

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP23-02020;  
DELARAM MOUSAVI AND NIMA RAFIBAKHSH (APPLICANTS AND OWNERS)**

FINDINGS

A. Growth Management Performance Standards

1. Traffic: Policy 4-c under the Growth Management Program (GMP) requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. A child care center consisting of 48 children will generate 37 AM and 38 PM peak-hour trips, which is less than the threshold for requiring a traffic study. Thus, a child care center consisting of 30 children would generate less peak-hour trips and therefore, a traffic impact analysis is not required.
2. Water: The GMP requires new development to demonstrate that adequate water quantity and quality can be provided. The child care center will be using an existing building with no expansion of the building. Therefore, the project will not substantially increase demand for water.
3. Sanitary Sewer: The GMP requires that new development demonstrate that adequate sanitary sewer quantity and quality can be provided. The project is not expected to produce an unmanageable added capacity demand on the wastewater system, nor interfere with existing public facilities. The Central Contra Costa Sanitary District will review and approve the plans prior to submittal of a building permit.
4. Fire Protection: The fire protection standards under the GMP require that a fire station be within one and one-half miles of development in urban, suburban and central business district areas, or requires that automatic fire sprinkler systems be installed to satisfy this standard. The child care will be using an existing building with no expansion of the building but will comply with the requirements of the Fire Protection District. Thus, the project will not significantly increase the demand for fire protection services.
5. Public Protection: The project will not increase the demand for police service facilities, as the project will not add to the population of the County.
6. Parks & Recreation: The project will not increase the demand for parks or recreation facilities, as the project will not increase the housing stock in the County.
7. Flood Control & Drainage: The subject property is not located within a 100-year flood area as determined by the Federal Emergency Management Agency. In

addition, the project does not involve the removal, construction, or alteration of any dams or levees within the County. Therefore, further analysis in relation to increased flood risks as a result of the project is not required.

B. Land Use Permit Findings

1. *The proposed project shall not be detrimental to the health, safety and general welfare of the County.*

Project Finding: The child care center will be located in an existing residential building at the edge of a residential neighborhood and near multiple commercial and retail businesses. A child care center within a residential neighborhood is allowed with the approval of a land use permit and is encouraged in such neighborhoods. The project site will be improved to provide a parking area consisting of nine spaces (where eight spaces are required), access to the site from Mayhew Way and exiting on Woodlawn Drive, and an enclosed play area that is located away from neighboring residences. A child care center with a maximum of 30 children will not add any significant demands on the neighborhood resources, nor be detrimental to the health, safety, and general welfare of the County.

2. *The proposed project shall not adversely affect the orderly development within the County or the community.*

Project Finding: The child care center will use an existing single-family residence, provide parking spaces, and install site improvements. Parking will be provided at the rear of the building, accessed from Mayhew Way and exits on Woodlawn Drive. The enclosed play area is located on Woodlawn Drive and Mayhew Way, away from neighboring residences. As conditioned, the child care center for a maximum of 30 children will not affect adjacent properties that are designated residential nor conflict with other land uses within the surrounding area.

3. *The proposed project shall not adversely affect the preservation of property values and the protection of the tax base within the County.*

Project Finding: The child care center will not be detrimental to other properties in the area. The child care is using an existing single-family residence. Currently, the existing residence is being used as a large family child care home that has a maximum capacity for 14 children, which is permitted by right. Child care centers can be found within residential neighborhoods. There are many single-family residences and multi-family properties in the neighborhood that will utilize the child care center. Therefore, a child care center with a maximum of 30 children shall

not adversely affect the preservation of property values and the protection of the tax base within the County.

4. *The proposed project as conditioned shall not adversely affect the policy and goals as set by the General Plan.*

Project Finding: The subject property is located within the Single-Family Residential-High Density (SH) land use designation. The intent of this land use designation is to allow for detached single-family homes and accessory buildings and structures. Secondary uses generally considered to be compatible with high density homes may be allowed, including home occupations, small residential care and child care facilities, churches and other similar places of worship, accessory dwelling units, and other uses and structures incidental to the primary uses. Additionally, the project to allow 30 children is also consistent with Policies 7-148 and 7-151 of the General Plan that encourages child care facilities. Therefore, the child care center as conditioned does not adversely affect the policy and goals as set by the General Plan.

5. *The proposed project shall not create a nuisance and/or enforcement problem within the neighborhood or community.*

Project Finding: The child care center will be using an existing single-family residence and provide the required off-street parking. Although it is within a residential area, the child care center will be operating from 7:00 am to 6:00 pm, Monday - Friday. To reduce noise impacts, outdoor play will be staggered so fewer children are outside at the same time and the play area is located on Woodlawn Drive and Mayhew Way, away from the adjacent neighbors. Therefore, the child care center will not create any nuisance or enforcement problem with the neighborhood.

6. *The proposed project as conditioned shall not encourage marginal development within the neighborhood.*

Project Finding: The child care center is using an existing single-family residence, and no additional footprint is proposed other than interior and exterior renovations, and site improvements. A child care center is permitted with the approval of a land use permit. Therefore, the child care center as conditioned shall not encourage marginal development within the neighborhood.

7. *That special conditions or unique characteristics of the subject property and its location or surroundings are established.*

Project Finding: The subject property is a residentially zoned property with an existing single-family residence. The child care center is using the existing residence with minor improvements to the interior and exterior of the residential building, as well as the construction of parking spaces and site improvements. A child care center will not alter the characteristics of the surrounding area, as the property is located in a transitional area of multiple-family residential zoning district and commercial and retail uses. Thus, the unique characteristics of the subject property and its location are established.

C. Variance Findings

1. *Any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.*

Project Finding: The granting of a variance to allow a 24-foot-wide driveway aisle (where 25 feet is required for one-way traffic) will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located. Nine parking spaces will be provided (where eight parking spaces are required). There would still be sufficient circulation in the parking area, even if reduced by one foot. Thus, the variance would not constitute a grant of special privilege.

2. *Because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.*

Project Finding: The existing residential building will be used for the child care center and there will be no addition to the building. In fact, the rear yard patio cover will be demolished to accommodate the nine parking spaces provided. The driveway aisle width for the parking spaces is restricted by the existing location of the residence. Thus, strict application of the off-street parking regulations would deprive the subject property of the rights enjoyed by other properties in the immediate vicinity and within the identical land use district.

3. *Any variance authorized shall substantially meet the intent and purpose of the*

*respective land use district in which the subject property is located.*

Project Finding: The intent and purpose of the Single-Family Residential-High Density (SH) land use district allows detached single-family homes and accessory buildings and structures. Secondary uses generally considered to be compatible with high density homes may be allowed, including home occupations, small residential care and childcare facilities, churches and other similar places of worship, accessory dwelling units, and other uses and structures incidental to the primary uses. The child care center is also an allowed use within the R-10 residential zoning district with approval of a land use permit. The off-street parking ordinance requires one parking space per every 250 square feet of gross floor area for a child care center. The gross floor is 1,919 square feet, which requires eight (8) off-street parking spaces. The project will provide nine (9) spaces. The child care center will be utilizing an existing residential building, with interior and exterior renovations, and site improvements. Therefore, the variance to the driveway aisle width meets the intent and purpose of the R-10 zoning district and the SH general plan land use designation.

### **CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP23-02020:**

#### Project Approval

1. This Land Use Permit to allow a child care center for a maximum of 30 children within an existing residential building, as generally described in the application materials received by the Department of Conservation and Development, Community Development Division (CDD) on May 31, 2023, and the revised plans received January 3, 2024 is APPROVED.

Approval is granted to allow for the following variances that meet the requirements of Section 26-2.2006 of the County Ordinance Code:

- 24-foot driveway aisle width (where 25 feet is required) for one-way travel.

#### General Provisions

2. Any deviation from or expansion beyond the limits of this permit approved under this application will require the review and approval of CDD and may require the filing of a new Land Use Permit application.
3. No more than 30 children shall attend the child care center at a given time.

4. The hours of operation are from 7:00 am to 6:00 pm, Monday through Friday. Except as provided herein, the facility may not be utilized for gatherings of more than 20 people after operating hours (i.e., between 6:00 pm and 7:00 am the following morning) or on the weekends or holidays. The facility may host one such gathering per calendar month. Any such gathering must conclude before 9:00 pm. The operator shall provide written notice of the date and time for the gathering to properties within 300 feet of the facility not later than 5 days prior to the date of the gathering.

#### Indemnification

5. The applicant shall indemnify, defend (with counsel reasonably acceptable to the County), and hold harmless the County, its boards, commissions, officers, employees, and agents (collectively "County Parties") from any and all claims, costs, losses, actions, fees, liabilities, expenses, and damages (collectively, "Liabilities") arising from or related to the project, the applicant's land use permit application, the County's discretionary approvals for the project, including but not limited to the County's actions pursuant to the California Environmental Quality Act and planning and zoning laws, or the construction and operation of the project, regardless of whether those Liabilities accrue before or after project approval.

#### Transportation Demand Management

6. The project shall comply with the non-residential project section of the County's Transportation Demand Management (TDM) Ordinance. Prior to CDD stamp-approval of plans for issuance of a building permit or the start of the child care center, whichever occurs first, the applicant shall provide evidence that demonstrates compliance with the TDM for the review and approval of CDD.

#### Parking

7. The number of off-street parking spaces required is eight (8) spaces. The project provides nine (9) spaces.
8. Landscaped area within or adjacent to a parking area must be bordered by a curb that is at least six inches high and at least six inches wide. Each curb must be constructed of the same material that is used to pave the parking area.
9. The 15' x 18' area adjacent to Mayhew Way and the accessible parking space shall remain landscaped.
10. The applicant shall have a staff monitor and assist children during drop-off/pick-up times.

11. The operator shall require parents or guardians of children at the facility to sign an agreement stating that parking within the neighborhood is prohibited and that children shall be dropped off at designated drop-off areas only. A draft of this agreement shall be provided for the review and approval of CDD **prior to issuance of a final building permit**. A copy of the signed agreement shall be kept for as long as the children are enrolled at the facility.

#### Signage

12. Any proposed signage shall require the review and approval of CDD.
13. Exterior signage shall be limited to one (1) sign with a maximum size of five square feet. The location and design of the sign shall be submitted to CDD prior to placement of the sign on the property and shall conform to the location requirements of the Contra Costa County Sign Ordinance, Chapter 88-6.

#### Parking Area Lighting

14. Exterior lighting for the parking area shall be directed downward and away from adjacent properties. The location and design of the lighting shall be submitted for the review and approval of CDD prior to installation of the lights.

#### Payment of Fees

15. This application is subject to an initial application deposit of \$5,500.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first. The applicant may obtain current costs by contacting the project planner. If the applicant owes additional fees, a bill will be sent to the applicant shortly after permit issuance.

#### Construction Restrictions

16. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)

Birthday of Martin Luther King, Jr. (State and Federal)  
Washington’s Birthday (Federal)  
Lincoln’s Birthday (State)  
President’s Day (State)  
Cesar Chavez Day (State)  
Memorial Day (State and Federal)  
Juneteenth National Independence Holiday (Federal)  
Independence Day (State and Federal)  
Labor Day (State and Federal)  
Columbus Day (Federal)  
Veterans Day (State and Federal)  
Thanksgiving Day (State and Federal)  
Day after Thanksgiving (State)  
Christmas Day (State and Federal)

For specific details on the actual day the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California Holidays: <http://www.ftb.ca.gov/aboutftb/holidays.shtml>

17. The contractor and/or developer shall comply with the following construction, noise, dust and litter control requirements.
- A. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
  - B. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
  - C. Transportation of heavy equipment and trucks shall be limited to weekdays between the hours of 9:00 A.M. and 4:00 P.M. and prohibited on State and Federal holidays.
  - D. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.



**PUBLIC WORKS CONDITIONS OF APPROVAL FOR PERMIT LP23-2020**

**Applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development on May 31, 2023.**

**COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT AND/OR PRIOR TO INITIATION OF THE USE PROPOSED UNDER THIS PERMIT.**

**General Requirements:**

18. The applicant shall submit improvement plans prepared by a registered civil engineer to the Public Works Department and pay appropriate fees in accordance with the County Ordinance and these conditions of approval. The below conditions of approval are subject to the review and approval of the Public Works Department.

**Roadway Improvements (Mayhew Way and Woodlawn Drive):**

19. The applicant shall construct a curb, 5-foot sidewalk, necessary longitudinal and transverse drainage and pavement widening and transitions along the frontage of Mayhew Way. The applicant shall construct the face of curb 20 feet from the road centerline.

20. The applicant shall construct a curb, 5-foot sidewalk, necessary longitudinal and transverse drainage and pavement widening and transitions along the frontage of Woodlawn Drive. The applicant shall construct face of curb 16 feet from the road centerline.

21. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Mayhew Way and Woodlawn Drive. Concrete shall be saw-cut prior to removal. Existing lines and grade shall be maintained. New curbs and gutters shall be doweled into existing improvements.

**Access to Adjoining Property:**

Proof of Access

22. The applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the

construction of off-site, temporary, or permanent, public, and private road and drainage improvements.

#### Encroachment Permit

23. The applicant shall obtain an encroachment permit from Public Works for construction of driveways or other improvements within the right-of-way of Mayhew Way and Woodlawn Drive.

#### Site Access

24. The applicant shall only be permitted access at the locations shown on the approved site/development plan. Ingress to the site is limited to the Mayhew Way and egress is limited to Woodlawn Drive. These restrictions shall be signed and marked accordingly, subject to the review and approval of Public Works.

#### **Road Alignment/Intersection Design/Sight Distance:**

25. The applicant shall provide sight distance at the intersection of the private driveway with Woodlawn Drive in accordance with Chapter 82-18 "Sight Obstructions at Intersections" of the County Ordinance Code. The applicant shall trim vegetation, as necessary, to provide sight distance at this intersection, and any new signage, landscaping, fencing, retaining walls, or other obstructions proposed at this intersection shall be setback to ensure that the sight line is clear of any obstructions.

#### **Countywide Street Light Financing:**

26. The property owner(s) shall annex to the Community Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing. Annexation into a street light service area does not include the transfer of ownership and maintenance of street lighting on private roads.

#### **Bicycle - Pedestrian Facilities:**

##### Pedestrian Access

27. Curb ramps and driveways shall be designed and constructed in accordance with current County standards. A detectable warning surface (e.g., truncated domes) shall be installed on all curb ramps. Adequate right-of-way shall be dedicated at the curb returns to accommodate the returns and curb ramps; accommodate a minimum 4-foot landing on top of any curb ramp proposed.

28. The applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

**Utilities/Undergrounding:**

29. The applicant shall underground all new utility distribution facilities.

**Drainage Improvements:**

Collect and Convey

30. The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to a natural watercourse, in accordance with Division 914 of the Ordinance Code. The applicant shall verify the adequacy at any downstream drainage facility accepting stormwater from this project prior to discharging runoff. If the downstream system(s) is inadequate to handle the existing and project condition for the required design storm event, applicant shall construct improvements to make the system adequate. The applicant shall obtain access rights to make any necessary improvements to off-site facilities.

31. The applicant shall construct drainage improvements to satisfy the collect and convey provisions of the Ordinance prior to initiation of the proposed use.

**Miscellaneous Drainage Requirements:**

32. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.

33. The applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

**National Pollutant Discharge Elimination System (NPDES):**

34. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay - Region II).

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of stormwater pollutants. The project design shall incorporate, wherever feasible, the following long-term BMPs in accordance with the Contra Costa Clean Water Program for the site's stormwater drainage.

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention area) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES Permit.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Other alternatives comparable to the above as approved by the Public Works Department.

35. A no left-hand turn signage at egress from the project site onto Woodlawn Drive will be evaluated by the Public Works Department during review of project improvement plans. The evaluation will determine if installation of no left-hand turn signage will enhance safety and traffic control. All improvement directed by Public Works shall be installed by the applicant.

#### **ADVISORY NOTES**

**ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.**

A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as

part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B. Prior to applying for a building permit, the applicant is strongly encouraged to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:
- Contra Costa County Building Inspection Division
  - Contra Costa County Environmental Health Division
  - Contra Costa County Fire Protection District
  - Central Contra Costa Sanitary District
  - Contra Costa Water District
- C. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Central County Area of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.
- D. The applicant will be required to comply with the drainage fee requirements for Drainage Area 44B as adopted by the Board of Supervisors. This fee shall be paid prior to issuance of a building permit.
- E. It is unlawful to engage in business in the unincorporated area of the County without first procuring a business license from the Tax Collector following CDD approval of this application.