

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2021-06

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ELISHA HAWKINS AND LISA STUCK FOR A NEW CHILD DAYCARE CENTER LOCATED WITHIN AN EXSTING CHURCH LOCATED AT 3000 PRESCOTT ROAD

WHEREAS, an application for a Conditional Use Permit for a new child daycare business of a maximum of 34 children located at an existing church located at 3000 Prescott Road, was filed by Elisha Hawkins and Lisa Stuck on May 3, 2021; and

WHEREAS, Section 10-9.102 of the Municipal Code authorize the Board of Zoning Adjustment to grant Conditional Use Permits; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on June 24, 2021, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, proposed conditional use is exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it finds and determines as follows:

1. The proposed conditional use permit is consistent with the objectives and requirements of Title 10 (Zoning Regulations) because the regulations of the Low Density Residential (R-1) Zone allow for the establishment of child daycare centers in non-residential buildings within the R-1 Zone with a Conditional Use Permit from the Board of Zoning Adjustment.
2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan because the proposed use is within the Residential (R) land use designation of the Modesto Urban Area General Plan which allows for neighborhood-serving institutional uses such as elementary schools and child daycare centers.
3. The proposed conditional use will not be detrimental to the public health, safety, or welfare or materially injurious to uses, properties or improvements in the vicinity because the proposed child daycare center of 34 children will be conducted at an existing church facility with ample on-site parking and existing outdoor play areas.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses because:
 - a. The child daycare business will utilize existing indoor classroom space and outdoor play yard areas typically used by the church's ministry operations;

- b. The hours of operation of weekdays from 7:00 AM to 5:00 PM will not adversely impact the adjacent residential areas to the east of the facility;
 - c. The site has ample on-site parking areas for use by clients of the child daycare center.
5. The proposed conditional use is exempt from CEQA, pursuant to Section 15301 of the CEQA Guidelines, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for a child daycare of 34 children at the existing church located at 3000 Prescott Road be granted subject to the following conditions:

- 1. Operations of the child daycare center shall be within the existing classrooms and grounds of the church facility as permitted by the State of California Community Care Licensing for a child daycare center of 34 children.
- 2. All signs shall comply with the sign requirements of the R-1 Zone.
- 3. All fences and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
- 4. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

Failure to comply with any of the above conditions is unlawful and will constitute grounds for revocation of the conditional use permit.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on the 24th day of June, 2021, by Board Member Blom, who moved its adoption, which motion was seconded by Board Member Vohra and carried by the following vote:

Ayes:	Blom, Desai, Goriel, Rodriguez, Vohra
Noes:	None
Absent:	None
Recused:	None

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF
MODESTO.

Original, signed copy on file in CEDD

Steve Mitchell, Secretary