



Planning

Policy: Definition and Required Licensing of Child Care Services

PURPOSE

This policy is adopted to ensure the safety and welfare of children aged 15 and under who participate in programs in which they are supervised, instructed, or otherwise monitored on a regular basis during after school hours on week days or during school vacations.

SUMMARY

This policy:

- Describes what child-related uses will be defined as child care for the purposes of land use planning in the City of Pleasanton; and,
- Declares that those uses defined as child care are subject to the requirements and standards imposed on child care and nursery schools in the City of Pleasanton's Zoning Ordinance; and,
- Requires that all uses defined as child care obtain a child care license from the State Community Care Licensing Division prior to obtaining a business license and opening the business.

DEFINITION OF USES

This policy defines certain child-related uses as child care, child day care or nursery school for the purposes of land use regulation under the City of Pleasanton's Zoning Code. The following child-related services which operate year round in a permanent facility and function as after school or school vacation child care are defined as child care, child day care or nursery school, including:

- Childcare centers
- Hourly (drop-in) day care
- Tutoring, instruction, cultural heritage classes, and athletic coaching (such as martial arts, music and art instruction) when individual children participate 10 or more hours a week after school when school is in session and/or for more than 15 hours a week during school vacations
- Any other use deemed by the City Manager and/or his designee to meet the definition of after school or school vacation child care.

EXCLUSIONS

The following specific uses are excluded from this policy:

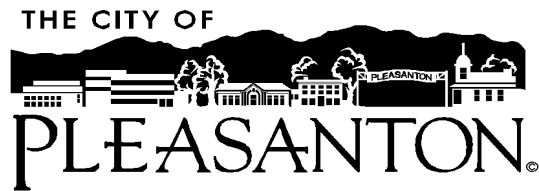
- Programs operated by the City of Pleasanton or the Pleasanton Unified School District.
- Child care programs for school age children that are operated before or after school at fully accredited private K-12 schools.
- Any child care programs that offer temporary child care services to parents and where the services are provided only to parents and guardians who are on the same premises as the site of the child day care program.
- Summer programs run as an accessory use to an existing business such as day camps run by health clubs.

REVIEW OF PROPOSED USES UNDER TITLE 18 OF THE CITY OF PLEASANTON MUNICIPAL CODE (ZONING ORDINANCE)

Child-related uses defined above as child care shall be subject to the standards and requirements imposed on child care facilities and nursery schools in the Zoning Ordinance.

REQUIRED CHILD CARE LICENSING

All applicants for uses defined above as child care, child day care or nursery school are required to apply for and receive a child care license from the State of California Community Care Licensing Division prior to issuance of a City Business License and/or as a condition of approval of any conditional use permit. Uses deemed by the City to require a license but which do not receive licenses from the State may not operate in the City of Pleasanton.



Planning

Policy: Protection of children receiving instruction, tutoring and other services and care

PURPOSE

This policy is adopted to ensure the safety and welfare of children aged 17 and under who participate in programs in which they are supervised, instructed, or otherwise monitored on a regular basis during after school hours on week days or during school vacations.

DEFINITION OF USES COVERED BY THIS POLICY

Child-related services which operate year-round in a permanent facility and function as after school or school vacation child care, including:

- Childcare centers
- Hourly (drop-in) day care
- Tutoring, instruction and athletic coaching when children participate after school most days of the week and/or for more than 15 hours a week during school breaks
- Any other use deemed by the Community Development Director to meet the definition of after school or school break child care.

EXCLUSIONS

This policy does not cover or seek to regulate those uses where children are instructed or otherwise occupied with the use for fewer than 10 hours a week during the school year, or 15 hours a week during school breaks. The uses described following are excluded from this policy but are not excluded from any other local, state or Federal regulations or policies that would otherwise apply. Uses that meet the above time limits and/or are excluded from this policy would generally include:

- Academic and music tutoring;
- Athletic coaching and instruction;
- Programs operated by the City of Pleasanton or the Pleasanton Unified School District
- Other similar uses as determined by the Community Development Director or his/her designee.

Applicants seeking an exclusion from this policy will be required to complete a Certificate of Compliance explaining the grounds for the requested exemption together with a description of the program or use. These requirements must be satisfied on an annual basis prior to the issuance of a Business License.

Programs run or sponsored by the City of Pleasanton and the Pleasanton Unified School District (PUSD) are also excluded from this policy.

POLICY

This policy requires all applicants for the above uses to seek a determination from the State of California Community Care Licensing Division as to whether their use requires a license or can be exempted from the licensing requirements. If an applicant's program is exempted from State licensing requirements, the applicant shall prepare written procedures and standards addressing the following:

- Criminal background checks for the operator, employees and/or volunteers
- Health screenings and vaccinations for the operator, his/her employees, and/or volunteers
- Applicable First Aid and CPR training
- Preparation of a disaster plan
- Applicable valid drivers license and vehicle insurance for any transportation service offered
- Open space for recreation during the sessions or the programmatic equivalent
- Satisfying all Fire, Building and Health and Safety Codes for the type of facility and occupancy
- Rest rooms and other facilities

The standards should generally be based on those imposed by the State although equivalent requirements may be approved by the Community Development Director, based on the specifics of the site or for other valid reasons. As a condition of approval, to be satisfied prior to the start of business, the applicant shall self-certify that all of the approved standards have been satisfied. Violations of the standards shall be grounds for revocation of any use permit and/or business license.

Review and Provide Comments on Policy Options for Child Care Uses

Ms. Stern informed the Commission that for the past year, the Planning Commission and the City Council, have reviewed a number of applications for conditional use permits for private, for-profit uses such as martial arts, tutoring and instruction, wherein school age children regularly attend the program every day after school and/or for extended periods during school vacation periods. These businesses are essentially providing after-school and custodial care during school vacation periods for school-age children although the business operators are often provided exemptions from child-care licensing by the California Department of Social Services Community Care Licensing Division.

Ms. Stern advised that these businesses are being granted “exemption from licensure” by the State on the grounds they are operating a “public recreation program” that meets specific criteria. However, staff contends that these businesses do not qualify because the programs provided are not operated by specific agencies as defined in the Community Care Licensing Division’s Manual of Policies and Procedures or by the underlying code.

The Commission was further advised by Ms. Stern that the City’s Youth Master Plan (adopted in 2001) recognizes the importance of readily available, high quality child care and supervised youth activities and notes that the demand for these services generally exceeds the supply. Staff is aware of a need to address concerns regarding a basic level of safety and welfare of participants in these programs, is considering further refinement of policy options, and is seeking the Human Services Commission’s comments and suggestions on how best to define and regulate uses.

Ms. Stern provided information on defined uses and staff’s attempt to draw a distinction between programs where a child attends for a few hours per week, and those where a child attends either every day after school or during school vacation periods, and remains under the “custodial care” of the business operator and its employees/volunteers. She further advised that programs operated by the City or the Pleasanton Unified School District (PUSD) would be excluded, since they are already required to conduct background checks, health verification and/or specific certifications for certain program and/or staff positions.

In an effort to address all of the issues, Ms. Stern advised that staff has drafted two (2) options, for the Commission to review and provide comments and suggestions:

Option 1 – would require the applicant to obtain a child care license from the State of California Community Care Licensing Division, and would ensure a basic level of review of the facility, his or her employees, the program, and of the facility itself prior to the opening of the facility. It would also provide a forum for parents to take complaints or concerns about the facility and obligate the state to investigate.

Option 2 – would require applicants to seek a determination from the State Community Care Licensing Division as to whether their use requires a license or can be exempted from licensing requirements. If exempted, the applicant would be required to prepare written procedures and standards addressing: criminal background checks, health screenings, training, disaster planning,

outdoor recreation, etc., and self-certify all standards have been satisfied, with the condition that should it become apparent standards have not been followed, it would be grounds for revocation of any use permit and/or business license.

When asked about standards for Heritage Schools, Ms. Stern advised that legislation currently being looked at would not require licensing for such schools. They would not be “policed” by the state, but rather by a proposed “Heritage School Association.”

Commissioner Nagler questioned why the subject matter of a school made a difference in the licensing requirements. Ms. Andrade-Wax advised that there have been some concerns throughout the state where sometimes exemptions have been given when they shouldn't have been. She also provided information about different types of licensing and the fact that some businesses are treading into child-care, especially with operating after-school and/or summer programs in addition to their normal business, i.e., dance and/or martial arts studios, tutoring centers, gymnastics, etc. Ms. Andrade-Wax indicated these types of programs are the reason the City is interested in making their respective businesses more accountable, especially if they are working with minors.

Ms. Stern reviewed the following two (2) attachments with the Commission:

Attachment 1 was for “Required Licensing of Child Care Services,” which if adopted, would ensure the safety and welfare of children aged 17 and under who participate in programs in which they are supervised, instructed, or otherwise monitored on a regular basis during after school hours on week days or during school activities.

Attachment 2 was for “Protection of children receiving instruction, tutoring and other services and care” that would ensure the safety and welfare of children aged 17 and under who participate in programs in which they are supervised, instructed, or otherwise monitored on a regular basis during after school hours on week days or during school vacations.

Commissioner Nagler had questions regarding state requirements and the time frame for a business to get licensed. Ms. Stern provided details, the time hurdles involved, and the fact that certain requirements could be done simultaneously. Ms. Andrade-Wax advised that delays usually occur because businesses have “backed-in” to the process, after they have already selected a site or building and then realized that they need a license.

Commissioner Tenbrink raised a question about Option 2 and the email received from Peter MacDonald in which he discusses the “need to address concerns regarding a basic level of safety and welfare of participants in programs without imposing onerous requirements...” the two options being proposed by staff, and the need to run background checks through the Police Dept. Ms. Andrade-Wax advised that running background checks through the Police Department may require that the department be designated to receive continual updates, and check on any activity. When asked what other cities do in regulating or checking these types of businesses; Ms. Andrade-Wax stated that most cities do not get involved because it is regulated by the State of California. Ms. Stern indicated this would also require the City to have a lot of discretion on how obtained information was to be used.

Commissioner Tenbrink was also concerned about liability issues and how they would be handled by the City. Ms. Andrade-Wax indicated that this was also a concern for the City and a reason why the City would want to be provided with a copy of an applicant's original licensing application and exemption to make sure that applicants are not misrepresenting facts, and would also allow the City to validate the information.

Commissioner Detweiler questioned how the City would handle existing businesses, if these requirements were for new business. Ms. Stern and Ms. Andrade-Wax advised that once a policy is approved, it would apply to all new applicants and if Council directed, existing businesses could be "grandfathered" in over time as well.

Commissioner Rowland confirmed how criteria would evolve and was provided information about exemptions and the types of businesses and criteria that would be involved.

Commissioner Nagler had questions about how the City would act should all requirements be met by an applicant, but issues were raised by the state and expressed his concerns about the City getting into this kind of business. Ms. Stern provided details of "Use Permit" requirements that could be imposed by the City.

Commissioner Rowland felt that providing consumer education and information might be a role for the City to consider. Ms. Andrade-Wax provided information about the City's association with Child Care Links, the information they provide, and additional information that could be provided by the City through the Activities Guide, etc.

Commissioner Nagler recommended the City draft an ordinance mandating that all businesses provide a disclosure document to the participants in their programs indicating that they are a licensed or exempt business.

Chairperson Kennedy opening the meeting for Public Comment at 8:02 p.m.

Carol Thompson, Child Care Links, Pleasanton – indicated Child Care Links was also concerned about the issues that have been raised by staff and members of the Commission. She liked the recommendation made by Commissioner Nagler and would even suggest that businesses be required to post information indicating whether they are a licensed or exempt business. Ms. Thompson provided details about a "Trust-Line" process and the information and "checks and balances" it makes available to agencies regarding offenses and advised that Child Care Links would be willing to help in any way they can in providing information. She also noted that Child Care Links does not make recommendations to parents about child care facilities, but rather provides them with information. Unfortunately some parents tend to go on "blind faith" when making their decisions. Ms. Thompson advised that very little over-sight is provided by the state, and they go strictly on information provided by an applicant.

Commissioner Rowland asked about effective strategies parents can use when looking for childcare facilities. She was advised by Ms. Thompson that Child Care Links works with the City in providing licensing information, but there is a definite need to get information out to parents before they make a choice.

Commissioner Tenbrink confirmed that Child Care Links worked with local agencies and helpful agency education could be provided by them. Ms. Thompson confirmed this and indicated that Child Care Links would follow-up on any issues brought to their attention and was willing to work with staff on this matter. She indicated that she would be meeting with the Manager of State Licensing sometime next week and safety of children was always a big concern for Child Care Links.

Commissioner Wilson questioned whether Child Care Links ever received inquiries that involved children who received tutoring, etc., in private homes.

Chairperson Kennedy closed the meeting for public comment at 8:15 p.m.

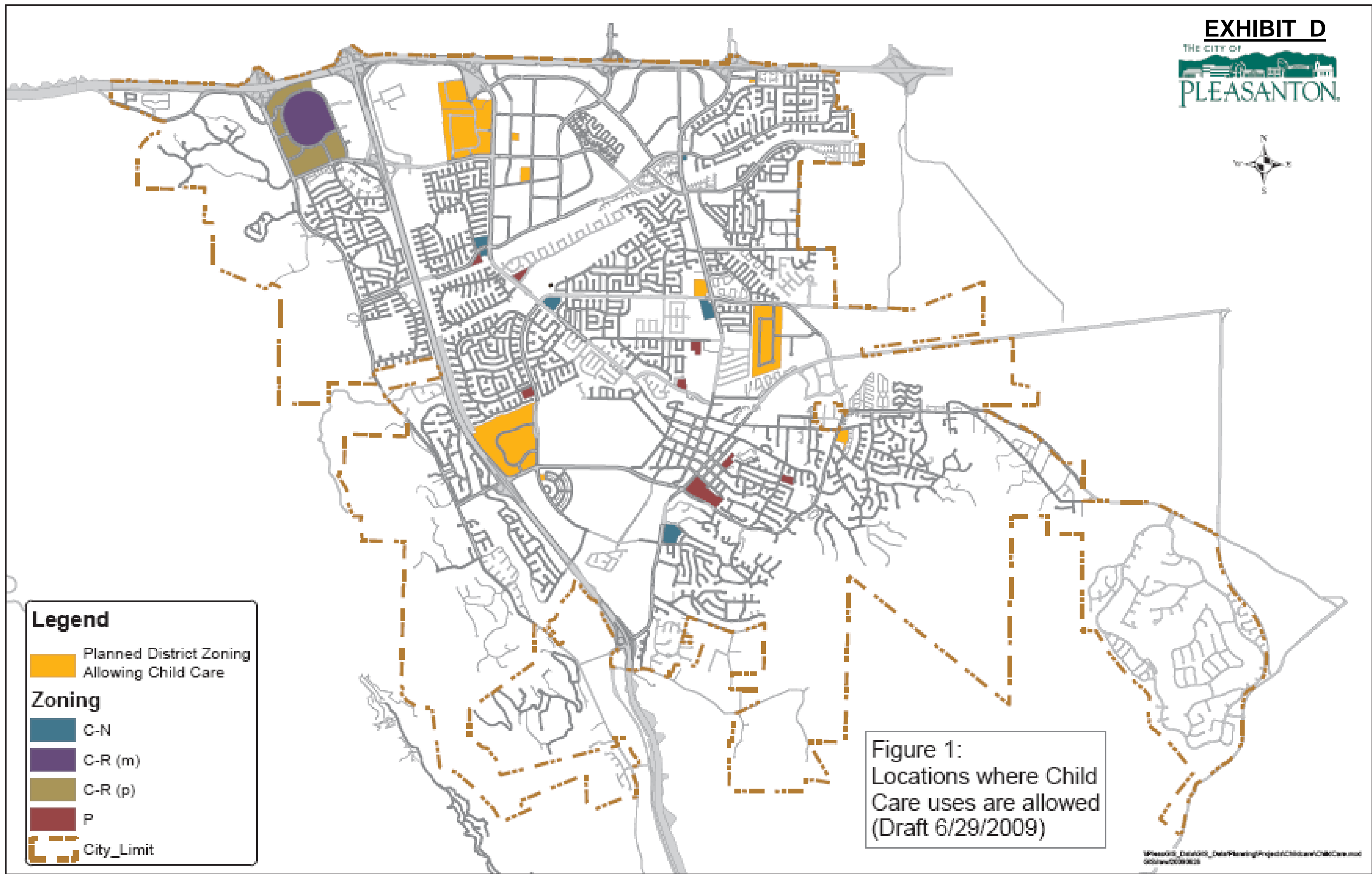
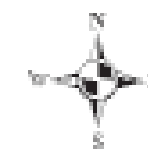
Commissioner Tenbrink would like to see the City put something in place that included comments made by Commissioner Nagler regarding mandating businesses to provide a disclosure statement.

Commissioner Nagler was opposed to recommending that the City go into the business of determining what licensing is required and didn't feel this was a role the City should be involved in. He suggested that the City draft an ordinance defining the criteria and require written notification, on an annual basis, from those participating. This written notification should indicate whether the business was licensed or exempt and would provide this information on a form approved by the City.

Chairperson Kennedy agreed with Commissioner Nagler's comments that the City should not be doing the oversight on this matter, and it is something that should be done by the state.

Commissioner Detweiler also liked the idea of providing parents with information about whether a business was licensed or exempt. Chairperson Kennedy agreed and felt it made for a consumer-driven push to help with this situation.

Ms. Stern thanked the Commission for all of its comments, recommendations, and suggestions and advised that the information will now be taken to the Planning Commission. Staff will continue to keep the Human Services Commission informed on whatever steps are taken.



Legend

- Planned District Zoning Allowing Child Care
- Zoning**
- C-N
- C-R (m)
- C-R (p)
- P
- City_Limit

Figure 1:
Locations where Child
Care uses are allowed
(Draft 6/29/2009)