

RESOLUTION PC 25-5147

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE CONTINUED OPERATION OF A 200 STUDENT CHARTER SCHOOL IN A 25,610 SQUARE FOOT PORTION OF AN EXISTING INDUSTRIAL BUILDING LOCATED IN THE MULTIFAMILY RESIDENTIAL (R-3-10) ZONE

CUP 24-0003
Baypoint Preparatory Academy

WHEREAS, on October 30, 2024, the City received an application from Baypoint Preparatory Academy requesting a Conditional Use Permit to allow the continued operation of a charter school in a 25,610 square foot portion of an existing 41,830 square foot building located at 520 E. Carmel Street within the Multifamily Residential R-3-10 Zone of the Barham/Discovery Community more particularly described as:

Brief Legal Description: ALL THOSE PORTIONS OF LOTS 6, 7, 8 AND 9 IN BLOCK 55 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895 LYING SOUTHERLY OF THE SOUTHERLY BOUNDARY OF THAT PORTION OF CALIFORNIA STATE HIGHWAY, ROAD XI-SD-196-B CONVEYED TO THE STATE OF CALIFORNIA FOR PURPOSES OF A FREEWAY AND ADJACENT FRONTAGE ROAD BY DEED RECORDED MARCH 28, 1960 AS INSTRUMENT NO. 62715 OF OFFICIAL RECORDS SAID SOUTHERLY BOUNDARY BEING MORE PARTICULARLY DESCRIBED IN SAID DEED AS FOLLOWS: BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID LOT 9, DISTANT THEREON NORTH 16° 55' 50" WEST, 43.28 FEET FROM THE SOUTHEASTERLY CORNER OF SAID LOT 9; THENCE NORTH 89° 14' 54" WEST, 311.42 FEET; THENCE SOUTH 79° 56' 58" WEST, 107.49 FEET; THENCE SOUTH 84° 06' 57" WEST, 147.51 FEET; THENCE SOUTH 80° 02' 23" WEST 188.30 FEET; THENCE NORTH 84° 03' 30" WEST, 520.14 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF LOT 26 IN BLOCK 58 OF SAID RANCHO LOS VALLECITOS DE SAN MARCOS.

Assessor's Parcel Number(s): 220-250-16-00; and

WHEREAS, on July 6, 2020, the San Marcos Planning Commission approved Conditional Use Permit (CUP) 19-0006 to allow the operation of a 200-student charter school in a 25,610 square foot portion of an existing industrial building with fence heights up to 8 feet; and

WHEREAS, the applicant is requesting renewal of said Conditional Use Permit to allow the continued operation of a 200 student charter school with no changes to facility size or operations; and

WHEREAS, the Development Services Department did study said request, and recommends approval of said request; and

WHEREAS, on April 21, 2025, the Planning Commission held a duly noticed public hearing in the manner prescribed by law to consider said request; and

WHEREAS, the Planning Commission did review and consider a Categorical Exemption EX 25-031 pursuant to the California Environmental Quality Act (CEQA) Section 15301, Class 1 (Existing Facility with No Expansion); and

NOW, THEREFORE, the Planning Commission does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The Planning Commission hereby approves this Conditional Use Permit per the submitted plans date stamped April 21, 2025 to allow the use of a K-8 charter school to occupy a 25,610 square foot portion of an existing 41,830 square foot industrial building for a school with 10 classrooms, and a maximum number of 200 students on-site at any one time except as modified herein, and subject to compliance with the conditions of approval in Exhibit A attached hereto and incorporated by reference and made a part of this Resolution as though fully set forth herein.
- C. The Planning Commission's decision is based on the following findings and determinations:
 1. Approval of the Conditional Use Permit would not result in detrimental impacts to adjacent properties or the character and function of the neighborhood, in that the proposed project will be installed in conformance with the California Building Code and sufficient facilities exist on site to service the project as conditioned. The design and function, as proposed, are consistent with the site's General Plan and Zoning designations of Medium Density Residential 2 (MDR2) and Multifamily Residential (R-3-10), with approval of this Conditional Use Permit.
 2. The design, development, and conditions associated with the Conditional Use Permit are consistent with the goals, policies, and intent of the General Plan, the purpose and intent of the applicable zone and the character of any applicable Specific Plan, in that the proposed project will ensure a range of traditional and distance-learning educational opportunities is provided in superior, accessible facilities that complement the surrounding land uses.

3. The land use allowed in conjunction with the Conditional Use Permit is compatible with the existing and future land uses of the applicable zone, and the general area in which the proposed use is to be located, in that the proposed project is a charter school, which is a compatible use in the R-3-10 zone. Additionally, operations of the school as conditioned will not significantly impact traffic in the vicinity of the project site with the inclusion of offset start and end times for classes, right-in-right-out driveway improvements, as well as an onsite curbside student loading and unloading program.
 4. The proposed location will be advantageous for public convenience or welfare, in that the proposed project provides an elementary school in the vicinity of the growing University District (“North City”) Specific Plan Area.
 5. All requirements of CEQA have been met, in that the proposed project constitutes an Existing Facility with No Expansion pursuant to CEQA Section 15301, Class 1 because the project is consistent with the General Plan land use and zoning designation of Medium Density Residential (MDR2) and Multifamily Residential R-3-10; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services.
- D. This Conditional Use Permit is Categorically Exempt EX 25-031 from environmental review pursuant to CEQA Section 15301, Class 1 (Existing Facility with No Expansion).
- E. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.
- F. This Conditional Use Permit shall expire 10 years from this date on April 21, 2035. Any request for permit extension shall be applied for by the permittee no later than 120 days prior to the expiration date.
- G. Any future expansion to the facility shall require a modification to this Conditional Use Permit. The Conditional Use Permit application must be submitted for review and approval by the Development Services Department prior to the issuance of any building permits.
- H. The Planning Division may, but is not obligated to, inspect the premises annually to ensure compliance with all conditions of the use permit approval. If the Planning Division determines that compliance is not being achieved after a cure period, then a public hearing must be scheduled for possible use permit modification and/or revocation, in accordance with Chapter 20.545 of the San Marcos Municipal Code (SMMC).

- I. The applicant/developer shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, and all City ordinances, resolutions, policies and procedures, and with all applicable state and federal regulations, as may be amended from time to time, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.
- J. To the extent feasible and as permitted by law, developers and contractors are requested to first consider the use of San Marcos businesses for any supplies, materials, services, or equipment needed, and the hiring of local residents to stimulate the San Marcos economy to the greatest extent possible.
- K. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos, its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. The applicant/developer further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of San Marcos, California, at a regular meeting thereof, held on this 21st day of April, 2025, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Fatima Rios, Chairperson

ATTEST:

Gina Jackson, Senior Office Specialist

ATTACHMENT(S):

EXHIBIT A – Conditions of Approval

EXHIBIT A
RESOLUTION PC NO. 25-5147
CUP 24-0003
Conditions of Approval

- A. Prior to reliance on this Conditional Use Permit, the applicant/developer shall comply with the following conditions:
- a. The applicant/developer shall mitigate for impacts on City services related to emergency response, traffic congestion, landscaping, and infrastructure maintenance. The mitigation shall be met through the execution of applications to annex the real property of the project into the following Community facilities Districts (CFD):
 - a. CFD 98-01: Improvement Area No. 1 (Police Only)
 - b. CFD 98-02: Lighting, Landscaping, Open Space and Preserve Maintenance
 - c. CFD 2001-01: Fire and Paramedic
 - d. CFD 2011-01: Congestion Management

No Certificate of Occupancy will be issued without receipt of a petition for annexation and consent and waiver executed by the property owners for each of the above-referenced CFDs for the establishment of the special taxes. In lieu of annexation, the applicant/developer may pay a fee for each CFD consentient with the pre-payment option laid out in each CFD's formation documents. The applicant/developer shall be responsible for compliance with all rules, regulations, policies and practices established by State Law and/or the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents.

- B. Reliance on this Conditional Use Permit shall comply with the following operational standards:
1. Operation of the facility is not allowed on site until occupancy has been approved by the Building Division.
 2. The applicant/developer shall maintain a City Business License for the duration of the business operations.
 3. Trash dumpsters shall be kept within the existing enclosure(s) on site, and gates shall be closed to screen the dumpsters from view. When not in use, dumpster lids shall remain closed in order to prevent rainfall from entering the dumpsters in compliance with the City's Storm Water Management requirements.
 4. The facility must comply with all applicable provisions of San Marcos Municipal

Code (SMMC) Chapter 14.15 (Storm Water Management and Discharge Control) and other State and regional permits/standards for the protection of storm water quality.

5. Non-storm water discharge into the City's storm drain conveyance system is considered an illicit discharge and is prohibited during construction, operation and maintenance of the business in accordance with SMMC Chapter 14.15.
6. The building address number must be clearly labeled at the front and rear doors for day- and night-time emergency responses. In addition, adequate lighting must be provided to deter potential criminal activities (i.e.: vehicle burglaries, prowlers, loitering, etc.).
7. A separate permit will be required for any new signage, including temporary signs. Signage must comply with the City's Sign Ordinance (SMMC Chapter 20.320). Portable signs (i.e.: A-frame, T-frame, etc.) are prohibited on or off site.
8. Use of the site must be conducted so as not to become obnoxious by reason of noise, odor, refuse, parking impacts, or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.
9. All trees and landscaping shall be maintained in a healthy, thriving manner. If any trees/landscaping shall die or become diseased, the trees/landscaping shall be replaced in numbers and quantity to provide the same landscaping and screening value.
10. All on-site operations of the school facility shall occur within the building, except for the outdoor playground area.
11. Normal hours of operation of the school facility shall be limited to Monday through Friday, 6:00 AM to 6:00 PM, unless modified by the Planning Division Director.
12. The school facility shall not exceed 200 students, onsite, at any one time, unless modified by the Planning Division Director.
13. Student loading and unloading within the school parking lot must be conducted in accordance with the approved pick-up and drop-off plan submitted to and approved by the Planning Division Director. The submitted plan demonstrates that all student loading and unloading will occur onsite and that sufficient queuing capacity is onsite to implement the approved plan without impacting the operation of the public right-of-way. Should the City receive complaints about pick-up and drop-off operations impacting the public right-of-way, and those complaints are verified, the applicant shall agree to modify operations of the school to resolve said impacts.
14. Number of employees shall be limited to no more than 20 onsite at any one time,

unless an increase is approved by the Planning Division Director.

15. Student loading/unloading shall only occur onsite within parking spaces or as approved in the pick-up and drop-off plan. No student loading/unloading shall occur within the driveway aisle or on the public right-of-way.
 16. Drop-off and pick-up of clients shall occur at staggered times.
 17. The applicant/developer shall comply with any and all Federal, State, County and City rules, regulations, and requirements for a school facility. The applicant/developer shall submit to the City a copy of any applicable Federal, State or County permit(s) required to operate the business.
 18. Outdoor storage shall be prohibited on site.
 19. No outdoor PA (public address) system/loudspeakers or bells shall be permitted.
 20. Special events (i.e. performances, graduations, etc.) may be permitted on site on an occasional basis. No special events shall occur on site, unless by issuance of a Special Event Permit by the City.
- C. Any modifications, alterations, expansions or other changes must require the modification to this Conditional Use Permit and may necessitate the issuance of Building Permits and reissuance of a Certificate of Occupancy from the Building Division.
- D. Prior to issuance of any building permit, the applicant/developer shall comply with the following conditions:

Planning Division

1. The applicant/developer must obtain written approval from the Planning Division that the modifications proposed under any Building Permit will be in substantial conformance with this adopted Conditional Use Permit.

Building Division

2. Tenants are required to obtain written permission from the building owner, or owner's agent, prior to obtaining a building permit from the city. Per SMMC Section 17.08.030 (Section 105.10), the tenant must obtain written permission from the building or property owner that the applicant/developer is authorized to proceed with the proposed construction.
3. All rooftop mechanical units, vents, ducts, etc. shall be screened by parapet walls or other architectural features from street grade view and adjacent properties as approved by the Planning Division Manager. A roof plan and cross sections

showing lines of sight shall be submitted with construction drawings illustrating that roof equipment will be screened. Screening plan shall be approved by the Planning Division prior to issuance of a building permit.

4. Remodeled structures and/or tenant improvements must be designed to conform to the latest design standards adopted by the State of California in the California Building Code, Part 2, Title 24, California Code of Regulations.
5. Building plans and instruments of service submitted with a building permit application shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.
6. The City is located in Seismic Design Category “D.” Buildings and structures shall be designed to adequately transmit the dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.
7. The handling, storage, use and disposal of hazardous, toxic or flammable materials shall be clearly indicated on all floor plans submitted for a building permit and shall be in compliance with any and all Federal, State, County and City rules, regulations, and requirements for hazardous waste control, including but not limited to the Hazardous Waste Control Act of 1973 (HWCA) (Health & S C §25100 *et seq.*), as may be amended from time to time, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated by reference and made a part hereof with the same force and effect as though fully set forth herein.
8. The project shall comply with the latest Federal Law, Americans with Disabilities Act, and State Law, California Code of Regulations, Title 24, for accessibility standards.
9. The project is subject to the approval of the applicable water/sewer district(s) for water and sewer services and all applicable fees and charges shall be paid to the satisfaction of the water/sewer district(s) prior to issuance of building permit.
10. The outer boundary of schools (grades K through 12) as listed in the current California Private School Directory shall comply with Education Code Section 33190 relating to the location of a school facility within 1,000 feet of businesses that are regulated for the storage, use and handling of hazardous materials as defined by the California Health and Safety Code. In addition, compliance with any and all Federal, State, or County requirements related to environmental health regulations on or offsite is also required and the responsibility of the applicant/developer.

Fire Department

11. Fire apparatus access roads shall be maintained with an unobstructed improved width of not less than 24 feet (curb line to curb line), and an unobstructed vertical clearance of not less than 13 feet 6 inches.
12. All dead end fire apparatus access roadways in excess of 150 feet in length shall be provided with an approved area for turning around of all San Marcos Fire apparatus.
13. Fire sprinkler system shall be maintained in accordance with NFPA 25. Documentation showing current 5-year certification shall be made available during annual fire inspections.
14. Fire alarm system shall be installed and maintained in compliance with the California Fire Code and the most current edition of NFPA 72. Documentation for annual fire alarm service shall be made available during annual fire inspections. Carbon monoxide detection shall be installed and maintained per CFC Section 915.
15. Fire extinguishers shall be rated at 2A:10B:C minimum. Extinguishers shall be mounted where easily accessible, travel distance not to exceed 75 feet. Fire extinguishers shall have annual service completed.
16. All exits shall be maintained in accordance with Chapter 10 of the California Building Code and California Fire Code.
17. In every Group A, E, I, R-1, R-2, R2.1, R3.1 and R-4 Occupancies all drapes, hangings curtains, drops, and other decorative material shall be treated and maintained in a flame-retardant condition as approved by CA. State Fire Marshal. Title 19, Chapter 1, Article 3.08.
18. Artwork and teaching materials shall be limited on walls of classrooms to not more than 50 percent of the specific wall area to which they are attached. (CFC 807.5.2.3)
19. Access gate(s) at front driveway shall be equipped with a Knox Key switch with cover and all drive gates shall be equipped with approved emergency traffic strobe sensor(s), which opens the gate on approach of emergency vehicles. Access gate shall be a minimum of twenty-four (24) feet wide as determined by the City Fire Marshal.
20. Fire safety evacuation plan shall be prepared and maintained. Identify all fences gates around the property and indicate a safe dispersal area a minimum of 50 feet from the building. CFC 503.5.2

Land Development

21. An Americans with Disabilities Act (ADA) compliant access route from City right-

of-way to on-site facility shall be fully constructed to the satisfaction of the City's Engineering Inspector per approved grading plans GP20-00019.

22. The applicant shall provide an onsite traffic plan to the satisfaction of the City Engineer and Planning Division Director.

E. Prior to occupancy, the applicant/developer shall comply with the following conditions:

Planning Division

1. Prior to a final inspection or issuance of a Certificate of Occupancy, the proposed development must satisfy the conditions of approval prior to the occupancy. The applicant/developer must obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy from the Development Services Department.
 2. All rooftop mechanical units, vents, ducts, etc. shall be screened from view from street grade & adjacent properties. Said screening mechanism shall be inspected by the Planning Division, and if determined necessary, additional screening may be required, as determined acceptable by the Planning Division Director.
- F. Any modifications, alterations, expansions or other changes must require the modification to this Conditional Use Permit and may necessitate the issuance of Building Permits and reissuance of a Certificate of Occupancy from the Building Division.