

MEMORANDUM

To: Neely Norris
Head of School
The Carey School

Date: July 17, 2025

From: Jennifer E. Renk
Lauren K. Chang

File Number: 62PK-274021

Re: Housing Crisis Act and San Mateo Relocation Assistance Ordinance Consistency Analysis for The Carey School

You have asked us to prepare an analysis regarding whether the preschool project (the "Project") proposed by The Carey School (the "Applicant") at 2033 La Salle Drive (the "Property") in San Mateo (the "City") complies with requirements in the Housing Crisis Act of 2019 ("HCA") and the City's Relocation Assistance Ordinance in San Mateo Municipal Code ("SMMC") Section 27.02.180 ("Relocation Ordinance").¹ The Project will consist of approximately 5,895 square-foot building for preschool-age children with five classrooms, an outdoor play area, and teaching garden. The Project does not include any housing units or other residential uses. The following provides our consistency analysis for both the HCA and Relocation Ordinance.

I. Housing Crisis Act

The HCA was adopted in an effort to combat California's current housing shortage and creates statewide requirements related to housing production and preservation while also removing certain local discretionary land use controls for developments that meet current zoning codes and general plans. The HCA includes many requirements, but this memorandum addresses compliance with the following two provisions relevant to this Project.

First, the HCA provides that, where housing is an allowable use, an "affected public agency"² may not change a land use designation (general plan or zoning) to remove housing as a permitted use or reduce the intensity³ of residential uses permitted under the general plan and

¹ The HCA became law through Senate Bill 330 and has been further amended by Senate Bill 8 and Assembly Bill 1218.

² "Affected public agency" is the agency of a city or county identified as a U.S. Census Bureau designated urbanized area. The City has been designated as located in an urbanized area according to the list published by the California Department of Housing and Community Development in accordance with the HCA. (See <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/affected-cities.pdf>)

³ "Reducing the intensity" of the residential use includes, but is not limited to, "reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity." (*Ibid.*)

zoning codes that were in place as of January 1, 2018. (Govt. Code § 66300(b)(1)(A).) Here, the Applicant is requesting a (1) Special Use Permit for the substantial removal of an existing single-family residence; (2) a Special Use Permit for a "private educational facility" at the Property; and (3) Site Plan Architectural Review for the design of the new building on the Property. None of these entitlements modify the underlying general plan or zoning or impact the allowable residential uses permitted on the Property. While an owner-occupied, single-family residence and a tenant-occupied accessory-dwelling unit ("ADU") would be removed with the Project (collectively, "Existing Units"), the underlying general plan and zoning designations would remain the same. To that end, another residential use or single-family residence could be built on the Property under the existing zoning and land use designation. Further, the entitlements do not reduce the intensity of residential uses permitted at the Property. As such, the Project would be consistent with this provision in the HCA.

Second, the HCA includes housing replacement obligations for certain projects that would demolish occupied or vacant residential units unless certain conditions are met. (See Govt. Code §§ 66300.6(a)-(b).) The replacement obligations vary based on the type of project proposed. The HCA divides these obligations into two categories: housing development projects and non-housing development projects. This memorandum focuses only on the requirements related to non-housing development projects, because the Project does not include residential uses and does not meet the definition of "housing development project"⁴ in the HCA. (Govt. Code §§ 66300.6(a) and (b).) For non-housing development projects, a city cannot approve a project that will require the demolition of "occupied or vacant protected units, or that is located on a site where protected units were demolished in the previous five years" until certain requirements are met. For example, applicants are required to replace all existing protected units and protected units demolished on or after January 1, 2020. (Govt. Code § 66300.6(b)(1)(A).) Notably, the housing replacement obligations for non-housing development projects only apply to protected units. In other words, certain residential uses and housing units may be demolished as part of a non-housing development project without triggering the replacement obligations under the HCA.

Protected units, as defined in the HCA, only include rental units.⁵ Specifically, protected units include rental units restricted by local ordinance, units rented to lower or very-low income households, rental units with affordable housing covenants, etc. For non-housing development projects, the HCA does not include replacement obligations for owner-occupied units because these units do not meet the definition of a protected unit. The housing replacement obligations for non-housing development projects only apply to projects that demolish protected units.

⁴ A "housing development project" is defined as a project with: (1) residential units only; (2) mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use; or (3) transitional housing or supportive housing. (Govt. Code § 65589.5(h)(2).)

⁵ A "protected unit" is defined as any of the following: "(1) Residential dwelling units that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years; (2) Residential dwelling units that are or were subject to any form of rent or price control through a public entity's valid exercise of its police power within the past five years; (3) Residential dwelling units that are or were rented by lower or very low income households within the past five years; or (4) Residential dwelling units that were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 within the past 10 years." (Govt. Code § 66300.5(h).)

Here, the Existing Units are not considered protected units under the HCA. The existing single-family residence is occupied by the owner and is not and has not been rented to any tenants. As such, the single-family residence would not be considered a protected unit under the HCA. The ADU is currently rented by a tenant and has been rented since at least 2017. The incomes of the current tenant and prior tenants all have exceeded the income limits for lower and very-low income households, which are the U.S. Secretary of Housing and Urban Development ("HUD") equivalent of an area-median income ("AMI") of 80% AMI.⁶ See Exhibit A, attached. According to the "2024 San Mateo County Income Limits,"⁷ an 80% AMI (based on HUD income limits) is below \$109,700 per year for an individual and \$119,300 per year for two individuals. The tenants who rented the ADU all had incomes exceeding \$109,700 per year. The two tenants who rented the ADU between July 15, 2023 to October 15, 2024 had a combined income greater than \$119,300 per year. As such, the ADU would not be considered a protected unit under the HCA.

Accordingly, the replacement obligations under the HCA for non-housing development projects would not apply to the Project. Therefore, the Applicant is not required to replace the single-family residence or ADU that would be demolished as part of the Project. And the City can approve this non-housing development project without the Project meeting the replacement requirements in Government Code Section 66300.6(b).

II. Relocation Ordinance

The City has tenant relocation assistance requirements that are distinct and separate from the HCA replacement obligations. Specifically, the Relocation Ordinance provides tenant relocation assistance in the event rental units are either demolished or converted to ownership units. The requirements under the Relocation Ordinance apply to current tenants only. The SMMC does not require relocation assistance for any past tenants. Further, the Relocation Ordinance does not require a five-year look back for relocation payments like the HCA.

Here, the Property will be delivered to The Carey School vacant, which means there will be no tenants in the ADU (or on the Property) at the time the Property is transferred to The Carey School. As such, there will be no rental unit or tenants living on the Property at the time the Existing Units are demolished. At this stage of the Project, the Relocation Ordinance only requires applicants to provide the City with a list of the existing heads of household for each unit that will be demolished. This information is provided in Exhibit A. Information regarding previous tenants is not required by the Relocation Ordinance, though income information regarding prior tenants has been included in Exhibit A for compliance with the HCA.

If applicable, the Relocation Ordinance requires applicants to provide "relocation assistance" to each household prior to any "notice of relocation," including (1) a list of available comparable housing in San Mateo County; (2) relocation assistance equivalent to three times the current fair market monthly rent for a dwelling unit of comparable size and type; (3) payment

⁶ "Lower Income Households" are defined in the HCA as "persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of the area median income, adjusted for family size and revised annually." (Health and Safety Code, § 50079.5(a).)

⁷ <https://www.smcgov.org/media/149102/download?inline=>

for moving costs not to exceed \$1,000; and (4) other “reasonable assistance and allowance” as determined by the final approval body.

However, the tenant relocation obligations under the Relocation Ordinance do not apply to the Project because the Property will be delivered to the Applicant vacant. The existing tenants are on a month-to-month lease and will vacate the Property before demolition. The existing tenants signed a “Residential Tenant Agreement” (the “Lease Agreement”) with the existing property owner of the Property on October 8, 2025 for the dates October 16, 2024 to April 31, 2025. See Exhibit B. The Lease Agreement specifically states that the lease would be “month to month” after termination. The existing tenants and property owner signed an “Addendum to Lease Contract” (the “Addendum”) on May 27, 2025. The Addendum permits a month-to-month rental of the Property for \$3,300 per month until termination by either tenant or property owner. The tenant has opted to terminate the month-to-month tenancy and will be vacating the Property in August 2025.

Given that the Property will be vacant well before the property owner delivers the Property to the Applicant, the relocation requirements in the Relocation Ordinance do not apply to the Project. Put differently, the Project would not cause relocation of the existing tenants as required by SMMC Section 27.02.180. As such, the Applicant is not required to pay the existing tenants relocation or moving fees as part of the Project.

EXHIBIT A
Annual Income of Past and Existing Tenants

1. February 1, 2017 to July 1, 2023 – Annual income of single tenant was \$191,821.52
2. July 15, 2023 to October 15, 2024 – Annual income of single tenant was \$190,000
3. October 15, 2024 to Present – Annual combined income of two tenants () is \$203,904.
Tenants have a short-term, six month lease.