

RESOLUTION NO. 81-18

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF DUBLIN**

**REVERSING THE PLANNING COMMISSION'S DECISION AND APPROVING A
CONDITIONAL USE PERMIT FOR A MINOR AMENDMENT TO THE PLANNED
DEVELOPMENT ZONING STAGE 2 DEVELOPMENT PLAN FOR THE SITE DESIGNATED
AS SEMI-PUBLIC IN POSITANO
(APN 985-0073-005-00)
PLPA-2017-00050**

WHEREAS, the applicant, Meridian, is requesting approval to build a 14,936 square foot building comprised of a 10,667 square foot childcare center to be operated by Safari Kid, and a 4,269 square foot community center located at the southwest corner of Positano Parkway and West Cantara Drive in Positano; and

WHEREAS, the application includes a Site Development Review Permit, Minor Use Permit for shared parking, and a Conditional Use Permit to establish development standards in the Planned Development Zoning; and

WHEREAS, the project site is 2.1 acres and has a General Plan and Eastern Dublin Specific Plan land designation of Semi-Public; and

WHEREAS, the site has Planned Development Zoning with a Stage 2 Development Plan (Ordinance No. 33-05); and

WHEREAS, the General Plan and Eastern Dublin Specific Plan land use designation of Semi-Public permits a mix of uses consistent with the Stage 1 and 2 Development Plan for Fallon Village; and

WHEREAS, the Stage 1 and 2 Development Plans for Fallon Village allow a daycare and community center as a permitted use; and

WHEREAS, in accordance with the California Environmental Quality Act certain projects are required to be reviewed for environmental impacts and when applicable, environmental documents prepared; and

WHEREAS, the project is located within the Eastern Dublin Specific Plan area, which was the subject of an Environmental Impact Report (EIR) (SCH# 91103064) approved on May 10, 1993, a Supplemental EIR for the Eastern Dublin Properties annexation and rezoning project (SCH# 2001052114) approved for the project site by the City Council on April 2, 2002, and a Supplemental EIR (SCH #2005062010) approved for the project site by the City Council on December 6, 2005. Pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15168(c)(2), the proposed project was examined to determine if another environmental document should be prepared. There is no substantial evidence in the record that any new effects would occur, that any new mitigation measures would be required, or that any of the conditions triggering supplemental environmental review under CEQA Guidelines section 15162 exists; and

WHEREAS, the proposed Planned Development Zoning Stage 2 Development Plan Amendment, attached as Exhibit A, to this Resolution details the proposed minor amendments to the development plan, including development standards and hours of operation; and

WHEREAS, the Planning Commission held a public hearing on the said application on February 13, 2018, at which time the Planning Commission continued the public hearing so that staff and the applicant could address concerns raised by the Planning Commission; and

WHEREAS, the Planning Commission held a public hearing on the said application on April 10, 2018, at which time the interested parties had the opportunity to be heard; and

WHEREAS, a Staff Report was submitted to the Planning Commission recommending approval of the Conditional Use Permit for the project; and

WHEREAS, the Planning Commission adopted Resolution 18-10 denying the Conditional Use Permit; and

WHEREAS, the Planning Commission adopted resolutions denying the companion Site Development Review Permit and Minor Use Permit; and

WHEREAS, the Applicant, appealed the action of the Planning Commission in accordance with Dublin Municipal Code Chapter 8.136; and

WHEREAS, the applicant waived the requirement of the Public Hearing to be scheduled within 45 days of the filing of the appeal; and

WHEREAS, the City Council is the hearing body for the appeal of a decision by the Planning Commission; and

WHEREAS, proper notice of said hearing was given in all respects as required by law; and

WHEREAS, the City Council did hear and consider all reports, recommendations and testimony herein above set forth and used its independent judgment to evaluate the project; and

WHEREAS, a Staff Report, dated June 19, 2018 and incorporated herein by reference, described and analyzed the proposed Safari Kid Daycare and Community Center Project; and

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED that the City Council of the City of Dublin hereby makes the following findings and determinations regarding the proposed Conditional Use Permit for the Safari Kid Daycare and the Community Center building:

- A. *The proposed use and related structures are compatible with other land uses, transportation and service facilities in the vicinity in that: 1) the daycare and community center will help serve the neighborhood for daycare needs and community events; 2) the Project site is well suited for this type of use; and 3) the project provides an orderly,*

attractive and harmonious development compatible with the site's surrounding properties; 4) The building location, on-site circulation, parking, architecture and landscaping are designed in an efficient manner; and 5) the project utilizes a similar material palette with colors and materials that are similar to the homes in the surrounding area; and

- B. *It will not adversely affect the health or safety of persons residing or working in the vicinity, or be detrimental to the public health, safety and welfare in that:* 1) the Project will conform to all applicable regulations contained in the General Plan, Eastern Dublin Specific Plan, Zoning Ordinance, and Planned Development Zoning, as amended; and 2) Conditions of Approval have been applied to the Project to ensure on-going compatibility with the Project's surroundings.
- C. *It will not be injurious to property or improvements in the neighborhood in that:* a daycare and community center are consistent with the intent of the Stage 1 and 2 Development Plans for this site.
- D. *There are adequate provisions for public access, water, sanitation, and public utilities and services to ensure that the proposed use and related structures would not be detrimental to the public health, safety, and welfare in that:* 1) vehicular access to the site will be available from W. Cantara Dr. after the driveway on W. Cantara Dr. is moved further east; 2) the Project frontage along both roads is fully improved with a sidewalk that provides pedestrian access to the Project; and 3) the Project will be served by existing public utilities and services.
- E. *The subject site is physically suitable for the type, density and intensity of the use and related structures being proposed in that:* 1) the project is consistent with the General Plan and the Eastern Dublin Specific Plan land use designation of Semi-Public; 2) the project site has Planned Development Zoning which allows for a daycare and community center under the Stage 1 and 2 Development Plans; and 3) the proposed project falls within the allowed building area for the site.
- F. *It will not be contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located in that:* 1) the project is consistent with development standards established in the Planned Development Zoning Stage 1 and 2 Development Plans, as amended, for this site; and 2) the Project site is well suited for a daycare and community center.
- G. *It is consistent with the Dublin General Plan and with any applicable Specific Plans in that:* the Project site has a General Plan and Eastern Dublin Specific Plan designation of Semi-Public and Planned Development Zoning with a Stage 1 and 2 Development Plan which allows for a daycare and community center.
- H. *That the amendment substantially complies with and does not materially change the provisions or intent of the adopted Planned Development Zoning District Ordinance for the site:* the amendment allows for further clarification regarding development standards, operating hours and outdoor activity which were not specified in the Planned Development without materially changing what was previously approved.

BE IT FURTHER RESOLVED that the City Council of the City of Dublin does hereby reverse the Planning Commission's decision and approve the Conditional Use Permit for a minor amendment to the Planned Development Zoning Stage 2 Development Plan (Ordinance No. 33-05) the Safari Kid Daycare and Community Center project, subject to the conditions included below.

CONDITIONS OF APPROVAL

Unless stated otherwise, all Conditions of Approval shall be complied with prior to the issuance of building permits or establishment of use, and shall be subject to Planning Department review and approval. The following codes represent those departments/agencies responsible for monitoring compliance of the conditions of approval. [PL.] Planning, [B] Building, [PO] Police, [PW] Public Works [P&CS] Parks & Community Services, [ADM] Administration/City Attorney, [FIN] Finance, [F] Alameda County Fire Department, [DSR] Dublin San Ramon Services District, [CO] Alameda County Department of Environmental Health, [Z7] Zone 7.

#	CONDITION TEXT	RESPON. AGENCY	WHEN REQ'D Prior to:
PLANNING			
1.	Approval. This Conditional Use Permit (CUP) approval (PLPA-2017-00050) is for a minor amendment to the Planned Development Zoning Stage 2 Development Plan for the site designated as Semi-Public in Positano (APN: 985-0073-005-00) (Ordinance No. 33-05), to establish development standards and hours of operation as shown in <u>Exhibit A</u> to this resolution.	PL	Ongoing
2.	Effective Date. This CUP approval becomes effective 10 days after action by the Planning Commission unless otherwise appealed to the City Council.	PL	Ongoing
3.	Compliance. The Applicant/Property Owner shall operate this use in compliance with the Conditions of Approval of this CUP, the approved plans and the regulations established in the Zoning Ordinance. Any violation of the terms or conditions specified may be subject to enforcement action.	PL	On-going
4.	Revocation of Permit. The CUP approval shall be revocable for cause in accordance with Section 8.96.020.1 of the Dublin Zoning Ordinance. Any violation of the terms or conditions of this permit shall be subject to citation.	PL	On-going
5.	Requirements and Standard Conditions. The Applicant/ Developer shall comply with applicable City of Dublin Fire Prevention Bureau, Dublin Public Works Department, Dublin Building Department, Dublin Police Services, Alameda County Flood Control District Zone 7, Livermore Amador Valley Transit Authority, Alameda County Public and Environmental Health, Dublin San Ramon Services District and the California Department of Health Services requirements and standard conditions. Prior to issuance of building permits or the installation of any improvements related to this project, the Developer shall supply written statements from each such agency or department to the Planning Department, indicating that all applicable conditions required have been or will be met.	Various	Building Permit Issuance

6.	Required Permits. Applicant/Developer shall obtain all permits required by other agencies including, but not limited to Alameda County Flood Control and Water Conservation District Zone 7, California Department of Fish and Wildlife, Army Corps of Engineers, Regional Water Quality Control Board, Caltrans and provide copies of the permits to the Public Works Department.	PW	Building Permit Issuance and Grading Permit Issuance
7.	Fees. Applicant/Developer shall pay all applicable fees in effect at the time of building permit issuance, including, but not limited to, Planning fees, Building fees, Traffic Impact Fees, TVTC fees, Dublin San Ramon Services District fees, Public Facilities fees, Dublin Unified School District School Impact fees, Fire Facilities Impact fees, Alameda County Flood and Water Conservation District (Zone 7) Drainage and Water Connection fees; or any other fee that may be adopted and applicable. Approved Development Agreement supersedes where applicable.	Various	Building Permit Issuance
8.	Indemnification. The Applicant/Developer shall defend, indemnify, and hold harmless the City of Dublin and its agents, officers, and employees from any claim, action, or proceeding against the City of Dublin or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City of Dublin or its advisory agency, appeal board, Planning Commission, City Council, Community Development Director, Zoning Administrator, or any other department, committee, or agency of the City to the extent such actions are brought within the time period required by Government Code Section 66499.37 or other applicable law; provided, however, that the Applicant's/Developer's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the Applicant/Developer of any said claim, action, or proceeding and the City's full cooperation in the defense of such actions or proceedings.	ADM	On-going
9.	Clarification of Conditions. In the event that there needs to be clarification to the Conditions of Approval, the Director of Community Development and the City Engineer have the authority to clarify the intent of these Conditions of Approval to the Applicant/Developer without going to a public hearing. The Director of Community Development and the City Engineer also have the authority to make minor modifications to these conditions without going to a public hearing in order for the Applicant/Developer to fulfill needed improvements or mitigations resulting from impacts to this project.	PL, PW	On-going

PASSED, APPROVED AND ADOPTED this 19th day of June 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk