



THE CITY OF
NOVATO
CALIFORNIA

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DATE: May 9, 2019
TO: City Council
City Manager
Community Development Director
FROM: Steve Marshall, Zoning Administrator
SUBJECT: Zoning Administrator's Hearing of May 9, 2019

NEW ITEM:

**ALPHA KIDS ACADEMY
P2019-028; USE PERMIT
CEQA CATEGORICALLY EXEMPT: SECTION 15301
APN 151-022-09; 1461 SOUTH NOVATO BOULEVARD**

Consider a Use Permit to allow for the operation of the Alpha Kids Academy at the existing Quest Church Facility located at 1461 S. Novato Boulevard (APN 151-022-09). The school proposes to operate from 7:30 AM until 6:00 PM and will provide pre-school services for up to 35 children throughout the day.

PRESENT

Magda Bach, Applicant on behalf of Alpha Kids Academy
David Reyes, Applicant/owner on behalf of Quest Church
Alain Etcheverry, Resident
Roberta Etcheverry, Resident
Patrick Donlan, Resident
Susie Steinmetz, Resident
Vivek Damodaran, Planner I

PUBLIC HEARING

Zoning Administrator Marshall opened the public hearing.

Zoning Administrator Marshall confirmed the applicant had an opportunity to consider the staff report and reviewed the recommended conditions of approval.

The applicant, Magda Bach, confirmed reviewing the staff report and did not have any concerns regarding the recommended conditions of approval.

Zoning Administrator Marshall briefly explained why a use permit was required and the intent of the conditions of approval.

Mrs. Bach described the proposed use and operation of the day care center.

The public comment period was opened.

Mr. Reyes provided background information on the Quest Church's original intent to provide affordable infant care program.

Mrs. Bach clarified the proposed child care center would not involve any structural modifications of the existing space. They would re-paint and clean up the space before occupying it.

Mr. and Mrs. Etcheverry noted concerns about noise. They both work from home and share a fence with the church, so they would be impacted by any noise.

Mrs. Bach explained the children would be outside in small, supervised groups in increments of about 45 minutes at set times each day. She and other staff would be on-site to address any noise related issues if required. She encouraged Mr. and Mrs. Etcheverry to call/email her directly if there is a noise concern.

Mr. Donlan noted he and his neighbors were concerned about parking and traffic issues in the neighborhood.

Mr. Reyes explained Oakmont Senior Living, just north of the site, would be constructing a new parking lot that would be for the benefit of the Quest Church. This parking lot could be available as early as September.

Mrs. Bach noted the drop-off times are phased so that not all 35 students are dropped off at the same time. She indicated that maybe 3-4 vehicles would drop-off and pick-up children in the morning, then the afternoon/evening.

Ms. Steinmetz asked if the drop-off location can be moved from the parking lot off of Garfield to the north side of the Quest Church in the new parking lot.

Mr. Reyes said the new parking lot being constructed by Oakmont Senior Living would be used as the permanent pick-up drop-off and parking area for the Quest Church and Alpha Kids.

Ms. Bach confirmed the existing parking lot off of Garfield Street would be temporarily used by Alpha Kids Academy until the new parking lot is completed by Oakmont Senior Living.

Mrs. Etcheverry asked staff what recourse is there if the applicant changes their schedule and the children are outside all day instead of the phased plan.

Zoning Administrator Marshall stated the conditions don't fix the time periods when the children will be outside. This is done to allow flexibility to change the times when children are allowed outside. If there are concerns about the operation of the daycare center and/or violations of the

conditions of approval, the use permit could be suspended or revoked. If there is a desire to substantially change the business (e.g., expand the number of children) then the applicant would be required to amend the use permit, including another noticed public hearing.

Mr. Donlan asked Mrs. Bach how many staff members would be present at the daycare center and would they be using the parking lot near Garfield Street for parking.

Mrs. Bach responded she would have four staff members, all of which would use the parking lot near Garfield Street until the new parking lot north of Quest Church became available for use.

The public comment period was closed.

Planner I Damodaran reported receiving a letter of support for Alpha Kids Academy and a phone call from a resident expressing concern about potential noise issues.

Zoning Administrator Marshall approved the use permit allowing Alpha Kids Academy to operate a child care center for up to 35 children at Quest Church located at 1461 S. Novato Boulevard (APN 151-022-09).

Zoning Administrator Marshall noted there is an appeal period of ten (10) calendar days.

The public hearing was closed.

FINDINGS

1. CEQA Finding

The applicant's request for a use permit to allow for the operation of Alpha Kids Academy at Quest Church, located at 1461 S. Novato Boulevard (APN 151-022-09), is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines pursuant to CEQA Guidelines Section 15301, Existing Facilities. CEQA Guidelines Section 15301 exempts projects consisting of the operation of private facilities involving negligible or no expansion of existing or former use.

The operation of a preschool utilizing the existing Sunday school building and grounds at 1461 South Novato Boulevard is considered to be a negligible expansion of the existing operations at Quest Church.

2. Use Permit Findings

In accordance with 19.42.050.E of the Novato Municipal Code, the Novato Zoning Administrator made the following findings as supported by the facts discussed in the staff report.

- a. The proposed use is consistent with the General Plan and any applicable specific plan;
- b. The proposed use is allowed with a use permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan’
- c. The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of the persons residing or working in the neighborhood of the proposed use;
- d. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
- e. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

ACTION TAKEN

In accordance with Section 19.42.050.E of the Novato Municipal Code, the Zoning Administrator hereby grants a use permit to Alpha Kids Academy to allow the operation of a day care facility for 35 children at the existing Quest Church Facility located at 1461 S. Novato Boulevard (APN 151-022-09).

CONDITIONS OF APPROVAL

The following conditions of approval shall be met to the satisfaction of the Planning Division:

1. This Use Permit approval shall expire two (2) years from the date of approval unless the activity authorized therein has commenced operation.
2. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City’s Cost Base Fee System. Failure to pay said fees may result in the City withholding issuance of related building permits, certificate of occupancy, and recordation of final maps or other entitlements.
3. A maximum of 35 children shall be allowed at Alpha Kids Academy.

The following conditions of approval shall be met to the satisfaction of the Building Division:

4. The applicant shall provide an exiting plan.
5. The applicant shall provide a copy of their Department of Social Services license.

6. Indemnity and Time Limitations

- a. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees, to attack set aside, void or annul the City's decision to approve the application and associated environmental determination at issue herein. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the City, and/or parties initiating or bringing such action.
- b. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, employees, and attorneys for all costs incurred in additional investigation (such as the environmental determination at issue herein or any subsequently required Environmental Document), if made necessary by said legal action and if the applicant desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
- c. The applicant indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- d. Unless a shorter period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- e. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, 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 other exactions. The applicant is hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, 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 of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

FURTHER ACTION

No further action on the application will be taken unless an appeal is filed in writing within ten (10) calendar days, along with the required filing fee.