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## Child Care Development and the Zoning Ordinance

Zoning provisions that allow child care facilities to locate in a variety of districts are essential in any community to ensure that an adequate supply of child care is developed. A well-crafted zoning ordinance can encourage, rather than impede, the development of child care in a community.

This chapter suggests strategies that planners and elected officials may adopt when applying traditional zoning requirements to child care. Zoning options are presented here for large family child care homes and child care centers.

### Zoning Standards

#### *Large Family Child Care*

As stated in Chapter 2, State law limits a local jurisdiction's ability to regulate large family day care homes. Each local jurisdiction is advised to review its ordinance to ensure that it is in compliance with State law. Current land use requirements for local cities and the County of Santa Barbara are contained in Appendix B.

The City of Santa Maria allows large family day care homes as a permitted use (exempt from any zoning permits), with no special ordinance requirements beyond those required of any single-family dwelling. This strategy appears to be working well for the City.

As previously stated, jurisdictions that require a non-discretionary (ministerial) permit or use permit process may address only four issues in its ordinance: spacing and concentration, traffic control, parking, and noise. Planners who are developing an ordinance regulating large family day care homes need to develop specific standards instead of generic statements. Applicants for child care facility permits need to know up front specifically what will be expected of them.

In addition, planners should understand that state law requires local jurisdictions to have the Planning Director, Zoning Administrator, or a similar administrative person/group review and take action regarding ministerial or discretionary permits for large family day care homes.



These permits cannot be reviewed and determined by the Planning Commission or City Council/Board of Supervisors, except on appeal. Following is a review of each issue:

### *Spacing and Concentration*

State law allows local jurisdictions to establish limitations governing the concentration of large family day care homes. This is sometimes a concern voiced by neighbors, who worry that the location of several large family day care homes on a single block may create problems with traffic, parking, and noise.

Experience indicates that neighborhoods rarely become saturated with day care homes because these homes thrive only in locations where they can be supported by adequate enrollment. Concerns regarding over-concentration may be more effectively addressed directly through traffic and parking requirements.

California communities have chosen a variety of tactics to regulate the location of family day care homes. Many cities have no restrictions governing spacing/concentration. However, two cities have imposed a 300 feet separation requirement between Large Family Day Care Homes, with no modifications allowed.

The City of Antioch, California, offers an example of an ordinance limiting concentration. The Antioch ordinance states:

"No Administrative Use Permit shall be issued if there is another approved large family day care home operating adjacent to the proposed site, or if the granting of the permit will result in a residence being bounded on more than one side by a large family day care facility."

If concentration requirements are imposed, waivers should be available in situations in which the existing facility is at capacity, there is documented need for additional child care, and/or the services provided are somehow unique.

### *Traffic Control and Parking*

State law also allows local jurisdictions to address traffic and parking concerns in the review process for large family day care homes.

Studies indicate that these concerns usually dissipate once a large family day care home has opened. Parents tend to drop off and pick up their children on staggered schedules, and families often bring more than one child. Residential driveways and on-street parking are usually sufficient for drop off and pick up purposes.

Large family day care homes are required to have two caregivers present when more than six children are in care. Although the second caregiver is frequently a resident of the home, some cities require that one off-street parking space be available for the employee. Again, a



residential driveway usually meets this requirement provided the space does not block the public sidewalk or street right-of-way.

A community that requires the addition of on-site parking places for employees and/or parents should be aware that this requirement can force the day care operator to pave much of the home's front and/or side yards. This can result in a more institutional, less pleasing appearance to the home, which can negatively impact neighbors.

### Noise

Noise from a family day care home is generally similar to the noises that are typically heard in residential neighborhoods - children playing, athletic activities, music, or the use of lawn mowers or power tools. A community's existing noise ordinance and/or nuisance laws should be sufficient for controlling noise at a family day care site.

## **Zoning Standards**

### *Child Care Centers*

State law does not pre-empt local zoning ordinances regarding child care centers. Determining appropriate standards for these facilities can be a complex task for local decision-makers.

Each community will need to determine:

- The zoning districts in the community that are appropriate for child care centers,
- Whether centers should be allowed by right, by administrative permit, or by a Planning Commission or City Council/Board of Supervisors approved land use entitlements, and
- The conditions and requirements (if any) that should be imposed upon centers.

The following discussion should be useful for planners grappling with these issues:

### The Appropriate Zones

Cities in Santa Barbara County vary in their approach to the siting of child care centers (See Appendix B). Several cities allow centers to locate in all zoning districts, subject to the conditional use permit process. Other cities allow centers as a permitted use in some districts and require a conditional use permit for facilities located in other districts. Other jurisdictions prohibit child care centers in some zones altogether. Typical prohibitions for centers include industrial/manufacturing, airport, and mobile home park zones.

In general, child care centers in commercial, multifamily, office and institutional districts should be allowed by right as long as the center provides adequate off-street parking and meets all local building and fire code requirements. Child care centers sited in single-



family and lower density residential districts or in areas of the community that have significant environmental problems should be subject to additional review.

Approximately one third of child care centers nationwide are nonprofit centers in churches or church facilities. Many other child care centers are sited on the premises of an operating community service facility such as a private or public school, community center or library-facilities typically located in residential districts. The child care centers in these facilities should be allowed as accessory uses. Generally, the measures used to buffer the main use from residences will prove to be adequate for buffering the accessory use as well.

When a conditional use permit is required, the zoning administrator in the jurisdiction can apply conditions that will ensure that the project is compatible with surrounding land uses. Some jurisdictions require a minor CUP while others require a major CUP. A minor CUP is approved by the zoning administrator or planning director, while a major CUP requires planning commission approval. Permits for child care centers should not impose time limits requiring permit renewal.

#### Concentration/Spacing

As with family day care, it is unlikely that a particular area of a community will become saturated with child care centers. Child care centers cannot survive in areas with insufficient demand for services. However, planners who are concerned about this issue should contact the local resource and referral agency for information on the supply of existing facilities.

#### Traffic

The amount of traffic generated by a day care center will depend upon the number of children served by the facility. Most cities in Santa Barbara County require centers to undergo the same traffic analysis that is applied to other uses in the same zone district.

Except for very large centers, it is unlikely that vehicle trips generated by child care facilities will result in significant traffic impacts.

Employer sponsored child care centers adjacent to the work place will generate little additional traffic impact. In fact, the placement of centers at employment hubs can serve to ease pressure on the local road network by reducing the number of side trips en route to and from work. Chapter 6 discusses child care and transportation planning in more detail.

#### Parking

Some communities base their parking requirements for child care centers on the numbers of children served, while others base parking on the number of employees.



A more logical approach for decision-makers is to correlate the number of parking spaces with the number of child care employees at the facility at any one time. Since parents need only a pick-up and drop-off area, the only people parking at a center on a long-term basis are the facility's employees. In the City of Palo Alto, for example, child care centers are required to provide one parking space per 1.5 employees. This requirement assumes that many day care employees travel to work via bicycle or mass transit.

### Noise

Noise is not likely to be a problem for freestanding child care centers in most zoning districts. However, child care centers located in a commercial building may be required to install additional insulation to reduce noise from adjacent tenants. Centers located in single-family residential neighborhoods can be required to install six- to eight-foot high fences surrounding the outdoor play area that is adjacent to residences.

Some jurisdictions have, upon occasion, required applicants to obtain an analysis of potential noise impact from an environmental consultant. However, these kinds of analyses pose a significant expense to applicants. If excessive noise at a day care center becomes a problem, local noise and nuisance laws can be applied.

### Pick-Up and Delivery of Children

Child care centers need to designate safe areas for pick-up and delivery of children. Ideally, the pick-up area should be located so that children do not have to cross traffic to reach the facility. Drop-off and pick-up needs vary depending upon the size of the center. Most cities in Santa Barbara County require child care centers to provide parking on-site in order to avoid impacting public parking lots and adjacent curb side parking.

### Signage

Most jurisdictions require child care centers to conform to the signage standards that prevail in the zone district. Child care centers located in residential zones in which signs are not permitted may need to apply for a waiver to post a small sign for identification purposes.



Toxic and Hazardous Materials

The siting of child care centers in districts where toxic or hazardous materials are used or stored is an issue of growing concern to both providers and local planners. Child care centers must be located in an environment that does not compromise the health or safety of children. However, it is often extremely difficult to evaluate the risk, if any, that the storage or use of hazardous materials may pose for children in nearby centers. This is a good example of when to employ a CUP.

In general, child care centers should be governed by the same standards that apply to schools or community centers, both of which house children for part of the day. Planners should work with local environmental health and fire departments to identify potential risks, as well as measures that may mitigate identified or perceived safety risks. Planners and fire officials should avoid arbitrary rulings that are overly prohibitive.

Landscaping, Fencing, and Setbacks

Community Care Licensing sets certain standards for outdoor play areas and fencing. A local jurisdiction imposing landscaping and/or fencing requirements on a child care center must ensure that its requirements are consistent with state regulations.

In general, most cities require child care centers to conform to the front, side, and rear setbacks mandated for the zone district. However, in zones that require a very large setback, or on sites where outdoor space is at a minimum, planners should consider allowing the outdoor play area to intrude into the setback. Licensing requires a minimum of 75 square feet of outdoor play area per child. Planners should always include this area when calculating open space requirements for the site.

Although the State requirements for fence height is four feet, most jurisdictions that require fencing impose a six foot height standard. Conditions regarding fence material should be appropriate to the purpose of the fence (e.g., visual, noise, safety), and should consider the cost of the fence verses the benefits.