, 2024; and

WHEREAS, the applicant, supporters of the application, those opposed to the application and interested neutral parties were given the opportunity to participate in the public hearing; and

WHEREAS, the Planning Board held a de novo public hearing on September 23, 2024 on the application for Use Permit at which time the Planning Board considered the entirety of the record, including all submitted materials and public comments regarding the application; and

WHEREAS, the Planning Board considered the Call for Review, the public testimony, and all pertinent maps and reports and evidence in the record as a whole, and made findings to approve Use Permit Application No. PLN24-0280 as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds this project categorically exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 - Existing Facilities - operation, repair, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities involving negligible or no expansion of existing or former use. The project qualifies for this Class 1 categorical exemption in that it consists of the operation of a preschool in an existing church building that had previously been used for the same or similar purpose. Furthermore, the project involves negligible or no expansion of existing or former use (the church was previously approved to accommodate up to 90 to 150 people onsite under use permit UP-76-3). On a separate and independent basis, the project also qualifies as a Class 3 categorical exemption pursuant to CEQA Guidelines Section 15303 (e) for the construction of accessory structures consisting of the proposed fence. The Planning Board further finds that none of the exceptions to the categorical exemptions in CEQA Guidelines 15300.2 apply, i.e. the project is not in a particularly sensitive environment, there are no significant cumulative effects, there are no unusual circumstances, and there are no scenic, hazardous, or historical resource impacts; and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Use Permit application (AMC Sections 30-21.3):

- 1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development.** The building is located within the R-1, Residential zoning district, which permits preschools with a Use Permit. The proposed preschool with outdoor play yard will provide local education, daycare, and afterschool services for the local community and is compatible with nearby schools in the surrounding area. The surrounding properties to the west and east are within the R-1 District and include residential uses. The properties to the north include residential uses and the Rising Star Montessori School located on High Street. The properties to the south are within the R-1 District and includes residential homes, an existing St. Philip Neri Kindergarten school and the St. Philip Neri Church and school across the street. As conditioned, the proposed use will replace the existing church and daycare use in the building and is compatible with the R-1 zoning of the property. The proposed use will also operate similarly to the existing schools located in the area. The proposed preschool operation provides a low-intensity school use which transitions well between the existing residential uses and the existing school and church in the surrounding area. Additionally, the project provides a drop off location for students on Fountain Street to minimize impacts to Central Avenue which is the primary street in front of the property. The school provides multiple drop off and pick up opportunities throughout the day to spread out the times when students arrive to the facility. The use will also coordinate with teachers to walk students to the site from local schools in the area in order to reduce vehicle drop offs. Furthermore, the project will provide bus passes to employees and on-site bike parking for alternative modes of transportation. No new structures or changes to the exterior of the existing building are proposed as part of the project, except for a new perimeter fence. Therefore, the project is architecturally,

aesthetically, and operationally harmonious with the community and the surrounding development.

2. **The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.** The facility is located at the corner of Central Avenue and Fountain Street with readily available pedestrian access by existing sidewalks and crosswalks. The property is already served by adequate transportation and service facilities. The preschool will have a maximum capacity of 50 students. Student arrival will be spread out among morning and afternoon sessions and will not significantly generate additional traffic or service requirements. The project is located near the corner of Central Avenue and High Street which is served by AC Transit bus routes O, W and OX. Conditions of approval will require the facility to provide 2 short term and 2 long term bicycle parking spaces for customers and employees. Therefore, the proposed use is served by adequate transportation and service facilities, including pedestrian, bicycle and transit facilities.
3. **The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy.** The proposed preschool will provide local residents with accessible preschool and afterschool services and will not have a significant impact on the properties in the surrounding area. The proposed preschool operation replaces an existing church and daycare use and provides a low-intensity school use which transitions well between the existing residential uses and the existing school and church in the surrounding area. Additionally, the project provides a drop off location for students on Fountain Street to minimize impacts to Central Avenue which is the primary street in front of the property. The school also provides multiple drop off and pick up periods throughout the day to spread out the times when students arrive to the facility and coordinates student pick up groups that walk to the site to reduce vehicle drop offs. Furthermore, the project will provide bus passes to employees and on-site bike parking for alternative modes of transportation. The hours of operation are during standard business hours from 7:00 AM to 6:00 PM. The proposed use, as conditioned, will not have substantial deleterious effects on existing business districts or the local economy.
4. **The proposed use relates favorably to the General Plan and the purpose of the Alameda Point Zoning District.** The site is located within an area designated by the General Plan as Low Density Residential which permits single family detached homes with some multi-family residential buildings, accessory dwelling units, as well as childcare, schools, and religious institutions. The project is consistent with General Plan Policy Action LU-2 g which states the City should “Permit childcare facilities and services in all residential and mixed-use zoning districts.” The proposal is also consistent with General Plan Policy LU-9 which encourages “the development of a broad range of commercial businesses and services in Alameda to provide for the diverse needs of the Alameda community and reduce the need to travel off-island to acquire goods and services. The project also is consistent with General Plan Guiding Policy LU-17 encourages “reuse of existing structures to retain the structures

embodied energy and reduce the generation of waste.” The proposed preschool provides school and childcare services for the local community as part of the adaptive reuse of a vacant church building. Therefore, the project relates favorably to the General Plan.

BE IT FURTHER RESOLVED, that the Planning Board approves Use Permit application PLN24-0059 to establish a Use Permit to allow the establishment of an approximately 2,600-square-foot preschool with afterschool program, and an outdoor play area surrounded by perimeter fencing located within an existing church building at 3100 Central Avenue, subject to the following conditions:

1. Approved Uses: The Use Permit approves, with conditions, a preschool use with afterschool program with a maximum capacity of 50 students at any time during the day, and an outdoor play area surrounded by perimeter fencing with a maximum outdoor capacity of 18 students at any time during the day.
2. Building Permit Conditions: These conditions shall be printed on the first page of all building plans and improvement plans.
3. Compliance with Regulations: The approved use is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.
4. Compliance with Conditions. The applicant/property owner shall ensure compliance with all the conditions contained in this Use Permit approval. Failure to comply with any condition may result in issuance of citation, and/or modification or revocation of the Use Permit approval.
5. Changes to Approved Plans. This approval is limited to the scope of the project defined in the project description and as depicted in Exhibit 2 and does not represent a recognition and/or approval of any work completed without required City permits. Any changes to the approved scope of the project shall be submitted to the Planning, Building and Transportation Department for review and approval.
6. Final Landscaping and Fence Design: Prior to Certificate of Occupancy, the applicant shall submit a final landscaping and fence plan showing the final fence design and setback for Planning Director approval. The proposed fencing shall comply with the fencing height and visibility requirements pursuant to Alameda Municipal Code (AMC) section 30-5.14.
7. Customer Drop Offs/Pick-ups: The applicant shall implement an appointment-based customer drop off procedure to stagger customer vehicle arrivals in groups of 15-minute intervals for the morning and afternoon student drop off/pick up times.
8. Transit Passes: The applicant shall make available regional transit bus passes for employees of the preschool facility to utilize for their work commute.

9. Bicycle Parking: Applicant shall provide a minimum of two (2) short term and two (2) long term bicycle parking spaces. Bicycle rack location(s) and types shall comply with Alameda Municipal Code (AMC) 30-7.6 and City of Alameda Bicycle Facility Design Standards and final bicycle parking plan shall be approved by the Planning Director.
10. Removal of Driveway: Prior to Certificate of Occupancy, the applicant shall restore the existing driveway to curb and gutter that meets the City's requirements.
11. Change in Occupancy. The applicant shall submit a full set of plans to the Building Division for the proposed change of occupancy and the project shall comply with all the applicable codes.
12. Vesting. The Use Permit approval shall expire two (2) years after the date of approval (September 23, 2026) unless authorized construction or use of the property has commenced. The applicant may apply for a time extension, not to exceed two (2) years. An extension request shall be subject to ministerial approval by the Planning Director and must be filed prior to the date of expiration.
13. Revocation: This Use Permit may be modified or revoked by the Planning Board, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6.

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code section 66020(d) (1), these Conditions

constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The Applicant is hereby further notified that the 90-day appeal period, in which the Applicant may protest these fees and other exactions, pursuant to Government Code section 66020(a) has begun. If the Applicant fails to file a protest within this 90-day period complying with all requirements of section 66020, the Applicant will be legally barred from later challenging such fees or exactions.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning, Building, and Transportation Department a written notice of appeal stating the basis of appeal and paying the required fees.

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