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May 13, 2021

Dear City of Fullerton Council Members,

Sage Behavior Services and its landlord, Temple Beth Tikvah, request that the City Council reverse the decision of the Planning Commission and grant Sage Behavior Services a Conditional Use Permit to operate at 1600 N. Acacia Ave. Sage's mission and operations are similar to that of a private school or child-care center. In addition, we request that the CUP allow Sage to operate with up to 15 children and 20 staff, which is consistent with the numbers permitted by fire and parking regulations. This small number of children and staff would not create traffic problems or impede the neighborhood in any way.

We are filing an appeal based on the following facts:

1. Sage Behavior Services provides services to children with disabilities in a manner which is similar to a private school and/or child-care center.
 - a. Parents drop off their children at the site for a time period of 2-7 hours per day, with an average duration of 3.75 hours per day. Sage does not do hourly appointments.
 - b. Children with disabilities come to the site to learn important skills that help them succeed and grow at school, at home, and in the community, which is similar to the mission of schools. At Sage, the children receive 1:1 individualized instruction from highly trained staff.
 - c. Daily activities include Circle Time, Music Time, Art, Story Time, Work Time, Snack/Lunch, playing with board games, and gross motor (i.e., physical) play. These activities are all consistent with activities typically found in preschools and childcare centers. Please refer to the site pictures in Attachment 1 and children's work and art samples in Attachment 2.
 - d. Although most of what Sage does occurs in the home or in public school settings, a site is essential for a small portion of working families to access necessary services. It is also an essential stepping stone for those children to need to prepare to be in a pre-school or public school setting but who do not yet have the skills necessary.
 - e. Sage is certified by the California Department of Education as a non-public agency and is able to serve students in Pre-K to 12th grade at the site. Please refer to the NPA Certification in Attachment 3.
 - f. Sage provides designated instructional services (DIS) as part of a child's Individualized Education Plan (IEP). As such, Sage is an integral part of the continuum of educational services offered to students to support their learning and independence. Sage works with each school team to ensure that services individualized to best fit the needs of the child are provided in the least restrictive environment, and Sage's site on Acacia offers one possible option for school districts to consider when their students might not yet be ready for a public school setting.
 - g. During the pandemic, Sage has contracted with school districts, including FJHUSD, to provide services to students at the Acacia site to assist them with

distance learning. These students would not have been able to successfully access distance learning at home. This service option is also consistent with the use of the property for educational purposes.

- h. Plans are being made to use aspects of Sage's specialized educational approach with the Temple's preschool and after-school children's programs.
 - i. The city's Planning Department report stated on page 3 that "Available information, as provided by the applicant and as indicated on the Sage website, is that Sage provides services to address the individualized needs of children eligible for special education either in a one-on-one or group setting including working on improving functional communication, self-help skills, play skills, safety skills, and overall independence. These services are not unlike those of a private school and/or child-care center, both of which are permissible in a residential zone with a CUP and are uses already approved for the 1600 North Acacia property."
- 2. The Planning Commission's decision to deny the CUP based on the designation that Sage is a commercial business does not make sense and is not based on the facts.
 - a. According to the California Department of Education, a private school is defined as a school that is owned or operated by a private person, firm, association, organization, or corporation, rather than by a public agency. A private school or childcare center can be a for-profit organization and would be permitted to operate in the current space. Whether or not a school is a non-profit should not affect the permissibility of operating at this location.
 - b. The city's Planning Department report further stated on page 3 that "Fullerton Municipal Code (FMC) Section 15.17.020.0 provides that the Community and Economic Development Director can determine an activity not specifically listed in the permitted uses table to be consistent with a listed permitted use if it is consistent with the zone's purpose. Recognizing that a private school is a commercial use identified in the FMC as permissible with the approval of a CUP and in compliance with FMC 15.55.030.D, the City provided Sage/Temple Beth Tikvah the option of modifying the existing CUP through the public hearing process with the Planning Commission. If approved, the CUP modification would allow for Sage to operate at this location as an additional private school." The report itself indicates that a private school is **a permissible commercial use** and the Planning Commission thus erroneously denied the CUP request based on the designation of Sage as a commercial entity.
- 3. The traffic generated by children and staff attending the Sage site has not made an adverse impact in the neighborhood and is even less than what the traffic has been in the past 55 years.
 - a. Code Enforcement staff inspected or monitored the property on 10 separate occasions during the past year. Page 4 of the Planning Department's report stated that "All site inspections found that there was minimal to no traffic coming to and from the site. There was never any evidence of excessive traffic, noise, or vehicle congestion."
 - b. The current traffic and noise are a small fraction of all the previous activities since the Temple opened in 1965. The last tenant, the Unitarian Universalists, with its hundreds of members, had much more traffic and use at the same location. Yet, there have been no complaints on record for the 55-year period.

- c. The upper parking lot, which has a 26-car capacity, has more than enough space to enable 15 kids and 20 staff to be served by Sage. There would be adequate parking for everyone, and there would not be a need for anyone to park on Acacia Ave. Please refer to Attachment 4 below.
 - d. The leased space consists of approximately 6700 square feet. The maximum capacity set by the fire department is 201 individuals within that space. Please refer to Attachment 5 below. Sage is only requesting to have 15 kids and 20 staff on site, which is a small fraction of the allowable maximum capacity. Any future tenants could potentially have a much higher usage than what Sage is requesting.
 - e. Any amount of students below 15 would create a financial hardship for Sage. The site was leased by Sage based on the potential number of students that could be served at the location, given the number of parking lot stalls and the square footage of the site. It would not be financially feasible or reasonable for Sage to operate at such a large site if the city required that most of the rooms and the parking lot remain empty and unused.
4. The removal of Sage from the Acacia location would negatively impact the Fullerton community.
- a. Certain commissioners refused to consider the grave consequences of rejecting this modification of the Temple's CUP. The breadth of the educational services provided by Sage is NOT available from other similar organizations in Fullerton, and Sage has had difficulty finding a suitable safe and quiet school environment in which to operate. If Sage must relocate, Fullerton residents will be forced to drive long distances to obtain essential services for their disabled children.
 - b. If Temple Beth Tikvah is unable to find a tenant to replace Sage, because of such a narrow definition of permissible activities, it may be forced to sell the only home for the Jewish Community in north Orange County, a sacred place for them for over 55 years.

Sage Behavior Services and Temple Beth Tikvah share the same mission, which is to bring healing and support to members of our community. We both play important roles in Fullerton life. The Temple and Sage are both committed to being good neighbors. We believe it is in the City of Fullerton's best interest to accommodate community religious and educational organizations as they endeavor to provide their services to the benefit of our citizens, especially during these difficult financial times.

Thank you for your support.

Best regards,

Kareem Khouri
Business Director/Co-Owner
Sage Behavior Services

Ronnie Sue Henderson
President
Temple Beth Tikvah

Attachment 1 – Classroom Pictures



Room 1

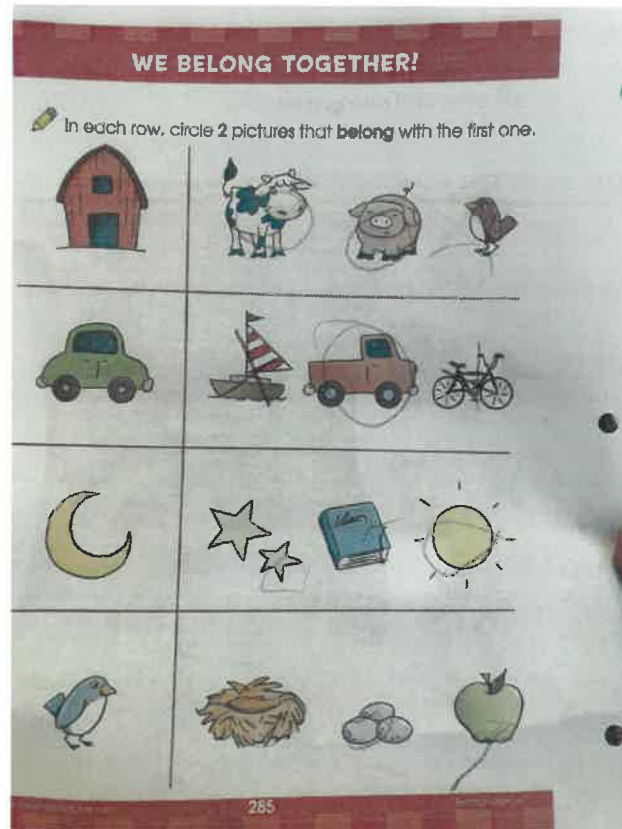


Room 2



Room 3

Attachment 2 – Work and Art Samples



Child's work sample



Children's art samples

Attachment 3



CALIFORNIA DEPARTMENT OF EDUCATION
NOTICE OF NONPUBLIC AGENCY CERTIFICATION

Date: March 22, 2021

NPA ID: 9901017

Nonpublic Agency: Sage Behavior Services Inc.

Site Administrator: Kareem Khouri

Mailing Address: 1600 North Acacia Avenue

City: Fullerton CA 92831

NPA AUTHORIZED TO PROVIDE SERVICES AT NPA SITE ☒ Yes ☐ No Grades: PK to 12

Site Address: 1600 North Acacia Avenue Ages: 3 to 22

City: Fullerton CA 92831 Student Gender: Coed

2021 CERTIFICATION STATUS:

APPROVED

Maximum Capacity: 24

EFFECTIVE DATES:

March 19, 2021 through December 31, 2021

Amended on 3/19/21 so services can be provided at the NPA location.

☒ Amended

Certification is not an endorsement of the services offered by the nonpublic agency (NPA), but states only that the NPA meets minimum legal standards. "Approved" or "Conditional" certifications authorize the NPA to accept students placed by local educational agencies (LEAs) under California Education Code, Section 56366.

Authorized to Provide the Following Related Services:

<input type="checkbox"/> APE	<input checked="" type="checkbox"/> BII	<input type="checkbox"/> LSDR	<input type="checkbox"/> PCT	<input type="checkbox"/> SDTI	<input type="checkbox"/> VECD
<input type="checkbox"/> AS	<input type="checkbox"/> CG	<input type="checkbox"/> MT	<input type="checkbox"/> PS*	<input type="checkbox"/> SW	<input type="checkbox"/> LI:
<input type="checkbox"/> ATS	<input type="checkbox"/> EE	<input type="checkbox"/> OM	<input type="checkbox"/> PT	<input type="checkbox"/> TS	<input type="checkbox"/> Other Services:
<input checked="" type="checkbox"/> BID	<input type="checkbox"/> HNS	<input type="checkbox"/> OT	<input type="checkbox"/> RS	<input type="checkbox"/> VS	*Other than Assessment and IEP Development

Per California Education Code 56366.4(a)(5)(A), the superintendent may revoke or suspend the certification of a nonpublic, nonsectarian school or agency for any of the following reasons: Failure to notify the department in writing of any of the following within 45 days of the occurrence: changes in credentialed, licensed, or registered staff who render special education and related services; ownership; management; or control of the nonpublic, nonsectarian school or agency.

Focused Monitoring and Technical Assistance VI Unit, Special Education Division

Attachment 4 –Parking Lot Pictures



Picture taken on 5/11/2021 at approximately 12:30pm



Picture taken on 5/11/2021 at approximately 3:30pm

Attachment 5 – Maximum Occupancy Sign

