

## RESOLUTION NO. 2023-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2023-12 AS CONDITIONED TO ALLOW FOR OPERATION OF A PRIVATE HIGH SCHOOL (9<sup>TH</sup>-12<sup>TH</sup> GRADE) FOR CRISTO REY ORANGE COUNTY HIGH SCHOOL LOCATED AT 1100, 1020, AND 1102 SOUTH CENTER STREET, AND 2202 AND 2204 WEST MCFADDEN AVENUE, COLLECTIVELY REFERRED TO AS 2204 WEST MCFADDEN AVENUE.

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

**Section 1.** The Planning Commission of the City of Santa Ana hereby finds, determines, and declares as follows:

- A. Stephen Holte, President of Cristo Rey Orange County High School (“Applicant”), and Immaculate Heart of Mary Church (“Property Owner”), are requesting approval of Conditional Use Permit (“CUP”) No. 2023-12 to establish a private high school within the Single-Family Residence (R1) zoning district located at 1100, 1020, and 1102 South Center Street, and 2202 and 2204 West McFadden Avenue, collectively referred to as 2204 West McFadden Avenue.
- B. Section 41-232.5 of the Santa Ana Municipal Code (“SAMC”) requires approval of a CUP to allow for establishment of a private school within the R1 zoning district.
- C. In 1958, the subject site was developed by the Roman Catholic Church with a convent, church facilities, and accompanying catholic school.
- D. Subsequently, on June 5, 2000, the Planning Commission conditionally approved CUP No. 2000-05 and Variance No. 2000-03 to allow for expansion of the church and construction of a new church building as well as a 34-percent reduction in required parking and a 45-percent reduction in required parking lot landscaping for Immaculate Heart of Mary Church.
- E. On June 12, 2023, the Planning Commission held a duly-noticed public hearing on CUP No. 2023-12.
- F. The Planning Commission of the City of Santa Ana determines that the following findings, which must be established in order to grant a CUP pursuant to Section 41-638 of the SAMC, have been established for CUP No. 2023-12 to allow for operation of a private school at 2204 West McFadden Avenue.
  1. That the proposed use will provide a service or facility which will contribute to the general wellbeing of the neighborhood or community.

Approval of the CUP would establish a private high school program that would be available to low income families that may not have the means of enrolling their children in a traditional private school program. The private school would feature a work-study program that would prepare students for the transition from academics into the work force, thereby benefiting the community. Additionally, occupancy of the currently vacant building would deter any ongoing illicit activity at the site. Furthermore, the improvements proposed to the existing building would improve the overall character of the area and bring the site into conformance with the standards of this code. Conditions of approval and property maintenance agreement will mitigate any potential impacts created by the use and will ensure that the use will not negatively affect the surrounding community.

2. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The proposed use of a private high school will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity as the site has not only previously been occupied by a school, but the proposed use would reduce the capacity and intensity of the school. The proposed maximum capacity of students would be 311 students less than the school that previously operated from the site. In addition, the grade level would transition from Kindergarten through eighth (K-8<sup>th</sup>) grade to ninth through twelfth (9<sup>th</sup>-12<sup>th</sup>) grade. While this would introduce driving aged students, the school would be limiting the number of parking passes available to students to minimize any potential impacts to the other on site uses. Furthermore, all vehicular access at pick-up and drop-off would be directed to the drive aisle on South Center Street and onto the 6-acre site, which would be able to accommodate onsite stacking of vehicles. Additionally, conditions of approval will address any potential negative or adverse impacts created by the use. Lastly, occupancy of the site would deter any illicit activity by introducing activity on weekdays where presently the site remains quiet with lightly attended religious services throughout the week. Therefore, the granting of the CUP will not negatively impact any sensitive land uses that may be nearby.

3. That the proposed use will not adversely affect the present economic stability or future economic development of properties surrounding the area.

The establishment of a private high school will not adversely affect the economic stability of the area, as the program would be established at a developed site within an existing building where the

proposed improvements as part of this application would improve the overall conditions of the area. Furthermore, the program is designed to prepare youth from low-income families with limited economic resources for post-secondary educational opportunities, which would typically be offered at higher tuition rates. This would indirectly benefit the economic stability of the City.

4. That the proposed use will comply with the regulations and conditions specified in Chapter 41 of the SAMC for such use.

The proposed private high school will be in compliance with all applicable regulations and operational standards imposed on schools pursuant to Chapter 41 of the SAMC. The site was developed with a church by the Roman Catholic Church with a convent, church, and accompanying catholic school. Subsequently, CUP No. 2000-05 and VAR No. 2000-03 were conditionally approved to allow for the expansion of the use and allow for a 34-percent reduction in required parking and a 45-percent reduction in parking lot landscaping. The subject request would reintroduce a school to the site, which would remain consistent with the previous approvals. In addition, operational standards and imposed conditions of approval will ensure the project remains in compliance with all applicable codes and regulations related to schools to ensure that the use does not impact neighboring properties or create an attractive nuisance.

5. That the proposed use will not adversely affect the General Plan of the city or any specific plan applicable to the area of the proposed use.

Approval of proposed CUP would be consistent with several goals and policies of the General Plan. Goal 2 of the Land Use Element (LU) encourages a balance of land uses that meet Santa Ana's diverse needs. The establishment of a private school that is made accessible to low-income families provides families with additional options in education with a program that may not be available otherwise due to the financial demand of private school programs. Additionally, Goal LU 3 supports compatible uses as well as preserving and improving the character and integrity of existing neighborhood districts. With approval of the CUP, an underutilized building would be renovated and brought into compliance with applicable standards as well as aesthetic improvements. Additionally, the increased activity at the site would deter any illicit activity. Improvements throughout the site are also in line with Policy LU 3.7, which promotes a clean, safe creative environment for Santa Ana's residents, workers, and visitors. Policy LU 4.1 promotes complete neighborhoods by encouraging a mix of complementary uses, community services and people places within walkable area. As previously described, the proposed private school is located within an existing fabric which previously offered

a school within walking distance to residential properties where approval of the CUP would reintroduce the use but at a reduced capacity. Conditions of approval would mitigate any potential impacts that may result from drop off and pick up.

**Section 2.** In accordance with the California Environmental Quality Act (“CEQA”)and the CEQA Guidelines, the project is categorically exempt from further review per Sections 15301 (Class 1 – Existing Facilities) and Section 15314 (Class 14 – Minor Additions to Schools) of the CEQA Guidelines. The project proposes to establish a school with minimal tenant improvements within an existing building previously occupied by a school. As such, a Notice of Exemption, Environmental Review No. 2022-127, will be filed for this project.

**Section 3.** The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively “Actions”), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City’s defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

**Section 4.** The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves Conditional Use Permit No. 2023-12, as conditioned in Exhibit A, attached hereto and incorporated herein, to allow for a private school to be located at 2204 West McFadden Avenue. This decision is based upon the evidence submitted at the above-referenced hearing, including but not limited to: The Request for Planning Commission Action dated June 12, 2023, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 12th day of June 2023 by the following vote.


AYES: Commissioners: CARL BENNINGER, MANUEL J. ESCAMILLA, CHRIS LEO, BAO PHAM, ISURI S. RAMOS, ALAN WOO (6)  
NOES: Commissioners:

ABSENT: Commissioners: JENNIFER OLIVA (1)

ABSTENTIONS: Commissioners:

  
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Bao Pham  
Chairperson

APPROVED AS TO FORM:  
Sonia R. Carvalho, City Attorney

By:   
\_\_\_\_\_  
John M. Funk  
Chief Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Nuvia Ocampo, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2023-11 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on June 12, 2023.

Date: 6/12/2023

  
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Nuvia Ocampo  
Recording Secretary  
City of Santa Ana

## EXHIBIT A

### **Conditions of Approval for Conditional Use Permit No. 2023-12**

Conditional Use Permit (“CUP”) No. 2023-12 allowing for operation of a private school is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with all applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations.

The Applicant must remain in compliance with all conditions listed below throughout the life of the conditional use permit. Failure to comply with each and every condition may result in the revocation of the conditional use permit.

1. The Applicant must comply with all conditions and requirements of the Development Review Committee for the Development Project (DP) No. 2022-44.
2. The Applicant must comply with all conditions and requirements of CUP No. 2000-05 and Variance No. 2000-03.
3. The proposed facility shall be maintained as per approved plans and any existing landscaping shall be enhanced and well maintained. Any damage to existing structures, walls, parking areas, or landscaping must be repaired.
4. Any amendment to this conditional use permit must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the conditional use permit must be amended.
5. Violations of the CUP, as contained in Section 41-647.5 of the SAMC, will be grounds for permit suspension and/or revocation as described in Section 41-651 of the SAMC.
6. The applicant shall provide a conforming trash enclosure and submit for Planning review prior to issuance of any Building Permit or Certificate of Occupancy.
7. The applicant shall provide full elevations of the final proposed fencing and landscape improvements for screening prior to issuance of any Building Permit or Certificate of Occupancy.
8. The applicant shall remove any unpermitted shipping containers and unpermitted structures prior to final of any Building Permit or issuance Certificate of Occupancy.
9. Prior to first phase of occupancy and for each phase thereafter, the applicant shall provide a circulation plan and mitigation measure should circulation issues arise and create negative impact for the surrounding community.
10. The applicant shall limit the student parking passes offered to no more than 100 passes.

11. Prior to issuance of the Certificate of Occupancy, the property shall be brought into full maintenance compliance with all applicable SAMC standards. Maintenance shall include, but is not limited to: the repair and upkeep of the property; cleanup of trash and debris; repair and upkeep of any damaged and/or weathered components of the building (e.g., siding, windows, architectural features); repair and upkeep of exterior paint; parking striping, lighting and irrigation fixtures; landscaping and related landscape, furnishing, and hardscape improvements.
  
12. Prior to the release of this resolution, a Property Maintenance Agreement shall be recorded against the property. The agreement will be subject to review and applicability by the Planning and Building Agency, the Community Development Agency, the Public Works Agency, and the City Attorney to ensure that the property and all improvements located thereupon are properly maintained. Applicant (and the owner of the property upon which the authorized use and/or authorized improvements are located if different from the Applicant) shall execute a maintenance agreement with the City of Santa Ana which shall be recorded against the property and which shall be in a form reasonably satisfactory to the City Attorney. The maintenance agreement shall contain covenants, conditions and restrictions relating to the following:
  - a. Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation measure; adherence to approved project phasing etc.);
  - b. Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including but not limited to hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses);
  - c. Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
  - d. Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including but not limited to controls on the proliferation of trash and debris on or about the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable);
  - e. If Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the maintenance agreement and both shall be jointly and severally liable for compliance with its

terms;

- f. The maintenance agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume all of the duties, obligations and responsibilities set forth under the maintenance agreement; and
- g. The maintenance agreement shall contain provisions relating to the enforcement of its conditions by the City and shall also contain provisions authorizing the City to recover costs and expenses which the City may incur arising out of any enforcement and/or remediation efforts which the City may undertake in order to cure any deficiency in maintenance, repair or upkeep or to enforce any restrictions or conditions upon the use of the property. The maintenance agreement shall further provide that any unreimbursed costs and/or expenses incurred by the City to cure a deficiency in maintenance or to enforce use restrictions shall become a lien upon the property in an amount equivalent to the actual costs and/or expense incurred by the City.
- h. The execution and recordation of the maintenance agreement shall be a condition precedent to the issuance of final approval for any construction permit related to this entitlement.