



June 29, 2017

Jayanti Dixit
2875 Garden Creek Circle
Pleasanton, CA 94588

Subject: P17-0327, Large Family Daycare
Effective Date: July 17, 2017

Dear Ms. Dixit:

At its hearing on June 29, 2017, the Zoning Administrator approved Case P17-0327, your application for a Conditional Use Permit to operate a Large Family Daycare for a maximum of 12 children at the existing residence located at 2875 Garden Creek Circle. Approval was granted subject to the conditions as shown on the attached Exhibit A.

The following findings must be made in order to approve the proposed Large Family Daycare Home Use Permit:

A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

Objectives of the Zoning Ordinance include: fostering a harmonious, convenient, workable relationship among land uses; protecting existing land use from inharmonious influences; promoting a safe, effective traffic circulation system; facilitating the appropriate location of community facilities and institutions; protecting and enhancing real property values; and ensuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, the proposed Large Family Daycare Home would be consistent with these objectives because it would retain the residential characteristics of the neighborhood and not generate large volumes of traffic or noise due to its limited scale and size.

The subject site is zoned PUD- MDR District. Some of the purposes of this District include: reserving appropriately located areas for family living; minimizing traffic congestion; providing necessary space for off-street parking; and protecting

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning 200 Old Bernal Ave. (925) 931-5600 Fax: 931-5483	Building & Safety 200 Old Bernal Ave. (925) 931-5300 Fax: 931-5478	Engineering 200 Old Bernal Ave. (925) 931-5650 Fax: 931-5479	Traffic 200 Old Bernal Ave. (925) 931-5650 Fax: 931-5479	Inspection 157 Main Street (925) 931-5680 Fax: 931-5484
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residential properties from noise and other objectionable influences. Large Family Daycare Homes are allowed in single-family residential districts subject to the standards of the PMC. As conditioned, the PMC standards are met. Therefore, the CUP for the Large Family Daycare Home is in accordance with the objectives of the zoning district, and the above finding can be made.

B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

Prior to commencement of any Large Family Daycare Home activities, the applicant would be required to obtain the proper licensing for a Large Family Daycare Home from the State allowing up to 12 children at the subject residence. To ensure that the transition from a Small Family Daycare Home to a Large Family Daycare Home would generate minimal impact to the adjacent residents as well as to the neighborhood, the applicant would be required to reserve the garage for their vehicles at all times, as well as the driveway area for parking by the daycare use. As proposed and conditioned, the applicant would advise parents/guardians not to double park during pickup/drop off time, and not to use neighbors' driveways to park or make a U-turn. In addition, children's outdoor play times would be staggered to reduce noise impacts on adjacent properties. With the imposed conditions, the proposed Large Family Daycare Home would be operated in a manner that would not significantly adversely affect the neighborhood.

As proposed and as required by conditions, the proposed Large Family Daycare Home would not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity and this finding can be made.

C. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to Conditional Uses.

As conditioned, the proposed Large Family Daycare Home will comply with the Large Family Daycare Home standards listed in Section 18.124.240 of the Zoning Ordinance, including spacing, traffic control, parking, noise control, and Fire Code requirements. The proposed Large Family Daycare Home, as conditioned, would also comply with the Uniform Fire Code. Therefore, the third finding can be made.

Jayanti Dixit, P17-0327
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July 17, 2017

This approval will become effective on July 17, 2017, unless appealed prior to that time.

If you have any questions, please feel free to contact Jenny Soo, Associate Planner at (925) 931-5615.

Sincerely,



Steve Otto
Acting Planning Manager

C: Gary Sears, 3857 Stone Pointe Way, Pleasanton, CA 94588
Leonard Robinson, 2881 Garden Creek Circle, Pleasanton, CA 94588
Ryan Rucker, Fire Marshal, Livermore-Pleasanton Fire
Mark Dennis, Code Enforcement
Business License

**EXHIBIT A
CONDITIONS OF APPROVAL**

P17-0327

2875 Garden Creek Circle, Jayanti Dixit

Effective Date: July 17, 2017

PROJECT SPECIFIC CONDITIONS OF APPROVAL

1. The Large Family Daycare Home covered by this approval shall substantially conform to the narrative, site plan and floor plan dated "Received, June 18, 2017, Exhibit "B", on file with the Planning Division, except as modified by the following conditions. Minor changes to the operation may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance with the approved exhibits.
2. The outdoor play area shall be supervised by staff at all times. The outdoor play area shall only be occupied by a maximum of five children at any one time and shall only be used from 11:00 a.m. to 12:00 noon and 4:00 p.m. to 5:30 p.m.
3. The applicant shall advise the patrons of this Large Family Daycare Home to drive safely and follow all traffic regulations on Garden Creek Circle and the surrounding neighborhood and to be mindful of adjacent property owner concerns when parking and driving to and from the site.
4. The applicant shall notify the parents/guardians that at no time shall children enrolled in the Large Family Daycare Home be allowed to cross the street by themselves.
5. The applicant shall notify the parents/guardians that under no circumstances shall the Large Family Daycare Home parents/guardians double park, honk the horn, or park in the middle of the street.
6. The applicant shall notify parents/guardian not to park or make U-turns in the neighboring driveways.
7. Prior to issuance of a business license, the applicant shall demonstrate that the garage is available for parking two vehicles to the satisfaction of the Community Development Director. The garage shall remain available for parking two vehicles at all times, as required by the Pleasanton Municipal Code. During the approved business hours of the Large Family Daycare (Monday through Friday 6:30 a.m. to 6:00 p.m.), the occupants of the residence shall park their vehicles in the garage before they may utilize other parking spaces in the driveway or on the street. Except as required above, all automobiles owned/operated by the applicant or other tenants living at the subject site as well as all employees of the subject daycare shall be parked in the garage, driveway, or directly in front of the subject site when the day care home is in operation. Patrons of this Large Family Daycare may utilize other on-street parking spaces provided that

children are escorted or can safely travel between the day care home and parking.

8. The Large Family Day Care Home indoor uses shall be limited to the first floor of the subject residence only.
9. The Large Family Daycare Home is limited to a maximum of 12 children.
10. All appropriate State licenses for a Large Family Daycare Home shall be secured and maintained during the entire time the residence is utilized as a Large Family Daycare Home.
11. The applicant shall meet all the requirements of the State Fire Marshall relating to Large Family Daycare Homes and obtain a final inspection by the Fire Department.
12. If additional hours and activities beyond what was stated in the applicant's statement of operation on file in the Planning Division are desired, City review and approval is required. Such modification may be approved by the Director of Community Development if found to be in substantial conformance with the approval. The Director of Community Development may require neighborhood noticing of the matter if the proposed changes are determined to be significant.
13. The Large Family Daycare Home shall not create noise levels in excess of those allowed in residential property by Chapter 9.04 of the Pleasanton Municipal Code.
14. Windows shall be closed before 8:00 a.m. on the days when the Large Family Daycare Home is open.

STANDARD CONDITIONS OF APPROVAL

15. The applicant's site shall be maintained in a neat and litter-free manner at all times.
16. If operation of this Large Family Daycare Home business results in conflicts pertaining to parking, interior or exterior noise, traffic/circulation, or other factors, at the discretion of the Director of Community Development, this permit may be referred to the Planning Commission for its review at a public hearing. If necessary, the Planning Commission may modify or add conditions of approval to mitigate such impacts, or may revoke the said permit approval. Possible mitigation measures may include changing the hours of operation or other measures deemed necessary.
17. At no time shall signs, balloons, banners, pennants, or other attention-getting devices be utilized on the site for this Large Family Daycare Home.
18. This approval will lapse one (1) year from the effective date of approval unless the applicant receives a business license for the Large Family Daycare Home.
19. To the extent permitted by law, the project applicant shall defend (with counsel reasonable acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any

claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

< End >

Appeal of P17-0327

Application by Jayanti Dixit to operate a Large Family Daycare Business

Site: 2875 Garden Creek Circle, Pleasanton CA 94588

Additional Documentation to Appeal by Gary Sears filed on July 14, 2017

EXECUTIVE SUMMARY

As the homeowner and resident of the property directly adjacent to this site, I filed a timely appeal on July 14, 2017 regarding the pending approval of the Conditional Use Permit (CUP) granted to the applicant by the City of Pleasanton. This CUP would allow the applicant to operate a Large Family Daycare business of up to 12 children immediately next to my home.

The huge problem that cannot be effectively mitigated is the **excessive nuisance noise** produced by crying and screaming children in their very small outside play area only 15 feet from the **interior** of my living space. Simply put, the very small size of the rear yards and the close proximity of residences do not facilitate a large daycare business operation on this particular site.

I have obtained ample documentation of the current noise problem produced by the applicant's existing small daycare business (up to 6 children) clearly demonstrating unacceptable noise levels recorded **inside** my home living space. My wife and I have suffered with this chronic aggravation for the entire ten years that the applicant has operated her existing small daycare home. My documentation of the noise problem includes audio and video recordings taken **inside** my living room closest to the daycare business. I also have sound level meter data showing the excessive noise levels at the property line. I will make this objective data and recordings available for your evaluation and provide details below and by separate communication. I also request the opportunity to play brief excerpts of these recordings at the Planning Commission hearing.

In terms of mitigation of the chronic noise problem, the city planning staff and zoning administrator required that the applicant limit the outside play time to restricted periods for two staggered groups of 5 children. Essentially, the proposed mitigation **doubles** the duration of nuisance noise exposure from current levels with the existing small daycare business.

It is very important that you know that my wife and I are both retired and consequently spend a lot of time at home when the daycare business is in operation. The chronic noise problem from the existing small daycare operation is already extremely annoying and adversely impacts our basic rights for quiet enjoyment in our own home. Doubling the size of the daycare business to 12 children greatly exacerbates the chronic existing noise problem.

Please be aware that the City of Pleasanton General Plan (2005 – 2025), Noise Element was developed "**toward retaining a quiet environment and minimizing unwanted sound**". **Please keep this guiding principle in mind and deny the application to operate a large family daycare business on this site.**

Background

My wife and I are original homeowners at 3857 Stone Pointe Way that we purchased new and moved in just over 25 years ago in 1992. Our residence is located adjacent to the above day care business directly behind the rear play yard used by the children during outdoor play times. The actual distance between our property line and the rear of my house at the sliding glass door to our living area is less than 15 feet!

I have been self-employed since 2005 and have worked in my home during daytime business hours this entire time – as long as the small daycare business has been in operation since 2007. I just recently retired completely and my wife is now retired as well. Consequently, we are both at home and suffer from the noise from the daycare business on a daily basis. We can even hear some of the kids crying and screaming when they are **inside** their home at the daycare! This daily aggravation severely impacts our quality of life.

Furthermore, my wife and I are currently investing considerable funds, time and energy to renovate our rear yard to set up a comfortable outdoor living space and new outside furniture. This project should be completed by this October. The proposal for nearly three hours each day allowing this noise problem to double in duration so close to our home is very distressing to us.

Documentation of Noise Problem from Existing Small Daycare Business

In recent weeks, I made audio and video recordings **inside** my home when kids at the daycare business were crying and screaming in their rear yard outside play area. **At the recent public hearing held on June 29, the applicant, Jayanti Dixit, acknowledged that even if the children are supervised – which they are – they cannot be prevented from crying and screaming.** This is obviously just normal behavior for pre-school children.

I will send a separate email to City staff with link(s) to the audio/video recording(s) made inside my home that I have posted on YouTube. I will also attach audio only recordings taken inside my home. A picture is worth a thousand words and these audio / video recordings are worth a million words! These objective recordings clearly demonstrate the serious concerns I have with regard to excessive nuisance noise inside my own living space created by the small daycare business. Again, if you allow, I would like to play very brief excerpts from these recordings at the hearing before the planning commission.

I also have measured peak noise levels with a sound level meter close to **85 dBA** at the property line when the kids are crying and screaming. Before I retired, I was a certified industrial hygienist who performed noise surveys for my occupation.

Public Comment

As acknowledged in the City staff report, a total of **eight** nearby property owners, including myself, provided written opposition to the proposed large family daycare business on this site. One of the respondents, Steve Dennis (also Vice-President of our Homeowners Association) submitted the following: "These are attached homes with very small backyards. This (property) is not a good house to set up this large of a daycare operation". I could not agree more!

Property Owner's Input & Applicant's Behavior

Last week I personally spoke on the phone with the property owner for this residential daycare business, Denish Bajaj. He informed me that he "**would not have signed the application for Jayanti Dixit to operate a large family daycare business if he had known that the neighbors were opposed.**" When he asked Jayanti if the neighbors were OK with her application she told him that there were no objections. This is simply false.

The fact is that I have personally complained to Jayanti for years regarding the nuisance noise from the existing small daycare business. Some months ago I complained in person to Jayanti over one of the kids crying **inside** her home before 8:00 am in the morning. I simply asked her to please shut her windows at that time. She refused and said she wanted to keep at least one window open because "she wants fresh air". Please be advised that Jayanti submitted in writing in her application to the City for the large daycare business (Exhibit B, received June 18, 2017) that she is "**courteous of our neighbors**". This is simply not the case.

Pleasanton General Plan and Municipal Code

As mentioned previously, the intent of the City of Pleasanton's General Plan (2005 – 2025), Noise Element, was developed "toward retaining a quiet environment and minimizing unwanted sound". However, this noise element of the general plan seems to be focused more on community noise sources such as vehicle traffic, rail operations, aircraft noise and industrial operations.

With regard to noise limits on residential property, the relevant regulation is found in the Pleasanton Municipal Code as follows:

9.04.030 Noise limits—Residential property.

Residential Property. No person shall produce or allow to be produced by any machine, animal, device, or any combination of the same, on residential property, noise level in excess of 60 dBA at any point outside of the property plane, unless otherwise provided in this chapter.

9.04.070 Daytime exceptions.

Any noise which does not produce a noise level exceeding 70 dBA at a distance of 25 feet under its most noisy condition of use shall be exempt from the provisions of Sections 9.04.030, 9.04.040 and 9.04.060(A) of this chapter between the hours of 8:00 a.m. and 8:00 p.m. daily, except Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m. (Prior code § 4-9.07(a))

When I met with city staff at the public hearing on June 29, I was informed by Adam Weinstein, Planning Manager & Zoning Administrator, that this noise ordinance has "been interpreted by City attorneys to only apply to machine-made noise". Apparently noise created by screaming and crying kids is not regulated by the Pleasanton Municipal Code.

I disagree with this interpretation of the City's noise ordinance. Even Adam Weinstein informed me that this noise ordinance is "vague and poorly written"!

In any event, I measured noise levels at approximately 85 dBA at the property line, well in excess of the 70 dBA allowed during daytime hours.

Pleasanton Municipal Code – Conditional Use Permits for Large Family Daycare Homes

Title 18 ZONING

Chapter 18.124 CONDITIONAL USES

Article III. Conditional Use Permits for Large Family Day Care Homes

18.124.370 Standards.

Large family day care homes shall be required to meet the following requirements:

D. Noise Control. Large family daycare homes shall not create noise levels in excess of those allowed in single-family residential areas in the noise element of the general plan or in excess of those allowed in residential property by Chapter 9.04 of this code. The zoning administrator may impose reasonable limits on the hours of operation of the large family daycare home in order to ensure that these limits are met.

City Planning Staff continually refers to language in the Pleasanton Municipal Code regarding the noise ordinance, but then gave me a verbal interpretation that the noise ordinance does not apply in this situation. This is maddening and very confusing to me!

Family Day Care Home Brochure by City of Pleasanton

"What is considered when reviewing a large family day care application"? "A conditional use permit for a large child day care facility may be granted when the request is found to not create impacts with the three State allowed areas: Traffic, Noise and Safety".

Unfortunately for my wife and me, there are considerable impacts with regard to noise that are not being adequately mitigated even with the existing small daycare business.

California State Law

HEALTH AND SAFETY CODE - HSC
DIVISION 2. LICENSING PROVISIONS [1200 - 1796.63] (Division 2 enacted by Stats. 1939, Ch. 60.)

CHAPTER 3.6. Family Day Care Homes [1597.30 - 1597.622] (Heading of Chapter 3.6 amended by Stats. 1984, Ch. 1615, Sec. 10.5.)

1597.46. All of the following shall apply to large family day care homes:

(3) Require a large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator or, if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. **The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and regulations adopted by the State Fire Marshal pursuant to that subdivision. Noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children.** The local government shall process a required permit as economically as possible.

I am fully aware that California state law (since SB 163 was passed in 1983 and codified into the California Health and Safety Code) makes it difficult for local jurisdictions such as the City of Pleasanton to regulate large family daycare businesses. However the state law clearly indicates that applicants must comply with provisions for noise control relating to operations at their homes.

Property Values

Bad Neighbors Can Reduce Property Values, Appraisal Institute Warns

www.appraisalinstitute.org/bad-neighbors-can-reduce-property-values-appraisal-institute-warns/

CHICAGO (Jan. 30, 2013) – The Appraisal Institute, the nation’s largest professional association of real estate appraisers, today cautioned homeowners and potential homebuyers that bad neighbors can significantly reduce nearby property values.

Bad neighbors can include homeowners with annoying pets, unkempt yards, unpleasant odors, loud music, dangerous trees and limbs, or poorly maintained exteriors. A homeowner or prospective homebuyer should visit a street on several

days at various times to learn more about what is happening in the neighborhood. A home's proximity to a bad neighbor also can impact the rate of potential decline in value.

"I've seen many situations where external factors, such as living near a bad neighbor, **can lower home values by more than 5 to 10 percent**," said Appraisal Institute President Richard L. Borges II, MAI, SRA. "Homeowners should be aware of what is going on in their neighborhood and how others' bad behaviors could affect their home's value."

Common sense also dictates that almost any prospective homebuyer of my home would have second thoughts if they happen to find out a LARGE family daycare business operates only 15 feet from my home. If prospective buyers happen to come by for a walk-through of my property when the kids are outside screaming and crying, this would be very detrimental to my property value.

Staff Report Items & My Responses

Executive Summary (p. 1) "... staff believes that this use ... will be compatible with surrounding uses. Conditions of approval have been identified which will ensure that the ... general welfare of the surrounding area ... is maintained."

Response – existing noise violations with current small daycare business will be greatly exacerbated by approval of the CUP allowing the business to double in size from 6 children to up to 12 children.

P. 6 "... staff **believes** the actual noise level will not exceed the 60 dBA level permitted by the General Plan or PMC.

What the staff "**believes**" is inconsequential. Actual sound pressure levels I recently measured at the property line of up to 85 dBA are objective and clearly in violation of the permitted levels.

P. 6 "In response to the notice of the proposed Large Family Daycare Home, several neighbors have indicated concerns with noise from the project site, primarily from the children's outdoor activities in the rear yard. The applicant proposed to limit the children's outdoor playtimes to 10:30 am to 12:00 noon and from 4:00 to 5:30 pm. Additionally, outdoor playtime will be limited to five children at any given time. Staff believes the proposed outdoor play locations and hours are acceptable and would not adversely impact adjacent properties."

Response – doubling the duration of outside playtimes from 1 ½ to 3 hours in total obviously causes adverse impacts in terms of nuisance noise -- already in violation of current noise limit of 60 dBA at the property line.

p. 7 “ Objectives of the Zoning ordinance include fostering a harmonious . . . relationship among land uses and protecting existing land use from inharmonious influences. . . . The proposed Large Family Daycare Home would. . not generate large volumes of . . . noise due to its limited scale and size.

“Some of the purposes of this PUD – MDR District include . . . protecting residential properties from noise and other objectionable incidences.”

Response – Again, the existing small daycare business already generates large volumes of noise. Doubling the size to 12 children doubles the noise problem.

p. 8 “Large Family Daycare Homes typically create a similar amount of traffic and noise as most single-family homes.” . . .

Response – This statement simply defies common sense! Who could possibly believe that a Large family daycare business of up to 12 children “typically generate a similar amount of . . . noise as most single-family homes.” **How many single family homes do you know in Pleasanton that perpetually have 12 children all at pre-school age who never grow up? This is absurd!**

p. 8 “Staff could not find any evidence that a properly operated Large Family Daycare Home would reduce property values in the area. While staff believes that some potential home buyers may not want to purchase a home next to a daycare home, others may find such an adjacent use desirable and convenient.”

Response - Would you like to buy a home 15 feet away from a large daycare business? Finally, the only people who would possibly find it “desirable and convenient” to buy a home so close to a large daycare business might be families who actually drop off their own kids at this business. Jayanti’s current business comes from families in Dublin, Pleasanton, Livermore, Fremont, San Ramon and Oakland areas – according to her own written statement. I am positive than none of her existing customers actually live in our immediate neighborhood.

Also, please review the statement from National Appraisal Institute above which indicates a possible reduction of 5 to 10% in property values due to “bad neighbors” including those who generate excessive levels of noise.

p. 9 SUMMARY CONCLUSION – “. . . staff finds that the potential impacts of the proposed Large Family Daycare Home can be adequately mitigated.”

Response - I agree that the adverse impacts of vehicular traffic, parking, traffic congestion and safety can be mitigated. I strongly disagree that the adverse impacts of nuisance noise and property values can be accommodated by increasing the current small daycare business to a large business double in size.

CONCLUSION

Please do not approve the pending application for a Conditional Use Permit to allow the operation of a Large Family Daycare on this site. My wife and I have already suffered with more than 10 years of chronic nuisance noise from the existing small daycare business at this location. The very small size of the rear yards and very close proximity to the interior of my living space make it impossible to mitigate the noise problem. Doubling the size of the daycare business with two staggered groups of children in the outside play area only doubles the duration of the noise problem for my wife and me.

Please listen again to the audio/video recordings I have made inside my home when the kids are outside playing. Even with the required supervision, the applicant indicated in the public hearing that the screaming and crying by very young children cannot be controlled. This is a fact of life.

Aside from the Pleasanton residential noise ordinance, which the Planning Manager and Zoning Administrator acknowledges is "vague and poorly written", please embrace the intent of the noise element in the general plan "toward retaining a quiet environment and minimizing unwanted sound".

Please show with your actions your support of the Pleasanton Community of Character, particularly with regards to the desirable traits of responsibility, compassion, respect and integrity. Imagine yourself as a retired person who spends almost all the time at home seeking peaceful enjoyment in his/her own personal living space in an environment polluted by the piercing screams and cries of preschool children who "will never grow up"!

Please do the right thing. Thank you for your consideration.

Respectfully submitted on July 31, 2017

Gary & Janet Sears
[REDACTED] Stone Pointe Way
Pleasanton, CA 94588
[REDACTED]
[REDACTED]

From: S Dennis PRC
Sent: Tuesday, May 30, 2017 4:59 PM
To: Jenny Soo
Subject: P17-0327 Large Family Daycare Permit Application

Good Afternoon,

I am a homeowner on Garden Creek Circle and have lived in my home here since the home was built in 1992. I currently am the Vice President of the homeowners association.

I have several serious concerns about this permit application. The 2 most primary are as follows:

- 1) Traffic and parking for drop off and pick up. This house is near the corner where several near misses have occurred. There is already too much congestion on the street to accommodate this kind of increase to traffic.
- 2) These are attached homes with very small back yards. This is not a good house to set up this large of a daycare operation.

Please do not approve this permit.

I can be contacted below with questions or comments relative to this email.

Steve Dennis
[REDACTED]

From: [REDACTED]
Sent: Thursday, May 25, 2017 7:23 PM
To: Jenny Soo
Subject: P17-0327 Large family daycare

Dear Ms. Soo,

I reside on Garden Creek Circle and received the postcard regarding the application submitted by Jayanti Dixit to operate a Large Family Daycare.

I request that the application be denied. The first reason is that Jayanti Dixit's residence is is not large enough to hold up to 12 children. The size of the residence is only 1400 feet. Also, the back yard is small. The second reason concerns traffic. There are numerous cars parked along the street on a daily basis.

If the application is granted, additional vehicles would be coming in and out of the neighborhood causing an increase in traffic congestion. In additional, parents will need to double park in the street in order to pick up and drop off their children because they will be unable to find an open parking space.

Thank you for your consideration on this matter.

Bruce Maxwell

From: Gary Sears
Sent: Thursday, May 25, 2017 1:35 PM
To: Jenny Soo
Subject: P17-0327 Large Family Daycare

Dear Ms. Soo:

This message is in regards to the notice I received in yesterday's mail regarding a pending application for conversion to operate a Large Family Daycare by Jayanti Dixit at her residence address located at 2875 Garden Creek Circle. My wife and I own a home directly behind her residence and our address is [REDACTED] Stone Pointe Way in Pleasanton. We have lived here for 25 years.

My wife and I are **strongly opposed** to the City of Pleasanton approving this application to convert our neighbor's business from a small family daycare to a large family daycare business. For many years now, as long as Jayant Dixit has had her small daycare business, we have endured daily aggravation from nuisance noise, crying kids, screaming, etc from the existing small daycare business. The problem is particularly acute when the kids are playing in the rear yard which is less than 15 feet from our actual home. I often have to shut all the windows on that side of the house when the kids are outside. I've complained many times to Jayanti over several years about the existing noise problem to no avail.

It is beyond comprehension that the City would even consider granting an application to allow up to 12 children in a large family daycare business so very close to my residence. Obviously, doubling the number of children from the current maximum of 6 children would only make the nuisance noise problem much, much worse.

I will also make sure my immediate neighbors are well aware of this pending application.

Please let me know what I can do to follow-up on this matter.

Please call me as soon as possible so I may ask you some questions.

Sincerely,

Gary & Janet Sears
[REDACTED] Stone Pointe Way
Pleasanton, CA 94588
cell [REDACTED]

From: Gary Sears
Sent: Tuesday, June 27, 2017 5:21 PM
To: Jenny Soo; Jennifer Hagen
Subject: P17-0327 - Residential noise measurement of 85 dBA this afternoon!

Regarding the nuisance noise problem generated by the existing SMALL day care business located at 2875 Garden Creek Circle, I just measured a peak noise level of approximately **85 dBA** a few minutes ago (around 5:00 pm) in my backyard directly adjacent to this property. The children are currently outside this late afternoon playing and screaming as usual in their small rear yard. This actual noise level measurement of 85 dBA far exceeds the 60 dBA allowed by the Pleasanton Municipal Code (Section 9.04.030 A). Also, please be aware that decibels are measured on a logarithmic scale. Consequently, 85 dBA is much, much, much louder than the permissible level of 60 dBA at the property line.

How does this compare with your staff report indicating a "**belief**" that noise levels will not exceed 60 dBA for a planned LARGE day care business on this property?

You will hear from me in person on this noise problem at the public hearing this Thursday afternoon.

I still have some faith that you will make the correct and fair decision on this matter.

Thanks very much.

Gary Sears
[REDACTED] Stone Pointe Way
Pleasanton, CA 94588
[REDACTED]
[REDACTED]

From: [REDACTED]
Sent: Tuesday, June 27, 2017 7:14 PM
To: Jenny Soo
Subject: day care expansion 2875 garden creek circle

hi i live on garden creek circle a few houses away, just trying to get my point across without writing 3 pages of why i think this is wrong,i'am against having a business of any kind in a condominium complex attached housing if your not familiar with condo life you should check it out before you agree to this its attached housing there's double amount of houses on the street, the unit attached is 6 inches apart, in the back yard there's 6 neighbors 20 feet apart out front not even 1 parking spot per unit, people will be dropping off and picking up kids in the street ,its a small unit 1500 sq feet, 2 neighbors already moved because of this , its like having a garage sale every day out front, I live down the street the traffic is already unfreindly ,un neighborly there in a hurry all the time. The closest neighbors have no privacy the day care takes over, mostly all the neighbors want some peace and quiet and that's condo life to be respectful of your neighbors keep your noise in your small space PLEASE DO NOT AGREE TO EXPANSION, THEY NEED A REGULAR BIG HOUSE WITH PLENTY OF PARKING OR COMMERCIAL PROPERTY I AM IN SHOCK THAT THIS IS EVEN UP FOR DEBATE

From: Surabhi Srivastva
Sent: Wednesday, June 21, 2017 11:50 AM
To: Jenny Soo
Subject: 2875, Garden Creek Circle, Jayanti Dixit

Hi Ms. Jenny Soo,

This is with reference to a letter we got by mail regarding the extension of permit for the above individual to run a large day care from this property. I have two major concerns as neighbor.

1. We have a fairly busy street with lots of school going kids specially in the morning time. That is the time when most parents come to drop off their kids for day care. They park at all places, back out from the middle of the road, drive too fast as they are in a rush in the morning. All these are genuine safety concerns for a small neighborhood.
2. The above individual has been seen cooking on a stove inside her garage. Her garage which is mostly never inspected during daycare visits is a fire hazard. It is most of the time stuffed excessively making it an unsafe place even under normal conditions.

I would therefore request you to consider these concerns from a worried neighbor. Please refrain from granting the large daycare license to this individual and also arrange for a proper inspection concerning fire safety for all of us.

Thanks,
Surabhi

Jenny Soo

Subject: FW: Complaint from other neighbor about daycare business noise

From: Gary Sears [REDACTED]
Sent: Friday, August 04, 2017 10:18 AM
To: Adam Weinstein; Jenny Soo
Cc: Dinesh Bajaj; Mary Beth Lee
Subject: Complaint from other neighbor about daycare business noise

Adam Weinstein, Planning Manager, City of Pleasanton
Jenny Soo, Associate Planner, City of Pleasanton
Dinesh Bajaj, property owner 2875 Garden Creek Circle
Marybeth Lee (former resident at [REDACTED] Stone Pointe Way)

I just received the following comments from my previous neighbor, Marybeth Lee, who rented the home sharing the common wall with me and also directly adjacent to Jiyanti's small daycare business. Including my written objections to the large daycare business, Marybeth Lee's input raises the total to 9 neighbors who are opposed to the application to double the size of the daycare business up to 12 children. Also, I'm very concerned that the City of Pleasanton's previous efforts to reach out to nearby neighbors apparently excluded residents who rent as opposed to owner-occupied homes. Feedback from renters is just as valid.

Please acknowledge receipt of this email and kindly include it in the submission to the planning commission.

Thank you very much,

Gary Sears

Noise in Neighborhood

5:19 PM (16 hours ago)

Marybeth Lee

We are writing this to address the noise issues with 2875 Garden Creek Circle. We lived at [REDACTED] Stone Pointe Way from January 2016 till May 2017. The Garden Creek residence was behind our residence. Like clock work every morning between 10-10:30am there would be screaming and very loud children outside. This would go on some mornings for at least an hour or more. My experience would be hearing an adult trying to negotiate with multiple crying and screaming children. Some mornings the noise level was so loud that the only way I could hear our TV was to close the sliding door and raise the volume. Then late afternoon the noises and screaming would start again. In my opinion the backyard and residence is too small and confined to accommodate 12 plus children. It was very disruptive at least 3-4 days a week.

Sincerely,
Mike and Marybeth Lee

Jenny Soo

From: Gary Sears [REDACTED]
Sent: Tuesday, June 27, 2017 4:24 PM
To: Jenny Soo
Cc: Jennifer Hagen
Subject: Re: P17-0327 2875 Garden Creek Circle

Dear Jenny (and Jennifer Hagen):

Thank you for sending me a copy of the attached staff report on this subject.

I have several major concerns as follows:

- 1) Why did the staff with the City of Pleasanton recommend approval of this application BEFORE the public hearing is even held?
- 2) Your report indicated that you received "email correspondence and phone calls from eight neighbors all in opposition to the proposed Large Family Daycare Home". Why is this valid input apparently ignored by the City staff in recommending approval for the application?
- 3) My main concern over the last 10 years since this SMALL day care business has been in operation is the **excessive noise** generated when the children are screaming and playing in their rear yard. On what objective basis does your staff "**believe that the actual noise level will not exceed the 60 dBA level permitted by the General Plan or PMC**" (reference page 6 of 12 in the staff report? I have actual audio recordings taken INSIDE my house clearly indicating excessive noise levels from the existing SMALL family daycare business far exceeding the 60 dBA levels permitted by the Pleasanton Municipal Code, section 9.04.030
- 4) In order to obtain even more objective data on the nuisance noise problem, I personally own a sound level meter capable of obtaining noise levels in decibels on the A-weighted scale (dBA). I am also a retired, certified industrial hygienist with a Master's degree in Public Health from the University of California at Berkeley. In my previous job, I spent years conducting noise surveys in the workplace. In short, I am particularly qualified to quantitatively assess the actual noise levels at the property line and demonstrate the clear and current violations of existing noise ordinances. I will provide and play audio recordings of the noise at the public hearing tomorrow to clearly demonstrate the problem.
- 5) Doubling the size of this daycare business from a maximum of 6 children to 12 children, with staggering of play times in the very small rear yard adjacent to my home, actually **DOUBLES** the duration of nuisance noise exposure for my wife and me. This is simply not acceptable.

I look forward to following up on these issues at the public hearing on June 29 at 3:00 pm.

Thank you.

Gary Sears
[REDACTED] Stone Pointe Way
Pleasanton, CA 94588
[REDACTED]
[REDACTED]

**MINUTES
ZONING ADMINISTRATOR
Pleasanton, California**

Large Planning Conference Room
200 Old Bernal Avenue, Pleasanton
Friday, June 23, 2017

CALL TO ORDER

The meeting was called to order at 3:10 p.m. by Adam Weinstein, Planning Manager.

Present: Jayanti Dixit, Applicant; Devi Dixit, Applicant's daughter; Adit Dixit, Applicant's son; Leonard Robinson, neighbor; Gary Sears, neighbor
Staff: Adam Weinstein, Planning Manager and Zoning Administrator, Jenny Soo, Associate Planner

P17-0327, Dixit, CUP, 2875 Garden Creek Circle

Application for a Conditional Use Permit to operate a large family daycare for a maximum of 12 children within the existing residence located at 2875 Garden Creek Circle. Zoning for the property is PUD-MDR (Planned Unit Development – Medium Density Residential) District.

Mr. Weinstein, Planning Manager, welcomed the applicants to the Zoning Administration Hearing to discuss P17-0327. Mr. Weinstein asked Ms. Soo to make a brief presentation of the project.

The public hearing was opened.

Mr. Weinstein asked Ms. Soo to clarify the rule about how many children can be at the daycare at one time and if there are any restrictions on their ages.

Mr. Weinstein asked Ms. Dixit, the applicant, if she had any comments.

Ms. Dixit explained the background of her daycare, stating that she began the daycare about 11 years ago to provide for her family. She now has a waiting list of parents who want to send their children to her daycare, so she hopes to expand to a Large Family Daycare now and possibly expand further at an offsite location in the next 2-3 years.

Mr. Weinstein asked Ms. Dixit to speak about the onsite parking. Ms. Dixit replied that she only has one car at her home.

Mr. Weinstein asked Ms. Dixit if she is ok with the current conditions of approval. Ms. Dixit answered that she is fine with the conditions.

Mr. Weinstein stated that with this proposal 5 kids can be outside in the backyard at any given time, with Ms. Dixit hoping each child can spend 1-1/2 hours outside at playtime play per day. Mr. Weinstein asked for clarification from Ms. Dixit that she has 10 kids, 5 at a time, from

10:30-12 and 10 kids, 5 at a time, from 4:00 to 5:30. He asked if there is a way to reduce the outside play time because of the noise complaints.

Ms. Dixit replied that she is not outside all the time, sometimes even less than 1-1/2 hours per day, depending on weather, interests of children, etc.

Mr. Weinstein asked Ms. Dixit how she manages the noise.

Ms. Dixit replied that it is hard to quiet children, but she talks to them to help them understand that they need to quiet down.

Mr. Weinstein asked Ms. Dixit to clarify the pick-up and drop-off situation. She replied that once the daycare is expanded to 12 children, she or one of her workers will be picking up two children and bringing them to the daycare.

Ms. Dixit explained that the children are dropped off and picked up by the parents on a staggered schedule.

Gary Sears, the neighbor to the east (rear), stated that he read the staff report. He commented that the noise is the only issue for him- not the traffic or parking. He stated that he and his wife are retired and home most of the time and the noise from the daycare has been a constant aggravation for the last 10 years. He stated that he has been taking noise recordings from his yard and inside his home and the noise level exceeds 80 decibels. He then read from the Pleasanton Municipal Code (9.04.030) concerning noise limits at residential properties.

Mr. Sears suggested that Ms. Dixit walk the children across the street to Nielsen Park.

Mr. Weinstein asked Mr. Sears if the noise is more problematic in the morning hours. Mr. Sears replied that the morning noise is indeed a bigger issue. Mr. Weinstein asked Mr. Sears whether or not moving the morning outdoor play time to afternoon hours would be helpful.

Devi Dixit commented that the park is difficult because the children are hard to keep track of in a large space such as a park.

Ms. Dixit commented that she is hesitant to do that due to safety issues because of the traffic on Stoneridge Drive.

Leonard Robinson, a neighbor, commented that his mother-in-law used to live in the house where he now lives, next door to Ms. Dixit. He said that she never complained about the children. Mr. Robinson stated that hearing the children next door is joyful. He and his wife have no complaints about the children making noise. Mr. Robinson offered to remove the fence between his yard and Ms. Dixit's yard so that the children have a larger play area. He stated that there has never been an issue with parking in the neighborhood. He also offered his driveway for parking if any parking issues were to arise.

Mr. Sears commented that there were 8 residents who commented on this project, all of them in opposition.

Mr. Sears then played a recording that was taken from inside of his home of the children playing in Ms. Dixit's yard.

Mr. Weinstein stated that, per the City Attorney's Office, the noise ordinance regulates several different types of noise, but the human voice is not one of them except in the Downtown Hospitality Central Core or Transition Area. Mr. Weinstein added that the City's noise ordinance does not apply to human voices, with the motivation behind it being the practicality of enforcing the noise rules.

Mr. Sears commented that he disagrees with the City's interpretation of the noise ordinance in the Pleasanton Municipal Code.

Mr. Weinstein asked Ms. Dixit if it were possible to take only some of the kids to the park while the others stay in the backyard of the daycare. Ms. Dixit said that the children in the backyard would still generate noise.

Mr. Sears stated that the noise is such a huge deal, he and his wife have even considered moving.

Mr. Weinstein asked Mr. Sears how he would feel if they were to reduce the number of children at the outdoor play time to 3 children at one time. Mr. Sears said that the thing that bothers him the most is the fact that the duration of the outdoor play time would be doubled with 12 children.

Ms. Dixit suggested that maybe they could reduce the length of time that the children are outside in the morning.

Mr. Weinstein asked Mr. Sears if he would be agreeable to Ms. Dixit's suggestion. Mr. Sears said that he would be fine with reducing the duration of outdoor play time in the morning if it were predictable so that he could have his windows closed during those times.

Mr. Sears asked about the possibility of Ms. Dixit moving. Ms. Dixit said that she didn't want to do that because she raised her children there. She said that she has never had a neighbor come to her door to complain about anything.

Mr. Weinstein asked Mr. Sears what would be good hours for the children to have their outdoor play time. Mr. Sears replied that one hour in the morning and two hours in the afternoon would work for him.

Ms. Dixit said that she could do that.

Mr. Weinstein asked Mr. Sears if changing the morning outdoor play time from 10:30 a.m. to noon to 11:00 a.m. to noon and keeping the afternoon outdoor play time at 4:00 p.m. to 5:30 p.m. would be acceptable to him.

Mr. Sears replied that that schedule would work for him, although he would like to request that Ms. Dixit keep the windows closed in the morning until 8:00 a.m. when the daycare is in operation.

Ms. Dixit agreed to keep the windows closed until 8:00 when the daycare is operating.

Mr. Weinstein thanked the applicant and neighbors for their comments and their willingness to compromise.

The Public Hearing was closed.

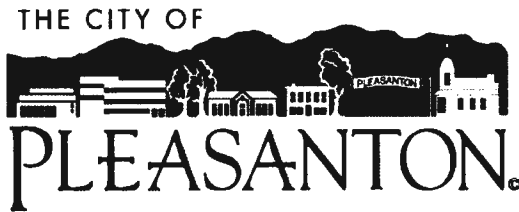
The Zoning Administrator granted approval of P17-0327, subject to the conditions of approval as shown on the Exhibit A.

As there was no further business, the Zoning Administrator adjourned the meeting at 4:20 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jenny Soo".

Jenny Soo
Associate Planner



Zoning Administrator Staff Report

300 P.M., June 29, 2017
Conference Room No. 1
157 Main Street

SUBJECT: P17-0327

APPLICANT: Jayanti Dixit

PROPERTY OWNER: Surya LLC

PURPOSE: Application for a Conditional Use Permit to operate a Large Family Daycare Home for a maximum of 12 children within an existing residence

LOCATION: 2875 Garden Creek Circle

GENERAL PLAN: Medium Density Residential

ZONING: PUD-MDR (Planned Unit Development -- Medium Density Residential) District

EXHIBITS:

- A. Draft Conditions of Approval
- B. Narrative/Project Plans dated "Received, June 18, 2017"
- C. Public comments
- D. Location and Notification Map

RECOMMENDATION

Staff recommends that the Zoning Administrator approve Conditional Use Permit (CUP) application P17-0327 by making the findings within this report, subject to the draft conditions of approval listed in Exhibit A.

EXECUTIVE SUMMARY

The applicant, Jayanti Dixit, has been operating a Small Family Daycare Home of six children at her residence located at 2875 Garden Creek Circle for over ten years. Ms. Dixit requests Conditional Use Permit (CUP) approval to expand the existing Small Family Daycare Home to a Large Family Daycare Home for a maximum of 12 children. Large Family Daycare Homes require Zoning Administrator review and approval of a CUP. As proposed, staff believes this use is consistent with the intent of the zoning district and will be compatible with the surrounding uses. Conditions of approval have been identified which will ensure that the safety and general welfare of the surrounding area, and the City in general, is maintained.

BACKGROUND/HISTORY

On April 25, 2017, Jayanti Dixit, owner and operator of Garden Creek Daycare, submitted an application for a CUP to expand the current Small Family Daycare Home of six children to a Large Family Daycare Home with a maximum of 12 children from infant to school-aged children in their home. The existing Small Family Daycare Home does not require a CUP, as described in the regulations section below. If this CUP is approved, the applicant would still need to apply and receive a license from the State of California Department of Social Services-Community Care Licensing division to operate a Large Family Daycare Home. The CUP for the Large Family Daycare Home is the subject of this application and is before the Zoning Administrator for consideration.

During the CUP noticing process, staff received email correspondence and phone calls from residents in opposition to the proposed Large Family Daycare. Concerns ranged from lack of adequate parking, noise impacts to neighbors, attached homes with small rear yard area, and traffic congestion and safety

SITE AND AREA DESCRIPTION

The subject site is a single-family attached home located at 2875 Garden Creek Circle. The lot is approximately 3,494 square feet in area and is surrounded by similar-sized single-family attached homes. The location of the site and the surrounding area are shown in Figure 1.

Figure 1: Aerial Photograph of 2875 Garden Creek Circle



PLEASANTON MUNICIPAL CODE REQUIREMENTS

California State Law (Health and Safety Code) defines two categories of family daycare homes, as paraphrased below:

- A “Small Family Daycare Home” provides family daycare for up to six children, or for up to eight children if the criteria of Section 1597.44¹ are met. Enrollment limits include children under age 10 who live in the licensee’s home; and
- A “Large Family Daycare Home” provides family daycare for seven or eight and up to 12 children, or for up to 14 children if the criteria of Section 1597.465² are met. Enrollment limits include children under age 10 who live in the licensee’s home and the assistant/teacher provider’s children under age 10.

The subject property is located in the PUD-MDR District. Small Family Daycare Homes are permitted uses in this district, meaning that the applicant does not need a CUP to serve up to eight children at the subject property in certain circumstances per State Law. However, Large Family Daycare Homes are conditionally permitted uses to allow the City to mitigate potential impacts.

PROPOSED PROJECT

The proposal is summarized below and the applicant’s narrative and project plans are attached as Exhibit B.

The Large Family Daycare Home is proposed for up to 12 children that include: two infants, two toddlers, six preschoolers, and two school-aged children. The Large Family Daycare Home would operate from 6:30 a.m. to 6:00 p.m., Monday through Friday. The Large Family Daycare Home would have three staff members: the owner of the Large Family Daycare Home, the owner’s daughter, and a full-time helper. All three staff members would be on site during business hours except for the time when one would leave the premises to drop off and pick up two school-aged children to and from local school(s). The Large Family Daycare Home would occupy the first floor of the residence, in addition to the rear yard play area. Indoor activities include free play, circle time, group activities, quiet reading, and puzzles. Two 45-minute outdoor playtimes are scheduled for morning and two are scheduled for afternoon. The scheduled outdoor playtimes are from 10:30 to 12:00 noon and from 4:00-5:30 p.m. for up to five children at each playtime.

The subject residence includes a two-car garage that would be reserved for use by the residents. The applicant has identified the driveway for use by the daycare parents during drop-off and pick-up times. The one helper who is not a family member does not have a vehicle; thus, no parking space is needed for the helper.

¹ (a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than two infants are cared for during any time when more than six children are cared for.

(c) The licensee notifies each parent that the facility is caring for two additional schoolage children and that there may be up to seven or eight children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

² (a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than three infants are cared for during any time when more than 12 children are being cared for.

(c) The licensee notifies a parent that the facility is caring for two additional schoolage children and that there may be up to 13 or 14 children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

STAFF REVIEW/ANALYSIS

In response to the growing need for in-home child care, in 1983 a new State Law was passed (Senate Bill 163) in order to clearly distinguish Small Family Daycare Homes and set forth the requirements as to how they are to be treated at the local (City) level. The State Law does not allow a City to restrict or regulate Small Family Daycare Homes in any way.

Also under Senate Bill 163, a City cannot adopt local ordinances prohibiting Large Family Daycare Homes on lots zoned for single-family dwellings, but must treat the homes in one of the following ways:

1. Classify Large Family Daycare Homes as a permitted use in residential districts;
2. Grant nondiscretionary permits subject to pre-established sites and operational requirements; or
3. Require the daycare provider to apply for and be granted a CUP if the Large Family Daycare Home complies with local ordinances prescribing reasonable requirements concerning spacing and concentration, traffic control, parking, noise control, and Building and Fire Codes.

The City has adopted an ordinance based on this State Law establishing a CUP procedure to evaluate each Large Family Daycare Home on an individual basis. Under this ordinance, the City requires a Large Family Daycare Home provider to meet standards which relate to spacing, traffic control, parking, noise control, and Fire Codes. The City must grant a CUP for a Large Family Daycare Home if it complies with these standards. Conditions of approval may be added to ensure compliance.

It is important to note that by adopting Senate Bill 163, the State:

1. Established the policy that Large Family Daycare Homes are appropriate in single-family residential zoning districts;
2. Established the policy that Family Daycare Homes for children must be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development;
3. Set procedures to increase and expedite the processing of such facilities; and
4. Made void any deed restrictions which prevent Family Daycare Homes from existing in single-family residential zoning districts.

The subject property is zoned PUD-MDR District, which supports this type of use, and as discussed above, is supported and encouraged by State Law. Accordingly, it is necessary to acknowledge the State's expressed need for such establishments and the City's responsibility to approve proposals for facilities that can be conditioned to mitigate impacts that would

otherwise restrict the land use. Large Family Daycare Homes with 7-14 children at any time³ are conditionally permitted uses in the PUD-MDR District in order to allow the City to mitigate impacts. The applicant has applied for a CUP as required for Large Family Daycare Homes in the PUD-MDR District. Therefore, if the CUP were granted, the Large Family Daycare Home would be consistent with the applicable land use regulations.

As part of the CUP approval, staff and the Zoning Administrator assessed the requirements for a Large Family Daycare Home as outlined in Chapter 18.124.240(A-E) of the PMC. The relevant text from the PMC and a discussion of the application's compliance with each standard follow:

A. Spacing: No Large Family Daycare Home shall be approved if the site of the proposed use is located within three hundred feet (300 feet) of the exterior boundary of another Large Family Daycare Home or nursery school, unless the Zoning Administrator makes the specific finding that the concentration of such uses will not adversely affect the neighborhood in which it is located due to the cumulative increase in noise, traffic and/or parking requirements.

Staff has verified that the proposed facility is not within 300 feet of another Large Family Daycare Home or nursery school.

B. Traffic Control: Large Family Daycare Homes shall not create any traffic hazard. The Zoning Administrator may prescribe such conditions as may be reasonably required to ensure the safety of all affected by the proposed use, including requiring traffic-control measures reasonably required to avoid any identified adverse effect.

The subject site is located on Garden Creek Circle, a residential street with single-family attached homes. The expansion of the currently Small Family Daycare Home to a Large Family Daycare Home would bring additional vehicles to the neighborhood during drop-off/pickup times. However, conditions have been added requiring parents to park in the driveway during drop-off/pickup times, and that no vehicles shall be double-parked in the street to temporarily block traffic or block neighbors' driveway. Staff believes that, with the imposed conditions and compliance to the conditions, the operation of the proposed Large Family Daycare Home should not create any traffic hazard to the immediate neighborhood.

C. Parking Requirements: Parking spaces, including both off-street and on-street, shall be available for the actual parking demand created by the use, including the applicant's own vehicles, those of employees, and those of persons delivering and picking up children. On-street parking is available for the use if such spaces are within a reasonable distance of the home and can be reached safely from the home by children.

While not likely, as many as 12 parent/guardian vehicles could simultaneously and temporarily park on-site or on the surrounding public streets to drop-off and pick-up children two times a day. As mentioned earlier in the report, the drop-off and pick-up times include

³ Under certain conditions, State Law allows day care homes with seven or eight children to qualify as a Small Family Day Care Home.

a two-hour window in the morning and a one-hour window in the afternoon to preclude all 12 vehicles from being at the subject site at one time. Moreover, some children may reach the subject residence on foot or be part of a carpool with siblings also attending the Large Family Daycare Home, which would reduce the overall number of vehicles traveling to the site on a daily basis. As stated in the written narrative, the two-car garage would accommodate the two owners' vehicles and the driveway would be available during business hours for parents' use.

In response to the notice of the proposed Large Family Daycare Home, several neighbors have indicated concerns with sufficient parking in the neighborhood. Prior to the Zoning Administrator hearing, staff made site visits to the property, during the morning and afternoon periods, respectively. Staff observed adequate availability of on-site and on-street parking spaces within the immediate vicinity of the subject residence.

Therefore, staff believes that the identified parking and loading would adequately accommodate the Large Family Daycare Home. The spaces are located within a reasonable distance of the subject residence and can be reached safely by parents and children, most of which do not require crossing a street.

D. Noise Control: Large Family Daycare Homes shall not create noise levels in excess of those allowed in single-family residential areas in the Noise Element of the General Plan or in excess of those allowed in residential property by Chapter 9.04 of the Municipal Code. The zoning administrator may impose reasonable limits on the hours of operation of the Large Family Daycare Home in order to ensure that these limits are met.

The Pleasanton Municipal Code (PMC) permits the Zoning Administrator to place reasonable limits on the hours of operation of the daycare home to ensure that noise levels do not exceed that allowed in residential zones by the General Plan or Chapter 9.04 of the PMC (Noise Ordinance).

The General Plan and PMC do not allow noise levels in excess of 60 decibels (dBA) beyond the property line of the noise source in a residential zone. Sixty dBA is equivalent to the sound of a vacuum cleaner at ten feet. An average residence generates noise levels of approximately 45 dBA (this average includes noise made by children playing outside of a residence). Although 12 children may produce additional noise above that produced by a typical family, or by a Small Family Daycare Home with only six children (the number of children permitted by State Law without a City permit, and that currently occupies the subject site on a daily basis), staff believes the actual noise level will not exceed the 60 dBA level permitted by the General Plan or PMC.

In response to the notice of the proposed Large Family Daycare Home, several neighbors have indicated concerns with noise from the project site, primarily from children's outdoor activities in the rear yard. The applicant proposed to limit the children's outdoor play times to 10:30 to 12:00 noon and from 4:00 to 5:30 p.m. Additionally, outdoor play time will be limited to five children at any given time. Staff believes the proposed outdoor play locations and hours are acceptable and would not adversely impact adjacent properties.

E. Fire Code Requirements: Large Family Daycare Homes shall meet all regulations of the State Fire Marshal adopted as part of the California Administrative Code and relating specifically to Large Family Daycare Homes. (Ord. 1126 § 9, 1984; Prior Code§ 2-11.20(c))

Health and Safety Code Section 13235 states that family daycare homes must obtain a fire safety clearance by the local fire enforcing agency. Prior to commencement of any Large Family Daycare Home activities, the applicant would be required to pass an inspection from the Livermore/Pleasanton Fire Department to verify compliance with State law.

In general, staff feels that the recommended conditions of approval for the CUP adequately address State Law and City ordinance standards and will ensure that the proposed Large Family Daycare Home will not create any adverse impacts on the surrounding properties.

FINDINGS

The Zoning Administrator must make the following findings prior to granting the Conditional Use Permit:

A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

Objectives of the Zoning Ordinance include: fostering a harmonious, convenient, workable relationship among land uses; protecting existing land use from inharmonious influences; promoting a safe, effective traffic circulation system; facilitating the appropriate location of community facilities and institutions; protecting and enhancing real property values; and ensuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, the proposed Large Family Daycare Home would be consistent with these objectives because it would retain the residential characteristics of the neighborhood and not generate large volumes of traffic or noise due to its limited scale and size.

The subject site is zoned PUD- MDR District. Some of the purposes of this District include: reserving appropriately located areas for family living; minimizing traffic congestion; providing necessary space for off-street parking; and protecting residential properties from noise and other objectionable influences. Large Family Daycare Homes are allowed in single-family residential districts subject to the standards of the PMC. Staff feels that, as conditioned, the PMC standards are met. Therefore, the CUP for the Large Family Daycare Home is in accordance with the objectives of the zoning district, and staff believes the above finding can be made.

B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

Prior to commencement of any Large Family Daycare Home activities, the applicant would be required to obtain the proper licensing for a Large Family Daycare Home from the State allowing up to 12 children at the subject residence. To ensure that the transition from a Small Family Daycare Home to a Large Family Daycare Home would generate minimal impact to the adjacent residents as well as to the neighborhood, the applicant would be required to reserve the garage for their vehicles at all times, as well as the driveway area for parking by the daycare use. As proposed and conditioned, the applicant would advise parents/guardians not to double park during pickup/drop off time, and not to use neighbors' driveways to park or make a U-turn. In addition, children's outdoor play times would be staggered to reduce noise impacts on adjacent properties. Staff believes that with the imposed conditions, the proposed Large Family Daycare Home would be operated in a manner that would not significantly adversely affect the neighborhood.

As proposed and as required by conditions, staff does not find that the proposed Large Family Daycare Home would be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity. Staff believes that this finding can be made.

C. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to Conditional Uses.

Staff finds that, as conditioned, the proposed Large Family Daycare Home will comply with the Large Family Daycare Home standards listed in Section 18.124.240 of the Zoning Ordinance, including spacing, traffic control, parking, noise control, and Fire Code requirements. The proposed Large Family Daycare Home, as conditioned, would also comply with the Uniform Fire Code. Staff believes that the third finding can be made.

PUBLIC NOTICE AND COMMENTS

Notice of this application was sent to surrounding property owners within 1,000-feet of the site. Staff received email and/or phone correspondence from eight neighbors, all in opposition to the proposed Large Family Daycare Home. Concerns ranged from lack of adequate parking, noise impacts to neighbors, impacts on home values, traffic congestion and safety, and land use compatibility concerns. Written correspondence is provided in Exhibit C.

All of the neighborhood concerns, with the exception of home values, are addressed above. Staff could not find any evidence that a properly operated Large Family Daycare Home would reduce property values in a given area. Large Family Daycare Homes typically create a similar amount of traffic and noise as most single-family homes, which are some of the typical concerns of home buyers and real estate agents. In addition, owners/renters of daycare homes usually keep their homes well maintained. The proposed Large Family Daycare Home would not be noticeably different in appearance from other homes on Garden Creek Circle. While staff believes that some potential home buyers may not want to purchase a home next to a daycare home, others may find such an adjacent use desirable and convenient. Therefore,

staff does not believe that the proposed Large Family Daycare Home would result in a loss of home value for the adjacent properties. Furthermore, State Law precludes a City from considering this factor when making a determination on a proposed daycare home application.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15301, Existing Facilities, Class 1. Therefore, no environmental document accompanies this report.

SUMMARY/CONCLUSION

It is important to acknowledge the need for family daycare home establishments and the City's responsibility to approve proposals for home daycare home facilities that can be conditioned to mitigate impacts that would otherwise restrict the land use. As conditioned, staff finds that the potential impacts of the proposed Large Family Daycare Home can be adequately mitigated.

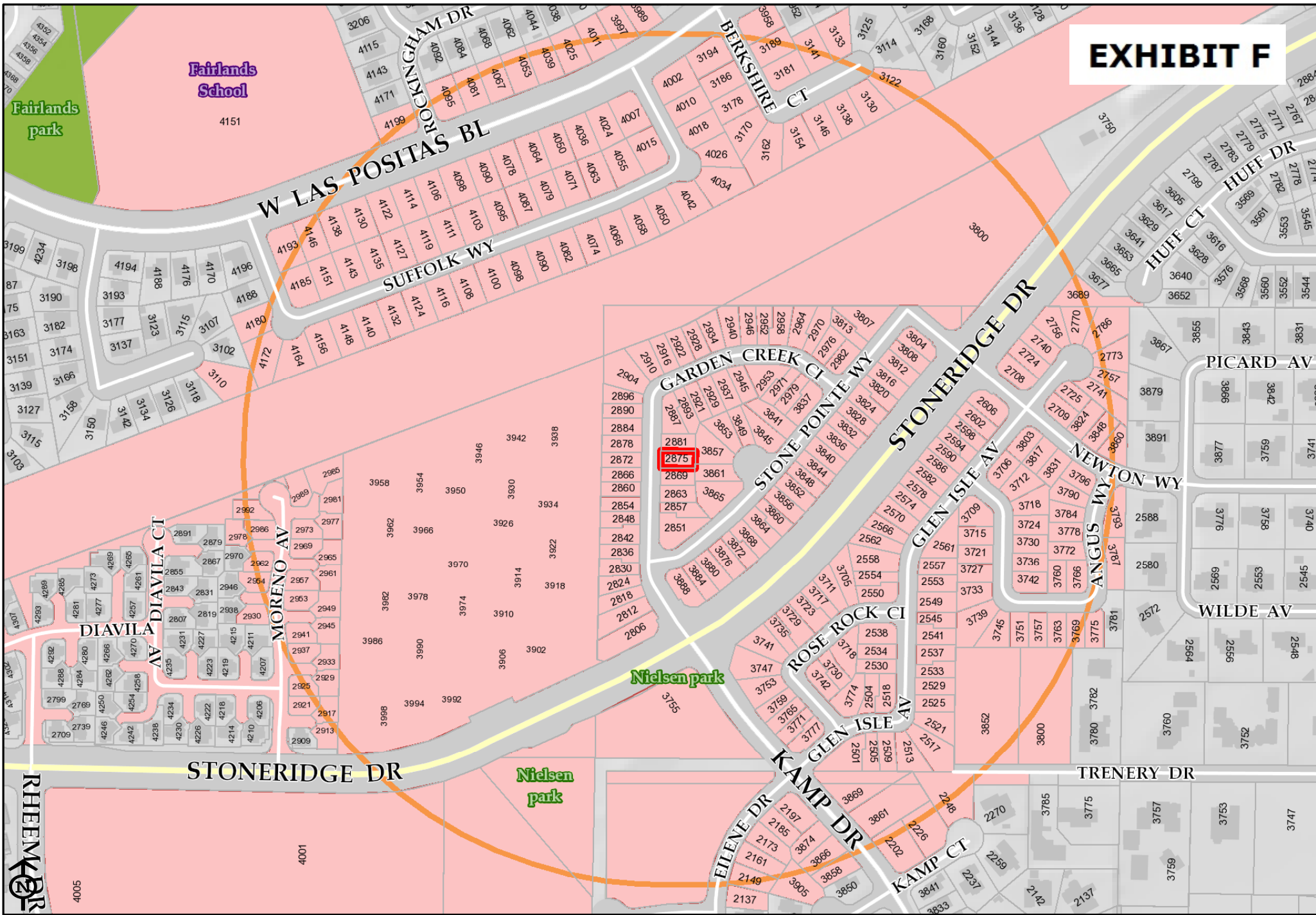
Primary Author:

Jenny Soo, Associate Planner, 925-931-5615 or jsoo@cityofpleasantonca.gov

Reviewed/Approved By:

Jennifer Hagen, Associate Planner

EXHIBIT F



P17-0327, 2875 Garden Creek Circle, Gary Sears

Planning Division
September 27, 2017



1:3,550

0 0.045 0.09 mi

0 220 440 Feet