

1 [Findings - 601 Dolores Street, Approval with Different and Modified Conditions]

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3 **Motion adopting findings supporting the Board of Supervisors decisions to: 1)**  
4 **disapprove the decision of the Planning Commission by its Motion No. 18604,**  
5 **approving Conditional Use Authorization identified as Planning Case No. 2011.0584CV**  
6 **on property located at 601 Dolores Street; and 2) approve conditional use on property**  
7 **located at 601 Dolores Street subject to the conditions set forth in Planning**  
8 **Commission Motion No. 18604, as modified by the Board of Supervisors on July 24,**  
9 **2012, and subject to additional conditions imposed by the Board on July 24, 2012.**

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11 WHEREAS, The appellant, Elisabeth Erhardt, Rutan Attorneys at Law, on behalf of  
12 Lisa Nahmanson and Sandra Steele, filed a timely appeal on May 29, 2012, protesting the  
13 approval by the Planning Commission of an application for a conditional use authorization  
14 (Conditional Use Application No. 2011.0584CV), approved by Planning Commission Motion  
15 No. 18604, dated April 26, 2012, pursuant to Planning Code Sections 209.3(g), 303 and 317,  
16 to convert a former church that is currently being used as a single-family dwelling into a  
17 private elementary school operated by "Children's Day School", within an RH-3 (Residential  
18 House, Three-Family) Zoning District, on property located at 601 Dolores Street, Assessor's  
19 Block No. 3598, Lot No. 060.

20 WHEREAS, On July 24, 2012, the Board of Supervisors conducted a duly noticed  
21 public hearing on the appeal from the Planning Commission's approval of the conditional use  
22 authorization referred to in the first paragraph of this motion. Following the conclusion of the  
23 public hearing on July 24, 2012, the appellant and project sponsor represented to the Board of  
24 Supervisors that they had reached agreement regarding the project and the appeal and that if

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1 certain conditions of the Conditional Use Authorization were modified, and if a certain  
2 additional condition was added, appellants would not challenge the project;

3 WHEREAS, In light of the representations by the parties, and in reliance thereon, the  
4 Board voted to disapprove the decision of the Planning Commission (Planning Commission  
5 Motion No. 18604, dated April 26, 2012) and denied the issuance of the requested Conditional  
6 Use Application No. 2011.0584CV, by a vote of 10-0. The Board then moved, by a vote of 10-  
7 0, to authorize conditional use as set forth in the decision of the Planning Commission by its  
8 Motion No. 18604, Planning Case No. 2011.0584CV, except that conditions 8 and 9 in said  
9 motion were superseded by the conditions 8 and 9, set forth below, and condition 10 was  
10 added, as set forth below:

11 **8. Hours of Operation on Roof Deck.**

12 (a) School Day Hours and Occupancy Limitations:

13 The deck may be used Monday – Friday, with the following Occupancy Limits

14 9:00 AM – 11:00 AM: Maximum occupancy of 53;

15 11:00 AM – 1:00 PM (Lunch Only Hours): Maximum occupancy of 91;

16 1:00 PM – 3:30 PM: Maximum occupancy of 53;

17 3:30 PM – 5:00 PM; Maximum occupancy of 25

18 For the 9:00 AM -11:00 and 1:00 PM – 5:00 PM hours, there would be a cap of

19 20 hours per week

20 For the 11:00 AM – 1 PM Lunch, it will only be allowed 3 days/week. The other:

21 Two days the deck will be unoccupied during those hours.

22 These hours of operation for the roof deck are for those weeks of the regular  
23 school program schedule as posted in the published annual calendar.

24 (b) Weekend/Night Usage:

1 A maximum of 6 weekend or evening events per year (between 6:00 PM – 9:00 PM).  
2 A two-week notification must be provided by CDS to the Neighbors via email to Landon Gates  
3 jlandongates@gmail.com; Sandra Steele ssteele@permitme.net. Maximum capacity is 91.

4 (c) Summertime Usage.

5 9:00 AM – 5:00 PM Deck Usage, with a 25 person maximum occupancy and 20 hour  
6 weekly cap. These hours of operation for the roof deck are for those weeks of the  
7 summer school program schedule as posted in the published annual calendar.

8 Summer school program is that formal scholastic program offered by CDS on set  
9 weeks between the end of the normal School Year and the beginning of the following School  
10 Year. The School Year typically starts the week after Labor Day and typically ends the  
11 second week of June.

## 12 **9. Mechanical Equipment, Rooftop Improvements, and Use of Deck**

13 (a) Mechanical Room will remain in the location shown in latest drawings dated July 2,  
14 2012.

15 No additional mechanical equipment other than shown in the drawings, dated 7/2/12, is  
16 contemplated at this time. Should any new mechanical equipment be required for future code  
17 compliance for the school's continued usage and/or as a result of changes in the Building  
18 Codes of the City and County of San Francisco then neighbors shall be given 45-days written  
19 notice prior to the application of any building permit to construct such new equipment on the  
20 roof. Neighbors reserve all rights to oppose placement of new or additional mechanical  
21 systems on to rooftop. In the event that different mechanical systems are desired during the  
22 design phase which were not contemplated and depicted in the 7/2/12 drawings, then CDS  
23 shall provide the neighbors advanced notice of their desire to modify the mechanical systems.  
24 Provided the new systems do not generate more noise, emissions, or vibrations than the ones  
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1 depicted in the 7/2/12 plans and do not require housing in a larger or taller structure than the  
2 one depicted in the 7/2/12 drawings, then the neighbors will not oppose the modification.

3 The new location of the Mechanical Room as defined herein has not been approved by  
4 the Zoning Administrator and may require a variance to comply with the Planning Code. The  
5 adoption of these conditions shall not supersede the authority of the Zoning Administrator to  
6 approve this relocation.

7 (b) A roof deck, with an associated new stairwell/elevator penthouse, shall be  
8 constructed consistent with the drawings dated July 2, 2012; This shows a smaller deck than  
9 that shown on the Conditional Use Application Drawings and it is pulled back from both the  
10 Eastern and Southern edges of the roof.

11 (c) The only mechanical equipment will be two high-efficiency boilers and two pumps  
12 within an enclosed mechanical room as depicted in the drawings dated July 2, 2012, and also  
13 an exhaust fan for building ventilation. Specifications have been provided on these items, as  
14 well as a discussion on how they will meet allowable noise standards. One water heater has  
15 been moved from the roof into the building.

16 (d) The elevator is provided for ADA compliance and will not be available for regular  
17 use by students and staff. The elevator will be used only for those requiring physical  
18 assistance or freight purposes.

19 (e) The railings surrounding the roof deck will be 60 inches tall, and made of clear  
20 safety glass, to be constructed with minimal openings to assist in sound containment from  
21 rooftop usage.

22 (f) Planter boxes and/or benches on the roof deck must be a minimum of 3 feet away  
23 from the railings (railings remain where they are). Latest Plans shows benches completely  
24 removed.

25 (g) Plants may not be any taller than 72 inches from the surface of the deck.

1 (h) No amplified sound allowed from the roof deck at any hour.

2 (i) No awnings, heating devices, and/or umbrellas will be allowed on deck.

3 (j) No 3rd party usage of the deck shall be allowed (3rd party shall mean all attendees  
4 as well as hosts of events must be associated with the school) No renting, lending or bartering  
5 the deck space to CDS community or others for functions unrelated to operation of the school.

6 (k) No alcohol can be served or consumed on the roof deck. Also no smoking allowed.

7 (l) Roof deck cannot be used for recess or gym. Only instructional use and lunches  
8 will be allowed (lunches subject to three days a week limit).

9 (m) CDS to provide the neighbors with a 24 hour point of contact for any neighbor  
10 concerns.

11 (n) CDS to hold quarterly meetings with the neighbors to discuss any concerns the  
12 neighbors might have regarding school activities and explore methods for resolving those  
13 concerns.

14 (o) No lighting shall be installed on deck. Only the minimum amount of lighting  
15 required by egress code.

16 (p) No children may use the deck without adult supervision on the deck.

17 **10. Additional Permit Approvals and Authorizations, Notice to Appellants.**

18 The Appellants shall not, directly or indirectly, contest the issuance of buildings permits,  
19 variances or other governmental approvals that may be required to construct the plans for the  
20 Project as contemplated and proposed in the 7/2/12 drawings as further modified by the  
21 agreements contained herein. To the extent to which the applications for building permits,  
22 variances or other governmental approvals pertain to matters beyond those addressed in the  
23 mediation between CDS and the Appellants, the Appellants right to object to that portion of  
24 the building permits, variances or other governmental approvals are reserved. CDS shall  
25 provide prior notice of any buildings permits, variances or other governmental approvals which

1 fall outside of the matters negotiated by the parties SF 1360045v3 to attempt to resolve the  
2 concerns of Appellants and avoid any formal challenges by the neighbors.

3 The parties will negotiate any potential conflicts in good faith; and

4 WHEREAS, The Board of Supervisors, on July 24, 2012, affirmed the determination of  
5 the Planning Commission that the project that is the subject of these findings was exempt  
6 from environmental review under Categorical Exemption, Class 32 [State CEQA Guidelines  
7 Section 15332];

8 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and  
9 County of San Francisco hereby adopts as its own and incorporates by reference herein, as  
10 though fully set forth, the findings made by the Planning Commission in its Motion No. 18604,  
11 dated April 26, 2012; and be it

12 FURTHER MOVED, That the Board of Supervisors finds that there have been no  
13 substantial changes in project circumstances and no new information of substantial  
14 importance that would change the determination of categorical exemption issued by the  
15 Planning Commission and affirmed by the Board of Supervisors.