



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
TOM BURNS, PLANNING DIRECTOR

October 11, 2005

AGENDA DATE: October 26, 2005

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: Large Family Child Care Homes

Dear Commissioners:

In November of 2004, the Board of Supervisors addressed the issue of Family Child Care Homes in the context of how the County regulates them, where the State preempts County regulation, and how the County can regulate them within the confines of the State preemption. As a result, the Board made some decisions concerning how Family Child Care Homes will be regulated within the County and directed staff to propose ordinance amendments to further the Board's conclusions. The purpose of this letter is to address one aspect of this policy – the regulation of Large Family Child Care Homes on non-residentially zoned properties.¹

BACKGROUND

Family Child Care Homes are small scale child care facilities which are regulated and licensed by the State Department of Social Services. Family Child Care Homes are located within residences where the owner/operator of the child care resides.

There are two types of Family Child Care Homes: Small and Large. A Small Family Child Care Home may care for up to 8 children. Large Family Child Care Homes (LFCCH) may care for up to 14 children.

Provision of child care is important to the community. Though childcare is generally provided in Family Child Care Homes in residential zones, there are occasions where locating a Large Family Child Care Home in a non-residential zone would be appropriate, such as in the location of farmworker housing, or where agricultural zoning extends into an area with all of the characteristics of a residential neighborhood. Though this type of scenario is uncommon, the Board determined that it is appropriate to create regulations that would not preclude the location of a Large Family Child Care Home under such circumstances.

¹ The regulation of Small Family Child Care Homes, and Large Family Child Care Homes in residential zones was before your Commission on August 10, 2005.

There are currently 64 LFCCHs in the unincorporated County. 62 of these are in the residential zones. One exists in the C-4 zone and one exists in the CA zone. It is anticipated that there will continue to be a minimal number of LFCCHs proposed that would be located in non-residential zones.

State Preemption

State law preempts County regulation of Small Family Child Care Homes (up to 8 children). Specifically, State law requires that Small Family Child Care Homes be allowed without a permit or local regulation anywhere that a residential use is allowed. In residential zones, the State allows local jurisdictions to regulate LFCCHs using only specific criteria. However, the Board of Supervisors decided not to regulate LFCCHs in residential zones, thus treating them the same way as Small Family Child Care Homes. Your Commission reviewed ordinance amendments to address the State preemption at your August 10, 2005 meeting. The State does not impose specific criteria for County regulation of LFCCHs in non-residential zones.

County Regulations and Proposed Ordinance Amendments

Under the existing County Code, LFCCHs are not allowed in non-residential zones. However, the Board of Supervisors directed staff to develop ordinance amendments to allow LFCCHs in non-residential zones with a Level 5 permit. Staff has developed ordinance language which creates such a process (Exhibit B). These ordinance amendments would create a new section of the County Code to address LFCCHs in non-residential zone districts.

The permit process for these uses would minimize potential land use conflicts and ensure consistency with agricultural preservation and timber production policies. Ordinance language would require that findings be made such that the use would not conflict with on-site or adjacent agricultural activities and is consistent with the preservation of agricultural resources on site.

REVIEW BY THE AGRICULTURAL POLICY ADVISORY COMMISSION

In an effort to receive broad input, this issue was brought before the Agricultural Policy Advisory Commission (APAC) for input and recommendations on these ordinance amendments. APAC held two public hearings on April 21, 2005 and May 19, 2005. APAC received public testimony concerning the ordinance and the concept of allowing LFCCHs on or adjacent to agricultural land. APAC considered the testimony and discussed the issue at length. In the end, APAC made three recommendations: (1) that LFCCHs are not compatible with agricultural uses and should not be allowed on agricultural land (A, CA, AP or TP) at all; and (2) if LFCCHs are to be allowed on agricultural land, APAC review of all proposed LFCCHs should be required; and (3) that all applications for LFCCHs within 200 feet of agricultural land be considered a change of use subject to APAC review for appropriate agricultural buffers. State law preempts the implementation of the third recommendation on residential land because State law limits the County's ability to regulate LFCCHs on residentially zoned land.²

² State law only allows the County to regulate these facilities based on specific criteria for evaluating the spacing and concentration of uses, traffic control, parking, noise and fire protection

ORDINANCE MODIFICATIONS SINCE AUGUST

This item was continued from the August 24, 2005 agenda due to improper noticing. Since August, staff has had an opportunity to review the proposed ordinance and make a few changes. The first change to the proposed ordinance removes APAC as the decisionmaker in making findings that the use will not conflict with on-site or adjacent agricultural activities and is consistent with the preservation of on-site agricultural uses. Instead these findings will be made by the approving body, with APAC making recommendations. This is consistent with APAC's role in advising about issues related to agricultural policy and allows the approving body to take into consideration all land use issues in making a decision. Additionally, the requirement that this use comply with the provisions of the Agricultural Buffer Setback ordinance is unnecessary since most of these applications will not be proposing structural alterations. Though the LFCCH may be an intensification of the existing residential use, unless additional structures are proposed which are required to undergo agricultural buffer setback evaluation, this section is inapplicable.

Others may disagree with these changes and, in fact, suggestions have been made to further regulate these uses. Staff respectfully disagrees with these suggestions in that they will only serve to further burden the applicant and complicate the permit process. It is important to remain mindful that the purpose of the ordinance is to provide for and regulate LFCCHs in order to provide needed childcare in a home setting and at the same time minimize conflicts.

EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Under section 15274 of the California Environmental Quality Act (CEQA) Guidelines, the establishment or operation of Large Family Child Care Homes are statutorily exempt from CEQA. Additionally, this project is statutorily exempt under CEQA Guidelines section 15265 – Amendments to Local Coastal Plans. Further, this project is Categorically Exempt under CEQA Guidelines section 15301- Existing Structures and CEQA Guidelines section 15303- New Construction or Conversion of Small Structures.

CONCLUSION/RECOMMENDATION

The issue of regulating Large Family Child Care Homes in non-residential zones presents significant challenges. It requires a careful balancing of the purposes of the zone district with the community need for affordable and accessible child care. Therefore, the proposed regulations are designed to be mindful of the underlying purpose of the zone district while still providing an opportunity for Large Family Child Care Homes to be located within non-residential districts where that use would be appropriate.

It is therefore **RECOMMENDED** that your Commission:

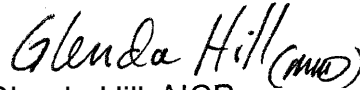
1. Conduct a public hearing regarding allowing Large Family Child Care Homes in non-residential zones; and

2. Adopt the attached Resolution (Exhibit A) recommending that the Board of Supervisors approve ordinance amendments to allow Large Family Child Care Homes in non-residential zones with findings.

Sincerely,



Julianne Ward
Planner IV
Policy Section



Glenda Hill, AICP
Principal Planner
Policy Section

Exhibits:

- A. Resolution
- B. Proposed Ordinance
- C. CEQA Notice of Exemption
- D. Letter from Sierra Club dated August 4, 2005
- E. Letter from Jonathan Wittwer dated August 19, 2005
- F. Letter from Child Care Planning Council dated August 24, 2005

cc: Agricultural Policy Advisory Commission
Child Care Planning Council
Susun Gallery
Jonathan Wittwer

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Commissioner:
Duly seconded by Commissioner:
The following Resolution is adopted:

**RESOLUTION RECOMMENDING ADOPTION OF ORDINANCE
AMENDMENTS REGARDING LARGE FAMILY CHILD CARE HOMES**

WHEREAS, the provision of child care is an important resource in the County of Santa Cruz (the "County"), and providing opportunities for a variety of child care options is valuable to the community; and

WHEREAS, the Board of Supervisors directed that an ordinance be drafted and ordinance amendments be developed to allow Large Family Child Care Homes in non-residential zones in Volume II of the Santa Cruz County Code and Local Coastal Program; and

WHEREAS, the County desires to expand the opportunities to allow Large Family Child Care Homes in non-residential zones under specific circumstances and regulations; and

WHEREAS, Large Family Child Care Homes provide a type of child care which is an asset to the community; and

WHEREAS, amending the County Code and the Local Coastal Program to reflect this goal requires an amendment to the County Code and the Local Coastal Program regarding Large Family Child Care Homes; and

WHEREAS, the Planning Commission has held a duly noticed public hearing and has considered the proposed amendments, and all testimony and evidence received at the public hearing; and

WHEREAS, the Planning Commission finds that the proposed Local Coastal Program amendments and proposed amendments to the Santa Cruz County Code will be consistent with the policies of the General Plan and Local Coastal Program and other provisions of the County Code, and will contribute to the provision of child care throughout the community; and

WHEREAS, the proposed amendments were submitted to the Agricultural Policy Advisory Commission for their review and recommendation and were reviewed at public meetings on April 21, 2005 and May 19, 2005; and

WHEREAS, pursuant to the California Environmental Quality Act, this action is statutorily exempt under CEQA Guidelines Section 15274 – Family Day Care Homes (Health & Safety Code Section 1597.46(b)) and partially exempt under CEQA Guidelines Section 15265—Amendments to Local Coastal Plans (Public Resources Code Section 21080.9) and categorically exempt under Class 1—Existing Facilities CEQA Guidelines Section 15301 and Class 3—New Construction or Conversion of Small Structures CEQA Guidelines Section 15303; and

WHEREAS, Chapter 13.10 of the County Code is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to Chapter 13.10 constitute an amendment to the Local Coastal Program; and

WHEREAS, the proposed amendments are consistent with the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby finds this action statutorily and categorically exempt from the California Environmental Quality Act and applicable State and County Guidelines; and

BE IT FURTHER RESOLVED, that the Planning Commission recommends the proposed amendments to County Code Sections 13.10.312(b), 13.10.332(b), 13.10.352(b), 13.10.362(b), 13.10.372(b) and the proposed addition of 13.10.686 be adopted to allow Large Family Child Care Homes in non-residential zones as set forth in Exhibit B, and the Notice of Exemption from the California Environmental Quality Act as set forth in Exhibit C, and incorporated herein by reference, be approved by the Board of Supervisors and submitted to the California Coastal Commission as part of the Local Coastal Program Update.

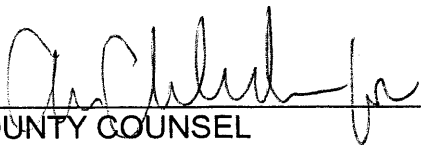
PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this _____ day of _____, 2005 by the following vote:

| | |
|----------|---------------|
| AYES: | COMMISSIONERS |
| NOES: | COMMISSIONERS |
| ABSENT: | COMMISSIONERS |
| ABSTAIN: | COMMISSIONERS |

Chairperson

ATTEST: _____
Secretary

APPROVED AS TO FORM:



COUNTY COUNSEL

cc: County Counsel
Planning Department

ORDINANCE No. _____

ORDINANCE AMENDING COUNTY CODE
 SECTIONS 13.10.312(B), 13.10.332(B),
 13.10.352(B), 13.10.362(B), AND 13.10.372(B)
 AND ADDING SECTION 13.10.686
 OF CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE
 REGARDING LARGE FAMILY CHILD CARE HOMES

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Subdivision (b) of Section 13.10.312 of the Santa Cruz County Code is hereby amended by adding the category "Child Care Homes, Large" to the Agricultural Uses Chart under "Agricultural Support and Related Facilities" and below the category of "Caretaker's quarters, permanent, subject to the provisions of Section 13.10.631", to read as follows:

| USE | CA | A | AP |
|--|----|---|----|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 | 5 | 5 |

SECTION II

Subdivision (b) of Section 13.10.332 of the Santa Cruz County Code is hereby amended by adding the category "Child Care Homes, Large Family (must be in conjunction with residential use) (See Section 13.10.700-C definition)" to the Commercial Uses Chart under the general category of "Residential Uses, such as", below the category of "Repair, alteration, expansion or reconstruction of dwelling units and accessory structures which are inconsistent with the General Plan, subject to Sections 13.10.260 and .261 Nonconforming Uses", to read as follows:

| USE | PA | VA | CT | C-1 | C-2 | C-4 |
|--|----|----|----|-----|-----|-----|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 | -- | -- | 5 | 5 | -- |

SECTION III

Subdivision (b) of Section 13.10.352 of the Santa Cruz County Code is hereby amended by adding the category "Child Care Homes, Large Family (must be in conjunction with residential use) (See Section 13.10.700-C definition)" to the PR Uses

Chart under the general category of “Residential Uses, permanent, such as”, and above the category of “One single-family dwelling, subject to the Parksites Review process pursuant to Chapter 15.01”, to read as follows:

| USE | PR |
|--|----|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 |

SECTION IV

Subdivision (b) of Section 13.10.362 of the Santa Cruz County Code is hereby amended by adding the category “Child Care Homes, Large Family (must be in conjunction with residential use)(See Section 13.10.700-C definition)” to the PF Uses Chart under the general category of “Residential Uses” and above the category of “Residential uses pursuant to a master use permit”, to read as follows:

| USE | PF |
|--|----|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 |

SECTION V

Subdivision (b) of Section 13.10.372 of the Santa Cruz County Code is hereby amended by adding the category “Child Care Homes, Large Family (must be in conjunction with residential use)(See Section 13.10.700-C definition)” to the TP Uses Chart under the general category of “Residential” below the category of “dwelling groups of single-family dwelling (Subject to the density and other requirements in Section 13.10.373, .374, and .375)”, to read as follows:

| USE | TP |
|--|----|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 |

SECTION VI

The Santa Cruz County Code is hereby amended by adding Section 13.10.686 entitled “Large Family Child Care Homes in Non-Residential Zone Districts” to read as follows:

“13.10.686 Large family child care homes in non-residential zone districts.

(a) Purpose The purpose of this section is to provide for and regulate Large Family Child Care Homes in order to provide needed child care in a home setting, as well as minimize or prevent potential conflicts between child care and other on-site or adjacent uses.

1. Purpose in Agricultural Districts. The purpose of this section in agricultural districts is to provide opportunities for Large Family Child Care Homes to be located in areas which are zoned agriculture but have a residential character, or in the location of farmworker housing where childcare is needed.

2. Purpose in Commercial Districts. The purpose of this section in commercial districts is to provide opportunities for Large Family Child Care Homes to be located in residences with proximity to places of employment.

3. Purpose in Parks, Recreation and Open Space District. The purpose of this section in the Parks, Recreation and Open Space districts is to provide opportunities for Large Family Child Care Homes to be located in residences in proximity to outdoor activities, residential neighborhoods and commercial areas.

4. Purpose in Public and Community Facilities District. The purpose of this section in the Public and Community Facilities district is to provide opportunities for Large Family Child Care Homes to be located in residences in proximity to public facilities, such as schools, and near residential areas.

5. Purpose in Timber Production Districts. The purpose of this section in the Timber Production district is to provide opportunities for Large Family Child Care Homes to be located in residences on land zoned for timber production consistent with the provisions of Section 13.10.375.

(b) Application Requirements. In those non-residential zone districts where Large Family Child Care Homes are allowed in conjunction with a residential use, a Level V use approval is required. Approval of these permits shall be processed in accordance with the provisions of Chapter 18.10.223. Large Family Child Care Homes proposed to be located within the Coastal Zone shall require a Coastal Permit which is also processed at Level V.

1. Upon application submittal, the applicant must submit a statement of operation which includes the following information:

(i) Number of employees.

(ii) Number of children.

(iii) Hours and days of operation.

(iv) Site plan which clearly illustrates the pick up/drop off area, on site circulation and parking spaces.

(c) Required Findings. Before a Development Permit (Level V use approval) for a Large Family Child Care Home can be granted, the general findings for Development Permits set forth in Section 18.10.230 (a) and where applicable, Coastal Permit findings set forth in Section 13.20.110 shall be made in addition to the following findings:

1. In Agricultural Districts (A, CA and AP), the Agricultural Policy Advisory Commission shall review proposals and make recommendations to the approving body and the approving body shall make the following findings:

(i) The Large Family Child Care Home use on the parcel will not conflict with on-site or adjacent agricultural activities (including but not limited to herbicide and pesticide use); and

(ii) The Large Family Child Care Home is consistent with the preservation of the agricultural resources on site.

(iii) Section 16.50.095 pertaining to agricultural buffer setbacks shall not apply where no structural alteration is proposed as part of the Large Family Child Care Home use.

2. In Timber Production Districts (TP), the following additional findings shall be made:

(i) The Large Family Day Care Home use does not conflict with the growing and harvesting of sustained yield tree crop and all timber harvesting activities.

(ii) The Large Family Day Care Home operation is consistent with Section 13.10.375(a)(1).

(d) Requirements. Before a Large Family Child Care Home, authorized by a development permit, or, if applicable, a coastal permit, can commence operation, the following requirements shall be met:

1. Location: The Large Family Child Care Home must be operated in a residence or in the residential portion of a mixed use structure.

(i) In the commercial zones, the percentage of residential square footage of the structure must comply with Section 13.10.332(b).

(ii) The large family child care home shall operate in the residential portion of the structure.

2. Occupancy: The owner or occupant of the residence must be the operator of the Large Family Child Care Home and must be listed on the State License as the operator. The operator must live at the premises full-time.

3. Parking: Sufficient on-site parking must be provided for all employees of the Large Family Child Care Home. Sufficient off street parking equates to a minimum of one off street parking space per full time employee and a minimum of one off street drop off/pick up parking space. Any alternative off street parking standard must be deemed appropriate by the Zoning Administrator based on site constraints which would otherwise preclude the operation of a Large Family Child Care Home on the property. Additionally, there shall be sufficient off-street and on-street parking such that the operation of this use will not impede local traffic nor cause traffic congestion during peak drop-off and pick-up periods.

4. Traffic: Unless found to be unnecessary due to ample drop off and pick up areas, a plan for staggering drop-off and pick-up times to minimize traffic shall be submitted and reviewed as part of the application. An operational condition shall require implementation of this traffic control plan.

5. Other Conditions: Other conditions deemed appropriate by the approving body may be applied to the development permit of a Large Family Child Care Home to further the purposes of this Section.

SECTION VIII

This Ordinance shall take effect on the 31st day after the date of final passage outside the Coastal Zone and upon certification by the California Coastal Commission within the Coastal Zone.

PASSED AND ADOPTED this _____ day of _____, 2005, by the Board of Supervisors of the County of Santa Cruz by the following vote:

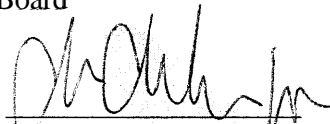
AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairman, Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:



County Counsel

Copies to: Planning
County Counsel

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA Guidelines for the reason(s) which have been specified in this document.

Application Number: N/A

Assessor Parcel Number: N/A

Project Location: Countywide

Project Description: Amendments to the County Code and the Local Coastal Program to allow Large Family Child Care Homes in non-residential zones subject to certain regulations

Person or Agency Proposing Project: County of Santa Cruz

Staff Contact and Phone Number: Julianne Ward 831.454.3226

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D. ☒ **Statutory Exemptions** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type: CEQA Guidelines Section 15274 – Family Day Care Homes (Health & Safety Code Section 1597.46(b))

CEQA Guidelines Section 15265—Amendments to Local Coastal Plans (Public Resources Code Section 21080.9)

- E. ☒ **Categorical Exemptions**

Specify type:

Class 1—Existing Facilities CEQA Guidelines Section 15301

Class 3—New Construction or Conversion of Small Structures CEQA Guidelines Section 15303

- F. **Reasons why the project is exempt:** This project involves amendments to the County Code and Local Coastal Program (the “Amendments”) to comply with State law with regard to regulation of Large Family Child Care Homes. Approval of the amendments will not authorize any actual development or cause any physical impact to the environment. With respect to the Local Coastal Program amendments, i.e. the application of the Amendments with the Coastal Zone, CEQA provides a statutory exemption for approvals related to approval of a local coastal program. In addition, Health and Safety Code section 1597.46(b) and CEQA Guidelines section 15274 provide that CEQA shall not apply to the establishment and operation of a large family day care home. The purpose of the Amendments is to allow the establishment and operation of Large Family Day Care homes in non-residential zones; therefore the statutory exemption applies. Large family day care homes that undergo a separate entitlement process as required under the Ordinance will be located in existing or

new single family homes in non-residential zones. Existing or new single family residential homes are categorically exempt under CEQA based upon the Class 1 and Class 3 CEQA Categorical Exemptions for Existing Facilities and/or New Construction or Conversion of Small Structures.

In addition, none of the conditions described in Section 15300.2 apply to this project.

Staff Planner: *Jill Marie Davis* Date: *9-26-05*



SIERRA
CLUB
FOUNDED 1892

EXHIBIT D
Copy To Each Supervisor
Santa Cruz County Group of the Ventana Chapter

P.O. Box 604, Santa Cruz, California 95061 phone: (831) 426-4453
FAX (831) 426-5323 web: www.ventana.org e-mail: scscrg@cruzio.com

August 4, 2005

Supervisor Ellen Pirie
County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

Re: Large Family Day Care Homes in Agricultural Districts

Dear Supervisor Pine:

On November 16, 2004 your Board gave direction to the Planning Department to "develop proposed ordinance amendments, for review by the Planning Commission and final review by the Board, which would allow Large Family Day Care Homes as a conditional use within particular non-residential zone districts." On May 19, 2005, the Agricultural Policy Advisory Commission ("APAC") reviewed a ~~draft~~ ordinance which would allow Large Family Day Care Homes ("LFDCH") in Agricultural Zoned Districts. APAC voted to not recommend the ordinance. The basis of APAC's vote was that (1) the ordinance removed the 200 foot agricultural buffer requirements for LFDCHs, (2) APAC was removed ~~from~~ the review process for future LFDCHs, and (3) it did not make sense to have agriculture and children mixed together.

The Sierra Club would like to encourage you and your Board to reject any ordinance pertaining to LFDCHs being allowed in agriculturally zoned districts, based on the same reasoning that was given by APAC to deny recommendations of such ~~an~~ ordinance. Combining agriculture and children is not in the best interest of the safety ~~and~~ welfare of children and places unfair risks ~~and~~ restrictions on the farmers and ranchers. The Sierra Club is aware of the need for daycare for children, but encourages you ~~and~~ your Board to look in other ~~areas~~ besides agriculturally zoned districts. There are plenty of locations throughout the County where LFDCHs may be placed without jeopardizing our need to maintain the agricultural productivity and lands of the County.

If you find it necessary to allow LFDCHs in agriculturally zoned districts (which the Sierra Club opposes), at a minimum, the 200 ~~foot~~ agricultural ~~buffer~~ should be intact. It is, however, the Sierra Club's position that anything less than a 1000' buffer in place would expose the children and caregivers ~~to~~ harm. When children are nearby anything less ~~than~~ 200 feet would be harmful to the safety of the children, not to mention the impediment it places on the agricultural production. Additionally, it is important that APAC remain in the process of approving future LFDCHs. APAC is the group that knows the most about what is best for keeping agriculture viable in the County ~~as~~ the ~~members~~ are working ranchers and farmers. Removing APAC from the decision-making process removes a vital component of the review to determine whether the proposed LFDCH would be tenable in the proposed location.

Thank you for your consideration of this matter.

Sincerely,

Aldo Giacchino
Chair, Executive Committee
Sierra Club-Santa Cruz County Group

"...to explore, enjoy and protect the ~~wild~~ places of the earth."

Jonathan Wittwer
William P. Parkin
Shandra Dobrovolsky

WITTWER & PARKIN, LLP
147 SOUTH RIVER STREET, SUITE 221
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE: (831) 429-4055
FACSIMILE: (831) 429-4057
E-MAIL: office@wittwerparkin.com

PARALEGAL
Miriam Celia Gordon

August 19, 2005

Planning Commissioners
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Re: Large ~~Family~~ Day Care Homes Ordinance

Dear Commissioners:

This office represents the Crest Drive Neighbors. This letter will address Item 9 on the August 24, 2005 Planning Commission Agenda concerning a public hearing to consider proposed ordinance amendments to allow large family child care homes ("LFCCH") in non-residential zone districts.

As a preliminary matter, we would like to point out that the proposed ordinance title does not include the fact that the ordinance would add Section 13.10.686 to the Santa Cruz County Code. The rest of this letter will address our concerns with regard to adding Section 13.10.686 to the Santa Cruz County Code and thereby allowing LFCCHs in agricultural zone districts.

SUPPORT FOR APAC RECOMMENDATION AGAINST LFCCHs ON AGRICULTURAL LAND

At both of the hearings before the Agricultural Advisory Policy Commission ("APAC") we suggested that allowing LFCCHs in non-residential zone districts was not good planning. We request that you follow the recommendation of APAC which provided "that LFCCHs are not compatible with agricultural uses and should not be allowed on agricultural land (A, CA, AP or TP) at all," and recommend that the Board of Supervisors remove all portions of the proposed ordinance allowing LFCCHs on agricultural land. We submit that at minimum allowing LFCCHs on agricultural land would be contrary to the Coast Act agricultural land preservation requirements of Public Resources Code Sections 30241 and 30242. Public Resources Code Section 30241 provides that "conflicts shall be minimized between agricultural and urban land uses."

REQUESTED REVISIONS IF PLANNING COMMISSION RECOMMENDS LFCCHs ON AGRICULTURAL LAND

However, if the Planning Commission ("Commission") decides to go forward with recommending the Board of Supervisors adopt an ordinance allowing LFCCHs in agricultural

zone districts, we would like you to consider the following revisions to the proposed ordinance prepared by Planning Department staff.

At the APAC hearings we strongly encouraged any ordinance to provide that APAC play a pivotal role in approving applications for LFCCHs if they are allowed in agricultural zone districts. We are happy to see that this provision was placed back in the ordinance. We believe it is critical that APAC's recommendation be considered in allowing a use that may have adverse impacts on the agricultural use of an area in agricultural zone districts. In addition, we are pleased to see that the 200 foot buffer was placed back in the ordinance. This 200 foot buffer, at a minimum, should be required. Traditional school and daycare center uses are not allowed to be established within less than 200 feet of agriculturally productive land and we see no reason why this should be different for LFCCHs. In addition to requesting that these two provisions remain in any ordinance adopted which would allow LFCCHs in agricultural zone districts, we request that the following additional language be included in the ordinance to strengthen protecting agricultural land and neighboring uses.

Attached as Exhibit "A" to this letter is the proposed ordinance as provided by the Planning Department staff with our recommended changes underlined and in bold. To make these suggestions easier to review, the lines of the entire draft ordinance are numbered and the rationale for each proposed text addition is provided below.

1. Section 13.10.686 (c) 1. Page 3, Line 35. Add the language "and by other reviewing bodies or agencies." As proposed by Planning Department staff, it appears that only APAC is charged with making the findings required to approve an application for a permit to operate a LFCCH. The proposed text makes it clear that the required findings as detailed elsewhere in the Ordinance must be made at every step in the application process.
2. Section 13.10.686 (c) 1. B. Page 3, Lines 44-46. Add the language "and with the agricultural resources and/or uses on adjacent parcels." The proposed text ensures that the reviewing agencies consider the potential effects on agricultural resources both on site and off site. This conforms to the stated purposes of the Ordinance as described in Section 13.10.686 (a), to "minimize or prevent potential conflicts between child care and other on-site or adjacent uses.?"
3. Section 13.10.686 (c) 1. D. Page 4, Line 2-10. Add subsection D to say "The Large Family Child Care Home is located in an area which is zoned agriculture but which has a predominantly residential character and/or the proposed location is in the location of farmworker housing where childcare is needed which would be affordable to farmworker families. The area evaluated shall include all contiguous agriculturally zoned land.?" This new subsection would require that LFCCHs in agricultural zone districts would be located where the site is actually in a predominantly residential area or is near

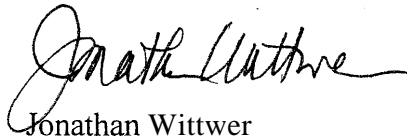
farmworker housing where childcare is needed. Again, this proposal would conform to the stated purposes of allowing LFCCHs in agricultural zone districts as earlier described in Section 13.10.686 (a) 1.

4. Section 13.10.686 (c) 1. E. Page 4, Lines 11-24. Add subsection E to say “If access to the Large Family Child Care Home is limited to a privately maintained roadway, the Applicant has joined any existing private road maintenance association and has executed a written commitment to pay a proportionate share of the roadway maintenance as determined by such association. If no private road maintenance association exists, the applicant has agreed that s/he will undertake to create such an association and/or otherwise pay for a proportionate share of the ongoing roadway maintenance expenses.” This subsection addresses the fact that many of the roads in agricultural-zoned areas are privately owned and maintained. The addition of many new drivers on private roads creates upkeep issues which should be addressed in the planning review process. The proposed text would ensure that the operators of LFCCHs in agricultural zone districts avoid future conflicts by prior agreement to pay their proportionate share of roadway maintenance.
5. Section 13.10.686 (c) 1. F. Page 4, Lines 25-37. Add subsection F to say “The Large Family Child Care Home has agreed as a condition of its permit to provide written notice to each of its customers about the potential risks to their children which might be caused by agricultural activities on adjacent parcels and has further agreed to obtain a signed, written acknowledgment from each customer that each customers has been advised of the potential health risks from adjacent agricultural activities including, but not limited to, pesticide and herbicide spraying.” To protect the interests of both children and the growers, this new subsection would require the operators of LFCCHs to provide a basic consumer notice to the parents of its students. LFCCHs proposed in agricultural zone districts may pose potential health risks to the children who will be attending. If a child is injured by heavy equipment on the adjacent fields or timber areas, an obvious conflict could develop.
6. Section 13.10.686 (d) 5. Page 5, Lines 29-32. Add subsection 5 to say “Adequate fencing is in place between the Large Family Child Care Home and adjacent property owners or the owner has agreed in writing to construct adequate fencing prior to beginning operation.” This new subsection would require adequate fencing before an LFCCH starts operation in any non-residential zone district. This will serve to prevent conflicts with activities on agricultural land adjacent sites and protect the children attending the LFCCH.
7. Section 13.10.686 (d) 5. Page 5, Lines 36-41. Change to subsection 6 and add the language “Such conditions shall be sufficient to ensure that the applicant or the applicant’s successor-in-interest remains in compliance during the life of the operation of

the Large Family Child Care Home with the Required Findings as described in Section 13.10.686 c. and with any conditions of granting the permit as provided in Section 13.10.686 d.” This additional language would confirm that the applicant and future operators of an approved LFCCH will remain in continued compliance with any conditions attached to the permit.

Thank you for your consideration of these matters.

Very truly yours,
WITTWER & PARKIN, LLP



Jonathan Wittwer

Encl. Ordinance Amending Section 13.10.700-D of the Santa Cruz County Code

cc: California Coastal Commission, Central Coast District
Crest Drive Neighbors

ORDINANCE AMENDING SECTION 13.10.700-D
OF THE SANTA CRUZ COUNTY CODE

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The category "Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition)" under "Agricultural Support and Related Facilities" in the Agricultural Uses Chart in Section 13.10.312 (b) of the Santa Cruz County Code is hereby added below "Caretaker's quarters, permanent, subject to the provisions of Section 13.10.631" to read as follows:

| | | | |
|--|---|---|---|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 | 5 | 5 |
|--|---|---|---|

SECTION II

The category "Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition)" under "Residential Uses" in the Commercial Uses Chart in Section 13.10.332 (b) of the Santa Cruz County Code is hereby added under the category "Residential Uses, such as:" below "Repair, alteration, expansion or reconstruction of dwelling units and accessory structures which are inconsistent with the General Plan, subject to Sections 13.10.260 and .261 Nonconforming uses" and above "Child Care Homes, Small Family" to read as follows:

| | | | | | | |
|--|---|----|----|---|---|----|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 | -- | -- | 5 | 5 | -- |
|--|---|----|----|---|---|----|

SECTION III

The category "Child Care Homes, Large Family (must be in conjunction with residential use) (See Section 13.10.700-C definition)" under "Residential Uses" in the Parks, Recreation and Open Spaces Uses Chart in Section 13.10.352 (b) of the Santa Cruz County Code are hereby added under the category "Residential Uses, permanent, such as:" and above "Child Care Homes, Small Family" to read as follows:

| | |
|-----|----|
| USE | PR |
|-----|----|

| | |
|--|---|
| Child Care Homes, Large Family (must be in conjunction with residential use) (See Sections 13.10.686 and 13.10.700-C definition) | 5 |
|--|---|

EXHIBIT

A

1 SECTION IV

2
3 The category “Child Care Homes, Large Family (must be in conjunction with residential use)(See
4 Section 13.10.700-C definition)” under “Residential Uses” in the Public and Community
5 Facilities Uses Chart” in Section 13.10.362(b) of the Santa Cruz County Code are hereby added
6 under the category “Residential uses” and above “Child Care Homes, Small Family” to read as
7 follows:

8
9 USE PF
10 Child Care Homes, Large Family (must be in conjunction with 5
11 residential use) (See Sections 13.10.686 and 13.10.700-C
12 definition)

13
14 SECTION V

15
16 The category “Child Care Homes, Large Family (must be in conjunction with residential
17 use) (See Section 13.10.700-C definition)” under “Residential Uses” in the Timber
18 Production uses Chart in Section 13.10.362 (b) of the Santa Cruz County Code are hereby
19 added under the category “Residential” below “dwelling groups of single-family dwelling
20 (Subject to the density and other requirements in Section 13.10.373, .374, and .375)” and
21 above “Child Care Homes, Small Family” to read as follows:

22
23 USE TP
24 Child Care Homes, Small Family (must be in conjunction with residential 5
25 use) (See Sections 13.10.686 and-13.10.700-C definition)

26
27 SECTION VI

28
29 The Santa Cruz County Code is hereby amended by adding Section 13.10.686 Large Family Child
30 Care Homes in Non-Residential Zone Districts to read:

31
32 13.10.686 Large Family Child Care Homes in Non-Residential Zone Districts.

33
34 (a) Purpose. The purpose of this section is to provide for and regulate Large Family
35 Child Care Homes in order to provide needed child care in a home setting, as well as
36 minimize or prevent potential conflicts between child care and other on-site or
37 adjacent uses.

- 38
39 1. Purpose in Agricultural Districts. The purpose of this section in
40 agricultural districts is to provide opportunities for Large Family
41 Child Care Homes to be located in areas which are zoned
42 agriculture but have a residential character, or in the location of
43 farmworker housing where childcare is needed.
44 2. Purpose in Commercial Districts. The purpose of this section in
45 commercial districts is to provide opportunities for Large Family
46 Child Care Homes to be located in residences with proximity to
47 places of employment.
48 3. Purpose in Parks, Recreation and Open Space District. The
49 purpose of this section in the Parks, Recreation and Open Space
districts is to provide opportunities for Large Family Child Care

Homes to be located in residences in proximity to outdoor activities, residential neighborhoods and commercial areas.

4. Purpose in Public and Community Facilities District. The purpose of this section in the Public and Community Facilities district is to provide opportunities for Large Family Child Care Homes to be located in residences in proximity to public facilities, such as schools, and near residential areas.
5. Purpose in Timber Production Districts. The purpose of this section in the Timber Production District is to provide opportunities for Large Family Child Care Homes to be located in residences on land zoned for timber production consistent with the provisions of Section 13.10.375.

(b) Application Requirements. In those non-residential zone districts where Large Family Child Care Homes are allowed in conjunction with a residential use, a Level V use approval is required. Approval of these permits shall be processed in accordance with the provisions of Chapter 18.10.223. Large Family Child Care Homes proposed to be located within the Coastal Zone shall require a Coastal Permit which is also processed at Level V

1. Upon application submittal, the applicant must submit a statement of operation which includes the following information:
 - a. Number of employees
 - b. Number of children
 - c. Hours and days of operation
 - d. Site plan which clearly illustrates the pick up/drop off area, on site circulation and parking spaces

(c) Required Findings. Before a Development Permit for a Large Family Child Care Home can be granted, the general findings for Development Permits set forth in Section 18.10.230 (a) and where applicable, Coastal Permit findings set forth in Section 13.20.110 must be made in addition to the following findings:

1. In Agricultural Districts (A, CA and AP), the following additional findings shall be made by the Agriculture Planning Advisory Commission **and by other reviewing bodies or agencies:**
 - A. The Large Family Child Care Home use on the parcel will not conflict with on-site or adjacent agricultural activities (including but not limited to herbicide and pesticide use); and
 - B. The Large Family Child Care Home is consistent with the preservation of the agricultural resources on site **and with the agricultural resources and/or uses on adjacent parcels.**
 - C. The Large Family Child Care Home use will meet all the requirements of Section 16.50.095 pertaining to agricultural buffer

setbacks.

D. The Large Family Child Care Home is located in an area which is zoned agriculture but which has a predominantly residential character and/or the proposed location is in the location of farmworker housing where childcare is needed which would be affordable to farmworker families. The area evaluated shall include all contiguous agriculturally zoned land.

E. If access to the Large Family Child Care Home is limited to a privately maintained roadway, the Applicant has joined any existing private road maintenance association and has executed a written commitment to pay a proportionate share of the roadway maintenance as determined by such association. If no private road maintenance association exists, the applicant has agreed that s/he will undertake to create such an association and/or otherwise pay for a proportionate share of the ongoing roadway maintenance expenses.

F. The Large Family Child Care Home has agreed as a condition of its permit to provide written notice to each of its customers about the potential risks to their children which might be caused by agricultural activities on adjacent parcels and has further agreed to obtain a signed, written acknowledgment from each customers that such customers have been advised of the potential health risks from adjacent agricultural activities including, but not limited to, pesticide and herbicide spraying.

2. In Timber Production Districts (TP), the following additional findings shall be made:

- A. The Large Family Day Care Home use does not conflict with the growing and harvesting of sustained yield tree crop and all timber harvesting activities.
- B. The Large Family Day Care Home operation is consistent with Section 13.10.375 (a)(1).

(d) Requirements. Before a Large Family Day Care Home authorized by a development permit can commence operation, the following requirements shall be met:

- 1. Location: The Large Family Child Care Home must be operated

1 in a residence or in the residential portion of a mixed use
2 structure.

3 A. In the commercial zones, the percentage of
4 residential square footage of the structure
5 must comply with Section 13.10.332.

6 B. The large family child care home shall operate
7 in the residential portion of the structure.

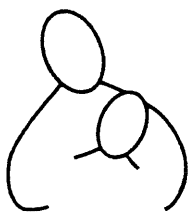
8 2. Occupancy: The owner or occupant of the residence must be the
9 operator of the Large Family Child Care Home and must be
10 listed on the State License as the operator. The operator must
11 live at the premises full-time.

12 3. Parking: Sufficient on-site parking must be provided for all
13 employees of the Large Family Child Care Home. Sufficient off
14 street parking equates to a minimum of one off street parking
15 space per full time employee and a minimum one off street drop
16 off/pick up parking space. Any alternative off street parking
17 standard must be deemed appropriate by the Zoning
18 Administrator based on site constraints which would otherwise
19 preclude the operation of a Large Family Child Care Home on
20 the property. Additionally, there shall be sufficient off-street and
21 on-street parking such that the operation of this use will not
22 impede local traffic nor cause traffic congestion during peak
23 drop-off and pick-up periods.

24 4. Traffic: Unless found to be unnecessary due to ample drop off
25 and pick up areas, a plan for staggering drop-off and pick-up
26 times to minimize traffic shall be submitted and reviewed as part
27 of the application. An operational condition shall require
28 implementation of this traffic control plan.

29 5. Adequate fencing are in place between the Large Family Child
30 Care Home and adjacent property owners or the owner has
31 agreed in writing to construct adequate fencing prior to
32 beginning operation.

33 6. Other Conditions: Other conditions deemed appropriate by the
34 decision-maker may be applied to the development permit of a
35 Large Family Child Care Home to further the purpose of this
36 section. Such conditions shall be sufficient to ensure that the
37 applicant or the applicant's successor-in-interest remains in
38 compliance during the life of the operation of the Large
39 Family Child Care Home with the Required Findings as
40 described in Section 13.10.686 c. and with any conditions of
41 granting the permit as provided in Section 13.10.686 d.



The Santa Cruz County
Child Care Planning Council
www.childcareplanning.org

August 24, 2005

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: Large Family Child Care Homes

Dear Commissioners:

The Policy and Local Planning Committee of the Santa Cruz County Child Care Planning Council is concerned that local planning and zoning policies are in place that are user-friendly and supportive of the diverse network of child care centers and family child care homes that make up our local child care industry. We believe that there are some locations in non-residential zoned areas of the county that are safe and appropriate for large family child care homes and we strongly support the proposed ordinance. We have a few concerns about the draft ordinance that we would like to share with you:

1. The level V review proposed for Large Family Child Care Homes (LFCCH) is the same level required of child care centers that could serve up to 60 or more children. A level V review for a child care center costs approximately \$5,000 to \$6,000. We need to remember that a large family child care home is a small home-based business with only one or two employees. Asking them to pay this level of fee would make the application process prohibitive. Since the actual number of non-residential LFCCH applications will be extremely low we would suggest that the fees charged be kept to a minimum and in any case under \$500. We ask that the Commission recommend that this type of fee reduction be considered in relation to this ordinance.
2. We are concerned that the Agricultural Policy Advocacy Commission (APAC) has already issued a statement that LFCCH's are not compatible with agricultural zones at all. With this statement already on the record, it seems that we are automatically setting up a scenario that will require appeal to the Board of Supervisors in every case, creating a de facto level VI review for a small family business. We would suggest that the findings that the proposed ordinance requires to be made by the APAC be made, instead, by the Zoning Administrator.

3. The APAC finding C. should be dropped as a requirement. The issuance of a LFCCH permit will not change the residential use of any property receiving the permit and will not allow any structural modifications or additions to the home. Thus the agricultural buffer setback requirements for an existing residence will not be affected by the issuance of a LFCCH permit. Leaving this requirement in the ordinance only misleads people to thinking that the permit process will trigger changes in the buffer setbacks.

Sincerely,

A handwritten signature in black ink, appearing to read "Wilma Gold", followed by a stylized flourish or checkmark.

Wilma Gold
Chair, Santa Cruz County Child Care Planning Council