

**RESOLUTION NO. PC-2020-12**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON APPROVING CONDITIONAL USE PERMIT AND DESIGN REVIEW APPLICATIONS AT 5627 GIBRALTAR DRIVE FOR CROSSPOINT CHURCH PRESCHOOL [P20-0740 AND P20-0741]**

**WHEREAS**, on August 14, 2020, Florence Chau, on behalf of Crosspoint Church, applied for a Conditional Use Permit to operate a preschool and Design Review to construct an outdoor playground and related site improvements located at 5627 Gibraltar Drive, Suite 100; and

**WHEREAS**, zoning for the property is PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District; and

**WHEREAS**, the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301, (Existing Facilities), 15303 (New Construction or Conversation of Small Structures), and 15304 (Minor Alterations to Land) since the project would not result in the expansion of the exterior or the building and would include the installation of small accessory structures and minor alterations to the existing site. Therefore, no additional environmental review is required; and

**WHEREAS**, on October 14, 2020, the Planning Commission held a duly-noticed public hearing and considered relevant exhibits, recommendations of the City staff concerning this application, and received testimony from the applicant and interested parties.

**NOW, THEREFORE BE IT RESOLVED** by the Planning Commission of the City of Pleasanton, based on the entire record of proceedings, including the oral and written staff reports and all public comment and testimony:

**Section 1:** Findings for Conditional Use Permit Approval

With respect to the approval of the Conditional Use Permit (Case P20-0740), the Planning Commission makes the following findings as required by Section 18.124.070 of the Pleasanton Municipal Code:

- A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.**

Some of the objectives of the zoning ordinance are to: foster a harmonious, convenient, workable relationship among land uses, protect existing land uses from inharmonious influences and harmful intrusions, and ensure that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, the Planning Commission finds the proposed preschool would be consistent with these objectives and would create more educational facilities within the City. The facility would be

operated so as to not impact or interfere with the surrounding uses in that the number of students, hours of operation, drop-off/pick-up procedures, and staffing levels would not generate substantial noise, parking demand, or traffic. In addition, there are a number of other preschools in comparable locations in Hacienda that have been found to be compatible with the surrounding businesses and uses.

The subject site is zoned Planned Unit Development – Industrial/Commercial - Office (PUD-I/C-O) District, and it is located in the Research and Development / Light Manufacturing Planning District (IPD) of Hacienda which generally has the characteristics of the City's I-P (Industrial Park) District. One purpose of the Industrial Park District is to provide locations for uses that can operate in proximity to light manufacturing, commercial, and personal services uses with minimal adverse impact. As conditioned, the Planning Commission finds the proposed preschool would be consistent with the Zoning Ordinance objectives and zoning district purposes in that it would be operated so as to not impact or interfere with the adjacent/nearby uses. The applicant would also be required to mitigate any future nuisances that may occur as a result of the proposed use.

**B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.**

As conditioned, the Planning Commission finds the proposed preschool would make a good neighbor, since there will be staggered program schedules that will off-set parking congestion during drop-off/pick-up times which will help alleviate parking and traffic impacts. There is adequate on-site parking to serve the projected peak pick-up/drop-off period, Educational facilities generally do not subject surrounding uses to heavy truck traffic, hazardous odors, high noise levels, or other objectionable influences. If the conditions of approval are followed, the Planning Commission finds the proposed establishment would not be detrimental to the adjacent/nearby uses. All streets around the subject site are designed per City standards to provide safe ingress and egress into and out of the site. In addition, there is adequate parking available to meet the project's demand. Conditions have also been included that would require the applicant to mitigate any future nuisances as a result of the proposed use.

**C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.**

The site's zoning conditionally permits preschools. Granting a CUP for the proposed use would be consistent with the City's ability to regulate zoning as listed in Chapter 18.124 of the Municipal Code. In addition, the Planning Commission finds that, as conditioned, the proposed use will comply with all

provisions and requirements of the City's zoning ordinance and the approved PUD for Hacienda.

**Section 2:** Findings for Design Review Approval

With respect to the approval of the Design Review (Case P20-0741), the Planning Commission finds that the project was reviewed and approved based on the nine criteria as required by Section 18.20.030 of the Pleasanton Municipal Code which include the following:

1. Preservation of the natural beauty of the city and the project site's relationship to it;
2. Appropriate relationship of the proposed building to its site, including transition with streetscape, public views of the buildings, and scale of buildings within its site and adjoining buildings;
3. Appropriate relationship of the proposed building and its site to adjoining areas, including compatibility of architectural styles, harmony in adjoining buildings, attractive landscape transitions, and consistency with neighborhood character;
4. Preservation of views enjoyed by residents, workers within the city, and passersby through the community;
5. Landscaping designed to enhance architectural features, strengthen vistas, provide shade, and conform to established streetscape;
6. Relationship of exterior lighting to its surroundings and to the building and adjoining landscape;
7. Architectural style, as a function of its quality of design and relationship to its surroundings; the relationship of building components to one another/the building's colors and materials; and the design attention given to mechanical equipment or other utility hardware on roof, ground or buildings;
8. Integration of signs as part of the architectural concept; and
9. Architectural concept of miscellaneous structures, street furniture, public art in relationship to the site and landscape.

With respect to the above criteria, the Planning Commission finds that the project would preserve and enhance the City's aesthetic values and ensure the preservation of the public health, safety and general welfare since it would be consistent with the allowable height, setbacks and other pertinent development standards of the PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District in which it is located.

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**Section 3:** The Planning Commission hereby approves Cases P20-0740 and P20-0741, the applications of Crosspoint Church for Conditional Use Permit to operate a preschool and Design Review to construct an outdoor playground and related site improvements at 5627 Gibraltar Drive, Suite 100, subject to the Conditions of Approval shown in Exhibit A, attached hereto and made part of this case by reference.


**Section 4:** This resolution shall become effective 15 days after its passage and adoption unless: 1) appealed prior to that time by any member of the public, or 2) if a City Councilmember wishes to review the item, pursuant to Pleasanton Municipal Code section 18.144.010, he or she must indicate their desire to review within 15 days following the date of approval, or at the next regular meeting of the City Council, whichever is later. If the majority of the City Council agrees to review the item, a further hearing shall be set pursuant to Pleasanton Municipal Code section 18.12.040 and the Council shall consider the item at that time.

**PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on October 14, 2020, by the following vote:**

Ayes: Commissioners Allen, Brown, O'Connor, Ritter  
Noes: None  
Absent: Commissioner Pace  
Abstain: Commissioner Balch

**ATTEST:**

  
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Melinda Denis  
Secretary, Planning Commission

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Herb Ritter  
Chair

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Julie Harryman  
Assistant City Attorney

**EXHIBIT A, ATTACHMENT 1  
CONDITIONS OF APPROVAL**

**P20-0740 and P20-0741  
5627 Gibraltar Drive  
October 14, 2020**

The applicant is hereby notified, as part of this approval, that (s)he is required to satisfy and maintain compliance with the conditions of approval below. Where approval by the Director of Community Development, Planning Division, Director of Engineering/City Engineer, City Attorney, Chief Building and Safety Official, Fire Department or other City staff is required, review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations, and accepted practices related to the approval. In addition to complying with the conditions below, the applicant is required to comply with all applicable federal, state, and local laws that pertain to this project whether or not specifically noted herein.

This approval is granted for a Conditional Use Permit to operate a preschool and Design Review to construct an outdoor playground and related site improvements located on Assessor Parcel No. 941-2762-024 at 5627 Gibraltar Drive. Development shall be substantially as shown on the project materials listed below:

- a. Narrative, Exhibit B, prepared by Crosspoint Church, dated "Received" on August 14, 2020, and kept on file in the planning Division of the Community Development Department.
- b. Project plans, Exhibit B, prepared by Kyle Chan Architect for Crosspoint Church, dated "Received" on August 14, 2020, and kept on file in the Planning Division of the Community Development Department.
- c. Qualitative Health Risk Memorandum, Exhibit B, prepared by Yorke Engineering, LLC for Crosspoint Church, dated "Received" on August 14, 2020, and kept on file in the Planning Division of the Community Development Department.
- d. A Common Area Landscape and Parking Agreement, dated "Received" on August 14, 2020, and kept on file with the Planning Division of the Community Development Department.

The project materials listed above are collectively the "Approved Plans."

**THIS APPROVAL IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **APPROVAL AND REVISIONS:** The proposed use and development shall be in substantial conformance with the "Approved Plans," except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance with the approved exhibits.
2. **EXPIRATION – CONDITIONAL USE PERMIT/DESIGN REVIEW:** This Conditional Use Permit (CUP) and Design Review approval will lapse and shall become void 1 year following the date on which the applications became effective, unless prior to the expiration of 1 year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the CUP and Design Review applications; or a certificate of occupancy is issued for the structure which was the subject of the CUP and Design Review applications; or the site is occupied if no building permit or certificate of occupancy is required; or the applicant or

his/her successor has filed a request for extension with the Zoning Administrator pursuant to the provisions of the Pleasanton Municipal Code.

3. **APPEAL PERIOD:** The building permit submittal will only be accepted after completion of the appeal period provided in the Municipal Code unless the applicant submits a signed statement acknowledging the plan check fees may be forfeited in the event the approval is overturned on appeal, or the design is significantly changed as a result of the appeal. In no case will a building permit be issued prior to the expiration of the appeal period.
4. **LIABILITY AND INDEMNIFICATION:** To the extent permitted by law, the project applicant shall hold harmless, defend (with counsel acceptable to the City), and indemnify the City, its City Council, its officers, commissions, employee and agents from and against any claim, action, or proceeding brought by a third party against the indemnified parties and/or the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including without limitation, reimbursing the City its attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

### **PLANNING DIVISION – 925-931-5600**

#### **Site Development and Building Design**

5. **BUILDING MATERIALS AND COLORS:** The building materials and colors in the Approved Plans shall be stated on the building permit plans.
6. **FENCE/WALL:** All fencing and walls shall be shown on the construction plans with the building permit submittal. The design and location must be approved by the Planning Division and comply with all setback requirements.

#### **Construction Practices and Noticing**

7. **WORK HOURS:** All demolition and construction activities, inspections, plan checking, material delivery, staff assignment or coordination, etc., shall be limited to the hours of 8 a.m. to 5 p.m., Monday through Saturday. No construction shall be allowed on State or Federal Holidays or Sundays. The Director of Community Development may allow earlier "start times" or later "stop times" for specific construction activities, e.g., concrete pouring. All construction equipment shall meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices. Prior to construction, the hours of construction shall be posted on site.

#### **Conditional Use Permits**

8. **CAPACITY:** Crosspoint Church Preschool shall be limited to a maximum of 49 preschool students on-site at any given time. **(Project Specific Condition)**
9. **OPERATION:** Crosspoint Church Preschool shall be closed for a one-week time in summer when Crosspoint Church Vacation Bible School is in session. **(Project Specific Condition)**
10. **NOISE:** The applicant shall keep all exterior doors of the tenant space closed when not being used for ingress/egress purposes. **(Project Specific Condition)**

11. OUTDOOR PLAY: The outdoor playground shall be limited to the hours of 9 a.m. to 5 p.m. daily with a maximum capacity of 20 students at one time. **(Project Specific Condition)**
12. DIAPER DISPOSAL: Dirty diapers shall be placed in airtight bags before depositing the diapers in the trash bin. **(Project Specific Condition)**
13. PARKING: Parents and guardians shall park in parking stalls when dropping off or picking up students. No double parking, parking in non-designated stalls, or curbside drop-off and pick-up shall be permitted. **(Project Specific Condition)**
14. MAINTENANCE: The applicant shall maintain the subject property or if applicable, the area surrounding the tenant space, in a clean and orderly manner at all times.
15. MODIFICATIONS: If additional hours of operation or activities beyond what is stated in the "Approved Plans" are desired, prior City review and approval is required. The Director of Community Development may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
16. CONDITIONAL USE PERMIT REVIEW: If the operation of this use results in conflicts pertaining to parking, noise, traffic/circulation, or other factors, at the discretion of the Director of Community Development, this conditional use permit may be submitted to the Planning Commission for their subsequent review at a public hearing. If necessary, the Planning Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit.
17. PRESCHOOL LICENSE APPROVAL: The applicant shall obtain State license approval for the preschool portion of the business prior to commencing enrollment, and provide a copy to the Planning Division upon receipt from the State. The facility shall enroll only the number of children for which it has a State license. **(Project Specific Condition)**
18. EXTERIOR CHANGES: Changes to the exterior of the building shall not be made without prior approval from the Planning Division.
19. RELOCATION: If the applicant wishes to relocate the use to a new address or tenant suite, the applicant shall secure a new conditional use permit prior to occupying the new building or tenant space.
20. IMPACT FEES: The applicant shall pay the required sewer fees, traffic impact fees, and all other fees the proposed use may be subject to prior to building permit issuance. The type and amount of the fees shall be those in effect at the time the building permit is issued.

**FIRE DEPARTMENT – 925-454-2361**

21. FIRE CODE: All construction shall conform to the requirements of the 2016 Pleasanton Fire Code and local ordinances. All required permits shall be obtained prior to work commencement.
22. SITE SAFETY: Site safety during construction shall be in accordance with Fire Code chapter 33.

## **ENGINEERING DEPARTMENT – 925-931-5656**

23. FEMA FLOOD ZONE: According to Flood Insurance Rate Map 06001C0317G as published by the Federal Emergency Management Agency (FEMA), this property is within Zone X, an area subject to flooding from a 100-year flood recurrence interval storm event. FEMA regulations prohibit electrical and/or mechanical equipment within the flood zone unless said equipment is protected from flood damage or elevated above the flood elevation. This requirement is applicable only to the proposed exterior playground area since the building is existing. **(Project Specific Condition)**
24. EXISTING PERMANENT NON-REVOCABLE EASEMENT: The exterior preschool playground area is proposed on Parcel 4 of Parcel Map 6109 (APN 941-2762-26), a common area subject to a separate instrument "Permanent Non-Revocable Easement". The applicant shall work with the common area owners to amend this easement such that the playground area is removed from common area maintenance and instead maintained by the Crosspoint Church. This easement revision shall be completed prior to operation of the preschool. **(Project Specific Condition)**
25. DAMAGE TO EXISTING PUBLIC AND PRIVATE IMPROVEMENTS: The applicant shall repair damage to existing public and private improvements on and near the project site and along the haul route at their full expense caused by construction activities as determined and to the satisfaction of the Director of Engineering/City Engineer and prior to the City Council acceptance of public improvements.

## **LANDSCAPE ARCHITECTURE DIVISION – 925-931-5672**

26. TREE BOND: Any tree affected by development/construction must be protected per the Municipal Code. The applicant shall post cash, letter of credit, or other security satisfactory to the Director of Engineering/City Engineer, for all Heritage Trees and any other significant tree as deemed by the City Landscape Architect. This bond or security will be for the value of the tree, up to a maximum of \$25,000, and shall be held for a minimum of 1 year following acceptance of public improvements of completion of construction, whichever is later, and shall be forfeited if the trees are destroyed or substantially damaged. An arborist shall be onsite during any tree work (i.e. root pruning, trimming, setting up tree protection, etc.). The bond or security may be released early with a certification letter by the arborist confirming he/she was present during said tree work and work was performed in accordance with the arborist's recommendations.
27. PROJECT PLANS: The following statements shall be printed on the demolition, grading and landscape plans where applicable to the satisfaction of the City Landscape Architect prior to issuance of building permits:
  - a. No existing tree may be trimmed or pruned without prior approval by the City Landscape Architect.
  - b. Utilize best efforts to locate any new utility trenches outside of the existing canopy of the trees to be saved. If this is not feasible, the applicant shall submit a report from a certified arborist acceptable to the City indicating trenching will not be detrimental to the health of the tree.
  - c. Nothing may be stored within the dripline of the tree canopies. This includes equipment, oil, gas, chemicals, harmful materials, fill or storage.
  - d. No oil, gasoline, chemicals, or other harmful materials shall be deposited or disposed within the dripline of the trees or in drainage channels, swales, or areas that may lead to the dripline.
  - e. No sign, wires, or ropes shall be attached to the trees.



- f. No stockpiling/storage of construction materials, fill, etc., shall take place underneath or within 5-feet of the dripline of the existing trees.
- g. No equipment or temporary structures shall be placed within or beneath the dripline of the existing trees.

Failure to comply with these requirements may result in a "stop work order."

**TRAFFIC ENGINEERING DIVISION – 925-931-5677**

- 28. **TRAFFIC IMPACT FEES:** Traffic Engineering may monitor trip generation during preschool operation at the project site, as warranted. Should Traffic Engineering observe additional trips during its observations in the PM peak hours, the City Traffic Engineer may require the applicant to pay for a trip generation "after study" to be completed by the City's on-call transportation consultant. If the trip generation "after study" is reflective of the applicant's August 14, 2020 narrative no further action will be needed. If the trip generation is greater than what was stated in the narrative, the applicant shall be required to pay the City's Traffic Impact Fees associated with the additional trips upon receipt of a written notice from the City and/or have their use permit brought back to Planning Commission for subsequent review (***Project Specific Condition***)

**BUILDING AND SAFETY DIVISION – 925-931-5300**

- 29. **BUILDING AND FIRE CLEARANCE:** Prior to issuance of a business license, the applicant shall contact the Building and Safety Division and the Fire Department to ensure the proposed use of the tenant space meets Building and Fire Code requirements. If required, the applicant shall obtain all appropriate City permits.

[end]