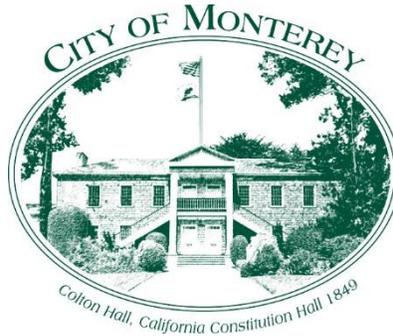


Attachment C

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February 10, 2026

ATTN: Fionna Jensen
Airport Land Use Commission Staff
Monterey County HCD Planning Department
1441 Schilling Place, South, 2nd Floor
Salinas, CA 93901
jensenf1@co.monterey.ca.us

ATTN: Division of Aeronautics
California Department of Transportation
P.O. Box 942873
Sacramento, CA 94273-0001
Aeronautics@dot.ca.gov

SENT VIA ELECTRONIC MAIL AND CERTIFIED MAIL TO THE ABOVE ADDRESSES

Subject: Day Care, General, Use at 2400 Garden Road – Notice of Intent to Overrule the Monterey County Airport Land Use Commission

Dear Ms. Jensen and Division of Aeronautics:

This letter serves as formal notice that, on January 20, 2026, the City Council of the City of Monterey adopted Resolution No. 26-008 (attached), declaring its intent to consider overruling the Monterey County Airport Land Use Commission's determination (ALUC Resolution No. 25-003, adopted July 28, 2025) regarding the proposed conversion of an existing commercial office building to a day care facility located at 2400 Garden Road, Monterey (APN 013-322-008-000).

Resolution No. 26-008 includes proposed findings supporting the City's intent to overrule the ALUC determination and finding that the proposed project is consistent with the purposes of the State Aeronautics Act, including the protection of public health, safety, and welfare in areas surrounding airports.

Pursuant to Public Utilities Code Sections 21676(a) and (b), the Airport Land Use Commission and the California Department of Transportation, Division of Aeronautics, may provide comments to the City within 30 days of receipt of this notice and the proposed findings. Any comments received will be included in the administrative record and considered by the City Council prior to taking final action.

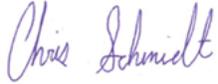
The City Council is tentatively scheduled to consider adoption of findings and a final decision on the override at a public hearing on April 7, 2026.

Written comments should be directed to:

Chris Schmidt, Senior Associate Planner
City of Monterey Community Development Department
580 Pacific Street
Monterey, CA 93940
schmidt@monterey.gov

If you have any questions regarding this matter, or require any additional information, please feel free to contact me at (831) 646-3910 or schmidt@monterey.gov.

Sincerely,

A handwritten signature in blue ink that reads "Chris Schmidt". The signature is written in a cursive, flowing style.

Chris Schmidt
Senior Associate Planner

Attachment: 1. Monterey City Council Resolution No. 26-008
2. Monterey County Airport Land Use Commission Resolution No. 25-003

e: Clementine Bonner Klein, City Clerk, City of Monterey

RESOLUTION NO. 26-008 C.S.**A RESOLUTION OF THE COUNCIL OF THE CITY OF MONTEREY****ADOPTING PROPOSED DRAFT FINDINGS AND DECLARING AN INTENT TO CONSIDER OVERRULING THE MONTEREY COUNTY AIRPORT LAND USE COMMISSION'S CONSISTENCY DETERMINATION FOR A DAY CARE, GENERAL, USE AT 2400 GARDEN ROAD AND DIRECTING THAT NOTICE OF THE PROPOSED DECISION AND FINDINGS BE PROVIDED TO THE AIRPORT LAND USE COMMISSION AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION DIVISION OF AERONAUTICS**

WHEREAS, Henry Ruhnke of Wald, Ruhnke and Dost Architects LLP, appellant, submitted an application to appeal the decision of the Planning Commission to deny Use Permit UP-25-0013 for a Day Care, General, use at 2400 Garden Road;

WHEREAS, the site is designated Employment on the General Plan Land Use Map and is zoned I-R-130-RA-ES-MF1 (Industrial, Research and Administration Zoning District with Religious Assembly, Emergency Shelter and Multifamily Overlay Districts). The I-R zoning district requires a use permit for the day care, general, use;

WHEREAS, on January 15, 2025, Shawn Capps of Wald, Ruhnke and Dost Architects LLP, applicant on behalf of owner W R MONT LLC, proposed to convert the existing building to a private Montessori community school for children;

WHEREAS, on July 28, 2025, the Monterey County Airport Land Use Commission determined that the proposed use is inconsistent with the 2019 Airport Land Use Compatibility Plan;

WHEREAS, on September 23rd, 2025, the Planning Commission, at a properly noticed public hearing, carefully considered all of the information presented to it, including the agenda report and information submitted at the public hearing by interested persons; and denied the use permit application based on the findings identified in Resolution P25-022;

WHEREAS, on October 3, 2025, the appellant filed a timely appeal of the Planning Commission's decision (AP-25-0236);

WHEREAS, on November 4, 2025, the City Council, at a properly noticed public hearing, carefully considered all the information presented to it, including the agenda report and information submitted at the public hearing by interested persons and continued the item with direction to staff;

WHEREAS, the City may overrule a determination of the ALUC if it makes findings that the proposed action is consistent with the purposes of Section 21670 regarding the protection of public health, safety and welfare in areas surrounding airports and provides the ALUC and the California Department of Transportation Division of Aeronautics ("Division") with a copy of the proposed decision and findings at least 45 days prior to the City's action to overrule the ALUC, pursuant to Public Utilities Code section 21676(a);

WHEREAS, Section 21676(a) provides that the ALUC and the Division shall respond to the referral of the findings of override within 30 days of receiving the proposed decision and

findings. However, in the event that the ALUC or Division's comments are not available within this time limit, the City may act without them;

WHEREAS, the comments by the ALUC or Division are advisory to the City under State law;

WHEREAS, the City Council shall include comments from the ALUC and the Division in the final record of any final decision to overrule the ALUC, which may only be adopted by a two-thirds vote of the Council; and

WHEREAS, the City of Monterey Planning Office determined the project is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15301, Class 1 and Section 15303, Class 3) because the project proposes minor alterations to the exterior of a developed site in an urbanized area, and construction of small structures. The project would not involve an expansion of the existing building and proposes minor improvements to the site including a new waste enclosure and deck. Furthermore, the project does not qualify for any of the exceptions to the categorical exemptions found at CEQA Guidelines Section 15300.2.

Exception a - Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The proposed improvements are not located in a particularly sensitive environment and are generally limited to developed parts of the project site.

Exception b - Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. The proposed waste enclosure is a minor alteration to the site, which is already developed. No cumulative impacts are anticipated due to the project's limited scope and distinct location.

Exception c - Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. No significant effects are anticipated due to the project's limited scope and distinct location.

Exception d - Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified Environmental Impact Report. The site is not visible from a scenic highway.

Exception e - Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. The project site is not located on a hazardous waste site that is included on any list compiled pursuant to Section 65962.5 of the Government Code.

Exception f - Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. There are no historic structures on site, and the project site is not located in an area of high archaeological sensitivity. Therefore, impacts to historic or archaeological resources are not anticipated.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTEREY that the above recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF MONTEREY that it hereby adopts the following proposed draft findings overruling the ALUC's consistency determination for the draft ordinance, as follows:

- 1) The project site is within Safety Zone 7 (Airport Influence Area). Safety Zone 7 is the most permissible safety zone of the ALUCP. This Safety Zone allows for residential development at unrestricted densities, a maximum intensity of 300 persons per acre for non-residential land uses, and all development types, except hazards to flight, outdoor stadiums, and similar very high intensity uses. The proposed site is approximately 0.75 acres in size, and the proposed daycare would have a maximum on-site occupancy of 120 persons (104 students and 16 staff). No exterior modifications are proposed. The proposed daycare is not a hazard to flight, or a very high intensity use, and complies with the ALUCP's maximum allowed intensity of 300 persons per acre.
- 2) The City Council finds that the proposed Day Care, General, use at 2400 Garden Road is consistent with the purposes of Public Utilities Code section 21670, including protection of public health, safety, and welfare through reasonable minimization of exposure to airport-related hazards within an area already developed with urban uses. The project proposes reuse of an existing developed site located within Airport Safety Zone 7 and does not introduce new development into previously undeveloped land adjacent to the airport.
- 3) Day care use is not prohibited within Safety Zone 7, however, projects that involve or would be occupied by "vulnerable occupants" (defined as children, the elderly, and people with disabilities) within 6,000 feet from the side of the runway is "strongly discouraged," especially at the ends of runways, unless a site outside the zone would not serve the intended function. Here, the proposed day care will be located parallel to the runways. Also, the project site was previously used as a church, and as such it was occupied by vulnerable occupants. The City Council finds that feasible alternative locations outside Safety Zone 7 are not reasonably available for the proposed use. Substantial evidence in the administrative record demonstrates that alternative sites were evaluated and found unavailable or unsuitable due to zoning, parcel size, operational requirements, or market constraints. Given the geographic extent of Safety Zone 7, requiring avoidance of the zone would effectively preclude establishment of the proposed use within the City, which is not required by Public Utilities Code Section 21670.

- 4) Airport Safety Zone 7 is already substantially devoted to urban, institutional, and community-serving uses, including uses involving children and other potentially vulnerable populations. The City Council finds that the proposed project will not interfere with airport operations, airspace protection, flight paths, or the orderly expansion of the Monterey Regional Airport, consistent with Public Utilities Code section 21675. The project is located along the side of an active runway, is not situated within a primary landing or takeoff zone, and does not introduce physical obstructions, height encroachments, or operational conflicts with aviation facilities.

- 5) The City Council finds that, based on its independent judgment and the entire administrative record, the public welfare benefits of expanding licensed child care capacity—including support for working families, economic participation, and community well-being—outweigh the generalized and non-site-specific risk considerations identified for Airport Safety Zone 7. The City Council further finds that informed parental decision-making, consistency with adopted zoning and General Plan policies, and the reuse of an existing developed site support the conclusion that the proposed action is consistent with the purposes of Public Utilities Code section 21670 and that overruling the ALUC’s consistency determination is authorized under Public Utilities Code Section 21676(a).

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 20th day of January, 2026, by the following vote:

AYES:	5	COUNCILMEMBERS:	Barber, Garcia, Rasch, Smith, Williamson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

Signed by:


 Mayor of said City

DocuSigned by:


 City Clerk thereof

**Before the Monterey County Airport Land Use Commission,
State of California**

Resolution No. 25-003

Finding the proposed conversion of an existing 11,177 SF commercial office building into a day care/school facility and accompanying proposed improvements inconsistent with the 2019 Airport Land Use Compatibility Plan (ALUCP) for Monterey Regional Airport.

REF250022, 2400 Garden Road, Monterey, (APN: 013-322-008-000).

WHEREAS, on June 30, 2025, the City of Monterey (City) submitted an ALUC application (ALUC File No. REF250022) to ALUC staff requesting a consistency determination of the proposed conversion of an existing commercial office building into a day care/school facility (Montessori Community School) located at 2400 Garden Road, Monterey; and

WHEREAS, the ALUC is responsible for the review of local land use regulations affecting land uses within the Airport Influence Area for Monterey Regional Airport, as identified in the Monterey Regional Airport Land Use Compatibility Plan (ALUCP), incorporated herein by reference, for consistency with the ALUCP; and

WHEREAS, as proposed project includes the demolition and reconstruction of approximately 8,136 square feet of the interior portions of upper floor area of the existing office building to accommodate new classroom spaces and support areas, and other site improvements including construction of a new waste enclosure, reconfiguration of the parking lot to meet current standards and provide the required number of parking spaces, and modifications to existing landscaped areas. The existing building would be occupied by Montessori Community School, providing daycare and educational programs for infants and children up to 6 years old. The proposed day care/school facility would have a maximum on-site occupancy of 120 persons (104 students and 16 staff); and

WHEREAS, pursuant to ALUCP Exhibit 4B, Noise Compatibility Criteria and Long Range Noise Exposure Contours, the subject property is located outside of the 65-, 70-, or 75- Community Noise Equivalent Levels (CNELs), and therefore, the proposed development is a compatible use; and

WHEREAS, the project site is entirely located within the 14 Code of Federal Regulations (CFR) Part 77 horizontal surface elevation of 406 feet above mean sea level (AMSL). The proposed development does not include increasing the height of any structure beyond what is currently existing on site and therefore will not encroach on Part 77 Surfaces and is an allowed use with respect to airspace protection criteria (ALUCP Policy 4.2.3); and

WHEREAS, the project site is located within Safety Zone 7 (Airport Influence Area), as delineated in the ALUCP. Safety Zone 7 is the most permissible safety zone, allowing residential development at unrestricted densities, non-residential land uses up to a maximum intensity of 300 persons per acre, and all development types except hazards to flight, outdoor stadiums, and other very high-intensity uses.

WHEREAS, pursuant to Table 4B of the ALUCP, projects within Safety Zone 7 that involve vulnerable occupants (including children, the elderly, and persons with disabilities) within 6,000 feet from the side of a runway require ALUC review and are “strongly discouraged”. The subject property is located approximately 1,395 feet south of Monterey Regional Airport runway 10R-28L; and

WHEREAS, Exhibit D2 of the ALUCP identifies the various factors (runway length, arrival and departure accidents¹, flight patterns, long-range noise contours), that were considered to create the MRY Safety Zones. Per Exhibit D2, and based on data from airports around the U.S, the subject property is located in an area that may experience multiple arrival and departure accidents; and

WHEREAS, Policy 4.2.2.2 of the ALUCP states, “The safety zone land use compatibility standards in Table 4B restrict the development of land uses that could pose particular hazards to the public or to vulnerable populations in case of an aircraft accident.” The proposed use is strongly discouraged by the ALUCP due to its close proximity to MRY runway 10R-28L. In addition, the proposed use is directly adjacent to Safety Zone 5, which prohibits daycares and school facilities; and

WHEREAS, as set out in California Public Utilities Code section 21670, the ALUC is created “to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.” As proposed, the project would introduce vulnerable occupants into an area subject to higher aircraft-related hazards; therefore, creating a potential public safety concern; and

WHEREAS, the ALUC testified during the July 28, 2025 hearing that introduction of the proposed use is not compatible with 2019 ALUCP as it introduces a use that would be exposed to aircraft related noise and potential accidents, and traffic associated with operation of MRY. Accordingly, the ALUC finds that establishment, maintenance, and operation of the project will the circumstances of this particular case be detrimental to the health, safety, comfort, and general welfare of persons occupied by the project site, and be potentially detrimental or injurious to the project’s occupants; and

WHEREAS, on July 21, 2025, the California Department of Transportation, Division of Aeronautics, verbally informed ALUC staff of it’s general discouragement to introduce vulnerable occupants within 6,000 feet of the side of a runway.

WHEREAS, the Monterey Regional Airport District commented on the project, and verbally testified at the July 28, 2025 hearing, stating, “Due to the potential presence

¹ Nominalized from other airports across the United States. Accident Data from California Airport Land Use Planning Handbook, 2011.

of vulnerable occupants within the vicinity of the airport, Monterey Regional Airport does not support the proposed use of 2400 Garden Road as a Day Care Center” (letter dated July 18, 2025); and

WHEREAS, on July 28, 2025, the ALUC conducted a duly noticed public meeting to consider the proposed project located at 2400 Garden Road, Monterey (APN: 013-322-008-000); and

NOW, THEREFORE, BE IT RESOLVED, the Monterey County Airport Land Use Commission does hereby find that the conversion of an existing 11,177 SF commercial office building into a day care/school facility and accompanying proposed improvements are inconsistent with the 2019 ALUCP for Monterey Regional Airport.

PASSED AND ADOPTED on this 28th day of July 2025, upon motion of Commissioner Leffel and seconded by Commissioner Cleveland, by the following vote, to-wit:

AYES: Commissioners Leffel, Carbone, Cleveland, Scherer, Kerr, and Donaldson

NOES:

ABSENT: Commissioner Cohan

ABSTAIN:

ATTEST

Craig Spencer, Secretary to the ALUC

By: *Fionna M. Jensen*
Fionna Jensen, Designee of Secretary to the ALUC
July 28, 2025

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